



The Commonwealth of Massachusetts General Court

June 6, 2023

Governor Maura Healey
24 Beacon Street
Room 280
Boston, MA 02133

Lieutenant Governor Kim Driscoll
24 Beacon Street, Room 280
Boston, MA 02133

Secretary Terence Reidy
Executive Office of Public Safety and Security
1 Ashburton Place
Room 2133
Boston, MA 02108

Commissioner Carol Mici
Department of Correction
50 Maple Street
Milford, MA 0175

RE: Criminal Justice Reform Caucus's Issues of Concern for the 193rd Legislative Session

Dear Governor Healey, Lieutenant Governor Driscoll, Secretary Reidy, and Commissioner Mici,

As co-chairs of the Criminal Justice Reform Caucus (CJRC), we have been discussing with fellow caucus members, criminal justice reform advocates, incarcerated people, and formerly incarcerated people about executive actions that your administration could take to further the goals of the CJRC. These goals include ending the era of mass incarceration, changing the culture of the Department of Correction (DOC), comprehensively rehabilitating incarcerated people and returning citizens, combating structural racism and racial injustice, improving the overall safety of state correctional facilities, improving public safety, and investing in communities disproportionately impacted by poverty, neglect and mass incarceration.

The CJRC is a coalition of legislators committed to addressing institutional injustices within the statewide correctional system through legislation, stakeholder collaboration, educational briefings, and public awareness. On Thursday, April 6th, the CJRC co-chairs, along with Senator Liz Miranda, Representative Russell Holmes, and Representative Bud Williams met with members of Governor Healey's team - Alicia Rebello-Prades, Malaika Lucian, Cecilia

Ugarte-Baldwin - to discuss many of the issues we have raised below. Please consider this correspondence a formal response to that meeting, which we greatly appreciated having.

As we embark on the 193rd Session - and in recognition of your continued leadership and advocacy in the criminal justice space - we are encouraged, hopeful and committed to working with you and your senior public safety, corrections, and justice systems team to find solutions to the following issues:

Accountability and Data

Following the criminal justice reforms passed in 2018, accountability is still lacking. The DOC fails to report many points that would help improve the health, safety, education, and rehabilitation of the incarcerated persons under its care. Data that needs more robust reporting includes: use of force incidents; substance use and treatment; use of restraints on inmates who are pregnant or in postpartum recovery; solitary confinement incidents; and intake assessments for those prisoners who need individualized education plans. Additionally, accountability could be increased by improving oversight for community correction programs run by local sheriff offices, and third party vendors related to commissary funds, commissary products, and check-cashing procedures.

New Prison Construction Moratorium

Of critical and instant importance - given the many reports and studies commissioned by DCAMM and DOC about the construction of new prison facilities and restoration of current prison facilities, including the MCI-Framingham prison “campus,” - is the need for a moratorium on all new jail and prison construction. Such a moratorium was passed by the Legislature during the 192nd Session before being vetoed by former Governor Baker. The legislation, H.1905/S2030, *An Act establishing a jail and prison construction moratorium*, would have prohibited, for five years, construction of new correctional facilities and any expansion or conversion of existing correctional facilities to increase capacity. It still allowed, however, for routine maintenance or essential repairs at existing correctional facilities to maintain compliance with building code requirements, which the Legislature recognized as being essential for safety and wellness.

While the legislation for a prison moratorium, H.1795/S.1979, was re-filed this session, nothing is preventing Governor Healey from declaring as a matter of policy that no new prisons will be built in Massachusetts. **Given years of analysis, organizing, legislating, as well as the massive decrease of incarcerated people in Massachusetts prisons, we believe that the time is now for this declaration.**

Specific to incarcerated women, the Commonwealth’s prison system currently has sufficient capacity to house the incarcerated women’s population, which has rightly declined over the past decade and continues to do so. The Commonwealth has the lowest rate of incarceration per 100,000 women in the nation as of 2021. This month, June 2023, approximately 140 women are state-sentenced in the Department of Correction and 331 women incarcerated in county jails and houses of corrections. The general incarceration rate in Massachusetts has decreased by 43%

between 2012 and 2021, while the incarceration rate for women in Massachusetts has dropped by 75% between 2014 and 2021.

Instead of borrowing and/or committing more funds to build unnecessary new prison infrastructure, the Commonwealth should focus on allocating resources to mitigate existing issues, including: upgrading facilities for the chronically ill; improving facility health care resources; maintaining and repairing existing physical infrastructure; investing in community alternatives, to address root causes of incarceration; increasing access to stable housing, as well as mental health and substance use treatment; and providing education and workforce development for those still incarcerated and for those reentering society.

In recognition of the foregoing, we respectfully request that Governor Healey close the main MCI-Framingham building where incarcerated women are held, have the women moved to the South Middlesex Correctional Center (SMCC) and be released through medical parole and home confinement requiring the use of an ankle bracelet. Further, we request that Governor Healey be extremely cautious of proposals by the Division of Capital Asset Management and Maintenance (DCAMM), in partnership with HDR Architecture, to spend between \$100-350 million to renovate the current main building, or build a new prison at the MCI-Framingham prison campus.

Facility Closures

The Commonwealth - given that its jails and prisons are currently at 50-60% of their capacity, and that the general incarceration rate has declined by 43% over the past decade and continues to do so - should close more correction facilities.

We believe MCI-Framingham should be closed. As stated above, the Commonwealth has the lowest rate of incarceration per 100,000 women in the nation as of 2021, with 168 women incarcerated by the Department of Corrections and 331 women incarcerated in county jails and houses of corrections. In addition, given the decline in incarceration of men in Massachusetts, and that some correction facilities for incarcerated men are half empty, we believe that the administration should close additional correction facilities beyond MCI-Cedar Junction (Walpole prison), which is officially closing this month.

Education and programming

The Massachusetts Department of Correction is tasked with managing offenders while providing care and appropriate programs in preparation for successful re-entry into the community. The education and programming provided by the DOC is of vital importance to its mission of effecting positive behavioral change in order to eliminate violence, victimization and recidivism. While all DOC facilities offer a range of institutional, departmental, and educational programs, several factors limit access to these opportunities - including the initial assessment and classification of individual prisoners, disciplinary concerns, solitary confinement, risk vs. needs assessments, and the simple misfortune of being at the wrong facility. **It is our position that every incarcerated person should be guaranteed access to programming, including vocational and educational programming, in order to further the DOC's mission of**

successful rehabilitation and re-entry. Specifically, we would like to highlight the following issues:

- ***Access to College Education:*** Studies show that college-in-prison programs cut the likelihood of recidivism almost in half, and that taxpayers save \$5 for every \$1 spent on them - especially valuable in Massachusetts, where the cost of incarceration is unusually high at \$92,000 per year for each inmate. Specific reforms needed include: creating more in-person space for classes; increasing access to technology through setting up computer labs; improving access to academic articles through services like JSTOR; and reducing censorship of academic materials. Importantly, the DOC can instantly allow more flexibility for incarcerated individuals taking college courses by ending their immediate step-down policy, which denies access to these programs for many.
- ***Education Rights for Incarcerated Youth:*** The Commonwealth is not living up to its obligations, under both state and federal law, to provide incarcerated youth with the same educational opportunities they would have had if they were not incarcerated. A number of reforms are needed to rectify this issue, including: correctly identifying and assigning individualized special education plans to those who need them; providing more opportunities to work towards a high school, vocational, and/or college degree; increasing classroom space; allowing more classroom time - 6 hours per day, 5 days per week, 12 months per year; and making sure such coursework is credited towards a high school, vocational, or college degree.
- ***Health and Sex Education:*** Current programming for health and sex education in women's facilities is lacking. Courses should be developed to educate inmates on these issues twice yearly, and upon intake and release.
- ***Domestic Violence programs:*** We have heard from many incarcerated people that many state correctional facilities do not have any programs to help incarcerated people better understand domestic violence, both as victims and responsible parties. Every correction facility should have programming related to domestic violence.

LGBTQi+ issues

Starting with initial intake and assessment procedures, the DOC falls short of correctly identifying and addressing issues unique to the health and safety of LGBTQi+ prisoners. Helpful reforms include: enhancing the cell-match screening process; creating self-help groups; making more LGBTQi+ affirming resources available; and prohibiting solitary confinement for certain behaviors.

Work Release including the return of furloughs

The DOC's work release policy needs to be revisited in order to increase opportunities for eligible prisoners. We urge Governor Healey to restore furloughs for incarcerated people to work outside of correction facilities. This is still allowed by current law - the only barrier is the lack of executive action.

Bridgewater State Hospital

We ask that the Commonwealth remove Bridgewater State Hospital (BSH) from the DOC's control and give authority for its administration to the Department of Mental Health (DMH). Additionally, given the terrible conditions of BSH, we ask your administration to begin a comprehensive analysis of whether there is a need for a new DMH facility, and/or new community-based centers to house civilly and criminally-committed individuals, and to file a bond bill this session to construct such DMH facilities.

Bridgewater State Hospital (BSH), under the control and supervision of the DOC, continues to be a facility woefully unfit for the housing and treatment of Massachusetts prisoners. As detailed in the Disability Law Center's public report from January 2022,¹ compiled after eight years of observation, BSH continues to pose economic and health and safety risks resulting from physical plant conditions; BSH fails to comply with legal requirements concerning administration and documentation of restraint and seclusion incidents; BSH imposes a prevailing culture of intimidation; and BSH lacks immediate and robust programming upon admission.

The Commonwealth must recognize that BSH, under the direction of the DOC, is failing in its duty to improve the efficacy of treatment, continuity of care, and outcomes following evaluation and treatment of the prisoners under its care - to the detriment of those prisoners as well as the community at large. Consequently, we ask that the Commonwealth close BSH indefinitely and transfer its prisoners to other facilities.

The Massachusetts Alcohol and Substance Abuse Center (MASAC) at Plymouth

We recommend that the administration close MASAC, and establish more community-based centers to treat Massachusetts residents with substance use issues. People with substance use challenges should not be in a prison, and MASAC is a prison. They should be treated in medically-focused community centers. There have been too many tragic deaths, as well as generally negative health and personal outcomes, in MASAC.

Medical parole

Importantly, and related to MCI-Framingham's redundancy as discussed above, the medical parole framework enacted by the Legislature in 2018 - M. G. L. c. 127 § 119A - needs to be properly applied to include more of the Commonwealth's incarcerated population. The DOC is far too reluctant to approve the release of seriously ill prisoners as the law intended. From April 2018, when the law went into effect, to the end of Fiscal Year 2022, the DOC granted a meager 11 percent (64 out of 577) of petitions for medical parole. As outlined by the Supreme Judicial Court in Commonwealth v. Buckman, 484 Mass. 14 (2020), the statute had its origins with both humanitarian and fiscal considerations in mind. The SJC noted that the Commonwealth was imprisoning an increasingly old population, having the highest percentage of its prisoners of any

¹ *Public Report: Efficacy of Service Delivery Reforms at Bridgewater State Hospital (BSH) and Continuity of Care for BSH Persons Served*, Disability Law Center, January 2022.

state who were over fifty-five years of age. Those prisoners, the ruling noted, are significantly more susceptible to debilitating illnesses, and medical costs for older prisoners are reported as nearly triple those of other prisoners. Further, the presence of large numbers of elderly and acutely ill prisoners who cannot be housed in the general prison or jail population strains the capacity of state and county institutions to provide regular and short-term medical care needed by other prisoners. While cost-saving was a significant factor in the Legislature's enactment of the medical parole statute, the SJC noted that it also had its impetus in "the human element" in order to afford a mechanism enabling compassionate release among a population of elderly and very infirm prisoners "considered the least likely to reoffend when released." The Legislature's creation of medical parole is one of the most significant criminal justice reforms the Commonwealth has enacted in recent history. **But if we do not use the tools at our disposal that were researched, debated, and agreed upon by the Legislature to provide appropriate care for our residents, incarcerated or otherwise, then we are committing indignities that must be corrected immediately.**

Visitation Policies

Studies repeatedly show that visitation from a prisoner's family and friends not only reduces recidivism, but also makes prisons safer. A number of the DOC's visitation policies are in need of reform:

- ***Dress Code:*** The DOC's dress code for visitors is overly restrictive, and includes the prohibition of sweatpants and athletic clothing.
- ***Facility Upgrades:*** The physical infrastructure of many visitation rooms and facilities are in disrepair, including broken phones in some prisons that restrict the communication and privacy of inmates and their visitors. This is not just in old correction facilities. At the Souza-Baranowski maximum security prison in Shirley and Lancaster, built in 1997 and the last prison built in Massachusetts, the phones that incarcerated men and visitors use to communicate have never worked, leading to individuals having to yell loudly through the glass to hear one another.
- ***Physical Contact Policy:*** The current DOC policy allows only for "[c]ommonly accepted public displays of affection... which include one closed mouth kiss/hug upon beginning and end of the visit" and states that "[p]hysical distance shall be maintained during the remaining visit." This policy is too restrictive and no longer necessary to mitigate the risks associated with Covid-19.

Thank you for your continued and thoughtful leadership on criminal justice issues in the Commonwealth, and thank you for your consideration of the issues outlined above. We look forward to working with you and your administration on our shared vision for a more just and equitable Commonwealth.

Sincerely,

A handwritten signature in blue ink that reads "Mary S. Keefe". The signature is written in a cursive style with a long, sweeping underline.

Mary S. Keefe, House Co-chair
State Representative
15th Worcester District

A handwritten signature in blue ink that reads "James B. Eldridge". The signature is written in a cursive style with a long, sweeping underline.

James B. Eldridge, Senate Co-Chair
State Senator
Middlesex and Worcester District