



## **Testimony regarding Racial Justice and Police Accountability**

July 17, 2020 (via email)

The Honorable Aaron Michlewitz  
Chair, House Committee on Ways & Means  
State House, Room 356  
Boston, MA 02133

The Honorable Claire Cronin  
Chair, House Judiciary Committee  
State House, Room 136  
Boston, MA 02133

Dear Chair Michlewitz, Chair Cronin, and Members of the Committees:

I offer this written testimony regarding Racial Justice and Police Accountability in the hopes that I can provide information that will be of value as you work to counter social and economic disparities tearing at the fabric of our commonwealth. As MassINC research focuses on corrections, I narrow my remarks to criminal justice reform and the work that remains to improve public safety in communities of color disproportionately impacted by incarceration.

Below I detail the importance of faithfully implementing the data sections of the landmark 2018 criminal justice reform law, enhancing the law's expungement provisions, creating a new justice reinvestment fund, and raising the age.

### **A. Criminal Justice Information Systems and Racial and Ethnic Disparities**

Provisions overhauling the state's criminal justice information systems stand out as the civil rights bedrock of Massachusetts' remarkable 2018 criminal justice reform law. Sections 5, 10, and 13 ensure that we have the data necessary to eliminate racial bias. Equally important, these provisions improve data collection, allowing us to develop a more accurate understanding of whether correctional agencies are appropriately utilizing evidence-based rehabilitative services to reduce recidivism. People released from correctional facilities disproportionately return to communities of color. For far too long, we have released individuals without adequate preparation and support, which leads to further crime and victimization in communities of color.

Unfortunately, very little progress has been made over the past two years bringing the state into compliance with these crucial data provisions. The Senate version of the IT bond bill (S. 2790) currently in conference includes resources (8000-2027) to help agencies undertake the work required by the 2018 law. Beyond appropriating funds, it is critical that the legislature monitor progress and hold the agencies accountable, especially as the Oversight Board tasked with this function has met irregularly over the last two years.

Implementing these data provisions is particularly important in light of the study of racial disparities in Massachusetts' criminal justice system Chief Justice Gants asked Harvard Law School to undertake in

2016. This analysis, which took nearly four years to carry out because of extensive data quality issues, is nearly complete. According to those who have reviewed drafts, the report finds strong evidence of racial bias in sentencing and enumerates a number of serious and widespread data deficiencies that make it difficult to root out these racial disparities. They include: no information on the defendant's race in one-quarter of all criminal cases; an incomplete record of whether the defendant is held pretrial; no way to distinguish between cases dismissed in District Court and those moved to Superior Court; no way to track when charges are reduced; no record of fines imposed by offense; and no consistency between the offense codes used by DCJIS and those recorded by the trial court.

In order to function effectively, the people must have trust in the criminal justice system. Until we improve data collection and address the problems reliable data plainly reveal, people of color will have good reason to question the aims of our institutions.

## **B. Expungement**

The 2018 reform law included provisions allowing for expungement of criminal records, giving people greater ability to pursue education and career opportunities unimpeded by encounters that they had with the justice system at a young age. Unfortunately, the law provided narrow eligibility, making it difficult for most people to take advantage of this opportunity for closure.

Expungement is important to remedying well-documented racial disparities in our justice system. Legislation can help advance racial justice by removing the limit to a single charge or incident and distinguishing between dismissals and convictions.

## **C. Justice Reinvestment**

MassINC has carefully documented high concentrations of incarceration in communities of color, noting rigorous peer-reviewed research that shows these neighborhoods have passed the threshold where, rather than increasing public safety by removing people who harm the community, elevated levels of incarceration are actually destabilizing communities and leading to higher overall levels of crime. This is a product of failed tough on crime policies. Addressing this legacy will require reallocating resources to more effective community-based rehabilitation and crime prevention activities. Section 37 of S. 2820 would direct savings from criminal justice reform to evidence-based workforce development programs.

While this is a strong foundation, placing an arbitrary cap of \$10 million could undermine the intent. We must commit to realizing all of the savings possible from falling correctional populations and commit the bulk of these resources to reduce crime in communities where high levels of incarceration have fractured families, undermined public safety, and reduced upward economic mobility.

#### **D. Raise the Age**

Racial disparities in the Massachusetts criminal justice system are widest among residents age 18 to 24. The report released by the taskforce on emerging adults catalogued the many compelling arguments for utilizing models that meet the developmental needs of justice-involved young adults. While there are multiple ways to accomplish this goal, keeping older teens in the juvenile system is the most certain to yield immediate results.

The juvenile system has worked for over a decade to build a culture grounded in rehabilitation and developmentally-appropriate evidence-based practices and it has the capacity to serve older teens.

As legislator's work to craft racial justice and police accountability legislation, it is paramount to recognize the racial disparities we confront. According to 2018 Census data, black residents were 5.5 more likely to be incarcerated than white residents in Massachusetts; Latinos in Massachusetts were 4 times more likely to be incarcerated than whites.

We must also consider the impact these high levels of incarceration have for police officers working in communities of color. A system that does not provide adequate rehabilitation or reentry supports puts officers at risk. In recent years, a number of officers have been killed by individuals that our corrections system did not successfully rehabilitate (and quite likely made more dangerous). It is notable that we did not investigate any of these tragic instances to examine where the system failed and what could be done better to prevent repeat occurrences.

Notwithstanding this need to individually troubleshoot such catastrophic failures, strong evidence supports the beneficial impacts improved data collection, expungement, justice reinvestment, and raise the age will have not just for people of color, but also for police officers working to support public safety in communities that bear the scars of racism and decades of ineffective tough-on-crime criminal justice policies.

Thank you for this opportunity to submit testimony, and for all of the public service that legislators and staff are providing on behalf of our commonwealth at this especially challenging time.

Respectfully submitted,



Benjamin Forman  
Research Director  
MassINC