

JAMES I. COHEN  
PARTNER  
jcohen@verrill-law.com  
207-253-4708

One Portland Square  
Portland, ME 04101  
Main 207-774-4000

**Testimony of James I. Cohen on behalf of Maine County Commissioners Association**

**in support of**

**LD 719, An Act to Amend the Share of State Funding for the County Jail Operations Fund**

March 3, 2025

Chair Beebe-Center, Chair Hasenfus, and Members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Jim Cohen, I'm a partner with the law firm Verrill Dana, and I appear before you today in my role as legislative counsel for the Maine County Commissioners Association. I am speaking in support of LD 219, and my goal in this testimony is to provide information to the Committee about the primary role played by Maine state government in the operation of county jails – which is one of the key reasons we believe state government should have a clear role in funding a portion of the costs of operating county jails.

To illustrate the key role played by Maine state government in the operation of county jails, we prepared a flow chart that is attached to my testimony outlining how nearly every step on the way between an individual being arrested, through sentencing, represents a function of government outside the control of counties. Here are the key elements along the way:

- **Criminal Code.** The Legislature controls what activities are deemed criminal, driving the scope and frequency of arrests and incarceration.
- **Decision to Arrest.** Law enforcement agencies control whether to arrest an individual and incarcerate them. County sheriffs are responsible for some of these arrests, but state and municipal police are responsible for the bulk of arrests.
- **Decision to pursue charges.** Prosecutors control whether to charge an individual with a crime. Some of these prosecutors are on the county level, and some are through the Office of the Maine Attorney General. In either instance, prosecutors are following state law regarding activities considered criminal.
- **Pretrial detention.** When a defendant is awaiting trial, prosecutors have a say in whether to allow a defendant to be released pending bail, and courts ultimately decide whether to allow such release. 90% of all county jail inmates are pretrial.
- **Sentencing.** State law requires that sentences of less than 9 months be served in county jail, even where there are multiple, consecutive sentences when each is less than 9 months. State law also defines the potential length of incarceration for a crime, and state courts determine the actual length of a sentence.
- **Operating standards with jails.** State statute and rules of the Commissioner of Corrections establish the minimum standards county jails must follow with respect to incarceration. This includes standards related to physical and mental health treatment, substance use disorder treatment, staffing, access to counsel and visitation, transportation, and a range of other

requirements. Approximately 75% of individuals in county jails have a behavioral health disorder, and 60% have a substance use disorder.

In short, counties do not control who must be held in county jail nor do they control the standards governing how individuals are held. Given this reality, and the fact that jail funding currently relies principally on overburdened local property taxpayers, it is appropriate that the state step in and take on a larger share of county jail funding.

In our view, there is no “right” share, but we do believe the appropriate share should fall between the 55% state share for local schools, and the approximately 20% state share that has been used for county jails. In this regard, 35% makes good sense.

Finally, even at 35%, counties – and local property taxpayers – would remain responsible for 2/3 of the cost of operating county jails, which represents a major investment.

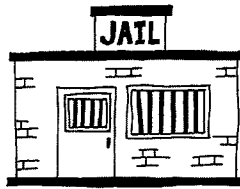
Again, I appreciate the opportunity to provide testimony in support of this bill on behalf of Maine’s county commissioners. Thank you, and if you have any questions or need additional information, please do not hesitate to let me know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. I. Cohen', with a stylized flourish at the end.

James I. Cohen  
Legislative counsel, MCCA

Cc: Andre Cushing, President, Maine County Commissioners Association



## THE COST OF INCARCERATION IN COUNTY JAILS: A TIMELINE

