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REP. DAWN HILL, CHAIR

MEMBERS:

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SEN. JOSEPH C. BRANNIGAN  
SEN. BILL DIAMOND  
SEN. EARLE L. MCCORMICK  
SEN. DAVID TRAHAN  
REP. EVERETT W. MCLEOD, SR.  
REP. BRUCE A. BICKFORD  
REP. DAVID C. BURNS  
REP. PEGGY A. PENDLETON  
REP. MARGARET R. ROTUNDO

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**

**June 30, 2009**

**Accepted July 30, 2009**

**CALL TO ORDER**

The Chair, Rep. Hill, called the Government Oversight Committee to order at 9:40 a.m. in the Burton Cross Building.

**ATTENDANCE**

Senators:	Sen. Nass, Sen. Diamond, Sen. McCormick, and Sen. Trahan Joining the meeting in progress: Sen. Simpson Absent: Sen. Brannigan
Representatives:	Rep. Hill, Rep. McLeod, and Rep. Burns Absent: Rep. Rotundo, Rep. Pendleton and Rep. Bickford
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Jennifer Reichenbach, Principal Analyst, OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Geoffrey Green, Deputy Commissioner, DHHS Maria Jacques, Director, Emergency Services Communication Bureau, Public Utilities Commission
Judicial Branch:	Mary Ann Lynch, Director of Court Information

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

Members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

Chair Hill asked if there was objection to taking an item out of order. Hearing none she moved to **OPEGA Final Report, MaineCare Children's Outpatient Mental Health Services.**

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## OPEGA FINAL REPORT

- **MaineCare Children's Outpatient Mental Health Services**

Director Ashcroft summarized what has occurred so far and the status of the MaineCare Children's Outpatient Mental Services Report.

- **Update on the Forwarding of Recommendations 2 and 3 to the Health and Human Services Committee**

At the May 22, 2009 meeting the Committee voted to forward Recommendations 2 and 3 to the Health and Human Services Committee for their deliberation and determination as to whether those recommendations should be implemented and how. Director Ashcroft has prepared a memo on behalf of the GOC Chairs to the Chairs of the Health and Human Services. The GOC was deliberating on Recommendation 1, that it might be prudent to conduct an independent review of the contract with APS Healthcare, the vendor the State is currently using to serve as the Administrative Service Organization (ASO). At the previous meeting, DHHS indicated they thought there was already an audit of APS required by statute or rule. The GOC asked DHHS to provide additional information on that audit, including where it was stated an audit is required, who was doing it, and what the scope included.

- **Committee Work Session on Report Recommendation 1 (Tabled at May 22, 2009 meeting until information received from DHHS) Including Report Back From the Department of Health and Human Services of Requested Information by the GOC**

Director Ashcroft introduced Geoffrey Green, Deputy Commissioner, DHHS. Points made by Deputy Commissioner Green in responding to the questions asked concerning APS Healthcare are as follows:

- APS has been contracted by DHHS to serve as an ASO for behavioral health services. An ASO manages the utilization of services by performing prior authorization and continuing stay review functions.

APS was selected from a highly competitive bid process. Under the contract, APS is paid a flat monthly fee based on their bid price.

- There is no requirement for an audit of APS in statute or elsewhere. DHHS has contracted with the University of Southern Maine (USM) Muskie School to conduct an impact study for the MaineCare cost containment initiatives that includes the behavioral health services affected by the ASO. This study is undoubtedly the "audit" that Dr. Cook was referring to. It covers all of the services that are subject to the utilization management initiative, including most adult mental health, children's behavioral health and substance abuse treatment services.

The cost impact studies document the gross change in cost for the subject services over time. Obviously, there are numerous factors that affect utilization and cost, both upward and downward, and the utilization management initiative is only one of them. It would not be accurate to say that the ASO is solely responsible for any changes in cost trends that are observed. In recent years, utilization and cost for these services have trended sharply upward, and this upward trend was expected to continue. The utilization management initiative was implemented as a key part of the Department's strategy to change that trajectory. The data so far indicates that the continuing escalation of utilization and cost has in fact been arrested.

ASO's do not achieve savings primarily by denying services. They achieve savings by working with providers to deliver the right care for the right duration, based on consumer needs, and to adjust care as the consumer's condition changes. Provider behavior inevitably changes by virtue of being accountable to the ASO and this is reflected in cost trends.

- In addition to the cost impact analysis, DHHS receives numerous regular reports from APS regarding quantitative and qualitative aspects of the ASO's operations and the behavioral health service system.
- Virtually every state in the US has a utilization management process (or a capitated managed care system) in place for behavioral health services. Prior to the implementation of the ASO initiative, Maine had none.

Deputy Commissioner Green referred the GOC to the chart he provided from the cost impact analysis done by the Muskie School. (A copy of that chart is attached to the Meeting Summary). He said from 2002 to 2006 the cost of expenditures for behavioral health services, MaineCare, increased by an average of 17.6% per year. From 2006 to 2007 expenditures increased by approximately 5.83%. DHHS has turned the cost trend. The ASO is not the only thing that affects these costs, but is certainly their major initiative to impact on the utilization and costs of the services.

Deputy Commissioner Green noted that the data in the chart is based on the date services were actually provided, regardless of when the claim was paid. This gives a truer picture of what is actually happening with utilization. Consequently, expenditure figures on this chart may not match up with other analyses of expenditures by year that are based on the date the claim is paid. That is also why the 2009 numbers in the chart are projections.

The Government Oversight Committees' questions and comments included the following:

- GOC: Sen. Trahan asked if DHHS' caseload has gone up or down and whether their budget is larger because of serving more people?
- DHHS: Deputy Commissioner Green said the total number of people being served is approximately the same and he will get the information on caseload numbers for the GOC.
- OPEGA: Director Ashcroft reminded the Committee that the goal of this discussion was to provide information that would help the GOC determine what action to take on the recommended review of the ASO. In the interest of not burdening DHHS resources, she noted that it may be helpful to limit information requests to those that were directly related to the decision on the Recommendation.
- GOC: Sen. Trahan withdrew his request.
- GOC: Sen. Diamond asked what the monthly flat fee paid to APS was.
- DHHS: Deputy Commissioner Green said approximately \$1.1 million per year was paid from the General Fund and because a lot of what APS does falls under the category of QIO related function the Federal Government pays a 75% - 25%.
- GOC: Sen. Diamond asked for the total dollar amount paid.
- OPEGA: Director Ashcroft said OPEGA learned that the cost of the contract for all services in FY 08 was \$3.6 million, the contracted cost in FY 09 was \$5 million and an additional amount of approximately \$400,000 in FY 10. The current contract period ends at that time. Seventy-five percent of the contract is paid with Federal funds. She said another factor for the dollar amounts was the timing of when the contract began. The \$3.6 million was not for a full year and the \$5 million is more reflective of a full year.
- GOC: Sen. Diamond noted that the Report stated there was no requirement for an audit of APS. He recalled that the Appropriations and Financial Affairs (AFA) Committee had asked for some further review because they were concerned about the amount of money being spent on the APS contract. He asked for further information on that subject.

- DHHS: Deputy Commissioner Green said his recollection is that DHHS has provided several updates to the AFA Committee. It was nothing that would be considered an audit, but they have certainly provided additional data to the AFA Committee regarding what the initiative was costing and what it was achieving.
- GOC: Sen. Diamond said the AFA Committee questioned whether DHHS was reviewing ASO each year and looking at whether it was efficient.
- DHHS: Deputy Commissioner Green said DHHS thinks it is a good investment and has been very helpful in helping DHHS manage utilization.
- GOC: Sen. Diamond said DHHS was projecting \$5 million in FY 09 and asked if the amount was going to be higher in FY 10 and FY 11.
- DHHS: Deputy Commissioner Green said that remains to be seen because the APS contract terminates at the end of FY 10 and DHHS will go out to bid again.
- GOC: Sen. Diamond asked what the projection amount was for FY 10.
- DHHS: Deputy Commissioner Green said in DHHS' budget they had projected the current \$5 million.
- GOC: Sen. Nass referred to DHHS' chart and asked if the cost of ASO was included in their numbers.
- DHHS: Deputy Commissioner Green said it was not included, it was just the cost of the services.
- GOC: Sen. Nass said if DHHS is spending \$5 million for their services and the savings are roughly half that amount, it would be a significant part of the projected savings and as Sen. Diamond suggested, it would be worth trying to make sure whether that is money being well spent.
- DHHS: Deputy Commissioner Green noted that the initiative was only implemented in FY 08 and only in effect for part of the year so one would not expect to see results that reflected full implementation and the full impact of the work. FY 09 and beyond is probably a truer reflection of what is being achieved.
- GOC: Chair Simpson referred to DHHS' chart and said it looked as though the savings of \$33 million in 2008 is significantly more than double \$5 million.
- OPEGA: Director Ashcroft referred the GOC to the Additional Detail on Recommendation #1 from the Report for context. OPEGA recognized that trends are good to measure, but the trends are not entirely due to the ASO's function. There are other factors that impact cost savings. OPEGA made the recommendation because there were savings that were expected from this specific initiative that were booked into the budget -- an indication that the Legislature expected those savings. DHHS told OPEGA it was difficult to determine what amount of savings were directly attributable to the ASO, but they did expect providers' behaviors to be impacted by the ASO in ways that could logically be thought to save the State money.

The review that OPEGA envisioned was not necessarily about trying to determine the actual cost impact, but to look at the next layer down and ask – for the \$5 million, what is the State getting and how is that piece impacting cost and services, is DHHS seeing the benefits it expected, and how is that contract being administered by the Department. In making this recommendation OPEGA also took into consideration all the other concerns about contracting in general that legislators had raised during the 123<sup>rd</sup> Legislative Session. Director Ashcroft wanted to make sure that the GOC understood that OPEGA was not necessarily advocating for an audit that just included whether the State actually

got the cost savings projected. If the GOC is interested in the kind of questions OPEGA has proposed in Recommendation 1, then it might be worth considering putting an audit of APS either "On Deck" for possible addition to the work plan in the future. If the GOC is not interested in the answers to those questions or feels it would not be a worthwhile use of OPEGA resources, then the GOC is done with the matter at this point.

GOC: Rep. Burns asked if USM's work involved an audit or cost impact study to see what the effectiveness and efficiency is of APS' ASO and asked what the cost of the Muskie School's work is.

DHHS: Deputy Commissioner Green said USM's work is only looking at the impact of the cost on the services that are being managed by the ASO and are not looking at the ASO's operations, but at the results of those operations.

GOC: Rep. Burns asked what the OPEGA audit was going to show regarding ASO's services.

OPEGA: Director Ashcroft said a typical performance audit on ASO might look at how DHHS is administering that contract, how are both parties making sure they adhere to the terms and conditions, are there terms and conditions that are not being met and if so, what are the consequences. Another category would be contractor performance -- whether the contractor was performing according to the State's expectations and was operating as efficiently as possible for the providers, the ASO, and DHHS. There is also the category of cost benefit -- are the functions being performed by the ASO worth the amount being paid, are there alternative means by which the State may get the same results with less cost.

GOC: Rep. Burns again asked the cost of USM's audit cost impact study.

DHHS: Deputy Commissioner Green said he did not have that information with him but could easily get it for the Committee.

GOC: Chair Hill asked how many vendors are there in the US that are similar to APS and how many bid on DHHS' contract.

DHHS: Deputy Commissioner Green said 8 companies bid on the contract.

GOC: Chair Hill referred to the chart provided by Deputy Commissioner Green noting it contained information up to 2009. She asked whether, for planning and management purposes within DHHS, there had been savings projected for 2010, 2011, and 2012, regardless of who had the contract.

DHHS: Deputy Commissioner Green said he believes what is included in the base budget for the next biennium is on the assumption that the same level of savings, \$8.5 million in the General Fund, will be achieved in the two years of the coming biennium.

GOC: Chair Hill referred to Deputy Commissioner Green's memo where it stated "In addition to the cost impact analysis, DHHS receives numerous regular reports from APS regarding quantitative and qualitative aspects" and asked if there was any verification of those reports, or any process to verify that what they are telling DHHS is in fact the case.

DHHS: Deputy Commissioner Green said no.

GOC: Chair Hill asked Director Ashcroft if the audit in Recommendation #1 would be done by OPEGA directly or an outside entity.

OPEGA: Director Ashcroft said several options were offered. OPEGA would certainly be willing and able to do the work. Other options could be to contract it out, or depending on what questions the GOC

wanted answered, the State Controller or State Auditor may be in a position to do the audit. She said the review being suggested is not time sensitive and because the ASO is a new initiative, the GOC should consider when it would be an appropriate time to start the audit. Unless there is an urgent interest on the part of any legislative committee, the GOC may want to put it "On Deck".

GOC: Chair Hill asked Deputy Commissioner Green when DHHS would be going out to bid again.

DHHS: Deputy Commissioner Green said the contract expires in July 2010, so assuming that DHHS wants to continue this operation, a new RFP process would be initiated some months before that.

GOC: Chair Hill asked what Deputy Commissioner Green meant by if DHHS chooses to do this again and asked at what point and at what level that decision will be made.

DHHS: Deputy Commissioner Green said the decision would be made by the Commissioner of DHHS, who would certainly consult with the oversight committee that DHHS works with.

GOC: Sen. Nass said DHHS has been doing utilization management internally and asked if there are other contractors the State has hired to do this.

DHHS: Deputy Commissioner Green said not for this set of services. Schaeffer-Anderson, the contractor doing care management work for DHHS, does some utilization management for physical health services as part of their work. DHHS does not have any other contractors that are reviewing and approving authorizations for behavioral health services.

GOC: Sen. Nass said Deputy Commissioner Green indicated there is a trend nationally to employ utilization management and suggested moving ahead with Recommendation 1.

GOC: Sen. McCormick asked if the Federal Government, because it gives 75% toward this program, has any requirement that this be reviewed periodically or there be justification for success.

DHHS: Deputy Commissioner Green said that in order for the Feds to participate in the costs, the organization has to be credentialed as a Quality Improvement Organization.

GOC: Sen. Diamond said the administrative contracts in the State have become somewhat of a cobweb. The Criminal Justice Committee this year, found over \$200,000 in savings just by reviewing the Department of Correction's contracts. He noted the ASO contract is a \$5 million one. In the budget this year DHHS is going to have to find savings of approximately 2.5% in this contract as well as in other areas and asked where the 2.5% will come from.

DHHS: Deputy Commissioner Green said he believes there is an overall reduction in contract expenditures included in the budget, but did not know exactly where those dollars would come from. He will get that information for the GOC. He said DHHS is not intending to reduce the cost of this contract because it was established through a competitive bid process.

GOC: Sen. Diamond asked how many other administrative contracts DHHS had.

DHHS: Deputy Commissioner Green said the number would depend on how you defined administrative contracts.

GOC: Sen. Diamond said it would be people DHHS contracts with outside the Department for administrative assistance.

- DHHS: Deputy Commissioner Green said DHHS contracts with many organizations to provide behavioral health services, i.e. mental health centers, hospitals, etc. If all those contracts were included, there are hundreds of them.
- GOC: Sen. Diamond clarified that he was inquiring about administrative contracts.
- DHHS: Deputy Commissioner Green said he did not know the number of administrative service contracts.
- GOC: Sen. Diamond said the GOC should find out the number and if any of those contracts have ever been reviewed saying there may be savings to be had by simply reviewing the existing contracts.
- DHHS: Deputy Commissioner Green said from the most recent budget process and discussions with Commissioner Harvey, DHHS has been rigorous about reviewing everything the Department does, particularly in the contracting area, to minimize costs and to only contract for those services that are absolutely essential.
- GOC: Sen. Diamond would like to know how many administrative contracts DHHS has and the last time each has been reviewed.
- GOC: Chair Simpson asked if Sen. Diamond was suggesting that instead of having OPEGA audit the APS contract that the GOC should consider having OPEGA check DHHS' overall contracting.
- GOC: Sen. Diamond said the administrative contracts generally involve a lot of money and, if nothing else, we should look at whether they have been reviewed. He was suggesting they find out how many there are, have they been reviewed and has anyone looked at any kind of efficiency gauge on them.
- OPEGA: Director Ashcroft said she thought the requested information could be obtained without initiating a full review but not knowing how many administrative contracts DHHS has she could not say how large a task that might be. She wanted the GOC to define a scope that would be manageable and reasonable to accomplish within the desired timeframe.
- GOC: Chair Simpson said she believed Sen. Diamond was suggesting that instead of picking one contract and reviewing all the items in Recommendation 1, OPEGA should look at the overall number of contracts and see what has been done in terms of reviewing those contracts to see if they could be put together or perhaps eliminated.
- GOC: Sen. Diamond said he did not believe the GOC would be fulfilling its obligation if they only picked out one contract to review. Since there is a \$30 million placeholder in the 2011 budget and money has to be found, it may be more worthwhile to look at all the administrative contracts DHHS has.
- OPEGA: Director Ashcroft said OPEGA could do a data gathering exercise and bring back to the GOC an analysis of how many administrative contracts DHHS has, how big are they, and when the last time they were reviewed was. That would give the GOC an opportunity to select other contract reviews it may want to put "On Deck" or otherwise ask questions about.
- GOC: Sen. Nass did not disagree with what Sen. Diamond proposed, but he also sees the value in OPEGA reviewing the APS contract. If utilization management by contract is going to be a way of saving money and the Legislature does not know much about it in terms of the detail outlined in the Recommendation 1, he sees value in that proposal as well. It is the detailed look that OPEGA analyst has the ability to do and this is an important area.
- GOC: Rep. Burns said he thinks both reviews should be done and he asked why the policy committee would not be doing the overall review of administrative contracts as opposed to OPEGA.

- GOC: Sen. Diamond said the policy committee is not going to meeting until January, it will be a short session and he suspects time is a real issue. If this is an area where they are hoping to find savings for FY11 budget, which begins July 1, he thinks the GOC, which meets on a regular basis during the interim, could do it much quicker and more thoroughly.
- GOC: Rep. McLeod followed up on the bidders for the contract and asked of the 8 bidders, how many, if any, are located in the State of Maine.
- DHHS: Deputy Commissioner Green said he did not believe there were any Maine based firms that bid.
- GOC: Chair Simpson said committees spend the bulk of their time during the session dealing with bills and not having the time to do in depth reviews and that is why the GOC and OPEGA were formed. She agreed with Sen. Diamond's suggestion that the GOC try to do something more timely for the current crisis in terms of the overall administrative costs of contracts as opposed to focusing on the one contract in particular.
- GOC: Rep. Burns asked if it would take all of OPEGA's resources to review all of DHHS' administrative contracts.
- OPEGA: Director Ashcroft said it would not, but may want to ask DHHS because OPEGA will have to get some of the information needed from them. OPEGA can examine what is being paid through the accounting system, the accounts payable records, etc. but there may be additional information needed from DHHS.
- Director Ashcroft said it would not be the scope of a typical review for OPEGA and once the Committee decides the direction it wants to pursue, she would need the GOC's help to prioritize the other topics on the work plan.
- GOC: Sen. Diamond wants to know how many administrative contracts DHHS has and the last date of review. He said the initial step will tell the GOC and OPEGA a lot because if that step becomes a large project for DHHS than there are bigger problems than what is being eluded to.
- DHHS: Deputy Commissioner Green said DHHS can get that data very easily because virtually all of DHHS' contracts are for a year and before they can be renewed there would have to be a review of some kind. The exception would be contracts similar to the APS contract which is based on a specific RFP that specified a time period for the project and the contract is based on that time period. DHHS does not have contracts that are of indefinite term and do not get reviewed.
- GOC: Chair Simpson asked if DHHS, when reviewing individual contracts also looks at whether contracts could be consolidated.
- DHHS: Deputy Commissioner Green said DHHS looks at that issue on an ongoing basis. Because contracts are now managed centrally, the Commissioner's Office would know if different offices were contracting for similar services.
- OPEGA: Director Ashcroft said there are many areas in a vendor contract audit where cost savings could be found. Aside from combining services, there are often times savings are found in billings that may be inaccurate or not properly supported, if the contract has penalties built into it for not meeting certain targets, etc. If the State has not been recouping on those penalties, then it is well within its contractual rights to do so. She asked for clarification as to whether the GOC was interested in



OPEGA looking at how the contract is administered and whether the terms and conditions being met and what should be done if they did not.

GOC: Sen. Diamond said he was referring to whatever policies the Department has to review their contracts and if that policy includes, which he hopes it would, efficiencies and penalties collected, violations of the agreement -- any and all of those things.

GOC: Chair Hill referred back to the statement that DHHS has a centralized location for its contracts and asked if they had a department or particular person assigned to continually monitor the contracts.

GOC: Deputy Commissioner Green said DHHS has a Division of Purchased Services that is managed by the Deputy Commissioner of Finance, Russ Begin and all of DHHS' contracts are managed in that Unit.

GOC: Chair Hill asked if a review of those contracts and monitoring are along the line mentioned by Sen. Diamond.

DHHS: Deputy Commissioner Green said all contracts are reviewed. An agreement administrator is assigned to every contract who reviews them in an ongoing manner to make sure that reporting requirements are met. The review process in place differs depending on the kind of contract. There is a vast difference between the contract DHHS has with DeLoitte for the development of the new MaineCare claims system and the contract with Community Counseling Services for outpatient mental health services. The review process will vary significantly between those two different kinds of contracts.

GOC: Chair Hill said contract issues are very important and understood DHHS was meeting to talk about how it can do more work with less people so outsourcing could be an answer provided it makes sense from a cost and efficiency perspective. She asked Deputy Commissioner Green how the GOC could help DHHS along those lines.

DHHS: Deputy Commissioner Green said DHHS feels they have gotten a lot of support and help from the Legislature during the past session and feels that the Legislature worked hard and did a good job in reporting out a budget that enables DHHS to perform the essential functions and meet the needs that they are here to meet. DHHS certainly has its work cut out for them to implement all of the initiatives that were included in the budget that are intended to reduce costs and streamline operations and is the focus being talked about at today's DHHS' strategic planning meeting.

GOC: Chair Hill said in particular, how can the GOC along with OPEGA, help in regard to the contracts for outsourcing.

DHHS: Deputy Commissioner Green said by being sensitive to the demands that get placed upon DHHS staff to provide information, develop data, etc. that is an essential part of any review process. To the extent that the GOC could target its efforts in areas where there is some reason to believe that there is a benefit to be gained that is worth the effort that is going to be expended. That does not mean that it should not be done or it should not be a priority, but in answer to the Chair's question, he would say help DHHS to target its resources as specifically and effectively as possible.

GOC: Sen. Nass said what OPEGA is good at is what is outlined in Recommendation 1. What the GOC can do or any other oversight committee can do, is look at a list of contracts, expiration dates and the last time contracts were reviewed. What the AFA and Taxation Committees cannot do is look at what has been outlined in the Recommendation. That is what OPEGA does and is why they are here. Recommendation 1 is valuable. It is one contract using OPEGA's skills to find out the answers to the questions outlined. He is ready to make a motion asking OPEGA to do it and to talk about when it can be done.

GOC: Sen. Diamond said he was not suggesting that the GOC not act on OPEGA's Recommendation, he is suggesting they do it, but it also opens another door that he feels the GOC should not ignore.

Sen. Nass agreed.

GOC: Chair Simpson inquired as to how much of the agency's resources would be involved if OPEGA did a more detailed review of the contract with APS.

DHHS: Deputy Commissioner Green said it would depend on what DHHS is asked to do and it is not yet clear what that is.

OPEGA: Director Ashcroft said that initially OPEGA would be looking to DHHS for a list of their administrative contracts. OPEGA has in house skills to determine what the expenditures have been on the contracts. We will pull the contracts and look at the scope of services, the contract amounts. It would probably involve conversations with some agreement administrators to understand how they monitor those contracts as part of their normal administration process.

GOC: Chair Simpson asked how time consuming would the APS Contract Recommendation be for DHHS.

OPEGA: Director Ashcroft said the section on Contract Administration would involve those individuals at DHHS who have responsibility for administering the APS Contract because it would involve understanding how they administer it, what is being monitored and what gets done about it.

GOC: Chair Simpson asked in terms of time management, how much time for the administrator would you need? If this recommendation was put "On Deck" maybe the Director could return to the Committee with more detailed information as to the length of time for the staff of DHHS.

OPEGA: Director Ashcroft said she did not know how much time it would take DHHS.

GOC: Chair Simpson suggested that when OPEGA started work on a review of APS and had a scope of what would be involved, OPEGA could pass that information on to DHHS and they could let the Director know the resources it would take for them.

OPEGA: Director Ashcroft said as part of the GOC's decision about moving it from "On Deck" to the Work Plan at some point in the future, there is additional information that could be gathered and presented to the Committee at that time.

Sen. Nass said he was ready to make a motion to combine Recommendation #1 of the Report with Sen. Diamond's request for an overall picture of DHHS' administrative contracts.

**Motion:** To move "On Deck" Recommendation #1 of the MaineCare Children's Outpatient Mental Health Services expanded by a list of DHHS administrative contracts. (Motion by Sen. Nass).

OPEGA: Director Ashcroft asked for clarification from Sen. Nass noting that the motion would be two different pieces of work for OPEGA. The GOC can put them both "On Deck" and decide when to put them on the Work Plan or the GOC might want the list of contracts sooner than that.

GOC: Sen. Diamond said the motion would not only be a list of administrative contracts, but also would include the related information outlined above by Director Ashcroft.

GOC: Sen. McCormick supported moving forward with the contract review. In regard to DHHS staffing, he is sure there will be flexibility in the demands placed on the staff.

GOC: Chair Hill said for a review of the APS contract to have real value the Committee needs to look at the

time table. The contract ends in a year and bidding starts several months before that time. It would seem that a review would need to be completed before then in order for the information to be most valuable.

GOC: Chair Simpson said assuming the GOC put the APS Contract "On Deck" Director Ashcroft could come back at the next meeting with a more detailed analysis about the process and timeframe. The question is whether it would be done before the Contract was put out for another bid.

**Motion:** To direct OPEGA to produce a listing of DHHS contracts for Administrative Services that includes basic information about the contract including the last time there was a review of the contract and what type of review was performed. (Motion by Sen. Nass, second by Rep. Burns, PASSED by unanimous vote 8-0).

OPEGA: Director Ashcroft clarified that both topics have been placed "On Deck" and she is to come back to the next GOC meeting with a sense of what kind of resources it might take on OPEGA's and DHHS' part, to complete the reviews and a timeframe in which they will be able to be useful.

GOC: Sen. Diamond said the AFA Committee is meeting during the interim so whatever good information they can get would be helpful sooner than later because conclusions have to be made by November, 2009. Chair Simpson asked if the short review of the list and information of DHHS' administrative contracts should be put on the Work Plan rather than "On Deck".

OPEGA: Director Ashcroft asked if the GOC meant to move that on to OPEGA's Work Plan so they would get started on it as opposed to come back and tell you how many resources it would take. The GOC confirmed that it meant to put the Administrative Contracts list onto the Work Plan.

GOC: Chair Hill added that she thinks it is important to describe for each contract, if a review did occur, a description of that review.

The Committee thanked Deputy Commissioner Green for attending the meeting and furnishing the information requested by the GOC.

## SUMMARY OF THE MAY 22, 2009 MEETING

Sen. Nass referred members to page 5 of the Meeting Summary and asked that the grammar be corrected for Sen. Gerzofsky's statement regarding the Criminal Justice and Public Safety Committee.

**Motion:** That the Meeting Summary of May 22, 2009 be approved as printed with the one change discussed. (Motion by Rep. McLeod, second by Sen. Nass, PASSED by unanimous vote 8-0).

## NEW BUSINESS

### • Public Safety Answering Point (PSAP) Project Direction Recommendation Statement

Director Ashcroft said representatives from the PUC's Services Communication Bureau and the Department of Public Safety were at the meeting to answer Committee questions.

Director Ashcroft reminded members that they had received a request from the Kennebec County Senators Delegation for a review of the Public Safety Answering Points (PSAP) and Dispatch Centers. The GOC had placed that review on OPEGA's Work Plan. The Committee also received a letter from the Utilities and Energy Committee supporting the Senators' request for the review and indicating an additional item the Committee was interested in having OPEGA look at. The Utilities and Energy Committee recommended that OPEGA examine the issue of how and when municipalities may change PSAP locations and the cost of such changes to other municipalities and the State.

The Director presented OPEGA's Recommendation for Project Direction of the Public Safety Answering Points and Dispatch Center which is attached to this Meeting Summary.

Sen. Nass encouraged other GOC members to review the information provided regarding PSAPs. He agreed with OPEGA's recommendation for project direction and noted that the GOC has been encouraged by the Utilities and Energy Committee to proceed with the review.

Sen. Diamond said the State has 26 PSAPs, 4 of which are run by the Department of Public Safety. The State does not need 26 but the issue is turf and the challenge for the GOC is going to be to look at PSAPs with blinders and make efficiency recommendations that will result in considerable savings.

Director Ashcroft said OPEGA's Recommendation is to continue the PSAP review and that she proposes seeking the assistance of a consultant with experience in conducting cost and performance assessments of these types of operations to work with OPEGA staff. Among other tasks, the consultant would work with OPEGA to develop the review methodology, identify issues to explore and assist in developing recommendations. OPEGA has developed six study questions that cover the areas of concern laid out in the letters that came to the GOC requesting this review. The planned PUC study would not address any of these questions directly, although there may be opportunities to share information between the PUC and OPEGA as the study proceeds. OPEGA would seek to coordinate to avoid overlap and duplication of effort. If the GOC decides that all six questions should be addressed, OPEGA would further recommend that the scope of the review be generally limited to the municipalities in Kennebec County and the entities that provide PSAP/dispatch service to them. The intent would be to use Kennebec County as a case study because it is the area that has received the most attention and controversy surrounding the PSAP consolidation. It would allow OPEGA to limit the time it would take to do the study, and could be expected to have results that could be relevant and transferable to PSAPs and dispatch centers in other areas of the State. OPEGA would leave the flexibility to expand its work to other PSAPs and municipalities in the State as necessary to draw relevant comparisons where that seemed to be necessary, assuming that time and resources allowed it. If the GOC did not want to cover all six of the questions, then more areas of the State could potentially be covered.

Director Ashcroft noted that OPEGA did not recommend pursuing question 6 – Are there efficiency and effectiveness issues (including adequacy of coverage for rural communities) associated with the current configuration of PSAP and Dispatch providers? If so, what are the root causes? The reason is that the PUC study will result in recommendation for the optimum configuration of PSAPs, and the answer to question 6 could be impacted by what that configuration is. OPEGA would propose to wait and revisit that question at some point in the future if still warranted.

Director Ashcroft is looking to the GOC for their direction, agreement or approval of which questions will be included in the scope.

Discussion by the GOC included:

GOC: Sen. Diamond said by doing only Kennebec County it avoids the question of whether the State needs 26 PSAPs. The legislation regarding the number talks about 16 and 24 PSAPs.

OPEGA: Director Ashcroft said the legislation is requiring the PUC to do a study and they are in the process of hiring an external consultant. The PUC is to come back with the optimum configuration for PSAPs and what the impacts would be if the State moved to that. It does not include dispatch centers.

GOC: Sen. Diamond asked how to explore the question of those centers that are providing both dispatch and PSAP services. He also inquired when PUC's report was due.

OPEGA: Director Ashcroft believes that would be covered under question 3 – What does the current network of PSAP and dispatch service providers for Kennebec County customers look like? Does the current configuration provide adequate coverage for rural communities?

Director Ashcroft said PUC's report is due to the Utilities and Energy Committee by February 1, 2010.

GOC: Sen. Nass reluctantly agrees with limiting the review to Kennebec County. He mentioned one solution that could be considered was to have all the services be taken over by the State.

OPEGA: Director Ashcroft said that in recommending a limited scope she is taking into consideration what kind of detail OPEGA is going to have to get to on any one of the PSAPs or dispatch centers to give the GOC some meaningful information.

Director Ashcroft said OPEGA tries not to make policy recommendations to the Legislature, but rather seeks to provide sufficient and meaningful information for GOC members and other legislators to make the policy decisions. For example, OPEGA would not make a conclusive recommendation on what the optimum configuration is, but we would provide the GOC with good information on the factors to help them make a decision. OPEGA can do something different than that, but she would want specific direction from the GOC.

GOC: Chair Hill asked if OPEGA would dovetail with the PUC to ensure there is not duplication of effort and there is whatever sharing of information that would be helpful to both.

OPEGA: Director Ashcroft said they would try to do that, but it would depend on the timing. The PUC is looking to get a consultant on board by mid-August and would need to work with their consultant on what methodology they were going to layout to accomplish their study. OPEGA has its review in progress and has suggested getting a consulting on board. If the GOC agrees with that, the Director would like to talk with the Committee about how she would like to proceed with that.

GOC: Chair Hill asked if the consultant would have a background in PSAPs.

OPEGA: Director Ashcroft said that would be the value for her. OPEGA can do the work itself, but to be of most value, the results of OPEGA's study would be available to the Legislature at the same time the PUC study is being presented to the Utilities and Energy Committee. This way the Legislature has all the information available when it is trying to make any policy decisions regarding PSAPs. A consultant with experience with PSAPs could help get the review done in that timeframe.

Chair Hill recognized Maria Jacques, Director, Emergency Services Communication Bureau, PUC.

GOC: Sen. Diamond asked how, in their review, the PUC will include the efficacies and the abilities of Fairpoint.

PUC: Director Jacques said the 911 transition with Fairpoint went well and some of Fairpoint's problems since then are not 911 related. They indirectly could be if someone could not get phone service in an expedient manner. She expects Fairpoint will be interviewed as part of the PUC study, but she does not believe that the scope of work in PUC's RFP would include looking at the adequacy of Fairpoint as a service provider.

GOC: Sen. Diamond said he was concerned that whatever the PUC comes back with for a recommendation, is probably going to make some assumptions regarding Fairpoint's service functioning at an acceptable level. He wondered if there are still persisting problems with Fairpoint service that would affect the recommendation or play a role in what the assessment is.

- PUC: Director Jacques said the PUC has a contract with Fairpoint that ends October, 2011 and certainly if they did not see them as an adequate service provider they would look to find an alternate or at least put the contract out to bid to see if there were better options available.
- GOC: Sen. Diamond asked whether the PUC study of how to provide more efficiencies with PSAPs, which may include reducing the number, would be based on the abilities of Fairpoint to provide their role.
- PUC: Director Jacques does not think that would be the case. Fairpoint has always been very flexible and will design a system or implement the system that the PUC feels is responsible. PUC does not expect the optimum configuration to be accomplished by next fall. Rather, there would be a plan developed to coordinate implementation with the next contractor and/or the next equipment refresh option. No matter the number of PSAPs in the future, it would take time to develop a plan and get to that number.
- GOC: Sen. Diamond asked if the PUC was expecting legislation in February, 2010 when their report is complete that will allow them to move forward.
- PUC: Director Jacques said if not legislation, at least a policy decision and guidance as to where the Legislature wants to go. She expects the study will provide multiple options with pros and cons to each option so the Legislature's job will be to select which option they want to proceed with. It is a two part study so once the Legislature decides which option to go forward with, the PUC will move on to the second part which is not directed by the Legislature. It will take the configuration and put together the next 911 system that reflects the optimum configuration selected by the Legislature.
- GOC: Sen. Diamond asked if the PUC had the ability and authority to change the configuration, including reducing the number of PSAPs without legislation.
- PUC: Director Jacques said any configuration the PUC recommends for PSAP reductions has to be supported by a cost benefit analysis on the impact to State, local and county governments and reductions would have to be approved before the PUC could go forward. The language regarding this was added later in the committee process and was the final amendment out of the Utilities and Energy Committee.
- GOC: Sen. Diamond ask for a copy of the amendment.
- GOC: Sen. Trahan said he heard that Fairpoint asked its creditors for extension of payments for the interest on its loans and that they would consider filing for bankruptcy if they did not receive the extension. He asked Director Jacques if she knew anything regarding that.
- PUC: Director Jacques had just read the article that morning and said there are clauses within their contract with Fairpoint that gives the PUC the ability to terminate if need be.
- GOC: Sen. Trahan said their situation has to be considered in the work of PSAPs.
- PUC: Director Jacques agreed and said the PUC always makes certain it has options available when entering a contract to cover themselves and the interest of the State in the event circumstances warrant ending it.
- GOC: Sen. McCormick is supportive of going forward with the first 5 questions in OPEGA's recommendation. Any future reductions will have to be approved by others, and he does not believe they would get future approval from municipalities and counties for consolidating because it is not just costs. Some communities in his district had experienced a significant annual increase in cost between PSAP and dispatch services, and it is also about alleged safety issues. Many of the communities in Kennebec County are already going to Somerset County and alternative places for

their service and he hopes they can get to what the issues are with Kennebec County. He does not mind if the focus is on Kennebec County because the issues are serious, and if they are going to ever move forward with future consolidations and convince people it is a good thing, they need to get those issues resolved and find out what the real costs are.

PUC: Director Jacques agreed. They have to better understand the local issues. Anytime you reduce the number of PSAPs costs are going to be pushed on. What the PSAP consolidation process did not do was mandate that Augusta give up their dispatch centers. In most consolidations the initial cost are more and it takes time to get to real savings. She thinks all of that will be part of what OPEGA and their consultant will get to and will help the PUC move forward.

GOC: Chair Hill said it was mentioned that the PUC study is a two step process, one would be to arrive at what might be considered the optimum configuration and the second is to take the technology, either available now or later, and apply it. She asked if Director Jacques could help the GOC get a sense of how far out they are talking about, if authorized, to have a configuration.

PUC: Director Jacques said it may be 3 years out by the time it was implemented, 2 years to determine where the PSAPs are going to be and 1 year to implement.

GOC: Chair Hill thinks the GOC needs to factor in that timing to the decisions they make relevant to it being on OPEGA's Work Plan. She also agreed with Sen. McCormick's concerns and it would be nice to ultimately come up with the best configuration, but right now that makes the safety issues all that more important and those issues should get priority in OPEGA's review.

GOC: Rep. Burns agrees also, but warned not to get bogged down in the local minutia of the complaints. They need to look at the capability to see whether or not the safety issues are being addressed.

Director Ashcroft distributed to the GOC copies of P.L. 219, LD 555 requested earlier in the meeting by Sen. Diamond.

GOC: Sen. Diamond said it does not appear to require legislation, it says "prior to implementing a reduction in the number of PSAPs the Bureau shall make a finding regarding the need for the reduction."

OPEGA: Director Ashcroft said it might be in conjunction with Section 4 which addresses the study and what needs to be taken into consideration in the study. It says "after receipt and review of the report required under this section, the Utilities and Energy Committee may submit legislation relating to the report."

GOC: Sen. Diamond said he does not see anything that says it requires legislation.

PUC: Director Jacques said that the intent may not be the way it was written. The intent was that the PUC would go back to the Committee, but the Public Law does not say that.

GOC: Sen. Diamond said as long as the PUC made a finding, the Committee may do legislation, but the PUC can still do what it wants.

PUC: Director Jacques said they have no plans between now and February to reduce the number of PSAPS.

The GOC thanked Director Jacques for the information.

Director Ashcroft said PSAPs is on OPEGA's Work Plan and the GOC now needs to decide what questions OPEGA will try to answer for the Committee in the more detailed phase of the review. There are potentially three points for the GOC to weigh in on.

1. Does the Committee want OPEGA to try to answer all the questions laid out or is there a smaller subset of the questions that the GOC is most interested in.
2. Does the Committee agree with OPEGA's scope limitation of Kennebec County being a case study with expansion to other areas as time and resources allow to provide valid comparisons where appropriate.
3. The GOC's agreement of whether or not OPEGA can pursue hiring a consultant to help. Director Ashcroft would want to discuss that process.

**Motion:** That the Government Oversight Committee moves to have OPEGA review the first 5 questions as stated in its Recommendation for Project Direction for the Public Safety Answering Points and Dispatch Centers. (Motion by Sen. McCormick, second by Sen. Nass, PASSED by unanimous vote 8-0).

Director Ashcroft said if all 5 questions were included in the project it would be done in a more reasonable timeframe, even with a consultant, if the OPEGA focused on Kennebec County as a case study.

Sen. Nass asked for clarification that OPEGA will be looking at all entities serving Kennebec County whether they are with the Kennebec or Somerset PSAP.

Director Ashcroft said all those providing services to the municipalities in Kennebec County, whether that is Somerset or whoever else, would be within the scope of the case study.

Sen. McCormick said it would also look at the cost to the other remaining towns that are still with Kennebec County. He made the following motion:

**Motion:** The Government Oversight Committee moves that the scope of the review be generally limited to the PSAPs and dispatch centers serving the governmental entities in Kennebec County. (Motion by Sen. McCormick, second by Sen. Diamond).

Sen. Diamond asked about funding and did not see any questions that referred directly to the funding for Kennebec County and, as stated by Sen. Nass, funding options at some point have to be considered and addressed.

Director Ashcroft said OPEGA did initially have questions drafted around that – what is the surcharge being used for, what are the funding sources that are feeding all of the entities and is there a more efficient way to fund them. It has not been included because OPEGA had not been specifically requested in any of the letters to look at that piece, but OPEGA had flagged it as a potential question. That is what she is looking for from the GOC, additional direction of other areas they want to add.

Sen. Diamond asked if he could amend Sen. McCormick's motion to allow at least for the review of the current and most efficient funding.

**Amendment to Motion:** That the question of funding be included in the review of Kennebec County. (Motion by Sen. Diamond, second by Sen. McCormick).

Sen. Nass said in reviewing information on PSAP services, he learned there is another expense out there that is actually people, not machines, providing PSAP services. He thought it appropriate to look at the money being spent on that as well.

GOC: Rep. Burns asked if the human resource component for PSAP service was what was driving up cost opposed to the equipment that is occasionally retrofitted.



- PUC: Director Jacques said the municipal costs are going up because of the PSAP services not because of PSAP equipment. The people part of answering the calls has never been covered by the 911 surcharge. When consolidation was forced, the natural relationships that were taken advantage of in the original configuration of 49 PSAPs went away. New relationships had to be established and there were costs associated with providing the 911 service. In different county models, that PSAP cost is covered within the county budget. The cost has always been there, it is just more prominent today.
- GOC: Sen. Nass said he does not understand if this is an electronic function why couldn't that signal be sent to wherever the dispatch is.
- PUC: Director Jacques said when someone dials 911 that signal sent over the wires does not know whether you need police, fire or rescue for service. Someone has to answer that call to determine what service is needed and where it is needed.

Following the discussion, Sen. McCormick's **Motion** with Sen. Diamond's **Amendment** was PASSED by unanimous vote 8-0).

Director Ashcroft then described the role the consultant would play. The consultant would not do the whole study, but is someone to bring their expertise in helping OPEGA move quickly through the planning, identification of issues and development of recommendations. She would be looking for a consultant that has that background, experience and knowledge in this area. She is also looking to the GOC for direction on the hiring procedure and whether it should be through a formal Request For Proposal (RFP) process that can take up to 2 months or more before a consultant is selected. Director Ashcroft proposed something not so formal where OPEGA would identify 3 or 4 entities that might be capable of providing that kind of assistance, draft the scope of work to be included, and get back informal quotes from them. She thought this would be within the boundaries of the State's purchasing policies to do that. The formal RFP process is not required for contracts under \$25,000 and the Director was looking to spend less than that amount. She would be happy to do whichever the GOC is more comfortable with, but the decision would impact the time line on when the work would be done.

- GOC: Sen. Nass asked relative to the work OPEGA is going to do and the work the PUC is doing, he thought he had heard earlier, that OPEGA's work might precede what the PUC is doing and therefore try to reduce duplication.
- OPEGA: Director Ashcroft said at this point she does not believe there is anything she would call duplication but there is opportunity to share information. If OPEGA gathers all the cost information about the entities in Kennebec County, that may or may not be useful to the consultant that the PUC uses in evaluating impacts to changing the configuration. The value of it all will be to bring the PUC's and OPEGA's pieces together at the same time so that the Legislature has information about both the optimum configuration recommendation, as well as information on the service quality and the issues being faced in the current configuration that can be used to evaluate the recommended optimum configuration.
- GOC: Rep. Burns asked if Director Ashcroft had 2 or 3 entities in mind, are they in-state, and do they have a working knowledge of rural public safety needs as well as urban.
- OPEGA: Director Ashcroft said the only consultant that she has spoken with indicated they had responded to RFP's put out by other states and cities, so she is guessing it will not be too hard to find several other entities that do that kind of work. Based on what was expressed to the Director about the work they have done, this particular consultant has had experience with issues related to rural coverage. They are based in Massachusetts.
- GOC: Rep. Burns asked if the Director knew if there were any vendors in the State of Maine that can do the same function.

OPEGA: Director Ashcroft said she does not know right now, but that would be part of what OPEGA will be trying to ascertain if the GOC is agreeable to OPEGA going ahead with the informal quote process.

GOC: Rep. Burns said it would be his preference to have the consultant be from Maine.

OPEGA: Director Ashcroft said the value of bringing a consultant on to this review would be in having someone who already has experience performing these kinds of cost and performance reviews of PSAP operations. That would be the more driving consideration for her as opposed to hiring someone from Maine. If they do not have that particular experience, the value of hiring a consultant would be diminished and she would not advocate for pursuing it.

GOC: Rep. Burns said he liked the Director's idea but thinks the vendor should be from Maine.

OPEGA: Director Ashcroft said she would like direction from the GOC as to whether she needs to come back to the GOC for approval to pursue quotes from out-of-state consultants if she does not identify a Maine-based consultant with the desired experience. OPEGA can do the work itself, the value is having someone who knows the subject inside and out who can lend a helping hand in thinking through what kinds of methodology to use, etc.

GOC: Chair Simpson said the State and Local Government Committee had a past bill suggesting distinctly that the State discriminate against out of state vendors and learned that it could cost workers in the State of Maine an enormous amount of money and opportunity in other states. She does not believe the decision for hiring a consultant should be based on their being located in Maine over someone who has the skills OPEGA is looking for. It was her opinion that Director Ashcroft would not have to return to the GOC when making the selection.

GOC: Chair Hill said she was a great proponent in having Mainers get State contracts overall if they are worthy. She agrees PSAPs is very territorial and complex subject so in some ways having someone from outside the State with the qualities OPEGA is looking for could mean that the suggestions they make might be better received.

**Motion:** That the Government Oversight Committee authorizes the Director to hire a consultant through a more informal quote process as described by her which means not necessarily going through a formal RFP process. (Motion by Sen. Nass, second by Sen. McCormick, PASSED by unanimous vote 7-0).

Chair Simpson asked if there was objection to taking an item out of order. Hearing none, the Committee moved to **Report From OPEGA Director -- Communication From Legislative Bodies.**

## REPORT FROM OPEGA DIRECTOR

- **Communications From Legislative Bodies**

- **From Utilities and Energy Committee re: PSAPs Review**

As discussed previously in the meeting.

- **From Judiciary Committee re: Guardians *Ad Litem* Recommendations**

Director Ashcroft referred the Committee to the letter received from the Judiciary Committee regarding follow-up on action items from OPEGA's Guardians *Ad Litem* Report. OPEGA issued a Report on Guardian *Ad Litem* in child protective cases in 2006 and has been following the Judicial Branch's progress on the actions they

felt it was inappropriate for them to report directly back to the Government Oversight Committee on their actions and the GOC at that time agreed that the more appropriate channel for them to report back would be through the Judiciary Committee.

At the end of last year, the GOC sent a letter to the Judiciary Committee asking for its assistance in getting a specific report back on what actions the Judicial Branch had taken to date on OPEGA's Report recommendations. OPEGA was aware that the Judicial Branch had completed their task force initiative and many of the recommendations in the Task Force Report spoke directly to concerns that OPEGA had raised in its Report. However, OPEGA had little information about what the Judicial Branch planned to do with the recommendations of the Task Force or which ones they had implemented. In the most recent legislative session Judge Lawrence gave a briefing to the Judiciary Committee on what they had done in general and what they were going to do with the recommendations from the Task Force Report. The 123<sup>rd</sup> GOC had asked for a report back from the Judiciary Committee once they had taken those steps and this is that letter.

The Judiciary Committee letter indicates that the Judicial Branch has done all that it can do at this time with the resources they have available and the Committee is comfortable with the GOC and OPEGA not pursuing follow-up on the items any further.

Sen. Nass said he did not see the Task Force Report but did see OPEGA's. He said his phone has stopped ringing regarding guardian issues so something must have happened, but he is disappointed in the letter. Director Ashcroft said she does not think the letter from the Judiciary Committee is a full reflection of actions taken by the Judicial Branch. The Task Force did a thorough job and looked at the issue from a number of different sides and it is her understanding from Judge Lawrence that they were going to try to proceed with establishing some independent avenue for addressing complaints against guardians. That was one of the key items that OPEGA had pointed out that could be strengthened and would help resolve a lot of the issues over time. The Judicial Branch was going to try to pursue that within the resources it had.

Chair Simpson introduced Mary Ann Lynch, Director of Court Information for the Judicial Branch.

Director Lynch said the Judicial Branch has done a lot of work on guardian *ad litem*s and thinks what the Judiciary Committee's letter reflects is the Committee's understanding of what has been done. In January the Judicial Branch provided a lengthy Report to the Judiciary Committee from a special task force created by the Court, to review the issues. That report identified all the actions the Court had taken including training. Judge Lawrence, who chaired the task force, spent an afternoon with the Judiciary Committee and walked them through the report. Although the Judiciary Committee's letter may appear somewhat summary, it reflects a lot of work on the part of the Judiciary Committee. The Court agreed to report back to the Judiciary Committee in January, 2010 on a complaint and disciplinary process for guardian *ad litem*s.

Sen. Nass requested that OPEGA and the GOC also receive the Court's report in January, 2010.

Chair Hill said as a member of the Judiciary Committee she could say that the Committee did a thorough review of the Task Force Report, but agreed it was inappropriate to just have the Judiciary Committee's letter before the GOC because GOC members do not have anything to look back at. She would prefer the Task Force Report and all updates be included because they are asking the GOC to make a decision to not go further and more substance is required to make that decision.

Director Ashcroft clarified what had been asked of the Judiciary Committee. The work of the Task Force covered a large portion of the action items that were agreed to as part of OPEGA's Report. The Task Force completed its work, issued the Report, and OPEGA did receive a copy. Director Ashcroft has gone through the Report and matched it up against OPEGA's findings. She does not recall that the Judicial Branch provided any written details to the Judiciary Committee beyond the Task Force Report, so she is not sure that there is anything to attach other than the Task Force's Report and perhaps her assessment of the Task Force recommendations matched up to OPEGA's findings.

Chair Hill said she was not looking for the full Report, but thought it only fair that since the GOC is the second check in the system, the Committee needs to know that the Director has gone through it with the Judicial Branch and is comfortable that all of the items are completed to the best of their ability.

Director Ashcroft said she is comfortable that the Task Force convened, did its work, issued its report and that it considered what it said it would consider.

Chair Hill said she would be comfortable on that representation, voting today, but in the future a summary would be helpful or having the Director go down through that type of detail with the GOC would give the members more of a comfort level.

**Motion:** That the Government Oversight Committee agrees to close the *Guardian Ad Litem* project and not to continue follow-up on reported recommendations. (Motion by Sen. Nass, second by Sen. Trahan, PASSED by unanimous vote 7-0)

The Committee thanked Director Lynch.

## UNFINISHED BUSINESS

### • Maine State Prison Matters

#### - Submission Of OPEGA's Final Report on Maine State Prison Management Issues

Director Ashcroft said that OPEGA has formalized the work from the Maine State Prison Management Issues and referred members to the Report in their meeting material. At the end of the Report, OPEGA has included a section on the Legislative Actions that have been taken.

GOC: Sen. Trahan was looking for a level of accountability in the future, not only the administration's measurements of success or achievement toward their goals but also the employees working at the prison. He asked if the GOC would agree to periodically conducting a confidential survey of employees in the prison system.

OPEGA: Director Ashcroft said the Commissioner was going to do the action plan, the Criminal Justice Committee would monitor that and report back to the GOC by the end of January, 2010 on what they thought the status was. Part of the report back was to include whether or not they felt there had been effective results, and at that point, the GOC would consider whether it wanted OPEGA to do any work at all to try to assess whether there had been progress in terms of change.

GOC: Sen. Trahan recommended having the prison employees involved as the administration puts its plan in action. He is afraid that if the employees do not have a role in the changes things will repeat themselves in the future. He would like to see in Corrections' work plan how they are going to empower their employees to help measure progress.

OPEGA: Director Ashcroft said that she had seen Corrections' initial draft work plan and she does believe it includes involving employees in one or more of the strategic action items. One action item was to administer an employee climate survey and proposed doing that first so they could use it as a benchmark and then redoing it periodically. She believes the Department of Corrections knows that at some point the GOC may decide to have OPEGA do further work.

GOC: Sen. Nass shared Sen. Trahan's concerns and although Commissioner Magnusson spoke of changes that could be made, he is not sure how much of the culture can be changed.

- GOC: Sen. Trahan has concerns with the “good old boy” comments that were made and the fact that employees felt they could be retaliated against if they brought forward concerns. Unless something in the model changes, that same problem 5 years from now could exist if there is not some empowerment for a flag to go up if things don’t change. Obviously the prison employees do not feel comfortable coming forward so they went outside and he would like to see that cultural piece broken. There should be a way of measuring from the employees’ perspective whether things are changing. He would like to see progress not brought here by the administration, manufactured by the administration and all that information controlled by the administration, but an outside element of independence in the reports.
- OPEGA: Director Ashcroft said the path they were on right now is that OPEGA said yes there are cultural issues, the administration said yes they agreed and they would really like to work on it. The Criminal Justice Committee has committed to oversight of the administration’s plan for what they hope is going to make cultural change. The plan is in motion. Director Ashcroft agrees that once that plan has been implemented and there has been a chance to see if it has done anything, it might be the appropriate time to go back and check to see if actions taken were effective, if there is significant change. That may be a survey OPEGA administers or selected interviews with individuals. She sees that as being different than the idea that OPEGA be involved with Corrections as they go forward with their plan. If a survey is done, the Director thinks OPEGA has to be independent of that and the GOC has to give the Department of Corrections an opportunity to put some of the items in motion. In January, once the Department has been able to make progress on the action plan, the GOC will be in the position to decide whether OPEGA should check further on the effectiveness of those actions.
- GOC: Sen. Trahan said he will withdraw his previous stated requests if the concerns can be brought back in January, 2010.
- GOC: Chair Hill suggested that OPEGA be kept apprised of the Department of Correction’s plan and the development of that plan. She suggested not waiting for a report in January, but would like to see OPEGA follow them down the road and be aware of how it is progressing. Chair Hill said the situation here is more critical because there is not only culture, but there is an isolated society and there are concerns about employees or prisoners being able to reach out safely. She thinks the GOC needs to know that there is a cultural change taking place and the steps to implement it are in action as opposed to merely in discussion.
- OPEGA: Director Ashcroft said she believed that Corrections had already been working on some actions to improve the avenues for raising concerns so that the risk of retaliation, or the perception of retaliation, does not keep employees from using those avenues. She thinks the Department has already made some changes to their incident reporting system and their grievance process in terms of getting those to funnel to a centralized location that is outside the immediate chain of command. They are also planning on hiring the consultant Commissioner Magnusson spoke of at a previous GOC meeting and have indicated to the Director that the consultant would like to meet with OPEGA to discuss the concerns identified in our review.
- GOC: Sen. Trahan said if the same individuals that employees are fearful of are creating the new process and control that process and there is no one else involved, he does not think if he was an employee he would feel comfortable with any process being used. He asked if their plan is going to change that. Sen. Trahan wanted to make sure that the Department of Corrections’ administration does not say a year from now that if his concerns had been brought forward earlier, they could have been included in Correction’s work plan.

This matter will be reviewed again by the GOC in January, 2010.

### **- Submission of Letter From Maine State Police re: Investigation into Allegations About Inmate Death**

At the May 22, 2009 GOC meeting, Sen. Nass requested a copy of the letter from the Maine State Police regarding the investigation into allegations about the inmate death at the Maine State Prison. The Director said the GOC has been provided copies of the letters from Lt. Gary W. Wright, Maine State Police Criminal Investigation Division and William R. Stokes, Deputy Attorney General, Chief, Criminal Division.

GOC: Chair Hill would appreciate knowing how frequently the State Medical Examiner's Office has "undetermined cause of death" from autopsy results. The letter does not close the issue for her and she would be uncomfortable taking a position on the letter especially if it has to do with the jurisdiction of the AG's Office and the State Police.

OPEGA: Director Ashcroft recounted the series of events that led to the GOC receiving this letter. First, OPEGA received an allegation and under OPEGA's process anything of a criminal nature is referred to the Attorney General's Office as the appropriate body to do the investigation. The AG's Office referred this allegation to the Maine State Police for investigation. It turns out that both the AG's Office and Maine State Police have conducted investigations on this allegation at different points in time. She feels that under OPEGA's process, the GOC and OPEGA have done what was required of us in regards to this allegation. The letters from the State Police and AG are their report back on what they found. The Director was not trying to opine whether the allegation was true or false and was not looking for the GOC to take a stand on that. The role was to assure that it has been investigated thoroughly. It was OPEGA's role to say yes we think it has been investigated thoroughly, and she is not seeking to comment on the conclusion beyond that. The elements of the allegations that said the death was covered up, there was not an investigation, are not true. The allegation that the body was cremated does not appear to be true and the allegation that the inmate died of a beating, does not appear to be true or at least the medical examiner did not find that as a cause of death. That is the allegation that was brought forward and that is what the letter covers. The Director cannot offer any opinion on the investigative practices of the Maine State Police or the AG's Office or the thoroughness of it. They did share with her some of the details of their investigation including following up on the fact that there was supposed to be a witness, a nurse who left the Prison shortly after that. However, there is apparently no documentation that the person was involved with the inmate over the course of this situation that preceded his death.

GOC: Rep. Burns thinks the State Police letter does exactly what it was intended to do, it spoke to the issues raised. Now that the case has been closed that information is public and anyone could read the report and thinks that may answer members' questions.

GOC: Chair Hill asked how to get access to the Report and Rep. Burns said freedom of information act through the Maine State Police or you may only have to go to the AG's Office and ask to read it. Director Ashcroft will find out the procedure for getting access to the report and will forward that information on to the Committee members. Chair Hill also asked that the process for reviewing the file also be referenced along with the letter in terms of closing out OPEGA's involvement.

### **- Update on Criminal Justice and Public Safety Committee Action in Response to GOC Request**

Not discussed.

## **REPORT FROM OPEGA DIRECTOR**

- **Project Status Report**

**- Durable Medical Equipment and Medical Supplies Purchased Through MaineCare** – the Report is being

drafted. OPEGA has discussed its issues and recommendations with DHHS management and will have a final Report ready by July 23<sup>rd</sup>.

- **Fund for Healthy Maine: Programs, Allocations and Expenditures** – OPEGA has experience some delays in the review, some caused by getting access to individuals at DHHS, but most recently it been because OPEGA has been giving priority to the work on the Maine State Prison and getting the preliminary research done on PSAPs.

- **Public Safety Answering Points and Dispatch Centers** – the preliminary research has been completed. The GOC has given its direction on the scope of the project and OPEGA will continue to keep that in progress.

- **Follow-up on Action Items From Last Meeting**

- **Dirigo Health Program**

Director Ashcroft reminded the GOC that Dirigo Health Program was “On Deck” as a topic and that they had received a letter from the Insurance and Financial Services Committee requesting a review and laying out a scope of things they would like to see encompassed in the review. The GOC had asked the Director to:

1. talk to the Chairs of the Committee and determine if there was anything in the scope of work that they felt was critical to have by the first of the session; and
2. to determine if there were opportunities to parcel out to other State entities or a consultant, some pieces of the scope. Director Ashcroft’s report back included:
  - She has not had an opportunity to speak with Rep. Treat ;
  - She did speak to Sen. Bowman and from his perspective he was not sure that the specific items that were laid out in the original scope would necessarily have value or were critical. He would like the review to be more of a traditional program evaluation. What was the agency, what was its intent, what was it supposed to be doing, what activities is it engaged in and how do those match up to what it is supposed to be doing, what has it been successful at, where are the challenges and what can be done to address those challenges. Sen. Bowman does not think there is any area where not having the information would prevent the Insurance and Financial Services Committee from doing their work in the next session, but it could be helpful as additional context. It would be most helpful to have the information in the early part of the session because by legislation the Dirigo Board is supposed to come back with a revamp of the program. If the Committee had some of this information for context that would be helpful. He did not pick out anything in particular the Committee needed for decision making purposes.

Chair Simpson asked whether given OPEGA’s work over the next couple of months, Dirigo is a topic where the GOC could give OPEGA a bit longer to work on the scope and also the opportunity to talk with Rep. Treat and have something ready to start in September. Director Ashcroft said in order to have a report by January, 2010, the GOC would have to move Dirigo to OPEGA’s Work Plan and indicate that it has priority over any other project that is planned. The Director has talked with the State Auditor and there may be an opportunity to get the expenditure piece of it reviewed by them, but their window of when they would have resources available is between now and December. Consequently, the Director would have to know soon if that is something the GOC would like to have happen.

Some GOC members stated there will be more changes to healthcare in the next session and suggested that this topic not be moved ahead of the others the Committee has already agreed on. Chair Hill did ask Director Ashcroft to speak with Rep. Treat because she may have a different perspective than Sen. Bowman. Dirigo will be left “On Deck” and by the GOC’s next meeting Director Ashcroft will have had the opportunity to talk with Rep. Treat and Rep. Lewin.

Sen. McCormick said that since the Dirigo request came forward a statewide funding mechanism for Dirigo has been provided so that issue is gone. The Dirigo Board report back is due in January, 2010 and will include a whole new offering under Dirigo. Looking at what has happened may not be as important as waiting to see what will be done in January.

**- Director's Recommendation of Which Topics on Deck Might Be Addressed Through Requesting Information From an Agency or Committee**

Director Ashcroft reminded members that at the last meeting she had asked if the Committee wanted to vote any topics off the "On Deck" list to make sure it is kept current with topics the GOC is interested in. The Committee thought some of the topics may be candidates for being able to address the requestors' concern through an initial inquiry to the agency or by sending a letter asking for particular information. The Director was to let the GOC know which topics she thought that would be an option for. The topics discussed and Committee's actions taken on them are summarized below:

- **Office of Innovation in DEP and DECD** – the requestor wanted to know if there were similarities between the two offices that might lend itself to combining or eliminating one. In the information OPEGA has provided one can see that although the titles are similar the two agencies perform different functions and there do not appear to be opportunities for combining or eliminating.

**Motion:** That the Government Oversight Committee removes the Offices of Innovation in DEP and DECD from the On Deck Topics List and notify the legislator who requested the review. (Motion by Sen. Nass, second by Sen. Trahan, PASSED by unanimous vote 7-0).

- **Boat Launch Programs in Department of Conservation and Department of IF&W** – there are similar functions in both departments. Director Ashcroft said it is apparent that there would be similarities in the two programs but does not know to the degree this has already been examined by the policy committees. Sen. Trahan said he is on the IF&W Committee and they know about the issue and said it should be addressed in the policy committee. Director Ashcroft wondered if the AFA Committee would be looking at this during the interim when they are reviewing organizational structure.

**Motion:** That the Government Oversight Committee removes the Boat Launch Programs in Department of Conservation and Department of IF&W from the On Deck Topics List and that the Director send a letter to the AFA Committee. (Motion by Sen. Trahan, second by Chair Hill, PASSED by unanimous vote 7-0).

- **State Allocations From the Federal Sport Fish Restoration Program (Wallop-Breaux Amendment)** – there were concerns that the State was going to be moving forward with a salt water fishing licenses that would affect how much money the State received from the Federal program and the State should be taking steps to make sure that the money was being used appropriately and in compliance with the criteria for the program. IF&W and Marine Resources both get money from the Program. Sen. Trahan reported that both bills related to this were carried over to the 2<sup>nd</sup> Session. The issue of distribution was settled.

**Motion:** That the Government Oversight Committee move the State Allocations From the Federal Sport Fish Restoration Program off the On Deck Topics List. (Motion by Sen. Trahan, second by Rep. Burns).

**Discussion:** Chair Hill spoke with the legislator who brought the topic forward so would prefer that instead of just taking it off the List that a letter be sent to the legislator forwarding the information from IF&W that Sen. Trahan referred to. Sen. Trahan said the politics of the salt water license for the two agencies is tense and if the GOC goes down the road of looking at how the federal funds are distributed it is all dependent upon what action is taken on the salt water licensing. Chair Hill just wanted to make sure that the legislator is comfortable that there is information before one of the committees or OPEGA. She will speak to the legislator and if there are questions, the legislator will contact Sen. Trahan.



Director Ashcroft would like to know the result of that conversation because she thought the request involved more detail and there may be a part that is still remaining. She could check with OPLA on whether either one of the Joint Standing Committee has gotten detailed information on how current monies received are spent and whether it is in compliance with the federal program. Chair Simpson said there would have to be documentation if the Federal Government has determined how the money is to be split.

Director Ashcroft will check on what is available through OPLA that has been provided to either committee that might help answer that question. That information can be passed on to the legislator and see if that sufficiently addresses it and, if not, the Director could come back to the GOC with the result.

The motion was discussed and restated.

**Motion:** That the Government Oversight Committee move the State Allocations From the Federal Sport Fish Restoration Program off On Deck Topics List. (Motion by Sen. Trahan, second by Rep. Burns, PASSED by unanimous vote 7-0).

- **Use of Federal USDA Funds Available to State for Food Stamp Employment and Training 100%** - determine whether any current State activities qualify to be supported by a federal program that the State is apparently not currently drawing from. Director Ashcroft said a letter could be sent to DHHS asking them to expound on what the issue was and what action they have taken to resolve it. DHHS may very well have already implemented the corrective measure to start drawing down the funds. The additional question of whether they are aware of any other activities in the State that might qualify for use of the funds could be asked.

The GOC asked Director Ashcroft to send a letter on their behalf to DHHS requesting information on the above.

- **Committee on Judicial Responsibility and Maine Board of Overseers of the Bar** – Director Ashcroft said this is a citizen's request and believes it is based on some personal difficulties that have been experienced with the organizations in trying to get them to address the concerns.

**Motion:** That the Government Oversight Committee remove the Committee on Judicial Responsibility and Maine Board of Overseers of the Bar from the On Deck Topics List. (Motion by Sen. Nass, second by Sen. Trahan, PASSED by unanimous vote 7-0).

#### **- Discussion on Status of Leased Office Space Review**

Director Ashcroft said the GOC asked for the status of the Leased Office Space Review. The questions in the original scope were:

1. Is the State leasing office space at the best possible price given agency needs, State law, policies and standards? If not, why not?
2. Is the State Using leased office space as efficiently as possible, i.e. is the current leased space fully utilized? If not, why not?

Director Ashcroft said that because there has been such a time lapse and significant changes in the economy since the work was done, the planned methodology for Question 1 would need to be reconsidered and more current data would likely be needed for an updated analysis. Work on Question 2 was not begun, so significant work would remain to arrive at a conclusion.

While the review was underway OPEGA did note a few areas for potential improvements. Related recommendations were not fully developed prior to the project's suspension, but the issues were shared with the Director of the DAFS Bureau of General Services and the Director of the Division of Leased Space within that Bureau. OPEGA could potentially perform some additional work to ascertain whether the issues still exist and, if

so, to fully develop recommendations addressing them. We would then be in a position to produce a brief report on the completed portion of the review that covered leasing processes. This would require approximately 150-200 person-hours and would not result in a full conclusion on either of the two original scope questions.

Alternatively, OPEGA could reinitiate this review and perform the remaining work necessary to not only fully develop the recommendations for the identified issues but also to conclude on the original scope questions. However, the current GOC and other legislators have recently raised a number of specific questions about leased office space that would not be answered within that body of work as we currently have designed it. Given this, OPEGA would prefer to revisit the scope of the review with this GOC and make adjustments as necessary before continuing with substantial additional work on this project. Committee discussion included:

- GOC: Chair Simpson said that the State spends a lot of money on leased office space and the other members agreed.
- GOC: Sen. McCormick said it is continuous. The State's recent efforts to renovate an entire old hotel in Hallowell, and to design it explicitly for the PUC to move into is beyond belief. The State is moving the Ethics Commission out of what he assumes is a State-owned building to the Preti-Flaherty Building on Memorial Circle.
- GOC: Sen. Trahan said the Inland Fisheries and Wildlife Committee just spent almost three weeks going through the IF&W Department's budget and one item on the budget that the Committee had not seen before was that the Department had budgeted for increases in the leased buildings. It appeared that the Department knew how much the increases were going to be.
- GOC: Chair Simpson asked if Director Ashcroft could develop an alternative plan and bring it to the next meeting.
- OPEGA: Director Ashcroft asked that if any GOC member had particular questions or concerns about leased office space they forward them to her by email or stop by the office so she can make sure they can be encompassed within what she will bring forward. OPEGA's analysis had been designed to try to take what the State is paying for rates and how they compared to general rates in the market which was very difficult to do because it was a moving target. This GOC's questions seem to be more on a case-by-case basis like why the State made the decision, what was involved in that decision to move and did the State get a good deal for that. It is more of taking a look at recent leasing decisions. Director Ashcroft said OPEGA would not be in a position to say if it's better to lease than buy but at least could take a look at what did they take into consideration.
- GOC: Chair Hill said she would like to see a list of all property that is leased by the State as well as what the annual rental fee is for that. That would give the GOC a perspective of where things are, what is being paid and it might lead to questions for individuals working on it.
- OPEGA: Director Ashcroft said that would be part of what OPEGA would look at in the review. She would like to discuss further whether giving the members the list of leases to pick from was appropriate or would perhaps be perceived as compromising OPEGA's independence and allowing political bias to be woven in OPEGA's work. If the GOC wanted to know as part of the product of the report what the leases are and what the rates are, OPEGA can do that, but as far as a selection of which ones we think would make sense to review based on what the GOC wanted to know, it would be better perception wise, if we did that on an objective basis.
- GOC: Chair Hill agrees. She is not looking to get into the leases but would like the dollar amount and where the properties are.

GOC: Sen. McCormick said that looking at each lease may not tell a lot. We may decide that each lease is paying the going market rate but at what point would it be more fiscally responsible to build a new building, if there is that need and have another office building than all the leases combined.

GOC: Sen. Trahan said the value in looking at the individual leases for him was evident from IF&W Committee. Built into the lease contract were adjustments during the contract period for items like energy, if the price of fuel went up, they got an increase. He said he would be interested in looking at comparable private sector leases to see if they were similar or there were extra things the State was paying that they should not be paying for, not looking specifically at each landlord.

## **NEXT COMMITTEE MEETING**

### **• Discussion of Committee's Workload and Meeting Schedule During the Interim**

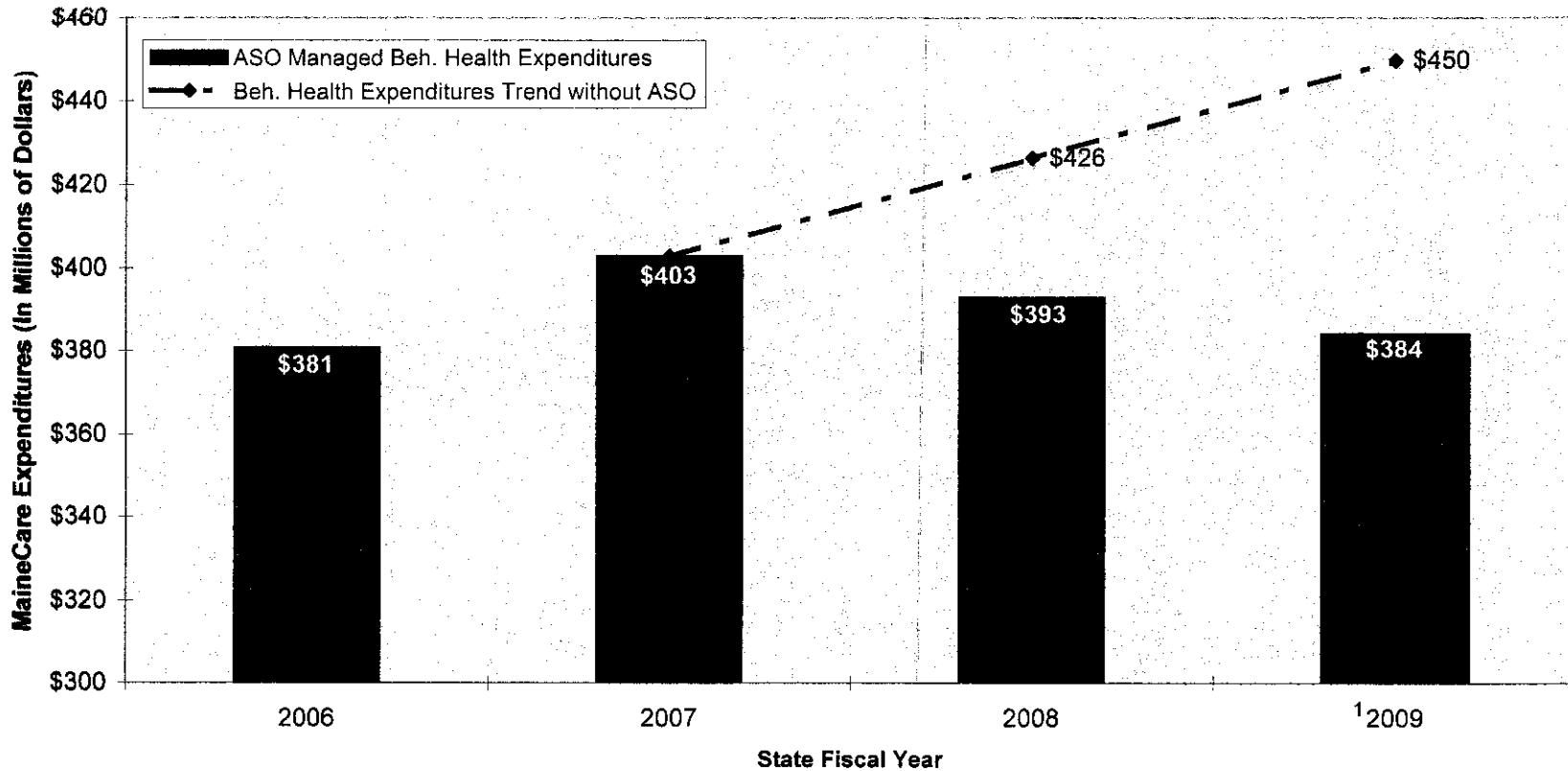
Director Ashcroft said that OPEGA would be releasing the Durable Medical Report in July and the next Report would be the Fund for Healthy Maine. The Fund for Healthy Maine Report is one that might engender some public comment. Because of that it may make sense to have the public comment period closer than a month out from the time the Report is released. Consequently the Director recommended maybe meeting in July after the 23<sup>rd</sup>, skip August and have two meetings in September so the Report could be released and have the public comment period within a couple of weeks.

The GOC's next meeting is scheduled for Thursday, July 30, 2009 at 9:30 a.m. and the meetings for August and September will be discuss at that meeting.

## **ADJOURNMENT**

The Government Oversight Committee meeting was adjourned at 1:40 p.m. (Motion by Rep. McLeod, second by Chair Hill, unanimous).

### Maine ASO Managed Behavioral Health Expenditures: SFY 2006 to SFY 2009



Data Source: MaineCare Paid Claims for ASO Managed Behavioral Health Services: SFY 2006 to SFY 2009. Paid Claims are based on service date and claim status=71. Trends showing expenditures without ASO are estimated based on 5.83% increase between 2006 and 2007 applied over 2 years.

† SFY 2009 data is estimated by calculating the average monthly expenditures over the first 5 months of the year, multiplying by the 7 remaining months and adding this amount to the total expenditures at the end of month 5 (November 30, 2008) to obtain a 12-month estimate. The first 5 months were used to allow for a minimum of 6 months of claims run-out to ensure complete claims on which to base the estimates.

## **OPEGA Recommendation for Project Direction**

### **Public Safety Answering Points and Dispatch Centers**

#### **Background**

In late April 2009, the Senators of the Kennebec County Delegation requested an OPEGA review of Public Safety Answering Points (PSAPs) and emergency dispatch services. The request came following news reports of service complaints raised by the Kennebec County Sheriff's Department against the State-run Central Maine Regional Communications Center (CMRCC), the regional PSAP for Kennebec County. The Senators requested an in-depth program evaluation of the consolidated PSAP systems and dispatch services that would include coverage of the following issues:

- cost structures for PSAP and dispatch;
- coverage for rural communities, especially in Kennebec County;
- connection between dispatch services and PSAPs;
- efficiency and effectiveness of multiple, unconnected dispatch centers to the consolidated PSAPs;
- original projected cost savings compared to actual savings;
- dropped calls and missed dispatch connections, resulting in potentially serious public safety issues; and
- an assessment of the impact of consolidation on Kennebec County, and other counties where towns elected not to participate in the regional PSAP.

On May 8, 2009, the Government Oversight Committee (GOC) voted to put the requested review on OPEGA's Work Plan indicating that OPEGA should start work on this project as soon as possible. Subsequently, the GOC also received a letter from the Joint Standing Committee on Utilities and Energy endorsing the request submitted by the Kennebec County Senators Delegation and concurring on the urgent need for an OPEGA review. In addition to covering the issues identified in the Delegation's letter, the Utilities Committee requested that the review also include examination of how and when municipalities may change PSAP service providers and the cost of such changes to other municipalities and the State.

OPEGA's preliminary research work to date has focused on gaining a fuller understanding of legislative and public concerns surrounding PSAPs and dispatch services and any recent efforts completed or anticipated to address any of those concerns. We have additionally gathered operational information relevant to assessing the potential scope of this project. Our work has included:

- conducting interviews with representatives of the Department of Public Safety (DPS) and the Public Utilities Commission (PUC);
- conducting interviews with legislators and legislative staff; and
- reviewing documents and performing other research related to PSAP and dispatch services including legislative history on bills introduced regarding E-911, the PUC's recent rate case on DPS rates and media articles on PSAP consolidation from Maine news sources.

Our work to date has not included gathering input from operators of PSAPs and dispatch centers other than DPS. Nor has input yet been gathered from customers of the DPS or other PSAPs.

## **Summary of Preliminary Research and Analysis**

### **Overview of PSAP and Dispatch Service Centers Statewide**

It is important to distinguish between Public Service Answering Points (PSAP) and dispatch services. PSAP service is simply the process of answering a 911 call and routing the call appropriately. Dispatch services on the other hand perform the act of actually dispatching the appropriate responder to the scene of the emergency. Depending on the arrangement between the service provider and the customer, the two services are sometimes handled by the same operator. Other times the PSAP operator must transfer the call information to a separate dispatcher.

There are currently 26 facilities providing PSAP services (also referred to as PSAPs) in Maine. County or municipal governments operate 22 of them and the other four are operated by the Consolidated Emergency Communications Bureau within DPS. The 26 PSAPs also provide dispatch services. In addition, there are another 57 stand-alone dispatch centers throughout the State. DPS does not operate any of the stand-alone dispatch centers but a few of them are located in other State agencies.

The four PSAPs operated by DPS are located in Gray, Augusta (also known as the Kennebec County PSAP or the CMRCC), Orono and Houlton. Currently (FY2009), these four PSAPs provide PSAP service to all municipalities in Aroostook County and 45 municipalities in Kennebec, Oxford and York counties. The four PSAPs also provide various dispatch services (police, fire and rescue) to some of those same 45 municipalities and 11 others in Aroostook County. In addition, they answer most of the 911 cellular phone calls in the State and provide dispatch services for 6 State agencies: Maine Departments of Inland Fisheries and Wildlife, Marine Resources, and Environmental Protection, and the Maine State Police, State Fire Marshall's Office, and the Maine Turnpike Authority.

The 26 current PSAPs were established by the PUC's Emergency Services Communication Bureau as a result of legislation passed during the 121<sup>st</sup> Legislature (2003-2004).<sup>1</sup> The legislation sought to reduce the number of PSAPs in the State to between 16 and 24. The purpose of the consolidation was to reduce, or avoid increasing, the surcharge on telephone bills being used to support the E-911 network. The consolidation effort did not include dispatch services.

The costs of the technological infrastructure for PSAPs are covered by revenue received from an E-911 surcharge on telephone bills. Revenue to cover operational costs of providing PSAP services and all costs of providing dispatch services comes through rates

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<sup>1</sup> That legislation also transferred the Emergency Services Communication Bureau, and its responsibilities, from the Department of Public Safety to the Public Utilities Commission. Those responsibilities included developing the system design and performance standards necessary for the implementation and management of the Statewide enhanced E-9-1-1 system.

that the individual PSAP and dispatch service providers charge their customers (i.e. other county and municipal governments and State agencies).

P.L. 2007, Chapter 622 required municipalities that do not have a PSAP to contract with another entity for the provision of PSAP services. DPS is required to act as the PSAP for those municipalities that fail to establish a contract with another entity and the municipalities are required to pay DPS for those services. This law also directed the PUC to establish fees to be charged by DPS for acting as a PSAP and to ensure that the fees reasonably reflect services provided.

### **Past Efforts Related to Rates Charged by State-run PSAPs**

DPS's rates for FY2008 had been set by the Maine Communications Systems Policy Board in February of 2007.<sup>2</sup> The PUC did not review in detail the costs that had been taken into consideration by the Maine Communications Systems Policy Board in setting the rates for 2008. Rather, the PUC used the DPS budget for FY2008 as a starting point and reviewed any budgetary additions proposed by DPS for the coming biennium that would change the revenue requirement and, therefore, require an adjustment to the established rates. The PUC also did not review the methodology that had been used by the Maine Communications Systems Policy Board to effectively allocate DPS's costs through the rates that would be charged for various services.

The PUC determined that the appropriate total revenue requirement for the four PSAPs for the biennium was \$7,109,453 annually representing an increase of approximately 32% over FY2008. DPS adjusted fees proportional to changes in the proposed revenue requirement. After completing the rate setting process, PSAP and dispatch rates to be charged to municipalities in the coming biennium were 41.75% higher than the base year.

The PUC's rate case did not review the rates of non-State service providers or compare the total operational costs of those entities to the State-run centers. Based on OPEGA's research, it does not appear that this type of full cost comparison has been done by any entity to date. One difficulty with making such comparisons is that all PSAPs are not alike, there are various service configurations and other variables that may affect cost. It does not appear that there is currently any readily available data that would allow a true "apples to apples" comparison.

### **Concerns Raised About Cost and Quality of State-run PSAP and Dispatch**

Primary issues that continue to be raised in the legislative process surrounding the bills that have been introduced are those of cost and local control. Costs do not necessarily decrease for municipalities with PSAP consolidation because they have to pay for the PSAP service and either still provide dispatch services locally, or pay another entity to provide them at an additional charge. Kennebec County is more frequently the focus of these issues than other areas of the State.

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<sup>2</sup> OPEGA had conducted research on this process for the GOC of the 123<sup>rd</sup> Legislature which is summarized in the attached Information Brief that was presented to the GOC.

A review of 57 articles from Maine news sources posted since September 2006 also show that the PSAP consolidation plan that appears to have generated the most debate is the one for Kennebec County. The two most recurring issues covered in these news articles are suggestions of higher cost and allegations of quality problems with the State-run Augusta (Kennebec County) PSAP. There were no news reports of cost related concerns for any PSAPs other than Augusta. There were only three quality related articles for PSAPs or dispatch centers in other areas of the State, and two of them were positive stories about better communications and improved technology.

Currently at least 39 entities are planning to change their arrangements with the DPS-operated PSAPs citing cost and quality issues. They plan to obtain PSAP and/or dispatch services from non-State providers. Twenty-one of those entities are currently served by CMRCC. Municipalities make up only about \$1.5 million of the \$7.1 million revenue requirement for the four DPS PSAPs. The remaining revenue comes from the 6 State agencies served.

OPEGA interviewed the DPS Commissioner to learn what complaints DPS had received about PSAP or dispatch services and what the Department was doing about those complaints. The Commissioner said she recently received 37 complaints and the Director of DPS's Consolidated Emergency Communications Bureau is personally reviewing all of them. She said that his review includes finding and listening to tapes of calls, when applicable, and that she expects a summary of their results should be available at the end of June 2009.

The Commissioner also described the on-going measures in place to monitor the quality of PSAP and dispatch services. She said supervisors review incident recordings to verify that operators are following procedures and provide guidance or additional training as needed. In addition, she described DPS-initiated users groups for each of the four State-run PSAPs that meet monthly to discuss issues and any problems.

The PUC also has agency rules that apply to all PSAPs. The rules establish standards for 911 call answering and forwarding, PSAP administration, training and certification, equipment and facilities. Operators receiving emergency medical calls are required to follow a set protocol in processing those calls using a prescribed set of questions to ask of the caller. Other types of calls do not have a specific protocol.



## **Other Efforts Currently Underway Related to State's PSAP Network**

Recently passed legislation (LD 555 Public Law 2009 Chap. 219) directs the PUC's Emergency Services Communication Bureau to report to the Legislature by February 1, 2010 on:

- the optimum configuration of public safety answering points in the State;
- how to implement and regulate the optimum configuration, including the regulation of changes to PSAP locations initiated by municipalities, taking into consideration the cost implications for municipalities and the State; and
- the benefits and consequences of expanding the Statewide E-9-1-1 surcharge to fund all E-9-1-1 system costs.

The legislation specifies the factors the PUC shall take into consideration in making its report.

The PUC has said that it is in process of hiring an external consultant to conduct a study and make recommendations as part of the legislated effort. The PUC says the study is expected to focus on determining an optimum configuration for PSAPs in the State, and describing the impacts to affected entities of moving to that configuration, i.e. cost-shifting. The PUC says the focus of the study is on PSAP services. It will not address dispatch services other than to explain impacts to the delivery of dispatch services as regards quality factors like time to respond to a call. The study is not expected to include a detailed comparison of current costs and rates among PSAP service providers although there will likely be some data gathered on current costs in order to assess impacts. The consultant may also examine to what degree expected benefits from adopting the optimum configuration would be impacted if municipalities are still allowed the choice to move from one PSAP service provider to another.

## **OPEGA Recommendation**

OPEGA recommends continuing this review and proposes seeking the assistance of a consultant with experience in conducting cost and performance assessments of PSAP and dispatch operations to work with OPEGA staff.

We have developed 6 questions that we believe would address all areas of concern raised in the legislative requests received. The PUC does not currently expect to specifically address any of these questions through its study although there may be opportunities to share information that could facilitate one or both projects depending on timing. What those opportunities are will not be completely clear until OPEGA and the PUC's consultant have developed the respective research methodologies. At the very least, we would, of course, seek to coordinate to avoid any duplication of effort.

If the GOC desires that all of the questions be addressed, then we recommend the scope of this review be generally limited to the PSAPs and dispatch centers serving the governmental entities in Kennebec County. Focusing on Kennebec County as a case study should allow us to pursue a greater level of detail and could produce some results that are also reflective of other areas in the State. Work might be extended to other service providers or other municipalities in the State as necessary for comparison purposes to the degree that time and resources allow. Even with this scope limitation

and the assistance of a consultant, OPEGA estimates that it could take 6 months or more to complete this review given the breadth of the questions, the number of entities that we would be seeking information from and the nature of that information. A more specific estimate can be provided once a methodology has been designed.

The table below specifies what these questions would be with this scope limitation applied. It also shows how these questions match up to the areas of concern raised in the legislative requests and gives our assessment of the degree to which the PUC study may touch upon these questions as it has been described to us to date.

Based on our assessment of the PUC study, and the potential time consuming nature of the question, we also recommend not pursuing Question #6 at this time to avoid doing work that might ultimately be of limited value. Whether OPEGA should proceed with the work to answer this question could be revisited after the PUC study is released. OPEGA may also be in a position, based on work already done, to provide an assessment of potential efficiency and effectiveness issues for the Legislature's consideration at that time.

Question	Related Legislative Request Area	Relationship to PUC Study
<p>1. How do cost structures and rate methodologies differ between the DPS CMRCC and other entities that provide PSAP and Dispatch services to customers in Kennebec County? Are costs being equitably allocated to those who are benefiting from the services?</p>	<ul style="list-style-type: none"> <li>• Cost structures for PSAP and dispatch</li> </ul>	<p>PUC study may collect information about cost structures and rate methodologies for PSAP service providers only. Unknown whether PUC and its consultant will be successful in getting full participation and comparable data from all providers.</p>
<p>2. Are there differences in the quality of services provided by the DPS CMRCC compared to other entities that are serving customers in Kennebec County? If so, what factors are creating those differences? Is public safety being jeopardized?</p>	<ul style="list-style-type: none"> <li>• Coverage for rural communities</li> <li>• Potential for serious public safety issues</li> </ul>	<p>PUC study will not be examining this issue or collecting information that may assist OPEGA in answering it.</p>
<p>3. What does the current network of PSAP and dispatch service providers for Kennebec County customers look like? Does the current configuration provide adequate coverage for rural communities?</p>	<ul style="list-style-type: none"> <li>• Connection between dispatch and PSAPs</li> <li>• Coverage for rural communities</li> <li>• Efficiency and effectiveness of multiple, unconnected dispatch centers to consolidated PSAP</li> </ul>	<p>PUC study may collect some information about the current network with primary focus on PSAP. Some info on dispatch providers may get collected to help describe the impacts of further PSAP consolidation on dispatch service delivery.</p>

<p>4. What are the impacts on the State, County and municipalities in Kennebec County from towns not participating in the CMRCC (the regional PSAP) or from towns changing service providers? Are there factors other than cost and service quality driving the changes?</p>	<ul style="list-style-type: none"> <li>• Impact of consolidation when towns don't use regional PSAP</li> <li>• Impact of municipalities changing service providers</li> </ul>	<p>PUC study will not be examining this issue directly as regards the current situation and likely will not collect information that may assist OPEGA in answering it. The PUC study may examine this issue from the perspective of how the recommended optimum configuration would be impacted if these situations continue.</p>
<p>5. What benefits have been realized from the Statewide PSAP consolidation and how do they compare to what was expected?</p>	<ul style="list-style-type: none"> <li>• Original savings vs. actual savings</li> </ul>	<p>PUC study will not be examining this issue and likely not collecting information that may assist OPEGA in answering it.</p>
<p>6. Are there efficiency and effectiveness issues (including adequacy of coverage for rural communities) associated with the current configuration of PSAP and Dispatch providers? If so, what are the root causes?</p>	<ul style="list-style-type: none"> <li>• Efficiency and effectiveness of multiple, unconnected dispatch centers to consolidated PSAPs</li> </ul>	<p>PUC study will result in recommendation for optimum configuration of PSAPs. The answer to this proposed OPEGA question could be impacted by what that configuration is and whether the Legislature adopts it.</p>