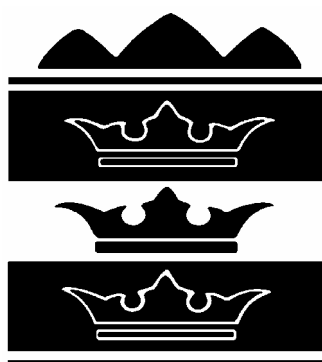


Report of the
Boston Bar Association

Task Force on Parole and Community Reintegration



Parole Practices in Massachusetts and Their
Effect on Community Reintegration

August 2002

Boston Bar Association
Task Force on Parole & Community Reintegration

Chairs

Ann K. Lambert,
American Civil Liberties Union of Massachusetts

Edward Leibensperger,
Nutter, McClennen & Fish, LLP

Fran Bowman,
Former Chief U.S. Probation Officer

John Larivee,
Community Resources for Justice

Francis J. Carney,
Massachusetts Sentencing
Commission

Dennis Mahoney,
Norfolk District Attorney's Office

James D. Circo,
World Trade Center and Seaport
Hotel

Mary Prosser,
Harvard Law School

Peter Costanza,
Massachusetts Correctional Legal
Services

Cynthia Robinson,
Boston Municipal Court Department

Patricia Garin,
Stern, Shapiro, Weissberg and Garin

Steve Saloom,
Criminal Justice Policy Coalition

Alec Gray,
Office of Administration and
Management - Trial Court

Marie P. St. Fleur
Massachusetts House of
Representatives

Brian A. Joyce
Massachusetts Senate

Wayne R. Murphy,
Murphy, Steele & Flaherty

Jack Zanini,
Suffolk County District Attorney's
Office

Executive Summary

Ninety-seven percent of all prisoners incarcerated in Massachusetts correctional facilities are eventually released. Forty-four percent are reincarcerated within three years. Concern about the growing volume of released prisoners “coming back” to neighborhoods and communities is heightened by reports that significant numbers of prisoners are being released outright, *without supervision*. They are not granted parole; paroling rates have declined significantly. They serve their entire sentences. Of the 2,308 prisoners released from medium and maximum security level prisons in 1999, 57% were released directly to the street without supervision. The number of male prisoners released directly from maximum security institutions to the street with no parole supervision has increased 107% from 1992 through 2000.

This situation presents a serious public safety challenge to Massachusetts criminal justice agencies and to our communities. The Boston Bar Association’s Task Force on Parole and Community Reintegration undertook a review of the laws, policies and practices, and available data concerning prisoners’ release from institutional custody. We recommend that Massachusetts criminal justice policy give explicit recognition to the goal of successful prisoner reintegration. In order to achieve this overall goal, the Task Force makes five recommendations:

- (1) the Parole Board should implement a system of “presumptive parole”;
- (2) prisoners should presumptively move to a lower custody status as they progress toward their initial parole hearing;
- (3) the Parole Board should work with prisoners and Department of Correction staff to prepare and implement individual release and integration plans;
- (4) the membership of the Parole Board should be diversified to achieve the intent of existing Massachusetts Law; and

(5) the research departments for the Commonwealth's criminal justice and related agencies should coordinate their data collection and share their research with one another and with the public.

The work of the Task Force and the analyses and conclusions it has reached show the importance of the parole process in making our communities safer by providing a supervised structure for prisoners' reintegration. The Task Force believes that implementing its recommendations will substantially improve the overall operation of the Massachusetts parole system, making it more integral to the overall sentencing system, more effective and more just.

TABLE OF CONTENTS

I. INTRODUCTION	2
II. THE PAROLE BOARD AND THE PAROLE PROCESS IN MASSACHUSETTS.....	8
A. Statutory and Administrative Structure.....	8
B. Sentencing and Parole Eligibility in Massachusetts	13
C. The Elimination of Statutory Good-Time and its Effect on Parole.....	15
III. RECOMMENDATIONS.....	16
A. The Parole Board Should Implement a System of “Presumptive Parole”	16
B. Prisoners Should Move to Lower Custody Status as They Progress Toward Parole Eligibility.....	19
C. Parole Staff Should Work with Prisoners and DOC Staff to Prepare Individual Release and Reintegration Plans	25
D. The Membership of the Parole Board Should be Diversified to Reflect the Intent of the Existing Law.....	27
1. General Recognition of the Importance of Diverse Expertise in Parole Decision Making	30
2. The Massachusetts Parole Board: 1971-1992.....	33
3. The Present Parole Board’s Lack of Diversified Membership	34
4. The Effect of the Lack of Diversity on Paroling Rates	35
5. Filling Vacancies on the Parole Board	35
E. The Research Departments for the Commonwealth’s Criminal Justice and Related Agencies Should Coordinate Their Data Collection and Share Their Research With One Another and With the Public.....	37
IV. CONCLUSION.....	39

I. INTRODUCTION

Ninety-seven percent of all prisoners incarcerated in Massachusetts correctional facilities are eventually released back into the community at-large.¹ Of those individuals released, 44% are reincarcerated within three years.² The concern about the growing volume of prisoners “coming back”³ after their release is heightened by reports that, because of declining parole rates,⁴ significant numbers of prisoners are being released outright, *without supervision*. Of the 2,308 prisoners released from medium and maximum security level prisons in 1999, 57% were released directly to the street without supervision.⁵ More alarming still, the number of male prisoners released directly from maximum security institutions to the street has increased 107% from 1992 through 2000.⁶ Regardless of both the severity of the original crime and the security level of the prison facility from which they are released, many of these individuals are having a difficult time making the transition from the harsh environs of prison to a free society.

In May 2000, the president of the Boston Bar Association, Thomas E. Dwyer, Jr., appointed a Task Force on Parole and Community Reintegration. It includes government lawyers, members of the criminal defense bar, court personnel, criminal justice practitioners from local programs and the federal probation system, as well as civil rights advocates and

¹ See ANNE MORRISON PIEHL, FROM CELL TO STREET: A PLAN TO SUPERVISE INMATES AFTER RELEASE, (MassInc. Jan. 2002).

² See MASSACHUSETTS DEPARTMENT OF CORRECTION, BACKGROUND CHARACTERISTICS AND RECIDIVISM RATES OF RELEASES FROM MASSACHUSETTS CORRECTIONAL INSTITUTIONS DURING 1995 (May 2000) <<http://www.state.ma.us/doc/pdfs/rec95.pdf>> [hereinafter BACKGROUND CHARACTERISTICS AND RECIDIVISM RATES OF RELEASES DURING 1995].

³ See JEREMY TRAVIS, BUT THEY ALL COME BACK: RETHINKING PRISONER REENTRY, U.S. Department of Justice, Papers from the Executive Sessions on Sentencing and Corrections (May 2000) <<http://www.ncjrs.org/pdffiles1/nij/181413.pdf>>.

⁴ See M. Rezendes, *State's Parole Board Cuts Back on Releases*, THE BOSTON GLOBE, Nov. 3, 1999, at A1.
⁵ PIEHL, *supra* note 1 (citing research performed by the Massachusetts Department of Correction).

⁶ See MASSACHUSETTS DEPARTMENT OF CORRECTION, A STATISTICAL DESCRIPTION OF RELEASES FROM INSTITUTIONS AND THE JURISDICTION OF THE MASSACHUSETTS DEPARTMENT OF CORRECTION DURING 2000 (Nov.

community representatives. The Task Force was charged with providing the Bar and the public with an analysis of the current operation of the parole system in Massachusetts, building upon the Boston Bar Association's demonstrated commitment to reform of the criminal justice system in the Commonwealth.⁷

The Task Force met with the Chairman of the Parole Board and the Commissioner of the Department of Correction. To consider the reality of prisoners returning to the community and the relevant treatment, employment training, mental health resources and other programs available, the Task Force interviewed and collected data from a cross-section of criminal justice system participants, including former prisoners.

During the course of its work, the Task Force obtained and evaluated data regarding judicial sentencing practices, the parole process and Department of Correction (DOC) operations. The Parole Board provided data about the Board's operations and its projected plans for implementing a "reentry program." The Task Force saw the Parole Board's reports that fewer prisoners were being released on parole.⁸ For offenders incarcerated in state facilities as well as county houses of correction, the grant of parole as a percentage of hearings held had declined significantly during the 1990s. For state sentences, the grant rate declined from 69.6% in 1990 to 40.5% in 2000. For county sentences, the grant rate declined from 57.7% in 1990 to 48.7% in 2000. The total number of individuals under parole supervision declined from 5,217 at

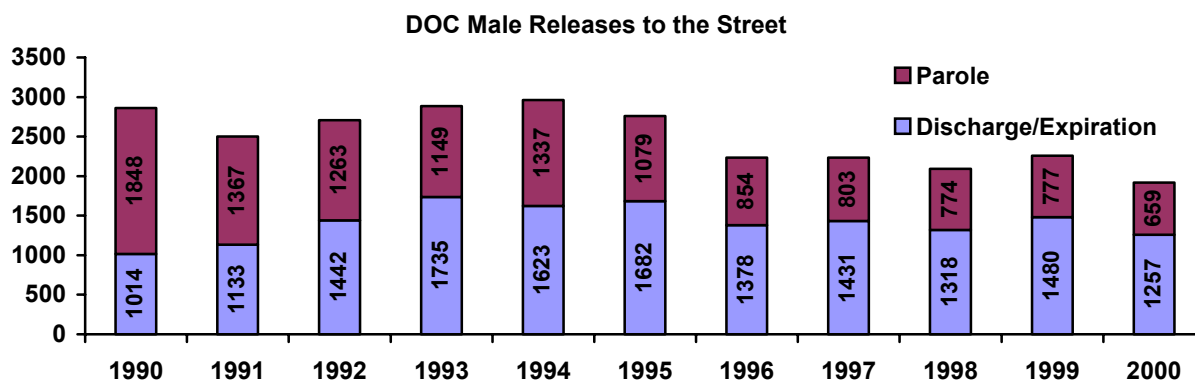
2001) <<http://www.state.ma.us/doc/pdfs/rel00.pdf>> [hereinafter STATISTICAL DESCRIPTION OF RELEASES DURING 2000].

⁷ The Association has issued three reports concerning criminal justice issues in the past 12 years: DRUGS AND JUSTICE: A SYSTEM ABANDONED (1989), DRUGS IN THE COMMUNITY: A SCOURGE BEYOND THE SYSTEM (1990), and THE CRISIS IN CORRECTIONS AND SENTENCING IN MASSACHUSETTS (1991). The 1991 Report included a recommendation that a range of graduated release mechanisms and programs be developed and made available to correctional administrators "to manage the safe release of inmates to the community and to provide inmates with reintegrative opportunities."

⁸ See MASSACHUSETTS PAROLE BOARD, 2000 STATISTICAL REPORT "10 YEAR TRENDS; MASSACHUSETTS PAROLE BOARD, "10 YEAR TRENDS" STATISTICAL REPORT, 1990 – 1999.

the end of 1990 to 4,304 at the end of 1999. The average parole officer caseload declined as well, from 72 in 1990 to 50 in 1999, and to 42 in 2001.⁹

At the same time, over the last decade, a large number of inmates have been released to the community without the benefit of *any* reentry programs. These include higher risk individuals released directly from maximum or medium security “to the streets” (often quite literally: many are homeless). During the eleven-year period, 1990 - 2000, 27,323 males were released from DOC facilities. Of these, 11,910 (44%) were released to parole supervision, and 15,413 (56%) were simply discharged, having served (“wrapped up”) their entire sentence. The number of males released to parole decreased from 1,848 in 1990 (65% of the males released) to 659 in 2000 (34% of the males released).¹⁰



Without supervision, either by probation or parole, and without family or friends’ support, released prisoners may be bereft of any link to practical information and services that

⁹ The 1990-1999 figures are from the Parole Board’s written report. The current caseload number was provided to the Task Force in response to our inquiry.

¹⁰ See MASSACHUSETTS DEPARTMENT OF CORRECTION, A STATISTICAL DESCRIPTION OF RELEASES FROM INSTITUTIONS IN THE JURISDICTION OF THE MASSACHUSETTS DEPARTMENT OF CORRECTION DURING 1999 (Sept. 2000) <<http://www.state.ma.us/doc/pdfs/rel99.pdf>> [hereinafter STATISTICAL DESCRIPTION OF RELEASES DURING 1999]; STATISTICAL DESCRIPTION OF RELEASES DURING 2000, *supra* note 6.

could help them “live and remain at liberty without violating the law.”¹¹ This scenario represents a danger to the community: an unsupervised offender is more likely to re-offend.¹²

Moreover, many of the releases come directly from maximum or medium security facilities. During the eleven-year period, 1990 to 2000, 13,284 males were released from maximum or medium security facilities and 14,039 males were released from lower security facilities. In 1999, 277 males were released directly from maximum security facilities – the highest number recorded over the ten-year period.¹³ In 1990, 43% of all males were released from maximum/medium security facilities. In 2000, 62% of all males were released from maximum/medium security facilities.¹⁴

<u>DOC Releases to the Street</u>									
Year	Male			Female			Total		
	Maximum	Medium	Lower	Maximum	Medium	Lower	Maximum	Medium	Lower
1990	139	1,101	1,622	0	802	171	139	1,903	1,793
1991	94	937	1,469	0	624	169	94	1,561	1,638
1992	86	1,218	1,401	0	551	154	86	1,769	1,555
1993	110	1,221	1,553	0	568	161	110	1,789	1,714
1994	94	1,239	1,627	0	627	176	94	1,866	1,803
1995	87	1,201	1,473	0	729	172	87	1,930	1,645
1996	77	945	1,210	0	664	151	77	1,609	1,361
1997	100	1,074	1,060	0	590	158	100	1,664	1,218
1998	213	947	932	0	570	167	213	1,517	1,099
1999	277	934	966	0	600	142	277	1,534	1,108
2000	178	1,012	726	0	650	139	178	1,662	865

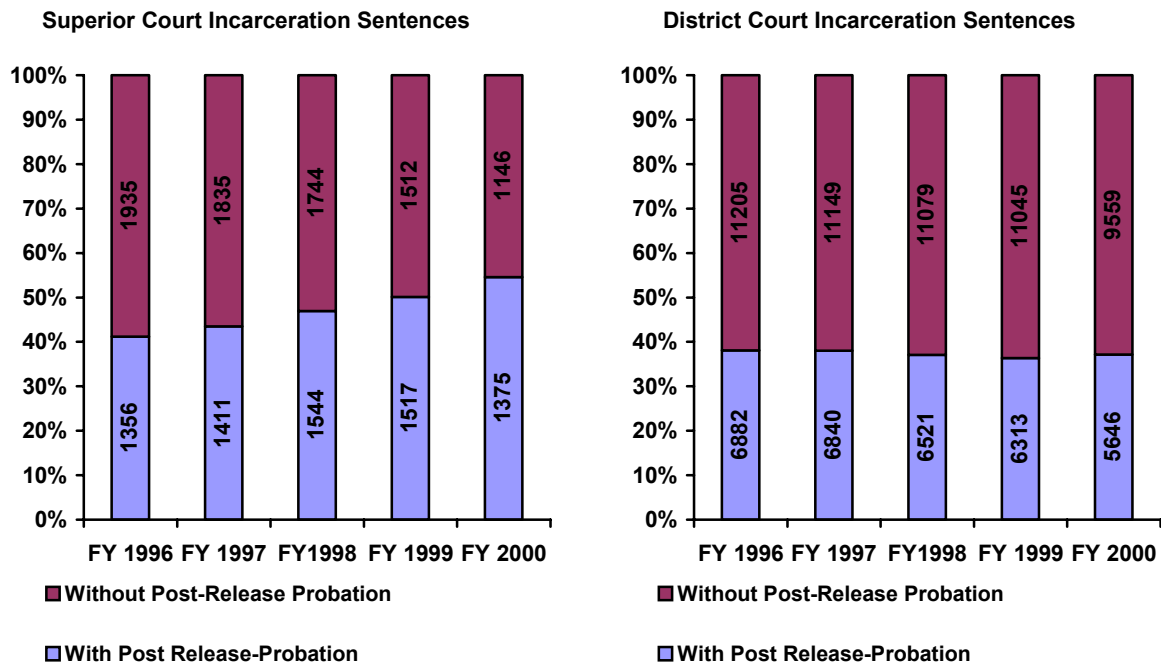
¹¹ See MASS. GEN. LAWS ch. 127, §130 (prohibiting the grant of a parole permit merely as a reward for good conduct. Instead, parole should only be granted if the parole board believes that the release of the prisoner is compatible with the welfare of society).

¹² See MASSACHUSETTS DEPARTMENT OF CORRECTION, THE BACKGROUND CHARACTERISTICS AND RECIDIVISM RATES OF RELEASES FROM MASSACHUSETTS CORRECTIONAL INSTITUTIONS DURING 1996 (May 2001) <<http://www.state.ma.us/doc/pdfs/REC96.PDF>> [hereinafter BACKGROUND CHARACTERISTICS AND RECIDIVISM RATES OF RELEASES DURING 1996].

¹³ The number of men released from higher security may be related to the 1998 opening of the Sousa Baranowski Correctional Center in Shirley which added 1,000 maximum security beds to the Department of Correction.

¹⁴ See STATISTICAL DESCRIPTION OF RELEASES DURING 1999, *supra* note 10; STATISTICAL DESCRIPTION OF RELEASES DURING 2000, *supra* note 6.

The declining parole rate and the increased number of prisoners released directly to the street after “wrapping up” their sentences may also effect the practice of “from and after” sentencing. The Task Force reviewed data demonstrating that sentencing judges in recent years have frequently imposed sentences structured to provide for post-incarceration supervision by way of an additional probationary sentence. Defendants are sentenced to a term of incarceration and also, on other charges, to a “from-and-after” probationary sentence.¹⁵ In 2000, 54.5% of all Superior Court sentences to incarceration and 37.1% of all District Court sentences to incarceration involved a period of post-release probation supervision.¹⁶ This shift of responsibility for post-incarceration supervision from the Parole Board to the various probation departments of the court system was also a subject of the Task Force’s investigation.



¹⁵ The Commissioner of Probation informed the Task Force in August 2001, that probation officers then had some 750 released prisoners under supervision. Three months later, there were approximately 1,000 people in that category.

¹⁶ See MASSACHUSETTS SENTENCING COMMISSION, SURVEY OF SENTENCING PRACTICES: FY 2000 (Nov. 2001) <<http://www.state.ma.us/courts/admin/sentcomm/surveysentpractice.pdf>> [hereinafter SURVEY OF SENTENCING PRACTICES].

These statistics regarding the number of prisoners released without supervision, combined with the declining rate of parole, form the basis for the Task Force's recommendations. Our principal recommendation is that:

- **Massachusetts criminal justice policy should be revised to give explicit recognition to the correctional goal of successful prisoner reintegration.**

Our subsidiary recommendations are more specific applications of that policy and are explained in subsequent sections:

- **The Parole Board should implement a system of “presumptive parole.”**
- **Prisoners should presumptively move to lower custody status as they progress toward their initial parole hearing.**
- **The Parole Board should work with prisoners and Department of Correction staff to prepare and implement individual release and reintegration plans.**
- **The membership of the Parole Board should be diversified to achieve the intent of existing Massachusetts law.**
- **The research departments for the Commonwealth's criminal justice and related agencies should coordinate their data collection and share their research with one another and with the public.**

In 1991, the Boston Bar Association's report on “The Crisis in Corrections and Sentencing in Massachusetts” concluded that “the Commonwealth's criminal justice system is dangerously out of balance.” A decade later, the Task Force on Parole and Community Reintegration has identified another set of imbalances at the critical point where prisoners are released from incarcerative sentences. The recommendations in this Report are made in the interest of working toward a better system of parole release, prisoner reentry and community reintegration.

II. THE PAROLE BOARD AND THE PAROLE PROCESS IN MASSACHUSETTS

A. Statutory and Administrative Structure

Parole is the procedure by which a prisoner is released from incarceration prior to the expiration of his or her complete sentence, permitting the prisoner to serve the remainder of the sentence in the community under the supervision of the Parole Board in compliance with general rules of conduct and often with specified conditions of release. The Massachusetts Parole Board is an agency within the Executive Office of Public Safety. The Board itself has seven members.¹⁷ Parole Board operations employ approximately 240 people, with an annual budget of \$14 million.¹⁸

The Board currently has approximately 3,700 persons under its supervision. Over 800 of these parolees – including INS cases, persons participating in programs out of state, and absconders¹⁹ – are supervised by the Special Operations Unit. The community supervision component of the parole system in Massachusetts is operated by a Field Services Unit, which operates out of 9 regional offices. These offices employ 67 parole officers and supervise approximately 3,000 parolees. The cost to supervise one person is estimated at \$2,920 per annum, or \$8.00 per day. The average caseload is 42 offenders per parole officer, well below the national average.

On the general question of “what works,” parole appears to be an attractive answer, if success is based on the percentage of people who are recommitted to prison as the result of new convictions within one year of release from the Department of Correction. An analysis of the

¹⁷ See MASS. GEN. LAWS ch. 27, § 4; MASS. REGS. CODE tit. 120, § 101.01(1).

¹⁸ Its line item in the FY 2002 budget is \$13,902,391, with a further sum of \$283,475 for the victim and witness assistance unit which provides notice to victims of parole eligibility and status, and accepts and records victim impact statements.

most recent two years of available data from the Department of Correction made a comparison of the return-to-prison rates for parolees and for those persons who were straight discharges from prison (i.e., people who “wrapped-up”). Parolees were less likely to be recommitted for convictions than were people who wrapped-up their sentences and left prison without any supervision. In 1995, only 5.8% of parolees were recommitted for new convictions, while 16.3% of non-parolees were; and, in 1996, 4.2% of parolees were recommitted for new convictions, compared to 18.2% of persons who wrapped-up. Parole, therefore, arguably succeeds in reducing the recidivism rate.²⁰

The Parole Board’s Field Services Unit currently has three specialized programs in place to aid in the reintegration of offenders:

(1) The Women’s Reintegration Program uses local service providers to help women address issues of education and job skills, homelessness, parenting skills, access to medical care, and substance abuse.

(2) The Intensive Parole Supervision Program is in the process of being implemented statewide. There are nine regional offices running this program. Supervision includes at least six monthly parolee-parole officer check-ins, four of which are required to be in-person visits.

(3) The Intensive Parole for Sex Offenders program is run out of the Framingham office. This program uses some or all of the following supervision techniques: mandatory counseling, electronic monitoring, unannounced home and work visits, curfews, polygraph testing, random urinalysis, travel restrictions, mandatory daily diaries, and sex offender

¹⁹ Since 1988 the number of absconding parolees with outstanding warrants has been reduced from 620 to only 134 in 2000. Staff credit close supervision and familiarity with parolees for this significant improvement.

²⁰ See BACKGROUND CHARACTERISTICS AND RECIDIVISM RATES OF RELEASES DURING 1995, *supra* note 2; BACKGROUND CHARACTERISTICS AND RECIDIVISM RATES OF RELEASES DURING 1996, *supra* note 12.

registration. This program includes partnerships with the Department of Correction, Sex Offender Registry Board, State Police, Probation and victim advocacy groups. Since its inception in 1996, there have been 114 offenders under supervision; only four have been returned to custody, none for a sex offense.

In making release decisions, the Parole Board is statutorily directed to grant a parole permit only if it is “of the opinion that there is a reasonable probability that, if such prisoner is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society.”²¹ Parole is not to be granted “merely as a reward for good conduct.”²² The Parole Board is responsible for (1) determining whether and under what conditions an individual should be released to the community and (2) supervising the individual in the community, monitoring the implementation of parole conditions, and determining whether any imposed conditions have been violated.²³ Parole Board members, thus, make the following decisions: whether to grant, reserve,²⁴ or deny parole; when to conduct a “review hearing” for those inmates denied parole;²⁵ whether to detain a parolee accused of violating a condition of

²¹ See MASS. GEN. LAWS ch. 127, § 130.

²² See *id.*

²³ See MASS. GEN. LAWS ch. 27, § 5.

²⁴ “Reserving parole” occurs when the Board’s grant of parole is contingent upon the prisoner satisfactorily fulfilling a specific condition set down by the Parole Board. For example, if a prisoner has lived only in maximum or medium security institutions during his period of incarceration, the Parole Board may require that the prisoner live in a minimum security institution or pre-release facility with no disciplinary reports for six months as a condition of release on parole.

²⁵ A “review hearing” is scheduled if the inmate is denied parole at his or her initial parole release hearing. A “set back” is the period of time the prisoner must serve before that next scheduled parole hearing. For inmates serving life sentences with parole eligibility, the Parole Board may give the inmate up to a five-year set back. See MASS. GEN. LAWS ch. 127, § 133A; MASS. REGS. CODE tit. 120, § 301.01(5). For inmates serving non-life sentences, who are not sentenced as “habitual criminals” or civilly committed as “sexually dangerous persons,” the Parole Board may give the inmate up to a one-year set back. See MASS. REGS. CODE tit. 120, § 301.01(2). In cases involving prisoners sentenced as “habitual criminals” a parole review hearing occurs two years after the initial parole release hearing and every two years thereafter. See MASS. GEN. LAWS ch. 127, § 133B; MASS. REGS. CODE tit. 120, § 301.01(3). In cases involving inmates civilly committed as sexually dangerous persons who are also serving house of correction or state prison sentences, the Parole Board may give the inmate up to a three-year set back. See MASS. REGS. CODE tit. 120, § 301.01(4).

parole; and whether to revoke parole upon proof of a parole violation. The members of the Parole Board also promulgate the agency's regulations, policies and procedures.²⁶

In deciding whether to grant parole, either at an initial hearing or a review hearing, members of the Parole Board hold a parole hearing prior to the parole eligibility date for each inmate subject to its jurisdiction.²⁷ For inmates serving a life sentence, the full Board sits for an initial release hearing and for any subsequent review hearings. These “lifer” hearings are public. They are conducted at the Parole Board office in Boston, and inmates are permitted to retain their own legal counsel and to call witnesses. Victims and opposition witnesses are permitted to testify. For inmates serving non-life state prison sentences, a panel of three board members conducts the initial release and subsequent review hearings. For inmates serving house of correction sentences, one board member conducts the initial release and subsequent review hearings.²⁸

Each correctional facility has an institutional parole officer (“IPO”) who acts as a clerk of court, scheduling parole hearings and compiling the data the Parole Board requests to see on each inmate. By regulation, the IPOs also have responsibilities to “prepare inmates for their

²⁶ See MASS. REGS. CODE tit. 120, § 101.03(1). Additionally, the Parole Board members serve as the Governor's Advisory Board of Pardons on matters of executive clemency. See MASS. GEN. LAWS ch. 127, § 154.

²⁷ See MASS. GEN. LAWS ch. 127, § 134; MASS. REGS. CODE tit. 120, § 101.03(2)(a).

²⁸ See MASS. GEN. LAWS ch. 127, § 134(a)(b); MASS. REGS. CODE tit. 120, § 300.03(1). For the most part, these non-lifer parole release hearings are conducted at the state institution or county house of correction where the inmate is in custody. They are not open to the public, no witnesses are permitted, and the inmate is not allowed to have legal representation. MASS. REGS. CODE tit. 120, § 300.08. However, pursuant to recent statutory amendments to MASS. GEN. LAWS ch. 127, § 133C, victims now are permitted to testify at parole release hearings for inmates serving state prison or house of correction sentences for crimes which resulted in death. See 1997 Mass. Acts ch. 217; MASS. REGS. CODE tit. 120, § 401.02. By practice, the Parole Board conducts these hearings where victims testify at its Boston office before a panel of three members. If no victim wishes to appear at the hearing, it is conducted at the institution before one member of the Parole Board, for a county hearing, and before three members, for a state prison hearing. A further amendment to MASS. GEN. LAWS ch. 127, § 133E permits victims of certain violent crimes and sex offenses to testify at the inmate's parole release hearings. See 2001 Mass Acts ch. 31. By practice, the Parole Board generally conducts these hearings at the institution where the inmate is being held. One Parole Board member conducts the county hearings, and three conduct the state prison hearings. The inmate has no right to call witnesses and no right to legal representation at these victim access hearings.

parole hearing” and to “assist inmates in formulating plans for parole.”²⁹ The supervision of those inmates granted parole is done by field parole officers who work in parole offices located throughout the state.

The Parole Board often gives prisoners a “reserve date,” requiring them to reside for a certain amount of time in a minimum security or pre-release facility or requiring them to complete a particular program before parole is granted. However, because the Parole Board has no control over classification decisions made by DOC personnel, inmates may not be released on their reserve dates because the DOC did not reclassify the inmate to the lower security level called for by the Parole Board, or the DOC did not place the person in the programs recommended by the Parole Board. These Parole-DOC disjunctions may occur because the DOC does not have beds in an appropriate facility, does not have space in the recommended program or because the DOC does not concur with the Parole Board's recommendation.³⁰ Whatever the reason, the result is that a prisoner with a “reserve date” set by the Parole Board is not released. This lack of communication and cooperation between the Parole Board and the DOC is the basis for several of the Task Force’s recommendations.

²⁹ See MASS. REGS. CODE tit. 120, § 100.00.

³⁰ The Northeastern Law School Prisoners' Assistance Project reported cases where the DOC had declined to reclassify inmates to lower security, citing “the nature of the offense” as its reason. The inmates then sat in limbo in maximum or medium security prisons for months or years with a parole reserve date which they were unable to realize. Because of DOC's classification practices, several of these prisoners were released on parole after Project members brought their situations to the Parole Board’s attention. In 1989, the Deputy Director of Research for the Massachusetts DOC, Michael Forcier, wrote a report, “Testing the Implementation of a Point-Based Classification System: A Comparison of DOC Initial Classifications with the NIC Model Systems Approach.” The report presented the results of a comparative validation analysis of initial classification decisions reached by the Massachusetts DOC Classification System with those of the National Institute of Correction's Model Systems Approach. The purpose of the analysis was to examine what security level distributions would be reached at initial classification if the DOC were to use the NIC objective, point-based model of classification. The initial classification decisions on 205 inmates classified at MCI-Concord and MCI-Cedar Junction were compared to the decisions reached with the NIC model after these 205 cases were “reclassified” using the NIC criteria. Fifty percent of the sample was found to be “overclassified” – that is, assigned to a higher security level than that called for by the NIC model. Moreover, 97% of the sample had been classified to medium or maximum custody by the Massachusetts DOC system, while the NIC system assigned 61% to medium or close custody. Conversely, only 3% had been assigned to minimum security with DOC criteria compared to 39% using the NIC model. The report

B. Sentencing and Parole Eligibility in Massachusetts

On January 12, 1994, the Governor signed into law Chapter 432 of the Acts of 1993, “An Act to Promote the Effective Management of the Criminal Justice System Through Truth in Sentencing,” commonly referred to as the “Truth in Sentencing Law.” Because the Truth in Sentencing Law made several major changes applicable to the execution of sentences imposed upon conviction of crimes committed *after* June 30, 1994, criminal sentences are now generally referred to as “pre-truth sentences” or “post-truth sentences.” As of January 1, 2000, 56% of the prisoners in DOC facilities were serving post-truth sentences and 44% were serving pre-truth sentences.³¹

The new law affects both “house” and “state prison” sentences:

A *House of Correction Sentence* is a sentence to a penal facility maintained by the county sheriff. A “house sentence” may not exceed two and one-half years for any one offense and may be imposed by either the district or superior court.³² Parole eligibility for persons serving sentences to a house of correction is governed by Parole Board regulations and therefore was not altered by the Truth in Sentencing Law. Parole Board regulations provide that an individual serving a total aggregate sentence of imprisonment of 60 days or more to a house of correction is eligible for parole after serving one-half of the total sentence of imprisonment, or after two years, whichever period is less.³³

concluded that the DOC classification system results in overclassification of nearly half of Massachusetts state prisoners.

³¹ The number of prisoners presently serving pre-truth sentences in Houses of Correction is relatively small in light of the fact that 2 ½ years is the maximum sentence that may be imposed upon conviction of a crime in a House of Correction.

³² See MASS. GEN. LAWS ch. 279, §§ 15, 19, 23.

³³ See MASS. REGS. CODE tit. 120, § 200.04(1).

A *State Prison Sentence*, which may be imposed only by a superior court judge, is a sentence to a state DOC facility. The sentence contains both a minimum and maximum term.³⁴ When an individual is sentenced to “life,” the court does not specify a minimum term.³⁵

The Truth in Sentencing Law effected two major changes to parole eligibility for state prison sentences. For inmates serving pre-truth sentences, parole eligibility, generally, is after service of one-third of the minimum term. For certain enumerated “crimes against the person” and for any crime committed while on parole from a Massachusetts sentence, parole eligibility comes after service of two-thirds of the minimum term.³⁶

The Truth in Sentencing Law eliminated parole eligibility at one-third or two-thirds of the minimum term. For all post-truth state prison sentences, parole eligibility is set at the minimum term of the sentence (which is determined at the discretion of the sentencing judge, as there are no preset, statutorily prescribed minimum terms).³⁷ The parole eligibility date is subject only to reduction by earned good time.³⁸

³⁴ The minimum term of a state prison sentence was reduced to not less than one year by the Truth in Sentencing Law. The previous minimum had been two and one-half years. *See* MASS. GEN. LAWS ch. 279, § 24.

³⁵ First-degree life sentences are for natural life. There is *no* parole eligibility. Prisoners serving second-degree life sentences are, by statute, parole eligible after 15 years of incarceration. *See* MASS. GEN. LAWS ch. 127, § 133A.

³⁶ *See* MASS. GEN. LAWS ch. 127, §§ 133-133B.

³⁷ If the Massachusetts Sentencing Commission’s proposed sentencing guidelines are adopted, the minimum sentence will be automatically set at two-thirds of the maximum sentence. *See* discussion *infra* Part III.A.

³⁸ Prisoners may reduce the maximum and minimum term of the sentence through voluntary participation in certain authorized activities (educational, rehabilitation and work programs) or placement at a camp facility. This is referred to as “earned good time,” and prisoners may earn up to 7½ days per month. Earned good time deductions do not reduce mandatory terms of incarceration. *See* MASS. GEN. LAWS ch. 127, §§ 129C, 129D. Mandatory minimum sentences are imposed for certain crimes which require a certain minimum amount of time in prison. In Massachusetts, these crimes include possessing a firearm while committing a crime, drunk driving, and drug dealing and trafficking. In these cases, the set minimum term of imprisonment cannot be suspended, replaced by probation, or reduced by parole or good-time credits. *See* PIEHL, *supra* note 1.

C. The Elimination of Statutory Good-Time and its Effect on Parole

The second major change resulting from the Truth in Sentencing Law was the elimination of “statutory good time” for all offenses.³⁹ The “statutory good time” law (the previous version of Massachusetts General Law chapter 127, § 129) acted to automatically deduct a specified number of days – from 2 ½ to 12 ½ days per month, depending upon the length of the sentence – from prisoners’ maximum sentences. Upon their arrival at a DOC facility, prisoners serving pre-truth sentences would be credited with all statutory good time that could accrue during the total period of confinement, by deducting that amount of time from the maximum term of their sentence, thus establishing what was called the “good conduct discharge” date. This statutory good time deduction could be lost through disciplinary proceedings.⁴⁰ The statutory good time system provided a powerful tool for the DOC’s encouragement of good behavior.⁴¹

With the elimination of statutory good time, the possibility of parole is an inmate's major incentive for complying with prison rules and participating in prison rehabilitation, education and work programs. However, many inmates have come to believe they stand only a small, if any, chance of being paroled at their initial hearing. A significant number of inmates chose not even to attend their parole hearings. In 2000, 36% of state prisoners and 30% of county prisoners waived their release hearing. In 1990, 11% of state and 17% of county prisoners had waived that hearing.⁴²

³⁹ See MASS. GEN. LAWS ch. 432, § 10 (1993).

⁴⁰ “Earned good time,” as opposed to “statutory good time,” may not be taken away on account of misbehavior.

⁴¹ Two other substantial changes were effected by the Truth in Sentencing Law – the elimination of both “reformatory sentences” (MASS. GEN. LAWS ch. 432, §§ 14-15, 17-20 (1993)) and suspended and partially suspended (“split”) state prison sentences (MASS. GEN. LAWS ch. 432, §11 (1993)). Reformatory sentences were highly indeterminate, with parole eligibility governed by Parole Board regulations; in general, most persons serving reformatory sentences were eligible for parole somewhere between service of a minimum of 6 months up to a maximum of 2 years, depending on sentence length.

⁴² See MASSACHUSETTS PAROLE BOARD, 2000 STATISTICAL REPORT “10 YEAR TRENDS; MASSACHUSETTS PAROLE BOARD, “10 YEAR TRENDS” STATISTICAL REPORT, 1990 – 1999. The Task Force did not receive any data as

III. RECOMMENDATIONS

The Task Force’s principal recommendation is that the goal of successful community reintegration of released prisoners should have explicit recognition in Massachusetts criminal justice policy. Revitalizing the parole process is essential to achieving that goal.

A. The Parole Board Should Implement a System of “Presumptive Parole”

There was general agreement among all criminal justice constituencies that prisoners should generally be released with *supervision*. “Presumptive parole” would implement that agreed-upon principle: in the absence of truly extraordinary circumstances prisoners should be released, under parole supervision, when they are eligible, in order to facilitate their successful reintegration into society.⁴³

As referenced above, declining rates of release on parole, coupled with increasing numbers of prisoners released without supervision upon “wrapping up” their sentences, suggest that parole is not presently accomplishing the goals of reintegrating offenders and protecting public safety. A system of “presumptive parole” would tilt the balance toward release upon parole eligibility. The effect would be to require the Parole Board to justify the denial of parole. Also, “presumptive parole” would set the expectation of the public, as well as the prisoner and the sentencing court, that parole is the likely result at the point in the prisoner’s sentence where the law provides for parole consideration. This recommended shift to “presumptive parole” would also likely allow sentencing judges to forego the use of probationary terms consecutive to incarceration, a sentencing structure that allows the court to achieve a type of post-incarceration

to why prisoners waive their right to parole hearings. It is acknowledged that such waivers could be for a myriad of personal and particularized reasons.

⁴³ See also PIEHL, *supra* note 1 (supporting the Task Force’s recommendation that prisoners be subject to post-incarceration supervision). The Task Force recommends release-with-supervision; however, for some men and women, that supervision need not be intensive or prolonged. Some parolees do not require services and have networks of support that should not be supplemented (even interfered with) by parole officials. Parole resources should be directed to parolees needing or requiring them.

supervision by probation, not parole, officers – when the sentencing court believes that the Parole Board will not allow the defendant to be released.⁴⁴

Of course, the shift to “presumptive parole” likely will require a redistribution – indeed, an increased investment – of resources to ensure adequate staffing and supervision of parolees. The Task Force believes those would be criminal justice dollars well directed. The Parole Board has an established institutional and individual staff experience in dealing with men and women released from prison. It has an established record of working toward lowered recidivism rates. It has ongoing working relationships with other agencies, both law enforcement and social, training, and educational services.⁴⁵ The Parole Board has access to the network of resources and community correctional centers across the Commonwealth developed by the Office of Community Corrections.⁴⁶ It has a nascent initiative – the Massachusetts Parole Board Reentry Program – whose model and goals are congruent with the Task Force’s overall recommendations.⁴⁷ In fact, the Reentry Program describes a Parole Board operation which is decidedly more of a community reintegration services-provider and overseer than a mere surveillance policing operation. A system of “presumptive parole” would help foster these important positive developments by recognizing that released prisoners *should* come under the

⁴⁴ As noted previously, some judges use “from and after” sentences or probation in order to ensure a period of supervision after incarceration. Statistics suggest, however, the number of persons on probation in Massachusetts in 1998 was nearly one-half of what it was in 1990. See U.S. Department of Justice, *Probation and Parole in the United States, 1998* (last modified Oct. 13, 1999) <<http://www.ojp.usdoj.gov/bjs/pub/ascii/ppus98.txt>>. Indeed, the number of persons sentenced in the District Courts to a period of post-release probation decreased 16% between FY 1994 and FY 1999, while the Superior Court saw a marginal increase of just less than 5% in the use of probation after incarceration. See SURVEY OF SENTENCING PRACTICES, *supra* note 16.

⁴⁵ The Parole Board’s FY 2002 Budget included an earmarked amount of \$261,000 for the “pathways program, so-called, to include direct linkages and interagency agreements for the provision of services with the appropriate workforce development agencies.”

⁴⁶ See MASS. GEN. LAWS ch. 211F, § 4(b) directs that “the resources of community corrections programs shall be utilized by the parole board for the purpose of parole supervision.”

⁴⁷ The Parole Board shared its Planning Document for this initiative, dated August 2001, with the Task Force. The Planning Document states: “The Reentry Program is a crime prevention program aimed specifically at enhancing public safety by the reduction of offender recidivism through increased programming opportunities” while still holding the parolee accountable.

Board's supervision and the Board should be responsible for bringing them into its system.⁴⁸ If, despite the broad grant of discretionary release decision-making powers in the current law, the Board is of the view that a more directive grant of statutory authority is necessary to authorize a regime of "presumptive" release, then the Task Force would recommend legislative action in that regard.

One version of so-called "sentencing guidelines" legislation, House Bill 4642,⁴⁹ includes a provision which would revise Massachusetts General Law chapter 127, § 130, governing the Parole Board's release decision-making, in a manner that would be consistent with a "presumptive parole" policy.⁵⁰ This provision would broaden the basis for parole decision-making by directing the parole board to consider an inmate's participation in work, education, and other treatment programs while incarcerated. The board would also be directed to consider the availability of community-based "risk reduction programs" as a means of promoting the inmate's successful transition from prison to street and reducing the probability of re-offending.

Another provision of that bill establishes a structure for mandatory post-incarceration supervision by the Parole Board.⁵¹ Prisoners who are released by the Board on parole would

⁴⁸ See also PIEHL, *supra* note 1 (suggesting that the Parole Board be the lead agency for post-incarceration supervision).

⁴⁹ This bill passed the Massachusetts House of Representatives in October 2001.

⁵⁰ Section 9 of HB 4642 makes the following changes to the existing statute:

No prisoner shall be granted a parole permit merely as a reward for good conduct but only if the parole board is of the opinion that there is a reasonable probability that, if such prisoner is released, in *light of appropriate conditions and community supervision*, he will live and remain at liberty without violating the law and that his release is compatible with the welfare of society. *In making this determination, the board shall consider whether, during the period of incarceration, the prisoner has participated in available work opportunities and education and treatment programs, and demonstrated good behavior. The board shall also consider whether risk reduction programs made available through collaboration with criminal justice agencies would minimize the probability of the prisoner re-offending once released.*

[HB 4642 language in italics]

⁵¹ Section 16 of HB 4642:

Post-Incarceration Supervision. For all sentences to incarceration for a period of twelve months or more... there shall be imposed a period of post-incarceration supervision... The period of post-incarceration supervision shall be imposed as follows: a period of six months for a sentence with a maximum term greater than or equal to twelve months but less than thirty months; a period of twelve months for a sentence with a maximum greater than or equal to thirty months but less than

come under parole supervision as they do under the current system; prisoners who are denied parole by the Board (or who “wrap up” their prison sentences for whatever reason) would have a period of post-incarceration supervision by the Board *added on* to their court-imposed sentence. Although the inclusion of mandatory post-release supervision is controversial, it has received considerable attention from many Massachusetts criminal justice constituencies, demonstrating that the importance of post-incarceration supervision and parole and community reintegration policies is now generally recognized.

Furthermore, under the Massachusetts Sentencing Commission’s proposed guidelines legislation, the minimum sentence, which represents the parole eligibility date, is set at two-thirds of the maximum sentence by the terms of the statutes.⁵² The one-third of the sentence remaining would consistently be left to serve as the period of presumptive parole. Therefore, this sentencing proposal would provide a framework very conducive to the implementation of “presumptive parole.”

B. Prisoners Should Move to Lower Custody Status as They Progress Toward Parole Eligibility

In order to implement the “presumptive parole” policy, DOC classification regulations and decision making should be structured in order to have prisoners’ custody status be “stepped down” as they move toward parole hearings.

Several studies of inmates released from DOC custody reveal three important findings relevant for policy makers interested in public safety and rates of recidivism:

sixty months. The total term of incarceration for the offense plus any additional commitment for a violation of a condition of post-incarceration supervision that does not otherwise constitute a new offense, shall not be greater than the maximum term fixed by statute for the governing offense. During the period of post-incarceration supervision, the prisoner shall be subject to the supervision of the Parole Board under such terms and conditions as established by the Board.

⁵² See Massachusetts Sentencing Commission, *Sentencing Guidelines Legislation Background* (last modified Oct. 15, 2001) <<http://www.state.ma.us/courts/admin/sentcomm/background.html>>.

- Inmates released directly from maximum security facilities incur the highest rates of recidivism, while those released from minimum security, pre-release centers and day reporting centers have significantly lower recidivism rates. A study that tracked male Massachusetts state prisoners released from various custody levels for one year following discharge, controlled for pre-existing high-risk characteristics, found that inmates released from minimum security and pre-release settings – unlike their medium and maximum security counterparts – were significantly less likely to recidivate.⁵³
- Participation in pre-release programs (defined as work release, education release and pre-release centers), particularly when combined with prior furlough participation, contributes to a marked decline in recidivism for male offenders. An eleven-year study that tracked male offenders released from DOC custody for one year following release found the recidivism rate for male inmates who went through pre-release programming to be substantially lower every year of the study than for offenders who did not participate in these programs.⁵⁴
- Reduced recidivism is associated with inmates progressing through custody levels, moving from high security settings to medium and lower security institutions. Research indicates that committing male inmates initially to higher security settings and releasing them later from a lower security institution contributes to lower recidivism rates.⁵⁵

⁵³ See D.P. LeClair & S. Guarino-Ghezzi, *Does Incapacitation Guarantee Public Safety? Lessons From the Massachusetts Furlough and Pre-Release Programs*, 1 JUSTICE QUARTERLY 8, 22-23 (Mar. 1991).

⁵⁴ See *id.* at 25-26.

⁵⁵ See D.P. LeCLAIR, RECENT CHANGES IN RATES OF RECIDIVISM FOR RELEASES FROM MASSACHUSETTS STATE CORRECTIONAL INSTITUTIONS: AN EXPLORATORY EVALUATION OF POSSIBLE CAUSAL FACTORS 15-16 (1998).

Taken together, these findings suggest that classification policies and “step-down” practices of the Commonwealth’s correctional agencies can have a significant impact on the recidivism rates and safety of Massachusetts’ communities. Yet, despite this evidence, the last decade has seen a steady growth in the number of inmates housed in and released directly from the DOC’s highest security prisons. Additionally, the systematic reduction in the number of the Department’s pre-release beds has greatly limited the number of inmates able to benefit from pre-release and work-release programming as well as those able to progress through custody levels in preparation for parole eligibility and subsequent discharge.

In recent years, the DOC has enlarged its capacity to accommodate inmates sentenced to state prison. The majority of its additional beds, however, have been incorporated into its maximum and medium security custody levels. From 1990 to 2001, the number of high security beds within the Department (levels 6-4) grew by 125%, while capacity of the lower security facilities (levels 3-1) experienced an overall decrease of 7%.⁵⁶ Indeed, since 1990, the number of maximum security beds available at the DOC has more than doubled going from 736 in 1990 to 1721 in 2001, a 134% increase.⁵⁷ This is in stark contrast to the number of level 1 (contract pre-release) beds that shrank by 84%, from 185 beds in 1990 to 30 in 2001.⁵⁸ In November 2001, the DOC further reduced pre-release capacity by closing Park Drive Pre-Release in Boston (50 level 2 pre-release beds) and Charlotte House, a women’s facility in Boston (15 level 1 contract beds). Park Drive had operated since 1974, and Charlotte House, since the 1960s. And, in March 2002, the DOC announced plans to close three more facilities – Southeastern Correctional Center

⁵⁶ See MASSACHUSETTS DEPARTMENT OF CORRECTION, QUARTERLY REPORT ON THE STATUS OF PRISON OVERCROWDING, FOURTH QUARTER OF 2001 (Jan. 2002); MASSACHUSETTS DEPARTMENT OF CORRECTION, Population in Department of Correction Facilities, 1990.

⁵⁷ See *id.*

⁵⁸ See *id.*

(medium security), MCI Lancaster (minimum), and MCI Shirley (minimum), affecting 900 prisoners (and lower security DOC beds).⁵⁹ That plan has now been implemented.

DOC Custody Levels⁶⁰	1990 Capacity	2001 Capacity	% change	1990 Occupancy	2001 Occupancy	% change
Level 6 – maximum	736	1,721	134%	797	1,860	133%
Level 5 – high medium	428	488	14%	592	721	22%
Level 4 – medium	1,789	4,441	148%	4,095	5,630	38%
Level 3 – minimum	360	934	159%	534	646	21%
Level 3/2	734	368	-50%	1,001	354	-65%
Level 2 – pre-release	206	50	-76%	309	0	-100%
Level 1 – contract	185	30	-84%	156	14	-91%
Total	4,438	8,032		7,484	9,225	

This increase since 1990 in the DOC’s higher security population and capacity is a sizeable growth in both the number of and the proportion of inmates confined under “maximum” conditions.

It follows that as more inmates are housed in medium-to-high security facilities, more are released directly from these prisons. With fewer beds in minimum and pre-release facilities come fewer opportunities to move inmates gradually through lower security in preparation for release and/or parole. Mirroring the high-security housing trend, the DOC’s recent release

⁵⁹ See Massachusetts Department of Correction Press Release, *Massachusetts Department of Correction Announces Prison Closings* (Mar. 15, 2002) <<http://www.state.ma.us/doc/MEDIA/FacilityClosing.htm>>.

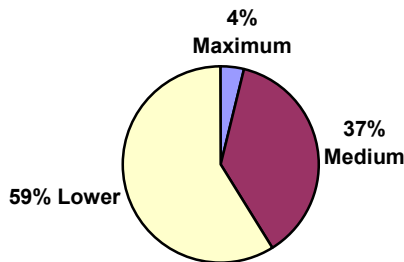
⁶⁰ These custody levels correspond with particular DOC facilities:

	1990 DOC Definition/Security Levels:	2000 DOC Definitions/Security Levels:
Level 6:	Cedar Junction, DSU (Norfolk/Walpole), Framingham-ATU	Cedar Junction, SBCC, Framingham-ATU
Level 5:	OCCC	OCCC
Level 4:	Concord, Framingham, Norfolk, NCCI, SECC	Concord, Framingham, Norfolk, NCCI, SECC, Bay State, Shirley-Medium, Bridgewater SDPTC
Level 3:	NECC, SECC-Minimum, Bay State, Medfield	NECC, SECC-Minimum, Plymouth, Shirley-Minimum, Pondville, NCCI-Gardner
Level 3/2:	Lancaster-Male, Lancaster-Female, Hodder, Warwick, Plymouth, Shirley	Lancaster-Male, Lancaster-Female, Hodder, SMCC, Boston State
Level 2:	Boston State, Park Drive, Norfolk Prerelease, SMPRC	Park Drive
Level 1:	Charlotte, Houston Mass Halfway, WSATP, Hillside, Spectrum, Meridian	Charlotte, Houston, PPREP

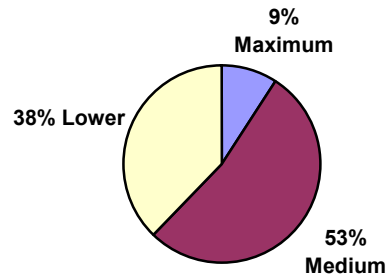
statistics reflect a larger number and greater percentage of inmates discharged directly from maximum security than in previous years, despite smaller release numbers. While there has been a 23% decrease in the overall number of males released from the DOC between 1991 and 2000, there has been a 89% increase in the number of male inmates released directly from maximum security prisons during that same time period.⁶¹

Custody level of men released from the DOC	1991 releases by security		2000 releases by security		% change in #s released 1991-2000
	#	%	#	%	
Maximum	94	4%	178	9%	89%
Medium	937	37%	1,012	53%	8%
Lower	1,469	59%	726	38%	-51%
Total Male Releases	2,500		1,916		-23%

1991 Male DOC Releases
n=2,500



2000 Male DOC Releases
n=1,916



This upward shift in inmate custody levels contributes in part to lower parole rates. Because of the great difficulty for the Parole Board to make any predictions about an offender's future behavior in the community on the basis of observations from a high security prison, these inmates are rendered inappropriate candidates for parole by virtue of their institutional classification. Unable to access reintegration programs located at lower security settings,

⁶¹ STATISTICAL DESCRIPTION OF RELEASES DURING 2000, *supra* note 6.

offenders housed in higher custody levels cannot demonstrate their preparedness for release and are often denied parole. Thus, with the increase in releases from maximum security comes an understanding that *most* of these discharged inmates are *not* released to the custody and supervision of the Parole Board, but rather are released unconditionally without an accountability structure in the community and without follow-up support or supervision of any kind. Ironically, to promote public safety, these are the very offenders who should have a high priority for post-release supervision.

While no yearly statistics are compiled detailing the number of inmates who regularly participate in furloughs, pre-release and work release programs, it is safe to say the pre-release activities that enable offenders to gradually acclimate themselves to life in the community have been severely curtailed. Just as the concept of halfway houses has fallen out of official public favor and their number reduced, the practice of granting furloughs has been discontinued (except for emergency circumstances), and furloughs are no longer used as a tool to prepare inmates for discharge.

In fairness to the families and communities to which offenders return, every inmate, in anticipation of his parole hearing and his release and return home, should have the opportunity to spend some portion of his sentence practicing a crime-free lifestyle, learning what it means to be a civil and productive member of society while still under the structure and supervision of the DOC. This type of graduated release can significantly impact the functioning of the parole process, increasing the number of inmates released to community supervision, as well as improving inmates' chances at successful reintegration, allowing offenders over time to reacquaint themselves with the duties, responsibilities and freedoms exercised outside of confinement.

C. Parole Staff Should Work with Prisoners and DOC Staff to Prepare Individual Release and Reintegration Plans. Such Plans Should be Explicitly Mandated by Both Parole and DOC Policies, and Should be Revised and Updated on a Regular Basis

The Commonwealth of Massachusetts is poised for significant challenges as it prepares to release an unprecedented number of inmates into our neighborhoods and communities. The seeds of today's problems are rooted in the trends of the 70s and 80s, when rising crime rates brought an understandable outcry for "tough on crime" policies. Elected officials responded by enacting tougher sentencing laws and directing more stringent inmate classification. These movements shifted the focus of the Massachusetts penal system decidedly away from inmate rehabilitation and reintegration and towards strict incapacitation. While putting greater numbers of offenders behind bars in more onerous conditions for longer periods of time may have had an impact on the Commonwealth's crime rate in a "specific-deterrence" sense,⁶² the long-term impact of these changes is cause for concern: these changes have contributed to a dramatic decline in the number of inmates paroled, while conversely increasing the number of inmates released unconditionally. Furthermore, many of the most violent and serious offenders may not be eligible for parole⁶³ or the DOC may deem them ineligible for any of prison-based programs.⁶⁴ These offenders, therefore, are usually ending long sentences in medium or high security facilities, having had little institutional preparation for their release to the community.

The DOC has recently made strides in addressing the needs of offenders reentering society. The DOC has implemented a Public Safety Transition Plan whereby inmates within one

⁶² That is, the particular individuals convicted and sentenced to those longer sentences were themselves incapacitated, as prisoners, from committing other crimes in the outside world.

⁶³ For example, a prisoner who has received a "post-truth" sentence with closely proximate minimum and maximum terms (say, five years to five years and a day on a five-year mandatory minimum sentence, with or without any from-and-after probationary sentence) will never be eligible for parole.

⁶⁴ The DOC's classification system can operate so that the "nature of the offense" is *the* crucial determinant of a prisoner's security placement for the entire duration of the sentence in custody. As the result, prisoners cannot "get to" a security level or an institution where an appropriate program is available. *See* discussion *infra* at n. 30.

year of release can participate in a series of transition workshops that encourage them to prepare for their return to society. While this initiative is commendable, a series of workshops simply cannot adequately prepare inmates for daily life in the community. Inmates must begin release preparations as soon as they begin serving their sentences.

To improve the likelihood that offenders become contributing, integrated members of their communities, institutional parole officers working with DOC staff and the prisoner should develop an individual and comprehensive reintegration plan.⁶⁵ For every offender, the plan should be structured around the twin goals of preventing re-offending behavior and achieving successful reentry into Massachusetts communities. Such plans will provide offenders with more attentive and individualized needs assessment and services that will assist them and all of us during the time of their incarceration and in their transition from custody to release.

To increase the correctional system's ability to identify offender needs and to match those needs with the appropriate resources, all inmates should be thoroughly evaluated by the DOC and institutional parole officers (or other parole staff) at intake to determine which prison programs will best achieve the offender's successful reentry into the community upon release. Accordingly, programs in the prisons for substance abuse treatment, violence reduction, life skills, academic and vocational education, employment and vocational skills training, parenting, self-development, health education and housing assistance must be offered, and inmates should be encouraged to attend and participate.⁶⁶

Additionally, reintegration plans should dovetail with and include the correctional and community-based services that exist beyond prison walls. The potential for a successful

⁶⁵ It is noted that in August 2001, the Parole Board released a "planning document" entitled Reentry Program. That document also recommends among other things, "individualized case management reentry plans," with planning commencing at the time of commitment by a team including DOC and Parole Board staff.

community reentry increases greatly when there is a structured transition plan from the institutional level to the community. Consequently, the offender's reintegration plan should be forwarded to his or her field parole officer to expedite the inmate's access to and use of resources available in the community.

Throughout this process it is imperative that DOC staff and institutional parole officers communicate and coordinate their efforts to ensure that every inmate has a complete release plan set well before the inmate's parole hearing.

D. The Membership of the Parole Board Should be Diversified to Reflect the Intent of the Existing Law

When the Task Force was convened in May of 2000, the Massachusetts Parole Board was composed almost entirely of persons with backgrounds in official criminal justice agencies and, in particular, law enforcement.⁶⁷ The Task Force undertook to research and investigate the following questions: Does the background of Parole Board members affect the rates of parole? Is a Parole Board composed entirely (or almost entirely) of persons with backgrounds in law enforcement in compliance with the statute, Massachusetts General Law chapter 27, § 4, governing appointments to the parole board? Are there improvements that could be made in the appointment process?

The seven members of the Parole Board are appointed by the Governor with the advice and consent of the Governor's Executive Council.⁶⁸ The members are appointed to five-year terms or to fill the unexpired term of a prior member. They devote full-time to their duties. The statute directs that members of the Parole Board must be graduates of an accredited four-year

⁶⁶ See also PIEHL, *supra* note 1 (reaffirming the Task Force's proposal that prisoners receive education and vocation training while incarcerated).

⁶⁷ See S. Leblanc, *Critics Say Parole Board Lacks Balance*, THE BOSTON GLOBE, Mar. 14, 2001.

⁶⁸ The Massachusetts Constitution identifies this body, which dates to Colonial times, as "the Council." It is customarily referred to as the "Governor's Council," or the "Executive Council." It consists of eight members, elected for two-year terms from districts which include five state senate districts.

college or university and must have had at least five years of training or experience in one or more of the following fields: parole, probation, corrections, law, law enforcement, psychology, psychiatry, sociology, or social work.⁶⁹

The Governor must act in one of two ways to fill any vacancy on the Board. First, the statute provides that the Governor may appoint a panel of five persons, consisting of the “administrative justice for the superior court department,”⁷⁰ the president of the state parole officers association, the chairman of the advisory committee on correction,⁷¹ the president of the Massachusetts Bar Association or his or her designee, and the Secretary of the Executive Office of Public Safety, who shall submit to the Governor, within 60 days, a list of not fewer than six nor more than nine persons, who are qualified as set forth above.⁷²

The Governor's alternative method for selecting a Parole Board member is simply to choose someone who meets the statutory criteria. Whether the Governor chooses the nominee from the names submitted by the nominating panel or selects someone on his or her own, the nomination is then submitted to the Governor's Council, which must approve the appointment by a majority vote.

The Governor may submit a nominee to the Governor's Council who does not have the statutory qualifications only if the nomination has been approved unanimously by the nominating

⁶⁹ See MASS. GEN. LAWS ch. 27, § 4. By regulation, the Parole Board may operate as a Full Board with less than seven members. See MASS. REGS. CODE tit. 120, § 101.01(1). The majority of the Full Board is four where there are six or seven members appointed. The majority is three where there are five or fewer members currently appointed. See MASS. REGS. CODE tit. 120, § 100.00.

⁷⁰ This statute pre-dates the 1992 court reform legislation, Ch. 379 of the Acts of 1992, which created the office of the Chief Justice for Administration and Management. See MASS. GEN. LAWS ch. c. 211B, §1. The Chief Justice of the Superior Court, not the new CJAM, is the “administrative justice for the superior court department.” See MASS. GEN. LAWS ch. 212, § 1.

⁷¹ This advisory committee was abolished by the first Weld administration in the early 1990s.

⁷² By statute, the nominating panel must, insofar as it is able to select people who could “promptly” fill the vacancy, include one or more of the following in its list of names submitted to the Governor: an attorney admitted to practice in Massachusetts, a psychiatrist who is a member in good standing in the American Psychiatric Association, a psychologist certified by the Massachusetts Board of Certification in Psychology, Inc., and a member of the Massachusetts Parole staff. See MASS. GEN. LAWS ch. 27, § 4 (emphasis added).

panel. The law does not authorize the appointment of a person to the Parole Board who does not meet the statutory requirements unless the individual receives a unanimous vote of approval by the nominating panel.⁷³

The Task Force found that the need for a diversified parole board has long been recognized by criminologists, and other social scientists, the Massachusetts legislature, and the Massachusetts Parole Board. As gubernatorial appointments, Parole Board members' attitudes and beliefs about criminal justice issues such as sentencing and parole often reflect the views of that appointing authority. Considerable disparities in rates of parole among parole boards appointed by different Governors result when parole board membership is not diversified.

A Parole Board composed largely or even entirely of persons from law enforcement may meet the literal letter of the law, but a strong argument can be made that it is contrary to the spirit of the statute, Massachusetts General Law chapter 27, § 4. With respect to the appointment process, the Task Force notes that positions on the Parole Board are allowed to remain vacant for lengthy periods of time. Additionally, individuals continue to sit as voting members of the Parole Board long after their terms have expired.

The disparities in rates of parole between different gubernatorial administrations, long-standing Parole Board vacancies, and the fact that "members" sit on the Board long after their terms have expired have combined to create a lack of confidence in the parole system among some segments of the public as well as by many incarcerated men and women.

⁷³ The statute provides: "the panel may, by unanimous vote, submit the name of a person who has demonstrated exceptional qualifications and aptitude for carrying out the duties required of a parole board member, if such person substantially, although not precisely, meets the above qualifications." MASS. GEN. LAWS ch. 27, § 4.

1. General Recognition of the Importance of Diverse Expertise in Parole Decision Making

The nation's first system of indeterminate sentencing with parole eligibility was introduced at the Elmira Reformatory in New York in 1876. Convinced that “criminals could be reformed and that every prisoner's treatment should be individualized,” parole systems were adopted in all but three states by 1927, and in all states and the federal government by 1942.⁷⁴ From the outset, the primary goal of parole was rehabilitation.⁷⁵ In 1949 the United States Supreme Court stated that “[r]etribution is no longer the dominant objective of the criminal law. Reformation and rehabilitation of offenders have become important goals of criminal jurisprudence.”⁷⁶ The “rehabilitative ideal,” as it came to be known, “affected all corrections well into the 1960's and gained acceptance for the belief that the purpose of incarceration and parole was to change the offender's behavior rather than to simply punish.”⁷⁷ This outlook gave legitimacy to the idea that parole boards “were supposed to be composed of 'experts' in behavioral change, [since] it was their responsibility to discern when during confinement the offender was rehabilitated and thus suitable for release.”⁷⁸

In Massachusetts, the concept of parole was first introduced in 1881, when the Commissioners of Prisons were given the authority to release offenders from the Reformatory Prison for Women under “such conditions as they deem best.”⁷⁹ A limited parole system was introduced to the State Prison at Charlestown in 1894, and in 1913 the first Board of Parole was

⁷⁴ See J. Petersilla, *Parole and Prisoner Reentry in the United States*, 26 CRIME & JUST. 479, 488-89 (1999).

⁷⁵ See V. Palacios, *Go and Sin No More: Rationality and Release Decisions by Parole Boards*, 45 S.C. L. REV. 567, 569-570 (1994).

⁷⁶ *Williams v. New York*, 337 U.S. 241 (1949).

⁷⁷ See Petersilla, *supra* note 74, at 491.

⁷⁸ *Id.*

⁷⁹ See MASSACHUSETTS PAROLE BOARD, ANNUAL REPORT TO STATE LEGISLATURE 1 (1983).

established.⁸⁰ Chapters 349 and 829 of the Acts of 1913 called for a Board of Parole consisting of three men. No educational or professional job requirements were set out in the statute.⁸¹ In 1934, a fourth male member was added by statute.⁸² Again, no job qualifications were set out in the statute.

By the mid-1930s, the Parole Board was composed of four “political appointments” – four men without relevant professional or educational experience. Consequently, by 1937 “[p]arole became virtually non-existent in Massachusetts.”⁸³ Maximum sentences were served at a 700% higher rate than those served in the early 1930s.⁸⁴ Parole Board members pardoned and paroled persons with connections to various state legislators and other politicians. They also appear to have engaged in selling pardons and paroles.⁸⁵ This untoward behavior did not become public knowledge until Governor Charles F. Hurley appointed a commission to investigate the cause of a Concord Prison riot in 1938 that, in turn, caused a legislative investigation into why no one was being paroled in Massachusetts. The Commission, headed by the Commissioner of Public Safety and Commissioner of Correction, charged the Board of Parole “with responsibility not only for the Concord riot but for the general conditions throughout the state institutions of which the riot was only one expression.”⁸⁶ The legislative committee report echoed the commission's findings:

⁸⁰ *Id.*

⁸¹ *See* H.R. Rep. 1000, at 52 (Mass. 1941).

⁸² *See id.*

⁸³ *See id.* at 58.

⁸⁴ *See id.* “In 1937 the number of maximum sentences voted at Concord rose to 231, a figure over twice as high as that for 1936, and 70 percent higher than the figure for 1935. The 1937 figure of 231 maximum sentences voted brought the total for the years 1934-1937, inclusive, to 537, an increase of approximately 700 per cent over the four-year period from 1930 to 1933, during which a grand total of only 66 maximum sentences was voted.”

⁸⁵ *See id.* at 58-114.

⁸⁶ *Id.* at 60. The commission reported that the heads of all of prisons concurred “that the increase in the number of maximum sentences and in revocations, and recent parole policy in general had virtually destroyed the morale of the prisoners and had given many of them a feeling of complete discouragement and a feeling they had nothing to lose or gain.”

[I]t is difficult to see how the old Board of Parole and the Parole Board which came into effect in May 1937, can escape the major responsibility for the riot at Concord, the unrest and tension at the other institutions and the general conditions of which they were striking symptoms. If a riot or other outbreak were avoided the loss of morale and hope which was manifest in the institutions for men would still have remained and would have nullified the purpose of correctional institutions and parole systems for the successful return of rehabilitated men to free society. Even if Concord or one or more of the other institutions had not been the scene of a riot, Massachusetts would still have suffered from the eventual release of hundreds of men who had been embittered by the actions of the parole authorities.

We charge the members of the Parole Board who determine its policy with responsibility for a situation which cost Massachusetts tens of thousands of dollars in the maintenance of prisoners who could undoubtedly have been released very much earlier than they were, and with responsibility for many of the conditions which led to the Concord riot.⁸⁷

The House Committee report, published in 1941, made numerous recommendations to improve the parole system, one of which concerned qualifications for Parole Board membership: “The paroling authority should be impartial, nonpolitical, professionally competent, and able to give the time necessary for full consideration of each case.”⁸⁸

Thus, beginning in 1937, at the height of the Massachusetts scandal, and continuing through 1971, there have been a series of legislative enactments and committee reports calling for a more diversified Parole Board. For example, Chapter 399 of the Acts of 1937 called for a five- member Board with two of the positions being filled by women. In 1946, the statute was changed to require that no more than three members of the Parole Board could be of the same

⁸⁷ *Id.* at 60-61.

⁸⁸ *Id.* at 41. Without diversity of opinion and background, parole boards around the nation during the first half of the twentieth century faced criticism for relying on personal bias rather than reasoned discretion:

One of the long-standing criticisms of paroling authorities is that their members are too often selected based on party loyalty and political patronage, rather than professional qualifications and experience ... Since parole boards had a great deal of autonomy and their decisions were not subject to outside scrutiny, critics

political party. In 1956, the *Report of the Governor's Committee to Study the Massachusetts Correctional System* recognized and recommended the job qualifications promulgated by the National Probation and Parole Association's Advisory Council on Parole:

Understanding of the law and awareness of those conditions which contribute to crime are effective in the prevention of crime and helpful in the treatment of the offender. This experience should be of such nature and extent as to provide the member with an intimate knowledge of situations and problems confronting the offender. With this type of experience combined with appropriate academic training it can be inferred the Parole Board member himself has benefited from advanced education and is equipped with a degree qualifying him for professional practice. Such degree may be in social work, law, medicine, psychiatry or education.⁸⁹

2. The Massachusetts Parole Board: 1971-1992

In 1971, the Massachusetts legislature enacted the version of Massachusetts General Law chapter 27, § 4 which largely remains in effect to this day. The statute calls for a seven-member Parole Board, appointed by the Governor, with the advice and consent of the Governor's Council, to five-year terms or to fill the unexpired term of a prior member. Members of the Parole Board must be graduates of an accredited four-year college or university and must have had at least five years of training or experience in one or more of the following fields: parole, probation, corrections, law, law enforcement, psychology, psychiatry, sociology, and social work. While the statute does not *require* diversification, the clear intent of the statute was to include persons from diverse backgrounds as Board members. During the 1970s and the 1980s, Governors made appointments consistent with that legislative intent, and the Board had a diverse membership. In

argued that it was a hidden system of discretionary decision making and led to race and class bias in release decisions. Petersilla, *supra* note 74, at 491-93.

⁸⁹ See REPORT OF THE GOVERNOR'S COMMITTEE TO STUDY MASSACHUSETTS CORRECTIONAL SYSTEM (1956).

1990, the Parole Board itself recognized the importance of diversification of membership. It adopted its own guidelines, which state:

These often difficult decisions are (to be) made by seven community representatives who bring to their task different and professional experiences and viewpoints so that a range of perspectives are present in the review and deciding of cases.⁹⁰

From 1971 to 1992, Governors and the Governor's Council generally followed the intent of the statute in that Parole Board membership was drawn from each of the fields mentioned in Massachusetts General Law chapter 27, § 4. During those years, members of the Parole Board included former prosecutors and criminal defense attorneys, former legal services attorneys and government attorneys, educators, psychologists, sociologists, ministers, social workers, former probation officers and corrections staff. On each Parole Board there was a mixture of backgrounds, including members with experience and expertise in evaluating the social and psychological data relevant to the parole release decision. The Board included persons of color, at times as many as three, as well as persons who lived in the urban communities to which many potential parolees sought return.

3. The Present Parole Board's Lack of Diversified Membership

Since 1991, the large majority of persons appointed to the Massachusetts Parole Board have been from backgrounds in policing, prosecution, parole and probation.⁹¹ Since 2000, the Parole Board has been composed entirely of persons with such criminal justice backgrounds. At present, the Parole Board is composed of three former state prosecutors, a former state trooper, a former probation officer and a former police detective. One position has been vacant since

⁹⁰ PAROLE DECISION-MAKING: THE POLICY OF THE MASSACHUSETTS PAROLE BOARD 25-26 (Jan. 1990).

⁹¹ Appointments to the Parole Board since 1991 have been of an attorney from the Governor's Chief Legal Counsel's Office; an administrator (previously appointed in '85 and '87); a psychiatric social worker; an accountant, murder victims' family member, and member of the Victim and Witness Assistance Board (reappointment in '01 failed to win Governor's Council approval); a probation officer; a parole officer; an agent with the federal Bureau of

March 2001. One person of color serves on the Board. There are no Hispanic members. The Chairman resides in the West Roxbury neighborhood of Boston; none of the other members are from the large urban areas of the Commonwealth.⁹²

4. Lack of Diversity and Parole Rates

The Parole Board's statistical reports indicate a correlation between the composition of the present Board and the rates of parole. The Task Force found that paroling rates declined dramatically from 1990 to 2000. In 1990, the parole rate for inmates serving non-life state prison sentences was 70%. By 2000, it had dropped to 41%.⁹³

5. Filling Vacancies on the Parole Board

Since 1992, vacancies on the Parole Board have not been filled in a timely manner. One vacancy has existed since March 2001. Having less than full Board membership necessarily implies inefficiencies, and may also lead to mistrust and legal challenges of parole decisions.⁹⁴ For example, in certain circumstances, inmates have a statutory right to a hearing before the "Full Board." When the "Full Board" consists of less than seven members, there is also some resultant loss in credibility in the Board's decisions. In the last six years, in addition to the problem with lengthy vacancies, the Board has had persons sitting as voting members whose

Alcohol, Tobacco and Firearms; a State Police Officer; 3 former Assistant District Attorneys; and a former municipal police officer.

⁹² Present Parole Board members are from Mashpee, Stoughton, Hatfield, East Sandwich, North Quincy and West Roxbury (Boston).

⁹³ See MASSACHUSETTS PAROLE BOARD, 2000 STATISTICAL REPORT "10 YEAR TRENDS; MASSACHUSETTS PAROLE BOARD, "10 YEAR TRENDS" STATISTICAL REPORT 1990 – 1999, p. 8. Also, in 1990, 41% of prisoners serving second-degree life sentences – with parole eligibility after 15 years of incarceration – were paroled at their 15th year; by 1997, that rate had dropped to zero. See MASSACHUSETTS PAROLE BOARD, "10 YEAR TRENDS" STATISTICAL REPORT 1990 – 1999 at 22. The Parole Board's statistical analysis for the years 1975 and 1985 did not separately analyze lifer parole rates. However, the overall rates of parole for the years 1975 to 1985, which included the lifer hearings, fluctuated only slightly – between 57.3% in 1975 and 63.3% in 1985. If the statistics from the lifer hearings are then tabulated separately from these numbers, the parole rate of non-lifers serving state prison sentences would most likely be somewhat higher. See the Parole Board statistical reports for 1975, 1980 and 1985.

⁹⁴ See, e.g., *Yandle v. Swift*, Civ. No. SUCV2002-01274, Suffolk Superior Court (filed Mar. 22, 2002) (challenging a parole decision in which "holdover" member had participated); Francie Latour, *Inmate Says Parole Board Member is On Illegally*, THE BOSTON GLOBE, Mar. 23, 2002, at B1.

terms have by law expired.⁹⁵ These members in “holdover” status continue to act (and be compensated) as full voting members of the Board, despite the fact that their terms have expired. They serve day-to-day, with the Governor’s acquiescence and are perceived as being acutely subject to the Governor’s influence and power of re-appointment. The presence of “holdover” members on the Parole Board impairs its ability, as an important criminal justice institution, to have its policies and judgments seen as fair, based on sound and lawful principles, and worthy of respect.

The Task Force recommends that the Governor and the Governor’s Council – and the Bar and the public generally – work to diversify the membership of the Parole Board, consistent with the current statutory directive. More specifically, the Task Force recommends that the Governor take affirmative steps to nominate persons with education and experience in the behavioral sciences, criminal defense practitioners, Spanish speaking individuals, and women and men of color, all of whom could make for a more diverse Parole Board membership.

The Task Force also recommends that vacancies on the Board be anticipated and filled promptly. No later than 60 days before the expiration of a Parole Board member’s term, the Governor should submit to the Governor’s Council the name of his or her nominee to fill the upcoming vacancy. If the Governor chooses to re-nominate a currently serving member, this reappointment process should be accomplished 60 days before the expiration of the Board member’s term. Members whose terms have expired should not continue to sit as “holdover” Parole Board members. When a sitting member’s resignation causes a vacancy on the Board, the

⁹⁵ The term of one of the sitting members expired on June 2, 1996. That individual remains on the Board as a voting member to this day. The previous chairperson of the Board, who resigned in August 2000, had been on “holdover” status since her term expired on June 2, 1998. Another member remained on “holdover” status from June 2000 to March 2001. Another member was on “holdover” status in July 1999 when the Governor forced his resignation; he remained on the Board, on “holdover” status, until September 1999.

Governor should act promptly to make a new appointment, making certain that the nomination is submitted to the Governor's Council within 60 days of the occurrence of the vacancy.

E. The Research Departments for the Commonwealth's Criminal Justice and Related Agencies Should Coordinate Their Data Collection and Share Their Research With One Another and With the Public

The Task Force found that most criminal justice agencies in Massachusetts have their own research units which produce useful descriptive statistics on offenders under their respective jurisdictions. The Department of Correction, Parole Board, Office of the Commissioner of Probation, and the Sentencing Commission publish statistical reports that have helped to inform the policy recommendations of the Task Force.

Most of these research units tend to operate as “islands of information,” focusing on offenders within their own particular jurisdictions. The Task Force’s experience with obtaining and evaluating data from several agencies has led it to recommend that greater collaboration among these research entities is needed to support a more comprehensive, system-oriented perspective for criminal justice research. Just as there has been a growing awareness of the importance of partnerships among criminal justice agencies to achieve common goals, so there is a need to encourage collaboration among criminal justice research entities to develop a broader and more integrated criminal justice information system to better inform system-wide decision making and policy formation. Such an approach should lead to the use of common “data dictionaries” which would establish consistent definitions of key variables across the criminal justice research community.

The Criminal History System Board (CHSB)⁹⁶ has the capabilities to serve as the hub for an integrated criminal justice information system which could support a more comprehensive research agenda. The CHSB has the connectivity to the relevant criminal justice and the

telecommunications network to support the electronic exchange of information for research purposes. An integrated information system would also have such important implications for operational decisions that the comprehensive research initiative may turn out to be a valuable by-product. The development of an integrated criminal justice information system would enhance the capabilities of agency researchers to better inform criminal justice decision making, policy formulation and policy *implementation*.

One example is the important cross-agency research endeavor, ordered by the Massachusetts legislature as part of the FY 2002 budget, which directs the Sentencing Commission to conduct a recidivism study encompassing several criminal justice agencies, including the Department of Correction, Parole Board, Sheriffs' Departments, Office of Community Corrections, and drug courts.⁹⁷ This legislative mandate provides an opportunity for collaboration on a research effort that employs a common definition of "recidivism" and would produce informative and useful results.⁹⁸ The project is an example of the collaborative research model in criminal justice because the research goals can only be accomplished with the full cooperation of the designated entities. The Task Force supports such research projects and recommends that its model inform further cooperative and coordinated criminal justice research in the Commonwealth. Empirical research is critically important in all areas of criminal justice planning, evaluation, and reforms, including, of course, parole and community reintegration.

⁹⁶ See MASS. GEN. LAWS ch. 6, § 168.

⁹⁷ See 2001 Mass. Acts ch. 177, § 2, line item 0330-0317. The law includes specific directives to the several criminal justice agencies to cooperate in the Sentencing Commission's study. For example, the Parole Board's \$13.9 million appropriation, line item 8950-0001, is made "provided...that the board shall collaborate and cooperate with the sentencing commission for the completion of the comprehensive recidivism study required of said commission...by supplying all data, information, and reports requested pursuant to said study in a timely and complete fashion."

⁹⁸ See MASSACHUSETTS SENTENCING COMMISSION, COMPREHENSIVE RECIDIVISM STUDY (June 1, 2002).

IV. CONCLUSION

The work of the Task Force and the analyses and conclusions it has reached show the importance of the parole process in making our communities safer by providing a supervised structure for prisoners' reintegration. The Task Force believes that implementing its recommendations will substantially improve the overall operation of the Massachusetts parole system, making it more integral to the overall sentencing system, more effective and more just.

Acknowledgements

The Task Force wishes to express its appreciation to all of the people, agencies and organizations who assisted our endeavors by sharing information and insights. Their help made this report possible. We are grateful to those who spoke at Task Force meetings, including Michael J. Pomarole, Chairman of the Parole Board; Michael T. Maloney, Commissioner of Correction; John J. O'Brien, Commissioner of Probation; Steven V. Price, Executive Director of Community Corrections; Judith McBride, Office of Justice Programs in the United States Department of Justice; and William H. Alexander, Project Coordinator of the Father Friendly Initiative of Boston Healthy Start. We appreciate their and others' willingness to share information, their expertise and experiences with members of the working subcommittees.

We thank the Boston Bar Association – Leslie Davies, Government Relations Director; former President Thomas E. Dwyer, who envisioned and convened the Task Force; and President Michael B. Keating, whose sustained stewardship of the Association's Corrections and Sentencing Task Force serves as an inspiration to us.

This Report is dedicated to James Vorenberg – inspiring teacher, thoughtful empiricist, visionary criminal justice practitioner, good citizen. Jim had agreed to serve on our Task Force. He died in April 2000.