

# MAINE STATE LEGISLATURE

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**Special Commission on Governmental Restructuring  
Committee on Public Safety and Health**

*Minutes of the September 20, 1991 Meeting*

In attendance were committee members Kinnelly, Willey and Hare, staff Friedman and Montagna, and the following invited guests: Representative Cushman Anthony (House Chair, Joint Select Committee on Corrections), Donald L. Allen (Commissioner, Department of Corrections), A.L. Carlisle (Associate Commissioner, Department of Corrections), Charles A. Morrison (Commissioner, Department of Labor), Ronald S. Welch (Associate Commissioner, Department of Mental Health and Mental Retardation), Dr. Owen Buck (Clinical Director, Augusta Mental Health Institute), Lita Klavins (Department of Mental Health and Mental Retardation), Lynn Wachtel (Commissioner, Department of Economic and Community Development), Peter Walsh (Director, Bureau of Child & Family Services, Department of Human Services), Margaret Brewster (Deputy Director, Bureau of Rehabilitation, Department of Human Services), and William H. Cassidy (Associate Commissioner, Department of Education).

Mr. Willey requested that the minutes of the September 9 meeting be corrected to report that he was present at the meeting on the 9th. The minutes will also be corrected to show that Mr. Hare was unable to attend the meeting on the 9th.

Mr. Willey welcomed the commissioners and other agency representatives, and briefly described the work of the committee.

Commissioner Morrison began by addressing the committee's question to each of the agency representatives: what contact does your department have with the Department of Corrections? Because offenders are not identified as a priority group for service and funding by the state or federal government, the Department of Labor has very little contact with the Department of Corrections. The Department serves offenders after they leave prison, but not in any proportion greater than their proportion in the general population. The service providers who deliver training programs locally attempt to develop relationships with pre-release programs to assure that they offer their services to people in the programs. Commissioner Morrison pointed out that it is very important for ex-offenders to earn credentials, such as associate's degrees or technical college certificates to enable them to get jobs after their release. Commissioner Morrison is not aware of whether technical colleges offer courses in the prisons, but pointed out that that would cost money. As with all programs, it is a question of deciding who to spend funds on. Roger Hare remarked that it may be possible to broadcast technical college classes to the prisons.

In speaking of prison industry, Commissioner Morrison pointed out that it is very difficult to find jobs right now for people who are not in prison. Committee members pointed out that the committee is trying to find ways to bring back jobs lost to foreign countries, not to take jobs from people outside prison. Lynn Wachtel suggested that the committee might be able to get an idea of what industries are leaving Maine from the list of companies required to report under the Warn Act (that Act requires businesses planning major layoffs to report to the Department of Labor). Roger Hare raised the concern that training inmates to do jobs that are not available once they leave prison or training them for low-wage jobs does not help them in the long-run.

Lynn Wachtel, Commissioner of Economic and Community Development, told the committee that DECD did not have a mandate to serve offenders or ex-offenders. They are, however, looking into using prisoners on work release programs to answer phone calls for the department for information on business, tourism and federal contracts. Commissioner Wachtel also agreed to provide the committee with information on jobs that have moved "offshore."

Representative Anthony said he was impressed with the number of ex-offenders who obtain jobs on their own. Commissioner Allen said there were once federal tax breaks for hiring ex-offenders, but he was not sure whether those still existed. Rep. Anthony said the state may want to think about state tax breaks to encourage industries to hire ex-offenders. Mr. Willey suggested that our federal delegation in Washington attempt to get an exemption for Maine from the federal law requiring that prevailing wages be paid to prisoners working in prison industries, so that prison industry would be more economically viable. Ms. Kinnelly responded that obtaining an exemption would not be easy, given the concerns of labor groups.

Commissioner Allen briefly explained the history of laws regarding prison industry. In the 1980's a federal law was passed allowing interstate commerce in prison-made goods, provided prevailing wages were paid and other conditions were met. Maine is one of the states certified under that law to engage in interstate commerce in prison goods, but Maine is in danger of losing that certification because the state has not yet been able to develop programs, given the economy and the restrictions of the federal law. Counties in Maine are also qualified to engage in these programs.

Roger Hare expressed the opinion that prison industries could pay prevailing wages, allowing the prisoner to pay for costs of incarceration, restitution. He believes that companies would be willing to participate in such programs despite the prevailing wage requirement because the company's only input would be a loan of machinery (presumably machinery that is not currently being used) and quality inspectors. The state would provide the management.

Representative Anthony reminded the committee that there are no barriers to intrastate sales of prison-made goods. There are niches in the state purchasing process that prison-made goods could fill.

Mr. Willey asked about the status of the TIE concept (Training Industries Education), recommended for adoption in the Department of Corrections Adult Master Plan. TIE is a method of planning and tracking the educational and vocational progress of prisoners from entry into the corrections system to release and after. Commissioner Allen responded that the department has not had the resources to implement the concept.

Associate Commissioner Welch, Department of Mental Health and Mental Retardation, introduced Dr. Buck and Lita Klavins. Dr. Buck served as a psychiatrist at Maine State Prison in 1986 and 1987, and is now the clinical director at Augusta Mental Health Institute (AMHI). In the past, AMHI sent a psychiatrist to the state prison, primarily to do medication rounds. There was very little time. The prison now has a contract with a private psychiatrist for essentially the same number of hours as was provided by AMHI. AMHI does take patients on its forensic unit occasionally, but few beds are available.

Mr. Willey asked Dr. Buck whether he had any ideas for improving services to prisoners, especially with respect to early intervention. Dr. Buck responded that the Department of Mental Health and Mental Retardation serves the general population primarily with respect to mental illnesses such as schizophrenia and manic depression. Generally, the state does not provide services for substance abuse and other mental disorders that are not mental illnesses. The prison population receives more state services for mental disorders than the general population.

Lita Klavins distributed several documents to committee members relating to mental health and corrections. Among the documents is the portion of the state's mental health plan relating to corrections. The plan shows that a large percentage of the prison population needs mental health services of some type, although the portion of the population needing acute psychiatric treatment is relatively small. Ms. Klavins also handed out the results of a county jail survey that demonstrates that individuals who had multiple psychiatric hospitalizations (75 days) had a much longer length of stay in jail than people who did not have such a history (44 days). People who were on antipsychotic medication had the longest average stay (112 days). Ms. Klavins was asked whether prisons were becoming warehouses for the mentally ill in Maine, as they are perceived to be in other states. She replied that the data is not clear in Maine. The real problem is that people offering mental health services in the system are overwhelmed. Probation workers are not trained to deal with the mental health problems of the over 9,000 probationers they must supervise. DMHMR does provide some training for probation workers. More training may be helpful, but the real problem is that probation officers do not have time to provide services.

Ms. Klavins expressed the need for assessment of the mental health needs of people going into the corrections system. Commissioner Allen repeated his support for a centralized intake system.

Psychological services are available at Maine State Prison, but MSP lacks psychiatric services. Maine Correctional Center at Windham has almost zero for psychiatrists and psychologists. Dr. Buck expressed the opinion that the Department of Corrections should have a full-time psychiatrist on staff.

Peter Walsh, Bureau of Child and Family Services, says there are a number of areas of juvenile services where services overlap. Under the Juvenile Code, a judge can place a child under joint custody of the Department of Human Services and the Department of Corrections, so two staff members work on a case plan. Three departments fund group homes. No agency has primary responsibility for looking at the mental health needs of kids. One agency is needed to develop a mental health system for children in care of the Department of Corrections and the Department of Human Services. The Governor's Task Force is recommending a single agency for child and family services, as is the Blue Ribbon Task Force. Many of the children treated by different departments are the same. One agency would provide a stronger advocacy organization for all children's services. With a single organization, it would be easier to establish a continuum of care, and additional federal funds may become available to the agency. Under the proposal of the Governor's Task Force, Education would stay a separate department, although some services would be pulled into the Department of Child and Family Services (DC&FS). Juvenile mental health/mental retardation services would be provided through DC&FS; adult mental health/mental retardation would stay in a separate department. Commissioner Allen remarked that there are some drawbacks to a single organization. Rhode Island has a consolidated agency for children's services, and there are some concerns that mixing different philosophies and goals together in a single organization causes problems.

Representative Manning, a member of the Joint Select Committee on Corrections, expressed his concern that reorganization would result in in-fighting within the department, and that restructuring alone won't solve the problems of the criminal justice system. More money is needed. In addition, interested legislators struggled to get corrections a separate department so that the needs of that department would receive the necessary attention. Combining Corrections with another department may deprive them of the necessary attention.

Margaret Brewster, Bureau of Rehabilitation, Department of Human Services, told the committee that her bureau has no relationship with the Department of Corrections. They provide vocational rehabilitation services to people with disabilities that prevent them from being able to work. They provide whatever service is necessary to rehabilitate the person. There is an elaborate evaluation process to determine whether a person is eligible for rehabilitation services. Incarcerated persons have been considered unavailable for rehabilitation services, but if the Corrections Department could make them available, there may be some way to evaluate prisoners and to provide services to those who are eligible. Ms. Kinnelly pointed out that the need to determine eligibility for vocational rehabilitation is another example of the need for a more extensive evaluation process of prisoners when they enter the corrections system. No statutory change would be required to enable the department to provide services to prisoners, but Corrections and the Department would have to work together to make the prisoners available for services. Ms. Brewster pointed out that many people are incarcerated directly or indirectly because of a disability, but that disability is never treated. Current funding and the mandate to the Bureau do not allow for involvement in the corrections intake/assessment process.

William Cassidy, Department of Education, explains that there are some educational programs for corrections, but that education in the prisons is primarily the responsibility of the Corrections Department. The Department of Education has some connection with Corrections through funding under the Vocations Act and the Adult Basic Education Act. In addition, there have been initiatives in the past with county jails. Two years ago, a coalition of corrections educators was founded. The second annual conference of that organization will be held soon.

There are some instances where schools reach out to inmates or ex-offenders, but that is now on a volunteer basis, on the local level. More reaching out by the education community should be encouraged. When asked whether he thought requiring prisoners to be literate before they are released is a good idea, Mr. Cassidy responded that he did not think it was a good idea to require any person to attain a certain level of educational achievement because people learn at different rates. He did not object, however, to requiring participation in an educational program. People need individual educational plans based on an assessment of their abilities and needs.

The committee then talked with Representative Anthony and asked for his comments on the committee's work. Rep. Anthony said he agreed with the committee's direction on several issues. Prevention needs more emphasis. Local police departments used to do a good job with LEAA programs, but that money dried up. We could save money by putting more money in at the beginning.

Sentencing policy is an area that needs to be looked at, according to Rep. Anthony. The Legislature does a poor job of coordinating judiciary and corrections policy. The Legislature needs a criminal justice committee. Alternative sentencing, especially probation, needs to be looked at more.

The committee does not appear to be discussing release policies, such as parole and after-release supervision, or to be focussing on treatment for sex offenders. Sex offenders comprise about 1/3 of the prison population, yet there is almost no treatment. He disagreed with the statement made by Commissioner Allen at an earlier committee meeting that Corrections is not more underfunded than any other department. He thinks the lack of public support and the sparsity of constituent groups for corrections is one of the causes of underfunding. Commissioner Allen remarked, however, that there is no public consensus about what services corrections should provide. The public needs to be better educated about what corrections involves, other than locking people up. Rep. Anthony also complimented the committee on its idea of coordinating departments that serve corrections. Those are good ideas, but more money also needs to be put into prevention. We need to look at the long-run. It's difficult for departments to do long-range planning, when they are so involved in immediate problems.

Mr. Willey asked for Commissioner Allen's thoughts on parole. The commissioner responded that the state was wrong when it abolished parole. There are a lot of people in prisons who could be out of prison with supervision.

Next the committee discussed their presentation to the full Commission on October 4th. The summary for that presentation is attached.

2968.27 LHS

**Special Commission on Governmental Restructuring  
Committee on Public Safety and Health**

*Minutes of the September 9, 1991 Meeting*

Present at the meeting were Committee members Kinnelly and Hare; staff Friedman and Montagna; invited speaker Public Safety Commissioner John Atwood, Jr.; and Paul Plaisted, Department of Public Safety.

The committee first asked Commissioner Atwood for his comments on the governor's Department of Justice proposal. He responded that he understands that the Department of Corrections is no longer to be included in the merger. He also expressed his opinion that it makes sense to move the Maine Emergency Management Agency (MEMA) into the Department of Public Safety or the Department of Justice, if that is formed. Responding to emergency public needs, and the use of radio communications are common to MEMA and DPS. He cited New Jersey as an example of a state with a Department of Justice, under the Attorney General. In Maine, at least a merger of the Attorney General and the Department of Public Safety would have benefits, such as a better perspective on enforcement of all state laws, not just those enforced by the police. Also, there would be a central planning capability. The Attorney General, as chief legal officer of the state, has broad powers that would be more useful if he had authority to coordinate law enforcement. There are arguments for keeping the Department of Corrections in the Department of Justice. Corrections is a major piece of criminal justice planning, and probably should be included in a merged law enforcement department. Also, corrections may have as much opportunity for publicity and public attention within the DOJ as it has as a separate department, and they may have a better chance for favorable budget decisions as part of a larger department.

When asked by Ms. Kinnelly whether the rationale for a Department of Justice was the possibility of cost savings or improved policy implementation, Commissioner Atwood responded that he could not think of what cost savings there would be since the administration of all departments involved is fairly thin. Cost savings would not come from elimination of positions. He felt the advantage was in better policy making and greater support for corrections.

Turning to the issue of privatization of state services, Mr. Willey asked the commissioner whether law enforcement would be one of the least likely state services to privatize. The Commissioner responded that that may be so. Law enforcement officers are the representatives of the sovereign on the street. In the area of privatization of corrections, there are issues such as accountability and perhaps liability for civil rights suits to be concerned about. We need to look long and hard at privatization and to proceed slowly. Probation and Parole is an area that should not be privatized, says the commissioner.

Turning to the issue of law enforcement, Commissioner Atwood said that the dispute over the three levels of law enforcement has more to do with how the services are paid for than over the services themselves. The focus of discussion is on the sheriff's office. The sheriff's departments are funded by the property tax, under which people pay locally for services that are performed outside their community. That causes some resentment.

There is competition in the field between State Police and sheriffs over who responds to calls, but that is not necessarily bad. Competition puts pressure on the sheriff's department to be creative and innovative. Responding to the 1974 police services report recommending regionalization of police services, Commissioner Atwood said that regionalization provides a monopoly, with little accountability. Regionalization was urged in the 1970's out of a belief that small departments were not able to provide full service. That's not necessarily true today, given the assistance communities get from each other and from the state. Pooling corrections at the state level is also not a good idea. It would prevent the innovation we've seen at county jails, and given the public's negative response to state prison bond issues compared to the positive response to county bond issues, we may have a more critical space problem if the state were in charge of all prisons.

Commissioner Atwood described the difference in training between State Police and county and municipal law enforcement officers. All are trained at the Criminal Justice Academy in Waterville, but the State Police training program is separate from, and longer than, the county and local program. State Police have some unique responsibilities, including paramilitary services (responding to riots, strikes, etc.), and commercial vehicle enforcement. The State Police also have physical fitness standards that not all the county and local departments have. Finally, the State Police trainees are on probation for the first year of employment and may be discharged at any time.

Mr. Willey then asked the Commissioner whether he sees a need for greater communications among the levels of law enforcement. Commissioner Atwood responded that he did see such a need. Communication now is on an ad hoc basis. There is no formal planning process. The Legislature created an organization for coordination, but that organization was not funded, has no staff, and is too big to be effective. The governor could create an organization by executive order.

The purpose of any organization formed should be to share innovations in law enforcement, and to assist local organizations, not to impose standards. Local communities must be free to innovate, and then encouraged to share their innovations.

Ms. Kinnelly asked the Commissioner to discuss the role of the State Fire Marshal and the relationship of the Fire Marshal to local communities. Commissioner Atwood responded that the Fire Marshal approves construction plans for nursing homes, schools, etc. for compliance with the life safety codes, inspects dance halls and mechanical rides, and licenses fireworks. Some municipalities inspect nursing homes and schools on their own, but the Commissioner does not believe that local communities should be required to inspect premises. The committee discussed whether towns should share fire departments more than they currently do, and concluded that consolidation and sharing would occur slowly and should not be forced. The local fire department often serves as a community center and a source of local pride, and communities would not readily give up their departments. The 911 emergency system, once implemented, may result in more regionalization of fire departments, since the communications center will serve a unit larger than a municipality, perhaps a county or even several counties.



As a final comment on the issue of restructuring, Commissioner Atwood urged the committee to be cognizant of the fact that his department and many of the others have very little support staff, and would have difficulty taking on new tasks. Support staff is limited because Public Safety and Corrections must provide direct service staff to deal with life threatening situations first; there are few resources left for bureaucracy.

In a brief discussion among committee members following Commissioner Atwood's departure, Ms. Kinnelly expressed the thought that there may not be a lot of restructuring to be done in the Public Safety and Corrections areas. Both departments are lean on bureaucracy and emphasize line services. As an example of the need for greater coordination, though, she cited the example of the Bureau of Rehabilitation, Department of Human Services, which turned back a \$1 million grant from the federal government, because they did not have a use for the funds. Those funds probably could have funded rehabilitation in the prisons, if there were a mechanism for coordinating needs among the departments.

Other members expressed an interest in perhaps recommending a law enforcement coordination organization like the Law Enforcement Assistance Agency (LEAA), that ceased existence when federal funds ran out in the early 1980's. There are many organizations that coordinate aspects of criminal justice, such as the Justice Advisory Council, the Interdepartmental Council and the Juvenile Justice Advisory Group. What's needed is one organization committed to working together to comprehensively address the issues.

In discussing plans for future meetings, committee members directed staff to send copies of the committee minutes and the proposed corrections recommendations to the commissioners and other agency representatives who will appear on the 20th. Staff were also directed to send notice to other Commission members of the meetings on the 20th, as the discussion will include education and social service issues. Finally, staff were asked to send notice of the meeting to the members of the Legislature's Select Committee on Corrections.

Staff reported that the Commission on the Future of Maine's Courts will be studying structure and efficiency issues. The committee would like to have Judge Henry explain to the committee the areas of inquiry the Commission will pursue. The committee would also like to hear from Chief Justice McKusick, Chief Justice Delahanty, and Chief Judge Calkins on their thoughts on judicial department structure and efficiency, the relationship between the judicial department and corrections and communication between the judicial department and the law enforcement community.

**Special Commission on Governmental Restructuring  
Committee on Public Safety and Health**

*Minutes of the September 6, 1991 Meeting*

Present at the meeting were Committee members Kinnelly, Willey and Hare; staff members Friedman and Montagna; invited speaker Derek Langhauser, Legal Counsel to Governor McKernan; and Attorney General Michael Carpenter, Corrections Commissioner Donald Allen, Associate Corrections Commissioner A.L. Carlisle, Paul Plaisted, Department of Public Safety, and Donald Perkins of the Institute for Inmates at Work.

The meeting began with a review of the committee's draft interim report, prepared by staff for comment by the committee. Staff was directed to add a description of today's meeting, to reword the areas of inquiry as questions to be answered rather than hypotheses to be tested, and to change the description of the committee's interest in the judicial branch.

The committee asked Derek Langhauser to explain the governor's proposal to merge the Departments of Public Safety and Corrections, the National Guard and the Office of the Attorney General into a Department of Justice. Mr. Langhauser began his remarks by explaining that the proposal has changed since it was announced earlier this spring, to exclude the Department of Corrections. He explained that the motivation for developing the plan was a need for cost savings because of the state's budget constraints, and the desire to improve the efficiency of state government. The U.S. Department of Justice provided the model for the Maine Department. The U.S. Attorney General is head of the U.S. Department of Justice (DOJ); within that Department are the Bureau of Prisons, the FBI, and the Drug Enforcement Administration. In transferring that model to Maine, the governor's office found that the Attorney General is the top law enforcement officer in the state, and should serve as the head of a consolidated law enforcement department. Savings in the consolidation are expected to come from the merger of administrative offices of the various departments.

In addition to possible cost savings as a rationale for the merger, policy making would be performed in a more comprehensive, coordinated way. Criminal law is a systemwide issue, from the investigation and arrest of offenders, to prosecution and punishment. Providing a single policymaker on those issues seemed like a good idea to the governor.

In addition to the merger of departments, a key element in the proposal is to change the method of selecting the Attorney General from selection by the Legislature to selection by the governor with confirmation by the Legislature. The Attorney General makes many policy decisions of equal importance to those made by other gubernatorial cabinet members, according to Langhauser, and should have a closer working relationship with the governor than under the current system. In addition, the broader range of policy making opportunity makes it appropriate for the governor to be in contact with the Attorney General. This change would require a change in the Maine Constitution, which requires a 2/3 vote of the Legislature and a statewide referendum vote.

In analyzing the various components of the Department, Mr. Langhauser said the governor's office met with Corrections Commissioner Allen, and, as a result of issues raised at the meeting, the governor's office has decided that Corrections should remain a separate department, rather than being merged into the Department of Justice. The issues were the need for a direct line to the governor in the event of a crisis, the size of the corrections department and its budget, and the need to maintain the visibility of the Department because of the critical issues requiring attention in the near future.

In reviewing the move of agencies relating to defense and veterans' affairs into the DOJ, there was some discussion about the appropriateness of having the National Guard in the Department. Regardless of the appropriateness of that move, Mr. Langhauser expressed a belief that it was at least appropriate to move the Maine Emergency Management Agency from the Department of Defense and Veterans' Affairs to the new Department. The proposal would move MEMA into the Department of Public Safety because of the coordination necessary between the State Police and the agency in the event of an emergency. Asked why there was not a concern about lack of direct access to the governor for MEMA, while there was for Corrections emergencies, Mr. Langhauser responded that the governor's office has notice of weather-related emergencies and is able to track those, and that there are already strong lines of communications between the offices that will not be interrupted by the merger.

The committee asked Mr. Langhauser to discuss the potential for cost-savings in this proposal. He responded that they did not have the figures readily available. It was necessary to examine the effects of the most recent budget cuts before they could give precise cost savings. He promised to provide those figures to the committee as soon as they are available. He agrees that consolidation alone would not save significant costs, but that the head of the department and the various bureaus would also have to work to find ways to restructure.

Asked whether he had thought about how to coordinate functions such as mental health and education with corrections, Mr. Langhauser agreed that the focus should be on "the big picture" in policy making, if not in structure of government. There is coordination of those issues now through the Interdepartmental Council, in which the Departments of Mental Health, Corrections and Education participate. This proposal for restructuring of the bureaucracy is not primarily designed to solve specific problems in the corrections system or any other policy area, but hopefully the bureaucratic restructuring will lead to greater policy coordination, and thus greater ability to solve the problems.

The committee asked Attorney General Carpenter, who was present in the audience, to give the committee his thoughts on the Department of Justice proposal. Mr. Carpenter responded that this was the first time his office has been involved in any discussion of restructuring. He has not had much contact with the governor in the 9 months he has been in office, but he has a good working relationship with the office and has defended the office in every case in which he has been asked to do so. He does not approve of a plan to make the Attorney General part of the Cabinet, since that would destroy the independence of the office.

He cited questions and concerns about John Mitchell and Ed Meese as examples of problems that occurred in the U.S. Department of Justice because of the Attorney General's appointment by the chief executive. An Attorney General who is appointed after working on the governor's campaign committee may, for example, be reluctant to tell the governor that he does not have authority to take certain actions. Also, he said, the system does not seem to be broken, so it doesn't need fixing. It may not be a bad idea to place the Department of Public Safety under the Attorney General, to increase coordination and policymaking on law enforcement issues, but it is not a good idea to have the AG a member of the governor's Cabinet. Public Safety and the Attorney General's Office could be merged without a Constitutional change, but it is not clear what savings would result from such a merger.

Mr. Langhauser responded that the Attorney General's office is viewed as independent now because the Attorney General and the governor are of different political parties, and that independence may not be there if the two were of the same party.

Commissioner Allen commented that some coordination of policy and issues discussion will take place through the Criminal Justice Advisory Commission, which will have representatives of the Judicial Department, prosecutors, police, the Legislature and corrections. He also commented that the independence of the Attorney General's office is important to him and his department; for example, they ask the Attorney General's office to investigate internal department matters, and treat that as an independent outside investigation. The public may not have confidence in the results of an investigation where one member of the Cabinet is investigating another.

The meeting closed with a brief discussion among Committee members of their interest in following up on the Department of Justice proposal. Ms. Kinnelly commented that she has not yet seen information to encourage her to follow up on the proposal. Mr. Willey explained that he needs to see the cost-benefit analysis of the proposal before he would encourage the proposal.

2968.19 LHS

**Special Commission on Governmental Restructuring  
Committee on Public Safety and Health**

*Minutes of the August 23, 1991 Meeting*

In attendance were committee members Laurence Willey, Charlene Kinnelly and Roger Hare; staff Deborah Friedman and Michael Montagna; invited speakers Frank Hackett, Kennebec County Sheriff, representing the Maine Sheriff's Association, Charles H. Jackson, Executive Director of the Maine Chiefs of Police Association, Norman Trask, Deputy Commissioner, Department of Inland Fisheries and Wildlife, and Penn Estabrook, Deputy Commissioner, Department of Marine Resources. Also present were A.L. Carlisle and John Hinckley, Department of Corrections, Perley Sprague, Marine Patrol, Herbert Vernon, Warden Service, Andrew Demers, State Police, Paul Plaisted, Department of Public Safety, Peter Mars, Kennebec Sheriff's Department, Becky Levenson, State Planning Office, and John Butts, Maine Sheriffs Association.

The Committee reviewed the minutes of the August 9 meeting. Roger Hare felt that the tentative findings included in the minutes incorrectly implied that the committee endorsed the idea of private operation of prisons. The committee wants to clarify that it feels the issue should be looked at, but that the committee was not at this point endorsing the idea.

Before hearing the presentations from invited speakers, committee members discussed the 1974 report, A Study of Police Services in the State of Maine, a study conducted for the Maine Law Enforcement Planning and Assistance Agency. The final report proposed the merging of municipal and county police into regionalized police agencies, centralization of functions such as lab services, and standardization of police training. The committee expressed an interest in the concept of regionalization for delivery of services, and wondered whether other committees of the commission were considering creating service districts. If they are and if this committee endorses regional police service delivery, the committee would like to consider whether those districts should correspond with the police service districts.

Charlene Kinnelly then asked the speakers to each briefly discuss their agency's authority and jurisdiction, how their authority differs from that of the other agencies present, what issues they see in coordination of law enforcement, and what thoughts they have on the 1974 report.

Charles Jackson explained that municipal police departments have authority within the boundaries of the municipality to engage in all areas of law enforcement, including enforcement of all state laws, except the handling of murder cases, which is performed by the State. Those duties include patrol, investigation, community relations, drug enforcement and education. In response to the 1974 study, Mr. Jackson said that the need for regionalization in the 1970's does not exist in the 1990's. Police departments are more professional, and they are more often full-time than in the 1970's. Further, many services have been centralized, creating less need for regionalization. Although there are isolated instances of overlap of services, overlap is not a major problem. There is much to be gained from community-based policing. People pay for police services through their local communities; it is a quality of life issue. Also, the national trend in policing is toward more community-based programs, such as education programs.

Frank Hackett explained that county sheriffs perform most of the same functions as municipal police, but in addition they run the county jails, provide court security, serve civil process, and provide communication services to municipal police and fire departments. The Community Corrections Act sent a lot of prisoners to county jails (any person sentenced to 9 months or less); to deal with those additional prisoners, many counties have adopted diversion programs for first-time offenders. Sheriff Hackett did not speak favorably about privatization of prisons. Elected officials pay greater attention to prison conditions and operations, because their positions are on the line. Also, if there is an opportunity for making money through prisons, such as by selling beds, the county should make the money, not private enterprise.

On the issue of the 1974 report, Sheriff Hackett agreed with Mr. Jackson that the professionalism of police departments has increased since the 1970's. There may be some gains to be made by coordinating communications and coordinating who responds to calls. Currently, whoever gets a call for assistance responds to that call, regardless of expertise. It may make sense to look at creating more specialized response teams to deal with various issues, such as drugs or child abuse.

The committee asked Sheriff Hackett how the county jails operate and what their relationship is to the Department of Corrections. Sheriff Hackett explained that the Department inspects county jails and rates them. The State reimburses counties for prisoners it sends under the Community Corrections Act. The counties operate diversion programs, not to help prisoners but to clear the prisons. All county jails have GED programs, largely staffed by volunteers. Some jails offer jail industry and work release programs.

Kennebec County has a juvenile offender program, under which juveniles are diverted from prison to work programs, in an attempt to prevent juvenile offenders from becoming adult offenders. Counties are in the best position to operate programs like that because they know the people of the county and the resources available. Also, at the county level, sheriffs' reputations are at stake in those programs. In response to a question from a committee member, Sheriff Hackett replied that he did not believe the counties should take over all corrections functions from the state (except maximum security prisons). The system should stay the same, but the state and the counties should have systems of checks and balances. The state inspects county prisons; the state should have a similar inspection requirement for state prisons. John Hinckley, a member of the audience, informed the committee that standards for state prisons are being drafted now, and that an inspection process will begin soon, hopefully by the end of the year.

Penn Estabrook described the Department of Marine Resources, and the place of the Marine Patrol within the department. The department is a conservation and development agency for marine resources, which performs research on marine resources, and develops and enforces resource management plans. The Marine Patrol has authority to enforce all state laws on the territorial seas and marine internal waters, but the patrol primarily deals with the commercial fishing industry. The patrol oversees the management plans, enforces gear conflict laws, enforces closure of shellfish harvesting areas and other public health duties, and enforces boating laws coincident with resource law enforcement. They do cooperate with law enforcement agencies of other levels of government, and generally there is little overlap among the agencies.

Norman Trask explained that game wardens have full police powers, but act primarily to enforce fish and wildlife laws, the federal migratory birds act, and snowmobile and ATV laws, to investigate watercraft accidents and off road ATV and snowmobile accidents, and to oversee search and rescue efforts. They work with other law enforcement agencies, such as assisting BIDE in locating marijuana fields, and in other areas where the game warden's expertise would be beneficial. Some states combine the work of the department of marine resources and fish and wildlife, but it's not clear how it works in those states. The laws and functions are different. In addition, Mr. Estabrook added, keeping the enforcement with the research permits the department to deal 'holistically' with the resource, instead of fragmenting information about the resources among several departments.

Ms. Kinnelly asked the panel members if they saw issues in coordination between law enforcement agencies and the courts. Mr. Jackson responded that there is not enough dialogue between law enforcement agencies and the courts. They would like to be able to discuss problems that police officers have, such as being required to sit in court for several hours waiting to testify on a case, or dealing with orders from the judiciary, e.g., with regard to requiring arraignment within a certain number of hours.

Colonel Andrew Demers, Chief of the State Police, described briefly the relationship between the State Police and municipal and county law enforcement. He said the State Police provide support for local law enforcement, investigate all homicides except those in Bangor and Portland, enforce truck weight limits, provide rural patrol services and serve as detectives. Colonel Demers agreed with the other speakers that the relationship among law enforcement agencies is the best its ever been, largely as a result of the fact that all law enforcement officers are trained at the Criminal Justice Academy. He does not see a structural problem in law enforcement. Although crime rates are increasing slightly, there are no trends in crimes that would indicate a need for change in the way services are being delivered. Domestic violence increased dramatically, but that may be a result of the change in law requiring police to respond with formal charges when they are called to a domestic scene. There is a need to talk with the judiciary, but the state police are trying to work with Justice Delahanty to overcome some of those issues. It was suggested that the sentencing institute held by the judges every two years might be a place for law enforcement officials and judges to talk about issues.

At the conclusion of the formal meeting, Deputy Corrections Commissioner A.L. Carlisle asked the committee for clarification of a request the committee made of Commissioner Allen at the August 9 meeting. Ms. Carlisle also informed the committee that there have been efforts in the past to coordinate the interests of the police and the courts, such as the Maine Criminal Justice Planning and Assistance Agency and the Justice Assistance Council. Those groups could serve as models around which to organize a group to discuss law enforcement issues. Also, a law was enacted last year to create a criminal justice commission, but no funding was provided. That group was to look at sentencing, and other broad-based policy issues affecting criminal justice.

Following lunch with the Commission, committee members discussed tentative findings from the morning's discussion. Although there are isolated instances of overlap of functions among the various levels of law enforcement, structural change to prevent overlap would only occur at the expense of local control. Local control and local involvement are viewed as important to law enforcement, since officers are able to work closely with the community.

Community involvement is the best way to promote prevention programs. Programs like the LEAP program in South Portland promise the most success. In that program, one officer goes to all local schools, and works with all juveniles involved in the corrections system.

Maine has a unique geographic and demographic mix that makes the 3-level form of law enforcement effective and necessary. Although there may be some duplication, that does not seem to be a major problem. Dialogue among the 3 levels is good.

Committee members expressed an interest in talking with some disinterested people on the issue of coordination of law enforcement to get some other opinions on the need for coordination. It was also suggested that the judiciary and the attorney general's office might want to tell us what they think about police and law enforcement.

Finally, it was suggested that the committee make an attempt to involve more interested parties, and in particular, members of the Legislature's Corrections and perhaps the Judiciary Committees on these issues.

For the next meeting, September 6, staff will attempt to arrange presentations by the governor's office on the proposal to create a Department of Justice, and from the Department of Public Safety on law enforcement coordination. The committee will meet on the 13th of September to talk with the commissioners of the Departments of Labor, Economic and Community Development, Corrections, Education, Mental Health and Mental Retardation, and Human Services. The committee will also invite the chairs of the Legislature's Corrections committee to attend and participate in that meeting. In the afternoon of the 13th, the committee will recap its work. On the 20th, the committee will talk with the judicial branch and the Attorney General's office on issues relating to corrections. The committee would like to request public comment at that meeting on the work of the committee so far.

Staff distributed copies of proposed recommendations and findings on corrections issues, based on the August 9 meeting, for committee comment only. Committee members will call Deborah Friedman at 289-1670 with comments on the draft before the September 6 meeting. Staff will send to committee members a similar draft relating to issues addressed at this meeting. Staff will also draft a one-page summary of the committee's work, for inclusion in the interim commission report to be published September 15. The summary will be mailed with the minutes and will be discussed at the September 6 committee meeting.

A final comment was discussed regarding use of police resources. Two methods of decreasing the time officers spend in court waiting for appearance were to have police make appearances by ITV and to have a courtroom in the prison using ITV for appearances.



**Special Commission on Governmental Restructuring  
Committee on Public Safety and Health**

*Minutes of the August 9, 1991 Meeting*

In attendance were committee members Laurence Willey, Charlene Kinnelly and Roger Hare and staff Deborah Friedman (OPLA), Michael Montagna (SPO) and Roy Lenardson (OPLA). Also present during the meeting were invited speaker Donald L. Allen, Commissioner of Corrections; A.L. Carlisle, Associate Commissioner of Corrections; Michael Molloy, Director of Correctional Services, Department of Corrections; Warren Bartlett, Bureau of Health; Ralph Nichols, Department of Corrections; and Paul Plaisted, Department of Public Safety.

Staff distributed a memo to committee members, outlining the hypothesis the committee is testing, the criteria to be used, responses to be investigated, and suggested questions for Commissioner Allen.

While awaiting the arrival of Commissioner Allen, committee members discussed their thoughts and defined their areas of interest in corrections. Mr. Willey expressed his belief that the goals of the corrections system are punishment, preventive detention, rehabilitation, and deterrence, and that the committee should examine how those goals are prioritized in the state, whether the goals are being met, and how to achieve the goals if they are not being met. All committee members were interested in the goal of rehabilitation of prisoners through education, substance abuse and other treatment programs, social services and the development of job skills through prison industry programs. Since these programs involve other departments, the committee will look at whether greater coordination efforts among departments would improve the delivery of services.

The committee discussed ways to meet the infrastructure needs of the corrections system. One way is to reduce the need for infrastructure by (1) promoting alternatives to incarceration; (2) reducing recidivism by greater rehabilitation efforts; and (3) reducing the likelihood that people will engage in criminal activity through prevention programs. The committee would also like to look at the idea of private contracting to meet infrastructure needs.

Commissioner Allen arrived, accompanied by Associate Commissioner A.L. Carlisle and Director of Correctional Services Michael Molloy. Ms. Kinnelly welcomed the Commissioner and explained the purpose and interests of the committee. The Commissioner then responded to questions from the committee.

Commissioner Allen confirmed that the goals expressed by Mr. Willey are the goals of the corrections system, but added that prevention has recently become a goal, and Maine needs to expand its efforts in prevention. The corrections system needs to work with sheriffs, the Department of Public Safety, the courts and others to "get heads up on people" before they get into the corrections system. This means both encouraging schools, for example, to identify and intervene with youth before they commit crimes and working with the corrections and court system to make sure that people receive greater attention when they first come into contact with the corrections system to determine what services or treatment they need to prevent further contact with the corrections system.

The Commissioner suggested an improved intake and assessment program for Probation and Parole. He suggested that the state needs a secure centralized facility to which every adult entering the prison system would be referred for an analysis of security and program needs (what level of security is needed in incarceration, and what programs are needed for prisoners).

Mr. Hare asked the Commissioner for comments on the idea of establishing a "self-sustaining" prison. Mr. Hare suggested that the state might use Loring Air Force Base as a prison, that the prison might raise its own food and establish an industry such as a sawmill to pay the costs of the prison. Commissioner Allen did not address the feasibility of a self-sustaining prison, but told the committee that the Department would be interested in looking at Loring for a facility if the base closes, assuming the federal government does not turn it into a federal prison. The state may be able to take in federal prisoners in a state prison. The Commissioner was supportive of prison industries and any other programs that would decrease prisoner idleness, which he views as creating the potential for serious disturbances.

Mr. Willey asked whether the Department had considered using a University campus for a prison facility. Commissioner Allen responded that they might be interested if a campus became available, but they would not actively pursue any such options. A campus may be appropriate for a minimum security facility, but it would probably not be cost-efficient to retrofit a campus to serve as a maximum security facility.

Mr. Hare asked the Commissioner whether the state could impose a mandatory education requirement, such as the requirement imposed in Florida that prisoners must be functionally literate before they are released from prison. The Commissioner responded that he did not favor forced participation in education as a condition of release, although education is required for school-aged children in the system, and there may be some benefit to requiring education up to age 21. He believed the corrections system should encourage education, but that lack of resources hinders the achievement of that goal. The committee asked the commissioner for data on the relationship between education and the recidivism rate, and the commissioner agreed to provide to the committee any information he could locate on that issue.

The best social treatment in the corrections system is jobs, according to the Commissioner. To improve prison industries, the Department needs to work with the Department of Labor and organized labor. The committee would like to further examine ways to increase the number and extent of prison industries, as a way of helping prisoners gain job skills and thus reducing recidivism. Prison industry is an area the department would also like to expand, but there are concerns in moving into that area, including meeting the concerns of the public that the prison industries take away jobs from the outside work force. In addition, federal law requires that if products made in prisons are to be sold across state lines, the prisoners working on those products must be paid the prevailing wage.

Commissioner Allen agreed with Mr. Hare that money earned by prisoners in work programs could be used to pay restitution to crime victims, to pay room and board to the prison system and to benefit the

prisoner and the prisoner's family. However, more supervisors are needed for restitution programs.

When asked whether the Department contracts with private organizations for services, the Commissioner responded that they have some private contracts for substance abuse and sex offender programs, and for medical and psychiatric specialized services, although those accounts have been cut in recent years. The department has also in the past contracted with a private organization to provide community-based services. The Department is considering a proposal from a private company to establish a facility and lease it back to the state. The Commissioner says he does not believe that the state should contract for the operation of a maximum security facility. Other states have had privately-run facilities, but it is not yet clear whether they are more efficient or better than state-run facilities. Before Maine would enter into contracts with private companies, the Commissioner stated, the person offering the contract would have to prove that they would provide more effective and efficient services.

On the issue of coordination with other departments, the commissioner believes that coordination with the Department of Education is very good, and that nothing hinders coordination. The only area for improvement would be in having local educational systems identify problem children and provide services to them before they commit crimes. Rehabilitation services provided by the Department of Mental Health and Mental Retardation generally are well-coordinated. The problem is that they cannot offer enough hours of services. Demand exceeds supply in most treatment and education programs, according to the Commissioner. Services at the Maine Youth Center (education, medical and psychological and social services) are adequate; at the adult institutions, however, services are not adequate.

In response to the point raised that some groups question the need for additional prisons, and urge alternative sentencing, the Commissioner responded that the need already exists for additional prisons, even without additional prisoners. Maine is 43rd or 44th in the rate of incarceration in the U.S., indicating that the state does not over-incarcerate. There are currently 10,000 people under Probation & Parole. The state needs both to find alternatives to incarceration, and to build more prisons. Even without an expanding population, new facilities are needed to replace old ones.

Asked whether the Corrections system received less than its fair share of resources from the state, and if so whether lack of public support was a reason for that, the Commissioner said he did not believe that corrections was underfunded more than any other program of state government. Legislative support has been good recently. He did agree that public support for corrections could be improved through greater education. The corrections system does not have a constituency advocating for improvements, and historically corrections has not been popular with politicians. In most states, the major strides in corrections have come in reaction to court decisions mandating improvements. One difficulty in implementing corrections is the conflict between the Department's mandate and the apparent desires of police and the public. The Department's mandate is to protect the public from crime and to treat prisoners in the system, but police, the public and victims say simply "lock em up." The Department needs to convince the public that putting money into treatment is a good investment.

In final comments, the Commissioner expressed his belief that areas outside the field of corrections impact on the ability of the corrections system to perform its functions. Police, prosecutors, victims, the courts and sentencing practices impact on the corrections system. The Committee asked for recommendations from the Commissioner on what changes in those other areas could improve the corrections system.

In the afternoon, committee members discussed their thoughts from the morning session. The committee needs to follow up on the issue of coordination between Corrections and the Departments of Education and Mental Health. In addition, the committee was very interested in following up on expanding prison industries.

To increase prison industry opportunities, the committee would like to look at garnering support from private industry, perhaps including a public-private partnership. As an example, it was suggested that Dexter Shoe might be willing to finance machinery and other capital needs to set up industries in the prisons, in exchange perhaps for a tax break. This would only be beneficial if the shoes made in the prison were replacing shoes now made outside the United States, and would not be acceptable to the public to the extent that prison jobs were replacing outside work. Committee members suggested that a change in federal law may be needed to permit the sale of products in interstate commerce without paying prevailing wages. The issue of prison industries is, as Mr. Willey stated, a structural change to the corrections system, that would have a positive secondary economic effect. Greater coordination between the Departments of Labor, Corrections, and Economic and Community Development might further increase prison industry opportunities.

Ms. Kinnelly noted that the committee might look at the delivery of services in juvenile corrections issues, since that area appears to work best.

The committee will also look at the effect of sentencing on the number of people in prison, e.g., whether sentencing people for vehicular manslaughter is appropriate.

In summarizing the results of its meeting, Committee members reported the following tentative conclusions to the full Commission:

**1. The priorities of the Judicial/Corrections/Legislative systems are out of sync.** The judicial system imposes sentences with the goals of deterrence, retribution, public protection and rehabilitation. The legislature appears to fund corrections and establish sentencing statutes using the first three goals, but appears to be less committed to rehabilitation. Evidence for this conclusion is the fact that funds are cut for education and treatment programs first. The corrections system sees its first priority as public protection (incarceration to protect the public from criminal activity and internal control to protect prisoners within the prison). Rehabilitation is the second priority of the corrections system.

**2. The Corrections system does a good job of protecting the public by keeping prisoners incarcerated, but more work needs to be done to protect the public in the long-term.**

- Early detection of troubled children and intervention with social services to prevent behavior leading children to the corrections system;
- Better intake and diagnosis of clients as they enter the corrections system, to assure that they are properly referred to facilities in the system and that they get the appropriate treatment;
- Education and rehabilitation while prisoners are incarcerated
- Expanding industry and work programs

**3. To achieve the needs expressed in item #2, the committee will look at greater inter-departmental coordination between Corrections and the Departments of Labor, Education, Economic and Community Development, and Mental Health and Mental Retardation. The committee will look at this issue at a later meeting.**

**4. The physical infrastructure of the corrections system is inadequate.** The state should look at the possibility of using Loring Air Force Base or state-owned facilities such as a university campus, alternative sentencing to reduce the need for infrastructure, and privately-provided facilities.

The committee briefly discussed plans for future meetings. For the morning of the August 23rd meeting, staff will invite representatives of state, county and local law enforcement agencies to speak about coordination of law enforcement. For the afternoon of the 23rd, a representative of the governor's office will explain the governor's proposal to merge several departments into a Department of Justice. At the next meeting, September 6th, commissioners of Education, Mental Health and Mental Retardation, Labor, and Economic and Community Development will be invited to discuss coordination issues. On the 20th of September, a representative of the Judicial Department will be invited to speak on judicial management and structure. In the afternoon, committee members will discuss how the courts and sentencing affect the corrections system. It was agreed that corrections was an issue that would be addressed in each of the topic areas. Topics for the October meetings were not established.

Committee members felt that there was no need to schedule additional meetings in August or September, other than days on which the full Commission would meet, but that additional meetings may be necessary in October, to review recommendations and draft reports.

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July 30, 1991

TO: Members, Committee on Protection of Public Safety and Health  
Special Commission on Governmental Restructuring

FROM: Tim Glidden, Principal Analyst *LG*

RE: Summary of July 29 Committee Meeting

Commission members Willey, Kinnelly and Hare (full committee membership) and staff members Glidden and Lenardson were in attendance.

The committee reviewed the draft materials supplied by the commission chairs for the purpose of defining the scope of their investigations. The committee reviewed the proposed function statement and found it acceptable as a working definition of state responsibilities in public safety and health. The committee reserves the right to adapt this general statement as its work progresses. In particular, there is some interest in including language to reflect each citizen's responsibility to support the same objectives (public safety and health).

The committee then reviewed possible areas of inquiry and, after some discussion, adopted the method of "hypothesis testing" suggested in the draft materials. The committee adopted draft hypotheses in the areas outlined and ranked below (subject to further revision). After hearing reports from the Committee on Health, Social Services and Economic Security on that committee's intent to examine the role of prevention and early intervention in public health programs, this committee decided not to incorporate investigation of public health issues into its agenda.

The committee indicated its commitment to pay particular attention to the potential for regional administration and delivery of state programs. The committee recognized the need for sensitivity to local control issues in this regard. There is also interest in examining the potential for contracting with the private sector for the delivery of services and in generally promoting a public/private partnership approach.

Recognizing that time and resources may not permit full investigation of every area of interest, the committee divided the possible areas of inquiry into two groups of hypotheses and will start with the first.

**1st Priority**

- The administration of the judicial and corrections system is adequate and well coordinated.
  - The committee will examine the proposal for the creation of a Department of Justice contained in the biennial budget.

- The committee will review recent studies of the judicial system and will develop its recommendations understanding that the Commission on the Future of the Courts in Maine will be devoting substantial effort to this topic.
- The physical infrastructure of the corrections system is adequate.
  - The committee may examine the possibility of use other state facilities to meet needs in the corrections system.
- Education is an important part of the current rehabilitative efforts in the corrections system.
- Public safety (law enforcement) is adequate and well coordinated at the state, county and local level.

#### **All Other**

- Workplace safety and worker injury compensation issues.
  - Regulation of health and safety in the workplace.
  - Relationship of individual businesses' safety record to workers compensation insurance premiums.
  - Distribution of workers compensation premium costs.
  - Enforcement of "whistleblower" laws.
- Regulation of professionals, including questions of self-regulation, limited entry and related anti-competitive effects, protection of public safety and consumer interests. Administration of professional regulation boards may also be examined.
- The level of protection of human rights.
- Adequacy of efforts to prevent anti-competitive practices.

At its next meeting, the committee will receive information requested from staff on the corrections and judicial system. Staff will attempt to arrange briefings with Corrections Department personnel and other state personnel with education responsibilities in the corrections system.

cc: Other members, Special Commission on Governmental Restructuring  
Carol Michael, SPO

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