# Justice Reinvestment in Massachusetts

## Policy Framework

FEBRUARY 2017

## Overview

Massachusetts has achieved the second-lowest incarceration rate in the nation, and state leaders now wish to address the challenge of recidivism in their state's criminal justice system.[1] People with prior convictions were responsible for three-quarters of new sentences in 2013.[2] Two-thirds of people leaving Houses of Correction (HOCs) and more than half of those leaving Department of Correction (DOC) facilities in 2011 were rearraigned within three years of their release.[3]

To break this cycle of recidivism, in January 2016, the state embarked on a data-driven justice reinvestment approach to reduce reoffending, contain corrections spending, and invest in strategies to increase public safety.[4] To that end, key stakeholders have worked together to develop policies that will (1) better align probation and parole supervision with best practices to reduce recidivism; (2) improve access to treatment for people in the criminal justice system who have serious behavioral health needs and are also at a high risk of reoffending; (3) make the parole release process more efficient; and (4) reduce the DOC population and increase the number of people who receive post-release supervision.

### CSG JUSTICE CENTER—MASSACHUSETTS CRIMINAL JUSTICE REVIEW

The Council of State Governments (CSG) Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government by providing practical, nonpartisan advice and evidence-based strategies to increase public safety and strengthen communities. The CSG Justice Center has worked with 25 states on justice reinvestment projects, which are funded by the public-private partnership of the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew).

During the summer of 2015, Massachusetts leaders requested and received support from BJA and Pew to employ a justice reinvestment approach to study the state's criminal justice system, with intensive technical assistance from the CSG Justice Center. A bipartisan, interbranch steering committee and working group were established to support this work. Between January 2016 and January 2017, the 25-member working group met six times, and its five-member steering committee met seven times to review analyses conducted by the CSG Justice Center and discuss policy options.

The options in this policy framework draw heavily on the expertise and experience of the Massachusetts Justice Reinvestment Working Group and are presented here to provide state leaders and community stakeholders with options to ensure that taxpayer dollars are being invested to have the greatest impact on reducing recidivism.

## STEERING COMMITTEE MEMBERS

Charlie Baker, Governor, the Commonwealth of Massachusetts

Robert DeLeo, House Speaker, Massachusetts House of Representatives

Ralph Gants, Chief Justice, Supreme Judicial Court

Karyn Polito, Lieutenant Governor, the Commonwealth of Massachusetts

Stan Rosenberg, Senate President, Massachusetts Senate

## WORKING GROUP MEMBERS

*Co-Chairs*

William Brownsberger, State Senator, Second Suffolk and Middlesex District

Paula Carey, Chief Justice, Massachusetts Trial Court

John Fernandes, State Representative, Tenth Worcester District

Lon Povich, Chief Legal Counsel, Office of the Governor

*Members*

James G. Hicks, Chief, Natick Police

Anthony Benedetti, Chief Counsel, Committee for Public Counsel Services

Daniel Bennett, Secretary, Executive Office of Public Safety and Security (EOPSS)

Frank Cousins, Sheriff, Essex County Sheriff's Department

Cynthia Creem, State Senator, First Middlesex and Norfolk District

Paul Dawley, District Court Chief Justice, Massachusetts District Court

Edward Dolan, Commissioner, the Office of the Commissioner of Probation

Judith Fabricant, Superior Court Chief Justice, Massachusetts Superior Court

Randy Hunt, State Representative, Fifth Barnstable District

Peter Koutoujian, Sheriff, Middlesex County Sheriff's Department

Christopher Markey, State Representative, Ninth Bristol District

John E. McDonald Jr., First Justice, East Boston, Boston Municipal Court

Joseph McDonald Jr., Sheriff, Plymouth County Sheriff's Department

Carol Mici, Assistant Deputy Commissioner, Classification, Programs & Reentry, Department of Correction

Michael O'Keefe, District Attorney, Cape and Islands

Kimberly P. West, Bureau Chief, Office of the Attorney General

Debra Pinals, Associate Commissioner, Forensic Mental Health Services, Department of Mental Health

Jennifer Queally, Undersecretary, Law Enforcement, EOPSS

Daniel Racine, Chief, Fall River Police Department

Paul Treseler, Chairman, Massachusetts Parole Board

Leslie Walker, Executive Director, Prisoners' Legal Services

## Data Collection

An extensive amount of data was provided to the CSG Justice Center by the Massachusetts Trial Courts; the Massachusetts Office of the Commissioner of Probation; DOC; the Massachusetts Parole Board; the Essex, Hampden, and Middlesex Sheriffs' Offices; and others. In total, more than 13 million individual data records were reviewed to study supervision, HOC, and DOC population trends; length of time served in HOCs and DOC facilities and on supervision; statutory and administrative policies; and availability and capacity of treatment and programs to reduce recidivism. To understand the context behind the numbers, the CSG Justice Center conducted more than 300 in-person meetings and conference calls with district attorneys; public defenders; judges; sheriffs; police chiefs; probation and parole officers; agency leadership and staff from DOC, the Parole Board, the Executive Office of Public Safety and Security, the Trial Courts, and the Office of the Commissioner of Probation; substance use treatment and behavioral health service providers; victims and their advocates; legislators and other elected officials; representatives from the executive branch; community organizations; currently and formerly incarcerated people; and other stakeholders.

During this justice reinvestment project, the CSG Justice Center presented extensive qualitative and quantitative analyses in six interim reports and a research addendum. Each of these interim reports is publicly available at https://csgjusticecenter.org/jr/ma/ma-publications/.

## Summary of Challenges and Policy Options

During a comprehensive review of the commonwealth's data, the CSG Justice Center identified key challenges within Massachusetts's criminal justice system and developed policies that focus on achieving the state's goal of reducing recidivism.

## CHALLENGE 1: PROGRAM PARTICIPATION DURING INCARCERATION

Many people in DOC facilities are unable to participate in recidivism-reduction programming, in part due to lengthy wait lists for these programs or lack of program availability in the facilities in which they are housed.[5] In 2015, less than half of people released from DOC facilities had completed the programming that was recommended for them while they were incarcerated.[6] The quantity and type of programming available across the state's 13 HOCs varies.[7]

### POLICY OPTION 1: Increase participation in and completion of evidence-based recidivism-reduction programs during incarceration.

**1A.** Expand the capacity of recidivism-reduction programs in DOC facilities.

**1B.** Increase incentives for participation in and completion of certain recidivism-reduction programs in DOC facilities, and increase the number of people who receive supervision upon release.

**1C.** Adjust the restrictions on accrual of earned time credits for people serving mandatory minimum DOC sentences for certain drug offenses to better incentivize participation in and completion of programs and increase the number of people who receive community supervision upon release.

**1D.** Ensure that eligible men and women at all risk levels have the ability to accrue earned time credits for program participation and completion while serving DOC sentences.

**1E.** Increase the number and expand the capacity of evidence-based cognitive behavioral programs in jails and HOCs.

## CHALLENGE 2: INTERAGENCY COORDINATION IN PAROLE RELEASE PROCESS

Delays in parole readiness result in people in DOC facilities remaining incarcerated for an average of approximately 200 days after they have been approved for parole. Of people released from DOC facilities in 2015, nearly 20 percent of people who had been approved for parole remained incarcerated until the end of their sentences and therefore did not receive parole supervision upon release.[8] There are several factors contributing to the delays, including separate DOC and Parole Board case planning for parole-eligible people prior to their initial parole hearings.

### POLICY OPTION 2: Improve interagency coordination to ensure the timely release of people who have received parole approval.

Require DOC and the Parole Board to create a collaborative case plan within six months of a person's admission to a DOC facility, and require the DOC and Parole Board to provide data related to the timeliness of the parole process in their annual reports.

## CHALLENGE 3: COMMUNITY SUPERVISION

People on probation, parole, or both represent a significant proportion of admissions to HOCs and DOC facilities. Nearly half of people admitted to HOCs and more than a quarter of people admitted to DOC facilities are on community supervision at the time of their admission.[9]

### POLICY OPTION 3: Strengthen community supervision.

**3A.** Strengthen collaborative reentry case planning between parole and probation supervision officers and HOC and DOC staff.

**3B.** Ensure the consistent use of graduated consequences and incentives in response to the behavior of people on probation and parole.

**3C.** Establish an earned time credit policy for people on parole or post-release probation to help incentivize positive behavior and enable supervision officers to focus more time and resources on the people who are most likely to reoffend.

**3D.** Assess probation staffing levels to ensure that people on probation receive effective supervision to reduce recidivism.

**3E.** Enhance resources for training probation and parole officers in effective recidivism-reduction practices.

**3F.** Streamline post-release supervision to reduce redundancies in simultaneous probation and parole supervision.

**3G.** Pilot a Transitional Youth Early Intervention Probation Strategy targeted at young adults who are assessed as being at a high risk of reoffending.

**3H.** Expand access to programs and services provided at Community Corrections Centers.

## CHALLENGE 4: RESOURCES TO ADDRESS BEHAVIORAL HEALTH NEEDS

More than half of people on probation and two-thirds of people on parole in Massachusetts have substance use or mental health treatment needs. There are not currently statewide treatment standards specific to criminal justice populations, nor rate structures that incentivize behavioral health care providers to deliver the tailored, comprehensive interventions that are most effective for people in the criminal justice system.[10]

### POLICY OPTION 4: Improve access to behavioral health care in the community for people in the criminal justice system.

**4A.** Create a statewide capacity to track the utilization of behavioral health care services and the behavioral health outcomes for people in the criminal justice system.

**4B.** Establish a public-private health care provider pilot program to expand access to specialized community-based behavioral health services for people who have serious behavioral health needs and also are at a high risk of reoffending.

**4C.** Establish standards for the public-private pilot program to provide specialized treatment services for pilot program participants who are involved in the criminal justice system, have serious behavioral health needs, and are also at a high risk of reoffending.

**4D.** Encourage the Executive Office of Health and Human Services (EOHHS) and MassHealth to connect program participants in the public-private pilot to additional EOHHS behavioral health initiatives and consider full implementation of the pilot program across the state.

**4E.** Establish funding for critical reentry services and supports for participants in the public-private pilot.

## CHALLENGE 5: DATA COLLECTION AND PERFORMANCE MEASUREMENT

Information about key criminal justice system trends and outcomes is limited due to lack of standardization in existing criminal justice agency data systems and minimal quality assurance measures or requirements. Aggregate statewide data is largely incomplete for most key probation measures, including average time on probation, the number of people who start a probation sentence, and the number of people revoked from probation.[11]

### POLICY OPTION 5: Improve data collection and performance monitoring across the criminal justice system.

**5A.** Establish data collection and reporting standards for criminal justice agencies and the courts.

**5B.** Improve data collection and reporting related to race and ethnicity.

**5C.** Require regular validation of risk assessment tools.

**5D.** Improve the Office of the Commissioner of Probation's capacity to collect, verify, and report probation data.

**5E.** Establish oversight of the implementation of justice reinvestment policies.

## Projected Impact

Recidivism takes a heavy toll on the lives of thousands of people and their families, as well as on communities across Massachusetts and represents a significant cost to taxpayers. The policy options presented in this report are designed to reduce recidivism by addressing risk and need factors that lead to reoffending, provide meaningful incentives to help people invest in their own success, and strengthen supervision practices to better help people comply with the conditions of their supervision and avoid reoffending. With initial investments, full and effective policy implementation, and sustained funding and support, these policy options can help the state to reduce overall recidivism—rearraignment, reconviction, and reincarceration—by up to 15 percent over the next six years by deterring criminal activity and helping more than 1,500 people avoid recidivating, including approximately 660 people who would not return to incarceration in HOCs or DOC facilities.[12]

***Policy Option 1, increase participation in and completion of evidence-based recidivism-reduction programs during incarceration,*** will help address criminogenic needs and lower the risk of recidivism for people leaving incarceration. An annual investment of $750,000 would enable DOC facilities to add approximately 70 beds to their long-term substance use treatment programs and provide 1,000 people with programming to reduce criminal thinking, both of which are proven to reduce the risk of recidivism.[13]

***Policy Option 2, improve system coordination to ensure timely release of people who have received parole approval,*** will help provide sustained support and accountability as a person transitions back to the community after incarceration. Improving system coordination to accelerate parole readiness and evaluating and accommodating the staffing needs of the Parole Board to achieve effective collaboration with DOC could help provide a longer period of parole supervision in the community for people who have been granted parole. This policy has the potential to increase the number of people who receive supervision upon release from DOC facilities by 7 percent.[14]

***Policy Option 3, strengthen community supervision*** by aligning approaches with national best practices, will help reduce recidivism. Investing in ongoing training for parole and probation officers on recidivism-reduction strategies and ensuring that probation officers have the capacity to provide the intensity of supervision necessary to change the behavior of people on probation who are at a high risk of reoffending will help prevent recidivism. Directing supervision officers to adhere to evidence-based practices, including graduated response guidelines, can help hold people accountable while also reducing the estimated 5,300 supervision revocations to incarceration that occur each year.[15]

***Policy Option 4, improve access to behavioral health care in the community for people in the criminal justice system,*** will help address critical substance use and mental health needs to support recovery and reduce recidivism. A state investment of $1.25 million in behavioral health infrastructure and services can leverage additional funding through a federal Medicaid match rate. These investments can be used to provide people on probation or parole who are at the highest risk of reoffending and have the most serious behavioral health needs with access to comprehensive services that are tailored to their behavioral health and criminogenic needs to reduce their risk of recidivism. This policy option will begin as a public-private pilot with the potential to be expanded to serve more people.[16]

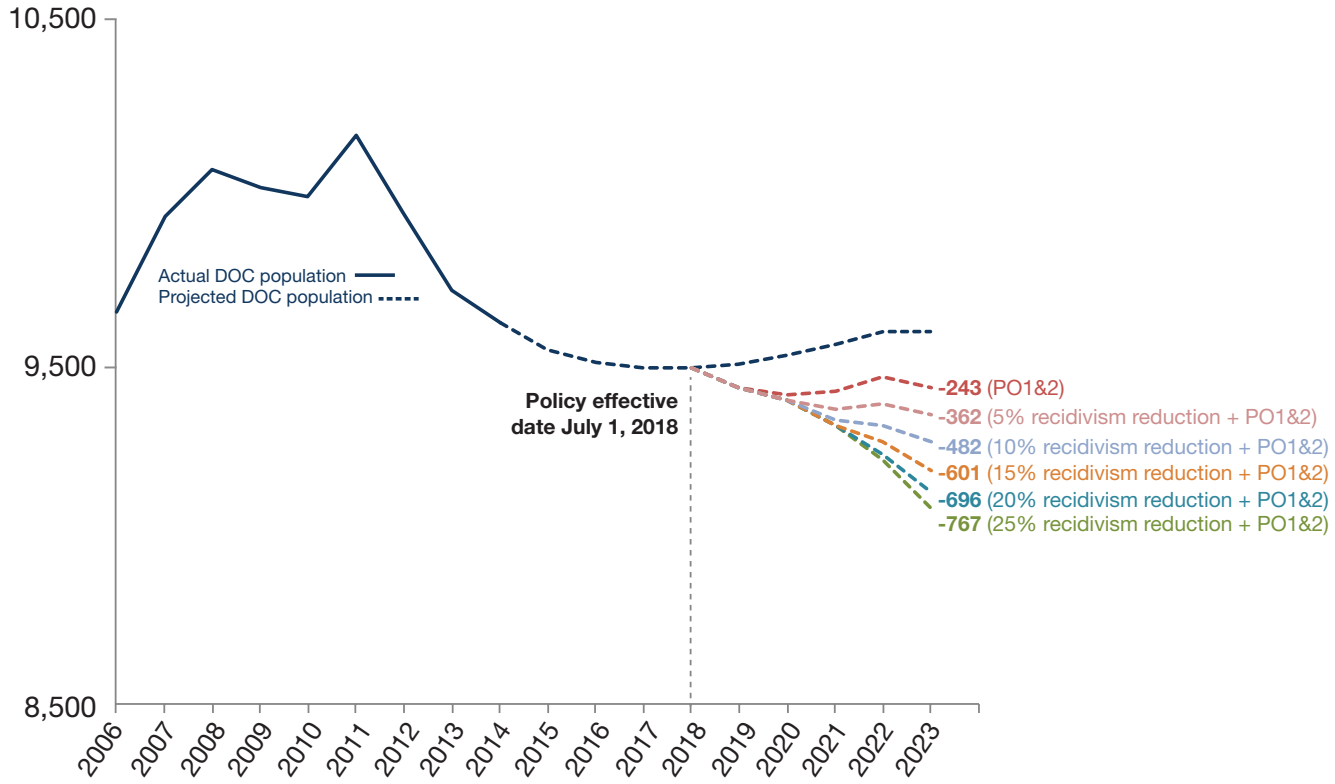
***Policy Option 5, improve data collection and performance monitoring across the criminal justice system,*** will help track the state's progress in meeting recidivism-reduction goals and ensure that investments increase public safety and produce savings for the state.

Two of the five policy options will have a measurable, direct impact on the DOC population through reducing length of stay. Assuming a 25-percent reduction in the number of days a person remains incarcerated beyond their parole approval date until their release to parole supervision, the combined estimated impact of Policy Options 1 and 2 is a reduction in the DOC population of 243 people by 2023, resulting in $6.9 million in savings. In addition to these impacts, implementation of the justice reinvestment policy framework has the potential to reduce recidivism by up to 15 percent,

resulting in more than 1,500 people avoiding rearraignment, reconviction, or reincarceration. The combination of Policies 1 and 2 and reductions in reincarceration in DOC facilities is anticipated to decrease the total DOC population by up to 601 people by 2023, generating $10.1 million in averted costs.[17] (See Figure 1)

The CSG Justice Center's projected impact analysis is based on the FY2015 DOC population. Marginal cost estimates are based on the FY2015 DOC marginal cost per day of $9.95. Marginal costs per day are the modest direct cost savings that occur on a per-person/per-day basis and are associated with providing essential food, clothing, medical care, etc. In addition, for each year where the projected population reduction is more than 90 people, an annual savings of $575,000 is assumed. Figure 1 reflects the estimated savings accomplished by closing a wing at one DOC facility.[18]

**FIGURE 1. PROJECTED IMPACT OF POLICY OPTIONS 1 AND 2 ON MASSACHUSETTS'S DOC-SENTENCED POPULATION WITH ADDITIONAL RECIDIVISM-REDUCTION SCENARIOS[19]**



## Investment

In order to help the state meet its goal of reducing recidivism, the policy options proposed in this report require initial and future investments. Following an initial investment of $3.5 million in 2018 (see Figure 2), the state legislature should assess the appropriate level of investment in future years by working with state agencies and the judiciary to analyze what is needed to implement policies adopted to reduce recidivism.

**FIGURE 2. POTENTIAL INVESTMENT FOR JUSTICE REINVESTMENT POLICY FRAMEWORK[20]**

| | | | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| INVESTMENT | POLICY OPTION #1 | Expand capacity of DOC recidivism -reduction programming | $750,000 | $750,000 | $1,000,000 | $1,000,000 | $ 1,500,000 | $1,500,000 | $6,500,000 |
| | | Invest in HOC program expansion grants | $400,000 | $400,000 | $500,000 | $500,000 | $500,000 | $500,000 | $2,800,000 |
| | POLICY OPTION #2 | Parole workload study + follow-up investments | $150,000 | TBD | TBD | TBD | TBD | TBD | $150,000 |
| | POLICY OPTION #3 | Probation workload study + follow-up investments | $150,000 | TBD | TBD | TBD | TBD | TBD | $150,000 |
| | | Transitional Youth Early Intervention Probation Strategy | $750,000 | $1,200,000 | $1,200,000 | $1,200,000 | $1,200,000 | $1,200,000 | $6,750,000 |
| | POLICY OPTION #4 | Behavioral health strategy | $1,250,000 | $2,000,000 | $3,000,000 | $3,000,000 | $3,000,000 | $5,000,000 | $17,250,000 |
| | POLICY OPTION #5 | Improving probation case-management and data tracking capacity | $50,000 | $150,000 | $150,000 | $150,000 | $150,000 | $150,000 | $800,000 |
| | ALL POLICIES | **Total Investment** | **$3,500,000** | **$4,500,000** | **$5,850,000** | **$5,850,000** | **$6,350,000** | **$8,350,000** | **$34,400,000** |

## POLICY OPTION 1: Increase participation in and completion of evidence-based recidivism-reduction programs during incarceration.

### A. Expand the capacity of recidivism-reduction programs in DOC facilities.

People who have been sentenced to serve a period of confinement for a felony in a DOC facility receive a risk and needs assessment upon admission. DOC recommends that people who score as being at a moderate or high risk of reoffending should participate in recidivism-reduction programs based on the results of their assessments, which identify specific criminogenic factors related to a person's likelihood of reoffending that can be addressed through programming.[21] However, not everyone recommended for programming is able to participate; in 2015, 23 percent of people released from DOC facilities who were assessed as needing substance use treatment, 28 percent of people assessed as needing sex offender treatment, and 37 percent of people assessed as needing violence-reduction programming did not participate in the recommended programming or treatment prior to their release due to lack of program availability or wait lists.[22]

Participation in programming can only be recommended (not required) by DOC, though programming participation and completion is often required by the Parole Board as a condition of parole approval and/or release. Some people in DOC facilities choose not to participate in the recommended programs. In addition to people released from DOC facilities in 2015 who did not participate due to wait lists or other availability barriers, 14 percent of people assessed as needing substance use treatment, 15 percent of people assessed as needing sex offender treatment, and 12 percent of people assessed as needing violence-reduction programming refused to participate in the recommended programming or treatment.[23]

**This policy requires investments in and expansion of evidence-based programs in DOC facilities.** Funding should be provided to assist DOC in three key ways: (1) increase participation in and completion of existing recidivism-reduction programs; (2) increase service capacity of programs currently available in DOC facilities and expand the types of programs offered; and (3) increase the number of facilities in which programs are offered. Prior to allocating funds for specific programs, DOC or the Executive Office of Public Safety and Security (EOPSS) must evaluate the quality of programs funded by the state and report results to the legislature. Investments in programs should focus on those that are shown to be most effective in reducing recidivism. Subject to the availability of funding, DOC may partner with an independent contractor or an academic institution to conduct program evaluations.

Research has shown that programs are most effective in reducing recidivism when they are tailored to a person's assessed risk of reoffending, address certain needs that contribute to criminal behavior, and utilize responsive strategies to change behavior.[24] Studies also show programs that adhere to all three of the principles outlined above have the greatest impact on reducing recidivism, whereas programs that do not adhere to any of these principles have little impact on recidivism, if any, and in fact can contribute to increased recidivism.[25]

### B. Increase incentives for participation in and completion of certain recidivism-reduction programs in DOC facilities, and increase releases to community supervision.

Massachusetts offers opportunities for people in DOC facilities to begin accruing earned time credits by participating in specific programs or activities that can help reduce recidivism, such as substance use treatment or the Hi-Set education program. Currently, people serving mandatory minimum sentences cannot begin accruing earned time until they have served the statutory minimum associated with their sentences. All eligible people can accrue up to five days of earned time credit per month of participation in each approved program or activity, with a cap of 10 days per month. While it is possible for people to accrue up to 10 days per month, people in DOC facilities earn, on average, five days of credit per month by participating in available programs.[26]

People can earn an additional 10 days of earned time credit when they successfully complete an approved program that is six months or longer and demonstrate competency in the material as determined by the DOC Commissioner.[27]

Outcomes in other states suggest that increasing earned time incentives for program completion helps to increase the number of people who complete programs. For example, prior to passing legislation that expanded earned time program completion credits in Kansas in 2007, only 6 percent of people in prison completed recommended behavioral health programming. In 2011, three years after this policy was implemented, program completion rates climbed to 64 percent.[28] Such successes have prompted other states to both offer and increase earned time program completion incentives. Arkansas and Kentucky have established 90-day earned time credits for program completion, and Kansas recently expanded its 60-day credit cap to 90 days. States such as Washington and Oregon use proportional sentence reductions that allow people to reduce between 20 and 50 percent of certain sentences by completing approved programs.[29] Studies that focus on the outcomes of people who received earned time credits show that there is no adverse impact on public safety.[30]

**This policy option (1) increases the maximum number of days of earned time credits that can be accrued for program participation in DOC facilities from 10 days to 15 days per month; (2) increases the maximum number of days of earned time credits that can be accrued for program completion from 10 days to 90 days; (3) establishes that the maximum amount of time that can be accrued in earned time credits is 35 percent of a person's maximum sentence, and the maximum amount of time that can be accrued through program completion credits is 17.5 percent of a person's maximum sentence; and (4) allows DOC greater flexibility in designating which programs qualify for completion incentives.**

Under this policy, the maximum earned time credit for program participation will increase from 5 days per month per program to 7.5 days, and the cap on total monthly credit accrual for program participation will increase from 10 days to 15 days per month. This policy does not override any existing statutory language that restricts the accrual of earned time for certain offenses.[31]

The incentive of up to 90 days for program completion will be applied in the following way: the first 10 days of earned time will be applied as a straight sentence reduction and will be subtracted from both the minimum and the maximum of a person's sentence. The subsequent days of earned time will be subtracted from the minimum release date to allow for earlier parole eligibility. The DOC will also calculate a mandatory date for release to community supervision by subtracting any earned time credits for program completion from the maximum release date to be used if the person has not already been paroled. To maintain transparency and truth in sentencing, the maximum amount of time that can be earned through completion credits will be capped at 17.5 percent of a person's maximum sentence, and the maximum amount of time that can be earned through the combination of both program participation and completion credits will be capped at 35 percent of a person's maximum sentence.

Studies show that program completion has a greater impact on reducing recidivism than program participation alone. A study on program effectiveness that tracked more than 2,000 participants found that recidivism decreased by 11 percent for people who completed cognitive behavioral therapy, as compared to people who participated in but did not complete the therapy.[32] In Massachusetts, the recidivism rate for people released in 2011 who completed DOC's long-term substance use program was 33 percent, compared to 42 percent for people who participated in but did not complete the program.[33]

Currently, programs that take less than six months to complete do not qualify for program completion credits. This policy option allows DOC to determine which evidence-based recidivism-reduction programs and activities qualify for program completion credits, regardless of the length of the program. For example, DOC's Criminal Thinking Program, a recidivism-reduction program that is commonly recommended, requires approximately four months to complete and therefore does not currently qualify for program completion credits. Under this policy, DOC could classify this highly effective program as eligible for the earned time completion credits.[34]

Since 2012, DOC has successfully leveraged earned time credits and a range of administrative incentives (such as housing in single cells) along with administrative consequences (such as loss of work privileges for refusing to participate in recommended programs) to help increase overall participation in recidivism-reduction programs. Increasing earned time incentives will help further improve program participation and completion rates in DOC facilities.[35] These rates should be included in DOC's annual report.

### C. Adjust the restrictions on accrual of earned time credit for people serving mandatory minimum DOC sentences for certain drug offenses to better incentivize participation in and completion of programs and increase the number of people who receive community supervision upon release.

There are several offense categories for which statute prescribes a minimum incarceration sentence that must be imposed upon conviction, such as offenses involving firearms, certain operating under the influence offenses, and drug trafficking or distribution offenses. While people serving mandatory minimum sentences are able to accrue earned time, they can only do so after they have served their minimum sentences. For example, a person convicted of an offense that requires a three-year minimum period of incarceration who receives a sentence with a minimum of three years and a maximum of four years is not able to accrue earned time until he or she has served the minimum three years.[36]

**This policy option adjusts restrictions on the accrual of earned time—both monthly earned time credits for program participation and program completion credits—for people serving mandatory minimum sentences for drug offenses other than crimes involving opioids, minors, firearms, or violence.** Accrual of earned time for these mandatory minimum sentences will be applied in the following way: people with eligible sentences can begin accruing earned time credits upon admission to a DOC facility and enrollment in appropriate programs or activities. All time accrued will be subtracted from the minimum release date. For people who are not paroled, a mandatory release to community supervision date will be created, but this date must be equal to or later than the minimum date, as adjusted by earned time and completion credits.

### D. Ensure that eligible men and women of all risk levels have the ability to accrue earned time credits for program participation and completion while serving DOC sentences.

Currently, people in DOC facilities are assessed for risk of recidivism, and in accordance with national best practices, access to programs is then prioritized for people who are assessed as being at a moderate or high risk of reoffending. As a result, people assessed as being at a low risk of reoffending often do not have the opportunity to participate in programs that offer earned time participation or completion incentive credits.

In addition, the DOC uses different programming models for men and women and different approaches to calculate earned time program participation and completion credits for each gender. While both men and women undergo a risk and needs assessment when they are admitted to a DOC facility, men are recommended for targeted programs with discrete dates of completion based on their individual needs while women engage in a more ongoing and holistic programming approach that does not include a discrete completion date. Upon completion of a program, men appear before a competency panel to determine if they will receive program completion credit. Women appear before the same panel, but due to the lack of completion dates this is done after approximately 26 weeks of program participation and not upon program completion.[37]

**This policy requires DOC to identify appropriate ways for eligible men and women at all risk levels to receive earned time credits for program participation and completion.**

Alternative activities for low-risk people, such as work-release or vocational programs, will be identified for program participation and completion incentives that are comparable to the incentives available to medium- and high-risk people. This ensures that low-risk people have an opportunity to accrue earned time credits while prioritizing recidivism-reduction programs for higher-risk people who are more likely to benefit from them. Recognizing that women are subject to a different programming model, DOC should also ensure that women have an opportunity to accrue earned time credits for program completion that is comparable to the opportunity available to men. This policy does not override any existing statutory language that restricts the accrual of earned time for people who have been convicted of certain offenses.[38]

### E. Increase the number and expand the capacity of evidence-based cognitive behavioral programs in jails and HOCs.

HOCs house people who have been sentenced to a period of confinement of up to 30 months for a misdemeanor or felony offense. Massachusetts does not currently have dedicated funding for recidivism-reduction programming that targets the identified criminogenic needs of people in HOCs. Sheriffs currently fund and offer 389 programs in

the state's 13 HOCs that range widely in focus, and the extent of programming varies by location; some HOCs offer as few as 10 programs and others offer as many as 70. Available programming can include educational courses, vocational training, reentry preparation, substance use treatment, and parenting courses, among other types of programs.[39]

While studies have found that risk factors such as antisocial attitudes and peers are the most predictive of future criminal activity—as compared to substance use and employment stability, for example—only 9 percent of reviewed programs in Massachusetts's HOCs provide cognitive behavioral interventions that address these factors.[40]

There is also some programming available in jails, which house people awaiting trial or awaiting a revocation of supervision hearing; however, many sheriffs described the challenge of offering programming to people in jail whose length of stay is unknown. As a result, sheriffs often prioritize limited county dollars for programs for people sentenced to HOCs. In a sample of county jail data, people in pretrial status or awaiting a revocation of supervision were detained in jail for an average of nearly 60 days, and people who were eventually sentenced and transferred to an HOC had longer average jail stays of between 90 and 170 days.[41] This lengthy period of time is commonly referred to as "dead time," during which a person is awaiting trial or a revocation of supervision hearing with minimal opportunity to engage in programs such as substance use treatment or cognitive behavioral therapy. These long lengths of stay provide valuable opportunities to engage people in programs and services, when the resources are available to do so.

Sheriffs also described particular challenges in delivering effective programming to women housed in jail or HOC facilities. Only a few jails and HOCs have space that is appropriate for women, so it is common for women to be detained in a county that is not their home county. Sheriffs cited difficulty providing reentry supports for women returning to a different county than where they were housed in a jail or HOC. Addressing the needs of women that are distinct from those of men in HOCs or jails was also referenced as a common challenge.[42]

**This policy option establishes state-funded program expansion grants to support evidence-based cognitive behavioral programs in HOCs and jails.** In order to qualify for this grant funding, sheriffs will be required to apply to participate and make programming available in both their HOCs and jails. They must also collaborate with the Parole Board on case plans that recommend participation in these programs (See Policy Option 3B for additional information regarding how collaboration between HOC reentry planning and probation and parole supervision officers can improve program participation and completion.) Sheriffs who receive grant funding must report participation, completion, and recidivism rates annually to the EOPSS to remain eligible for ongoing funding. Sheriffs expressed that designated funding may help to alleviate gaps in program offerings for women in jails and HOCs; annual reporting must also include breakdowns by gender and descriptions of new programs offered to women as a result of these funds.

## POLICY OPTION 2: Improve interagency coordination to ensure the timely release of people who have received parole approval.

In 2015, it took an average of 206 days for people approved for parole to be released from DOC facilities.[43] People with second-degree life sentences experience a much longer time period between parole approval and release, as do people who are initially approved for parole but later have approval rescinded due to a disciplinary action. When the second-degree life and rescinded cases are excluded, the average time between parole approval and release was 183 days in 2015.[44] Beyond the expense of continuing to incarcerate people who have been granted parole, every day a person remains incarcerated is a day less of parole supervision he or she will receive. In some cases, this delay eliminates the potential for supervision in the community entirely; of people released in 2015, nearly 20 percent of people in DOC facilities who were approved for parole ended up completing their full sentences before being released and therefore returned to the community without parole supervision.[45]

Presently, DOC and the Parole Board develop separate case plans for parole-eligible people. This lack of coordination on reentry planning and how parole readiness is defined contributes to delays between parole

approval and releases to parole supervision. For example, upon granting parole, the Parole Board often requires a person to meet certain conditions before he or she can be released to parole supervision in the community. These conditions may include completing certain programs or serving a specified period of time in a minimum-security or prerelease facility prior to release. It can take weeks for a person to begin the required program due to wait lists or the need to be transferred to a DOC facility that provides the required program. After beginning the program, completion can take months, further delaying parole release, and as a result reducing (or eliminating entirely) the amount of time a person might receive parole supervision in the community. Additional factors contributing to delays in releases to parole supervision include the need to locate suitable housing or treatment programs in the community and parole-eligible people delaying their parole hearings or choosing to waive their parole hearings altogether in order to complete their sentences behind bars and avoid parole supervision.[46]

Current statute directs the Parole Board to hold a parole hearing within 60 days of a person's minimum parole eligibility date. On average, people granted parole have their initial hearing 35 days prior to their parole eligibility date. Overall, people are granted parole an average of 91 days after their eligibility date, including people who waive or have multiple hearing dates before approval. Only 25 percent of people released to parole supervision in 2015 were released within one week of their parole eligibility date.[47]

**This policy option (1) requires DOC and the Parole Board to create a collaborative case plan within six months of a person's admission to a DOC facility and (2) requires DOC and the Parole Board to monitor progress on improvements to ensure the timely release of people who have received parole approval and to include an accounting in their annual reports.**

In accordance with national best practices, when a person with a parole-eligible sentence is admitted to a DOC facility, DOC and the Parole Board will coordinate case planning so that the person can be "parole ready" by the time of his or her initial parole hearing. DOC and the board should continue collaborating after parole hearings to ensure that any outstanding requirements by the board are met. This will help to reduce the time to parole release and consequently ensure that more people will receive parole supervision to reduce recidivism. This policy has the potential to increase the number of people leaving DOC on supervision by 7 percent.[48]

To monitor progress toward this goal, the DOC and Parole Board must provide data in their annual reports on the timeliness of the parole process, including the average number of days between parole eligibility, initial parole hearing, parole approval, and release for people in DOC facilities who are granted parole, in addition to the number of people who are approved for parole but complete their sentences while incarcerated and return to the community without parole supervision.

Under this policy option, a workload study should be completed to determine Parole Board staffing levels required to meet the demands of collaborative case planning.

## POLICY OPTION 3: Strengthen community supervision.

### A. Strengthen collaborative reentry case planning between parole and probation supervision officers and HOC and DOC staff.

More than half of people who recidivate do so within the first year of their release from an HOC or DOC facility. Case planning that supports recidivism-reduction programming, behavioral health treatment, steady employment, access to housing, and pro-social supports can help reduce the likelihood that someone will reoffend, especially in those critical weeks and months after release.[49]

When people are admitted to DOC facilities and most HOCs, they receive risk and needs assessments that HOC and DOC staff use to develop case plans to address identified risks and needs during incarceration. Supervision officers develop a new case plan when a person receives a risk and needs assessment at the start of probation or parole supervision. Some HOC and DOC staff and Parole Board staff stationed in HOC and DOC facilities coordinate with parole and probation officers in the field and refer to case plans used during

incarceration when crafting community supervision case plans.[50] However, neither the Office of the Commissioner of Probation nor the Parole Board have formal policies that direct supervision officers to coordinate with HOC and DOC staff on reentry planning and, when possible, continue programming or treatment in the community based on a person's progress while incarcerated.[51]

**This policy option directs the Office of the Commissioner of Probation and the Parole Board to adopt administrative policies to help people on supervision continue and complete programming and treatment begun during incarceration whenever possible in the community.** Probation and parole officers will be directed to collaborate with HOC and DOC facility staff on reentry case planning for people who are being released to probation or parole supervision. Reentry case plans will identify the programs, education initiatives, or treatment a person may have started but did not complete before release and should prioritize the continuation of those activities in the community. The continuation of programming for probationers will be subject to the terms of the court's order that sets probation conditions.

### B. Ensure the consistent use of graduated consequences and incentives in response to the behavior of people on probation and parole.

People who fail on probation and parole in Massachusetts represent a significant number of admissions to both DOC facilities and HOCs. In 2015, 28 percent of people admitted to DOC facilities and 48 percent of those admitted to HOCs were on probation, parole, or both at the time of admission.[52]

Prior to revocation, parole officers can use a range of sanctions and incentives and probation officers can use a range of consequences and incentives to respond to the behavior of people on supervision. Although probation officers receive training on evidence-based responses that can help change behavior, there are no formal guidelines for officers on the appropriate use of consequences and incentives in response to behavior. Focus groups and direct observations of probation practices revealed that responses to probationer behavior vary significantly from officer to officer.[53]

Parole officers do use formal guidelines that have a range of graduated sanctions; however, parole officers rely heavily on just one response: warning tickets. The guidelines for parole officers do not include guidance on the use of positive incentives.[54]

**This policy option (1) requires the Office of the Commissioner of Probation to adopt graduated response guidelines that include direction on the use of consequences and incentives and (2) requires the Parole Board to update existing graduated response guidelines to include direction on the use of incentives and to encourage use of the full range of possible sanctions.** The guidelines must focus on the utilization of cost-effective responses that provide a range of non-incarceration options to address people's noncriminal behavior while on supervision, whenever possible, and reduce reliance on revocations to incarceration when appropriate. For probation, these guidelines would include direction on when it is appropriate to escalate the responses to a violation notice, whereby the decision to revoke or apply a less serious sanction is made by a judge.

Research has shown that positive reinforcements and incentives can help improve engagement and reduce recidivism as much as or more than a sanction-only approach and can limit the need for costly punitive sanctions. The most restrictive and expensive sanctions should be reserved for situations where public safety is at the greatest risk. Guidance on sanctions and incentives will ensure objective, consistent responses to probationer and parolee behavior as well as predictability and transparency for the people being supervised.[55]

### C. Establish an earned time credit policy for people on parole or post-release probation to incentivize positive behavior and enable supervision officers to focus more time and resources on people most likely to reoffend.

Under current statute, people are only eligible to accrue earned time credits during the incarceration portion of their sentences. Once released to parole supervision, they are no longer able to reduce their sentences through earned time credits. People who have a period of probation following incarceration also stop accruing earned time upon their release and are not eligible to accrue sentence reductions while being supervised in the community.[56]

**This policy (1) establishes an earned time credit incentive of up to five days per month for people who have been on post-release probation for at least one year but less than two years, and up to 10 days per month for**

**people who have been on post-release probation for at least two years and (2) establishes an earned time credit incentive of up to 15 days per month for people on parole supervision.** People released to parole supervision may begin accruing earned time credits immediately; however, a person must serve one year on parole supervision before that credit can be applied. Total earned time accrued may not exceed 35 percent of a person's maximum sentence. Administrative or legislative policy should provide guidance regarding offenses that may not be eligible for earned time during supervision.

To be eligible for discretionary earned time credits on either parole or post-release probation, people under supervision must be compliant with the conditions of their parole or probation as determined by the Parole Board or the Office of the Commissioner of Probation. Earned time credits may also be suspended or rescinded at these agencies' discretion.

Earned time credits can be an effective tool to incentivize positive behavior and compliance with the conditions of supervision. The use of earned time credits for people on supervision has been associated with positive outcomes in other states. After Missouri implemented earned time credits for people on probation or parole in 2012, the supervised population fell 18 percent, reducing supervision terms by an average of 14 months and enabling smaller caseloads for probation and parole officers. Reconviction rates for a group of people who earned credits under this policy were compared to those for a group of people discharged from supervision before the policy went into effect.[57]

Research demonstrates that people are most likely to recidivate within the first year of release after incarceration.[58] This policy is structured to provide oversight when people are at the highest risk of recidivating, while also providing an opportunity to expedite the transition of people who have demonstrated positive behavior off of post-release probation and parole, allowing supervision officers to focus their attention and resources on people with the greatest risk and needs.

### D. Assess probation staffing levels to ensure that people on probation receive effective supervision to reduce recidivism.

The effectiveness of community supervision in reducing recidivism is largely dependent on supervision officers' ability to connect the people they supervise with the treatment and recidivism-reduction programming they need, demonstrate competence in core correctional practices, and devote the necessary time and attention to the people they supervise, especially those who have been assessed as being at the highest risk of reoffending.[59]

In Massachusetts, administrative and court duties currently require a significant time commitment from probation officers. A statewide survey of more than 200 probation officers showed that more than half reported having trouble meeting the supervision level contact standards—agency policy for the number of times an officer must meet with a probationer per month based on his or her risk level—for high-risk probationers. Forty percent of respondents mentioned courtroom duties and 23 percent mentioned administrative tasks as limiting the amount of time they could devote to meeting with the people they supervise. It is common practice in Massachusetts for probation officers to attend courtroom sessions and arraignment hearings several days a week.[60]

**This policy option requires the Office of the Commissioner of Probation to conduct a workload study to determine optimal staffing levels necessary to ensure that high-risk probationers are appropriately supervised.** A study of probation officers' workloads will be carried out by an independent evaluator who will track how much time it takes probation officers to do all the tasks associated with supervising a case. The evaluator will produce a formula to determine how many cases should be on an officer's probation caseload during an average workweek. The Office of the Commissioner of Probation will present the workload study results to the legislature to secure adequate funding to address the identified staffing needs.

### E. Enhance resources for training probation and parole officers in effective recidivism-reduction practices.

Both the Office of the Commissioner of Probation and the Parole Board require annual training for officers on a variety of topics. The Parole Board has ongoing training for parole officers that includes refresher courses on subjects such as risk-based supervision strategies, safety procedures, and departmental policies. The Office of the Commissioner of Probation offers similar training, as well as training on the Effective Practices in Community Supervision (EPICS) model.

The Parole Board and the Office of the Commissioner of Probation rely on outside facilitators, as well as supervision officers who have completed specialized courses, to conduct these trainings. While the Office of the Commissioner of Probation and the Parole Board have trainings throughout the year, these agencies are not appropriately funded to provide the robust annual training that is recommended as a part of core correctional practices.[61]

**This policy option directs the Office of the Commissioner of Probation and the Parole Board to (1) enact administrative policies that outline required annual training on evidence-based practices for effective supervision and (2) evaluate staffing and funding levels necessary to provide ongoing training to probation and parole officers and supervisors.** Policies must ensure that officers and supervisors have an adequate foundation in core correctional practices and annual training on risk and needs assessment, risk-based supervision strategies, relationship skills, cognitive behavioral interventions, targeting criminal risk factors to reduce recidivism, and the proper use of the proposed graduated response guidelines.

### F. Streamline post-release supervision to reduce redundancies in simultaneous probation and parole supervision.

In some instances, it is possible for a person to receive a sentence that includes post-release probation as well as the possibility of release to parole supervision. For example, if a person is convicted on more than one charge, he or she could receive an incarceration sentence that is parole eligible for one charge and a post-release probation sentence for the second charge that begins after the person is released. If the person is paroled before the end of the incarceration sentence, he or she will be on both probation and parole supervision upon release.

Currently, people under simultaneous probation and parole supervision report to two officers; have different case plans, conditions, and restrictions under each agency; and pay two sets of supervision fees. In 2015, nearly 13 percent of people released from DOC facilities (212 people) and 7 percent of people released from HOCs (657 people) received both probation and parole supervision upon release.[62]

**This policy requires the Office of the Commissioner of Probation and the Parole Board to establish an agreed upon process to ensure that there is a shared supervision plan for people under simultaneous probation and parole supervision.** A memorandum of understanding will be developed to codify this process, including instructing probation and parole officers to coordinate oversight of the person under dual supervision and petition the court or the Parole Board to waive one supervision fee, so the person only pays fees to either the Parole Board or the Office of the Commissioner of Probation.

### G. Pilot a Transitional Youth Early Intervention Probation Strategy targeted at young adults who are assessed as being at a high risk of reoffending.

Of people released in 2011 from HOCs and DOC facilities, 18- to 24-year-olds had the highest recidivism rates of all age groups; 76 percent of 18- to 24-year-olds released from HOCs in 2011 were rearraigned within three years of release. People in this age range also have the longest length of stay in HOCs and thus are responsible for the highest incarceration costs in those facilities. For people released from HOCs in 2014, the average length of stay was 6.8 months overall, compared to 7.2 months for 18- to 24-year-olds.[63]

**This policy option creates a pilot probation strategy for young adults who are at a high risk of reoffending.** The Office of the Commissioner of Probation and the Trial Court will work together to develop strategies to reduce recidivism among young adults between the ages of 18 and 24 who are at the highest risk of reoffending. Participation in the pilot program may occur as a court-ordered condition of probation, as an intermediate sanction prior to incarceration, or as a voluntary referral for services by a probation officer. Participants will receive specialized recidivism-reduction programming as well as education and employment services. Monitoring of the pilot will be carried out by either the Commissioner of Probation or the Trial Court research division, with the goal of expanding the project to serve more young adults.

### H. Expand access to programs and services provided at Community Corrections Centers.

The current mission of the state's 17 Community Corrections Centers (CCCs) is to provide a continuum of sanctions and services for people who are on probation or parole or are referred by HOCs or DOC facilities. Services provided by CCCs vary by location but can include substance use treatment, cognitive behavioral

therapy to address criminal thinking, education and employment programs, and transportation to treatment and program appointments. In addition to these services, CCC staff may also make behavioral health referrals to outside service providers.

At this time, people on pretrial status have limited access to treatment and services and are ineligible to access services or supports at CCCs.[64]

**This policy option removes restrictions on the use of CCCs for pretrial services.** The Office of Community Corrections, in conjunction with the Office of the Commissioner of Probation and the Trial Courts, must establish pretrial referral protocols to prioritize CCC services for people most likely to reoffend.

## POLICY OPTION 4: Improve access to behavioral health care in the community for people in the criminal justice system.

### A. Create a statewide capacity to track the utilization of behavioral health care services and behavioral health outcomes for people in the criminal justice system.

As is the case for other states across the country, the majority of people on community supervision in Massachusetts—more than half of people on probation and two-thirds of people on parole—are identified by risk and needs screening tools as having key indicators of mental illnesses, substance use disorders, or both.[65] Further, in a sample of men and women released from HOCs in 2015, 83 percent were identified as having indicators of co-occurring mental illnesses and substance use disorders and were also assessed as being at a high risk of reoffending.[66]

The primary insurance provider for people in the criminal justice system who need access to behavioral health and medical treatment services in the community is MassHealth, the state program of the Executive Office of Health and Human Services (EOHHS) that is responsible for the administration of Medicaid. In recent years, MassHealth and correctional agencies have been collaborating to enroll people in health care coverage prior to being released from prison or jail so that insurance would become effective when they return to the community. In 2016, 90 percent of people released from DOC facilities were already enrolled or received assistance applying for MassHealth coverage prior to release.[67]

MassHealth oversees the Medicaid Management Information System (MMIS), a federal Medicaid database, to collect statewide health care service utilization information, including behavioral health service utilization, for all MassHealth members for the purposes of health care system analysis and planning. MMIS is currently unable to disaggregate this data specifically for people in the criminal justice system, and as a result, agencies such as MassHealth and the Department of Public Health (DPH) cannot determine at the state level how many people in the criminal justice system have behavioral health disorders, what conditions they have, what types of health care services they require, and what their behavioral health care outcomes are—information that is critical to health care service planning for this population.[68]

**This policy option requires MassHealth to create a criminal justice data field within MMIS and for EOHHS, DPH, and MassHealth to begin tracking the utilization of behavioral health care services and behavioral health outcomes for people in the criminal justice system.** This policy option requires MassHealth to add a data field within MMIS that indicates when a person incarcerated in a jail, HOC, or DOC facility submits a MassHealth application. Although this change would initially only trigger the tracking of people who have been incarcerated and would not include everyone in the criminal justice system, this approach allows the existing MassHealth enrollment process in incarceration facilities to be used as a starting point to gather information about who is involved in the criminal justice system and in need of behavioral health services. The state can consider exploring additional ways to identify MassHealth members who are involved in the criminal justice system but have not been incarcerated.

MMIS was engineered to ensure that information collected on behalf of MassHealth members, including behavioral health information, is protected and used solely for health care system analysis and planning. Behavioral health data would be accessible only to EOHHS, DPH, and MassHealth for the purposes of population-based

health care service planning. An example of population-based health care planning would be using information from MMIS to identify the behavioral health services that are most needed by people released to the community after incarceration and ensure that these services are available to them immediately upon release.

This policy option also requires MassHealth to provide an annual report of key metrics developed by the DPH in collaboration with the EOPPS and the Office of the Commissioner of Probation to the executive branch and legislature on a semi-annual basis.

Analysis of health care data provides a rich source of information that can be used to evaluate service delivery, health care costs, and population-based outcomes for all types of conditions. Tracking and reporting on behavioral health care service utilization by people in the criminal justice system will allow policymakers to ensure that key service provision and outcome goals are being met.

### B. Establish a public-private health care provider pilot program to expand access to specialized community-based behavioral health services for people who have serious behavioral health needs and are at a high risk of reoffending.

Despite having broad access to health care coverage, people in the criminal justice system in Massachusetts face challenges accessing the treatment and services they need in the community. In the statewide survey completed by more than 200 probation officers, only 42 percent reported that substance use treatment was "readily available and accessible" in the community, and even fewer—30 percent—reported that mental health treatment was readily available and accessible.[69] These concerns were echoed by other stakeholders ranging from law enforcement professionals to agency administrators to health care providers, who described difficulties people in the criminal justice system face accessing behavioral health services in the community. It can take weeks or months to begin receiving these services, leaving people without needed supports during a critical period of heightened risk of relapse and recidivism, whether they are on community supervision or have been recently released from incarceration.[70] A recent Massachusetts study on the state's opioid crisis found that the risk of opioid overdose death for people returning to the community after incarceration is 56 times greater than it is for the general population.[71] Timely access to substance use treatment is critical for all people in the criminal justice system, but it is essential for people with an opioid dependency.

In addition to there being insufficient behavioral health care services available for people in the criminal justice system, these people need to receive specialized treatment to have the greatest positive impact on their recovery and recidivism. However, rate structures for treatment providers are not currently adequate to appropriately compensate providers for these specialized services.[72]

**This policy option directs EOHHS and MassHealth to establish a public-private pilot program that will test strategies to strengthen care coordination and structure reimbursement to incentivize the provision of specialized behavioral health services to support people who are at a high risk of reoffending.** To improve the coordination of care services and increase the number of providers offering tailored behavioral health treatment to people in the criminal justice system, this policy dedicates annual funding to cover the cost of specialized care for the population that will be served by this pilot program.

A state investment of approximately $1.25 million per year can leverage additional funding through a federal Medicaid match rate. The combined amount will be used to provide comprehensive specialized services for approximately 225 people on probation or parole who are at the highest risk of reoffending and have the most serious behavioral health needs.[73]

Incentivizing both private and public behavioral health care providers will be critical to ensuring that people who have serious behavioral health needs, including opioid dependency, and are at a high risk of reoffending receive the timely and effective services they need. Providers might be paid based on a tiered payment structure so that payments are linked to levels of care coordination and other services, with higher payments for higher-intensity interventions. This structure is commonly referred to as "blended rates" and accounts for tapering service intensity when a participant has been stable and requires services at a lower cost and increasing service intensity when a participant may suddenly require a higher level of more expensive services.

This policy also directs EOHHS and EOPSS to establish and track performance metrics. Performance metric examples include timeliness of assessment and service initiation, collaborative case planning and implementation, consistent participation in treatment services, number of

days of stable housing and employment, and reductions in rearrests or rearraignments. Based on these performance metrics, providers may be eligible for additional "pay-for-performance" payments.

Because relapse is often a part of long-term recovery, services within the pilot will be provided to assist people in maintaining a period of sustained recovery and to monitor them closely for signs and symptoms of relapse. It is expected that participants in the public-private pilot who have responded positively to treatment and require less intense levels of service will eventually graduate from the pilot program, allowing new participants to enter the program.

As part of the pilot, EOHHS will work with the Office of the Commissioner of Probation, the Parole Board, and behavioral health agencies to adopt best practices for integrating care coordination with law enforcement agencies, the courts, DOC and others; as well as tailor engagement and intervention strategies to the specific needs of people in the criminal justice system. Finally, the pilot should extend technical assistance to both behavioral health care providers and justice system stakeholders to support dissemination and implementation of best practices in care management and coordination as well as workforce development.

### C. Establish standards for the public-private pilot program to provide specialized treatment services for pilot participants who are involved in the criminal justice system, have serious behavioral health needs, and are also at a high risk of reoffending.

Research shows that the most effective interventions for reducing recidivism and promoting recovery address both criminogenic and behavioral health needs.[74] However, there are not currently standards that ensure that the behavioral health services that do exist utilize effective specialized approaches for people who are at a high risk of reoffending. Specialized provider training is also not currently required.

**This policy option directs EOHHS and MassHealth to establish and demonstrate standards for referrals and treatment during the public-private pilot project.** EOHHS, EOPSS, the Office of the Commissioner of Probation, and the Parole Board will work together to establish the public-private pilot referral process as well as eligibility criteria. Eligibility must take into account the person's risk of reoffending as well as justification that any treatment services being offered to pilot project participants are deemed medically necessary.

The array of MassHealth-reimbursable behavioral health services that are available and can be tailored to meet member needs include inpatient care, recovery support services, psychopharmacology, and medication-assisted treatment. Current regulations and federal and state Medicaid reimbursements help to ensure that these services are delivered by appropriately trained practitioners—including nurses, psychiatrists, psychologists, clinical social workers, case managers/care coordinators, addiction counselors, and peer support specialists—who are knowledgeable about effective interventions for people with addictions, mental illnesses, or co-occurring disorders.

These practitioners would be required to receive training on the most effective treatment approaches for this population and use comprehensive clinical assessments with criminal justice-specific elements, such as risk and needs assessments, to inform treatment case planning. They must also participate in interdisciplinary teams, which may include probation or parole supervision officers, to develop and implement these case plans.

Clinical assessments, which are used to diagnose and plan treatment, and risk and needs assessments, which are used to determine appropriate levels of correctional supervision and programming, will be used to determine intervention intensity, duration, and setting and treatment cohorts. People will be matched to appropriate services given their clinical and criminogenic needs. All care will be facilitated through multi-disciplinary teams and coordinated through a comprehensive case plan, and services will be designed to address both recovery and public safety goals.

Care management will be overseen within existing state structures. Participants in the public-private pilot will also have access to medical services, as needed and appropriate.

### D. Encourage EOHHS and MassHealth to connect program participants in the public-private pilot to additional EOHHS behavioral health initiatives and consider full implementation of the pilot program across the state.

MassHealth is currently undergoing significant reform as it moves to adopt an Accountable Care Organization (ACO) model approach to health care delivery. ACOs are groups of doctors, hospitals, and other health care providers that come together voluntarily to coordinate high-quality care for their patients. Under ACOs, the service providers are

rewarded for better outcomes for patients and lower overall costs, not for the number of people they treat.

There are existing EOHHS, DPH, and MassHealth initiatives available to MassHealth members that could be leveraged to provide additional services for pilot participants, including integrated medical and behavioral health care through the Behavioral Health Community Partnership (BHCP), as well as access to substance use treatment under the 1115 Waiver. The 1115 Waiver is part of the United States Social Security Act that gives states the flexibility to design and improve their Medicaid programs by demonstrating and evaluating new policy approaches. Under this waiver, states have the ability to expand several types of behavioral health treatment that are reimbursable under the current Medicaid reimbursement structure, and Massachusetts has used this as an opportunity to broaden access to substance use treatment, including medication-assisted treatment, enhanced care management, recovery navigation and recovery coaching, and residential rehabilitative care currently paid for by DPH.[75]

The long-term sustainability of this pilot project could be supported by the integration with the broader health care infrastructure being developed through MassHealth.

**This policy option directs EOHHS to monitor the development of the public-private pilot and consider the pilot for inclusion within the ACO program to ensure the longevity of enhanced services for people who are at a high risk of reoffending and have serious behavioral health needs.** This policy option recommends that MassHealth use the MMIS system to develop a baseline report on access to and performance of the pilot project, and to conduct performance monitoring and identify improvements that are aligned with standard practice for the ACO.

Further, this policy encourages MassHealth to identify and refer eligible public-private pilot participants to existing behavioral health treatment opportunities, such as BHCP and the 1115 Waiver, so that people can benefit from the specific innovations these programs offer. Over time, MassHealth may also incorporate additional requirements for enhancing and scaling effective models of care coordination for people in the criminal justice system into the ACO and BHCP contracts.

### E. Establish funding for critical reentry services and supports for participants in the public-private pilot.

People who are returning to the community after incarceration face many challenges, such as the need to find employment and stable housing. People who have serious behavioral health needs often require additional reentry supports that may include financial assistance for medication co-pays, transportation to non-medical appointments, or short-term food and housing.

**This policy dedicates annual funding of $100,000 to cover the costs of critical supports for people who are public-private pilot participants with a demonstrated need for critical reentry services and supports.** This dedicated funding support should be available to pilot participants on probation or parole. Distribution of these funds may be accomplished most efficiently through a program designed by a multi-agency committee that should include representatives from DOC, HOCs, the Office of the Commissioner of Probation, the Parole Board, EOHHS, and MassHealth.

Providing financial support for critical, non-medical reentry assistance to people with these acute needs can help ensure continuity of care, improve recovery, and ultimately reduce recidivism.

## POLICY OPTION 5: Improve data collection and performance monitoring across the criminal justice system.

### A. Establish data collection and reporting standards for criminal justice agencies and the courts.

The lack of standardized data collection and reporting requirements in Massachusetts leaves the state with an incomplete understanding of trends and outcomes within the criminal justice system.

#### CRIME AND ARREST

Analysis of statewide arrest trends in Massachusetts is limited due to inconsistent methods of data collection. In the mid-1990s, some police departments in the state began transitioning from using the FBI's Uniform Crime Reporting (UCR) program to the National Incident-Based Reporting System (NIBRS) to submit data to the state, while other agencies continued to submit data using UCR.

Currently, EOPSS maintains a centralized database that can accept information submitted by agencies that use NIBRS, but not by agencies that use UCR, and this results in incomplete crime and arrest data at the state level.[76]

**This policy requires EOPSS to update the state's centralized database to enable the submission of crime and arrest data across all law enforcement agencies, so that analysis can be conducted at a statewide level.** The policy further instructs EOPSS to publish an annual statewide report on arrests by age category, gender, race, and ethnicity.

#### COUNTY JAILS AND HOCs

To analyze county jail population data, the CSG Justice Center used information from a sampling of jails because there is no statewide data source available for county jail populations. Further, information on why someone was detained pretrial was available only within paper files. To analyze HOC population data, the CSG Justice Center used information from the Parole Board's State Parole Integrated Records and Information Tracking System (SPIRIT), as it is the only existing statewide data source for HOC populations; however, there are limitations to HOC data within the SPIRIT database. For instance, data is not consistently entered for people committed to HOCs with sentences shorter than 60 days, as the people serving these sentences are not eligible for parole. SPIRIT also does not capture the county where a person is released when a transfer has occurred from one HOC to another during incarceration.[77]

**This policy requires all county jails and HOCs to use a statewide data management system to adequately and consistently capture and report information on all HOC and county jail populations.** The policy requires the Massachusetts Sheriffs' Association (MSA) to select a case management system in consultation with its membership. Consistent capture and reporting of information on HOC and jail populations will allow for a more comprehensive analysis of men and women serving HOC sentences or held in jails across the state. Recognizing that a large number of women are held pretrial in DOC, ideally the MSA should coordinate with DOC on quarterly reporting to be able to provide statewide information on the female detainee population.

#### CROSS-SYSTEM TRACKING

Each person in the Massachusetts criminal justice system is assigned a statewide personal identification number (PIN) upon entering the system, but this number is not always utilized or entered in a timely fashion in data systems across agencies or jurisdictions. For example, the statewide PIN is used by the Trial Court, the Office of the Commissioner of Probation, and DOC, but is not always included in county data systems because counties assign their own PIN to each person booked into county jails or admitted to HOCs. In DOC facilities, the statewide PIN is sometimes entered into the DOC data system when a person is admitted to a DOC facility and other times when he or she is released, which compromises the state's ability to conduct criminal history analyses on people entering a facility.[78]

**This policy requires all state and local criminal justice agencies and courts to use the statewide identification number assigned to each person who enters the criminal justice system.** Agencies and the courts will be directed to incorporate the statewide PIN into data systems upon a person's initial transfer to their jurisdiction. Counties will be required to use the statewide PIN, but they can continue to use their own PIN as well.

#### RECIDIVISM

In Massachusetts, recidivism rates are not routinely reported by all state and local criminal justice agencies. DOC and the Parole Board provide reincarceration rates for DOC and parole populations in published annual reports; however, reincarceration rates for HOC populations are not reported by all HOCs, and the Office of the Commissioner of Probation does not report on recidivism. Additionally, more sensitive measures of recidivism, such as rearraignment and reconviction, are not reported for any criminal justice population.[79]

**This policy requires all criminal justice agencies and the courts to annually report on recidivism rates for rearraignment, reconviction, and reincarceration.** Reporting must be tracked over one-, two-, and three-year periods and include breakdowns by gender. If statewide arrest data becomes available, rearrest should also be included in recidivism reporting.

### B. Improve data collection and reporting related to race and ethnicity.

Race and ethnicity information is not collected consistently across criminal justice agencies and the courts. Limited information on race or ethnicity is publicly available for arrests, diversions, charges, jail populations, and plea agreements. Information related to arraignments, dismissals, Continuances Without a

Finding (CWOFs),[80] probation populations, and HOC populations is collected but not in a form that can be analyzed at the statewide level. Lastly, some agencies collect race *and* ethnicity information, while others collect race *or* ethnicity information, making system-wide analysis of this data impossible.[81]

**This policy requires standardized reporting of race and ethnicity information across criminal justice agencies and the courts to facilitate better assessment of the racial and ethnic composition of the state's criminal justice population.** A working group of key criminal justice agencies and courts, including the EOPSS, Trial Courts, sheriffs' offices, DOC, Office of the Commissioner of Probation, and the Parole Board, will be established to determine what information these agencies will be required to collect and how it will be used to evaluate race and ethnicity and the criminal justice system. These agencies will coordinate to ensure that racial and ethnic data related to populations, trends, and key outcomes is reported to the public annually. The working group will also oversee the development of standardized training for front-line personnel on appropriate methods of collecting race and ethnicity data.

### C. Require regular validation of risk assessment tools.

Using risk and needs assessment tools that are not routinely validated may result in the misclassification of people (i.e., classifying someone as being at a moderate or high risk of reoffending who is actually at a low risk of reoffending) and can also contribute to racial bias in the criminal justice system. For example, if criminal history and factors that correlate with race and class—such as education level, employment, or neighborhood factors—are weighted too heavily, the assessment results can be skewed. In addition, risk and needs factors may be weighted differently in relation to gender, which can skew results and impact the predictive validity of risk instruments.[82]

**This policy requires criminal justice agencies and the courts to periodically validate their risk assessment tools, ensuring that they are accurately predictive across racial, ethnic, and gender groups.**

### D. Improve the Office of the Commissioner of Probation's capacity to collect, verify, and report probation data.

Challenges with probation data in Massachusetts include a lack of standards or monitoring of data entry, which limits the state's ability to analyze probation data as well as probation officers' case management capabilities. The state does not have standard protocols or regular monitoring of probation data entry, and the MassCourts probation data system lacks data validation checks to ensure that information is entered correctly by probation staff. Some key information—such as notices about probation violation hearings or start dates for supervision level changes—is not required at all. Other key information, such as reasons for probation termination, is commonly entered in an open text field, which severely limits the ability to conduct aggregate analysis of this data point. Additionally, the MassCourts data system is currently configured with limited case management functionality suited to meet the needs of probation officers in the field.[83]

**This policy option provides resources to the Office of the Commissioner of Probation and Trial Court information technology (IT) staff to increase their probation case management capability and bolster utilization of the data that is produced.** Trial Court IT staff are currently responsible for training probation officers and other staff on how to use the MassCourts data systems, overseeing data-entry quality control, and coordinating with staff to address the specific needs of probation case management. This policy option establishes funding for a dedicated IT staff member within the Office of the Commissioner of Probation to coordinate closely with Trial Court IT staff to ensure that the following information is accurately captured and available for analysis: primary offense of probationers, length of probation terms, conditions of probation, start and completion dates of probation, reason for termination of probation (successful completion or revocation), participation in treatment/programs, and violation activity (e.g., use of consequences and incentives, time between notice of probation violation and the violation hearing and whether a probationer was incarcerated during this period, result/outcome of violation hearing).

### E. Establish oversight of the implementation of justice reinvestment policies.

States that have been most successful in meeting justice reinvestment impact projections have closely monitored data, regularly evaluated progress, and made adjustments based on that progress to ensure key benchmarks were achieved. For example, Pennsylvania built an interactive web-based dashboard to enable public reporting of the latest data on key metrics of the justice reinvestment legislation.

North Carolina designed a database that reports on roughly 100 metrics related to a broad range of justice reinvestment policies, including the number of people receiving supervision after release from prison and the number served by the state's treatment program for people on supervision.[84]

**This policy option recommends that Massachusetts establish an interbranch, interagency oversight and monitoring structure to ensure that justice reinvestment policies achieve anticipated impacts.**

## POLICY OPTIONS FOR FURTHER DISCUSSION

In addition to the core recidivism-reduction policy options developed for the project, below are a number of additional policy options the CSG Justice Center identified during the course of the project that Massachusetts might continue to explore in order to improve the state's criminal justice system.

1. Continue to discuss allowing for the imposition of split sentences on a single charge in the Superior Court.
2. Continue to discuss allowing greater flexibility as to the length of an incarceration sentence imposed upon the revocation of a suspended sentence.
3. Continue to discuss extending the increase in earned time incentives for participation in and completion of certain programs to people serving HOC sentences.
4. Continue to discuss increasing property offense thresholds to account for inflation.
5. Continue to discuss reducing the reliance on HOC sentences for certain motor vehicle offenses, such as driving with a suspended license.
6. Continue to discuss reducing reliance on the use of DOC facilities to house women who are serving county sentences or who are being detained pretrial.
7. Continue to discuss improving cross-agency collaboration and communication by coordinating the use of risk assessment instruments across agencies.
8. Continue to discuss improving statewide cross-agency communication and case collaboration for people who are at a high risk of reoffending and have serious behavioral health needs.
9. Continue to discuss evaluating the quality of recidivism-reduction programs within HOCs and DOCs, as well as in the community, to assess fidelity to models of effective interventions.
10. Continue to discuss establishing a restorative justice pilot project for people convicted of property offenses who are sentenced to probation.
11. Continue to discuss improving data collection practices for county jail populations.
12. Continue to discuss improving DOC data collection and reporting practices on people serving HOC sentences at DOC facilities.
13. Continue to discuss requiring the Office of the Commissioner of Probation and the Parole Board to report on program participation and completion for people on probation and parole.
14. Continue to discuss leveraging Community Corrections Centers as "hubs" for providing behavioral health services to people who both are at a high risk of reoffending and have serious behavioral health needs.

# ENDNOTES

1. The incarceration rate is based on people serving sentences of more than one year, regardless of where a person is held. Not included are sentences of less than one year or jail populations awaiting trial or probation revocation hearings. Between 2006 and 2015, the Department of Correction (DOC) sentenced population increased by 3 percent, from 9,072 to 9,337 people. During the same period, the House of Corrections (HOC) population declined by 35 percent, from 8,443 to 5,488 people. However, this decline in HOC populations for some sheriffs has been offset by an increase in their pretrial population. County jail population trends have varied considerably in recent years; some of the largest county jails experienced increases in their population while other counties experienced decreases. For example, between 2009 and 2015 the Middlesex County jail population increased 35 percent while the statewide jail population declined 4 percent during the same time period. Between 2006 and 2015, the number of people in county jails awaiting trial or held on an alleged probation supervision violation declined by 4 percent statewide, from 5,125 to 4,927 people. During the same period, the number of pretrial detainees in DOC decreased 3 percent, from 590 to 573 people. Bureau of Justice Statistics: https://www.bjs.gov/content/pub/pdf/cpus15.pdf; Massachusetts Department of Correction Weekly Count Sheets: http://www.mass.gov/eopss/law-enforce-and-cj/prisons/rsch-data/weekly-count-sheets.html; MDOC, *Prison Population Trends 2014*.
2. 2013 was the most recent year of data available at the time of analysis. CSG Justice Center analysis of FY2013 Court Activity Record Information (CARI) sentencing data.
3. HOCs are operated by independently elected county sheriffs. These facilities house people convicted of a misdemeanor or felony who have been sentenced to a period of confinement for no more than 30 months. DOC facilities are operated by the state and primarily house people who have been convicted of a felony and sentenced to a period of confinement at DOC for at least one year. CSG Justice Center analysis of FY2011–2014 Parole Board's State Parole Integrated Records and Information Tracking System (SPIRIT) HOC data, as well as DOC and Department of Criminal Justice Information Services (CORI) data.
4. Three measures of recidivism were analyzed for HOC and DOC populations: (1) Rearraignment, the most sensitive measure of criminal justice system involvement available to use in this project, is the percent of a cohort of people released from incarceration with a subsequent court arraignment occurring one, two, or three years following release. It is used in this report as a proxy for rearrest; (2) reconviction represents the percent of a cohort of people released from incarceration with a subsequent guilty finding occurring one, two, or three years following release (does not include continuance without a finding (CWOF) dispositions); (3) reincarceration, the most serious measure of recidivism, represents the percent of a cohort of people released from incarceration who subsequently return to incarceration in a county (HOC) or state (DOC) facility on a new offense or violation of supervision within one, two, or three years of release.
5. DOC FY2015 *July-March Gap Analysis Report* (Milford: Reentry and Program Services Division in Collaboration with Strategic Research and Planning Division, DOC, September 2014).
6. Program data from the last three months of calendar year 2016 indicates that program completion rates for the Correctional Recovery Academy (substance abuse) program has increased slightly. Ibid.
7. Massachusetts Executive Office of Public Safety and Security (EOPSS) and Results First Comprehensive HOC Program Inventory Summary Brief, March 2016 (Boston: EOPSS, March 2016).
8. The 20-percent figure does not include parole decisions that were later rescinded prior to release. CSG Justice Center analysis of FY2015 parole hearings and DOC data.
9. CSG Justice Center analysis of FY2015 MassCourts probation data, Parole Board SPIRIT HOC data, and DOC data.
10. CSG Justice Center assessment based on conversations and visits with behavioral health and correction agency representatives and review of available reports, January 2016–October 2016. This assessment included a daylong justice reinvestment behavioral workshop held October 7th, 2016. Participating organizations included: Ashland Police, Advocates, Bureau of Substance Abuse and Services, Cape and Island's District Attorney Office, Committee for Public Counsel Services, DOC, Department of Mental Health, Department of Public Health, Executive Office of Health and Human Services, EOPSS, Governor's Legal Office, National Alliance on Mental Illness, MassHealth, Middlesex County Sheriff's Office, Office of Community Corrections, Office of the Commissioner of Probation, Parole Board, Stanley Street Treatment and Resources (SSTAR), State Legislature's Joint Committee on Mental Health and Substance Abuse, State Legislature's Joint Committee on Judiciary, and the Trial Courts.
11. CSG Justice Center assessment based on data analyses and conversations with staff from the Office of Commissioner of Probation, Trial Courts, the Parole Board, DOC, and county sheriff offices, March 2015–October 2016.
12. A reduction of 15 percent is based on research showing potential levels of recidivism reduction as a result of effective programming during incarceration and during supervision in the community. The estimate of 1,500 people is based on recidivism reduction for people released from HOC or DOC and people starting risk/need probation. Recidivism is defined as rearraignment or reincarceration in one year. Washington State Institute for Public Policy (WSIPP), *Evidence-Based Adult Corrections Programs: What Works and What Does Not*, (Olympia: WSIPP, January 2006); D.A. Andrews and J Bonta, The Psychology of Criminal Conduct, 5th ed. (New York: New York: Routledge, 2010).
13. These figures represent one example of how DOC could implement an expanded programming budget. DOC may choose to distribute funds differently during implementation.
14. CSG Justice Center projected impact on the DOC population and investment analysis, 2017.
15. CSG Justice Center analysis of FY2015 MassCourts probation data, Parole Board SPIRIT HOC data, and DOC data.
16. CSG Justice Center projected calculation impacts for the public-private pilot, 2017.
17. Several of the policy options included in this report are designed as either a pilot or a study, and as such, the state can choose to increase the scale with additional investments to garner greater cost and population impacts.
18. Email correspondence between CSG Justice Center and the DOC on November 10, 2016 and phone calls between CSG and the Executive Branch on November 25, 2016.
19. The impact projection assumes a policy effective date of July 1, 2018. Actual and projected sentenced population figures are as reported by DOC, while the policy impact figures are calculated by the CSG Justice Center. The DOC population projection reflects the actual and projected populations as of 2014, the latest year of projection data available. The policy impact population for 2023 was

based on the projected population for 2022, as the 2023 projected population figures were not available at the time of this analysis. Projection calculations in 2014 could not account for the multitude of events and legislative changes in 2012 that reduced certain sentences and increased the amount of earned time available, all of which occurred just prior to and after this time frame.

20. Recommended investments are informed by conversations between CSG Justice Center staff and criminal justice agencies and the courts regarding the potential costs associated with implementing the policy options included in this report.

21. Criminogenic needs are characteristics, traits, problems, or issues that directly relate to a person's likelihood of reoffending and include antisocial values and beliefs (criminal thinking), associating with antisocial peers, lack of employment or educational achievement, substance use, and a lack of prosocial leisure activities. CSG Justice Center meetings with DOC staff and review of DOC policy, December 2015–August 2016.

22. Program participation and completion figures presented in the DOC Gap Analysis only reflect the male DOC population. Some men were not able to participate in the recommended programs because the programs were unavailable in the facilities in which they were housed. Other men were placed on wait lists to get into recommended programs, but wait times were longer than the time remaining on their sentence. The approach to providing recidivism-reduction programming to women in DOC facilities follows a different model than programming for men. Rather than providing targeted and discrete programs with a start and end date, as are offered for men, women are assessed and then housed in facilities with other women who have similar needs, where they engage in gender-based, trauma-informed, ongoing, holistic programming. While partaking in this ongoing programming allows women to accrue earned time for participation, the process of receiving the 10-day completion credit is different than it is for men. Women who complete approximately 26 weeks of programming appear before a competency panel to determine if they will receive the 10-day completion credit for their ongoing program participation. DOC *FY2015 July–March Gap Analysis Report*.

23. DOC Gap Analysis report only reflects the male DOC population. Ibid.

24. D.A. Andrews and J Bonta, *The Psychology of Criminal Conduct*, 5th ed. (New York: New York: Routledge, 2010).

25. D.A. Andrews et al., "Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis," Criminology , 28, no. 3 (1990); and D.A. Andrews and J Bonta, Risk-need-responsivity model for offender assessment and rehabilitation (Ottawa: Public Safety Canada, 2007).

26. For more information on the DOC CMR policies, please see: http://www.mass.gov/courts/docs/lawlib/101-103cmr/103cmr411.pdf.

27. Ibid.

28. National Conference of State Legislators, Good Time and Earned Time Policies for State Prisoners Inmates (as established by law) November 2011. (Denver: National Conference of State Legislators, November 2011); Kansas Dept. of Corrections, Prison Release and Inmate Assessment Case Data. For more information, please see: https://csgjusticecenter.org/wp-content/uploads/2012/12/KS-JR-Wkgrp-3-Pres-FINAL-1.pdf.

29. National Conference of State Legislators, Good Time and Earned Time Policies for State Prisoners Inmates (as established by law) November 2011. (Denver: National Conference of State Legislators, November 2011).

30. Kristofer B. Bucklen, Nicolette Bell and Dean Lategan, Recidivism Risk Reduction Incentive 2016 Report, (Mechanicsburg: Pennsylvania Department of Corrections, 2016) and Oregon's Office of the Secretary of State, *Department of Corrections; Administration of Earned Timed: Secretary of State Audit Report* (Salem: Office of the Secretary of State of Oregon, 2010).

31. Massachusetts statute outlines a number of criminal offenses that require a minimum incarceration term upon conviction. These types of sentences frequently also include restrictions on earning sentence reductions through earned time credits. For example, Chapter 265, Section 19, *robbery by unarmed person; punishment; victim sixty or older*, states: "whoever, after having been convicted of said crime, commits a second or subsequent such crime, shall be punished by imprisonment for not less than two years. Said sentence shall not be reduced until two years of said sentence have been served nor shall the person convicted be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct until he shall have served two years of such sentence." These types of sentences are not impacted by the proposed policy options.

32. Recidivism is defined as return to custody within 12 months of release. Richard P. Seiter and Karen R. Kadela. Prisoner Reentry: What Works, What Does Not, and What Is Promising." *Crime and Delinquency*. vol. 49 no. 3, (July 2003): 360–388.

33. Recidivism is defined as reconvicted within two years of release from DOC. Massachusetts Department of Correction Two-Year Recidivism Study: A Descriptive Analysis of the January–July 2011 Releases and Correctional *Recovery Academy Participation*. For more information on this study, please refer to: http://www.mass.gov/eopss/docs/doc/research-reports/recidivism/cra-2yr-rec2011.pdf.

34. CSG Justice Center meetings with DOC staff and review of DOC policy, December 2015–August 2016.

35. Jacqueline Chowaniec, "Program Engagement Strategy: Outcome and Process Evaluation," (Milford: DOC, 2014).

36. Certain statutes in Massachusetts require "mandatory minimum" incarceration sentences upon conviction. For example, Chapter 94C, Section 32, *Class A controlled substances; unlawful manufacture, distribution, dispensing or possession with intent to manufacture, etc.; eligibility for parole*, states: "No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of 3 1/2 years and a fine of not less than two thousand and five hundred nor more than twenty-five thousand dollars may be imposed but not in lieu of the mandatory minimum 3 1/2 year term of imprisonment, as established herein." Chapter 94C, Section 32H provides several blanket prohibitions for all mandatory minimum sentences, including restrictions on the ability to accrue earned time: "A person convicted of violating said sections shall not, until he shall have served the mandatory minimum term of imprisonment established in said sections, be eligible for probation, furlough, work release or receive any deduction from his sentence for good conduct under sections 129C and 129D of chapter 127, nor shall he be eligible for parole except as authorized pursuant to subsection (c) of Section 32, subsection (e) of section 32A, subsection (c) of section 32B, subsection (d) of section 32E, or section 32J..."

37. Email correspondence between CSG Justice Center and the DOC on January 12, 2017.

38. Please see endnote 31.

39. EOPSS and Results First Comprehensive HOC Program Inventory Summary Brief, March 2016 (Boston: EOPSS, March 2016).

40. Ibid.; Andrews, D.A. Bonta, J., and Wormith, S.J. (2006). The recent past and near future of risk and/or need assessment. *Crime and Delinquency.*

41. CSG Justice Center analysis of 2014 Middlesex, Essex and Hampden county jail data.

42. CSG Justice Center meetings and calls with sheriffs, January 2016–December 2016.

43. This cohort includes all individuals released from DOC in 2015 and includes people released to parole supervision as well as people completing their sentence while incarcerated and released to the community without parole supervision. CSG Justice Center analysis of FY2015 Massachusetts DOC release and parole hearing data.

44. Excludes people with life sentences, those with rescission hearings that resulted in a reversal of the positive vote (denied parole), and those who had a rescission hearing waived or postponed. Includes people with a rescission hearing resulting in a sustained positive parole vote, but may include new conditions for release. Excluding those with a sustained positive vote would result in an average of 170 days from parole approval to release. CSG Justice Center analysis of FY2015 Massachusetts DOC release and parole hearing data.

45. This does not include parole decisions that were rescinded. CSG Justice Center analysis of FY2015 Massachusetts DOC release and parole hearing data.

46. Parole-eligible people request to delay their parole hearing for a variety of reasons. Some people wish to complete all programming or treatment before seeing the Parole Board; others may have pending charges and, per the advice of their defense attorney, want to resolve the pending cases before seeing the Parole Board. CSG Justice Center meetings with DOC staff, Parole Board members and parole staff, defense attorneys, DOC inmates and people who were formerly incarcerated in DOC.

47. Massachusetts General Laws Chapter 127, Section 133A. CSG Justice Center analysis of FY2015 Massachusetts DOC release and parole hearing data.

48. Amy L. Solomon et al., Putting Public Safety First: 13 Strategies for Successful Supervision and Reentry, (Washington, DC: The Urban Institute, December 2008); CSG Justice Center projected impact on the DOC population and investment analysis, 2017.

49. CSG Justice Center analysis of FY2011–2014 Parole SPIRIT HOC, DOC and CORI data.

50. Parole Board employees known as institutional parole officers are stationed in DOC and HOC facilities and interview parole eligible people and prepare parole case summaries for the Board's consideration.

51. CSG Justice Center review of existing Office of the Commissioner of Probation and the Parole Board policies, as well as meetings and observations of HOC and DOC staff and probation and parole supervision officers, January 2016–September 2016.

52. CSG Justice Center analysis of FY2015 DOC data, Parole Board SPIRIT HOC data, and MassCourts probation data.

53. CSG Justice Center staff whose expertise is in evidence-based practices and quality assurance in community supervision conducted four different site visits, including hosting focus groups with probation officers and probation supervision officers, and traveling to three different counties to meet and observe probation officers. CSG Justice Center meetings, observations and review of standards for probation supervision practices, November 2015–August 2016. Massachusetts Standards for Supervision for Probation Offices of the Superior Court Department, District Court Department and Boston Municipal Court Department.

54. CSG Justice Center meetings, observations and review of standards for parole supervision practices, March 2016–September 2016. Massachusetts Parole Annual Report, 2013 and Massachusetts Parole Board Classification and Standards of Supervision, 2013.

55. P. Gendreau, P. & C. Goggin, Correctional Treatment: Accomplishments and Realities, Correctional Counseling and Rehabilitation, edited by P. V. Voorhis, M. Braswell and D. Lester (Cincinnati, OH: 1997). APPA (2013). Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision.

56. CSG Justice Center review of existing Massachusetts earned time statutes.

57. For more information on the Missouri earned time example, please see: http://www.pewtrusts.org/~/media/assets/2016/08/missouri_policy_shortens_probation_and_parole_terms_protects_public_safety.pdf.

58. CSG Justice Center analysis of FY2011–2014 Parole Board's SPIRIT HOC, DOC, and CORI data; Matthew R. Durose, Alexia D. Cooper, Ph.D., and Howard N. Snyder, Ph.D *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010* (Washington DC: Bureau of Justice Statistics, April 2014). http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf.

59. D.A. Andrews and J Bonta, *The Psychology of Criminal Conduct,* 5th ed. (New York: New York: Routledge, 2010).

60. CSG Justice Center staff whose expertise is in evidence-based practices and quality assurance in community supervision conducted four different site visits, including hosting focus groups with probation officers and probation supervision officers, and traveling to three different counties to meet and observe probation officers. CSG Justice Center meetings, observations and review of standards for probation supervision practices, March 2016–September 2016. CSG Justice Center survey of probation officers, October 2016.

61. CSG Justice Center meetings and review of training standards for the Office of the Commissioner of Probation and the Parole Board, November 2015–December 2016.

62. CSG Justice Center analysis of FY2015 Parole Board's SPIRIT HOC data, DOC release data and Parole Hearing data.

63. In 2011 HOC releases, people age 18–24 had higher rearraignment, reconviction and reconviction rates than all other age groups. CSG Justice Center analysis of FY2011–2014 Parole SPIRIT HOC, DOC and CORI data.

64. CSG Justice Center meetings, observations and policy review for probation and community correction centers, November 2015–October 2016.

65. Probation needs information is from the December 2015 risk/need probation population, and includes only people who completed a full risk/needs assessment, as this information is not provided through the initial screening. Substance abuse need is defined as scoring moderate or high in the ORAS substance abuse domain or having special conditions that include substance abuse screening, evaluation, and/or treatment. Mental health need is a flag for potential mental health issues as reported by the probation officer or other person completing the full assessment process. Parole needs is from June 2015 for the parole population with a completed LS/CMI assessment. Substance abuse need is defined as having a "history of drug abuse" as reported by the parole officer. Mental health need is a flag for mental disorder as reported by the parole officer. CSG

Justice Center analysis of 2015 Parole Board supervision data and MassCourts probation data.

66. Approximately half of HOC releases did not have needs information. Needs information associated with LSCMI assessment conducted by the Parole Board. CSG Justice Center analysis of 2015 Parole Board SPIRIT data.

67. DOC FY2016 data showing 1,681 applications submitted and another 303 individuals identified who were already enrolled. This represents a total of 89.8 percent. CSG Justice Center analysis of DOC FY2016 data.

68. CSG Justice Center meetings with MassHealth, May 2016–December 2016.

69. CSG Justice Center survey of probation officers, October 2016.

70. Massachusetts-specific data find that supervision failure rates are highest in the initial months of community supervision. CSG Justice Center analysis of FY2011–2014 Parole Board's SPIRIT HOC, DOC, and CORI data.

71. Massachusetts Department of Public Health, "An assessment of Opioid-Related Deaths in Massachusetts 2013–2014," (Boston: Department of Public Health, 2016).

72. CSG Justice Center meetings with MassHealth, May 2016–Decemeber 2016.

73. Ratios observed in other states found 90 percent of targeted criminal justice participants eligible for Medicaid expansion (10 percent state share beginning in 2020) and 10 percent traditional Medicaid (50 percent state share in Massachusetts). It was not feasible to calculate Massachusetts's ratios with available data.

74. Jennifer L. Skeem, Sarah Manchak and Jillian K. Peterson, "Correctional Policy for Offenders with Mental Illness: Creating a New Paradigm for Recidivism Reduction," *American Psychology-Law Society* (April 2010); Patrick J. Kennealy, Jennifer Eno Louden, Sarah M. Manchak, and Jennifer L. Skeem. "High-Fidelity Special Mental Health Probation Improves Officer Practices, Treatment Access, and Rule Compliance. *Law Human Behavior* vol. 35 (2011): 110–126.

75. CSG Justice Center conversations with EOHHS and MassHealth leadership, May 2016–January 2017. For more information on the Behavioral Health Community Partnership, see: https://www.masspartnership.com.

76. CSG Justice Center crime and arrest data assessment based on data analyses and conversations with staff from the Trial Courts and EOPSS, March 2015–January 2016.

77. CSG Justice Center county jail and HOC data assessment based on data analyses and conversations with staff from EOPSS, DOC, the Parole Board and county sheriff departments, March 2015–January 2016.

78. CSG Justice Center cross-system tracking data assessment based on analyses of data from the Office of the Commissioner of Probation, the Parole Board, DOC, and Essex, Hampden and Middlesex county sheriff departments, March 2015–January 2016.

79. CSG Justice Center recidivism assessment based on review of existing published agency reports, data analyses and conversations with staff from the Trial Courts, Office of the Commissioner of Probation, EOPSS, DOC, the Parole Board and county sheriff departments, March 2015–January 2016.

80. A continuance without a finding (CWOF) is a disposition in which all parties agree that there is sufficient evidence to support a guilty finding. During this time, the defendant is placed on probation. If the person satisfies the terms of his or her CWOF, the case will be dismissed by the court without a conviction. Should the person fail to meet the terms of the CWOF, the court will dispose the case as a conviction and proceed to sentencing. Massachusetts General Laws Chapter 278, Section 18.

81. CSG Justice Center assessment on available race and ethnicity data based on analyses of data from the Office of the Commissioner of Probation, the Parole Board, DOC, and Essex, Hampden and Middlesex county sheriff departments, March 2015–October 2016.

82. For more information on risk assessment and race, please see: https://csgjusticecenter.org/jr/posts/three-things-you-can-do-to-prevent-bias-in-risk-assessment/.

83. CSG Justice Center probation data assessment based on analyses of data from the Office of the Commissioner of Probation and meetings with the Office of the Commissioner of Probation and the Trial Courts, March 2015–January 2017.

84. For more information on North Carolina's database, see: http://www.ncdps.gov/statstical-publications. For more information on Pennsylvania's database, see: http://www.cor.pa.gov/About%20Us/Statistics/Pages/default.aspx#.WJtStxIrLOR.

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**Project Contact:**

Cassondra Warney
Policy Analyst
cwarney@csg.org