



PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

✉ 50 Federal Street, 4th Floor • Boston, MA 02110

🌐 www.plsma.org

📘 fb.me/prisonerslegalservices

📱 @PLSMA

📞 Main: 617-482-2773

📠 Fax: 617-451-6383

State prisoner speed dial: 9004 • County prisoner collect calls: 617-482-4124

Prisoners' Legal Services of Massachusetts Testimony in Support of S.2030/H.1905: An Act establishing a jail and prison construction moratorium

Prisoners' Legal Services of Massachusetts (PLS) supports S.2030/H.1905: An Act establishing a jail and prison construction moratorium.

The Massachusetts Correctional Institution in Framingham (MCI-F) is the oldest women's prison in the nation. The Massachusetts Department of Correction (DOC) has neglected to maintain it properly and, as a result, MCI-F is in disrepair. DOC is now attempting to remedy its neglect by building a new women's prison, but a new prison is not the answer. No matter how well intentioned, any new prison built today will become a site of neglect, environmental degradation, and toxicity in the future. Formerly incarcerated women are leading the charge to show us how we may more effectively invest the Commonwealth's resources to support community safety, health, and well being.

As of July 12, 2021, there were only 124 people incarcerated at MCI-F¹ and yet, DOC wants to spend \$50,000 in taxpayer funds on a design study, and then an additional \$50,000,000 in taxpayer funds to build a new prison for this small population. This does not include the \$117,109 yearly cost of incarceration per person at MCI-F.² DOC claims that this new prison will be "trauma-informed" but, as explained below, there is no such thing as a "trauma-informed prison."

Since 2015, approximately 80 women have contacted PLS reporting instances of abuse, including sexual abuse, and harassment. Many of these incidents are from correctional staff, the majority of whom are male, and many women report further abuse throughout their incarceration, demonstrating the violence inherent in carceral systems. Women often face serious and systematic sexual violence and other abuse prior to incarceration,³ and in many cases, the criminal charges brought against them resulting in their incarceration stem from the state's failure to provide resources to community systems of care and safety. The resources that should

¹ Massachusetts Department of Correction, Weekly Count Sheet, 1 (Jul 12, 2021), <https://www.mass.gov/doc/weekly-inmate-count-7122021/download>.

² Massachusetts Department of Correction, 2019 Annual Report, 7 (2020), <https://www.mass.gov/doc/doc-annual-report-2019/download>.

³ Elizabeth Swavola, et al., Vera Institute of Justice, Overlooked: Women and Jails in an Era of Reform (2016), <https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf>; American Civil Liberties Union, Break the Chains: Communities of Color and the War on Drugs & the Brennan Center at NYU School of Law, Caught in the Net: The Impact of Drug Policies on Women and Families (2004), https://www.aclu.org/sites/default/files/field_document/asset_upload_file431_23513.pdf.

have been available to these women and their communities are instead directed to policing, prosecution, punishment, and incarceration.

During incarceration, women are subjected to further violence, abuse, and trauma by correctional staff and by the prison system as a whole. In prison, women regularly undergo unclothed searches and are monitored while in the shower and while performing bodily functions. According to the DOC, of those identified as female in its records, 70% had open mental health cases, 67% had a serious mental illness (SMI), and 63% were on psychotropic medication as of December 31, 2020.⁴ Many women PLS has spoken to have suffered through DOC's punitive mental health watch (MHW). Incarcerated people are placed on MHW when they are experiencing a crisis, are feeling suicidal, or are in danger of harming themselves. Instead of getting treatment, they are locked in their cell for 24 hours a day, unclothed except for a heavy suicide smock called a "turtle suit", and watched by correctional staff. They have no access to recreation, nothing to read, nothing to write with, and no access to visitation or phone calls. They are given food through a slot in the door, and have to eat with their hands because they are not given utensils. In many cases, the cells are also extremely cold. Last year, the US Department of Justice found that these conditions violated incarcerated peoples' constitutional rights.⁵

Unclothed searches, monitoring during moments that should be private, and a punitive culture are all inherent and trauma-inducing elements of incarceration that will be a part of any prison DOC builds. There is no such thing as a "trauma-informed prison." Prisons, by their very nature, have failed since their inception to heal trauma and instead exacerbate trauma. Multiple testimonials from currently and formerly incarcerated women make clear that a new women's prison will do nothing to solve the causes of their incarceration, and they are the experts on identifying what they actually need.

Research has shown that high rates of imprisonment "break down the social and family bonds that guide individuals away from crime, remove adults who would otherwise nurture children, deprive communities of income, reduce future income potential, and engender a deep resentment toward the legal system."⁶ At the individual level, there is evidence that incarceration itself is criminogenic, meaning that spending time in jail or prison actually increases a person's risk of engaging in crime in the future. Incarceration contributes to the cycle of violence and is thus ineffective in upholding public safety. Using resources in this way is ineffective and does not make communities any safer. Conversely, investing in communities has proven to be extremely successful in reducing violence and the risk of incarceration. A recent study showed that community nonprofits focused on crime prevention, neighborhood development, substance use disorder, workforce development, and youth had a "substantively meaningfully negative effect" on murder, violent crime, and property crime.⁷

⁴ Massachusetts Department of Correction, Prison Population Trends, 22 (2021), <https://www.mass.gov/doc/prison-population-trends-2020/download>.

⁵U.S. Department of Justice, Investigation of the Massachusetts Department of Correction, 4, 11 (2020), <https://www.justice.gov/opa/press-release/file/1338071/download>.

⁶ Don Stemen, Vera Institute of Justice, The Prison Paradox: More Incarceration Will Not Make Us Safer (2017), https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf.

⁷ Patrick Sharkey, et al., American Sociological Review, Community and the Crime Decline: The Causal Effect of Nonprofits on Violent Crime (2017), <https://gerardtorratsespinosa.files.wordpress.com/2019/02/sharkey-torrats-espinosa-takyar-2017-asr-nonprofits.pdf>.

There are already underutilized mechanisms on the books that can be implemented to decarcerate safely, such as the primary caretakers law, clemency, parole, medical parole, and community based placement. With a five-year pause on prison and jail construction, and a reallocation of resources, communities can build additional solutions, including systems to focus on healing and addressing underlying causes of harm and violence. Over the course of eight years, Massachusetts's incarceration rates dropped by 21%, and yet spending on incarceration increased by 25%.⁸ Taxpayer funds currently being funnelled towards building a new women's prison should instead be invested in community systems of care and safety, like safe and stable housing, therapeutic services, substance use treatment, education, and employment opportunities.

Massachusetts has always been a national leader when it comes to progressive change and innovation, including in the realm of criminal justice. Many of the Commonwealth's prisons were built in the name of reform, and those same prisons are now spaces of environmental degradation, brutality, inadequate healthcare, and infectious disease outbreak. With the prison population in Massachusetts consistently declining, now is the time to pause construction and show the country what a different way forward looks like. PLS is committed to the safety, human rights, and dignity of all women, and supports S.2030/H.1905: An Act establishing a jail and prison construction moratorium.

Sarah Nawab, Esq.
Prisoners' Legal Services of Massachusetts
Equal Justice Works Fellow, Attorney
Sponsored by General Electric and Choate Hall & Stewart
October 5, 2021

⁸ Benjamin Swasey, *Over 8 Years, Mass. Spending On Incarceration Is Up 25 Percent Despite Inmate Numbers Dropping 21 Percent*, WBUR (May 22, 2018), <https://www.wbur.org/news/2018/05/21/new-massachusetts-prison-spending-report>.