Crime, Cost, and Consequences:

Is It Time to Get Smart on Crime?

MassINC
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ABOUT MASSINC

Massachusetts Institute for a New Commonwealth (MassINC) is a non-partisan think tank and civic organization focused on putting the American Dream within the reach of everyone in Massachusetts. MassINC uses three distinct tools — research, journalism, and civic engagement — to fulfill its mission, each characterized by accurate data, careful analysis, and unbiased conclusions. MassINC sees its role not as an advocacy organization, but as a new kind of think tank, rigorously non-partisan, whose outcomes are measured by the influence of its products in helping to guide advocates and civic and policy leaders toward decisions consistent with MassINC's mission, and in helping to engage citizens in understanding and seeking to influence policies that affect their lives.

ABOUT COMMUNITY RESOURCES FOR JUSTICE

For more than 130 years, Community Resources for Justice has been improving public safety while helping some our society's most challenged individuals develop their full potential. We help men and women released from incarceration to successfully re-enter mainstream society; we steer at-risk youth away from crime and toward productive lives; we offer adults with developmental disabilities the chance to flourish while living in the community. Our national-scale research and consulting practice accelerates system-level changes in corrections policy by using evidence-based practices. Working with our partners, we strengthen individuals, families, and communities. More information available at www.crj.org.

ABOUT THE MASSACHUSETTS CRIMINAL JUSTICE REFORM COALITION

The Massachusetts Criminal Justice Reform Coalition, formed in 2012, is a diverse group of prosecutors and corrections practitioners, defense lawyers, community organizers, and businessmen and women who find common ground in the need for corrections reform in Massachusetts. The Coalition co-chairs are: Wayne Budd, former US Attorney; Kevin Burke, former Secretary of Public Safety; and Max Stern, President of the Massachusetts Association of Criminal Defense Lawyers. The Coalition's purpose is to work with lawmakers to make major changes in the criminal justice system in Massachusetts, including:

- Placing a moratorium on new prison construction
- Reestablishing and empowering the state's Sentencing Commission
- Building a statewide reentry initiative modeled after Boston's Emergency Reentry program
- Redirecting resources from the most costly settings to pre-release and drug programming
- Developing clear lines of responsibility for post-release supervision

ACKNOWLEDGMENTS

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Benjamin Forman
Research Director, MassINC

John Larivee
CEO, Community Resources for Justice

March 2013

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Dear Friends,

The Massachusetts Criminal Justice Reform Coalition is proud to present *Crime, Cost, and Consequences: Is It Time to Get Smart on Crime?* This report provides the foundation for the Coalition's effort to fuse research, public education, and civic discourse into a multi-year campaign to make the Commonwealth a leader in the field of corrections.

Our Coalition is made up of experts with diverse backgrounds and perspectives. We are prosecutors and corrections practitioners, defense lawyers and community organizers, and businessmen and women drawn together by a sense of urgency about reforming the criminal justice system in Massachusetts — a system that costs taxpayers $1.2 billion a year and lags behind the country in implementing reforms proven to reduce costs and improve public safety.

In this first report, the Coalition seeks to provide the public with information on the real costs of our current approach to criminal justice. As crime rates continue to drop nationally and here in Massachusetts, the state's prison population spirals ever higher because of outdated "tough on crime" policies that have more political than practical value.

In this difficult fiscal environment, corrections budgets are unnecessarily crowding out other state spending, including funding for public health, higher education, and local aid. Without a change of course, the Executive Office of Administration and Finance estimates that at least $1 billion will be needed for new facilities, with operating costs growing by $120 million annually.

This new report looks to models developed elsewhere, including in many "red states" that have stopped prison construction, reduced mandatory sentences, and invested in evidence-based programs to cut cost and increase public safety. Instead of spending more on what doesn't work, states like Arkansas, Georgia, South Carolina, and Texas are spending less on what does.

As the report points out, these are instructive examples for Massachusetts. We hope this research sparks a serious discussion on how to bring the Commonwealth into line with innovative reform efforts around the country, and in doing so, lower costs and increase public safety.

Sincerely,
Massachusetts Criminal Justice Coalition Co-Chairs

Wayne A. Budd
Former US Attorney
Senior Counsel
Goodwin Procter LLP

Kevin Burke
Former Secretary of
Public Safety and Security
Visiting Professor
Endicott College

Max D. Stern
Partner
Stern Shapiro Weissberg & Garin LLP
President
Massachusetts Association of
Criminal Defense Lawyers

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EXECUTIVE SUMMARY

Massachusetts boasts an impressive track record as a progressive laboratory of democracy. In major spheres of public policy, including clean energy, education, and healthcare, the Commonwealth continues to break new ground and provide national leadership. Unfortunately, with criminal justice, an issue that cuts to the core of our social fabric, Massachusetts has passed the baton.

Since the early 1980s, the percentage of the population confined in the state's prisons and jails has tripled. This stunning growth is the result of criminal justice policies adopted in the late 1980s and early 1990s. Due to these laws and practices, those who commit a felony today are more likely to face imprisonment and they will spend more time behind bars compared with offenders in the past. Massachusetts was not alone in pursuing this "tough on crime" approach. However, as a growing body of research began to reveal the high cost and poor outcomes associated with it, many states replaced this outmoded model with a set of more objective, data-driven corrections policies; in stark contrast, Massachusetts has resisted change.

Crime, Cost, and Consequences: Is It Time to Get Smart on Crime? is a call to action. The report advances the reform dialogue by: highlighting the direct and indirect costs of Massachusetts's current approach to corrections; presenting innovations from other states that can reduce these costs and improve public safety; and outlining recommendations that will position our corrections system to achieve similar outcomes in the Commonwealth. Major findings are summarized below:

1. When weighing the public safety gains against the direct cost to the taxpayer, Massachusetts's current policies appear to carry a hefty price tag. Lack of data and limited transparency make it difficult to perform true cost-benefit analysis. Nevertheless, a review of trends reveals four inefficient cost drivers:

THE COSTS & CONSEQUENCES OF CURRENT CORRECTIONS POLICY

Massachusetts's inefficient corrections policies are costly, particularly when you consider that these are not one-time expenses, but rather bills that come due for the taxpayer year after year. Without reform, over the course of the next decade Massachusetts will spend:

- $1.5 billion incarcerating offenders for longer periods relative to 1990
- $900 million incarcerating more drug offenders relative to 1985
- $160 million moving inmates to higher-security facilities relative to 1990
- $200 million in uncollected taxes from lost wages relative to 1987

- **The cost of incarcerating offenders for longer periods.** Massachusetts spends an estimated $150 million annually to keep inmates confined for longer stays than those committing similar offenses in 1990. Because actual data are not available to track changes in average time served, this estimate assumes Massachusetts is near the national average of a one-third increase since 1990. Studies demonstrate that keeping many types of nonviolent offenders in prison longer provides little to no public safety benefit.

- **The cost of keeping more drug offenders in state prisons.** Reducing the number of inmates serving time for drug offenses to 1985 levels would save $90 million annually. Drug offenders account for more than one-quarter of the growth in the state prison population since 1990. This stands out as a particularly inefficient product of sentencing policy — 70 percent of DOC inmates currently incarcerated for a drug offense were sentenced under mandatory minimum statutes.

Research suggests these policies are not cost-effective since incarcerating drug offenders for longer periods does little to deter the commission of these crimes and serving prison time makes these inmates more likely to reoffend upon release.

- **The cost of confining more offenders in higher-security settings.** The shift to higher-security settings relative to the 1990 classification structure costs the state approximately $16 million annually. Moving an inmate up a security level costs about $10,000 annually. In 1990, less than 8 percent of DOC inmates were confined in maximum-security facilities; these prisons held more than 18 percent of DOC inmates in 2012. In absolute terms, the number of offenders serving time in the most secure facilities grew by more than 200 percent over the last two decades.

- **The cost of elevated repeat offending resulting from unsupervised release and inadequate reentry programming.** If Massachusetts could reduce the number of recidivists by just 5 percent, it would generate up to $150 million in annual savings. New data following the 2005 release cohort show that about 60 percent of inmates exiting state facilities and a similar fraction of those leaving county facilities are convicted on new charges within six years of release. In FY 2011, nearly two-thirds of drug offenders and almost 60 percent of non-drug offenders received sentences where the minimum and maximum were very similar. This sentence structure limits parole eligibility, reducing the incentive offenders have to take steps to self-rehabilitate while in prison. It also means more offenders return to the community without supervision. In 2011, nearly half of inmates released to the street from DOC facilities received no supervision.

2. "Tough on crime" policies are increasingly linked to both opportunity costs and collateral costs. Fully accounting for these indirect costs provides additional evidence that these policies are not cost-effective.

- **In this challenging fiscal environment, every additional dollar spent on corrections is offset by cuts to other state agencies.** This reduces the availability of services that have a preventative effect on crime. For example, a decade ago, state support for higher education surpassed spending on corrections by 24 percent. Today, the budget for prisons, probation, and parole is 6 percent greater than the state higher education budget.

- **Incarceration has a lasting impact on the economic potential of ex-offenders with real implications for their families.** On average, former inmates earn 40 percent less annually than they would have had they not been sent to prison. Based on this national estimate, formerly incarcerated workers in Massachusetts lose approximately $760 million in wages annually. For the state, this amounts to as much as $20 million a year in reduced tax collections relative to 1987 incarceration rates.

- **Incarceration also has important implications for the communities that disproportionately bear the burden of sending and receiving offenders.** Just 10 Massachusetts cities, representing only one-quarter of the state's population, suffered from more than half of all violent crime committed in the Commonwealth in 2010. Homicides, which cause the most social upheaval, were even more highly concentrated, with more than two-thirds of all murders in the state occurring in these 10 communities. Similarly, 10 communities received half of all DOC inmates released to the street in 2011.

3. A significant number of states, including many with politically conservative leadership, have recognized that they cannot build their way to public safety with more prisons. These states have aggressively reduced prison terms and reprogrammed resources toward less costly, evidence-based alternatives to incarceration, pushing down prison populations and crime rates simultaneously. The approach these states have taken is rooted in hard data and careful cost-benefit analysis. While Massachusetts has flirted with this model, the Legislature has not created the structures in statute to move the bureaucracy solidly in this reform direction.

The development of this policy framework, known as Justice Reinvestment, has received intensive support from the Pew Center for the States and the Council of State Governments. These independent intermediaries have brought real resources to support reform efforts in more than a dozen states. The US Bureau of Justice Assistance has also redefined the federal role. Instead of providing grants to states that build more prisons, the agency now provides resources to states that move toward Justice Reinvestment.

Massachusetts has repeatedly pursued these reforms. The Romney administration formed two commissions that made progress but ultimately proved to be unable to achieve deep systemic change. In 2011, the Legislature assembled the Special Commission to Study the Criminal Justice System, and the Patrick administration has courted the Pew Center on the States. But support for Justice Reinvestment in Massachusetts remains lukewarm, as evidenced by the passage of legislation commonly referred to as the Three Strikes Bill in August 2012. This law requires a life sentence without the possibility of parole for habitual offenders who have two previous convictions with felony sentences resulting in imprisonment for over three years. While the Three Strikes law also includes a number of reform provisions, it excludes the push for rigorous assessment and cost-benefit analysis that have grounded successful reform legislation in other states.

4. If Massachusetts continues on the current course, the analysis contained in this report suggests the state will spend more than $2 billion over the next decade on corrections policies that produce limited public safety benefit. To prevent the inefficient allocation of future resources, the Massachusetts Criminal Justice Reform Coalition offers eight recommendations. Implementing these reforms will put the Commonwealth on the path toward a data-driven approach that protects public safety, holds offenders accountable, and controls correctional costs.

1. Place a moratorium on the expansion of state and county prisons;
2. Empower the Sentencing Commission to revisit the state's approach to sentencing and sanctions;
3. Clearly delineate responsibility for all post-release supervision to the Parole Board and pretrial and diversion to the Probation Department;
4. Expand the use of community supervision and pre-release;
5. Make Boston's Emergency Reentry Program a model for urban centers across the state;
6. Complete an extensive survey of conditions of confinement, programming, and program quality across the system;
7. Standardize data systems and reporting protocols, and funnel information to a central research center;
8. Understand how the state's corrections system can be oriented toward Justice Reinvestment and develop a strategy to build a culture of data-driven decision-making with the agencies.

INTRODUCTION

Since the early 1980s, the percentage of the Massachusetts population confined in the state's prisons and jails has tripled. This sobering reality is largely the result of criminal justice policy. Those who commit a felony today are more likely to face imprisonment and they will spend more time behind bars compared with offenders in the past.[1]

The shift toward greater use of confinement is not unique to Massachusetts. In the 1980s and 1990s, states around the country entered a "tough on crime" era in which legislatures replaced judicial discretion across a wide range of offenses with mandatory minimum sentencing statutes. On one level, these laws performed as designed, putting offenders in prison and keeping them there longer.

Since 1990, violent crime has fallen by 45 percent nationally and by 37 percent in Massachusetts.[2] Many leaders credit the prison boom for this unprecedented improvement in public safety. While increased use of incarceration likely contributed, research suggests higher rates of confinement account for no more than one-quarter of the reduction in the national crime rate and perhaps much less (see text box on Page 9).

ACHIEVING THE MODEST SHARE OF CRIME REDUCTION THAT WE CAN ATTRIBUTE TO IMPRISONMENT HAS BEEN ENORMOUSLY COSTLY

Achieving the modest share of crime reduction that we can attribute to imprisonment has been enormously costly. Between 1987 and 2007, adjusted for inflation, state corrections budgets grew by 127 percent.[3] With state revenue stagnant over this period, virtually every dollar that went into prisons led to cuts in public support for other vital state services, including a number of programs that have a known preventative effect on criminality (e.g., law enforcement, mental health, higher education, and job training).

With prison populations continuing on their upward trajectory and budget pressures mounting, states throughout the country have revisited their tough on crime approach to corrections. Many adopted a new model known as Justice Reinvestment. Pioneered by a handful of states in the early 2000s (with support from the federal government, major foundations, and other not-for-profit partners), this approach involves collecting hard data and performing careful cost-benefit analysis. With this information in hand, legislatures have aggressively reduced prison terms and reprogrammed resources toward less costly, evidence-based alternatives to incarceration. In short order, these states have seen their prison populations fall with crime rates declining simultaneously.

Massachusetts would have much to gain from a successful transition to the Justice Reinvestment model. The state's prison population continues to climb. Without a change of course, the Executive Office of Administration and Finance estimates that at least $1 billion will be needed to build new facilities to ease the burden on already overcrowded prisons; operating these new facilities would cost $120 million annually.[4] With real unmet needs in other part of the state budget, particularly education and infrastructure, covering these growing prison costs would be excruciatingly difficult.

Massachusetts has flirted with the Justice Reinvestment–style reforms that would allow us to avoid these unnecessary costs, but we have proven doggedly reluctant to embrace major change. High-profile failures, from Willie Horton to Dominic Cinelli, continue to politicize criminal justice policy in the Commonwealth, making it difficult to marshal the will to transform the state's fractured system of corrections. Commission after commission recommends evidence-based reform, but deep and systemic change remains elusive.

As catalogued in the pages that follow, the legacy of two decades of tough on crime polices in Massachusetts is overcrowded prisons, where too few offenders who could benefit from treatment

DIMINISHING RETURNS

The relationship between incarceration and crime is complicated. The threat of incarceration deters some property crimes and taking serial criminals off the street keeps them from offending while they are incapacitated behind bars. But in any society, there are a limited number of people who make it their business to steal and cause mayhem. As states increased the use of incarceration with mandatory minimum sentences blind to the circumstances of an individual offender, they began to capture felons whose actions were driven by youth, substance abuse and mental health conditions, or an unusual lapse of self-control. Incarcerating these offenders in restrictive conditions that make it difficult for them to reenter society may actually breed greater criminality in the community.

If incarceration were the major driver in the unprecedented drop in crime in the US, the costs associated with greater use of imprisonment would be easier to justify as a reasonable tradeoff for enhanced public safety. But rigorous research suggests that higher incarceration rates explain only a fraction of the decline in crime. The University of Chicago Economist Steven Levitt estimates that incarceration accounted for only about one-third of the decline in crime during the 1990s.[8] And others believe the prison boom's contribution was even lower. The noted criminologist Franklin Zimring estimates the increased prison population of the 1990s accounts for between 10 percent and 27 percent of the steep drop of crime over the decade. His book, *The Great American Crime Decline*, illustrates how Canada and the US experienced very similar reductions in crime during the 1990s. But in sharp contrast to the US, Canada's prison population remained relatively stable over the decade.[9] Other international comparisons show that most European countries also experienced dramatic reductions in crime without a corresponding increase in their incarceration rates.[10] Many have noted that these Western countries have homicide rates about five times lower than the US, with incarceration rates that are seven to 10 times lower.[11]

If incarceration wasn't a major driver, what does explain the steep reduction in crime in the US and Europe? The truth is, so many factors combined to put downward pressure on crime rates it's very difficult to sort it all out. Demographic change, including the aging population and the increase in immigration (immigrants have been found to commit crimes at lower rates) played a big role. Putting more police on the streets and hardening targets with closed circuit cameras, private security guards, and anti-theft vehicle technology has also been a factor, particularly for property crime. Reductions of high blood lead levels in children, the increased use of antidepressant and antipsychotic drugs, the legalization of abortion, and the improvement in women's economic status have all been associated with declines in violent crime.[12]

and reentry services receive them. In contrast to an early era when the system focused on successfully integrating prisoners back into the community, today nearly half of all inmates exiting prison are simply released to the street with no supervision. New data following the 2005 release cohort show that about 60 percent of inmates exiting state facilities and a similar fraction of those leaving county facilities are convicted on new charges within six years of release.[5] The price for this high level of recidivism is felt disproportionately by a handful of mostly minority communities that receive ex-offenders with few job prospects, and at high risk to commit new crime and create new victims.

This report explores these collateral costs and the performance of the state's corrections system more generally. Perhaps the most striking finding is the lack of data to quantify outcomes and evaluate the return that taxpayers receive on the very sizeable investment they have made in the state's corrections agencies. Just as it obscures underperformance, the lack of data and transparency hides the success that pioneering county sheriffs have had with reentry models in their Houses of Correction; difficulty documenting results makes it harder to exploit lessons from these models for systems change.[6]

In spite of this lack of transparency, survey data show that residents across the Commonwealth recognize the problem and embrace reform. In stark contrast to a 1997 MassINC public opinion poll, which found that a majority of voters favored

THE TOUGH ON CRIME ERA IN MASSACHUSETTS

Over the past several decades, the role of prisons as a component in the larger criminal justice system charged with protecting the public has fluctuated dramatically. In the 1960s and 1970s, state corrections policy throughout the US was focused on rehabilitation. During these years, judges mostly imposed indeterminate sentences, which allowed corrections officials to release inmates from facilities when they felt they were ready for a safe return to society. In response to rising crime in the 1980s and 1990s, states started to take the opposite tack. Determinate sentences that required offenders to serve a mandatory minimum period of time confined in a prison proliferated. The nation entered a tough on crime era and the US incarceration rate rose dramatically.[13]

Up until the 1980s, prisons in Massachusetts held a small number of offenders, and corrections officials were intensely focused on rehabilitating the few inmates in their custody. In fact, Massachusetts was highly regarded for developing innovative programs to reduce recidivism, as well as its work evaluating these programs with the strongest research methods available at the time. As crime rates rose, however, the state changed course, enacting mandatory minimum statutes for firearms offenses (1974), drug dealing (1980), and vehicular homicide (1982). For a time, prosecutors often opted to charge defendants under less restrictive statutes and even when they won convictions under mandatory minimum laws, early release was still possible with good behavior.

When the infamous case of Willie Horton became a defining issue in Governor Michael Dukakis's 1988 presidential campaign, the environment changed radically. Responding to a public that had already been alarmed by the growing crack epidemic, politicians reacted swiftly with increasingly tough sentencing policies. Dukakis, who for years had advocated a "presumptive" approach to sentencing (a middle ground that would ensure punishment was proportional based on the severity of offenses and the culpability of offenders, but still allowed for judicial discretion), supported and signed into law a number of strict mandatory minimum bills. In 1988, the Legislature quickly passed a mandatory minimum drug law with limited support from police and prosecutors.[14] The following year the Legislature enacted a school zone statute, which led to penalty enhancement zones that effectively doubled sentences for those convicted of drug offenses within the vicinity of schools, parks, and playgrounds. In 1990, Dukakis signed another mandatory minimum bill imposing tougher sentences on drug dealers employing minors to buy or sell.

With criminal justice policy increasingly politicized, Bill Weld entered the fray, promising to "reintroduce our inmates to the joys of busting rocks" as he campaigned for governor in 1990. The landmark Federal Crime Bill signed by President Bill Clinton in 1994 added fuel to the fire, giving states monetary incentives to adopt reforms that led to longer periods of incarceration and reduced the incentives for prisoners to participate in rehabilitative programming.

After the Federal Crime Bill went through, Massachusetts was quick to comply, passing a "Truth in Sentencing" law. This legislation required judges to impose a mandatory minimum sentence for several drug offenses, restricted parole eligibility for inmates serving mandatory minimums, and reduced the amount of time inmates could earn toward early release with good behavior. These changes made actual time served much closer to the sentence imposed by the judge, a welcome and beneficial outcome for victims of crime. The tradeoff, however, was that judges now faced obstacles in providing flexible sentencing for offenders working to become law-abiding citizens.

As the tough on crime era reached its apex in Massachusetts and across the country in the early 1990s, crime rates were already beginning to fall. With incarceration rates climbing steadily higher throughout the 1990s and 2000s, it became apparent that perhaps it was time to reexamine this approach. A number of states, many of them politically conservative, with soaring budget deficits and growing prison populations started to look for alternative practices rooted in hard data.

In Massachusetts, despite reform recommendations from several recent commissions, corrections policy remains highly politicized, as evidenced by the passage of legislation commonly referred to as the Three Strikes Bill in August 2012, which requires judges to impose the maximum term of the triggering felony for habitual offenders with two previous felony sentences resulting in imprisonment for over three years. While the law also includes increases in earned good time and reduces mandatory minimums for certain drug offenses, there is no consensus on whether the law will reduce or increase the state's prison population over the long term. Passage of this major piece of legislation without a rigorous assessment of how it will influence prison spending is at odds with reform laws in other states, which typically require an impact analysis before significant alterations to corrections policy can be adopted.[15]

building a new 1,000-cell prison (even after learning about the costs to construct and operate the facility), a 2005 Boston Foundation survey found that two-thirds of the public wanted the state to focus on prevention and rehabilitation rather than longer sentences or more prisons.[7]

Given the intransigency of our criminal justice system, translating public sentiment into action will require trusted leaders who can come forward and exert significant influence. Toward that end, MassINC has assembled a diverse coalition of experts in criminal justice policy. Answering the call to service, they have offered their time and talent to provide those best positioned to usher in challenging reforms with credible analysis and unbiased recommendations.

In this spirit, informed by the new coalition's members, this first report makes the case for systemic innovation, teasing out the costs of the state's current corrections policies across multiple dimensions, highlighting steps that other states have successfully taken to improve public safety performance, and providing recommendations to guide a reform effort that drives Massachusetts into the age of Justice Reinvestment — reducing the costs of corrections while enhancing public safety for all citizens of the Commonwealth.

HOW THE MASSACHUSETTS CRIMINAL JUSTICE SYSTEM WORKS

Developing an appreciation for the challenge of reforming corrections in Massachusetts requires an understanding of the current system's fragmentation. Massachusetts has four separate agencies operating within separate branches of government that primarily deal with offenders. Each has its own objectives, operating practices, management structure, and budget. Overlapping service delivery is common. For instance, one out of every three offenders paroled from state prisons last year also received supervision from the Office of the Commissioner of Probation upon release. Fragmentation also means that there are incompatible data systems across agencies that make it extremely difficult to compare outcomes and perform cost-benefit analysis. For example, DOC and Probation rely on different tools to assess an offender's risk to recidivate.

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY		COUNTY SHERIFFS	TRIAL COURT
Department of Correction (DOC)	**Parole Board**	**House of Corrections (HOC)**	**Probation Department**
DOC operates state prisons and provides care and custody for those civilly committed to Bridgewater State Hospital and the Treatment Center for the Sexually Dangerous. DOC also has custody of female offenders from counties with no female correctional facilities. Many female pre-trial detainees, and some male defendants with previous criminal histories, are also held by DOC.	The Parole Board grants release to prisoners to serve the remainder of their sentence in the community subject to monitoring as well as certain terms and conditions. The Parole Board supervises parolees, and provides notices and assistance to crime victims.	Fourteen elected sheriffs operate the county jails (facilities for inmates awaiting trial) and Houses of Corrections, prisons for inmates serving individual sentences up to two and a half years. [16]	Probation provides community supervision, both as diversion from institutional sentences and for offenders with a post-release probation order.

I. THE PRICE TAG FOR MASSACHUSETTS'S "TOUGH ON CRIME" CORRECTIONS ERA

Tallying the full cost of tough on crime policies and practices makes clear the rationale for moving aggressively to the Justice Reinvestment model clear. As described below, the state's current approach to corrections produces both direct and indirect costs. When weighing the benefits associated with reducing crime through greater use of confinement against the costs that accrue in a variety of forms, the hefty price tag becomes more difficult to accept.

The Direct Costs

The direct costs of the corrections policies that Massachusetts has put in place over the last two decades fall into four primary categories: 1) The cost of incarcerating offenders for longer periods; 2) The cost of confining more drug offenders and lifers in state prisons; 3) The cost of confining more offenders in higher-security settings; and 4) The cost of elevated repeat offending resulting from unsupervised release and inadequate reentry programming.

1. The cost of incarcerating offenders for longer periods.

Unlike many states, Massachusetts has not kept data to provide a precise estimate of the extent to which offenders today serve more time in prison compared with offenders committing similar felonies in the past.[17] Despite the absence of these records, there are several indications that statutory and policy changes put in place over the last two decades have significantly increased the average length of time that inmates serve.

The state's rising prison population relative to new court commitments is the clearest signal that time served has risen substantially. All indications suggest that the severity of crimes committed over the last two decades has not changed dramatically.[18] It follows, then, that the prison population should rise (or fall) as judges order more (or fewer) offenders to prisons. This hasn't been the pattern. Since 1990, new commitments to DOC prisons have fallen by 20 percent, yet the DOC's average daily population has increased by one-third (Figure 1). The disparity between annual commitments and average daily population is even sharper with county HOCs. Available data show that county facilities saw their populations increase by 65 percent between 1992 and 2012; over this period, new commitments to HOCs fell by about 7 percent (Figure 2).[19]

An analysis of inmates serving time at Middlesex County's Billerica House of Correction provides more confirmation that county facilities have seen a particularly sharp increase in the average length of stay. Prepared by Northeastern University researchers who assembled data from individual records, the study found that between 1994 and 2007, the average length of stay at the Billerica House of Correction increased by 42 percent overall and by 80 percent for drug offenders.[20]

While data limitations make it hard to pinpoint the exact increase in time served across all state and county facilities and the associated cost, given that the Massachusetts incarceration rate has risen nearly as fast as the national rate over the last three decades, it is not unreasonable to assume that the Commonwealth falls somewhere near the national average — a one-third increase in the typical length of stay since 1990.[21] This equates to an additional year for the average state inmate and an additional 41 days for the average county inmate. At a cost of $45,500 per year for state prisoners and $37,000 per year for county inmates, increasing time served by one-third translates to an added cost of $150 million per year.[22]

This figure is in line with available data on state prison cost increases. Since FY 1990, accounting

Figure 1:

Changes in Average Daily Population Relative to New Commitments, DOC (1990=100)

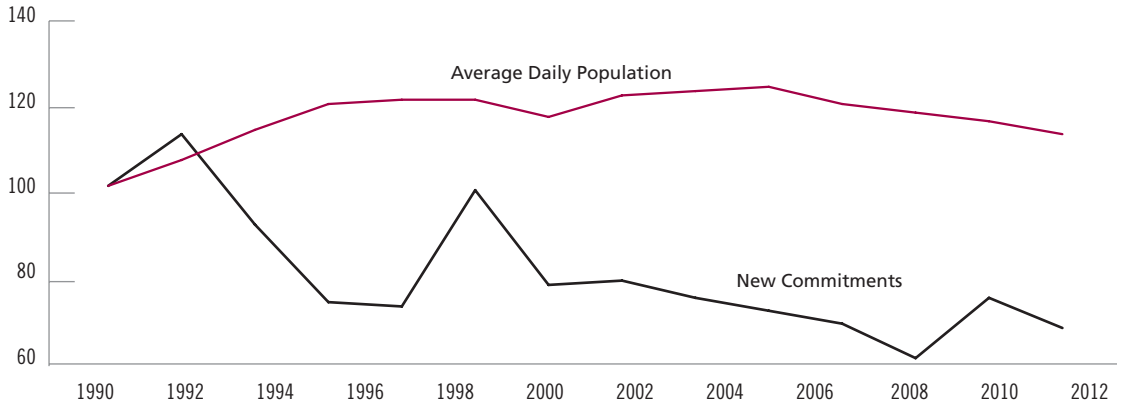


Figure 2:

Changes in Average Daily Population Relative to New Commitments, HOC (1992=100)

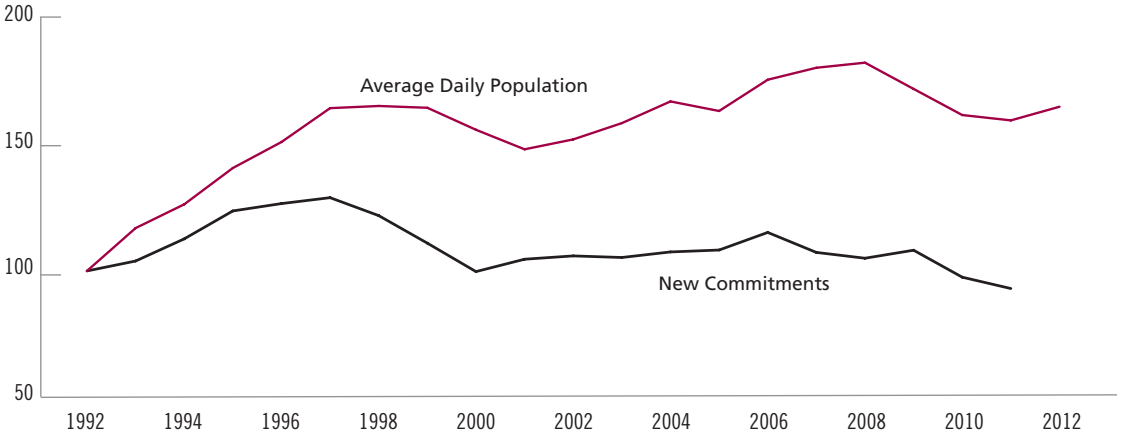
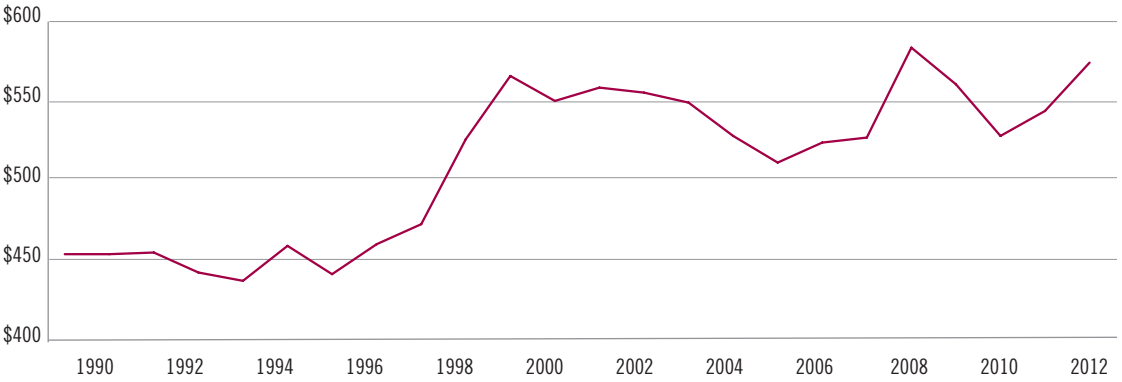


Figure 3:

Massachusetts Department of Correction Budget, FY 1990-FY 2013 (millions of constant 2012 dollars)



Sources: Authors' analysis of MA DOC Quarterly Overcrowding Reports (Figures 1); MA DOC Quarterly Overcrowding Reports and MA Survey of Sentencing Practices, FY09-FY11 (Figure 2); MA General Appropriation Acts (Figure 3)

for inflation, the DOC operating budget has grown by 25 percent, or $114 million (Figure 3). Historical HOC budget data are not available, but it is likely that HOC cost increases were significantly larger, given that the growth rate in the average daily population for county correctional facilities was three times faster than the growth rate for state facilities.

As noted in the opening section, research demonstrates that tougher sentencing policies have led to some reductions in crime by serving as a deterrent and incapacitating those with a history of engaging in criminal activity. But emerging research also shows that simply increasing time served for broad categories of offenses and all offenders who fall into those buckets is a high-cost, low-return approach.[23]

Massachusetts's experience to date with a new risk assessment tool that classifies DOC prisoners according to the likelihood that they will reoffend upon release provides additional evidence that focusing corrections resources more strategically could result in better outcomes at lower cost. Among a large cohort of male DOC prisoners released in 2010 who were determined to be low-risk by this new risk assessment tool, only 4 percent faced charges for a new crime within one year. In contrast, nearly one in four inmates classified as high-risk had been convicted or re-arraigned within one year of release (Table 1, Column A).[24]

More than one-third (35 percent) of male DOC inmates are currently classified as at low risk to reoffend. Returning more of these inmates to the community sooner could reduce costs, particularly the indirect costs described below, and free up resources to support evidence-based rehabilitation programs for the 43 percent of DOC inmates classified as high-risk (Table 1, Column B).

2. The cost of keeping more drug offenders and lifers in state prisons.

Two categories account for nearly half the growth in the state prison population since 1990: drug offenders and first-degree lifers.

Drug offenders. The growth in drug offenders can be traced back to the crack epidemic, which led to a 375 percent increase in the number of drug offenders serving time in DOC prisons between 1985 and 1990. Drug offenders represented just 6 percent of DOC inmates in 1985; by 1990, they accounted for 20 percent of all inmates.[25]

The crack epidemic has long since waned and violent crime rates have fallen accordingly, but drug offenders still make up 22 percent of the DOC population. Sentencing policies adopted in response to the crack epidemic have clearly played a role in this lasting increase, as 70 percent of DOC inmates currently incarcerated for a drug offense were sentenced under mandatory minimum statutes.[26] Growth in the number of offenders incarcerated for drug crimes accounts for 27 percent of the DOC population increase since 1990.

In contrast to studies that show tougher sentencing has likely led to some reduction in non-drug offenses, rigorous research nation-

Table 1:

Share of Offenders and One-Year Recidivism Rates by Risk Assessment Classification

RISK ASSESSMENT SCORE	ONE-YEAR RECIDIVISM RATE, 2010 MALE RELEASE COHORT (A)	MALE DOC OFFENDERS IN 2012 (B)
Low	4%	35%
Medium	10%	22%
High	22%	43%

ally suggests incarcerating greater numbers of drug offenders produces very small decreases in crime.[27] This research, in combination with studies that find imprisoning drug offenders actually increases the likelihood that they will engage in further criminal conduct, suggests that the state's mandatory minimums for drug offenses have not been cost-effective.[28]

Reducing the number of inmates serving time for drug offenses to 1990 levels would save $35 million annually; a return to the number of drug offenders incarcerated in DOC facilities in 1985 would lower costs by nearly $90 million a year. A reform approach would redirect these resources to less costly treatment and diversion programs, producing significant savings for the taxpayers.

First-degree lifers. In Massachusetts, defendants convicted of first-degree murder are sentenced to life in prison without the possibility of parole, regardless of mitigating circumstances. In this regard, Massachusetts law falls at the stricter end of the spectrum.[29]

The number of offenders serving these life sentences with no eligibility for parole represents a second major population driver. In 1990, DOC facilities housed 353 first-degree lifers. Today, more than 1,000 inmates are ineligible for release. This 188 percent increase accounts for 23 percent of the DOC population growth since 1990. In contrast to the increase in drug offenders, which is clearly linked to mandatory minimum statutes, the growth in this population is largely driven by increasing life expectancy and other factors unrelated to policy.

Many regard life without parole as a superior alternative to the death penalty. Ensuring that offenders guilty of the most horrendous crimes will die in prison provides victims with certainty that justice will be served. With corrections policy under increasing scrutiny, some are starting to question whether offenders who have served 40 or more years must remain behind bars until their death in every circumstance.[30] This question puts the difficult choices that those charged with making sentencing policy face in sharp perspective.

While the state does not collect risk assessment data for first-degree lifers, since they have no possibility of release, data on second-degree lifers show that they are the least likely to reoffend. This can be explained by their age at release, the lifelong parole supervision they receive, and the fact that their actions are often crimes of passion, in contrast to the repeat conduct of career criminals.[31]

While it is difficult to estimate the savings that would come from providing parole eligibility, caring for these inmates as they age involves significant medical costs, and providing some opportunity for release would likely produce above-average savings.

RESEARCH NATIONALLY SUGGESTS INCARCERATING GREATER NUMBERS OF DRUG OFFENDERS PRODUCES VERY SMALL DECREASES IN CRIME

3. The cost of confining more offenders in higher-security settings.

Another feature of the tough on crime era has been the movement of prisoners to higher-security settings. In 1990, less than 8 percent of DOC inmates were confined in maximum-security facilities; these prisons held more than 18 percent of DOC inmates in 2012. In absolute terms, the number of offenders serving time in the most secure facilities grew by more than 200 percent over the last two decades.

Evidence suggests that this trend was not primarily the result of a more dangerous inmate population—violent offenders today make up 62 percent of the DOC population, exactly the same share as 1990—but rather the result of classifying inmates into higher-security facilities. Since 1990, the department has added more than 1,200

maximum-security beds and more than 1,000 medium-security beds. While the DOC's population has grown by one-third since 1990, minimum-security settings have just 39 new beds.[32] Moving an inmate up a security level costs about $10,000 annually. The shift to higher-security settings relative to the 1990 classification structure costs the state approximately $16 million annually.

DOC now uses an objective classification tool to determine the proper level of security for each inmate. This assessment has often led to waiting list of offenders ready to transfer to lower levels of security.[33]

Due in part to these bed space limitations, two-thirds of DOC offenders released into the community come directly from medium- and maximum-security facilities.[34] From a public safety standpoint, this practice is clearly unacceptable, given that DOC prisoners released from high-security prisons recidivate at nearly twice the rate as those leaving from lower-security settings.[35] Research suggests that the restrictive conditions found in these facilities contribute to this increased rate of recidivism.[36]

TWO-THIRDS OF OFFENDERS RELEASED INTO THE COMMUNITY COME DIRECTLY FROM MEDIUM- AND MAXIMUM-SECURITY FACILITIES

4. The cost of elevated repeat offending resulting from unsupervised release and inadequate reentry programming.

In Massachusetts, more than 90 percent of offenders committed to prisons will eventually be released back into the community. The state's corrections agencies are clearly struggling with the difficult challenge of preparing these offenders for their eventual return (see text box on Page 20). As noted above, research shows that the policies of holding prisoners for longer stays and releasing prisoners directly from high-security settings make reentry more difficult. However, the increase in unsupervised release and the inadequate reentry programming that has accompanied the tough on crime era stand out as two developments that have undoubtedly made success less likely, elevating rates of recidivism at a substantial cost to the state.

Unsupervised release. MassINC's 2002 report *From Cell to Street* provided a fine-grained look at offenders returning to the community without adequate supervision. Despite widespread recognition of the problem, this glaring concern has not been adequately unaddressed. In 2012, fewer than one in four inmates released from DOC facilities received parole supervision.[37] By comparison, parolees represented 80 percent of all offenders returning to the community from state facilities in 1980 and 60 percent in 1990 (Figure 5).[38]

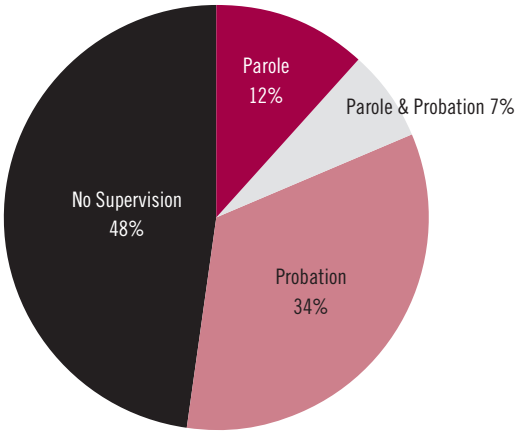
While parole has been granted at lower rates in recent years (2011 in particular, after a parolee committed a high-profile murder leading to the reconstitution of the parole board), the long-term increase in releases without parole supervision is more closely tied to sentencing practices.[39] In FY 2011, nearly 50 percent of drug cases and 40 percent of non-drug cases resulted in a difference of one day between the minimum and maximum state prison sentence.[40] This sentencing practice renders a very sizeable share of the population ineligible for parole.[41]

Similarly, a significant share of inmates have limited incentive to win parole because the maximum time they need to serve for unconditional release is not much greater than the minimum time they must serve before they even become eligible for parole. In FY 2011, 15 percent of drug offenders and 17 percent of non-drug offenders received state sentences where the spread was greater than one day, but the minimum was more than 80 percent of the maximum.

All told, nearly two-thirds of drug offenders and almost 60 percent of non-drug offenders received sentences in 2011 that left them with either no possibility for parole (one day differ-

Figure 4:

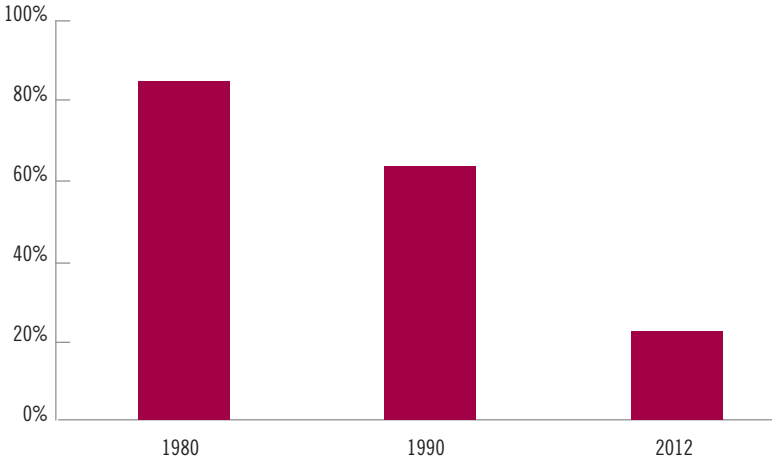
DOC Releases by Type of Supervision, 2011



Source: MA Department of Correction

Figure 5:

Parolees as a Percentage of all DOC Releases, 1980-2012



Source: MA Department of Correction (1993, 2012) and Urban Institute (2005)

ences) or very limited incentive to attain it (minimum more than 80 percent of the maximum).[42]

The decline in parole does not mean that no post-release supervision is provided. In FY 2011, more than one-third of offenders released from DOC facilities reentered the community with oversight from probation. These probation terms are assigned by the sentencing judge to be served upon release to ensure that at least some form of community supervision is provided. In FY 2011, nearly half (47 percent) of all defendants sentenced to state prisons also received a post-release probation order.[43]

While this sentencing strategy does provides a form of supervision, probation is primarily intended as a sanction — in contrast to parole, a service specifically focused on reintegrating offenders into society. Probation has limited contact with prisoners prior to release to plan for reentry. Since probation terms and conditions are imposed prior to incarceration, they are not informed by the offender's rehabilitation efforts in prison. Moreover, when probationers violate the terms of their order, sanctioning them generally requires a slow court process (in contrast to parole, which can provide a swift response.) Evidence suggests this form of probation supervision is unlikely to reduce the likelihood of reoffending.[44]

Inadequate reentry programming. The Massachusetts corrections system was once a leader in preparing prisoners for reentry, with the aim of reducing recidivism. In 1985, 30 percent of all DOC inmates participated in the furlough program, which gave offenders release for up to 14 days to interview with potential employers, look for a place to live, re-establish family ties, and take other steps to smooth their transition back into the community.[45] While this program had tragic flaws, studies suggested that furlough may have contributed to the reductions in recidivism that occurred steadily after the program was instituted in 1972.[46] In addition to furlough, more than one-quarter of all inmates discharged in 1985 came out of pre-release centers; just 14 percent of those coming out of DOC prisons exited through pre-release facilities in 2011.

Along with the fall-off in discharges from pre-release facilities, there has been a sizeable drop in spending on prison education, services that have been shown to effectively reduce recidivism.[47] In 1992, more than 2,000 Massachusetts inmates participated in college courses; in 2010,

Table 2:

Program Waitlist, January 2013

PROGRAM	TOTAL
Adult Basic Education	359
English as a Second Language	304
GED	279
Pre-GED	379
Correctional Recovery Academy (Substance Abuse)	92
Substance Abuse Education	813
Criminal Thinking (Cognitive Behavioral Therapy)	1102
Violence Reduction	1592
Employment Readiness (Reentry) Workshop	489

Source: MA Department of Correction

there were only 302 prisoners enrolled.[48] Some of this decline is attributable to federal policy changes that made prisoners ineligible for financial aid. But there have also been deep cuts to state funding. In 1990, the state allocated nearly $7 million (in today's dollars) to prison education. By 2004, this figure had fallen by 25 percent to $5 million. After 2004, the prison education line item was eliminated entirely from the Department of Correction budget.

The Governor's Commission on Corrections Reform, convened in 2004, called attention to the dramatic decline in program offerings, noting that DOC had cut 36 full-time teaching positions, leading to the elimination of vocational programs and academic offerings at some facilities.[49] Since 2004, the Correctional Recovery Academy, the department's strongest treatment program, has been removed from three facilities. It is currently only offered at five prisons, which may explain why the waitlist for the service has declined from over 500 to just 92. Department of Correction data show that hundreds and even thousands of prisoners are waitlisted for other services, like cognitive behavioral therapy, that have been proven to reduce recidivism (Table 2).

The lack of program availability further reduces the incentive inmates have to engage in self-rehabilitation for early release. As the 2004 Governor's Commission noted, prior to these cuts, the average sentence reduction awarded to inmates for participating in programs was less than half the allowable credit according to the state's earned good time statute.[50]

Putting a figure on how much the decrease in quality supervision and effective reentry programming has cost the state is difficult. However, evidence indicates that even a small increase in recidivism comes with a very large expense. Extrapolating from rigorous research looking at the US as a whole, a conservative estimate places the total cost of crime in Massachusetts at $6 billion annually.[51] Studies demonstrate that felons with prior criminal convictions are responsible for more than half of this cost.[52] If the state could reduce the number of recidivists by just 5 percent, it would generate up to $150 million in annual savings. Research shows that a 5 percent reduction in recidivism through more effective supervision and reentry programming should be readily attainable.

The Opportunity Costs

The state's fiscal challenges have placed enormous pressure on the budgets of agencies that deliver services with the potential to have a preventative effect on crime. Over the past decade, public safety agencies have seen their budgets decline by 16 percent. Mental health spending fell by one-quarter. State investment in economic development, early education, and higher education fell by about one-third. General local aid — which supports public health, youth development, and other violence prevention services in cities disproportionately burdened by crime— was reduced by one-half.

With corrections policies resulting in greater use of confinement, budget makers have had little choice but to provide the necessary funds to prisons.[59] The fate of the state's higher education spending is illustrative of how this reality

crowds out other public investments. A decade ago higher education surpassed spending on corrections by 25 percent. Today the higher education budget is 21 percent lower.

If reform does not produce a significant change in sentencing policies and the state's most current forecasts hold, the prison population will grow by approximately 5 percent between now and 2020. This population growth would necessitate an additional $120 million annually for operations and up to $1 billion to build facilities to house new inmates.[60] To cover these costs, state leaders would be forced to either raise taxes or make additional cuts to other state services.

The Collateral Costs

As leaders consider the expense of corrections policies that result in greater use of confinement, they must weigh costs that extend beyond simply building and operating prisons.

Studies show that former inmates earn lower wages and have lower employment rates than comparable workers who haven't experienced a period of confinement. On average, former inmates earn 40 percent less annually than they would have had they not been sent to prison.[61] Based on this national figure, formerly incarcerated workers in Massachusetts lose approximately $760 million in wages annually. For the state, this amounts to as much as $20 million a year in reduced tax collections relative to 1987 incarceration rates.[62]

In addition to the fiscal impact, the harm that incarceration has on the economic potential of prisoners is important to recognize because it has real implications for families. Nationally, more than half of all inmates are parents with children under age 18.[63] Studies show that children with fathers in prison are four times more likely to enter the child welfare system.[64] Controlling for factors that may influence economic performance, men with a history of incarceration contribute approximately 25 percent less income to their families than fathers who have never been incarcerated.[65] Incarceration also increases rates of divorce and separation.[66] This means that fathers who have been incarcerated have less contact with their children even after time has been served.[67]

The impact on families is often even more

Table 3:

Share of Massachusetts Violent Crimes, Homicides, and DOC Releases in 10 Most Impacted Cities

CITY	SHARE OF MA VIOLENT CRIME	SHARE OF MA HOMICIDES	SHARE OF DOC RELEASES
Boston	20%	35%	18%
Springfield	7%	8%	9%
Worcester	6%	3%	6%
Lowell	4%	1%	2%
New Bedford	4%	1%	3%
Brockton	4%	4%	3%
Fall River	4%	2%	2%
Lynn	3%	1%	3%
Lawrence	2%	5%	2%
Chelsea	2%	4%	NA
Top 10 Share	56%	67%	49%

Source: Authors' analysis of FBI Uniform Crime Reports and MA DOC Prison Population Trends, 2011

injurious when mothers are incarcerated. The number of women serving time in Massachusetts prisons has nearly tripled since the 1980s. Estimates suggest two-thirds of female inmates have minor children. For many children, these women are the only parent in the household. Because the mark incarceration leaves on women is often much deeper than the economic stain that men struggle with, their interaction with the prison system can be profoundly more injurious for them and their families (see text box on Page 21).

Corrections policy also has important implications for communities, particularly the urban centers that drive regional economies across the state. Data reported to the FBI show that just 10 Massachusetts cities, representing only one-quarter of the state's population, suffer from more than half of all violent crime committed in the Commonwealth. Homicides, which cause the most social upheaval, are even more highly concentrated, with more than two-thirds of all murders in the state occurring in these 10 communities.

Just as these cities are more likely to shoulder the burden of crime, they are disproportionately called upon to help repair the lives of those who have served time. According to figures from the state Department of Correction, 10 communities received half of all DOC inmates released to the street in 2011 (Table 3).

The upheaval in the lives of families associated with the constant churn of people removed and returning from prison creates significant stress

STRUGGLING WITH REPEAT OFFENDERS

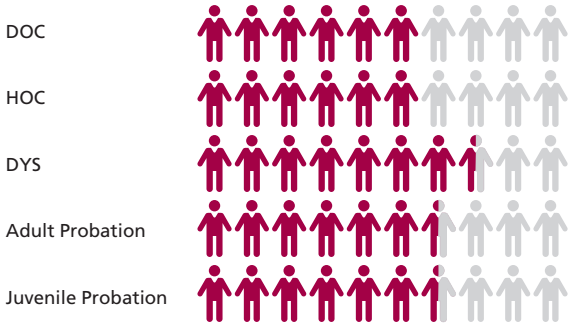
DOC has traditionally defined recidivism as the re-incarceration of a criminally sentenced inmate within three years of discharge.[53] This definition captures those sentenced for the commission of a new crime as well as those returned for violating terms of their release. Over the past decade, DOC's recidivism rate has fluctuated between 38 percent and 45 percent.[54] Because states have prison populations with varying compositions and they use different measures to track recidivism, it is difficult to compare performance by recidivism rates. However, it is instructive to look at trends in recidivism across states over time.

As more states move toward evidence-based approaches to corrections, many are seeing their recidivism rates fall. In a national recidivism study exploring differences between a 1999-2002 cohort and a 2004-2007 cohort in 33 states with available data, Massachusetts was one of only eight states that had an increase of over 10 percent; 17 states saw decreases in recidivism averaging 9 percent.[55]

Recidivism data have been available for the DOC and a few county Houses of Correction, but Massachusetts has traditionally lacked recidivism figures for the majority of offenders, who come into the system under the jurisdiction of other agencies. A recently completed analysis with support from the Pew Center for the States provides these measures for the first time. These data are reported using a standard definition of recidivism that includes those convicted of a new crime or misdemeanor within six years of discharge.[56]

According to this definition, the data show that about 60 percent of inmates leaving both DOC and HOC facilities in the 2005-release cohort committed another offense within six years.[57] The recidivism rate for the 2005 cohort was 64 percent and 55 percent for those under parole and probation supervision, respectively. For 2005 juvenile offenders, the recidivism rate was 74 percent for youth exiting DYS facilities and 63 percent for youth serving probation.[58]

Percent convicted for another felony or misdemeanor within six years of discharge (2005 cohort)



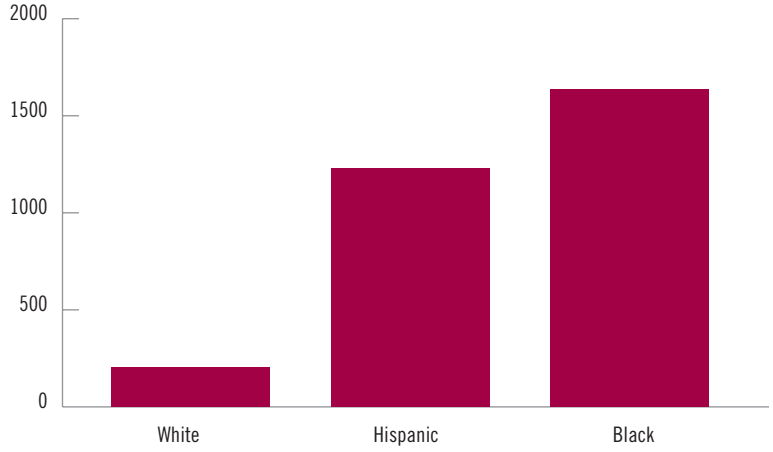
upon these communities that many researchers believe leads to actual increases in the crime rate.[68]

In addition to disproportionately impacting some places over others, incarceration policies have implications for the state's minority residents and their potential for upward economic mobility. The most recent data, published in 2005, revealed that incarceration rates for African-Americans in Massachusetts were eight times higher than for white residents. For Latino residents, the state's incarceration rate was six times higher than for whites. At 1,229 per 100,000 residents, Massachusetts had the fourth highest Latino incarceration rate in the US (Figure 6).[69] While it is uncertain whether these racial and ethnic disparities are the result of bias in the administration of justice, other structural forces, or some combination of the two, there can be no doubt that a policy that is overly reliant on incarceration disproportionately impacts our minority residents.[70] Harvard sociologist Bruce Western has demonstrated powerfully how incarceration has been a major driver of inequality in the US by reducing the marriage prospects of black men, their employability, and lifelong earnings.[71] Other research shows that but for the increase in incarceration in the US, the nation's poverty rate would be approximately 20 percent lower today.[72]

Reform efforts that move Massachusetts away from the tough on crime era and toward the Justice Reinvestment model could help provide greater equality of opportunity for residents and communities across our Commonwealth.

Figure 6:

MA Incarceration Rate by Race and Ethnicity, 2005 (per 100,000 residents)



Source: The Sentencing Project

UNDERSERVING WOMEN IN CORRECTIONAL SETTINGS

Most Massachusetts counties lack facilities to house women, both for those awaiting trial and sentenced offenders. As a result, the majority of women in the system are sent to the DOC's female facility in Framingham. This makes it very difficult for female offenders from other parts of the state to maintain connections to family while incarcerated. To address this problem, Hampden County began housing women from western parts of the state in November 2011. The Executive Office of Administration and Finance's master plan called for expanding this facility and expanding capacity to hold female offenders at the Suffolk County House of Correction.

While this regional approach would improve conditions for incarcerated women, the larger question is whether prison is the right sanction for many of the women entering the system. Data show that DOC's female offenders are significantly more likely than men to present with a mental health issue (63 percent vs. 22 percent). And for many women, mental illness is compounded by a problem with drugs or alcohol (approximately 86 percent of women in DOC custody report a history of substance abuse).

Many women are eventually sentenced to time served. This means they spend a relatively short amount of time in the custody of corrections, most frequently in Framingham's exceptionally overcrowded awaiting trial unit. These conditions make it very difficult to provide women with the medical treatment they require. Too often they return to their families stigmatized and without the support they need to repair their lives.

II. MASSACHUSETTS IN AN ERA OF JUSTICE REINVESTMENT

Nationally, prison populations have begun to trend downward for the first time in 35 years. This reversal is at least partially the result of a significant number of states where legislatures, recognizing that they cannot build the way to public safety with more prisons, have started reinventing corrections policy and moving toward the Justice Reinvestment model. Federal agencies and private foundations have been key partners in these efforts, helping states ground reform in evidenced-based research. While Massachusetts has flirted with this approach, leaders have yet to unify behind a comprehensive, data-driven Justice Reinvestment policy, as demonstrated by the passage of the Three Strikes Bill in the 2011-2012 legislative session.

Justice Reinvestment Nationally

Three decades after criminologists led state legislatures toward determinative sentencing with a series of reports concluding that "nothing works" to reduce recidivism, researchers applied more rigorous methods in the late 1990s and reversed themselves, finding that the right programs targeted toward the right set of offenders can reduce recidivism by up to 20 percent.[73]

The Washington State Institute for Public Policy (WSIPP), a national leader in cost-benefit analysis, was at the forefront of this effort, working with a direct mandate from the state legislature. In 1999, Washington passed legislation moving corrections agencies from a sanction-based sentencing regime to a system focused on mitigating risk. WSIPP researchers identified evidence-based treatment and corrections programs that would produce financial savings without jeopardizing public safety.

Many states have since followed Washington's lead, relying heavily on independent outside partners to provide technical assistance in pinpointing reforms and convening public agencies around the Justice Reinvestment approach. Over the last decade, the Council of State Governments has worked with 17 states, including Connecticut, New Hampshire, Rhode Island, and Vermont, to analyze data, achieve policy reform, and measure performance. Pew's Public Safety Performance Project, formed in 2006 and a key partner in the Council's effort, has worked intensively with Arkansas, Georgia, South Carolina, Texas, and, more recently, Oregon and South Dakota. Community Resources for Justice, a Massachusetts-based organization staffed by some of the nation's leading criminal justice experts, has partnered with Pew, helping states around the country legislate and implement reform.

The US Bureau of Justice Assistance (BJA) is redefining the federal role. Moving from the old model, which encouraged the building of more prisons with grants to states, the BJA is providing resources to states and counties that pursue the Justice Reinvestment model.

In 2010, the BJA, Pew, and the Council of State Governments assembled in Washington for a National Summit on Justice Reinvestment.[74] The conference report provides case studies and summaries of best practices from leading states, highlighting four principles:

1. A focus on individuals most likely to reoffend;
2. Programs based on science and efforts to ensure quality implementation;
3. Effective community supervision policies and practices; and
4. Place-based strategies.

While it is still too soon to document results for many of the states that have just recently adopted this model, for those with a longer history, the results to date have been impressive (as catalogued in the text box on Page 24).

Reinventing Justice in Massachusetts

As leading states blazed a trail, Massachusetts took smaller steps to transform its approach to

corrections. In thinking about the way forward, a look at recent efforts to reform the state's criminal justice system over the past two administrations provides important context.

Governor Mitt Romney took office as the Justice Reinvestment movement began to gain real traction around the country. His pragmatic approach to government and pledge to bring private-sector efficiency to state agencies made him an ideal candidate to guide Massachusetts out of the tough on crime era and toward the Justice Reinvestment model. The fact that Lieutenant Governor Kerry Healey was previously a professor of criminology made a reform effort led by the Romney administration seem all the more promising.

In the administration's first year, Healey was appointed to head the Governor's Commission on Criminal Justice Innovation. The commission was tasked with conducting a comprehensive look at the entire criminal justice system, examining cutting-edge practices and innovative solutions. Among many recommendations, the commission called for mandatory post-release supervision and sentencing reforms that would extend parole eligibility to more prisoners.

While the Healey Commission was still completing its work, Romney established a second commission in the fall of 2003 in response to the murder of a high-profile inmate. Chaired by former attorney general Scott Harshbarger, the Governor's Commission on Corrections Reform was charged with conducting a comprehensive review of the Department of Correction and providing recommendations for improvement. The Harshbarger Commission proved up to the task. The Commission's final report, issued in June 2004, provided a detailed blueprint for reform, including a number of major recommendations pertaining to supervision and reentry.[75]

In his first step to implement the plan, Romney filed legislation in 2005 calling for mandatory post-release supervision. While his bill stalled in the Legislature, Romney was able to win resources to establish regional reentry centers, where all prisoners leaving DOC facilities would be taken upon release. Without supervision, however, ex-offenders could not be compelled to participate in services, a sharp departure from proven reentry models.

Romney also worked to implement a number of the Harshbarger Commission's recommendations administratively. A 2007 review found that many of these reforms had taken hold within the Department of Correction. For instance, major emphasis is now placed on recidivism, and the department has undertaken extensive analysis to better understand the patterns of repeat offenders. To aid in this effort, COMPAS, an evidence-based risk assessment tool, was adopted.[76]

In other ways, however, efforts to act on many of the Harshbarger Commission's major recommendations fell short. From legislation dealing with sentencing reform and post-release supervision to performance management and accountability systems to track which prisoners have received and completed programs, the systemic change sought by the commission did not occur. In frustration, Harshbarger resigned in December 2005.[77]

THE SYSTEMIC CHANGE SOUGHT BY THE COMMISSION DID NOT OCCUR

As Romney's attention turned toward the 2008 presidential campaign, the administration lost its focus on tackling corrections reform. Governor Deval Patrick assumed the office in 2007 with a more limited corrections reform agenda, placing CORI (Criminal Offender Record Information) reform at the top of his list of first-term priorities.

Tough on crime era policies made data on individual criminal histories more accessible to the public. Many believed that these records had created a real obstacle for offenders returning to the community and seeking employment. After a tough fight, Patrick won passage for his CORI reform bill in 2010.[78] (Quietly included in the

CORI reform law were provisions making drug offenders serving mandatory minimums in county prisons eligible for parole after completing half of their maximum sentence. However, because most mandatory minimum drug offenses result in state prison sentences, this reform impacted only a small subset of the HOC population.)[79]

As the governor's CORI reform bill was making its way toward passage at the end of the 2009-2010 legislative session, the *Boston Globe* drew focus to patronage hires at the probation department. The *Globe*'s reporting raised serious questions about whether the scale of the problem had jeopardized the professional operation of an agency

STATE PROFILES

This sample of efforts to move from tough on crime to smart on crime is notable for the number of politically conservative states at the vanguard. Republican leaders like Newt Gingrich, Jeb Bush, and Grover Norquist are driving the country away from policies heavy on incarceration toward models focused on preparing offenders to reenter society successfully. The Texas-based Right on Crime Coalition has pushed hard for change. The group includes leaders driven by a desire to eliminate inefficient government spending as well as leaders with faith-based motivations.

NEW YORK. New York passed a reform bill ending indeterminate drug crime sentences and doubling the threshold amount of drugs for mandatory sentences in 2004. Additional reform passed in 2009, providing for judicial discretion for drug treatment instead of incarceration, diversion for certain crimes and second felony offenses, availability of resentencing for those sentenced under the indeterminate laws prior to 2005, sealing provisions, and the ability to dismiss a case when treatment was completed. In addition to these drug law reforms, New York has put in place a Drug Treatment Alternative Program to divert defendants from prison to treatment, as well as an Alternatives to Incarceration program. New York also has given prisoners many options and incentives to participate in earned good time programming. Through these efforts, between 1999 and 2009, the state reduced its prison population by 20 percent, which allowed it to shut three prisons and some buildings at six additional prisons.[80]

NEW JERSEY. New Jersey has expanded its drug court model and discretion for judges regarding drug-free zones (schools and parks). The state also implemented a risk assessment tool to aid in making parole decisions, which led to an increase in the parole-granting rate. New Jersey has reduced parole revocations by increasing the use of day reporting and electronic monitoring and by establishing Regional Assessment Centers, where parolees can be held for 15 to 30 days while parole revocations decisions are made. The share of parole violators returned to prison has dropped from 81 percent to 46 percent. Between 1999 and 2009, the New Jersey prison population fell by 19 percent.[81]

TEXAS. In 2007, the Texas legislature adopted the Justice Reinvestment model after recognizing that the state could not afford a projected $2 billion in new prison construction and operating costs under current policies. Texas invested $241 million in treatment and diversion programs for drug offenders.[82] These investments saved $210 million in the 2008-2009 fiscal biennium and brought about a 4.5 percent decline in the incarceration rate.[83]

SOUTH CAROLINA. In 2010, facing projected prison growth of 3,200 inmates over five years, which would have cost $458 million in operating and construction costs for new prisons, South Carolina passed major sentencing reform legislation. Among many provisions, the law reduced penalties for nonviolent burglary and made the offense parole-eligible; restructured controlled-substance offenses to allow for probation, parole, and work release in certain cases; revised work release provisions in the last three years of a sentence; allowed parole for terminally ill, geriatric, or permanently incapacitated inmates; and established earned time incentives for good behavior on probation. In addition, the law required a fiscal impact statement for any future legislation that would establish a new offense

charged with providing the community supervision services essential to effective prisoner reentry.

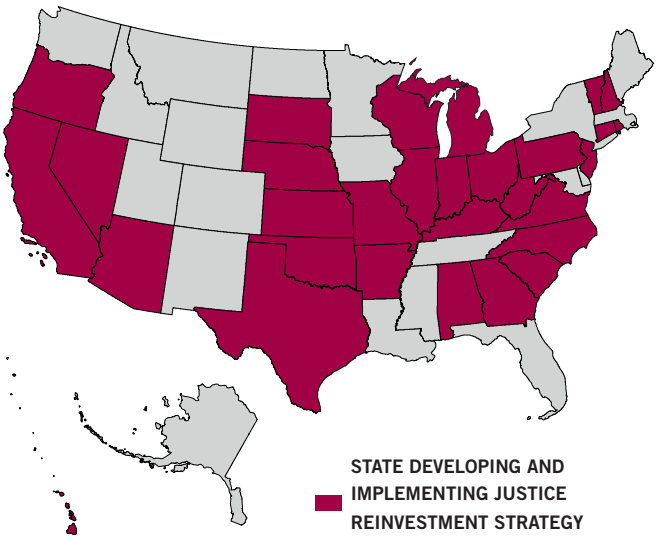
The fallout from the probation scandal was a hard-fought battle within the Legislature over control over the agency. The Patrick administration argued for bringing probation within the Executive Office of Public Safety and Security to better align and unify supervision services with the parole board. In the end, the Trial Court prevailed, retaining control over probation.

This bruising battle injected energy into both the Legislature and administrative agencies to pursue a reform agenda more aggressively. The Executive Office of Administration and Finance issued a

or amend sentencing provisions. The bill was projected to eliminate the need for a new prison and to save $241 million over the next five years.

ARKANSAS. In 2011, facing projected growth of 3,200 inmates and additional costs of $1.1 billion over 10 years, Arkansas passed major sentencing reform legislation. Among many provisions, the new law required the use of evidence-based practices and risk assessment in community corrections, permitted earned discharge from probation and parole, expanded the use of drug courts, reduced minimum and maximum terms of incarceration for low-level drug possession, changed the parole release process to implement a presumption of release for offenders without a disciplinary record and to begin transfer procedures six months prior to release, and expanded medical parole. The reform act was projected to avert an estimated $875 million over 10 years.[84]

KENTUCKY. In 2011, facing projected growth of 3,000 inmates, Kentucky passed major sentencing reform legislation. Among many provisions, the new law revised penalties for simple drug possession and allowed for presumptive probation for first- and second-time drug possession; reduced drug-free school zones from 1,000 yards to 1,000 feet; incorporated risk assessment into pre-trial supervision, sentencing, parole eligibility, parole terms, and during probation and parole supervision; required that 75 percent of state spending on supervision and intervention is evidence-based by 2016; established administrative caseloads for low-risk offenders; authorized compliance credits and early termination for probationers and parolees who comply with terms of probation and parole; and required



Source: Pew Center for the States and Council of State Governments

a fiscal impact statement for any legislation that would impact incarceration. The act is estimated to save $422 million over 10 years.[85]

GEORGIA. In 2011, facing projected growth of $264 million in corrections spending, Georgia passed major sentencing reform legislation. Among many provisions, the new law reduced the length of sentences for low-level drug possession offenses; implemented a weight-based drug system; raised the felony theft threshold from $500 to $1,500 and developed different levels of felony theft; created degrees of burglary to account for the seriousness of the offense and differentiated between residential and non-residential burglaries; and mandated the use of evidence-based practices for drug and mental health courts. This legislation is projected to save $264 million over the next five years.[86]

master plan outlining the capital costs associated with current policies and practices and the new facilities that will soon be required in the absence of overarching reform.

In 2011, the Legislature passed a provision calling for the formation of a Special Commission to Study the Criminal Justice System. The language called for a final report from the commission by March 2012. While the report has not been issued, in the spring of 2012, Massachusetts became one of 13 states to join Pew's Results First Initiative. Results First is working to advance data-driven decision-making, and there is hope that it will lead to a relationship with Pew's more intensive Public Safety Performance Project.

The data assembled with support from Pew are also aiding the state in efforts to pioneer the use of social impact bonds. In May 2010, the Patrick administration issued a Request for Information soliciting ideas for how the state could implement this novel approach, which led to impressive improvements in the performance of the UK corrections system. In August 2012, Massachusetts awarded "Pay for Performance" contracts to two organizations, one working to reduce recidivism among youth. When these contracts are finalized, Massachusetts will become the first state to use social innovation financing. Taken to scale, this model could become its own variant of Justice Reinvestment.

While these developments within the Legislature and executive branch are noteworthy and encouraging, the debate leading up to the passage of the 2012 Three Strikes Bill shows that criminal justice policy is still heavily politicized. The focus for this legislative effort was taking away judicial discretion for cases involving a very small number of violent habitual offenders. Reformers were able to win reductions in mandatory minimums for drug offenders. However, this improvement aside, the larger takeaway is that in contrast to successful Justice Reinvestment efforts in other states, the package was not built around hard data and a consensus that systemic reforms were needed to reduce costs and enhance public safety.

III. REINVENTING JUSTICE IN MASSACHUSETTS TO REDUCE COST AND ENHANCE PUBLIC SAFETY

Is it time to get smart on crime? The transition to a Justice Reinvestment–style approach calls for political leadership that fully embraces the model. This commitment is necessary to achieve the reallocation of resources required.

Across all levels and branches of Massachusetts's criminal justice system, there are many hard-working practitioners hungry for change. The makeup of the Coalition is reflective of the energy for a new approach that can be found in state and county corrections, the judiciary, and Probation and Parole, as well as among prosecutors and the defense bar. These experts recognize the opportunity Justice Reinvestment affords to hold offenders accountable, while reducing correctional costs and enhancing public safety.

With the release of this report, the Coalition seeks to build and demonstrate consensus among the public that now is the time to get smart on crime, giving our elected leaders a mandate to implement the recommendations outlined below, following the four core principles of the Justice Reinvestment model:

1. A Focus on Individuals Most Likely to Reoffend

• **Place a moratorium on the expansion of state and county prisons.** The Coalition calls for a moratorium on the expansion of state and county prisons until Massachusetts has fully embraced and implemented Justice Reinvestment–style reform. The moratorium will signal a commitment to ensure that future investment of the state's finite public safety resources is grounded in rigorous cost-benefit analysis.

• **Standardize data systems and reporting protocols, and funnel information to a central research center.** Weak information systems need an upgrade before Massachusetts can successfully transition to the Justice Reinvestment model. Currently, each agency uses a different data system, which makes it difficult to analyze offender outcomes. While agencies must have tools suited to their unique populations, data systems should be compatible to the greatest extent possible and standards must be in place for capturing common metrics. For a $1.2 billion operation carrying out a critical public safety function, the capacity for data analysis is severely underdeveloped throughout the system. The coalition believes the Department of Correction should have the resources and the mandate to standardize, collect, and synthesize data from state prisons, county Houses of Correction, the Parole Board, and Probation.

THE COALITION CALLS FOR A MORATORIUM ON THE EXPANSION OF STATE AND COUNTY PRISONS

• **Empower the Sentencing Commission to revisit the state's approach to sentencing and sanctions.** Allocating resources between agencies and across the branches of government that make up the criminal justice system is extremely challenging. Many states use sentencing commissions to assist the legislature in making these decisions. Sentencing commissions can develop guidelines that promote consistency and fairness, while establishing priorities for the use of limited resources to manage population growth. In addition to criminal offenses, sentencing commissions have been given broad powers in several states to issue guidelines for juvenile offenders, intermediate sanctions, misdemeanors, probation revocation, and the granting of parole.[87]

By comparison, the Massachusetts Sentencing Commission has relatively limited authority. The Legislature has never given the guidelines it has produced the force of law, and there is no mandate

to analyze the implications of sentencing guidelines relative to the allocation of system resources. As such, the Commission's guidelines have not been updated since they were first introduced in 1996.

With new tools to analyze the risk posed by offenders and new research providing a more nuanced understanding of what works, the role and responsibility of the state's sentencing commission should be reexamined. In addition to more efficient allocation of resources, connecting the administration of justice to hard data will provide new ways to assess fairness and better understand challenges like racial and ethic disparities.

Toward this end:

- Governor Patrick should reconstitute the Sentencing Commission and appoint new members to fill vacancies. This revitalized body could then be tasked with updating the sentencing guidelines.
- Concurrently, the Legislature could signal engagement in this process by including language in the FY 2014 budget calling for the completion of the update within one year, and providing the Commission with a small line item to support this work.
- Upon completion, provide training on the goals of the new sentencing guidelines and efforts to improve community supervision for all judges and prosecutors.

2. Programs Based on Science and Efforts to Ensure Quality Implementation

• **Complete an extensive survey of conditions of confinement, programming, and program quality across the system.** From prison education to cognitive behavioral therapy, research demonstrates specific interventions that, with a carefully specified dose to a specific population, produce benefits for taxpayers that outweigh the costs.[88] As a starting point, leaders must know the extent to which these models are administered in Massachusetts corrections agencies according to the standards outlined in the literature. (In the preparation of this report, efforts were made to collect these data from both the Department of Correction and Houses of Correction. This information was largely unavailable.)

In addition to understanding the availability of evidence-based programming, more information about the barriers to participation is critical. Others have cataloged the statutes and policies that prohibit certain classes of offenders from receiving services.[89] In light of recent reforms, this analysis requires updating. Decision makers will also need to know more about how these laws and policies interact with overcrowding and physical constraints to limit the availability of programming, particularly for female offenders and other special populations.

• **Understand how the state's corrections system can be oriented toward Justice Reinvestment and develop a strategy to build a culture of data-driven decision-making with the agencies.** Research on the adoption of evidence-based practices by the Crime and Justice Institute documents how moving toward the Justice Reinvestment model requires a change in agency culture at each level of the organization.[90] From frontline workers to agency leaders, all involved must embrace a data-driven approach. Justice Reinvestment calls for an environment in which employees are eager to focus their efforts on interventions that work and all involved are prepared to adjust or abandon practices that are not delivering results. Taking careful stock of the culture within and between agencies at the outset, and building buy-in throughout these organizations as reform efforts unfold, will be an important complement to any effort to legislate change.

3. Effective Community Supervision Policies and Practices

• **Expand the use of community supervision and pre-release.** The Coalition believes prisoners should generally be released with supervision. "Presumptive parole" is one model that leading states are

adopting: In the absence of special circumstances, prisoners are released under parole supervision when they are eligible in order to facilitate their successful re-integration into society.

Within a presumptive parole policy, Massachusetts must place particular focus on providing post-release supervision for those most likely to reoffend. Reorienting the state's approach to reentry so that resources are targeted toward these high-risk inmates will require a significant shift in policy and practice. Currently, many high risk inmates are barred from pre-release facilities by both statute and regulation. In addition to reducing recidivism, efforts to address this conflict could result in significant cost savings in both capital and annual operating budgets, as documented in the Executive Office of Administration and Finance master plan. While recent legislative reform has started to address this challenge, a full reorientation will require a systemic approach.

Overtime, as the state shifts to a data-driven approach to parole, additional research will help determine the best mechanism for ensuring cost-effective post-release supervision of offenders returning to the community.

• **Clearly delineate responsibility for all post-release supervision to the Parole Board and pretrial and diversion to the Probation Department.** Overlapping responsibility for supervising offenders returning to communities from state and county facilities reduces efficiency and accountability. To address this problem, Governor Patrick called for combining parole and probation under a new office of Community Supervision within the executive branch. This restructuring was estimated to reduce costs by $40 million to $50 million annually, and improve coordination to enhance public safety.[91] While the administration's proposal ultimately failed, the Probation Department has introduced reforms that reduce the need for urgent change.

However, as Massachusetts reinvents corrections, tightening accountability for providing supervision to offenders leaving secure facilities is critical. The majority of the Probation Depart-

Summary of the Massachusetts Criminal Justice Reform Coalition's Recommendations

SHORT-TERM	• Place a moratorium on the expansion of state and county prisons until Massachusetts has fully implemented Justice Reinvestment–style reform. • Reconstitute the Massachusetts Sentencing Commission and task the body with presenting updated sentencing guidelines within one year. • Partner with local officials to plan integrated reentry programs for the state's 10 largest urban centers. • Assess conditions of confinement, programming, and program quality across all components of the system and subpopulations served.
MEDIUM-TERM	• Give the Department of Correction resources and a mandate to standardize, collect, and synthesize data from county Houses of Correction, the Parole Board, and Probation. • Provide training on the goals of the new sentencing guidelines and efforts to improve community supervision for all judges and prosecutors. • Use new data tools to increase our understanding of racial and ethnic disparities in incarceration.
LONG-TERM	• Clearly delineate responsibility for all post-release supervision to the Parole Board and pretrial and diversion to the Probation Department • Expand the use of community supervision and pre-release for those most likely to reoffend.

ment's effort involves pretrial services and the supervision of probationers serving suspended sentences in the community. Keeping these functions within the jurisdiction of the courts is logical, just as it makes sense to ensure that all post-incarceration supervision is integrated with the work of the Parole Board.

The Coalition recommends separating the parole and probation functions, clearly delineating responsibility for all post-release supervision to the Parole Board and pretrial and diversion to the Probation Department. The Coalition recognizes that if sentencing guidelines are reinvigorated and more high-risk offenders receive post-release supervision (as outlined above), judges will no longer feel compelled to include "from and after" probation terms to ensure that some form of supervision is provided. But improving reentry is the core of the Justice Reinvestment strategy. If the Legislature does not place post-release supervision under one agency, the delivery of these services would need to be strengthened across two agencies, duplicating the challenging task associated with better managing risk and reducing recidivism.

4. Place-Based Strategies

• **Make Boston's Emergency Reentry Program a model for other urban centers.** Half of state inmates released to the street return to just 10 cities. To reduce the impact that these offenders have on the communities that receive them, each of these cities needs an integrated reentry program that brings law enforcement and human service providers together with corrections officials to manage the risk posed by the most disruptive offenders. The Emergency Reentry program being developed in Boston as a result of the crisis at the state Crime Lab should be fully funded. The approach should then be carefully documented, researched, and replicated in cities that receive a highly disproportionate share of inmates returning from state and county facilities.

THE COALITION'S COMMITMENT

Delivering on the formula outlined above is a complicated undertaking requiring a high degree of focus over an extended period. The Massachusetts Criminal Justice Reform Coalition is committed to providing leadership and support throughout this process. In the months ahead, the Coalition will:

- Issue a number of policy briefs, drilling down further into the themes raised in this framing report, such as the availability of programming and program quality and conditions of confinement for female offenders and other subgroups.
- Publish public opinion data, updating survey work from 1997 and 2005 to provide a sharper understanding of how voter perception on these issues has evolved.
- Convene criminal justice leaders from around the country to learn more about innovative Justice Reinvestment models.
- Host a series of public events across the Commonwealth to elevate the topic and engage the community in the effort to reinvent the state's criminal justice policies.

APPENDIX

Estimating the cost associated with a one-third increase in sentence length:

SYSTEM	1990 SENTENCE	2010 SENTENCE	COST/YEAR	POPULATION	ANNUALIZED COST (MILLIONS)
DOC	3.5 years	4.6 years	$45,500	9,234	$100
HOC	138 days	179 days	$37,000	5,986	$50
Total					$150

Note: DOC population excludes civil commitments, those awaiting trial, and first-degree lifers.
Sources: ANF Master Plan (2011); MA Sentencing Commision; MA Department of Correction.

Estimating the costs associated with moving inmates to higher-security settings:

SECURITY LEVEL	NUMER OF INMATES (2011)	ESTIMATED NUMBER INMATES WITH 1990 CLASSIFICATION RATIOS	AVERAGE COST (FY10)	CURRENT COST (MILLIONS)	COST WITH 1990 CLASSIFICATION RATIOS (MILLIONS)	DIFFERENCE (MILLIONS)
Maximum	2,027	1,033	$52,197	$106	$54	-$52
Medium	7,838	7,838	$42,808	$336	$334	-$1
Minimum	1,610	2,639	$36,236	$58	$96	$37
Total	11,475	11,475	NA	$500	$484	-$16

Note: 1990 classification ratios were 9% max., 68% med., and 23% min. per Governor's Commission (2004); FY10 costs data from Correction Community Supervision: Blueprint for a Safer Commonwealth, DOC (2009).

Estimating lost wages for residents with a prison record:

MA INCARCERATION RATE/US INCARCERATION RATE	US PREVALENCE RATE	ESTIMATED MA PREVALENCE RATE	WORKING AGE MA POPULATION	NUMBER PRIOR INMATES WORKING AGE	MA MEDIAN INCOME, NO HIGH SCHOOL DEGREE	TOTAL WAGES	REDUCTION IN EARNINGS	REDUCTION IN TAXES WITH PREVALENCE RATE ADJUSTED RELATIVE TO 1987 INCARCERATION RATE
A	B	A * B = C	D	C * D = E	F	E * F = G	G * 0.4 = H	(H * 0.08) / 3 = I
0.402	0.051	0.021	4,225,982	86,730	$22,056	$1,912,926,040	$765,170,416	$20,404,544

Sources: US Census Bureau and US Bureau of Justice Statistics

ENDNOTES

1 The incarceration rate in Massachusetts rose from 0.17 percent in 1982 to 0.53 percent in 2007. See Jeffrey McLeod. "State Efforts in Sentencing and Corrections Reform" (Washington, DC: National Governor's Association, 2011). There are no data available to break down the growth in the Massachusetts prison population according to arrest rates, conviction rates, incarceration rates, and time served per offense. Criminal justice policy in Massachusetts has followed the national trend, therefore it is likely that the composition is similar to that of states nationally. For this breakdown, see William Sabol, "Implications of Criminal Justice System Adaptation for Prison Population Growth and Corrections Policy." Paper presented at the Symposium on Crime and Justice, Albany, NY (2010).

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16 The 30-month ceiling on House of Correction sentences is for each individual conviction. With convictions on multiple charges, offenders can be sentenced to longer than 30 months in a House of Correction.

17 See "Time Served: The High Cost, Low Return of Longer Prison Terms" (Washington, DC: Pew Center on the States, 2012).

18 For example, the share of offenders serving time for violent offenses has not changed over the last two decades.

19 According to the Executive Office of Administration and Finance's recent master plan, the HOCs house approximately 1,000 federal inmates. Removing these from the 2012 count still yields an 85 percent increase over 1990 levels. The end of the Concord Reformatory Sentence may partially explain the disproportionate increase at HOCs. Without the option to send prisoners to a DOC facility with an indeterminate sentence, judges often sentence offenders to serve multiple "from and after" sentences at HOCs where they are more likely to parole.

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21 Pew Center on the States (2012).

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MASSACHUSETTS CRIMINAL JUSTICE REFORM COALITION

CO-CHAIRS

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Former US Attorney
Senior Counsel
Goodwin Procter LLP

Kevin Burke
Former Secretary of Public Safety and Security
Visiting Professor
Endicott College

Max D. Stern
Partner
Stern Shapiro Weissberg & Garin LLP
President, Massachusetts Association of Criminal Defense Lawyers

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Director of Boston Reentry Initiative
Suffolk County Sheriff's Department

Jay Ash
City Manager
City of Chelsea

Michael J. Ashe, Jr.
Sheriff
Hampden County Sheriff's Department

Molly Baldwin
Executive Director
Roca

Anthony Benedetti
Chief Counsel
Committee for Public Counsel Services

Christine M. Cole
Executive Director of Program in Criminal Justice Policy and Management
Harvard University Kennedy School of Government

Thomas E. Coury
Executive Director
Gardiner Howland Shaw Foundation

Edward Davis
Commissioner
Boston Police Department

Kathleen M. Dennehy
Former Commissioner
Massachusetts Department of Correction

Lewis Finfer
Director & Organizer
Massachusetts Communities Action Network

Thomas H. Green
Former 1st Assistant Attorney General
Managing Director, Infrastructure Group
Citigroup

John Grossman
Partner & General Counsel
Third Sector Capital Partners

Reverend Dr. Ray Hammond
Pastor
Bethel AME Church

Martin W. Healy
Chief Operating Officer & Chief Legal Counsel
Massachusetts Bar Association

Lisa M. Hewitt
General Counsel
Committee for Public Counsel Services

Tripp Jones
Managing Director
New Profit Inc.

Albert Kaneb
Chairman
Barnstable Corporation

Michael B. Keating
Partner & Chair of Litigation
Foley Hoag LLP

Brian Kyes
Chief of Police
Chelsea Police Department

John Larivee
CEO
Community Resources for Justice

Edward Murphy
CEO
The MENTOR Network

Betsy Pattullo
Founder & Chair of the Board
Beacon Health Strategies LLC

Dean Richlin
Former 1st Assistant Attorney General
Partner
Foley Hoag LLP

Steven A. Tolman
President
Massachusetts AFL-CIO

Robert Travaglini
Former Massachusetts Senate President
Founder & Principal
Travaglini, Eisenberg & Kiley

Leo Vercollone
President & CEO
VERC Enterprises

Leslie Walker
Executive Director
Prisoners' Legal Services

Thomas Walsh
Associate Dean
Boston College Graduate School of Social Work

Bruce Western
Professor of Sociology
Harvard Kennedy School of Government

Michael J. Widmer
President
Massachusetts Taxpayers Foundation

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11 Beacon Street, Suite 500
Boston, MA 02108
massinc.org
@massinc

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