

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)

SENATE

OLYMPIA J. SNOWE, ANDROSCOGGIN, CHAIRPERSON
 EDWIN H. BREELEY, WALDO
 CHARLES P. PRAY, PENOBSCOT

MARY O'CONNELL, COMMITTEE ASSISTANT



HOUSE

HARLAND C. GOODWIN, JR., SO. BERWICK, CHAIRPERSON
 DAVID H. BRENERMAN, PORTLAND
 GARY W. FOWLIE, ROCKLAND
 JOHN M. KERRY, OLD ORCHARD BEACH
 MERLE NELSON, PORTLAND
 SANDRA K. PRESCOTT, HAMPOEN
 BARBARA M. TRAFTON, AUBURN
 ELMONT S. TYNDALE, KENNEBUNKPORT
 BARBARA A. GILL, SOUTH PORTLAND
 MARY E. KANE, AUGUSTA

STATE OF MAINE

ONE HUNDRED AND EIGHTH LEGISLATURE

COMMITTEE ON HEALTH & INSTITUTIONAL SERVICES

January 23, 1979

Rep. John L. Martin
 Chairman, Legislative Council
 Office of the Speaker
 State House
 Augusta, Maine 04333

Dear Representative Martin:

In accordance with House Paper 2168 which ordered a study of the county jail system to determine the appropriateness and feasibility of a regional county jail system, we enclose herein the final report of the Health & Institutional Services Committee.

Respectfully submitted,

Olympia J. Snowe (CH)
 Olympia J. Snowe
 Senate Chairperson

Harland C. Goodwin, Jr. (CH)
 Harland C. Goodwin, Jr.
 House Chairperson

enclosures
 CH/sym

Final Report

A STUDY OF THE
COUNTY JAIL SYSTEM

Prepared by the
JOINT STANDING COMMITTEE ON
HEALTH & INSTITUTIONAL SERVICES
of the
108th Maine Legislature

Submitted to the
Legislative Council
108th Legislature

January 23, 1979

The 108th Maine Legislature passed a study order requiring the Health and Institutional Services Committee to study the feasibility of the regionalization of Maine's county jails. During the summer of 1978, 3 members of the Health and Institutional Services Committee agreed to serve as the subcommittee; Representative Sandra Prescott chaired the subcommittee and Senator Charles Pray and Representative Gary Fowlie were the other members.

The subcommittee met on 7 occasions during 1978, and even continued their meetings into the first days of the 109th Legislature in order to take advantage of further reports available. They met with: Director of the Bureau of Corrections Don Allen; State Jail Inspector Joe McClay; Roland Landry, Executive Secretary and Theone Look, Secretary-Treasurer, of the Maine County Commissioners Association; Shepard Welsh, Executive Director of the Maine Sheriffs' Association; Osman Bengur, Planning Associate in the Department of Mental Health and Corrections; Rodney Miller, Director of the County Detention in Maine study; and Rodney O'Connor of the National Association of Counties.

Through reviewing material presented by these groups, and prepared by Committee staff from numerous reports on corrections in Maine, it became clear that the problem considered was more complicated than simply whether or not regional jail facilities, whether state or county sponsored, should be established. The subcommittee reviewed previous recommendations, current legislation and projects of several groups, and decided that the situation at the beginning of 1979 did not make it possible for them to recommend much more than a continuing study of the problem of county jails, in conjunction

with other groups, and some legislation which would provide funds to counties for bringing their jails up beyond minimum, state-mandated standards of operation to avoid lawsuits.

One of the projects focusing on the county jails is an extensive study of County Detention in Maine, prepared for the Maine Sheriffs' Association by Rod Miller of Community Resource Services, Inc. The publications resulting from this study will be fully available in February, 1979; the 1st volume, giving the data base by county, was not available until the beginning of January, and so the subcommittee was not able to utilize it in their deliberations. However, they did talk on numerous occasions with Project Director Miller.

The Maine Civil Liberties Union during 1977 undertook a study of women detained in county jails, which showed considerable difference between the facilities, conditions and programs for women and for men. Some of these differences have been found to be grounds for suit in other states. The MCLU agreed to meet with concerned groups, including the sheriffs and the county commissioners, during 1978 to work for improvements which would obviate the need for a suit.

In Kennebec County, a formal, advisory group of citizens and jail officials had been meeting for over a year to discuss an overall approach to corrections, and problems with the existing county facility. Their report, published in September, 1978, acknowledged that the Kennebec County Jail was in poor physical condition, and recommended to the county commissioners that they either construct a new facility, or renovate the current jail to meet standards and construct a large addition for the projected increase in population.

During the fall, representatives from Kennebec County met with representatives from Lincoln, Knox, and Sagadahoc counties to discuss their common problems with facilities. Knox and Lincoln have agreed to join Kennebec in plans for a new and/or expanded facility, paying part of the construction costs and then will "pay in" a share based on the number of their prisoners housed at the Kennebec facility. A joint board will oversee the operations and programming and report back to the county commissioners.

The Department of Mental Health and Corrections also has prepared a State Plan for Corrections (Maine Corrections Master Plan), which will provide a blueprint for the coordination of state programs and facilities over the next two years, and an ongoing review of progress.

And, a special committee chaired by Robert Strider presented a report, A More Responsive Government, in summer 1978. The report recommended changes in county management to provide more accountability, including professional administrators. The subcommittee supported this aspect of their recommendations.

The subcommittee was aware of all these activities and maintained a liaison with the various groups and individuals through Committee staff members.

In order to learn about other approaches to corrections, especially at the county level, Representative Prescott and Senator Pray went to Minnesota and Kansas to talk with legislators, involved community persons and corrections personnel about their state community corrections acts. They also toured institutions and community treatment programs in Minnesota. The legislators also visited their local county jails, and Representative Fowlie has frequently visited the Maine State Prison at Thomaston.

The subcommittee agreed that they would not want to endorse state control of county jails. The regionalization of jails might be a feasible option for groups of counties, providing that this option was chosen voluntarily as a result of local initiative and interest. The county should accept the major responsibility for the problems causing crime and their solution. However, the state should also offer some financial assistance, of up to one-third of the costs of meeting the immediate problems.

Representative Fowlie felt, however, that there should be greater coordination and involvement at the state level in planning for jails, particularly a regional facility. Provision of financial assistance should entitle the state to some control.

The subcommittee has determined that there are numerous problems in the area of corrections, many of which are not confined to the county jails, and therefore cannot be addressed solely within that context.

The Bureau of Corrections recognizes that their mission is derived from statutory provisions, and limited by priorities which are usually determined by the amount of money available. The public requires protection from dangerous persons, and seems to be inclined to a punitive approach, rather than the rehabilitative model stressed earlier.

Inspection and Standards

The state is obligated to inspect the county jails at least once every year; the Jail Inspector checks the facilities for compliance with state standards, and has the authority to close jails which do not meet the standards. Problems arise because of insufficiently frequent inspections, insufficient funds to bring jails up to the mandated standards, and the increasing possibility of

suits by individuals, or the federal government, because of existing conditions in the jails.

There are numerous standards used throughout the country, ranging from those imposed by the state, through others imposed or suggested by such groups as the Justice Department, American Correctional Association, National Clearinghouse for Criminal Justice Planning and Architecture, National Advisory Commission on Criminal Justice Standards and Goals, etc. Lawsuits in other states, for violation of standards or of Constitutional provisions, have proved expensive to the correctional system, and in some cases resulted in Federal administration of the system.

Detention

Another problem area is that of detainees: persons who are being held prior to trial, perhaps because they could not make bail, and are not convicted. As much as 50% of the daily jail population consists of unsentenced persons.

Crowding

Currently, the county jail system in Maine is suffering from overcrowding at certain facilities; several jails are unavailable to house prisoners because they are closed for rebuilding or by state order. Kennebec County jail, for example, is closed for long-term holding, but can take prisoners for 72 hours or less. Some facilities are holding prisoners from faraway areas of the state; others are being considered for possible temporary spillovers from state facilities, which are all close to capacity. At present, there is no legal maximum capacity for any of the state facilities; the Bureau has determined what they feel to be the safe capacity. MSP has a capacity of 400; as of mid-January there are 393 persons in the prison.

MCC is at its capacity of 191 regular beds. There are a few spaces available in pre-release centers, but these are not appropriate for newly-sentenced persons.

Sentencing

Statutes permit sentences of up to one year to be served in county jails; persons cannot be sentenced to more than 5 years at the Maine Correctional Center. Judges have discretion in setting the place of sentencing, and may send a person to the Maine State Prison, rather than MCC, because of certain programs offered at MSP. As provided for in the revised Maine Criminal Code of 1976, judges must now set definite sentences, within the maximums provided for each class of offense.

Although the period since the code went into effect has not been long enough to evaluate fully its impact, the general impression of attorneys and corrections personnel is that judges are handing down longer sentences, which contributes to the overcrowding problem. Over half of the inmates of MSP, and over 90% of the inmates at MCC, are serving sentences under the new Code. There is some feeling that statutory changes could permit judges to sentence people to specific institutions and to the Bureau of Corrections, allowing for greater flexibility in placing people. The subcommittee endorses this plan.

Aid

Counties can receive assistance in dealing with correction problems through direct aid (usually federal), and from people skilled in corrections work, such as members of the Bureau of Corrections, the Maine Criminal Justice Planning and Assistance Agency, and national professional associations. Courses are also offered in the area of corrections.

Costs

The costs of maintaining the current correctional system are high, and have to include the possibility of dealing with lawsuits. Additional construction or renovation is expensive, and during alterations prisoners will need to be boarded at other facilities. At present, there are several jails which are receiving prisoners from other counties; the charge in Penobscot County, for example, is \$20.00 for each boarder, plus \$5.36 for transportation.

Budgets for the county jails come from the Sheriff's department account in the county budget, which has to be approved by the county commissioners, the county delegation, and then by the Legislature.

The cost of bringing all county jails up to standards higher than current state standards is expected to be considerable, and probably could not be borne by the counties alone. Coordination of facilities, whether through one regional facility funded by the participating counties, or by other counties "buying" space for their prisoners housed at another facility, might save some money, but there are also constitutional questions raised by having prisoners kept far from their attorneys or families. None of these costs can be fully determined until the County Detention study is completed, providing a comprehensive checklist of facilities, measured against several standards, and giving projections for future jail populations.

Current state costs are \$24,594 each day for inmates in all state facilities.

Alternatives to Incarceration

In addition to the state and county facilities already discussed, there are other resources available, such as community agencies which contract with the Department of Mental Health and Corrections for

community correctional services: Pharos House in Portland, Community Schools in Camden, and the Auburn YWCA Intervention Program, for example. These programs assist in one of the major aspects of rehabilitative services, namely, providing a link with the community, family, and in some cases, jobs.

Most people in the area of prison reform acknowledge that maintaining links with the community, into which the incarcerated person will eventually return, is an extremely important factor in providing incentive, and decreasing recidivism. And community-based programs also place responsibilities within the community for its own members.

Recommendations

The subcommittee agreed that major improvements should be made in the area of programs offered at the county and state facilities and through them, in the communities.

A significantly greater use should be made of restitution programs, which could provide direct assistance to the victim, and reduce the costs of incarceration.

Treatment programs should be instituted which provide clearly measurable steps of progress, to the advantage of the inmate, and offer an alternative to state and county incarceration.

The question of detainees should be considered carefully and all possible steps taken to ensure that these people are not held in more severe conditions than are convicted persons.

One way in which these improvements might be carried out would be through a broad-based community advisory commission, which would operate in each county for the county jail and other related programs, be available for assistance to the Bureau of Corrections, and report to the county commissioners or appropriate administrator.

The subcommittee agreed that they did not want to recommend state control of the entire correctional system. A more diversified program puts the responsibility and financial burden on the counties and local communities, provides better liaison between the offender and her/his family and community ties, and leaves to the state those people sentenced for longer periods. Therefore, a mixture of correctional facilities and programs at different levels of government is recommended.

Overall, although impressed with the operation of the Community Corrections Acts in Minnesota and Kansas, the subcommittee felt that Maine needs to try some other approaches first. The ongoing studies need to be completed, the Master Plan digested, and local officials, sheriffs and the general public need to be more educated as to the dimensions of the problem.

Therefore, the subcommittee is submitting legislation only to provide additional funds to counties to bring their jails up to standards.

Conclusion

To expedite the examination of these problems, and plans for their solution, Representative Prescott, supported by Representative Kany and Representative Nelson, introduced a Joint Order providing for a Joint Select Committee on Correctional Institutions to study all present correctional institutions, the alternatives to current incarceration, and the feasibility of establishing community correctional programs.

One proposal which the Joint Select Committee might investigate is the suggested utilization of the former Federal Naval Prison in Kittery for long-term sentenced persons, especially those requiring

maximum-security conditions. Apparently various groups have studied the use of the prison in different forms, whether as a state facility, a possible replacement for the York County Jail, a multi-state facility, or one for the criminally insane, and all found it too expensive for conversion at this point. However, a new study might be warranted under present conditions.

The Joint Select Committee should maintain active involvement with various groups, including the Maine County Commissioners' Association, Bureau of Corrections, MCJPAA, Maine Sheriffs' Association, the Judiciary, the Attorney General, District Attorneys, the Maine Civil Liberties Union, Common Cause, municipal officials, and interested citizens, in order to come up with specific recommendations, including legislation, for the Second Regular Session of the 109th Legislature.

March 2, 1978

ORDERS

(4-1) On Motion of Mr. CARTER of Winslow, the following
Joint Order: (H.P. 2168)

Whereas, the Legislature has been involved in the improvement
of law enforcement at the county level through Public Law
1977, chapter 431; and

Whereas, there are 13 county jails in the State of Maine; and

Whereas, each of these jails is administered in a separate
county; and

Whereas, program standards and administrative efficiency,
as well as client load and client characteristics vary greatly
from county to county; and

Whereas, it is in the interest of the State of Maine to
make the best possible use of all ^{of} its resources and to deliver
quality correctional and detention services at the county level;
now, therefore, be it

Ordered, the Senate concurring, that the Joint Standing
Committee on Health and Institutional Services shall study the
county jail system to determine the appropriateness and
feasibility of a regional county jail system; and, be it further

Ordered, that the County Sheriffs Association, the Department
of Mental Health and Corrections, and the Maine Criminal Justice
Planning and Assistance Agency are requested to provide all
possible technical assistance in completing this study; and
be it further

Ordered, that the committee shall complete this study no later than December 1, 1978, and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

Ordered, upon passage in concurrence, that a suitable copy of this order shall be forwarded to members of the committee.

~~Chairman on Passage~~

Carte D R/C on Passage 73-5

Read & Passed