**MASSACHUSETTS MUST INCREASE IN-PRISON PROGRAMING TO REDUCE RECIDIVISM**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Submitted to Special Commission on Correctional Funding

JOHN E. BOWMAN, JR.

Access to Justice Fellow

January 11, 2021

1. **The Council of State Governments Study Strongly Recommended More Program Participation During Incarceration.**

At the end of its in-depth study of the Massachusetts criminal justice system the Council of State Governments Justice Center study team (CSG) defined five key challenges. The top challenge was to increase the in-prison programming that the Department of Correction (DOC) makes available to state prisoners.

Here is what CSG had to say in its February 2017 Executive Summary:

**CHALLENGE 1: PROGRAM PARTICIPATION DURING INCARCERATION**

Many people in Department of Correction (DOC) facilities are unable to participate in recidivism-reduction programming, in part due to lengthy wait lists for programs or lack of program availability in the facilities in which they are housed. In 2015 less than half of people released from DOC facilities had completed the programming available that was recommended for them while they were incarcerated. The quantity and type of programming available across the state’s Houses of Correction (HOCs) varies.[[1]](#footnote-1)

The record indicates that this situation is unchanged nearly five years after the CSG recommendation and the enactment of the Criminal Justice Reform Act in April 2018.

1. **The DOC Endorsed the Importance of In-Prison Programming to Reduce Recidivism After Release from Prison.**

More than a year after the CSG recommendation the Department of Correction released a report that supported the importance of participation in programming during incarceration. In its July 2018 report the DOC analyzed the recidivism rates of inmates who completed programs that addressed either substance abuse or education or who completed both substance abuse and educational programs. The DOC findings illustrate the positive effects of participation in programs while still incarcerated:

* 7% recidivism rate for inmates who completed both substance abuse and educational programs
* 12.7% recidivism rate for inmates who completed a substance abuse program (CRA)
* 10.2% recidivism rate for inmates who completed an educational program (high school equivalency).

Nevertheless, the limitations of the DOC report are apparent. There is, for example, no mention of the waiting lists and lack of program availability highlighted by CSG. The report also does not address the fact that by their prison release date less than one-half of the prisoners had completed programing that had been recommended when they entered prison. Nor does the DOC report mention other types of programs, such as vocational programs or anger management/domestic violence programs.[[2]](#footnote-2)

1. **The DOC Did Not Devote Available Resources to In-Prison Programming.**

In May 2017 Benjamin Forman and Michael Widmer, who were later appointed as members of the Special Commission on Correctional Funding, released a report titled Getting Tough on Spending: An Examination of Correctional Expenditure in Massachusetts. The report considered expenditures between FY 2011 (the apex of the Massachusetts prison population) and FY 2016 (the most recent data available then).

Their report bemoaned the missed opportunity to redirect corrections spending during a period when the state and county prison populations had declined by 12% while total correctional spending increased by 18%. The growth in the correctional budget had outpaced inflation by $72 million, it had increased 1.5 times faster than K-12 state education aid, and it had increased 2 times faster than the growth in local aid.

The report expressly addressed expenditures for the in-prison program services associated with recidivism reduction. These expenditures declined from 3% of the DOC budget in FY 2011 to 2.7% in FY 2016 and remained constant in the Sheriffs’ budgets. The number of employees devoted to education declined in both the state and the county facilities, while spending on inmate health services increased at only half of the overall prison budget.

There are significant consequences, the report pointed out, where such a small fraction of the budget (under 3%) is devoted to prisoner programing.

* Only one-third of DOC inmates who had a need for violence reduction programs obtained the services before their prison sentence expired.
* Nearly one-quarter of inmates with substance abuse disorders were treated for addiction before they were released.
* More than one-quarter of sex offenders were released before they received cognitive behavior therapy.

The consequences for educational programming – often the final opportunity for a high school equivalency degree and the gateway to vocational training – are reflected in DOC staffing ratios.

* 2.6 to 1 inmate-to-staff ratio for security supervision
* 128 to 1 inmate to staff ratio for education

Overall, Getting Tough on Spending reaffirms the importance of in-prison programing to success or failure after prison release. It illustrates the false hope in the DOR report on recidivism reduction. It reaffirms the failings identified by the Council of State Governments (CSG).[[3]](#footnote-3)

1. **DOC’s Program Funding Continues to Decline.**

The Special Commission has devoted a great deal of effort to obtain up-to-date and accurate data on correctional spending for FY 2016 – FY 2020. Unfortunately, the DOC data reported for this second five-year period does not demonstrate forward progress for in-prison inmate programing.

The trends reported in Getting Tough on Spending have continued. The state prison population continues to drop. The DOC population in January 2021 (6,848) is approaching one-half the population in January 2012 (11,723). At the same time the total DOC budget has continued to increase, from $580 million in FY16 to $732 million in FY20. Overall, the annual cost per state prison inmate has increased from $59,535 in FY16 to $92,368 in FY20.

What does this mean for DOC spending on in-prison programming? Over the past five years program spending has actually declined by $437,252. For FY20 only 2.2% of the DOC budget is devoted to in-prison programming, a further decrease from the prior five year period analyzed in the Forman & Widmer report.[[4]](#footnote-4)

1. **DOC Must Track In-Prison Programs on a Computer System that is Available to the Public.**

A decade has passed. DOC has not made progress even though the importance of in-prison programs was highlighted by the Council of State Governments’ top recommendation in 2017, by the Forman & Widmer report in 2017, and by the DOC’s own report in 2018. Only one thing is certain: DOC has not increased the portion of its budget dedicated to in-prison programming even though funds are clearly available due to increased appropriations for a much smaller prison population.

The limited information obtained so far by the Special Commission is insufficient to facilitate analysis of the problem, much less to propose appropriate changes. As an example, the Special Commission received a list of titles for program offerings at one state prison. One cannot tell, however, if a program is still being offered, if it is made available early in a prisoner’s sentence, if there is a lengthy wait list, or if prisoners’ sentences end before the program is offered or completed. Information that compares the number of prisoners enrolled in a program to the prison’s population is not provided. The CSG study indicates that multiple such problems exist in the administration of the DOC in-prison programs.

As a first step, it may be time to enlist the DOC Research & Planning Division in the solution. The research unit already provides detailed information about the state prison population that is clearly presented, is easily reviewed, tracks changes over time, and is updated regularly. The information is posted on the DOC website where it is accessible to anyone, including legislators, members of the public, the media, or managers and policy makers at the DOC and the Executive Office of Public Safety and Security (EOPSS).

Transparency in the provision of prison programing should lead to improvements.

A starting point would be for representatives of the Special Commission or its staff to meet with representatives of the research unit along with interested members of the public to review whatever records the DOC maintains for “good conduct deductions” awarded to state prisoners. (See G.L. c. 127, sec. 129D, as amended by Mass. Acts of 2018, c. 72, sec. 5.) The next step would be for the working group to determine how this document could be made more informative and available to the public. They should also determine what protocols should be adopted for the future collection, updating, and reporting of information. Later, a modified working group could decide how to expand this effort to include the county sheriffs.

Complete, reliable, current, and accessible data – along with a willingness to embrace change -- should go a long way toward improved program offerings, more successful re-entry to the community, and reduced recidivism rates. Inertia is no longer acceptable if the DOC is to meet the goal that DOC set for itself in its Strategic Plan:

**Goal 2. Effectively prepare inmates for transition into communities to reduce crime and victimization, reduce recidivism and promote reentry.**

1. Source: Executive Summary, page 1 (emphasis added, footnotes 1-4 omitted) in Council of State Governments, Justice Reinvestment in Massachusetts Final Report (Feb. 2017) [↑](#footnote-ref-1)
2. Source: DOC Research Report: One-Year Recidivism Rates of Male Releases 2013-2015: A Multi-year Descriptive Analysis of Correctional Recovery Academy and High School Equivalency Credential (July 2018), page 2. See also page 9 (Conclusion) and Appendices A, B and C. The DOR report is available on the Special Commission’s website. <https://correctionalfunding.com>. [↑](#footnote-ref-2)
3. Source: B. Forman & M. Widmer, Getting Tough on Spending: An Examination of Correctional Expenditure in Massachusetts (May 2017), pages 4, 5 and 11. The report is available on the Special Commission’s website. https://correctionalfunding.com. [↑](#footnote-ref-3)
4. Source: A data spreadsheet filed on the Special Commission’s website without a narrative. To calculate the “Program Services Expenditure” I have added together the data reported in the column for “DOC Staff” and in the column for “Contracts.” The difference between the total for FY16 and FY20 yielded the $437,252 decline in programing expenditures during this time period.

   See <https://correctionalfunding.com>. [↑](#footnote-ref-4)