

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 1668 – Ought To Pass

Resolve, To Develop a Plan To Close the Long Creek Youth Development Center and Redirect Funding to Community Integration Services for Adjudicated Youth

Joint Standing Committee on
Criminal Justice and Public Safety

May 10, 2021

Senator Deschambault, Representative Warren and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede, and I am Policy Counsel of 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 the ACLU of Maine, we urge you to vote that LD 1668 *ought to pass*.

Several members of this Committee sat on the Juvenile Justice System Assessment and Reinvestment Task Force,¹ which met monthly between May of 2019 and February of 2020 to discuss the issues facing youth and systems tasked with care for youth in our state. At the task force's February 2020 meeting, the Center for Children's Law and Policy (CCLP) presented a lengthy report on Maine's youth justice system – almost certainly the most thorough study of its kind ever done in Maine. The report not only includes a wealth of knowledge about Maine and other states that are similar to Maine, but also offers useful guideposts for where to go from here. Of all the pieces of legislation moving through the 130th Legislature, this resolve is best poised to advance the CCLP report's findings.

Maine's only youth prison, Long Creek Youth Development Center, requires more than 150 staff and \$18 million per year to house only 28 young people. This is an irresponsible use of state resources, especially when considering the harm that the facility causes to young people. LD 1668 provides a path out so that no one is left behind: staff, youth, and the facility itself are all provided for and can move forward together.

CCLP Report Findings

¹ Maine Juvenile Justice System Assessment & Reinvestment Task Force, Website, *available at* www.mainejjtaskforce.org/about. The taskforce was created by the 129th Legislature's LD 1108, which is *available at* <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0812&item=1&snum=129>

The CCLP Report sets forth the most recent assessment of Maine’s juvenile justice system and proposals for reform. Many of the deficiencies identified in the report arise from the absence of community-based, therapeutic services for children in Maine. The report reveals that “[i]n 53% of cases, the reason for detention was to ‘provide care’ for youth.”² Perhaps more revealing is that “72.7% of detention stays lasting longer than 30 days were for youth awaiting placement.”³ Moreover, the report showed that public safety is often not the primary reason for detention: “[i]n 47% of cases, youth were held in detention for 3 days or less, suggesting they were not significant public safety risks”⁴ and “low risk youth staying substantially longer than high risk youth.”⁵ In short, we are sending kids to prison because of the lack of community-based programs and services to provide supervision or housing.

Another major finding was that an overwhelming proportion of incarcerated youth have a recent history of mental or behavioral health difficulties. The report found that 69% of youth currently committed to Long Creek received behavioral health services through MaineCare the year before they were committed, with 55% experiencing residential stays and 16% psychiatric hospital stays (some youth experienced both).⁶ As a result, the juvenile justice system has become the default provider of behavioral and mental health services for Maine youth.

Still another concerning conclusion is that “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.”⁷ Relatedly, the report found that although Black or African American residents make up only 1.6% of Maine’s population, 23% of detained youth identified as Black/African American.⁸ The report also found that “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.”⁹ Moreover, “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.”¹⁰ Similarly disturbing, “[y]outh with disabilities are often referred to law enforcement for behavior that is a manifestation of their

² Maine Juvenile Justice System Assessment Final Report at 8, Center for Children’s Law and Policy et al. (2020) (hereinafter CCLP Report), available at <https://irp-cdn.multiscreensite.com/de726780/files/uploaded/Maine%20Juvenile%20Justice%20System%20Assessment%20FINAL%20REPORT%202-25-20.pdf>

³ CCLP Report at 37.

⁴ CCLP Report at 8.

⁵ CCLP Report at 8.

⁶ CCLP Report at 50, 105-106.

⁷ CCLP Report at 117.

⁸ CCLP Report at 33.

⁹ CCLP Report at 68.

¹⁰ *Id.* See also Wilber, S. (2015). Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System: A Guide to Juvenile Detention Reform. <http://www.aecf.org/m/resourcedoc/AECF-lesbiangaybisexualandtransgenderyouthinjj-2015.pdf>

disabilities, and often remain in secure custody for long periods because of a lack of less restrictive community or home-based programs and services.”¹¹ Many other such findings are summarized early in the report, and analyzed in detail throughout its pages.

Some of these problems are easier to understand – but no easier to stomach – when one considers the serious deficiencies in Maine’s overall system for providing children’s family and behavioral services. A comprehensive report in 2018 acknowledged that “[c]hildren’s behavioral health services [in Maine] are not available immediately (or at all),” “[t]he quality of behavioral health services is not consistent,” and “[c]oordination with other child-serving agencies and transition to adult services is inadequate.”¹² Years later, wait lists continue for necessary therapeutic supports in the community.¹³ The absence of quality assurance staff at DHHS¹⁴ means that the few programs that are available for youth face little consequence for denying services because of manifestations of a child’s disability. The CCLP Report explains that community-based services are some of our best tools for diverting youth from the prison system. We urge the Committee, and the Legislature, to invest in community-based services.

Why This Bill is the Legislature’s Best Option

The CCLP report’s ultimate goal, listed after 46 short, medium, and long-term goals or solutions, is to “[a]chieve removal of all youth from Long Creek.”¹⁵ This goal is no different from the demand that formerly incarcerated youth have made. It is no different from the demand that the ACLU made more than three years ago, after a report revealed serious and troubling problems at Long Creek.¹⁶ Since we all want our youth to flourish, and not merely survive, we must imagine a Maine free of youth prison. This resolve would take a bold approach toward that goal.

This resolve would direct the Department of Corrections (“DOC”) to create a plan to close the Long Creek by June 30, 2023. The plan must include individual transition plans for remaining committed

¹¹ CCLP Report at 68.

¹² Me. Dep’t of Health & Human Servs., Office of Child & Family Servs., Children’s Behavioral Health Services Assessment Final Report (Dec. 15, 2018), available at <https://www.maine.gov/dhhs/ocfs/cbhs/documents/ME-OCFS-CBHS-Assessment-Final-Report.pdf>.

¹³ See Children’s Behavioral Health, State of Maine Child and Family Servs., <https://www.maine.gov/dhhs/ocfs/dashboards/childrens-behavioral-health.shtml> (click “Number of Children on Waitlist and Avg. Days”).

¹⁴ See Children’s Behavioral Health: An Update on System Improvement Efforts, Me. Dep’t of Health & Human Servs., Office of Child & Family Servs. (Dec. 2020), available at <https://www.maine.gov/dhhs/ocfs/cbhs/documents/CBHS%20Annual%20Report%202020%20FINAL.pdf> (stating that “OCFS previously had a group of staff dedicated to children’s behavioral health quality assurance, but those positions were eliminated by the previous administration” and “there is limited monitoring of the quality of services delivered or their fidelity to evidence-based models”).

¹⁵ CCLP Report at 136.

¹⁶ *ACLU Of Maine Calls For Closure Of Long Creek Youth Prison*, Press Release, Dec. 14, 2017, www.aclumaine.org/en/press-releases/aclu-maine-calls-closure-long-creek-youth-prison#:~:text=

youth committed, a workforce development plan for Long Creek staff developed in coordination with the Department of Labor; a process for establishing a community reinvestment fund; and options for moving juvenile services out of the DOC and to another agency serving youth; and empower your committee to study the selection of an entity to manage and distribute corrections funds to community-based integration services for youth. Crucially, it would ensure that these funds are not administered by DOC, a condition favored by numerous formerly incarcerated youth.

Recognizing the interrelated nature of our housing and youth justice crises, this resolve would also require that the Long Creek facility be repurposed for use as a community center with supportive housing. Finally, this resolve requires DOC to submit a report that includes its findings and recommendations, including suggested legislation, to this committee by December 1, 2021. DOC has already proven its desire and capacity to produce such a report: on March 7th of this year, it responded to the movement to close Long Creek by publishing an “Action Plan” and presenting it to your committee. This resolve gives DOC an opportunity to build on its own work.

Conclusion

There are currently 28 children incarcerated at Long Creek. There are more than 150 staff members keeping Long Creek open. Our state spends \$18 million a year to keep this system going. In order to adequately fund community solutions to youths’ needs, we ask the Committee to close Long Creek, and repurpose the funds used there for services that are healing rather than traumatizing. That is what this resolve would do. We ask that you vote *ought to pass*.

Thank you for your time and attention.