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Testimony in support of S.2030, “An Act establishing a jail and prison construction moratorium.”

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I am writing in support of S.2030, “An Act establishing a jail and prison construction moratorium.” In particular, I want to address issues related to the proposed construction of a new \$50+ million women's prison.

1. My name is Bridget Conley, I am a Research Director at the World Peace Foundation, and Associate Research Professor at The Fletcher School, Tufts University, with expertise on human rights abuses, and a resident of Somerville. I begin by noting that in 2018, Massachusetts incarcerated people at roughly the same rate as (for example) Belarus and Turkey, and at a higher rate than Iran.¹ Compared with other American states, Massachusetts has a lower rate, but being less bad than other states in implementing bad national policy should not be applauded. To the contrary, the lower numbers of people in our state prisons gives us a particular opportunity to lead the country in transforming mass incarceration by focusing investments in alternative responses. We should not squander it.
2. Since 2020, I have been documenting the COVID-19 pandemic in Massachusetts' prisons, including documenting human rights abuses. This research leads me to believe that prison is irredeemably replete with such abuses. It doesn't matter if the walls are over a hundred years old or brand new.
3. Three recent incidents provide example in Massachusetts: the systematic abuse of men incarcerated at Souza-Baranowski during a period of several weeks in January - February of 2020 as retribution for an attack on correctional officers²; the devastating record of abuse of incarcerated people with mental health illness, documented in the Department of Justice report of 2020³; and the stunningly high rates of infection and deaths (notably in

¹ Prison Policy Initiative, 2018. “States of Incarceration: The Global Context 2018.” Available at: https://www.prisonpolicy.org/global/2018.html?gclid=EAlaIQobChMIkqrVrtfx8QIVL3tvBB2orw6BEAAYASAAEgLy2PD_BwE Accessed July 20, 2021.

² Conley, Bridget. 2020. “Human Rights Abuses in an MA prisons: Interview with Patty DeJuneas,” October 13. Available at: <https://sites.tufts.edu/reinventingpeace/2020/10/13/human-rights-abuses-in-an-ma-prison-interview-with-patty-dejuneas/> Accessed July 20, 2021.

³ Department of Justice, 2020, “Investigation of the Massachusetts Department of Correction,” November 17. Available at: <https://www.justice.gov/opa/press-release/file/1338071/download> Accessed July 20, 2021.

April 2020⁴) due to COVID-19. While the DOC has responded to the DOJ report by stating it will phase out use of solitary over a period of three years, the pace of reform compared to the scale of abuse is shocking. These incidents, together with a much longer history of abuses and little or no oversight from independent outside observers and investigators,⁵ expose prisons for what they are: not “merely” punishment for a single crime committed, but sites where constant punishments are meted out to fellow citizens of this state, disproportionately those who are poor and black, and which are inconsistent with any notion of public health or rehabilitation.

4. In Massachusetts, the population of people in prisons is steadily declining, while the costs of incarceration have steadily risen. Nowhere is this clearer, than in the case of women who are incarcerated in MCI-Framingham. The population there has decreased by 75% between 2014 and 2021.⁶ In 2020, the average daily population at MCI-Framingham, the women’s prison, was 198; by January 2021, it was even lower: 166.⁷ Yet today, Massachusetts is considering dedicating 51 (+) million dollars to build a new women’s prison.
5. Mass incarceration entails particularly harmful impacts for women. In February 2020, the U.S. Commission on Civil Rights submitted its report, “Women in Prison: Seeking Justice Behind Bars,” to the U.S. President.⁸ It offered a comprehensive picture of the unmet needs of incarcerated women. As one Commissioner wrote: “From healthcare to prevention of sexual assault to having their parental rights terminated, the prison industry is failing these women and the public.”⁹ In the United States, we incarcerate minority women at

⁴ Conley, Bridget, 2021, “Who has died of COVID-19 related causes in Massachusetts Prisons?: A discussion of data discrepancies,” Reinventing Peace (World Peace Foundation at The Fletcher School), May 29. Available at: <https://sites.tufts.edu/reinventingpeace/2021/05/20/who-has-died-of-covid-19-related-causes-in-massachusetts-prisons-a-discussion-of-data-discrepancies/> Accessed July 20, 2021.

⁵ A short list of examples includes: long-standing pattern of racial bias in the state’s sentencing patterns (Bishop, Elizabeth Tsai, Brook Hopkins, Chijindu Obiofuma, and Felix Owusu, 2020, “Racial Disparities in the Massachusetts Criminal System,” Criminal Justice Policy Program at Harvard Law School, September. Available at: <https://hls.harvard.edu/content/uploads/2020/11/Massachusetts-Racial-Disparity-Report-FINAL.pdf>, Accessed July 20, 2021); evidence of delayed and inadequate healthcare in the state’s jails as detailed in WBUR reporting, March 27, 2020, available at: <https://www.wbur.org/investigations/2020/03/27/dying-sheriffs-watch-takeaways> and in its prisons, as reported by Massachusetts State Auditor, Suzanne M. Bump in her report, “Massachusetts Department of Correction (January 9, 2020), available at: <https://www.mass.gov/doc/audit-of-the-department-of-correction/download>, Accessed July 20, 2021; excessive force used against incarcerated people (see the Prisoner Legal Services, “Brutality Project” <https://plsma4003234.wordpress.com/find-help/brutality/> Accessed July 20, 2021.

⁶ Massachusetts Department of Correction (MADOC), 2021, “Prison Population Trends 2020,” pg. 12. Available at <https://www.mass.gov/doc/prison-population-trends-2020/download>, accessed July 20, 2021.

⁷ MADOC, pg. 4.

⁸ United States Commission on Civil Rights (*Commission*), 2020, “Women In Prison: Seeking Justice Behind Bars.” February 26. Available at: <https://www.usccr.gov/pubs/2020/02-26-Women-in-Prison.pdf>, Accessed July 20, 2021.

⁹ Statement of Commissioner David Kladney in *Commission* 2020, p. 236. His statement is presented at the end of the report, along with those of two other commissioners. Together, the statements provide insight into debates among Commissioners that is not otherwise reflected in the report.

nearly two times the rate of white women.¹⁰ Regardless of race or ethnicity, women in prison are overwhelmingly poor and from disadvantaged communities.¹¹

More than men, women tend to be incarcerated for nonviolent drug and theft-related charges.¹² Women convicted of violent crimes are much more likely than men to have perpetrated aggression against a family member or intimate partner, often following years of suffering domestic violence.¹³ The population of women in prison are overwhelmingly survivors of trauma. They are more likely “to suffer chronic or severe mental health issues, are more likely to be survivors of trauma and/or sexual violence, and have higher rates of substance abuse than their male counterparts.”¹⁴ In fact, some studies have found as many as 80% of incarcerated women have serious mental health challenges.¹⁵

Most (76%) incarcerated women are of childbearing age (18–44 years old)¹⁶ and a majority (61%) report having children who are minors.¹⁷ Mothers in prison also tend to be the sole caregiver for these children before going to prison, and thus rely on extended family for support, or else their children risk entering the foster care system.¹⁸

Many women enter prisons following a lifetime of being victimized, and the cycle of violence often continues within prison. Incarcerated women are more likely than men to be sexually harassed or abused while in prison. A 2010 study published by the Bureau of Justice Statistics found that nearly 82% of incarcerated women who became victims of sexual harassment while in prison said they were pressured by staff to engage in sexual activity, compared to 55% of male victims in prison.¹⁹ Women also complained that

¹⁰ *Commission*, pp. 16 -17.

¹¹ Lane, Jodi, 2020 “An Overview: What we know about incarcerated women and girls,” in *Women and Prison* ed. Jada Hector (Switzerland: Springer Nature, 1 -13) p. 3.

¹² National Resource Center on Justice Involved Women <http://cjinvolwedwomen.org/wp-content/uploads/2016/06/Fact-Sheet.pdf>. Accessed October 12, 2020.

¹³ Van Dielen, Marilyn, Natalie J. Jones, and Monica Rondon, 2014, “Working with Women Who Perpetrate Violence: a Practical Guide,” National Resource Center on Justice Involved Women, April. Available at: <https://cjinvolwedwomen.org/wp-content/uploads/2015/09/Working-With-Women-Who-Perpetrate-Violence-A-Practice-Guide6-23.pdf>. Accessed October 23, 2020.

¹⁴ *Commission* 2020, p. 3.

¹⁵ DeHart, Dana, Shannon Lynch, Joanne Belknap, Priscilla Dass-Brailsford, and Bonnie Green, 2014, “Women’s pathways to jail: Examining mental health, trauma, and substance abuse,” *Psychology of Women Quarterly* 38:1, 138 - 151. See also Lane, Jodi, 2020. “An Overview: What we know about incarcerated women and girls,” pp. 4 – 5.

¹⁶ Carson, A., & Sabol W, 2012, *Prisoners in 2011*, U.S. Department of Justice, Bureau of Justice Statistics. Available at: <https://www.bjs.gov/content/pub/pdf/p11.pdf>. Accessed October 23, 2020.

¹⁷ Maruschak, L. M., Glaze, L. E., & Mumola, C. J., 2010, “Incarcerated parents and their children.” In J. M. Eddy & J. Poehlmann (Eds.), *Children of incarcerated parents: A handbook for researchers and practitioners* (Washington, DC: Urban Institute Press) pp. 33– 51.

¹⁸ Zettler, Haley R. , 2020, “The Female Prison Experience.” *Women and Prison* ed. Jada Hector (Switzerland: Springer Nature), 53- 64; p. 57.

¹⁹ Beck, Allen J., Paige M. Harrison, Marcus Berzofsky, Rachel Caspar and Christopher Krebs, 2010, “Sexual Victimization in Prisons and Jails Reported by Inmates 2008 – 2009,” Bureau of Justice Statistics, August; p. 23. Available at: <https://www.bjs.gov/content/pub/pdf/svpjri0809.pdf>. Accessed October 15, 2020.

efforts to report grievances were frequently followed with retaliation by staff.²⁰ While this submission focuses on women in women prisons, these harms are even more pronounced for transgender women, especially when they are incarcerated in men's prisons.²¹

6. Statistics from the Massachusetts Department of Correction (MADOC) confirm much of the national data on women in prisons. The incarcerated women in our state are: disproportionately African-American²²; 70% of these women have serious mental health challenges, and 63% are on psychotropic medication.²³ Nearly a third of these women will return to prison after release.²⁴ They are not receiving treatment in prison or access to resources upon release that enable them to successfully and sustainably return to their communities.
7. Although MADOC includes limited information in its statistics, research by Families for Justice and Healing provides additional powerful insight about women's experiences in Massachusetts: incarcerated women struggle with substance abuse, poverty, mental health challenges, violence and abuse and living in conditions where they are under-resourced and unsupported. Of the 95 formerly incarcerated women they spoke with (including women who were incarcerated in jails and prisons), 81% were mothers; 52% of them were parenting or caring for children at the time of incarceration; and 29% were primary caregivers.²⁵ Many reported experiences of violence and harassment by Correctional Officers.²⁶
8. My research, which includes qualitative in-depth interviews with formerly incarcerated people – several of whom have become leading social justice activists in Massachusetts -- provides further confirmation. I have interviewed many women who describe backgrounds of child abuse, exploitation, intimate partner abuse, drug addiction, and profound poverty. Many were victims of crime before, and often after, they were deemed perpetrators of crime. There is no simple line between victim and perpetrator. The question is which crimes are punished and how.

²⁰ Just Detention International, 2018, "The Very Basics About Sexual Abuse in Detention." October, Available at: <https://justdetention.org/wp-content/uploads/2019/05/Fact-sheet-The-Very-Basics-about-Sexual-Abuse-in-Detention.pdf>. Accessed October 13, 2020.

²¹ Just Detention International, 2018, "Sexual Abuse in Detention: the Most Vulnerable Inmates," October. Available at: <https://justdetention.org/wp-content/uploads/2019/07/Fact-sheet-Sexual-Abuse-in-Detention-The-Most-Vulnerable-Inmates.pdf>. Accessed October 13, 2020.

²² U.S. Census Bureau statistics from 2019 capture 80% of the state's population is white. However, only 58.5% of the population of incarcerated females is white. The greatest disparity exists for African-American women (17.5% of the women's prison population in, versus 9% of the general population). See U.S. Bureau of Statistics, "Population Estimates 2019," available at: <https://www.census.gov/quickfacts/MA> Accessed July 20, 2021; and MADOC, pg. 17.

²³ MADOC, pg. 17.

²⁴ MADOC, pg. 17.

²⁵ Families for Justice a Healing, 2019, "Listening Tour," pg. 8. Available at: <https://static1.squarespace.com/static/606d390593879d12d806037d/t/608baec254313c242a4cb16a/1619767026675/LISTENING-TOUR-SUMMARY-1.pdf> Accessed July 20, 2020.

²⁶ Families for Justice, pg. 7.

9. Further, without fail, each of the women I spoke with describe the experience of incarceration as profoundly re-traumatizing to the extent that it inhibits: (a) grappling with previous trauma, (b) healing physical and mental ailments and wounds, (c) gaining employable skills and so interrupting cycles of poverty. What is more, several noted how (d) the trauma of prison blocks a personal reckoning with the harms of crime, one of the stated goals of criminal justice itself. The women activists I have spoken with transformed their lives despite the experience of prison, not because of it.
10. Mass incarceration does not work. The question we need to ask is: what should we do instead? There are several answers, but two key points stand out for me:
 - a. **Further investments in incarceration are contrary to advancing the cause of justice.** The policies that created the United States as the world's leader in incarceration rates, were premised on holding people in de-humanizing conditions that frequently violated their basic human rights. These policies are being revised across the country and within Massachusetts. It is time to focus funds and effort towards fundamental change, not building new prisons.
 - b. **We must listen to formerly incarcerated social justice activists and to other activists within communities that are highly impacted by incarceration.** They have proven themselves to be experts whose recommendations are not only humane, but effective for society as a whole. They are telling you that building more prisons is not the answer, rather, we should focus on diversion, pretrial release, community-based sentencing, clemency, parole, and medical parole. We should invest in real alternatives and solutions led by directly affected people. Give communities the opportunity to create and sustain solutions that address the root causes of incarceration, both at a social and individual level.

Building new prisons moves Massachusetts in the wrong direction. I urge you to act swiftly and report S.2030 out of committee with a favorable vote.

Sincerely,



Bridget Conley