

MASSACHUSETTS DEPARTMENT OF CORRECTION -  
2012

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## TABLE OF CONTENTS

	<u>Page</u>
A. INTRODUCTION	1
B. DOC VISION/MISSION STATEMENTS AND GOALS	1
C. PRISON POPULATION STATISTICS AS OF JANUARY 1, 2012	4 - 9
1) Comparative Distribution of Prison Populations By Age	4
2) Comparative Distribution of Prison Populations By Governing Offenses	5
3) Comparative Distribution of Prison Populations By Gender	5
4) Comparative Distribution of Prison Populations By Race	6
5) Comparative Average Daily Populations By Security Levels	6
6) Comparative Operational Capacities And Average Daily Populations By Security Levels	8
7) Length Of Sentences For Criminally Sentenced Prisoners	8
D. EXPENSES, OVERCROWDING, AND STAFFING	9 - 13
1) Comparative Distribution of DOC Expenses	9
2) Overcrowding	10
3) Staffing	13
E. RECIDIVISM AND RELEASES	13 - 16
1) Comparative Recidivism Rates By Security Levels	14
2) Comparative Releases By Security Levels	14
F. CONCLUSION	16 - 24
1) Programs	17
2) Employment	18
3) Increase Minimum and Pre-Release Bed Space	19
4) Volunteers	20
5) Visits	20
6) DOC Culture	22
END NOTES	25 - 29
ATTRIBUTION	29

# MASSACHUSETTS DEPARTMENT OF CORRECTION - 2012

## A. INTRODUCTION

Two annual reports published by the Massachusetts Department of Correction (DOC) are reviewed herein. The first report is the DOC's 2011 Annual Report, published late in 2012, which the Commissioner of Correction, Luis Spencer, is mandated to prepare by M.G.L. c. 124, §6. The second report is the Prison Population Trends 2011, published in June 2012, based upon the prison population as of January 1, 2012. Both reports are available online at [www.mass.gov/doc](http://www.mass.gov/doc).

The DOC's 2011 Annual Report begins with a Commissioner's message in which Luis Spencer claims that: "... we are leaders in innovative correctional practices, understand and practice the five principles of exemplary leadership and are committed towards working for a safer tomorrow everyday."<sup>1</sup> The report is silent on what those five principles specifically are or how the DOC practices them. The Commissioner also states: "Guided by our strategic plan, we have made significant improvements in many processes by using goals and measures to manage our system that now focuses on results. Collaboration with our stakeholders, which is a crucial component for reaching and retaining high performance, has allowed us to assist Massachusetts in being a national leader in results driven management."<sup>2</sup> No mention is made, however, on what areas the DOC had previously focused on now that it is focusing on results. Finally, the Commissioner reports that he is "inspired by the professionalism and dedication of the men and women who comprise 'Team DOC'. "<sup>3</sup>

In his statement, the Commissioner offers many generalities, but does not address certain critical questions such as: How and where does the Massachusetts DOC demonstrate that it is in the forefront of "innovative correctional practices?" Or, what standards does Massachusetts equal or surpass to show that it is "a national leader in results driven management"? Or, what are the results by which the DOC is to be measured? One measure by which departments of correction could be assessed is the rate prisoners return to prison after being released, i.e., the recidivism rate. This begs the question: Has the recidivism rate in Massachusetts, over the past five years, decreased significantly, given the alleged professionalism and innovative practices of the DOC?

## B. DOC VISION / MISSION STATEMENTS AND GOALS

According to the DOC's 2011 Annual Report, the Vision of the DOC is: "To Effect Positive Behavioral Change In Order To Eliminate: Violence, Victimization, Recidivism" and the

Mission of the DOC is: Promote Public Safety By Managing Offenders While Providing Care And Appropriate Programming In Preparation For Successful Reentry Into The Community." <sup>4</sup>

Augmenting these statements are the DOC's seven goals: <sup>5</sup>

- Effectively transition inmates to communities to reduce crime victimization, reduce recidivism, and promote effective rehabilitation and reentry
- Maintain and enhance prison safety and security for the public, staff and inmates
- Promote a healing environment for staff and inmates
- Collaborate with external stakeholders and partners to develop and implement strategies supporting mutual goals and objectives
- Improve business administrative performances
- Achieve work force excellence
- Enhance communications both internally and externally by introducing new and enhancing existing communication initiatives

Similarly with the Commissioner's introductory statement, the Vision and Mission statements as well as the goals, while laudable, lack definitive standards by which the DOC can be held accountable regarding whether any or all have been achieved in full or in part. How can the DOC be evaluated on goals such as: "Promote a healing environment for staff and inmates" (Goal 3) or "Achieve work force excellence" (Goal 6) without a baseline description of where the DOC was in January 2011 in relation to those or any of the department's seven goals? The DOC fails to provide such information in the 2011 Annual Report. In an objective/results based management system, which the DOC claims to embrace, goals are integral components. But, equally essential, are standards and results both locally and nationally, against which performance can be measured in order to determine whether or not a goal was achieved, and, if not, how close the DOC came. Such criteria are distinctly absent from the 2011 Annual Report.

The DOC does list what the Commissioner views as accomplishments for each of the seven goals. How or why those accomplishments contributed to achieving the stated goals, however, is left unaddressed. While two of the goals will be discussed below, all seven goals suffer from similar deficiencies. There are eighteen "Highlighted Accomplishments" for the DOC's third goal: "Promote a healing environment for staff and inmates." <sup>6</sup> Assuming the DOC has listed those accomplishments in order of importance, the first six involve staff only. The top accomplishment is: "Staff appreciation events were held at all facilities." <sup>7</sup> The seventh achievement, and the first relating to inmates, is: "Former Celtic player and recovering addict

provided a presentation to the civil commitment population at MASAC [Massachusetts Alcohol and Substance Abuse Center]." <sup>8</sup> The DOC does list three "performance measures" for this goal: the inmate classification system - 99% of inmates were assigned "to their actual classification ... with the ultimate goal of 100%; that the percent of staff vacancies for 2011 was 11.5%; and the programs established in several prisons in which dogs are trained for the Guide Dog Foundation and America's Vet Dogs.<sup>9</sup> What is categorically missing is how any of these performance measures actually assisted towards promoting a "healing environment for staff and inmates." As commendable as the highlighted accomplishments may be, the DOC needs to articulate why the environments in the prisons are more healing or safer based upon the stated accomplishments. Annual reports before Luis Spencer contained data on several indices relating to prison environments, e.g., assaults by staff on inmates, by inmates on inmates, days lost due to industrial accidents, and data regarding grievances filed both by staff and inmates as well as the resolutions. The absence of such data is regrettable and all that is left is primarily anecdotal information. While such information may be interesting, it provides no assistance in determining whether or not the DOC has, in fact, achieved a goal, particularly with no comparative data from previous years.

The sixth goal is "Achieve work force excellence." Highlighted accomplishments list the various training courses conducted for different levels of correctional officers and staff. <sup>10</sup> The three performance measures are: the assertion that a particular staff person is the "Best in the Business", a chart of the training hours completed (a total of 337,873 hours for 4,879 employees yielding an 86% compliant rate); and two pie charts portraying the male and female work force diversity percentages. <sup>11</sup> If conducting training courses was the sole criterion for measuring work force excellence, then the DOC may indeed be in the forefront of correctional practices. But, what is again missing are comparisons with previous years or other departments of correction. Why does having 86% of the staff being compliant with an artificial number of required training hours, without a description of what that training entails or how such training relates to excellent job performance, result in measurable improvement in work force performance? What are the compliance rates in other correctional systems? Is the DOC in the first, second or third quartile? In addition, how does having 86% of the male work force and 84% of the female work force being white <sup>12</sup> contribute to work force excellence, particularly with 54% of the inmate population being black or Latino? <sup>13</sup> How does the racial breakdown of staff in the DOC compare with other departments of correction, especially in relation to the racial breakdowns of the respective inmate populations? These are just a few of the questions which need to be answered before the DOC's work place can be evaluated as excellent, good, poor or abysmal.

C. PRISON POPULATION STATISTICS AS OF JANUARY 1, 20121) Comparative Distributions Of Prison Populations By AgeTABLE 1

<u>Age Groups</u>	<u>2011<sup>14</sup></u>	<u>%</u>	<u>2010<sup>15</sup></u>	<u>%</u>	<u>2009<sup>16</sup></u>	<u>%</u>
Under 20 - 29	2987	25.5	2904	25.5	2936	25.8
30 - 39	3445	29.4	3360	29.4	3377	29.7
40 - 49	2943	25.1	2933	25.7	2918	25.7
50 - 59	1608	13.7	1520	13.3	1475	13.0
60 - 70+	<u>740</u>	6.3	<u>692</u>	6.1	<u>656</u>	5.8
Totals	11,723		11,409		11,362	

Table 1 above shows that the percentages of the age groups below age 50 have gradually declined over the past three years, while the percentages of prisoners age 50 and over have increased steadily. The most significant increase from 2009 to 2012 was for the age sixty and above group, at +13%. Second was the age group 50 - 59 at 9%. In comparison, the overall increases in the prison population for 2009 - 2011 for the other categories were only: 2%, 2% and 1% respectively.

The trend in Massachusetts is consistent with national statistics. According to Jamie Fellner of Human Rights Watch, the number of prisoners 55 and older from 1995 to 2010 grew at a rate six times the overall prison population. Fellner attributes longer sentences, including life-without-parole, as the main reason for the increase in the percentage of elderly prisoners. Nationally, nearly 10% of the prison population are serving life sentences, while another 11% are serving sentences in excess of twenty years.<sup>17</sup> In the DOC, as of January 1, 2012, 1905 (18%) of the criminally sentenced prison population were serving life sentences and an additional 912 (9%) were serving twenty years or more. Thus, the total of criminally sentenced prisoners serving at least twenty years or life was 2817 or 27% of the criminally sentenced prison population.<sup>18</sup> These figures do not include elderly prisoners serving civil commitments. There are significant cost implications involved as health care alone for elderly prisoners can cost as much as nine times that for younger prisoners.<sup>19</sup> By comparison, in 2010 in California, prisoners older than 50 comprised 17% of the total prisoner population.<sup>20</sup> In Massachusetts, in 2010, that percentage was 19%, which then increased to 20% in 2011.

While the 2011 Annual Report is silent on this growing problem of elderly prisoners, the implications of the aging prison population cannot be ignored much longer. The DOC touts, in its 2011 Annual Report, strides made in coordinating and cooperating with "external

stakeholders." <sup>21</sup> That coordination and cooperation will be severely tested in the near future relative to the aging population. The DOC needs to work with the Parole Board, the Governor's Office, and the legislature to address the question: Why should elderly prisoners, unable to commit new crimes, remain incarcerated in the most costly prisons in Massachusetts?

## 2) Comparative Distributions By Governing Offenses

TABLE 2

<u>Offenses</u>	<u>2011</u> <sup>22</sup>	<u>%</u>	<u>2010</u> <sup>23</sup>	<u>%</u>	<u>2009</u> <sup>24</sup>	<u>%</u>
<u>Violent</u>						
Person	5102	48.6	4876	47.7	4772	46.5
Sex	1372	13.1	1355	13.3	1348	13.1
<u>Non-Violent</u>						
Drug	2283	21.8	2341	22.9	2571	25.1
Property	915	8.7	872	8.5	845	8.2
Other	819	7.8	778	7.6	723	7.1
Totals	10,491		10,222		10,259	

According to Table 2 above, the only offense category which showed a decrease was Drug Offenses. From 2009 to 2011, those serving sentences for drug offenses decreased by 11%. For the same period, persons serving sentences for Property Offenses increased 8%; for Person Offenses - an increase of 7%; and for Sex Offenses - an increase of 5%. The largest percentage increase from 2009 to 2011 was Other Offenses - 13%. <sup>25</sup>

## 3) Comparative Distributions Of Total Prisoner Population By Gender

TABLE 3

<u>Gender</u>	<u>2011</u> <sup>26</sup>	<u>%</u>	<u>2010</u> <sup>27</sup>	<u>%</u>	<u>2009</u> <sup>28</sup>	<u>%</u>
Male	10,925	93.2	10,637	93.2	10,635	93.6
Female	798	6.8	772	6.8	726	6.4
Totals	11,723		11,409		11,361	

The male population in Massachusetts prisons increased slightly (2.7%) from 2009 to 2011. The female prisoner population, while a significant minority, i.e., less than 7%, increased 9.9% from 2009 to 2011. The total prisoner population from 2009 to 2011 increased by 3%.

4) Comparative Distributions Of Total Prisoner Populations By Race

TABLE 4

<u>Race</u>	<u>2011<sup>29</sup></u>	<u>%</u>	<u>2010<sup>30</sup></u>	<u>%</u>	<u>2009<sup>31</sup></u>	<u>%</u>
White	5058	43.1	4918	43.1	4868	42.9
Black	3309	28.2	3230	28.2	3195	28.1
Latino	3043	26.0	2955	25.9	3010	26.5
Asian	152	1.3	143	1.3	150	1.3
Native-American	81	.7	84	.7	70	.6
Other	<u>80</u>	.7	<u>79</u>	.7	<u>72</u>	.6
Totals	11,723		11,409		11,361	

While both White and Black prisoner populations each increased from 2009 to 2011 by nearly 4%, the Latino population increased by only 1%. The Latino prisoner population rate, however, did increase at a higher percentage (3%) from 2010 to 2011 than either the White (2.9%) or the Black (2.4%) rates. The combined Black and Latino prison populations comprised 54.2% of the total prisoner population for 2011 and 2010, a slight decrease from 54.6% for 2009.

5) Comparative Average Daily Populations By Security Levels

TABLE 5

<u>Level</u>	<u>2011<sup>32</sup></u>	<u>%</u>	<u>2010<sup>33</sup></u>	<u>%</u>	<u>2009<sup>34</sup></u>	<u>%</u>
Maximum	2027	17.7	1891	16.8	1884	16.7
Medium	7838	68.3	7730	68.8	7784	68.9
Minimum/Pre	<u>1610</u>	14.0	<u>1611</u>	14.3	<u>1631</u>	14.4
Totals	11,475		11,232		11,299	

Both the number and percentage of prisoners held in maximum security increased by 143 (7.6%) from 2009 to 2011. The numbers of criminally sentenced prisoners confined in medium and minimum/pre-release facilities remained relatively constant with an increase of 54 for medium and a decrease of 21 for minimum/pre-release facilities. Significant cost implications exist for under-utilizing minimum and pre-release facilities. In 2011, the average cost of housing a prisoner in was \$38,000 in minimum security, \$42,000 in medium security, and \$53,000 in



maximum security.<sup>35</sup> Thus, the increase of 143 prisoners confined in maximum security with the concomitant decrease (21) in minimum/pre-release prisoners from 2009 to 2011 nets an annual cost differential of \$2,460,000.<sup>36</sup>

The percentage of prisoners in maximum security remains unacceptably high. The DOC Advisory Council (2005), appointed to study the Department of Correction after the murder of former priest John Geoghan, found that "inmates are held at a higher security level than is necessary to preserve public safety."<sup>37</sup> In 2005, 19% of prisoners were confined in maximum security, while 11% were at minimum or pre-release facilities. In contrast, in 1994, 9% of prisoners were in maximum security and 23% in minimum.<sup>38</sup> In 2011, as compared to 2005, the percentage of prisoners in maximum security (18%) had dropped only 1% and those in minimum (14%) had increased only 3%.

The DOC reports that 99% of all prisoners were confined to their "actual classification placement" in 2011, based upon the DOC's own classification system.<sup>39</sup> But, that assumes that the classification system employed by the DOC yields valid classification assessments, particularly compared with national standards. The DOC provides no information on that point. In addition, the DOC reports that in 2011: "The use of discretionary classification overrides has been studied and found to meet national standards."<sup>40</sup> Once again, no data from the DOC's study, including who conducted the study, i.e., an outside agency or the DOC itself, the amount or percentages of overrides, and what the national standards are, were included to either support or refute the DOC's assertion. Overrides are critical to establishing a reliable classification system. Overrides allow the DOC to reject the objective point based classification result in favor of a subjective determination that a prisoner should be confined in either higher or lower security. The DOC fails to provide the actual numbers and percentages for the overrides placing prisoners in security levels other than that called for by the objective point based classification system. Only then can comparisons be made to the national standards to determine if, in fact, the DOC's objective point based classification system is valid and being properly implemented. The continued high percentage of prisoners in maximum and the low percentage of prisoners in minimum/pre-release security would argue that the system the DOC is presently employing is not working. Unsupported statements by the DOC that 99% of the prisoners are housed in proper security levels are meaningless and are insufficient to prove that the DOC is not continuing to over-classify prisoners, thereby wasting millions of taxpayers' money.

6) Comparative Operational Capacities And Average Daily Populations By Security Levels

TABLE 6

	<u>Maximum</u>	<u>Medium</u>	<u>Minimum/ Pre-Release</u>
<u>2011</u> <sup>41</sup>			
Operational Capacity	1954	7845	1774
Average Daily Pop.	2027	7838	1610
Difference	73	(7)	(164)
% Over/(Under)	3.7%	(0.9%)	(9.2%)
<u>2010</u> <sup>42</sup>			
Operational Capacity	1927	7865	1774
Average Daily Pop.	2027	7730	1611
Difference	(36)	(135)	(163)
% Over/(Under)	(1.9%)	(1.7%)	(9.2%)
<u>2009</u> <sup>43</sup>			
Operational Capacity	1927	7852	1724
Average Daily Pop.	1884	7754	1631
Difference	(43)	(98)	(93)
% Over/(Under)	(2.2%)	(1.2%)	(5.4%)

As shown in Table 6 above, the under-utilization of minimum/pre-release facilities has been a constant for the past three years, reaching over 9% in both 2010 and 2011. Only once in the past three years did average daily populations exceed the operational capacities. That occurred in 2011 for maximum security. Operational capacity is defined as the number of beds authorized for the safe and efficient operation of a facility.<sup>44</sup>

7) Length Of Sentences For Criminally Sentenced Prisoners

The numbers and percentages of prisoners sentenced to five or fewer years declined from 2009 to 2011, as shown in Table 7 below. Conversely, the numbers and percentages of those serving from five to twenty years, as did those serving life sentences, reflecting the absence of commutations and the significant reduction in parole rates since. For all state

prisoners, the parole rates dropped to 39% in 2011, from 58% in 2010.<sup>45</sup>

TABLE 7

<u>Length of Sentences</u>	<u>2011<sup>46</sup></u>	<u>%</u>	<u>2010<sup>47</sup></u>	<u>%</u>	<u>2009<sup>48</sup></u>	<u>%</u>
Less Than 1 Year	81	0.8	102	1.0	112	1.1
1 - 3 Years	569	5.4	604	5.9	593	5.8
3 - 5 Years	1807	17.2	1803	17.6	1837	17.9
5 - 10 Years	3234	36.8	3046	29.8	3125	30.5
10 - 20 Years	2072	19.8	2010	19.7	1979	19.3
20+ Years	822	7.8	824	8.0	810	7.9
Second Degree Life	888	8.5	846	8.3	846	8.2
First Degree Life	<u>1017</u>	9.7	<u>987</u>	9.7	<u>957</u>	9.3
Totals	10,490		10,222		10,259	

D. EXPENSES, OVERCROWDING, AND STAFFING1) Comparative Distribution of DOC ExpensesTABLE 8

<u>Expense Category</u>	<u>2011<sup>49</sup></u>	<u>%</u>	<u>2010<sup>50</sup></u>	<u>%</u>	<u>2009<sup>51</sup></u>	<u>%</u>
Staff Salaries	352,176,365	68.0	351,126,608	68.4	356,358,094	68.4
Inmate Health Care	95,626,660	18.5	94,444,002	18.4	87,042,764	16.7
Utilities	26,809,271	5.2	25,455,561	5.0	29,072,299	5.6
Inmate Programs	10,833,784	2.1	11,308,339	2.2	12,882,947	2.4
Food	14,576,114	2.8	14,616,679	2.8	13,546,644	2.6
IT Expenses	Not Reported		Not Reported		3,359,904	0.6
Legislative Earmarks	200,000	0.1	Not Reported		1,010,500	0.2
Admin. Expenses	2,285,040	0.4	2,241,760	0.4	2,285,040	0.4
Facility Infrastruc.	<u>15,061,924</u>	2.9	<u>Not Reported</u>		<u>Not Reported</u>	
Totals	517,569,158		513,611,092		520,426,848	

The DOC spent \$3,959,066 more in 2011 than in 2010, an increase of 0.8%. Staff salaries increased in dollar amount for that period by 0.3% (\$1,049,757), but decreased as a percentage of the total expenses (68.0% from 68.4%). Yet, the number of DOC employees who earned at least \$100,000 rose from 112 in 2010 to 219 in 2011 - an increase of 96%.<sup>52</sup>

Inmate Health Care was the only expense category which increased each year in both dollar amounts (by 9.7%) and percentages of total expenses (from 16.7% to 18.5%) from 2009 to 2011. Conversely, Inmate Programs was the only expense category which decreased in each year from 2009 to 2011 in dollar amounts and percentages of total expenses (from 2.4% down to 2.1%). Comparing 2009 and 2011, the amount spent for Inmate Programs decreased by \$2,049,163 or 16%, even though the number of inmates increased from 11,354<sup>53</sup> (January 1, 2009) to 11,723<sup>54</sup> (January 1, 2012), or 3.2%. In 2009, the DOC spent \$1,134.66 per prisoner for inmate programs,<sup>55</sup> which decreased to \$924.15<sup>56</sup>, a drop of 18.5%. It is difficult to comprehend how the DOC can achieve its self-proclaimed mission to provide "appropriate programming [to offenders] in preparation for successful reentry into the community,"<sup>57</sup> when the DOC has so significantly decreased the amount spent on inmate programs. The DOC needs to put its money where its mission is.

## 2) Overcrowding

The DOC states that as of June 27, 2011, the overcrowding rate in the prisons was 144%, a rate that has remained constant for nearly ten years. The overcrowding rate is defined as the percentage of the average daily population divided by the total number of beds all the facilities were designed to hold, known as the Design Capacity.<sup>58</sup> The DOC does, however, compute another statistic, the Operational Capacity, which can also be used to assess overcrowding. The Operational Capacity is defined as the "number of beds authorized for safe and efficient operation of [a] facility."<sup>59</sup> The DOC's Annual Report and the Prison Population Trend Report both provide relevant data for each facility, including Design Capacities, Operational Capacities, and the Average Daily Populations.<sup>60</sup> For MCI-Norfolk in 2011, for example, the Design Capacity was 1,084, the Operational Capacity was 1,478, and the Average Daily population was 1,514. Using the Design Capacity, MCI-Norfolk's overcrowding rate was 140%; but using the Operational Capacity, the overcrowding rate was a mere 102%. Similar disparities exist for all the DOC's facilities. Table 9 below presents a comparison of occupancy rates for 2011 using both Operational Capacities and Design Capacities, as well as the numerical differences between the Operational Capacities and the Average Daily Populations.

TABLE 9

<u>Institutions</u>	<u>1</u> <u>Design</u> <u>Capacity</u>	<u>2</u> <u>Operat-</u> <u>tional</u> <u>Capacity</u>	<u>3</u> <u>Average</u> <u>Daily</u> <u>Pop.</u>	<u>Differ-</u> <u>ences</u> <u>(2 - 3)</u>	<u>Occup. Rates</u> <u>Design</u> <u>Oper.</u> <u>(3÷1)</u> <u>(3 ÷ 2)</u>	
<u>Maximum</u>						
Cedar Junction	561	574	735	+161	131%	128%
Souza Baranowski	<u>1,024</u>	<u>1,380</u>	<u>1,292</u>	<u>- 88</u>	<u>126%</u>	<u>94%</u>
Totals	1,585	1,954	2,027	+ 73	128%	109%
<u>Medium</u>						
Bay State	266	332	322	- 10	121%	103%
Bridgewater St. Hosp.	227	392	379	- 13	167%	97%
Cedar Junction	72	72	72	0	100%	100%
Concord	614	1,390	1,343	- 47	219%	97%
Framingham	452	628	666	+ 38	147%	106%
Lemuel Shattuck	24	29	24	- 5	100%	83%
Norfolk	1,084	1,478	1,514	+36	140%	102%
North Central CC	568	992	940	- 52	165%	95%
Old Colony CC	480	748	751	+ 3	156%	101%
Shirley	720	1,130	1,198	+68	166%	106%
Treatment Center	<u>561</u>	<u>654</u>	<u>629</u>	<u>- 25</u>	<u>112%</u>	<u>96%</u>
Totals	5,068	7,845	7,838	- 7	155%	99%
<u>Minimum / Pre-Release</u>						
Boston Pre-Release	150	200	184	- 16	123%	92%
MA Sub. Abuse Ctr.	236	170	149	- 21	63%	88%
Northeastern CC	150	274	266	- 8	177%	97%
North Central CC	30	30	26	- 4	86%	86%
Old Colony	100	160	140	- 20	140%	88%
Plymouth	151	227	184	- 43	122%	81%
Pondville	100	200	191	- 9	191%	96%
Shirley	299	328	313	- 15	105%	95%
So. Middlesex	<u>125</u>	<u>185</u>	<u>157</u>	<u>- 28</u>	<u>191%</u>	<u>85%</u>
Totals	1,341	1,774	1,610	-164	120%	91%

The total Operational Capacity in 2011 was 11,573 and the Average Daily Population totaled 11,475 or 98 fewer than the Operational Capacity. This yielded a combined 0.8% under-utilization rate, not a 144% overcrowding rate. The only security level where the combined average daily population exceeded the combined operational capacity was at maximum security with an overall 104% occupancy rate. In contrast, the combined average daily population at minimum and pre-release facilities was 9% below the combined operational capacities.

It is difficult not to accept that the Operational Capacities are the more valid data for determining overcrowding or under-utilization of the DOC's prisons. Why the DOC continues to claim a 144% overcrowding rate based upon the Design Capacities needs an explanation. The Operational Capacity, as defined by the DOC, is the level of occupancy where each prison can be operated efficiently, and, more importantly, safely. Certainly, if this were not the case, then the DOC and the guards' union would be clamoring for more prisons. Given that neither has been asking for building more prisons, then the 144% overcrowding rate, according to Table 9, is clearly misleading and not representative of the true state of affairs. More troubling is that the DOC has been claiming the same 144% overcrowding rate for at least the past five years.<sup>61</sup> One can only speculate that the DOC clings to this mythical 144% overcrowding rate in order to prepare the legislature and the public for any future demands that new prisons be built to ease "overcrowding."

Every minimum and/or pre-release facility in 2011 held fewer prisoners than their respective operational capacities. As pointed out earlier in this report, the under-utilization of minimum and pre-release facilities has significant cost implications. Based on the DOC's calculations for the average costs per prisoner for each facility,<sup>62</sup> the average cost for maximum security in 2011 was \$53,800, \$41,755 for medium security, and \$36,975 for minimum or pre-release facilities. Had the DOC, in 2011, occupied the 164 open beds in minimum and pre-release facilities with medium security prisoners, the savings would have been \$783,920. And, then transferring only 73 prisoners from maximum security to medium security, the savings would be an additional \$879,285, for a combined savings of \$1,663,205.<sup>63</sup> What is obviously needed is not only for the DOC to utilize more effectively and efficiently minimum/ pre-release bed space, but, also, to increase the number of beds at minimum/pre-release security. Doing so would be both cost effective and would serve to reduce the overall recidivism rate, as shown in Table 11 *infra*.

3) Staffing

Staffing levels for 2009 were not reported in the DOC's Annual Report for that year. As a result, Table 10 below contains full-time staffing data for only 2010 and 2011, excluding contract personnel.

TABLE 10

<u>Full-Time Employees</u>	<u>2011<sup>64</sup></u>	<u>%</u>	<u>2010<sup>65</sup></u>	<u>%</u>	<u>+/-</u>	<u>%</u>
Security Staff	3,652	73.8	3,517	72.5	135	3.8
Support Staff	462	9.3	495	10.2	(33)	(6.7)
Correction Program Officers	296	6.0	283	5.8	13	4.6
Managers	213	4.3	222	4.6	(9)	(4.1)
Maintenance	152	3.1	160	3.3	(8)	(5.0)
Captains	89	1.8	90	1.8	(1)	(1.1)
Education Staff	<u>86</u>	<u>1.7</u>	<u>86</u>	<u>1.8</u>	<u>0</u>	<u>0</u>
Total	4,950		4,853		97	2.0
 # of Prisoners	 11,723		 11,361		 362	 3.2

One hundred thirty-five security staff employees were added in 2011, an increase of 3.8%. The only other position which increased was Correction Program Officers (CPOs) by 4%. Both exceeded the percentage increase of prisoners (3.2%). Support staff, managers, maintenance, and captains all decreased in 2011; the education staff remained constant. Overall, Full-Time Employees increased by 2%.

E. RECIDIVISM AND RELEASES

From 2000 to 2007, there was a steady increase in one year recidivism rates - 19% to 24% for males and 20% to 27% for females.<sup>66</sup> The DOC has not released one year recidivism data since 2007. The DOC does, however, compute recidivism rates for three year periods after prisoners had been released to the street. Table 11 below presents the three year recidivism rates by levels of security. The recidivism data for 2011 are for prisoners released in 2007, the 2010 data for prisoners released in 2005, and the 2009 data for prisoners release in 2004. In terms of public safety and return on the investment of taxpayers' dollars spent to operate the prisons in Massachusetts, the rate of return for prisoners released to the street, i.e., the recidivism rate, should be the primary standard by which the DOC's effectiveness and success are evaluated. The DOC, on paper at least, apparently acknowledges the importance

of this standard, since recidivism rates and reentry feature prominently in both the DOC's self-proclaimed Vision and Mission Statements. Nevertheless, as demonstrated in Table 11 below, the overall recidivism rate has remained relatively constant, while the recidivism rate for prisoners released from maximum security continues to climb. It has been estimated that approximately 97% of Massachusetts prisoners can be expected to eventually be released to the street.<sup>67</sup> Pertinent questions then would be: from which security levels will those prisoners be released; and how well prepared will those prisoners be to successfully rejoin society?

#### 1) Comparative Recidivism Rates By Security Levels

TABLE 11

<u>Security Level</u>	<u>2011<sup>68</sup> Recidivism Rate</u>	<u>2010<sup>69</sup> Recidivism Rate</u>	<u>2009<sup>70</sup> Recidivism Rate</u>
Maximum	62%	58%	57%
Medium	45%	47%	44%
Minimum/Pre-Release	<u>34%</u>	<u>36%</u>	<u>37%</u>
Overall Rate	43%	44%	43%

The correlation between security level from which prisoners are released and the resultant recidivism rates is evident for each of the years presented in Table 11 above. A major reason why releasing prisoners from minimum and pre-release facilities yields a lower recidivism rate is due to the opportunities offered in lower security to transition gradually back into society, e.g., finding employment, establishing community and family ties, which are nonexistent in maximum and medium security. Thus, it is likely that simply increasing the number of prisoners released from lower security would translate into a lower overall recidivism rate.

#### 2) Comparative Releases By Security Level

TABLE 12

<u>Released From</u>	<u>2011<sup>71</sup></u>		<u>2010<sup>72</sup></u>		<u>2009<sup>73</sup></u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
Maximum	220	9.6	307	11.2	259	9.4
Medium	1,295	56.8	1,461	53.4	1,561	56.6
Minimum/Pre-Release	<u>766</u>	<u>33.6</u>	<u>970</u>	<u>35.1</u>	<u>940</u>	<u>34.0</u>
Totals	2,281		2,738		2,760	
Maximum & Medium	1,515	66.4	1,768	64.6	1,820	66.0



It seems to be common sense to step prisoners down through security levels prior to their releases, thereby increasing their chances to successfully reenter society. Yet, in 2011, two-thirds of the total number of prisoners released to the street were released from maximum or medium security. Table 12 on the previous page presented comparative data for prisoners released to the street from the three security levels. Based on the latest recidivism data in Table 11 of this report, by 2014, of the 220 prisoners released from maximum security in 2011, 62% (136) can be expected to have returned to prison. Of the 1,295 released from medium security, 45% (583) can be expected to have been reincarcerated. But, of the 766 prisoners released from minimum or pre-release facilities, 34% (260) can be expected to have returned to prison. Further complicating the problem, all returnees will be confined in either maximum or medium security at considerable cost. Based on Table 5 in this report, of the estimated 979 returned prisoners, 176 (18%) would be held in maximum security and the remaining 803 would be confined at medium security. The total cost of these returnees for each year of reincarceration would be a staggering \$43,054,000.<sup>74</sup>

A 0% recidivism rate is, of course, simply not realistic. But, an immediate impact on the recidivism rate could be effected if the DOC began decreasing the number of prisoners being released from maximum and/or medium security prisons. It is obvious that simply releasing prisoners to the street from lower security significantly reduces the recidivism rate. Yet, the total percentage of prisoners being released to the street from maximum and medium security facilities continues to increase. The DOC needs to coordinate with its stakeholders, e.g., the legislature, the Governor's Office, in order to increase the utilization of minimum and pre-release facilities, as well as increasing the number of beds available at lower security. The direction the DOC needs to take appears clear, but what seems missing is the will.

An additional factor relating to recidivism is the percentage of prisoners being released without any supervision. The Parole Board has significantly reduced parole rates,<sup>75</sup> and the result has been an increase in prisoners being released with no supervision. The data are presented in Table 13 below.

TABLE 13<sup>76</sup>

Released To	2011		2010		2009	
	#	%	#	%	#	%
Parole Supervision	267	12	653	24	689	25
Probation Supervision	766	33	685	25	706	25
Parole & Probation	163	7	375	14	389	14
No Post Release Super.	1,085	48	1,025	37	988	36
Totals	2,281		2,738		2,772	

The total number of prisoners released to the street in 2011 decreased 17% from 2010. While the actual number of prisoners released with no post release supervision increased by 60, that percentage increased dramatically - to nearly 50%. The increase in releases with no post release supervision, while not under the purview of the DOC, does highlight the DOC's responsibility to provide effective reentry programming, including stepping down prisoners to lower security to help them successfully return to society.

## F. CONCLUSION

The DOC serves at the tail end of the criminal justice system. As such, the DOC has three primary functions. First, to provide adequate care for prisoners held in the DOC's custody. Second, to ensure that prisoners do not escape. In 2011, there were three escapes and all the escapees were quickly recaptured.<sup>77</sup> No one can argue that the DOC does not accomplish this essentially "warehousing" function effectively. The third function is to prepare prisoners for reentry as it is estimated that 97% of all prisoner will eventually return to society.<sup>78</sup> The question then is: How well do prisoners function in society once released? At a cost of over one-half billion dollars per year, answering that question is paramount to assessing the performance of the DOC. The DOC's Vision and Mission statements are replete with references to reentry and recidivism. For over one-half billion dollars more is required than mere words. As stated by Len Engel, Senior Policy Analyst for the Crime and Justice Institute:

*Rising corrections costs might be acceptable if public safety is improved, if the corrections system is run efficiently and transparently, and if recidivism is reduced. Growing corrections budgets would probably be acceptable if the prison population grew substantially in response to higher crime rates. Yet, none of these are what drove the growth in the corrections budget over the past ten years.<sup>79</sup>*

In the DOC's Annual Report for 2011, the first goal is to: "Effectively transition inmates to communities to reduce crime and victimization, reduce recidivism, and promote effective rehabilitation and reentry," and the DOC includes a detailed flow chart presenting how the DOC hopes to achieve this goal.<sup>80</sup> The problem is that, given the continued recidivism rate of 43 to 44%, the DOC has so far failed to accomplish its most important objective: to increase public safety by reducing recidivism. The DOC needs to reduce its sundry goals and objectives to just one: Decrease recidivism by 2% per year for the next five years. Each 1% reduction in recidivism rate would result in an estimated savings of \$1.3 million each year in corrections costs alone,<sup>81</sup> not counting the savings in police and court costs as well as increased public

safety. Such a goal is clear, simple, and measurable. In addition, reducing recidivism by 2% per year for the next five years falls in line with Commissioner Spencer's expressed desire to assist in Massachusetts being a national leader in result driven management. What then would the DOC need to do to achieve such an objective?

### 1) Programs

The DOC cannot lower the recurring 43 - 44% recidivism rate without significantly increasing the funds allocated to Inmate Programs. Expending only 2% of the budget on Inmate Programs is not nearly sufficient. Without drastically increasing the dollars allocated for Inmate Programs, the DOC might as well cease spending any money on Inmate Programs, given the lack of positive returns on the present expenditures. The answer, however, is not just to throw money at programs without any understanding as to which are effective and which are not. The DOC's Office of Strategic Planning & Research should be tasked with studying all programs to determine which lead to lower recidivism and, conversely, which do not. Obviously, those programs which do not positively impact recidivism need to be either eliminated or corrected.

The DOC's Research Division in 2008, in conjunction with the Urban Institute of Washington, DC, did publish two studies of prisoners who had recidivated.<sup>82</sup> Those studies need to be repeated. One problem, however, is that the information on prisoners who had recidivated was five or more years old. Such data do not provide accurate assessments of the DOC's current programs. Recidivism needs to be studied on an annual basis, particularly since nearly one-half of those who recidivate do so in the first year after release, and two-thirds within eighteen months after release.<sup>83</sup> The only DOC program reviewed in 2008 was the Transition Planning Workshop. The results showed a higher recidivism rate (43%) for those who had participated in the program than for those prisoners who had not (35%).<sup>84</sup>

The DOC can follow the lead of Washington state which conducted an evidence-based study of corrections programs. One program in the Washington study found to have had one of the highest positive impacts on reducing recidivism was Vocational Education in prison. Drug treatment programs in the community had a higher impact on reducing recidivism than drug treatment in prison.<sup>85</sup> Whether or not these and other programs would have the same positive effect on recidivism in Massachusetts can only be answered if the DOC conducts similar studies. What is clear is that the DOC cannot continue to assume that the programs it presently offers decrease recidivism without evidence-based research to support that assumption. As stated earlier, the results may be surprising. In California, for instance, prisoners who had participated in the two largest in-prison programs recidivated at a higher rate than those prisoners who had not.<sup>86</sup>

## 2) Employment

Fifty-six percent of the prisoners in the 2008 recidivism study conducted by the DOC reported that they had been employed at the times of their arrests prior to their being returned to prison. Only 13% of the post-release survey respondents, however, reported earning over \$501 per week. The most common type of work was construction (32%), then factory work (11%), followed by food services (10%).<sup>87</sup> The results of the 2008 study, and the aforementioned Washington state study, demonstrate the need for the DOC to invest in expanding vocational education programs. Prisoners need certifications of proficiency in marketable skills to help overcome the stigma of a prison record. Welding and barber programs meet that requirement and, therefore, need to be increased. Also, training in construction skills needs to be introduced with an emphasis on electrical work, plumbing, masonry, painting, and other related skills. Shortages of skilled workers in the outside work force have been reported and the need is expected to increase in the years to come.<sup>88</sup> Other vocations for which the DOC should consider providing skill training are: heating, ventilation, and air conditioning (HVAC), automobile repair, computers, and health care. Volunteers are one source the DOC can tap with little or no expense to assist in providing the necessary training. Additional benefits to the DOC would be that the prisoners, while learning these skills, would provide a low cost work force to make badly needed repairs on prison buildings and walkways, work on plumbing, HVAC, and electrical repairs, thereby, extending the service life of the current facilities. In addition, prisoner could be trained to provide basic health care to elderly and infirm prisoners.

The DOC presently uses - COMPAS<sup>89</sup> - to determine whether prisoners are high or low risks to re-offend once released. Those prisoners deemed "low risk" to re-offend have little chance of participating in vocational educational programming. Wherever a low risk prisoner stands on a waiting list, he or she will be superseded by prisoners who have higher risk assessments. While this procedure may be useful for therapeutic programs, it is counter-productive regarding vocational training. The problem is that high risk prisoners are less likely to be paroled or transferred to lower security than low risk prisoners. Thus, low risk prisoners, who are more likely to be released to the street, are not able to participate in the very programs in which they could obtain a marketable skill. The DOC needs to revise the treatment of low risk prisoners vis-a-vis vocational programs, and to significantly increase the number and breadth of such programs so that all prisoners can participate on a meaningful basis.

### 3) Increase Minimum and Pre-Release Bed Space

As has been demonstrated earlier in this report, stepping prisoners down before their releases is both cost effective and serves to reduce recidivism. Spending a year in minimum security and then six more months in pre-release, allows a prisoner to become gradually acclimated to rejoining society. Time spent in medium security should be dedicated to therapeutic programs and developing marketable skills. Transitioning back to society should then be accomplished in minimum and pre-release facilities, where prisoners can find gainful employment, housing, and reconnect with family and loved ones; as well as addressing other issues necessary for a successful return to society, e.g., driving license, medical coverage. Commissioner Luis Spencer claims that the DOC has achieved its goal of collaborating with external stakeholders and partners.<sup>89</sup> It is time the DOC put that new found collaboration to the test by coordinating with the Parole Board, the legislature, and the Governor's Office to expand and make more efficient use of minimum and pre-release facilities.

One additional area of coordination with the Parole Board, which can achieve an immediate impact on lowering recidivism rates, is to eliminate returning technical violators from paroles to medium security prisons. Technical violators are those returned for reasons not involving a new crime,<sup>90</sup> but rather, for reasons such as: substance abuse or possession, associating with known felons, domestic issues, or failing to report to parole officers changes in address, status, or employment. While these are issues which need to be addressed, returning parolees to medium security prisons at \$42,000 per year, is not the answer. In the DOC study of the prisoners released in 2007, the latest data available from the DOC, 172 prisoners were returned for technical violation of conditions of parole.<sup>91</sup> For 2010, the last year for which the Parole Board has published a report, 768 parolees were violated for technical violations.<sup>92</sup> The DOC and the Parole Board need to establish separate facilities or use existing pre-release facilities in the community for housing technical violators for weekends or week nights as sanctions for technical violations. Treatment for technical violators could also be required while confined for weekends or week nights. Such facilities would be less costly and have the added benefit of not disrupting a parolee's employment and/or family relationships, both of which can be irreparably broken once a parolee has been returned to medium security. Confining technical violators in medium security is a poor use of correction funds and serves no useful purpose. It should be noted that there is no data to support an assumption that returning technical violators to prisons will prevent the commission of serious future crimes.<sup>93</sup> Dumping technical violators back into medium security is simply taking the easy way out for the Parole Board and the DOC. A professionally run DOC and Parole Board certainly should be expected to spend precious resources far more productively.

#### 4) Volunteers

It cannot be gainsaid that prisoners returning to the community need help, particularly since the majority are released from maximum or medium security. Yet, the DOC denies these prisoners one significant source for assisting prisoners to rejoin society successfully, especially at the time of their release when the need is most critical. That source is the cadre of volunteers who participate in programs inside correctional facilities.<sup>94</sup> These volunteers provide much needed support to prisoners inside prison walls. The DOC needs to allow that support to continue outside prison. For many prisoners, especially those serving long sentences, volunteers may be the only persons with whom those prisoners have interacted, other than correctional personnel. Contact with family members and loved ones deteriorates over time, particularly in those institutions which make it very difficult for families and loved ones to visit.

Once a prisoner is released, however, the DOC mandates that volunteers have no further contact with those prisoners the volunteers may have met and interacted with inside prison. The DOC seems not to understand that for many prisoners, especially those serving lengthy sentences, the only persons those prisoners may know once they reach the streets are the volunteers the prisoners have encountered in prison. Volunteers could serve as mentors to prisoners and be available to offer assistance in finding therapeutic groups, employment, housing and resolving a plethora of other short-term adjustment problems. But, the DOC closes the door on that help. This the DOC needs to reconsider. Whatever the DOC is concerned about can be addressed with proper training of those volunteers who evidence a desire to assist prisoners once they have been released to the street. The DOC should no longer be allowed to turn a blind eye to an effective and low cost source for assisting prisoners returning to society and helping to prevent them from recidivating.

#### 5) Visits

In November 2011, the Minnesota Department of Corrections published a report entitled: "The Effects Of Prison Visitation On Offender Recidivism." The results are instructive for the MA DOC. After evaluating the relationship between prison visits and recidivism rates for 16,420 prisoners released between 2003 and 2007, the findings for those who had received visits while in prison were:<sup>95</sup>

- a 13% reduction in felony reconvictions
- a 25% reduction in reincarcerations for technical violations of parole conditions
- the more often prisoners received visits, the less likely to recidivate
- visits from siblings, in-laws, fathers, and clergy were most beneficial in lowering recidivism

The results demonstrate that the more visits are promoted and facilitated, the greater the positive impact on prisoner recidivism. The problem is that the MA DOC actually discourages and inhibits meaningful visits. Visiting hours have been reduced, allegedly to save salary dollars. Visitors are often treated as if they were committing criminal offenses merely because they sought to visit a loved one in prison. Family members are frequently required to endure excessively long waits, sometimes two or more hours, before being allowed to enter a prison. Such delays should never be countenanced unless there is a situation occurring which would preclude visiting. Visitors can be subjected to varying interpretations by individual guards as to what is and what is not proper clothing, often resulting in a visitor being turned away when wearing the same clothing which had been deemed suitable by a different guard on a prior occasion. Visitors may be forced to undergo humiliating searches, including strip searches, in an effort to ferret out contraband. There is no question that the DOC has a vested interest in stopping contraband from being introduced into prisons. But, visitors are not the sole source for contraband and should not be treated as if they are. In addition, prison visiting rooms are replete with cameras, chairs are arranged to provide clear sight lines for guards whose sole responsibility is to observe visits, and prisoners are strip searched once visits have been concluded. It is difficult to believe that due diligence on the part of the guards in visiting rooms is not sufficient to discover any attempts to pass contraband.

All of these issues are not new to the DOC. In fact, Commissioner Spencer, when he was the Superintendent at MCI-Norfolk, received a steady stream of complaints about how visitors were treated and the poor quality of visits. Still, nothing was done to remedy the problems or to encourage visits. What changes then should the DOC implement to improve visits?

1) Visiting times need to be expanded. Based on the Minnesota study, reductions in recidivism rates would more than offset any increases in staff salaries.

2) Family visiting events should be promoted at which prisoners and family members could share meals and a relaxed visiting environment.

3) Outside visiting areas need to be reinstated.

4) Entrance procedures need to be revised to encourage, not discourage, visitors.

5) The attitudes on the part of the entire DOC toward visits need to be corrected so that all personnel from the top down show by their interactions with visitors that the DOC values the contributions visitors make to reducing recidivism.

6) If Commissioner Luis Spencer truly seeks to be progressive, he should introduce private family visits, particularly since the furlough program is a long, distant memory.

All of these changes would serve to improve and to increase the number of prisoners receiving visits. As a result, those prisoners should be better prepared to successfully reenter society once release and, thereby, the recidivism rate will decrease.

#### 6) DOC Culture

The climate within Massachusetts prisons needs to dramatically change. To effect meaningful change, however, would require that the divisive and destructive culture in the DOC be reversed. Former Governor William Weld's drive to reintroduce prisoners to the joys of busting rocks and the mentality to enforce such a concept still affect the prisons in Massachusetts. Correcting that culture is a monumental, but necessary, challenge. One former DOC commissioner, Kathleen Dennehy, on the heels of the brutal murder of former priest John Geoghan, tried to do so, but was hounded from office by "harassment, threats and personal attacks ... by union members." The then president of that union (MCOFU), rather than taking steps to stop the harassment, merely opined that: "She needs to grow up."<sup>96</sup> In addition, the Governor's Department of Correction Advisory Council found that the culture inside some institutions was "nothing less than toxic" due to "a minority of correction officers ... [whose] actions poison the culture of the DOC ..."<sup>97</sup> Harold W. Clarke followed Kathleen Dennehy, but he lasted a mere three years. It is now up to the present commissioner, Luis Spencer, to take on the task of changing the "toxic" culture within the prisons.

Issues that Commissioner Spencer needs to address include an undercurrent of bureaucratic anarchy which permeates many of the prisons. This anarchy takes the form of guard who make their own rules and punish prisoners without authorization. In addition, consequences are imposed for certain behavior which far outweigh the severity of the actual



offense; consequences are also meted out at the whim of certain senior officers who seem to have a free hand. Is it reasonable to tear apart a prisoner's cell or to order a prisoner to move from a single cell or double cell to a dormitory unit, which can contain up to fifty prisoners in bunk beds, just because the prisoner may have left a bottle of soda on a window sill or a piece of fruit out on a desk? When a prisoner breaks a written rule or regulation, some level of punishment is required. But, when that punishment is perceived as far out of proportion in relation to the misdeed, then prisoners, not only the ones being punished, but also those who may be similarly punished at some future date, start down the path of becoming angry and disillusioned. This affects not only their receptivity to rehabilitation, but also, once released their potential to recidivate.

The anger and disillusion of prisoners are further exacerbated when correctional personnel are perceived as having escaped any consequences or received mere slaps on the wrist when they have violated rules or regulations. It is a "do as I say, not as I do" environment. The absence of data in the DOC's past two Annual Reports, prepared under the auspices of Commissioner Spencer, on inmate disciplinary reports, inmate grievances, and staff discipline all contribute to a lack of transparency. The resultant opaqueness, in turn, leads to the conclusion that if one is a guard, senior officer, or member of staff in the DOC, anything goes, even when one is caught breaking the rules.

There will, of course, always be complaints from prisoners; some valid, some not. It is not, however, the province of DOC personnel to punish prisoners over and above the punishment meted out by the courts. Inherent in the DOC's name is to correct, not to punish. It is the Department of Correction, not either the Department of Punishment or the Department of Warehousing. The important issue is that prisoners believe that they will be treated fairly and consistently, in accordance with published rules and regulations. When a prisoner violates a rule or regulation, then consequences should ensue. But, when a prisoner is found not guilty of an offense, then that should be the end of the matter. That, however, is often not the case. Property, for instance, which may have been seized for whatever reason, should be returned if the prisoner is found not guilty of any offense, not "lost" somewhere between institutions or departments within institutions. In addition, property which at one time was allowed under the properly promulgated property regulations should not be seized as contraband, if the property regulations are changed, without reimbursement or replacement at no cost to the prisoner.

The DOC Advisory Council in 2005 called for the appointment of an authority, independent of the DOC, to investigate complaints about the DOC. Such an authority was deemed needed to "promote enforcement of the laws and policies that govern the Department's staff..." In addition, "[h]aving an outside investigative authority would help separate valid concerns from rhetoric, would reinforce the Department where it is correct, and expose areas

where any staff or official of the Department has engaged in wrongful or undesirable behavior."<sup>88</sup> That recommendation has never been implemented, but it is as relevant now as it was in 2005.

Shifting the emphasis of the DOC away from a mere warehousing function to actively confronting and reducing recidivism will take a sea change in the culture now evident in the prisons. When the DOC, beginning with the Commissioner, comes to believe that the issues raised in this report are integral to performing its role in the criminal justice system, then progress can begin. To date, there seems to be scant appreciation for what truly troubles the DOC. The direction should be clear. Far too much of the taxpayers' money is being wasted on a corrections system which fails to correct nearly 50% of the time. No corporation could survive if forty-three of every one hundred items it produces is returned for poor performance. Such a corporation would be bankrupt unless drastic changes were made. Unfortunately, for Massachusetts taxpayers, the DOC shows no signs of changing and will simply continue to spend over one-half billion dollars each year with only mediocre results. Every stakeholder, especially the public-at-large, deserves a much better return on its investment. The question is: Who will stand up and demand that the DOC begin to earn its pay?

END NOTES

- 1) Massachusetts Department of Correction (DOC) 2011 Annual Report at 4.
- 2) Id.
- 3) Id.
- 4) Id. at 5.
- 5) Id. at 7.
- 6) Id. at 12.
- 7) Id.
- 8) Id.
- 9) Id. at 13.
- 10) Id. at 18.
- 11) Id. at 19.
- 12) Id.
- 13) Massachusetts Department of Correction (DOC) Prison Population Trends 2011 at 18.
- 14) DOC Annual Report 2011, *supra* at 40.
- 15) Massachusetts Department of Correction (DOC) Annual Report 2010 at 38.
- 16) Massachusetts Department of Correction (DOC) Annual Report 2009 at 71.
- 17) "Elderly Inmates: Aging Prison Population Strains Tight State Budgets." HUFFPOST. [www.huffingtonpost.com/2010/01/27/elderly-inmates](http://www.huffingtonpost.com/2010/01/27/elderly-inmates). Accessed: 12/7/12.
- 18) DOC Prison Population Trends 2011, *supra* at 22.
- 19) Timothy Williams. "Number of Older Inmates Grows, Straining Prisons." The New York Times, January 26, 2012. NYTimes.com. Accessed: 12/7/12.
- 20) Id.
- 21) DOC Annual Report 2011, *supra* at 4.
- 22) Id. at 43.
- 23) DOC Annual Report 2010, *supra* at 40.
- 24) DOC Annual Report 2009, *supra* at 73.
- 25) Other offenses are defined as: "Miscellaneous offenses that are not clearly categorized into one of the other offense categories and include obstruction of justice, habitual criminals, prostitution and some weapons possession." DOC Prison Population Trends 2011, *supra* at 54.
- 26) DOC Annual Report 2011, *supra* at 40.

- 27) DOC Annual Report 2010, *supra* at 38.
- 28) DOC Annual Report 2009, *supra* at 71.
- 29) DOC Annual Report 2011, *supra* at 41.
- 30) DOC Annual Report 2010, *supra* at 39.
- 31) DOC Annual Report 2009, *supra* at 73.
- 32) DOC Prison Population Trends 2011, *supra* at 8.
- 33) DOC Prison Population Trends 2010, *supra* at 8.
- 34) DOC Prison Population Trends 2011, *supra* at 8.
- 35) David Abel. "Minimum Security, High Concerns." *The Boston Globe*. November 14, 2011 at A8.
- 36) The cost differential between maximum and minimum/pre-release = \$15,000 (\$53,000 - \$38,000). That figure is multiplied by 164 (143 + 21) to yield \$2,460,000.
- 37) Final Report of the Department of Correction Advisory Council. October 25, 2005 at 16.
- 38) *Id.*
- 39) DOC Annual Report 2011, *supra* at 13.
- 40) *Id.* at 12.
- 41) DOC Prison Population Trends 2011, *supra* at 8.
- 42) DOC Prison Population Trends 2010, *supra* at 8.
- 43) DOC Prison Population Trends 2009, *supra* at 9.
- 44) DOC Prison Population Trends 2011, *supra* at 54.
- 45) "Falling parole rates prompt criticism." *The Boston Globe*, August 18, 2011 at B1.
- 46) DOC Prison Population Trends 2011, *supra* at 22.
- 47) DOC Prison Population Trends 2010, *supra* at 21.
- 48) DOC Prison Population Trends 2009, *supra* at 21.
- 49) DOC Annual Report 2011, *supra* at 46.
- 50) DOC Annual Report 2010, *supra* at 44.
- 51) DOC Annual Report 2009, *supra* at 28.
- 52) *The Boston Herald*, February 22, 2012 at 5.
- 53) DOC Annual Report 2009, *supra* at 72.

- 54) DOC Annual Report 2011, *supra* at 40.
- 55) Amount spent on Inmate Programs (\$12,882,947) ÷ Inmate Population as of January 1, 2010 (11,354).
- 56) Amount spent on Inmate Programs (\$10,833,784) ÷ Inmate Population as of January 1, 2012 (11,723).
- 57) DOC Annual Report 2011, *supra* at 5.
- 58) *Id.* at 6.
- 59) DOC Prison Population Trends 2011, *supra* at 54.
- 60) The data can be found for each facility in the DOC Annual Report 2011, *supra* at 32 - 37 and/or Prison Population Trends 2011, *supra* at 2 - 7.
- 61) Len Engel. "Priorities and Public Safety" The Boston Foundation, 2009. at 10.
- 62) The data can be found for each facility in the DOC Annual Report 2011, *supra* at 32 - 37 and/or Prison Population Trends 2011, *supra* at 2 - 7. The average costs were calculated by the author. The average for mediums excludes Bridgewater State Hospital (\$126,389) and Lemuel Shattuck Hospital (\$239,856) as these institutions are impacted by high medical costs. The average for minimums and pre-release facilities excludes MA Alcohol and Substance Abuse Center (\$67,988). These exclusions allow the average costs not to be skewed inappropriately by extraordinary costs for facilities where only 5% of the prisoners are confined.
- 63)  $(\$41,755 - \$36,975) \times 164 = \$783,920$ .  $(\$53,800 - \$41,755) \times 73 = \$879,285$ .
- 64) DOC Annual Report 2011, *supra* at 46.
- 65) DOC Annual Report 2010, *supra* at 44.
- 66) DOC Prison Population Trends 2011, *supra* at 45.
- 67) Len Engel. "Promoting Public Safety Through Successful Community Transition". Crime & Justice Institute ([www.cj.institute.org](http://www.cj.institute.org)) and Community Resources for Justice, Inc. ([www.crjustice.org](http://www.crjustice.org)) 2008 at i.
- 68) DOC Prison Population Trends 2011, *supra* at 46.
- 69) DOC Prison Population Trends 2010, *supra* at 45.
- 70) DOC Prison Population Trends 2009, *supra* at 39.
- 71) DOC Prison Population Trends 2011, *supra* at 38.
- 72) DOC Prison Population Trends 2010, *supra* at 37.
- 73) DOC Prison Population Trends 2009, *supra* at 35.
- 74)  $(176 \times \$53,000) + (803 \times \$42,000) = \$43,054,000$ .

- 75) Michael Levenson. "Falling parole rates prompt criticism", supra, citing a drop from a parole rate of 58% in 2010 to 39% in 2010 at B1.
- 76) DOC Prison Population Trends, supra at 37.
- 77) DOC Annual Report 2011, supra at 29.
- 78) Len Engel. "Promoting Public Safety ..." supra at i.
- 79) Len Engel. "Priorities and Public Safety" supra at 16.
- 80) DOC Annual Report 2011, supra at 8 & 9.
- 81) Len Engel, "Promoting Public Safety ..." supra at 16.
- 82) Rhiana Kohl, et al. "Massachusetts Recidivism Study: A Closer Look At Releases and Returns To Prison" and "Reincarcerated: The Experiences of Men Returning To Massachusetts" Urban Institute, Washington, DC [www.urban.org](http://www.urban.org).
- 83) Rhiana Kohl, et. al. "Massachusetts Recidivism Study ..." supra at 2.
- 84) Id. at 27.
- 85) Steve Aos, Marna Miller, Elizabeth Drake. "Evidence-Based Adult Corrections Programs: What Works And What Does Not." Washington State Institute For Public Policy. 2006. at 3.
- 86) "Unlocking America - Reduce America's Prison Population." The JFA Institute. Washington, DC. November 2007. [www.jfa-associates.com](http://www.jfa-associates.com). at 16 - 17.
- 87) Rhiana Kohl. "Massachusetts Recidivism Study ..." supra at 29.
- 88) Paul Davidson. "Lack of workers plaques construction industry." USA TODAY. November 29, 2012 at B1.
- 88) COMPAS (Correctional Offender Management Profiling for Alternative Sanctions), implemented in 2009, is an automated inmate case management plan designed to follow an "offender throughout his/her incarceration and eventual release into the community." DOC Annual Report 2009, supra at 10.
- 89) DOC Annual Report 2011, supra at 4.
- 90) DOC Population Trends 2011, supra at 57.
- 91) Id. at 47.
- 92) 2010 Annual Statistical Report. Massachusetts Parole Board. [www.mass.gov/parole](http://www.mass.gov/parole) at 34.
- 93) "Unlocking America ..." supra at 23.
- 94) In 2009, there were "1,476 permanent volunteers providing a variety of services" in the prisons. DOC Annual Report 2009, supra at 10. The DOC did not report the number of volunteers in the 2011 Annual Report.

95) Minnesota Department of Corrections. "The Effects of Prison Visitation On Offender Recidivism" [www.doc.statemn.us](http://www.doc.statemn.us) November 2011 at 27.

96) Final Report of the Department of Correction Advisory Council, *supra* at 22. MCOFU is the Massachusetts Correction Officers' Federated Union.

97) *Id.*

98) *Id.* at 21.

### ATTRIBUTION

This report has been written by Gordon Haas who is entirely responsible for its contents. The author is a life prisoner confined at MCI-Norfolk and serves as the Chairman of the Norfolk Lifers Group. The Norfolk Lifers Group is composed primarily of prisoners who are serving life or long-term sentences at MCI-Norfolk, but all prisoners at that facility are welcome. The Norfolk Lifers Group seeks to assist its members in preparing for parole and/or commutation hearings, to help members remain current on developments in DOC and Parole Board policies and regulations, as well as on pending legislation and legal decisions which affect all prisoners.

This report is a follow-up to: Massachusetts Department of Correction - 2011 written by the same author and available online at: [www.realcostofprisons.org](http://www.realcostofprisons.org). In addition, reports on parole decisions for lifers, the Parole Board, and specific issues relating to the MA DOC can be found on the same website. The author and the Norfolk Lifers Group thank Lois Ahrens, Executive Director of Real Cost Of Prisons, Inc. for posting these reports and her untiring work for the benefit of all prisoners in both state prisons and county jails.

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