



SEN. ROGER J. KATZ, CHAIR
REP. DAVID C. BURNS, CHAIR

MEMBERS:

SEN. MARGARET M. CRAVEN
SEN. BILL DIAMOND
SEN. EARLE L. MCCORMICK
SEN. NANCY B. SULLIVAN
SEN. GARRETT P. MASON
REP. DONALD E. PILON
REP. ANDREA M. BOLAND
REP. JOYCE A. FITZPATRICK
REP. LESLIE T. FOSSEL
REP. CHUCK KRUGER

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

June 8, 2012

Accepted June 29, 2012

CALL TO ORDER

The Chair, Rep. Burns, called the Government Oversight Committee to order at 10:02 a.m. in the Burton Cross Building.

ATTENDANCE

Senators:	Sen. Craven, Sen. Diamond, and Sen. McCormick Joining the meeting in progress: Sen. Sullivan Absent: Sen. Katz and Sen. Mason
Representatives:	Rep. Burns, Rep. Pilon, Rep. Boland, Rep. Fitzpatrick, and Rep. Kruger Joining the meeting in progress: Rep. Fossel
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Matthew Kruk, Analyst, OPEGA Maura Pillsbury, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Joseph Ponte, Commissioner, Department of Corrections

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

SUMMARY OF THE MAY 25, 2012 GOC MEETING

The Meeting Summary of May 25, 2012 was accepted with the change of adding the discussion regarding nutrition and wellness programs at the Maine State Prison (MSP) between Rep. Boland and Commissioner Ponte.

NEW BUSINESS

- **Presentation of Cost Per Prisoner Information Brief**

Director Ashcroft presented the Cost Per Prisoner (CPP) Information Brief.

Sen. Craven thought the Department of Corrections' (MDOC) administrative costs should be calculated into the CPP and asked why it was not. Director Ashcroft said MDOC performs a variety of functions that would not be considered prisoner or resident related, and it would be difficult to determine with any accuracy what portion of the centralized administrative costs was related to housing and managing of prisoners versus those other functions.

In response to Rep. Kruger's question of why the Bolduc Correctional Unit (Bolduc) was combined with Maine State Prison in CPP calculations for medical expense, Director Ashcroft said the facilities are co-located and the way MDOC calculates the costs for both are captured under the same appropriation number in the State's accounting system. Since the costs are already captured that way, it is easiest for MDOC to keep them together in the CPP calculation.

Rep. Pilon asked if the other states used the Corrections Information System (CORIS) software program. Director Ashcroft did not know if MDOC's system was a package system or designed specifically for them. MDOC will answer that question.

Sen. Sullivan thinks expenses are higher for maximum security facilities and didn't think Bolduc should be combined with the MSP because it misrepresents what Maine spends on non-maximum. Director Ashcroft noted that Sen. Sullivan's point is an example of a factor that also makes it challenging for the cost per prisoner statistic even when reviewing adult facility vs. adult facility in another state. The level of security at each facility is an important factor to consider because it drives costs up. She said MDOC would have to answer whether they could or would be able to, in the future, have information available for what each type of facility costs, such as maximum security, minimum security, etc.

In response to Sen. Sullivan's request for the definitions and classification of the security levels, Director Ashcroft said MDOC does have a standard definition of the classifications used and that information will be forwarded to the GOC.

Sen. Diamond said it has also always been noted and accepted that the female population costs were lower and asked if that was seen during OPEGA's review. Director Ashcroft said OPEGA did not look at that cost difference or the cost difference for each level of security. She will ask if DOC can provide that information.

Chair Burns thought those facts would have been taken into consideration when OPEGA did this review and asked if that was because other states are not keeping that information in a consistent way. The Director said OPEGA found many challenges in trying to get a good comparison between states. OPEGA decided to rely on a recent study conducted by the VERA Institute for Justice (VERA) as a study that would be similar to what OPEGA would have tried to do, but discovered when reviewing their results there were errors in what they had used for the Maine data. Generally every state gets to choose how it is going to calculate its CPP status and what costs are included in those calculations can be different from state-to-state. VERA did try to include information some States left out, such as retirement liability, etc., and to calculate CPP's on as much of an "apples to apples" basis as possible. VERA is as close to what the Director thought OPEGA would be able to come to in trying to do a comparison across states. However, as mentioned, VERA's exercise was to be an adult only exercise and both OPEGA and MDOC could see that VERA had erroneously also included the juvenile data MDOC had provided in response to the VERA survey. In Maine's case, the CPP figure in the VERA report ends up looking much higher than it would be for an adult only number. That illustrates the challenge anyone will have in trying to compare correctional facilities.

MDOC has begun participating in a national effort to collect data on correctional systems across the states in a standardized way that will allow better comparison of some of the underlying factors that impacts CPP and OPEGA believes this will be more valuable than just comparing CPP. All the data had yet to be entered so could not be used for this review, but Director Ashcroft will forward the link to VERA's report to the members for their perusal.

Sen. McCormick did not want to use more of OPEGA's resources to get more information. Although the information may justify what Maine's costs are, until there is a way to compare that information with other States, the additional information would not be helpful. Chair Burns agreed.

Director Ashcroft noted that Maine might not be more expensive than other states, it just might be a matter of what everybody is including in their statistic instead. This is why it is problematic to draw conclusions that Maine is higher based on the one statistic alone.

Chair Burns said the review was an effort to see if a comparison could be made with other States, and obviously with the information now available, did not work that well. He is encouraged that within the next 6 months there may be information available to make comparisons through the new effort MDOC is involved with.

Rep. Fossel noted that Maine's imprisoned population is low and the cost per prisoner maybe high because Maine incarcerates fewer, but more dangerous people and therefore more expensive population. Rep. Boland noticed that OPEGA's study did not include information regarding wellness and preventive health pre-care she has been asking for, and which is known to help reduce medical costs. In response to the survey she conducted at MSP, many of the responses included that nutrition has effected their health.

In response to Sen. Craven's question of who decided Maine was ranked 7th highest for cost, Director Ashcroft said that statistic came from the National Institute of Corrections and that NIC had taken it from a study done by the PEW Center. The information made its way through various studies and in the end, there was not much detail available on the data underlying the calculations. It was just the total cost and the total prisoners for each state.

Sen. Diamond noted that the 123rd Legislature passed the jail consolidation act which immediately had a positive impact on over crowding in the prisons and the Maine Correctional Center and asked if the savings were seen in MDOC's budget. Director Ashcroft said OPEGA did not look at what cost savings had come from that effort, and referred members to the County Jails' line in Table 6 of the Brief, for what MDOC's CPP was for prisoners housed in the County Jails.

Rep. Fossel said there would be a vigorous argument from numerous counties that the consolidation amounted to cost shifting to the local property tax payers and that the State is paying at a lower rate than the actual cost. He believes there are 2 counties that are no longer accepting State prisoners for that reason.

Rep. Pilon asked if any of the states OPEGA had identified as possible comparison states boarded prisoners out of state. Ms. Pillsbury said Maine is part of an intra-state compact and has prisoners out of state and a like number of prisoners from out of state boarded in Maine. In response to Rep. Pilon's question of whether the facilities in the other states were state run or private facilities, Ms. Pillsbury said some of the other states do have privately run facilities. An example is Montana, that has a privately run facility and also has regional facilities where it contracts out to house prisoners in those facilities. About 50% of Montana's prisoners are not managed or housed by the State itself.

Rep. Boland asked why the prisoners being transported, hospitalized, etc. are not included in the reported population counts. Director Ashcroft said the prisoner count they are using comes from CORIS and according to their standard protocols, the counts are at certain times each day of who is in the facility.

Committee members discussed whether prisoners from out of state were costing more because of a prisoner's age, medical cost, etc. Director Ashcroft thought a prisoner was sent out of state if they were not secure in Maine's facilities for whatever reason, or are being a troublemaker and it would help the general population to move them to another location.

Chair Burns recognized Commissioner Ponte.

Commissioner Ponte addressed the members' previously asked questions.

Intra-state transfers are by agreement. If MDOC does not agree with the swap or the prisoner has become expensive for medical reasons, they can send the prisoner back. That also is the case for the other states in the compact.

MDOC does look at medical costs and prescriptions per inmate. Maine was one of the highest in the country at 7 prescriptions per inmate and is now down to 4.6. You do not get to the 4.6 without substituting other kinds of wellness treatments. Maine is one of the few States in the country that had prisoners on opiates for long periods of time, 7 to 10 years. MDOC is looking at wellness programs as they move forward and agreed with Rep. Boland that preventive medicine is the ideal place to be.

Most States have a system they use to track and manage prisoners. The CORIS system itself was built specifically for Maine. The Commissioner thinks it is a good system and is expanding the data in CORIS to include the juvenile data. Nationally they have been working on establishing standard definitions so every State is defining the data the same so the information is measurable and comparable.

Sen. Sullivan noted the increased costs for the lease of vehicles from Central Fleet and asked if MDOC has more vehicles than previous. Commissioner Ponte said they have to lease their vehicles from Central Fleet, who increased their rates. MDOC has no choice, they cannot go somewhere else. Sen. Sullivan thinks Central Fleet should be looked at because they increase costs to other State agencies that have no other choice.

Commissioner Ponte explained that Bolduc's costs are included with the Prison because that is how the appropriations budget is set up, but internally, is managed separately.

Sen. Diamond asked if costs were higher for the specialty units, such as the sex offender unit at the Windham Correctional Center. The Commissioner said it is higher because of the program and the number of people assigned to the inmates. Windham is the only location for that program and it has very good outcomes.

The members of the GOC thanked Commissioner Ponte for answering their questions.

The GOC agreed no further action was required on the Cost Per Prisoner Review.

MAINE STATE HOUSING AUTHORITY: REVIEW OF CERTAIN EXPENDITURES

Director Ashcroft referred Committee members to the information they had requested at the May 25, 2012 meeting. The documents included: Sponsorships and Donations with Indirect or Unclear Connection to MaineHousing Mission and Activities; Conference Expenses Summary; Summary of Expenses; Staff Recognition, Incentives and Professional Development; 2011 Regular Wages vs. Comparable Standard Occupational Classification and Experience Level; and MaineHousing Response to GOC Questions on the \$18 Hannaford Gift Cards Used as Incentives for the Energy Education Program. All documents are on file in OPEGA.

- Public Comment Period

Peter Merrill, Acting Director, MaineHousing said they welcomed the OPEGA review and appreciated the recommendations and informal advice received. Corrective measures have been implemented and will be further refined as MaineHousing complies with LD 1843. He referred to the Report's Recommendations and MaineHousing's action in response.

Recommendation 1 – MaineHousing Should Require Timely Submission and More Detailed Support for Expense Reimbursements and Corporate Credit Card Charges. Has been done.

Recommendation 2 – MaineHousing Should Limit the Use of Employees' Personal Credit Cards for Business Expenses. Has been done.

Recommendation 3 – MaineHousing Should Record Expenses in a Manner that Allows Efficient and Accurate Reporting of Expense Categories. Has been done.

Recommendation 4 – MaineHousing Should Reconsider Certain Expenses When Developing and Implementing Policies to Comply with New Statute. MaineHousing will implement stricter limits on expenditures to ensure that they are directly connected to its mission and activities.

He is personally looking closely at each expense of the type OPEGA commented on. Many of them in the past were judgment calls made by the Director. LD 1843 will result in specific policies that will address and implement many of OPEGA's findings. MaineHousing staff have started discussions on more detailed policies for their Board's consideration.

Acting Director Merrill thinks there is a benefit to having certain agencies be quasi-independent in that it puts up a barrier to the politics and ensures their lending decisions are based on sound underwriting. MaineHousing operates differently than Cabinet agencies. They have their own Board of Commissioners, are not government employees, not State employees, have different benefits and pension plan. MaineHousing needs to be rigorous in their approach and always be mindful of their mission, the people they serve, and the people of Maine who have entrusted them to do the work carefully, honestly and efficiently.

MaineHousing is going through a period of change and the governing structure has been changed to give their Commissioners more power. The Board Chair, Peter Anastos and Acting Director Merrill are working closely to implement LD 1843, to define a new working relationship between MaineHousing staff and the Board.

Acting Director Merrill thanked MaineHousing staff, as well as the Board, for their efforts in responding to inquiries. They have responded with strength and positive energy.

Sen. Craven asked how often MaineHousing was audited by the Federal Government, whether they review operating expenses, and whether any audit done was comparable to that of an OPEGA review. Acting Director Merrill said a Federal audit is currently in progress, and MaineHousing's independent auditors do an A-133 Audit that reviews all the federal programs. In addition, each of the federal agencies come in annually or every other year to review specific programs. MaineHousing never knows when or what the auditors will be looking at, but generally the federal agencies only review things that are tied to their specific programs. OPEGA's review was unique because of specific questions the GOC asked in their scope. MaineHousing is audited every year by their independent auditors, but audits of a financial institution the size of MaineHousing, do not get into the level of detail as OPEGA does.

In response to Rep. Kruger's questions regarding Board members and their past involvement with MaineHousing, Acting Director Merrill said State Treasurers have had varying degrees of interest and activity, and current Board members are very active. State Treasurers have always shown interest in the bond sales. Rep. Kruger expressed his concerns that the actions and comments of an ex officio member of the Board's involvement could affect the value and attractiveness of MaineHousing's bonds. Acting Director Merrill would

not limit it to ex officio members, and MaineHousing is in a very unique situation. In 2007 the Legislature expanded the Board membership, but did not stagger those terms. In the past year about half of the Board turned over, so Governor LePage had a unique opportunity to have a major influence on the Board's membership. MaineHousing worked with the Labor, Commerce, Research and Economic Development Committee to stagger the terms. Also under the new law, the Board has more authority than it did in the past. He has observed over the years that the bond rating houses understand politics, that it is a political world, and if the Board's actions begin to have a negative impact on MaineHousing's rating, they would tell them that. The rating agencies look beyond headlines.

Sen. Sullivan asked whether conferences that staff was required to attend, was included in the information MaineHousing provided. Acting Director Merrill, in reviewing the information, said there were some he might not have gone to. There is a benefit to attending out-of-state conferences, but the question is how many staff members go to the same conference and what the benefits would be. Anything other than routine business travel is being approved by him until MaineHousing has a policy that has been approved by the Board.

Rep. Boland, in regard to staff recognition and incentives, asked if MaineHousing was overly generous and does that need to change. Acting Director Merrill said he thought rewarding employees occasionally was appropriate but MaineHousing has really stepped back to consider how much of it was happening and what level was appropriate. He thought they need to pay closer attention to that.

Chair Burns asked the downside of having an active board with the power to direct the course of an agency or the negative side if a quasi was missing those things. Acting Director Merrill said a very important goal is to work with the Board's Chair to establish a close working relationship and when you have that, everything works smoothly. The Legislature gave the Board the power to set all of the policies and MaineHousing has the expertise to help them make the right decisions. A bad Board can drive an organization in all the wrong places, and that is the same for a strong director.

The GOC thanked Acting Director Merrill.

Chair Burns recognized Peter Anastos, Chair, MaineHousing Board of Commissioners. (A copy of Mr. Anastos testimony is on file with OPEGA).

Sen. McCormick thought it logical that more oversight be given to a Board for a unit that has grown to a \$1.5 billion business.

Rep. Kruger referred to Mr. Anastos' testimony, and in particular, to the use of term "carbon trading scheme" and asked if he thought global warming was a hoax. Mr. Anastos didn't know if global warming was a hoax, and is not sure carbon trading will work, but knew that market has totally collapsed. The word "scheme" is used by those who believe in global warming and in Europe that is how they refer to it.

Referring to Mr. Anastos' comments about the way the media had been reporting on MaineHousing, Sen. Diamond said that one of the problems is Mr. Anastos' use of sensational language when referring to the former Director. With that kind of language there is no question why the press picked up on that. He is concerned with the imbalance of Mr. Anastos making some of those statements saying one thing and then being surprised at the results. His presentation and accusatory tone about the previous Director is going to raise concerns and may get people to think differently than what he wants them to. Mr. Anastos did not agree that all statements or language he used to describe some actions by MaineHousing were inappropriate.

Chair Burns appreciated Mr. Anastos testimony and his terminology saying it speaks to the original report that things could have been done in a better way.

Rep. Boland asked if there were others at MaineHousing responsible for knowing about the conditions of some Section 8 units. Mr. Anastos said there were a lot of procedures and policies in place but no set policy about how to address issues. They followed the reports regarding the housing in Norway up the chain of command

until it landed on upper management's desk, but no one was given the responsibility to fix the problems. He will forward that Report to the GOC members. Those procedures have and will be changed.

In response to Sen. Sullivan's questions of what MaineHousing's bond rating was, Peter Merrill and Mr. Anastos said it was Double A plus.

Chair Burns referred to the information regarding MaineHousing's wages with comparisons to other States and asked if the Board was happy with the overall wage scale and whether it is commensurate with other similar programs. Mr. Anastos said the Board has not had time to review, but said the previous Director's salary was probably on the low side. He did not think some of the salaries for other positions were low.

Rep. Fossel was reluctant to draw conclusions on the Maine State Housing Authority: Review of Certain Expenditures report until the full review of MaineHousing is done. The GOC needs to have all the information and facts regarding MaineHousing before it arrives at its own conclusions. Other Committee members agreed.

The GOC thanked Mr. Anastos for his testimony.

Chair Burns recognized Larry Grimard from Jefferson, Maine, testifying on his own behalf.

Mr. Grimard said the spending at MaineHousing has caused him disappointment in the wasteful distribution of funds. His tax dollars have been expended in ways that never benefited the intended end user, Maine families in need of assistance with housing.

In addition to information regarding spending and reported in the Maine Wire publication, he had 2 other categories of concern.

Carbon credit trading. MaineHousing has paid consultants hundreds of thousands of dollars to develop a process to quantify the amount of carbon saved when a home is weatherized. MaineHousing paid Lee International more than \$370,000 over the past 3 years to help develop the project that has thus far generated no revenue. They have also spent millions of dollars on a computer tracking system to facilitate the carbon quantification project. Board Chair Peter Anastos estimated the total expenditures to be nearly \$6 million. Mr. Grimard wants the carbon project cancelled and wants his money back.

MaineHousing staff using their personal credit cards for MaineHousing business and receiving cash rewards and airline miles for themselves. If it can be shown that the former Director and the IT Director have enjoyed personal gain at tax payers' expense, he expects charges to be filed.

His opinions have been somewhat mitigated after listening to the testimony of Acting Director Merrill and Mr. Anastos and that those issues will not be going on anymore.

The GOC members thanked Mr. Grimard for his testimony.

Chair Burns called the public comment period to an end.

- **Committee Vote**

Motion: That the Government Oversight Committee accept OPEGA's Final Report on Maine State Housing Authority: Review of Certain Expenditures. (Motion by Rep. Kruger, second by Sen. Sullivan, unanimous, 10-0).

- **Committee Work Session**

Director Ashcroft did not have any suggestions on what additional actions the GOC may consider on this Report, given that many of the issues have already been addressed in the legislation on quasi-independent state entities that they already initiated and has passed.

Following Committee members' discussion, it was decided that they would prefer to have discussions about actions after the full MaineHousing Report was completed.

UNFINISHED BUSINESS

None

REPORT FROM OPEGA DIRECTOR

• **Project Status Report**

Child Development Services – OPEGA has had its exit conference with the Department and preliminary drafts of the report are in progress. Director Ashcroft requested an additional 2 weeks, or up to the GOC's July meeting, to finalize the Report. The Committee agreed.

Special Project: Technical Assistance for Education Committee Contracted Study of Education Funding. The legislation for the Special Study done by the Education and Cultural Affairs Committee did pass and OPEGA is ready to serve in the technical assistance role and is working with the Advisory Committee created. The Committee's first meeting is scheduled for June 14, 2012.

Communications Regarding MaineCare Computer System Weaknesses is behind what Director Ashcroft had wanted it to be at this time, but the Office has started on it.

NEXT COMMITTEE MEETING

The next Government Oversight Committee meeting is scheduled for Friday, June 29, 2012 at 10:00 a.m. Following Committee discussion, members decided to still meet on the June 29th to discuss the Juniper Ridge Landfill topic.

Committee members at the meeting changed the July 13, 2012 meeting to Thursday, July 19, 2012. The members not in attendance during this discussion will be polled on their availability to meet on the 19th.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12:55 p.m. (Motion by Rep. Pilon, second by Sen. Sullivan, unanimous).