
Maine Juvenile Justice System Assessment

Prepared by the Center for Children's Law and Policy, the
Juvenile Justice Research and Reform Lab at Drexel
University, and the Center for the Study of Social Policy

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Executive Summary

As is the case in many states throughout the country, stakeholders in Maine are undertaking a comprehensive review of the state's juvenile justice system. The three goals of this assessment are to (1) understand what the juvenile justice system is doing well, (2) identify the gaps and barriers that limit the system from achieving the best public safety and youth outcomes, and (3) outline a roadmap of concrete recommendations to overcome these gaps and barriers going forward.

Maine has made substantial progress within its juvenile justice system, particularly since the last comprehensive review of the juvenile justice system in 2010. Some of these achievements include:

- Increases in the use of diversion away from formal juvenile justice system involvement for many youth, with **85%** of youth currently eligible for diversion being successfully diverted.
- Reductions in the annual number of youth sent to detention by **56%**.
- Reductions in the annual number of youth committed to the Department of Corrections (DOC) by **68%**.
- Introduction of new evidence-based and promising programs, including restorative justice programming, staff-secure alternatives to incarceration, Youth Advocate Programs, and credible messengers for youth being supervised in the community.

Nevertheless, the state's Juvenile Justice Advisory Group (JJAG) recognized that "there is general agreement that Maine still has work to do regarding recommendations around ensuring that Maine youth have access to a robust continuum of community-based services." In 2019, the Maine Juvenile Justice System Assessment and Reinvestment Task Force brought together legislators, leaders from state agencies, prosecutors, defense attorneys, representatives of service providers, youth and adults with lived experience with the juvenile justice system, parents, crime victims, and advocates to review the current juvenile justice system and identify recommendations for reform.

The Center for Children's Law and Policy (CCLP), a Washington, DC-based non-profit, was engaged by the JJAG to support the Task Force and provide a comprehensive and independent assessment of the juvenile justice system. CCLP, along with partners at the Juvenile Justice Research and Reform Lab at Drexel University, the Center for the Study of Social Policy, and clinical psychologist Dr. Andrea Weisman, engaged in a variety of activities to generate the findings and recommendations outlined in this report. Together, the Assessment Team:

- Analyzed data from DOC and the Office of Children and Family Services (OCFS), Department of Health and Human Services (DHHS), on youth in custody at the Long Creek Youth Development Center from 6/1/18 to 5/31/19, including needs, risk scores, and MaineCare behavioral diagnosis and treatment data.

- Conducted a comprehensive review of current policies, procedures, and programs used in the juvenile justice system, as well as other trend and outcome data on youth in the juvenile justice system.
- Interviewed or met with Governor Mills, Chief Justice Saufley, Attorney General Frey; commissioners and associates in DOC, DHHS, the Department of Education, the Department of Public Safety, and the Department of Labor; regional DOC managers and Juvenile Community Corrections Officers; Long Creek Youth Development Center (Long Creek) administrators, staff, and teachers; judges, prosecutors, defense attorneys, law enforcement, crime victims, parents, residential and community service providers, in Portland, Lewiston, Augusta, Bangor and northern Maine; advocates working on juvenile justice reform; educators; mental health professionals; and researchers.
- Conducted six youth focus groups throughout state, plus with detained and committed youth at Long Creek.
- Held Town Hall meetings to hear from members of the public in Portland, Lewiston, Augusta, and Bangor.
- Conducted a community survey on the strengths and challenges of the juvenile justice, receiving responses from 480 Mainers.

The findings and recommendations in this System Assessment are intended to be a roadmap for the next phase of Maine's efforts to continue improving the way it works with young people in the juvenile justice system. The summary below references the major findings and recommendations in this report, with major findings in **bold text** and recommendations in standard text.

Context for the Assessment (I)

- **Maine has made substantial strides in reducing the number of youth involved in the juvenile justice system over the past decade, with diversion for 85% of youth eligible for diversion under current DOC guidelines, reductions in the annual number of detained youth by 56% since 2010, and reductions in the annual number of committed youth by 68% since 2010.**
- **DOC has recently introduced several new and promising initiatives, including the creation of staff-secure programs as alternatives to incarceration, contracting with the nationally recognized group Youth Advocate Programs, and partnering with the Vera Institute of Justice to eliminate the incarceration of girls.**
- Consistent with the third major and unrealized goal of the 2010 task force, there is general recognition that the next step for the State of Maine is to finally develop a robust continuum of community-based services by (1) developing an ongoing mechanism to provide flexible funding for community-based services and supports, (2) creating a statewide system of robust and high-quality programming that is sufficient and accessible, (3) adopting standards and a quality assurance system to ensure the quality and effectiveness of programs, and (4) creating an implementation and accountability mechanism to oversee needed reforms.

Guiding Principles (III.A)

- Guiding principles for juvenile justice system improvement include:
 - (1) Fundamental fairness;
 - (2) Recognizing differences between youth and adults;
 - (3) Recognizing individual differences and tailoring interventions and services to the needs and assets of individual youth;
 - (4) Lifting up youth potential;
 - (5) Valuing public safety;
 - (6) Ensuring accountability for all;
 - (7) Valuing community, youth, and family voice;
 - (8) Striving for equity among all youth populations;
 - (9) Valuing cost effectiveness; and
 - (10) Using the least restrictive alternatives, consistent with youth needs and public safety.
- Maine should adopt a set of guiding principles to act as a “North Star” for ongoing system reform work, and stakeholders will need to determine ways to actively use those guiding principles.

Quantitative Data Summary and Analysis (III.B)

Detained Youth:

- In 45% of detention cases, the alleged offense was not a crime against a person.
- In 53% of cases, the reason for detention was to “provide care” for youth.
- A large portion of youth were assessed as low or moderate risk/needs, whether before, during, or after their stay at Long Creek.*
- In 47% of cases, youth were held in detention for 3 days or less, suggesting they were not significant public safety risks.
- Many youth are in detention due to a lack of community-based alternatives, wait lists for existing programs, and technical violations of release/probation.

Committed Youth:

- 26% of youth came to Long Creek from a residential placement prior to commitment to DOC.
- In 42% of committed cases, the adjudicated offense was not a crime against a person.
- A large portion of youth were assessed as low or moderate risk/needs, whether before, during, or after their stay at Long Creek.*
- Committed youth had long lengths of stay, with low risk youth staying substantially longer than high risk youth* (median number of days):
High Risk: 321 days Moderate Risk: 535 days Low Risk: 580 days

- **69% of youth received behavioral health services from MaineCare in the year prior to their commitment.**
- **65% of youth had a history of at least one child welfare investigation and 45% of committed youth had at least one indicated or substantiated investigation.**
- ***Risk/needs assessment occurred at various time points (i.e., before, during, after detention or commitment); therefore, comparisons across risk level groups should be made with caution as reported risk/needs scores may have been different at the time of detention or commitment.**
- DOC should record data more comprehensively and consistently within the agency, and better integrate DOC data into usable formats that are regularly reviewed.
- Given the considerable overlap of agencies serving Maine youth, create a method for integrating data across systems.

Needs of Youth in the Juvenile Justice System (III.C)

- Data, interviews with people throughout Maine, and DOC's own information make it clear that, to maintain public safety and meet the needs of young people in the Maine juvenile justice system, there is a need for:
 - (1) A continuum of community-based programs and services to provide supervision for youth without incurring the harms of unnecessary incarceration.
 - (2) A limited secure detention and corrections capacity to protect the public from youth who pose a significant danger to others.
 - (3) Secure psychiatric residential treatment capacity for youth with serious mental health problems and a more robust array of behavioral health services.
 - (4) A mechanism to support sustainable collaboration and engagement with stakeholders and impacted community members to ensure the system understands and is responsive to the needs of impacted communities.

Cross-Cutting and Overarching Issues (III.D)

- Frustration and pain felt by youth, families, and system stakeholders.
- Need for greater collaboration among state agencies.
- Problems with funding.
- Educational disengagement.
- Challenges in rural parts of the state.
- Significant poverty and housing instability.
- Needs of girls.
- Needs of the immigrant community.
- Meeting the needs of especially vulnerable populations.
- Accountability and quality assurance.
- Better training for juvenile justice system personnel.

Arrest and Diversion (III.E)

- **Diversion works. Continue the progress that DOC has made in diverting youth away from the system while achieving low rates of recidivism.**
- Report diversion rates as a percentage of eligible cases, as well as a percentage of all referrals to DOC.
- Develop specific, written criteria for diversion eligibility that defines cases that should always be diverted, cases that should rarely be diverted, and criteria for handling cases that fall between the two.
- Eliminate justice by geography by expanding and resourcing diversion programming at consistent levels statewide.
- Ensure that diversion programs are gender-responsive.
- Examine how often diversion is offered to youth with second or third-time felony charges, and review practices regarding the use of risk assessment and other factors.
- Transfer responsibility and funding to a community provider or coalition of organizations or to a non-court public agency that will oversee all aspects of diversion.
- Conduct a deep dive into larceny (theft) and non-aggravated assaults to guide community-based prevention and early intervention arrest reduction strategies.
- Create more options for police to divert youth directly into programs and services.
- Promote more intentional strategies to connect community and police in positive ways.
- Promote police training on adolescent development and interactions with youth.

Detention (III.F)

- **Although the use of detention has decreased substantially since 2010, the leading reason for its use was to “provide physical care” due to a shortage of more appropriate programs and services. This should be addressed to ensure youth are detained consistent with the purposes of secure detention: to protect public safety and guard against failing to appear in court.**
- Identify and develop options to reduce the detention of youth who do not pose a risk of reoffending or failing to return to court. Ensure that programs and services address the particular needs of vulnerable populations including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth.
- Create additional community and residential programs and services to reduce lengthy detention stays for youth who are waiting on space in a service or a program.
- Revise the Detention Risk Assessment to require more objective decisionmaking and to align with best practices, and to ensure that the tool is administered consistently and with fidelity across all youth.
- Identify other reasons why nearly half of detention stays last less than four days, and implement targeted solutions.

Probation and Community Reintegration (III.G)

- **There are many examples of Juvenile Community Corrections Officers going above and beyond to work with youth and families in the community, particularly in rural areas in the absence of needed resources.**
- **More can be done to create individualized, strength-based approaches to supporting and working with youth in the community.**
- End the use of standard terms and conditions, focusing instead on individualized treatment goals developed in true partnership with youth and families.
- Adopt an official incentives-driven community supervision model, tracking its use and the outcomes associated with it.
- Adopt presumptive limits on terms of probation, both in Maine statute and in practice.
- Reconsider the use of probation as a standard disposition for offenses that may be disposed of through other existing programs.
- Explicitly define the role of JCCOs to focus on skill development and create incentives for JCCOs to engage in those efforts.
- Engage and expand the use of Youth Advocate Programs as an alternative to probation or as a supplement to probation for youth with the highest risk factors and most significant needs.

Commitment and Placement (III.H)

- **DOC has continued to make efforts and investments to reduce the state's reliance on secure confinement and to develop alternatives to secure placement. However, youth assessed as having low or moderate risk/needs using available data stayed *longer* than youth assessed as having high risk/needs. Further, averages across all youth indicate very long lengths of stay – well beyond what research indicates would have an impact on public safety. While there are some youth charged with serious and violent offenses who require a secure placement, there are many youth at Long Creek because of unaddressed or under-addressed behavioral health problems, or a belief the youth have no other place to go. There was widespread agreement among stakeholders that, while some capacity for secure confinement is needed for detention and placement in Maine, the state does not need anything close to the capacity it currently has available at Long Creek.**
- Create a presumption of community-based responses for most youth, limiting the use of commitment and out-of-home placements in law, policy, and practice.
- Expand the use of restorative practices and non-residential community-based alternatives, such as Youth Advocate Programs, as an alternative to commitment for assault and theft, the two most common offenses leading to commitment. Ensure that any such expansion includes gender-responsive programming to ensure that all youth, including girls, benefit from these efforts.

- Identify and develop options for youth who are incarcerated for reasons other than being a danger to public safety. Ensure programs and services address the particular needs of vulnerable populations, including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth.
- Develop options that could better address the needs of the small number of youth requiring a secure out-of-home placement because of a risk to public safety.
- Avoid co-location of youth and women in DOC custody at Long Creek, and ensure any resources for youth are not lost or redirected with any future plans.
- Eliminate the mandatory required year of commitment to DOC and create length of stay guidelines for youth in placement that are aligned with research in law, policy, and practice.
- Ensure that providers are incentivized to follow length of stay guidelines and retain youth who are referred to them (except in exigent circumstances).
- Create a process for regular judicial review of commitments and out-of-home placements.
- Designate or create an entity that is charged with training judges, prosecutors, defense attorneys, and other juvenile justice personnel on adolescent development, research on effective interventions with youth, and the harms associated with out-of-home placement.
- Leverage a partnership with the Department of Labor to assist with workforce development for youth in placement and other committed youth.
- Consider removing juvenile services from adult corrections and reassigning responsibility for youth justice to a new agency or different child-serving agency.

Transfer to Adult Court (III.I)

- **Maine has admirably low rates of bind-overs to adult court, consistent with research showing correlations between transfer to adult court and higher rates of reoffending and increased seriousness of reoffending relative to youth who are handled in the juvenile justice system. Maine should continue current practices to keep youth out of the adult justice system.**
- Collect statewide data on the use of bind-overs to the adult system, including disaggregated data on age, race, ethnicity, gender, and geography.
- Guard against potential increases in the use of transfer to adult court as a result of recommendations and changes made as part of this assessment or broader youth justice improvement.
- Continue to follow changes to federal law, national best practices, and trends to keep adult-charged and sentenced youth in juvenile justice systems.

Financing the Juvenile Justice System (III.J)

- Finance respite options in communities to prevent unnecessary placements in detention and facilitate shorter commitments.

- Increase investments in a continuum of services to address the unmet needs of youth.
- Explore collaborative financing options with private partners to support new programming.
- Utilize a regional approach for service delivery to better serve youth in rural communities.
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- Ensure local flexibility to meet community-specific needs.
- Reinvest savings to expand community-based services.
- Invest in a shared vision to enhance a continuum of behavioral health services.
- Maximize federal financing opportunities to create a prevention continuum.
- Maximize MaineCare to increase service availability, consistent with federal guidelines.
- Forge new partnerships with state agencies to meet the needs of youth.
- Review the existing organizational structure for juvenile justice to support a new vision for serving children and youth.

Next Steps (IV)

- Create a mechanism to assist with implementation of these recommendations and to ensure accountability for making progress. This is a common feature of recent juvenile justice reform movements in other states, as outlined below, as the implementation of comprehensive and coordinated reforms cannot and should not fall to a single agency. Consistent with the guiding principles outlined earlier, this mechanism should be able to accommodate participation of impacted communities.
- Organize work to implement the recommendations, including discussion and planning, along the lines of short-term goals (those that can be accomplished within the next 6 months), medium-term goals (those that can be accomplished within the next 6 to 18 months), and longer-term goals (those that can be accomplished within the next 18 to 36 months).