

**TO: Committee on Criminal Justice and Public Safety**

**RE: LD 1721, An Act regarding Dignity for Women in Correctional Facilities**

February 18, 2022

Dear Senator Deschambault, Representative Warren, and Members of the Committee,

This testimony is being submitted to provide background and a summary of relevant research to the Committee to aid your consideration of this important bill.

Research shows that **parental incarceration is a known adverse childhood experience (ACE)<sup>1</sup> which affects thousands of Maine's children.** A recent study (2020) that we led showed that in Maine, there were a total of 3,403 children with at least one parent incarcerated at a state prison facility from 2015-2020. There were 345 incarcerated or formerly incarcerated mothers during the same time period<sup>2</sup>. This same study showed that **parents who are Black and Native American are disproportionately impacted by parental incarceration in Maine.** Parental incarceration is associated with an increased risk for trauma, and mental and behavioral health problems in childhood and throughout adolescence. **Children who have been impacted by parental incarceration are more likely to experience homelessness, economic instability, school drop-out, and future justice system involvement<sup>3</sup>.** In addition, our research shows that the negative consequences of parental incarceration are even greater for children with incarcerated mothers, who are more likely to come from a family environment with histories of extreme poverty, substance use, sexual abuse, domestic violence, and mental illness<sup>4</sup>.

In order to mitigate the impacts and trauma associated with parental incarceration, **research shows that parenting and family support programs and maintaining appropriate and consistent parental involvement with their children is key.** The maternal bond is especially important in the early childhood development years and can have long-term impacts on the child's wellbeing when it is disrupted<sup>5</sup>. The CDC (2019) recommends family support programs and parenting skills programs as a key strategy to reduce harm and lessen the impact of ACE's such as parental incarceration<sup>6</sup>.

Furthermore, this bill focuses on ensuring there is representation and oversight for women's facilities in Maine. While the population of incarcerated women in Maine is small in comparison to men (134 vs. 1446 in February 2022)<sup>7</sup>, research shows that women pose less of a risk to public safety, are more likely to be revoked for technical violations than new crimes, and the financial and social costs of incarcerating women are extremely

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<sup>1</sup> Felitti, V. J., Anda, R. F., Nordenberg, D., Williamson, D. F., Spitz, A. M., Edwards, V., Marks, J. S. (1998). Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults, The Adverse Childhood Experiences (ACE) Study. *American Journal of Preventive Medicine*, 14(4), 245-258. Retrieved from <https://www.ajpmonline.org/action/showPdf?pii=S0749-3797%2898%2900017-8>

<sup>2</sup> Foley, J., King, E., & Benner, C. (2020). *Place Matters: Breaking the Cycle: Interrupting Generational Incarceration in Maine*. Portland, ME: University of Southern Maine.

<sup>3</sup> The Pew Charitable Trusts. (2010). *Collateral Costs: Incarceration's Effect on Economic Mobility*. Washington, DC: The Pew Charitable Trusts.

Murphey, D., & Cooper, P. M. (2015). *Parents Behind Bars, What Happens to Their Children?* Bethesda: Child Trends, Inc. Retrieved from <https://www.childtrends.org/wp-content/uploads/2015/10/2015-42ParentsBehindBars.pdf>

Wakefield, S., & Wildeman, C. (2018, January). *How Parental Incarceration Harms Children and What to Do About It*. *National Council on Family Relations*, 3(1).

<sup>4</sup> Volunteers of America/Wilder Research. (2010). *Childhood Disrupted: Understanding the Features and Effects of Maternal Incarceration*.

<sup>5</sup> Foley, J., King, E., & Benner, C. (2020). *Place Matters: Breaking the Cycle: Interrupting Generational Incarceration in Maine*. Portland, ME: University of Southern Maine.

<sup>6</sup> Centers for Disease Control and Prevention (2019). *Preventing Adverse Childhood Experiences: Leveraging the Best Available Evidence*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

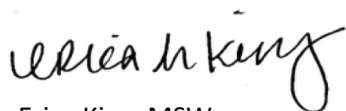
<sup>7</sup> According to the most recent MDOC (2022) data report on state facility populations. <https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/popreport2-14-22.pdf>

high<sup>8</sup>. Furthermore, women from backgrounds of poverty and BIPOC women are overrepresented and less likely to receive bail or community supervision. The most recent data shows that the majority (72%) of women in Maine who are incarcerated are there for drug or theft charges and an estimated **90% have a history of childhood trauma themselves**<sup>9</sup>. There is a breadth of research on gender-responsive practices and policies that emphasizes the fact that **women have unique pathways and experiences that lead them to the justice system and thus require gender-specific interventions** to reduce recidivism and improve their long-term wellbeing. Gender-responsivity ensures that all women who are under Maine Department of Corrections (DOC) supervision will receive access to services, programs, and supports that take into account their individual needs<sup>10</sup> that are trauma informed and lead to more positive outcomes for women and their families.

This bill includes features to support children and families who are impacted by parental incarceration and ensure appropriate gender-specific best practices are in place to improve the wellbeing of women who are incarcerated. This includes:

- Establishing a reporting and monitoring requirement for children who are impacted by parental incarceration and are in state custody, including foster care or the juvenile justice system.
- Adding guidelines around positive, child-centered visitations that will ensure opportunities for children to visit their incarcerated parents in an appropriate environment and manner to minimize the trauma inflicted on the child as a result of their parent's incarceration.
- Ensuring women who need medical care are accompanied by a female law enforcement officer to their appointments and during transportation.
- Ensuring appropriate representation of directly impacted women and professionals with gender-specific knowledge on the board of visitors for each jail and also established a board of visitors for women's services for the DOC. This board will provide necessary oversight and guidance to ensure that all female-specific facilities employ the latest gender-responsive best practices and policies.

Sincerely,



Erica King, MSW

Senior Policy Associate, University of Southern Maine, Cutler Institute



Jillian Foley, MPPM

Policy Associate, University of Southern Maine, Cutler Institute

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<sup>8</sup> National Resource Center on Justice-Involved Women. (2012). Ten Truths that Matter When Working with Justice Involved Women, Executive Summary, U.S. Bureau of Justice Assistance, Washington, D.C. Retrieved from <https://nicic.gov/ten-truths-matter-when-working-justice-involved-women>

<sup>9</sup> Neumann, D. (2019, July 18). 72% of women in Maine's prisons are there on drug-related charges. Maine Beacon. Retrieved from <https://mainebeacon.com/72-of-women-in-maines-prisons-are-there-on-drug-related-charges/>

<sup>10</sup> Sherman, F. T. (2013). Making detention reform work for girls, A guide to juvenile detention reform. Juvenile Detention Alternatives Initiative Practice Guides 5. Baltimore, MD: Annie E. Casey Foundation.

# Breaking the Cycle

INTERRUPTING GENERATIONAL INCARCERATION IN MAINE

Jillian Foley, Erica King, & Casey Benner

## Introduction

Parental incarceration is a traumatic experience which affects a large number of children in the U.S. A 2010 report by the Pew Charitable Trusts estimated that 2.7 million children in the U.S. had a parent incarcerated at that time and two-thirds of those children's parents were incarcerated for non-violent crimes.<sup>1</sup> A more recent research study found that more than 5 million children in the U.S. have experienced the incarceration of a parent at some point in their childhood. Furthermore, the rates of parental incarceration disproportionately affect Black or African American children, children living in poverty, and children living in rural areas.<sup>2</sup> In fact, Black or African American children are nearly twice as likely to have experienced parental incarceration compared to white children – 1 in 9 Black children compared to 1 in 17 white children.<sup>3</sup>

1 The Pew Charitable Trusts. (2010). *Collateral Costs: Incarceration's Effect on Economic Mobility*. Washington, DC: The Pew Charitable Trusts.

2 For more information about rates see (Murphey & Cooper, 2015)

3 Murphey, D., & Cooper, P. M. (2015). *Parents Behind Bars, What Happens to Their Children?* Bethesda: Child Trends, Inc. Retrieved from <https://www.childtrends.org/wp-content/uploads/2015/10/2015-42ParentsBehindBars.pdf>

Parental incarceration is a known Adverse Childhood Experience (ACE) and is associated with an increased risk for trauma, and mental health and behavioral problems in childhood and throughout adolescence.<sup>2</sup> For many children, parental incarceration triggers a cycle of family instability and sets them up for long-term problems. Children who have experienced parental incarceration are more at risk for homelessness, depression and anxiety, economic instability, low educational attainment, and juvenile justice system involvement.<sup>1,2,4</sup> Incarcerating mothers of young children is particularly problematic as it disrupts a key parental bond during critical years of development. One study showed that children of incarcerated mothers have much higher rates of incarceration compared to children with incarcerated fathers.<sup>5</sup>

**To disrupt the intergenerational cycle of incarceration and poor outcomes for Maine’s children, we must implement policies and evidence-based community programming that supports families.** Policies should be implemented that focus on preventing parents from being incarcerated in the first place and intervening with appropriate supports (housing, economic supports) and services (mental health services, substance use treatment) in high risk situations. When parents are incarcerated, policies should be directed at facilitating parenting from prison to minimize childhood trauma and assisting parents in becoming socially and financially stable upon reentry and reunification with their families. In particular, we must support mothers economically, socially, and emotionally so that no child in Maine has to see their mother become incarcerated.

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*“I’m a mother of a 14-year-old boy now, and I was an everyday mom before I came here and I just thought, you know, this doesn’t happen to people. How can I just be taken away from him and just be gone? I’d taken care of him his whole life. And then I got here and I met all kinds of women. Just like me”*

— MAINE MOTHER, STUDENT,  
& JUSTICE SCHOLAR

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4 Wakefield, S., & Wildeman, C. (2018, January). How Parental Incarceration Harms Children and What to Do About It. National Council on Family Relations, 3(1).

5 Martin, E. (2017, May). Hidden Consequences: The Impact of Incarceration on Dependent Children. NJ Journal (278). Retrieved from <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>

# Methods

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## About this Report

The goal of this report is to present an analysis of Maine Department of Corrections data as an overview of parental incarceration in Maine. This report was part of a one-year project funded by the Bingham Program and aimed at providing strategies for policy makers and stakeholders to help stop the cycle of intergenerational incarceration in Maine.

## Data Collection and Analysis

The Maine Department of Corrections provided the Muskie School team with de-identified records of people who self-identified as parents and were incarcerated at one of Maine's prisons during the time period of January 2015 to May 14, 2020. The records included limited information about the parents (gender, race/ethnicity, no contact orders, child victimization) and their children (age and gender), which the Muskie team used for this analysis.

The Muskie School staff used statistical analysis software to clean and conduct statistical analysis. Duplicate records were identified and removed. Descriptive statistics were used to determine baseline numbers and compare across demographic groups. Differences between groups were tested for statistical significance at both 90% and 95% confidence levels using a chi-square analysis.

## Limitations of Research and Report

This report examined one period in time and thus the findings are only representative of the time period of January 2015 to May 2020. This may not reflect current trends in Maine due to changes in incarceration rates, practices, and policies. This analysis does not include children whose parents were incarcerated and released prior to January 2015 nor children whose parents were incarcerated in county jails, juvenile facilities, federal facilities, or outside of Maine. This also does not include children whose parents were under community supervision (i.e., probation) during this time period. Therefore, this report represents only a small fraction of the total number of children who are impacted by the criminal justice system and parental incarceration in Maine. On the other hand, while duplicate records were removed where possible, the data did not identify children with two incarcerated parents during the time period. Therefore, the rate of children with both parents incarcerated remains unknown, and these children may have been counted more than once.

# Findings

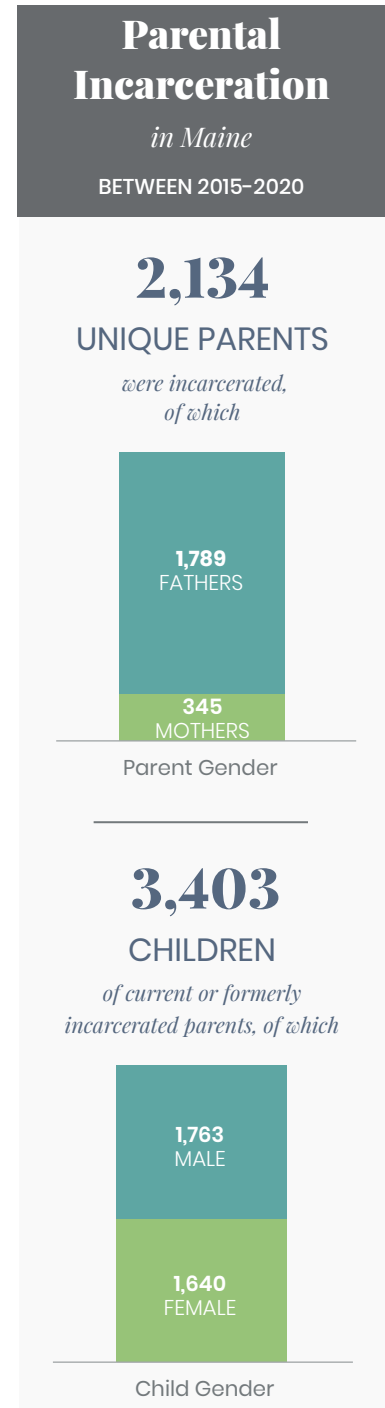
## Who is Impacted by Parental Incarceration in Maine?

There were a total of 2,134 unique parent records. This included 345 (16%) mothers and 1,789 (84%) fathers. While the race and ethnicity of the children were not reported, out of the 2,134 parent records, 82% were white (n=1,756), 11% (n=227) were Black or African American, and 4% (n=80) were Native American.<sup>6</sup>

Incarcerated parents reported a total of 3,403 children, indicating a large number of siblings in the data. This represents approximately 1.4% of children in Maine who had an incarcerated parent at one of Maine’s prison facilities during the time period studied.<sup>7</sup>

Of those 3,403 children, 48% (n=1,640) were female and 52% (n=1,763) were male. Seventeen percent (n=575) of those children had a currently or formerly incarcerated mother, and 83% (n=2,828) had a currently or formerly incarcerated father.<sup>8</sup> Nearly 300 children (9%) were under the age of 5 years old. Among the remaining children, 39% were between the ages of 5 and 10, and 52% were between 11 and 17 years old at the time of their parent’s intake.

Children with Incarcerated Parents by Age			
<i>n=3,403</i>			
Age Group	Years	# of Children	% of Children
UNDER 5	0-2 YEARS	101	9%
	3-4 YEARS	191	
AGES 5-10	5-6 YEARS	349	39%
	7-8 YEARS	478	
	9-10 YEARS	512	
AGES 11-17	11-12 YEARS	562	52%
	13-14 YEARS	567	
	15-17 YEARS	643	



6 The remaining parent records were either Asian/Pacific Islander, Multi-racial, or unknown. The breakouts of these categories are not reported due to small sample sizes in order to protect confidentiality.

7 Calculated based on the total population of Maine under the age of 18 (estimated at 248,679 in 2018 according to <https://www.census.gov/quickfacts/ME>). This only includes children whose parents were incarcerated during the 5-year period and does not represent all children under 18 who may have had an incarcerated parent before 2015.

8 The number of children with two incarcerated parents is unknown.

In total, there were 777 (23%) children with a parent who was still incarcerated as of May 14th, 2020, when the data was collected. Of those parents who were incarcerated at the time of the data collection, 38% were located at the Maine State Prison (MSP), 33% at the Maine Correctional Center (MCC), 17% at the Mountain View Correctional Facility (MVCF), and 12% at the Bolduc Correctional Facility (BCF).<sup>9</sup>

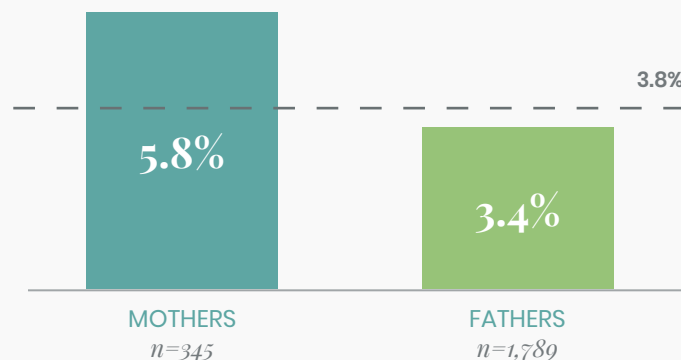
Of the 345 mothers, 53 were incarcerated at the time of data collection and they had 94 children who were impacted by that incarceration. Of those mothers, 89% were white (306) and 7% were Native American or Indigenous (25).<sup>10</sup> This shows that **at a given point in time approximately 50 mothers are incarcerated in Maine, with nearly 100 children impacted by their incarceration. Furthermore, Native American or Indigenous mothers in particular are disproportionately impacted by incarceration in Maine.**

## Child Victimization

Overall, the rate of child victimization<sup>11</sup> was 3.8% (n=81), and this rate did not vary by gender of the child. It did vary, however, by parent gender; the rate of child victimization was slightly higher among mothers (5.8%) compared to fathers (3.4%).<sup>12</sup> The rate of child victimization was also slightly higher among white parents (4.2%) compared to BIPOC parents (2.1%).<sup>13</sup> Black or African American parents in particular had a significantly lower rate of child victimization compared to white parents (1.8%<sup>14</sup> vs. 4.2% respectively). As no data were available on the type of offense, more research should be conducted to examine this further.

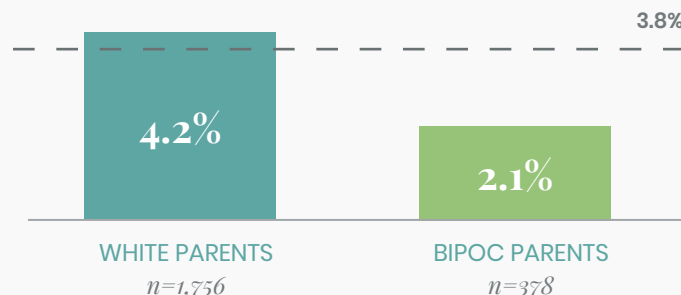
### The rate of child victimization was slightly higher among mothers compared to fathers

THE OVERALL RATE WAS 3.8%



### The rate of child victimization was slightly higher among white parents compared to BIPOC parents

THE OVERALL RATE WAS 3.8%



<sup>9</sup> In 2,626 child records, the facility where the incarcerated parent was missing, indicating that the parent was no longer incarcerated as of May 14th, 2020.

<sup>10</sup> Other race/ethnicity categories are not shown due to confidentiality and sample sizes less than 10. In total, less than 5% of mothers were Black or African American, Asian or Pacific Islander, Multi-racial, or their race/ethnicity was unknown.

<sup>11</sup> The child victimization rate represents the proportion of parents who were incarcerated for an offense of which their child was the victim. Rates were calculated out of the total sample size for each group.

<sup>12</sup> The rate of child victimization was statistically significantly higher for mothers compared to fathers,  $X^2(1, N=2,134) = 4.51, p=.034, \Phi=0.046$ .

<sup>13</sup> This rate of child victimization was statistically significantly higher for white parents compared to BIPOC (Black, Indigenous, People of Color) parents as a group,  $X^2(1, N=2,134) = 3.55, p=.06, \Phi=0.041$ . These race/ethnicity categories were grouped together for comparison due to small sample sizes.

<sup>14</sup> The rate of child victimization among Black or African American parents is statistically significantly lower compared to white parents,  $X^2(1, N=1,983) = 3.09, p=.08, \Phi=0.039$ .

## Formal No Contact Orders

Out of the 2,134 parents, 3.9% (n=84) had a formal no contact order<sup>15</sup> prohibiting contact with their children. This represented 3.2% (11) of mothers and 4.1% (73) of fathers. The rates of no contact orders were similar across race and ethnicity groups.<sup>16</sup> This shows that for the majority of parents, there is no legal reason to prohibit contact, however other barriers may be present.

### KEY FINDINGS

- Over a 5-year period, parental incarceration impacted 3,403 (1.4%) Maine children and if we were to look at data from jails, juvenile facilities, and community supervision, the numbers would likely be much higher.
- Black or African American and Native American or Indigenous children are disproportionately affected by parental incarceration in Maine.
- Nearly 300 children (9%) over the 5-year period were under the age of 5 years old.
- Overall, very few parents had formal no contact orders (3.9%) and rates of child victimization were low (3.8%). BIPOC parents, while disproportionately represented in the incarcerated parent population, were even less likely to have been incarcerated for a crime in which their child was the victim compared to white parents (1.8% vs. 4.2% respectively).

<sup>15</sup> A No Contact Order means that there is a formal protection order prohibiting contact in any form.

<sup>16</sup> Analysis was conducted to determine any statistically significant differences between gender and race/ethnicity groups, however, no statistically significant difference was found.



# Policy Implications & Recommendations

## ► Invest in community supports and prevention-based policies that put families and children first and help set them up for success.

In order to truly address the problem of parental incarceration and the impact it has on Maine children, we must invest in prevention policies that help families remain intact when it is appropriate and help families thrive. As research shows that the majority of women who are incarcerated in Maine are incarcerated for drug or economic related offenses,<sup>17</sup> economic supports and substance use treatment are key to helping Maine mothers avoid incarceration. Maine families must have access to a variety of economic supports and resources, including educational and employment opportunities, and affordable, evidence-based mental health and substance use treatment. Community-based care networks that allow for a collaboration between the various public systems are necessary to help keep families together and minimize the trauma of parental incarceration. In addition, policies should be implemented that allow alternatives to incarceration for parents with substance use disorders and take into consideration the role of a primary caretaker in sentencing decisions.

## ► Review parental visitation policies and implement programs that encourage continued parental involvement while the parents are incarcerated.

Due to the small proportion of no contact orders, facilities should review visitation policies to reduce barriers and implement programs to help strengthen the parent-child relationship as appropriate. For example, facilities might use technology to allow virtual visitations so children can see their parents more frequently or allow incarcerated parents to join meetings or events in the child's life virtually (teacher conferences, sporting events, performances, holiday celebrations, etc.). Facilities should also implement evidence-based programs that have been shown to improve relationships and well-being for both the parents and children. These could include family activities, family therapy/parenting programs, or parenting support/coaching programs for the parents. For example, the Parenting Inside Out<sup>18</sup> program is a parenting skills training curriculum that has had a proven impact in multiple states.

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*“When I was sentenced, my youngest child was three months old. You know, being sentenced to four years with a three month old in the courtroom with you is definitely something I never wish on anybody. Going into prison knowing that I had to leave my children, and there was no other option, and that’s what it was. My goal from the beginning was, do something positive with your time.”*

— MAINE MOTHER, STUDENT,  
& JUSTICE SCHOLAR

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<sup>17</sup> In 2019, the MDOC reported that 72% of women in Maine’ prisons were there for drug or theft related charges. <https://mainebeat.com/72-of-women-in-maines-prisons-are-there-on-drug-related-charges/>

<sup>18</sup> For more information see [parentinginsideout.org](http://parentinginsideout.org)

### ► **Develop community re-integration interventions for families that mitigate parental stress and strengthen family support.**

To help reduce recidivism and further system involvement, parents need community-based support and programs that help address the stressors of re-integration and help families thrive. Programs and services to address key needs like housing, high quality child care and subsidies, transportation, and mental health and substance use treatment are key to ensuring a successful transition. Furthermore, expanding access to educational opportunities and employment training programs to improve economic stability can help parents thrive in the long term.

### ► **Designate resources and targeted services to help children with incarcerated parents in Maine.**

Invest in community-based resources to ensure the children of incarcerated parents have the help they need to break the cycle of childhood trauma and future incarceration. Research shows that parental incarceration is associated with a host of risk factors that set children up for long-term problems and often perpetuates a cycle of intergenerational incarceration. We must recognize this trauma and first and foremost ensure the children have access to quality and appropriate mental health and substance use treatment, stable and adequate housing, educational opportunities and supports, and developmentally appropriate peer and mentor support networks.

### ► **Invest in further research and develop systems and protocols to collect better data and track the impact of parental incarceration on these children over time.**

This data provides a baseline to help further the understanding of parental incarceration in Maine. However, given the limitations of the data, more research must be conducted to include a longer time period. A time period of 18 years would allow researchers to estimate the real proportion of Maine children impacted by parental incarceration and track further system involvement for these children. Further, to better understand the full picture of justice system involvement, data analysis would need to include county jails and juvenile facilities, federal facilities, and out-of-state incarceration. In order to truly understand the long-term impact, systems must track information on these children and be able to match that information back to their parents. The ability to compare multi-system involvement (for example, understanding whether the child was placed in foster care during the period of parental incarceration) would also provide a more complete picture of the impact on the child. Other data that could be tracked and analyzed might include: rates of children with two incarcerated parents, parent offense information, parent length of stay, and whether the child was separated from siblings.

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# Conclusion

The goal of this analysis was to further our understanding of the scale of parental incarceration in Maine's state correctional system and the impact on children in Maine. This report provides a snapshot of the number of children in Maine who were impacted by parental incarceration in the state system over a 5-year period. The findings show that for the majority of these parents, there is no legal factor prohibiting contact with their children. Therefore, continuing to nurture the parent-child relationship while the parent is incarcerated is possible and important to minimize the trauma and associated risks. While more research is needed to better understand the nuances of parental incarceration in Maine, policies and programs should be implemented that help put Maine families and children first. By ensuring Maine families have access to appropriate services and a community-based network of support we can stop the cycle of intergenerational incarceration and improve outcomes for Maine's children.

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# Acknowledgements

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This report and the project would not have been possible without funding from the Bingham Program. Thank you for all of your support in this work.

Thank you to the Maine Department of Corrections for providing the data and being a collaborative partner on this project and supporting the students in their work.

Special thanks to Katherine Darling from the University of Maine at Augusta and all of the students in the UMA Incarceration and Society course for your ideas and efforts that contributed to this work and the recommendations in this report.

Thank you to George Shaler, Robyn Dumont, Anna Black, and Katy Grant for their thoughtful review and input on early drafts.

Thank you to Becky Wurwarg for all her work with the formatting and design.

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## ABOUT PLACE MATTERS

The Place Matters project aims to support the state of Maine and its communities in redesigning, implementing, and evaluating a community-based continuum of care through systems innovation, data resources, and community inclusion. Our work focuses on translating data and innovative practices into community-based solutions that are both responsive to local needs and supplement existing assets so that all transition-aged young people in Maine thrive into adulthood.

The Place Matters project is housed at the Justice Policy Program within the Cutler Institute at the Muskie School of Public Service, which is located at the University of Southern Maine and is comprised of a mix of researchers, policy advisors, data visualization experts, and directly impacted youth who collaborate to develop capacity for results-focused, data-informed solutions to social and justice policy issues in Maine.

Place Matters has produced a series of reports summarizing our research, community engagement and policy recommendations. The reports in this series are intended to inform and support the work of policy makers and community members dedicated to improving outcomes for Maine's youth. For more information about Place Matters and all published reports, please visit our website at [placemattersmaine.org](http://placemattersmaine.org).