

Alternatives to Incarceration in the State of Wisconsin

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ABSTRACT

Alternatives to incarceration in the State of Wisconsin are very valuable options for non-violent offenders with alcohol and substance abuse problems. These alternatives serve punitive intentions, but at the same time they allow the offender to be rehabilitated and reintroduced into society. Consequently, forced rehabilitation or incarceration results in many negative side effects and consequences. For example, if offenders are forced into treatment against their own will, there may be a lack of self-motivation. From a survey of probation officers in the State of Wisconsin, data was collected and analyzed to better understand the policy environment towards alternatives to incarceration. The findings suggest interesting results. An overwhelming number of probation and parole agents throughout the State of Wisconsin think that spending levels are adequate regarding corrections; however, they also argue that the spending is occurring in the wrong places (prisons and jails). They think that money needs to go toward rehabilitation and prevention programs. In addition, insurance is also needed for several outpatient programs in the rehabilitation process, and most offenders do not have jobs that supply insurance because of their substance abuse problems. There is clearly a vicious cycle that occurs which prevents self-motivated offenders from getting help. Once an offender is allowed into a rehabilitative program, more personal attention needs to be provided by agents and counselors.

INTRODUCTION

Non-violent offenders in Wisconsin are often sent to prison. Debate suggests that non-violent offenders of the law should not be sentenced to prison but rather given an alternative to incarceration. These alternatives allow the offender to be punished, but at the same time allows the offender to be rehabilitated and reintroduced into society. Alternatives also can be less expensive than housing offenders in prison (Sheenan 2003; Aos 2001). Non-violent offenders who have drug and/or alcohol addictions also may not benefit from prison time. They lack rehabilitation opportunities, and the possibility of becoming a repeat offender increases. Also, non-violent lawbreakers that are incarcerated can become exposed to criminals who carry on a "criminal life." Non-violent offenders are often turned on to criminal way of life to survive and take on the "survival of the fittest mentality" (Ball-Rokeach 1973).

This research proves timely because of the current budget crisis in the State of Wisconsin and addresses corrections spending in future budgets, potentially benefiting many Wisconsinites. It not only helps taxpayers, who have one of the highest tax burdens in the nation, but also non-violent offenders and their families.

Policy innovations are often adapted from similar countries and adjacent states. Our neighbor Canada has adopted a balanced approach that gets tough with violent, high-risk offenders but also uses alternatives to incarceration for non-violent, low-risk offenders. "It's not about emptying prisons or putting our children at risk: it's about using alternatives to locking people up when they pose little if any risk to our communities" (Backgrounders 2001). Much like how states help other states with policy improvements, the United States can gain knowledge from Canada.

Domestically, The Sentencing Project is a non-profit organization engaged in research and advocacy on criminal justice issues (King and Mauer 2002). An analysis by Ryan S. King and Marc Mauer discussed the fact that drug offenders are addicts in need of rehabilitative help. According to the study, incarceration not only removes drug offenders from negative aspects of their lives but also from positive aspects of their lives like families and jobs (King and Mauer 2002). By using alternatives to incarceration and, more specifically, rehabilitative alcohol and drug abuse programs, former-criminals can again become productive members of society. The offenders are able to carry on with their lives, and the state is not forced to spend money on expensive, less-productive prison options.

King and Mauer also use the example of the State of Arizona when discussing incarceration policy for drug offenders. The Arizona Act "requires that offenders convicted of a first or second-time possession charge be

sentenced to probation and drug treatment, with earmarked state funds to support the treatment services” (King and Mauer 2002).

John Kingdon provides a policy theory entitled “policy streams” (Kingdon 1995). According to Kingdon, there are three essential dynamics that occur simultaneously in the policy process; problem, policy and politics are all working together to achieve a plan. The first stream contains the problem, and in the State of Wisconsin, that is the budget crisis and corrections spending. The next stream is the policy stream, which includes policy communities such as academics, bureaucrats, and policy specialists in the State of Wisconsin trying to alleviate the budget problem through various cost-savings initiatives. Finally, the politics stream includes political leaders such as Governor Doyle, the Republican legislature, and public anti-tax sentiments. All these factors interact to promote or hinder changes in criminal sentencing.

In 2002, The Wisconsin Experience, a committee that was formed by Wisconsin Criminal Justice Planning, was created to help local justice administrators in the State of Wisconsin. Counties are asking questions and struggling with how to address jail overcrowding and other system issues in a time of tightening budgets. Policy suggestions by the committee say that alternatives to incarceration, at a local, county level will help decrease the budget strain (Klekamp, 2002, 2). The Wisconsin Experience is a good example of Kingdon’s “policy streams” working to promote healthy change.

METHOD

In order to test incarceration alternatives, qualitative surveys were sent out to all seventy-two counties in Wisconsin to determine which alternative to incarceration programs are being used. In addition to this method, I surveyed front-line policy makers, probation and parole officers. My policy hypothesis suggests that alternatives to incarceration are more cost effective, socially productive and, in many cases, more punitively appropriate than incarceration in prisons.

RESULTS

In the first survey sent to the seventy-two counties in the State, it was found that each county offers at least one alternative to incarceration, with some counties offering as many as ten programs. Table 1 shows Wisconsin counties and denotes which alternatives to incarceration programs are offered. The alternative programs in the survey are electronic monitoring, restorative just programs, drug courts, day reporting, pretrial monitoring/bail and bond monitoring, operating after revocation and drunk driving monitoring, deferred prosecution, first offender programs for drug use or crime, and victim/offender mediation and counseling. The other category contains programs such as Ashland County’s weekend work project, victim impact panels, and inmate worker programs.

Electronic monitoring and deferred prosecution were the two programs most often utilized. Electronic monitoring is meant to provide for the monitoring and enforcement of curfews and other conditions of community supervision. Deferred prosecution, on the other hand, is a program through the District Attorney’s office that allows and encourages alcoholics and other drug addicts to seek treatment.

Restorative justices programs and victim/offender mediation and counseling programs are relatively new trends to community justice. Restorative justice programs are “systematic responses to wrongdoing that emphasize healing the wounds of victims, offenders and community caused or revealed by crime” (Restorative Justice 2004). Victim offender mediation and counseling includes bring together the victim and the offender to work through differences and solve problems. This is often seen in domestic abuse cases.

Day reporting and drug courts are both excellent programs in which offenders are given the attention needed to overcome substance abuse problems. Day reporting closely monitors an offender’s substance abuse while drug courts try to work and rehabilitate the root problem—addiction.

The response in the second survey, from probation and parole agents around the state, provided some very interesting feedback. First, the majority of probation and parole agents believe that spending levels are fine; however, they claimed that the State of Wisconsin is spending its scarce monetary resources in the wrong places. Many agents suggested that spending should be done in regards to prevention of drug and alcohol abuse.

Table 1

Alternatives to Incarceration	Counties That Offer Specific Programs
Electronic Monitoring	Adams, Ashland, Barron, Bayfield, Brown, Burnett, Chippewa, Columbia, Dane, Dodge, Door, Douglas, Dunn, Eau Claire, Florence, Fond du Lac, Forest, Grant, Green, Iron, Jackson, Jefferson, Juneau, Kewaunee, La Crosse, La Fayette, Lincoln, Manitowoc, Marathon, Marquette, Menominee, Milwaukee, Monroe, Outagamie, Polk, Portage, Price, Racine, Richland, Rock, Sauk, Sawyer, Shawano, Sheboygan, Trempealeau, Vernon, Vilas, Washburn, Washington, Waukesha, Waupaca, Waushara, Winnebago, Wood
Restorative Justice Programs	Barron, Burnett, Dodge, La Crosse, Marathon, Monroe, Portage, St. Croix, Taylor, Vilas, Washington, Waupaca
Drug Courts	Ashland, Dane, Dunn, La Crosse, Monroe
Day Reporting	Ashland, Chippewa, Columbia, Eau Claire, Fond du Lac, La Crosse, Lincoln, Marathon, Milwaukee, Outagamie, Portage, Price, Racine, Waupaca, Wood
Pretrial Monitoring/Bail Bond Monitoring	Chippewa, Clark, Columbia, Dane, Kenosha, Langlade, Marathon, Milwaukee, Monroe, Racine, Richland, St. Croix, Sheboygan, Taylor, Vernon, Waukesha
Operating After Revocation/Drunk Driving Monitoring	Chippewa, Dane, La Crosse, Milwaukee, Portage, Sheboygan, Vernon
Deferred Prosecution	Adams, Ashland, Barron, Bayfield, Brown, Buffalo, Burnett, Calumet, Chippewa, Clark, Columbia, Dane, Door, Douglas, Dunn, Florence, Fond du Lac, Forest, Green, Green Lake, Iowa, Iron, Jackson, Jefferson, Juneau, Kewaunee, La Crosse, Langlade, Marathon, Marinette, Marquette, Milwaukee, Monroe, Oconto, Oneida, Outagamie, Ozaukee, Pierce, Portage, Price, Richland, Rusk, St. Croix, Sauk, Sheboygan, Taylor, Trempealeau, Vernon, Vilas, Washburn, Washington, Waupaca, Waushara, Winnebago, Wood
First Offender Program for Drug Use or Crime	Dane, Eau Claire, La Crosse, La Fayette, Marquette, Pierce, St. Croix, Taylor, Waushara, Winnebago
Victim/Offender Mediation and Counseling	Ashland, Barron, Columbia, Eau Claire, Florence, Forest, La Crosse, Oconto, Pierce, Portage, Rusk, St. Croix, Taylor, Trempealeau, Vilas, Washington, Waukesha
Other	Ashland (Weekend Work Project), Brown (Victim Impact Panel), Chippewa (Intoxicated Driver Program), Dane (ATIP Supervision, CTA, Cool Choices, TAP, SOAR), Door (Community Justice Coalitions), Milwaukee, Ozaukee (VIP), Racine (Children First Program, Inmate Worker Program), Waupaca (VIP), Winnebago (VIP)

Second, agents also believe that more personal attention needs to be given to the *offender* in the rehabilitation process. Interestingly enough, agents believe that there are too many programs available that ignore the unique needs of every individual, decreasing their effectiveness. Finally, throughout the qualitative surveys the agents strongly reiterated that forced rehabilitation results in detrimental results and a lack of self-motivation on the offenders' behalf.

Spending in the Wrong Places

A reoccurring theme that came through the qualitative responses is the need to change the distribution of funds. Agents gave many suggestions for corrections spending. Education, community corrections, alternatives to prisons, and rehab are just some of the ideas. For instance, according to one agent, more money needs to be spent on prevention education, which has to occur when these individuals are very young. At this point, according to an agent, "we are experiencing more split families where the male role model is absent and there is a lack of discipline."

Another agent stated that he believes the corrections are political. "We try to do everything for everybody. We should re-define our goals. We should first punish wrong behavior commensurate with the seriousness of the behavior and secondly, provide the opportunity for voluntary treatment to only those motivated to change." Yet another agent believes because of political realities, the State probably spends apportionments in the wrong places. The State should concentrate more resources in treatment, employment services, and reintegration.

A probation and parole agent suggested that Wisconsin spends too much institutionally on corrections and not enough on community corrections. She believes that the State needs to stop warehousing drug offenders and start addressing the problem in the community. Another agent agrees that the State of Wisconsin is not spending enough on corrections and "correctional" programming. In order for corrections to be beneficial to the offender, treatment needs to be long term to be effective; however, funding for it is not long term, which causes problems.

An agent strengthened my hypothesis that more alternatives to prisons must be made available for those with alcohol and drug related offenses. She considers that more funds need to be spent on community resources like mental health and alcohol and other drug abuse (AODA) programs. Resources must be spent on the offender and not on bureaucracy.

The final comment made by an agent regarding corrections spending is that too much money is being spent on corrections and not enough is being spent on rehabilitation or programs to help prevent future crimes (restorative justices programs). According to an agent, "For the past 20 years, Wisconsin has concentrated on building prisons and making tougher laws. The State of Wisconsin was once on the cutting edge in community corrections. In fact, other states have used many of our old evaluation techniques, including Australia. Unfortunately, with the concentration on prisons and laws, the State has fallen behind. In the last 15 years, our prison population has gone from approximately 8,000 to 22,000. It is so overcrowded that unless a prisoner has a long sentence, they do not get treatment because one is too far back on the list."

Personal Attention

Not all surveyed were in agreement; one agent found my research offensive because he thought that no changes were needed in corrections. However, most agents agree that personal attention is needed. Some commented that the main problem is too many programs working in opposition to each other. The most effective change that could be made would be to screen people before sentencing to determine whether they are suitable for community supervision. Probation should be restricted to cooperative, motivated people. By eliminating the worst 10% offenders, one agent believed we could reduce probation costs by half. The State of Wisconsin needs smarter use of a limited number of programs; adding programs compounds the expense and inefficiency of the system.

Many offenders function very well in a controlled environment like a halfway house. The State needs more of these than are currently available. Caseloads of 100 are not conducive to building a strong helping relationship between offender and agent. The Milwaukee region always has waiting lists for halfway house placements, which usually are three to six months. There is high demand for AODA services and scarce funds. Most AODA programs focus on group therapy, but many need individual therapy which is hard to find unless the offender has insurance (unlikely). Intensive outpatient programs that offer on-going support are likely to prove the most successful.

The belief held by many agents suggests that money is the biggest obstacle when it comes to additional or different resources required for clients in the alcohol and drug rehabilitation process. Many have no insurance or money to receive the help they need to overcome their addiction. Facing the problem and acquiring skills to deal with it is a must. Family support and treatment is often very successful and significant to an offender's recovery. Facilities for these types of programs are very expensive and seem to more exclusively serve an *insured* offender. Just the AODA initial assessment is \$200 at a local (La Crosse) provider. Many offenders do not have \$200 due to unemployment and other problems.

More intensive programming addressing AODA problems and criminal thinking would be helpful to offenders. Day treatment centers would be most helpful in intervening with offenders closely, daily, and in a structured manner. An agent believes that more time spent jointly with probation and parole agents, courts, and AODA counselors would help in the rehabilitation process. An agent stated quite frankly that she does not believe that a "large" problem like addictions with alcohol and drugs can be "solved" in a 26-week period because it is a behavior that has been going on for several years in most cases and might take that long to see full recovery.

Smaller caseloads and more programs (specialties) would help reform offenders. However, with a deflated economy, the State is losing more and more programs. Plus, in smaller counties there are no alternative programs besides human service outpatient clinics. The agents in these small communities have to drive an average of three hours to take an offender to and from the program. An agent stated "Always remember, if a person does not want to change, taking them to an alternative program is like a dog chasing its tail." The most frustrating part, according to the agent, is when an offender wants to change and the resources are not available or they do not qualify for a program. There are too many violators and not enough agents in many places.

Forced Rehabilitation

Many agents believe that change comes from self-determination. Unless one has some degree of internal motivation, then no program will work in the long run. Some programs definitely help to reduce recidivism, but unless the person is internally motivated the program will not have a lasting impact.

One agent stated that jail or incarceration is appropriate for non-violent offenders because it gives them an understanding of control and custody. "It gives them the understanding that they can be controlled by societal norms." This is an interesting belief because the "societal norms" (loss of job, no money, depression) contribute to the offenders' use of drugs and alcohol. In one agent's experience, there has been better success by incarceration due to the limited availability of drugs and alcohol.

DISCUSSION

Spending in the Wrong Places

Non-violent offenders with drug and alcohol abuse problems need rehabilitation, no question. The frustrating part is that these addicts are not getting the help they need to end the vicious cycle of dependence. The State of Wisconsin has been spending money on prisons and other places to warehouse offenders, but it has not focused hard on attempting to fix the problem at its root. It is important to keep in mind that an offender can be locked up indefinitely, but as soon as they are released they will return to a life of addiction, which inevitably leads to crime. The Sentencing Project, a non-profit agency, found that returning inmates into society "often times face so many restrictions after long stretches of incarceration that the conditions amount to more years of 'invisible punishment'" (Tucker 2003). Offenders may be removed from society for a while, but during that detention period, root problems are not addressed. The State should concentrate more resources in treatment, employment services, and reintegration.

Drug courts in the State of Wisconsin are becoming more and more popular as a way to help these individuals with drug and alcohol addictions. These types of courts are cost-effective and help rebuild lives. A drug court is a special court given the responsibility to handle cases involving drug-using offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives (National Association of Drug Court Professionals, 2004). In a recent press release from the Judicial Council of California, findings from Drug Court Operations in Los Angeles, San Diego, and Butte Counties conclude "criminal justice costs that were avoided averaged approximately \$200,000 annually per court for each 100 participants. Based on this data, with 90 adult Drug Courts operating statewide as of 2002 and an estimated 100 participants in each court annually, adult Drug Courts may be saving up to \$18 million a year in California's criminal justice system" (Judicial Council, 2003).

In Wisconsin, Drug Courts are slowly being implemented in a few counties. La Crosse County has been a leader in this area, and its program is showing positive results. A recent Drug Court graduate, Susan Hill, said "I have no doubt that if not for Drug Court I would not be where I am today. If I hadn't been arrested and gone through Drug Court, I would have been in prison, an institution, or dead." Susan is currently working as resource coordinator for the Coulee Council on Addictions and hopes to return to school and become a drug and alcohol counselor (Springer, 2004). One of the people in charge of bringing Drug Courts to La Crosse, Judge John Perlich, says the best part of the program is that it works better than locking people up and brings a better return to the individual and the community. Through this program, he says, we manage to turn *tax users* into *taxpayers* (Springer, 2004).

Money should be spent not only on the rehabilitation of the offender but also be put toward prevention programs for children to learn how to avoid the problems they see their parents, brothers, sisters, uncles, aunts, and cousins go through. With so many adult role models committing crimes, the socialization process conditions children to think that some wrongdoing is acceptable or normal. In these types of households it is important to instill discipline and values that contribute to the welfare of the child.

Harvard professor, Dr. John J. DiIulio Jr., believes that alternatives to incarceration for non-violent drug and alcohol offenders are cost effective and would be more beneficial to the offender and to government and society in general. DiIulio stated, "Prison definitely pays, but there's one class of criminals that is an arguable exception: low-level, first-time drug offenders... Though the numbers of petty drug offenders may prove small, it makes no sense to lock away even one drug offender whose case could be adjudicated in special Drug Courts and handled less expensively through intensively supervised probation featuring no-nonsense drug treatment and community service" (Sullum, 1999). DiIulio went on to say, "It's going to free up a certain amount of space, it's going to relieve a certain amount of drain on the public purse, and it's going to make the system more effective at delivering public safety for the marginal tax dollar" if these particular individuals are given the opportunity to utilize alternatives to incarceration (Sullum, 1999).

Personal Attention

Dr. Walter Dickey posed the important question: "What do we want them to be like when they return to society?" (Chiarkas 2003). The purpose of the rehabilitation process in corrections is to rectify the problems that are causing criminal activities. Drug Courts and other alternatives to incarceration programs are good venues for offenders to receive the individual attention and support they need. However, intensive outpatient services are very expensive and offenders with limited budgets simply cannot afford these programs. The personal, exhaustive attention given to fortunate offenders in these programs helps offenders defeat their addictions, but because of their low-income situation, many cannot afford the help that they need.

Insurance is also needed for several outpatient programs. Because of their addictions, many of these offenders do not have jobs and cannot afford insurance. These low-income offenders with addictions have no jobs, no insurance, experience strain and tension at home, suffer through depression and end up turning back to drugs and alcohol. Also, most AODA programs focus on group therapy, but many need individual therapy, which is hard to find unless the offender has insurance.

Not only do offenders need individual therapy, but they also need the love and support of family and friends. This can be difficult when family members such as a wife, husband, brother or sister contribute and influence deviant behavior. If this is the case, rehabilitation can be more difficult and complex.

Accountability

In my research, I attempted to find recidivism rates of drug-related and alcohol-related cases. In most of the surveys I received from probation and parole agents, the overwhelming response was that "they do not keep track of these statistics." In fact, one respondent claimed that he did not know of any probation or parole officer in the State that knows what the recidivism rates of their cases are on an annual basis, much less breaking it down by drug and alcohol related rates. How can the State judge how this program is being run if statistics are not even being kept? I understand that the caseloads are heavy, but I believe that it is worthwhile to keep this information for program evaluation. Why should the State be pumping in money to a program that can't even produce figures to show it is successful?

I believe that there is a lack of accountability not only on the part of the agents but the State as well. I found it ironic to read the qualitative comments I received from many agents stating that the offenders were not being held accountable for their actions. In fact, an agent wrote that he believed that jail or incarceration is appropriate for non-violent offenders because it demonstrates to the community accountability, deterrence, and punishment. I do believe that offenders need to be held accountable, but so do government officials.

CONCLUSION

My hypothesis stated that instead of incarceration for non-violent offenders with alcohol and substance abuse problems, alternatives to incarceration are more appropriate, cost effective and socially responsible. From the qualitative responses I received from probation and parole agents throughout the state, I can safely assume that the hypothesis is by-and-large correct. It is evident that offenders with addictions receive more benefit from rehabilitation programs than those just sitting in jail. The State can save scarce resources in dire economic times by becoming more aware of this point.

It is very frustrating to see that those who do want to change and fight their addictions are limited due to insurance and monetary resources. It is obvious that a person will change only if they want to, but it is important for the State of Wisconsin to help those genuinely committed to breaking their addictions. There are many programs available throughout the State, but it is important for each county to fully research different alternatives to incarceration for their citizens with addictions.

LIMITATIONS

In order to attain a consistent response from each of the counties, I sent the county survey to all seventy-two Sheriffs Departments in the State. Unfortunately, only twenty-three departments responded to the survey. I proceeded to call the rest of the counties unaccounted for and were directed to various clerk of courts, district attorneys, and public defenders office.

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