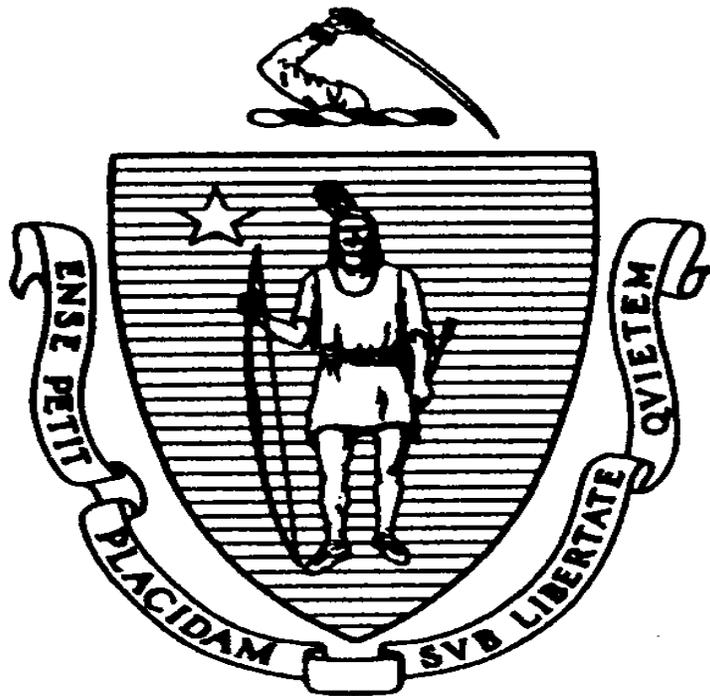


Statutory Restrictions on Inmate Placement And Other Sentencing Related Statistics

Massachusetts Department of Correction



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April 2007

EXECUTIVE SUMMARY

This report provides an update to a January 2004 report, “Policy and Statutory Restrictions on Inmate Placement” with a focus on the statutory restrictions, plus additional data relevant to sentencing and its impact on the Department of Correction (DOC) prison population. Findings among statutory restrictions in this report are based on the DOC criminally sentenced population as of April 5, 2007, representing a population of 9,996 inmates (a 9% increase over the 9,101 inmates reported in the January 2004 report based on the December 10, 2003 DOC population).

- **45% (n=4,466) of inmates on April 5, 2007 were not yet within 18 months of their parole eligibility date, precluding them from participating in education, training or employment programs outside of a correctional facility.**
- **At least 54% or 5,351 of the total April 5, 2007 inmate criminally sentenced population (compared to 51% in 2003) were subject to restrictions based on 4,466 not being within 18 months of their parole eligibility date and another 885 serving a first degree life sentence (independent of mandatory restrictions from work release).**
- **79% of inmates in April 2007 were serving at least one mandatory sentence carrying restrictions on participation in work-release (compared to 84% in 2003).**
- 7,859 inmates on April 5, 2007 were serving **at least one mandatory sentence** with work release restrictions, reflecting an increase in number from 2003, but an overall *decrease* in percent.

Included in this report are additional data reflecting statistical trends associated, in some part, with the impact of sentencing terms on inmates.

- The last ten years (1997-2006) reflect a shift toward slightly longer minimum sentences.
- The same ten year time frame portrays a decrease in the lengths of maximum sentences.
- Among new court commitments (1997-2006) with a mandatory drug sentence, the 2006 mandatory drug offenders (n=557) represented the highest number over the ten year period as well as the highest percent (52%) of total drug offenders in a year.
- 62% of all mandatory sentenced new court commitments in 2006 were serving a governing offense for a drug crime.
- The majority of males committed under a mandatory sentence had a drug offense (67%), whereas the majority (62%) of females committed under a mandatory sentence fell into the “other” category (which includes prostitution, OUI, and other motor vehicle offenses).
- Trends in the average time served among state sentenced inmates over the last five years fluctuated, this was the case for both male offenders (averaging 60.7 months) and female offenders (averaging 40.8 months) from 2002 through 2006.
- Among offense types overall, the longest average time served was among sex offenders. After sex offenses, the type of offense varied by gender with males serving longer sentences for (crimes against the) person offenses compared to females with longer average time served for “other,” person, and drug offenses, depending on the year.

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April 8, 2007*

Introduction

In order to answer the question “how many inmates are restricted from placement in lower custody by policy or statute” the Department of Correction (DOC) examined the status of all *criminally sentenced* inmates in DOC jurisdiction on one day in December 2003.¹ The findings were reported in a report published in January 2004. This report presented how many inmates were impacted by specific DOC policies and/or statutory restrictions that limited their participation in specific work-release and other community-based programming and placement as a result. One of the major findings was that the magnitude of the statutory restrictions overrode that of the existing DOC policy restrictions. In other words, all but a very few of the inmates impacted by DOC policies were already restricted by statute. The focus herein is on the statutory restrictions impacting inmates eligibility for work-release and other community-based and placement within DOC custody as well as other statistical trends reflecting the impact of sentencing practices.

Why revisit the impact of statutory restrictions on inmate placement?

From 1980 to 2007, the total DOC custody population nearly tripled. The 280% increase over the last 27 years reflects an increase in growth from 3,850 in 1980 to 10,791 (as of January 1, 2007). This trend, as well as one forecasting continued growth among prison populations, is a national phenomenon as well.² One of the many impacts effecting the prison population was the impact of sentencing reform prevalent in the 1990’s.

In January 1994, “An Act to Promote the Effective Management of the Criminal Justice System” was signed into law in the Commonwealth of Massachusetts and thereafter referred to as the “Truth in Sentencing” Law. The Truth-in-Sentencing (TIS) law went into effect on June 30, 1994 and impacted crimes committed beginning on July 1, 1994. One of the changes resulting from this law was on parole eligibility for state sentences then set at the minimum term of each sentence, subject only to reduction by earned good time. “Good time” by *statute* was eliminated.

By 1997, 87% of all new court commitments to the DOC were subject to the Truth-in-Sentencing statute, yet 389 of new court commitments that year still had offense dates prior to July 1, 1994 and therefore did not fall under the parameters of the new statute requirements. It was not until the year 2000 when statistically 100% of new court commitments were under the TIS statute, six years after the law was enacted.

The TIS statute changed the calculation of parole eligibility. Additionally, there were other, perhaps “unintended” outcomes of the implementation of TIS. Increasingly inmates, particularly those with “mandatory minimums” were given sentences whereby their “maximum” sentence was one day longer than their mandatory minimum, in essence making them ineligible for parole. The “Massachusetts Sentencing Commission Survey of Sentencing Practices, FY2005”³ reported 57.1% of mandatory drug offenses had a one day difference between the minimum term and maximum term of the sentence. In addition, 36.7% of all the other offenses had the one day differential in

¹ The specific date was December 10, 2003 at which time there were 9,101 criminally sentenced inmates in DOC jurisdiction. Of those 9,101 inmates, 94% (n=8521) were males and the remaining 580 females. Altogether those 9,101 inmates were serving a total of 31,526 sentences, averaging over three offenses per inmate.

² Public Safety Performance Project. (2007). *Public Safety, Public Spending: Forecasting America’s Prison Population 2007-2011*. Washington, DC: JFA Institute.

³ Massachusetts Sentencing Commission Survey of Sentencing Practices, FY2005, (pp.25-26)

sentencing terms. Altogether 41.9% of all offenses among state prison sentences⁴ reflected sentences with only a one day difference between the minimum and maximum term, again, virtually eliminating the option for parole.

This report will provide an update as to the number of inmates impacted by the same statutory restrictions⁵ still in effect as they were in December 2003 to determine any statistical changes in impact on a current DOC criminally sentenced jurisdiction population in April 2007. In addition other impacts of sentencing are presented in the second part of the report with associated tables and graphs available in Appendix C.

STATUTORY RESTRICTIONS

The data analysis of criminally sentenced inmates was based on the active DOC inmate population on April 5, 2007, consisting of 9,996 inmates.⁶ Calculations were based on ALL sentences, not just those governing the inmate's longest maximum term; altogether those 9,996 were serving a total of 33,942 sentences, averaging over three offenses and corresponding sentences per inmate. The previous report issued in January 2004 was based on a December 2003 population, when the population was 9% smaller (***9,101 inmates***). The number provided in the text hereafter will be that of the current, April 2007 dataset, with the comparable information presented based on December 2003 data presented in parentheses in ***bold italics***.

STATUTORY RESTRICTIONS FALL INTO ONE OF TWO OVERARCHING AREAS:

- A) The impact of an inmates' time served in relation to his/her **parole eligibility date**; and
- B) The impact of **mandatory statutes** associated with the crime(s) for which they were committed.

A) Restrictions associated with time until Parole Eligibility (M.G.L. c. 127, § 49)

M.G.L. c. 127, § 49 provides in relevant part:

The commissioner of correction ... subject to rules and regulations established in accordance with the provisions of this section, may permit an inmate who has served such a portion of his sentence or sentences that he would be eligible for parole within eighteen months to participate in education, training or employment programs established under section forty-eight outside a correctional facility.

Inmates not yet within 18 months of parole eligibility

This population is precluded by M.G.L. c.127, §49 from participating in education, training or employment programs outside a correctional facility.

- 4,466 inmates were not yet within 18 months of their parole eligibility dates (***compared to 3,876 in December 2003***).
- 45% (***43%***) of the inmate population.

⁴ Excluded life sentences and some state sentences (i.e. OUI's) not included on the Sentencing Commissions sentencing guidelines grid.

⁵ These are listed in Appendix A with some updates from the January 2004 report indicated in bolded type.

⁶ Of those 9,996 inmates, 9,356 (94%) were males and 640 (6%) were females.

Inmates within 18 months or beyond their parole eligibility dates

Altogether 4,336 (**4,021**) inmates were eligible under M.G.L. c.127, §49 to participate in education, training, or employment programs outside a correctional facility. However, some of these inmates may nonetheless be ineligible by operation of other statutory restrictions.

- 2,845 (**2,232**) inmates or 29% (**25%**) of the inmate population were within 18 months of their parole eligibility dates;
- 1,491 (**1,789**) inmates or 15% (**20%**) of the inmate population were beyond their parole eligibility dates.

B) Restrictions associated with **Mandatory Statutes**

Massachusetts statutes impose four types of restrictions on inmates' access to work release programming. Appendix A provides a detailed list of those restrictions by statute in correspondence to the roman numerals depicted below:

- I. First, some inmates are restricted for the entire term of their sentence.
- II. Second, some inmates are restricted for the entire term of their sentence, except upon recommendation of the superintendent.
- III. Third, some sentences impose restrictions during a mandatory term of a sentence.
- IV. Fourth, some sentences permit work release access during a mandatory term of the sentence in the custody of an officer upon recommendation of the superintendent.

In total, all inmates serving time, under at least one of the statutes falling within any of the above categories, consisted of:

- 7,859 (**7,608**) inmates were serving time for at least one statute that restricts work release access;
- 79% (**84%**) of the inmate population.

INMATES SUBJECT TO BOTH STATUTORY AND 18 MONTH PROXIMITY TO PAROLE ELIGIBILITY RESTRICTIONS

7,859 (**7,608**) inmates were serving sentences under a statute imposing a restriction on access to work release. In order to be eligible for access to work release, the inmate would have had to have completed the mandatory portion of the sentence, and also be within 18 months or beyond the inmate's parole eligibility date. Of the total 9,996 inmates:

- 3,652 (**3,367**) inmates were serving sentences under a statute imposing a restriction on access to work release and were not yet within 18 months of parole eligibility.
- 3,149 (**3,193**) inmates were serving sentences under a statute imposing a restriction on access to work release, but were within 18 months or beyond their parole eligibility dates.
- 814 (**509**) inmates were not subject to a restriction on access to work release, but were not within 18 months of their parole eligibility dates.

Combining the total number of inmates potentially restricted by either a statutory restriction or the 18-month proximity to parole eligibility restriction, yields a total of 8,673 (**8,117**) inmates or 87% (**89%**) of the population with restrictions. Of the 8,673 (**8,117**) restricted inmates, 7,859 (**7,608**) were subject to a mandatory statute and 814 (**509**) were not subject to a mandatory statute, but were not within 18 months of parole eligibility.

The analysis shows that 4,466 (**3,876**) inmates or 45% (**43%**) of the inmate population were not within 18 months of their parole eligibility dates. Adding the 885 (**795**) inmates serving first degree life sentences (with no parole eligibility dates), a total of 5,361 (**4,671**) inmates or 54% (**51%**) of the inmate population were subject to restrictions.

OTHER IMPACTS OF SENTENCING TRENDS

The Massachusetts DOC Research Division publishes reports annually on new court commitments as well as a snapshot of the DOC jurisdiction population on January 1st of each year. An analysis of sentencing terms in the last ten years reflects the following (see Appendix C for related Tables & Graphs):

Minimum sentences:

- Among new court commitments to the DOC the number and percent of inmates committed to the DOC with a minimum sentence “less than 5 years” has increased steadily since 2001, representing 45% of new court commitments in 2006.
- Among all the DOC criminally sentenced population on January 1st of each year, 1997-2006, a comparison between the beginning and end of the ten year period indicates an overall decrease in the number and percent of inmates with a minimum sentence in the range of “10 to less than 20 years” whereas the overall number of inmates with minimum sentences “20 years or more” and “Life” sentenced increased.

Maximum sentences:

- Among new court commitments to the DOC, the percent with a maximum sentence “less than 5 years” increased from 59% in 1997 to 66% in 2006 with as many as 69% (in 2000) given a maximum sentence in that range per year. Less significant decreases were noted among maximum sentences “10 years” and above, including Life sentences, though they have been showing a steady increase over the last few years.
- Among all the DOC criminally sentenced population on January 1st of each year, 1997-2006, the proportion of inmates with maximum sentences of “less than 5 years” increased each year from 16% in 1997 to 25% in 2006, reflecting an overall increase of 39% for this ten year period. Inmates with maximum sentences “10 to less than 20 years” decreased steadily from 30% to 19%, depicting a 43% reduction of inmates within that maximum sentence range over the last ten years.

Mandatory Drug Offenders (1997-2006):

A closer examination of the trend of **new court commitments** to the DOC with a governing mandatory drug offense revealed several trends:

- The total number of mandatory drug offenders committed to the DOC in 1997 was 421. This number declined (consistent with the overall commitment population) down to 271 in 2000 and then steadily rose to 557 in 2006, representing an overall increase of 49% from 1997 to 2006.
- During this same ten year time frame, new court commitments with mandatory drug offenses represented 51% of new court commitments of all drug offenders in 1997, 39% in 2000 and 52% in 2006.
- Mandatory drug offenders were among 14% of ALL new court commitments in 1997, 12% in 2000 and 18% in 2006.
- Overall, from 1997 to 2006, the overall number of new court commitments to the DOC consisted of a great number and percentage of inmates with mandatory drug sentences as their governing offense.

An analysis of the data on inmates in the **DOC jurisdiction population serving a mandatory drug (governing) offense** reflected several trends:

- Despite fluctuations in the overall DOC population over the last ten years, the percent of inmates among the jurisdiction population serving a governing mandatory drug sentence increased from 21% to 23% of the overall population from 1997 to 2006.
- The total number of inmates in the DOC jurisdiction population serving a mandatory drug sentence (for their governing offense) ranged from a low of 1,975 in 2004 to a high of 2,389 in 2000, averaging 2,120 inmates each year in the ten years from 1997 through 2006.
- In 2006, among the total of 9,405 total criminally sentenced inmates, 2,174 were serving time for a governing drug offense; Of those 2174, a total of 1,607 were serving a mandatory drug (governing) offense, which broke out to 1,501 male and 106 female offenders.
- Though male inmates represent the larger number of inmates serving mandatory and overall drug offenses as compared to female offenders, the proportion of women serving mandatory and overall drug offenses represents a slightly larger percent than their overall percent of the inmate population.
- On January 1, 2006 approximately 6% of the sentenced population were female offenders. In comparison, 7% of mandatory drug offenders were women and 9% of all drug offenders.

All Types of Mandatory Sentences⁷ in 2006

- 62% of all mandatory sentenced inmates among 2006 new court commitments had a governing offense for a drug crime.
- Among the 775 male new court commitments in 2006 with a mandatory sentence, 67% had a drug offense, 21% had an “other” governing offense (includes Operating Under the Influence and other motor vehicle offenses), and 12% was for a person offense.
- Among the 121 female new court commitments in 2006 with a mandatory governing sentence, 62% were for an “other” offense (includes prostitution), 31% were for a drug offense, and the remaining 7% was for a person offense.

⁷ Among preliminary data for 2006 new court commitments to the DOC, 896 inmates were identified as having a governing sentence identified as “mandatory.”

Average Time Served Overall and by Gender:

With the fluctuations in sentencing patterns over the last ten years, it was noteworthy to look at the average time served among inmates released from the DOC having served a state sentence⁸.

- Among all inmates released from a state sentence, the average time served has fluctuated up and down over the last five years (2002-2006⁹), remaining between 57.1 months and 61.4 months.
- Average time served among state sentenced males also fluctuated, averaging 60.7 months for the last five years or 5 years and 7 months.
- Average time served among state sentenced females reflected a wider range (between 37.1 and 45.8) over the five years, averaging 40.8 months or 3 years and 4 months.

Average Time Served by Offense Type and Gender:

In comparison to the overall average time served calculations for the state sentenced populations it is relevant to breakdown the population not only by gender, but by type of governing offense.

- For both males and females¹⁰, the longest average time served annually was among sex offenders; in 2006, the average time served among male sex offenders was 99.3 months or 8 years and 3 months.
- For males, the second highest average time served was among inmates serving time for person offenses; the 2006 figure was 63.9 months or 5 years and 4 months compared to 47.5 months or 4 years among female offenders.
- For females, the second highest average time served was fluctuated among “other” offenses (in 2002), person offenses (in 2004 & 2005), drug offenses (in 2003 & 2006¹¹).

This report was written by Rhiana Kohl, Ph.D. as an update to the January 2004 publication of “Policy and Statutory Restrictions on Inmate Placement” and could not have been accomplished without the significant data analysis by Lisa Sampson, Deputy Director of Research & Planning as well as Ulises Pineda, Research Analyst and Ron Gautreau, Student Research Assistant and input from the Classification Division, led by Carol Mici, Director.

⁸ This would exclude the majority of criminally sentenced females released from DOC custody as they are serving county sentences. A separate analysis of the county sentenced female offender average time served can be calculated.

⁹ These calculations exclude complex sentences, parole and probation violators, those serving county, reformatory, federal or out of state sentences and the 2006 figures are based on preliminary, unpublished data.

¹⁰ The total number of female offenders released from a state sentence for a sex offense is very small; none were indicated in 2006.

¹¹ In 2006, drug offenses were the second highest average time served calculation among females with person offenses (not sex offenses) being the highest as there were no female sex offenders reportedly released from a state sentence that year.

APPENDIX A

WORK RELEASE RESTRICTIONS BY STATUTE

I. WORK RELEASE PROHIBITED DURING ENTIRE TERM

A. Murder (first degree).

B. Sex offenders. “No sex offender, or sexually dangerous person . . . shall be eligible for any program outside a correctional facility authorized under section 48 or any other work release program authorized by law.” c. 127 § 49, 4th sentence.

For purposes of the Sex Offender Registry Board, c. 6, § 178C, and as set forth in 103 DOC 446, a sex offender is defined as “An inmate (1) who has been convicted of a sex offense defined by M.G.L. c. 6, § 178C; or (2) who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense defined by M.G.L. c. 6, § 178C; or (3) who has been committed pursuant to M.G.L. c.123A.”ⁱ The following statutes are set forth in c. 6, § 178C:

Statute	Offense
Chapter 265	
§ 13B	Indecent A&B on Child
§ 13F	Indecent A&B on Mentally Retarded
§ 13H	Indecent A&B
§ 22	Rape
§ 22A	Rape of a Child
§ 23	Rape of a Child
§ 24	Assault with Intent to Rape
§ 24B	Assault with Intent to Rape a Child
§ 26	Kidnapping (of a child)
§ 26C	Enticing a child with Intent to Commit Sex Crime ⁱⁱ

Chapter 272

§ 2	Enticing into Prostitution
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- § 3 Drugging Person for Sex
- § 4A Inducing a Minor into Prostitution
- § 4B Deriving Support from Minor Prostitute
- § 16 Open and Gross Lewdnessⁱⁱⁱ
- § 17 Incest
- § 28 Dissemination of Pornography
- § 29A Posing a Child Nude
- § 29B Dissemination of Child Pornography
- § 29C Possession of Child Pornography
- § 35A Unnatural Acts with Child

Chapter 274

- § 6 Attempt to commit a sex offense (as listed above).

II. WORK RELEASE PROHIBITED DURING ENTIRE TERM, EXCEPT UPON RECOMMENDATION OF THE SUPERINTENDENT. Pursuant to c. 127, § 49, inmates sentenced under the following statutes are prohibited from work release during the entire term, except upon recommendation of Superintendent, and provided that they are within 18 months of parole eligibility:

A. **Lifers** – anyone serving a life sentence with parole eligibility

B. **Others** - Persons convicted under the following statutes:

Statute	Offense
Chapter 265	
§ 2	Murder (second degree)
§ 14	Mayhem
§ 15	Assault with Intent to Murder
§ 15A	Assault & Battery by Means of a Dangerous Weapon
§ 15B	Assault by Means of a Dangerous Weapon
§ 16	Attempted Murder
§ 17	Armed Robbery
§ 18	Armed Assault with Intent to Murder or Rob
§ 18A	Armed Assault in a Dwelling
§ 19	Unarmed Robbery
§ 20	Unarmed Assault
§ 21	Stealing by Confining
§ 25	Attempted Extortion
§ 26	Kidnapping
Chapter 272	
§ 34	Crime against Nature (Sodomy)
§ 35	Unnatural Acts

III. WORK RELEASE PROHIBITED DURING MANDATORY TERM^{iv}

Statute	Offense	Mandatory Term
Chapter 94C		
§ 32(b)	Class A after prior	5 yrs.
§ 32A(b)	Class B after prior	3 yrs.
§ 32A(c)	Cocaine	1 yr.
§ 32A(d)	Cocaine w/ prior	5 yrs.
§ 32B(b)	Class C w/ prior	2 yrs.
§ 32E(a)	Marijuana trafficking	
(1)	50-100 lbs.	1 yr.
(2)	100- 2,000 lbs.	3 yrs.
(3)	2,000-10,000 lbs.	5 yrs.
(4)	10,000+ lbs.	10 yrs.
§ 32E(b)	Cocaine trafficking	
(1)	14 - 28 grams	3 yrs.
(2)	28 - 100 grams	5 yrs.
(3)	100 - 200 grams	10 yrs.
(4)	200+ grams	15 yrs.
§ 32E(c)	Heroin trafficking	
(1)	14 - 28 grams	5 yrs.
(2)	28 - 100 grams	7 yrs.
(3)	100 - 200 grams	10 yrs.
(4)	200+ grams	15 yrs.
§ 32F(a)	Class A to minor	5 yrs.
(b)	Class B to minor	3 yrs.
(c)	Class C to minor	2 yrs.
(d)	Cocaine to minor	5 yrs.
§ 32J	Dist. near School	2 yrs.

Chapter 265

§ 15A(a)	A + B DW Elderly-2nd	2 yrs.
§ 15B(a)	ADW Elderly-2nd	1 yr.
§ 18(a)	Armed Ass Elderly-2nd	2 yrs.
§ 18(B)	Use of Firearm during commission of felony	
§ 18C	Home Invasion w/Firearm	10 yrs.
§ 19(a)	Unarmed Robbery Elderly-2 nd	2 yrs.
§ 43(b)	Stalking	1 yr.
§ 43(c)	Stalking	2 yrs.

Chapter 266

§ 25(a)	Larceny of Elderly-2nd	1 yr.
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§ 27A Car Theft-Ins.Fraud-2nd **(no specified amount of years)**

§ 28(a) Receipt Stolen Car-2nd 1 yr.

Chapter 268

§ 39 Perjury **(no specified amount of years)**

Chapter 269

§ 10(a) Carrying Firearm 1 yr. **or 18 mos.**

§ 10(c) Possess Shotgun 1 yr. **or 18 mos.**

§ 10(d) Subs. Gun Offense -2nd **no restriction**

-3rd **no restriction**

-4th **no restriction**

§ 10E(1) Firearms Sales(3 plus guns) 3 yr.

§ 10E(2) Firearms Sales (10-20 guns) 5 yrs.

§ 10E(3) Firearms Sales (more than 20) 10 yrs.

§ 10F Large Weapon Sales **(a) 2 yrs. (b) 5 yrs.**

§ 10G(a) Previous Firearms-2nd 3 yrs.

§ 10G(b) Previous Firearms-3rd 10 yrs.

§ 10G(c) Previous Firearms-4th 15 yrs.

IV. WORK RELEASE PERMITTED DURING MANDATORY TERM ONLY IN CUSTODY AND UPON RECOMMENDATION OF THE SUPERINTENDENT^v

Statute	Offense	Mandatory Term
Chapter 90		
§ 23	Driving after DUI rev.	60 days
§ 24(1)(a)	DUI - 2 nd	30 days (only for HOC sentences effective after TIS)
	DUI - 3 rd	90 days (only for HOC sentences effective after TIS)
	DUI - 4 th	150 days (State sentences effective after TIS)
	DUI – 5th	360 days (Effective after TIS)
§ 24G(a)	Vehicular homicide	1 yr.
§ 24L(1)	DUI – injury	6 mos.

ⁱ Any inmate who has committed “a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority” is also considered a sex offender.

ⁱⁱ The definition of sex offense was amended by St. 2003, c. 77, § 3, effective Sept. 30, 2003. This offense has not yet been added to 103 DOC 446.

ⁱⁱⁱ Excluding single adjudication as a delinquent juvenile before August 1, 1992.

^{iv} The list of statutes that prohibit work release during the mandatory term does not include any of the sex offenders listed as prohibited during the entire term. It does however, include those other offenders who are listed as prohibited during the entire term, except upon recommendation of the Superintendent. Those statutes are included in the section of those prohibited during the mandatory term because the recommendation of the Superintendent cannot override the mandatory term. To be eligible for work release, the inmate must also be within 18 months of parole eligibility.

^v Person serving sentences pursuant to these statutes are permitted to participate in work release only in the custody of a Department of Correction officer and pursuant to a recommendation of the Superintendent. To be eligible for work release, the inmate must also be within 18 months of parole eligibility.

APPENDIX B

Sex Offense - The following offenses are defined as sex offenses by G.L. c. 6, § 178C:

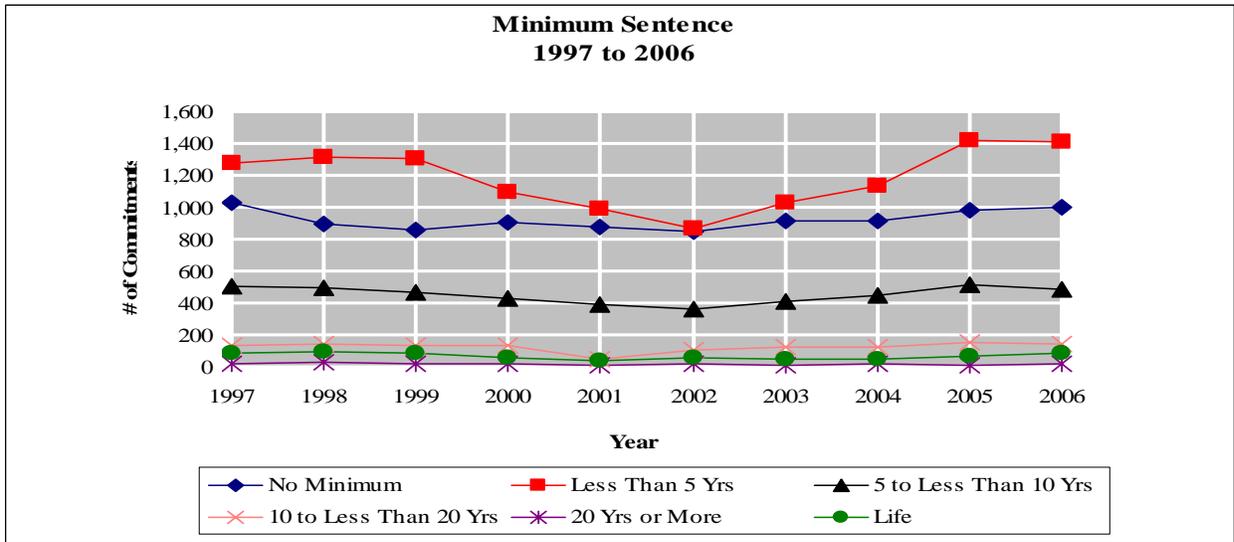
Offense	Chapter and Section
Indecent assault and battery on a child under 14	M.G.L. c. 265, § 13B
Indecent assault and battery on a mentally retarded person	M.G.L. c. 265, § 13F
Indecent assault and battery on a person age 14 or over	M.G.L. c. 265, § 13H
Rape	M.G.L. c. 265, § 22
Rape of a child under 16 with force	M.G.L. c. 265, § 22A
Rape and abuse of a child	M.G.L. c. 265, § 23
Assault with intent to commit rape	M.G.L. c. 265, § 24
Assault of a child with intent to commit rape	M.G.L. c. 265, § 24B
Kidnapping of a child under the age of 16	M.G.L. c. 265, § 26
Enticing away a person for prostitution or sexual intercourse	M.G.L. c. 272, § 2
Drugging persons for sexual intercourse	M.G.L. c. 272, § 3
Inducing a minor into prostitution	M.G.L. c. 272, § 4A
Living off or sharing earnings of a minor prostitute	M.G.L. c. 272, § 4B
Open and gross lewdness and lascivious behavior (second and subsequent adjudication, but excluding a first or single adjudication as a delinquent juvenile before August 1, 1992)	M.G.L. c. 272, § 16
Incestuous marriage or intercourse	M.G.L. c. 272, § 17
Disseminating to a minor matter harmful to a minor	M.G.L. c. 272, § 28
Posing or exhibiting a child in a state of nudity	M.G.L. c. 272, § 29A
Dissemination of visual material of a child in a state of nudity or sexual conduct	M.G.L. c. 272, § 29B
Possession of child pornography	M.G.L. c. 272, § 29C
Unnatural and lascivious acts with a child under 16	M.G.L. c. 272, § 35A
Aggravated rape	M.G.L. c. 277, § 39
Any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.	

APPENDIX C

TABLES & GRAPHS WITH ADDITIONAL INFORMATION

MA DOC Commitments: Minimum Sentence, 1997 to 2006

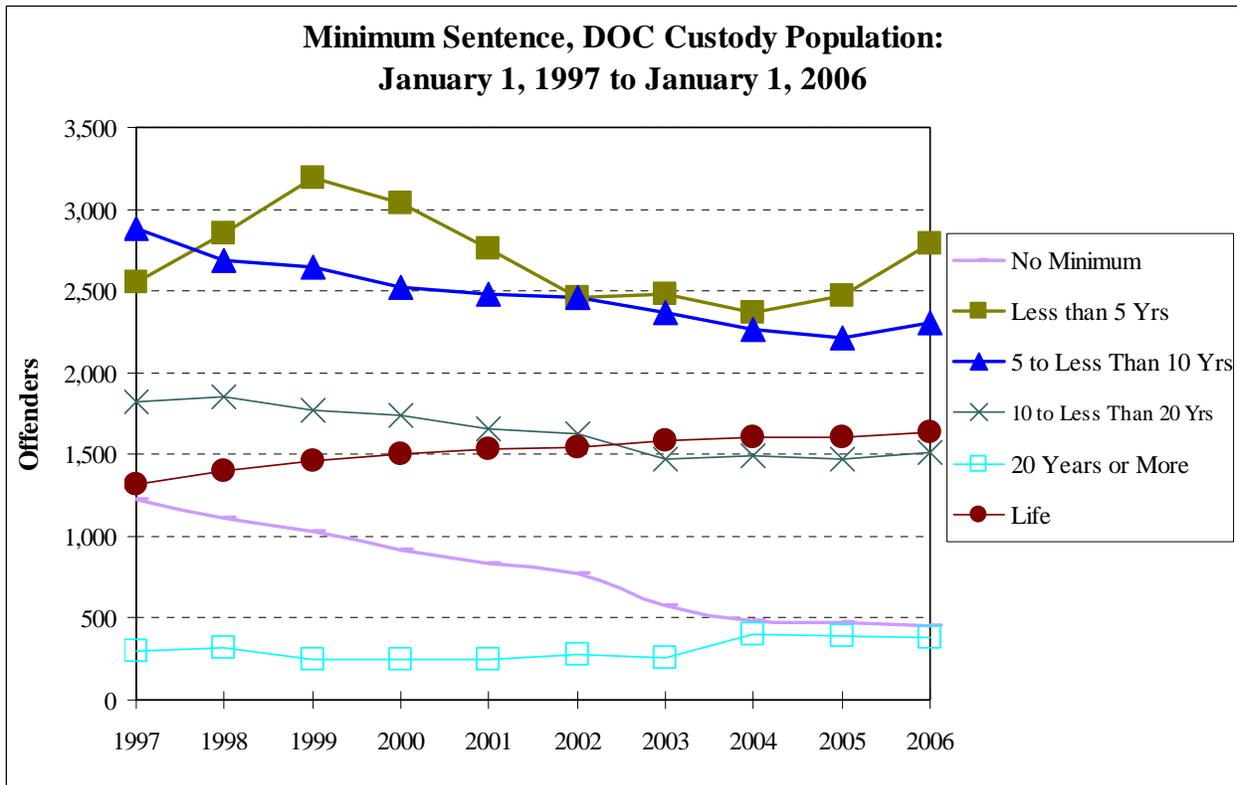
		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	% Chng 05 vs 06
No Minimum	N	894	857	902	873	851	917	912	910	985	1,000	+ 2
	(%)	30	30	34	37	38	36	34	33	31	32	
Less Than 5 Yrs	N	1,318	1,303	1,097	988	864	1,031	1,135	1,205	1,422	1,406	-1
	(%)	44	46	42	42	38	40	42	44	45	45	
5 to Less Than 10 Yrs	N	497	467	431	386	364	408	445	440	516	485	-6
	(%)	17	16	16	16	16	16	17	16	16	15	
10 to Less Than 20 Yrs	N	146	132	134	43	102	128	126	121	156	143	-8
	(%)	5	5	5	2	5	5	5	4	5	5	
20 Yrs or More	N	24	15	16	11	20	14	15	22	8	21	163
	(%)	1	1	1	0	1	1	1	1	0	1	
Life	N	98	82	57	42	54	50	49	48	62	81	+ 31
	(%)	3	3	2	2	2	2	2	2	2	3	
Total		2,977	2,856	2,637	2,343	2,255	2,548	2,682	2,746	3,149	3,136	0



Minimum Sentence: January 1, 1997 to January 1, 2006

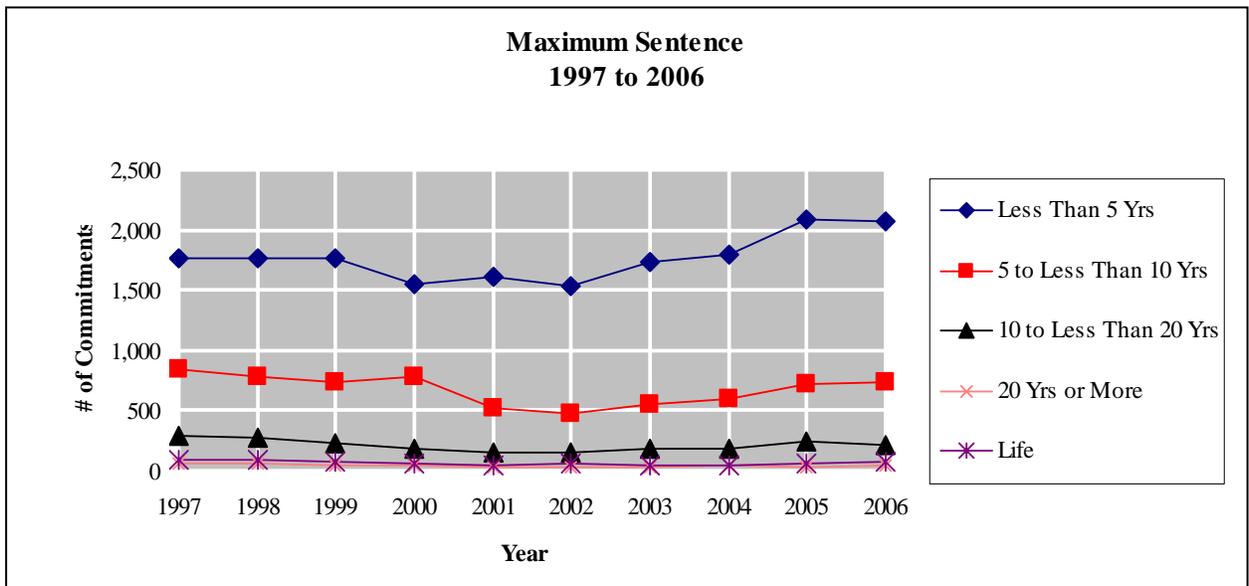
DOC Custody Population

		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	% Chng 2005 vs 2006
Less than 5 Yrs	N	2,566	2,849	3,196	3,037	2,756	2,464	2,479	2,367	2,472	2,786	(13%)
	(%)	(29%)	(31%)	(34%)	(34%)	(32%)	(29%)	(30%)	(29%)	(30%)	(32%)	
5 to Less Than 10 Yrs	N	2,885	2,683	2,648	2,522	2,476	2,461	2,372	2,265	2,209	2,303	(4%)
	(%)	(32%)	(29%)	(28%)	(28%)	(29%)	(29%)	(29%)	(28%)	(27%)	(27%)	
10 to Less Than 20 Yrs	N	1,823	1,852	1,766	1,739	1,659	1,629	1,473	1,497	1,467	1,509	(3%)
	(%)	(21%)	(20%)	(19%)	(19%)	(19%)	(19%)	(18%)	(18%)	(18%)	(18%)	
20 Years or More	N	297	316	247	247	249	278	256	401	390	384	-(2%)
	(%)	(3%)	(3%)	(3%)	(3%)	(3%)	(3%)	(3%)	(5%)	(5%)	(4%)	
Life	N	1,318	1,403	1,465	1,504	1,533	1,549	1,581	1,611	1,609	1,635	(2%)
	(%)	(15%)	(15%)	(16%)	(17%)	(18%)	(18%)	(19%)	(20%)	(20%)	(19%)	
Subtotal	N	8,889	9,103	9,322	9,049	8,673	8,381	8,161	8,141	8,147	8,617	(6%)
	(%)	(88%)	(89%)	(90%)	(91%)	(91%)	(92%)	(93%)	(94%)	(95%)	(95%)	
No Minimum	N	1,230	1,115	1,034	913	836	769	581	480	473	455	-(4%)
	(%)	(12%)	(11%)	(10%)	(9%)	(9%)	(8%)	(7%)	(6%)	(5%)	(5%)	
Total		10,119	10,218	10,356	9,962	9,509	9,150	8,742	8,621	8,620	9,072	(5%)



MA DOC Commitments: Maximum Sentence, 1997 to 2006

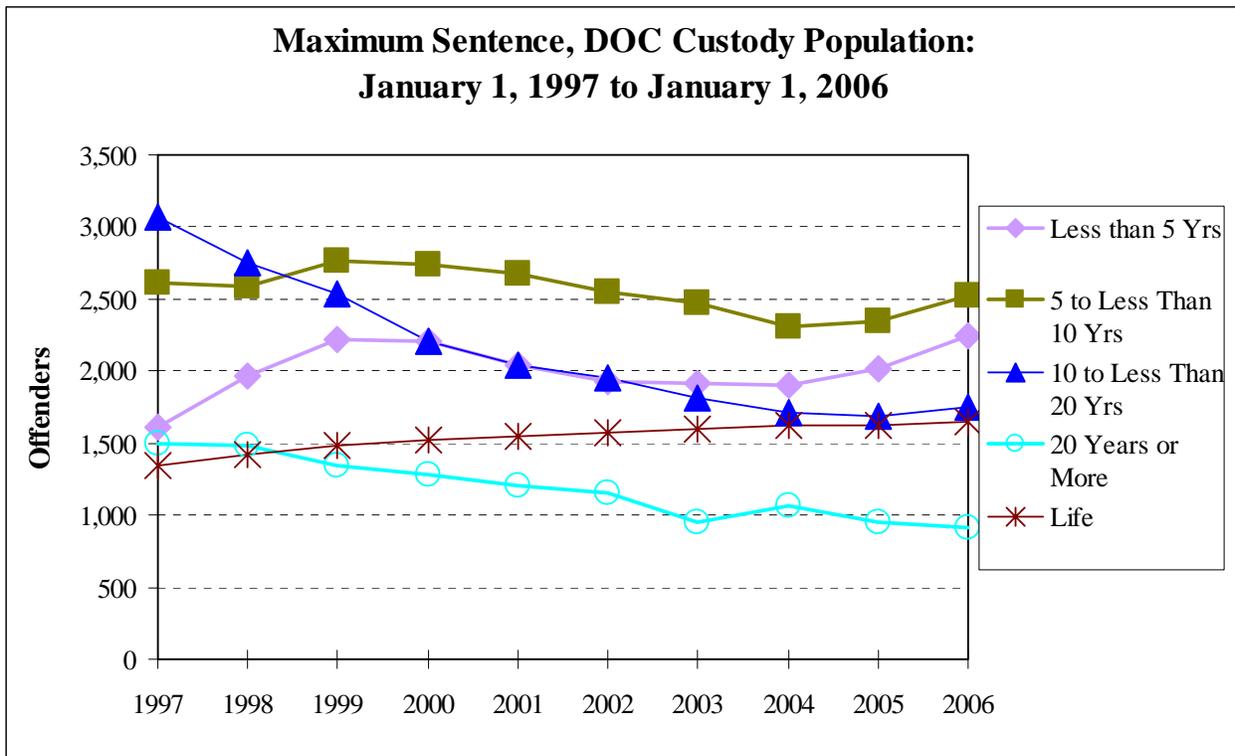
		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	% Chng 05 vs 06
Less Than 5 Yrs	N	1763	1,757	1,552	1,610	1,539	1,736	1,802	1,850	2,093	2,064	-1
	(%)	59	62	59	69	68	68	67	67	66	66	
5 to Less Than 10 Yrs	N	784	737	786	515	478	551	605	614	719	730	+ 2
	(%)	26	26	30	22	21	22	23	22	23	23	
10 to Less Than 20 Yrs	N	269	235	191	146	147	179	183	195	251	221	-12
	(%)	9	8	7	6	7	7	7	7	8	7	
20 Yrs or More	N	63	45	51	30	37	32	43	39	24	40	67
	(%)	2	2	2	1	2	1	2	1	1	1	
Life	N	98	82	57	42	54	50	49	48	62	81	+ 31
	(%)	3	3	2	2	2	2	2	2	2	3	
Total		2,977	2,856	2,637	2,343	2,255	2,548	2,682	2,746	3,149	3,136	0

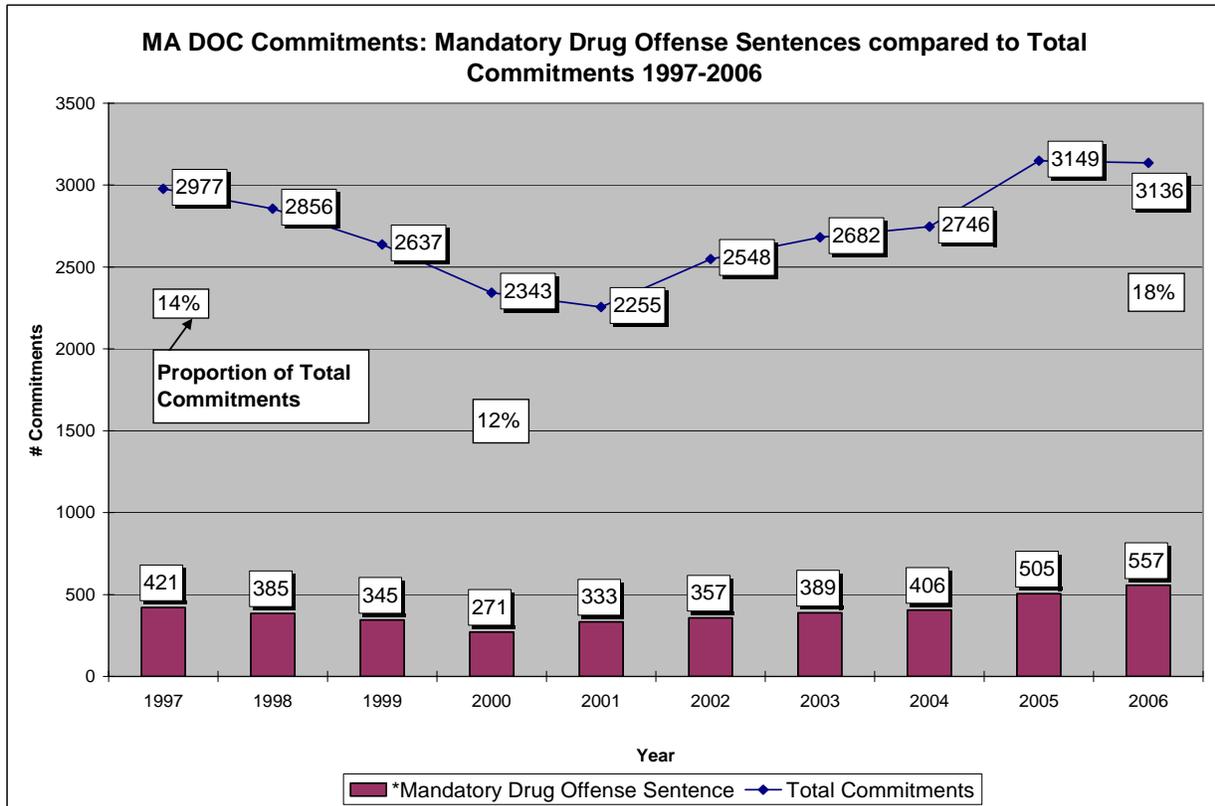
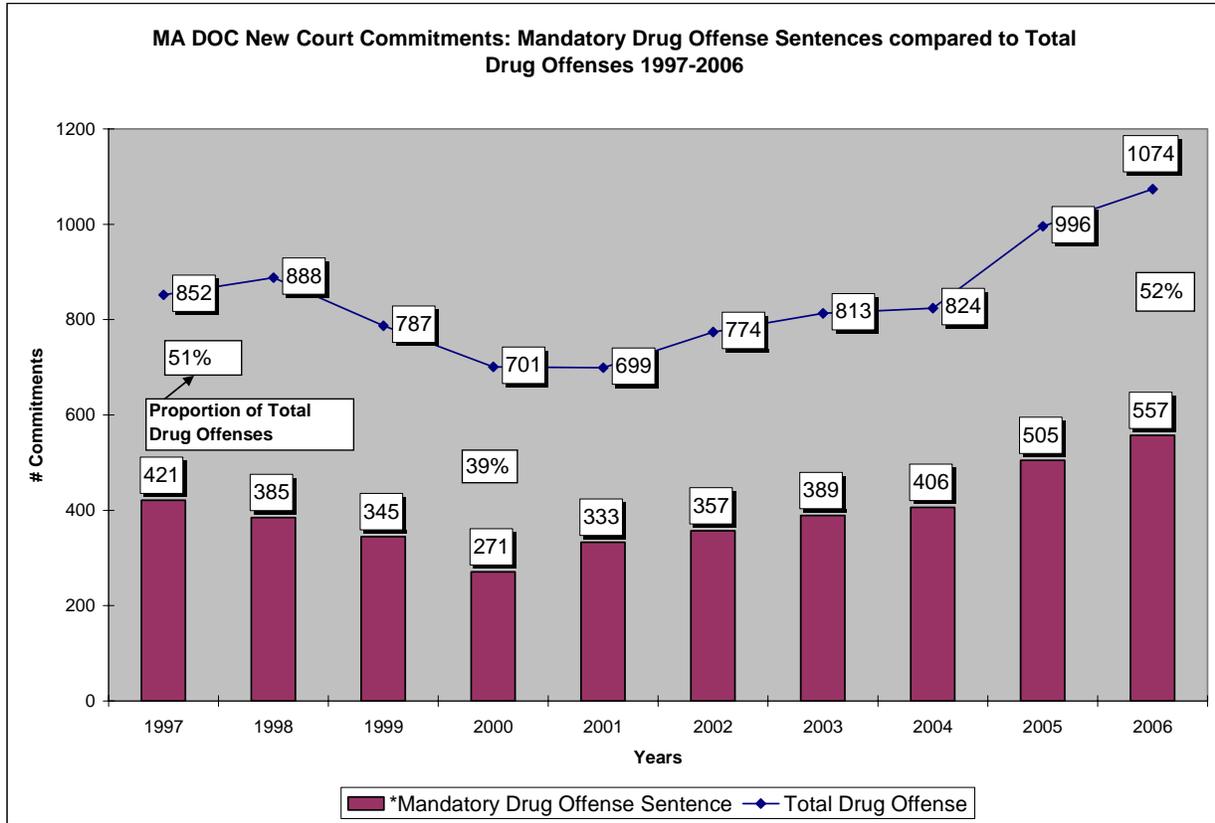


Maximum Sentence: January 1, 1997 to January 1, 2006

DOC Custody Population

		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	% Chng 2005 vs 2006
Less than 5 Yrs	N	1,609	1,966	2,223	2,204	2,036	1,933	1,913	1,905	2,018	2,242	(11%)
	(%)	(16%)	(19%)	(21%)	(22%)	(21%)	(21%)	(22%)	(22%)	(23%)	(25%)	
5 to Less Than 10 Yrs	N	2,608	2,590	2,770	2,743	2,672	2,552	2,476	2,314	2,349	2,522	(7%)
	(%)	(26%)	(25%)	(27%)	(28%)	(28%)	(28%)	(28%)	(27%)	(27%)	(28%)	
10 to Less Than 20 Yrs	N	3,069	2,754	2,530	2,212	2,043	1,947	1,810	1,713	1,686	1,751	(4%)
	(%)	(30%)	(27%)	(24%)	(22%)	(21%)	(21%)	(21%)	(20%)	(20%)	(19%)	
20 Years or More	N	1,494	1,483	1,348	1,281	1,207	1,150	946	1,066	950	909	-(4%)
	(%)	(15%)	(15%)	(13%)	(13%)	(13%)	(13%)	(11%)	(12%)	(11%)	(10%)	
Life	N	1,339	1,425	1,485	1,522	1,551	1,568	1,597	1,623	1,617	1,648	(2%)
	(%)	(13%)	(14%)	(14%)	(15%)	(16%)	(17%)	(18%)	(19%)	(19%)	(18%)	
Total		10,119	10,218	10,356	9,962	9,509	9,150	8,742	8,621	8,620	9,072	(5%)





MA DOC 2006 Commitments: Mandatory Sentences by Governing Offense

	Female (%)		Male (%)		Total (%)	
Person	9	7	91	12	100	11
Sex	0	0	0	0	0	0
Property	0	0	5	1	5	1
Drug	37	31	520	67	557	62
Other	75	62	159	21	234	26
Total	121	100	775	100	896	100

Average Time Served Until First Release in Months for State Prison Sentences by Gender (based on release population)*

	2002		2003		2004		2005		2006**	
	Females	Males								
Person	40.4	73.6	37.1	62.0	62.8	68.1	49.4	63.5	47.5	63.9
Sex	65.6	84.1	78.2	95.7	104.9	98.0	58.4	91.8	NA	99.3
Property	25.1	51.6	24.4	46.1	28.2	52.4	24.9	47.4	15.7	44.2
Drug	36.0	45.8	37.5	48.2	29.7	42.9	45.3	47.4	39.9	52.7
Other	67.0	47.1	31.4	38.7	31.0	42.4	27.7	40.3	31.0	38.9
TOTAL	38.8	62.4	37.1	59.4	45.8	61.5	37.1	59.4	41.6	60.8
Total Average	61.4		58.3		60.8		57.1		59.7	

* excludes complex sentences, parole and probation violators, those serving county, reformatory, federal or out of state sentences.

** based on preliminary, unpublished data

