
EXPLORING ALTERNATIVES TO INCARCERATION (ATI) FOR WOMEN IN MASSACHUSETTS

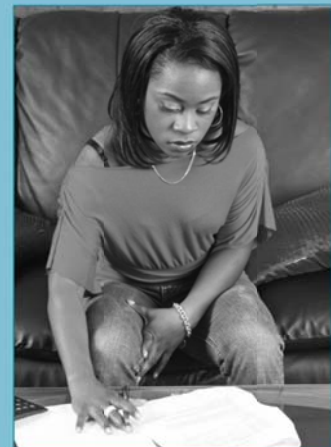
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“Prison is not an effective remedy for the drug addiction and economic distress that contribute to the crimes women commit. It makes much more sense to address the root issues by providing community-based drug treatment and investing in alternatives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

1. INTRODUCTION

The project director, Erika Kates, Ph.D., originally became interested in alternatives to incarceration (ATI) for women when she directed a pre-trial diversion program for women in the late 1970s. The program was operated by the Justice Resource Institute, a non-profit agency, and was one of only two diversion programs in the U.S. focusing on women (the other was in San Francisco). Most of the staff was paraprofessional: women of color whose strengths were their strong community links, street smarts, and the ability to relate to the women clients. Women were recruited to the program through the consistent efforts of program outreach workers in the Boston courts.

The program goal was to prevent the women, most of whom had histories of prostitution and substance abuse involvement, from an adjudication resulting in a criminal record. At arraignment, judges agreed to impose a suspended sentence for an agreed-upon period. If the women showed progress toward achieving their educational, employment, and counseling goals, they could have their cases dismissed and avoid a criminal record.

The Boston-based diversion program emerged in response to a national trend. In 1972 a federal law was enacted permitting diversion in drug possession cases; and state laws followed with diversion for misdemeanor offenses, and for juveniles. The drug diversion programs permitted misdemeanors and felonies to be included and essentially bypassed incarceration in favor of treatment. On the other hand, misdemeanor diversion operated as a suspended sentence that could be invoked with an infraction of program rules.

This policy shift was a response to several factors: the desire to rehabilitate offenders; to make the legal process less formal and more responsive to victims, and, especially for juveniles, the influence of **labeling theory**. The essential premise of this theory was that defining people at the margins of criminality as criminals could become a self-fulfilling prophecy, as prisons were regarded as prime venues for learning criminal behaviors and developing criminal self-identities.

In 2008, Dr. Kates assigned a student a summer task of exploring diversion programs for women in the U.S. The results revealed that “diversion” was used primarily for juveniles, and the term “alternatives to incarceration” yielded a richer literature for adults.

This project represents an extension of these earlier inquiries to identify ATI options for women in Massachusetts. This project builds also on an earlier project to identify promising gender-responsive, community-based programs for women inmates in Massachusetts.¹ One of the findings of that project was that five of seventeen programs *providing resources to women prior to arrest or sentencing, also were used to divert women from incarceration*. This knowledge provided the incentive for undertaking the ATI project and this report.

Currently two significant paradigm shifts are dominant in the U.S. criminal justice field. The first is the imperative to reduce the size of the incarcerated population and its costs. The second is the search for transparency of data and clear information about interventions that are cost-effective and have demonstrated results, i.e., evidence-based practice.²

¹ Kates, 2010.

² Crime and Justice Institute, 2004

This project recognizes the significance of these trends, and introduces a gender perspective to the analysis. As the quote above shows, this concern is shared by policy analysts in other states. It is fast becoming a critical theme not only within criminal justice and corrections, but throughout government because of its financial, public safety, and equity implications. It is becoming also an international concern, with the U.N. issuing guidelines for the use of gender-responsive resources women's within prisons, and greater use of alternatives to imprisonment.³

Project Purpose and Goals

The purpose of this report is to provide information to those who are troubled by the costs and consequences of incarceration in Massachusetts --particularly for women -- and who are questioning the current assumptions that women's prison populations will continue to grow and more prisons will have to be built. The project goals were to:

1. Review the current literature on alternatives to incarceration (ATI), with a special focus on references to women.
2. Document the current utilization of ATI initiatives in Massachusetts, with particular attention to those available to women.
3. Present the initial findings to an expert audience for review and discussion and to develop policy recommendations.

The research was directed by Erika Kates, Ph.D., senior research scientist, at the Wellesley Centers for Women with the assistance of Crystal An, a graduate student at the University of Massachusetts, Boston, and an active advisory group of criminal justice analysts, legislators, women's advocates, and clinical specialists. This project and the previous review of gender-responsive, community-based programs were funded by the Gardiner Howland Shaw Foundation.

Intended Audience

The report is intended for a diverse audience of criminal justice, corrections, mental health and public health administrators, clinical practitioners, women's organizations, former women inmates, and others concerned with achieving more equitable treatment for women and more gender-responsive approaches. This report incorporates the comments and suggestions of the audience that attended a forum to present the project's initial findings.

³United Nations Office on Drugs and Crime, 2006.

II. ALTERNATIVES TO INCARCERATION (ATI): DEFINITIONS, SCOPE & PREMISES

The ATI field is significantly more complex in the currently political, economic and social climate than it was in the 1970s. The project's first task was to undertake a literature review to determine the range of current options. More than sixty references were examined, covering a wide range of topics that included: national reviews of diversion programs; meta-analyses of evaluation studies; case-studies highlighting state initiatives; and international policy statements. The review showed clearly a growing worldwide concern with finding alternatives to incarceration (see the Bibliography, Appendix A).

Reasons for Concern

The literature showed that the principle factors driving the paradigm shift included:

1. *Prison and jail overcrowding.* An estimated two million people are housed on a daily basis in federal, state and local correctional facilities,⁴ with an estimated ten million cycling in and out each year.⁵ Certainly, the growth in the incarcerated population is not matched by a comparable increase in crime. The 'war on drugs' contributed to this incarceration 'epidemic, with its mandatory minimum sentencing practices, "three strikes and you're out" policies, and parole limitations. 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 2018.⁶
2. *Costs of correctional facilities.* As a consequence of the growing numbers of inmates, policy makers are being forced to consider the financial and social costs. The total cost of imprisonment in the U.S. now exceeds \$50 billion a year, and mental health and corrections professionals alike are seeking ATI that are effective and affordable.⁷ 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.⁸
3. *High rates of recidivism.* The three-year recidivism rate is 43 percent (as measured by former inmates who are reincarcerated). Although Massachusetts has a relatively low incarceration rate, ranking 48th in the nation, the annual cost per inmate is one of the highest --almost \$46,000 compared to the U.S. average of \$29,000.⁹
4. *Inadequacy of corrections responses to mental illness, substance abuse, trauma.* Growing awareness of the incarcerated population suffering from mental illness and the channeling of disturbed people into corrections instead of health institutions is a major impetus in driving ATI policies.¹⁰

⁴ Warren et al., 2009; Executive Office of Public Safety and Security, 2010.

⁵ Wakeman & Rich, 2011.

⁶ Ware et al 2009; Peterselia, J. 1998; Massachusetts Executive Office of Public Safety and Security, 2010.

⁷ Greene & Pranis, 2006; National Association of Pre-Trial Justice Agencies, 2009.

⁸ Massachusetts Executive Office for Administration and Finance, 2009.

⁹ Ware, et al.

¹⁰ GAINS center, 2007; CASES, 2010; Pretrial Justice Institute, 2009

5. *Inequitable practices and the disproportionate racial composition.* People are incarcerated because they cannot make bail or pay fines. There are striking sentence discrepancies for offenses involving cocaine versus crack cocaine; and for white-collar theft versus 'street crime.'¹¹ People of color are now 60 percent of the prison population.¹²
6. *Community and Family Impacts.* Each year 1.7 million children are affected by a parent's incarceration in a federal or state prison, with almost the same number affected by a parent in a local jail. Children experience anxiety, shame and anger as a result. They often do not see their parents, and the severe long-term effects are troubling and costly to society.¹³

Intervention goals

The goals guiding ATI practices are based on the problems described above.

1. *Treatment instead of prison.* Clearly, the need to direct more people with addictions and mental illness to treatment rather than prison. Over half the people in state prisons and almost two thirds of those in local jails had a mental health problem, compared to 10 percent of the population.¹⁴
2. *More effective programming to reduce recidivism.* Evidence-based practice is pushing policy makers towards intervention areas showing demonstrated effectiveness.
3. *Reduce costs.* Financially strapped states and counties are seeking short- and long-term solutions to ameliorate their costs¹⁵, share costs,¹⁶ transfer costs to other agencies,¹⁷ Social Returns on Investment,¹⁸ and private investment financing.¹⁹
4. *Address family impacts.* Specifically, introduce measures to ensure visiting and contact is maintained, children's caregivers are provided support, and child welfare agencies monitor custody status and adoptions.²⁰
5. *Address community consequences.* Bring people back into the community to lower the community costs of absent wage-earners; and monitor the implementation of Criminal Offender Record Information (CORI) to ensure people are provided fair opportunities to seek employment and housing.²¹

¹¹ CASES, 2010; GAINS center, 2010; San Francisco Pretrial, 2011.

¹² The Sentencing Project, 2011

¹³ Glaze L. & Marushak, L. 2010; Kates, 2011; U'K' Prison Reform Trust.

¹⁴ James, D & Glaze, L. 2006.

¹⁵ Clem, 2009

¹⁶ GAINS, 1999

¹⁷ SAMSHA (Substance Abuse and Mental Health Administration) has invested in treatment programs with strong evaluation components.

¹⁸ New Economics Foundation, 2009

¹⁹ Liebman, 2011.

²⁰ Kates, 2005, 2007, 2011.

²¹ Concerted effort in Massachusetts legislation, 2010.

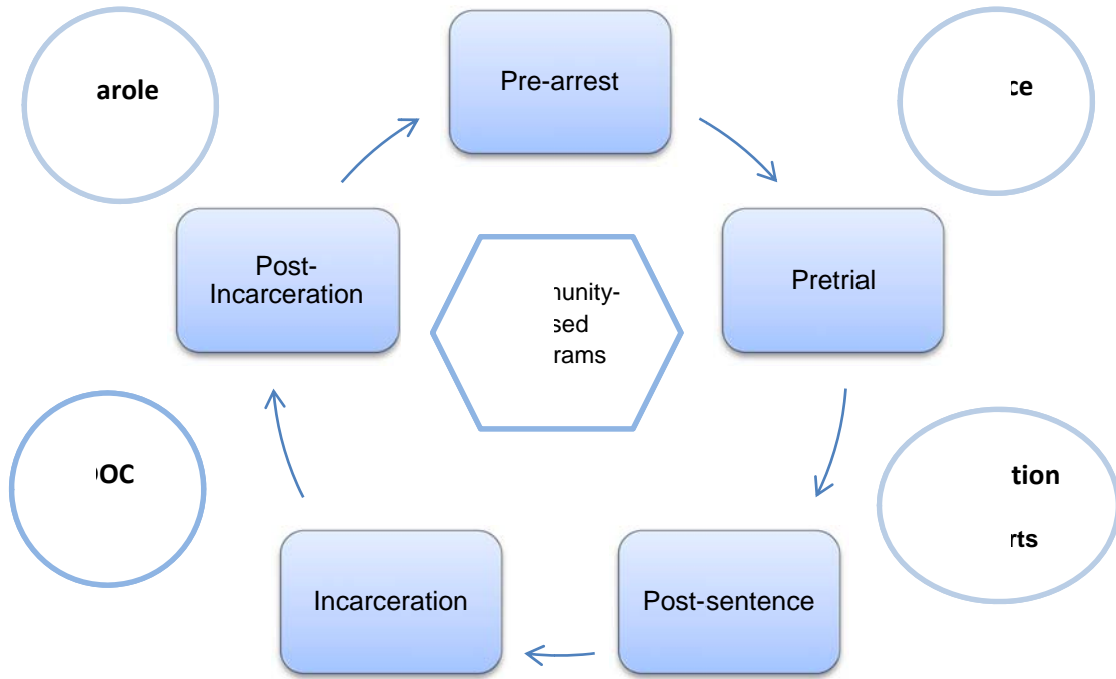
Defining ATI

There are multiple definitions of diversion practices – from pre-arrest practices or ‘front end’ diversion to post- incarceration practices, or “back-end” measures involving a complex and diverse mix of agencies, expertise, and goals (See Figure 1.).

1. *Pre-arrest and pre-arraignment diversion* -- refers people exhibiting mental distress or disorderly behavior to clinical environments for assessment and treatment, rather than arrest. In some states people charged with chronic parking violations and defacing property and unable to pay fines engage instead in community service.²² This move bypasses the criminal justice system and avoids people being labeled as offenders.
2. *Pre-trial diversion or intervention; deferred prosecution or disposition before judgment* -- brings people who likely have committed an offense into court for detailed assessments resulting in referrals to community-based resources or suspended sentences.
3. *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.
4. *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.
5. *Post-incarceration and parole* -- refers to the reentry period -- particularly in the early stages of release – when former inmates are most likely to relapse into substance abuse and commit new offenses. Identifying effective programming and supervision is regarded as crucial for reducing recidivism (and lowering incarceration rates), and is the focus of much of the current evidence-based research.

²² San Francisco Pre-Trial Diversion program; the program is partially financed through fines paid by the customers in prostitution cases

Figure 1. Alternatives to Incarceration Flowchart



III. RATIONALE: ATI FOR WOMEN IN MASSACHUSETTS

Women are effectively excluded from the ATI literature 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.

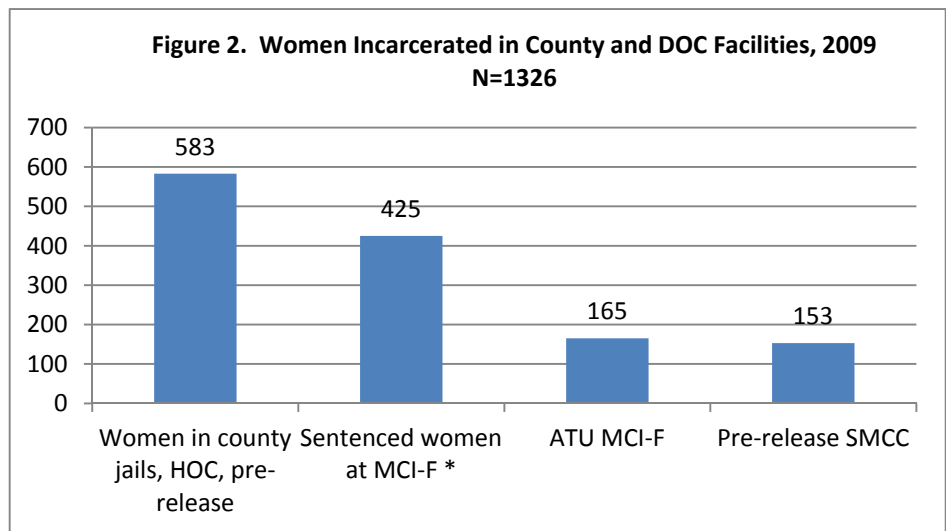
A fundamental premise guiding this report is that women should be part of this ongoing ATI review and assessment, yet significantly, only a handful of the sixty studies reviewed discuss women. This section examines the population trends, and ongoing concerns of incarcerated women in Massachusetts, and makes the case for women receiving more attention and resources in general and more access to ATI in particular.

Increase in Women’s Incarceration

Historically, the neglect of women prisoners has often been ‘justified’ by their relatively small numbers. In fact, the incarcerated female population increased even more rapidly than the male population, and over the past three decades has almost doubled in relation to the male population.²³ Currently, The U.S. has the highest number of incarcerated women in the world, and the highest rate of incarceration for women.²⁴ In 2008,

the estimated daily count of women in U.S. federal and state prisons, and local jails was 203,000, with a likely annual count of one million. 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 with an average *annual rate of increase* of 8.7 percent a year.²⁵ The rate of increase has slowed since 2007, but it 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-Framingham (MCI-F) population is projected to be over 800 women, including 340 women from the counties.²⁶ In 2009 the *average daily count* of incarcerated women and awaiting trial women held at MCI-F state prison, and the six county Houses of Correction (HOC) was a 1,326 (see Figure 2). When annual turnover is factored in (X6), the annual

incarcerated population is likely closer to 8,000.



²³ Women’s Prison Association, 2006.

²⁴ Wormsley, 2006

²⁵ Massachusetts DOC, 2009.

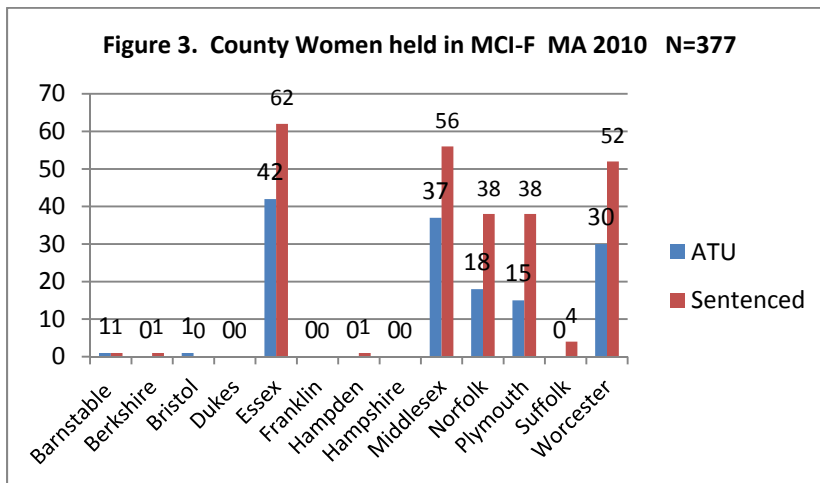
²⁶ Ware et al, 2009.

“Over-Incarceration” of Women

In November 2009, almost half of the women who were sentenced to “county time” (minimum security) were held at the state prison in medium/maximum security at MCI-F, because their counties do not hold women in their jails or houses of correction. A senior DOC administrator estimated that in 2008, half of the women were held in the ATU because they could not pay even \$50 bail.

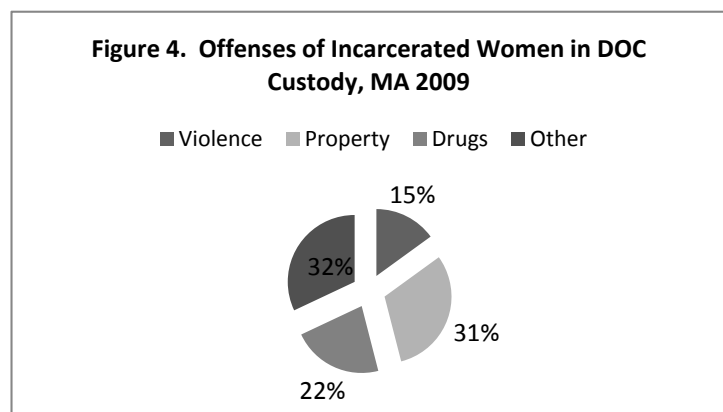
In comparison, only 0.2 percent of men with a county sentence were held in a state prison. Figure 3 shows the number of women from Essex, Middlesex, Norfolk, Plymouth and Worcester counties who were held at MCI-F in 2009. This is problematic because these women, unlike men from the same counties, are removed from their immediate community, inhibiting access to their families and resources.

Over 20% of the women held at MCI-F were in the Awaiting Trial Unit (ATU) because their counties had no facilities to hold them. Further, the ATU is consistently at 250-280 percent of capacity, and since sentenced and non-sentenced women are not allowed to mingle, ATU women, who may be held for periods ranging from a few weeks to over twelve months, have access to few resources. In comparison, only 3 percent of men awaited trial in state facilities.



Women’s Offenses and Sentences

In 2008, only 15 percent of offenses for which women were imprisoned involved violence (assault and battery and armed robbery); 32 percent of offenses were ‘other’ -- operating under the influence of alcohol and drugs, motor vehicle, and prostitution; 31 percent involved property; and 22 percent involved drugs (see Figure 4). Many of the ‘other’ offenses and property offenses are related to substance abuse. In 2008, almost 90 percent of women were committed to a county sentence; women’s county sentences average 24 weeks, while the average state sentence for women is 4.2 years (compared to 4.7 years for men).



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 losing contact with and permanently losing custody of their children.²⁷

Health Treatment Inequities

State correctional reviews in 2004, 2005 and 2008 highlighted the ongoing poor physical conditions and lack of mental health and pre-and post-partum care at MCI-F.²⁸ Women are still shackled during childbirth when transported to local hospitals. In 2008, over two thirds of the sentenced women in MCI-F had a formal mental health diagnosis, compared to just over one quarter of the sentenced men. Women's experiences with physical, sexual abuse, intimate partner violence, either as children or as adults, is a critical factor in their histories of substance abuse, mental illness, prostitution, and theft. Effective treatment should be based on gender-responsive, trauma-informed risk/needs assessments that take into account parenting, education, employment, housing, and therapeutic concerns.²⁹

Costs

A fundamental premise of ATI is it would be more socially and financially cost-effective to provide women with treatment, education, employment, and resources to shore up their families instead of paying the enormous costs of incarceration, particularly since the costs of incarcerating women are estimated to be higher than those of men.³⁰

Summary:

In Massachusetts, as in other states, the numbers of women in prison are increasing rapidly. Each year, hundreds of women are imprisoned and await trial in a state prison because some counties do not house women in their jails and houses and correction. These women experience greater difficulties in maintaining connections with families and community-based resources than their male counterparts. Simply stated, many women are "over-incarcerated" by being housed in a facility whose security level is not appropriate for their offenses and circumstances.

It is difficult under the best of circumstances to build the types of trusting relationships necessary for healing and moving ahead with their lives in maximum/medium security correctional facilities. In addition, the development of ATI options for women requires knowledge and application of gender-responsive and accurate Risk/Need assessments.³¹ Finally, since a majority of the women who come into contact with these agencies are single parents, they need to support themselves through improving their education, acquiring employment skills, and finding affordable, safe housing.

²⁷ Kates et al, 2007

²⁸ Massachusetts DOC, 2004, 2005, 2007.

²⁹ Severson et al, 2007.

³⁰ Cost estimates of housing women were as high as \$60,000 per year were provided by sheriffs in discussions convened by Representative Kay Khan, June 2011.

³¹ Hardyman & Voorhis, 2004;

There is a profound shift in the U.S. climate in ways of thinking about incarceration. Yet women are not as prominent in this debate as their offenses, numbers and circumstances would indicate. Although there is a rich body of evidence regarding the types of interventions that are effective for women with histories of trauma, abuse, addictions and mental illness, these resources have not kept pace for women offenders. It is essential that women in Massachusetts receive *minimal appropriate incarceration for their status and access to alternatives to incarceration*. Women benefit from holistic approaches to treatment that address co-occurring mental illness and substance abuse disorders and relational-cultural models that build trust and repair trauma.³²

³² Relational Cultural Theory developed by the Stone Center, Wellesley College; and trauma-informed training, developed by the Institute for Health and Recovery, Cambridge. ; Sanctuary Model addressing Safety, emotion, Loss and Future.

IV. METHODOLOGY

This section explores the extent to which ATI options are available to women in Massachusetts. Data collection was informed by evaluation research methods developed in the area of family preservation and family resource programs.³³

The Building Blocks of Data Collection

The premises of this approach are a) it is essential that the relevant data building blocks are in place in order to measure a program's effectiveness, and b) different types of information become available at different stages of a program's maturity.

Building Block 1. *Accountability* – a simple count of who is served by the program, how many service providers are involved, and program cost.

Building Block 2. *Accessibility* – a look at whether the services provided are appropriate for and accessible to the clients who need them.

Building Block 3. *Quality* – a more in-depth look at curriculum content, therapeutic approach, staff skills, program environment, and the satisfaction expressed by staff and clients with the resources provided.

Building Block 4. *Short-term effects* – an examination of the progress clients have made and the milestones achieved during the time they attend the program, and shortly after they leave.

Building Block 5. *Outcomes/long-term results* – a documentation of the endurance of individual improvement, and adaptations to the policy, practices and funding climate (systemic change).

The fundamental premise of this approach is that all these types of data build on each other to provide the information needed for the more advanced stages. It is unreasonable, therefore to attempt to measure effects unless data on accountability, accessibility and quality are available.

Data Limitations

The exploratory nature and limited resources of the project excluded a full and comprehensive data collection effort. The data presented in this report do not include the full continuum of ATI options as defined in Section II of this report; and they certainly do not cover the information building blocks discussed above. The project aim was to collect basic 'accountability' data (Building Block 1).

The complexity of the criminal justice/corrections agencies and the variety of data collection protocols provide challenges for data collection.

³³ Erika Kates worked with the Harvard Family Research Center; and the Tufts University Elliot-Pearson School in developing evaluation models for practitioners; these stages are adapted from Weiss and Jacobs Five-tier approach.

1. Data are unique to each agency and difficult to compare with others. For example, cost data are estimated for program participants/offenders on daily, weekly, monthly and annual bases; and as total budget amounts. Also, most of the reporting formats are based on 'snapshot' data based, i.e., a count on a specific day, and usually underestimate the population concerned. These data are unreliable for the purposes of planning resources and costs.
2. Agencies provide different levels of accessibility to data: in some cases detailed demographic and client status reports can be obtained online, while in other cases specific requests for data must be made.
3. Gender is typically regarded as a simple subcategory. For example, data on gender, race/ethnicity, and age are available separately, but not gender *by* ethnicity and age, and if a gender breakdown is available on the overall caseload, it is not available for sub-groupings of that caseload.
4. Some agencies publish their annual and special issue reports on line, and in a timely manner, while others require special permission and result in lengthy delays.

Data Collection Methods

The information discussed below was obtained from the following methods:

- Review of annual and special issue reports -- from the Departments of Public Health, Mental Health, Correction, Community Corrections, and Parole.
- Specific written and verbal requests for data to probation, community corrections and parole research staff.
- On site meetings with community corrections administrators in the central office and selected offices.
- Site visits to women's programs including a community corrections center, and two residential centers.
- Community corrections program materials, handbooks, and weekly reporting sheets
- Responses to a one-page sheriff survey.
- Meetings with a the Under-Secretary of the Executive Office of Public Safety and Security (EOPSS), police diversion practitioner, the Deputy Commissioner of Probation, Sheriffs Cabral, Ashe and Koutoujian, Western Massachusetts Women's Correctional Center staff, and the Executive Director of the Massachusetts Sheriffs Association.

V. RESEARCH FINDINGS

“All women have trauma history, bundles of issues ...it’s monumental.”

“They have to change their whole way of being...fight tooth and nail... learn to trust others and believe anyone cares. For some women it is the first time anyone has cared [about them].”

“It’s hard work to help people change their core belief system and put structure back in their lives. (Community Corrections staff)”

The information discussed below and summarized in Figure 5 represents preliminary efforts towards **Building Block 1, Accountability** -- a count of women involved, documentation of the available resources and basic cost factors.

Bail

Resources: As stated previously, the reason that many women are held in the ATU at MCI-F is because they lacked the financial resources to secure bail set as low as \$50.00.³⁴ It was not feasible to obtain bail numbers, but this is regarded as a potentially important area for women. Many have strong community and family links (their children), and represent little flight risk. Conversations with corrections and court administrators about the dynamics of granting bail suggest that judges might become more willing to reconsider bail as an option for more women, if they were made more aware of women’s financial circumstances at arraignment.

Jail diversion

Resources: Jail allows people who exhibit disturbed behavior in public or private settings to be diverted to appropriate medical resources for safe-keeping, assessment, referral and treatment. Massachusetts has seventeen police diversion programs for adults. Six cities and towns operate a Co-Response Model where trained clinicians are on call with police officers (sometimes in a dedicated vehicle) and respond to calls when a person is acting in a confused, or disturbed manner. The co-response teams work not only with individuals in distress it also entails discussion with all concerned regarding the behavior and the person’s history, until there is a resolution. These programs are funded by the Department of Mental Health (DMH), as well as private and local funding. Other police diversion programs involve Crisis Intervention or Mental Health First aid, by police officers who are trained to recognize and respond appropriately to signs of disturbance.

Numbers: DMH collects data on the numbers of people seen, the frequency of their involvement with police, actions taken, and the number of people who are trained. Although no data on gender are available, it is estimated that in 2009, women make up 50 percent of the caseload of the Co-response teams-- an estimated 1140. .

Cost: No cost-per-client data are available but the co-response teams cost approximately \$60,000 per year. DMH provides a cost assessment of systemic impact- claiming that diverting 100 people saves \$652,000 per year in emergency room use, ambulance rides, jail booking time, and time spent in jail.³⁵

³⁴ Comment made by Deputy Commissioner Veronica Madden, 2010.

³⁵ DMH, 2009.

Figure 5. Alternative to Incarceration Options: Numbers and Costs

	No. Women	Percent Women	Estimated Cost
Pre-Arrestment			
Bail	-	-	-
Police Diversion , 2009 est.*	1,140	50%	\$60K per co-response program; saves \$600K per 100 clients.
Pre-trial diversion/probation, 2010 est.	1,561	18%	\$1,200, per yr. 2010
Probation			
Probation	16,488	18%	\$1,330
Risk Needs Assessment/probation, 2010	3,415	18%	\$1,330, per yr.
Community corrections/probation, 2010	773	17%	\$4,742, per yr.
Women probationers with GPS/ELMO	182	10%	
Corrections			
MCI-F Awaiting Trial, 2009***	165	43%	
Sentenced, held in state prison, 2009***	918	1%	
Total sentenced, 2009***	1408	10%	\$27,000-\$49,000 per yr.
Pre-release/day reporting, Hampden County			\$18,000-\$19,000, per yr.
Detox Center, Hampden County			\$44,000-\$45,000 per yr.
Post-Corrections			
Parole, 2011****	16	11%	
Reentry Centers****	7	5%	
Parolees with GPS/ELMO****	146	5%	
MCI-F MISSION-CREW Forensic assessments**	55		
Women's Clinical Programs			
Pregnant residential (over 30 days) DPH/BSAS+	2,760	20%	\$47,400 per yr.(\$130 per day)
Steppingstone for Women and Children (DPH/DMH)+	50	N/A	\$28,020 per yr. (\$84 per day)
Women and Children (DOC, DMH)+	70	N/A	\$48,180 (\$133 per day)
Women in Transition, Essex County, 2010	130		
<i>*Based on six co-response programs, 2009</i>			
<i>**Estimated 2010 annual</i>			
<i>***Snapshot data</i>			
<i>****To date, 2011</i>			

Pre-trial Diversion

Resources: Massachusetts General Law, Chapter 276, Section 87 permits pre-trial investigations to assess the extent of defendants' drug dependency, and allows district courts to establish or utilize existing pre-trial diversion programs leading to the eventual dismissal of cases (chapter 276A, sections 1-7). The objective is to divert someone who has been arrested and refer them to a treatment or restitution option. A judge may postpone sentencing to allow for a pre-sentence report containing a full account of substance abuse and treatment needs (Chapter 278, section 18). The Deputy Commissioner of Probation for Research and Training observed that many judges request pre-trial probation supervision for periods of between one and twelve months, and probation officers are frequently assigned these cases in addition to their 'regular' caseload.

Numbers: In 2010, there were 8,673 pre-trial cases in 2010, and 1, 561 of were estimated to be women, (based on women being 18 percent of the total probation caseload).

Cost: \$1,200 per person, per year.

Probation

Resources: This sentencing option is probably the best known and most frequently used ATI. It is frequently combined with fines, suspended sentences, and incarceration. Every court in the Commonwealth had a probation office, and so it is widely accessible to community residents, and responsive to local needs. The Learning through Literature program is popular, and some probation offices have developed family programs.

Numbers: In 2010, 91,600 people were supervised by probation. Of these an estimated 16,488 (18 percent) were women.³⁶ Of these, 27,275 were given a Risk/Needs Assessment (approximately 3,400 women).³⁷ Data analysis provided to this project by the Probation Department showed that just under a *half of the women in this category had been on probation within the previous five years*; over 80 percent had a substance abuse problem; and nearly three quarters had a 'family structure' problem. Probation data showed that women made up 14 percent (125) of probationers using electronic bracelets and 4 percent (57) using GPS devices. The Massachusetts Risk/Needs Assessment Instrument (MRNI) that has been used for many years is generally regarded as outdated and non-gender specific, and the probation department currently is introducing a new instrument.

Cost: \$1,330 per person, per year.

Office of Community Corrections (OCC)

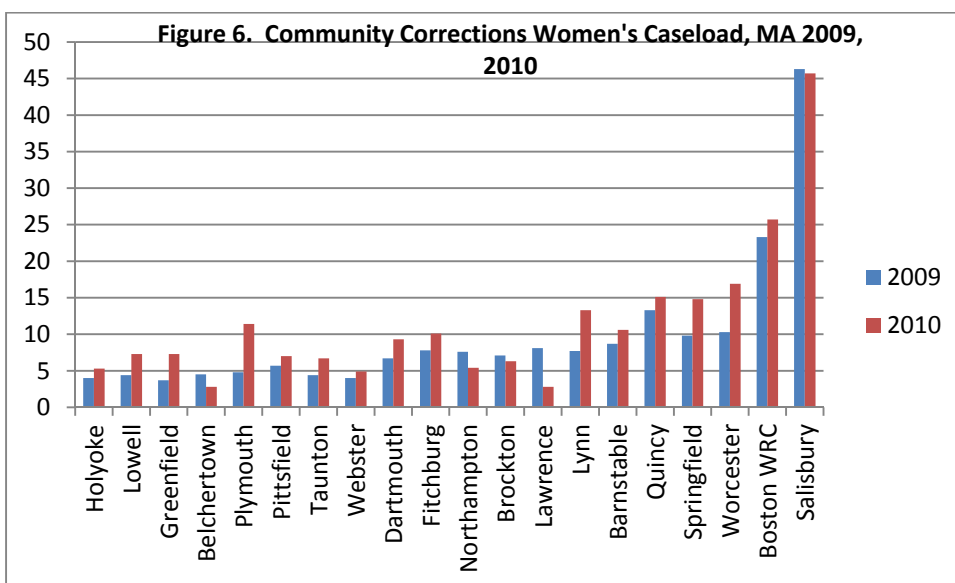
Resources: In 1998, Chapter 211F established the OCC within the Department of Probation apply intermediate sanctions, i.e., to provide more supervision than regular probation and more services to address probationers' needs, while avoiding incarceration. Notably, its operating principles include, "providing gender-responsive and culturally competent services." A sentencing-guideline grid defines eligible offenders/offenses.

The number of offices varies slightly from year to year, depending on available funding. Now there are twenty four offices for adults, including one women-only office and two offices for juveniles. Originally intended to be supervised by the sheriffs, participants are now supervised mostly by probation (81 percent), as well as sheriffs (14 percent) and Parole (5 percent).³⁸ The data for 2009 and 2010 show sizable fluctuations in caseloads, and information was collected to better understand these shifts within and between offices (see Figure 6).

³⁶ The Massachusetts Trial Court Annual Report , 2009

³⁷ Based on the Massachusetts Risk/Need Instrument (MRNI).

³⁸ Community Corrections Annual Report, 2009.



Each office has a different pattern of referrals among these three groups, and even within the same county. Each office employs a probation officer in charge (POIC) who is the liaison between the court and the community corrections office. Almost all participants have substance abuse problems, and attend classes at the offices 3-5 days a week, the frequency depending on their criminal records, employment, education and treatment needs (See section VI for women’s programming).

OCC offices receive significant assistance from local resources. Several colleges, including Quigsgamond, North Shore, Northern Essex, and Roxbury Community Colleges, and the University of Massachusetts Boston waive fees for program participants.

Numbers: The 2009 annual report states that 17 percent of participants were women, an estimated 1,475 out of 8,680. It also provides a gender breakdown for the average monthly caseload of each office. There is wide variation with the number of women ranging from 2-46.³⁹

Cost: \$4,742 per person per year. OCC is about three times as costly as regular probation but this includes the cost of paying vendors for training and supervising the clinically trained caseworkers working with program participants

Massachusetts Correctional Institution-Framingham

Resources: Much of the emphasis in current literature is on reducing recidivism, and many current efforts focus on more effective pre-release and reentry programs. Massachusetts examples of these initiatives include Catch the Hope for pregnant and post-partum mothers, the Forensic Transition Team, at MCI-F to help women link with mental health resources in the community, and the pre-release center and reentry workers who help women transition back to their communities.

Importantly, the DOC issued a report in 2009 that included projected cost estimates of programs with a proven record of success in lowering recidivism, using evidence-based research from the state of Washington, and results from the Massachusetts Steps to Recovery and Parenting Education program.

³⁹ The Essex County Women in Transition pre-release program utilizes the Salisbury office for its drug testing and daily curriculum offerings, and boosts the caseload to 46.

Numbers: The average monthly count of pregnant and post-partum women in the Catch the Hope program is 7-20.

Cost: Estimated at \$46,000 per person per year

Houses of Correction

Resources: The county corrections picture for women is very complex. As previously stated, only half of the counties hold women; and some hold only women who are in awaiting trial or pre-release status. Sheriffs whose counties do not hold women are aware of women's concerns and identified gender-specific programming, housing, local resources, and good medical care as among the most important of women offenders' needs. The sheriffs willing to house women understand this would be a daunting task because of the cost. Since 2010, sheriffs have the option, under the newly enacted Section 20B of G.L. Chapter 127 to hold all pretrial detainees who qualify in a pretrial diversion in their county; and to permit the detainees to participate in community-based programs. Some sheriffs, for example, those from Hampden, Suffolk, Bristol, and Essex counties, are dedicated to tackling the concerns of women and have developed extensive programming and staff training toward that effort.

Numbers: In addition, the number of women held in the Western Massachusetts Women's Correctional Center, Hampden County, has declined. The sheriff 's office claims that this is due to a reduction in women's recidivism -- as a result of the programs offered by the Western Massachusetts Women's Correctional Center and its closely linked after-care resources.⁴⁰ No data were obtained on the utilization of Section 20B noted above.

Cost: Range of \$28,000-47,000 per person per year.

Parole/Reentry Centers

Resources: Effective reentry resources are a key to preventing relapse. Women released on parole, or who voluntarily apply for reentry resources, may be referred to supportive housing, linked with the Department of Children and Families (DCF), and other community-based resources offering support.

Numbers: Data from the 2009 Annual Statistics Report show that on December 31, 2009, women represented almost 9 percent (143) of those on parole; 11 percent (8) of those reporting to regional reentry centers. The report provides data on parole status and broad demographics, but does not breakdown information by gender beyond the December 31 2009 caseload number snapshot. An estimated 5 percent (7) of women wear electronic bracelets or GPS devices. Parole and Reentry Centers have the lowest involvement of women, less than 8 percent; and no cost data were obtained.

Summary

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

⁴⁰ See Kates, 2010.

mental illness instead of dealing with the social and criminal impact. However, neither the proportion of women they assist directly nor their effectiveness for women is recorded.

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 appears to be 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. However, there is a wide differential in numbers of women between offices, which was explained by the difficulty of 'marketing' community corrections in some courts, and the reticence of 'regular' probation to refer clients to them. Another stumbling block to addressing women's needs is the perception among staff that women are not suitable subjects for intermediate sanctions. "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 how community-based programs can work with women in the pre-and post-release phases, and provide continuity of services. Hampden County's data collection includes recidivism data, and shows the rate has declined for their former inmates. In general, Parole and Reentry centers work with very small percentages of women and little information on their work is available (including the current status of a Family Resource model introduced in 2006).

VI. WOMEN-SPECIFIC INITIATIVES

Several program initiatives currently provide resources to women. They range from providing resources to non-criminal justice involved women, to helping women in the post-incarceration phase. Program development for women should be based on an assessment of these resources.

The Department of Public Health, Bureau of Substance Abuse Services (DMH, BSAS)

Resources: The Department of Public Health (DPH) funds programs for women providing gender-responsive, trauma-informed therapeutic, residential and parenting resources. This agency's caseload data provides a sense of the scope of the problems of substance abuse and mental health among women in Massachusetts. Currently, there are three sober living programs for women and their children in the state. The main source of data on women experiencing mental illness and substance abuse is the DPH Bureau of Substance Abuse Services (BSAS)

Numbers: In 2007, over 30,000 women over the age of eighteen years received services related to substance abuse, with almost a third reporting injection drug use. Almost half had been diagnosed with prior mental illness; and over 60 percent had children under the age of eighteen (SEE Figure 7). Almost 800 women were pregnant and of these almost 80 percent had children under the age of eighteen. Over half of the pregnant women reported injection drug use. The data show women's family status, and the type of treatment to which they are referred. The predominant mode of care for both groups of women was outpatient care, with almost half attending these programs. Pregnant women required more long term residential care i.e., for longer than thirty day 20 percent compared to 9 percent of total women

Cost: \$130 per day (est. \$46,800 per person per year).

Figure 7. Women Admitted to Substance Abuse Services, DPH (BSAS), MA 2007

	All Women 18 yrs. and over	Pregnant women 18 yrs. and over
Characteristics	n=30, 763	n=738
Women with prior mental illness	48%	48%
Reporting injection drug use	32%	55%
Women with children under 18 yrs.	62%	78%
Children lived with them	38%	27%
Treatment		
Long term residential (over 30 days)	9%	20%
Short-term residential	40%	28%
Outpatient	45%	48%
Other*	5%	4%

Community Corrections and the Boston Women's Resource Center

Specialized women's resources are offered at most OCC sites; Lawrence, Lynn and Salisbury producing a separate Women's Track Schedule. In addition to GED, job skills, and relapse prevention, women's classes include Parenting, Addiction in the Family, Living in Balance, Health and Hygiene, and Co-dependency. Children do not come to the centers, and the staff does not believe the centers' premises are suitable for children.

With the closure of a Worcester women's only center, there currently is only one women's-only community corrections center, the Boston Women's Resource Center (BWRC). It works with counselors supervised by Bay State Community Services. However, it experienced a steep decline in caseload in late 2010 when it was required at short notice to move from the Court House to a location near the South Bay Correctional Center. Since the nearby Suffolk County HOC does not refer women to the BWRC it relies on referrals from the Boston courts. It has an all-women staff, and is one of the few community correction sites visited where people of color are employed. It is linked closely with many community-based resources, including Harvard University sends interns to tutor women and provides college scholarship money. The BWRC experienced a significant caseload decline in late 2010 when it was required to move from the Court House to a location near the South Bay Correctional Center. BWRC relies on court referrals since the Suffolk County House of Correction does not refer women to it.

Numbers: the average monthly caseload (prior to the move) was 25 or approximately 75 a year.

Cost: the average cost is \$4,742

Steppingstone, New Bedford and Fall River

Resources: This program, located in Bristol County, receives referrals from correctional facilities, parole, drug court, and federal probation throughout the state; some clients are self-referrals. Usually the program has a long waiting list. The New Bedford program alone provides housing for up to twenty women and four infants, together with treatment for chemical dependency and mental illness. Most women have a dual diagnosis, and typically stay in the shelter for a period of three to twelve months to receive intensive counseling and substance abuse treatment. Up to nine women who complete this stage can join the Graduate Program and stay an additional two years. Family connections are facilitated by links with caseworkers from the Department of Children and Families, who help women with their children and, where appropriate, work towards reunification. Women living in the shelter provide support to each other, often forming a tight community and lifelong friendships.

Numbers: the New Bedford house can take up to 20 women and 4 infants/toddlers at a time; an estimated 40 women and 8 children a year.

Cost: \$84.00 per day (est. \$28,200 per person per year), funded by state and private sources.

Women and Children's Program: Westborough

Resources: The custom-built house was built on the grounds of Spectrum Health Services, in 2007. It is administered by Spectrum Health Services, with funding from the DOC. It replaced an older facility also situated on the grounds, but the opening was delayed for three years due to permit difficulties. Women come to the facility from corrections and probation. Some women with infants are referred from the Catch the Hope Program serving pregnant women and new mothers. However, former inmates cannot enter the house until both the superintendent of the MCI-Framingham and the Commissioner of DOC have provided written permission. Women referred by probation must have closed cases before moving in. Women are admitted if they have detoxed, wish to reunify with their children, and if they have a child under 6 years. The program offers a safe environment, 24-hour staff coverage, and a schedule of classes and counseling sessions addressing substance abuse, parenting, education, and daily living skills. The staff of approximately nine (9) women is trained in trauma-informed care. The women are kept under close supervision, but they are permitted to go to work, and to leave the house to attend AA sessions and classes at local schools and colleges. Often, they form a strong peer group support system, planning and sharing many house chores. The average stay is 8-9 months, and data recording women's progress are kept in case-files. Women leave with

detailed after-care plans, and provide contact information for several people close to them, so that even if they move frequently, they can be reached to respond to questions on their status and well-being.

Numbers: It is capable of holding 25 women and 15 children in two-room units (compared to the older facility which housed four women and two to three children in a single room).

Cost: \$130 per day (\$47,450 est. per person per year).

Women in Transition Program, Essex County

This program is a pre-release center for women from the county who have served a sentence in MCI-F. It serves about 130 women a year, and its primary goal is to help women reenter their communities gradually, with support and knowledge of community-based resources. An evaluation showed that the eighteen months after leaving the program over 60 percent of women had not been reconvicted.⁴¹ Importantly, women and staff understood that the program’s atmosphere of respect helped women develop positive relationships and reach their goals.

Department of Correction

In 2009, the DOC developed plans to reduce the recidivism rates of male and female inmates through the application of evidence-based practices. The women’s plan shows how some of the costs of necessary programs could be shifted to other agencies; and that a relatively small amount of investment (\$615,000) could result in an average decline in recidivism of 11 percent (see Figure 8).

Figure 8. Massachusetts DOC Cost/Benefit Estimates of Women’s Programs, 2009

Women’s Programs	Est. Decline in Recidivism Rate	Est. No. Reentry Women to Benefit	Est. Cost per Year to DOC
Residential SA Treatment	15%	108	0*
Non-Residential SA Treatment	N/A	212	0*
Reentry workshop	N/A	335	\$45,000
Family-Centered program	N/A	220	\$180,000
Academic Education	9%	288	\$90,500
Vocational Education	11%	228	\$125,000
Industries	8%	228	\$175,000
Total	Av. 11%	1619	\$615,000

Summary

Women need tangible assistance to move forward, just as much as they need treatment to heal their pasts and work on family connections. Community corrections cost about one-tenth of incarceration; and gender-responsive treatment that involves women and their children is not only less expensive but more likely to be cost effective. Residential programs currently offer gender-responsive and appropriate treatment for women. Some have direct links to corrections, while others have more direct links to the DPH and DPH. However, the only way to know whether, how, and why these programs are cost effective is to collect data. Finding out more about these women’s programs and their effectiveness would provide an important piece of knowledge for developing appropriate ATI options. The practice of housing women sentenced to county time in a state prison provides an additional rationale for adopting ATI. The current options on the table include

⁴¹ Mastrorilli, 2008.

either adapting an existing facility or building a new regional facility to house some of them closer to home. All the options discussed have the potential to provide valuable resources to women, and most are considerably less expensive than incarceration. The more expensive residential programs for women often house children, and provide environments more conducive to meeting women's holistic, treatment, and practical needs than incarceration, particularly for women serving time at MCI-F for county offenses.

VII. CHALLENGES AND OPPORTUNITIES⁴²

Some of the challenges to greater use of pre-trial and pre-sentencing options are listed below, together with suggestions on how to address them

1. **Bail, even for amounts as small as \$50-\$100 remains highly problematic for women. The reason for this is unclear, especially since most of the women have children and could be considered a poor flight risk on that account.**

Defense attorneys, police and prosecutors could be more gender-responsive in seeking bail – and requesting lower bail amounts -- for women with strong ties to the community (children), and diverting women from awaiting trial at the MCI-F.

2. **Frequently women are neither diverted early enough to receive the resources they need to overcome their co-occurring diagnoses, traumatic pasts, and family responsibilities, nor have they been successful in addressing their issues during incarceration.**

The resistance from judges and court personnel to pre-trial diversion and community corrections could be met with frequent, open, and transparent communications about community-based resources and their effectiveness.

3. **There is some ambivalence about the effectiveness of intermediate sanctions for women and contradictory views on programming. Some OCC officers commented that women seemed more interested in education programs than their male counterparts, while others stated, “Women don’t participate in programs: [they are] too concerned with their children...the biggest problem is their kids, not an education.”**

Providing concise and updated information about women’s participation and progress could address the ambivalence experienced by OCC and other criminal justice personnel. If OCC became more involved in accessing childcare resources and it would be possible for women to participate in the community service work.⁴³

4. **Intake forms, procedures, and program materials (handbooks) are seldom reflective of women’s needs and circumstances. Out-of-date risk/needs assessment instruments have been a continuing concern.**

Women need early and effective screening, and more understanding by the courts regarding the length of time to recovery, and the importance of providing second chances. Screening and risk assessment instruments need to be updated and gender-responsive.

⁴² This section incorporates suggestions from the Forum held to discuss the final draft report.

⁴³ Gelsthorpe

- 5. There is a lack of women-focused training. Even when criminal justice staff is aware of the value of gender-responsive environments few have received specific training in trauma-informed care, relational –cultural theory, co-occurring disorders, or parenting approaches that actively encourage women to discuss their children and their concerns.**

Criminal justice agencies should be more willing to invest in training and to take advantage of the nationally recognized expertise in Massachusetts on training and curricula (Institute for Health and Recovery, and the Stone Center, Wellesley Centers for Women, among others).

- 6. Sheriffs are not using their authority currently to utilize pre-trial diversion, and some do not participate actively in community corrections.**

OCC's skilled personnel and active links with community-based resources could make them appropriate pre-trial diversion resources if some of the sheriffs' practical concerns could be addressed.

- 7. Intermediate sanctions provide more resources than probation, but to some offenders they are perceived as an escalation of sentencing and more restrictive. It requires so much more from them than 'regular' probation or parole, and some potential participants regard the conditions as being "too stringent... loaded up on conditions."**

A more concerted effort to 'market' OCC to women as a gender-responsive ATI could lead to more committed efforts by women; and women with county sentences who cannot be held in their county houses of correction could take advantage of intermediate sanctions instead of serving time at MCI-F.

- 8. Women with mandatory minimum sentences cannot take advantage of the incentive of 'good time' for program participation; and women with substance abuse histories who have been incarcerated often grapple with the need to continue treatment after their sentences are completed.**

Voluntary participation is essential for recovery and women need continuity of support from treatment programs. Current treatment modalities offered by DPH (BSAS) may provide the necessary continuity of treatment.

- 9. The study identified promising opportunities for further consideration and expansion:**

- There are seven tried and tested police diversion co-responder programs.
- Probation could expand its current use of pre-trial diversion, and collect data on its participants.
- Probation is testing a new Risk/Assessment tool; and has requested a training workshop for probation officers, "What Works for Women." This curriculum could be evaluated and made available to other agencies.⁴⁴

⁴⁴ Workshop being developed by Erika Kates, and the Stone Center, the Wellesley Centers for Women, and Laurie Markoff, Institute for Health and Recovery.

- The probation officers in charge (POIC) at OCC were recently provided with greater leeway in recruiting program participants at the courts.
- OCC is requesting a change in its statute to permit pre-trial work.
- OCC offices hold “open-houses’ to reduce resistance among criminal justice personnel, potential clients and community-based programs.
- Existing OCC policy manuals and handbooks could be reviewed and updated to make them more relevant to women offenders.
- DPH (BSAS) currently offers programs and residential treatment services to women and their children; and these programs are well-positioned to expand as ATI options. It is important to collect data on women’s criminal justice history and post-treatment outcomes
- CORI reform appears to be improving housing and employment opportunities for former offenders.
- Bill H3286 would establish an inter-agency Commission to review data needs and create consistent data collection among criminal justice and corrections agencies.⁴⁵
- Continue to review promising ATI practices, nationally and internationally to inform short-term and long-term data collection practices and policy development (San Francisco Pre-trial diversion; and in the U.K., the Action Teams, Asha program, 218 program, and the new economics foundation (nef) model of measuring progress and cost.⁴⁶

Finally, this is a timely point to consider these questions because the Executive Office of Public Safety and Security – which oversees both county and state corrections – is building links between agencies to discuss the need to house women in or close to their own communities, and the costs and benefits are of building a regional facility for women in eastern Massachusetts. However, these opportunities and concerns can only be addressed through collaboration with experts, good training, careful goal setting, effective but manageable data collection processes, and policy changes. The state inter-agency committee on housing and substance abuse and the civil infraction committee are good models of collaboration.

⁴⁵ Goal Public Safety: An Effective Re-entry-focused Correctional System.

⁴⁶ Sheehan et al 2007.

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