

INCARCERATION TRENDS IN MASSACHUSETTS:

LONG-TERM INCREASES, RECENT PROGRESS

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Introduction

We all want to live in a vibrant and supportive community with access to good jobs, high quality schools and safe neighborhoods. In fact, the Massachusetts economy is more successful when these opportunities are provided to all people in the community. Unfortunately, new laws on crime passed in Massachusetts in the 1980s and 1990s, similar to federal laws passed during the same time period, have made it harder for many people to participate fully.

The laws increased the length of prison sentences for many crimes leading to a significant increase in prison populations from the mid 1980s through the 2000s. By 2010, Massachusetts was incarcerating three times more people than in 1980. The impact on drug offenders has been even more pronounced leading to a more than 10 fold increase in the number of drug offenders in prison in 2010 compared to 1980.¹

Recent reforms have helped to reverse this trend. Although still much higher than in the early 1980s, the number of offenders in prison has dropped 8 percent to 10,813 in 2015 from a high of 11,723 in 2012. These recent reforms, just as the laws passed in the 1980s did, have focused on drug offences, decriminalizing small amounts of marijuana (2008) and reducing the school safety zone (2012). The reduction in the number of drug offenders incarcerated has thus been even more pronounced dropping 44 percent to 1,432 in 2015 from 2,571 in 2010.

Other states have also started to ease laws that were passed back in the 1980s, going even further than Massachusetts. Two, New Jersey and South Carolina, eliminated laws subjecting offenders to very long mandatory sentences. Neither state has experienced a decrease in public safety since these reforms. Between 2010, when reforms were passed in these two states, and 2012, the most recent year we have crime statistics for, crime rates in New Jersey and South Carolina have continued to go down and do not differ significantly from overall crime rate reductions across the U.S.

Reforming our laws, keeping minor offenders out of prison entirely, is one way of helping people participate in our community more successfully. Preparing those offenders who do serve time in prison to more fully participate in the community and our economy is another way we can help.² Offenders in prison often need services to help them with the issues that got them into trouble – substance abuse and anger management services are two common needs. And education and training classes provide offenders with the skills that will help them reenter the work force after their release.

Unfortunately, in Massachusetts offenders often cannot access these services. Some offenders are put on waitlists while others are placed in facilities that do not offer the services they need. Not being able to access these services in prison makes the transition more difficult leading to a higher chance of re-offending and returning to prison.³

One way we can see if we are preparing offenders to successfully rejoin the community is to look at how many get into trouble after their release. Massachusetts is improving here with 20 percent more offenders rejoining the community successfully than 20 years ago. Even with this improvement though, we are still not preparing all offenders. For those offenders released in 2011, about one-third returned to prison within 3 years of their release.

Once people have served their sentences, we are all better off if they are able to contribute to our community and the economy in a positive way. Ending up back in prison costs not only the offender, but all of us who support the cost of our criminal justice system. Investing more in key services can help. If Massachusetts can continue along the current trend—further decreasing the prison population, the potential savings could be used to provide all offenders with the services they need to help better prepare them to rejoin their communities successfully.

Three Times More People Incarcerated in 2010 Than in 1980

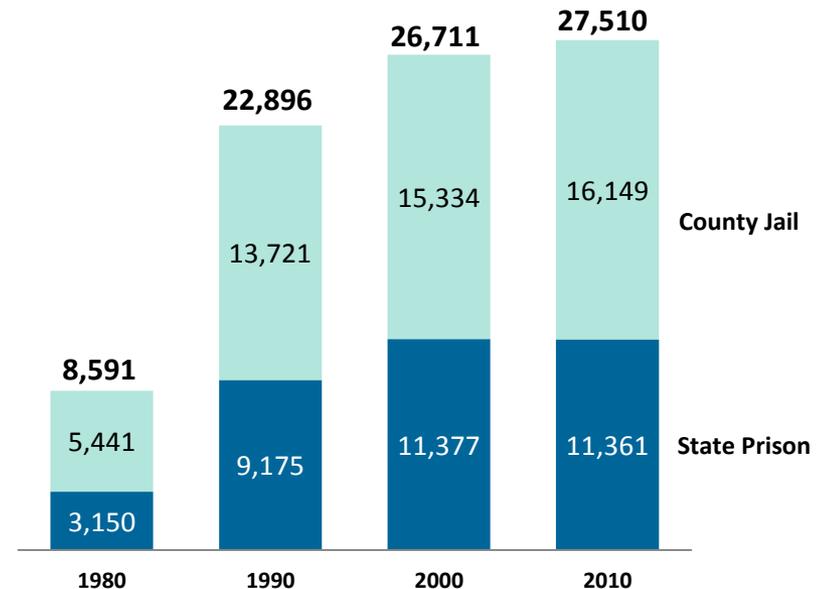
Federal “War on Drugs” laws led to substantial increases in the number of people incarcerated in federal prisons in the 1980s and 1990s. During the same period, many states, including Massachusetts, passed similar laws leading to increases in state prison populations.

Massachusetts incarcerates offenders in two different systems. The state prison system run by the Department of Corrections (DOC) generally holds offenders with longer sentences. The House of Corrections (HOC) system overseen by County Sheriffs holds offenders with shorter sentences of less than 2 ½ years. Together, they house over 20,000 offenders in a given year.

In Massachusetts the number of people incarcerated has more than tripled since the early 1980s.¹ And the increase has happened both at the state level for longer more serious offenses and at the county level for offenses with shorter sentences.

Part of this is due to mandatory minimum sentencing laws passed in the 1980s and 1990s which increased the time offenders spend in prison. In 2008, about two-thirds of offenders received sentences of over 3 months in length in county jails compared to just half of offenders receiving a sentence this length in 1980.²

Number of offenders incarcerated in MA state and county facilities



Source – 1980 State Prison data from [Sentencing Project](#). 1990, 2000, 2010 data from [Prison Population Reports](#). County data from Commitments to [Massachusetts House of Corrections, Annual Reports from 1980 – 2008](#)

Note – The last year we have county jail data for is 2008. That data has been combined with the 2010 prison population data for this chart.

Ten Times More People Incarcerated for Drug Crimes in 2010 Than in 1980

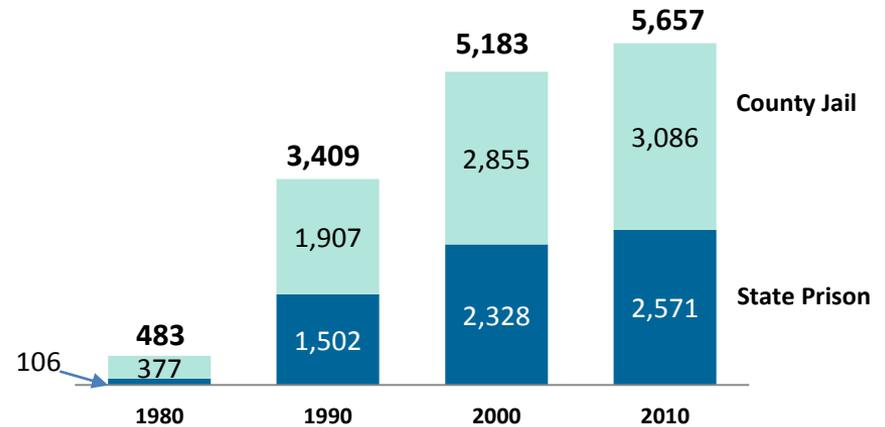
The overall number of people incarcerated has more than tripled during this period. The number of non-violent drug offenders has gone up even more—over 20 times higher in state prisons and over 8 times higher in county facilities in 2010 than in the early 1980s.¹

Many inmates convicted of non-violent drug offenses are serving mandatory minimum sentences. Mandatory minimum sentences are sentences that are automatically applied to specific offenses. The length, often longer than sentences given for the same crimes previously, cannot be changed in court which means the judge has no discretion to set prison lengths based on the facts of a case.

Mandatory minimum sentences for drug offenses mean that not only are more non-violent offenders serving time, but they stay for longer sentences.

While the population of drug offenders has gone up significantly since the early 1980s, drug convictions are not the only category responsible for the increase in incarceration. The number of offenders in prison for property crimes and violent crimes against people has more than doubled, and those in prison for sex crimes has tripled.²

Number of drug offenders incarcerated in state and county facilities



Source - State Prison data from [Prison Population Reports](#). County data from [Commitments to Massachusetts House of Corrections, Annual Reports from 1980–2008](#)

Note – The last year we have county jail data for is 2008. That data has been combined with the 2010 prison population data for this chart.

Recent Reforms Have Helped Reduce the Prison Population

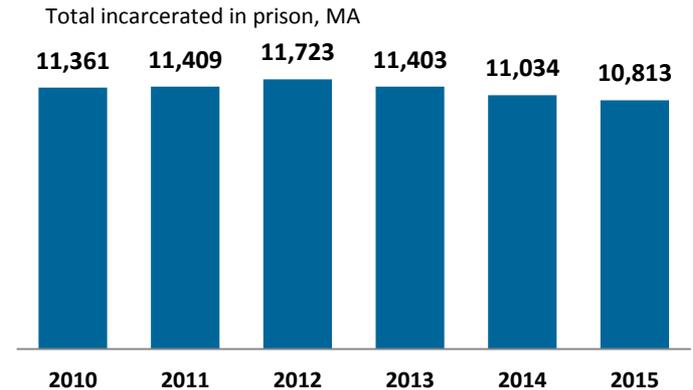
Massachusetts has begun to reform some of these laws. The two charts on the right show the decrease in the prison population since enactment of these reforms. The first chart shows a modest decrease in the overall prison population. The bottom chart shows a large decrease in the number of non-violent drug offenders in prison—a 45 percent decrease since 2008. There has been a corresponding decrease in the county House of Corrections system. In March 2015, a single day count found 10,603 inmates in the county system compared to a single day count of 13,034 in January 2011, a decrease of just under 20 percent.¹

In 2008, Massachusetts decriminalized possession of small amounts of marijuana (less than one ounce). The new penalty includes a fine and confiscation, not incarceration. In 2008, before this change, almost 8,700 people were arrested for marijuana possession. In 2010, that number dropped to around 1,200 people.²

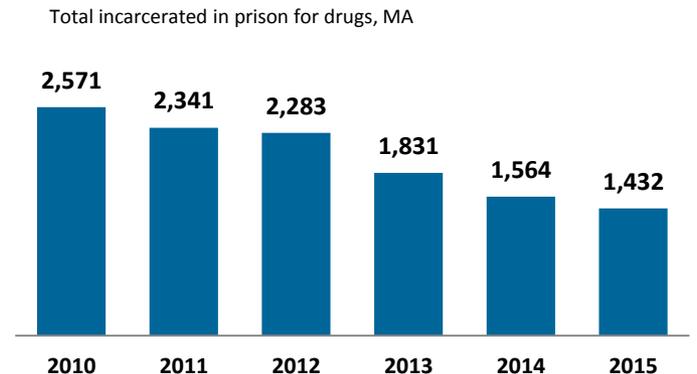
In 2012, the size of the school safety zone was reduced from 1,000 feet to 300 feet. Drug crimes committed within a school safety zone are subject to much higher mandatory minimum sentences than the same crime committed outside of a zone. Between 1994 and 2006, as much as 40 percent of drug offenses occurred within a school zone.³ In 80 percent of cases, the underlying offense would not otherwise have triggered a mandatory sentence.⁴

Meant to keep kids safe, one problem with the 1,000 foot zones is that they encompass entire urban areas in the state because of the high concentration of schools. Because people of color more often live in densely populated urban areas, from 2000 to 2011, more than three-quarters of school zone mandatory sentences were given to people of color.⁵

Massachusetts has decriminalized possession of small amounts of marijuana, but many other mandatory minimum drug laws passed in the 1980s and 1990s remain in effect, contributing to the higher number of people incarcerated now compared to the early 1980s.



Source: [Prison Population Reports](#).



Source: [Prison Population Reports](#).

Eliminating Mandatory Minimums Has Not Increased Crime

Other states that have eliminated mandatory minimums have not experienced an increase in crime.

New Jersey and South Carolina both eliminated mandatory minimums in 2010. And both states experienced less crime in 2012 than in 2010. South Carolina's 2012 crime rate was lower than at any point since 1974. New Jersey's rate was lower than at any point since 1966.¹

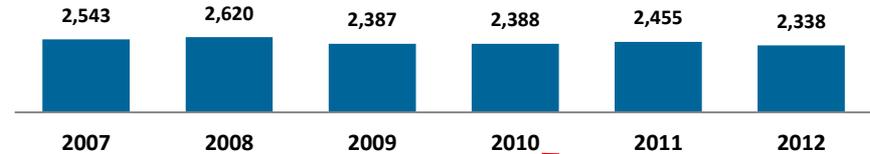
The three charts on the right show that eliminating mandatory minimum sentences has also not made these two states any less safe than the country as a whole. The decline in crime rates in New Jersey and South Carolina are similar to the decline across the country.

Other states that have reduced their prison population partly through reform also continued to see lower crime rates.²

In Massachusetts, public safety has not suffered since the decriminalization of marijuana possession. In fact, the crime rate in Massachusetts is at its lowest point since 1967.³

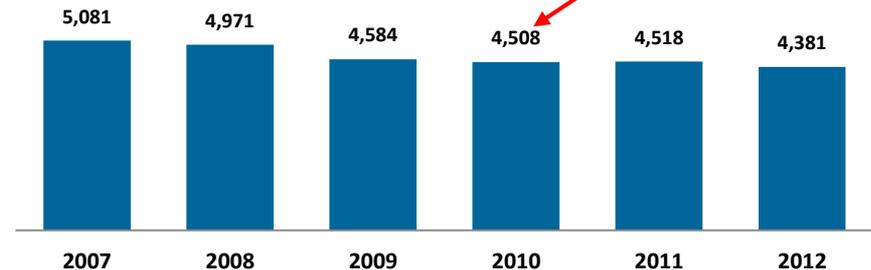
New Jersey

Crime rate per 100,000 people



South Carolina

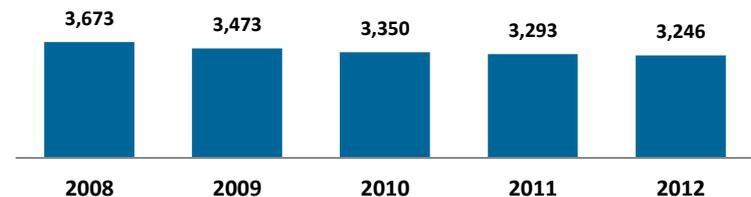
Crime rate per 100,000 people



Mandatory Minimums Eliminated in 2010

U.S.

Crime rate per 100,000 people



Source: Data for all charts from Federal Bureau of Investigation. [Uniform Crime Reporting Statistics](#)

Fewer Offenders Returning to Prison

People getting out of prison face many challenges after they are released. Over one-third of offenders released in 2011 returned to prison within 3 years (see top graph). Massachusetts is doing better though with over 20 percent more offenders rejoining their community successfully than in 1995.¹ In fact, more offenders are exiting prison without returning than at any other point since the mid-1990s.

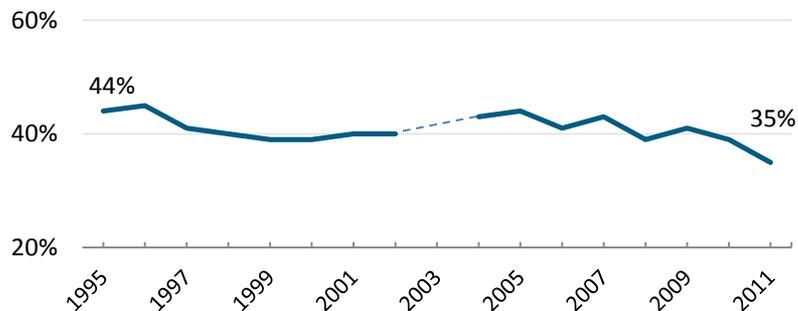
Ex-offenders return to prison for two main reasons. The first happens when an ex-offender commits a new crime. The second is due to a “technical violation” meaning the ex-offender violated the terms of their parole or probation in the community. When technical violations are excluded and we only look at new crime, we see a more consistent decline in the percentage of offenders returning to prison within 3 years (see bottom graph). In the 2011 cohort, 30 percent of offenders returned to prison for new crimes within 3 years compared to 36 percent for the 2006 cohort.²

Although we do not know the exact reason for the steady improvement in recidivism in the last few years, declining recidivism rates are similar to an overall decline in crime rates in the state during this time. Between 2006 and 2012, the overall crime rate in Massachusetts fell 11.5 percent.³ However, the crime rate in Massachusetts has been falling since highs in the early 1990s while improvements in recidivism began more recently.

Reforms, some of which are outlined earlier in this report, do signal a more recent change in policy in the last few years.⁴ These reforms have contributed to lower overall incarceration rates. Recidivism rates are likely decreasing as part of this downward trend in both crime and incarceration. Further, after marijuana reform, some crimes which would have previously resulted in an ex-offender returning to prison now result in a fine.

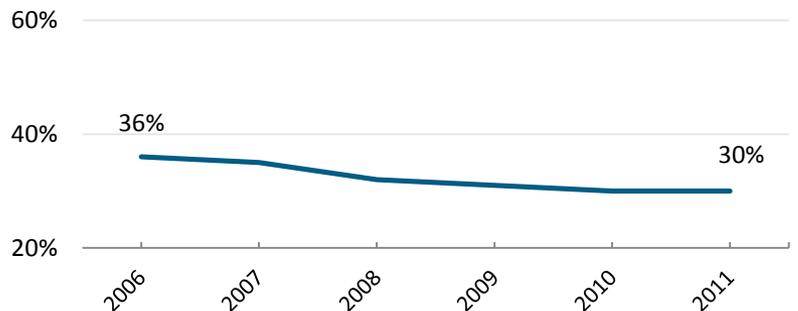
Downward trends in crime and incarceration are likely contributing to improvements in recidivism rates. But, it is less clear if the state is actively improving the services offered to current inmates to help prepare them to rejoin their communities, services which could improve outcomes for offenders even more.

Percent of offenders who return to prison within 3 years



Three Year Recidivism Rates: [2011 Release Cohort](#). Data for 2003 not available.

Percent of offenders who return to prison within 3 years – technical violations excluded



Three Year Recidivism Rates: [2011 Release Cohort](#)

But More Work to Do

Massachusetts has passed some reforms leading to a reduction in incarceration. This reduction coupled with lowering crime rates has likely contributed to lower recidivism amongst ex-offenders. However, services which help prepare offenders to rejoin their communities, education, counseling, substance abuse treatment, etc., are still not available to all inmates who need them.

Between July 2014 and March 2015, 26 percent (119 out of 457) of male offenders who entered prison without a high school diploma earned their high school equivalency before leaving.¹ A waitlist included in the December 2014 [Criminal Justice Special Commission](#) report noted that over 1,000 inmates were waiting to gain entry into GED, Pre-GED, and other programs that would help along this path.²

Substance abuse and violence reduction treatment can also be hard to access with over 900 offenders waiting for substance abuse treatment and over 1,500 waiting for violence reduction treatment in 2014.³ The DOC has started to track whether offenders leaving prison receive these services. For the group of offenders released between July 2014 and March 2015, about 1 in 5 needing substance abuse treatment and almost 2 in 5 needing violence reduction treatment did not receive these services because the programs were either not available or were full.⁴

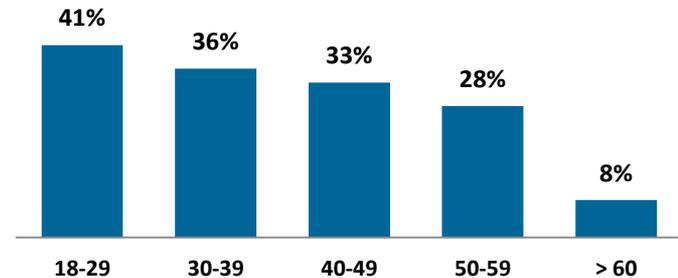
Younger offenders and offenders in maximum security facilities are most likely to return to prison (see charts at right). Unfortunately, these inmates also have trouble receiving services.⁵ In the December 2014 report, over 450 offenders in maximum security facilities were on a waiting list for substance abuse treatment and over 500 were on a waiting list for violence reduction treatment.⁶

Practitioners and researchers have highlighted the services needed to better prepare offenders to reenter the community.⁷ These services, including ones targeting substance abuse, impulsiveness, and anti-social behavior, can be difficult to access in Massachusetts. Taxman, Pattavina, and Caudy note that increasing the availability of these services could lead to a reduction in recidivism of 5 to 8 percent. Further, if increased access was paired with high quality services specifically targeted to each inmate, recidivism could be reduced by as much as 20 percent.⁸

Reforms noted earlier in this chart pack have led to reductions both in the number of offenders going to prison and the number returning to prison after their release. But some offenders still leave prison without gaining access to needed services showing that we still have more work to do to make services available to all inmates who need them.

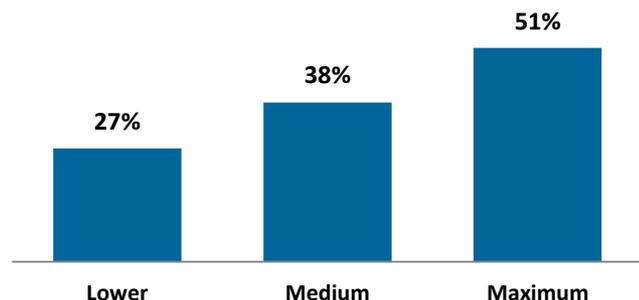
Younger Offenders Return to Prison More

Percentage of offenders who return to prison by age



Offenders in Max. Security Return To Prison More

Percentage of offenders who return to prison by facility security level



Both charts show percentage of offenders returning to prison within 3 years of release

Source: [DOC Three Year Recidivism Rates: 2011 Release Cohort](#).

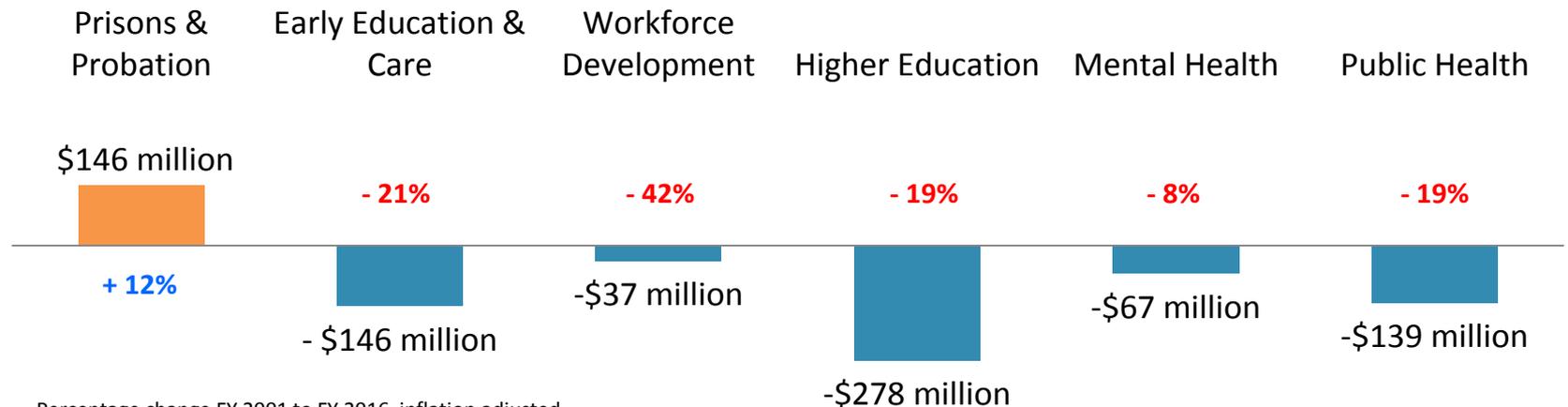
Most Programs That Help Low and Moderate Income People Cut

The long term increase in incarceration has led to a significant increase in spending on prisons. Since 1986, spending on the criminal justice system in Massachusetts is up over 250 percent.¹ At the same time, tax cuts passed in the early 2000s have decreased state revenue by over \$3.0 billion every year.² These cuts have had a significantly downward effect on many other parts of the budget that support low and moderate income people.³ Many programs and services that help individuals and families be successful have been cut significantly.

Tax cuts have had a large effect on cuts in the state budget. But, the increase in prison spending has still put a squeeze on other programs. If we were able to decrease the number of people in prison, Massachusetts would see some savings. The exact savings are difficult to pinpoint because of ongoing facilities costs related to the prison buildings. If Massachusetts only slightly reduced the number of people incarcerated, the savings would probably be small. However, a larger decrease, such that entire facilities, or at least distinct units within a facility, could be closed, would supply much larger savings. These savings could be spent on an expansion of resources in education and training, for pre-school or college, or for programs that train and prepare people to get good jobs. Or we could use the savings to increase the services available for people with mental health and substance abuse issues thereby helping them avoid involvement with the criminal justice system or with child welfare system. Instead, and because of the squeeze on the state's resources, education continues to get harder to afford with increasing numbers of kids on a waitlist for pre-school and increasing state tuition for most of the states' colleges and universities.

Savings from a reduction in incarceration could also be used to help offenders reenter their community successfully. Many offenders leave prison without receiving services which would help them re-join their community successfully—with about one-third of ex-offenders returning to prison within 3 years. If we did more to help them reenter their community successfully, support their family and contribute to the economy, everyone would be better off.

Spending on Prisons Increasing While Other Services See Cuts



Percentage change FY 2001 to FY 2016, inflation adjusted, from [MassBudget Budget Browser](#).

Sources

Slide 2

1 - [Massachusetts Department of Corrections Annual Prison Population Trend Reports](#)

2 - A third and equally important way to help offenders contribute to our community is to provide them with services once they have rejoined the community, and to eliminate fees and regulations which make that adjustment more difficult. One such policy which is currently being debated in the Massachusetts legislature is a fee to recover a drivers license which can be suspended upon conviction. Another regulation prohibits offenders from living with their children if their children live in public housing.

3 - Warren, R. (2007). [Evidence-Based Practice to Reduce Recidivism](#). Crime and Justice Institute and the National Institute of Corrections. Pg. XVI; The U.S. Department of Justice also describes principles that can be used to improve services for inmates in, Crime and Justice Institute at Community Resources for Justice (2009). [Implementing Evidence-based Policy and Practice in Community Corrections](#), 2nd ed. National Institute of Corrections. Pgs. 9, 14, 16; Also see Taxman, F., Pattavina, A., & Caudy, M. (2014). [Justice Reinvestment in the United States: An Empirical Assessment of the Potential Impact of Increased Correctional Programming on Recidivism](#). Victims & Offenders. Pgs. 58-60. Other sources of support which may be as important, but which we do not go into detail here, are services for offenders after they leave prison.

Slide 3

1 - [Massachusetts Department of Corrections Annual Prison Population Trend Reports](#)

2 - [Commitments to Massachusetts House of Corrections, Annual Reports from 1980 – 2008](#)

Slide 4

1 - [Massachusetts Department of Corrections Annual Prison Population Trend Reports](#)

2 - [Massachusetts Department of Corrections Annual Prison Population Trend Reports](#)

Slide 5

1 - Massachusetts Sheriff's Association: Total County Correction Population – various months. Received from Massachusetts Sheriff's Association. These data are point in time inmate counts and are different than the county inmate data shown on slides 3 and 4. Slides 3 and 4 show the number of inmates committed to county jails in a given year. The reason we show different data points on these slides is due to data availability. Even though the data is different from previous county inmate data, we thought it was important to note that the county system is also seeing a drop in the population similar, or even more profound, than the drop in the overall state prison population.

2 – [NORML](#), from FBI - Uniform Crime Reporting Program.

3 - [Report of the Special Commission to Study the Criminal Justice System](#). (2014). Pg. 42

4 - Ibid - Pg. 42

5 - Ibid - Pg. 42

Slide 6

1 - Federal Bureau of Investigation. [Uniform Crime Reporting Statistics](#)

2 - Other states that have reduced prison populations and at the same time have seen decreases in crime rates include California, Michigan, New York and Texas. See, Roeder, O., Eisen, L., & Bowling, J. (2015). [What Caused The Crime Decline](#). Brennan Center For Justice. Pg. 15

3 - Federal Bureau of Investigation. [Uniform Crime Reporting Statistics](#)

Sources

Slide 7

- 1 - See [Recidivism Reports](#) at the Massachusetts Department of Corrections website.
- 2 - Although we were unable to get recidivism rates for the entire House of Corrections system – this can be difficult because each county keeps its own records, we were able to get information for Hamden County. The 2010 cohort of released offenders had a 3-year recidivism rate of 32 percent (technical violations excluded), down from 37 percent in 2006. The decrease in Hamden County is similar to DOC state prison recidivism rates highlighted in the charts on this slide. Data provided by Hampden County.
- 3 - Federal Bureau of Investigation. [Uniform Crime Reporting Statistics](#). The FBI crime rate includes violent and property crimes.
- 4 - One reform not highlighted earlier in the report is CORI (Criminal Offender Record Information) reform. CORI reform, passed in 2010, aims to improve opportunities for ex-offenders to get jobs. The bill reduces the time that felony and misdemeanor information remains on an ex-offenders record and also includes some prohibitions on asking about an applicant's criminal history. However, employers can still find out an applicant's criminal history during the interview process. It is unclear whether the changes have helped more ex-offenders get jobs. For more information, see [Implementing CORI Reform](#).

Slide 8

- 1 - Massachusetts Department of Correction. [July-March Gap Analysis Report](#). (2015). Pg. 5
- 2 - [Report of the Special Commission to Study the Criminal Justice System](#). (2014). Pg. 36. Some inmates could have been signed up for multiple educational programs and therefore been on multiple waiting lists and other inmates simply refuse to sign up for these programs. However, it is clear that some of the 338 inmates who left prison between July 2014 and March 2015, and who did not get their high school equivalency while in prison—inmates who wanted to better prepare for life after their release, to get jobs and contribute to the economy, were not able to do so.
- 3 - [Report of the Special Commission to Study the Criminal Justice System](#). (2014). Pg. 37
- 4 - Massachusetts Department of Correction. [July-March Gap Analysis Report](#). (2015). Pgs. 3, 4
- 5 - [Report of the Special Commission to Study the Criminal Justice System](#). (2014). Pg. 37
- 6 - Ibid - Pg. 49
- 7 - Warren, R. (2007). [Evidence-Based Practice to Reduce Recidivism](#). Crime and Justice Institute and the National Institute of Corrections. Pg. 31; The U.S. Department of Justice also describes principles that can be used to improve services for inmates in, Crime and Justice Institute at Community Resources for Justice (2009). [Implementing Evidence-based Policy and Practice in Community Corrections](#), 2nd ed. National Institute of Corrections. Pgs. X, XI; Also see, Andrews, D., Bonta, J., & Wormith, S. (2006). [The Recent Past and Near Future of Risk and/or Need Assessment](#). Crime and Delinquency. Pg. 11. Taxman, F., Pattavina, A., & Caudy, M. (2014). [Justice Reinvestment in the United States: An Empirical Assessment of the Potential Impact of Increased Correctional Programming on Recidivism](#). Victims & Offenders. Pgs. 58-60. Other sources of support which may be as important, but which we do not go into detail here, are services for offenders after they leave prison.
- 8 - Taxman, et.al. look at multiple scenarios and note that the actual improvement would depend on what services are being currently offered and to what percentage of the inmate population. It is clear that some inmates are not receiving the services they need in Massachusetts, but it is difficult to estimate the exact impact on recidivism rates here. See Taxman, F., Pattavina, A., & Caudy, M. (2014). [Justice Reinvestment in the United States: An Empirical Assessment of the Potential Impact of Increased Correctional Programming on Recidivism](#). Victims & Offenders. Pgs. 62, 63, 67

Slide 9

- 1 - Mitchell, M. & Leachman, M. (2014). [Changing Priorities: State Criminal Justice Reforms and Investments in Education](#). Center on Budget and Policy Priorities. Pg. 9
- 2 - Wise, K. & Rivera, M.F. (2015). [Income Tax Cuts and the Budget Deficit in Massachusetts](#). Massachusetts Budget and Policy Center.
- 3 - The increase in health care spending has also negatively effected the availability of resources for other parts of the budget.