



## EXPLORING ALTERNATIVES TO INCARCERATION (ATI) FOR WOMEN IN MASSACHUSETTS<sup>1</sup>

*“Prison is not an effective remedy for the drug addiction and economic distress that contribute to the crimes women commit. It makes much more sense to address the root issues by providing community-based drug treatment and investing in alternatives to incarceration” (Women’s Prison Association, 2007)*

### Principle Factors Supporting the Use of ATI (U.S. and MA.)

- **Prison and jail overcrowding.** An estimated two million people are housed on a daily basis in federal, state and local correctional facilities,<sup>2</sup> with an estimated ten million cycling in and out each year.<sup>3</sup> The growth in Massachusetts prison population mirrors national trends. In 2004-2009, the Massachusetts prison population increased from 8,600-10,000 (17 percent) and is projected to increase to 13,400 by 2018.<sup>4</sup>
- **The cost of correctional facilities.** If the Massachusetts prison population continues to increase at the projected rate, the cost is expected to exceed the current expenditures by \$45 million each year for the next ten years.<sup>5</sup> The annual cost per inmate is one of the highest -- almost \$46,000 compared to the U.S. average of \$29,000.

### Intervention Goals

1. **Treatment instead of prison.** The recognition that people with addictions and mental illness should be directed to treatment rather than prison. Over half the people in U.S. state prisons and almost two thirds of those in local jails had a mental health problem, compared to 10 percent of the population.<sup>6</sup>
2. **Reduce costs.** Financially strapped corrections agencies are seeking short- and long-term solutions to ameliorate costs,<sup>7</sup> share costs,<sup>8</sup> transfer costs to other agencies,<sup>9</sup> utilize social Returns on Investment,<sup>10</sup> and seek private investment financing.<sup>11</sup>
3. **Address family impacts.** Measures to retain contact support children’s caregivers, and ensure accountability among child welfare agencies re: custody status and adoptions.<sup>12</sup>
4. **Address community consequences.** Lower the costs to the community of absent wage-earners, and divided families. Careful implementation of Criminal Offender Record Information (CORI) to ensure people are provided fair opportunities to seek employment and housing.<sup>13</sup>
5. **More effective data collection.** The trend in evidence-based practice is pushing policy makers towards interventions with demonstrated effectiveness.

### Defining ATI

There are multiple definitions of diversion practices – from pre-arrest practices or ‘front end’ diversion to post-incarceration practices, or “back-end” measures. A review of ATI practices involves a complex and diverse mix of agencies, expertise, and goals.

1. **Pre-arrest and pre-arraignment diversion** – refers people exhibiting mental distress or disorderly behavior to clinical

programs for assessment and treatment rather than arrest.

- **Pre-trial diversion or intervention; deferred prosecution or disposition before judgment** – after a detailed assessment a person is referred to community-based resources or is given a suspended sentence.
- **Probation, community corrections, alternative dispositions, intermediate sanctions and accelerated rehabilitative disposition** -- allows offenders to remain in the community while under the supervision of the courts, usually under the auspices of probation.
- **Incarceration, prison and jail** are included in a review of alternatives to incarceration because imprisonment may be a joint sentence with probation and parole. Also, pre-release programs are regarded as essential in efforts to reduce recidivism.

### Rationale: Increasing ATI for Women in Massachusetts

- **“Over-incarceration” is a problem.**  
In 2009, almost half of the women who were sentenced to “county time” (minimum security) were held at the state prison MCI-Framingham (MCI-F) in medium/maximum security because their counties do not hold women. In 2008, it was estimated that half of the women were held in the Awaiting Trial Unit because they could not pay \$50 bail.
- **Projected growth in women’s population.**  
The increasing numbers and rate of growth in Massachusetts mirror the U.S. trend. In 1977-2004, the Massachusetts female prison population grew by almost 400 percent.<sup>14</sup> The rate of increase is projected to increase faster than for men until 2019 (2.8 percent per year, compared to 2.4 percent for men). In 2019 the MCI-F population is projected to be over 800 women, including 340 women from the counties.<sup>15</sup>
- **Women’s treatment needs.**  
Two thirds of the women held in MCI-F have an open-mental health case requiring treatment (compared with 25 percent of male prisoners).
- **Women’s offenses and sentences**  
Women are particularly suitable for ATI because their offenses are predominantly non-violent. In 2008, only 15 percent of offenses for which women were imprisoned involved violence (assault and battery and armed robbery); 31 percent involved property; and 22 percent involved drugs. 32 percent of offenses were ‘other’ -- operating under the influence of alcohol and drugs, motor vehicle, and prostitution.

➤ **Widespread family impact**

An estimated two-thirds to three-quarters of women offenders in Massachusetts are mothers, over half of whom likely lived with their children prior to arrest. Thus, in 2006 an estimated 15,000 children in Massachusetts were affected by their mothers' incarceration. Half of the women inmates at MCI-F do not receive visits from their children, and are at risk of permanently losing custody of their children.<sup>16</sup>

Probation = \$1,200 per person pr yr  
Risk/Needs Probation = \$1,330 per person  
Community Corrections = \$4,742 per person  
DPH Residential, pregnant mos. = \$47,000 per family  
DPH/DMH residential mos/infants = \$28,000 per family  
DOC Women and Children = \$48,000 per family  
(Compare with county incarceration, est. \$27,000-\$45,000 and DOC incarceration, \$46,000+ per person per yr.).

## Research Findings: ATI and Women in Massachusetts

Women could benefit from more ATI opportunities in Massachusetts.

➤ **Front-end" diversion is rare.**

- Bail opportunities need to be more fully explored since it offers the opportunity for an early and fundamental shift in ATI options for women.
- Although the police diversion programs in Massachusetts are well-regarded their funding is tentative and they reach few of the people who need them. The available data suggest they are cost-effective in the short-term – by avoiding costly and inappropriate incarceration; and in the long-term – through treating mental illness instead of dealing with the social and criminal impact. They do not routinely collect data on women, but estimate they are 50 percent of caseload.
- Court-ordered pre-trial assessment is permitted, but is utilized in less than 10 percent of all probation cases. There are no available data on how specific courts use this option and for whom it is used.

➤ **Post-sentencing is the most common ATI option, but there are stumbling blocks**

- Probation is the most frequently used and most accessible post-sentencing ATI practice, and it is the least expensive. Although individual offices develop programs, this information is not collected and assessed. There are few data on its practices, referral patterns and results, and no gender-based analysis.
- The intermediate sanctions approach offered to offenders with substance abuse histories by the Office of Community Corrections is well-positioned for ATI. It provides for accountability for participants' substance use and program attendance; and its specific 'women's track' programming demonstrates a gender-and culturally responsive approach to its clients. "By the time women receive a 'real' sentence they are entrenched in their lifestyles, addictions, and other problems."

➤ **Post-incarceration ATI**

- Pre-release programs with strong ties to the community – as in Hampden and Suffolk Counties – provide examples of community-based programs that work with women in pre-and post-release phases, and provide continuity of services.

➤ **ATI options are less costly than incarceration (if cost of housing children is factored in).**

Police Diversion = \$60,000 per program.  
Pre-trial Probation = \$1,200 per person pr yr

## Summary

There is a profound shift in the U.S. climate in ways of thinking about incarceration and in seeking alternatives that provide resources, treatment and long-term effectiveness. However, women are effectively excluded from the ATI literature in the U.S., despite the fact that their rapidly increasing population, offense types, family circumstances, treatment concerns, and the inadequacy of corrections resources make women particularly appropriate candidates for diversion.

The arguments for ATI are especially significant for women in Massachusetts, and this is a timely moment to consider these questions because the Executive Office of Public Safety and Security – which oversees both county and state corrections – is reviewing options to resolve this concerns. Although building a new regional facility for women is one option being considered, now is the time to examine the feasibility of ATI options.

Several existing cost-effective community-based programs funded by the Departments of Mental Health, Public Health, Probation, the Police and Correction provide the mix of treatment, parenting, and life-skill resources much-needed among women. Current data reveal that Probation and Community Corrections could, with additional gender-responsive training and resources, provide cost-effective, equitable, and sound program models.

Such opportunities can only be addressed through the collaboration with multiple groups of experts, careful goal setting, bail policy changes, more pretrial action, relevant assessment instruments, and gender-responsive training. Finally, it is crucial to regard criminal justice agencies as learning organizations that benefit from with informative and manageable data collection processes.

<sup>1</sup> This Fact Sheet summarizes a report available from Erika Kates, Ph.D. Wellesley Centers for Women, [ekates@wellesley.edu](mailto:ekates@wellesley.edu), and at [www.wcw.online.org](http://www.wcw.online.org).

<sup>2</sup> Warren et al., 2009; Executive Office of Public Safety and Security, 2010.

<sup>3</sup> Wakeman & Rich, 2011.

<sup>4</sup> Ware et al 2009; Peterselia, J. 1998; Massachusetts Executive Office of Public Safety and Security, 2010.

<sup>5</sup> Massachusetts Executive Office for Administration and Finance, 2009.

<sup>6</sup> James, D & Glaze, L. 2006.

<sup>7</sup> Clem, 2009

<sup>8</sup> GAINS, 1999

<sup>9</sup> SAMSHA (Substance Abuse and Mental Health Administration).

<sup>10</sup> New Economics Foundation, 2009

<sup>11</sup> Liebman, 2011.

<sup>12</sup> Kates, 2005, 2007, 2011.

<sup>13</sup> Concerted effort in Massachusetts legislation, 2010.

<sup>14</sup> Massachusetts DOC, 2009.

<sup>15</sup> Ware et al, 2009.

<sup>16</sup> Kates et al, 2007