FROM CELL TO STREET

A Plan to Supervise Inmates After Release

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Dear Friend:

From its founding in 1995, MassINC has believed that few public issues affect the quality of life more than crime. That's why MassINC has invested an extraordinary amount of time and resources to develop its Safe Neighborhoods Initiative. Through research, *CommonWealth* magazine, and public-education events, MassINC has tried to contribute to the public dialogue about how to best foster crime-free neighborhoods for all residents of the Commonwealth.

In this spirit, we are proud to present to you MassINC's latest research effort, *From Cell to Street: A Plan to Supervise Prisoners After Release*. In recent years, Massachusetts has made tremendous improvements in law enforcement and criminal justice, through initiatives such as community policing and sentencing reforms. These reforms have improved the safety of our communities. In this report, we address, what we believe to be, the next major issue of critical importance to the public's safety: the need to supervise all prisoners upon their release from prison.

We are particularly excited to release this research at this time, given the current level of interest in this topic. We applaud the Legislature, the Executive Branch, and nonprofit organizations that have all devoted many hours to this issue. We believe this report complements their hard work, and we hope it will serve as a valuable resource. We hope the current discussions will lead to action, specifically creating a system to supervise all ex-offenders. Such action is critical in our effort to reduce crime so that all citizens can live without fear for their personal safety.

We are especially grateful to Anne Morrison Piehl for the quality and quantity of work she devoted to this project in order to make it a success. She is exactly the kind of talented thinker we try to attract to collaborate with MassINC: smart, experienced, thorough, open-minded, and resourceful. We would also like to thank many informal advisors and reviewers inside and outside of government. MassINC benefits from a special network of people. As always, our work reflects their input, and their critical insights have strengthened this report.

We welcome your feedback and invite you to become more involved in the work of MassINC.

Sincerely,

Tripp Jones
Executive Director
MassINC

Dana Ansel
Research Director
MassINC

A Note From Our Sponsor

The Shaw Foundation is pleased to join with MassINC in presenting this important report written by Anne Morrison Piehl. As the author demonstrates through her thoughtful research and analysis, the absence of effective community supervision for released inmates poses a serious threat to community safety and significantly increases the likelihood of further criminalization. We hope this report serves as a call to action that will lead policy makers and criminal justice agencies to seek responsible solutions to this problem.

We also wish to thank MassINC for their continued effort to promote healthy communities. Our support for the organization's Safe Neighborhood Initiative has resulted in an outstanding body of work and served to educate many of our citizens and opinion leaders about the need to think differently about crime and its impact on our society.

Sincerely,

Thomas E. Coury
Executive Director
Gardiner Howland Shaw Foundation

FROM CELL TO STREET:

A Plan to Supervise Inmates After Release

Table of Contents

Executive Summary 5
Glossary of Terms 15
Recommendations 16

I. Prison Populations, Release, and Public Safety 22

II. What Determines Release from Correctional Institutions? 27
Pre-release Planning in Springfield 32

III. What Happens after Release? 35
On the Streets of Dorchester 38
A Weekly Support Group 40

IV. Toward a More Systematic Approach 44
Current Legislative Developments 50

V. Recommendations 54

About the Author 59

Executive Summary

This report begins and ends with a concern for the public safety of hard-working, law-abiding citizens of the Commonwealth. Our citizens deserve safe neighborhoods where their children can play on the streets, businesses can thrive, the elderly can walk without fear, and neighbors can congregate at night on their front porches. In recent years, much has been done in Massachusetts to improve the safety of our communities, through initiatives such as community policing and sentencing reforms. Yet a critical weakness in the criminal justice system remains: the failure to adequately supervise prisoners released from prison.

Reasonable people can disagree about priorities within public safety, but all must take into account the following five facts:

- 97 percent of all people sent to prison are eventually released into the community;
- In Massachusetts, 20,000 prisoners are released each year, an increase of 24 percent from 10 years earlier;
- Nationally, 63 percent of offenders released from prison are rearrested for a felony crime or serious misdemeanor within 3 years;
- Compared to many other states, Massachusetts supervises fewer prisoners after release from prison, with many offenders receiving no supervision;
- Many of the most dangerous prisoners in Massachusetts are unsupervised after their release from prison. Of the 2,308 inmates released from maximum and medium security prison in 1999, more than half were released directly to the street at the end of their sentence. (Some may have had supervision under the Probation Department, but how many is unknown because no agency collects such data.)

These facts raise serious concerns about the public's safety. Foremost among these is the adequacy of current approaches to post-incarceration supervision. There is no reason why every person who leaves prison, especially violent offenders, should not be supervised for some period of time. However, before reforming policy, we must first ask: What happens today when an inmate is released from prison into the community? A review of the current policies will highlight both the gaps and the opportunities for change. As striking as the above facts are, the full story is both more complicated and more compelling. We begin then with a closer examination of the facts.

Most Prisoners Return to Society

The fact that most prisoners eventually leave prison and return to the community has largely gone unnoticed in public discourse. Over the last 25 years,

as part of the fight against crime, the federal government and a number of states, including Massachusetts, enacted a number of changes in sentencing laws to make certain that people serve longer sentences behind prison bars. As a result, the rate of imprisonment in the United States is higher than ever. This increased emphasis on incarceration has surely contributed to a reduction in crime. Another consequence, however, is that an increase in the number of people in prison inevitably means an increase in the number of people who will be released from prison. Almost every person sent to prison eventually returns to society. The only prisoners who do not leave prison are those who are executed, those who are sentenced life in prison, and those who die before their sentences expire. The result: About 97 percent of those who enter prison return to the community.

More Prisoners Released From Prison

In 1999, over 20,000 inmates—about 55 a day—were released from Massachusetts state and county facilities. This is a 24 percent increase from a decade ago. Current sentencing practices suggest more of the same in the future. In future years, large numbers of prisoners will leave prison and return to the community. The sheer number of prisoners being released creates a new urgency to reexamine current corrections and sentencing policies to ensure that the public is protected.

Rates of Recidivism Remain High

The chance that a prisoner who is released from prison will commit another crime is high. This fact is best captured through recidivism data. The most comprehensive study on recidivism, done by the Bureau of Justice Statistics, found that within three years, 63 percent of ex-inmates were rearrested for a felony crime or serious misdemeanor, 47 percent were reconvicted, and 41 percent returned to prison. A recent Massachusetts Department of Correction study reports similar outcomes. Of the Massachusetts state prisoners released in 1995, 44 percent were reincarcerated within three years.[1] The data on recidivism are sobering. The reality is that many released ex-offenders will pose a serious and ongoing threat to public safety.

The national study also suggests that the period immediately following a prisoner's release represents the greatest threat to the public. An ex-inmate is most likely to be rearrested during the six months immediately following his release. Again, the Massachusetts data on prisoners released in 1995 are consistent with these national findings. Of the 1,504 ex-inmates who recidivated, almost half (744) recidivated within the first year. The time immediately following release from prison is critical, and the first year is a pivotal time for ex-inmates deciding whether to resort to old habits or to become productive citizens.

It is worth noting that to combat these high rates of recidivism, we must also look to the practices within prison as well. Although many rehabilitative efforts have proved disappointing in their lasting effects, literacy programs are a key exception. While other types of programming—vocational and other

1 Recidivism data are particularly difficult to compare across states because states vary in their definition of recidivism. Massachusetts counts all parole and probation violators returned to prison as recidivists, while other states, such as Florida, include only ex-inmates who commit new crimes in their recidivism rates. The fact that Massachusetts includes technical violations complicates our ability to assess the efficacy of our criminal justice policies. If someone commits a new crime after having been released from prison, that clearly harms the public. However, interpreting the data for people who commit technical violations is more difficult. Arresting people for technical violations, such as staying out past their curfew, can sometimes be viewed as a positive step for the public's safety, because it indicates we are monitoring people who are out in the street and are sometimes stopping them before they victimize a new person. We need better information about recidivism, and we also need to exercise some caution in interpreting the recidivism rates.

skill-building programming—have potential, the research documenting their success is rarely definitive. But we do know that getting and holding a job—especially a good job—after prison is an effective way to reduce recidivism. Prisoners with stronger skills stand a better chance of finding jobs once they leave prison. Strengthening the skills of prisoners while they are in prison is clearly a worthwhile investment of time, energy, and money because of the effect on prisoners after they return to the community. In this case, what is good for the prisoner will often be good for public safety.

IN SOME STATES, VIRTUALLY NO PRISONERS LEAVE PRISON WITHOUT SUPERVISION.

Supervising Prisoners Released from Prison

There is a growing trend among states to supervise prisoners upon their release from prison. In fact, in some states, virtually no prisoners leave prison without supervision. California, New York, Oregon, and Rhode Island are leaders in this respect; practically all prisoners are supervised upon their release in these states. In sharp contrast, in Massachusetts, only about one-quarter of prisoners released from state prisons in 1999 were supervised by the Parole Board. The number of prisoners who exit state prison without supervision by the Parole Board has increased substantially over the last 20 years. In 1980, almost all state prisoners in Massachusetts were released under the supervision of the Parole Board. The Probation Department also supervises some prisoners upon their release from prison, but neither the Department of Correction nor the Probation Department can say how many state prisoners are released each year to post-incarceration supervision provided by the Probation Department.

County prisoners are also likely to be released with no supervision. About 52 percent of Suffolk County House of Corrections (HOC) prisoners were released with no supervision in January, 2001.[2] It is clear that when it comes to supervising ex-inmates, Massachusetts does much less than most other states.

While this report raises concerns about the widespread lack of supervision from the perspective of the public's safety, it is important to note that a lack of supervision also harms the ex-inmate. After spending time in prison, an ex-inmate must make a transition back to society, when this person has already demonstrated that he has difficulty living within society's rules.[3] Supervision can aid this transition by both monitoring the ex-inmate and requiring him to take advantage of the services he needs. For some ex-inmates, this structured period of transition is likely to increase their chances of a healthy reintegration back into society, which will then help reduce the rates of recidivism.

The Role of Parole in Supervising Ex-Inmates

A prisoner who is released conditionally is subject to a set of rules and expectations that must be met if the person wishes to remain outside of prison.[4] The conditions can include: taking regular drug tests, meeting a curfew, holding a job, going to AA meetings, not contacting certain old acquaintances, and other conditions. If the person breaks the rules, he can be returned to

2 Each county is responsible for collecting HOC data, and it is not compiled across the state. In this report, we rely upon data from the Suffolk County House of Correction, which historically has had the greatest number of inmates in the state. These statistics may not be representative of all counties, but they provide a picture of what is happening at the county level, which accounts about half of all inmates.

3 For convenience "he" is used as the pronoun, a usage that is consistent with the fact that male prisoners constitute the vast majority of people incarcerated. In recent years, however, the number of female prisoners has increased substantially, and given that many have children, the issues they face after being released from prison will likely differ from those of male ex-inmates.

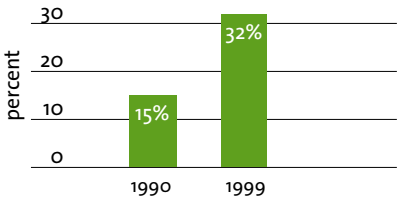
4 There are typically two ways that prisoners are released from prison: unconditionally or conditionally. A prisoner who is released unconditionally or who is "discharged to the street" has served his entire sentence. This person walks out the prison door with no conditions on his release. He is not subject to any special rules. Only the usual policing activities will monitor the actions of the ex-inmate.

prison for violating the conditions of his release. Traditionally, these prisoners are supervised by parole officers who report to the Parole Board, a department within the Executive Office of Public Safety. Through this supervision, the parole officers have the authority to make life very unpleasant for an ex-offender unless he becomes a law-abiding citizen.

Parole has historically served two different functions: discretionary release and post-incarceration supervision. This report is primarily concerned with the second function. The first function refers to the ability of the Parole Board to create incentives for prisoners to change their patterns of behavior and attitudes by allowing select inmates the opportunity to serve the remainder of their sentences in the community under the supervision of parole officers.

Many crime control experts of varying political persuasions believe that discretionary release helps minimize violence within correctional institutions and provides a critical tool to prod prisoners to take actions and make behavioral changes that will help them and, as a result, will increase the likelihood they become productive members of society. For instance, if inmates are more willing to address their substance-abuse problems while incarcerated, public safety will be improved at the same time their lives will be improved. While some might object to using the possibility of conditional release as an incentive for prisoners to engage in productive behavior, it is important to remember that it is in the public interest to encourage the inmates to do what is also right for them.

Inmates Waiving the Right to a Parole Hearing



Source: Massachusetts Parole Board.

This programming is also part of a system of accountability. It helps hold both the prisoners and the correctional institutions accountable for preparing for the prisoner's eventual release, keeping in mind that practically every prisoner will be released. As long as correctional institutions are making an effort to change the lives of those under their supervision, the public can demand that they do this job to the best of their ability and with a reasonable level of success. While behavior modification is not the primary purpose of incarceration, the fact that almost all prisoners return to the community cannot be ignored. Not all prisoners will want to change their behavior, and not all prisoners who try to change their behavior will be successful. However, to the extent that discretionary release can entice some prisoners to change their patterns of behavior, experts believe it is an essential tool within criminal justice policy.

In Massachusetts, prisoners exiting state prison are less likely today to be released conditionally than they were 10 years ago. In addition, prisoners' attitudes toward parole have changed. In 1999, one third of eligible prisoners chose not to be considered for conditional release by waiving their rights to a parole hearing. These prisoners will serve their full sentences and then be released from prison with no supervision. There are two likely explanations for this recent phenomenon. First, the significant reductions in conditional release may cause some prisoners to decline their right to hearing because they are discouraged by the slim likelihood of receiving parole. More importantly, it is also likely that some inmates find community supervision so unpleasant that they would rather serve their full sentences behind bars.

Either way, these prisoners are released into the community with no supervision. In both scenarios, it is not the criminal justice system that decides the terms of a prisoner's release. Rather, the prisoners who waive their right to a hearing are allowed, in effect, to determine whether they are supervised upon their release.

The Role of Probation in Supervising Ex-Inmates

Increasingly, the courts are playing a larger role in supervising prisoners upon release through probation sentences. The judiciary, in recent years—through its use of split sentences, "from & after," and dual sentences—has expanded its role beyond the Probation Department's historic mission of supervising low-level offenders who are not sentenced to prison. Although the Probation Department is not the traditional agency that supervises people released from prison, and although these sentences are contrary to the intent of recent sentencing laws, the judiciary has helped to partially fill a critical gap in public safety.

We do not know how many state prisoners are currently being released from prison to the authority of the Probation Department. In January, 2001, 52 percent of Suffolk HOC prisoners were released to the Probation Department. Current sentencing practices, whose effects will be seen in several years, indicate that the number of ex-offenders on probation is projected to increase significantly. In 1999, 40 percent of those sentenced to serve time in both state prison and county facilities were also sentenced to post-incarceration supervision through the Probation Department. These sentencing patterns indicate a significant increase in the role of the Probation Department in providing post-incarceration supervision.

Other Efforts to Help Ex-Inmates Re-Enter Society

Across the state innovative programs are also attending to the issue of prisoners returning to the community. Some of these efforts are mandatory, while others are voluntary. In Springfield, the Hampden County House of Correction tries to prepare prisoners for their return to the community through its prerelease program. In Lowell, a wide range of public and private agencies are working together with prisoners about to be released to deliver the message that the police are serious about crime reduction and that support services are available to those who wish to help themselves. Similar efforts are underway in Boston at the Suffolk County House of Correction.

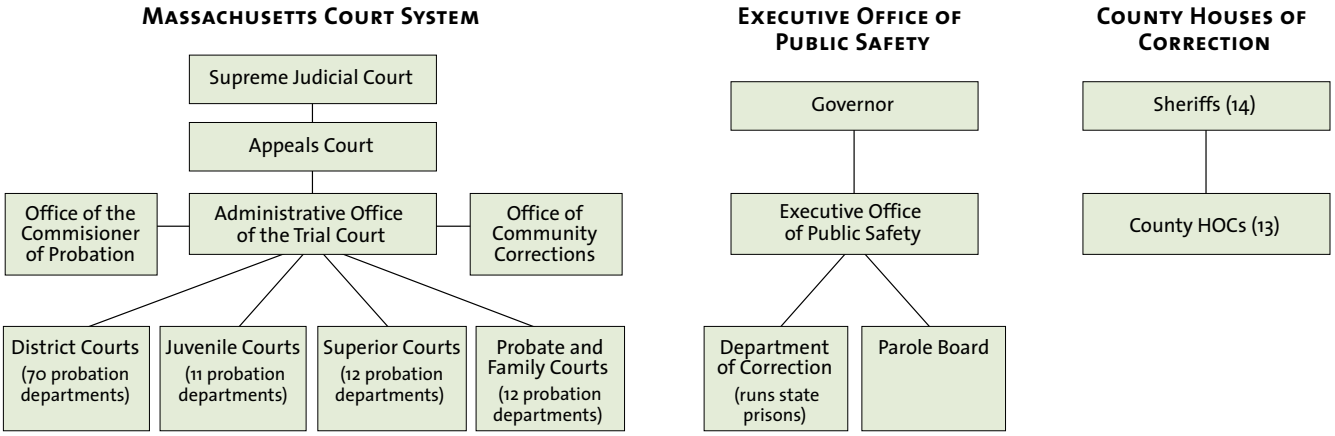
A weekly support group in Springfield helps ex-offenders control drug and alcohol problems, but also helps them find housing, which can be a huge obstacle to settling into a productive lifestyle. Participants credit the group for giving them structure and helping them to learn how to be accountable. Another support group for ex-offenders, run by the Ella J. Baker House in Dorchester, focuses on action. This group has arranged summer basketball and other activities for neighborhood kids, helped newly released prisoners with résumés, and established transitional housing for ex-inmates. Examples of such efforts can be found across the state within and outside of govern-

ment agencies, each aiming to encourage and support ex-inmates who are trying to make a change from their past behavior. As worthwhile as these efforts are, they do not replace the need for a system of post-incarceration supervision for all ex-offenders.

A Fragmented Criminal Justice System that Undermines Public Safety

Massachusetts has a fragmented criminal justice system. In many other states, the probation system is the responsibility of the Executive Branch. In Massachusetts, the Probation Department is part of the court system, with the 12 Superior Courts, 70 District Courts, 11 Divisions of Juvenile Courts, and 12 Probate and Family Courts each housing its own Probation Department within each court house. In most states, parole is within the Department of Correction. In Massachusetts, the Parole Board is an independent agency under the Executive Office of Public Safety. Massachusetts is also unusual in the size and composition of its Houses of Correction population. In Massachusetts, convicted offenders with sentences up to 2 ½ years can be sent to county facilities, while in most other states county facilities are used for prisoners sentenced to one year or less. As a consequence, half of the inmates in Massachusetts are in county facilities. The 13 Houses of Correction are managed by 14 different county sheriffs, who are popularly elected. Despite partnerships among different agencies, this fragmentation leads to a duplication of services. It also makes the coordination of programs, responsibilities, and accountability across agencies difficult.

Each agency within the criminal justice system aims to protect the public from the vantage point of its own jurisdiction. But because each agency focuses on its own grove of trees, we are missing the public safety forest. Consider how this dynamic plays out for a state prisoner's interaction with the Parole Board. Imagine an inmate who is spending time in prison because he has committed a serious crime. This inmate behaves poorly in prison and shows no remorse or inclination toward leading a productive life outside of prison. Because of this, the Parole Board is likely to turn down his request

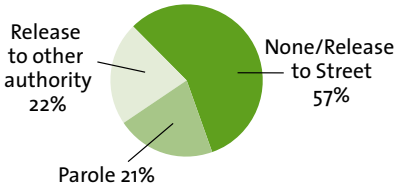


for parole (or the inmate can effectively take the decision away from the Parole Board by simply deciding not to apply for a parole hearing). However, at some point, this prisoner will complete his sentence and be released unconditionally. That means that the prisoner who was deemed too dangerous to be granted supervision by parole officers is instead released directly into the community with no supervision.

Consider also the case of an inmate who is serving a minimum mandatory sentence. Post-incarceration supervision is also unlikely to occur in these cases. Minimum sentences for drug crimes are strict enough in Massachusetts that judges are reluctant to sentence offenders to more than the minimum amount of time, which means there is no possibility for post-incarceration supervision. This means that the offender serves his entire sentence and is then released into the community with no supervision. The certainty of mandatory minimum sentences is considered a critical tool by many in the law enforcement community, particularly prosecutors, who see the non-negotiable terms as an effective deterrent. However, prisoners sentenced to mandatory minimum sentences still need post-incarceration supervision. Public safety is threatened because these prisoners are not supervised upon their release.

In sum, one can argue that as each agency pursues its own objectives, the broader public safety goal becomes lost: each year thousands of prisoners are released into the community with no supervision. In fact, many of the most hardened criminals, the ones we might most want to be supervised, are not supervised upon their release: 57 percent of prisoners in maximum and medium security prisons were released directly to the street in 1999.[5] Post-incarceration supervision helps to facilitate the transition back to society through a combination of surveillance and support. Again, there is no reason why every prisoner who leaves prison—especially violent offenders—should not be supervised for some period of time.

Terms of Release of Prisoners Exiting Maximum and Medium Prisons, 1999



Source: Massachusetts Dept. of Correction.

Toward an Integrated System of Post-Incarceration Supervision

A system of mandatory post-incarceration supervision will help protect the public and is far better than the current practice of sporadic and unreliable supervision. As we move toward a universal system of post-incarceration supervision, we must be guided by a realistic set of expectations.

There are two goals to this new system. First, the reality is that we will be supervising people who have a history of criminal activity, and some are likely to violate the conditions of their release or commit new crimes. Because these ex-offenders will be under the authority of the Parole Board, it will be possible to remove them quickly from the streets and punish them. The punishment should be swift and also appropriate to the infraction. If there are subsequent infractions, the sanctions should be graduated. Supervision works best when it helps inmates with future compliance. As law enforcement entities have learned, the use of the stick helps to ensure that the carrot has a chance to work.

The second goal will be harder to measure; the successes of a post-incar-

5 Some of these prisoners may have had sentences of post-incarceration supervision through the Probation Department.

ceration supervision system will not always be easy to identify, because they will take the form of events that do not happen. If the system is successful, the combination of punishment, threat of punishment, and support services will prevent some ex-offenders from committing crimes that they would have committed if no such system exsisted. This is why it is important to supervise all prisoners, not only the most serious offenders. Otherwise, we miss an opportunity to positively impact the lives of some ex-offenders. Without doubt, post-incarceration supervision will prevent some crimes that would have occurred, but unfortunately, we will have no easy way of measuring these successes. Over the long run, our emphasis on post-incarceration supervision, if implemented effectively, will help reduce recidivism and crime rates.

THE SUCCESSES OF A POST-INCARCERATION SUPERVISION SYSTEM WILL NOT ALWAYS BE EASY TO IDENTIFY, BECAUSE THEY WILL TAKE THE FORM OF EVENTS THAT DO NOT HAPPEN.

Who Should Supervise Inmates Released from Prison?

Currently, two different institutions with different levels of authority and different mandates provide most of the post-incarceration supervision. This is hardly a systematic approach. A single agency should have both the authority for and responsibility of supervising ex-inmates. With one agency in charge, it is more likely that there will be one message, a similar set of expectations, and consistent treatment of ex-inmates. Moreover, if there is only one agency, then that agency can be held accountable for the task.

Paradoxically, the current situation creates both a gap in and duplication of services. A prisoner can be released under both the authority of probation and parole offices, which means there is an overlap of people on both probation and parole. As for how many, no one can say definitively. It is clear, however, that if the Probation Department continues to expand its post-incarceration supervision activity, the overlap will only increase. At the very least, if an individual is on both parole and probation, the two agencies should coordinate rather than replicate each other's efforts. More generally, as the Probation Department has increased the number of ex-inmates it supervises, it has begun to assume more of the functions that the Parole Board has traditionally held. It becomes difficult to understand why a particular ex-inmate ought to be supervised by the Probation Department and not the Parole Board or vice versa.

Given the expanding role of the Probation Department, perhaps it makes sense to assign responsibility for post-incarceration supervision to the Probation Department. Such a move would recognize the current realities and seek to build upon practices that are already in place. Despite the appeal of this idea, we do not recommend this approach. First, because of its heterogenous caseload, probation already serves a great many different purposes. The vast majority of the approximately 45,000 people on probation are sentenced to probation in lieu of serving time in prison. Traditionally, the purpose of probation has been to offer a "stay of grace" for low-level offenders as an alternative to prison. In recent years, however, the composition has changed to include more serious offenders, and the mission has been amended to include people who have served time in prison, some having been convicted of violent and other serious crimes. If we were to add more serious

offenders to the portfolio of the Probation Department, this would make their already difficult charge even more difficult.

Second, because the parole agency has traditionally handled post-incarceration supervision, it has no competing responsibilities. At its best, supervision is what the Parole Board does. Furthermore, perhaps because of tradition and perhaps because of serendipity, the legal environment for post-incarceration supervision is better suited to parole. Parole officers have a greater ability to respond quickly to violations of the terms of supervision, and they have more discretion in determining an appropriate punishment for a given violation. Because parole officers have the legal authority to put someone who violates his conditions of parole in jail for several days or several months, officers can use reimprisonment for a wider variety of infractions and employ a graduated sanctions approach, increasing the length of time in prison for repeat offenses. Swift and certain punishment is critical in deterring crime, and parole is best able to meet these conditions.

On the other hand, probation, despite some changes in rules, is less flexible. Current law requires that if the original probation sentence is revoked and the person is to be sent to prison, he must be sent for the entire sentence. This limits the ability of probation officers to use a strategy of graduated sanctions and in practice means that probation only sends someone back to prison for substantial probation violations. For these reasons, the Parole Board is the better agency to take responsibility for post-incarceration supervision and the Probation Department should focus, as it has traditionally, on the pre-prison population—those whose offenses do not warrant prison time.

The decision to use parole is certainly not without complications, which must be addressed first in order to build an effective system. Probably the most important consideration is the capacity of the Parole Board. Currently, the Parole Board is responsible for supervising about 4,000 prisoners. About 20,000 prisoners were released from Massachusetts state and county facilities in 1999. In order to supervise all ex-inmates, the capacity of the agency would have to be substantially increased—on the order of quadrupling its capacity. However, there will be a natural phase-in. From the time that we institute a system of mandatory post-incarceration supervision and incorporate the supervision into current sentencing guidelines, it will take a number of years before the system will be fully in effect, because the number of offenders mandated to receive supervision would gradually increase as prisoners are released from prison. The staff expansion at the Parole Board could then rise in tandem to supervise the ex-offenders. In short, the process will only start with the sentencing of new criminals, with the post-incarceration supervision to happen after the term in prison is served, and the terms will obviously vary for different prisoners. This natural period of transition offers the perfect opportunity to build the capacity of the Parole Board, which should be done over a period of five to six years. We assume—as do experts in the field—that each parole officer would supervise approximately 50 people, which is a reasonable caseload for real supervision. On that basis, we would recommend adding 250-300 new parole officers plus the management and

administrative staff needed to support these new officers. This expansion is certainly a major fiscal and organizational challenge, but it is not impossible with the proper planning and investment over time. In addition, this transition will allow the Parole Board to adapt to its expanded role. It will first supervise the low-level offenders, whose sentences are the shortest, and will gradually add more and more serious ex-offenders to its caseload, allowing time to develop the necessary systems. During this transition period, it is incumbent upon the Parole Board to build relationships with others in the criminal justice system, helping to bolster their confidence in the new system. Despite the challenges that will arise in creating this new system, we must stay focused on the need to address the current threat to the public's safety.

While crime control is reemerging at the top of the public's agenda, it is clearly not the only important item on it. And given the current fiscal realities, we must carefully consider the cost of any proposals. However, we have identified a critical weakness in our criminal justice system and are recommending building a substantial system of post-incarceration supervision that has been only spotty to date. This will require an investment of resources over the next five to six years. At the same time, it should also be a priority to look for opportunities to eliminate duplication of services. Over time, this new system should increase public safety while saving money. Moreover, some of the costs are costs we would already have to bear within the current system. To the extent that certain repeat offenders are caught committing crimes, we would have likely spent money imprisoning them. Based on past research, it is likely that the more we watch people, the more criminal behavior we will find. While this is costly, it is also money well spent. To the extent that supervising ex-prisoners helps keep some stay on the straight and narrow, we will succeed in significantly reducing the number of citizens victimized by crime. And, this, in turn, will pay substantial social dividends in terms of safer streets, healthier families, more productive citizens, higher tax receipts, and lower governmental expenditures. To be sure, there are initial costs to implement the system, but the public's safety demands no less.

Glossary of Terms

CONDITIONAL RELEASE The release of an inmate to community supervision with a set of conditions for remaining outside of prison. Conditions can include drug testing, maintaining a curfew, holding a job, staying away from certain acquaintances, and attending AA or other types of meetings. If the conditions are violated, the person can be returned to prison or otherwise punished.

DEPARTMENT OF CORRECTION (DOC) The agency in charge of the 28 state prisons that hold inmates who have been convicted of serious crimes and who are sentenced to terms greater than one year. DOC is an executive branch agency, under the authority of the Executive Office of Public Safety.

DISTRICT COURT Cases heard in District Court can result in sentences to a county House of Correction.

FROM & AFTER SENTENCE Prisoners under these sentences are charged with more than one crime. In these cases, prisoners are sentenced to serve time for one charge and are sentenced to probation (or a separate prison term) for another sentence after completing the first term of incarceration.

EARNED GOOD TIME Days subtracted from a prisoner's sentence as a reward for participation in programming at the House of Correction or state prison. In Massachusetts, there used to be "statutory good time" under which all inmates were granted time off their sentences. This practice was stopped by the Truth in Sentencing legislation of 1993.

HOUSES OF CORRECTION (HOC) County-run facilities for offenders serving terms up to 2½ years. These 13 facilities are managed by county sheriffs who are popularly elected. In 2000, about half of all inmates were in HOC facilities. The percentage of sentenced prisoners confined by counties in Massachusetts is much higher than in other states.

JAIL A colloquial term that, in most states, refers to county facilities that house both those detained for trial and those sentenced to short terms of confinement. In Massachusetts, "jail" generally refers to facilities housing inmates awaiting trial.

MANDATORY MINIMUM SENTENCES Certain crimes require a certain minimum amount of time in prison. In Massachusetts, these crimes include possessing a firearm while committing a crime, drunk driving, and drug dealing and trafficking. In these cases, the set minimum term of imprisonment cannot be suspended, replaced by probation, or reduced by parole or good-time credits.

OFFICE OF COMMUNITY CORRECTIONS (OCC) This office was established under the jurisdiction of the courts in 1996 to facilitate cross-agency collaboration in the management of offenders in the community. The OCC is mandated to provide a continuum of sanctions and services for people on probation, parole, or in custody of the Department of Correction. Offenders in a number of categories cannot be sentenced to a community corrections center, however. There are currently twenty community corrections centers across the state.

PAROLE Refers to two different matters: the discretionary decision made by a Parole Board that an inmate should be released from confinement to serve the remainder of his or her sentence in the community, and the period of post-incarceration supervision following a prison term. Parole officers report to the Parole Board, an independent agency under the Executive Office of Public Safety.

PRISON A facility providing secure confinement of sentenced offenders. In Massachusetts, the Department of Correction manages the state prisons.

PROBATION DEPARTMENT Enforces conditions of satisfactory behavior set out by the judiciary and provides surveillance of people under its purview. It is part of the court system. Probation has a heterogenous caseload. The majority of the population received a sentence of probation in lieu of serving time in prison. A small part of the population is on probation after serving time in prison.

RECIDIVISM The state's definition includes people who are released from prison and commit new crimes or violate a condition of probation or parole, and as a consequence, are returned to prison.

SPLIT SENTENCES In these cases, the sentence is split into two parts. Inmates are sentenced to terms in prison as well as terms of probation to be served following release. Since 1993, split sentences have been eliminated for state prisons but still exist at Houses of Correction.

SUPERIOR COURT People tried in Superior Court can be sentenced to state or county prisons. Superior Court hears the more serious criminal cases.

TRUTH IN SENTENCING Responding to a trend of indeterminate sentencing, truth-in-sentencing drastically reduces the wide range of actual time served in prison. The term is largely determined by the crime and the criminal record of the defendant. The role of parole is greatly reduced. This 1993 state law eliminated the "Concord" sentence; it eliminated parole eligibility at 1/3 or 2/3 the minimum sentence in cases of state prison sentences; it eliminated statutory good time, in which inmates were granted a certain amount of time off their stated sentences.

UNCONDITIONAL RELEASE The release of an offender when his term expires. In such a release, he is not under supervision of any community corrections agency and is not required to abide by special conditions. Only the usual policing activity will monitor the actions of the ex-inmate.

Recommendations

1. Hold Criminal Justice Agencies Accountable for Reducing Recidivism

- Reducing crime among ex-offenders in the community should be an explicit goal of individual criminal justice agencies, including the Department of Correction, Houses of Correction, the Probation Department, and the Board of Parole.

- In order to provide some coordination among the many agencies, the Executive Office of Public Safety (EOPS) in the executive branch should work to ensure that inmate release and post-incarceration supervision are adequately represented in the activities of law enforcement in the Commonwealth. This office should produce an annual report covering the topic of inmate release, post-incarceration supervision, and recidivism.

2. Supervise all Offenders after Leaving Secure Confinement

- Institute a system of post-incarceration supervision for all inmates leaving state prison and the county Houses of Correction. This supervision should involve surveillance, mandatory coerced abstinence from alcohol and other drugs, requirements of work and/or other productive activity. This system should include provisions for due process when conditions of supervision are violated.

- Revise criminal sentencing law to incorporate a term of mandatory supervision in the community for all offenders. This period should be no shorter than 6 months for all inmates, and a period of a year or more is preferable.

- Those with long terms of confinement are likely to represent a great threat to the public's safety and have greater needs. Therefore, they may require longer and more intensive supervision following release.

- A period of mandatory supervision is especially important for those currently serving time under mandatory minimum sentencing laws (who typically do not have sentences that allow for any supervision upon release from prison). Mandatory post-incarceration supervision is also particularly necessary for those who choose not to use their time in prison productively and pursue educational opportunities that would improve their prospects for leading a life free of crime.

- However, even those with short terms of confinement must construct a new life on the outside, and supervision and support is necessary for this to happen. If we only focus supervision on the most hardened criminals, we miss opportunities to positively impact some ex-offenders.

3. Reinvent the Board of Parole as the Lead Agency Providing Post-Incarceration Supervision

- Allocate responsibility for the supervision of released inmates to a single agency. The Parole Board is the obvious choice for this role as it has no competing mandates. Moreover, its legal authority is best suited for supervising and managing the reentry of inmates to the community.

- The Board of Parole should work closely with the Department of Correction, the county sheriffs, the Office of Community Corrections, the Probation Department, local police departments, and other state, local, and non-profit agencies to take full advantage of their capacities to assist with the reintegration of former inmates.

- Establish a seat on the Board of Parole for a retired member of the Massachusetts judiciary in order to incorporate the knowledge that judges have developed in supervising inmates following periods of incarceration.

- The Board must inspire confidence in its ability to provide appropriate surveillance and also to provide (and enforce participation in) programming to reduce substance abuse, improve employment prospects, etc. The Board's early actions will determine whether the judiciary will willingly alter sentencing practices to permit the Board to energetically implement and expand post-incarceration supervision.

- Enact legislative reform aimed at reducing the availability of post-incarceration probation sentences, if the use of post-incarceration probation does not decline over the next two years (measured by release data regarding post-incarceration probation from HOCs and by sentencing data for DOC inmates). Such a reform measure would be prudent given the scarcity of resources. It is more important to spread law enforcement resources across a wider population than to have some people using double the resources.

- The Governor and the Executive Office of Public Safety should consider changing the name of the Parole Board to reflect its new responsibilities and broader mandate. In recent years, public confidence in the parole system has waned. For right or wrong, "parole" has come to connote a system that is soft on crime and lets dangerous criminals out of jail early without monitoring them. Thus, changing the name of Board of Parole will reinforce its new mission, both within the Board of Parole and outside the agency.

4. Develop a Fiscally Responsible Plan to Build Capacity

- Given the current fiscal realities, it is important to build this system over a multi-year period of time. Fortunately, this approach matches well with the needs of the new system. From the time we enact a system of post-incarceration supervision, there will be a natural transition period during which the number of those requiring supervision will gradually increase. From the time that we institute such a system, it will take five to seven years for the system to be fully operational. This natural period of transition offers the perfect opportunity to build the fiscal and organizational capacity of the Parole Board.

- Use the Office of Community Corrections to help provide the infrastructure and services needed to make post-incarceration supervision work. The centers are currently being used to serve a variety of constituents, including pre-release inmates, probationers never sentenced to prison, ex-offenders with terms of post-incarceration supervision, and parolees. Because of the previous significant

state investment and the efficiency of using existing facilities, we recommend that the centers increase their capability to serve post-incarceration supervision of ex-offenders under the authority of the Parole Board. The agency and individual centers should be leveraged as part of a system of mandatory post-incarceration supervision.

- In order to best accommodate the different law enforcement functions of the OCC, it is important that all of the related agencies are treated as equal partners in governing the centers. They should also share the costs of the centers. To accomplish this, it is necessary to change the governance structure of the OCC. We recommend that the professional staff of OCC report to a Board of Directors, which will ultimately report to the Legislature. This Board might include the Commissioner of Probation, the Parole Board Chair, the Commissioner of the Department of Corrections, the Secretary of Public Safety, a representative from the Sheriff's Association, a representative from the District Attorneys Association, the Commissioner of the Department of Youth Services, a representative of the trial courts, and several representatives of the community. With these agencies overseeing and guiding the policy of the centers, the centers' various responsibilities, including post-incarceration supervision, will be better integrated into the missions of the centers.

- We recommend increasing the overall period of supervision (incarceration plus post-incarceration supervision) of offenders but doing so in a pragmatic way that will generate savings. One approach would increase the overall sentence with a period of post-incarceration supervision while marginally reducing the amount of prison time required for certain mandatory minimum sentences. The sentences could still be mandatory. For instance, a 5-year minimum could become a 4+2 sentence, with four years served in prison and two years under mandatory supervision. This change will help supervise ex-inmates who are a serious threat to public safety, who are currently not likely to receive supervision, and it will help provide a mechanism to fund the post-incarceration supervision. Because incarceration is so expensive relative to community supervision, marginally reducing the in-prison time of some offenders' sentences could finance post-release supervision for those offenders and other offenders as well.

5. Support and Encourage Inmate Rehabilitation Programs that Have a Proven Track Record of Reducing Future Crime Rates

- Rehabilitation, if successful, is our best chance at long-term crime control. Criminal justice experts generally agree that one of the best tools to prod certain inmates to engage in productive behavior is discretionary release. The possibility of discretionary release creates incentives for inmates and makes them accountable for their efforts to reform. It also provides incentives to institutions to help inmates who choose to reform themselves.

- Expanding the scope for discretionary release to provide incentives for inmates and correctional authorities will require some change to existing sentencing law. One could accomplish this by adopting something along the lines of the recommendation of the Massachusetts Sentencing Commission, which builds

scope for discretionary release into the guidelines it proposes. This could also be accomplished without overall reform of sentencing law through changes to a large number of statutes covering individual crimes. At the same time the scope for discretionary release is expanded, it is critical that strict standards are applied to determine whether a particular inmate has earned discretionary release. Expanding the number of inmates eligible for discretionary release does not imply that the number released in this capacity will increase, nor does it mean that standards will be lower. In fact, because all prisoners would have mandatory supervision, the Parole Board should strongly consider increasing its standards for discretionary release.

- Being released under a discretionary decision by the Board of Parole should have no impact on an offender's mandatory term of post-incarceration supervision. If an inmate is offered discretionary release by the Board of Parole, he should have a longer time under community supervision than he would have without discretionary release. The Board of Parole might want to use different categories for these populations. Drawing such a distinction will serve as a reminder that those in the former category have been working hard toward successful reintegration within the larger society.

- Support programming within prisons that are known to help reduce the chances of recidivism. For instance, research finds that if prisoners improve their reading and language skills, they are less likely to be rearrested after they are released from prison. Correctional institutions have a responsibility to allow prisoners to use the time available to engage in productive activity, with the goal of changing their long-term behaviors. At the same time, efforts should be made to eliminate ineffective programming.

- Across the state, there are examples of innovative programs and partnerships across agencies, public and private, that help prisoners successfully reintegrate back into the community. In some cities, such as Lowell and Boston, the correctional facilities, the police department, the prosecutors, community-based organizations (both secular and religious), and other agencies are working together to remind prisoners who are about to be released that the police are serious about crime reduction, and support services are available to those who want to help themselves. While these efforts do not replace the need for a system of mandatory post-incarceration supervision, they are important complementary efforts and should be replicated across the state.

- Encourage the DOC and the HOCs to utilize pre-release programs in order to allow inmates to "practice" living on the outside while at the same time being carefully monitored. These efforts will aid in the preparation of inmate release. At the same time, it is important for these efforts to operate within a system of intensive supervision that protects the public. If pre-release is done in the absence of such supervision, it is a dangerous mistake.

6. Establish Systemwide Standards for Accountability Through Research and Reporting

- Along with its coordination activities, the Executive Office of Public Safety should establish a research office. An important early job is to monitor duplication of ex-offenders under the supervision of the Probation Department and the Parole Board. EOPS should also help the two agencies develop a protocol for people on both caseloads to minimize unnecessary administrative costs and requirements.

- This new research office should evaluate the effectiveness of various practices and work with the Board of Parole to improve the supervision and programming. One important element to study is the particular requirements of female ex-offenders and how to best organize post-incarceration supervision to improve their chances of success.

- This office should build upon the work of the Sentencing Commission, which has developed a large amount of research infrastructure (data, computer models) on matters concerning criminal justice in the Commonwealth.

- At the same time, the EOPS should work with institutions to evaluate whether changes to correctional practices (such as programming and classification policies and practices) could provide support for the eventual release of the inmate population. More research using credible evaluation methods should be done in order to refine our efforts. This effort would be greatly improved if outside researchers were encouraged to access and utilize the data.

- The EOPS should begin an effort to collect data for the purposes of understanding criminal justice as a whole in the Commonwealth. Rather than doing this on an agency-by-agency basis, craft research projects that help us understand recidivism, the effectiveness of various forms and lengths of surveillance, and the effectiveness of various programmatic initiatives. Make particular efforts to collect comparable data from the various Houses of Corrections, which hold more than half of those behind bars in the state. This effort will build upon—not duplicate—the research capacities of other criminal justice agencies.