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Women and Prison Security Classification in Massachusetts

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Executive Summary

This paper sheds light on Massachusetts Department of Correction policies and practices that routinely place women in overly restrictive settings and prevent women from participating in the legally available programs that offer opportunities for family unification and for paid jobs in the community. While there are many people, agencies, and procedures that determine women's carceral experiences, this report focuses on one particularly important issue: security classification policies and practices resulting in the overly restrictive classification of women.

Security classification systems are used in most US prisons to assess an individual's risk of behaving in a violent or seriously disruptive way and to assign an individual to a more or less restrictive setting. Security classifications of incarcerated people function as powerful means for limiting freedom of movement, bodily autonomy, privacy while using the toilet or shower, access to education and paying jobs, and contact with family and friends. The research presented in this report documents how the Massachusetts Department of Correction routinely overclassifies women; that is, classifies women to higher (more restrictive) security levels than their actual behavioral patterns warrant. This finding is concerning in light of research highlighting the harms of harsh incarceration conditions, particularly for women (Quandt & Jones, 2021; Owen, 2017). The majority of incarcerated women have experienced abuse and victimization, often beginning in childhood; suffer from chronic physical and mental health challenges; and face re-traumatization as well as other threats to their well-being in severely punitive and restrictive environments (Owen, 2020).

Overclassification happens in several ways and at multiple stages, all of which are within the authority of the Department of Correction to modify. Massachusetts law affords the Commissioner of the Department of Correction nearly unlimited discretion to set classification policies and procedures (Massachusetts General Law Title XVIII Ch 124, Section 1, Para Q). Of particular importance for women, it is within the authority of the DOC to expand access to prerelease, work release, and ELMO (electronic or GPS monitoring) programs – options that would allow incarcerated mothers to care for their children and maintain family connections. However, due to DOC classification policies and practices, these options are underutilized.

This report traces the ways in which overclassification of women is built into current DOC policies and practices:

1. The DOC uses essentially the same "objective point based system" to score women's and men's security statuses, despite abundant research documenting lower rates of violent behavior and lower flight risks among women (Celinska & Sung, 2014).
2. Although the DOC's "objective point based system" scores the large majority of women in DOC custody as "minimum security," women are routinely reclassified as "medium security," at least in part because the DOC has chosen to designate the Massachusetts women's prison (MCI-Framingham) as "medium security."
3. The DOC has chosen not to classify any women as "prerelease," a status that would make them eligible for work release or electronic monitoring.
4. The process for women to move to minimum security status – a required precursor to prerelease status – is complicated and lengthy, necessitating both a referral from the DOC and a second assessment by one of three county sheriff's departments that runs a women's minimum security jail.
5. Even the relatively small number of women who move into one of the three minimum security jails rarely obtain prerelease status.

In recognition of the low security risk posed by women, as documented by the minimum security scoring of the large majority of women by the DOC's own assessment tool, we recommend:

- Ensuring that women in DOC custody are held in the least restrictive setting allowable by law.
- Promoting the participation of women in the whole range of prerelease, work release, community release, and ELMO programs allowed under Massachusetts law.
- Eliminating most of the "minimum security restrictions" and "override to higher custody" provisions that currently reclassify minimum security-scored women to medium security status.
- Changing the security designation of MCI-Framingham from medium security to minimum security, with the flexibility to accommodate the small number of women who present flight risks or clear risks of violent behavior as assessed by a gender-sensitive assessment system. This change is intended both to facilitate women's entry into prerelease, work release, and ELMO (GPS monitoring) programs and to alleviate the trauma-inducing conditions characteristic of higher security settings. Note: we do not propose opening new prisons for women or transferring women from prison to other carceral facilities (e.g. jails).
- Ensuring that the DOC and sheriffs' departments gather and release data and procedural information regarding the full range of issues that may interfere with women being held in the least restrictive settings possible.

Introduction

Security classification systems are used in most US prisons to assess an individual's risk of behaving in a violent or seriously disruptive way. Classification tools may give greater or lesser emphasis to somewhat different factors, but overall the common practice at this time is to calculate security status based on some mixture of the seriousness of past and current criminal charges, disciplinary reports while incarcerated, and a few demographic variables such as age. Higher security scores result in more restrictions on bodily autonomy, more frequent lockdowns in cells or on prison blocks, and a generally more coercive, harsh, and punitive environment. Lower security scores may grant greater freedom of movement, some degree of privacy while using the toilet or shower, more access to paying jobs, contact with family and friends, and possibilities for work-release and electronic monitoring programs, as well as a generally less coercive, harsh, and punitive environment.

In Massachusetts, women are routinely overclassified; that is, assigned to a higher or more restrictive security level than warranted by their actual behavioral patterns as assessed by the Department of Correction's own security classification tool. Overclassification is shown to have negative impacts on women's health and well-being. The large majority of incarcerated women have experienced abuse and victimization, often beginning in childhood; suffer from chronic physical and mental health challenges; and face re-traumatization and other threats to their well-being in severely punitive and restrictive environments (Owen, 2020; Quandt & Jones, 2021; Owen, 2017). Overclassification also prevents Massachusetts women from participating in legally available programs that provide opportunities for family unification and for paid jobs in the community. As we discuss in detail below, routinely overclassifying women as "medium security" blocks their entrance into the "prerelease" status that opens the door for work release, electronic monitoring, and other programs that facilitate women's successful return to family and community.

This report traces how the security classification policies and practices of the Massachusetts Department of Correction (DOC) routinely place women in settings that are more restrictive than necessitated by security needs given the low rate at which incarcerated women commit acts of violence or engage in escape attempts (Celinska & Sung, 2014). Massachusetts law affords the Commissioner of the Department of Correction nearly unlimited discretion to set classification policies and procedures (Massachusetts General Law Title XVIII Ch 124, Section 1, Para Q); thus, it is within the authority of the Department of Correction to modify or abolish practices that result in the overclassification of women.

Women and Security Classification

Throughout the United States, detailed scoring manuals and arithmetic calculations contribute to an aura of objectivity surrounding classification systems. Indeed, the classification manual used in Massachusetts is entitled Objective Point Based System. Correctional classification systems are not, however, objective in the sense that any reasonable person, regardless of personal experiences and biases, would classify a particular individual in exactly the same way. Like other social categories, correctional classification statuses are groupings of convenience that evolve over time as social norms, conditions, and beliefs change (Carter, Ward & Strauss-Hughes, 2021; Ward, Durrant & Dixon, 2021). Risk prediction is imperfect, particularly as regards "exceptional" populations (like incarcerated women), and the results of misclassification are serious.

In a study of Ohio prisons, Long noted that women are processed using classification policies that do not reflect their experiences or meet their needs, and do not seem to be valid or justifiable (2020). Reviewing data from federal prisons, Austin concluded that incarcerated women "are likely to be over-classified [that is, classified to higher security levels than warranted] under a system that has been normed on the male prisoner population" (2003, p. 5; see also Hardyman & Van Voorhis, 2004). Commonly used security classification tools rarely assess women's strengths, such as having supportive family members or being involved in the lives of their children, factors that tend to reduce women's security risks (Van Voorhis, 2012; Van Voorhis et al., 2010). Moreover, most classification policies do not consider the intersecting impacts of gender and race, class, (dis)ability status, and age (Montford & Hannah-Moffat, 2020).

Scholars particularly question the value of using severity of offenses as a dominant classification category for women. "When we classify individuals in this way [according to their offense type (e.g., sexual offender, violent offender)] we are making the assumption that persons who commit a certain type of crime constitute a relatively homogenous group: […] that individuals within a type display similar behaviors, emotional and cognitive difficulties, and that their crime-related behaviors are underpinned by similar factors" (Ward, Durrant & Dixon, 2021). These assumptions are poorly aligned with women's experiences. For example, in a national survey of 604 women serving time for murder or manslaughter, more than 30% said they were protecting themselves or a loved one from physical or sexual violence and 13% said that they had been convicted of committing their crime with their abuser under duress from the abuser (van der Leun, 2020). These motivations do not predict further violence – a fact that is borne out in recidivism studies (Collins, 2010) – and skew women towards overclassification.

Incarcerated women commit far fewer violent acts than incarcerated men and are less likely to try to escape (Celinska & Sung, 2014). In their analysis of prison rule violations data for individuals incarcerated in federal (n=3,868) and state (n=14,499) prisons, Celinska and Sung (2014) found that men committed infractions at rates substantially higher than women in every infraction category except for "verbal assault on another inmate" (which showed equal rates for men and women). Gender differences were especially dramatic in the most serious categories, including "possession of a weapon," "physical assault on prison staff," "drug and alcohol violations," and "attempted escape." Of particular note, "Only one predictor of prison rule violations was

significant exclusively among female inmates: Number of visits from family members and friends in the past month (p = .049). Each visit decreased the likelihood of breaking prison rules by 6.0% among incarcerated women, which suggests a greater need for social support to achieve behavioral stability among female inmates" (2014, p. 233).

In a sweeping analysis of women admitted to federal prisons between 1991 and 1998, Harer and Langan (2001) found that nearly 97% of newly admitted women could safely be classified as minimum security. The authors argue that: (1) risk assessment tools can do a good job of predicting violent behavior, thus (2) it is reasonable and safe to classify most women as minimum security. In sum, the authors suggest that all women could be classified as minimum security and sent to minimum security facilities, with the option of increasing the security level for specific women as needed.

As we discuss later, that is the opposite of what happens in Massachusetts.

Why It Matters: The Harms of Overclassification

Harsher conditions of confinement, as characterized by increased loss of autonomy and privacy, more severe punishments, and heightened exposure to violence, are associated with higher levels of psychological and physical stress among incarcerated individuals (cf. Quandt & Jones, 2021 for an overview of the research). Data from a sample of 1,613 recently released individuals in Ohio showed that "[t]hose inmates who found the prison environment to be fearful, threatening, and violent were more likely to recidivate. […] [F]indings on negative prison environments and inmate relationships reveal that coercive prison environments are likely criminogenic and, at the very least, do not have specific deterrent effects" (Listwan et al., 2013).

Gaes and Camp (2009) found that prisoners randomly assigned to a higher security level than warranted by their classification scores had a significantly higher rate of returning to prison than those randomly assigned to a lower security level, despite no differences in the institutional serious misconduct rates of these same prisoners. In a landmark study of 1,205 individuals released from federal prisons in 1987, Chen and Shapiro found that "moving an inmate over a cutoff that increases his assigned security level from minimum to above-minimum security tends to increase his likelihood of rearrest following release" (2007, p. 3).

How overclassification harms women

Barbara Owen, a national expert on women and incarceration, notes: "Women have extremely high rates of trauma in their pathways to prison; these experiences include multiple forms of abuse and assault as children and adults. Such abuse and the resulting trauma is tied to women's initial criminal behavior, particularly in terms of coping behaviors, such as substance abuse, mental health symptoms, and some violent behaviors" (Owen, 2020). Of particular importance to security classification considerations, "[t]hese trauma backgrounds are often the basis for 'disruptive' behavior while imprisoned. […] Much of standard operational practice in prisons can re-traumatize women. Loud noises, raised voices, search procedures, and unfamiliar people create threats to well-being that undermine their emotional and physical equilibrium. Disruptive and noncompliant behaviors occur when women's abilities to cope are overwhelmed in this punitive environment" (Owen, 2020; also see Owen, 2017; Owen, Wells & Pollock, 2017; and Emerson, 2024).

"Disruptive" behavior in prison leads to disciplinary reports that can contribute to higher security classifications in the future. In a vicious circle, the conditions of higher security custody (loud noises, lack of privacy in bathrooms, lack of bodily control – all of which echo the behavior of abusers) tend to be more traumatizing for people who have experienced abuse in the past, as is the case for most incarcerated women. We note here Norton's (2024) finding that loss of autonomy, together with loss of resources and more anxiety about personal safety, are associated with heightened PTSD symptoms among formerly incarcerated women while greater personal autonomy tends to be associated with fewer and milder PTSD symptoms.

Edgemon and Clay-Warner (2023) used a national sample of 1490 women to examine the links between punitiveness of prison conditions and symptoms of mental health conditions. Punitiveness was measured in terms of the level of official response to rule violations: how many residents were placed in a restricted population unit as punishment for a disciplinary infraction within the last year and the total number of misconduct/disciplinary reports that were filed on incarcerated people within the facility for the last year. Controlling for individual factors, such as past history of victimization, they found the punitiveness of the prison environment, the recent occurrence of a suicide in the prison, and fewer prison programs to be associated with more symptoms of mental health challenges.

Security Classification in Massachusetts: An Overview

The Commissioner of the Massachusetts Department of Correction (DOC) has nearly unlimited discretion regarding rules and policies in DOC facilities. According to Massachusetts General Law Title XVIII Ch 124, Section 1, Para Q, the commissioner has the authority to "make and promulgate necessary rules and regulations incident to the exercise of his powers and the performance of his duties including but not limited to rules and regulations regarding nutrition, sanitation, safety, discipline, recreation, religious services, communication and visiting privileges, classification, education, training, employment, care, and custody for all persons committed to correctional facilities."

According to the Massachusetts Department of Correction, individuals are classified as "high," "medium," or "minimum custody or below." The broad strokes of the classification system are laid out in the Code of Massachusetts Regulations 103 CMR 420.000. Classification is scored using the Objective Point Based Classification System (OPBS) as defined in the Code of Massachusetts Regulations 103 CMR 420.000: "The standardized evaluation and custody assignment of an inmate based on objectively defined criteria [that are] weighed, scored, and organized into a valid and reliable classification instrument accompanied by an operational manual for applying the instrument to inmates in a systematic manner."[1]

Operational manuals based on assessment tools developed by the US Department of Justice include initial classification and reclassification assessments, as well as detailed scoring instructions for each criterion. Classification status is reviewed at least once each year by a classification board appointed by the superintendent for each DOC facility: "Such classification boards shall consist of correction officers, prison camp officers, correctional counselors, unit managers, directors of classification or deputy superintendents." A full board is required to have no fewer than three members (General Laws, Part I, TitleXVIII, Chapter127, Section20A).

The initial classification variables scored in the OPBS are listed as follows: Severity of Current Offense; Severity of Convictions Within The Last 4 Years; History of Escapes or Attempts to Escape; and History of Prior Institutional Violence Within The Last 4 Years. Reclassification adds the following two variables: Number of Guilty Disciplinary Reports Within The Last 12 Months; and Most Severe Guilty Disciplinary Within The Last 12 Months. While most weight is given to offense types (a problematic category; cf. Ward, Durrant & Dixon, 2021), the OPBS also includes three variables acknowledging that not every person convicted on the same criminal charge presents an equal security risk. These additional factors are Age, Education, and Employment. Notably, gender, which is the most significant factor in terms of predicting violent behavior inside and outside of prison (Stone, Sered, Wilhoit & Russell, 2021), is not scored in the OPBS.

The Massachusetts DOC uses two versions of the OPBS scoring system: Male Objective Point Base Classification and Female Objective Point Base Classification. However, these two versions are virtually the same, lacking substantive recognition of the fact that women commit far fewer acts of violence; that women, more than men, are positively impacted by visits; as well as other factors summarized earlier in this report. (As can be seen in Appendix B, the only differences are a handful of discrepancies having to do with age or time periods.) Karen Swank confirmed that the two manuals are "almost identical," noting that "because women overall serve shorter sentences the Discipline reports are only for the preceding 6 – 9 months while for men it is 12 months. And men get an extra point reduction after age 60" (personal communication, February 14, 2024).

[1w]See Massachusetts Department of Correction Objective Point Base Classification Report Fiscal Year 2023 for a chronology of the adoption of the current classification system.

It is unclear why men but not women receive an extra point reduction (indicating lower security risk) after age 60. Women's age-adjusted recidivism rates decline more drastically than men's, with elderly women having the lowest recidivism rates of any gender / age cohort (Pryor et al., 2017; also see Dua, Sered & Roth, 2023). While potential for recidivism is not the criteria for a custody classification system, it does speak to how behavior changes with age. Of the 518 women released from prison in Massachusetts in 2015, only eight women ages 50 to 54 and three women over the age of 55 were re-incarcerated for any reason, including technical violations of parole (MA Executive Office of Public Safety and Security 2020).

On the basis of the criteria in the manuals, individuals receive scores. For men, six or fewer points score minimum custody or below, seven to 11 points score medium custody, and 12 or more points score maximum custody. For women, nine or fewer points score minimum custody or below, and 10 or more points score medium custody. (There is no point range for maximum custody for women.) This minor gendered point distinction is less relevant than it seems: as we discuss below, nearly all women who score minimum custody or below are reclassified as medium custody through overrides and minimum custody restrictions.

Overrides and Minimum Custody Restrictions

There are two categories of factors and judgments that can negate the "objective" scoring classification. (See Appendix A.) First, "Minimum Custody Restrictions" include a broad range of criteria disallowing certain individuals who score minimum security classification to be housed in a minimum security setting. These criteria are determined at the discretion of the DOC (that is, there is no law or regulation requiring the criteria) and could be eliminated or changed by the DOC. "Many people serving life and long-term sentences possess Objective Classification Scores that make them eligible for minimum security placement, but are barred by default through the use of override to higher custody Code H [people who committed a crime resulting in loss of life], which is required by DOC policy. Throughout most of the history of minimum-security facilities, however, such people were regularly housed at minimum security" (Lifers Group 2023, p. 12). Indeed, the exception to minimum custody restrictions allowed to "people who committed a crime resulting in loss of life as a juvenile" (Code H) was slightly broadened by the DOC in June 2024 to include individuals up to age 21.[2]

"Overrides" are the second category of factors and judgments that allow classification boards to overrule scoring outcomes. Karen Swank, Director of Classification for the DOC, explains that part of the classification process is to determine "suitability" for lower security custody. "To determine suitability, we look at the complete record including past criminal history, patterns of behavior, discipline since incarcerated, and program engagement that would mitigate prior behavior and help the individual develop skills needed for a successful adjustment and eventual reentry." As can be seen in Appendix A, override to higher custody considerations include criteria that

[2]According to DOC Assistant Deputy Superintendent Abbe Nelligan (personal communication, June 10, 2024) this change is in accordance with the 2024 Commonwealth v. Mattis case in which the Massachusetts Supreme Judicial Court ruling prohibits mandatory and discretionary life without parole sentences for defendants aged 18–20 at the time of the offense (493 Mass. 216 2024).

"cannot be captured in the [point-based] score" such as problems with "institutional adjustment" or behavior that "undermines order within the institution" though "not always serious enough to warrant disciplinary action." We'll return to these broadly subjective considerations below.

According to DOC Assistant Deputy Commissioner Abbe Nelligan: "We monitor overrides rigorously" (personal communication, June 10, 2024). Several years ago, the DOC was called out by the Legislature regarding the number of overrides and started releasing annual reports on the override rates, which now fall within the national accepted norm (https://www.mass.gov/doc/fy23-objective-point-base-classification-report/download). Whether or not that norm is reasonable and fair regarding women, people of color, sexual minorities, and other disadvantaged or stigmatized people is an open question.

Default Medium Security Classification for Women

MCI-Framingham is the only women's prison in Massachusetts.[3] Over the past several years, the number of women incarcerated there has ranged from 140 to 215. At the discretion of the DOC, the women's prison is designated a medium security facility. MCI-Framingham houses women who are criminally sentenced, women who are pre-trial[4] (that is, waiting for hearings, plea deals or trials, or held for probation violations) and women who are civilly committed. Some women at MCI-Framingham are elderly or confined to wheelchairs; others were raising young children until they entered prison. Despite these varied statuses, and despite the detailed objective point based classification system, all women incarcerated at MCI-Framingham are classified as medium security (MA DOC Institutional Fact Cards, January 2024).

The authors of this report asked DOC Director of Classification Swank how, given the highly detailed OPBS scoring criteria, all women fall into the medium security category. She explained: "Not all women are classified medium security. As a medium security facility, Framingham houses individuals who have been classified as medium security so all women at Framingham, aside from individuals pending initial classification, are classified medium. If their OPBS indicates lower security, and there are no applicable restrictions or overrides, then they would be classified and transferred to a lower security facility and would no longer be at Framingham. Women are only retained at Framingham/medium security if there is an applicable restriction or override" (personal communication, February 23, 2024; our emphasis).

According to data received from the DOC (public records request, received April 22, 2024), 112 of the 140 women at MCI-F (as of March 25, 2024) scored minimum security classification according to the OPBS (see Table 1).

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[3] In 2021 the DOC closed the South Middlesex women's minimum-security, prerelease unit on the Framingham campus. At the time there were 26 women in the facility.

[4] Pre-trial women have not been convicted or sentenced for the charges on which they are held. All of the pre-trial women at MCI-Framingham are from Middlesex County, which is the only Massachusetts county that sends pre-trial women and women with sentences under 2.5 years to MCI-Framingham prison rather than to a county jail either in its own county or in a neighboring county (WIP, 2024).

Active Female Incarcerated Individuals at MCI Framingham as of 3/25/2024 Last Closed Class Board Security Level and Any Restrictions or Overrides Applied					
CURRENT_ FACILITY	**ASSIGNED_SEX**	**POINTBASE_ SECURITY**	**FINAL_ SECURITY**	**OVERRIDES_ RESTRICTIONS**	**# COUNT**
MCI Framingham	Female	Minimum	Minimum	No Restrictions or Overrides	9*
MCI Framingham	Female	Minimum	Medium	Overrides to Higher Custody	16
MCI Framingham	Female	Minimum	Medium	Restrictions to Minimum Custody	87
MCI Framingham	Female	Medium	Medium	No Restrictions or Overrides	28
				TOTAL	**140**

*Note that a total of 37 active female II (incarcerated individuals) final custody level was minimum on their last closed Class Board. MCI Framingham does not house minimum security female incarcerated individuals, rather they are housed at a Massachusetts County House of Corrections (HOC) facility or on ELMO (electronic monitoring). The 9 incarcerated individuals whose final custody level was minimum on their last closed Class Board and were house at MCI Framingham on 3/25/2024 were either awaiting HOC placement or recently returned to MCI Framingham after an HOC placement.

As can be seen in Table 1, of the 112 women scoring minimum security level, 87 were reclassified to medium security status due to "Minimum Custody Restrictions." We have not been able to obtain details on how many women were restricted due to which eligibility criteria or whether these restrictions have been assessed for scientific validity vis-à-vis gender-specific security risks.

Another 16 women whose point base status was scored as minimum were reclassified to medium security via "Overrides" on the basis of "suitability." We emphasize the subjectivity of suitability assessments in light of research indicating correctional officers tend to dislike working in women's prisons due to their perceptions that women are overly emotional and manipulative (Britton 2003). A recent study found that women are 40% more likely than men to receive disciplinary infraction records for "defiance," a wholly subjective category heavily shaped by gender (and racial) norms and stereotypes (Tasca et al., 2023). We also note that fewer educational and vocational programs may be available at women's correctional facilities than at men's (Mangan, 2023; regarding Massachusetts, see Nawab, 2022, esp. p. 38 and 41), making it difficult for women to participate in the "program engagement" that could make them "suitable" for minimum security. In sum, the suitability criterion may cross the border from "objective" classification to unlawful gender discrimination.

A third cluster of women scored minimum security by the OPBS but reclassified as medium security were either waiting to transfer to a minimum security facility or had recently returned from a minimum security facility. As of this writing, we have not been able to obtain a more

detailed breakdown of the numbers from the DOC.

To summarize, despite the scant recognition of gender patterns in the OPBS scoring manuals, the initial scoring does classify most women in the minimum security point range. Of greater concern is the rate at which the DOC reclassifies women from minimum to medium security. According to Director Swank, this is in part a function of MCI-Framingham being a medium security prison. However, as we noted earlier, that designation is entirely up to the DOC. It is entirely within DOC discretion to redesignate MCI-Framingham as a minimum security prison, which would afford the women who are incarcerated there more freedom and privacy, as well as opportunities for work release and community-based electronic monitoring programs.

Minimum Security County Facilities (Jails)[5]

According to Swank: "Our lower security female placements are housed with Middlesex, Essex, or Hampden County through an MOA ¬– Memorandum of Agreement" (personal communication, March 1, 2024)[6]. These county facilities (jails) are under the jurisdiction of county sheriffs, unlike MCI-Framingham, which is under the jurisdiction of the Massachusetts State Department of Correction. Although, as we noted earlier, there are women at MCI-Framingham waiting for a transfer to a minimum security facility, the three women's minimum security facilities (county jails) in Massachusetts typically operate at less than full capacity (Massachusetts Sheriffs' Association Operational Capacity Reports July 2023 - December 2023).

Facility	*Capacity*	*Average Daily Count (Total)*	*Pre or Work Release Count*
Hampden County Wellness and Recovery Center	**56**	**16**	**5**
Middlesex County Women's Prerelease Housing Unit	**20**	**10**	**4**
County Women in Transition Minimum and Prerelease Facility	**24**	**13**	**5**

Source for capacity and average daily count (total): https://www.mass.gov/lists/operational-capacity-reports#operational-capacity-reports-2023-. Source for pre or work-release count: Hampden County- Massachusetts Sheriffs' Association Operational Capacity Reports July 2023 - December 2023; Middlesex County (May 6, 2024) - Jillian Ketchen, Director; Essex County (April 25, 2024) - Jennifer Murphy, Assistant Superintendent.

[5]According to DOC Assistant Deputy Superintendent Abbe Nelligan (personal communication, June 10, 2024) this change is in accordance with the 2024 Commonwealth v. Mattis case in which the Massachusetts Supreme Judicial Court ruling prohibits mandatory and discretionary life without parole sentences for defendants aged 18–20 at the time of the offense (493 Mass. 216 2024).

[6]Under the MOA, Middlesex and Hampden counties can house women from their own as well as several other counties; Essex only houses Essex County women.

The path to placement in a minimum security facility is complicated. It begins when the DOC approves a particular woman for minimum security (Nelligan, personal communication, June 10, 2024). Despite multiple inquiries, we have not been able to obtain clarity regarding how the DOC decides whom to approve or how information about approvals is conveyed (or not) to the three counties that house minimum security women coming from MCI-Framingham. We also have not received responses to our inquiries regarding how many women are referred to the three county jails, how many women actually move to the county jails, and the timing in their sentences when they are referred and when they actually go.

At some point after being approved for minimum security, a woman at MCI-Framingham should be approached by a staff person from one of the three county sheriff's offices. (The timelines and processes for approaching women seem to vary from county to county.) The staff person assesses candidates for their particular minimum security facility. To the best of our knowledge, there are no written assessment criteria. Conversations with county jail staff indicate two key considerations, with some minor differences among the facilities. First, candidates must have sufficient time left on their sentences for the staff to feel that the prerelease facility can provide meaningful services, programs, opportunities, and support. How much time is necessary is variable, but staff in all of the counties commented that they tend to get access to potential candidates later in the sentence than they would like. Where exactly the delay happens is unclear, but the bottom line is that not many women are coming through the DOC classification pipeline until very late in their sentences. Unfortunately, we have not been able to receive data that could shed light on this part of the process.

Second, candidates are assessed for suitability. There are some minor differences in how suitability is defined, but a common theme throughout is that candidates may be turned away because "they are not ready." "Not ready" encompasses a variety of health, behavioral, and attitudinal variables. Often, "not ready" describes women who are unable or unwilling to commit to "working on themselves" through the rigorous schedule of classes and treatment programs required in the minimum security facilities.[7]

In short, as we understand the process, the state DOC assesses a woman to be eligible for minimum security but the county staff at the minimum security facilities can refuse to accept her, in which case the woman stays at medium security status in the medium security prison.

Once a woman receives an offer to transfer to a county facility, she may accept or reject the offer. We have not been able to access data regarding how often offers are rejected. However, through informal conversations, we learned that some women turn down the offer because they do not have much time left on their sentences and would prefer to stay in the facility in which they have built relationships, rather than move to another carceral facility for a relatively short time before reentering the community. Other reasons for declining the offer may include concerns that the location of the county facility is inconvenient for visitors, that the jail may provide fewer

[7]For women in the criminal legal system, "readiness" often is assessed in terms of an individual (1) accepting responsibility for her past actions rather than blaming other people or "the system" for her problems – including victimization and homelessness – and (2) voicing a determination to remain drug-free. These principles often conflict with women's actual experiences of structural violence and abuse, as well as of using substances (in moderation) to manage emotional and physical pain (Sered & Norton-Hawk, 2014).

opportunities to earn good time and completion credits, and potential loss of access to the law library or other resources of a larger facility. We plan to look further into these issues in the future.

As soon as a woman is transferred to one of the three county jails, her classification immediately changes from medium to minimum security status. The switch to minimum security allows significantly more autonomy than women experience at MCI-Framingham. The three county jails emphasize treatment and rehabilitation more than punishment, and endeavor to prepare women for life after prison in a variety of ways. In our visits to the three jails, we saw women walking freely throughout most of the buildings. Of utmost importance to women, bedrooms and toilets have doors that close, giving women a level of privacy not available in prison. We also noticed the comparatively peaceful ambiance in the facilities. Women are addressed by their first names (rather than as "Inmate" or by number); and, along with most of the staff, they wear street clothing rather than uniforms. The three facilities vary a great deal in terms of architecture and how freely women can access outdoor space,[8] but – according to the staff as well as our own observations – all three endeavor to create pleasant and therapeutic atmospheres.

While sustained comparisons to men's experiences are beyond the scope of this report, it is important to point out that "[o]ver the past ten years, the use of minimum security and prerelease facilities [by the DOC] has decreased significantly. The DOC first downsized the number of available minimum security beds by closing [men's] facilities like Shirley Minimum, Concord Farm, and Plymouth. […] More recently, the department has simply refused to transfer hundreds of people who qualify for placement in a minimum or prerelease facility. According to the DOC's July 1, 2022 Institutional Fact Cards, out of the 681 combined available beds at Boston Prerelease, Northeastern Correctional Center, and Pondville [men's facilities], only 338 were filled. That represents a 50% vacancy across these facilities" (Lifers Group 2023, p. 12).

Prerelease / Work Release Bottlenecks

"Prerelease" (also called "work release," though the terms are not fully synonymous) status allows individuals to go outside the carceral facility to a paying job while wearing an electronic bracelet (among other restrictions). Opportunities to earn and save money prior to release can be crucial for returning citizens' ability to pay for housing, care for their families, settle legal fees, and afford transportation and other life necessities after they are released. For women in particular, this financial cushion can ward off reliance on potentially exploitive or abusive partners. Given employment rates below 10% among formerly incarcerated women in Massachusetts (Sered & Norton-Hawk, 2019), work release opportunities hold enormous potential value.

Despite these advantages, only a dozen or so women in Massachusetts are classified as "prerelease" at any given time (see Table 2).

[8] One is a house, one is a wing of a former nursing home, and one is part of a much larger facility that incarcerates both men and women (on different floors). The security arrangements differ in terms of which doors and windows are locked, whether women can freely access outdoor space, arrangements for visitors, and more. We will address these and other differences in more detail in a future paper.

Director of Classification Swank (February 13, 2024) explained that the "objective point-based system distinguishes between maximum, medium, and minimum or below, which includes prerelease and ELMO (electronic or GPS monitoring which is considered a prerelease placement). The custody classification instrument does not distinguish between minimum and prerelease. Individuals with minimum security status may be eligible to step down to prerelease, but there are no written criteria used to make that assessment. This is done on a case-by-case basis." On February 14, 2024, Swank further clarified: "An individual would first be classified to minimum security and after a period of time would be considered for prerelease status if appropriate. […] For minimum security that is a matter of the point system. For prerelease it's the assessment of the people who work with the women. [… There is] no standard [timeframe] that is particular for prerelease."

As noted earlier, the Massachusetts Code of Regulations does not include any specific guidelines regarding prerelease eligibility in the Classification section (103 CMR 420). However, a separate section entitled "Employment Programs Outside a Correctional Institution: Work Release" (103 CMR 464) describes a process for moving individuals under DOC custody to work-release status.[9] According to this section, the first step involves the classification committee at the institution (for women, MCI-Framingham) making a "recommendation to the Superintendent/Director regarding an inmate's participation in the program." Then: "Upon receiving the recommendation of the classification committee, the Superintendent / Director shall make a recommendation to the Commissioner consistent with the Department's classification process." In short, it is within the regulations to allow women at MCI-Framingham onto prerelease / work-release status. However, according to Swank, "The DOC rarely classifies anyone as prerelease out of MCI-F" (February 14, 2024).

Prerelease in the county jails

At this time, the only opportunity for prerelease status for women is at the county jails. According to Swank, "A woman is classified by DOC as minimum security and goes to one of the three county prerelease centers. Once she is there, the sheriff [who has jurisdiction over the county jails and its residents] can move her to prerelease status" (February 14, 2024).

The Code of Massachusetts Regulations 942:02 requires the counties to have written policies and procedures for inmate classification vis-à-vis the four categories: maximum, medium, minimum, and prerelease. CMR 952.01, 02, 03 requires the counties to have written policies and procedures for Community Release Programs, Work / Educational Release Programs, and Furloughs. However, to the best of our knowledge, none of the three counties that house minimum security / prerelease women seem to have clear, written criteria or timelines for moving women from minimum to prerelease / work release status. Staff at the three facilities verbally noted the following considerations: a woman must be within one year of finishing her sentence (Essex County) or have sufficient time left on her sentence for it to be feasible for her to go out

[9]Regulations regarding work release are not part of the classification regulations nor are the two sets of regulations cross-referenced, making it difficult for citizens to understand the full range of permissible options for individuals under DOC custody.

on a job (Hampden County); whether a woman has any outstanding cases in other jurisdictions; whether a woman has any sentencing restrictions (for example, individuals sentenced for fentanyl distribution are not permitted to participate in work-release); whether a woman has spent sufficient time in the treatment phase; whether a woman has spent sufficient time contributing to the work crew (Hampden County); whether the woman's interpersonal skills and mental health are suitable for working in a public place; and whether a woman is "ready." Some of these criteria are in the hands of the courts; others are in the hands of the sheriff or county jail superintendent. Front-line staff at the facilities also noted that some women turn down work release opportunities for a variety of reasons: the offered job placement in a crowded fast-food outlet provokes anxiety; not wanting to submit to daily strip searches upon returning to the facility; and fear of losing Social Security Disability benefits after release. While the paucity of available job options and concerns about losing Social Security Disability are not in the hands of the sheriffs, daily strip search policies are within the authority of the sheriffs to change or eliminate.

Electronic monitoring: An underutilized option

Massachusetts regulations allow some individuals under the jurisdiction of the DOC to be released into the community with electronic monitoring (103 DOC 468). This option can be especially valuable for mothers and other individuals involved in care of children or elderly or disabled family members. However, as noted earlier, women are rarely released on ELMO by the DOC. According to Swank, "The numbers for [ELMO] are small for both men and women because the eligibility criteria are very strict" (February 14, 2024). According to the DOC Weekly Inmate Count for June 10, 2024, there were only three people (all men) in the electronic monitoring program.

County sheriffs also have the authority to allow release with electronic monitoring, yet they make little use of this option.[10] In Essex County, according to conversations with the prerelease staff (April 25, 2024), there currently are two women on bracelets living in a semi-open facility (Maris Center) in the same complex as the Women in Transition minimum security / prerelease jail. In Middlesex County, several women are finishing their sentences on a bracelet in a treatment center outside the jail (September 7, 2023). Hampden County has an option for home release with an electronic monitor. At this time there is one person – a man – on home release. "There used to be more when the jail was overcrowded" (Anthony Scibelli, Assistant Superintendent, Hampden County Sheriff's Department, personal communication, March 7, 2024).

[10] As funding for the jails is based on the daily census of individuals housed in the facility, we are currently investigating financial disincentives for sheriffs to use electronic monitoring.

Recommendations[11]

Our recommendations center on policies and practices that are fully within the authority of the DOC, and, in some instances, the county sheriffs, to make, change, or eliminate.[12] Based on the findings presented in this report, we urge the DOC and the county sheriffs to use their authority under Massachusetts law to classify and house women in the least restrictive settings permissible by law in order to minimize harm and as a step toward facilitating greater utilization of prerelease, work release and ELMO (GPS) programs that allow women to become financially self-sufficient and to remain engaged in caring for their families.

That most women score minimum security risk yet are reclassified to medium security (as seen in Table 1) should raise red flags. Punitive conditions associated with higher security level custody facilities are harmful to women's health and well-being. Overclassification of women directly contradicts the United Nations Rules for the Treatment of Women Prisoners requiring the classification of prisoners to "[t]ake into account the generally lower risk posed by women prisoners to others, as well as the particular harmful effects that high-security measures and increased levels of isolation can have on women prisoners" (Bangkok Rules, Rule 41).[13]

Overclassification does not contribute to public safety or lower recidivism rates, and costs the State substantial amounts of money. The annual cost per incarcerated individual at medium security MCI-Framingham is $235,195. To put that in perspective, among the men's prisons, the per capita costs at the minimum / prerelease facilities are: Northeastern Correctional Center, $71,242; Pondville Correctional Center, $81,913; Boston Prerelease, $125,173 (Department of Correction Per Capita Cost Report Executive Office of Public Safety and Security). Once again, we note that it is entirely within the authority of the DOC to change the designation of a prison and to eliminate most of the restrictions barring minimum-security status and the override to higher custody categories, thereby saving taxpayer money.

One way for the DOC to minimize or prevent overclassification of women is to redefine MCI-Framingham as a "minimum security or below" facility, with provisions for accommodating the small number of women who are deemed higher security according to a truly gender-sensitive and equitable scoring system. (To be clear, we do NOT recommend opening a minimum security prison in addition to the current medium security one; we firmly oppose the construction of an additional prison for women.) Rather, in line with the research literature as well as

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[11]In response to recommendations from the 2022 Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth, the DOC has partnered with a team at University of Massachusetts Medical School to develop a method for establishing the magnitude and drivers of racial and ethnic disparities in the Objective Point Based Classification System. We recommend that this project will attend to additional potential disparities, including those related to gender, (dis)ability status, age, immigration status, and more, both in the scoring tool and in terms of potential biases among classification and reporting staff.

[12]We focus here on policies and practices that the DOC or the sheriffs can change without court or legislative involvement. In general, courts tend to be deferential to prison officials on the basis that prisons are complicated and difficult. Dolovich (2022) makes the case that the Supreme Court has constructed doctrinal standards for prison law cases that strongly incline courts to rule in favor of the state.

[13]Some correctional institutions in Massachusetts have relabeled themselves as "wellness centers" concerned with treatment for drug use or behavioral health challenges. As we have argued elsewhere, incarceration – by any name – is not therapeutic, and prison-based treatment programs show few, if any, meaningful positive impacts for women (Sered, Taft & Russell, 2021).

recommendations by national experts and the DOC's own scoring data, we believe it is feasible and preferable for the one women's prison in Massachusetts to operate as minimum security and below. Together with concrete steps to decarcerate all women eligible under the law for release to home or to healthcare facilities, this option is suitable for the small number of women likely to remain in State custody once all legally permissible avenues to decarceration have been fully explored (WIP, 2022).

We do not propose addressing the current systemic overclassification of women by sending more women to the county jails as a step-down solution. We are concerned by current practices that allow county sheriffs to refuse to accept women who have been assessed as eligible for minimum security by the DOC, and by the lack of clear guidelines for women to move from minimum security to prerelease status in the county jails, as well as the very small number of women who manage to attain prerelease status in the jails. We are also concerned by ongoing issues regarding lack of legislative oversight of county jails, each of which is operated according to the discretion of the county sheriff, an elected official who is not answerable to any county government (Women and Incarceration Project, 2024).

More broadly, we recommend that both the DOC and the county sheriffs gather and make available data regarding a number of key factors that are essential to crafting good policy. Better data may help open up the prerelease bottleneck and allow more women to move into less restrictive settings. The gaps in data we identified in this report include: (1) how many women were reclassified from minimum to medium status restricted due to which "minimum security restrictions" and which override criteria; (2) a breakdown regarding women who are waiting to transfer to a minimum security facility or have recently returned from a minimum security facility; (3) how many women are referred to the three county jails, how many women move to the county jails, the timing in their sentences when they are referred, and when (if ever) they actually are transferred; (4) how many women reject offers of transfer to a minimum security jail, and why; (5) how many women have been evaluated for eligibility for ELMO and work release programs, how many have been approved, how many have been released on electronic monitoring, and how many women on electronic monitoring have committed new offenses or serious non-compliance with the program's conditions.

Although we have not been able to obtain the numbers pertaining to each override and minimum security restriction category, nationally recognized classification expert Patricia Hardyman notes that Code G (health coverage) is likely one of the biggest barriers to the prerelease / county jails accepting women from the DOC. Smaller facilities may not have the medical services women require or may not want to accept people with high or moderate medical or mental health needs. Regarding Code G, Assistant Deputy Commissioner Nelligan affirms: "We prioritize medical care over everything. This restriction comes up if appropriate medical care is not available in minimum security" (personal communication, June 10, 2024). While we certainly do not advocate placing individuals in settings that cannot provide appropriate health care, we note Code G has the potential to discriminate based on (dis)ability and health status. Moreover, given the high level of physical and mental health challenges among justice-involved women, it is likely that Code G can lead to gender discrimination. We believe the best way to address

this inherently discriminatory policy (keeping individuals at a higher security prison because of medical issues) is to allow women with high or moderate medical or mental health needs to be housed in medical or nursing facilities rather than prison, or, in many cases, to go home.

The findings in this report fully endorse the recommendations made by a consortium of groups of incarcerated people in Massachusetts: "The DOC should shift resources to increase minimum capacity and decrease higher security capacity to reflect the actual number of people who are minimum eligible. A person should be housed in an environment according to their assessed risk level (using an objective risk assessment tool) and rehabilitation needs, not their sentence structure. [Moreover,] the DOC should redefine what constitutes a minimum space. This could start by investing in lower security housing and work models like those pioneered in Germany and Northern Europe. These programs in many ways reflect how the DOC under HHS [Health and Human Services] operated minimums in Massachusetts for decades. […] The concomitant cost savings from the expanded use of reinvented minimum-security spaces could be reinvested into transitional services in communities most impacted by the criminal legal system as the Criminal Justice Reinvestment Act envisioned when passed in 2018" (Lifers et al., 2023).

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Appendix A

Appendix A: MA DOC Female Objective Point Base Classification Manual (Reclassification Criteria)

Page Two – Reclassification **Attachment II**

Name:_____ Number:_____ Date:_____

Preliminary Custody Level: Maximum _____ Medium____ Minimum or below____

Check (✓) all applicable restrictions for purposes of overriding scored custody level:

Minimum Custody Restrictions

____ Code A: Length of time to serve- Inmates with more than 5 years to their earliest release date are not to be considered for minimum or below.

____ Code B: Outstanding Legal – Inmates whose data critical to decision making is outstanding and inmates with unresolved / non-permissible legal issues are to remain in medium or above until the legal issue is resolved. Inmates may be placed in minimum security with permissible legal issues, as noted in Table D.

____ Code C: Possible Civil Commitment - Inmates who are subject to civil commitment post release are not to be considered for minimum or below.

____ Code D: Pending immigration status – Inmates whose immigration status is pending or those with an immigration detainer or Deportation Order are not to be considered for minimum or below.

____ Code E: Inmate Serving Life Without Parole – Inmates Serving Life Without Parole are not to be considered for minimum or below.

____ Code F: Inmates currently convicted of a crime while incarcerated or Murder of a Public Official, are not to be considered for minimum security unless either (1) the Parole Board approved a release plan and granted a positive parole vote which may include conditions which must be fulfilled before an inmate can be released, such as program completion or a specified amount of time to be served in lower security; or (2) are within two years of a defined release date.

____ Code G: Health coverage necessary – Health Status Report reflects medical / mental health restrictions preventing lower security.

____ Code H: Inmates currently convicted of a crime that resulted in loss of life, excluding those who committed their crime as a juvenile, are not to be considered for minimum security unless either (1) the Parole Board approved a release plan and granted a positive parole vote which may include conditions which must be fulfilled before an inmate can be released, such as program completion or a specified amount of time to be served in lower security; or (2) are within three years of a defined release date.

Check (✓) all applicable overrides, ONLY if restrictions do not apply, for purposes of overriding scored custody level.

Override to Higher Custody

____ Code P: Pending Disciplinary Report- Inmates who have pending disciplinary report(s).

____ Code Q: Investigative Hold- Those inmates who are currently under investigation or awaiting action and a transfer to lower security may jeopardize the investigation.

____ Code R: Nature of Offense/ High Notoriety- The facts or notoriety of the offense presents a seriousness that cannot be captured in the score.

____ Code S: Prior Criminal History- The criminal history presents a seriousness that cannot be captured in the score.

____ Code T: Institutional Negative Adjustment- The institutional adjustment presents a seriousness that cannot be captured in the score.

____ Code U: Relates to the Safe Orderly Operation of the Facility-Those inmates whose behavior, while not always negative enough to warrant disciplinary action, may serve to threaten security or undermine the exercise of proper control and maintenance of order within the institution or other correctional facility.

____ Code V: STG Issues-Those inmates who should remain in higher custody based on their STG involvement.

Override to Lower Custody

____Code 1: Institutional Adjustment- Those inmates whose institutional adjustment on previous or current incarceration is not as severe as the score indicates.

____Code 2: Nature of Offense- Those inmates whose offense is not as severe as the score indicates.

____Code 3: Reentry Initiative – Those inmates for whom the Parole Board approved a release plan; granted a positive parole vote subject to conditions, such as program completion or time served in lower custody; or those inmates in close proximity to release.

Provide rationale for any overrides: _____

_____

_____

_____

Final Custody Level Recommended: Medium____ Minimum or below____

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Appendix B

All Differences between the Male and Female Objective Point Base Classification Manuals published by the Massachusetts Department of Correction

Male and Female Objective Point Base Classification Manual Differences		
Listed Determining Factors	**Men**	**Women**
History of Prior Institutional Violence Within the Last…	7 Years	4 Years
Number of Guilty Disciplinary Reports Within the Last…	12 Months	6 Months
Most Severe Guilty Disciplinary Report Within the Last…	12 Months	9 Months
History of Prior Institutional Violence Within the Last…	4 Years	3 Years
Documented behavior for any violent offense listed as Category 2	4 Years	3 Years
Documented behavior for any violent offense listed as Category 1	7 Years	5 Years
Severity of Current Offense & Severity of Convictions Within the Last 4 Years	Moderate: 3	Moderate: 2
	High: 5	High: 4
	Highest: 7	Highest: 6
The age of the inmate is determined at the time of the current review and the corresponding points selected	39–59 Minus 2 Points	39 or Older Minus 2 Points
	60 or Older Minus 3 Point	

Appendix C

The DOC makes periodic changes. The following changes, made in 2025 and approved by Governor Healy and her administration, are unlikely to have a significant impact on women's classification.

Initial Tool:

1. Variable #5, Age: Eliminate the point added for those 24 years old and younger
2. Variable #6, Education: Eliminate this variable
3. Variable #7, Employment: Eliminate this variable

* Reclassification Tool:

1. Variable #7, Age: Eliminate the point added for those 24 years old and younger
2. Reword Restriction E to read, "Life without Parole"
3. Add Override W, Voluntary Education Hold
4. Eliminate Override 2, Nature of Offense

The Initial Tool is used when an individual first enters DOC custody.
The Reclassification Tool is used at semi-regular intervals and includes assessments of the individual's behavior and attitudes while in custody.

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