

# Justice Reinvestment in Maine



DECEMBER 2019

## Background

**M**aine faces a number of pressing public safety challenges. Like other northeastern states, Maine has been hit hard by the opioid crisis, with an opioid overdose death rate that is among the highest in the nation.<sup>1</sup> The opioid crisis has created substantial operational and resource challenges for both local and state justice and behavioral health systems in Maine, exacerbating existing stress on those systems. Further, despite having the nation's second-lowest incarceration rate and a steady decline in overall reported crime, Maine's prison population has increased in recent years, particularly the female prison population.<sup>2</sup> Probation revocations account for more than 40 percent of prison admissions in Maine, which many state leaders attribute to a lack of community-based programming and resources for people with mental illnesses and substance addictions.<sup>3</sup>

In the summer of 2019, 11 Maine leaders, including Governor Janet Mills, Chief Justice Leigh Saufley, Senate President Troy Dale Jackson, Senate Minority Leader Dana Dow, Speaker of the House Sara Gideon, House Minority Leader Kathleen Jackson Dillingham, Representative Rachel Talbot Ross, and Attorney General Aaron Frey, requested support from the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew) to utilize a Justice Reinvestment approach to address these challenges. As public-private partners in the federal Justice Reinvestment Initiative (JRI), BJA and Pew approved Maine state leaders' request and asked The Council of State Governments (CSG) Justice Center

to provide intensive technical assistance. CSG Justice Center staff are collecting and analyzing state data and will assist in developing appropriate policy options to help reduce recidivism, improve behavioral health outcomes, and increase public safety.

With guidance from the newly revived interbranch Commission on the Sentencing, Supervision, Incarceration and Management of Offenders (hereafter referred to as "the commission"), CSG Justice Center staff are conducting a comprehensive analysis of case-level data from state police, courts, and the Department of Corrections (MDOC). To build a more robust picture of statewide criminal justice trends, CSG Justice Center staff are seeking data from district attorneys, pretrial services, and county jails, and analyzing it where possible. CSG Justice Center staff are also convening focus groups and interviewing key stakeholders in Maine's criminal justice system. Based on the findings from these quantitative and qualitative analyses and input from CSG Justice Center staff, the commission will develop policy options that are designed to improve outcomes and allow the state to reinvest in strategies that can reduce recidivism, improve and expand responses to behavioral health challenges, and increase public safety.

This overview highlights some recent criminal justice trends in Maine. Information presented here is based on Maine statutes, publicly available reports from Maine state agencies, or federal reports.



## Criminal Justice System Trends in Maine

### Violent crime and property crime rates in Maine are among the lowest in the country and have recently declined.<sup>4</sup>

- From 2008 to 2018, Maine's violent crime rate decreased 5 percent, from 118 to 112 violent crimes per 100,000 residents.<sup>5</sup> The violent crime rate in the state most recently peaked in 2015 at 130.1 violent crimes per 100,000 residents but has fallen since then to 121 and 112 violent crimes per 100,000 residents in 2017 and 2018, respectively.<sup>6</sup>
- Maine's total property crime rate declined 45 percent between 2008 and 2018, from 2,452.4 to 1,357.8 crimes per 100,000 residents, and ranks as the fourth lowest in the nation behind only New Hampshire, Vermont, and Massachusetts.<sup>7</sup>

### Despite recent decreases in reported domestic violence assaults, domestic violence still accounts for a significant portion of Maine's homicides.

- Between 2007 and 2017, there was a 28-percent decrease in reported domestic violence assaults in Maine. In 2017, a domestic violence assault was reported to law enforcement every 2 hours and 5 minutes, and violent assaults accounted for 40.2 percent of the total assaults reported to law enforcement.<sup>8</sup>
- Approximately half of domestic violence incidents are reported to the police in Maine.<sup>9</sup>
- In 2017, 43 percent of homicides were attributed to domestic violence,<sup>10</sup> only slightly less than the 46 percent of homicides that were attributed to domestic violence from 2012 to 2013.<sup>11</sup>

### Maine's jail population has declined slightly in recent years, but jail operations are becoming increasingly costly at the state level.

- Maine's statewide average daily jail population decreased 4 percent between 2008 and 2018, from 1,583 to 1,514 people. However, this overall trend masks an increase of 14 percent between 2008 and 2014 (when the statewide jail population hit 1,805), then a decrease of 16 percent between 2014 and 2018.<sup>12</sup>

- By law, the state funds a portion of each county's jail operations costs. Due to increasing county jail costs and possibly other, unknown factors that the state strives to understand, this funding has more than doubled between FY2010 and FY2019, growing from \$8.8 million to over \$18.4 million.<sup>13</sup>

### Maine has one of the highest rates of drug overdose deaths in the nation, the majority of which are due to opioids.

- In 2017, Maine had the ninth-highest rate of overdose deaths in the country, with 34.4 drug overdose deaths per 100,000 residents,<sup>14</sup> well over the national opioid overdose death rate of 14.6 per 100,000 residents.<sup>15</sup>
- In 2017, there were 360 opioid-related overdose deaths in Maine, making the state's opioid overdose death rate 29.9 per 100,000 residents. It is estimated that 85 percent of drug overdose deaths in Maine in 2017 were caused by opioids.<sup>16</sup>
- Between 2007 and 2017, the number of drug overdose deaths in the state increased 167 percent, from 159 to 424.<sup>17</sup> However, from 2017 to 2018, the number of drug overdose deaths in Maine fell more than 15 percent to 354 deaths. This decline was the first year-to-year drop in drug overdose deaths in the state since 2010 to 2011.<sup>18</sup>

### State leaders have tried to alleviate strain on local and state criminal justice systems caused by the opioid crisis, but some resources remain stretched.

- There is an acute need for substance addiction treatment in Maine, but the state is struggling to provide necessary treatment resources. The most recent state-level data indicate that 88,000 Mainers had a substance addiction in 2015 and 2016, an estimated 8,000 of whom had a prescription opioid addiction. Estimates showing that 83,000 people in Maine needed but did not receive treatment for addiction likely understate the prevalence of opioid and other substance addictions by a considerable amount, according to recent research.<sup>19</sup>

- The state's recent expansion of MaineCare (Maine's version of Medicaid), which began in early 2019, is likely to impact many people who have behavioral health conditions (substance addictions and mental illnesses), are in the criminal justice system, or both. An estimated 70,000 low-income Mainers could gain health care coverage with full implementation of the MaineCare expansion, bringing total enrollment to over 320,000 people, or almost a quarter of Maine's population (24 percent). As of May 3, 2019, nearly 30 percent of the eligible population, 19,675 people, was enrolled in MaineCare under the expansion eligibility category.<sup>20</sup>
- In 2018, 56 substance use treatment facilities in Maine reported offering outpatient medication-assisted treatment (MAT) to help ease the opioid epidemic.<sup>21</sup> In 2019, initiatives to provide MAT in correctional facilities were launched by MDOC<sup>22</sup> and a number of county jails across the state.<sup>23</sup>
- Maine's six Adult Drug Treatment Courts<sup>24</sup> typically serve approximately 200 people at any given time, but many more people would likely benefit from focused recovery efforts.

**The prevalence of people with behavioral health conditions poses serious challenges for Maine's criminal justice system, and is compounded by the opioid epidemic.**

- National data indicate that the percentage of Mainers diagnosed with Serious Mental Illness (SMI) is above the national average. From 2014 to 2015, 5.1 percent of the Maine population had SMI in the past year, compared to a national annual average of 4.1 percent during the same period. During each of the four reporting periods between 2011 and 2015, Maine's annual average percentage of past-year SMI was above the national average.<sup>25</sup>
- There is limited public information on the prevalence of co-occurring substance addictions and mental illnesses among people in the criminal justice system in Maine, but national estimates range from 12 to 15 percent for men and 24 to 34 percent for women.<sup>26</sup> Other national data indicate that the prevalence of mental illnesses, substance addictions, or both among people in prison, jail, or under correctional supervision (probation or parole) was typically more

than double the prevalence of these conditions in the general population.<sup>27</sup>

- In addition to the six adult drug treatment courts in Maine, a co-occurring disorders court and a veterans treatment court exist in Kennebec County (Augusta) to serve people with co-occurring mental illnesses and substance addictions and people with prior military service, respectively.<sup>28</sup>

**People with behavioral health conditions (largely substance addiction), or who are supplying drugs to people with these conditions, are fueling Maine's prison population.**

- Sentences to prison for drug offenses are more common than sentences for any other offense category. In 2018, 51 percent of women and just over 30 percent of men receiving a new sentence to prison were convicted of a drug offense. The next-highest offense category for women was theft (21 percent), while the next-highest offense category for men was assault/threatening (16 percent).<sup>29</sup>
- In 2017, 67 percent of men admitted to prison and 80 percent of admitted women were recommended for residential or outpatient substance use treatment.<sup>30</sup>

**Maine has one of the nation's lowest probation<sup>31</sup> rates, and the state's probation population has declined in recent years. However, probation revocations still account for nearly half of admissions to prison.**

- Maine's 2016 adult probation rate of 632 people per 100,000 residents was the sixth-lowest such rate in the nation, trailing only New Hampshire, West Virginia, Utah, Nevada, and New York.<sup>32</sup>
- Between 2007 and 2017, Maine's adult probation population decreased 13 percent, from 7,668 to 6,707 people.<sup>33</sup>
- In 2017, 44 percent of prison admissions in Maine were the result of a probation revocation. Fifty-nine percent of these were due to new offenses committed while on probation; the remaining 41 percent were for technical violations of probation conditions.<sup>34</sup>

**Maine’s one-year and three-year recidivism rates have increased in recent years.**

- Between 2010 and 2017, the one-year return-to-custody rate for all releases from MDOC increased from 10 to 13 percent. For people released to probation supervision during this period, the rate increased from 13 to 18 percent, and for those released without supervision (“straight releases”), the rate increased from 5 to 7 percent.<sup>35</sup>
- The three-year return-to-custody rate has also increased in recent years. Of people released from MDOC in 2010, 24.7 percent returned to custody within three years. For people released in 2013, 30.2 percent returned to custody within three years, an increase of 5.5 percentage points over the four-year period.<sup>36</sup>

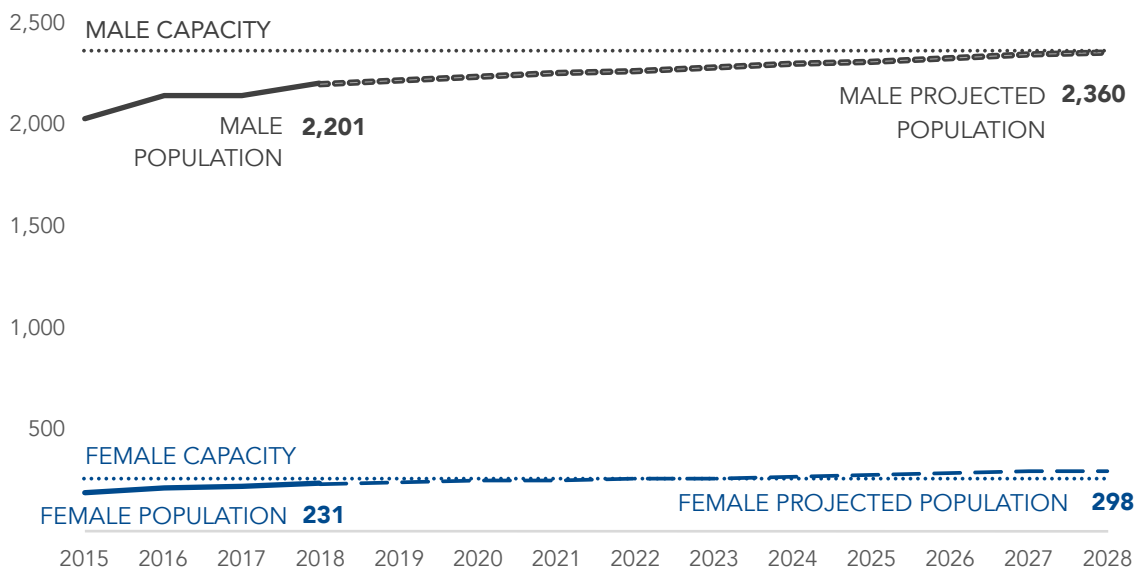
**Spending on state prisons has increased alongside growth in the prison population, and the prison population is expected to continue increasing.**

- Maine’s 2017 adult incarceration rate of 165 per 100,000 residents for people sentenced to more than

one year was the second-lowest such rate in the country, behind only Massachusetts.<sup>37</sup>

- Unlike many states, people sentenced to a term of incarceration of more than nine months in Maine serve that time in DOC facilities.<sup>38</sup> Maine’s total prison population increased 12 percent between 2007 and 2017, from 2,148 to 2,404 people.<sup>39</sup> In the same period, the population of people sentenced to more than one year in prison in Maine decreased 8 percent, from 1,950 to 1,795 people.
- Between January 2014 and July 2019, the average daily female population in prison in Maine increased 51 percent, from 140 to 211 women. During the same period, the average daily male population increased only 2 percent, from 2,009 to 2,042.<sup>40</sup>
- Between FY2007 and FY2017, state spending on corrections in Maine increased 32 percent, from \$138 million to \$182 million.<sup>41</sup>
- Maine’s average daily prison population is projected to increase 12 percent between 2017 and 2028, reaching an average total population of 2,652 people by 2028.<sup>42</sup> (See Figure 1.)

**Figure 1: Maine’s Historical and Projected Prison Population**



# The Justice Reinvestment Approach

## Step 1: Analyze data and develop policy options

Under the direction of the commission, CSG Justice Center staff is conducting a comprehensive analysis of crime, arrest, conviction, sentencing, probation, incarceration, behavioral health, parole, and recidivism data, using hundreds of thousands of individual data records. CSG Justice Center staff are examining probation and incarcerated population trends, length of time served in prison or jail and on supervision, statutory and administrative policies, and availability of treatment and programs designed to reduce recidivism, among other factors. To the extent data are available, CSG Justice Center staff are also assessing how felony sentencing trends impact probation and incarcerated populations and exploring contributors to recidivism trends.

To incorporate perspectives and recommendations from across the state, CSG Justice Center staff are gathering input from criminal justice system stakeholders, including the Maine attorney general, judges, district attorneys, defense lawyers, sheriffs, police chiefs, probation officers and administrators, behavioral health treatment providers, victims and their advocates, people in the criminal justice system and their advocates, residents and leaders in communities where confidence in the criminal justice system may be low, local officials, and others. With the assistance of CSG Justice Center staff, the commission will review the analyses and develop data-driven policy options focused on reducing recidivism, improving behavioral health outcomes, and increasing public safety in Maine. Policy options will be available for the commission's consideration in early 2020, and recommendations approved by the commission will then be provided to the legislature.

## Step 2: Adopt new policies and put reinvestment strategies into place

If the policy options are adopted, CSG Justice Center staff will work with Maine policymakers to translate the new policies into practice. This assistance will help ensure that related programs and system investments achieve projected outcomes and are implemented with fidelity. CSG Justice Center staff will develop implementation plans with state and local officials and provide policymakers with frequent progress reports.

## Step 3: Measure performance

Finally, the CSG Justice Center will help Maine officials improve statewide data collection and sharing to measure and monitor performance as well as, ultimately, increasing the state's capacity for making data-driven decisions in criminal justice policymaking and budgeting. This could include identifying key data points to record and officials who are best positioned to collect data, as well as exploring best practices to track, monitor, share, and analyze data. Improvements in this area will allow state leaders to assess the impact of enacted policies on pretrial, probation, post-release supervision, and incarcerated populations, including recidivism rates, and to develop strategies to monitor these outcomes.

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## Notes

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**Justice Center**  
THE COUNCIL OF STATE GOVERNMENTS



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The Council of State Governments (CSG) Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center's work in justice reinvestment is done in partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance. These efforts have provided data-driven analyses and policy options to policymakers in 26 states. For additional information about Justice Reinvestment, please visit [csgjusticecenter.org/jr/](https://csgjusticecenter.org/jr/).

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