

# Vermonters for Criminal Justice Reform

177 Locust Terrace, Burlington, VT 05401 (802) 864-5651

[www.VermontersforCriminalJusticeReform.org](http://www.VermontersforCriminalJusticeReform.org)

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## Testimony before Child Poverty Council

### **Basic background**

You know the U.S. has highest incarceration rate in the world. You know it has increased exponentially over the past few decades. You may not know that the incarceration rate for women has increased at 150% of the rate of men. (In Vermont in the 1980s, there were fewer than 20 women in jail. Now there are 150-170 on any given day.) In addition:

- 95-97% of those in jail in Vermont (and Michigan) are poor. More specifically, 3-5% have used a private attorney. The rest either have used a public defender (85-87%) or represented themselves (10%).
- 30-35% of the men and 70-75% of the women have committed non-violent offenses.
- 57% of inmates have a mental health diagnosis.
- People of color are overrepresented by a factor of 9.
- 300 men are housed in a private prison in Michigan.
- 200-240 inmates are held at any given time for lack of approved housing. (Note: not lack of housing. Lack of “approved” housing.) These are referred to as “B-1”s.
- About 10,000 people at any given time are under “community supervision.”

### **Why are people (particularly women) in jail?**

- The War on Drugs and truth-in-sentencing practices led to ever-harsher penalties.
- A greater number of women have been convicted of drug crimes (shift in proportion from mostly economic crimes to mostly drug crimes).
- Women receive harsher sentences than men for non-violent crimes (nationally, there is evidence that women of color receive harsher sentences than white women for the same crimes.)
- Legislatures criminalize new behaviors every year. *This is important and often overlooked. What constitutes a “crime” is determined by the legislature. When the conversation focuses on the behavior of individuals rather than on the social/governmental response to that behavior, one draws a different set of conclusions than one draws when acknowledging that different responses produce different outcomes.*

### **What’s the impact on children?**

- Having an incarcerated parent is one of the Adverse Childhood Experiences identified that leads to worse health in adulthood.
- 1 in 14 children has had a parent incarcerated (national statistic).
- In the recent report, “Who Pays? The True Cost of Incarceration on Families,” (<http://whopaysreport.org/key-findings/>), the Ella Baker Center for Human Rights reported that in 63% of cases, the court costs are borne by families on the outside. These court costs averaged \$13,607. Of the family members responsible, 83% were women. When a family member is in prison, the *additional* costs include
  - Sending money for essentials like underwear, toothpaste, extra food.
  - Paying for phone calls and email.
  - The many costs of a visit (minimum: gas; could be hotel if Michigan).
  - Loss of income from the family member.
- How does this impact children? On a purely economic level, money spent on an incarcerated family member is not available for a child’s needs. Ditto time and energy.

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### What can we do?

- Advocate for greater use of alternatives—alternatives to *conviction* and alternatives to *incarceration*. Insist that the state’s attorneys *in every county* make use of the pre-trial monitors and the options that exist for diverting women (especially) out of the system.
- Fight any attempt to increase penalties or criminalize new behaviors. *The evidence is clear nationally that criminalizing a behavior does nothing to prevent it, but doing so does bring more people into the criminal justice system, which should be avoided whenever possible, for the sake of the individual, any children involved, and the rest of us.*
- Advocate for greater support for women around addiction *without permanent removal of their children*. Vermont already had one of the highest TPR rates in the country, even before the last year, in which many TPR attorneys’ caseload’s doubled. The number of children in DCF custody, removed for “abuse and neglect” (which most often means neglect) is not just a function of women’s increasing drug use (if indeed it is increasing), but a function of our *response* to that drug use. Question the value of “permanency” over supporting the mother and maintaining her relationship with her children.
- Consider getting behind alternatives like Project Home in Brooklyn, where women with felony convictions spent their time in a home with their children. This avoids the cost of incarceration, the costs of foster care, *and is better for the children, the mother and the general stability of communities.*
- Support all efforts to expunge records, shorten sentences by re-instating “good time,” reform our sentencing structure, increase eligibility for work camp, increase education and job training for low-income women in and out of Corrections.
- Support the following bills to be introduced in 2016:
  - Adding the phrase “impact on minor children” to the list of things that should be considered by the court in sentencing. This was proposed before, in 2011-12, but not taken up. Sponsored by Rep. Barbara Rachelson.
  - No re-incarceration for technical violations of conditions of release. We don’t know the numbers but we know this is a major feeder into Corrections. Technical violations are acts like missing an appointment, having a beer, staying out beyond curfew, not reporting a change of location—i.e. acts that are not criminal but are proscribed by the specific conditions of release, and which may or may not have anything to do with the underlying crime. Rep. Mollie Burke and Sen. Becca Balint sponsors.

Respectfully submitted,  
Suzi Wizowaty,  
Executive Director  
Nov. 12, 2015