



# **Permanent Commission RACIAL, INDIGENOUS & TRIBAL POPULATIONS**

## **Testimony Regarding LD 1911**

### ***An Act to Automatically Seal Criminal History Record Information for Certain Crimes***

#### **Presented to the Joint Standing Committee on Judiciary**

January 8, 2026

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary, my name is Sam Zuckerman. I am the Policy Coordinator of the Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations. I am here today to testify neither for nor against LD 1911, "An Act to Automatically Seal Criminal History Record Information for Certain Crimes."

The Permanent Commission's Policy Committee broadly supports legislation that would make systemic reforms to Maine's criminal legal system and mitigate collateral consequences for impacted individuals. However, due to the timing of the Permanent Commission's Policy Committee meetings, the members have not had sufficient time to adequately discuss the details of this bill. That said, I can provide relevant information and context about disparate impacts of the criminal legal system on communities of color to help in your consideration of this bill.

Racial disparities in drug-related arrests in Maine are clear and outpace racial disparities in the enforcement of other types of laws.<sup>i</sup> The data show that Black people use illicit and illegal drugs at a similar rate to white people, but they are three and a half times more likely to be arrested for drug possession charges as white people who use drugs.<sup>ii</sup> Data analyzed by the ACLU shows that in Maine, the racial disparities in marijuana possession arrests were larger in 2018 than in 2010. In 2010, the arrest rate for Black Mainers for marijuana possession was 2.1 times the rate for white Mainers, while in 2018, this disparity grew to Black Mainers being four times more likely to be arrested for marijuana possession.<sup>iii</sup> These disproportionate arrest rates then in turn result in disproportionate conviction rates. Indigenous people in Maine are twice as likely as white people to be charged with drug possession, and three times as likely to be charged with the lowest level of drug possession.<sup>iv</sup>

Maine's incarcerated population also increased by 163% between 1983 and 2015.<sup>v</sup> This means higher costs to the state to house and care for residents of corrections facilities<sup>vi</sup> and more Mainers with criminal records struggling to get their lives back on track. A criminal record makes virtually every aspect of day-to-day life more difficult, from finding housing to getting a loan to finding a job to getting an education. A study of 50,000 people released from federal prison in 2010 found that 33% were not able to find any employment more than four years after being released and that, at any given time during that period, no more than 40% of those people were employed.<sup>vii</sup> And Maine makes it especially hard for formerly incarcerated people to get back on their feet, ranking 44<sup>th</sup> out of 50 states for laws restoring rights and opportunities after arrest and conviction.<sup>viii</sup> We hope that you will take these disproportionate impacts on Mainers of color into account when considering the bill before you.

Thank you for your time and attention. If you would like further information about racial disparities in Maine, our office has a number of reports on our website, including our State of Racial Disparities report.<sup>ix</sup> I would be happy to answer any questions.

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<sup>i</sup> Shelor, B, et al. (2019). "Justice Reinvestment in Maine: Second Presentation," *Council of State Governments, November 25, 2019*. Available at: <https://csgjusticecenter.org/wp-content/uploads/2020/10/JR-in-Maine-second-presentation1.pdf>

<sup>ii</sup> Mendoza S. et al. (2019). "Race, Stigma, and Addiction," in *The Stigma of Addiction: An Essential Guide*, Jonathan D. Avery and Joseph J. Avery, eds. at 134, pp. 131–152.

<sup>iii</sup> ACLU. (2020). "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform" Report. Available at: [https://www.aclu.org/wp-content/uploads/publications/marijuanareport\\_03232021.pdf](https://www.aclu.org/wp-content/uploads/publications/marijuanareport_03232021.pdf)

<sup>iv</sup> ACLU and MECEP. (2022). "A better path for Maine: The case for Decriminalizing Drugs". Report. Available at: <https://www.aclumaine.org/en/betterpathreport>

<sup>v</sup> Prison Policy Institute. Maine profile. (n.d.). <https://www.prisonpolicy.org/profiles/ME.html>

<sup>vi</sup> The cost of housing someone in a Maine state prison is around \$78,000. See Maine Department of Corrections. 2022. DOC Responses to Other Information Requests. accessed 3/12/23. <https://legislature.maine.gov/doc/9093>

<sup>vii</sup> Wang, L. & Bertram, W. (2022). New data on formerly incarcerated people's employment reveal labor market injustices. *Prison Policy Institute*. <https://www.prisonpolicy.org/blog/2022/02/08/employment/>; Carson, E.A., Sandler, D.H., Bhaskar, R., Fernandez, L.E., Porter, S.R. (2021). *Employment of Persons Released From Federal Prison in 2010*. Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/eprfp10.pdf>

<sup>viii</sup> Colgate Love, M. (2022). *The Reintegration Report Card*. Collateral Consequences Resource Center. <https://ccresourcecenter.org/wp-content/uploads/2022/03/The-Reintegration-Report-Card.3.2122.pdf>

<sup>ix</sup> Permanent Commission on the Status of Racial, Indigenous and Tribal Populations. Resources. <https://pcritp.me/resources>



# Criminal Legal System

Whether we're Black, white, brown, Indigenous or New Mainers, we all want to live in safe, healthy, and flourishing communities. When something happens to threaten that safety, we deserve systems that address the harm and allow our communities to heal and become whole again. Across the US, however, we rely on a punitive system of criminal justice founded on laws, policies, and practices that disproportionately target communities of color, offer little to those who are impacted by crime, and threaten the cohesion of communities and families. Perhaps most importantly, this system simply doesn't work. Today, lack of faith in our criminal legal system has resulted in nearly half of violent crimes in the US<sup>184</sup> and around two-thirds of violent crimes in Maine<sup>185</sup> going unreported for fear of long-term community impacts, retribution, or even violence at the hand of those sworn to protect and serve. Addressing the deep and systemic roots of racism in our criminal legal system will help to rectify past harms and create space for imagining new forms of justice that support rehabilitation, resilience, and community healing over perpetual punishment.

## America's Criminal Legal System

Today the US is home to only 4% of the world's population but houses 16% of the world's incarcerated people.<sup>186</sup> Of currently incarcerated people, more than half are Black, Indigenous, or Latino.<sup>187</sup> This is not an accident of history, but instead, the outcome of structural biases within our criminal legal system.

The roots of today's criminal legal system in the US can be traced back to slavery. Some of the first policing forces in America were created to suppress uprisings of enslaved people and to capture and return those who had escaped.<sup>188</sup> Even after slavery was abolished in northern states in 1827, the New York City Kidnapping Club, comprised of judges, lawyers, police officers, and bankers, exploited loopholes in anti-slavery laws to kidnap free Black Americans and sell them into bondage.<sup>189</sup>

After the Emancipation Proclamation ended slavery in 1863, Southern states passed laws called "Black Codes." These laws limited the freedom of formerly enslaved people by making it illegal to be homeless or unemployed. These states then set up institutions to support the practice of "convict leasing," which allowed plantations and other corporations that had historically relied on slavery to "lease" those convicted of crimes to provide free labor.

The legal practice of convict leasing was abolished in 1941, but today, incarcerated people continue to provide substantial forms of labor with little compensation

(today averaging between 13 and 52 cents an hour) and few protections against exploitation and abuse.<sup>190</sup> In some cases, these forms of labor also feed concerns around environmental justice, as incarcerated people are increasingly asked to take on high-risk work on the frontlines of the climate crisis, like fighting wildfires and other forms of disaster response<sup>191</sup> (see more in [Environmental Justice](#)).

While historic policies driving incarceration were often explicitly racist, today, the factors leading to racial disparities in our criminal legal system are more complex. Zero tolerance policies and increased use of school resource officers in public schools push children — especially children of color — out of schools and into the legal system at a young age, sometimes referred to as the school-to-prison pipeline<sup>192</sup> (see more in [Public Education](#)). National policies like the "War on Drugs" penalized different forms of the same drugs more or less harshly depending on their use, resulting in racial disparities in drug-related arrests and convictions.<sup>193</sup> Policies like stop and frisk and proactive policing create space for personal and institutional bias to enter into law enforcement, and today, conviction rates for the same crimes result in dramatically different sentencing depending on the defendant's race, class, and ethnicity.<sup>194</sup> And the results of these disparities go beyond disparate rates of incarceration. Police use of force remains among the leading causes of death for men of color between the ages of 20 and 35 years old.<sup>195</sup>

### Maine Incarceration Rates by Race and Ethnicity

Maine Prison Rates per 100,000 residents (2021)

White	101
Black	929
Indigenous	618

**Figure 14.** Black Mainers are incarcerated at over nine times the rate of white Mainers. Adapted from the Prison Policy Institute (2023).<sup>198</sup>

## Incarceration in Maine: Racial Disparities

Maine experienced a 163% increase in incarceration between 1983 and 2015.<sup>196</sup> And today, the average annual cost for housing someone in a Maine state prison is around \$78,000.<sup>197</sup> The state currently ranks 44th out of 50 for racial disparity in state prisons, with Black

Mainers incarcerated at over nine times, and Indigenous people incarcerated at over six times the rate of white Mainers (see Figure 14).<sup>198</sup> In Portland, the state's largest city, Black people account for 17% of all arrests, despite making up only 4% of the population, and are *significantly more likely to be arrested* if the incident was initiated by an officer than by a 911 call.<sup>199</sup>

Racial disparities are also evident in the proportion of drug-related arrests of people of color in Maine.<sup>200</sup> Research shows that Black people use illicit and illegal drugs at a similar rate to white people, but they are three and a half times more likely nationally to be arrested for drug possession charges.<sup>201</sup> In Maine, this has historically been exemplified in charges for marijuana possession, where the arrest rate was 2.1 times higher for Black Mainers than white Mainers in 2012, and up to four times higher in 2018.<sup>202</sup> The issue of racial disparities in incarceration is also deeply tied to Maine's housing crisis, which disproportionately impacts people of color. From 2018 to 2020, more than one third of arrests made in the city of Portland were people who were unhoused (see more in [Housing](#)).<sup>203</sup>

## Collateral Consequences

Racial disparities embedded in the criminal legal system both stem from and factor into the broader structures of disparity and inequality in society. Just as people who are already marginalized are more likely to face incarceration, those who have been incarcerated are more likely to face challenges in finding stable housing, securing loans, completing their education, and finding stable work. A study conducted by the Bureau of Justice Statistics, for example, followed more than 50,000 people after their release from federal prison in 2010, and found that “33% found no employment at all over four years post-release, and at any given time, no more than 40% of the cohort was employed. People who did find jobs struggled, too: Formerly incarcerated people in the sample had an average of 3.4 jobs throughout the

**33%**

**of formerly incarcerated people couldn't find work four years after release.**<sup>205</sup>

four-year study period, suggesting that they were landing jobs that didn't offer security or upward mobility.”<sup>204</sup>,<sup>205</sup> These issues are indeed present in Maine, where the 2022 Reintegration Report Card offered by the Collateral Consequence Resource Center ranked Maine 44 out of 50 states for laws restoring rights and opportunities after arrest and conviction. Maine had slipped back 5 places since the 2020 report.<sup>206</sup>

### QUICK FACTS

Maine ranks **44th** for Black-White disparity in state prisons.

Maine incarcerates Black people at a rate **3.2 times higher** than white people.

Maine experienced a **163% increase in incarceration** between 1983 and 2015.

The average annual cost for housing an inmate in Maine is **\$78,000**.

## BACKGROUND CONTEXT & THEORY

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## NATIONAL-LEVEL DATA SOURCES

[Otherness and Belonging Institute Racial Disparities Dashboard](#).  
[American Inequality: Violent Crime and Inequality](#).  
[The Sentencing Project: US Criminal Justice Data](#).  
[Bureau of Justice Statistics Annual Report \(2021\)](#).  
[National Institute of Corrections National Data \(2021\)](#).

## MAINE-SPECIFIC DATA SOURCES

[Maine Department of Corrections Reports and Statistical Data](#).  
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