

May 10, 2021

Senator Susan Deschambault
Representative Charlotte Warren
Joint Standing Committee on Criminal Justice and Public Safety
100 State House Station, Room 436
Augusta, ME 04333

Re: LD 1668: Resolve, To Develop a Plan To Close the Long Creek Youth Development Center and Redirect Funding to Community Integration Services for Adjudicated Youth

Dear Senator Deschambault, Representative Warren, and Members of the Joint Standing Committee on Criminal Justice and Public Safety:

My name is Jill Ward. I live in South Portland. I have worked on juvenile justice policy reform for more than 20 years and for the past decade have consulted on juvenile justice and children's issues both nationally and here in Maine. I currently manage the Center for Juvenile Policy and Law at Maine Law and am one of the three co-chairs of the Maine Juvenile Justice System Assessment and Reinvestment Task Force.¹ This testimony is being provided for informational purposes and does not represent the position of the Maine Law, the University of Maine System, or the Task Force.

One of the main areas of my work has been educating policy makers, stakeholders and the public about the harmful effects of justice system involvement, particularly incarceration, on children and youth and the ineffectiveness of the youth prison model to reduce recidivism and produce positive outcomes for young people and their communities.

The Harms of Incarceration and the Failure of the Youth Prison Model

Research has demonstrated negative impacts from both formal juvenile justice system processing and subsequent confinement. Rather than providing a public safety benefit, formal system processing often has the opposite result: youth who have had some justice system involvement are more likely to reoffend than those who were effectively diverted from the system.² Re-offense rates are similarly higher for those youth who are confined as compared to those who are diverted or managed in the community.³ Adjudicating and incarcerating our children is not making us safer and is, in fact, contributing to a variety of other harms, including

¹ For more information see, www.maineijtaskforce.org.

² Juvenile Justice Resource Hub, "Community-Based Alternatives: Key Issues," retrieved at: http://jjie.org/hub/community-based-alternatives/key-issues/#_edn6; citing Anthony Petrosino, Carolyn Turpin-Petrosino, and Sarah Guckenbug, "Formal System Processing of Juveniles: Effects on Delinquency," Campbell Systematic Reviews (January 29, 2010), 38. Available at <https://bit.ly/30md72U>. See also National Juvenile Justice Network, "Emerging Findings and Policy Implications from the Pathways to Desistance Study," (Washington, DC: 2012). <http://bit.ly/14jXkQl>.

³ Richard A. Mendel, "No Place for Kids: The Case for Reducing Juvenile Incarceration" (Baltimore: The Annie E. Casey Foundation, 2011), 10. Available at: <http://www.aecf.org/noplaceforkids>. Also see Richard A. Mendel, "Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice," (Washington, DC: American Youth Policy Forum, 2001), 8, available at <http://bit.ly/1DtNfiz>, which states that studies of youth sent to large juvenile correctional institutions in the past 30 years have found a 50-70 percent recidivism rate within one to two years of release; James Austin, Kelly Dedel Johnson, and Ronald Weitzer, "Alternatives to the Secure Detention and Confinement of Juvenile Offenders" (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, September 2005).

increased risk of abuse and trauma, a lack of fairness, harm to families, and negative developmental and educational impacts; all at a higher cost than community-based alternatives.

It's ineffective: Research has demonstrated that “residential placements generally fail to produce better outcomes than alternative sanctions, cost much more, and can actually increase reoffending for certain youth.”⁴ One of the most statistically sound and comprehensive studies from 2013, and updated in 2015, found that “incarceration as a juvenile increases the probability of recidivism as an adult by between 22 and 26 percent.”⁵ Incarcerating youth interferes with the “aging out” of delinquency upon young adulthood by disrupting natural engagement with families, school, and work. As a result incarcerated youth are 41% more likely to have entered adult prison by age 25. Alternatively, a 2019 study analyzed pretrial outcomes for 340 detained youths and 517 community-supervised youths and found that being placed in detention increased the likelihood of recidivism for low-risk youth by 28 percent within two years of release.⁶ Another study found more than 8 out of 10 youth who had participated in a community-based program remained arrest free and 9 out-of-10 were at home after completing the program, at a cost that is a fraction of what it would have cost to incarcerate these youth.⁷ The findings highlight how high-need youth have been safely and successfully supported in their homes with the help of intensive community-based programs.

It's expensive: The average state cost for the secure confinement of a young person is now \$588 per day, or \$214,620 per year, a 44 percent increase from 2014.⁸ Annually, it costs states billions per year to incarcerate children and youth. In Maine, it is estimated that Long Creek spends more than \$250,000 per child at an annual cost of \$18.6 million.

It's unsafe: Nationally, not a week goes by without a headline in a newspaper citing abuse of an incarcerated youth. One of the most recent examples being right next door at the remaining youth prison in New Hampshire.⁹ Youth face physical abuse, excessive use of force by facility staff, sexual abuse, over-reliance on isolation and restraints, staff on youth violence, and youth on youth violence.¹⁰ And, abuse continues to increase despite the fact that juvenile crime has been decreasing steadily since the 1990s. Surveys of youth are consistent with these data reports. U.S. Department of Justice surveys of committed youth showed that 42% of youth were somewhat or very afraid of being physically attacked, 45% said staff used force when they didn't need to, and 30% said staff place youth in solitary confinement or lock them up as

⁴ *Re-Examining Juvenile Incarceration High cost, poor outcomes spark shift to alternatives.* (April 2015) PEW Center of the States. The PEW Charitable Trusts. Available at: <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration>.

⁵ Anna Aizer and Joseph Doyle. *Juvenile Confinement, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges.* The Quarterly Journal of Economics. 130 (April 2015).

⁶ Ogle, Meghan R., and Jillian J. Turanovic. *Is getting tough with low-risk kids a good idea? The effect of failure to appear detention stays on juvenile recidivism.* Criminal Justice Policy Review 30, no. 4 (2019): 507-537.

⁷ *Safely Home: Reducing youth incarceration and achieving positive outcomes for high and complex need youth through effective community-based programs.* (June 2014). Youth Advocate Programs, Inc. Available at: <http://www.yapinc.org/Media/ArticleID/138/New-YAP-Juvenile-Justice-Report-Garners-National-Attention>

⁸ *Sticker Shock 2020: The Cost of Youth Incarceration.* (July 2020). Justice Policy Institute. Washington, D.C. Available at: http://www.justicepolicy.org/uploads/justicepolicy/documents/Sticker_Shock_2020.pdf

⁹ *4 more ex-youth center workers charged in New Hampshire.* Bangor Daily News. April 22, 2021. Available at: <https://bangordailynews.com/2021/04/22/news/new-england/4-more-ex-youth-center-workers-charged-in-new-hampshire/>

¹⁰ *Maltreatment in Youth in U.S. Correctional Facilities.* (2015). Baltimore, MD: The Annie E. Casey Foundation. Available at: <https://www.aecf.org/resources/maltreatment-of-youth-in-us-juvenile-corrections-facilities>.

discipline.¹¹ In one of the most recent surveys more than half (56%) of youth in custody reported experiencing one or more of the types of victimization, including 29% reporting being beaten up or threatened with being beaten up since coming to their facility.¹² Lawsuits against Long Creek in recent years and some of the first hand testimony from formerly incarcerated youth suggest that Maine is not immune to this trend.¹³

It's unfair: The justice system disproportionately impacts youth of color, girls, LGBTQ youth, and youth with disabilities. For example, according to the latest data from the U.S. Department of Justice, Black youth are nearly five times more likely than their white peers to be incarcerated for similar offenses. Latino youth are 1.8 times more likely to be incarcerated than white youth and Native American youth are 3.2 times more likely to be incarcerated than white youth.¹⁴ In Maine, most recent data indicate that youth of color are more likely to be detained or committed than their white counterparts and that that these disparities have worsened over time.¹⁵ Although only about 5 percent of people in the United States identify as LGBTQ, some estimates suggest that as many as 30 percent of the youth in Long Creek over the last several years identify as LGBTQ.

It's counter to the principles of adolescent development and the juvenile justice system: There is a rich body of research on adolescent development and evidence-informed programs that effectively reduce juvenile delinquency. The National Academy of Sciences (NAS) conducted an exhausted four year study on juvenile delinquency and their report on the research states that youth are less able to regulate their own behavior in emotionally charged contexts, are more sensitive to external influences (e.g. peer pressure) and they show less ability to make judgment and decisions about the future.¹⁶ This research underscores the historic, long-standing legal and policy basis for separate state juvenile justice systems that are predicated on the notion that children are different from adults; that they have the capacity to change and are capable of rehabilitation as they are still growing and developing.

It breaks up families: Removing youth from their homes and communities and placing them in correctional settings disrupts the healthy psychological development of youth by disconnecting youth from their parents or parent figures, from peers who model and value academic success and positive social behavior, and from participation in activities that require critical thinking and independent decision-making.¹⁷ Youth are often placed in facilities far from their families, with limited access and visits. Families are often not included in the treatment plans for youth even though the research confirms that the most effective programs in juvenile justice draw on family strengths.¹⁸

¹¹ *Conditions of Confinement: Findings from the survey of youth in residential placement.* (2010). Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. Available at: <https://www.ncjrs.gov/pdffiles1/ojdp/227729.pdf>.

¹² *Nature and Risk of Victimization: Findings from the Survey of Youth in Residential Placement.* (2013). Washington, D.C. Office of Juvenile Justice and Delinquency Prevention. Available at: https://www.nijm.org/uploads/digital-library/Nature-and-risk-of-victimization_OJJDP-Bulletin_June-2013.pdf

¹³ See, Ali v. Long Creek, et al. (2018).

¹⁴ *Unbalanced Juvenile Justice.* (2015) Haywood Burns Institute. Oakland, CA. Available at: <http://data.burnsinstitute.org/#comparison=2&placement=1&rac=2,3,4,5,6&offenses=5,2,8,1,9,11,10&year=2011&view=map>.

¹⁵ *Data Snapshot of Youth Incarceration in Maine.* Justice Policy Center, Urban Institute (April 2020). Available at: <https://www.urban.org/research/publication/data-snapshot-youth-incarceration-maine>

¹⁶ *Reforming Juvenile Justice: A Developmental Approach.* (2012) Washington, D.C.: National Academy of Sciences.

¹⁷ *Ibid.*

¹⁸ *Family Comes First.* (2013) Washington, D.C.: Campaign for Youth Justice.

It interrupts education: Incarceration also puts kids further behind in school. A 2014 study found that “both state and local juvenile justice systems are failing profoundly in providing adequate, effective education in the south and the nation.”¹⁹ Approximately two-thirds of young people do not return to school after release from secure custody.²⁰

It results in sicker adults: Youth incarceration also leads to poorer health and wellness outcomes as adults. Results of a study published in *American Pediatrics* found that “child incarceration independently predicted adult mobility limitations, adult depression and adult suicidal thoughts,” confirming the link between younger age at first incarceration and worse adult health.²¹

Consider this conclusion from a comprehensive 2016 report published by the National Institute of Justice documenting the failure of the youth prison model and its inherent imperviousness to reform:

“The failure of youth prisons to help young people get back on track, as well as their failure to protect public safety, flows from inherent flaws in the model itself. Adult-style prisons that emphasize confinement and control are devoid of the essentials required for healthy adolescent development — engaged adults focused on their development, a peer group that models prosocial behavior, opportunities for academic success, and activities that contribute to developing decision-making and critical thinking skills. At the same time, these facilities provide too many of the elements that exacerbate the trauma that most confined youth have already experienced and reinforce poor choices and impulsive behavior. Maltreatment is endemic and widespread.”²²

State and National Trends

In the last decade, jurisdictions across the country have enacted reforms to close youth prisons, remove youth from confinement in youth prisons, and reallocate resources to community-based alternatives to incarceration. Kansas, Connecticut, New Jersey, Virginia, Wisconsin, Texas, New York, Illinois, and Utah have substantially reduced their reliance on incarceration, closed large youth prisons, and reinvested dollars in community-based alternatives to incarceration – and they did this without compromising public safety. Most recently, New Hampshire’s governor, state legislature and key stakeholders have come together to move forward with closing the remaining youth prison there. They have tentatively set a closure date of July 2023 and are being a planning process to ensure a successful transition to a more effective community-based continuum of care.

At the federal level, the Biden Administration pledged \$100 million to support states to close and repurpose youth prisons, including supporting a robust planning process to help redirect

¹⁹ *Just Learning*. (2014). Atlanta, GA: Southern Education Fund.

²⁰ *Juvenile Reentry*. (2014) Washington, D.C.: Federal Interagency Reentry Council. Available at: <http://csgjusticecenter.org/wp-content/uploads/2014/06/Juveniles.pdf>.

²¹ Barnett, E. et al. (April 2019). *What Is the Relationship Between Incarceration of Children and Adult Health Outcomes?* *American Pediatrics*. Volume 19, Issue 3, Pages 342–350.

²² McCarthy, P., Schiraldi, V., and Shark, M. (2016). *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*. *New Thinking in Community Corrections* (October 2016). National Institute of Justice, Harvard Kennedy School. Available at: <https://www.ncjrs.gov/pdffiles1/nij/250142.pdf>.

state resources to more effective alternatives to incarceration and community-based programs for system-involved youth, and to address economic concerns such as the re-employment of prison workers and the economic impact of youth prison closures on communities. This proposal has been endorsed by national youth justice organizations, including the National Juvenile Justice and Delinquency Prevention Coalition and the Coalition for Juvenile Justice.

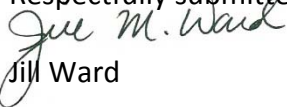
Maine Reform

Here in Maine, the Task Force was formed on May 2019 to work with the Center for Children's Law and Policy (CCLP) to conduct an assessment of the state's juvenile justice system. Conducting an assessment was one of the recommendations put forth in the September 2017 audit of the conditions Long Creek Youth Development Center to help determine factors outside of Long Creek that may be contributing to youth being incarcerated for low-level offenses, the high rate of referrals to Long Creek from mental health placements, and the lack of community-based alternatives.²³

From July 2019 through January 2020, the CCLP team, with input and guidance from Task Force members, analyzed data, reviewed policies, procedures and programs used in the juvenile justice system; interviewed more than 100 stakeholders from across the state; conducted six focus groups with youth, including tribal youth and youth detained and committed at Long Creek; gathered community input from four town hall forums in Lewiston, Bangor, Augusta and Portland; and conducted a statewide community survey statewide that was accessible online. It was a thorough and collaborative undertaking which has resulted in more information than we have ever had about Maine's current youth justice system coupled with a comprehensive compilation of best practices, policies and programs from across the country. Released at the end of February 2020, the CCLP report provides a roadmap with 45 short-, mid-, and long-term recommendations for Maine to fundamentally transform the juvenile justice system, to ensure that our youth have access to a robust continuum of community-based care, and to ultimately **"achieve the removal of all youth from Long Creek."**²⁴

As the Committee considers this resolve and other legislative proposals around youth justice reform, the implementation of the recommendations of the CCLP report and/or best practices and processes with respect to closing or repurposing youth prisons, I would be happy to answer any further questions or provide additional information.

Respectfully submitted,


Jill Ward

²³ Long Creek Youth Development Center, Conditions Assessment Narrative Report (Center for Children's Law & Policy, September 2017),

²⁴ Center for Children's Law and Policy et al. (February 2020). Maine Juvenile justice System Assessment. Long-Term Recommendation #9, p. 136.