

Promising Correctional Practices, Programs & Policy Initiatives

State spending on Corrections has risen faster over the past twenty years than spending on nearly every other Wisconsin State Budget item. Despite the significant influx of financial resources, the demand for secure confinement continues and is expected to increase during the next decade and beyond. Even though this Ten Year Correctional Facility System Development Plan has as its primary emphases the present and future need for secure inmate confinement capacity through expansion, renovation or contraction of existing correctional facilities, it is also imperative that attention be directed to a discussion of future programs and policies that may offer the opportunity for more effective management of this growth in the incarcerated population.

Given the fact that the ongoing obligation and appropriate responses to offender population management are not the sole responsibility of the Department of Corrections, but rather are shared among various stakeholders in the criminal justice “system”, it is important to assume that this broad base of individuals and organizations also have a common interest in affecting changes that favorably impact the demand for costly prison responses to criminal conduct.

The Wisconsin Department of Corrections has a long standing reputation as a leader in correctional programming and services. The challenge to create future options that may well moderate the growth of the prison population, make programs more effective and efficient and continue to provide community safety is daunting. What follows is a description of various best practices, programs and policy initiatives presently under discussion or being pursued by the Department that offer future promise for a decreased demand for costly incarceration in Wisconsin.

Existing Correctional Population Management Program Initiatives

The Department of Corrections has three major population management initiatives that are directed toward the reduction of the confinement time that certain offenders are required to serve in the DOC correctional facilities. The three programs include the Earned Release Program (ERP), the Challenge Incarceration Program (CIP) and the Alternative to Revocation Program (ATR). The various program offerings provide the necessary treatment, education and constructive skills development needed for offenders to be successfully reintegrated into the community

Earned Release Program (ERP)

The Earned Release Program was originally approved in the 2003-05 biennium and expanded in the 2007-2009 biennium. The intent of the program is to provide intensive AODA treatment to offenders with a substance addiction/abuse need that is related to their criminal behavior. Any eligible inmate who successfully completes the substance abuse treatment programs at the Drug Abuse Correctional Center (DACC), the Chippewa Valley Correctional Treatment Facility (CVCTF), the Racine Correctional Institution (RCI) and the Robert E. Ellsworth Correctional Center (REECC) are subsequently released to parole or extended supervision. For inmates who are being sentenced under a bifurcated (truth-in-sentencing) sentence, the sentencing court must decide at the time of sentencing that the inmate is eligible to participate in the program based on a recommendation in the pre-sentence investigation report prepared by the Division of Community Corrections. For those inmates already serving a bifurcated sentence, the court must modify their sentence to include eligibility to participate in

the program. Inmates who committed crimes against life and bodily security or for sex crimes against a child are not eligible to participate in the Earned Release Program.

A recent formal evaluation of the ERP conducted by the University of Wisconsin, Center for Health Policy and Program Evaluation, has yielded valuable information about the operation of the program and its impact on the target population it serves.

The ERP is designed to promote successful transition to community supervision, reduce the risk of committing a new crime and save taxpayer dollars through reduced use of prison bed space. Although the ERP has only been operational for slightly more than two years, results of the initial program evaluation indicate that the program is on target to meet this goal. Since its inception, the ERP has produced nearly \$10 million in estimated prison bed days saved through the early release of non-violent offenders who have alcohol or drug treatment needs. While experiencing challenges similar to the development and implementation of any new program, the Earned Release Program has a sound foundation in place to reach even greater potential benefits. With enhancements to the continuum of care of substance abuse treatment provided including transition planning, reentry support, and aftercare services, the Earned Release Program can provide comprehensive treatment to break the cycle of addiction and criminal behavior.

Challenge Incarceration Program (CIP)

The Challenge Incarceration Program has its origins in early 1990 when the first “boot camp” became operational at the St. Croix Community Correctional Center. It was developed to provide eligible inmates with the opportunity to gain the individual skills and personal resources necessary to return to the community, successfully complete their time on parole or extended supervision, and to remain crime and drug free. The DOC currently operates the CIP at the Black River Correctional Center and the St. Croix Correctional Center, which serves both male and female offenders. The program can also be used as an Alternative to Revocation (ATR) for certain probationers and parolees. The Challenge Incarceration Program is designed in a manner that allows the participants to successfully complete all of the required program components in a minimum of 180 days. The primary program components emphasize discipline and alcohol and drug abuse treatment through rigorous physical activity; physical work crew assignments; regimentation and discipline; instruction on military bearing; intensive AODA treatment; individualized educational programming; and in depth group interactions that address rational thinking, responsible behavior and effective decision making.

The CIP program is designed to serve 132 inmates at the St. Croix Correctional Center, including 12 female inmates, and 100 male inmates at the Black River Correctional Center. Upon successful completion of the program, the inmate is granted parole or placed on extended supervision in the community where they are subject to high-risk supervision by the Division of Community Corrections probation and parole agent.

Alternative to Revocation Programs (ATR)

The Alternative to Revocation Program is designed to provide structured treatment responses to offenders who violate the terms of their community based supervision on probation, parole or extended supervision and are at risk of being returned to prison for an extended period of time. The ATR programs can include a variety of AODA treatment, work and job skill development, anger management and cognitive intervention strategies that are directed to improving the successful reintegration of the offender in the community. The ATR programs are

generally 90 to 120 days in duration and are available at a number of the Division of Adult Institutions (DAI) correctional facilities throughout the system. Because the ATR inmates serve shorter periods of time in secure confinement than offenders who are revoked, it provides an immediate savings of bed days for an overcrowded correctional institution system.

According to information provided by the DOC, since the inception of the DAI-ATR program in January 2004 through March 2006 the following has occurred:

- 1,687 offenders were placed in the DAI-ATR Program
- 1,418 of those offenders completed the program (84%); 992 of those remained out of prison (70%); 139 were imprisoned on a temporary hold (10%); and 285 were eventually revoked and sent to prison (20%)
- 92 offenders were terminated from the program prior to completion (11%)
- the average number of days to complete the DAI-ATR was 102 days, while the average number of days for offenders who were revoked and incarcerated was 652 days; a savings, on average, of 550 prison bed days for each offender who successfully completed the ATR program.

In addition to the current 200 bed DAI-ATR capacity, the Department has recently implemented a community based ATR program that is expected to provide similar program alternatives for 800 offenders on community supervision.

Program Initiatives

The Department of Corrections has initiated a number of special studies and programs designed to enhance case management and offender reintegration which are described below.

Revocation Study

The Department has entered into a contract with the University of Wisconsin School of Medicine and Public Health, Department of Population Health Sciences, to conduct a comprehensive study on offender revocation within the adult correctional system. The study will be completed in March of 2009, and will include the following components:

- A thorough review of national best practices in the areas of policy, practice and use of graduated sanctions;
- An examination of aggregate DOC revocation data, including historical trends and patterns;
- Case-level examinations of randomly selected revocation summaries of offenders admitted to prison for 'technical violations' to better understand "why" revocation took place – analyzing offender behavior(s) that lead to revocation and the use of graduated sanctions, community-based alternatives to revocation, and/or treatment alternative strategies employed to avoid revocation;
- Information for the DOC administration and policy-makers to assist in making any needed changes in policy, practices, resource allocation, staff training needs and/or future budget decisions;

- Identification of information/data that is necessary to analyze, monitor and evaluate revocation practices that are missing or not collected in the DOC legacy systems that need to be included in the WICS;
- Initiating the process of establishing a means to address the recommendations of the Commission on Reducing Racial Disparities in the Wisconsin Justice System.

Re-entry Programs

Over the past few years, the Department has embarked on a number of system-wide and offender-specific re-entry initiatives. The principal goal of these efforts is to shift the department's focus, policies and practices towards a more unified approach to successful offender reentry, while emphasizing offender accountability, coordination of services and state, local and community collaborations. The Department has taken significant steps forward in developing and expanding its efforts to collaborate with other federal, state, county, provider agencies, faith-based organizations and other community-based organizations in an effort to expand the scope of reentry services provided to DOC clients, and to establish a continuum of care and services that best meets the needs of offenders released from prison.

In an effort to implement and sustain the values of offender reentry initiatives within the Department and among other state, county and local agencies and providers, the Department has established the necessary infrastructure through the development of the Department Re-entry Business Strategic Plan. This re-entry business strategy brings together several initiatives within the Department, each with a common theme to reduce the incidence of future criminal behavior for offenders convicted of crimes who are supervised by the Wisconsin DOC. The core principles of the strategy include:

- Offender transition begins at intake, to any Division within the DOC, when a corrections plan is developed for each inmate that addresses criminal risk factors to enhance successful integration in the community and reduce recidivism.
- Staff holds offenders accountable by providing both positive and negative consequences to offender behavior, being pro-social role models and guiding offenders toward pro-social behavior in concert with their corrections plan.
- Inmates/offenders are prepared for community living through specific interventions related to their corrections plan, such as work, education, and focused treatment programs and release planning.
- Offenders have the opportunity to develop healthy relationships with their family and children, when appropriate, in order to build pro-social community support and break the intergenerational cycle of crime.
- Offender transition from incarceration to community is carefully planned by both institution and community corrections staff, with consideration of victim concerns, and coordinated with inmates and community stakeholders.
- Supervision in the community, consistent with the corrections case plan and these principles, is key to reducing recidivism for those released from prison and those sentenced to community supervision.
- Treatment programs are outcome, research and evidence-based.
- Staff will support and reflect the Department's values in all work-related interactions with others.

Specific examples of reentry initiatives include:

Female Offender Re-entry Enhanced Program (FOREP) – This program began in 2004 and is designed to provide enhanced reach-in services to women released from the Wisconsin Women’s Correctional System. These enhanced services are intended to break the cycle of crime, substance abuse, depression, family violence and trauma that now plague generations of Wisconsin families impacted by parental incarceration. The program is the result of collaboration between the Departments of Corrections (DOC), Workforce Development (DWD) and Children and Family Services (DCFS) to provide treatment for substance abuse, find suitable housing and work, and to safely reunite women with their children. Breaking a potential cycle of intergenerational criminal behavior requires a multi-disciplinary team approach and a continuity of service for the female offender and her family, beginning at the point of incarceration and continuing through to release and community integration.

Access to Recovery Grant – Wisconsin Supports Everyone’s Recovery Choice (Wiser Choice Program) – In 2004 the State of Wisconsin was awarded a three-year grant of \$22,800,000 for the *Access to Recovery* program, administered by the Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services. An additional \$15,000,000 was received in 2007 to provide services for an additional three years. This program expands the capacity and will significantly enhance the current Milwaukee County voucher system for county residents who are involved in the criminal justice system and have substance use treatment and recovery support service needs. Specifically, *Wiser Choice* has targeted offenders undergoing revocation proceedings as an alternative to revocation. This program has strengthened the collaborations with state and county agencies, community providers, client advocacy groups and faith-based organizations. The scope and diversity of these collaborations will lead to a greatly expanded choice of providers for clinical and recovery support services designed to strengthen families and break the intergenerational cycle of addiction and incarceration.

Offender Benefits (MA/SSI) - The Department has adopted a policy to ensure that offenders who are eligible for public benefits receive them immediately upon their release from prison. This initiative involved a multi-agency team, including the former Department of Health and Family Services (DHFS) and the Social Security Administration (SSA). A core component to this initiative is to provide assistance to the offender, prior to their release to the community, in completing the needed application materials to ensure benefits for those who are determined eligible. This initiative will better prepare DOC offenders, especially those with complex mental health and physical health needs, for release and successful reintegration back into the community.

Offender Benefits (Veterans) – The Department has adopted a policy to ensure that offenders who are eligible veterans are provided employment, training, and other benefit services while incarcerated and upon their release from prison and/or while on supervision in the community.

Statewide Pre-release Curriculum – This is a comprehensive program that provides pre-release programming to all offenders, regardless of custody level, that facilitates successful transition into the community. The program includes acquisition of necessary identification, information, and connection to available support services, clarification regarding what will be expected of them while on field supervision, access to current employment and housing opportunities, and skills development. The curriculum educates each offender about the following ten critical areas that affect the likelihood inmates will be successful upon release: Education;

Employment; Family Support; Financial Literacy; Health; Housing; Personal Development; Transportation; and Wellness.

Treatment Alternative to Prison Program (TAPP)

The 2003-2005 State Budget, Wisconsin Act 33, included the creation of a female offender alternative to prison program located in Milwaukee. As proposed by the Governor and adopted by the Legislature, this program is designed to provide an additional tool for the Milwaukee judiciary to offer a prison diversion sentencing option for certain female offenders. The participating female offenders benefit from intensive, gender-specific alcohol and other drug abuse treatment programming and community supervision/support services. The program was proposed and adopted as part of a larger set of initiatives in the state budget to control Wisconsin's prison population. While the program is projected to save taxpayer dollars through reduced use of prison bed space, the primary focus of the program will be on public safety, offender accountability, successful rehabilitation and community reintegration to break the cycle of incarceration.

There are presently twenty-five beds available at the Milwaukee Women's Correctional Center (MWCC) that are used for this five week program. The program utilizes a gender-specific, strength-based model of intervention that measures emotional and behavioral skills, competencies, and builds on those characteristics that provide a sense of personal accomplishment. Specific goals of the program include:

- Reduced recidivism rates and reduced involvement with the criminal justice system.
- Improved mental health and well-being. All program participants will have active participation in all aspects of their treatment plans and single coordinated care plan, including the involvement of informal supports.
- Decreased substance use while reinforcing a lifestyle of sobriety.
- When appropriate, increase the number of children that return home safely and achieve permanency within their families.
- Improved vocational outcomes, increased employment and self-sufficiency.
- Achieve safe and stable housing and improved living situation.

Policy Initiatives Under Development and Consideration

Treatment Alternatives and Diversion Program

The Treatment Alternatives and Diversion (TAD) program is a grant program for Wisconsin counties that was funded in the 2005 Wisconsin Act 25, the Biennial Budget for 2005-2007. The program provides grants to counties to develop treatment and diversion alternatives to jail and prison sentences for non-violent offenders with drug and alcohol problems. Administratively, the program is a joint effort involving the Office of Justice Assistance (OJA) as the granting agency, in program collaboration with the former State Department of Health and Family Services and the Department of Corrections. An ongoing advisory committee has been created, with representatives from involved state and local agencies and organizations, treatment providers and consumers.

In July 2006 the Office of Justice Assistance published the first TAD request for proposals. The OJA received 24 applications from throughout Wisconsin that collectively equaled over four million dollars in funding requests – legislative spending authority for the program was set at \$755,000. In September 2006 the Office of Justice

Assistance awarded a total of five TAD grants totaling \$891,900 to Dane, Rock, Wood, Washburn/Burnett and the St. Croix Tribe, Washington and Milwaukee counties.

Justice Reinvestment Initiative

The Justice Reinvestment initiative is a project of the Council of State Governments Justice Center, funded through the U.S. Department of Justice's Bureau of Justice Assistance, Pew Charitable Trusts Foundation, JEHT Foundation, and the Open Society Institute. Justice reinvestment is a data-driven strategy for policymakers to reduce spending on corrections, increase public safety, and improve conditions in the neighborhoods to which most people released from prison return. The specific strategy of this initiative will include:

- An analysis of the prison population and spending in the communities to which people in prison often return. These data highlight opportunities to manage the prison population growth, increase the integration of government programs and funding streams, and strengthen particular "high-stakes" neighborhoods.
- Provide policymakers with options to generate savings and increase public safety. The justice reinvestment experts generate various options that recognize the uniqueness of each state's criminal justice system and tailor them to that jurisdiction, such as strategies to:
 - a. Reduce parole and probation revocations;
 - b. focus supervision resources where they can have the greatest impact, and
 - c. hold offenders and service providers accountable for the successful completion of programs such as drug treatment and job training.
- Quantify the savings and reinvest in select high-stakes communities. State and city leaders work with the justice reinvestment team to determine how much they will save, and avoid spending, by adopting some or all of the correctional options identified by the experts.
- Measure the impact and enhance accountability. For each policy adopted, an appropriate state agency is charged with setting performance measures and projected outcomes, such as the amount of correctional cost saved or avoided, recidivism rates, and indicators of community capacity.

In April 2008 a Special Committee on Justice Reinvestment Initiative Oversight was formed by the Wisconsin Legislative Council, with written support from Governor Doyle, Chief Justice Shirley Abrahamson, Secretary Rick Raemisch, Senator Fred Risser and Representative Michael Huebsch, to recommend that the CSG Justice Center select Wisconsin as a Justice Reinvestment site. The study committee, to be chaired by Senator Lena Taylor, and co-chaired by Representative Joel Kleefisch, was charged with the following:

The Special Committee was directed to serve as the entity to which the Council of State Governments (CSG) Justice Center will report. The study committee process creates a unique forum in which legislators will receive data from the Justice Center along with public members who work directly in different aspects of the corrections and criminal justice systems. The CSG Justice Center will provide technical assistance relating to corrections

costs. Specifically, the technical assistance will include: (1) mapping of specific neighborhoods where large numbers of offenders are released from prison to identify how to improve coordination of services, correctional supervision, and law enforcement; (2) analyzing the prison population to determine what is driving its growth and to identify which categories of offenders are at high risk of re-offending; (3) developing policy options, based upon the data collected, to increase public safety and decrease corrections spending; and (4) projecting the fiscal impact of any policy options identified. As a result, legislators and public members on the committee would develop a comprehensive understanding of the data collected and the issues identified and would be better equipped to analyze policy options relating to corrections.

Following a recent site visit by the CSG, Wisconsin is currently awaiting notification and acceptance from the CSG Justice Center that Wisconsin has been successful in being selected as a study site for this initiative.

Wisconsin Community Justice Act

In late 2007 a non-partisan, multi-agency committee was brought together to study current best-practices and lessons learned from other states where the intent was to affect strategic and fiscally sound policy changes designed to address the burgeoning costs of corrections (jails and prisons) in their respective state. The committee, chaired by the Honorable Judge Michael Malmstadt (retired) and co-chaired by the Honorable Judge Elliott Levine, was comprised of representatives from the judiciary, prosecution, public defender, county sheriffs, police, counties association, departments of corrections and health and family services, office of justice assistance, legislators, community providers and criminal justice advocates. A major focus of the committee was to study more than 30-years of experience of other states who have enacted Community Corrections Acts (CCA) as part of their strategy to address burgeoning correctional costs, drawing upon 'lessons learned' and 'what works' in these states, while creating a model for Wisconsin.

The committee examined a number of fundamental principles for an effective CCA model along with recommendations to construct a Wisconsin-specific Criminal Justice Community Act (WI-CJA) intended to build off the strengths of the Wisconsin criminal justice system, while creating a system that blends a number of existing initiatives to promote a community-based strategy predicated on public safety, increased personal accountability, breaking the cycle of crime, providing restoration to the victim and the community, and advancing fiscally-responsible policies that are intended to control, or curb, escalating jail and prison costs.

The report of the committee is being circulated among legislators, state agencies and county units of government for input and reaction to the proposal. On May 16, 2008 the Wisconsin Counties Association, Board of Directors, formally supported the creation of a Wisconsin Community Justice Act, as proposed by the Effective Strategies for Community Justice Committee.

Effective Justice Strategies

In 2004, the Wisconsin Circuit Court System Planning and Policy Advisory Committee (PPAC), the long-range planning committee that advises the Supreme Court and Director of State Courts on policy initiatives, identified the overcrowding of prisons and alternatives to incarceration as a critical issue to be addressed. In response, PPAC formed a subcommittee on Alternatives to Incarceration with a mission to "explore and assess the effectiveness of policies and programs, including drug and other specialty courts, designed to improve public safety and reduce incarceration."

Chaired by Judge Carl Ashley, Milwaukee County, this subcommittee, has been re-named the Effective Justice Strategies Subcommittee (EJSS) and consists of justice system professionals both in and outside of the court system. During its first year, the EJSS studied various programs and responses that were being tested and researched throughout the United States and in Wisconsin and worked to understand the role of the judiciary as it relates to these problem solving approaches to local criminal justice issues. As a result of their work and discussions, in February 2006, the EJSS narrowed its scope to focus its efforts and recommendations in four primary areas:

Criminal Justice Coordinating Councils

Less than two decades ago there were no formal criminal justice coordinating councils in Wisconsin and today at least 16 have implemented a formally organized strategy to improve local justice system approaches. Many communities have organized a local Criminal Justice Coordinating Council (CJCC). Such councils are a necessary first step in bringing together all local and agency officials involved in the justice system within any given county and are the foundation in developing other successful programming. Without such coordinating councils, any efforts made by independent local officials to deal with problems such as jail or prison overcrowding are likely to be fragmented, uncoordinated, and less than effective. The subcommittee continues to create support and guidance around this topic in an effort to promote the formation of councils so counties can have the appropriate foundation when developing alternative strategies and programs.

The EJSS also continues to discuss the value and role of a state level coordinating council. This body could potentially serve in an advisory capacity to local councils and coordinate activities on a state level. The subcommittee continues to explore the value this type of body could bring to the state court system.

Problem Solving Courts

More than 13 problem solving courts (drug courts, OWI courts, etc.) currently exist in the state and several more are in planning phases. Chief Justice Shirley Abrahamson has embarked on a 72-county tour and is hearing first-hand about many of these alternative, diversionary and/or restorative justice practices and programs. The subcommittee learned that many judges were interested in knowing more about many aspects of problem-solving courts (PSC), and in response, the subcommittee developed an online clearinghouse with a contact listing of all Wisconsin problem solving courts and links to information, tools and studies. Many judges are interested in the PSC concept but lack of coordination in Wisconsin and nationally in identifying common outcome measures and permanent funding mechanisms hinders their long-term viability. The subcommittee intends to continue building its online resources and providing judges with information and guidance that is useful to them.

Assess, Inform, Measure (AIM)

To address the concern that many judges voice in regard to not knowing when an “alternative sentence” may be appropriate or available for a specified offender, the EJSS dedicated a significant amount of time studying the key factors in determining when or if the individual is appropriate to be safely diverted from a jail or prison sentence. They found that critical to this determination is the nature and value of the information provided to the court in advance of a sentencing decision. The subcommittee developed and proposed a process model titled

AIM (Assess, Inform, and Measure) which is intended to enhance the quality and scope of information provided to the court about a specified target population. Specifically, the goals of AIM are to:

- Provide the court with a valid risk, needs, responsiveness to treatment and community intervention assessment, while creating a feedback loop that provides information on the success of court dispositions and community interventions in promoting offender success and public safety.
- Provide the court with valid and reliable information, based on current evidence-based practices, which will add value in the case disposition process.
- Create a process feedback loop that provides information on the value of the information being provided to the court.
- Create an outcome feedback loop that provides information on case outcomes and ongoing validation of the case assessment process.

The subcommittee recommended this concept to the PPAC and received its support to move forward. AIM was then presented to the Judicial Committee of Chief Judges; interested counties willing to test this model were asked to come forward, bearing in mind there would not be additional funding available to integrate this idea in their processes. After a year of planning and development, five county interdisciplinary teams with representatives from the courts, county human services, corrections, and others have agreed to pilot the AIM concept and will be moving forward with implementation. Governor Jim Doyle has also shown support for AIM by allocating grant funding in his state budget proposal for implementation of AIM in the county with the highest violent crime rate.

Other Innovative Justice System Programs and Practices

It is clear that local communities are serving as laboratories for testing programs, including but not limited to problem solving courts, that address recidivism and incarceration issues while protecting public safety. A majority of Wisconsin counties have implemented some type of alternative, diversionary or restorative justice program or practice in response to these issues. A survey recently conducted by the EJSS, in coordination with the seven-county report prepared by Professor Kempenin, showed that many court-centered programs and practices are occurring throughout Wisconsin including: day report centers, domestic abuse programming, victim impact panels, electronic monitoring programs, and more. The EJSS is working to catalogue these practices and programs and is creating a resource for Wisconsin Judges, Commissioners and court staff. The intent is to continue to inventory these activities and move toward making recommendations about best practices.

As a result of increased interest at the local level, a clearer understanding of these strategies and their potential fiscal and public safety impact is beginning to form on the state level. As part of the overall budget submission to the Governor, the Supreme Court requested funding for a state level full-time permanent justice initiatives coordinator position to implement and sustain recommendations from the work of the Effective Justice Strategies Subcommittee and other PPAC recommendations related to alcohol and drug abuse programming in

the courts. This request was approved and included in the FY 07-09 biennial budget, along with funding for the AIM project in Milwaukee County.

Impact of the Truth in Sentencing Legislation

The 2001 Wisconsin Act 109, passed by the legislature and signed by Governor Scott McCallum on July 26, 2002, made significant changes to the state's criminal penalties structure. It also modified the original "truth-in-sentencing" law; previously enacted by 1997 Wisconsin Act 283, which impacted criminal offenses committed after December 31, 1999 and increased maximum sentences for felony convictions, changed the sentencing system, and eliminated parole. The new sentencing provisions were applied to crimes committed February 1, 2003, or later.

Background

Commonly, in Wisconsin, a felony is a crime punishable by imprisonment of more than one year in the state prison system. (Misdemeanors are lesser crimes, which usually involve confinements of less than a year, generally served in the county jail.) Under the criminal penalty system which existed prior to 1997 Wisconsin Act 283, most convicted felons did not serve their entire sentence incarcerated in prison. They were generally eligible for consideration for a discretionary parole after being confined for 25% of their sentence. Those who did not receive a discretionary parole were usually paroled by a "mandatory release date", which was set at two-thirds of the imposed sentence time. (Prisoners could be held beyond the mandatory release date under certain circumstances, such as for misbehavior while in prison.) When determining a sentence, many judges took these legal circumstances into consideration and set term lengths that would require a convict to actually serve a certain minimum amount of prison time.

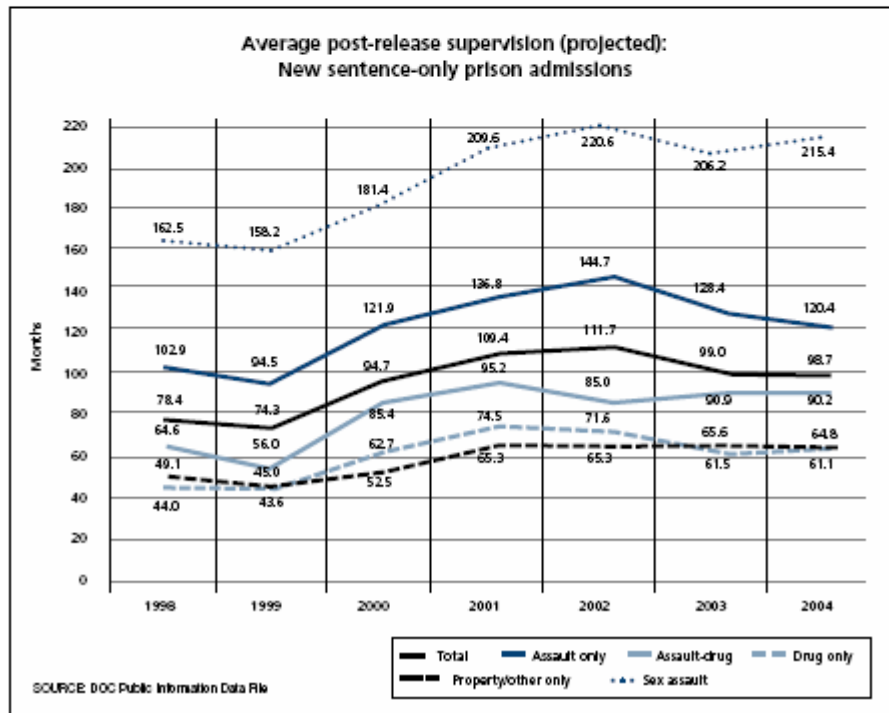
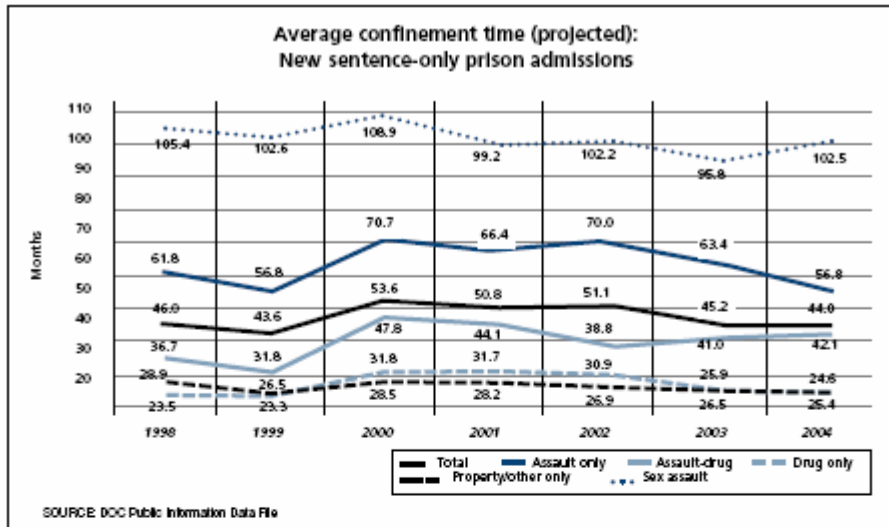
In response to concerns for greater certainty and uniformity regarding incarceration time, Wisconsin Act 283 created a determinate sentencing structure for all felons sentenced for crimes committed on or after December 31, 1999 (other than those sentenced to life imprisonment). It also eliminated parole for prisoners sentenced for crimes committed on or after that date. (Prisoners sentenced for crimes committed before that date still remain eligible for parole.) Felons are now required to serve the entire length of both portions of a bifurcated sentence, which includes: 1) a period of incarceration, followed by 2) a period of extended supervision outside prison. The maximum length of the entire sentence is established by law, but the judge may determine the respective length of the two components, provided the felon serves a minimum of one year in confinement and the sentence is split so that at least 25% of it is spent under extended supervision.

Wisconsin Act 283 increased the maximum penalties for most felonies by 50% to accommodate the extended supervision period, and the law created the Criminal Penalties Study Committee to make recommendations about reclassifying all felonies and some Class A misdemeanors in a uniform criminal code, so that offenses of similar severity are similarly penalized. The committee submitted its final report on August 31, 1999.

The Impact on Corrections

Since the implementation of TIS, there has not been a formal comprehensive evaluation conducted to determine the effect that this the law has had on the criminal justice system. One report, completed by Justice Strategies in 2005, provides the following observation related to the possible impact of TIS on the adult prison system:

“Since 1999, the amounts of time prisoners are expected to spend on supervision after release has ballooned from 31 months to 55 months – a 77-percent increase. A preliminary analysis of extended supervision outcomes shows a disturbing pattern that could have a tremendous impact on the state’s prison population. Among the cases examined, 40 percent of individuals released to extended supervision were revoked before completing their sentences. If the pattern holds, one in five incarcerated under truth in sentencing will spend their entire extended supervision term behind bars, and another one in five will serve close to half of the time behind bars. Because no credit is awarded for time served in the community prior to revocation, these long terms of post-release supervision and high failure rates could push prison populations and supervision caseloads to the breaking point.”



Additionally, since the implementation of TIS the Department of Corrections has been providing quarterly reports that look at patterns of prison and supervision admissions under TIS, and pre- and post-TIS comparisons of sentencing practices. The most recent quarterly report, covering a period from January 1, 2000 through September 30, 2007, indicates a consistent pattern of increased average confinement time for TIS sentenced inmates.

Offense Type	Percentage Change
Assaultive	77% increase (31.6 months to 56 months)
Sexual Assault	55% increase (58.6 months to 91 months)
Drug	56% increase (17.3 months to 27 months)
Property/Other	12% increase (22.3 months to 25 months)

The need to more thoroughly examine the impact of TIS on prison populations as a result of the longer periods of confinement time, longer terms of extended supervision in the community, the rate of failure on community supervision and the current provision of the law that does not offer the offender good time credit while on extended supervision will have a critical bearing on the projected need for increased prison capacity in the future. The future human and fiscal costs remain significant; the need for a comprehensive legislative review of TIS is critical to future population and resource management in the Department of Corrections.