

Testimony of Vera Institute of Justice Submitted to the

Maine Legislative Committee on Criminal Justice and Public Safety on Increasing Investments in the Maine's Continuum of Care to Support Justice Involved Youth

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Good morning. My name is Lindsay Rosenthal, and I am the Initiative Director at the Vera Institute of Justice's Initiative to End Girls Incarceration (EGI). Thank you, Criminal Justice and Public Safety Committee Chairs Senator Susan Deschambault and Representative Charlotte Warren and all the committee members for holding this important hearing. Thank you to Representative Victoria Morales for introducing LD 756, which will set Maine on a path to creating a more equitable juvenile justice system by investing in the necessary continuum of care. The bill will help the state align with best practice, move away from reliance on incarceration, and ensure youth and their families can thrive in their communities. LD 756 was developed alongside juvenile justice, child welfare, youth housing, and behavioral health providers and advocates who recognize the critical need for a fully functional continuum.

The Vera Institute is a 60-year-old national nonprofit that brings data, evidence, and solutions to transform the criminal legal and immigration systems until they are fair for all. EGI works to zero out the country's confinement of girls and gender expansive youth by 2030. Through partnerships in jurisdictions in several states, including Maine, we aim to create reforms and programs that will better support the well-being of young people in their communities, address the root causes of their incarceration, and permanently close the doors to girls' juvenile detention and placement facilities.

From 2018 to 2020, Vera worked with the Department of Corrections (DOC) to end girls' incarceration statewide by advancing a gender-responsive youth development approach. This approach reduced detention and placement admissions by 80 percent and 60 percent respectively, and for nine months in 2020 there were no girls at Long Creek Youth Development Center (Long Creek).¹ This progress built on years of success in Maine that reduced youth involvement in the justice system by cutting the number of youth committed or detained at Long Creek from just over 130 in 2011 to fewer than 30 at the end of 2021.² During the COVID-19 pandemic, the state reached historic lows, bringing the population of youth incarcerated at Long Creek down to just 29 (19 committed and 10 detained) at the close of 2021. Despite this progress, there is much more work to be done to reform juvenile justice in Maine to better support young people and communities.

Youth Incarceration is Harmful, Counterproductive, and Costly

Research has shown youth incarceration is harmful to young people, counterproductive to public safety, and should be avoided whenever possible. A report by the Annie E. Casey Foundation of evidence on youth incarceration concluded that "backed by an array of research the case against America's youth prisons and correctional training schools can be neatly

summarized in five words: dangerous, ineffective, unnecessary, wasteful, and inadequate.”³ Juvenile correctional facilities have been found to be inherently violent and unnecessarily expose young people to violence, abuse, and even death.⁴ The recent reports of violence at Long Creek, including incidents of fights, prone restraints used on young people at the hands of correction officers, and even the death of a young person at the facility, underscore this.⁵⁶

Evidence has also shown that incarcerating children when there is no public safety risk is not only harmful to young people, but counterproductive when it comes to protecting public safety—it actually increases the risk of future delinquency. Youth confinement pushes young people deeper into the justice system and increases the likelihood of recidivism.⁷ A 2017 study of recidivism rates in Maine’s juvenile justice system by researchers at the University of Southern Maine found that “Low risk committed youth who were reassessed prior to release increased in risk score, placing them at greater risk of recidivating upon release than they were prior to commitment.”⁸ Youth confinement also exacerbates mental health challenges and disconnects young people from their families and communities, which studies have shown promote better outcomes for young people. Incarceration has been shown to be associated with negative health outcomes, including stress related illness during adulthood. Given these and other poor outcomes documented through decades of research, the National Research Council recommends that incarceration should be used “sparingly and only in response to serious offenses” and finds that incarceration is “not ordinarily needed to hold youth accountable.”⁹ It should never be used to “provide care” or in an attempt to protect the safety of a young person.

Despite this evidence of poor outcomes showing incarceration does not promote the well-being of young people and does not support public safety, Maine continues to pay a very high price to use this approach. In 2020, the average cost of incarcerating a young person was over \$200,000 annually and, in Maine,¹⁰ the estimated annual cost of incarceration is \$252,000 annually.¹¹ Instead of incarceration, effective juvenile justice systems invest in community-based supports that do a better job of reducing re-arrest and improving well-being.¹² For example, Multisystemic Therapy reduces re-arrest by up to 70 percent for less than \$10,000 per young person, a fraction of the cost of incarceration.¹³

It is time for Maine to abandon the youth incarceration model and commit to solutions that better support justice involved youth. However, Maine’s failure to comprehensively invest in community-based services leaves youth without access to the services they need. Many youth are forced to stay in Long Creek for prolonged periods of time because of limited services available in the community. According to the 2020 Maine Juvenile Justice Systems Assessment commissioned by the Juvenile Justice Advisory Group¹⁴:

- More than half (53%) of young people confined at Long Creek were detained in order to “provide care.”
- Nearly half of detained youth are held for 3 days or less, suggesting they were not a significant public safety risk.

- Analysis of cases where youth stayed in detention longer than 30 days and a reason for this prolonged stay was provided, the majority (72.7%) were for youth awaiting placement or community-based programming.
- Committed youth who were initially screened at low and moderate risk upon entering Long Creek stayed at the facility substantially longer than youth who determined to be high risk. The study suggests that youth who are low to moderate risk have better outcomes when diverted from incarceration and connected to community-based services.

Maine's reliance on incarceration to address needs and protect young people's safety is ineffective and inappropriate. It is time for the state to align with what research has shown is more effective: investing in community-based services to better support justice involved youth and their families. The state should also change policies and adopt practices that disrupt pathways into youth incarceration.

Supporting Sensible Solutions to Ensure Maine's Youth Can Thrive in their Communities

Youth incarceration is a symptom of larger systemic failure and highlights the need for improvements and investments to ensure vulnerable youth and families are supported. Maine has recognized this with the passage of legislation in 2021 that ended the practice of detaining youth "to provide care." The legislation also required the DOC and the Department of Health and Human Services (DHHS) to work together to provide services, including behavioral health services, family support, housing, restorative justice, peer-based models, and gender and culturally responsive youth development programming to divert juveniles from the justice system and reduce the rate of youth detention and commitment. Youth leaving Long Creek face extreme struggles and more work should be done to ensure these young people have access to services in their communities.

LD 756 offers Maine a unique opportunity to develop a fully functioning continuum of care that supports all youth at risk of justice involvement including runaway and homeless youth, youth in the behavioral health system, and children in the child welfare system along with their families.

Investing in the continuum is consistent with the recommendations in the *2020 Maine Juvenile Justice System Assessment* that Maine should expand its use of evidence-based programs, short-term temporary housing, crisis response capacity, diversion services, and more in order to realize the long-term goal of ending the incarceration of girls and removing all youth from Long Creek.¹⁵

Passing LD 756 is critically important to laying the groundwork for ending youth incarceration by restricting the pathways into incarceration. Each element of the bill moves Maine in this direction.

Section 1 removes the ability to detain youth to protect them from the "immediate threat of bodily harm." Incarceration is no place for youth who are not a threat to others and in need of

care and protection. Deleting this language will force the state to develop therapeutic and youth centered practices to support youth experiencing trauma.

Section 2 removes the ability to place youth in secure confinement post adjudication in order to treat them. A correctional facility is no place for youth to receive the care and treatment they need and does not align with what studies have shown is best practice, which is youth accessing services in their communities. Amending this code will align with best practice and with previous revisions to the state’s juvenile code that ended the practice of pre-adjudication detention “to provide care.”

Section 3 requires an independent entity to assess youth in DOC custody for six months to determine their needs. Given the especially challenging conditions at Long Creek at present it is important that outside providers have access to young people in the custody of the DOC in order to assess their needs. Any young people who could be safely and effectively served through community-based services should be released to the community as soon as possible. What’s more, Maine is in the midst of planning for reforms to the juvenile legal system required by LD 546 to better serve young people in the community. This independent assessment will not only benefit young people currently in the custody of the DOC but can help provide rich information to further inform community-based service planning.

Section 4 includes a one-time investment of \$1 million to pilot a community-based service fund to support community-led solutions. States across the country have successfully established funds, independent of government agencies and led by community-based organizations, to get resources to communities most impacted by the carceral system. This pilot would create a body that is charged with creating a community informed process to disburse funds that involve directly impacted youth, local community members, organizers, cultural practitioners, and smaller service providers. Funding should be targeted toward communities most impacted by incarceration including Black and Indigenous communities and those underserved in reform efforts including girls and LGB/TGNC youth.

Section 5 requires that the State develop a proposed mechanism for independent oversight of the juvenile justice system. States across the country and the political spectrum like Kansas, Kentucky, Utah, and Connecticut have successfully established multidisciplinary oversight bodies to oversee juvenile justice reforms in their state, Maine deserves no less.

Section 6 makes critical investments in the continuum to safely and effectively serve young people in the community.

- **Appropriation 1 creates an ongoing investment of \$7 million to departments other than the DOC to expand youth development, crisis response, mental health, peer support and restorative justice services, trauma informed care, and services for victims of gender-based violence outside the purview of the DOC.** The proposed funding would expand youth development programs that form the foundation of a

healthy continuum of care; one that is focused on cultivating resilience and opportunities for youth within the context of prevention, diversion, and reentry or community reintegration. There are many programs in Maine that offer critical support that could help to keep young people out of Long Creek if they were expanded to serve all young people in need with the level of services they require. Currently, the DOC is the primary funder of the services needed. As a result, youth often need to be involved in the legal system in order to access the services they need, and they experience disruptions in the support they receive based on the status of their legal case rather than their service needs. Further, these services are deeply underfunded and there are many gaps in programming. Maine should invest in expanding these critical supports and ensure they are provided by agencies whose mandate is to ensure the safety, well-being, and healthy development of Maine's youth.

- **Appropriation 2 creates an ongoing investment of \$4 million to expand housing and related resources for minors and young adults.** Unstable housing experienced by youth and their families is a key driver of youth incarceration. Place Matters recently found that housing was a need for 50% of youth referred to Regional Care Teams, making it the most commonly identified need.¹⁶ While there are a number of providers in the state providing housing services, there are simply not enough resources to support all the youth in need with many gaps in resources specifically for minors. This appropriation will expand availability of transitional housing, emergency shelter and/or mobile respite beds, host homes and rental assistance for minors, young adults and/or their caregivers, and expand reach to rural areas of the state. Also, providers will reach youth and families in rural parts of the state and populations with specialized needs like girls and gender expansive youth, immigrant youth, refugees, and asylees.
- **Appropriation 3 provides \$1 million in funding to pilot the community-based services fund in Section 4** that has been successfully used in other states.

This is a down payment on the continuum of care to reduce reliance on incarceration and ensure all youth have the opportunity to thrive. We recognize that it will take several years to create a fully functioning continuum of care. In addition to this initial investment, the state should commit to making ongoing investments in the continuum that builds on the progress derived from this initial investment of \$12 million and adopt policies and practices that promote better coordination between child serving agencies.

The time is now for Maine to commit to adopting more creative, effective, and safe practices to support justice involved youth. The recent incidents of violence experienced by young people at Long Creek highlight what research and impacted communities have shown us for years: incarceration is no place to support youth in need and their families. Maine must make the necessary changes to align with best practice and move away from relying on the youth

incarceration model that simply does not work. The Vera Institute stands ready to support the implementation of measures outlined in LD 756.

Thank you.

¹ In 2018, Vera selected a team of Maine stakeholders, led by the Department of Corrections and Cumberland County District Attorney's Office, to receive no-cost technical assistance through a competitive process to end girls' incarceration in Maine. Since then, the state has made considerable progress towards that goal, which includes cutting total annual detention admissions to girls' units by 80% (from 140 admissions in 2018 to 29 admissions in 2020) and cutting the annual number of new commitments for girls by 66% (from 9 admissions in 2018 to 3 admissions in 2020). Now each month an average of only three girls are admitted to detention after arrest. In 2020, only three girls were committed to residential placement after a delinquency finding; there were 9 months in 2020 with zero committed girls. By 2020, the average monthly admissions to detention for girls was an average of 2.7 admissions every month and a total of 29 detention admissions throughout the year. In the first two months of 2021, there were a total of 7 admissions to girls' detention units. See: Department of Corrections Juvenile Services, "Division Overview: 2020 Snapshot," available at:

https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inlinefiles/OVSNAPAdvanced_20201231_0.pdf, accessed: April 19, 2021

² Maine Department of Corrections, "Juvenile Justice System Overview" (presentation given at the Maine Juvenile Justice System Assessment & Reinvestment Task Force meeting, Portland, ME, December 18, 2019).

³ A review of the literature on juvenile corrections by the Annie E. Case Foundation concluded that "backed by an array of evidence the case against America's youth prisons and correctional training schools can be neatly summarized in five words: dangerous, ineffective, unnecessary, wasteful and inadequate."¹ See Annie E. Case Foundation, *No Place for Kids*, (2011). available: <https://www.aecf.org/resources/no-place-for-kids-full-report/>

⁴ See Annie E. Case Foundation, "No Place for Kids," (2011). Available at: <https://www.aecf.org/resources/noplace-for-kids-full-report/>

⁵ *Advocates Respond To Investigation About Use Of Force At Long Creek*. *ACLU Of Maine*, 2022, <https://www.aclumaine.org/en/press-releases/advocates-respond-long-creek-excessive-force-investigation>.

⁶ "– Mother Settles Suit Over Transgender Teen's 2016 Suicide At Long Creek". *Pressherald.Com*, 2021, <https://www.pressherald.com/2021/12/23/suit-settled-over-trans-teens-suicide-at-detention-center/>.

⁷ The Urban Institute, "Closing Youth Prisons: Lessons from Agency Administrators," (2020). available at: https://www.urban.org/sites/default/files/publication/101917/closing-youth-prisons-lessons-from-agencyadministrators_1.pdf

⁸ Dumont, R. & King, E. (2017). Youth recidivism: Diversion to discharge in Maine's juvenile justice system. Retrieved from the Maine Statistical Analysis Center, University of Southern Maine website:

<http://muskie.usm.maine.edu/justiceresearch>

⁹ National Research Council. *Reforming Juvenile Justice: A Developmental Approach*, (2013). Washington, DC: The National Academies Press. <https://doi.org/10.17226/14685>; It should be noted that even for youth charged with serious offenses there is no evidence that long periods of incarceration are more effective than community programs, see Edward P. Mulvey, *Highlights From Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders* (Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2011). <https://perma.cc/WM59-QC4U>

¹⁰ Justice Policy Institute. 2020. *Sticker Shock: The Cost of Youth Incarceration - Justice Policy Institute*. Available at: <https://justicepolicy.org/research/policy-brief-2020-sticker-shock-the-cost-of-youth-incarceration/> [Accessed 3 March 2022].

¹¹ No Kids in Prison. "Youth Incarceration in Maine."

<https://www.nokidsinprison.org/explore/maine/?section=race-interactive>.

¹² National Research Council. "Reforming Juvenile Justice: A Developmental Approach," (2013). National Academies Press. available at <https://doi.org/10.17226/14685>

¹³ Blueprints for Healthy Youth Development, “Multisystemic Therapy: Juvenile crime prevention program designed to improve the real-world functioning of youth by changing their natural settings - home, school, and neighborhood - in ways that promote prosocial behavior while decreasing antisocial behavior,” Accessed June 17, 2021, available at “<https://www.blueprintsprograms.org/programs/32999999/multisystemic-therapy-mst/print/>”

¹⁴ Center for Children’s Law and Policy et al. (2020). *Maine Juvenile Justice System Assessment*, 8-9, available at: <https://www.mainejtaskforce.org/>

¹⁵ Center for Children’s Law and Policy et al. (2020). *Maine Juvenile Justice System Assessment*, 8-9, available at: <https://www.mainejtaskforce.org/>

¹⁶ Mara Sanchez, Erica King, Jill Ward, and Jillian Foley, “Regional Care Teams First Year Review: Cross Systems Collaboration to Improve Positive Youth Outcomes” The Place Matters Project, December 2021, <https://perma.cc/K8UZ-STT9>.