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# Creating Meaningful Public Safety

## A Briefing on the Massachusetts Department of Correction

Presented to:

Governor-Elect Maura Healey and  
Lieutenant Governor-Elect Kim Driscoll

Compiled by Lifers Group, Inc., the Norfolk Inmate  
Council, the African American Coalition Committee at  
MCI-Norfolk, and incarcerated community members  
from Old Colony Correctional Center, MCI-Concord,  
and Souza-Baranowski Correctional Center

# **Creating Meaningful Public Safety:**

## **A Briefing on the Massachusetts Department of Correction**

This briefing was compiled by Lifers' Group, Inc., the Norfolk Inmate Council, and the African American Coalition Committee at MCI-Norfolk Lifers' Group, Inc. is an advocacy organization operated by incarcerated people that serves all those held in the Commonwealth's prisons. The group assists individuals in accessing programs and services, informs those inside and outside of prison on developments in the criminal legal system, and advocates for legislative and regulatory changes. Lifers' Group, Inc. also publishes several reports each year on topics ranging from Parole Board decisions to how the DOC uses its funds. The group also serves as a leading voice for the incarcerated lifer and elderly population. Founded at MCI-Norfolk in the 1960s and incorporated in 1974, Lifers' Group, Inc. is the oldest continuously operating prison group in Massachusetts.

The Norfolk Inmate Council (NIC) is the elected body that represents the population at MCI-Norfolk. The organization is led by the group's Executive Board that oversees a diverse collective of committees, such as the Legal Advisory Committee, the Education Committee, the Food Committee, and several cultural committees, including the Latino Cultural Activities Committee and the Asian Cultural Activities Committee. The NIC was formed to provide incarcerated people with a voice in their incarceration and rehabilitation. NIC Executive Board members collaborate with outside organizations and stakeholders, advocate to lawmakers, and meet regularly with DOC administrators.

The African American Coalition Committee (AACC) serves as the leading organization representing incarcerated people of color. The AACC works to identify and address all the ways systemic racism permeates the criminal legal system. The committee's critical work in this area is reflected in several initiatives, including the recently released Final Report of the Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth. This groundbreaking report identifies the many ways structural racism is embedded throughout the corrections system and provides specific recommendations on how to dismantle the structures that promote racism. AACC members also collaborate with outside advocates and lawmakers at the state and federal level to create solutions to the varied factors that lead to persons of color being overrepresented in the criminal legal system. In addition, the AACC focuses on developing stronger leaders through education and mentorship initiatives. The AACC is not confined by the walls of prisons. The AACC has hosted and participated in many events and meetings in neighborhoods across the Commonwealth.

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## **Executive Summary**

Nobody wants safe prisons and rehabilitation spaces more than incarcerated people. Correctional staff members, visitors, volunteers, and vendors all have the opportunity to leave the prison environment each day, but those housed in the 16 facilities managed by the Massachusetts Department of Correction (DOC) remain - 24 hours a day, 7 days a week. Contrary to stereotypes, incarcerated people do not want to live in chaotic spaces punctuated by violence and drugs. Most desire stability organized under a positive treatment philosophy governed by clear, equitable, and humane rules where they can access effective resources to address the personalized factors that led to their incarceration. This goal can only be accomplished in spaces that are safe and rehabilitative.

But what defines a safe facility?

One recent week is illustrative of the current state of the DOC. On Sunday, a patient in a DOC medical unit experienced a mental health crisis that led him to strike another patient more than 70 times with a walking cane while two correction officers stood less than six feet away yelling but otherwise not intervening until after another patient broke up the confrontation. On Tuesday, a correction officer was critically injured by an incarcerated person who had been transferred to Massachusetts after assaulting staff in another state. This person allegedly told DOC staff multiple times that he was going to do something to force the department to transfer him again and even made a documented threat against a staff member the day before the incident. And, on Wednesday, a senior union steward correction officer was arrested at a prison for selling drugs and cell phones inside a special housing unit designed to reward people DOC administrators felt were doing the right thing. State Police took the officer into custody at the prison just as he was about to smuggle, they allege, more than \$400,000 of drugs and contraband into the facility. That was just one week.

Only the assault on the staff member garnered any noticeable reaction from the DOC. MCI-Shirley, where the incident occurred, was put into a full lockdown. At the same time, administrators at other facilities looked for ways to react. At MCI-Norfolk, for example, administrators removed all the free weights from the institution (for the first time in 90 years) and closed the prison's weight and game room, even though the weight room has for decades proven to be an effective stress reduction tool. Both remain closed today. The DOC also cancelled a long planned Restorative Justice Responsibility Retreat at MCI-Norfolk that would have brought together outside stakeholders, including judges, district attorneys, and survivors to discuss accountability. They also cancelled a round table discussion on the criminal legal system between MCI-Norfolk residents and members of the Boston Celtics. What no one from the former Governor to DOC Commissioner Carol Mici appeared to do was to acknowledge the department's persistent failure to create positive safe spaces. Instead, officials simply sought to cast the limited legislative reforms made to the DOC over the past several years as a scapegoat, while using strongarm tactics to impose a false appearance of safety.

Today's DOC lacks the ability to promote real safety. The opaque department is disorganized, chaotic, and misdirected. It is difficult to discern what principles guide the DOC as priorities shift regularly. For years, the DOC has continuously argued that if it just had more money, it could be a more effective agency. Since 2012, the department's budget has grown steadily each year, increasing by more than \$40 million since FY19 alone. This explosion in spending occurred over the same time that the incarcerated population was declining. Today, the DOC holds 50% fewer people than a decade ago but still consumes a budget well over \$700 million annually.

To add insult to injury, how the DOC currently spends its vast budget does not align with the agency's stated mission to improve public safety through rehabilitation. In FY21, 89% of the DOC budget was spent on salaries - mostly security staff - and incarcerated healthcare - funneled mostly to a large out-of-state private corporation - while less than 2% was allocated to "Prison Program Costs." The shift away from funding rehabilitation and education programs and toward funding an ineffective and inefficient bureaucracy managed in many ways by multi-billion-dollar private equity firms is a key factor in understanding why the DOC lacks the truly safe spaces needed to prepare incarcerated people to return to life beyond prison.

It is time to reset the DOC.

We propose rethinking the DOC by first establishing the agency's primary goal to be the personalized and successful rehabilitation of every person in the department's care and custody. We then suggest developing the necessary resources to meet this goal. This work should include a much-needed re-imagining of what constitutes an effective rehabilitation space, rather than the ongoing reliance on outdated facilities and philosophies. Any reorganization should be a collaborative effort that gives agency to all stakeholders, especially incarcerated people. In addition, it is paramount to acknowledge the many ways the criminal legal system is buttressed by systemic racism and work to dismantle any element that is designed or used to oppress people. Rethinking the DOC in this way is not being soft on crime - it is everyone, including incarcerated people, doing the hard work of real rehabilitation that has been avoided for far too long.

What follows is a briefing developed by incarcerated people at MCI-Norfolk designed to inspire and inform the new administration. The document was crafted over several months of small and large group discussions focused on identifying opportunities to improve the Executive's role in the criminal legal system. While this briefing was created at MCI-Norfolk, it reflects the thinking of incarcerated people across the Commonwealth, many of whom lack policy resources or the ability to organize.

We identify ten areas that your administration can address unilaterally: infuse outside leadership, return the DOC to Health and Human Services, ensure the DOC and Parole Board work together, prioritize lower security facilities, allow the Department of Mental Health to oversee mental health services, increase skilled training, expand education opportunities, eliminate privatization, utilize medical parole, and restore furloughs. We believe these ten items, all of which are within the Executive's authority to effect, will

help orient the DOC around the work of providing successful rehabilitation, which will promote real safety.

Hope is a thread that weaves all our recommendations together. We believe that there is no more powerful motivator than hope. A person with hope is moving forward. A person with hope makes smarter and healthier choices. We also believe that hope must be instilled universally.

Our recommendations assist every incarcerated person regardless of age, race, gender, ethnicity, sexual orientation, religious belief or non-belief. Our recommendations also aid all regardless of sentence. We believe that everyone is entitled to meaningful rehabilitation. As we have seen over the last several years, many people who thought they may never go home have been released. People arrested as juveniles and sentenced to die by incarceration have been granted a second chance by the SJC. Emerging adults (those aged 18 up to at least 21) may soon be afforded a similar opportunity. And, over the past three years alone, more than 20 first degree murder cases have been overturned. Many of these people left prison with limited participation in formal rehabilitation, education, and reentry programs because the DOC regularly reserves access to these resources to those closest to reentry. In contrast, we believe that rehabilitation must begin for all people when they first connect with the DOC. That rehabilitation should be personalized, organized, and managed collaboratively throughout a person's entire time under state control.

Some of our ideas may seem revolutionary for Massachusetts. Many, however, have already been deployed in other states - including traditional "tough on crime" states like Tennessee, Missouri, and Texas. Others may appear progressive, but in fact seek merely to restore time tested solutions the DOC has abandoned over the past 30 years. All of our recommendations are focused on real safety - safety for incarcerated people, correctional staff, volunteers, visitors, and vendors. We believe that this safety, however, will not be confined to the facilities controlled by the DOC. We believe that the safety fostered in rehabilitative spaces will flow out into communities affected by crime and to all justice involved individuals - from survivors of crime to family members of incarcerated people.

We are committed to being partners in creating meaningful public safety. We look forward to answering any questions you may have about our briefing and to working together.

Sincerely,

Special Steering Committee on Governmental Affairs:

James Keown  
Special Committee Chair

William Duclos  
Norfolk Inmate Council Executive Board Chair

Gordon Haas  
Lifers' Group, Inc. Chair

Corey "Al-Ameen" Patterson  
African American Coalition Committee Chair

## **Introduction**

As Massachusetts welcomes Governor Maura Healey and Lieutenant Governor Kim Driscoll - a history making administration in many ways - the time is now to bring the state's outdated prison system out of the "tough on crime" dark ages and move toward a system of enlightened rehabilitation and reconciliation. Successfully accomplishing this transition requires leadership with credibility across the spectrum of the criminal legal system, from conservative members of law enforcement to progressive lawmakers and advocates. It requires leaders who can look at an incarcerated person and see a human being, not a convict; who listen to all those affected by crime, from survivors of crime to the families of incarcerated people; and who command the leadership required to inspire innovative change.

Developing a modern criminal legal system in Massachusetts starts by embracing a new guiding philosophy in all relevant agencies that demands humane treatment of all people under state control, provides unfettered access to diverse and personalized rehabilitation opportunities, and stimulates reconciliation among all those intertwined in the criminal legal system. This philosophy must be built on the belief that anyone can be rehabilitated and that everyone deserves a meaningful chance to demonstrate rehabilitation.

A philosophy alone, however, will not actualize the change needed. New thinking must be accompanied by new priorities that guide administrators in reshaping the state's criminal legal system. Lifers' Group, Inc., the Norfolk Inmate Council (NIC), and the African American Coalition Committee (AACC) have developed recommendations focused on the Department of Correction that we believe will help Governor Healey and Lieutenant Governor Driscoll to craft this new philosophy and set the priorities necessary to realize a modern criminal legal system that is a more effective, more beneficent, and more cost-efficient crime reduction initiative.



## Key Issues & Recommendations

### 1. Infuse Outside Leadership into the DOC

The past several years have been marked by an unprecedented amount of turnover throughout the management ranks of the DOC. A number of factors have contributed to destabilizing the department's leadership. The primary element is the insular nature of the agency. The department rarely seeks leadership outside the DOC. Instead, ambitious staff members follow a well-trodden, almost automatic, path up through the ranks of the agency. In the past, the DOC's promotion process rewarded managers who spent several years successfully serving in a leadership role. Today, due to a number of staffing issues, it is common for someone to advance from entry level prison management to senior agency administrator in a relatively short period of time, bouncing quickly from one job to the next along the way.

A person's anticipated retirement date seems to guide promotion more today than any success in a particular position. A manager in the present DOC may spend less than one year in a management position before being bumped up to the next level. This rapid advancement plan appears to be driven more by a desire to help managers maximize potential retirement benefits than by any want to provide effective leadership to the agency. For example, MCI-Norfolk has had four superintendents and nine deputy superintendents in five years as the positions have devolved into mere waypoints for staff members to pass on their way toward retirement. In this version of managerial musical chairs, administrators rarely have the time to fully understand their responsibilities and often are loathe to make change.

#### Recommendation:

We recommend rethinking DOC leadership from the Commissioner down. We believe this starts by inviting leadership into the agency from other governmental entities, public service organizations, and the private sector. Looking beyond the DOC should also include looking beyond Massachusetts to identify leaders who have proven track records of implementing the style of organizational reforms the DOC needs. The department should also provide DOC staff with resources to develop strong leadership abilities that are not agency specific and the opportunity to explore opportunities in departments outside the DOC.

We also believe that the DOC must focus more on skills than retirement dates when promoting from within the organization. The skills needed to be an effective director of treatment are not necessarily the same skills needed to be a deputy superintendent of operations or assistant deputy commissioner of the prison division, yet the DOC treats these staff members as interchangeable. That is not to say that an administrator in one area of the DOC should be prohibited from moving into other areas. But promotions should be reserved for those who have effectively proven themselves successful in their present job, ideally with at least three years in a position before advancing, and who have expanded their skills through continuing education and mentorship.

Administrators, as well as other employees, also should be rewarded for accomplishments that advance the department's philosophy and priorities, such as increased program participation, decreased recidivism, decreased disciplinary actions, and increased morale.

## 2. Return DOC to Health & Human Services

Prior to the 1990s, the DOC was part of the Department of Health & Human Services (HHS). Under Governor Weld, the DOC was transferred to what today is the Executive Office of Public Safety & Security (EOPSS). This realignment coincided with other initiatives, such as Truth in Sentencing and the expanded use of mandatory minimums. These changes fueled the steep rise of mass incarceration in Massachusetts and directly led to the unprecedented increase in the number of incarcerated Black and Latinx people.

When HHS oversaw the DOC, the department was more dedicated to rehabilitation and treatment. Massachusetts was a leader in innovative programs and forward thinking in corrections. Since the move to EOPSS, the department has become almost totally focused on security at the cost of its statutory requirement to provide rehabilitation to all people held by the department. As if wearing blinders, DOC management fails to accept that an increased emphasis on programs and the humane treatment of incarcerated people contributes significantly to enhancing public safety - both inside and outside DOC facilities.

EOPSS has instead sought to recast the DOC solely as a law enforcement organization whose primary purpose is to police the people in the agency's custody. This reality is reflected most notably in the DOC's budget. As the Lifers' Group has highlighted for more than a decade in its annual report on DOC spending, the department dedicates more than 70% of its budget to staff - mostly security staff - and less than 2% on programming. In other words, fewer than two cents out of every dollar are dedicated to the rehabilitation to incarcerated people. The over investment in security and opaque nature of the DOC allows the worst features of policing to blossom inside the department's facilities. Add to this the fact that the DOC has no outside oversight and was allowed to dodge all the state's law enforcement reform efforts following the murder of George Floyd. It is no wonder that systemic racism remains imbedded in the DNA of the DOC and that reports of civil rights violations, including serious assaults by security staff, have appeared to increase steadily over recent years.

### Recommendation:

We recommend returning the DOC to HHS. This move would force a seismic shift in the culture of the department. The return would also better align the DOC to deal with serious issues like trauma, mental health, and substance use that underpin many of the events that lead to incarceration. HHS would also more effectively oversee the DOC's nearly \$200 million failing healthcare system and its long troubled mental health system that accounts for more than \$66 million of annual DOC healthcare spending. The realignment would establish a more suitable environment to promote healing and reconciliation for everyone affected by crime - from incarcerated people and their

families to survivors of crime and communities at large. HHS is also better suited to establish and track objective metrics that are sorely lacking from the DOC that could help inform the development of programming, the Parole Board in granting releases, and the Legislature in setting fiscal priorities.

### 3. Require DOC and Parole Board Work Together

The parole process is a black box completely disconnected from the DOC. Like the DOC, the Commonwealth's parole system needs a significant overhaul. Incarcerated people are provided little to no guidance by the Parole Board to help them seek the programming and treatment best suited to address their rehabilitation needs. Currently, a person can serve 15 years or more without any input from parole.

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*"I felt like I went into the process flying blind. I spent 15 years completing dozens of programs only to learn at my first parole hearing that the Board did not care about most of them."*

*~ A.R. (a member of MCI-Norfolk's Latino community)*

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The Parole Board gave A.R. a five-year setback, but they provided little direction in their decision about what A.R. needed to do to address the Board's mostly unvoiced concerns. The 2018 Criminal Justice Reinvestment Act mandated that the Parole Board work with the DOC to create personalized and realistic pathways to parole for all incarcerated people. The law also requires the Parole Board to provide program suggestions to the DOC to use to inform each incarcerated person's annual classification hearings. More than four years after the passage of CJRA, however, the Parole Board and DOC have yet to implement these mandates.

The NIC Executive Board has repeatedly called attention to the fact that the DOC and the Parole Board use different assessment tools to evaluate a person's risk of violence and recidivism. The DOC uses a software application called COMPAS, while the Parole Board uses an application called LS/CMI. Both algorithm-based evaluations have documented shortcomings. The AACC and Latino Cultural Activities Committee (LCAC) have both drawn attention to how the assessments use data, such as the number of times a person has experienced a police encounter, to serve as a proxy for race. The groups have also called out how other static data points, such as gender and age at time of arrest, are used to negatively skew risk scores, especially for people of color. The Lifers' Group has also questioned the purpose of the Parole Board's assessment tool given how often the Board ignores the risk assessment when denying parole to those evaluated to be "Low Risk."

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*"The Board seemed to follow their gut feeling more than any real information they had access to."*

*~ J.B. (member of the Lifers' Group)*

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J.B. has been heavily involved in programming throughout his incarceration. The Parole Board gave him a three-year setback at his initial hearing. In J.B.'s decision, the Parole Board made a rare recommendation. The Board stated that they wanted J.B. to complete a domestic violence program. Unfortunately, the DOC did not offer such a program at the prison where J.B. was held (something the Board would have known if they would have collaborated with the DOC on J.B.'s program plan). J.B.'s challenge was further complicated by the Board waiting more than nine months to inform him that he had been denied parole. In some cases, the Board delays decisions for more than a year. (In one recorded case, the Board waited 16 months to issue its decision.)

### Recommendation:

We recommend that the Parole Board be modernized in accordance with the law to reflect current thinking about the criminal legal system. This begins by requiring the Board to engage in the collaborative process mandated by law. The Parole Board should engage people early during their incarceration to set treatment plans that are updated annually. The path to parole should not be a mystery to be solved, but a plan to be accomplished - a plan that allows a person to address all the factors that led to incarceration.

We also recommend that the Board use a standardized assessment tool free of biases that negatively score static data like race, ethnicity, and age at arrest. The Parole Board should also be required to parole anyone who is determined to be "Low Risk" or "Very Low Risk" unless the Board, using evidence, presents facts that preclude the granting of parole.

In addition, we recommend that the Parole Board be required to render all decisions in fewer than 30 days and to provide written parole decisions within 60 days of the date of hearing. And, if the Board issues a setback, the written decision needs to outline specifically why the individual was denied and specifically what the person needs to do to receive parole.

## 4. Utilize Lower Security Facilities

Over the past ten years, the use of minimum security and pre-release facilities has decreased significantly. The DOC first downsized the number of available minimum-security beds by closing facilities like Shirley Minimum, Concord Farm, and Plymouth

Forestry. More recently, the department has simply refused to transfer hundreds of people who qualify for placement in a minimum or pre-release facility. According to the DOC's July 1, 2022 Institutional Fact Cards, out of the 681 combined available beds at Boston Pre-Release, Northeastern Correctional Center, and Pondville, only 338 were filled. That represents a 50% vacancy across these facilities. (Old Colony Correctional Center Minimum was not included in this calculation because the DOC does not break out the minimum-security operational capacity from the overall OCCC operational capacity in the Fact Cards.) The DOC's reticence to fully use minimum security facilities means that hundreds of people each year are forced to transition to the community from medium and maximum-security facilities.

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*"I qualified for placement in a minimum for the last ten years (of a 20-year sentence), but the DOC refused to even recommend me for placement at a minimum. Going to a minimum and a pre-release would have allowed me to transition both physically and mentally from a life lived behind a wall to a life lived out in the free world. I would have been able to hold a real job to save money, connect with transitional services, and build a foundation for my success, rather than being dropped off on a curb with \$133 from my prison savings account and a state ID card."*

*~ D.T. (a Lifers' Group member and former NIC Committee Chair recently released after completing his sentence)*

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In addition to the scores of people like D.T. nearing the end of their sentences who are denied access to minimum security facilities, hundreds more people who qualify for minimum placement are outright denied the opportunity through mandatory administrative overrides. Many people serving life and long-term sentences possess Objective Classification Scores that make them eligible for minimum security placement, but are barred by default through the use of classification override Code H, which is required by DOC policy. Throughout most of the history of minimum-security facilities, however, such people were regularly housed at minimum security.

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*"We were the backbone of the minimums - we did the cooking and the cleaning and teaching... Back then, the DOC was more about fixing people, and they saw [lifers] as a resource they could use to help meet their goals."*

*~ F.H. (a lifer who has been in prison more than 50 years and who lived at a minimum-security facility until the 1990s)*

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The DOC's anti-minimum strategy is wrong. Studies and recidivism assessments have revealed for years that a person released from lower security has a higher likelihood of successfully reentering the free world. The Parole Board endorses this fact through their regular request that parolees spend at least six months in lower security before being released on parole (a request the DOC regularly ignores). Minimum security facilities are also a better value. Minimum security housing is far less expensive than any other housing option the DOC has.

Most people in prison are serving a sentence that will allow them to one day be released. In addition, over the past three years, an average of seven people each year serving natural life sentence have had their cases overturned and qualified for release. Current DOC practice means that most of these people will be released from medium or maximum security with little preparation or reentry resources.

### Recommendation:

We recommend that the DOC reorganize its spaces and spending to allow every person who qualifies for minimum security to be housed in a compatible space. The DOC should shift resources to increase minimum capacity and decrease higher security capacity to reflect the actual number of people who are minimum eligible. A person should be housed in an environment according to their assessed risk level (using an objective risk assessment tool) and rehabilitation needs, not their sentence structure.

The DOC should redefine what constitutes a minimum space. This could start by investing in lower security housing and work models like those pioneered in Germany and Northern Europe. These programs in many ways reflect how the DOC under HHS operated minimums in Massachusetts for decades. The DOC should also restart specialized facilities like the now closed DOC farms. In addition to teaching real skills and inspiring a strong work ethic, the DOC farms provided milk and other products that allowed the department to save money. The concomitant cost savings from the expanded use of reinvented minimum-security spaces could be reinvested into transitional services in communities most impacted by the criminal legal system as the Criminal Justice Reinvestment Act envisioned when passed in 2018.

## 5. Separate Mental Health from DOC

The failings of the DOC's mental health system continues to cost lives. Troubles, including patient deaths, at the embattled Bridgewater State Hospital have been well documented by many news outlets and a 2022 report by the Disability Law Center. Added to these high-profile issues are the findings of the Department of Justice who has declared the DOC's mental health services beyond inadequate. The DOC's deplorable treatment of people experiencing mental health challenges spreads across almost all department facilities. The DOC's policing philosophy treats mental health as something that should be punished. It is no wonder that almost every DOC facility uses some form of solitary confinement to "care" for those experiencing serious mental health issues (SMI). A person experiencing an SMI may find themselves locked in a cell wearing almost nothing and with no access to fresh air or recreation or television or music or any person other than an occasional short visit by a clinician and the

unwavering glare of a correction officer watching at all times. This can go on for days or weeks.

According to the SJC's Mental Health Legal Advisory Committee, upwards of 80% of people incarcerated in Massachusetts are presently living with a mental health issue. Many of these people are receiving no clinical assistance from the department because even though the agency spends more than \$66 million on mental health, the department refuses to command its health services vendor to commit the resources necessary to properly diagnose and treat mental health. Care is rationed so that a limited number of clinicians in each prison are typically confined to working with only the most severe cases. DOC administrators have even admitted to the NIC that mental health services are mainly directed at those deemed to be "management issues" and that services "do not address factors of one's crime."

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*"I knew from experience that [my anxiety attack] was a bad one. I went to my CO, and I asked if I could see mental health because I was nervous something bad might happen. The CO told me to ride it out. Later on, it got real bad and I had to call Crisis. (Crisis is the DOC term for a mental health emergency that requires immediate intervention.) Before I knew what was going on, I was surrounded by COs and the sergeant is telling me to cuff up. They threw me in a back cell (solitary confinement) naked in a turtle suit (a thick, padded, garment that fits over a person like a bulky poncho, but is open on the sides). I didn't have sheets or even a pillow. I told them I wasn't trying to hurt myself. I just needed help managing my attack... After about an hour in solitary, naked and alone, I wanted nothing more than to die."*

*~ V.S. (a person with a diagnosed SMI that requires daily medication)*

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## Recommendation:

We recommend that the Department of Mental Health (DMH) be charged with managing mental health care for the DOC. DMH should develop policies in accord with public health best practices and community standards that govern all aspects of DOC mental health - from preventative therapy to acute crisis practice to chronic SMI treatment. DMH should hire and manage all mental health staff who administer and deliver care in the DOC. If the DOC determines that special units or dedicated facilities are needed to properly provide mental health services, DMH should fully manage these spaces, including overseeing the screening and training of any assigned security staff. DMH also should be charged with operating Bridgewater State Hospital (BSH) in alignment with the findings of the Department of Justice. The recommendations outlined in the Disability Law Center's 2022 evaluation of the hospital should guide DMH's oversight of BSH and any plans to modernize the delivery of in-patient care.

## 6. Increase Skilled Training and Jobs

Skilled job training has diminished significantly over the past 30 years. At one time, incarcerated people at almost every DOC institution had the opportunity to learn vocational skills ranging from the building trades to automotive repair. Official certification accompanied most of these vocational programs, and many people were able to use their training in skilled jobs while they were incarcerated. Today, the DOC's limited skilled job training programs center on benefiting the department, not incarcerated trainees. MassCorr Industries, Institutional Maintenance, Culinary Arts, and Barber School are the department's most prominent workforce development programs. For most initiatives, the services rendered to the DOC or outside clients are the driving force, not education and training. This often leads the DOC to recruit workers for these programs with established skill sets over students eager to learn.

In addition to reducing the number of vocational programs, the DOC has also eliminated most opportunities to obtain official certifications. Culinary Arts and Barber School are the two primary training programs that still offer accreditation. Trainees, however, can no longer be certified in areas like welding, carpentry, and plumbing. Trade unions have made attempts over the past 20 years to provide union education and certification, but the DOC has repeatedly refused their assistance.

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*"My bosses (called Instructors) had no interest in my rehabilitation. They were just looking at their sales numbers. It was on me to learn from the other guys at work how to do my job... I worked in the shop when the state certified guys for skills like welding. Now a guy works for ten years in the [welding] shop, but can't walk on a job site when he gets out because he's not certified... I knew a guy who was one of the best workers in the shop. He knew how to run just about every machine in the place. But, he had to work at McDonalds when he got out just to save the money he needed to get a welding license from the state that proved he could do what he had been doing for the state for years."*

*~ W.H. (an incarcerated worker with more than 20 years' experience working for MassCorr Industries)*

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The DOC also offers limited skilled job training focused on 21st century jobs. Training in areas such as technology, healthcare, and service industries are almost nonexistent. The few programs that have existed, typically, were begun to obtain special grants and were ended just as soon as the supporting grants concluded.



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*"I grew up with computers, smart phones, and apps. I sucked in school, but I got coding... I never saw coding or technology as something I could do to make legit money - it was just fun... When they asked me [at classification] what kinds of programs I wanted to do, I mentioned that I was interested in anything related to computers. They put me in the school's [Microsoft Office] computer class... The material was real basic and I got bored quick. So, one day I decided to write a macro [program] to pimp out one of the projects. [The instructor] was impressed that I could code some, but he told me not to do it again and don't let anyone know I did it or he would be forced to write me a disciplinary ticket."*

*~ R.I. (a Lifers' Group member and "Emerging Adult")*

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## Recommendation:

We recommend that the DOC refocus and expand skilled job training programs. The department should partner with the state Department of Labor (DOL), trade unions, and vocational schools to achieve this goal. Programs need to be focused on education not simply services rendered. An emphasis should be placed on developing programs to train people in sectors the DOL has noted in most need of skilled workers, especially those DOL designates as 21st century jobs.

We also recommend that the DOC organize some reconceptualized rehabilitation spaces around skilled job training. This would be an especially beneficial way to utilize certain minimum-security spaces. In reorganizing around skilled job training, the DOC must be careful not to develop prison "factory towns". Instead, the department should look to replicate training spaces like those operated by unions, such as IBEW.

In addition, we recommend that the DOC also invest in making sure paths to recognized certification or licensure exists for every skilled job training program offered by the department, so returning citizens are prepared to use their training to immediately enter the workforce upon release.

## 7. Expand Education

Many incarcerated people possess only limited formal education. Forty years ago, Massachusetts served as a model for prison-based education by offering opportunities that ranged from basic education to Masters degrees. Today, the DOC offers a much more narrow selection of education courses. The department also has scaled back significantly the use of incarcerated people to serve as tutors and facilitators.

Several state colleges have expressed interest in working with the DOC in recent years, especially since those in prison again qualify for federal Pell Grants. The DOC's

distribution of these higher education resources has been inconsistent at best. For example, MCI-Concord, which has fewer than 400 residents offers the chance to earn a college degree through Tufts and Emerson, but MCI-Norfolk, with more than 1,100 residents and considered to be the DOC's flagship institution for education and programs, ended its degree granting college program in 2019. (Boston University still operates a scaled down certificate program at MCI-Norfolk.)

For many years, the Lifers' Group and other incarcerated people collaborated with DOC education departments to provide tutors who supported traditional educators. These groups also helped the DOC to offer nontraditional educational programs in which incarcerated people served as facilitators. The Lifers' Group Educational Discussion Group (EDG) was one such offering. Lifers' members at MCI-Norfolk facilitated 5-10 classes each semester, called discussion groups. These EDG classes offered no credit or good time - just learning for the sake of learning. More than 200 individuals participated in EDG each year until the department's 2020 Covid lockdown. After Covid, the DOC terminated EDG and the tutor program without any explanation.

### Recommendation:

We recommend using a combination of in-person classes and distance learning to expand educational offerings inside all DOC facilities. Education (formal, vocational, and nontraditional) serve as a rehabilitation centerpiece, rather than the ancillary role it often plays today. Currently, every incarcerated person is entitled to earn a high school equivalency certificate (GED or HiSET). This entitlement should be expanded to include higher education (college and vocational), as well.

We also recommend that the DOC develop special housing units, where appropriate, for those involved in education. These education living spaces could have in unit libraries, study areas, and computer labs.

In addition, we recommend requiring the DOC to use members of the incarcerated population as tutors, teaching assistants, and facilitators. There are incarcerated people throughout the DOC who want to help others tap into the power of education. The department should develop training programs that teach people the skills needed to serve as tutors, teaching assistants, and educational facilitators. There are classrooms in almost every DOC facility that regularly sit empty hours out of each day. These empty spaces present an opportunity to allow trained incarcerated people to host study halls and nontraditional educational programming. It should be the goal of the DOC education division to have learning activities occurring in every classroom, at every available movement time, every day.

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*"College was the most transformational experience during my time in prison. I grew up bouncing from one foster home to the next as a teenager. School was not something I enjoyed. It was something I survived. After serving ten years, the hard way, I was desperately seeking a way out of my old life. I saw college as my chance to hit reset. It did that and so much more. For the first time, I was exposed to political science, Shakespeare, and astronomy. Where I had once spent my days searching out hustles and drugs. I now found myself seeking out misplaced modifiers and philosophical theories. Six years later, I graduated summa cum laude. I entered college to seek an escape from my life. Instead, I discovered who I really was. More important, I discovered who I could be. I cannot imagine any punishment or program other than my college experience that would have allowed me to become the man I am today."*

*~ One BU graduate at MCI-Norfolk*

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## 8. Eliminate Privatization

Over the past 20 years, the DOC has shifted significant department responsibilities from the public sector to private for-profit corporations. Health care, mental health services, and substance use treatment services all are presently delivered by private vendors. Services for the incarcerated population, such as phone, email, video calls, canteen, clothing and appliances also are privatized. Even core rehabilitation programs are now operated by corporations. -

Wellpath, Keefe, Securus, and Spectrum combine to earn well over \$200 million annually in Massachusetts by monetizing the incarceration of people. The business model has proved so lucrative that private equity firms have swarmed in over the past several years to acquire most of the major private vendors who hold contracts with the DOC (e.g., HIG, a \$43 billion private equity firm owns Wellpath, the DOC's healthcare vendor, and Keefe, the DOC's commissary, clothing, appliance, email, and digital media vendor). Many of these contracts include provisions that provide substantial "commissions" to the DOC. For example, Keefe provides the DOC with 14% of all commissary sales. These commissions amount to unregulated fees that are passed along to incarcerated people and their families. The DOC uses the money collected from these kick back programs to fund everything from sports activities to officer overtime, thereby establishing a prison tax assessed on people in prison and those who support them.

### Recommendation:

We recommend that the DOC eliminate its reliance on private corporations. Services like canteen, property, and rehabilitation programming - which the department

provided for decades – should again be operated by the DOC with the assistance of other agencies and groups. Where a service may prove to be far beyond the scope of the DOC, the department should attempt to meet its needs through other state agencies and nonprofit organizations before contracting with a private company. For example, DOC medical services could be managed by DPH with onsite care delivered through a collaboration of public health providers, including community health centers across Massachusetts. This model would increase the quality of care, lower costs, and invest dollars back into communities that are directly impacted by incarceration – rather than sending millions of dollars out of state to fuel private equity funds. Likewise, canteen could be managed by a nonprofit or MassCorr Industries. Incarcerated workers could learn the expense of jobs required to manage a modern pick-and-pack facility. Residents would pay less for products, enjoy access to a greater variety of offerings, and have an increased say in the canteen process. In addition, nonprofit groups and area colleges could be tapped to develop solutions to replace the current profit driven digital media offerings (e-mail, education materials, music, videos, games, books, and news).

We also recommend the DOC end all commission incentives in department contracts. The department should not rely on incarcerated people and their families to shoulder the costs associated with rehabilitation programs and educational activities. The DOC should have to fund these critical components through the department's annual budget. This transition could be supported in part by the DOC central accounts. The department funds these accounts by taking a percentage of each institution's commission proceeds. The amount of money parked in the central accounts has grown steadily over the past decade to the point where the department currently holds more than \$2 million from commissions.

## 9. Use Medical Parole

The Legislature passed a medical law in 2018. Up to that point, Massachusetts was one of the only states not to have some form of medical parole. One fact that motivated the law's passage was that Massachusetts held the oldest incarceration population in the country. Another fact was that the DOC spends approximately \$186 million annually on healthcare – more than 8 times the national average of per person, per day, correctional healthcare costs according to one study. Since passage, however, the DOC has attempted to contravene the law at every turn. The department has repeatedly refused to conduct risk assessment as required by law (and even when ordered by the Court), ignored the medical findings of doctors, used arbitrary and capricious reasoning to evaluate petitions, and implied improper legal standards in decisions. In the first three years of the law, the DOC averaged only four approved petitions per year. (At least two were deathbed paroles during Covid.) During the same time, the Courts overturned more than 30 of the DOC's denials. Unfortunately, others died before their appeals could be heard. Meanwhile, many others languish with limited ability to advocate on behalf of themselves for medical parole.

The refusal of the DOC to use medical parole has pushed the department's healthcare system past a breaking point. The DOC spends a significant proportion of its budget on incarcerating the ill and elderly. Over the past decade, as the Massachusetts

incarcerated population has aged, the percentage of people requiring higher levels of care has exploded. The zero-sum business model used by the DOC's private medical vendor means that each dollar absorbed by the medically most vulnerable reduces the amount available for preventative and routine care to the general incarcerated population. In addition, the DOC's limited medical human resources, such as nurses and security staff (e.g., transportation officers), are also increasingly being stretched to manage the elderly and infirm.

For the better part of a decade, the state has attempted to spend its way out of this crisis by more than tripling the amount of money dedicated to DOC health services. A closer examination of the issue reveals that the heart of the problem is not money, but resources. The DOC's medical vendor has been rocked especially hard by the staff shortages plaguing the medical industry. Since January 2022, Wellpath has attempted to use significant hiring bonuses, retention bonuses, and voluntary overtime bonuses to fill the ever-widening gaps in the company's staffing matrices. Nothing has worked. Over the past year, some DOC facilities have operated with staffing reduced by as much as 50%. A recent update from Wellpath revealed that MCI-Norfolk had 30 unfilled medical positions. This reality forces care to be triaged even amongst those requiring the most care.

The staffing shortages also mean that there are far fewer medical staff members at each facility than needed to safely operate. The result of these shortages has been a reduction in preventative care, which allows acute issues to blossom into chronic issues. Sick Call Requests that are required by regulation to be answered in days often go unaddressed for weeks. This failing leads to extraordinary delays in accessing outside specialists and in obtaining medical procedures, even for serious medical issues.

The collapse of the DOC's medical system is due in large part to the department's refusal to use medical parole as mandated by law. Elderly and infirm people who pose no measurable risk to society - many confined to the department's five expensive medical units or Lemuel Shattuck Hospital - inexplicably remain incarcerated. If the DOC simply used medical parole as prescribed, there would be many more medical resources to serve the general incarcerated population.

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*"Breathing has become my biggest concern lately. I require supplemental oxygen during the day and a noninvasive ventilator at night to breathe. The toughest thing is waiting to see what fails next. Before I was diagnosed with neurodegenerative disease last year, I was really active. I attended Mass weekly, graduated from Boston University, volunteered as a tutor, and engaged in scores of rehabilitative programming. I also ran almost every day in Norfolk's Runners Club. I loved running middle-distance. Today, I can't walk or even sit upright for extended periods of time unassisted. I rely on a wheelchair with special support straps and other devices to carry out basic tasks like eating and showering. My condition has deteriorated to the point that I have to be transported by ambulance anytime I go to an outside appointment. The Commissioner refuses to grant me medical parole arguing that as long as I can communicate and think, I pose a risk to society. The DOC's attorney even told a judge that my 17 years without any disciplinary tickets and my active program participation were a bad thing - simply evidence of my manipulative nature. My family has been prepared to care for me for over a year. We set up medical insurance, connected with doctors ready to care for me, and set up a room in our family home. But none of that matters to the Commissioner."*

*~ \*JK (a patient in MCI-Norfolk's Clinical Stabilization Unit)*

*\* Disclosure: JK chaired the special committee that drafted this briefing and served as the principal writer for the briefing.*

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## Recommendation:

We recommend that the DOC evaluate for medical parole every person in custody over the age of 50 at least once every three years, regardless of whether or not a person has submitted a petition. (This would not prevent any person from requesting an evaluation on their own in accordance with the law.) This review must include an assessment for risk of violence using a standardized risk assessment tool as demanded by regulation. If a person is determined to be low risk by the assessment tool and meets the medical qualification, he or she must be released to a medical release plan approved by the Parole Board.

We also recommend that the department consider any person permanently classified to any of the department's five clinical units (Departmental Infirmaries, Nursing Clinical Unit, Clinical Stabilization Units) or Lemuel Shattuck Hospital to be permanently incapacitated as defined by the law. The DOC should be required to evaluate each of these people every six months for medical parole. Any person in one of these units determined to be low risk should be released expeditiously.

In addition, we recommend that the DOC, through its medical contractor, establish a standard evaluation process to assess progressive cognitive disorders, such as

dementia and Alzheimer's disease. Any person determined to be experiencing cognitive loss that is considered by doctors to be moderate or greater should be considered to be permanently incapacitated. All people showing signs of cognitive loss should be evaluated for medical parole every six months.

And, we recommend that the DOC and Parole Board always attempt to place a medical parolee at home or as close to home as possible, regardless of where home is located. The DOC should also collaborate with DPH to establish regulations that will fill any financial gap created by MassHealth and Medicaid to ensure that housing and home health providers caring for people on medical parole can be compensated at market rates.

## 10. Restore Furloughs

In 1972, Governor Francis Sargent established sweeping changes to the Massachusetts correctional system through "The Reform Act." The statute established new regulations and programs - including a furlough program based in part on the successful furlough program Ronald Reagan had deployed in California when he served as the state's governor. In 1973, the SJC decided that all incarcerated people qualified for the furlough program. Furloughs allowed incarcerated people to receive up to 14 days on furlough throughout a year. (Each furlough could be no longer than 72 hours.)

Furloughs were not simply weekend passes to go home as is often portrayed. The program allowed incarcerated people to attend family funerals, participate in outside rehabilitation programs, and seek care at outside clinics.

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*"I used to go to schools around Boston a few times a year to speak to students about my path to prison. I thought it was important to use some of the time the DOC gave me to go outside the walls to make sure others didn't have to end up inside the walls."*

*~ One former furlough recipient serving a natural life sentence*

*"The furlough process was intended to make a returning citizen's community reintegration less of a 'culture shock'."*

*~ C.P. (AACC Chairman)*

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In 1986, Willie Horton escaped while on furlough and fled to Maryland. There, he was convicted of assaulting a man and raping his fiancé. Even in the wake of this horrific crime, the furlough program continued to operate as one of the DOC's most successful rehabilitation and reentry opportunities because state officials recognized that the

incident represented a rare exception, not a rule. The DOC reported that same year that the program had a 99% success rate.

More than a year later, the now infamous Willie Horton campaign advertisement created by Lee Atwater aired during the presidential contest between Governor Michael Dukakis and George H.W. Bush. The heavily racialized spot in which the picture of Horton's face was intentionally darkened served as a dog whistle, especially to white suburban voters, many of whom viewed minorities - especially black men - as the source of increased rates of crime during the 1970s and 80s. Today, it is well established that the increase in crime was driven by a host of political and socioeconomic factors of the time, not race. In addition, the intentional over-policing of communities of color contributed to the false perception that men of color were the problem. But candidates on both sides of the aisle at the time found that being seen as "Tough on Crime" was a recipe for success. (Atwater later renounced his tactics and the racist and destructive policies they helped spawn.)

When William Weld ran for governor in the 1990 election, he focused on "being tough" by rolling back many of the elements of "The Reform Act." As he famously told a gathering of Attorneys General, Governor Weld was determined "to reintroduce prisoners to the joy of busting rocks." One of the most publicized rollbacks was the Furlough Program. (Like Atwater, Governor Weld in recent years has expressed regret over his former position on the criminal legal system.)

After the elimination of furloughs, positive parole rates plummeted in Massachusetts from 80% in 1980 to 33% in 2002. The numbers were even more stark for those serving parole eligible life sentences, which fell as low as 6% in 1997. There is strong data to indicate that the decline in parole rates was driven in part by the lack of access to meaningful rehabilitation and reentry programs, especially the Furlough Program.

Interestingly, Governor Weld did not terminate the furlough program, nor did any of the governors who followed. The governor simply ordered the DOC not to approve any further requests - an order that stands today. The furlough program remains codified in the Code of Massachusetts Regulations.

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*"The Furlough Pilot Program... help[s] reshape the thinking of incarcerated persons who get to see what the world is like today, preparing them to be more productive and effective citizens."*

*~ AACC letter to Governor-elect Maura Healey*

*"This is a rehabilitation tool like no other. Furlough help people to reintegrate back into society by re-establishing trust within the communities they will return to."*

*~ T.G. (AACC Legal Department)*

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## Recommendation:

We recommend rescinding the order that blocks the DOC from offering furloughs. We also recommend investing in a modern Furlough Program focused on rehabilitation and reentry.

We recommended supporting the AACC's Furlough Pilot Program established through the Harriet Tubman Project. The Pilot Program vets incarcerated people for furloughs. The program also builds community ties that helps incarcerated people to re-establish ways of thinking about existing within communities while better protecting communities through reduced recidivism.

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*"The data is clear: furloughs are smart, cost effective, and the most humane way to combat death by incarceration."*

*~ O.A.R. (former AACC member & returned citizen) and C.P. (AACC Chairman)*

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# **Other Incarcerated Voices**

# **Creating Meaningful Public Safety: A Briefing on the Massachusetts Department of Correction from Incarcerated Community Members at Old Colony Correctional Center**

This briefing was compiled by incarcerated community members of Old Colony Correctional, including representatives and members of the African Heritage Coalition, Mending Souls, City Missions, and the Old Colony Chapter of the Lifers' Group.

African Heritage Coalition is a self-help group that provides cultural awareness, historical narratives in social context of the African Diaspora to its membership. Through education, seminars and workshops, we develop and improve social values, establish moral character, and effectively resist negative social-cultural impacts. The AHC is at the vanguard of developing culturally competent courses and activities that empower incarcerated people.

Mending Souls is a restorative justice designed curriculum which explores personal and social rehabilitation, responsibility and community restoration. Through this work program members build recovery models, improve self-worth and cultivate reintegration processes that will place them safely back into their communities.

City Missions is a self-help group that provides leadership training to encourage civic engagement.

Lifers' Group - Old Colony Chapter carries the legacy first established at MCI-Norfolk in the 1960's. We provide safe and positive group structure and forms to discuss self-improvement, rehabilitation and successful re-entry. We hold education and training seminars for commutations, pardons, and parole preparation. We also develop position papers and policies around criminal justice reform and institutional policies and procedures.

## **Introduction**

We agree with those recommendations put forth by incarcerated community members at Norfolk. In addition to the ten items outlined in their report, we have identified the following four additional items that we believe should be incorporated - 1) ending life without parole; 2) presumptive parole; 3) civilian oversight; and 4) adequate wages.

These recommendations were developed in collaboration with incarcerated people from Old Colony Correctional Center who lack access to computers, organizational capacity, and the support that is readily available at MCI-Norfolk.

Although some of the key issues may fall outside of the Governor's direct authority, they do sit firmly within your office's interests, and demand your voice and leadership to enact change and ensure the safety of the public, incarcerated persons, and staff. A

holistic approach to the state's health, safety, and security is the Chief Executive's responsibility.

## 11. Ending Life Without Parole:

Presently, everyone serving a LWOP sentence in Massachusetts has no opportunity for parole, and therefore are robbed of their humanity and the opportunity to display rehabilitation. We propose everyone serving LWOP sentences be afforded the opportunity to seek parole. A parole hearing is not a guarantee of release. Rather, it's an opportunity for an individual to present to the parole board rehabilitated character, accountability, growth, healing and why he/she no longer poses a risk to public safety. Through the pillars of Restorative Justice, and providing all parties with more choices, ending LWOP gives victims the justice they deserve and the offending individual opportunity to be held accountable for his/her actions.

Our current system does not provide enough opportunities for victims to tell their stories, or for offenders to express remorse, denying the community the opportunity to heal. One of the few opportunities comes at a parole hearing. A second-degree lifer must go to the parole board and be accountable. This means admission of guilt, and insight into the crime. Accountability leads to some healing for the wounded. A sentence of LWOP denies answers to questions that many families may want for closure. In many situations, the offender takes those answers to his grave and families are left wondering about these details. A sentence of LWOP denies families the accountability that comes with a parole hearing.

The importance of prioritizing victims of crime is pivotal in the elimination of LWOP. While LWOP does incapacitate the offender, unfortunately LWOP denies victims personal control and empowerment. When the offender acknowledges responsibility, offers to make amends, and apologizes, the person harmed is empowered to judge the sincerity and adequacy of the offering. This interaction can help restore the victim as an empowered member of the community.

### Recommendation:

For those serving LWOP, the opportunity for relief is only through the commutation process, which permits LWOP sentences to be reduced. However, they are rarely successful. Until this past year, there has only been one commutation since 1997, and that individual was wrongfully convicted. The commutation process is broken. As a result, there is no relief for those serving LWOP sentences and no chance of redemption. However, it has not always been this way, and should not continue to be this way. LWOP was not the original intent when life sentences became law.

A second-degree life sentence accomplishes the same objective in not releasing those who are dangerous, unrepentant, or not rehabilitated. Changing the model of LWOP does not mean a "get-out-of-jail-free" card. Changing the model means greater accountability because in order to obtain release one must show and prove without a doubt to a parole board that they are repentant and rehabilitated. Changing the model of LWOP means that at sentencing we are not making a final judgment on a human

being. We are allowing the capacity to change. If there is a final judgment and LWOP is imposed, we are in fact saying the capacity to change does not exist and hope has no place in prison. No one is above the law and accountability is necessary. An end to LWOP in no way skirts punishment, but allows everyone an opportunity for accountability, change, and redemption.

## 12. Presumptive Parole

The parole board today has the authority to deny parole for any reason. The legal and legislative guidelines relied upon to make these decisions are from an era when our country was facing headlines of "Tough on Crime", "Truth in Sentencing", and "Super Predators." Since then, much of the information that these decisions were based on have proven false, particularly, the misconception that lengthier prison sentences deter criminal activity. In fact, the "lock 'em up and throw away the key" mentality has only proven to harm the poorest in our society and have little effect on reducing crime. Rehabilitation and public safety can, and should be at the forefront of parole decisions.

The parole board is directed by the laws of Massachusetts as determined by the legislature and interpreted by the Supreme Judicial Court. Those guidelines require the parole board to determine if these four goals of sentencing have been achieved. The Supreme Judicial Court determined the four goals of sentencing as (a) punishment of the individual, (b) deterrence, (c) incapacitation to protect the public from further harm, and (d) rehabilitation of the individual [see *Commonwealth V Goodwin*, 414 Mass. 88 (1993)]. This does not mean the parole board has the legal authority or means to impose a sentence or "resentencing" of an inmate. Yet, in considering the facts of the crime they have consistently increased the punishment imposed by the court: a fact that has become more prevalent in parole hearings for those serving life sentences. In those hearings, the board has placed a tremendous amount of emphasis on the facts of the crime while ignoring substantial rehabilitative change. This factor will never change if we continue with a retributive parole system.

Several examples of how the parole board has encroached on the judiciary can be found in review hearings dating back to 2009. One prisoner who was seeking parole on a second-degree murder conviction was denied by the parole board stating the prisoner had not been, "sufficiently punished for a premeditated murder." The board denied another prisoner by stating he "has embarked on a pathway towards rehabilitation. He has engaged in programming that addresses issues of violence and has made good use of his time, whether through programming, working or seeking education opportunities. However, 15 years on a life sentence for a violent robbery which he planned and executed with a gun resulting in murder is simply not enough time to achieve the goals of sentencing". Another was told by a parole board member during his hearing that "you should be serving a first (degree sentence)." These are just a few portions of decisions chosen in an effort to show how little the parole board considers rehabilitation as a factor in determining parole decisions. In essence, parole has become a means to lengthen sentences to full term rather than establish the earliest release date.

## Recommendation:

The only grounds for denial of parole should be based on credible evidence that the prisoner in front of the board still presents an unacceptable risk of re-offending if released. No other criteria should matter. An effective parole system that wants people to succeed will start with the assumption that success is possible.

Changing this presumption would create powerful new incentives for the entire system. The Department of Correction would have an incentive to create meaningful programs, and incarcerated people would have an incentive to enroll and successfully complete them. An effective presumptive parole system would have elements of those often found in Mississippi, New Jersey, Michigan, and Hawaii. In the final analysis, presumptive parole is a positive step forward for a state that has long been recognized as a leader in progressive policies and practices. Adopting this legislative initiative will only solidify that belief. Parole works! Why not rely on it more and enhance it in an effort to streamline the parole process, utilize it to save money, reduce the inmate population, and make release more definitive while also injecting hope into a hopeless environment.

## 13. Civilian Oversight

“The United States is an anomaly on the world stage. Prisons and jails in this country are among the most opaque public institutions in our society. We have erected massive walls and razor wire fences around these buildings, placed them in remote corners of each state, limited public access to these spaces, and restricted information that can reveal what is happening inside the walls. We lack reliable data pertinent to the health, safety and well-being of people in custody, and cannot even assess the relative safety or danger of any particular facility.”

In contrast to our peer nations, most states in this country lack oversight mechanisms that can prevent harm in prisons and jails by allowing independent officials to routinely monitor conditions of confinement. As a result, prisoners face more danger not only from each other, but also from those who are tasked with their care, custody, and correction. Lack of Department of Correction oversight creates a black hole of sorts for the taxpayer, whose money is to be used for rehabilitation and reform of incarcerated citizens, but effective use of tax dollars is difficult if not impossible to gauge. The DOC is allowed to allocate funds as it sees fit, but is not accountable for results. In a perverse trend from 2011 onward, correctional spending in Massachusetts has increased while the average daily population in correctional facilities at the county and state level has decreased. In a 2016 paper by the public interest group MassINC that looks at correctional expenditure in Massachusetts, it is written that there is a need for budget makers to take a more active role in helping correctional administrators overcome the inertia that makes it difficult to reallocate dollars within their agencies. An independent Oversight Commission can not only be a proactive advocate for prison conditions and effectiveness, but can also help ensure that the goals of the Department of Correction are being honestly established and achieved.

Currently the MADOC is a bureaucracy that most often is compelled to change or make improvements when pressured by the courts or by negative press. This cannot stand, because the taxpayers of Massachusetts deserve a penal system that is dynamic and responsive to the needs of the Commonwealth and is tasked with rehabilitating. The MADOC's goals are to prepare those who have been convicted of a crime to become productive citizens while serving out their sentence. A system that is reactive will never realistically achieve this goal. Independent oversight can be a useful tool for the MADOC to better deploy the resources that Massachusetts' taxpayers have entrusted to it, resources that are used to more effectively rehabilitate returning citizens and to lower the rate of recidivism among them. A proactive MADOC guided by a neutral oversight body is in the best interest of the taxpayers, MADOC administrators and staff, and ultimately incarcerated citizens.

### Recommendation:

We propose creating an independent corrections Oversight Committee with an Office of the Ombudsman whose key objectives are to improve inmate and staff safety, reduce litigation, foster good public administration and most importantly reduce recidivism. An autonomous Oversight Committee will be a productive mechanism for bringing accountability, consistency, and best practices to a hide-bound institution that operates with impunity.

The potential for benefits among stakeholders is substantial. Various departments, facilities, and entire corrections agencies have the greatest possibility to develop a culture of collaboration, improvement, and professionalism, rather than one based on tradition, secrecy, fear, and resistance to change. Oversight can initiate greater openness and discussions of what corrections systems can reasonably accomplish and what is needed to achieve a more responsible and rehabilitative agency. Findings from an independent Oversight Committee can also be used to more effectively manage and develop policy that can correct historically racial and discriminatory practices that are pervasive throughout MADOC.

## 14. Adequate Wages

Inmates who have jobs that pay a living wage and are able to leave carceral institutions with a respectable balance in their savings account have lower recidivism rates. Maintaining a low recidivism rate is ostensibly in the interest of the DOC, the parole board, and certainly the Massachusetts taxpayer. Succinctly, a low recidivism rate is a public safety concern as well as a fiscal necessity. Yet the DOC's practices regarding inmate wages run counter to maintaining low recidivism rates and do not adequately prepare inmates to become productive members of society.

The primary purpose for institutional savings is to ensure that the inmate shall be released with enough funds to aid in acquiring a residence and to be able to afford the expenses related to reintegrating in a community upon discharge or parole.

The Massachusetts Department of Correction is failing to abide by the regulations it is bound to implement. Wage levels, which were set in 1974 and have barely changed in

two generations, run counter to the DOC's stated mission. Current levels of inmate wages do not serve the citizens of Massachusetts but instead cost taxpayers more money with higher rates and increase the burden on already struggling poverty-stricken families.

Increased prisoner wages will lead to a lower recidivism rate and save taxpayers the cost of re-housing and in some cases, re-trying repeat offenders. Increased inmate wages will make returning citizens more self-sufficient and more hireable. Studies show and experience proves that the more inmates are prepared to contribute to the community, the lower the recidivism rate and thus, they are a lesser burden to the taxpayer.

### Recommendation:

Historically, Massachusetts has been a leader in progressive causes. A meaningful wage for meaningful work in prison ought to be part of the social justice movement. The citizens of Massachusetts, leaders in the 19<sup>th</sup> century's abolitionist movements and in the 21<sup>st</sup> century social justice movement, are beginning to understand they are morally bound to take the lead on setting and enacting a realistic wage policy for those in the Commonwealth's prisons. The Harshbarger report listed a number of findings. Specifically, the MADOC does not adequately prepare inmates for release to the community. The report suggests, in broad terms, one aspect of addressing this sobering observation: the department should hold inmates more accountable for participation in productive activities designed to reduce the likelihood they will re-offend.

One way of holding inmates more accountable is providing incentive through higher wages. Realistic work scenarios, meaningful work experience, and development of market demanding job skills prepare newly released inmates for re-integration into the workforce and community. The benefits: their tax burden is curtailed, families are more likely to be reintegrated, communities strengthened, and motivated, and productive workers enter the economy.

Respectfully Submitted by,

Tanzerious Anderson  
Prisoner Empowerment Project Prisoner Volunteer (PLS' Race Equity in Corrections Initiative)/Mending Souls Chair/Alternative to Violence Project Chair

Patrick Grier  
African Heritage Coalition Vice-Chair

Dirceu Semedo  
African Heritage Coalition Chair

Shawn Fisher  
Lifers' Group Chair



# **Creating Meaningful Public Safety: A Briefing on the Massachusetts Department of Correction from Incarcerated Community Members at MCI-Concord**

This briefing was compiled by the African Heritage Coalition (AHC), Spanish United, and the Asian Pacific Islander Cultural Alliance (APICA) of MCI Concord. We agree with the Governor's Briefing compiled by Norfolk, but we feel that there are other equally pressing matters which we have enclosed.

AHC, SU, and APICA are organizations/programs operated by incarcerated people to serve all those incarcerated within the state prison of MCI Concord. These groups assist individuals in becoming connected with their cultural roots, history, and community, along with accessing programs, services, education, entrepreneurship, civic duties, cultural and self-empowerment, etc.

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## **Forward and Introduction**

Governor Healey,

This matter is presented to you by the incarcerated people who are in desperate need of positive development and true rehabilitative efforts within the Department of Corrections (DOC). Presently there are numerous problems within the DOC that negatively impact all rehabilitative efforts of the incarcerated people of the DOC, such as (a) the DOC staffs' ideology of job security over rehabilitation; (b) discriminatory practices, policies, standard operating procedures (SOP), etc., that target and negatively impact Black, Indigenous & People of Color (BIPOC) who are incarcerated and within the community; (c) lack of educational support and empowerment; and (d) lack of rehabilitative progress needed for incarcerated individuals to transition to productive citizens of the community.

## 1. The DOC's Deliberate Acts of Misidentifying Individuals' Race & Ethnicity/Truth in Numbers

For decades, the Massachusetts DOC has deliberately misidentified individuals' race in order to skew the data of the racial disparities within the DOC. This has led to inaccurate/misleading numbers that hinder state efforts to address inequalities, better rehabilitation efforts, sentencing disparities, inequalities within the DOC (such as classification, disciplinary, parole, visitation, etc., disparities). There is no doubt about the racial inequality that plagues the investigatory process and judicial system across America. Even Massachusetts has a long-standing history of being plagued with racial inequality, with recent scandals of racism and improper use of informants/witnesses, such as within the Plymouth County's District Attorney's Office. It is vital for the Governor to require the DOC to cease and desist falsely identifying individuals as races other than what they are. When the DOC labels individuals who are Hispanic, Cape Verdean, etc., as White or White Hispanic skewing the numbers, it has a significant effect on the data. This hides the true disparity from the statistics, so it is not giving an accurate account of the number of BIPOC prisoners incarcerated within the Massachusetts DOC. Not only is it misleading the public of the true numbers of BIPOC prisoners incarcerated, it is also misleading as to parole (or denied parole), housing in institutions, disparity in the sentence structures (as it is known that BIPOC individuals are sentenced more severely than their counterparts), classification, etc. This act by the DOC also misleads the legislative body, the courts, etc. The true disparity within Massachusetts DOC should be known, because it also reflects many forms of injustices. Further, these false numbers weaken the importance of needing culturally appropriate products, programs, education, etc.

### Recommendation:

Require the Commissioner of the DOC to cease and desist falsely identifying individuals as races other than they are. To prevent the dissemination of misleading data to the public, legislature, courts, etc.

## 2. Strengthening Family and Community Support Through Communications

It is well known that incarcerated individuals' support systems are vital to their successful rehabilitation. The stronger their support system, the greater the chances of their successful reintegration into the community. The DOC is excessively limiting and weakening the communications with incarcerated individuals' and their families and friends through utilizing excessive oppressive means negatively effecting the bonds between incarcerated individuals their families and community support. For example, the DOC can take around 1 to 2 days to forward emails. The average email takes around a day to be forwarded, visitation is extremely restrictive and oppressive, etc.

## Recommendation:

Require the DOC to:

- A. Ensure immediate emails and instant messaging (as the DOC has the technology to do this, and this technology is being utilized in other states including the federal prisons and high security prisons, so it is not a security issue) or in the alternative emails processed every hour;
- B. Expand incarcerated individuals' phone call list from only 10 individuals to up to 30 individuals, or allow incarcerated individuals to be able to change their numbers on their call list anytime through pressing 9 as other states allow (this is an option within Rhode Island's Adult Correctional Institution (ACI), who also use the same phone company, Securus);
- C. Expand our visiting list from 8 people to at least 25 (if unable to do away with the limited visitation list period);
- D. Longer video visits (as incarcerated individuals' family and friends are being charged more than \$5 for 20 minutes);
- E. Video visits on the tablets to allow more visitation, as the one video visit station on the unit for 90 individuals severely restricts family and friends from being able to schedule visits.

\*The DOC already has the technology and capabilities to provide the above without any additional costs.

### 3. To Have Access to Educational Legal Material on the Tablets (due to the DOC has shown it has the capabilities to do this)

It has been shown throughout history that adequate access to legal education has made a substantial positive difference within communities. From the push for equality, prisoners' rights, addressing wrongful convictions, etc. legal education is vital for the positive development of communities. As the BIPOC population has already suffered enough from deficient education within neglected BIPOC communities, the DOC seeks to continue this trend. Incarcerated individuals are not provided with adequate access to the law library. That in conjunction with being in programs, work, random shutdowns or canceled movements, extremely limited space within the small law libraries, etc., further limits access to legal education/law library (and the law library is closed throughout the weekends). What also must be factored in is the fact that during COVID (and other forms of lock downs for long durations) we are not provided with law library access. The DOC has the capability to provide adequate law education access on tablets. But the DOC chose to immediately remove this access from the tablets. This seems to be a deliberate strategy to ensure that the incarcerated population is not able to effectively learn their rights, and the laws that govern the DOC, parole, living conditions, etc., thus, resembling some of the old draconian tactics. Knowledge is power and limiting and/or preventing access to knowledge goes to the American history of White Supremacy, due to it seems that keeping the BIPOC prisoners ignorant is the DOC's goal (as we have constant opposition towards college programs, cultural educational and programs, etc.). Law education is vital due to it governing:

- A. Incarcerated individuals' living conditions;
- B. The DOC's powers and the extent of their authority;
- C. The Parole Board's powers and the extent of their authority;
- D. Enlightenment of civic duties, etc.

Adequate access to legal education for incarcerated individuals is also a safety matter and is vital to lower any physical altercation with correctional officers, due to it empowering incarcerated individuals by informing them of the correct means of addressing matters instead of resulting in verbal combativeness that staff may perceive as a threat and result in correctional officers acting with force. Further, there is an ugly history of BIPOC prisoners being wrongfully convicted throughout the United States (whether it be on trumped up charges or completely innocent, for example the black populations make up 13% of the population, but 53% of the 3,200 exonerations (see The Griot News with Eboni K. Williams. 12/16/22)) and being deprived of the opportunity to have adequate access to the law library/legal education deprives individuals of being able to have the ability to address these matters. Unfortunately, the truth of the matter is, for most individuals who are incarcerated, education within prison is likely the only form of education that they may have access to.

### Recommendation:

Require the DOC to provide access to the electronic law library on the educational tablets that have been passed out to all incarcerated individuals. Legal education is just as important as other forms of education and it intellectually empowers individuals by enlightening them on the correct means to address matters of constitutional, statutory, etc., violations.

## 4. Diversity Within the Staffing of the DOC

Presently the DOC lacks diversity. The DOC has failed to diversify its staff at the administrative level and within the high positions of the Commissioner's office. Thus, leading to complete disregard of BIPOC matters and the furtherance of discriminatory/racist policies, SOPs, etc., being passed targeting BIPOC prisoners, their families and community members. For example, the DOC has passed a standard operating guideline for events (these are vital cultural events that promote peace, cultural and community rebuilding and unity) that limits the amount of the guests from the community who support BIPOC events and programs to a maximum of 5 guests, while the DOC has excluded this same restriction from being applied to white events. For example, July 22, 2022, the DOC allowed more than 12 guests to come in and support a white event, while limiting the BIPOC event on August 29, 2022, commemorating Juneteenth to just 5 outside guests. This is just one of many racist policies and SOPs created by the DOC to target the BIPOC population. These practices by the DOC further target and marginalize the BIPOC population. These acts by the DOC aren't accidental or overlooked, as the discriminatory practices have been made bright to the attention of the DOC by individuals via complaints/grievances, etc. But instead of correcting these discriminatory actions, the DOC has doubled down and further their discriminatory practices.

## Recommendation:

Require the DOC to diversify its staff on all levels within administrations in institutions and the commissioner's office, along with require the DOC to cease and desist conducting and implementing discriminatory practices, policies, SOPs, etc.

## 5. Help Implement Legislations to Provide Legitimate Oversight Authority Over the DOC

Presently, the DOC doesn't have any real authoritative oversight committee to oversee the DOC to ensure that the DOC is in compliance with existing laws, regulations and constitutional rights. This will likely save taxpayers substantial money due to there being less of a need for the excessive funding of the DOC Legal Division which has defended the DOC's wrongful actions at the expense of the citizens.

## Recommendation:

To support a structure and/or help push for legislation that will provide some type of authority for an agency (outside of the DOC and parole) to implement an oversight committee with authority to implement consequence(s) against the DOC and parole for their violation(s) of existing regulations, laws, and state and federal constitutional rights.

## Conclusion

We would like to reiterate that we do support the Governor's Briefing compiled by Norfolk, but we also believe that the above are equally pressing matters which also should be considered and actively addressed.

Justice Ainooson, African Heritage Coalition Chairman

Randy Arias, Spanish United Chairman

Peter Bin, Asian Pacific Islander Cultural Alliance Chairman

December 17, 2022

# **Creating Meaningful Public Safety: A Briefing on the Massachusetts Department of Correction from Incarcerated Community Members at Souza- Baranowski Correctional Center**

This briefing was compiled by incarcerated community members at SBCC. We agree with the briefing compiled by Norfolk and the other facilities. Additionally, we would like to add the following recommendations specifically affecting the rehabilitation of inmates at SBCC and in the DDU.

## **1. Eliminate Discretionary Powers of Correctional Staff and Establish Statutory Mandates to Enforce Existing and New Policies**

The Massachusetts Department of Corrections (DOC) has developed a culture of corruption that is inconsistent with fundamental principles of rehabilitation. All facets of rehabilitation, which include classification, education, employment, disciplinary and even food services, amongst others, are based on the discretionary powers of DOC personnel, which are primarily used in the interest of the DOC and not the rehabilitation of inmates. This conflict has created an unhealthy environment which severely compromises inmates will to be rehabilitated.

### **Recommendation:**

We recommend that a committee be created to review all concerns of the inmate population and that the discretionary powers of the DOC be removed (or curtailed) and replaced with mandates to enforce existing and new policies establishing minimum custody and care requirements.

## **2. Establish Property Rights for Inmates**

While our Constitution affords all citizens the right to property, Massachusetts courts decided that incarcerated people in the Commonwealth of Massachusetts have no such rights. This decision creates opportunity for retaliatory practices which allow DOC staff to destroy inmate property with impunity.

One such incident happened to an inmate currently housed at SBCC. He does not have outside family support and therefore worked to save up money while he was in a medium security facility to buy over six hundred dollars of new property. While waiting for his order to be filled, he was transferred to SBCC. SBCC deemed his order contraband when it finally arrived. Rather than return the order, they excepted the order just to contraband the items and then allegedly "destroyed" them. This was done despite the fact that the inmate could eventually return to a lower security facility where the property is allowed. This person had a legitimate financial interest and suffered a burdensome loss. Without laws explicitly protecting inmate property and their families

and friends who also have a monetary interest at stake when an inmates' property is destroyed, the Courts will not hold anyone liable for the losses that inmates routinely suffer, nor make this class of citizens whole for said losses.

The DOC should be required to develop a uniform property policy for medium and maximum prisons, or in the alternative, require that an inmates' property be held in storage on any return to higher custody/security. When an inmates' property is returned to higher security, they must divest themselves of property they lawfully possessed at those custody levels (i.e., medium, minimum, pre-release, etc.) because this is not allowed at the higher custody level. An inmate can request long term storage, but the approval of such request is dependent on the subjective determination of the approving authority. In 2018/2019 the DOC started selling electric razors. The costs of the razors were \$25.00 and \$50.00. The reason for selling the electric razors was the traditional razors were no longer allowed in the maximum. When an inmate left the max and went to the medium his razor automatically became "contraband" and had to be sent out or destroyed. Approximately one year later, electric razors were sold in the mediums! The current policy/practice is costly to prisoners and their families and only serve to enrich the companies that sell to inmates. Uniform systems have been successfully implemented in other states. Massachusetts should implement a similar system.

#### Recommendation:

We recommend that a comprehensive study is conducted regarding issues concerning inmate property in the DOC and therefrom legislation be enacted to create property rights for inmates and establish a uniform property policy for medium and maximum facilities.

### 3. Establish Communication Rights for Inmates

The DOC has become accustomed to using its broad discretion, under the guise of "security" or "penological interest" to either restrict access to attorneys' private investigators and other legal entities, or altogether deny access when they (DOC staff) deem it necessary or simply because an officer feels like it. This includes phone calls and visits. They have even held legal mail for extended periods of time.

#### Recommendation:

We recommend that a comprehensive study is conducted regarding the issues of legal communications within the department and therefrom legislatively enact rights securing legal communications for inmates.

### 4. Establish Visiting Rights for Inmates

While visits are a privilege and not a right, once an inmate has earned that privilege there is an interest that should be protected. At this time, it is not. Family and friends



have been harassed by DOC staff, denied entry and visits canceled without cause. Many inmates have suffered these losses which intimidates, separates, alienates and isolates inmates from loved ones. With the advancements in understanding the impact that mental health has on people it should not be hard to imagine how this can severely affect inmate rehabilitation, mental health and ultimately reentry and recidivism. Visitors are also affected.

### Recommendation:

We recommend that a comprehensive study be conducted on the issue of visits in the DOC, and therefrom legislation be enacted to secure the rights of inmates and their visitors alike.

## 5. Secures Inmates Rights to Safe Food and Clean Water

The DOC, in the mid to late two thousands removed many items off of the general population menu that either contained sugar or could be fermented. Those items included fresh juice and products with sugar. They replaced those items with carcinogenic rich substitutes. And since then have further reduced access to other items such as fresh fruits. Likewise, in an effort to lower the food budget, soy has been heavily fed to inmates. Soy, in large amounts is suspected of being a carcinogen and promotes high estrogen levels.

The drinking and showering water, throughout the DOC also contribute to health issues. The DOC and EPA have been aware of this problem for some time and have made very little efforts to protect inmates. The visitors and staff are warned not to drink the institution's water. At the same time inmates must buy safe drinking water, which can be a financial burden, and with canteen restrictions/limitations, it is impossible to get enough safe water. There is no option for safe shower water.

### Recommendation:

We recommend that a comprehensive study be conducted on the issue of inmate diet and water exposure in MA DOC and therefrom legislation be enacted to establish minimal standards for safe food and water for inmates. Furthermore, we recommend that all DOC employees be precluded from bringing in outside food. Instead, employees should be provided with free meals in the staff dining area. This will prevent the introduction of contraband, and increase the quality of all the food served in the prison for inmates and staff alike.

## 6. Remove Control of Video Surveillance from DOC Staff and Create an Independent Department Controlled by Diverse Civilian Staff

The DOC has a history of manipulating, hiding, destroying and releasing to the public, videos of incidents, and/or parts of the same, to further its narrative. Many of these videos, if viewed in their entirety, would completely or partially vindicate inmates in

disciplinary actions and/or expose staff misconduct. Unfortunately, this type of footage is rarely released because it remains in the control of the DOC.

There is now a pilot body camera program going on at SBCC. However, the program is proving to be ineffective because DOC staff are still permitted to manipulate when and what footage is being captured. Inmates recently witnessed a superior officer order an officer who was fitted with a body camera to leave the immediate area of a cell where an inmate was being assaulted by staff members.

This type of misconduct by DOC staff is not uncommon. DOC staff have thrown away grievances filed by inmates in DDU who complain about staff misconduct. Even higher-ranking staff have engaged in similar behaviors and gone as far as to falsify reports in retaliation against inmates. There are also "blind spot" areas that are out of camera view where staff have taken inmates to be assaulted.

Without independent control and legislative mandates to properly implement the body camera pilot program and other video surveillance efforts, the mental health and rehabilitation of inmates and ultimately public safety will continue to be in grave jeopardy due to actions of staff throughout the department.

### Recommendation:

We recommend that an independent department be created to control and preserve all video cameras and footage throughout DOC and that a study of each facility be conducted to identify and secure any "blind spots" that may fall outside of video coverage. The department should be comprised of civilians, in offices located off-sight (regional cities). This new department would create jobs for the public and restore trust and accountability in the DOC. Likewise the policies and procedures for the Body Camera Program should be fashioned by legislators or another neutral body free from DOC influence.

## 7. Expand Education to Maximum Security Facilities

Programming and educational opportunities are extremely limited at SBCC. Education creates opportunity. Opportunity rehabilitates.

### Recommendation:

We recommend that opportunities for education be mandated for all inmates without regard to his/her security level through executive and/or legislative action.

## 8. Racial Sensitivity Training for all Correctional Staff

Considering the percentage of people of color who are confined within the Department of Correction and the percentage of non-persons of color working within the DOC, racial sensitivity training should be mandated. The lack of such training is indicative of

officials' attitudes (toward the prisoners) when it comes to race relations between the confined and the employed.

#### Recommendation:

We recommend that a Diversity, Equity and Inclusion Officer be hired by the Department to serve as an advocate for BIPOC prisoners and BIPOC DOC staff and that racial and cultural sensitivity trainings be required for all DOC staff.

### 9. Mandatory Spot Inspections

Whenever DOC facilities are scheduled for an audit, officials get advanced notification. Consequently, time and effort are poured into complying with the standards, however, after the audit is over the institution falls back into a state of non-compliance. In one audit DOC facilities had over 600 violations. Those violations were despite having advanced notice and preparations. Imagine the violations that could be found outside of audit times.

#### Recommendation:

We recommend that an independent body be authorized to perform randomized unscheduled facility inspections throughout DOC.

### 10. Establish Independent Grievance and Disciplinary Boards

Grievance coordinators and disciplinary hearing officers are all correctional employees. By default, their positions and relationship with involved officers present a conflict of interest which prevents them from being neutral arbitrators, particularly when allegations of staff misconduct is alleged.

#### Recommendation:

We recommend that an independent office or department be charged with resolving all inmate grievances and disciplinary hearings.

### 11. Require a Diverse DOC Workforce Reflective of the Respective Prison Population

Strong racial currents run through the DOC. Prisoners and officers of color both experience it. Having a more diversified work force, with people of color in positions of authority, would undercut the obvious racial animosity. In addition, it would help even the playing field when it comes to the unconscious bias of DOC staff who have the discretion to determine things like an inmates' job and/or classification etc.

### Recommendation:

Establish an independent DEI department that would be responsible for ensuring diversity in hiring throughout the ranks of the DOC.

### 12. Establish Objective Based Criteria for Hiring Inmates.

At present, officers hire based on their preference. This subjective criteria leads to discrimination. Most of the coveted jobs are held by white inmates and have been (with the exception of a sprinkling of color, non-black) for years. Establishing such a system is important because classification and parole often look to a person's employment history in making judgements and having a job gives the prisoner the opportunity to shorten his sentence by months every year.

### Recommendation:

Hiring decisions should be based on the seniority of inmates able to work in the position in question. To create racial balance whenever possible there should also be a racial quota for all jobs. e.g., if there are 3 property slots, one would be designated as Black, White, Spanish.

# **Appendix I: Lifer's Group Reports**

# PAROLE DECISIONS FOR LIFERS

## FOR THE YEAR 2021

Prepared For The

Lifer's Group Inc.  
MCI-Norfolk  
P.O. Box 43  
Norfolk, MA 02056

By

Gordon Haas  
Chairman

April 2022

## Parole Decisions For Lifers

2021

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The Lifer's Group Inc. welcomes all comments, criticisms, and suggestions regarding this report and any other Lifer's Group Inc. report, or the group in general. The Lifer's Group Inc. is responsible for the tables and analyses of the data and the recommendations contained in this report. All calculations were made by the author based on the data compiled from the 2021 Records of Decision posted online and provided to the Lifer's Group Inc. by the Parole Board pursuant to public records requests.

Information and copies of previous Lifer's Group Inc. reports can be found at: [www.realcostofprisons.org](http://www.realcostofprisons.org) or on Facebook @LifersGroupMCI Norfolk.

To comment on this report and any others, please write to:

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Assist / Advocate / Inform

## HIGHLIGHTS FOR PAROLES FOR LIFERS IN 2021

- 1) One hundred sixty-four Records of Decision are analyzed in this report Page 1
- 2) The overall Approval Rate was 56.1% Page 3
- 3) The Approval Rate for Initial Hearings was 20.0%. Page 3
- 4) The Approval Rate for all Review Hearings was 65.9%. Page 4
- 5) Active Program Participation was cited most often as an Approval Factor Page 7
- 6) Unaddressed Issues was cited most often as a Denial Factor. Page 8
- 7) 10% of denied lifers received five year Setbacks. Page 10
- 8) 17 approved lifers were released to home plans and 9 to Interstate Compacts Page 11
- 9) 67% of lifers assessed as Low Risk to reoffend were paroled. Page 12
- 10) 6 of 17 lifers serving life for crimes other than murder were paroled. Page 13
- 11) 215 days was the average time from Hearing Dates to Dates of Decision. Page 14
- 12) 6 of 7 juveniles who had been serving LWOP were paroled. Page 15
- 13) 14 of 18 juveniles serving second degree life sentences wee paroled. Page 15
- 14) The Approval Rate for lifers represented by counsel was 62%. Page 15
- 15) The Approval Rate for lifers not represented by counsel was 42%. Page 15
- 16) The Approval Rates for Cau. - 50%, Afr.Am. - 50%, Latino - 56%, Asian - 100% Page 18
- 17) One female lifer appeared before the Parole Board and was denied. Page 19
- 18) Recommendation #1 re: Abbreviated Decisions Page 20
- 19) Recommendation #2 re: Risk Assessment results Page 22
- 20) Recommendation #3 re: Providing specificity in Records of Decision Page 23
- 21) Recommendation #4 re: Assessing newly convicted lifers by the Parole Board Page 23



# PAROLE DECISIONS FOR LIFERS - 2021

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## Introduction

This is the Lifer's Group Inc.'s fifteenth report on parole decisions for lifers. The parole decisions included in this report are those for prisoners serving life sentences whose Records of Decision were provided by the Massachusetts Parole Board pursuant to public records requests after those decisions were posted online in 2021. The total number of the Records of Decisions analyzed in this report is 164.

Life sentences with parole reviews are predominantly for prisoners who had been convicted at trial or pled guilty to second degree murder which involved the actual taking of a life. Records of Decision are also included for juveniles who had previously been convicted of first degree murder, for which there was no parole, but had their sentences overturned by the Supreme Judicial Court under the *Diatchenko* decision. Lastly, also included in this report are for those serving second degree life sentences for crimes not including the taking of a life, e.g., rape or armed robbery.

Parole hearings are either an Initial Hearing - for those who appear before the Parole Board for the first time after having served the statutorily mandated fifteen years or a Review Hearing - for those who were denied a parole at a previous Initial or Review Hearing. Review Hearings are divided into two subsets - one for those who have never been approved for a parole, the other for lifers who had been approved previously for a parole and were released but were violated for any one or more of a variety of reasons, and subsequently, returned to prison.

In 2021, of the 164 Records of Decision, 126 or 77% of those decisions were unanimous, down from 82% in 2020. The remaining 38 decisions broke down as follows: eight 6-1 decisions, three 5-2 decisions, nine 5-1 decisions, five 4-3 decisions, six 4-2 decisions, one 4-1 decision, four 3-2 decisions, and one 3-1 decision.<sup>1</sup> Four Approvals at 4-2, one at 3-2, and one at 5-2 did not comply with the legislative mandate that a parole can be approved only with a minimum of a two-thirds majority. The Parole Board continues to adhere to the Supreme Judicial Court decision that the two-thirds mandate cannot be applied retroactively to lifers who had been sentenced prior to the legislative change from a simple majority.

In 2021, the Parole Board continued its practice of providing little or no specific guidance to denied lifers as to which program areas needed to be completed in order to address their needs before their next parole hearing. The Parole Board in 2021 continued its policy, instituted in 2020, of providing Abbreviated Records of Decision to reduce the time between Hearing Dates and Dates of Decision, ostensibly in response to the COVID-19 pandemic. In 2021, the Parole Board issued ninety-two Abbreviated Records of Decision of the 164 Records of Decision analyzed in this report. All were for Approvals. Each of the ninety-two

1. All calculations and tables presented in this report were calculated by the author based on the data extrapolated from the 164 Records of Decision published online by the Parole Board in 2021.

Abbreviated Records of Decision included: a Statement of the Case, Decision of the Board and any Special Conditions for those lifers who had been approved. The operative portion of the Decision of the Board concerning what the Board considered in approving a lifer for parole in each Abbreviated Record of Decision read precisely the same, thereby offering little or no useful information for analysis:

*After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude ... that the inmate is a suitable candidate for parole.*

Note that there is no indication that the Parole Board members considered the result of a Risk Assessment tool as is required by the Legislature. In addition, missing in all of the Abbreviated Records of Decision was a description of the actual parole hearing which contains a significant amount of the information useful for preparing this report, including: the history of parole hearings, the specific program history of the lifer, the disciplinary history of the lifer, the age of the lifer at the time of the hearing, the parole history of those previously paroled and the reason(s) for their being brought back to prison, any dialogue between members of the Parole Board and the lifer, whether there was any opposition via public or written testimony, and whether or not the respective Office of the District Attorney for the county in which the crime had occurred had opposed the lifer receiving a parole in written or oral testimony or both.

Massachusetts General Law, c. 127, §130, stipulates that no prisoner is to be paroled solely due to good conduct or program involvement while incarcerated. Rather, a parole is to be granted only when the Parole Board, by a two-thirds majority, is convinced that there is a reasonable probability that if paroled, the lifer would not violate the law and that the release would be compatible with the welfare of society. In addition to those standards, the Parole Board is to determine whether the four goals of sentencing have been met, namely punishment, public safety, deterrence, and rehabilitation in that order.

All Records of Decision are signed by the Parole Board's General Counsel. In fact, the Date of Decision noted on the first page of each Record of Decision is not, as one might suppose, the date the Parole Board members rendered the decision to approve or deny a parole. Rather, the Date of Decision is the date the Record of Decision was signed by the Parole Board's General Counsel.

We continue to be indebted to and thank Lois Ahrens, Founding Director of the Real Cost of Prisons Project in Northampton, for posting this report and many other Lifer's Group

Inc. reports on the Real Cost of Prisons website and then distributing the reports to a plethora of recipients including legislators and other interested parties involved with criminal justice reform. All of these reports can be accessed at: [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing).

## RESULTS

### 1) APPROVAL / DENIAL RATES

Of the 164 Records of Decision for 2021, 92 (56.1%) were approvals for parole; 72 (43.9%) were denials. Table 1 below presents the data for Approval / Denial rates from 2017 through 2021.

TABLE 1

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2021	164	92	56.1	72	43.9
2020	119	52	43.7	67	56.3
2019	113	44	38.9	69	61.1
2018	127	37	29.1	90	70.1
2017	<u>87</u>	<u>21</u>	24.1	<u>66</u>	75.9
Totals	610	246	40.3	364	59.7

Note that the approval percentage rate for 2021 continued the trend of increasing rates of Approvals. In fact, the Approval Rate for 2021 of 56.1% was the first time the Approval Rate exceeded 50% and the highest rate since 2003, the first year the Lifer's Group Inc. reported on Parole Decisions For Lifers.<sup>2</sup>

### 2) INITIAL HEARINGS

In 2021, thirty-five (35) lifers appeared before the Parole Board for the first time. Seven were approved for paroles. While the Approval Rate of 20.0% for Initial Hearings in 2021 was well below the overall Approval Rate indicated in Table 1 above, it was 36% higher than that for Initial Hearings for 2020.

<sup>2</sup> The Approval Rates for the years 2003 through 2021 as reported by the Lifer's Group Inc. were: 2021 - 56.1%, 2020 - 43.7%, 2019 - 38.9%, 2018 - 29.1%, 2017 - 24.1%, 2016 - 18.0%, 2015 - 29.1%, 2014 - 26.0%, 2013 - 15.3%, 2012/2011 - 18.4%, 2010 - 34.1%, 2009 - 38.9%, 2008 - 31.3%, 2007 - 28.5%, 2006 - 29.6%, 2005 - 33.3%, 2004 - 46.6%, and 2003 - 37.8%.

Table 2 below presents the data for Initial Hearings from 2017 through 2021.

TABLE 2

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2021	35	7	20.0	28	80.0
2020	34	5	14.7	29	85.3
2019	11	0	0.0	11	100.0
2018	27	2	7.4	25	92.6
2017	<u>9</u>	<u>0</u>	0.0	<u>9</u>	100.0
Totals	116	14	12.1	102	87.9

From 2017 through 2021, only 14 lifers out of 116 were approved for paroles after an Initial Hearing - a combined Approval Rate of 12.1% for the five year span. Indeed, one-half of those approvals came in 2021 alone. In comparison, for 2014 and 2015, seventy-two lifers had Initial Hearings with an Approval Rate of 31% (22 of 72).<sup>3</sup> It continues to be difficult to comprehend why from 2017 through 2021, only 12.1% of lifers who had Initial Hearings were approved for paroles. The Legislature set a standard of fifteen years to be served prior to an Initial Hearing. But, the Parole Board, despite legislative mandated Risk Assessment results, appears to be requiring on average a higher number of years being served before members will give serious consideration to paroling lifers after Initial Hearings. If the Legislature had set a higher minimum length of imprisonment before meaningful consideration was to be given for granting a parole at an Initial Hearing, then the law would reflect that. It does not. The Parole Board, therefore, needs to justify the continued paucity of approvals after Initial Hearings, particularly for those lifers who are rated as Low Risks to reoffend on the Risk Assessment tool mandated by the Legislature for use by the Parole Board. Lifers who are rated as Low Risks to reoffend should be presumptively approved for paroles unless the Parole Board can specify detailed factors which would justify a denial of parole.

### 3. REVIEW HEARINGS

The Approval Rate for all Review Hearings held in 2021 was 65.9% (85 of 129), an increase from 55.3% in 2020 and 43.1% in 2019. Of the 129 Review Hearings, 107 were for lifers

<sup>3</sup> See Parole Report For Lifers - 2019 published by the Lifer's Group Inc. in September 2020

who had never been previously paroled. The Approval Rate for this subset was 67.% (65 of 107), an increase from 52.9% in 2020 and 36.5% in 2019. The remaining twenty-two lifers had Review Hearings after having had a previous parole revoked. Of that subset, twenty were approved, an Approval Rate of 90.9%, an increase from 64.7% in 2020 and 60.7% in 2019. Table 3 below presents the Approval and Denial Rates for all Review Hearings for 2017 through 2021. In addition, Table 4 below presents the Approval Rate data for both subsets of Review Hearings for 2017 through 2021.

TABLE 3

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2021	129	85	65.9	44	34.1
2020	85	47	55.3	38	44.7
2019	102	44	43.1	58	56.9
2018	100	35	35.0	65	65.0
2017	<u>78</u>	<u>21</u>	26.9	<u>57</u>	73.1
Totals	494	232	47.0	262	53.0

TABLE 4

Year	Non-Revoked			Revoked		
	# of Hearings	# of Approvals	%	# of Hearings	# of Approvals	%
2021	107	65	60.7	22	20	90.9
2020	68	36	52.9	17	11	64.7
2019	74	27	36.5	28	17	60.7
2018	76	24	31.6	24	11	45.8
2017	<u>46</u>	<u>7</u>	15.2	<u>32</u>	<u>14</u>	43.8
Totals	371	159	42.9	123	73	59.3

#### 4) APPROVAL RATES FOR THE THREE TYPES OF HEARINGS

Table 5 on page 6 presents the comparative Approval Rates for each type of hearing from 2017 through 2021.

TABLE 5

Year	Initial	Review - No Revocation	Review After A Revocation
2021	20.0%	60.7%	90.9%
2020	14.7%	52.9%	64.7%
2019	0.0%	36.5%	60.7%
2018	7.4%	31.6%	45.8%
2017	0.0%	15.2%	43.8%

## 5. REASONS FOR RETURNS FROM PRIOR LIFE PAROLES

As noted earlier, the reasons for lifers being returned from prior paroles were notably absent in the Abbreviated Records of Decision for the twenty of twenty-two lifers who had a Review Hearing after having been returned from a prior life parole for violating one or more conditions of parole, save for one approved lifer who was returned because the condition of his medical parole no longer applied. Of the two who were not approved, one was returned for a DUI arrest and the other for associating with known criminals. As a result, there are no data to be reported for this section.

## 6. APPROVAL FACTORS

The Approval Factors listed in Table 6 on page 7 have been utilized for all of the Lifer's Group Inc. Parole Reports. Given that the Records of Decision, particularly for Approvals, lack specificity, the number of factors are fewer in 2021 and concentrated for only five of the usual thirteen Approval Factors used in past reports. Table 6 lists those five factors and the frequency percentage for each factor for 2017 through 2021. The fact that the first and second factors appear in 95.7% and 76.1% of the ninety-two Approved decisions respectively renders those factors relatively meaningless in trying to determine what the Parole Board members use to decide to approve a lifer for a parole. This is particularly true for Active Program Participation. Without specifying which programs the Parole Board members found to provide the necessary skills training to merit a parole, simply stating that the lifer was an active participant in programs is unhelpful. In the same vein, noting in 76.1% of Approvals that a lifer had addressed his/her areas of need provides no insight without the Parole Board indicating which needs were addressed and by which programs.

The number in parentheses under the year is the number of approved lifers for that year.

TABLE 6

Factor	2021 (92)	2020 (52)	2019 (44)	2018 (37)	2017 (21)
Active Prog. Part.	95.7	94.0	79.5	91.9	90.5
Addressed Need Areas	76.1	90.0	84.1	89.2	90.5
Strong Community Support	31.5	25.0	38.6	37.8	61.9
Steady Employment	21.7	2.0	9.1	16.2	14.3
Minimal Disciplinary History	16.3	12.0	27.3	40.7	13.6

The Parole Board continued in 2021 the trend that began in 2016 of placing strong emphasis on program participation, while rarely naming any specific programs which Parole Board members encouraged lifers to complete successfully. What is clear, however, is that the actual number of certificates or other documentation attesting to the completion of a large number of programs does not impress Parole Board members as much as whether or not a lifer had engaged in programs which, in the Parole Board members' eyes at least, were designed to address whatever his/her areas of need were. Determining what those areas are or were appears to be up to each lifer to decide as the Parole Board consistently refuses, as the Lifer's Group Inc. has pointed out for several consecutive years, to identify specific areas of need or programs which would address said areas. Still, it is also clear that mere attendance in programs is considerably less important than what a lifer can communicate to Parole Board members what he/she learned and how that knowledge would be utilized if the lifer were to be paroled. Lifers who profess to engage in personal self-improvement plans or religious conversions, no matter how sincere, generally will not be paroled. Parole Board members, while not discounting such work, do not view those as adequate substitutes for meaningful participation in programs provided by the DOC, whether a lifer feels he/she needs the programs or not.

Accepting responsibility, expressing remorse, having a solid parole plan are minimum thresholds a lifer needs to pass over before the Parole Board members would seriously consider whether or not a parole was appropriate. The absence of one or more of those factors, however, is enough to cause the Parole Board members to deny a lifer a parole.



## 7) DENIAL FACTORS

In 2021, sixteen separate factors were cited for denying paroles. Most Records of Decision in which a lifer was denied a parole cited multiple factors. As with the Approval Factors, each Denial Factor was developed by the Lifer's Group Inc. and reflects the actual language contained in individual Records of Decision. The Denial Factors have been used consistently for reports on parole decisions for lifers.

Table 7 below presents the comparative percentage data for the frequencies of the 2021 Denial Factors from 2017 through 2021. The total number of denials for each year is noted in parentheses below the year.

TABLE 7

Factor	2021 (72)	2020 (67)	2019 (69)	2018 (90)	2017 (66)
Unaddressed Issues	56.9	69.0	29.0	55.6	40.9
Lack of Insight	50.0	34.0	27.5	47.8	24.2
Needs Longer Adj. Period	43.1	58.0	40.6	45.6	66.7
Serious Disc. History	31.9	28.0	14.5	13.3	15.2
Unresolved Sex Issues	26.4	18.0	13.0	8.9	27.3
Diminishes Responsibility	22.2	4.0	14.5	27.8	16.7
Mental Health Issues	19.4	10.0	15.9	7.8	6.1
Lack of Compassion	15.3	5.0	2.9	10.0	7.6
Limited Program Part.	12.5	25.0	0.0	23.3	7.6
Violent History in Prison	11.1	6.0	4.3	7.8	6.1
Factual Inconsistencies	9.7	3.0	2.9	3.3	12.1
Cont. Drug Addic. in Prison	9.7	4.0	2.9	2.2	3.0
Lying at the Hearing	8.3	10.0	17.4	13.3	15.2
Poor Parole Performance	2.8	3.0	1.5	8.9	18.2
Lack of a Parole Plan	1.4	1.0	2.9	0.0	12.1
Address Areas of Deceit	1.4	3.0	0.0	6.6	0.0

The Lifer's Group Inc. continues to emphasize that at parole hearings, lifers need to maintain control of their emotions, particularly when sensitive questions are raised by Parole Board members or if a Parole Board member challenges a lifer's truthfulness. Often such questions are posed precisely to gauge what, if any, negative reaction they may elicit. For instance, if a lifer states that he/she has learned various coping skills from programs such as

Alternatives to Violence or Anger Management, including what his or her individual triggers are, and then reacts with hostility, the result will be a denial as the lifer has simply demonstrated that he/she has not learned the lessons well enough. The lifer will be denied and it will be indicated in the Récord of Decision that he/she needs further time in prison to address the area(s) of concern.

Lifers need also remember that questions asked by Parole Board members are not to be taken personally, especially when such questions are designed to test whether a lifer is able to return to society with the necessary skills to live a productive and crime-free life. It is the welfare of society which the Parole Board is more concerned with, then simply handing out second chances.

Lastly, lifers need to be honest about their program participation. Lying about programs one has allegedly completed or even just participated in is a prescription for disaster. Parole Board members have a lifer's full history before them, including institutional programs and whether or not a lifer had served in the armed forces or graduated from a particular college. So, claiming to have attended programs like 12-Steps invites the question: Which step is your favorite? Being unable to name a favorite step or any step for that matter and why it is his/her favorite step to the satisfaction of the Parole Board members, only casts doubt on the lifer's truthfulness. Similarly, a lifer should never claim to be a veteran of the armed forces and have served honorably, particularly in an armed conflict, if none of that is true. Both scenarios - the 12-Step Program participation claim and that of service in the armed forces are not hypothetical. Both actually occurred and resulted in denials of parole. Parole Board members judge a lifer's program participation not just by the number of certificates a lifer can produce, but what the lifer has learned in those programs which addressed his/her needs and, more importantly, how the lifer will use that knowledge to be a productive citizen back in society should the Parole Board grant him/her a parole.

## 8. SETBACKS

In 2021, the Parole Board continued to assess Setbacks which are the number of years a denied lifer would have to serve before his/her next parole hearing. The Parole Board continued its policy of not offering any rationale for the length of any Setback, except for One Year Setbacks which are mandated if the vote of the Parole Board is tied. When there was disagreement among Parole Board members in the length of the Setback to be served, a footnote cited the lack of unanimity, giving the number of Parole Board members who had voted for each length, but no reasons were included to account for the differences.

Nor has the Parole Board ever issued any explanation as to what standards, if any,

exist for determining lengths of Setbacks or what Parole Board members may employ in making those decisions. This is particularly troubling when the Parole Board increases the length of a Setback from one denial to the next without any explanation as to why. The Parole Board needs to publish whatever standards or guidelines are utilized in determining the lengths of Setbacks given to lifers who have been denied paroles.

Table 8 below presents the comparative data for the numbers and percentages of the various lengths of Setbacks given by the Parole Board from 2017 through 2021. The numbers in parentheses denote the total number of denials for each year.

TABLE 8

Year	1 Year		2 Years		3 Years		4 Years		5 Years	
2021 (72)	2	2%	22	31%	22	31%	19	26%	7	10%
2020 (67)	1	1%	11	16%	20	30%	19	29%	16	24%
2019 (69)	0	0%	8	11%	24	35%	18	26%	19	28%
2018 (90)	4	4%	9	10%	24	27%	15	17%	38	42%
2017 (66)	4	6%	10	15%	16	24%	14	21%	22	33%
Totals (364)	11	3%	60	17%	106	29%	85	23%	102	28%

In 2021, the Parole Board continued, without explanations, the trend begun in 2019 of decreasing the number of five-year Setbacks and increasing the number of two-year Setbacks. Three and four-year Setbacks have remained relatively constant during the last three years.

In Table 9 below, the Setback numbers and percentages for the seventy-two denials in 2021 are broken down by type of hearing: Initial, Review (\*) with no prior parole, and Review (\*\*) after a revoked parole.

TABLE 9

Year	1 Year		2 Years		3 Years		4 Years		5 Years	
Initial (28)	2	7%	4	14%	8	29%	10	36%	4	14%
Review* (42)	0	0%	16	38%	14	33%	9	22%	3	7%
Review** (2)	0	0%	2	100%	0	0%	0	0%	0	0%

In 2021, lifers who had Review Hearings without a prior parole having been revoked received significantly more two-year (16 vs 5) and three-year (14 vs 9) Setbacks than in 2020, while receiving a 70% decrease in the number of five-year Setbacks (3 vs 10). In 2021, lifers who had Review Hearings without a prior parole having been revoked received approximately the same number of four-year Setbacks (9 vs 8) than in 2020. For the first year that the Lifer's Group Inc. has been reporting data on Setbacks, the number of lifers receiving five-year

Setbacks after an Initial Hearing (4) exceeded the number receiving a five-year Setback after a Review Hearing (3). Table 10 below gives the combined data for 2019 through 2021.

TABLE 10

Year	1 Year		2 Years		3 Years		4 Years		5 Years	
Initial (69)	3	4%	8	12%	20	29%	24	35%	14	20%
Review* (121)	0	0%	28	23%	38	31%	31	26%	24	20%
Review** (18)	0	0%	5	28%	8	44%	1	6%	4	22%

## 9) APPROVED LIFER DESTINATIONS

Of the ninety-two lifers approved for paroles in 2021, seventeen were released to approved home plans, and nine to interstate transfers. Thirty-six were approved to go to a Long Term Residential Program (LTRP), twenty-six of which were required to serve six to twenty-four months in lower security. Twelve lifers were paroled to I.C.E. Fifteen lifers' destinations were Residential Care Facilities and two were paroled to federal detainees.

Table 11 below presents the data for the destinations of approved lifers from 2017 through 2020. Those destination entries with Mos. indicate how many months the lifer was to spend in lower security before transferring to a Long Term Residential Program.

TABLE 11

Destination	2021		2020		2019		2018		2017	
Home Plans	17	18%	8	16%	8	22%	7	21%	8	38%
LTRP - Direct	10	11%	5	10%	4	11%	4	13%	2	10%
LTRP - 6 Mo.	7	8%	5	10%	3	8%	5	15%	1	5%
LTRP - 9 Mo.	4	4%	0	0%	1	3%	0	0%	3	14%
LTRP - 12 Mo.	13	15%	6	12%	5	14%	7	21%	3	14%
LTRP - 18 Mo.	1	1%	4	8%	3	8%	1	3%	3	14%
LTRP - 24 Mo.	1	1%	0	0%	1	3%	0	0%	0	0%
Interstate	9	10%	9	18%	8	22%	3	9%	0	0%
I.C.E.	12	13%	3	6%	2	6%	6	18%	1	5%
Sober House	1	1%	2	4%	1	3%	0	0%	0	0%
Residential Care Fac.	15	16%	8	16%	0	0%	0	0%	0	0%
Federal Detainers	2	2%	0	0%	0	0%	0	0%	0	0%

The fifteen lifers paroled to Residential Care Facilities went to: Community Resources For Justice (8), Brooke House (4), Gavin House (2), and Mental Health Treatment Center (1).

## 10. RISK ASSESSMENTS

For each of the past five years, the Lifer's Group Inc. has sought via public records requests a breakdown of the risk assessments for lifers who had parole hearings. The Parole Board is required to administer a Risk Assessment Tool for every lifer who has a parole hearing. The Parole Board, however, does not note on Records of Decision what an individual lifer's risk assessment result is, i.e., Low<sup>4</sup>, Medium, High, Very High. Consequently, the Parole Board can avoid justifying why any specific lifer who scored as a Low Risk on the Risk Assessment Tool was not approved for a parole. Table 12 below contains the risk assessment data reported to the Lifer's Group Inc. by the Parole Board for 2021.<sup>5</sup>

TABLE 12

Risk Level	# Approved	# Denied	Total	% Approved
Low	18	9	27	67
Medium	65	39	104	62
High	14	20	34	41
Very High	0	4	4	0

The gap of only five percentage points in Table 12 above between the Approval Rates for Low Risk (67%) and Medium Risk (62%) lifers seems surprisingly small. Additionally, that one-third of Low Risk lifers were denied paroles is troubling. While an Approval Rate of 62% for Medium Risk lifers in 2021 seems reasonable, a corresponding Approval Rate of only 67% for Low Risk lifers begs for an explanation from the Parole Board. It seems clear that the Parole Board is not utilizing the Risk Assessment data as it was intended, at least for Low Risk lifers who, based on their Low Risk to reoffend should be considered to be presumptively paroled unless the Parole Board members can point to specific reasons why a parole should not be granted. The use of a Risk Assessment tool was intended to introduce a data based factor into the decision making process and, thus, less reliance on unexplained discretionary factors. Unfortunately, the Records of Decision do not explain with any specificity why a lifer was denied a parole or what steps he or she should take in order to be considered suitable for a parole at his or her next parole hearing. While all denied lifers deserve more detailed explanations as to why they were denied paroles, this applies especially to Low Risk lifers.

<sup>4</sup> There is also a Very Low Risk level, but it is rarely found by the Risk Assessment tool, Very Low assessments have been, therefore, combined with Low Risk Assessments for these reports. For instance, in 2021, there was only lifer assessed as a Very Low Risk to reoffend.

<sup>5</sup> The total number of decisions for the Risk Assessment data provided by the Parole Board for 2021 was 169, five more than the total number of Records of Decision analyzed in this report. It appears that there were five Records of Decision for lifers in 2021 which the Parole Board did not include in those sent to the Lifer's Group Inc.

Table 13 below presents the Risk Assessment data provided by the Parole Board for 2017 through 2021.

TABLE 13

Risk Level	# Approved	# Denied	Total	% Approved
Low	38	34	72	53
Medium	157	185	342	46
High	31	114	145	20
Very High	1	17	18	6

### 11) LIFERS SERVING LIFE FOR NON-HOMICIDES

Of the 164 Records of Decision for 2021, seventeen or 10% were for lifers who were serving life for crimes which did not include a loss of life, such as armed robbery or rape - an increase of 42% from 2020. Table 14 below presents the number for each category of crime and the number approved for a parole for the years 2017 through 2021.

TABLE 14

Crime	2021		2020		2019		2018		2017	
	#	App.	#	App.	#	App.	#	App.	#	App.
Rape	10	3	8	0	9	1	4	0	5	1
Armed Rob./ Assaults	4	1	3	2	3	1	1	0	0	0
Unarm. Rob.	2	2	1	1	2	1	0	0	0	0
Burglary	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	17	6	12	3	14	3	5	0	5	1
% App.	35		25		21		0		20	

### 12) TIME BETWEEN HEARING DATES AND DATES OF DECISION

Each Record of Decision notes both the date the public hearing was held and a date of decision. The Date of Decision is not, however, as one might expect, the date the Parole Board members rendered its decision. Rather, the Date of Decision is the date the General Counsel of the Parole Board signed the Record of Decision. The Parole Board's regulations require the members to meet in a regularly scheduled executive session after the public hearing had been held - 120 CMR 301.06(6). In addition, lifers who have been denied are to be so notified, again

per the Parole Board's regulations, of that denial "within 21 calendar days after the decision has been rendered." (120 CMR 301.08) For lifers who were denied paroles in 2021, the average length of time from the hearing date to the date of decision was 290 days, 50 days longer than in 2020. Two hundred and ninety days surely violates the Parole Board's own regulations. Clearly, it should not take nearly ten months for the members to meet in executive session, in these cases denials, and the Record of Decision written and communicated to the lifer. The Lifer's Group Inc. requested via the public records statutes and regulations for a schedule of when the Parole Board conducted executive sessions. That request was denied on the grounds that the dates of executive sessions were not subject to the public records statutes or regulations. The average time between Hearing Dates and Dates of Decision in 2021 was 215 days, which was 10 fewer days than the average for 2020. In 2021, the shortest length of time between the two dates was 77 days; the longest was 478 days.

As has been noted earlier in this report, the Parole Board continued in 2021 to publish Abbreviated Records of Decision as a response to the COVID-19 pandemic, i.e., as an effort to reduce the time some lifers had to wait to receive their Records of Decision. In 2021, Abbreviated Records of Decision were used only for those who were approved for paroles. Lifers who were denied did not receive an Abbreviated Record of Decision. Thus, in 2021, there were ninety-two Abbreviated Records of Decision and the average length of time between Hearing Dates and Dates of Decision for those ninety-two Abbreviated Records of Decision was 156 days, down from 180 days in 2020. As noted above, the average length of time between Hearing Dates and Dates of Decision for denials, i.e., non-Abbreviated Records of Decision in 2021, was 290, an increase of 50 days from 2020.

Table 15 below presents the data for the average lengths of delay between Hearing Dates and Dates of Decision for the 164 Records of Decision analyzed in this report.

TABLE 15

Lengths in Days	2021		2020		2019		2018		2017	
1 - 100	10	6%	7	6%	0	0%	4	3%	2	2%
101 - 200	79	48%	39	33%	1	1%	2	2%	63	72%
201 - 300	42	26%	47	39%	73	65%	31	24%	21	24%
300 +	<u>33</u>	20%	<u>26</u>	22%	<u>39</u>	34%	<u>90</u>	71%	<u>1</u>	1%
Total # of Decisions	164		119		113		127		87	
Ave. Lengths of Delay	215		225		290		310		182	

While the average time interval between Hearing Dates and Dates of Decision for Approvals, i.e., Abbreviated Records of Decision, decreased by 13% (twenty-four days), the length of time for those who were denied increased 21% (from 240 days to 290 days). For five lifers, the wait for their denials was in excess of 400 days (413, 418, 427, 443, and 478 days respectively). In addition, six other denied lifers waited over one year for their decisions. The Parole Board needs to either explain these long delays or change whatever procedure they now are employing for processing all Records of Decision. Waiting over one year for a decision is simply unacceptable.

### 13) JUVENILES AT TIME OF THE CRIME

Those under the age of 18 at the time of the commission of their crimes and were serving life-without-parole (LWOP) sentences became eligible for parole hearings after the *Diatchenko* decision by the Supreme Judicial Court (SJC) in 2014.

In 2021, seven juveniles formerly serving LWOP and who had completed at least fifteen years of incarceration appeared before the Parole Board. Six were approved for paroles - a parole rate of 80%. Since 2014, sixty-six parole hearings have been held for juveniles formerly serving LWOP sentences and for which the Lifer's Group Inc. has reviewed their respective Records of Decision. Of those sixty-six hearings, twenty-eight juveniles at the time of their crime(s) and serving LWOP were paroled, a parole rate of 42%.

In 2021, eighteen juveniles who were serving second degree life sentences, i.e., with the possibility of parole, appeared before the Parole Board after having served at least the requisite fifteen years of incarceration. Fourteen or 78% were approved for a parole.

In 2021, a total of twenty-five lifers who had committed their crimes before the age of 18 had parole hearings. Five had Initial Hearings - two were approved, one originally having served LWOP and the other a second degree life sentence. Twenty had Review Hearings, eighteen or 90% were approved - four of those eighteen juveniles had formerly been serving LWOP.

### 14) ATTORNEY REPRESENTATION

Of the 164 Records of Decision analyzed by the Lifer's Group Inc. for 2021, it was noted that the lifer had been represented by counsel in 114 or 70% and said counsel was named. Seventy-one lifers represented by counsel were approved for parole - an Approval Rate of 62%, an increase from 57% in 2020. Of the fifty lifers who were not represented by counsel, twenty-one or 42% were approved for paroles, an increase from 24% in 2020.



Student attorneys from Harvard (PLAP), Northeastern, and Boston College represented lifers at forty-five hearings in 2021 - ten, nineteen, and sixteen respectively. Of those forty-five lifers represented by student attorneys in 2021, 30 or 67% were approved for paroles - 5 of 10 for Harvard, 15 of 19 for Northeastern, and 10 of 16 for Boston College. In contrast, the overall Approval Rate for lifers represented at hearings by practicing attorneys was 62%.

Twenty-two separate practicing attorneys represented lifers at the parole hearings analyzed in this report. Eleven represented one lifer each. The remaining eleven represented multiple lifers. The number each represented and the number of approvals were as follows:

Attorney	# Represented	# of Approvals
John Rull	11	4
Jason Benzaken	4	2
Michael Bourham	3	3
Merritt Schnipper	3	3
Richard Goldman	2	2
Lisa Newman-Polk	2	1
Melissa Celli	2	1
Michael Nom-Kane	2	1
Russell Sobelman	2	1
Stephen Weymouth	2	1
Justin Brescheler	2	0

Table 16 below contains the data for approvals and denials for the 164 Records of Decision analyzed in this report broken down by whether an attorney represented a lifer or no attorney was present at the hearing and the combined data for 2015 through 2021.

TABLE 16

	# 2021 App.	# 2021 Den.	# 2015 - 2021 - App..	# 2015 - 2021 - Den.	Overall App. %
Attorney	71	43	196	272	42
No Attorney	<u>21</u>	<u>29</u>	<u>102</u>	<u>257</u>	26
Totals	92	72	298	529	36

The total number of Records of Decision for 2021 was 164. The total number of Records of Decision for 2015 through 2021 was 827.

Whether or not to engage representation at a parole hearing is a difficult and personal

decision. Certainly for those who are preparing for an Initial Hearing, particularly those with no one to assist them, careful consideration needs to be given to obtaining representation. What a lifer presents in his/her parole package and how a lifer conducts him or herself at the hearing will set a foundation for future Review hearings if a lifer is denied at an Initial hearing. It is also important to note that in 2021, student attorneys from Harvard, Northeastern, and Boston College provided excellent assistance to lifers.

## 15) Analysis Of Parole Decisions By Race

Since 2013, reports of the parole decisions for lifers have contained a racial breakdown of the Records of Decision for each year and the totals. Each lifer's racial designation, however, had been determined by the personal knowledge of members of the Lifer's Group Inc. Board of Directors. Over the years, this method of designation has been questioned as to its continued reliability as many new lifers have entered the prison system who may not have been known to members of the Board of Directors.

One page in the 2020 Annual Report published by the Parole Board was dedicated to lifers and included a racial breakdown for lifer decisions in 2020. The Lifer's Group Inc., therefore, submitted a public records request for a racial breakdown for lifer decisions in 2021. The Parole Board responded with the relevant data. Thus, for this report on parole decisions for lifers and subsequent reports, we will present the racial breakdown data as provided by the Parole Board, which we consider to be more reliable than the procedure we had utilized in the past. Table 17 below presents the racial breakdown data for 2020;

TABLE 17

	Approvals	Denials	Total	% App.	% Den.
Caucasian	22	26	48	46	54
African/Amer.	22	26	48	46	54
Latino	15	12	27	56	44
Asian	2	0	2	100	0
Nat. Amer.	1	0	1	100	0
Not Reported	<u>0</u>	<u>1</u>	<u>1</u>	0	100
Totals	62	65	127*	49	51

\* Note: the total of 127 exceeds the total analyzed in the Lifer's Group Inc. report on parole decisions for lifers in 2020 (119). Thus, eight Records of Decision for 2020 were not provided to the Lifer's Group Inc. by the Parole Board.

Table 18 below presents the racial breakdown data for lifer parole decisions in 2021.

TABLE 18

	Approvals	Denials	Total	% App.	% Den.
Caucasian	30	30	60	50	50
African/Amer.	36	24	60	60	40
Latino	22	17	39	56	44
Asian	7	0	7	100	0
Nat. Amer.	2	0	2	100	0
Not Reported	<u>0</u>	<u>2</u>	<u>2</u>	0	100
Totals	97	73	170**	57	43

\*\* Note: the total of 170 exceeds the total analyzed in the Lifer's Group Inc. report on parole decisions for lifers in 2021 (164). Thus, six Records of Decision for 2021 were not provided to the Lifer's Group Inc. by the Parole Board.

Table 19 below presents the combined data for the racial breakdown of decisions for lifers in 2020 and 2021.

TABLE 19

	Approvals	Denials	Total	% App.	% Den.
Caucasian	52	56	108	48	52
African/Amer.	58	50	108	54	46
Latino	37	29	66	56	44
Asian	9	0	9	100	0
Nat. Amer.	3	0	3	100	0
Not Reported	<u>0</u>	<u>3</u>	<u>3</u>	0	100
Totals	159	138	297**	54	46

## 16) Ages At The Time Of The Parole Hearing

As previously noted, ninety-two of the 164 Records of Decision for 2021, i.e., 56%, were Abbreviated Decisions. Unfortunately, Abbreviated Decisions did not include the ages of the lifers at the time of the public hearing. As a consequence of the Parole Board's not reporting the necessary data on a majority of the Records of Decision, we are unable to continue presenting data for this section.

## 17) Opposition Or Support By District Attorney Offices

As with the data on ages at the time of the public hearings, the ninety-two Abbreviated Decisions, while noting that the Parole Board members had considered responses from the public and district attorney offices, no specifics were given as to whether a particular district attorney office had opposed by oral testimony and/or a written response or supported the lifer for a parole. Thus, we do not have sufficient data to complete this section.

Opposition from district attorney offices was noted in fifty-six denials, however. In sixteen of those denials, no response was noted from a District Attorney's office - all sixteen from Suffolk County.

## 18) Female Lifers

A question was raised after the publication of our 2020 report on parole decisions for lifers as to why a section was not included for female lifers. We appreciate that this question was raised and we regret our oversight in past reports. We will begin including a section on female lifers with this report for 2021.

The number of females serving a life sentence and eligible for parole as of July 2021 was twenty-three. We have reviewed our worksheets for 2018 through 2021. The results are as follows.

In 2021, of the 164 Records of Decision analyzed for this report, only one female lifer went before the Parole Board for a Review Hearing and she was Denied. It was her fourth hearing and she was given a three year Setback.

In 2020, three female lifers went before the Parole Board, two for Initial Hearings and one for a Review Hearing. All three were Denied and given four year Setbacks.

In 2019, one female lifer went before the Parole Board for a Review Hearing, her third hearing and she was Approved for a parole.

In 2018, four female lifers went before the Parole Board, one for an Initial Hearing and three for Review Hearings. All four were Denied. The female lifer who had the Initial Hearing and one who had a Review Hearing were given five year Setbacks. One female lifer who had a Review Hearing received a four year Setback and the other a three year Setback.

In total for the four years, nine female lifers went before the Parole Board - three for Initial Hearings and six for Review Hearings. Only one female lifer was granted a parole - an Approval Rate of 11%. For the eight who were denied: two received three year Setbacks, four received four year Setbacks, and two received five year Setbacks,

Although the data is scant, an 11% Approval Rate over four years is clearly low, as

compared to the overall Approval Rate of 43% for 2018 through 2021. And, six of eight female lifers who had been denied received a four or five year Setback - 75%. This is a higher percentage than for males who received four or five year Setbacks - 50%. The Lifer's Group Inc. will continue to track and to report on parole decisions for female lifers.

## DISCUSSION AND RECOMMENDATIONS

### A. Abbreviated Decisions

In 2021, the Parole Board continued its use of Abbreviated Decisions for all ninety-two Approvals. Unfortunately, the Abbreviated Decisions eliminated significant data which described the actual hearing and gave age, reason why a paroled lifer had been returned to prison, reasons why a lifer was approved, and any opposition or support from district attorney offices. These omissions eliminated vital information relied upon the Lifer's Group Inc. for analyzing parole decisions.

**Recommendation #1** - While the reduction of 134 days between Hearing Dates and Dates of Decision for Abbreviated Decision as compared to non-Abbreviated Decisions was welcome, in the interests of transparency, the Parole Board needs resume including in Abbreviated Decisions the data which have been eliminated as indicated above.

### B. Risk Assessments

The Parole Board continues to discount Risk Assessment ratings of Low Risk lifers. In 2021, one-third of Low Risk lifers were denied paroles. From 2017 through 2021, the Approval Rate for Low Risk lifers was only 53%, a mere seven percentage points higher than for Medium Risk lifers.

**Recommendation #2** - Those assessed as Low Risks to offend should be presumed to be paroled unless the Parole Board can provide specific reasons why the parole is to be denied and specifically what the lifer needs to address before the next parole hearing.

### C. More Specificity In Records Of Decision

The Parole Board continues to eschew giving specific reasons for approving or denying paroles as well as indicating any deficient areas a lifer needs to address and relevant programs. In addition, the Parole Board does not provide reasons or any standards for

assigning any length of Setbacks. The General Counsel of the Parole Board who signs off on each Record of Decision may be trying to shield the Parole Board from law suits by using general language. But, by doing so only provides a disservice to lifers trying to rehabilitate themselves and seeking guidance on what areas they may need to address.

In a Suffolk Superior Court Decision (*Rolando Jimenez v. Massachusetts Parole Board*, Civil No. 20-1946-H, December 23, 2021) Justice Peter B. Krupp found that the Parole Board provided "only one non-boilerplate reason for denying parole." That reason was "lacks candor as it relates to the offense" and the Parole Board was "concerned as to the varying versions that have been presented at prior hearings." Justice Krupp found that "reason is confusing, applies the wrong legal standard, and does not appear to be supported by the evidence. It is also a troubling justification which would equally support never granting parole." (p. 3)

Justice Krupp continued with: "If the fact that a prisoner gave 'varying reasons .. at prior hearings' was a sufficient reason to deny a prisoner parole, then anyone who protested his innocence, or gave a different version of events at an earlier time (however long ago), would be ineligible for parole. This cannot be the law ... People change. The question before the Parole Board is not whether a prisoner has given other versions of events at an earlier time, but whether in the present, given all the relevant factors including the prisoner's 'acknowledgment of guilt' ... 'there is a reasonable probability that ... the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society.'"

Justice Krupp concluded that: "because there is no valid explanation of the Parole Board's rationale or factual basis for its decision, there is nothing that allows plaintiff to know or for the court reasonably to evaluate, whether the Parole Board abused its discretion. Due process requires a more complete explanation of the Parole Board's decision." (p. 7)

It is interesting also that the Parole Board noted opposition from various parties including law enforcement sources. To that Judge Krupp opined that: "their desire to see a prisoner remain in custody does not change the standard the Parole Board must apply in deciding whether to grant parole, nor may the Parole Board defer to widespread opposition to a prisoner's release. (p. 7, n. 6)

Justice Krupp reversed the decision to deny the parole and remanded the case back to the Parole Board "for a further hearing..." (p. 8)

**Recommendation #3** - The Parole Board should follow Justice Peter Krupp's admonition to provide less boilerplate language and more specificity in its Records of Decision.

**Recommendation #4** - As directed by the 2018 Criminal Justice Reinvestment Act, the Parole Board should assess a lifer immediately following his/her conviction to outline specific

programs he/she should complete during incarceration. The Parole Board should also indicate what standards, if any, members use to determine lengths of Setbacks.

## EXCERPTS FROM 2021 RECORDS OF DECISION

The following five excerpts from the 2021 Records of Decision are quoted directly from those Records of Decision. The names of the lifers and the victims have been deleted. The Lifer's Group Inc. has no intent to embarrass nor to ridicule any lifer, hence the deletion of identifying names. Rather, the intent is to offer insight into the decision making parameters employed by Parole Board members in order to assist lifers in preparing for parole hearings. Unfortunately, there are far fewer excerpts in 2021 than had been presented in past reports. All of the 2021 excerpts are from Denials as the Abbreviated Decisions for Approvals did not include any dialogue between Parole Board members and a lifer during those hearings.

1) Board members questioned \_\_\_\_\_ as to his various appeal attempts. \_\_\_\_\_ indicated that his appeals were not an attempt to minimize his culpability, but rather, an attempt to reduce his sentence. The Board noted, however, that \_\_\_\_\_'s actions appear contradictory. His testimony at this hearing assured the Board that he takes full responsibility for the murder, but his argument on appeal minimized his role. In response, \_\_\_\_\_ stated that his objective in appealing his conviction was to assert self-defense, as he believed his conviction should be reduced to manslaughter. Board members questioned the likelihood of \_\_\_\_\_'s self-defense theory since he fired his gun several times. Further, the Board noted that witness testimony does not support his version of the facts. When asked to address the discrepancies, \_\_\_\_\_ could not provide any insight, aside from indicating that if he had additional experts testify at trial, the jury would have found he was acting in self-defense. Upon questioning, \_\_\_\_\_ told the Board that he does not feel the need to address any other areas of programming, as he is now able to 'transform anger into non-violent communication.'" The Board pointed out, however, that his disciplinary record indicates otherwise.

This lifer was denied after an Initial Hearing and given a four year Setback.

2) Upon Board Members questioning, \_\_\_\_\_ admitted to struggling with substance abuse prior to his incarceration. However, he stated that he attends AA/NA meetings. Nonetheless, the Board noted that \_\_\_\_\_ has incurred numerous disciplinary reports related to substance abuse in the institution. At the hearing, \_\_\_\_\_ took no responsibility for the more serious of these reports, which involved the import of controlled substances into the institution. He claimed not to remember others, characterizing many of his disciplinary reports as 'frivolous.' \_\_\_\_\_ expressed no interest in participating in the Correction Recovery Academy.

This lifer was denied at an Initial Hearing and given a five year Setback.

3) Although \_\_\_\_\_ informed the Board that he was not looking for parole and he conceded he is not ready and doubts he will ever be, the Board is of the opinion that his assertions were disingenuous and self-serving. At times he appeared to be grandstanding, which appeared to be an attempt to further victimize the family.

This lifer was denied after an Initial Hearing and given a five year Setback.

4) The Board remains concerned that \_\_\_\_\_ is minimizing his role in the governing offense and is not being honest and forthright. \_\_\_\_\_ needs to establish a support system and to engage in substance abuse treatment in order to better prepare himself for reentry.

This lifer was denied after an Initial Hearing and given a one year Setback. He received the one year Setback because the vote was tied - 3 for parole 3 for Denial. His Initial Hearing was held on April 1, 2021 and the Date of Decision was November 1, 2021, allowing him only six months to address issues raised by those who voted against parole.

5) \_\_\_\_\_ presented defensive[ly] and often made excuses for his criminal culpability / behavior. He remains a risk until he completes the SOTP. \_\_\_\_\_ has offered information that has resulted in conflicting expert opinions. Thus indicating a lack of candor.

Board Members explained that they did not understand \_\_\_\_\_'s account of (victim's name) death. Although he claimed to take full responsibility for the murder, he seemingly suggested at the same time, that her death was accidental. \_\_\_\_\_ acknowledged that an attorney submitted a recommendation request to the Board in 2020, on his behalf, that characterized him as an 'innocent man wrongfully convicted.' The Board repeatedly questioned \_\_\_\_\_ as to whether the governing offense was an accident or an intentional murder. \_\_\_\_\_ answered that while he did not intend to kill \_\_\_\_\_, he is responsible for her murder nonetheless. Board Members did not find his account of the incident credible. The Board expressed its concern that \_\_\_\_\_ minimized his culpability in \_\_\_\_\_'s death.

This lifer was denied after a Review Hearing (his fourth) and given a four year Setback.



# LIFER'S GROUP INC.

## MA DOC EXPENDITURES AND STAFFING LEVELS FOR FISCAL 2022

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December 2022

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# A Lifer's Group Inc. Report On The Department of Correction's Expenditures And Staffing Levels For Fiscal Year 2022

## 1. Introduction

In response to a Public Records Request, the Department of Correction (DOC) provided data on the expenditures of funds and staffing levels for the DOC in Fiscal Year 2022 (July 1, 2021 through June 30, 2022). The staffing levels were for Full Time Employees (FTEs) only, i.e., not including contract employees or part-time employees. Both the FTEs and the expenditures were reported for various categories for Fiscal 2022.

The percentages for staffing categories were provided by the DOC. The percentages for expenditures, ratios for staffing levels, and differences and respective percentages for expenditures and staffing levels for 2022 as compared to Fiscal 2021, 2020, and 2019 noted later in this report were calculated by the author.

## 2. Fiscal 2022 DOC Expenditures

As in past Lifer's Group Inc. reports on DOC Expenditures and Staffing Levels,<sup>1</sup> the expenditures of funds and calculated percentages of the total amounts spent in Fiscal 2022 were broken down into nine categories consistent with prior Lifer's Group Inc. reports on the Expenditures and Staffing Levels of the DOC.

<b>Category</b>	<b>Amount</b>	<b>%</b>
Employee Expenses	470,222,847	61.7
Prisoner Health Costs	195,170,925	25.6
Utilities	23,934,671	3.1
Infrastructure	20,074,303	2.6
Prisoner Program Costs	16,138,353	2.1
Prisoner Food Costs	16,002,595	2.1
Other Expenses <sup>2</sup>	13,592,712	1.8
Administrative Expenses	4,086,118	.6
Legislative Earmarks <sup>3</sup>	<u>2,340,000</u>	<u>.4</u>
<b>Total Expenses</b>	<b>761,562,524</b>	<b>100.0</b>

Total Expenses in Fiscal 2022 increased by \$40,904,129 or 5.7% from Fiscal 2021.

<sup>1</sup> Past reports can be accessed at: [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing) or on Facebook @LifersGoupMCINorfolk.

<sup>2</sup> Other Expenses include: Facility Furnishings, Cleaning Supplies, Security Equipment, Vehicle Maintenance, Captel phone usage, and IT and Software licensing.

<sup>3</sup> Legislative Earmarks are funds paid to cities and towns which host prisons as mandated by the Legislature.

### 3. DOC Staffing Levels For Fiscal 2022

The numbers and percentages for the DOC Full Time Employees (FTEs) for Fiscal 2022 broke down as follows:

Category	Number	%
Security Personnel <sup>4</sup>	2,910	72.9
Administrative Support Staff	344	8.6
Maintenance	226	5.7
Correction Program Officers (CPOs)	214	5.4
Management	211	5.3
Educational Staff	84	2.1
<b>Total FTEs</b>	<b>3,989</b>	<b>100.0</b>

The number of FTEs decreased by 529 or 12% comparing Fiscal 2022 with Fiscal 2021.

### 4. A Three Comparison of DOC Expenditures

Category	Fiscal 2022	Fiscal 2021	Fiscal 2020
Employee Expenses	470,222,847	456,623,952	466,693,799
Prisoner Health Costs	195,170,925	184,538,552	174,317,963
Infrastructure	20,074,303	12,977,354	13,842,167
Utilities	23,934,671	22,388,901	22,204,778
Prisoner Program Costs	16,138,353	13,885,583	8,865,120
Prisoner Food Costs	16,002,595	14,310,553	13,646,814
Other Expenses	13,592,712	9,502,257	14,263,893
Administrative Expenses	4,086,118	4,056,243	4,427,402
Legislative Earmarks	2,340,000	2,375,000	2,420,000
<b>Total Expenses</b>	<b>761,562,524</b>	<b>720,658,395</b>	<b>720,681,936</b>
<b>MA Custody Pop. on Jan. 1</b>	<b>5,962</b>	<b>6,553</b>	<b>7,864</b>
<b>Annual Cost Per Prisoner</b>	<b>127,736</b>	<b>109,974</b>	<b>91,643</b>

The sources for the MA Custody Population was the DOC's Institution Fact Cards for January 1st of each year. The Annual Cost Per Prisoner was calculated by the author by dividing the Total Expenses for each fiscal year by the January 1st MA Custody Population total for that fiscal year.

<sup>3</sup> Security Personnel includes the number of Correction Officers (2,844) and the number of uniformed captains (66).

The percentage of Total Expenditures for Employee Expenses decreased from 63.4% in Fiscal 2021 to 61.7% in Fiscal 2022. The actual dollars spent, however, for Employee Expenses in Fiscal 2022 increased by \$13,595,885 or 3%, despite the fact that, as reported on the previous page, the actual number of FTEs totaled 3,989 in Fiscal 2022, a decrease of 529 or 11.7% from Fiscal 2021 where the FTEs totaled 4,518.

In actual dollars spent in Fiscal 2022, all but one category increased. In order of increased percentages of dollars spent and the increased amounts were: Infrastructure by 54.7% (\$7,096,949), Other Expenses by 43.1% (\$4,090,455), Prisoner Program Costs by 16.2% or \$2,252,770, Prisoner Food Costs by 11.8% or \$1,692,042, Utilities by 6.9% or \$1,545,770, Prisoner Health Costs by 5.8% or \$10,632,373, the aforementioned Employee Expenses by 3.0% or \$13,598,895, and Administrative Expenses by .7% or \$29,875. The only category to decrease in dollars spent was Legislative Earmarks by 1.5% or \$35,000.

While the number of prisoners in custody in MA on January 1, 2022 was 571 fewer than on January 1, 2021 or by 8.7%, Total Expenses increased by \$40,904,129 or 5.7% in Fiscal 2022 as compared to Fiscal 2021. As a result, the Average Cost Per Prisoner in Fiscal 2022 was \$127,736, an increase of 16.2% from Fiscal 2021 (\$109,974).

## 5. A Three Year Comparison of DOC Staffing Levels For FTEs

As noted earlier, comparing Fiscal 2022 with Fiscal 2021, the total number of FTEs decreased by 529 or 11.7%. Thus, while the number of FTEs decreased by 11.7%, Employee Expenses increased by 3%. When the Fiscal 2022 numbers of FTEs and resultant expenditures are compared to Fiscal 2019, FTEs decreased by 19.9% (from 4,977 to 3,989), yet Employee Expenses increased by 4% (from \$440,433,611 to \$470,222,847.)

The number of prisoners in MA Custody decreased by 571 or 8.7% in Fiscal 2022 as compared to Fiscal 2021. The ratio of FTEs to prisoners in Fiscal 2022 was 1:1.5, the same as for Fiscal 2021. The ratio of Security Personnel in Fiscal 2022 was 1:2.1, slightly higher than the ratio for Fiscal 2021 which was 1:2.0. See table below.

Category	Fiscal 2022		Fiscal 2021		Fiscal 2020	
	#	%	#	%	#	%
Security Personnel	2,911	73.0	3,207	71.0	3,324	71.4
Other	<u>1,708</u>	27.0	<u>1,311</u>	29.0	<u>1,335</u>	28.6
<b>Total FTEs</b>	<b>3,989</b>		<b>4,518</b>		<b>4,659</b>	
<b>Total Prisoners - 1/1</b>	<b>5,982</b>		<b>6,553</b>		<b>7,864</b>	
<b>Ratio FTEs to Prisoners</b>	<b>1:1.5</b>		<b>1:1.5</b>		<b>1:1.7</b>	
<b>Ratio Security to Prisoners</b>	<b>1:2.1</b>		<b>1:2.0</b>		<b>1:2.4</b>	

## 6. Percentage Changes In Expenditures For Fiscal 2022 Compared to Fiscal 2021, Fiscal 2020, and Fiscal 2019

Expense Category	Fiscal 2022 to Fiscal 2021	Fiscal 2022 to Fiscal 2020	Fiscal 2022 to Fiscal 2019 <sup>5</sup>
Infrastructure	+54.7	+45.0	+ 51.9
Other	+43.1	- 4.7	+103.6
Prisoner Program Costs	+16.2	+82.0	+ 97.5
Prisoner Food Costs	+11.8	+17.3	+ 18.5
Utilities	+ 6.9	+ 7.8	+ 2.5
Prisoner Health Costs	+ 5.8	+12.0	+ 15.5
Employee Expenses	+ 3.0	+ .8	+ 6.8
Administrative Expenses	+ .7	- 7.7	- 5.4
Legislative Earmarks	- 1.5	- 3.3	- 1.5
1/1 MA Custody Count	- 9.0	-24.2	- 29.5
FTEs	-11.7	-14.8	- 19.9
Annual Cost Per Prisoner	+16.2	+39.4	+ 58.6
Total Expenses	+ 5.7	+ 5.7	+ 11.9

## 7. Discussion

The DOC spent over three-quarters of a billion dollars in Fiscal 2022, a substantial \$40,904,129 or 5.7% more than the DOC spent in Fiscal 2021 despite the drop in numbers of both prisoners in MA custody and the number of FTEs, which decreased by 9% and 12% respectively. In addition, the DOC has spent in the last four fiscal years \$2,883,643,180. Three questions come to mind. First, have the MA taxpayers received \$2.9 billion worth of services which has enhanced public safety? Second, why does the DOC continue to expend more funds year by year when both the numbers of prisoners and FTEs continue to decline? And, third, who is tasked with holding the DOC accountable to answer why the DOC spends more money continually when the number of prisoners and FTEs continues to fall?

From Fiscal 2021 to Fiscal 2022, of the decrease of 529 FTEs, 297 were from Security Personnel, a drop of 5.6%. Only one category of FTEs increased - Management by 10 or 4.9%. Three additional categories decreased: Support Staff by 152 (3.1%), Correction Program Officers by 21 or 8.9% (note also that from Fiscal 2020 through Fiscal 2022, the number of Correction Program Officers decreased by 38 or 15.1%), and Maintenance by 69 or 23.3%. The number on the Educational Staff remained the same at 84.

<sup>5</sup> See Lifer's Group report on Expenditures and FTEs for Fiscal 2019 at: [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing).

While often discussed in previous Lifer's Group Inc. reports on the Expenditures and Staffing Levels in the DOC, it bears repeating that prisoners are grossly under-valued and under-used in areas such as Education and Maintenance. Training prisoners to provide services such as welding, plumbing, carpentry, electrical work, masonry, tutoring, and even teaching would dramatically reduce costs without an concomitant decline in the quality of services rendered. This was the case decades ago, when the DOC was under Health and Human Services. Prisoners, including lifers, were utilized in those roles, even earning state certification, making them far more employable once released. By failing to use the abilities offered by prisoners, the DOC continues to waste precious resources, both financial and human.

In Fiscal 2022, the DOC continued what seems to be an inexorable rise in the annual cost per prisoner. This situation is the direct result of the increased expenditures and decreasing number of prisoners in custody in MA. In Fiscal 2018, the average cost per prisoner was \$70,730. In Fiscal 2019, the average cost per prisoner rose to \$80,523 and then climbed to \$91,643 in Fiscal 2020. In Fiscal 2021, the average cost per prisoner topped \$100,000 at \$109,974. And, finally, in Fiscal 2022, the average cost per prisoner was \$127,736, an increase of 81% in just five years! The bulk of that increase came in the past three years when the average cost per prisoner rose 55.6% as the MA custody count dropped 29.5% while Total Expenses increased 11.9%

Health costs for prisoners also continues to rise despite the mandate from the Legislature under the Criminal Justice Reform Act of 2018 to release on medical parole those prisoners who are terminally ill or debilitated. In 2018, Prisoners' Legal Services (PLS) opined regarding medical parole that it "remains a cruel illusion for far too many sick and dying prisoners." This state continued in Fiscal 2022 under the auspices of Carol Mici as Commissioner. Hopefully, with the new governor, changes in the DOC management will be forthcoming. The paucity of medical paroles as well as the continuing increase in the number of aged and infirm prisoners has resulted in an increase of 15.5% in health costs in Fiscal 2022 from Fiscal 2019.

The Lifer's Group Inc. welcomes any and all comments, criticisms, and/or questions concerning this report. Please direct such correspondence to Gordon Haas, Chairman - Lifer's Group Inc., MCI-Norfolk, P.O. Box 43, Norfolk, MA 02056. Copies of this report are available upon request. This report can be viewed at: [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing) or on Facebook @LifersGroupMCINorfolk. Permission is granted to copy or utilize any information contained in this report as long as proper attribution is made.



# LIFER'S GROUP INC.

A REPORT ON THE SOURCES AND USES OF FUNDS  
FROM THE MASSACHUSETTS DEPARTMENT OF  
CORRECTION'S

CENTRAL INMATE BENEFIT FUND

CENTRAL LAW LIBRARY FUND

AND

CENTRAL PROGRAM ACCOUNT

For The Period of July 1, 2020 Through June 30, 2021

Prepared For The Lifer's Group Inc. By:

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December 2021

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Total Ending Balances For Each Account	5

**A REPORT ON THE SOURCES AND USES OF FUNDS IN THE MA  
DEPARTMENT OF CORRECTION'S CENTRAL INMATE BENEFIT  
FUND, THE LAW LIBRARY FUND, AND THE PROGRAM  
ACCOUNT FOR FISCAL 2021 (JULY 1, 2021 - JUNE 30, 2021)**

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## 1. Introduction

The Central Office of the Massachusetts Department of Correction (DOC), pursuant to internal DOC Regulation 103 DOC 476, maintains two separate accounts or funds, the Program Account (103 DOC 476.10) and the Law Library Fund (103 DOC 476.11). These accounts, along with the Central Inmate Benefit Fund (CIB) or Z-1 Account, were established to provide services and benefits to prisoners. The Program Account and the Law Library Fund are financed by assessments paid by each correctional institution as a percentage of the total revenues received each month in the respective correctional institutions. The Law Library Fund receives 20% of said revenues; the Program Account receives 10%. Interest payments are also earned on account balances.

Institutional revenues consist of commissions paid to an institution by the Keefe Commissary Network (KCN) as a percentage of sales to prisoners for commissary, appliance, and clothing items. Over 90% of an institution's revenue is generated from such commissions. The remaining revenue sources are: locker fees, soda bottle refunds, vending machine commissions, and bank interest. KCN also pays commissions on sales of tablets, tablet accessories, emails, movies, games, music, and Secure Pak orders. These commissions, however, are paid directly into the CIB and are not shared with institutions.

The DOC established the Program Account as "an effort to identify and utilize all available resources ... to supplement existing programs or funding of new programs throughout the Department." [103 DOC 476.10(11)] The DOC does not indicate why the Law Library Fund was established or any guidelines as to how or where funds are to be expended from the Law Library Fund. The Law Library Fund did fund the computerization of law libraries in each institution. Since the smaller institutions did not generate enough revenue to pay for individual conversions, the assessments to larger institutions compensated for the shortfalls. All institutional law library computer conversions, however, were completed over a decade ago. Yet, the monthly 20% assessments continue resulting in a large unused balance in excess of \$1,000,000 being continuously maintained in the Law Library Fund.

The CIB appears to be an extension of the individual Z-1 (Inmate Benefit Accounts) maintained in each institution. Individual superintendents have the authority to expend funds within broad guidelines. According to 103 DOC 476.12(2): "Expenditures of such funds shall benefit the general inmate population or be for any goods or services determined by the

Commissioner to be necessary to maintain and/or enhance the delivery of services to inmates." Superintendents may petition the Central Office for payment of major institutional expenditures from either the Program Account of the CIB on a case-by-case basis. Any expenditure exceeding \$1,000 at the institutional level must receive written approval from Administrative Services in the Central Office. [103 DOC 476.12(5)]

## 2. Total Sources and Uses of Funds For Fiscal 2021

<b>Account/Fund</b>	<b>Total Sources</b>	<b>Total Uses</b>	<b>Differences</b>
CIB	151,793.46	87,179.54	64,613.92
Law Library Fund	285,809.83	499,640.88	(213,831.05)
Program Account	<u>141,377.70</u>	<u>8,897.51</u>	<u>132,480.19</u>
Totals	578,980.99	595,717.93	( 16,736.94)

## 3. Central Inmate Benefit Fund (CIB)

### a. Balance Sheet

Beginning Balance (7/1/20)	450,202.38
+ Sources of Funds	<u>151,793.46</u>
Subtotal	601,998.84
- Uses of Funds	<u>87,179.54</u>
Ending Balance (6/30/21)	514,819.30

### b. CIB Sources of Funds (7/1/20 - 6/30/21)

Secure Paks	91,156.38
MP3, Music, Movie and Game Commissions	29,053.60
Access Commissions	22,629.30
Returns of Unused Funds	4,400.33
Institutional Typewriter Payments	2,235.00
Inmate Restitutions	886.60
Interest	735.98
Adjustment	<u>696.27</u>
Total Sources of Funds	151,793.46

The commissions for music downloads, videos, and games decreased from Fiscal 2020 by 76%, while the commissions for Secure Pak sales increased 127%. The Total Sources of Funds in Fiscal 2021 decreased 25% from Fiscal 2020.

A Report on three DOC Central Accounts for Fiscal 2021

c. CIB Uses of Funds (7/1/20 - 6/30/21)

Swank	36,849.00
Reading Materials	25,000.00
Lionbridge	9,214.87
SHI International	7,581.00
Adjustments	2,183.00
BSN Sports	1,937.87
Curbell Medical Providers	1,784.97
Keefe Commissary	1,079.05
ADC Depalo	957.00
W. B. Mason	314.42
CharmTex	<u>278.36</u>
Total Uses of Funds	87,179.54

In Fiscal 2021, only 57% of the Sources of Funds were spent from the Central Inmate Benefit Fund. No specifics of what service or item was purchased were provided in the data received from the DOC.

4. Central Law Library Fund (Z-176)

a. Balance Sheet

Beginning Balance (7/1/20)	1,548,858.06
+ Sources of Funds	<u>285,809.83</u>
Subtotal	1,834,667.89
- Uses of Funds	<u>499,640.88</u>
Ending Balance (6/30/21)	1,335,027.01

b. Law Library Fund Sources of Funds (7/1/20 - 6/30/21)

1) Assessments From Institutions

MCI-Norfolk	53,183.37
MCI-Shirley	50,610.69
MCI-Gardner	35,127.37
Old Colony	29,210.80
MCI-Concord	24,243.75
Souza-Baranowski	19,480.93
MCI-Cedar Junction	15,937.46
Treatment Center	13,038.98

A Report on three DOC Central Accounts for Fiscal 2021

MCI-Framingham	9,475.01
N.E.C.C.	7,421.20
Pondville	6,270.23
Bridgewater State Hospital	3,398.09
Community Corrections	3,041.09
Bridgewater Complex	2,478.68
So. Middlesex	2,001.70
MASAC	1,124.16
2. Other	
Unattributed	3,387.41
Error Adjustment	3,185.20
Interest	1,835.09
Voids	<u>1,358.62</u>
Total Sources of Funds	285,809.83

The total of the institutional assessments was 276,043.51, a .07% increase from Fiscal 2020. The Total Sources of Funds for Fiscal 2021 for the Law library Fund decreased 5% from Fiscal 2020.

c. Law Library Fund Uses of Funds (7/1/20 - 6/30/21)

Dell /EMC	230,950.16
Matthew Bender	119,400.00
Integration Partners	46,980.62
Comcast	40,961.00
Thomas West	28,721.00
Intrasystems	18,700.00
Mass. Lawyer's Weekly	8,778.00
Lawyer's Diary	<u>5,150.00</u>
Total Uses of Funds	499,640.88

Despite the fact that in Fiscal 2021, more funds were expended from the Law Library Fund than were received, i.e., 175% Uses over Sources, the ending balance in the Law Library Fund as of June 30, 2021 was over \$1.3 million. The DOC needs to consider why so much in this fund is continuously left unused. The funds stockpiled in the Law Library Fund could be used to meet program needs at the institutional level. If the DOC is unwilling to apportion at least some of the funds held in the Law Library Fund, the DOC should consider reducing the 20% assessment. At the very least, then the DOC should reimburse individual institutions for

the expenses they incur for maintaining their law libraries. These expenses include, but are not limited to: typewriters, photocopier leases, copy paper, toner, legal books, and assorted office supplies such as typewriter ribbons, envelopes, and typing paper, all of which is required to be made available to prisoners for their legal work.

## 5. Central Program Account

### a. Balance Sheet

Beginning Balance (7/1/20)	244,521.97
+ Sources of Funds	<u>141,377.70</u>
Subtotal	385,899.67
- Uses of Funds	<u>8,897.51</u>
Ending Balance (6/30/21)	377,002.16

### b. Program Account Sources of Funds

The sole reported source of funds for the Program Account is the 10% assessment paid by each institution on their total revenues each month. In Fiscal 2021, the total of all institutional assessments was 141,377.70 or 118% over Fiscal 2020. As in Fiscal 2020, the DOC did not provide the amounts assessed each institution in Fiscal 2021, but provided only the total of income per quarter.

### c. Program Account Uses of Funds (7/1/20 - 6/30/21)

Booklets For Inmate Journaling	7,613.61
Virtual Volunteer Program	721.24
Indirect Charges	<u>562.66</u>
Total Uses of Funds	8,897.51

In Fiscal 2021, in the Program Account, the Sources of Funds exceeded the Uses of Funds by 94%.

## 6. Total Ending Balances For Each Account

Central Inmate Benefit Fund (Z-1)	514,819.30
Law Library Fund (Z-176)	1,335,027.01
Central Program Account	<u>377,002.16</u>
Total Ending Balances - 6/30/21	2,226,848.47

The decrease in the total of ending balances for the three Central Accounts from Fiscal 2020 was \$16,733.94 or .7%. Overall, the ending balance for the Central Inmate Benefit Fund increased 14%, the ending balance for the Law Library Fund decreased 14%, and the ending balance for the Program Account increased 54%.

In closing, the question needs to be asked, as it has in previous reports on the DOC's three Central Accounts: Why does the DOC continue to maintain over \$2.2 million sitting in these three accounts combined, rather than increasing spending for programs proven to reduce recidivism, such as education, or return funds to individual institutions for their use?

This report has been prepared and published by and on behalf of the Lifer's Group Inc., MCI-Norfolk, P.O. Box 43, Norfolk, MA 02056. Any and all information contained in this report may be reproduced or copied without permission as long as the proper attribution is made. Any and all comments, questions, or corrections concerning this report are welcome and should be directed to Gordon Haas, Chairman, Lifer's Group Inc. at the above address. All calculations were made by the author who is solely responsible for any errors. The data were provided by the DOC pursuant to a public records request.

The Lifer's Group Inc. continues to thank Lois Ahrens, Founding Director of the Real Cost of Prisons Project for her generous, much valued, and continuous support. This report as well as many other Lifer's Group Inc. reports on such topics as Parole Decisions For Lifers, Recidivism Rates, Elderly Prisoners, Expenditures and Staffing Levels of the DOC, and reports on specific issues concerning lifers and the DOC, can be found at: [www.realcostofprisons.org/](http://www.realcostofprisons.org/) writing. Copies of this report and others found on the Real Cost of Prisons website can be obtained upon request from the Lifer's Group Inc.



# Appendix II: AACCC Furlough Report

*Please note that some attachments to the AACCC Letter to Governor Maura Healey are not included in this Appendix because they contain personal information and have therefore been removed to protect the individual's privacy.*



To: Governor of Massachusetts Maura Healey

Fr: African American Coalition Committee

Re: Furlough Pilot Program Proposal

Date: 10-25-22

Dear Governor Maura Healey,

The African American Coalition Committee (AACC) is writing to you requesting that you support our furlough pilot program proposal. We believe it is a safe and practical approach to fully restoring the furlough program under current Massachusetts law (G.L.c. 127, § 90A) promulgated through 103 CMR 463. The AACC's Harriet Tubman Project and Massachusetts Black and Latino Legislative Caucus (MBLLC) have vetted participants located at MCI-Norfolk for the furlough pilot program and we are requesting that as Governor you approve the DOC to process these participants under 103 CMR 463. regulations so that more data can be collected before deciding how and when to fully reestablish the furlough program.

In 1988 the MA DOC stopped the furlough program after the 1986 Willie incident was politicized in the 1987-88 presidential race between former Massachusetts Governor Michael Dukakis and George H.W. Bush. Although this incident significantly damaged the reputation of the furlough program the statute was never repealed but instead modified to exclude first-degree lifers and permit only second-degree lifers and persons with determinate sentences. Now incarcerated persons must meet specific conditions established under 103 CMR 463.07 to be eligible for a furlough. These conditions are that incarcerated persons "serving a life sentence for murder in the second degree [which permits parole after 15 years] shall be required to serve 12 years...all other inmates shall be required to have served at least 50% of the time between their effective date of sentence and their parole eligibility date or earliest release or discharge date, whichever is less, and shall be within three years of their parole eligibility date or earliest release or discharge date, whichever is less, before being eligible for an initial furlough..."

This is the law, and even though the executive branch of government is responsible for ensuring that the laws are faithfully executed, since 1988 every Governor after Dukakis has completely ignored this statute and allowed the DOC to do the same. While ineligible first-degree lifers are barred de jure, all other eligible persons are barred de facto. Consequently, over the last 30 years thousands of incarcerated persons and their families, who

had no relationship whatsoever to Willie Horton or the situation, have lost out on the many reentry advantages this program offers.

The furlough program is an unmatched reentry tool because with the assistance of a qualified sponsor returning citizens can build a foundation for themselves in the community before returning to it. They can find housing and avoid the reality that citizens returning to society are 10 times more likely to be homeless after release. They can take advantage of the many social services not available within prison facilities. They can go on job interviews, and seek individual or family therapy to ensure all impacted parties are emotionally and mentally prepared for such a difficult transition. They will have tangible opportunities to build trust within the communities they will eventually return to. Such opportunities help reshape the thinking of incarcerated persons who get to see what the world is like today, preparing them to be more productive and effective citizens. Ultimately the furlough program builds the foundation for them to foster a life where they can reach the 3-year mark, which is the time according to the U.S. Department of Justice when the likelihood of recidivism drops from 45% to 8%.

Within this proposal we have provided 1) a concise historic account of the furlough program in Massachusetts, 2) a furlough itinerary form w/ sponsor agreement, 3) participant info charts, 4) and a personal letter written from each participant. If you want to see any additional information from us or would like to discuss this proposal further with AACC and MBLLC please contact State Rep. Russell Holmes.

Thank you for your attention and consideration in this matter.

Sincerely,

Tony Gaskins, AACC Legal Department

Corey "Al-Ameen" Patterson, AACC chairman

State Rep. Russell Holmes, MBLLC

## THE AFRICAN AMERICAN COALITION COMMITTEE

Once Upon A Time: A Brief History of Furloughs in Massachusetts

by Omar Abdur Rahman

&

Corey "Al-Ameen" Patterson<sup>1</sup>

### CHAPTER 777 & PRISON REFORM

On July 18, 1972, the Massachusetts Legislature promulgated the Chapter 777 prison reform act entitled: AN ACT RELATIVE TO THE ADMINISTRATION AND OPERATION OF CORRECTIONAL INSTITUTIONS AND FACILITIES IN THE COMMONWEALTH. The tragedy of the 1971 Attica Prison uprising in New York was the catalyst for prison reform across the nation. At the time the Massachusetts prison system was under the authority of the Massachusetts Department of Health and Human Services (unfortunately it's now under the Department of Public Safety). "The Reform Act" was education and substance abuse/addiction treatment-oriented, with a strong emphasis on human transformation, community reintegration, and transition.

Former Massachusetts Governor Francis Sargent hired a progressive Corrections Commissioner named John Boone to institute and establish The Reform Act, which included updated CMRs (Code of Massachusetts Regulations) as well as Department of Correction (DOC) policies for regulating new minimum security, pre-release, and work-release facilities, as well as, programs such as the furlough program, vocational and trade programs, drug reform programs, etc.

During this time the prevailing philosophy was, "Your sentence was your punishment." The DOC operated more so with custody and care, inclined towards "prison reform" and community reintegration. The "carrot on a stick" methodology was employed with significant success during this period. Incarcerated men and women reasonably expected that if they met the criteria for a particular benefit they would be rewarded for their efforts. As a result, many experienced genuine personal reformation. All prisoners were included in the DOC's "reformation enterprise," even those serving first-degree life sentences.

Through Pell Grants, a substantial percentage of prisoners were able to earn Associate's, Bachelor's, and Master's Degrees. Other prisoners learned trades, and worked in mental health & state hospital programs; others were engaged in construction/renovation projects across the Commonwealth. These reform policies and practices curbed criminal thinking by way of educating and providing prisoners with a competitive opportunity to obtain meaningful employment and earn a livable wage so that they could be productive in whatever communities they returned to.

## THE FURLOUGH PROGRAM

One of the most successful prison reform programs during this period was the furlough program. Furloughs were considered an integral part of the "correctional process". The Furlough program allowed prisoners who were approved to participate in the program to receive 14 days on furlough a year. The 14-day allotment was split into 2 courses throughout a 12-month span, 7 days within the first 6 months and 7 days within the second 6 months. A furlough request made at any given time could not exceed more than 72 hours per request. Therefore a prisoner could request 12 hrs., 24 hrs., 36 hrs., 48 hrs., or he could request even less (i.e. 6 or 3 hrs.). While on furloughs prisoners were allowed to visit family, attend community activities, religious services, therapy sessions, social events, etc. The objective was to provide prisoners with opportunities to foster connections within their communities and to assist in acclimating them to society while they were still serving their sentences.

The furlough process was intended to make a returning citizen's community reintegration transition less of a "culture shock". It also served as a process to help deinstitutionalize them, being much more consistent with a humane reform protocol. When a prisoner intended to go out on a furlough, he or she had to provide an itinerary detailing the time and place of each and every place they planned to go then the itinerary had to be approved. While on furlough prisoner participants were subject to telephone checks from the institution to verify the itinerary. Random "on-site" checks were also incorporated.

Due to the overall national trend toward criminal justice reform and the success of the furlough program a succession of Massachusetts governors were willing to expend political capital in support of prison reform by exercising their executive clemency power to commute sentences of prisoners who were serving long-term sentences, including those serving first-degree life sentences. Commutation guidelines regarded commuting sentences as "an extraordinary remedy and integral part of the correctional process... It is intended to serve as a strong motivation for confined persons to utilize available resources for self-development and self-improvement as an incentive for them to become law-abiding citizens and return to society."

## WILLIE HORTON & BEGINNING OF THE END OF PRISON REFORM

The 1987-1988 presidential race between George Herbert Walker Bush and Massachusetts Governor Michael Dukakis was undoubtedly the turning point for prison reform in the Commonwealth and across the nation. In 1986 Willie Horton escaped while on a furlough pass and fled to the state of Maryland. There, he allegedly assaulted a man and raped his fiancé. His case became an instant media spectacle and took center stage in the presidential race. The Bush campaign headed by Lee Atwater used the Horton incident to support their claim that Dukakis was soft on crime. Atwater ensured that the Bush campaign also appealed to the racial fears, hatred, and prejudices of white voters toward "black criminals." In doing so he even went as far as putting out a mugshot of Horton wherein his skin complexion was darkened.

On the heels of Dukakis' brutal defeat nationwide criminal justice reform policies and practices would dissipate into oblivion. In Massachusetts under Republican Governor William F. Weld's administration (Dukakis's successor) criminal justice reform and custody and care corrections took a dismal paradigm shift. Weld hired two corrections commissioners who both had dubious histories in the federal prison system, Larry Dubois and Thomas Rapone. Together they ensured that progressive reforms would take a backseat to strict control.

The "Willie Horton effect" (defined as the tendency to reflexively overhaul a criminal justice policy after a single violent crime, regardless of the policy's overall success) eliminated furloughs and ended the classification and placement of first and second-degree lifers in minimum-security facilities. Parole policies became more draconian comparatively speaking, and all considerations for commutations were voided. Though the death penalty was abolished in Massachusetts, "death by incarceration" became an imminent reality for the many reformed lifers.

#### DECLINE IN POSITIVE PAROLES AND COMMUTATIONS

The year Horton went on the run the Massachusetts DOC furlough program touted a 99% success rate. Successful participants in the furlough program were practically guaranteed a positive parole, and first-degree lifers who were successful participants experienced far greater success when they petitioned the Governor and Governor's Council to have their sentences commuted. After the elimination of furloughs, positive paroles declined from 80% in 1980 to 33% in 2002. For second-degree lifers (i.e. those serving a life sentence but are eligible for parole after 15 or more years) positive paroles fell as low as 6% in 1997 after the truth-in-sentencing statute was enacted in 1994. In 2017 the parole rate for second-degree lifers was 24%.<sup>2</sup> As for executive clemency, the practice has been completely abandoned. Between 1969 and 1997 five successive administrations granted a total of 115 commutations, with a higher percentage of them being life sentences or de facto life sentences (i.e. sentences of 50 years or longer before parole consideration). OVER THE LAST 5 ADMINISTRATIONS AND 23 YEARS THERE HAS ONLY BEEN 1 COMMUTATION!

#### COMMUTATIONS GRANTED BY ADMINISTRATION BETWEEN 1969 & 2020 (A 51-YEAR PERIOD)<sup>3</sup>

Admin.	Yr.	Commutations
Sargent	1969-1975	40
Dukakis	1975-1979	48
King	1979-1983	11
Dukakis	1983-1991	10
Weld	1991-1997	6
Celluci	1997-2001	0
Swift	2001-2002	0

Romney	2003-2007	0
Patrick	2007-2015	1
Baker	2015-	2

## THE ROUND-UP

The Willie Horton fiasco had such a profound impact that on January 1, 1988, at around 2 A.M., 66 prisoners serving first-degree life sentences, were summarily rounded up from all minimum-security facilities and remanded to the medium-security Southeastern Correctional Center. They were then reclassified to other medium-security facilities throughout the Commonwealth. THESE WERE PRISONERS THAT HAD THUS FAR KEPT THE TRUST! They were recognized and commended as "MODEL PRISONERS". They worked daily, side by side with civilians, and citizens of the Commonwealth. All their minimum security privileges became null and void. All their work and efforts were no longer acknowledged by DOC administrators. Furloughs, minimum security placements, and commutations were no longer accessible, no longer an option! This was their reward for being "model prisoners,"— FOR NOT BEING WILLIE HORTON.

Over the years many of these "trustees" and "model prisoners" have since died in prison, never to see the other side of the walls built around medium-security prisons. Others have lost hope after having their resilient spirit crushed by the very same system that once upon a time encouraged them to pursue self-development, self-improvement, and human reformation; with an expectant, potential to be redeemed and returned to the community as law-abiding, tax-paying citizens.

## RENEWED ADVOCACY FOR FURLOUGHS

In 2018 the African American Coalition Committee (AACC) launched its "Top Ten Initiatives" which included an initiative calling for the Massachusetts legislature and DOC to reinstate the once highly successful furlough program arguing that the data is clear: furloughs are smart, cost-effective, and the most humane way to combat "death by incarceration." In an effort to attain this goal the AACC legal department, headed by Tony Gaskins, forwarded a written furlough bill proposal to State Representative Russell Holmes detailing the reasons why meaningful criminal justice reform necessitates furloughs. "In accordance with our laws and tradition within the Commonwealth of Massachusetts, prisoners are not supposed to die in prison. This is why there are commutation laws for first-degree lifers to seek to have their sentences commuted after serving fifteen years...in alliance [sic] with how second-degree lifers are permitted to go before the parole board after serving fifteen years of their sentences."<sup>4</sup> Holmes unhesitatingly supported AACC's furlough initiative and in 2019 he filed H.3755: An Act restoring the furlough program for incarcerated persons. The AACC in collaboration with Rep. Holmes, members of the Massachusetts Black and Latino Legislative Caucus, U.S. Congresswoman Ayanna Pressley, and the People's Justice Guarantee coalition continue to push for furloughs as a substantive component of prison reform.

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<sup>1</sup> Omar Abdur Rahman, affectionately and respectfully known as "Shaykh Omar" by his incarcerated peers, was released on March 4th, 2020 after serving 48 years for first-degree murder. He was one of the "model prisoners" never rewarded for his reformation and "model behavior" as promised by the DOC and past Governors. After being denied several commutations over the years he was finally released on medical parole after being diagnosed with terminal cancer with only six months to live. Corey "Al-Ameen" Patterson is currently the chairman of the African American Coalition Committee. He is currently serving a second-degree life sentence.

<sup>2</sup> Center on the Administration of Criminal Law: NYU, "Willie Horton's Shadow: Clemency in Massachusetts," pg. 5, (2019).

<sup>3</sup> *ibid.*, pg. 4.

<sup>4</sup> African American Coalition Committee: Legal Department, "Furlough Proposal," by Gaskins, Tony, pg. 1 (2018).



# **Appendix III: Structural Racism Report**

# **Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth**

## **Final Report December 22, 2022**



*Report and recommendations to be duly submitted, together with drafts of legislation to carry recommendations into effect, to the clerks of the House of Representatives and the Senate*

*by*

***House Chair Representative Nika Elugardo  
Senate Chair Senator Jamie Eldridge***

*and by the*

***Commissioners of  
the Former Special Legislative Commission on Structural Racism  
in Correctional Facilities of the Commonwealth***

*and by the*

***currently incarcerated Commissioners of the  
African American Coalition Committee Structural Racism Commission***

*To be submitted in satisfaction of the legislative mandate found in  
[The Acts of 2020 Chapter 253 Section 110 of the Massachusetts General Laws](#),  
An Act Relative to Justice, Equity and Accountability  
in Law Enforcement in the Commonwealth*

*Principle Author*

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Commissioner State Representative Vanna Howard

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*With special thanks to*

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The Office of Representative Russell Holmes

The Office of Representative Carlos Gonzalez

The Office of Senator Sonia Chang-Diaz

The Office of Representative Bud Williams

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The Office of Representative Andy Vargas

The Office of Representative Chynah Tyler

The Office of Representative Liz Miranda

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Executive Office of Public Safety & Security Former Secretary Tom Turco

DOC Commissioner Carol Mici

Shawn Jenkins, Chief of Staff to DOC Commissioner

Janice Perez, DOC Director, Diversity & Equal Opportunity, Equity & Inclusion

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Jagruti Seemungal, DOC Medical Parole Manager

Superintendent Nelson Alves, MCI-Norfolk

Deputy Superintendent Jodi Hockert-Lotz, MCI-Norfolk

Deputy Superintendent Michael McDonald, MCI-Norfolk

Rebecca Brogan, Office Support Specialist MCI-Norfolk

MCI-Norfolk Security & Facilities Staff & Administrators

Dr. Rufus Jackson Faulk, Boston Mayor's Office of Public Safety

Stephanie Pires, The Innocent Convicts

*and to MCI-Norfolk Incarcerated Activists, Scholars, and Spouses*

AACC Harriet Tubman Project

AACC Life Without Parole Initiative

Asian Cultural Awareness Group

Latino Cultural Awareness Group

Lifers Group

Native American Group

Restorative Justice Group

United for Gay, Bisexual, and Transgender Progress Group

Nia Reed

Hajah McGee

## **WORDS FROM THE CHAIRS**

### **House Co-Chair Nika Elugardo, State Representative of 15th Suffolk**

*As an abolitionist, I support the end of harmful confinement practices. Today's prisons are an unacceptable substitute for true rehabilitation and restoration. Few enter and leave restored and ready to reintegrate. Victims are not served by the current model. Correctional officers are not served by it. Overlay the normalization of structural racism, and the results are not only counterproductive, but also unfair and unjust for communities of color across the Commonwealth. We need to build a better way. One that truly aligns to our Corrections mission to rehabilitate and prepare people for healthy reentry into communities. One that safely and transparently equips and honors the first responders who serve to carry out that mission.*

*This is why it has been an incredible honor to be tasked by the Massachusetts Legislature to begin the work of dismantling structural racism in our correctional facilities. Dismantling structural racism in Corrections can be the beginning of the end of institutionalized hate in the Commonwealth. This report and its recommendations were crafted with collaborative leadership from current and formerly incarcerated persons, correctional officers and staff, community leaders, legislators, and administrators. It seeks not only to dismantle structural inequity but also to replace it with healthy systems that breathe life and healing into our communities. May the work of these dedicated Commissioners and their partners lay the groundwork for a better way to prepare all members of the Corrections community for success.*

### **Senate Co-Chair Jamie Eldridge, State Senator of Middlesex and Worcester**

*I was honored to Co-Chair the Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth with Representative Nika Elugardo and hear directly from the Commissioners, experts, presenters, formerly and currently incarcerated individuals with lived experiences, their families and friends, and representatives from the Massachusetts Department of Correction and the Executive Office of Public Safety and Security. As the Senate Chair of the Criminal Justice Reform Caucus and the Senate Co-Chair of the Joint Committee on the Judiciary, I recognize that eliminating racial disparities and dismantling structural*

*racism within our correctional facilities is just one of many reforms that need to be implemented to create a more just criminal justice system in Massachusetts.*

*The Commission's report provides insights and makes thoughtful recommendations that reflect the discussions, conversations, public testimony, data collection, and lived experiences that were shared with the Commission. It is my sincere hope that the work of this Commission produces a path forward for a more just correctional setting in Massachusetts. We must all stay committed to eliminating racial disparities and dismantling structural racism across all systems. I want to thank the Commissioners for their service and to all those who participated in this process. Your work is appreciated.*

**Allah Fu'Quan (Ricky) McGee, Chair AACC SRC at MCI-Norfolk**

*Peace. I would like to thank everyone that took part in this beautiful process, not beautiful based on the context of the subject but based on how we came together and put our minds together to identify ways to dismantle structural racism in the Department of Correction.*

*It was important for those most impacted by structural racism in the DOC to have a voice in this process. I can say with all confidence, we were represented. With that said, I hope that we're equally committed to dismantling structural racism by utilizing the recommendations that we extracted through this process. I want to thank everybody that played an active role in this process, and I hope to build and work with you soon. Until then stay healthy, stay free, but ultimately stay committed to the process of curtailing and ultimately curbing structural racism, not just in the DOC but any institution that feeds off the degradation of a protected class. Meaning us. Peace.*

# Executive Summary

## STATUTORY MANDATE TO COMMISSIONERS

With leadership from the Massachusetts Black and Latino Caucus and advocate partners, the 191st Massachusetts Legislature passed *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*. The law mandated the Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth and was enacted as [Chapter 253 SECTION 110 of the Massachusetts General Laws](#). Consisting of 17 members, the Commission was tasked with assessing structural racism in correctional policies and procedures.

*"The Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth ("Commission") is mandated to **investigate and study disparate treatment of persons of color incarcerated at state and county correctional facilities** and determine the role of structural racism in those disparities.*

*The Commission shall **conduct a thorough review of the policies and procedures in place at state and county correctional facilities**, both as written and as implemented, to determine if there are disparities in the treatment of persons of color and if structural racism at these facilities is a cause of those disparities.*

*The Commission shall **conduct a thorough review of the access to educational, vocational or other programming options for incarcerated inmates**, to determine if there are disparities in access for persons of color and if structural racism is a cause of those disparities.*

*The Commission shall **make recommendations to eliminate any disparities** in the treatment of persons of color found at state and county facilities including policy or legislative changes.*

*The Commission shall **submit its report and recommendations, together with drafts of legislation to carry its recommendations into effect**, by filing the same with the clerks of the house of representatives and the Senate."*

## BRIEF SUMMARY OF METHODS

To fulfill its mandate, the Commission gathered both quantitative (numerical or measurable data) and qualitative (personal accounts) data on correctional policies, procedures, and programming to inform its findings and recommendations, using the following methods: live-streamed planning and strategy meetings, public hearings, site visits to correctional facilities, topical working groups, data collection, data analysis, and corrections community review and feedback.

The Commission gathered findings on disparate treatment and impacts experienced by black, indigenous, people of color (BIPOC) Corrections community members and defined the Corrections community to include incarcerated persons, staff, administrators, families, advocates, visitors and volunteers. For the purposes of this report “Corrections” refers to Massachusetts state and county correctional facilities.

## **COMMISSION FINDINGS**

**FINDINGS SUMMARY: Structural racism manifests within the often hidden structures comprising systems (e.g., policies, practices, and culture) of Massachusetts Corrections and results in disparate treatment of BIPOC Corrections community members, including incarcerated individuals and staff. The Commission finds that structural racism in Corrections systems produces or perpetuates unfair treatment and impacts by race and other intersecting identities (e.g., LGBTQ+ or immigrant status) and that it can be dismantled with intentional partnership between the Legislative and Executive branches, supported by leadership from diverse Corrections community members.**

**Structural racism manifests in Corrections as four distinct but overlapping types of racism** commonly assessed in public institutions: **institutional racism** (policies), **systemic racism** (external system impacts), **interpersonal racism** (relationships), and **internalized racism** (culture).

### **➤ Institutional Racism: Corrections Policies**

Structural racism manifests in Massachusetts Corrections as **institutional racism**, mainly through policies. Corrections policy, program design and implementation do not take structural racism into account. Gaps in Department of Correction policies for hiring and for staff training, support, and accountability create opportunities for structural racism to go unchecked. The Commission heard widespread reports of staff discretion resulting in, sometimes unconscious, preferences for individuals based on race, especially in the following policy areas:

- Healthcare education, access, diagnosis, and treatment
- Services to BIPOC immigrants and English Language Learners
- Cultural and ethnic affinity group programming and services



- Job and workforce development opportunities
- Data systems tracking staff and incarcerated individual experiences
- Budgeting transparency and decision-making

➤ **Systemic Racism: External System Impacts**

Structural racism manifests in Massachusetts Corrections as **Systemic Racism** when unaddressed or unmitigated impacts of structural racism in external public systems carry over into Corrections. Race disparities in the external criminal legal system outside the walls are imported into Corrections. The classification system is one example of a correctional system that compounds structural racism carried over from outside because of its reliance on the unfair sentencing produced by structural racism in the courts. Some respondents perceived access to health services to be tied to experiences and resources that BIPOC individuals were less likely to have pre-incarceration. BIPOC incarcerated individuals also reported heightened barriers to release and reentry because of structural racism in transitioning and post-carceral settings, including parole, public housing, and private employment.

➤ **Interpersonal Racism: Corrections Relationships**

Structural racism manifests in Massachusetts Corrections as **Interpersonal Racism** where disparate treatment by race occurs between Corrections community members. Reportedly, one-on-one interactions between some staff and BIPOC incarcerated people can disproportionately impact disciplinary decisions, access to healthcare services, and access to employment. BIPOC incarcerated individuals reported experiencing over-policing based on race or skin color and receiving harsher discipline than white counterparts. Some BIPOC staff expressed feeling unsafe, discouraged or unsupported in addressing their own experiences of racism or acts of racism they witnessed toward others, including incarcerated persons. In confidential settings, some white staff and administrators corroborate witnessing or suspecting staff of pressuring other staff to keep quiet about incidents of racism.

➤ **Internalized Racism: Corrections Culture**

Structural racism manifests in Massachusetts Corrections as **Internalized Racism** where individual and community attitudes and beliefs impact Corrections culture and community members disparately by race. The Commission found that regardless of race the Corrections culture in general normalizes an “us vs. them”

mentality across many of the corrections institutions. This more generalized mindset can amplify the impacts of structural racism. It is also counter-cultural to confront racism. Incarcerated respondents reported experiencing that the comfort zones or cultural understandings of administrators were discussed and treated as nonethnic, generic or safe, while those of majority BIPOC, non-American, or non-Christian identities and cultures were approached with skepticism or treated as special privileges. Administrators, incarcerated persons and staff respondents all perceived patterns of some Administrators overgeneralizing negative experiences with a small number of BIPOC individuals across all members of that group, rather than investigating and more surgically responding to each situation.

## **SUMMARY OF 10 MAJOR RECOMMENDATIONS**

This Report contains 10 major recommendations that are clustered into Legislative, Corrections Policy, and Governor & Administration responses.

### **Legislative Recommendations to Dismantle Structural Racism in Corrections**

- 1. Review existing bills** recommended by the Commission for individual or omnibus passage, in order to assist Committees in aligning new legislation to improved Corrections outcomes and to ensure such bills incorporate a race equity lens and are enacted to existing race disparities.
- 2. Draft new omnibus Corrections legislation** that increases accountability and transparency, improves conditions, and ensures Corrections community members of all races and ethnicities have a voice in the functioning of these public institutions. New legislative language would bolster equity in these areas:
  - New **EOPSS Undersecretary** of immigrant, identity and linguistic equity
  - **Robust data systems**, analysis and reporting with independent review
  - Detailed and transparent **financial reporting**
  - **Programming** and educational services
  - **Culturally appropriate resources** and services
  - **Disciplinary and grievance** processes
  - Institutional **security and custody** level designations
  - **Visitation** policy and procedure
- 3. Draft new public health legislation** to provide for needs assessment and resource allocation to ensure culturally-appropriate, gender-affirming healthcare,

adequate mental and behavioral healthcare, substance use services, and mental health and trauma education for corrections staff and incarcerated individuals.

## **Corrections Policy Recommended Updates to Dismantle Structural Racism**

- 4. Update Data Collection Policies & Standards:** Establish data collection policies and standards to allow for the collection and analysis of racial demographics that track and monitor the experiences of BIPOC community members in the day-to-day operations of Corrections. Such data should be disaggregated by race and ethnicity, sex, gender identity, sexual orientation, and language, with in-depth focus on health, workforce development, and training outcomes. Information should be regularly updated and accessible to the public without the need for individual public records requests.
- 5. Develop Infrastructure to Innovate Programs & Services:** Establish ongoing processes for the collaborative innovation of policies governing mental health services, classification, intake through reentry planning, visitation, and community engagement (including faith and community-based partners) to ensure best practices in equity and antiracism. Provide culturally competent services for groups whose intersectional culture compounds structural racism:
  - **ELL:** Multilingual programming or translation technology
  - **LGBTQ+:** Gender-affirming healthcare and resources for safe sex
  - **Young Adults:** Immediate eligibility for programming; positive formation and leadership development; age-appropriate behavioral healthcare
  - **Lifers:** Extended family privileges; specialized mental healthcare; longer-term housing; living wage job opportunities; furloughs
- 6. Update Staff Hiring, Training & Accountability Infrastructure:** Reframe human resources policy and practice through a Diversity, Equity, Inclusion, and Belonging (DEIB) lens and engage staff in feedback and leadership opportunities to ensure staff equity, safety and accountability. Modify correctional staff training, hiring and retention practices to improve cultural competence, employing a DEIB Coordinator and team.
- 7. Intentional Corrections Culture Development:** Develop, train and support cross-functional teams in each facility and across facilities who provide peer consulting and consultation to the administration on healthy Corrections culture

and mission alignment in order to ensure ownership and sustainability of best practices at every level.

## **Governor & Administration Recommendations to Dismantle Structural Racism in Corrections**

- 8. Mandate Public Data & Media Technology Supports:** Establish and implement Administration-wide protocols for data collection, data analysis and learning, data reporting, and improvement mechanisms, which allow for service providers to follow an individual across agencies and to ensure that each agency meets its mission. The Commission recommends that an independent governmental entity be mandated to oversee the charge of this Commission, starting with the review of race data collected at state and county correctional facilities, in order to ensure long-term adherence to antiracist practices across administrations and across generations of Corrections leadership.
- 9. Facilitate Increased Inter-Agency Partnership:** Leverage partnerships and funding between Secretariats to mitigate the impacts of external structural racism (e.g., in housing and employment) on reentry success.
- 10. Expand Budget Transparency & Target Financial Support:** Mandate spending and outcomes transparency in program budgets and advocate for the full costs to fund re-entry from intake, including adequate program, healthcare, and employment and the requisite staff and partner resources.

The Commission is pleased to submit these 10 recommendations detailed in the following Report as initial steps to dismantle structural racism in Massachusetts Corrections. Commissioners and stakeholders involved in the work and research undergirding the Findings and Recommendations hope that this Report can be foundational in ensuring that all members of the Corrections community, across every race, ethnicity, language, sex, gender identity, and sexual orientation can safely, successfully and equitably participate in furthering the Corrections mission.

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**The following members of the African American Coalition Committee offered quotes regarding their participation in the Commission on Structural Racism in Correctional Facilities of the Commonwealth:**

*Being a part of the Committee to end Structural Racism in Parole has been a positive life-altering experience. Working side-by-side with passionate, like-minded individuals towards an effort that is not only just, but also has the potential to change so many lives, has been an honor. To witness the hard work and dedication of so many to right a wrong has been inspiring, and it's my want that this is only the beginning of the necessary work that has to be done. I am forever touched and grateful for the opportunity to have been a part of something noble and great.*

**- Mr. Anthony**

*When I participated in the workshop to end structural racism within the Department of Correction, I believed, and still do, that it could be effective in its overall endeavors if all participants commit to its purpose. It felt good to me to see everyone, from prisoners to staff to outside stakeholders, all share in the common goal of ending a system that benefits no one, but causes great damage to the masses. I felt good in that space, because this is a cause I have fought for for all of my existence within the DOC these past 31 years. It was a great event, and I hope there are more to come, because without them we will not be able to keep the purpose alive in the hearts of those we need to change in order to effectuate the end of structural racism in the DOC.*

**- T.G.**

*During my time working with the Commission to curb structural racism, particularly within the dynamic of parole, I was able to become aware of issues that hinder Black and Brown people. Within these meeting spaces we were able to produce viable and tangible issues that evolved into other think tanks, policy recommendations, and other constructive processes to address structural racism. Even through my own individual research and experiences, I was able to help others gain a better understanding on how to approach certain issues regarding parole and structural racism and vice versa. Working within the Commission I feel that this is something needed in order to assist and help the protected class, therefore there must be more space and assistance in order to accomplish the goals we tend to achieve.*

**- Joshua "Hamza" Berrios**

# Introduction

## CONTEXT AND BACKGROUND ON 2020 POLICE REFORM BILL

### The Commonwealth's Response to a National Reckoning

The murder of George Floyd, an unarmed black man killed by a police officer in Minneapolis, Minnesota on May 25, 2020, prompted a reckoning about race in America that extended to classrooms, media, workplaces and politics alike. As countless Americans watched the replay of the video which showed the Minneapolis officer kneeling on the neck of Mr. Floyd for more than 9 minutes, resulting in his death, the aftermath spurred a nationwide political movement that prompted legislatures across the country to examine laws and policies that perpetuate racial inequality at America's societal core, most acutely in the criminal justice system.

### 2020 Police Reform Bill

In Massachusetts, the 191st Legislature responded by proposing a number of police reform initiatives as part of "An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth," also known as the "Police Reform Bill." The Police Reform Bill passed the Legislature as S.2963 and was signed into law by Governor Baker December 31, 2020. The final version of the bill mandated **twelve Commissions, including eight temporary Special Legislative Commissions for study and review and four permanent statewide Statutory Commissions to provide long-term infrastructure for continued research and action.**<sup>1</sup>

### The four permanent Commissions are on:

- The Status of African Americans
- The Status of Latinos and Latinas
- The Social Status of Black Men and Boys
- The Status of Persons with Disabilities

### The 8 Special Legislative Commissions are on:

- Structural Racism In Correctional Facilities (the subject of this report)

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<sup>1</sup> For the legislative mandate for each of these permanent and special commissions see *APPENDIX A, Enabling Legislation for 2020 Police Reform Bill & Special Legislative Commissions*. The Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth page is accessible on the MA Legislature website, <https://malegislature.gov/Commissions/Detail/566>.

- Structural Racism In The Parole Process<sup>2</sup>
- Structural Racism In Probation Service<sup>3</sup>
- Government Use Of Facial Recognition Technology<sup>4</sup>
- Emergency Hospitalizations
- Civil Service Law, Personnel Administration Rules And Procedures
- Law Enforcement Officer Cadet Program
- The Impact Of the Qualified Immunity Doctrine

**Three of the eight Special Legislative Commissions, including this Commission, received a legislative mandate to provide findings and recommendations for dismantling structural racism** in furtherance of legislative oversight of the Massachusetts Executive Office of Public Safety and Security (EOPSS), to which the Department of Correction (DOC) reports.

### **Origins Of The Structural Racism In Corrections Commission**

The leadership of the African American Coalition Committee<sup>5</sup> (AACC) drafted the original language for the Commission. AACC members work to reform the criminal legal system through partnerships inside and outside the walls.<sup>6</sup> A long-time goal of the AACC, Ricky (Fu’Quan) McGee, a currently incarcerated AACC Board member, spearheaded the initiative calling for the establishment of a Special Commission to study how structural racism exacerbates BIPOC contact within the criminal legal system. The Massachusetts Black and Latino Caucus included this goal in the Massachusetts Electeds of Color 2020 “10-Point Plan to Address Police Violence and

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<sup>2</sup> See *APPENDIX P, Related Police Reform Bill Special Legislative Commission Reports*. The Massachusetts Parole Process Report is accessible on the MALegislature website and on Senator Eldridge’s website, [Special Commission on Structural Racism in the Massachusetts Parole Process](#), [Commission on Structural Racism in the Parole Process — State Senator Jamie Eldridge](#).

<sup>3</sup> Special Commission on Structural Racism in the Massachusetts Probation Service page is on the MA Legislature site at [Special Legislative Commission on Structural Racism in the Massachusetts Probation Service](#).

<sup>4</sup> See *APPENDIX P, Related Police Reform Bill Special Legislative Commission Reports*. This Report is accessible on the Facial Recognition Commission website, [Facial Recognition Commission](#).

<sup>5</sup> Founded in 1972, AACC is a 501c3 membership organization composed of individuals incarcerated at the DOC facility, MCI-Norfolk. See *APPENDIX C, African American Coalition Committee (AACC) Background*.

<sup>6</sup> “Inside” and “outside the walls” are terms referring to life inside prisons and outside of prisons, respectively.



Advance Racial Justice.”<sup>7</sup> Revised language for the Commission was ultimately included in the final Police Reform Bill that passed into law.

## STATUTORY MANDATE TO THE COMMISSIONERS

The Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth was mandated in [Chapter 253 SECTION 110 of the Massachusetts General Laws](#) to:<sup>8</sup>

To “**investigate and study disparate treatment** of persons of color incarcerated at state and county correctional facilities and determine the role of structural racism in those disparities”

To “**conduct a thorough review of the policies and procedures** in place at state and county correctional facilities, both as written and as implemented,

To “**determine if there are disparities in the treatment of persons of color** and if structural racism at these facilities is a cause of those disparities.”

To “**conduct a thorough review of the access to educational, vocational or other programming options** for incarcerated inmates and if there are disparities in access for persons of color and if structural racism is a cause of those disparities.”

To “**make recommendations to eliminate any disparities** in the treatment of persons of color found at state and county facilities including policy or legislative changes.” And finally,

To “**submit its report and recommendations, together with drafts of legislation**<sup>9</sup> to carry its recommendations into effect, by filing the same with the clerks of the house of representatives and the Senate.”

## COMMISSION MEMBERSHIP

The Legislature uses Commission membership to elevate stakeholder voices in its constitutionally mandated role to provide oversight and accountability to the executive branch and its departments. The Commission appointments were

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<sup>7</sup> For all 10 points in the 10-Point Plan, see *APPENDIX E, Massachusetts Elected Officials of Color Ten Point Plan*.

<sup>8</sup> See *APPENDIX A, Enabling Legislation for 2020 Police Reform Bill 8 Special Legislative Commissions*, for the complete language of the statute, including the legally mandated composition of Commissioner appointments.

<sup>9</sup> “Drafts of legislation were taken from bills not passed in the 192nd Legislative Session that this Commission deemed essential to dismantling structural racism in Corrections and can be found at the links referenced in the Legislative Findings section of this Report. *APPENDIX B, Recommended Legislation for Dismantling Structural Racism in Correctional Facilities*, provides further detail on these bills. In addition to drafts, the Commission submitted recommendations below for new bills to be drafted in the 193rd Session.

completed by December 21, 2021. The **17 legislatively mandated appointments** were as follows:<sup>10</sup>

1. Steven W. Tompkins, Sheriff, Suffolk County
2. Andrew Peck, MA Undersecretary for Criminal Justice, EOPSS
3. Senator Adam Gomez, Hampden
4. Representative Vanna Howard, 17th Middlesex
5. Representative Orlando Ramos, 9th Hampden
6. Representative Christine Barber, 34th Middlesex
7. Attorney LaToya Whiteside, Racial Equity In Corrections Initiative Director, Prisoners Legal Services of MA
8. Robyn Frost, Executive Director, MA Coalition for the Homeless
9. Kevin Flanagan, Legislative Representative, Massachusetts Correction Officers Federated Union
10. Derek Brooks, Founder, Inside Cable, Inc.
11. Scott Scharffenberg, Executive VP, New England, Roca
12. Gregg Croteau, CEO and Dennis Everett, Director of Reentry, UTEC
13. Janson Wu, Executive Director, GLAD
14. Annelise Araujo, Immigration and Family Attorney, Araujo and Fisher
15. Senator James Eldridge, Middlesex and Worcester, Senate Co-Chair
16. Representative Nika Elugardo, 15th Suffolk, House Co-Chair
17. Darrell Jones, Community Activist

### **Incorporating Currently Incarcerated Voices On The Commission**

Legislative commissions have greater effectiveness when they bring governmental staff and impacted community voices into policy processes together to formulate meaningful policy and legislative action. Originally the legislative language on Commissioner selection included incarcerated individuals and their families, formerly incarcerated individuals, legislators, and advocacy organizations. However, the House and Senate Counsels disagreed on legal grounds about the inclusion of currently incarcerated individuals, and they were not ultimately included.

### **AACC Structural Racism Commission Inside the Walls**

In the absence of incarcerated Commissioner voices, the AACC initiated an inside-the-walls Structural Racism Commission as part of its "Harriet Tubman

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<sup>10</sup> Many Commissioners also engaged community partners to represent their respective agencies and organizations.

Initiative.”<sup>11</sup> The AACC carried out similar Commission functions by gathering data on correctional policies, procedures, and programming to inform findings and recommendations. They used the following methods: planning and strategy meetings, recruitment for written testimony by currently incarcerated individuals, survey construction and analysis of incarcerated respondent data at MCI-Norfolk, and themed review of corrections community feedback.<sup>12</sup> The AACC’s research and findings were incorporated as a central case study supporting systemwide findings and recommendations of this Commission.<sup>13</sup>

## Structural Racism: Commission Working Definition & Framework

### COMMISSION WORKING DEFINITION<sup>14</sup> OF STRUCTURAL RACISM

At its first public meeting on July 9, 2021, Commissioners requested to develop a working definition of structural racism. On September 20, the Commission considered a proposed definition, based on expert testimony from Dr. Rufus J. Faulk, Jr., Director of the Mayor’s Office of Public Safety, who also shared recommendations to improve practice and address disparate treatment and outcomes in re-entry, program access, and staffing diversity and training.

#### Shared Agreement on Where to Look for Structural Racism

Following Dr. Faulk’s testimony and related discussion, Commissioners agreed to use the following shared understanding of structural racism to guide investigation:

***Structural racism may be unintentional and is defined by demonstrated disparity by race in the treatment of or impacts on Corrections community members within or across the following elements of service provision or mission:***

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<sup>11</sup> See APPENDIX D, *AACC Submissions to the Legislative Commission on Structural Racism in Corrections: Harriet Tubman Project Description and Call for Civil Rights Investigation*, for a description of the Harriet Tubman Initiative and of the AACC Structural Racism Commission inside the walls.

<sup>12</sup> See, e.g., APPENDIX R, *DOC Structural Racism Systems Analysis*, for an example of themed review.

<sup>13</sup> See APPENDIX D, *AACC Submissions to the Legislative Commission on Structural Racism in Corrections*. See also (n. 12).

<sup>14</sup> “Working Definition” is used to indicate Commissioner agreement on the thrust of the language below. The working definition was not a technical or academic definition, but rather focused on what to look for in the analysis. See APPENDIX V, *Data Collection and Analysis Working Group: Key Definitions*, for suggested definitions of key terms used in this document, such as “racism” and “equity.”

- **Policy Creation:** Design of policy does not incorporate needs of all races.
- **Policy Implementation:** Services are resourced or provided differently to different races in ways that produce negative or disparate outcomes by race.
- **Corrections Mission Outcomes:** Community members experience equal access and treatment, but because of external influences, outcomes differ by race. Disparate outcomes signal structural racism that can be mitigated by shifting Corrections policy or culture.

## Why We Need a Shared Framework and Definition for Structural Change

Special Legislative Commissions, much like other organizational transformation tools and assessment, produce actionable results only when best practices are employed for data collection and analysis. Best practices for legislative and policy development include incorporating voices and ideas of key stakeholders, not only in the research and final analysis of recommendations, but also in defining the terms of the mandate. A framework represents the shared understanding of these terms. Here, Commissioners agreed upon shared initial understandings about structural racism that would guide the Commission’s investigation and review. The below framework outlines the Commissioners’ agreed upon shared understanding of guideposts for the work and provides important context for interpreting the report.

## COMMISSION FRAMEWORK FOR ASSESSING STRUCTURAL RACISM

For the purposes of this Report the following summarizes Commissioner viewpoints, confirmed by stakeholder testimony, on guidelines for structural racism review:

- **Assess impact vs. intent:** Structural racism in organizational culture, policy and programing is demonstrated by disparate impacts or outcomes by race and does not require discriminatory racist intent or motive.
- **Externally-originating factors can be mitigated:** Structural racism outside corrections can foster or amplify structural racism within corrections. The administration is responsible for mitigating or countering externally-originating structural racism impacts where possible.
- **Incarcerated people are experts:** BIPOC incarcerated individuals<sup>15</sup> possess valuable expertise derived from lived experience that is necessary

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<sup>15</sup> The Commission uses “incarcerated” versus “inmate” in this report. Commissioners found that this word choice respects the humanity of people, referencing incarceration as a current status, instead of using stigmatizing language like “inmate” or “prisoner” to depict incarceration status as an identity that can be interpreted as inherent.

to help shift harmful elements of corrections culture. They should be engaged in the work of dismantling structural racism.

- **Staff are harmed by structural racism:** Correctional staff experience the traumatic impacts of structural racism. BIPOC staff experience discriminatory impacts, and all staff experience the toxic fallout resulting from structural racism.
- **Impacts vary for intersecting demographics:** Actionable recommendations will be based on a review of the compounded harm to specific demographic groups within the BIPOC community whose intersectional identities expose them to greater risk. Commissioners identified the following intersecting BIPOC groups among those whose acute experience of structural racism should be independently reviewed and specifically addressed in the recommendations of this report:
  - **Voluntarily identifying<sup>16</sup> as LGBTQ+**
  - **English language learners (ELL)**
  - **Immigrants without documentation**
  - **People experiencing chronic or severe behavioral health challenges or neurodivergence**
  - **Members of the disability community**
  - **People assigned female at birth (e.g., cis gender women and transgender men)**
- **The expansive mandate requires all hands on deck:** Commissioners will collaboratively determine working groups to address the different components of the mandate. Working Groups will self-determine their capacity and deliverables and will be encouraged to involve staff or partners from participating member organizations to help with execution.
- **Engaging the whole corrections community is critical:** Dismantling structural racism requires cultural change within Corrections, not only in the form of policies and harm reduction, but also by cultivating buy-in from diverse members of the corrections community, including incarcerated individuals, staff, administrators and lawmakers. Without shared ownership of the mission, the system may adjust around new

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<sup>16</sup> Commissioners emphasized that providing sexual orientation or gender identity should be voluntary, especially given the risks to safety that exist when LGBTQ+ people who are incarcerated are publicly outed in prisons.

rules, rather than establishing a new normal that is a safe, respectful and honoring community for all.

- **Incarcerated individuals have the same human rights as everyone else:** The penalty of incarceration is the loss of freedom. The treatment of individuals while they are incarcerated should not constitute additional punishment, including exacerbated impacts of structural racism (or racism of any kind) resulting from the incarceration.
- **Existing data is insufficient for a full review:** The DOC does not currently collect much of the data required to comprehensively assess disparate impact by race. The Commission will not have capacity to collect comprehensive county data from the Houses of Correction (HOC). The recommendations will give guidance for a data collection mandate.

## Corrections Community, Organizational Structure, & Programming

### INCLUSIVE CORRECTIONS COMMUNITY

The mandate is “**technical**,” involving research and analysis of Corrections process or infrastructure, and “**social**,” identifying examples of behaviors and interactions between Corrections community members. To further fair and accurate “social” analysis, the Commission sought to comprehensively and inclusively define the Corrections community. The following sections outline roles and functions of the Corrections community, specifically, as a context for analyzing the intersection of relationship, policy and processes within EOPSS organizational culture. **The Commission did not have resources for stakeholder analysis at each county level HOC, and focused more centrally on DOC as a statewide case study.<sup>17</sup> However, Report Recommendations should be tailored to HOC as well.**

#### The Commission’s Inclusive Description of Corrections Community

The Corrections community is diverse, and interactions and relationships are complex and dynamic. According to the official Commonwealth website, 5.4% of the combined state and county incarcerated population was assigned female sex at

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<sup>17</sup> See below section *Procedure & Methodology: Deep Dive in the DOC*, p. 13.

birth, and about 39% are white, 29% latinx, 28% black, 2% Asian American Pacific Islander (AAPI), .3% indigenous, and under 2% other.<sup>18 19</sup> The DOC and the collective county HOCs employ between 8,000 and 9,000 employees. Each incarcerated individual and staff is part of a network of family and stakeholders.

This report focuses on three groups within the Corrections community:

- Staff and Administrators
- Incarcerated Individuals
- Outside stakeholders who have an interest and impact inside the walls.

Administrators include the EOPSS Secretary, the Undersecretary of Public Safety, County Sheriffs, the DOC Commissioner, superintendents, deputy superintendents and their administrative and finance teams that manage operations statewide or at individual facilities. In this Report, staff refers to employees responsible for various operational functions, including correctional officers, correctional programs officers, kitchen staff, janitorial staff, medical staff, human resources teams, investigators, educators, and others. This demographic breakdown is similar at county facilities.

### **Intersectional Corrections Community**

As residents of Corrections, incarcerated individuals are continuously impacted by and contributing to structural dynamics in the Corrections system. Different cultural backgrounds, races, ages, sexes, gender identities, sexual orientations, and other identities interrelate differently within and across groups and experience structural racism differently. This complexity produces a multitude of unique experiences and support needs across various identities. The mandate to eliminate race disparity will require the Corrections community to develop nuanced, respectful understandings of each subgroup and their respective perspectives and experiences.

The Corrections community extends far outside the walls of the physical and organizational prison infrastructure. It includes families and friends of staff and incarcerated individuals. It includes legislators and other public officials whose policies and legislation govern Corrections organization and operations. Additionally, public interest attorneys, outside contractors, and volunteers deliver program services. Businesses and government agencies employ incarcerated individuals. In

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<sup>18</sup> [Cross Tracking State & County Correctional Populations | Mass.gov](#): Offender Population by Sex, Race-Ethnicity, Age, Snapshot as of December 1, 2022. Additional breakdowns available, e.g., by age and by County facility.

<sup>19</sup> State numbers may not reflect how individuals self-identify. This is discussed in Findings and Recommendations.

order to interact directly with the incarcerated population inside the walls, most individual and group members of the “outside the walls” Corrections community undergo an extensive screening process. The Commission reviewed experiences with this screening and visitation processes as part of its mandate.

## **DOC<sup>20</sup> MISSION, PROGRAMMING, AND ACTIVITIES**

### **DOC Vision & Mission**

The vision of the Massachusetts Department of Correction is *to effect positive behavioral change in order to eliminate violence, victimization and recidivism.*<sup>21</sup> **The DOC mission is to promote public safety by managing offenders while providing care and appropriate programs in preparation for successful reentry into the community.**<sup>22</sup> DOC materials detail programmatic resources and opportunities are offered to incarcerated individuals intended to facilitate successful rehabilitation and reentry in furtherance of the vision and mission.<sup>23</sup>

### **DOC Programs**

The Department of Correction Program Description Booklet<sup>24</sup> outlines the following programmatic “re-entry continuum:”

- **Step 1:** Intake Assessments, including individualized screenings for medical health, mental health, substance use, risk vs. needs assessment, educational (Test of Adult Basic Education - TABE)
- **Step 2:** Classification (security level): Maximum, medium, minimum, pre-release, or electronic monitoring, which determines an individual’s facility assignment and access to specific programming
- **Step 3:** Personalized program plan (identified criminogenic needs): Academic/vocation, criminal thinking, violence reduction, substance use treatment, sex-offender treatment, faith-based and volunteer programs

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<sup>20</sup> For why the Commission focuses on the DOC as a statewide example, see (n. 17).

<sup>21</sup> See APPENDIX N, *DOC Submissions to the Legislative Commission on Structural Racism in Corrections: Program Description Booklet*, p.3. Also at [Massachusetts Department of Correction Program Description Booklet](#).

<sup>22</sup> IBID.

<sup>23</sup> IBID, pp. 4ff generally, and pp. 28ff for program listing by Secure Facility. See also, [Inmate programming | Mass.gov](#), last modified December 2022, for a generalized overview of programming for incarcerated persons.

<sup>24</sup> IBID, p. 4. Also, APPENDIX H, *DOC Community Graphics: Graphic 4: DOC Reentry Continuum from Intake to Integration*.



- **Step 4:** Individual Reentry Planning, including housing, medical/mental health, identification, probation, parole, employment, substance use treatment, US military, faith-based collaborations
- **Step 5:** Release/expiration of sentence
- **Step 6:** Community Reintegration

Programs are intended to begin preparing incarcerated individuals for reentry at Step 3. Access to those programs is shaped by the Assessment process at Step 1 and the Classification process at Step 2. The following programming addresses individualized goals identified through the assessment process, related to health, mental health, education, substance use, and risk vs. needs.

- **Religious services**, including chaplaincy and volunteer services, recreational services, and a wide variety of services provided by over 1,500 volunteers (offered at all facilities)
- **Self-improvement groups** sponsored by incarcerated individuals (differing by facility).
- **Programs provided by outside contractor** Spectrum Health Services for males and females providing motivational, therapeutic cognitive and behavioral management activities, substance abuse treatment activities, and re-entry preparation (6 weeks to 6 months). Programs for females incorporate gender-responsive approaches to address trauma, abuse, family relationships, substance abuse, and mental illness.
- **Educational programs**, including English as a Second Language (3 levels), Adult Basic Education (3 levels, including Hi-Set test preparation), remote learning tablets, college-level programs, technology educational programs, and Voc-Ed (different programs at different facilities).
- **Employment programs** (different programs at different facilities)

All facilities offer a range of departmental programs, educational programs, self-improvement groups, and institutional programs.<sup>25</sup> Several factors limit access to program opportunities in specific facilities. Generally, individuals incarcerated in a maximum security facility have access to fewer programming opportunities.

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<sup>25</sup> (n. 23).

Individuals placed in solitary confinement have severely restricted access. **If classification and disciplinary systems produce disparate impacts, programming access will also be disparate.**

Each facility runs complex scheduling for staff assignments, shift changes, and movement requirements for incarcerated individuals. Family members, volunteers, and other visitors follow strict protocols for when and how they safely enter a facility and relate with incarcerated individuals, staff, and administration. In a variety of security risk situations, staff may exercise discretion in the way they implement or suspend these policies. All these interactions form the backdrop on which community members may experience structural racism, in relationships or in the course of services, activities or discretionary decision-making.

## Procedure & Methodology

### COMMISSIONERS' CONSENSUS ON PROCEDURAL SCOPE

#### Commissioner Guidelines for Procedure & Deliverables

In the Commission's initial meetings, Commissioners discussed the scope, purpose, and strategy of the Commission.<sup>26</sup> From these discussions emerged the following guidelines Commissioners agreed would govern the work and help ensure actionable recommendations:

- Develop a shared working definition of structural racism
- Use inclusive processes to engage multiple demographics in the analysis
- Identify data types required for full analysis of structural racism impacts
- Engage DOC staff in the analysis
- Incorporate policy and legislative recommendations into the final report

The Commission established **working groups** to ensure progress on each point.<sup>27</sup>

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<sup>26</sup> See APPENDIX I, *Transcripts, Summaries, and Links for Hearings and Oral & Written Testimony*, especially pp. 166-177. Audio and visual recordings of each hearing are also available on the MA Legislature website at [Hearings & Events](#).

<sup>27</sup> See APPENDIX F, *Working Group Detailed Descriptions & Members*.

## Deep Dive in the DOC

Massachusetts Corrections includes a network of 15 prisons managed by the DOC<sup>28</sup> and of HOC jails managed by 14 county Sheriffs. The state and county incarcerated population includes just under 11,800 persons, about 7500 sentenced and 4300 pretrial.<sup>29</sup> The DOC incarcerated population represents about 5,300 individuals, or 45%, with the remaining 6,500, or 55%, housed in county HOCs.<sup>30</sup> The DOC employs about 4,200 staff and administrators, 18.9% of whom are BIPOC.<sup>31</sup> HOC county jail facilities collectively employ approximately an additional 4,500 staff. As a temporary Special Legislative Commission, there were no dedicated staff or paid research personnel. The Commission did not have capacity or resources to analyze all 14 counties and the DOC statewide. To maximize the robustness of the review and to ensure an actionable set of recommendations the Commission focused more in-depth review and analysis within the Department of Correction as a case study.

## Procedural Meetings and Decisions

The first three Commission hearings, as well as email updates throughout, dedicated time to transparently discuss and decide on the procedure for developing findings and recommendations and for collectively reviewing and releasing the Report. Commissioners agreed that each Working Group would submit both interim and final reports on their respective findings and recommendations<sup>32</sup> to be circulated to Commissioners for discussion and comment in public hearings. The Commissioners received written summaries of each meeting along with a link to the hearing and detailed meeting notes on early procedural meetings.<sup>33</sup>

## METHODOLOGY

In the inaugural meeting, Commissioners committed to establishing a methodology that would maximize potential for actionable recommendations that produced

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<sup>28</sup> See full listing at *APPENDIX O, DOC Facilities Listing*. An online list of Department of Correction facilities is also available on the Mass.gov website, [Massachusetts Department of Correction Locations | Mass.gov](https://www.mass.gov/info-details/massachusetts-department-of-correction-locations).

<sup>29</sup> [Cross Tracking State & County Correctional Populations | Mass.gov](https://www.mass.gov/info-details/cross-tracking-state-and-county-correctional-populations): Offender Population by Offender Status by Month, Snapshot as of December 1, 2022.

<sup>30</sup> IBID.

<sup>31</sup> [State Employee Diversity Dashboard | Mass.gov](https://www.mass.gov/info-details/state-employee-diversity-dashboard), “Department Name” dropdown: Department of Correction.

<sup>32</sup> See *APPENDIX G, Working Group Reports & Recommendations (Interim and Final)*.

<sup>33</sup> (n. 26).

transformational change. Ultimately, the Commission Methodology comprised of the following elements:

- **Live-streamed Planning & Strategy Meetings**
- **Public Hearings**
- **Site Visits**
- **Working Groups**
- **Data Collection**
- **Data Analysis for Draft Findings and Recommendations**
- **Corrections Community Review & Feedback on Findings**

### **Live-streamed Planning and Strategy Meetings**

The Commission began to convene on July 9, 2021 and hosted a total of twelve Public Hearings through March 1, 2022.<sup>34</sup> The early meetings focused on the Commission’s planning and strategy, developing agreement on the scope of the mandate, the leadership role of Commissioners, the shared working definition of structural racism, the Commission priorities and values, and the scope and expectations for Working Groups.<sup>35</sup>

### **Public Hearings<sup>36</sup>**

From December 2021 to March 2022, the Commission hosted seven public hearings to solicit oral and written testimony from diverse stakeholders, including:

- **Formerly Incarcerated Men and Women:** Eleven formerly incarcerated BIPOC individuals in MA correctional facilities, including three who identify as LGBTQIA+ and one who is undocumented
- **Academic Expert Testimony:** Two academic experts on structural racism in corrections and one volunteer expert in resources and families

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<sup>34</sup> (n. 26).

<sup>35</sup> (n. 27).

<sup>36</sup> (n. 26).

- **Currently Incarcerated Persons:** Five currently incarcerated BIPOC individuals in MA correctional facilities (pre-recorded), including one transgender woman
- **Family of Incarcerated:** Four family members of currently and formerly incarcerated BIPOC individuals
- **DOC Administration:** DOC Commissioner Carol Mici and Administrators
- **HOC Administration:** Suffolk County Sheriff Tompkins, President MA Sheriffs' Association

### Site Visits

Commissioners participated in two official site visits in March, MCI-Cedar Junction/Walpole and MCI-Pondville, where Commissioners conducted onsite interviews and heard testimony.<sup>37</sup> The Staff and Administration Working Group made additional site visits to interview staff and administration leaders, including:<sup>38</sup>

- DOC Office of Recruiting and Training
- DOC Office of Diversity
- DOC Employee Assistance Unity
- Massachusetts Correctional Officers Federated Union, BIPOC members and line staff
- EOPSS Office of Diversity

Additionally, several Commissioners made independent site visits as part of their professional roles or business. These institutions included MCI- Norfolk, MCI-Concord, MCI-Framingham, Suffolk County House of Correction, and Souza Baranowski. Their findings were taken into account for the Commission's analysis.

### Working Groups

Commissioners delegated priority topics for investigation and recommendations to Working Groups. The working group structure allowed each Commissioner to share their individual expertise more directly and fully, and incorporated more of the

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<sup>37</sup> The Commission attempted to schedule official site visits at MCI-Concord, MCI-Norfolk, Old Colony C.C., Souza Baranowski, MCI Cedar Junction/Walpole and MCI Pondville for on-site interviews and testimonials. However, several were canceled due to various constraints.

<sup>38</sup> The complete list of interviews can be found in *APPENDIX G, Working Group Reports & Recommendations (Interim and Final): Staff & Administration Support, Development, and Training Working Group– Listing of EOPSS Staff & Administrator Interviews.*

complexity inherent in the study of structural racism in Corrections. Following is a list of the Working Groups:<sup>39</sup>

- **DOC Policy, Experience, & Access to Resources:** To analyze and study the current DOC system and its disparate impacts on BIPOC inmates.
- **Small Group Site Visit Coordinators:** To coordinate site visits and to organize interviews with incarcerated individuals and correctional officers.
- **Staff & Administration Support, Development, and Training:** To conduct internal and external interviews with staff and administrators within the DOC.<sup>40</sup>
- **Intersectionality of Hearing Agendas and Invitations:** Planned hearings and speakers to ensure inclusion of BIPOC individuals with intersectional identities representing all the affected subgroups, including women, LGBTQIA+ trans women of color, those who are housing insecure, those who are not citizens, those who are not English speakers, those with mental health challenges, and members of the disability community.
- **Follow the Money:** To analyze the budget and spending of the DOC.
- **Data Collection and Analysis:** To gather, analyze, and present data relevant to structural racism in the DOC, disaggregated by race, sex, gender identity, sexual orientation, and mental health status.
- **Outside Systems Mapping of Influences on DOC community:** To review how structural racism functions within and outside the DOC.

## Data Collection

The Commission reviewed educational, vocational and other programming as well as staff, administrator, incarcerated individual and group, family member, and other stakeholder experiences. In addition to testimony and site visits, Commissioners researched corrections data to provide context and inputs for analysis. This included DOC's public record of expenditures,<sup>41</sup> a 200-page response to 60 questions queried

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<sup>39</sup> (n. 27).

<sup>40</sup> (n. 38).

<sup>41</sup> See, e.g., *APPENDIX L, DOC Sample Expenditures and Line Item Requests*.

by Commission Working Groups,<sup>42</sup> the Mass Society for the Aid of Discharged Prisoners December 2022 Reentry Report,<sup>43</sup> and DOC healthcare data by race.<sup>44</sup>

The Working Groups determined early that the types of data that the DOC currently collects is insufficient for comprehensively analyzing structural racism that may be found in policies, programs or practices. For example, the Policy Working Group requested performance metrics on program participation and outcomes by race and ethnicity. The DOC response included some information on program enrollment in some facilities but did not have completion or other outcomes data by race. DOC expressed eagerness to partner with the Legislature to develop new data sets<sup>45</sup> and data collection systems consistent with Report Recommendations.

### **Qualitative Data Analysis for Draft Findings & Recommendations**

The Commission coded and analyzed data from the following sources:

- 13 Public Hearings, including testimony<sup>46</sup>
- Working Group & Commissioner Formal and Informal Interviews
- Racial Equity In Corrections Initiative of Prisoners' Legal Services (REICI) survey responses from currently incarcerated BIPOC individuals<sup>47</sup>
- Testimony submitted outside of hearings<sup>48</sup>
- Online research of DOC public data
- AACC data collection, surveys and research<sup>49</sup>
- DOC Response to Data requests from Commission Working Groups<sup>50</sup>

Coding is a process of identifying themes across a body of qualitative data.<sup>51</sup> These themes are used to map systemic connections and to support conclusions for findings and recommendations.

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<sup>42</sup> See *APPENDIX N, DOC Submissions to the Legislative Commission on Structural Racism in Corrections*

<sup>43</sup> See *APPENDIX K, Needs Assessment Report for Mass Society for the Aid of Discharged Prisoners*.

<sup>44</sup> (n. 42), *Point-In-Time Healthcare Data by Race, January 24, 2022*.

<sup>45</sup> See *APPENDIX M, DOC 2023 Data Sets Requests*.

<sup>46</sup> (n. 26)

<sup>47</sup> See *APPENDIX G, Working Group Reports & Recommendations (Interim and Final): Data Collection and Analysis (Survey) Working Group Preliminary Report*. Link to full blank survey of 147 questions available on p.141.

<sup>48</sup> See, e.g., *APPENDIX J, Written Testimony Submitted Outside of Public Hearings*.

<sup>49</sup> (n. 13).

<sup>50</sup> (n. 42).

<sup>51</sup> For coding instructions to research volunteers see *APPENDIX S, Coding Volunteer Assignments and Rubric*.

## Corrections Community Review & Feedback on Findings

May 2022, Commissioners and a team of research and writing volunteers from among the Commissioner agency and office staff and partners produced preliminary draft Findings & Recommendations.<sup>52</sup> To test this early draft, Commissioners and members of the Corrections community were offered opportunities to review and give feedback on the preliminary Findings and Recommendations.<sup>53</sup> These community members living and working inside the walls are critical experts in mitigating and eliminating structural racism. The Commission's process was grounded in building collaboration and trust with them and with DOC leadership and staff, which is also essential for implementing Recommendations.

### **On May 31, 2022, MCI Norfolk and the Commission hosted an intersectional group of about 80 Corrections stakeholders to give feedback to and workshop the Commission's preliminary high-level findings and recommendations.**

Participants included about 40 affinity group leaders who are incarcerated individuals, about 20 DOC administrators, staff, and correctional officers, Commissioners, and legislative staff, all of whom were engaged to work together with equal voice for six hours.<sup>54</sup> This workshop consisted of three sessions, each creating their own deliverable. Group A. finalized an analysis of DOC community and relationships, Group B gave line item feedback on preliminary Findings and Recommendations, and Group C produced a preliminary systems analysis of what DOC systems look like when they are free of structural racism.<sup>55</sup>

In subsequent small group sessions, incarcerated affinity group members refined the systems analysis by articulating themes, organizing responses, and identifying additional factors that influence findings. The Commission used this system analysis to prioritize recommendations and to enhance their feasibility and positive outcomes.<sup>56</sup> Once feedback from post-Commission review events was incorporated into a Draft, the Report draft was circulated to Commissioners and participants.

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<sup>52</sup> See APPENDIX Q, *MCI-Norfolk Workshop to Review Report Preliminary Findings & Recommendation: Preliminary Findings & Recommendations for Review 5/31/2022*.

<sup>53</sup> See, e.g., APPENDIX Q, *MCI-Norfolk Workshop to Review Report Preliminary Findings & Recommendations*.

<sup>54</sup> See workshop agenda and participating affinity groups in APPENDIX Q, *MCI-Norfolk Workshop to Review Report Preliminary Findings & Recommendation: Workshop Proposed Agenda to MCI Norfolk Administrations* ff.

<sup>55</sup> For details on the workshop and Group deliverables see, generally, materials in APPENDIX Q, *MCI-Norfolk Workshop to Review Report Preliminary Findings & Recommendations*.

<sup>56</sup> See APPENDIX R, *DOC Structural Racism Systems Analysis*.



# COMMISSION CALENDAR

## Statutory Deadlines

The original timeline provided for by the Statute established the Commission in January 2021 and set a deadline for the work at September 30, 2021. Due to a confluence of factors it took several months longer than mandated to appoint Commissioners. Commission co-chairs successfully petitioned for an extension to March 30, 2022. Due to the collaborative work and other various post-Commission opportunities for Corrections community engagement and feedback on the Report draft, Legislative leadership allowed for the Report to be submitted by the end of 2022. Where possible, further feedback was incorporated into this Final Report. However, to officially file this Report with the House and Senate Clerks as mandated, the Commission will need to be **"Revived and Continued"** in 2023.<sup>57</sup>

## Commission Timeline Highlights:

- **January 7, 2021:** law enabling Commission takes effect
- **July 9, 2021:** first public meeting date
- **July 23, 2021:** Working Groups established
- **December 23, 2021:** Final Commissioners appointed
- **March 1, 2022:** Last public meeting
- **March 22, 2022:** Last official Commission site visit
- **March 30, 2022:** Data collection completed and statutory term ends
- **May 2022:** Preliminary Findings and Recommendations circulated
- **May 31, 2022:** Stakeholder Workshop to review Draft report components
- **December 6, 2022:** Final Report Draft circulated to Former Commissioners, testifiers, and other participating stakeholders for review
- **December 30, 2022:** Final Report posted online and submitted to Former Commissioners, testifiers, stakeholders, and to 192nd Session House and Senate Leadership to be filed with the 193rd General Court upon *2023 Revival and Continuation*<sup>58</sup> of the Commission.

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<sup>57</sup>It is not uncommon for Special Legislative Commissions to expire before their work is complete. This Commission received two extensions. Though disbanding at the final extended statutory deadline of March 30, 2022, many former Commissioners, Corrections community members and volunteers continued to work to continue analyzing the data and writing to produce this Report in 2022. Because the Commission automatically disbanded at its statutory deadline, the Clerks cannot officially file it with the General Court until a legislator or the Governor files an order to "Revive and Continue" the Commission. However, Co-chairs will publish the Report document online.

<sup>58</sup> IBID.

## **LIMITATIONS ON DATA AND METHODS IN RESPONSE**

The Special Legislative Commission structure limited the Commission in key ways, noted below. Transparency about the limitations facilitated adaptations that helped ensure the strongest possible result given the limits.

### **Limitations: Commissioner Appointments & Limited Resources**

Based on legislatively mandated appointments, key stakeholder groups were not reflected in the Commissioner makeup, including currently incarcerated persons, families of incarcerated persons, groups representing the experience of women prisoners and staff, persons with disabilities, groups specific to BIPOC staff, operations and facilities staff, the DOC Commissioner, DOC facility-level administrators, and groups representing victims and survivors of crime. The Commission made extra efforts to engage these individuals and groups. Lacking their representation as Commissioners still created limitations, given the Commission's lack of staff and resources. The ongoing work required to hear all voices and perspectives and the need to dedicate adequate resources to antiracism inquiry in Corrections is reflected in the Commission's Recommendations.

### **Limitations: Hearings**

Currently incarcerated individuals offer relevant testimony regarding their experience of structural racism in Corrections, however, they may speak publicly only in conjunction with a victim impact and notification process. To work within these regulations, the Commission and DOC Administrator arranged for five currently incarcerated individuals to share pre-recorded testimony publicly. Housed in four different facilities, individuals are identified by first name only.

### **Limitations: Site Visits**

DOC provided access for Commissioners and Working Groups to conduct unlimited site visits and interviews with incarcerated individuals and staff. Nevertheless, required security protocols do not facilitate the spontaneous observation of interpersonal or structural racism in correctional facilities. Even unannounced visits offer ample time to change or hide negative behaviors. The Commission's ability to corroborate testimony of currently and formerly incarcerated individuals was limited by this. The DOC offered to provide unannounced video, but Commissioners did not have the capacity to request or thoroughly review it. Furthermore, spikes in Covid-19 cases in facilities led to shut downs, which limited site visit activities.

### **Limitations: Working Groups**

The volunteer nature of the Commission limited the available time Working Groups had to devote to their research and recommendations. Groups were further limited by health delays among Commissioners and family members due to COVID-19.

### **Limitations: Data Collection**

The DOC does not routinely collect staff or incarcerated individual data on experience and outcomes by race. With advance notice, DOC will publish such data via a special written Commission request. Commissioners and the DOC shared a learning curve on how to request and get the specific and targeted data needed. The Recommendations reflect this, including a proposed listing of new data sets required to fully examine and monitor structural racism and equity.

Despite these limitations, Commissioners made strong efforts to include as many diverse perspectives as possible within the time frame and structure of a Special Legislative Commission. The Report reflects a general Commissioner consensus of the Findings and Recommendations, based on testimony, interviews, site visits and available data. Each finding is supported by citations, and the Report identifies findings requiring further data for corroboration.

## **Findings**

### **COMMISSION FINDINGS FRAMEWORK: FOUR TYPES OF STRUCTURAL RACISM**

#### **Structural Racism in Public and Private Institutions Generally**

The Commission collected hundreds of discreet findings on structural racism in correctional facilities. Commissioners agreed that structural racism is systemic, and thus that this Report's complex and interrelated Findings and Recommendations should be presented within a systems thinking framework. For the purposes of this Report, the authors reviewed a number of frameworks to help organize the complex Commissioner Findings. The following Structural Racism framework, developed and promoted by Professor John A. Powell,<sup>59</sup> elaborates four types of Structural Racism

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<sup>59</sup> Professor Powell and others developed this framework on a systems thinking approach to understanding structural racism while Powell was at the [Othering and Belonging Institute at Berkeley Law School](#) and at [Kirwan Institute at Ohio State University](#), influenced by [Urie Bronfenbrenner's Ecological Systems Theory](#). See e.g., Workshop

and is widely used in academic and community justice settings to help people understand and address structural racism:

*"Racism manifests itself in multiple spheres of our lives and takes many forms, including internalized, interpersonal, institutional, and structural. In most conversations, people think about racism as a problem between two or more individuals. From a systems perspective, different facets of racism work interactively to reinforce a system that racializes outcomes." **In other words, interactions between individuals are shaped by and reflect underlying and often hidden structures that shape biases, create disparate outcomes even in the absence of racist actors or racist intentions.** The presence of structural racialization is evidenced by consistent differences in outcomes..."<sup>60</sup>*

#### **Four Types of Structural Racism In the Corrections Setting**

Borrowing from the Powell et al framework: "Racism is a social-political construct used to group people and differentially allocate resources of society based on that grouping," and **structural racism** "describes the dynamic process that creates cumulative and durable inequalities correlated with race."<sup>61</sup> **This framework can be adapted to describe structural racism as manifesting in four ways:**

- **Institutional racism:** racialized bias ingrained within agency practices
- **Systemic racism:** cumulative institutional culture perpetuating harmful biases
- **Interpersonal racism:** racialized biases impacting individuals' interactions
- **Internalized racism:** racialized beliefs within individuals

**Structural racism manifests in Corrections in these same four distinct yet overlapping types of racism**, commonly assessed in other institutions:

Institutional Racism (**policies**), Systemic Racism (**external system impacts**), Interpersonal Racism (**relationships**), and Internalized Racism (**culture**).

The primary purview of the Special Legislative Commission is Institutional Racism (policies) where legislative and administrative platforms can be readily leveraged to make change. However all four forms of racism contribute to Structural Racism, all four forms must be addressed to dismantle Structural Racism, and all four forms can be impacted by the policies of the Administration. The Commission Findings and Recommendations reflect this system's thinking approach to the mandate.

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Summary [Systems Thinking and Race, Transforming Race Today: Structural Racialization, Systems Thinking, and Implicit Bias](#), accessible on the official Berkeley and Kirwan websites.

<sup>60</sup> IBID, at [Systems Thinking and Race, Transforming Race Today: Structural Racialization, Systems Thinking, and Implicit Bias](#), p.5

<sup>61</sup> IBID, p.6.

## KEY FINDINGS: HIGHLIGHTS & EXPLANATION

### FINDINGS SUMMARY

**Structural racism manifests within the often hidden structures comprising systems (e.g., policies, practices, and culture) of Massachusetts Corrections and results in disparate treatment of BIPOC Corrections community members, including incarcerated individuals and staff.**

The Commission finds that the structural racism in Corrections systems produces or perpetuates unfair treatment and impacts by race and other intersecting identities (e.g., LGBTQ+ or immigrant status) and that it can be dismantled with intentional partnership between the Legislative and Executive branches, supported by leadership from diverse Corrections community members. As the Powell framework indicates, individual interactions and experiences are “shaped by and reflect **underlying and often hidden structures that shape biases [and] create disparate outcomes even in the absence of racist actors or [] intentions.**”<sup>62</sup>

The Commission’s data and procedures revealed hundreds of individual findings in support of the presence of structural racism in Corrections. Below, Key Findings are organized according to the adapted Powell framework, on p. 22 above, and to facilitate actionable, sustainable, and systemically-grounded recommendations.

#### ➤ **Institutional Racism: Corrections Policies**

**Structural racism manifests in Massachusetts Corrections as institutional racism, mainly through policies.** The inequity is institutional, because even when staff implement the policies by the book, things can go wrong from an equity perspective, yielding unintended negative or disparate impacts by race.

**Corrections policy, program design and implementation do not take structural racism into account.** This lack of antiracist intentionality<sup>63</sup> leaves gaps in resources for BIPOC incarcerated individuals and groups and results in disparate

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<sup>62</sup> (n. 60).

<sup>63</sup> Dr. Ibram X. Kendi, founding director of Boston University's Center for Antiracist Research, discusses the themes and differences of being ‘not racist’ and ‘antiracist’ in his book *How To Be an Antiracist*, published, 2019. Kendi writes “What’s the problem with being ‘not racist’? It is a claim that signifies neutrality: ‘I am not a racist, but neither am I aggressively against racism.’ I want to eliminate the concept of ‘not racist’ from our vocabulary. We’re either being racist or antiracist.” He also also shared in his Ted Talk that “An antiracist is someone who is willing to admit the times in which they’re being racist and who is willing to recognize the inequities and the racial problems of our society and who is willing to challenge those racial inequities by challenging policies.” See [Ibram X. Kendi: The difference between being "not racist" and antiracist | TED Talk](#).

services, opportunities, and impacts by race, as well as by various intersections of identity and race. In some cases, the Commission found that, when it comes to impact, services and opportunities were provided differently to different groups of people despite the policy having been designed considering the needs of all.

**Gaps in DOC<sup>64</sup> policies for hiring and for staff training, support, and accountability create opportunities for structural racism to go unchecked.**

DOC recruitment practices do not reflect the DOC community's ethnic and cultural diversity. Staff and management do not reflect the diversity of the DOC community, which limits the cultural fluency of the staff and administration. Staff of all races report limited access to training, professional development, and trauma support. This shortfall can amplify structural racism when the specialized training required for equity and mission success in a diverse setting is missing or inadequate. In addition, DOC does not have adequate mechanisms for individual observation, assessment, and accountability for employees who violate anti-discrimination policy.

**The Commission heard widespread reports of staff discretion resulting in, sometimes unconscious, preferences for individuals based on race.** This showed up in testimony recounting disciplinary measures or job opportunities. In other cases, the Commission found the policy design did not incorporate the unique needs of different races, ethnicities or cultures, such as in canteen procurement or equitable access to religious and cultural literature or celebrations.<sup>65</sup>

**Institutional racism findings showed up most prominently in the following policy areas:**

- **Healthcare** education, access, diagnosis, and treatment
- Services to **BIPOC immigrants** and English Language Learners
- Cultural and ethnic **affinity group programming** and services
- Job and **workforce development** opportunities
- **Data systems** tracking staff and incarcerated individual experiences
- **Budgeting transparency** and decision-making

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<sup>64</sup> HOC human resources and staffing processes need to be reviewed on a county by county basis.

<sup>65</sup> See, e.g., (n. 47), p.141. Preliminary Survey Results, March 28, 2022 found 94% of BIPOC incarcerated individuals surveyed believe that regulations, policies and/or practices at their correctional facility have a disparate (unequal) impact on BIPOC prisoners. According to 75% of surveyed BIPOC incarcerated individuals, there are no regulations, policies or practices at their correctional facility that adequately address racial discrimination.

## Institutional Racism Findings by Policy Area

### **Healthcare Education, Access Diagnosis and Treatment**

**The Commission found structural racism present in policy governing healthcare education, access, diagnosis, treatment and other services delivery, with particular disparities in mental and behavioral health.**

Current and formerly incarcerated individuals of all races reported reluctance to request mental health treatment, because of stigma<sup>66</sup> and perceived negative impact on their parole. These and other healthcare access challenges were exacerbated for BIPOC respondents who reported requests for healthcare being ignored or denied when similar requests by white peers were addressed.

In addition to inadequate physical and mental health care, BIPOC respondents reported issues with missing medical histories or other relevant medical information in their records. In both testimony and interviews, BIPOC incarcerated people reported experiencing retaliation for requesting medical help as well as obstacles to continuity in medication management, such as having to make multiple requests or to wait until symptoms intensified before receiving follow-up care. **Increased healthcare data collection by race is required to confirm perceptions that these experiences are worse for BIPOC compared to white incarcerated individuals.**

**The BIPOC experience is one aspect of a broader mental health crisis in Corrections.** Reports show that the number of incarcerated individuals in MA in need of mental health services is growing rapidly.<sup>67</sup> From sleep disorders to anxiety, mental health treatments have spiked in recent years.<sup>68</sup>

### **Services to BIPOC Immigrants and English Language Learners**

**Incarcerated BIPOC immigrants experience added barriers to programs and services.** Corrections does not consistently provide translation services to support communication during the intake process. Among other problems, this

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<sup>66</sup> See, e.g., *APPENDIX I, Transcripts, Summaries, and Links for Hearings and Oral & Written Testimony*, Hearing, December 8, 2021, Jamal Spencer.

<sup>67</sup> See, e.g., Matt Murphy, State House News Service, mod. March 22nd, 2022, [Demand for mental health services spike in jails, sheriff's report | WBUR News](#).

<sup>68</sup> IBID.

results in staff misidentifying the race and ethnicity of incarcerated individuals who do not speak English, undermining a policy<sup>69</sup> of self-reporting. If race is not properly identified at intake, data-collection on structural racism will be inaccurate and the documentation of barriers or progress by race is impossible. In one Commission survey of latino men at MCI-Norfolk, over 75% of the 157 surveyed were labeled as white when they do not self-identify as such and nearly 45% said they required translation services.<sup>70</sup> In another Commissioner survey, across DOC facilities, almost 50% of respondents reported their race or ethnicity had been misidentified in a MA correctional database.<sup>71</sup>

**Language barriers prevent ELL incarcerated individuals adequately advocating for their health care and program participation and inadequate multilingual information and programming produces disparities in program participation and outcomes.** Family members who do not speak English experience a significant disadvantage. For example, the DOC’s webpage and bulletin boards provide public information about visitation procedures, attorney application forms, and dress codes in English only or, in some cases, in English and Spanish only. These and many other examples of linguistic inequality unfairly restrict both incarcerated individuals and staff in rehabilitation efforts and can result in a failure to effectively prepare non-English speaking incarcerated people for reentry.

### **Cultural and Ethnic Affinity Group Programming and Services**

**Corrections infrastructure, policy and resources to support non-mainstream cultural and ethnic groups is limited and inconsistent across facilities.** The language for and understanding of what a cultural or ethnic affinity group is or why it is important to the Corrections mission shifts depending on the department or facility. Therefore, many corrections facilities have no way to cultivate leadership or feedback to ensure racially and culturally equitable community engagement among staff or among incarcerated people. The impacts of this range from awareness of basic needs, like black hair care

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<sup>69</sup> DOC Research and Planning Division, May 2021, accessible on the official Mass.gov website, [Massachusetts Department of Correction Prison Population Trends 2020 | Mass.gov](#).

<sup>70</sup> See APPENDIX D, *AACC Submissions to the Legislative Commission on Structural Racism in Corrections: AACC Structural Racism Commission: Survey on MCI-Norfolk Latino Men*.

<sup>71</sup> (n. 47), p. 145.



and skin care products in canteen, to accessibility of shared cultural events and foods associated with non white or non-American cultural or religious activities.

**Many administrators and staff don't realize that the products and events they are accustomed to are most prominent in white or American-born culture.** In some cases staff of any race may not believe that underrepresented cultures should or can be given equal expression as compared to mainstream culture. There is limited training, and what exists is largely informal, on the connection between cultural access and rehabilitation. This is discussed in the below section on Internalized Racism: Corrections Culture.

### **Job and Workforce Development Opportunities**

**BIPOC community members perceive that white incarcerated individuals are offered more desirable, higher paying job opportunities than BIPOC incarcerated individuals.** BIPOC incarcerated individuals in hearings and interviews reported delayed access to jobs, like being waitlisted longer than white peers, and being offered lower paying jobs. In one Commissioner survey of BIPOC incarcerated individuals, respondents believed BIPOC incarcerated people weren't given the same employment opportunities as white peers.<sup>72</sup>

The Commission found that this disparity may be partially explained by pre-existing race disparities. **Corrections policy currently has no intentional infrastructure for mitigating externally-originating disparities.** Research shows that black and many immigrant groups are over-arrested, overcharged, and over-sentenced for the same crimes as compared to white persons.<sup>73</sup> Parole hearings also produce disparate results by race.<sup>74</sup> Corrections jobs policies tied, for example, to the type of offense or the number of years until release, can compound pre-existing disparities. The below section on Systemic Racism: External Public Systems further elaborates findings of structural racism imported from outside the walls.

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<sup>72</sup> See, e.g., (n. 47), pp.144-145.

<sup>73</sup> See, e.g., "Racial Disparities in The Massachusetts Criminal System," The Criminal Justice Policy Program, Harvard Law School, Submitted to Chief Justice Ralph D. Gants, Supreme Judicial Court of Massachusetts, at <https://hls.harvard.edu/wp-content/uploads/2022/08/Massachusetts-Racial-Disparity-Report-FINAL.pdf>

<sup>74</sup> IBID. See also, *APPENDIX P, Related Police Reform Bill Special Legislative Commission Reports: Special Legislative Commission on Structural Racism in the Massachusetts Parole Process, 2022.*

## **Data Systems To Collect and Track Staff and Incarcerated Individual Experiences and Outcomes**

**Corrections lacks consistent reporting on targeted, specific, consistent, and accurate data by race, including accurate identification of an individual's race and ethnicity upon intake.** Accurate data reporting disaggregated by race is essential for examining and addressing structural racism and equity in strategic planning and for resource allocation decisions. Inaccurate Corrections data on incarcerated individuals' primary language deflates the scope and magnitude of language needs and blurs the distribution of that need across facilities.

Several Commission Working Groups requested corrections data disaggregated by race from the Department of Correction, but generally speaking only aggregated data was available. The DOC has agreed to collect specific disaggregated data by race going forward, which will in some cases require building out new data collection capacities.<sup>75</sup> Each HOC should similarly agree. This data should be published online to facilitate transparency and public policy.

## **Budgeting Transparency and Decision-making**

**Budgeting opaqueness inflames public mistrust and inhibits the Legislature targeting funds towards new efforts, including those to dismantle structural racism.** DOC financial reports<sup>76</sup> do not itemize costs at the program level. Moreover, DOC administrators, correctional officers, and incarcerated people reported a belief that Corrections spending does not match stated priorities for staff or incarcerated individual outcomes. Some respondents perceived that program spending, especially for healthcare and reentry, targets needs more commonly experienced by white incarcerated persons than those experienced by BIPOC people.<sup>77</sup> These perceptions can be damaging to Corrections culture and mission and can stoke mistrust between groups.

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<sup>75</sup> (n. 45).

<sup>76</sup> (n. 41).

<sup>77</sup> (n. 47).

## ➤ **Systemic Racism: External System Impacts**

Structural racism manifests in Massachusetts Corrections as **Systemic Racism** when unaddressed or unmitigated impacts of structural racism in external public systems carry over into Corrections.

### **Intersectional race disparities in the external criminal legal system outside the walls are imported into Corrections.**

BIPOC communities are overrepresented in the criminal legal system from over-policing to disproportionate arrests and charging to over-sentencing.<sup>78</sup> BIPOC LGBTQ+ persons and youth experiencing homelessness are even more overrepresented. For example, in a graph created in 2021 by the Prison Policy Initiative, 47% of black transgender people nationally have been incarcerated at some point in their lives.<sup>79</sup> LGBTQ+ youth of color in greater Boston are four times more likely to be homeless<sup>80</sup> and food insecure as their white LGBTQ+ peers and this leads to higher rates of incarceration. While these realities originate outside of Corrections, the impacts inside the walls can be mitigated through increased training and policy as well as through development of antiracist Corrections culture.

**Education and other policies & privileges tied to sentencing can produce disparate results.** Much like jobs policy, incarcerated individuals who enter Corrections with longer sentences can be disproportionately excluded from programming or put on years-long long waiting lists. Individuals with longer sentences report being ineligible for some educational programming until they are a certain number of months from their release date. Because of pre-existing sentencing disparity, these individuals are disproportionately BIPOC.

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<sup>78</sup> Harvard Law School (n. 73).

<sup>79</sup> “Visualizing the unequal treatment of LGBTQ people in the criminal justice system,” Help us End Mass Incarceration, 2021, [BIPOC transgender people have especially high lifetime rates... | Prison Policy Initiative](#). This sample was created in 2021, with a follow up survey in 2022 predicted to be larger than the previous survey.

<sup>80</sup> In the 2018 Massachusetts homeless youth count, where 2,150 youth were struggling with homelessness or were unstably housed, 21.9% identified as LGBTQ. The survey revealed that LGBTQ youth were 2.8 times more likely to experience homelessness than their heteronormative counterparts. Of these youth, 31% were Black, 14% were Latinx, 1% were Native American, and 1% were Asian or Pacific Islander. Mass.gov, [Massachusetts Commission on LGBTQ Youth: 2020 Report and Recommendations | Mass.gov](#), pp. 23 and 31.

**The classification system is one example of a correctional system that compounds structural racism carried over from outside because of its reliance on the unfair sentencing produced by structural racism in the courts.** BIPOC currently and formerly incarcerated persons reported that the Objective Point-based Classification System negatively impacts their access to services and programming relative to white counterparts by granting a higher place on certain programming waitlists to those with shorter sentences of incarceration.<sup>81</sup> Because BIPOC individuals are much more likely to be over-sentenced for the same crimes, this reliance on sentencing can exacerbate structural racism.

**Some respondents perceived access to health services to be tied to experiences and resources that BIPOC individuals were less likely to have pre-incarceration.** For example, where previous diagnosis or addiction care is required for certain behavioral health programming, BIPOC respondents felt that white incarcerated persons had an effective advantage in accessing those services because of better and more culturally accessible diagnosis and treatment for opioid addiction and other behavioral health and trauma in white communities of origin.

**BIPOC incarcerated individuals also reported heightened barriers to release and reentry because of structural racism in transitioning and post-carceral settings, including parole, public housing, and private employment.** BIPOC incarcerated and formerly incarcerated respondents report being drastically underprepared and ill-equipped for successful parole hearings and return to their communities. This can be especially true for LGBTQ+ persons and English Language Learners. Corrections policy requires updating to reduce disparities in reentry outcomes and ensure that all incarcerated individuals returning to community can succeed, regardless of race.

**Formerly incarcerated BIPOC respondents reported that reentry processes are faster and more effective for people who have stronger ties to outside employment, stable housing and homeownership.** Where external factors create race disparities in employment, housing and homeownership, this means that on average BIPOC returning individuals require increased workforce development and housing support in order to experience the same outcomes as

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<sup>81</sup> (n. 42), p. 308.

white counterparts. Currently the baseline of employment and housing support afforded to incarcerated persons does not address this and therefore may unintentionally disadvantage BIPOC returning individuals. By contrast if the baseline of support targeted the populations with the highest need, regardless of race, it would raise the bar and reentry outcomes for everyone.

➤ **Interpersonal Racism: Corrections Relationships**

**Structural racism manifests in Massachusetts Corrections as Interpersonal Racism where disparate treatment by race occurs between Corrections community members.** BIPOC incarcerated individuals reported hearing blatantly racist statements and epithets from white staff, incarcerated people, and one<sup>82</sup> administrator. Some BIPOC incarcerated members felt added stress at the lack of venues for holding staff accountable for racist and other harmful words and actions. This was particularly true for BIPOC LGBTQ+ incarcerated people. Respondents also reported that incarcerated individuals of any race may expect allegiance or opposition from staff or other incarcerated people, based on their race. These expectations can trigger counterproductive confrontations.

**Reportedly, one-on-one interactions between some staff and BIPOC incarcerated people can disproportionately impact disciplinary decisions, access to healthcare services, and access to employment.** In interviews, testimony and at site visits, staff, administrators, and incarcerated people of various races reported a perception that many staff carry conscious or subconscious negative stereotypes based on race. This is especially true when a BIPOC incarcerated individual is LGBTQ+, dark-skinned, or does not speak English. Staff of any race<sup>83</sup> who are implementing policies where discretionary decision-making is the norm are at greatest risk of giving preference to white individuals over BIPOC individuals based on their biases. An example referenced frequently in testimony, focus groups, and interviews was of some staff assigning higher paying and more desirable jobs, like metalworking or dog training, to white individuals, while assigning lower paying less desirable jobs, like janitorial work, to individuals of

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<sup>82</sup> Upon inquiring about multiple allegations by currently incarcerated persons of a current administrator using offensive racial epithets and making blatant racist statements to them, the Commission found each reported incident traced back to a single individual. That individual is no longer employed by DOC.

<sup>83</sup> Unconscious bias was reported as problematic across the Corrections community, regardless of the race or position of the person holding the bias. Bias against darker skinned and immigrant incarcerated people was reported in interactions with staff as well as with other incarcerated people, including some BIPOC staff and peers

other races. In site visits and in confidential interviews, multiple staff and administrators acknowledged what they believed to be a minority but significant percentage of Corrections staff who treat BIPOC community members disrespectfully, cause them harm, or withhold positive support from them when they expect they can get away with it.

**BIPOC incarcerated individuals reported experiencing over-policing based on race or skin color and receiving harsher discipline than white counterparts.**

Almost 50% of incarcerated individuals surveyed by one Commissioner reported having been physically assaulted by correctional staff, with half of these reporting the assault was racially motivated.<sup>84</sup> Some BIPOC incarcerated respondents used phrases like “militarized” or “warlike” to describe how corrections officers relate to them. Disparate treatment increases for incarcerated individuals with intersectional identities. For example, BIPOC incarcerated individuals who identify as LGBTQ+ reported being more likely to be sentenced to solitary confinement for defending themselves in an attack. Black transgender women’s intersectional identities made them particularly vulnerable to violence. Cruel and unusual punishment of BIPOC transgender individuals reportedly led to suicide in some cases.<sup>85 86</sup>

**BIPOC staff reports ranged from experiencing no problems with racism to feeling unsafe, discouraged or unsupported in addressing their own experiences of racism or acts of racism they witnessed toward other members of the corrections community, including incarcerated persons.<sup>87</sup>**

In confidential settings, some white staff and administrators corroborate witnessing or suspecting staff of pressuring other staff to keep quiet about incidents of racism.

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<sup>84</sup> (n. 47), See, e.g., p. 145.

<sup>85</sup> APPENDIX I, *Transcripts, Summaries, and Links for Hearings and Oral & Written Testimony*: Hearing, January 13, 2022, Michael Cox.

<sup>86</sup> A worsening epidemic of suicide within the Corrections community crosses all races and positions. This devastating and unacceptable reality must be addressed for all races. The Commission’s mental health Recommendations are intended to combat structural racism and bolster support for all Corrections community.

<sup>87</sup> See, e.g., APPENDIX J, *Written Testimony Submitted Outside of Public Hearings: Summary of Interview with BIPOC Officer Derrick Samuels* reporting details of employment discrimination claim and experience..

## ➤ **Internalized Racism: Corrections Culture**

### **Structural racism manifests in Massachusetts Corrections as Internalized Racism where individual and community attitudes and beliefs impact Corrections culture and community members disparately by race.**

Historically, corrections culture normalizes mentalities that work counter to dismantling structural racism. Additionally, preference for white, Christian or American cultural familiarity, while neglecting other cultures or subjecting them to special scrutiny, can lead to disparate impacts by race.

### **The Commission found that historic Corrections culture normalizes an “us vs. them” mentality across many of the corrections institutions, with varied responses to this culture in the contemporary Corrections community.**

The “us vs. them” mindset showed up between staff and administrators as well as between staff and incarcerated individuals. This mentality can be exacerbated by certain aspects of street culture,<sup>88</sup> imported by corrections community members, that impact dynamics between staff or between incarcerated individuals. “Us vs. them” promotes dehumanizing “the other,” and destroys the capacity for empathy, good will and honesty<sup>89</sup>— all essential tools for dismantling structural racism. Administrators named this culture as something they attempt to work against in their respective institutions. Some staff and incarcerated individual testimony reported that they themselves resist this culture or actively work against it. In other cases, however, community members expressed a general acceptance of this culture as “the way it is,” or acknowledged a sense of giving up or of hopelessness about changing these deeply rooted cultural and relational divisions.

### **Diverse community members reported that internalizing race and ethnic bias is normalized in Corrections culture and that it is counter-cultural to confront it.**

A number of respondents cited cases where administrators were dismissive of critiques relating to unfair treatment based on race, resisting or refusing authentic inquiry or investigation. This was reported in some cases where the complainant was a white staff or incarcerated person reporting negative treatment or impacts on behalf of their BIPOC peers.

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<sup>88</sup> The Commission did not attempt to define “street culture,” which is a dynamic and diverse concept. This finding is referring to one aspect of “running the streets” where neighborhood boundaries or demographic differences are pitted against each other and emotional or physical harm between groups is normalized.

<sup>89</sup> See, e.g., Forbes, Feb. 6, 2019, Duena Blomstrom, [Why A Culture Of "Us Vs. Them" Is Deadly](#).

**When staff are not trained and do not understand racial trauma they may cause more triggering or misinterpret reactions of incarcerated persons, responding in ways that unnecessarily escalate situations that are medical in nature.**<sup>90</sup> Some staff, both BIPOC and white, used phrases like “violent criminals” and “bad people” to generally describe the incarcerated population, contributing to a cycle of triggering and harm. External structural racism in charging and sentencing leads to proportionally more BIPOC and immigrant people being incarcerated for violent crimes.<sup>91</sup> This could create or reinforce internalized views that BIPOC people are more violent.

**When BIPOC individuals experience PTSD resulting from persistent racism prior to incarceration, continued encounters with racism can delay PTSD recovery and trigger more severe symptoms.**<sup>92</sup> Community members expressed that racialized generalizations are triggered by and trigger trauma responses and hypervigilance across the community, regardless of position or race.

**Incarcerated respondents reported experiencing that the comfort zones or cultural understandings of administrators were discussed and treated as nonethnic, generic or safe, while those of majority BIPOC, non-American, or non-Christian identities and cultures were approached with skepticism or treated as special privileges.** They also reported a pervasive lack of knowledge or understanding about how to assess needs and resources through a cultural lens, particularly for cultures unfamiliar to them. While this may be a common experience among BIPOC, immigrant and non-Christian individuals in institutions across the Commonwealth and country, the impacts of this disparity in

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<sup>90</sup> “Mental Health and Racial Equity In CHNA 17”, page 22-23, 47-48, Community Health Network Area 17, Compiled by Emily Bhargava, Connection Lab LLC, Funded by Mount Auburn Hospital and McLean Hospital, September 2017. Respondent healthcare provider responsible for training police officers in social work and antiracism reported officers showing much stronger outcomes when training modules included trauma history of African Americans with law enforcement. Parts of this report can be accessed on the CHNA17 website, [Assessing Community Needs - CHNA 17](#).

<sup>91</sup> Harvard Law School (n. 73).

<sup>92</sup> See Sibrava, Nicholas J., et al, January 2019, [Posttraumatic Stress Disorder in African American and Latinx Adults: Clinical Course and the Role of Racial and Ethnic Discrimination](#). Research suggests that experiences with discrimination contribute to higher prevalence of Posttraumatic Stress Disorder in African American and Latinx adults and that frequency of those experiences predict lower outcomes in treatment, as compared to White adults.



the Corrections setting can lead to unequal distribution of resources and privileges by race and can make the environment less safe for everyone.<sup>93</sup>

**The Commission found that religious celebrations, foods, canteen products and programming in Corrections generally align within the cultural comfort zone of white Americans and can receive less scrutiny than cultural norms that are less familiar or comfortable for white community members.**

A lack of diverse hair care products in canteen is one example. BIPOC incarcerated respondents reported incidents where requests for books, multimedia, or events that are standard or essential in their culture or religion were denied based on express administrator or staff concerns that the content was disruptive. BIPOC-led affinity groups reported having a harder time approving volunteers than white-led groups. These respondents noted that cultural or religious celebrations requested by majority white groups were more often described as relevant, safe, and mainstream by the same administrators. BIPOC family members and LGBTQ+ incarcerated people expressed feeling chastised based on their body types or how their clothes fit, with curvy shapes in women family members and femme presentation among BIPOC incarcerated people assigned male at birth (e.g., gay men, transgender women) receiving higher levels of scrutiny about attire.

**Some administrators expressed working towards culturally equitable resource assessment, however they described their efforts as recent, new or counter cultural and therefore lacking strong supportive cultural infrastructure.**

Staff and administrators reportedly lacked training or awareness about the unique resource needs of race, culture, or language groups.

**Administrators, incarcerated persons and staff respondents all perceived patterns of some Administrators overgeneralizing negative experiences with a small number of BIPOC individuals across all members of that group, rather than investigating and more surgically responding to each situation.**

Respondents of all races described the practice of restricting, dismissing, or punishing an entire group because of the behavior of someone similar to them in demographic, living space, job title or sentence as dehumanizing. Testimonies mentioned this practice across a broad range of areas of Corrections, including

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<sup>93</sup> Some non-BIPOC staff also reported feeling or being silenced in their cultural or religious adherence, particularly with respect to COVID restrictions. These experiences and others the Commission heard were not covered by the legislative mandate to investigate structural racism but should be further investigated and addressed.

furloughs, COVID response, gym access, lockdowns, room searches, and staff complaints, with BIPOC individuals and people who have been convicted of serious crimes reporting significant distress as a result.

**BIPOC staff and incarcerated persons reported that some staff's unconscious beliefs about race and culture unintentionally negatively impact fairness in daily discretionary decisions, such as job placement or discipline.** These respondents shared that some correctional officers fear or distrust BIPOC, especially darker skinned, incarcerated individuals, more than white incarcerated individuals. They perceived that in these cases, white incarcerated people and their visitors, volunteers, and families were perceived by these officers as safer or more trustworthy than BIPOC community members. Respondents reported that neighborhood or ethnic group familiarity between a staff person and an incarcerated person sometimes resulted in preferential or disparate treatment. In other cases certain immigrant backgrounds were typecast as better cleaners or harder workers. In some cases incarcerated people felt discriminated against based on their offense type as compared to white peers convicted of the same offense. These unconscious biases were reported to disproportionately impact BIPOC job assignments, disciplinary review or appeal, and disciplinary actions.

Limited shared language or understanding about how to identify and describe structural inequity and bias further entrenches negativity and can impact community safety and the mission of Corrections.

## Recommendations

### SUMMARY OF MAJOR<sup>94</sup> RECOMMENDATIONS

**In light of the systemic nature of the Commissions structural racism framework, this Report's 10 major recommendations are clustered into Legislative, Corrections Policy, and Administration responses which, taken together, can launch effective transformational change with best practices in antiracism and Diversity, Equity, Inclusion, and Belonging (DEIB).**

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<sup>94</sup> More recommendations from Commissioners and Commission participants can be found in *APPENDIX G, Working Group Reports & Recommendations (Interim and Final)* and in *APPENDIX U, Preliminary Outlines Organizing Comprehensive Findings & Recommendations*. Many of the recommendations presented in testimony related either to racism outside of Corrections or to addressing general problems or abuses within Corrections without linking outcomes to reducing race disparities. The *Rough Outline of Preliminary Recommendations* in APPENDIX U culled Recommendations tailored specifically to ending structural racism in Corrections settings.

## Summary of Legislative Recommendations

1. Review **existing bills** recommended for individual or omnibus passage.
2. Draft **omnibus Corrections bill** for accountability and DEIB inclusion.
3. Draft **public health bill** for culturally-appropriate, gender-affirming healthcare.

## Summary of Corrections Policy Recommendations

4. Update **Corrections data** collection policies & standards with a DEIB lens.
5. Develop infrastructure to **innovate programs & services with a DEIB lens**.
6. Update **staff hiring, training & accountability** infrastructure with a DEIB lens.
7. Launch and support **intentional corrections culture development** teams.

## Summary of Governor & Administration Recommendations

8. Establish **equity data** systems, independent review, and public communication.
9. Facilitate **inter-agency partnership** to leverage reentry funding and outcomes.
10. Expand **budget transparency** and target financial support to reentry success.

The Commission offers the following expansion on some immediately actionable highlights from each of the 10 key recommendations above.

## LEGISLATIVE RECOMMENDATIONS TO DISMANTLE STRUCTURAL RACISM

Dismantling structural racism will be shared work between the Legislature, the Corrections community, and the broader Administration. Where the work requires consistency and oversight to hold steady across staffing and administration changes, the particular contribution of the Legislature is essential to fulfilling the mandate. Below the Commission recommends **existing** and **new bills** for passage.

1. **Review existing bills recommended for individual or omnibus passage.**  
**Review existing legislation recommended by the Commission for individual or omnibus bill passage, in order to assist Committees in aligning new legislation to improved Corrections outcomes and to ensure such bills incorporate a race equity lens and are enacted to existing race disparities.**

The Commission recommends the following bills from among the 192nd General

Court for consideration whose collective passage would help to reduce or eliminate structural racism in Corrections by addressing issues of race disparity in the criminal legal system, supporting decarceration, providing for equitable healthcare in prisons, increasing reentry resources and outcomes, and increasing accountability through data transparency.<sup>95</sup>

## Public Safety Bills

- *H.3453/S2304 - An Act to eliminate debt-based incarceration and suspensions*: Eliminates several debt-based driver's license suspension triggers.
- *H.2008/S.1815 - An Act to reinvest justice and opportunity in communities affected by incarceration*: Establishes a strong communities and workforce development fund to be reinvested in communities impacted by incarceration.
- *H.2484/S.1566 - An Act to promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ people*: Guaranteed health, treatment, and safety for incarcerated LGBTQI+ persons.
- *H.1794/S.1022 - An Act to prevent the imposition of mandatory minimum sentences based on juvenile adjudications*: Decreases juvenile incarceration.

## Housing & Reentry Bills

- *H.4071 - An Act securing housing options for eligible tenants with a history of criminal justice involvement*: Creates a priority and preference in state-assisted housing projects for formerly incarcerated persons and persons about to be released.
- *H209 - An Act relative to discharge plans across the Commonwealth*: Helps prevent discharging individuals released from incarceration into homelessness.
- *H.2460/S.1551 - An Act relative to successful transition and re-entry to tomorrow for incarcerated persons; "The STARTT Act"*: Streamlines the application process for incarcerated persons to receive identification cards upon release.
- *S.450 - An Act to increase voter registration, participation, and to help prevent recidivism*: Voting infrastructure for incarcerated and pre-release individuals.
- *S.1564 - An Act relative to education and programming for the incarcerated*: Increases education and other programming related to rehabilitation and healthcare.
- *H.2503/S.1560 - An Act to promote equitable access to parole*: Expands and restructures the Parole Board and updates standards for parole decisions.

## Judiciary & Decarceration Bills

- *H.1868 - An Act regarding decarceration and COVID-19*: Decarceration measures for certain individuals posing no immediate physical threat to the community.
- *H.1797 - An Act to reduce mass incarceration*: Parole eligibility for individuals having served 25 years or more of a life sentence.

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<sup>95</sup> These bills were not voted on in time for the July 31st, 2022 deadline for the 192nd General Court. See APPENDIX B, *Recommended Legislation for Dismantling Structural Racism in Correctional Facilities (filed: 192nd Legislative Session)*, for details on bill summaries and status as of 12/6/22.

- *H.1795/S.1558 - An Act improving juvenile justice data collection*: Establishes systems to collect accurate, consistent, and comprehensive data on juvenile contact with law enforcement and juvenile justice systems.
- *H.1905/S.2030 - An Act establishing a jail and prison construction moratorium*: Prevents investment in new prison beds by pausing prison construction.
- *H.1518 - An Act relative to clarity and consistency for the Justice Reinvestment Oversight Board*: Improves data systems in criminal justice agencies.
- *H.2480/S.1541 - An Act to create uniform standards in use of force, increase transparency, and reduce harm in correctional facilities*: Standards for correctional facilities to minimize unnecessary use of force.

## Healthcare & Mental Health Bills

- *S.1635 - An Act to ensure compliance with the anti-shackling law for pregnant incarcerated women*: Ensures pregnant women aren't handcuffed.
- *H.2504/S.1578 - An Act to provide criminal justice reform protections to all prisoners in segregated confinement*: Reduces solitary confinement and its harms.
- *H.2509/S.1598 - An Act establishing a commission to review substance use in correctional facilities*: Commission to review substance use in correctional facilities.
- *H.2066/S.1285 - An Act ensuring access to addiction services*: Provides for DMH guidance on healthcare for incarcerated individuals with Substance Use Disorder.
- *H.1461 - An Act relative to ensuring quality mental health services in state correctional facilities*: Commission of Mental Health ensures health data collection.
- *S.1559 / H.1900 - An Act Relative to Inmate Phone Calls*: Ensures no-cost calls and supplemental communications, e.g., email and video calls, for incarcerated persons.
- *H. 2448/S.1599 - An Act to remove barriers to medical parole*: Removes barriers to medical processes by clarifying eligibility determinations, increasing cognitively incapacitated person access, and encouraging prompt resolution of court challenges.

## 2. Draft omnibus Corrections bill for accountability and DEIB inclusion.

**Draft new omnibus Corrections legislation that increases accountability and transparency, improves conditions, and ensures Corrections community members of all races and ethnicities have a voice in the functioning of these public institutions.** While existing bills will address a

number of the issues this Report has identified, the Commission recommends the drafting and inclusion of supplemental legislation to fill remaining, significant gaps. The legislative process is designed to hear and vet a range of ideas that ultimately yield a workable solution. The Commission process is no replacement for this. Rather than wordsmithing language for new bills, this section outlines key elements the legislature should consider in formulating additional legislation.

**The Commission heard a number of ideas for new drafts, mainly addressing the need for independently audited and reviewed transparency and**

### **accountability for race equity in funding, programs and services.**

Recommendations spanned the gamut of accountability from data collection on disparity and outcomes to both internal and public oversight of the DOC and of each county House of Correction. The Legislature could establish an independent oversight review board for this purpose, specifically to conduct an equity audit of Corrections, to host and review focus groups, and to circulate and report on qualitative surveys of staff and incarcerated individuals. Additionally, a number of Commissioners and respondents recommended a civilian review panel to review grievances, appeals, and disciplinary disputes of incarcerated individuals.

### **The Commission further recommends that the Legislature mandate specific guidelines for dismantling structural racism in Corrections that codify the elements of the work that must survive administration changes.**

While thoughtfully designed external accountability is essential to monitor the status of equity outcomes and to provide outlets that safeguard Corrections community members against retaliation, sustainable culture shift must also be led by and for the members of the community who live and work in the Corrections setting. It is essential that this work remain consistent, regardless of changes in Administration.

New legislation would include language to bolster equity in the following areas:

- **EOPSS Undersecretary of immigrant, identity and linguistic equity** to provide strategic planning and support for culturally and linguistically relevant programming and services, to provide advocacy for affinity groups, and to oversee regular equity audits from intake to re-entry.
- **Robust data systems, analysis and reporting** with independent review to gauge progress dismantling structural racism in Corrections, including systemized collection, analysis, and reporting of qualitative and outcomes data for staff and incarcerated individuals disaggregated by age, race, language, sex, gender identity, and sexual orientation.<sup>96</sup> A review of the experience and outcomes transparency measures currently in use by the MA juvenile justice system<sup>97</sup> may have applications for guarding against abuses and unintentional negligence in adult settings.

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<sup>96</sup> Data on services and outcomes for incarcerated persons should include individualized assessment on healthcare, jobs, program access, housing, canteen items, and religious observance. These details may appear in legislative language for a data systems bill or rather in subsequent regulations.

<sup>97</sup> [Juvenile Justice Policy and Data Board | Mass.gov](#) is one resource for a review of transparency and accountability measures in state-funded services for youth involved with the juvenile justice system.

- **Detailed and transparent financial reporting** on the level of funds spent each year at each facility in each functional area, such as security, housing, programming, administration, human resources, culture, and employment.<sup>98</sup>
- **Programming and education** services review through a DEIB lens, especially of workforce development opportunities and reentry programming.
- **Culturally-appropriate services and resources** funding to ensure community partners and vendors adequately provide for cultural needs and ethnic products serving BIPOC Corrections community members.
- **Disciplinary and grievance** processes review through a DEIB lens to monitor, address, and eliminate race-based disparities in treatment.
- Review **institutional security and custody level designations** through a DEIB lens to eliminate disproportionate outcomes by race in Security Threat Group and classification decisions.
- **Visitation** policy and procedure review through a DEIB lens to ensure cultural competence and training in visitor engagement.

### **3. Draft public health bill for culturally-appropriate, gender-affirming care.**

**Draft new public health legislation to provide for needs assessment and resource allocation to ensure culturally-appropriate, gender-affirming healthcare, adequate mental and behavioral healthcare, substance use services, and mental health and trauma education for corrections staff and incarcerated individuals.** Public health, legal system, and community leaders and experts, with staffing for actual research and analysis, would be a more appropriate venue for examining and legislatively addressing this Report's health disparity-related findings.

**The Commission recommends the Legislature stand up a permanent Commission on the Impact of Public Health Crises on Structural Racism in the Criminal Legal System to perform ongoing investigation of health disparity in and impacting Corrections.** Whether the COVID pandemic, the housing crisis, environmental injustice, or food insecurity, compounding public health crises outside the walls disproportionately impact and even drive BIPOC individual and community engagement with the criminal legal system, including Corrections. Some of the health disparities reported by this Report's respondents,

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<sup>98</sup> See APPENDIX G, *Working Group Reports & Recommendations (Interim and Final): Follow the Money Working Group Final Report*.

from PTSD and hypervigilant aggression to suicide and depression to substance use disorder and recovery, may originate with these external realities. An adequate response requires a more in-depth expertise and analysis than a temporary legislative commission of volunteers can provide and must link outside crises to treatment and impacts inside the walls. The permanent Commission could be jointly overseen by the Committees on Public Health & Judiciary.

## **CORRECTIONS POLICY RECOMMENDED UPDATES TO DISMANTLE STRUCTURAL RACISM**

The role of legislation to provide guidance and frameworks for dismantling structural racism is mainly limited to broad mandates on infrastructure and outcomes. While this is necessary scaffolding, the Commission found that targeted policy innovation within Corrections will also be essential. The Commission's next four recommendations center on Corrections policy impacts in the following areas:

- **Data Collection Policies & Standards** (Recommendation 4)
- **Innovation in Programs & Services** (Recommendation 5)
- **Staff Hiring, Training & Accountability** (Recommendation 6)
- **Corrections Culture Development Teams** (Recommendation 7)

### **4. Update Corrections data collection policies & standards with a DEIB lens. Establish data collection policies and standards to allow for the collection and analysis of racial demographics that track and monitor the experiences of BIPOC community members in the day-to-day operations of Corrections.**

Such data should be disaggregated by race and ethnicity, sex, gender identity, sexual orientation, and language, with in-depth focus on health, workforce development, and training outcomes. Information should be regularly updated and accessible to the public without the need for individual public records requests.

### **The Commission recommends Corrections engage in a regular rhythm of quantitative and qualitative analysis to continuously learn and respond to what is and is not working to further antiracism and mission alignment.**

When DOC officials responded to Commission data requests, Commissioners realized two things. One, data requests needed to be much more specific and actionable than those the Commission had submitted. Two, the DOC did not have data collection systems in place for monitoring structural racism or equity. The Commission worked closely with DOC administrators to refine data set requests.



The Commission has submitted recommended data sets to the DOC to begin collecting in 2023.<sup>99</sup> These include employment, healthcare, program, and canteen participation and outcomes data. To assess structural racism, it will be essential to control for variables like classification level, sentence, and offense. In some cases new systems will need to be built or developed. The Commission recommends each County House of Corrections collect and publish similar data.<sup>100</sup>

**The Commission recommends Corrections revamp data tracking systems for staff and incarcerated individual outcomes throughout their Corrections tenure.** Specific data requests will help jumpstart analysis but are insufficient to support a sustained process for dismantling structural racism. This requires professional assessment systems currently lacking across Corrections. Beginning at intake and continuing through discharge, the data process should log individual program engagement, program and services requests and denials, disciplinary action, and outcomes progress. With increased tablet access, technologies can readily be developed to manage data input and dashboarding. Similarly for staff, beginning at recruitment and following the staff through hiring, training, professional development, review, and promotion, disaggregated data by race can enable not only improved individual assessment but also help spot trends, strengths and weaknesses in antiracism and other mission alignment efforts.

**The Commission recommends expanding the existing COVID-19 data dashboard to include other health data, such as requests and treatment for substance use disorder and mental health.** Staff and incarcerated individuals regardless of race, need education and infrastructure for trauma response and other health care needs that arise as part of employment or living in the Corrections system. The Commission would like to have reviewed specific mental health data disaggregated by serious mental illness diagnosis, number of health care requests, and patient reported outcomes on the process of asking for care and treatment. This information is not readily available, nor the processes that would produce it.

**The Commission recommends the Prison Population Trends annual report be publicly accessible as a monthly update.** However, accuracy and consistency are critical in the data input. This will require updated training in the intake process

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<sup>99</sup> See *Appendix M, DOC 2023 Data Set Requests* for a detailed list of data sets and control variables to start with.

<sup>100</sup> The Commission did not have capacity to analyze data collection methods for each county. The DOC case provides an important baseline for data collection which must be customized and replicated at each county level.

to ensure consistency when incarcerated individuals choose ethnicity, national origin, and primary language. Allowing selection of multiple options for race improves accuracy, as would providing explanation or translation assistance.

**The Commission recommends the Corrections continue and expand focus group and survey protocols for staff, incarcerated individuals, and affinity groups to safely participate in regular feedback to the Department.**

The Commission's formal and informal data collection from current staff and incarcerated individuals yielded valuable data on race disparity and uncovered invisible inequities. Corrections can build on these methods to produce continuous feedback. This should include confidential surveys and peer led focus groups.<sup>101</sup>

#### **5. Develop infrastructure to innovate programs & services with a DEIB lens.**

Establish ongoing processes for the collaborative DEIB innovation of policies governing **mental health services, classification, intake through reentry planning, visitation,** and **community engagement** (including faith and community-based partners) to ensure best practices in DEIB. Provide culturally competent services for groups whose intersectional culture compounds disparity.

#### **Continuous Training & Review of Mental Health Services**

**The Commission recommends that state and County Corrections contract an independent audit or review of mental and behavioral health services with an equity lens.**<sup>102</sup> This review will capture areas where unseen barriers to culturally competent healthcare create unintentional disparities. The reviewing entity would form healthcare targeted legislative and policy recommendations to follow up on this Report. Without a professional audit it is clear Corrections suffers the same challenge as providers outside the walls with hiring BIPOC and multilingual clinicians. The Commission recommends the Administration contract culturally and linguistically diverse outside behavioral health vendors to more effectively provide care to staff and incarcerated individuals. This includes outreach to community partners outside the wall who specialize in connecting BIPOC medical care providers with patients who share cultural and linguistic backgrounds.

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<sup>101</sup> See *Appendix G, Working Groups Reports & Recommendations: Staff & Administration Support, Development, and Training Working Group Final Report.*

<sup>102</sup> This review can proceed with or without legislation, however the Commission did recommend the Legislature establish a Commission to review and respond to the impact of public and mental health crises on race disparity.

**Staff and incarcerated individuals should receive annual or more frequent training and continuing education in trauma-informed care and peer advising.** In the Corrections setting, self awareness about community and personal trauma, including trauma caused by racism inside and outside the walls, can save staff and incarcerated lives. All members of the Corrections community should receive regular education and training to equip them to recognize and effectively respond to the signs of mental health concerns in themselves and their peers.

**The Commission recommends Corrections track and regularly report on requests for mental health care received, requests denied, and the length of time in which requests are fulfilled, by race and ethnicity, sex, gender identity, sexual orientation, and language.** This data has clear assessment value and can support increased equity and effectiveness in case management.

#### **Outside Review of the Objective Points-Based Classification System through an Equity Lens with a focus on DEIB**

**To reduce race disparity in programming and services impacted by classification, the Commission recommends an external equity review of the Objective Points-Based System with an aim to identify and eliminate classification disparities based on race.** The classification system attempts to mitigate staff discretion by using a range of factors that predict behavior to determine classification decisions. A structural problem is that this system relies on variables determined in part by outside the walls decisions, like arrests, convictions, and sentencing, which disproportionately target BIPOC populations.<sup>103</sup> This review will identify points tied to variables that are already racially disparate and will provide recommendations to address any resulting disparity in classification outcomes. Recommendations will serve to remove barriers to program, housing and employment participation for inmates with longer sentences but who demonstrate readiness to participate. This practice may also support focusing staff discretion on performance achievement, versus potential bias surrounding a sentence or charge.

**Corrections should review the use of age under 24, immigration status, and previous education and prior employment in classification through a DEIB lens.** BIPOC youth and immigrants are disproportionately arrested and sentenced,

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<sup>103</sup> Harvard Law School (n. 73).

compared to other age and ethnic groups.<sup>104</sup> The use of these characteristics to limit access to programming essential to successful reentry must be carefully understood within a DEIB context in order to avoid working counterproductively to the Corrections mission and compounding pre-existing inequities. Incarcerated youth and immigrants who reported feeling stuck, hopeless, or angry when their mere demographic prevents access could benefit from recommendations for culturally and racially neutral alternatives to demonstrate their readiness for reclassification. For instance, a policy allowing incarcerated individuals to access programming based on readiness factors like setting and fulfilling goals could reduce disparity.

### **Inclusive Planning from Intake to Re-entry**

**The Commission recommends Corrections monitor the equity of program funding in proportion to resident demographics and track race disparity and equity in cultural programming and waitlists for resources and services.** The aim is to facilitate strategic planning in ways that ultimately impact not only events and activities, but also individual-level planning for jobs and education access. To ensure equitable success in re-entry outcomes, state and county Corrections must recognize that no programming is culturally neutral and work to ensure that all incarcerated individuals can access culturally relevant programming, regardless of their facility.

Stand up an EOPSS office dedicated to racial, cultural, immigrant, sex, gender **identity, sexual orientation, and linguistic equity within the Human Resources Department of DEIB, without awaiting a legislative mandate.**<sup>105</sup> This office will advocate with and for affinity groups and for strategic planning and support for accessible culturally and linguistically competent programming and services. Train staff to incorporate personalized, culturally-relevant dynamic schedules into reentry planning from the point of entry. Staff should support incarcerated individuals to develop and continuously update their re-entry success plan and timeline, identifying barriers to equitable access or outcomes and plans to

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<sup>104</sup> IBID.

<sup>105</sup> The Commission recommends above that the Legislature establish an Undersecretary position to oversee issues of cultural, ethnic, linguistic and identity equity. See *Appendix G, Working Groups Reports & Recommendations: Staff & Administration Support, Development, and Training Working Group Final Report* for a detailed outline of an Corrections administrative policy-based response.

troubleshoot obstacles. This office would oversee procedures, outcomes review and innovation to increase equity and decrease disparity, including:

- Translation of written and oral information for languages spoken by ELL incarcerated persons, using technology to enhance access to education programming, telehealth services, and reentry goals and planning.
- Targeted programming to equitably meet BIPOC and immigrant needs.
- Accessible visitation for ELL guests, including print and online translations of applications and required reading for visitors into at least the top ten most commonly spoken languages in Massachusetts.<sup>106</sup>
- Culturally relevant goods and services for groups whose intersectional culture or demographic compounds structural racism:
  - **ELL:** Multilingual programming and translation technology
  - **LGBTQ+:** Gender-affirming healthcare and resources for safe sex practices, including integration of tools like lube, condoms, dental dams, and educational literature on ensuring comfort and safety.
  - **Young Adults:** Early eligibility for programming; positive formation and leadership development; age-appropriate behavioral healthcare
  - **Lifers:** Extended family privileges; specialized mental healthcare; longer-term housing; living wage job opportunities; furloughs

### **Inclusive Procedures for Volunteers and Visitation**

**The Commission recommends the DOC monitor equitable volunteer access across facilities and cultural or affinity groups recruit specialized volunteers to fill in cultural programming gaps.** The management of equitably distributed volunteer resources requires intentional planning and outreach. This may require updating volunteer restrictions on formerly incarcerated individuals who offer to operate culturally-relevant programs. Volunteers present an effective and low-cost source of labor to organize and run culturally-relevant programming.

**The Commission recommends training staff in visitation equity and in religious and cultural competence.** To dismantle structural racism, volunteers, family, and friends should be and feel welcomed equally, regardless of their dress,

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<sup>106</sup> Currently, [Visiting an inmate in a Massachusetts Prison | Mass.gov](#) is posted in English and Spanish only.

language, culture, or identity. Corrections administrators should survey visitors to ask about and ensure equitable visitor access and to identify the resources needed to support cultural holidays, celebrations, and religious services and observances. Providing for no-cost technology to support remote visits<sup>107</sup> will go far to reduce race and other disparities in culturally and linguistically accessible visitation. Expanding the class of visitors who can perform unannounced site visits would increase opportunities for feedback on equity and disparity inside the walls.

### **Community Engagement in Legislative & Policy Review & Response**

This Commission recommends that Corrections establish, train and support a Corrections community equity task force, staffed with rotating members selected from across facilities. Task force members, including administrators, staff, incarcerated individuals, legislators, and faith-based and community volunteers, will be trained to engage peer stakeholders inside the wall in building relationships and assessing and promoting equity within and across peer groups. Staff and currently incarcerated members should be compensated at a living wage for their time.

**To oversee equitable access to health care, programming, jobs and other services, the Commission recommends an independent ombudsperson be assigned to monitor access and address disparities and grievances.**<sup>108</sup> This person may also function as a liaison between the Corrections community and formal or informal civilian oversight groups or panels.

### **6. Update staff hiring, training and accountability infrastructure with a DEIB lens.**

**The Commission recommends Corrections reframe human resources policy and practice through a DEIB lens and engage staff in feedback and leadership opportunities to ensure staff equity, safety and accountability.**<sup>109</sup>

Staff recruitment, hiring, training, professional development, supervision, support, team building, review, promotion, and retention strategy all create opportunities for updated systems and ongoing training. State and county corrections must ensure

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<sup>107</sup> See *Legislative Recommendations To Dismantle Structural Racism: Draft omnibus Corrections bill for accountability and DEIB inclusion* section, above.

<sup>108</sup> See APPENDIX G, *Working Groups Reports & Recommendations: Policy, Experience and Access to Resources Working Group Final Report* and APPENDIX R, *DOC Structural Racism Systems Analysis: July 2022 Draft of DOC Healthy System Observations & Themes*.

<sup>109</sup> (n. 101).

that hiring and promotion practices strengthen management and staff diversity through retaining and promoting diverse staff and using diverse interview panels. Management policies should be updated to address implicit bias and to better promote officer wellness, including on-going training on the race-related and other direct or vicarious trauma that staff and incarcerated persons respectively experience.

**Engaging staff, administrators, formerly and currently incarcerated persons, and returning citizens in developing a DEIB Strategic Plan will build shared ownership and make the plan more actionable.** The Plan would outline a staff-led process for reviewing staffing policies with a DEIB lens and would propose recruitment and training strategies to diversify the workforce and to increase the cultural competence of staff at all levels and of incarcerated leaders.

**The Commission also recommends formalizing and expanding the Diversity Advisory Council to increase cultural and regional diversity, as well as diversity in race, sex, gender identity, sexual orientation, rank and job function.** The expanded Council would consider how to more effectively increase the role, scope, locations, and staffing of the Employee Assistance Services Unit (EASU), with a focus on strengthening the racial, ethnic and gender diversity of the Council.<sup>110</sup> Corrections budgets must include sufficient funding to invest in annual DEIB training, and in the additional staff needed to support more robust functions.

**Modify correctional staff training, hiring and retention practices to improve cultural competence, employing a DEIB Coordinator and team.**<sup>111</sup> As has been referenced throughout this report, examining and addressing structural racism requires disaggregated data by race, and this includes data collection and tracking on staff recruiting, new hires, retention, promotions, and staff discipline. If staff and administrators are to be trained in DEIB, they must also have clear goals and objectives for their own professional development, performance and personal wellness, as it relates to their work and the mission.

**The Commission recommends that union leadership can play a more significant role in partnering with management to prioritize DEIB practices within their membership and to ensure the health and welfare of the**

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<sup>110</sup> IBID.

<sup>111</sup> IBID.

**Corrections community as a whole.** Barriers to staff wellness, as well as significant harm, can be part of the Corrections Officer’s job for all ethnicities. This reality must be overcome as a community. This includes increasing support and resources, like telehealth and online training, that help bypass the stigma and fear among staff associated with addressing issues of mental health and racial bias.

## **7. Launch and support intentional corrections culture development teams.**

**Develop, train and support cross-functional teams in each facility and across facilities who provide peer consulting and consultation to the administration on healthy Corrections culture and mission alignment in order to ensure ownership and sustainability of best practices at every level.**<sup>112</sup> It is said that “culture eats strategy for breakfast,”<sup>113</sup> and the Commission found the Corrections environment to be no exception. Policy redrafts and staffing diversity will not create sustained change unless Corrections culture also shifts to embrace antiracist and DEIB principles. In talks with Corrections community staff, incarcerated and Administration leaders, it is clear the work of culture shift must be led from the top and grown among grassroots leaders throughout each facility.

**The Commission recommends Corrections invest in targeted development of self-aware and motivated members of the community to grow their ability to lead DEIB and other culture shifts among their peers and across functions and facilities.** The Corrections community represents a diversity of cultures, all of which can and should contribute to shifting culture together. Such investment will be critical to building positive, respectful, collaborative relationships between staff, incarcerated individuals, and administrators, and can result in a culture that not only celebrates diverse cultures and backgrounds but also more agilely addresses trauma and strengthens rehabilitation and mission alignment.

**In coordination with the Office of Diversity, Equity, Inclusion, and Belonging, the Division of Staff Development can create structured leadership and management training programs to encourage, support, and foster leadership development, including an active recruiting pipeline of**

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<sup>112</sup> In 2022, EOPSS launched several initiatives in furtherance of this recommendation and is at the time of this Report publication in the planning and hiring phases for paying incarcerated and formerly incarcerated persons to work alongside staff teams to train peers in culture shift.

<sup>113</sup> This phrase is attributed to the management guru Peter Drucker. It means institutional culture determines or undermines the success of a strategy, policy, and transformation.



**diverse leadership candidates.** Ideally, DEIB work outlined in the above section on staffing policy, while facilitated by the administration, would be co-led at the facilities level by such diverse and well-trained cross-functional teams. These groups can effectively champion culture change in their facilities and advise the administration on culture shift, policy changes, and new legislation. Their close understanding of climate and culture at the housing unit level uniquely positions them to design, develop and organize workshops targeted at the needs of their peers. Equipping these teams with knowledge of trauma brain science, systems thinking, and team building will help them address resistance to challenging shifts.

**The Commission recommends Corrections expand the Restorative Justice model as a tool for developing leaders in the effort of dismantling**

**structural racism.** Some corrections facilities have implemented Restorative Justice (RJ)<sup>114</sup> opportunities within their facilities. RJ requires intentional relationship building across organizational roles and equips participants in peacemaking and other tools for building healthy community.<sup>115</sup> Staff and incarcerated individuals are already organized by blocks and units which lend themselves to the peacemaking circles RJ uses to make space for dialogue and crafting shared goals. Facilitating RJ community in this way may require diversifying classification within housing units, a change from the current system which places residents with the same security risk classification together by unit. This could create and enhance opportunities to engage disenfranchised groups like young adult lifers and English Language Learners at the center of culture transformation and to readily pair new staff and incarcerated individuals with peer mentors.

## **GOVERNOR & ADMINISTRATION RECOMMENDATIONS TO DISMANTLE STRUCTURAL RACISM**

**The systems impacting structural racism in Corrections span every agency of the Executive branch. Strong leadership and coordination from the Governor and across Secretariats will be required to fulfill this mandate.**

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<sup>114</sup> Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice*. June 1st, 2015.

<sup>115</sup> Restorative justice is rooted in RJ is rooted in evidence-based values, principles, and in six guiding questions: 1. Who has been hurt? 2. What are their needs? 3. Whose obligations are these? 4. What are the causes? 5. Who has a stake in the situation? 6. What is the appropriate process to involve stakeholders in an effort to address causes and put things right? See, e.g., [Restorative Justice | Letscircleup](#).

The Commission recommends the Administration’s special attention to its leadership in **Data & Public Communications** (Recommendation 8), **Inter-Agency Partnerships** (Recommendation 9), and **Budget Funding & Transparency** (Recommendation 10).

**8. Establish equity data systems, independent review, and public communication.**

**Establish and implement Administration-wide protocols for data collection, data analysis and learning, data reporting, and improvement mechanisms, which allow for service providers to follow an individual and their outcomes across agencies, to ensure that each agency meets its mission.**

Ensuring data collection is individualized, confidential, accurate, and uses standardized demographic categories<sup>116</sup> across agencies, disaggregated by race and ethnicity, language, sex, gender identity, and sexual orientation is good for all agencies. Corrections would benefit, because incarcerated individual outcomes depend on successful engagement with other agencies, especially in reentry.

**The Commission recommends that an independent governmental entity be mandated to oversee the charge of this Commission.** This neutral governmental entity will comprise race experts, impacted community members, and other substantive experts and leaders from housing to public health. The entity would conduct ongoing review of Massachusetts correctional systems, policies, programming, practices, and culture for the purpose of identifying and dismantling structures which contribute to the disparate impact and treatment of Corrections community members. The entity shall possess investigative authority and similar oversight necessary to carry out its mandate, particularly with the following aims:

- To recommend **legislative drafts** that ensure long-term adherence to antiracist practices across generations of Corrections leadership.
- To oversee **independent race data collection and analysis** that tracks and monitors the experiences of incarcerated BIPOC community members in the day-to-day operations of Massachusetts corrections, starting with the review of race data collected at state and county correctional facilities.

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<sup>116</sup> “Summary of the HIPAA Privacy Rule.” U.S. Department of Health & Human Services, Health Information Privacy, last modified on October 19th, 2022. HIPAA website, [Summary of the HIPAA Privacy Rule | HHS.gov](https://www.hhs.gov/hipaa/for-professionals/summary-of-the-hipaa-privacy-rule/).

- To recommend **reforms to the Objective Points-Based Classification** system that ensure the policy does not result in the disparate impact of BIPOC incarcerated community members.

**The Commission recommends the Administration dedicate Public Communications and Social Media resources to educate and engage residents, schools, housing developments, and communities in the transformational work Corrections is undergoing.** This is not only a critical step for garnering community feedback, but also for protecting the mental health and wellness of Corrections staff, who can feel that hard work on culture shift goes unnoticed and unrewarded. Regardless of race, the Commission found that Corrections staff experience distress based on extreme negative public perception of their job. Dismantling structural racism presents an opportunity for the Administration to support Corrections in repairing the public image where warranted. Engaging key Corrections community members and teams in public messaging can also help spread awareness of the positive impacts of dismantling structural racism while building important communications skills inside the walls.

#### **9. Facilitate inter-agency partnership to leverage reentry funding and outcomes.**

**The Commission recommends the Administration leverage partnerships and funding between Secretariats to mitigate the impacts of external structural racism (e.g., in housing or employment) on reentry outcomes and to support EOPSS in implementing Recommendations of this Report.**

Each Secretariat should review this Report to integrate key findings related to their departmental strategic plans. The Administration may delegate an inter-cabinet Task Force on Rehabilitation & Reentry, staffed across departments, to facilitate collaborative problem solving and filling resource gaps. Cabinets responsible for Healthcare, Public Health, Housing, Education, and Labor & Employment should be strongly represented on the Task Force. From translation to medical care to housing support, an interdepartmental group of state professionals can identify creative ways to share resources and to ensure that each returning resident is equipped with the tools and documentation required for successful and equitable reentry.

**10. Expand budget transparency and target financial support to reentry success.**

**Mandate spending and outcomes transparency in program budgets and advocate for the full costs to fund re-entry from intake, including adequate program, healthcare, and employment and the requisite staff and partner resources.** To make the case for targeted funding to dismantle structural racism in Corrections, the Administration must first ensure transparency in Corrections budgeting. The Commission recommends a recurring audit of DOC and Sheriff reports for consistency and accuracy, with public updates on Corrections spending by program and service area. The Commission further recommends EOPSS provide outcomes data to support increases in budget line items targeted at creating and safeguarding equity from intake through re-entry. The Administration can further support targeted budget advocacy by promoting outcomes-based budgeting across departments and by providing research and analysis on the cost savings to the Commonwealth associated with successful mission alignment in Corrections.

## **CONCLUSION**

The Commission is pleased to submit the foregoing 10 recommendations as initial steps to dismantle structural racism in Massachusetts Corrections. Commissioners and stakeholders involved in the work and research undergirding the Findings and Recommendations hope that this Report can be foundational in ensuring that all members of the Corrections community, across every race, ethnicity, language, sex, gender identity, and sexual orientation can safely, successfully and equitably participate in furthering the Corrections mission.

# Appendices

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**\* The document on this Appendix page is too large to download into the Appendices. Use the link provided to read the document online. If you are reading a printed document, you can search the document name on the Internet, or contact the Massachusetts Legislature's Office of the House Clerk at (617) 722-2356 to learn where to request a printed copy.**

**\*\* The document on this Appendix page is too large to download into the Appendices. The link provided points to a PDF on a Google Drive owned by the principal author on the Report. You may also contact the Massachusetts Legislature's Office of the House Clerk at (617) 722-2356 to learn where to request a printed copy.**

## **APPENDICES A THROUGH V**

