

PRETRIAL JUSTICE REFORM TASK FORCE

Type: Limited Term Task Force
Established: May 1, 2015, Report delivered February 12, 2016
Re-established: February 6, 2019
Chair: Justice Robert E. Mullen
Report Date: November 30, 2019
Reports to: Chief Justice
Completion Date: July 30, 2020

I. Background:

This Task Force is re-established by Chief Justice Saufley to begin the next steps of reviewing and improving the system of pretrial justice in Maine. The Chief Justice will invite the new Governor, President of the Senate, and Speaker of the House to designate members of the Task Force in order to continue the cross-branch work begun by the original Task Force

The Task Force is expected to meet regularly during 2019 and to present recommendations for improvements to the leaders of the three branches in time to allow action on the urgent proposals during the Second Regular Session of the 129th Maine Legislature.

II. Goals:

The primary responsibilities of the Task Force are to review the relevant current research and data; address existing resources, procedures, and programs; and make recommendations that will

- Reduce the human and financial costs of pretrial incarceration and restrictions;
- Achieve fairness in the application of policies and laws, including but not limited to, giving attention to racial, ethnic, gender, LGBTQ, and economic factors;
- Provide for the collection and reporting of reliable data that will be helpful in assessing efficacy, fairness, and positive outcomes;
- Identify needed resources, both current gaps and innovation-based needs; and
- Avoid compromising individual or community safety or the integrity of the criminal justice system.

III. Responsibilities:

- A. Review of Accomplishments from the recent Task Force
 - Catalogue changes accomplished in last legislative session;

- Determine whether there is data available to evaluate efficacy of those changes, and if not, how such data could be collected and analyzed;
- Evaluate improvements.

B. Review and Update Best Practices

The Task Force will undertake an updated review of the current state of knowledge regarding evidence-based best practices and innovations in pretrial justice reform regarding

- Reduction and prevention of violence, and the development of programs that provide for improved protection for victims;
- Diversion of nonviolent offenders into community-based programs;
- Creation of supervised, meaningful community service programs to augment personal accountability in sentencing and enhance pretrial success;
- Development of better individualized conditions of pretrial release, accompanied by improved resources, oversight, and enforcement; and
- Identification of resources necessary to support case management, community-based programs, addiction recovery programs, and mental health support within communities.

C. Assessments

The Task Force will undertake a review of the current state of knowledge regarding assessments in pretrial justice reform, including, but not limited to, the following:

- Identification of resources that have shown a proven ability to improve appearance rates, reduce unnecessary detention, and improve community safety;
- The thoughtful development and implementation of reliable risk assessment tools and objective assessments for suitability-for-release determinations that are assessed for potential inherent biases and any other aspects affecting fairness and reliability;
- The assessment of family support systems and the methods by which the system addresses the needs of children and families of alleged offenders; and
- The identification of the most effective work being undertaken by government and stakeholders to address addiction recovery.

D. Process Improvement

The Task Force will assure that attention is given to the following aspects of the pretrial process:

- Proven strategies for protecting the victims—adults, children, and the elderly—of domestic and sexual violence;
- The factors that go into the decision to arrest rather than summons, and release rather than hold, and the need, if any, for statutory augmentation;
- The potential for updating, or the complete replacement of, the bail commissioner system, including, but not limited to
 - Enhanced education, training, and experience requirements;
 - Compensation for bail commissioners that allows for the elimination of fees paid by defendants to bail commissioners; and
 - Assuring that bail commissioners are able to have all relevant information, including in-person assessments of arrestees;
- The process related to alleged violations of conditions of pretrial release and motions to revoke bail;
- The breadth, reliability, and quality of information available to a bail commissioner or a judge at the point of pretrial release decisions;
- The assessment of mental health capacity, risks, and resources needed at each point in the pretrial process;
- The resources available for pretrial diversion programs; and
- The post-conviction process for addressing the payment of fines and restitution.

E. Foundational Components

The Task Force will assure that any proposals address

- Risk of violence;
- Safety of crime victims and the community;
- Risk of flight;
- Potential human trafficking victims;
- The potential for inequitable minority impact;
- Availability of meaningful, supervised community service;
- Acceptance of personal responsibility, including the responsibilities of
 - Maintaining sobriety;
 - Complying with court orders;
 - Focusing on continued education, employment, participation in job searches, or meaningful community service; and
 - Meeting family responsibilities, including payment of child support.

IV. Recommendations:

The Task Force will prepare a report and make recommendations to the SJC through Chief Justice Saufley, and to Governor Mills, President Jackson, and Speaker Gideon for improvements, innovations, and augmentations of resources, statutes, procedures, and policies that are responsive to the charge of the Task Force.

V. Resources:

The Task Force will be assisted by members of the Administrative Office of the Courts, law school interns, and others as made available. The Task Force may seek input, suggestions, and recommendations from individuals and groups outside of the Task Force. The Task Force may invite consultants to its meeting as needed. There is no specific general fund allocation for the Task Force.

VI. Membership:

The membership list is attached and may be modified at any time at the discretion of the Chief Justice.

VII. Subcommittees and Voting:

At the discretion of the Chair, the Task Force may designate subcommittees to address specific issues and report back to the Task Force. Subcommittees may invite additional input.

The Task Force will work through consensus. All members of the Task Force, including ex officio members, are voting members. Where consensus is not possible, a vote of the majority of the membership will be sufficient to include a recommendation in the report. A minority report may be included in the final report.

VIII. Reporting:

The Task Force will report to the leaders of the three branches of government on or before November 30, 2019. The Report will contain specific recommendations for innovations and improvements, including pilot projects, as well as drafts of any proposed legislation or rule changes. At a minimum, the Task Force will present proposals for improvements in the following three areas:

1. **Bail:** Replacement or improvement of Bail Commissioner system, use of cash bail, use of validated risk assessment tools, conditions

and suitability for release, and violence and sexual assault prevention;

2. **Community Based Programs:** Pretrial diversion alternatives, case management and treatment availability, supervised community services programs, and integrated programs, including potential funding sources for such programs; and
3. **Resources Supporting Innovations and Diversion:** Improvement in community service alternatives, review of sentencing alternatives to fines, assessment of proven resources, recommendations for augmenting or improving current community-based services.

IX. Meetings:

Meetings will be at the call of the Chair of the Task Force, at times and places designated by the Chair. Meetings will be open to the public. Although members may appear by video or phone, personal attendance is encouraged.

X. Task Force Duration:

Unless extended by further order of the Chief Justice, the Task Force will complete its work no later than the conclusion of the Second Regular Session of the 129th Maine Legislature and will cease to exist on July 30, 2020.

Dated: February 6, 2019

Approved by:

_____/s/_____
Chief Justice Leigh I. Saufley
Maine Supreme Judicial Court

**JUDICIAL BRANCH
PRETRIAL JUSTICE REFORM TASK FORCE
MEMBERSHIP ROSTER**

Justice Robert E. Mullen, Chair
Chief Justice of the Superior Court or designee
Chief Judge of the District Court or designee
Commissioner of the Department of Public Safety or designee
Commissioner of the Department of Corrections or designee
Senator as appointed by the President of the Senate
Representative as appointed by the Speaker of the House
Tribal Representative
Attorney General Aaron Frey, or designee
President of the Maine District Attorney's Association or designee
Edward Tolan, Executive Dir., Maine Chiefs of Police Association, or designee
Sheriff Kevin Joyce or designee
County Jail Administrator as appointed by the Maine Sheriffs Association
Andrea Mancuso, Esq., Public Policy Dir., Me. Coalition to End Domestic Violence
Elizabeth Saxl, Executive Director, Maine Coalition Against Sexual Assault
Alison Beyea, Executive Director, ACLU of Maine
Rachel Talbot Ross, Maine NAACP
Lois Reckitt, Domestic Violence Consultant
Elizabeth A. Simoni, Executive Director, Maine Pretrial Services
Kelly Dell'Aquila, Director of Services, My Sister's Keeper
Tina Nadeau, MACDL
John D. Pelletier, Executive Director, MCILS, or designee, ex officio
Anne Jordan, Esq., Judicial Branch Manager of Criminal Process & Specialty Dockets
Patty Kimball, Executive Director, Restorative Justice Institute
Associate Justice Joseph M. Jabar, SJC Liaison