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Committee on Protection of Public Safety and Health
Interim Report

Recognizing that time and resources will not permit investigation of every way in which the state is involved in public safety and health, the committee divided the possible areas of inquiry into two groups. The first group, which will be the focus of the committee's efforts, includes the judicial and corrections systems, and law enforcement. The second group, which will be addressed only if time permits, includes workplace safety and worker injury compensation issues, regulation of professionals, protection of human rights, and efforts to prevent anti-competitive practices.

The committee is attempting to answer the following questions. Are the judicial and corrections systems adequately administered and well coordinated? Is the physical infrastructure of the corrections system adequate? Is education an important part of the current rehabilitative efforts in the corrections system? Is public safety (law enforcement) adequate and well coordinated at the state, county and local level?

The committee has reviewed corrections reports and met with Corrections Commissioner Donald Allen to solicit his comments on issues in corrections. The Committee will invite the chairs of the Legislature's Joint Select Committee on Corrections to its next meeting to take advantage of their expertise. The committee has decided that corrections will be the focal point of its efforts and has identified several areas in which it believes structural changes may be beneficial. Those areas include efforts to expand prison industries, efforts to improve coordination among the departments providing education, treatment, training and other rehabilitative services to prisoners, and greater efforts to identify buildings to meet the infrastructure needs of the corrections system. The committee intends to meet with representatives of the departments that provide services to prisoners to discuss coordination of services.

For its initial inquiry into law enforcement issues, the committee met with representatives of municipal, county and state specialized law enforcement agencies (the Marine Patrol of the Department of Marine Resources and the Warden Service of the Department of Inland Fisheries and Wildlife). The Commissioner of Public Safety will be invited to appear at a later meeting, to discuss State Police and other law enforcement bureaus in the Department. The committee also has tentative plans to meet with a disinterested police services expert. Committee members did not feel that coordination of law enforcement was an issue they would spend a great deal of time investigating.

The Committee heard a presentation on the governor's proposal to merge several departments into a Department of Justice. After it receives additional information from the governor's office on the potential cost savings of the merger, the committee will decide whether to give further consideration to the proposal.

In its review of the judicial system, the committee will investigate the possibility of improving efficiency in the system, the effect of the judicial system on the corrections system, and options for promoting communication between the judicial system and law enforcement.

COMMITTEE ON THE PROTECTION OF PUBLIC SAFETY AND HEALTH

Report to the Special Commission on Governmental Restructuring
October 4, 1991

I. Tentative Findings/Possible Recommendations

Corrections

FINDING: The physical and programmatic infrastructure of the corrections system is seriously inadequate. This creates a hazard to inmates and the general public. Lack of public support for prison construction, lack of public consensus on the importance of rehabilitation, lack of coordination of resources and punishment in the lawmaking process, and the emphasis on the most costly, traditional punishment (incarceration) cause or exacerbate this problem.

POSSIBLE RECOMMENDATIONS

- Educate the public to better understand the needs of the corrections system.
- Use alternatives to incarceration such as intensive supervision, when appropriate, to alleviate the need for physical infrastructure. Investigate the use of parole and supervised post-release programs, to alleviate the pressure on infrastructure and to increase the likelihood of successful re-entry into society.
- Examine the use of private contracts for certain infrastructure, such as pre-release centers and medical services. (The committee will hear a presentation on October 2 to elicit information on whether and how privatization can help.).
- Make sentencing policy in the Legislature with an understanding of its effect on correctional resources.
- *Review existing state facilities for use as prisons (cost-benefit analysis).*
- *Consider locating a federal state correctional facility at Loring Air Force Base.*

FINDING: The potential for prison industry has not been fully developed. The concerns of labor and businesses who view prison industry as competition, problems with attaining upfront funding, and lack of assistance by agencies with expertise in business development and labor have lead to the underdevelopment of prison industry. *Prison industry programs could include a requirement for inmates to pay the costs of incarceration (their room and board) and to pay victim restitution. Prison industry experience would teach inmates job skills to increase their chances of success after release.*

Note: Comments in italics are those of Mr. Willey; time limitations prevented Ms. Kinnelly and Mr. Hare from reviewing the comments for inclusion in this report.

Law Enforcement

FINDING: There is insufficient planning, coordination and communication among the three levels of law enforcement and between law enforcement, the Judiciary and the corrections system. Innovative programs are not shared among the three levels of law enforcement. Actions in any part of the criminal justice system affect all other parts, and those effects should be considered before action is taken. *After reviewing a 1974 report recommending regional police services, the committee concluded that regionalization was not workable.*

POSSIBLE RECOMMENDATIONS

- Create a single statewide organization representing the three levels of law enforcement, the Corrections system and the Judiciary to discuss and coordinate issues.
- Set the goal of the organization to share information, not to impose statewide standards. Local control is essential for local innovation. Also, law enforcement and prevention programs work best when performed with knowledge of local conditions.

II. List of Issues on Committee Agenda; Committee Action

- | | |
|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| • Corrections system | Addressed; see findings and recommendations |
| (Department of Children and Families) | <i>Addressed briefly; committee guest recommended formation of the department; committee understands another committee is addressing the issue</i> |
| • Judicial department | Will address at October 2 meeting; plan to review efficiency study, work of the Commission on the Future of Maine's Courts, budgeting process, and relationship to law enforcement and corrections |
| • Law enforcement | Addressed; see findings and recommendations |
| (Governor's proposal to create Department of Justice) | Addressed; waiting for information from governor's office before determining whether to pursue; <i>stated advantage of Department is policy coordination, structural efficiency</i> |
| • Workplace safety and worker injury compensation | Not addressed to date due to lack of time; May address if time |
| • Regulation of professionals | Not addressed to date due to lack of time; May address if time |

- Protection of human rights Not addressed to date due to lack of time;
May address if time
- Prevention of anti-competitive practices Not addressed to date due to lack of time;
May address if time

III. Single Most Difficult Issue

The single most difficult issue or methodological problem for the committee is the fact that improvement of the corrections system requires upfront money to achieve long-term gain, and it seems unlikely that upfront money will be available. *It should be noted, however, that a number of departments exist with expertise in labor, rehabilitation, as examples. There may be cost savings in the system by mere coordination of those existing services. Changes in federal law may be needed to expand prison industry.*

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ADDENDUM

to

THE REPORT OF THE COMMITTEE ON THE PROTECTION OF PUBLIC SAFETY AND HEALTH to the Special Commission on Governmental Restructuring October 4, 1991

On October 2nd, the Committee on the Protection of Public Safety and Health met with representatives of the Judicial Department, and with representatives of organizations offering views on various corrections issues. We would like to amend our report to the Commission to incorporate the findings and recommendations we propose to make as a result of that meeting.

I. Additional Tentative Findings/Possible Recommendations

Corrections

Add to the POSSIBLE RECOMMENDATIONS following the first FINDING under Corrections:

- Expand the law governing eligibility of offenders for the Intensive Supervision Program, to give judges more flexibility to sentence offenders to ISP.
- Give statutory authority to the Department of Corrections to enter into private contracts for the development, construction and operation of prison facilities, with appropriate limits and safeguards.

Add to the list of Corrections FINDINGS:

FINDING: The corrections system does not collect data on the prison population in a manner that would permit policy makers to make informed decisions in the area of corrections policy. Data on the demographics and criminal history of the prison population and recidivism rates of prisoners in various forms of corrections would enable policy makers to understand the needs of the corrections system and to evaluate which policies achieve the goals of the corrections system.

POSSIBLE RECOMMENDATION:

- The Department of Corrections must put its resources and staff to use to collect data that is not currently collected, and to put into usable form the data that currently exists regarding characteristics of the prison population.

Add to Part I a new subject area:

Judicial Department

FINDINGS: The Committee endorses the work and most of the recommendations of the Volunteer Business Committee to Review the Administrative and Financial Operations of the Judicial Department. Many of the recommendations are already being implemented. Of the recommendations not yet fully implemented, the Committee endorses the following:

POSSIBLE RECOMMENDATIONS

- Centralize court fee/fine receipts; centralize bail and escrow accounts;
- Create the position of Chief Operating Officer of the court system, with administrative authority over all non-judicial functions of the courts;
- Transfer to the county District Attorneys the funds and authority for payment of witness fees in the District Court;
- Repeal the statute requiring judicial expenditures to be processed by the Executive Department; establish an allocation system to permit the Department to manage its own expenditures;
- Speed the automation of the trial courts.

FINDING: The process by which the Judicial Department budget comes to the Legislature for approval, via the Executive Department budget message, violates the separation of powers doctrine of the Maine Constitution. The Judicial Department budget is weighed against Executive Department agencies within the State Budget Office, without participation of the Judicial Department. Although the judiciary has the opportunity to communicate its original wishes to the Legislature in public hearings, the Judicial Department budget formally filed with the Appropriations committee is the recommendation of the Executive Department, not that of the Judicial Department.

POSSIBLE RECOMMENDATION

- Amend Title 4, section 25 to clarify that the Executive Department must submit to the Legislature the Judicial Department budget, as submitted to the Budget Office, with the addition of any comments of the Executive. The American Bar Association has issued Standards on Court Organization, including standards for budget submission by the Judicial Department. The Committee intends to use their language as a guideline for this recommendation.

FINDING: There are significant potential savings to be achieved by closing some District Courts and restructuring the use of Superior Courts.

POSSIBLE RECOMMENDATIONS

- The Legislature's Judiciary Committee should review the utilization and costs of District Courts throughout the state and determine how many and which District Courts should be closed. Data show a wide disparity in efficiency among the courts.

- Change the venue requirements to permit persons to use underutilized Superior Courts, even if the case they are trying arises in a different county. The Judiciary Committee should review this issue, and, in light of any recommendations should review the territory of the District Attorneys serving in the various courts.

FINDING: Communication between the Judicial Department, corrections and law enforcement is critical, and would be advanced by the work of the Criminal Justice Commission, which was created last session without funding.

POSSIBLE RECOMMENDATION

- Fund the Criminal Justice Commission.

FINDING: Mandatory sentencing for specific crimes increases the number of individual sentences imposed, an outcome contrary to the adoption of the Criminal Code.

POSSIBLE RECOMMENDATIONS

- The Legislature must refocus on the Criminal Code, and avoid use of mandatory sentencing
- The Legislature should either eliminate or restructure the Criminal Law Advisory Commission to increase the effectiveness of the group at advising the Legislature on the appropriateness of criminal sanctions.

FINDING: Judges can play an important role in preventing the development of criminal behavior by participating in public activities.

POSSIBLE RECOMMENDATION

- The Code of Judicial Conduct should be amended, as necessary, to permit judges to fully participate in public service and educational activities.