

Joint Standing Committee on Judiciary
State House Station 2
Augusta, Me 04333

April 7, 2025

In Supports of L.D. 1335 "An Act to Prohibit Life Sentence"

Dear Committee Members,

My name is Foster Bates. Is it suitable if I submit a second testimony? I submitted a testimony on April 2, 2025. If it is okay with the committee, I would like to submit a second testimony to share more of my personal life story, provide data and respond to some of the testimonies I heard during the public hearing on March 31. Thank you for accepting my second testimony.

When assessing whether to pass or not pass LD 1335, the bill is going to challenge our fundamental values and beliefs that have shaped our lives and influence how we think. LD 1335 is going to measure our moral compass; and have us decide between humane and inhumane treatment. The bill is going to necessitate for us to take a deep analytical evaluation of ourselves and determine whether or not we truly believe in forgiveness and redemption. Or is forgiveness and redemption just a belief until we are struck by a life-altering tragedy? The bill is going to expose our biases for who we are as a person. LD 1335 is not about what side you are on, the bill is about whether it's right or wrong to send a person to prison for life. Passing LD 1335 is morally and ethically the right thing to do. We All agree that murdering someone is morally and ethically wrong. Does sending a person to prison for life to die make it right?

Passing LD 1335 is significantly important for the following reasons:

1. The bill will safeguard the constitutionality of the "Cruel and Unusual Punishment" Clause of the Eighth Amendment of Maine's Constitution.
2. The bill will add a significant improvement to Maine's criminal justice system.
3. The bill will begin a much-needed process for Sentencing Reform.
4. The bill will be a step toward Social Justice Reform.
5. The bill will help reduce the enormously high disparity in sentencing among black offender and white offenders
6. The bill will prevent death by incarceration for wrongful convictions when they occur.
7. The bill will prevent prosecutors from seeking life sentences that are not warranted.

District Attorney Shire Burns is correct; each victim grieves in different ways and should take all the time they feel is necessary to heal from their pain. I agree with her 100%. D.A Burns is a prosecutor and victim advocate, so it's only natural for her to oppose LD 1335, however, I

do wonder, if she felt compelled to oppose LD 1335 because of her professional position and victim advocacy, or does she truly believe it's morally and ethically right to send a person to prison for the rest of their natural life?

Although I am incarcerated, I am a family member of a murder victim. My cousin was shot in the face at close range with a shotgun at 19. At the time, I was 7 and lived with my mom and dad on Humble Street in Roxbury, Massachusetts.

Before my cousin's life was senselessly taken from me, we played basketball every Sunday after church. He would pick up my brother and me to go to the park. In the summer, we went to the park; in the winter, he took us to the Lee Elementary School gym. If it was nice outside in the winter, he took us to the park to play basketball with gloves on, wanting to teach us better ball-handling. I hated it. I thought he did it just to steal the ball from us. We always played two-on-one, and my cousin never called any fouls. My cousin meant the world to me. I was devastated by his death and refused to play basketball for a long time. I wouldn't play with any relatives who asked. The loss hurt beyond words. To compound the pain, my family had to have a closed-casket funeral.

The killer was apprehended a week or two later, and he too was 18 or 19-years-old. He was found guilty of murdering my cousin and sentenced to life with parole and sent to MCI Cedar Junction in Walpole, Massachusetts.

I was 18 when the Massachusetts Parole Board asked me to testify at the parole hearing of the man who killed my cousin. Of course, I said yes. I wanted to see the man who took someone from me. I will never forget that day. I was face to face with my cousin's killer, and my anger and hate surged to levels I had never felt before. In that moment, all I wanted was revenge for my cousin and my family. I don't remember exactly what I said, but I do know that I told him he was lucky to be locked up. Then I walked out.

My aunt went to every one of her son's killer's parole hearings. I was around 30 when the Parole Board asked me to attend another hearing. I said no. I told them to stop asking me to relive the hurt and pain of my cousin's senseless death. Keeping that man locked up wouldn't bring my cousin Stevie back. However, my aunt wanted me to accompany her, telling me it would be her last time going.

At the hearing, the killer's family was present. My aunt, a church-going woman, spoke with tears in her eyes. I could feel her grief and pain, and my heart grew heavier. Through her tears, my aunt told the parole board that she was tired of carrying the weight of hatred in her heart, as it conflicted with her Christian values of forgiveness. She asked them to release the man who had killed her oldest son, my favorite cousin, Stevie.

With immense strength, my aunt told her son's killer, "I forgive you, and I want you to go home to your family. It hurts tremendously that you took a life from me; it's beyond painful.

But I do not want to take the rest of your life away from your family. I've endured enough pain. I am tired, and keeping you locked up won't bring my Stevie back."

We then left the parole board hearing. I remember thinking to myself; *that took so much strength*. Because of my aunt's courage, I was able to forgive and move on.

I share that tragic moment in my life because I realized that every time I received a notice from the parole board or a visit from a representative asking me to provide a statement, all the good memories of my cousin Stevie were replaced by the hurt and pain of his death. I didn't want to relive the trauma of Stevie's death. In the years between parole board hearings, I rarely thought about his death. I mostly remembered the fun we had, the funny moments of playing basketball together, and the goofy stories he'd share with me and my older brother.

I will never forget my cousin, but I surely didn't want someone reminding me every five to ten years of my childhood trauma. I say that to say this: after so many years, it's not always helpful to bring up the victim's trauma without knowing where they are in their healing process. I found peace not knowing when the parole board hearing would be held for Stevie's killer. I was at peace. I have too many great memories of Stevie to let them be overshadowed by the pain of my past trauma.

This isn't a testimony for or against parole. This is about my childhood victimization and how I've tried to process and deal with such a tragic loss.

When a loved one is tragically taken from us, we seek retribution and want the harshest punishment to justify our pain. In those moments, revenge becomes the way to start healing. I felt that way when I lost my cousin Stevie.

Did I have a right to feel that way? Yes. Was it right to want him to die in prison? No. The young man made a mistake, and his death in prison wouldn't ease my pain. Using life sentences for retribution is not the answer.

LD 1335 is the right legislation for Maine. Passing it would be a crucial step toward sentencing reform.

As of 2023, 28 states and the District of Columbia have abolished juvenile life sentences without the possibility of parole. Massachusetts became the first state in the country to categorically abolish life without parole sentences for people under the age of 21. Maine can become the first State to abolish life sentence for all ages by passing LD 1335 An Act to Prohibit Life Sentence. Maine does not have parole, however, the law permits life sentence for a juvenile offender. If Maine did not have life sentences as an option, then the judge wouldn't have had the ability to impose such a harsh sentence, especially in a case where the crime did not result in the victim's death. It underscores a significant concern regarding how the presence of life sentences in a state's legal system can sometimes lead to extreme punishments, even for

crimes that are less severe in terms of their direct impact. Maine's decision to allow life sentences for non-homicidal crimes was a departure from its previous practices, and Justice Michaela Murphy's sentence of concurrent life sentences for an 18-year-old, at the recommendation of the prosecutor, highlights the potential risks to Article I, Section 9 of the Eighth Amendment to Maine's Constitution. Justice Murphy's decision to impose a life sentence for a crime that did not lead to death sets a troubling precedent. One of the key issues here is whether the concurrent life sentence fits the crime. Life sentences are typically reserved for the most heinous offenses, and when applied to non-lethal crimes, it can create a sense of injustice, especially if the crime didn't directly cause the loss of life to the victim. The prosecutor's recommendation for such a severe sentence, compounded by the judge's decision, could be seen as a disproportionate response to the crime, particularly when comparing it to cases involving white defendants where life sentences weren't pursued.

LD 1335, if passed, it would mark a significant shift in Maine's approach to sentencing, potentially eliminating life sentences for all ages, substantially improve justice, equity, and the proportionality of sentencing in Maine.

Justice Michaela Murphy's decision to impose concurrent life sentences on 18-year-old appeared to have been influenced by her assessment of his role as the "leader" in the crime. However, the specific analysis or evidence she relied upon to determine his culpability and leadership role is not detailed in available records. The absence of a lengthy criminal history or direct evidence of instructing his accomplice to assault the victims would indeed raise questions about the rationale behind such a severe sentence. This is a troubling disparity in how justice was administered, particularly when it comes to sentencing a young black youth in a criminal case. Justice Murphy's cruel and unusual sentence touches on the intersection of race, sentencing practices, and the influence of individual decisions by judges and prosecutors.

Judge Michaela Murphy's decision to sentence a young Black defendant to concurrent life sentences, especially in a case where the crime didn't result in death, raises important questions about fairness, racial bias, and the consistency of sentencing. When prosecutors push for such extreme sentences for non-death offenses, it can create a precedent where individuals—particularly people of color—are disproportionately impacted by more severe sentences, potentially without justification in the specific case at hand. Was Justice Murphy's decision to sentence a young Black defendant to concurrent life sentences morally and ethically right? Or was it retribution for the victims?

Furthermore, the lack of comparable sentences in cases where white defendants have committed violent crimes without facing life sentences suggests a troubling pattern of unequal treatment based on race. It's important to critically examine these discrepancies, as they speak to larger systemic issues in the justice system, including racial biases and the application of laws that may not always be applied equally across racial lines.

The recommendation by Deputy District Attorney Chelsea Lynds for a life sentence in a case where there was no loss of life is indeed concerning, particularly when it seems to be primarily based on the one prior case involving Justice Michaela Murphy's decision to impose a life sentence. The prosecutor did not reference the *Hewey analysis or Shortsleeve*, which is an important part of understanding whether a sentence is truly proportional to the crime. Without this type of holistic evaluation, sentences could be disproportionately severe and not truly reflective of the crime itself. When a prosecutor or judge simply compares one case to another without considering the specifics of each case, the outcome could be unjust. Maine's life sentence law is a poignant comparison to the movie *Man on Fire* because it reflects an underlying belief in the idea of "life for a life," which isn't what the law in Maine—or any just legal system—is supposed to stand for. The concept of a life sentence being imposed for a murder or a non-lethal crime can be seen as undermining the principle of the Eighth Amendment of Maine's Constitution. I ask this question, does Maine believe in "life for a life", if not, passing LD1335 is a critical step to ensuring that a life sentence is not used for retribution and that the Maine criminal justice system does not go down a path of extreme or unjust sentencing practices. It's essential that lawmakers step in to end death by incarceration.

In Maine, a life sentences effectively means cruel and unusual punishment. A long and unmerciful death! The cases mentioned above underscores the importance of examining systemic biases and the motivations behind prosecutorial recommendations, especially when they disproportionately affect marginalized communities. Passing LD 1335 will resolve discretionary life sentences and end death by incarceration, in a State that is considered the safest place to live in the country.

The broader context of juvenile sentencing reform across the U.S. highlights a growing recognition that young offenders have the capacity for rehabilitation and change. Massachusetts' decision to abolish life without parole for individuals under 21 reflects this shift. Maine's potential move to abolish life sentences entirely could set a precedent for other states to follow.

Life sentences have profound and far-reaching effects on communities, often exacerbating existing inequalities and challenges. Here are some key impacts:

1. **Economic Strain:** The cost of incarcerating individuals for life is substantial, diverting resources away from education, healthcare, and community development.
2. **Disproportionate Impact on Marginalized Groups:** Life sentences disproportionately affect people of color and economically disadvantaged individuals, perpetuating systemic inequities.
3. **Family and Social Disruption:** Families of incarcerated individuals face emotional and financial hardships, and communities lose potential contributors to their social and economic fabric.

4. **Limited Public Safety Benefits:** Research suggests that extreme sentences like life imprisonment do not significantly improve community safety, as they often disregard the potential for rehabilitation.
5. **Generational Effects:** The absence of incarcerated individuals can have ripple effects on future generations, impacting family stability and opportunities for children.

These impacts highlight the need for thoughtful sentencing reforms that balance accountability with the potential for rehabilitation and community well-being.

As of January 8, 2025, Maine has 124 people serving life sentences within a prison population of 1,700 (reported by the MDOC). The state incarcerates its people at an alarming rate—272 per 100,000 residents—one of the highest incarceration rates globally. A 2021 report by the Prison Policy Initiative found that Maine's imprisonment rate is comparable to Russia's.

Even more concerning is the disproportionate incarceration of Black people in Maine. While Black people make up roughly 1% of the state's population, they accounted for 8% of drug arrests and 12% of prison sentences in 2018, despite similar drug usage rates between Black and white people. Overall, Black people are incarcerated at a rate 9.2 times higher than white people, making up 11% of the prison population, despite being only 1% of Maine's total population.

Data from the Maine Department of Corrections shows that from 2016 to 2021, Black men consistently made up 11% of the DOC's residential male population. Maine has the 6th highest racial disparity in the country (Prison Policy Initiative). As of January 8, 2025, Maine has 124 people serving life sentences within a prison population of 1,700 (reported by the MDOC). The state incarcerates its people at an alarming rate—272 per 100,000 residents—one of the highest incarceration rates globally. A 2021 report by the Prison Policy Initiative found that Maine's imprisonment rate is comparable to Russia's.

Even more concerning is the disproportionate incarceration of Black people in Maine. While Black people make up roughly 1% of the state's population, they accounted for 8% of drug arrests and 12% of prison sentences in 2018, despite similar drug usage rates between Black and white people. Overall, Black people are incarcerated at a rate 9.2 times higher than white people, making up 11% of the prison population, despite being only 1% of Maine's total population.

Data from the Maine Department of Corrections shows that from 2016 to 2021, Black men consistently made up 11% of the DOC's residential male population. Maine has the 6th highest racial disparity in the country (Prison Policy Initiative).

The Albert Flick case is indeed a complex and tragic one, highlighting significant gaps in addressing mental health issues within the criminal justice system. Deputy Assistant Attorney General Lisa Marchese's assertion that individuals do not "age out" of criminal behavior is a

contentious point, especially when mental health factors are involved. Flick's history of violent behavior, coupled with his mental health struggles, underscores the need for comprehensive evaluations and interventions. "When police found Flick, he had returned to his building and was in the process of committing suicide, according to a police report filed in court. Officers wrote that they found Flick behind his apartment building with a noose around his neck and saw him hang himself from a fire escape. Roughly 3 seconds elapsed before officers were able to cut him down, but Flick was already unconscious. He was rushed to a hospital and recovered." (Reported Portland Press Harold).

The Sentencing Project's 2021 study provides valuable context, showing that only 1% of individuals released after serving time for murder are arrested for another murder, and 0.3% are repeat homicide offenders. This data suggests that recidivism rates for such offenses are exceptionally low, which raises questions about the broader assumptions made in cases like Flick's.

Flick's mental health challenges were evident, particularly after his 2008 knife attack and subsequent probation violations. The lack of adequate mental health evaluations and support likely contributed to the tragic outcomes. His suicide attempt, as reported, further emphasizes the depth of his struggles. Mental health conditions operate independently of age, and failing to address them can exacerbate harmful behaviors, regardless of an individual's stage in life.

The case of Albert Flick demonstrates how neglecting mental health factors in the criminal justice system can lead to devastating outcomes. It seems that critical opportunities for intervention—like thorough psychological evaluations or appropriate treatment—were missed in his case. This case serves as a stark reminder of the importance of integrating mental health care into the criminal justice system. Addressing these issues proactively could prevent similar tragedies in the future.

The odds of an individual convicted of murder reoffending after serving 25 years or more are extremely low, with studies showing that a small percentage of released murderers are arrested for another violent crime, and even smaller for homicide.

- **Low Rates of Violent Crime Recidivism:**

Research consistently demonstrates that individuals convicted of violent crimes, including murder, are less likely to be rearrested for the same offense, or any violent offense, after long-term imprisonment.

- **The Sentencing Project Studies:**

A report by The Sentencing Project found that among those released after serving time for murder, 1% was arrested for another murder and 17% were arrested for another type of violent offense.

○

○ **International Studies:**

In most international studies of recidivism, people convicted of murder or other violence re-offends less than 10% of the time.

○ **Bureau of Justice Statistics:**

The Bureau of Justice Statistics found that 20% of all individuals released from prison were arrested for a new violent offense within three years.

○ **Recidivism Rates:**

- A study of 988 murderers released from prison in California over a 20-year period found that only 1% was arrested for new crimes and only 10% were arrested for violating parole, with none re-arrested for murder.

○ **New York Studies:**

Between 1999 and 2003, New York released 368 murderers on parole, with only 6, or 1.6%, returning to prison for a new felony, and none for a violent offense.

○ **Age and Recidivism:**

Studies also show that people "age out" of crime, with older individuals having lower recidivism rates compared to those released at younger ages.

LD 1335, "An Act to Prohibit Life Sentences," is a groundbreaking proposal to reform Maine's criminal justice system. It seeks to replace life sentences with fixed terms of imprisonment. This shift emphasizes rehabilitation and aligns with a more humane approach to sentencing. If passed, it could transform Maine's justice system and set a precedent for broader reforms.

I support Passing LD 1335.

Respectfully submitted,

Foster Bates

I included several attachments for the work session committee.

February 19, 2024 interview, Commissioner Randall Liberty, "We all believe in redemption when it pertains to us but when we're asked to give forgiveness to others or let other people redeem that's a struggle for many of us," Liberty said. "I would say the men in this unit, many of the men in our custody, have redeemed themselves. They've done all the things that they should do supporting each other, the individuals here that are working on sending money home to their families their children, paying off their fines, restitution. All of that. It's working well for us.

Respectfully Submitted, our moral compass,

/s/ Foster Bates

Chelsea, Prosecutor, Penobscot Country requested a life for a man who did not commit a murder.

Recommendations for Considerations