

MAINE STATE LEGISLATURE

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Maine Juvenile Justice System Assessment

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

February 2020

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INTRODUCTION

The State of Maine is at an important crossroads in its juvenile justice system, with an exciting window of opportunity. The problems in the system have been well-known for many years, and significant progress has been made in several areas. But over-incarceration continues and years of under-investment in behavioral health and other services has left the state without adequate programs and services to meet the needs of young people. The system still doesn't work well for many youth and their families, particularly youth with serious behavioral health problems, immigrant youth, African American youth, LGBTQ+ youth, tribal youth, and youth with disabilities.

New leadership in the state executive branch over the past year, a commitment to reform by legislative leaders, and strong support from the Judiciary have created a favorable environment for change. In that context, the Juvenile Justice System Assessment and Reinvestment Task Force brings together key legislators and leaders from all of the relevant state agencies, with representatives of prosecutors, defense attorneys, mental health and substance use disorder services, community-based service providers, youth and adults with lived experience of incarceration, parents, crime victims, and advocates for civil rights, persons with disabilities, and LGBTQ+ youth. This is an important opportunity for Maine's young people, their families, and those who care about them.

We at the Center for Children's Law and Policy – along with our partners at the Juvenile Justice Research and Reform Lab at Drexel University, the Center for the Study of Social Policy, and consultant Dr. Andrea Weisman – appreciate the opportunity to engage with the Task Force and hundreds of people throughout the State of Maine to provide this comprehensive assessment of the juvenile justice system. We hope this report will offer helpful information and recommendations to people throughout Maine in their ongoing efforts to address the needs of young people in the juvenile justice system.

Mark Soler, Executive Director
Center for Children's Law and Policy
February 2020

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

-Chief Justice Leigh Saufley, Maine Juvenile Justice Task Force Report (2010)



Executive Summary

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

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

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

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

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

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

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

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

Context for the Assessment (I)

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

Guiding Principles (III.A)

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

Quantitative Data Summary and Analysis (III.B)

Detained Youth:

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

Committed Youth:

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

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

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

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

Cross-Cutting and Overarching Issues (III.D)

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

Arrest and Diversion (III.E)

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

Detention (III.F)

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

Probation and Community Reintegration (III.G)

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

Commitment and Placement (III.H)

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

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

Transfer to Adult Court (III.I)

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

Financing the Juvenile Justice System (III.J)

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

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

Next Steps (IV)

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

I. Context for the Assessment

This assessment was conducted following the formation of the Maine Juvenile Justice System Assessment and Reinvestment Task Force (Task Force) in May 2019.¹ The Task Force was established by Maine’s Juvenile Justice Advisory Group (JJAG), which is charged with advising and making recommendations to state policy makers and to promote effective juvenile justice policy and practices in the State of Maine.² The Task Force is co-chaired by Representative Michael Brennan (D-Portland), Department of Corrections (DOC) Commissioner Randall Liberty, and Jill Ward of the Maine Center for Juvenile Policy and Law. The Task Force is comprised of 32 individuals, including leaders from multiple agencies, legislators, members of the Judiciary, practitioners, and individuals from impacted communities. These individuals are listed in Appendix B.

From May 2019 through February 2020, the Task Force studied the ways Maine can develop a comprehensive, coordinated continuum of care that more effectively targets resources to youth and families and strengthens communities. The structure and role of the Task Force was guided by LD 1108,³ legislation introduced by Representative Brennan, and previous work of the state’s JJAG. The JJAG chose the Center for Children’s Law and Policy (CCLP) to support the Task Force in its work and to prepare this assessment. Information on the Task Force’s work, including meeting dates, agendas, and related information, is available at www.mainejjtaskforce.org.

As noted earlier, this is not the first time that Maine has undertaken a comprehensive examination of its juvenile justice system. Almost a decade ago, the Maine Juvenile Justice Task Force issued a report titled “An Integrated Approach to Transforming Maine’s Juvenile Justice System.”⁴ The report outlined numerous recommendations for Maine’s juvenile justice system, some of which have been or are in the process of being implemented. However, the report outlined three critical areas for reform that remained unmet: “an increase in the availability of quality and cost-effective programs; straightforward and transparent access to these programs for youth in need; and increased coordination between agencies and stakeholders to better utilize resources in the service of all Maine youth.”⁵

Since the 2010 Task Force report, there have been many reviews of specific aspects of the juvenile justice system and the pathways of youth into the system. These reviews include:

- **Disproportionate Contact: Youth of Color in Maine’s Juvenile Justice System,**⁶ a 2015 report that reviewed the overrepresentation of youth of color in the juvenile justice system and outlined recommendations to promote racial and ethnic equity.
- **An Initiative to Develop a Sustainable Restorative Juvenile Justice System,**⁷ a 2016 report that outlined a roadmap for the use of restorative justice programs and restorative practices as an alternative to formally processing youth in the juvenile justice system.
- **Youth Recidivism: Diversion to Discharge in Maine’s Juvenile Justice System,**⁸ a 2017 report that analyzed outcomes for youth involved with the juvenile system, finding that fewer youth were entering the juvenile justice system, and that a greater portion of youth who were entering the system were quickly and successfully diverted.

- **Assessing the Use of Law Enforcement by Youth Residential Service Providers**,⁹ a 2017 report that critiqued the use of law enforcement to respond to the behaviors of youth in residential placements that were manifestations of a disability or behavioral health problem.
- **Unsealed Fate: The Unintended Consequences of Inadequate Safeguarding of Juvenile Records in Maine**,¹⁰ a 2017 report that reviewed the collateral consequences of juvenile justice system involvement on youth, families, and communities and that recommended improvements to promote rehabilitation of youth and public safety.
- **From Adolescence to Adulthood: A Blueprint for Helping Maine’s Youth Succeed**,¹¹ a 2018 issue brief that outlined steps “to create effective public system responses that ensure young people have opportunities to remain in their communities with the essential supports they need to thrive.”
- **From Pipelines to Place-Based Strategies for Maine’s Older Youth**,¹² a 2019 report that noted that to “disrupt . . . pipelines into negative youth and community outcomes, investments in a local continuum of care that provides positive opportunities must be made” and that “these investments must be sensitive to place, be flexible within and across communities, and be targeted toward the communities that are most in need.”

In addition to these issue-specific reports, there have been several more recent calls for a comprehensive review of Maine’s juvenile justice system and the state’s ability to support a robust and comprehensive continuum of community-based services and supports. A September 2017 assessment of conditions at the Long Creek Youth Development Center (Long Creek), completed by CCLP, recommended that the state “review . . . the effectiveness of Maine’s juvenile justice system to determine which policies and practices are hindering achieving an efficient and effective system in the state.”¹³ CCLP recommended that the review “include looking at the practices of juvenile justice stakeholders . . . and practices of other agencies that have significant responsibility in meeting the needs of at-risk youth, such as the Department of Health and Human Services,” as well as “an evaluation of the existing service array for youth, including identification of any gaps in services and an assessment of the quality and effectiveness of existing services.”¹⁴

Two months later, in November 2017, the Justice Policy Program at the University of Southern Maine and the Maine Center for Juvenile Policy and Law hosted a summit with over one hundred local youth justice practitioners and stakeholders. A January 2018 summary of the recommendations from that summit echoed the call for a comprehensive review “to assess needs and service gaps.”¹⁵ The summary of recommendations also noted that the review should “cover all system policies and practices including all agencies that serve at-risk youth (including DHHS), as well as stakeholders like law enforcement, judges, prosecutors, defense attorneys, youth and family members.”¹⁶

Last year, as noted above, Representative Michael Brennan introduced LD 1108, “Resolve, Establishing the Task Force on Alternatives to Incarceration for Maine Youth.”¹⁷ LD 1108 sought to establish a task force to, among other things, “[r]eview and evaluate current state and national reports regarding the efficacy of the use of incarceration of youth in the State and nationally” and “develop recommendations for reinvestment of corrections funds currently designated for youth incarceration into a continuum of community-based alternatives.”¹⁸ LD 1108 also required the task force to “conduct an analysis to determine the potential reinvestment of current youth incarceration

funds into community-based programming focused on those communities most affected by youth incarceration, including a review of residential placement options to ensure those out-of-home placements are appropriate and demonstrate positive outcomes for youth.”¹⁹

At the same time that Representative Brennan introduced LD 1108, the Justice Policy Program at the University of Southern Maine and the Maine Center for Juvenile Policy and Law at the University of Maine School of Law issued a report entitled “Place Matters: Aligning Investments in a Community-Based Continuum of Care for Maine Youth Transitioning to Adulthood.” The report reiterated the need for an assessment that would “examine the policies and practices of facilities, agencies, and departments; review the array of services and programs being funded; determine what is effective; and identify where there are gaps.” The report concluded that “policymakers must take aligned action on increasing the scope and scale of community-based services for transition-aged youth in a way that builds on the strength of communities, the best available data, national research and models, and local expertise.”²⁰

Finally, in October 2019, Maine Youth Justice released “A New Vision for Youth Justice in Maine.”²¹ The report also called for investment in community-based services, stating that “[p]eople should be able to have access to services and supports that they need in [their] communities without system involvement.”²² The report also called for the state to “reinvest in a new model of youth justice that promotes healing and community well-being.”²³

In creating the Task Force and calling for this comprehensive assessment of Maine’s juvenile justice system, the JJAG cited much of this history. The JJAG also acknowledged the significant progress that the state has made to date. Some of these achievements include:

- Reductions in the annual number of committed youth by **68%** and reductions in the average daily population of committed youth by **68%** (2010-2018).
- Reductions in the annual number of detained youth by **56%** and reductions in the average daily population of detained youth by **35%** (2010-2018).
- Increases in the use of diversion away from formal juvenile justice system involvement for many youth, with **85%** of youth eligible for diversion under current DOC guidelines being successfully diverted (2018).
- Introduction of new evidence-based and promising programs by DOC, including restorative justice programming, staff-secure alternatives to incarceration, Youth Advocate Programs, and credible messengers for youth being supervised in the community.²⁴

Nevertheless, the JJAG also recognized that “there is general agreement that Maine still has work to do regarding recommendations around ensuring that Maine youth have access to a robust continuum of community-based services.”²⁵ Indeed, many of the recommendations from the 2010 Task Force are still needs in the state today, including:

- “Adopt[ing] and implement[ing] 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;”

- “[D]etail[ing] 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;”
- “[D]evelop[ing] 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 . . . [that] will also include funding options for in-home and out-of-home services and placements for youth in the juvenile justice system;” and
- “[F]orm[ing] a Juvenile Justice Task Force Institute charged with coordinating and overseeing the implementation of . . . recommendations and continued reform efforts.”²⁶

The nature of this assessment inherently focuses on challenges facing DOC and other state agencies, and does not include all of the effective revised policies, practices, and new programs developed by DOC. As with the 2010 Task Force report, it is intended to be a roadmap for the next phase of Maine’s efforts to continue improving the way it works with young people in the juvenile justice system. We do list a number of major achievements by DOC immediately above and throughout this report.

We also recognize the work that has been underway at DHHS to rebuild the state’s behavioral health service array for children and youth and to implement the recommendations from the 2018 Children’s Behavioral Health Services Assessment conducted by the Public Consulting Group. Many of the recommendations related to behavioral health service needs and delivery in this System Assessment are also recommendations that were made in the Children’s Behavioral Health Services Assessment, and we are pleased to see that DHHS is well along the way in implementing many of those recommendations. This will undoubtedly help Maine create the comprehensive community-based continuum of care that should be at the center of the juvenile justice system moving forward.

Case Study: Daniel

Daniel, a teenager from one of central Maine's rural communities, was 16 when he was incarcerated at Long Creek for various misdemeanor property crimes. Daniel was never provided any sort of treatment or support that would have helped ensure that he could remain in his home or his community. His family moved around within Maine many times throughout his childhood. For the first six years of his life, Daniel lived with both his mother and father – until his father left. Daniel is the third of his mother's seven children, and his family struggled significantly with poverty.

Daniel's first interaction with the juvenile justice system was at age 15, when he was in the ninth grade. Over the course of the year, he began losing interest in school and began cutting class and smoking marijuana with his friends. That school year, Daniel was charged with theft and criminal mischief for allegedly stealing a neighbor's scooter and "tagging" it with a marker. Three months later, he was charged as one of three boys who used a BB gun outside of their school to shoot out a security camera. Three months after that, he was charged with burglary and theft for breaking into his older brother's apartment and stealing some cash and marijuana.

Daniel was provided a court-appointed contract attorney who spent little time getting to know him or working on his cases. Daniel was scared of going to prison and failed to appear at a court appearance early in the summer. A warrant for his arrest was issued. To avoid arrest, Daniel laid low that summer and refused to go back to school. However, he was ultimately arrested in the fall. Daniel spent 10 days at Mountain View Correctional Facility – an experience that terrified him.

Daniel then appeared before the court with his mother and his attorney. His attorney had advised him to admit to all the misdemeanor charges so that the prosecutor would dismiss the felony-level charges. Daniel did not understand that he had a right to a trial. His attorney did not prepare him to address the court. Although his mother pleaded with the court to keep him out of Long Creek, his attorney argued for a 30-day "shock sentence." The prosecutor asked for commitment to Long Creek until Daniel turned 18 – more than 18 months of incarceration.

The court noted that Daniel had only engaged in a few sessions of counseling – although nothing more had been offered to him. The prosecutor represented that Daniel was not "suitable" for more intensive interventions, including residential or out-patient rehabilitation services. Daniel's Juvenile Community Corrections Officer also recommended that Daniel be committed to Long Creek. At the conclusion of the hearing, the court ordered that Daniel be incarcerated at Long Creek until his 18th birthday, which the court called the "only tool" left given the lack of other options for Daniel.

Once at Long Creek, Daniel was screened initially as low risk. Daniel was now more than two and a half hours away from his family. Daniel felt picked on by staff and had physical confrontations with other children. These included a serious fight with one child who had provoked Daniel for months – a fight that resulted in yet more charges for Daniel. Daniel struggled throughout the course of his incarceration, suffering from the isolation and slipping into depression.

Daniel was ultimately released nearly 18 months after he had arrived at Long Creek – a period of incarceration far longer than any adult would have been given for similar conduct. It is unknown where Daniel is today and what supports he has in his life.

II. Methodology

The Center for Children’s Law and Policy (CCLP) and its Assessment Team adopted a rigorous methodology for this assessment, combining quantitative and qualitative data collection and analysis. Details of the methodology for the assessment, including qualifications of the Assessment Team members, are outlined below.

A. Assessment Team Members and Qualifications

The Center for Children’s Law and Policy was the lead organization in this assessment and the work to support the Task Force. CCLP is a nonprofit national public interest law and policy organization focused on reform of juvenile justice and other systems impacting troubled and at-risk youth. CCLP’s work is currently focused on three main areas: eliminating racial and ethnic disparities in the youth justice system, reducing the unnecessary and inappropriate incarceration of children, and eliminating dangerous and inhumane practices for youth in custody. Our staff members pursue a range of different activities to achieve these goals, including training, technical assistance, administrative and legislative advocacy, research, writing, media outreach, and public education. CCLP has served a leading role in the largest and most influential juvenile justice reform initiatives in the country, including the John D. and Catherine T. MacArthur Foundation’s Models for Change initiative and the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI). CCLP has assisted jurisdictions in over 30 states with efforts to improve their youth justice systems, and CCLP staff have conducted dozens of assessments of policies and practices in youth justice systems throughout the country.

Five of CCLP’s staff members assisted with the assessment:

- Mark Soler, J.D., is the Executive Director of the Center for Children’s Law and Policy. From 1978 until 2006, Mark was Senior Staff Attorney, Executive Director, then President of the Youth Law Center, a national public interest law firm. At the Youth Law Center, he and his colleagues worked in more than 40 states on juvenile justice, child welfare, health, mental health, and education issues, and litigated successfully in 16 states on behalf of children whose rights have been violated in juvenile justice and child welfare systems.
- Jason Szanyi, J.D., is the Deputy Director of the Center for Children’s Law and Policy. Since joining the Center in 2009, Jason has worked with or trained officials in over two dozen states, cities, and counties. In 2015, Jason was recognized by the John D. and Catherine T. MacArthur Foundation as a Next Generation Champion for Change for his leadership in youth justice reform. Jason originally joined the Center as a Skadden Fellow through a partnership with the District of Columbia Public Defender Service’s Juvenile Services Program, where he represented detained and committed youth on a variety of issues.
- Lisa Macaluso, M.A., is the Senior Juvenile Justice Policy Advisor at the Center for Children’s Law and Policy. Prior to joining the CCLP, Lisa was the Deputy Director of Crime Prevention for the New Jersey Attorney General’s Office implementing New Jersey’s

Strategy for Safe Streets and Neighborhoods. She also served as the Director of the Office of Local Programs and Services with the New Jersey Juvenile Justice Commission, where she led the development and implementation of a number of innovative policies and practices including the state-level replication of the Juvenile Detention Alternatives Initiative.

- Jennifer Lutz, J.D., is a Staff Attorney at the Center for Children’s Law and Policy. In this capacity, she leads CCLP’s campaign to end the practice of solitary confinement of youth. She also assists jurisdictions reduce racial and ethnic disparities in the juvenile justice system, reduce the use of detention, and protect the rights of youth in custody. Prior to joining CCLP, Jennifer was the Juvenile Justice Policy Attorney and Director of Juvenile Training at the Defender Association of Philadelphia.
- Annie Veyakhone is the Program Associate and Social Media Coordinator at the Center for Children’s Law and Policy, where she partners with CCLP staff on their juvenile justice reform work and manages CCLP’s digital presence. Annie initially joined CCLP as its Administrative and Program Assistant in 2013. Annie provided administrative and logistic support to the Assessment Team and Task Force co-chairs during the assessment.

To assist with quantitative data collection, CCLP engaged researchers at the Drexel University Juvenile Justice Research and Reform Lab. For nearly 20 years, the interdisciplinary Juvenile Justice Research and Reform Lab has worked to promote best practices in the juvenile justice system by more closely aligning juvenile justice policies and procedures with adolescents’ developmental capacities. The Juvenile Justice Research and Reform Lab is directed by Naomi Goldstein, Professor of Psychology and Co-Director of the J.D./Ph.D. Program in Law and Psychology at Drexel University. Dr. Goldstein collaborates with community stakeholders to use social science research to improve juvenile justice policy and practice. For more than 20 years, her work has focused on the role of adolescent development in legal decision making and legal outcomes, as well as on the development, implementation, and evaluation of best practices in juvenile justice contexts. Dr. Goldstein was assisted by Amanda NeMoyer, J.D., Ph.D., who serves as Assistant Research Professor in the Department of Psychology at Drexel University, as well as Rena Kreimer, M.S.W., who is the Director of Grants and Evaluation at the Juvenile Justice Research and Reform Lab.

CCLP also engaged the Center for the Study of Social Policy (CSSP) to analyze current funding allocations for existing services in the juvenile justice system, as well as compare resource allocations in Maine with other jurisdictions to help identify additional funding sources and potential vehicles for reinvestment of resources currently used for incarceration. CSSP is a national, non-profit policy organization that connects community action, public system reform, and policy change to create a fair and just society in which all children and families thrive. CSSP has been at the forefront of significant reforms in child welfare and family support systems since the 1980s. CSSP’s project team consisted of Shadi Houshyar, Ph.D., a Senior Associate with extensive expertise in policy development and the issues of child health, childhood trauma, toxic stress, and adverse childhood experiences, and Alexandra Citrin, M.S.W., M.P.P., who is a Senior Associate with extensive experience assisting federal and state elected officials to develop policies and funding priorities to advance equity in ways that promote better results for children, youth, and families.

CCLP engaged a mental health expert, Dr. Andrea Weisman, to serve on the Assessment Team, given the importance of understanding the mental health needs of youth in Maine’s juvenile justice system. Dr. Weisman is a clinical psychologist with over 30 years of clinical experience and nearly 20

years of on-the-ground experience in designing and implementing juvenile justice and adult correctional health and mental health programs. Her experience includes serving as Chief of Health Services for the Department of Youth Rehabilitation Services (DYRS) in Washington, DC. Prior to that, Dr. Weisman was the Director of Mental Health Services for the Maryland Department of Juvenile Services, the Director of Mental Health Services for DYRS, and the Director of Mental Health Services at the DC Jail. In several of these positions, she was brought in to develop and implement remedies to address deficiencies in health and mental health services with agencies under receiverships, consent decrees, and memorandums of understanding developed by the U.S. Department of Justice. She has served as an expert mental health consultant and monitor for the Department of Justice in several matters and regularly serves as a consultant and expert in other litigation.

CCLP also engaged a former juvenile justice practitioner, Gladys Carrion, J.D., who has significant experience with major reforms to systems and services for youth. She has been recognized as a national leader in her efforts to reform the juvenile justice system in New York State and as a dedicated advocate for children and families involved in the child welfare system. She has received numerous awards and has served on several national advisory committees focused on juvenile justice reform and the well-being of young adults. She was appointed Commissioner of the New York City Administration for Children's Services (ACS) in January 2014, where she was charged with providing child welfare, early childhood care, and juvenile justice services to the City's most vulnerable children and families. She was also responsible for implementing Close to Home, the City's juvenile justice reform and reinvestment program. Prior to her appointment to ACS, she was Commissioner of the Office of Children and Family Services, overseeing New York State's child welfare, early childhood care, and juvenile justice systems. While there, Commissioner Carrion overhauled the state's juvenile justice system. Under her leadership, 21 juvenile facilities were shut down, diverting juvenile justice-involved youth to less costly and more effective therapeutic programs located closer to home.

Additionally, CCLP and the Assessment Team communicated with and coordinated some of its activities with the Vera Institute of Justice (Vera Institute), which has been working with the State of Maine as part of its Initiative to End Girls Incarceration.²⁷ The Vera Institute's recommendations and analyses, which are forthcoming, should be considered along with the recommendations in this report, but we have also included some references to preliminary findings and recommendations from that work, where applicable.

Finally, CCLP engaged the law firm of Bernstein Shur to assist with planning and logistics related to interviews, meetings, focus groups, and other activities necessary for the assessment. Of Counsel Alysia Melnick, J.D., and Project Manager Chris Feeney assisted with this work.

From August 2019 through February 2020, CCLP and Assessment Team members held bi-weekly videoconferences to discuss planning, logistics, and findings and recommendations from the assessment. CCLP staff also held bi-weekly videoconferences with the Task Force co-chairs to plan Task Force and Town Hall meetings, as well as other activities necessary for the assessment.

B. Quantitative Data

CCLP and the Assessment Team recognized the importance of gathering accurate, timely, and useful data about youth in Maine's juvenile justice system to complete this assessment.

For that reason, CCLP engaged the Juvenile Justice Research and Reform Lab to collect and analyze detailed data on youth detained in and committed to Long Creek. As described in more detail in the report, the Drexel University researchers, under the direction of Dr. Goldstein, compiled and analyzed DOC data on detained and committed youth held at Long Creek between June 1, 2018, and May 31, 2019, including risk/needs assessment scores for those youth. The researchers also obtained and analyzed data from the DHHS and OCFS regarding the behavioral health services received by committed youth, including specific diagnoses, prior to admission to Long Creek.

In addition to these data, CCLP reviewed and analyzed descriptive and trend data on educational experiences of youth in Maine (including data on school discipline, push-out, and lost days of instruction in high-referring school districts), descriptive and trend data on arrests and diversion, data on outcomes of youth placed on probation, data on youth transferred to adult court, and other descriptive and trend data, as referenced in more detail throughout the report.

C. Qualitative Data

The Assessment Team understood that quantitative data must be viewed in context. Therefore, CCLP and the Assessment Team members gathered substantial amounts of qualitative information to inform the assessment. First, CCLP and the Assessment Team conducted in-person interviews or meetings with more than 100 individuals in Maine to obtain perspectives on the strengths and challenges of the state's juvenile justice system. These individuals included Governor Janet Mills, Chief Justice Leigh Saufley, and Attorney General Aaron Frey. These individuals also included:

- All but one of the 32 Task Force members, including members of the Maine legislature.
- The Commissioner of the Department of Corrections; Associate Commissioner for Juvenile Services; the Director of the Office of Victim Services; Regional Correctional Administrators and Managers in all three DOC regions; Juvenile Community Corrections Officers in all three DOC regions; and administrators, staff, and educators at Long Creek.
- Commissioners, directors, and agency officials within the Office of Child and Family Services at the Department of Health and Human Services (DHHS), the Department of Education, the Department of Labor, and the Department of Public Safety.
- Local juvenile justice stakeholders, including judges, prosecutors, defense attorneys, law enforcement officers and officials, crime victims, parents, residential and community-based service providers, and restorative justice providers.
- Leaders and representatives of advocacy organizations and coalitions working on juvenile justice reform, civil rights, rights of the disabled, LGBTQ+ youth,²⁸ victims' services, behavioral health, and substance use disorder reform.
- Educators, including school district superintendents, principals, and school counselors.
- Mental health professionals, including providers of Multisystemic Therapy and Functional Family Therapy.
- Researchers from the Muskie School of Public Service at the University of Southern Maine and the Vera Institute of Justice.

The Assessment Team also obtained perspectives from young people throughout the state of Maine, including youth with lived experience with the juvenile justice system. Team members met with detained and committed youth at Long Creek and youth in the Bearings House non-secure program. Additionally, the Assessment Team conducted six focus groups with youth, including:

- Youth at the Tree Street Youth program in Lewiston.
- Youth at the Maine Youth Court in Portland.
- Youth at the Preble Street Teen Center in Portland.
- Youth members of Maine Inside Out in Waterville and Biddeford.
- Tribal youth on the Penobscot Indian Island Reservation.
- Tribal youth at the Community Center/Micmac Boys and Girls Club in Presque Isle.

The Assessment Team requested and received information on DOC policies, practices, screening tools, assessment instruments, and programs. Team members also reviewed information about and conducted site visits to mental health treatment programs and other community-based programs. Assessment Team members also familiarized themselves with the major reports that had been written about juvenile justice and related issues in Maine during the past ten years.

Finally, the Assessment Team also asked various stakeholders to prepare “case studies” of youth in the juvenile justice system, which are included throughout this report. We asked stakeholders, including DOC staff, educators, prosecutors, advocates, and defense attorneys, to prepare narratives of youth that they had worked with that illustrated common missed opportunities or unmet needs. These case studies were not intended to present the most extreme examples of the shortcomings of the juvenile justice system in Maine. Instead, we asked stakeholders to prepare the case studies to help lift up systemic issues that have real-life consequences for youth. Names and other details have been changed to protect the confidentiality of youth, but the case studies are presented with minimal editing from the Assessment Team.

D. Community Member Perspectives

To obtain community members’ perspectives on the juvenile justice system, CCLP and the Task Force co-chairs hosted a series of Town Hall meetings in four locations throughout the state: Lewiston, Portland, Bangor, and Augusta. At the Task Force meetings, CCLP staff members solicited comments from audience members about their experiences with and perspectives on the juvenile justice system.

CCLP and the Task Force co-chairs also prepared and distributed a community survey online and in hard copy, which asked for community members’ perspectives on the strengths and needs of Maine’s juvenile justice system. The results of the community survey, which are referenced throughout the report, are included as Appendix A. Nearly 500 Mainers responded to and offered insights through the survey, which helped inform the findings and recommendations in this assessment.

E. Financial Analysis

As noted above, the Center for the Study of Social Policy conducted a financial analysis for this System Assessment. This included reviewing current Maine budget information for juvenile justice services. It also included analysis of and comparison with funding of juvenile justice systems across the country, including an in-depth review of six other states' budgets.

F. Acknowledgements

CCLP and the Assessment Team extend our deep appreciation to everyone who shared information and insights with us during this assessment. We extend special thanks to DOC Commissioner Randall Liberty and Associate Commissioner Colin O'Neill, who made exceptional efforts to share data and other information on the state's juvenile justice system with the goal of continuing to improve how DOC works with young people and families. Thank you, too, to DOC Juvenile Data and Research Coordinator Sonja Morse, who spent countless hours assisting with information requests, and DOC Juvenile Justice Specialist Jay Pennell, who supported the Task Force and its activities. The Assessment Team also thanks Todd Landry, Director of the Office of Child and Family Services at DHHS, as well as Lori Geiger, Mandy Milligan, Jeanne Tondreau, and Elissa Wynne, for their assistance providing quantitative and qualitative information on behavioral health services for youth at Long Creek.

CCLP and the Assessment Team would also like to thank the Task Force members, who remained consistently and actively engaged in the assessment over many months. It was clear to us that the level of commitment and engagement was a strong sign of the desire to achieve the very best outcomes for Maine's youth. We applaud that commitment and hope that it continues during the efforts to implement the reforms outlined in this report.

Thank you, too, to the Maine JJAG, which funded this assessment and issued the resolve forming the Task Force. This was a significant undertaking by the JJAG, which has been invested in continuing to make strides in Maine's juvenile justice system for many years. The Assessment Team was grateful for the support of the JJAG, including JJAG Chair Ned Chester. The Assessment Team also thanks the John T. Gorman Foundation, which provided supplemental funding to assist with data analysis, youth and family member engagement, and other needed support for the completion of the System Assessment.

Finally, CCLP and the Assessment Team would like to thank the many young people and family members who shared perspectives, personal stories, and recommendations with us as we conducted the assessment, particularly the members of Maine Youth Justice and Maine Inside Out. The State of Maine is fortunate to have such young people who are actively working to shape the future of the juvenile justice system. We valued their many insights and hope they are reflected in the findings and recommendations that we outline here.

Case Study: Jane

Jane was removed from her home before age 10. She has complex mental health needs due to abuse and neglect that she endured as a young child. Jane has multiple diagnoses including Post Traumatic Stress Disorder (PTSD), depression, and Attention Deficit Hyperactivity Disorder (ADHD). After several foster placements, the state placed her in a residential treatment program. She felt stuck and abandoned.

After almost a year in the residential program, Jane was charged at age 15 with assaulting two staff in an incident that was clearly related to her disabilities. As a result, she was detained at Long Creek. Jane advocated for release from detention at Long Creek to a foster placement where she had experienced some success. But state officials insisted she go to another residential program. She was detained at Long Creek for eight additional months before another residential placement could be found.

After a year in the new residential program, Jane was discharged to a private boarding school with no mental health services. Due to this lack of support, she was forced to leave the boarding school after only a couple of weeks due to peer conflicts. Since no foster placements were available, Jane was brought to an emergency homeless shelter in a city where she had never lived, had no natural connections, and did not receive the mental health supports that she needed. Jane felt abandoned and frustrated yet again. She became upset with staff at the shelter and damaged property. The property damage violated her conditions of probation and she was detained again at Long Creek.

Jane struggled at Long Creek due to her disabilities for another six months. As a detained youth, she did not have access to the comprehensive mental health supports she needed. Jane's ability to use the skills she gained at the previous residential programs diminished as she became more and more hopeless through her prolonged incarceration. On multiple occasions, staff physically restrained Jane. She received additional criminal charges for physical altercations with peers and staff due to the lack of appropriate support and individualized intervention.

Jane did not want to enter another children's residential program. She was nearing her 18th birthday and continued to advocate for release to a previous foster family. Her state guardian was in support of pursuing potential foster placements with outpatient mental health services. But other members of her team were adamant that she required a higher level of support. Because her team could not agree on the appropriate level of care, Jane languished in detention for over six more months, until she turned 18, when she was released to an adult residential program.

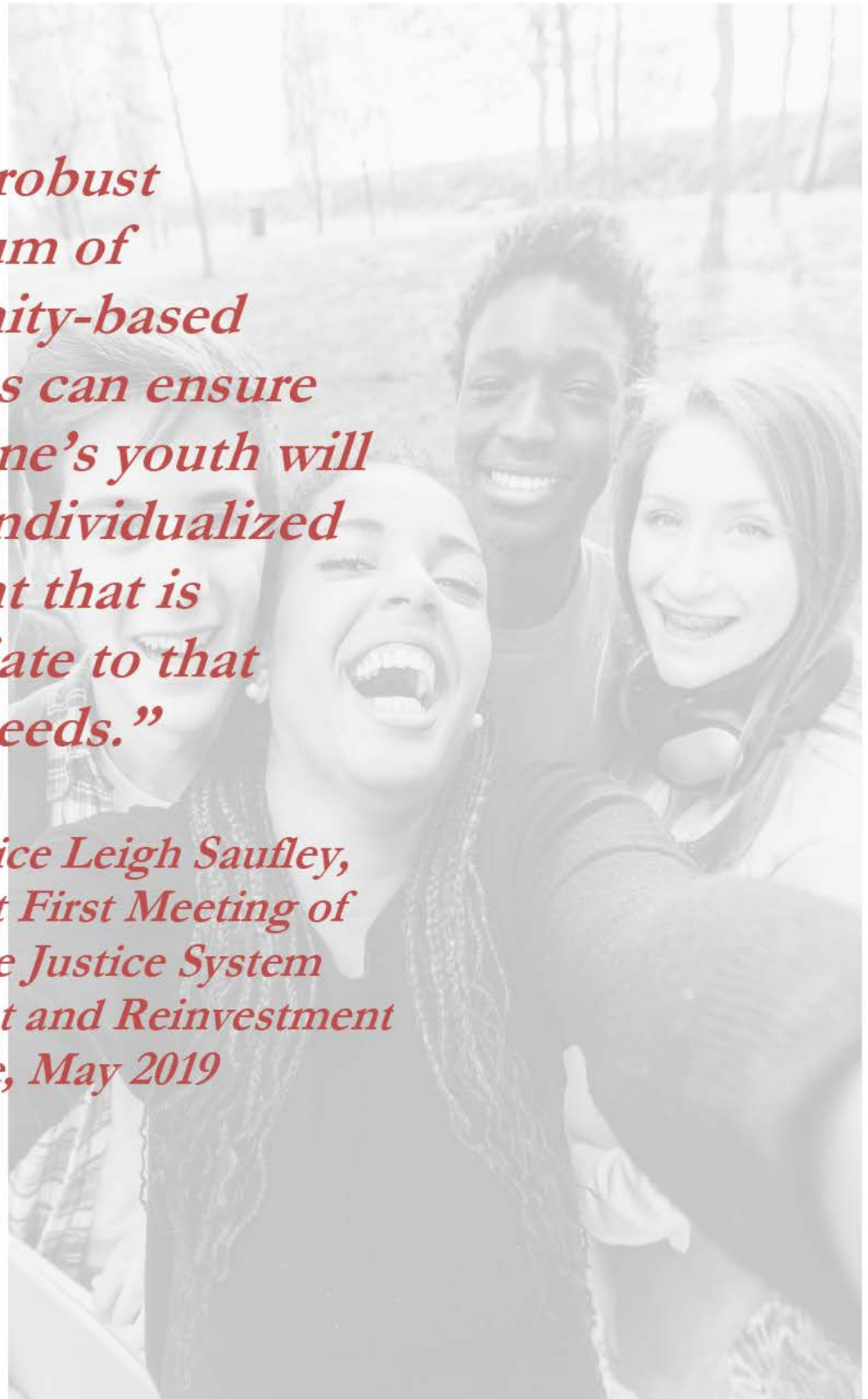
After she had been at the adult residential program for a couple of months, Jane was sexually assaulted. Jane was held at the local adult jail until her release to a different adult residential program. She was at this program for several more months before leaving to return to her biological family – the family who had abused and neglected her years ago.

Jane spent half her life in state custody, and most of her adolescence in institutions. She did not receive the mental health treatment and educational services she needed. And she entered adulthood with extremely limited vocational and independent living skills, and without a high school diploma.

Maine failed Jane.

“Only a robust continuum of community-based programs can ensure that Maine’s youth will receive individualized treatment that is appropriate to that child’s needs.”

*-Chief Justice Leigh Saufley,
Remarks at First Meeting of
the Juvenile Justice System
Assessment and Reinvestment
Task Force, May 2019*



III. Findings and Recommendations

A. Guiding Principles

The work of juvenile justice system reform is an ongoing process. Reform work happens in a context where change is the norm. The history of juvenile justice shows us that the statutory mission of the juvenile justice system has evolved from an emphasis on punishment and incarceration to an emphasis on prevention and rehabilitation.²⁹ Institutionalizing and sustaining long term juvenile justice system improvement involves changes to government agencies, stakeholders, policies, and resources and funding.

Reform work to create a juvenile justice system that “supports youth who become involved in the system and thereby ensures the safety of their communities”³⁰ must be rooted in a common set of guiding principles that can stand the test of time. Adopting a set of guiding principles ensures that the long-term culture is not eroded by decisions made for short-term expediency. In short, the guiding principles act as a “North Star” for change by creating a culture where everyone understands what is important in the short-run and in the long-run.

Assessment Team Findings

The Assessment Team conducted a review of guiding principles in juvenile justice system improvement efforts. We found that the John D. and Catherine T. MacArthur Foundation’s Models for Change Principles³¹ and the State of Illinois Juvenile Justice Commission’s³² further articulation of the Models for Change principles is most closely aligned with what we heard from interviewees across the State of Maine. The guiding principles outlined here are largely taken from Models for Change and from the Illinois Juvenile Justice Commission’s work.

An effective juvenile justice system is one that:

- 1. Ensures Fundamental Fairness.** All system participants – youth, families, victims, and communities – deserve fair treatment in accordance with basic principles of due process. This means ensuring equitable treatment, guaranteeing due process, providing procedural justice, and relying on data and research to identify and diagnose specific challenges and to drive appropriate solutions.
- 2. Recognizes the Fundamental Differences between Youth and Adults.** Throughout the system, the needs, characteristics, and assets of youth are recognized and supported, rather than relying on adult criminal justice approaches. Foremost among these is the capacity to change. Adolescents are not small adults. The key decisionmaking areas of their brains do not fully develop until their mid-20s. This means the system should prioritize reducing juvenile justice system entry and extent of involvement, minimizing disruption and

intervention, and eliminating unnecessary detention and incarceration while maintaining public safety.

3. **Recognizes Individual Differences and Tailors Interventions and Services to the Needs and Assets of Individual Youth.** Juvenile justice decisionmakers respond to young people's differences from one another in terms of development, culture, gender, needs and strengths. This means laws, policies, practices, and programs recognize developmental needs and abilities, meet gender-specific and LGBTQ+ service needs, provide specialized services, and ensure cultural responsiveness of services.
4. **Lifts up Youth Potential.** All youth have strengths and are capable of positive growth. An effective juvenile justice system uses positive evidence-based approaches to build on the capacities of youth to learn, change, grow, and become contributing members of our communities.
5. **Values Safety.** Adults and youth deserve to be and to feel safe in their communities. A key measure of community safety is reduced recidivism among youth involved in the juvenile justice system. This means focusing on prevention and effective early intervention, reducing overreliance on punishment as a behavior-change strategy, meeting behavioral needs, treating confined youth appropriately, and supporting well-planned community reentry.
6. **Ensures Accountability for All.** Just as youth must be encouraged to accept responsibility for their behavior and the consequences of their actions, communities also have obligations to youth to safeguard their welfare, support them when in need, and help them to become healthy adults. The juvenile justice system reflects society's collective responsibility to our youth and must be accountable for the outcomes it produces.
7. **Values Community, Youth, and Family Voice.** Community-based collaboration, decisionmaking and services reduce recidivism more effectively and at lower costs than punitive and incarceration-based strategies. An effective juvenile justice system engages communities and impacted youth as partners and builds the capacity of communities to foster positive youth outcomes. Similarly, an effective juvenile justice system respects family, who care about their youth and who know their needs and strengths best, and fully engages families as partners in positive youth outcomes.
8. **Strives for Equity Regardless of Race, Ethnicity, Gender, Disability, LGBTQ+ Status, and Immigrant Status.** The juvenile justice system acknowledges and intentionally works to eliminate bias and inequitable treatment and ensures that the system meets the needs of youth of color and youth who are particularly vulnerable. This means using data to determine how laws, policies, practices, and programs are impacting these populations and working to level the playing field so that differential impacts and biases are eliminated.
9. **Values Cost Effectiveness.** This means investing scarce resources in proven, cost-effective strategies that reduce reoffending and re-incarceration and produce positive outcomes for youth and communities. Research consistently shows that investing in evidence-based, data driven, community-based responses to youth crime reduces recidivism and is more cost

effective than other strategies, including but not limited to incarceration. Valuing cost effectiveness means that key stakeholders will understand the evidence, invest wisely, and measure outcomes of policy and funding choices.

- 10. Follows the Least Restrictive Alternative Principle.** Stakeholders ensure that youth removed from their homes are in the least restrictive setting consistent with the youth's needs and public safety.

Assessment Team Recommendations

- 1. Formally adopt a set of guiding principles to act as a “North Star” for ongoing system reform work.** The Maine Juvenile Justice and Reinvestment Task Force and any subsequent implementation entity should consider formal adoption of these principles to guide their ongoing work. Legislators should also consider incorporating the guiding principles into new juvenile justice statutes.
- 2. Determine ways to actively use guiding principles.** While it is important to adopt juvenile justice system reform guiding principles, adoption alone is not sufficient. For the principles to be effective, stakeholders must see them as a *verb* - using them as the lens through which changes to laws, policies, practices, and programs are viewed. We encourage the Task Force and any subsequent implementation entity to actively use the guiding principles as the lens through which it plans, implements, and evaluates ongoing work. When the guiding principles are actively used to drive priorities and investments, Maine will be closer to its aspirations for the most fair, efficient, and effective juvenile justice system.

B. Quantitative Data Summary and Analysis

As described in the methodology section, CCLP contracted with researchers from the Juvenile Justice Research and Reform Lab at Drexel University to acquire, summarize, and analyze quantitative data for youth detained and placed at Long Creek to inform the System Assessment.

To obtain quantitative data to inform the broader System Assessment, the Juvenile Justice Research and Reform Lab worked with state agencies to define and extract de-identified, individual-level information about youth who spent time in detention and commitment at Long Creek within a specified one-year period (between June 1, 2018 and May 31, 2019).

The Juvenile Justice Research and Reform Lab summarized, integrated, and analyzed multiple quantitative data sets, including:

1. DOC data on detained youth released from Long Creek between June 1, 2018 and May 31, 2019;
2. DOC data on committed youth who spent time in Long Creek between June 1, 2018 and May 31, 2019;
3. MaineCare data from the Office of Children and Family Services (OCFS) within DHHS on behavioral and mental health diagnoses and services provided to youth in the committed sample prior to admission to Long Creek; and
4. Youth Level of Service/Case Management Inventory (YLS/CMI) criminogenic risk/needs scores for both the detained and committed samples.

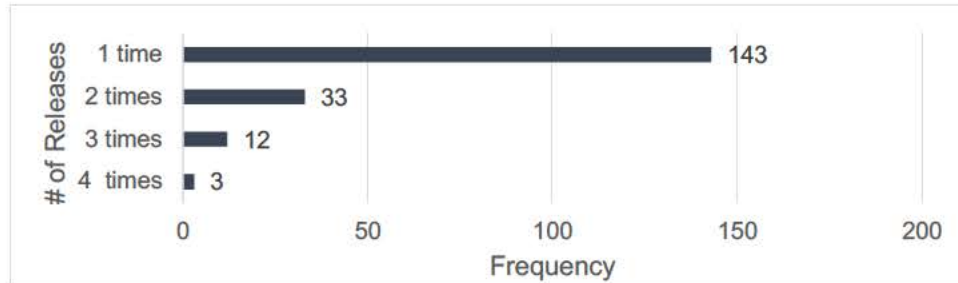
The Juvenile Justice Research and Reform Lab engaged in an iterative process with DOC and OCFS leadership and staff, which included multiple phone calls, emails, and meetings to facilitate accurate representation and interpretation of data they provided. Ultimately, summaries and results provided in this section of the report are based upon these data.

Long Creek Detention Summary

DOC provided the Juvenile Justice Research and Reform Lab with data for all detention cases that ended (i.e., youth were released) between June 1, 2018 and May 31, 2019.

- 257 total detention cases ended during this time period.
- 191 individual youth were released from detention during this time period.
- 48 youth were released from detention *more than once* during this time period.
- 6 youth were detained and released (without immediate readmission) on the same day.
- 40 youth were released on the day after their detention (and not immediately readmitted).

Figure 1: Number of Times Youth Were Released from Detention between 6/1/18 and 5/31/19



Demographics

Demographic data that follow are reported for all 257 detention cases. As a result, youth detained more than once in this time period will be recorded more than once.

Figure 2: Detention Admission Data

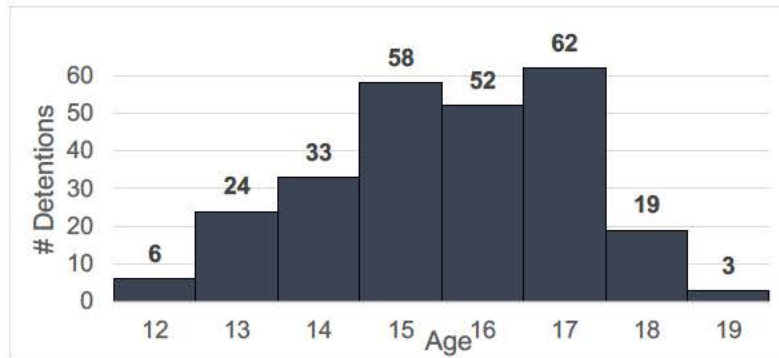
	Total Detentions	
	Number	Percent
Gender	257	100%
Female	59	23%
Male	198	77%
Race/Ethnicity	254	100%
African American or Black	59	23%
Asian	2	1%
Hispanic/Latino	3	1%
American Indian or Alaska Native	2	1%
Native Hawaiian or Other Pacific Islander	0	0%
White	185	73%
Other	3	1%
Offense Types	190	100%
Personal	104	55%
Property	66	35%
Drugs/Alcohol	10	5%
Other	10	5%

Age

The mean age at detention admission across all 257 detention cases was 15.6 years, with a median age of 16 years. Age at detention admission ranged from 12-19 years.

- 136/257 (52.9%) of detention admissions occurred when youth were 16 years of age or older.
- 84/257 (32.7%) of detention admissions occurred when youth were 17-19 years of age.

Figure 3: Total Detentions: Age at Admission ($n = 257$)

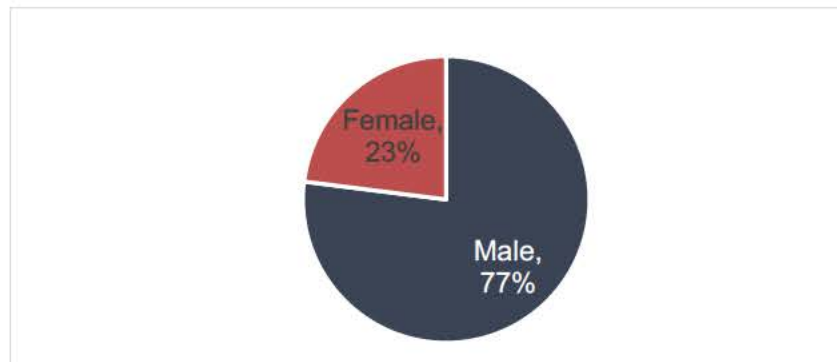


Note: This is not the age of first detention in a youth's lifetime (that information was unavailable for this detained youth sample), but rather reflects the age at the examined detention admission across all 257 detention cases in the sample.

Gender

- 77% of detention cases involved male youth ($n = 198$) and 23% of detention cases involved female youth ($n = 59$).

Figure 4: Total Detentions: Gender ($n = 257$)



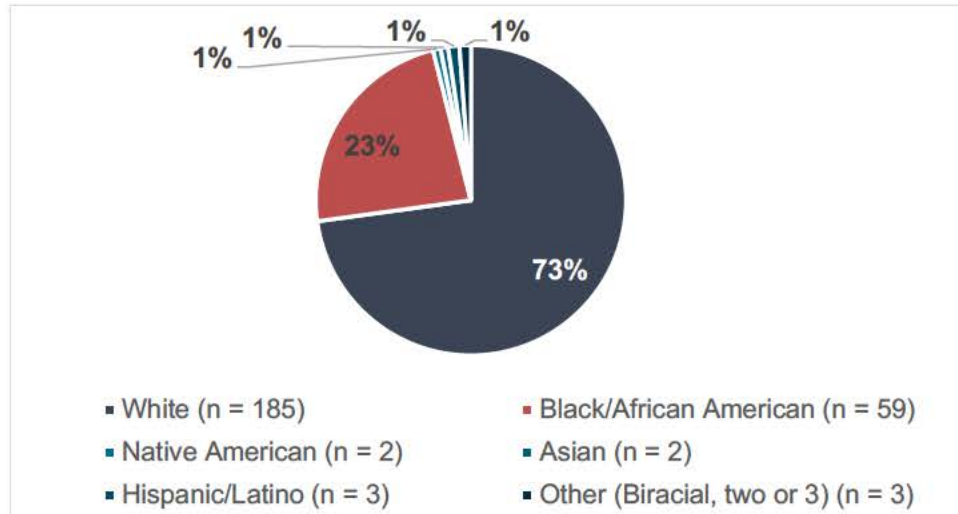
Citizenship

- 251 detentions (97.7%) occurred for youth whose citizenship was identified as "American."
- Four detentions (1.6%) were noted as "ICE holds."
- Two detentions (0.8%) occurred with youth whose citizenship status was not listed.

Race/Ethnicity

- 254 detention cases included information about youth race/ethnicity, with 73% identified as White and 23% identified as Black/African American. According to census data, across the state of Maine, Black or African American residents make up only 1.6% of the population.

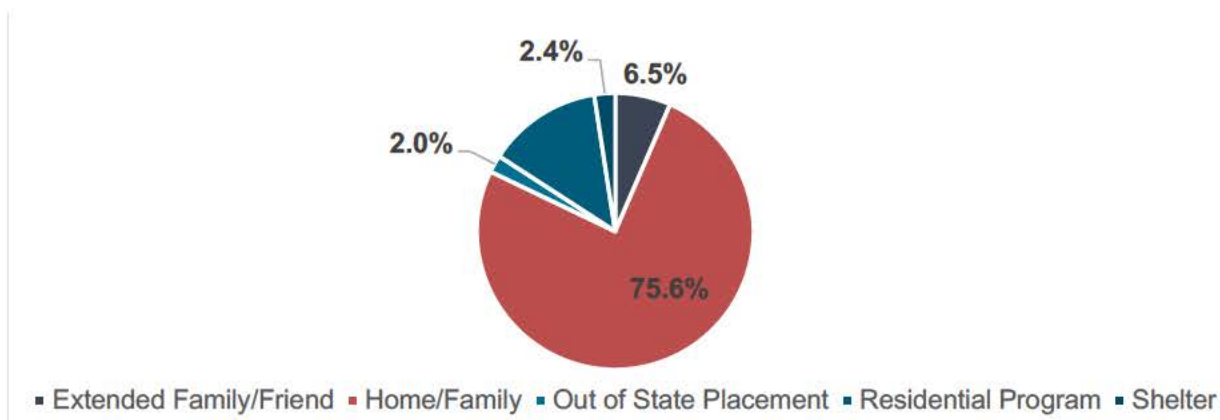
Figure 5: Total Detentions: Race/Ethnicity (n = 254)



Residence Immediately Prior to Detention

- Information about previous residence was available for 246 detention cases.
- Most youth (75.6%) resided at home/with family prior to their detention, whereas 33/246 (13.4%) of detention cases resided in a residential program immediately prior to detention.

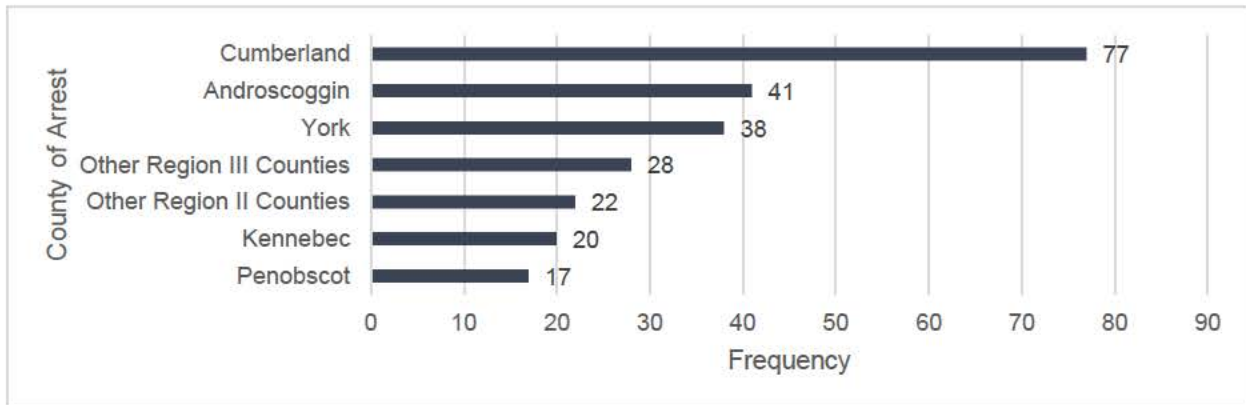
Figure 6: Residence Immediately Prior to Detention



County of Arrest for All Detentions ($n = 243$; 14 additional cases were missing this information)

- 64% of arrests for all detentions came from Cumberland, Androscoggin, or York counties.

Figure 7: All Detentions: County of Arrest ($n = 243$)



Note: Other Region II counties include Franklin, Lincoln, Oxford, Sagadahoc, and Knox. Other Region III counties include Aroostook, Hancock, Somerset, Piscataquis, Waldo, and Washington.

Offense Type for All Detentions ($n = 190$; an additional 67 cases were missing this information)

In 45% of detention cases, the most serious offense was *not* a crime against a person.

- Property ($n = 66$)
- Drugs/Alcohol ($n = 10$)
- Other ($n = 10$)
- Personal ($n = 104$)

Figure 8: All Detentions: Offense Type ($n = 190$)

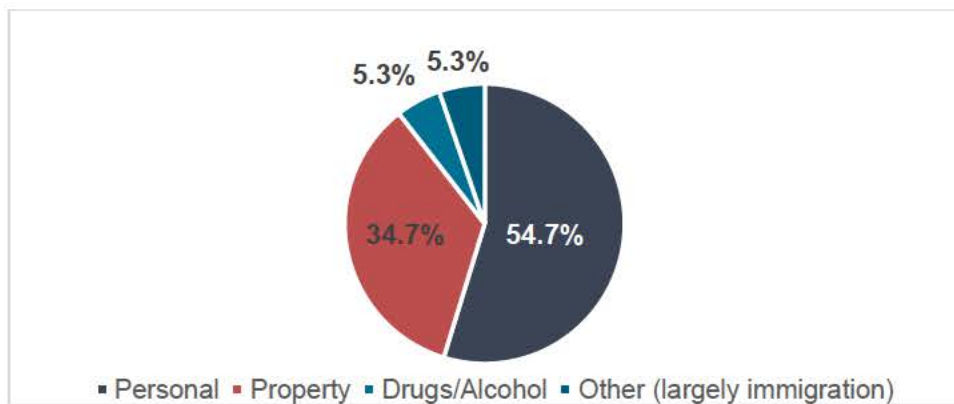


Figure 9: Offense Description for All Detentions with Offense Type Provided ($n = 190$)

Offense Description	<i>n</i>	Percent
Assault	45	23.7%
Theft	35	18.4%
Conditional Release Violation/Probation Violation/FTA Warrant	19	10.0%
Aggravated Assault	13	6.8%
Criminal Mischief	10	5.3%
Robbery	7	3.7%
Burglary/Burglary to MV	7	3.7%
Criminal Threatening	6	3.2%
Terrorizing	6	3.2%
ICE Hold/INS Illegal Citizen	6	3.2%
Refusing to Submit to Arrest	5	2.6%
Assault on an Officer	5	2.6%
Drug Possession	5	2.6%
Murder/Conspiracy to Commit Murder/Solicitation to Commit Murder	3	1.6%
Disorderly Conduct	2	1.1%
Criminal Trespass	2	1.1%
Furnish Liquor to Minor	2	1.1%
Arson	2	1.1%
Liquor Possession	1	0.5%
Operating Under the Influence	1	0.5%
Unlawful Sexual Touching	1	0.5%
Furnishing Drugs	1	0.5%
Sexual Assault	1	0.5%
Stalking	1	0.5%
Interstate Compact	1	0.5%
Obstructing Gov Admin	1	0.5%
Runaway	1	0.5%
Violation of Protection Order	1	0.5%

- Data indicate a great deal of variability in the specific offenses that resulted in detention.

Risk Assessment Instrument (RAI) Scores

- The RAI is used for guiding decisions about whether to detain or release youth.
- RAI scores were available for 229/257 detention cases (mean score = 11.77, median score = 11, range: 1-24).
- 65/229 cases (28.4% of sample with RAI scores) scored below 10 on the RAI (below the cutoff score for discretionary detention, unless the juvenile or community was in jeopardy).
- RAI information was unavailable for 28 cases; of those 28 cases, 16 did not have RAI scores because of policies that did not require RAI administration upon admission to detention.

Figure 10: RAI Indicated Decision

	<i>n</i>	Percent
JCCO shall use discretion to release or detain (10+ score)	164	71.6%
Released unless community in jeopardy (6-9 score)	54	23.6%
Released unless juvenile in serious jeopardy (0-5 score)	11	4.8%

Note: Examined RAI data only reflect youth who were detained within the target time period. No RAI information was available for youth who were not detained (i.e. youth who were released after RAI administration).

Reason for Detention (n = 234 cases where detention reason was given)

- Among these cases, the most common reason for detention was “to provide care.”

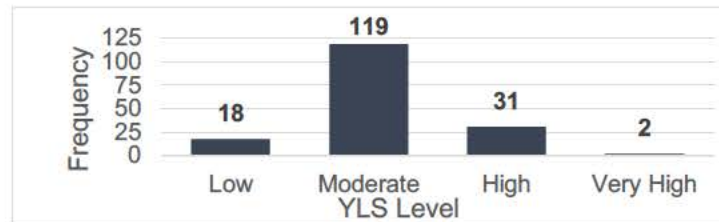
Figure 11: Reason for Detention

	<i>n</i>	Percent
Provide Care (or prevent bodily harm to juvenile)	125	53.4%
Ensure Presence	47	20.1%
Prevent Bodily Harm to Others	45	19.2%
Prevent Victim/Witness Harm or Intimidation	17	7.3%

Youth Level of Service/Case Management (YLS/CMI) Risk/Needs Assessment

- The YLS/CMI uses information about youth to identify criminogenic risks/needs to inform decisionmaking about appropriate responses and interventions.
- YLS/CMI Scores were available for 170/257 detention cases (mean total risk/need score = 16.77, median = 17, range: 0-36).

Figure 12: Total Detentions: YLS/CMI Scores (n = 170)



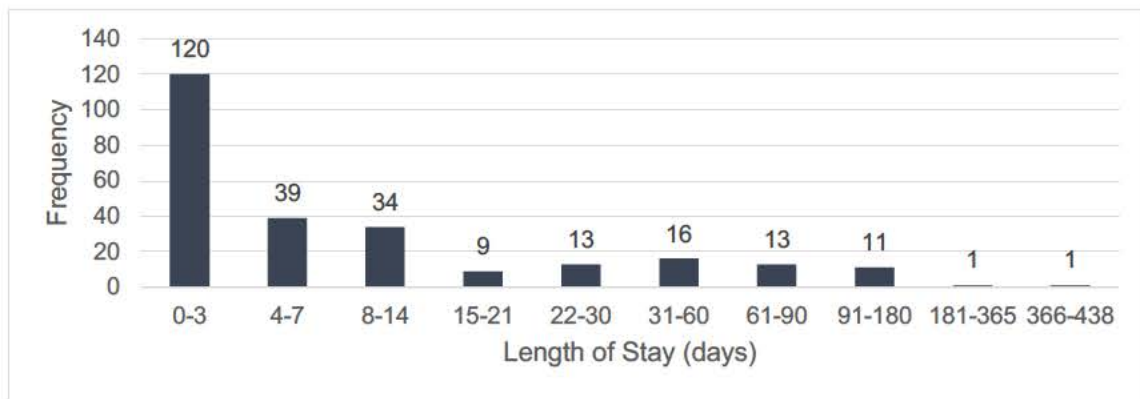
Note: There were no dates associated with YLS/CMI scores provided. Based on YLS/CMI administration data provided for detained youth, YLS/CMI administration may have occurred at various time points (i.e., before, during, after detention); therefore, it cannot be assumed that scores reflect risk/needs levels at the time of detention. Additionally, comparisons across risk level groups should be made with caution.

- In 18/170 detention cases (11%), youth fell within the Low range (0-8) at the time of YLS/CMI administration.
- In 119/170 detention cases (70%), youth fell within the Moderate range (9-22) at the time of YLS/CMI administration.
- In 31/170 detention cases (18%), youth fell within the High range (22-34) at the time of YLS/CMI administration.
- In 2/170 detention cases (1%), youth fell within the Very High range (35-42) at the time of YLS/CMI administration.

Length of Stay (LOS)

Data were provided about the length of stay for all detention cases ($n = 257$). The mean length of stay was **19.49 days**; median length of stay was **4 days**. Detention stays ranged from **0-438 days**.

Figure 13: Length of Stay in Detention



Reason for Stay in Detention Lasting Longer than 30 Days

- In 44 cases, youth remained in detention longer than 30 days and a reason for this prolonged stay was provided.
- 72.7% of detention stays lasting longer than 30 days were for youth awaiting placement or community-based programming.

Figure 14: Reason for Stay in Detention Longer than 30 Days ($n = 44$)

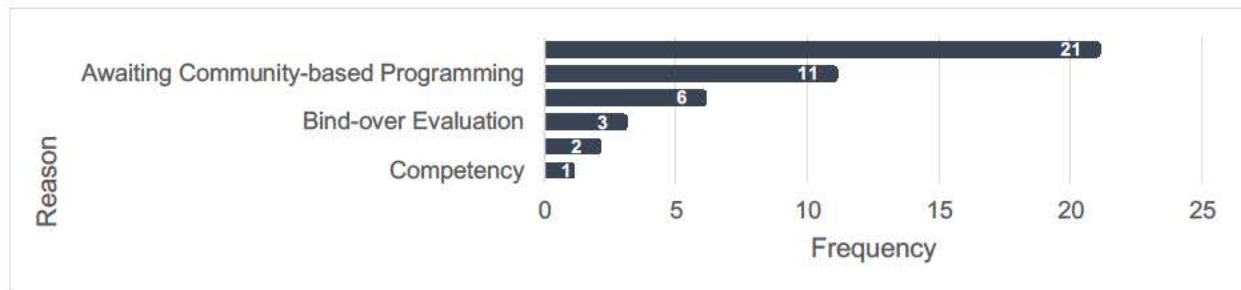


Figure 15: Length of Stay in Days by Offense Category ($n = 190$)

Offense Type	n	Mean LOS	Median LOS	LOS Range
Personal	104	30.0	7.5	0-438
Property	66	20.9	6.0	1-150
Drugs/Alcohol	10	10.2	3.5	1-43
Other	10	6.3	3.0	1-30

Figure 16: Length of Stay by Previous Residential Status ($n = 246$)

Previous Residential Status	n	Mean LOS	Median LOS	Range
Home/Family	186	18.4	4.0	0-351
Residential Program & Out of State Program	38	31.3	11.5	0-438
Extended Family/Friend	16	11.9	3.5	1-64
Shelter	6	26.5	2.0	0-150

Notably, there are large differences in mean length of stay between youth who were residing in a residential program (in or out-of-state) immediately prior to detention and youth coming from other settings. However, given the wide range in length of stay and the small number of youth coming from residential settings, these means should not be considered stable estimates for future planning.

Massachusetts Youth Screening Instrument (MAYSI-2)

- The MAYSI-2 is a mental health symptom screening tool – *not* a diagnostic instrument.
- In 230/257 (89.5%) of detention cases, youth were administered a MAYSI-2 screening within two days of admission to Long Creek.
- Scores above the caution cutoff represent a clinically significant elevation. Note: There is no caution cutoff for the Traumatic Experiences scale of this measure.

Figure 17: MAYSI-2 Scale Scores

MAYSI-2 Scale	n	# With Scores Above Caution Cutoff	% With Scores Above Caution Cutoff
Somatic Complaints	230	97	42.2%
Angry/Irritable	230	72	31.3%
Alcohol/Drug Use	230	68	29.6%
Depressed/Anxious	230	65	28.3%
Suicide Ideation	230	37	16.1%
Thought Disturbance (valid for boys only)	178	49	27.5%

- Across all detention cases, the Somatic Complaints scale was the most commonly elevated domain above the caution cutoff (42.2% of sample scored above this caution cutoff); the Angry/Irritable scale was the next most commonly elevated (31.3% of sample scored above this caution cutoff).

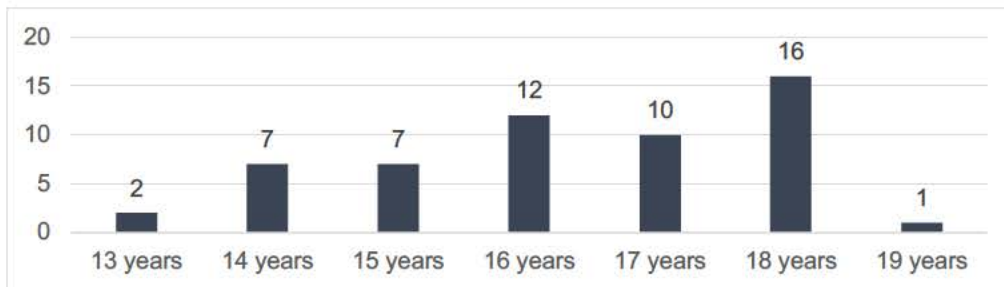
Long Creek Committed Youth Profile

DOC provided data on the 55 youth who spent time in commitment at Long Creek between June 1, 2018 and May 31, 2019. Twenty-nine youth from this sample were still at Long Creek as of May 31, 2019. Given availability of data on only 55 committed youth, caution should be used in generalizing information for planning purposes.

Age at Commitment

- Mean age = 16.3 years, median age = 16 years, range: 13-19 years.
- 70.9% of committed youth were 16 years or older at admission; 49.1% were 17-19 years of age.

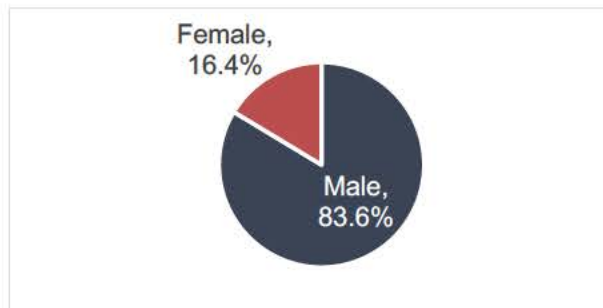
Figure 18: Age at Commitment



Gender

- The sample was mostly male (46/55, 83.6%), with females representing 16.4% (9/55) of the sample.

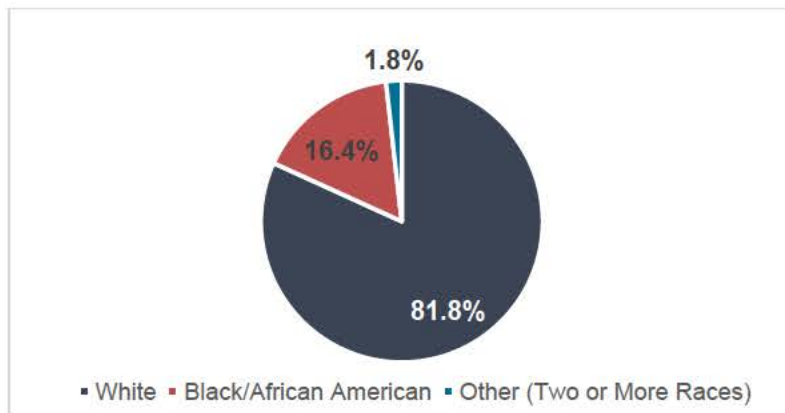
Figure 19: Committed Youth: Gender



Race/Ethnicity

- The sample was mostly White (45/55 youth, 81.8%); 9/55 youth (16.4%) were Black/African American, and the race of 1/55 (1.8%) was identified as “Other.”
- 100% of the sample were identified as U.S. Citizens.
- 3/55 youth (5.4%) were identified as Hispanic.

Figure 20: Committed Youth: Race

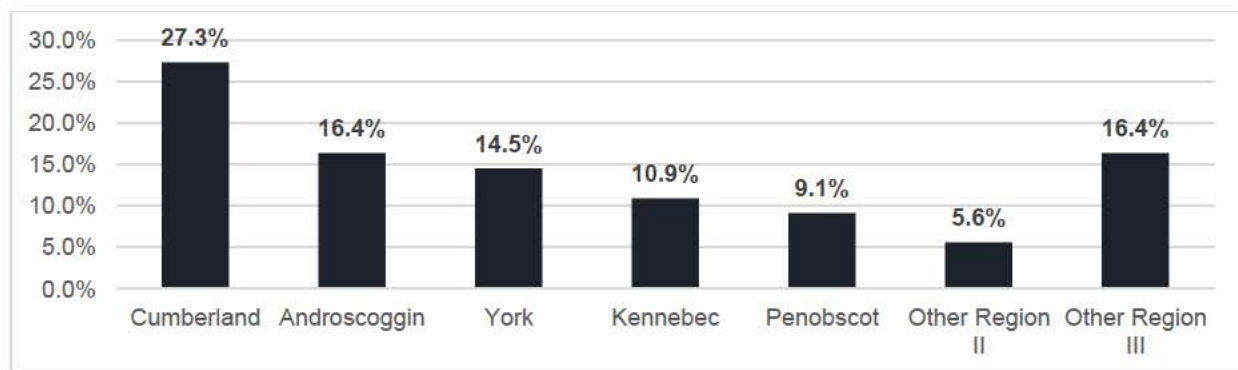


Although the majority of committed youth were white, Black/African American youth were over-represented in the committed sample compared with statewide population demographics.

County of Arrest

- 58.2% of committed youth were arrested in Cumberland, Androscoggin or York counties.

Figure 21: Committed Youth County of Arrest



Note: Other Region II counties include Franklin, Lincoln, Oxford, Sagadahoc, and Knox. Other Region III counties include Aroostook, Hancock, Somerset, Piscataquis, Waldo, and Washington.

Length of Stay (LOS)

For the available sample of committed youth with complete length of stay information (i.e., release date before 5/31/2019; $n = 26$):

- Mean Length of Stay = 526.5 days
- Median Length of Stay = 534.5 days
- Length of Stay Range: 153-985 days

Figure 22: Committed Length of Stay: Categories

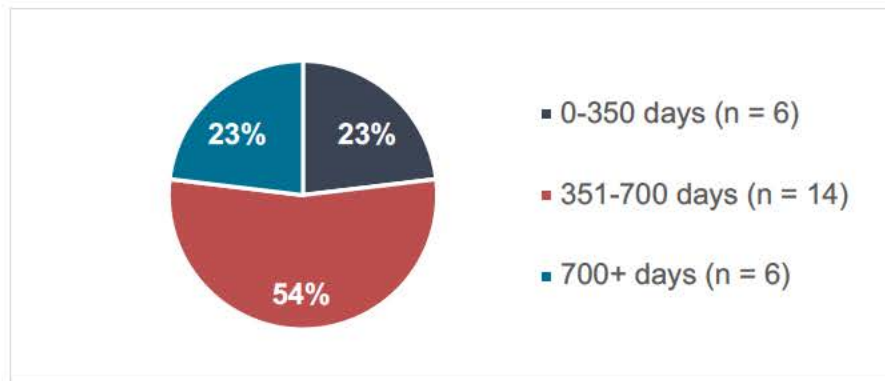


Figure 23: Distribution of Youth LOS in Months for All 26 Youth with Release Dates before 5/31/2019

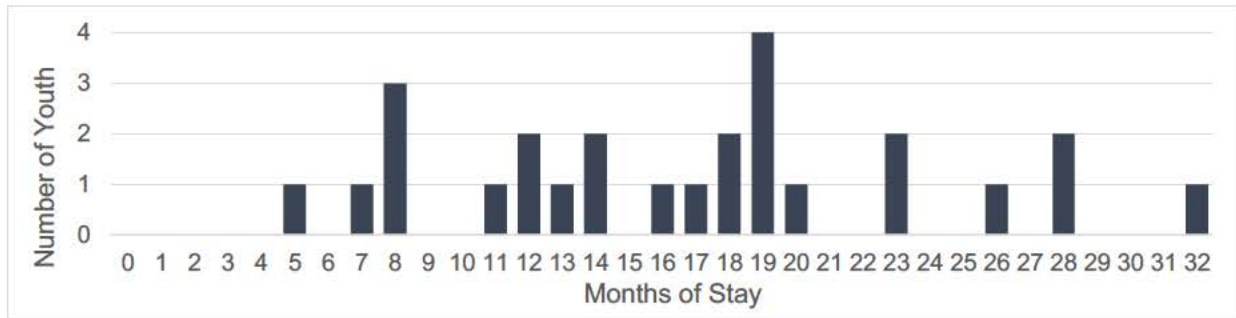
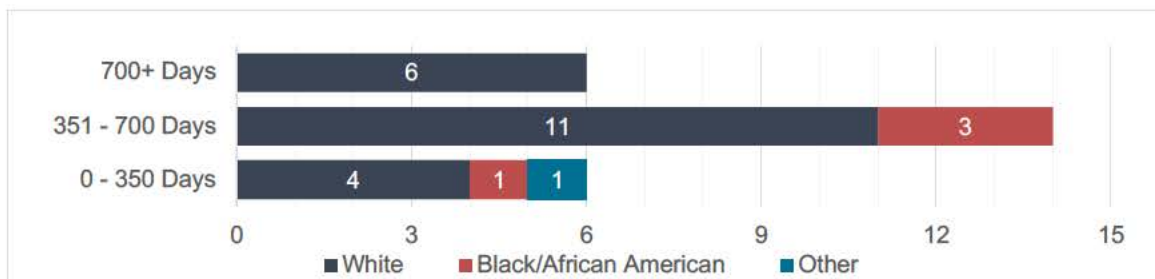


Figure 24: Length of Stay by Race for the 26 Youth with Release Dates before 5/31/2019



Previous Residential Status

- 14/55 youth (25.5%) resided in a residential program immediately prior to commitment to Long Creek.
- 41/55 youth (74.5%) resided at home, with family, or with a friend immediately prior to commitment to Long Creek.

Figure 25: Committed Youth: Previous Residential Status

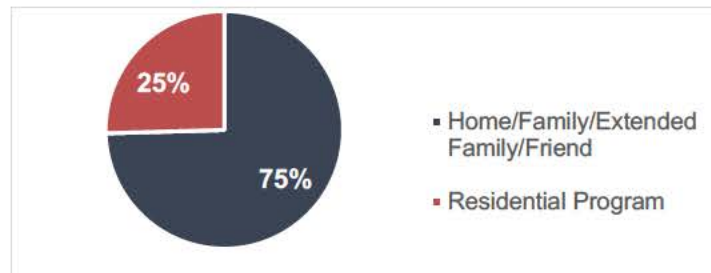


Figure 26: Length of Stay Information for Youth Previously Residing in a Residential Program vs. All Other Youth

Previous Residential Status	<i>n</i>	Mean LOS	Median LOS
Home/Family/Extended Family/Friend	17	461.1	399
Residential Program	9	650.1	595

Complete length of stay information only available for youth with release dates prior to 6/1/19.

An independent samples t-test revealed that **youth whose previous residential status was “Residential Program” stayed a statistically significantly longer period of time in Long Creek** than youth whose previous residential status was noted as either “Home/Family or “Extended Family/Friend,” $t(24) = -2.28, p = .032$.

Most Serious Adjudicated Offense

- 32.7% of the total committed sample had Assault as their most serious adjudicated offense (note: Assault does not include aggravated assault; that is a separate category).
18.2% of the total committed sample had Theft as their most serious adjudicated offense.
- Figure 28 illustrates differences in class level between arresting charges and adjudicated offenses.
- For 15/55 (27%) committed youth, their most serious charge at arrest was a felony (i.e., Class A, B, or C) and their most serious adjudicated offense was a misdemeanor (i.e., class D or E).

Figure 27: Committed Youth: Most Serious Adjudicated Offense

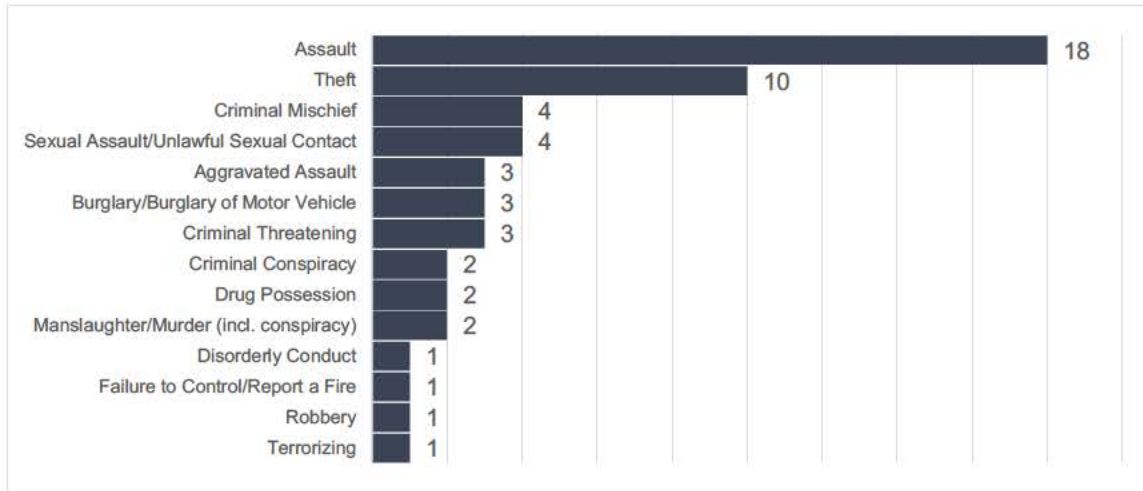


Figure 28: Most Serious Charge at Arrest vs. Most Serious Adjudicated Offense: Class Level



Figure 29: Length of Stay by Most Serious Adjudicated Offense for Youth with Release Dates (n = 26)

Most Serious Adjudicated Offense	n	Mean LOS	Median LOS	LOS Range
Aggravated Assault	1	985.0	985	985- 85
Theft	3	694.1	634	566-882
Terrorizing	1	606.0	606	606-606
Assault	10	539.0	592	153-814
Drug Possession	2	555.7	555	249-862
Robbery	1	447.0	447	447-447
Criminal Mischief	2	397.5	397	273-522
Burglary/Burglary of a Motor Vehicle	2	393.0	393	239-547
Criminal Threatening	1	380.0	380	380-380
Unlawful Sexual Contact	2	380.7	380	259-502

Manslaughter/Conspiracy to Commit Murder	1	346.0	346	346-346
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Figure 30: Length of Stay by Offense Type

Type of Offense	<i>n</i>	Mean LOS	Median LOS	LOS Range
Other	1	595.0	595	595-595
Drugs/Alcohol	2	555.5	555	249-862
Property	7	523.3	547	239-882
Personal	16	520.0	475	153-985

YLS/CMI Scores

48/55 (87.3%) committed youth had YLS/CMI scores on file in DOC’s electronic data management system. Each youth had only one YLS/CMI score report on file. These scores reflect YLS/CMI administrations that occurred before, during, and after youth’s commitment at Long Creek.

- 22/45 youth (48.9%) had YLS/CMI scores from before their commitment to Long Creek.
- 7/45 youth (15.6%) had YLS/CMI scores from during their commitment to Long Creek.
- 16/45 youth (35.6%) had YLS/CMI scores from after their release from Long Creek.
- 3/45 youth (6.7%) had YLS/CMI scores with no administration date.

Given that YLS/CMI administration occurred at a variety of time points, it cannot be assumed that these risk/needs levels reflect what would have been assessed at the time of youth’s commitment to Long Creek. Further, comparisons across risk level groups should be made with caution.

Of the 48 YLS/CMI scores available for examination:

- 11/48 (22.9%) fell within the Low risk range (0-8).
- 23/48 (47.9%) fell within the Moderate risk range (9-22).
- 11/48 (22.9%) fell within the High risk range (23-34).
- 3/48 (6.3%) fell within the Very High risk range (35-42).

According to DOC, the YLS/CMI is typically completed while youth are on probation or whenever re-administration is requested (e.g., new offense committed while on probation). For this report, YLS/CMI risk/needs information is being used for a different purpose (i.e., to attempt to identify risk/needs of committed youth) than the stated purpose for which it was originally collected (i.e., to inform probation-related decisions). Therefore, caution should be used when interpreting the following YLS/CMI information for the purposes of planning to meet committed youth’s needs.

Figure 31: YLS/CMI Score by Length of Stay for Youth with Release Dates and YLS/CMI Scores (*n* = 23)

YLS/CMI Score	<i>n</i>	Mean LOS	Median LOS	LOS Range
Low	8	528.1	580	249-882
Moderate	14	562.8	535	153-985

Figure 32: YLS/CMI Score by Child Welfare Involvement

YLS/CMI Risk/Need	<i>n</i>	Had Child Welfare Assessment <i>n</i> (%)	Substantiated or Indicated Claim <i>n</i> (%)	Removal from Home <i>n</i> (%)
Low	11	2 (18.2%)	2 (18.2%)	0 (0.0%)
Moderate	23	16 (69.6%)	10 (43.5%)	5 (21.7%)
High	11	10 (90.9%)	7 (63.6%)	4 (36.4%)
Very High	3	3 (100.0%)	3 (100.0%)	0 (0.0%)

Family Visits

Within the committed sample, youth received a mean of 18.8 family visits (median = 3, mode = 0, range: 0-130). Youth received a mean of 3.4 family visits per month while in Long Creek (median = 0.5, mode = 0, range = 0-33).

Figure 33: Number of Family Visits per Month by County

County of Offense	<i>n</i>	Mean	Median	Range
Cumberland	15	3.9	2.0	0-16.7
Androscoggin	9	6.6	0.7	0-33.0
York	8	3.1	0.7	0-12.0
Kennebec	6	1.3	0.2	0-5.6
Penobscot	5	4.7	0.0	0-19.8
Other Region II Counties	2	0.67	0.0	0-2.0
Other Region III Counties	9	0.73	0.46	0-2.0

Previous Detentions and Commitments

- Committed youth had a mean of 2.8 detentions prior to Long Creek commitment.
- 3/55 youth (5.4%) had experienced a previous commitment at Long Creek.

Figure 34: Previous Justice Involvement (Detentions and Commitments)

	<i>n</i>	Mean	Median	Range
# of Previous Detentions	55	2.8	2	0-8
# of Previous Commitments	55	0.1	0	0-1

Massachusetts Youth Screening Instrument (MAYSI-2)

- 52/55 (94.5%) committed youth had a MAYSI-2 screening conducted within two days of their admission to Long Creek.

- Of the 52 youth with available MAYSI-2 data, 22 (42.3%) scored above the clinically significant caution cutoff on at least one scale.
- **Somatic Complaints** was the scale most commonly above the caution cutoff (26.9% of assessed youth reporting scores above the cutoff), followed by **Alcohol/Drug Use** (23.1% above caution cutoff).

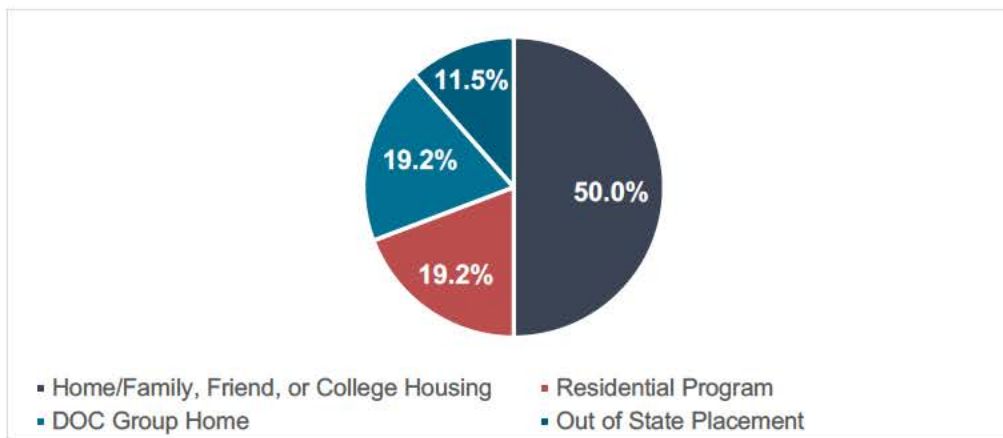
Figure 35: MAYSI-2 Scale Scores for Committed Youth

MAYSI-2 Scale	<i>n</i>	# With Scores Above Caution Cutoff	% With Scores Above Caution Cutoff
Somatic Complaints	52	14	26.9%
Alcohol/Drug Use	52	12	23.1%
Depressed/Anxious	52	11	21.2%
Angry/Irritable	52	10	19.2%
Suicide Ideation	52	9	17.3%
Thought Disturbance (boys only)	43	6	14.0%

Release Location

- Release location information was available for 26 youth (i.e., youth released before 6/1/19).
- 13/26 youth (50.0%) were released to home/family, extended family/friend, or college housing; the remaining youth were released to a residential program, to a DOC group home, or to an out-of-state placement.

Figure 36: Committed Youth: Release Location

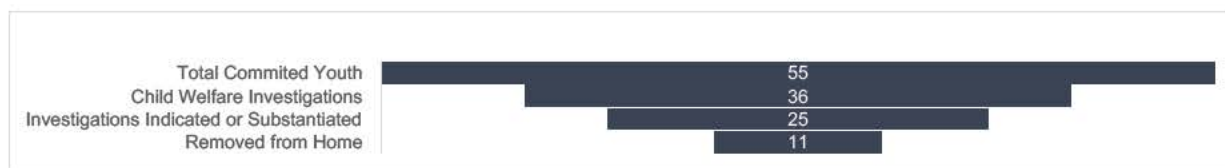


Child Welfare Involvement

Historical child welfare involvement information was provided by OCFS for the sample of 55 youth who spent time in commitment between 6/1/2018 and 5/31/2019.

- 36/55 (65.5%) committed youth had undergone at least one child welfare investigation.
- 25/55 (45.5%) committed youth had at least one indicated or substantiated child welfare investigation.
- 11/55 (20%) committed youth had at least one court-ordered removal from their home.

Figure 37: Committed Sample: Child Welfare Involvement



Behavioral Health Services Data

Information reported below is based upon data provided by OCFS. Service utilization reports are based upon Office of MaineCare Services (OMS) claims, or requests for MaineCare coverage or reimbursement by an approved behavioral health service provider.

Services Received in the Year Prior to Long Creek Commitment

- 38/55 youth (69.1%) in the committed sample received some form of behavioral health service through MaineCare in the year immediately preceding admission to Long Creek.
- 30/46 committed males (65.2%) had prior-year claims; 8/9 (88.9%) committed females had prior-year claims.
- Mean number of claims = 72.04, median number of claims = 38, range: 0-334.

Figure 38: Of the 38 Youth with OMS Claims in the Year Prior to Long Creek Commitment, Type of Services Received

OMS claims included at least one:	Total (n = 38)	Males (n = 30)	Females (n = 8)
Outpatient Service	33 (86.8%)	26 (86.7%)	7 (87.5%)
Residential Stay	21 (55.3%)	16 (53.3%)	5 (62.5%)
Crisis or Emergency Service	19 (50.0%)	13 (43.3%)	6 (75.0%)
Behavioral Health Assessment	16 (42.1%)	15 (50.0%)	1 (12.5%)
Community-Based Service	12 (31.6%)	11 (36.7%)	1 (12.5%)
Inpatient Hospital Stay ^a	6 (15.8%)	4 (13.3%)	2 (25.0%)
Other Claim/Service ^b	15 (39.5%)	12 (40.0%)	3 (37.5%)

^a Among the 6 youth with inpatient stays in the year prior to commitment, the total number of days hospitalized in that year ranged from 5 to 57 (Mean = 21.2 days; Median = 13.5 days).

^b Other claims/services include coordinated care fee, scheduled team conference, and unknown service.

The table below represents the percentage of youth who received at least one service primarily linked to each type of disorder in the year prior to commitment to Long Creek.

Figure 39: Percentage of Youth Who Received at Least One Service Linked to Each Type of Disorder During Year Prior to Long Creek Commitment

Received service linked to:	Total (<i>n</i> = 38)	Males (<i>n</i> = 30)	Females (<i>n</i> = 8)
Behavioral Disorder ^a	24 (63.2%)	20 (66.7%)	4 (50.0%)
Mood Disorder	21 (55.3%)	14 (46.7%)	7 (87.5%)
Trauma or Adjustment Disorder	18 (47.4%)	13 (43.3%)	5 (62.5%)
Anxiety Disorder	11 (28.9%)	6 (20.0%)	5 (62.5%)
Other Disorder ^b	11 (28.9%)	10 (33.3%)	1 (12.5%)
Substance Use ^c	7 (18.4%)	4 (13.3%)	3 (37.5%)
Psychotic Disorder	1 (2.6%)	1 (3.3%)	0 (0.0%)

^a Example of behavioral disorders include ADHD, ODD, and conduct disorder.

^b Examples of other disorders include intellectual disabilities, reactive attachment disorder, unspecified illness.

^c Six of seven youth (85.7%) with claims linked to substance use received services for cannabis; one (14.3%) received services for alcohol, and one (14.3%) received services for psychoactive substance.

Note: Available data did not include reliable primary diagnostic information associated with inpatient stays; thus, no diagnostic information for inpatient claims is included in this table.

Services Received After Release from Long Creek Commitment

26/55 committed youth were released from Long Creek prior to 6/1/2019, and their OMS claims data were available through 8/31/2019. Based on dates of release, these youth were in the community, post-release, and able to receive MaineCare-funded behavioral health services for an average of 349 days (Median = 357 days).

Note: MaineCare providers may submit OMS claims up to one year after service provision. Therefore, the following may be an underrepresentation of recent service utilization.

- 11/26 released youth (42.3%) received at least one behavioral health service through OMS between their release date and August 2019.
- 8/22 released males (36.4%) had claims; 3/4 (75.0%) released females had claims.
- Among these 11 youth, the number of post-release claims ranged from 1-311 (Mean = 58.45 claims; Median = 14 claims)

Figure 40: Types of Service Received after Release from Long Creek

OMS claims included at least one:	Total (<i>n</i> = 11)	Males (<i>n</i> = 8)	Females (<i>n</i> = 3)
Outpatient Service	8 (72.7%)	6 (75.0%)	2 (66.7%)
Residential Stay	6 (54.5%)	4 (50.0%)	2 (66.7%)
Crisis or Emergency Service	2 (18.2%)	1 (12.5%)	1 (33.3%)
Behavioral Health Assessment	2 (18.2%)	0 (0.0%)	2 (66.7%)
Community-Based Service	1 (9.1%)	1 (12.5%)	0 (0.0%)
Inpatient Hospital Stay ^a	1 (9.1%)	1 (12.5%)	0 (0.0%)
Other Claim/Service	5 (45.5%)	3 (37.5%)	2 (66.7%)

^a The one youth with an inpatient hospital stay after release from Long Creek spent 14 days hospitalized; this hospitalization took place approximately 10 months post-release.

The table below represents the percentage of youth who received at least one service primarily linked to each type of disorder at some point *after* release from Long Creek and before August 2019.

Figure 41: Percentage of Youth Who Received at Least One Service Linked to Each Type of Disorder after Release from Long Creek Commitment

Received service linked to:	Total (<i>n</i> = 11)	Males (<i>n</i> = 8)	Females (<i>n</i> = 3)
Behavioral Disorder ^a	6 (54.5%)	5 (62.5%)	1 (33.3%)
Trauma or Adjustment Disorder	4 (36.4%)	2 (25.0%)	2 (66.7%)
Mood Disorder	3 (27.3%)	2 (25.0%)	1 (33.3%)
Anxiety Disorder	3 (27.3%)	2 (25.0%)	1 (33.3%)
Other Disorder ^b	2 (18.2%)	1 (12.5%)	1 (33.3%)
Substance Use ^c	2 (18.2%)	2 (25.0%)	0 (0.0%)
Psychotic Disorder	0 (0.0%)	0 (0.0%)	0 (0.0%)

^a Example of behavioral disorders include ADHD, ODD, and conduct disorder.

^b Examples of other disorders include personality disorder unspecified and autistic disorder.

^c Both youth with claims linked to substance use received services for cannabis use.

Note: Available data did not include reliable primary diagnostic information associated with inpatient stays; thus, no diagnostic information for inpatient claims is included in this table.

Summary and Takeaways from Quantitative Data

- Many youth at Long Creek were not charged with or adjudicated for a violent crime.** In 45% of detention cases and 42% of commitment cases, the youth's most serious charge or offense was a property, drugs/alcohol, or other crime – not a crime against a person.
- Although youth at Long Creek are predominantly white, youth of color are overrepresented given Maine's small population of residents of color.** Youth in 23% of detention cases and 16% of commitment cases were Black or African American; only 1.6% of Maine residents are Black or African American.
- Youth were detained in and committed to Long Creek for a wide range of time periods.** Most youth were detained for 1-4 days, but some were detained much longer (e.g.,

6-12+ months). Average commitment was 17 months, but some youth stayed much longer (e.g., 2-2.5 years).

4. **The identified purpose of detention for most youth (approximately 53%) was to “provide care.”** In 73% of cases in which youth were detained at Long Creek for more than 30 days, the youth was awaiting placement in a different setting or waiting for a community-based program.
5. **Length of commitment stays did not appear to be related to any single youth factor or to any specific set of youth factors.** Given the small number of committed youth, individual case reviews may be required to better understand the relationships between length of stay and youth-specific needs and circumstances.
6. **There was not a linear relationship between available YLS/CMI risk/needs level and length of stay.** Although risk level data was often not generated at the time of admission to Long Creek, the large number of youth identified as low or moderate risk suggest that detention and commitment are not being reserved solely for youth with high or very high criminogenic risks and needs. Further, once youth arrive at Long Creek, youth identified with low risk/needs do not necessarily have shorter lengths of stay than youth with high risk/needs.
7. **Many children are involved with both DOC and OCFS.** In the sample studied, 65% of committed youth had interacted with the child welfare system at some point in their lives (i.e., had at least one child welfare investigation). Of committed youth, 69% of youth received some form of behavioral health service through MaineCare in the year immediately preceding their commitment to Long Creek.

Taken together, the data indicate that understanding who is at Long Creek, why they are there, and what their needs are, and determining appropriate interventions or treatment requires an individualized approach. This is consistent with the guiding principle, outlined earlier, that the system recognizes individual differences and tailors interventions and services to the needs and assets of individual youth.

Data Recommendations

As a result of our collaborative efforts to locate, extract, and interpret data with DOC and OCFS, the JJR&R Lab has several recommendations that would help facilitate review and use of data to better inform decisionmaking processes, policies, and practices going forward.

1. **Record data more comprehensively and consistently.** It would be helpful to institute a quality control system in which staff check the accuracy of data coding and recording. Such a process would help ensure that future analysis and evaluation relies upon accurate data. We encourage agencies to maintain *all* collected data. As an example, the YLS/CMI may be administered several times over the course of a child’s DOC involvement, and it is important to maintain data from all administrations (with accompanying administration dates) to

provide a more comprehensive picture of youth's risks and needs over time. Also, recordkeeping procedures should provide for more comprehensive documentation of youth's behavioral health, medical, and educational needs and the services they receive during detention and commitment.

2. **Better integrate data into useable formats and regularly review data.** Although agencies appear to be collecting information about youth and reporting it in the moment for case management and other relevant purposes, it does not appear they are able to easily access the data in an aggregate form. Consolidating data into accessible and easily exportable databases will facilitate regular review and use of data. Additionally, data should be examined regularly to confirm ongoing feasibility of use for intended purposes (e.g., case management, aggregate-level decision making).
3. **Given the considerable overlap of agencies serving Maine youth (i.e., DOC, OCFS, Department of Education), create a method for integrating data across systems.** This work will aid in forming a more comprehensive picture of these young people and their needs, especially over time (i.e., before, during, and after detention and commitment).

C. Needs of Youth in the Juvenile Justice System

The Assessment Team benefitted from an abundance of information: the analyses of data on detained and committed youth, behavioral health diagnoses and treatment services, and other aspects of the system; the interviews with more than 100 public officials, juvenile justice system stakeholders, advocates, parents, crime victims, educators, mental health professionals, and researchers; the youth focus groups; the review of relevant statutes and DOC and DHHS policies, practices, and procedures; the four Town Hall meetings; the community survey; the financial and budget analysis; as well as discussions at the nine Task Force meetings between May 2019 and January 2020. In addition, with respect to needs of youth in the juvenile justice system, the comments, reports, and suggestions to Assessment Team members from people throughout Maine were remarkably consistent.

The data, interviews with people throughout Maine, and DOC's own information, make it clear that, to maintain public safety and meet the needs of young people in the Maine juvenile justice system, there are four significant needs:

- (1) A continuum of community-based programs and services to provide supervision for youth without incurring the harms of unnecessary incarceration.**
- (2) A limited secure detention and corrections capacity to protect the public from youth who pose a substantial danger to others.**
- (3) Secure psychiatric residential treatment capacity for youth with serious mental health problems and a more robust array of behavioral health services and supports.**
- (4) A vehicle for meaningful collaboration and engagement with stakeholders and impacted communities.**

This section of the report will provide an overview of these needs, and subsequent sections will discuss them in detail.

Continuum of Community-Based Programs and Services

Maine has had for some time, or has recently established, several community-based programs and services, many of which are excellent. However, one of the most common statements we heard throughout Maine, from youth and adults, from those inside and outside the juvenile justice system, was that the state still lacks a continuum of community-based programs and services to provide effective supervision of young people without resorting to incarceration. Chief Justice Saufley stated this need at the first meeting of the Juvenile Justice Task Force in May 2019 and echoed it in her address to the joint convention of the state legislature on January 28, 2020.³³

The continuum of programs and services should include a variety of supports and services, including some non-secure and staff-secure programs, that provide different levels of supervision and support to meet the varying needs of youth in the system. These include:

- **Diversion programs**, which divert youth to community-based programming instead of referral to the formal juvenile justice system;
- **Restorative justice programs**, which bring together youth and victims of crime to mediate and discuss the harm to the victim, the youth, and the community as a result of the youth's behavior;³⁴
- **Intensive supervision programs in the community**, which provide close supervision and support from program staff to safely integrate youth within their community by building their skills and positive connections to the community;³⁵
- **Evening reporting centers**, which provide supervision and structured activities for youth from immediately after school until they are taken home in the early evening, so that youth always have adult supervision;³⁶
- **Wraparound services**, which provide highly individualized services family-focused services while allowing youth to remain in their homes;
- **Family-based treatment interventions such as Multisystemic Therapy (MST) and Functional Family Therapy (FFT)**, which provide 24/7 family-focused services through case managers with small caseloads;
- **Shelter care**, which provides short-term housing for youth who need to be apart from their families on a temporary basis;
- **Emergency foster care**, which provides temporary housing for youth with a family in a home;
- **Group homes**, which provide longer-term residential options for youth who cannot return to their homes;
- **Other types of transitional housing**, such as Transitional Living Programs,³⁷ which provide housing and supports for youth who are homeless;
- **Staff-secure transitional housing**, which provides close supervision of youth in a home-like setting;
- **Community-based mental health programs**, for youth with mental health needs who do not need a secure setting;³⁸
- **Community-based substance use disorder programs**, for youth with alcohol or drug dependency;
- **Mobile crisis teams and crisis shelter capacity**, particularly in the rural parts of Maine.³⁹

“We know what we need, we just need to be resourced. Kids want jobs, want to contribute to their community, and they want the community to have what they need. Kids want to interrupt what they see in the community, but they need resources to do it.”

-Youth Advocate

DOC already provides many of these alternatives to incarceration, either directly or through funding of community-based nonprofits. DOC began funding Restorative Justice programs in 2015. Last year, DOC contracted with Youth Advocate Programs, an intensive supervision program, to support successful reentry for youth transitioning out of Long Creek and back into their communities. Tree

Street Youth, which DOC supports, has an excellent evening reporting center. DOC provides wraparound services through Wings and the Opportunity Alliance. It provides funding for MST and FFT through several providers. It funds New Beginnings Emergency Shelter and Shaw House as short-term shelter capacity. It provides transitional housing through RISE (Realize Independence Surpass Expectations) and Bearings House, which opened in December of 2019.

The issue is not the type of alternative-to-incarceration programs supported by DOC, but, rather, the availability and use of them. There is a critical need for more program opportunities and more nonsecure care options of the type that already exist – and that can be supported and sustained outside of the DOC budget. Maine needs programs like Tree Street and services like YAP all over the state. Some existing programs are regularly full, with long waiting lists. Equally important, some programs that do have available slots and capacity are under-utilized by the courts and DOC. Some programs like MST and FFT have been chronically under-resourced and, in some parts of the state, starved out of existence. The solution lies in reaching consensus on basic guiding principles for the juvenile justice system, developing a *coordinated* system of care across agencies that utilizes all community-based resources in the most effective way, and creating new programs to address needs (such as mental health services) that are currently unmet. These issues are discussed in later sections. The juvenile justice system in Maine is unlikely to transition from overreliance on incarceration to effective use of community-based resources until these issues are resolved.

Limited Secure Detention and Corrections Capacity

The quantitative data make it clear that Maine will continue to need some secure confinement capacity for youth who present a danger to the community. Almost 55% of detained youth were charged with a crime against a person, and some youth were charged with very serious crimes such as aggravated assault, robbery, sexual assault, and murder. Among committed youth, the serious adjudicated offenses included aggravated assault, murder/manslaughter, and robbery.

At the same time, Maine does not need anything close to the secure capacity it has now in Long Creek. Long Creek has a capacity of 163.⁴⁰ How much secure detention and commitment capacity does Maine need? An effective approach to estimating needed secure capacity looks at three primary indicators: (1) the number of youth admitted to incarceration and the reasons they were incarcerated, (2) the Average Length of Stay (LOS) of youth in the facility, and (3) the Average Daily Population (ADP) in the facility.⁴¹

The Average Daily Population is the primary indicator of how much secure care capacity the state needs. Long Creek contains two incarcerated populations: detained youth, who are usually held for a relatively short period of time until released or until their adjudication or disposition hearing, and committed youth, who are often held for at least a year, and in many cases, for much longer. The total ADP for Long Creek is the combination of the ADP for detained youth and the ADP for committed youth.

The ADP is a function of the other two factors, admissions and length of stay: the number of youth in the facility on any one day is a function of the number of youth admitted to the facility and the length of time they are there. If the number of admissions goes down, the ADP will go down

because there are fewer youth there, even if the length of stay remains the same. If the length of stay goes down, the ADP will go down, even if the number of admissions remains the same. If the number of admissions and the length of stay *both* go down, the ADP will go down substantially.

Admissions

The first factor, the number and reasons for admissions, asks whether youth who are incarcerated could be effectively supervised in the community. If they could be supervised in the community without jeopardizing public safety, the number of admissions could be reduced. **DOC data demonstrate that a substantial portion of the youth incarcerated at Long Creek do not require incarceration for community protection.** This is clear from several sources. Among detained youth with Risk Assessment Instrument (RAI) scores available, 28% had scores below 10, which means the youth should presumptively be released unless other factors demonstrate that the youth or the community would be in jeopardy. **For all cases listing a reason that detention was imposed, 53% were detained “to provide care.”** These youth were not detained because they posed a threat to the community. They were detained because, when they were arrested, the authorities determined that they could not go home. The reason may have been absent parents, or parental supervision that was considered inadequate, or mental health needs, or substance use disorders or other concerns about their welfare. They needed someplace to go other than home, and there were no existing program slots available, or available program slots were considered inappropriate or ineffective, so the authorities sent them to Long Creek. If a continuum of a sufficient number of community-based programs and services had been available, and if available programs and services were used more efficiently, many of those youth, perhaps most, could have avoided incarceration in Long Creek.

Length of Stay

The second factor asks whether the length of stay was unnecessary or excessive. The data on the length of stay *in detention* show that 120 youth, 46% of the sample, were in detention for three days or less. The median length of stay for all youth in the sample (i.e., half of all stays were shorter and half were longer) was 4 days. If all of those youth were detained because they were a danger to the community, it is difficult to see why they were released within a few days. After all, they wouldn't become any less of a danger to the community in that short time. It's much more likely that they were detained to “provide care” (i.e., to give them a place to go). Thus, if there were an adequate continuum of programs and services in the community, they could have received care in those programs and could have avoided detention in Long Creek.

The data on length of stay for *committed youth* show they spent long periods of time incarcerated, and based on available YLS/CMI risk/needs scores, youth identified as Low or Moderate risk of recidivism at the time of YLS/CMI administration actually spent *longer* incarcerated than youth identified as High risk—much longer. The median length of stay⁴² at Long Creek for committed youth identified as High risk at the time of YLS/CMI administration was 321 days, while the median length of stay for youth identified as Moderate risk was 535 days. The median length of stay for youth identified as Low risk was 580 days. Although YLS/CMI administration typically did not occur at the time of commitment, available data suggest that length of stay did not parallel risk level.

The reason for this unusual situation is not a mystery. As many people told us in interviews, including administrators and staff at DOC, the committed youth who spent the most time in Long Creek were not there because they posed a high risk of recidivism or a danger to the community, but, rather, because they had family, behavior, mental health, substance use disorders, or other problems, and there were no available places for them to go. If there had been adequate programs and services available in the community, or if available programs had been used more efficiently, they need not have stayed so long in Long Creek.

All of this indicates that, if the state creates an effective continuum of community-based programs and services, length of stay for detained and committed youth could be reduced substantially.

Average Daily Population

At the Juvenile Justice Task Force meeting on December 18, 2019, DOC presented data on Average Daily Population in Long Creek for both detained and committed youth.⁴³ The data show that ADP for detained youth has gone down almost every year since 2007, from a high of just over 38 in 2007 to a low of just over 15 in 2019. This is a remarkable achievement and has come about as a result of the multiple efforts by DOC discussed above. For committed youth, similarly, the ADP in Long Creek has gone down almost every year since 2009, from a high of just over 118 in that year to a low of just under 24 in 2019. Again, this is a remarkable achievement for DOC.

These data show that the combined ADP in Long Creek was 39 youth (15.2 detained and 23.8 committed) in 2019. Of course, the data are *averages*, and there were days with higher population and days with lower population. This does not mean that there was only a need for housing for 39 youth in Long Creek during the year. In 2018, for example, the combined ADP was 52, and in 2017 the combined ADP was 70.

On the other hand, the trend is clear, and the **data indicate that admissions to detention and commitment *and* length of stay for detained and committed youth could both be substantially reduced from the current levels.** Consequently, the current daily population could be substantially reduced if an adequate continuum of community-based services were available.

Moreover, the state does not need to meet the need for secure care capacity in one large building. The location of Long Creek in South Portland is convenient to the population centers in the southern part of the state, but it is very inconvenient for law enforcement, DOC staff, youth, and families in the northern two-thirds of the state. The DOC detention data show that just under two-thirds of youth detained (64%) were arrested in the southern part of the state, in York, Cumberland, and Androscoggin counties. The DOC commitment data show that 58% of committed youth were arrested in these three southern counties. Accordingly, the majority of the secure care capacity is needed in the southern part of the state, and a smaller amount is needed in the northern part.

From all of this it is evident that the total secure capacity needed in Maine would be substantially smaller than current levels if the appropriate continuum of programs and services were available and the available programs and services were used effectively. *Of that substantially smaller number*, a small portion would be needed in the northern Maine, and the majority in the southern part of the state.

Maine can look to other states for models of small secure care capacity. Massachusetts closed its large training schools almost 50 years ago and sent youth to foster care, group homes, other community-based programs, and a limited number of small, secure care facilities (i.e., 8-24 youth).⁴⁴ Missouri closed its two training schools for committed youth in the 1980s. In the 1990s, it created a continuum of small residential programs in different regions of the state. Missouri did not have to build a lot of new facilities. Some of the programs were created in existing locations such as former public schools and state park facilities.⁴⁵ Ohio, Michigan, New York, and Washington, DC, have also created smaller secure alternatives to large incarceration facilities. This issue will be discussed in more detail in a later section of this report.

Behavioral Health Needs of Youth in the Juvenile Justice System

There are many youth at Long Creek who have serious behavioral health problems. DOC estimates the number as roughly one-third of the current population.⁴⁶ The youth are there because DOC cannot find any other place for them, and Long Creek is not the place for them either. The data provided by the Department of Health and Human Services from MaineCare records show that youth at Long Creek received services for a wide variety of mental and behavioral health disorders in the year prior to admission to the facility: behavioral disorders, mood disorders, trauma or adjustment disorders, anxiety disorders, and substance use. Some of these youth need secure settings, but they likely need a therapeutic setting, not a correctional one.

Secure Psychiatric Treatment Capacity

There are residential treatment programs in Maine, but they often refer youth who are aggressive or otherwise disruptive to law enforcement, which often results in taking the youth to Long Creek. For example, DOC had previously reported data that as of July 2016, roughly one-third of the youth committed to Long Creek had come directly from residential behavioral health treatment programs.⁴⁷ After collecting data from 21 law enforcement agencies about the reasons for the referrals from residential facilities, Disability Rights Maine reported that many of the referrals (38.5%) were for “Juvenile Problems,” which included property damage, harassment, threats, and other aggressive behavior. Other referrals were for disruptive behavior like walking off the property.⁴⁸ The percentage of committed youth coming directly from other residential programs was lower in the committed sample reviewed for this assessment (25.5%), but the number is still sizable.

There is clearly a need in Maine for a secure psychiatric residential treatment capacity, but one that does not refer youth to law enforcement for aggressive or disruptive behavior and that recognizes that the behavior is often a manifestation of the youth’s disability. There are many examples of such “no reject, no eject” programs.⁴⁹ Fortunately, DHHS has recognized this as a need and is currently working to create this capacity in Maine.

Potentially Undiagnosed or Underdiagnosed Behavioral Health Problems

Although many Task Force members and other stakeholders identified the inability to manage physically aggressive youth as a significant challenge in non-secure programs, there may be two underlying undiagnosed or underdiagnosed problem among this population.

First, DOC does not screen youth for traumatic brain injury, or TBI. Studies have found the incidence of TBI among young people in custody is between 49% and 72%, with between 16.5% and 49% having experienced TBI with loss of consciousness.⁵⁰ TBI has been shown to increase criminal behavior by youth and lead to their later involvement with law enforcement. A systematic review of research found that TBI is approximately three times more likely to occur within youth in the juvenile justice system relative to youth who are not in the juvenile justice system.⁵¹

Frequently, youth with TBI are misdiagnosed as having one or more behavioral health disorders, and attempts to treat them with psychotropic medications are *not* effective in managing the aggressive behavior. All youth should be screened for TBI at every entry point into the behavioral health or juvenile justice system. There are several screening tools available, identified in Figure 42 below, that are validated for use in secure settings and could be easily implemented in Maine.

Figure 42: Evidence-Based TBI Screening Tools⁵²

TBI Screening Tool	Description	Administration	Validated in Correctional Settings
Ohio State University Traumatic Brain Injury Identification Method (OSU TBI-ID)	First 5 items of the OSU TBI-ID asking for recall of blows to the head or neck in high velocity of forces.	5 minutes. No fee for use. Health care and social service providers can be easily trained on this measure via web-based modules. ⁵³ An interview form is also available. ⁵⁴	Yes
Brain Injury Screening Questionnaire (BISQ)	Structured questionnaire that characterizes incidence and severity of lifetime exposure of TBI, as well as symptoms in attention/memory, depression, anxiety/mood, aggression/impulsivity, depression, and physical symptoms.	May be administered via interview or self-administration and can be conducted as self- or proxy-report assessment. There are costs associated obtaining the BISQ, which includes access to it and training, as well as a system for scoring and clinical reporting. ⁵⁵	Yes
Traumatic Brain Injury Questionnaire (TBIQ)	Structured interview regarding frequency and severity of instances of head injury, including cognitive and behavioral symptoms.	15 minutes. No fee for use.	Yes

The most successful treatment strategy for youth identified as having TBI is neurofeedback. Office or hospital-based resources should be identified that are available to provide this intervention for youth identified as suffering TBI.

In addition, there is growing evidence that the prevalence of Fetal Alcohol Spectrum Disorders (FASD) is pronounced among incarcerated youth. For example, a study conducted in Australia found the prevalence rate for FASD to be somewhere between 36% and 46% in a population of

youth in secure custody. Study authors noted severe neurodevelopmental impairment in this group, the majority of which had not been previously identified.”⁵⁶

FASD’s effects on the brain can result in cognitive or behavioral deficits.⁵⁷ These deficits may include learning disabilities, hyperactivity, attention deficits, and poor social skills. These and other problems associated with FASD may increase the chance that a person will break the law. Additionally, individuals with FASD typically are impulsive and have trouble foreseeing the consequences of their actions.⁵⁸ Many are very susceptible to peer pressure and can be easily led. Their judgment is often poor. These effects are particularly problematic for youth who are incarcerated, since they may lead to misbehavior, disruption, discipline, and longer incarceration.

Thus, in addition to screening youth for TBI youth should also be screened for FASD at all entry points into the behavioral health and juvenile justice systems. The Neurobehavioral Screening Tool (NST) is one of several promising screening measures for FASD that could easily be implemented in the State of Maine.⁵⁹ Another such screening tool is the FASD BeST.⁶⁰

The Behavioral Health Workforce Crisis in Maine

A serious complicating factor in the provision of needed community-based behavioral health services is the low level of MaineCare reimbursement for behavioral health treatment. These low reimbursement rates have made it difficult for psychiatric programs to hire and retain clinical staff. Proven effective programs such as MST and FFT, which once were established features of the system of care in Maine, have been reduced in recent years or, in some parts of the state eliminated entirely, due to the low reimbursement rates.

All providers and agency heads reported insufficient numbers of and capacity within outpatient and inpatient services. For example:

- Sweetser, Spurwink, and Spring Harbor reported empty beds because of lack of staff.
- Spurwink reported having 35 families waiting for FFT services.
- Spring Harbor reported that though they are an acute care psychiatric facility with intended stays of two weeks, many youth wind up staying for six months or longer because there are problems with discharge in that there are “no places for kids to go.”
- Long Creek staff reports that “the lion’s share of kids in detention are waiting for programming in the community.”
- Some of the most effective community-based interventions such as MST and FFT have been reduced or eliminated because of reimbursement rates. For example, Aroostook Mental Health Center was forced to eliminate its MST team in 2018, leaving Aroostook and Washington counties with no provider. Other agencies have also had to reduce the number of teams providing these services.

“The lion’s share of kids in detention are waiting for programming in the community.”

-Long Creek Staff

Many stakeholders spoke to the fact that staff shortages in the mental and behavioral health service providing agencies and that the constant turnover has led to hiring staff who are not equipped to deliver critical services (i.e., best practice services such as FFT and MST). For example, the Assessment Team learned that mobile crisis services, where they exist, are often staffed by bachelor's-level practitioners when the position is said to specifically require at least a master's degree.

The reason for these service availability problems is straightforward: the amount of money the state was willing to pay service providers to help Maine youth is not enough to cover the cost of providing the services. For example, in 2018 testimony to the Maine State Legislature, the Executive Vice President of MST Services noted that Maine's rate for MST reimbursement was "substantially lower than rates in other states that use a Medicaid unit rate to fund MST."⁶¹

These service availability problems have real-life consequences for youth and families. For example, while the Assessment Team learned that 486 youth had received MST services between 2015 and 2018, just 59 youth received the service in 2019. Similarly, the Assessment Team learned that FFT providers reported serving 305 youth between 2015 and 2018 (a yearly average of 76), but only served 31 youth in 2019.

Behavioral Health Services as Part of the Community-Based Continuum of Care

As noted earlier in the report, this System Assessment was not intended to replicate the 2018 Children's Behavioral Health Services Assessment conducted by the Public Consulting Group on behalf of DHHS,⁶² nor was it intended to replicate the work of the Working Group on Mental Health established in 2019 by LD 1602.⁶³ The Assessment Team endorses the recommendations of the Children's Behavioral Health Services Assessment and the Working Group on Mental Health.

We also recognize the work that has been underway at DHHS to rebuild the state's behavioral health service array for children and youth and to implement the recommendations from the Children's Behavioral Health Services Assessment. Many of the recommendations related to behavioral health service needs and delivery in this System Assessment are also recommendations that were made in the Children's Behavioral Health Services Assessment. We were pleased to see that DHHS is in the process of implementing those recommendations and praise those efforts.

Given the focus of this assessment, the Assessment Team emphasizes the needed behavioral health supports within a community-based continuum of care for youth in the juvenile justice system. Results of the Community Survey, outlined in Appendix A, are noteworthy as respondents overwhelmingly identified the need for behavioral health services as among the most pressing overall needs for Maine's youth. These supports are consistent with the children's behavioral health service array that DHHS is currently working to rebuild.⁶⁴

- **Office and outpatient clinical services.**
- **Intensive case management.** Opportunity Alliance in Portland and JCCOs throughout the State of Maine provide intensive case management. However, there is a need for expansion of these case management services.

- **Home-based treatment services and family support services.** These include MST and FFT, as well as wraparound home-based services, which are only available in parts of the state.
- **Day treatment programs or partial hospitalization.**
- **Emergency/crisis services.** As mentioned above, there were concerns with qualifications of mobile crisis team members.
- **Respite care services.** This serves as a temporary relief for primary caregivers. Youth Advocate Programs, which was introduced in Maine last year, offers a respite program for youth with behavioral challenges.
- **In-home services.**
- **Out-of-home services.**
- **Therapeutic group home or community residence.**
- **Crisis residence.** There was general agreement on the need for more and higher-quality shelter capacity.
- **Residential treatment facilities and hospital treatment.** As noted above, there were concerns about the ability of these programs to work with youth who demonstrate aggressive or challenging behavior, and other concerns about the quality of such programs.

The Need for Continuous Quality Improvement

Many stakeholders identified the need for a comprehensive Continuous Quality Improvement (CQI) program to assess the success and efficacy of the behavioral health services and supports being provided in Maine. Behavioral health agencies have been increasingly required by their accrediting bodies to specify and implement plans to continuously monitor and improve the quality of the services they provide (e.g., Commission on Accreditation of Rehabilitation Facilities; Council on Accreditation; Joint Commission).

Quality determines whether services increase the likelihood of achieving desired behavioral health outcomes and whether they meet the current requirements of evidence-based practice. Quality is important in all behavioral health systems because good quality ensures that people with behavioral health disorders receive the care they require and that their symptoms and quality of life improve.

None of the behavioral health contracts reviewed required a CQI component to be in compliance with the contract. Although performance measures are included in contracts, assessment of the *efficacy* of these services is not required by contracts (i.e., outputs vs. outcomes). Unlike performance measures, Continuous Quality Improvement aims to improve programs and health care by identifying problems, implementing and monitoring corrective action, and studying the effectiveness of improvements. CQI is a philosophy that encourages all healthcare team members to continuously ask “How are we doing?” and “Can we do it better?”

Implementing a CQI program would also involve tracking the provision of behavioral health services by DOC to youth in custody. The Assessment Team recommends gathering and tracking behavioral health services and the behavioral health needs of youth that they serve to be able to clearly articulate the needs of youth to evaluate how well DOC is doing at meeting those needs.

A Vehicle for Meaningful Collaboration and Engagement with Stakeholders and Impacted Communities.

Maine needs to develop a mechanism to support sustainable collaboration and engagement with stakeholders and impacted community members – something that the state has not undertaken and formalized to date. This is necessary to ensure that the juvenile justice system understands – and is responsive to – the needs of impacted communities. Youth raised this as a significant priority, as they frequently felt that their own insights about their needs and the needs of their communities were not given adequate attention. Many stakeholders also noted that creating such a vehicle for collaboration and engagement was essential to developing truly localized and responsive communities of care. The Assessment Team agrees.

Case Study: Billy

Billy was an 11-year-old boy from one of Maine's rural counties. Billy was first referred to Juvenile Services on offenses related to assaulting medical staff in a hospital setting. Prior to Billy's juvenile justice involvement, he experienced significant abuse and neglect from his biological parents and was removed from their care to the home of his grandparents. Substance use disorders played a significant role in Billy's parents' inability to care for him at a young age.

When assessed by Juvenile Services, a very complex picture emerged of a boy with traumatic childhood experiences, Attention Deficit Hyperactivity Disorder (ADHD), Conduct Disorder, Autism Level I, possible Fetal Alcohol/Substance Use Disorders, and self-harming behaviors. Billy also displayed very high levels of aggression and problematic sexual behaviors, which resulted in two additional legal charges.

Upon Billy's first contact with Juvenile Services, an attempt was made to divert him from the system, consistent with DOC's effort to divert over 70% of first-time eligible cases. However, while Juvenile Services attempted to divert Billy, subsequent charges were filed for new assaults on medical staff and crisis workers, as well as property destruction, within a brief period of time. These new charges prompted juvenile justice authorities to pursue formal court action. Billy ultimately pled guilty to these charges and was sentenced to an indeterminate period of commitment, suspended, with one year of probation and an order to pay \$250 in restitution.

Over the first four months of his probation, Billy accrued more assault charges, leading to his first admission to detention at Long Creek and another delinquency adjudication. Billy's first probation was revoked and Billy was adjudicated on the new offenses to another underlying indeterminate commitment to DOC, a 30 day "shock sentence" at Long Creek, and a requirement to participate in counseling and treatment over another one year probation period.

Lacking a secure psychiatric unit able to manage and treat Billy's serious physical and sexual aggression, Long Creek became the last resort for Billy when his aggressive behaviors became unmanageable in numerous placements. Billy was detained several times over a two-year period and accumulated numerous additional charges stemming from physical or sexualized assaults on medical personnel and counselors, as well as damage to property. During Billy's detention stays, reports show that he had over 60 minor or major incidents and spent the majority of his days in Long Creek's Special Management Unit with 1-on-1 staffing. Billy's elevated levels of aggression, self-injurious behaviors, lack of capacity to follow basic directions, and difficulties interacting with other residents were especially challenging for Long Creek staff.

In Billy's case, juvenile justice authorities concluded from an independent evaluation that Billy was competent and largely responsible for his behaviors. A different court saw his behaviors as a symptom of pervasive behavioral health needs and ordered a forensic competency evaluation. After approximately two years, Billy was deemed incompetent with no substantial ability to become competent in the foreseeable future and ordered into the custody of the Department of Health and Human Services.

With the appropriate level of psychiatric treatment and programs able to manage Billy's aggressiveness early on, Billy would have spent far less time stuck in hospital emergency departments or detention.

D. Cross-Cutting and Overarching Issues

As the Assessment Team gathered information across the state, several issues came up as recurring themes. These are concerns at all points in the juvenile justice system.

1. Frustration and Pain Felt by Youth, Families, and System Stakeholders.

Many people connected to the juvenile justice system in Maine feel pain. Many young people told us painful stories of their experiences inside the state's juvenile justice system, either in individual conversations or as part of focus groups and Town Hall meetings. Some of these stories are captured in the case studies that are interspersed throughout this report. Young people experienced pain and frustration as a result of difficult encounters with law enforcement, traumatic experiences in out-of-home placements and in Long Creek, long separations from their families and friends, and unmet needs for help.

Family members told us that they feel pain when they don't receive the supports they need to keep their families together, and when their children don't receive the programs and services they need once they enter the juvenile justice system.

Many adults who work in the justice system also feel pain. One law enforcement officer we interviewed broke out in tears during the interview out of frustration with the officer's inability to help young people more with the limited existing services. JCCOs told us of similar frustrations. This frustration also came through in open-ended responses to the community survey, where many Mainers expressed deep concern for the well-being of youth.

“We don't need more punitive institutions. We need more restorative practices.”

-Impacted Youth at a Town Hall Meeting

2. Need for Greater Collaboration among State Agencies.

Maine has an admirable history of collaboration and cooperation *within* DOC to address challenges in the system. That culture of working together has made it possible for DOC to develop successful diversion programs, reduce the use of detention and commitment, limit the use of transfer to adult court, and introduce new programs like Youth Advocate Programs and Restorative Justice.

However, DOC cannot solve all of the problems of the juvenile justice system by itself, nor should it be expected to do so. The needs of youth and families are complex and require efforts by multiple agencies on multiple levels. Leaders of DOC, DHHS, the Department of Public Safety, the Department of Education, and the Department of Labor meet regularly, and at-risk youth are a major focus of the Children's Cabinet. Nevertheless, there is a need for more coordination, and many people we interviewed spoke of programs and services as being “in siloes,” with case managers and others from one agency not aware of, or not consistently coordinating with, those of other agencies.

Many people expressed the desire to see existing child-serving systems, particularly public schools, serve as earlier points at which to identify and address unmet needs. Others suggested that there are a variety of workforce development opportunities that DOC and the Department of Labor could create.

3. Problems with Funding.

In a state where resources for juvenile justice largely come from state government, the recent years of under-investment have created myriad problems in the juvenile justice system. One problem is the adequacy of funding. Many previously-effective programs like MST and FFT have been sharply reduced or, in some parts of the state, eliminated over the years. Even when behavioral health programs are in place, the low level of reimbursement for services through MaineCare has made it difficult for programs to hire or retain clinical staff. In some situations, the clinicians hired have inadequate levels of professional training for their positions, which results in inadequate services being provided.

“There aren’t any good things out there for mental health. These kids are being sent to Long Creek because there’s nothing else out there for them. From there, it’s a vicious cycle. Most people who get out are homeless. I know I was.”

Another problem is sustainability. Many service providers told us that one-year contracts create a variety of problems, including inability to plan for the future and to hire staff without being able to provide job security.

Several people cited the need for flexibility in funding. Other states have created flexible funding pools, with contributions from multiple agencies, to make it possible to purchase specific services to meet complex needs of children and families.⁶⁵

Other people expressed a desire to consider additional means of distributing juvenile justice funding in the state. At the present time, DOC provides direct funding support to a variety of programs and services, spending about \$3.5 million per year to support those programs. The system as it exists is top-down: the state agency makes the decisions on whether and how much to fund each local program.

-Impacted Youth at a Town Hall Meeting

At the same time, many people we interviewed emphasized that local communities often know best what they need. The Place Matters project has set forth a comprehensive data-driven strategy for local communities to assess their own assets and to share accountability for positive youth outcomes.⁶⁶ Many people recommended the development of additional funding structures in the state to provide funds directly to local communities to address identified local issues.

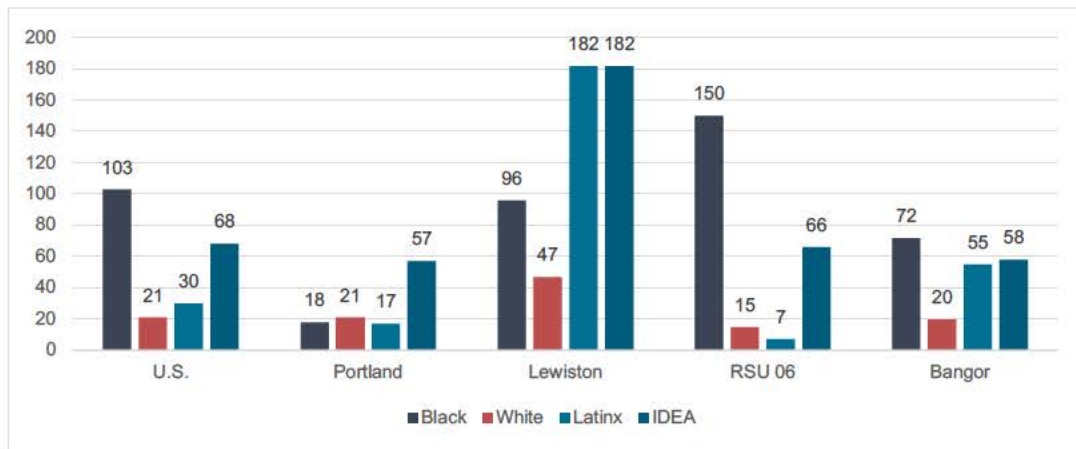
4. Educational Disengagement.

This System Assessment was not an assessment of the public education system in the State of Maine, which was well beyond the scope of the Assessment Team and Task Force’s work.

Nevertheless, almost all stakeholders raised concerns about youth’s access to and engagement with schools, particularly given that education is a significant protective factor against involvement with the justice system. Stakeholders noted that many detained and committed youth had identified or unidentified special education needs, which may not have been adequately met in their home school districts. The Assessment Team heard many concerns about students becoming disengaged from school following out-of-school suspensions and placement in alternative education settings and programs.

Although the team was not able to obtain detailed information about the educational histories of youth in the juvenile justice system, there are data to suggest that educational disengagement is a significant cause for concern, particularly for youth of color and youth with disabilities. Preliminary data from the Center for Civil Rights Remedies at UCLA’s Civil Rights Project illustrates differences in lost days of instruction.⁶⁷ For example, Figure 43 below compares preliminary national data on amount of instruction lost per 100 students enrolled because of out-of-school suspensions for the United States and for Maine’s largest school districts, disaggregated by race and ethnicity and special education status (i.e., IDEA). While the data do not identify the causes of differences in lost instructional days, it is clear that much more can and should be done to keep and support youth in school, particularly youth of color and youth with disabilities.

Figure 43: Actual Amount of Lost Instruction Per 100 Enrolled in the Nation, and for Largest Maine Districts at Secondary Level (2015-16) (Preliminary Analysis)⁶⁸



5. Challenges in Rural Parts of the State.

About 55% of the people in Maine live outside the southern population centers of York, Cumberland, and Androscoggin counties. Ninety percent of the 35,000 square miles of the state is outside those three counties. In rural areas, there are multiple problems in providing needed programs and services to youth and families, including long distances to needed services, communication difficulties, transportation, availability of behavioral health services, hiring and retention of clinicians and other professionals, and financial hardships of families. Plans for juvenile justice reform must provide for needed services in rural areas as well as in the more populous areas

of the state. This is part of why the Assessment Team has made specific recommendations to look at reforms in other states with comparable challenges in terms of resource distribution and geography.

6. Significant Poverty and Housing Instability.

Significant and intergenerational poverty in the State of Maine is clearly a stressor on many youth and families, and many stakeholders cited the inability to meet basic human needs as a cause of many young people's involvement with the juvenile justice system. Food and housing insecurity were two specific challenges cited by many. As noted as part of the Place Matters project, approximately 8.4% of all Maine families were living below the poverty line in 2017, but the rate varied throughout the state, with a low of 5.4% in York County to a high of 12.6% in Somerset County.⁶⁹ Poverty, coupled with the high cost of housing in many parts of the state, means that many families are struggling with housing. The Place Matters project reported that in 2017, about a third of households in Maine are "burdened," meaning that they must pay 30% or more of their income toward a mortgage or rent.⁷⁰ Additionally, the Place Matters project has noted that "[f]or young people, especially those who have experienced involvement in systems, permanent, independent housing is difficult to secure."⁷¹ The Vera Institute of Justice, as part of its work in Maine on the Initiative to End Girls' Incarceration expects to release findings and recommendations soon that are specific to youth homelessness and housing. Those findings and recommendations, which will compare Maine's service landscape with national recommendations and best practices, should be given careful consideration in any conversations regarding the recommendations in this report.

“Portland shouldn’t kick people out of shelters under 21 years old. Every 31st day, you have to spend a night on the street as a teen.”

-Impacted Youth

7. Needs of Girls.

The Assessment Team heard from many stakeholders regarding concerns about what they saw as differential treatment of girls in Maine's juvenile justice system and the lack of services and supports specifically for girls. As mentioned in the Methodology section, CCLP and the Assessment Team communicated with and coordinated some of its activities with the Vera Institute of Justice, which has been working with the State of Maine as part of its Initiative to End Girls Incarceration.⁷² As the Vera Institute noted in a November 2019 preliminary report to DOC, “[d]espite the fact that girls now make up an increasing proportion of the country’s juvenile justice population, there are few effective, evidence-based interventions that are targeted to girls. Research that does exist has shown that gender-neutral programs are significantly less effective than gender-responsive programs for girls.”⁷³ The Vera Institute’s recommendations and analyses, which are forthcoming, should be considered along with the recommendations in this report, but we have also included some references to preliminary findings and recommendations from Vera’s preliminary analysis here. Maine is fortunate to have the Vera Institute conducting a deep evaluation of the juvenile justice system through a gender lens.

8. Needs of the Immigrant Community.

According to Catholic Charities Refugee and Immigration Services, refugees have come to Maine from more than 30 countries in Southeast Asia, Eastern Europe, former Soviet Republics, the Middle East, East Africa, South and Central America, the Caribbean, and Cuba. In recent years, refugees have largely come from Somalia, Sudan, Congo, Ethiopia, Burma, Iran, and Iraq.⁷⁴ Most have settled in Lewiston and Portland. Of the 36,000 residents of Lewiston, about 6,000 are African-refugees and asylum-seekers.⁷⁵

Immigrants face a host of adjustment challenges after they arrive, including language issues, cultural differences from their native countries, histories of trauma, learning basic skills needed in American society, shortages of affordable housing, varying levels of education, and scarcity of jobs.⁷⁶ Some of these challenges are relevant to their relationship to the justice system in this country, such as previously living under authoritarian governments where police cannot be trusted and being victims of conscious or unconscious racial bias or resentment by Maine natives. Language and cultural differences may be especially problematic in contacts between immigrant youth and police.

9. Meeting the Needs of Especially Vulnerable Populations.

In the juvenile justice system, some populations of young people are particularly vulnerable and present specialized challenges. Some groups have been the subject of recent reports. As noted above, immigrant youth and their families face a variety of challenges. LGBTQ+ youth are at increased risk of substance use, homelessness, school dropout or suspension or expulsion, depression, and suicide as a result of social stigma, family rejection, and discrimination.⁷⁷ LGBTQ+ youth are overrepresented in the juvenile justice system, and when confined in juvenile facilities are at least seven times as likely to be sexually assaulted by other youth as heterosexual youth who are confined.⁷⁸ Youth of color are overrepresented in the juvenile justice system in Maine in five of the six counties in which it can be measured. Overrepresentation is particularly acute for Black/African American youth.⁷⁹ Youth with disabilities are often referred to law enforcement for behavior that is a manifestation of their disabilities, and often remain in secure custody for long periods because of a lack of less restrictive community or home-based programs and services.⁸⁰ Tribal youth report harassment by non-native law enforcement officers, violations of confidentiality, difficult transitions from reservation schools of high schools off the reservation, racial bias, and social stigma.

10. Accountability and Quality Assurance.

Many people expressed concerns about lack of accountability and quality assurance for service providers and for the juvenile justice system as a whole. Many people cited the inability of service providers to meet the needs of young people, particularly those with behavioral health problems. Others discussed the inability of state agencies to require existing programs to provide needed services, or to expand the availability of existing programs, or to create new ones.

11. Better Training for Juvenile Justice System Personnel.

A number of people interviewed were distressed that judges, prosecutors, defense attorneys, and other juvenile justice system personnel do not have regular access to accurate and up-to-date training

on critical issues such as adolescent development, research on effective interventions with youth, and the harms associated with out-of-home placement. This is a particular concern in Maine because there is no statewide public defender system, no dedicated judges, prosecutors, or defenders in some parts of the state, and wide variations in accessibility of trainings due to the geography of the state. Several people recommended the creation or designation of an entity that would be responsible for providing regular training to juvenile justice stakeholders.

A Note about Girls in Maine's Juvenile Justice System

The Vera Institute of Justice has been working with the State of Maine as part of its Initiative to End Girls Incarceration since 2018. The Initiative is intended to build a national movement to end the incarceration of girls within 10 years. The Vera Institute has undertaken a comprehensive review of the juvenile justice and other child-serving systems in Maine through the lens of gender, with official findings and recommendations coming later this year. Although the Assessment Team and Vera Institute have shared data and information, the Assessment Team did not attempt to duplicate the Vera Institute's planning and analysis. The results of the Vera Institute's should be considered alongside the recommendations in this report, including those that emphasize the need for gender-responsive services as part of Maine's continuum of care.

While findings and recommendations from this work are forthcoming, the Vera Institute provided preliminary data points and recommendations for this report. These include data that came from New York University's review of quantitative data from 2017 and 2018, as well as case file reviews of the 25 girls placed in Long Creek between 2018 and 2019, including all but one girl during that time period who were detained, committed, or placed on shock sentences.

Preliminary Quantitative and Qualitative Data Headlines from the Vera Institute

- Across 2017 and 2018, girls represented 26.6% of instances of all youth confined, including 28% of youth who were detained and 17.3% of youth who were committed.
- Across 2017 and 2018, girls were more likely to receive technical and misdemeanor probation violations when compared with boys.
- Among girls in the case file review:
 - 20% identified as Black or African American and 20% identified as multiracial.
 - 100% evidenced some form of school push-out, including suspensions, expulsions, transfers, disciplinary findings, victimization, and other barriers.
 - 24% had been arrested at school at some point.
 - Girls with mental health assessments or evaluations in their files averaged 4.5 diagnoses per youth.
 - 84% had some documentation of self-harm, suicide attempts, suicidality, or hospitalization for suicide attempts prior to juvenile justice system contact.
 - 100% had evidence of traumatic experiences, including 92% having experiences that would qualify as child abuse, 60% having experienced multiple sexual assaults, and 48% with concerning evidence suggesting or actual confirmation that they had been commercially sexually exploited.
 - 96% had evidence of experiencing family poverty.
 - Nearly two-thirds (64%) had a history of child welfare system contact (defined as at least one documented referral to the child welfare system).
 - 25% had files indicating that the youth "self-committed" to Long Creek. Files with information about reasons for self-commitment suggested that girls chose to accept placement at Long Creek rather than wait for a placement or accept offers of conditional release.

Selected Preliminary Recommendations from the Vera Institute

This list of selected preliminary recommendations is not exhaustive. However, these recommendations align with or reinforce other recommendations throughout the System Assessment.

- Include specific diversion programs focused on girls as part of Maine’s continuum of care, as research shows that gender-neutral programs are not as effective for girls as for boys.
- Adopt changes to policy and practice that limit the use of detention for short lengths of stay, for “physical care,” for non-compliance with services or technical violations of probation, and for girls who request placement at Long Creek.
- Invest in an adequate community-based continuum of care for girls, which would eliminate the need for confinement capacity for girls altogether, based on their small numbers and the overall lack of public safety risk.
- Ensure that Youth Advocacy Programs is supported to implement gender-responsive approaches within its model of working with youth.
- Create an advocacy-based program similar to the ROSES (Resilience, Opportunity, Safety, Education, Strength) program, which can be referred to or implemented by the state’s credible messengers and other individuals to support girls in the community.
- Invest in peer-based supports and opportunities for youth leadership.
- Address gaps in services and supports for homeless youth and youth experiencing housing instability throughout the state.
- Require programs to be responsive to all youth and to receive specific training regarding gender and race, including the role of gender as a social determinant of health for all young people and LGBTQ+ affirming practices.
- Ensure cultural competency and responsiveness across all staff working with youth.
- Provide training on commercial sexual exploitation of children for all staff working with girls and gender expansive youth.
- Reform policies that punish youth, including arresting and prosecuting trafficking survivors for runaway behaviors, and hold youth’s beds during any runaway episodes.
- Partner with law enforcement to develop relationships and protocols to promote safety during runaway episodes and help police identify and supportively respond to trauma.
- Where possible, give girls the opportunity to choose their placement setting, and plan for anticipated runaway behavior in advance to reduce the likelihood of running away.
- Ensure that all agencies, including DOC, improve data collection and reporting on LGBTQ+ and gender expansive youth.
- Ensure that data are collected and analyzed to monitor the efficacy of reforms by gender and race.
- Facilitate cross-system discussions around definitions of risk, safety, and well-being, as child-serving systems in Maine share different notions of these key concepts.
- Use re-investment funds to create a grant program to fund community-led solutions.

Sources: Vera Institute of Justice. (2019, Nov. 18). *The Initiative to End Girls’ Incarceration in Maine: Preliminary Findings and Recommendations*; Vera Institute of Justice. (n.d.). *National Recommendations for Youth Homelessness Services and Maine’s Service Landscape*.

E. Arrest and Diversion

Ongoing juvenile justice system improvement requires an analysis of current system decisionmaking points to identify strategies for changing system practices so that young people can be served in their communities while maintaining public safety. System involvement starts with decisionmaking at the point of contact with law enforcement and at the diversion of youth from formal court involvement. The decisions made at these decision points can change the life trajectory of a young person forever.

Over the past ten years, Maine has seen a trend of decreasing arrests of youth and increased use of diversion. Stakeholders routinely said that this trend played a significant role in safely reducing the population in Long Creek over the same timeframe. We applaud Maine's achievement in reducing arrests and increasing diversion. In this section, we encourage Maine stakeholders to build upon what is working by strengthening police and community understanding, by aligning current diversion practice with best practices, and by ensuring equal access to diversion programming statewide. An intentional focus on increasing the effectiveness of arrest and diversion practices will safely allow more youth to avoid formal juvenile justice processing and the harms associated with it.

Assessment Team Findings

Youth Arrest Trends

The FBI's Uniform Crime Reporting data, published by the Maine State Police, provide a picture of crime in Maine by counting arrests.⁸¹ This analysis reviews ten-year and one-year trends for youth.

Youth crime, as measured by arrests, has been going down statewide. From 2008 to 2018, arrests of youth declined 58.3%. Between 2017 and 2018, arrests of youth decreased by 7.1%.

Figure 44: Youth Arrest Trends

Total Juvenile Arrests: 2008	Total Juvenile Arrests: 2017	Total Juvenile Arrests: 2018	% Change 2008-2018	% Change 2017-2018
6,842	3,055	2,852	-58.3%	-7.1%

Arrests of youth for Index Offenses also decreased over the ten year and one-year timeframes. Index Offenses are the eight crimes the FBI combines to produce its annual crime index. These offenses include murder, forcible rape, robbery, burglary, aggravated assault, larceny (over \$50.00), motor vehicle theft, and arson. Over the past ten years, arrests of youth for Index Offenses declined 66.4%, from 2,144 Index Offense arrests in 2008 to 721 Index Offense arrests in 2018. The percentage reduction in arrests for Index Offenses over this ten-year period (66.4%) was larger than the percentage reduction in overall arrests over the same time period (58.3%). This trend holds for the one-year comparison as well. Overall there was a 7.1% reduction in juvenile arrests from 2017 to 2018, while at the same time there was a 14.2% reduction in juvenile arrests for Index Offenses.

Figure 45: Youth Index Arrest Trends

Total Juvenile Index Offenses: 2008	Total Juvenile Index Offenses: 2017	Total Juvenile Index Offenses: 2018	% Change 2008-2018	% Change 2017-2018
2,144	840	721	-66.4%	-14.2%

In 2018, five arrest types made up 77.8% of all youth arrests. Larceny-Theft (non-auto) and Other Assault (not aggravated) were the most common juvenile arrest offenses statewide. Larceny-Theft and Other Assault also make up the top two most serious current offenses for admission to secure detention and for commitment.

Figure 46: Top 5 Youth Arrest Types, 2018

Offense Type	Number of Arrests	Percent of Total Arrests
Larceny-theft (non-auto)	530	18.6%
Other Assault	528	18.5%
All Other Offenses (except Traffic)	475	16.6%
Liquor Laws	389	13.6%
Drug Abuse Violations	302	10.5%
Total Top 5 Arrests	2224	77.8%
2018 Total Youth Arrests	2852	100%

In summary, statewide arrests of youth are down. Arrests of youth for the most serious offenses decreased more than overall arrests over the ten-year and one-year timeframes, suggesting that the overall reduction in youth arrests is partly driven by a substantial reduction in arrests for serious crimes. Finally, Larceny-Theft and Other Assault are the most frequent current arrest types, and they are also the offenses for which youth are most likely to be detained and committed.

Police and Community Relationships

All people deserve to be and to feel safe in their community. The police are charged with the function of keeping the community safe. However, an overreliance on punitive enforcement tactics, especially for minor infractions, has fractured relationships between the police and certain communities, particularly communities of color.⁸² These police practices have resulted in a recurring adversarial dynamic.⁸³ Additionally, as the Vera Institute of Justice has noted, “damaged police-community relations make it more difficult for police to execute their most critical responsibility: to respond to violent crime and protect public safety. In those communities where distrust in police is high, people are less likely to report a crime or offer witness testimony, which impedes effective policing.”⁸⁴

Maine’s arrest data supports the idea that although arrests of youth are going down, arrest is still relied upon as a response to more minor infractions: four of the top five arrest offenses, which make up 77.8% of all arrests of youth, are for non-index crimes.

The relationship between law enforcement and communities of color, especially immigrant communities, was a primary topic in interviews with law enforcement and community members. Each group has a different perspective on drivers of the problems and how to deal with them. All interviewees did agree that there is room for improvement in the relationship between the community and law enforcement, and all interviewees were interested in taking steps in this area.

By its nature, policing involves responding to situations that can be a reflection of society's most difficult social issues, including family disputes, behavioral health crises, and drug overdoses.⁸⁵ Police representatives reported that they have few, if any, tools available to respond to these needs beyond enforcement, leaving them frustrated by the current system and the lack of connection to the communities they police.

Interviewees discussed the unique aspects of policing immigrant communities. They acknowledged the traumatic experiences of immigrants in their home country, which legitimately lead some in the community to be distrustful of police. As one officer shared, "in some of these countries, when the police come, you might not be seen again." In addition, some noted that parents may not understand the American system of justice, because "[parents] are disoriented with regard to U.S. laws." Families following their cultural norms may be at odds with standard policing procedure. One interviewee said, "These communities have their own customs and we have to respect their culture." Police interviewees frequently noted that communities are dealing with a range of social issues on top of crime and delinquency including poverty, racism, high crime rates, immigration issues, food insecurity and limited access to social services. As one officer stated, "Immigrants come here and get nothing, yet we expect them to assimilate. We are setting kids up for failure."

Interviewees shared their experiences with community outreach. In general, police outreach in immigrant communities and communities of color is conducted on a case-by-case basis as part of an investigation. As one interviewee noted, "the command level does outreach to the community, but I'm not sure how this outreach translates to the community." Another interviewee noted that "Police are thinking about individual cases. They are not thinking about the bigger picture or gaps in services. We need a higher level of outreach to keep engagement with the community going." Police stated that their departments are understaffed and overworked, so efforts to implement broader outreach strategies are not common. They also identified that recruiting and hiring officers from the communities they police is difficult, noting that becoming a police officer may be seen as being traitor to the community due to trust issues in the immigrant community. As one officer stated, "[We do try to] recruit officers from the immigrant community but police departments don't assimilate people that well. Folks can't pass the test, which is in English."

From a systems perspective, officers agreed that arresting a juvenile requires too much paperwork and is not worth taking the time because "even if a youth is arrested, nothing happens." However, police generally supported the use of diversion and praised the work of DOC and its JCCOs in setting up diversion services, agreeing that diversion works. At the same time, police were frustrated

"Immigrants come here and get nothing, yet we expect them to assimilate. We are setting kids up for failure."

-Law Enforcement Officer

with what they perceived as a small group of youth who engage in chronic delinquency. Police felt that there was little accountability for these youth, as there were few options to address underlying issues that may be driving that behavior. Police were universally interested in developing more services as alternatives to arrest. These included a need for 24/7 statewide access to mobile crisis teams that specialize in responding to youth behavior.

A broad range of interviewees identified a need for consistent and thorough police training on a number of topics: cultural responsiveness, LGBTQ+ issues, adolescent brain development, and handling youth with serious behavioral health issues. Those we interviewed who are from particularly vulnerable communities, including the LGBTQ+ youth community, the immigrant community, and the homeless, generally felt that the police response to their communities has translated into a sense of feeling over-policed and yet under-protected.

Interviewees also felt police departments singled out communities of color and low-income neighborhoods for heightened scrutiny compared with white and more affluent neighborhoods. Stakeholders most often referenced two tactics as issues: police stopping youth to ask for identification for seemingly no reason, and a general and visible constant police presence in youth's neighborhoods. During a Town Hall meeting, one young man expressed the impact of these strategies, sharing that "you feel imprisoned inside your brain" and living in the community under these circumstances makes "you always second guess yourself - 'Am I doing anything wrong?'"

The perception that police were always watching and waiting for youth to step out of line meant that youth did not generally report seeing law enforcement as an agency that could help with any problems that might be having. In youth focus groups, several interviewees said that "police take their job to be reducing crime, not helping you. They never tell you anything about where you can go." Interviewees also shared their perception that most police officers did not come from the communities that they police most heavily (including tribal communities), which lends itself to "othering" of youth in certain neighborhoods as "bad kids." School Resource Officers (SROs) were of special concern to interviewees, and there is an ongoing discussion in Maine about the role of the SRO and whether schools need SROs at all. While some stakeholders seemed to support the SRO as a way to "build relationships with kids," several stakeholders saw the SRO as a "symbol of power to keep youth of color in check."

Suggestions on ways to improve community-police relations included creating a system of care that is not reliant on police intervention, more reliance on school-based social workers and less on SROs (or removing SROs from school altogether). Stakeholders noted that the system needed to stop "shaming kids" and instead "re-build a system of community mental health." Youth noted that there should be an intentional effort to have more diversity from people of color in positions of power.

“You feel imprisoned inside your brain. You always second guess yourself – ‘Am I doing anything wrong?’”

-Youth Town Hall Participant on Policing in His Community

They also supported a dialogue about privilege and oppression so that different groups could talk about how the system affects them.

Youth Diversion

Once police arrest a youth, the youth may be eligible for diversion from formal court processing. Nationally, research shows that diversion from formal court processing typically improves youth outcomes.⁸⁶ Despite positive youth outcomes, most jurisdictions use diversion sparingly by limiting eligibility to first-time arrests and by denying youth charged with a felony offense the opportunity for diversion.⁸⁷ Research also shows that “diversion is a point of significant racial and ethnic disparities in the juvenile justice system, with youth of color being diverted far less frequently than their white peers.”⁸⁸

Maine’s increased use of diversion is widely seen by system stakeholders as a driver for reduced probation caseloads and for the reduced detained and committed population at Long Creek. According to DOC, there were 784 cases deemed “eligible” for diversion in 2018.⁸⁹ This represented 29.6% of all cases referred to DOC. DOC’s self-reported diversion rate is calculated based on how many eligible referrals were actually diverted. In 2018, DOC reported that of the 784 eligible referrals, 86% or 674 eligible cases were diverted.

Evaluating Maine’s current use of diversion requires looking to recommended practices in the juvenile justice field. Maine has participated in the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) since 2012. JDAI is the largest and most widely replicated juvenile justice improvement initiative in the nation’s history, active in 40 states and over 300 individual local jurisdictions throughout the country. JDAI offers research and best practices to jurisdictions to help them achieve the best public safety and youth outcomes, which has been a significant reason the initiative has been active and expanding over the course of nearly three decades.

In 2018, the Annie E. Casey Foundation published a report, *Transforming Juvenile Probation, a Vision for Getting It Right*, which outlined a research-based model for expanding and improving the use of diversion and probation.⁹⁰ With respect to diversion, the report outlined the following recommendations:

- **Adopting specific criteria for youth who will be eligible for diversion.** Diversion should be offered to all youth who are not involved in serious offenses and who do not present a risk to public safety. Diversion criteria should specify who should always be diverted, who should rarely be diverted, and clear criteria for handling cases that fall between these two categories.⁹¹ Maine’s diversion criteria are set forth in state law, which is mirrored in DOC policy.⁹² Maine’s diversion criteria are broader than the JDAI diversion criteria, allowing for much more discretion by JCCOs and District Attorneys. Both the prosecutor and any victims must be in agreement with diverting the case from court.⁹³ Maine’s criteria provide that, on the basis of a preliminary investigation, the JCCO may choose one of three dispositional alternatives: no further action, informal adjustment, or filing of a petition. Maine law provides a foundation for developing clear and specific criteria for eligibility for diversion.

- **Adopting a baseline criteria for diversion that mandates diversion for all misdemeanor cases and all first-time non-violent felony cases.** Maine’s current broad diversion criteria do not preclude diversion referrals for all misdemeanor cases and all first-time non-violent felony cases. However, because the criteria are so broad, decision makers are not required to divert these cases, so there may be youth who fall into these categories who end up going through the court process but who would otherwise be successfully diverted.
- **Divert at least 60% of delinquency cases from juvenile court.** Maine’s diversion rate is based on “eligible cases” for diversion. As discussed above, the eligibility determination is largely discretionary, which leads to an underutilization of diversion as a percent of all youth referred to DOC. Maine’s diversion rate is 29.6% of all referred cases. Thus, there is room for improvement in terms of eligibility for diversion and increasing the number of cases diverted based on *all* referrals, not eligible referrals. This is particularly true given the success rates associated with DOC’s diversion program: a 7% recidivism rate within two years.⁹⁴
- **Ensure that all youth, regardless of geography, have the opportunity for diversion.** Though stakeholders noted several ways in which the restorative justice and youth court diversion programs are expanding, many were concerned that the programs are not available statewide or are not available at needed levels because of inconsistent levels of funding and access throughout the state.
- **Ensure equitable access to diversion.** Despite the substantial success of Maine’s diversion program, common issues regarding eligibility by race and eligibility by offense are areas for improvement. Maine’s 2017 Youth Recidivism Study⁹⁵ followed a cohort of youth diverted for first time offenses, showing specifically who is diverted. The study noted that 92% of diverted youth were white, 7% of diverted youth were Black and 1% were of unknown race or ethnicity.⁹⁶ Key stakeholders seemed aware of the imbalance by race and ethnicity, with one interviewee explaining, “The diversion program serves mostly white kids. Look at the numbers: white kids get diversion, black and brown kids do not.”
- **Do not place diverted youth on under juvenile justice supervision.** In Maine, diverted youth are not placed on a traditional probation caseload. However, youth are required to admit to the offense in order to participate in diversion, and JCCOs track youth’s compliance with the diversion expectations. In cases where a youth fails to complete an informal adjustment, the JCCO will forward the case to the District Attorney for formal prosecution. Although diverted youth are not on a formal probation caseload, several interviewees felt that the current practice model is “probation without the process.”
- **Handle most diversions with a warning.** Warnings can be and are used to dispose of many lower-level offenses effectively in other jurisdictions, as research indicates that the vast majority of youth naturally age out of delinquent behavior even in the absence of any intervention. Maine’s 2017 Recidivism Study⁹⁷ showed that only 28% of eligible cases received a no further action diversion, Maine’s version of a warning.

- **Offer intensive intervention services for youth with serious needs when necessary.** Maine uses three types of diversion programming: Restorative Justice, Spurwink Diversion to Assets, and Learning Works. None of Maine’s three diversion programs provides intensive intervention services for diverted youth.
- **Transition responsibility for diversion (including funding) away from courts and formal system involvement and toward community-based organizations.** Currently, Maine’s diversion process requires JCCO, District Attorney, and victim approval. The process is monitored by JCCOs who determine the diversion plan, including which programs youth will attend. DOC also decides which community-based organizations received funding for diversion programming. Further, the team learned that DOC was in the process of training its JCCOs to engage in restorative practices, including circles. While the Assessment Team does not oppose education on restorative principles as a general matter, we were concerned that the implication of the training was going to be that DOC would assume responsibility for delivering restorative services (as opposed to community-based providers), which would be problematic for a variety of reasons. For one, effective restorative justice processes require an atmosphere of trust and openness, and having a system stakeholder with significant decisionmaking power often disrupts that dynamic, as family members may not be willing to share honest information about harms and challenges they have experienced. Additionally, restorative processes require individuals with very high degrees of training in facilitation, as well as significant flexibility (e.g., the ability to meet with families outside of standard workdays and work hours; spending significant time preparing participants to engage effectively in a circle). This is part of why jurisdictions rely on expert community-based agencies to manage these processes.

Additionally, as mentioned earlier, as part of the Vera Institute’s work to end the incarceration of girls in Maine, the Vera Institute has made preliminary recommendations focused on ensuring that gender-responsive approaches are embedded across community-based systems of care, including diversion from formal system involvement.⁹⁸

Assessment Team Recommendations

Based on the findings outlined above, the Assessment Team has nine primary recommendations:

1. **Report diversion rates as a percentage of eligible cases, as well as a percentage of all referrals to DOC.** Doing so will help illustrate how close Maine gets to the best practice of diverting 60% of all referrals to the juvenile justice system and will help identify needs for additional diversion resources and programs.
2. **Develop specific, written criteria for diversion eligibility that defines cases that should always be diverted, cases that should rarely be diverted, and criteria for handling cases that fall between these two.** This includes working to increase the number of youth who receive a warning or who receive no further action diversion by creating specific eligibility criteria for these cases. Additionally, implement new policies to ensure unsuccessful diversion results in limited eligibility for future diversion, not

formal court processing.

3. **Eliminate justice by geography by expanding and resourcing diversion programming at consistent levels statewide.** Currently, youth who do not have access to diversion program may be less likely to be diverted even when found eligible. Ensure that existing programs (e.g., restorative justice programs) are resourced in an equitable manner. Also, ensure that community-based organizations are resourced to engage in diversion in lieu of formal involvement with the state's juvenile justice system.
4. **Ensure that diversion programs are gender-responsive.** As noted above, Maine should work to ensure that girls receive the same opportunity for diversion by creating and ensuring that programs used for diversion are gender-responsive.
5. **Examine how often diversion is offered to youth with second or third-time felony charges, and review practices regarding the use of risk assessment and other factors.** Data did not reveal how often youth with second or third-time felonies are diverted. However, judging from the generally low numbers of youth with first-time felony referrals who are diverted, the number is likely very small. If Maine is interested in expanding diversion to this group of youth, stakeholders should also review the risk assessment process to help determine eligibility in a consistent and equitable way.
6. **Transfer responsibility and funding to a community provider or coalition of organizations or to a non-court public agency that will oversee all aspects of diversion.** Examples of jurisdictions that have successfully implemented this strategy include Multnomah County (Portland), Oregon, and San Francisco. Multnomah County's Juvenile Reception Center is a place for police to bring youth arrested for low-level offenses who are inappropriate for detention.⁹⁹ Staff at the reception center perform screening and assessments, talk with youth and their families and refer them to appropriate services in the community. Likewise, the Huckleberry Community Assessment and Resource Center in San Francisco serves as a hub for diversion efforts, conducting assessments, offering crisis intervention as necessary, and providing appropriate referrals for youth diverted from court.¹⁰⁰ Additionally, ensure that the responsibility for delivering diversion programs, including restorative practices, rests with community-based providers, not DOC.
7. **Conduct a deep dive into larceny (theft) and non-aggravated assaults to guide community-based prevention and early intervention arrest reduction strategies.** Potential strategies include implementation of the Sedgwick County (Wichita), Kansas, prevention campaign focused on theft,¹⁰¹ as well as implementing stationhouse adjustment strategies and diversion strategies geared towards youth accused of theft and assault.
8. **Create more options for law enforcement to divert youth directly into programs and services.** Police officers were very supportive of having more resources to use as alternatives to arrest. An example is the Philadelphia Police-School Diversion Program,¹⁰² where youth are connected to a DHS social worker rather than being

arrested. This would also help youth and communities see law enforcement in more of a helping role, which could improve relationships over time.

- 9. Promote more intentional strategies to connect community and police in a positive way.** The Vera Institute of Justice recommends a “community-informed” policing model that understands and measures the connection to public satisfaction and public safety, applies alternative to arrest whenever possible, and reflects a right-sized role for law enforcement in responding to crime and the social problems that are frequently behind it.¹⁰³ Other strategies to create opportunities for positive relationship building between community and law enforcement include using a Police-Youth Dialogues Toolkit¹⁰⁴ to create meaningful connections between youth and police through communication and empathy, or working with the Pennsylvania DMC/Law Enforcement Curriculum¹⁰⁵ to improve relationships between youth of color and law enforcement officers.
- 10. Promote police training focused on recognizing and working with youth.** Training topics should include adolescent brain development, cultural and cross-cultural responsiveness, LGBTQ+ youth, and youth with serious behavioral health issues.¹⁰⁶

F. Detention

National trends and best practices in the field of youth justice support substantially limiting the use of secure detention. The majority of detention cases are pre-adjudication, meaning that youth have not been found guilty or sentenced. The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative identifies two narrowly-defined reasons for detention: (1) to prevent the commission of another offense and (2) to ensure that youth will appear in court after release.¹⁰⁷ Unlike commitment, the purpose of detention is not to deliver services or to offer treatment. Nor is the purpose to provide housing for young people.

Detention is one of the most important decisionmaking points in any youth justice system. Detention can push youth deeper into the justice system by increasing the likelihood that they will be found delinquent or committed to a long-term facility.¹⁰⁸ Detention can also seriously jeopardize their chances of successful futures. Research shows that detention can cause profound short and long-term negative consequences for young people. When youth are detained, they are removed from their natural supports – their homes, families, schools, jobs, and peer networks. Due to Maine's geography, many families do not have the time or resources to visit youth, which makes detention even more detrimental. The team spoke to several detained youth who had not seen their family members in weeks or months.

Detention also increases the risk of depression, anxiety, and other behavioral health conditions,¹⁰⁹ especially for youth with pre-existing behavioral health issues or a history of abuse, trauma, or neglect. Youth who are detained are also less likely to return to school or reconnect with educational services, and they are more likely to drop out.¹¹⁰ Detention also interrupts the natural process of "aging out" of delinquent behavior that most youth will undergo as they reach adulthood.¹¹¹ Research clearly shows that detention can actually increase the likelihood that youth will engage in future delinquent behavior.¹¹² Given these factors, reducing the frequency and duration of secure detention is critical to improving outcomes for Maine's youth, families, and communities.

Youth who are arrested and held in custody at Long Creek pre-adjudication are considered "detained." Youth on probation or community reintegration status who are held at Long Creek due to a new arrest or a technical violation of supervision also fall into the category of detained youth. When a youth is arrested, JCCOs use the Detention Risk Assessment (RAI) to determine whether to detain the youth at Long Creek or release the youth to the community pending the disposition of the case. According to statute and DOC policy,¹¹³ JCCOs may also release youth with conditions of supervision as an alternative to detention.

Assessment Team Findings

As acknowledged previously in this report, Maine has made substantial progress in reducing the use of secure detention. Maine's 2010 Juvenile Justice Task Force included the recommendation to reduce reliance on traditional methods of commitment and pre-adjudication detention by 50% in

five years.¹¹⁴ Between 2010 and 2018, the number of detained youth decreased by 56% and the average daily population of detained youth dropped by 35%.

Across the board, the Assessment Team received feedback that stakeholders do their best to prevent unnecessary detention. We also found that staff, educators, and administrators at Long Creek work hard to provide a safe and positive environment for detained youth. However, there are still several areas for improvement in Maine's use of detention. Notably, while the overall population of youth at Long Creek has dropped, detained youth still represent a substantial percentage of the population. Given the serious harms associated with detention, there are six concerns about the use of detention in Maine.

First, detention is used due to a shortage of more appropriate programs and services. Advocates, defense attorneys, prosecutors, judges, JCCOs, and DOC staff told the team that many youth are detained due to a lack of other options, even in cases where detention at Long Creek is inappropriate. One DOC administrator indicated that detention is being used improperly to deal with the failure of the system to provide community-based detention alternatives, behavioral health services, or in-home supervision services to Maine's youth and families. This was confirmed by responses to the Community Survey, which listed "reduce incarceration/address youth locked up for no place to go" as the number one response to the question about what Maine's youth justice system could do better.¹¹⁵

JCCOs and judges said that if additional community-based supports or programs were available, they would regularly release youth who they currently feel obligated to detain. Due to a constellation of external challenges such as work schedules, the needs of other family members, transportation, and poverty, some youth need more supervision than their families are currently able to provide. Creating programs that provide structured activities, mentoring services, and transportation for youth while they await trial or disposition is essential to reducing the detention population at Long Creek.

Judges, prosecutors, and defense attorneys also expressed frustration about the shortage of options for youth with disabilities, drug and alcohol issues, or housing stability challenges. Judges, prosecutors, and JCCOs said that they send youth to Long Creek because treatment or housing options are either unavailable or have long waiting lists. The majority of youth who we interviewed reported experiencing homelessness at some point during their lives, generally due to high poverty rates and lack of affordable housing for families. In other cases, youth reported tension in the home that required them to "couch hop" until they could resolve domestic issues. Although there is

“Much, much more needs to be done to develop resources in the community to support our children - not only mental health placements, but structured shelter programs . . . would be a tremendous asset. In particular, our girls are very poorly served by the current lack of alternatives and, as a result, frequently wind up in dangerous situations.”

-Community Survey Participant

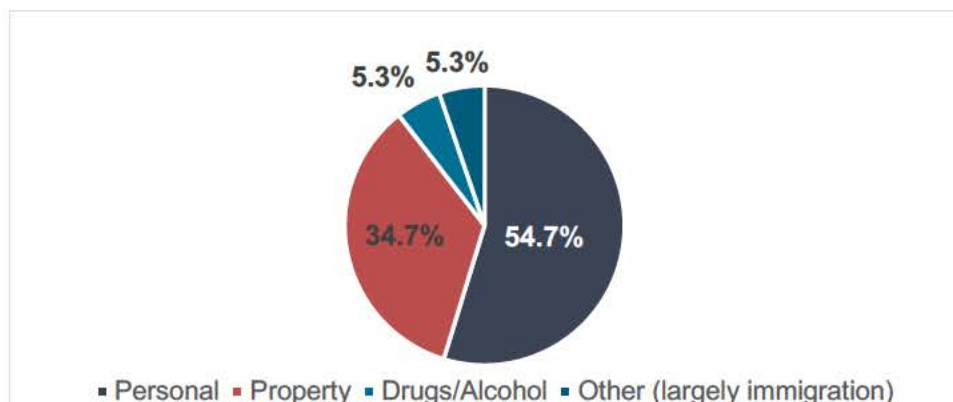
shelter capacity in some areas of the state, there is a clear need for more short-term and long-term housing options for youth who do not meet the criteria for detention.

Although stakeholders universally agreed that detention at Long Creek was inappropriate and even detrimental, we found that youth with serious mental illnesses are routinely detained due to the lack of secure psychiatric capacity. Behavioral health facilities or DHHS placements often eject or reject youth with behavioral issues. These youth are then detained at Long Creek, often for lengthy periods. Long Creek staff and clinicians are not equipped to provide the level of care that these youth require, and many voiced concerns about the negative impact of this practice on both youth and staff. Several advocates also raised concerns that youth who are incompetent to participate in the juvenile justice are detained for up to a year at Long Creek due to the lack of other options, such as a secure psychiatric facility.¹¹⁶

Second, and related to the first concern, many youth were detained for extended periods while awaiting placement or community-based services. The team found that 17.1% of detention stays exceeded 30 days. Of the youth detained longer than 30 days, 73% were waiting for spots in residential placement or community programs. Several youth told us that they opted to be committed to Long Creek rather than continue to wait in detention for weeks or months for space in another program to open. Many individuals, including JCCOs and Long Creek staff, called for more short-term residential capacity and foster care to house these youth. As noted in Disability Rights Maine’s report, “Assessing the Use of Law Enforcement by Youth Residential Service Providers,” youth with behavioral health disorders “stay for months or years in restrictive settings because they cannot access a more appropriate level of treatment, despite being qualified and eligible.”¹¹⁷

Third, almost half of detained youth were charged with non-violent offenses, and over 80% of detained youth scored as low or moderate risk. As indicated in Figure 47, in 45% of detention cases, the most serious alleged offense was not a crime against a person. The most serious charge in 57% of detention cases was a Class D or Class E misdemeanor. Notably, these data represent charged offenses, not offenses that have been pleaded down or negotiated at trial.

Figure 47: All Detentions: Offense Type ($n = 190$)



In the sample reviewed for this assessment, as noted in Figure 12 of the quantitative data review presented earlier, 81% of detained youth scored as low or medium risk based on available YLS/CMI data generated before, during, and after commitment. The majority of youth, or 70%, were identified as moderate risk. Within the group of low risk youth who were detained, only one third were charged with offenses against a person. Although charges and YLS/CMI scores do not always represent the full picture of whether secure detention is necessary, these data suggest that Maine detains a sizeable number of youth who do not present a threat to public safety.

Additionally, a substantial percentage of youth were in detention due to violations of conditional release or probation. JCCOs can send youth on conditional release directly to detention for technical violations without a summons or warrant. When JCCOs complete the Juvenile Detention Worksheet, they must list “detention criteria.” According to quantitative data, the criteria for 66.1% of detention cases was a violation of conditional release, a violation of probation, or a new arrest while on conditional release. More than one in four youth (28.4%) were admitted to detention for *technical violations only* of conditional release or probation. As discussed above, the juvenile justice field has moved away from detaining youth for violations of supervision or probation because of the documented harms of detention.

Fourth, more than half of youth were detained to “provide care.” As discussed above, national best practice standards outline the legitimate purposes of detention as ensuring community safety and subsequent court attendance.

Unlike most states, Maine’s detention statute also permits detention to provide physical care for youth who do not have parents or other adults able to provide adequate care. Under Maine Revised Statute Title 15, § 3203(A)(4)(C), detention must be in the least restrictive residential setting and serve one of the following purposes:

- (1) To ensure the presence of the juvenile at subsequent court proceedings;
- (2) To provide physical care for a juvenile who cannot return home because there is no parent or other suitable person willing and able to supervise and care for the juvenile adequately;
- (3) To prevent the juvenile from harming or intimidating any witness or otherwise threatening the orderly progress of the court proceedings;
- (4) To prevent the juvenile from inflicting bodily harm on others; or
- (5) To protect the juvenile from an immediate threat of bodily harm.¹¹⁸

As seen in Figure 11 earlier in the report, the Assessment Team found that providing physical care for youth was the purpose for 53% of detention cases. Not only are youth in detention at Long Creek for purposes beyond the scope of nationally accepted purposes of detention, but they constitute *the majority* of detained youth. While DOC staff and administrators work hard to meet

“I was going to hurt myself because I didn’t want to live anymore. But I didn’t. Instead now I’m in here rotting without a place to go. The world outside just keeps moving.”

-Detained Youth

youth’s basic needs, Long Creek does not provide group programming or treatment to detained youth in the same way that it does for committed youth. Administrators and staff refer to detained youth at Long Creek as “holds for court,” reaffirming that detention is designed to hold youth in a secure setting, not to provide the physical care that youth should receive from their families. Indeed, many detained youth at Long Creek expressed feeling “warehoused.”

Although some parents or guardians refuse to take youth home, the unusually high number of youth detained for the purpose of providing physical care suggests two larger problems. First, there are major gaps in services and supports to help Mainers provide adequate care for their children. This is validated by numerous interviews with a range of system stakeholders as well as results from the Community Survey, which listed mental health and substance use disorder services, quality education, supports for parents/caregivers, and work/economic opportunities as pressing needs for young people in Maine.¹¹⁹

Additionally, the state detention statute does not provide objective guidance to determine whether a parent or other individual can care and supervise youth, or how to assess whether care or supervision is “adequate.” This creates the potential for imbalanced use of detention based on race, ethnicity, geography, and socioeconomic status. For instance, the Assessment Team heard about youth who were detained “for care” due to concerns that parents could not speak English, did not own cars, or had multiple children.

Fifth, Maine’s Detention Risk Assessment Instrument permits overly broad discretion and weights toward detention. The RAI is designed to structure decisionmaking about whether to detain youth pending adjudication or disposition. The RAI uses a point system to calculate a detention risk score from 0 to 24 points. As shown in Figure 48, youth score into one of three ranges, which creates a rebuttable presumption about whether the JCCO should order unconditional release, conditional release, or detention.

Figure 48: Detention Assessment Breakdown

Detention Risk Assessment Score Range	Indicated Detention Determination	Youth Detained (n = 229)
0 - 5 Points	Juvenile shall be released unless release would place the juvenile in serious jeopardy or adversely the juvenile’s health or safety and other services cannot be arranged.	11 (4.8%)
6 - 9 Points	Juvenile shall be released unless the safety of the community would be jeopardized.	54 (23.6%)
10 - 24 Points	JCCO shall use discretion to release or detain consistent with least restrictive alternative.	164 (71.6)

The Assessment Team found Maine’s Detention Risk Assessment fails to adhere to best practices used in other jurisdictions and contributes to unnecessary detention in three key ways:

1. The RAI fails to ensure objective decisionmaking, creating the potential for the inconsistent, subjective, and unnecessary use of detention.

Although the RAI creates a presumption that JCCOs “shall” release youth who score 9 points or below, there are broad exceptions in both the 0-5 and 6-9 point range (e.g., “other services cannot be arranged”). Decisions to detain youth scoring below 10 points must be reviewed with a supervisor the following business day, but there are no objective criteria or reasons included in the tool to guide JCCOs in applying these exceptions, nor does the RAI require a written documentation of why certain youth meet these exceptions. The Assessment Team found that more than 28% of youth who were detained scored in the 0-5 or 6-9 range, despite the presumption of unconditional or conditional release for youth whose scores fell within those ranges. In 70.7% of those cases, the reason for deviation from the RAI scoring chart was not available.

Furthermore, JCCOs have unstructured discretion to release or detain youth who score in the 10-24 point range. The RAI does not include measurable factors to guide JCCOs’ discretion. In the sample reviewed for this assessment, over 70% of detained youth scored in this point range. The Assessment Team was not able to review detention risk data on youth who were released after RAI administration. Nevertheless, the substantial percentage of low risk youth who were detained coupled with the high number of detained youth scoring in the discretionary range point toward reconsidering the design of Maine’s RAI.

DOC’s detention policy mandates that JCCOs “shall order the juvenile’s unconditional release if the officer has determined he/she poses no immediate risk to self or others and he/she has promised to appear for subsequent interviews and/or court hearings.”¹²⁰ The policy also makes clear that youth who pose *some* risk of reoffending or failing to appear in court can be released, so long as specific conditions can prevent those risks: “when conditions are necessary to ensure the juvenile’s appearance at any subsequent court hearing or to ensure the protection of the community or any member of the community, including the juvenile,” a JCCO may order conditional release.¹²¹ Despite this policy guidance, the RAI does not require information on what conditions of release the JCCO considered and why he or she determined that conditional release was not appropriate. As a result, there is no ability to monitor whether JCCOs appropriately use conditional release.

One of JDAI’s eight core strategies is objective admissions screening to identify which youth pose substantial public safety risks and should be detained, which should be placed in alternative programs, and which should be sent home.¹²² As part of JDAI, the Annie E. Casey Foundation created a guide for best practices regarding detention risk screening tools entitled “Juvenile Detention Risk Assessment: A Pathway to Juvenile Detention Reform.”¹²³ Detention risk screening tools should be objective and based on neutral and ascertainable factors rather than subjective opinions about an individual youth. Detention risk screening tools should also measure only detention-related risks posed by the young person. As discussed above, the two appropriate detention-related risks are the risk of reoffending before adjudication and the risk of failing to appear at a court hearing. Another important aspect of detention risk screening is the use of overrides (i.e. detention of a youth who otherwise scores within a range that indicates unconditional or conditional release). The Detention Risk Assessment’s “built-in” exceptions to permit detention for youth who score below 10 points are analogous to overrides. “Juvenile Detention Risk Assessment: A Pathway to Juvenile Detention Reform” notes that:

“Overrides must be controlled to assure the integrity of the risk-screening system as a whole. The RAI itself should contain a checklist of common override reasons – for example, “parent refuses custody of the minor” or “parents cannot be located.” A space should be provided to explain “other” overrides in detail. The RAI should also provide for written, supervisor approval of the override.”¹²⁴

Figure 49: Maine Department of Corrections Detention Risk Assessment

MAINE DEPARTMENT OF CORRECTIONS
Detention Risk Assessment

Attach written justification for detention of juvenile with a grand total of 9 or below.

0-5 Juvenile shall be released unless release would place the juvenile in serious jeopardy or adversely affect the juvenile's health or safety and other services cannot be arranged.
6-9 Juvenile shall be released unless the safety of community would be jeopardized.
10+ JCCO shall use discretion to release or detain consistent with least restrictive alternative.

If juvenile is detained, case MUST BE reviewed with RCA, or designee, the next working day.

Juvenile is detained as result of a Bench Warrant with no right of release.
 Juvenile is charged with murder (detain until review by AG's office and court).
 Juvenile is detained by prosecutor without JCCO initiation.

Referral to an alternative program? Yes No If yes, which program? _____

If no referral, note reason(s) why referral would be inappropriate: _____ Date: _____

Review by RCA, or designee: _____

Comments: _____

Detention Risk Assessment MUST be forwarded to Clerical Staff on the first working day following review

Instructions for Completing the Detention Risk Assessment Instrument

Section A: Juvenile Offense History

- Most Serious Presenting Offense.** Select the **one** most serious offense for which the juvenile is being considered for detention and enter the score corresponding to the classification of the offense. **Note:** If the reason for detention consideration is based upon a technical violation of conditional release, select the most serious offense for which the juvenile was placed on conditional release. If detention consideration is based upon a technical violation of probation, enter a score of zero.
- Other Presenting Offenses.** Enter number of **other** felony offenses (Class A, B, or C) and number of misdemeanor offenses (Class D or E) for which the juvenile is being referred for detention. Multiply the number of felonies by 2, but do not multiply the number of misdemeanors and enter the total in the spaces provided to the immediate right. **Note:** If more than one offense is being presented, a maximum score of 6 is allowed for this item.
- Current Supervision Status.** Enter 5 if juvenile is currently on Community Reintegration status, 3 if juvenile is on Probation or on Conditional Release for a felony offense, or 1 if juvenile is on Informal Adjustment or Conditional Release for a misdemeanor.
- Prior Supervision in the last 12 Months.** If the juvenile is not currently under supervision, enter 3 if the juvenile was on Probation or Community Reintegration in the prior 12 months.

Section B: Aggravating Factors

- Escape/Absconder History.** Enter 5 if the juvenile is currently an absconder or if the juvenile absconded from community supervision or placement within the past year.
- Actively threatening to harm or intimidate others.** Select yes, if there is a verified history of threatening harm or intimidation within the last 6 months, or no, and enter corresponding score.
- Unwilling or Unable to Accept Specific Conditions of Release that ensure the safety of the community or the juvenile's presence in court.** Select appropriate response and enter score.
- Current Residence.** Select appropriate response and enter score.

DETENTION RISK ASSESSMENT
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DOC FORM

JCC – 9.3 - A – B – 9/23/13R

2. Maine’s RAI contains redundant risk factors that skew scores toward detention.

Unlike the screening instruments used in most states, the RAI counts both the “most serious presenting offense” and “other presenting offenses.” As shown in

Figure 49, a youth can score up to 11 points based solely on the presenting offenses. This drives up the detention risk score based on lesser-included felony offenses and runs counter to best practices. Likewise, youth should not be penalized for separate charges arising out of the same alleged delinquent conduct or course of conduct. For example, Multnomah County, Oregon permits a maximum number of additional points to be added to the risk assessment score only for *unrelated* additional felonies.¹²⁵

The RAI also stacks points against youth on conditional release by adding points for both the underlying offense and for being on conditional release. For example, a youth with a technical violation could receive 5 points for the Class C offense on which he or she is on conditional release *in addition to* 3 points for being on conditional release.

3. Maine’s RAI includes aggravating factors but does not include mitigating factors.

While well-balanced aggravating and mitigating factors can facilitate the appropriate use of discretion in detention decisionmaking, Maine’s one-sided application of aggravating factors undoubtedly contributes to higher detention rates. The lack of mitigating factors is a missed opportunity to avoid unnecessary detention based on supportive factors.

Although the available data do not establish a causal relationship between the Maine’s detention screening process and racial disparities, that the lack of objective screening criteria and quality assurance almost certainly contributes to the overrepresentation of Black and African American youth in detention. For instance, Black and African American individuals make up just 1.6% of Maine’s population, but Black and African American youth account for over 23% of detentions, as shown in Figure 50. One important caveat regarding the use of detention risk screening is that racial and ethnic biases are often built into instruments. However, due to the pronounced racial disparities within Maine’s detention population, implicit bias is also likely a contributing factor.

Figure 50: Detained Sample Racial Breakdown¹²⁶

		White	Black/African American	Other
Maine (n = 254)	n	185	59	10
	% of all sample youth	72.8%	23.2%	3.9%
	State census data	94.6%	1.6%	3.7%
Cumberland (n = 77)	n	44	29	4
	% of county youth in sample	57.1%	37.7%	5.2%
	County census data	92.2%	3.1%	4.7%
York (n = 38)	n	35	2	1
	% of county youth in sample	92.1%	5.3%	2.6%
	County census data	95.5%	1.0%	3.5%
Androscoggin (n = 41)	n	24	17	0
	% of county youth in sample	58.5%	41.5%	0.0%
	County census data	91.9%	4.4%	3.7%

Sixth, 47% of detentions lasted three days or less, indicating that detention was almost certainly unnecessary for public safety reasons. Maine statute requires that youth receive a detention hearing before a judge within 48 hours of being detained, excluding weekends and holidays.¹²⁷ Generally, detention stays of less than 4 days result when youth are released at a detention hearing. In these situations, youth are needlessly separated from their families and community supports and exposed to the detrimental effects of detention. Unfortunately, the data we reviewed do not indicate why youth were detained for less than four days. Based on experiences in other jurisdictions, a range of other factors often lead to short and unnecessary detention stays. These include:

- Warrants or detention policies that require detention until youth see a judge;
- Poor accommodation for the schedules, availability, and resources of families who are not immediately available to JCCOs or law enforcement; or
- Parents or guardians who are initially unwilling to have youth in the home but are ready to reunite after a 1 to 3 day “cooling off” period.

In many jurisdictions, youth who are detained on warrants represent a portion of unnecessary detention. Rather than requiring detention for all youth who are picked up on warrants, differential or “tiered” warrant policies allow some youth to be summoned into court directly or held in a non-secure setting until they appear before the judge who issued the warrant. For example, Lucas County and Montgomery County in Ohio use a two-tier warrant system to reduce the number of youth detained on warrants. Based on a warrant checklist, courts issue a green warrant, which means that the youth can be screened and sent home, or a red warrant, which requires youth to go to detention. When law enforcement officers pick up a youth, they call a detention intake officer, who advises whether to take the youth to detention or to an assessment center for screening.

The Assessment Team learned that some family members or guardians were initially unwilling to have youth return to the home but quickly changed their minds. For instance, JCCOs reported that many families either mistakenly assume that youth will be “scared straight” by an overnight detention or that families need a brief “cooling off” period. Unfortunately, the youth justice system does not accommodate nuanced family dynamics. Several individuals described cases of youth detained at Long Creek for weeks or months, much to the dismay of parents who believed that the system would honor their request that youth spend “a few days” in detention. In these situations, youth who are otherwise detained could be returned home if more short-term shelters or crisis beds such as Reardon’s Place or Aroostook Mental Health Center were available.

These observations are consistent with the data on length of stay of youth in detention. As noted previously, 47% of detained youth in the assessment sample were in detention for three days or less. The median length of stay for all youth in the sample (i.e., half of all stays were shorter and half were longer) was 4 days. If all of those youth were detained because they were a danger to the community, it is difficult to see why they were released within a few days. After all, they would not become any less of a danger to the community in that short time. It is much more likely that they were detained to “provide care” (i.e., to give them a place to go). Thus, if there were an adequate continuum of programs and services in the community, they could have received care in those programs and could have avoided detention in Long Creek.

For example, King County (Seattle), Washington, created a program to reduce detention in cases of domestic conflict between youth and parents or siblings. The program, called Family Intervention Restorative Services (FIRS), allows youth who are arrested for domestic incidents to spend the night at a respite center before safely reuniting with their families.¹²⁸ Families and youth then receive mobile de-escalation counseling, behavioral health services, and substance use disorder services in the home without formal legal involvement. Before the FIRS program, domestic violence against a family member was the number one reason that youth were held in secure detention. During the first year that FIRS was implemented, youth domestic violence cases dropped 62%.¹²⁹

Assessment Team Recommendations

Based on the findings outlined above, the Assessment Team has four primary recommendations.

- 1. Identify and develop options to reduce the detention of youth who do not pose a risk of reoffending or failing to return to court.**
 - a. Because the data show that Maine relies heavily on secure detention largely to provide physical care to youth, the state should establish a continuum of community-based supports and services to enhance families' ability to care for youth. This includes crisis beds, restorative just programming, vocational training and support, access to housing and transportation assistance, food security, and physical wellness. Cross-system collaboration between DOC, DHHS, and the Department of Labor is necessary to create these support structures.
 - b. Maine should invest in alternative programming to ensure that youth are supervised in the community so that they remain crime-free and go back to court. Most importantly, it is critical that these programs achieve buy-in from judges, prosecutors, JCCOs, and other decisionmakers who determine whether youth can be safely supervised in the community. Examples include day or evening reporting centers, credible messenger programs, and Youth Advocate Programs.
 - c. Maine needs detention alternatives to support youth without current housing options. It is worth noting that homelessness is not always a static condition. The Assessment Team found that youth and families often experience gaps in housing due to changes in family dynamics and employment. We also learned that access to shelter options varies widely across the state. To prevent secure detention from serving as de facto housing for youth, DOC and DHHS should work collaboratively to create short and long-term shelter, group home, and foster care capacity that would accept court-involved youth.
- 2. Create additional residential and community programs and services to reduce lengthy detention stays for youth who are detained while awaiting placement.** As discussed, a substantial portion of youth detained for over 30 days are waiting for another placement or a spot in a community-based program. Maine should invest in a continuum of behavioral health and substance use disorder programs that meet youth's needs and provide judges and JCCOs with non-detention options. Establishing "no reject, no eject" policies

with service providers will ensure that justice-involved youth will not bounce back and forth between Long Creek and other programs. Any such programs and services must be designed to address the particular needs of vulnerable populations including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth.

3. **Revise the RAI to require more objective decisionmaking and align with best practices.** These revisions should include:
 - a. Creating objective criteria and examples to guide JCCOs in applying exceptions to detain youth who score in the 0-5 and 6-9 point ranges; require written documentation of the basis for these exceptions.
 - b. Establishing additional point ranges between 10-24 points based on objective and measurable criteria and linking point ranges to specific detention alternatives.
 - c. Eliminating redundancies for youth charged with more than one offense and youth on conditional release.
 - d. Adding mitigating factors, which could include age, strong family support, doing well in school, no history of failure to appear, no prior detention referrals or arrests within the last 12 months, or willingness to accept conditions of release.
 - e. Collecting and analyzing data on detention screening decisions based on race, ethnicity, gender, and geography to ensure that revisions benefit all youth.
 - f. Requiring objective criteria and listed reasons to structure decisions on whether family members or guardians can provide adequate physical care, as well as requiring written documentation of the basis for this determination.

4. **Identify why almost half of detention stays last less than four days and implement targeted solutions.** By focusing on this category of detentions, Maine could substantially decrease the average daily detention population at Long Creek. Based on information about the most common reasons for short detention stays, Maine should consider developing differential warrants for types of violations of probation or court orders, as well as providing mobile family counseling and short-term domestic violence respite programs like the FIRS program.

Case Study: Shannon

Shannon arrived at Long Creek in the detention unit shortly after turning 13. She came to Long Creek from a hospitalization where she had engaged in assaultive and aggressive behavior.

Shannon had no involvement with the DOC prior to this initial intake. However, she had contact with law enforcement. Shannon had struggled in the community and had periods of aggression and out of control behaviors in her neighborhood. She had experienced a number of hospitalizations at area hospitals, but none of these resulted in a long-term plan or placement to help her. Other state agencies were aware of Shannon and her case. Shannon had been involved in treatment programs and, at one point, services were present in her home.

Prior to Shannon's arrival at Long Creek, she had experienced a year of significant academic disruption. Her sending school had placed her on differing forms of tutoring and individualized programs as a result of her behavior in class. These behaviors included leaving the building, challenges interacting with peers, and other actions that left school officials concerned. However, because Shannon had challenges relating to her assigned tutors, she refused to engage in her individual programs. This, coupled with a number of hospitalizations over a short period, resulted in a school year with little academic structure for Shannon.

Upon Shannon's arrival at Long Creek, she struggled to stabilize, and her periods of physical aggression made it challenging for her to find success. However, with individual programming (created through consultation with Shannon's sending school) and consistent behavioral expectations, Shannon was able to see academic success. Shannon's school provided documentation that indicated a number of accommodations and supports that had been used at various stages to create a positive learning environment. Long Creek honored these supports and, by the end of Shannon's initial stay at Long Creek, she was not only tolerating all of her classes but also experiencing academic success and educational progress.

After approximately three months, Shannon left Long Creek to attend an out-of-state program. There, she reverted back to the aggressive behaviors that marked her early days at Long Creek. Shannon returned to Long Creek less than a month after leaving to attend her placement. Upon her return, Shannon was able to return to educational programming quickly and again saw success in her classes. Shannon's strong relationships with particular staff members remained despite her short time away from the facility. This resulted in a smoother transition to Long Creek upon her second stay.

Shannon stayed at Long Creek for an additional 10 days before a court decision resulted in her being released to the community. The Department of Health and Human Services remained involved in her case and the court requested that they supervise services recommended by the

G. Probation and Community Reintegration

Many youth who are adjudicated in Maine’s juvenile justice system are supervised in the community. For example, youth may be placed on probation by a judge for a fixed period of time in lieu of committing a youth to Long Creek or another out-of-home placement. Additionally, youth who are committed to DOC and placed in a facility such as Long Creek or another residential placement are often released and supervised in the community for a period of time before their commitment ends – a period known as “community reintegration.” Although probation and community reintegration are two different legal statuses, youth are supervised by DOC’s Juvenile Community Corrections Officers in the community in both situations. Thus, we discuss findings and recommendations related to supervision of youth in the community.

Assessment Team Findings

The Assessment Team found that there are many conscientious and caring JCCOs who are trying to prevent placement out of home, particularly in rural parts of the state. The team heard many examples of JCCOs going above and beyond to work with youth and families in the community, even in the absence of needed resources. Many JCCOs have been in their position for many years – even decades – which is a testament to the dedication of these individuals to work with young people and family members, often times in very challenging circumstances. As a general matter, stakeholders interviewed by the Assessment Team cited the work of the JCCOs as a positive within Maine’s juvenile justice system. This was validated by responses to the Community Survey, which listed the JCCOs’ work as one of the top 5 identified strengths of the current juvenile justice system.¹³⁰

We also found that most JCCOs, if not all, see themselves as more than just monitors of compliance with terms and conditions. Among the JCCOs interviewed for this assessment, there was a general recognition that probation and community reintegration must be focused on skill-building, positive youth development, and connection of youth to positive community-based programs and resources. A 2018 report, “Positive Outcomes in Maine’s Juvenile Justice System,” attempted to quantify measures of positive youth development activities undertaken by youth under the supervision of JCCOs, including connection to workforce development and employment opportunities, as well as youth’s involvement in prosocial activities.¹³¹

This is consistent with the current job description for JCCOs, which does not focus exclusively on compliance with terms and conditions. Indeed, the job description notes that one of JCCOs’ primary responsibilities is to “prepare[] and maintain[] strength-based rehabilitation case plans.” JCCOs use a validated, nationally recognized risk and needs assessment instrument, the YLS/CMI, to identify strengths and needs of youth – results that JCCOs use to create needs-based case plans for youth and family members.

Finally, DOC has taken recent steps to bolster the success of youth reentering their communities from Long Creek or other facilities through the introduction of Youth Advocate Programs. As noted earlier in the report, YAP is a nationally recognized program that provides intensive

supervision and support in the home, school and community. YAP workers are focused on working with youth who are labeled as “high risk” in the community – and keeping those youth in the community. YAP’s reentry programs have a demonstrated track record of success, notwithstanding their focus on what others deem to be the most challenging youth. A recent evaluation by the John Jay College of Criminal Justice found that that 86% of YAP youth remained arrest-free while in the program, and 93% lived in the community at discharge from the program.¹³²

The efforts of JCCOs to work with youth in the community, particularly in relatively service-poor areas of Maine, are exemplary and deserve praise. Many attributed the substantial reductions in the numbers of youth at Long Creek in the last several years to the work of JCCOs in these areas to keep young people at home whenever possible. Nevertheless, there were six major areas of concern among Assessment Team members.

First, many youth reported that their experience on probation or community reintegration felt more like a period of monitoring of compliance with conditions as opposed to a period of positive skill-building. Many youth reported not having a clear understanding of the biggest priorities for their time on probation or community reintegration. Other youth stated that it seemed like probation was a “set up” or that they were waiting for a “gotcha” moment regarding noncompliance with terms and conditions. As noted earlier, more than one in four youth admitted to detention in the quantitative data analyzed for the assessment were admitted to detention for technical violations of conditional release and technical violations of probation (28.4%). Maine law also allows for the use of “shock sentences” of 30 days of incarceration or less, which many reported being used as a “scared straight” strategy or a “wake up call” for youth on probation.¹³³

Although JCCOs do develop needs-based case plans for youth on probation and community reintegration status using the YLS/CMI, district court judges in Maine issue standard condition of probation for youth, pictured below as Figure 51. These conditions of probation contain a lengthy list of boilerplate conditions, in addition to another lengthy list of optional conditions that can be chosen by the court. In the sample conditions of probation reviewed by the Assessment Team, it was common for youth to have 15 or 20 individual terms as part of their conditions of probation.

Even though many JCCOs stated that they did not require compliance with all terms and conditions ordered by the court, they are the legal basis by which youth are found to have violated probation – a finding that can result in detention or commitment. Furthermore, enforcing terms only at certain

“Staff working with juveniles involved in the justice system often care deeply about their work and typically work hard to identify possible resources and programs that will support children. However, I think they often struggle to find the right programs and resources due to limited access and availability.”

-Community Survey Respondent

times (or not at all) conveys a message that terms and conditions do not really have to be followed, which may help explain many youth's feelings that they were never sure when and if they might be violated for non-compliant behavior. Additionally, this also breeds the potential for expectations to be enforced unevenly across different JCCOs or different groups of youth, which runs counter to the fundamental fairness and procedural justice that must be at the heart of the juvenile justice system.

Figure 51: Sample Conditions of Probation

JUVENILE COURT DISTRICT COURT STATE OF MAINE STATE OF MAINE

STATE OF MAINE CONDITIONS OF PROBATION Docket No. Probation Terms

The Court has placed you on probation and committed you to the supervision of the Department of Corrections for the term specified above and on the conditions specified below:

THE CONDITIONS OF YOUR PROBATION ARE AS FOLLOWS: YOU SHALL

- refrain from all criminal conduct and violation of federal, state and local laws;
- report to the juvenile community corrections officer (JCCO) immediately and report thereafter as the officer may direct.
- answer all reasonable inquiries by the juvenile community corrections officer and permit the juvenile community corrections officer to visit you at reasonable times at your home or elsewhere.
- secure approval of the juvenile community corrections officer before changing address, employment or education program.
- remain within the jurisdiction of this State unless written permission is given by the juvenile community corrections officer for you to leave the state temporarily.
- devote yourself to an approved employment/education program and maintain regular and orderly school attendance.
- refrain from possession or use of intoxicating liquor, any unlawful drugs or tobacco products.
- identify yourself as a probationer to any law enforcement officer when arrested, detained or questioned and notify your juvenile community corrections officer of the contact within 24 hours.
- waive extradition to the State of Maine from any State of the United States, the District of Columbia, or any other place, to answer any charge of violating the terms of probation.
- not own, possess or use any firearms or dangerous weapons if you have been adjudicated of the juvenile crime of murder or a Class A, B or C juvenile crime, or any other matter involving the use of a firearm.
- provide a DNA sample if directed and your offense is set forth in 25 M.R.S. § 1574(6).

OTHER CONDITIONS: YOU SHALL ALSO

- pay to the Department of Corrections an (e) lectron monitoring fee (substance testing fee) of \$ _____
- submit to (random) search and testing for (c) on (drugs) (tobacco) (firearms) (dangerous weapons) (upon reasonable suspicion of use or possession) not own, possess or use firearms or dangerous weapons.
- undergo substance abuse (psychological) (domestic violence) counseling as directed by the juvenile community corrections officer; consent to the release of any counseling / treatment information to your JCCO, the district attorney and the court.
- undergo available medical or psychiatric treatment (as an out-patient) (enter and remain as a voluntary patient), in _____
- pay restitution in the (maximum) amount of \$ _____ to _____ within _____ months for the benefit of _____ as follows: _____
- pay \$ _____ as (fines) (surcharges) (assessments) and (counsel fees in full) (counsel fees of \$ _____) within _____ months on a schedule to be determined and set by the JCCO.
- not operate or attempt to operate any motor vehicle (including ATV, motorboat or aircraft) (unless properly licensed by the Secretary of State).
- have no contact of any kind with _____ and the family of said person(s).
- not associate with any other person on probation or parole without written permission of the JCCO.
- perform _____ hours of public service work within _____ months as directed by the JCCO.
- reside with parent(s).
- reside with placement approved by JCCO or in any other setting as directed by the JCCO. Reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or no reasonable efforts are necessary because of the existence of an aggravating factor and continuation in the juvenile's home would be contrary to the welfare of the juvenile. Reasonable efforts findings, dated _____ are attached and incorporated in this order. This will be reviewed on _____ no longer than 12 months).
- abide by curfew: Every day Sunday through Thursday from _____ p.m. until _____ a.m. Fridays and Saturdays from _____ p.m. until _____ a.m. Unless accompanied by a parent or other legally-appointed supervisor; attending a school function or in transit to or from a school function; at employment or in transit to or from employment.
- Other: comply with all recommended treatment services

Your freedom from future arrest and punishment for the offense(s) depends upon strict observance of the conditions of probation and any additional conditions further imposed by this court during the term of your probation.

ORDERED: These conditions are made part of the judgment.

The juvenile justice field has moved away from the use of standard terms and conditions. For example, in 2017, the National Council of Juvenile and Family Court Judges (NCJFCJ) issued a resolution on the need to align probation practice with the principles of adolescent development.¹³⁴ In that resolution, NCJFCJ recommended that jurisdictions:

- Develop alternatives to formal probation revocations for technical violations, to ensure that detention or incarceration is never used as a sanction for youth who fail to meet their expectations or goals;
- Cease imposing “conditions of probation” and instead support probation departments’ developing, with families and youth, individualized case plans that set expectations and goals; and
- Emphasi[ze] . . . the use of incentives – rather than sanctions – to modify youth behavior.¹³⁵

Other leading national organizations have also followed suit. In 2018, the Center for Juvenile Justice Reform at Georgetown University (CJJR) and the Council of State Governments Justice Center (CSG) issued a report that called for jurisdictions to “[t]ie conditions of supervision directly to youth’s delinquent offenses and eliminate the practice of filing technical violations of probation and parole.”¹³⁶ That report found that:

Given that the broadly based use of detention and incarceration lacks research support as an effective punishment or deterrent, and has potentially negative impacts on youth’s chances of future offending, states and counties should enact policies that *ban the use of facility stays in response to technical violations – both before and after disposition – unless youth are at imminent risk of harming themselves or others.*¹³⁷

Also in 2018, the Annie E. Casey Foundation released a report charging jurisdictions to rethink the standard approach to youth probation.¹³⁸ In that report, the Casey Foundation called for an end to standard terms and conditions and incarceration of young people for technical violations of probation and violations of court orders. In doing so, the Foundation noted that:

[P]robation officials — as well as judges, prosecutors and others — should be guided by an understanding that youth on probation often exhibit significant behavioral problems. Probation cannot expect youth to quickly comply with all expectations or to easily desist from all delinquent conduct. The change process is gradual, often a matter of two steps forward and one step back. Probation can only succeed if it accepts this reality and offers graduated responses and meaningful incentives to encourage young people on their path to successful, law-abiding adulthood.¹³⁹

Second, and related to the findings of the major national reviews outlined above, Maine still relies on some supervision practices that are still grounded in compliance with terms and conditions instead of incentivizing skill building and partnership with youth and family members. For example, the Assessment Team found inconsistencies in when and to what extent youth and family members have genuine input into goals and expectations. Some youth and stakeholders reported that JCCOs developed case plans in partnership with families, while others said that JCCOs used relatively standardized case plans and primarily asked for agreement with what

was outlined. Developing case plans in a way that youth and family members are engaged in the process and perceive it as genuine and fair makes it more likely that youth and family members will be invested in those plans and treatment goals.

Additionally, there are inconsistencies in when and to what extent earned opportunities and incentives are used to motivate youth and family members to make progress toward goals (versus receiving a sanction for engaging in prohibited behavior). The Assessment Team did learn of JCCOs who used incentives in creative ways to acknowledge and incentivize youth behavior, but DOC does not have a formal structure and system of monitoring and promoting the use of earned opportunities with youth on probation or community reintegration status.

“There aren’t enough mentors in the community. One person can make a difference, even if the family or community doesn’t change.”

-Juvenile Prosecutor

This is a missed opportunity to maximize the potential of the JCCOs to achieve the best results in terms of behavior change and public safety outcomes. Other jurisdictions that have embraced and placed earned opportunities at the center of their community supervision have seen significant results. For example, Pierce County, Washington, has adopted an Opportunity-Based Probation program that focuses on providing earned opportunities based on youth’s progress toward treatment goals. Youth are not sanctioned for failing to meet goals on most occasions but are instead prevented from earning privileges. The program aligns practices with research on adolescent development demonstrating that incentives are far more powerful motivators for youth than sanctions. And, the Opportunity-Based Probation model has gotten results: youth who did not go through the program were 2.53 times

more likely to have a new referral and 3.08 times more likely to have a new probation violation than youth participating in Opportunity-Based Probation after matching youth on baseline characteristics.¹⁴⁰

Third, many youth are placed on lengthy terms of supervision, a fact that contributes to the sizeable percentage of admissions to detention for technical violations of terms and conditions. Many youth’s probation terms were nine months, a year, or longer, which many individuals said guaranteed youth were going to violate one or more terms of supervision. Some youth described this amount of time as a “set-up,” particularly given that they might be struggling with multiple issues before ever being placed on probation, making it unlikely that they would be able to meet all expectations once placed on probation. The length of time also led many youth to not see the point in participating in rehabilitative or treatment services, knowing that they would not be able to comply with all expectations.

Additionally, there was a feeling that probation, and the use of fixed lengthy periods of time, had become a “one size fits all” disposition for youth who are not diverted, given the perceived lack of community-based services in some parts of the state. In other words, because youth were deemed ineligible for diversion but because stakeholders did not want to commit a youth and place them out of home, youth end up receiving probation by default. As noted in the earlier section on diversion, the Assessment Team found that expanding the use of diversion would likely reduce the use of

probation with better public safety and youth outcomes, particularly given the demonstrated low rates of reoffending in DOC's own data. Moreover, the Assessment Team found that an expanded use of restorative practices to resolve cases involving theft and assaults (with victim input) in lieu of placement on probation could also obtain better public safety and youth outcomes. This would reduce also reduce caseload sizes and allow JCCOs to focus more time and energy on youth and families with the highest needs.

Fourth, while JCCO caseload sizes have declined for many, caseload levels are still at a level that do not allow for the skill and relationship-building that is necessary for long-term behavior change (i.e., 8-12 youth). The Assessment Team heard concerns from multiple stakeholders about job security for JCCOs given declines in caseloads, but these declines can actually be a positive development if they allow JCCOs to work with youth more intensively, including out in the field. The Assessment Team found that DOC would benefit from reducing caseload sizes and creating meaningful metrics to acknowledge skill-building and work with youth in their communities – efforts that are not currently adequately captured by DOC's data systems. Efforts of JCCOs to engage with youth in this way, including efforts to go above and beyond to keep youth in the community, should be quantified and incentivized, particularly for JCCOs working in parts of the state with much more limited community-based resources.

Fifth, there is a need for “credible messengers” from youth’s own communities who can develop lasting relationships with youth – a need articulated by many young people, family members, and stakeholders interviewed for the assessment. Although JCCOs can certainly serve as mentors to youth, credible messengers are not charged with supervising youth per court order, but instead are individuals with lived experience with the justice system who work to help youth build skills to navigate real-life challenges. Again, some JCCOs certainly bring their own life experiences to bear in their supervision of youth, but many stakeholders and the Assessment Team members identified a need to pair youth with mentors from their own communities. The 2018 report on positive youth outcomes referenced earlier in this section also identified this as a need, noting that just 19 of the 174 youth on probation in the sample (11%) were referred to mentors.¹⁴¹ This would also respond to the statements of many youth, who said that they had wished JCCOs spent more time with them assisting with basic life needs, such as obtaining housing, driver's licenses, and employment.

Finally, the introduction of YAP for youth on community reintegration status is undoubtedly positive, but many stakeholders expressed a desire to use YAP for youth on probation to avoid ever having to be committed and placed at Long Creek or another residential placement in the first place. This is precisely how YAP is used in many other jurisdictions. The Assessment Team found that the use of YAP for youth on probation would likely prevent many commitments and placements out-of-home, suggesting a needed expansion of the program as planned.

Assessment Team Recommendations

Based on the findings outlined above, the Assessment Team has seven primary recommendations.

- 1. End the use of standard terms and conditions, focusing instead on individualized treatment goals developed in true partnership with youth and families.** This would be consistent with guidelines from the National Council of Juvenile and Family Court Judges¹⁴² and DOC's stated goal of focusing on youth's specific strengths and treatment needs. The removal of standardized terms and conditions would help tailor case plans to the youth's most pressing needs and would allow young people and family members to provide input on and see progress towards a more manageable set of goals.
- 2. Adopt an official incentives-driven community supervision model, tracking its use and the outcomes associated with it.** As mentioned above, probation and community supervision practices that prioritize the use of earned opportunities to recognize incremental progress achieve far better outcomes in terms of public safety and behavior change in youth.¹⁴³ Although there certainly are JCCOs utilizing incentives in their day-to-day practice, a formalized system would ensure that DOC is using the best supervision approaches consistently throughout the state. There are tools available in the field to assist with the development of such a system.¹⁴⁴
- 3. Adopt presumptive limits on terms of probation, both in Maine statute and in practice,** as lengthier terms of probation are unlikely to result in more substantial behavior change but are almost certainly guaranteed to see youth violate the terms and conditions of their supervision. Other states have taken such steps in recent years. For example, South Dakota's Senate Bill 73, passed and signed into law in 2015, creates a presumptive four-month regular probation term for most youth and an eight-month term for those on intensive supervised probation (a program for high-risk, high-need youth).¹⁴⁵ Courts may not extend the regular term unless youth are enrolled in intervention programs that last longer than four months.
- 4. Limit the use of detention and commitment for technical violations of conditional release, probation, and community supervision,** consistent with the recommendations at the detention decision point outlined above. As mentioned above, groups including the Council of State Governments Justice Center, the National Council of Juvenile and Family Court Judges, and the Georgetown University Center for Juvenile Justice Reform have recommended ending the use of incarceration for technical violations of probation and court orders. State and local juvenile justice agencies have taken steps to do so, including South Dakota via Senate Bill 73, which prevents youth from being placed in out-of-home facilities solely for technical probation violations.¹⁴⁶ This would include ending the use of "shock sentences" of short periods of incarceration, both in statute and in practice.
- 5. Reconsider the use of probation as a standard disposition for offenses that may be disposed of through other existing programs.** Two of the most common reasons for arrest and commitment are simple assault and theft, offenses for which increased access to diversion or expanded use of existing programming could achieve better public safety and youth behavior change outcomes than a period of probation. For example, a study of the use of restorative practices in lieu of probation conducted by Impact Justice found that restorative practices achieved better public safety outcomes (44% lower recidivism rates) at a much lower cost than youth who were placed on probation (\$4,500 per case for restorative

responses vs. \$23,000 per youth per year for probation).¹⁴⁷ Importantly, victims also reported very high rates of satisfaction with the process: 91% of victim participants who completed the survey reported that they would participate in another restorative justice conference, and the same percentage stated that they would recommend the process to a friend.¹⁴⁸

6. **Explicitly define the role of JCCOs to focus on skill development and create incentives for JCCOs to engage in those efforts.** As mentioned previously, DOC has made efforts to focus probation and community reintegration on the domains of positive youth development. Nevertheless, there are some aspects of the JCCOs work that make it difficult to do so. Reducing caseload sizes through reductions in the use of probation as a standard disposition and reducing the length of probation terms should be a priority. Additionally, DOC should capture and incentivize efforts of JCCOs to work with youth in the field and to use earned opportunities to promote behavior change. This should also include making skill building the first list of priorities for JCCOs in their job descriptions (vs. one of many tasks), and it should accompany training on adolescent development and current research on effective interventions in community supervision of youth.
7. **Engage and expand the use of Youth Advocate Programs as an alternative to probation or as a supplement to probation for youth with the highest risk factors and highest needs.** As previously stated, the introduction of YAP for youth on community reintegration status is a terrific addition to DOC's work with youth, but the use of YAP for youth on probation would likely prevent many commitments and out-of-home placements in the first place.

H. Commitment and Placement

When a young person has been adjudicated as having committed a crime in Maine, the court will enter a dispositional order that outlines one or more alternatives for resolving the case, including unconditionally discharging the youth, suspending the disposition of a youth and placing youth on probation for a set period of time, placing the youth in probation, requiring the youth to participate in a “supervised work or service program,” requiring the youth to pay restitution, imposing a fine, committing a youth to the custody of the DHHS, and committing a youth to DOC.¹⁴⁹

Commitment to DOC is a legal status whereby custody of the youth is given to DOC and the youth is ordered to be placed in a secure facility (i.e., the Long Creek) for a period of time.¹⁵⁰ Commitment is imposed to a certain age, up to the age of 21, with a required minimum commitment period of one year. Youth are not required to spend the entire period of their commitment in a secure facility, and DOC decides if youth can be transitioned to a different secure placement or a non-secure placement, or whether youth can be returned to the community prior to the end of their commitment on “community reintegration status.”

This section includes findings and recommendations with respect to youth who are committed to DOC custody.

Assessment Team Findings

As noted earlier in this report, Maine has followed the national trend and trend in other states to substantially reduce the reliance on commitment and out-of-home placements in the past decade. For example, Maine reduced the annual number of youth committed DOC by 68% from 2010 to 2018, with a related 68% reduction in the number of committed youth in DOC custody on any given day during the same time period. This is a commendable result, and it is a testament to the work of DOC and its partners in identifying and developing alternatives to commitment and placement.

This trend in Maine and throughout the country is partly a result of declining juvenile crime rates. It is also in part due to research showing that incarceration-based placements for young people are not only expensive, they can actually worsen outcomes when comparing results to similarly situated youth who receive services in the community.¹⁵¹ Specifically, out-of-home placements have been linked with:

- Higher rates of recidivism and increased likelihood of recidivism for more serious offenses;
- Increased likelihood of incarceration as an adult;
- Higher high school dropout rates and decreased educational achievement; and
- Decreased likelihood of future employment and earning potential in the labor market.¹⁵²

In 2011, the Annie E. Casey Foundation released a landmark report entitled “No Place for Kids: The Case for Reducing Juvenile Incarceration,” which noted that “many states [had] slashed their

juvenile corrections populations in recent years – causing no observable increase in juvenile crime rates.”¹⁵³ Jurisdictions throughout the country have demonstrated that reductions in the use of incarceration and out-of-home placement, when coupled with investments in community-based services and supports, achieve better public safety outcomes at a lower cost to taxpayers – all while improving outcomes for young people and families in contact with the juvenile justice system.¹⁵⁴

Additionally, DOC has made very recent efforts to continue to reduce the extent of the state’s reliance on secure facilities by stepping down youth into staff-secure, more homelike settings where youth can engage in work and other activities in the community. These include the RISE program, opened in 2018, which is a 6-bed, community-based reintegration home for transition age male youth who were committed at Long Creek. It also includes Bearings House, opened in 2019 on the Long Creek campus, which is an 8-bed staff-secure facility designed to help youth reenter the community more successfully. Stakeholders, including youth, expressed praise for both programs. One youth stated that the transition from Long Creek to Bearings House was “like a dream” because of the ability to wear his own clothes and reside in a house that looked like any other home.

While DOC has continued to make efforts and investments to reduce the state’s reliance on secure confinement, DOC has also worked to make improvements to conditions at Long Creek since the 2017 assessment of conditions of confinement. These include the addition of behavioral health support staff to work with youth in crisis and youth with chronic behavioral challenges, the addition of new

programming, and the introduction of new training for staff. Nevertheless, the facility continues to face some of the same challenges that existed back in 2017, including staffing shortages and limited availability of behavioral health services to meet the profound needs of many youth at Long Creek. Many stakeholders questioned whether the continued level of investment in Long Creek could be justified, particularly given the substantial reductions in the number of youth held there.

In general, the Assessment Team found that there was widespread agreement among stakeholders that, while some capacity for secure confinement is needed for detention and placement in Maine, the state does not need anything close to the capacity currently available. Stakeholders generally felt that, with additional options available for youth, Maine could substantially reduce the population of youth at Long Creek even more. A significant piece of the Assessment Team’s work, therefore, was identifying where there were opportunities to create those options and align current practices with research-based approaches to youth at the “deep end” of the juvenile justice system.

There were three major data headlines from the analysis of the committed youth population that need to inform any consideration of potential alternatives to placement at Long Creek. **First, one in four youth entered Long Creek directly from another residential program and stayed significantly longer than youth who came to Long Creek from home or another setting.** Youth who came to Long Creek from another residential program stayed at Long Creek for a

“When I was in Long Creek, I saw myself as a failure. When I came to Bearings House, I finally saw my potential.”

-Committed Youth

median of 595 days, significantly longer than the median of 399 for other youth who had been living with a family member or a friend. Many of these “placement failures” stem from providers relying on law enforcement to respond to behavioral health crises, as noted in the 2017 report from Disability Rights Maine, “Assessing the Use of Law Enforcement by Youth Residential Service Providers.”¹⁵⁵ Others stem from providers deciding that the program cannot provide the level of services needed for a young person, and others stem from youth engaging in violent or assaultive behavior for reasons unrelated to a behavioral health program. Regardless of the reason, it is clear that the number of youth at Long Creek for “placement failures” calls for a close examination of the array of programs, their quality, and their ability to meet the needs of the juvenile justice population.

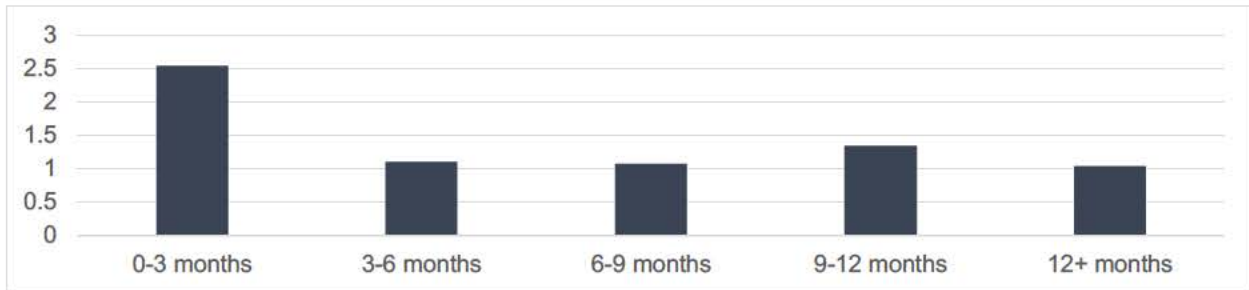
Second, 70% of youth admitted to Long Creek were identified as low or moderate risk at the time of assessment, with youth identified as low and moderate risk staying longer than youth identified as high risk. In the committed sample reviewed for this assessment, 22.9% of youth were identified as low risk, and 47.9% of youth were identified as moderate risk. The Assessment Team also found that although most youth at Long Creek had very long lengths of stay, youth identified as low risk at the time of assessment actually had the longest length of stay (median of 580 days), with youth identified as high risk having the shortest length of stay (321 days), as illustrated in Figure 52. As noted previously, risk and needs assessments occurred at various time points during youth’s supervision by DOC (i.e., before, during, or after or commitment), and therefore comparisons across risk level groups should be made with caution. Nevertheless, it was clear to the Assessment Team that many youth are at Long Creek for reasons other than being a risk to public safety, particularly when the data show an inverse relationship between risk and length of stay.

Figure 52: YLS/CMI Score and Length of Stay for Released Committed Youth

YLS/CMI Risk/Need Level	n = 26	Median LOS (in days)	LOS Range (in days)
Low	8	580	249 - 882
Moderate	14	535	153 - 985
High	4	321	239 - 707

The Assessment Team also found that the long lengths of stay for all youth were inconsistent with research and practices in other states. Well-established research from the field shows that length of stay has a negligible impact on re-arrest rates after 3 to 6 months, as illustrated in Figure 53 below.¹⁵⁶ This research was conducted as part of the Pathways to Desistance study, a multi-site, longitudinal study of serious adolescent offenders as they transitioned from adolescence into early adulthood.¹⁵⁷ This finding was also featured in a recent joint report of the National Center for Victims of Crime (NCVC) and the Justice Policy Institute, which noted that “providing the wrong dosage of supervision can impact a youth’s future involvement in violence.”¹⁵⁸

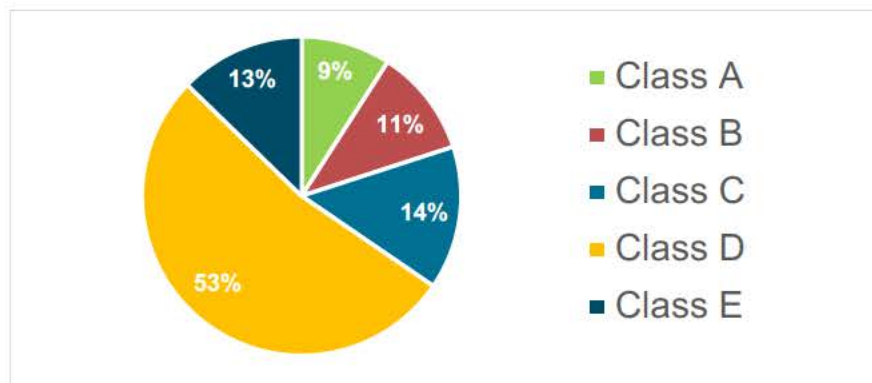
Figure 53: National Research - Expected Rate of Rearrest by Amount of Time in Placement ¹⁵⁹



This research on the negligible impact of long lengths of stay, and the high costs of operating secure facilities for youth, have led states to adopt limits on the length of stay that are allowed for youth in placement. For example, as part of Kentucky’s comprehensive juvenile justice reform package, Senate Bill 200, the state limited out-of-home placement times for misdemeanor offenses and low-level felony offenses not involving a deadly weapon.¹⁶⁰ Similarly, and more recently, Utah adopted similar timelines in House Bill 239, which set standard timelines of 3-6 months for out-of-home placements.¹⁶¹ Although DOC is currently developing administrative length of stay guidelines, Maine is an outlier in requiring a minimum one year commitment to DOC by law. Indeed, the long lengths of stay in Long Creek, particularly for low and moderate risk youth suggest that aligning lengths of stay with research by statute and policy would lead to substantial reductions in the number of youth currently at Long Creek.

Third, two-thirds of youth had Class D or E offenses as their most serious adjudicated offense at the time of commitment to DOC and placement in Long Creek. As indicated in Figure 54, 13% of youth in the committed sample reviewed for the Assessment had a Class E charge as their most serious adjudicated offense, and 53% had a Class D charge as their most serious adjudicated offense. To be sure, some of these youth’s adjudicated offenses had been pled down from a more serious class of charge. Data indicated that 27% of youth’s most serious adjudicated offense was categorized as a misdemeanor (i.e., Class D or E), whereas their most serious charge at arrest was categorized as a felony (i.e., Class A, B, or C).

Figure 54: Committed Youth: Class of Most Serious Adjudicated Offenses



However, these data do suggest that alternative programs or interventions, including an expanded use of restorative justice practices as a means of resolving the most commonly referred cases for commitment (assault and theft), could substantially reduce the population of youth at Long Creek and achieve better public safety and victim satisfaction outcomes at a substantially lower cost. Indeed, the joint report of the National Center for Victims of Crime and the Justice Policy Institute referenced above noted that “restorative justice practices allow youth to remain in the community and have better recidivism outcomes than the use of confinement, hold youth accountable for their actions, and achieve more victim satisfaction than other justice system processes.”¹⁶²

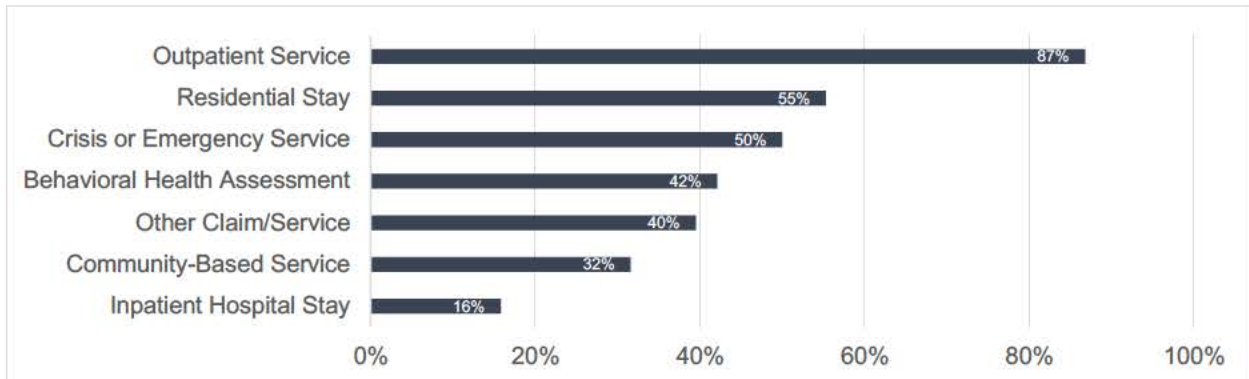
Also, as mentioned earlier in the section on Probation and Community Reintegration, many stakeholders expressed a desire to expand the use of Youth Advocate Programs to provide intensive services that could serve as an alternative to commitment and placement out of home. The Assessment Team found that the use of YAP in this way would likely prevent many commitments and placements out-of-home.

Within the context of the three data headlines outlined above, the Assessment Team found that there was general consensus among most stakeholders in Maine that **there were some youth at Long Creek who are charged with and adjudicated for serious and violent offenses, and there was a need for some secure placement capacity in the state.** As noted in Figure 54, 34% of youth committed to DOC were committed for Class A, Class B, or Class C offenses. Nevertheless, while there was agreement that secure placement capacity was needed for some youth, there was general agreement that Maine does not need anything close to the capacity it currently has available. Indeed, DOC and other juvenile justice stakeholders have been working with the Vera Institute of Justice to eliminate the incarceration of girls at Long Creek altogether – a goal that DOC officials and many others saw as achievable in the very near term.

The Assessment Team also found that there was general consensus among most stakeholders that **there are many youth at Long Creek because of unaddressed or under-addressed behavioral health problems** that either led to juvenile justice system involvement or have resulted in deeper or more extensive involvement. This fact is underscored by the data indicating that one in four youth enter Long Creek from a residential placement, with many of those youth having engaged in behavior that, while a manifestation of a behavioral health problem, led to their removal from the program.

The Assessment Team also reviewed data on MaineCare services received by committed youth prior to entering Long Creek. The data indicated substantially behavioral health needs, with many youth having received multiple types of behavioral health services over the course of many years. Indeed, even in just the year prior to their commitment at Long Creek, the over two-thirds of youth (68%) received some form of behavioral health service through MaineCare. As illustrated in Figure 55, of the 38 youth who received behavioral health services through MaineCare in the year prior to their Long Creek commitment, 87% received outpatient behavioral health services, 55% spent time in a residential program, and 50% received some form of crisis or emergency service during the previous year. These data underscore the need for a better continuum of care and coordination of services across systems.

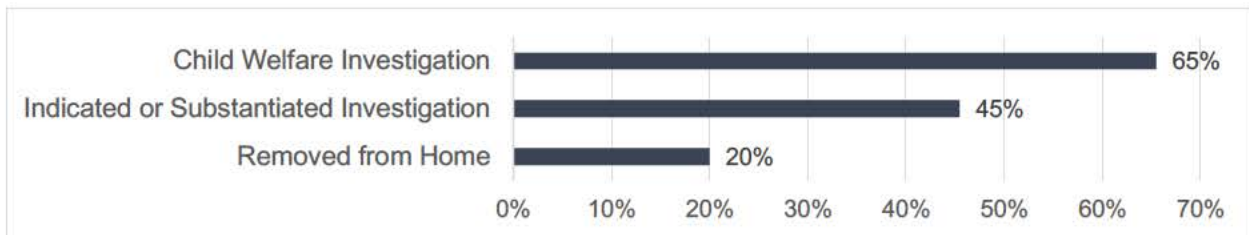
Figure 55: Types of Behavioral Health Services Received through MaineCare in Year Prior to Commitment of 38 Youth Who Received Services



Note: 38 youth received behavioral health services through MaineCare in the year prior to Long Creek commitment; percentages in this figure are based on a total of 38 youth.

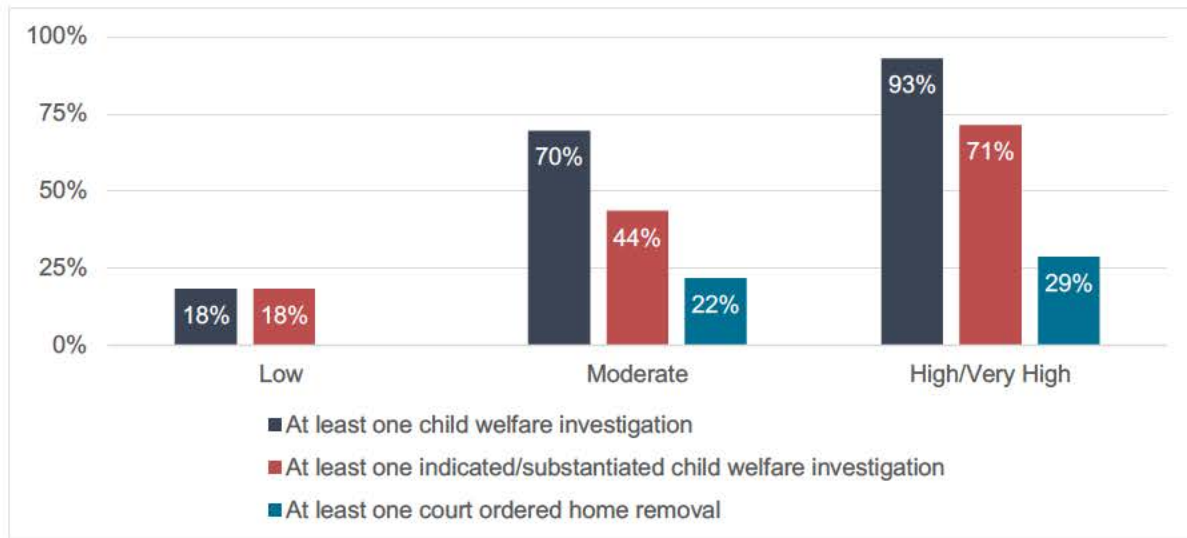
The Assessment Team also found general consensus that there are many youth at Long Creek because of **a belief that there are no other places for those youth to go**. These include youth who are homeless and who lack stable housing because of poverty, as well as youth who individuals determine cannot return home because of tensions between the young person and other family members or other problems in a youth’s home. There were two data points that validated this perception. Figure 56 outlines lifetime child welfare involvement within the committed youth sample, which indicates that two-thirds of youth (65%) had been the subject of at least one child welfare investigation, nearly half (45%) were the subject of an indicated or substantiated investigation, and one in five (20%) had been removed from their home at least once.

Figure 56: Lifetime Child Welfare History of Committed Youth



These data are even more striking when reviewed in the context of youth’s risk and needs assessment scores. Figure 57 provides the percentage of youth with different levels of interventions from the child welfare system, from investigation through removal from the home, by youth’s risk scores. As indicated below, youth who score as moderate and high risk have increasing involvement with the child welfare system. These data clearly illustrate that a great many youth committed to Long Creek have very difficult family situations. The data are also a clear illustration of the need for much more and higher quality family-based therapeutic options and supports, including Multisystemic Therapy (MST) and Functional Family Therapy (FFT).

Figure 57: Child Welfare History and YLS/CMI Risk/Needs Scores of Committed Youth



The Assessment Team also found that there was **variability by judge and by region when looking at what leads to commitment at Long Creek** based on conversations with many stakeholders during the assessment. This can be attributed, in part, to the fact that Maine law does not include restrictions that other states have on the use of commitment in placement and secure facilities. Although Maine law does contain criteria for commitment of youth to a secure facility, the criteria are general and do not prohibit incarcerating youth charged with minor offenses or youth who are assessed to be low or moderate risk.

The Maine juvenile code states that judges should not order placement in a secure institution unless the court “finds that the confinement of the juvenile is necessary for protection of the public because: (A) There is undue risk that, during the period of a suspended sentence or probation, the juvenile will commit another crime; (B) The juvenile is in need of correctional treatment that can be provided most effectively by the juvenile’s commitment to an institution; or (C) A lesser sentence will depreciate the seriousness of the juvenile’s conduct.”¹⁶³ State law also contains a list of additional factors to consider that “must be accorded weight against ordering placement in a secure institution” but that do “not control[] the discretion of the court”¹⁶⁴

Many states include more specific restrictions on the use of commitment and secure placement. For example, as part of comprehensive juvenile justice reform in 2015, South Dakota changed its state law to allow commitment of youth to the state’s Department of Corrections when the following three conditions are met:

- No viable alternatives are available;
- When commitment is the least restrictive option; and
- When the [youth] is adjudicated delinquent for a crime that is transferable to adult court, a violent crime, a felony sex offense, a felony sexual registry offense, or burglary in the second degree, or the [youth] is determined by a court to present a significant risk of physical harm to another person.¹⁶⁵

South Dakota’s reforms also include the creation of “community response teams” in judicial circuits to identify viable community resources for youth who are at risk for commitment to DOC.¹⁶⁶ These changes were designed to engage multiple decisionmakers and interested parties in a process to restrict the use of expensive and less effective institutional placements in the state and redirect youth toward more effective and cost-effective community-based programs.

“We need a secure facility for some dangerous kids, but it doesn’t need to be Long Creek. The number of kids that really need that is small.”

-Juvenile Prosecutor

Figure 58: Committed Sample Racial Breakdown¹⁶⁷

		White	Black/African American	Multiracial
Maine (n = 55)	n	45	9	1
	% of all sample youth	81.8%	16.4%	1.8%
	State census data	94.6%	1.6%	3.7%
Cumberland (n = 15)	n	12	3	0
	% of county youth in sample	80.0%	20.0%	0.0%
	County census data	92.2%	3.1%	2.0%
York (n = 8)	n	7	1	0
	% of county youth in sample	87.5%	12.5%	0.0%
	County census data	95.5%	1.0%	1.7%
Androscoggin (n = 9)	n	6	3	0
	% of county youth in sample	66.7%	33.3%	0.0%
	County census data	91.9%	4.4%	2.4%

Maine currently lacks a strong presumption of keeping youth in the community in state law, and it also lacks the limits on the use of commitment as a disposition that are common in other state juvenile codes. The lack of clear guidelines for commitment may also be a contributor to the overrepresentation of youth of color in Maine’s juvenile justice system. As is true for detained youth, Black and African American youth represent a substantially larger share of commitments than the percentage of Black of African American residents across the State of Maine, as is illustrated in Figure 58. To be sure, the raw numbers of youth of color in Maine’s juvenile justice system are relatively small, particularly relative to other states. However, this fact cannot be a reason to avoid

reviewing racial and ethnic disparities throughout the system. Moreover, the fact of overrepresentation of youth of color underscores the need to have clear and objective criteria for decisionmaking about youth at all points in the system.

Finally, there was a general recognition among stakeholders that **identifying and investing in community-based services and supports was necessary to achieve the best possible public safety and life outcomes for youth.** Given the relatively small number of youth at Long Creek for serious or violent offenses and the gaps outlined above, most individuals interviewed by the Assessment Team recognized the need for a comprehensive community-based continuum of care to both prevent young people from involvement with the juvenile justice system altogether and to work with most youth who do engage in some form of criminal behavior. Most stakeholders recognized that, even with the long lengths of stay for some youth at Long Creek and other placements, almost all youth would be returning home to their community – the place where they would ultimately need to be successful.

Many individuals raised the fact that the geography of Maine meant that many youth in institutional placements did not have regular contact or communication with family members – a fact that is particularly problematic given the number of youth coming from (and returning to) challenging home environments. Indeed, data on visitation of youth at Long Creek, outlined in Figure 59, demonstrates clear differences by geography in terms of level of family engagement with youth at the facility.

Figure 59: Family Visits to Long Creek Per Month by County/Region

County	Mean	Median
Cumberland	3.88	1.96
Androscoggin	6.62	0.66
York	3.11	0.70
Kennebec	1.26	0.15
Penobscot	4.70	0.00
Other Region II Counties	0.67	0.00
Other Region III Counties	0.73	0.46

The need for a community-based comprehensive continuum of care has been articulated in many reports on Maine’s juvenile justice system, from the 2010 Task Force report¹⁶⁸ to the 2019 report by the University of Southern Maine and the Maine Center for Juvenile Policy and Law at the University of Maine School of Law entitled “Place Matters: Aligning Investments in a Community-Based Continuum of Care for Maine Youth Transitioning to Adulthood.” For example, the Place Matters report concluded that “policymakers must take aligned action on increasing the scope and scale of community-based services for transition-aged youth in a way that builds on the strength of communities, the best available data, national research and models, and local expertise.”¹⁶⁹ Other work in Maine has been undertaken to engage in detailed asset and resource mapping in each of Maine’s communities,¹⁷⁰ which provides a strong foundation for investing in these continuums and making them specific to the strengths and needs in different parts of the state.

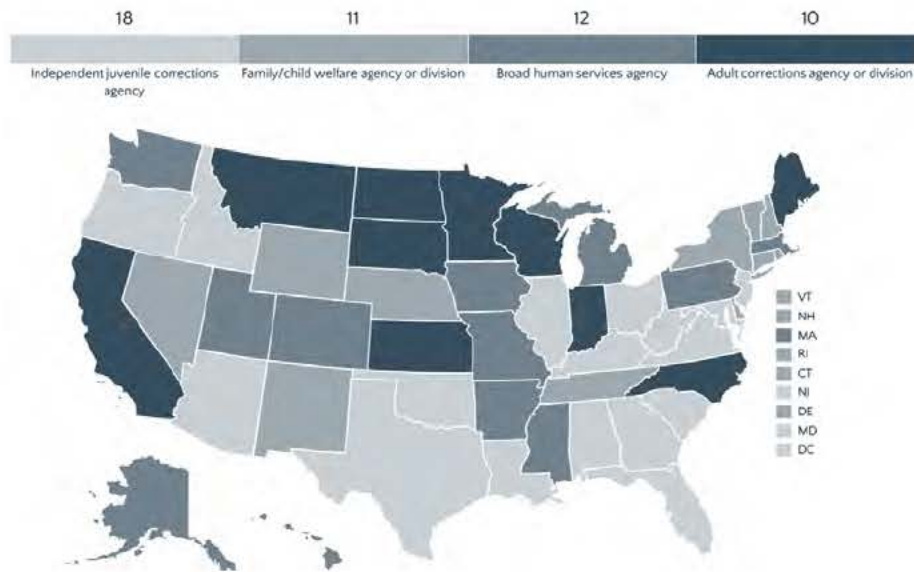
Additionally, the Assessment Team heard from many youth and other individuals that there was a pressing need for workforce development opportunities for older youth in the juvenile justice system. While Long Creek does have some volunteer and other programming focused on job skills, there is no official partnership with the Department of Labor, which has existing resources to assist youth with disabilities with career exploration and other opportunities – while youth are in placement and while they are in the community. For example, the Department of Labor can offer services through its Progressive Employment Program within its Division of Vocational Rehabilitation, which helps youth explore potential careers and progressively build job skills to assist with successful entry into the workforce.

While investments in community care need to be made at the local level, state agencies can and should play a role in resourcing those communities and leveraging existing services. This should include identification and creative use of current and potential new funding sources, as outlined in a 2019 Urban Institute report, “Promoting a New Direction for Youth Justice: Strategies to Fund a Community-Based Continuum of Care and Opportunity.”¹⁷¹ There are also many examples of models of how states have created structures to fund community-based services. These include creating dedicated grant programs for prevention and diversion services, which is made available to community-based nonprofit organizations and local governments.¹⁷² It can also include resourcing “anchor” or “backbone” community-based organizations, which then have the ability to direct funding to the most needed services and supports in that particular community.¹⁷³

Finally, the Assessment Team found that while DOC has and continues to make notable progress in the area of juvenile justice reform, Maine is one of just a small number of states that provides its juvenile justice services under the umbrella of an adult corrections agency.

Although officials in Maine have done a better job than some other states that house responsibility for juvenile justice in their Department of Corrections, the arrangement presents serious challenges. For example, direct care staff at Long Creek are trained using the training curriculum that DOC offers for work with adult inmates. The training content includes the use of practices and restraints that are wholly inappropriate and that are prohibited in juvenile facilities, including the use of physical strikes and takedowns, pepper spray, and other mechanical restraints. The training curriculum does not include content specific to working with adolescents, which must be provided after the fact and after staff have been extensively trained on inappropriate practices. Although the Division of Juvenile Services does provide its own internal training for staff at Long Creek, this is one of several illustrations of the shortcomings of housing juvenile justice services within an adult corrections agency.

For these reasons and others, just eight states currently house the state agency responsible for juvenile justice within their adult corrections department.¹⁷⁴ The map in Figure 60 illustrates how state-level juvenile justice services were organized in all 50 states and the District of Columbia as of 2015.

Figure 60: Responsibility for Juvenile Justice Services as of 2015¹⁷⁵

The map indicates that most states offer juvenile justice services through a standalone executive branch agency or as part of a broader child welfare or human services agency. Indeed, many states have moved their juvenile justice agencies out of their corrections agencies in recent years,¹⁷⁶ including two states since this map was produced in 2015 (California¹⁷⁷ in 2019 and Kansas¹⁷⁸ in 2020). The reasons for doing so include the ability to work with youth in the most developmentally appropriate ways and the potential to create efficiencies with other child-serving agencies by pooling resources and making needed services available to youth and families regardless of the reason for their contact with a specific agency.

The Assessment Team found that Maine would benefit from exploring alternatives to providing juvenile justice services through its Department of Corrections. This does not mean that the Assessment Team is implying that current DOC staff are doing a poor job of working with youth, or that DOC staff should lose their jobs if such a transition were to occur. Indeed, there are many states that have transferred responsibilities while preserving the best features of their juvenile justice system. However, the Assessment Team also recognizes the inherent limitations of the current structure in Maine, and the potential to achieve the best possible results for young people, families, and communities through a different structure.

Assessment Team Recommendations

Based on the findings outlined above, the Assessment Team has eleven primary recommendations.

1. **Create a presumption of community-based responses for most youth, limiting use of commitment and out-of-home placement in law and in practice.** Consider legislation and guidelines from juvenile justice reforms in other states that limited, but did not remove,

the possibility of placement in a secure facility (e.g., South Dakota's Senate Bill 73).¹⁷⁹

2. **Expand the use of restorative practices and Youth Advocate programs as an alternative to commitment for assault and theft, the two most common offenses leading to commitment. Ensure that any such expansion includes gender-responsive programming to ensure that all youth, including girls, benefit from these efforts.** Assault and theft represented 51% of most serious offenses leading to youth's commitment to DOC. There is the potential to build upon the foundation that Maine has invested in the use of restorative justice programs as an alternative to commitment for these offenses, with the potential to achieve lower reoffending rates and increased victim satisfaction rates at a much lower cost than commitment to the state. Additionally, expanding YAP to prevent youth from being committed and placed out of home would be a very worthwhile investment in an existing program. As noted, though, any such expansion should be done with a focus on including gender-responsive programming to ensure that all youth, including girls, benefit from these investments. Programs from other jurisdictions, including the ROSES (Resilience, Opportunity, Safety, Education, Strength) program can offer models for working with girls that can be implemented by the state's credible messengers and other programs to support girls in the community.¹⁸⁰
3. **Identify and develop options for youth who are currently incarcerated for reasons other than being a danger to public safety.** In addition to using the programs outlined above to reduce the need for commitment and out-of-home placement, the state clearly needs to identify and develop options for the most common reasons youth who are not a public safety risk are incarcerated or placed out of home. These options must address the particular needs of vulnerable populations including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth. For example:
 - Secure psychiatric residential treatment capacity for youth with serious mental illness and youth requiring forensic evaluation (which has also been recommended by a parallel review of the state's behavioral health system for children), with clear limits on length of stay.
 - Shorter-term non-secure respite capacity for youth in crisis and youth who need a short stabilization period, which could be provided through dedicated shelter programs or the use of housing vouchers for short-term periods.
 - Smaller, non-secure community-based programs for youth from high-referring areas designed to help youth build connections with communities and work on real-world skills.
4. **Develop options that could better address the needs of the small number of youth requiring a secure out-of-home placement because of a risk to public safety.** As mentioned previously, Maine does need some capacity to house youth in a secure placement for detention or commitment, but the need is not anywhere close to what the state currently has available. With work to develop the other alternatives to placement at Long Creek outlined in this report and in this section, Maine can develop smaller secure care options that could be based on an intensive rehabilitative model, such as the Missouri Model or

Massachusetts' residential programs. This can and should be done while Maine invests in creating community-based continuums of care and implements other recommendations.

5. **Avoid co-location of youth and women in DOC custody at Long Creek, and ensure any resources for youth are not lost or redirected with any future plans.** As the youth population has shrunk at Long Creek, discussions have taken place about the appropriate use of Long Creek in the future, including the possibility of moving women in DOC custody into the facility. While the decision about whether or not to use the facility for women is one for officials in the state to make, the Assessment Team strongly opposes any plan to co-locate youth and women in the same facility. Some Assessment Team members did receive information about how DOC would accommodate both populations, but the Assessment Team members found that there would be serious and significant logistical challenges to doing so. These challenges would be all but certain to limit youth's access to programming, recreation, and other services. Moreover, significant financial investments would go toward making modifications that may not be necessary in the near future if the state is successful in identifying alternative options for many of the youth at the facility. Finally, Maine would be far outside the mainstream of other states if it mixed its juvenile justice population with adult inmates in the same facility. Putting adult women inmates in Long Creek while youth are still there may also subject DOC to legal liability for violations of civil or constitutional rights. It could also fund afoul of federal law aimed at keeping youth and adults separate.
6. **Eliminate the mandatory required year of commitment to DOC and create length of stay guidelines for youth in placement that are aligned with research, both in Maine law and in policy.** The Assessment Team recommends removing the current requirement that youth be committed for a minimum of one year, which is not a feature of other states' juvenile justice systems and which is at odds with an individualized approach to working with youth. Additionally, the Assessment Team recommends adopting length of stay guidelines in law and in policy that are similar to those from other states that have aligned guidelines with research (e.g., Kentucky's Senate Bill 200, limiting out-of-home placement times for misdemeanor offenses and low-level felony offenses not involving a deadly weapon,¹⁸¹ Utah's House Bill 239, setting standard timelines of 3-6 months for out-of-home placements).¹⁸²
7. **Ensure that providers are incentivized to follow length of stay guidelines and retain youth who are referred to them (except in exigent circumstances).** The Assessment Team recommends, in addition to resourcing programs at an appropriate level, ensuring that programs are held accountable for achieving specific youth outcomes. We recommend looking to performance-based contracting models from other states that will limit the removal of youth from programs except in exigent circumstances (i.e., "no reject, no eject") and that will ensure programs work to treat youth as quickly and efficiently as possible. For example, South Dakota's Senate Bill 73 provided increased payments to providers for meeting treatment goals within established timeframes, consistent with research on length of stay.
8. **Create a process for regular judicial review of commitments and out-of-home placements.** Although Maine law does currently provide for judicial review of commitments

every 12 months when youth are in DOC custody,¹⁸³ the court does not have any identified options in statute if it finds that continued incarceration is no longer necessary, is not appropriate, or is not assisting with a youth's rehabilitation – options that do exist in other states.¹⁸⁴ The Assessment Team was encouraged to hear about recent efforts to work with the Maine Commission on Indigent Legal Services to provide post-dispositional representation to committed youth who are in out-of-home placements. However, without a change to Maine law that allows for more explicit judicial oversight of the appropriateness of continued incarceration and out-of-home placement, the representation may not achieve its full intended goal. The Assessment Team recommends looking to the commitment review process in other jurisdictions to identify a legal framework that will allow for meaningful and consistent oversight of the appropriate of placements and other services for youth.¹⁸⁵

9. **Designate or create an entity that is charged with training judges, prosecutors, defense attorneys, and other juvenile justice personnel on adolescent development, research on effective interventions with youth, and the harms associated with out-of-home placement.** Maine has a culture of collaboration within its juvenile justice system proceedings and system as a whole, which is admirable. However, all stakeholders making recommendations and decisions about youth must be informed about research on the most effective interventions and approaches, as well as the harms of certain practices. This is particularly important to ensure that similarly situated youth throughout the state do not receive significantly different treatment in the juvenile justice system. It is also critically important given the state's lack of a dedicated juvenile defense system. Maine can look to other states for models of development and delivery of training to key stakeholders.¹⁸⁶
10. **Leverage a partnership with the Department of Labor to assist with workforce development for youth in placement and other committed youth.** As mentioned above, DOC does not currently have an active partnership with the Department of Labor in Long Creek or for youth out in the community. However, the Department of Labor has resources available to provide workforce development to Maine youth, including youth under DOC's supervision. DOC should explore and develop official partnerships and channels of communication to ensure that DOC is leveraging existing resources to identify and secure employment opportunities for young people.
11. **Consider moving juvenile services from adult corrections and reassigning responsibility for youth justice to a new agency or different child-serving agency.** Maine is one of a shrinking number of states that continues to provide juvenile justice services within an adult corrections agency. The Assessment Team recommends exploring how the state could transition those responsibilities (including DOC staff with expertise in working with youth) to a new agency or a different child-serving agency, such as DHHS. While such a transition would have to be planned in a thoughtful way, Maine could achieve the efficiencies and cost savings of other states that have transitioned this responsibility from corrections in the past decade.

I. Transfer to Adult Court

Transfer is the process of charging and sentencing youth in adult criminal court. In Maine, the transfer process is referred to as “bind-over,” and prosecutors can request a bind-over hearing for youth alleged to have committed a murder or a Class A, B, or C crime. After a hearing, the juvenile court determines whether to bind the youth over for prosecution as an adult.¹⁸⁷ If a youth has been bound over and convicted as an adult, any subsequent arrests must be charged in adult court.¹⁸⁸

Assessment Team Findings

The Assessment Team commends Maine on very low rates of bind-over. This is consistent with national trends and research showing poor outcomes associated with transferring youth to adult court. Although statewide data on the use of transfer was not available, the Assessment Team heard from multiple sources that transfer is generally reserved for a small number of extremely serious cases. Several individuals noted a slight uptick in homicide cases involving youth, but overall data show relatively low numbers of youth charged with violent offenses. Juvenile prosecutors from different regions of the state indicated that they rarely pursue transfer to adult court. Data from Cumberland County show that bind-overs decreased from 6 in 2014 to 2 in 2018.

Like many other states, Maine’s transfer statute was part of a wave of statutes allowing for transfer to adult court or lowering the age of adult jurisdiction that were adopted across the country in the 1990s out of fear of a juvenile crime epidemic that never materialized. In recent years, more and more states have rolled back these statutes by restricting the use of transfer and retaining youth who are charged and sentenced as adults in the youth justice system up to age 18 or above.¹⁸⁹ Research shows that transfer is not an effective deterrent to crime. Instead, studies show that youth transferred to adult court reoffend at higher rates and for more serious offenses than youth with similar charges and backgrounds whose cases are handled in juvenile court.¹⁹⁰

For example, a 2010 Task Force established by the U.S. Department of Health and Human Services conducted a systematic review of studies of the effectiveness of transfer on preventing or reducing violence and found that transfer to adult court was a “counterproductive strategy for preventing or reducing violence,” with young people transferred to adult court reoffending at significantly higher rates and for more serious offenses than similarly situated youth who were adjudicated in the juvenile justice system.¹⁹¹

The U.S. Department of Justice conducted a similar review in 2010, examining many of the same studies and reaching similar conclusions.¹⁹² The review attributed the poorer public safety outcomes to four factors: (1) the stigmatization and other negative effects of labeling youth as convicted felons, (2) the sense of resentment and injustice youth feel about being tried and punished as adults, (3) the learning of criminal mores and behavior while incarcerated with adult offenders, and (4) the decreased focus on rehabilitation and family support in the adult system.¹⁹³ The review ultimately concluded that “the practice of transferring juveniles for trial and sentencing in adult criminal court has . . . produced the unintended effect of increasing recidivism, particularly in violent offenders.”¹⁹⁴

National data show that youth of color are overrepresented among youth transferred to adult court. This means that youth of color disproportionately experience the negative outcomes associated with transfer. In many states, the current transfer laws disadvantage youth of color by making it more likely that, because of their handling in the adult criminal justice system, they will reoffend more frequently and reoffend for more violent offenses, resulting in a higher likelihood of future and more extensive contact the criminal justice system.

Additionally, more and more states have moved to retain youth who are charged and sentenced as adults in the juvenile justice system up to age 18 or above. This shift has occurred in large part due to a recognition that all youth, including youth who are charged and sentenced as adults, require developmentally appropriate services and supports in order to have the best chance of becoming productive adults and avoiding future contact with the justice system – and a recognition that providing those services in an adult corrections agency is extraordinarily difficult. It has also occurred because of increased litigation over the treatment of youth in adult jails and prisons over the use of isolation and inadequate education and special education services.

Assessment Team Recommendations

Based on the findings outlined above, the Assessment Team has three primary recommendations.

1. **Collect statewide data on the use of transfer to the adult system, including disaggregated data on age, race, ethnicity, gender, and geography.** Across the country, youth of color are consistently overrepresented in transfer cases. Although the number of transfer cases in Maine is small, significant racial and ethnic disparities exist at several other decision points. By tracking basic data on bind-overs, prosecutors can ensure that the serious consequences of transfer to adult court do not fall disproportionately on any group of young people.
2. **Guard against potential increases in the use of transfer to adult court as a result of recommendations and changes made as part of this assessment or broader youth justice improvement efforts.** Without data on the use of transfer, we caution against assumptions that bind-over rates will remain unaffected by other youth justice reform initiatives. As Maine considers the potential reinvestment of current incarceration funds into community-based programming, there may be push back. The Assessment Team has prioritized recommendations that both support youth and protect community safety, and we encourage stakeholders to focus on maintaining low transfer rates.
3. **Continue to follow national best practices and trends to keep adult-charged and sentenced youth in juvenile justice systems.** This is a current strength of Maine's juvenile justice system that should continue. It is also consistent with changes to the federal Juvenile Justice and Delinquency and Prevention Act (JJDP A), which will require youth charged as adults to be held in juvenile facilities beginning in December 2021, except in very limited circumstances.

J. Financing Maine's Youth-Centered Juvenile Justice System

The work of the Task Force represents a unique opportunity to understand the needs of youth currently served by the state's juvenile justice system, and to realign services, supports, and financing to transform the current system into one that is grounded in best practice and designed to promote youth well-being. As discussed earlier in this report, a significant number of youth who are detained and committed do not require incarceration for protection of the community. To ensure that Maine is best equipped to serve youth, it should consider investments in additional prevention services and alternatives to detention and incarceration. Doing so will ensure that the state can right-size the juvenile justice system and see to it that youth can be safely served in the community, and that those who are incarcerated have the supports needed to thrive beyond their period of confinement.

Additionally, a focus on prevention can have a significant impact on a state's overall budget, as cost-benefit analyses conducted by states such as Florida, Pennsylvania, and Wisconsin have all shown savings in state budgets resulting from investments in diversion programs, including therapeutic interventions, wraparound services, and life skills training. In Pennsylvania, for example, one study found that investments in seven diversion programs used across the state led to savings in the juvenile justice system that ranged up to \$25 for each \$1 spent on the program.¹⁹⁵

In an effort to finance a juvenile justice system that is aligned with best practice and designed to foster youth well-being, Maine should invest in activities that prevent children and youth from unnecessary detention or commitment. This includes investments in both supportive services, as well as alternative program and service options that are designed to meet the unique needs of children and youth involved with the juvenile justice system. In particular, the state should pay close attention to the needs of those who have been failed by other systems, have experienced significant barriers, and for whom disparities exist, including youth of color and others who disproportionately experience poor outcomes prior to and once involved in these systems, including LGBTQ+ youth. Importantly, data analyzed in this assessment highlight high detention and commitment disproportionality rates for children of color in the state, as discussed in more detail in the sections on detention and commitment and placement. Specifically, according to CSSP's analysis, youth who identified as Black or African American were detained at a rate of almost 8 times their rate in the population and were committed at a rate of more than 5 times their rate in the population.¹⁹⁶

To support the state in achieving its vision for a system that is better able to serve youth involved with the juvenile justice system, the Center for the Study of Social Policy's financing analysis focused on three areas of inquiry:

- (1) What federal resources and opportunities can be leveraged to better support the needs of children and youth involved with Maine's juvenile justice system?**
- (2) How can state agency partnerships be leveraged to finance a robust continuum of services?**
- (3) Are there examples of innovative financing strategies for prevention services currently in place in other states that can inform Maine's reform efforts?**

To answer these questions and develop our recommendations for strategies to finance prevention services and alternatives to detention, CSSP analyzed and reviewed the youth-specific investments within DOC’s budget, other state budgets for youth in the juvenile justice system, opportunities to align juvenile justice investments with those of other child and youth-serving systems (including child welfare and behavioral health), and available federal financing streams.

Maine Juvenile Justice System Budget Analysis

Maine’s juvenile justice budget is included as a subset of the DOC budget. Funding for youth is outlined in the Juvenile Community Corrections (0892) and Long Creek Youth Development Center (0163) budget sections.¹⁹⁷ It is important to note, however, that some specific services for youth and the overall costs of administering programming are captured within other sections of the budget, including Correctional Medical Services Fund (0286), Corrections Food (Z177), and Administration – Corrections (0141).¹⁹⁸ For purposes of this assessment, our analysis was limited to the youth-specific sections of DOC’s budget. However, it is important to note that any changes in how youth are served – in the community or in a facility – will be associated with changes to other sections of the budget. For example, a reduction in committed and detained youth would also have an impact on (and very likely reduce) the budget sections related to centralized medical services and food. Below, we discuss details of the Juvenile Community Corrections and Long Creek budgets.

Maine Juvenile Community Corrections Budget

The Juvenile Community Corrections budget includes spending for JCCOs, regional and local offices, and community-based services. Figure 61 below outlines the Juvenile Community Corrections overall state general fund current and budgeted allocations for Fiscal Year (FY) 18 through FY20. Within the Juvenile Community Corrections budget is the Juvenile Community Program budget, which includes spending on services for youth who are in the community. Point in time data show that on November 20, 2019, three regional offices were responsible for serving 1,163 youth, including those who were on probation, an informal adjustment, and conditional release.

Figure 61: Maine General Fund Budget Investments

	FY18 (current)	FY19 (budgeted)	FY20 (budgeted)
Juvenile Community Corrections ^{199, 200}	\$11,160,677	\$11,798,316	\$12,105,751
Juvenile Community Program Budget ²⁰¹	\$3,285,698	\$3,464,634	\$3,465,634

To understand investments in community-based programs, we looked at the six areas within the Juvenile Community Program budget: Detention Alternatives, Intervention, Out of Home Treatment, Organizational Development, Diversion, and Reentry. It is important to note that the budget includes both fee-for-service and state general revenue dollars in order to ensure youth who are Medicaid-eligible and those who are not can receive services. Figure 62 illustrates the breakdown of the Juvenile Community Program budget by these six categories. Over the past three years, there

has been an increase in the percentage of the budget dedicated to Out of Home Treatment and Diversion and a decrease in the percentage of the budget dedicated to Intervention.

Figure 62: Breakdown of Maine’s Juvenile Community Program Budget²⁰²

	FY18 (current) ^b	FY19 (budgeted) ^b	FY20 (budgeted) ^b
Detention Alternatives	\$262,250 (8%)	\$262,250 (8%)	\$262,250 (8%)
Intervention	\$1,825,751 (56%)	\$1,561,460 (45%)	\$1,410,000 (41%)
Out of Home Treatment	\$150,000 (5%)	\$357,900 (10%)	\$400,000 (12%)
Organizational Development	\$228,435 (7%)	\$200,724 (6%)	\$174,140 (5%)
Diversion	\$819,060 (25%)	\$1,095,000 (31%)	\$1,110,000 (32%)
Reentry^a	---	---	\$39,316 (1%)
Total Community Program Budget^c	\$3,285,698	\$3,464,634	\$3,465,634

^a New line-item in FY20.

^b The total sum across the six categories may not equal the total amount budgeted to Juvenile Community Programs in Table 2 due to some funds that have not yet been allocated.

^c Sum of percentages may not equal 100% due to rounding.

Specific examples of programs in each of the six categories are outlined in Figure 63 and include a community-based reintegration home that serves males 18 to 21 years old, emergency shelters, numerous restorative justice programs, evidence-based mental health services, and Youth Advocate Programs. These programs represent a commitment DOC has made over the years to investing in programs and services that serve as critical supports for youth in the community, outside of a facility. As highlighted by the data in this report, a significant percentage of youth who are detained exhibit behavioral health concerns that can be addressed with interventions and supports funded by the Juvenile Community Program budget, including Functional Family Therapy and Multisystemic Therapy. Additionally, research has shown that investment in these services is cost effective – some studies have shown investments in MST and FFT have yielded up to \$13 in benefits to public safety for every dollar spent.²⁰³ As such, moving forward, investments in MST, FFT and other evidence-based interventions that address the behavioral health needs of youth are particularly important.

Figure 63: Maine’s Juvenile Community Program Examples²⁰⁴

Spending Area	Program Examples
Detention Alternatives	Emergency shelters and evening reporting centers
Intervention	MST, FFT, and wrap services
Out of Home Treatment	Community based reintegration home and services
Organizational Development	Fidelity monitoring, data sharing, and comprehensive assessments
Diversion Programs	Restorative justice programs, Youth Court, and community-based services
Reentry Programs	YAP

Intervention

Key highlights in this section of the Juvenile Community Program budget include \$430,000 for FFT (31 youth served) and \$616,460 for MST (65 youth served) in FY19.²⁰⁵ However, between FY18 and FY20, the Juvenile Community Program budget went from funding four MST providers to only three due to challenges experienced by providers. These challenges include staffing vacancies and turnover as well as costs (e.g., those associated with training and fidelity requirements) that are required by developers of evidence-based programs but are not reimbursable by MaineCare and contribute to the cost of administering services. It was reported that the organization no longer providing MST was unable to cover the overhead costs associated with training and ensuring fidelity to the model while only serving a few youth. This is particularly concerning as the organization no longer providing services is located in Region 3. Data analyzed for purposes of this report show that the 19% of youth detained were arrested in Region 3 and 27% of committed youth were arrested in this region, suggesting a need for services such as MST.

Reentry Programs

In FY20, DOC began a three-year investment in YAP to support youth leaving Long Creek and returning to the community (capacity of 18 youth per year; estimated as \$100 a day per youth for six months). Maine has been able to bring YAP to the state through significant commitments from Ballmer Group²⁰⁶ and the John T. Gorman Foundation. Specifically, in Year 1 of the program (FY20), the state is only responsible for \$39,316, just over 10 percent of the cost. The remainder of program costs in Year 1 (\$300,000) are being financed by the two foundations. Moving into Year 2 and Year 3, the state will be responsible for financing \$250,000 of the total program cost each year.²⁰⁷

Another critical component of the Juvenile Community Corrections budget (outside of the Juvenile Community Program budget) is the flexible funding provided to Regional Offices. While it only represents a small part of the overall budget, this line-item provides Regional Offices and JCCOs with funding that can be accessed quickly to pay for various services that meet the unique needs of youth. Examples of flexible funding expenditures include an arson prevention program, specialized therapy, clothing, and transportation. In FY19, the overall flexible funding budget for all three regional offices was just over \$72,000.²⁰⁸

Long Creek Youth Development Center Budget

The Long Creek Youth Development Center budget includes the cost of maintaining and operating the facility, training expenses for staff, and the provision of services for youth who are committed and detained at the building. The budget is divided into two sections – Personal Services and All Other. Personal Services includes staffing, overtime, and fringe benefits and All Other includes costs associated with operating the facility and providing services for the youth. Figure 64 below outlines the current and budgeted funds for FY18 through FY20.

Figure 64: Long Creek Youth Development Center Budget²⁰⁹

	FY18	FY19	FY20
Personal Services	\$15,160,461	\$14,194,121	\$15,946,304
All Other	\$1,745,450	\$1,449,444	\$1,504,967
Total	\$16,905,911	\$15,643,565	\$17,451,271

The “All Other” line-item includes spending on services for youth including education and clothing as well as utility services for the facility. For example, in FY19 and FY20, \$147,775 and \$131,897 respectively, were budgeted for professional services not provided by the state, which includes education, the library, and recreation.²¹⁰ Maine has recently opened Bearings House, a staff-secure facility, on the same property as Long Creek to serve up to eight male youth who do not require placement at Long Creek. The expenditures for Bearings House are contained within the Long Creek Youth Development Center budget. This step-down program is an example of a DOC investment in a less restrictive environment that shares the cost of operating with Long Creek including through shared staffing.

Multi-State Budget Analysis

To provide additional context for our assessment of Maine’s investments in juvenile justice services, we completed an analysis and review of juvenile justice systems across the country including an in-depth look at six state budgets: Kansas, Nebraska, North Dakota, Rhode Island, Vermont, and Washington, D.C. In our review, we considered states that either had similar characteristics including population size, geographical challenges, and where juvenile services was located (i.e., within adult corrections agencies) or states that are investing in promising reform efforts. The review provides a national context for understanding current financing, themes, and system trends that can inform Maine’s reform efforts.

State budgets vary widely in terms of how they are organized, including how they finance juvenile justice system. For example, in Maine, North Dakota, and Kansas²¹¹ juvenile services have been under the responsibility of the adult corrections agency (although as noted earlier in the report, Kansas Governor Laura Kelly has announced that the state is moving juvenile services out of adult corrections²¹²), so some costs are centralized including administrative costs, medical services, and food. It is also important to note that in almost all of the states reviewed, budget allocations for residential services for youth with behavioral health needs and community-based mental health and substance use treatment are included in the budgets for other child and youth-serving agencies and not captured in the juvenile justice-specific budgets. As such, any direct comparison of two state budgets can be misleading so our analysis is based on thematic investments and does not make any direct comparisons. Key themes CSSP’s multi-state review are provided below.

- **Cross-system investments in services that support youth are critical to financing a continuum of prevention services.** In almost all of the states reviewed, investments in community-based services for youth involved with juvenile justice can also be found within the budgets of other child and youth-serving systems including public education, children’s behavioral health, and child welfare. For example, in Washington, DC, investments in transitional housing and employment for youth are included in the Department of Human Services and Department of Employment Services budgets²¹³ and in Rhode Island,

investments in community-based programs are included within the child welfare and children's behavioral health services budgets, both of which are part of the Department of Children, Youth, and Families.²¹⁴

- **Investments in community-based services can increase capacity to serve more youth outside of detention.** As research has shown, incarceration does not meet the behavioral health²¹⁵ and developmental needs of youth. As such, a number of states have made significant efforts to invest in community-based behavioral health services for youth. For example, in Kansas, FFT, YAP, and Moral Reconciliation Therapy²¹⁶ are now available state-wide. Additionally, Aggression Replacement Training has been implemented in several communities across the state.²¹⁷
- **Investments in a range of community-based programs are important to meeting the diverse needs of all youth.** Youth have diverse identities and communities have unique strengths and challenges, which require the implementation of a range of prevention and intervention options. For example, in counties with higher populations of immigrant or tribal youth and families, it is important to invest in culturally responsive services and programming. In FY18, Kansas invested in a variety of community-based programs including Aggression Replacement Therapy, Project Adult Identity Mentoring²¹⁸ (\$64,627; 279 youth served), Strengthening Families Program²¹⁹ (\$8,112; 127 youth served), Intensive Home Based Family Therapy²²⁰ (\$17,655; 5 youth served), and the Cherokee County Truancy Program²²¹ (\$15,564; 34 youth served).²²² North Dakota has invested in Trauma-Focused Cognitive Behavioral Therapy²²³ and Structured Psychotherapy for Adolescents Responding to Chronic Stress,^{224, 225} Rhode Island has invested in FFT,²²⁶ and Washington, DC has invested in Credible Messengers.²²⁷
- **Investments in services and programming for committed and detained youth are a critical part of a responsive juvenile justice system.** For youth who are not able to be served safely in the community, it is important to invest in supports and services in facilities to promote positive rehabilitation and reentry into the community. In FY18, the actual budget for juvenile residential services in Washington, DC was approximately \$42,000,000 (48% of the overall juvenile budget) and served 1,648 unique youth through commitment, detention, or in shelter homes, with an average daily population of 224 committed youth.²²⁸ Included in this budget are critical services for youth who are detained or committed, including for those that promote their education and success upon reentry to the community. In Washington, DC, enhancements to the FY18 budget ensured that every committed youth in the community was matched with a credible messenger.

Recommendations and Opportunities to Finance a Comprehensive, Youth-Centered Juvenile Justice System

Maine has made several key investments that support keeping children and youth in the community whenever possible, including funding for FFT, MST, YAP, Credible Messengers, alternative placements to detention and commitment, and flexible funding for Regional Offices. DOC should continue these investments and look to expand them based on need.

However, it is clear from the data in this report that many of the youth currently detained could be served within the community safely if there were more alternative placement options and appropriate supports and services in place. Specifically, data presented previously show that 53% of detained youth were detained to “provide care” and of the 44 youth who were detained for longer than 30 days, 73% were awaiting community-based programming or placement in a different setting.²²⁹ Additionally, as outlined in previous sections of this report, current investments do not match the need, particularly for youth of color and LGBTQ+ youth.

The discussion below highlights recommendations and opportunities for DOC investments and cross-system alignment to maximize Maine’s capacity to better serve youth involved with the juvenile justice system. The recommendations and opportunities have been divided into two subsections: (1) recommendations and opportunities for DOC to finance prevention services and alternative placements to detention and commitment, and (2) recommendations and opportunities for DOC and cross-system partners to better align investments and finance alternatives to detention and commitment.

Recommendations and Opportunities for DOC to Finance Prevention Services and Alternatives to Detention and Commitment

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

The availability of family-based respite homes – places where a youth can stay safely when there is a crisis – would decrease the need for detention at Long Creek. As highlighted in the data, 53% of detained youth were detained to “provide care (or prevent bodily harm to the juvenile).” Respite homes are important alternatives to detention and can be used when a family needs a night to calm down and process an event that has led to the youth becoming involved with juvenile justice or when a youth cannot return home the same night. In New York – including in New York City²³⁰ as well as in upstate, rural counties²³¹ – organizations provide access to respite homes for youth involved with juvenile justice. Importantly, respite services in the state are often connected to case management and wraparound services so that the youth and family’s underlying needs can be addressed. Despite the need, there is no denying that it can be challenging to run a respite program due to unpredictability and small numbers. Therefore, in order to recruit and retain these types of family-based settings, DOC should partner with the OCFS to recruit and retain licensed respite homes and establish a Memorandum of Understanding so that DOC can access these respite placements when necessary. Such a partnership could be an opportunity for DOC to increase capacity for alternatives to detention without creating competition between agencies seeking resource parents in the community.

Licensing these respite homes is also an opportunity – in select cases – to draw down additional federal financing through Title IV-E of the Social Security Act (Title IV-E), which is the primary funding stream for youth who are placed in foster care through the child welfare system. Specifically, the state may be able to claim Title IV-E reimbursement for a portion of the placements costs for youth who are involved with juvenile justice if there is a judicial order finding that remaining in the youth’s home is not in their best interest, the youth meets the income eligibility requirements, and

the respite-home is licensed by the state. To receive funding for respite placements for eligible youth, DOC, the courts, and OCFS will need to partner to ensure compliance with federal requirements for determining eligibility and licensing respite homes. Importantly, this option will only be available for youth who have an open court case and it would not be in the best interest of youth who are not involved with court to open a court case simply to claim reimbursement for a respite placement.

To support the provision of respite homes for all other youth involved with juvenile justice services who are in need, we recommend that DOC provide state dollars to OCFS for these placements. It is important to note that placement in a respite home is both cost effective and decreases the potential trauma a youth may experience from an unnecessary detention. Using Maine's published foster care rates, which are based on the Level of Care for the child, the cost of providing respite to a youth involved with juvenile justice would likely be between \$52.50 to \$62.50 a day.^{232, 233} While this range provides an estimate based on the current published rate on the State of Maine's website, we encourage the state to revisit current rates since they have not been amended since 2008. Amending the rate to more accurately reflect the current cost of raising a child is likely to also support foster parent recruitment and retention efforts.

There may be some circumstances where placement in a family-based respite home is not possible, and in these situations, DOC should have access to shelter placements and similar programs as alternatives to detention. DOC currently invests in emergency shelter placements (\$132,250 budgeted in FY20), which serve as an important respite option for youth at risk of detention. The state uses braided funding²³⁴ to support these placements and should explore additional financing opportunities, including the Department of Housing and Urban Development grant it recently received to support homeless youth who are at the intersection of the juvenile justice and homeless systems.

2. Increase investments in a continuum of services to address the unmet needs of youth.

The state should consider investments in a continuum of services that can address the unmet needs of all youth. For example, Maine should increase investments in FFT and MST, particularly in Region 3, where the geography has made sustainability of evidence-based programs difficult. The state should also consider other programs that are designed to meet the needs of youth who are disproportionately involved with the system: youth of color and those who identify as LGBTQ+. Specifically, the state should explore investments in services that affirm the entire identity of youth and are developed by communities of color. Examples of these programs including Credible Messengers (currently being implemented as a pilot in Region 2), YAP as a prevention service for youth *prior* to commitment (not just as a reentry service for youth exiting Long Creek), and the Youth Acceptance Project, which is designed to support and affirm the identity of gender-diverse youth.²³⁵ Of note, the Youth Acceptance Project is currently being implemented and tested in select child welfare agencies, including Cuyahoga County, Ohio²³⁶. To best support all youth involved with juvenile justice, including those who experience disparate outcomes, Maine should invest in a comprehensive array of services and supports.

3. Explore collaborative financing options with private partners to support new programming.

As Maine considers investments in services that support diverse youth, the state should explore Pay for Success models²³⁷ of financing.²³⁸ Pay for Success models are not a long-term, sustainable financing solution but they can support initial investments and scaling. Since the investment is based on measurable outcomes, if and when the program shows “success” at the end of the initial investment, the state will often take over financing the program or there may continue to be a shared financial investment from both the state and private entity. A number of states and communities including those in California, Utah, Illinois, New York, and Indiana have used this model for different types of social services and programs to advance criminal justice and homelessness initiatives.²³⁹ As Maine enters a period of transformation – not only in its juvenile justice system but also child welfare and behavioral health – Pay for Success models may provide a unique opportunity to invest in new programs immediately while budgeting for ongoing investments over the long-run.

4. Utilize a regional approach for service delivery to better serve youth in rural communities.

Maine should ensure the provision of appropriate services to youth across the state despite regional and geographical challenges. As noted throughout the report, children and youth are coming to the attention of the juvenile justice system because they have picked up charges while in a behavioral health setting.²⁴⁰ Staff from DOC state and regional offices and stakeholders within the community shared challenges that exist with serving rural communities including difficulty recruiting and retaining qualified program staff. Below, we highlight two potential approaches to addressing these challenges.

Deploy regional models for service delivery. Regional models for service provision have proved effective in other states including Virginia, Ohio, and Kansas. In these states, a regional approach to service delivery has meant an increase in services available to youth in rural communities. A regional model would also be consistent with one of DHHS’s current children’s behavioral health services strategies to “explore a statewide or regional ‘single point of access.’”²⁴¹ For example, Virginia has implemented a regional approach to increase the availability of evidence-based services across the state.²⁴² In Ohio, over ten counties in Appalachia have come together through MOUs to support the provision of behavioral health services provided through a non-profit organization. Through the MOUs, the counties share in the cost of the program and the provider is able to serve families in their communities despite the state’s geographic challenges. The nonprofit provider has also worked with a rental car company to ensure staff are able to use rental cars instead of their personal cars when traveling far distances. While it may seem small, this type of innovation and support for staff is important in recruiting staff and increasing retention. In Kansas, there has been an intentional focus on better serving youth in rural areas of the state. Specifically, in FY19 the state awarded approximately \$3,117,635 in state funding through reinvestment grants to 26 judicial districts to implement evidence-based programs at the local level.²⁴³ Of these grants, two were distributed to collaborations of five districts to support implementation of evidence-based programs at a regional level. Overall, 2,972 youth were served through these evidence-based programs.²⁴⁴

Partner across community providers to share in programming costs. Developers of evidence-based programs often require providers to comply with a number of activities associated with ensuring fidelity to the program. These activities include training, on-site visits from the developer, and remote case consultation and are costs that are not reimbursable by MaineCare. To increase capacity for evidence-based services in rural, small communities, Maine should work with providers to identify if there are certain program components – for example, case consultations – that could be shared by several provider organizations. The state should explore working with providers and developers to negotiate opportunities for providers to share programming costs, which would reduce the overall burden to individual providers and increase their ability to serve youth.

5. Invest in community-driven approaches to meet the diverse needs of youth.

Community-driven and designed programs are important to ensure that the state has a comprehensive prevention service continuum that is able to meet the diverse needs of youth. Maine should continue to invest in organizations within the community that support positive youth development and serve as an opportunity for youth to connect with their JCCOs²⁴⁵ and also seek additional opportunities to invest in programs designed by the community to be responsive to local need. Additionally, drawing on and investing in the wealth of knowledge and expertise within the community can help fill gaps in the prevention continuum, including for youth of color and LGBTQ+ youth. There are a number of ways to invest in community-driven approaches including through shared commitment to outcomes and targeted grant-making. For example, using local dollars, the District of Columbia's child welfare system administered community mini-grants to support grassroots community-based organizations that were running effective programs including a mentoring program, anti-violence program, truancy support and community-building. These were small grants that were effective in supporting prevention activities led and designed by the community.²⁴⁶ In Kansas, Juvenile Corrections Advisory Boards comprised of stakeholders who represent law enforcement, prosecution, judiciary, education, corrections, people of color, social services and the general public are responsible for developing a local, comprehensive plan to address concerns impacting youth in the local community.²⁴⁷ These plans help to identify priorities for reinvestment grants described above.

6. Ensure local flexibility to meet community-specific needs.

As previously discussed, the flexible funding provided to the Regional Offices is a critically important line-item that supports keeping youth in their homes and communities. The state should continue this investment and, equally important, Regional Offices should look to engage the community and other stakeholders to understand where else these dollars could be helpful and if there are additional needs not being met where flexible funding could help fill the gap.

7. Reinvest savings from reductions in commitment and detention to expand community-based services for youth.

Since FY17, Maine has seen a reduction in the average daily population at Long Creek. There is an opportunity for the state to reinvest savings from decreased need for confinement into community-based programming for youth, particularly youth who face additional barriers to thriving and in Region 3 where services are less robust. Through these reinvestments in community-based

programming for youth, Maine can take a significant and meaningful step to right-sizing its juvenile justice system. As examples, both Ohio and Illinois have implemented financing strategies to right-size their juvenile justice system. In Ohio (a county-based system), the state saw a 42% reduction in the number of commitments between 1992 and 2009 through the RECLAIM Ohio²⁴⁸ initiative.²⁴⁹ Through Redeploy Illinois,²⁵⁰ the 12 rural counties in the 2nd Judicial District diverted 55% (215 of 390 youth) of eligible youth between 2005 and 2014, with an estimated cost savings of \$10.5 million.²⁵¹

Recommendations and Opportunities for DOC and Cross-System Partners to Finance and Better Align Investments

As previously noted, the majority of youth involved with Maine's juvenile justice system have current or previous involvement with other systems including behavioral health and child welfare.²⁵² Given that these public systems are responsible for serving many of the same children and youth at some point in time, it is critical that the state leverage resources across systems to support youth and prevent deeper system involvement – specifically, detention and commitment in a juvenile justice facility. It is also important to note that there is ongoing work in the state, within other child-serving agencies, including child welfare and behavioral health, and within the Children's Cabinet, to transform and better align how children and youth are served by public systems across the state. The recommendations below highlight opportunities to align resources and maximize financing across systems to better support youth.

1. Invest in a shared vision to enhance a continuum of behavioral health services.

As each child and youth-serving system identifies the services that meet the needs of the youth they serve, it is critical to understand where there is overlap. As is evidenced by the data, for youth served across these systems, there is an identified, ongoing need for therapeutic interventions. Specifically, data reviewed for this report highlight that 69% of committed youth received some form of behavioral health services through MaineCare in the year prior to their commitment at Long Creek. For youth that are covered by MaineCare, a portion of the costs associated with the services are covered. However, we also know that MaineCare does not cover *all* of the costs associated with these interventions, including training and those associated with ensuring fidelity. It is critical that the state recognize the true cost of providing these types of services to youth and that DOC and OCFS commit to a shared investment for supporting the infrastructure of these programs. This shared investment will enhance the state's ability to serve youth across the state, including in rural communities. DOC and OCFS can utilize MOUs²⁵³ to outline each agency's investment responsibility. Additionally, the state's Children's Cabinet can also play a lead role in coordinating these investments and ensuring there is a shared vision for financing a prevention continuum for Maine's children and youth.

2. Maximize federal financing opportunities to create a prevention continuum.

Aligning state investments with opportunities at the federal level creates allows Maine to draw down additional dollars to support its investments. Two recent opportunities to support child welfare system transformation – the Family First Prevention Services Act (FFPSA)²⁵⁴ and the Family First Transition Act²⁵⁵ – represent critical opportunities for implementing services in support of a vision

of prevention. While there are a number of requirements and restrictions about how these dollars can be spent, as OCFS leads the planning and implementation of FFPSA, juvenile justice system leaders have important information to contribute. First, as the state analyzes data to understand the characteristics of youth who are candidates for foster care and their service needs, it will be critical to understand the needs of youth who are involved in both child welfare and juvenile justice. As highlighted earlier, 65% of committed youth had some involvement with child welfare prior to their commitment at Long Creek. Understanding their needs will help OCFS design their Title IV-E plan for prevention services, including which evidence-based practices should be included in their plan. Both MST and FFT have been rated as evidence-based in the Title IV-E Prevention Services Clearinghouse, meaning that these programs are eligible for some federal reimbursement when they are delivered to candidates for foster care – if they are included in the state’s Title IV-E prevention services plan and not otherwise billable to MaineCare.²⁵⁶ Specifically, the state can anticipate saving 50 percent of the cost of evidence-based services included in the state’s Title IV-E prevention plan for youth who are candidates for foster care.²⁵⁷

Maine should also explore including Motivational Interviewing and Solution Based Casework in their Title IV-E plan for prevention services²⁵⁸ as a case management service when working with candidates for foster care and their families. If the state does include one or both of these services in their Title IV-E plan for prevention services, DOC should explore having their JCCOs trained in the evidence-based practice in order to leverage federal financing for case management activities when working with youth who are also identified as candidates for foster care.

Additionally, to cover costs associated with training and maintaining program fidelity, the state should explore accessing Title IV-E Administrative dollars²⁵⁹ for evidence-based programs included in the state’s Title IV-E plan for prevention services. As Maine moves to implement FFPSA, the state should assess how Family First Transition Act dollars can be maximized to create and support the infrastructure for providing FFPSA-eligible services, including investing in start-up and training costs for FFT, MST, and other evidence-based services, and building the evidence base for services that are designed to serve youth of color and youth who identify as LGBTQ+ and are not yet rated by the Title IV-E Clearinghouse.

3. Maximize MaineCare to increase service availability.

Maximizing MaineCare to cover the cost of providing prevention and treatment services can significantly reduce the need to detain or commit youth who are involved with juvenile justice. MaineCare is currently undergoing a rate study, which may lead to changes in reimbursement rates for FFT and MST. If the rate is increased, many community-based providers are optimistic that it will more closely reflect the true cost of administering these programs. Beyond maximizing MaineCare to support FFT and MST, Maine should also explore the possibility of financing YAP with MaineCare funds. Rhode Island currently bills YAP to Medicaid and New Hampshire is exploring Medicaid-reimbursement to support sustainability of the program. Exploring MaineCare as a sustainability strategy for YAP is critically important since in its first year, the majority of YAP was financed through foundation dollars. While Medicaid will not cover the true cost of administering YAP, it can help cover some program costs. MaineCare is not a broad-based funding source, but other states have used it to support programs like YAP. Seeking MaineCare funding should be consistent with existing federal guidelines.

Federal Funding Opportunities

Family First Transition Act

The Family First Transition Act was passed as part of the Further Consolidated Appropriations Act of 2020 in response to many of the identified challenges states were experiencing as they began planning to implement services through FFPSA. The Family First Transition Act provides solutions that enhance the ability of states to implement FFPSA well by allocating funding to each state to support their transition to FFPSA, delaying the evidence-requirement for prevention services eligible for FFPSA reimbursement, and for states that were previously operating a demonstration project through a Title IV-E Waiver, the Family First Transition Act also includes a level of funding certainty.

Family First Prevention Services Act

The Family First Prevention Services Act (FFPSA) was signed into law on February 9, 2018 as part of the Bipartisan Budget Act. FFPSA includes critical changes to child welfare financing: allowing for states to access title IV-E dollars to support specific prevention services and changing the types of foster homes that are eligible for federal reimbursement. States have the option to delay FFPSA implementation until FY21. States must be in compliance with requirements for claiming reimbursement for foster care placements in order to draw down federal reimbursement for prevention services.

In supporting prevention activities, FFPSA marks a substantial movement toward child welfare reform by finally beginning to bring child welfare financing into alignment with what research tells us is best for children and families—keeping children in their homes whenever safe and possible—and when children have to be placed in foster care—ensuring they are in the most family-like, least restrictive setting that will meet their needs.

With Title IV-E plan for prevention services approved by the Children’s Bureau, states will be able to draw down federal, title IV-E reimbursement for select services that are:

- Rated as evidence-based by the Title IV-E Prevention Services Clearinghouse;
- Are focused in one of three areas: in-home parent skill-based programs, prevention or treatment of mental health, and prevention or treatment of substance use;
- And for candidates of foster care who are at imminent risk of placement but for these services, their caregivers, and pregnant or parenting youth in foster care.

This new federal investment in prevention services through child welfare agencies creates an opportunity for child welfare agencies to meaningfully invest in prevention services, allowing for previously invested state dollars to be repurposed to support additional prevention activities including for youth not involved with child welfare and for services not eligible for title IV-E reimbursement.

FFPSA also includes significant changes to how the federal government currently supports the placement of youth in foster care.

4. Forge new partnerships with state agencies to meet the needs of youth.

The juvenile justice system should explore partnerships with public agencies that are not responsible for direct services to children, youth, and families. Partnerships with the Department of Labor have been referenced throughout the report, but the Department of Transportation can be a helpful partner in ensuring youth are able to attend school and work and obtain needed services. Currently, Regional Offices spend some of their flexible funding dollars on bus passes. This is an important resource for youth, and DOC could maximize its dollars by working with the Department of Transportation to secure reduced or free bus passes for youth who are involved with the juvenile justice system. As an example, in Washington, D.C., the Department of Transportation supports youth traveling to school or school-related activities through the Kids Ride Free program which provides free public transportation to youth who are residents of the Washington, D.C., are ages five through 21 years old, and are enrolled in an elementary or secondary school in Washington, D.C., or are in foster care.²⁶⁰ Exploring such partnerships can free up DOC dollars to support additional investments in direct services for youth.

5. Review the existing organizational structure for juvenile justice to support a new vision for serving children and youth.

Improving the juvenile justice system goes beyond financial investments. Organizational structure and alignment are key to building and maintaining a vision that best meets the complex needs of youth. At the beginning of 2019, only 10 states, including Maine, had responsibility for juvenile justice services within their adult corrections agency²⁶¹ and since then, California has moved juvenile justice services out of adult corrections and Kansas is in the process of reorganizing their juvenile justice services into a broad child and youth-serving agency.²⁶² Maine should review its existing juvenile justice structure and consider moving responsibility for juvenile services to OCFS or an independent agency, as recommended elsewhere in the assessment.

IV. Next Steps

The Assessment Team has outlined an extensive set of recommendations in this report, ranging from relatively minor policy and program changes to more systemic changes and shifts that will help Maine's juvenile justice system continue to improve how it works with young people, families, and communities. While it is ultimately up to those in Maine to translate the recommendations in this report into actual practices, the Assessment Team has outlined primary recommendations along the lines of short-term goals (those that can be accomplished within the next 6 months), medium-term goals (those that can be accomplished within the next 6 to 18 months), and longer-term goals (those that can be accomplished within the next 18 to 36 months).

This organizational structure does not imply that medium-term or longer-term goals cannot or should not be accomplished sooner. However, at the request of the Task Force, the Assessment Team has attempted to outline a sequence of next steps that is realistic and that establishes a foundation and momentum in the short-term to achieve bigger picture goals.

The Need for Infrastructure to Assist with Implementation and Accountability for Reforms

In addition to the specific short, medium, and long-term recommendations outlined below and throughout this report, there is a need to create a mechanism to assist with implementation of these recommendations and to ensure accountability for making progress. This is a common feature of recent juvenile justice reform movements in other states, as outlined below, as the implementation of comprehensive and coordinated reforms cannot and should not fall to a single agency.

Although developing and sustaining such an entity will take time and effort and require some level of resources, it is critical that Maine invest in such an entity now. Doing so will help ensure that, if another juvenile justice system assessment is conducted ten years from now, the reviewers will find that Maine's stakeholders worked together to achieve the goals outlined in this report.

Examples of implementation and accountability mechanisms in other states include:

- **Kentucky's Juvenile Justice Oversight Council.** The Juvenile Justice Oversight Council (JJOC) was formed to oversee implementation of Senate Bill 200, the most recent major set of legislative reforms to Kentucky's juvenile justice system, passed in 2014.²⁶³ The Kentucky Juvenile Justice Oversight Committee was designed to "provid[e] independent review of the state juvenile justice system," review performance measures associated with reforms, and make recommendations for changes or improvements based on the data.²⁶⁴ The Council also continued to review juvenile justice and education issues that were not addressed by the previous Unified Juvenile Code Task Force that preceded and supported the passing of SB 200. Membership included child-serving agency officials, representatives of community-

based organizations, judicial officials, law enforcement, and others.

- **Kansas' Juvenile Justice Oversight Committee.** Similar to Kentucky's oversight body, the Juvenile Justice Oversight Committee was created by Senate Bill 367 in 2016, which was the most recent comprehensive legislative reform undertaken in Kansas.²⁶⁵ The Juvenile Justice Oversight Committee was charged with guiding implementation of the changes in law; defining performance measures and recidivism; approving processes for comprehensive data collection to measure performance, recidivism, costs and outcomes; considering systems for data collection and analyses; ensuring system integration and accountability; monitoring implementation and training efforts; calculating avoided state expenditures by reductions in out-of-home placements to make recommendations to the governor and legislature; and reviewing topics related to continued improvement of the juvenile justice system. Information on the activities of the Juvenile Justice Oversight Committee, including meeting minutes and annual outcome reports, are available on the Committee's website.²⁶⁶
- **Utah's Juvenile Justice Oversight Committee.** Similar to oversight bodies in Kentucky and Kansas, the Juvenile Justice Oversight Committee in Utah was created by House Bill 239 in 2017.²⁶⁷ The Juvenile Justice Oversight Committee is a designated entity under the Utah Commission on Criminal and Juvenile Justice to oversee the implementation of House Bill 239. The membership includes representation from the three branches of governments and from relevant stakeholder groups across all parts of the juvenile justice system, including county representation. Information on the activities of the Juvenile Justice Oversight Committee, including meeting summaries and other implementation materials are available on the Committee's website.²⁶⁸
- **Connecticut's Juvenile Justice Policy and Oversight Committee.** The Juvenile Justice Policy and Oversight Committee (JJPOC) was created in 2014 by Public Act 14-217 and is charged with evaluating policies related to the juvenile justice system.²⁶⁹ The JJPOC was modeled after previous implementation committees in the state, including the Juvenile Jurisdiction Planning and Implementation Committee,²⁷⁰ which planned for Connecticut's move to raise the age of juvenile court jurisdiction. The University of New Haven's Tow Youth Justice Institute staffs the JJPOC, which meets on a monthly basis and has a variety of workgroups focused on specific issues, including diversion, education, racial and ethnic equity, and data.²⁷¹ The JJPOC's members include state agency officials from juvenile justice and other child-serving agencies, judicial branch officials, law enforcement representatives, legislators, impacted youth and family members, advocates, and service providers.²⁷²

Short-Term Goals (within the Next 6 Months)

1. Agree upon and identify resources to support an infrastructure that will assist with implementation of and accountability for the goals outlined here.
2. Agree upon the common set of values ("North Star") that will guide the state's work on juvenile justice for the next three years.

3. Identify the funding sources and funding mechanisms that can support community-based continuums of care and provide funding directly to communities to work with youth (i.e., through anchor organizations or direct grant funding). Ensure that funds go to programs that address the particular needs of vulnerable populations including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth.
4. Develop a plan to present the System Assessment findings and recommendations to the Children's Cabinet, identifying areas of overlap with existing Children's Cabinet priorities.
5. Secure funding to support the expansion of existing evidence-based programs (e.g., Youth Advocate Programs as an alternative to commitment and placement, Multisystemic Therapy, Functional Family Therapy) and short-term temporary housing and crisis bed capacity, which will help to significantly reduce the incarceration of youth who are not a public safety risk. Ensure that any such expansion includes gender-responsive programming to ensure that all youth, including girls, benefit from these efforts.
6. Identify resources to raise the rates for evidence-based behavioral health services that have been reduced or eliminated in certain parts of the state (i.e., Multisystemic Therapy and Functional Family Therapy).
7. Continue diversion, but focus on aligning policies, practices, and programs with best practices outlined in the report. Ensure that gender-responsive programs are available to ensure equitable access to diversion.
8. Limit the use of detention to "provide care" and require specific findings about why detention was needed to begin to reduce the high number of youth detained to for that reason.
9. Revise the Detention Risk Assessment with objective criteria, points for only the most serious offense, and "mitigating" circumstances that demonstrate youth or family strengths.
10. Mandate the use of graduated responses and community supports prior to detaining youth on technical violations.
11. End the use standard terms and conditions in court orders, focusing on individualized treatment goals for each youth.
12. Adopt presumptive limits on terms of probation, both in Maine statute and in practice.
13. Limit the use of detention and commitment for technical violations of conditional release, probation, and community supervision.
14. Eliminate the mandatory required year of commitment to DOC in Maine statute and create length of stay guidelines for committed youth in both law and practice.

15. Create a process for regular judicial review of commitments and out-of-home placements and codify that process in Maine statute.
16. Explicitly define the role of JCCOs to focus on skill development and create incentives for JCCOs to engage in those efforts.
17. Implement screening for Traumatic Brain Injury and Fetal Alcohol Spectrum Disorders upon youth's intake to DOC and Long Creek.
18. Develop proposed data collection and analysis improvements within DOC that provide for a quality control system that ensures the accuracy of data coding and reporting, the retention of all collected data (e.g., all risk and needs assessment scores), and more comprehensive documentation of behavioral health, medical, and educational needs and services received during detention and commitment.
19. In partnership with the Vera Institute of Justice, agree upon a plan to end the use of incarceration for girls in Maine.
20. Within DOC, create and publicly publish a 3-year workplan that outlines how the agency will respond to and implement the recommendations outline in the System Assessment.

Medium-Term Goals (6 to 18 Months)

1. Secure and make available resources to support the development of community-based continuums of care, directly funding programs and services in those jurisdictions.
2. Create opportunities and options that allow law enforcement agencies to divert youth directly to programs and services.
3. Develop and implement strategies to connect communities and police in a positive way.
4. Expand the use of diversion, including the use of restorative practices, as an alternative to probation and commitment for assault and theft, the two most common offenses leading to commitment.
5. Develop alternatives to detention that provide supervision without incarceration (e.g., day or evening reporting centers, intensive shelter care) in the highest referring communities. Ensure that any alternatives address the particular needs of vulnerable populations including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth.
6. Develop and formalize an official incentives-driven community supervision model, tracking its use and the outcomes associated with it.
7. Engage and expand the use of Youth Advocate Programs as an alternative to probation, or as a supplement to probation for youth with the highest risk factors

and highest needs to avoid commitment and placement.

8. Create a presumption of community-based responses for most youth and adopt limits on the use of commitment and out-of-home placement in law and in practice.
9. Ensure that providers are incentivized to follow length of stay guidelines and retain youth who are referred to them (except in exigent circumstances) by creating financial incentives for retaining youth and discharging youth consistent with length of stay guidelines.
10. Plan for and begin to develop options that could better address the needs of the small number of youth requiring a secure out-of-home placement because of a risk of public safety.
11. Designate or create an entity that is charged with training judges, prosecutors, defense attorneys, and other juvenile justice personnel on adolescent development, research on effective interventions with youth, and the harms associated with out-of-home placement.
12. Leverage and formalize a partnership with the Department of Labor to assist with workforce development for youth supervised in the community and youth in placement.
13. Gather information on states that reassigned responsibility for youth justice from an adult corrections department to a new agency or different child-serving agency and identify the best option for such a transition in Maine.
14. Implement proposed data collection and analysis improvements within DOC that provide for a quality control system that ensures the accuracy of data coding and reporting, the retention of all collected data (e.g., all risk and needs assessment scores), and more comprehensive documentation of behavioral health, medical, and educational needs and services received during detention and commitment.
15. Research, identify, and propose a process for integrating data across data systems used by child-serving agencies in the State of Maine, an approach that has been pursued in other states that has helped present a more comprehensive picture of young people and their needs, especially over time.
16. In partnership with the Vera Institute of Justice, implement the plan to end the use of incarceration for girls in Maine.
17. Through the implementation of the strategies listed above, reduce the youth population at Long Creek by 50% in the next 18 months.

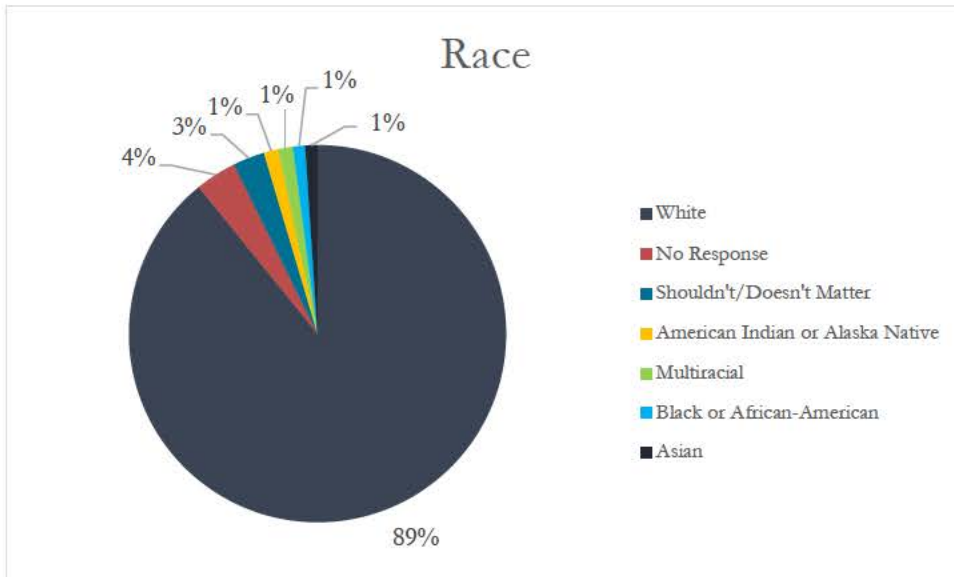
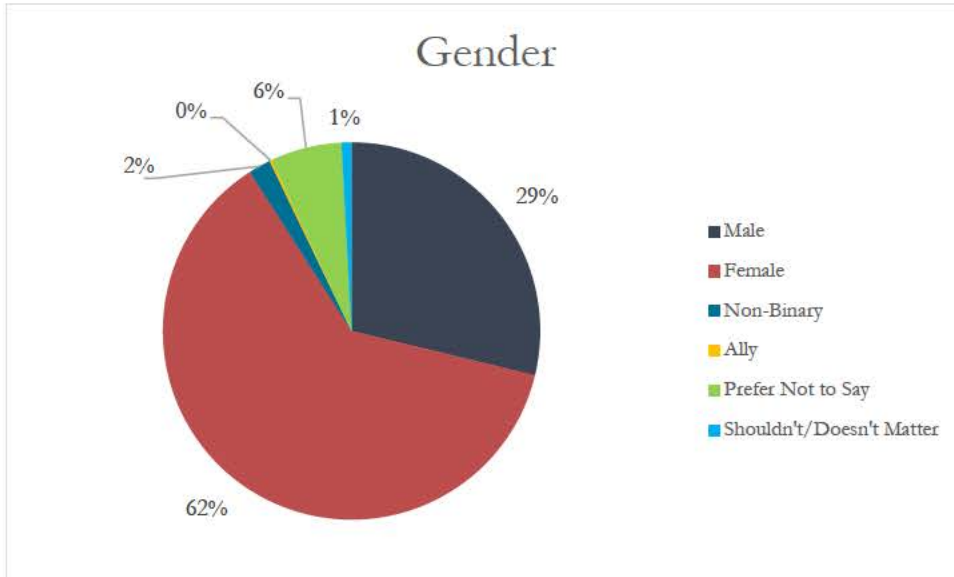
Longer-Term Goals (18 to 36 Months)

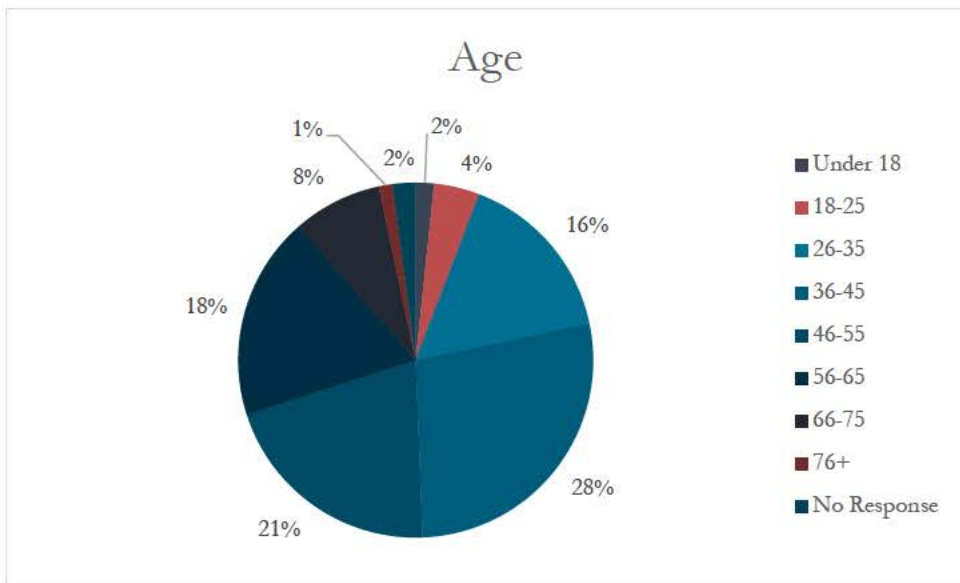
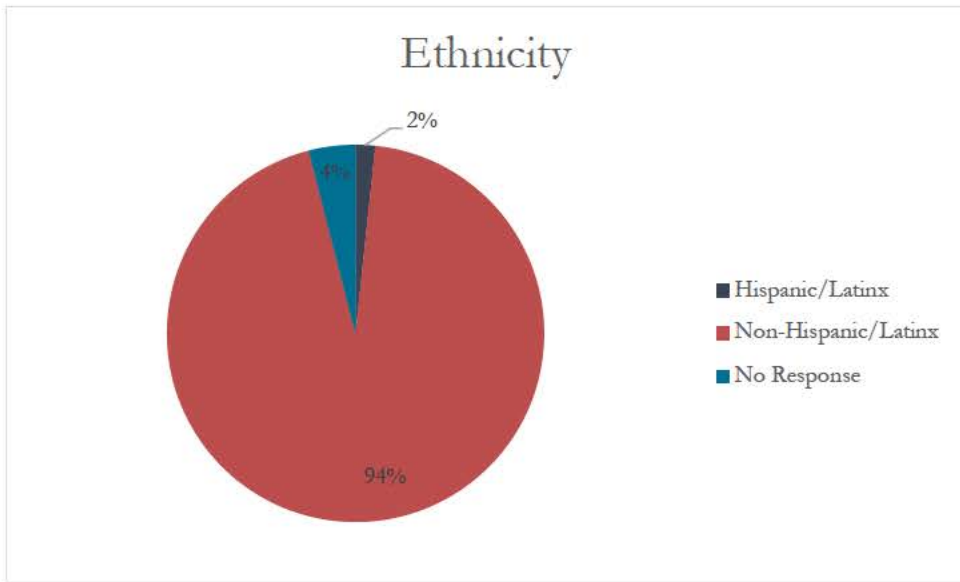
1. Implement a method for integrating data across data systems used by child-serving agencies in the State of Maine.

2. Implement a Continuous Quality Improvement program for behavioral health services and other juvenile justice services offered by DOC and partner agencies.
3. Continue to expand the resources made available directly to communities to work with youth who would otherwise be referred to the juvenile justice system through a dedicated funding stream. Ensure that programs and services that are funded address the particular needs of vulnerable populations including youth of color, immigrant youth, LGBTQ+ youth, disabled youth, and tribal youth.
4. Achieve a 50% increase in the number of youth who are diverted from probation or commitment through alternative responses, measuring public safety, victim satisfaction, and youth outcomes.
5. Transition responsibility for diversion from DOC to community-based providers throughout the state.
6. Achieve reductions in probation and community reintegration caseloads to allow for intensive supervision of remaining youth under supervision (i.e., 8-12 youth).
7. Plan for and transition juvenile justice responsibilities to a new agency or different child-serving agency.
8. Ensure that all with judges, prosecutors, defense attorneys, and other juvenile justice personnel have received a baseline set of training on adolescent development, research on effective interventions with youth, and the harms associated with out-of-home placement.
9. Achieve removal of all youth from Long Creek.

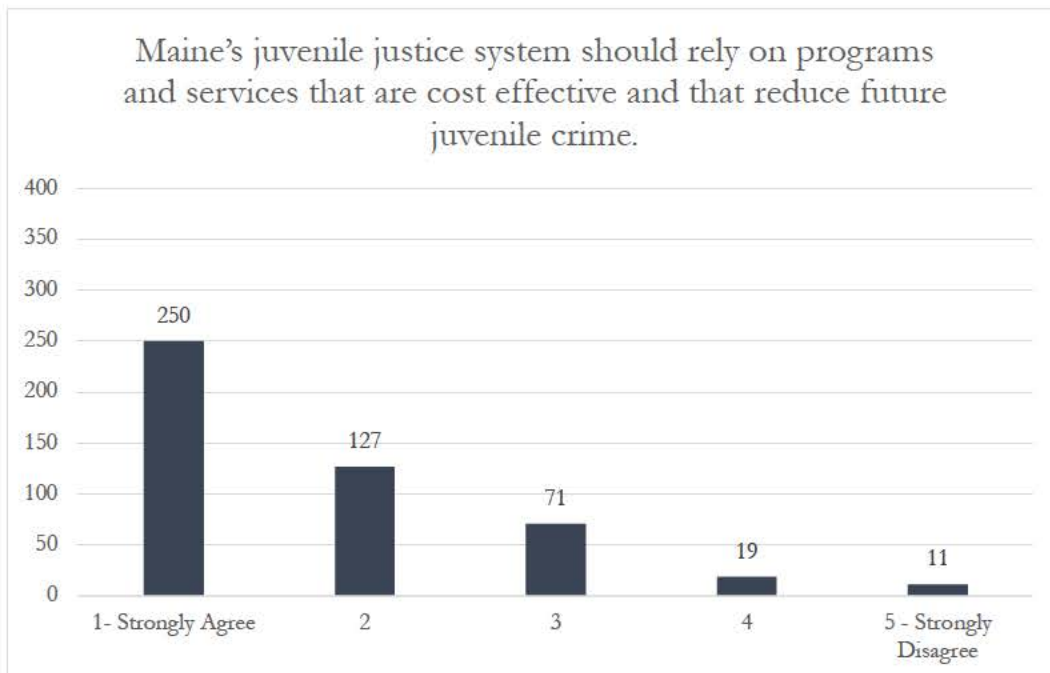
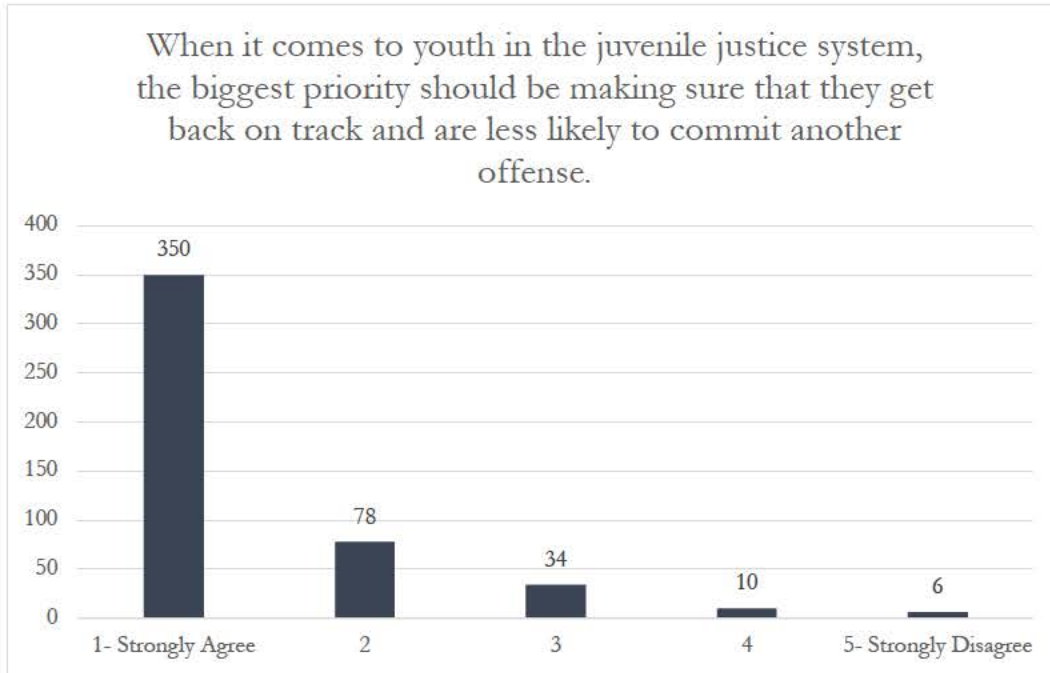
Appendix A: Community Survey Results

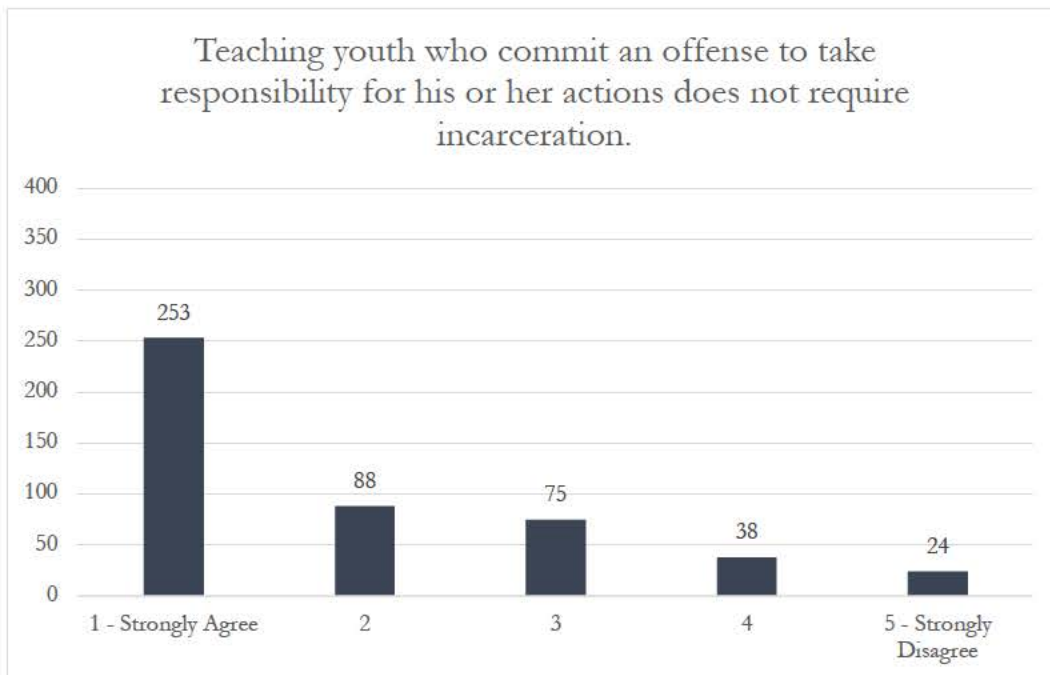
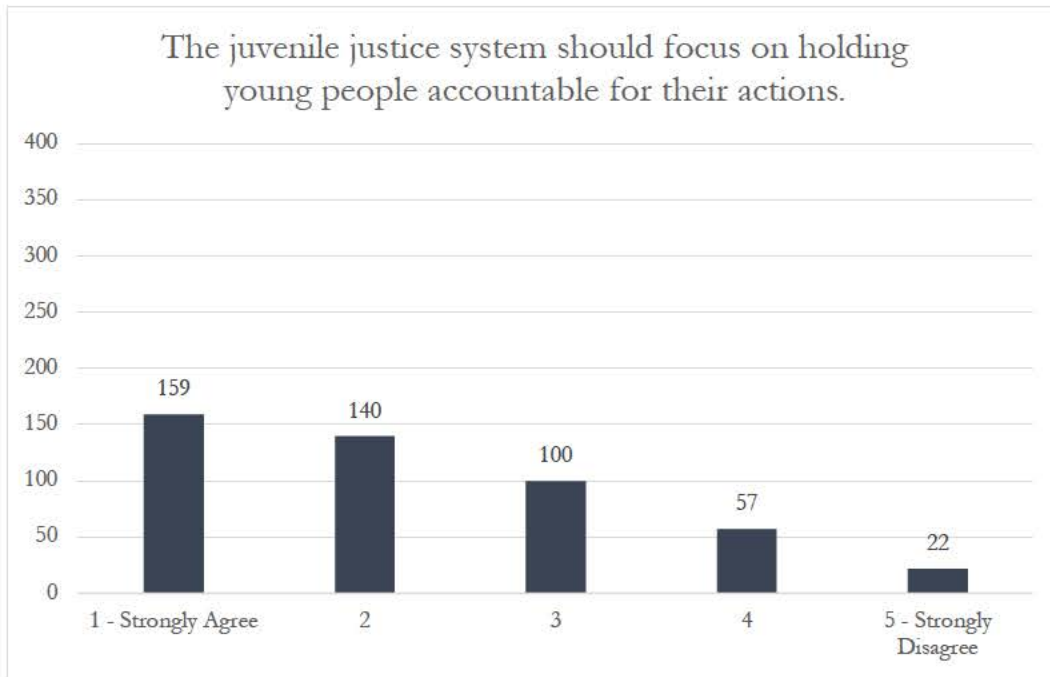
We received 480 responses to the survey, which was closed on January 1, 2020. Basic demographic information is listed below.





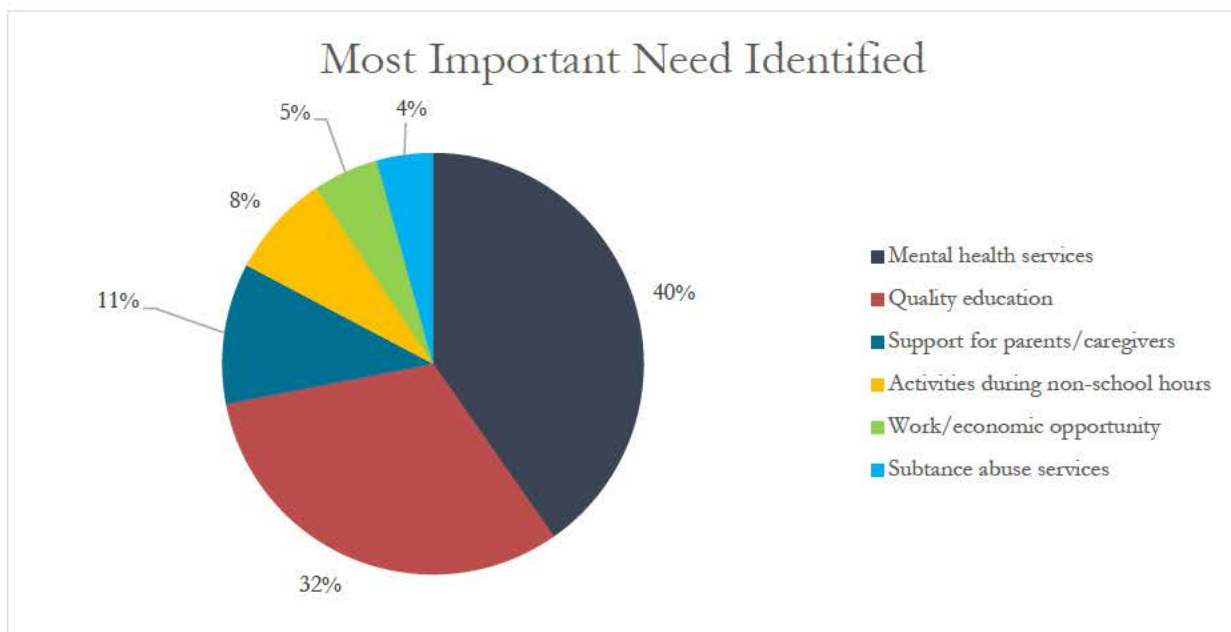
We asked participants the following question: **Please rank your agreement or disagreement with the following statements. Rank using a 5-point scale, with 1 = strongly agree and 5 = strongly disagree.**



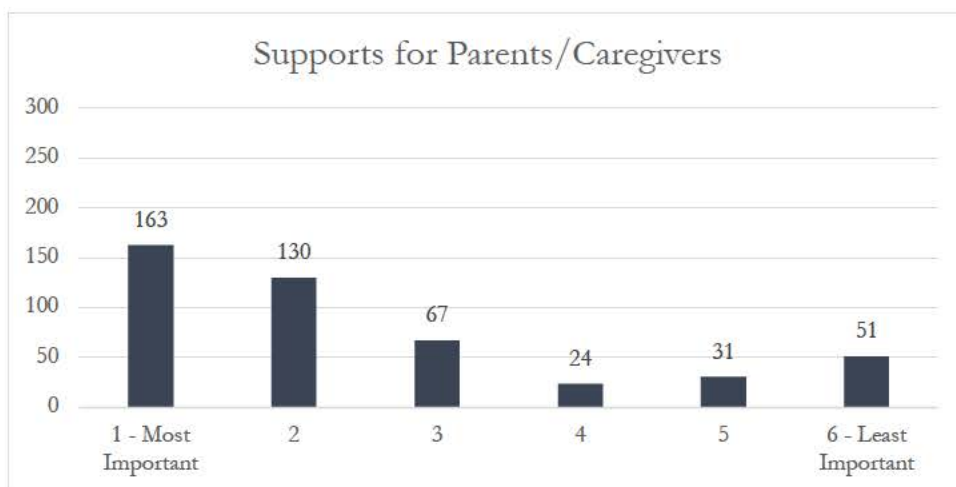
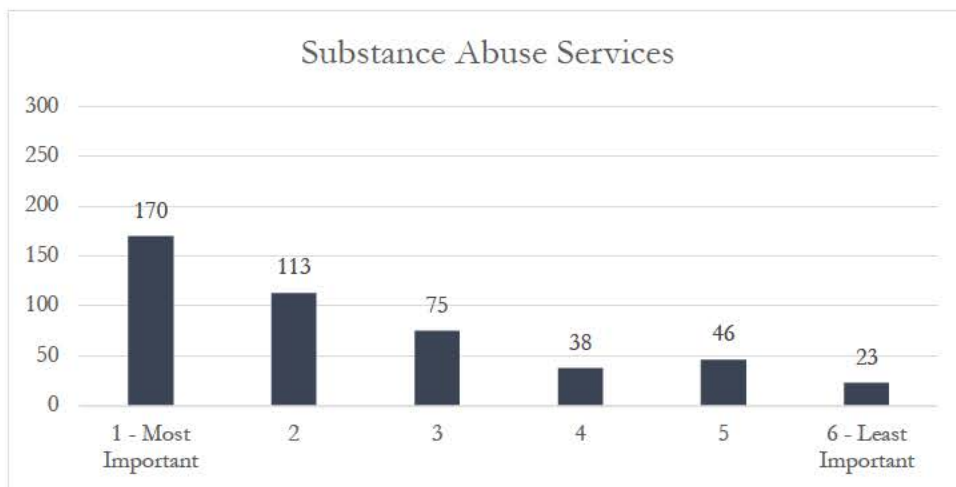
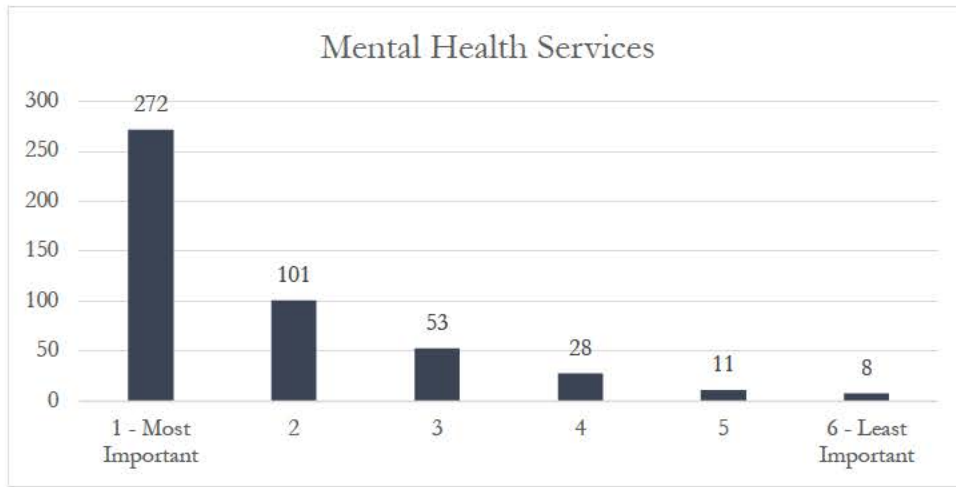


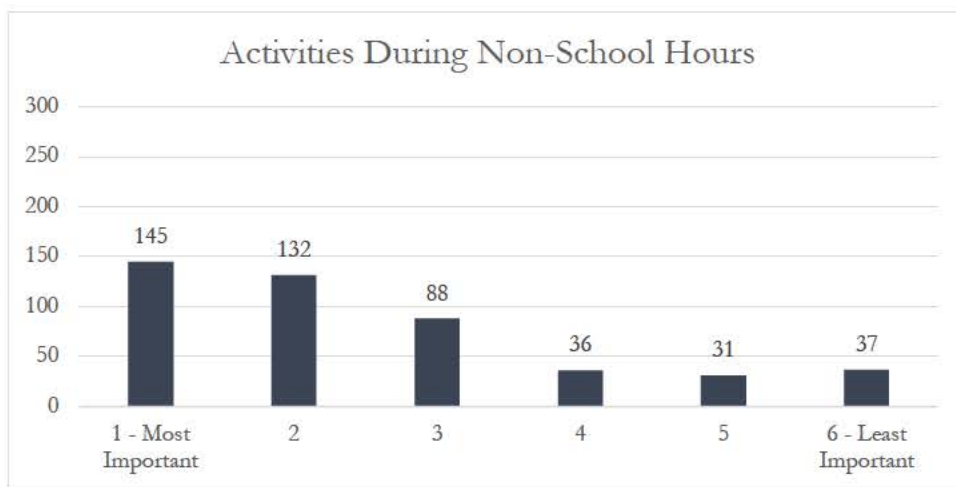
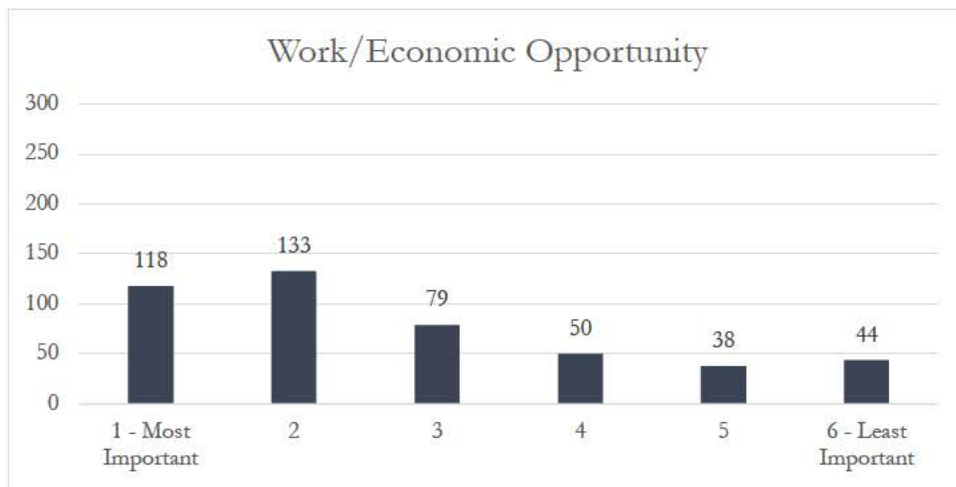
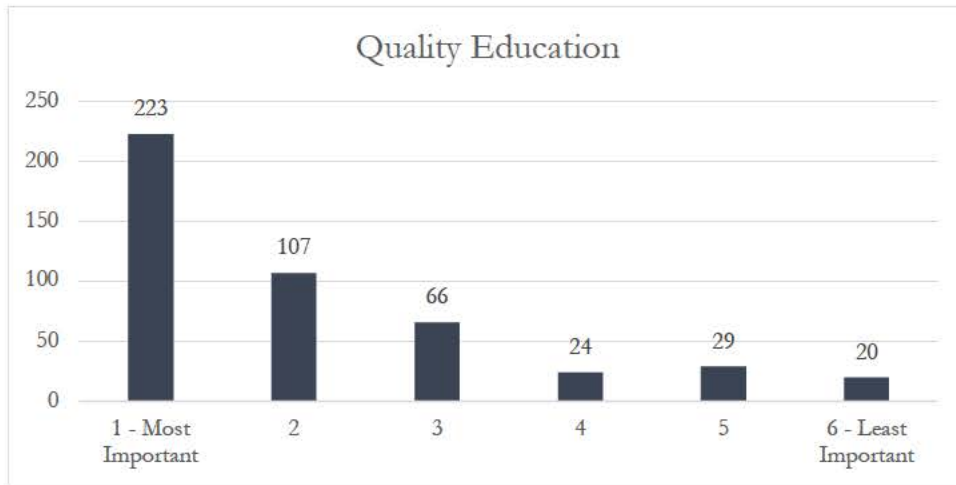
We asked participants the following question: **What do you think are the biggest needs young people face in your community? Please rank these services and supports in terms of importance to young people using a 6-point scale, with 1 = most important and 6 = least important: mental health services, substance abuse services, supports for parents/caregivers, quality education, work/economic opportunity, and activities during non-school hours.**

Although we asked participants to rank the list of responses from 1 to 6, using each response only once, many participants (71%) did not use each number only once. Of the 29% of respondents who did follow the survey instructions, the following chart reflects the most important need that those respondents indicated in their responses.

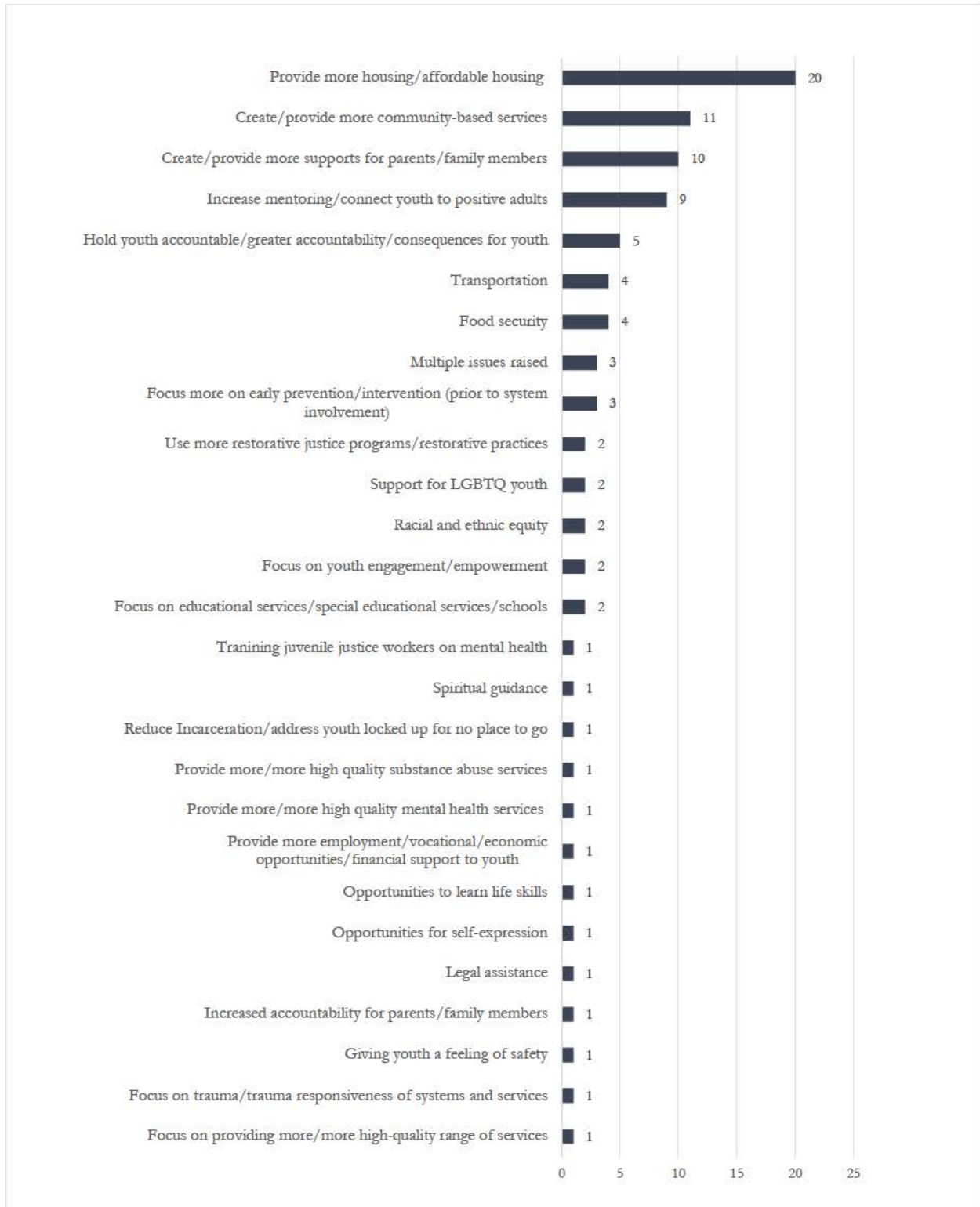


The following charts include all survey respondents' answers, regardless of whether they followed the instructions.



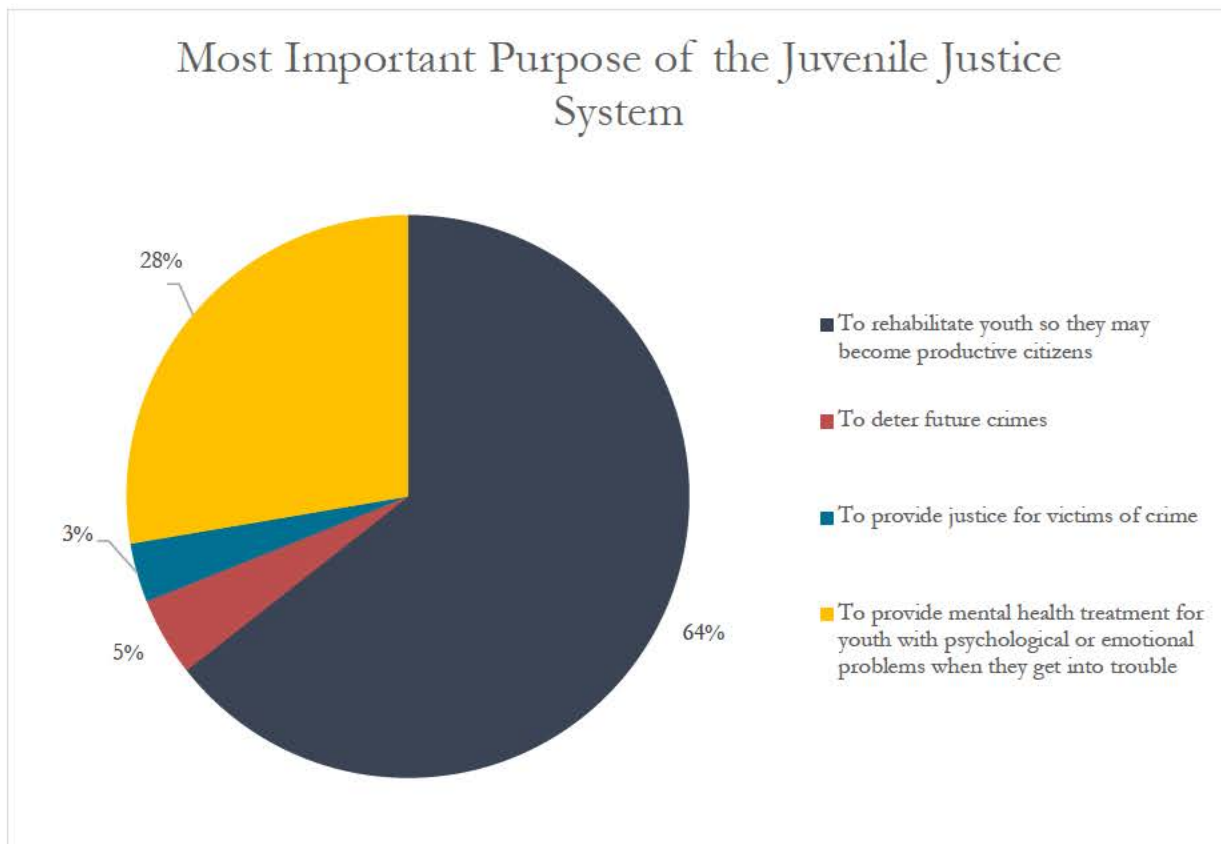


Participants were also allowed to list a need that was not provided as a response to the question. 93 participants listed an additional need. These responses are grouped by category below.

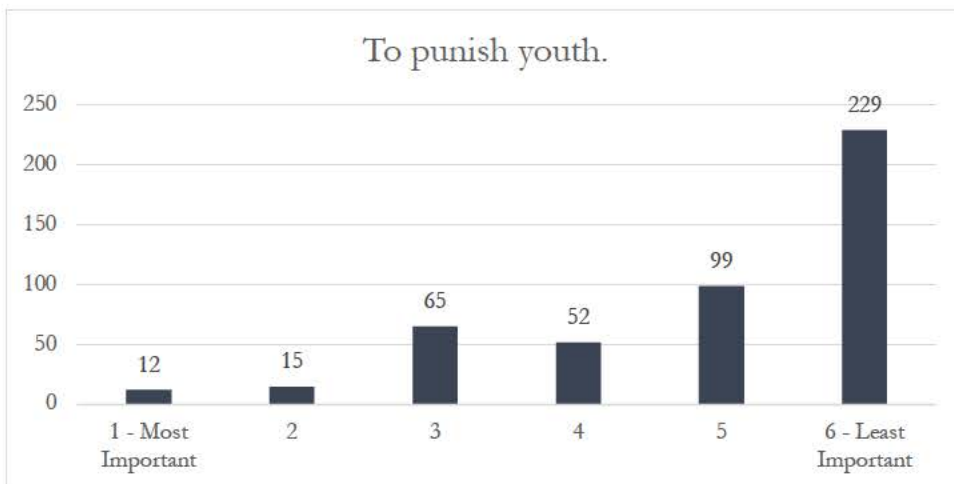
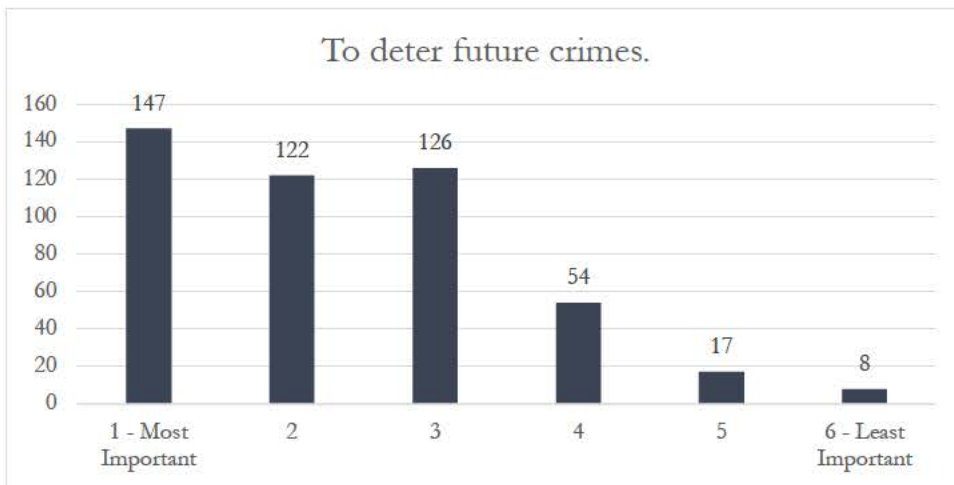
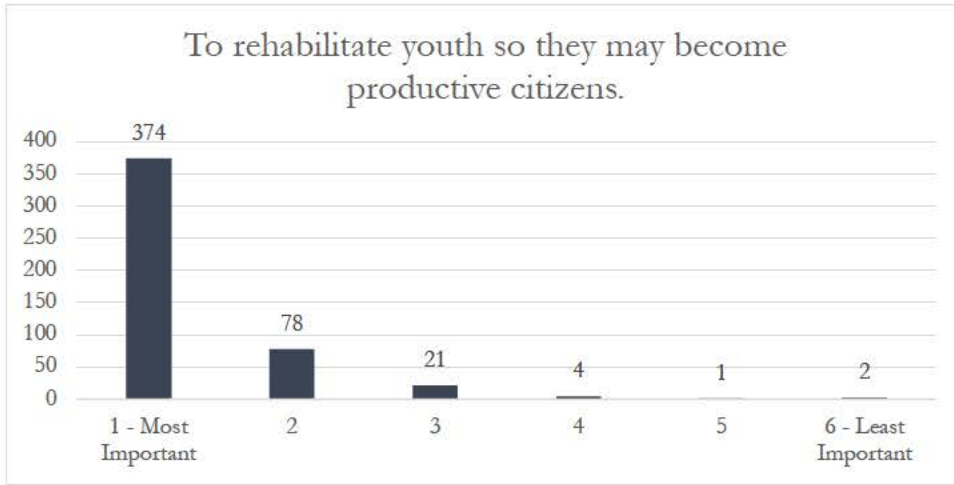


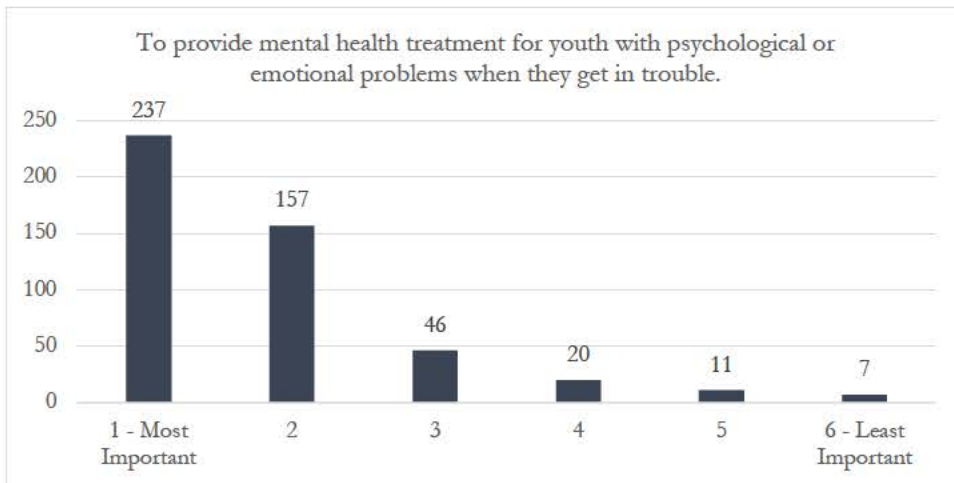
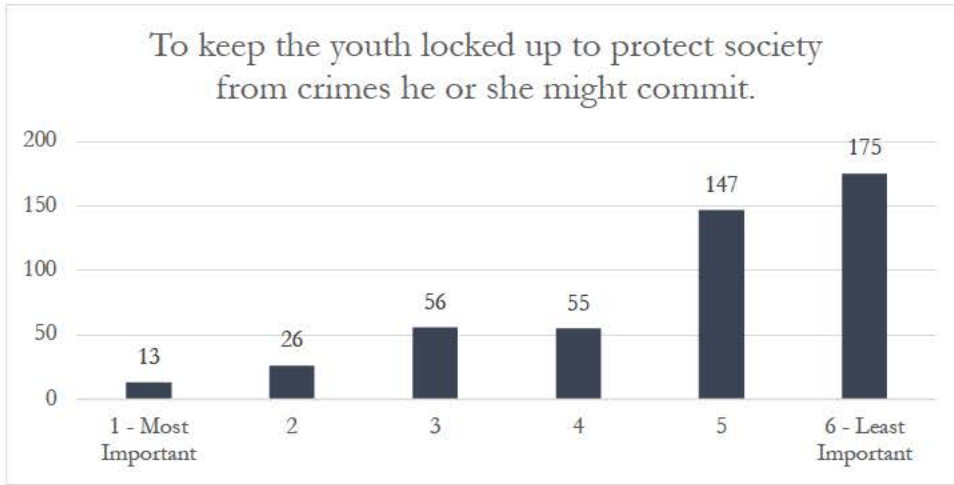
We asked participants the following question: **What should be the primary purpose of Maine's juvenile justice system? Rank the following from 1 to 6, with 1 = most important and 6 = least important: to rehabilitate youth so they may become productive citizens, to deter future crimes, to punish youth, to keep the youth locked up in order to protect society from crimes he or she might commit, to provide justice for victims of crime, or to provide mental health treatment for youth with psychological or emotional problems when they get into trouble.**

Although we asked participants to rank the list of responses from 1 to 6, using each response only once, many participants (63%) did not use each number only once. Of the 37% of respondents who did follow the survey instructions, the following chart reflects the most important purpose that those respondents indicated in their responses.



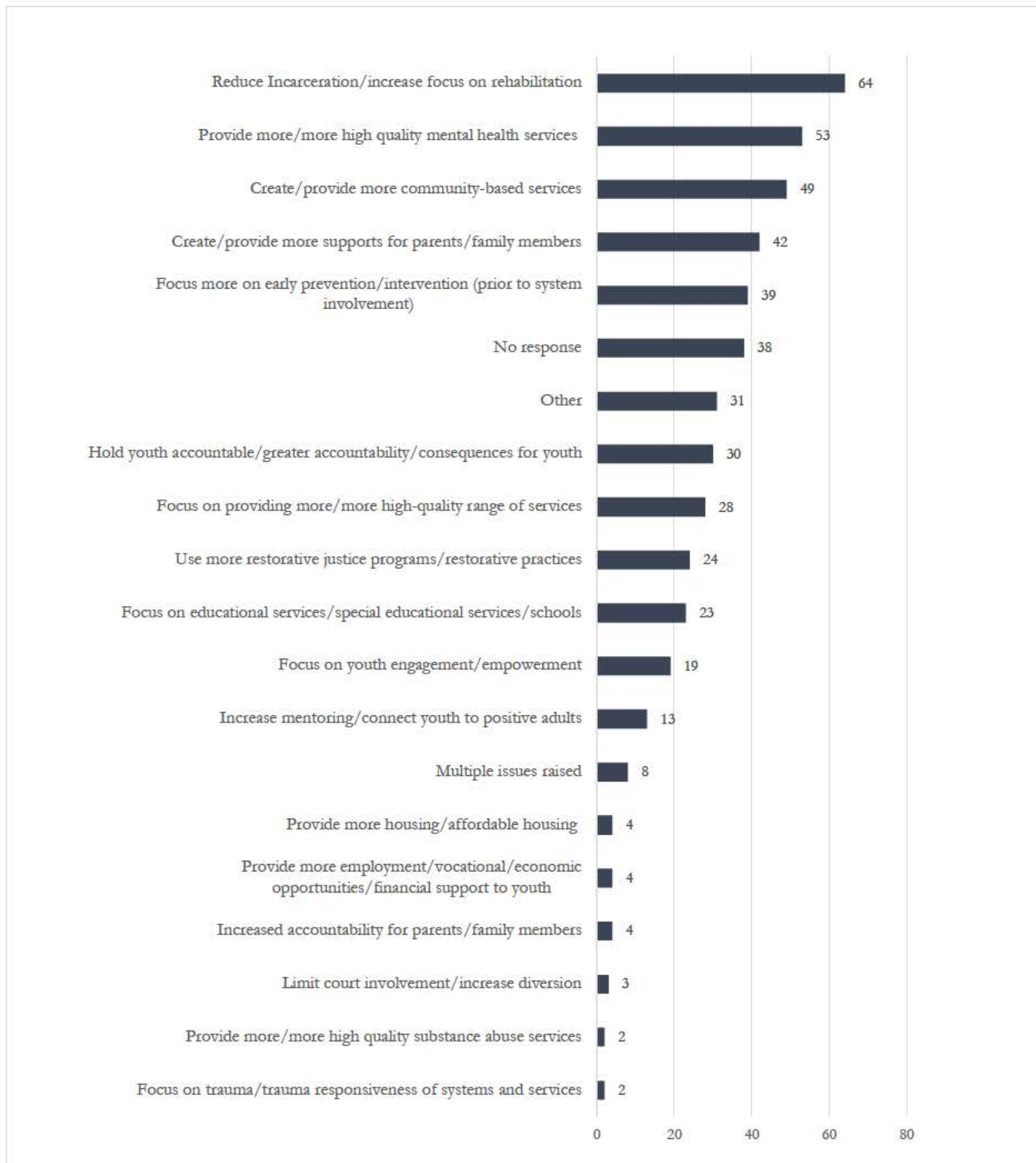
The following charts include all survey respondents' answers, regardless of whether they followed the instructions.



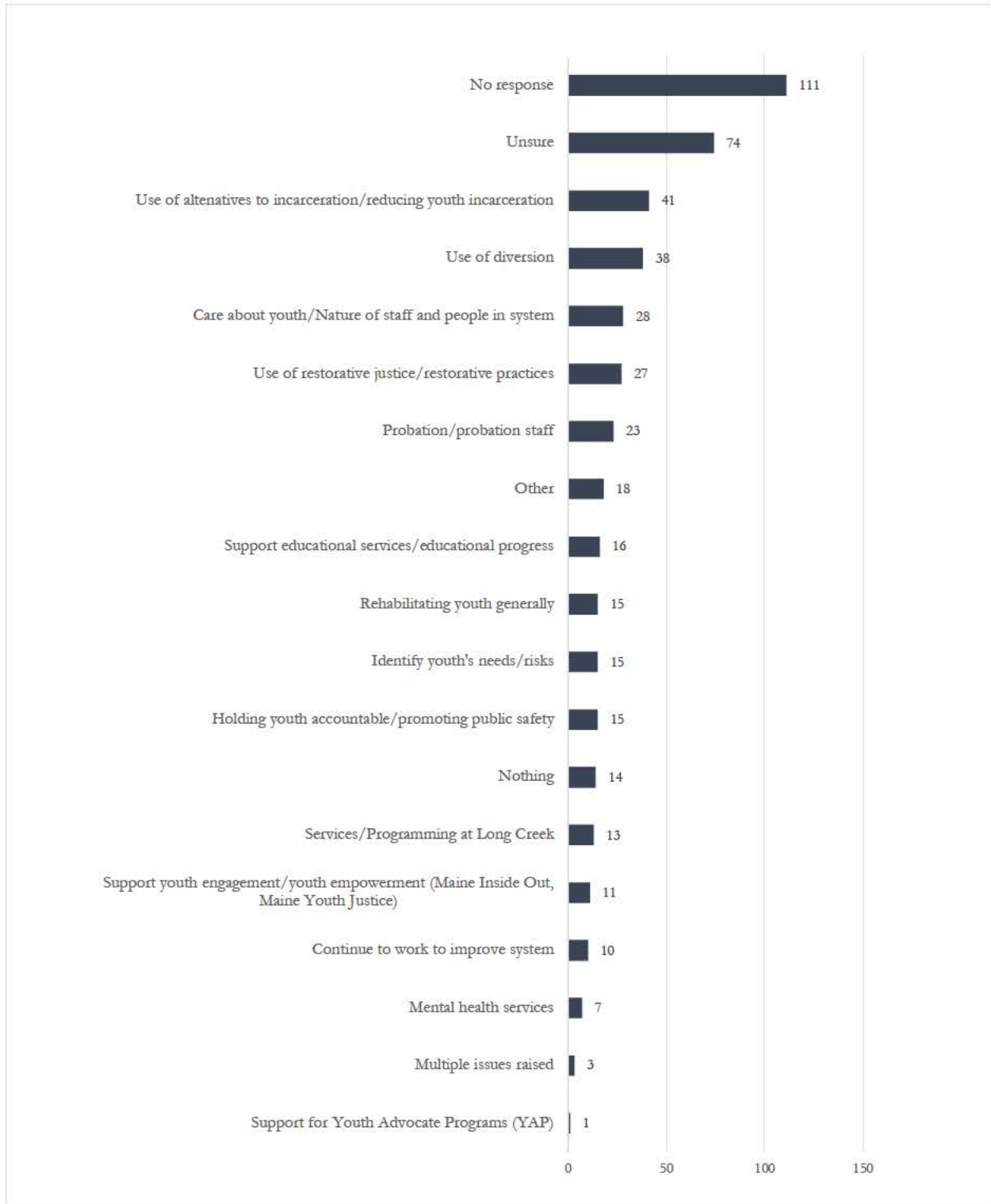


There were also four open-ended questions in the community survey. For these questions, we are reviewing and coding responses to capture themes and trends in the responses.

Please finish the following sentence: “If we want to help young people in the juvenile justice system develop into healthy and productive adults, Maine should _____.”



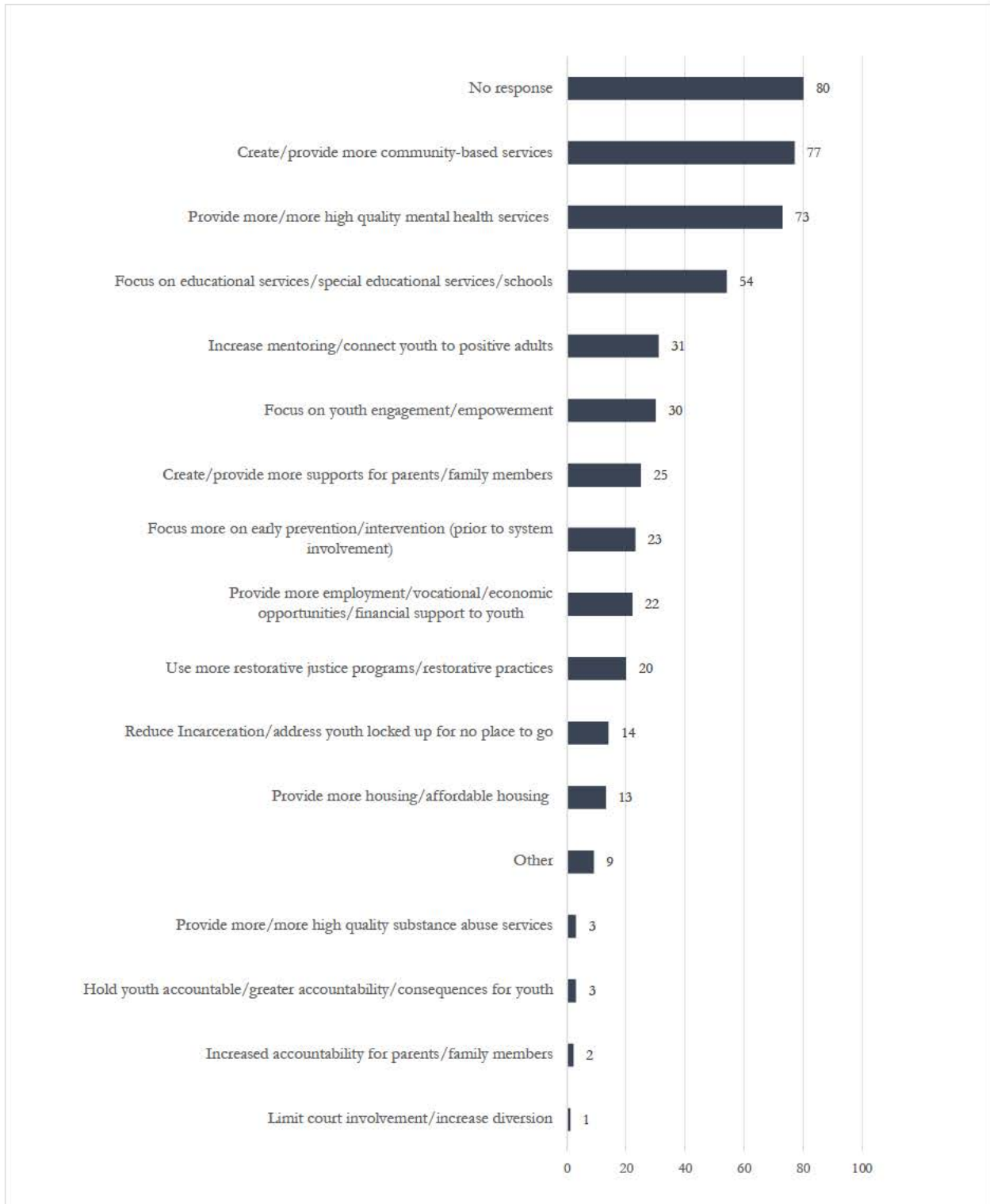
What is one thing Maine’s juvenile justice system does well? Briefly explain your answer.



What is one thing the juvenile justice system should or could do better? Briefly explain your answer?



If you could invest more in communities to help them work with youth, what investments would you make and why?



Appendix B: Task Force Members

State Representative Michael Brennan (D- Portland) – Chair
Commissioner Randall Liberty, Department of Corrections – Chair
Jill Ward, Maine Center for Juvenile Policy & Law – Chair
Chief Justice Leigh Sautley (or designee), Maine Supreme Judicial Court
Commissioner Jeanne Lambrew (or designee), Department of Health and Human Services
Commissioner Pender Makin (or designee), Department of Education
Commissioner Michael Sauschuck (or designee), Department of Public Safety
Commissioner Laura Fortman (or designee), Department of Labor
State Senator Susan Deschambault (D-Biddeford)
State Senator Marianne Moore (R-Calais)
State Representative Charlotte Warren (D-Hallowell)
State Representative Rachel Talbot Ross (D-Portland)
State Representative Victoria Morales (D-South Portland)
State Representative Patrick Corey (R-Windham)
State Representative Harold "Trey" L. Stewart, III (R-Presque Isle)
Christine Thibeault, Assistant District Attorney, Cumberland County
Edwin Chester, Defense Attorney and Chair, Maine Juvenile Justice Advisory Group
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- ¹⁷⁷ Council of State Governments Justice Center. (2019, Jan. 22). *Newsom Plans to Move California Juvenile Justice Division out of Corrections Department*. <https://csgjusticecenter.org/youth/media-clips/newsom-plans-to-move-california-juvenile-justice-division-out-of-corrections-department/>.
- ¹⁷⁸ Ujjiyidin, N. & Smith, S. (2020, Jan. 8). Gov. Laura Kelly Calls for New Kansas Agency to Oversee Social Services. *Garden City Telegram*. <https://www.gctelegram.com/news/20200108/gov-laura-kelly-calls-for-new-kansas-agency-to-oversee-social-services/1>.
- ¹⁷⁹ *South Dakota's 2015 Juvenile Justice Reform*, *supra* note 145.
- ¹⁸⁰ New York University Steinhardt School of Culture, Education, and Human Development, Metropolitan Center for Research on Equity and the Transformation of Schools. (n.d.). *ROSES (Resilience, Opportunity, Safety, Education, Strength)*. <https://research.steinhardt.nyu.edu/metrocenter/center/roses>
- ¹⁸¹ *Kentucky's 2014 Juvenile Justice Reform*, *supra* note 160.
- ¹⁸² *Utah's 2017 Juvenile Justice Reform Shows Early Promise*, *supra* note 161.
- ¹⁸³ 15 M.R.S. § 506(3315) (2018).
- ¹⁸⁴ Simkins, S. & Cohen, S. (2017). The Critical Role of Post-Disposition Representation in Addressing the Needs of Incarcerated Youth. *John Marshall Law Journal*, 8, 311. <http://youthviolence.rutgers.edu/wp-content/uploads/2015/11/8JohnMarshallLJ-311-Simkins-and-Cohen.pdf>
- ¹⁸⁵ See, e.g., South Dakota Codified Laws §§ 26-7A-123, 26-7A-124 (outlining purpose and requirements for commitment reviews); Pennsylvania Rules of Juvenile Court. (n.d.). *Procedure Rule 610: Dispositional and Commitment Review*. <http://www.pacourts.us/assets/files/setting-1744/file-1560.pdf?cb=498227>
- ¹⁸⁶ *Utah's 2017 Juvenile Justice Reform Shows Early Promise*, *supra* note 161.
- ¹⁸⁷ 15 M.R.S. § 503 (3101)(4)(A).
- ¹⁸⁸ 15 M.R.S. § 503 (3101)(G).
- ¹⁸⁹ Pilnik, L. & Mistrett, M. Campaign for Youth Justice. (2019). *If Not the Adult System Then Where? Alternatives to Adult Incarceration for Youth Certified as Adults*, 10. http://cfyj.org/images/ALT_INCARCERATION_FINAL.pdf
- ¹⁹⁰ See, e.g., Hahn, R. et al. (2007). *Task Force on Community Preventive Services, Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*, Redding, R.E. (2010). *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*
- ¹⁹¹ See Hahn et al., *supra* note 190.
- ¹⁹² Redding, *supra* note 190.
- ¹⁹³ *Id.*
- ¹⁹⁴ *Id.*
- ¹⁹⁵ National Conference of State Legislatures. (n.d.). *Cost Benefit Analysis of Juvenile Justice Programs*. <https://www.ncsl.org/documents/cj/jjguidebook-costbenefit.pdf>
- ¹⁹⁶ Disparity data were calculated using data provided by DOC on the race and ethnicity of youth in the detained and committed sample and U.S. Census Bureau data on the child population by race in Maine. Annie E. Casey Foundation Kids Count Data Center. (Aug. 2019). *Child Population by Race in Maine*.

<https://datacenter.kidscount.org/data/tables/103-child-population-by-race?loc=21&loct=2#detailed/2/21/false/37,871,870,573,869,36,868,867,133,38/68,69,67,12,70,66,71,72/423,424>

¹⁹⁷ Maine State Legislature, Office of Fiscal and Program Review. (Updated 2019, Aug. 1). *Total Appropriations & Allocations All Funds 2020-2021 Biennium. Through the 129th Legislature, 1st Regular Session.*

<http://legislature.maine.gov/doc/3080>

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ Additional information is available at <https://www.maine.gov/budget/sites/maine.gov.budget/files/inline-files/GF%202020%202021%20Part%20A.pdf>.

²⁰¹ Maine FY18, FY19, and FY20 Juvenile Community Program budgets, which were shared by DOC with CSSP for the purpose of completing this review.

²⁰² *Id.*

²⁰³ Justice Policy Institute. (May 2009). *The Cost of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense.*

http://www.justicepolicy.org/images/upload/09_05_rep_costsofconfinement_jj_ps.pdf

²⁰⁴ *Id.*

²⁰⁵ Documents shared by DOC with CSSP for the purpose of completing this review.

²⁰⁶ The Ballmer Group granted \$20 million to Youth Advocate Programs in 2017 in support of its efforts to provide alternatives to juvenile incarceration and other deep-end system involvement including foster care and residential placements. Youth Advocate Programs are leveraging \$250,000 from this grant in Year 1 in Maine to support initial implementation of the program.

²⁰⁷ Documents shared by DOC with CSSP for the purpose of completing this review.

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ For the budget years that were reviewed, responsibility for Kansas's juvenile justice services were under the adult corrections agency. Kansas is currently in the process of reorganizing its juvenile justice services into a broad child and youth-serving agency.

²¹² See *supra* note 178.

²¹³ Government of the District of Columbia. (2019, July 25). *FY 2020 Approved Budget and Financial Plan.*

https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC_2020_OCFO_Budget_Vol_6.pdf

²¹⁴ State of Rhode Island and Providence Plantations. (n.d.). *Fiscal Year 2019 Budget. Volume II – Health and Human Services.* http://www.omb.ri.gov/documents/Prior%20Year%20Budgets/Operating%20Budget%202019/BudgetVolumeII/0_C%20complete%20Volume%20II%20-%20Health%20and%20Human%20Services.pdf

²¹⁵ Research has shown that more than two-thirds of young people in detention facilities could meet criteria for a mental health diagnosis. See Grisso, T. (2004). *Double Jeopardy: Adolescent Offenders with Mental Disorders.* University of Chicago Press.

²¹⁶ Moral Reconciliation Therapy (MRT) is a systematic treatment strategy that seeks to decrease recidivism among youth and adults by increasing moral reasoning.

²¹⁷ Kansas Juvenile Justice Oversight Committee. (2019). *2019 Annual Report.* <https://www.doc.ks.gov/juvenile-services/committee/2019-annual-report/view>

²¹⁸ Project Adult Identity Mentoring is a group-level youth development intervention designed to reduce sexual risk behaviors among youth ages 11-14 by providing them with the motivation to make safe choices and to address deeper barriers to sexual risk prevention (e.g., hopelessness, poverty, risk opportunities in low-income environments). The program consists of 12 fifty-minute sessions typically delivered in-school or in community-based settings twice a week over six weeks.

²¹⁹ The Strengthening Families Program is an evidence-based family skills training program for high-risk and general population families that is recognized both nationally and internationally. Parents and youth attend weekly SFP skills classes together, learning parenting skills and youth life and refusal skills. They have separate class training for parents and youth the first hour, followed by a joint family practice session the second hour.

²²⁰ Intensive Home Based Treatment is a mental health service designed to meet the needs of youth with serious emotional challenges and who are at risk of out-of-home placement or who are returning home from placement.

²²¹ The truancy program tracks student attendance and provides counseling to students and parents in order to determine what issues are causing the truancy and provide for treatment for those issues.

²²² Kansas Department of Corrections. (n.d.). *Fiscal Year 2019 Annual Report.*

<https://www.doc.ks.gov/publications/Reports/fy-2019-kdoc-annual-report>

- ²²³ Trauma-Focused Cognitive Behavioral Therapy (TF-CBT) is an evidence-based treatment for children impacted by trauma and their parents or caregivers. TF-CBT supports children and adolescents in resolving a broad array of emotional and behavioral challenges associated with single or complex trauma experiences.
- ²²⁴ Structured Psychotherapy for Adolescents Responding to Chronic Stress (SPARCS). SPARCS is a manually-guided and empirically-supported group treatment designed to improve the emotional, social, academic, and behavioral functioning of adolescents exposed to chronic interpersonal trauma and/or separate types of trauma.
- ²²⁵ North Dakota Department of Corrections and Rehabilitation. (n.d.). *Biennial Report 2015-2017*. <https://www.docr.nd.gov/sites/www/files/documents/Biennial%20Report%20Archive/Biannual%20Report%202015-2017.pdf>
- ²²⁶ State of Rhode Island Department of Children, Youth, and Families. (n.d.). *Home Based Services (2018)*. http://www.dcyf.ri.gov/documents/behavioral-health/ServiceProviderGuide-Update%202018_HomebasedServices.pdf
- ²²⁷ Office of the Chief Financial Officer. (n.d.). *Annual Operating Budget and Capital Plan Fiscal Year 2020 Approved Operating Budget Chapters: Department of Youth Rehabilitation Services*. https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/jz_dyrs_chapter_2020j.pdf
- ²²⁸ Department of Youth Rehabilitation Services. (n.d.). *Annual Report 2018*. <https://dyrs.dc.gov/sites/default/files/dc/sites/dyrs/publication/attachments/2018%20DYRS%20Annual%20Report.pdf>
- ²²⁹ Data provided to Drexel University for the purpose of completing this review.
- ²³⁰ New York City Administration for Children's Services. (n.d.). *Respite*. <https://www1.nyc.gov/site/acs/justice/respites.page>
- ²³¹ Integrated Community Alternatives Network. (n.d.). *Juvenile Justice Programs*. <https://ican.family/programs/justice-programs/>
- ²³² Maine provides a daily rate for foster parents based on the level of care needed to support the child. Estimates were made based on the rate for youth with high or severe needs.
- ²³³ State of Maine, Department of Health and Human Services. (Amended July 2008). *Chapter 14: Rules for Levels of Care for Foster Homes*. <https://www.maine.gov/dhhs/ocfs/cw/locrules.pdf>
- ²³⁴ Braided funding involves using multiple funding streams to pay a service.
- ²³⁵ The Youth Acceptance Project provides a continuum of services to support permanency for children and youth who identify as LGBTQ+.
- ²³⁶ The Youth Acceptance Project, as well as other strategies to support LGBTQ+ youth involved with child welfare are currently being tested and evaluated through The National Quality Improvement Center on Tailored Services, Placement Stability, and Permanency for Lesbian, Gay, Bisexual, Transgender, Questioning, and Two-Spirit Children and Youth in Foster Care, which is funded through the Children's Bureau.
- ²³⁷ The Pay for Success funding structure is driven by an investment and interest in understanding the impact and results of a given program. Often a private entity, for example a foundation or corporation, will provide a significant portion of the initial funding for a program as efforts are taken to understand the impact and results. In some instances, the state or county may also contribute some initial funding, staff, or resources to support the program. For more information, visit <https://www.payforsuccess.org>.
- ²³⁸ Nonprofit Finance Fund, Pay for Success. (n.d.). *Activity Map*. <https://www.payforsuccess.org/activity/>
- ²³⁹ *Id.*
- ²⁴⁰ Data presented by the Vera Institute for Justice as the November 2019 Maine Juvenile Justice System Assessment and Reinvestment Task Force also highlighted that several girls were arrested for the first time while in residential treatment centers and psychiatric hospitals.
- ²⁴¹ Maine Department of Health and Human Services, Office of Children and Family Services. (Aug. 2019). *Maine Children's Behavioral Health Services Vision*. <https://www.maine.gov/dhhs/ocfs/cbhs/>
- ²⁴² Virginia Department of Juvenile Justice. (n.d.). *Community-Based Services and Funding*. <http://www.djj.virginia.gov/pages/community/community-based-services.htm>
- ²⁴³ Examples of the programs that were implemented in Kansas can be found in Appendix A of the 2019 Kansas Juvenile Justice Oversight Committee Annual Report, *supra* note 217.
- ²⁴⁴ See *Juvenile Justice Oversight Committee Annual Report*, *supra* note 217.
- ²⁴⁵ Serving youth in the community, at locations where they already spend time promotes a community network that can provide broad support to youth.
- ²⁴⁶ DC Child and Family Services Agency. (November 2016). *Safe & Stable Families: Report to the Community*. https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/page_content/attachments/SSF%20Community%20Report%20November%202016.pdf
- ²⁴⁷ For more information, see Kansas Department of Corrections. (n.d.). *Juvenile Corrections Advisory Board*. <https://www.doc.ks.gov/juvenile-services/partners/juvenile-corrections-advisory-board>

²⁴⁸ Through RECLAIM Ohio, the state allocates money to counties for juvenile justice based on delinquency levels and population. The county has the opportunity to then choose how they invest dollars – either in community-based alternatives or commitment.

²⁴⁹ Ohio Department of Youth Services. (n.d.). *RECLAIM Ohio*.
www.dys.ohio.gov/dnn/Community/ReclaimOhio/tabid/131/Default.aspx

²⁵⁰ Redeploy Illinois has a goal to decrease juvenile commitments by creating and spreading evidence-based community programs that both promote positive outcomes for youth and maintain public safety. The state provides grants to counties who agree to reduce commitments by establishing community-based services for youth who would otherwise be incarcerated. The grant program has led to reduction in committed youth and cost savings.

²⁵¹ State of Illinois Department of Human Services, Bureau of Youth Intervention Services. (March 2016). *Redeploy Illinois: Annual Report to the Governor and the General Assembly Fiscal Year and Calendar Year 2014*.
<http://www.dhs.state.il.us/OneNetLibrary/27897/documents/JuvenileJustice/FINALPDFRedeployReport030116.pdf>

²⁵² Data analyzed for this report indicate that 65% of the committed youth included in the sample had a history of at least one child welfare investigation.

²⁵³ DOC supports an MOU for a data sharing portal with the Muskie School of Public Services at the University of Southern Maine. DOC budgeted \$25,000 in FY20 for this MOU.

²⁵⁴ The Family First Prevention Services Act was passed as part of the Bipartisan Budget Act of 2018. (2018).
<https://cssp.org/wp-content/uploads/2018/10/Family-First-Prevention-Services-Act-of-2018.pdf>

²⁵⁵ The Family First Transition Act was passed as part of the Further Consolidated Appropriations Act, 2020.
<https://www.congress.gov/bill/116th-congress/house-bill/1865/text?q=%7B%22search%22%3A%5B%22further+consolidated+appropriations+act%22%5D%7D&r=1&s=2>

²⁵⁶ Program Instruction 18-09 from the Children’s Bureau details that Title IV-E is the payor of last resort. *See*
<https://www.acf.hhs.gov/cb/resource/pi1809>

²⁵⁷ Beginning when the state implements an approved title IV-E plan for prevention services through September 30, 2026, states will be reimbursed for 50% of the total amount expended for the provision of services. Beginning October 1, 2026, states will be reimbursed at a rate equal to the Federal medical assistance percentage.

²⁵⁸ Motivational Interviewing is already rated as an evidence-based program in the Title IV-E Prevention Services Clearinghouse and Solution Based Casework is currently under review.

²⁵⁹ As of the date this report was finalized, the Children’s Bureau had not yet clarified if Title IV-E Administrative dollars could be used in this way. States are currently exploring this option.

²⁶⁰ District Department of Transportation. *School Transit Subsidy Program*. <https://ddot.dc.gov/page/school-transit-subsidy-program>

²⁶¹ *Juvenile Justice Geography, Policy, Practice & Statistics – Juvenile Justice Services - Juvenile Corrections Agency*, supra note 174.

²⁶² *See* Ujjiydiin, N. & Smith, S., supra note 178.

²⁶³ *Kentucky’s 2014 Juvenile Justice Reform*, supra note 160.

²⁶⁴ Kan. Stat. Ann. § 15A.063.

²⁶⁵ The Pew Charitable Trusts. (2017, June 19). *Kansas’ 2016 Juvenile Justice Reform*.
<https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/06/kansas-2016-juvenile-justice-reform>

²⁶⁶ Kansas Department of Corrections. (n.d.) *Juvenile Justice Oversight Committee*. <https://www.doc.ks.gov/juvenile-services/committee>

²⁶⁷ *Utah’s 2017 Juvenile Justice Reform Shows Early Promise*, supra note 161.

²⁶⁸ Utah Board of Juvenile Justice. (n.d.) *Juvenile Justice Oversight Committee*. <https://justice.utah.gov/Juvenile/hb239.html>

²⁶⁹ Connecticut Public Act No. 14-217. (2014). *An Act Implementing Provisions of the State Budget for the Fiscal Year Ending June 30, 2015*. https://www.cga.ct.gov/app/tfs/20141215_Juvenile%20Justice%20Policy%20and%20Oversight%20Committee/2014PA-00217-R00HB-05597-PA.PDF

²⁷⁰ Raise the Age CT. (n.d.). *Implementation*. <http://www.raisetheagect.org/how-implementation.html>

²⁷¹ Connecticut General Assembly. (n.d.). *Juvenile Justice Policy and Oversight Committee*.
https://www.cga.ct.gov/app/taskforce.asp?TF=20141215_Juvenile%20Justice%20Policy%20and%20Oversight%20Committee

²⁷² Juvenile Justice Policy and Oversight Committee. (2019, Aug. 29). *Committee Membership*.
https://www.cga.ct.gov/app/tfs/20141215_Juvenile%20Justice%20Policy%20and%20Oversight%20Committee/membership.pdf