



## UNITED STATES COMMISSION ON CIVIL RIGHTS

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1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 [www.usccr.gov](http://www.usccr.gov)

October 4, 2018

Commissioner Joseph Fitzpatrick  
Department of Corrections  
State of Maine  
State House Station 111  
Augusta, Maine 04333

Dear Commissioner Fitzpatrick:

The U.S. Commission on Civil Rights is pleased to transmit to your office our Maine Advisory Committee's [Memorandum](#), *Racial Discrimination in Criminal Prosecution and Sentencing in Maine*.

The Commission maintains 51 Advisory Committees - one for each state and the District of Columbia. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Maine Committee's focused attention on civil rights disparities in the criminal justice system – including at the prosecution and sentencing stages.

The Commission requests that your office review the recommendations on page 4 in the Memorandum, which can be viewed at: <https://www.usccr.gov/pubs/docs/2017-12-07-Advisory-Memo.pdf>. They are also indicated in the stand-alone "Recommendations" document attached to this letter. In response to these recommendations, we advise that you take the steps necessary to protect civil rights in your jurisdiction.

We have similarly asked the Legislature's Joint Standing Committee on Criminal Justice and Public Safety review the recommendations.

The Commission appreciates your consideration, in the hope of ensuring civil rights protections. We look forward to hearing from you on what actions you will take in response.

Sincerely

A handwritten signature in blue ink, appearing to read "C. Lhamon".

Catherine E. Lhamon  
Chair

**Encl. Maine Advisory Committee Advisory Memorandum (via email only)  
Recommendations in Report**



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October 4, 2018

Sen. Kimberley Rosen, Co-Chair  
Rep. Charlotte Warren, Co-Chair  
Joint Standing Committee on Criminal Justice and Public Safety  
Maine State Legislature  
3 State House Station  
Augusta, ME 04333-0003

Dear Senator Rosen and Representative Warren:

The U.S. Commission on Civil Rights is pleased to transmit to your offices our Maine Advisory Committee's [Memorandum](#), *Racial Discrimination in Criminal Prosecution and Sentencing in Maine*.

The Commission maintains 51 Advisory Committees - one for each state and the District of Columbia. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Maine Committee's focused attention on racial discrimination in the criminal justice system – specifically looking at the prosecution and sentencing stages.

The Commission requests that your office review the recommendations on page 4 in the Memorandum, which can be viewed at: <https://www.usccr.gov/pubs/docs/2017-12-07-Advisory-Memo.pdf>. They are also indicated in the stand-alone "Recommendations" document attached to this letter. In response to these recommendations, we advise that you take the steps necessary to protect civil rights in your jurisdiction.

We have similarly asked the Governor's Office and the Department of Corrections to review the recommendations.

The Commission appreciates your consideration, in the hope of ensuring civil rights protections. We look forward to hearing from you on what actions you will take in response.

Sincerely

A handwritten signature in blue ink, appearing to read "C. Lhamon".

Catherine E. Lhamon, Chair

**Cc: Nikolette Alexander, Clerk**

**Encl. Maine Advisory Committee Advisory Memorandum (via email only)  
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### **Advisory Memorandum of the Maine Advisory Committee to the U.S. Commission on Civil Rights:**

#### ***Racial Discrimination in Criminal Prosecution and Sentencing in Maine***

#### **Recommendations**

Based upon the Committee's themes and assertions from the [August 2014] public hearing, it recommends the following:

- 1) **Mandate data collection, sharing, and regular reporting.** The legislature should task a relevant stakeholder (such as the Joint Standing Committee on Criminal Justice and Public Safety) to evaluate data collection systems already in place in Maine. Once an evaluation is completed, data systems should be consolidated and streamlined. The legislature can mandate through statute, or the Governor through executive action, that systems such as the Maine Department of Corrections must collect and publicly issue quarterly reports regarding demographics of incarcerated persons. Furthermore, other levels of the criminal justice system must engage in data collection and reporting, such as prosecutors and police officers. In order to identify the scope of racial disparities that exist in Maine, better data collection and reporting is necessary. Reporting from the local level will also allow for targeted intervention. Racial disparities may be more evident in certain counties than others, warranting targeted action.
- 2) **Revisit sentencing, especially mandatory minimum sentencing.** Since 1976, the state of Maine has largely left alone the criminal code. The legislature must revisit sentencing for crimes, especially nonviolent drug offenders. Furthermore, the state should consider reestablishing parole eligibility. Over time, statutes have stripped judges of considering all relevant aspects of a trial, including subjective data. While funding may be an issue for revisiting guidelines – *i.e.*, the money required to establish a committee to analyze and create recommendations for sentencing – it costs Maine millions of dollars annually to house prisoners. Furthermore, the incarcerations of Maine residents amounts to a loss of economic productivity which could enhance the overall economy of the state.
- 3) **Address systemic racism throughout the criminal justice system.** Special programming should be instituted that 1) supports and trains criminal justice staff (e.g. policeman, prosecutors, etc.) in identifying and eliminating implicit bias and systemic racism, and 2) encourages and recruits people of color to hold criminal justice offices and positions. Latter programs may be established

in schools in order to engage youth of color. This action could foster relationships between communities of color and criminal justice agents. Increasing the number of people of color in positions of authority would increase accountability of law enforcement officials in cases that involve defendants of color. People of color account for a very small percentage of law enforcement positions that exert discretion over criminal cases.

- 4) **Protect juveniles.** As mentioned in a prior recommendation, criminal justice agents should reach out to people of color in order to increase basic knowledge of criminal justice, which would increase agency of people of color in the criminal justice system. Juveniles of color disproportionately are incarcerated, which often leads to high recidivism rates. Maine may look to the Community Oriented Policing Services office at the U.S. Department of Justice for examples, grants, and guidance.