



Summary of Corrections Research Findings

Native individuals in the Maine corrections system

There are only a handful of published reports that specifically address the race of individuals in the corrections system in Maine. Correspondence with staff from the Maine Center Statistical Analysis, which deals with statistical data on corrections in Maine, raised questions about the accuracy of race data reported by county jail staff due to a lack of training and systematic method for determining race. In addition, in a report for MSAC, Kenny & Mishina (2005) strongly recommended a need for county-specific data, rather than statewide data, assuming that arrests of Native people would likely be concentrated in a few counties in Maine.

The following are the only published or referenced sources of data on race in Maine's corrections system that were located:

- Prison Policy Initiative, which stated that AI/AN individuals make up .6 percent of the total population in Maine, and 1.7 percent of the prison and jail population. Essentially, this means overrepresentation in prison/jail by more than two times the presence in the general population.
- Wabanaki Restorative Justice and Healing Commission, which cited MITSC data that found a 5:1 disparity, although it was unclear what aspect the ratio was referring to -- prison population, incarceration rate, etc.
- Gousse 2012. In his student thesis, Gousse conducted his own analysis of data provided by the Maine Department of Corrections. He found that Native people composed 2.7 percent of the prison population in Maine, while only composing 0.6 percent of the statewide population.
- In a report for MSAC, Noreus & Rocque (2009) found that in Aroostook County, the rates of referral to juvenile court (instead of diversion from court) for Native American youth were consistently more than double the rate for white youth. However, arrest rates for minority youth were consistently lower the arrest rates for white youth. This suggests that while Native youth are less likely to be arrested, once arrested, they are more likely to formally enter the criminal justice system.
- In this same report, Noreus & Rocque (2009) found that Maine had made significant improvements in data collection for race and ethnicity at all points in the juvenile justice system. This means that it is possible for there to be ongoing analysis and monitoring of disproportionality.
- VanNostrand et al. (2006) reported that in Aroostook county, 3.7 percent of inmates were Indian, and in Penobscot county, 2.6 percent of inmates were Indian. These are both disproportionately high rates, since according to the US Census, in the year 2000, 1.4 of the Aroostook county population overall was American Indian/Alaska Native (AI/AN), and 1.0 percent of Penobscot county was AI/AN.

County jail data

Due to the absence of published analysis or data addressing Native presence in the corrections system in Maine, the TRC directly requested data on race of individuals booked at county jails in Maine. Although the intention was to use this data to determine whether or not Native people were disproportionately present in Maine's county jails, the variability and incompleteness of the data, as well as questions about the methodology used to determine the race of inmates, made it impossible to draw any reliable conclusions based on the data.

Response of county jails:

- All 13 county jails, as well as Coastal Reentry Center and Two Bridges Regional Jail, were contacted with a request for racial demographic booking data.
- Only five counties provided the requested data: Aroostook, Franklin, Hancock, Kennebec, and Penobscot counties.
- Oxford County responded to the request, but explained that because they only hold inmates for 72 hours before they are transferred elsewhere, that their data would be duplicated by the booking data of the other county jails that take their inmates. Coastal Reentry Center also responded to the request, but similarly explained that booking data would be duplicated by other county jail booking data, since all inmates at Coastal Reentry would have been booked elsewhere in Maine prior to arriving at the reentry center.
- The Research Assistant followed up several times with Washington County Jail, where staff confirmed that the request had been passed along to the appropriate authority, but ultimately, no data was provided by Washington County.
- Analysis of data provided by Aroostook, Penobscot and Hancock counties found that Native individuals were overrepresented in county jail populations. The most significant overrepresentation was in Aroostook County, where Native individuals were booked in the county jail at a rate between 2.6 and 3.3 times greater than their presence in the general population of Aroostook County. Hancock County rates were 2.3 to 2.8 times greater than the rate in the general population, and Penobscot County rates were 1.8 to 2.2 times greater. Because of issues with data provided by county jails (noted elsewhere in this summary), while these findings should be indicative of a serious need for further, more rigorous analysis, they also should be considered provisional.

The collection of this data resulted in the identification of the following issues:

- Methodology and terminology used by county jail staff to determine race of inmates. For example, in the Aroostook county jail information system, staff could choose either "Indian" or "Native American" to signify someone who was Native. The Research Assistant was told that staff were now supposed to only use "Native American" for Native people, but in older data provided by Aroostook county, "Indian" had clearly been more commonly used to signify someone who was Native. In addition, appropriate methodology for collecting information about race allows the individual to identify his or her own race (or choose multiple races, or no race). It is unknown what

type of training and methodology are used by county jail staff to determine race of inmates.

- Lack of response. Not all counties responded -- most notably, Washington county jail did not provide any data in spite of repeated follow ups.
- Variability in information systems, including categories for race, years for which data is available, and availability of data on race for various points in the incarceration process (arrests, bail, probation, etc.)

State prison data

The DOC provided quarterly data on state prison inmates who identified as Native American, including self-identified tribal affiliation. In its current form, the data have been useful for ongoing outreach efforts, and would provide a way to track numbers of Native individuals who are incarcerated over time. However, the data did not include total numbers of inmates. Without that corresponding information, it isn't possible to calculate disproportionality.

Historical documents

Documents reviewed at the Maine State Archives strongly supported the existence of longstanding racism faced by Native communities, and in particular biased treatment by the criminal justice system. In addition, historical documents identified numerous factors that may have contributed to biased treatment of Native people in the criminal justice system in Maine.

Dominant narrative

Materials that documented elements of a biased dominant narrative about Wabanaki people were abundant in the Indian Affairs archive. The table below addresses elements of a dominant narrative found in documents that were selected based on relevance to the TRC.

Dominant narrative elements	Source
Wabanaki people lack pride or initiative	Proctor & State of Maine (1942)
Wabanaki people do not care for themselves, their homes, or their land (“caring for the needy Indians”)	Stevens & State of Maine (1952) State of Maine Department of Health and Welfare Advisory Subcommittee on Indian Affairs (1965)
Wabanaki people are alcoholics, lazy, and that as a people are the “largest parasite on the state”	Bangor Daily News (1952)
Wabanaki tribal nations (and tribal lands) will eventually disappear	Fuller (1952)
Wabanaki tribal nations (and tribal lands) only exist by the permission and generosity of the State of Maine	Stevens & State of Maine (1952)
The characterization of Wabanaki resistance and advocacy as aggression and/or trying to pull one over on the state	Stevens & State of Maine (1952)
Wabanaki people are considered “nuisances and jokes” by the state	WGUY (1964)
The characterization of Wabanaki tribal lands as worthless and run down	Proctor & State of Maine (1942)
Wabanaki cultural differences make Wabanaki people inferior	Diocese of Portland, Diocesan Bureau of Human Services (Undated)

Being Wabanaki is subordinate to being American or being a Mainer	Longley (1976)
Wabanaki people should not receive special treatment by the state	Flanagan (1983)
The characterization of Wabanaki peoples as a problem for the state of Maine to solve	Proctor & State of Maine (1942), Bangor Daily News (1952), Stevens & State of Maine (1952)

Biased treatment by criminal justice system

- **Diocese of Portland, Diocesan Bureau of Human Services. (Undated).** Outlines numerous issues faced by Passamaquoddy tribes, including discrimination by state police and absence of equal police protection and absence of freedom from arrest.
- **A Report on Passamaquoddy Indians** (author and date not known), written for the US Civil Rights Commission investigation that occurred in the 1960s in Maine, outlines in detail ways in which Passamaquoddy tribal members were denied equal protection under the law. A number of discriminatory practices were specific to the criminal justice system, including: use of discriminatory tactics by local police, inability of tribal members to post bail when arrested due to the legal status of property owned by tribal members, the exclusion of Native people from juries resulting in racially biased juries, and issues with state district courts prosecuting crimes on tribal lands rather than federal courts.
- **State of Maine. (1969).** Report from Governor’s Task Force on Human Rights. A substantial portion of this reported is focused on the racism experienced by Native people in Maine, with specific mention of police abuse and corrections system injustices. The appendix includes numerous articles dedicated to the 1968 “Labor Day fracas” incident in which a law enforcement posse illegally raided the Sipayik community, physically assaulting community members and illegally entering people’s homes, apparently in an act of retaliation.

Factors contributing to disproportionate representation in corrections system

There is ample documentation of the adverse socio-economic and environmental conditions on tribal lands from the 1950s, 60s and 70s. Source material for this includes:

- Inadequate access to basic human needs, for example, the lack of sewer and adequate sanitation on the Passamaquoddy reservations is well-documented, for example, by **Kaliss (1967)**. Another source from 1968 stated that Passamaquoddy tribal leaders had been asking the state for improved sewer and sanitation for the past twenty years.
- Lack of adequate education and economic opportunity. **Kaliss (1967)**. The **Report on Passamaquoddy Indians**, from the 1960s, stated that Passamaquoddy children had to pay to attend public schools because tribal members did not pay property taxes -- effectively segregating schools in that area.
- Lack of economic opportunity, including discriminatory hiring practices. **Report on Passamaquoddy Indians, Kaliss (1967)**.
- Factors that prevented tribes from exercising autonomy, including state control of tribal affairs through the control of tribal lands, lack of clarity around citizenship status, lack of

clarity around individual land titles, lack of voting representation at the state legislature, the exclusion of tribal governments from the administration of trust funds intended for the tribes, and the inadequate training and pay for tribal law enforcement. **Indian Affairs Subcommittee of the Task Force on Human Rights. (1968, July 20).**

Findings

- Historical documents support the presence of a biased dominant narrative about Native people in Maine, in particular, providing evidence of biased treatment by the criminal justice system.
- In addition, historical documents contributed to an identification of factors that may have contributed to disproportionately high representation of Native people in the corrections system in Maine.
- Biased dominant narrative, disproportionate, multi-generational exposure of Wabanaki people in Maine to socio-economic and environmental risk factors, and increased rates of incarceration of Native peoples in Maine can all be understood within the context of the state's long-term strategy of control and containment of Wabanaki peoples and land.
- Very little current, published data on race in the Maine corrections system is available.
- Questions about reliability and accuracy of available data create challenges for statistical analysis.
- With the exception of arrest rates for minority youth, demographic data that is available all has found that Native people are overrepresented in Maine's corrections systems.
- Legacies of colonialism, issues of sovereignty and inadequate resources for tribes to address their own issues (common to child welfare issues faced by tribes) are also connected to corrections experience of Native peoples.

Recommendations for consideration

- Increased transparency and improved tracking around racial demographic data of individuals in Maine's county jails and state prisons.
- The need for racial demographic data from all points in the corrections system process, from arrest to release and recidivism, and on a county-specific, rather than statewide level.
- Examination of continued presence of institutional racism within state government interactions with tribes, in particular as that relates to increased likelihood of incarceration of Native peoples.