



**CRIMINAL AND JUVENILE
JUSTICE POLICY
BRIEFING BOOK**

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**Sponsored by
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Dear Candidate:

The Crime & Justice Institute is pleased to present this Criminal and Juvenile Justice Policy Briefing Book as part of its effort to promote effective and efficient criminal justice policies in Massachusetts. This briefing book, sponsored by the Gardiner Howland Shaw Foundation, is being presented to Massachusetts political candidates with the hope that criminal justice issues will be substantively discussed during this campaign season within the context of the important public interests they address.

Coherent criminal justice policy is not easy or attractive and it is generally not an area of public policy that most candidates willingly explore during a campaign. However, the impact of these policies will affect the successful candidates while in office and every citizen's life in some way. The next governor will have the opportunity to shape the system in a way that:

- uses valuable resources more effectively and efficiently,
- reduces the number of residents that become victims of crime,
- improves the lives of those living in communities where criminal activity is prevalent,
- increases economic opportunity in areas hard hit by crime,
- improves the lives of ex-offenders and their families, and
- obstructs the generational influence that crime has on children.

While attention is often focused on the adverse impact of crime, good public policy focuses on achieving effective and long-term change through research-based practices. Massachusetts, historically a leader in many areas of public policy, can again lead the nation by tackling the complexities of the criminal justice system in a way that uses resources most efficiently and implements policies that support and protect citizens. The information in this briefing book describes how research can help us develop good criminal justice policies that increase safety in our neighborhoods. It takes strong and committed leadership to put these policies in place.

We at CJI appreciate the public service and leadership of the candidates and all of our elected officials. We offer this document and our ongoing support of the ideas presented within it and hope you find the information helpful and worthy of public discussion.

Best regards,

Elyse Clawson
Executive Director
Crime & Justice Institute

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What is it?

The juvenile justice system in Massachusetts is responsible for children who have broken the law, and it aims to rehabilitate them. One of its functions is to place arrested or adjudicated (convicted) children in facilities or supervise them in the community. The system includes the juvenile courts, the probation department, and the Department of Youth Services (DYS). Children may be on probation supervision for a few months to a few years; children committed to the care of DHS remain involved in the system until they are 18 or, in some cases, 21.

Why is it relevant?

Thousands of children enter the juvenile justice system yearly, and virtually all of those children eventually come home. How they are treated in the system affects their future. Children who are at low risk to commit more crimes benefit from staying in the community where they are exposed to positive role models, rather than going to a facility where they learn to be a better criminal. Children who are at high risk to commit more crimes may need to be placed in a facility, but they can benefit from supervision and treatment that are matched to their level of risk. Research has shown that it's possible to measure a child's risk and respond appropriately.

In Brief

Juvenile justice reform is a process of implementing policies and programs that have been proven effective to maintain public safety and rehabilitate youth. Reform can make our juvenile justice system better for children, families, and communities by keeping fewer children in facilities, preventing children from entering and remaining in the juvenile justice system, and making the system more fair and equitable. Communities are engaged in reform across the country and have seen improved outcomes for children and the public.

Facts and Figures

- In 2005, MA DHS held nearly 5,000 children awaiting trial. Only 20% of those children were later placed in the care of DHS; the rest returned to the community.¹
- In 2004, more than 50% of children in MA pre-trial detention were being held on a nonviolent offense.²
- The cost of community based programs for a juvenile offender averages between \$5000 and \$10,000 a year; secure confinement can cost in excess of \$60,000 per year.³
- Multnomah County (Portland), OR was able to redirect \$12 million to community-based youth programs by closing wings of their secure detention facility.⁴
- Cook County (Chicago), IL will save \$250 million over 20 years by reducing their reliance on secure detention, while also reducing the juvenile arrest rate and the number of children committed to confinement at the state Department of Correction.⁵

¹ Massachusetts Department of Youth Services. Unpublished data. Detention 2005.

² Massachusetts Department of Youth Services. Unpublished data. Detention 2005.

³ Tyler JL, Ziedenberg J, and Lotke E. (2006) Cost Effective Youth Corrections: Rationalizing the Fiscal Architecture of Juvenile Justice Systems. Washington, DC: The Justice Policy Institute.

⁴ Lubow B. (2005) Juvenile Detention Alternatives Initiative Annual Site Conference. Las Vegas, Nevada: November 29-December 2, 2005.

⁵ *Ibid.*

What is juvenile justice reform, and why is it important?

A reformed juvenile justice system is one where:

- Public safety is protected by measuring the risk a child poses to the community and responding appropriately to that risk.
- Children are kept in the least secure environment possible to keep them and the community safe.
- Children are supervised and given treatment that will reduce the likelihood they will re-offend.
- Funding is used efficiently to get the best possible outcomes at the lowest possible cost.

Reform, put simply, allows the system to get an optimal return on investment with maximum benefit to children in the system as well as the community.

How will juvenile justice reform benefit families and communities?

A reformed system allows children who pose a low risk of committing another crime to remain in or return to the community with appropriate treatment and supervision. This obviously benefits those children and their families, but also other families in the community and the community as a whole. Less delinquent behavior means fewer disruptions in school and safer neighborhoods.

Won't juvenile justice reforms be more expensive?

Reform measures are designed to reduce the need and expense of incarceration. Secure facilities are the most expensive component of the juvenile justice system. Serving children and families in the community is less expensive and research shows it to be more effective for most youth.¹

When the juvenile justice system focuses on rehabilitating children, it reduces the likelihood that the children will enter the adult criminal justice system, which saves more money in the long run. Jurisdictions that have implemented reform measures have made more effective use of millions of dollars over the past decade by reducing the number of secure detention beds.²

¹ Tyler JL, Ziedenberg J, and Lotke E. (2006) Cost Effective Youth Corrections: Rationalizing the Fiscal Architecture of Juvenile Justice Systems. Washington, DC: The Justice Policy Institute.

² Lubow B. (2005) Juvenile Detention Alternatives Initiative Annual Site Conference. Las Vegas, Nevada: November 29-December 2, 2005.

Aren't other children safer when young criminals are segregated?

Children who spend all of their time with other anti-social youth, in settings such as special schools or secure juvenile facilities, are likely to get worse. This is especially true for children on the verge of becoming criminally involved.³ Communities have two choices:

1. Take at-risk youth out of mainstream programs or classrooms for a time, and risk that they will return to the community worse than before, or
2. Keep at-risk children in the mainstream, with appropriate treatment and supervision, so that they can maintain ties to school, church, family, and pro-social activities.

Some violent, high-risk children will need to be placed in facilities. However, most children benefit from remaining in the community and developing their social skills. With appropriate treatment in the right environment, they will eventually pose less of a risk to themselves and their peers.

If children who have been arrested remain in the community, won't neighborhoods be less safe?

Not all children will remain in the community. Each child's level of risk can be measured. Low-risk children (those who are unlikely to re-offend) will stay in the community, often as part of a supervised program. Children who are a risk to public safety will be placed in secure facilities to protect the community.

Communities that are engaged in detention reform have not seen increases in juvenile crime rates, and some have seen decreases.⁴

³ Dodge KA, Dishion TJ, and Lansford JE. (2006) "Deviant Peer Influences in Intervention and Public Policy for Youth." *Social Policy Report*. Volume 10, number 1, page 15.

⁴ Lubow B. (2005) Juvenile Detention Alternatives Initiative Annual Site Conference. Las Vegas, Nevada: November 29-December 2, 2005.

The Current System in Massachusetts

Thirty years ago, Massachusetts was in the vanguard of juvenile justice reform. The Department of Youth Services, led by Jerome Miller, decided to close the large, institutional training schools and move children to smaller secure facilities, residential programs, or back home. The results were fewer children locked up and lower recidivism (re-offending). The “Miller Approach” was adopted by communities around the country, and is still seen as a model of sound juvenile justice practice.¹ Since that time, Massachusetts has experienced highs and lows in its juvenile justice system. Currently, the Department of Youth Services is spearheading efforts to reform the state system and implement more effective, efficient practices. However, the Department faces an uphill battle, contending with issues like overrepresentation of minority youth in the justice system, which places the state’s federal funding in jeopardy.

In 2005, DYS had nearly 5,000 new admissions to detention. Children who have been accused of a crime and are awaiting a court hearing, or those who have been picked up on a warrant or probation violation, are held in detention. Nearly half of detained children had a misdemeanor (such as shoplifting or marijuana possession) as their most serious offense, and fewer than 25% would later be “adjudicated delinquent” (i.e. found guilty) and committed to DYS custody.

At the beginning of 2006, 2,300 children were in the custody of DYS (16% girls, 84% boys). This includes children being held in facilities and those placed in the community. In the last ten years, the number of girls in DYS custody has risen 80%. Virtually all of these children will return to the community after “aging out” of DYS on their 18th or 21st birthday.²

The Reasons for Juvenile Justice Reform

In the 90’s, fear of a juvenile crime wave led to many “tough on juvenile crime” measures across the county. Even when crime rates declined, juvenile arrest and incarceration rates went up, especially for minority youth. These tough on crime policies led to unsafe, overcrowded conditions in juvenile justice facilities and did not improve public safety.³ The policies were based on worst-case scenarios rather than research about what works for children. Models of juvenile justice reforms that are being adopted around the country are based on research about what will improve outcomes for children. Many of the communities that initiated these reforms were in a state of crisis, yet reform has proven beneficial in saving systems in crisis while also improving systems that are good, but want to be better.

¹ Krisberg B. (2005) Reforming Juvenile Justice. *American Prospect Online Edition*. Available online at <http://www.prospect.org/web/page.ww?section=root&name=ViewPrint&articleId=10120>.

² Massachusetts Department of Youth Services Unpublished data. Detention 2005.

³ Lubow B. (2005) Juvenile Detention Alternatives Initiative Annual Site Conference. Las Vegas, Nevada: November 29-December 2, 2005.

Reform has been centered in two parts of the juvenile justice system: pre-trial detention, and treatment for children who are found delinquent (guilty). Some communities have worked to reform their entire system.

Pre-trial detention. National standards say that pre-trial detention should be used for two types of children: those that might commit a new crime before their adjudication (trial), and those who are at risk for not appearing in court. However, many jurisdictions use pre-trial detention as a punishment, or to lock up all arrested children regardless of their risk. Why doesn't that work? Because children who spend time in detention are adversely affected.^{4,5} Involvement in pro-social community activities, such as school, and family relationships are disrupted. Detained children are more likely to be committed to a state facility than similar children who stay in the community awaiting their adjudication. For example, a child who remains in school, finds a job, and attends drug treatment is better able to make a case to a judge that s/he's ready to be a productive citizen than a child who's been sitting in detention with no opportunity to maintain or create community ties.

Some children need to be locked up. For those that don't, finding ways to divert them from entering the system and developing a range of programs to supervise them in the community has been proven to improve public safety outcomes. Also, community-based programs are significantly cheaper than secure detention.

Treatment for delinquents. The juvenile justice system is based on the idea that children can be rehabilitated. Many different treatment options have been tried, from drug treatment programs to boot camps, and some have worked while others have not. For a long time juvenile justice treatment was based only on what adults thought would work, rather than evidence. Now there is a great deal of evidence about what programs are effective, and the reason for reform is to apply what is known to be effective, so that children are rehabilitated and leave the system better than when they came in.

For example, "boot camp" programs have been proven to increase recidivism. Children actually leave those programs worse than when they entered.⁶ On the other hand, intensive family therapy programs for children living in the community have been proven effective to reduce recidivism.⁷ With the evidence that is available on many different types of programs, policymakers can make informed choices about what will work in the juvenile justice system.

A Continuum of Services for Children and Families

The image of "detention," "treatment" or "placement" for juvenile offenders is often the secure, locked facility where children are wearing uniforms and locked in cells. This is only a piece of what the juvenile justice system can be. It also includes children living in community-based residential

⁴ Tyler JL, Ziedenberg J, and Lotke E. (2006) Cost Effective Youth Corrections: Rationalizing the Fiscal Architecture of Juvenile Justice Systems. Washington, DC: The Justice Policy Institute.

⁵ Dodge KA, Dishion TJ, and Lansford JE. (2006) "Deviant Peer Influences in Intervention and Public Policy for Youth." *Social Policy Report*. Volume 10, number 1, page 15.

⁶ National Institute of Corrections. (2000) Promoting Public Safety Using Effective Interventions With Offenders. Washington, DC: National Institute of Corrections. Available online at <http://www.nicic.org/Library/016296>.

⁷ *Ibid.*

treatment, children living at home and participating in a variety of programs, and children simply engaged in the day-to-day activities of being a healthy teenager: going to school, working, and spending time with family. Each child that goes through the system is unique, and has unique needs. Juvenile justice systems are successful when a range of supervision and treatment services are available that can be matched to each child and family. This increases the likelihood that rehabilitation will be successful.

A few examples from Cook County' Illinois:⁸

- Some children awaiting trial do not meet the criteria for secure detention, but the children can only be released to a responsible adult. Instead of going to secure detention when an adult is not available, a child can go to a community-based children's shelter, where s/he is safely cared for until a parent or guardian is found.
- Some children awaiting trial are released to the community and are attending school, but they need something to keep them out of trouble after school. Every school day they are picked up and brought to an Evening Reporting Center, where they participate in educational activities, have contact with their probation officer, and are fed a hot meal.
- Families who are having trouble in the home are offered Functional Family Therapy or Multi-Systemic Therapy, which are both evidence-based, intensive therapy programs.⁹ Rather than locking the child up and having her/him return to the same dysfunctional environment, the therapist works with the family to improve the environment, as well as the child's behavior.

Evidence has shown that mixing children at different risk levels in a secure environment actually increases their risk of criminal behavior. In that environment, children are only exposed to negative peers, and can actually learn to become better criminals. For children who pose little risk to public safety, involvement with pro-social activities in the community is more effective than locking them away.^{10,11}

Matching children with the appropriate amount of supervision and treatment is not a random process. An objective risk and needs assessment instrument should be used to measure the risk a child poses to the community, and the types of services s/he needs (such as drug treatment). The child can then be matched to the service that is most likely to address those risks and needs. To match children successfully, a variety of options must be available in the community.

Whatever types of services a child receives, aftercare is also an important part of the continuum, so that youth and families can successfully transition out of the juvenile justice system. For example, a child with a drug problem may be very successful in residential treatment, but then have a hard time staying sober on her/his own. For children involved in gangs, it can be very hard to stay away from the gang once s/he's back in the old neighborhood. Aftercare or wraparound

⁸ Rohan M. (2005). JDAI Model site visit for the Human Services Workforce Initiative. Cook County, IL: November 11-12, 2005.

⁹University of Colorado Center for the Study and Prevention of Violence. Blueprints Model Programs. Available online at: <http://www.colorado.edu/cspv/blueprints/model/programs/>.

¹⁰ Tyler JL, Ziedenberg J, and Lotke E. (2006) Cost Effective Youth Corrections: Rationalizing the Fiscal Architecture of Juvenile Justice Systems. Washington, DC: The Justice Policy Institute.

¹¹ Dodge KA, Dishion TJ, and Lansford JE. (2006) "Deviant Peer Influences in Intervention and Public Policy for Youth." *Social Policy Report*. Volume 10, number 1, page 15.

services connect children and families to lasting supports in the community, increasing the chance of success when children leave the juvenile justice system.

Reform Outcomes For Youth, Families, and Communities

Many communities have achieved better outcomes for delinquent youth by offering a variety of services and matching children with the level of supervision and services that is best for them.

- Santa Cruz County, CA reduced detention rates by more than 50%, and at the same time juvenile felony arrests dropped by 38%. The reduction was due to more careful criteria for holding children in detention, and the availability of community-based alternatives.
- Cook County, IL not only reduced their detention population, but also reduced the number of children committed to the state Department of Corrections by 50% in less than 10 years.¹²

Using Resources Efficiently Through Reform¹³

The potential for cost savings through reform is significant for several reasons:

- The majority of interventions that have been proven effective with children are community-based. Even the most intensive community-based programs are still cheaper per child than keeping the child in a secure facility.
- Multnomah County (Portland), Oregon was able to reallocate \$12 million in operating costs by closing part of their secure facility. The money was redirected to community-based services for children, and public safety outcomes have improved.
- By using risk assessment tools to determine appropriate levels of supervision and services, reform communities have been able to “control the front gates” of secure facilities. Only children who pose a risk to public safety are held in secure settings, which lowers the number of detained children, lowers the costs, and keeps the community safer.
- Cook County (Chicago), Illinois was able to lower the average population of their detention center from 750 in 1992 to 420 in 2005, while watching their crime rate go down. The county estimates a cost savings of \$250 million over 20 years by eliminating the need to build more detention space.
- Detention reform sites have also saved money through speedier case processing. Moving children through the court system more quickly reduces the high cost of long pre-trial detention stays. Children and victims also benefit from quick decisions and swifter consequences.
- Children who are effectively rehabilitated as juveniles are less likely to enter the adult system, which has even higher operating costs, saving the long-term costs of ongoing system involvement.

¹² Lubow B. (2005) Juvenile Detention Alternatives Initiative Annual Site Conference. Las Vegas, Nevada: November 29-December 2, 2005.

¹³ *Ibid.*

Models for Reform

Several models of reform exist, and they can be tailored to the needs of the communities that adopt them. Massachusetts can select and tailor a system of evidence-based reform that meets the needs of juvenile justice agencies, children, and families. Below are some examples.

- *Detention Reform: JDAI.* The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative is one of the most popular models nationwide. The goals of the initiative are to reduce reliance on secure detention while decreasing the likelihood that children will commit a new crime or fail to appear for court. JDAI sites have reached these goals, and some have also been successful in reducing disproportionate minority involvement in the system. JDAI works by bringing system stakeholders together to agree on the goals of detention, create a range of detention alternatives, and use objective data to determine what type of placement is appropriate for a youth. For example, a child with a minor offense may be sent home with a summons, a child who is homeless may be sent to a shelter rather than to secure detention, and a child with a serious offense will be held in secure detention.¹⁴
- *Equality in the Justice System: W. Hayward Burns Institute.* The Burns Institute approach focuses exclusively on inequality in the system, and works with local stakeholders to develop a plan to ensure that children with similar criminal histories and risk factors are treated in the same way. The Burns approach is not one-size-fits all; it gathers traditional and non-traditional stakeholders, including system representatives, community groups, and families, to review Disproportionate Minority Contact (greater proportion of minority children in the system) issues and create a plan for addressing them.
- *System Reform: Models for Change.* Models for Change is an initiative of the MacArthur Foundation. It focuses on building an effective juvenile justice system, and defines goals, practices, and outcomes to create a system that meets the following criteria: fundamental fairness; recognition of juvenile-adult differences; recognition of individual differences; recognition of potential; safety; personal responsibility; community responsibility; and system responsibility. This program is relatively new, but is being built on evidence-based theory and practice. It is being piloted in four states, and if successful may serve as a model for other states.¹⁵

In addition to these national models, some jurisdictions have created their own brands of reform that can serve as models for the nation. Massachusetts has served as a model in the past, and has the potential to do so in the future. A plan for reform in Massachusetts could take the system to a new level of efficiency and effectiveness, ultimately benefiting children and communities.

¹⁴ Stanfield R. (1999) Overview: The JDAI Story: Building a Better Juvenile Detention System. Baltimore, MD: Annie E. Casey Foundation. Available online at <http://www.aecf.org/publications>.

¹⁵ John D. and Catherine T. MacArthur Foundation. (2005) Models for Change: Systems Reform in Juvenile Justice. New York, NY: John D. and Catherine T. MacArthur Foundation. Available online at http://www.macfound.org/atf/cf/{B0386CE3-8B29-4162-8098-E466FB856794}/HCD_JJ_Models_Change.pdf.

Resources

- The Juvenile Detention Alternative Initiative: <http://www.aecf.org/initiatives/jdai/>
- Models for Change: <http://www.macfound.org/>
- The Justice Policy Institute: <http://www.justicepolicy.org/>

What are they?

Mandatory minimum sentences for drug offenses are legislatively mandated sentences imposed for certain offenses that require a mandatory period of imprisonment¹. The sentencing judge has no discretion to impose a sentence less than the minimum term regardless of the individual circumstances, and corrections officials have no authority to transfer the individual to a treatment or training program when it would be more appropriate than prison.

Why are they relevant?

- Mandatory minimum sentences impact not only the sentence and certain conditions of incarceration; they also have substantive cost implications. It costs the state \$43,000 a year to incarcerate an offender² while a six-month residential program costs about \$9,900 and outpatient drug treatment costs about \$4,970.³
- Mandatory minimum sentences strip the judge of his discretion in imposing a lesser sentence and combining it with mandatory treatment when necessary.
- Sentencing policy should promote public safety by ensuring that violent offenders serve long periods of imprisonment and lower level offenders are held accountable through less severe sanctions.

In Brief

Mandatory minimum sentences for drug offenses:

- Do not distinguish between a first-time offender and a habitual criminal
- Require the prison and jail administration to house the inmate for the full mandatory term, even if an institutional assessment indicates the inmate is a low risk to reoffend or needs treatment unavailable in the jail or prison
- Do not include mandatory post-release supervision or treatment

Facts and Figures

- 31 of the 83 crimes that require a mandatory minimum term of incarceration are drug crimes.
- In 2004, 766 people were convicted of a drug offense that required a mandatory minimum sentence of imprisonment.
- In 58.7% of the state prison sentences for mandatory drug offenses in 2004, offenders were not eligible for parole supervision or pre-release programs.⁴
- The Massachusetts Sentencing Commission has proposed Sentencing Guidelines to provide for consistency and uniformity in sentencing while also allowing judicial discretion.⁵
- In a 2005 survey of Massachusetts residents, 88% opposed the use of mandatory minimum sentences.⁶

¹ Mandatory minimum sentences are imposed for a variety of offenses. These offenses are listed in attachment A.

² Governor's Commission on Criminal Justice Innovation. (2004). *Final Report*. Massachusetts.

³ Mumola CJ. (1999) *Substance Abuse and Treatment, State and Federal Prisoners, 1997*. Bureau of Justice Statistics, Special Report. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics NCJ 12871.

⁴ MA Sentencing Commission, Survey of Sentencing Practices FY 2004, p 25, 26.

⁵ MA Sentencing Commission, Sentencing Guidelines Overview. www.mass.gov/courts/admin/sentcomm.

⁶ Roberts CA and Doble J (2005) *Rethinking Justice in Massachusetts: Public Attitudes Toward Crime and Punishment*. Crime & Justice Institute. Boston, Massachusetts.

MANDATORY MINIMUM SENTENCES

QUESTIONS AND ANSWERS

Shouldn't we be sure that dangerous criminals are behind bars for a long time?

The criminal justice system should provide a mechanism that punishes, with incarceration, those who need to be punished and for an appropriate period. Our costly jail and prison cells should not be filled with low-risk offenders (those likely to not re-offend with appropriate treatment) whose criminal behavior would get worse when confined with serious criminals. We should not have a system that increases the likelihood that an offender will re-offend when released because we did not take appropriate action in the form of treatment and supervision, when we had the opportunity.

Mandatory minimums do not just apply to violent criminals. A first-time offender who sold drugs within 1000 feet of a school or within 100 feet park must go to jail for a minimum of two years. Does the state really want to spend \$86,000 to keep this person locked up for two years? Should he spend some time in jail? Probably, especially if he's selling drugs close to a school. But the offender could probably benefit from treatment and supervision as well. Might it be better to send him to jail for 6 months and then require him to participate in programs designed to ensure that he doesn't return to crime when he gets out? The cost of such a program would be a fraction of the jail costs.

Prison beds should be for serious and dangerous offenders. The sentencing judge, who we entrust to sift through the competing presentations made by the prosecutor and the defense attorney, is in the best position to impose a long sentence when warranted. The judge should impose, within the proposed guidelines, a sentence that responds to the specific circumstances of the offender and the crime as well.

Isn't it better to have the consistency in sentence lengths that mandatory minimum sentences bring?

Not necessarily, since each defendant is different. The circumstances and needs of two people selling drugs can be vastly different and imposing the same penalty may not address the underlying problems. A judge in his judicial discretion can impose a sentence that more appropriately addresses the public safety and criminal justice objectives in each case. Additionally, many mandatory minimum offenses have an illogical impact. For instance, a first-time offender sentenced for selling drugs within 1000 feet of a school must be incarcerated for at least two years. A person with a long record of drug dealing convicted of selling drugs 1200 feet from a school can serve far less time in prison than 2 years.

The issue of consistency is important and the sentencing guidelines proposed by the Massachusetts Sentencing Commission¹ go a long way to responding to the concerns raised by inconsistent sentencing. The sentencing guidelines do not eliminate mandatory minimum

¹ <http://mass.gov/courts/formsandguidelines/sentencing/intro.html>.

sentences but allow the judge to depart from mandatory minimum terms in cases of drug offenses when circumstances warrant it.

[Don't mandatory minimum sentences protect the public better?](#)

No. The goal of the criminal justice system should be to improve public safety. Research shows that repeat offenders continue to erode public safety and that recidivism reduction must be a priority in our criminal justice system. Mandatory minimum sentences limit the system's ability to employ programs designed to reduce recidivism because inmates are ineligible or unable to obtain treatment, job skills or other reentry preparation measures while serving the mandatory sentence. Thus, mandatory sentences may actually serve to decrease public safety by limiting the system's ability to address the causes of recidivism.

[Well at least the criminal is off the street for some time; that helps public safety doesn't it?](#)

Yes, if all you are looking for is a short-term impact. But the criminal justice system should be about improving public safety outcomes for the long-term. More than 97% of our incarcerated population is coming home, even those serving mandatory sentences. The questions we have to answer are what should we expect from our returning offenders and what have we done with them while they were in prison or jail? If the inmate comes out of jail no better than he went in then our system has failed, not only the inmate and his family and community, but also the taxpayers who keep feeding a system that actually generates more crime. It also fails when another victim is created by the returned offender's ongoing criminal behavior.

Eliminating mandatory minimum sentences for drug offenses is not about giving the offender numerous second chances and providing services to the offender that are not provided to people who don't commit crimes. This is about protecting the public and using the state's limited resources more wisely. We should expect that when the criminal justice system has custody of the offender for a period of time that the offender is less likely to commit a crime after being released. Unfortunately that is not necessarily the case. Public safety is not served if we simply lock the offender up for a two or three year period and then let him out, often worse than when he went in.

[So what's the bottom line?](#)

Mandatory minimum sentences, especially for drug offenders:

- Cost the state far too much for what they offer in return;
- Limit the criminal justice system's ability to address the offender's risk factors that drive his criminal behavior;
- Decrease public safety because they result in offenders returning to the community in no better shape than when they were incarcerated;
- Limit the judge's discretion in considering the complete record of the offender and the public safety needs of the state. There are dangerous criminals who should be locked up for a long time. But the judge is the person with the professional judgment and training to decide the appropriate sentence, with guidance from sentencing guidelines, in all criminal cases.

Background

In the early 1980s, in an effort to stem the tide of drugs coming into the cities and get tough on drug kingpins, President Reagan signed the Anti-Drug Abuse Act of 1986, which imposed mandatory sentences for drug dealers and triggered a cascade of state laws imposing mandatory sentences for drug offenders.¹

The intent of mandatory minimum sentences, states Eric Sterling, a member of the 1986 House Judiciary Committee staff that drafted the law, was to focus long prison terms on major drug traffickers. “Congress wanted the Justice Department to concentrate on major drug traffickers. If federal law enforcement agencies drove the high-level traffickers out of the drug business, there wouldn’t be any cocaine or other drugs for the street dealers to sell.”² But this didn’t work because the quantities that triggered mandatory minimum sentences were too small and, states Mr. Sterling, “as a result of mandatory minimum sentences, street level crack dealers serve longer sentences on average than cocaine importers and high-level suppliers.”³

Like the federal government, Massachusetts enacted mandatory minimum sentences for drug crimes in the 1980s. Since then the number of crimes requiring mandatory minimum sentences has continued to increase and many of the offenses apply to the street-level dealers.⁴ In 2004, 766 inmates were serving mandatory minimum sentences for drug charges in Massachusetts prisons. At a cost of \$43,000 annually per inmate⁵, the benefits of such rigid sentencing requirements must be measured against the research suggesting that mandatory minimums do not improve the criminal justice outcome of recidivism reduction. Much of the research indicates that mandatory minimum sentences limit access to the programs designed to reduce recidivism.

Research

Over the past several years, research has identified measures that reduce the likelihood that a returning offender will re-offend. Post-release supervision combined with treatment has been found to be effective especially when focused on medium and high risk offenders.⁶ Treatment, especially substance abuse treatment, is vital while the person is incarcerated and must continue when the person returns to the street.⁷ The research shows that the combination of supervision and treatment are key elements to reducing recidivism.

¹ Anti-Drug Abuse Act of 1986 (P.L. 99-570, 100 Stat. 3207).

² Eric E. Sterling, “Mistake with Drug Sentencing Guidelines Need to be Resolved,” Greensboro (NC) News-Record, Sunday, April 3, 2005.

³ Ibid.

⁴ MGL c. 94C, s. 34J (controlled substances violations in, on or near school property) requires 2 year mandatory minimum sentence

⁵ Governor’s Commission on Criminal Justice Innovation. (2004). *Final report*. Massachusetts.

⁶ Gendreau P and Goggin C. (1997). “Correctional Treatment: Accomplishments and Realities.” In P. Van Voorhis, M. Braswell and D. Lester, ed., *Correctional Counseling and Rehabilitation*. Cincinnati, Ohio: Anderson Publishing.

⁷ A 1997 study of a Delaware program revealed that offenders who did not receive alcohol and drug treatment in prison or the community had a 70% re-arrest rate. Treatment in the community following prison resulted in 50% reduction in recidivism, and treatment that began in prison and continued into the

Mandatory minimum sentences present a barrier to pre-release planning, post-release supervision and necessary treatment.⁸ Because mandatory minimum sentences require the inmate to be incarcerated for the full mandatory period, a transfer to a pre-release facility where treatment and job skills can be obtained, or parole, are not possible. Thus an offender serving a mandatory minimum sentence is likely to be released without parole supervision and without the transitional programs provided through pre-release planning.

In response to the inability to impose a sentence less than the mandatory minimum term, judges frequently impose a sentence that is one day longer than the minimum term, i.e., a sentence of 2 years and 1 day for a two-year mandatory minimum sentence. The impact of these sentences is that the inmate discharges the day after the mandatory sentence is served and is, in most cases, released without supervision because the inmate was not eligible for parole. The Massachusetts Sentencing Commission, in its 2004 Survey of Sentencing Practices, found that in 58.7% of the state prison sentences for mandatory drug offenses, the mandatory minimum and the maximum sentence were separated by one day. Overall, 44% of the state prison sentences had a difference of one day between the minimum and the maximum term of imprisonment.

Given that over 80% of inmates have a history of substance abuse, the inability of the corrections professionals or the court to require some form of inpatient treatment during the mandatory portion of the sentence appears to be a missed opportunity. Additionally, the lack of reentry and pre-release services for these offenders appears to ignore the findings of the research showing that recidivism can be significantly reduced with treatment that begins during incarceration and continues through the reentry process. The lack of parole supervision for medium and high-risk offenders who have completed mandatory minimum sentences further undermines the opportunities for successfully managing the ex-offenders when they return to the street.

Trends

With the evidence mounting as to what works and what doesn't work in corrections and reentry, a number of states have begun to reconsider their sentencing policies.

- Michigan – replaced lifetime probation for low-level drug dealers with five year probation terms and imposed sentencing guidelines to replace many of the more onerous minimum mandatory sentences. The Detroit News estimated that these changes could save the state \$41 million dollars a year.⁹
- Louisiana, in an effort to address a looming budget crisis, repealed mandatory minimum sentences for simple drug possession and for other non-violent crimes. It has also reduced by half minimum sentences for drug trafficking.¹⁰

community resulted in a 64% reduction in recidivism. Inciardi JA, Martin SS, Butzin CA, Hooper RM, and Harrison LD. (1997). "An Effective Model of Prison-Based Treatment for Drug-Involved Offenders." *Journal of Drug Issues*. 27(2):261-278.

⁸ The Commonwealth of Massachusetts Governor's Commission on Corrections Reform. (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*.

⁹ Sinclair, N. "Dad of 4, 1,249 other drug prisoners see freedom," *The Detroit News* January 30, 2003. Detroit, Michigan. In Dollars and Sentences (July 2003). *Legislators' Views on Prisons, Punishment, and the Budget Crisis*. Vera Institute of Justice. Washington D.C.

¹⁰ Dollars and Sentences (July 2003). *Legislators' Views on Prisons, Punishment, and the Budget Crisis*. Vera Institute of Justice. Washington D.C.

- Missouri – allowed courts to sentence non-violent offenders to a two-year drug abuse treatment program in lieu of incarceration.¹¹
- California – in 2000, passed Proposition 36, which mandated treatment instead of prison sentences for drug offenders. The results, from a 2006 study by the Justice Policy Institute, found that the rate of imprisonment for drug possession offenses has decreased by more than 34%. There has also been a corresponding reduction in the overall population of incarcerated drug offenders from 27% to 21%. The report concluded that the law had saved California \$173 million in its first year alone.¹²
- Colorado – reduced penalties for possession of one gram or less of any controlled substance and allowed judges to sentence to community supervision rather than to prison.¹³
- Washington – accelerated the implementation of the Drug Sentencing Reform Act of 2002, which instituted a new sentencing grid applied to drug offenses that significantly reduced the sentences for all drug offenses.¹⁴

Public View

- In a recent survey conducted by the Crime & Justice Institute and Doble Research Associates, Massachusetts residents resoundingly rejected mandatory minimum sentences.¹⁵
- 88% of the 748 residents interviewed opposed mandatory minimum sentences and instead favored either sentencing through guidelines or on a case-by-case basis.

Words

“There is a respectable body of opinion which believes that these mandatory minimums impose unduly harsh punishment for first-time offenders... [and] are perhaps a good example of the law of unintended consequences.” U.S. Supreme Court Chief Justice William H. Rehnquist.¹⁶

“Mandatory minimum sentences are not justifiable on the basis of cost-effectiveness at reducing cocaine consumption, cocaine expenditures, or drug related crime. Mandatory minimums reduce cocaine consumption less per million taxpayer dollars spent than does spending the same amount on enforcement under the previous sentencing regime. And either type of

¹¹ Woll J, Stemen D. State Sentencing and Corrections Program: Issues in Brief. *Changing Fortunes or Changing Attitudes? Sentencing and Corrections Reforms in 2003*. Vera Institute of Justice. March 2004.

¹² Kennedy, M. “Taxpayers are saving hundreds of millions of dollars because of Prop. 36’s success, study says.” The Los Angeles Times, April 13th, 2006. On the Justice Policy Institute website – www.justicepolicy.org/.

¹³ Woll J, Stemen D. State Sentencing and Corrections Program: Issues in Brief. *Changing Fortunes or Changing Attitudes? Sentencing and Corrections Reforms in 2003*. Vera Institute of Justice. March 2004.

¹⁴ Ibid.

¹⁵ Roberts CA and Doble J. (2005) *Rethinking Justice in Massachusetts: Public Attitudes Toward Crime and Punishment*. Crime & Justice Institute. Boston, Massachusetts.

¹⁶ Chief Justice William H. Rehnquist, Remarks delivered at the National Symposium on Drugs and Violence in America, June 18, 1993.

*incarceration approach reduces drug consumption less than does putting heavy users through treatment programs, per million dollars spent.*¹⁷ RAND Study, 1997.

“The proliferation of mandatory sentences distorts the rationality [of the sentencing system] because such sentences apply regardless of the defendant’s role in the offense and of other factors historically found relevant to sentencings. As a result, they also often require the imposition of sentences which are manifestly unjust.” Resolution of the United States District Judges of the Fifth Circuit (Texas, Louisiana and Mississippi) May 6, 1991.¹⁸

*“... (M)inimum-mandatory sentences constrain reentry preparation as they essentially preclude participation in pre-release programs and parole supervision. Moreover, inmates serving minimum-mandatory sentences often have little incentive to participate in education, substance abuse, or violence prevention programming within the prison environment, because they are precluded by law from receiving earned good time credit for program participation. Quite simply, based on what we now know about reducing re-offense, this is a recipe for recidivism rather than a recipe for effective risk reduction.”*¹⁹ The Commonwealth of Massachusetts Governor’s Commission on Corrections Reform.

“In too many cases, mandatory minimum sentences are unwise and unjust.”

*“The policy (transferring sentencing discretion from the judge to the prosecutor), nonetheless, gives the decision to an assistant prosecutor not trained in the exercise of discretion and takes discretion from the trial judge. The trial judge is the one actor in the system most experienced with exercising discretion in a transparent, open, and reasoned way. Most of the sentencing discretion should be with the judge, not the prosecutors.”*²⁰ U.S. Supreme Court Justice Anthony M. Kennedy.

¹⁷ Caulkins JP, Rydell,CP, Schewabe WL and Chiesa J. (1997) *Mandatory Minimum Drug Sentences: Throwing Away the Key or the Taxpayers’ Money*. RAND Corp.

¹⁸ Sterling EE. *Statement of Eric E. Sterling Before the Committee on the Judiciary Council of the District of Columbia Regarding the Distribution of Marijuana Amendment Act of 1997*. In the Criminal Justice Policy Foundation website, www.cjpc.org.

¹⁹ The Commonwealth of Massachusetts Governor’s Commission on Corrections Reform. (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*. p.50.

²⁰ Kennedy AM, Speech at the American Bar Association Annual Meeting by U.S. Supreme Court Justice Anthony M. Kennedy. August 9, 2003.

Attachment A

MA General Law	Offense	Penalty Type	Mandatory Time	Min Prison	Max Prison
FIREARMS RELATED OFFENSES					
c. 269 s. 10(d)	DANGEROUS WEAPON, CARRY, 4TH OFF.	Felony	10 years	10 years	15 years
c. 269 s. 10(d)	FIREARM, CARRY W/O LICENSE, 4TH OFF.	Felony	10 years	10 years	15 years
c. 269 s. 10(d)	MACHINE GUN/SAWED-OFF SHOTGUN, 4TH OFF.	Felony	10 years	10 years	15 years
c. 269 s. 10E	FIREARMS, TRAFFICKING IN +19	Felony	10 years	10 years	Life
c. 269 s. 10(d)	DANGEROUS WEAPON, CARRY, 3RD OFF.	Felony	7 years	7 years	10 years
c. 269 s. 10(d)	FIREARM, CARRY W/O LICENSE, 3RD OFF.	Felony	7 years	7 years	10 years
c. 269 s. 10(d)	MACHINE GUN/SAWED-OFF SHOTGUN, 3RD OFF.	Felony	7 years	7 years	10 years
c. 269 s. 10(d)	DANGEROUS WEAPON, CARRY, 2ND OFF.	Felony	5 years	5 years	7 years
c. 269 s. 10(d)	FIREARM, CARRY W/O LICENSE, 2ND OFF.	Felony	5 years	5 years	7 years
c. 269 s. 10(d)	MACHINE GUN/SAWED-OFF SHOTGUN, 2ND OFF.	Felony	5 years	5 years	7 years
c. 269 s. 10E	FIREARMS, TRAFFICKING IN 10-19	Felony	5 years	5 years	10 years
c. 269 s. 10E	FIREARMS, TRAFFICKING IN 3-9	Felony	3 years	3 years	10 years
c. 269 s. 10(c)	MACHINE GUN/SAWED-OFF SHOTGUN	Felony	1 year	2 1/2 years	Life
c. 269 s. 10(a)	FIREARM, CARRY W/O LICENSE	Felony	1 year	2 1/2 years	5 years
OUI (MOTOR VEHICLE AND BOAT) RELATED OFFENSES					
c. 90 s. 24(1)(a)(1)	OUI LIQUOR OR DRUGS, 5TH OFF.	Felony	24 Months	2 1/2 years	5 years
c. 90B s. 8(a)(1)(A)	BOAT OUI LIQUOR OR DRUGS, 5TH OFF.	Felony	2 years	2 1/2 years	10 years
c. 90 s. 24(1)(a)(1)	OUI LIQUOR OR DRUGS, 4TH OFF.	Felony	12 Months	2 1/2 years	5 years
c. 90B s.	BOAT OUI LIQUOR OR DRUGS, 4TH	Felony	1 year	2 1/2	10 years

8(a)(1)(A)	OFF.			years	
c. 90 s. 24(1)(a)(1)	OUI LIQUOR OR DRUGS, 3RD OFF.	Felony	150 Days	2 1/2 years	5 years
c. 90B s. 8(a)(1)(A)	BOAT OUI LIQUOR OR DRUGS, 3RD OFF.	Misd.	6 months		
c. 90 s. 23	LICENSE SUSPENDED FOR OUI, OPER MV WITH	Misd.	60 days		
c. 90 s. 24(1)(a)(1)	OUI LIQUOR OR DRUGS, 2ND OFF.	Misd.	30 Days		
c. 90B s. 8(a)(1)(A)	BOAT OUI LIQUOR OR DRUGS, 2ND OFF.	Misd.	14 days		
c. 90 s. 24(1)(a)(1)	OUI LIQUOR OR DRUGS, 1ST OFF.	Misd.			
c. 90B s. 8(a)(1)(A)	BOAT OUI LIQUOR OR DRUGS, 1ST OFF.	Misd.			
DRUG RELATED OFFENSES					
c. 94C s. 32E(b)(4)	COCAINE, TRAFFICK IN (200+)	Felony	15 years	15 years	20 years
c. 94C s. 32E(b)(4)	PHENMETRAZINE, TRAFFICK IN (200+)	Felony	15 years	15 years	20 years
c. 94C s. 32E(c)(4)	HEROIN/MORPHINE/OPIUM, TRAFFICK IN (200+)	Felony	15 years	15 years	20 years
c. 94C s. 32E(a)(4)	MARIJUANA, TRAFFICK IN (10000+)	Felony	10 years	10 years	15 years
c. 94C s. 32E(b)(3)	COCAINE, TRAFFICK IN (100-200)	Felony	10 years	10 years	20 years
c. 94C s. 32E(b)(3)	PHENMETRAZINE, TRAFFICK IN (100-200)	Felony	10 years	10 years	20 years
c. 94C s. 32E(c)(3)	HEROIN/MORPHINE/OPIUM, TRAFFICK IN (100-200)	Felony	10 years	10 years	20 years
c. 94C s. 32E(c)(2)	HEROIN/MORPHINE/OPIUM, TRAFFICK IN (28-100)	Felony	7 years	7 years	20 years
c. 94C s. 32(b)	DRUG, DIST OR POSS W/I, CLASS A, SUBSQ.	Felony	5 years	5 years	15 years
c. 94C s. 32A(d)	COCAINE, DIST OR POSS W/I, SUBSQ.	Felony	5 years	5 years	15 years
c. 94C s. 32A(d)	METHAMPHETAMINE, DIST OR POSS W/I, SUBSQ.	Felony	5 years	5 years	15 years
c. 94C s. 32A(d)	PHENCYCLIDINE, DIST OR POSS W/I, SUBSQ.	Felony	5 years	5 years	15 years
c. 94C s. 32E(a)(3)	MARIJUANA, TRAFFICK IN (2000-10000)	Felony	5 years	5 years	15 years
c. 94C s.	COCAINE, TRAFFICK IN (28-100)	Felony	5 years	5 years	20 years

32E(b)(2)					
c. 94C s. 32E(b)(2)	PHENMETRAZINE, TRAFFICK IN (28-100)	Felony	5 years	5 years	20 years
c. 94C s. 32E(c)(1)	HEROIN/MORPHINE/OPIUM, TRAFFICK IN (14-28)	Felony	5 years	5 years	20 years
c. 94C s. 32F(a)	DRUG, DIST OR POSS W/I TO MINOR CLASS A	Felony	5 years	5 years	15 years
c. 94C s. 32F(d)	COCAINE, DIST OR POSS W/I, TO MINOR	Felony	5 years	5 years	15 years
c. 94C s. 32A(b)	DRUG, DIST OR POSS W/I, CLASS B, SUBSQ.	Felony	3 years	3 years	10 years
c. 94C s. 32B(b)	DRUG, DIST OR POSS W/I CLASS C, SUBSQ.	Felony	2 years	2 1/2 years	10 years
c. 94C s. 32E(a)(2)	MARIJUANA, TRAFFICKING IN (100-2000)	Felony	3 years	3 years	15 years
c. 94C s. 32E(b)(1)	COCAINE, TRAFFICKING IN (14-28)	Felony	3 years	3 years	15 years
c. 94C s. 32E(b)(1)	PHENMETRAZINE, TRAFFICKING IN (14-28)	Felony	3 years	3 years	15 years
c. 94C s. 32F(b)	DRUG, DIST OR POSS W/I TO MINOR CLASS B	Felony	3 years	3 years	15 years
c. 94C s. 32F(c)	DRUG, DIST OR POSS W/I TO MINOR CLASS C	Felony	2 years	2 1/2 years	15 years
c. 94C s. 32J	DRUG VIOLATION NEAR SCHOOL/PARK	Felony	2 years	2 1/2 years	15 years
c. 94C s. 32J	DRUG VIOLATION NEAR SCHOOL	Felony	2 years	2 1/2 years	15 years
c. 94C s. 32A(c)	METHAMPHETAMINE, DIST OR POSS W/I	Felony	1 year	2 1/2 years	10 years
c. 94C s. 32A(c)	COCAINE, DIST OR POSS W/I	Felony	1 year	2 1/2 years	10 years
c. 94C s. 32A(c)	PHENCYCLIDINE, DIST OR POSS W/I	Felony	1 year	2 1/2 years	10 years
c. 94C s. 32E(a)(1)	MARIJUANA, TRAFFICKING IN (50-100)	Felony	1 year	2 1/2 years	15 years
OTHER MANDATORY OFFENSES					
c. 90 s. 24(2)(a ¹ / ₂)(2)	LEAVE SCENE OF PERSONAL INJURY & DEATH	Felony	1 year	2 1/2 years	10 years
c. 90 s. 24G(a)	MV HOMICIDE OUI LIQUOR OR DRUGS & NEGLIGENT	Felony	1 year	2 1/2 years	15 years
c. 90 s. 24G(a)	MV HOMICIDE OUI LIQUOR OR DRUGS & RECKLESS	Felony	1 year	2 1/2 years	15 years
c. 90 s. 24L(1)	OUI LIQUOR OR DRUGS & SERIOUS INJURY & NEGLIGENT	Felony	6 months	2 1/2 years	10 years

c. 90 s. 24L(1)	OUI LIQUOR OR DRUGS & SERIOUS INJURY & RECKLESS	Felony	6 months	2 1/2 years	10 years
c. 90B s. 8A(1)	BOAT OUI & SERIOUS INJURY, RECKLESS/NEGLIGENT	Felony	6 months	2 1/2 years	10 years
c. 90B s. 8B(1)	BOAT OUI & DEATH, RECKLESS OR NEGLIGENT	Felony	1 year	2 1/2 years	15 years
c. 265 s. 1	MURDER	Felony	Life		Life
c. 265 s. 43(b)	STALKING IN VIOL OF RESTRAINING ORDER	Felony	1 year	1 year	5 years
c. 265 s. 43(c)	STALKING, SUBSQ.	Felony	2 years	2 years	10 years
c. 266 s. 27A	MV, REMOVE TO DEFRAUD, SUBSQ.	Felony	1 year		5 years
c. 266 s. 28(a)	MV, LARCENY, SUBSQ.	Felony	1 year		15 years
c. 268 s. 1	PERJURY IN TRIAL OF CAPITAL CASE	Felony	Life		Life
c. 268 s. 2	PERJURY, SUBORN IN TRIAL OF CAPITAL CASE	Felony	Life		Life
c. 272 s. 4A	PROSTITUTION, INDUCE MINOR TO	Felony	3 years	3 years	5 years
c. 272 s. 4B	PROSTITUTION, DERIVE SUPPORT FROM CHILD	Felony	5 years	5 years	
c. 272 s. 6	PROSTITUTION, MAINTAIN HOUSE OF	Felony	2 years	5 years	5 years
c. 272 s. 7	PROSTITUTION, DERIVE SUPPORT FROM	Felony	2 years	5 years	5 years

What is it?

Simply put, prevention is a way of stopping criminal behavior before it starts. By working with schools, parents, and the community, prevention programs can greatly decrease the probability that children will begin a lifetime of involvement with the criminal justice system. In addition to preventing crime and increasing public safety, prevention is a way of investing in all of Massachusetts' children. Children learn skills to lead positive, healthy lives, parents will develop effective parenting skills, and communities will develop stronger family support networks.

Why is it relevant?

While the state dedicates significant resources on the direct and indirect costs of criminal activity, measures should also be taken that reduce the circumstances that foster criminal tendencies.

- Effective early intervention and prevention programs can greatly increase the positive dynamics of children's lives in the environments that have the most impact on their growth.
- Most violent behavior is learned behavior, and when children see violence in their families, schools, and communities they learn to copy that behavior.
- In the past two years scientific evidence has shown that the benefits of certain early intervention programs for children far outweigh the costs.¹

In Brief

Certain family, school, and community-based prevention programs have proven effective in stopping delinquent behavior before it starts. For example, parenting and family programs teach nonviolent disciplinary techniques, increase healthy lifestyle choices, and teach effective parenting skills. A Tufts University evaluation found that the parents in Healthy Families Massachusetts had a lower rate of child abuse, healthier children, and that the teen mothers had "enhanced educational and economic attainment."²

Facts and Figures

- Abused and neglected children are 11 times more likely to be arrested for a violent crime as other children and 2.7 times more likely to be arrested for a violent crime as an adult.³
- 83% of teen mothers who participated in the Healthy Families Massachusetts parenting program enrolled or graduated from school (30% more than non-participating teen mothers). They also had a lower rate of child abuse than a comparable group of non-participants.⁴
- 60% of males who exhibited bullying behavior in grades 6 -9 were convicted of at least one crime as adults, compared to 23% of those who didn't show such behavior. 35-40% of former bullies had 3 or more convictions by the age of 24, in comparison to 10% of those not exhibiting bullying behavior.⁵

¹ Aos S, Lieb R, Mayfield J, Miller M, Pennucci A. (2004, September 17). *Benefits and Costs of Prevention and Early Intervention Programs for Youth*. Olympia, WA: Washington State Institute for Public Policy. www.wsipp.wa.gov/pub.asp?docid=04-07-3901.

² Jacobs F, Easterbrooks MA, et. al. (2005, April). *Executive Summary. Health Families Massachusetts Final Evaluation Report*. Medford, MA: Tufts University. <http://ase.tufts.edu/mhfe/reports/ExecSum4-05.pdf>.

³ English D, Spatz Widom C, and Brandford C. (2004, July). *Another Look at the Effects of Child Abuse*. National Institute of Justice, NIJ Journal. Washington, DC: U.S. Department of Justice, National Institute of Justice, 251: 23-24. www.ojp.usdoj.gov/nij/journals/jr000251.htm.

⁴ See Children's Trust Fund.

⁵ Mihalic S, Irwin K, Elliott D, Fagan A, and Hansen D. (2001, July). *Blueprints for Violence Prevention*. Office of Juvenile Justice & Delinquency Prevention, Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice & Delinquency Prevention, NCJ 187079. http://www.ncjrs.gov/html/ojjdp/ijbul2001_7_3/contents.html.

Why should we spend money on a problem that doesn't exist yet?

Youth violence not only exists but is also on the rise in many urban centers of the Commonwealth. The costs of having a child enter the juvenile justice system are significantly greater than the money that would be spent on programs that will keep that child out of the system. On the adult side, the state spends more than half a billion dollars incarcerating people who commit crimes. The financial and social costs of juvenile and adult crime require us to develop better ways to intervene early in the lives of people at risk so that these costs are significantly reduced. We have a well-financed infrastructure to respond to criminal activity; we should have an equally evolved approach to preventing this activity before it starts.

Isn't it the parents' responsibility to raise their children right?

Yes, it is. But parenting is a hard job and there are programs that can help teach parents, especially new parents, skills that aid in promoting positive development for their children and create better family relations in general. These programs do not just affect the families being served; they are also felt throughout the community. By teaching parents these skills, everyone's quality of life is improved and research has found that it saves money. In fact, the RAND Corporation estimates that by the time the child whose parents participate in a parenting program reaches 15 years old, "cost savings are four times the original investment because of reductions in crime, welfare expenditures, and healthcare costs and as a result of taxes paid by working parents."¹

What are some of these "effective programs" and how do we know they work?

The *Blueprints for Violence Prevention Initiative* has "identified 11 types of prevention and intervention programs that meet a strict scientific standard of program effectiveness."² These programs have been rigorously evaluated and found to be "effective in reducing adolescent violent crime, aggression, delinquency, and substance abuse."³ The programs use a variety of environments for their implementation, including schools, families, communities, and combinations of the three. These programs can be replicated and adjusted to fit the specific needs of a particular community.

¹ Mihalic S, Irwin K, Elliott D, Fagan A, and Hansen D. (2001, July). *Blueprints for Violence Prevention*. Office of Juvenile Justice & Delinquency Prevention, Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice & Delinquency Prevention, NCJ 187079. http://www.ncjrs.gov/html/ojjdp/jjbul2001_7_3/contents.html.

² *Ibid*

³ *Ibid*

[My child is fine. Why should I be responsible for other children's problems?](#)

Prevention programs don't just help individual children; positive factors are felt throughout communities and schools. While your child may not be a bully or a victim of bullying, the existence of bullying in schools creates a negative atmosphere for everyone, causing class disruptions, distracted teachers, and detracts from your child's learning.

In communities, everyone feels the effects of violence and delinquency either directly or indirectly. If crime is prevalent in a neighborhood, it is likely that the community atmosphere is one of fear, suspicion, and weak community ties. Not only do prevention programs improve individual lives, they help create a community where people want to live.

Background

During the late 1980s and early 1990s, youth violence began to increase dramatically.¹ In response, researchers began to study what factors contributed to this behavior and how to prevent and reduce youth violence and delinquency. A number of areas contribute to the probability of children becoming involved in delinquent and violent behavior. Many studies have shown that what children learn in their early years significantly influences their behavior throughout the rest of their lives. There are certain negative factors that may be present in family, school, and community environments that greatly increase the likelihood that they will begin to engage in delinquent behavior. This research has found early interventions can be one of the most effective ways to stop criminal activity before it starts.

Risk Factors for Increased Violence and Delinquency

The list below outlines risk factors that may exist within the spheres of family, school and community. “The presence of these ‘risk factors’ places a child at increased risk of delinquency if they are in place over a substantial period of time

- Abuse, neglect and/or violence in the home;
- Factors related to family functioning, including chemical and mental health problems, divorce, death, and other family upheaval;
- Lack of supportive relationships or connections with adults and peers;
- Criminal or delinquent histories of parents or siblings;
- Open ‘child protective services’ cases;
- Early, severe antisocial behavior;
- Age at first contact with the police or a documented incident of delinquency; and
- Poor school attendance, school failure.”²

Family

Family life and relationships are extremely important. They are the first place children learn to model their behavior and “parenting patterns are learned in childhood and replicated later in life when children become parents.”³ Physical and mental abuse, neglect, lack of parental involvement, and inappropriate disciplinary techniques have all been shown to increase criminal tendencies. In fact, being abused or neglected as a child increases the likelihood of arrest as a juvenile by 59%, as an adult by 28%, and for a violent crime by 30%.⁴ Not only do these parenting

¹ National Youth Violence Prevention Resource Center. (2001). *Risk and Protective Factors for Youth Violence Fact Sheet*. Rockville, MD: National Youth Violence Prevention Resource Center. www.safeyouth.org/scripts/facts/risk.asp.

² Citizens Crime Commission of Portland, Children’s Delinquency Prevention Committee (2000, June). *Kids Intervention Investment Delinquency Solutions Report*. Portland, OR: Citizens Crime Commission of Portland. <http://www.pdxccc.org/kiids.pdf>.

styles increase the chances of violence/delinquency, there is also a tangible cost for society. The Children's Trust Fund has found that the average cost per child involved with the Massachusetts Department of Youth Services is \$32,060 and that "more than half of the juvenile delinquents committed to DYS come from families that had confirmed reports of abuse."⁵

School

School environments can further contribute to delinquent behavior, most notably through peer influence. When children behave in a delinquent way, and that behavior is accepted as the norm, the other children will emulate that behavior. Additionally, when these delinquent children are removed from environments with more positive peer behavior – as is often the case through the use of separate classrooms for children with disruptive behavior, or suspension and expulsion of the children – they are actually shown to increase each other's negative behavior. There is evidence that students "with a history of suspension are 2.2 times more likely to be incarcerated as adults than students with no such history."⁶

Community

Many adolescents spend around 40% of their waking hours outside of school with peers in the community and without adult supervision.⁷ Not surprisingly, youth violence peaks between the hours of 2:30 and 8:30pm. Communities with a high prevalence of criminal activity, structural deterioration, economic deprivation, and a lack of educational and/or recreational activities are more likely to have an elevated amount of deviant behavior. These aspects increase the probability that adults will not be as involved in "informal networks of social control."⁸ Because of these factors, children will likely have a lack of adult supervision and few safe, structured alternatives within their neighborhoods.

Children in these communities are more likely to be exposed to violence resulting in feelings of vulnerability and an inability to have control over their own lives. Children that experience violence are more likely to exhibit violent behavior, "often as preemptive strikes in the face of a perceived threat."⁹

Finding Solutions

Recently, more studies have focused on programs that effectively reduce and prevent juvenile delinquent behavior. Many programs currently used are ineffective, and in some cases, detrimental to preventing delinquency. However, there has been an increase in rigorous scientific studies of programs that actually work. Most notably, the Blueprints for Violence Prevention

³ Bavolek SJ. (2000, November). *Nurturing Parenting Programs*. Office of Juvenile Justice & Delinquency Prevention, Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice & Delinquency Prevention, NCJ 172848.

⁴ Widom C and Maxfield M. (2001, February). *An Update on the "Cycle of Violence."* National Institute of Justice, Research in Brief. Washington, DC: U.S. Department of Justice, National Institute of Justice, NCJ 184894.

⁵ Children's Trust Fund. (nd). *Costs of Child Abuse*. www.mctf.org/sp.aspx?id=175.

⁶ Dodge KA, Dishion TJ, and Lansford JE. (2006). "Deviant Peer Influences in Intervention and Public Policy for Youth." *Social Policy Report*. Volume 20(1): 4.

⁷ Bownes D and Ingersoll S. (1997, July). *Mobilizing Communities to Prevent Juvenile Crime*. Office of Juvenile Justice & Delinquency Prevention, Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice & Delinquency Prevention, NCJ 165928.

⁸ U.S. Department of Health and Human Services. (2001, January). *Youth Violence: A Report of the Surgeon General*.

www.surgeongeneral.gov/library/youthviolence/youvioreport.htm.

⁹ *Ibid*.

Initiative has identified 11 types of programs that have been proven to be effective in “reducing adolescent violent crime, aggression, delinquency, and/or substance abuse.”¹⁰ The programs identified target family, school, and community settings and a combination of the three environments.

Blueprints identifies these effective programs using a set selection criteria:

- The program must result in a reduction in violence, delinquency and/or drug use¹¹ and
- It must have long-lasting effects even after program completion.

The evaluations also look at any mediating factors that may affect the outcome and whether the program is cost effective.

While the 11 identified Blueprints programs have been proven effective using the above-described standards, they are likely not the only successful ones. This evaluation process is still fairly new and there may be many other programs being used throughout the state that are effective but have not yet been evaluated.

Family-based Programs

There are a number of programs that successfully provide support and information on positive parenting techniques. Healthy Families Massachusetts is one type of program that has demonstrated its effectiveness.¹² Healthy Families Massachusetts is similar to the Nurse-Family Partnership (NFP), which is a Blueprints model program. NFP is a comprehensive program comprised of home visits by nurses during pregnancy and the first two years of the child’s life. The program focuses on improving prenatal health, developing more effective skills for caring for infants and toddlers, and improving the mother’s own personal development.¹³

The design of Healthy Families Massachusetts is very similar to the NFP program. Healthy Families Massachusetts serves first-time parents under age 21 before and after childbirth. Trained home service providers provide services and support for 3-5 years. They help the young women to improve their health during pregnancy so they can deliver a healthy baby, and supports the parent(s) in promoting good health for their child during the first two years of life. This program also promotes the development of effective parenting skills and seeks to minimize the incidence of child abuse and neglect.

School-based Programs

School programs are most effective when they target all children instead of only “problem children.” It has been shown that by selectively targeting at-risk children, the children’s behavior is actually made worse. Instead, teachers can effectively use programs such as the *Incredible Years Teacher*

¹⁰ Mihalic S, Irwin K, Elliott D, Fagan A, and Hansen D. (2001, July). *Blueprints for Violence Prevention*. Office of Juvenile Justice & Delinquency Prevention, Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice & Delinquency Prevention, NCJ 187079. http://www.ncjrs.gov/html/ojjdp/jbul2001_7_3/contents.html.

¹¹ Center for the Study and Prevention of Violence, Institute of Behavioral Science. (nd). *Blueprints Model Programs Selection Criteria*. Boulder, CO: University of Colorado at Boulder. www.colorado.edu/cspv/blueprints/model/criteria.html.

¹² Jacobs F, Easterbrooks MA, et. al. (2005, April). *Executive Summary Health Families Massachusetts Final Evaluation Report*. Medford, MA: Tufts University. <http://ase.tufts.edu/mhfe/reports/ExecSum4-05.pdf>.

¹³ Center for the Study and Prevention of Violence, Institute of Behavioral Science. (nd). *Blueprints Model Programs. Nurse-Family Partnership(NFP) Program Summary*. Boulder, CO: University of Colorado at Boulder. <http://www.colorado.edu/cspv/blueprints/model/programs/NFP.html>.

Training to learn techniques in behavior management practices that have a positive influence on all students' behavior. Teachers are taught skills such as proactive teaching strategies, how to deal with inappropriate behaviors, and how to teach problem solving to students.¹⁴

Another successful school program matches at-risk children with peers who are not at-risk for "cooperative learning or skill development." Significantly, research on these types of peer learning has "yielded favorable outcomes for the deviant youth with no adverse impact on the nondeviant peer."¹⁵

The *Promoting Alternative Thinking Strategies* (PATHS) Program, an elementary school-based program in use across the country, is designed to promote the development of self-control, emotional awareness, and problem solving skills. Teachers in kindergarten through grade six are trained in the curriculum and deliver lessons 2-3 times per week throughout the school year. Young children begin with the "turtle" unit that teaches about self-control through the adventures of a young turtle, and progress through lessons on feelings, relationships, problem solving, and anger management.¹⁶

Children who complete the PATHS program demonstrate a reduction in aggressive behavior and an increase in self-control and willingness to use conflict negotiation strategies. The average cost of implementing PATHS is \$15 per student per year. Any school system can purchase the materials, and teacher training and ongoing support is available.

Community-based Programs

There are many types of community-based programming that have shown success in combating the risk factors that contribute to youth delinquency. Programs vary and include school and community-based after school activities, skill development programs, and mentoring programs. What all these programs have in common is that they provide a "safe and secure environment," offer an "opportunity for constructive learning and positive development as an alternative to high-risk behaviors and violent activities"¹⁷ and facilitate a successful course of a child's growth.¹⁸

One of the most effective is *Massachusetts' Big Brothers Big Sisters* community mentoring program. Based on a national model, Big Brothers Big Sisters matches screened adult volunteer mentors to children with similar interests and backgrounds who are 6 to 18 years old and often come from disadvantaged single-parent homes. The pair meets at various locations in the community at least 3 times a month for 3-5 hours. Massachusetts Big Brothers Big Sisters gives children positive role models, creates trusting relationships, and provides constructive out-of-

¹⁴ Center for the Study and Prevention of Violence, Institute of Behavioral Science. (2001). *Blueprints Model Programs Fact Sheet. The Incredible Years: Parents, Teachers, and Children's Training Series*. Boulder, CO: University of Colorado at Boulder. www.colorado.edu/cspv/publications/factsheets/blueprints/FS-BPM11.html.

¹⁵ Dodge KA, Dishion TJ, and Lansford JE. (2006). "Deviant Peer Influences in Intervention and Public Policy for Youth." *Social Policy Report*. Society for Research in Child Development. Volume 20(1): 11.

¹⁶ Substance Abuse and Mental Health Services Administration. *SAMHSA Model Programs: PATHS – Promoting Alternative Thinking Strategies*. <http://modelprograms.samhsa.gov/pdfs/Details/PATHS.pdf>.

¹⁷ Center for the Study and Prevention of Violence, Institute of Behavioral Science. (nd). *Safe Schools Fact Sheet*. Boulder, CO: University of Colorado at Boulder www.colorado.edu/cspv/publications/factsheets/safeschools/FS-SC12.html.

¹⁸ Elliott D. (1994, March). *Youth Violence: An Overview*. Boulder, CO: University of Colorado at Boulder, Center for the Study and Prevention of Violence, Institute of Behavioral Science.

school activities. Multiple evaluations have shown that this program is highly successful in deterring deviant behavior.

The studies have found that children who participated in the Big Brother Big Sister program were 46% less likely to start using drugs, 32% less likely to hit someone, had better school attendance and performance, and had improved relationships with their friends and families.¹⁹ Additionally, it has been shown that this program has more benefits than costs and it can save taxpayers around \$1,313 per child participant in avoided criminal justice costs.²⁰

Conclusion

As with many areas of social justice, Massachusetts has a history of innovative, effective youth programming designed to prevent criminal behavior and to protect its communities. Some effective prevention programs already exist in the state, but as the recent increase in youth violence illustrates, there is a need for more prevention resources. A program like *Big Brothers Big Sisters Massachusetts* is a highly effective community-based mentoring program that could play a more prominent role in preventing youth violence, but more than 600 boys and girls in the greater Boston area are still waiting to be matched with a “Big.”^{21, 22} It is also necessary to increase support so that Massachusetts can create a continuum of these programs. A report published by the Citizens Crime Commission of Portland, Oregon found that “in order to realize the greatest benefit from any intervention, there must be an integrated continuum of programs.”²³ By creating a program continuum, the focus will not be concentrated on just one aspect of a child’s environment, but will instead target all the spheres of influence that affect a child’s development. The effects of each program in the continuum will reinforce one another, ultimately producing better outcomes for children. By implementing more of the proven programs and providing more resources for existing programs, Massachusetts can cost-effectively reduce the rate of deviant behavior now and prevent it in the future.

¹⁹ Big Brothers of Massachusetts Bay. *Headlines*. www.bbmb.org/who_hdlns_one.html.

²⁰ Mihalic S, Irwin K, Elliott D, Fagan A, and Hansen D. (2001, July). *Blueprints for Violence Prevention*. Office of Juvenile Justice & Delinquency Prevention, Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice & Delinquency Prevention, NCJ 187079. http://www.ncjrs.gov/html/ojjdp/jbul2001_7_3/contents.html.

²¹ Big Sister Association of Greater Boston. *FAQs*. (nd). <http://www.bigsister.org/index.cfm?fuseaction=Page.viewPage&pageId=484&parentID=475>

²² Big Brothers of Massachusetts Bay. (2003). *Big and Little News*. http://bbmb.org/graphics/assets_pdfs/BL_winter_03.pdf.

²³ Citizens Crime Commission of Portland, Children’s Delinquency Prevention Committee (2000, June). *Kids Intervention Investment Delinquency Solutions Report*. Portland, OR: Citizens Crime Commission of Portland. <http://www.pdxccc.org/kiids.pdf>

What is Offender Reentry?

Offender reentry is the process of moving offenders back into the community when they are about to complete or have completed their criminal sentences. The goal of the offender reentry process is the successful and law-abiding transition of offenders from prison to community in order to protect public safety and strengthen local communities. This process should begin when the offender enters prison or jail, continuing through incarceration and into the community.

Why is it relevant?

With more than 20,000 offenders leaving our correctional system annually, offender reentry is a public safety issue for all communities of the Commonwealth. Offender reentry is also an economic issue requiring taxpayers to absorb the costs of responding to criminal behavior. It costs \$43,000 a year just to incarcerate an offender. Ex-offenders who continue to commit crimes not only increase the social and economic costs of their criminal activity, they fail to become part of the state's economic engine.

In Brief:

A growing body of research is showing "what works" in offender reentry, and several communities have implemented comprehensive reentry models. The Michigan Prisoner Reentry Initiative combines a number of evidence-based models into a seamless system of offender transition from incarceration to the community. In Massachusetts, the Hampden County Sheriff's Department requires all inmates to participate in educational, vocational, and treatment programs while in the jail, all geared towards improving behavior, reducing recidivism, and improving community safety. Both programs collaborate with community organizations so that treatment can continue when an offender returns to the community.

Facts and Figures:

- 97% of the offenders incarcerated in Massachusetts will, at some point, be released¹
- In 1999, 51% of released offenders were either re-imprisoned or received a new conviction within three years of release²
- 41% of the offenders released from state prison in Massachusetts in 2005 were released without post-release supervision³
- 80 percent of inmates have a history of substance abuse⁴
- In 2000, more than 5,000 people entering emergency shelters had been in a MA prison/jail⁵
- In a 2005 survey of Massachusetts residents, 90% favor providing released offenders with job training and placement and 83% feel it's very important to provide mandatory treatment⁶

¹ The Commonwealth of Massachusetts Governor's Commission on Corrections Reform (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*.

² *Recidivism of 1999 Released Department of Correction Inmates*, June 2005.

³ *Public Safety Through Effective Prisoner Reentry*, Presented By Commissioner Kathleen Dennehy, Department of Correction presentation at the 2006 Community Safety Through Successful Offender Reentry training, Worcester, Massachusetts.

⁴ The Commonwealth of Massachusetts Substance Abuse Strategic Plan (May 16, 2005) reports that 81 percent of the state prison population has a substance abuse disorder.

⁵ Massachusetts Housing and Shelter Alliance. *Research on Emergency Homeless Populations. Ex-Prisoners and Massachusetts Shelters, Individuals Entering Emergency Shelters Directly Upon Discharge from a State or County Correctional Facility*, 2001.

⁶ Roberts CA and Doble J (2005) *Rethinking Justice In Massachusetts: Public Attitudes Toward Crime & Punishment*. Crime & Justice Institute. Boston, MA.

QUESTIONS AND ANSWERS

What does “offender reentry” really mean, and why am I hearing about it now?

First of all, you are hearing a lot about offender reentry now because, nationally, record numbers of people are being sent to prison and, therefore, are being released from prison. Offender reentry is the process of transitioning an offender who has been incarcerated back to the community. The influx of returning offenders, unprepared to return to a law-abiding lifestyle, has been linked to the increased incidents of violence in some of our urban communities. The combination of offenders returning to already distressed communities that are unprepared to receive them creates a significant public safety problem.

What is different now, and why is it relevant as a high profile policy issue?

Offenders are typically released from prison with little more than a few dollars “gate money” and no plans for housing, employment, or treatment services. Without the necessary support systems in place and little means of supporting themselves, offenders often returned to the life they knew before prison – a life of crime. Planning for this transition process from the moment they walk into jail or prison can help offenders be successful when they return to the community, increase the likelihood that the offender will not return to crime after re-entering the community, and positively impact the community where the offender returns.

How does offender reentry affect me?

Under the current Massachusetts system, 97% of all those in correctional facilities will, at some point, be released. Approximately 41% of those individuals will be released without any supervision⁷, and almost half will commit a new crime or be reincarcerated within three years of being released. With new crime comes increased social and financial costs as well as the exorbitant costs of re-incarcerating an offender, all of which is paid for by taxpayers. Offender release is a public safety issue and an economic issue for all communities and successful reentry planning is the best defense in deterring repeat criminal behavior and an efficient use of valuable state resources.

What, for example, would contribute to successful reentry?

Suppose a 25 year old, single male named Joe is being released from the Massachusetts Department of Correction after serving a five-year sentence for assault and drug possession with intent to sell. He is a high school dropout, with no job experience, and a history of

⁷ *Public Safety Through Effective Prisoner Reentry*, Presented By Commissioner Kathleen Dennehy, Department of Correction presentation at the 2006 Community Safety Through Successful Offender Reentry training, Worcester, Massachusetts.

substance abuse. Now Joe is a convicted felon. Upon release from prison he is sent on his way and expected to remain law abiding. His job prospects are slim based on limited education, lack of work experience and his criminal record. His housing possibilities are slim with a violent offense and sale of drugs on his criminal record. He may also be disqualified for food stamps and public assistance because of his felony conviction. With no support systems in place, Joe may likely return to the sale of drugs for both economic and social reasons, with the probability of returning to prison.

However, a successful reentry plan would have started the day Joe entered prison with an assessment of his risks and needs. This would have identified:

- his deficits in education and marketable employment skills;
- his substance abuse issues;
- his level of risk for re-offending; and
- whether he needs post-release supervision.

During the five years of his sentence, Joe's time in prison would have been spent planning for a successful reentry into the community through vocational/educational training, substance abuse treatment, and restoring community connections that would increase the opportunities for housing and employment. This approach gives Joe far better tools to remain law abiding once released than the first scenario.

[I support a position of being tough on crime.](#)
[Doesn't offender reentry conflict with my position/philosophy?](#)

No, not necessarily. First of all, about 97% of the incarcerated population will return to the community after their sentence has been served. The question is how prepared will they be when they leave prison or jail. Will they leave better able to live a crime-free life or will they be as likely or more likely to re-offend than when they were incarcerated?

While people can disagree over whether an offender should be offered treatment, educational classes and life skills programs in prison and jail, few people would disagree that if the criminal justice system releases an offender who returns to crime, then public safety has not been improved.

The strategies around effective offender reentry require being smart about crime prevention, which includes being tough on crime for those deserving of more severe sanctions. A growing body of research is now providing a roadmap to recidivism reduction and increased public safety; it would be irresponsible not to consider and implement many of these measures. In the end, the smartest thing we can do is take and fund steps that will improve public safety by reducing the factors that contribute to repeat criminal behavior.

Background

The United States houses more people in prisons than any other industrialized country in the world, with a current prison population of approximately 2.2 million.⁸ As of early 2006, over 22,000 individuals were incarcerated in Massachusetts' prisons and jails.⁹ Massachusetts will release 97% of these offenders back into communities.¹⁰ The most recent recidivism data shows that over half of those released from state prison in 1999 either committed a new crime or were returned to prison within 3 years of release.¹¹

The social and financial cost of continuing to cycle people through the corrections system is staggering. In 1982, \$9 billion dollars was spent on corrections nationwide; in 2002 this figure rose to \$60 billion (not including the costs of police, prosecution, courts, and costs to victims.)¹² In Massachusetts, the annual cost of housing a single inmate is approximately \$43,000¹³, and the Department of Correction budget alone exceeds a half billion dollars. In addition, independent of the Department of Correction, each county sheriff oversees a county correctional system with its own budget.¹⁴

The social cost imposed by our current system is more difficult to measure. Every aspect of the community is affected by the growing prison population and the resulting number of prisoners being released into our communities. Economic development, physical health and safety, family unification, social capital, and community development are all impacted by criminal justice policy.

Issues

For public policy leaders, the questions are how can Massachusetts communities most effectively:

- Protect public safety
- Utilize limited public resources
- Habilitate offenders in order to prevent future crime
- Promote family reunification and community strength

⁸ *National Overview of Offender Reentry*. Presented by Dennis Schrantz at the 2006 Community Safety Through Successful Offender Reentry training. Worcester, Massachusetts. From Bureau of Justice Statistics, 2005.

⁹ State Prison Overcrowding Statistics, 1st Quarter 2006 (January – March) and Massachusetts County Correctional System Overcrowding Statistics, 1st Quarter 2006 (January – March) unpublished material from 2006 Community Safety Through Successful Offender Reentry training. Worcester, Massachusetts.

¹⁰ The Commonwealth of Massachusetts Governor's Commission on Corrections Reform (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*.

¹¹ *Recidivism of 1999 Released Department of Correction Inmates*, June 2005.

¹² *National Overview of Offender Reentry*. Presented by Dennis Schrantz at the 2006 Community Safety Through Successful Offender Reentry training. Worcester, Massachusetts. From Bureau of Justice Statistics, 2002.

¹³ Massachusetts Governor's Commission on Criminal Justice Innovation, Final Report. 2004.

¹⁴ Fiscal Year 2006 State Budget, *Chapter 45 of the Acts of 2005*.

Who's Being Released from Massachusetts' Prisons, and Where are They Going?¹⁵

In 2002, there were 2,567 offenders released to the community from the Massachusetts Department of Correction. The characteristics of those returning offenders are as follows:

- Gender: 72% male; 28% female
- Race: 54% white, 23% black, 22% Hispanic
- Average Age: 34.6 years
- Marital Status: 63% single; 14% married; 13% divorced
- Sentence Length: average maximum: 6.2 years; average served: 5.1 years

Approximately 35% of men were released after having served a prison term for an offense against a person, 25% had served time for a drug offense, 19% for property offenses, 8% for sex offenses, and 13% for other offenses. Half of all men released in 2002 had served a sentence for a violent offense while only 18% of women served time for crimes of violence. The majority of women served time for drug or property offenses. In 2002, nearly three-quarters of offenders released from high and medium security prison settings were released directly to the community with no parole supervision.¹⁶

More than 37% of all those released from Massachusetts' prisons in 2002 returned to two counties: Suffolk and Worcester, which together comprise 22% of the state's overall population. Nineteen percent returned to Suffolk County, most of them to Boston, and 18% returned to Worcester County. Released offenders often return to communities with high levels of poverty, unemployment, crime, and limited available social services. Suffolk County is no exception, characterized by a poverty rate twice that of the state as a whole, and higher than average unemployment and number of single family-headed households. Within Boston, 45% of released prisoners returned to neighborhoods that comprise just 10% of the city's area.

What Challenges Do Offenders Face in Remaining Law Abiding?

Lack of Housing and Homelessness: Housing is a basic necessity of life and can be a significant challenge to returning offenders. Private landlords typically require prospective tenants to provide employment verification and housing references, prohibiting many offenders from entrance into the private market. Public housing authorities may be entitled to deny housing to certain individuals with a criminal record, and may be required to deny housing to those convicted of a drug offense.¹⁷ Consequently, many returning offenders find themselves living on the streets. The Massachusetts Housing and Shelter Alliance reported that between 1997 and 2001, 1,000 offenders reported to an emergency shelter each year directly upon being released

¹⁵ *Releases from the Massachusetts Department of Correction during 2002.* (December 2003). Massachusetts Department of Corrections.

¹⁶ Martin G, Roberts C. (June 2004). *From Incarceration to Community.* Crime & Justice Institute. Boston Massachusetts. From Massachusetts Department of Correction, 2003.

¹⁷ *Housing Laws Affecting Individuals with Criminal Convictions.* (2000) Legal Action Center. Washington, D.C.

from a prison or jail.¹⁸ In a 2000 census of the emergency shelter population, more than 5,300 individuals entering Massachusetts emergency shelters had been in prison or jail.¹⁹

Lack of Skills/Education: In Massachusetts, approximately 47% of state inmates did not have a high school diploma or a GED when sentenced to prison.²⁰ 14% of inmates self-reported, upon being admitted to the Massachusetts prison system, that they had not made it past the 8th grade.²¹ Nationally, 31% of inmates were unemployed in the month prior to their arrest, compared to the overall unemployment rate of approximately 5%.²²

Unemployment: Working a legitimate job for a decent wage reduces the risk of re-offending upon release from prison.²³ However, two-thirds of all employers across the country revealed that they would not knowingly hire an ex-offender.²⁴ In certain states ex-offenders are permanently banned from public employment, and most states have restrictions on the work of returning inmates in certain fields such as law, real estate, medicine, and education.²⁵ In Massachusetts, the Criminal Offender Record Information (CORI) system processes more than 1.5 million requests annually for criminal records from employers and others (5,000 every day), up from less than 500,000 annual requests in 1998.²⁶ Employers may reject a job applicant based solely on information in the person's criminal record.²⁷

Substance Abuse: Nationally, approximately 80% of the incarcerated population have substance abuse issues.²⁸ More than half of state prisoners reported using drugs or alcohol during the commission of the offense that led to their incarceration.²⁹ In Massachusetts, only 3% of the 2005 Department of Correction budget was spent on inmate programs.³⁰ The Department of Correction maintains that when all of the inmate program expenditures are included approximately 12% of the 2005 budget went to inmate programs.³¹

¹⁸ Massachusetts Housing and Shelter Alliance. Research on Emergency Homeless Populations. *Ex-Prisoners and Massachusetts Shelters, Individuals Entering Emergency Shelters Directly Upon Discharge from a State or County Correctional Facility*, 2001.

¹⁹ Massachusetts Housing and Shelter Alliance. Research on Emergency Homeless Populations. *Six-year Comparison on Emerging Populations in Massachusetts Emergency Shelters 1997-2002*, 2002.

²⁰ Massachusetts Department of Correction, Research and Planning Division, January 1, 2002 Inmate Statistics. (Concord, Massachusetts). From The Commonwealth of Massachusetts Governor's Commission on Corrections Reform (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*.

²¹ Ibid.

²² General Accounting Office, 2000, State and Federal Prisoners: Profiles of Inmate Characteristics in 1991 and 1997, (Washington, DC). Bureau of Labor Statistics, Labor Force Statistics. From The Commonwealth of Massachusetts Governor's Commission on Corrections Reform (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*.

²³ Kling J, Weiman DF, and Western B. "The Labor Market Consequences of 'Mass' Incarceration." Paper prepared for the Reentry Roundtable, Washington, D.C., October 12 and 13, 2000.

²⁴ Holzer H. *What Employers Want: Job Prospects for Less-Educated Workers*. New York: Russell Sage, 1996.

²⁵ Rottman DB, Flango CR, Cantrell MT, Hansen R, and LaFountain N. "State Court Organization 1998." Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, MCJ 178932.

²⁶ The Boston Foundation, Crime & Justice Institute. (2005). *CORI: Balancing Individual Rights and Public Access; Challenges of the Criminal Offender Record Information System and Opportunities for Reform*. Boston, Massachusetts.

²⁷ Winsor E. (2005, March 15). The CORI Reader. Massachusetts Law Reform Institute. Boston, Massachusetts.

²⁸ Mumola CJ. (1999) *Substance Abuse and Treatment, State and Federal Prisoners, 1997*. Bureau of Justice Statistics, Special Report. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics. NCJ 12871.

²⁹ Wilson DJ. (2000). *Drug Use, Testing, and Treatment in Jails*. Bureau of Justice Statistics, Special Report. Washington D.C.: Bureau of Justice Statistics, U.S. Department of Justice. NJC 179999.

³⁰ The Commonwealth of Massachusetts Governor's Commission on Corrections Reform (2004, June 30). *Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction*.

³¹ Massachusetts Department of Correction. (January 2006). Performance Measures Quarterly Report for the Department of Correction Advisory Council.

Mental Health: Rates of mental illness among the incarcerated population are between two and four times as high as the rate of mental illness in the general US population.³² Approximately 60% of inmates have reportedly received mental health treatment while incarcerated, 50% have taken prescription medication, and 44% have received counseling.³³ When prisoners are released, mental health treatment in the community is often not available and accessible to them, and the criminal justice system is unable to fill the gap. A national survey of parole administrators reported that less than 25% provide special programs for parolees with mental illness.³⁴

Physical Health: A large number of people carrying communicable diseases are housed in prison facilities each year. In 1997, between 30% and 36% of the U.S. population with HIV or AIDS were released offenders, between 40% and 45% of the U.S. population with Hepatitis B or C infection were released offenders, and 35% of the U.S. population with tuberculosis were released offenders.³⁵ Inmates generally receive necessary medical treatment while incarcerated, however once released, access and adherence to treatment regimens is often limited or nonexistent.

What Challenges Do Communities Face When Offenders Return?

While the above issues pose significant challenges for returning offenders, they also pose significant challenges for the communities where offenders return. A 2004 Urban Institute study found that most offenders in Massachusetts return to a handful of communities in the state.³⁶ These communities have few resources capable of absorbing the majority of released offenders, many of the offenders without parole or probation supervision and many, if not most, without the necessary treatment and support services to assist in a successful transition to lawful community living.

Studies have shown that high incarceration rates disrupt a community's social network, affect family formation, reduce informal control of children and income to families, and weaken ties among residents. The research suggests that when removal and return rates of offenders hits a certain point, this may actually result in higher crime rates as the community becomes increasingly unstable and less coercive means of social control are undermined.³⁷

Released offenders are returning to communities with significant medical and mental health needs, substance abuse issues, high rates of unemployment and homelessness, and at a significant risk to return to criminal activity. Additionally, these communities have been caring

³² Ditton PM. "Mental Health and Treatment of Inmates and Probationers." Bureau of Justice Statistics, Special Report. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, NCJ 174463, July 1999.

³³ Ibid.

³⁴ Lurigio AJ. "Effective Services for Parolees with Mental Illnesses." July, 2001.

³⁵ National Commission on Correctional Health Care. *The Health Status of Soon-To-Be-Released Prisoners A Report to Congress*, National Commission on Correctional Health Care, Report to Congress, Vol. 1 (Chicago 2002).

³⁶ Brooks LE, Solomon AL, Keegan S, Kohl R, and Lahue L. *Prisoner Reentry in Massachusetts*. Urban Institute Justice Policy Center, Washington D.C. March 2005.

³⁷ Clear TR, Rose DR, and Ryder JA. "Coercive Mobility and the Community: The Impact of Removing and Returning Offenders." Paper prepared for the Reentry Roundtable, Washington, D.D., October 12 and 13, 2000.

for the children of previously incarcerated individuals, who pose a high risk of future delinquency and/or criminal behavior.³⁸

What the Research Says About What Works

Research has found that criminal behavior can be predicted for individual offenders with increasing accuracy through the use of a mechanism designed to assess an offender's personal characteristics as well as those factors that indicate a propensity to engage in deviant behavior (validated assessment tool).³⁹ When offenders are assessed, their individual risk factors are identified – such as substance abuse problems or a lack of educational and vocational achievement – in order for these issues to be targeted and dealt with to reduce the likelihood of future criminal behavior.

Substance abuse, in particular, is a significant risk factor.⁴⁰ Numerous studies show that to have a significant impact on recidivism, drug and alcohol treatment programs designed for offenders need to be provided throughout the correctional system, ideally both in prison and after release. A study of the Key-Crest program in Delaware revealed that offenders who did not receive alcohol and drug treatment in prison or the community had a 70 percent re-arrest rate. Treatment in the community following prison resulted in a 50 percent reduction in recidivism, and treatment that began in prison and continued into the community resulted in a 64 percent reduction in recidivism.⁴¹ A 1997 study published by the Department of Health and Human Services demonstrates that for every dollar invested in substance abuse treatment, taxpayers save seven dollars as a result of reductions in crime, victimization, and other costs.⁴²

Assessment data allows correctional systems to focus their resources on the offenders predicted to be at high risk of committing a new crime. From a resource and public safety perspective this makes sense. In terms of cost-effectiveness, research indicates that high and medium risk offenders benefit most from correctional interventions; in other words, the greatest reduction in recidivism and corresponding increase in public safety is achieved by intervening with this group.⁴³ In fact, supervision and treatment resources that focus on lower risk offenders tend to produce little if any positive effect with regard to recidivism. (Intervening with low risk offenders can increase criminal behavior, especially when they are forced to associate with higher risk and more criminal individuals.)^{44,45}

³⁸ Johnston D and Gabel K. (Eds.), *Children of Incarcerated Parents*. New York, New York. Lexington Books. (1995).

³⁹ Andrews DA. "Assessing Program Elements for Risk Reduction: The Correctional Program Assessment Inventory." In P. Harris, ed., *Research to Results: Effective Community Corrections*. Washington, D.C.: International Community Corrections Association. 1999.

⁴⁰ The Commonwealth of Massachusetts Substance Abuse Strategic Plan (May 16, 2005) reports that 81 percent of the state prison population has a substance abuse disorder.

⁴¹ Inciardi JA, Martin SS, Butzin CA, Hooper RM, and Harrison LD. "An Effective Model of Prison-Based Treatment for Drug-Involved Offenders." *Journal of Drug Issues*. 27(2):261-278.

⁴² Gerstein DR, Johnson RA, Larison CL, Harwood HJ, and Fountain D. *Alcohol and Other Drug Treatment for Parents and Welfare Recipients: Outcomes, Costs, and Benefits*. Washington, D.C.: U.S. Department of Health and Human Services. January, 1997.

⁴³ Note that there is a very small percentage of the highest risk offenders who are unlikely to benefit from treatment interventions and should have close surveillance.

⁴⁴ Gendreau P, Goggin C. "Correctional Treatment: Accomplishments and Realities." In P.I Van Voorhis, M. Braswell, and D. Lester, ed., *Correctional Counseling and Rehabilitation*. Cincinnati, Ohio: Anderson Publishing.

⁴⁵ Andrews DA, Bonta J. *The Psychology of Criminal Conduct*. Cincinnati, Ohio: Anderson Publishing.

Models

Offender reentry is a key criminal justice issue and a priority in many jurisdictions around the nation, and several models of programs, policies, and system reform are available. Below are some examples of reentry work being done in Massachusetts and around the country.

[Reentry from Jail: Hampden County Sheriff's Department, Massachusetts](#)

The Massachusetts county jail system releases more than half of the 20,000 offenders returning to our communities. Hampden County focuses on seamless transitions from jail to the community. The Sheriff's Department has undergone comprehensive reform under Sheriff Michael Ashe, and it has been cited as a model by the American Correctional Association and the Massachusetts Governor's Commission on Corrections Reform.⁴⁶ There are four noteworthy components to their program:

- *Risk and Needs Assessment:* Each inmate's level of risk and need is determined, and a case plan is developed that will best prepare that inmate for reentry. The assessment is also used to determine service and supervision needs for offenders in the community.
- *Productive Incarceration:* All inmates are required to participate in educational, vocational, and treatment activities. All activities are geared towards reducing recidivism and developing productive citizens.
- *Community In-Reach:* The Sheriff's Department encourages community groups to bring services into the jail, which helps inmates develop positive community ties.
- *After Incarceration Support Systems:* This case management program begins while offenders are incarcerated and continues to provide support to inmates when they are in the community.⁴⁷

[Michigan Prisoner Reentry Initiative](#)⁴⁸

The mission of the Michigan Prisoner Reentry Initiative (MPRI) is to "significantly reduce crime and enhance public safety by implementing a seamless system of services for offenders from the time of their entry to prison through their transition, community reintegration and aftercare in their communities."

With 48% of the state's parolees returning to prison within two years and costing the state \$112 million annually, the state's policy leaders began to look for more effective crime-fighting strategies. The result was a plan to improve the process of returning offenders to the community. The Michigan legislature provided funding for eight counties to pilot the model in fiscal year 2005. The model is based on three research-based initiatives created or coordinated by the Department of Justice, the National Institute of Corrections and the Council of State Governments

⁴⁶ See website <http://www.hcsdmass.org/>

⁴⁷ Ibid.

⁴⁸ Michigan Prisoner Reentry Initiative, see www.michigan.gov/corrections and select *MPRI*

Goals:

- To promote public safety by reducing the threat of harm to persons and property by released offenders in communities to which they return.
- To increase the success rate of offenders who transition from prison by fostering:
 - Effective risk management and treatment programming
 - Accountability for both offender and system official
 - Community and victim participation

A foundation of the effectiveness of MPRI involves the collaboration of key stakeholders in the areas of health care, family and child welfare, housing, workforce development and adult education and its state agency partners including the Departments of Corrections, Community Health, Labor and Economic Growth, Human Services, Labor, local law enforcement and victim advocates.

The three phases of the MPRI process address the areas that research shows require specific and focused attention. A major element of this process is the integration of the key stakeholders and the seamless shifting of responsibilities as the offender moves through the process.

Phase One – Getting Ready – begins upon admission to the prison

- Assessment and classification – measuring the offender’s risks, needs, and strengths
- Prisoner programming – assignments to reduce risk, address need, and build on strengths

Phase Two – Going Home – begins six months before release

- Prisoner release preparation – developing a strong, public-safety-conscious parole plan
- Release decision making – improving parole release guidelines

Phase Three – Staying Home – begins as offender is released until discharge from parole

- Supervision and services – providing flexible and firm supervision and services based on sound assessment and case planning
- Revocation decision making – using graduated sanctions to respond to behavior
- Discharge and aftercare – determining community involvement and support.

Public View⁴⁹

In a recent survey conducted by the Crime & Justice Institute and Doble Research Associates, Massachusetts residents:

- Believe the best approach to fighting crime is to address the causes of criminal behavior (66%) versus impose tougher punishment (29%)
- Believe the top priority for dealing with crime should be prevention/rehabilitation (64%) over punishment/enforcement (33%)

⁴⁹ Roberts CA and Doble J (2005) *Rethinking Justice in Massachusetts: Public Attitudes Toward Crime and Punishment*. Crime & Justice Institute. Boston, MA

- Believe it is *very important* for prisons to provide drug and alcohol treatment (81%); require prisoners to work and receive job training (79%); and require prisoners to take classes (75%)
- Believe it is *very important* to provide offenders on parole with treatment (83%); strict supervision (75%); and help finding a job (78%) and housing (63%)
- Believe education, job training, and drug treatment for released offenders save money by preventing new crime (75%), and most residents (69%) would be willing to increase spending on programs that have been proven to reduce recidivism

Conclusion

With 20,000 offenders returning to the street from Massachusetts' correctional facilities each year, it is vital that the state develop a long range reentry strategy with the specific goal of recidivism reduction. Inmates who will be returning to the community should be considered a priority if any corrections system is to reduce further victimization of the public. From a cost-efficiency standpoint, if this high-risk group is managed successfully and re-offending is reduced, resources can be redirected toward programs designed to prevent criminal behavior. Reduced recidivism and the corresponding reductions in victimization also result in savings in prison costs, court costs, prosecution costs, property loss or damage, and the treatment and health care costs of crime victims.

Research is showing us what steps need to be taken to obtain these outcomes. Properly designed, offender reentry programs can reduce re-offending by one-third⁵⁰. More effective correctional interventions represent not only better public safety, but more responsible stewardship of limited public resources. Correctional resources should be prioritized so that they have the greatest impact on crime and criminality. Programs that have been proven effective should act as a guide to designing the most successful and efficient offender reentry system.

⁵⁰ Lipsey MW. (2003). *Effective Correctional Treatment Enhances Public Safety*. International Correctional Association, Monograph Series Project, Publication #3.

CRIMINAL AND JUVENILE JUSTICE

PROGRESS AND DIRECTION

Over the years, as various criminal justice issues grabbed headlines or the economic condition of the state required a closer examination of state expenditures, state leaders have sought reviews of specific criminal justice topics. Massachusetts is fortunate to have been able to call on criminal justice practitioners, experts and stakeholders to participate in commissions that have examined difficult criminal justice issues. These commissions produced reports and recommendations that remain important and relevant. Some of the most important work has come in the past two years and, even in a short period of time, progress has been made. Yet, more work needs to be done and leadership and fortitude will be necessary to implement a number of these necessary recommendations. Those aspiring to lead the Commonwealth into the future should review these reports and recommendations as they contemplate moving their criminal justice agenda forward.

Governor's Commission on Corrections Reform¹

In September 2003, as a result of the investigation into the murder of inmate and former priest John Geoghan, Governor Romney formed a Blue Ribbon Commission to review the operations of the Department of Correction. After an eight month review and an examination of best practices throughout the country, the Commission, composed of corrections officials, legislators, community leaders and criminal justice experts, presented 18 recommendations designed to enhance four major areas of correctional practice – public safety, system-wide accountability, fiscal discipline and effective collaboration.

While all of the recommendations are important and necessary, and should be a priority of all candidates seeking to impact criminal justice policy in the Commonwealth, the recommendations outlined below are of particular relevance to the issues addressed in Criminal and Juvenile Justice Policy Briefing Book. The omission of the other recommendations should not lead to the conclusion that the recommendations are isolated from each other nor should they be considered within a narrow context. In fact, all of the recommendations are necessary to make the various components of the correctional system function more effectively.

Major Recommendations

- The Commonwealth must view reducing the rate of re-offense by returning inmates as one of its highest public safety priorities.
- The Department should adopt a comprehensive reentry strategy including risk assessment, proven programs, “step-down” and supervised release.
- The Department should hold inmates more accountable for participation in productive activities designed to reduce the likelihood that they will re-offend.
- The Commonwealth and the Department should revise sentencing laws and DOC policies that create barriers to appropriate classification, programming, and appropriate transfer to lower security facilities.
- The Commonwealth should establish a presumption that DOC inmates who are released are subject to ongoing monitoring and supervision.

¹ The Commonwealth of Massachusetts Governor's Commission on Corrections Reform (2004, June 30). Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction.

Department of Correction Advisory Council²

On September 15, 2004, Governor Romney issued Executive Order 461 establishing the Department of Correction Advisory Council (Advisory Council). The purpose and responsibilities of the Advisory Council are to “monitor the implementation of reforms recommended by the Governor’s Commission on Corrections Reform; advocate on behalf of continued reforms; and where appropriate and necessary, propose modifications to the Commission’s recommendations relative to inmate health and mental health services, and issues pertaining to female offenders in the Department’s custody.”³

Six weeks after the Governor’s Commission on Corrections Reform (GCCR) released its report the Department of Correction responded with its “Feasibility Assessment and Strategic Implementation Plan Addressing the Major Recommendations of the Governor’s Commission on Corrections Reform.” Over the next several months the Commissioner of Correction and her staff met with the Advisory Council to provide detailed updates on their plan. On June 17, 2005, the Advisory Council presented its preliminary report updating the recommendations of the GCCR. In addition to the updates, the report provides recommendations as the Department of Correction moves forward. As with the GCCR recommendations, the items included below address the issues that most directly impact the four issues of the Briefing Book.

- Government and non-government agencies concerned with prison inmates or the communities to which they return must work productively with the Department of Correction to improve prisoner re-entry in the Commonwealth.

In the year since the GCCR recommendations were issued, the Department of Correction has made progress in reducing barriers to programs designed to reduce recidivism and improve the reentry process. Yet, many other agencies and organizations have equally significant roles and responsibilities and they must make reduction of recidivism a priority.

- The legislature, Governor, district attorneys, sheriffs and advocacy groups must act swiftly to pass legislation to improve reentry and expand supervised release of inmates.

Significant positive changes to reentry and supervision policies can be implemented without reducing the length of sentences.

- The Department of Correction (or the Executive Office of Public Safety) should conduct a national review of best practices supported by research for reducing recidivism and also review the Urban Institute’s work on prisoner reentry.

Some jurisdictions in other parts of the country are implementing policies that are improving public safety and applying state resources more efficiently. Massachusetts should examine these models to determine what can be implemented here.

- Post-release supervision of offenders, especially high-risk offenders, is necessary to improve public safety but must be accompanied by appropriate treatment, interventions and a series of graduated sanctions in order to reduce recidivism.

² Commonwealth of Massachusetts Department of Correction Advisory Council. (June 17, 2005) Preliminary Report

³ Ibid.

- Establish an Inspector General for Corrections that is crafted with input from the Department of Correction and the Advisory Council

Governor's Commission on Criminal Justice Innovation⁴

In July 2003, Governor Romney created the Commission on Criminal Justice Innovation whose charge was “to examine the criminal justice system at every level and to leave no current practice unquestioned in searching for innovative solutions to our crime problems.”⁵ The Committee examined many different areas of criminal justice and established several subcommittees to focus on the specific issues within these areas. For the purpose of highlighting findings and recommendations related to the issues presented in this briefing book, this section will outline the recommendations from the subcommittees on Urban Crime Strategies and Re-Entry and Post-Release Supervision.

The Urban Crime Strategies subcommittee sought to identify specific crime strategies beyond enforcement that could be replicated in urban jurisdictions across the state. The recommendations of this subcommittee included:

- Fund prevention programs that have been demonstrated, through research, to reduce crime.
- Foster partnerships among both criminal justice and human service agencies to identify and intervene with at-risk juveniles before they are on the law enforcement radar screen – prevent them from “graduating” from DSS to DYS, or endangering fellow students or family members.
- Tax incentives to encourage employers to hire offenders returning to communities.

The Reentry and Post-Release Supervision subcommittee sought to respond to the data indicating that 20,000 inmates are released annually from incarceration in Massachusetts and nearly 50% of the higher risk offenders (those most likely to re-offend) do not receive post-release supervision. The recommendations of this subcommittee included:

- Seek sentencing guideline legislation whereby there would be certainty of punishment for drug trafficking crimes within a sentencing grid that would also allow eligible offenders the possibility to participate in pre-release programs, and require mandatory post-release supervision.
- Adopt sentencing guideline legislation under which intermediate sanctions are integrated within the comprehensive sentencing framework; make sentencing more predictable; and provide the Commonwealth with an effective management tool to manage the utilization of scarce correctional resources.
- Finalize sentencing reform so that parole eligibility is available to more prisoners.
- Establish a standardized offender assessment process that can gather and share information that enables effective placement and programming at every step of the criminal justice process, from arraignment to commitment to release and community reentry.
- Begin reentry planning early in the period of incarceration.

⁴ Massachusetts Governor's Commission on Criminal Justice Innovation, Final Report. 2004

⁵ Ibid.

- DOC and county corrections should collaborate to allow more DOC inmates to transfer to lower-security county facilities closer to the community where they plan to settle after release. Implementing this recommendation will require freeing-up space in currently overcrowded county facilities, which could be accomplished through use of intermediate sanctions, the Community Resource Centers and Community Correction Centers for offenses that currently lead to incarceration in county facilities.
- The DOC, county corrections, Division of Employment and Training, Regional Employment Boards, employment training organizations in the public and private sector, and private sector employers should work together to develop and expand work-release programs with a focus on education and outreach to potential employers.
- The DOC and county corrections should partner with the Departments of Public and Mental Health, contract treatment providers and the offender to identify transitional needs and develop a realistic transition plan for each offender.
- Work with a cross-section of law enforcement, contract providers, local business and charitable organizations to remove employment and housing barriers by identifying more funding for transitional beds, and address concerns relative to CORI checks that disqualify offenders from public housing.
- Judges and probation and parole officers should use intermediate sanctions and intensified supportive services prior to re-incarceration.

Massachusetts Sentencing Commission⁶

In 1993, the Massachusetts Sentencing Commission (Commission) was established through the Truth-In-Sentencing law. The purpose of the Commission was “to promote truth in sentencing by providing uniform sentencing policies and systematic sentencing guidelines, and by integrating intermediate sanctions within the sentencing guidelines.” The Commission was charged with producing a comprehensive report on sentencing policies, practices and their impacts. The Commission was also responsible for submitting sentencing guidelines legislation to the legislature.

In April 1996, after a research effort that included a series of focus groups, five public hearings across the Commonwealth, and studies of existing sentencing practices, the time served by offenders and the impact of the proposed sentencing guidelines, the Commission presented the legislature with its *Report to the General Court*. The Commission composed of fifteen members from diverse criminal justice backgrounds including three judges, three prosecutors, three defense attorneys and representatives from the criminal justice community and victims unanimously adopted the Report. Sentencing guidelines legislation was filed in December 1996. Since then, the legislature has not taken action to pass this legislation, despite the bill being refiled each session.

The sentencing guidelines were created to respond to what the Boston Bar Association and the Crime and Justice Foundation reported in 1991. The report of the Task Force on Justice stated:

⁶ Massachusetts Sentencing Commission. Sentencing Commission Overview. <http://mass.gov/courts/admin/sentcomm>

Sentencing in Massachusetts is haphazard, confusing, and archaic, with a hodgepodge of options. More importantly, Massachusetts judges are given no guidance on what to consider in sentencing, except for those crimes carrying mandatory penalties. As a result, there is substantial disproportionality in sentences given for various offenses and a lack of uniformity among sentences imposed for the same offense.⁷

While the sentencing guidelines have not been legislatively enacted, the Sentencing Commission continues to produce an annual survey of sentencing practices, monitor sentencing practices and the impact of guidelines on the system, train court practitioners who voluntarily use sentencing guidelines, and manage the information from the three pilot sites who use the sentencing guidelines as a framework for sentencing defendants to intermediate sanctions.

⁷Ibid.