

Why aren't these transient people vetted and those with criminal backgrounds eliminated from the program?

It does not appear that the GA rules allow for criminal background checks. Similarly, a criminal conviction does not disqualify applicants from eligibility from GA. There are two exceptions from this general rule.

- A “fugitive from justice”, defined as anyone accused or convicted of a crime in another state and whose presence is demanded by that state, is ineligible for GA. See 15 M.R.S.A. § 201(4).
- An individual who has committed “fraud, misrepresentation or a knowing or intentional violation of program rules,” or has “refus[ed] to comply with program rules without just cause.” See 22 M.R.S. §§ 4315, 4317.

Any person who commits fraud in an effort to receive GA faces two possible penalties: (1) he or she will be ineligible for assistance for 120 days and will be required to reimburse the municipality for the assistance he/she was not entitled to receive; and (2) he or she may be prosecuted for committing a Class E crime which carries a penalty of a maximum \$500 fine and a prison sentence not to exceed 1 year. It is a case of fraud when anyone “knowingly and willfully” makes a false statement of a material fact for the purpose of causing himself or any other person to be eligible for GA (§ 4315).

With respect to criminal background checks, the GA administration manual from MMA notes that “the police have no role in the regular administration of GA. If the administrator has a good reason to suspect fraud regarding the application, the police may be brought in to help investigate but the police should not be used in the routine administration of G.A.” See 22 M.R.S. § 4317.

Is it true that they do not need to disclose any criminal records they may have? What is the long-term plan for these individuals?

The answer to the question re: criminal records is the same as above. Relating to the Town’s “long term plan,” that is a policy decision that I can’t speak to.

For the Board of Selectmen - How is it that both the "28-day rule" nor the 90 days limit outlined in the lodging licensure ordinance are not being enforced? Can the Town legally fail to enforce the ordinance and/or place individuals in establishments knowing that they are registering children for school or otherwise breaking the letter and spirit of the law?

Legally speaking, we must look at the administration of GA on the one hand, and the enforcement of land use laws on the other, as separate and distinct issues. The GA administrator is limited to applying the GA rules and statutes when making eligibility determinations — land use ordinances have no role in that determination. On the other hand, the town may enforce land use laws as against landlords and property owners if it believes that they are being violated. For example, if there is a condition of approval for a particular property that imposes the “28-day rule” on a particular hotel, and they are required to keep logs or records to this effect, then a violation of these requirements could be a basis for land use enforcement proceedings via a Notice of Violation and the 80K court process.

With respect to the question about whether the Town may “legally fail to enforce” an ordinance — Maine’s highest court (the Law Court) has held that municipalities have prosecutorial discretion in this regard. Towns are not compelled to enforce each and every possible violation. Rather, they may make

reasonable determinations about whether or not to enforce based on surrounding circumstances (cost, likelihood of success, competing demands on resources, possibly conflicting local or state laws), etc.

Under Maine statute, a child's residency for the purposes of school enrollment is based on their parents. See Title 20-A, §5202: Residence (mainelegislature.org) It is up to the school (not the Town) to determine residency as a precursor to its determination as to whether a child is eligible for enrollment.

One thing to keep in mind is that when dealing with a homelessness situation (including when a child is temporarily living in a hotel or motel), there is a federal homelessness law that must be read in conjunction with the eligibility and residence requirements outlined in Maine statute. This link provides a helpful summary. [McKinney-Vento Education in Maine | Department of Education](#)

In sum, Maine's DOE and schools follow the provisions of the federal McKinney-Vento Homeless Assistance Act, which aims to minimize educational disruptions experienced by students experiencing housing instability. Students in temporary housing situations are guaranteed the right to a free, appropriate, public education. This federal legislation applies to all public-school students, pre-K through grade 12 who "lack a fixed, regular and adequate nighttime residence," including children and youth living in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate housing.

Why are people with current repeat offenses of crime allowed to use this program?

The response is the same as above. Criminal records are not allowed to be considered in eligibility determinations. (Except if there has been fraud with respect to the GA program itself or if they are "fugitives from justice.")

Has the town of Wells and/or Sheriff King looked into what other towns have implemented to remediate disorderly tenants and property owners who do nothing to stop repeated behaviors?? Please look at the city of Bangor, ME disruptive property ordinance; Chapter 99 as a possible template. Also, the town of Old Orchard has something similar for lodging/winter rentals/certificate of occupancy for disruptive behaviors. I could not navigate the OOB website to find the specific ordinance. However, those property owners would lose the certificate of occupancy for the summer season if compliance was not met, and action taken to evict/remove disorderly renters.

Yes, a number of towns of which I am aware of similar ordinances. If the Town is interested, we can discuss the pros/cons of such ordinances and I can assist in drafting one.