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Commentary

Prison Re-Form: The Continuation of the Carceral State

by Judah Schept

Mass incarceration has received recent and welcome attention in major media outlets like the *New York Times* and from unlikelier sources, such as conservative political commentators. Indeed, a recent editorial in the *New York Times* focused on the bipartisan support for prison reform as evidence for the editorial's call to "end mass incarceration now":

The insanity of the situation is plain to people across the political spectrum, from Attorney General Eric Holder Jr. to former House Speaker Newt Gingrich, who agree on the urgent need for change. The research is in, and it is uncontested. The American experiment in mass incarceration has been a moral, legal, social, and economic disaster. It cannot end soon enough ("End Mass Incarceration Now," 2014).

While the *Times*' critique is direct and pointed, some of the most outspoken public critics of mass incarceration in recent years have been politicians on the right, including

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Alternatives to the High Cost of Incarceration for Prostitution-Related Offenses

by Maureen Norton-Hawk, Nicole Usher, and Mary Ellen Mastrorilli

Annually, Massachusetts spends over \$2.5 million incarcerating women on prostitution-related offenses. After a short sentence, these women are released, only to be reincarcerated on prostitution charges during the next few years. As an alternative to this ineffective use of taxpayers' money, we propose the creation of a Prostitution Specialty Court in Massachusetts.

This proposal is based on research at Suffolk University that analyzed data of the 816 women released from MCI-Framingham in 1995. Over 15% of the women (125) were originally incarcerated for a prostitution-related offense. During a 15-year post-release period, 58% of the women were reincarcerated (20% for prostitution), requiring an additional \$1.6 million outlay of state funds. Was taxpayers' money wisely spent?

States' corrections expenditures have nearly quadrupled over the past two decades (Henrichson & Delaney, 2012). The cost to America's taxpayers has grown from \$50 billion in 2008 (Pew Center on the States, 2011) to \$63.4 billion per year in 2012 ("The Cost of a Nation of Incarceration," 2012). One in

14 state general fund dollars is spent on corrections ("The Cost of a Nation of Incarceration," 2012).

Like many other states, Massachusetts is facing the high cost of incarceration. The Department of Correction budget for 2011 topped \$515 million (Massachusetts Department of Correction, 2013). It is estimated that by 2020 an additional 5,000 new beds will be required, costing \$800 million to \$1.4 billion (Massachusetts Executive Office of Public Safety and Security, 2011).

Of the sentenced criminal population who were under the supervision of the Massachusetts Department of Correction in 2010, 6.3% (605) were female. This figure is an increase of 4.7% from the 578 women incarcerated in 2005. MCI-Framingham, the state prison for women, is already operating at 106% capacity, with projections that the number of women in prison will increase to 725, an additional 16.5% rise, by 2015 (Massachusetts Department of Correction, 2012).

The standard practice for many decades has been to first arrest, then incarcerate,

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and eventually release prostitutes back into the community. Within a short time after release, these women are generally rearrested on new charges (Norton-Hawk et al., 2014). This cycle of arrest-incarceration-release-rearrest drains money from the public coffers. With the increasing cost of corrections, it may be time to end this symbolic moral crusade and reconsider the cost-effectiveness of legislating sexual morality (Rosenberg & Mark, 2011).

Cost of Incarceration

Of the 816 women released from MCI-Framingham in 1995, 157 (19.4%) were serving sentences for violations of "morals" offenses. As shown in Table 1, of the 157 women, 125 of these sentences specifically address prostitution-related offenses. The remaining 32 women, while not officially incarcerated for a sex offense, may be incarcerated for an offense that is prostitution-related. Taking the more conservative approach, our analysis was limited to those offenses that specifically criminalize the sale of sex, resulting in a sample of 125 women. Table 2 examines the costs of incarceration for these women. A detailed report

Table 1. Number of Sentences

Specific Sex Violations	# Sentenced	Not Specific Sex Violations	# Sentenced
Common Night Walker	30	Idle & Disorderly	1
Sex for a Fee	22	Disorderly Person	22
Prostitution	72	Disturbing the Peace	5
Lewd & Lascivious	1	Unnatural Acts	4
Total	125	Total	32

Table 2. Cost of the Women's Original Sentencing for Prostitution

Note that these are only the direct prison expenditures. The \$2.5 million does not include police, court, or legal costs.

18,554	Total Days Incarcerated
\$49,011	Average Annual Rate to Incarcerate a Woman in MCI-Framingham
\$134.28	Cost Per Day, Per Inmate, at MCI-Framingham
\$2,491,421.12	Total Cost to Incarcerate These Women

on these empirical findings is available by contacting the lead author (*mnhawk@suffolk.edu*).

Ineffectiveness of Incarceration: It Does Not Deter

The sum of \$2.5 million might be a good investment if the formal mission of the prison, rehabilitation, had been

realized. This was not the case, however. Over half of the 125 women (72; 57.6%) were reincarcerated. The median time in the community post release was just one year. As we can see from Table 3, the women were equally likely to be reincarcerated for a drug or a prostitution

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offense. Table 4 examines reincarceration costs.

Incarceration Does Not Rehabilitate

Incarceration fails to deal with the multitude of factors that lead some women to become involved in prostitution (Dalla, 2006; Norton-Hawk, 2001). These factors include the following:

- Most of these women were raised in a nontraditional family, are undereducated, and lack job skills (Monroe, 2005; Norton-Hawk, 2003a).
- Many ran away from home at least once as juveniles (Wilson & Widom, 2010).
- Their childhoods were often marked by neglect or physical and sexual abuse (Wilson & Widom, 2010).
- The majority of the women are also addicted to at least one drug and/or alcohol (Yacoubian et al., 2000; Patterson, 2007).
- Street violence victimization is common (Oselin & Blasyak, 2013; Salfati et al., 2008; Quinet, 2011; Norton-Hawk, 2004).
- Imprisoned prostitutes are often primary caregivers. Children are then placed in the overburdened Department of Children and Families or with relatives who

may not adequately care for them (Dalla, 2003; Norton-Hawk, 2003b).

Proposal: Specialty Court for Prostitution

Specialty courts, also known as problem-solving courts, focus on treatment and rehabilitation. Rather than relying on a punitive approach, the specialty court tries to address the individual's behavioral and psychological issues that underlie the criminal behavior. Multiple social services work together with the judge to provide supervision, testing, treatment, and support to assist the individual in adopting a law-abiding lifestyle (Winter & Vallano, 2011; Wiener et al., 2010).

Specialty courts, such as mental health and veterans' courts, already exist in a number of Massachusetts cities (Massachusetts Court System, 2015). Twenty Massachusetts drug courts, for example, currently mandate substance abuse treatments as an alternative to long prison sentences. These courts are reported to have a high rate of success (National Drug Court Resource Center, 2012).

The proposed Prostitution Specialty Court in Massachusetts would be based on the current Massachusetts Drug Court framework, including the following services and approaches:

- Intensive probation;
- Monitoring by a supervising judge;

- Case management;
- Therapeutic activities;
- Drug testing as needed;
- Health and mental health assessments;
- Treatment placements;
- Counseling; and
- Outreach services for housing, children's services, and vocational training.

Existing Prostitution Specialty Courts: Two Examples

Midtown Community Court, in New York, was launched in 1993. The court sentences offenders to community service; there is no incarceration. Treatment for underlying problems is provided, including:

- Community restitution projects;
- Psycho-educational groups; and
- Long-term treatment (drug, mental health, and trauma-focused psychotherapy).

Midtown Community Court also developed the STARS Program in 2009 as another alternative to jail to address the physical, sexual, and emotional violence that many prostituted women experience. Court-based case managers/women's specialists screen each client to connect women with appropriate services.

Another program in Queens, New York provides various services in the community to help women arrested on prostitution offenses, including the following programs:

- Girls Educational and Mentoring Services;
- Sexual Assault and Violence Intervention Program; and
- The New York Asian Women's Center.

Conclusion

The annual cost of the state prison system has grown, and growth is predicted to continue. As we have seen, women who have committed a nonviolent prostitution offense account for a notable portion of this expenditure. Incarceration does little to deter women from returning to prostitution, however, as many have multiple problems that remain unaddressed. Given these circumstances, Massachusetts should consider alternative methods of confronting the problem, such as specialty courts.

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Table 3. Reincarcerated Offenses and Sentencing

Reincarcerated Offense	# Sentenced	% Sentenced
Prostitution	25	34.7
Drug	26	36.1
Property	9	12.5
Person	4	5.6
Other	8	11.1

Table 4. Cost of the Women's First Reincarceration Post Release for a Prostitution Offense

3,151	Total Days Incarcerated (N = 25, women released in '95 and reincarcerated for a prostitution-related offense)
\$49,011	Average Annual Rate to Incarcerate a Woman in MCI-Framingham
\$134.28	Cost Per Day, Per Inmate, at MCI-Framingham
\$423,116.28	Total Cost for Reincarceration of a Prostitution Offense
Total Cost	\$2,491,421.12 + \$423,116.28 = \$2,914,537.40

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Therefore, the authors propose establishing a Specialty Court in Massachusetts for all prostitution offenses as an alternative to incarceration. In addition, research should be conducted on existing programs currently in Massachusetts or programs that could be developed or expanded to require accountability while providing improved opportunities for rehabilitation. Such measures could decrease corrections costs by increasing the effectiveness of our correctional system.

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Maureen Norton-Hawk is a Professor of Sociology at Suffolk University and Co-Director of the Center for Crime and Justice Policy Research. Dr. Norton-Hawk recently co-authored a book, Can't Catch a Break, which examined the life experiences of women for five years post-incarceration. Nicole Usher has a B.A. in Psychology and is currently pursuing an advanced degree in Education. She has extensive research experience in both the criminal justice and the education fields. Mary Ellen Mastrorilli is an Assistant Professor and Associate Chair of Applied Social Sciences at Boston University. Dr. Mastrorilli's research interests focus on female offenders, community corrections, and law and society. The authors would like to thank Suffolk University, the Center for Crime and Justice Policy Research, and the Massachusetts Department of Corrections Office of Research for their assistance and support. This research was approved by the Suffolk University Institutional Review Board. ■



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