

MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND EIGHTH LEGISLATURE

COMMITTEE ON STATE GOVERNMENT

January 17, 1978

Rep. John L. Martin, Chairman
Legislative Council
c/o Speakers Office
State House
Augusta, Maine 04333

Dear Representative Martin:

Attached is the report of the State Government Committee
on the Training of Corrections Officers, pursuant to H.P. 1592.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'D. F. Collins'.

Donald F. Collins
Senate Chairman

A handwritten signature in cursive script, appearing to read 'Peter J. Curran'.

Peter J. Curran
House Chairman

Enclosure

REPORT OF THE STATE
GOVERNMENT COMMITTEE
ON THE TRAINING OF
CORRECTIONS OFFICERS
(PURSUANT TO HP 1592)

Senate

Donald F. Collins, Senate Chairman
Olympia J. Snowe
Roland D. Martin

House

Peter J. Curran, House Chairman
Judy C. Kany
Anne J. Bachrach
G. William Diamond
Stephanie Locke
Barry L. Valentine
Nancy N. Masterton
Eugene L. Churchill
Robert G. Stubbs
James A. Silsby

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I. PURPOSES OF STUDY

HP 1592, which authorizes this study, directs the State Government Committee to determine whether it is in the interest of the State to establish a policy and standard training requirement for corrections officers (see Appendix 1 for the text of the Study Order).

II. PROCEDURE OF COMMITTEE

Budget limits were placed on all Joint Standing Committees for studies conducted after the end of the First Regular Session of the 108th Legislature. To accommodate these limits, subcommittees were assigned to complete preliminary work on the several studies done by the State Government Committee. The Subcommittee for this Study included Representative Bill Diamond, chairman, and Representatives Anne Bachrach and Eugene Churchill.

The Subcommittee's findings and recommendations were reviewed at a meeting of the full Committee, at which instructions were given for the preparation of this report. The full Committee voted in favor of publication of the findings and recommendations of the subcommittee, and for subsequent hearing of the Bill included in this report. The vote did not constitute endorsement by the Committee of either the findings or recommendations.

Representatives of the following were contacted during the study:

- Bureau of Corrections, Department of Mental Health and Corrections
- Maine Criminal Justice Planning and Assistance Agency
- Maine Criminal Justice Academy
- County Sheriffs.

In addition, members of the subcommittee visited the Maine State Prison at Thomaston and the Maine Correctional Center in South Windham.

III. FINDINGS

In general, the Committee finds (a) that there is a lack of training of corrections officers, especially at several State institutions and (b) that this situation may have grave consequences in terms of potential civil liability, physical harm, and loss of Federal funds.

Lack of Training--With respect to lack of training, certain of the State agencies are clearly the biggest offenders. Both the Maine Correctional Center and the Youth Training Center have an essentially untrained staff of corrections officers and no training program or budget. The State Prison at Thomaston does have a training program in the sense that each new corrections officer is typically given about 2 weeks of classroom and on-the-job training. This training program is probably adequate within the requirements of the draft Bill recommended below. Despite this probable adequacy, the Thomaston training is inefficient because of the extraordinarily high turnover of corrections officers at the prison--often, an entire training class of 6-10 officers will have resigned within several months from the beginning of their training.

The situation at the county level is much better. The county sheriffs attending a subcommittee hearing and the Maine Criminal Justice Planning and Assistance Agency (MCJPAA) estimate that at least 80% of county corrections officers who would be covered by the draft law recommended below have been trained within the meaning of that law within the past 2-3 years. All of this training has been provided at the Maine Criminal Justice Academy, with the assistance of LEAA funds.

There are 3 considerations for future training at the county level. First, LEAA funds are not likely to be available in the future to pay the cost of replacement salaries for officers to staff the posts of officers while they are being trained. This will have the effect of shifting more training costs back onto the county. Second, some counties have a fairly large number of part-time corrections officers (State agencies normally have no part-time officers). Recent changes in State law, however, are likely to encourage fewer part-time corrections officers, thereby making training costs a better investment. Third, a trend in case law in the past several years points clearly to the need for special training at the county level. It is at this level that both sentenced prisoners and persons awaiting sentence are incarcerated (almost all incarcerated persons at the State institutions are serving a sentence). These non-sentenced prisoners are required by law to be treated substantially differently than those who have been sentenced. This is a relatively new legal requirement which the Committee is not convinced is understood and applied in all counties.

There are very few municipal corrections officers who would be covered by the bill contemplated in this study.

Consequences of lack of training--There are three major unfavorable consequences of the lack of training. First, corrections officers, their supervisors, and State and local government, all are potentially civilly liable to the extent that lack of proper training may result in a violation of civil rights, including the rights of persons who are incarcerated in a jail but are not sentenced. In addition, liability is likely to extend to the supervisors of corrections officers and to their employing government for damages resulting from training inadequate for the tasks and situations in which corrections officers find themselves. Second, inadequate training poses a threat of physical and other harm to corrections officers directly, and to inmates and society generally as such training manifests itself through improper treatment of prisoners, escapes, and other phenomena. Third, inadequate training could cause loss of Federal funds. The Omnibus Crime Control Act establishes levels of training for corrections officers, attainment of which is a condition for receipt of Federal cash grants-in-aid under 2 current and 1 proposed programs: the Omnibus Crime Control Act; certain programs under the EDA Act; and the proposed Griffin Bill. The Maine Criminal Justice Planning and Assistance Agency (MCJPAA) has informed the committee that some State agencies and some counties may not conform to the requirements of the Act and may therefore not be eligible to receive funds under the 3 Acts. For the future, the revenue loss may be most significant for the Griffin Bill: MCJPAA estimates that the allocation for Maine under the first 2 years of operation of that Bill to be about \$2 1/2 million. This money would be available for State and County correctional facilities, including for remodeling facilities to comply with recent court decisions requiring separation of inmates by sex, whether sentenced or not, and other criteria. Appendix 2 contains more information from the MCJPAA on potential loss of funds.

IV. RECOMMENDATIONS

Corrections Officers should be subject to a statutory training requirement as are law enforcement officers. Appendix 3 contains a draft Bill to accomplish this. Briefly, the Bill requires all full-time corrections officers (i.e., earning more than \$4,000 per year) to complete at least 2 weeks training within the first 6 months of their employment. In addition, the Bill:

1. Assigns to the Criminal Justice Academy the responsibilities for defining the meaning of the term corrections officers; for approving and conducting training programs (other agencies may also conduct training programs); and for waiving the training requirement in extraordinary circumstances
2. Establishes an in-service requirement for additional training of corrections officers subsequent to their first year of employment
3. Provides a sanction for violation of the statute which may be invoked by the Board of Trustees of the Criminal Justice Academy
4. Provides no grandfathering for current corrections officers--any person who is not waived by the Board of the Criminal Justice Academy must satisfy the training requirement by January 1, 1980.
5. Requires the Criminal Justice Academy to conduct a study and report to the 109th Legislature on employment turnover of corrections officers
6. Appropriates \$54,000 to the Criminal Justice Academy to be used solely to pay the salary expenses of corrections officers being trained pursuant to the Bill; payment is to be in the form of a reimbursement to State, county, and municipal agencies.

Adoption of this Statute can assure the minimal training necessary to satisfy requirements of recent case law and Federal grant programs, in addition to staffing the institutions with personnel adequate for the job. It is also hoped that better training will reduce turnover.

V. COSTS OF RECOMMENDATIONS

It is not possible to set out precisely the cost and sources of funds to implement these recommendations. However, several general statements can be made about costs:

1. The bulk of the cost of the first 2 years of operation will be State cost. A relatively large cost will be incurred initially to train all (or nearly all) of the corrections officers at the Youth Training Center and Maine Correctional Center.
2. The remaining costs for the first 2 years, and subsequent to the first 2 years, will be to train new State and county corrections officers (i.e., turnover).
3. Roughly one-third of the cost of 1. and 2. above can be paid from Federal funds currently available to the Maine Criminal Justice Planning and Assistance Agency for roughly the first 2 years of operation. Whether and under what conditions Federal funds will be available after that time is uncertain.
4. A "ballpark" estimate of the costs for training 300 persons during the first 2 years of operation is:
Training cost (instructional cost
and room and board; from Federal
grant funds)-----\$27,000
Salary replacement for trainees
(from State General fund and
county funds)-----\$54,300

Total Training costs per 300
corrections officers-----\$81,300

Costs for the first 2 years at the State level will be mainly at the Training and Correctional Centers. There will be very little additional cost at Thomaston, since it now has plans for a 2 week program to train new recruits. The entire corrections officer staffs at the 2 centers will have to be trained. This will involve training about 120 persons at the Youth Training Center and about 95 persons at the Correctional Center. These will be "additional" costs to these 2 institutions, since in recent years they have provided virtually no training for their corrections officers.

Costs at the county level are not expected to be substantial. Both the sheriffs attending the subcommittee hearing and the Criminal Justice Planning and Assistance Agency believe that most county corrections officers who would be subject to the recommended law have been trained in 1 of 4 correction training programs given within the last 2 years at the Criminal Justice Academy. The Planning and Assistance Agency estimates that at least 80% of eligible officers have been so trained. The cost to counties will therefore involve mostly training new employees.

Federal funds are currently available to pay at least "training costs" -- i.e., instructional costs and room and board for trainees. These funds are available for use over the next 1 1/2 to 2 years. The Maine Criminal Justice Planning and Assistance Agency (MCJPAA) estimates that it has available to grant a minimum of \$27,000, and potentially as much as \$49,000, amounts sufficient to train 300-540 corrections officers:

\$9 per day X 10 days X 300 persons = \$27,000
 \$9 per day X 10 days X 544 persons = \$49,000

MCJPAA has stated that it is unlikely that "salary replacement costs" can be paid from Federal funds. These are the amounts necessary to pay the costs of substitute corrections officers to stand the post of corrections officers attending training. A weekly salary of \$150 is illustrative of the beginning pay of an average county or State corrections officer. Assuming a benefits rate of 20% in addition to salary, illustrative salary replacement costs for the range of 300-544 corrections officers in the preceding paragraph is as follows:

\$150 salary + 20% benefits = \$181 per person

300 persons X \$181 = \$54,300
 544 persons X \$181 = \$98,464.

The range in total cost under the above assumption is:

	<u>Number of persons</u>	
	<u>300</u>	<u>544</u>
Training (Federal)-----	\$27,000	\$49,000
Salary replacement (State General Fund and counties' funds)-----	<u>\$54,300</u>	<u>\$98,464</u>
TOTAL-----	\$81,300	\$147,464

This Committee believes that this range is a reasonable approach for implementing the recommended Bill. For example:

--300 trainees would include 120 officers at the Youth Center, plus 95 at the Corrections Center, plus 85 more from the counties, the State Prison and turnover at both state and county levels; increasing the training level to more than 300 trainees in this period would simply diminish the backlog of turnover training;

--The Criminal Justice Academy has indicated to the Committee that it is able to train up to 500 corrections officers within the next 2 years;

--The development of curriculum and material is at a stage that will allow relatively rapid implementation.

The major problem is the funding of salary replacement costs, which will involve obtaining additional appropriations at both State and county levels.

APPENDICES

APPENDIX 1

HP 1592

STATE OF MAINE

In House

Whereas, there are more than 240 correction officers employed by state and county governments in Maine; and

Whereas, there is no standard training program or requirement specifically for such officers as there is for police officers; and

Whereas, on the basis of testimony presented on several bills before it, a majority of the Joint Standing Committee on State Government having voted in favor of a study to determine whether it may be in the interest of the State to establish a policy and standard training requirement for corrections officers; now, therefore, be it

Ordered, the Senate concurring, that the Joint Standing Committee on State Government be authorized to study the training of state and county corrections officers and to report back to the second regular session of the 108th Legislature;

- (1) The most appropriate training to be required of such officers; and
- (2) A plan, including funding, to provide such training as expeditiously as is possible;

and be it further

Ordered, that the Department of Mental Health and Corrections, the Maine Criminal Justice Academy and such other agencies or departments as may be determined by the Joint Standing Committee on State Government be authorized and directed to provide the committee with such assistance as the committee deems necessary to carry out the purposes of this order; and be it further

HP1592

Ordered, that the committee shall complete this study no later than December 1, 1977, and submit to the Legislative Council within the same time period its findings and recommendations including copies of any recommended legislation in final draft form; and be it further

Ordered, that upon passage of this order in concurrence, copies of this order be transmitted forthwith to the Department of Mental Health and Corrections and the Maine Criminal Justice Academy as notice of the pending study.

HOUSE OF REPRESENTATIVES
READ AND PASSED

MAY 24 1977

SENT UP FOR CONCURRENCE

Edwin C. East
CLERK

HOUSE OF REPRESENTATIVES
UNDER SUSPENSION OF RULES
HOUSE RECEDED & CONCURRED

JUL 11 1977

Edwin C. East
CLERK

(Diamond)

NAME:

TOWN: Windham

IN SENATE CHAMBER
TABLED BY SEN. WILL SPEERS
OF OF KENNEBEC

MAY 25 1977

PENDING
MAY 21, 1977. Secretary

IN SENATE
TAKEN FROM TABLE ON MOTION
BY SEN. SPEERS
BY DE KENNEBEC AND ON FURTHER

JUL 11 1977
SEN. SPEERS
MOTION BY OF KENNEBEC
~~INDEFINITELY POSTPONED~~
~~IN NON CONCURRENCE~~
SENT DOWN FOR CONCURRENCE

Ordered sent forthwith

H. W. Diamond

APPENDIX 2

THE IMPORTANCE OF CORRECTIONAL
OFFICER TRAINING (BY THE
MAINE CRIMINAL JUSTICE PLANNING
AND ASSISTANCE AGENCY)

MAINE CRIMINAL JUSTICE PLANNING & ASSISTANCE AGENCY

THE IMPORTANCE OF CORRECTIONAL OFFICER TRAINING

While correctional officers do not have the same exposure to the variety of constitutional issues which face a law enforcement officer in the performance of his duty in the field, he is still exposed in his handling and treatment of both adjudicated and non-adjudicated offenders in his care and custody. Training is therefore of primary importance in the protection of the officer personally and/or his employing agency from civil litigation.

While it is of some decreasing significance in the face of funding levels which are declining at this time, state and local correctional facilities in Maine have utilized Part E LEAA monies which carry many conditions, among which is minimum training requirements. Retrospectively, a federal audit could require refund of monies already spent if they found non-compliance. This likelihood is not severe. More important would be a finding of non-compliance and absence of any "Good faith" effort to meet the requirements, with respect to future funding for correctional programs and facilities. The impact or potential impact of this is not currently significant (i.e. Part E funds have been cut by about 50%, our current year allocation is \$146,000; EDA/Public Works funds to which these Part E requirements also apply appear to have been exhausted--at least for these purposes). There may however be a significant impact if the Griffin Bill currently in the Congress is passed. Funds appropriated under this Act would be primarily for correctional facilities and they would be handled as supplemental Part E monies. The estimated first year appropriation is 150 millions, and second year is 350 millions. Based on the usual formula distribution of Part E monies this could mean a potential federal resource for correctional facilities in Maine of \$750,000 in the first year and \$1,715,000 in the second.

Training, along with many issues of far higher order, such as compensation, relates to job satisfaction and reduced turnover. A reduced turnover rate has direct economic benefits.

APPENDIX 3

DRAFT BILL TO IMPLEMENT
RECOMMENDATIONS OF THE REPORT

AN ACT to Establish Training Requirements for Corrections Officers.

Be it enacted by the People of the State of Maine as follows:

²⁵
Sec. 1./MRSA §2801, par. 2., 1st sentence, is amended to read:

The purpose of the Maine Criminal Justice Academy shall be to provide a central training facility for all law enforcement and correctional personnel of the State and also for criminal justice personnel.

²⁵
Sec. 2./MRSA §2802, par. 1., 1st sentence, is amended to read:

There is created a board of trustees for the academy consisting of ~~12~~ 13 members as follows: The Commissioner of Public Safety, ex officio, the Attorney General, ex officio, the Commissioner of Mental Health and Corrections, ex officio, and the following to be appointed by the Governor: 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 and a municipal officer.

^{25 MRSA}
Sec. 3./§2803, sub-§2-A is enacted to read:

2-A. Training and certification of correctional personnel. In accordance with the provisions of 2802, to approve training programs for corrections officers, including prescription of curriculum and setting of standards for admission to and graduation from such approved programs;

^{25 MRSA}
Sec. 4./§2803, sub-§4, is amended to read:

Other training programs. To establish, within the limits of funds available and with the approval of the commissioner, addi-

tional training programs considered to be beneficial to law enforcement officers, corrections officers, and criminal justice personnel;

25 MRSA
Sec. 5./§2805, sub-§1, is amended by adding para. 1-A.

As a condition to the continued employment of any person as a full-time corrections officer, as defined by sub-§2, by a municipality or county or by the State, the person shall successfully complete, within the first six months of his employment as a corrections officer, a basic training course of not less than 80 hours as approved by the Maine Criminal Justice Academy. The board of trustees, under extenuating and emergency circumstances in individual cases, may extend the period allowed for training for not more than 60 days. In addition, the board of trustees may, in individual cases, waive such basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction within the last 2 years.

This section shall apply to any person employed as a full-time correctional officer as of the effective date of this act, except that such full-time correctional officers shall be exempt from the six months requirements but shall successfully complete such basic training on or before January 1, 1980. Administrators of facilities where there are corrections officers who are not "full-time" staff, as defined in §2805, sub-§2.C., are encouraged to develop an orientation program for those persons.

Sec. 6. 25 MRSA § 2805, sub-§ 2, 2nd ¶ is amended to read:
The term "full-time local law enforcement officer" shall not apply to persons employed by counties whose full-time duties are those of corrections officers. The board of trustees of the Maine Criminal Justice Academy shall be responsible for the application of the terms of this section, including the definition of the term full-time correctional officer.

25 MRSA
Sec. 7./§2805, sub-§3 is amended to read:

3. In-service training. As a condition to the continued employment of any person as a full-time local law enforcement officer by any municipality or county, or any person as a full-time corrections officer by any municipality or county or by the state, said person shall be enrolled in an in-service training program conducted by the ~~police~~ agency by which he is employed, the Maine Criminal Justice Academy or a program approved by the board of trustees.

25 MRSA
Sec. 8./§2805, sub-§3, par. 2, is amended to read:

The content of, and time periods in which, such in-service training shall take place shall be established by the board of trustees. However, such in-service training shall be for no less than 40 hours per year for each year of employment succeeding the initial training.

25 MRSA
Sec. 9./§2805, sub-§4, is amended to read:

Within 30 days of the close of each calendar year, the highest elected official of each political subdivision shall provide the academy board of trustees with a list of the names and dates of employment of all full-time law enforcement and corrections officers covered by this section. The official shall further maintain records regarding the basic and in-service training of corrections officers, as provided for in §2805, sub-§1 and sub-§3.

25 MRSA
Sec. 10./§2806, sub-§1, is amended to read:

1. Power. The board of trustees of the Maine Criminal Justice Academy shall have the power to suspend the right to enforce the criminal laws of the State of Maine of any person law enforcement officer determined by such board to be in violation of section 2805. The board shall have the power to prohibit a correctional officer from any employment capacity as a corrections officer if such officer is found to be in violation of section 2805.

25 MRSA

Sec. 11. §2806, sub-§2, is amended to read:

2. Hearing. In any case affecting the right to enforce the criminal law of any law enforcement officer, or affecting the right of corrections officers to be employed as a corrections officer, the board of trustees shall conduct a hearing on the applicable facts.

Sec. 12. Study authorized. ^{Board of Trustees of the} ~~The~~/Maine Criminal Justice Academy shall conduct a study of the employment turnover of corrections officers subject to the provisions of this Act, to determine the causes of such turnovers, and whether and how such turnover may be reduced. The Academy shall submit the results of its study, including recommendations, to the 109th Legislature not later than February 1, 1979. State and other government agencies shall provide assistance as requested by the Academy in the conduct of the study.

Sec. 13. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
PUBLIC SAFETY, DEPARTMENT OF	
Criminal Justice Academy	
All other	<u>\$54,000</u>
Total	\$54,000

Funds appropriated by this section shall be used by the Criminal Justice Academy solely to pay the salary expenses [✓] corrections officers being trained pursuant to this Act while they are being trained. Such payment shall be made as a reimbursement pursuant to written agreements between the ~~academy~~ ^{Board of Trustees of the} and state, county, and municipal agencies. ~~The~~/Academy may use its discretion in

allocating such funds, consistent with the provisions of this Act. Any balances remaining at the end of the fiscal year shall not lapse, but shall be carried forward from year to year to be expended for the same purpose.

STATEMENT OF FACT

This Bill is the result of a study conducted by the State Government Committee of the 108th Legislature pursuant to HP 1592. Copies of the Report of the Committee are available in the Committee's hearing room in the State House in Augusta.

The Bill establishes for corrections officers a statutory training requirement as is now required for law enforcement officers. The Bill requires all full-time corrections officers (i.e., earning more than \$4,000 per year) to complete at least 2 weeks training within the first 6 months of their employment. In addition, the Bill:

1. Assigns to the Criminal Justice Academy the responsibilities for defining the term "corrections officers"; for approving and conducting training programs (other agencies may also conduct training programs, with approval); and for waiving the training requirement in extraordinary circumstances
2. Establishes an in-service program requiring training for corrections officers subsequent to their first year of employment
3. Provides a sanction for violation of the statute, which may be invoked by the Board of Trustees of the Criminal Justice Academy
4. Provides no grandfathering for current corrections officers--any person who is not waived by the Board of the Criminal Justice Academy must satisfy the training requirement by January 1, 1980
5. Requires the Criminal Justice Academy to conduct a study and report to the 109th Legislature on employment turnover of corrections officers.
6. Appropriates \$54,000 to the Criminal Justice Academy to be used solely to pay the salary expenses of corrections officers being trained pursuant to the Bill; payment is to be in the form of a reimbursement to State, county, and municipal agencies.

Adoption of this Statute can assure the minimal training necessary to satisfy requirements of recent case law and Federal grant programs, in addition to staffing the institutions with personnel adequate for the job.