



Danna E. Mauch, PhD  
President and CEO

Ambassador (ret.) Barry B. White  
Chairperson of MAMH Board of Directors

June 28, 2021

The Honorable Julian Cyr  
Senate Chair, Joint Committee on Mental Health, Substance Use, and Recovery  
Massachusetts State House, Room 24B  
Boston, MA 02133

The Honorable Adrian C. Madaro  
House Chair, Joint Committee on Mental Health, Substance Use, and Recovery  
Massachusetts State House, Room 33  
Boston, MA 02133

**Re: Testimony Supporting An Act to Ensure the Constitutional Rights and Human Dignity of Prisoners on Mental Health Watch (S.1283) (H.2089).**

Dear Committee Chairs Senator Cyr and Representative Madaro and Committee Members:

On behalf of the Massachusetts Association for Mental Health (MAMH), thank you for leadership and for your strong attention to the needs of people with behavioral health conditions and their families. I am writing and testifying in behalf of MAMH in support of H.2089/S.1283, An Act to Ensure the Constitutional Rights and Human Dignity of Prisoners on Mental Health Watch.

Formed more than a century ago, MAMH is dedicated to promoting mental health and preventing mental health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies. MAMH has a particular interest in the impact of the criminal justice system on persons with mental health and substance use challenges. For instance, our President and CEO, Dr. Danna Mauch, is co-chair with Sheriff Peter Koutoujian of the Middlesex County Restoration Center Commission<sup>1</sup> and I sit on the Restrictive Housing Oversight Committee<sup>2</sup> as MAMH's representative.

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<sup>1</sup> For information see <https://www.mamh.org/advocacy/roadmap-to-reform/criminal-justice-reform/restoration-center-commission>.

<sup>2</sup> The Committee was established by G.L. c. 127 § 37G. For information see <https://www.mass.gov/restrictive-housing-oversight-committee>.



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It is widely known that people with behavioral health disorders are significantly over-represented in prisons and jails.<sup>3</sup> Prison and jail suicides seem to have vexed corrections administrators for decades, including in our state. Indeed, according to a new 2021 report by the Department of Justice's Bureau of Justice Statistics (BJS) Massachusetts' prisons had the fourth highest suicide rate in the country (31 per 100,000 prisoners – more than twice the suicide rate among the population at large) between 2001 and 2018.<sup>4</sup> Moreover, investigations indicate between 2006 and 2017, the rate of suicides in the state's jails was much higher. In 2014, for instance, the rate was 78 per 100,00, more than twice as high as that in the prisons.<sup>5</sup>

These disturbing data indicate seriously deficient mental health services in the facilities. But, according to the Special Commission on Correctional Funding, Massachusetts spends \$25,000 - \$50,000 per incarcerated person on security staff, but only \$250-\$3,000 per person on programming staff like case managers, social workers, and education providers.<sup>6</sup>

It is not surprising, then, that MAMH has long been concerned about the treatment of persons with mental illness in our state's prisons and jails. We had been encouraged by steps that the legislature and DOC had taken to reform restrictive housing and suicide and had hoped they would have a positive impact on incidents of self-harm. But we were deeply troubled, even shocked, in November 2020 when the DOJ issued its report of an investigations documenting

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<sup>3</sup> According to the DOC's 2020 Prison Population Trends Report at page 17, 38% of male and 70 % of female prisoners have open mental health cases; 31% of male and 67% of female prisoners have been diagnosed as seriously mentally ill. Available at <https://www.mass.gov/doc/prison-population-trends-2020/download>. Individuals with behavioral health needs also are over-represented in jails and houses of correction. For example, 45% of prisoners at the Billerica Jail and House of Correction have a mental health condition, and as many as 80% of those individuals have a co-occurring substance use condition. Middlesex County Restoration Center Commission Year One Report, p. 2 available at <https://www.mamh.org/assets/files/Middlesex-County-Restoration-Commission.pdf>.

<sup>4</sup> Massachusetts trailed only Rhode Island, Montana and Utah. E. Ann Carson, Mortality in State and Federal Prisons 2001-2018—Statistical Tables, Bureau of Justice Statistics (April 2021) p. 19-20 available at <https://bjs.ojp.gov/library/publications/mortality-state-and-federal-prisons-2001-2018-statistical-tables>.

<sup>5</sup> Jenifer McKim & Shaz Sajadi, Behind the Wall: Suicides Mount in Massachusetts County Jails, WGBH, May 6, 2017, available at <https://www.wgbh.org/news/2017/05/06/behind-the-wall-suicides-mount-in-massachusetts-county-jails/>. Reliable data on suicides and self-harm in Massachusetts jails is difficult to find. For an analysis see Jennifer Honig, Jail Suicides in Massachusetts Point to a National Crisis: Challenging Legislatures to Say Not One More, Prison Legal News (April 2021) available at <https://www.prisonlegalnews.org/news/2021/apr/1/jail-suicides-massachusetts-point-national-crisis-challenging-legislatures-say-not-one-more/>.

<sup>6</sup> See <http://correctionalfunding.com/>.



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serious constitutional violations in mental health watch practices in DOC facilities.<sup>7</sup> The DOJ report graphically described very troubling examples of disregard for prisoner safety, including examples of corrections officers encouraging prisoners to engage in self-harm; failing to intervene when an incarcerated person engaged in self-harm; and, falling asleep while supervising people on suicide watch.

Based on these and other facts, DOJ made significant major systemic findings including that:

1. DOC fails to provide constitutionally adequate supervision to persons in mental health crisis and provides inadequate training to security staff. These failures put DOC persons on mental health watch at a substantial risk of serious harm.
2. DOC fails to provide adequate mental health care to incarcerated persons in mental health crisis.
3. DOC's use of prolonged mental health watch under restrictive housing conditions, including the failure to provide adequate mental health care, violates the constitutional rights of incarcerated persons in mental health crisis.

Taken together, the DOC's practices are more likely to exacerbate than ease mental health problems. H.2089/S.1283 would correct these serious shortcomings, by providing for a system-wide approach. These bills would provide a framework and require best practices, such as:

1. Prohibiting suicidal persons from being held in conditions of solitary confinement, and require transfer to a psychiatric hospital if needed support cannot be provided by DOC after 24 hours under mental health watch.
2. Mandating a written suicide prevention and suicide response policy for all state and county correctional facilities, and a mental health watch chain of command under qualified mental health professionals, not correctional staff.
3. Requiring the provision of appropriate mental health treatment on an ongoing basis for all prisoners with mental health conditions, including those on mental health watch.
4. Barring correctional officers from participating in suicide watch if they violate suicide safety protocols.

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<sup>7</sup> Department of Justice, Investigation of Massachusetts Department of Correction, November 17, 2020, available at <https://www.justice.gov/opa/press-release/file/1338071/download>.



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5. Requiring independent review of all completed and attempted suicides and incidents of self-harm, along with recommendations for changes in protocol after each incident.

We recognize that suicide and self-harm are problems in prisons and jails in many states. Massachusetts has the resources and the expertise to deal effectively with problem. But legislation – indeed, this legislation -- is needed to ensure that state and county facilities are accountable to take all the steps necessary to ensure that incarcerate people with mental health and substance use needs have the support they need to assist them through the difficult psychological problems that attend their confinement.

We urge you to act favorably on these important bills. Thank you.

Respectfully submitted,  
MASSACHUSETTS ASSOCIATION FOR  
MENTAL HEALTH,  
Danna Mauch, Ph.D.,  
President and CEO  
By:

Robert D. Fleischner  
Senior Advisor