

TESTIMONY OF MEAGAN SWAY

LD 258—Ought to Pass As Amended

An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and June 30, 2025

Joint Standing Committees on Appropriations and Financial Affairs
and Criminal Justice and Public Safety

February 14, 2022

Senator Rotundo, Representative Sachs and distinguished members of the Joint Standing Committee on Appropriations and Financial Affairs, greetings. My name is Meagan Sway, and I am Policy Director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I submit this testimony in support of amending the budget as it pertains to appropriations to the Departments of Public Safety and Corrections.

The governor's proposed budget has many virtues. Its proposed investments in mental health and substance use disorder services are historic, and would address some of the state's major challenges. However, the budget's increased allocations to the Department of Public Safety ("DPS") and the Department of Corrections ("DOC") would be better spent in the community, creating a continuum of care, stable housing for more people, and access to quality health care for those who need it.

The Department of Public Safety Should Not Spend Any New Money

PART A (p. 575-614)

The governor's budget proposes to substantially increase the DPS's staffing and funding, increasing the number of positions in public safety by 21.5 (from 643.5 positions to 664) and increasing DPS's budget by more than 10 percent. For too long, we have relied on the policing institutions in our country to solve challenges better suited to our healthcare, housing, and educational systems. Our constitutional values of freedom from unreasonable state intrusions, of

liberty and dignity, are not advanced by a law enforcement response to poverty or mental health challenges. We must finally as a state begin to address problematic substance use as the health—not criminogenic—issue that it is. Instead, adding new positions to DPS would be a continuation of failed systems. Given the opportunities that we have to invest in housing and health care, choosing instead to fund additional law enforcement positions is a missed opportunity. We urge legislators to scrutinize the proposed additions to the budget and ensure that we are not spending money on police, jails and prisons that would be better spent elsewhere.

**The Legislature Should Fund Alternatives to Youth Incarceration, and
Should Not Increase the Budget for Long Creek Youth Development Center**

PART A (p. 159-160)

Long Creek Youth Development Center represents an irresponsible use of state resources, especially when considering the harm that the facility causes to young people and staff. There are currently fewer than thirty children incarcerated at the Long Creek prison. Yet, LD 258 proposes to increase the DOC’s funding for this facility from \$16.3 million to \$18.1 million, despite the fact that the number of kids incarcerated at Long Creek has dropped by over two-thirds in the last five years.

Maine must turn away from expensive and ineffective institutional solutions and invest in a system that supports kids thriving in their homes and communities. Children with behavioral health disorders are legally entitled to receive necessary health services in their homes and communities, but too many are not receiving the services to which they are legally entitled. The state’s failure to meet its legal obligations to provide care in the community forces children into institutional settings like Long Creek or psychiatric facilities. Indeed, in July 2022, the United States Department of Justice (DOJ) issued a Findings Letter concluding that Maine unnecessarily segregates children with mental health or developmental disabilities at Long Creek, in psychiatric hospitals, and in residential treatment facilities, in violation of the Americans with Disabilities Act (ADA).¹

The DOJ found that Maine children are subjected to unnecessary institutionalization when they are “unable to access behavioral health services in their homes and communities—services that are part of an existing array of programs that the State advertises to families through its Medicaid program (MaineCare), but does not make available in a meaningful or timely

manner.” The DOJ further found that “Maine’s community-based behavioral health system fails to provide sufficient services. As a result, hundreds of children are unnecessarily segregated in institutions each year, while other children are at serious risk of entering institutions.”

Instead of promptly receiving the services they need, children in Maine are often forced to wait—for months and months—for healthcare. These waits are especially long in rural areas, where the State has failed to make sure there is a sufficient healthcare workforce. Even when children are able to get off the waitlists, often the services the State provides are far less than what the child actually needs. When children with behavioral health needs are forced to wait for services, or get insufficient services, their conditions deteriorate. Maine must therefore address the underlying problem – the failure to provide access to home and community-based services – instead of putting resources toward institutionalization. Instead of increasing Long Creek’s budget, the legislature should invest these funds into community-based supports that allow families to stay together and the state to meet its legal obligations.

Conclusion

The legislature is charged with crafting a budget during a time of unprecedented opportunity and abundant resources. Where you invest those resources now will determine the health of our state in the coming decade. Divesting from the Departments of Corrections and Public Safety and investing in alternatives will keep local communities safe and help them thrive. We applaud the governor for her clear interest in funding our educational, housing, and healthcare systems. However, this must be paired with a divestment from our policing systems. Indeed, such divestment would not only improve the lives of our state’s most vulnerable people; it would also improve the lives of those who are employed by policing systems. Prisons harm not just prisoners, but also prison guards; policing hurts not just the policed, but also the police. The deeds that the policing system sometimes pressures its workers into are almost certainly connected to low life expectancies and high rates of depression and suicide of police and corrections staff.² The sooner we devise and fund alternative livelihoods for our police and prison staff the likelier we are to improve the length and quality of their lives.