

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Maine Commission to Revise Statutes
Relating to Juveniles

AGENDA

Meeting of: August 5, 1976
Location: Oblate Retreat House
136 State Street
Augusta, Maine

- I. Call to Order at 10 a.m.
- II. Announcements *9/29/76 - Next meeting*
- III. Consideration of Minutes of Previous Meeting *App*
- IV. Goal Area Review:
 - Prevention of Juvenile Delinquency
 - Distribution of Analysis of Available Statistical Data Related to Prevention Issues
 - Staff Presentation
 - Discussion
- V. Lunch
- VI. Completion of Prevention Goal Area Review
- VII. Meeting with Commissioner David Smith, Department of Human Services -- 3 p.m.
- VIII. Adjournment at 4 p.m.

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

August 5, 1976

A meeting of the Commission members of the Maine Commission to Revise Juvenile Statutes was held on Thursday, August 5, 1976. There were present Messrs. Allen, Els, Gauthier, Goranites, Heath, Henderson, Hobbins, Jabar, Jones, Kane, Merrill, Nadeau and Weldon. Also present were Elizabeth Belshaw, State Court Administrator of the state of Maine, and Ann Brauer, Peter DuBois, Joan FitzGerald and Yvonne Sprowl of Arthur Bolton Associates. Mr. Jabar, chairman, presided. Ms. Sprowl recorded the minutes of the meeting.

Mr. Jabar opened the meeting at 10:20 a.m. The minutes of the previous meeting were acknowledged and upon no discussion, motion was duly made and seconded and it was unanimously

VOTED: That a reading of the minutes of the last meeting of July 1, 1976 be waived.

Mr. Jabar announced that he had received a letter from Governor Longley in response to a letter he had sent earlier requesting input from Gov. Longley in the Commission's work. Apparently, Gov. Longley

erroneously believes he had already met with the Commission. Actually, he recently met with the Advisory Committee of the Maine Criminal Justice Planning and Assistance Agency. He has appointed a liaison, namely, Miss Nancy Warburton, a member of his office staff to work with the Commission. Mr. Jabar then read a letter from Judge Spill in which he stated his recommendations to the Commission. It was announced that the District Court judges had agreed to meet with the Commission during the regular Commission meeting to be held on September 24, 1976. Elizabeth Belshaw will advise staff of when the Superior Court judges will be able to meet with the Commission.

Peter DuBois opened the discussion of the agenda and stated that staff would like to see the Commission agree on some policy guidelines in the area of prevention. He then gave a brief presentation on the "Analysis of Available Statistical Data Related to Prevention Issues" prepared by Dale Carter and Katherine Carter for the Commission. There was a discussion of the problems of a lack of adequate data in the prevention area. After discussion and upon motion duly made and seconded, it was unanimously

VOTED:

That the Commission agrees that children and youth should receive whatever services are necessary to prevent them from coming into contact with the juvenile court system and to aid in accomplishing this result the

Commission recommends that a single state agency be charged with responsibility for:

1) gathering standardized information on the present and past services needs of children who have come into contact with the juvenile court;

2) gather standardized information on the extent to which such services needs are being met;

3) making proposals for meeting the service needs which are not being addressed; and

4) such an agency to coordinate with all other existing agencies which gather data on the services needs of Maine's children and youth.

Joan FitzGerald then began a presentation on the prevention goals outlined by the Commission in Report on Task 1: Goals of Maine's Juvenile Justice System. There followed a discussion of the goal areas of preventing truancy and delinquency.

The meeting reconvened after lunch at 12:50 p.m. Chairman Jabar reopend the meeting. Joan FitzGerald presented the resolutions which had came out of the morning's discussion and upon motion duly made and seconded, it was

VOTED: That the Commission agrees that there should be mandated responsibility on the part of schools and parents to adequately and appropriately meet the educational needs of Maine's children through age 17 years;

That the Commission agrees that it is not appropriate to place students who truant or drop out from school in the Maine Youth Center for that reason only;

That Commission agrees that the present truancy statutes be repealed and replaced with a mandate that students participate, to ~~the~~ maximum extent that their ability permits, with parents and school personnel in the process of achieving an education for themselves; and

That a decision not to so participate by any of the three parties will be reviewed by a community-based committee composed of parents, teachers, probation department personnel and students.

Commissioner Smith of the Department of Human Services arrived at the meeting and gave a brief presentation on his agency's role in Maine. He stated that there is not a clear definition of what each agency which provides services to children is responsible for and what role each should play. He also stated that as a result of this confusion, one of the major problems is that there often is no fixed responsibility for providing necessary services to a particular child. He suggested that clarification is necessary as to where the responsibility for children's services lies. He proposed that all agencies dealing with children's services be integrated into one superagency because if just one single designated agency had primary responsibility for children's services, such services would become more efficient and adequate. He said that adequate resources exist for children in Maine

but that they need to be coordinated. In short, Commissioner Smith suggested that more can be accomplished for less resource expenditures by combining agencies. The suggested consolidation was of the Departments of Mental Health and Corrections and the Department of Human Services.

After Commissioner Smith's presentation, there being no further business, the meeting adjourned at 4:00 p.m.

Maine Commission to Revise Statutes
Relating to Juveniles

AGENDA

Meeting of: September 10, 1976
Location: Oblate Retreat House
136 State Street
Augusta, Maine

- I. Call to Order at 10:00 a.m.
- II. Announcements
- III. Consideration of Minutes of Previous Meeting
- IV. Goal Area Review:
 - Criminal Behavior
 - Distribution of Analysis of Available Statistical Data Related to Criminal Behavior Issues
 - Staff Presentation
 - Discussion
- V. Lunch
- VI. Completion of Criminal Behavior Goal Area Review
- VII. Adjournment

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

September 10, 1976

A meeting of the Commission members of the Maine Commission to Revise Juvenile Statutes was held on Friday, September 10, 1976. There were present Messrs. Allen, Els, Gauthier, Goranites, Heath, Henderson, Hobbins, Jabar, Kane, Merrill, Nadeau, Sharpe and Weldon. Also present were Peter DuBois, Joan FitzGerald, and Yvonne Sprowl of the Commission's staff. Mr. Jabar, chairman, presided. Ms. Sprowl recorded the minutes of the meeting.

Mr. Jabar opened the meeting at 10:20 a.m. He announced that the Legislative Impact Committee, headed by Ted Trott, met last week. Mr. Jabar was present and gave a brief presentation on the Commission's work. Mr. Jabar announced that he and Mr. Els were invited to attend the Standards and Goals Project's next meeting.

There began a lengthy discussion on whether the material so far generated by the Commission should be released to the public. After discussion and upon motion duly made and seconded it was unanimously

VOTED: That a press release will be prepared which will indicate that a preliminary report will be issued by the Commission in October and that public hearings will be held in early November.

It was also agreed that Joan FitzGerald would make contact with the other groups preparing recommendations on issues related to the Commission's work and explain the Commission's schedule. Projects to be contacted are: Standards and Goal, Children and Youth Services Planning, Correctional Economics, Criminal Law Advisory Committee, Community Justice, Criminal Code Impact, and Substitute Care Task Force. A timetable for sharing information with these groups will be developed.

Joan FitzGerald announced that if anyone has additions to the mailing list they should forward them to the staff.* She also announced that the District Court judges would meet with the Commission on September 24 at 2 p.m. and the Superior Court justices on September 25 between 10 a.m. and noon.

Mr. Jabar opened discussion on the previous minutes of the meetings. He suggested that we review the previous minutes thoroughly because of the importance of the decisions the Commission is now making in its work.

The minutes of the previous meeting were considered and upon motion duly made and seconded it was unanimously

VOTED: That the minutes of the August 5, 1976 meeting be amended as follows:

*The present mailing list will be available for Commission members' review at the meetings on September 24 and 25.

--Page 3, line 2, after "state agency"
and before "be charged with" insert
", not necessarily a new one,"--

--Page 4, line 17, after "department
personnel" and before "and students" insert
"and/or other appropriate professionals"--

VOTED: That the minutes be accepted as amended.*

Peter DuBois announced that staff is moving to a computerized analysis of available statistical data on criminal behavior and non-criminal behavior. Dale Carter reports that no significant correlations have appeared in his analysis to date.

Joan FitzGerald began a presentation on the criminal behavior goals outlined by the Commission in Report on Task 1: Goals of Maine's Juvenile Justice System.

The Commission broke for lunch at 12:00.

The meeting reconvened after lunch at 1:00 p.m. Chairman Jabar reopened the meeting. Joan FitzGerald continued the discussion on criminal behavior. Joe Jabar suggested that the present laws dealing with drugs, alcohol, and marijuana abuse by juveniles should be retained.

Tom Kane asked the Commission to consider if commitment to a mandatory treatment program is feasible for such behavior. Joan FitzGerald commented that most successful treatment programs are voluntary. Mr. Kane suggested that we might consider commitment to a treatment program - not necessarily residential - as a condition of probation. Apparently, this is done in other states.

*For text of amended minutes of August 5 Commission meeting see Appendix 1

Tom Kane went on to say that the Commission acknowledges that there is a lack of treatment alternatives. But he added that we must not get hung-up on incarceration because of this lack. He concluded that alcohol and drug abuse are illnesses, not crimes. Incarceration is therefore not an appropriate alternative. Mr. Jabar responded that if you take away the threat of incarceration for drinking or drug abuse then laws prohibiting it will be unenforceable. You must at least have the threat of incarceration.

Don Allen remarked that the Commission should carefully distinguish between those who use drugs and alcohol and those who illegally traffic in them. He went on to say that the Maine Youth Center has received very few kids for alcohol or drug abuse.

Charlie Sharpe commented that courts must be given the power to incarcerate after some point in time. He also said that the Commission should recommend that treatment alternatives must be developed so that incarceration is, in fact, resorted to only after less drastic treatment alternatives have been tried and have failed.

Tom Kane commented that communities are very resistant to accept treatment programs. He went on to state that if incarceration is a resource, it will be overused because communities probably will not develop alternatives. He said that strong recommendations about treatment programs must be suggested by the Commission: legislative changes and major reorganization of state departments.

He concluded by stating again that alcohol and drug abuse is an illness. It is a problem more than merely an anti-social offense. And so it should be treated differently than as anti-social behavior. He warned the Commission to be realistic in what it presents to the legislature.

Peter DuBois suggested that the Commission could issue a policy statement saying that it recognizes alcohol and drug abuse to be an illness which should be treated appropriately and that, therefore, there should be a series of steps taken before a child is incarcerated for such behavior, to demonstrate to the court that all steps designed to rehabilitate the child have been taken but have failed.

After some additional discussion, the Commission adopted the following resolution by a vote of 10-0:

RESOLVED: The Commission agrees that non-residential community-based programs are the most desirable means for addressing juveniles' problems related to drug or alcohol abuse or prostitution. And, therefore, the Commission recommends that Maine's statutes be amended to require that a juvenile who has been adjudicated a delinquent because of drug or alcohol abuse or prostitution may not be committed to the Maine Youth Center or any other residential program until he has been placed in at least one non-residential program appropriate to his needs and has not been rehabilitated by that program; and that such residential commitment may be made only if there is evidence that such placement will provide the juvenile with appropriate programming.

The Commission further recommends that courts be provided with sufficient intake assistance to adequately carry out the intent of this requirement.

The Commission next moved to a discussion of the current "bind-over" statute. The Commissioners considered the code provisions adopted by Colorado which incorporate those guidelines by the Supreme Court in Kent v. U.S..

Mr. Hobbins was not willing to adopt the Colorado model unless it was modified. Mr. Goranites argued that some criteria for bind-over - such as seriousness of the offense and age of the offender are more important than others and should receive greater consideration. The Commission asked its staff to draft a resolution which will be reflective of the consensus reached at the meeting.*

The Commission next discussed the housing of children in adult jails in Maine. Staff suggested that the Commission adopt a policy statement about the fact that it is inappropriate to hold children in adult jails.

Upon motion duly made and seconded, the following resolution was adopted by a vote of 9-0:

RESOLVED: That the Commission recognizes that it is most inappropriate and undersirable to detain juveniles in facilities which are also used to detain adult offenders. And, therefore, the Commission recommends:

- 1) That the detention of juveniles in facilities which are also used to detain adults be strictly forbidden by law; and
- 2) That the state establish a network of regional juvenile detention facilities which will insure that juveniles will never have to be detained in adult jails.

*This resolution is attached to these minutes as Appendix 2.

There followed a discussion of the need for additional rehabilitative programs for children in Maine. Mr. Kane suggested that a state-wide network of alternative services must be developed in order to assure that children are treated in community-based services. He added that such a program needs an outreach capability if it is to be successful.

Due to the fact that Commissioners were obliged to attend other meetings that afternoon, at 3:30 p.m. a quorum was not present and so the meeting was adjourned.

APPENDIX 1

Amended Commission Meeting Minutes of August 5, 1976

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

August 5, 1976 *

A meeting of the Commission members of the Maine Commission to Revise Juvenile Statutes was held on Thursday, August 5, 1976. There were present Messrs. Allen, Els, Gauthier, Goranites, Heath, Henderson, Hobbins, Jabar, Jones, Kane, Merrill, Nadeau and Weldon. Also present were Elizabeth Belshaw, State Court Administrator of the state of Maine, and Ann Brauer, Peter DuBois, Joan FitzGerald and Yvonne Sprowl of Arthur Bolton Associates. Mr. Jabar, chairman, presided. Ms. Sprowl recorded the minutes of the meeting.

Mr. Jabar opened the meeting at 10:20 a.m. The minutes of the previous meeting were acknowledged and upon no discussion, motion was duly made and seconded and it was unanimously

VOTED: That a reading of the minutes of the last meeting of July 1, 1976 be waived.

Mr. Jabar announced that he had received a letter from Governor Longley in response to a letter he had sent earlier requesting input from Gov. Longley in the Commission's work. Apparently, Gov. Longley

*These minutes were amended at Commission meeting held on September 10, 1976.

erroneously believes he had already met with the Commission. Actually, he recently met with the Advisory Committee of the Maine Criminal Justice Planning and Assistance Agency. He has appointed a liaison, namely, Miss Nancy Warburton, a member of his office staff to work with the Commission. Mr. Jabar then read a letter from Judge Spill in which he stated his recommendations to the Commission. It was announced that the District Court judges had agreed to meet with the Commission during the regular Commission meeting to be held on September 24, 1976. Elizabeth Belshaw will advise staff of when the Superior Court judges will be able to meet with the Commission.

Peter DuBois opened the discussion of the agenda and stated that staff would like to see the Commission agree on some policy guidelines in the area of prevention. He then gave a brief presentation on the "Analysis of Available Statistical Data Related to Prevention Issues" prepared by Dale Carter and Katherine Carter for the Commission. There was a discussion of the problems of a lack of adequate data in the prevention area. After discussion and upon motion duly made and seconded, it was unanimously

VOTED: That the Commission agrees that children and youth should receive whatever services are necessary to prevent them from coming into contact with the juvenile court system and to aid in accomplishing this result the

Commission recommends that a single state agency, not necessarily a new one, be charged with responsibility for:

1) gathering standardized information on the present and past services needs of children who have come into contact with the juvenile court;

2) gather standardized information on the extent to which such services needs are being met;

3) making proposals for meeting the service needs which are not being addressed; and

4) such an agency to coordinate with all other existing agencies which gather data on the services needs of Maine's children and youth.

Joan FitzGerald then began a presentation on the prevention goals outlined by the Commission in Report on Task 1: Goals of Maine's Juvenile Justice System. There followed a discussion of the goal areas of preventing truancy and delinquency.

The meeting reconvened after lunch at 12:50 p.m. Chairman Jabar reopend the meeting. Joan FitzGerald presented the resolutions which had came out of the morning's discussion and upon motion duly made and seconded, it was

VOTED: That the Commission agrees that there should be mandated responsibility on the part of schools and parents to adequately and appropriately meet the educational needs of Maine's children through age 17 years;

That the Commission agrees that it is not appropriate to place students who truant or drop out from school in the Maine Youth Center for that reason only;

That Commission agrees that the present truancy statutes be repealed and replaced with a mandate that students participate to a maximum extent that their ability permits with parents and school personnel in the process of achieving an education for themselves; and

That a decision not to so participate by any of the three parties will be reviewed by a community-based committee composed of parents, teachers, probation department personnel and/or other appropriate professionals and students.

Commissioner Smith of the Department of Human Services arrived at the meeting and gave a brief presentation on his agency's role in Maine. He stated that there is not a clear definition of what each agency which provides services to children is responsible for and what role each should play. He also stated that as a result of this confusion, one of the major problems is that there often is no fixed responsibility for providing necessary services to a particular child. He suggested that clarification is necessary as to where the responsibility for children's services lies. He proposed that all agencies dealing with children's services be integrated into one superagency because if just one single designated agency had primary responsibility for children's services, such services would become more efficient and adequate. He said that adequate resources exist for children in Maine

but that they need to be coordinated. In short, Commissioner Smith suggested that more can be accomplished for less resource expenditures by combining agencies. The suggested consolidation was of the Departments of Mental Health and Corrections and the Department of Human Services.

After Commissioner Smith's presentation, there being no further business, the meeting adjourned at 4:00 p.m.

APPENDIX 2

Draft Resolution Regarding Bind-Over

RESOLVED: That the Commission recommends that, in order to provide for more effective administration of justice with regard to juveniles who have committed serious offenses, the existing criteria for bind-over of juveniles to superior court be repealed and replaced by the following criteria:

The juvenile court concludes and so states in its probable cause finding, that having considered:

- a) the record and previous history of the child,
- b) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner, greater weight being given to offenses against person than against property, and
- c) whether there is a reasonable likelihood that like future conduct will not be deterred by continuing the child under the juvenile justice system,

the court finds that:

- a) the maturity of the child as determined by considerations of his home, environment, emotional attitude, and pattern of living, indicates that the child would be more appropriately prosecuted under the general law; and
- b) the nature and seriousness of the offense indicate that the protection of the community requires detention of the child in facilities which are more secure than those provided in the juvenile justice system.

September 17, 1976

TO: Members, Maine Commission to Revise Statutes
Relating to Juveniles

FROM: Joan FitzGerald and Peter DuBois

RE: Enclosed Materials and Plans for Up-coming Meetings

The enclosed materials are intended to bring you up to date on Commission and staff activities and to help you prepare for the meetings scheduled for this coming Friday and Saturday in Augusta.

As the extensiveness of these materials and experience to date indicates, our meetings on the 24th and 25th will be very significant. In addition to deciding on recommendations in the areas of non-criminal behavior and juvenile courts during these sessions, the Commission will hold meetings with representative committees of the District Courts judges and the Superior Court justices.

As indicated on the enclosed agendas, the Commission is scheduled to work as long as necessary on Friday in order to complete its work on non-criminal misbehavior and to begin work on Saturday at 9 a.m., so that the work on juvenile courts can be completed in one meeting as well.

The two background documents on Non-Criminal Misbehavior and Juvenile Courts are intended to summarize the current thinking regarding the issues of concern in Maine in these areas. The Interim Report on the criminal and non-criminal behavior statistical analysis does not provide any conclusions which would be useful for the discussions on the 24th and 25th, but does describe staff activities on that task to this point.

If you have any questions on any of this material, please be in touch with us. Otherwise we'll see you on Friday.

Maine Commission to Revise Statutes
Relating to Juveniles

AGENDA

Meeting of: September 24, 1976

Location: Oblate Retreat House
136 State Street
Augusta, Maine

- I. Call to Order at 10:00 a.m.
- II. Announcements
- III. Consideration of Minutes of Previous Meeting
- IV. Goal Area Review:
 - Non-Criminal Misbehavior
 - Staff Presentation
 - Discussion
- V. Lunch - 12:15 to 1:00 p.m.
- VI. Continuation of Non-Criminal Misbehavior Goal Area Review
- VII. Meeting with Representative Committee of District Court Judges - 2:00 to 4:00 p.m.
- VIII. Completion of Non-Criminal Misbehavior Goal Area Review
- IX. Adjournment

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

September 24, 1976

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Friday, September 24, 1976. There were present Messrs. Allen, Concannon*, Els, Delahanty, Gauthier, Heath, Henderson, Jabar, Jones, Kane, Merrill, Nadeau and Weldon. Also present were Elizabeth Belshaw, State Court Administrator of the state of Maine, and Peter DuBois, Joan FitzGerald and Yvonne Sprowl of the Commission's staff. Mr. Jabar, chairman, presided. Ms. Sprowl recorded the minutes of the meeting.

Mr. Jones, vice-chairman, opened the meeting at 10:15 a.m. Sample letters were handed out to the Commission concerning contact made with the other agencies working on juvenile matters. A draft press release, a draft resolution concerning bind-over and questions to be asked of the District Court judges were also handed out to the Commission.

*

Representing Charlie Sharpe.

The minutes of the previous meeting were acknowledged and upon no discussion, motion was duly made and seconded and it was unanimously

VOTED: That a reading of the minutes of the last meeting of September 10, 1976 be waived and that the minutes be accepted.

Joan FitzGerald opened the discussion on non-criminal behavior. The first resolution was read and after discussion, it was unanimously

RESOLVED: The Commission recommends that terms such as 'behavior which might indicate a tendency to lead an idle, dissolute, lewd or immoral life' or any other similarly vague terms should not be used to define non-criminal juvenile misbehavior and statutes employing such language should be repealed.

There followed a discussion about non-criminal behavior. After consideration, it was

RESOLVED: The Commission recommends that runaway children, for that behavior alone, should not be detained or incarcerated in any correctional facility.

Don Allen expressed concern about the time lag after statutory reform is enacted and before the services necessary to effect it are funded and established.

The meeting was adjourned at 12:10 for lunch.

The meeting reconvened at 12:45.

After some discussion, it was

RESOLVED: The Commission recommends that the "beyond-control-of-parents" child, where the child performs any criminal act, should be treated as a delinquent child, and where the child has not committed a criminal offense, he, and his family, should be offered voluntary social services but should not be required to accept them. (8-1)

RESOLVED: The jurisdictional basis for judicial intervention in cases of runaway children and youth should be altered so as to treat them essentially as neglect cases. (10-1)

At 2:00 p.m., the Commission met with representatives of the District Court judges. District Court Judges, Batherson, Briggs, Clark, Devine, Henry, MacDonald, Ross, Smith and Spill were present.

The consensus of the judges was that the first step to delinquency is truancy. The judges stated that they can deal with truancy if they are given tools with which to work. Judge Ross stated that truancy should be a criminal offense, and that truancy has increased state wide since the law was changed. When questioned by Mr. Henderson about the basis for the statement that truancy has increased since the law was changed, Judge Ross cited his own experience as a district court judge.

The judges agreed that halfway houses are the best placement resource available for juveniles and that more halfway houses should be made available.

The judges agreed that regional detention and evaluation centers for juveniles should be established.

The question of "bind-over" was discussed. The judges were of the opinion that the bind-over provisions should be revised to permit more discretion in binding over older juveniles who are charged with serious crimes.

On the matter of secrecy, the judges stated that whether or not a courtroom should be open to the public should be left to their discretion since each case is different and should be handled so.

Some of the judges felt that the appeal should be on the record. Others felt that the judge should read it and decide. Most of the judges felt that electronic recording devices should be used, although they thought that by using them, it could backlog the court system, i.e. all hearings would be formal. Some of the judges stated that juvenile appeals should be made on the record - not de novo as is the current practice.

The meeting was adjourned at 4:00 p.m.

Maine Commission to Revise Statutes Relating
to Juveniles

Meeting of September 24

Questions for District Court Judges

1. The Commission is concerned that everything possible be done to prevent a juvenile from becoming delinquent. What are the problems which you are experiencing in your jurisdictions with effectively minimizing juvenile delinquency? What suggestions do you have for solving those problems?
2. Truancy is a problem of major concern in Maine. The Commission is considering recommending mandating greater responsibility for this phenomenon for parents, educators and community social service agencies. What are your views on effective methods for addressing the phenomena of truancy and early school dropouts.
3. The Commission is concerned about the over-reliance on the Maine Youth Center for pre-trial detention and other services. The Commission is also concerned about reports of the detention of juveniles in facilities which are also used to detain adult offenders. As solutions to these problems, we are considering recommending a strict prohibition on the detention of juveniles in facilities which are also used to detain adult offenders and the establishment of a network of regional juvenile detention facilities as well as the funding of adequate intake and evaluation personnel for juvenile courts. What would be your reactions to these recommendations?
4. The Commission is concerned about the inadequate number of dispositional alternatives for juvenile courts. What do you see as the greatest inadequacies in dispositional alternatives for juveniles in your jurisdiction, and how would you suggest correcting for those inadequacies?
5. The Commission is concerned about current difficulties with the criteria for binding over a juvenile to the Superior Court. We are currently considering a resolution regarding recommended changes in this criteria and we would like you to review it with us today and give us your reactions to it. (Staff will have copies of the draft resolution available for members of the District Court Judges committee.)
6. What other procedural or administrative problems do you feel this Commission should address & what are your views on these problems?

RESOLVED: That the Commission recommends that, in order to provide for more effective administration of justice with regard to juveniles who have committed serious offenses, the existing criteria for bind-over of juveniles to superior court be repealed and replaced by the following criteria:

The juvenile court concludes and so states in its probable cause finding, that having considered:

- a) the record and previous history of the child,
- b) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner, greater weight being given to offenses against person than against property, and
- c) whether there is a reasonable likelihood that like future conduct will not be deterred by continuing the child under the juvenile justice system,

the court finds that:

- a) the maturity of the child as determined by considerations of his home, environment, emotional attitude, and pattern of living, indicates that the child would be more appropriately prosecuted under the general law; and *OR ABC D?*
- b) the nature and seriousness of the offense indicate that the protection of the community requires detention of the child in facilities which are more secure than those provided in the juvenile justice system.

Maine Commission to Revise Statutes
Relating to Juveniles

AGENDA

Meeting of: September 25, 1976

Location: Oblate Retreat House
136 State Street
Augusta, Maine

- I. Call to Order at 9:00 a.m.
- II. Announcements
- III. Goal Area Reivew:
Juvenile Courts
 - Staff Presentation
 - Discussion
- IV. Meeting with Representative Committee of
Superior Court Justices - 10:00-12:00 noon
- V. Lunch - 12:00 to 14:45 p.m.
- VI. Completion of Juvenile Courts Goal Area Review
- VII. Adjournment

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

September 25, 1976

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Saturday, September 25, 1976. There were present Messrs. Concannon*, Els, Gauthier, Heath, Henderson, Jabar, Jones, Merrill, Nadeau and Weldon. Also present were Elizabeth Belshaw, State Court Administrator of the state of Maine, and Peter DuBois, Joan FitzGerald and Yvonne Sprowl of the Commission's staff. Mr. Jabar, chairman, presided. Ms. Sprowl recorded the minutes of the meeting.

Mr. Jabar opened the meeting at 10:15 a.m. There were no announcements.

Joan FitzGerald began a discussion on the first resolution about the goal area of Juvenile Courts. After discussion, and upon motion duly made and seconded it was unanimously

RESOLVED: The Commission recommends that Maine's statutes be amended to include the following custody standard and procedure:

A child may be taken into custody--

- a) pursuant to an order of a court; or
- b) by a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has deserted his parent, guardian or custodian without just cause.

A child taken into custody shall be taken forthwith to the Department of Human Services. (8-1)

*
Representing Charlie Sharpe.

RESOLVED: The Commission recommends that Maine statutes be amended to include the following standard for juvenile arrest:

A police officer may without a warrant take a minor under the age of 18 into temporary custody--

- a) whenever the officer has reasonable cause to believe that the minor has committed a class d or e offense or has abused alcohol or drugs or has engaged in prostitution in his presence;
- b) when the minor has committed a class a, b, or c crime although not in the officer's presence;
- c) whenever the officer has reasonable cause to believe that the minor has committed a class a, b, or c crime whether or not such crime has in fact been committed; or
- d) whenever the minor has been involved in a traffic accident and the officer has reasonable cause to believe that the minor had been driving while under the influence of intoxicating liquor or any drug.

RESOLVED: The Commission recommends that the criminal code provisions for arrest be adopted for the juvenile code.

Superior Court Judges McCarthy and Roberts met with the Commission from 10:00 a.m. until 12:00 noon. They stated that more flexibility should be given to district court judges in deciding to bind-over a juvenile to Superior Court. Justice Roberts suggested that perhaps the prosecutor should be the decision-maker as to whether or not to request that a juvenile be bound over. The justices agreed

that secrecy of the juvenile proceedings has done more harm than good, although they cautioned that disclosure should depend on the crime with which the juvenile is charged.

They were opposed to relaxing the transfer provisions because they saw great difficulty in allowing a district court judge to make that decision and also to try the juvenile in an adult proceeding.

Justice Roberts stated that if a juvenile is going to be committed to an adult facility, and is being bound over, then he should receive all the constitutional safeguards that an adult receives in a similar proceeding including a jury trial.

The meeting was adjourned for lunch at 12:00.

The meeting reconvened at 12:55 p.m.

After lunch the subject of secrecy was discussed. After the discussion, and upon motion duly made and seconded

MOTION DENIED That all juvenile proceedings be opened to the public. (3-5)

After further discussion, it was

RESOLVED: The Commission recommends that all court proceedings involving juveniles accused of class a, b, or c offenses be open to the public. (7-2)

RESOLVED: The Commission recommends that delinquency hearings be conducted in all procedural respects except jury trials as are adult criminal hearings. (unanimous)

RESOLVED: The Commission recommends that no child under age 14 shall be questioned about alleged delinquent behavior unless a lawyer acting on his behalf is present.

RESOLVED: The Commission recommends that the juvenile court be retained as a division of the district court; that continuing legal education be provided to judges and attorneys to insure the highest possible quality of legal practice in juvenile matters; and that in recognition of the significant role that district court judges and attorneys play in the adjudication of juvenile matters, the salary of district court judges be increased and fees for court appointed attorneys in juvenile matters be determined on a case-by-case basis, according to the complexity of the case and length of the adjudicatory process.

The Commission recommends that, in order to provide for more effective administration of justice with regard to juveniles who have committed serious offenses, the existing criteria for bind-over of juveniles to superior court be repealed and replaced by the following criteria:

The juvenile court concludes and so states in its probable cause finding, that having considered--

- (a) the record and previous history of the child,
- (b) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner, greater weight being given to offenses against person than against property, and
- (c) whether there is a reasonable likelihood that like future conduct will not be deterred by continuing the child under the juvenile justice system,

the court finds that--

- (a) the maturity of the child as determined by considerations of his home, environment,

emotional attitude, and pattern of living, indicates that the child would be more appropriately prosecuted under the general law; and

- (b) the nature and seriousness of the offense indicate that the protection of the community requires detention of the child in facilities which are more secure than those provided in the juvenile justice system.

The meeting was adjourned at 2:30 p.m.

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

October 15, 1976

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Friday, October 15, 1976. There were present. Messrs. Allen, Delahanty, Gauthier, Heath, Hobbins, Jabar, Jones, Kane, Merrill, Weldon and Ms. Rosse. Also present were Elizabeth Belshaw, State Court Administrator of the state of Maine, and Peter DuBois, Joan FitzGerald and Yvonne Sprowl of the Commission's staff. Mr. Jabar, chairman, presided. Ms. Sprowl recorded the minutes of the meeting.

Mr. Jabar called the meeting to order at 10:15 a.m. Peter DuBois gave a brief presentation on the format of the Preliminary Report of Recommendations and Analysis which was given to all of the Commissioners to review at that time. After the Commissioners looked over the report, Joe Jabar announced that the Commission's staff, Dale Carter, Peter DuBois and Joan FitzGerald had began a new corporation, Developmental Research Center, Inc., and an assignment of the Maine contract had been executed reflecting this change, and that the Commission's Executive Committee had approved the assignment.

Mr. Jabar announced that he had met with Ted Trott's group. At this time there began a discussion on whether the Commission should comment on the lowering of the age for which a person can drink alcohol.

The meeting was adjourned at 12:05 for lunch.

The meeting reconvened at 1:00.

The minutes of the previous meeting were acknowledged and upon no discussion, motion was duly made and seconded and it was unanimously

VOTED: That the minutes of the two previous meetings, September 24 and 25, 1976 be accepted.

The discussion of lowering the age for drinking alcohol was brought up again and after a lengthy discussion it was

RESOLVED: That the Commission is concerned about the increased use of alcohol among adolescents and has discussed the possible relationships between lowering the drinking age and the increased use of alcohol but that the Commission in the absence of available data to justify such a causal relationship, decided that it would recommend that additional data be generated and examined and that a continued examination of teenage alcohol abuse should be made and the drinking age should remain where it is until such data is available.

The remainder of the meeting was devoted to the Commission going through the preliminary report to make changes they feel necessary.

The meeting was adjourned at 4:00 p.m.

Maine Commission to Revise Statutes
Relating to Juveniles

AGENDA

Meeting of: November 12, 1976

Location: Oblate Retreat House
136 State Street
Augusta, Maine

- I. Call to Order at 10:00 a.m.
- II. Announcements
- III. Consideration of Minutes of
Previous Meeting
- IV. Review of Commission work schedule
- V. Review of reactions to Preliminary
Report and final decisions on
recommendations
- VI. Lunch - 12:00 to 12:45 p.m.
- VII. Meeting with Commission of Education
and Cultural Services, H. Sawin Millett
- VIII. Completion of review and reactions
to Preliminary Report and final
decisions
- IX. Adjournment

Frank

Tom Keane

Commission To Revise Statutes
Relating to Juveniles

Minutes of the meeting held Nov. 12, 1976

The meeting was convened by Chairman Jabar at 10:15 A.M. Present were Mrs. Jones, Kane (representing Charles Sharpe), Kane, Heath, Goranites, Hobbins, Weldon, MacDonald, Merrill, Nadeau, Els and Henderson. Also present were Peter DuBois and Joan FitzGerald of the Commission's staff.

Mr. Jabar reported on the public hearings and congratulated David Els and his staff for printing and mailing over 800 copies of the summary of the Commission's preliminary report.

A reading of the minutes of the previous meeting was waived and upon motion duly made and seconded, it was:

RESOLVED that the minutes of the meeting held on October 15th are adopted as recorded.

Mr. Jabar then stressed the need for a continued active effort to publicize the Commission's work.

Peter DuBois then distributed copies of "An Analysis of Available Statistical Data Related to the Juvenile Court" and summarized the findings of that analysis for the Commissioners.

A discussion followed about ways to structure input from various organizations and individuals who have expressed a desire to respond to the preliminary report. Upon motion duly made and seconded it was unanimously:

RESOLVED that all input from interested parties shall be limited to written statements which must be submitted to the Commission by December 3rd.

The Commission recessed for lunch at 12:05 P.M.
The Commission reconvened at 1:10 P.M.

Commissioner H. Sawin Millet of the Department of Education and Cultural Services and Mr. Fred Douglas, the Department's expert on truancy met with the Commissioners. Mr. Millet expressed his support for many of the Commission's recommendations regarding truancy, but stated his opposition to the Commission's recommendation that jurisdiction over truancy matters should be removed from the jurisdiction of the juvenile courts. He reiterated his support

for the recommendations of a task force sponsored by the Department of Education which were made in January, 1975.

Mr. Douglas then summarized those recommendations for the Commission. Copies of the final report of that task force were made available to the Commissioners.

Mr. Millet and Mr. Douglas then accepted questions from the Commissioners. In response to questions from Mr. Jones and Mr. Henderson, Mr. Millet stated that the task force's recommendations had been unsuccessfully introduced in the 107th legislature as L.D. 1079.

Mr. Millet and Mr. Douglas left at 2 P.M.

The Commissioners then proceeded to review their preliminary recommendations. After discussion and on motion duly made and seconded, it was unanimously:

RESOLVED that the introduction to the Commission's final report, which will contain its recommendations in legislative form, should emphasize the interdependence of the recommendations and express the Commission's belief that the recommendations should be adopted as a whole package and not be enacted piece-meal.

After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that preliminary recommendation #1 under Prevention is adopted as stated as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #2 under Prevention will be tabled and a vote on it post-poned until the Commission meeting on December 3rd.

RESOLVED that preliminary recommendation #1 under Non-Criminal Behavior is adopted as stated as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #2 under Non-Criminal Behavior is adopted as stated as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #3 under Non-Criminal Behavior is adopted as stated as a final recommendation of the Commission. (Vote: 10-1)

RESOLVED that preliminary recommendation #4 under Non-Criminal Behavior is adopted as stated as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #5 under Non-Criminal Behavior be amended to delete the phrase "...without just cause..." and that, as so amended, the recommendation is adopted as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #1 under Criminal Behavior be amended to change the word "abuse" to "offense" and the word "programming" to "treatment" and that the recommendation, as amended, is adopted as a final recommendation of the Commission. (Vote: 8-3)

RESOLVED that preliminary recommendation #2 under Criminal Behavior be amended to conform part "a" to available federal standards and to delete the phrase "and evaluations" and to add the phrase "which shall provide a variety of detention facilities" and that as so amended the recommendation is adopted as a final recommendation of the Commission. (Vote: 10-1)

RESOLVED that preliminary recommendation #3 under Criminal Behavior be adopted as stated as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #4 under Criminal Behavior will be tabled and that a vote on it will be post-poned until the Commission meeting on December 3rd.

RESOLVED that preliminary recommendation #1 under Juvenile Courts be adopted as stated as a final recommendation of the Commission. (Vote: 10-1)

RESOLVED that preliminary recommendation #2 under Juvenile Courts be adopted as stated as a final recommendation of the Commission.

RESOLVED that preliminary recommendation #3 under Juvenile Courts be adopted as stated as a final recommendation of

the Commission. (Vote: 8-1)

It was decided that the remaining preliminary recommendations would be considered at the next Commission meeting. After discussion, it was decided that an additional meeting would be necessary in order to thoroughly review all the preliminary recommendations, review any comments about the preliminary report which the Commission receives and have a draft of the legislation to implement its recommendations ready by the middle of December. Therefore, upon motion duly made and seconded, it was:

RESOLVED that a Commission meeting be scheduled for Friday, December 3, 1976 at 10:00 A.M. at the Oblate Retreat House in Augusta.

There being no further business, the meeting was adjourned at 5:08 P.M.

Commission to Revise Statutes
Relating to Juveniles

Minutes of the December 3, 1976 meeting

The meeting was convened by Vice-Chairman Jones at 10:25 A.M. Present were Mrs. Els, Sharpe, MacDonald, Merrill, HEATH, KANE, Amaroso. Mrs. Henderson, Allen, and Jabar arrived later. Also present were Peter DuBois and Joan FitzGerald of the Commission's staff.

Peter DuBois reported to the Commission that Commissioner Zitney of the Department of Mental Health and Corrections would meet with the Commission at 11:00 A.M. He then reported on various efforts at collaboration with other groups and with Commissioners Smith and Zitney and with the Human Development Research Institute.

A reading of the minutes of the previous meeting was waived and upon motion duly made and seconded, it was unanimously:

RESOLVED that the minutes of the meeting of held on November 12, 1976 are adopted as recorded.

A discussion of the Commission's work schedule was then held. Mr. Jones raised the issue of legislative strategy and it was agreed that legislative strategy would be on the agendas for the meeting scheduled for December 9. After discussion it was agreed that an additional Commission meeting would be necessary and it was agreed that the Commission would meet on Wednesday, December 16.

The Commission then moved to a discussion of the preliminary recommendations. Recommendation #2 under Prevention was tabled until Chairman Jabar's arrival because it was possible that he had received some written comments from educators who had promised to supply them to the Commission before December 3rd during the public hearing held in Augusta on November 8th.

The Commission next moved to a discussion of Recommendation #4 under Criminal Behavior. The discussion was suspended at the arrival of Commissioner Zitney.

Commissioner Zitney commended the Commission on its work to date and expressed regret at not having been

involved in the Commission's work from its inception. He said, however, that he was interested in working closely with the Commission in the future and outlined some ideas that his department has about children and family services. He stated that his department is trying to move to community-based services, to concentrate on providing a broad spectrum of services including preventive services to all people who are in need of them, to coordinate service delivery and to develop an effective monitoring and evaluative process so that services that produce results can be expanded and those that are ineffective can be phased-out.

The Commissioner then went on to admit that children had been a low priority for the Department of Mental Health and Corrections in the past but that under his administration they were priority #3 - priorities 1 and 2 being class action lawsuits that have been filed against the department.

He also said that under his administration more necessary direct services will be developed. He mentioned that since his department is small in comparison with the other departments in the state, the communication problems that have plagued the department in the past can and will be alleviated.

Finally, he said that his department is interested in aggressively developing a comprehensive children's and families' services system and that he would like to work with the Commission to achieve this goal.

In response to a question from Mr. Jones, Commissioner Zitney said that if the Commission were to recommend that the single state agency to deal with children's services be placed in his agency, he would be willing to create a bureau or division of children's and families' services or to create an assistant commissioner for children's and families' services. He was unable to say exactly which model he would be execute because, as yet, his own internal, departmental reorganization is still underway. But he did promise parody with the other services his department provides for children's and families' services.

The Commission adjourned at noon for lunch.
The Commission reconvened at 1:05 P.M.

The floor was opened for additional discussion on Recommendation #1 under Prevention due to the presentation of Commissioner Zitney. After extended discussion, and upon motion duly made and seconded it was:

RESOLVED that the Commission recommend that
the single state agency detailed in

this recommendation be placed in the Department of Mental Health and Corrections. (The vote on this recommendation was 6-1-2.)

The Commission then moved to a discussion of substance abuse and prostitution. After discussion and upon motion duly made and seconded, it was:

RESOLVED that possession of alcohol or drugs or the purchase of alcohol or drugs should be considered a juvenile offense but that consumption of alcohol or drugs will not constitute an offense. (Vote: unanimous)

After discussion and upon motion duly made and seconded, it was:

RESOLVED that preliminary recommendation #5 under non-criminal behavior be adopted as a final recommendation of the Commission. (Vote: 5-0-4)

After discussion and upon motion duly made and seconded, it was:

RESOLVED that preliminary recommendation #5 under juvenile courts will not be adopted as a final recommendation of the Commission and that, instead, the Commission adopt a recommendation that no statements made to law enforcement officer by a juvenile under the age of 14 years about conduct of his which would constitute a crime if he were an adult would be admissible at a later hearing on that conduct.

The meeting was adjourned at 3:15 P.M.

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

December 9, 1976

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Thursday, December 9, 1976 at the Oblate Retreat House, 136 State Street, Augusta, Maine.

The meeting was called to order by chairman Joseph Jabar at 10:30 a.m. Commission members present were Messrs. Jabar, Jones, Allen, Delahanty, MacDonald, Nadeau, Heath, Weldon and Merrill. Technical assistance and staff present included Messrs. Els and DuBois.

The Commission spent the morning in a discussion of issues yet to be decided by the Commission including intake workers, bail, right to appeal decisions regarding bind-over, flat sentencing and appeals.

The meeting adjourned for lunch at 12:15.

The meeting was reconvened at 1:00 p.m. by Chairman Jabar. The minutes of the previous meeting were distributed and approved unanimously with one correction:

--Commission member John Weldon was present at the December 3, 1976 meeting of the Commission.--

Mr. DuBois distributed copies of a report from the Department of Education regarding truancy, dropouts, suspensions, and expulsions in Maine's public schools. Mr. DuBois then reported on staff efforts to contact educational interest groups for purposes of receiving their final input in time for the Commission's December 16, 1976, discussion of educational issues. Mr. DuBois reported that he had several telephone conversations with staff of the Maine School Management Association and that Mr. Neil Lemieux of that organization had assured him that written input from all of the educational groups represented by Maine School Management Association would be in the hands of the Commission in time for their December 16 meeting. Mr. DuBois reported further he had written to the leadership of the State Superintendents' Association, State Principal's Association, State Elementary Principal's Association, and State School Boards Association to remind them of the December 16th deadline.

Mr. DuBois distributed copies of the juvenile justice section of an informal report prepared for the Commissioners of Human Services, Mental Health and Corrections, and Education by the staff of all four state level task forces on children's issues. This juvenile justice section was prepared by Commission staff. Mr. DuBois then reported on the activities of the committee of

representatives from the four children's services task forces which is conducting informal talks with the Commissioners of Human Services, Mental Health and Corrections and Education regarding possible administrative implementation of those recommendations which are jointly supported by the various task forces.

The Commission then proceeded with its consideration of policy decisions for the juvenile code and made the following decisions:

RESOLVED: There should be juvenile intake officers available in each of the prosecutorial districts in the state of Maine. Such intake workers should be sworn law enforcement officers employed by the Department of Mental Health and Corrections, and they should be responsible for all administrative support necessary for the processing of juvenile cases in the justice system from intake through initial disposition. (unanimous) [Commission staff were instructed to prepare a model for intake workers functions, including criteria for all necessary decisions at intake. This language will be included in Chapter IV of the proposed juvenile code. This chapter is scheduled for presentation to the Commission at their December 16 meeting.]

RESOLVED: At initial intake, an intake worker will decide whether the juvenile shall be detained or released. If the juvenile is to be released, the intake worker shall further specify the person into whose custody the juvenile shall be released. At an initial hearing, a juvenile shall have the same right to bail as adults. (unanimous)

- RESOLVED: Both the defendant and the state shall have the right to appeal decisions of the district court regarding bind-over to superior court. Such appeals shall be on the record only, and shall be limited to an appeal to the superior court level. (unanimous)
- RESOLVED: After extensive consideration of the many complex issues related to rehabilitative and punitive concerns regarding the incarceration of juveniles, the Commission recommends that the present policy and practice of indefinite sentencing be retained in juvenile matters. (8-1)
- RESOLVED: That juveniles committed by a juvenile court to residential placements including the Maine Youth Center shall have their case reviewed by the staff of the placement facility at least every twelve months to determine if the placement is still and appropriate to the needs of the juvenile. A report of each such review shall be sent to the committing court, the juvenile, the juvenile's attorney and the the juvenile's family. (unanimous)
- RESOLVED: Juveniles shall have the same right to appeal as do adults with regard to decisions of the district court except that where there is a record of the district court proceedings the appeal to Superior Court shall be on the record only. However, if there is no record of the proceedings in the district court then a hearing de novo will be allowed on appeal. Further, a juvenile's right to appeal a Superior Court's decision to the Supreme Court will be the same as that for adults. Additionally, the transcription of district court hearings involving juvenile matters shall be mandatory on the request of the defendant. (unanimous)

The hour having grown late, it was decided to postpone discussion of strategy and principal authors for Commission legislation and the review of draft legislation distributed at the December 3rd meeting until the meeting on December 16th.

Upon motion duly made and seconded, it was unanimously agreed that the meeting be adjourned at 4:10 P.M.

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

December 16, 1976

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Thursday, December 16, 1976 at the Oblate Retreat House, 136 State Street, Augusta, Maine.

The meeting was called to order by chairman Joseph Jabar at 10:15 a.m. Commission members present were Messrs. Jabar, Jones, Nadeau, Weldon, Goranites, Allen, Concannon (representing Charlie Sharpe), Merrill, MacDonald and Heath. Technical assistance and staff present included Messrs. Els and DuBois and Meses. Belshaw and FitzGerald.

Mr. Jabar announced that letters had been sent to the Governor and the legislative leadership from the chairpeople of the four state level task forces on children's services. The letters were sent by the four chairpeople acting together and requested meetings to go over the proposals which are jointly supported by the four task forces. No response has yet been received to these letters.

Mr. Jabar presented a proposal to continue staff services to the Commission for another six months (January 1 - June 30, 1977). The proposal would provide

the same level of staff support provided during the past year and would provide for assistance with refinement of legislative proposals and work with the legislative process and interest groups during the next six months. After a brief discussion, the proposal was unanimously adopted by the Commission. Mr. Jabar will work with Messrs. Els and DuBois and Ms. FitzGerald on the preparation and submission of the proposal to the Maine Criminal Justice Planning and Assistance Agency. Under the terms of the proposal continued staff support would be provided by Developmental Research Center.

The minutes of the previous meeting were presented by Mr. Jabar. Upon motion duly made and seconded the minutes were unimously adopted with the following correction.

RESOLVED: That the resolution regarding juvenile intake workers on page 3 of the minutes of the December 9 meeting should read as follows:

-- There should be juvenile intake workers available in each of the prosecutorial districts in the state of Maine. Such intake workers should be employed by the Department of Mental Health and Corrections, and they should be responsible for all administrative support necessary for the processing of juvenile cases in the juvenile system from intake through initial disposition (unanimous).

The Commission then proceeded with its consideration of final policy decisions for the proposed juvenile code. After review of reactions to the Preliminary Report, information gathered during the public hearings and other activities, the Commission made the following decisions:

RESOLVED: That the juvenile court judges should have as a dispositional alternative, detention in a regional juvenile detention facility not to exceed 30 days. (3-2-3) [Because of the closeness of this vote, it was generally agreed that Commission will reconsider this issue at its next meeting on December 30.]

Chairman Jabar recessed the meeting for lunch at 12:05. The meeting was reconvened by the chairman at 1:00. Results of continued Commission deliberations following lunch were:

RESOLVED: That with regard to truancy, judicial intervention should be replaced with administrative intervention as a means for responding to that phenomenon. Specifically, the state special education law should be amended to include habitual truants as special needs students and the state budget for special education should be augmented in the amount of \$1.5 million to provided to additional costs this change will require. Additionally, dropouts under the age of 17 should be contacted by their LEA on at least an annual basis for purposes of attempting to involve such former students in the educational process. (unanimous) [Commission staff were

instructed to report the results of this decision to all interested educational organizations and to further report to those organizations that the Commission will take no position on the matter of local schools administrators' discretion regarding suspension and expulsion of students, primarily because the Commission believes there is sufficient policy in the existing body of federal law on this subject.]

RESOLVED: That juveniles accused of Class A, B or C offenses of first or second degree homicide shall have the right to waive their right to juvenile court trial, in which case they shall be bound over to the grand jury. (unanimous) —

The Commission also considered a proposal submitted by Ms. Libby Edsen through Peter Goranites regarding criteria to be used in decisions regarding bind-over of juveniles to superior court. After a lengthy discussion, the proposal was dismissed for lack of a motion. The Commission generally agreed that the proposed criteria did not sufficiently balance the interests of individual juveniles against those of public safety and tended to blur the distinction between the juvenile and adult court processes.

Because none of the legislative members of the Commission were able to be present and because the legislature had not yet completed its internal committee organization, the Commission decided to further postpone its discussion on legislative

strategy and selection of principle authors until its next meeting of December 30. The Commission then began a review of the draft of chapters 1-3 of the proposed juvenile code which were distributed at the December 3 meeting. Staff distributed copies of chapters 4-8 to Commission members present. The remaining four chapters 9-12 will be mailed to Commission members shortly and a thorough discussion of the entire first draft of the proposed code will be held at the the next Commission meeting of December 30, 1976.

At 3:08 p.m. upon motion duly made and seconded, it was unanimously agreed that the meeting be adjourned.

DEVELOPMENTAL RESEARCH CENTER, INC.

(A NON PROFIT ORGANIZATION)

NOTICE

December 22, 1976

The next regular meeting of the Maine Commission to Revise Statutes Relating to Juveniles will be held on December 30, 1976 at 10:00 a.m. at the Oblate Retreat House, 136 State Street, Augusta, Maine.

Chairman Jabar has asked that we urge all Commission members to attend this meeting. The principle items of business for the meeting include:

- discussion of legislative strategy and selection of principle authors for the Commission's legislative program; and
- a review of the draft of the proposed juvenile code.

We on the staff wish you all best wishes for this holiday season.

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

January 4, 1977

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Tuesday, January 4, 1977 at the Oblate Retreat House, 136 State Street, Augusta, Maine.

The meeting was called to order by chairman Joseph Jabar at 10:15 a.m. Commission members present were Messrs. Allen, Heath, Hobbins, Jabar, Jones, Merrill and Sharpe. Technical assistance and staff present included Messrs. Els and DuBois and Ms. FitzGerald.

A brief discussion of the sentencing institute to be conducted this week was held, and it was agreed that the Commission's final report would not be ready for release before the institute convenes. Therefore, the Commission will not participate officially in the institute.

Mr. Jabar then turned the meeting over to Peter DuBois who took up the issues raised during the informal Commission meeting held on Thursday, December 30*.

*

The Commission held an informal meeting on December 30 at 10:00 a.m. at the Oblate Retreat House, Augusta, Maine. Members present were Messrs. Allen, Delahanty, Goranites, Heath, Jabar, MacDonald, Merrill and Sharpe. These members had a discussion of the first draft of the juvenile code and agreed to meet again on January 4, 1977 to begin to make decisions about the form of the final draft of the proposed code.

The Commission then discussed the issue of periodic review of sentencing and jurisdiction. After discussion it was decided that staff will delete Section 201(5) and will prepare language for a review of sentencing in a subsection in the disposition section.

The Commission then moved to a discussion of whether Section 101(c) should include the notion of punishment. It was agreed that Section 101(c) should be expanded to include punishment.

The Commission next discussed Section 102(6) and decided that Section 102(6)(b) will be deleted.

The meeting adjourned for lunch at 12:05.

The meeting was reconvened at 1:00 p.m. Upon motion duly made and seconded it was

RESOLVED: That a reading of the minutes of the last Commission meeting be waived and that those minutes be adopted as recorded.

The Commission then decided that two additional meetings would be scheduled for Thursday, January 13 at 12:00 noon (possibly to run through the dinner hour) and Thursday, January 20 at 10:00 a.m. The meeting on January 13 is scheduled for noon instead of 10:00 in the hope that members of the Commission who are also members of the legislature will find that time schedule more convenient than a meeting solely during the day and so would be able to participate in a discussion of legislative strategy on that day.

The Commission next discussed Section 1003 and agreed that in that section the word "shall" will be changed to "may" and that a reference to neglect statutes will be included and that a reference to the Department of Human Services will be included.

The Commission next discussed Section 708 and agreed that that section would be completely reworked and that subsections 2, 3 and 4 will be deleted.

The Commission then discussed Chapter 9 "Juvenile Parole" and agreed that that chapter will have to be completely redrafted.

The Commission then discussed Section 418(3) and agreed that the subsection would be altered to read "the court shall dismiss the original petition when a child is returned to the court from a hospital or institution to which he had been committed pursuant to Title _____ M.R.S.A. Also, in that section the word "probate" will be deleted.

After discussion the Commission agreed to accept Section 401 as drafted and agreed that in Section 407 the fact that counsel in juvenile proceedings will be counsel who will act for the child independently from his parents should be indicated.

It was agreed that Section 408(3) will be deleted and that Section 409 will be reworked somewhat so that in Section 409(1)(a) "and other parties in proceedings before the court" will be deleted. It was further agreed that in Section 409(1)(b) the fact that juvenile

records may be inspected but that names of the juveniles may not be used will be included.

It was also agreed that in Section 408(2)(a) the phrase "adjudicatory and dispositional" should be inserted.

It was agreed that in Section 412(1) the phrase "shall include if not waived" will be inserted in the second sentence.

It was agreed that in Section 413(1)(d) the phrase "all private agencies" will be deleted. Section 413(4)(b) will be deleted. In Section 413(3) the word "place" will be changed to "commit." In Section 413(5) the words "of no more than ____ dollars" will be deleted.

In Section 413(1)(f) it was agreed that the phrase "upon such reasonable conditions as the court may determine" will be included.

It was agreed that Section 413(1)(c) will be altered to read "the court may require as a condition of probate that the child report for assignment to a supervised work program." It was further agreed that Section 413(1)(c) will be deleted.

It was agreed that Section 305(3)(c)(I) shall read "no statements, admissions or confessions" and that the phrase "after being advised of his rights, a child voluntarily waived them" will be included.

It was agreed that Section 1103 will be reworked to reflect the idea that a school attendance review board will be established within each local education agency.

The meeting adjourned at 4:30 p.m.

MAINE COMMISSION TO REVISE JUVENILE STATUTES

Meeting of Commission Members

January 13, 1977

A meeting of the members of the Maine Commission to Revise Juvenile Statutes was held on Thursday, January 13, 1977 at the Oblate Retreat House, 136 State Street, Augusta, Maine.

The meeting was called to order by chairman Joseph Jabar at 12:00 noon. Commission members present were Messrs. Jabar, Heath, Nadeau, Delahanty, Henderson, Weldon, Allen, and Merrill. Technical assistance and staff present included Messrs. DuBois and Els and Meses. Belshaw and FitzGerald.

The Commission reviewed the minutes of the previous meeting and it was agreed that on page 4 of the minutes of the Commission meeting held on January 4, 1977, in the second paragraph from the bottom in the last sentence, Section 413(1)(c) will be changed to Section 413(1)(e); and that in the preceeding paragraph the word "probate" will be changed to "probation"; and that page 5 will indicate that Section 1103 will be reconsidered. Upon motion duly made and seconded, it was

RESOLVED: That the minutes of the meeting of January 4, 1977 are accepted as amended.

Peter DuBois gave a report on his meeting with representatives of the other groups studying children's services and with the governor.

John Weldon then reported to the Commission about his meeting with the Kennebec Valley Superintendent's Association.

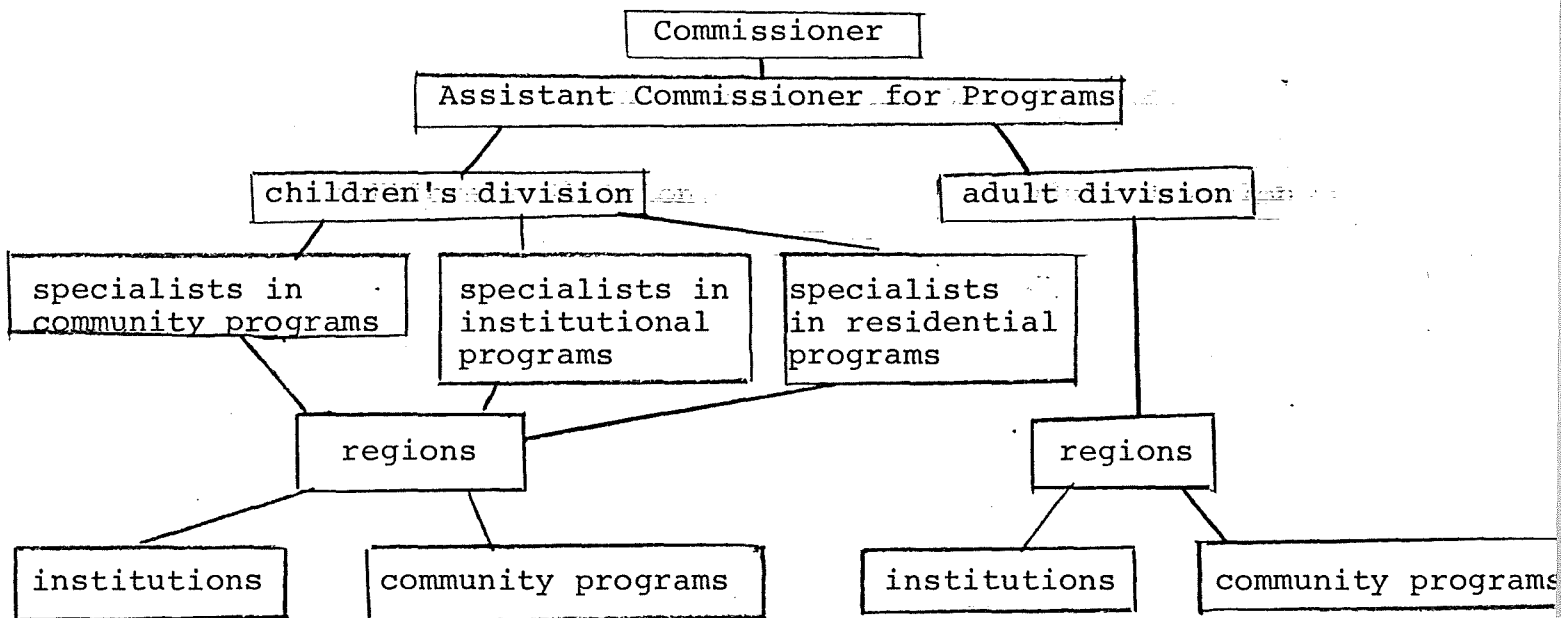
Jim Henderson and Wally Delahanty next reported on their presentation to the elementary principals in Bangor.

David Els told the Commission that the grant application for continued technical assistance by Developmental Research Center will be reviewed by the grant committee on Monday, January 17 and by the full board of the Maine Criminal Justice Planning & Assistance Agency on January 25, and that it appears that refunding is assured.

A discussion of legislative strategy for the Commission's juvenile code followed. Jim Henderson remarked that January 28 is the last day for the filing of bills by legislators, and he reminded the Commission that there is only a need to file a bill's title not its contents at that time.

Peter DuBois next reported on a meeting that he, Joan FitzGerald and David Els had with Maria Faust and Garrell Mullaney, the new Associate Commissioner of the

Department of Mental Health and Corrections. Mr. DuBois reported that the Department appears to be keeping its promise to the Commission to establish a visible division of the Department which will be responsible for children's services. The following chart reflects staff's perception of the Department's reorganization:



The Commission then moved to a discussion of juvenile probation. Upon motion duly made and seconded, it was

RESOLVED: That juvenile probation will be limited to two years. (unanimous)

The Commission next discussed a name for the statutory reform it will suggest to the legislature and upon motion duly made and seconded, it was

RESOLVED: That the legislation will be known as the Maine Juvenile Code. (unanimous)

The Commission decided that chairman Jabar and vice chairman Jones would write to Governor Longley and request a meeting with the governor for the executive committee of the Commission to explain more fully the Commission's work to date.

The Commission decided to cancel the meeting scheduled for January 20 and to schedule a meeting for January 27 at 10:00 a.m. at the Oblate Retreat House, 136 State Street, Augusta, Maine.

The Commission next discussed truancy and upon motion duly made and seconded it was

RESOLVED: That the Commission recommend that P.E.T. teams be used to evaluate truants; that the maximum penalty for parents who are responsible for the truanting of their children will be raised to \$500 or 30 days or both; and that periodic review of children who truant and who are allowed to withdraw from school after evaluation by P.E.T. teams will be held every six months until the child is 17 years old.
(unanimous)

The meeting was adjourned at 5:30 p.m.