

A REPORT ON THE MASSACHUSETTS DEPARTMENT OF CORRECTION
PROGRAM ACCOUNT AND LAW LIBRARY FUND FOR FISCAL 2011 AND 2012¹

A. Introduction

The Department of Correction (DOC), per their own regulation - 103 DOC 476, each month deducts a percentage of the revenue paid into the Inmate Benefit Funds (IBF) for each of seventeen institutions. The deductions are known as Program Assessments and Law Library Assessments. The funds are then deposited into the DOC's Program Account (Revenue Source 7200 - Appropriation 8900 - 9000) or the DOC's Law Library Fund (Z176). The total percentage of the revenue into the IBF accounts deducted each month is 45% - 10% to the Program Account [103 DOC 476.10(2)], 35% to the Law Library Fund [103 DOC 476.11(1)]. The total revenue deposited into the Program Account for Fiscal Years 2011 (July 1, 2010 - June 30, 2011) and 2012 (July 1, 2011 - June 30, 2012) was \$397,837.70. The total revenue deposited into the Law Library Fund for the same fiscal years was \$1,392,873.98.

The revenue into the Inmate Benefit Funds is comprised primarily of the commissions paid by the vendor contracted by the DOC to supply commissary items, appliances, and clothing items for purchase by prisoners. In the two years covered by this report, the commission approximated 15% of total sales. In addition to those commissions, the Inmate Benefit Funds received nominal funds from other sources, e.g., soda bottle refunds, locker fees paid by visitors, interest, and vending machine commissions. For example, in FY 2012, for MCI-Norfolk alone, 91% of the income into that institution's IBF came from commissions to the DOC paid by the vendors from sales of commissary items (83%), appliances (6%), and clothing items (2%) to prisoners.² Thus, prisoners, in effect, account for practically all of the revenue paid into the Inmate Benefit Fund at each institution and, in turn, for the Program and Law Library Assessments.

B. Program Account

The DOC claims that programs are a priority in its mission to successfully reenter prisoners into the community.³ But, Program Expenses is the only category in the DOC budget which has shown a steady decrease in both amounts spent and the percentages of the DOC expenditures in recent years.⁴ There is an obvious disconnect between what the DOC asserts its mission is and where the DOC actually spends its money. This, then, raises the question: Where has the DOC spent the nearly \$400,000 deducted from Inmate Benefit Funds and paid into its Program Account for FY 2011 and FY 2012? See Table 1, which is attached, for a

detailed answer. Note that for the two years, the DOC has under spent by \$29,975.53 or nearly 8% of the revenue. This, of course, begs the question: Why would the DOC, if programs were truly a priority, leave nearly \$30,000 unused? It must be remembered that these Program Account expenditures are not included in the DOC's annual budget of over \$500 million, nor are they cited in any of the DOC's Annual Reports. Thus, the Program Account acts as a "slush fund" from which the DOC can draw funds with little or no oversight.

Reviewing the thirty-one different expenditure categories listed in Table 1 raises more questions which cry out for answers:

1) Why has over \$91,000 been paid from the Program Account to Spectrum for a Diversion Unit at SBCC? This is particularly troubling since, in 2004, Spectrum was found by the Commonwealth's auditor to have misappropriated \$17.4 million in state funds from 1992 to 2002. Spectrum was then allowed to enter into a settlement agreement to pay back only \$7.5 million of the misappropriated money. ⁵

2) Why did the DOC spend \$25,000 from the Program Account on a floor for the Culinary Arts program in Gardner? For whatever reason the floor needed to be repaired, that clearly should have been charged to a Capital Expense Account, not the Program slush fund. It must be noted that while a few prisoners work in Culinary Arts and receive Serve Safe Certification for handling food, the primary purpose of Culinary Arts is to provide low cost meals for guards and administrative staff.

3) Why did the DOC spend a total of \$53,672.17 on greenhouse construction at Gardner, Framingham, MCI-Shirley, and South Middlesex C.C., especially why was over \$4,000 charged to the Program Account for an abatement at Gardner? It is interesting to note that \$16,005.69 was spent for a greenhouse in MCI-Shirley which, according to the most recent DOC Program Description Booklet (August 2013), does not even have a horticultural program. Once again, should not those expenditures have been charged to capital outlay accounts for construction costs rather than to the Program Account which is largely funded by the commissions paid to the DOC from sales to prisoners for canteen and/or property items?

4) How does the expenditure of nearly \$3,000 for wristbands for Bridgewater State Hospital patients even remotely qualify as a program expense?

5) Exactly what were the "indirect costs" which totaled over \$16,500 in FY 2011 and FY 2012?

In addition to those questions, it is interesting to compare, by institution, the percentage of dollars paid into the Program Account for Program Assessments with the percentage of dollars spent for each institution. See Table 2 attached. What stands out is that MCI-Norfolk contributed the second highest percentage of revenue to the Program Account - 13.7%. Yet, Norfolk received a grand total of \$0, that's right - zero, in dollars spent from the

Program Account. The highest percentage of revenue was MCI-Shirley - 13.9%, which received only 4.4% of the expenditures. Both Norfolk and Shirley hold nearly 26% of all incarcerated prisoners under DOC jurisdiction. ⁶ And, both institutions combined provided over one-quarter (27.6%) of the revenue and, yet, received less than 5% of the expenditures - \$16,105.69 for a greenhouse. In addition, note that the following institutions, while being charged for revenue, also received no expenditures: Baystate, Concord Farm (NECC), MASAC (the Alcohol and Substance Abuse Center), and the Treatment Center. Also, note that Boston Pre-Release received nearly 13% of the expenditures, while contributing a mere 1.7%; and Souza-Baranowski received 26.7% of the expenditures, while contributing only 10% of the revenue. It is, of course, not reasonable to expect a dollar for dollar return for assessments from each institution's IBF. Still, the distribution of expenses is way out of balance. It beggars belief that MCI-Norfolk, an institution that is considered to be program friendly - something many who are incarcerated there might dispute - received no money in program expenditures from this Program Account, despite contributing near \$55,000 over two years. See Table 3.

The skewed distribution of expenditures also raises the question of what standards, if any, does the DOC employ to determine where the money should be spent? The answer should be for programs proven to encourage and to effect personal growth for prisoners which would, in turn, lead to lower recidivism. It is difficult, at best, to understand how money spent for razors, identification wristbands, a floor, greenhouses, chairs, cabling, television equipment, and basketballs could possibly qualify under that standard. What seems evident is that the DOC Program Department simply uses the Program Account to pay for personally favorite programs, although the word "program" can hardly describe a substantial number of the expenditures in FY 2011 and FY 2012. And, how could nearly \$30,000 in those years not be spent? The prisoners who paid for the Program Account and the people of the Commonwealth deserve a far better return. If the DOC Program Department cannot find programs to spend the money on, then there are surely many in the various institutions who could better spend close to \$400,000.

C. The Law Library Fund

Anyone who finds the amount of under spent funds in the Program Account to be problematic, should find the total of under spent dollars in the Law Library Fund to be unconscionable. The revenue for FY 2011 and FY 2012 paid into the Law Library Fund totaled \$1,392,873.98; the total of the expenditures was \$924,183.87, leaving a whopping amount of under spent funds of \$468,690.11!! See Tables 4 and 5 attached. Obviously, there is something radically wrong. The solution lies in the size of the assessment, i.e., 35% of the total revenue

paid into each institution's Inmate Benefit Fund. It is clear that far too much money is being deducted for Law Library Assessments. Whatever the previous rationale may have been for the 35% rate, it no longer applies. That rate needs to be reduced to no more than 20%, which would substantially increase the funds available for each individual institution's administration to spend. It is at the institution level that such fiscal decisions should be made and not in a central office, by those who are least in touch with the needs of each prison. Nothing can justify simply stockpiling money in a Law Library Fund. In fact, the surplus in the Law Library Fund alone was enough to fund either the FY 2011 or the FY 2012 expenditures from that account. Adding to this fiscal mess is that in May 2012, the commission paid by the contracted vendor to the DOC for commissary, appliance, and clothing sales increased to 18% ⁷ The net result is, assuming that total sales remain essentially the same, an increase in the revenue paid into both the Law Library Fund and the Program Account since the percentages will be applied to higher base totals.

D. Conclusion

The DOC unilaterally decided to assess the individual prison Inmate Benefit Funds, in effect, withdrawing substantial funds to be expended at the whim and caprice of the Central Office. The time has come for the DOC to revisit those assessments to:

- 1) determine standards for where and how the funds are to be spent;
- 2) publicize those standards;
- 3) provide an annual accounting in the DOC's Annual Report for where and how the funds have been spent; and
- 4) reduce the Law Library Assessment to no more than 20%.

While there is a demonstrable need to have a central fund to pay for administering the computerized law library services shared by all institutions, the 35% amount assessed is obviously way out of line. A reduction to 20% would still provide \$432,000 ⁸ for the Law Library Fund, plenty of money, along with the under spent funds of over \$460,000 remaining in the Law Library Fund, to pay for legitimate expenses. In a similar fashion, the assessment for the Program Account needs to be reevaluated, as do the types of expenditures charged to that Account. Inmate Benefit Funds should provide programs and services to the largest number of prisoners possible, particularly in light of the fact that prisoners contribute nearly all of the money through their purchases of commissary, appliance, and clothing items. As the Central Office's Program Department seems to have little or no concern for funneling money back into the institutions in a fair and impartial manner, i.e., to those which provide the bulk of the funds,

the Commissioner of Correction needs to review the assessment process and to determine a more equitable distribution of the money to each institution. Legitimate expenditures that affect the DOC 's institutions as a whole, such as the maintaining the computerized law libraries, are acceptable, as is assisting institutions who may be in need for specific programs which serve to meet prisoners' needs for reentry, but may not have the necessary revenue in the Inmate Benefit Fund for their institution. In the end, however, all institutions should benefit from the money paid into the Inmate Benefit Funds. One way to improve the present system is to take the decisions as to where and how the funds are to be expended out of the hands of the Central Office and place that responsibility into the hands of the administrators of each institution, with accountability to the Central Office for those expenditures, and reporting same in the DOC Annual Report.

END NOTES

1. The data for this report, i.e., monthly distributions of the revenue by institution for each assessment and the expenditures from the Program Account and the Law Library Fund, were provided by the Massachusetts Department of Correction pursuant to a public records request. The total and percentages contained in this report were calculated by the author who is a prisoner incarcerated at MCI-Norfolk. The author is fully responsible for the facts, assertions, and conclusions contained in this report. Any questions or comments are welcome and should be addressed to: Gordon Haas, MCI-Norfolk, P.O. Box 43, Norfolk, MA 02056. Copies of items cited in End Notes 2, 4, 5, and 7 below are available from the author upon request.

2. "Sources And Uses of Funds For Z-1 Account - MCI-Norfolk." A Report of the Store & Finance Committee to the Executive Committee of the Norfolk Inmate Council.

3. Massachusetts Department of Correction Annual Report for 2011 at 5.

4. Haas, Gordon. "Massachusetts Department of Correction - 2012" at 9, found at www.realcostofprisons.org.

5. "Does the CRA Program Really Work?" The Phantom Prisoner Newsletter. November/December 2008 at 3-5 and January/February 2009 at 1-4.

6. Department of Correction Institution Fact Cards, July 1, 2013.

7. Letter to Luis Spencer, Commissioner from Brian J. Kearnan, Contract Manager dated February 15, 2012 at 9.

8. Estimated \$12,000,000 in sales from contract with Keefe Commissary Network (RFR #13-DOC-Commissary at 4) multiplied by 18% commission and that result multiplied by 20% = \$432,000.

TABLE 1

FY 2011 and FY 2012 SOURCES AND USES OF FUNDS FOR
10% PROGRAM ASSESSMENT

Sources of Funds

FY 2011 10% Assessment	192,348.13	
FY 2012 10% Assessment	<u>205,489.57</u>	
 Total Sources of Funds		 397,837.70

Uses of Funds - FY 2011 and FY 2012

SBCC Diversion Unit - Spectrum	91,392.24	
Bunker Hill Work Readiness	47,460.00	
MCI-F Greenhouse	32,940.87	
OCCC Cordless Razors	27,764.68	
NCCI - Floor for Culinary Arts	25,000.00	
MCI-S Greenhouse	16,005.69	
Pondville - Job Search Workshops	14,761.11	
MCI-CJ - Restart Chairs	11,413.75	
Pondville - Career Coaching	10,239.72	
MCI-F - Day Room	9,157.50	
MCI-CJ - Visiting Area	8,746.87	
MCI-S (Min.) - Computer School	7,667.26	
Shattuck - TV Equipment	7,169.56	
SBCC - STP Unit	6,876.94	
MCI-CJ - DDU Cabling	6,762.87	
MCI-C - Reading Coach	4,264.19	
NCCI - Greenhouse Abatement	4,032.00	
NCCI - Barber Chairs	3,840.00	
Reentry Portfolios	3,608.55	
BSH - Basketball	3,239.98	
BSH - Wristband Ids	2,826.45	
MCI-P - Automotive	1,524.84	
MCI-CJ - Follett Software	1,505.66	
BSH - Gym	780.00	
SMCC - Greenhouse	693.61	
GW Micro Reg.	650.00	
OCCC - Braille Program	458.90	
Cognitive Skills Posters	278.40	
MDF - Learning Project	198.76	
PREA Posters	69.00	
Indirect Costs	<u>16,532.77</u>	
 Total Uses of Funds		 <u>367,862.17</u>

Total Unspent Funds 29,975.53

TABLE 2

COMPARISON OF PERCENT OF REVENUE VS PERCENT OF EXPENDITURES
BY INSTITUTION

<u>Institution</u>	<u>% of Revenue</u>	<u>% of Expenditures</u>
Baystate	3.8	0
Boston Pre-Release	1.7	12.9
BSH	2.1	1.9
Cedar Junction	5.1	7.7
Concord	12.0	1.1
Framingham	7.3	11.4
MASAC	.7	0
NCCI	8.5	8.9
NECC	3.2	0
Norfolk	13.7	0
OCCC	7.7	7.7
Plymouth	2.1	.4
Pondville	2.1	6.8
SBCC	10.0	26.7
Shirley	13.9	4.4
SMCC	1.8	.2
Treatment Center	4.2	0

TABLE 3

FY 2011 and FY 2012 REVENUE FOR PROGRAM ACCOUNT

BY INSTITUTION

<u>Institution</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>Total</u>	<u>% FY 11</u>	<u>% FY12</u>	<u>% Total</u>
BayState	7,588.91	7,650.00	15,238.91	3.9	3.7	3.8
Boston Pre-Rel.	3,322.30	3,585.43	6,907.73	1.7	1.7	1.7
BSH	4,215.33	4,039.32	8,254.65	2.2	2.0	2.1
Cedar Junction	8,830.98	11,262.58	20,093.56	4.6	5.5	5.1
Concord	23,316.27	24,622.45	47,938.72	12.1	12.0	12.0
Framingham	14,532.47	14,572.57	29,105.04	7.6	7.1	7.3
MASAC	1,529.35	1,410.40	2,939.75	.8	.7	.7
NCCI	16,004.26	17,637.00	33,641.26	8.3	8.6	8.5
NECC	6,265.59	6,412.06	12,677.65	3.3	3.1	3.2
Norfolk	26,012.85	28,563.40	54,576.25	13.5	13.9	13.7
OCCC	15,257.41	15,459.09	30,716.50	7.9	7.5	7.7
Plymouth	4,096.21	4,407.10	8,503.31	2.1	2.1	2.1
Pondville	4,105.03	4,303.35	8,408.38	2.1	2.1	2.1
SBCC	18,841.83	20,849.61	39,691.44	9.8	10.1	10.0
Shirley	26,555.06	28,575.20	55,130.26	13.8	13.9	13.9
SMCC	3,574.42	3,748.75	7,323.17	1.9	1.8	1.8
Treatment Center	8,299.86	8,391.26	16,691.12	4.3	4.1	4.2
<hr/>						
Total Revenue	192,348.13	205,489.57	397,837.70			
Expenses	154,071.64	213,790.53	367,862.17			
<hr/>						
Surplus/ (Deficit)	38,276.49	(8,300.96)	29,975.53			

TABLE 4

FY 2011 and FY 2012 SOURCES AND USES OF FUNDS FOR
35% LAW LIBRARY ASSESSMENT

Sources of Funds

FY 2011 35% Assessment	673,218.15
FY 2011 Interest	740.31
FY 2012 35% Assessment	717,716.55
FY 2012 Interest	<u>1,198.97</u>

Total Sources of Funds 1,392,873.98

Uses of Funds - FY 2011 and FY 2012

West	448,375.62
Matthew Bender	188,406.41
Verizon	74,445.65
Fund Transfer	66,100.00
Lexis Nexis	50,999.55
Integration Partners	41,537.02
Lawyers Weekly	10,832.40
Net Versant	9,594.57
BNA	8,066.80
Dell Marketing	6,058.37
Gov. Connection	5,096.50
Lawyers Diary	4,632.00
Valley Com. Sys.	3,619.87
CDW Governmentt	3,390.60
En Pointe	1,017.09
Aspen Pub.	731.61
E Plus Tech.	723.00
Walters Kluwer	452.08
Correction Industries	65.00
Barnes & Noble	27.33
New Eng. Law	<u>12.50</u>

Total Uses of Funds 924,183.87

Total Unspent Funds 468,690.11

TABLE 5

FY 2011 and FY 2012 REVENUE FOR LAW LIBRARY FUND

BY INSTITUTION

<u>Institution</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>Total</u>	<u>% FY 11</u>	<u>% FY12</u>	<u>% Total</u>
BayState	26,561.16	26,774.93	53,336.09	4.0	3.7	3.8
Boston Pre-Rel.	11,628.04	12,675.06	24,303.10	1.7	1.8	1.8
BSH	14,753.61	14,137.55	28,891.16	2.2	2.0	2.1
Cedar Junction	30,908.44	39,418.98	70,327.42	4.6	5.5	5.1
Concord	81,607.33	86,146.86	167,754.19	12.1	12.0	12.1
Framingham	50,863.72	51,003.97	101,867.69	7.6	7.1	7.3
MASAC	5,352.68	4,936.33	10,289.01	.8	.7	.8
NCCI	56,014.88	61,729.48	117,744.36	8.3	8.6	8.5
NECC	21,929.71	22,442.35	44,372.06	3.3	3.1	3.2
Norfolk	91,044.97	99,972.19	191,017.16	13.5	13.9	13.7
OCCC	53,400.92	52,515.56	105,916.48	7.9	7.3	7.6
Plymouth	14,336.57	15,424.83	29,761.55	2.1	2.2	2.1
Pondville	14,367.57	15,061.67	29,429.24	2.1	2.1	2.1
SBCC	65,946.41	72,973.64	138,920.05	9.8	10.2	10.0
Shirley	92,942.69	100,013.20	192,955.89	13.8	13.9	13.9
SMCC	12,510.48	13,120.59	25,631.07	1.9	1.8	1.8
Treatment Center	29,048.82	29,369.36	58,418.18	4.3	4.1	4.2
Interest	740.31	1,198.97	1,939.28			
Total Revenue	673,958.46	718,915.52	1,392,873.98			
Expenses	461,436.43	462,747.50	924,183.93			
Unspent Funds	212,522.03	256,168.02	468,690.05			