



Charles Hamilton  
**HOUSTON  
INSTITUTE**  
For Race & Justice  
*Harvard Law School*

Senator Michael O. Moore  
Chair, Senate Committee on Bonding, Capital Expenditures and State Assets  
Massachusetts State House  
24 Beacon Street, Room 109-B  
Boston, MA 02133

June 4, 2020

**OPPOSITION TO CAPITAL BONDS FOR POLICING, PRISONS & JAILS**  
**Senate Committee on Bonding**

Dear Chair Moore,

We write to urge the Senate Committee on Bonding to exclude any capital bond funds for the Massachusetts State Police, the Department of Correction, or new jail and prison construction under **H.4733**, *An Act financing the general governmental infrastructure of the Commonwealth*.

The Charles Hamilton Houston Institute for Race & Justice at Harvard Law School was founded in 2005 by Professor Charles J. Ogletree. Our central project, the Houston/Marshall Plan for Community Justice, stems from acknowledging the war-like devastation that has been inflicted upon poor communities of color in our nation's cities. This devastation is the result of policies and practices of disinvestment that cut across otherwise separate domains—including transportation, housing, education, recreation, safety and healing, job creation, childcare, and healthcare—that have created an impenetrable web of disadvantage. As many have written, including our Managing Director David J. Harris, one significant endeavor to address structural racism is intentional and equitable funding for poor communities of color across these domains.<sup>1</sup>

Instead, for decades, the Commonwealth has grown its investments in the disparate policing, punishment, and incarceration of people of color—particularly Black and Hispanic people—at the expense of investing in the social safety net. In a 2016 report, the nonprofit think tank MassBudget determined that spending on prisons increased by \$146 million between FY2001 and FY2016, while social services budgets and sources of community safety and stability like early education and care, workforce development, higher education, mental health, and public health were slashed.<sup>2</sup> These expenditures over fifteen years continued despite the fact that over that very same

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<sup>1</sup> See, e.g., Monica Cannon-Grant & David J. Harris, *Structural Racism Is The Real Pandemic*, COMMONWEALTH MAG. (May 17, 2020), <https://commonwealthmagazine.org/opinion/structural-racism-is-the-real-pandemic>; Michelle Wu, Julia Mejia & Ricardo Arroyo, *Boston's post-pandemic recovery must be equitable*, BOS. GLOBE (Apr. 22, 2020), <https://www.bostonglobe.com/2020/04/22/opinion/bostons-post-pandemic-recovery-must-be-equitable>.

<sup>2</sup> JEFF BERNSTEIN, MASS. BUDGET & POL'Y CTR., INCARCERATION TRENDS IN MASSACHUSETTS: LONG-TERM INCREASES, RECENT PROGRESS 9 (2016), <https://www.massbudget.org/reports/pdf/Incarceration%20Trends%20in%20Massachusetts%20Long-term%20Increases,%20Recent%20Progress%201-26-2016.pdf#page=9>.



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period Massachusetts incarcerated fewer and fewer people. While the number of people in our jails and prisons falls every year, spending on incarceration continues to rise.<sup>3</sup>

Our Commonwealth's prisons are 58% people of color,<sup>4</sup> in a state that is 78% white. This racially disparate imprisonment in state prisons is just one facet of the ongoing manifestations of racism in the way we have structured our society. This week the seven justices of the Massachusetts Supreme Judicial Court issued a statement urging members of the bar in the Commonwealth to consider the role of systemic racism in the criminal legal system and what we can do to stop it.<sup>5</sup> They wrote:

We must recognize and confront the inequity and injustice that is the legacy of slavery, of Jim Crow, and of the disproportionate incarceration of African-Americans, and challenge the untruths and unfair stereotypes about African-Americans that have been used to justify or rationalize their repression. And we must examine the underlying reasons why African-Americans have suffered disproportionately from the COVID-19 pandemic, both in terms of the number of deaths and the extent of economic hardship it has caused, and, where possible, address the causes of those disparities.

As Chair of the Senate Committee on Bonding, you have the unique role in determining what bonds are available for projects across our Commonwealth. You have a choice: to continue to fuel systems that have been ineffective in achieving their stated goal and which perpetuate structural racism and generational harm, or to invest in creating systems and institutions of care, that further racial justice and equity.

Two weeks ago, we were connected to a woman whose twin brother had recently been released from prison. He has a third grade education and is not fully literate. He has a history of trauma and untreated mental illness. He had nowhere to live. His mother and grandmother were both dead. His sisters receive federal housing assistance that prevented someone with a criminal record from living with them. The Department of Correction ("DOC") Reentry department had initially set up a placement for him, but it fell through two weeks before his release date because of COVID-19, and DOC did not find him a replacement. They released him to the street, dropping him off at a commuter rail, with \$50 in his pocket. When he showed up the next day for a post-release probation check-in, his probation officer told him to get a job but offered no assistance with housing,

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<sup>3</sup> Benjamin Swasey, *Over 8 Years, Mass. Spending On Incarceration Is Up 25 Percent Despite Inmate Numbers Dropping 21 Percent*, WBUR (May 22, 2018), <https://www.wbur.org/news/2018/05/21/new-massachusetts-prison-spending-report>.

<sup>4</sup> MASS. DEP'T OF CORR., JANUARY 2020 MA DOC INSTITUTIONAL FACT CARDS (2020), <https://www.mass.gov/doc/institutional-fact-cards-january-2020/download>.

<sup>5</sup> *SJC judges decry racism in criminal justice system*, COMMONWEALTH MAG. (June 3, 2020), <https://commonwealthmagazine.org/courts/sjc-justices-decry-racism-in-justice-system-broader-society>.



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treatment, or leads for finding a job. Working as intended, the system utterly failed him, and by extension all of us.

The stain of structural racism permeates our racialized system of social control—of prison, of probation, of all the intentional “collateral” consequences that flow from a criminal record. The Commonwealth must decline to spend another dime on these racist systems. Instead, we urge you to focus on upstream solutions: on education, on public health, on low-barrier treatment, on community-based organizations that can prevent people from ever entering prison and reach someone like this man coming out of prison—help him find housing, employment, trauma-informed and culturally empathetic care, and providers that meet his needs. In order to find affordable housing, it must be available. We can break cycles of instability, criminalization, and imprisonment with smart investments in the most-impacted communities.<sup>6</sup>

Instead of approving bonds for new jail and prison construction, for new state police cruisers, for new technologies of surveillance, we urge you to invest in infrastructure that focuses on preventing harm, meeting human needs, and envisioning and enacting a restructured society. Please:

- Strike line item 8000-2024;
- Revise line item 8000-0703 to ensure that the DOC is not authorized to purchase new vehicles and to reduce the spending in that line item by a commensurate amount;
- Strike line item 8000-2025; and
- Strike line item 1102-2020.

Now more than ever is the time to defund policing and prisons and invest in directly impacted communities of color. With sound policy and equitable investments, we can make Massachusetts a place where all people have what they need to live healthy, safe lives—and begin to redress centuries of racial injustice.

Sincerely,

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<sup>6</sup> CTR. FOR POPULAR DEMOCRACY, LAW FOR BLACK LIVES & BLACK YOUTH PROJECT 100, FREEDOM TO THRIVE: REIMAGINING SAFETY & SECURITY IN OUR COMMUNITIES (2017), <https://populardemocracy.org/sites/default/files/Freedom%20To%20Thrive%2C%20Higher%20Res%20Version.pdf>.