

OPEGA Recommendation for Project Direction

Maine's Office of State Fire Marshal

(For Public Release on Delivery at the Meeting of the Government Oversight Committee on July 7, 2023 at 9:30 am)

Background

On March 24, 2023, Representative Suzanne Salisbury, House Chair of the Joint Standing Committee on Criminal Justice and Public Safety (CJPS), appeared before the Government Oversight Committee (GOC). Representative Salisbury discussed the letter¹ she and CJPS Senate Chair, Senator Pinny Beebe-Center, had sent to the GOC describing matters of concern that were raised during confirmation of the new Maine State Fire Marshal, Richard McCarthy.

In their letter, the CJPS Chairs stated:

Prior to the confirmation hearing, the chairs were made aware of long-standing issues regarding the operations of the Fire Marshal's Office, including concerns that rose to the level of a formal complaint filed with Maine's labor board, according to reporting by the Bangor Daily News.

We both received phone calls from former and current employees of the Fire Marshal's Office who expressed deep reservations about confirming McCarthy who served for 22 years as the assistant fire marshal. In particular, these former and current employees expressed concern about confirming an individual who had been in a position of leadership amidst a workplace culture rife with misogyny, lack of care for fire victims and unresponsiveness to employee complaints and community needs.

Consistent with the letter, Representative Salisbury also shared with the GOC how the Fire Marshal and the Commissioner of Public Safety stated that they would be willing to cooperate with OPEGA in a review of these matters. After recounting the history of other prior reviews of the Fire Marshal's Office by Crisis and Counseling Centers, in 2018 and 2021, and noting an "escalation of worker dissatisfaction and workplace hostility", the joint CJPS Chairs letter concluded by stating that "this committee believes it is within the best interest of the public and those working in the Fire Marshal's Office that an official review of the office be completed by [OPEGA] and the results of the review be shared with the Criminal Justice and Public Safety Committee."

Following GOC discussion, including some Q&A with Representative Salisbury², the GOC voted 7-4 in favor of a Motion to allow the OPEGA Director to conduct an initial interview series to gather more information on the Office of State Fire Marshal.

¹ The letter from the CJPS Chairs to the GOC may be found here: [9926 \(maine.gov\)](https://www.maine.gov/9926)

² A summary of this discussion may be found at: [10021 \(maine.gov\)](https://www.maine.gov/10021)

Work Performed by OPEGA, Including Summary Results of Interviews

OPEGA completed the following tasks in connection with the interviews of Fire Marshal employees:

- consulted certain statute and policy relevant to the Office of State Fire Marshal;
- sought and gathered input from GOC and CJPS Members on concerns or questions regarding the Fire Marshal's Office;
- viewed the available recording of the CJPS Committee Confirmation Hearing for Fire Marshal Nominee Richard McCarthy, held on February 27, 2023, at which both the Fire Marshal nominee and the Commissioner of Public Safety appeared and made statements;
- read media reports of workplace concerns in the Fire Marshal's Office;
- considered the reports on the 2018 and 2021 review efforts referenced by the CJPS Chairs and reported in the media, which appeared geared toward assessing and addressing trauma from the nature of the mission, but which ultimately also recorded a range of workplace culture and climate concerns, and some employee-management disagreements about office policies or practices;
- assembled an inventory of concerns that had been raised at or in connection with the confirmation hearing for Fire Marshal McCarthy;
- developed a series of questions to be posed, confidentially, to current employees of the Fire Marshal's Office willing to meet with OPEGA, while also allowing each participant to raise any other matter, even if not the subject of an OPEGA question;
- sent a letter from the OPEGA Director to all current Fire Marshal's Office employees inviting their participation in the process;
- described in the OPEGA Director's letter, and repeated these assurances to each participant face to face, that survey participation was voluntary, individual responses will not be attributed to individuals, and the decision to participate or not would likewise not be attributed, other than in a manner that simply shared the percentage rates of participation of current staff;
- interviewed 33 of 39 current employees of the Fire Marshal's Office. The interviews included 16 of 18 investigations staff, 16 of 20 inspections and office support staff, and the Fire Marshal, himself;
- interviewed others, confidentially, who approached OPEGA outside of the survey process for current Fire Marshal employees, including any referred to us by a legislator. The same assurances regarding non-attribution were provided to these persons; and
- attended and observed proceedings before the Maine Labor Relations Board in *Maine State Law Enforcement Association v. Maine Office of State Fire Marshal*, MLRB Case No. 23-PPC-07; and

- summarized the interview results in a manner necessary to maintain our commitments regarding non-attribution, while seeking to enhance public understanding and accountability, as appropriate.

OPEGA did not, however, endeavor to reach conclusions as to the veracity or merits of the concerns raised. At this stage, OPEGA’s work product, by direction of the GOC, is as an independent collection and inventory of that which was told to us and which appears to represent the current state of lingering concerns within the Fire Marshal’s Office.

A brief description of the structure and staffing of the office, as well as a basic description of its statutory mission, may be found at Appendix A at the end of this document.

Lingering Concerns in the Fire Marshal’s Office – Results of OPEGA Survey Interviews

The results of OPEGA’s individual interviews of Fire Marshal employees are summarized here in a manner designed and intended to:

- (1) enhance public understanding of lingering employee concerns;
- (2) foster a framework for accountability for corrective action;
- (3) give due regard to the ongoing collective bargaining agreement dispute resolution processes;
- (4) maintain the survey’s “ground rules” that participants (employees and management) would all be free to speak to OPEGA without attribution, in order to encourage candor; and
- (5) inform a decision of the Government Oversight Committee on any further appropriate action with regard to legislative oversight.

What follows below in this section is a summary of some general themes that emerged from OPEGA’s survey, and they are arranged by subject matter. Later in this document, OPEGA also summarizes information keyed to particular questions posed in our survey instrument.

In sum, it was clear to OPEGA that lingering concerns remain about the work culture and climate in the Fire Marshal’s Office, which will require sustained effort and initiatives to overcome and resolve. These matters involve, for example, internal controversy with respect to the fundamental mission of the office, the extent to which previous leadership did or did not act on employee concerns (and how), and the details and demands of day-to-day work scheduling and deployment of resources, much of which is the subject of collective bargaining and the processes for resolving employee complaints or management-initiated disciplinary action in that context. There were also examples, shared with OPEGA, of prior statements alleged to have been made within the office – concerning fire victims (and in at least one example a female fire victim, in particular) – that if true, would be deemed entirely inappropriate and highly offensive to a reasonable observer, in light of prevailing workplace standards and regulations. OPEGA was also told of other purported statements attributed by one or more employees to another, that if true, do not comport with standards of conduct and professionalism. It will be incumbent upon office leadership, including and up to the new Fire Marshal and the Public Safety Commissioner, to ensure that going forward, there is no place within the Fire Marshal’s office for such statements or attitudes.

Mission of Investigations

There was disagreement about the mission of Investigations among some of the fire investigators (who are sworn law enforcement officers). Some investigators generally asserted that the mission has been evolving too far afield from fire science and the work of determining the origin and cause of fires, and that there is a kind of “mission creep”, perhaps even venturing into becoming an adjunct of the State Police. Other investigators, as well as management, expressed that police-work is a necessary part of the job.

Some investigators stated that there is an “over-emphasis” on law enforcement, as demonstrated, for example, by being fully equipped for what they described as any remotely possible law enforcement contingency while not necessarily having all the equipment needed for fire investigation itself. Specifically, it was asserted by a number of investigators, that not all investigators had “scene lights” for working a fire scene at night, yet they had been issued two ballistic vests and a suppressor for a tactical rifle, and recently were being invited to apply for membership on the State Police Tactical Team.

Some investigators also asserted that by emphasizing the law enforcement role too much, an investigator can actually introduce bias into the origin and cause of a fire. Some investigators said they feel pressure to find a villain. Others disagreed. Some said that any departure from the National Fire Protection Association (NFPA) guidelines could weaken the viability of a prosecution.

A number of investigators and management, on the other hand, expressed that police work is integral to fire investigation. They stated that if investigation of the fire scene cannot yield evidence for a conviction, a good circumstantial case can sometimes be built. An example was given of extending a fire investigation into the realm of insurance fraud based on what was claimed versus what was found at the scene. Others noted that continued emphasis on law enforcement activities is important because the training and practice continues to evolve. They feel that as sworn law enforcement officers, charged with protecting the public and given the power to arrest suspects or even possibly use deadly force, it is essential to maintain the required level of law enforcement knowledge and competence.

Accountability

A number of personnel among the employees and management generally asserted that employee accountability in Investigations had improved in recent years. It was discussed by many, for example, that in contrast to prior practice, overtime must now be approved by a supervisor and its reasons recorded. Reports of fire investigations must now be prepared more timely, and must be reviewed by a supervisor prior to forwarding to a prosecutor. It was also asserted that a system for case management is being used which helps investigative supervisors balance the workload among investigators.

A number of investigators nevertheless believed some measures had gone too far, and amounted to overly rigid or arbitrary restrictions on the deployment of personnel to scenes, and at times, even appeared targeted at investigators not in favor with leadership. Some of these concerns have and continue to be the basis for complaints or grievances pursuant to the applicable collective bargaining

agreement and Maine state employee labor law, and are the subject of pending actions in that realm, accordingly. Indeed, it is alleged in that context that investigations management failed to provide required notice and the opportunity to bargain over certain changes to schedule and other policy implemented by management.

Several stated that management expects employees to follow policy, but does not always follow policy themselves. One example cited was how, at times, an employee hired to work a particular region of the state was generally required to reside in that region, but there were instances in which a supervisor for the same region was not subject to the same requirement. An example relating to other asserted inconsistency of management application of policy, involved travel in connection with some training from year to year.

Other allegations against management included treating employees inconsistently – in some cases, to the point of allegedly targeting particular employees, retaliating when grievances are filed, or employees being subject to counseling by a lower-level supervisor for stepping outside the chain of command when partaking in the new Fire Marshal's stated open-door policy.

Relative Inflexibility of Some Employees and Some Elements of Management

Opinions within the Fire Marshal's Office characterized some elements of management and some of the employees as inflexible. While some put the emphasis on management inflexibility and others on employee inflexibility, a significant number suggested that elements of both may be missing opportunities to resolve concerns with each other. A number of employees and managers interviewed also believe some of their colleagues resist change – even to the point of trying to undermine leadership. Many of these same interviewees nevertheless also provided examples of what they described as an overbearing and uncompromising management style in the Investigations unit that promotes grudging compliance rather than employee buy-in.

Staffing Resources

A substantial number of personnel interviewed by OPEGA considered workload to be their biggest personal challenge working at the Fire Marshal's Office. The workload concern was said to be the result of a relatively small staff attempting to service the entire State. Comments made about "plans review" in the inspections group included a statement that work might not be brought current even if working 24 hours per day. On the investigations side, we were told, they typically attempt to send more than one investigator to fire scenes but this is often not possible with such a small, geographically dispersed staff. Some felt this creates a safety issue at times as well as not being compliant with the NFPA guidelines.³

From both inspections and office staff, there were issues of workload imbalance. In the office some believed that they have stepped up to take on more work while a position remains vacant and that the situation is not sustainable. It also seems to be generally agreed that the plans review group has a very large backlog and their staff of four cannot catch up. The rest of Inspections (8 inspectors) and Investigations (12 investigators) cover the entire State for certain building and structure inspections and certain fire investigations, respectively.

³ See NFPA 921, Guide for Fire and Explosion Investigations. National Fire Prevention Association.

Some inspectors noted differences in resources available to assist with report preparation, with some personnel turning notes over to clerical staff and some responsible for drafting alone.

Work Schedules

Interviews of employees in the Investigations unit included much discourse regarding the implementation of an evening shift every four weeks with an associated overnight and weekend on-call schedule. The on-call schedule is the subject of a collective bargaining grievance and Prohibited Practice Complaint (PPC) and as such, is expected to be resolved through arbitration (the grievances), or by the Maine Labor Relations Board (with respect to the PPC).

Opinions of the new schedule varied among the investigators and managers interviewed. Many investigators enjoy the reduced number of on-call hours in the remaining 3 weeks, while some feel the required adjustment of home life schedules every 4th week is a burden. We were told that other agencies employing this type of schedule typically have more employees and so the on-call periods are further apart than every 4 weeks. Also, working a 1pm to 9pm evening shift at certain times of the year, requires working a fire scene at night; sometimes without scene lights. We were told that this is not only dangerous due to working in compromised structures, but important details may be missed working in the dark.

A number of the investigators also stated that prior practice giving employees an opportunity to take an off-hours call by order of geographic proximity to the incident, rather than simply by who is on-call at that time, is more efficient due to the substantial distances covered in Maine by so few investigators. Traveling several hours when taking a call-out is not unusual. At times, a hotel room is needed for subsequent visits to the site in order to complete the investigation. Some investigators stated these issues would be avoided if geographic proximity was again used in determining who to call after hours.

Moreover, some investigators prefer the ability to swap individual days or weekends of being on-call, as was a practice previously. Others noted that under that prior approach, with certain individuals always being available and willing to swap, there was increased overtime for some which created workload imbalances. The current protocol for investigators to swap an on-call schedule is to swap the entire week and only with the other 3 investigators within a district. In contrast, we were told that Investigations supervisors remain free to swap individual on call days (or portions) with each other.

Some investigators believe being required to swap an entire week is an overly restrictive and unduly burdensome policy. Resolution of the union contract disputes are expected to clarify the requirements of the contract, which may or may not impact the continuation of current policy.

Human Resources Support

A number of personnel expressed dissatisfaction with the performance and responsiveness of the Human Resources (HR) staffing supporting the Fire Marshal's Office. Some employees suggested there is a general unresponsiveness and lack of communication during all phases of the review and resolution of an employee complaint. This was noted by both individuals who told OPEGA they had been complainants as well as those who described having been the subject of a complaint. It was also felt by some that HR does not understand the nuances of the investigation of law

enforcement personnel – such as the need for rapidly resolving issues. They stated that since investigators may be required to provide testimony in court, allegations must be more quickly resolved. Some felt that an internal affairs-type investigation process would be more appropriate for Investigations.

OPEGA was also told that HR is behind schedule in getting “step increase” raises to be reflected in pay.

Management Follow-Through in Inspections

A number of personnel in Inspections asserted that management has not always followed through with adequate responses and resolutions when issues of concern have been brought forward. Some said that nothing comes of bringing an issue forward. Others stated that behavioral problems with an employee may be addressed for a time, only to reoccur later without any real enforcement. Stronger discipline was felt to be needed in some cases.

Several inspectors registered their disappointment with management for not following through on seeking a stipend to increase inspector pay to advance the salary to be closer to what municipal code enforcement officers make. Some employees stated that consistency among the investigation districts has improved since the Lieutenant was hired (the position had been eliminated and then re-established) and this consistency has reduced the stress level. Many, however, still feel that decisions or policies seem arbitrary because they believe little to no employee input is considered and confusing messages emerge such as the Fire Marshal’s open-door policy combined with an insistence of maintaining the chain of command.

Tardiness in Updating Office Policy

It was said by several employees that the Office’s policies have not been adequately and timely updated, although some improvement has been recently noted.

Outside Pressure on Inspections

Some inspectors spoke of a type of perceived pressure from politically connected individuals they saw as potentially obtaining priority or special treatment, whether for a plan review or inspection, or even to leverage connections to have pressure brought to bear on office leadership to reconsider inspector findings. Occasionally, these inspectors stated, their decisions are modified or reversed by higher ups. At the same time, it was acknowledged by some that this might be the result of differing interpretations of a complicated fire and safety code. Also, some feedback we received from outside the Fire Marshal’s Office suggested that constituent service is an appropriate avenue by which political leaders express concerns to agencies about the timeliness or appropriateness of agency action.

Training

Several employees noted that they received all the training they needed and requested. Some felt they had been given tasks without adequate training to accomplish them. Another felt that there was training, but was unsure of the larger training strategy. One individual also indicated that

management thinks of training (particularly out of state training) as “a reward rather than a requirement”.

As stated under “Mission”, above, other investigators as well as management contended that law enforcement equipment, training and practice have evolved. As sworn police officers, charged with protecting the public and potentially arresting suspects or even at times resorting to deadly force, they believe it is essential to maintain the required level of state-of-the-art law enforcement knowledge and competence.

Equipment

By most accounts, procurement of necessary equipment has improved, and that some credit was attributed to the new Fire Marshal. Replacement of vehicles had been neglected under prior leadership, and OPEGA was told vehicles are now in the process of being replaced under an orderly and rational schedule. Interviewees noted that necessary personal safety gear is now available. Investigators note that all their necessary law enforcement equipment has been recently updated. There were suggestions that all investigators should have the same equipment and that adequate scene lighting is necessary if they are to investigate fire scenes in the dark.

Coordination and Communication Between Inspectors and Investigators

Interview responses tended to suggest that there are a number of collegial relationships between inspectors and investigators. At the same time, many also spoke of a divide between these two components of the organization. Some stated that, with some exceptions, the culture among investigations management has become dismissive of inspectors and that inspectors are often not called to fire investigations.

It was further stated that an investigation could determine the cause and origin of a fire, but without the inspector’s specialized knowledge of fire codes, there is a possibility that landlords responsible for building safety may not be subjected to the full range and measures of accountability. Some believe this lack of coordination (impacted potentially by overtime considerations) has led to inspectors and investigators working less on common projects such as fireworks displays and occupancy checks where both knowledge of the life safety codes as well as law enforcement are required. In this vein, a number of inspectors and investigators stated that several attempts were made to coordinate the two divisions under a plan for fireworks safety inspections. These ideas were promoted as far back as Fall 2022, and the participants stated there was still no plan as of the end of May, 2023.

Additionally, some investigators related that they have been asked to draft updated policies and upon submitting their work, they do not hear back further in any collaborative manner. Instead, a version is implemented that is contrary to their original ideas, without any discussion as to the reasons.

A disparity in dress uniforms was noted by some, between Investigations and Inspections personnel, and the inconsistent wearing of uniforms in general, as both a cause and an effect of less than optimal office cohesion.

Several employees nevertheless noted signs of improvement in the coordination of the two groups as well as within the inspections group itself. Some inspectors shared how they have specialties in addition to their general building inspection duties. We were told that the new Fire Marshal is endeavoring to cross-train individuals within Inspections to increase communication and aid in understanding others' particular duties and problems. OPEGA was also told that inspection supervisors are meeting regularly with the investigations supervisors to try to help with coordinating the two groups. Of particular note by many interviewed, is that the Fire Marshal is sending a weekly memo to all staff regarding the activities of the Office. Some have noted that this approach is a welcome change and has decreased the number of rumors in circulation among the employees.

Community Needs

OPEGA noted differences of opinion among investigators regarding how well the Fire Marshal's Office responds to the needs of community fire departments. According to several of those interviewed, the Fire Marshal and Investigations Lieutenant have been meeting with fire departments around the state. Some believe this is an attempt to provide a common message of how to interact with the Office while others have said that they feel it is causing confusion by not accounting for the differences between northern and southern Maine fire departments.

OPEGA was told that in the north, where fire departments are often smaller with fewer resources, an investigator is likely to "take over the scene" while this behavior in the south is considered inappropriate in dealing with fire departments with more investigative resources and expertise. This group of investigators claimed that community needs are better met by some variation in response. Some also stated a belief that community needs cannot be met when a supervisor lives so far from the district supervised, and that some fire departments are not even acquainted with a supervisor responsible for a district.

On the Inspections side, the interviews noted that the Fire Marshal's Office does not routinely inspect public schools, instead; the schools rely on municipal code enforcement or local fire departments, if available. It was stated that daycares are inspected because the Department of Health and Human Services funds the inspection fees but the Department of Education does not with respect to schools.

Statements Attributed to Some Employees or Some Management

OPEGA was told of purported statements attributed by one or more employees (including supervisors) to another, that if true, do not comport with prevailing standards of conduct and professionalism. Because the details of such statements are likely to identify those making the assertions, OPEGA is not including those details here to maintain our commitment with regard to non-attribution for survey participants.

Current Employee Confidence in the New Fire Marshal

OPEGA asked participants their view regarding their level of confidence that the new Fire Marshal can make positive changes in the Fire Marshal's Office. The range of opinion is characterized by a majority of Inspections and Office Support staff expressing confidence in the Fire Marshal's desire and ability to make what they view as positive change. The distribution of responses within Investigations varied, and was generally perhaps hopeful, but also with a "wait and see" attitude.

Many interviewees described the new State Fire Marshal's passion for the office and mission, his institutional knowledge, his knowledge of the budget and legislative processes, his approachable demeanor, and overall management skills. Other, fewer, interviewees expressed that the new State Fire Marshal holds too many staff meetings, tells employees what they want to hear, but does not necessarily follow through on what he says he is going to do, and little change has been made to date. Some further noted that the Fire Marshal was in a position to make changes before, but did not.

Responses to Specific Prompts

After each participant provided information on what they deemed most important about their concerns, the last part of each interview included specific prompts to ascertain if the employee had any experience of, knowledge of, or opinion about particular points that were raised in the new Fire Marshal's confirmation hearings or recent media reports regarding the Fire Marshal's Office.

The prompts elicited opinions regarding the following allegations:

- that the Fire Marshal's Office is a hostile workplace;
- that there is an unresponsiveness to employee concerns;
- that there is an unresponsiveness to community needs;
- that law enforcement pressures impinge on the science of fire investigation;
- that within the Office, there is laughing and joking about fire victims, lack of care for fire victims, or victims not being taken as seriously as should be;
- that there is misogyny in the workplace;
- that there is particular stress to the job.

Hostile Workplace

Some stated a belief that management has been hostile to employees. Examples included what they believed to be retaliation for union grievances, inconsistent treatment of employees, and even targeting of employees. Others responded to this prompt by saying the workplace is not so much hostile as it is dysfunctional – with many toxic interpersonal relationships and that these toxic relationships include managers as well as rank and file. Some attributed most of the hostility to a few employees they considered to be instigators while others attribute the hostility to management on the Investigations side of the Office. The majority of those surveyed placed some measure of blame on both.

Unresponsiveness to Employee Concerns

Some interpreted this prompt as whether or how quickly a manager responds to a concern. Others interpreted it as whether the outcome addresses the concern in the sense of solving the problem. A number of investigators felt their supervisors required multiple prompts for them to receive an answer. Inspectors, on the other hand, generally felt their supervisors are very responsive. Those who stated that the Fire Marshal does not always respond in a timely manner, usually also expressed that they felt he was extremely busy.

In the second case when interpreting the question based on outcome, an example included the Fire Marshal not resolving the recommendation to coordinate an approach to fireworks displays by Inspections and Investigations. Other examples related to “outcome” concerned not following through on seeking the inspector stipend mentioned earlier in this report, and interpersonal problems between employees that continue despite management intervention.

Unresponsiveness to Community Needs

Many stated that the Office responds well to community needs given their limited resources. Those who felt the office was not as responsive as necessary expressed concerns regarding relationships with fire departments, lack of certain inspections, and the lack of prevention (education) work.

Some within the Office have stated that they have heard complaints from various fire department personnel. These investigators believe that the office is sending mixed messages to fire departments regarding when to call investigators and when not to. A few investigators and inspectors have also expressed that an Investigations supervisor has been very condescending toward fire department personnel.

Inspectors and Investigators have expressed their feeling that there is a lack of enough inspections for amusement rides within the State. Likewise, several feel that nighttime occupancy checks of businesses such as dancehalls and bars have decreased in frequency and the consistency of monitoring fireworks shows can be improved. Many have also stated that the Office does not routinely inspect schools, instead relying on municipal code officers and local fire departments to carry out this important task.

A few of the staff also noted that while generally responding adequately to the community through inspections and investigations, they believe the Office does very little fire prevention work. Examples of areas they believe can be improved include more vigorous public education campaigns addressing the behavioral causes of fires.

Law Enforcement Pressures Impinging on the Science of Fire Investigation

This concern, held by some within the Investigations group, is described in the section on “Mission”, above.

Misogyny in the Workplace

A number of those interviewed cited a prior case involving allegations of sexual harassment, that they generally understood was resolved. There were, however, other incidents described to OPEGA where employees felt women had been treated differently. Most of those interviewed by OPEGA stated they had not directly witnessed instances of misogyny.

Some employees expressed concern that gender played an inappropriate role in personnel decision making.

OPEGA also became aware, by means other than our interviews of current employees, that there remains today sincere concern with certain alleged statements of some employees and management in the past within the Fire Marshal’s Office. If true as described to OPEGA, the then-leadership did

not adequately ensure an office environment free from statements that would be highly offensive or inappropriate to an objective observer, and which were entirely inappropriate in a workplace environment.⁴ In the context of concerns about misogyny, one of the highly offensive statements, if true, concerned a female fire victim.

Laughing and Joking About Fire Victims, Lack of Care for Fire Victims, and Victims Not Taken as Seriously as Should Be

OPEGA was told by participants that investigators are called upon, with some regularity, to recover bodies and even parts of bodies from fire scenes. It was noted that some bodies are not recognizable as human remains and some still are. Even when there is not death or severe physical injury, there is witness to immense emotional trauma when a person's home is lost. In this environment, we were told consistently that occasionally investigators will make off-color comments only among themselves as a type of coping mechanism. Some of those interviewed did also describe internal meetings where they asserted these types of comments have at times been repeated.

Stress of the Job

OPEGA asked survey participants to differentiate between the stress associated with the job duties and the stress, if any, associated with their work environment and inter-office relationships. Many inspectors said the stress of their job (the mission itself) is quite low compared to other jobs they have had in the past. One aspect of stress they sometimes feel is related to the need to get to so many places around the state and get their reports completed in a timely manner. It was suggested that in plans review, the work backlog is a source of stress and that unit is indeed understaffed for the amount of work. It was also asserted that the office support staff had, at least at the time of the OPEGA survey, an unfilled vacant position which has increased the already substantial workload of the remaining staff.

As noted above in this report, an investigator's tasks associated with dealing with the aftermath of a fire, including body recovery and severe trauma to victims of fires, was identified as a source of stress and trauma itself. Investigators interviewed seemed to be able to compartmentalize and yet some noted that research shows that this type of trauma is cumulative. With respect to the psychological stress of the job, witnessing physical and emotional trauma as well as death repeatedly, a few investigators contended that other law enforcement entities have adequate psychological help available, but, despite requests, the Fire Marshal's office does not.

Despite this, many investigators joined inspectors and office staff in saying that the most stressful parts of their job is not the mission-related activities, but rather, toxic interpersonal relationships, distrust of management, or employee resistance to change.

OPEGA Recommendation on Project Direction

OPEGA recommends that the GOC direct OPEGA to transmit these survey results to the CJPS Committee, the Commissioner of Public Safety, and the Fire Marshal, with a request that they

⁴ OPEGA is not including the details of the statements alleged to have been made, because such details may reveal the source(s) of the information, and disclosure would be inconsistent with OPEGA's pledges of non-attribution in connection with this effort. Moreover, as also previously stated, OPEGA's scope of work at this juncture did not include any steps to test or validate the information provided.

review and consider the results, and that the Commissioner and the Fire Marshal be invited to provide updates at regular public intervals to the CJPS Committee on the status of any plans or actions to address matters and ensure an appropriate workplace climate. OPEGA recommends that such reporting intervals, at a minimum, be at 6 months and one year following the receipt of these results, or as otherwise deemed appropriate by the CJPS Committee.

OPEGA makes this recommendation for the following reasons:

- GOC and OPEGA involvement was sought with the corresponding request that results be shared with the CJPS Committee, and re-engaging the CJPS Committee is consistent with other recent examples of leveraging the oversight capacities and expertise of a Committee of specific policy or program jurisdiction;
- at the time the GOC voted to authorize the OPEGA survey, there was more than minimal GOC Member discussion suggesting that the Fire Marshal, especially now that he had been confirmed, be given an opportunity to address any concerns himself, even to the exclusion of OPEGA involvement;
- publicly summarizing and publishing the survey results arguably creates a reasonable accountability mechanism for benchmarking the current asserted conditions, and allowing for future assessment of responsible management's actions in response;
- the Commissioner and the Fire Marshal will need to address certain concerns in other venues, where they do not have complete control over the outcomes, and thus there are additional independent accountability measures or frameworks, including as parties to collective bargaining agreements, responsible officials for responding to grievances or labor board complaints, subjects of potential binding external arbitration, or as defendants in civil litigation;
- a number of the management-employee disagreements appear to relate to fundamental philosophy as to what is the appropriate mission of the Fire Marshal's Office—a subject for which the Commissioner and the Fire Marshal are answerable within existing statute, and which can be further addressed with the Committee of specific jurisdiction;
- some individual employees and some individual management officials attributed to each other statements and actions that if true, would be deemed clearly and objectively inappropriate for the workplace. OPEGA observes at this juncture that any effort to set a corrective course for the office as a whole moving forward will require enforcing unequivocal expectations from this point on. OPEGA acknowledges that a reasonable observer may be inclined to reserve judgment as to whether the newly confirmed Fire Marshal will be the necessary and effective change agent, but this official is now in place, having obtained confirmation, and can be given a defined opportunity to effect change, including under the conditions we have described here; and
- because there are, in fact, personnel-related matters pending in a variety of other appropriate venues for settling a number of the disputes or controversies, OPEGA could be prepared to respond to any future directive from the GOC for follow up work, if deemed necessary, while allowing these other matters to complete their courses of resolution.

In the event the GOC determines that further work by OPEGA to address these matters is needed immediately, OPEGA will be prepared to seek GOC direction on what other current workplan matters may be deferred, accordingly.

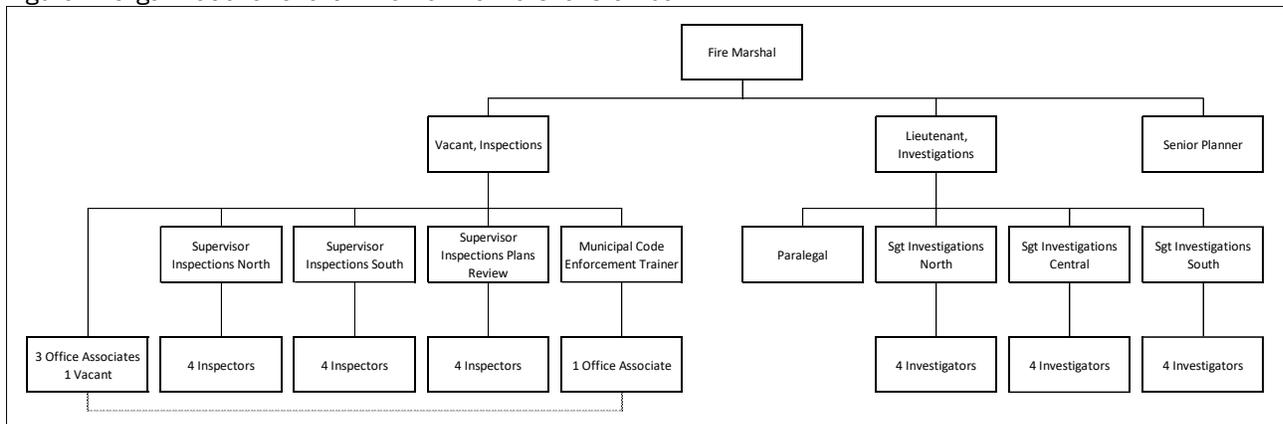
OPEGA appreciates the opportunity, in any event, to be responsive to the needs of the GOC and the CJPS by providing the results of our survey.

Appendix A

Brief Agency Description

Maine’s Office of State Fire Marshal is within the Department of Public Safety and currently employs 39 people with two posted vacancies. The Office is divided into 2 groups – Inspections and Investigations – which are supported by an administrative staff (see the organizational chart, below). The Inspections group works to ensure compliance with fire and life safety codes for new and existing buildings and equipment. The Investigations unit includes certified law enforcement officers who investigate the origin and cause of fires or explosions within the State, and work with local District Attorneys or the Attorney General’s Office for any associated prosecutions, if applicable.

Figure 1. Organizational Chart – Maine Fire Marshal’s Office



Relevant Statutes

OPEGA reviewed the provisions of Chapter 315, “Investigations of Fire Hazards and Causes”, found in Title 25, Maine Revised Statutes, among other pertinent authorities.

In particular, 25 M.R.S. § 2396 provides, in part:

The State Fire Marshal, the State Fire Marshal’s deputy and any public safety inspectors and investigators shall enforce all of the laws, ordinances and rules adopted by the Commissioner of Public Safety or enforceable by the Commissioner of Public Safety, directed toward and concerned with protection of the public in the following areas:

- 1. Fires.** The prevention and containment of fire and the protection of life and property from fire;
- 2. Arson.** The suppression of arson and investigation of cause, origins, and circumstances of fires;
- 3. Explosives.** The storage, sale and use of combustibles, flammables, incendiary devices and explosives;

4. **Fire alarm.** The installation, maintenance or sale of automatic or other fire alarm systems and fire extinguishing equipment;
5. **Fire escapes.** The construction, maintenance and regulation of fire escapes;
6. **Means of egress.** The adequacy of means of egress, in the case of fire, from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheatres, dormitories, apartment or rooming houses, hotels, motels and all other places in which numbers of persons work, live, or congregate from time to time for any purpose which comes within the scope of the current edition of the National Fire Protection Association No. 101, Life Safety Code;
7. **Other duties.** The performance of such other duties as are set forth in this and other sections of the statutes and as may be conferred or imposed from time to time by law. The State Fire Marshal, the State Fire Marshal's deputy and investigators appointed under this Title shall carry out those functions that the Commissioner of Public Safety may direct and in so doing have the same enforcement powers and duties throughout the State as sheriffs have in their respective counties. A public safety inspector for the purpose of enforcing section 2452 [of this Title], relating to statewide enforcement powers of the National Fire Protection Association No. 10, Life Safety Code, has the right to execute or serve criminal and civil violation process against offenders who violate the National Fire Protection Association No. 101, Life Safety Code.

[alteration in brackets added]