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The Juvenile Justice Task Force Report

29 January 2009

EXECUTIVE SUMMARY

Maine cannot afford to lose one more of its young people to prison and jails, to homelessness, to hopelessness. Maine's response to juveniles in our communities is in urgent need of improvement. The future for disconnected youth, those who have dropped out of school, those who have lost connections with family and communities, is bleak. The Juvenile Justice Task Force envisions system-wide reform that will dramatically improve the futures Maine's youth, prevent and remedy disconnections, and assure that they are welcomed in school and graduate to full lives.

- Chief Justice Leigh Saufley

About the Juvenile Justice Task Force

- **Established by:** the Judicial Branch, the Children's Cabinet, and the University of Maine School of Law
- **Consists of:** members from the Executive, Legislative, and Judicial Branches of the Maine State Government, as well as representatives of interested stakeholder organizations, individual attorneys, and others with valuable knowledge and experience to contribute.
- **Charged with:** bringing together all of the best and most credible research into effective programs for youth and their families; reviewing the current practices in Maine's juvenile justice community; and recommending changes in resource allocation, program use, intervention practices, and legal procedures.

Juvenile Justice Task Force Subcommittees

- **Education Subcommittee:** to ensure that every youth in Maine completes high school and has access to post secondary educational opportunities or meaningful employment.
- **Detention/Commitment Subcommittee:** to reduce reliance on incarceration and pre-adjudication detention by twenty percent (20%) in the next three years by expanding concepts related to restorative justice, positive youth development, and rehabilitation.
- **Community Based Services System Subcommittee:** to build a community-based system of services and programs that emphasizes connecting youth to school, their families, and their communities

Juvenile Justice Task Force Goals

1. Establish a statewide goal of 90% high school graduation rate by 2016 and 95% by 2020.

- Leaving school is the single most significant predictor of negative youth outcomes. Youth who leave school are twice as likely to be unemployed, three times as likely to live in poverty, twice as likely to become the parent of a dropout, and more likely to end up in prison. 54.1% of adult prisoners in Maine (for whom education data is available) had less than a high school education, 11.1% had less than a 9th grade education.

2. By 2011, implement uniform statewide suspension, expulsion, zero tolerance, and truancy policies.

- In 2001, Maine state law expanded its zero tolerance policies. Now, in cases where a student is deliberately disobedient or deliberately disorderly, Maine law recommends expulsion. Most other

states recommend either suspension or expulsion. Also, Maine schools, both traditional and alternative, are not required to admit any student who has been expelled from any other Maine school.

3. By 2014, increase by 50% the number of children and youth in Maine who have access to quality early childhood education and proven prevention strategies and positive youth development.

- The majority of a child's core brain structure is formed before the age of three, but only a minuscule amount of public investments in education and development occur by that time.
- Maine needs to encourage and support the expansion and development of a broad range of community-based programs aimed at identifying and addressing factors leading to its youth's initial and continued involvement in the juvenile justice system, such as diversion and placement alternatives, transition services, family supports, out-of-school-time programs, and employment opportunities for youth who are in contact or at risk of becoming in contact with the juvenile justice system.

4. Create multiple pathways for educating children and youth by working with the Department of Education in the development of a strategic plan (2010).

- Maine must enhance and support multiple pathways of education which value and respect differentiated learning styles and educational needs. Alternative educational settings and programs can better meet the needs of students, within and outside the juvenile justice system, who possess different personal and learning styles that are not adequately addressed within the traditional educational system.

5. Reduce reliance on incarceration and pre-adjudication detention by fifty percent (50%) in the next five years.

- Juveniles in detention are separated from natural supports and developmental influences associated with normal positive youth development. Prolonged periods of detention may reduce future educational achievements, employment opportunities, and earning potential. Low risk offenders are often referred to the Division of Juvenile Services because there are limited or no effective community based diversion programs in many communities throughout the state. Youth have better outcomes and decreased recidivism rates if strategic detention alternatives are used whenever possible rather than secure correctional detention and confinement.

6. Adopt and implement a quality assurance system, an accreditation system, or a set of standards that ensure quality programs and expedient, effective case management for all detention alternatives, community based programs, and court proceedings.

- Decreasing detention and commitment relies on the availability of effective community-based services. All programs and placements must be rigorously evaluated and regularly monitored to ensure that any program or placement used as a detention alternative will save money, improve youth outcomes, and maintain public safety. Maine's policy makers need to maintain and pursue programs that are supported by outcome evaluations clearly demonstrating effectiveness.

7. By September of 2010, in conjunction with the Children's Cabinet and appropriate state agencies, a statewide Coordinated Services District System (CSDS) will be implemented for the purpose of promoting integrated services and strategies across eight (8) districts in Maine related to

health, education, juvenile justice, and economic security/employment. Each of the eight districts will be headed by a District Council. The initial goals of the CSDS will be to implement the recommendations of the Juvenile Justice Task Force and the recommendations of the Dropout Prevention Summit.

- Only a robust continuum of community-based programs can ensure that Maine's youth receive individualized treatment appropriate to their offenses. It is important to encourage local collaborations at the community level, rather than instituting top-down mandates for reform. A community best knows how to address the needs of its youth who are at risk of Juvenile Justice System contact.

8. By September, 2010, detail a statewide system for in-home and out-of-home services and placements for youth in the juvenile justice system that ensures high-quality programming that is sufficient and accessible.

- —One of the most critical components of any effective Juvenile Justice system is the ability to quickly and effectively respond to a juvenile in crisis. Maine is fortunate to have a well-trained and effective cadre of professional Juvenile Community Corrections Officers (JCCO). Unfortunately, the resources that JCCOs have available when a juvenile is in crisis are oftentimes inadequate to permit the JCCO to effectively deal with the situation. Further, some of the most critical resources are oftentimes lacking, and vary greatly by geographic region.” A detailed map of services and resources is essential to the adequacy and timeliness of system response and the effective treatment of juveniles. *(quote taken with permission from an internal Task Force document prepared by Justice Charles LaVerdiere)*

9. By September, 2010, develop a plan to identify an on-going mechanism for providing flexible funding for youth who are served by multiple state agencies, utilizing resources from the public, private, and non-profit sectors. This plan will also include funding options for in-home and out-of-home services and placements for youth in the juvenile justice system.

- Flexible funding options are necessary to provide needed services despite the restrictive guidelines surrounding the use by community-based placements and programs of MaineCare and other public funding streams. Maine must develop a plan of making alternative funding options available to quality programs across Maine.

10. Form a Juvenile Justice Task Force implementation committee charged with coordinating and overseeing the implementation of these recommendations and continued reform efforts.

- In order to create lasting change, a mechanism must be put into place to further the work of the Juvenile Justice Task Force and spur on meaningful reform initiatives. This staffed committee will coordinate efforts between partnering groups and agencies in order to carry out the recommendations put forth by the Juvenile Justice Task Force and ratified by stakeholders across the state.

All of the recommended strategies put forth by the Juvenile Justice Task Force Subcommittees complement each other in achieving the above goals. With these goals in mind, we can work together to achieve lasting improvements in Maine's juvenile justice system.

A Call to Action

Maine cannot afford to lose one more of its young people to prison and jails, to homelessness, to hopelessness. Maine's response to juveniles in our communities is in urgent need of improvement. The future for disconnected youth, those who have dropped out of school, those who have lost connections with family and communities, is bleak. The Juvenile Justice Task Force envisions system-wide reform that will dramatically improve the futures of Maine's youth, prevent and remedy disconnections, and assure that they are welcomed in school and graduate to full lives.

Juvenile Justice Task Force

On April 17, 2009, the Judicial Branch, the Children's Cabinet, and the University of Maine School of Law collaborated to establish the Juvenile Justice Task Force. The Task Force consisted of members from the Executive, Legislative, and Judicial Branches of the Maine State Government, as well as representatives of stakeholder state agencies, educators, law enforcement officials, social service providers, judges, attorneys, and representatives from various state agencies, departments, and the legislature, and others with valuable knowledge and experience to contribute. Chief Justice Leigh Saufley of the Maine Supreme Court, First Lady Karen Baldacci, and Dean Peter Pitegoff of the University of Maine School of Law—Chairpersons of the Task Force—charged the Task Force with bringing together all of the best and most credible research into effective programs for youth and their families; providing all stakeholders with the most current information on effective intervention with youth through a Summit and a thorough report; reviewing the current practices in Maine's juvenile justice community; recommending changes in resource allocation, program use, intervention practices, and legal procedures; and tracking and modifying objective measurement tools to provide a blueprint for going forward with substantially improved practices.

MAINE RISING Juvenile Justice Summit

In December, the Juvenile Justice Task Force hosted a day-long the MAINE RISING Juvenile Justice Summit for over 300 Maine stakeholders. Eight preeminent experts from across the U.S. and Canada staged presentations on the topics of education, juvenile justice, positive youth development, collaborative problem solving, detention alternatives, and cost-saving program and policy reforms. Panel experts spoke on national trends in juvenile justice reform and strategies for improving high-school graduation rates, substance abuse issues, and a costly reliance on secure detention facilities. Summit participants contained a diverse cross-section of professionals, service providers, and affiliated stakeholders. Participants divided into small groups based on geographical locations to discuss and provide feedback on the recommendations put forward by the Juvenile Justice Task Force. Task Force members acted as facilitators for discussion and retained the comments and ideas generated in the small group. The feedback gathered in the small groups drove the revision of the Task Force goals during the drafting of the preliminary Task Force Report.

Juvenile Justice Task Force Report

The Task Force Report expands on the goals and strategies generated by the Juvenile Justice Task Force. The Juvenile Justice Task Force recognizes that juvenile justice is not an isolated point of service but rather emerges from and relies upon the other intercept points for at-risk or high needs juveniles. The recommendations and report, therefore, include strategies for improving the educational opportunities, mental health services, and community supports available to juveniles who are at risk of juvenile justice system involvement. The Task Force Report presents the services and treatment provided to juveniles currently in Maine, the national trends and model programs that signify improvement in those areas, and suggestions for Maine to ameliorate its own situation in locally-controlled and cost-effective ways. The Task Force Report will continue to undergo revisions with the support of the Juvenile Justice Task Force before a final edition is published in the spring of 2010.

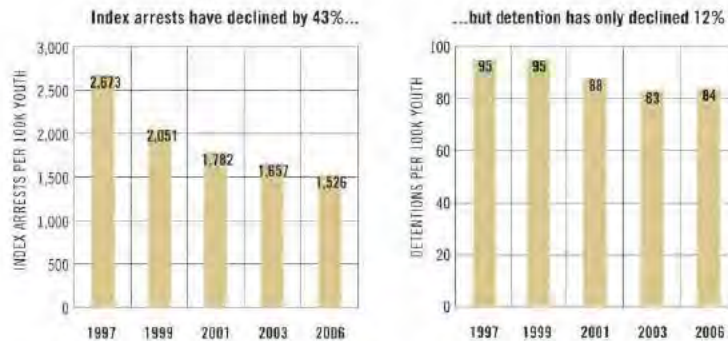
“Currently many promising programs and a growing body of research exist which, if utilized well, could dramatically improve the futures our youth, prevent and remedy disconnections, and assure that they are welcomed in school and graduate to full lives. However, too many obstacles currently stand in the path of creating those positive outcomes. Differing financial sources drive decisions for treatment and resources rather than the needs of the youth and family. Knowledge of successful programs and evidence-based practices is not uniformly known or shared by all stakeholders. Community involvement is in serious need of support. Our education system needs support in connecting to appropriate resources to promote connection and graduation. Perhaps most urgent, the inevitable limitation of resources caused by a faltering economy demands that we make the very best, most effective, use of every dollar dedicated to helping our young people.”

National Trends

Detention/Incarceration

Across the United States, juvenile detention centers hold youth who pose minimal risks to community safety. Despite a steady decrease in juvenile arrests for serious crimes, the number of juveniles in secure confinement has not decreased at the same rate. Arrest indexes have decreased by 43%, but detention has only decreased by 12%.¹

SERIOUS CRIME ARRESTS HAVE DECREASED SIGNIFICANTLY, BUT DETENTION HAS NOT



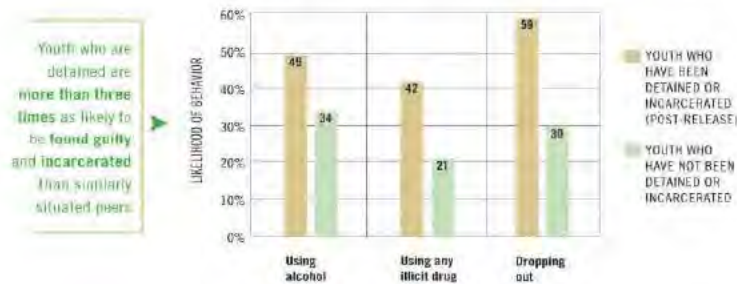
Note: Index arrests are classified as more serious crimes including murder, rape, robbery, aggravated assaults, burglary, larceny, motor vehicle theft, and arson; skip in 2005 for detention data is due to "unforeseen delay in mail-out" for Census of Juveniles of Residential Facilities for detained population

Source: OJJDP Statistical Briefing Book: Juvenile Offenders and Victims 2006; Easy Access to FBI Statistics Database 2007

Secure confinement has profoundly negative effects on the mental and physical well being of a youth by disrupting connections to families, school, work and the community.²

DETENTION LEADS TO WORSE OUTCOMES FOR YOUTH

After release, incarcerated youth are much more likely to drop out of school and use drugs and alcohol



Source: Office of State Courts Administrator, Florida Juvenile Delinquency Court Assessment (2003); LeBlanc, (1991), "Unlocking Learning" in Correctional Facilities, Washington, D.C.; Substance use, abuse, and dependence among youths who have been in jail or a detention center: The NSDUH report, The National Center on Addiction and Substance Abuse (CASA) at Columbia University, (2004); America's Promise report on national rates of high school dropouts: www.msnbc.msn.com/id/2388932/.

Additionally, secure confinement reduces a youth's likelihood of success in school and the work force.³ Leaders in juvenile justice policies and practices endorse a move away from secure confinement towards effective community-based alternatives.⁴

Several states have adopted a guiding principle of reserving secure confinement for only those situations where the safety of the youth and/or the community cannot be otherwise ensured. Most recently, New York, in its Juvenile Justice Task Force Report recommended the amendment of section 352.2 of the New York State Family Court Act restrict institutional placement, unless the incident involved a felony act, to only those situations —when a child poses a significant risk to public safety and, even then, only when no community-based alternative could adequately mitigate that risk”.⁵ This stipulation follows a growing national trend to restrict the use of detention and confinement to only the most severe of situations. The Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation, which is established in numerous sites around the country and serves as a model for many more reform initiatives, iterates the importance of defining the purpose of detention as to ensure that the youth appear in court and remain arrest-free pending adjudication.⁶ Juvenile justice systems across the nation realize that detention and secure confinement do not serve to teach a delinquent youth a lesson, nor do they deter future crime.

States across the country are coming to the conclusion that —the best, most effective programs mirror a supportive family environment or foster a supportive family environment in the community”.⁷ Effective community-based alternatives focus on the rehabilitation of the youth while maintaining the safety of the community, and they produce greater benefits for youth and communities at a lesser cost. States across America spend an estimated \$5.7 billion each year imprisoning approximately 93,000 juveniles. Programs based in the community that rely on the principles of Positive Youth Development, the emerging preeminent framework in juvenile justice, utilize natural strengths and supports to bolster the rehabilitation of a juvenile in less expensive and more effective ways.⁸

Adolescent Brain Development

Recent research on brain development reveals that during adolescence the brain undergoes rapid growth, which inhibits reasoning, advanced thought, and impulse control. Contrary to the previous belief that the brain was fully developed by age 5, modern research shows that the brain does not fully mature until around age 25. During the teenage years and into one's early 20s, the brain undergoes a period of rapid growth, similar to that experienced in the first years of life. The prefrontal cortex, which is the area of the brain that controls reasoning and impulse control, is the last part of the brain to mature.

Adolescent brain development research uses brain imaging to demonstrate the biological susceptibility of an adolescent brain to emotionally-driven, risk-taking behaviors. The imagery depicts the differences in the decision-making process of an adolescent and a mature adult. Magnetic resonance imaging scans show that adolescents use their limbic systems and amygdalae, regions of the brain characterized by impulse and emotionality, to make decisions that would be decided by the prefrontal cortexes of mature adults. This phenomenon makes adolescents more susceptible to emotionally-driven and risk-taking behaviors, especially in social situations or situations of high-emotional intensity.

Research on adolescent brain development has had a significant impact on juvenile justice systems in the United States. The United States Supreme Court cited the biological differences between adults' and adolescents' abilities to assess risk in its decision to abolish the juvenile death penalty. Recent brain development research supports the growing national trend to rehabilitate juvenile delinquents in small, community-based settings that utilize the principles of positive youth development and cater therapeutic programming to a still-developing brain.

Education

Increasing high school graduation rates will aid in decreasing the number of juveniles entering into the justice system. Youth who drop out of school have a higher likelihood of entering into the juvenile justice system or the adult justice system later in life.⁹ In the United States, approximately 1.1 million high school students drop out each year.¹⁰ The students who do not complete high school face a higher likelihood of being unemployed and living in poverty.¹¹ The negative consequences of dropping out affect the individual and the community. Each youth who does not complete high school costs the nation \$292,000.¹²

Improving disciplinary policies, increasing access to early childhood education and proven prevention programs, and utilizing a positive youth development approach contribute towards increasing graduation rates. Disciplinary policies that have “zero tolerance” for student misbehavior do not allow school officials to consider the circumstances surrounding the misbehavior before suspending or expelling a student.¹³ Once suspended, expelled, or “pushed out” of school, youth are less likely to return to school.¹⁴ Early childhood education provides young children with academic, social and emotional skills, which improves academic success in the future.¹⁵ Prevention programs and the utilization of a positive youth development approach create self-confidence, trust, and practical knowledge that prevent risky behaviors and enables academic and adult success.¹⁶

Community-Based Service Systems

Decreasing the number of juveniles detained and incarcerated each year relies on the availability of community-based detention alternatives, prevention and diversion programs. Across America, states are shifting fiscal resources away from ineffective and expensive state institutions towards community-based services that can better serve juveniles.¹⁷ Programs that address the needs of the youth and the family within the community have successful outcomes for the youth, families and communities. Community-based services need a coordinated system of service, communication, planning, and information dissemination to meet the needs of the youth in an appropriate and timely manner. Coordinated service systems that provide a continuum of care from prevention to aftercare best meet the needs of all the youth in the juvenile justice system.

MAINE TRENDS

The juvenile justice system, the education system and community-services in Maine all contribute to the growth and well being of Maine youth. Improvements in the juvenile justice system cannot occur without tandem improvements in schools and the provision of community-based services. Over the past years Maine trends highlight the need for a decrease in the number of youth placed in detention, the need for improved educational outcomes and the need for a better system for providing community-based services.

EDUCATION

Graduation Rates

Youth who leave school face a greater likelihood of unemployment, imprisonment, and continuing the poverty cycle.¹⁸ Maine loses 21 students every day,¹⁹ and projections indicated that Maine's high school class of 2009 failed to graduate over 3,800 youth.²⁰ Disengaged youth are at a higher risk of entering the justice systems—54.1% of adult prisoners in Maine had less than a high school education, 11.1% had less than a 9th grade education.²¹ Recognition of the correlation between failing to graduate high school and justice system involvement has increased efforts to decrease dropout rates. In 2009, Maine held a Dropout Prevention Summit to increase public awareness of the many youth who leave school before high school graduation therefore unprepared for “college, careers, citizenship and life,” and to “secure commitment for collaborative, multi-disciplinary action to implement solutions that strengthen schools and provide supports to kids who need them most.”²²

Disciplinary Policies

The implementation of uniform statewide suspension, expulsion, zero tolerance, and truancy policies will help increase the graduation rate, keep youth in school and out of the juvenile justice system. “Zero tolerance disciplinary policies along with suspensions and expulsions for poor attendance, truancy, or disciplinary infractions, often result in students being pushed-out of school or more subtly, not encouraged to remain in school.”²³ In Maine, in the name of “the peace and usefulness of the school,” public school officials have the authority to expel students for a number of behaviors, including “deliberate disobedience” and “deliberate disorder.”²⁴ These standards lack precision, limit the effectiveness of school personnel in creating alternative solutions, and need reevaluation.

Early Education

Increasing the number of children in Maine who have access to quality early childhood education and proven prevention and positive youth development strategies will improve educational and social outcomes for the youth as they move through the educational system.²⁵ Maine recognizes that “high quality, inclusive early care and education improves every child's readiness for school, families' ability to work productively, and the state's economic development goals.”²⁶ Maine Head Start Programs aim to “promote school readiness . . . through the provision of educational, health, nutritional, social and other services to enrolled children and families.”²⁷ However, each year from 2000-2008, Head Start Programs served only one third of Maine's eligible children.²⁸

DETENTION AND INCARCERATION

Maine Youth in the Juvenile Justice System

Maine youth in the juvenile justice system resemble youth in the justice system across the United States. 71% of the youth in the Maine juvenile justice center are male, 55% percent are between the age of sixteen and seventeen, and most have committed property crimes.²⁹ Maine has a unique racial composition with 8% non-whites, compared to 22% nationally.³⁰ In Maine, the trends in the juvenile justice system include a declining arrest rate, a high likelihood of receiving a suspended sentence or

community service, and a low number of juveniles in a residential facility. Additionally, Maine has a very high percentage of juvenile civil offenses comprised of alcohol and drug related offenses.

Arrests

Despite decreasing juvenile arrests, including large decreases in violent crime, Maine still detains and incarcerates a large number of juveniles. Juvenile arrests have declined 39.5% over the last ten years.³¹ Arrests for the more serious “index crimes” have decreased 50.2% from 1998 to 2007.³² The total number of violent crimes has fallen 34.5% and the total percentage of Maine arrests that are juveniles fell from 20.4% in 1998 to 12.3% in 2007.³³ Juvenile arrests for burglary, larceny-theft, and motor vehicle theft each dropped more than 50% from 1998 to 2007.³⁴

Adjudication

In 2005, juveniles adjudicated for the first time were most likely to have a sentence suspended or to be assigned to do community service.³⁵ Most frequently, the court suspended a determinate sentence of 30 days or less, which “typically refers to an attenuated sentence in some form of confinement followed by supervision.”³⁶ The second most frequent action by a court was an assignment of community service.³⁷ Overall, the juvenile adjudication rate decreased 7% between 2004 and 2005.³⁸

Recidivism Rates

Maine juvenile recidivism rates are comprised of mostly property crimes.³⁹ Among a cohort of juveniles first adjudicated in 2005 and then followed for one year, property crimes made up 55% of the recidivism rate for this group.⁴⁰ The second category of recidivism offense was drug and alcohol related offenses with 23% (up significantly from 9% in 2000), and third was personal crimes with 23%.⁴¹ The overall recidivism rate for this cohort was 27%.⁴²

Civil Offenses

The vast majority of Maine’s juvenile civil offenses are alcohol and drug related offenses. The civil violations applying only to juveniles – curfew violations, loitering, and running away -- have decreased more than 70% since 1998.⁴³

Changing Demographic

A changing demographic in Maine raises concerns regarding the overrepresentation of minority youth in Maine’s juvenile justice system.⁴⁴ Data collection and surveillance has ensued with reasonable confidence that trends suggest an over-representation of minority youth is present at specific levels in the more populous counties.⁴⁵ Efforts to identify and assess the overrepresentation of minority youth in the juvenile justice system are underway and do take into consideration the small number of minorities and the rural nature of much of the state.⁴⁶

COMMUNITY-BASED SERVICE SYSTEMS

In order to best serve its youth, Maine needs a community-based system of services focused on prevention, diversion and detention alternatives for juveniles at-risk of entering the juvenile justice system. The current lack of coordinated services in Maine prevents juveniles from receiving the most appropriate services in a timely manner. Obstacles such as lack of communication, planning, and information dissemination among services providers limits the care available to juveniles. Despite the fact that over seven years ago, a sample of judges, prosecutors, defense attorneys, and JCCOs said on average, 48% of youth detained or committed to a secure facility would be better served elsewhere,⁴⁷ Maine still lacks a cohesive and comprehensive system of community based systems for the prevention and treatment of juveniles in the justice system across the state.

Eligibility Guidelines

In 2007, the State of Maine Department of Health and Human Services contracted with APS Healthcare Inc. to provide a Behavioral Health Utilization Management System for services purchased through the State's Office of MaineCare Services⁴⁸. For children and youth under the age of 20, this included targeted case management services, hospitalizations, psychological services, intensive residential treatment and crisis care programs that receive MaineCare funding⁴⁹. It was the responsibility of APS Healthcare to review and approve services paid for by MaineCare. The Level of Care criteria that were used to determine the appropriate services to be rewarded reflect the eligibility requirements found in the Maine Care rules⁵⁰. For example, in order for a youth to be eligible for placement at a Private Non-Medical Institution (PNMI) for Intensive Residential Treatment using MaineCare funds, the following criteria had to be met:

1. Must document that children receiving this service meet all of the eligibility criteria below addressing severity of need and intensity of service; **AND**
2. The child must have a diagnosed DSM-IV mental health disorder; and documented clinical evidence for all of the following that:
 - a. Due to impairment from the mental health disorder, that without PNMI level of care, there is a significant potential that the child will require psychiatric hospitalization;
 - b. Due to the psychiatric disorder, the child exhibits an inability to adequately care for his/her own physical needs without external support beyond the family or other community supports, or represents potential serious harm to self or others;
 - c. The child has failed to respond to less restrictive treatments;
 - d. The child has a mental health disorder that has been determined to be amenable to active psychiatric and or behavioral treatment as evaluated from a face-to-face comprehensive psychiatric evaluation; and
 - e. The child requires assistance in developing the skills necessary for daily living, as well as assistance with planning and arranging access to a range of educational, therapeutic, and aftercare services on a seven (7) day per week twenty-four (24) hour per day basis.
 - f. Member has an initial treatment plan, a discharge plan and the family is willing to actively participate throughout the duration of treatment⁵¹.

This process, though usually conducted in a timely manner, excluded those youth who were or were at risk of becoming involved with the juvenile justice system but lacked a mental health diagnosis. Since then, MaineCare changed the way admissions to Private Non-Medical Institutions are decided. Instead of the above guidelines, all applications for admission are reviewed by the Intensive Temporary Residential Treatment (ITRT) Team. This process is notorious for being just as if not more restrictive than the Level of Care Criteria while being far less timely⁵².

The result of eligibility barriers to MaineCare funded services is the increasing lack of access to important community-based in-home and out-of-home services. Youth in the juvenile justice system often need to be removed from their home of origin for at least some period of time and yet their offenses and circumstances do not merit placement in a secure detention facility. For these youth Maine must find alternate ways of funding out-of-home services. In a number of cases youth are being preemptively

labeled as having a DSM IV Axis-1 mental health diagnosis solely for the opportunity to access services restricted for that population. This leads to long-term stigmatization and is indicative of a persistent problem of fitting youth into existing programs rather than creating and funding programs that are designed to meet the needs of youth. The reliance of MaineCare funds on these sorts of restrictive eligibility guidelines and medical necessity frameworks may have contributed to the recent closings of residential programs that were suffering from underutilization while youth who could have greatly benefitted from their services were bureaucratically excluded.

Wraparound

One incentive behind the careful monitoring of utilization of residential facilities may have been in response to the national movement away from out-of-home placements in both the child welfare and juvenile justice systems. Although out-of-home placements are at times in the best interest of the youth, the family, or the community, the majority of juvenile justice clients would ideally be served through a comprehensive net of services delivered according to the Wraparound treatment model. This Best Practice, –is a family centered, community oriented, strengths based, highly individualized planning process that relies on a balance of formal and informal or natural supports to help children and families achieve important outcomes while they remain, whenever possible in their homes and communities”⁵³.

The Maine Wraparound Initiative utilizes the research and guidelines established by the National Wraparound Initiative. NWI was established out of a proliferation of the wraparound approach being used as a preferable alternative to residential treatment. The principles guiding wraparound interventions include familial involvement in all stages of the process, plans based on an interagency, community-based collaborative process, and the availability of adequate and flexible funding⁵⁴. Wraparound is a unique blend of community-driven treatment that draws upon direction from a national model and is held accountable on both local and state levels.

Currently, nine Wraparound sites have been established across Maine. These sites work with state agency staff, contracted local agencies, families, and community stakeholders to serve an average of 20 high-needs youth per site. According to an evaluation report from February, 2009, on average, youth were discharged after 195 days with around \$3,000 of flex funds having been spent on their treatment services⁵⁵. This contrasts drastically with the OJJDP 2008 report that estimates \$412 per day is spent on a youth in a secure detention facility in the state of Maine⁵⁶, putting the cost of a 195 day stay at over \$80,000. In addition to the potential cost savings, wraparound sites in Maine have shown positive outcomes in improved youth functioning and increased likelihood of youth returning to or remaining in their community of origin⁵⁷. Expanding the Maine Wraparound Initiative, Maine could see reliance on secure facilities decrease without heavy fiscal impositions or the sacrifice of community or youth safety.

The Juvenile Justice Task Force Narrative

Education

High School Graduation

Leaving school predicts negative outcomes for youth. Youth who do not stay in school have a higher chance of unemployment, poverty, criminal activity, and the continuation of the dropout cycle. Beginning with chronic absenteeism that often results in dropping out, truant behavior is the most powerful predictor of delinquent behavior.⁵⁸ Routinely skipping school inhibits a student from keeping up with schoolwork; then it becomes easier for that student to drop out of school than to catch-up on the missed work.⁵⁹

The Maine Department of Education reports an 83.3% graduation rate for the 2007/2008 school year. The calculation of graduation rates was changed that year in order to comply with national No Child Left Behind guidelines. While previously fifth year and non-traditional high school completions were included in the success rate, the new method of calculation counts only four-year “regular” graduations⁶⁰. This has the effect of underreporting the number of youth in Maine who are successfully completing school and earning a high school diploma. In fact, a number of diverse schools across Maine already boast graduation rates above 90%⁶¹. These schools can serve as models for others by demonstrating innovative ways of retaining students and providing the resources needed for youth to achieve successful education outcomes.

An alternative calculation of Maine’s graduation rate should acknowledge students who complete high school in more than five years or through alternative means. Additionally, some students will drop out of school prior during the transition from eighth grade to high school. An calculation of graduation rates that considers the loss of students during this transition will provide valuable information in addressing the problem of drop-outs and school incompleteness.

A student who does not complete high school has a higher risk of negative outcomes than peers who do complete high school. Nationally, a youth who leaves school is twice as likely to be unemployed, three times as likely to live in poverty, twice as likely to become the parent of a dropout, and much more likely to end up in prison.⁶² A strong correlation exists between truancy and drug use. Several studies have documented that more than half of the juveniles not in school when arrested test positive for drug use.⁶³ In 2007, six percent (6%) of Maine’s teens were not in school or not working.⁶⁴ These disengaged youth are at a higher risk of entering Maine’s justice systems—54.1% of adult prisoners in Maine, for whom education data is available, had less than a high school education, 11.1% had less than a 9th grade education.⁶⁵

Coping with these negative outcomes drains precious national and state resources. Each youth who does not complete high school costs the nation \$292,000 over his or her working life.⁶⁶ Cumulatively, students in the Class of 2009 who left school would generate an additional \$319 billion in wages, taxes, and productivity over their working lives if they had finished high school.⁶⁷ Projections indicate that Maine’s high school class of 2009 will fail to graduate over 3,800 youth.⁶⁸ It is estimated that the projected national nongraduates’ collective failure to graduate will decrease their aggregate lifetime income by over \$990 million.⁶⁹ Increasing

graduation rates can both reduce drains on resources and increase juveniles' positive contributions to society.

Youth drop out of school as a result of internal and institutional factors.⁷⁰ Internal factors include: —low family income level, being a member of certain racial/ethnic minority groups, limited English proficiency, living in a single-parent household, grade retention, academic problems and course failure, behavioral and disciplinary problems, teenage pregnancy, low educational levels of parents, high absenteeism and truancy, geographic location, family problems, high mobility, having a sibling or siblings who dropped out, substance abuse, and a lack of motivation for and/or a strong dislike for traditional schooling.”⁷¹ Institutional factors include: family factors (such as socioeconomic status, relationships, configuration and housing), school factors (such as school policies, classroom assignments, school structure, course content and school relationships), and community and peer factors (such as high crime rates, poor economic conditions, inadequate housing, and a lack of social support and recreational activities). The combination of individual and institutional factors result in youth leaving school either on their accord or with the “aid” of school policies.⁷²

Dropout prevention approaches and strategies fall into the four categories of school-wide improvement and restructuring, supplementary and targeted programs, alternative education, and student re-entry or recovery programs.⁷³ Increasing the graduation rate requires improvements in all four of the categories with collaboration among schools, families and communities. Collaborations can occur in the form of wraparound services, mentors, tutors, adult advocates, enhanced parental involvement, and quality after-school, weekend and summer programs.⁷⁴ Services provided to youth will be most effective at dropout prevention when they are linked with the youth's school experience.⁷⁵

Implementing programs to decrease the dropout rate need to occur in conjunction with structural and policy changes. Dropout prevention programs operate best in small environments where youth have access to adults that express a willingness to help students with issues inside and outside the classroom.⁷⁶ Successful programs recognize that family and personal problems hinder success in school, and these aspects of a youth's life need addressing as part of the program implementation.⁷⁷ All youth need a measure of academic challenges, and the responses to academic challenges improve when programs connect learning to personal experiences.⁷⁸ Dropout prevention approaches and strategies need to address all risk factors contributing to youth dropping out of school.

Successfully increasing the graduation rate requires recognizing that —Dropping out of school most often is a complex process, involving the interaction of several factors and conditions (often interrelated) including the individual student, family, school, peers, and community. Student dropout prevention efforts, to be effective, must actively and meaningfully involve the entire community, including parents, citizens, businesses, other agencies, and most of all, the *students themselves*. School personnel alone cannot, and should not, be expected to solve the dropout problem.”⁷⁹

Zero Tolerance Policies

School disciplinary policies in Maine include policies known as “Zero Tolerance Policies.” Nationally, zero tolerance policies derive from the limited position that drugs and weapons do not have a place in schools, but have expanded over time include some forms of disorderly conduct. Zero tolerance policies can have the adverse effect of assigning an overly severe penalty without consideration for the circumstances surrounding the behavior or incident. Zero

tolerance policies are not uniform across the country or across Maine, because local school boards determine the policies specific to their schools with federal and state guidance.

The Federal Gun Free School Zones Act of 1994 provides federal incentives for state school districts to adopt strict policies of expulsion for possession of a firearm without permission.⁸⁰ States passed legislation based on the Federal Gun Free School Zones Act of 1994 that provided the authority for local school officials to establish zero tolerance policies; however, the state legislation broadens the strict policies of expulsion to apply to incidents beyond possession of a firearm without permission.

In Maine, the state statute provides local school boards with the authority to implement broad zero tolerance policies. Maine Revised Statutes Title 20-A §1001 provides the laws relevant to the duties of local school boards. This section divides expulsion and suspension into two categories: “Students expelled or suspended” (§9) and “Students expelled or suspended under the requirements of the federal Gun-Free School Zones Act of 1994” (§9-A). Section 9-A addresses the requirements of the Gun-Free School Zones Act of 1994. Section 9 expands the zero tolerance concept surrounding the Gun-Free School Zones Act of 1994 and states:

- Following a proper investigation of a student's behavior and due process proceedings, if found necessary for the peace and usefulness of the school, they shall expel any student:
- A. Who is deliberately disobedient or deliberately disorderly; [1993, c. 157, §1 (NEW).]
- B. For infractions of violence; [1993, c. 157, §1 (NEW).]
- C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official; [1997, c. 298, §1 (AMD).]
- D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury; or [1993, c. 157, §1 (NEW).]
- E. Who possesses, furnishes or trafficks in any scheduled drug as defined in Title 17-A, chapter 45. [1993, c. 157, §1 (NEW).]”

This state statute instructs public school officials to expel students for deliberate disobedience, deliberate disorder, possession of drugs, or for trafficking drugs.⁸¹ The school board duty to expel students who are deliberately disobedient and disorderly (when found necessary for “the peace and usefulness of the school”) expands zero tolerance policies beyond possession of weapons. Additionally, the broad categories of expulsion for “disobedience” and “disorder” grant an excessive amount of discretion to school officials making expulsion decisions. “Although arguably well intentioned, zero tolerance disciplinary policies along with suspensions and expulsions for poor attendance, truancy, or disciplinary infractions, often result in students being pushed-out of school or more subtly, not encouraged to remain in school.”⁸² Uniform laws with clear and concise language will enable Maine to establish discipline policies that achieve school safety, take into consideration the circumstances surrounding disobedient behavior, and provide consistent application of discipline policies.

Early Childhood Care, Prevention Strategies, and Positive Youth Development

Maine needs more early childhood care and education programs that families can easily access. Very young children learn from their surroundings, their play, and their interactions with parents and caregivers.⁸³ Their learning involves listening, verbalizing, exploring,

discovery and practice that occurs without formal classroom instruction.⁸⁴ This early learning and development provides a foundation for future success in education and life.

Early childhood care and education programs provide immediate benefits to childhood brain development and long term benefits to the individual and society. Before the age of five, children experience a significant period of brain development that substantially influences their social, emotional, and cognitive development.⁸⁵ Early childhood care and education programs provide children with meaningful early opportunities to develop academic, social, and emotional skills.⁸⁶ Early childhood care and education programs create benefits in academic achievement, educational progression and attainment, positive behaviors, delinquency and crime reduction, and labor market success.⁸⁷ Well-designed early childhood interventions can generate a return to society ranging from \$1.80 to \$17.07 for each dollar spent on the program.⁸⁸

Often families with very young children have less income and fewer resources than families with older children, making it difficult to pay for educational and developmental services and supports.⁸⁹ Adults with young children typically are younger in age and therefore have less experience in the workplace, thus earning a lower salary.⁹⁰ As a result, families with children under the age of five are 50% more likely to live in poverty and 40% more likely to live at 200% below the poverty level than families with children between the ages of 6 and 17.⁹¹ Families with young children need better access to high quality, inclusive early childhood care and education.

Nationally, public investments in education and development do not correspond with the developmental growth of children. Eighty-five percent (85%) of a child's core brain structure is formed before the age of three, but less than 4% of public investments in education and development occur by that time.⁹² National public investments in education and development are more than seven times greater during the school aged years (\$5,410 per child) than during the early learning years (\$740 per child).⁹³

Maine's Governor John Baldacci recently noted the need for improvements in early childhood care and education in a 2006 state of the State address, recognizing that "people who have quality early care and education have better opportunities for success."⁹⁴ The 2006 *Invest Early in Maine* report delivers the same message as the Governor: "high quality, inclusive early care and education improves every child's readiness for school, families' ability to work productively and the state's economic development goals."⁹⁵ The Maine Head Start program offers the advantages of early childhood care and education,⁹⁶ but not all children eligible for Head Start participate in the program. Each year from 2000-2008, approximately two-thirds of Head Start eligible children were not enrolled in a Head Start Program.⁹⁷

Increasing access to prevention programs and utilizing a positive youth development approach will aid in increasing the graduation rate and decreasing the number of youth entering into the juvenile justice system. Prevention programs that have research and evidence supporting their success and that are implemented with fidelity can achieve significantly more benefits than costs. Early childhood education, youth development programs, juvenile offender programs and home visiting programs for new mothers yield financial benefits higher than implementation costs.

A positive youth development approach will strengthen prevention efforts inside and outside the classroom. The U.S. Department of Health and Human Services defines positive youth development as an approach that "suggests that helping young people to achieve their full potential is the best way to prevent them from engaging in risky behaviors. Organizations and communities that promote Positive Youth Development give youth the chance to exercise

leadership, build skills, and get involved. The self-confidence, trust, and practical knowledge that young people gain from these opportunities help them grow into healthy, happy, self-sufficient adults." Positive youth development can take many forms, and communities can put it into practice by allowing young people to help make important decisions about their own lives, the organizations that serve them, and their communities. Youth who participate in organizations with a positive youth development approach and who "spend time in communities that are rich in developmental opportunities . . . experience less risk and show evidence of higher rates of positive development."

Multiple Pathways

As a further step toward preventing its youth from entering the juvenile justice system, Maine must ensure that every youth in Maine completes high school and has access to post secondary education or meaningful employment. To achieve that end, Maine must enhance and support multiple pathways of education which value and respect differentiated learning styles and educational needs.

The Maine Department of Education Office of Truancy, Dropout and Alternative Education defines alternative education as

—[A] perspective, not a procedure or a program. It is based upon the belief that there are many ways to become educated, as well as many types of environments and structures within which this may occur. Further, it recognizes that all people can be educated and" that is in society's interest to ensure .this.' To accomplish this requires that we provide a variety of structures and environments such that each person can find one that is sufficiently comfortable to facilitate progress. (Fizzell, 1990)"⁹⁸

The Office of Truancy, Dropout and Alternative Education recognizes three objectives of alternative education: (1) to ensure that every young person may find a path to the educational goals of the community; (2) to provide choices to enable each person to succeed and be productive; (3) to recognize the strengths and values of each individual by seeking and providing the best available options for all students.⁹⁹

Many students require an alternative to the traditional classroom environment to reach their full academic potential, to reach their full potential as adult citizens, and to minimize adverse effects of negative behavior on other students in the classroom.¹⁰⁰ Online and other non-building-bound based education alternatives can be used to better meet the learning and emotional/behavioral needs of many students who possess different personal and learning styles that are difficult to accommodate within the traditional educational system. These students can include those who may not qualify for, or actually need, special education services but who are at high risk for dropping out of school at some point in their careers."¹⁰¹ The availability of nontraditional methods of teaching and learning will be a key component of any system that aims to effectively engage the broadest number of students and facilitate their educational success. Providing multiple pathways for students to achieve academic success will increase the number of students who graduate and continue on to realize their full potential as adult citizens.

Armed with the above information and after careful collaboration, research, and review, the Education Subcommittee of Maine's Juvenile Justice Task Force recommended that Maine set the following goals for juvenile justice system reform:

- Establish a statewide goal of 90% high school graduation rate by 2016, and 95% by 2020.
- By 2011, implement uniform statewide suspension, expulsion, zero tolerance, and truancy policies.
- By 2014, ensure that the number of children and youth in Maine who have access to quality early childhood education and proven prevention and positive youth development strategies is increased by 50%.
- Create multiple pathways for educating children and youth by working with the Department of Education in their development of a strategic plan (2010).

Incarceration/Detention

Reducing Incarceration and Detention

The successful execution of juvenile justice culminates in the treatment of a youth once they have committed a crime and come into contact with the justice system. When prevention efforts fail, it is the responsibility of the juvenile justice system to attempt to rehabilitate the youth and reintegrate them into society in a meaningful way, while ensuring the safety of the community. This decision often rests on a delicate determination of potential risk and available options.

In Maine over the past three years, although the number of juvenile arrests has been decreasing, the number of indeterminate commitments to Maine's two juvenile youth development centers has increased by 33 percent.¹⁰² On January 1, 2006, according to the Department of Corrections, 121 juveniles were committed to Maine's youth development centers.¹⁰³ By July 1, 2009, that number had increased to 161 juveniles.¹⁰⁴ This increase in commitments occurred in the face of growing national research that shows that most juveniles can be served less expensively and more effectively in community-based settings¹⁰⁵ — “[t]he most effective programs at reducing recidivism rates and promoting positive life outcomes for youth are administered in the community, outside of the criminal or juvenile justice systems.” The 1990s saw a nationwide increase in the secure confinement of juveniles, a trend stemming from reported increases of violent incidents involving juveniles and a public and political perception that the juvenile justice system was too soft on young criminals.¹⁰⁶

In 1995, however, at the peak of this period of high crime and strict punishment, a snapshot survey showed only 29% of detained juveniles were there for violent crimes, while 34% were confined for status offenses and technical violations, such as a probation violation.¹⁰⁷ Unfortunately, much of this reliance on detention stemmed not from efforts to protect the safety of the community and the best interests of the youth, but rather from a lack of alternatives.¹⁰⁸ This trend, which persists across the country and in Maine, is to the detriment of many incarcerated youth.

When detained or incarcerated, youth face many deleterious problems. “[D]etention has a profoundly negative impact on young people's mental and physical well-being, their education, and their employment.”¹⁰⁹ Incarcerated youth are at a higher risk of engaging in suicide and self-harm.¹¹⁰ Upwards of forty percent of incarcerated youth have a learning disability and face significant challenges returning to school after leaving detention.¹¹¹ Incarceration reduces

juveniles' future earnings and their ability to remain in the workforce and can —change formerly detained youth into less stable employees.”¹¹² Moreover, —there is credible and significant research that suggests that the experience of detention may make it *more likely* that youth will continue to engage in delinquent behavior, and that the detention experience may *increase* the odds that youth will recidivate, further compromising public safety.”¹¹³ Additionally, incarceration also often fails to meet the mental and developmental needs of youth, and it can slow the natural —aging out” process of delinquency.

In the last decade, new approaches, such as the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation, have spurred a movement away from reliance on secure detention, toward a preference for community-based rehabilitation service options for juveniles.¹¹⁴ The strategies of treating juveniles in or near their home communities, relying on natural supports, building on natural strengths, and creating programs that emulate a supportive family environment have been proven effective across the country.¹¹⁵ Programs such as the Missouri Model, which relies on a number of small group homes rather than large institutional settings, boast lower recidivism rates and better long term outcomes for youth while saving money on costly and often perpetual incarceration.¹¹⁶

Costs of Confinement

Incarceration and detention are also extremely costly. States across America spend an estimated \$5.7 billion each year imprisoning approximately 93,000 juveniles.¹¹⁷ The State of Maine spends approximately \$412 per day per youth in residential placement—one of the highest cost-per-day estimates of the 28 states surveyed for a recent American Correctional Association report.¹¹⁸ As a result, Maine spends over \$65,500 per day on the incarceration of juveniles.¹¹⁹ Maine can save money, improve youth outcomes, and increase public safety by ensuring that every juvenile is placed in the least restrictive setting that balances the interest of public safety with the best interests of the juvenile. Research has shown that —[e]vidence-based community programs, particularly those designed for youth, yield higher returns than the initial cost” and are —very effective in reducing the chances that a youth [will] come into contact with the juvenile or criminal justice system.”¹²⁰

Community-based programs for youth, which are more cost-effective than incarceration,¹²¹ can, at times, reap \$13 in benefits to public safety for every dollar spent.¹²² Functional Family Therapy (FFT),¹²³ Aggression Replacement Training (ART),¹²⁴ Multi-Systemic Therapy (MST),¹²⁵ and Multidimensional Treatment Foster Care (MTFC)¹²⁶ have been identified as evidence-based programs¹²⁷ and have been shown to reap \$10.69, \$11.66, \$13.36, and \$10.88, respectively, in benefits to public safety for every dollar spent.¹²⁸ In addition to evidence-based programs, promising practices in juvenile justice,¹²⁹ including but not limited to programs that feature the principles of balanced and restorative justice and positive youth development,¹³⁰ can be utilized to further benefit both Maine’s communities and its youth.

Quality Assurance

Every program or placement used as a detention alternative must be evaluated and monitored so that Maine’s policy makers can maintain and pursue programs that are supported by outcome evaluations demonstrating effectiveness. —Some programs work, some programs do not, and careful analysis is needed to inform policy decisions.”¹³¹ Thus, The implementation of a quality assurance system, accreditation system, or a set of standards to guide juvenile justice reform in Maine will ensure the quality, expediency, and effectiveness of programs. An

effective quality assurance system will be efficient and non-burdensome in order to guard against evaluations which serve only to add additional layers of proverbial “red tape” to the juvenile justice system and do nothing to assist Maine’s youth. Evaluations and reform must be conducted with an eye toward building the robust system of community-based services that Maine’s at-risk and system-involved youth desperately need.

Adolescent Brain Development

“[A]s many as a third of young people will engage in delinquent behavior before they grow up but will naturally ‘age out’ of the delinquent behavior of their younger years.”¹³² Involvement with the juvenile or criminal justice systems often impedes a youth’s successful transition to adulthood by disrupting that youth’s natural engagement with families, school, and work.¹³³ Such disruption can reinforce a youth’s sense that he or she is not part of mainstream society, which can lead youth to associate only with other delinquent peers who also feel socially ostracized.¹³⁴

Research on adolescent brain development indicates that “the distinction between youth and adults is not simply one of age, but one of motivation, impulse control, judgment, culpability and physiological maturation.”¹³⁵ “During adolescence, the brain begins its final stages of maturation and continues to rapidly develop well into a person’s early 20s, concluding around the age of 25.”¹³⁶ “The prefrontal cortex, which governs the ‘executive functions’ of reasoning, advanced thought and impulse control, is the final area of the human brain to mature.”¹³⁷ As a result, adolescents rely heavily on the parts of the brain that house the emotional centers when making decisions and, as is commonly known, often engage in activities of greater risk.

The U.S. Supreme Court cited the discrepancy between the decision-making capabilities of an adult and an adolescent in its 2005 ruling to outlaw the juvenile death penalty.¹³⁸ In his majority opinion, Justice Kennedy referred to a juvenile’s “underdeveloped sense of responsibility” and susceptibility “to negative influences and peer pressure” as the basis for insulating young people from the adult criminal justice system.¹³⁹ “The juvenile court, at its inception, was created “to rehabilitate, not to punish. No stigma was to be attached to the child, and all records and proceedings were to be confidential.”¹⁴⁰

Disproportionate Minority Contact

Nationally, minority youth have a much higher chance of entering into the juvenile justice system than white youth. The federal Office of Juvenile Justice and Delinquency Prevention uses a relative rate index to calculate the number of minority youth in contact with the justice system in comparison to the number of white youth in contact with the juvenile justice system. Using the relative rate index, the Office of Juvenile Justice and Delinquency Prevention determined that nationally a larger percentage of minority youth relative to the number of minority youth comprising the general youth population have contact to the juvenile justice system than white youth.

The Maine Juvenile Justice Advisory Group leads Maine's Disproportionate Minority Contact initiative. This initiative is "a multi-phased, sustained effort requiring systems improvement over many years to build a juvenile justice system that is more sensitive to cultural differences." The DMC initiative is ongoing – "the state is currently building the capacity sufficient to meet the needs of DMC reporting" by "working on multiphase, multilevel quality improvement strategies,

including improving the quality assurance system, developing instructions on best practice in race/ethnicity data collection, and training of personnel in cultural sensitivity." A juvenile justice system in Maine that is responsive and sensitive to cultural differences will address DMC concerns and improve outcomes for youth and communities.

Armed with the above information and after careful collaboration, research, and review, the Incarceration/Detention subcommittee of Maine's Juvenile Justice Task Force recommended that Maine set the following goals for juvenile justice system reform:

- **Reduce reliance on incarceration and pre-adjudication detention by twenty percent (20%) in the next three years.**
- **Adopt and implement a quality assurance system, an accreditation system, or a set of standards that ensure quality programs and expedient, effective case management for all detention alternatives, community based programs, and court proceedings.**

Community-Based Services System

Community-based services can increase positive outcomes for youth and decrease juvenile justice system costs by utilizing evidence-based and promising practice programs for prevention, diversion, and alternatives to detention and incarceration. Community-based programs are less expensive and more effective than detention and incarceration.¹⁴¹ Across America, states are shifting fiscal resources away from ineffective and expensive state institutions towards community-based services.¹⁴² Maine should follow those states' lead by committing to a continuum of community-based prevention and intervention efforts.

In Maine, youth in the juvenile justice system are held accountable for their behavior by school, police officers, Juvenile Community Corrections Officers, and through detention and incarceration. Presently, a range of obstacles limits the ability of Maine communities to respond to the needs of their juveniles. Obstacles recognized by the Community-Based Services System Subcommittee included, but were not limited to, the following: there is no plan for juvenile diversion that informs system stakeholders of what is needed, that sets funding priorities, and that assures that evidence-based and promising practices are promoted and incentivized; there is no continuum of diversion programs and placement alternatives; there is no comprehensive system of after-school programs, drop-in centers, and weekend recreational programs; transition services for juveniles are poor; family supports are inconsistently provided; homeless shelters are inadequate; and Maine lacks both adequate mechanisms for bringing local leaders together and effective cross-system connections. As a result of these obstacles, Maine increasingly relies on the juvenile justice system, in particular detention and incarceration, to the detriment of its youth.

Over seven years ago, a sample of judges, prosecutors, defense attorneys, and JCCOs surveyed by Maine's Juvenile Justice Advisory Group said that, on average, 48% of youth detained or committed to a secure facility would be better served elsewhere.¹⁴³ Today, Maine is still plagued by the overutilization of incarceration and detention and underutilization of community-based alternatives to detention. –Juvenile justice system-involved youth [in Maine] are far too often separated from parents and other family members both physically and emotionally."¹⁴⁴ The Maine Department of Corrections Division of Juvenile Services¹⁴⁵ needs to

focus its resources on more high-risk juvenile offenders but is unable to do because “the Division of Juvenile Services continues to receive a significant number of referrals on youth categorized as low risk offenders . . . because there are limited or no effective community based diversion programs in many communities throughout the state.”¹⁴⁶

Only a robust continuum of community-based programs can ensure that Maine’s youth receive individualized treatment appropriate to their offenses. It is imperative that Maine encourage and support the expansion and development of a broad range of community-based programs aimed at identifying and addressing factors leading to its youth’s initial and continued involvement in the juvenile justice system.¹⁴⁷ In such efforts, Maine must ensure that each community-based program adopted or expanded is “available to local law enforcement agencies and the [Department of Corrections] as a diversion alternative [sic] focused on preventing further penetration of first time/low risk juvenile offenders into the justice system.”¹⁴⁸ Further, community-based programs in Maine should “focus on assessing and building on the Development Assets of both individual youth and the communities in which they live” and be pursued with an eye toward collaborative problem solving and an understanding of the value of “restorative justice/discipline practices,” family support networks, and the principles underlying other community-based programs currently operating in Maine.¹⁴⁹

The Community-Based Services System Subcommittee recognized that there is a fundamental lack of coordination, collaboration, and cohesiveness between and among Maine’s community-based services. Only through collaboration can Maine’s community-based programs increase their knowledge of and access to emerging research, best practices, data concerning the efficiency and effectiveness of current programs, and novel supportive funding schemes (e.g. a pool of merit-based flexible funding). Thus, Maine must coordinate and implement statewide service delivery initiatives and detail a statewide placement system that will foster such much-needed collaboration.

Armed with the above information and after careful collaboration, research, and review, the Community-Based Services System Subcommittee of Maine’s Juvenile Justice Task Force recommended that Maine set the following goals for juvenile justice system reform:

- **By September 2010, in conjunction with the Children’s Cabinet and appropriate state agencies, a statewide Coordinated Services District System (CSDS) will be implemented for the purpose of promoting integrated services and strategies across eight (8) districts in Maine related to health, education, juvenile justice, and economic security/employment. Each of the eight districts will be headed by a District Council. The initial goals of the CSDS will be to implement the recommendations of the Juvenile Justice Task Force and the recommendations of the Dropout Prevention Summit.**
- **By September 2010, detail a statewide system for in-home and out-of-home services and placements for youth in the juvenile justice system that ensures high-quality programming that is sufficient and accessible.**

Funding

The Juvenile Justice Task Force recognized the centrality of funding issues in all of its recommendations for reform. The three subcommittees were particularly concerned with the following: guidelines that restrict the access to and use of funds by agencies and programs, which often cause pervasive obstacles to the adequate and effective provision of services;¹⁵⁰ funding silos that preclude the transfer of resources to where they will be best utilized; and funding challenges that Maine faces due to its rural character.¹⁵¹ Maine must shift, alter, and/or revise its current funding mechanisms to succeed in keeping more youth at home, in reducing the number of youth incarcerated, in promoting better outcomes for young people moving through its systems, and in reaping significant savings for its taxpayers.¹⁵²

To fulfill the imperative of increased funding for community-based services, the three subcommittees of the Task Force generated the following goal:

- **By September, 2010, develop a plan to identify an on-going mechanism for providing flexible funding for youth who are served by multiple state agencies, utilizing resources from the public, private, and non-profit sectors. This plan will also include funding options for in-home and out-of-home services and placements for youth in the juvenile justice system.**

The execution of this goal begins by supporting legislation that calls for the Department of Corrections to design and implement, by December 2010, using existing resources, two demonstration projects that utilize a capitated funding model to provide services for youth who are in or at risk of entering the juvenile justice system.

The Juvenile Justice Task Force

Co-Chaired by: Chief Justice Leigh Saufley of the Maine Supreme Court; Dean Peter Pitegoff of the University of Maine School of Law; and First Lady Karen Baldacci, Chair of the Governor's Children's Cabinet

Recommendations Document

December 2009

“Maine cannot afford to lose one more of its young people to prison and jails, to homelessness, to hopelessness.”
--Chief Justice Leigh Saufley

About the Juvenile Justice Task Force

On April 17, 2009, the Judicial Branch, the Children’s Cabinet, and the University of Maine School of Law collaborated to establish the Juvenile Justice Task Force. The Task Force consisted of members from the Executive, Legislative, and Judicial Branches of the Maine State Government, as well as representatives of interested stakeholder organizations, individual attorneys, and others with valuable knowledge and experience to contribute. Chief Justice Leigh Saufley of the Maine Supreme Court, First Lady Karen Baldacci, and Dean Peter Pitegoff of the University of Maine School of Law—Chairpersons of the Task Force—charged the Task Force with bringing together all of the best and most credible research into effective programs for youth and their families; providing all stakeholders with the most current information on effective intervention with youth through a Summit and a thorough report; reviewing the current practices in Maine’s juvenile justice community; recommending changes in resource allocation, program use, intervention practices, and legal procedures; and tracking and modifying objective measurement tools to provide a blueprint for going forward with substantially improved practices.

At the second Task Force meeting, members divided into an Education Subcommittee, an Incarceration/Detention Subcommittee, and a Community-Based Services Subcommittee. The subcommittees discussed the Task Force’s goals and examined two models of system change that have been utilized by the Annie E. Casey and John D. and Catherine T. MacArthur Foundations. The Task Force then adopted a —Maine Model” that synthesized the principles of those two models with the principles and goals outlined in the Task Force’s Charter. The principles and goals engendered in the Maine Model were intended to be broad and flexible, but specific enough to guide the Task Force’s work. The subcommittees determined that the following principles would guide the Maine Model for Juvenile Justice System Change:

- The juvenile justice system recognizes that all youth are individuals and that it works to maximize their full potential while recognizing that there are fundamental developmental differences between adolescents and adults;
- The juvenile justice system is intent on reducing racial disparity and is —bias-free” in that it treats all youth, victims and families fairly;
- The juvenile justice system holds juvenile offenders accountable for their actions in developmentally appropriate ways;
- The juvenile justice system will reduce its reliance on incarceration by strengthening and empowering families, schools and communities to help youth succeed;
- Youth are kept out of the system by encouraging —community ownership” of delinquency problems; and
- The juvenile justice system works collaboratively with youth-serving systems (e.g. child welfare, mental health, substance abuse, education) to provide efficient, evidence based services that produce positive outcomes by helping youth to stay connected to their families, schools and communities.

With the above principles in mind, the Task Force subcommittees then developed three overarching Maine Model system goals:

1. To ensure that every youth in Maine completes high school and has access to post secondary educational opportunities or meaningful employment;
2. To reduce reliance on incarceration and pre-adjudication detention by twenty percent (20%) in the next three years by expanding concepts related to restorative justice, positive youth development, and rehabilitation; and
3. To build a community-based system of services and programs that emphasizes connecting youth to school, their families, and their communities.

Over the next five months, through careful collaboration, research, and review, the Juvenile Justice Task Force subcommittees developed the following ten primary goals for juvenile justice system reform, strategies for achieving each of those goals, and ongoing recommendations for juvenile justice system reform.

Juvenile Justice Task Force Goals

- **Establish a statewide goal to achieve a 90% high school graduation rate by 2016 and 95% by 2020.**
- **By 2011, implement uniform statewide suspension, expulsion, zero tolerance, and truancy policies.**
- **By 2014, increase by 50% the number of children and youth in Maine who have access to quality early childhood education, proven prevention strategies, and positive youth development.**
- **Create multiple pathways for educating children and youth by working with the Department of Education in their development of a strategic plan.**
- **Reduce reliance on incarceration and pre-adjudication detention by fifty percent (50%) in the next five years.**
- **Adopt and implement a quality assurance system, an accreditation system, or a set of standards that ensure quality programs and expedient, effective case management for all detention alternatives, community based programs, and court proceedings.**
- **By September of 2010, in conjunction with the Children's Cabinet and appropriate state agencies, a statewide Coordinated Services District System (CSDS) will be implemented for the purpose of promoting integrated services and strategies across eight (8) districts in Maine related to health, education, juvenile justice, and economic security/employment. Each of the eight districts will be headed by a District Council. The initial goals of the CSDS will be to implement the recommendations of the Juvenile Justice Task Force and the recommendations of the Dropout Prevention Summit.**
- **By September, 2010, detail a statewide system for in-home and out-of-home services and placements for youth in the juvenile justice system that ensures high-quality programming that is sufficient and accessible.**
- **By September, 2010, develop a plan to identify an on-going mechanism for providing flexible funding for youth who are served by multiple state agencies, utilizing resources from the public, private, and non-profit sectors. This plan will also include funding options for in-home and out-of-home services and placements for youth in the juvenile justice system.**
- **Form a Juvenile Justice Task Force implementation committee charged with coordinating and overseeing the implementation of these recommendations and continued reform efforts.**

A Collaborative Approach to Transforming Maine’s Juvenile Justice System

I. Education

Leaving school is the single most significant predictor of negative youth outcomes. Youth who leave school are twice as likely to be unemployed, three times as likely to live in poverty, twice as likely to become the parent of a dropout, and more likely to end up in prison.¹⁵³ In Maine, 21 students in grades 9 through 12 drop out of school daily during the academic year.¹⁵⁴ These disengaged youth are at a higher risk of entering Maine’s justice systems—54.1% of adult prisoners in Maine (for whom education data is available) had less than a high school education, 11.1% had less than a 9th grade education.¹⁵⁵ Furthermore, across the country, every youth who drops out of school costs the nation \$292,000 over his or her working life.¹⁵⁶ Maine’s Governor John Baldacci recognized the importance of high school completion, stating in his America’s Promise Alliance pledge to “convene leaders from my state to commit to working together until all the young people in Maine graduate from high school ready for college and work.”¹⁵⁷ Recognizing the tremendous impact a successful educational outcome has on all areas of an individual’s life, the Education Subcommittee of Maine’s Juvenile Justice Task Force drafted the following goal:

1. Establish a statewide goal of 90% high school graduation rate by 2016 and 95% by 2020.

Strategies to achieve this goal include:

Strategy	Parties Responsible
1. Support legislation to establish in statute that a 90% high school graduation rate will be achieved by 2016. Legislation has been introduced for consideration during the 2010 legislative session.	State Board of Education; Department of Education; Legislators
2. Examine the efficacy of raising the mandatory age of school attendance from 17 to 18 years of age.	Task Force Stakeholders’ Group
3. Establish an award for school administrative units which provide evidence of successful implementation of a Dropout Prevention Plan written by a Dropout Prevention Committee as provided for in Title 20A Chapter 211 Section 5102	Shared Vision Youth Council; Education Subcommittee in conjunction with the Truancy, Dropout and Alternative Education Advisory Committee to the Education Commissioner; School Administrative Units; Children’s Cabinet
4. Support the Truancy, Dropout and Alternative Education Advisory Committee strategic planning goal to develop a training video (webinar, etc) and templates to aid SAU’s in establishing Dropout Prevention Committees and carrying out supportive strategies.	Truancy, Dropout and Alternative Education Advisory Committee; Shared Youth Vision Council; Juvenile Justice Task Force; Education Subcommittee
5. Solicit a monetary award from businesses, foundations, America’s Promise Alliance partners for the annual progress award.	Shared Youth Vision Council; Education subcommittee; Juvenile Justice Education Subcommittee

In Maine and across America, zero-tolerance policies, which stem from the Gun Free Schools Act in 1994,¹⁵⁸ have expanded in scope despite evidence that refutes their effectiveness.¹⁵⁹ These policies have the adverse effect of penalizing all prohibited actions equally without regard for the severity of the incident, the individual, or the circumstance.¹⁶⁰ Unlike other states, which recommend suspension or expulsion in cases of deliberate disobedience or deliberate disorder, Maine’s zero-tolerance policies recommend only expulsion in such cases.¹⁶¹ —Although arguably well intentioned, zero tolerance disciplinary policies along with suspensions and expulsions for poor attendance, truancy, or disciplinary infractions, often result in students being *pushed-out* of school or more subtly, not encouraged to remain in school.”¹⁶² The links that can be drawn between zero-tolerance and truancy policies, lack of school completion, and justice system involvement led the Education Subcommittee to develop the following goal:

2. By 2011, implement uniform statewide suspension, expulsion, zero tolerance, and truancy policies.

Strategies to achieve this goal include:

Strategy	Parties Responsible
1. Establish a stakeholders group to study and make recommendations on items requiring rulemaking and/or statutory changes.	State Board of Education; Department of Education; Stakeholders; Legislators; Juvenile Justice Task Force; Interested parties; Juvenile Justice Advisory Group; Truancy, Dropout and Alternative Education Committee; Education groups; Parents; Department of Corrections; School Districts
2. Establish guidelines for suspension and expulsion-notification, hearing, time frames, plan for provision of educational and supportive services, pathways to reinstatement, and alternatives to suspension/expulsion.	
3. Examine zero tolerance policies	
4. Examine truancy laws to provide best practices to schools, families and youth.	
5. Provide legal representation for children facing wrongful suspension and/or expulsion.	

In his *2006 State of the State Address*, Governor John Baldacci iterated that —people who have quality early care and education have better opportunities for success.”¹⁶³ —High quality, inclusive early care and education improves every child’s readiness for school, families’ ability to work productively and the state’s economic development goals,”¹⁶⁴ yet still, every year from 2000-2008, approximately two-thirds of Head Start eligible children in Maine were not enrolled in a Head Start Program.¹⁶⁵ In consideration of the known benefits of a quality system of early education and care, the Education Subcommittee recommends the following:

3. By 2014, increase by 50% the number of children and youth in Maine who have access to quality early childhood education and proven prevention strategies and positive youth development.

Strategy	Parties Responsible
1. Support universal four-year-old programs (preK).	Department of Education; Children’s Cabinet
2. Support current plans toward establishing early childhood education prevention efforts that begin with pre-natal care and significantly engage parents, families, and communities.	

3. Support the establishment of small class sizes as developmentally appropriate for individual grades K, 1, and 2 to maintain a balanced ratio in favor of early grades.	Juvenile Justice Task Force; Department of Education; School Administrative Units
4. Examine current state statute Title 20A section 4502, 5, which maintains school wide averages of 25 to 1 for K-8, 30-1 for grades 9-12.	
5. Ensure that children have access to health screenings, vaccinations, and other preemptive healthcare options.	Department of Health and Human Services; Public Health Agencies; School Departments
6. Develop a continuum of prevention/intervention programs to address the problem of child abuse and neglect and its correlation with juvenile delinquency.	Child Abuse and Neglect Councils
7. Support non-profit and private agencies, communities, and families in their efforts to engender Positive Youth Development concepts.	

Ensuring that every youth in Maine completes high school and has access to post secondary education or meaningful employment are major factors in preventing a youth from entering the juvenile justice system. Nontraditional methods of teaching and learning are recognized by the Education subcommittee as important components of a system that effectively engages a broad number of students and facilitates their educational success. In this vein, the Education subcommittee recommends the adoption of the following goal:

4. Work with the Department of Education in 2010 to formulate a plan that will create multiple pathways for educating children and youth.

Strategy	Parties Responsible
1. Support multiple pathways for children and youth which value and respect differentiated learning styles and educational needs.	Department of Education (ongoing efforts, LD 1325); Juvenile Justice Task Force members
2. Support individualized personal learning plans for all children and youth K-12. Develop a flexible funding mechanism where funds follow the student even when their personalized learning plan takes them out of the traditional school setting.	
3. Support increased online and other not building-bound school and community based educational opportunities for credit and work recognition for students	

II. Incarceration/Detention

Although the number of juvenile arrests has been decreasing, the number of indeterminate commitments to Maine’s two juvenile youth development centers has increased by 33% over the past three years.¹⁶⁶ On January 1, 2006, according to the Department of Corrections, 121 juveniles were committed to Maine’s youth development centers.¹⁶⁷ By July 1, 2009, that number had increased to 161 juveniles.¹⁶⁸ This increase in commitments occurred in the face of growing national research that shows that most juveniles can be served less expensively and more effectively in community-based settings.¹⁶⁹ In fact, the research suggests that ~~the~~ experience of detention may make it more likely that youth will continue to

engage in delinquent behavior, and that the detention experience may increase the odds that youth will recidivate, further compromising public safety.”¹⁷⁰

The Juvenile Justice Task Force’s Incarceration and Detention subcommittee, composed of a district court judge, juvenile prosecutors and defense attorneys, professionals from the Department of Corrections, and a national research consultant, drafted the following principle to guide and structure their work: “In most cases involving detention and in some cases involving commitment, the safety of the community and the juvenile can be adequately protected through the use of highly structured, effective community-based initiatives including: family intervention and support programs, foster homes, short term residential and crisis placements, and mental health and substance abuse services.” The consensus that many of the juveniles that end up detained or committed to a secure state facility could be less expensively and more effectively treated in the community led to the subcommittee’s first goal:

5. Reduce reliance on incarceration and pre-adjudication detention by fifty percent (50%) in the next five years.

This goal can be worked towards within the Department of Corrections, but its success relies heavily on the availability of effective community-based services.

Department of Corrections Strategies	Parties Responsible
1. Develop a plan to reduce the number of girls committed to the Long Creek Youth Development Center by 50% by June 2011. This strategy is contingent upon the availability of adequate alternatives to detention along with the development of placement and treatment options serving as effective alternatives to commitment.	Department of Corrections
2. Enhance 24/7 crisis response teams or protocols that are equipped with program and placement options, research-based assessment tools, well-trained case managers, and access to other service professionals.	Department of Corrections
3. Provide all juveniles (not only those with an Axis I diagnosis) with case management services that systematically incorporate wraparound principles that ensure the attendance of representatives from state agencies, school district representatives, the family, and family supports at wraparound services meetings.	Department of Corrections
4. Provide all youth leaving secure facilities, after any length of stay, with comprehensive aftercare and reintegration programs that are aligned with facility-resources and involve the family, community, school, justice system, and local supports to ensure a smooth transition from the highly structured facility environment back into society. In this process, begin appropriate family services (MST, FFT) before the juvenile returns from any period of out-of-home placement.	Department of Corrections
5. Examine the efficacy of programs which involve the judiciary in the process of assuring that a juvenile receives the necessary services.	Court System; Department of Corrections; Juvenile Justice Advisory Group
6. Develop a process to identify those juveniles who are not competent to stand trial and create a clear and accessible system to manage juveniles found not to be competent, recognizing the needs of the juvenile and the risks to the community.	Department of Health and Human Services; Department of Corrections
7. Youth in the process of competency determination should be placed in an alternative setting, separate from general	

Youth Center detainees.	
8. Integrate secure facilities with community-based programs through information-sharing protocols and other means of collaboration.	Department of Corrections
9. Encourage local governments and municipalities to promote local communication and collaboration with stakeholders in the Juvenile Justice System through the establishment of planning, advocacy, and oversight groups that include professionals, juvenile justice system-involved youth, and concerned citizens.	Department of Corrections; Legislature
10. Continue assessment of disproportionate minority contact in the juvenile justice system. Make community education and detention alternative programs gender and ethnically responsive.	Juvenile Justice Advisory Group

The Incarceration/Detention Subcommittee also recognized that to achieve the goal of reducing detention and commitment, it will be necessary to expand several existing programs and establish new evidence-based practices. Placing juveniles in the least restrictive settings that balance the interests of public safety and the best interests of the juvenile is an essential building block that will spur the growth of new programs. Thus, the Incarceration/Detention subcommittee outlined strategies toward building the sort of community-based system that is essential to reducing reliance on secure facilities.

Integrated and Community-Based Strategies	Parties Responsible
11. Capitalize on existing community strengths by expanding effective community-based services, and other programs that rely on natural relationships with adults in the community. Highlight programs that include mentoring, Restorative Justice, and natural pro-social relationships.	Juvenile Justice Advisory Group; Restorative Justice Project; Community-Based Agencies
12. Utilize positive youth development principles in the creation of all residential options, including those which do not require proof of medical necessity, and community-based services and programs.	Children’s Cabinet; Community-Based Agencies
13. Enhance ability of natural supports, local community resources, and supported kinship care as alternatives to detention/commitment.	Department of Corrections; Community-Based Agencies
14. Improve the retention and completion rates of youth in schools, treatment programs, and residential placements. All programs shall demonstrably employ effective behavioral management practices that rely on the principles of Collaborative Problem Solving or other proven developmentally appropriate cognitive skill-teaching methodologies.	Department of Corrections; Community-Based Agencies
15. Expand foster care options for youth involved in the juvenile justice system. A joint program with DHHS that makes selected foster care homes available on a voluntary and short-term basis for adolescents in juvenile justice system needs to be created. Increase number of Multi-Dimensional Treatment foster care placements.	Department of Health and Human Services; Department of Corrections
16. Secure rapid alternative subsequent placement for youth who are removed from a prior DHHS placement.	
17. Support local services for nonviolent juvenile offenders, through the use of Innovative Community Grant Awards or other sustainability-minded incentives including the recruitment of community volunteers to serve as —family	Department of Corrections; Private

resources centers” (c.f. CEOJJC) to provide youth with safe and skilled supervision on an as-needed basis.	Foundations
18. Ensure that placement decisions are made according to identified risks and needs of the juvenile justice client and that placements reflect a collaborative effort between parties in the juvenile justice system and state agencies and service providers.	DOC; DHHS; Court System; Community-Based Agencies
19. Examine DHHS occupancy data, including Medicare-funded and non-Medicare-funded beds, to determine whether there is a shortage of beds and whether the availability of residential beds meets the needs of youth awaiting placement.	Department of Corrections; Department of Health and Human Services
20. Revise Children’s Behavioral Health Services/Department of Health and Human Services/Department of Corrections guidelines for behaviorally required residential placements in order to increase the number (capacity) of temporary residential and crisis placement options that do not require the Intensive Temporary Residential Treatment process, reviewing and removing, where necessary, the current medical diagnostic prerequisites.	
21. Improve the consistency, timeliness, and accuracy of front-end functional behavioral assessments, including asset and needs assessments that can be used for decision making and case management.	
22. Require comprehensive research-based assessments for juveniles with serious mental health needs, including substance abuse and trauma, and/or developmental disabilities.	

Not only does detention and incarceration negatively affect juveniles’ mental and physical well-beings, future earning abilities, educational opportunities, and rates of recidivism, but it also costs states more than community-based alternatives to detention that can better curb crime and recidivism. States across America spend an estimated \$5.7 billion each year imprisoning approximately 93,000 juveniles.¹⁷¹ Maine spends over \$65,500 per day on the incarceration of juveniles.¹⁷² These costs are incurred despite the fact that community-based alternatives to detention can be both more cost-effective and more successful in protecting public safety—[t]he most effective programs at reducing recidivism rates and promoting positive life outcomes for youth are administered in the community, outside of the criminal or juvenile justice systems” and —community-based programs for youth are more cost-effective than incarceration”—at times reaping \$13 in benefits to public safety for every dollar spent.¹⁷³

To ensure that a community-based detention alternative will save money, improve youth outcomes, and maintain public safety, it is necessary that all programs and placements used for high and medium risk juvenile justice clients be rigorously evaluated using evidence-based methods and periodically monitored and improved. In addition to community-based alternatives, court proceedings also must be held to a higher standard in terms of efficiency and high quality measurements. The following goal was developed by the Incarceration/Detention Subcommittee to fulfill this need.

6. Adopt and implement a quality assurance system, an accreditation system, or a set of standards that ensure quality programs and expedient, effective case management for all detention alternatives, community based programs, and court proceedings.

Strategies	Parties Responsible
1. Create incentives for programs that demonstrate positive outcomes and provide mechanisms for providers to adopt new research-guided programs, treatment and practices over time.	Juvenile Justice Advisory Group; Department of Corrections
2. Evaluate all programs used for juvenile offenders, including residential programs, using research-guided client outcome tools. (Community-based performance, performance-based standards, or other best-practice continuous	

improvement evaluation strategies, such as the Correctional Program Assessment Inventory, should be implemented).	
3. Support current efforts by Department of Health and Human Services, Department of Corrections, and the Juvenile Justice Advisory Group to rigorously evaluate the effectiveness of programs and placements.	DHHS; DOC; Juvenile Justice Advisory Group
4. Develop and implement a mechanism for information-sharing and program accountability, including the requirement that programs cooperate in the tracking and reporting of outcomes for treated juveniles, including engagement, retention, program completion, six months recidivism rates, and positive youth development enhancements. Explore the development of a local juvenile justice collaborative to assist in these efforts.	Department of Corrections; Juvenile Justice Advisory Group
5. Establish a single clearinghouse that has immediate information as to the availability of programs within a continuum of care on a statewide basis. This information should be made available on a secure website, in real time, to all parties in the juvenile justice system, including juvenile justice correction officers, prosecutors, defense counsel and courts. The continuum of care shall include effective, research guided care that ranges from initial contact to comprehensive aftercare and includes diversion programs, residential programs and other alternatives to secure confinement.	Court System; Department of Corrections; Department of Health and Human Services
6. Provide judges with timely, objective and relevant information about the risks, needs and circumstances of juveniles, along with available research-guided options and resources, in a manner consistent with state and federal regulations.	Department of Corrections
7. Develop minimum standards for competency and certification that include juvenile law, adolescent mental health issues, adolescent brain development, positive youth development, trauma, asset building, and research-guided correctional risk-reduction principles and strategies for juvenile defense counsel, juvenile prosecutors, JCCOs and GALs assigned to juvenile justice-involved youth.	Court System; Department of Corrections; Maine Bar Association
8. Expedite the release or court processing of pre-adjudicated and detained juveniles. If no conditional right to release from detention has been authorized, a detention review, focusing on the purposes and criteria for detention and taking into account behavior while in detention along with identified recommended community alternatives, should be explored at approximately 20 working day intervals pending adjudication. If the juvenile has multi-agency involvement, all agencies involved should be expected to report to the court in-person, to the fullest extent possible.	Court System; Department of Corrections
9. According to a chosen method of economic analysis, sustain and expand proven cost-effective community-based programs, regardless of high initial costs. A funding mechanism should be established for such community-based programs that have been shown to have positive cost-benefit ratios using an accepted longitudinal tracking methodology.	Department of Corrections; Juvenile Justice Advisory Group

III. Community-Based Services Systems

The work of the Task Force highlighted the need for a robust and integrated community-based system of services for youth who are involved in the juvenile justice system. In Maine, youth are held accountable for their behavior by schools, police officers, Juvenile Community Corrections

Officers, detention, and incarceration. A range of obstacles limit the community responsiveness to juveniles, placing increasing reliance on the juvenile justice system, especially detention and incarceration. The Community-Based Services Systems Subcommittee recognizes the need to improve and develop Maine’s community-based services system to create more effective, expedient, and developmentally appropriate programming at less cost. Due to the rural nature of Maine, a community-based service delivery system is vital to ensure all youth with adequate service provision. Thus, the Community-Based Services System Subcommittee developed the following goal to address the way services are accessed and coordinated across the state:

7. By September of 2010, in conjunction with the Children’s Cabinet and appropriate state agencies, a statewide Coordinated Services District System (CSDS) will be implemented for the purpose of promoting integrated services and strategies across eight (8) districts in Maine related to health, education, juvenile justice, and economic security/employment. Each of the eight districts will be headed by a District Council. The initial goals of the CSDS will be to implement the recommendations of the Juvenile Justice Task Force and the recommendations of the Dropout Prevention Summit.

Strategies to create and maintain an effective service delivery body include:

Strategy	Parties Responsible
1. Support ongoing efforts to establish district coalitions across agencies to provide better communication, referral, and provision of services	Children’s Cabinet; Shared Youth Vision Council
2. Appoint a Regional Planning team to review current structures across agencies and to recommend an operating structure.	
3. Catalogue what exists now for services, after-school, mentoring, and other programs to ensure full utilization and to identify resource needs and increase these opportunities	Shared Youth Vision Council; Dept. of Education; Maine Afterschool Network
4. Develop a comprehensive system of after-school programs, drop-in centers, and weekend recreation programs that are easy to access.	Children’s Cabinet; Shared Youth Vision Council
5. Develop best practices and consistent, state-wide implementation for juvenile diversion programs	
6. Support pilot projects where local solutions can be implemented and evaluated	
7. Expose community leaders to efforts that are making a difference	
8. Engage community leadership to develop programs and projects that would focus on high needs youth of all ages.	Shared Youth Vision Council; Dept. of Education; Maine Afterschool Network; Children’s Cabinet
9. Develop a cross-silo infrastructure that promotes service integration	
10. Create a mechanism that will identify youth with frequent system contact and facilitate their access to effective interventions	Department of Corrections

11. Develop a statewide and regional protocol that flags youth with frequent system contact and requires implementation of a strategic plan that can meet their needs	
12. Improve tracking and coordinated services for multi-agency involved youth or youth repeatedly in contact with the system.	
13. Collect data on trans-institutionalization as juvenile services are reduced and more youth enter the juvenile justice system. Identify all youth not living in a family. Use that data to create policy change.	

In addition to collaborative models of service delivery, the community-based services in Maine must be expanded and developed to meet current need, reflect the most recent research, and incorporate best practices. A recurring observation that emerged from the Task Force’s work was the lack of cohesion between programs, which leaves even highly-effective services without access to emerging research and supportive funds. Even the most well-conceived programs are at risk of closing due to insufficient usage or unsustainable funding sources. By coordinating the system of community-based services and holding those services to high standards of efficiency and effectiveness, youth across Maine will better access to: a continuum of diversion programs and placement alternatives, a comprehensive system of after-school programs, drop-in centers, weekend recreational programs, transition services, and family supports. To meet this end the following goal was developed:

8. By September, 2010, detail a statewide system for in-home and out-of-home services and placements for youth in the juvenile justice system that ensures high-quality programming that is sufficient and accessible.

Strategy	Parties Responsible
1. Support legislation encouraging state agencies to draft a comprehensive map of available programs, placements, and services	Juvenile Justice Task Force; Shared Youth Vision Council
2. Build a system that is based on research-guided programs, data analysis, and Blueprint programs	Department of Health and Human Services; Department of Corrections
3. Create incentives for the expansion and continuation of programs that are effective	
4. Require fidelity to proven models and fund them adequately	
5. Build a system that is data driven and outcome based, rather than based on unit of service.	
6. Expand existing family supports, coordinate access to these supports, and inform every family	
7. Work with the federal government to use the Runaway and Homeless Youth Act	
8. Identify and address service gaps at points of transition	Transition Council; Department of Corrections
9. Require realistic comprehensive transition plans for all juveniles 12 months before they leave the Juvenile Justice or Child Welfare systems. Recognize special subsets to make sure the directives of the Individuals with Disabilities Education Act are met. Make sure plans include housing, school, transportation, and other resources that must be in place if they are to succeed	
10. Facilitate and support a juvenile’s independent identification of relationships that serve as familial surrogates (i.e. a friend’s house, a teacher, an uncle, etc.)	Department of Corrections
11. Address the issue that committed and detained youth sometimes do not have visitors for months or years (leading to poor outcomes, recidivism, and loss of community) by developing a plan to meet these needs via	

outreach to families and the use of mentors and kinship relations	
12. Develop a rapid-response plan that creates local response teams to meet the needs of a family recently involved in domestic violence	Children’s Cabinet; D.V. Council; Child Protection; Family support programs
13. Engage the domestic violence community to help develop effective strategies and responses with outcomes to help specifically address youth who commit and/or witness domestic violence.	

IV. Funding

The Juvenile Justice Task Force recognizes the centrality of funding issues in all of its recommendations for reform. The three subcommittees are particularly concerned with the following: guidelines that restrict the access to and use of funds by agencies and programs, which often cause pervasive obstacles to the adequate and effective provision of services;¹⁷⁴ funding silos that preclude the transfer of resources to where they will be best utilized; and funding challenges that Maine faces due to its rural character.¹⁷⁵ Although a shift to dependence upon highly responsive and evidence-based community services will save resources, the reforms and ultimate savings are not possible without a restructuring of how funds are allotted and controlled. To fulfill the imperative of increased funding for community-based services, the three subcommittees of the Task Force generated the following goal:

9. By September, 2010, develop a plan to identify an on-going mechanism for providing flexible funding for youth who are served by multiple state agencies, utilizing resources from the public, private, and non-profit sectors. This plan will also include funding options for in-home and out-of-home services and placements for youth in the juvenile justice system.

The execution of these goals begin by **supporting legislation that calls for the Department of Corrections to design and implement, by December 2010 and using existing resources, two demonstration projects that utilize a capitated or quasi-capitated funding model to provide services for youth who are in or at risk of entering the juvenile justice system.**

Other strategies that will enhance the use of flexible funding and eliminate funding barriers to needed services and placements include:

Strategy	Parties Responsible
1. Support pilot projects and all possible funding strategies that make better use of resources and reduce inefficiencies	Children’s Cabinet; DOC; Juvenile Justice Advisory Group
2. Examine cross-system mechanisms to share or braid funding.	
3. Develop policy guidelines to address the problems of treatment funding through the elimination of funding barriers and/or the allocation of flex funds to bridge gaps in services.	DOC; Department of Health and Human Services
4. Revise and reallocate funding, specifically categorical funding, to allow for more flexibility ensuring planned access to necessary out-of-home temporary placements, and planned transitions from those placements. Utilize resources from the public, private, and non-profit sectors.	Department of Corrections; Department of Health and Human Services; Private Foundations
5. In rural areas, explore creative methodologies to expand access to services, using pooled resources, or	Department of Health and Human

shared programs and placements that address the needs of their local juvenile justice community.	Services; Department of Corrections
6. Address funding barriers, either due to insurance non payment or diagnostic requirements and expand services that are not resource-dependent.	Department of Corrections
7. Use ideas proposed by researchers, such as Dr. Dennis Embry and the Paxis Institute’s Evidence Based Kernels that can be implemented without the need for new fiscal resources.	Children’s Cabinet
8. The use of private health insurance funds should be maximized whenever possible, using state funds to augment those funds if gaps in or barriers to needed services are identified.	Department of Health and Human Services; Department of Corrections
9. Increase ability to serve youth who are able to obtain funding outside of MaineCare options.	Department of Corrections
10. Ensure that the two Youth Development Centers have appropriate funding levels to provide educational and support services, including online courses along with transitional educational aftercare services. Resources need to be maintained to ensure academic and correctional system standards to maintain school approval, accreditation and top rankings in national accreditation and performance-based outcomes.	Department of Corrections
11. Ensure that savings resulting from decreased incarceration remain in juvenile justice funding for the enhancement of Juvenile Justice Task Force recommendations.	Department of Corrections; Legislature
12. Investigate the use of Federal Title IV-E funds for community-based services geared towards juvenile justice system involved youth.	Department of Health and Human Services; Department of Corrections

V. Implementation

In order to create lasting change, a mechanism must be put into place to further the work of the Juvenile Justice Task Force and spur on meaningful reform initiatives. This staffed committee will coordinate efforts between partnering groups and agencies in order to carry out the recommendations put forth by the Juvenile Justice Task Force and ratified by stakeholders across the state.

Goal 10: Form a Juvenile Justice Task Force implementation committee charged with coordinating and overseeing the implementation of these recommendations and continued reform efforts.

The goals stated above constitute an actionable blueprint for effective juvenile justice reform. These goals, along with their related strategies, are meant to guide stakeholders toward a model of juvenile justice in Maine that saves money, better manages important services and resources, and boasts improved outcomes for all Maine youth.

Implementation and Next Steps

With the release of this Task Force Report, the Juvenile Justice Task Force hopes to raise awareness around this important and too often overlooked issue and garner support around our efforts to address it. Throughout the spring of 2010, following the release of the Task Force Report, the Task Force will launch a media campaign to both publicize the work of the Task Force and solicit stakeholder opinions. The public awareness campaign will engage a diverse group of Maine stakeholders in an ongoing discussion that will inform revisions of the Task Force Report and guide the implementation process. This campaign will include town hall meetings, symposiums, press releases, and interviews with key figures in the effort. The Task Force holds it as a high priority to involve as many stakeholder voices into the discussion as possible and is committed to receiving input and feedback from any who wish to contact us.

In addition to continuing discussions and revision of our recommendations and strategies, the Task Force will move forward this spring with plans for implementation. Currently, the goals of the Task Force are reflected in two separate pieces of legislation that were submitted at the beginning of the 2010 legislative session. One directly addresses the Education portion of the Task Force recommendation, including raising rates of high school graduation and examining the efficacy of policies regarding expulsion, suspension, truancy and those transgressions for which many schools exhibit “zero-tolerance”. The second bill, put before the Joint Standing Committee on Criminal Justice and public Safety, calls for the re-districting of state agencies in order to facilitate collaboration and eliminate administrative redundancy. It also asks the Department of Corrections to take the lead in creating two demonstration projects that explore the possible advantages of serving juvenile justice system-involved youth using a capitated funding model for service provision. The bill also asks state agencies to develop a plan that will detail a statewide system for in-home and out-of-home placements for juvenile justice clients as well as a funding mechanism that can be used to better serve youth who are involved with multiple state agencies.

In addition to rallying behind the passage of these two pieces of legislation, the Task Force is working on collaborations with state agencies, the Juvenile Justice Advisory Group, and other affiliates. The tenth goal of the Juvenile Justice Task Force calls for the creation of an implementation team whose sole responsibility will be to coordinate efforts and collaborate with partners in the advancement of the Task Force’s goals. The Task Force will have a final meeting in May, 2010, at which they will approve the final version of the Task Force Report and provide input into the creation and design of various implementation initiatives.

List of Appendix Documents

MAINE RISING Juvenile Justice Summit Resource Guide

Juvenile Justice Model Programs

Muskie School of Public Service Juvenile Justice Task Force Presentation

Community-Based Services System Subcommittee Intercept Map

LD 1658, "An Act to Increase Maine's High School Graduation Rates"

LD 1703, "An Act to Implement the Recommendations of the Juvenile Justice Task Force"

¹ Bart Lubow's Presentation at the Maine Rising Juvenile Justice Summit, *Systemic Change in Juvenile Justice: Finding Detention Alternatives that Work*, pg 6, found at <http://muskie.usm.maine.edu/justiceresearch/JuvenileJusticeTaskForce/Materials.html>. Citing *OJJDP Statistical Briefing Book: Juvenile Offenders 2006*; Easy Access to FBI Statistics Database 2007.

² Bart Lubow's Presentation at the Maine Rising Juvenile Justice Summit, *Systemic Change in Juvenile Justice: Finding Detention Alternatives that Work*, pg 3, found at <http://muskie.usm.maine.edu/justiceresearch/JuvenileJusticeTaskForce/Materials.html>. Citing: Office of State Courts Administrator, Florida Juvenile Delinquency Court Assessment (2003); LeBlanc, (1991). *Unlocking Learning in Correctional Facilities*, Washington, D.C.; *Substance use, abuse and dependence among youth who have been in jail or a detention center: The NSDUH report*, The Nation Center on Addiction and Substance Abuse (CASA) at Columbia University, (2004); America's Promise report on nation rates of high school dropouts: www.msnbc.man.com/id/23889321/.

³ Justice Policy Institute, Barry Holman and Jason Ziedenis, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, 2 (Nov. 2006), http://www.juticespolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf [hereinafter *The Dangers of Detention*].

⁴ See JDAI, Models for Change,

⁵ New York Times version of NY Task Force Report : <http://documents.nytimes.com/14juvenile#p=39> (page 38 and 39)

⁶ JDAI Pathways Series: #3 Controlling the Front Gates, pg 13

⁷ "Rethinking the Juvenile in Juvenile Justice" Wisconsin Council on Children and Families – footnoted to Casey Foundation, *Small is Beautiful*, Report on the Missouri Department of Youth Services.

⁸ Butts, J., Mayer, S., and Ruth, G., *Focusing Juvenile Justice on Positive Youth Development*, Chapin Hall, 2005.

⁹ Alma Powell, Chair, America's Promise Alliance - "Delivering America's Promise," 2009 American Academy of Pediatrics National Convention and Exhibition, October 17, 2009: - <http://www.americaspromise.org/About-the-Alliance/Press-Room/Speeches-and-Quotes/2009-Alma-Powell-October-17.aspx>. "If you drop out, you're twice as likely to be unemployed as a high school graduate. You'll be three times as likely to live in poverty. You're eight times more likely to wind up in prison. There's a four in 10 chance you'll depend on public assistance. You're more likely to have health problems, and your life expectancy will be shorter. And you're twice as likely to become the parent of a dropout and perpetuate the cycle."

¹⁰ America Alliance website. —Onwork”

¹¹ Id. at vi (Alma Powell, Chair...)

¹² Center for Labor Market Studies, Northeastern University, *The Consequences of Dropping Out of High School: Joblessness and Jailing for High School Dropouts and the High Cost for Tax Payers*. (October, 2009) —The average high school dropout will cost taxpayers over \$292,000 in lower tax revenues, higher cash and in-kind transfer costs, and imposed incarceration costs relative to an average high school.”

¹³ See American Bar Association, *Zero Tolerance Policy Report* (2001), available at <http://www.abanet.org/crimjust/juvjus/zerotolreport.html> (discussing the expanded scope and unintended consequences of zero tolerance policies). (—Although few could quarrel with a policy of zero tolerance towards children who misbehave - adults who raise, teach or supervise children should react to misbehavior - their responses should be appropriate to the age, history and circumstances of the child as well as to the nature of the offense. Unfortunately, when it is examined closely, „zero tolerance” turns out to have very little to do with zero tolerance, and everything to do with one-size-fits-all mandatory punishment.”)

¹⁴ Institute for the Study of Students At Risk, College of Education and Human Development, University of Maine, *Maine Dropout Prevention Guide* pg 27. (2006)

¹⁵ Children’s Defense Fund, *State of America’s Children*, pg 63 (2005). —Infants and toddlers (birth to age two) need nurturing, quality care in order to develop the intellectual, behavioral, social, and emotional abilities that form the critical foundation for later success in school and in life.”

¹⁶ United States Department of Health and Human Services, Administration for Children and Families, Family and Youth Services Bureau, *Fact Sheet: Positive Youth Development*, found at: <http://www.acf.hhs.gov/programs/fysb/content/positiveyouth/factsheet.htm>

¹⁷ See *The Costs of Confinement*, at 1 (—California, Illinois, Ohio, New York, Pennsylvania, and other large states are redirecting funds once spent on large residential facilities, and spending those dollars on less expensive, more effective programs to curb reoffending and reduce youth crime.”).

¹⁸ Alma Powell, Chair, America’s Promise Alliance - —Delivering America’s Promise,” 2009 American Academy of Pediatrics National Convention and Exhibition, October 17, 2009: - <http://www.americaspromise.org/About-the-Alliance/Press-Room/Speeches-and-Quotes/2009-Alma-Powell-October-17.aspx>. See also Justice Policy Institute, *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense* (May 2009),

¹⁹ Diplomas Count, produced by Education Research Center.

²⁰ Alliance for Excellent Education, *The High Cost of High School Dropouts: What the Nation Pays for Inadequate High Schools*, Issue Brief, at 5 (Oct. 2007), available at <http://www.all4ed.org/files/HighCost.pdf>.

²¹ USM Muskie School of Public Service, Justice Policy Program *2008 Maine Crime & Justice Data Book* (2009) pg. 3-6 —Of the 1,840 prisoners in adult facilities for whom education data is available, a majority of prisoners (54.1%) have less than a high school (HS) education, and nearly one-eighth (11.1%) have less than a 9th grade education. Overall, 45.9% of the inmates in Maine’s prison system have a 12th grade education or a higher level of education, compared with 89.4% across the state.”

²² Maine’s Dropout Prevention Summit Executive Summary - <http://www.maine.gov/cabinet/syv/WorkAndActionReports/SummitMaterials.htm>

²³ Citation to Maine Dropout Prevention Guide

²⁴ Cite to Zero Tolerance Statute

²⁵ Voices for America’s Children and the Child and Family Policy Center, *Early Learning Left Out: An Examination of Public Investments in Education and Development by Child Age 5* (2004).

²⁶ Maine Department of Health and Human Services, *Invest Early In Maine, A Working Plan for Humane Early Childhood Systems*, (2006). [update with 2008 report?] <http://www.maine-eccs.org/Invest%20Early%20in%20Maine%202008.pdf>.

²⁷ U.S. Department of Human Services, Administration for Children and Families, Office of Head Start, About the Office of Head Start - <http://www.acf.hhs.gov/programs/ohs/about/index.html>.

²⁸ Maine Children's Alliance, *Maine Kids Count Data Book*, pg 19 (2009).

²⁹ *Juvenile Trends Excerpted from 2008 Maine Crime & Justice Data Book*, Maine Statistical Analysis Center, USM Muskie School of Public Service, 2008, p 4-6

³⁰ *Id.*

³¹ *Id.* p iii

³² *Id.*

³³ *Id.* p iv

³⁴ *Id.* p 2-8

³⁵ *Id.* p v

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* 4-6

³⁹ *Id.* 4-11

⁴⁰ *Id.* p 4-11

⁴¹ *Id.* 4-11

⁴² *Id.* 4-10

⁴³ *Id.* 2-8

⁴⁴ DRAFT of *Disproportionate Minority Contact in Maine Report: DMC Assessment and Identification*, University of Southern Maine, Muskie School of Public Service, Prepared for the Juvenile Justice Advisory Group, September 2009, pg 38.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Juvenile Justice Advisory Group, *Detention Project: Maine Survey/Interview*, at 4 (Jan 2003), available at <http://www.maine.gov/corrections/jjag/ReportsPubs/DetentionReportFinal.pdf>.

⁴⁸ <http://www.qualitycareforme.com/MaineMembers.htm>

⁴⁹ http://www.qualitycareforme.com/documents/provider_levelofcarecriteria.pdf (pp. 33-50)

⁵⁰ http://www.qualitycareforme.com/documents/APS_member_handbook.pdf (pg. 5)

⁵¹ http://www.qualitycareforme.com/documents/provider_levelofcarecriteria.pdf (pg. 49)

⁵² <http://www.portlandmaine.gov/hhs/esacminutes10-15-2009.pdf> (p. 6)

⁵³ <http://www.maine.gov/dhhs/ocfs/wraparound/aboutus.shtml>

⁵⁴ <http://www.rtc.pdx.edu/nwi/PDF/WAOverview.pdf> (pg. 3)

⁵⁵ http://www.maine.gov/dhhs/ocfs/wraparound/preliminary_outcomes.pdf (pg. 14)

⁵⁶ Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement Databook*, http://ojjdp.ncjrs.gov/ojstatbb/cjrp/asp/State_Adj.asp and American Correctional Association, *2008 Directory: Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities* (2008).

⁵⁷ http://www.maine.gov/dhhs/ocfs/wraparound/preliminary_outcomes.pdf (pg. 24)

⁵⁸ **(FOOTNOTE: OJJDP Truancy Bulletin that cites “a report compiled by the Los Angeles County Office of Education on factors contributing to juvenile delinquency concluded that chronic absenteeism is the most powerful predictor of delinquent behavior”)**

⁵⁹ OJJDP Truancy Bulletin

⁶⁰ <http://www.maine.gov/education/enroll/dropouts/dropgraddef.htm> –For graduation rate for the class of 2008, Maine compared the number of students who entered ninth grade for the first time four years earlier in the fall of 2004 and received a “regular” diploma in 2008. For this calculation the denominator contains the cohort of all first time ninth graders from four years earlier plus all transfers into this cohort minus all transfers out (e.g. death, moving to another Maine school). The numerator contained only “regular” diploma recipients from the four year cohort. “Regular” diplomas include diplomas received by SWD students granted five/six years by their IEP, and Limited English Proficient (LEP) students granted five/six years as part of their documented Personal Learning Plans. In both of these cases the students met the requirements of the Maine Learning Results. These five/six year “regular” diploma recipients are tabulated separately allowing them to be extracted in order to produce a four-year cohort graduation rate. This approach satisfies both the NGA and NCLB graduation requirements while aligning with Maine’s practice of allowing SWD and LEP students more than four years to meet Maine’s “regular” diploma standards.”

⁶¹ <http://www.maine.gov/education/enroll/grads/comprate/08comprate.htm>

⁶² Alma Powell, Chair, America’s Promise Alliance - “Delivering America’s Promise,” 2009 American Academy of Pediatrics National Convention and Exhibition, October 17, 2009: - <http://www.americaspromise.org/About-the-Alliance/Press-Room/Speeches-and-Quotes/2009-Alma-Powell-October-17.aspx>. –If you drop out, you’re twice as likely to be unemployed as a high school graduate. You’ll be three times as likely to live in poverty. You’re eight times more likely to wind up in prison. There’s a four in 10 chance you’ll depend on public assistance. You’re more likely to have health problems, and your life expectancy will be shorter. And you’re twice as likely to become the parent of a dropout and perpetuate the cycle.” See also Justice Policy Institute, *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense* (May 2009), http://www.justicepolicy.org/images/upload/09_05_REP_CostsOfConfinement.pdf [hereinafter *The Costs of Confinement*] (“Research continually links education and the likelihood of participating in illegal behavior or ending up in prison. Forty-one percent of adults in prison and jails do not have a high school diploma and . . . dropouts are 3.5 times more likely than high school graduates to be arrested.”) (internal citations omitted); American Civil Liberties Union, *Locating the School-to-Prison Pipeline* (2007), http://www.aclu.org/images/asset_upload_file966_35553.pdf (“For most students, the pipeline begins with inadequate resources in public schools. . . . [F]ailure to meet educational needs increases disengagement and dropouts, increasing the risk of later court involvement.”).

⁶³ FOOTNOTE: –A report from the University of Maryland found that 51 percent of female juvenile detainees not in school at the time of their arrests tested positive for drug use.⁶ (INSERT) Another study by the U.S. Department of Justice’s Drug Use Forecasting (DUF) program reported that more than half (53 percent) of a group of 403 male juvenile arrestees in San Diego, California, tested positive for drug use when taken to juvenile hall. Not surprisingly, those who did not attend school were more likely (67 percent versus 49 percent) to test positive for drug use than those who did attend.” (INSERT)

⁶⁴ Maine Children’s Alliance, *Maine Kids Count Data Book*, at 20 (2008).

⁶⁵ USM Muskie School of Public Service, Justice Policy Program *2008 Maine Crime & Justice Data Book* (2009) pg. 3-6 –Of the 1,840 prisoners in adult facilities for whom education data is available, a majority of prisoners (54.1%) have less than a high school

(HS) education, and nearly one-eighth (11.1%) have less than a 9th grade education. Overall, 45.9% of the inmates in Maine's prison system have a 12th grade education or a higher level of education, compared with 89.4% across the state."

⁶⁶ Center for Labor Market Studies, Northeastern University, *The Consequences of Dropping Out of High School: Joblessness and Jailing for High School Dropouts and the High Cost for Tax Payers*. (October, 2009) –The average high school dropout will cost taxpayers over \$292,000 in lower tax revenues, higher cash and in-kind transfer costs, and imposed incarceration costs relative to an average high school graduate."

⁶⁷ Id. At 1 –If the dropouts who would have been part of the Class of 2009 had stayed in school and graduated, they'd generate an additional \$319 billion in wages, taxes, and productivity over their working lives."

⁶⁸ Alliance for Excellent Education, *The High Cost of High School Dropouts: What the Nation Pays for Inadequate High Schools*, Issue Brief, at 5 (Oct. 2007), available at <http://www.all4ed.org/files/HighCost.pdf>.

⁶⁹ Id.

⁷⁰ MAINE DROPOUT PREVENTION GUIDE ALREADY CITED ABOVE – PG 21.

⁷¹ MAINE DROPOUT PREVENTION GUIDE – ALREADY CITED ABOVE – PG 21

⁷² Id (MAINE DROPOUT PREVENTION GUIDE

⁷³ Id MAINE DROPOUT PREVENTION GUIDE

⁷⁴ GRAD NATION GUIDEBOOK pg 52 via <http://www.americaspromise.org/Our-Work/Dropout-Prevention/Grad-Nation.aspx>

⁷⁵ Id. GRAD NATION GUIDEBOOK at 52

⁷⁶ Id at 69 MAINE DROPOUT PREVENTION GUIDE

⁷⁷ Id MAINE DROPOUT PREVENTION GUIDE.

Also: ***Project Helping Hand***

Project Helping Hand receives referrals from the schools for youth in kindergarten through eighth grades who have a minimum of 5 days of unexcused absences. (Referrals from parents and social service agencies are also accepted.) A truancy worker meets with the youth and family to conduct an assessment and to provide short-term family counseling, usually up to eight sessions. After the truancy worker completes the assessment, the worker meets jointly with the family and school personnel to develop a plan to improve the child's attendance and address family needs. Referrals for additional social services (e.g., housing, food stamps, day care, medical, substance abuse, psychiatric, parent support, and single parent programs) are made on an as-needed basis. If the family fails to keep appointments, home visits are made to encourage cooperation. If parents continue to resist participating or school attendance does not improve, a referral can be made to the family court.

At School, On Time, Ready to Work

At the first sign of truancy, families are referred to the program by the school. Once referred, they are contacted by the prosecutor and given the opportunity to enter the program. When the family agrees to become part of the 90-day program, they enter a three-pronged treatment approach: (1) Intensive supervision of the child: A worker (usually from a social service agency) is assigned to the child during the entire 90-day period. The worker verifies the child's school attendance daily and meets several times a week with him or her during the first 30 days of the contract. The worker also serves as a liaison between the social service agency, the prosecutor, the school, and the family.

(2) Support and therapy services are provided: Students in the program meet regularly with a mental health counselor to share life experiences and to learn skills to build self-esteem and confidence in school.

(3) Support and education services to the parents of the child: Parents attend group meeting that focus on effective parenting techniques and the importance of their child's education.

Following completion of the program, students are tracked and attendance continues to be monitored.

→ VIA National Center on Rural Justice and Crime Prevention Truancy Prevention Fact Sheet, August 2001 via <http://www.maine.gov/cabinet/syv/WorkAndActionReports/SummitMaterials.htm>

⁷⁸ ID MAINE DROPOUT PREVENTION GUIDE

⁷⁹ Id at 65, italics in the original MAINE DROPOUT PREVENTION GUIDE

⁸⁰ This statute was enacted under Congress' spending power to prevent students from bringing weapons to school. It is different than the Gun-Free School Zones Act of 1990, which the U.S. Supreme Court struck down in 1995, holding that it exceeded Congress' power under the Commerce Clause of the U.S. Constitution. *U.S. v. Lopez*, 115 S.Ct. 1624 (1995). Congress amended the Gun-Free School Zones Act in 1996, adding a jurisdictional requirement which states, "It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone." 18 U.S.C. § 922(q)(2)(A)." NSBA GUIDELINES, Jan 2002 via

⁸¹ See Me. Rev. Stat. Ann. tit. 20-A, §1000 (9) (2009) (providing Maine's standards for student suspensions and expulsions).

⁸² Institute for the Study of Students At Risk, College of Education and Human Development, University of Maine, *Maine Dropout Prevention Guide* pg 27. (2006)

⁸³ Voices for America's Children – Early Learning Left Out – pg 4 (See below for full citation.)

⁸⁴ Voices for America's Children – Early Learning Left Out – pg 4 (See below for full citation.)

⁸⁵ INVEST EARLY IN MAINE pg 1 – see footnote lower for full citation

⁸⁶ Children's Defense Fund, *State of America's Children*, pg 63 (2005). "Infants and toddlers (birth to age two) need nurturing, quality care in order to develop the intellectual, behavioral, social, and emotional abilities that form the critical foundation for later success in school and in life."

⁸⁷ Rand Corporation - Labor and Population – Research Brief: Proven Benefits of Early Childhood Interventions. (2005) pg 1. (This research brief describes work for RAND Labor and Population documented in *Early Childhood Interventions: Proven Results, Future Promise* by Lynn A. Karoly, M. Rebecca Kilburn, and Jill S. Cannon, MG-341-PNC (available at www.rand.org/publications/MG/MG341), 2005, 200 pages,) The study focused on programs that provide child development services from the prenatal period until kindergarten entry and that had scientifically sound evaluations. A literature review identified twenty such programs, nineteen of which demonstrated favorable effects on child outcomes. Fifteen of the effective programs were judged to have a "strong" evidence base because they measured outcomes at the time of kindergarten entry or beyond. The remaining four were not judged to have a strong evidence base because, as of the last follow-up, the participants had not yet reached kindergarten age. Many or all of the children in those programs were as young as age 2 or 3, so there is less information as to the lasting effects of the program on outcomes of interest. The evidence base for these programs was designated "promising."

⁸⁸ Id. (Rand Corporation)

⁸⁹ Voices for America's Children and the Child and Family Policy Center, *Early Learning Left Out: An Examination of Public Investments in Education and Development by Child Age*, pg 2 (2004) "Families with young children are those who are most likely to struggle economically and are in the least position to be able to privately pay for additional educational and developmental services and supports."

⁹⁰ Id. at pg 9. (Voices)

⁹¹ Id. at 9. (Voices)

⁹² Id. at pg. 5 "While 85% of a child's core brain structure is formed by age three, less than 4% of public investments in education and development have occurred by that time."

⁹³ Id.

⁹⁴ Governor John E. Baldacci, Maine Governor, *State of the State Address* (2006). "People who have quality early childcare and education have a better shot succeeding."

⁹⁵ Maine Department of Health and Human Services, *Invest Early In Maine, A Working Plan for Humane Early Childhood Systems*, (2006)

⁹⁶ U.S. Department of Human Services, Administration for Children and Families, Office of Head Start, About the Office of Head Start - <http://www.acf.hhs.gov/programs/ohs/about/index.html>: "The Head Start program provides grants to local public and private non-profit and for-profit agencies to provide comprehensive child development services to economically disadvantaged children and

families, with a special focus on helping preschoolers develop the early reading and math skills they need to be successful in school. In FY 1995, the Early Head Start program was established to serve children from birth to three years of age in recognition of the mounting evidence that the earliest years matter a great deal to children's growth and development. Head Start programs promote school readiness by enhancing the social and cognitive development of children through the provision of educational, health, nutritional, social and other services to enrolled children and families. They engage parents in their children's learning and help them in making progress toward their educational, literacy and employment goals. Significant emphasis is placed on the involvement of parents in the administration of local Head Start programs.”

⁹⁷ Maine Children’s Alliance, *Maine Kids Count Data Book*, pg 19 (2009). –Every year for the past nine years, approximately two-thirds of Head Start eligible children have not been enrolled in a Head Start program. In 2008, there were 14,748 eligible children. The total actual enrollment of individual children in Head Start was 4,787, while the total funded Head Start enrollment was 3,920. The difference between the actual enrollment figure and funded enrollment figure represents 867 children who were enrolled in a program for a minimum of 30 days, but did not receive a full year of Head Start.”

⁹⁸ <http://www.maine.gov/education/tdae/alted.htm> Maine Department of Education, Office of Truancy, Dropout, and Alternative Education

⁹⁹ Id. - Maine Department of Education Website

¹⁰⁰ Final Report of the Alternative Education Programs Committee, December 2007, State of Maine 123rd Legislature First Regular Session, Chair: Sen. Peter B. Bowman, Chair: Rep. Emily Ann Cain

¹⁰¹ Institute for the Study of Students At Risk, College of Education and Human Development, University of Maine, *Current Status of Alternative Education Programs in Maine: Impact Upon Policies and Practices for Students with Disabilities and Students Considered to Be “At-Risk*, Pg 1. (2001) –First, these programs could effectively meet the learning and emotional/behavioral needs of many students who possess different personal and learning styles that are difficult to accommodate within the traditional educational system. These students typically are those who may not qualify for, or actually need, special education services but who are at high risk for dropping out of school at some point in their careers.”

¹⁰² **Originally [29]** Department of Corrections, Office of the Director of Continuous Quality Improvement (Nov. 19, 2009).

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ See generally *The Costs of Confinement*, *supra* note 10. See also James Austin et al., *Alternatives to the Secure Detention and Confinement of Juvenile Offenders* (Office of Juvenile Justice and Delinquency prevention, 2005), <http://www.ncjrs.gov/pdffiles1/ojjdp/208804.pdf>, which provides the following endorsement of community-base programs:

Community-based programs are cost-effective solutions for a large number of delinquent youth. These alternatives to secure detention and confinement are intended to reduce crowding, cut the costs of operating juvenile detention centers, shield offenders from the stigma of institutionalization, help offenders avoid associating with youth who have more serious delinquent histories, and maintain positive ties between the juvenile and his or her family and community.

Some community-based programs have been shown to reduce recidivism by up to 22 percent, at a cost significantly lower than imprisonment. *The Costs of Confinement*, *supra* note 10, at 12 (citing Washington Institute for Public Policy, Elizabeth K. Drake, *Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost* (June 2007) <http://www.wsipp.wa.gov/rptfiles/07-06-1201.pdf>).

¹⁰⁶ Repucci, N. —Adolescent Development and Juvenile Justice.” *American Journal of Community Psychology*. 27.3 (1999): 307-326.

¹⁰⁷ Stanfield, R. –Overview: The JDAI Story: Building a Better Juvenile Detention System” *Pathways to Juvenile Detention Reform*. The Annie E. Casey Foundation. www.aecf.org.

¹⁰⁸ Id.

¹⁰⁹ *The Dangers of Detention*, *supra* note 24 at 2. **Note 24 refers to original blue brackets.**

¹¹⁰ Id.

One psychologist found that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration, and another suggests that poor mental health, and the conditions of confinement together conspire to make it more likely that incarcerated teens will engage in suicide and self-harm.

Id. (internal citations omitted).

¹¹¹ Id.

¹¹² Id.

¹¹³ *The Dangers of Detention*, *supra* note 24 at 2–3 (emphasis added). See also *The Costs of Confinement*, *supra* note 10 at 10 (“Researchers who have critically evaluated the adult criminal justice system have found little if any correlation between increasing prison populations and lower crime rates. . . . Concurrently, data shows that states that increased the number of youth in facilities did not necessarily see a bigger drop in crime than states that lowered juvenile correctional populations.”) “[S]tates that significantly lowered the number of youth incarcerated were more likely to see bigger drops in crime than states that increased their correctional populations.” Id .

¹¹⁴ Id.

¹¹⁵ “Rethinking the ‘Juvenile’ in Juvenile Justice: Implications of Adolescent Brain Development on the Juvenile Justice System.” Wisconsin Council on Children and Families. March 2006. www.wccf.org.

¹¹⁶ Moore, Solomon. “Missouri System Treats Juvenile Offenders With Lighter Hand”. *The New York Times*. 27 Mar. 2009: A13.

¹¹⁷ *The Costs of Confinement*, *supra* note 10 at 1. **Note 10 refers to blue bracketed notes.**

¹¹⁸ Id. at 4. (citing Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement Databook*, http://ojjdp.ncjrs.gov/ojstatbb/cjrp/asp/State_Adj.asp and American Correctional Association, *2008 Directory: Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities* (2008)).

¹¹⁹ Id. at 4.

¹²⁰ Justice Policy Institute, *Pruning Prisons: How Cutting Corrections Can Save money and protect Public Safety*, 16 (May 2009), http://www.justicepolicy.org/images/upload/09_05_REP_PruningPrisons_AC_PS.pdf [hereinafter *Pruning Prisons*]. “Evidence-based practices such as Family Functional Therapy and Multisystemic Therapy yield significant cost savings to states. For every dollar spent on family functional therapy, \$15 is provided in benefits.” Id.

¹²¹ *The Costs of Confinement*, *supra* note 10, at 1.

¹²² Id. at 1.

¹²³ See *The Costs of Confinement*, *supra* note 10, at 20 (describing Functional Family Therapy (FFT)).

This family-based program works as both prevention and intervention. It is a multi-level eight to 12 week program that seeks to address family dysfunction, acknowledging that in the long run, removing the youth from his or her family and community may not fix the root problem behind the behavior. The FFT program can lower recidivism by up to 38 percent, averaging around 16 percent, and has \$10.69 in benefits for each dollar of cost when administered by trained therapists.

Id. (internal citations omitted).

¹²⁴ See *id.*, *supra* note 10, at 20 (describing Aggression Replacement Training (ART)).

This program is designed for youth who exhibit aggressive tendencies and anti-social behavior and are therefore considered to be at a high risk of reoffending. ART is a 10-week, 30-hour intervention administered to groups of eight to 12 youth who have committed an offense. ART has been found to reduce recidivism after 18 months by up to 24 percent, averaging around 7 percent, and has \$11.66 benefits per \$1 costs.

Id. (internal citations omitted)

¹²⁵ See *id.*, *supra* note 10, at 20 (describing Multi-Systemic Therapy (MST)).

MST works with the family to address the underlying causes of illegal and delinquent behavior and the role that families play in a young person's behavior. Families are taught how to build healthy relationships and use appropriate methods of discipline. MST works to achieve behavioral change at home, rather than in a correctional facility. MST has shown to reduce long-term rates of re-arrest by 25-70 percent, and has an average reduction of re-arrest of around 10.5 percent. States that use MST can see \$13.36 in benefits to public safety for every dollar spent on the program.

Id. (internal citations omitted).

¹²⁶ See *id.*, *supra* note 10, at 20 (describing Multidimensional Treatment Foster Care (MTFC)).

MTFC is an alternative to group homes or detention facilities for youth. Rather than place youth into a group, each foster family has one youth at a time which allows them to tailor programming to that specific individual's needs. The individual treatment also allows the child to be closely monitored. At first, the youth is with the foster parent at all times but as the youth shows good behavior, the restrictions are loosened and he or she is given more freedom. Aside from close monitoring by the foster parents, the youth also receives job and social skills training from a professional therapist and the birth parents and child receive family therapy where the parents learn how to properly discipline their child. MTFC has been shown to reduce recidivism rates for youth by 22 percent on average, and has a cost-benefit ratio of \$10.88 in benefits for every dollar spent.

Id. (internal citations omitted).

¹²⁷ See Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009, S. 678, 11th Cong. § 103(34) (2009) [note: not yet enacted] (defining "evidence based").

[T] term "evidence based" means a program or practice that is demonstrated to be effective and that . . . (A) is based on a clearly articulated and empirically supported theory; . . . (B) has measurable outcomes, including a detailed description of what outcomes were produced in a particular population; and . . . (C) has been scientifically tested, optimally through randomized control studies or comparison group studies; . . .

Id. See also Washington Institute for Public Policy, Elizabeth K. Drake et al., *Evidence-Based Public Policy options to Reduce Crime and Criminal Justice Costs: Implications in Washington State*, 183 (April 2009), <http://www.wsipp.wa.gov/rptfiles/09-00-1201.pdf>. See also generally Washington Institute for Public Policy, Elizabeth K. Drake, *Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost* (June 2007) <http://www.wsipp.wa.gov/rptfiles/07-06-1201.pdf> (listing six juvenile offender programs that have been identified by the Washington State Institute for Public Policy as evidence-based, descriptions of each program, and information regarding quality assurance and program cost per participant and benefits).

¹²⁸ *The Costs of Confinement*, *supra* note 10, at 20.

¹²⁹ See Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009, S. 678, 11th Cong. § 103(35) (2009) ("[T]he term 'promising' means a program or practice that is demonstrated to be effective based on positive outcomes from 1 or more objective evaluations, as documented in writing to the Administrator; . . .").

¹³⁰ See [NY Draft Report, which should not be a "draft" by the time our report comes out], *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*, at 44 (2009) (describing the principles of positive youth development). [Note: draft available at <http://documents.nytimes.com/14juvenile#p=44>]

Positive youth development is an approach to working with young people that emphasizes a youth's strengths rather than weaknesses. Key components of positive youth development include providing youth with opportunities to build the competencies they need to make a successful transition to adulthood . . . and establishing supportive relationships with caring adults. Research has shown that programs and services that incorporate these elements can make youth more resilient and help them develop the healthy habits and behaviors needed to avoid negative influences. Because positive youth development principles describe the conditions necessary for *all* youth to succeed, this approach is valuable for working with system-involved youth who can be safely served in their communities through alternative-to-placement and reentry programs, as well as those who must be cared for in an institutional placement facility.

Id. (emphasis in original) (citations omitted).

¹³¹ Washington Institute for Public Policy, Elizabeth K. Drake et al., *Evidence-Based Public Policy options to Reduce Crime and Criminal Justice Costs: Implications in Washington State*, *supra* note 55, at 183.

¹³² *The Dangers of Detention*, *supra* note 24 at 6 (internal citation omitted) (referencing the work of Dr. Delbert Elliott, former President of the American Society of Criminology and head of the Center for the Study of the Prevention of Violence). See generally Elliot, D.S., Serious Violent Offenders: Onset, Developmental Course, and Termination, *The American Society of Criminology 1993 presidential Address, Criminology*, Volume 32, Number 1 (1994).

¹³³ See *The Costs of Confinement*, *supra* note 10 at 17 (discussing how incarceration can slow the “aging out” process of delinquency by isolating a juvenile from conventional norms and opportunities for growth that youth who remain in the community receive and how incarceration often fails to meet the mental health needs of juveniles at risk of contact with or involved in the juvenile justice system).

¹³⁴ *The Costs of Confinement*, *supra* note 10 at 17.

¹³⁵ Coalition for Juvenile Justice, *Emerging Concepts Brief: What Are the Implications of Adolescent Brain Development for Juvenile Justice?*, at 2 (2006) (exploring the implications of adolescent brain development research for policy and practice in juvenile justice and delinquency prevention).

¹³⁶ See *id.* at 2, providing the following “key facts” regarding adolescent brain development:

- During adolescence, the brain begins its final stages of maturation and continues to rapidly develop well into a person’s early 20s, concluding around the age of 25.
- The prefrontal cortex, which governs the “executive functions” of reasoning, advanced thought and impulse control, is the final area of the human brain to mature.
- Adolescents generally seek greater risks for various social, emotional and physical reasons, including changes in the brain’s neurotransmitters, such as dopamine, which influence memory, concentration, problem-solving and other mental functions. Dopamine is not yet at its most effective level in adolescence.
- Adolescents commonly experience “reward-deficiency syndrome,” which means they are no longer stimulated by activities that thrilled them as younger children. Thus, they often engage in activities of greater risk and higher stimulation in efforts to achieve similar levels of excitement.
- Adolescents must rely heavily on the parts of the brain that house the emotional centers when making decisions, because the frontal regions of their brains are not fully developed.

Id. at 3 (internal citations omitted). See also generally C. Antoinette Clarke, *Bridging the Gap: An Interdisciplinary Approach to Juvenile Justice Policy*, 56 *DePaul L. Rev.* 927 (2007) (reviewing research on psychology, neuroscience, and child development, discussing the negative consequences of punitive juvenile justice policies, and recommending that every phase of the process—from adjudication to disposition to corrections—be informed by developmental research); John V. Oberstar et al., *Cognitive and moral Development, Brain Development, and Mental Illness: Important Considerations for the Juvenile Justice System*, 32 *Wm. Mitchell L. Rev.* 1051 (2006) (discussing the forensic implications of research about normal brain development and brain development in the context of mental illness and supporting treating children in the juvenile system differently from adults); Brief of the American Medical Ass’n et al. as Amici Curiae Supporting Respondent, *Roper v. Simmons*, 543 U.S. 551 (2005) (No. 03-633), *available at* 2004 WL 1633549 (explaining that adolescents’ brain development is immature because the frontal lobe, the part of the brain responsible for reasoning, impulse control, cost-benefit calculations, and good judgment, is not fully developed) *and* *Roper v. Simmons*, 543 U.S. 551 (2005) (holding that the execution of offenders who were sixteen or seventeen at the time of their offense was unconstitutional and did not comport with evolving standards of decency).

¹³⁷ Coalition for Juvenile Justice, *Emerging Concepts Brief: What Are the Implications of Adolescent Brain Development for Juvenile Justice?*, *supra* note 42 at 2.

¹³⁸ Adolescent Brain Development & Juvenile Justice Fact Sheet. JJDPA Fact Book. Coalition for Juvenile Justice. www.juvjustice.org.

¹³⁹ Adolescent Brain Development: A Critical Factor in Juvenile Justice Reform. Health and Justice for Youth Campaign. www.physiciansforhumanrights.org.

¹⁴⁰ Repucci, N. —“Adolescent Development and Juvenile Justice.” *American Journal of Community Psychology*. 27.3 (1999): 307-326.

¹⁴¹ See *supra* note 28 and accompanying text.

¹⁴² See *The Costs of Confinement*, *supra* note 10, at 1 (“California, Illinois, Ohio, New York, Pennsylvania, and other large states are redirecting funds once spent on large residential facilities, and spending those dollars on less expensive, more effective programs to curb reoffending and reduce youth crime.”).

¹⁴³ Juvenile Justice Advisory Group, *Detention Project: Maine Survey/Interview*, at 4 (Jan 2003), available at <http://www.maine.gov/corrections/jjag/ReportsPubs/DetentionReportFinal.pdf>.

¹⁴⁴ Juvenile Justice Advisory Group, *2009 to 2011 Comprehensive Three Year Plan for Juvenile Justice and Delinquency Prevention*, at 32 (March 2009), available at <http://www.maine.gov/corrections/jjag/> [hereinafter *JJAG Three Year Plan*].

¹⁴⁵ “The Maine Department of Corrections Division of Juvenile Services is responsible for processing youth referred from local law enforcement agencies for the commission of juvenile offenses.” *JJAG Three Year Plan*, *supra* note 63, at 30.

¹⁴⁶ *Id.*

¹⁴⁷ See *id.* (recommending a plan for developing community-based programs to help prevent juvenile delinquency).

In an effort to effectively divert [] low risk offenders from the system we need to encourage and support the development of a range of programs and services aimed at identifying and addressing the factors that are leading to their initial involvement in the juvenile justice system. These community based programs should be available to local law enforcement agencies and the DOC as a diversion alternative [sic] focused on preventing further penetration of first time/low risk juvenile offenders into the juvenile justice system. . . . Programs will be based on evidence based practices that have a proven track record of producing positive outcomes for youth and families through a strategy of asset development.

Id.

¹⁴⁸ *JJAG Three Year Plan*, *supra* note 63, at 30.

¹⁴⁹ See *id.* at 30-32 (discussing Maine’s juvenile delinquency prevention needs and a number of programs currently attempting to meet those needs).

¹⁵⁰ For example, in order for residential placement programs to receive MaineCare funding, their residents must demonstrate medical necessity through the Intensive Temporary Residential Treatment (ITRT) process. Youth who do not meet ITRT criteria but require an out-of-home placement have limited options outside of being placed in DHHS custody or committed to a secure detention facility.

¹⁵¹ For information concerning a variety of special techniques, tactics, and strategies that can help rural areas accomplish detention reform, see Richard A. Mendel, Annie E. Casey Foundation, *Detention Reform in Rural Jurisdictions: Challenges and Opportunities* (2008), available at http://www.aecf.org/~media/PublicationFiles/15_Rural_Pathways_r20.pdf.

¹⁵² See *The Costs of Confinement*, *supra* note 10, at 5 (“By rethinking how they fund their juvenile justice systems, states and localities can succeed in keeping more youth at home, reduce the number of youth incarcerated, promote better outcomes for young people moving through these systems, and potentially show significant savings to taxpayers.”). The following are notable examples of state programs that succeeded in shifting their funding mechanisms and achieved positive outcomes:

Ohio—RECLAIM Ohio”

- Ohio created a system that allocates money to counties for juvenile justice based on delinquency levels and population. The county uses the same pool of money whether it utilizes community-based alternatives or state commitment. Community-based alternatives are cheaper, thus encouraging the county to invest in those initiatives.
- Between RECLAIM Ohio’s enactment in 1992 and 2009, the number of young people committed to secure state care in Ohio fell 42 percent.
- According to a fiscal analysis by the Ohio Department of Youth Services, for every dollar spent on the RECLAIM program, the state saves from \$11 to \$45 in commitment and processing costs, depending on the risk level of the youth.

Illinois—Redeploy Illinois”

- Under Redeploy Illinois, participating counties agree to cut the number of youth they send to state secure facilities by at least 25 percent below the average of the previous three years. The reduction can be seen in the overall population or in any specific population. In return, the state reimburses the counties for funds they spend managing the adjudicated youth locally.

- Since starting in mid-2004, Redeploy pilot sites included the 2nd Judicial District (containing 12 rural counties) and St. Clair, Peoria, and Macon counties. In its first three years of implementation, the pilot sites diverted 382 youth from commitment, saved an estimated \$18.7 million in costs, and lowered the number of commitments by 51 percent. In April 2009, Illinois made Redeploy a permanent initiative to be expanded in other counties.

New York – “Re-direct New York”

- In February 2009, New York State closed six youth residential facilities, downsized two, and closed three evening reporting centers. The projected savings of closing these facilities is approximately \$16.4 million and the funds will be redirected to counties to strengthen alternatives to incarceration.

- Coinciding with state residential facility closures, legislators will introduce Re-direct New York, which would create a fiscal incentive for counties to utilize alternatives to incarceration rather than state-run residential facilities for youth or local detention facilities. The law would reimburse counties for 65 percent of the cost of using alternatives to incarceration, reinvest half of the savings in alternatives to community-based alternatives, and fund only evidence-based alternatives.

Pennsylvania—“Act 148”

- Pennsylvania reimburses 80 percent of the county cost of community-based juvenile justice services. The county pays the state 40 percent of the cost of state youth confinement.

- Three years after Act 148 was enacted in the late 1970s, there was a 75 percent increase in state subsidies for county programs; by the early 1980s, secure placements for youth dropped 24 percent. In 2006, only 14 percent of committed youth were placed in state facilities.

California—SB 81

- In 2007, as part of a budget “tailer bill,” the governor signed legislation that bans commitments of youth adjudicated of nonviolent offenses to state-run residential facilities.

- Block grants established under the bill will provide an average of \$130,000 per youth eligible to be placed in community-based alternatives.

- The state projected that the number of youth placed in state residential facilities would decrease from about 2,500 to about 1,500 within two years.

Wisconsin—“Youth Aids”

- Instead of Wisconsin funding the state-run secure residential confinement facilities directly, it allocates a certain amount of money to each county for each bed used in the facility. The county uses some of the money for the state-run facility or it can use it for less expensive, community-based alternatives.

- A year after Youth Aids was enacted in 1980, 25 counties shared \$26 million in funding plus state capacity-building money for community alternative programs. Between 1997 and 2006, the number of state commitments fell by 43 percent.

Id. at 5–6 (internal citations omitted).

¹⁵³ Alma Powell, Chair, America's Promise Alliance - "Delivering America's Promise," 2009 American Academy of Pediatrics National Convention and Exhibition, October 17, 2009: - <http://www.americaspromise.org/About-the-Alliance/Press-Room/Speeches-and-Quotes/2009-Alma-Powell-October-17.aspx>. "If you drop out, you're twice as likely to be unemployed as a high school graduate. You'll be three times as likely to live in poverty. You're eight times more likely to wind up in prison. There's a four in 10 chance you'll depend on public assistance. You're more likely to have health problems, and your life expectancy will be shorter. And you're twice as likely to become the parent of a dropout and perpetuate the cycle." See also Justice Policy Institute, *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense* (May 2009), http://www.justicepolicy.org/images/upload/09_05_REP_CostsOfConfinement.pdf [hereinafter *The Costs of Confinement*] ("Research continually links education and the likelihood of participating in illegal behavior or ending up in prison. Forty-one percent of adults in prison and jails do not have a high school diploma and . . . dropouts are 3.5 times more likely than high school graduates to be arrested.") (internal citations omitted); American Civil Liberties Union, *Locating the School-to-Prison Pipeline* (2007), http://www.aclu.org/images/asset_upload_file966_35553.pdf ("For most students, the pipeline begins with inadequate resources in public schools. . . . [F]ailure to meet educational needs increases disengagement and dropouts, increasing the risk of later court involvement.").

¹⁵⁴ See Education Week, Editorial Projects in Education Research Center, *Diplomas Count, 2009: Broader Horizon's - The Challenge of College Readiness For All Students*, at 7 (2009) (presenting a Chart Entitled: "Projection of Graduates and Non-Graduates").

¹⁵⁵ USM Muskie School of Public Service, Justice Policy Program *2008 Maine Crime & Justice Data Book* (2009) pg. 3-6 "Of the 1,840 prisoners in adult facilities for whom education data is available, a majority of prisoners (54.1%) have less than a high school (HS) education, and nearly one-eighth (11.1%) have less than a 9th grade education. Overall, 45.9% of the inmates in Maine's prison system have a 12th grade education or a higher level of education, compared with 89.4% across the state."

¹⁵⁶ Center for Labor Market Studies, Northeastern University, *The Consequences of Dropping Out of High School: Joblessness and Jailing for High School Dropouts and the High Cost for Tax Payers* (October, 2009). "The average high school dropout will cost taxpayers over \$292,000 in lower tax revenues, higher cash and in-kind transfer costs, and imposed incarceration costs relative to an average high school graduate." Id.

¹⁵⁷ See University of Maine, *Maine's Dropout Prevention Summit* (July 17-18, 2009) (presenting the "Governor's Challenge by America's Promise Alliance"), available at <http://www.maine.gov/cabinet/syv/WorkAndActionReports/DropoutPreventionSummit.htm>

¹⁵⁸ See generally 18 U.S.C. §922(q) (1994).

¹⁵⁹ See American Bar Association, *Zero Tolerance Policy Report* (2001), available at <http://www.abanet.org/crimjust/juvjus/zerotolreport.html> (discussing the expanded scope and unintended consequences of zero tolerance policies).

¹⁶⁰ See *id.* ("Although few could quarrel with a policy of zero tolerance towards children who misbehave - adults who raise, teach or supervise children should react to misbehavior - their responses should be appropriate to the age, history and circumstances of the child as well as to the nature of the offense. Unfortunately, when it is examined closely, zero tolerance turns out to have very little to do with zero tolerance, and everything to do with one-size-fits-all mandatory punishment.").

¹⁶¹ See 20-A M.R.S. § 1001(9) (providing Maine's standards for student suspensions and expulsions). "Following a proper investigation of a student's behavior and due process proceedings, if found necessary for the peace and usefulness of the school, they shall expel any student: A. Who is deliberately disobedient or deliberately disorderly; . . ." Id. (emphasis added).

¹⁶² Institute for the Study of Students At Risk, College of Education and Human Development, University of Maine, *Maine Dropout Prevention Guide*, at 27 (2006) (emphasis in original).

¹⁶³ Governor John E. Baldacci, Maine Governor, *2006 State of the State Address* (2006), available at http://www.maine.gov/tools/whatsnew/index.php?topic=Gov_Speeches&id=21216&v=Article

¹⁶⁴ Maine Department of Health and Human Services, *Invest Early In Maine: A Working Plan for Humane Early Childhood Systems* (2006).

¹⁶⁵ Maine Children's Alliance, *Maine Kids Count Data Book*, at 19 (2009).

—Every year for the past nine years, approximately two-thirds of Head Start eligible children have not been enrolled in a Head Start program. In 2008, there were 14,748 eligible children. The total actual enrollment of individual children in Head Start was 4,787, while the total funded Head Start enrollment was 3,920. The difference between the actual enrollment figure and funded enrollment figure represents 867 children who were enrolled in a program for a minimum of 30 days, but did not receive a full year of Head Start.”

Id.

¹⁶⁶ Department of Corrections, Office of the Director of Continuous Quality Improvement (Nov. 19, 2009).

¹⁶⁷ Id.

¹⁶⁸ Id.

¹⁶⁹ See generally *The Costs of Confinement*, *supra* note 153. See also James Austin et al., *Alternatives to the Secure Detention and Confinement of Juvenile Offenders* (Office of Juvenile Justice and Delinquency prevention, 2005),

<http://www.ncjrs.gov/pdffiles1/ojjdp/208804.pdf>, which provides the following endorsement of community-base programs:

Community-based programs are cost-effective solutions for a large number of delinquent youth. These alternatives to secure detention and confinement are intended to reduce crowding, cut the costs of operating juvenile detention centers, shield offenders from the stigma of institutionalization, help offenders avoid associating with youth who have more serious delinquent histories, and maintain positive ties between the juvenile and his or her family and community.

Some community-based programs have been shown to reduce recidivism by up to 22 percent, at a cost significantly lower than imprisonment. *The Costs of Confinement*, *supra* note 153 at 12 (citing Washington Institute for Public Policy, Elizabeth K.

Drake, *Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost* (June 2007)

<http://www.wsipp.wa.gov/rptfiles/07-06-1201.pdf>).

¹⁷⁰ Justice Policy Institute, Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, 2 (Nov. 2006), http://www.juticespolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf [hereinafter *The Dangers of Detention*]. See also *The Costs of Confinement*, *supra* note 153 at 10 (“Researchers who have critically evaluated the adult criminal justice system have found little if any correlation between increasing prison populations and lower crime rates. . . . Concurrently, data shows that states that increased the number of youth in facilities did not necessarily see a bigger drop in crime than states that lowered juvenile correctional populations.”) “[S]tates that significantly lowered the number of youth incarcerated were more likely to see bigger drops in crime than states that increased their correctional populations.” Id .

¹⁷¹ *The Costs of Confinement*, *supra* note 153 at 1.

¹⁷² Id. at 4. (citing Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement Databook*, http://ojjdp.ncjrs.gov/ojstatbb/cjrp/asp/State_Adj.asp and American Correctional Association, *2008 Directory: Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities* (2008)).

¹⁷³ Id. at 1.

¹⁷⁴ For example, in order for residential placement programs to receive MaineCare funding, their residents must demonstrate medical necessity through the Intensive Temporary Residential Treatment (ITRT) process. Youth who do not meet ITRT criteria but require an out-of-home placement have limited options outside of being placed in DHHS custody or committed to a secure detention facility.

¹⁷⁵ For information concerning a variety of special techniques, tactics, and strategies that can help rural areas accomplish detention reform, see Richard A. Mendel, Annie E. Casey Foundation, *Detention Reform in Rural Jurisdictions: Challenges and Opportunities* (2008), available at http://www.aecf.org/~media/PublicationFiles/15_Rural_Pathways_r20.pdf.