

**Public Testimony of 55 Organizations
Submitted to The Special Commission on
Department of Correction and Sheriff's Department Funding**

January 11, 2022

The mission of the Correctional Funding Commission is a critical one for the good of the Commonwealth. We spend approximately \$1.3 billion each year to incarcerate 13,000 people. This means that we are spending approximately \$100,000 a year to incarcerate each person currently behind bars – and the Executive Branch [projects \\$732 million](#) to repair, renovate, or replace prisons and jails on top of that.¹ The critical question we must collectively ask is: what is the purpose of this spending, and is this purpose being served?

The charge of the Correctional Funding Commission is, in part, to conduct a comprehensive study to determine the appropriate level of funding for incarceration in the Commonwealth. Unfortunately, as of the public hearing on January 4, 2022, the Commission had not yet discussed “potential ways to increase efficiencies and reduce fixed costs,” a critical component of the analysis. The undersigned believe the Commission can only advance the public interest if its recommendations on spending for the Department of Correction (DOC) and Sheriffs’ Departments are backed up by robust independent oversight mechanisms that provide transparency and accountability to Commonwealth residents.

For decades, we have been attempting to incarcerate our way out of social problems while failing to comprehend crime as primarily driven by poverty and structural racism. Abundant research shows that high levels of incarceration [do not increase public safety](#).² Conversely, investing in communities has proven to be extremely successful in reducing violence and the risk of incarceration.³ The current and long-standing reality is that the Legislature awards ever-larger budgets to the DOC and Sheriffs without requiring measurable and meaningful outcomes for public safety, public health, or the public good.

We have little objective evidence that incarceration in the Commonwealth achieves its stated purpose of “[prepar\[ing people\] for safe and successful reentry into the community](#),”⁴ or that it reduces or prevents crime. However, we have ample evidence that it comes with significant fiscal and human costs, with little accountability. Some examples include:

- ❖ The United States Department of Justice found that the Commonwealth [violates the constitutional rights](#) of people with mental illness who are incarcerated in state prisons;⁵

- ❖ The Auditor of Massachusetts found that the DOC has failed to provide adequate medical care to those in its custody;⁶
- ❖ An [investigation by WBUR](#) identified 195 deaths in Massachusetts county jails from 2008-18, and concluded that many of these deaths resulted from medical neglect, including ignoring, misdiagnosing, or refusing to believe incarcerated people;⁷
- ❖ The Massachusetts Attorney General found that [the Sheriff of Bristol County violated the constitutional rights](#) of immigrants in his jail by subjecting them to excessive force;⁸
- ❖ Staff perpetrated systemic and rampant assaults against incarcerated people at [Souza Baranowski Correctional Center](#), with no accountability;⁹
- ❖ The Auditor of Massachusetts found that the Massachusetts Sheriffs' Association [is not fulfilling its mandate](#) to collect data and provide standardized services;¹⁰
- ❖ The DOC and the County Sheriffs have failed to abide by laws that the Legislature has passed to improve conditions of confinement, such as [minimum standards of treatment for pregnant individuals](#), [solitary confinement reform](#), [medical parole](#), and [data collection and reporting](#);¹¹
- ❖ [Structural racism affects the entire criminal legal system](#), from police stops through sentencing. According to the Massachusetts Sentencing Commission's analysis of 2014 data, the Commonwealth significantly outpaced national race and ethnicity disparity rates in incarceration, imprisoning Black people at a rate 7.9 times that of white people and Latinx people at 4.9 times that of white people;¹²
- ❖ [A review by The Boston Globe](#) recently found that prisoners' claims of abuse are almost always denied, falling well below DOC's own benchmarks for resolving grievances;¹³
- ❖ Parole is a failed system, routinely sending people back to prison for non-criminal violations, including violations related to substance use relapse which should be treated, not punished; in fact, [almost 90% of parole revocations occur due to these kinds of technical violations](#).¹⁴

This Commission has developed and published some data regarding spending by the Sheriffs and the DOC; however, the public still does not have a comprehensive understanding of critical matters including staffing levels, spending on programming, education, and healthcare, re-incarceration/recidivism, or impacts of and responses to the COVID-19 crisis. When residents of the Commonwealth have requested records to back up public claims about how Sheriffs spend money, [the materials provided have not been adequate](#) to show how revenue sources connect to the expenditures they purportedly fund.¹⁵

Data and information provided to the Commission and the public has largely confused, rather than clarified, spending and outcomes. Although the Sheriffs and the DOC both claim that the implementation of solitary confinement reform has caused increases in costs, the data provided shows that it is the continued overreliance on segregation that raised costs. Members of this Commission state that a central charge of corrections is to lower recidivism.¹⁶ Yet, this information is not uniformly and universally tracked, let alone reported. We urge this Commission to ensure effective ongoing, independent oversight with respect to spending, impacts, and outcomes.

Security staffing is the largest source of correctional spending. However, while the number of incarcerated people is consistently decreasing, it appears that there is no intention to decrease staffing accordingly.¹⁷ Under the logic presented by many of the commissioners at these meetings, it seems no matter how low the numbers of people in custody drop, taxpayers will never see a drop in funding allocated to prisons and jails. The Commission arranged for the National Institute on Corrections (NIC) to study staffing at the DOC and several Sheriffs' Departments and is now withholding the results from the public, agreeing only to publish the executive summary. The public and the Legislature should be skeptical of any recommendations based on this analysis.

While we continue to staff prisons at unusually high levels despite decreasing numbers, we underfund programming, education, and work opportunities.¹⁸ These funding decisions lead to people remaining incarcerated for longer periods of time, because they are unable to earn good time if they cannot participate in validated programming. Although people in DOC custody are permitted to earn up to 15 days a month of good time, and people in the counties are permitted to earn 10 days, in reality many people are unable to access any good time programming. The Data Computation Unit of the DOC tracks how many people earn good time but does not publish this data. We recommend that funding be reallocated from staffing towards programming, education, and vocational training opportunities that would maximize earned good time.

As this Commission has been doing its work, the Commonwealth has been struggling through the ongoing COVID-19 pandemic. The DOC and the Sheriffs have ignored advice from public health experts and the Supreme Judicial Court to release people who can be safely released in the interest of public health, even while thousands were infected and more than twenty people died in custody. The DOC has defied the Legislature's mandate over two budget cycles to put in place an Ombudsman with responsibility and authority to recommend people for release from prison.¹⁹ Instead of using the medical parole law to facilitate releases, the DOC used it to [cover up deaths](#).²⁰ These failures [contributed to the spread of COVID-19 in the community](#)²¹ and exacted an enormous preventable toll on the

wellbeing of people who were locked down 22 or more hours a day, without visits or programs, for months.

While preventable illness and the climate of fear permeating incarcerated people's lives during COVID has caused enormous psychological trauma, compounding existing mental health and substance use conditions, this Commission concluded that it is beyond its capacity to come up with a specific amount of funding that is appropriate for mental health and substance use treatment. We call upon this Commission to include recommendations reflecting the superior effectiveness of community-based treatment for these conditions.

The COVID-19 pandemic has finally brought to widespread public attention this basic fact: [the prison and jail system is a site of public health crisis](#).²² All reasonable measures must be taken to continue the downward trend in the incarcerated population, and this Commission must fulfill its mandate to examine ways to reduce fixed costs. This examination should prioritize reductions in staffing, the single biggest source of spending, and the Commission should recommend reallocating funding to community-based systems of care. We urge the Commission to recommend independent oversight of DOC and the [Sheriffs](#),²³ along with public reporting of spending and outcomes, to maximize accountability and transparency.

Signatories

Prisoners' Legal Services

Out Now

Joint Coalition On Health

ACLU of Massachusetts

Vday

MASC Massachusetts Against Solitary Confinement

New Vision Organization, Inc

Colorado-CURE, Inc.

The Real Cost of Prisons Project

Greater Boston Legal Services CORI & Re-entry Project

Coalition for Effective Public Safety (CEPS)

Massachusetts Law Reform Institute

Community Reentry Program Inc.

Justice 4 Housing

Progressive Massachusetts
Jewish Voice for Peace Boston
Northeastern University School of Law Prisoners' Rights Clinic
Advocates For Authenticity Charitable Fund
End Mass Incarceration Together (EMIT)
The Criminal Justice Reform Task Force of Congregation Dorshei Tzedek
The F8 Foundation
Boston Democratic Socialists of America
Greenfield People's Budget
Boston Immigrant Justice Accompaniment Network (BIJAN)
Parole Review For All
Actual Justice Task Team of the Southern New England United Church of Christ
Southern New England Conference United Church of Christ Restorative Justice Task Team
Housing = Health
Disability Law Center
Families and Friends of Individuals with Mental Illness (FFIMI)
Black and Pink Massachusetts
Bristol County for Correctional Justice
Coalition for Social Justice
Indivisible Acton Area
Peace and Social Justice Committee of Friends Meeting at Cambridge (Quakers)
Lawyers Clearinghouse
Council on American-Islamic Relations, Mass. (CAIR-MA)
François-Xavier Bagnoud (FXB) Center for Health and Human Rights at Harvard University
New England Innocence Project
Disability Policy Consortium
The Sentencing Project
Immigration Justice Task Force - First Parish Unitarian Universalists in Concord
Dorchester People for Peace
Mystic Valley Area Branch, NAACP
National Lawyers Guild - Harvard Law School Chapter

Mass Political Cooperative

National Association of Social Workers - MA Chapter (NASW-MA)

Mental Health Legal Advisors Committee

GEO-UAW2322 Abolition Committee

Northeastern University School of Law Asian Pacific American Law Student Association

Mijente Boston Asamblea

Prison Policy Initiative

UU Mass Action

UAW-2322

Campaign to End Life Without Parole (CELWOP)

¹ “Facility Condition Assessment of Correctional Facilities,” presentation by the Division of Capital Asset Maintenance and Management to the Commission.

² Peitrich, D., et al. (2021). “Custodial Sanctions and Reoffending: A Meta-Analytic Review” *Crime & Justice*.

³ Sharkey, P., Torratts-Espinosa, G., & Takyar, D. (2017). “Community and the Crime Decline: The Causal Effect of Nonprofits on Violent Crime” *American Sociological Review*, 82(6), 1214–1240.

⁴ See, e.g., Massachusetts Department of Correction home page.

⁵ United States Department of Justice. (Nov. 17, 2020). “Justice Department Alleges Conditions at Massachusetts Department of Corrections Violate the Constitution” (press release).

⁶ Office of the State Auditor. (Jan. 9, 2020). “Audit No. 2019-0145-3J, Department of Correction”.

⁷ WBUR. (March 23-26, 2020). “Dying on the Sheriff’s Watch”. David Fathi, director of the ACLU National Prison Project, interviewed by WBUR for the investigation, explains, “Jails are perhaps the least accountable part of government in the United States. When you combine that lack of transparency — that lack of oversight — with a marginalized, unpopular captive population, it’s a recipe for neglect and mistreatment.”

⁸ WBUR. (Dec. 15, 2020). “AG Report: Bristol County Sheriff Violated Civil Rights Of Immigrant Detainees; Calls For Transfer Of Those In Custody”.

⁹ Boston Globe. (August 14, 2021) “Spotlight: The Taking of Cell 15”.

¹⁰ Office of the State Auditor. (Dec. 7, 2016). “Audit No. 2016-1447-3J, Massachusetts Sheriffs’ Association”. <https://www.mass.gov/doc/massachusetts-sheriffs-association/download>

¹¹ Prisoners’ Legal Services and the Prison Birth Project. (2016). “Breaking Promises: Violations of the Massachusetts Pregnancy Standards and Anti-Shackling Law”. Quandt, K. Solitary Watch. (Nov. 20, 2019). “Massachusetts Department of Correction Gives a Lesson in How to Get Around Solitary Confinement

Reforms". WBUR. (May 21, 2021). "Attorneys Raise Questions About Medical Parole After 2 People Returned To Prison". Schoenberg, S. CommonWealth Magazine. (Jan. 25, 2021). "State Slow to Improve Criminal Justice Data Collection: 2018 Law Required New Tracking System".

¹² Bishop, E., et al. (2020). "Racial Disparities in the Massachusetts Criminal Justice System." Harvard Law School Criminal Justice Policy Program.

¹³ Boston Globe. (Dec. 29, 2021). "'Rubber stamp' justice? In Mass., prison officials almost always deny prisoners' claims of abuse behind bars".

¹⁴ ACLU Massachusetts. (2021). Reduce reincarceration for technical violations of parole: H.1798 & S.1600, Rep. Miranda & Sen. Jehlen.

¹⁵ "Public testimony on the need for transparency about sheriff's finances," submitted to The Special Commission on Department of Correction and Sheriff's Department Funding by ten residents of Middlesex County. (March 4, 2021).

¹⁶ See, e.g., "Questions for Consideration by the 101 Commission," posted with the Commission's minutes for Dec. 3, 2021; <https://correctionalfunding.com/2021/12/03/draft-minutes-from-12-3-meeting/>.

¹⁷ Spending by the DOC has increased by 20.9% between 2014-2019, despite the fact that the number of people in DOC custody has decreased by 21.1% during that same period. Spending by the 14 County Sheriffs has increased by 15.7% between 2014-2019, despite the fact that the number of people in the Sheriffs' custody has decreased by 19.8% during that same period. Figures are from a presentation entitled "Department of Correction & Sheriff's Funding Overview" to the Senate Committee on Ways and Means by Mark O'Halloran, on Sept. 17, 2019, posted on the Commission's website.

¹⁸ For example, a 2016 study of Massachusetts Sheriffs found that, "While Sheriffs' non-personnel costs were in line with national averages, they had a lower inmate to staff ratio than the national average. Nationally jails average ratios of 1 staff to 3 inmates. In Mass., this average is 1 staff to 1.84 inmates. Sheriffs potentially had disproportionately low supervisor to staff ratios. Studies in the correctional field recommend ratios of 1 supervisor to 5-7 subordinates. Mass. Sheriffs had ratios of 1 Lieutenant to 1.58 Sergeants and 1 Captain to 1.87 Lieutenants." Quotation from p. 10 of a presentation entitled "Department of Correction & Sheriff's Funding Overview" to the Senate Committee on Ways and Means by Mark O'Halloran, on Sept. 17, 2019, posted on the Commission's website.

¹⁹ The Legislature clearly specified that the Ombudsman should make recommendations about releasing people from custody; however, the agreement that DOC entered into with UMASS Medical School omits this crucial responsibility as do the Ombudsman's October 2021 standards. MA Department of Correction Continues to Defy Legal Mandates for Independent Oversight Amidst Covid-19 Pandemic: Statement of Black and Pink Massachusetts, Building Up People Not Prisons Coalition, Charles Hamilton Houston Institute For Race And Justice At Harvard Law School, And Prisoners' Legal Services Of Massachusetts. (September 8, 2021). MA Department of Correction SARS-Cov-2 Public Health Compliance and Mitigation Standards. (Oct. 28, 2021). Prepared by the Office of the Ombudsman. https://live-ombudsman-umms.pantheonsite.io/wp-content/uploads/2021/10/Ombudsman-Standards-MA_DOC-Final-10.28.2021.pdf

²⁰ Apfel, D. Commonwealth Magazine. (Jan. 9, 2021.) "The shameful COVID-19 death of Joseph Messere: As a prisoner at MCI-Norfolk, he never had a chance".

²¹ Hooks, G. and W. Sawyer. Prison Policy Initiative. (2020.) "Mass Incarceration, COVID-19, and Community Spread".

²² American Public Health Association. Policy Statement. (2021). "Advancing Public Health Interventions to Address the Harms of the Carceral System".

²³ Between 2010 and 2021, Massachusetts Sheriffs received almost \$2.7 million in campaign contributions from businesses such as construction, telecom, and technology companies that might wish to do business with the Sheriffs, raising significant potential ethical conflicts. Common Cause. (Jan. 7, 2022.) The Paid Jailer: How Sheriff Campaign Dollars Shape Mass Incarceration.