

# MAINE STATE LEGISLATURE

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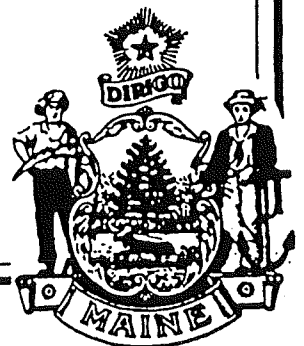
# Review of

DEPARTMENT OF PUBLIC SAFETY  
MAINE HIGH-RISK INSURANCE ORGANIZATION  
PROFESSIONAL LICENSURE BOARDS  
SUNSET REVIEW PROCESS

## Joint Standing Committee on Audit and Program Review

1991 - 1992

Volume 3 of 3





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STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
COMMITTEE ON AUDIT AND PROGRAM REVIEW

April 30, 1992

The Honorable Charles P. Pray, Chair  
The Honorable Dan A. Gwadosky, Vice-Chair  
Members of the Legislative Council:

Pursuant to 3 MRSA §925, we are pleased to submit to the Legislature the final findings and recommendations required to implement the Committee's 1991-1992 study of the following agencies:

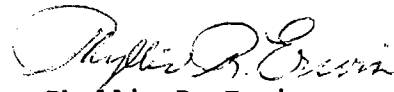
- Department of Agriculture, Food and Rural Resources
- State Planning Office
- Department of Secretary of State
- Local Government Records Board
- Driver Education and Evaluation Programs
- Maine Educational Loan Authority
- Board of Registration for Land Surveyors
- Capitol Planning Commission
- State Lottery Commission
- Maine High-Risk Insurance Organization
- Department of Public Safety
- Department of Transportation
- Board of Registration of Professional Engineers
- Maine State Pilotage Commission

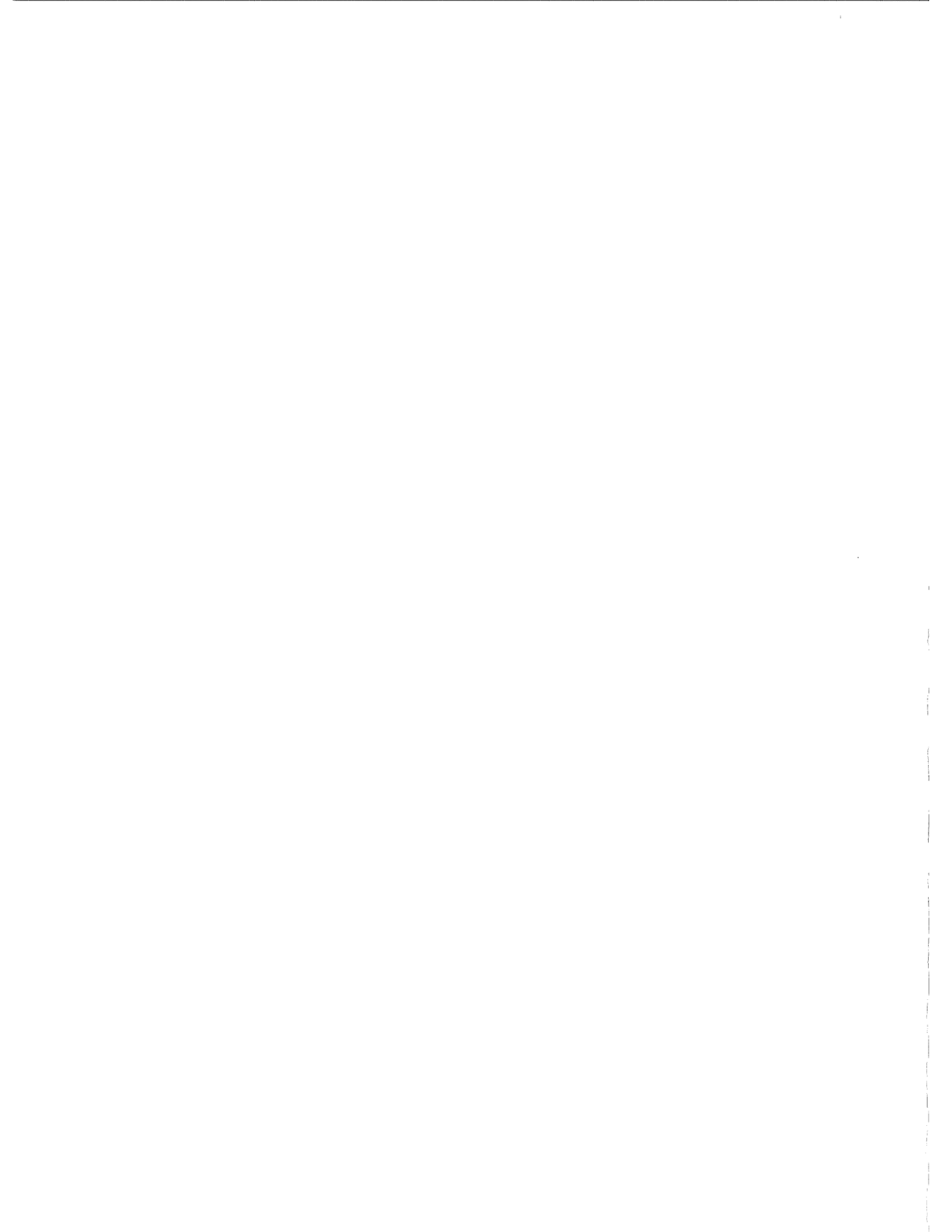
In addition to the diligent work of the Committee members, we would like to particularly thank the adjunct members who served on our subcommittees from other Joint Standing Committees and the many agency staff and public who assisted the Committee in its deliberations. Their expertise enriched and strengthened the review process.

The Committee's recommendations will serve to improve state agency performance and efficiency by increasing management and fiscal accountability, resolving complex issues, clarifying Legislative intent, and increasing Legislative oversight. We invite questions comments and input regarding any part of this report.

Sincerely,

  
Beverly M. Bustin  
Senate Chair

  
Phyllis R. Erwin  
House Chair



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# Committee Organization

## AUDIT & PROGRAM REVIEW SUBCOMMITTEE #1 Review Assignment

- Department of Agriculture, Food, and Rural Resources;
- State Planning Office;
- Department of Secretary of State
  - Office of the Secretary of State;
  - Maine State Archives;
  - Bureau of Corporations, Elections, and Commissions;
- Local Government Records Board;
- Driver Education and Evaluation Programs;
- Maine Educational Loan Authority;
- Board of Registration for Land Surveyors;
- Capitol Planning Commission; and
- State Lottery Commission.

### MEMBERS:

**Senator Beverly M. Bustin, Chair**  
**Senator John Cleveland**  
**Senator Donald Rich**  
**Representative Phyllis Erwin, Chair**  
**Representative Beverly Daggett,**  
**Subcommittee Chair**  
**Representative John Aliberti**  
**Representative Catharine Lebowitz**  
**Representative Wesley Farnum**

### ADJUNCT MEMBERS:

**RepresentativeCarolynMahany**  
Joint Standing Committee on  
Agriculture  
**SenatorGeorgetteBerube**  
Joint Standing Committee on State  
and Local Government  
**RepresentativeCarlSheltra**  
Joint Standing Committee on  
Business Legislation



# Committee Organization

## AUDIT & PROGRAM REVIEW SUBCOMMITTEE #2 Review Assignment

- Maine High-Risk Insurance Organization
- Department of Public Safety;
- Department of Transportation;
- Department of Secretary of State
  - Division of Motor Vehicles [ONLY];
- Board of Registration of Professional Engineers
- Maine State Pilotage Commission;

### MEMBERS:

**Senator Beverly M. Bustin, Chair**  
**Representative Phyllis R. Erwin**  
**Representative Harold Macomber**  
**Representative Harriet Ketover**  
**Representative William Lemeke,**  
**Subcommittee Chair**

### ADJUNCT MEMBERS:

**Representative Donald Strout**  
Joint Standing Committee on  
Transportation  
**Representative Phyllis R. Erwin**  
**Representative Harriet Ketover**  
Joint Standing Committee on  
Banking and Insurance  
**Senator Jeffery N. Mills**  
Joint Standing Committee on Legal  
Affairs  
**Representative Ruth Joseph**  
Joint Standing Committee on State  
& Local Government  
**Representative Patrick Paradis**  
Joint Standing Committee on  
Judiciary

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# The Committee Process

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The Joint Standing Committee on Audit & Program Review was created in 1977 to administer Maine's Sunset Act which "provides for a system of periodic justification of agencies and independent agencies of State Government in order to evaluate their efficacy and performance " [3 MRSA Ch. 33 §921 et. seq.]. To carry out its mandate, the goal of the Audit Committee is to increase governmental efficiency by recommending improvements in agency management, organization, program delivery, and fiscal accountability.

The Committee process unfolds in five distinct phases:

## **PHASE ONE: RECEIPT OF PROGRAM REPORTS**

The law requires that agencies due for review must submit a Program Report to the Committee. The Program, or Justification, Report prepared by the agency provides baseline data used to orient staff and Committee to the agency's programs and finances.

## **PHASE TWO: REVIEW BEGINS**

At the start of each review, the Committee Chairs divide the full Committee into subcommittees, appoint subcommittee chairs, and assign each subcommittee responsibility for a portion of the total review. Each subcommittee is augmented by at least one member from the committee of jurisdiction in the Legislature; i.e. the subcommittee reviewing Maine's Department of Agriculture, Food and Rural Resources will include a member of the Agriculture Committee.

## **PHASE THREE: SUBCOMMITTEE MEETINGS**

The subcommittees created by the Committee meet frequently when the Legislature is in session and every three to four weeks to between the sessions to discuss issues regarding the agency and to make recommendations for change. Staff prepares material for the subcommittee's deliberation and presents it to the subcommittee in one of several forms; as an option paper, discussion paper, or information paper. The Committee has found that these formats facilitate its process by accurately describing the topic for discussion and the points necessary for expeditious decision-making. These subcommittee meetings are not formal hearings but are open to the public and are usually well attended by interested parties. The subcommittees conduct their business in an open manner, inviting comment, and providing a forum for all views to be heard and aired.

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**PHASE FOUR: FULL COMMITTEE MEETINGS**

The full Audit & Program Review Committee considers the recommendations made by each subcommittee. These meetings are another opportunity for the public to express its views.

**PHASE FIVE: THE LEGISLATURE**

Following the full Committee's acceptance of subcommittee recommendations, Committee staff prepare a text and draft a bill containing all the Committee's recommendations for change. The Committee introduces this bill into the Legislative session in progress and the legislation is then referred to the Audit & Program Review Committee. As a final avenue for public comment prior to reaching the floor, the Committee holds public hearings and work sessions on all its recommendations. After the Committee concludes final deliberations and amendments, the bill is amended and placed on the calendar for consideration by the entire Legislature.

# Summary of Recommendations

The Committee makes both Statutory and Administrative recommendations. In some instances, the Committee will issue a Finding which requires no action but which highlights a particular situation. The Committee's bill consists of the Statutory Recommendations. Administrative recommendations are implemented by the agencies under review without statutory changes. A simple listing of the Committee's recommendations and findings appears here. Narratives describing the background and rationale for these proposed changes appear throughout the report.

## DEPARTMENT OF PUBLIC SAFETY

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ADMINISTRATIVE 1. Direct the Department to update the Joint Standing Committee on Audit and Program Review on June 1, 1992 regarding the status and progress of the automation project conducted for the Department under contract with LOBB Systems, Inc. of Wakefield, Massachusetts.

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FINDING 2. The Committee finds that the Department of Public Safety should continue to take the lead at moving the E-911 project forward, particularly in procuring adequate staffing to commence the implementation phase and to work with the municipalities in street naming and addressing according to State standards.

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BUREAU OF MAINE STATE POLICE

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ADMINISTRATIVE 3. Require mechanics applying for certification as official motor vehicle inspectors to purchase a "Motor Vehicles Inspection Manual" in order to assist in preparing for the certification exam, ensure that the manual is readily available to the mechanic following certification, and reduce costs by increasing the percentage of those that pass the certification exam on its first administration.

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FINDING 4. The Committee finds that the safety and welfare of Maine people will be jeopardized if funding for the Maine State Police is further reduced from current levels.

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STATUTORY 5. Consolidate two sets of accounts within the Bureau of Maine State Police in order to simplify budgetary and administrative accounting and oversight of the Bureau.

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**OFFICE OF STATE FIRE MARSHAL**

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ADMINISTRATIVE 6. In order to ensure adequate protection of natural resources, direct the Office of State Fire Marshal to take the lead in preparing a plan to upgrade the regulation of aboveground petroleum storage tanks, in conjunction with the Department of Environmental Protection, the Maine Oil Dealers Association, and the Legislative Oil Spill Commission, and municipalities. Report to the Committees on Audit and Program Review, Energy and Natural Resources, and Legal Affairs by January 1, 1993.

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STATUTORY 7. Clarify in statute that the State Fire Marshall appoints not only Inspectors, but also Investigators to carry out the Office's duties, in order to reflect current law and practice.

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**BUREAU OF LIQUOR ENFORCEMENT**

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STATUTORY 8. Repeal a provision of law requiring a report from the Bureau by January 31, 1990 since the report was delivered and the provision is no longer relevant.

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**MAINE EMERGENCY MEDICAL SERVICES**

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ADMINISTRATIVE      9.            Recommend that Maine Emergency Medical Services publish all insurance rates and coverages available through participating companies in order to provide the emergency medical services community with a complete range of information on which to make the best decisions regarding insurance needs.

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**BUREAU OF INTERGOVERNMENTAL DRUG ENFORCEMENT**

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STATUTORY            10.            Authorize disclosure to the Attorney General of tax information relating to any person under criminal investigation only upon written request. Further, require the Attorney General to retain physical control of the information until the conclusion of the investigation, whereupon the information must be immediately returned to the Bureau of Taxation.

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STATUTORY

11. Direct the Attorney General, in collaboration with the eight district attorneys, to establish a statewide drug prosecution protocol, which must include concerted statewide goals, uniform prosecutorial standards, practices, and policies, and specific criteria by which drug cases are referred to state or federal court for prosecution.
- 

ADMINISTRATIVE

12. Recommend that the Attorney General continue to designate a supervisor of the Assistant Attorney General drug prosecutors, in order to provide statewide oversight, coordination, consistency and contact with the AAG prosecutors.
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ADMINISTRATIVE

13. Recommend that the Attorney General and the eight District Attorneys address the issue of cross-designation of attorneys as part of their charge to develop statewide drug prosecution goals, strategies, policies, and practices. Also, recommend that the Attorney General and the District Attorneys establish Memorandums of Understanding to clarify the nature of the relationship between the State and federal levels regarding cross-designated attorneys.
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STATUTORY            14.            Repeal the "Intergovernmental Drug Enforcement Policy Board" and create the "Maine Drug Enforcement Agency Advisory Board" to advise and consult on issues regarding drug law enforcement within the State.

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STATUTORY            15.            Establish 3 year terms of office for members of the Advisory Board, but with staggered initial terms, to ensure that the Board's composition includes experienced members at all times.

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ADMINISTRATIVE      16.            Direct the Maine Drug Enforcement Agency Advisory Board to develop an appropriate grievance procedure for agents, following consultation with union officials, and report to the Audit and Program Review Committee by September 1, 1992.

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ADMINISTRATIVE      17.            Disband the "confidential unit" that had operated within the Bureau of Intergovernmental Drug Enforcement because the unit is inappropriate.

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STATUTORY            18.            Specify that the Attorney General must conduct and control all drug-related investigations of public officials or members of the law enforcement community.

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STATUTORY            19.            Repeal the separate provision providing confidentiality for investigative records currently in the BIDE statutes because it is inappropriate.

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STATUTORY            20.            Limit dissemination of intelligence and investigative information in the custody of BIDE pursuant to the provisions of Maine's Criminal History Record Information Act.

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STATUTORY            21.            Ensure that meetings of the new Maine Drug Enforcement Agency Advisory Board are subject to the Freedom of Access law but allow meetings to be held in executive session under two circumstances, in order to ensure that the Board's meetings are generally accessible to the public.

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STATUTORY

22.

Repeal references to meetings of the Bureau in the confidentiality provision since reference is unwarranted.

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FINDING

23.

The Committee finds that the use of helicopters as an enforcement tool in the marijuana eradication program is often disturbing and distressing to the general populace, that the Agency should be aware of the potential disturbance to the public peace and welfare while these helicopters are in use, and employ mitigating measures as much as possible.

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ADMINISTRATIVE

24.

Direct the Advisory Board to review the use of helicopters as an enforcement tool in the marijuana eradication project and make recommendations for change to the Commissioner as warranted.

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FINDING

25.

The Committee finds that, to the extent possible, asset forfeiture cases should be filed in State civil court in order to increase the amount of dollars flowing from asset forfeiture cases into the General Fund.

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FINDING

26.

The Committee finds that the State's District Attorneys should implement measures to expedite drug asset forfeiture cases, in order to ensure timely distribution of the proceeds to the designated recipients.

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ADMINISTRATIVE

27.

Direct the new "Maine Drug Enforcement Agency Advisory Board" to review the administrative handling and tracking of forfeited assets by the Department and the District Attorneys, design a state-wide policy on the handling of forfeited assets, and recommend any changes that may be needed to ensure accurate and complete accounting for all assets seized.

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ADMINISTRATIVE 28. Refer the issue of asset forfeitures in general, and forfeiture of real property for marijuana offenses in particular, to the Joint Standing Committee on the Judiciary for further study and review.

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ADMINISTRATIVE 29. Retain the current practice of using contracted employees from county and local agencies as investigative agents and require that each officer's contract include provisions governing personnel issues, such as a) a due process procedure in the event of forced termination, b) guarantee of 3 years of employment unless just cause is given to terminate the officer, c) performance standards, and d) other issues which may be identified by the Advisory Board.

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STATUTORY

30. Specify that contractual agents may serve a tour of duty with the agency for a period not to exceed 3 years at which time contractual agents must return to their employing agency. The Commissioner may grant contractual agents a one-time extension of their tour of duty not to exceed one year in length, with the approval of the Director, the contractual agent, the contractual agent's parent organization, and the Advisory Board.

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ADMINISTRATIVE

31. Direct the new Advisory Board to review the implications of eliminating the option of allowing local or county law enforcement agencies to "sponsor" Agents which have not actually come from the parent agency's ranks and to which the Agent has no intention of returning. Report to the Committee on September 1, 1992

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ADMINISTRATIVE

32. Establish a planning committee consisting of agents and supervisors to review operations of the State-level drug enforcement agency and provide recommendations for improvement to management. Report to the Committee on September 1, 1992..

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ADMINISTRATIVE 33. Require management personnel to consult with agents regarding current standard operating procedures and disciplinary procedures and to implement remedial action as necessary. Report to the Committee on September 1, 1992.

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ADMINISTRATIVE 34. Require management personnel of the State-wide Drug Enforcement Agency to institute additional steps to foster communication with other Maine law enforcement agencies. Report to the Committee on September 1, 1992.

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ADMINISTRATIVE 35. Direct the Agency to define the qualifications and job descriptions of MDEA Agents, Supervisors, Regional Commanders, and the Assistant Director, following consultation with the Bureau of Human Resources. Report to the Committee by September 1, 1992.

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ADMINISTRATIVE 36.

Require that, prior to filling vacancies, the positions of Agent, Supervisor, Regional Commander, and Assistant Director be posted internally and externally in order to ensure that a broad field of candidates have an opportunity to apply for these positions. Report to the Audit and Program Review Committee on September 1, 1992.

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ADMINISTRATIVE 37.

Develop an organizational plan that ensures an optimum ratio between agents and supervisors in order to maximize service delivery, streamline the operation of the agency, and reduce administrative bureaucracy. Report to the Audit and Program Review Committee on September 1, 1992.

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STATUTORY

38.

Require that the Advisory Board recommend a prospective candidate to serve as BIDE Director to the Commissioner and Governor, who may then opt to accept or reject the appointment. The Advisory Board must select its recommendation from a slate of three nominees submitted by the Chief of the State Police, the Maine Sheriffs' Association, and the Maine Chiefs of Police Association. If the Commissioner or Governor do not approve of the prospective candidate's appointment, each of the nominating groups must be requested to submit an additional nomination to the Board.

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STATUTORY

39.

Change the name of the Bureau of Intergovernmental Drug Enforcement to the Maine Drug Enforcement Agency.

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STATUTORY

40.

Retain the State-level drug enforcement agency as a separate bureau within the Department of Public Safety.

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ADMINISTRATIVE 41.

Request the Attorney General to conduct an inquiry into the agency's use of confidential informants particularly focussing on 1) the agency's treatment of and relationship with confidential informants 2) the agency's liability if informants lose property as a result of cooperating with the agency, and 3) the agency's procedure in the event the informant commits a crime while serving as an informant. Report to the Committees on Audit and Program Review and Judiciary by September 1, 1992 with findings and/or recommendations.

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FINDING

42.

The Committee finds that BIDE Agents involved in a drug-buy in Westbrook last November acted in accordance with Standard Operating Procedures and should be commended for their handling of the situation which placed the safety of innocent by-standers ahead of the recovery of the drug-buy money.

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**MAINE HIGH-RISK INSURANCE ORGANIZATION**

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STATUTORY            43.            Continue the Maine High-Risk Insurance Organization under the provisions of the Maine Sunset Law.

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FINDING              44.            The Committee finds that the Maine High-Risk Insurance Organization provides an essential avenue of access to those Maine citizens who would otherwise be unable to obtain medical insurance.

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STATUTORY            45.            Remove the termination provision from the Maine High-Risk Insurance Organization's authorizing statute.

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ADMINISTRATIVE      46.            Direct the Maine High-Risk Insurance Organization's Board of Directors to establish a plan of operation, pursuant to statutory requirements.

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STATUTORY

47. Eliminate redundancy and address efficiency in the statute mandating the Maine High-Risk Insurance Organization's plan of operation.
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ADMINISTRATIVE

48. In order to ensure that adequate performance measures are available, the Board of Directors of the Maine High-Risk Insurance Organization should review the statutory requirements for the annual report and make every attempt to comply with those requirements.
- 

ADMINISTRATIVE

49. Recommend that, beginning in February 1992, the annual report of the Maine High-Risk Insurance Organization cover the preceding fiscal year rather than calendar year, so that the report can be submitted by its statutory due date of February 1st.
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ADMINISTRATIVE 50.

Direct that the Board refine the statistical reports to be provided by the Maine High-Risk Insurance plan administrator under the terms of the contract, to include a comprehensive breakdown of all program administrative costs, a more detailed claim activity report, and a concise utilization report.

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STATUTORY 51.

Eliminate the provision requiring legislative approval of assessments and expenditures of the Maine High-Risk Insurance Organization.

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FINDING 52.

The Committee finds that the Maine High-Risk Insurance Organization Board of Directors failed to issue a Request-for-Proposals for the administration of the program at the time required by statute.

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ADMINISTRATIVE 53. Instruct the Maine High-Risk Insurance Program administrator to ensure that the existence of premium subsidies be communicated to all applicants in a more noticeable manner.

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ADMINISTRATIVE 54. Send a notice informing each enrollee that the program has been continued past June 30, 1992 by an Act of the Legislature.

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STATUTORY 55. Stipulate that the previously unspecified member of the Maine High-Risk Insurance Organization Board of Directors must represent the life and health field of insurance.

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STATUTORY 56. Specify that the insurance industry member on the Board of Directors of the Maine High-Risk Insurance Organization must represent insurance agents, brokers, or companies.

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FINDING

57.

The Committee finds that vacancies of long duration on the Board of Directors of the Maine High-Risk Insurance Organization are not in the best interests of any of the program's constituents.

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FINDING

58.

The Committee finds that hospital assessments continue to be the most logical funding sources for the high-risk pool reserve fund.

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STATUTORY

59.

Authorize the Board of Directors of the Maine-High Risk Insurance Organization to establish an enrollment level based on the funding available to cover anticipated claims and maintain adequate reserve funds, not to exceed the statutory enrollment cap of 600.

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**STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS**

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STATUTORY

60.

Continue the State Board of Registration for Professional Engineers under the provisions of the Maine Sunset law.

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FINDING

61. The Committee finds that the State Board of Registration for Professional Engineers carries out its mandates to test, license, and monitor the activities of professional engineers registered in Maine in an exemplary, efficient, and courteous manner.

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ADMINISTRATIVE

62. Direct the State Board of Registration for Professional Engineers to review the continuing education requirements for engineers enacted by Iowa and Alabama, and consider the advisability of adopting such requirements in Maine.

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**BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS**

STATUTORY

63. Continue the Board of Licensure of Professional Land Surveyors pursuant to the Maine Sunset Act.

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ADMINISTRATIVE 64.

In order to ensure a mutually cooperative and effective approach to unlicensed practice, recommend that the Board of Licensure of Professional Land Surveyors establish Memorandums of Agreement with other relevant professional regulatory boards regarding cooperative action to be taken against professionals practicing outside the scope of their licensed practice.

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ADMINISTRATIVE 65.

In order to document the extent of the need to establish an appeals board which is independent from any professional regulatory board, direct the Division of Licensing and Enforcement within the Department of Professional and Financial Regulation to undertake a study of the reasons why professional regulatory boards deny applicants licensure and the final disposition of those denials following appeal.

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**MAINE STATE PILOTAGE COMMISSION**

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STATUTORY

66.

Continue the Maine State Pilotage Commission pursuant to the Maine Sunset Act.

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ADMINISTRATIVE 67. In order to ensure that examinations are evenly weighted, non-prejudicial, and objective, purge licensing examinations administered by the Maine State Pilotage Commission of questions that could be considered subjective or irrelevant.

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STATUTORY 68. In order to ensure that future applicants for licensure continue to adhere to current standards of competence, repeal the Commission's authority to limit entry into the pilotage profession but retain current state licensure standards.

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**STATE LOTTERY COMMISSION**

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STATUTORY 69. Continue the State Lottery Commission for one year, pursuant to the provisions of the Maine Sunset Act.

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**SUNSET REVIEW PROCESS**

STATUTORY

70.

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Require agencies subject to review by the Joint Standing Committee on Audit and Program Review to submit a list of programs in which gender inequity is identified and highlighted for consideration by the Committee, a list of employees, by gender, showing job classification and salary range, and promotions and layoffs in the preceding year according to gender.

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STATUTORY

71.

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Require each agency subject to review by the Joint Standing Committee on Audit and Program Review to submit a report by September 1, 1992 specifying the criteria and process by which the agency would evaluate the extent to which the agency's programs and services are achieving the goals of the agency, as well as the efficiency of the agency's programs or services.

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## DEPARTMENT OF PUBLIC SAFETY

### OVERVIEW

The Department of Public Safety was created in 1971 (PL 1971 c. 496 and c. 592) to "coordinate and efficiently manage the *law enforcement* responsibilities of the State of Maine" [25 MRSA §2901]. Today, the Department is not only responsible for coordinating and managing law enforcement activities but for "*public safety*" responsibilities as well. The Department gained these additional responsibilities upon the enactment of PL 1981 c. 98 which consolidated highway safety programs within the Department.

Currently, the Department consists for four of the same agencies (since renamed) which comprised the Department in 1971, as well as four others which have been added since the 1971 creation:

<b>Departmental Components <u>in 1972</u></b>	<b>Departmental Components <u>in 1992</u></b>
Department of the State Police	Bureau of State Police and the State Bureau of Identification
Enforcement Division of the State Liquor Commission	Bureau of Liquor Enforcement
Division of State Fire Prevention of the Department of Insurance	Office of the State Fire Marshal
The Maine Law Enforcement and Criminal Justice Academy	The Maine Criminal Justice Academy
Vehicle Equipment Safety Commission	(repealed PL 1977 c. 786 §17)
	Bureau of Capitol Security;
	Bureau of Highway Safety and the Maine Highway Safety Commission;
	Bureau of Intergovernmental Drug Enforcement [now known as the Maine Drug

Enforcement Agency, pursuant to P.Ls. 1991 c. 837 Part B and c. 841]; and the

Maine Emergency Medical Services.

In 1977, the Bureau of Capitol Security was transferred from the Department of Finance and Administration to the Department of Public Safety (PL 1977 c. 138 §3). In December 1980, an Executive Order transferred the Bureau of [Highway] Safety and the Maine Highway Safety Committee (i.e. Maine's Highway Safety Program) from the Department of Transportation to the Department of Public Safety. The Bureau of Intergovernmental Drug Enforcement [now known as the Maine Drug Enforcement Agency] was established as a component of the Department in September 1987 (PL 1987 c.411). The newest addition to the Department is Maine Emergency Medical Services, added in 1991 pursuant to a recommendation of the Joint Standing Committee on Audit and Program Review [PL 1991, c. 588].

### FUNDING AND EXPENDITURES

Actual Expenditures for FYs 1989-90 and 1990-91 and total budgeted appropriations and allocations for FYs 1991-92 and 1992-93 for the Department are shown below by funding source:\*

	Actual Expenditures FYs 1989-90 & 1990-91; and Budgeted Appropriations and Allocations FYs 1991-92 & 1992-93							
	FY 1989-90 Actual Expenditures		FY 1990-91 Actual Expenditures		FY 1991-92 Budgeted Appro/Alloc		FY 1992-93 Budgeted Approp/Alloc	
General Fund	\$16,179,084	42.51%	\$ 8,978,035	23.11%	\$10,372,040	25.51%	\$ 7,632,823	18.57%
Highway Fund	\$13,419,568	35.26%	\$19,595,337	50.44%	\$19,542,815	48.06%	\$22,788,558	55.44%
Fed. Expend, Fund	\$ 1,755,356	4.61%	\$ 3,171,423	8.16%	\$ 2,535,561	6.24%	\$ 1,935,013	4.71%
Other Special Rev.	\$ 6,326,343	16.62%	\$ 7,105,951	18.29%	\$ 8,006,073	19.69%	\$ 8,569,474	20.85%
Federal Block	\$ 391,529	1.00%	\$ 375	0.00%	\$ 209,780	0.52%	\$ 176,162	0.43%
TOTAL	\$38,061,880	100.00%	\$38,851,121	100.00%	\$40,666,269	100.00%	\$41,102,030	100.00%

Actual and budgeted expenditures by line category for four fiscal years is shown below.\* Position count is also shown.

**ACTUAL AND BUDGETED EXPENDITURES BY LINE CATEGORY  
FOR FOUR FISCAL YEARS**

	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93
Positions-Legislative**	515.5	487.0	473.0	-
Positions-Other**	131.0	134.0	139.0	-
Total Positions**	646.5	623.0	612.0	
Personal Services	\$25,354,322	\$27,193,853	\$29,338,290	\$29,593,288
All Other	\$ 9,568,800	\$ 9,887,564	\$ 9,789,794	\$ 9,875,127
Capital Expenditures	<u>\$ 3,138,758</u>	<u>\$ 1,769,704</u>	<u>\$ 1,538,176</u>	<u>\$ 1,633,615</u>
Total Expenditures	\$38,061,880	\$38,851,121	\$40,666,260	\$41,102,030

\*\*Data from DPS

Total budgeted expenditures by line category and funding source for the current biennium is shown below.\*

**TOTAL BUDGETED EXPENDITURES BY LINE CATEGORY AND FUNDING SOURCE  
FOR CURRENT BIENNIUM**

FY 1991-92

	GF	HF	FEF	OSR	FBG	TOTAL
Personal Services	\$6,563,791	\$15,895,425	\$ 596,528	\$6,105,516	\$177,039	\$29,338,299
All Other	\$3,595,249	\$ 2,961,386	\$1,796,226	\$1,404,192	\$ 32,741	\$ 9,789,794
Capital Expenditures	<u>\$ 213,000</u>	<u>\$ 686,004</u>	<u>\$ 142,807</u>	<u>\$ 496,365</u>	<u>\$ 0</u>	<u>\$ 1,538,176</u>
Total Budgeted	\$10,372,040	\$19,542,815	\$2,535,561	\$8,006,073	\$209,780	\$40,666,269

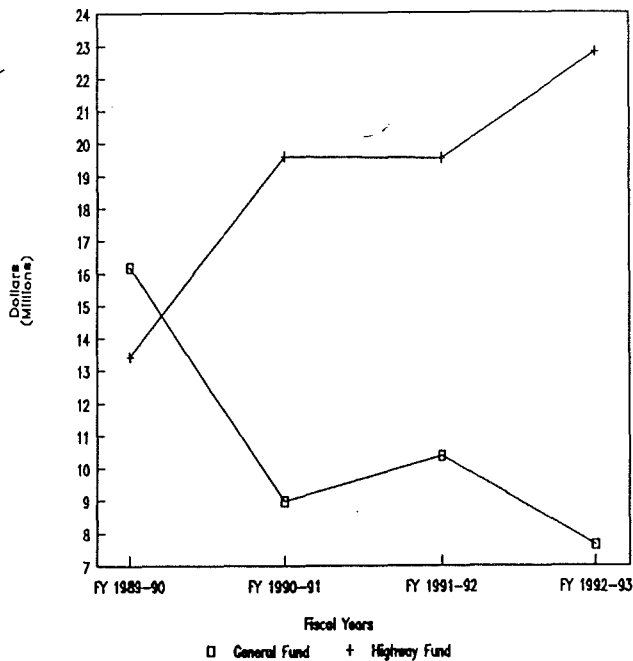
FY 1992-93

	GF	HF	FEF	OSR	FBG	TOTAL
Personal Services	\$3,649,253	\$18,774,487	\$ 555,639	\$6,459,241	\$154,668	\$29,593,288
All Other	\$3,825,570	\$ 2,946,782	\$1,305,374	\$1,775,907	\$ 21,494	\$ 9,875,127
Capital Expenditures	<u>\$ 158,000</u>	<u>\$ 1,067,289</u>	<u>\$ 74,000</u>	<u>\$ 334,326</u>	<u>\$ 0</u>	<u>\$ 1,633,615</u>
Total Budgeted	\$7,632,823	\$22,788,558	\$1,935,474	\$8,569,474	\$176,162	\$41,102,030

The graph below shows the reduced reliance on the General Fund and the increased reliance on the Highway Fund for the Department's expenditures for four fiscal years.

### General Fund and Highway Fund Four Fiscal Years

	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93
General Fund	\$16,179,084	\$8,978,035	\$10,372,040	\$7,632,823
Highway Fund	\$13,419,568	\$19,595,337	\$19,542,815	\$22,788,558



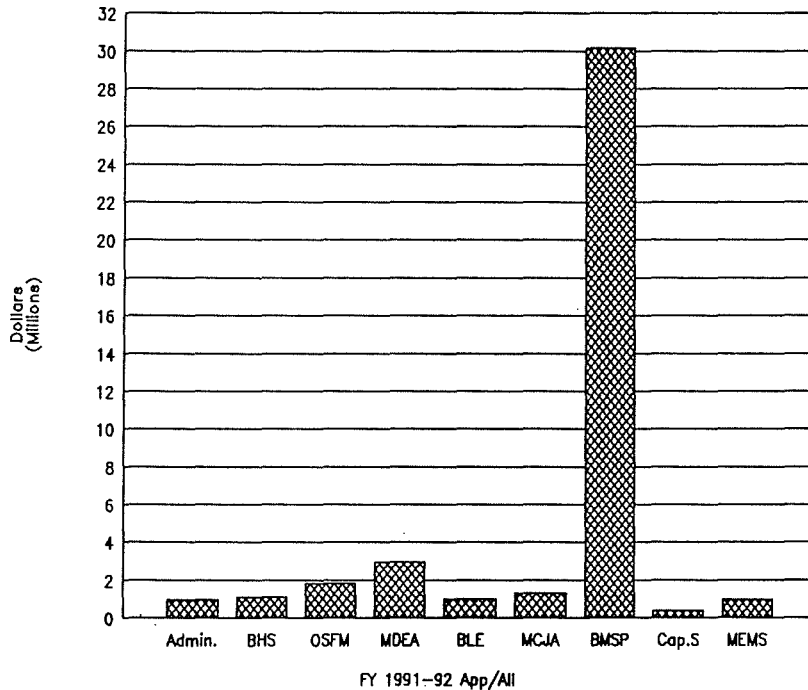
\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

Finally, the table below shows FY 1991-92 budgeted appropriations and allocations, as well as position count, in tabular form, by Bureau. The data show that the Bureau of the State Police is by far the largest bureau within the Department. The bar graph illustrates these figures.

**DEPARTMENT OF PUBLIC SAFETY BUREAUS  
FISCAL YEAR 1991-92**

**Budgeted Appropriations and Allocations and Position Count\***

	Total App/All	%	Position Count	%
Admin.	\$ 955,895	2%	20	3.22%
BHS	\$ 1,104,176	3%	9	1.45%
OSFM	\$ 1,801,847	4%	35	5.64%
MDEA	\$ 2,945,753	7%	12	1.93%
BLE	\$ 1,015,148	2%	21	3.38%
MCJA	\$ 1,322,548	3%	20	3.22%
BMSP	\$30,152,895	74%	487	78.42%
Cap. S	\$ 391,056	1%	11	1.77%
MEMS	\$ 976,951	2%	6	0.97%
<b>TOTAL</b>	<b>\$40,666,269</b>	<b>100%</b>	<b>621</b>	<b>100.00%</b>



**ORGANIZATION OF THE DEPARTMENT:**

The attached organizational chart shows the seven major components of the Department, the directors of each of these components, and the component's function, source of revenue, expenditures, and position count for FY 1991-92. As indicated, two bureaus are funded entirely with General Funds, two bureaus receive no General Fund support and five bureaus are funded with a combination of General Fund and other revenue sources.



DEPARTMENT OF PUBLIC SAFETY BY BUREAU  
FISCAL YEAR 1991-92

Showing general functions; funding source;  
total budgeted appropriations/allocations; position count=

Office of the Commissioner  
John R. Atwood, Commissioner

Assistant to the Commissioner for Public Information: Stephen McCausland  
Assistant to the Commissioner: Paul Plaisted  
Administrative Services Division: Roland Leach, Director

- Coordinates and provides Department-wide activities and services
- Implements practices which promotes economy

GF; OSR; HF \$955,895  
Total Position Count: 20

Bureau of Highway Safety  
Richard E. Perkins, Director

Improves and fosters safety on Maine's public highways by dealing with public interest and awareness, impaired drivers, occupant restraint devices, child safety seats, EMS, speed limits, school buses, traffic and roadway safety, and traffic accident data.

HF; FEF; OSR \$1,104,176  
Position Count: 9

Office of the State Fire Marshall  
Lt. Ladd Abbott, Acting State Fire Marshall

Safeguards lives and property regarding fire, arson, explosives, fire alarms, fire escapes, means of egress; analyzes fire statistics; educates the public.

OSR; FEF \$1,801,847  
Position Count: 35

Maine Drug Enforcement Agency  
Francis Amoroso, Director

Conducts a statewide drug enforcement program and strategy that incorporates all levels of law enforcement.

GF; FEF; OSR \$2,945,753  
Position Count: 12

Bureau of Liquor Enforcement  
John S. Martin, Director

Enforces all liquor laws as well as the rules of the Maine State Liquor Commission.

GF \$1,015,148  
Position Count: 21

Maine Criminal Justice Academy  
Maurice C. Harvey, Director

- Provides basic law enforcement and correction training to all state, county, and municipal officers;
- Provides specialized, management, and refresher training to all criminal justice personnel in the State;
- Develops, publishes, and distributes education and training material; and
- Provides technical assistance and guidance to Maine's justice system.

GF; FEF; OSR \$1,322,548  
Position Count: 20

Bureau of State Police  
Colonel Andrew Demers, Chief

- Safeguards the constitutional rights, liberty, and security of Maine citizens by preventing and deterring crime and apprehending offenders;
- Patrols state and other highways to enforce criminal and motor vehicle laws, investigate traffic accidents and direct traffic; and
- Serves the public by providing general aid and advice as warranted.

GF; HF; FEF; OSR \$30,152,895  
Position Count: 487

Bureau of Capitol Security

GF \$391,056  
Position Count: 11

Maine Emergency Medical Services

GF; FBG \$976,951  
Position Count: 6

GF = General Fund  
OSR = Other Special Revenue  
FEF = Federal Expenditure Fund  
HF = Highway Fund  
FBG = Federal Block Grant

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In addition to the Bureaus, the Department also includes a number of other policy-making and advisory boards: the Maine Highway Safety Commission, Board of Trustees of the Maine Criminal Justice Academy, the E911 Advisory Committee, and the Intergovernmental Drug Enforcement Policy Board, now renamed as the Maine Drug Enforcement Agency Advisory Board.

### OFFICE OF THE COMMISSIONER

**John Atwood, Commissioner**

Major components of the Office of the Commissioner include the Commissioner, the Assistant to the Commissioner, the Assistant to the Commissioner for Public Information, and the Administrative Services Division.

The statute declares [25 MRSA §2901-A] that the Commissioner of the Department of Public Safety serves as its chief executive officer by:

- organizing the Department into relevant components [25 MRSA §2902];
- coordinating and supervising the activities of the bureaus in the Department [25 MRSA §2901-A];
- undertaking comprehensive planning and analysis regarding the Department's functions and responsibilities [25 MRSA §2901-A];
- promoting economy and coordination within the Department [25 MRSA §2901-A]; and
- actively seeking cooperation between the Department and all other law enforcement officers and agencies in the State.

The Committee finds that the Commissioner's office generally relies on each of the directors to autonomously manage the bureaus on a day-to-day basis, with the Commissioner intervening or providing oversight, consultation, and advice as necessary.

In addition, the Committee finds that the Commissioner's office carries out the duty of cooperating with other law enforcement officers by means of an active liaison program with criminal justice professional associations such as the Maine

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Chiefs of Police Association, the Maine Sheriffs Association, Drug Abuse Resistance Education (DARE) Officers, the Maine Prosecutors Association, and Maine Crime Prevention Officers. Furthermore, the Commissioner's office is represented on a number of criminal justice planning committees such as the Maine Justice Assistance Council, the Juvenile Justice Advisory Group, the Maine Criminal Justice Academy Board of Trustees, and the Commission to Automate Criminal History Record Information.

In general, the Committee finds that the Assistant to the Commissioner addresses management issues such as the Department's computerization needs and implementing the Enhanced-911 emergency call system.

The Assistant to the Commissioner for Public Information serves as the Department liaison with the public and media regarding Department actions, whether from the State Police, the Office of State Fire Marshal, or any other bureau within the Department. The intent of the position is to provide the public with accurate and consistent information and preserve the constitutional rights of all individuals, while not jeopardizing potential prosecution of alleged criminals.

The Administrative Services Division within the Commissioner's office was established in 1985 by consolidating administrative staff and resources dispersed throughout six bureaus (P.L. 1985 ch.501, Part A, §1). Currently, the Division provides all administrative support services to the entire Department, including budget preparation and administration, finance, personnel, purchasing, audit, and personnel functions. Recently, an additional three positions were transferred into the Administrative Services Division from the Bureau of Maine State Police as a result of a finding from the Bureau of Human Resources (within the Department of Administrative and Financial Services) that these positions were also providing services of a department-wide nature.

The attached organizational chart for the Office of Commissioner shows that, as of January 23, 1992, the Office of the Commissioner included 23 positions, (counting three positions transferred in from State Police accounts).

BUREAU OF ADMINISTRATION  
 ORGANIZATIONAL CHART  
 January 23, 1992

OFFICE OF THE COMMISSIONER  
 Commissioner  
 Pos. 0480-06580-001  
 Acct: 010.6A.0088.01

ADMINISTRATIVE SERVICES  
 DIRECTOR, ADMINISTRATIVE SVCS  
 Pos. 0007-06580-6661  
 Acct: 010.16A.0088.01

ADMINISTRATIVE SECRETARY  
 Pos. 0024-06580-0008  
 Acct: 014.16A.0088.01

CLERK TYPIST II  
 Pos. 0012-06580-1631  
 Acct: 012.16A.0088.01

AUDITOR II  
 Pos. 0612-06580-1561  
 Acct: 012.16A.0088.01

ASSISTANT TO THE COMMISSIONER  
 PUBLIC INFORMATION  
 Pos. 0256-06580-0007  
 Acct: 014.16A.0088.01

ASSISTANT TO THE COMMISSIONER  
 Pos. 0264-06580-02091  
 Acct: 014.16A.0088.01

-E-911 ADVISORY  
 -COMMITTEE AUTOMATION  
 -PROJECT

FINANCE  
 CHIEF ACCOUNTANT  
 Pos. 0141-06580-6882  
 Acct: 012.16A.0088.01

HUMAN RESOURCES  
 PERSONNEL MANAGER  
 Pos. 0404-06580-0004  
 Acct: 010.16A.0088.01

ACCOUNTING  
 CLERK II  
 Pos. 0002-06580-1981  
 Acct: 012.16A.0088.01  
 ACCOUNT CLERK II  
 Pos. 0312-06580-0031  
 Acct: 012.16A.0088.01  
 ACCOUNT CLERK II  
 Pos. 0312-06580-6904  
 Acct: 012.16A.0088.01  
 ACCOUNTANT I  
 Pos. 0321-06580-6631  
 Acct: 012.16A.0088.01  
 ACCOUNTANT I  
 Pos. 0321-06580-6681  
 Acct: 012.16A.0088.01  
 ACCOUNTANT I  
 Pos. 0321-06580-0002  
 Acct: 014.16A.0088.01

PURCHASING AND SUPPLY  
 PROPERTY OFFICER  
 Pos. 0785-06500-6969  
 Acct: 012.16A.0291.01  
 STOREKEEPER II  
 Pos. 0232-06500-6902  
 Acct: 012.16A.0291.01

PERSONNEL  
 PERSONNEL SPECIALIST  
 Pos. 0403-06580-6571  
 Acct: 012.16A.0088.01  
 CLERK TYPIST III  
 Pos. 0013-06580-1631  
 Acct: 012.16A.0088.01

PAYROLL  
 ACCOUNT CLERK I  
 Pos. 0311-06580-7055  
 Acct: 012.16A.0088.01  
 ACCOUNT CLERK II  
 Pos. 0312-06580-6916  
 Acct: 012.16A.0088.01  
 ACCOUNT CLERK II  
 Pos. 0312-06500-7165  
 Acct: 012.16A.0291.01  
 PAYROLL SUPERVISDR  
 Pos. 0968-06500-6903  
 Acct: 012.16A-0088.01

FY 1991-92 budgeted appropriations and allocations by line category and funding source for the Office of the Commissioner are shown below.\*

**OFFICE OF THE COMMISSIONER  
FISCAL YEAR 1991-92**

	HF	FEF	OSR	TOTAL
Position Count	3	13	4	20
Personal Services	\$202,267	\$427,446	\$218,782	\$848,495
All Other	\$ 7,598	\$ 73,496	\$ 26,306	\$107,400
Capital Expenditures	-	-	-	-
<b>TOTAL</b>	<b>\$209,865</b>	<b>\$500,942</b>	<b>\$245,088</b>	<b>\$955,895</b>

\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

**OFFICE OF STATE FIRE MARSHAL**

**Dennis Lundstedt - Fire Marshal**

The modern-day functions of the Office of State Fire Marshal began in 1895, when the Legislature required municipal officers to investigate the cause, circumstances, and origin of property fires and to determine whether the fire was the result of "carelessness or of design" [P.L.1895 c.98]. Since then, various states and municipal officials have been assigned fire prevention and investigation duties, including the State's Insurance Commissioner and the Attorney General. When the Department of Public Safety was created in July 1972, the then Division of State Fire Protection within the state Insurance Department was transferred into the new Department of Public Safety. The name of the Division was changed to its current, "Office of State Fire Marshal" in October 1973 [P.L.1973 ch.632] and fire prevention and investigation duties were consolidated within the Office.

The State Fire Marshall is appointed by the Commissioner (25 MRSA §2396) and must be a person experienced in fire prevention work. The State Fire Marshal, in turn, appoints fire inspectors, fire investigators, and others, subject to the Civil Service law, to carry out the duties of the Office. The State

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Fire Marshal, the Deputy, and Fire Inspectors "have the same enforcement powers and duties throughout the State as sheriffs" in respect to enforcing all "statutes, ordinances, rules, and regulations concerned with fire prevention, arson and other burnings" [25 MRSA §2396 sub-§7]. The State Fire Marshal, Deputy, or fire inspectors are also empowered to arrest persons who impersonate or interfere with them [25 MRSA §2396 sub-§7].

The statute specifically mandates the State Fire Marshal to protect the public in the following areas [25 MRSA §2396]

- Fires - the prevention and containment of fire and the protection of life and property from fire;
- Arson - the suppression of arson and investigation of cause, origin, and circumstances of fires;
- Explosives - the storage, sale, and use of combustibles, flammables, and explosives;
- Fire alarms - the installation, maintenance, or sale of automatic or other fire alarm systems and fire extinguishing equipment;
- Fire escapes - the construction, maintenance, and regulation of fire escapes;
- Means of egress - the adequacy of means of egress, in the case of fire, from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, dormitories, apartment or rooming houses, hotels, motels, and all other places in which numbers of persons work, live, or congregate from time to time for any purpose which comes within the scope of the current edition of the National Fire Protection Association No.101, Life Safety Code; and
- Other duties - the performance of other duties as may be conferred or imposed from time to time by law.

The Office of State Fire Marshal consists of four divisions, as illustrated in the attached organizational chart. Three of the four divisions within the Office are organized in a quasi-military manner - the divisions of Fire Investigation, Fire Inspection, and Fire Protection. Personnel within these divisions are sworn into the Department of Public Safety by the Commissioner; staff within the Division of Fire Investigation are

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also graduates of the Maine Criminal Justice Academy and are, therefore, sworn law enforcement officers. Supervisors of these three divisions are also assigned a military "rank"; i.e. the Supervisors for Investigation and Inspection hold the rank of Sergeant, the Fire Protection Supervisor is a Corporal, the Assistant State Fire Marshal is a Lieutenant, and the Fire Marshal is ranked as a Captain. Personnel in the Clerical Division and the two administrative personnel for data processing and planning and research are not sworn personnel.

The purpose of each division can be summarized as follows:

A. Investigation Division - The Investigation Division is divided into two districts, Northern and Southern. Each Fire Investigator is a sworn law enforcement officer charged with determining the cause of:

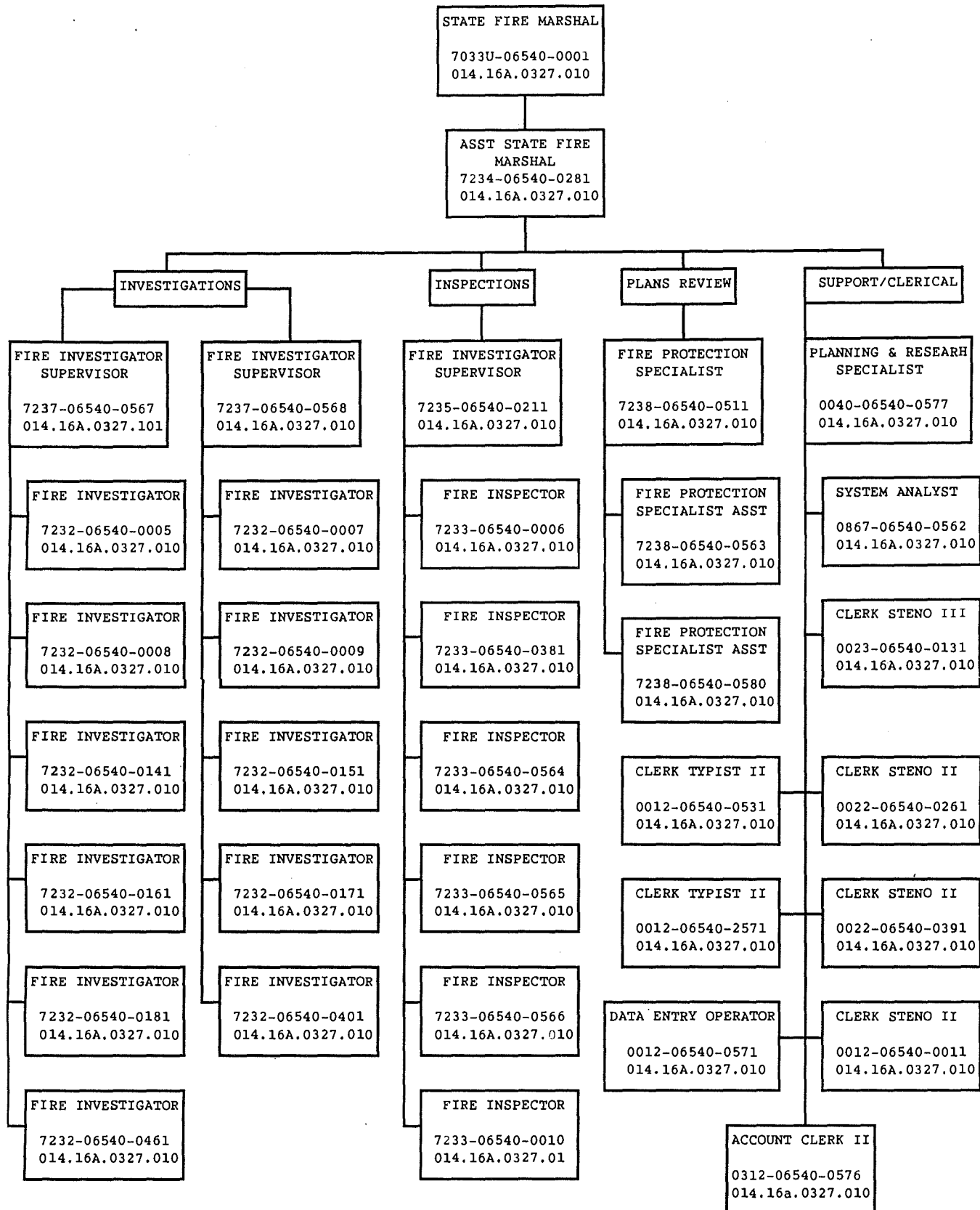
- fires that result in death or personal injuries;
- fires suspected of being set or inflamed by first responders; or
- any other fire upon request.

In addition, Fire Investigators are charged with determining the cause of all explosions and investigating injury or death due to fireworks or mechanical amusement rides.

B. Fire Protection Division - The Fire Protection Division reviews all plans to construct, reconstruct or alter the use of public buildings to ensure that the plans conform with statutes intended to reduce fire hazards [25 MRSA §2448]. "Public buildings" include schools; hospitals; convalescent, nursing, or boarding homes; theaters or other places of public assembly; mercantile occupancies over 3,000 square ft; hotels, motels, or business occupancies of 2 or more stories; or any building to be state-owned or operated.

The Fire Protection Division also reviews compliance with barrier-free building standards and fire sprinkler system codes.

OFFICE OF THE STATE FIRE MARSHAL  
 ORGANIZATIONAL CHART  
 January 23, 1992





C. Inspection Division. - The Inspection Division inspects public facilities to identify and correct fire hazards. Public buildings subject to inspection include human services facilities; health care facilities; explosive storage and transportation equipment; flammable and combustible liquids storage, including above-ground storage tanks for petroleum products; fireworks transportation, storage, and displays; and general inspections of facilities open to and used by the public.

D. Clerical Division - The clerical division supports the Office administratively.

For FY 1991-92, the Office of the State Fire Marshal is staffed with 35 positions. All of the Office's positions are supported by Other Special Revenue generated by the fire premium tax assessed on insurance companies and through license fees paid by entities which include cinematography facilities, dance facilities, inspection services, amusement services, fire sprinkler companies, circuses, explosives/magazines, transport vehicles of flammable liquids, and fireworks.

FY 1991-92 budgeted appropriations and allocations by line category and funding source for the Office of State Fire Marshal are shown below, as well as position count for the Office of State Fire Marshal accounts.\*

**OFFICE OF STATE FIRE MARSHAL  
FISCAL YEAR 1991-92**

	FEF	OSR	TOTAL
Position Count	-	35	35
Personal Services	-	\$1,344,707	\$1,344,707
All Other	\$10,000	\$ 447,140	\$ 457,140
Capital Expenditures	-	-	-
<b>TOTAL</b>	<b>\$10,000</b>	<b>\$1,791,847</b>	<b>\$1,801,847</b>

\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

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## MAINE CRIMINAL JUSTICE ACADEMY

**Maurice Harvey, Director**

The precursor to the Maine Criminal Justice Academy was established in October 1969 as the "Maine Police Academy", governed by a 7-member "Board of Commissioners", for the purpose of training police officers [PL 1969 c.491]. The Academy's name was changed to the "Maine Law Enforcement and Criminal Justice Academy" in 1971 [PL1971 c.241] to coincide with a broadening of its duties to train not only law enforcement officers but also criminal justice personnel. In 1972, the former Thomas College in Waterville was purchased and serves as the Academy's headquarters today. The current title was bestowed in 1973 [PL 1973 c. 136].

The purpose of the Maine Criminal Justice Academy is to serve as a "criminal justice training facility" and provide a central training facility for law enforcement, corrections, and criminal justice personnel in the State. The Academy is required to "promote the highest levels of professional law enforcement performance and to facilitate coordination and cooperation between various law enforcement and criminal justice agencies [25 MRSA §2801].

The Academy is governed by a 15 member Board of Trustees, eleven of whom are appointed by the Governor and four of whom are ex-officio:

- a commissioned officer of the State Police;
- a county sheriff;
- a chief of a municipal police department;
- 2 officers of municipal police departments;
- an educator;
- a representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws;
- a representative of a federal law enforcement agency;
- a citizen;

- 
- a municipal officer;
  - one nonsupervisory corrections officer representing a state or county correctional facility;
  - the Commissioner of Public Safety (ex-officio);
  - the Attorney General (ex-officio);
  - the Game Warden Colonel in the Department of Inland Fisheries and Wildlife (ex-officio);  
and
  - the Commissioner of Corrections (ex-officio).

The Committee finds that a principal responsibility of the Board of Trustees is to raise the competency of Maine's law enforcement and corrections officers by establishing standards for the development and delivery of training. To carry out this mandate, Title 25 §2803-A endows the Board with the following powers and duties:

1. Training and certification of all law enforcement officers in the State;
2. Development and administration of admission standards, certification requirements, and curriculum; to establish standards for admission to the board-approved courses, taking into account state hiring standards and procedures applicable to all state departments; set requirements for board-approved courses; prescribe curriculum; and certify both graduates of the board-approved courses and persons for whom the board has waived training requirements;
3. Certification of police chiefs;
4. Training and certification of Sheriffs;
5. Training and certification of Corrections Personnel;
6. Training and certification of State Police enlisted personnel - with the approval of the Chief of the State Police;
7. Certification of Instructors - to certify and set standards for certification of law enforcement and

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criminal justice instructors to be used in all academy preservice, basic, and in-service training programs;

8. Training of Harbor Masters;
9. Training and Certification in court procedures - to certify law enforcement officers as being familiar with current court procedures;
10. Establishing other training programs, establishing fees, formulating a budget, accepting funds and grants, acquiring facilities, and revoking or suspending certificates.

Other types of training offered or coordinated by the Academy include:

- Field Training Officer program, whereby seasoned officers are instructed as to how to provide supervision to newly certified law enforcement officers in the field;
- training for improving arrests for Operating Under the Influence;
- training in Drug Awareness Resistance Education [DARE]; and
- technical assistance to communities regarding crime prevention programs.

The Academy also houses a Media Resource Center, directed by a Librarian II position supported by Other Special Revenue. The Center is also staffed by a Highway Safety Assistant position which is a Bureau of Highway Safety position funded by the Highway Fund. The Highway Safety Assistant deals primarily with Highway Safety media requests for films, publications, files, etc.

The Media Resource Center provides services including:

- audio-visual material such as films on highway safety and law enforcement/corrections training;
- over 3,243 books and government publications;
- interlibrary loan;
- a set of statutes;

- three daily newspapers;
- pamphlet file;
- paperback book collection; and
- a periodicals collection.

All materials from the Media Resource Center are available for loan or in-house review, for candidates attending training sessions, educational institutions, and the general public.

As shown below, for FY 1991-92, the Academy has 20 positions authorized, twelve funded from General Fund dollars, 4 from Federal Expenditure Funds, and 4 from Other Special Revenue.

FY 1991-92 budgeted appropriations and allocations by line category and funding source for the Maine Criminal Justice Academy are shown below, as well as authorized positions for the MCJA accounts.\*

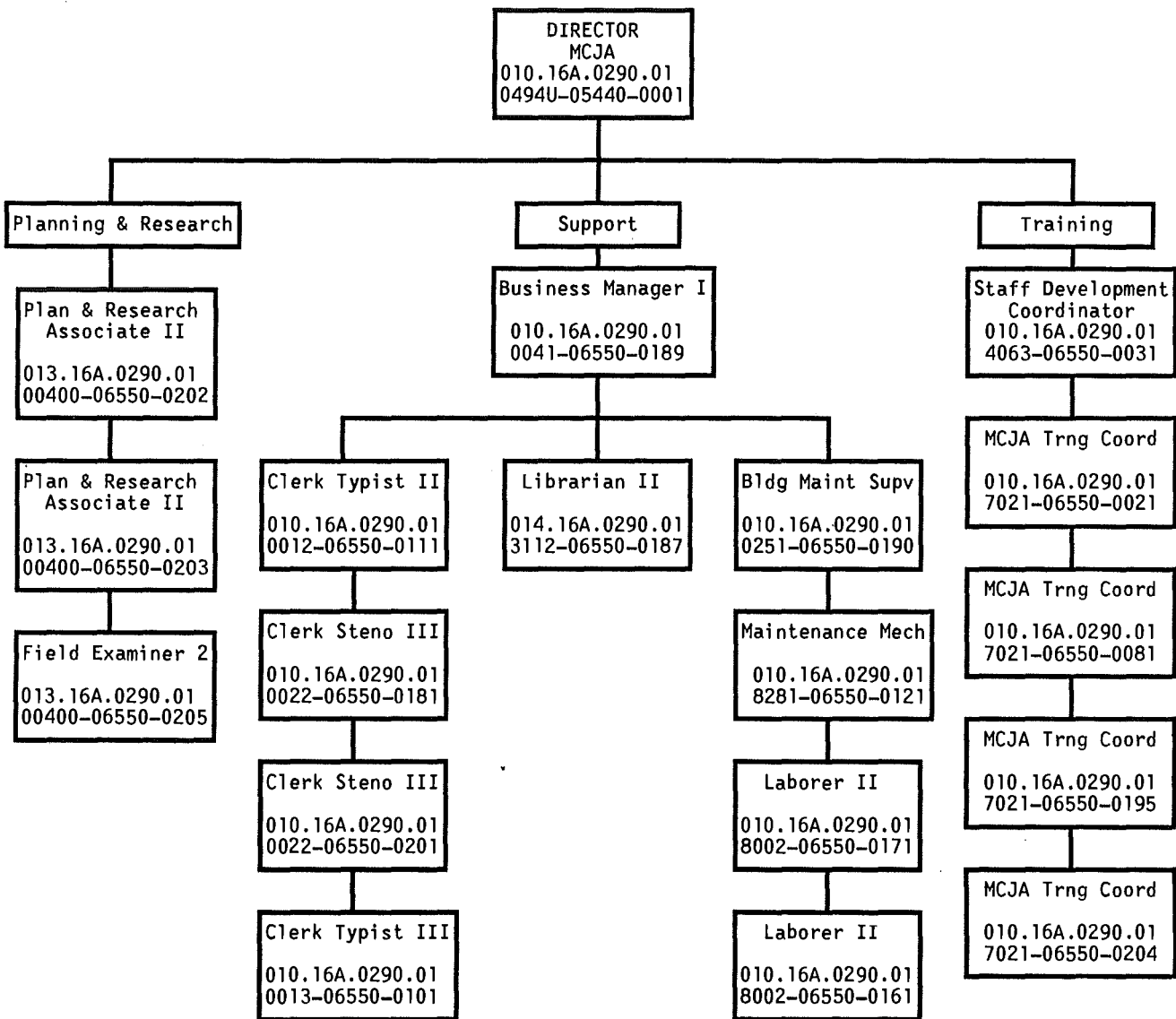
**MAINE CRIMINAL JUSTICE ACADEMY**

**FISCAL YEAR 1991-92**

	<b>HF</b>	<b>FEF</b>	<b>OSR</b>	<b>TOTAL</b>
Position Count	12	4	4	20
Personal Services	\$439,747	\$135,985	\$149,223	\$ 724,955
All Other	\$182,154	\$210,463	\$204,976	\$ 597,593
Capital Expenditures	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>TOTAL</b>	<b>\$621,901</b>	<b>\$346,448</b>	<b>\$354,199</b>	<b>\$1,322,548</b>

\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

MAINE CRIMINAL JUSTICE ACADEMY  
 ORGANIZATIONAL CHART  
 January 1992



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## BUREAU OF HIGHWAY SAFETY

### **Richard Perkins, Director**

The predecessor to the Bureau of Highway Safety was first operated as a program within the Executive Department. In response to federal legislation requiring the identification of a State entity to accept federal highway safety funds [i.e. the U.S. Highway Safety Act of 1966; PL 89-564], in 1974 the office was officially established as the "Bureau of Safety" within the Department of Transportation.

Executive Order #6 FY 80/81 transferred the "Bureau of Safety" to the Department of Public Safety since, as the Executive Order explained, "the responsibility to administer the Highway Safety Program should rest with the Department of Public Safety" (rather than DOT).

PL 1989 Ch. 648 added "Highway" to the name of the Bureau and officially added the Bureau to the list of bureaus within the Department of Public Safety [effective July 14, 1990].

The overall purpose of the Bureau of Highway Safety remains the same as it has since 1974, i.e.

*To reduce the number and severity of traffic crashes, injuries, and deaths in Maine.*

The statutory duties of the Bureau appear in Title 25 §2902, sub-§7 which states that, "the bureau is responsible for the State's highway safety program. The bureau is authorized to develop and implement a process for obtaining information about highway safety programs administered by other state and local agencies and to provide and facilitate the provision of financial and technical assistance to other state agencies and political subdivision for the purpose of developing and carrying out highway safety programs."

The Committee finds that the Bureau works toward its goal by focussing on the following objectives:

- to promote greater public interest in and awareness of highway safety issues;
- to promote more prevention programs and activities designed to reduce or eliminate the

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number of impaired drivers on Maine highways;

- to promote the voluntary, increased use of occupant restraint devices such as seat belts and car safety seats through education and public information programs and through increased enforcement activities;
- to promote programs designed to increase the correct use of child safety seats, make an adequate number of safety seats available to those who can't afford to buy them, and to promote better compliance with existing child restraint laws;
- to provide the Emergency Medical Services community the training opportunities and improved skills necessary for them to improve their delivery of emergency medical services in highway trauma situations;
- to promote programs that emphasize reducing the number of motorists exceeding the posted speed limit, especially highways posted at 55 or 65 mph;
- to promote a safer environment for school aged children transported on school buses in Maine;
- to provide the law enforcement community the training, equipment and resources to emphasize traffic safety issues and activities;
- to promote roadway safety by identifying unsafe highways and by improving safety at roadway construction and repair sites; and
- to improve the quality of traffic accident data;

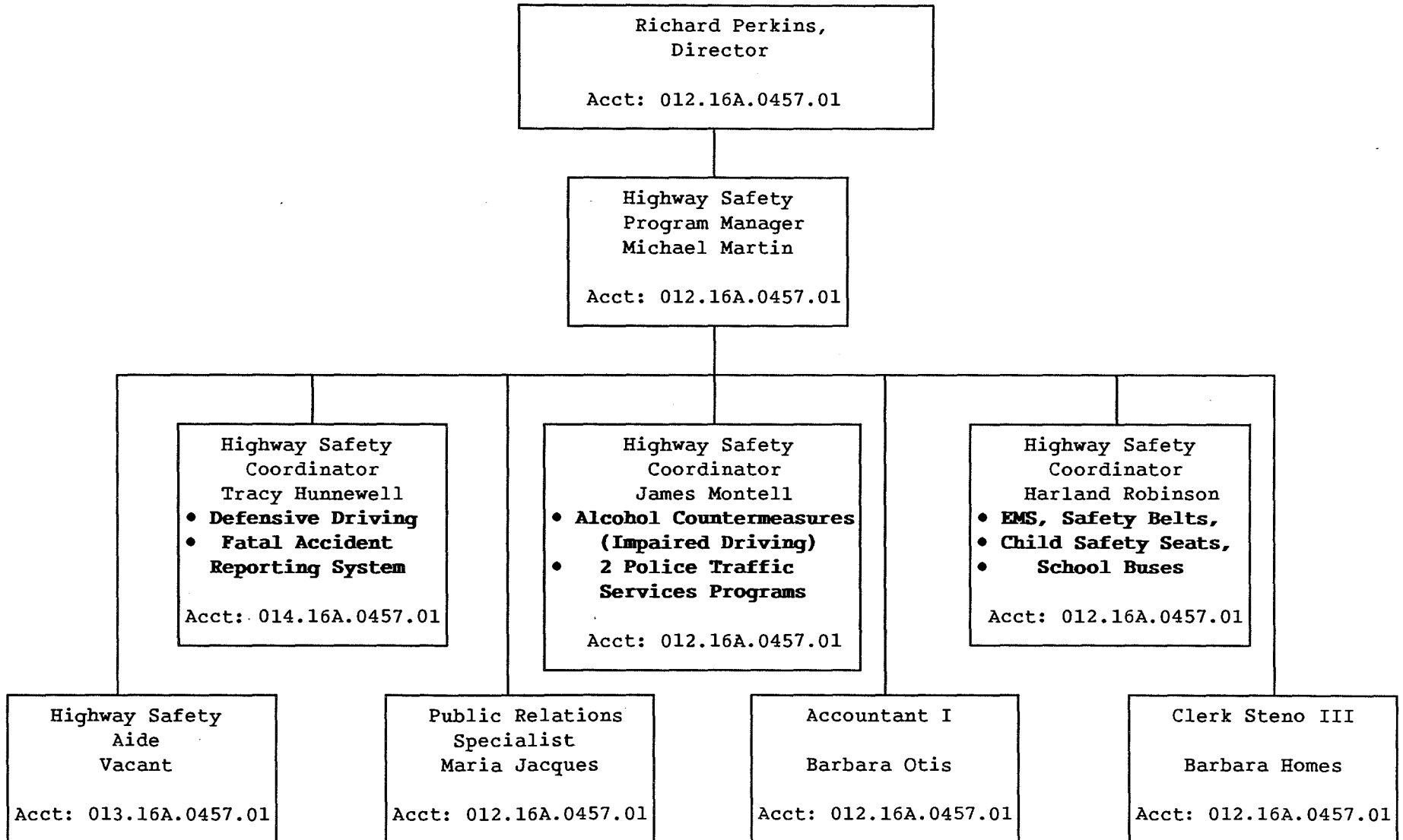
For FY 1991-92, the Bureau is authorized 9 positions, seven funded from Highway Fund dollars, 1 from Federal Expenditure Funds, and 1 from Other Special Revenue.

The Bureau receives no support from the General Fund. Its activities are supported by Federal Expenditure Funds, Highway Funds, and Other Special Revenues as shown below. FY 1991-92 budgeted appropriations and allocations by line category and funding source for the Bureau of Highway Safety is shown below, as well as authorized positions for the Bureau's accounts.\*



**BUREAU OF HIGHWAY SAFETY**

Organizational Chart  
as of February 12, 1992



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**BUREAU HIGHWAY SAFETY**

**FISCAL YEAR 1991-92**

	<b>HF</b>	<b>FEF</b>	<b>OSR</b>	<b>TOTAL</b>
Position Count	7	1	1	9
Personal Services	\$203,891	\$102,361	\$ 33,835	\$ 340,087
All Other	\$288,295	\$258,150	\$ 83,144	\$ 629,589
Capital Expenditures	<u>-</u>	<u>\$109,000</u>	<u>\$ 34,500</u>	<u>\$ 134,500</u>
<b>TOTAL</b>	<b>\$492,186</b>	<b>\$460,511</b>	<b>\$151,479</b>	<b>\$1,104,176</b>

\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

**BUREAU OF LIQUOR ENFORCEMENT**

**John S. Martin, Director**

Following the repeal of Prohibition in 1933, the "Maine Liquor Commission" (precursor to the Bureau of Liquor Enforcement) was created to regulate and control the distribution of liquor within the State. In 1972, the Bureau was incorporated into the newly-established Department of Public Safety [P.L.1971 c. 496].

The Bureau's purpose is to enforce Maine's liquor laws codified in Title 28-A, as well as to enforce the rules of the Maine State Liquor Commission. In practice, the Bureau's work includes controlling the sale of liquor by licensed premises, enforcing the law regarding sale and possession of intoxicating liquor to minors or intoxicated people, apprehending individuals who procure liquor for minors, assisting in prosecution, enforcing law regarding importation and illegal sale of intoxicating liquor, and other areas as warranted. In addition, the Bureau conducts a program to educate sellers and servers of alcohol about alcohol's effect on behavior and other relevant topics.

The Director of the Bureau of Liquor Enforcement is appointed by the Commissioner of Public Safety and must be "a person experienced in law enforcement or enforcement of liquor laws". The Bureau Director may be removed for cause by the Commissioner [25 MRSA §3901(2)]. In turn, the Bureau Director is

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authorized to appoint, subject to the Civil Service Law, "as many liquor enforcement officers as may be found necessary [who] shall be under the direct supervision and control of the Director" [25 MRSA §3901 sub-§2, ¶ A].

Liquor Enforcement Officers are endowed with the same enforcement powers as has a sheriff in order to "investigate and prosecute violations, execute warrants, serve process, and arrest offenders of the state's laws regulating liquor".

In addition to enforcing the state's liquor laws, the law also authorizes Liquor Enforcement Officers who are full graduates of the Maine Criminal Justice Academy (or who have been waived from basic training at the Academy because of successful completion of equivalent training) to "*arrest without a warrant any person who has committed or is committing any other crime in the Officer's presence*" [25 MRSA §3902 sub-§ 2 and 3]. Accordingly, Liquor Enforcement Officers also spend time enforcing crimes found in Maine's Criminal Code.

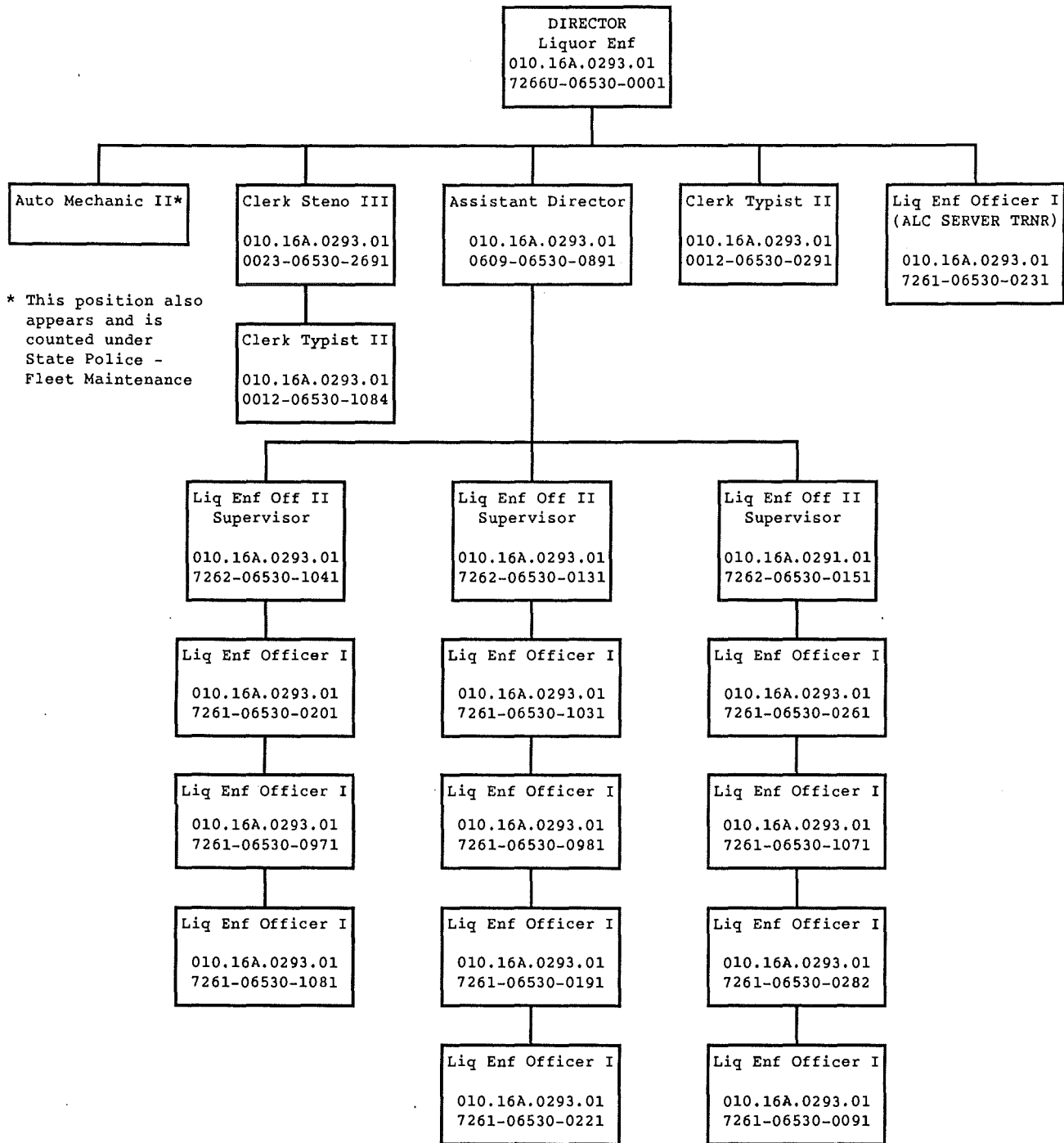
As shown in the organizational chart, the Bureau currently operates with 11 Liquor Enforcement Officer I's and 3 Liquor Enforcement Officer II's, who serve as supervisor. Each Officer is assigned an area in which to enforce liquor laws and regulations. Each Officer's area includes 300-400 "licensed establishments", which, according to law, are defined as

"premises to which a license for the sale of spirits, wine, or malt liquor to be consumed on or off the licensed premises applies, and any person or organization which is licensed to sell spirits, wine, or malt liquor in the times, places, and manners as specified in the license" [28-A MRSA §2 sub-§15].

The law lists establishments which are subject to licensure [28-A MRSA §2]:

- airline;
- auditorium;
- bowling center;
- civic auditorium;
- club;

BUREAU OF LIQUOR ENFORCEMENT  
ORGANIZATIONAL CHART



- dining car/passenger car;
- golf club;
- hotel;
- incorporated civic organization;
- indoor ice skating club;
- indoor racquetball club;
- international air terminal;
- class A lounge;
- outdoor stadium;
- performing arts center;
- public service corporation;
- qualified catering service;
- restaurant;
- class A restaurant;
- ship chandler;
- tavern; and
- vessel.

Liquor Enforcement Officers also oversee State Liquor Stores or Agency Stores, off-premise catering permits, and wholesalers which are within their districts.

For FY 1991-92, the Bureau has 21 authorized positions, which are supported entirely with General Fund dollars. FY 1991-92 budgeted appropriations and allocations by line category and funding source for the Bureau are shown below, as well as authorized positions for the Bureau's accounts.\*

**BUREAU OF LIQUOR ENFORCEMENT  
FISCAL YEAR 1991-92**

	<u>GF</u>	<u>TOTAL</u>
Positions	21	21
Personal Services	\$ 919,045	\$ 919,045
All Other	96,103	96,103
Capital Expenditures	-	-
TOTAL	\$1,015,148	\$1,015,148

\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

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## MAINE STATE POLICE

### COLONEL ANDREW DEMERS, CHIEF

The Chief of the Maine State Police is appointed by the Commissioner, with the advice and consent of the Governor and subject to review by the Joint Standing Committee on State Government, for a term of four years [25 MRSA §1501]. The Chief serves as the executive head of the Bureau of State Police whose primary mission is to safeguard the constitutional rights, liberty, and security of the citizens of Maine. The statute states specifically that *"the State Police shall ... patrol the state highways and other important ways ... for the purpose of enforcing the law ... relating to motor-driven and horse-drawn vehicles ... and of arresting all violators and prosecuting all offenders... The State Police shall aid the Department of Transportation in the enforcement of its rules... In addition,... the Chief and members of the State Police are vested with the same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve criminal processes, to investigate and prosecute violators of any law of this State and to arrest the offenders ...[25 MRSA §1502].* In addition, pursuant to 25 MRSA §1502, the State Police:

- are subject to the call of the Governor for emergency purposes at the Governor's discretion;
- must, so far as possible, cooperate with all other law enforcement officials in the detection of crime, the arrest and prosecution of criminals, and the preservation of law and order throughout the state;
- may provide patrol services to the Maine Turnpike; and
- may provide assistance to federal agencies for presidential security and may charge the various federal agencies for these services.

As shown in the accompanying organizational chart, the Bureau of State Police [25 MRSA §2902] consists of:

- the Chief of the Maine State Police and the Deputy Chief of Administration;
- the Criminal Intelligence and Administrative Licensing Division;

- the Southern Field Division;
- the Northern Field Division;
- the Criminal Division and Crime Lab;
- Fleet Maintenance and Operations;
- the Traffic and Safety Division;
- the Commercial Vehicle Enforcement Division;
- the Division of Internal Affairs and Planning & Research;
- the Division of Management Information Systems;
- the Communications Division;
- the Training and Special Services Division;  
and
- State Police personnel assigned to the Maine Drug Enforcement Agency.

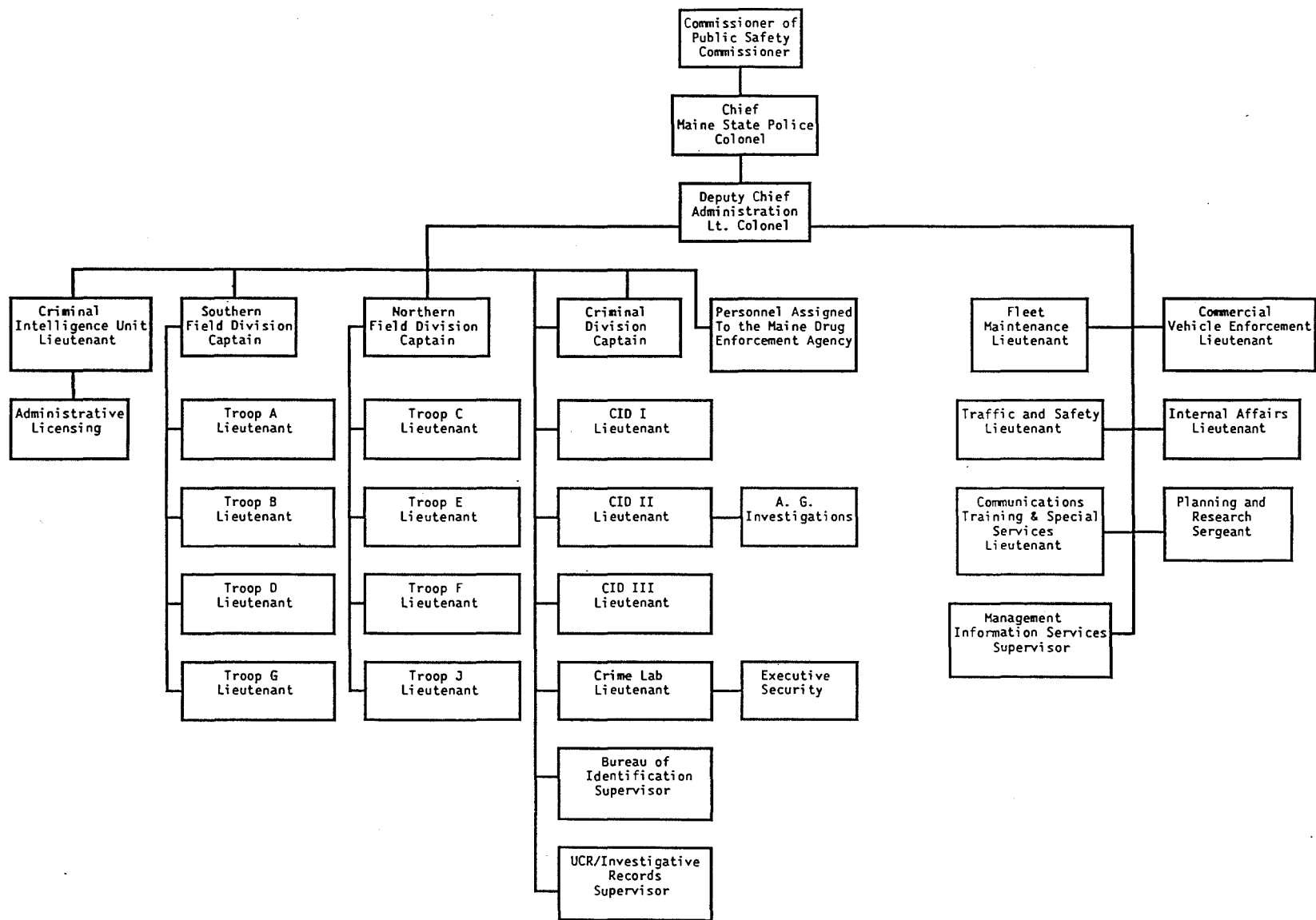
The Bureau of State Police is the largest bureau within the Department of Public Safety. The Bureau's budgeted appropriations and allocations and position count for the biennium by line item and funding source is shown below.\*

BUREAU OF STATE POLICE

FY 1991-92

	GF	HF	FEF	OSR	FBG	TOTAL
Positions	(368)	(21)	(13)	(85)		(487)
Personal Services	\$4,219,027	\$15,264,088	\$ 358,182	\$4,181,850		\$24,231,147
All Other	\$1,778,628	\$ 2,599,595	\$ 67,613	\$ 483,736		\$ 4,929,572
Capital Expenditures	\$ 210,000	\$ 686,004	\$ 42,807	\$ 261,365		\$ 1,200,176
TOTAL	\$6,207,655	\$18,549,687	\$ 468,602	\$4,926,951		\$30,152,895

BUREAU OF STATE POLICE  
January 1992





FY 1992-93

	GF	HF	FEF	OSR	FBG	TOTAL
Positions	(368)	(21)	(9)	(85)		(483)
Personal Services	\$1,243,896	\$18,121,794	\$ 315,410	\$4,444,427		\$24,125,527
All Other	\$2,161,586	\$ 2,580,031	\$ 69,839	\$ 505,804		\$ 5,317,260
Capital Expenditures	\$ 108,724	\$ 1,067,289	\$ -	\$ 107,326		\$ 1,283,339
<b>TOTAL</b>	<b>\$3,514,206</b>	<b>\$21,769,114</b>	<b>\$ 385,249</b>	<b>\$5,057,557</b>		<b>\$30,726,126</b>

\* Throughout this report, data on actual expenditures for FYs 1989-90 and 1990-91 are compiled from MFASIS. Data on budgeted appropriations and allocations, as well as position count, for FYs 1991-92 and 1992-93 is compiled from P.L.1991 chs. 591, 622, 671, and 780. Figures for the current biennium do not include several statewide deappropriations which have not yet been assigned to individual accounts.

**NORTHERN AND SOUTHERN FIELD DIVISIONS**

The Field Divisions are organized into eight Troops throughout the State. The Northern Field Division consists of:

- Troop C. Skowhegan - includes Franklin, Somerset, northern Kennebec and northern Androscoggin Counties, and Interstate 95 from Augusta to Newport.
- Troop E Orono - includes Penobscot and Piscataquis Counties and Interstate 95 from Newport to Sherman.
- Troop F Houlton - includes Aroostook County, and Interstate 95 from Sherman to Houlton (Canadian Border)
- Troop J East Machias - includes Hancock and Washington Counties.

The Southern Field Division consists of:

- Troop A Alfred - includes York and southwest Oxford Counties.

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Troop B            Gray - includes Cumberland, southwest Androscoggin and central Oxford Counties, and Interstate 95 from Scarborough to Brunswick.

Troop D            Thomaston - includes Sagadahoc, Knox, Lincoln, Waldo, southern Kennebec and central Androscoggin Counties, and Interstate 95 from Brunswick to the Gardiner toll of the Maine Turnpike.

Troop G            South Portland - covers the Maine Turnpike.

Each of the two Divisions is commanded by a Captain who plans, coordinates, and directs the activities of the divisions. Responsibilities include periodic inspection of property and personnel, and ensuring that state police officers work in harmony with other law enforcement agencies.

To meet their statutory duties, the Field Divisions' objectives are to prevent crime in cooperation with the communities, deter crime, apprehend offenders, manage traffic and enforce traffic laws, and provide many types of public service.

Currently, the Southern Field Division includes 109 positions; 82 of which are Troopers. The Northern Field Division includes 128 positions; 86 of which are Troopers.

In the previous biennium (1990-1991) funding for the Field Division was split between the General Fund and Highway Fund, 50/50 (FY 1989-1990) and 40/60 (FY 1990-1991). Figures shown in the table below show an increasing reliance on the Highway Fund as the primary funding source for the Field Division.

**FUNDING SOURCES FOR THE FIELD DIVISION  
FOR THE BIENNIUM 1992-1993**

	<u>General Fund</u>	<u>Highway Fund</u>
FY 1991-92	26%	74%
FY 1992-93	14%	86%

The cost of sworn, uniformed personnel only, within the two Field Divisions for the 1992-1993 biennium, can be broken out of the parent "State Police-Operations" account as follows<sup>1</sup>:

	<u>FY 1991-92</u>	<u>FY 1992-93</u>
Patrol/Traffic		
Positions	(193.0)	(193.0)
Personal Services	\$10,595,816	\$10,940,871
All Other	465,861	495,181
Capital		
	<hr/>	<hr/>
Total	\$11,061,677	\$11,436,052

<sup>1</sup> Pursuant to P.L. 1991 ch.591 Parts A and B only. Does not include the cost for civilians, nor for communications, clerical, maintenance, and vehicle repair personnel in the Bureau of State Police.

### CRIMINAL INVESTIGATION DIVISION

The Criminal Investigation Division currently consists of three components: the three regional Criminal Investigation Divisions, the Crime Lab, and the State Bureau of Identification.

The three Criminal Investigating Divisions [CID I, II, and III] are responsible for investigating major crimes, with an emphasis on homicide and child sex abuse. The Division's Standard Operating Procedure manual specifies crimes investigated by the Division as including:

- homicides;
- suspicious deaths ([including] all gunshot wounds);
- aggravated assault when death appears imminent;
- armed robbery ([including] bank robbery);
- kidnapping;
- gross sexual misconduct; and
- rape.

In addition, investigations by the Division may be conducted at the request of the Chief Medical Examiner (in investigating unexplained deaths) or the Attorney General, upon approval of the Director of the Criminal Division or a Criminal Investigation Division Commander. Finally, the Director of the Criminal Division, with approval of the Chief, has the authority

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to investigate any crime reported to the State Police when, in the Director's opinion, the nature of the case dictates that the investigation be handled by the Criminal Division.

CID Detectives also assist Troopers and local law enforcement officers as warranted in investigating major crimes such as robbery or rape and fatal traffic accidents.

The State Police Crime Laboratory provides scientific examination and analysis of evidence for Maine's entire law enforcement community.

The Bureau of Identification, consisting of the Identification Division, the Uniform Crime Reporting Unit, and the State Police Investigative Records Unit, is responsible for the maintenance of all criminal records generated within Maine as well as out-of-state records which concern this state

#### **DIVISION OF CRIMINAL INTELLIGENCE AND ADMINISTRATIVE LICENSING**

The Criminal Intelligence Unit was created in the mid-1960's, as part of the Bureau of Criminal Investigations within the then-named Department of State Police. In 1977, the Organized Crime Unit was created, encompassing the Criminal Intelligence Unit. This new organization was not only able to investigate a greater variety of criminal activity, both in-state and within the region, but also handled drug investigations. The Organized Crime Unit's drug investigations included street and domestic drugs, pharmaceutical diversions, marijuana eradication, and anti-smuggling efforts.

The Organized Crime Unit was disbanded upon the creation of the Bureau of Intergovernmental Drug Enforcement in 1987-88.

the current Criminal Intelligence Unit is composed of two sections: 1) Criminal Intelligence and 2) Administrative Licensing. The Division includes 5 Detectives, 2 in the Criminal Intelligence Unit and three in the Administrative Licensing Unit, and six non-uniformed clerical positions. The Administrative Licensing unit is supervised by a Sergeant.

The Committee finds that the purpose of the Criminal Intelligence Unit is to identify, reduce, control, and prevent organized crime in the State of Maine. The primary goal of the Maine State Police Criminal Intelligence Unit is the development of strategic intelligence assessments designed to:

- provide a descriptive analysis of organized crime systems operating in the State of Maine;

- depict the capabilities of these organized crime systems and provide alternatives to reduce the effectiveness of these systems;
- identify the major crime problems affecting the State of Maine and provide recommendations for remedial action; and
- assess the efforts of law enforcement in the control of organized crime in the State of Maine."

These goals are achieved by the Division of Criminal Intelligence and Administrative Licensing by collecting "intelligence" and by conducting investigations.

"Intelligence" is collected in order to identify trends in probable criminal activity. Intelligence is often used to develop "profiles" of people, crimes, and events. Intelligence gathering includes both Tactical Surveillance and Strategic Surveillance. Tactical surveillance is information gathered from law enforcement officers in the field and transferred to the unit. Strategic surveillance is employed when information about criminal activity is received, requiring that a person or group be watched for criminal behavior, schedule of activity, etc. Information about criminal activity may be received from various sources, including a grand jury, subpoenaed records, victims, anonymous tips, and debriefings of people who are knowledgeable about criminal activity.

Crimes investigated by the Criminal Intelligence Unit are generally crimes requiring long and complex investigation and which are not conducted by the State Police Criminal Investigation Unit [i.e CID unit], which focuses on child abuse and homicides. These types of crimes include:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• organized crime;</li> <li>• fraud</li> <li>• white-collar crime;</li> <li>• drug smuggling cases;</li> <li>• fencing stolen property;</li> <li>• auto theft;</li> <li>• insurance defraudment;</li> <li>• gambling;</li> <li>• loansharking;</li> <li>• narcotics;</li> <li>• prostitution;</li> <li>• bribery;</li> </ul> | <ul style="list-style-type: none"> <li>• bank robberies;</li> <li>• extortion;</li> <li>• conversion of illegitimate funds into legitimate investment;</li> <li>• counterfeiting;</li> <li>• arson;</li> <li>• crimes designed to subvert the economic interests of the State (i.e. black market activity); and</li> <li>• labor racketeering.</li> </ul> |
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In regard to the Division's administrative licensing responsibilities, the Division regulates and licenses establishments holding beano, bingo, and games of chance events. The Division also licenses private security guards and private investigators and provides permits for concealed firearms.

### TRAFFIC AND SAFETY DIVISION

The Traffic and Safety Division is commanded by a Lieutenant and is composed of the:

- Motor Vehicle Inspection Unit;
- the Air Wing Unit; and
- an Accident Reconstruction and Reporting Unit

The purpose of the Traffic Safety Division is to *improve traffic safety and to minimize the number of defect related motor vehicle accidents occurring within Maine*. This purpose is achieved by:

- licensing garages as official motor vehicle inspection stations in order to perform inspections and issue inspection stickers to each of four classes of motor vehicles (29 MRSA §2511);
- administering exams in order to certify inspection mechanics who work at the inspection stations (29 MRSA §2513);
- inspecting school buses (~2600) twice a year and conducting bus safety seminars; (29 MRSA § 2017)
- investigating complaints about vehicle inspections;
- making arrests, suspending licenses, and appearing in court, as necessary;
- enforcing speeding limits with the two planes in the Airwing unit;
- collecting, analyzing, and tabulating traffic accident reports from all law enforcement agencies within Maine;
- reviewing and approving all reports of reconstructed accidents submitted by Certified Accident Reconstructionists;

- 
- conducting thorough inspection and analyses of automobiles for court cases, also known as forensic automobile inspections, or vehicle autopsies.

In addition, officers within the Division teach motor vehicle law, accident investigation, and other related issues in the municipal/county course and for the State Police course at the Academy. Upon review, the Committee found that having officers from the Traffic Division teach these topics at the Academy relieves Troopers in the Field Division from having to fulfill this teaching duty.

The law requires the Chief of the State Police to not only provide other law enforcement agencies with forms on which details of an automobile accident must be submitted but to, "receive accident reports...and tabulate and analyze such reports and [to] publish annually...statistical information based thereon as to the number, cause, and location of an accident... [29 MRSA §891].

Accordingly, the Division of Traffic Safety is required to collect, analyze, and tabulate traffic accident reports from all law enforcement agencies within the State and to publish a statistical report at least once per year.

The State Police are required to "patrol the state highways and other important ways ... for the purpose of enforcing the law ... and of arresting all violators and prosecuting all offenders against the same". Accordingly, the Traffic Safety Division has two planes and pilots to fly speed enforcement details. State funds have never been expended to provide planes for the program since the program began in 1975, rather the various planes have either been leased, purchased with federal Highway Funds, acquired as war surplus from the Federal government, or seized as drug-related assets. Currently, the Division owns a Cessna 182 and a Cessna 210, which are fixed wing single engine aircraft. Both are housed at the Portland International Jetport.

The Air Wing Unit also works occasionally with the federal Drug Enforcement Agency and the Coast Guard in coastal smuggling cases, domestic drug smuggling, and marijuana eradication. The Unit is available to other law enforcement agencies upon request.

The Unit reports that in the three month period of July, August, and September 1990, with four Troopers working on the ground, 3096 violations were identified and 2164 summons, 1440 written warnings, and 141 defective equipment warnings issued. Upon review, the Committee found that typically a 4 hour detail will collect \$5,000 in fines which are deposited into the General

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Fund, with obvious concurrent highway safety benefits. The Cessna 182 costs \$55/hour and the Cessna 210 costs \$65/hour.

For FY 1991-92, the Traffic and Safety Division has 18 authorized positions, entirely supported by Highway Fund dollars.

### **COMMERCIAL VEHICLE ENFORCEMENT DIVISION**

From 1933 to 1981, Maine's Public Utilities Commission regulated motor carriers in the state as if motor carriers were utilities. Not only did the PUC impose safety and insurance regulation, but the PUC also administered economic regulation, i.e. restricting entry into the profession, controlling routes, etc. Full-time field enforcement of motor carrier regulations did not exist until 1966, when the PUC hired ~9 civilian "Investigators" to enforce motor carrier regulations.

In 1981, the Legislature enacted the "Maine Highway Transportation Reform Act" [25 MRSA c.25 §2701 et.seq.]. The Act served to deregulate motor carrier transports by removing motor carrier regulation from the PUC and replacing PUC regulation with ministerial functions provided by the Secretary of State's office and enforcement provided by the Maine State Police. The "Transportation Safety Fund" was also created in 1981 to fund the administration and enforcement of these highway safety programs operated in the two Departments.

The purpose of the Commercial Vehicle Enforcement Division is to enforce state and federal motor carrier safety law and regulation, for the purpose of ensuring highway safety.

The Committee notes that deregulation of the motor carrier industry has had the effect of reducing truckers' profits. In turn, many truckers have tried to reduce their costs by reducing safety and maintenance efforts, highlighting the need for the Division's efforts to ensure maintenance and safety standards.

In addition, the Division also includes one trooper who is a hazardous materials specialist who enforces federal requirements governing the transport of hazardous materials and substances. Two troopers are funded by the Bureau of Taxation within the Division to enforce the "fuel use identification decal" program [29 MRSA §246-A]. These troopers also investigate sales tax or excise tax fraud in the case of in-state cars registered out-of-state.



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**BUREAU OF CAPITOL SECURITY**

**Donald Sutter, Chief**

**MAINE EMERGENCY MEDICAL SERVICES**

**Kevin McGinnis, Director**

The Committee completed its review of the Bureau of Capitol Security and Maine Emergency Medical Services in 1991. Please refer to pages 183-187 of Volume 3 of the Committees 1990-1991 report for information on Maine Emergency Medical Services and pages 239-243 of that same volume for information on the Bureau of Capitol Security.

**OFFICE OF THE COMMISSIONER**

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ADMINISTRATIVE 1.

Direct the Department to update the Joint Standing Committee on Audit and Program Review on June 1, 1992 regarding the status and progress of the automation project conducted for the Department under contract with LOBB Systems, Inc. of Wakefield, Massachusetts.

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Currently, the Department of Public Safety is engaged in a large-scale project to upgrade the Department's computers and automate components of the Department which have heretofore been manual.

P. L. 1989 c. 501 authorized the Department of Public Safety to:

*"enter into purchase or lease-purchase financing agreements for computer hardware and operating software with an outright purchase price of not more than \$1,340,000, with interest costs of no more than \$360,000".*

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Accordingly, the Department has acquired the following equipment through lease-purchase agreements:

- Message Switching System (BULL) \$373,620
- Administrative System (BULL) \$296,213
- Law Enforcement Records (AT&T) \$371,412
- X-Terminals (CAD) \$84,000

Total Principal and Interest \$1,125,245

In addition, the Department worked with the Office of Information Services to develop a Request for Proposal to design and implement 4 automation projects within the Bureau of State Police. Eight proposals were received and evaluated by a team of DPS and OIS staff. LOBB Systems, Inc. from Saugus, Massachusetts was selected to do the four projects and started work in September of 1990.

LOBB was hired to computerize Department operations in four areas, as follows:

- SBI - "State Bureau of Identification". SBI receives, and files criminal history records and responds to ~100,000 requests annually for these records;
- UCR - "Uniform Crime Reporting". All law enforcement agencies in Maine are required to submit crime statistics and data on certain crimes to the UCR, which are published annually;
- CAD - "Computer Aided Dispatch". Maine State Police Dispatchers in the four regional dispatch centers provide dispatch services to the Bureau, many agencies within State Government, other law enforcement agencies, and many municipalities; and
- LER - "Law Enforcement Records". This application is intended to track data in five areas: 1) "State Police Incident Tracking" 2) Department-wide Master Name Index, 3) Traffic Citation Tracking, 4) statewide Traffic Accident Management, and 5) Department Property Control.

The Department has amended the initial contract with LOBB once since the contract was signed in August 1990. As illustrated below, the initial plan obligated LOBB to provide full development and implementation of the SBI and UCR projects, and only Design Specifications for the CAD and LER projects. In March 1991, the Department contracted with LOBB to fully

implement the last two projects as well, CAD and LER.

The cost of the initial contract was \$247,835. The additional contracted services cost \$93,390, for a total of \$341,225. The Committee found that the contract was negotiated on a "fixed cost basis", i. e. that LOBB is obligated to provide all the services contracted for, for the fixed cost of \$341,225. Funds for the project have been allocated and appropriated to the "State Police - Operations" account, which is the major State Police account funded at a ratio of 74% Highway Fund dollars and 26% GF dollars in FY 1991-92.

DEPARTMENT OF PUBLIC SAFETY CONTRACTS WITH LOBB

	<u>SBI</u>	<u>UCR</u>	<u>CAD</u>	<u>LER</u>	<u>COST</u>
Initial Plan August 1990	Design and Implementation	Design and Implementation	Design only	Design only	\$247,835
Amended Plan March 1991			Plus Implementation	Plus Implementation	93,390
					<u>\$341,225</u>

The Committee is concerned about a number of potential problems or issues with the progress of the LOBB automation project. First, the Department of Corrections has recently terminated a contract with LOBB because "LOBB has not produced any viable products". Second, the Committee questions whether the products produced by LOBB for the Department of Public Safety are, and will be, acceptable, in terms of capabilities, quality, timeliness, and workability. Third, the Committee has raised questions about the RFP and contract review process itself regarding the way the process was conducted, the role and involvement of the State's Contract Review Committee, the role and involvement of the Office of Information Services, the quality of the contract itself in terms of protecting the State's interest in the project, and the inclusion of Departmental personnel in the initial and ongoing decision-making process.

Accordingly, the Committee recommends that the Department update the Joint Standing Committee on Audit and Program Review on the status and progress of the automation project conducted under contract with LOBB Systems, Inc. of Saugus, Massachusetts on June 1, 1992.

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In addition to a comprehensive overview of the status of the project, the Committee specifically requests that the Department's report provide details on:

- the way in which the various components of the project are, or will be, integrated and compatible;
- the way in which the various systems communicate with each other; and
- the progress and success of data entry personnel in loading accurate data into the SBI system;

Finally, the Committee requests the State Auditor review the payments made to LOBB and comment on the project as a whole.

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FINDING

2.

The Committee finds that the Department of Public Safety should continue to take the lead at moving the E-911 project forward, particularly in procuring adequate staffing to commence the implementation phase and to work with the municipalities in street naming and addressing according to State standards.

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Basic (B) 911 systems provide a single number access to police, fire, and emergency medical services by automatically routing the call to a predetermined location. Enhanced (E) 911 systems improve on this capability by **providing the name and address of the caller** and by allowing more flexibility in routing the call for more efficient emergency response.

In 1987, the 911 Study Commission Report was released which concluded that E-911 should be deployed statewide with up to 92 locations equipped to answer emergency calls. The cost of the system was estimated at \$13.2 million up-front with an ongoing fee of \$.15/month/telephone subscriber to cover ongoing network expenses. Subsequently, the Maine Legislature authorized a \$3.2 million bond issue ballot question to provide initial funding for the statewide system. This bond was approved by a margin of 52.7% to 47.3% in November, 1988.

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The Committee also notes that the 911 Study Commission reports that, "[t]he money necessary to assemble the address data is substantial, and it will take three years at a minimum to complete. Each local community must name all its streets and number the dwellings so that address data is exact and unambiguous" (pg.6).

The Final Draft of the E-911 Implementation Report was released on February 10, 1992 by the consulting firm "Oliver Associates". The report:

- provides an overview of the 911 technology and history;
- proposes options; and
- makes recommendations regarding the deployment of Enhanced - 911 [E-911].

The recommendations in the final E-911 report can be summarized as follows:

- at a minimum, an E-911 system must answer 90% of all emergency calls in 10 seconds or less;
- call answerers must be fully trained to State standards;
- the system must consider not only call answering but dispatching as well; and
- the system must be as cost-effective as possible.
- the most efficient and logical system design is one that features 50 emergency call answering locations;
- a centralized E-911 authority is essential and the Department of Public Safety is the most logical agency to assume this function;
- standardized addressing guidelines must be developed;
- the additional funding needs of the E-911 System can be met through a \$.45/monthly charge to each telephone subscriber; and
- total implementation of a comprehensive Statewide

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System will take between 4 to 6 years.

Due to the importance of the E-911 project to the health and safety of the people of Maine, the Committee finds that the Department of Public Safety should continue to take the lead at moving the E-911 project forward, particularly in procuring adequate staffing to commence the implementation phase and to work with the municipalities in street naming and addressing according to State standards. Furthermore, the Committee should send a letter to the Joint Standing Committee on Utilities endorsing funding for the E-911 System with the approved \$3.2 million bond plus a surcharge of \$.45/month/telephone subscriber.

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**BUREAU OF MAINE STATE POLICE**

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ADMINISTRATIVE 3.           Require mechanics applying for certification as official motor vehicle inspectors to purchase a "Motor Vehicles Inspection Manual" in order to assist in preparing for the certification exam, ensure that the manual is readily available to the mechanic following certification, and reduce costs by increasing the percentage of those that pass the certification exam on its first administration.

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Funds for the Traffic Safety Division are generated by various fees which are deposited into the Highway Fund for reallocation to the Division.

Current fees are as follows:

- sale of inspection stickers       \$1/sticker  
  @ 1,050,000 stickers
  
- certification of mechanics       \$1/initial  
  @ 7,446 in 1990                   certification                   and  
                                     \$1/renewal every 5 years
  
- sale of accident reports         \$5/report;
  
- sale of reconstruction           \$10/report  
  reports
  
- sale of inspection manuals       \$5/manual

Currently, no fee is charged for the initial inspection and licensure of 2,185 garages as official inspection stations, nor for these stations' relicensure every two years. Mechanics are charged \$1 to take the certification exam.

Gross revenue generated from current fees in 1990 is calculated as follows:

	<u>For 1990</u>
•sale of inspection stickers; certification of mechanics; and sale of inspection manuals.	\$1,050,000
•sale of regular accident and Reconstruction reports	\$ 38,000
<hr/>	
Total Revenue deposited in HF in 1990	\$1,088,000

Funds allocated to the Traffic Safety Division for the biennium are as follows:

**TRAFFIC SAFETY DIVISION**

	<b>Budgeted 1991-92</b>	<b>Budgeted 1992-93</b>
HF 012-16A-0546 (Traffic Safety Account) (5 of the 9 positions)		
Positions	9	9
Personal Services	519,717	549,299
All Other	77,347	81,853
Capital Expenditures	<u>0</u>	<u>0</u>
<b>Total</b>	<b>597,064</b>	<b>631,152</b>
 HF 012-16A-0329 (Motor Vehicle Inspections)		
Positions	12	12
Personal Services	609,389	620,407
All Other	184,816	112,420
Capital Expenditures	<u>44,814</u>	<u>78,425</u>
<b>Total</b>	<b>839,019</b>	<b>811,252</b>

Accordingly, revenue generated by inspections is sufficient to cover the costs of the Division's motor vehicle inspections program, with ~\$211,000 generated in net revenue for the Highway Fund for FY 1991-92.



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In considering the issue of certifying mechanics to conduct an official inspection of a motor vehicle, the Committee finds that, although the \$1 fee is currently appropriate and should not be increased, the certification process would be facilitated if mechanics were required to purchase a certification manual prior to sitting for the certification exam. In this way, the mechanic will be assisted in preparing for the certification exam, the manual will be available to the mechanic following certification, and administrative costs of providing multiple exams to the same mechanic should be reduced. Accordingly, the Committee recommends requiring mechanics applying for inspection certification to purchase a "Motor Vehicle Inspection Manual" prior to sitting for the exam.

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FINDING                    4.                    The Committee finds that the safety and welfare of Maine people will be jeopardized if funding for the Maine State Police is further reduced from current levels.

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During the course of the Committee's review of the Maine State Police, the Committee reviewed the following list of personnel, operating, and capital reductions in the last four budget bills (i.e. P.L.s 1991 chs. 9, 591, 592, and 622).

**BUDGET REDUCTIONS**  
**Chapters 9, 591, 592 and 622**

**Sworn positions eliminated -    Civilian positions eliminated -**

1 Lieutenant Colonel	1 Clerk Typist = Layoff
1 State Police Captain	1 Clerk Steno = Layoff
5 State Police Detectives	1 Data Entry Specialist
1 Forensic Specialist	1 Stores Clerk = Layoff
1 State Police Corporal	1 Computer Operator
1 State Police Trooper	1 Auto Mechanic
1 State Police Captain	1 P.C.O.
1 State Police Lieutenant	1 Communications Technician
1 State Police Sergeant	1 Auto Mechanic II
1 State Police Detective	
1 State Police Corporal	
<u>1 State Police Trooper</u>	

16 Sworn positions

9 Civilian positions

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**Sworn positions transferred**

4 Transfers to Commercial  
Vehicle Enforcement from  
General Fund to Highway  
Fund

**The Committee found that reductions in other line  
categories include:**

- Overtime, \$100,000 - Primarily through a change in court time procedures and duty weekends.
- All Other, \$89,000 - Reduction of gasoline usage through energy conservation plan.
- Capitol, \$210,000 - Delays the purchase of fourteen (14) vehicles.

In reviewing the cuts in the budget of the Maine State Police Bureau, the Committee finds that:

- the request for services from the Bureau is increasing at a time when the Bureau's budget and available resources are decreasing;
- the Bureau may not be able to respond to any additional requests for law enforcement assistance with current levels of resources;
- Troopers affect every aspect of life in Maine;
- the quality of life in Maine will erode with any future cuts in the Bureau's budget.

Accordingly, the Committee finds that the safety and welfare of Maine people will be jeopardized if funding for the Maine State Police is further reduced from current levels.

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STATUTORY

5.

Consolidate two sets of accounts within the Bureau of Maine State Police in order to simplify budgetary and administrative accounting and oversight of the Bureau.

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The Bureau of State Police's Chart of Accounts includes eight accounts to which appropriations or allocations are made by the Legislature and from which expenditures are made by the Bureau. Some of these accounts include appropriations or allocations for more than one fund, e.g. Federal Expenditure Funds, Highway Funds, Other Special Revenue, and General Fund.

The Committee finds that the Bureau of State Police administers two separate accounts that deal with the topic of licensure, entitled "*Private Investigator Licensing*" and "*Licensing and Enforcement - Beano and Games of Chance*". In addition to administering two separate accounts dealing with the same topic, Bureau personnel who perform these two licensing functions share common office space and are supervised by the same State Police Lieutenant.

The Committee notes that the "Private Investigator Licensing" account provides financial information for two programs mandated by law:

- the licensing of private investigators [32 MRSA c.89 §8101-8119; and
- the licensing of private security guards [32 MRSA c.93 §9401-9418].

Similarly, the Committee finds that the "Licensing and Enforcement - Beano and Games of Chance" account covers three other statutorily mandated licensure programs:

- Beano or Bingo [17 MRSA c. 13-A §311-325];
- Games of Chance [17 MRSA c. 14 § 330-346]; and
- Concealed Firearms [25 MRSA c.252 §2001-2005-A].

The Committee speculates that the two accounts may have been set up separately because the accounts were established at different times, and because the statute gives official authority to conduct the licensing function to two different positions, the Commissioner is the position mentioned in regard to private investigator licensure, whereas the Chief of the State Police is mentioned in statute in regard to the other licensure account

The Committee also reviewed a second set of similar accounts that deal with motor carrier safety and the regulation of the for-hire transportation industry.

The "Motor Carrier Safety" account reflects allocations and

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expenditures mandated by the Maine Highway Transportation Reform Act [29 MRSA ch. 25]. The purpose of the chapter is to "provide for a safe, reliable, and efficient motor carrier system by permitting greater entry into and competition within the for-hire transportation industry while promulgating requirements for the safe operation of all freight and passenger carriers in the State"[29 MRSA §2702]. The Legislature finds that "efficient regulation requires that safety requirements for these carriers be administered by the Bureau of State Police" «25 MRSA §2702].

The "Traffic Safety" account reflects allocations and expenditures regarding weigh stations for trucks. The law authorizes the Chief of the State Police to designate "certain state police officers who will be empowered to examine loads and replace seals..."[29 MRSA §1801].

The Committee finds that the operations of these two units are identical in nature and can be merged into one unit with no loss of services. The Committee finds that consolidating several of these accounts which have similar purposes would be a means of simplifying budgetary and administrative oversight of the Bureau.

Accordingly, the Committee recommends that two sets of accounts within the Bureau of Maine State Police be consolidated in order to simplify budgetary and administrative accounting and oversight of the Bureau.

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**OFFICE OF STATE FIRE MARSHAL**

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ADMINISTRATIVE 6.

In order to ensure adequate protection of natural resources, direct the Office of State Fire Marshal to take the lead in preparing a plan to upgrade the regulation of aboveground petroleum storage tanks, in conjunction with the Department of Environmental Protection, the Maine Oil Dealers Association, and the Legislative Oil Spill Commission, and municipalities. Report to the Committees on Audit and Program Review, Energy and Natural Resources, and Legal Affairs by January 1, 1993.

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Currently, regulation of aboveground petroleum storage tanks in Maine is solely within the jurisdiction of the Office of the State Fire Marshal. No other agency, including the Department of Environmental Protection, has any regulatory oversight authority. The Committee finds that the environmental risk posed by aboveground tanks may warrant additional regulation by the Department of Environmental Protection.

The Committee understands that a report regarding the aboveground storage of petroleum in Maine prepared by the E.C. Jordan Company in September 1989 concluded the following:

- "a significant number of spills and leaks do occur at aboveground storage facilities, and a significant volume of product is lost to the environment;
- spills discussed in this document represent a minimum number because not all spills are reported;
- few documented cases of well contamination have occurred to date. It is not known to what extent water resources which are not presently being used have been affected by spills and leaks from aboveground storage systems; and

- 
- the potential threat posed to water resources cannot be determined because of inability to correlate identified water resources with existing aboveground storage facilities due to lack of accurate geographic location data for the facilities" [3.8 - Conclusions. page 31]

In the report's discussion of the adequacy of Maine's aboveground storage facilities, the report concluded that:

"There are many types of aboveground storage facilities for oil ... which pose a variety of threats to human health and the environment in Maine. There is also a wide variation in the quality of construction of these facilities and how they are operated and maintained. Many facilities which were visited [by the researchers] were conscientiously maintained and operated. Many other facilities ... fall well below the standards and regulations which are already in effect, let alone the more demanding environmentally based regulations recommended by Jordan... More stringent regulations will need to be accompanied by an increase in the regulatory presence necessary to enforce them. There is a need for uniform enforcement of standards of construction, maintenance, and operation of aboveground storage facilities in order to ensure a uniform level of adequacy among these storage facilities, and a sense of fairness in the regulated community" [section 8.3 page 63].

The Committee also finds that imposing additional regulation on the owners of aboveground tanks may not be feasible or desirable in the present economic climate. Given the importance of the issue, and the need for additional study and discussion, the Committee directs the Office of State Fire Marshal to take the lead in preparing a plan to upgrade the regulation of aboveground petroleum storage tanks, in conjunction with the Department of Environmental Protection, the Maine Oil Dealers Association, and the Legislative Oil Spill Commission, and municipalities, in order to ensure adequate protection of natural resources. Submit a report to the Committees on Audit and Program Review, Energy and Natural Resources, and Legal Affairs by January 1, 1993.

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STATUTORY

7.

Clarify in statute that the State Fire Marshall appoints not only Inspectors, but also Investigators to carry out the Office's duties, in order to reflect current law and practice.

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In 1895, the duty of investigating the cause, circumstances, and origin of property fires was entirely within the purview of municipal officers. During that year, the Insurance Commissioner (predecessor to the State Fire Marshal) had no mandate to investigate fires; the role of the Insurance Commissioner was limited to classifying and tabulating statistics about fires transmitted by municipalities and publishing these statistics in an annual report [PL 1895 c.99]. Two years later, however, the Legislature involved the Insurance Commissioner in the investigation of fires by authorizing the Insurance Commissioner to "supervise and direct [a fire] investigation whenever he deems it expedient or necessary [PL 1897 c. 267]. Ever since, the statute has clearly required the Insurance Commissioner, followed by the State Fire Marshall, to investigate fires.

For almost a hundred years, the inspection and investigation responsibilities of the Fire Marshal's Office were combined and included in a single job description. However, in FY 1983, the Fire Commissioner identified and need to split the tasks of inspection and investigation in order to address the growing workload and requirements in both areas, creating two professional positions within the Office, that of Inspector and Investigator. However, the Committee finds that the statute was never amended to reflect the delineation of the two positions.

The differences between Investigators and Inspectors within the State Fire Marshal's Office are summarized as follows:

- Investigators are sworn law enforcement officers who:
  - investigate fires; explosions; firework incidents; mechanical amusement ride incidents;
  - inspect amusement rides; explosives

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transportation and storage facilities; and fireworks transportation, storage, and displays; and

- enforce current laws by conducting criminal investigations; interviewing citizens; conducting necessary arrest, search, and seizure; court preparation.

- Inspectors are not sworn law enforcement officers. Instead, they are members of the state classified personnel system. Their primary responsibilities are to:

- inspect public facilities and storage facilities for explosives, flammable liquids, and fireworks; and other facilities in order to identify and correct fire hazards.

The Committee also noted that the two positions differ significantly in basic job requirements. For instance, Investigators are required to have successfully completed the municipal/county basic 12 week training course at the Maine Criminal Justice Academy. Accordingly, Investigators are sworn law enforcement officers with training to enforce all the laws of the State. Inspectors, however, receive no training at the Justice Academy. Accordingly, Inspectors do not possess the authority to enforce any law of the State.

As noted, current law specifically names only Inspectors as being employees of the State Fire Marshal; Investigators are not specifically mentioned - only through the general reference of "other employees" in the provision below:

"The State Fire Marshal shall appoint, subject to the Civil Service Law, such inspectors and other employees as may be necessary to carry out the duties of his office" [25 MRSA §2396].

Also, current law seems to inaccurately imply that inspectors are endowed with enforcement authority:

"[t]he State Fire Marshal, his deputy, and inspectors ... shall carry out those functions which the Commissioner of Public Safety may direct and in so doing *shall have the same enforcement powers and duties throughout the State as sheriffs have in their respective counties.*



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Accordingly, in order to reflect current practice and clarify legislative intent, the Committee recommends that the statute be amended to clarify that the State Fire Marshall appoints not only Inspectors, but also Investigators to carry out the Office's duties.

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**BUREAU OF LIQUOR ENFORCEMENT**

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STATUTORY            8.            Repeal a provision of law requiring a report from the Bureau by January 31, 1990 since the report was delivered and the provision is no longer relevant.

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Current law requires [28-A MRSA §2520] the Bureau of Liquor Enforcement to provide educational services regarding retail liquor sales as follows:

- seminars throughout the State to provide retailers and their employees with information on changes in the laws governing retail sales of liquor;
- informational signs which may be located in retail establishments outlining the requirements of state law regarding proper identification for retail sales and other information to enhance compliance with state liquor laws; and
- pamphlets summarizing state laws governing retail liquor sales made available to retailers.

As a final provision, the law also requires the Bureau of Liquor Enforcement to *"inform the joint standing committee of the Legislature having jurisdiction over legal affairs of the manner in which [the Bureau] intends to comply with this section no later than January 31, 1990"* [28-A MRSA §2520 sub-§4].

The Committee notes that the required report was delivered orally to the Committee on Legal Affairs last year. Accordingly, this dated provision has met its purpose.

Therefore, the Committee recommends that the provision of law requiring a report from the Bureau by January 31, 1990 be repealed since the report was delivered and the provision is no longer relevant.

## SENATE

BEVERLY MINER BUSTIN, DISTRICT 19, CHAIR  
 JOHN J. CLEVELAND, DISTRICT 22  
 DONALD L. RICH, DISTRICT 27

## STAFF

OFFICE OF FISCAL AND PROGRAM REVIEW  
 CHERYL RING, PRINCIPAL ANALYST  
 LOCK KIERMAIER, ANALYST  
 KATHRYN VAN NOTE, ANALYST



STATE OF MAINE

ONE HUNDRED AND FIFTEENTH LEGISLATURE  
 COMMITTEE ON AUDIT AND PROGRAM REVIEW

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 WESLEY FARNUM, SOUTH BERWICK

September 24 1991

Senator Jeffery N. Mills  
 Representative Mark W. Lawrence  
 Joint Standing Committee on Legal Affairs  
 115th Maine State Legislature  
 State House Room 437  
 Augusta, Maine 04333

Dear Senator Mills and Representative Lawrence:

During the course of its review of the Department of Public Safety, the Audit Committee has had occasion to review the Bureau of Liquor Enforcement and the Bureau's Alcohol Seller/Server Informational Course [B.A.S.I.C.]. We note that the Committee on Legal Affairs recommended, and the Committee on Appropriations and Financial Affairs endorsed, a \$25 fee for enrollment in the alcohol server education course last session [PL 1991 c. 591. Part L. Sec.L-8].

Notwithstanding Senator Mills's explanation about the importance of the fee in generating revenue, we are writing to ask the Committee on Legal Affairs to reconsider imposition of the fee in favor of either eliminating the fee, reducing the fee, or imposing a fee elsewhere to generate the needed revenue. We are suggesting the Committee review the fee for three reasons:

- the paramount need for seller/server instruction in the law, identification of intoxicated persons, and prevention of intoxication;
- the demonstrated effectiveness of the training in that only one person of the ~2,100 trained has been cited for a violation of the law; and
- a demonstrated drop in enrollment since the \$25 fee was imposed.

Officer Robert Laguardia, Director of the BASIC program, reports that:

- Since July 17, 1991, a total of only 56 people have been trained, generating revenue of \$1,400 (\$25 x 56);
- In September 1990, 200 people were trained in Aroostook County. No training courses are scheduled for Aroostook this September; and
- one group of 14 and one group of 16-20 have cancelled scheduled training programs specifically citing the \$25 fee as a deterrent.

Accordingly, in addition to discouraging sellers/servers from enrolling in the course, the Committee speculates that the reduced enrollment will also fail to produce the amount of revenue originally projected.

We hope this insight from the Audit Committee's review is helpful and we thank you for your further attention to this matter.

Sincerely,

*Bill Lemke* cen

William Lemke  
Subcommittee Chair

*Beverly Bustin* cen

Beverly M. Bustin  
Senate Chair

*Phyllis R. Erwin* KCP

Phyllis R. Erwin  
House Chair

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## MAINE EMERGENCY MEDICAL SERVICES

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ADMINISTRATIVE 9. Recommend that Maine Emergency Medical Services publish all insurance rates and coverages available through participating companies in order to provide the emergency medical services community with a complete range of information on which to make the best decisions regarding insurance needs.

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In the Committee's 1990-1991 review cycle, the Committee made an administrative recommendation (#122, Volume 3) "Maine Emergency Medical Services consult with the Bureau of Insurance, Department of Administration, private insurers, and any interested others to identify a means to secure affordable liability coverage for these groups' respective clientele."

The Committee made this recommendation recognizing that emergency medical services in Maine are provided primarily by a state-wide network of volunteers and that a reported lack of available and affordable liability insurance serves to deter volunteers from training and serving as emergency medical service providers.

As a result of the meetings held between Maine Emergency Medical Services and insurance providers, the Committee finds that Maine Emergency Medical Services was successful in identifying adequate and affordable insurance for the emergency medical services community. A number of insurance companies have been in contact with Maine Emergency Medical Services offering differing degrees of coverage at varying rates. In order to inform the emergency medical services community about these rates and coverages offered by various companies, without the appearance of favoritism or prejudice, the Committee recommends that Maine Emergency Medical Services publish all insurance rates and coverages available thorough participating companies in order to provide the emergency medical services community with a complete range of information on which to make the best decisions regarding insurance needs.

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## BUREAU OF INTERGOVERNMENTAL DRUG ENFORCEMENT

**Francis Amoroso, Director**

### Creation and Purpose

The Bureau of Intergovernmental Drug Enforcement (BIDE) was created in September 1987 by PL 1987 c. 411. The Bureau was created by the Legislature in response to the need for a coordinated statewide drug enforcement policy that interconnected all levels of government. Prior to BIDES creation, Maine's drug enforcement effort consisted of about fifteen separate state and local agencies which had full-time officers devoted to drug related investigations and three intergovernmental Task Forces, which carried out drug enforcement in five counties; one in York County, one in Cumberland, and one tri-county Task Force for Penobscot, Piscataquis, and Washington counties. The Committee found that the pre-1987 approach to illegal drugs posed a number of problems, including inconsistent funding, inadequate statewide planning, unclear jurisdictional lines, and unsatisfactory coordination and communication among the plethora of agencies with responsibility for drug enforcement in the State.

In creating BIDE, the Legislature made its intent clear by finding in statute that,

"the distribution of scheduled drugs into and within the State presents an unprecedented threat to the health and safety of this State. To meet this threat, this Act is established to develop a statewide drug enforcement program and strategy based upon principals of integration and unification at all levels of law enforcement including federal state, county, and municipal levels and including both prosecutorial as well as investigative agencies" [25 MRSA §2953].

Accordingly, BIDE serves as the administrative structure for the creation and supervision of specialized drug enforcement units throughout the State which investigate and prosecute violators of drug laws [25 MRSA §2953].

The priorities of the Bureau can be summarized as:

- investigating violations of all drug control laws, emphasizing sales and trafficking;

- arresting offenders; and
- assisting all federal, state, county, and municipal law enforcement agencies in enforcing drug control laws.

### Organization

As shown in the chart below, BIDE is composed of 12 State employees who are sworn law enforcement officers, 9 State employees who are civilians, and 42 contracted positions from municipal and county law enforcement agencies.

In addition to the central headquarters located on Pineland Hospital complex in Pownal, eight regional investigative task forces have been established throughout the State to ensure "effective drug law enforcement" [25 MRSA §2955]. The eight regional task forces are located in:

#### Northern Region

- \* Augusta;
- \* Bangor;
- \* Bucks Harbor, and
- \* Fort Fairfield

#### Southern Region

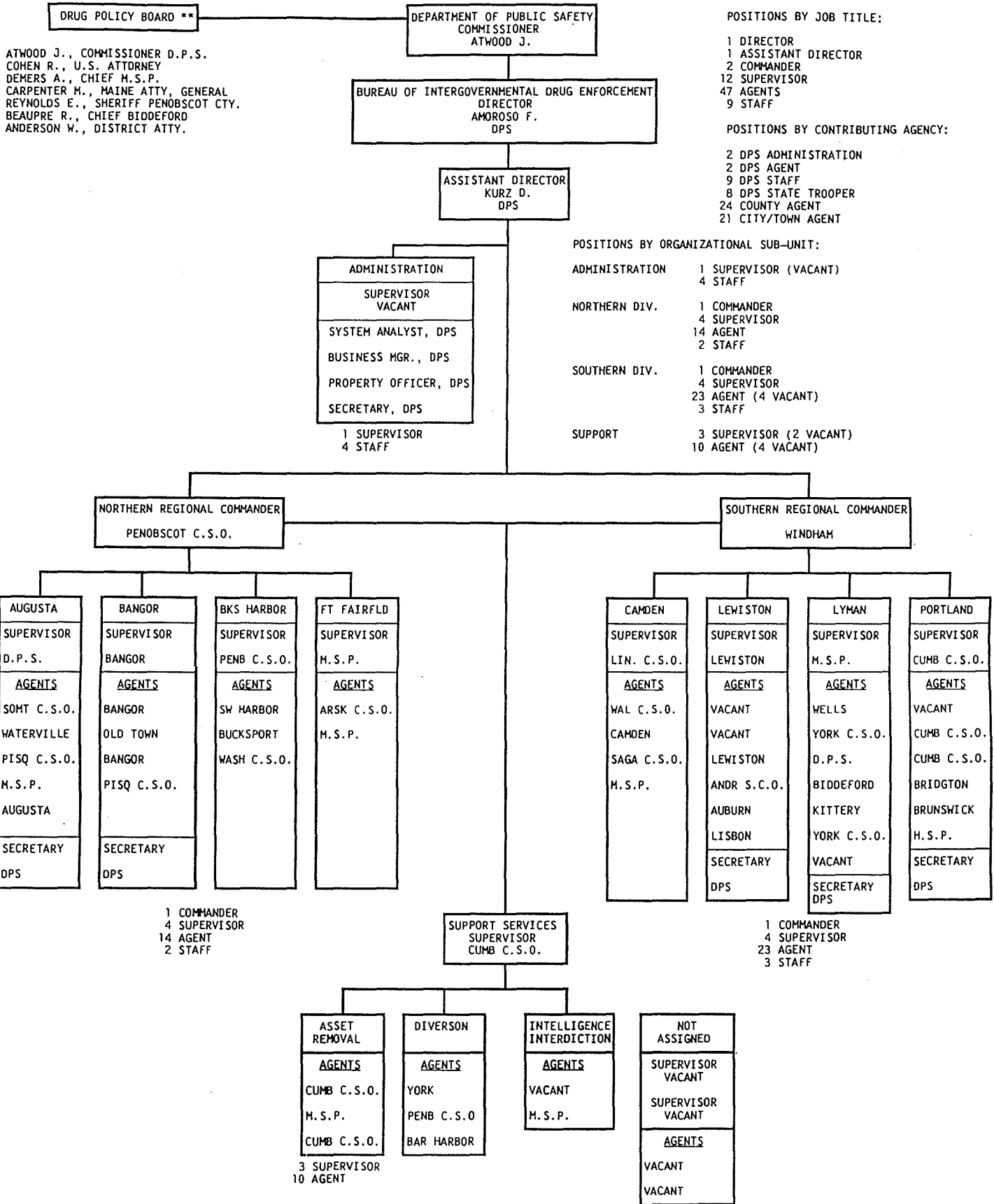
- \* Camden;
- \* Lewiston;
- \* Lyman; and
- \* Portland.

### Appointment and Use of Special Agents

Investigative Agents are assigned to BIDE from a local, county, or state law enforcement sponsoring agency, usually for a contract period of one year. These "investigative personnel", a.k.a. BIDE Special Agents, are not State employees but rather are contract positions who act in accordance with rules promulgated by the Commissioner and are subject to policies and procedures established by the Intergovernmental Drug Enforcement Policy Board. As part of the BIDE unit, officers are no longer affiliated with their sponsoring organization and are paid on a uniform scale in order to eliminate distinctions among the officers (25 MRSA §2955).

The towns which contribute officers to serve as BIDE Special Agents are fully reimbursed for the lent officer's salary and fringe, primarily through the use of BIDE's Federal Expenditure Funds. As a result, the town or county police force is not diminished since the town or county is able to hire a replacement for the duration of the officer's tenure with BIDE.

B.I.D.E \*  
Now known as the  
MAINE DRUG ENFORCEMENT AGENCY  
MARCH 1992



\* Eliminated pursuant to PLS 1991, c. 837, Part B and c. 841. Now known as the Maine Drug Enforcement Agency  
\*\* Now known as the MDEA Advisory Board.



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During the course of the review, the Committee found that some contracted positions sponsored by a local or county law enforcement agency have not actually worked within the ranks of the agency prior to sponsorship to BIDE. In these cases, the Bureau maintains that sponsorship has been a means to allow agents who have gained knowledge and experience in drug enforcement in agencies outside Maine to contribute their experience to BIDE.

21 of the contracted positions come from the following County Sheriffs' offices: Penobscot, Cumberland, Somerset, Piscataquis, Washington, Aroostook, Waldo, Sagadahoc, Oxford, Androscoggin, and York. The other 21 contracted positions come from the following local police departments: Waterville, Augusta, Bangor, East Millinocket, Southwest Harbor, Calais, Windham, Lewiston, Camden, Lewiston, Auburn, Lisbon, Wells, Kittery, Bridgton, Bar Harbor, York, and Biddeford.

BIDE Special Agents have the flexibility of working 40 hours during the week at whatever time is most effective and efficient. Troopers work according to the schedule specified in the State Police contract.

BIDE Special Agents are dually sworn - as Statewide law enforcement officials and as Deputy U.S. Marshals. Dual jurisdiction enables BIDE Special Agents to investigate cases at both the State and federal level or in the state and federal court system.

Although many towns within Maine rely solely on BIDE to enforce drug law violations within their jurisdiction, some cities and towns choose to continue fielding their own drug enforcement effort as well. Towns with their own drug enforcement effort are asked to communicate and cooperate with BIDE, as circumstances warrant. For example, Lewiston continues to field its own drug unit at the same time it has donated two officers to BIDE (i.e. a Supervisor and an Agent in the Lewiston BIDE field office).

In addition to basic law enforcement training, all BIDE agents graduate from the federal Drug Enforcement Agency two-week training held at the Criminal Justice Academy. Additional training relevant to the job description is given to Supervisors, Asset Forfeiture agents, Drug diversion agents, and Intelligence/Interdiction Agents. Other training may include a one week FBI computer school. Each Agent also receives approximately 6 weeks of training during the year. On-the-job training is given by senior agents who are assigned to new agents. The Committee found that the Bureau tries to build on

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strengths, noting that agents may have particular propensities for undercover work, or financial investigations, or historical investigations.

### Intergovernmental Drug Enforcement Policy Board

The Legislature established an Intergovernmental Drug Enforcement Policy Board in the enabling legislation "in order to develop, coordinate, and carry out a statewide drug enforcement program and strategy" [25 MRSA §2954]. The Board originally was composed of the Attorney General, the Chief of the Maine State Police, the United States Attorney for the District of Maine, three other members appointed by the Governor for terms of two years, one of whom was required to be a representative of municipal law enforcement, one of whom was required to be a representative of the sheriffs of the respective counties, and one of whom was required to have been a representative of the district attorneys of the respective counties, and the Commissioner of the Department of Public Safety who served ex officio.

At the time the Committee began its review of the Board, the Board consisted of the following individuals: Chief Andrew Demers of the Maine State Police, Maine Attorney General Michael Carpenter, Sheriff Reynolds from Penobscot County, Biddeford Chief Beaupre, and District Attorney William Anderson. (A recommendation made by the Committee appearing later in this report changed the nature, composition, and name of the Board.)

### Units of Asset Removal, Drug Diversion and Intelligence/Interdiction

BIDE also includes three specialty units: Asset Removal, Drug Diversion, and Intelligence/Interdiction.

Agents in the **Asset Removal Unit** are specially trained to identify and forfeit assets which are used in exchange for drugs, or which facilitate drug trafficking activities, or which represent the proceeds of illicit drug trafficking transactions. All BIDE Agents within the eight field offices call in the Asset Forfeiture unit when assets must be removed.

Agents in the **Drug Diversion Unit** are specially trained to handle the diversion of otherwise legal drugs for illegal purposes. Reportedly, legal pharmaceutical drugs diverted for illegal use account for 60% of all abused drugs nationwide. Legal drugs may be diverted for illegal purposes by members of

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the medical and health profession. Also, people may forge prescriptions which may then be filled by multiple pharmacies.

The **Intelligence/Interdiction Unit** analyzes data collected from each Agent to identify historical or developing drug smuggling and distribution trends, i.e. the "Big Picture" statewide. For example, the Unit may detect a pattern in a series of burglaries reported by several agents that may provide important clues regarding law enforcement. The Intelligence/Interdiction unit has recently been computerized and also oversees the marijuana eradication program.

Up until recently, BIDE also had a "confidential unit" where cases alleging wrongdoing or illegal drug activity by BIDE staff, other officers, attorneys, or public officials could be investigated. A recommendation appearing later in this report disbanded the confidential unit.

#### Assignment of Attorneys to BIDE

Current law authorizes the Attorney General, the United States Attorney for the District of Maine, and the respective District Attorneys to assign as many of their assistant and special assistants as are determined to be appropriate to each of BIDE's field offices. Furthermore, under current law, the attorneys must be available to the Regional Commanders and Supervisors for purposes of ongoing consultation and advice and be responsible for coordinating, with the Regional Commanders and Supervisors, the prosecutorial and investigative priorities of the field offices in conformity with the advice, consultation, and direction provided by the Drug Policy Board, and the policies, practices, and procedures of the Bureau [25 MRSA §2955 sub-§6].

Currently, six Assistant Attorneys General are assigned to BIDE. The AAG's are also sworn in as Deputy U.S. Attorneys to allow them to go into Federal Court. The AAG's are located as follows:

- 1 Assistant Attorney General in District I (York);
- 2 Assistant Attorney General's in District II (Cumberland);
- 1 Assistant Attorney General in District III (Androscoggin, Franklin, Oxford);
- 1 Assistant Attorney General in District IV (Kennebec and Somerset)

- 1 Assistant Attorney General in District V  
(Penobscot and Piscataquis)

Funding and Expenditures

BIDE is funded through three funding sources: General Fund, Federal Expenditure Fund, and Other Special Revenues.

With the exception of one clerical position which is funded through the State Police-Operations account, BIDE budgeted appropriation and allocation for the current biennium are shown below:

FY 1991-1992

	General Fund	Federal Expenditure Fund	Other Special Revenue	BIDE Program Total
Positions	8		4	12
Personal Services	331,441	0	177,119	508,560
All Other	949,266	1,250,000	158,890	2,358,156
Capital Expenditures	<u>0</u>	<u>0</u>	<u>200,500</u>	<u>200,500</u>
 Fund Total	 1,280,707	 1,250,000	 536,509	 3,067,216
	42%	41%	17.5%	

FY 1992-1993

Positions	8		4	12
Personal Services	359,449	0	187,993	547,442
All Other	959,574	750,000	583,083	2,292,657
Capital Expenditures	<u>0</u>	<u>0</u>	<u>192,500</u>	<u>192,500</u>
 Fund Total	 1,319,023	 750,000	 963,576	 3,032,599
	43%	25%	32%	

Revenue sources in FY 1992-93 will be adjusted to show an increase in Federal Expenditure Funds as a result of recent federal grant decisions, along with a resultant decreased reliance on Other Special Revenue funds.

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The contribution made by the General Fund to BIDE's budget has varied since FY 1990, as shown below:

<u>Fiscal Year</u>	<u>General Fund Appropriations</u>
1990	\$1,464,690
1991	1,206,764
1992	1,280,707
1993	1,319,023

General Fund dollars in the Anti-drug Abuse Program Account within the Maine State Police are also used for two purposes related to BIDE. First, these funds are used as matching dollars for federal grant money expended jointly by BIDE and the Criminal Justice Academy. Second, these funds are used to pay for BIDE's contracted personnel. The fund has \$205,000 in it for each year of the biennium.

During recent budget cutbacks, BIDE lost one Accountant I position which had been vacant. Also, an earlier appropriation to convert the two Regional Commander positions from contractual to state positions was eliminated and the two positions remained contractual. All Other money was also deappropriated, resulting in continuing vacancies for several contractual Special Agent positions.

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STATUTORY	10.	Authorize disclosure to the Attorney General of tax information relating to any person under criminal investigation only upon written request. Further, require the Attorney General to retain physical control of the information until the conclusion of the investigation, whereupon the information must be immediately returned to the Bureau of Taxation.
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The Bureau of Intergovernmental Drug Enforcement has received access to tax records ~4 to 6 times, through the authority of the Attorney General's access to tax records

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relating to criminal investigation [36 MRSA §191 sub-§2 ¶ G). The Committee finds that the Attorney General's office requests tax records relating to criminal investigations in general about 20 times per year.

The Committee also notes that current State law does not provide any conditions with which to guide the disclosure decision, nor does the law include any particular safeguards to ensure that the information is properly used.

In reviewing the restrictions imposed at the Federal level regarding disclosure of federal tax returns for criminal investigations, the Committee found that disclosure is granted upon written request, with the stipulation that the request include:

- the name and address of the taxpayer with respect to whom the requested return information relates;
- the taxable period or periods to which the return information relates;
- the statutory authority under which the proceeding or investigation ... is being conducted; and
- the specific reason or reasons why the disclosure is, or may be, relevant to such proceeding or investigation. [USCS 6103, sub-§(i)]

Accordingly, the Committee finds that State law should impose similar requirements upon which to form a decision regarding disclosure and that the safeguards should be enacted to ensure the proper use of disclosed tax information.

Therefore, the Committee recommends that disclosure to the Attorney General of tax information relating to any person under criminal investigation be granted only upon written request which mirrors the federal restrictions. Further, require the Attorney General to retain physical control of the information until the conclusion of the investigation, whereupon the information must be immediately returned to the Bureau of Taxation.

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STATUTORY

11. Direct the Attorney General, in collaboration with the eight district attorneys, to establish a statewide drug prosecution protocol, which must include concerted statewide goals, uniform prosecutorial standards, practices, and policies, and specific criteria by which drug cases are referred to state or federal court for prosecution.
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ADMINISTRATIVE

12. Recommend that the Attorney General continue to designate a supervisor of the Assistant Attorney General drug prosecutors, in order to provide statewide oversight, coordination, consistency and contact with the AAG prosecutors.
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Currently, six Assistant Attorneys General are assigned to drug prosecution and are funded by a federal grant from the Maine Justice Assistance Council. The six are assigned to Prosecutorial Districts as follows:

- 1 Assistant Attorney General to District I (York);
- 2 Assistant Attorney General's to District II (Cumberland);
- 1 Assistant Attorney General to District III (Androscoggin, Oxford, and Franklin);
- 1 Assistant Attorney General to District IV (Kennebec and Somerset); and
- 1 Assistant Attorney General to District V (Penobscot and Piscataquis)

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The remaining District Attorneys in Prosecutorial Districts VI (Knox, Waldo, Sagadahoc, and Lincoln), VII (Hancock and Washington) and VIII (Aroostook) handle drug prosecutions without assistance from the AAG's, although the AAG's have provided assistance upon occasion and request.

With the exception of one attorney within Prosecutorial District IV, who reports directly to the District Attorney, all other Assistant Attorneys General are physically separate from and operate independently of the District Attorneys.

The Committee finds that the State's drug prosecution effort and Maine's prosecutorial community lack a statewide drug prosecution plan, standards, policies, procedures, or practices. As a result, guidelines do not exist to govern the relationship between the federal and state prosecutors, which exerts a negative influence over the prosecution of drug offenses in Maine.

The Committee concludes that a contributing factor to the lack of prosecutorial consensus may be the lack of a full-time supervisor of the drug prosecutors within the Attorney General's Office.

While the Committee's review was in progress, Attorney General Carpenter appointed Assistant Attorney General William Stokes to "undertake, on a temporary basis, the responsibility for the supervision of the Assistant Attorneys General presently prosecuting drug cases". In addition, the Attorney General charged AAG Stokes with:

- "identifying any immediate problems in the current drug prosecution system and to take appropriate corrective action"; and
- examining the long-term needs of the State's drug prosecution efforts and report back [to the Attorney General] with ... recommendations.

Mr. Stokes's report, dated February 21, 1992, explains that Mr. Stokes ultimately pursued this charge by asking two questions: 1) "what is the most effective and appropriate way of establishing a statewide prosecution plan and 2) what is the most effective an appropriate way of carrying out that articulated plan and accomplishing our goals?"

The Committee notes that the report prepared for Maine's Attorney General by Assistant Attorney General William Stokes, recommends that the Attorney General establish a "Drug Prosecution Board", consisting of the Attorney General and eight



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District Attorneys to "develop uniform standards, practices, and policies for drug cases". The report recommends that protocols be developed regarding confidential informants; forfeitures and seizures; guidelines for mandatory-minimum charges; and criteria by which drug cases are referred to state or federal court for prosecution" (pg.14-15).

Further, in order to ensure consistency and cooperation, the Committee finds that a successful statewide drug prosecution protocol must include the views and opinions of the United States Attorney for the District of Maine, as well as representatives from the proposed Maine Drug Enforcement Agency and drug investigative units at the municipal level.

Accordingly, the Committee recommends that the Attorney General, in collaboration with the eight district attorneys, to establish a statewide drug prosecution protocol, which must include concerted statewide goals, uniform prosecutorial standards, practices, and policies, and specific criteria by which drug cases are referred to state or federal court for prosecution.

Furthermore, the Committee recommends that the Attorney General continue to designate a supervisor of the Assistant Attorney General drug prosecutors, in order to provide statewide oversight, coordination, consistency and contact with the AAG prosecutors.

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ADMINISTRATIVE 13.

Recommend that the Attorney General and the eight District Attorneys address the issue of cross-designation of attorneys as part of their charge to develop statewide drug prosecution goals, strategies, policies, and practices. Also, recommend that the Attorney General and the District Attorneys establish Memorandums of Understanding to clarify the nature of the relationship between the State and federal levels regarding cross-designated attorneys.

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Currently, both Agents and Attorneys who investigate and

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prosecute cases are cross-designated to enable these Agents and Attorneys to work on both the State and the Federal level.

BIDE Agents are sworn in as Deputy U.S. Marshals by Mr. John Cooper, Acting U.S. Marshal in Portland. BIDE Agents receive the designation as Deputy U.S. Marshals for one year, whereupon the deputization can be renewed. Also, the U.S. Marshal can revoke the deputization at any time. The FBI and the federal Drug Enforcement Administration (DEA) have been given their own authority to deputize local officials when local officials work with the FBI and DEA so that these federal agencies don't rely on the services of the U.S. Marshal's office to deputize local law enforcement officials.

Attorneys at the State level who prosecute drug cases are cross designated as Special Assistant U.S. Attorneys. This federal designation is given to attorneys who serve not only as Assistant Attorneys General but also as Assistant District Attorneys. Cross-designation may also work both ways; i.e. an Assistant U.S. Attorney may also be cross-designated either as a Special ADA or as a Special AAG. Currently, the Committee notes that one Assistant U.S. Attorney has worked on a case in state District court in that position's capacity as a cross-designated Special Assistant Attorney General.

The Committee has received testimony on the value, need and propriety of cross-designation. Issues of concern that have been raised may be summarized as follows:

- Does cross-designation confuse the accountability of Agents and of Attorneys?
- Who is responsible for supervising Agents and Attorneys when the Agents and Attorneys are working in the "other" venue?
- Are Agents in particular less accountable when Agents are working at the federal level in their capacity as Deputy U.S. Marshals?
- Does cross-designation provide the U.S. Attorney's office with undue influence over the operation of BIDE and its Agents?
- If an Agent were to aggrieve a citizen while investigating a federal case, who would the aggrieved citizen sue - BIDE or the U.S. Attorney's Office?

In reviewing the testimony, the Committee finds no clear

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consensus on the value or potential detriment of cross-designation. For example, opponents of cross-designation base their opposition on issues of accountability, loss of control, undue benefit to the federal government with no concomitant benefit to the State level, and potential conflict and confusion. Proponents allege that cross-designation is "vital", a hallmark of the criminal justice system providing access to the best of both state and federal systems in prosecuting drug offenses, one of the most useful tools available in a cooperative, unified law enforcement effort, and enables investigators and prosecutors to "follow" cases into whatever venue the case flows.

The Committee found that in Oklahoma, Memorandums of Agreements are often drawn up between state and federal prosecutors regarding the nature of the relationship and to clarify that cross-designation is solely for the purpose of gaining access to federal resources and forums.

In summary, the Committee acknowledges that legitimate issues regarding cross-designation, such as accountability, propriety, and supervision, are apparent and of concern to the Legislature. However, the Committee also finds that there is no immediate consensus about the best way to address and resolve these concerns. Accordingly, the Committee recommends that the Attorney General and the eight District Attorneys address the issue of cross-designation of attorneys as part of their charge to develop statewide drug prosecution goals, strategies, policies, and practices. Also, the Committee recommends that the Attorney General and the District Attorneys establish Memorandums of Understanding to clarify the nature of the relationship between the State and federal levels regarding cross-designated attorneys.

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STATUTORY	14.	Repeal the "Intergovernmental Drug Enforcement Policy Board" and create the "Maine Drug Enforcement Agency Advisory Board" to advise and consult on issues regarding drug law enforcement within the State.
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At the beginning of the Committee's review of BIDE, then current law established an Intergovernmental Drug Enforcement Policy Board. 25 MRS §2954 described the purpose of the Board as follows:

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"to develop, coordinate, and carry out a statewide drug enforcement program and strategy". The Board also provides "advice, consultation, and direction for the drug law enforcement effort within the State. This effort includes the integration and coordination of investigative and prosecutorial functions in the State with respect to drug law enforcement" and is mandated to "make recommendations to the Legislature ... for the implementation of an effective drug law enforcement program".

The Policy Board at that time consisted of: the Attorney General; the Chief of the Maine State Police; the United States Attorney for the District of Maine; 3 other members appointed by the Governor for terms of two years, one of whom represent municipal law enforcement, one of whom represents the district attorneys, and one of whom is a representative of the sheriffs of the respective counties; and the Commissioner of Public Safety as ex officio.

The meetings of the Policy Board, as well as meetings of the Bureau, are not subject to the Freedom of Access law [25 MRSA §2957].

In reviewing the minutes of the Policy Board's meetings, as well as testimony received, the Committee finds that the current Policy Board imposes undue influence over the operation of the agency, that the Board's exemption from the Freedom of Access law is no longer warranted, and that the lines of authority must clearly and directly flow from the Director to the Commissioner without intervention by the Policy Board in order to provide clear accountability and responsibility for the direction of the agency.

Accordingly, the Committee finds that the nature of the new Advisory Board's authority must change from executive, administrative, and policy control to an advisory and coordinating function in order to reflect the most appropriate role of the Board.

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STATUTORY

15.

Establish 3 year terms of office for members of the Advisory Board, but with staggered initial terms, to ensure that the Board's composition includes experienced members at all times.

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In addition to the replacement of the former Policy Board with the new Advisory Board, the Committee found that the composition of the Advisory Board's members and the way in which members are selected must be different from the Policy Board's membership and selection process, as follows:

MEMBERSHIP AND SELECTION  
OF FORMER POLICY BOARD MEMBERS

- 1 rep; Municipal law enforcement; Gubernatorial appt;
  - 1 rep; Sheriffs; Gubernatorial appt;
  - 1 rep; District Attorneys, Gubernatorial Appt;
  
  - Attorney General;
  - Chief of State Police; and
  - U.S. Attorney; and
  
  - DPS Commissioner, ex officio.
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7 MEMBERS

MEMBERSHIP AND SELECTION OF  
CURRENT ADVISORY BOARD MEMBERS

- 3 reps; designated by Me. Chiefs of Police;
  - 1 rep; designated by Me. Sheriffs' Association;
  - 1 rep; designated by District Attorneys;
  - 2 Investigative Agents, chosen by their colleagues;
  - 1 Supervisor, designated by supervisory colleagues;
  
  - Maine Attorney General;
  - Chief of the Maine State Police;
  - A representative of the U.S. Attorney of the District of Maine;
  
  - 2 public members, appointed by the Governor;
  - 1 State law enforcement officer selected by the Chief of the Maine State police; and the Commissioner of the Department of Corrections.
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15 MEMBERS

In changing the composition of the Board, the Committee notes that the terms of members on the old Policy Board were automatically limited by virtue of the office held. Such is not the case with the membership of the new Advisory Board, in that the majority of members will serve as representatives of various law enforcement groups, with no automatic limitation of terms. In order to ensure a regular refreshment of membership on the new Advisory Board, the Committee finds a need to establish terms of office spanning 3 years. However, in order to ensure that the Board always includes experienced members, the Committee finds that the initial terms must be staggered so that members' 3-year terms will not end at the same time.

Therefore, to reflect the distinct nature and purpose of the new Advisory Board, the Committee recommends that current law establish 3 year terms of office for members of the Advisory Board, but with staggered initial terms to ensure that the Board's composition includes experienced members at all times.

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ADMINISTRATIVE 16. Direct the Maine Drug Enforcement Agency Advisory Board to develop an appropriate grievance procedure for agents, following consultation with union officials, and report to the Audit and Program Review Committee by September 1, 1992.

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Finally, the Committee finds a need to develop a clear and appropriate grievance procedure for agents employed by or contracted to the agency. The Committee recommends that, after consulting with union officials, the new Advisory Board set out a clear procedure by which grievances may be aired and resolved. The Committee also recommends that the Board submit a report on the proposed grievance procedure to the Audit and Program Review Committee by September 1, 1992.

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ADMINISTRATIVE 17. Disband the "confidential unit" that had operated within the Bureau of Intergovernmental Drug Enforcement because the unit is inappropriate.

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STATUTORY 18. Specify that the Attorney General must conduct and control all drug-related investigations of public officials or members of the law enforcement community.

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The Bureau of Intergovernmental Drug Enforcement had operated a so-called "confidential unit" through which alleged wrongdoing or illegal drug activity by BIDE staff, other officers, attorneys, or public officials was investigated.

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In reviewing the operations of the unit, the Committee finds that the Attorney General's office is equipped to investigate allegations of drug offense by public officials. Reportedly, the Attorney General assigns investigators from the Attorney General's office, as well as investigators from other agencies as necessary to pursue the case.

The Committee also concludes that continuing the practice of investigating these types of allegations with a confidential unit within BIDE is inappropriate and must cease.

Accordingly, the Committee recommends disbanding the confidential unit within BIDE and specifying that the Attorney General must conduct and control all drug-related investigations of public officials or members of the law enforcement community.

#### CONFIDENTIALITY PROVISION

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STATUTORY	19.	Repeal the separate provision providing confidentiality for investigative records currently in the BIDE statutes because it is inappropriate.
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STATUTORY	20.	Limit dissemination of intelligence and investigative information in the custody of BIDE pursuant to the provisions of Maine's Criminal History Record Information Act.
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STATUTORY

21.

Ensure that meetings of the new Maine Drug Enforcement Agency Advisory Board are subject to the Freedom of Access law but allow meetings to be held in executive session under two circumstances, in order to ensure that the Board's meetings are generally accessible to the public.

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STATUTORY

22.

Repeal references to meetings of the Bureau in the confidentiality provision since reference is unwarranted.

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Current law [25 MRSA §2957] provides confidentiality to the operation of BIDE in three ways:

- "the investigative records of the bureau shall be and are declared to be confidential";
- all meetings of the [Drug Policy] board are not subject to the Freedom of Access law; and
- all meetings of the bureau are not subject to the Freedom of Access law.

In reviewing these statutory provisions, the Committee finds that:

- BIDE is granted greater confidentiality than afforded any other law enforcement agency; and that
- confidentiality of records can be vitally important in terms of a) protecting the reputations of those investigated but not charged, b) protecting the safety of those who



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supply confidential information; and c)  
protecting the safety of law enforcement  
personnel.

Notwithstanding the importance of ensuring that meetings of the Board are open to the public, the Committee finds that the Board should have the authority to close meetings to the public when discussing either 1) case investigations or 2) disciplinary actions.

The Committee also finds that meetings of the current Policy Board held in confidence inspires suspicion and mistrust of the Policy Board on the part of the public and the Legislature.

Accordingly, the Committee recommends that the separate provision providing confidentiality for investigate records in BIDE statutes be repealed and that the confidentiality of reports or records in the custody of the Maine Drug Enforcement Agency be governed by Maine's Criminal History Record Information Act, that the Board be subject to the Freedom of Access law but allow executive session under two circumstances, and that reference to the meetings of the Bureau in the confidentiality provision be repealed.

**USE OF HELICOPTERS AS AN  
ENFORCEMENT TOOL IN MARIJUANA ERADICATION**

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FINDING

23.

The Committee finds that the use of helicopters as an enforcement tool in the marijuana eradication program is often disturbing and distressing to the general populace, that the Agency should be aware of the potential disturbance to the public peace and welfare while these helicopters are in use, and employ mitigating measures as much as possible.

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ADMINISTRATIVE 24.

Direct the Advisory Board to review the use of helicopters as an enforcement tool in the marijuana eradication project and make recommendations for change to the Commissioner as warranted.

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The law defines marijuana as, "the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not..." [17A §1101]. Marijuana is also categorized in the law as a "Schedule Z" drug [17-A §1102, sub-§4 ¶B].

Finally, the law declares that "a person is guilty of unlawful trafficking in a scheduled drug if he intentionally or knowingly traffics in what he knows or believes to be any scheduled drug, and which is, in fact, a scheduled drug [17-A §1103 sub-§1]. Violation of the trafficking law is:

- A. A Class B crime if the drug is a schedule W drug, if it is marijuana in a quantity of 20 pounds or more, or if it is marijuana and the person grows or cultivates 500 or more plants;
- B. A Class C crime if the drug is a schedule X drug, if it is marijuana in a quantity of more than 2 pounds, or if it is marijuana and the person grows or cultivates 100 or more plants; or
- C. A class D crime if the drug is a schedule Y or schedule Z drug.

A person is presumed to be unlawfully trafficking in scheduled drugs if the person intentionally or knowingly possesses any scheduled drug that is, in fact:

- more than 2 pounds of marijuana... [17-A §1103 sub-§§ 2 and 3]

The Committee finds that the 1991 Maine Drug Control and System Improvement Strategy includes a national recommendation to expand efforts to eradicate the domestic marijuana crop (pg. 10 of the report). Furthermore, the report states that:

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"Marijuana has long been recognized as an illegal substance of widespread abuse among all socio-economic and age groups in the United States. Maine is no exception to this fact. Rather, Maine has evolved into not only an area where marijuana use is a popularly abused drug, it also has become a fertile region for domestically grown cannabis. State drug agents have made well over 1000 drug related arrests during the past several years, approximately half of which were marijuana trafficking violations. This demonstrates not only the prevalence of this drug, but also corroborates that there exists great motivation for marijuana cultivators to produce this plant in expectation of sizable profits. Last year's (1990) harvest of 14,000 plants totalled more than the other New England States combined. The final count during the 1991 marijuana eradication efforts was 25,000 plants harvested, a 42% increase from 1990. Plants harvested this past year reached heights of 6 to 9 feet, yielding approximately a pound of dried marijuana each. With marijuana on Maine streets selling for \$3,000 or more per pound, massive profit potential exists for a minimal investment. Through the last decade, the pattern of transportation of marijuana was the importation via shipping and aircraft of multi-ton quantities. More recently, there has been a notable shift towards domestic cultivation of the drug for in-state consumption and exportation to other New England states. One drug trafficker confided that in the early 1980's deep water frontage along the secluded Maine coast to support smuggling activities was highly desirable. Today, he indicates a secluded large barn offers a safer opportunity for more significant profits from an indoor grow operation. These facts, combined with organized crime's interest in financing these operations, underscores the emergence and extent of the marijuana cultivation problem existing within the State. Nevertheless, the results of eradication efforts noticeably reduced the availability of this drug in most areas of the state, strongly warranting annual eradication efforts." (page 17, 1992 Maine Drug Control & System Improvement Strategy Study)

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Consequently, the Bureau of Intergovernmental Drug Enforcement carries out a program of marijuana eradication. According to Maine's report on Drug Control and System Improvement Strategy, the purpose of the marijuana eradication project is to "provide year round marijuana eradication capability to include:

1. The gathering of marijuana cultivation and distribution intelligence in cooperation with the BIDE intelligence unit;

2. Initiating and monitoring marijuana cultivation investigations by agents involving indoor and outdoor growing operations;

3. Collecting current information on marijuana cultivation methods and trends as well as disseminating this information to local county, and state police agencies.

4. Organizing numerous resources and personnel from various jurisdictions in operations that locate, investigate, and ultimately destroy marijuana plants across the state.

This program will make a specific contribution to the state strategy by targeting a domestic source of an illegal drug that is one of the few that is both manufactured and distributed in our own state" (page 81, 1992 Maine Drug Control & System Improvement Strategy Study).

Federal grant money awarded to Maine's marijuana eradication program for two federal fiscal years is as follows:

FFY 1991	\$54,240
FFY 1992	\$55,900

In addition, the Committee finds that the Maine Air National Guard participates with BIDE in a support role, as mandated in the Guard's federal enabling legislation, by providing helicopters and pilots for use in the BIDE marijuana eradication effort. The Guard characterizes its role as "passive", in that the Guard is not directly involved nor responsible for law enforcement activities. The Guard carries out its support role with federal dollars appropriated for this purpose from the federal Department of Defense. The helicopters are owned by the federal government and cost ~\$195/hour. The State does not pay for the service, nor reimburse the Maine Air

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National Guard.

The Committee notes that rulings by the U.S. Supreme Court clarify that Fourth Amendment rights to privacy in the home do not extend to some open areas, such as, open fields, streets, sidewalks, and parks [Hester v. United States, 265 U.S. 5 (1924)]. Also aerial inspection of the curtilage of a house from a helicopter flying at an altitude of 400 feet in public airspace does not constitute a search requiring a warrant under the Fourth Amendment [Florida v. Riley, 102 L.Ed.2d 835 (1989)].

Furthermore, the Committee notes that the Maine Supreme Court concluded that "defendants had no expectation of privacy regarding activities which occurred in one defendant's yard, house, and outbuildings, and therefore evidence obtained from aerial surveillance was admissible..."State v. Bridges [513 A.2d 1365 (Me. 1986)].

In accordance with the Supreme Court's rulings, the Committee understands that Air National Guard regulations require helicopters to fly no lower than 400 feet.

Accordingly, in reviewing the use of helicopters as an enforcement tool in the marijuana eradication program, the Committee finds that:

- many homeowners are outraged by the use of helicopters and feel as though helicopters represent an insufferable intrusion into their peace and welfare;
- helicopters provide more visibility and flexibility to law enforcement officials than do fixed-wing aircraft;
- the Legislature may impose limitations if deemed advisable on the use of helicopters as an enforcement tool but that additional limitations would increase the difficulty of enforcing the law against possessing and growing marijuana; and that
- the current use of helicopters in Maine is within the U.S. Supreme Court's interpretation of legal search and seizure and does not abrogate Fourth Amendment rights.

Therefore, the Committee finds that the use of helicopters as an enforcement tool in the marijuana eradication program is often disturbing and distressing to the general populace, that

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the Agency should be aware of the potential disturbance to the public peace and welfare while these helicopters are in use, and employ mitigating measures as possible. Furthermore, the Committee recommends that the Advisory Board review the use of helicopters as an enforcement tool in the marijuana eradication project and make recommendations for change to the Commissioner as warranted.

#### USE OF PROCEEDS FROM FORFEITED ASSETS

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FINDING                    25.                    The Committee finds that, to the extent possible, asset forfeiture cases should be filed in State civil court in order to increase the amount of dollars flowing from asset forfeiture cases into the General Fund.

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Currently, the majority of proceeds from forfeited assets is used to support Maine's drug enforcement program, although some amount of the proceeds has been deposited into the General Fund for appropriation by the Legislature.

Maine's state-level drug enforcement program, the Bureau of Intergovernmental Drug Enforcement, is allocated \$536,509 in Other Special Revenue for FY 1991-92 and \$963,576 in FY 1992-93 to support personnel and operating costs.

The Committee finds that the federal government imposes limitations on the use of the proceeds from assets forfeited in federal civil court in two ways:

1. "Program Income" must be Deposited Back into the Program that Generated the "Income"

According to the "Financial and Administrative Guide for Grants" from the federal Office of Justice Programs, proceeds from assets forfeited through the federal system are considered to be **PROGRAM INCOME**. As such, the rules require that program income must be "added to the funds committed to the grant agreement" and "used...for any purpose which furthers the broad objectives of the legislation under which the grant was made..." [Chapter 4, Part 40. page 36].

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2. Forfeited Assets from Federal Proceedings May be Transferred to "State and Local Agencies that Directly Participate in the Law Enforcement Effort Leading to the Seizure and Forfeiture of the Property"

According to the "[U.S.] Attorney General's Guidelines on Seized and Forfeited Property" (dated July 1990), the U.S. Attorney General (through the Department of Justice) is authorized to "equitably transfer forfeited property and cash to state and local agencies that directly participate in the law enforcement effort leading to the seizure of the property" [page 7 of the document].

Accordingly, the U.S. Attorney General is authorized to disburse assets from federal forfeitures equitably, only to those agencies involved in the law enforcement effort that led to the seizure of the property.

Therefore, the Committee finds that the two directives at the federal level restrict the use of forfeited assets from the federal system to Maine's drug enforcement community, either in the form of "program income" or as the "law enforcement effort" that led to the seizures in the first instance.

However, the Committee finds that State law [Title 15 §5824] directs that proceeds from all State assets decreed forfeit in State court are to be deposited into the General Fund, unless approval is given for another use. In the case of assets awarded to the State, if the State asset is not to be deposited into the General Fund, the Governor has the authority to approve "transferring the title of the asset" to another "agency or department". [For assets awarded to counties, a majority of the County Commissioners must approve the "transfer of title to the asset" and for towns, the governing body of the municipality approves receipt of the funds.]

Accordingly, the Committee finds that when BIDE receives assets from a State case, it does so only as a result of a formal approval from the Governor; otherwise, the funds would have been deposited into the General Fund. According to law, the Governor has the latitude to direct the use of assets forfeited at the State level to any agency or department of State government.

The two tables below show the amount of forfeited assets from the state and federal court systems. In 1991, state courts awarded a total of \$26,377 to the State of Maine. Federal courts awarded \$490,549 to the State of Maine.

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**Distribution of Assets Forfeited by State Courts  
for four years.**

Assets Distributed to BIDE

<u>YEAR</u>	<u>AMOUNT</u>	
1988	5,310.00	
1989	58,895.00	
1990	27,343.51	
1991	<u>26,377.00</u>	
		117,925.51
<u>Assets Distributed to other agencies</u>		<u>43,655.02</u>
	<b>TOTAL</b>	<b>\$161,580.53</b>

**Distribution of Assets Forfeited in Federal Court  
for four years.**

<u>YEAR</u>	<u>AMOUNT</u>	
1988	511,548.00	
1989	410,698.00	
1990	78,622.00	
1991	<u>490,549.33</u>	
		1,491,417.33
<u>Assets Distributed to other agencies</u>		<u>42,934.40</u>
	<b>TOTAL</b>	<b>\$2,334,351.73</b>

Also, the Committee understands that the Department's Suspense Account contained \$232,255, as of 2/10/92. [\$100,000 of this may have been recently awarded).

Finally, the Committee notes that some cases do not lend



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themselves to prosecution at the State level, such as cases which are regional, national, or international in scope, highly complex cases, or cases involving convoluted conspiracies. However, recognizing that the State has control over the disposition of assets forfeited at the State level, the Committee finds, that to the extent possible, asset forfeiture cases should be filed in State civil court in order to increase the amount of dollars flowing from asset forfeiture cases into the General Fund.

**PROCEEDS FROM FORFEITED ASSETS HELD IN SUSPENSE**

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FINDING                    26.                    The Committee finds that the State's District Attorneys should implement measures to expedite drug asset forfeiture cases, in order to ensure timely distribution of the proceeds to the designated recipients.

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ADMINISTRATIVE        27.                    Direct the new "Maine Drug Enforcement Agency Advisory Board" to review the administrative handling and tracking of forfeited assets by the Department and the District Attorneys, design a state-wide policy on the handling of forfeited assets, and recommend any changes that may be needed to ensure accurate and complete accounting for all assets seized.

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Currently, assets are seized by law enforcement agents when the asset was either purchased with the profits of illegal drug trafficking, used in exchange for illegal drugs, or used to facilitate an illegal drug transaction. The Committee finds that these seized, or forfeited, assets from drug cases are handled by four entities, depending upon whether the case will be prosecuted in state court, or federal court. The four entities are as follows:

STATE CASES

1. **Cash** forfeited from cases prosecuted at the state level is deposited by the Department of Public Safety into a Suspense Account, pending final disposition and distribution by the court. [The Suspense Account appears in the Controller's accounts as a liability since the State will eventually have to pay these funds out to the entities identified by the court.]
2. **Real estate, equipment, and motor vehicles** are warehoused in South Windham until the court decrees final disposition.
3. Assets that are forfeited as evidence, e.g. marked buy money, is stored in the safe at BIDE until final disposition by the court.

FEDERAL CASES

4. The U.S. Marshal Service, on behalf of the Federal government, will immediately claim the assets forfeited and store the assets pending disposition by the court

The Committee finds that the court awards these funds to the local, county, state, and federal agencies which participated in the case. Therefore, some percentage of all of these assets, stored in four ways, is eventually awarded to the State of Maine by the courts.

The table below shows the cumulative state and federal asset forfeiture cases currently being processed in State and Federal court (as of February 11, 1992).

**BUREAU OF INTERGOVERNMENTAL DRUG ENFORCEMENT  
FEDERAL AND STATE FORFEITURE PROCESS  
SUMMARY**

(as of FEBRUARY 11, 1992  
1987 - PRESENT

<u>TYPE OF PROPERTY</u>	<u>FEDERAL FORFEITURE PROCESS</u>	<u>STATE FORFEITURE PROCESS</u>	<u>TOTAL CASES</u>
ANTIQUES	1	0	1
ATV	1	1	2

BINOCULARS	0	2	2
COMPUTER	0	2	2
CURRENCY	7	54	61
FIREARM	11	100	111
JEWELRY	0	1	1
MONEY ORDERS	0	1	1
PERSONAL PROPERTY	1	0	1
REAL ESTATE	32	0	32
SAFE	0	3	3
SILVER BARS	1	0	1
SNOWMOBILE	0	2	2
TRAILER	1	2	3
MOTOR VEHICLES	17	32	49
<u>TOTAL:</u>	<u>72</u>	<u>199</u>	<u>271</u>

The value of the assets currently "in the pipeline", i.e. in the process of being forfeited through State civil court is tabulated below, showing BIDE's cumulative anticipated share to be \$319,421.55:

**BUREAU OF INTERGOVERNMENTAL DRUG ENFORCEMENT  
EQUITABLE SHARING REPORT**

**STATE FORFEITURES**  
(as of FEBRUARY 11, 1992)  
1987 - PRESENT

<u>PROPERTY TYPE</u>	<u>ESTIMATED VALUE</u>	<u>BIDE SHARE</u>	<u>CO-AGENCY SHARE</u>
ATV'S	400.00	320.00	80.00
BINOCULARS	100.00	90.00	10.00
COMPUTER	3,000.00	2,700.00	300.00
CURRENCY	273,385.66	216,468.30	56,917.36
FIREARMS	18,160.00	14,600.25	3,559.75
JEWELRY	1,500.00	1,425.00	75.00
MONEY ORDER	800.00	720.00	80.00
SAFE	2,100.00	1,300.00	800.00
SNOWMOBILE	1,600.00	1,440.00	160.00
TRAILER	1,300.00	1,170.00	130.00
<u>MOTOR VEHICLES</u>	<u>100,667.00</u>	<u>79,188.00</u>	<u>9,307.50</u>
<u>TOTAL:</u>	<u>403,012.66</u>	<u>319,421.55</u>	<u>71,419.61</u>

The value of the assets in the process of being forfeited through the Federal forfeiture process is tabulated below, showing BIDE's cumulative anticipated share to be \$1,532,432.11

**BUREAU OF INTERGOVERNMENTAL DRUG ENFORCEMENT  
EQUITABLE SHARING REPORT**

**FEDERAL FORFEITURES**  
(as of FEBRUARY 11, 1992)  
1987 - PRESENT

PROPERTY TYPE	ESTIMATED VALUE	BIDE SHARE	CO-AGENCY SHARE
ANTIQUES	400,000.00	85,000.00	255,000.00
ATV'S	1,460.00	413.67	413.67
CURRENCY	410,968.00	121,046.80	228,276.00
FIREARMS	1,650.00	2,180.25	327.25
PERSONAL PROPERTY	20,000.00	5,667.80	11,332.20
REAL ESTATE	3,339,125.00	1,253,908.16	1,572,031.59
SILVER BARS	11,250.00	3,188.14	6,374.36
TRAILER:	2,500.00	2,125.00	.00
<u>MOTOR VEHICLES</u>	<u>147,675.00</u>	<u>58,902.29</u>	<u>64,496.46</u>
<u>TOTAL:</u>	<u>4,334,628.00</u>	<u>1,532,432.11</u>	<u>2,138,251.53</u>

However, the Committee finds that a significant percentage of assets which have been forfeited have not yet been filed in civil court and are therefore awaiting final disposition; as follows:

A. Suspense Account

As of February 10, 1992, the State's Suspense Account contained \$232,254.53. (Reportedly, ~\$100,000 in the Suspense Account either has been, or will be in the near future, disposed by the court, so the current total in the account may be closer to ~\$130,000.)

B. Assets warehoused or held as evidence

The table below estimates the value of the combined state and federal assets that have been seized or are seizable which have not been filed, showing that BIDE's share, should the value of the assets become available, is anticipated to be \$275,794.91.

## NON-FILED CASES

1987 TO FEBRUARY 11, 1992

PROPERTY TYPE	ESTIMATED VALUE	LIENS	FEDERAL FEES	SHARE VALUE	BIDE SHARE	CO-AGENCY SHARE
ATV's	9,850.00	.00	1,477.50	8,372.50	2,791.27	5,031.57
BOAT/MOTOR/TRAILER	1,755.00	.00	262.50	1,487.50	495.79	991.71
CURRENCY	77,412.00	.00	882.00	76,530.00	54,629.10	21,900.90
FIREARMS	1,400.00	.00	150.00	1,350.00	970.00	380.00
MOTOR HOIST	450.00	.00	67.50	382.50	127.49	255.01
MOWER	400.00	.00	60.00	340.00	113.36	226.64
REAL ESTATE	568,532.00	240,640.00	48,030.00	272,170.00	209,971.25	62,198.75
SHOP PRESS	200.00	.00	30.00	170.00	56.66	113.34
SNOWMOBILES	4,160.00	.00	873.00	4,947.00	1,648.83	3,298.17
TRAILER	200.00	.00	30.00	170.00	56.66	113.34
MOTOR VEHICLES	13,925.00	8,990.50	.00	4,934.50	4,934.50	.00
<b>TOTAL</b>	<b>678,284.00</b>	<b>249,630.50</b>	<b>51,862.50</b>	<b>370,854.00</b>	<b>275,794.91</b>	<b>94,509.43</b>

The Committee finds that State law [Title 15 §5824] directs that proceeds from all State assets decreed forfeit in State court are to be deposited into the General Fund, unless approval is given for another use. In the case of assets awarded to the State, if the State asset is not to be deposited into the General Fund, the Governor has the authority to approve "transferring the title of the asset" to another "agency or department". When BIDE receives assets from a State case, it does so only as a result of a formal approval from the Governor; otherwise, the funds would have been deposited into the General Fund. For assets awarded to counties, a majority of the County Commissioners must approve the "transfer of title to the asset" and for towns, the governing body of the municipality approves receipt of the funds.

The table shows the number of cases prosecuted through State court and through the Federal court system. The total for four years shows that about 15% were prosecuted in Federal court, with 85% in State court.

<u>YEAR</u>	<u>FED</u>	<u>%</u>	<u>STATE</u>	<u>%</u>	<u>COUNTY</u>
1988	49	32	104	68	153
1989	72	21	276	79	348
1990	78	11	650	89	728
<u>1991</u>	<u>53</u>	<u>11</u>	<u>418</u>	<u>89</u>	<u>471</u>
<u>COUNT:</u>	<u>252</u>	<u>15</u>	<u>1,448</u>	<u>85</u>	<u>1,700</u>

However, the data also show that, even though many more cases are prosecuted in state court, most of the forfeited assets comes from federal courts, where the cases tend to be bigger in terms of sophistication, conspiracies, profits, and forfeited assets.

The Committee finds that two issues have contributed to not filing these asset cases in civil court. First, the sheer volume of cases involved requires setting priorities in favor of pursuing the criminal prosecution cases first. With limited time and resources, the Attorney General's office has focussed on criminal prosecutions rather than civil forfeiture. Second, is the concern that the prosecuting attorney in the criminal case should not handle the civil asset forfeiture case. The AG's office has a "strict rule" that the criminal case will not be negotiated with the civil asset forfeiture case; that the criminal case will be settled before the assets are discussed. Also, it's difficult for the same attorney to keep track of both

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the criminal prosecution and the civil forfeiture and yet, at the same time, keep both proceedings separate. The Committee notes that the primary motivator to change the law allowing District Attorneys to share in a portion of the proceeds from asset forfeiture cases was to encourage District Attorneys to initiate disposition of the civil forfeiture cases, thereby freeing up the Attorney General's office to focus on the criminal prosecution.

Accordingly, the Committee finds that the State's District Attorneys should implement measures to expedite drug asset forfeiture cases, in order to ensure timely distribution of the proceeds to the designated recipients. Further, the Committee recommends that the new "Maine Drug Enforcement Agency Advisory Board" review the administrative handling and tracking of forfeited assets by the Department and the District Attorneys, design a state-wide policy on the handling of forfeited assets, and recommend any changes that may be needed to ensure accurate and complete accounting for all assets seized.

**REAL PROPERTY SUBJECT TO FORFEITURE  
FOR OFFENSES INVOLVING MARIJUANA**

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ADMINISTRATIVE	28.	Refer the issue of asset forfeitures in general, and forfeiture of real property for marijuana offenses in particular, to the Joint Standing Committee on the Judiciary for further study and review.
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State law [Title 15 §5821] lists property that is subject to forfeiture and declares that "no property right may exist in them". These property items subject to forfeiture include scheduled drugs, materials related to scheduled drugs, other property, firearms and other weapons, conveyances, records, money instruments, and real property.

However, the law allows forfeiture of almost all real property when the real property is used in commission of a crime, with the exception of offenses involving marijuana.

Federal law, on the other hand, permits and encourages the forfeiture of real property upon which marijuana is grown or cultivated.

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Since State law does not authorize the forfeiture of real property for marijuana offenses, and federal law does, the Committee finds that the federal government moves decisively to forfeit real property for marijuana offenses committed in Maine. Following final disposition of the assets in Federal court, the State receives its share if the State was involved in the investigation.

In reviewing this issue, the Committee finds that amending State law to mirror federal authorization to seize real property for marijuana offenses may have merit in that:

- accepting real property assets seized through federal court, rather than State court, limits the expenditure of these assets to law enforcement, due to federal restrictions; and that
- if State law were to allow the forfeiture of real property for marijuana offenses, at least the assets would come to the State via State courts and thereupon allow the State to decide for itself how it wanted to spend the proceeds, since State law requires assets from State courts to be deposited into the General Fund, or have the Governor decide [15 MRSA § 5824].

The Committee notes that legislation introduced last session and heard by the Judiciary Committee regarding the forfeiture of real property for offenses involving marijuana was not reported out of Committee favorably.

Nevertheless, the Committee finds merit in reviewing the issue again, particularly focussing on the proper role of the State in forfeiting real property for offenses involving marijuana, the need to protect the interests of innocent people in forfeiture cases, the need to minimize the incentives for law enforcement to pursue cases which may be associated with significant assets, and the appropriateness of directing forfeited assets to drug education and treatment, rather than enforcement.

Accordingly, the Committee recommends referring the issue of asset forfeitures in general, and forfeiture of real property for marijuana offenses in particular, to the Joint Standing Committee on the Judiciary for further study and review.



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**CONTRACTUAL POSITIONS**

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ADMINISTRATIVE      29.      Retain the current practice of using contracted employees from county and local agencies as investigative agents and require that each officer's contract include provisions governing personnel issues, such as a) a due process procedure in the event of forced termination, b) guarantee of 3 years of employment unless just cause is given to terminate the officer, c) performance standards, and d) other issues which may be identified by the Advisory Board.

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STATUTORY            30.      Specify that contractual agents may serve a tour of duty with the agency for a period not to exceed 3 years at which time contractual agents must return to their employing agency. The Commissioner may grant contractual agents a one-time extension of their tour of duty not to exceed one year in length, with the approval of the Director, the contractual agent, the contractual agent's parent organization, and the Advisory Board.

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ADMINISTRATIVE 31.

Direct the new Advisory Board to review the implications of eliminating the option of allowing local or county law enforcement agencies to "sponsor" Agents which have not actually come from the parent agency's ranks and to which the Agent has no intention of returning. Report to the Committee on September 1, 1992

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In reviewing the manner in which BIDE is staffed, the Committee finds that:

- retaining contractual employees from other law enforcement agencies retains the important intergovernmental approach to drug law enforcement;
- converting employees who are currently contractual to State employees is not feasible due to budget constraints;
- the contractual arrangement enables local and county law enforcement officers to work with the State's drug enforcement effort without losing seniority and retirement rights built up in their parent organizations;
- agents tours of duty should be limited in order to ensure the rotation of officers into the State agency and back out to the parent organization on a periodic basis; and
- reviewing the policy of allowing agents to be sponsored by law enforcement agencies for which the agent has never actually worked deserves further study.

Therefore, the Committee recommends retaining current practice of using contracted employees from county and local agencies as investigative agents, ensuring that the contracts included provision governing personnel issues, limit tours of

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duty by agents to 3 years with a one-time extension not to exceed one year, and direct the Advisory Board to review the implication of eliminating the option of allowing local or county law enforcement agencies to "sponsor" Agents who have not worked from the parent organization.

**MANAGEMENT PERSONNEL AND POLICIES**

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ADMINISTRATIVE 32. Establish a planning committee consisting of agents and supervisors to review operations of the State-level drug enforcement agency and provide recommendations for improvement to management. Report to the Committee on September 1, 1992.

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ADMINISTRATIVE 33. Require management personnel to consult with agents regarding current standard operating procedures and disciplinary procedures and to implement remedial action as necessary. Report to the Committee on September 1, 1992.

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ADMINISTRATIVE 34. Require management personnel of the State-wide Drug Enforcement Agency to institute additional steps to foster communication with other Maine law enforcement agencies. Report to the Committee on September 1, 1992.

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ADMINISTRATIVE 35. Direct the Agency to define the qualifications and job descriptions of MDEA Agents, Supervisors, Regional Commanders, and the Assistant Director, following consultation with the Bureau of Human Resources. Report to the Committee by September 1, 1992.

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ADMINISTRATIVE 36. Require that, prior to filling vacancies, the positions of Agent, Supervisor, Regional Commander, and Assistant Director be posted internally and externally in order to ensure that a broad field of candidates have an opportunity to apply for these positions. Report to the Audit and Program Review Committee on September 1, 1992.

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ADMINISTRATIVE 37. Develop an organizational plan that ensures an optimum ratio between agents and supervisors in order to maximize service, delivery, streamline the operation of the agency, and reduce administrative bureaucracy. Report to the Audit and Program Review Committee on September 1, 1992.

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In considering the management practices, policies, and organization of the Bureau of Intergovernmental Drug Enforcement, the Committee finds a number of issues of concern, as follows:

Communication between Agents and Supervisors

The Committee understands that the management of BIDE has had a practice of meeting monthly with supervisory personnel to discuss operational issues. On several occasions, all personnel within the Bureaus have met together, for example, to discuss equitable budget reduction measures. However, the Committee finds a need for more frequent and deliberate communication among agents, supervisors, and top management.

Current Standard Operating Procedures and Personnel procedures

The Committee finds that a number of Agents have expressed concern regarding internal disciplinary procedures, inadequate standard operating procedures, inconsistent promotional policies, and perfunctory dismissal from the Agency and involuntary return to the Agent's parent organization.

Relationship with other law enforcement agencies

The Committee understands that the Bureau assigns Agents and Supervisors to serve as liaisons with local or county law enforcement agencies. This liaison program has served as a useful bridge between the Bureau and other law enforcement agencies, however, is entirely dependent on the time available in the Agent's and counterpart's schedule for its success. The Committee finds that additional consideration should be given to establish additional means by which communication between BIDE and other law enforcement agencies can be accomplished.

The qualifications and job descriptions of personnel and the filling of vacancies

The Committee finds that some Agents report that positions within the Bureau of Intergovernmental Drug Enforcement have been filled without adequate advertisement and notification to all credible candidates and instead, has been filled by a hand-picked candidate. In addition, the Committee understands that the hiring process may be considered subjective and uneven.

Accordingly, the Committee makes the recommendations which appear above to address these management issues.

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STATUTORY

38.

Require that the Advisory Board recommend a prospective candidate to serve as BIDE Director to the Commissioner and Governor, who may then opt to accept or reject the appointment. The Advisory Board must select its recommendation from a slate of three nominees submitted by the Chief of the State Police, the Maine Sheriffs' Association, and the Maine Chiefs of Police Association. If the Commissioner or Governor do not approve of the prospective candidate's appointment, each of the nominating groups must be requested to submit an additional nomination to the Board.

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During the course of its review, the Committee concluded that the position of director of BIDE is a position of particular sensitivity, influence, and importance. Accordingly, at one point in the Committee's deliberations, it had endorsed a recommendation intended to increase the Legislature's influence in the selection of the individual filling that position, as follows:

"Require that the position of director of the proposed Maine Drug Enforcement Agency is subject to nomination by the Governor, review by the Joint Standing Committee on State and Local Government, and confirmation by the Legislature in order to reflect the significance of the position and to ensure adequate Legislative input".

Upon further discussion with interested parties in the final days of the 115th Legislature, the Committee Chairs revised the recommendation to expunge reference to Legislative confirmation, noting that the involvement of Maine's three major law enforcement organizations in nominating a prospective candidate to the Advisory Board would provide the knowledge and oversight necessary to ensure that an appropriate appointment was made.

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**PLACEMENT ISSUE**

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STATUTORY            39.            Change the name of the Bureau of Intergovernmental Drug Enforcement to the Maine Drug Enforcement Agency.

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STATUTORY            40.            Retain the State-level drug enforcement agency as a separate bureau within the Department of Public Safety.

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In creating BIDE, the Legislature made its intent clear by finding in statute that,

"the distribution of scheduled drugs into and within the State presents an unprecedented threat to the health and safety of this State. To meet this threat, this Act is established to develop a statewide drug enforcement program and strategy based upon principals of integration and unification at all levels of law enforcement including federal state, county, and municipal levels and including both prosecutorial as well as investigative agencies" [25 MRSA §2953].

Accordingly, BIDE serves as the administrative structure for the creation and supervision of specialized drug enforcement units throughout the State.

The organizational chart shows that BIDE is currently a bureau within the Department of Public Safety with a Director, Assistant Director, and eight regional offices.

BIDE's budgeted expenditures for the biennium are as follows: [Please note that the one clerical position funded

through the State Police-Operations account is not depicted in the array]

FY 1992

	General Fund	Federal Expenditure Fund	Other Special Revenue	BIDE Program Total
Positions	8		4	12
Personal Services	331,441	0	177,119	508,560
All Other	949,266	1,250,000	158,890	2,358,156
Capital Expenditures	<u>0</u>	<u>0</u>	<u>200,500</u>	<u>200,500</u>
 Fund Total	 1,280,707	 1,250,000	 536,509	 3,067,216
	42%	41%	17.5%	

FY 1993

Positions	8		4	12
Personal Services	359,449	0	187,993	547,442
All Other	959,574	750,000	583,083	2,292,657
Capital Expenditures	<u>0</u>	<u>0</u>	<u>192,500</u>	<u>192,500</u>
 Fund Total	 1,319,023	 750,000	 963,576	 3,032,599
	43%	25%	32%	

Revenue sources in FY 1992-93 will be adjusted to show an increase in Federal Expenditure Funds as a result of recent federal grant decisions, along with a resultant decreased reliance on Other Special Revenue funds.

According to Mr. Richard S. Cohen, United States Attorney for the District of Maine, "[A]t present, and for at least the last 10-15 years, Maine has enjoyed one of the most cooperative federal and state drug law enforcement relationships of any state in the country" (p.3 of 11/16/91 testimony)

The Committee notes that Legislative intent in creating BIDE was to ease the jurisdictional tensions surrounding past statewide drug enforcement efforts and was deliberately placed within the Department of Public Safety as an entity independent from any other existing law enforcement agency, to achieve this end.

In written testimony before the Committee, Mr. Cameron Holmes, Assistant Attorney General from the State of Arizona, called BIDE "unique in the country" and that the "lack of cooperation among law enforcement [efforts] is the major problem in drug enforcement". Mr. Holmes also testified that, "from a



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theoretical point of view, [BIDE] is a wonderful, wonderful theory. If I could give a gift to law enforcement in Arizona, it would be BIDE" and that, "BIDE, as an organization for a whole area, is an example which is way out ahead of alot of the other organizational attempts to get out of those kinds of [turf] problems."

In regard to federal funding, the Committee notes that the federal Formula Grant includes a requirement that some portion of the federal funds must be "passed-through" to local law enforcement organizations. Currently, the majority of funds that would be passed-through to the locals are awarded to BIDE, with the reported approval of the locals, since BIDE is composed of local and county enforcement officers. If BIDE did not remain as an entity independent from another existing law enforcement organization, the Committee understands that questions exist about whether the local funds would continue to flow to the new organization - the answer is unknown at this point.

In considering ways in which to improve BIDE's performance and effectiveness, the Committee finds that the name of the Bureau itself, "BIDE", may tend to impair the agency's effectiveness since the name may evoke a negative perception or opinion. Accordingly, the Committee finds that changing the name of the Bureau of Intergovernmental Drug Enforcement to the Maine Drug Enforcement Agency will serve to demarcate the beginning of a new chapter in the agency's existence.

Also, the Committee finds that maintaining the agency as a separate bureau within the Department of Public Safety appears to be consistent with original Legislative intent, would retain the intergovernmental nature of the State's drug enforcement effort, and would not jeopardize the flow of federal funds which are predicated on an intergovernmental concept.

Accordingly, the Committee recommends changing the name of the Bureau to the Maine Drug Enforcement Agency and retaining the agency as a separate bureau with the Department of Public Safety.

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**CONFIDENTIAL INFORMANTS**

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ADMINISTRATIVE 41. Request the Attorney General to conduct an inquiry into the agency's use of confidential informants particularly focussing on 1) the agency's treatment of and relationship with confidential informants 2) the agency's liability if informants lose property as a result of cooperating with the agency, and 3) the agency's procedure in the event the informant commits a crime while serving as an informant. Report to the Committees on Audit and Program Review and Judiciary by September 1, 1992 with findings and/or recommendations.

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The Committee has very recently received information from a confidential informant who has worked recently with the Bureau of Intergovernmental Drug Enforcement. Although not yet corroborated, the informant alleges that:

- 1) BIDE had promised him confidentiality in return for his service as an informant;
- 2) BIDE failed to maintain the informant's confidentiality by using the informants name in a warrant for arrest of targeted suspects;
- 3) As a result, the informant has received serious threats not only against himself but also against his family; and
- 4) The informants car was recently destroyed by fire, an incident which the informant believes was an act of arson conducted as retaliation against him for working with BIDE.

According to the informant, BIDE is "not helping [him] at all". Apparently, BIDE had invited the informant to contact BIDE

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if the informant "had any trouble" but BIDE has been unresponsive to the informant's plight up to this point. The informant also alleges that BIDE promised the informant money for the informant's information. The informant has received only \$100 for his services and BIDE has made no overtures about helping the informant to replace his car.

Two other issues raised with confidential informants has indicated a need to examine the way in which BIDE works with confidential informants, BIDE's treatment of and relationship with confidential informants, and BIDE's liability if informants lose personal property as a result of cooperating with BIDE, and BIDE's policy in the event an informant commits a crime while cooperating with BIDE.

Accordingly, the Committee recommends that the Attorney General conduct an inquiry into the agency's use of confidential informants particularly focussing on 1) the agency's treatment of and relationship with confidential informants 2) the agency's liability if informants lose property as a result of cooperating with the agency, and 3) the agency's procedure in the event the informant commits a crime while serving as an informant. Report to the Committees on Audit and Program Review and Judiciary by September 1, 1992 with findings and/or recommendations.

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FINDING

42.

The Committee finds that BIDE Agents involved in a drug-buy in Westbrook last November acted in accordance with Standard Operating Procedures and should be commended for their handling of the situation which placed the safety of innocent by-standers ahead of the recovery of the drug-buy money.

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During the course of its review, the Committee had occasion to review a particular drug-buy case that occurred in Westbrook in November of 1991, which is currently undergoing prosecution. The case involved a number of BIDE agents and other law enforcement officers in which \$15,000 was exchanged for two grocery bags full of marijuana. The exchange concluded with the buyer fleeing at high speed out of the parking lot in which the exchange took place. The Committee concludes that the Agents' decision not to pursue the buyer beyond the exit of the parking lot was correct and prudent given the danger posed to innocent by-standers. The money used to buy the marijuana has not yet been recovered. Following its review of the case, the Committee finds that the Agents involved in this drug-buy incident acted in accordance with Standard Operating Procedures and should be commended for their handling of the situation which placed the safety of innocent by-standers ahead of the recovery of the drug-buy money.

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## MAINE HIGH-RISK INSURANCE ORGANIZATION

### Creation and Purpose

The Maine High-Risk Insurance Organization was created in 1987 (P.L. 1987, c. 542, §H, 5) to provide access to health insurance to those individuals who have been denied coverage due to a pre-existing medical condition. Originally capped at 300, enrollment was expanded to 600 individuals in legislation enacted by P.L. 1989, c. 875, §H-1, sub-§1. As of May 1992, actual enrollment was 412. The present enrollment cap, to be achieved by attrition, is set at 373.

### Oversight

The Maine High-Risk Insurance Organization (MHRIO) is overseen by a 7 member Board of Directors appointed by the Governor for 5 year terms. Of the members, 2 must represent insurance consumers, one must represent commercial insurers, one must represent nonprofit hospital and medical service organizations (BC/BS), one must represent hospitals, and one must be the Superintendent of Insurance or the Superintendent's designee. Up until April 8, 1992, the 7th member was discretionary. As a result of a statutory recommendation made later in this report, PL 1991 Ch. 837 changed the 7th member criteria to specify an insurance agent or broker or a representative of insurance agents, brokers, or companies in the life and health field of insurance. The Chair of the Board is designated by the Governor.

Staffing for the Board is provided by the Bureau of Medical Services of the Department of Human Services.

### Operations

The Maine High-Risk Insurance Organization Board of Directors is empowered to enter into a contract with an administering insurer through a competitive bidding process. The administering insurer is mandated by statute to:

- perform all eligibility and claim payment functions;
- establish a premium billing procedure;

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- assure timely payment of benefits to insured persons, including distributing claims forms and informing participants about how to properly submit a claim;
  - submit regular reports to the board regarding the operation of the organization; and
  - prepare an annual summary of premium, administrative expense, and claim information, in a format prescribed by the Board. (24-A MRSA §6055)

Mutual of Omaha currently serves as administering insurer for the program. Administrative charges for the plan totalled approximately \$143,846 in Fiscal Year 1991, or about \$350 per participant policy, not including Board expenses or the cost of BMS staffing.

In addition to the selection of the administering insurer, other duties of the Board include:

- establishing a plan of operation which assures the fair, reasonable, and equitable administration of the organization;
- establishing procedures for handling and accounting for assets of the Organization;
- performing all necessary actuarial functions, including rate setting, expense allowances and claim reserve formulas;
- publicizing the existence of the program, including eligibility requirements and enrollment procedures to the general public and insurance agents; and
- issuing an annual report to the Committees on Appropriations, Banking and Insurance, and Human Resources, detailing the program's experience in the areas of funding, administrative costs, and the subsidy program, as well as an audited financial statement.

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### Eligibility and Premiums

Eligibility for the program is created by an insurer's rejection or refusal to issue or renew similar health insurance:

- 1) for health reasons;
- 2) for health reasons, except at a rate higher than the Organization's; or
- 3) except with reduction or exclusion of coverage for a preexisting health condition for a period exceeding 90 days.

Pursuant to statute, the Board may adopt a list of medical or health conditions which would create automatic eligibility (24-A MRSA §6057, sub-§1.B). The Board has adopted such a list for Maine's program. These medical conditions include cystic fibrosis, Hodgkin's disease, AIDS, coronary insufficiency, leukemia, etc.

Premiums for a health insurance policy through the program range from a low of \$98 per month for children under 18, to \$353 per month for men 64 and over. Currently, premiums are based on the age of the insured.

It should be noted that the premium structure was developed by calculating 150% of "the average individual standard rate charged by the five largest insurers offering coverages in the State comparable to the organization coverage" as specified in the authorizing legislation (24-A MRSA §6059, sub-§3). One hundred and fifty percent (150%) of the industry average represents the maximum premium allowable under the law.

MHRIO's enacting legislation provided \$50,000 for premium subsidies for income eligible enrollees for the first two years of the program. Another \$25,000 was appropriated when enrollment was increased from 300 to 600.

The Committee reviewed data which showed that total subsidies provided for Fiscal Year 1991 were \$36,000. Total premium subsidies provided since the program's inception in July of 1988 total \$212,853 (thru Fiscal Year 1993).

Recent law (PL 1991, c. 578) mandated that the Maine High-Risk Insurance Organization shall plan for the use and establishment of community rating for premiums (24-A MRSA §6059-A). This law also requires the Maine High-Risk Insurance Organization to implement a transition plan. As of June 1992,

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the Maine High Risk Insurance Organization is in the process of gradually phasing in community rating. Unisex rating has been implemented; the final stage having been completed on March 1, 1992. Future plans for community rating will gradually eliminate age differentiation.

### Benefits

Benefits under a MHRIO policy may not be less than all benefits provided by a standard group plan under state law, and must include alternative care and managed care. Deductibles range from \$500 to \$1000 for an individual, and coinsurance (out of pocket after deductible is met) of 20%. Aggregate deductibles and coinsurance may not exceed \$1500 for an individual or \$3000 for a family. Coverage excludes charges for pre-existing conditions for the first 90 days if the condition required medical attention in the 90 days preceding enrollment, unless a similar exclusion has been satisfied under prior health insurance coverage.

### Funding

Until July 1, 1991, the Maine High-Risk Insurance Organization was funded by insurance premiums of participants and by an assessment on hospital revenues. As stated above, the Legislature has appropriated a total of \$212,853 in General Fund revenues in Fiscal Years 1989-1993 to subsidize premiums for income eligible participants.

The assessment on hospitals was statutorily capped at .15% of gross patient service revenues. In order to build up an adequate fund reserve, the Board made assessments at the maximum allowable rate for the first two years (about \$1.3 million annually).

In 1991, the Legislature transferred funding of the Maine High-Risk Insurance Organization's reserve fund to the General Fund, eliminating the hospital assessments as of July 1, 1991. To replace the hospital assessments, the Legislature has appropriated \$1,026,655 for Fiscal Year 1992 and \$1,400,000 for Fiscal Year 1993.

### Plan Administration Charges

Based on an analysis of 14 states' plans that were operational at the end of 1989, the Committee found that Maine has the second most administratively expensive program in the



country. Of the programs reviewed, 6 were administered by Mutual of Omaha (Maine's included), 6 were administered by Blue Cross/Blue Shield, and one each by Travellers' Insurance and the Associated Insurance Co., Inc. Annual administrative costs per policy ranged from about \$70 (Nebraska) to \$573 (Florida). Maine's administrative costs per policy averaged \$404 in the same year (1989), and were approximately \$350 per policy in 1990. For the two major plan administrators, the figures were as follows:

Plan Admin.	# of plans administered	# of participants in programs	Ave. admin. costs per policy
M of O	6	278 - 6,077	\$236
BC/BS	6	190 - 18,797	\$116*

\* Excluding the largest plan (Minnesota), average costs were \$136.

To follow up on this analysis, the Committee contacted Montana's plan administrator (Blue Cross/Blue Shield) to discuss administrative costs. Montana was chosen because it was the only other small program, and was therefore most comparable to Maine's in terms of scale. According to a spokesperson for Blue Cross/Blue Shield of Montana, their contract (for which BC/BS was the sole bidder) allows them up to 8 1/2% of premiums collected for administration. By contrast, Maine's administration charges from Mutual of Omaha totalled 22.7% of premiums collected, consisting of a \$5,000 per month flat fee plus additional charges for each insured person and each procedure (claim audits, hospital assessments, case management, etc.), carried out by the administrator.

Upon review, the Committee found that the Board has discussed the program's relatively high administrative costs. However, when the program went out to bid in 1987, Mutual of Omaha was the only bidder, and was experienced in administering state high-risk pools. In addition, the Maine High-Risk Insurance Organization's authorizing legislation requires that the administrator be an "insurer authorized to write health insurance" (24-A MRSA §6055). Public Law 1991, chapter 578 eliminated this restriction, and thus opened the field to more competitive bids.

#### Reserve Fund Funding Source

The sunset provision in the MHRIO's authorizing legislation contains the following language:

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"If either or both of the joint standing committees consider continuing the organization, the committee or committees shall consider methods of funding the reserve fund other than by an assessment on hospitals. This consideration shall include funding the reserve fund from the General Fund of the State." (24-A MRSA §6061)

Upon review, the Committee found that while the majority of states fund their risk pool reserve fund through an assessment on health insurers doing business in the state, most also allow the insurers to offset the assessment with a premium tax credit, thereby essentially making the programs, to some degree, General Funded. Up until 1991, Maine chose to fund its reserve through a hospital assessment in order to include self insurers in the funding source. As mentioned earlier, the Maine High-Risk Insurance Organization's reserve fund is currently funded with annual appropriations from the General Fund.

Other states' funding mechanisms include, among others:

- tapping a Cigarette and Tobacco Products Surtax Fund;
- an income tax surcharge;
- a direct general revenue appropriation; and
- a surtax on hospital stays and outpatient treatment.

#### Survey Results

The Committee conducted a survey of all enrollees in the Maine High-Risk Insurance program. Complete survey results are included as Appendix 1. The following are some of the notable points:

- 91% of the respondents reported being treated courteously all or most of the time by Mutual of Omaha;
- 26% stated that they were not informed that premium subsidies may be available, and a number commented that this information was provided well after their enrollment;
- 93% reported that their questions about claims or coverage were answered either the same day or within a week;

- Nearly 37% of respondents had not submitted a claim;
- A few respondents indicated a need for clearer information about what is covered under the plan;
- Many respondents made comments which reflected their unawareness about the program's termination date;
- Most of the respondents made comments which indicated their support for the program;
- A minority of the respondents made comments which indicated varying degrees of dissatisfaction with the program; and
- Affordability of the program was still a concern for many respondents.

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STATUTORY	43.	Continue the Maine High-Risk Insurance Organization under the provisions of the Maine Sunset Law.
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FINDING	44.	The Committee finds that the Maine High-Risk Insurance Organization provides an essential avenue of access to those Maine citizens who would otherwise be unable to obtain medical insurance.
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The Committee has conducted a thorough review of the Maine High-Risk Insurance Organization and has made a number of recommendations for improving the administration, accountability and oversight of the program, and the responsiveness of the Organization to its constituents and to the Legislature. The Committee-conducted survey, which had an unusually high 60%

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response rate, indicated that, while the population served by the program is intentionally limited, the program fulfills a vitally important need of those 400+ Maine citizens who simply have no other way of being insured.

Upon review, the Committee found that the program benefits all citizens by reducing the amount of potentially uncompensated care provided by hospitals as well as the dependence on public assistance that can result from uninsured medical emergencies and catastrophic illnesses. The Committee received no input or testimony that would indicate that this program was unnecessary or ineffective.

Therefore, to reflect these conclusions, the Committee took two actions. First, the Committee is issuing a statutory recommendation to continue the Maine High-Risk Insurance Organization under the provisions of the Maine Sunset Law. Second, the Committee is issuing a finding that the Maine High-Risk Insurance Organization provides an essential avenue of access to those Maine citizens who would otherwise be unable to obtain medical insurance.

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STATUTORY	45.	Remove the termination provision from the Maine High-Risk Insurance Organization's authorizing statute.
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Current law (24-A MRSA §6061) contains a sunset provision for the Maine High-Risk Insurance Organization. In essence, this provision of law provides that:

- unless continued by a specific act of law, the Maine High-Risk Insurance Organization shall "... cease enrollments and renewals of participants no later than June 30, 1992";
- the Maine High-Risk Insurance Organization is subject to review by the Joint Standing Committees on Audit and Program Review and Banking and Insurance; and
- If one or both of the Joint Standing Committees consider continuance of the Organization, the Committee(s) shall consider alternatives other than assessments to hospitals for funding of the Organization's Reserve Fund.

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Upon review, the Committee noted that:

- the Maine High-Risk Insurance Organization is already included in the Committee's sunset review statutory schedule [3 MRSA §927 (3)];
- due to this organization's broad public policy purpose, that of insurance, it is implicitly subject to the review and jurisdiction of the Joint Standing Committee on Banking and Insurance; and
- as mentioned earlier in this report, significant statutory changes have taken place which have replaced the assessments to hospitals with appropriations from the General Fund as the means of funding the Organization's Reserve Fund.

Having considered the above factors, the Committee found that the current requirements of 24-A MRSA §6061 are redundant and unnecessary. Therefore, the Committee recommends that current law be amended to remove the termination provision from the Maine High-Risk Insurance Organization's authorizing statute.

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ADMINISTRATIVE 46.

Direct the Maine High-Risk Insurance Organization's Board of Directors to establish a plan of operation, pursuant to statutory requirements.

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Current law (24-A MRSA §6053) details the duties of the Maine High-Risk Insurance Organization's Board of Directors as follows:

**"1. Establish a plan of operation.** Establish a plan of operation for the organization to assure the fair, reasonable and equitable administration of the organization, which may be amended as necessary;"

Upon review, the Committee found that this statutory requirement has not been fulfilled and that the lack of staffing when the Organization was established is the primary reason that this and other administrative functions have not been carried out.

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The administration of the insurance pool was contracted out to Mutual of Omaha, although the contract was never formally executed (i.e. signed). While it is assumed that the administrator has established operating procedures for the program's administration, these have not been provided in writing, nor is the Board of Directors aware of the standards used to measure effectiveness and efficiency of administrative operations. In addition, the Committee noted that the Board has received complaints about the administrator's unacceptably slow response to inquiries, requests for forms, etc. and has expressed strong concern about the level of administrative charges. The independent auditor's report for Fiscal Year 1989 also identified some administrative shortcomings in the handling of direct deposit premium payments and the accounting of hospital assessments.

In light of the above facts, the Committee is directing the Board to adopt rules governing the operation of the program, and clearly communicate to the administrator the performance criteria that is expected to be met under the terms of the proposed contract agreement.

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STATUTORY	47.	Eliminate redundancy and address efficiency in the statute mandating the Maine High-Risk Insurance Organization's plan of operation.
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Upon further review of the previously mentioned statutory mandate for the Maine High-Risk Insurance Organization to establish a plan of operation [24-A MRSA §6053 (1)], the Committee noted the following:

- the current statutory language contains the following redundancies, "... to assure the fair **reasonable and equitable** [emphasis added] administration of the organization ...". The Committee found that the highlighted words speak to the same purpose which can be accurately stated by simply using the word, "equitable"; and
- the existing language is lacking a crucial element necessary for the development of a plan of operation; namely to promote the **effective** and

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**efficient** administration of the organization. The Committee found that the relevant statute should be amended to reflect this purpose.

Therefore, the Committee recommends that current law be amended to eliminate redundancy and address efficiency in the statute mandating the Maine High-Risk Insurance Organization's plan of operation.

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ADMINISTRATIVE 48.

In order to ensure that adequate performance measures are available, the Board of Directors of the Maine High-Risk Insurance Organization should review the statutory requirements for the annual report and make every attempt to comply with those requirements.

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Current law [24-A MRS §6053 (7)] requires the Maine High-Risk Insurance Organization to submit an annual report:

**"7. Report.** Report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and human resources by February 1st of each year. The report shall include the following:

- A. Experience under the funding plan and recommendations for further funding;
- B. Experience regarding administrative costs and recommendations regarding an amount of or the need for a statutory cap;
- C. Experience regarding the subsidy program and recommendations for future aspects of the subsidy program; and
- D. An annual audited financial statement certified by an independent certified public accountant."

The Organization's 1989 annual report was not completed until early December of 1990. The 1989 report had the following characteristics:

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- included a statement on what was assessed/appropriated to the program but contained no data on premiums collected, adequacy of the reserve fund, or recommendations for further funding;
  - did not identify the total amount of administrative charges, made no assessment as to the appropriateness of these charges, and did not express an opinion on the need for a statutory cap; and
  - considered, but made no recommendations about the subsidy program, pending further experience with the current subsidy structure. In 1990, seventy-eight percent (78%) of policy terminations were for nonpayment of premium or bounced checks.

Upon review, the Committee found that the 1989 report did not adequately comply with the aforementioned statutory reporting requirements. The Committee further found that these reporting requirements are important and that the Board of Directors needs to attend to these statutory obligations in a more comprehensive manner.

Therefore, in order to ensure that adequate performance measures are available, the Board of Directors of the Maine High-Risk Insurance Organization should review the statutory requirements for the annual report and make every attempt to comply with those requirements.

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ADMINISTRATIVE 49.

Recommend that, beginning in February 1992, the annual report of the Maine High-Risk Insurance Organization cover the preceding fiscal year rather than calendar year, so that the report can be submitted by its statutory due date of February 1st.

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Upon further review of the Maine High-Risk Insurance Organization's annual reporting requirement, the Committee noted that the 1989 report covered calendar year 1989, rather than the



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fiscal year. The Committee found that this issue has been previously discussed with the original legislative sponsors and the Organization had been directed to submit its report on a fiscal year basis. The statutory reporting date of February 1st cannot be met for a calendar year report, and the program's appropriation, hospital assessments, and independent audit are all done on a fiscal year basis.

The Committee reiterates that the Organization's Annual Report should be based on the preceding fiscal year. Generating the report on a fiscal year basis will provide the Organization with ample opportunity to collect and evaluate the relevant data for publication on February 1st.

Therefore, the Committee recommends that, beginning in February 1992, the annual report of the Maine High-Risk Insurance Organization cover the preceding fiscal year rather than calendar year, so that the report can be submitted by its statutory due date of February 1st.

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ADMINISTRATIVE 50.

Direct that the Board refine the statistical reports to be provided by the Maine High-Risk Insurance plan administrator under the terms of the contract, to include a comprehensive breakdown of all program administrative costs, a more detailed claim activity report, and a concise utilization report.

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Upon review of the monthly reports submitted to the Board of Directors of the Maine High-Risk Insurance Organization by Mutual of Omaha, the plan administrator, as well as information provided in the annual report, the Committee found the following:

- some of the information provided was either not useful or was not presented in a useful format;
- inaccurate statistical tabulations; and
- some relevant information was not included.

For example, recent monthly summaries of administrative charges have reflected just the costs incurred by the plan

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administrator. Past monthly reports have not included, in a clearly delineated fashion, relevant expenditures generated by the Board itself or the Bureau of Medical Services.

Additionally, none of the recent reports have summarized the total number of claims submitted, the total dollar amount of submitted claims, the total dollar amount of claims paid, a breakdown of claims not paid (e.g. deductible not met, ineligible charge, etc.), and the number of insured persons who submit claims.

The Committee concluded that inclusion of the aforementioned data categories are important to providing a comprehensive overview of the Maine High-Risk Insurance Organization and its different activities. Therefore, the Committee directs that the Board refine the statistical reports to be provided by the Maine High-Risk Insurance plan administrator under the terms of the contract, to include a comprehensive breakdown of all program administrative costs, a more detailed claim activity report, and a concise utilization report.

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STATUTORY	51.	Eliminate the provision requiring legislative approval of assessments and expenditures of the Maine High-Risk Insurance Organization.
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Currently, a provision in the Maine High-Risk Insurance Organization's statute states that "The assessments and expenditures of the organization shall be subject to legislative approval" (24-A MRSA §6052, sub-§2). Upon review, the Committee found that this provision has never been carried out, and appears to be in conflict with the nature of the Organization as a separate, nonprofit entity. This provision also appears to encroach upon the overall powers statutorily delegated to the Board of Directors.

As mentioned earlier in this report, there are two distinct functions of the Maine High-Risk Insurance Organization which are funded by the General Fund:

- first, premiums are subsidized for certain enrollees on an income basis by a relatively small General Fund appropriation; \$36,000 in Fiscal Year 1991; and

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- second, the Organization's Reserve Fund is also funded by General Fund appropriation; \$1,026,655 for Fiscal Year 1992.

The plan administrator, Mutual of Omaha, is responsible for billing insured individuals for the premiums, investing the reserve fund, paying out claims, and accounting for all assets and expenses of the Organization. The State of Maine is not responsible for or involved in these functions, nor do these dollars flow through a state-controlled account (with the exception of the premium subsidy dollars, which are paid to the plan administrator, Mutual of Omaha, upon billing).

The Committee noted that the Organization's funds must be audited annually by an independent auditor whose report must be included in the Maine-High Risk Insurance Organization's annual report to the Legislature.

The Committee found that it is neither necessary or appropriate for the expenditures of the Maine High-Risk Insurance Organization to be approved by the Legislature as is currently described in Maine law. Therefore, the Committee recommends that current law be amended to eliminate the provision requiring legislative approval of assessments and expenditures of the Maine High-Risk Insurance Organization.

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FINDING

52.

The Committee finds that the Maine High-Risk Insurance Organization Board of Directors failed to issue a Request-for-Proposals for the administration of the program at the time required by statute.

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Prior to the passage of Public Law 1991, chapter 578, Maine law (24-A MRSA §6055) required that the program administrator serve for a period of 3 years and the board must solicit interested insurers to submit bids to become the program administrator. The provisions of this law also required that the next program administrator be selected before the final six months of the incumbent program administrator.

As noted earlier in this report, the first program administrator for the Maine High-Risk Insurance Organization was Mutual of Omaha; that company was selected through a bid process

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in 1987. Under the former provisions of 24-A MRSA §6055, the Organization was required to have started the bid process, and selected a program administrator (new or same) by June of 1991.

Upon review, the Committee found that the Board of Directors for the Maine High-Risk Insurance Organization did not initiate the bid process as required by law. Instead, the Board proposed a statutory amendment to the Legislature which eventually ended up as a part of Public Law 1991, chapter 578. In brief, the current version of 24-A MRSA §5055 now stipulates that the "initial" program administrator serve until June 30, 1992 with subsequent program administrators serving terms which will be decided upon by the Board of Directors. Current law retains the original requirement that the bid process be initiated a year before the end of the term in question and that a succeeding program administrator be selected prior to the final six months of the term.

In an earlier section of this report, the Committee noted the relatively high administrative charges of the present (and initial) program administrator; Mutual of Omaha. Because of concerns about the current administrative costs, the Committee wanted to document through a formal finding that the Board of Directors had not complied with the provisions of former law which might have resulted in lower administrative costs as early as 1991.

Therefore, the Committee finds that the Maine High-Risk Insurance Organization Board of Directors failed to issue a Request-for-Proposals for the administration of the program at the time required by statute.

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ADMINISTRATIVE 53.

Instruct the Maine High-Risk Insurance Program administrator to ensure that the existence of premium subsidies be communicated to all applicants in a more noticeable manner.

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The Committee noted that its survey of persons enrolled in the Maine High-Risk Insurance Organization showed that a significant minority of the respondents claimed that they had not been notified that financial assistance was available for premium payments if their income was below a predetermined level. Almost 25% of the survey respondents responded in this fashion; see question 5, Appendix 1.

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While the Committee acknowledges that more than 73% of the survey respondents stated that they had been informed of the availability of financial assistance for premium payments, the Committee remained concerned that nearly one in four respondents did not have adequate knowledge about these subsidies.

Therefore, to help ensure that individuals enrolled in the program administered by the Maine High-Risk Insurance Organization know about the premium subsidies, the Committee instructs the Maine High-Risk Insurance Organization program administrator to ensure that the existence of premium subsidies be communicated to all applicants in a more noticeable manner.

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ADMINISTRATIVE	54.	Send a notice informing each enrollee that the program has been continued past June 30, 1992 by an Act of the Legislature.
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As stated earlier in this report, the Maine High-Risk Insurance Organization was subject to termination on June 30, 1992 if it had not been expressly continued by an Act of the Legislature. In fact, the Maine High-Risk Insurance Organization was continued under the provisions of the Maine Sunset Law; this continuance was contained in Public Law 1991, chapter 837.

The Committee's survey of persons covered by the Maine High-Risk Insurance Organization showed that many of the respondents were not aware that the program was subject to automatic termination if not continued by the Legislature; see question 10, Appendix 1. Since this fact had been apparently learned for the first time by many program participants through the information contained in the survey, the Committee concluded that these same participants ought to be explicitly informed that the program has been continued by an Act of law.

Therefore, the Committee recommends that the Board of Directors for the Maine High-Risk Insurance Organization, send a notice informing each enrollee that the program has been continued past June 30, 1992 by an Act of the Legislature.

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STATUTORY            55.            Stipulate that the previously unspecified member of the Maine High-Risk Insurance Organization Board of Directors must represent the life and health field of insurance.

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STATUTORY            56.            Specify that the insurance industry member on the Board of Directors of the Maine High-Risk Insurance Organization must represent insurance agents, brokers, or companies.

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Prior to the passage of Public Law 1991, chapter 837, Maine law [24-A MRSA §6052 (3)], specified that the 7-member Board of the Maine High-Risk Insurance Organization was comprised of the following members, appointed by the Governor:

- 2 insurance consumers;
- 1 domestic commercial insurer representative;
- 1 non-profit hospital and medical service organization (BC/BS) representative;
- 1 hospital representative;
- the Superintendent of Insurance or designee; and
- 1 non-specified member whose representation is at the Governor's discretion.

Upon review of the make-up of the Board of Directors for the Maine High-Risk Insurance Organization, the Committee found that the specified membership was lacking in 2 respects:

- first, the Board was lacking specific representation from the life and health field of insurance. In fact, the Committee found that this particular constituency was the only such

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identifiable group (relative to the topic of high-risk insurance coverage) which was not explicitly represented on the Board of Directors;

- second, the Committee found that the statutory reference to a member who must represent, "... domestic commercial insurers" was a fairly inexact phrase. The Committee also found that a more useful phrase would specify that this member would represent "insurance agents, brokers, or companies".

Therefore, the Committee is making two statutory recommendations. First, the Committee recommends that current law be amended to stipulate that the previously unspecified member of the Maine High-Risk Insurance Organization Board of Directors must represent the life and health field of insurance. Second, the Committee recommends that current law also be amended to specify that the insurance industry member on the Board of Directors of the Maine High-Risk Insurance Organization must represent insurance agents, brokers, or companies.

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FINDING

57.

The Committee finds that vacancies of long duration on the Board of Directors of the Maine High-Risk Insurance Organization are not in the best interests of any of the program's constituents.

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Upon review, the Committee noted that in recent years, several of the specified membership slots on the Board of Directors for the Maine High-Risk Insurance Organization, have gone unfilled for a number of months. The Committee concluded that prolonged vacancies on the Board have the effect of depriving the affected constituencies of the representation intended by current law.

Therefore, the Committee issues a finding that vacancies of long duration on the Board of Directors of the Maine High-Risk Insurance Organization are not in the best interests of any of the program's constituents.

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FINDING

58.

The Committee finds that hospital assessments continue to be the most logical funding sources for the high-risk pool reserve fund.

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Prior to the first session of the 115th Legislature, the high-risk pool reserve fund was funded by an assessment of 15% on hospitals. Currently, as a result of Public Law 1991, chapter 591, the reserve fund is funded directly by the General Fund.

The Committee understands, however, that the General Fund appropriation is less than what the pool would have received through a direct assessment. Past General Fund appropriations have been adequate to support approximately 450 enrollees. The program insures approximately 412 enrollees as of May 1992. However, the program is authorized to extend major medical expense coverage to up to 600 eligible people.

The Committee further notes that, in the event that the funding for the pool reverts to an assessment on hospitals, that the Maine High-Risk Insurance Organization Board of Directors should consider imposing a penalty for non-payment of the assessment. In this way, hospitals would have an incentive to pay the assessment and maintain the pool at adequate levels.

In recognition that the assessment on hospitals would provide more revenue to the reserve fund than does a direct appropriation from the General Fund, the Committee finds that hospital assessments continue to be the most logical funding sources for the high-risk pool reserve fund.

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STATUTORY

59.

Authorize the Board of Directors of the Maine-High Risk Insurance Organization to establish an enrollment level based on the funding available to cover anticipated claims and maintain adequate reserve funds, not to exceed the statutory enrollment cap of 600.

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As noted in the introduction, prior to July 1, 1991, the



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reserve pool used to pay expenses and claims above premium income was funded by an assessment of 0.15% of all hospitals' gross patient services revenues. Since that time, the Legislature has eliminated the direct assessment on hospitals for the benefit of the reserve fund and, instead, now supports the reserve fund by means of an appropriation from the General Fund.

Also, current law authorizes the Organization to offer major medical expense coverage to up to 600 eligible people [24-A MRSA §6058].

The Committee finds that the current General Fund appropriation to the reserve fund is adequate to provide medical coverage to current enrollees, totalling about 400 people. However, funds in the reserve pool would not be adequate to provide medical benefits to 600 people, if the full complement were enrolled, as authorized by law.

In order to ensure that the medical benefits contemplated in the law continue to be available to all enrollees and not dilute the effectiveness of the coverage available, the Committee finds that enrollment must be adjusted according to the amount of funds available in the reserve fund. Accordingly, the Committee recommends that that Board of the Maine High-Risk Insurance Organization be authorized to establish an enrollment level based on the funding available to cover anticipated claims and maintain adequate reserve funds, not to exceed the statutory enrollment cap of 600.

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## STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

### Creation and Purpose

The State Board of Registration for Professional Engineers was established in 1935 by Public Law 1935, chapter 189. In 1936, the Board was the 36th state board to affiliate with the then named National Council of State Boards of Engineering Examiners.

The purpose of the Board is to "safeguard life, health and property" by ensuring that anyone practicing, or offering to practice, the profession of engineering is qualified to do so, as defined by statute. The Board maintains and publishes a roster of all professional engineers registered in the State.

### Activities

**Administration of exams** - Beginning in 1957, engineering seniors at the University of Maine have been offered a comprehensive engineering fundamentals exam and those who passed were recognized by the Board through the issuance of an Engineer-in-Training (EIT) certificate. In 1962, registration qualifications for engineers expanded to include passage of a 16 hour exam comprised of 2 parts: an 8 hour "fundamentals" exam (FE) and an 8 hour "principles and practice" exam (PE). These standardized exams are devised, printed, and scored by the National Council of Examiners for Engineering and Surveying (NCEES) and administered by all the states on uniform dates in April and October for the four principle options of civil, mechanical, electrical and chemical engineering. Nine less frequently requested options (e.g. agricultural, metallurgical, etc.) are offered in October only. The Board administered 550 FE and 375 PE exams in 1989 and 1990. Sixty-two percent (341) and fifty-eight percent (217) respectively, of examinees passed the exams.

**Registration of engineers and engineers-in-training** - During the first 20 years of the Board's existence, it received about 53 applications and registered an average of 34 engineers each year. Currently, about 400 new engineers are registered in Maine each year, out of about 500 applications. Total active registrations exceeded 1,000 in 1957, 2,000 in 1973, 3,000 in 1981 and 5,000 in 1991. Only about 37% of current registrants are Maine residents.

The steps involved in registration vary depending on the

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applicant's qualifications, and may require verification and/or evaluation of education and experience, completion of written or oral exams, approval of reciprocity, approval of registration, billing, and issuance of certificates. Qualified applicants include:

- an engineer registered by another state or country with comparable written exam and requirements;
- an approved B.S. Engineering degree, 4 years of professional experience, and successful completion of the two, 8-hour written exams;
- an approved B.S. Engineering Tech degree, 6 years experience, and the written exams;
- a high school education with 12 years or more of progressive engineering experience and passage of the 2 exams; or
- 15 years of lawful practice and passage of an oral or written exam on principles and practice.

An Engineer-in-Training (EIT) certificate is awarded if the applicant:

- attended an approved 4 year engineering curriculum and passed the fundamentals exam (FE); and
- graduated from high school, has 8 or more years experience and passed the fundamentals exam.

The EIT certificate is valid for 12 years and can be awarded even if the applicant is not practicing engineering at the time of his or her application.

Registrations expire and must be renewed every two years at the end of December of each odd numbered year. Rosters are printed by March of each even numbered year, with a supplement published in the alternate years.

**Process and investigate complaints** - The Committee found that prior to 1987, the Board received 2 to 3 complaints each year. Thirty (30) complaints were logged in 1990 and over 40 were received in 1991. Complaints are of two types; accusations of either unlicensed practice (80-85%) or unethical practice (15-20%). While the Board only has the statutory authority to receive complaints, the vast majority of complaints have been

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handled without needing to turn them over to the Attorney General's Office for prosecution. The Committee found that about 60% of the unlicensed practice complaints have little or no foundation. However, the Committee also found that unethical practice complaints, while much less frequent, are much more likely to have some basis in fact.

Each year, one member of the Board is appointed as the Complaint Officer to oversee the complaint processing and make recommendations to the Board. The identities of the parties to the complaint are shielded from the Board, which takes final action on a case and/or directs additional steps, if necessary. The Attorney General is kept apprised of all actions and correspondence and legal advice is sought, as required, by the Complaint Officer, Secretary, and Board.

**Requests for Information** - Information requests are handled at the appropriate level. These include consultation type rulings on issues such as using old plans sealed by another engineer, and automated plan preparation (how and when plans are sealed).

#### Organization and Staffing

The State Board of Registration is comprised of 6 members: 5 professional engineers (minimum 12 years experience) and 1 public member, all appointed by the Governor for 5 year terms. A 1983 amendment limited membership to 2 full consecutive terms.

The Board of Registration for Professional Engineers is one of the few professional licensing boards that does not receive per diem. Board members are reimbursed for expenses.

The Board annually elects a chair and vice-chair, and appoints the following committees: Executive, Finance, Rules and Regulations, Examinations, Information, and Complaints. Required by state to meet at least once annually, the Board generally holds 5 - 6 meetings during the year.

The Board contracts for a Professional Engineer, (generally retired) to act as Executive Secretary. In the past, the contract was based on services required rather than hours spent and was generally perceived to require about one day a week. The current workload for the Secretary, however, is necessitating a contract for a three day work week. Since 1988, the Board has also employed a full time Office Manager and an intermittent clerical position.

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### Funding and Expenditures

The State Board of Registration for Professional Engineers is funded solely by dedicated revenue generated from fees. The Board's fee schedule is as follows:

Fundamentals exam (FE)	\$35
Principles and practice exam (PE)	\$60
Registration or EIT application fee	\$10
Registration as PE	\$20
Renewal	\$40 (2 years)
EIT certificate	N/C

The Board's authorizing legislation was amended last session to raise the statutory caps on registration and renewal fees to \$40 and \$80 respectively. Current fees are set at half those amounts.

Total Fiscal Year 1991 expenditures of the Board were \$98,600, as follows:

Personal Services	\$27,591
All Other	<u>\$71,009</u>
Total	\$98,700

Total revenues collected in FY 1991 were \$33,797. Because all certificates of registration expire on December 31 of the odd numbered years, revenues are significantly higher in the even numbered fiscal years. For example, Fiscal Year 1990 revenues were \$139,260, and are projected at \$189,400 for Fiscal Year 1992. The Board carries alternating large and smaller balances forward due to its biennial cash flow cycle. Balances forward for the last few years have been as follows:

<u>Fiscal Year</u>	<u>Balance Carried Forward</u>
1988	\$ 74,104
1989	\$ 34,532
1990	\$ 95,791
1991	\$ 33,870
1992 (projected)	\$108,610
1993 (projected)	\$ 39,310

### Automation

To increase productivity and efficiency of office staff and

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to improve engineers-in-training records, the Board has recently upgraded its personal computer and software. Allotment and purchasing complications, caused primarily by the state's recent budget problems, have created substantial delays in the acquisition process.

### Emerging Issues

The Committee found that recently there has been a desirable national trend toward removing the federal government and industry exemptions from registration requirements for professional engineers. Currently, officers and employees of the United States Government are exempted from the registration requirements. However, the Federal Government only requires one year of engineering experience for professional practice in at least one of its departments, while most states require at least 4 years.

The Committee also found that most chemical and electrical engineers are becoming registered, to more nearly match the registration rates of civil and mechanical engineers. The Committee noted that this welcome trend is likely to improve the accountability and the overall integrity of the practice of engineering.

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STATUTORY

60.

Continue the State Board of Registration for Professional Engineers under the provisions of the Maine Sunset law.

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FINDING

61.

The Committee finds that the State Board of Registration for Professional Engineers carries out its mandates to test, license, and monitor the activities of professional engineers registered in Maine in an exemplary, efficient, and courteous manner.

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The Committee has conducted a thorough review of the activities and performance of the State Board of Registration for Professional Engineers. After reviewing this Board and consulting with those it serves, the Committee found that the Board is fulfilling its mandate to protect the health, safety, and economic well-being of the public by ensuring qualified engineering practice in the State in an exemplary, efficient, and courteous manner. Therefore the Committee recommends continuing the State Board of Registration for Professional Engineers under the provisions of the Maine Sunset Law.

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ADMINISTRATIVE	62.	Direct the State Board of Registration for Professional Engineers to review the continuing education requirements for engineers enacted by Iowa and Alabama, and consider the advisability of adopting such requirements in Maine.
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Upon review, the Committee noted that the State Board of Registration for Professional Engineers does not currently have any continuing education requirements. This topic was raised by a number of persons who responded to a letter of general inquiry which was sent by the Committee to gather information on the Board's performance.

In particular, one respondent inquired about whether the Board had ever considered re-testing, refresher courses, or other form of continuing education requirements for engineers. The concern expressed was that there seemed to be no systematic method for ensuring that professional engineers are kept abreast of new regulations (e.g. ozone depletion chemicals) that evolve naturally as the profession develops and as government responds to emerging information and circumstances. The Committee found that these comments were not in response to any direct knowledge of grave disasters or problems resulting from the actions of uninformed engineers.

Through testimony from the Chief Engineer for the Department of Transportation and Chair of the Board of Registration, the Committee found that professional engineers

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spend about 25% of their time upgrading their knowledge and skills, and that one couldn't continue to practice without doing so. Engineers specialize in one of the general branches (civil, mechanical, electrical, chemical, etc.). Each branch has professional organizations that do work to keep their members informed about new developments and regulations. This testimony also indicated that, while there are not legal requirements, engineers are sworn by their own code of ethics only to practice in fields that they are qualified in. Only seven states register engineers by specific discipline; all other states simply register "professional engineers."

The Committee contacted the National Council of Examiners for Engineering and Surveying and found that two states, Iowa and Alabama, have continuing education requirements for engineers and that similar legislation was being considered in Wyoming. The Committee also received information from the Council indicating that the likely trend will be for more states to pass continuing education requirements.

The Committee also compared the requirements for engineers with another comparable profession, that of architects. Information received from the Board of Registration for Architects indicated that, while the Maine Board does not require or recommend continuing education or recertification requirements, their National Board is discussing doing so, and some states are also considering such requirements.

The Committee finds that, though still in the early stages, the national trend is toward mandating continuing education for professional engineers. Therefore, the Committee directs the State Board of Registration for Professional Engineers to review the continuing education requirements for engineers enacted by Iowa and Alabama, and consider the advisability of adopting such requirements in Maine.



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## BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

### Purpose and Mandate

Current law governing professional land surveyors requires the board to "administer and enforce this chapter and evaluate the qualifications of applicants for licensing" [32 MRSA §13903]. Furthermore, the board is required to investigate (or cause to be investigated) any complaints made to it of any cases of noncompliance with or violations of the land surveyor governing law.

The law [32 MRSA §13901 sub-§6] defines the "practice of land surveying" as "any service or work involving the application of:

- special knowledge of the rules of evidence and boundary laws, principles of mathematics, and the related physical and applied sciences for:
- measuring and locating lines, angles, elevations, and natural and man-made features
- in the air, on the surface of the earth, within underground workings and on the beds of bodies of water.

This service or work shall be for the purposes of:

- determining areas and volumes,
- for the monumenting of property boundaries; and for
- the platting and layout of lands and subdivisions of land, including topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys"

The Committee found that this definition, included as part of the law's 1989 revision, not only includes the traditional notion of surveying to define boundaries "on the surface of the earth"; the definition also encompasses measuring and surveying for features other than boundaries. For example, hydrographic surveying is contemplated in the definition [i.e. "on the beds and bodies of water"], mining and engineering [i.e. "within underground workings"], and mapping topography.

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Upon review, the Committee also found that two long-range tasks of the Board are to review and revise current standard governing boundary measurements and to develop standards for surveying practices which are used for purposes other than setting boundary lines.

Current law (32 MRSA §13903) also includes the following responsibilities for the Board:

- The Board must evaluate the qualifications of applicants for licensing and investigate complaints;
- The Board may adopt rules "as may be reasonably necessary for the proper performance of its duties and the administration of land surveyor law";
- The Board may conduct hearings "to assist with investigations to determine whether grounds exist for nonrenewal, suspension, revocation, or denial of a license, or other disciplinary action as necessary...";
- The Board may "enter into contracts...";
- The Board may advise the Commissioner of Professional and Financial Regulation regarding the appointment of employees. Employees are located in the Department of Professional and Financial Regulation and are under the administrative and supervisory direction of the Commissioner;
- The Board must keep records and minutes "as are necessary to the ordinary dispatch of its functions." The Board is also required to submit an Annual Report "of its operation and financial position" on or before August 1 of each year; and
- The Board must submit its budgetary requirements to the Commissioner.

#### History

The profession of land surveying was first regulated by the Legislature by establishing the "State Board of Registration for Land Surveyors in October 1967 (i.e. "An Act Providing for the Registration of Land Surveyors" - PL 1967 Ch. 423).

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The Board was created in 1967 as a board affiliated with the Department of Professional and Financial Regulation. As an affiliated board, the board had its own office space separate from the Department and its own clerical and administrative support services.

In 1989, the Legislature made the Board internal to the Department of Professional and Financial Regulation (PL 1989 Ch. 346). The Committee finds that the Board favored the change in status from affiliated to internal for three reasons: 1) the lack of permanent office space for the Board, 2) the (then) impending retirement of the long-standing Board Secretary, and 3) the need for legislative approval to increase fees. In addition to internalizing the Board, the 1989 legislation revised the Board by:

- changing the name to correctly reflect the level of regulation (licensure) provided by the Board to the professional community, i.e. "Board of Licensure for Professional Land Surveyors";
- authorizing the Board to establish an application fee and an examination fee "in amounts which are reasonable and necessary" within a biennial cap for land surveyors of \$200 and \$100 for land surveyors-in-training. (Formerly, specific fees had appeared in statute);
- revising and adding certain definitions; and
- modifying the powers of the Board.

#### Organization and Method of Operation

The Board of Licensure for Professional Land Surveyors consists of seven members appointed by the Governor; five must be professional land surveyors and two must be public members [32 MRSA §13902 sub-§1].

The only requirements for nomination as a Board member are [32 MRSA §13902 sub-§1]:

- all members must be U.S. citizens and Maine residents;
- the land surveyor members must have been licensed for not less than ten years; and

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- the public members are prohibited from being, or having been, professional land surveyors.

Appointments are made for five-year terms and no person is eligible to serve more than two full consecutive terms. Members may be removed from the Board by the Governor for cause, and vacancies are filled for the unexpired term by gubernatorial appointment.

Members are compensated at a rate of \$35/day (5 MRSA §12004-A sub-§21) and are required to meet at least once per year. The Board is authorized to elect or appoint a chair, a vice-chair, and a secretary. In practice, the Board's rules specify that the Board shall meet six times per year; in February, April, June, August, October, and December.

The Board's rules authorize the Chair to appoint members to five subcommittees (Chapter 2). The first set of members were appointed in February of 1991 by the Board. The subcommittees are:

- Examinations;
  - to "recommend the nature and scope of examinations to be held by the Board, and oversee all examination procedures"
- Rules;
  - to consider and recommend to the Board modification of the rules;
- Finance;
  - to "review all financial statements, report its findings to the Board, and prepare and recommend a budget to the Board...;
- Education;
  - to "serve as the liaison with educational institutions and professional societies to promote land surveying education, and recommend to the Board education requirements for licensure and continuing education requirements for relicensure"; and
- Executive

The subcommittees meet as often as needed but only if funds are available. The Committee found that prior to the last several years, the Board and its subcommittees had been meeting frequently in order to carry out Board business necessitated by the move into the Department. More recently, Board workload has leveled out and the Board is meeting less frequently.

The Department of Professional and Financial Regulation provides staffing and administrative support to 36 professional regulatory boards. The Board of Licensure for Professional Land Surveyors is one of ten boards grouped into the category of "Trade" boards which receives a percentage of time from three staff people: the Board Coordinator for the "Trade" boards; a Clerk Typist III; and a Clerk Typist II. The Department's Division of Licensing and Enforcement is located at the Annex on Northern Avenue in Gardiner.

The Board regulates two professional classifications: Professional Land Surveyor [PLS] and Land Surveyor-in-Training [LSIT]. The numbers of professionals regulated since FY 1986 appear in the following table:

	<u>PLS</u>	<u>LSIT</u>	<u>TOTAL</u>
FY 86	960	488	1448
FY 87	964	500	1464
FY 88	960	529	1489
FY 89	993	553	1546
FY 90	1030	593	1842
As of 10/91	882	589	1471

The law prohibits any person from practicing land surveying or professing to be a professional land surveyor or professional land surveyor-in-training unless the person is licensed. A person who engages in unlicensed practice is guilty of a Class E Crime [32 MRSA § 13904].

**Licensure Procedures** for the two professional classifications are as follows:

**1. Land Surveyor-in-Training - Request for Examination**

- Upon receipt of a Request for Examination and examination fee, the Board Clerk date-stamps the request and any attachments and notifies the applicant of the date, time, and place to sit for the "Fundamentals of Land Surveying" examination.

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- Following receipt of the examination scores, at the next scheduled Board meeting, the Board reviews the results and establishes a minimum passing score.
  - No later than 15 working days after the Board's review, the Board Clerk notifies the applicant of the minimum passing score, the applicant's own score, and one of two results:
    - either the examinee has passed the examination and must submit a complete application for licensure as a Land Surveyor-in-Training to the Board within 24 months for the examination to be considered as part of the application; or
    - the examinee has not passed the examination, and that re-examination may be scheduled by submitting a new Request for Examination and a new examination fee.

## 2. Land Surveyor-in-Training Application for Licensure

- Upon receipt of an Application for Licensure as a Land Surveyor-in-Training and application fee, the Board Clerk date-stamps the application and any attachments, notes on the application whether the applicant has passed the Fundamentals of Land Surveying examination within the twenty-four (24) months preceding the date of receipt, reviews the application for completeness, and notifies the applicant that:
  - The application is complete and is submitted to the Board at its next scheduled meeting; or
  - The application is incomplete, listing the information necessary to complete the application and informing the applicant that failure to supply the missing information within six (6) months of the application receipt date will result in the automatic rejection of the application and forfeiture of the application fee.
- At each regular meeting, the Board rules on the qualifications of all applicants whose complete

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applications were received thirty (30) or more calendar days before the meeting.

- No later than fifteen (15) working days after the Board's review, the Board Clerk notifies the applicant that:
  - The applicant was found to be qualified, and that a license will be issued upon receipt of the license fee; or
  - The applicant was not found to be qualified, listing the reason(s) for the Board's finding.

### **3. Professional Land Surveyor Application for Licensure.**

- Upon receipt of an Application for Licensure as a Professional Land Surveyor, the Board Clerk date-stamps the application and all attachments, reviews the application for completeness, and notifies the applicant that:
  - The application is complete and will be submitted to the Board for review at its next regular meeting; or
  - The application is incomplete, listing the information necessary to complete the application, and informing the applicant that failure to supply the required additional information within six (6) months of the application receipt date will result in automatic rejection of the application and forfeiture of the application fee.
- At each regular Board meeting, the Board rules on the qualifications of all applicants whose complete applications were received thirty (30) or more calendar days before the meeting.
- No later than fifteen (15) working days after the Board review, the Clerk notifies the applicant of the Board's finding that:
  - The applicant is qualified to sit for the Principles and Practices of Land Surveying Examination, and will be informed of the date, time, and place of the examination upon receipt of the examination fee; or

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- The applicant is not qualified to sit for the examination, listing the reason(s) for the Board finding.
  - At the regular Board meeting immediately following receipt of the examination scores, the Board reviews the results and establish a minimum passing score.
  - No later than fifteen (15) working days after the Board's review, the Board Clerk notifies the applicant of the minimum passing score, the applicant's own score, and that:
    - The applicant has passed the examination and will be issued a license upon receipt of the license fee; or
    - The applicant has not passed the examination and that re-examination may be scheduled by submitting a written request for re-examination, together with the examination fee. Requests for re-examination received more than eighteen (18) months after the date of the original application shall be accompanied by a new application and application fee.

All licenses expire on the last day of December of each odd-numbered year and become invalid on that date unless renewed. Board rules specify that the Board notify each licensed person of the date of expiration. A late renewal application may be accepted by the Board up to 90 days after the date of expiration, upon the applicant's payment of an additional \$10 late renewal fee.

The law requires that a successful applicant for licensure as a **Professional Land Surveyor-in-Training** must be in one of the following categories:

A. A college graduate with a baccalaureate degree, which includes a minimum surveying core curriculum approved by the board, who has passed a written examination in the fundamentals of land surveying;

B. A college graduate with an associate degree, which includes a minimum surveying core curriculum approved by the board, who has had 2 years of surveying experience acceptable to the board, and



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has passed a written examination in the fundamentals of land surveying;

C. A person who has completed a minimum surveying core curriculum approved by the board, has had 6 years of surveying experience acceptable to the board, and has passed a written examination in the fundamentals of land surveying;

D. A person who has had 7 years of surveying experience acceptable to the board and has passed a written examination in the fundamentals of land surveying;

E. A person holding a license as a surveyor-in-training issued on comparable qualifications from a state, territory or possession of the United States with experience satisfactory to the board is given comity consideration. The applicant may be required to take examinations as the board determines necessary to determine the applicant's qualifications;

F. Any person certified as a land surveyor-in-training on the effective date of this section is allowed to continue in that capacity until the certification is due for renewal. At that time and upon payment of the appropriate fee, the person shall be granted a license as a professional land surveyor-in-training, notwithstanding any other requirement; and

G. Any person whose application for certification as a land surveyor-in-training has been received by the board before the effective date of the governing legislation comes under the licensure provisions of the law then in effect. This provision also includes any person who had submitted and had approved by the board in writing a minimum course of study to satisfy the licensing requirements then in effect.

A successful applicant for licensure as a **Professional Land Surveyor** must be in one of the following categories:

A. A professional land surveyor-in-training with a specific record of 2 additional years of progressive combined office and field experience satisfactory to the board which was under the supervision of a professional land surveyor, must be admitted to a

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written examination in the principles and practice of land surveying. Upon passing the examination, the applicant shall be granted a license to practice land surveying in this State.

B. A person holding a license as a professional land surveyor issued on comparable qualifications from a state, territory or possession of the United States with experience satisfactory to the board is given comity consideration. The applicant may be required to take examinations as the board determines necessary to determine the applicant's qualifications.

C. Persons registered on the effective date of this section are allowed to continue to practice land surveying until their registration is due for renewal. At that time, they are granted a license to practice, notwithstanding any other requirement of the law.

D. Any person whose application for registered land surveyor has been received by the department before the change in law becomes effective shall come under the licensure provisions of the law then in effect. This provision shall also include any person who had submitted and had approved by the board in writing a minimum course of study to satisfy the licensing requirements then in effect.

As noted, the Board has the responsibility to approve a minimum surveying core curriculum. The Board's rules specify 3 credit hours for all of the following courses, except for mathematics, which requires 6 credit hours:

- Plane Surveying
- Advanced Plane Surveying
- Boundary Law
- English Composition
- Mathematics
- Advanced Communication
- Business and Law
- Science
- Computer Usage

Licensees are not subject to continuing education requirements, although the issue is currently under discussion by the Board.

The Board is also required to judge "satisfactory

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experience" in making licensure decisions. Board rules define "experience satisfactory to the Board" as including:

1. Land surveying experience including experience in each of the following: research, field work, computations, data analysis, plan development, drafting of deed descriptions, and report writing;
2. Time spent teaching subjects pertaining to elementary or advanced surveying or the application of surveying to real property, in a curriculum acceptable to the Board, may be considered acceptable experience;
3. Part-time work spent on the job;
4. Experience must be progressively more complex in nature; and
5. Experience must be verified.

Examinations are held in April and October of each year. The "Fundamentals of Land Surveying" examination, taken by Land Surveyor-in-Training (LSIT) applicants, is an eight hour examination which tests knowledge of basic principles and the application of mathematical formulae to basic surveying problems. The "Principles and Practices of Land Surveying" examination, taken by Professional Land Surveyor applicants, is a three-part examination. The first part is four hours and tests overall competence in the professional aspects of land surveying. The second part is a three hour exam which tests the principles and practices of land surveying "as practiced in the Colonial States". Part III tests Maine-specific surveying practices.

Applicants are allowed to use calculators and to refer to texts and notebooks for the "open-book" part of the examination.

#### Enforcement and Complaints

Title 10 §8003 sub-§5 authorizes all boards, including the Board of Professional Land Surveyors, to take enforcement action such as:

- issue warnings, censures, or reprimands to a licensee or registrant;
- suspend a license or registration for up to 90 days for each violation of applicable laws,

rules, and conditions of licensure or registration;

- impose civil penalties of up to \$1,500 for each violation of applicable laws; and
- impose conditions of probation upon an applicant, licensee or registrant.

Also, Title 10 authorizes the Board to execute a consent agreement which resolves a complaint or investigation without further proceedings.

From January of 1990 to October of 1991, the Board received 29 complaints. Of these, 21 were determined (by the Board's Complaint Officer and AG) to be outside of the Board's jurisdiction. Four complaints were dismissed after consideration by the Board. The final four were resolved via consent agreement, which included 3 fines @ \$250 and 2 suspended licenses. Figures appear below:

COMPLAINTS FROM JANUARY 1990 TO OCTOBER 1991

**OUTSIDE OF BOARD'S  
JURISDICTION**

**WITHIN BOARD'S JURISDICTION**

Boundary Disputes	13	Complaints Dismissed	3
Unlicensed Practice	4	Complaints Pending	2
Deed Dispute	1	Resolved - Consent Agreement	3
Fee Dispute	1	Of these:	
Boundary & Fee Dispute	1	Fined (@ \$250)	3
Complaint regarding	1	License Suspended	2
enforcement of Board		[i.e. One paid the fine. Two did	
standards		not pay the fine and their	
		licenses were suspended as a	
		result]	
<b>TOTAL</b>	<b>21</b>	<b>TOTAL</b>	<b>8</b>

In practice, the Committee finds that all complaints for each of the 36 internal Boards are fielded by the Case Compliance Officer for the Department of Professional and Financial Regulation. The Case Compliance Officer ensures that all parties to the complaint receive due process while reviewing the complaint. The complaint is transmitted to the Complaint Officer on the Board. The Board's Complaint Officer and the Board's Assistant Attorney General draw a conclusion about the complaint

and schedule a review of the complaint by the Board. The Board may refer some complaints outside its jurisdiction, such as unlicensed practice, to the Attorney General. Or, if the Board decides further action is warranted, the Board will hold a full adjudicatory hearing according to the Administrative Procedures Act.

Like all other professional licensing boards in the Department of Professional and Financial Regulation, the Board of Licensure for Professional Land Surveyors receives legal advice and representation from an Assistant Attorney General from the Department of Attorney General.

### Revenues and Expenditures

The Board administers a number of fees which constitute the Board's dedicated revenues. The Board recently went through the Administrative Procedures Act process to increase fees to the following levels:

Land Surveyor-in-Training Exam Fee	\$ 75
Land Surveyor-in-Training Application Fee	50
Land Surveyor-in-Training License Fee*	75
Land Surveyor-in-Training Renewal Fee	75
Professional Land Surveyor Exam Fee	150
PLS Re-examination fee (1 or 2 parts)	100
Professional Land Surveyor Application Fee	50
Professional Land Surveyor License Fee*	140
Professional Land Surveyor Renewal Fee	140
Late Renewal Fee (up to 90 days late)	10
Replacement Certificate	25

\*License fees paid in the second half of the biennium (odd numbered years) shall be equal to one-half the full license fee.

As shown in the table below, the fees charged by the Board from 1969 until the Board's internalization in 1989 were \$50 for PLS and \$25 for LSITs. In 1989, the fees were increased to \$120 and \$60, respectively. The recent fee increase set fees at \$140 and \$75, respectively, for biennial licenses.

### History of License Fees

	<u>1968</u>	<u>1989</u>	<u>1991</u>
Land Surveyors	\$50	\$120	\$140
LSITs	\$25	\$ 60	\$ 75

The Board is entirely supported by Other Special Revenue in the form of various fees for licensure, examination, application etc. Licenses are issued for two years, creating an influx of revenue by December 31 of odd-numbered years, when licenses expire and must be renewed.

The following table shows revenue available and expenditures by group for seven fiscal years. As shown, the Board has had a carrying balance each of these years, varying from \$567 to \$47,829, which is a result of biennial renewal of licenses.

#### REVENUES AND EXPENDITURES

	<u>87</u>	<u>88</u>	<u>89</u>	<u>90</u>	<u>91</u>	BUDGETED <u>92</u>	PROJECTED <u>93</u>
Beginning Cash Balance	19,575	12,369	22,249	567	47,829	3,949	54,034
Fees - Application; Exam; Re-exam; Registration	7,635	27,985	15,234	109,915	22,320	120,597	
Transferred Out-DP&FR Admin.			(15,442)	(16,321.29)	(31,602)	(45,910)	
<b>TOTAL CASH AVAILABLE</b>	<b>27,210</b>	<b>40,354</b>	<b>22,041</b>	<b>94,160.71</b>	<b>38,547</b>	<b>78,636</b>	
Personal Services	0	0	0	2,660	4,550	3,000	3,000
All Other	14,841	18,105	21,474	43,672.07	30,048.38	21,602	22,636
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
<b>CASH EXPENDED</b>	<b>14,841</b>	<b>18,105</b>	<b>21,474</b>	<b>46,332.07</b>	<b>34,598</b>	<b>24,602</b>	<b>25,636</b>
<b>CARRIED FORWARD</b>	<b>12,369</b>	<b>22,249</b>	<b>567</b>	<b>47,828.64</b>	<b>3,949</b>	<b>54,034</b>	

To provide longer term financial analysis than has been available in the past, the Board Coordinator from the Department of Professional and Financial Regulation provides the Board with:

- a monthly analysis showing year-to-date revenue and percentage of budgeted revenues and expenditures received or spent, as well as financial comparisons with two prior fiscal years; and
- a six year projection of Board revenues and expenditures.

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STATUTORY

63.

Continue the Board of Licensure of Professional Land Surveyors pursuant to the Maine Sunset Act.

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The purpose of the Board of Licensure of Professional Land Surveyors is to provide the citizens of Maine with assurance that the surveying of land conforms to certain minimum standards, that surveyors will respect and safeguard property rights, and the public welfare is improved and benefitted by the effective and efficient regulation of the surveying profession.

The Committee finds that the Board provides an important service necessary to protect the public health and welfare. Therefore, the Committee recommends that the Board of Licensure of Professional Land Surveyors be continued pursuant to the Maine Sunset Act.

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ADMINISTRATIVE

64.

In order to ensure a mutually cooperative and effective approach to unlicensed practice, recommend that the Board of Licensure of Professional Land Surveyors establish Memorandums of Agreement with other relevant professional regulatory boards regarding cooperative action to be taken against professionals practicing outside the scope of their licensed practice.

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Currently, the Board of Licensure of Professional Land Surveyors has no authority to address practice by unlicensed people. As noted earlier in this report, unlicensed practice is a Class E crime [32 MRSA §13904]. Since the Board's mandate extends to dealing with licensed practice only, and, unlicensed practice is a crime, all instances of unlicensed practice are referred to the Attorney General for prosecution in the courts.

From January 1990 to October 1991, Board records indicate that at least four instances of unlicensed practice were referred

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to the Attorney General's Office for prosecution.

The Committee found that unlicensed practice as a Land Surveyor is usually committed by professionals holding other types of licenses, primarily Engineers and Architects, but occasionally including Foresters, Soil Scientists, and Geologists.

The Committee notes that, if a Licensed Engineer were to practice land surveying, the Land Surveying Board would have no jurisdiction over the individual since the individual held an Engineer's license. However, since the individual does hold a license issued and monitored by the Engineers Board, the Engineers Board would have jurisdiction over the individual regarding practicing outside the scope of licensure. Therefore, cooperative action could occur between Boards to ensure that a licensed individual practiced within the limits of licensure, with a referral to the Attorney General's office serving as last resort.

Accordingly, in order to ensure a mutually cooperative and effective approach to unlicensed practice, the Committee recommends that the Board of Licensure of Professional Land Surveyors establish Memorandums of Agreement with other relevant professional regulatory boards regarding cooperative action to be taken against professionals practicing outside the scope of their licensed practice.

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ADMINISTRATIVE 65.

In order to document the extent of the need to establish an appeals board which is independent from any professional regulatory board, direct the Division of Licensing and Enforcement within the Department of Professional and Financial Regulation to undertake a study of the reasons why professional regulatory boards deny applicants licensure and the final disposition of those denials following appeal.

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Currently, applicants who are denied some form of professional licensure are able to appeal the denial to the professional regulatory board which issued the denial. The



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denied applicant can then file a further appeal with the Administrative Court.

Denials are currently issued based on a board's determination of the applicant's credentials in three areas:

- education;
- examination failure; and
- experience.

Upon review, the Committee found that initial denials are often overturned by a board when the applicant is able to supplement the board's original information about the applicant's education or experience.

The Committee found that a separate Board of Appeals, independent from any of the professional regulatory boards, would be better able to judge appeals of denials that had been based on education or examination inadequacies, since these would be matters of record - either the applicant meets the educational criteria and attains a passing examination score or the applicant does not satisfactorily meet either criteria. The issue of whether a lay appeals board or other group with no knowledge about the profession in question could correctly judge a denial based on an individual's experience is less certain.

In examining the need for an independent appeals board, the Committee reviewed New York State's Board of Regents and Office of Professions. New York regulates professions through the auspices of a Board of Regents housed within New York's Department of Education, the Office of the Professions, the Office of Professional Credentialing, and the Office of Professional Responsibility. The Committee found that the professional regulatory boards serve merely an advisory role to staff in these Offices. License applications are reviewed by Office staff and the decision to grant or deny licensure is also made by staff in these Offices. Appeals of staff decisions which were based on educational deficits or examination failures are heard by a Commission of Professions. Appeals on staff decisions which were based on experiential deficits are referred to the Board of Regents.

The Committee finds a need for more data upon which to base a decision regarding which model from other states to rely upon or to determine which changes are necessary in Maine's overall approach to professional regulation. Although the Department has data on the number of denials and the number appealed, it has not compiled in a readily accessible format the reasons why the applicant was denied.

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Accordingly, in order to document the extent of the need to establish an appeals board which is independent from any professional regulatory board, the Committee recommends that the Division of Licensing and Enforcement within the Department of Professional and Financial Regulation undertake a study of the reasons why professional regulatory boards deny applicants licensure and the final disposition of those denials following appeal.

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## MAINE STATE PILOTAGE COMMISSION

### Purpose

The purpose of the Maine State Pilotage Commission is to regulate, through licensure, Marine Pilots in order to:

"provide maximum safety from the dangers of navigation of vessels entering or leaving the waters described in [the law], to maintain a state pilotage system devoted to the preservation and protection of lives, property and vessels entering or leaving these waters at the highest standard of efficiency and to insure an adequate supply of pilots well qualified for the discharge of their duties in aid of commerce and navigation" [38 MRSA §85].

Consequently, the Maine State Pilotage Commission licenses 14 pilots in Maine who pilot "every foreign vessel and every American vessel under register, with a draft of 9 feet or more, entering or departing from the port or harbor within [all Maine coastal waters and navigable waters]" [38 MRSA §86]. The law requires pilots to bring the vessels defined above into all Maine coastal waters and navigable waters with three exceptions:

- the Piscataqua River;
- those waters specifically governed by the Board of Harbor Commissioners for the Harbor of Portland (i.e. Casco Bay and Portland Harbor); and
- any waters specifically exempted by the Maine State Pilotage Commission [of which there are none]. [38 MRSA §86-A].

In addition to specifically defining vessels to which the law applies, the law also specifically defines vessels which are exempt from the pilotage requirement, including:

- vessels under enrollment;
- fishing vessels;
- vessels powered by sail;
- the motor vessel Bluenose, as long as

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certain conditions are met; and

- all military and commercial ships navigating the Kennebec River to and from the Bath Iron Works Corporation for the purpose of accomplishing overhaul, repair, post shakedown availability and sea trials [38 MRSA §87-A].

#### Duties of the Commission

Title 38 MRSA §90 sets out the duties of the Commission as follows:

- make, establish, and enforce...rules...binding and effectual upon all pilots...;
- make and establish rates of pilotage...;
- establish and determine qualification of any person applying for a pilot's license and conduct examinations;
- issue any pilot's license...;
- cause the laws, rules, and regulations concerning pilots and pilotage matters to be fully observed and executed;
- hear and decide complaints made in writing against any pilot...;
- hear and decide complaints made in writing by any pilot against any charterer, owner, agent, master, or seaman of a vessel...;
- select only such number of pilots as would be necessary to permit adequate pilotage in these waters; and
- to do all other things reasonable, necessary, and expedient to ensure proper and safe pilotage and to facilitate the efficient administration of the law.

Upon review, the Committee found that the next to last duty listed above is unusual for professional regulatory boards, whose duty is usually conceived as protecting the public's health and welfare, rather than restricting entry into the profession.

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Authorizing a professional regulatory board to select a limited number of individuals is not provided to any other professional regulatory board in the State. However, the Committee notes that this type of authorization is common to many other states with pilotage commissions.

### Organization

The Maine State Pilotage Commission is an internal board to the Department of Professional and Financial Regulation and consists of 5 members appointed by the Governor. Three members must be licensed pilots representing Penobscot Bay and River, Bar Harbor/Eastport, and Bath. One member must represent the interests of the marine industry and one member must represent the public.

Each member serves for a term of three years or until the successor is appointed and qualified and "is eligible to serve a successive term." Any vacancies are filled by the Governor for the remainder of the unexpired term.

Commission members receive no per diem for their service [5 MRSA §12004-A sub-§40] but are reimbursed for their expenses. The Board meets once per year at the Gardiner Annex of the Department of Professional and Financial Regulation.

The Department of Professional and Financial Regulation provides the Commission with administrative and clerical support through the shared services of a Board Clerk and the Board Coordinator. The Commission is advised on legal matters by an Assistant Attorney General.

### Requirements for Licensure

To carry out its duty to "establish and determine the qualifications of any person applying for a pilot's license...", the Commission has established in rule the following requirements for licensure:

1. Completed application form;
2. Copy of current federal license, including the license number, expiration date, and radar endorsement;
3. Proof of physical examination; i.e. letter from the physician performing the examination;

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4. A signed statement from the pilot supervising the applicant documenting that the applicant has completed 12 round trips, six of which must be during hours of darkness or reduced visibility;
  5. Achievement of a score of 80% on a written examination, given after the applicant has met all of the requirements. The examination is given upon request, is designed to test the applicant's knowledge of the local area, and is prepared by the Commission members; and
  6. Payment of a \$100 application fee.

The rules specify that an applicant for licensure as a Maine State Pilot who holds a Federal license and has been actively engaged in piloting on the waters for which the license is requested within the last six months, shall not be required to take a written examination but will be issued a Pilotage renewal license for the standard renewal fee.

Licenses are issued for one year and are renewable each June. The Commission requires no formal continuing education of the pilots.

Licenses are issued for specific bodies of water, rather than a blanket license for any coastal or navigable water in Maine. Each area of licensure is called an "authority".

The Commission is authorized to investigate and hear complaints. The Commission's rules require that hearings be held in accordance with the Administrative Procedure Act with violations of any of the following constituting grounds for disciplinary action:

- Title 38, Chapter 1, subchapter III (Operation of Vessels - Pilots)
- rules and regulations of the Commission;
- misconduct, incompetence, or negligence of a pilot in the performance of his or her duties;
- causing any unnecessary delay to the vessel by a pilot in the act of boarding or leaving the vessel; and

- 
- failure to provide the Commission with an accurate accounting of annual receipts and payment when due.

The Committee found that the Commission has received one complaint in recent years.

#### Revenues and Expenditures

The Commission operates entirely on dedicated Revenues. These revenues are generated in two ways:

- \* 2% of "moneys received" by each pilot annually;  
and
- \* fees for initial application and renewal of licenses:
  - Application fee \$100
  - Initial Licensing fee 10
  - Renewal fee/year \$10
  - Late fee (within 90 days of renewal date) \$10

In recent years, the Commission has generated about \$4,750 in dedicated revenues per fiscal year. Typically, the Commission pays about \$3,000 a year to the Department of Professional and Financial Regulation for various administrative services. The Board itself has had expenses of about \$1,450 per fiscal year.

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STATUTORY	66.	Continue the Maine State Pilotage Commission pursuant to the Maine Sunset Act.
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As noted earlier, the purpose of the Maine State Pilotage Commission is to regulate, through licensure, marine Pilots in order to:

provide maximum safety from the dangers of navigation of vessels entering or leaving the waters described in [the law], to maintain a state pilotage system devoted to the preservation and protection of lives, property and vessels entering or leaving these waters at

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the highest standard of efficiency and to insure an adequate supply of pilots well qualified for the discharge of their duties in aid of commerce and navigation" [38 MRSA §85].

Consequently, the Maine State Pilotage Commission licenses 14 pilots in Maine who pilot "every foreign vessel and every American vessel under register, with a draft of 9 feet or more, entering or departing from any port or harbor within [all Maine coastal waters and navigable waters]" [38 MRSA §86]. The law requires pilots to bring the vessels defined above into all Maine coastal waters and navigable waters with three exceptions:

- the Piscataqua River;
- those waters specifically governed by the Board of Harbor Commissioners for the Harbor of Portland (i.e. Casco Bay and Portland Harbor); and
- any waters specifically exempted by the Maine State Pilotage Commission [of which there are none]. [38 MRSA §86-A].

The Committee finds that the Commission has received only one complaint in recent years and that the Commission provides an important service necessary to protect the public health and welfare. Therefore, the Committee recommends that the Maine State Pilotage Commission be continued pursuant to the Maine Sunset Act.

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ADMINISTRATIVE 67.

In order to ensure that examinations are evenly weighted, non-prejudicial, and objective, purge licensing examinations administered by the Maine State Pilotage Commission of questions that could be considered subjective or irrelevant.

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The Maine State Pilotage Commission administers examinations to applicants for initial licensure and also to licensees who wish to add another body of water, or "authority" to their license.

Upon review, the Committee found that exams are designed by



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the Commission members themselves. A review of selected examinations by the Committee revealed that the examinations primarily require applicants to have a thorough and broad-based knowledge of the harbor or port for which authority is sought. However, the Committee identified a number of questions on examinations as either not directly pertinent to pilotage or that would be difficult or impossible to answer without having an "insider" vantage.

The Committee finds that although the pilotage profession is a "hands-on type of business", that an applicant could be well read on the subject of pilotage and still not be able to answer some of the questions on an exam unless he or she were already a member of the regulated profession.

Although no complaints have been lodged about the nature of some of the questions included in the Commission's exams, the Committee finds that certain types of unreasonable questions could serve to either discourage applicants who may not have a relationship with one of the current licensees in order to learn "the ropes" prior to taking the exam or may result in otherwise qualified applicants unable to answer examination questions not strictly related to pilotage but rather requiring a knowledge of local lore or landmarks.

Accordingly, in order to ensure that examinations are evenly weighted, non-prejudicial, and objective, the Committee recommends that licensing examinations administered by the Maine State Pilotage Commission be purged of questions that could be considered subjective or irrelevant.

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STATUTORY

68.

In order to ensure that future applicants for licensure continue to adhere to current standards of competence, repeal the Commission's authority to limit entry into the pilotage profession but retain current state licensure standards.

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Current law [38 MRS §90 sub-§1 ¶H] authorizes the Maine State Pilotage Commission to "select only such number of pilots as would be necessary to permit adequate pilotage in these waters".

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The Committee finds that this authority is unusual in that the ostensible purpose of a professional regulatory board is to protect the public health and welfare, rather than restrict entry into the profession. The Committee noted that the "Maine Manual for Licensing Board Members" explains that "occupational and professional licensure was developed to protect the public from incompetent or dishonest practitioners and to establish a minimum standard of proficiency in the regulated field" [Manual. page 1].

Upon further review, the Committee finds that the Commission's rules do not include guidelines on what constitutes "adequate pilotage". Therefore, the Commission has not been able to rule that adequate pilotage has been achieved in order to limit competition, deny licensure on discriminatory grounds, or other subjective reasons. An applicant who was denied due to the Commission's determination that "adequate pilotage" existed would have no recourse for appeal since denying on such grounds is legal.

In practice, the Committee finds that the Commission has never used its authority to limit the number of professionals practicing the pilotage profession. Nor is there an influx of candidates clamoring for licensure; the 14 people currently licensed are the only professionals to have ever requested licensure.

The Committee understands that the precise implications of repealing the Commission's authorization to limit entry into the piloting profession cannot be determined at this time. However, the Committee notes that the Commission has never used its authority so, in effect, the Commission would continue to conduct business as usual.

Finally, the Committee notes that the Federal Trade Commission would probably not support the current authority of the Commission to limit entry into the profession since it serves to restrict free trade and competition in the market place.

Accordingly, in order to ensure that future applicants for licensure continue to adhere to current standards of competence, the Committee recommends repealing the Commission's authority to limit entry into the pilotage profession but retain current state licensure standards.

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**STATE LOTTERY COMMISSION**

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STATUTORY            69.            Continue the State Lottery Commission for one year, pursuant to the provisions of the Maine Sunset Act.

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The State Lottery Commission is the 5 member panel that meets monthly to oversee the operation of the State-administered lottery games.

The Commission was first reviewed by the Audit and Program Review Committee in 1990-1991. At that time, the Committee found that the State Lottery Commission carried out its mandate in an informed, inclusive, and responsible manner. However, the Committee continued the Commission for only one year. This action was taken to reflect the Committee's concern about a proposal to privatize a portion of the Lottery Bureau's activities, which would have eliminated 23 state employee jobs.

This year, the Committee finds that the privatization issue is still unresolved, and continues to be discussed in the Legislative process. Accordingly, the Committee is again continuing the State Lottery Commission for one year, pending the outcome of the privatization discussion.

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**SUNSET REVIEW PROCESS;  
Recommendations**

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STATUTORY	70.	Require agencies subject to review by the Joint Standing Committee on Audit and Program Review to submit a list of programs in which gender inequity is identified and highlighted for consideration by the Committee, a list of employees, by gender, showing job classification and salary range, and promotions and layoffs in the preceding year according to gender.
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Women are clearly gaining jobs in state agencies. In 1989, the percentage of women holding government jobs was 42.8% and the percentage of newly hired women employees increased to 48.3%. According to recent demographic data, trends indicate that these hiring patterns will continue. This will contribute to the expansion of women in government employment.

Market factors, the new federalism, and affirmative action efforts have combined to improve women's access to government jobs. However the Committee finds that employment equity has not been achieved. Occupational segregation and wage discrimination continue as barriers to equal employment opportunity for women.

The Committee finds that women's gains in state government employment may be threatened by such factors as hiring freezes and layoffs. Therefore, collecting data from each agency according to gender is particularly critical in face of efforts to restructure and reduce government staffing. By collecting and analyzing gender data, the Audit and Program Review Committee, and each agency under review is provided information which could prevent inequitable employment practices.

The Committee finds that by examining trends and the structure of the agency through services provided, promotion, recruitment, and training procedures, potential barriers such as sexual harassment, may be identified that could afford an agency

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the opportunity to improve programs and policies, thus promoting equal access to women.

Furthermore, data on gender may provide valuable information to the Legislature upon which more informed choices and decisions can be made. Such a foundation of knowledge would ensure that agencies are in compliance with the spirit and intent of the state's nondiscriminatory policies.

The Committee finds that information assessing gender impact could be used as:

- a diagnostic tool for identifying and eliminating barriers to sex equity in employment;
- a diagnostic tool for identifying and eliminating barriers to equity for clients or users of the agencies' programs or services;
- an educational tool that can provide chief executives with more information about the conditions, policies, and practices of their agencies;
- an educational aid that can familiarize junior and mid-level administrators with conditions, policies, and practices of their agency, correcting misconceptions, and lack of information;
- a group process tool for stimulating discussion of the philosophy, mission, and resources of the agency, and of the practices, policies, and conditions that serve its needs and those whom the agency serves; and
- a tool to familiarize employers and employees with aspects of their own behavior and the behavior of others that may subtly and unintentionally discriminate against women.

Accordingly, the Committee recommends that agencies subject to review by the Joint Standing Committee on Audit and Program Review be required to submit a list of agency programs in which gender inequity is identified and highlighted for consideration by the Committee, a list of employees, by gender, showing job classification and salary range, and promotions and layoffs in the preceding year according to gender.

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STATUTORY

71.

Require each agency subject to review by the Joint Standing Committee on Audit and Program Review to submit a report by September 1, 1992 specifying the criteria and process by which the agency would evaluate the extent to which the agency's programs and services are achieving the goals of the agency, as well as the efficiency of the agency's programs or services.

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The Committee has identified the need to establish impact measurement, evaluation, and reporting to serve as a foundation for enabling the Legislature to judge the relative value of any program or service. The Committee finds that requiring state agencies to prepare impact statements for the purpose of evaluating the extent to which the agencies' program and service are achieving their goals and the efficiency of state agencies in conducting their programs and services is important. However, the Committee finds that the Committee needs more information on the way in which state agencies would comply with a mandate to submit impact statements, in order to properly refine the mandate and estimate its cost.

Accordingly, the Committee recommends requiring each agency subject to review by the Joint Standing Committee on Audit and Program Review to submit a report by September 1, 1992 specifying the criteria and process by which the agency would evaluate the extent to which the agency's programs and services are achieving the goals of the agency, as well as the efficiency of the agency's programs or services.

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**APPENDIX 1**

**Survey of People Insured  
Under the Maine High Risk Insurance  
Organization**

Conducted by  
the Joint Standing Committee  
on Audit and Program Review





Total Population - 417  
Total Population Surveyed - 417  
Total Surveys Returned - 240  
Response Rate = 57%

SURVEY RESULTS  
COMMENTS

SURVEY OF PEOPLE INSURED UNDER THE MAINE  
HIGH-RISK INSURANCE ORGANIZATION

Please check the ONE answer to each question that best describes your experience with this program.

1. How long have you been insured under the Maine high-risk insurance plan?

[18.1%] over 2 years    [36.7%] between 1 and 2 years    [45.2%] less than 1 year

COMMENTS:

#59. New policy

2. How did you find out about the program?

[71.0%] insurance agent

[3.6%] government agency

[8.6%] doctor or hospital

[6.3%] newspaper, radio, television

[12.7%] \_\_\_\_\_

COMMENTS:

#7. Blue Cross/Blue Shield of Maine

#15. Daughter's physical therapist.

#26. Relative.

#28. Rose Clause, Social Services Department - Eastern Maine Medical Hospital

#30. Blue Cross/Blue Shield of Portland, Maine.

#47. Blue Cross/Blue Shield denial letter.

#51. My employer and his insurance agency.

#55. From a friend

#57. American Diabetes Affiliate - Maine

#61. Friend already in program.

#70. Blue Cross/Blue Shield

#74. My husband's boss.

#77. I read in the paper, then called Sen. Webster. His Office gave me the necessary information to enroll.

- #78. Insurance Company.
- #85. A friend told me about it, she saw it on television.
- #90. I wrote a letter to the President of the United States.
- #99. Blue Cross/Blue Shield
- #100. Co-Worker \_\_\_\_\_
- #102. Television, WABI Channel 5, evening news.
- #106. Child Development Services.
  
- #123. (Friend) Though the companies that rejected me did not give me this option.
- #133. Another health insurance who would not accept us (husband and myself).
- #134. Blue Cross/Blue Shield suggested MHRIO.
- #141. My employer
- #160. Social worker/Tumor Cancer Clinic EMMC.
- #171. Through NASE Insurance Co. information about MHRIO included in their letter of rejection for their insurance.
- #175. I am amazed that you only cover 300 people in the whole state, no wonder people are uninsured.
- #197. Mid-State Cerebral Palsy Center - agency for physical and occupational therapy services.
- #199. Through my job.
- #209. Work

Mutual of Omaha Insurance Co. administers the high-risk pool for the State of Maine.  
 Questions 3 through 9 ask you about your experience with Mutual of Omaha.

3. Were you treated courteously by Mutual of Omaha employees?

[78.3%] yes, always [12.7%] most of the time [1.8%] sometimes [.9%] never [.63%] NA

COMMENTS:

- #6. Have never talked with them.
- #42. No conversations yet.
- #65. Never talked with them.
- #66. No experience.
- #69. No oral contact
- #123. So far, is answering questions - I have not had to submit a claim.
- #134. Correspondence done through mail.
- #160. Had no contact with Mutual of Omaha
- #175. No claims filed only application.
- #209. Never spoke to or made claim.

4. How would you describe your experience in applying for the insurance plan?

[79.6%] easy [12.7%] somewhat difficult [2.3%] very difficult [2.7%] NA

COMMENTS:

- #16. A little mis-communication, but extremely helpful in the final stages and policy issued in timely manner.
- #25. The agent handled everything.
- #42. Not used yet.

- #45. Cumbersome.
- #59. Difficult to locate
- #83. Usual paperwork.
- #89. I had to wait nearly a year for someone to get Medicare or pass away, so that there was a place for me in the program.
- #156. During the first call I made inquiring about the plan, it was very difficult to elicit information. All further contact was very satisfactory so I believe it was an individual problem.
- #214. I haven't used it yet.

5. When you applied for coverage under the plan, were you informed that assistance in paying your premium was available if you met the income guidelines?

[73.3%] Yes                      [25.8%] No                      [.9%] NA

COMMENTS:

- #5. Refusal from another company, Clark Associates.
- #50. Not clearly - I applied by accidentally filling out that portion of the questionnaire.
- #66. Last Month March 91. (Respondent has been in the program between 1 and 2 years.)
- #104. Information was however included information pamphlet. I did have to asked about it. Questions were then answered fully and courteously.
- #119. After quite sometime I received a letter informing me of such assistance.
- #132. No, but I have received information this year.
- #160. The information was in writing with the application.
- #169. I received a letter in March of this year stating that I might qualify for assistance if I meet the income guidelines. I sent them a copy of my W-2 forms.
- #171. No, not upon application information not made available until later.
- #193. We were later.
- #200. Took out insurance in June of '90, wasn't told about assistance in paying until about a month or 2 past.
- #203. Yes, but not until I renewed.
- #236. I don't meet the criteria and my agent knew that so he didn't explain.

6. If you called Mutual of Omaha with a question about your coverage or claim, how long did it take for your question to be answered?

[62.0%] same day    [14.9%] within a week    [3.2%] more than a week

[1.8%] never answered my question    [18.1%] NA

COMMENTS:

- #1. Never Called.
- #6. Never Called.
- #13. Sometimes it took a couple of days.
- #42. No experience
- #43. I didn't.
- #51. I haven't called.
- #65. N/A

- #66. No experience.
- #69. No oral contract.
- #94. I haven't called yet.
- #116. N/A - Never called yet.
- #123. Have not submitted a claim yet!
- #126. On the phone.
- #134. I had written to MHRIO for information also called for an application, received within days.
- #138. Have not called.
- #143. But answer was not always right.\*
- #160. Never called.
- #171. N/A

- #197. Generally, but we've experienced problems with them regarding whether they would cover certain services for more than a week.
- #202. Have never had to call them.
- #207. Sometimes they would send a mail-a-gram.
- #209. Never made claim

7. How long did it take Mutual of Omaha to send requested application forms and/or written information about the plan?

[65.2%] within 10 days      [17.6%] 11 - 20 days      [1.8%] 21 - 30 days

[.9%] over a month      [1.4%] had to request the same information more than once

[13.1%] NA

COMMENTS:

- #1. Never asked for any.
- #20. An old insurance agent sent me all the information since I was uninsurable for two years.
- #43. Never done.
- #65. N/A
- #116. N/A - Not Yet
- #138. Application and information was given to me by insurance agent.
- #158. An application was given me at the hospital.
- #160. Have not made any claims.
- #165. N/A I got the information from the hospital.
- #175. I can't remember but it was probably reasonable.
- #209. Have not used it yet.

8. a. Were all of your questions answered in a way you could understand?

[86.0%] Yes                      [2.3%] No                      [11.8%] NA

b. If no, what further information did you need?

COMMENTS:

- #1. No questions yet.

- #43. Never asked any.
- #47. How to get claim forms and how to fill them out. Deductibles (how much).
- #59. ?
- #135. Not Always, called again then they explained over again than I understood.
- #143. Policy coverage not specific.
- #160. Have had no questions so far.

9. a. How many claims have you submitted since you enrolled in the plan?

[22.2%] over 10      [12.2%] 5 - 10      [27.6%] 1 - 5      [36.7%] 0

[1.4%] NA

COMMENTS:

- #58. I have sent in claims, however, have not met my deductible.
- #88. I have just now sent a claim (4/29/91), so I don't know.
- #156. I have only been in the program 2 months.
- #158. The hospitals I believe, has submitted (2) claims. Because I have not met the deductible I will be paying, myself, for those (2) claims.
- #159. This program has been a godsend to me. I faced major surgery with no coverage. I would have been wiped out without it. Possibly would not have had treatment if I did not hear about Maine High Risk Insurance Organization.

b. If you have submitted a claim or claims, how quickly was the claim processed?

[23.5%] within 3 weeks      [29%] in 3 - 6 weeks      [4.5%] it took over 6 weeks

[43.0%] NA

COMMENTS:

- #1. Don't know yet.
- #11. Hasn't been processed yet - filed 4/18.
- #20. I have no idea since checks are mailed to doctors.
- #43. Haven't.
- #46. I do not know.
- #51. I first filled out a claim last week.
- #58. NA.
- #59. Questionnaires being sent on a \$29.00 clinic visit 2-3 times, requests for more information etc. not heard final results yet!!
- #88. I don't know yet.
- #89. Normally within 3 weeks. Sometimes the Doctor or Hospital would submit it, and they would take longer to submit claims - no fault of mine or MHRIO.
- #119. I do not have this information.
- #165. I submitted the first claim about 2 weeks ago. Have not heard results yet.
- #171. I wasn't aware of this.
- #173. When I sent in requested information they never acknowledged receiving it, and unless I called them, they never let me know what information was exactly needed.

c. If any of the Claims for your health care were not paid, did you understand why?

[51.6%] Yes            [4.1%] No            [44.3%] NA

COMMENTS:

- #58. NA
- #63. Not Always.
- #119. Most of the time.
- #132. Quite a few of the customary charges are below what the actual bills were.
- #143. Again policy not specific.
- #212. Was not informed about this.
- #235. One claim is pending. Awaiting their answer. Don't understand why it would not be covered.

10. Continuation of this plan beyond June 30, 1992 requires an Act of the State Legislature. Did this condition cause you to hesitate to enroll?

[6.8%] Yes            [81.9%] No \*            [12.2%] NA

\* - Many people said "no, Because I wasn't aware of this" - See comments.

COMMENTS:

- #2. No, because we did not know about this.
- #8. No, This was the only place I could get health insurance.
- #16. Wasn't aware.
- #24. Was not aware of this fact.
- #28. Wasn't informed.
- #30. This is a question to me because I did not know that it would be going before the State Legislature in June 1992.
- #35. Wasn't aware of it.
- #50. Concerned.
- #53. I can't get other coverage.
- #58. I did not know that there was a time limit on the plan.
- #61. I didn't know.
- #62. I wasn't aware of it. I'm concerned. Does this mean we won't hear until June 92 whether or not it will exist in the future.
- #68. Was not aware of this.
- #86. Was not aware of it.
- #94. Did not know about it.
- #99. Was unaware of the Legislation.
- #101. I was unaware of this fact until now. However, I would have still enrolled. There is nothing else available to me in a price range I can afford. I strongly support a continuation of this plan!!
- #105. Until right now I was not aware of this involvement; however, what exactly does this involvement mean? Are we subject to being dropped because of it. Please contact us ASAP to explain.
- #118. This is the first I've known of it.
- #119. I did not have this condition until now.
- #123. I was not informed of this date, though I did question whether this program would always continue.

- 
- #130. Was not aware of this.
- #135. I was not informed of this.
- #136. I didn't realize this.
- #142. I was not told of this matter. I do hope that the State Legislature continues this plan for people who cannot get other insurance. I think the premium is high for such a large deductible (\$500), plus the fact that it only pays 80% after the deductible. Health insurance today is a necessity - not a luxury!
- #151. I hope it continues. Its essential for high risk population.
- #153. Was not aware of that as a condition.
- #155. Was not told of this question.
- #182. Weren't aware.
- #83. Was not informed.
- #190 I wasn't made aware of this.
- #196. Were not aware of this.
- #229 I was not aware of this risk to my coverage.
- #232. It is the only insurance I could afford that covered preexisting injury.
11. Please share with us anything else about your experience with this program that you feel we should know.

COMMENTS:

- #7. It is expensive, but must have it until BC/BS exclusion time for hypertension elapsed for complete coverage under BC/BS. The total paid for both policies is very costly, and will increase with BC rate of 45%!
- #8. I would like to see this program continued or provide some other place for us to obtain health insurance coverage.
- #9. Very superior program! Staff is most considerate and helpful despite a mind boggling workload. Please don't hesitate to contact me for further testimonials.
- #13. I was not aware of this 1992 provision but it would not have had any factor on my decision to enroll. This coverage has paid its claims and answered any and all my questions better than any company I have dealt with in the past. I feel that I have knowledge about this as I have been in insurance for 23 years dealing in Life & Health.
- #15. My husband owns a small business and he has health coverage that costs a great deal but will not cover my daughter, because of her preexisting condition. If it wasn't for MHRIO, our daughter would not have health insurance and it would be a severe hardship for us. She needs health coverage more than we do. PLEASE continue this program.
- #11. This an excellent program. We were panicked before we found out about it, as we could not obtain insurance for our diabetic child. (This program is a "life saver").
- #20. The program is very good, and much needed. I hope that your agency is rallying for the government to provide health care for their citizens.
- #22. This plan is very important to me, as I have limited income and the premium is all I can afford. Without this I wouldn't have any insurance and I have heart problems and am diabetic.
- #24. Although my premiums payments are not subsidized and I have never submitted a claim, this insurance program is of vital importance to me as it appears I cannot qualify for other coverage. Thanks to the State of Maine, I have peace of mind that I do have some coverage.
- #25. I did not realize that continuation of this plan beyond 6/30/92 required an act of the State Legislature. This plan has helped us immensely. Our son was not insurable because of a heart defect. Without this insurance we would have had to pay for all of the \$18,000 - operation that he had last summer. My son will never be able to have another insurance co. insure him. We have been told this by two insurance agents. I pray that the Legislature will



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vote to keep this program going for without it we would be financially burdened with my son's health care costs.

- #26. Mutual of Omaha responded quickly and efficiently in getting myself enrolled in the plan.
- #28. It is hard to meet \$500.00 deductible in addition to \$690.00 every three months on the premium since I can't qualify for the subsidy. I would like the guidelines of the subsidy changed to benefit me.
- #29. I do find it difficult in paying my premiums - but also know it is essential. I would be interested in information about assistance in paying the premium. Thank you.
- #30. I would like to know if the Legislature does not pass this bill will you give me help to get on to another medical insurance.
- #38. I would just like to say that without this insurance, I would not be able to find another health plan because of my medical history.
- #40. It is very important that this program be continued. This is the only insurance that I am able to procure.
- #41. I'm paying approximately \$1200. per year for this insurance. It was the only insurance I could afford with my previous cancer problem. I have never had a claim that went over my \$500 deductible. I think the program is great and hope the State of Maine will continue with it.
- #43. I think very few people are informed about this plan existence.
- #47. Some people need this program. I was with Blue Cross/Blue Shield for years; then companion plan when I went on social security disability. After going back to work Medicare was discontinued. Blue Cross/Blue Shield wanted big premiums and attached 3 year riders. I still go to doctors every month test etc. for continuing conditions. Where would I be without insurance?
- #50. Because of a health problems almost ten years I find it impossible to obtain reasonable health insurance. This policy is very important to me!
- #57. I found the people on phones extremely helpful for any questions I've had. I certainly am thankful for a 3 mo. pre-existing conditions wait - they told me most states are 6 mo.
- #58. I hope you will continue providing a health plan for those of us who are unable to obtain health insurance because of an existing health condition. I was unable to obtain health insurance through any local agent/ insurance company other than Blue Cross/Blue Shield but at that time there was a three year exclusion for any existing condition. (I understand that they now only have a two year exclusion but that is too long when one has a health problem.)
- #59. The only concern I feel right now as this is new to me, is are they going to give a problem or question every little thing as to whether or not they'll pay it or apply it toward my deductible.
- #60. Would like to hold on longer, but will be 65 in March 92.
- #63. Without this program I would not have been accepted on any other insurance because I am considered a high risk due to my diabetes. Therefore, I would have endless medical bills that I could not afford to pay. The policy has been a great help to me.
- #64. I have no problem with program, its great. The \$500.00 yearly deductible was high, I felt, but I realize most companies have the high deductible.
- #66. Need more information about coverage, and amount of our responsibility and benefits.
- #67. We want to say how very thankful we are to have this coverage for our daughter because of her heart risk, we were very burdened with insurance and medical bills. Thanks to Mutual of Omaha!
- #70. The Maine High Risk Insurance is the best insurance I have ever had. They are prompt and very courteous. I am very happy with the coverage and services.

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- #72. This program is excellent, without it, I could not be insured elsewhere, as I am considered a high risk. I need and appreciate this program. If you need help to continue this program please let me know.
- #74. \$500. deduction is hard to meet at times. Many times I can't go to doctors when sick or for checkups because I can't afford it, and \$500. deduction has not been met. I'm still paying on what insurance did not cover for a breast biopsy done in September!
- #77 I am an insulin dependent diabetic. In December of 1990 I had surgery for colon cancer. Without this program I would be so overwhelmed with debts, I think the discouragement would be a greater problem than the physical condition. My husband's BC/BS is \$177.48 per month. My premium is \$210 per month. These premiums with the \$500. deductible plus the 20% that I must pay is a little overwhelming.
- #79. Premium too high for income level. Deductible and monthly dues.
- #80. I think this was a very positive experience for me. At a time when emotions are high and fear can get the best of a person, its nice to know that our state cares enough to institute this kind of assistance for the citizens of Maine who are in need of this coverage. Please accept my thanks and my hopes that this coverage will continue for others.
- #83. Very Important Program! I was thrown into it as a good insurance risk through a bureaucratic crack created by changing insurance companies through my company coverage.
- #85. Its great to know I can have insurance because I can't get it through work.
- #87. \$500.00 deductible is a bit much.
- #88. My husband took care of this for months, then I became able to do so myself. We have both found MHRIO to be very helpful, courteous & patient in every respect. I feel that if this program is dropped, I might as well Die, as we live on a fixed income and it is just a few dollars over so that I cannot get help for Medicaid - I'm not old enough for Medicare. I have had cancer of the throat, and can eat only a small variety of foods, so my bones and whole body is going haywire. My problems are ongoing. New ones develop periodically, and even with MHRIO paying 80%, it is still a struggle, as when I contracted cancer, I had no insurance what so ever. My husband worked for \_\_\_\_\_ Truck Co. (34 years). They kept us on insurance for 2 years, I could not get insurance anywhere, because of a history of high blood pressure. Then when my husband went to KVMC to make a payment (for my radiation) they told him about MHRIO. If this program is dropped, I honestly don't know what we'll do. Like I said before, I will just have to go without medical care. (My husband is disabled, but we are lucky in one respect, he gets his care at Togus VA, which is very good care. I do not feel that it would be fair to drop this coverage, especially when the welfare recipients get so much "gravy". I know how it is, my niece and her family live on welfare. They live a pretty good life. All health care free. When we tried to get help from Medicaid, they told me if my husband and I separated, I could get all the help I needed. We through that was a terrible thing to tell a couple that have been married nearly 50 years.
- #90. I feel that this Program has made our life so much easier by bringing our premium payments down from a \$1000 a month to \$49.00. Without this Program I would surely be bankrupt by now.
- #94. Send me another Audit in about 2 months. I'll let you know what I think of it.
- #99. I think my monthly premium is to high at \$230. at age 62 and goes up each July or sooner, and over \$500. - before my husband turned 65.
- #102. In late fall of 1990, I submitted an application of review for a claim which payment was denied. I have yet to hear about that review, whether or not it took place and what was the outcome.
- #103. We've been more than pleased - service and coverage is excellent.
- #104. Was unable to obtain medical insurance through commercial channels, due to recent state regulations concerning coverage. I had a severe injury, which the companies would not cover,

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- or "rider" (exclude). I am glad this valuable program is available to persons in situations as mine. I have not become a State liability.
- #106. This was the only insurance available to us for our daughter, who is 4 years old and was handicapped (can't talk). She is medically in excellent health, but was denied due to her speech delay. Please continue this program, it is essential for people who have a medical or developmental problem that insurance companies view as unprofitable risks.
- #109. It is very beneficial and critically important for me. I cannot get health insurance otherwise. I only gross \$10,000 per year and was paying over \$5500 in medical costs (premiums = \$2100/year plus out of pocket of \$3400/year). This program is a life saver for me!
- #112. I feel that they need more programs for people with special health problems. I thin this is an excellent insurance for people like this who would otherwise be living to pay doctor's bill. Keep up the good work!
- #113. The assistance in paying the premium is too low. I make barely enough to survive; let alone pay for insurance. We need more help in these bad times.
- #115. It has been a real help. I could not get full coverage anywhere else, (preexisting condition), at anywhere near an affordable premium. Everyone else turned me down or exempted the pre- conditions.
- #116. Hopefully all members will be contacted prior to Legislative action for renewal.
- #117. We need this program desperately! Please continue! Many problems with the precertified when hospitalization was required twice. Health care compare (pre-certifier) was unco-operative with our doctors; accused them etc. Maine Insurance Regulatory agency helped me to get Mutual of Omaha to pay for September 90 hospitalization.
- #118. I am grateful to have an insurance that helps pay my daughters medical bills! its a great help!
- #119. It has been a life saver for me at this time unless there are bills not paid that I do no know about so far.
- #120. Never received a card to use.
- #121. A person such as myself would have no where else to turn. Blue Cross was unavailable and there is no where else to go.
- #122. Need better information on what is covered and what is not covered.
- #123. Thank God there is a medical program for us - Having been rejected by other insurance companies because of breast surgery - no cancer - I was appalled that one cannot get medical coverage when you've given the o.k. for your Doctor. I am very willing to share information or experience with you. Please do not drop this program.
- #126. I am thankful for such a plan or I wouldn't have been able to have any insurance - Due to breast cancer. Thank you Maine High Risk.
- #128. I am very pleased with Mutual of Omaha.
- #130. I've been completely satisfied. Never had any problems at all!
- #131. I have had no need to file claims, so my only dealing with the plan has been to apply and pay the premiums.
- #132. I feel the program is a definite asset for myself. If it had not been available I would have been unable to obtain coverage.
- #133. I was not aware that the plan will not continue after June 30, 1992 unless an act is passed in the Legislature. Those certainly would pose a big problem to us. We cannot afford to be without insurance even though making a payment of \$493.00 a month is very hard for us.
- #134. We are a middle income family whose whole lifestyle would be devastated if pre-existing conditions were not covered by MHRIO. It has been a lifesaver to us even though we've used very little. Just a reassurance to know \_\_\_\_\_ has coverage.

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- #135. This is the only health insurance I can get. Without it I would probably be on public assistance after a major illness.
- #136. I hope we do not lose this.
- #139. I'm thankful for MHRIO. Without this program, I would have no insurance coverage - even though I have had no need to submit a claim since joining.
- #141. I feel this program is vital to the people of the State of Maine. I was denied health coverage by insurance companies, because I had completed a drug and alcohol rehabilitation program. I believe every citizen needs health coverage.
- #143. I feel that when I have a question I should have to deal with only one agent and not keep being put off from one agent to another. Also when I wanted the names of the Review Board, I received no answer. That is not right.
- #147. I think more program of this kind would be one way to help everyone in Maine.
- #148. Very Good Program!
- #151. This insurance was a God-send for me and I'm sure many others. I hope it continues. If I hear its in jeopardy I will go to Augusta myself and protest.
- #152. As I was working to get myself and my family off Maine assistance, and found I was unable to get insurance coverage, it was a comfort to know I could get coverage with MHRIO. To date I have not had to use the policy, but knowing it is there is peace of mind.
- #153. Have been very satisfied.
- #154. If this program were not available, I would not be able to get health insurance I could afford.
- #156. Because no insurance company I contacted ( they were numerous) would even accept an application from me, this was my only option and I am most grateful that it exists.
- #157. I hope you continue this program so people in the "high risk" group can continue to have health insurance.
- #160. I'm brand new to this program (March 15, 1991). I'm enrolled because I was unable to get insurance elsewhere so I am necessarily concerned that if the Maine State legislature votes to terminate MHRIO in the future, I face some difficult times.
- #161. Very High deductible, but only insurance I can afford.
- #162. I would like the plan to cover injuries without having to meet your deductible. A lot of insurance companies offer this type of plan. I feel this would be very helpful.
- #168. The insurance MHRIO is very good for people like myself, when you can't get any other medical coverage. They need to advertise more, because I wouldn't of known about the insurance if it wasn't for my agent.
- #169. I'm glad there is such a program in the State for people like me not being able to obtain a health care coverage from other insurance companies. I would like to thank the Maine High Risk Insurance Organization.
- #175. My doctor, or staff at Maine Medical Center, Portland largest hospital had never heard of it. The Clark Insurance Co. which covers my car and home didn't recommend it when I inquired about health insurance which would cover asthma. The Blue Cross/Blue Shield Office did not recommend it when I inquired about coverage. The Sonbers Life Insurance Co. said I had to be "insured" while they checked. I became insured and after a long process of asking for my medical records etc., I found coverage for asthma would not occur unless I received NO TREATMENT (even theophglin) for a period of years, Blue Cross/Blue Shield has the same deal. I think the "Bowkers" people knew this all along and conned me into buying from them.
- #177. The high deductible \$500. has made it impossible for me to use as yet.
- #180. My views have changed radically. Being self-employed and as a former cancer patient (age 39) I know the high risk pool was my only option for health insurance. However, my wife has been rejected repeatedly by other insurance carriers for what I would consider very minor reasons (e.g. visiting a chiropractor, having a bladder infection during pregnancy, etc). Health

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- care industry and health insurance have increased fees and rate schedules, now health insurance is being withheld from more and more people. The result is more people being excluded from quality health care.
- #182. I believe it is well administered and providing a very reasonable value.
- #183. My name is \_\_\_\_\_ and I spoke with you last week concerning Maine High Risk. Being diabetic insurance plans were almost nil or cost so much money I could not approach them. Thanks to High Risk I am insured (at a good premium price though ). High, but probably fair. Thanks for listening and please continue with this plan.
- #186. I am glad that this program exists, as I was having difficulty finding insurance at a reasonable price.
- #189. I am 31 years old. Most people consider this a plan for elderly people. I consider it a very useful and practical idea for people who cannot obtain insurance through standard procedures.
- #190. Most insurance co. don't wish to insure someone who has a medial history. I believe this program is needed. Please continue!
- #191. This policy was very necessary for me. When my husband's job was terminated we were still covered for a while. Two months prior to the ending of my policy, I had an operation that turned out to be malignant. Therefore when we applied to other insurance companies, when our coverage expired, I was considered a poor risk. I an 62, my husband is 65, and although coverage for two of us is expensive (he has BC/BS), we need this high risk policy.
- #192. Have not had any work since the last week in December 1990. My premium is \$200.00 a month which seems to be high for each month.
- #193. We are very happy to be able to get insurance at all.
- #194. We strongly urge the legislature to do more for the middle income taxpayer to make the plan much more affordable!
- #197. Although they have at times been very irritating to deal with, I'm not sure it would be easy to find coverage for our daughter through other companies. They (our family company) rejected her completely. Our income excludes us from Medicaid, SSI, etc, - just barely. We hope we will be able to continue with MHRIO.
- #198. Mutual of Omaha did not pay the 80% of bills. They said on a number of occasions they said they only allowed so much money for certain kinds of surgery like carpel tunnel syndrome. The doctor charged \$1,070, insurance paid \$740.00 (They had a section less charge not covered \$145.00.)
- #199. I don't like being the one to send in the claim forms.
- #200. \_\_\_\_\_ is disabled due to a stroke, with shortage of money, it is rather difficult to meet the \$500.00 deductible, as it can not relate to the stroke as we have to pay those expenses related to stroke.
- #201. I am extremely disappointed that my hospital bill did not get paid. I only make \$13,500 a year the premiums are paid by my employer, and I feel if you have to pay such a high premium that claims should get paid.
- #202. It's a good program for those who can not get insurance elsewhere. When my employer changed insurance companies, no other insurance company would take my wife and I on, because of health conditions at the time, so I am thankful for this program.
- #203. Just that I hope it continues as it enables a lot of people to have insurance.
- #207. I'm grateful for this plan, it helped us through a most difficult time. I would recommend it to anyone.
- #213. This program has allowed me coverage when no other option was available.
- #214. I hope I will have continuation of this plan in case I need it. Thank you (signed)
- #216. Without this program I would not have health insurance. It has made a big difference in my

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- life to be able to get health insurance, and to be able to afford it. Thank you. (signed)
- #218. I have been asked for the same information several times for claims on the same case. The claims dept. should be able to gather applicable information from other claims, instead of wasting time and paper to keep asking the client the same questions over and over.
- #219. "800" Line for information is very difficult to get through on. I must call continuously and hope that it is not busy.
- #223. It is a very welcome program when no one else will insure you. Two years out of the last fourteen, my husband had hospital bills over our yearly combined income. Not a good situation. We are very grateful to be insured under this High Risk Program. Thank you.
- #224. Very Satisfied and Appreciative.
- #225. This is the only health insurance I can obtain because of my pre-existing back condition. I also must submit a retroactive claim which I am having difficulty doing.
- #226. Great Program, I hope it continues until commercial health insurance is available to all.
- #173. Something should be done about MHRIO - Mutual of Omaha. The company and their employees are a big joke as far as I'm concerned.

Had a very poor experience with the Maine High Risk. I filled out an application (along with 2 months premium up front) and mailed it to them by November 1, 1990. I didn't get accepted to the plan until April 6, 1991. Whenever I called to speak to the underwriter when signed the letters written to me, I was told that I had to speak to Customer Service people and that the underwriter did not have the time to speak to people personally. I had been on a Cobra plan for 18 months and this policy couldn't be offered for individuals. I was refused by 4 companies due to my medical problem (infertility due to endometriosis. My husband is self employed so he wasn't able to get insurance through his employer.

My first letter from MHRIO was dated 11/19/90, stating they needed additional information from me regarding my medical condition and my previous carrier information, why I left my employment and when. I sent this information regarding the previous carrier to them on December 1990. My physician also send a statement on my medical condition which they said they never received. His office sent it to the address on the stationary that MHRIO sent to me. I thought they had received everything. The only way I knew they needed more information was when I called them after not hearing from MHRIO for almost 1 month. When I called I would speak with \_\_\_\_\_ or \_\_\_\_\_. The next few days later when I called again if I asked for either of them I was told I couldn't be transferred and would have to deal with whomever answered the Customer Service line. This company is a joke as far as I am concerned. I am paying \$100. a month for medical insurance and it won't even cover any pre-existing conditions for the first year due to the fact that I voluntarily left my employment at J.D. Gould in June of 1989. This sounds like discrimination to me. Also, it won't cover pregnancy and/or maternity for the first year. I am 29 years old and would like to have a family. So I am expected to pay for medical insurance that won't even cover this. So I would have to pay the hospital \$20. a month for the next 10-15 years to pay for a hospital stay and delivery. Never mind the cost my doctor would charge and I'm sure they wouldn't accept monthly payments. I have not other choice than to be covered by MHRIO, because no one else would give me coverage and I make too much money to have the State of Maine pay for my medical expenses. I would appreciate hearing from some one regarding this company.(signed)

- #205. I am writing to you in hopes that you can see the importance of Maine High Risk Insurance Organization in our state. I am a 25 year old who has Reiter's syndrome (a type of rheumatoid arthritis). I was involved in a bad car accident in February 1990. I was unemployed at the time therefore, I was without health insurance. My arthritis is controlled

by medication so I was paying it "out of my pocket".

I had health insurance while employed but after being laid off, I couldn't afford the monthly premiums. I also only had liability care insurance. I had to cut back in order to make ends meet. Needless to say, I now have a lot of medical bills to pay. Because of my arthritis and broken wrist (metal implants were installed and had to be removed through another operation), I was denied coverage by 4 insurance companies. None would touch me because of the pre-existing conditions.

In a last ditch effort, I applied to MHRIO I'm glad I did. Not only did they accept me, they'll help me with my last operation. When at the bottom of a mountain of medical bills, any help is most appreciated.

I hope I have helped you determine the need for MHRIO I don't know what I would have done without it. If I can help in any way, let me know.(signed)

#222. I am very dissatisfied with this company. First of all, a year or so ago I applied, the Company wrote they could only take 300 applicants. Will a month or so later they sent a letter they could take more (4/26/90), so I signed up. The company said the premium was \$198.00, which I sent them. It was sent back and was stated the premium was \$262.00 per month for me alone. Well in May when it came due they cancelled the insurance. No word to me or anything in December after I called a dozen times as to why they hadn't drawn the money from the bank they informed me I didn't have any insurance.

In December they wrote if I'd send \$1577.00 I could have insurance again, so I sent it December 26th and each month they said it would be \$262.00. They are taking \$267. each month. In March I went to the hospital for a knee joint. The doctor bill was \$5188.20, They paid \$5011.20. I don't think that's too bad, but the hospital was \$11,596.46, they paid \$4,763.24, a lot of the other bills they haven't paid anything. The policy reads the insured won't have to pay more than \$1500.00 out of the pocket. I am very dissatisfied with this company so far. (signed).

#228. In spite of its limitations, I would gladly pay the premiums on this program without assistance, as I am uninsurable and have been reminded so by every medical insurance company I have applied to. Without MHRIO I have no insurance, and, as a result, extremely limited access to the potentially vital medical treatment. This is a very real life or death situation. I have a number of ailments as a result of several work-related injuries in the mid 1970's, and they are progressively degenerative. These include circulatory problems and osteoarthritis of the spine. I was faced several years ago with not only uninsurability, but also unemployability, since employers were squeamish about what they would have had to pay for workers comp and health insurance for me. (Yes, I have been rejected even on group medical plans). Now self-employed, I must also be self-insured. MHRIO is all I've got. Please, for myself and all the others who desperately need it, don't let this program die. I thank you.(signed)

#229. I am obviously very concerned about the continuation any my coverage beyond 6/30/92. if the Legislature votes to discontinue, what choices/options if any, will I have?? Should I have known about this plan being "Temporary"?(signed)

#231. I have a chronic disease (Crohn's Disease) that will make it very difficult, if not impossible, to be covered by another insurance company. I can not have any claims for Crohn's on MHRIO covered for another six months - what am I going to do if I have to start over again with another insurance company, wait 2 to 7 years for medical coverage for my disease?(signed)

#232. I hope this program stays in affect. I have found out I have a tumor in the center of my

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spinal cord at the brain stem, and will need surgery sometime. If I chosen this insurance I will be financially ruins, because I will never find another insurance company to take me.(Signed)

- #234. I appreciate the clear concise manner that the claims paid, % deducted, etc. are presented. It helps to keep everything straight and less confusing. They are also very polite.
- #235. Generally a good plan, however, if pending claim (see 9c) is denied, I will not be very enamored with Mutual of Omaha.
- #236. Mutual of Omaha uses Health Care Compare picked by the Maine administrator, their response and explanations were misleading bordering on trying. The care my son received at Childrens' Hospital, Boston was some of the best available and Mutual of Omaha does not factor in all of the services. The provide more than usual and customary service but are not compensatory, accordingly so I must make up the difference. The fact that they diagnosed and treated several potential permanent disabilities relieving us and other insurance carriers from spending hundreds of thousands of dollars, doesn't seem to matter. We are pleased to have a healthy son.
- #237. Spoke to a stranger who was in the hospital with the same coverage. I asked her how she like the coverage she was receiving from MHRIO and she was happy with the coverage.
- #239. Some time ago I applied for financial assistance and have not received any answer one way or the other.
- #239. Cannot be enrolled with most insurance companies due to high risk nature of illness. This program has helped me immensely! I hope for its continuation beyond 6/92.
- #240. The yearly deductible of \$500 is exceedingly high. A more appropriate amount of \$100. would be much more affordable.





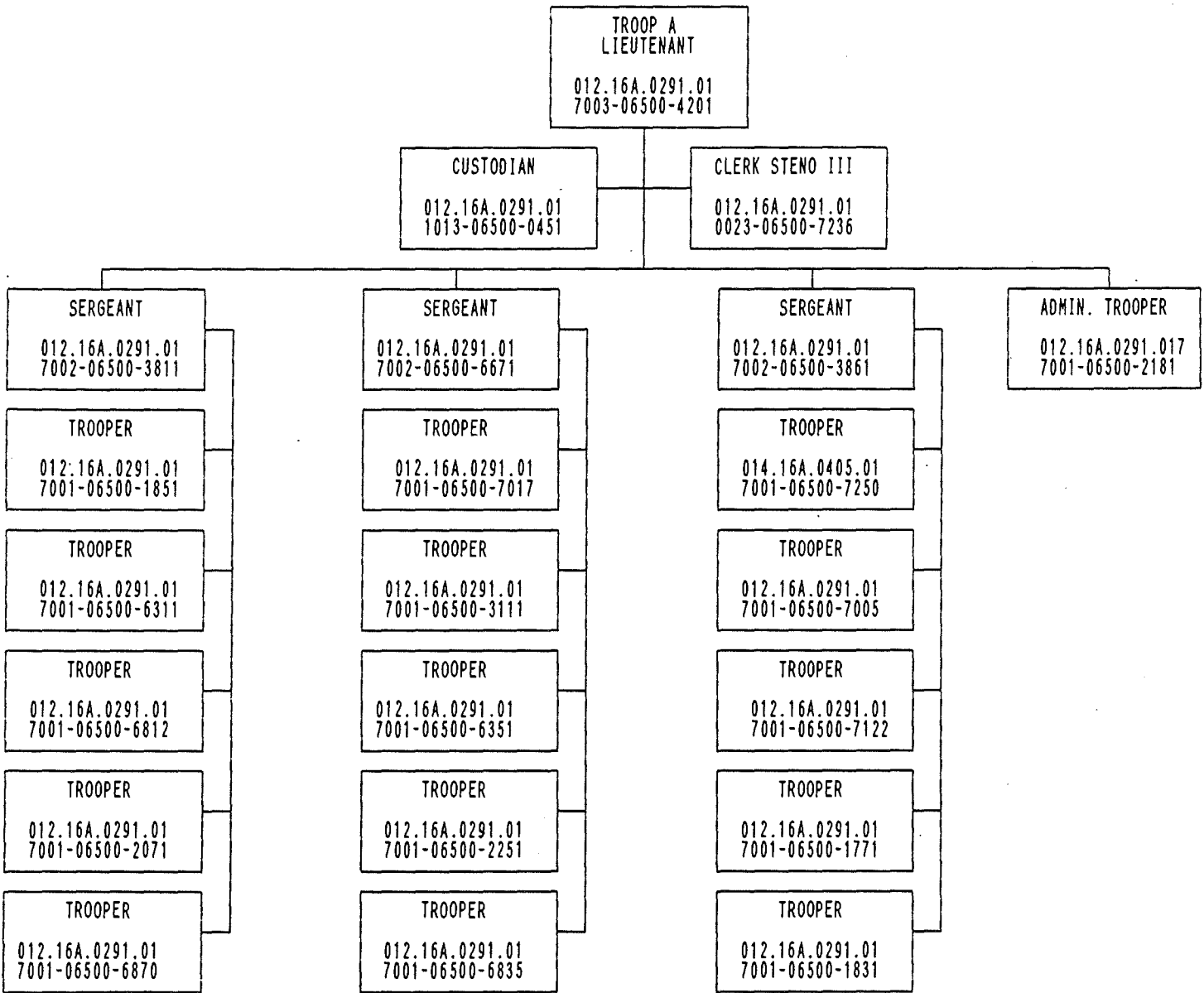
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**APPENDIX 2**

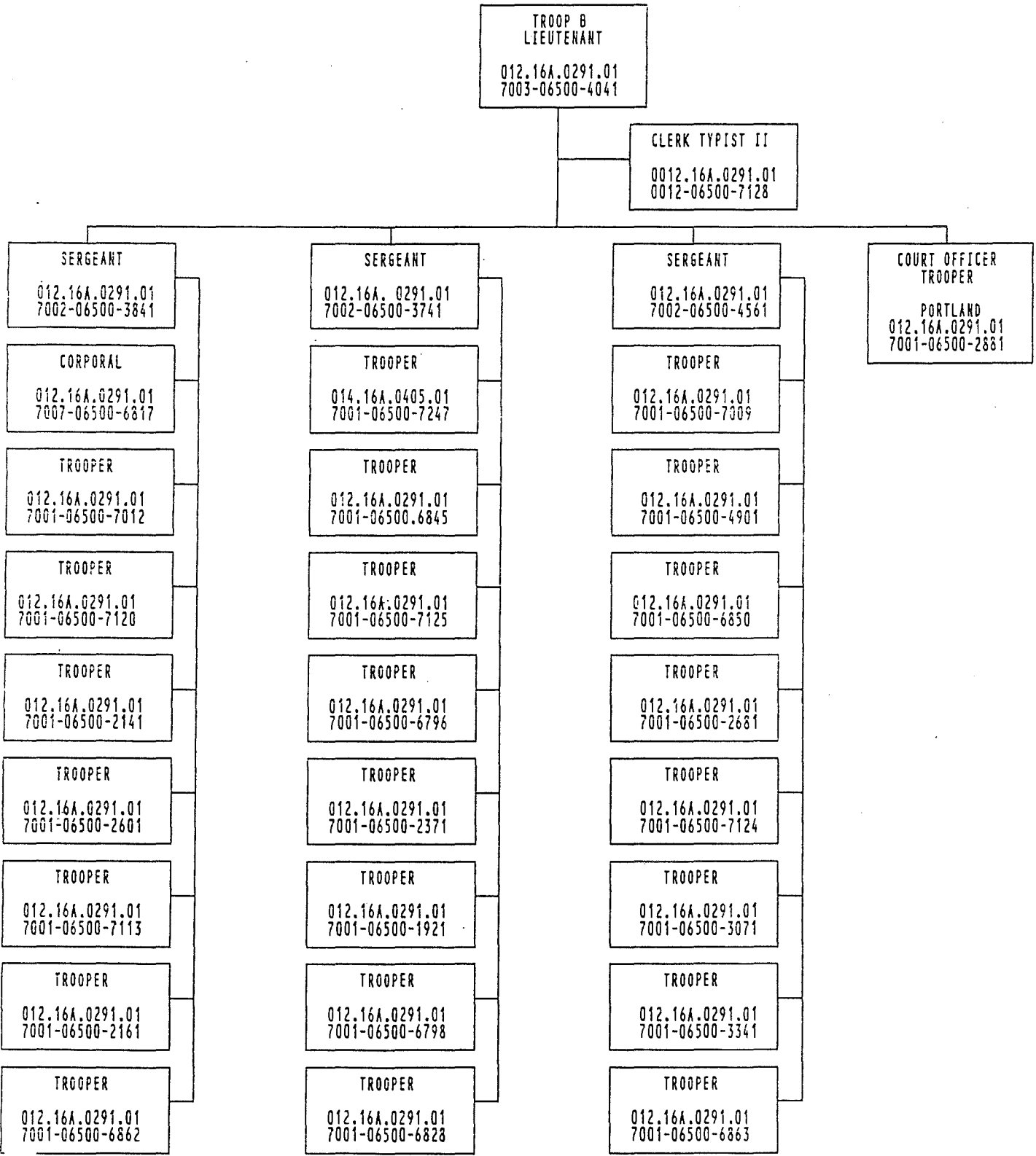
**Additional Organizational Charts  
for the  
Bureau of State Police**



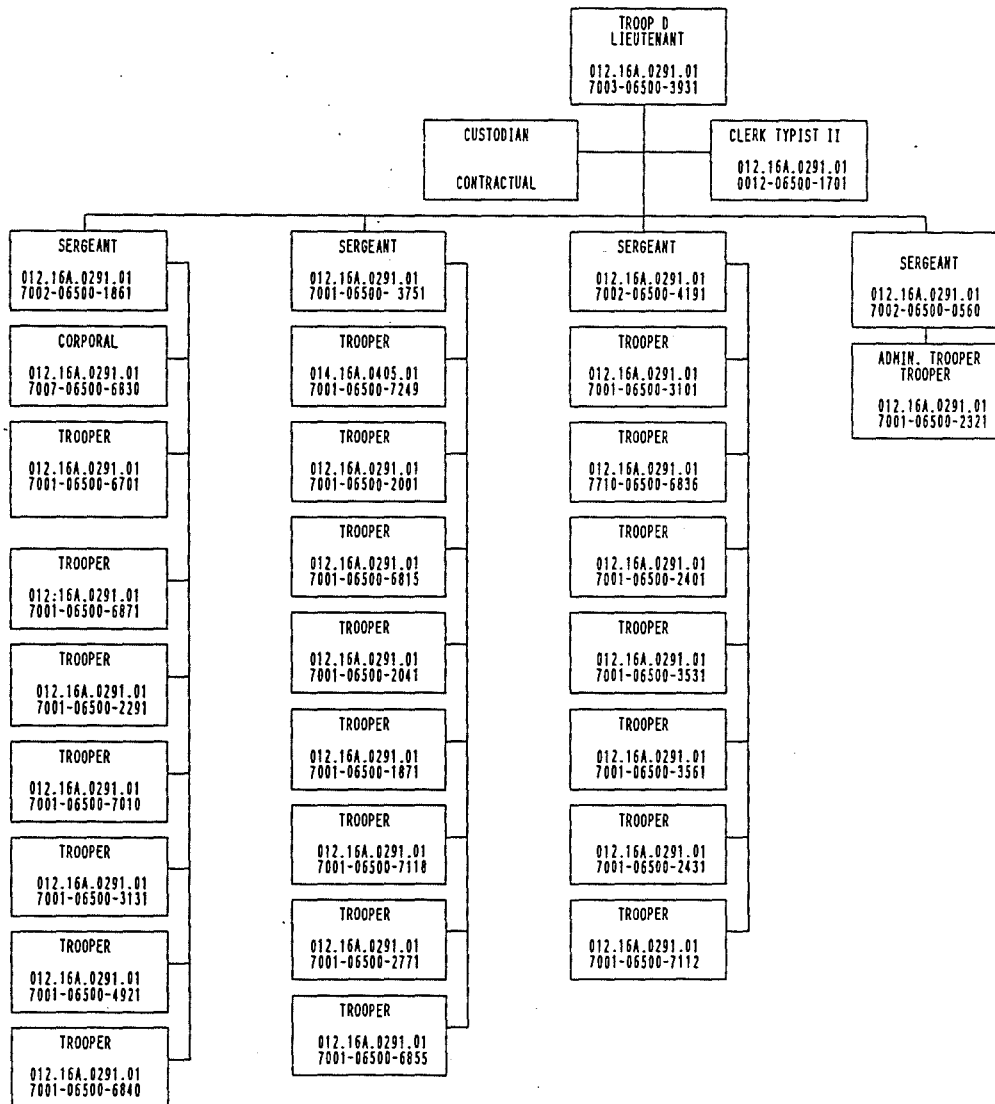
TROOP A - ALFRED  
ACTIVITY AND POSITION NUMBER



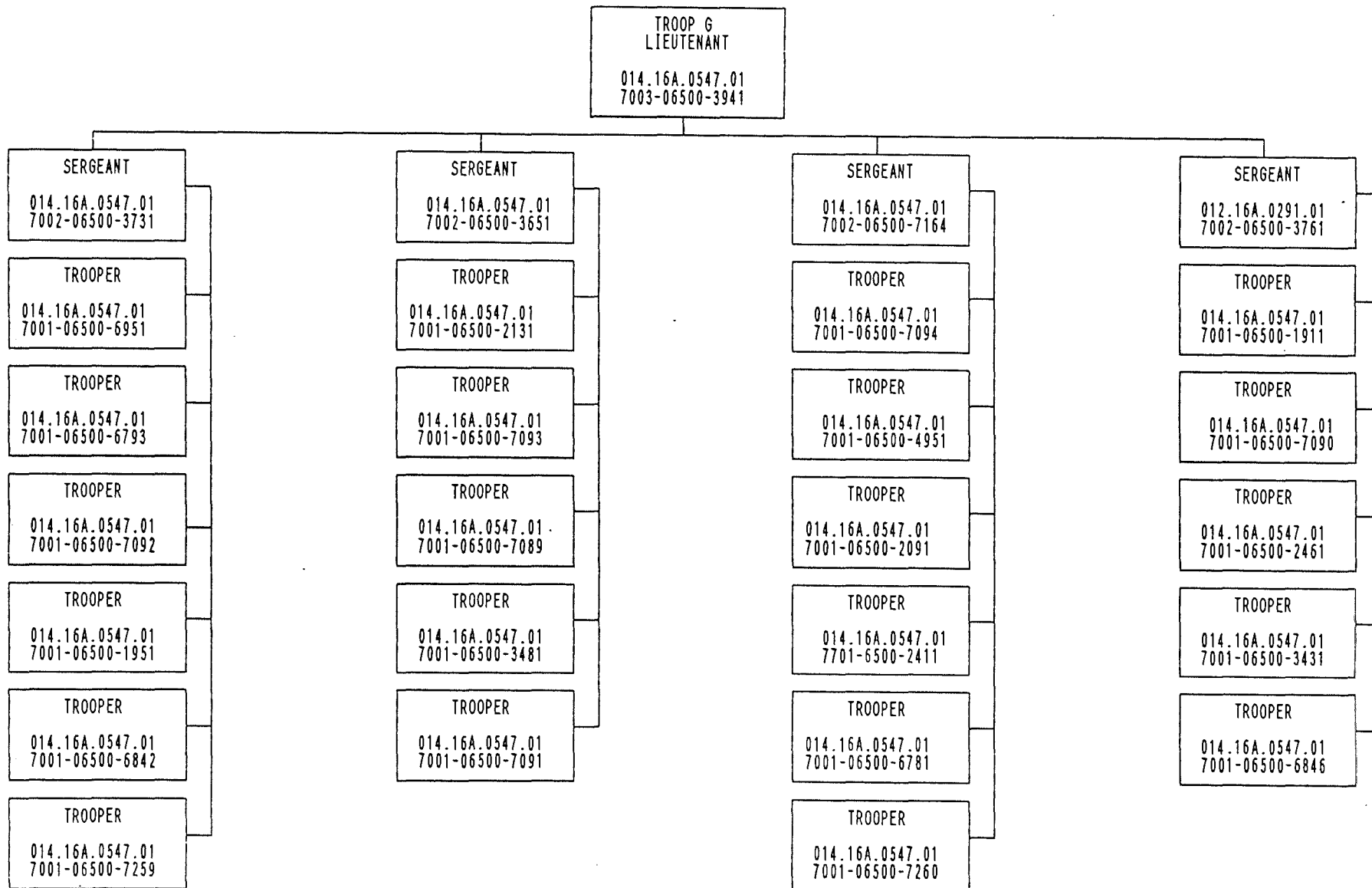
TROOP B - GRAY  
 ACTIVITY AND POSITION NUMBER  
 January 24, 1992



TROOP D - THOMASTON  
ACTIVITY AND POSITION NUMBER



TROOP G - MAINE TURNPIKE  
ACTIVITY AND POSITION NUMBER



TROOP C - SKOWHEGAN  
 ACTIVITY AND POSITION NUMBER  
 January 24, 1992

TROOP C  
 LIEUTENANT  
 012.16A.0291.01  
 7003-06500-4011

BUILDING CUSTODIAN  
 012.16A.0291.01  
 1013-06500-1601

CLERK TYPIST II  
 012.16A.0291.01  
 0012-06500-0161

SERGEANT  
 012.16A.0291.01  
 7002-06500-3891

TROOPER  
 012.16A.0291.01  
 7001-06500-3551

TROOPER  
 012.16A.0291.01  
 7001-06500-3411

TROOPER  
 012.16A.0291.01  
 7001-06500-3221

TROOPER  
 012.16A.0291.01  
 7001-06500-6931

TROOPER  
 012.16A.0291.01  
 7001-06500-7013

TROOPER  
 012.16A.0291.01  
 7001-06500-6381

TROOPER  
 012.16A.0291.01  
 7001-06500-1971

SERGEANT  
 012.16A.0291.01  
 7002-06500-3721

TROOPER  
 012.16A.0291.01  
 7001-06500-2011

TROOPER  
 012.16A.0291.01  
 7001-06500-5061

TROOPER  
 012.16A.0291.01  
 7001-06500-7008

TROOPER  
 012.16A.0291.01  
 7001-06500-7109

TROOPER  
 012.16A.0291.01  
 7001-06500-6865

TROOPER  
 012.16A.0291.01  
 7001-06500-2731

TROOPER  
 012.16A.0291.01  
 7001-06500-3521

TROOPER  
 012.16A.0291.01  
 7001-06500-5031

SERGEANT  
 012.16A.0291.01  
 7002-06500-6281

TROOPER  
 012.16A.0291.01  
 7001-06500-7014

TROOPER  
 012.16A.0291.01  
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TROOPER  
 012.16A.0291.01  
 7001-06500-3331

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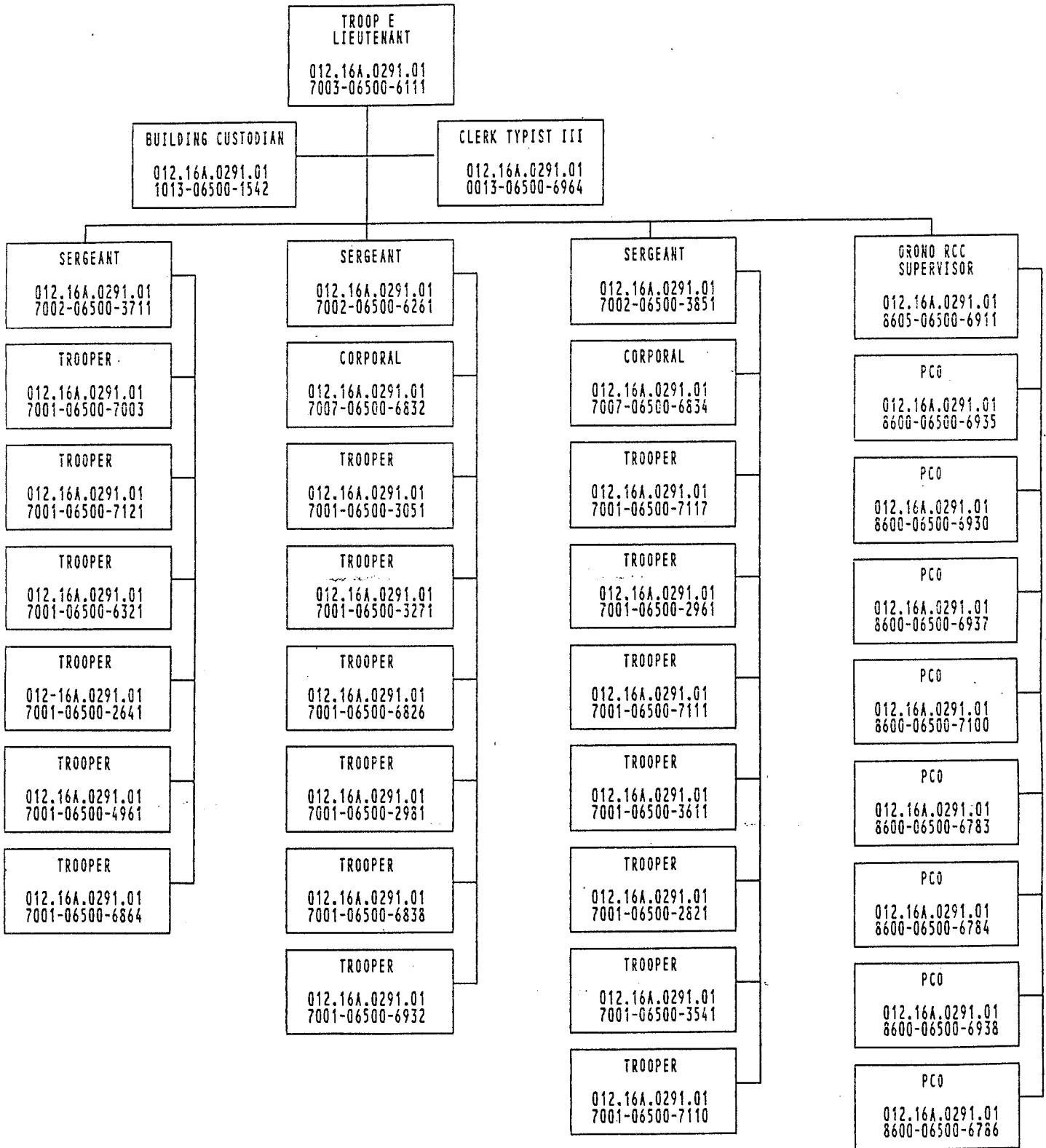
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 7001-06500-7119

TROOPER  
 012.16A.0291.01  
 7001-06500-6814

ADMTN. TROOPER  
 012.16A.0291.01  
 7001-06500-2581



TROOP E - GROND  
 ACTIVITY AND POSITION NUMBER  
 January 24, 1992

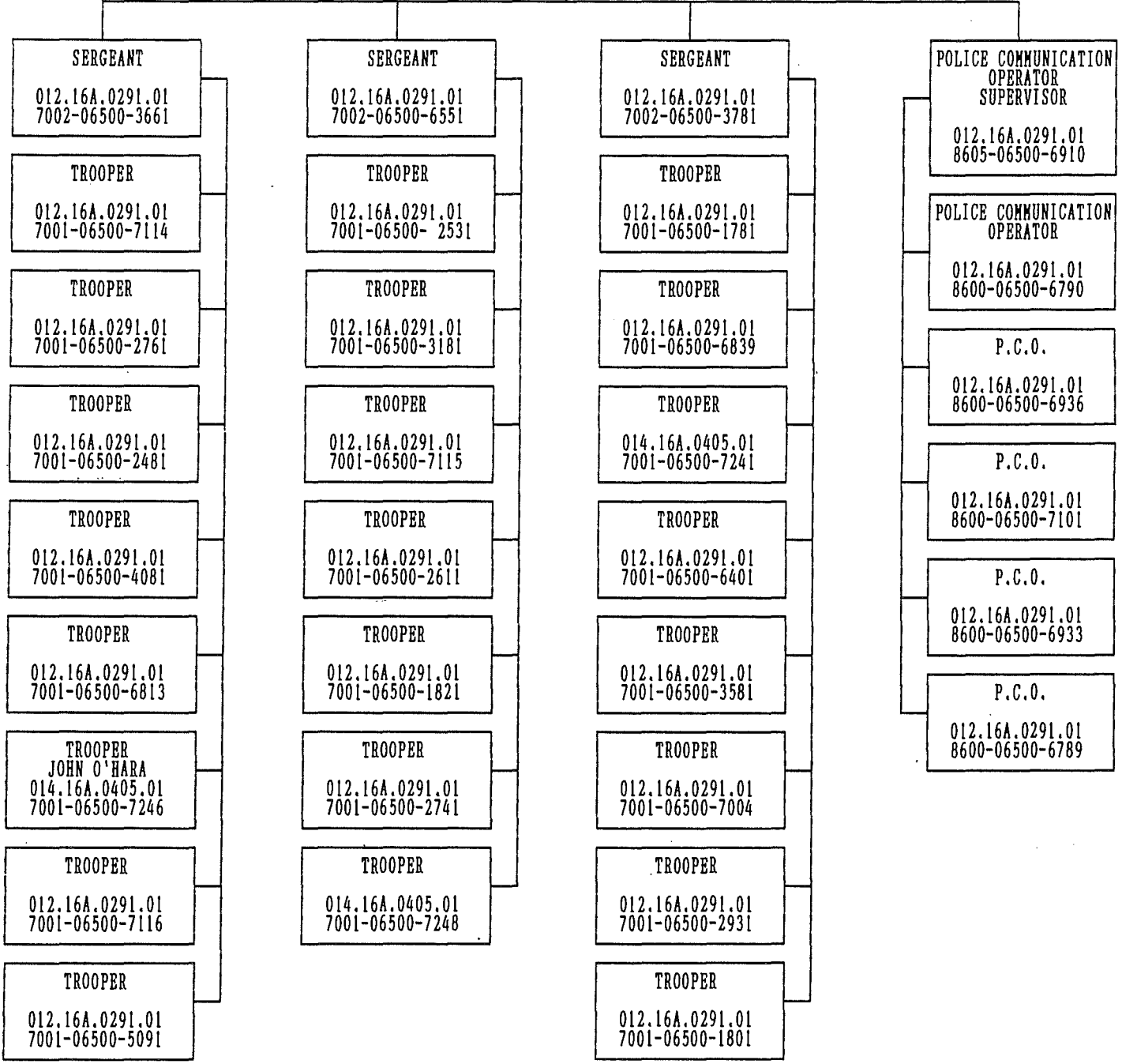


TROOP F - HOULTON  
ACTIVITY AND POSITION NUMBER

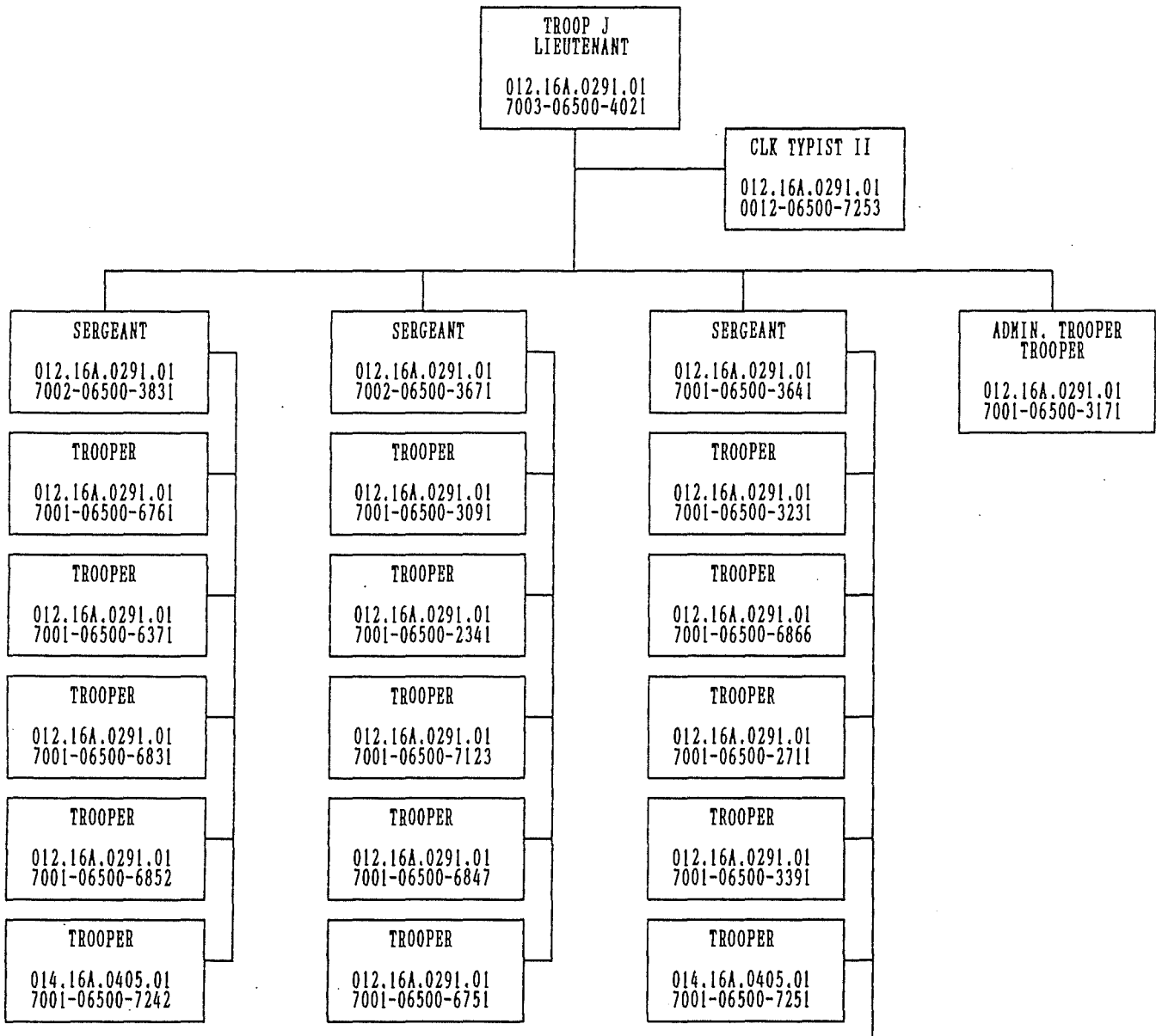
TROOP F  
HOULTON  
LIEUTENANT  
012.16A.0291.01  
7003-06500-3971

BUILDING CUSTODIAN  
012.16A.0291.01  
1013-06500-1721

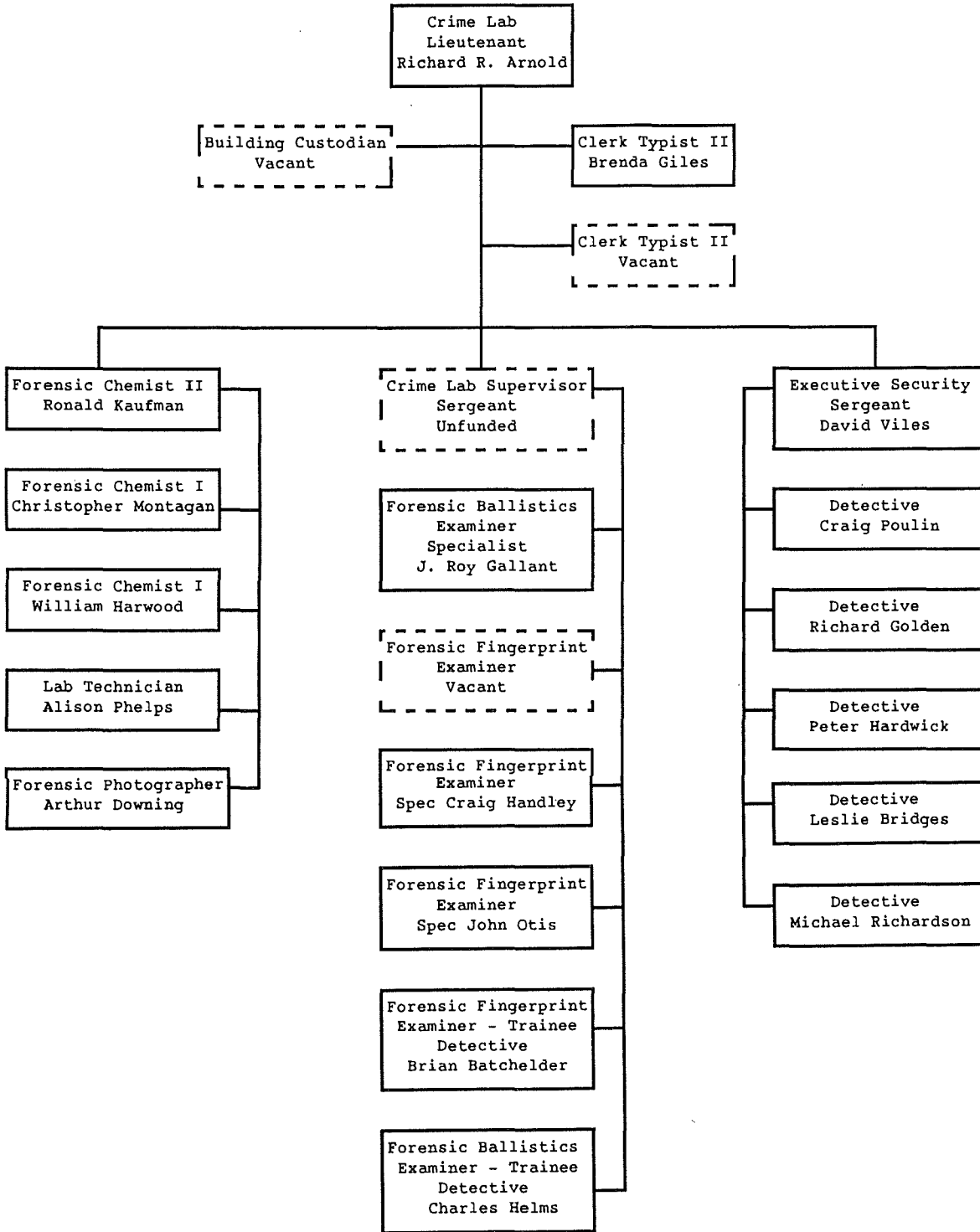
CLERK TYPIST II  
012.16A.0291.01  
0012-06500-7257



TROOP J - EAST MACHIAS  
ACTIVITY AND POSITION NUMBER



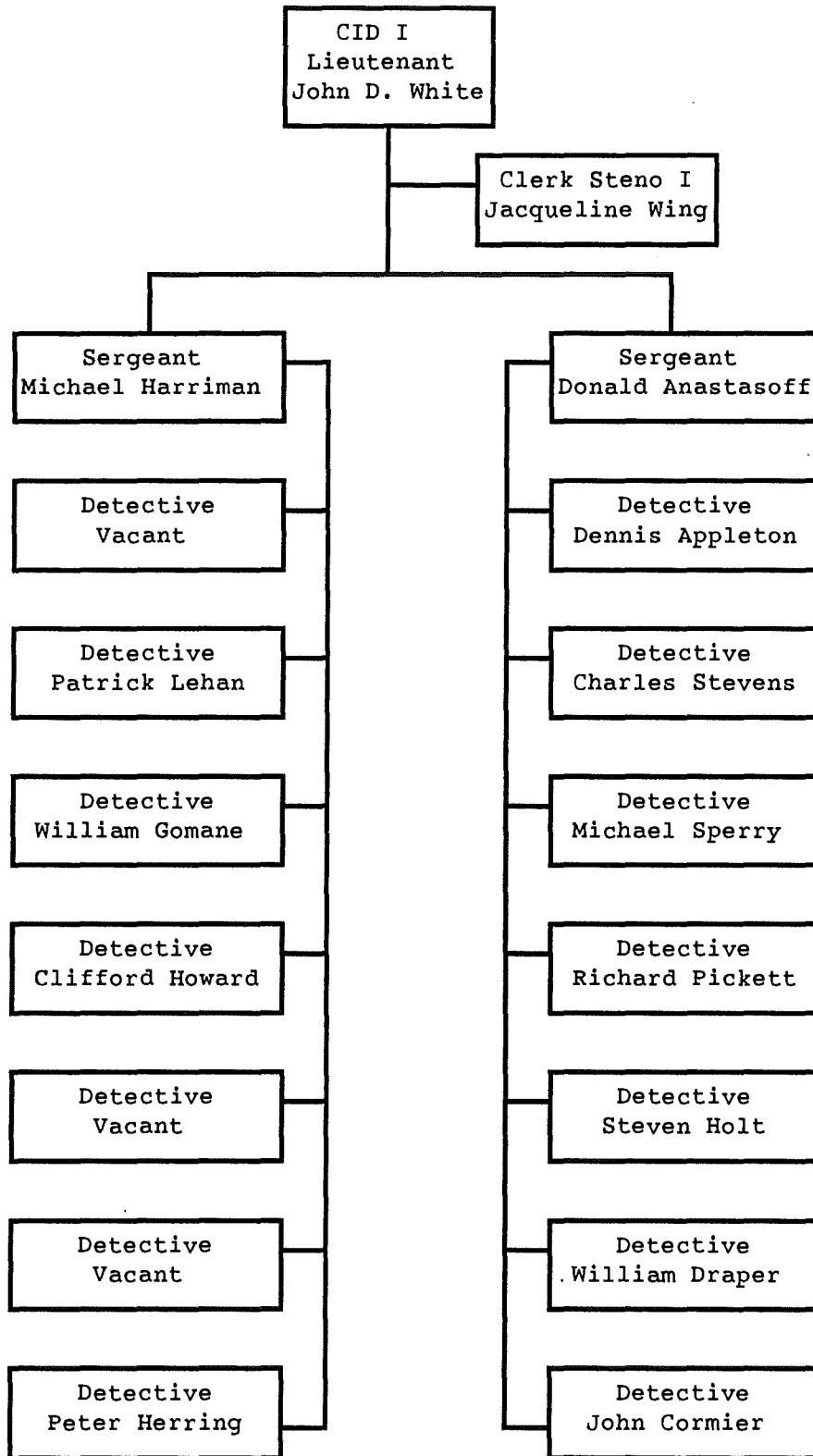
CRIME LAB  
MAINE STATE POLICE - AUGUSTA



CID - I, GRAY

YORK  
CUMBERLAND

FRANKLIN  
OXFORD  
ANDROSCOGGIN



CID - II, AUGUSTA

SAGADAHOE  
LINCOLN  
KNOX  
WALDO

CID II  
Lieutenant  
Gerard Therrien

Clerk Steno III  
(Job Sharing)  
Laid-Off

Clerk Steno III  
Deborah Pushard

(Position Filled  
due to Bumping)

KENNEBEC  
SOMERSET

Sergeant  
Jeffrey Harmon

Sergeant  
Richard Phippen

A.G. Investigations  
Supervisor  
Brian MacMaster

Detective  
Jackie Theriault

Detective  
Timothy Doyle

Detective  
Timothy Lynch

Detective  
Donald Lizotte

Detective  
Timothy Culbert

Detective  
Charles Tappan

Detective  
Roy Brooks

Detective  
Berry DeLong

Detective  
Steven Drake

Detective  
Robert Tupper

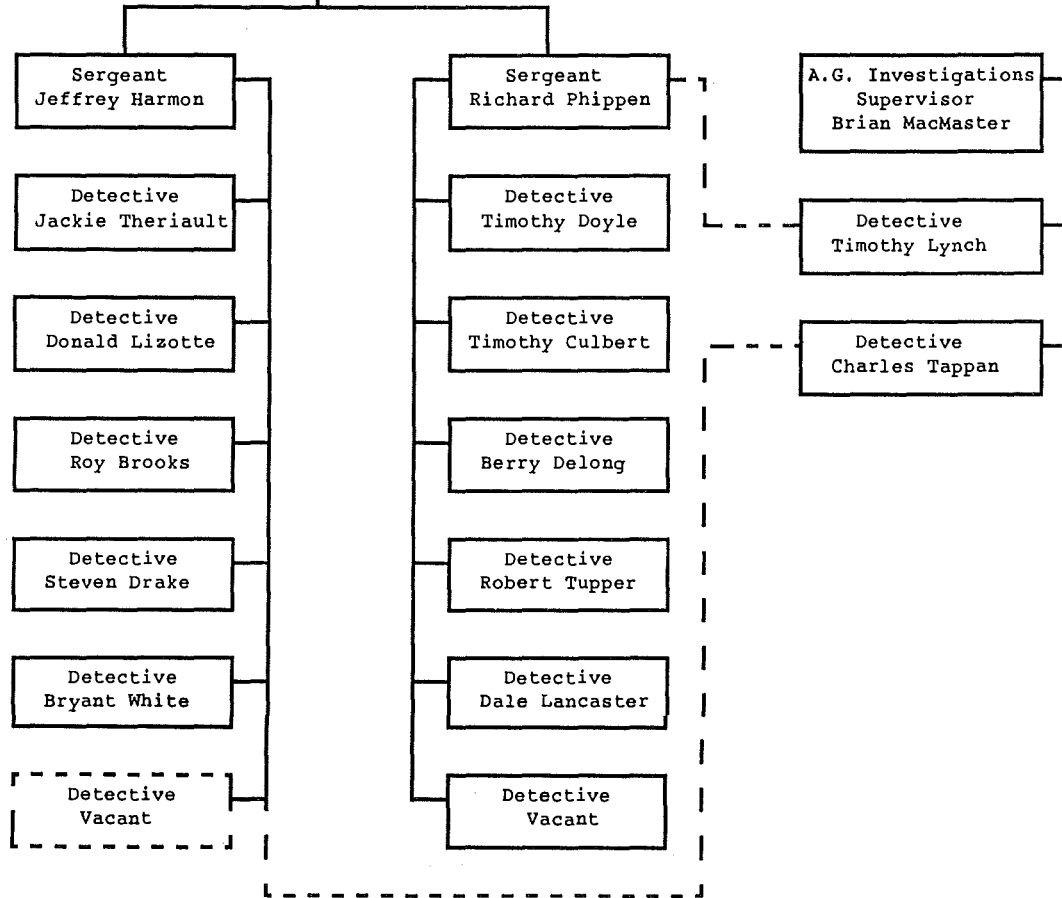
Detective  
Bryant White

Detective  
Dale Lancaster

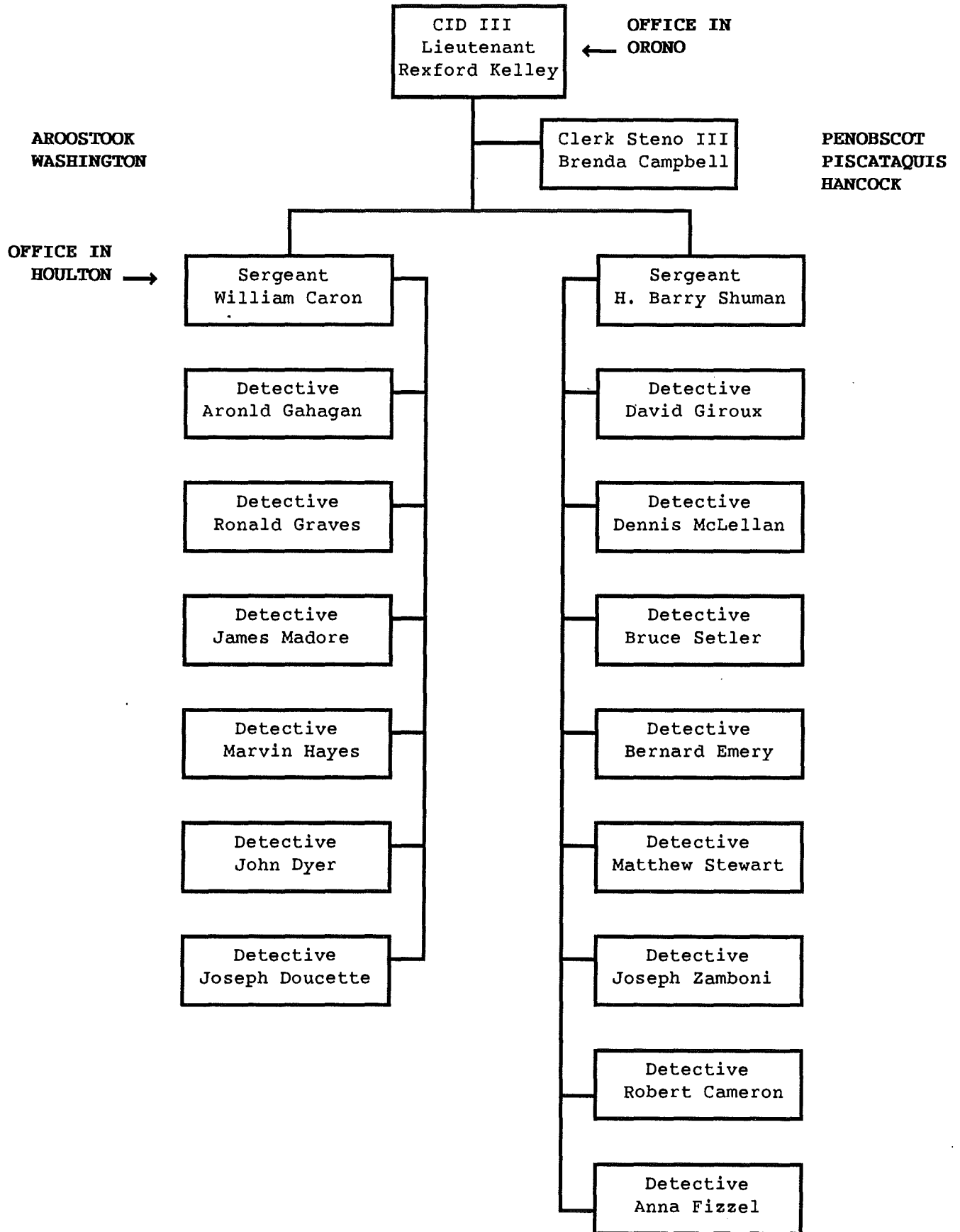
Detective  
Vacant

Detective  
Vacant

A. G. INVESTIGATORS

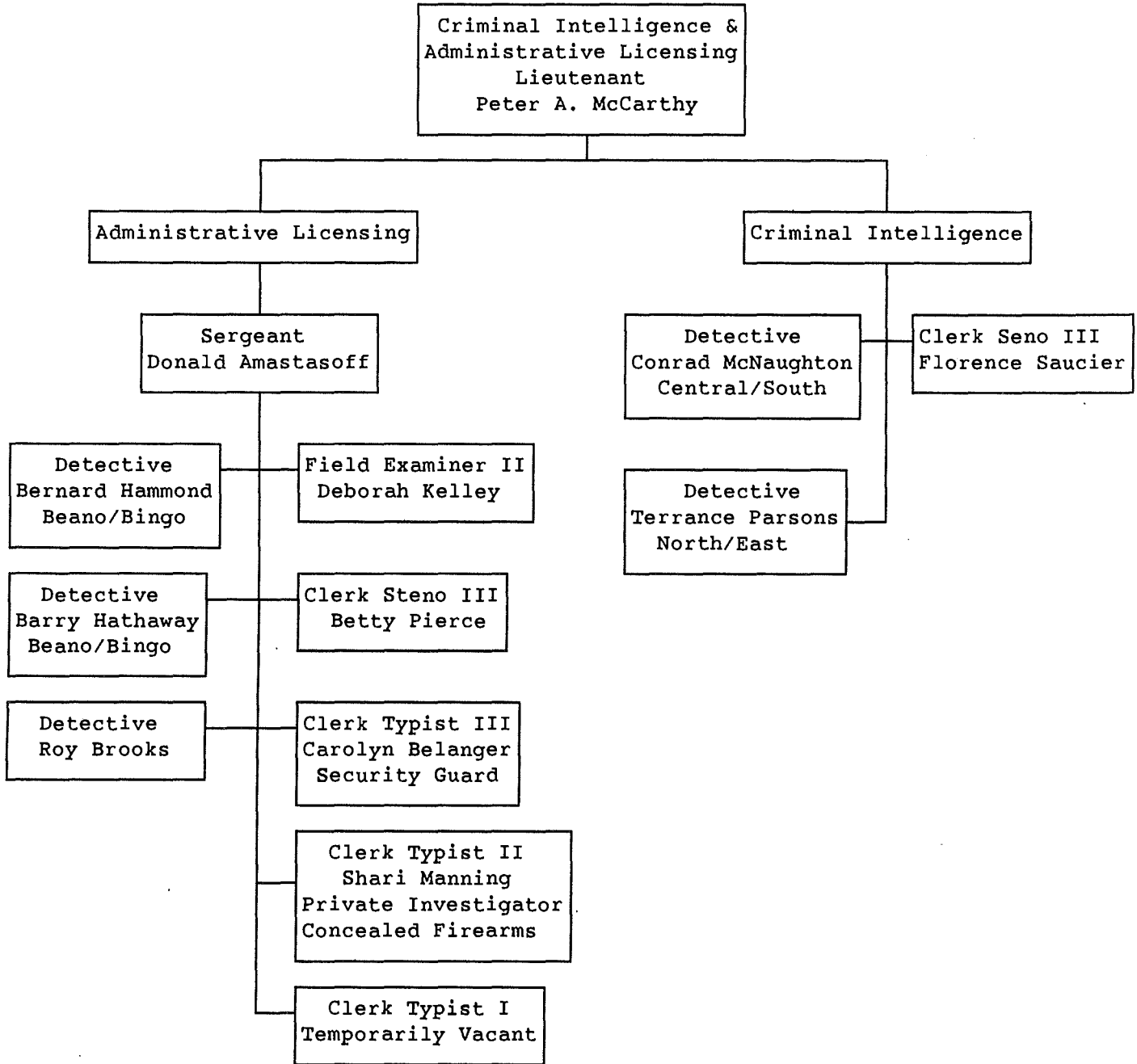


CID - III, ORONO AND HOULTON



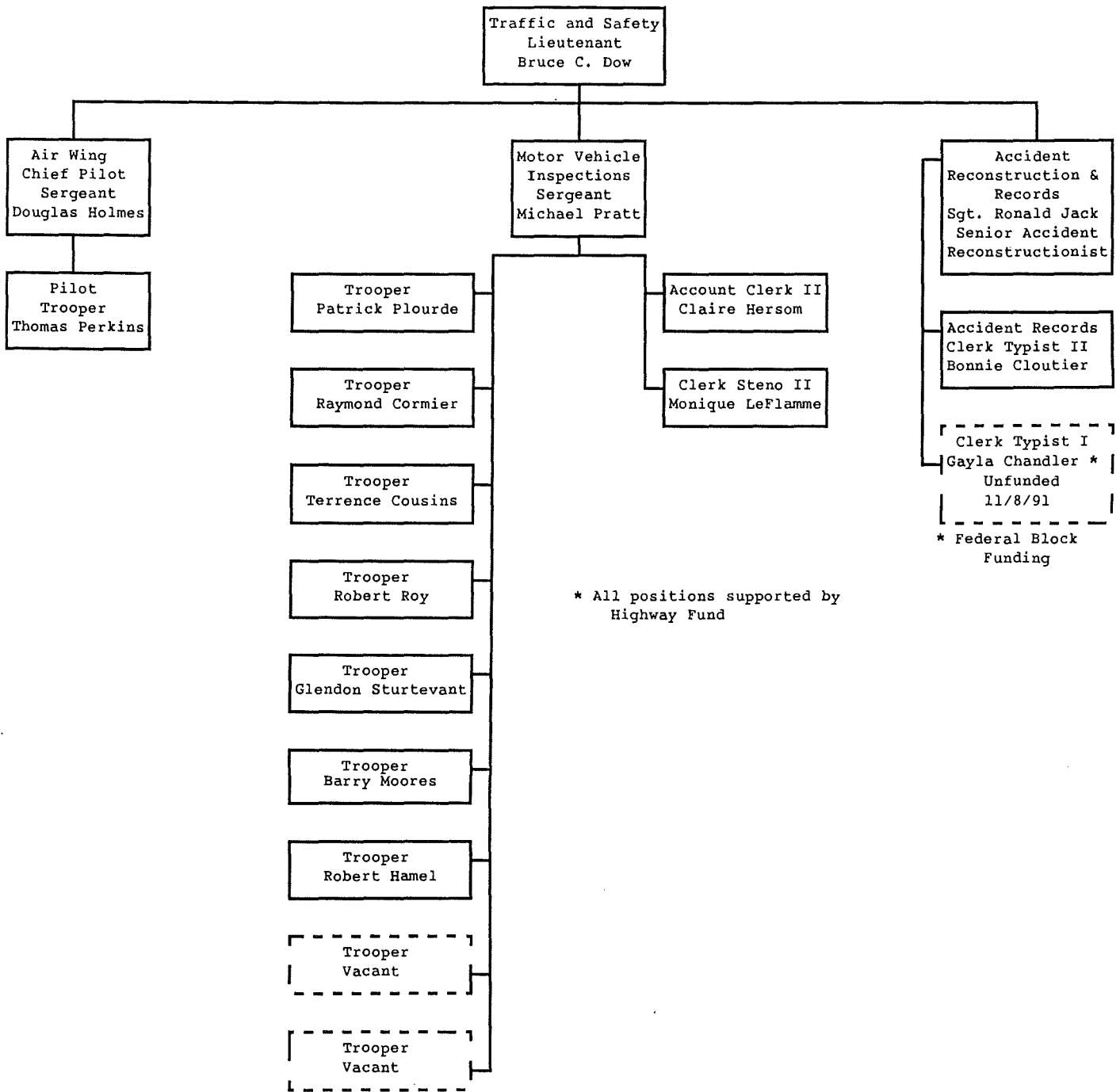
CRIMINAL INTELLIGENCE & ADMINISTRATIVE LICENSING

NOVEMBER 21, 1991



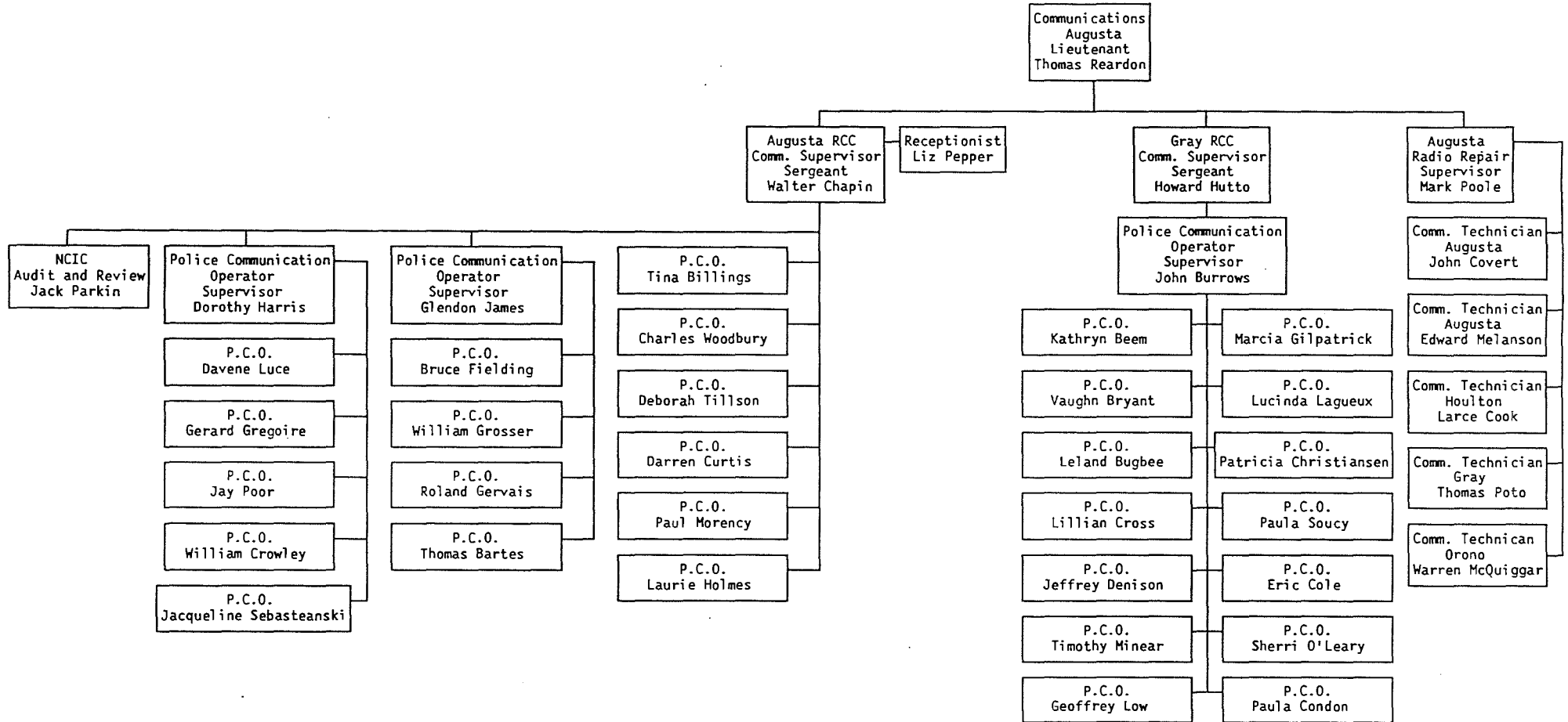


TRAFFIC SAFETY DIVISION - AUGUSTA \*  
NOVEMBER 21, 1991

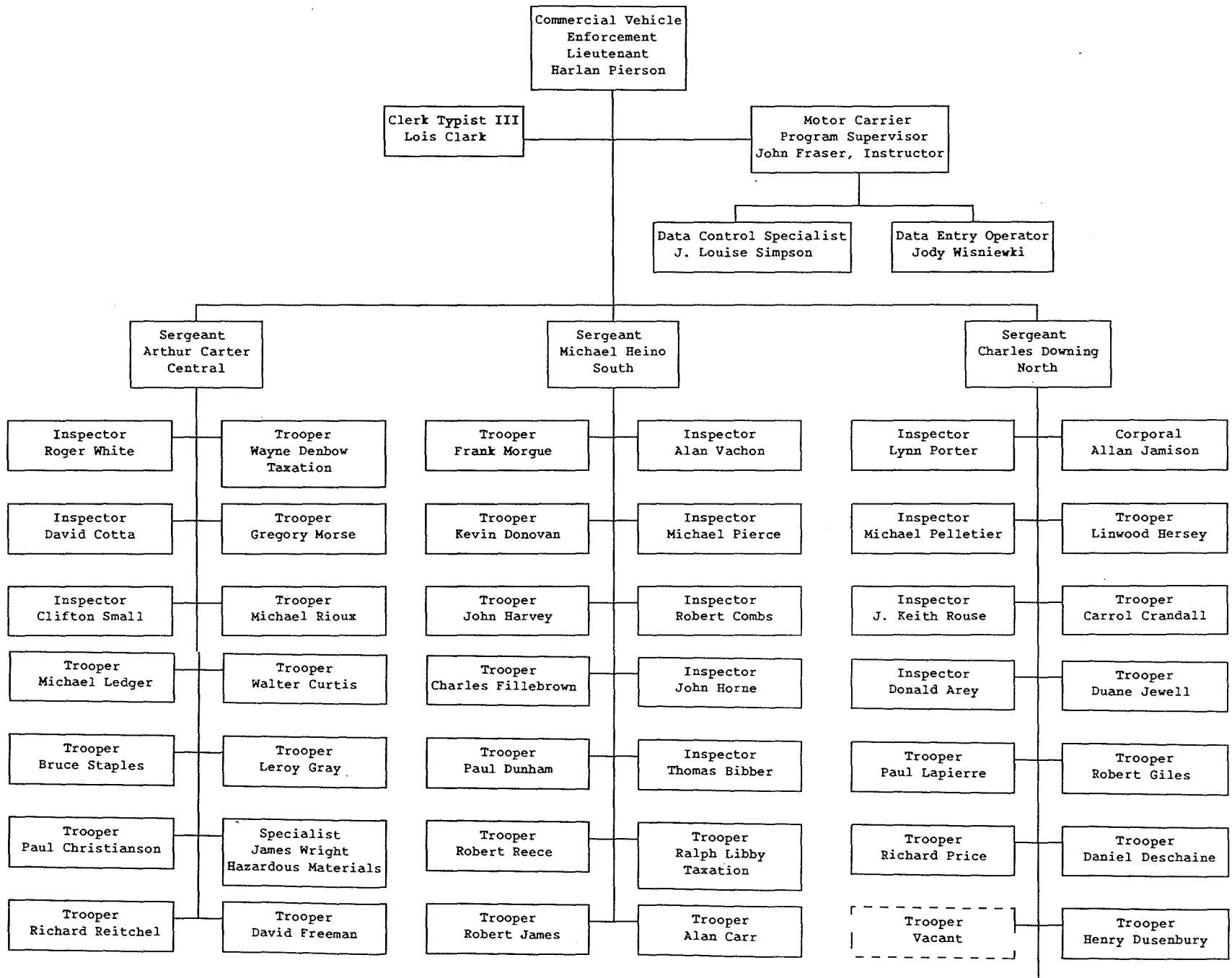


RADIO COMMUNICATIONS AND RADIO REPAIR

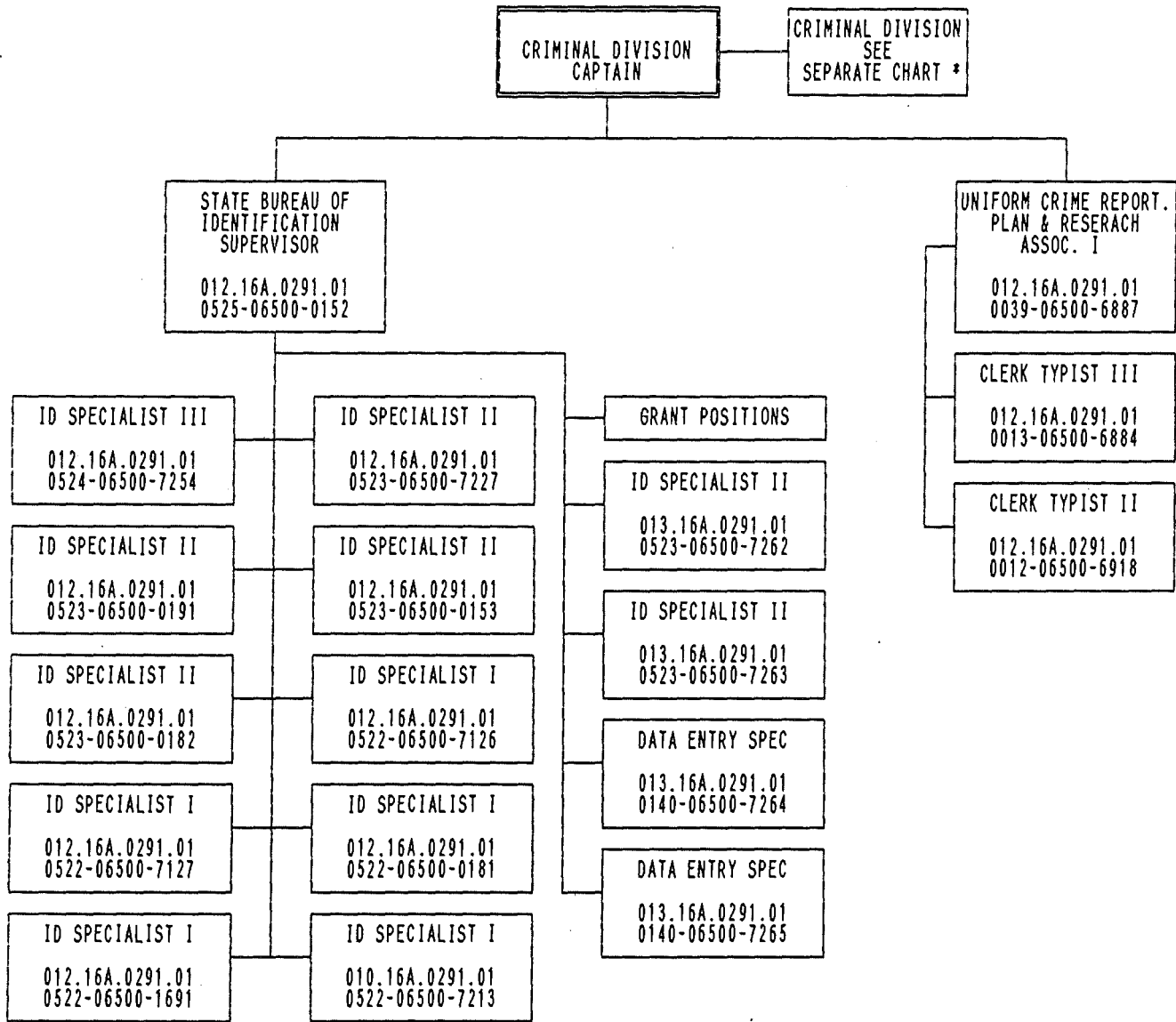
November 22, 1991



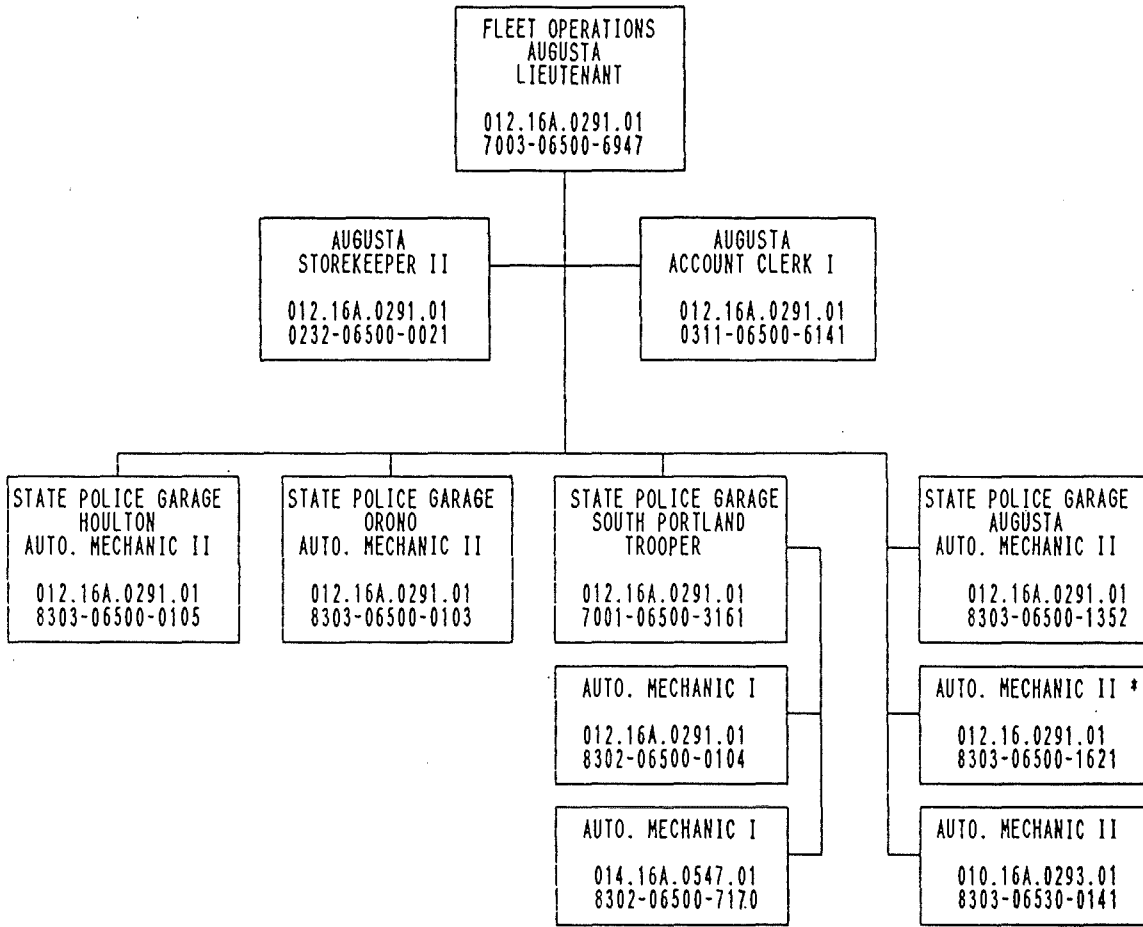
COMMERCIAL VEHICLE ENFORCEMENT  
 ACTIVITY AND POSITION NUMBER  
 NOVEMBER 20, 1991



STAFF MANAGEMENT - AUGUSTA  
ACTIVITY AND POSITION NUMBER

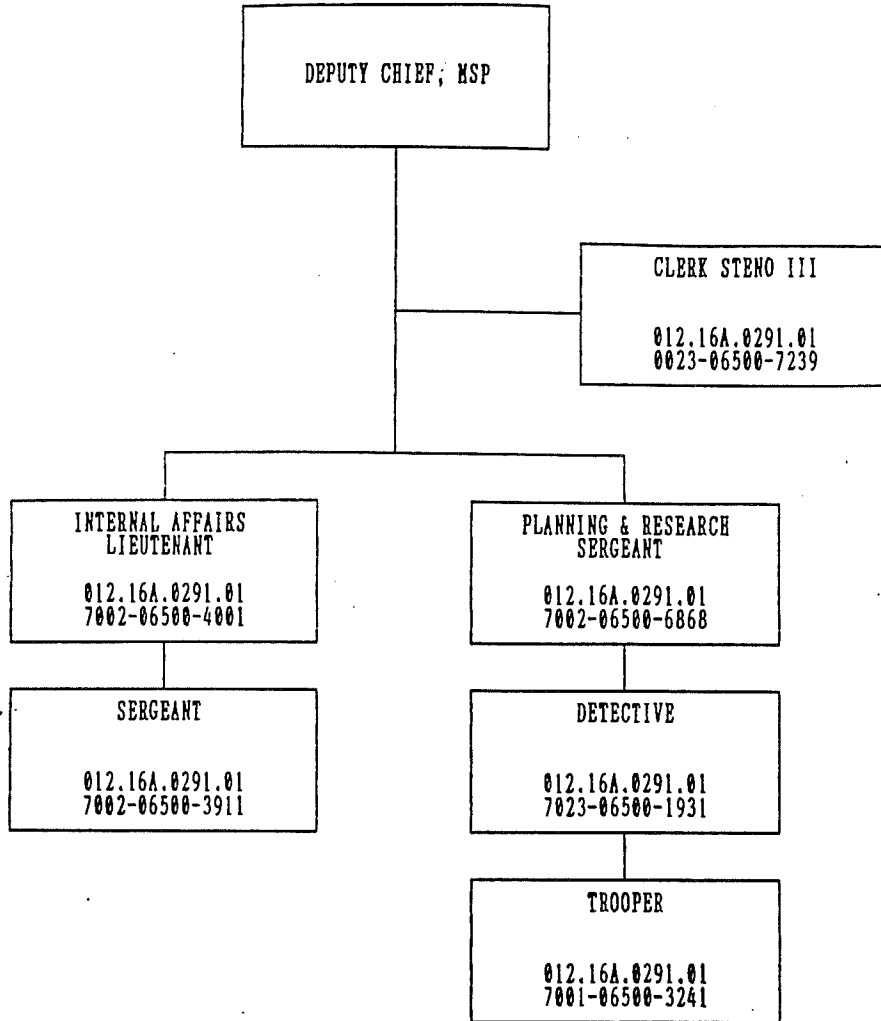


FLEET OPERATIONS - MAINE STATE POLICE  
ACTIVITY AND POSITION NUMBER

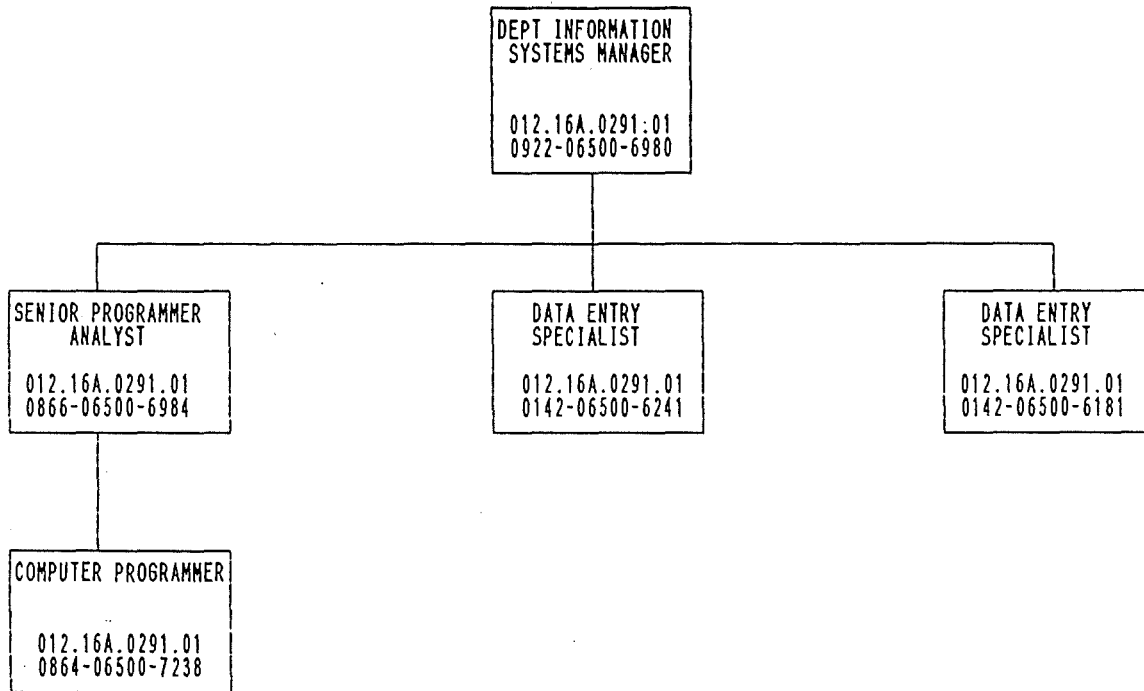


\*This position also appears on the chart for the Bureau of Lioquor Enforcement

INTERNAL AFFAIRS AND PLANNING & RESEARCH  
ACTIVITY AND POSITION NUMBER  
May 6, 1992



MANAGEMENT INFORMATION SYSTEMS  
ACTIVITY AND POSITION NUMBER  
January 24, 1992



TRAINING AND SPECIAL SERVICES  
ACTIVITY AND POSITION NUMBER  
January 24, 1992

