



SEN. CRAIG V. HICKMAN, SENATE CHAIR
REP. JESSICA FAY, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM
SEN. MIKE TIPPING
SEN. RICHARD BENNETT
SEN. JILL C. DUSON
SEN. JEFFREY TIMBERLAKE
REP. AMY ARATA
REP. H. SAWIN MILLETT, JR.
REP. MARK BLIER
REP. ANNE MARIE MASTRACCIO
REP. MARGARET M. O'NEIL

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
March 10, 2023

Call to Order

The Chair, Sen. Hickman, called the Government Oversight Committee to order at 9:30 a.m.

ATTENDANCE

Senators: Sen. Hickman, Sen. Keim, Sen. Duson, Sen. Bennett, Sen. Tipping,
Sen. Timberlake

Representatives: Rep. Fay, Rep. Arata, Rep. Mastraccio, Rep. Millett, Rep. O'Neil,
Rep. Blier

Legislative Officers and Staff: Peter Schleck, Director, OPEGA
Sabrina Carey, Secretary, OPEGA, GOC Clerk

Others: Todd Landry, Director, OCFS, DHHS

Introduction of Committee Members

The members of the Committee introduced themselves.

New Business

(To watch this meeting - the recorded Live Stream can be viewed here: <https://legislature.maine.gov/Audio/#220>)

- **Meeting Summary**

The February 10, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/9876>)

- **OPEGA Work Plan Discussion**

Director Schleck noted the list of current legislation that may be of interest to the committee, which was requested by Rep. Millett.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/9717>)

Director Schleck ran through the current OPEGA Work Plan.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/9920>)

- Next (4) Tax Expenditure Reviews – Parameters Development

Director Schleck stated that during the meeting he would be looking for a blessing from the Committee to continue the process of the regular mandatory cycle of the Tax Expenditure Reviews. He explained that the parameters of the Tax Expenditures have largely been defined by the statutes, so the scoping should not be difficult. He stated that they also will look into if there is enough data to adequately measure the success of each Expenditure. He asked if the Committee had any interest in doing the next four in a specific order.

Rep. Mastraccio stated that she had no problems with the current list, but because there is some pending legislation regarding the Pine Tree Development Zone she wondered whether the Committee should look into reviewing that program as it never had a full evaluation. She recalled the Pine Tree Report that OPEGA did a few years ago, clearly specified that it was not a full review.

Director Schleck stated that he had been in discussion with the Chairs and given the timing of the legislation he suggested working with the committee to structure questions for those who want to follow up on this and inform themselves as part of the legislation process and help craft questions to DECD which may be an efficient way of getting some immediate update information.

Rep. Mastraccio stated that was not her concern. She mentioned that the statute is clear that the full review was supposed to be done, but the Committee had decided no to do that because it was set to sunset. She believed it would be nice to look at a report that says whether it works and how much it costs and whether there is a good return on investment. She was concerned that they may be passing legislation that will extend it indefinitely. She wants to be able to answer whether it works or not and if the program is in a good place.

Director Schleck stated that he would not be able to confirm providing the committee with something by the end of this legislature. He suggested that the Legislature could consider extending it while also making it somehow subject to subsequent findings by an OPEGA review, that could be used to further revisit the program. Senator Hickman indicated that the Legislature could choose to carry over a bill if there is not information to make those decisions.

Rep. Fay noted that there had been some work by the IDEAB committee on this issue, including presentations form DECD. She wondered if it would be helpful if the Committee also had someone come and talk about what they are working on. She was not sure that doing a review would change anything at this point in time.

Rep. O'Neil stated that it has been a long-standing conversation of the GOC to complete that review adding that it is one of the fundamental functions of the Committee to complete these tax reviews. She hoped that the Committee would engage in that so that they can provide Legislators with information to make informed decisions.

Sen. Tipping asked if there was information about the scope and budgetary impact of each of the Tax Expenditures.

Director Schleck directed him to look at the memo that is designed to initiate the process of developing the parameters. (A copy of the memo's mentioned can be found here: <https://legislature.maine.gov/doc/9923>) He noted that the next meeting is scheduled to have the public comments where after the Committee will consider it and make any changes. He noted the second memo would be sent to the TAX Committee to formally invite them to join in on the process of the parameter development. He also noted the parameters documents included with the memos for the Committee to review for consideration at the next meeting.

Rep. Mastraccio asked if there was a possibility of using some of the consulting resources and farming out the Pine Tree Evaluation in a way that gets it done. She stated that the reviews are critical in giving good information so that they can make good decisions.

Director Schleck answered that he would explore the possibility of leveraging some consulting services to multiply forces and produce the review if requested by the Committee after the parameters discussion and vote at the next meeting.

Sen. Bennett summarized the next four Tax Expenditures by stating that the Ship Building Facility Credit is operational and good through 2034, the Paper Facility Credit has not started yet, nor has the Major Food Manufacturing Facility Credit, and that the Business Headquarters Credit was no longer functioning. He believed that the Committee should make sure that the work they are devoting resources to is relevant to current policy decisions in Augusta and not spending a lot of time and energy on doing evaluations for Credits that haven't even started yet or have already sunset.

Rep. Millett stated that if the question was whether and how to prioritize the four, he agreed with comments that had been made and would prioritize the Ship Building Credit, then the others depending on budget and staffing.

Rep. Mastraccio stated that she thought the Committee should look at the current legislation before making a decision. She stated that the Committee owes it to the future GOC to do this and are currently in a position with extra resources that should be used to get the work done.

Sen. Bennett stated that the Pine Tree Zone extension is in the budget, and is before the Appropriations Committee as a matter of concern. He suggested that the first priority of the Legislature should use whatever device appropriate to receive data and studies around this issue. He stated there are a lot of questions around the effectiveness and efficacy of the program.

Director Schleck stated he would work on how to provisionally build in prioritizing for Pine Tree Zone per the Committee's potential approval next meeting.

- Request for Review of CoverME – Sen. Bennett

Sen. Bennett presented his Request for Review of CoverME explaining that the issue was brought to him by a constituent who had difficulty getting answers to the things listed in the letter.

(A copy of this letter can be found here: <https://legislature.maine.gov/doc/9713>)

He explained that this was an important program for the Maine people that is designed to provide access to affordable health insurance. Part of the delivery system involves insurance agents in helping people achieve this. He explained that the constituent has had difficulty with this basic function of that office. He thought it would be appropriate for the GOC to ask questions of the agency and he had set forth some potential questions in the final paragraph of his letter. He thought it would be appropriate to learn more information about the program and how it works before getting involved. He stated that he would like to know whether the issues are more widespread than what has been presented to him. He stated that he would like to know more about the

error rates with respect to the paperwork that had estimates that were wildly changed when the final bills came due, and the process for opening and closing tickets regarding these issues.

Rep. Mastraccio stated that the HCIFS (Health Coverage, Insurance and Financial Services) Committee would be the Committee of jurisdiction, and suggested they be sent a copy of the letter. She suggested HCIFS may be able to take this off the plate of the GOC.

Sen. Bennett stated that the GOC is specifically created for oversight, but suggested that if the HCIFS committee was interested, that would be a great avenue to refer the matter to them.

Rep. Mastraccio stated that she appreciated the idea and suggested that it would help remind the other Committee that they also can oversight-do other things on top of Public Hearings and deciding on Legislation.

Sen. Duson suggested broadening the question around inaccurate quotes to asking for data that will show variances, if any, between quoted and actual so they actually receive data, rather than engaging in a debate of what "inaccurate" might mean.

Sen. Hickman summarized that the GOC would like to write a letter to the HCIFS Committee to refer the matter to that Committee for action deemed appropriate.

- Maine Veterans' Homes – Update

Director Schleck reiterated that he had briefly discussed MVH at the previous meeting. He explained that OPEGA had been approached by a former employee of the Maine Veteran Homes who had been in the financial control structure chain of command. The former employee had submitted a series of specific concerns about things that she had observed to the Maine Veteran's Homes Board of Trustees. He noted the letter from the Law Firm for the Veteran's Homes which stated that the Board has received the concerns and will undertake an investigation.

(A copy of the lawyer's letter can be found here: <https://legislature.maine.gov/doc/9718>)

Director Schleck reminded that during the previous meeting the Committee voted to have OPEGA assist the Chairs in writing a letter to the MVH Board of Trustees to ask for an update on the status of that investigation.

(A copy of the letter from the GOC to the MVH Board of Trustees can be found here:

<https://legislature.maine.gov/doc/9736>)

Director Schleck noted that the Board of Trustees responded promptly and MVH shared the contents of their investigation with OPEGA. He also explained that the Board pledged full cooperation.

(A copy of the MVH response to the GOC can be found here: <https://legislature.maine.gov/doc/9855>)

Director Schleck explained that the MVH-hired Law Firm did some work in the employment realm and an Accounting Firm that did their financial statement audit work commented on financial aspects. He stated that the employment analysis is built on the foundation that the financial issues are not of concern, so if the financial issues are of concern, some of the employment analysis might be impacted. He explained that not all of the concerns from the former employee were addressed in the internal Maine Veteran's Homes investigation, including some specific issues about people, places, or things and larger structural issues. He shared that the MVH just submitted their Annual Report that referenced a variety of structural issues. Director Schleck recommended that the Committee add this to the OPEGA Work Plan and authorize OPEGA to take the next step of endeavoring to answer the specific allegations of the former MVH employee. He shared that the State Auditor and OPEGA have been initially discussing whether the State Auditor can lend a hand in looking into this issue, or that OPEGA may be able to use money set aside for consultant services to assist, as needed. He suggested that with the nature of the allegations, OPEGA would benefit from the assistance of a forensic accounting type expert.

Motion: Add the Maine Veterans Homes to the Work Plan and authorize OPEGA to investigate the allegations in the of the former MVH employee.

(Motioned by Mastraccio, Seconded by Rep. O'Neil, unanimous yes, 12-0)

(Sen. Timberlake voted on the motion in the allowed time frame in accordance with the GOC's rules)

Sen. Hickman, also the Chair of the Veterans and Legal Affairs Committee, noted that the Maine Veterans' Homes has requested another \$3.4 million dollars to sustain them and stated he absolutely supported the motion due to the outstanding questions at hand.

– **OCFS “Reunification” Process & Tax Expenditure Review: Fishing Vessels**

Director Schleck explained that Reunification of the OCFS process and the Tax Expenditure Review of the Fishing Vessels had been paused on the Work Plan to accommodate the OCFS Case File Reviews, and requested that the Committee approve an “un-pause” so that OPEGA can start working on those as schedules permit.

The Committee agreed to unpausing these Reviews.

– **New Business**

Rep. Fay read aloud a letter she had received mid meeting from the Criminal Justice and Public Safety Committee Chairs regarding the confirmation of the State Fire Marshal.

(A copy of that letter can be found here: <https://legislature.maine.gov/doc/9926>)

Sen. Hickman asked Director Schleck what his suggestion was in regards to that letter.

Director Schleck requested to be able to come back at the next meeting with information, and suggested that the Committee could add it to the work plan after discussing further information, including from the CJPS Chairs.

• **OPEGA Budget Discussion**

Director Schleck explained that he was required to present the biannual budget according to statute for the Committee's approval. He explained that money appropriated or allocated to the office must be expended in the discretion of the Director and the Committee only. He ran through the numbers on the Budget Presentation document. (A copy of the Budget Presentation can be found here: <https://legislature.maine.gov/doc/9927>)

Director Schleck specifically noted the section regarding the balance appropriated for consultants. He noted that those funds do not lapse and there are opportunities to discuss whether the Committee would like to give portions of that back or look for more opportunities to leverage the tools available to do more products for the Committee.

Rep. Mastraccio stated that she appreciated the money because she thought that during the Covid Pandemic, the Committee never really finished their work. She thought that there are things the Committee need to get done, and she thought they should utilize the tax dollars appropriately.

Sen. Bennett asked how many staff members there are in OPEGA.

Director Schleck answered that there were 9 people in the office.

Sen. Bennett asked if Director Schleck had done a matrix of personnel expertise and experience for the staff.

Director Schleck answered that he had not done a formal matrix, but has been seeking to understand what everyone's capabilities are. He explained that in the realm of economic modeling in Tax Expenditure Reviews or in other reviews of forensic accounting areas, there may be some skill gaps. He stated that OPEGA is currently fully staffed and does not have any opportunities to bring someone else in with those skills, and he would not come back to the Committee to request more staff until he determines he is getting everything possible out of the current staff.

Sen. Bennett asked why the request was for eighty-five thousand dollars.

Director Schleck stated that over the years that baseline number established for consultants has changed from one hundred twenty-five thousand dollars to the eighty-five thousand dollars.

Sen. Bennett asked for clarification between the amounts budgeted and the expenses.

Director Schleck answered that it was a standard number that had been set aside as an estimate of what could be expected to be used in a given year but based on the budgets, that money has not been generally used. He suggested that the Committee may want to hold off on this year's consulting budget considering the carryover money that already is in place.

Sen. Bennett stated that it made sense to give some optionality to the Committee and the workflows to be able to be more flexible and perhaps timelier by getting expertise. He supported going to outside experts for these complicated fields.

Director Schleck stated that when preparing the Annual Report, he took note of the carryover balances and cited them in that Report and believed that could continue to be discussed. He noted there is more opportunity for leverage meaning that they may not need the specific expertise full-time, but there may be some valuable insight from the private sector that can be leveraged for a period of time. He suggested that since the Committee is budgeting for these consultants, that OPEGA either use them or stop budgeting for them.

Rep. Mastraccio stated that in her earlier years on the Committee there was a time where they did not have a lot of money and they realized that sometimes they need to reach out to get specific help. She appreciated that this is how it is set up with the assumption that it may be needed in the future. She stated that if the Committee has to worry about not being able to do an investigation because there is not adequate staff or funds it would be problematic. She stated she was looking at this as an opportunity to "clear the decks" on some stuff that has been hanging around for a while.

Sen. Hickman stated that there were two items previously discussed in the meeting that may require outside expertise.

Sen. Bennett asked if the advertising was required by statute to advertise in the newspapers in particular. Director Schleck answered yes.

Sen. Hickman stated that all Public Hearing Notices are posted in the Sunday papers, which is the most expensive place to advertise anything.

Sen. Bennett stated that he would be interested at some point to look into the efficacy of advertising in the newspapers and continuing to use that as the principle medium when newspapers are increasing their rates while having less outreach. He wondered how much the State Government was spending on advertising in the newspapers if OPEGA was spending eight thousand dollars a year. He thought it would be interesting to ask people that come to Public Hearings how they heard about the meeting.

Sen. Hickman asked Sen. Bennett if this was something he was asking to be added to the Work Plan.

Sen. Bennett answered that he would like it to be book marked for a discussion at some point.

Rep. Millett recommended and then offered a motion by which the Committee would deallocate the consulting amount proposed for OPEGA for Fiscal Year 2025, and further, suggested OPEGA would return to the committee with information on the current carry over for further discussion.

Motion: To approve the OPEGA Budget with exception of the request for \$85,000 for consulting services for Fiscal Year 2025

(Motioned by Rep. Millett, seconded by Rep. Mastraccio, unanimous yes, 12-0)

(Sen. Timberlake voted on the motion in the allowed time frame in accordance with the GOC's rules)

- **Public Hearing - OPEGA Report: "OCFS Case File Review: Safety Decisions and Actions Taken in the Case of Hailey Goding"**

(A copy of the OPEGA Report can be found here: <https://legislature.maine.gov/doc/9715>)

(To watch/listen to the full Public Hearing section, please go to the Committee's Streaming page to review the recorded meeting, linked here: <https://legislature.maine.gov/audio/#220?event=87715&startDate=2023-03-10T09:30:00-05:00>)

(A copy of all submitted written testimony can be found here: <https://legislature.maine.gov/doc/9929>)

- Michelle Ortega - (Testimony starts on pg. 1 or 10:43 AM in video recording) discussed her personal history and issues with the Department of Health and Human Services and the Office of Child and Family Services.

Sen. Bennett stated that it is difficult to share stories of personal issues with the Committee and he was grateful she came to testify. He asked if she felt adequately represented in court.

Ms. Ortega answered that she did not feel that she had proper representation as her lawyer does not think there is a legal argument to pursue her current appeal.

- Melanie Blair – (Testimony starts on pg. 11 or 11:10 AM in video recording)
- Betsey Grant – (Testimony starts on pg. 13 or 11:20 AM in video recording)

Sen. Bennett asked for more details on the issue in her testimony discussing retaliation regarding an incomplete incident report and what happened.

Ms. Grant explained that being a mandated reporter can be hard and uncomfortable because they make a call and report, but do not get follow up. In the specific example she spoke about, she had called about the child three times, and the caseworker told her not to worry as the parent was spending more time at home with the child. Then, within a week the child was left overnight in a vehicle and almost died. She was retaliated against by being written up for an incomplete incident report. The incident was the child being left in the vehicle overnight, and did not take place around Ms. Grant, yet she was required to write an incident report on it as a Childcare Provider. She explained that she did not have a parent signature on the incident report, which led to the write up. She stated that sometimes she does not want the parents to know she has called and reported them.

Sen. Bennett did not understand why the parent is required to sign an incident report.

Sen. Hickman asked for information as to whether that is specified by rule or statute or both. He was also perplexed by this process.

Sen. Timberlake asked what Ms. Grant thought the Department should be doing differently.

Ms. Grant answered that there is no due process, meaning she cannot complain about DHHS unless she complains to DHHS. She explained that all of Maine's counties are different regarding access to things like counseling and detox centers. She explained that there is an LR that she has been working on with Sen. Marianne Moore.

Ms. Grant noted that misrepresentation is a common practice to discredit someone that keeps speaking up about the problems. She explained that as a Child Care provider, her business is based on trust. She stated that the Department has its own website that lists 'violations' but believed this is out of balance at the department as there could be zero violations one day and the next she has seventeen pages of violations.

Ms. Grant shared that the Department should have subcontracted child abuse experts to evaluate a child within a reasonable timeframe, sharing that one time she had a child be evaluated sixty-nine days after the supposed event, but they only looked at pictures supplied by the parent which were taken by a professional photographer. She had asked if the Department had checked the photos for authenticity, and they had not. She looked into it herself and found that the photos were definitely enhanced.

Sen. Timberlake asked if she always gets a call back when reporting to DHHS.

Ms. Grant answered, no, not always. She stated that sometimes the issues do not get the attention that is deserved.

Sen. Duson asked what the Departments criteria were for constructing an incident report and what determines if something is incomplete. She believed there should be a way to audit the process issues without requiring a particular witness to produce a document that proves this is a possibility in the process. She asked what the criteria within the department process is for determining that a licensee is compliant or non-compliant.

Rep. Arata asked for a copy of the form where the parent signature is required.

Rep. Blier asked how long Ms. Grant had been dealing with the Department.

Ms. Grant answered over two decades.

Rep. Blier asked how dealing with the Department has been over those years.

Ms. Grant replied that in the last 5 or so years it has gotten worse.

Rep. Blier asked if there was anything specific that changed that made things worse.

Ms. Grant answered that she had started raising questions about security and arguing with the Department on their lack of security requirements in Childcare settings, yet she was written up for her security standard that she created herself and won't change, leading to a combative relationship between her and the Department.

Sen. Bennett asked about the violations on Ms. Grant's Childcare facility and if they were still listed and if she had ever received a response from the Department questioning the accuracy of those.

Ms. Grant answered that yes, the violations are still listed on the site, and that she had been told she has exhausted her right to continue to talk about it with the Department. She has it written in an email saying that she can not review any more of the investigations regarding her business, even though she has the right to do that.

Sen. Bennett asked if Ms. Grant could submit those emails to the Committee.

Ms. Grant answered yes.

Sen. Hickman asked Ms. Grant is she is still a licensed Childcare Provider in Maine.

Ms. Grant answered yes.

Sen. Keim asked for clarification that Ms. Grant believes that she should have been able to have some sort of dispute resolution, but did not receive that.

Ms. Grant answered yes.

Sen. Duson asked if the reason that Ms. Grant has no access to dispute resolution is because of the fact that the Department has not taken action against her license, meaning there may be nothing to appeal. She asked if the Department viewed noting violations online as taking action against a license.

Ms. Grant answered that it was not an action against her license. There is a direct plan of action that is supposed to be followed, but she won't change her policy on security, so she will never be complying.

Sen. Tipping asked Ms. Grant if her concern was that she was listed as non-compliant on the website and that she was what she was worried about.

Ms. Grant answered no, she is listed as inactive, and the page says nothing.

Rep. Fay suggested that the Committee maybe take time at the next meeting during the Work Plan discussion, to circle back and decide if any of these topics are things that OPEGA could be looking at.

Sen. Keim stated that she believed that the issue is more about retaliation than licensing itself.

Sen. Bennett asked if the Chairs could request that OPEGA talk with Ms. Grant about these issues.

Sen. Hickman answered that would be appropriate if there is no objection from the Committee.

Rep. Mastraccio stated that she would prefer the conversation wait until the Committee is looking specifically at Childcare, so she would object to that happening so quickly.

Sen. Hickman noted the objection.

- Victoria Vose – (Testimony starts at 11:52 AM in video recording) discussed her personal relationship with the Department of Health and Human Services and the Office of Child and Family Services regarding her grandson Maddox and compared it to the case of Hailey Goding.

- Allison Porter – (Testimony starts at 11:55 AM in video recording) introduced herself as Hailey Goding’s great aunt and discussed the Report in comparison to her lived experience of what had happened.

Sen. Bennett stated that it was new information to him that Hailey had drugs in her system at birth. He asked for confirmation that the Department never reached out to her during any of the investigations.

Ms. Porter answered yes, that they did not reach out to her or any of the family members that she had talked to, for Hailey to come and stay with family.

Sen. Timberlake noted that Ms. Porter has stated that people who are using, tend to stick up for each other, and he did not know how to address that as a Committee, but thought it was potentially a bigger issue than it seems. He asked when Ms. Porter and other family members called, if the Department got back to any of them. Ms. Porter answered that she had called and someone told her that the case had been closed and they didn’t want to hear anything else. She expressed that she did not write any of the information around these calls down, because she never thought she would ever need to have that information. She stated that she did not think any of the other family members got a response.

Sen. Tipping highlighted his understanding of her testimony, which included; drug use being considered for fitness assessments, including prenatal detection at birth, assessment of living situations, including where there are caregivers that may be fit and unfit in the same household; better testing for substances in several ways, both in the time and place and manner used; cases being closed too quickly without full assessment; contact within the investigation with other members of the family or even returning phone calls in some cases; and a suggestion of a three year apprenticeship for case workers including more training around substance use.

Ms. Porter stated that drugs are getting worse and they have to protect children differently than twenty years ago. The Child Protection Act was written back in 1997 so she thought it is time to revisit and change that to put in drug policies.

Sen. Hickman asked where Ms. Porter got the information that Hailey was born with drugs in her system.

Ms. Porter answered that Hailey’s grandmother told her, and that it was listed in the Report.

Rep. Mastraccio stated that she could only find in the timeline section of the Report, that it lists that Ms. Goding had drugs in her system at the time of Hailey’s birth.

- Brian Picciano – (Testimony starts at 12:19 PM in video recording) introduced himself as Hailey Goding’s grandfather and discussed his perspectives on events that took place.

Sen. Hickman asked if Mr. Picciano knew about the event of Ms. Goding threatening a family member with a gun and if he was aware of that situation.

Mr. Picciano stated that he was aware of the situation, and heard that had happened, but did not know if the family member was trying to protect Ms. Goding (by denying it).

Sen. Tipping noted that Ms. Goding has been referred counseling but that it never happened. He asked if Mr. Picciano was aware of any behavioral health counseling that Ms. Goding had received during this time period.

Mr. Picciano answered that Ms. Goding had been to two rehabs, one for ten days and one for twenty.

Sen. Timberlake asked if Mr. Picciano knew of people that called DHHS during this time and what DHHS’s response was back to them.

Mr. Picciano noted that there were about three or four calls that he knew of. He added that when DHHS was at the house talking to Hailey’s grandmother, they were informed about issues and could have walked into the bathroom and seen the residue. He shared DHHS said that as long as Ms. Goding had done what she needed to do and passed testing, there was nothing that they could do.

Sen. Timberlake asked what Mr. Picciano knew about Ms. Goding’s drug testing.

Mr. Picciano stated that Ms. Goding was only tested the tree times, and mentioned that she had very lenient times to go do the testing, including one time she waited until the next day after receiving the call to go do the testing. He stated that in his experience as a truck driver, he gets called and has less than two hours to make it to a testing site.

Rep. O'Neil asked if Mr. Picciano would write down his identified list of red flags to provide for the Committee. She also asked if he could make a list of contacts with the Department, as best as he could, with names and dates of when and what were they reporting. She then asked if he would share what he thought would be good to improve testing.

Mr. Picciano answered he would try to do that.

- Bill Diamond – (Testimony starts on pg. 19 or at 12:38 PM in video recording)
- Melissa Hackett – (Testimony starts on pg. 17 or 12:46 PM in video recording)

Sen. Tipping asked if Ms. Hackett could share her thoughts on the proposed investments in the Budget for Behavioral Health and whether she thought the Budget would be able to address some of the issues.

Ms. Hackett answered that the investments from the Behavioral Health Field are critical to reestablish a baseline to have reimbursement rates that are adequate to be able to hire staff and ensure services are available. She believed that the Budget represented what is needed to fund the system to be effective.

Sen. Hickman asked if Ms. Hackett has any additional thoughts to offer regarding the previous testimony and thoughts from the family.

Ms. Hackett stated that these are incredibly complex and sensitive topics, and her network believes strongly that one of the ways to help the Child Protective Service Agency is by reducing the strain on that part of the system by moving upstream and adding or moving services to ensure that families have what they need to be safe and stable together and to intervene earlier when there are challenges to prevent families from needing to come into such a traumatic experience.

- Mark Moran – (Testimony starts at 12:53 AM in video recording) introduced himself as a clinical social worker, and a former Child Protective Services Caseworker. Currently he works in a hospital as a Medical Social Worker and is the Chair of Maine's Child Death and Serious Injury Review Panel. He also has been a volunteer guardian ad litem with the Maine CASA program since 2008. He discussed the recommendations within this OPEGA Report.

Rep. Fay asked if Mr. Moran would write up his written comments for the Committee.

Mr. Moran answered yes.

Rep. O'Neil asked if he would create an explicit section in his testimony on upstream recommendations so that the Committee can focus on talking about solutions.

- Director Todd Landry (Office of Child and Family Services) – (Testimony starts on pg. 21 or 1:08 PM in video recording)

Rep. Fay stated that she would like to understand the type of training that the Department is doing with staff around the substance use issue.

Rep. Arata asked if the Department was open to exploring different ways of handling drug testing appearances. Director Landry answered that yes, they are always open to that. He stated that it is something that has been recognized and focused on improvement and increasing of drug testing, particularly related to Child Welfare Cases. He noted that in 2017 the state had approximately one thousand three hundred individuals that were drug tested that year, and in 2022 there were approximately two thousand one hundred individuals that were

tested, explaining that they have significantly increased both the capacity and the breadth and range of those substance tests. He stated that there are some challenges on the ability of testing consistently across the states and hospitals. He shared that the research supports random, observed and in-person testing.

- **2022 Ombudsman Annual Report – DHHS/OCFS Response from Director Landry**

(A copy of the Child Welfare Ombudsman's 2022 Annual Report can be found here:

<https://legislature.maine.gov/doc/9711>)

(A copy of the Department of Health and Human Services Response to the Ombudsman's Report can be found here: <https://legislature.maine.gov/doc/9712>)

Director Landry presented the Department's response to the Child Welfare Ombudsman's Report.

Sen. Timberlake asked what Director Landry would do over again with regards to the child (Hailey Goding) death.

Director Landry answered that the Department is looking at the cases from the lens of how the system can improve. He agreed with the OPEGA Report's caution against saying that if one thing had been done differently, the outcome would be different. He explained that if they could go back in time, he suggested that they should have paid more attention back in 2017, 2018 and 2019, on Behavioral Health Service availability. He noted that it was known back then that those systems were challenged. He suggested continued movement upstream on preventing Substance Use Disorder instead of focusing on just treatment. He stated that those systemic foundational pieces would be what he would look at.

Sen. Timberlake clarified that he was looking for a more specific thing, that maybe the Department was now thinking about changing the process for because of the case heard previously in the meeting.

Director Landry answered that some of the things brought up validate some of the changes that the Department had made in the past year and a half since the fatalities that the Committee is looking into, including increasing Substance Use Disorder Specialists and resources for staff like training. He stated that they have added Peer Recovery Coaches that have that lived experience to work with families that were involved in or have Substance Use Disorder as a factor in their case. He noted that another thing that was suggested during the hearing that the Department was working on is working with the frontline staff to modify the timeframe for investigations. Currently the timeframe is a thirty-day investigation, with a five-day period for Supervisor approval, but are looking to expand it to a forty-day investigation with a five-day period for Supervisor approval. He stated that there were definitely some things that he was interested in considering more carefully with the Department staff including Substance Use Testing and improving availability and timeframes.

Sen. Duson asked if Director Landry had any data on lost or dropped calls, the amount of times someone is connected with a real person, or follow-ups that are missed due to no connection, etc.

Director Landry stated that the dropped calls are an important data point that is collected. He explained that they received about twenty-five thousand calls per year and about twelve thousand of those are investigated. He noted that they track them in metrics of live answer, dropped calls and call backs. He noted that in terms of mandated reporters, that last year the Legislature authorized a statute change to allow the ability for those mandated reports to provide their reports in an online fashion instead of calling in every time.

Rep. Mastraccio asked if he had a response to Ms. Alberi, who hoped the Department would become more risk averse.

Director Landry clarified that he did not agree that it was about being more or less risk averse, but rather making the best safety decision possible with the information that the Department has or is expected to get. He stated that he tries to avoid discussions about the concept of risk aversion or not because he believed it can lead to unintended consequences that lead away from the core mission of safety. He noted that consistency is what they are striving for across the state.

Sen. Keim asked if Director Landry could speak to the inconsistency in the drug testing district to district because it seems to be problematic in being able to decide what impact drugs are having on the outcomes of cases.

Director Landry stated that there is variability based on the circumstance of the case, not always geographically. He shared that there are sometimes differing circumstances, including things like when Law Enforcement has to step in for six-hour holds and may assist with a parent going for immediate testing, or the court can specify the drug testing during the authorization process of reunification. There is the general phone system which is where the individuals call in and are given a randomized selection of whether they are required or not to test that day.

Sen. Keim stated that Ms. Alberi listed several different methods, and asked whether the courts are giving different methods on how they want someone tested.

Director Landry answered that it depends on the court and the individual situation as to what the frequency of testing and who is doing the testing.

Sen. Keim asked if the Department has a schedule that they follow.

Director Landry stated that they generally use the randomized observed testing through the telephone system.

Sen. Keim asked if that was a policy that he could share with the Committee.

Director Landry answered that he would consider it a practice. The policy would be to drug test whenever necessary, appropriate or court ordered. The practice consideration allows the Department to change with differing situations that may come up or as new technologies are developed.

Sen. Keim asked for clarification on whether there is something that is defined as far as what type of testing, frequency and what is needed in order to require that.

Director Landry stated there are some written guidelines that he would be happy to share with the Committee.

Sen. Keim asked for him to send an update on the staffing, with regards to turnover and what area that may be problematic because it seems that responses are different from district to district and if those are correlated.

Director Landry said he would be happy to provide that information. He added that they currently had about a twelve percent vacancy rate across the state, varying between districts, and stated that the Mid-Coast area has a particularly challenging history with filling those offices. He stated that they historically have fewer openings and vacancies in Aroostook County.

Sen. Keim stated that she had heard a lot about the work force and that there is not great communication from what is happening on the ground to what is happening at the top. She asked how Director Landry is addressing that. She felt that often the response is that a new program or training will address the communication issues.

Director Landry answered that communication is not about a program but about a culture and atmosphere of seeking out input to the greatest extent possible. He shared that he personally tries to visit every district office in the state at least twice a year to have an opportunity to meet with all of the frontline staff. He shared that they are still using video conferencing, which started in the pandemic, to share information and get feedback in between in-person visits. He stated that he meets with every incoming class for their foundations training, both by video and in-person. There is also an online suggestion box that the staff can use to communicate with the management.

Rep. Arata asked whether Director Landry thought the courts in Maine are generally listening to the Department's recommendations and information around the level of intervention necessary to the safety of a child and what training they receive. She also asked for confirmation that these cases are not open to the public.

Director Landry answered that yes, generally Child Protective proceedings are closed because of the level of confidentiality that is there. He did not know what trainings judges receive but noted the judicial college for new judges and an ongoing requirement for continuing legal education. He stated that it varies by court as the judges are independent, as they are supposed to be. He said there are a lot of perspectives to consider, including the Department, the parents, and the guardian's ad litem that may be in a case. He shared that the Department works within the confines of what the Court orders specifically about decisions around removal through a PPO (Preliminary Protection Order), decisions about visitations and reunifications plans and/or the termination of parental rights.

Rep. Arata thought that maybe the Committee should look into the Court side of Child Welfare.

Sen. Hickman asked if Director Landry agreed with the Ombudsman's Report comment that people are treated differently in the system based on their income status or maybe their cultural background.

Director Landry stated that their data does not reflect any incidences of systemic bias in the work the Department does, whether it be race or ethnicity. He noted that they do not collect income or socioeconomic status information, although research shows there is a correlation nationally between poverty and child abuse and neglect substantiations across the country. He stated that any issues, concerns or questions about income lie with the court from the perspective that they have the determination of indigent legal representation when a child is removed or comes into that level of court involvement. He stated that they do collect data on race, ethnicity and gender, and it did not show any significant disparities based on those areas.

Sen. Hickman asked if Director Landry could address whether the lack of translators is a problem or not.

Director Landry answered that at the beginning of a Child Welfare involvement the staff seek out to identify the primary language spoken by the family and if there is a need for an interpreter and those efforts continue throughout the entire case process. Once staff are aware of a language challenge, they will coordinate investigation activities with an interpreter and those are used throughout the process. He noted that the Department contracts with cultural brokers from various communities to assist with cultural differences or questions and sometimes can assist with the language barriers.

Sen. Hickman asked if Director Landry could speak to the cases reviewed in the Ombudsman's Report on page 15.

Director Landry stated that he could not speak to any cases individually but that generally, the Ombudsman investigates a complaint and indicates whether she agrees with the Department or doesn't agree with the Department and whether she believes there were practice or policy issues. He noted that in regards to closing a case, that decision is made by the courts and it is a possibility that the courts may decide to not agree with the Department's suggestions. On the investigation side, regarding the filing of PPO's, there are challenging questions and decisions to make on whether to file or not. It is a very significant decision to go to court and seek custody of a child. He noted that they pay attention to how the decision is never made by just the caseworker. There is always also a supervisor involved at minimum. In challenging cases, they may engage with the Assistant Attorneys General to decide as to whether there is enough evidence to meet the legal standard of immediate risk or harm to go to the judge and seek a PPO.

Sen. Hickman asked if it was a right of people to refuse a drug screen.

Director Landry answered that it depends on the stage of the case. They do not have the right to refuse court ordered drug testing.

Sen. Timberlake asked how many times there may have been a recommendation that the court doesn't agree with.

Director Landry stated he did not have the data for that, but stated that it rarely is a simple yes/no answer. He shared that sometimes the judge may agree with and rule in favor of the Department for some aspect but may rule with the plaintiffs or the parent's attorneys to not do what the Department says on other aspects.

Sen. Timberlake asked when the Department makes a recommendation to remove a child from a situation, how often does the court agree,

Director Landry answered that he does not have a specific number to be able to share but that most of the time the court agrees with the Department.

Sen. Timberlake asked if the Department within the state of Maine try to meet the federal standard percentages of children to be reunified with their parents.

Director Landry stated that all states who receive Federal funding are subject to such requirements. He explained that one of the goals of that is timeliness of permanency. The federal goal is for all children to receive permanency in a twelve-month period of time. He noted that no state has ever achieved that goal for a variety of reasons and that the benchmark is for states to achieve this in forty percent of the cases, that permanency was achieved within twelve months. The second goal is permanency within the second twelve months or the

second year. He shared that if the Committee wanted to know exactly where they fall since 2019, there is a public report on the Department's dashboard that shows that data.

Sen. Timberlake asked where the percent was today.

Director Landry stated that Maine is at about twenty-seven percent.

Sen. Timberlake asked if Director Landry thought that the courts are considering that in part of their process.

Director Landry believed that some courts are aware of that federal goal or benchmark, but did not believe they made their decisions solely on that rationale.

Rep. O'Neil asked if the Department had a process for measuring disparate outcomes or impact and asked if he could provide data and tracking on that.

Director Landry answered that there are points within a case that are measured. He explained that during an intake call, unless the information is provided, they do not collect it at that point in time. Once a child does come into custody, the federal government stipulates that the Department collect that information using the same categorization that the U.S. Census develops and has. He stated that he could provide more information on that going forward.

Rep. O'Neil asked if Director Landry could speak to trends that have emerged professionally in his field for measuring data and what kind of goals and things have been flagged.

Director Landry believed in trying to prevent abuse or neglect situations without putting a child at risk or in danger of a safety issue. He noted that the state is working with partners in the communities to move further upstream from a data collection perspective on race, ethnicity and other disparate outcomes. He shared that in his personal experience working in four or five other states, that Maine has significantly less disparate outcomes than some others. He noted that there is some disparity and it is a goal to look into that and work on eliminating that disparity to the greatest extent possible, both by partnering with the communities as well as inside Department work. He shared that there is the New England Association of Child Welfare Commissioners and Directors that is a partnership of six New England states that work together on a variety of projects including working with Casey Family Programs on that exact topic.

Rep. O'Neil asked how family income comes into consideration.

Director Landry stated that they primarily focusing on the conflation of poverty and neglect and what efforts can be done to ensure that poverty is not a precursor or a reason for a removal or a substantiation of neglect.

Rep. O'Neil stated that it would be helpful to have that information and added context of where the ship is steering to make these improvements.

Director Landry said he would be happy to provide that data and additional reports in the future on how the work is going with the other five New England states and what changes they may want to implement.

Director's Report

Covered within the Work Plan discussion.

Unfinished Business

None.

Next GOC meeting date and planning

The next GOC Meeting will be held on March 24, 2023 at 9:30 AM.

Adjourn

The Chair, Sen. Hickman, adjourned the Government Oversight Committee meeting at 1:30 PM on a motion by Sen. Hickman, Second by Rep. Fay.