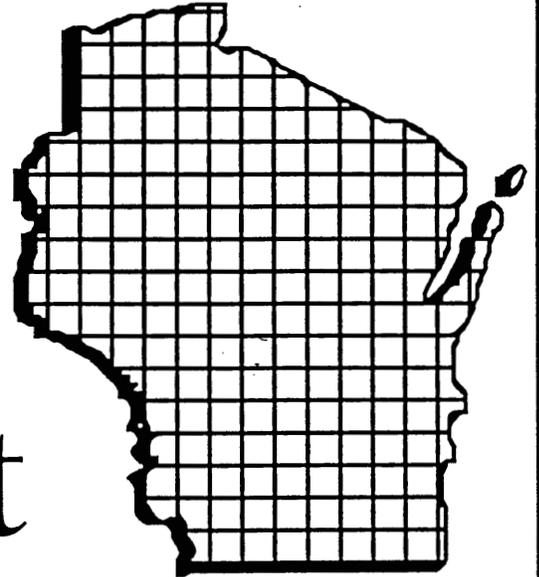


Wisconsin

Policy
Research
Institute

Report



June 1992

Volume 5, No. 3

**PAROLE
IN
WISCONSIN**

Report from the President:

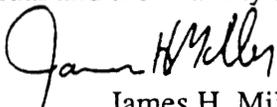
When the issue of prisons in Wisconsin is discussed, the public often is left with the impression that most convicted criminals are spending time in a cell. The reality is that on any given day, 83% of the offenders who have been convicted of a serious crime in Wisconsin are not in prison: they are on the streets, while only 17% of criminals are in Wisconsin prisons.

The rhetoric surrounding this issue has obscured the reality that only the most dangerous convicted felons in Wisconsin are put into our prisons. The real issue is not just whether we need more prisons, but who do we actually want on the streets?

This study takes a close examination of the whole parole system in Wisconsin. Parole is the process that decides which dangerous offenders are released from prison before their sentence is actually completed. It is that process that is of most concern. Granted, only one out of ten criminals are in fact on parole at any given time. But, they are also by definition among the most dangerous of our convicted criminals. That is the reason that they were put into prison rather than being placed on probation by the courts. It is this process which becomes most relevant when one argues the cost of prisons.

The bottom line is whether Wisconsin society can afford to parole so many offenders because of the lack of prison space. The real issue is not just the cost of a prison cell, but the economic and emotional cost to the potential victims of crimes committed by convicted felons who are out on the streets because of the lack of prison space.

Today, Wisconsin's prison problems are beginning to approach those of some larger states. We are on the road to a system in which eventually we will be forced to let out our dangerous felons due to a lack of planning and leadership from our elected officials. Anyone who reads this report must question the rhetoric surrounding the issue of incarceration or costs. Remember, whenever a dangerous felon on parole commits a crime, the victim is a resident of Wisconsin. What is the cost to that individual and their family and friends?



James H. Miller

THE WISCONSIN POLICY RESEARCH INSTITUTE, INC.

3107 North Shepard Avenue
Milwaukee, WI 53211
(414) 963-0600

Parole in Wisconsin

by
George A. Mitchell

TABLE OF CONTENTS:

Introduction	1
I. Parole in Wisconsin	3
II. Who Violates Parole?	10
Quantitative Profile of the Typical WI Parole Violator	
• Table II-1	24
Typical Offenders Imprisoned	
• Table II-2	25
III. What To Do	26
Actual Prison Population v. Prison Population Projections	
• Chart III-6	36

BOARD OF DIRECTORS

Sheldon Lubar, Chairman

Hal Kuehl

Robert Buchanan

Reed Coleman

Allen Taylor

Brenton Ruppel

James Ericson

Roger Hauck

Paul Schierl

James Miller, President

INTRODUCTION

On May 23, 1992, Detroit police arrested Mr. Leslie Allen Williams, a parolee from the Michigan prison system. The New York Times provided this follow-up account:

The confession of a 38-year old paroled rapist in the abduction and slaying of four teenage girls...has touched off a flood of criticism of the [Michigan's] criminal justice system, particularly the parole board...

'Leslie Allen Williams never should have been on the street. Four young ladies are dead because of that...People like this should not be cycled through the system, in and out, to prey on other people on the outside,' [Oakland County] Sheriff John Nichols said.

Over the years, Mr. Williams has received numerous breaks from the justice system, getting relatively light sentences or early paroles after guilty pleas [since 1971] on various charges of breaking and entering, rape, and assault.

His last sentencing was in 1983, when he threatened and abducted a woman...[he] was sentenced to concurrent terms of 5 to 10 years in prison for the assault and 7 to 30 years under the state's habitual offender law. He served seven years and was paroled in 1990.

Many Wisconsin residents might chalk this up to urban violence plaguing a big city in another state. However, research on Wisconsin's parole system does not tell such a reassuring story. That research, summarized in this study, shows that the state routinely paroles inmates who again become involved in serious crime. Crime by parolees occurs in regions throughout Wisconsin. It is perpetrated by men and women, by whites, blacks, Hispanics, and Native Americans. It regularly involves criminals who "cycle" in and out of the prison system, much like Leslie Allen Williams in Michigan.

These Wisconsin inmates were recently paroled or are scheduled for parole:

- In March, a 44-year old man with 10 adult arrests was paroled from his fourth stay in a Wisconsin prison. Convicted in 1977 of dragging a female behind a building and raping her at knifepoint, he was paroled in 1986 after serving half of a 20-year sentence. He has been involved in criminal activity since and most recently was convicted for threatening his family with a baseball bat and brick.
- In August, a 38-year old man will finish his third stay in a Wisconsin prison. His record includes "accosting a 46-year old woman...forcing her into a storage room, robbing and raping her, stabbing her seven times, rolling her up in a carpet, and leaving her for dead."
- In January, a 41-year old man was paroled after his eighth period of incarceration in a Wisconsin prison. His career includes 14 arrests. A partial chronology shows he was: admitted to prison in August 1983; released in August 1986; admitted in February 1988; released in October 1988; admitted in February 1989; released in November 1990; admitted in June 1991; and released in January 1992.
- In October, a 36-year old man with eight arrests and three prison stays is scheduled for parole. His first arrest in 1974 was for theft and criminal damage to property.

Subsequent criminal activity includes convictions for drunken driving, burglary, and injury by negligent use of a weapon. Following a recent parole release, he was arrested and convicted of masturbation and ejaculation in the presence of his 3-year old daughter.

How typical are these stories? Does Wisconsin have a problem with "revolving door" justice?

To answer those questions, this study undertook original research which analyzed a scientifically representative sample of all parole violators admitted to Wisconsin prisons in 1991. The research indicates that a typical violator:

- Has multiple arrests and has been in and out of prison most of his adult life.
- Was rearrested and returned to prison within a year after his most recent parole;
- Will be paroled again within 15 months;
- Has a serious alcohol and drug abuse problem; and
- Has a history of serious and often violent crime (public records in inmate files demonstrate that the four anecdotes cited above are not usual).

A brief statistical snapshot of the typical parole violator (1991) is provided below:

Age	38
Age at 1st Arrest	20
# of Adult Arrests	12
# of Times in State Prison	4

The research supports the conclusion that Wisconsin's parole system is not achieving its stated, historical purpose: (i) protect the public and (ii) give offenders a chance to rehabilitate themselves. Instead, because of too few prisons and a lack of resources for community supervision, the parole system and sentencing structure operate as a threat to public safety.

The situation could worsen. Current state policy is to fight crime by relying less on prison and more on "alternatives to incarceration," including parole. This is despite the fact that already fewer than one in five convicts is behind bars.

An alternative course of action would provide more protection for the public. It would include more prisons, more investment in rehabilitation, and tougher supervision of offenders on parole and probation. It would overhaul the current parole system, including an end to "mandatory" paroles, where most inmates automatically are released before their prison sentences are served. Independent research on the cost of crime to society indicates the extra cost to the state budget of such a program would be more than offset by the benefits to society of reduced crime and safer streets.

I. PAROLE IN WISCONSIN

This chapter describes the purpose of parole, its history in Wisconsin, and recent trends.

Wisconsin's system of alternatives to incarceration

To the casual observer, discussions of the need for "alternatives to incarceration" might suggest that this is a new idea. In fact, the correctional system in Wisconsin and the nation already is based heavily on alternatives. They are probation and parole. For example:

- Only 17% of convicted Wisconsin offenders are in prison. The rest are on probation (73%) or parole (10%).¹

- Only 19% of convicted offenders under jurisdiction in the 50 states are in prison. The rest are on probation (68%) or parole (13%).²

Thus, at any one time sentenced offenders include those on probation, those in prison, and those released from prison on parole.

- (1) In Wisconsin, more than 70% of offenders receive a prison sentence but don't go to prison. Instead, their sentence is stayed and they are placed on **probation**. They remain in the community, as an alternative to incarceration, and are supervised by a probation agent.
- (2) Remaining offenders initially are committed to **prison**, where they serve a fraction of their sentence before being placed on **parole**. On parole, they serve the remainder of their sentence in the community, as an alternative to incarceration, and are supervised by a parole agent.

Prisoners generally have been convicted of more serious crimes and have more extensive criminal histories than probationers. **Parolees, therefore, come from a pool of the most serious offenders, whose crime and prior conduct warranted imprisonment rather than probation.**

The table below indicates the number of offenders in the Wisconsin system at the end of 1991. The chart which follows shows the percent who were incarcerated and the percent serving under alternatives to incarceration (probation and parole combined).

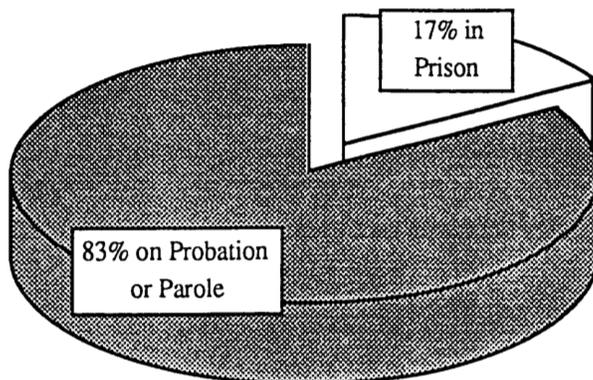
Table I-1. Adult Offenders Under Jurisdiction of the Wisconsin Department of Corrections, 12/31/91.

<u>Probation</u>	<u>Prison</u>	<u>Parole</u>	<u>Total</u>
34,066	7,687	4,655	46,408

¹Population at 12/31/91, from "End of Quarter Populations and Forecasts," Wisconsin Department of Corrections, January 1992.

²Population at mid-1991, from Bureau of Justice Statistics, U.S. Department of Justice, National Update, January 1992.

Chart I-1. Adult Offenders in Prison v. Probation & Parole



The concepts of parole and corrections

Wisconsin does not have a "Department of Prisons" or a "Department of Incarceration." Rather, it has a Department of Corrections, whose dual purpose is to protect the public and to assist offenders in correcting their behavior and becoming law-abiding citizens. The Mission Statement of the Department of Corrections says, in part, that its goals are to:

"...ensure the safety and protection of the public and...assure that all offenders receive the skills necessary to lead crime-free lives...[and] provide assistance to individuals under our supervision to enhance their successful integration within the community."³

National public opinion polls demonstrate support for this dual mission: protection of the public and rehabilitation of the criminal.⁴

Parole is a central element of the corrections process. An offender's time under parole supervision is, theoretically, when rehabilitation culminates and he or she reintegrates as a responsible member of society. If parole works, it means the dual mission is being accomplished. On the other hand, if the parole process is not working, the success of the overall corrections process is in doubt because the public is not being protected and offenders aren't being rehabilitated.

The history of parole and corrections in Wisconsin

The intertwined concepts of parole and corrections are firmly rooted in the state's history. They had assumed a prominent position in state policy by the late 19th century.

³Statement of Mission and Goals, Wisconsin Department of Corrections, July 1990.

⁴The 1989 Gallup Poll said 82% of Americans favored or strongly favored reducing parole for violent criminals. In the same poll a plurality of 48% identified prisoner rehabilitation as the most important purpose of prisons (38% said punishment).

Parole had even earlier antecedents, including the use of early release: (i) to reflect "good time," i.e., good behavior while in prison; or (ii) to relieve overcrowding.

For example, a system of fixed sentences, to be fully served in prison, was established in connection with the first state prison, at Waupun. But crowding resulted in early releases, through gubernatorial clemency, during the 1850s. This practice was followed in the 1860s by the use of "good time" credits; in 1861 and 1862 more than 90% of the releases were early and were based on good conduct while in prison.⁵

These practices evolved into a formal system of parole late in the 19th century. Current policies and concepts of parole for adult prisoners date to legislation enacted in 1889 and amended in 1898 and 1907.⁶

As discussed above, use of parole is inseparable from the concept of corrections, which by the early 1900s had become a central policy of the state for the supervision of convicts. Visible evidence included construction in the late 19th and early 20th centuries of the Wisconsin State Reformatory at Green Bay (today, the Green Bay Correctional Institution). In name and program, it reflected a policy change from 50 years earlier, when the Wisconsin State Prison was built at Waupun (still operating, 140 years later, as the Waupun Correctional Institution).

The following description of the Reformatory was published in 1903. It specifies an intended relationship between corrections, incarceration, and parole which existed then and remains today:

The object of the Reformatory is to return to society, in the shortest time possible, such young men who through ignorance, bad environments, poor training or naturally vicious habits, have committed some offense against the law. The Reformatory is organized with the design to give every one within it a chance, by good conduct and his own efforts, to shorten his stay therein; to give proper schooling; to teach industrious and honest habits; and, by all available means, to advance his material, mental, and moral interests...

When, by good behavior, diligence in work and progress in school, he shall have reached this point, he is eligible for parole. A position is found for him for a specified term with some approved person. He is given a complete outfit of new clothing, sufficient money to pay his expenses until his first pay day and is started on his new life with every encouragement and incentive to be an honest citizen.

The hand of the Reformatory is still over him, either to help or to punish as may be needed. He reports once a month, in detail, his work and actions during the month, which report is verified by his employer and by others when necessary. He is braced and steadied until he can walk alone, when he is given his full liberty...."⁷

⁵State Level Corrections Structure in Wisconsin, Staff Brief 82-14, Wisconsin Legislative Council, July 8, 1982.

⁶State of Wisconsin Blue Book, 1991-92, and Staff Brief 82-14 (see note 5).

⁷State of Wisconsin Blue Book, 1903.

There are more similarities than differences between current policy and that stated in 1903. The 1991-92 Blue Book says the Department of Corrections "supervises the custody and discipline of all prisoners...to protect the public. By providing programs for education, job training, clinical treatment, alcohol and drug abuse, and other services, the department seeks to prepare offenders for reintegration into society...[and]...supervises prisoners on probation and parole...." The Department's Mission Statement says its Division of Probation and Parole "provides offenders opportunities to live, work and receive treatment and training in the community, thus helping them to become productive, gain self-esteem, strengthen their family unit, and reduce their likelihood of further criminal behavior."

Who gets paroled? How?

About 90% of the offenders sentenced to Wisconsin prisons are released on parole before their sentence expires. Inmates who aren't paroled include those who: die in custody; serve their entire sentence in prison; or are released by a court order rather than on parole.⁸

Thus, for the vast majority of inmates the issue is not whether they will be paroled, but when. For the general public, the issue is whether those paroled are ready to become law-abiding citizens, the goal stated in 1903 and reiterated in current state policy.

There are basically two kinds of parole releases: (1) mandatory and (2) discretionary. Discretionary parole must be approved by the Parole Commission, a 5-member board of full-time state employees. The chairman is appointed by the Governor, confirmed by the State Senate, and serves a 2-year term. The remaining four are hired through state civil service procedures.

Mandatory parole occurs after a fixed portion, usually two-thirds, of a sentence is served. It can be reduced or extended based on such factors as compliance with prison rules and performance of duties. The system of mandatory parole was adopted in 1984 and replaced the system wherein parole was determined in part by calculation of "good time" credits for conduct while in prison.⁹

In addition to mandatory parole, inmates may apply for **discretionary parole** which, if approved, occurs earlier than mandatory parole. For example, after serving a minimum time (in some cases only six months), most inmates can apply to the Parole Commission for discretionary parole based on factors such as their: offense history; conduct while in prison; and prospects for employment and treatment in the community.

Discretionary paroles, also known as "early releases," are approved by the Commission. The Secretary of the Department of Corrections has independent authority to grant the equivalent of discretionary parole through the Special Action Release (SAR) program.¹⁰ SARs were used extensively in the mid-80s, sparingly in the late 1980s, and not at all since early 1990. SARs allow the Secretary of Corrections to release inmates without Parole Commission approval to ease prison crowding. The decline in use of Special

⁸"Type of Releases From the Wisconsin Correctional Institutions," 1980-March, 1992, Wisconsin Department of Corrections.

⁹State of Wisconsin Blue Book, 1991-92.

¹⁰State of Wisconsin Correctional System Development Plan, Chapter I, p. 17, Alternatives to Institutional Incarceration.

Action Releases began in 1987 and coincided with a significant acceleration of discretionary paroles by the Parole Commission.

Length of sentence and actual time in prison...the impact of parole

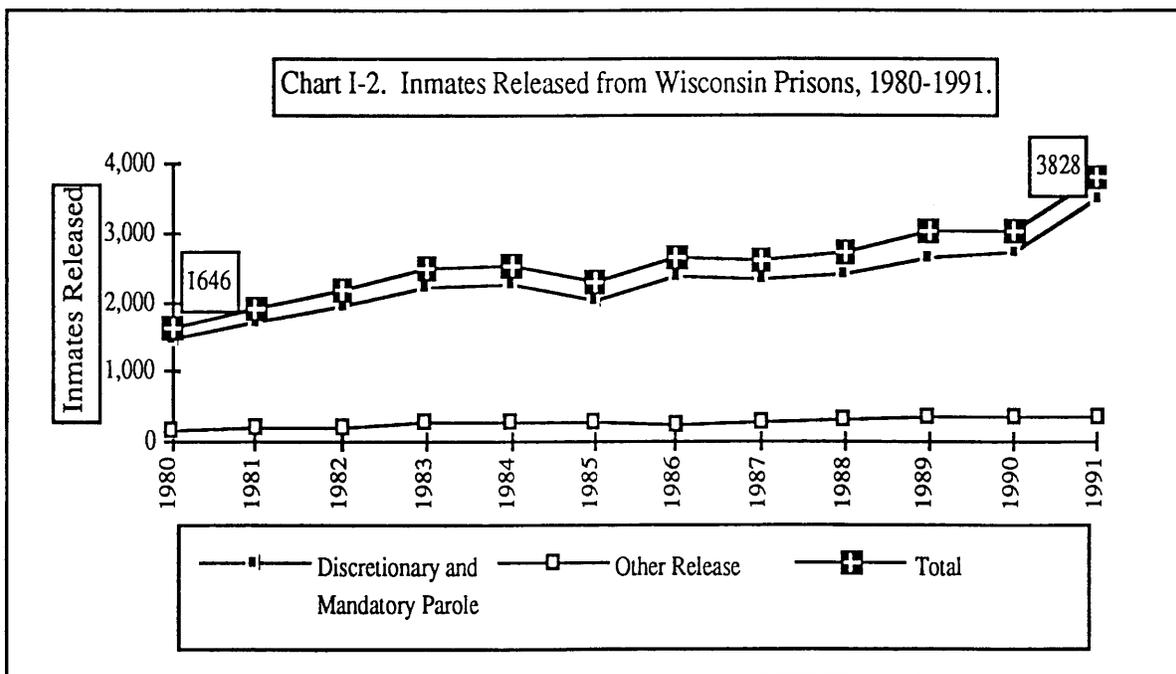
The majority of inmates are paroled before half their sentence is served. They then remain under state parole supervision in the community until the sentence expires. A Department of Corrections study¹¹ of inmates released during 1985-1990 shows that:

- Inmates with a new conviction received an average sentence of five years. These inmates were released to parole after serving about 46% of that sentence in prison.
- Inmates who serve more than half of their sentence in prison usually do so after first being paroled and then being readmitted due to a parole violation.

Number of inmates released and paroled

Since 1980, there has been a 133% increase, from 1,646 to 3,828, in the number of inmates released annually from prison. Parolees comprise 90% of releases.¹²

Despite the increase in releases, prison admissions each year since 1980 exceeded releases. This has meant a steady annual increase in the total number of inmates. In 1991, admissions exceeded releases by 433, an amount equal to more than half the capacity of a typical new prison.¹³



¹¹"Average Sentence, Stay and Proportion of Sentence Served for 1985-1990 Releases," Wisconsin Department of Corrections.

¹²"Type of Releases From the Wisconsin Correctional Institutions," 1980-March, 1992, Wisconsin Department of Corrections.

¹³Adult Institution Admissions and Releases, Wisconsin Department of Corrections, January 1992.

Discretionary v. mandatory release...trends since 1980

Major issues in Wisconsin corrections policy include: the overall increase in number of incarcerated inmates; the increase in number of inmates paroled; and the accelerated use of early, discretionary parole.¹⁴

Growth in Wisconsin prison populations accelerated in the late 1980s (compared to rates of growth earlier in the decade). At about this time, there was (i) a significant reduction in use of Special Action Releases by the Secretary of Corrections and (ii) a major increase in the percentage of inmates released early, on discretionary parole, by the Parole Commission. In 1980, 35% of releases were discretionary paroles. This grew to 60% in 1991. In the first quarter of 1992 it reached 74%. See Charts I-3 and I-4.

Chart I-3 shows the percent of annual releases (from Chart I-2) attributable to discretionary and mandatory parole vs. other reasons.

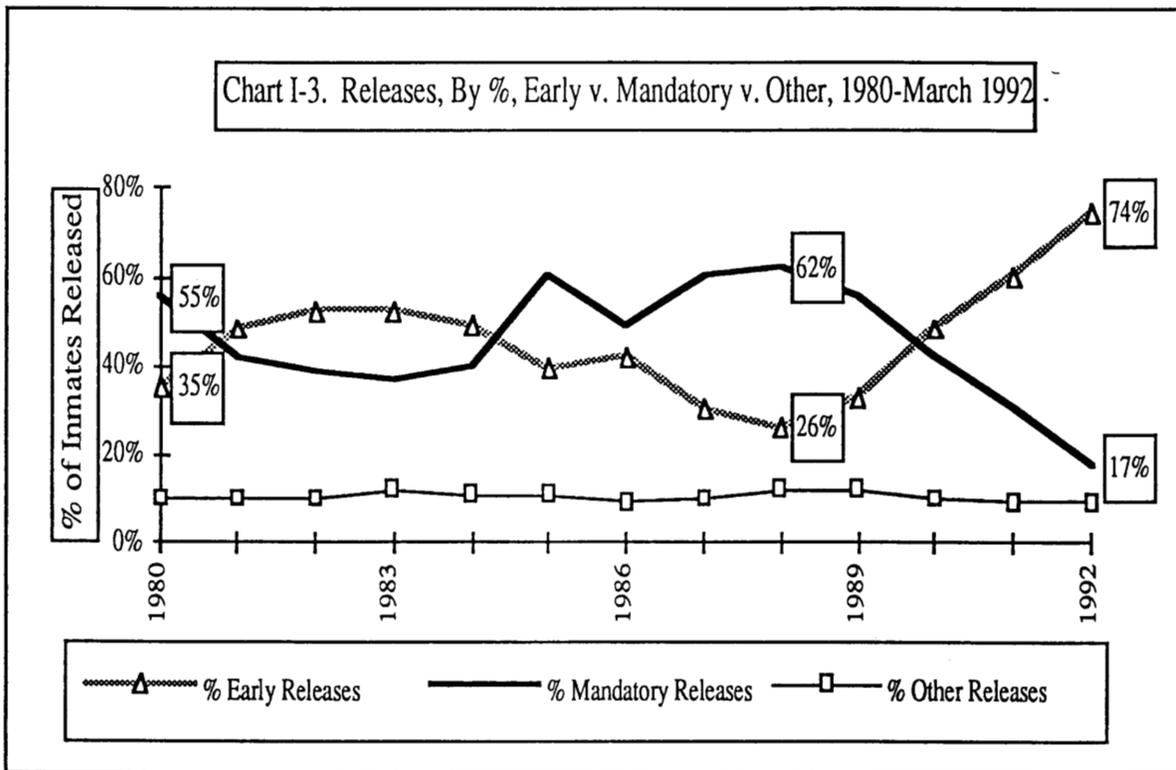
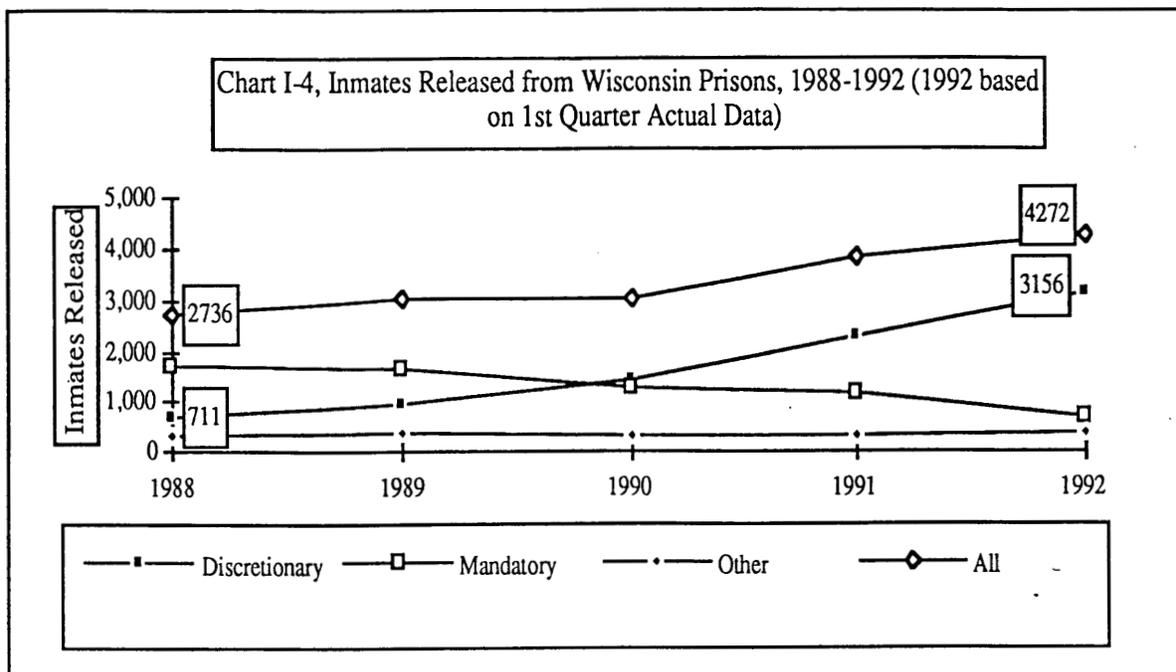


Chart I-4 shows the 1988-1992 trend, using a 1992 projection based on data for the first quarter. As recently as 1988, discretionary releases accounted for only one quarter of all releases. Based on data through the first quarter of 1992, discretionary releases now constitute three-quarters of all releases.

¹⁴A more significant question goes beyond the raw numbers (how many inmates? how many paroles? how many are discretionary?). It is the basic question of whether the parole system is operating effectively...is it protecting the public and enabling most offenders to reintegrate into the community as law abiding citizens? The evidence suggests the answer is no. This question is addressed in detail in Chapter II.



At least two factors explain the increase in discretionary parole.

- (1) It is partly a response to prison crowding.
- (2) The reported position of the Parole Commission is that (i) the rise reflects placement of offenders in better community treatment prior to mandatory release and (ii) it gives state more leverage to have an offender on discretionary (rather than mandatory) parole.

Trends in Wisconsin vs. the nation

As a point of information, recent Wisconsin experience contrasts with national trends, which show a significant decline in discretionary paroles. According to the U.S. Department of Justice:

[T]he process by which offenders have been discharged from prison and placed on conditional supervision [parole] in the community has undergone radical change. In 1977, nearly 72% of the 115,000 persons discharged from State prisons nationwide were released as a result of parole board decisions. Less than 6%...were by supervised mandatory release...and 1% were the result of special release procedures such as supervised furlough or emergency or court-ordered release because of crowding.

In contrast, among the more than 394,000 discharges...in 1989, 41% were by a discretionary parole board decision, 30% were by supervised mandatory release, and nearly 11% were because of special procedures primarily used for coping with prison crowding.¹⁵

¹⁵"Prisons and Prisoners in the United States," April 1992, Lawrence A. Greenfeld, Associate Director, Bureau of Justice Statistics, U.S. Department of Justice.

II. WHO VIOLATES PAROLE?

Chapter I described the concept of parole, its history in Wisconsin, and recent trends. It documented (i) a 133% increase in prison releases since 1980 and (ii) a tripling since 1988 in the rate of early, discretionary paroles.

This chapter discusses whether inmates are being paroled who should remain in prison. It: (i) describes representative views on both sides of the issue; (ii) summarizes selected national research; and (iii) presents research which for the first time profiles a typical parole violator in the Wisconsin system.

The issue is whether the current process and sentencing structure produce decisions which threaten public safety by paroling inmates who should be in prison. The concept of parole is not questioned here. There always will be parole, and there always will be individual examples of parolees who commit crime; the only way to avoid that is to never parole any inmate. The question is whether the current implementation of parole in Wisconsin is working adequately.

The major findings presented in this chapter are as follows:

- (1) Elected officials and opinion leaders differ sharply on whether the parole process is working to protect the public and rehabilitate offenders.
- (2) National research demonstrates that most parolees return to some form of criminal activity. Research specific to Wisconsin suggests the same is true here.
- (3) Original research conducted as part of this study analyzed the 763 Wisconsin parolees returned to Wisconsin prisons in 1991 due to parole violations.

This research indicates that the parole system and sentencing structure in Wisconsin fail to protect the public: too many inmates are paroled who aren't prepared to be law-abiding citizens.

Differing views on whether the parole system is working

The question of whether paroled inmates threaten public safety is a topic of statewide interest; every year inmates are released from prison and return to live in virtually all areas of the state. It is a particularly active issue in Southeastern Wisconsin, reflecting higher crime rates and heightened citizen concern.¹⁶

¹⁶Two recent surveys illustrate this point:

(i) A statewide survey of 1,000 citizens was conducted in late 1991 for the Wisconsin Policy Research Institute by The Gordon S. Black Corporation. The criminal justice system was second (to taxes) as the single most important problem facing the state. It was first in the City of Milwaukee and metropolitan Milwaukee.

(ii) A survey of 401 registered voters in the City of Milwaukee was conducted for the Milwaukee Public Schools in April 1992 by Peter D. Hart Research Associates. Respondents were asked to identify the two most important issues facing the city. "Controlling crime" was first, followed by "Improving public schools."

The range of differing views is illustrated, on the one hand, by (i) statements from senior elected officials in Milwaukee County and, on the other hand, by (ii) actions by the Legislature and the editorial position of the state's largest newspaper, The Milwaukee Journal.

Mayor John Norquist and County Executive F. Thomas Ament

In January of 1991, Milwaukee Mayor John Norquist called on the Legislature to construct new prisons:

"There should be a place for every violent criminal in prison for as long as the judge's sentence. I wish it wasn't so, but under present conditions we need more prisons. Criminals who would hurt or kill citizens of Milwaukee must be separated from our community...No violent criminal should be put back on the streets of this city because there isn't space in prison."¹⁷

The Mayor's proposal followed a December 1990 state plan which said prison capacity for about 6,500 new offenders was needed by the year 2001 to handle projected growth in inmate levels.¹⁸ In March 1991, Governor Thompson proposed: (i) 4,528 new cells; (ii) an increase to 1,000 in the number of offenders monitored by electronic bracelets; and (iii) an increase to 1,000 in the number of offenders monitored by so-called intensive, highly structured probation or parole.¹⁹

The Legislature appointed a panel to study the Governor's plan.²⁰ Based on the panel's report, and the opposition of many legislators to new prisons, the Legislature reduced the Governor's proposal for new cells by 63%. The final plan, adopted in September 1991, included 1,684 new cells, a reduction of 2,844 from the Governor's plan.²¹ An intended result, on the part of many legislators, was to raise the percent of offenders (now 83%) on probation and parole and to reduce the percent (now 17%) who are incarcerated.²²

In October 1991, Milwaukee County Executive F. Thomas Ament (then Chairman of the County Board of Supervisors) issued a statement disclosing a significant increase in the use of discretionary parole. Ament criticized the Legislature's decision not to build enough prisons to accommodate projected growth in inmates. He said that (i) lack of prison space undercut local efforts to fight crime and (ii) there is a link between prison crowding, the release of dangerous inmates, and the commission of serious crimes. He released anecdotal examples, including news stories describing:

¹⁷State of the City Address, January 28, 1991.

¹⁸State of Wisconsin Correctional System Development Plan, December 1990. The Plan was developed by a team of correctional and architectural consultants, under contract to the State Building Commission. The team was managed by the author of this study.

¹⁹State of Wisconsin Correctional System Expansion Plan, Governor Tommy G. Thompson and Department of Corrections, March 1991.

²⁰The Wisconsin Correctional System Review Panel, chaired by UW Law Professor Frank Remington, issued its Final Report in June 1991.

²¹"Prison Expansion Plan - Comparison", Wisconsin Department of Corrections

²²The Legislature relied greatly on the Panel's Final Report (see note 20), which said: "...there are a significant number of people projected [by the Department of Corrections] to be in prison who can better be handled by 'an intermediate sanction or punishment program'..." The report's recommended program said that thousands of offenders otherwise projected for prison terms should instead be supervised primarily in the community.

- "A drug dealer sent to prison [in 1990] and freed on parole [in November 1991] has been charged with killing his ex-girlfriend, whose bullet-riddled body was found in a closet over the weekend."
- "The parole officer for a man accused of sexually assaulting three boys had recommended before any of the assaults occurred that the man go back to prison."

In February, 1992, Mayor Norquist continued the dialogue:

"Simply arresting criminals is not enough. Milwaukee has been declaring a war on crime, but the Wisconsin parole system operates under a cease fire...Our prisons are full. To make room, [the state] releases dangerous inmates back into the streets -- the last place they should be."

The Mayor announced a Neighborhood Parole Watch to monitor "the release of inmates into our community" and call attention to the problem of crime committed by parolees. A month later he released information about inmates recently paroled and inmates scheduled for parole hearings, including:

- "A man convicted of manslaughter for beating another man to death with a hammer is up for parole this June [1992]. He was sentenced to eight years in prison in 1988."
- "A 19-year old man, who helped rob two teenagers of their tennis shoes with a sawed-off rifle, was sentenced to four years in prison in August [1991] and is eligible for parole in May [1992]."
- "A man who sexually assaulted a five-year-old girl was sentenced to five years in prison in August [1991] and is eligible for parole in May [1992]."

The Milwaukee Journal

In November, 1991, following Ament's statement and its own confirming story on increased use of discretionary parole, The Milwaukee Journal published an editorial, "A better way to get 'tough' on crime". It summarized the basic policy behind the Parole Commission actions and offered the paper's support of that policy. Referring to growth in discretionary paroles, it called for recognition of "the wise strategy behind what on the surface might appear to be alarming numbers." Most of the editorial is quoted below; it reflects clearly the basic case for a policy of increased parole:

"[Prison] crowding has forced [Governor] Thompson and the Legislature to consider effective alternatives to incarceration, but in this case the increase in releases has little to do with prison crowding. Rather, it is primarily the result of a sensible effort by the Parole Commission's new chairman, John Husz, to take prisoners who are whiling away their time watching soap operas and get them into job training, drug rehabilitation and other such programs. The idea is to reduce the chances that ex-offenders will commit new crimes when they are discharged.

"Such programs are virtually nonexistent in prisons these days because of the stress on the system's resources. But there are some good programs available outside of institutions. Rather than demanding that prisoners spend their last few months behind bars until their mandatory [parole] date, Husz is working to identify those who would benefit from community programs and get them plugged in before their terms are up and the system loses control over them.

"Once released, these people are placed in half-way houses, monitored with electronic bracelets, or otherwise closely supervised. Rather than being soft on criminals, this approach makes new demands on offenders and requires them to take concrete steps toward improving their lives.

"Those who refuse to cooperate go back to prison until their release dates. The wisdom of this approach is that it recognizes that virtually all prisoners will return to the streets sooner or later. While the punishment that incarceration imposes is necessary, the corrections system will ultimately fail if it doesn't make a meaningful effort to rehabilitate people.

"This approach offers no panacea. But it does increase the chances that some convicts will seize the chance to rebuild their lives -- *and at relatively little risk to the community.*" (emphasis added)

The Legislature

Along with endorsing the accelerated release of inmates, The Journal has supported a related policy: sending fewer inmates to prison in the first place. This policy was a significant aspect of the Legislature's 1991 response to Governor Thompson's prison plan.

The source of this policy was the Wisconsin Correctional System Review Panel, appointed in April 1991, following the submission of Thompson's plan a month earlier. The Panel issued its report in June 1991.

The Panel's essential conclusions (see note 22) were that (i) too many people already are in prison and (ii) thousands more projected for imprisonment in the 1990s shouldn't go there either. The Panel's Final Report says those who shouldn't be in prison "...are largely property offenders who are nonviolent, many of whom have a drug or alcohol abuse problem and who are presently classified by the Department of Corrections in the lowest risk category."

The Panel quantified its estimate of how many inmates should not be in prison by recommending a community-based "intermediate sanction" program for 3,500 offenders by 1995 and 5,000 by 1997. It said this could save tens of millions of dollars and be accomplished without removing from prison "violent or high risk offenders." The program, adopted by the Legislature and since renamed "intensive sanctions," broadly expands historical efforts at highly structured probation and parole.

The recommendations of the Panel were billed as major new policy. They were...and weren't. As explained in Chapter I, historically more than 80% of convicted offenders already were serving time in "alternatives to incarceration." Further, Governor Thompson's March 1991 proposal included a major expansion of inmates under electronic monitoring and other forms of "intensive community supervision."

What was new about the Panel's work, and its acceptance by the Legislature, was (i) the explicit assertion that *thousands* of current and projected prison inmates did not need to be in prison and (ii) the de facto recommendation that a cut be made in the percentage of all offenders (now 17%) in prison.

A synopsis of the opposing views

What exists, then, is a fundamental policy clash over the relative role prison and "alternatives to incarceration" should play in responding to crime. Governor Thompson, County Executive Ament, and Mayor Norquist independently have concluded that the role of prisons should be at least as important as now, and perhaps increased. At the same time, the Legislature and the state's largest newspaper say prisons should play a reduced role, relatively speaking, and that more reliance should be placed on parole and other "alternatives to incarceration." (The state's second largest paper, The Milwaukee Sentinel, has supported the Thompson-Ament-Norquist stance.)

Who's correct?

Which view is right? Were Tom Ament and John Norquist correct in supporting Governor Thompson's plan? Are they right in believing that inmates are unwisely being paroled? Or, was the Legislature and the Assembly's Correctional System Review Panel right in saying too many "low risk" offenders are in prison? Is The Milwaukee Journal on target in supporting the Legislature's actions and saying that more paroles pose "relatively little risk to the community"?

The evidence offered by each side is not by itself conclusive.

Examples provided by Ament and Norquist, while not strictly "isolated," still are largely anecdotal. It always will be possible to identify individual cases where a parolee commits a serious crime; such information might or might not indicate a problem.

As for the Journal's parole editorial, it did not cite specifics and accepted at face value the Parole Commission chairman's explanation of the policy and its benign impact on community safety. Still, it would be possible to identify individual criminals who have been rehabilitated through the parole process and can lay claim to being "ex-offenders." Isolated examples would not necessarily prove or disprove the newspaper's point.

The Correctional System Review Panel provided extensive descriptive information about various categories of inmates. It said that within the 17% of all offenders in prison, many: are serving time for their first offense; have relatively short sentences; are guilty of "nonviolent" offenses; have been classified as "low risk"; and need alcohol and drug treatment not widely enough available in prison. Based on these and other categorical descriptions, the Panel said thousands of current and prospective inmates could be safely and effectively supervised outside of prison. The Panel reached this conclusion without citing specific cases of individual inmates who should not be in prison.

More information is needed to answer several basic questions:

- Is the overall thrust of the parole program endangering public safety?
- Is there a pattern of inmates being released who should be in prison?
- Should Wisconsin send fewer criminals to prison in the first place?

Answers

To answer those questions, it is necessary to understand: who commits crime on parole; how often; and the seriousness of the violations. National research exists on these topics, part of the general literature on recidivism. While several national studies were conducted in the 1980s, prior to this report scant evidence was available that would depict a detailed profile of a typical Wisconsin parole violator.²³ This knowledge is needed to draw conclusions about how *Wisconsin's* system is working.

National research on criminal recidivism is reviewed below, with emphasis on findings relevant to Wisconsin and its experience with parole violators. This is followed by specific information and original research on Wisconsin. Major findings and observations include:

- Nationally: (i) at least half of all former inmates will be reincarcerated and (ii) most who go back to prison will do so within three years of release.
- In addition to released inmates who are reincarcerated, a much greater number return to some form of crime. The gap between those who return to prison and the larger number who return to crime exists because many released inmates are arrested and convicted of new offenses but not necessarily sentenced to prison.
- Research strongly supports the conclusion that inmates released from Wisconsin prisons reinvolve themselves in criminal activity on a scale similar to prisoners released nationally.

For example, data from various sources suggest that within three years of being released at least 40% of Wisconsin offenders are reincarcerated in local jails or state/federal prisons. Within about six years, 50% or more are reincarcerated. Because most crime does not result in an arrest, much less incarceration, the only plausible conclusion is that more than half of the inmates released from Wisconsin prison return to crime.

- Thus, Wisconsin's policy of increased parole is tantamount to a de facto program of increasing crime. This, in essence, is the concern expressed by County Executive Ament and Mayor Norquist in supporting Governor Thompson's prison plan.

National Research

Definitions of criminal recidivism vary, depending on whether and how soon a released convict is (i) arrested or (ii) convicted or (iii) incarcerated after a prior conviction for a crime.

²³While specific information about Wisconsin parole violators has been somewhat limited, exhaustive information is available about Wisconsin prison inmates, the pool from which parolees come. In addition to Department of Corrections records, pioneering research was published in 1990 based on a random, scientific sample of minimum, medium, and maximum security prisoners in Wisconsin. The research describes in detail the criminal histories of Wisconsin prison inmates and is thus particularly relevant to the issue of parole. The research is cited later in this study. Also, see: (i) "Crime and Punishment in Wisconsin" by John J. DiIulio Jr., Ph.D., Wisconsin Policy Research Institute, December 1990; and (ii) "Does Prison Pay? The Stormy National Debate Over the Cost-Effectiveness of Imprisonment," by Professor DiIulio and Anne Morrison Piehl, in The Brookings Review, Fall 1991.

A selected survey of national research relevant to Wisconsin and issues in this study follows. Six different reports are cited, one quite old and some quite recent. Several reports draw information from other studies not cited here.

1) The 1923 U.S. Census of Prisoners "described the prior confinement histories of the 147,000 new commitments during the year -- *nearly half had previously been incarcerated*" (emphasis added).²⁴

2) A 1988 study by the U.S. Department of Justice (DoJ) summarized a wide variety of separate research supporting the notion that "repeat offenders are responsible for much of the Nation's crime."²⁵ Portions are quoted and paraphrased below.

Who are career criminals? The term describes offenders who: have an extensive arrest/conviction record; commit crimes over a long period of time; commit crimes at a very high rate; commit relatively serious crimes; use crimes as their principal source of income; specialize or are expert in a certain type of crime; or have some combination of these characteristics. Such criminals are often described as chronic, habitual, repeat, serious, high-rate, or professional offenders.

Some career criminals exhibit all of the above characteristics, but most do not. Relevant findings from various studies conclude that:

- A few criminals commit many, perhaps *most* crimes.
- High-rate offenders seldom specialize in one type of crime.
- Few repeat offenders are full-time criminals. Most have irregular sources of income and commit crimes during periods of unemployment.
- Juvenile delinquency often foreshadows adult criminal activity. The more serious the juvenile career, the greater the chance of adult criminality.
- The more often a person is arrested, the greater the chances of being arrested again.
- The more often an offender is arrested before going to prison, the more likely and the sooner that person will be arrested after release (including parole).
- Criminal history, age, and drug and alcohol abuse are among the best correlates of future criminality.
- After their release from custody, offenders continue to commit crimes, and often serious crimes.
- The older the offender at the time of arrest, the longer he is likely to continue a criminal career.

²⁴"Prisons and Prisoners in the United States," April 1992, Lawrence A. Greenfeld, Associate Director, Bureau of Justice Statistics, U.S. Department of Justice.

²⁵Report to the Nation on Crime and Justice, Second Edition, NCJ-105506, March 1988

- Despite repeated convictions and incarcerations, many offenders continue to believe they can get away with committing crimes.

Research in this 1988 study included various rates and definitions of recidivism. Noteworthy are findings that (i) about half of released inmates will be reincarcerated and (ii) most of those who go back to prison do so within three years of release. If half of released inmates will be reincarcerated, many more than half return to some form of crime, because not all criminals are caught and most who are don't go to prison. The hypothesis that most people released from prison return to crime is supported by other studies.

3) A 1989 DoJ report summarizes a long-term study of 108,580 persons released from prisons in 11 different states in 1983.²⁶ To date this is the most extensive study ever conducted of parolees. (The Department of Justice announced in April 1992 the start of a major new parole study.) The 1989 study was based on a sample of 16,000, or about 15%, of all releases in the affected states. The 11 states accounted for more than half of all released prisoners in 1983. Selected findings:

- An estimated 62.5% of released inmates were rearrested for a felony or serious misdemeanor within 3 years; 46.8% were convicted; and 41.4% went to jail or prison.
- After 3 years the released prisoners who were rearrested averaged an additional 4.8 new charges.
- The more extensive a prisoner's prior arrest record, the higher the rate of recidivism. More than 74% of those with 11 or more prior arrests were arrested again.

4) In April 1992 a comprehensive study was released which included data on 115,856 "state parole discharges," i.e., previously released inmates whose parole was terminated. The study said "Among all persons discharged by state paroling agencies in 1988, 35% successfully completed parole" and fully 61.7% were "returned to jail or prison."²⁷

5) Recidivism among probationers also has been studied extensively. It is relevant to a study of parole because of overlap among offenders whose careers include both probation and parole.²⁸ A major study issued in February 1992 tracked 79,000 felons, a 25% sample, sentenced in 1986 to probation in 17 different states.²⁹ Selected findings:

- Sixty-two percent either had a disciplinary hearing for violating probation or were arrested for another felony.

²⁶"Recidivism of Prisoners Released in 1983," by Allen J. Beck, Ph.D., and Bernard E. Shipley, Bureau of Justice Statistics, U.S. Department of Justice, April 1989.

²⁷"National Corrections Reporting Program, 1988," by Craig Perkins and Darrell K. Gilliard, Bureau of Justice Statistics, U.S. Department of Justice, April 1992.

²⁸More than 40% of the prisoners in Wisconsin have been on probation twice, according to "Crime and Punishment in Wisconsin," see note 19.

²⁹"Recidivism of felons on probation, 1986-89," by Patrick A. Langan, Ph.D., Bureau of Justice Statistics statistician, and Mark A. Cunniff, National Association of Criminal Justice Planners; Bureau of Justice Statistics, U.S. Department of Justice, February 1992.

- Within 3 years, 46% of all probationers had been sent to prison or jail or had absconded (their whereabouts were unknown or they had failed to report to court).
- Of those in the sample, 21% had not been recommended for probation but were sentenced that way anyhow; those in this subgroup were nearly twice as likely to have probation revoked and be sent to prison.

6) Finally, the national 1991 State Prison Inmate Survey³⁰ showed that:

- About 80% of state prisoners have had prior sentences to prison, jails, youth confinement facilities, or probation.
- About 60% of state prisoners were serving a sentence for a violent crime or had a prior history of conviction for violent crimes.
- Nearly a third had a history of at least two prior sentences to confinement as an adult.
- Ninety-three of state prisoners either were recidivists or had current or prior convictions for violence.

The Wisconsin experience

As documented above, nationally the majority of released inmates return to criminal activity. The sooner they are released, the sooner they can start.

If Wisconsin is representative, current parole policy effectively contributes to an increase in crime.

Those who favor a reduced reliance on prisons offer a different assessment.

- According to the previously cited Journal editorial, for example, the Parole Commission "...is working to identify those [prisoners] who would benefit from community programs...Once released, these people are placed in halfway houses, monitored with electronic bracelets, or otherwise closely supervised. Rather than being soft on criminals, this approach makes new demands on offenders...at relatively little risk to the community."
- Support for this point-of-view comes from the Correctional System Review Panel, whose 1991 report says substantial numbers of current (and future) inmates fit into rhetorically unthreatening categories: "first-time offender," "low risk," "nonviolent," "nonassaultive," "property offender," and so forth. Most of these inmates, the Panel argues, should not be in prison. The Panel's report assumes that thousands of such people are in prison or will be sentenced to prison in the 1990s. This assumption formed the basis for the Legislature's response to Governor Thompson's prison plan and for Journal editorials arguing for more "alternatives to incarceration."

There is a much different view of who is in Wisconsin prisons. It comes from The Wisconsin Prisoner Survey, described in 1990 research of John J. DiIulio, Jr., Ph.D., for the Wisconsin Policy Research Institute (see note 23). DiIulio is Professor of Politics and

³⁰As cited in "Prisons and Prisoners in the United States," April 1992, Lawrence A. Greenfeld, Associate Director, Bureau of Justice Statistics, U.S. Department of Justice.

Public Affairs at Princeton University and Director of Princeton's Center of Domestic and Comparative Policy Studies. He is a nonresident fellow at The Brookings Institution. His pioneering prisoner survey and analysis of the cost of incarceration vs. the cost of crime was conducted with Anne Morrison Piehl, a Ph.D. candidate in the Department of Economics at Princeton. Their studies are nationally regarded and have been published in various journals, including The Brookings Review.

The Wisconsin Prisoner Survey is more thorough than the Correctional System Review Panel in describing who is in prison. The Panel's research, conducted in less than two months, describes Wisconsin inmates in broad categories and relies primarily on official published records. The Prisoner Survey, in contrast, is a more detailed analysis which extensively probes the criminal history of a representative, scientifically selected sample of individual inmates. It was conducted over several months, involved visits to prisons, and included extensive personal interviews with inmates. It provides information both on the **reported and unreported** criminal activity of prisoners. It goes well beyond official statistics and, therefore, is more comprehensive than the data used by the Panel.

Selected findings of the Wisconsin Prisoner Survey are as follows:

- Excluding drug sales, Wisconsin prisoners committed 141 crimes per year (average) or 12 crimes per year (median).
- Including drug sales, prisoners committed 1,834 crimes per year (average) or 25 (median).
- More than 70% of the prisoners said they first became involved in crime to get money for drugs.
- More than 60% said they had been arrested four times or more.
- More than 40% said they had been on probation two times or more and on parole one or more times.
- More than 50% agreed with the statement that "Men who are really good at crime never seriously think about going straight." Nearly half said there was a 50-50 chance or less of going to prison for committing crimes.
- More than 70% said being in prison was about what they thought it would be like or better.
- More than 25% said they committed one or more robberies a week. Almost 30% said they never were arrested for robberies they had committed. In nearly 70% of all robberies inmates said they carried a weapon "to threaten or injure someone."

The research by DiIulio and Piehl was issued and widely publicized in December of 1990 (the same month as the 1990 prison master plan was issued) and was thus available to the Correctional System Review Panel as it reacted to the Governor's proposal.

While not acknowledging the DiIulio/Piehl research, the Panel implicitly discounts its significance. The Panel says, for example, that by the mid-1990s *thousands* of "non-assaultive low risk property offenders" would be candidates for "intermediate sanctions" instead of prison. But the Wisconsin Prisoner Survey results cast doubt on the idea that Wisconsin prisons house such significant numbers of "non-assaultive" and "low risk

property offenders." The conclusion that there are large numbers of such inmates appears to rely unduly on official, but incomplete, published data.

Further, the Correctional System Review Panel implies it will be relatively easy to distinguish inmates who can be safely released from those who might fit the more typical prisoner profile of DiIulio/Piehl. Illustrative are such statements as: "Do not release violent offenders to deal with overcrowding pressures. This has happened in states such as Texas with disastrous results. Violent offenders need not be released to deal with overcrowding if an intermediate sanction program exists." Nevertheless, after this admonition to "*not release* violent offenders to deal with overcrowding" the Panel says: "*When released* the violent offender should receive intensive supervision and can be expected to 'fail' if that supervision is not provided." Emphasis added.

In summary, the Panel's research contrasts with that of DiIulio/Piehl regarding (i) who is in prison in Wisconsin and (ii) the ease of distinguishing between those who do and don't pose a threat to society if released.

Research for this study

This study builds on that conducted by DiIulio/Piehl. Where they profiled who is in prison, this study focuses on:

- Who, individually, is released from prison on parole?
- Who, individually, violates parole and is returned to prison?
- What kinds of specific, individual crimes are committed by parolees?

In other words, this study moves from broad and seemingly incomplete descriptions of the Correctional System Review Panel to find out what actually occurs when inmates are released. Does the parole process and sentencing system effectively discriminate in releasing inmates? Do the releases pose "relatively little risk to the community," as the Journal contends? Or, does the system routinely release inmates who fit the DiIulio/Piehl profile? Do these released inmates involve themselves again in serious crime? Do they do so at levels similar to what is reported in national studies of recidivism?

To seek evidence which answers those questions, this study undertook original research on parolees (mandatory and discretionary) from Wisconsin prisons who later are reincarcerated in a Wisconsin prison. This very conservative definition of recidivism excludes many repeat criminals, such as:

- Those who are arrested, convicted, sentenced, and incarcerated in a local jail;
- Others who are arrested, convicted, sentenced, and incarcerated in federal prison;
- Still others who are arrested, convicted, sentenced, and incarcerated in other states; and
- Those who are arrested, convicted, and sentenced to probation or otherwise not reincarcerated.

Thus, the study analyzes a fraction of the career criminals released from Wisconsin prisons. The conclusions, therefore, underestimate the magnitude of repeat criminal activity in Wisconsin.

Initial research

As an initial point of research, this study sought to determine if the Wisconsin Department of Corrections had information evaluating parole programs. The Department provided three analyses: (i) a "Summary of Return Rates," which tracks the percent of releases who later return to prison; (ii) "Revocations in Community Corrections," a 1988 study exploring the number and causes of probation and parole revocations; and (iii) "Revocation Study," a 1990 study with a focus similar to that in 1988.

The latter two studies primarily analyze whether parole and probation revocations stem from new criminal acts or violations of parole and probation rules. The conclusions vary: the 1988 study found that revocations related primarily to new crimes and the 1990 study found the opposite. These opposing conclusions derive from one or more factors: (i) different study methods; (ii) differences in offenders studied; and/or (iii) different administrative practices, such as more use in 1990 of rule violations (as opposed to criminal convictions) for administrative expediency.

The "Summary of Return Rates" (hereafter Summary) was the most extensive and most relevant to this study. It is a numerical analysis, done in early 1990, which tracks the history of *all* inmates released from Wisconsin prisons in 1980-87 to determine the percent who were reincarcerated in Wisconsin prisons during 1980-89.

Initial findings

Information from the Summary and other sources strongly supports the conclusion that inmates released from Wisconsin prisons reinvolve themselves in criminal activity on a scale similar to prisoners released nationally.

For example, the 1989 national study (note 26) found that within 3 years of release 41.4% of inmates were reincarcerated. This national data include new sentences in local jails, federal prisons, and any state prison. Wisconsin data from the Summary show about 36% of released inmates are reincarcerated in Wisconsin prisons in three years. While lower than the national rate, this number is based only on returns to Wisconsin prison and excludes sentences to local jails, other state prisons, or federal prison. Further, it excludes parolees who violate parole but are processed under the state's "Alternative to Revocation" program (ATR). Taking those several exclusions into account, the 3-year, 36% rate of reincarceration listed in the Summary might even exceed the national rate.

The validity of this conclusion is reinforced by the time periods involved. The Wisconsin data are for inmates released in the seven years starting in 1980. The national study addressed inmates released in 1983 and followed them for three years. Thus, there is substantial overlap in the time covered.

After six years (instead of three), the Wisconsin Summary finds that more than 40% of released inmates are reincarcerated in the state's prisons. Factoring in ATRs and sentences to jail, other state prisons, or the federal system, more than half of Wisconsin releases are likely to return to crime within six years. This is consistent with the multitude of data cited above from national studies.

Further research: who are Wisconsin's repeat criminals?

If most released inmates return to crime, the specific remaining questions are: What kind of crime? How often?

This study tests the hypothesis that characteristics of repeat criminals found in the national studies are representative of Wisconsin. There are two key questions:

- Are parole violators involved mostly in isolated, "nonassaultive" crimes, including crimes which primarily injure themselves (drug or alcohol abuse)?;
- Or, do they fit the DiIulio/Piehl profile and thus resemble the "career criminal" described in the 1988 Report to the Nation on Crime and Justice:

"...offenders who: have an extensive arrest/conviction record; commit crimes over a long period of time; commit crimes at a very high rate; commit relatively serious crimes; use crimes as their principal source of income; specialize or are expert in a certain type of crime; or have some combination of these characteristics. Such criminals are often described as chronic, habitual, repeat, serious, high-rate, or professional offenders.

It is essential to know the type of crimes committed by parolees to answer the basic issue addressed in this study: **are inmates paroled who should remain in prison?**

Can the type of crime(s) committed by parolees be determined? Yes.

Methodology

This study reviewed actual, individual records of a representative sample of all parole violators returned to Wisconsin prisons in 1991 to determine (i) the type of crime(s) committed after release and (ii) the parolee's prior history of arrests, incarcerations, and crimes. This enables an overall profile to be drawn of who violates parole in Wisconsin and to compare the findings with the national sample to see how comparable the groups are.

Such a study has not previously been conducted in Wisconsin.

The Department of Corrections was asked first for a list of all inmates admitted for a parole violation to Wisconsin prisons in 1991. The list totaled 763 admissions. About 30% had violated discretionary parole. The rest had violated mandatory parole.

The Department's chief statistical expert suggested a method for drawing a sizable, representative sample from the overall total of 763 parole violators. With no involvement by the author, the Department independently used a random, computer selection technique to produce a list of 155 -- 20% of the overall universe.³¹

The Department authorized and facilitated a review of public records -- records such as court transcripts, arrest histories, Parole Commission reports, and parole revocation hearing transcripts -- in the 155 inmate files. This review occurred during April and May of 1992. The review was conducted by the author and a research associate, Jean M. White. Ms. White is a graduate of the Institute for Court Management in the School of Law (University of Denver) and has a Master's Degree in city planning from the University of Pennsylvania.

³¹Reports identifying the overall universe and 20% random sample were produced March 19, 1992. They include 1991 admissions of parole violators and do not include violations committed in 1991 which were not adjudicated in time for completion of the revocation process and actual admission in 1991.

From the initial sample of 155 names, records for 12 inmates were not usable, primarily because their records were being used by others in the correctional process. The 12 included several inmates whose files were with the Parole Commission. Several inmates whose records were reviewed either were released or were scheduled to be released within weeks.

After eliminating the 12 inmates whose records were not available, the remaining sample included 143 parole violators from 1991, or 18.7% of the universe. The Department's statistical expert affirmed his belief that the sample size and methodology of selection would produce a representative group of parole violators.

Two kinds of information were gathered from the public records made available.

(1) **Quantifiable data**, regarding such categories as:

- Most recent date of admission during 1991;
- Date of release on parole prior to the most recent admission;
- The number of "months out" between the prior release and recent admission;
- The next scheduled release, which either is a date of actual release, for those 1991 admissions who already have been paroled again, or the next Mandatory Release date;
- The "time in," which is the number of months between the most recent admission and "scheduled release";
- Age and gender;
- The estimated number of adult arrests (in most cases this is a minimum number; arrest records were not always current and usually only related to Wisconsin arrests);
- The offender's age at the time of the first adult arrest; and
- The number of times the offender had been incarcerated in a Wisconsin prison (in most cases this is a minimum number, excluding sentences to local jails, federal prison, or other state prisons).

(2) **Qualitative information**, such as:

- Type of crime(s) committed;
- Whether the offender has a drug or alcohol abuse history;
- Other information from public records which describes the nature and seriousness of committed crimes;
- Information which describes characteristics of the offender which might or might not be consistent with the "textbook" description of a parolee, i.e., an offender moving logically through the rehabilitation process, with apparent prospects for returning to society as a law-abiding citizen.

The research did not compile information on race, ethnicity, or predominant location of the offender's criminal activity. From observation: (i) the sample included violators from

throughout Wisconsin; and (ii) as expected, there was a somewhat disproportionate number from Southeastern Wisconsin.

Quantitative profile of the typical Wisconsin parole violator

The typical Wisconsin parole violator is profiled in Table II-1.

Table II-1. Typical Wisconsin Parole Violator, By Various Categories, Readmitted in 1991 to a Wisconsin Prison.

	<u>Average</u>	<u>Median</u>
•Time Between Most Recent Admission and Prior Release on Parole	18 months	12 months
•Time Between Most Recent Admission and Next Scheduled Release (Parole)	35 months	15 months
•Age	39	38
•Number of Adult Arrests	13	12
•Age at First Adult Arrest	20	20
•Number of Times in State Prison	4.5	4

Based on this information, the typical violator meets virtually all criteria associated with serious, repeat, career criminals. He/she:

- Has been arrested repeatedly, with the first arrest coming shortly after becoming an adult (often after a juvenile crime record);
- Has been involved in serious crime, as evidenced by four separate times in state prison; and
- Is part of an apparent "revolving door" syndrome, having been out only a year before being resentenced and being scheduled for parole in less than 1.5 years.

The typical Wisconsin parole violator thus is similar to the typical inmate profiled by DiIulio/Piehl and meets virtually none of the broad descriptions used by the Correctional System Review Panel to describe who should not be in prison. This suggests: either the inmates described by the Panel are less numerous than it contends; or the parole process systematically avoids releasing them (in favor of more dangerous inmates); or both. About the only criterion identified by the Panel which the typical parole violator does meet relates to drug and alcohol abuse: more than 85% of the sample are identified by the state as having a history of serious drug or alcohol abuse.

As striking as the data in Table II-1 are, the information pales in comparison to case histories associated with the typical parole violator. For this study, case histories were reviewed for all 143 violators. Twenty-five case histories judged to be reasonably representative are in Table II-2, consisting of 5 pages.

Research cited previously in this chapter strongly suggests that most released Wisconsin inmates return to some form of crime. Among this group, the offenders described above are reasonably typical of those who were caught and returned to prison in 1991.

With this in mind, consider again the assertions of the Correctional System Review Panel and the Journal that the community faces "little risk" from a policy which reduces the percent of criminals in prison.

Further, review once more the state's current and historical criteria and mission for the correctional process in general and parole in particular:

- (1) The 1990 Department of Corrections Mission Statement says the correction process should "...assure that all offenders receive the skills necessary to lead crime-free lives...[and]...provide assistance...to enhance their successful integration within the community."
- (2) The 1903 State of Wisconsin Blue Book says an inmate is eligible for parole only when he has "advance[d] his material, mental, and moral interests...by good behavior, diligence in work and progress in school..."

The gap between the goal, the rhetoric, and the reality is vast. With respect to parole, the correctional system and sentencing structure in Wisconsin have broken down. There can be no other explanation for a system which systematically returns to the community the type of individual described in Tables II-1 and II-2. These results run directly counter to the general public's expectations for security, safety, and simple common sense.

Table II-2. Typical Offenders Imprisoned in 1991 for Parole Violations. See p. 5 of 5 for explanation of columns.

1	2	3	4	5	6	7	8
Inmate #	Age	Adult Arrests	Times in Prison	Months Out	Next Release	Offender's Background	Other Description
119	33	8	4	29	Oct-92	<p>Offender's Background</p> <p>First adult conviction on felony theft in 1979; released, arrested, convicted, and paroled several times since; last paroled 4/89 after 2 years of 5-year sentence for armed robbery; in 6/91 arrested and convicted of sexual assault (intoxicated at time).</p>	<p>Other Description</p> <p>Has abused drugs and alcohol since the age of 13...drinks whenever he gets enough money and usually consumes a case of beer daily...has used illegal drugs of all kinds and in heavy amounts.</p>
122	49	15	4	6	Nov-2007	<p>Offender's Background</p> <p>First adult conviction on burglary in 1963; multiple arrests, convictions, releases, and escapes since then; prior to current conviction, last entered Wisconsin prison system 8/89, when separate charges of grand theft and larceny also were pending in Illinois; paroled 20 months later; arrested w/in 3 months for robbing a credit union.</p>	<p>Other Description</p> <p>He reported he does not consume alcohol and has never used non-prescription drugs...other sources suggest a long-term, chronic history of cocaine abuse. During a prior incarceration he acknowledged drug problems, was recommended for treatment, but the program was unavailable.</p>
91	34	16	5	18	May-99	<p>Offender's Background</p> <p>Began 7-year sentence for robbery in 1984; paroled in 4 years; arrested after 7 months for attempting to burglarize a residence armed with a knife; reentered prison 3/89 and was paroled 7 months later; within 3 months was involved in two burglaries and was placed on probation; within 2 months was arrested for armed robbery.</p>	<p>Other Description</p> <p>In connection with last arrest, entered a convenience store, told the clerk to "give the money up, all of it," had both hands in pockets pointing them toward clerk and said: "I'll blow you off...I'll waste you if I see a cop."</p>
123	38	4	2	9	Jun-92	<p>Offender's Background</p> <p>Paroled 6/91 in connection with 1989 drug conviction; arrested in 3 months for sexual assault of a minor.</p>	<p>Other Description</p> <p>Field information documents a serious history of chemical and drug abuse. Inmate said he had not participated in alcohol or drug abuse treatment since 1980. Had been drinking for hours the day of recent sexual assault.</p>
119	35	10	8	4	Mar-92	<p>Offender's Background</p> <p>Paroled 6/91 after 18 months for forgery; a month later forged a check from new employer; multiple convictions of forgery and related crimes dating to 1976.</p>	<p>Other Description</p> <p>Extensive history of alcohol and drug abuse and multiple efforts at treatment. Inmate states his offenses all are drug-related and occur when he "blacks out."</p>
104	41	14	8	7	Jan-92	<p>Offender's Background</p> <p>Multiple adult arrests and convictions for robbery and drug offenses, following a record of juvenile crime; for most recent crime served 6 months before 1/92 mandatory parole release.</p>	<p>Other Description</p> <p>Partial chronology (since 1983) includes: admitted to prison 8/83; released 8/86; readmitted 2/88; released 10/88; readmitted 2/89; released 11/90; readmitted 6/91; released 1/92.</p>
83	44	10	4	57	Mar-92	<p>Offender's Background</p> <p>Convicted in 1977 with another defendant of dragging a female behind a building and raping her at knife-point. Received 20 years and released on mandatory parole in 10 years. Convicted in mid-91 of threatening his family with a baseball bat and a brick.</p>	<p>Other Description</p> <p>Demonstrated "belligerent, hostile, racist demeanor" at 12/91 parole hearing... "it is strongly felt his release would pose an unreasonable risk to the public." Discretionary parole denied; achieved mandatory parole 3 months later (3/92).</p>

1	2	3	4	5	6	7	8
Inmate #	Age	Adult Arrests	Times in Prison	Months Out	Next Release	Offender's Background	Other Description
76	45	3	2	32	Aug-94	Sentenced in 1985 for 1st degree sexual assault stemming from numerous assaults of niece and stepson; paroled 1989 with specific prohibitions against unsupervised family contact; convicted for sexual contact with his niece 12/90, 6/91, and 7/91.	Involved in extensive treatment for sex offenders during incarceration "but obviously derived limited benefit." Will reach mandatory parole in 2 years.
154	36	20	6	10	?	Following extensive crime career beginning with 1973 burglary and battery convictions, admitted 4/88 to prison for 6-year sentence for setting fire to girlfriend's home; reached mandatory parole 20 months later; returned to pattern of substantial drug and alcohol abuse w/in 2 months; w/in 5 months was arrested after assaulting and tripping a woman.	Significant, ongoing history of alcohol and other drug abuse. History of self-destructive, threatening, and assaultive behavior. Documentation of dysfunctional behavior and attitude among the most substantial of all reviewed cases. "Dozens of arrests on his adult record, including multiple burglaries and several batteries."
153	45	30	5	33	Aug-97	Beginning with a 1967 forgery conviction (2 years probation), this female has been arrested dozens of times and served multiple periods of state and local incarceration for drug crimes, forgery, theft, burglary, and others.	Demonstrates "she is perfectly aware that she has lived a criminal lifestyle...she expressed the belief that she not only is a drug addict and will be all her life but that part of her addiction is the lifestyle itself." At a 1986 sentencing, the multiplicity of prior offenses and revocations created uncertainty before the court and prompted the presiding judge to say "I don't know whether you call it one [offense], or whether you call it two or three or four or five for the same price of one."
151	35	12	3	25	Nov-92	An adult career of crime began with a Christmas eve burglary in 1974 and includes subsequent releases, arrests, and convictions for burglary, receiving stolen property, armed robbery, and bail jumping. Longterm abuse of alcohol and other drugs has prompted repeated treatments during incarceration. A Parole Board rejection of one application stated "you minimize your behavior, saying you did not really hurt anybody..."	In rejecting a fall '91 parole filing, Parole Board comments note "your [prior] adjustment on parole supervision was most discouraging...while on parole for a highly assaultive offense you engaged in further assaultive behavior...you then involved yourself in an additional assaultive situation when you held a knife to the throat of your wife."
132	58	15	6	7	?	An adult career of crime which began in 1951 includes the following, documented in a 2/92 parole revocation decision: "On May 24, 1976 the client was convicted of robbery and two counts of arson...sentenced for 15 years and two [10-year terms...paroled [mandatory] 10/83...revoked 4/86...again released 1/87...revoked 9/88 for threatening to burn down his mother's home...again released 5/90...parole revoked 6/91 [for] threatening [wife]...released 8/91...violated parole [12/91] by possessing a loaded shotgun and threatening [his wife]."	In revoking parole 2/92, the administrative law judge stated: "The client's violation is highly serious...viewed with his past convictions for arson and armed robbery and his subsequent parole revocations for his continued drinking and threatening behavior convinces [the judge] revocation is warranted...Despite repeated revocations...the client continues to engage in serious criminal activity." In a 1986 decision denying early parole, the Parole Board said: "You have an extremely discouraging history and your irresponsibility, despite repeated changes...make us feel you would not handle parole any better at this point."

Table II-2, p. 2 of 5

1	2	3	4	5	6	7	8
Inmate #	Age	Adult Arrests	Times in Prison	Months Out	Next Release	Offender's Background	Other Description
27	36	8	3	9	Oct-92	Received two years probation upon first adult arrest (1974) for theft and criminal damage to property. Subsequent convictions for drunken driving, burglary, and injury by negligent use of a weapon included incarceration but also a 2 year probation sentence in 1988 for theft. Six months later received a 3-year sentence for battery and was released on mandatory parole (2/91) in 19 months.	Seven months after his 2/91 release this individual was arrested and has been convicted of masturbation and ejaculation in the presence of his 3-year old daughter, who was told by her father that his penis was a "peanut" and whose semen was "peanut milk." The daughter told her mother and police "Daddy's peanut milk tasted had" and said she "got daddy's peanut milk in her hair and face." On a separate occasion, the daughter told her mother "Daddy was naughty at grandma's house" and had "cleaned her up in the bathtub and wiped the peanut milk off of her." This individual is scheduled for mandatory parole this year.
146	34	11	7	2	Jun-92	First adult conviction in 1978 was for attempted 1st degree homicide; received a 15-year sentence, later amended to conduct regardless of life. Released in 1981, arrested and convicted for theft in 1982. Served multiple sentences in '80s for miscellaneous crimes and most recently was released on mandatory parole 8/91. Violated parole within two weeks of release.	"...[C]an be appropriately described as a habitual offender...a continuing pattern of anti-social behavior and obviously lacks self-discipline or clearly defined and responsible focus." This offender has no record of significant problems when incarcerated: "a good inmate but lousy citizen." He is to achieve mandatory release in June of 1992.
129	32	12	6	15	Aug-95	Most recently arrested in 1990 for burglary, six months after reaching mandatory parole and being released on an earlier burglary charge. First adult conviction in 1979 (arson; breaking and entering). Ongoing record of burglary and related convictions and sentences since.	During current incarceration this offender wrote an obscene letter and sent pornographic drawings to his grandmother, who provided same to the local police and tears for her safety when this offender is released.
45	40	19	6	6	Dec-2019	After an adult criminal career beginning in 1969 as a burglar, in 5/90 escaped from custody during his fifth incarceration. Before being apprehended in early 1991 was involved in at least 7 armed robberies at various grocery and convenience stores. Now serving a sentence that includes imprisonment until 2019.	"...[H]as been almost continuously incarcerated over the last 20-25 years...is manipulative, demanding, and anti-social...accepts no responsibility for same...is ready to blame others, the system. Age had done little to moderate attitude and lifestyle."
43	35	5	4	20	Feb-95	Received a 15-year sentence in 1975 for rape and robbery and was paroled in 1979. Violated parole in the early 1980s (carrying a concealed weapon). Paroled 12/82 and convicted 5/84 of robbery and 2nd degree sexual assault. Achieved mandatory parole 6/89.	Eighteen months after 6/89 mandatory parole the offender was arrested and convicted of possessing drugs and a handgun. The offender resembles a composite drawing being used in an ongoing sexual investigation.

Table II-2, p. 3 of 5

1	2	3	4	5	6	7	8
Inmate #	Age	Adult Arrests	Times in Prison	Months Out	Next Release	Offender's Background	Other Description
40	38	5	3	17	Aug-92	Most recently paroled in 1989, originally convicted as an adult in 1977 and sentenced 25 years for armed robbery and 1st degree sexual assault. Paroled in the mid-80s, was convicted and reincarcerated for assaultive sexual offenses and released again in 1989. Arrested a year later for burglary; convicted and reincarcerated.	The offender's record includes "accessing a 46-year old woman...forcing her into a storage room, robbing and raping her, slapping her 7 times, rolling her up in a carpet and leaving her for dead." This offender is scheduled for mandatory release in August of this year.
125	35	6	2	6	Nov-93	First arrested and placed on probation in 1977 for operating a vehicle without owner's consent and eluding an officer. Most recently paroled 5/91, 11 months after a theft conviction. Was ordered not to re-enter home of estranged wife; "on 8/10/91 unlawfully entered the home...approached her in a bedroom while he was screaming obscenities...repeatedly battered his paraplegic ex-wife and nurse's aide...and threatened to kill his ex-wife."	Mandatory parole from this second period of adult incarceration is next year. "Field information documents a record of assaultive and aggressive behavior..." Parole revocation decision notes that the offender claims he was not present at the time of the assault and attributes bruises on his estranged wife and nurse's aid to a lesbian relationship in which they batter each other.
148	52	5	2	16	Jan-94	An adult record dating to 1973 begins with being placed on probation for taking indecent liberties with children. After intervening theft convictions was convicted in 1986 of 2nd degree sexual assault for having intercourse with his 14-year old daughter.	The offender was paroled 10/89 and less than a year later sexually forced himself onto his now 19-year old daughter; also the victim of his earlier offense. During 1986 and 1990 interviews the offender minimized his guilt and attempted to blame his daughter.
17	33	11	4	13	Jul-91	An active career of adult crime began in 1976 and has included convictions for theft, delivery of heroin, shoplifting, worthless checks, obstructing an officer, and armed robbery. Recent record includes a 7/88 parole, 1/89 conviction on theft, mandatory parole in 4/90, and 10/90 arrest for shoplifting.	Twice this offender has had sentences reduced leading to parole, once from 34 to 14 years and another time from 3 years to 20 months. Illustrating the relative dangerousness among all inmates, this offender's record and history of adjustment in prison resulted in a minimum security classification.
35	38	17	5	32	Mar-92	Following an unrelenting career of crime beginning with a 1970s prostitution conviction, this offender was placed on probation for theft offenses in 1989. While on probation she was convicted of using cocaine (while pregnant) and failing to report to her probation agent.	Notwithstanding a 10-year sentence in 1980 for aiding and abetting a robbery, this female offender was in and out of institutional confinement for various offenses throughout the 1980s.
29	34	7	2	10	May-92	Following two marijuana-related convictions in the 1970s, was arrested and sentenced in 1987 for having had sexual contact with a 10-year old girl at a wedding reception. Achieved mandatory parole in 1990.	This offender resisted/refused recommendations that he receive alcohol and sex offender treatment during incarceration. Seven months after being paroled he was arrested for having sexual contact with a 14-year old girl.

Table II-2, p. 4 of 5

1	2	3	4	5	6	7	8
Inmate #	Age	Adult Arrests	Times in Prison	Months Out	Next Release	Offender's Background	Other Description
32	52	12	7	21	Jul-91	A partial summary of this offender's "trap sheet" includes convictions on 6 occasions over 3 decades for various sexual offenses.	Discharged a year ago from the Wisconsin correctional system and "indicated he would be residing in the state of Florida...identified treatment needs were not addressed [during incarceration] due to subjects' refusal to partake in sex offender treatment."
139	34	24	5	14	Jun-94	Released 9/90 on mandatory parole after a career of multiple arrests and periods of incarceration for assaultive and non-assaultive offenses. Following a 1982 theft (repeater) conviction, received an 18-month probationary sentence and was arrested and convicted within 6 months for armed robbery (masked). Sentenced to 15 years in prison, paroled in 7.	Within two days of this offender's most recent release, he was arrested for attempted shoplifting and when attempting to escape was discovered to have a knife, nylon stockings, and latex gloves. The latter items, as noted by the Hearing Examiner at a 11/90 revocation hearing, "could be used to commit armed robbery while masked."

KEY:

Column 1, Inmate #: Number, from 1 to 155, from representative list of 1991 parole violators provided by Department of Corrections (DoC).

Column 2, Age: Age in May 1992, calculated from DoC files.

Column 3, Adult Arrests: Estimated number (minimum) of adult arrests, based on DoC records and arrests sheets from FBI and State Justice Department.

Column 4, Times in Prison: Estimated number (minimum) of times incarcerated as an adult in Wisconsin prisons. Does not include sentences in county jails. Excludes most sentences in federal prisons or other states.

Column 5, Months Out: Number of months between (i) most recent admission for parole violation and (ii) prior release from state prison.

Column 6, Next Release: If May/92 or earlier, the most recent date on which the offender was released after serving time for latest offense. If later, the next scheduled date for Mandatory Parole Release.

Columns 7 & 8, Offender's Background and Other Description: Information from: court transcripts; sentencing documents; arrest records; and parole revocation proceedings.

III. WHAT TO DO?

The 1991 Wisconsin Legislature approved new prisons for only a small fraction of the inmates projected to be sentenced during the 1990s. This will reduce the role of prisons as a sanction for criminal activity and as a means to protect the public. This policy will:

- (1) reduce the already low percentage of convicts sentenced to prison; and
- (2) among those who are in prison, shorten the length of time they are incarcerated.

Research in this study supports the view that these actions will increase crime. Why?

First, there already are fewer than one in five convicts in prison. One must commit a very serious crime, in the eyes of elected prosecutors and judges, to get into prison. DiIulio/Piehl show that prison inmates are, in the main, hardened and seemingly unrepentant offenders of society's rules. A policy which leads to more of these people not being sentenced to prison is counter-productive.

Second, for convicts already in prison, this study finds no basis for shortening their time by greater use of parole. To the contrary, the research in Chapter II is little short of numbing as to the effect of current parole policy and the mandatory release sentence structure. Far too many parolees continue to commit serious crimes. As a matter of general policy, it is inconceivable that we need to release more of these individuals sooner.

If current policy and practice is wrong, what should be done? This chapter addresses that question and proposes possible solutions.

Findings and conclusions include:

- (1) State government systematically has underfinanced corrections programs for those in prison and under community supervision. While local police and prosecutors have greatly increased arrests and convictions, the state's correctional system has not received the resources to respond. The result? Criminals are back on the streets too soon and without adequate supervision.
- (2) Spending more state money on corrections will (i) complement the efforts of local police and prosecutors and (ii) save society much more, because of the heavy cost of crime.
- (3) The state needs to do three things to reduce serious crime:
 - (i) a larger percentage of offenders should be kept in prison, where operating budgets should be increased to provide more treatment and correctional programs;
 - (ii) tougher supervision is essential for those on probation and especially parole;
 - (iii) the parole system must be completely overhauled so parole is earned and no inmate is automatically paroled before his/her prison sentence expires.

More prisons

How many prison cells are enough? Wisconsin can't house all prisoners indefinitely. Further, there always will be released inmates who return to crime.

But when the type of inmate described in Chapter II is routinely released, by definition the state does not have enough prison space. When reliable research documents that most released inmates return to crime, by definition the parole and correctional mission is not being fulfilled.

One response must be more prisons, if only to postpone somewhat the time when Wisconsin's career criminals are back on the streets. For every day these people are in prison, it is one less day they are in the community threatening the public.

What does it mean to say "a larger percentage" of convicts should be in prison? While there is no precise answer, current policy will mean a cut in the 17% now imprisoned and clearly such a reduction is ill-advised. At a minimum, the Legislature should maintain the status quo before its recent votes. When it reconvenes in 1993, it should authorize enough new prisons to house the number of inmates projected by the Department of Corrections. (See Chart III-6)

Stronger, more effective parole and probation supervision

One can't say it often enough: more than four of five convicts in Wisconsin are in community supervision.

What does "stronger, more effective" supervision of these offenders mean? The concept of "intensive sanctions" (recommended by the Correctional System Review Panel) is a good start. The problem is the Panel applied it to the wrong group of offenders...those who otherwise would and should be in prison.

Instead, stronger supervision should be used for the 83% of offenders already on probation or parole. This can't be accomplished without an increase in parole and probation agents.

One way to find money for more agents is to redirect resources from the current parole and probation revocation system. The law should be amended to increase the administrative ability of the Department of Corrections to revoke an offender's parole/probation status and place the offender in prison. The current system gives offenders accused of violations too much benefit of the doubt. It causes a due process gridlock involving local jails, state hearing examiners, judges, and many others in the criminal justice system. **Rather than fighting crime, they are preoccupied with procedural safeguards for people who already have been convicted of a crime and are still serving a court sentence for that crime.**

End "mandatory" parole

Mandatory parole is an oxymoron. As originally and logically conceived, parole was to occur before a prison sentence expired if an inmate was deemed ready to be released. Even then, risks were involved, but for years these risks appear to have been more manageable than today. Consider what the 1929 State of Wisconsin Blue Book said about the parole program:

The [current] parole system, established in 1907, has proved a success in Wisconsin, with less than eleven per cent of violations, or about 196 out of 1,851 paroled during that time. It gives the convicted man a chance to reestablish himself as a citizen and shorten his term of imprisonment.

Today, mandatory parole has become the "tail that wags the dog." It has become the equivalent of an entitlement program for those in prison. Barring serious misconduct, an inmate must be paroled with months or years remaining on his sentence. Chapter II shows that many parolees simply aren't ready. Perversely, the reality of mandatory parole is offered to justify more discretionary paroles: because the inmate must be paroled at a certain point, let him/her out earlier, while the Department has a degree of greater control. The bottom line? Most inmates serve less than half their sentence before being paroled.

The operation of the parole system is understood by judges and often affects their sentencing. Milwaukee County Circuit Judge Ted E. Wedemeyer recently was criticized for an apparently lenient sentence in the case of three black youths who admitted to racial motivation in taunting and assaulting a white man near Milwaukee's lakefront. The victim drowned after diving into Lake Michigan to flee his tormentors.

The District Attorney believed the stiffest charge warranted by the evidence was aggravated battery. On conviction, Judge Wedemeyer handed down a combined sentence of probation, community service, and time in the Milwaukee County House of Correction. Responding to community criticism that the assailants were not sentenced to prison, Judge Wedemeyer said:

...because of the sentencing statutes and policy considerations that are generally employed, the probability of early parole was highly likely...I was extremely concerned that the punishment component would be minimal given a two-year maximum sentence for aggravated battery and a mandatory release date of one year, four months.³²

The state's fiscal straitjacket on corrections

Why are so many parolees part of a revolving door system of repeat crime? One reason is that the Department of Corrections is underfinanced. It is stymied in two ways: (i) it is prevented from implementing a program of rehabilitation while inmates are in prison and (ii) excessive caseloads for parole and probation agents means it can't provide true "community supervision."

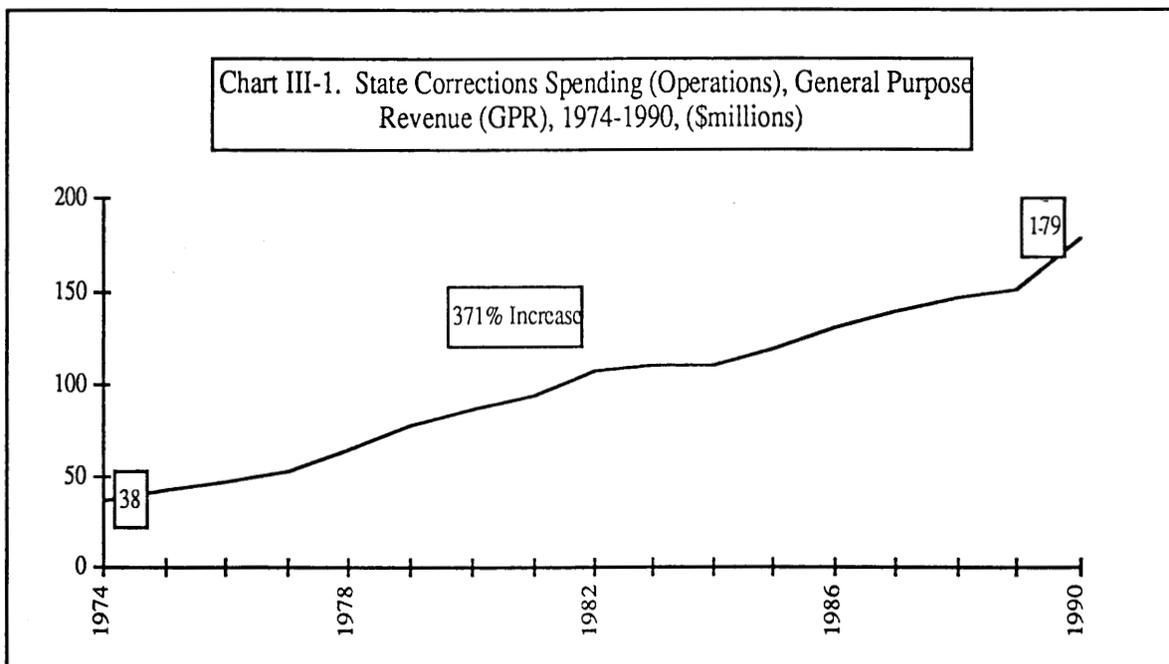
To suggest that not enough money is spent on prisons and community supervision clashes with conventional thought (and mythology). It is accepted wisdom in the media and other circles that prison costs have "soared" and that the cost of imprisonment is many times greater than the cost of "alternatives to incarceration." This view is so widely reported, and accepted at face value, that some effort is needed here to put things in context.

Evidence below illustrates that for years the Wisconsin Department of Corrections has been underfinanced. As a result:

³²Milwaukee Sentinel, June 3, 1992.

- When adjusted for inflation³³, state spending on corrections since 1974³⁴ has risen only one-fifth as much as the raw, unadjusted numbers indicate.
- When growth in offenders³⁵ is also taken into account, per-offender corrections spending has dropped.

Those who perpetuate the myth of "soaring" prison and correction costs use data such as found in Chart III-1. It depicts the General Purpose Revenue (GPR) budget of the Department of Corrections (and its predecessor, the Division of Corrections) between 1974 and 1990.



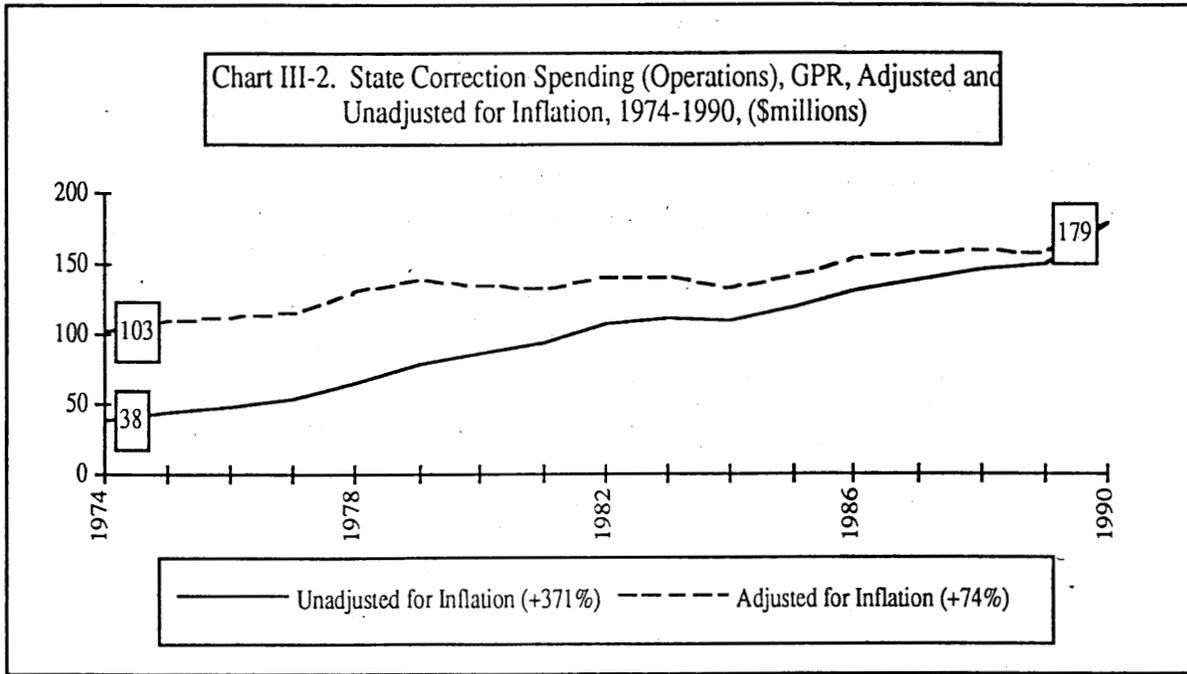
The 371% increase, from \$38 million to \$179 million, presents a year-to-year comparison of apples-and-oranges. Long-accepted standards of research and honest scholarship require that the portrayal of fiscal data over time should be adjusted to eliminate the distorting impact of inflation.

Chart III-2 does this. It compares the "real" change in spending with the unadjusted figures from Chart III-1. Real expenditures are represented by 1990 dollars. Rather than a 371% increase, the rate of growth actually was 74%. Omitting the impact of inflation distorts by five times the actual change.

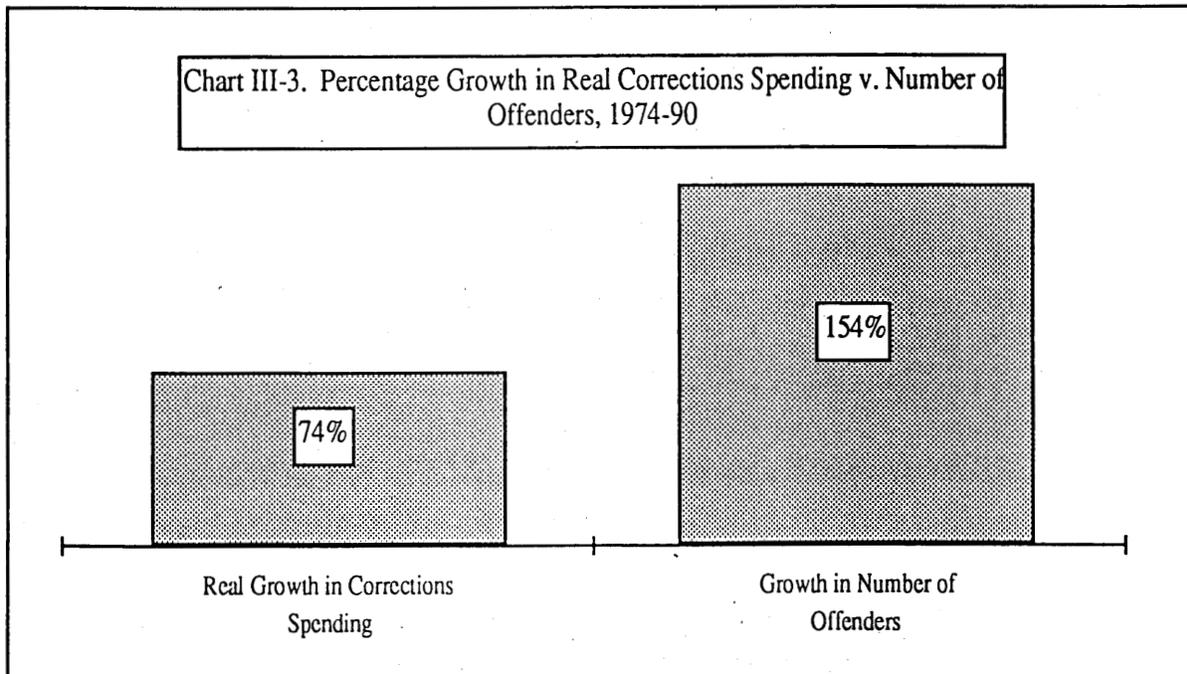
³³Consumer Price Index for Milwaukee Urban Consumers, All Items Index, U.S. Department of Labor.

³⁴Sources: Department of Administration annual fiscal reports and Legislative Fiscal Bureau.

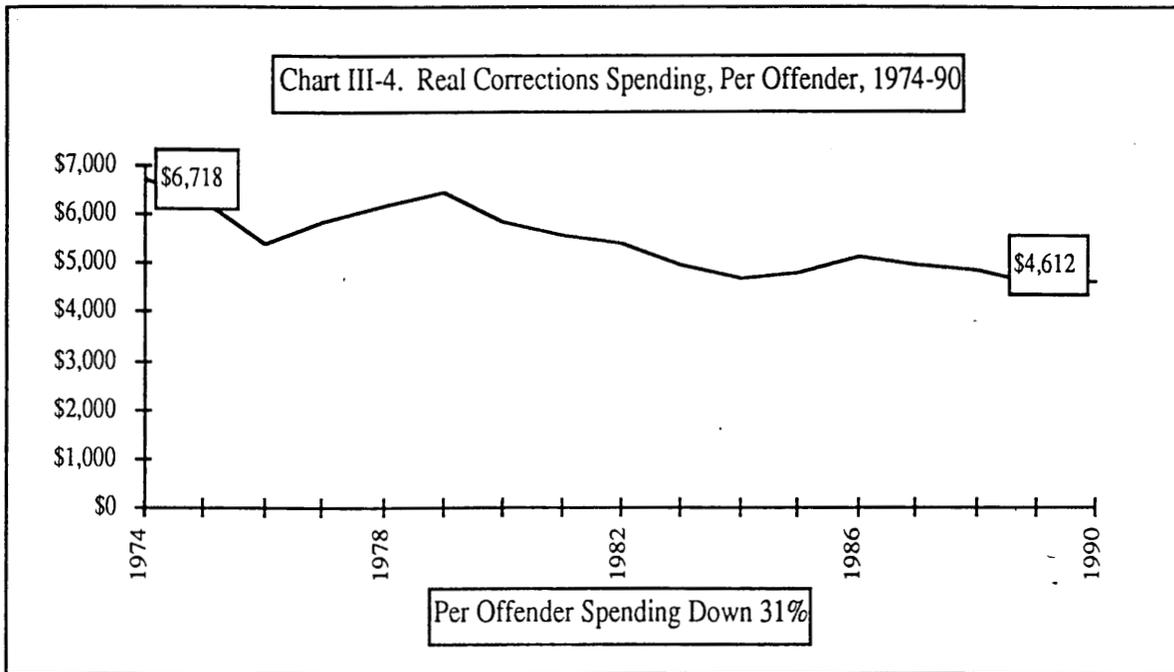
³⁵Offenders mean adults under probation, parole, and prison supervision of the Department of Corrections (formerly Division of Corrections). Data sources are Wisconsin Taxpayers Alliance and Department of Corrections.



A 74% real increase still implies substantial new spending. But what about changes in the number of criminals placed under the jurisdiction of the Department? To eliminate distortions caused by (i) inflation and (ii) changes in the number of criminals, it is necessary not only to use constant dollars but also to use spending per offender under the jurisdiction of the Department. For example, Chart III-3 shows a 154% increase in offenders during the time real spending grew 74%.



The implication of Chart III-3 is that real spending, per offender, actually dropped during the 1974-90 period. Chart III-4 shows this to have been the case.



Thus, far from a "soaring" 371% increase in spending (Chart III-1):

- (1) Real growth, unadjusted for offender growth, was 74% (Chart III-2); and
- (2) Real spending per offender actually dropped 31% (Chart III-4).

Proponents of the big spending corrections myth are not necessarily dissuaded by such data. Many ignore it and simply repeat distortions so often they become accepted. Others skirt the issue by arguing that corrections takes a disproportionate share of state tax resources.

But what actually has happened, over time, to corrections spending in relation to the rest of the state GPR budget? Two measures can be used to answer that question:

- Corrections spending as a per cent of the state General Purpose Revenue (GPR) budget.

Between 1974 and 1982, the GPR corrections budget grew significantly, from 2% to 3.1% of the overall GPR budget.³⁶ But from 1982 to 1990, despite a 49% increase in offenders under its jurisdiction, the Department of Corrections' share of the GPR budget actually declined slightly.

- Other spending categories as a % of the GPR budget.

Corrections' share of the GPR budget has been at 2%-3% for about two decades. The following table compares other major categories of state spending, indicating some have grown dramatically and others have dropped (as a % of the GPR budget).

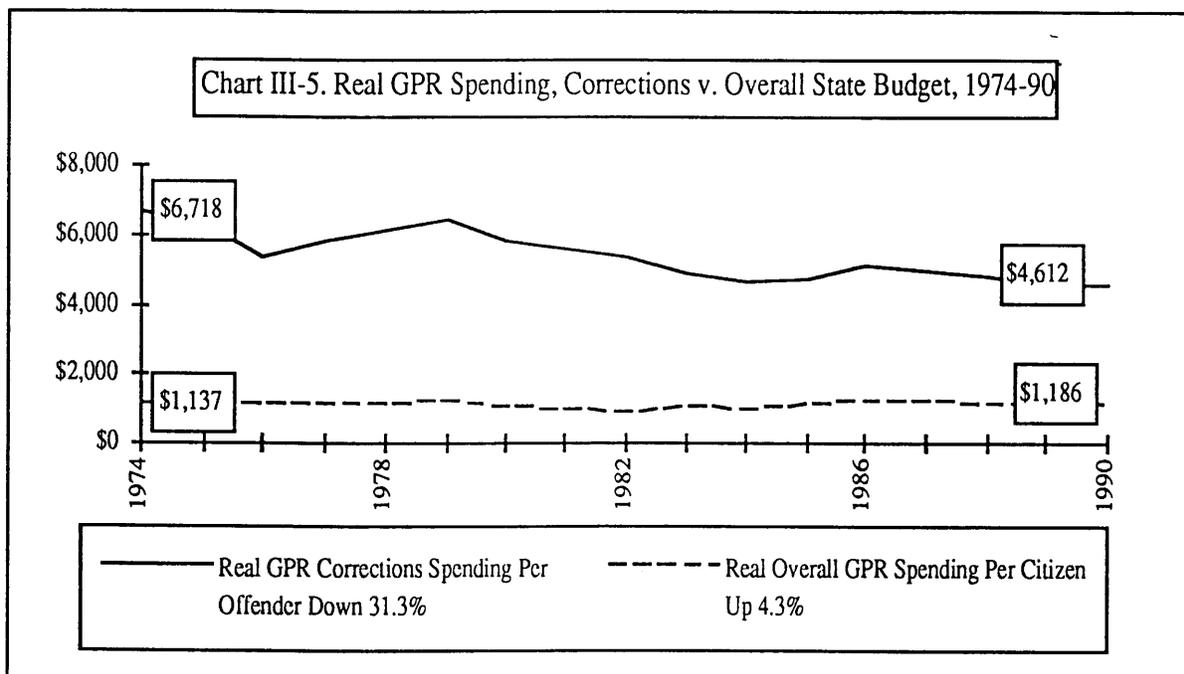
³⁶GPR budget totals provided by Department of Administration and Legislative Fiscal Bureau.

Table III-1. Changes in Allocation of Selected State Budget Categories³⁷

Category	% Share of GPR Budget	
	1972	1990
UW System	16.3	12.0
School Aid	17.2	27.9
Medical Assistance	3.0	10.1

•Per offender correction spending vs. the per capita state budget, adjusted for inflation.

Chart III-5 shows that the state's real GPR budget (1990 dollars), expressed in per capita terms, grew 4.3% between 1974 and 1990 (a level of overall fiscal restraint not widely understood). Chart III-5 compares that modest increase with the 31% decline in per-offender GPR spending.



This financial discussion does not dismiss the fact that corrections is costly and requires a sizable portion of the state budget. However, the numbers often are presented out of the context of caseloads and inflation. Some do this from ignorance; others do so as an intentional strategy to mislead.

In the final analysis, a major increase in the number of criminals since 1974 has not been matched by a proportionate increase in spending. By any reasonable measure, Department of Corrections staff and administrators have managed more with less.

In addition to examples cited above, from mid-1981 to early 1992 the Department had a 78% increase in staff during the same time that prison populations grew 90% and

³⁷"Competition for State Tax Dollars," The Wisconsin Taxpayers Alliance, May 28, 1992

probation and parole populations grew 115%.³⁸ This has had a negative effect on programming inside and outside of prison. For example:

- From 1987 through 1990 the author toured all medium and maximum security prisons then operating in Wisconsin: Dodge, Waupun, Green Bay, Columbia, Fox Lake, Kettle Moraine, Oshkosh, and Taycheedah. Reviews also were made at several minimum security centers in Southeastern Wisconsin. Prevailing conditions included a combination of: overcrowding; education and training facilities mothballed due to lack of equipment or staff; and substantial numbers of idle or underprogrammed inmates. Many of these "correctional institutions" are so in name only; it is not surprising that large numbers of released inmates show few signs of rehabilitation.
- Once released, parolees join probationers in community supervision, where probation and parole agent caseloads have worsened significantly. In the 1970s the goal was a caseload ranging from 40:1 (outside Milwaukee) to 60:1 (Milwaukee). Recent data shows caseloads of 72 probationers and parolees per agent. Actual caseloads are even greater, because of high turnover and substantial recurring vacancies.³⁹

What's a desirable caseload? While the new "intensive sanctions" program will operate at 25 offenders per agent⁴⁰, the prevailing rate is three times that level. Given that, it can't be surprising that large numbers of parolees return to criminal activity.

Again, the bottom line: as more inmates are paroled, and "alternatives to incarceration" are urged for other offenders, the number of agents in the field effectively has been cut. This flies in the face of the general assurances that paroled inmates are in an environment of close supervision, one which "makes new demands on offenders and requires them to take concrete steps toward improving their lives." (The Journal) Review again the case histories in Table II-2 and consider if these are the kind of people to put on the streets when parole caseloads are strained.

Inadequate state financing of corrections undercuts the efforts local police, prosecutors, and judges, who are arresting more criminals and producing more convictions. Since the early 1970s, there has been almost a 50% increase in the number of sworn and civilian police employees per 1,000 Wisconsin residents.⁴¹ Between 1980 and 1990, local law enforcement spending grew 82% (compared to inflation of 55%).⁴² Arrests for violent crimes and serious property crimes more than tripled between 1970 and 1990.⁴³ Convictions are up proportionately. But then convicts are sentenced to an underfinanced corrections system, where they are not adequately supervised while in the community and where the push is on to move them out of prison as fast as possible.

³⁸May 6, 1992 memorandum to Patrick J. Fiedler, Secretary of Corrections, from Pamela Brandon, an agency administrator.

³⁹Interview in May 1992 with Michael Sullivan, Deputy Secretary of Corrections.

⁴⁰Department of Corrections material (undated) describing the new Intensive Sanctions program.

⁴¹Annual reports issued by the Statistical Analysis Center of the Wisconsin Office of Justice Assistance.

⁴²Reports on local expenditures filed with the Wisconsin Department of Revenue.

⁴³Annual reports issued by the Statistical Analysis Center of the Wisconsin Office of Justice Assistance.

Does prison pay? The cost of not building prisons.

Supporters of reducing reliance on prisons argue that they cost "too much." Support for this conclusion is set forth in the Final Report of the Correctional System Review Panel:

- Opponents of prison construction affirm that dangerous criminals should be in prison. The Panel's report says: "Assaultive offenders who pose a serious risk to people should be sentenced to prison for the protection of the public."
- Having said that, the Panel's report argues that the cost to the state budget of incarceration -- about \$22,000 per inmate per year -- is "too much" because it is several times the cost to the state budget of probation or parole.
- Substantial "savings" to the state budget are possible because there "...are a large number of...offenders [in prison] who are not violent or assaultive and who are good candidates" for probation or parole. These candidates are deemed to "pose little risk of harm to others."
- Opponents of more prisons believe these "savings" should be used elsewhere in the state budget. These opponents are allied as supporters and constituents of other programs they see as threatened by more prison spending. The Correctional System Review Panel, for example, says the cost of building more prisons "...will almost certainly jeopardize the ability of the state to maintain existing state services in areas of education, health care, and to families and children."

Thus, the "too costly" argument is most often cast in the narrow context of the state budget. This is urged by individuals who normally say that the broad impact of their favored programs should be considered in evaluating public spending. Legitimate examples would include early childhood education, infant nutrition programs, and others. But, they disdain the "big picture" view when it comes to the cost of prisons.

A different school of thought says \$22,000 a year is money well spent if it keeps off the streets the kind of offender described in Chapter II, and especially Table II-2. The cost to victims and society of their crimes is most certainly more than \$22,000 a year.

There is growing support for reassessing the real cost of crime. Consider the following extended excerpt from a page-one article in the May 21, 1992, edition of the Milwaukee Sentinel:

When Phyllis Yvonne Bowers stood in Circuit Court for sentencing on a marijuana trafficking conviction, she appeared to be a likely candidate for probation or a short [local] jail sentence.

Never before convicted of a crime, Bowers, 36, was to be sentenced on the basis of the seizure of 3 ounces of marijuana...and some drug packaging paraphernalia...

When the prosecutor recommended 18 months in jail and the defense attorney urged probation, Detective Glenn Zirgibel figured Bowers' sentence would wind up somewhere in the middle...

But before Circuit Judge Janine Geske sentenced Bowers, the judge heard from one more interested party: the neighborhood.

In a new sentencing procedure, Geske turned to a "neighborhood impact statement" [prepared by police] to assess what drug dealing had done to the area where Bowers did business. The neighborhood spoke convincingly.

Three times before Bowers was arrested...residents complained to police that someone was dealing drugs out of [her] home. Once after her arrest, someone sold crack cocaine from Bowers' home to a police informant.

'Neighbors are...very discouraged by numerous drug houses in the area,' said the statement, referring to 28 drug houses in a roughly one-mile area...

The statement so impressed Geske that she sentenced Bowers to two years at Taycheedah Correctional Institution...

'When you're looking for a victim in these cases, it's the neighborhood,' Geske said...

The approach of Judge Geske contrasts with that of the Correctional System Review Panel, whose approach would argue against prison for an offender such as Bowers. Judge Geske viewed Bowers' actions in terms of the cost and impact on the community. This symbolizes the growing movement to assess the cost of crime in a broad context and to respond accordingly.

The cost of not keeping some criminals in prison will be the eventual loss of whole neighborhoods in Wisconsin's largest city, Milwaukee. Many recent examples illustrate:

- The April 16, 1992, Milwaukee Journal carried a page one, banner headline: "Auto theft up 25% as thieves strike 40 times a day." The story said almost 40 cars a day were being stolen in Milwaukee. Most of these thefts would be termed "nonassaultive" "property" offenses that would not warrant prison time under current state policy. Yet these crimes have caused insurance to skyrocket in the most affected neighborhoods, usually penalizing those least able to afford high premiums. That is a cost not included in the calculations of opponents to building new prisons.
- The April 17, 1992, Milwaukee Journal carried a page-one story under the headline: "Batch of fires strikes area on West Side. Most of the recent blazes are of suspicious origin."

The story and accompanying map described suspected arson fires which dotted an area near Marquette University. Arson is a crime associated with several of the parolees studied in connection with research for this study.

- The same geographic area was the subject of a page-one story in the Milwaukee Sentinel on the same day, April 17. This story described various public and private ventures aimed at investing millions of dollars to revitalize the neighborhood.

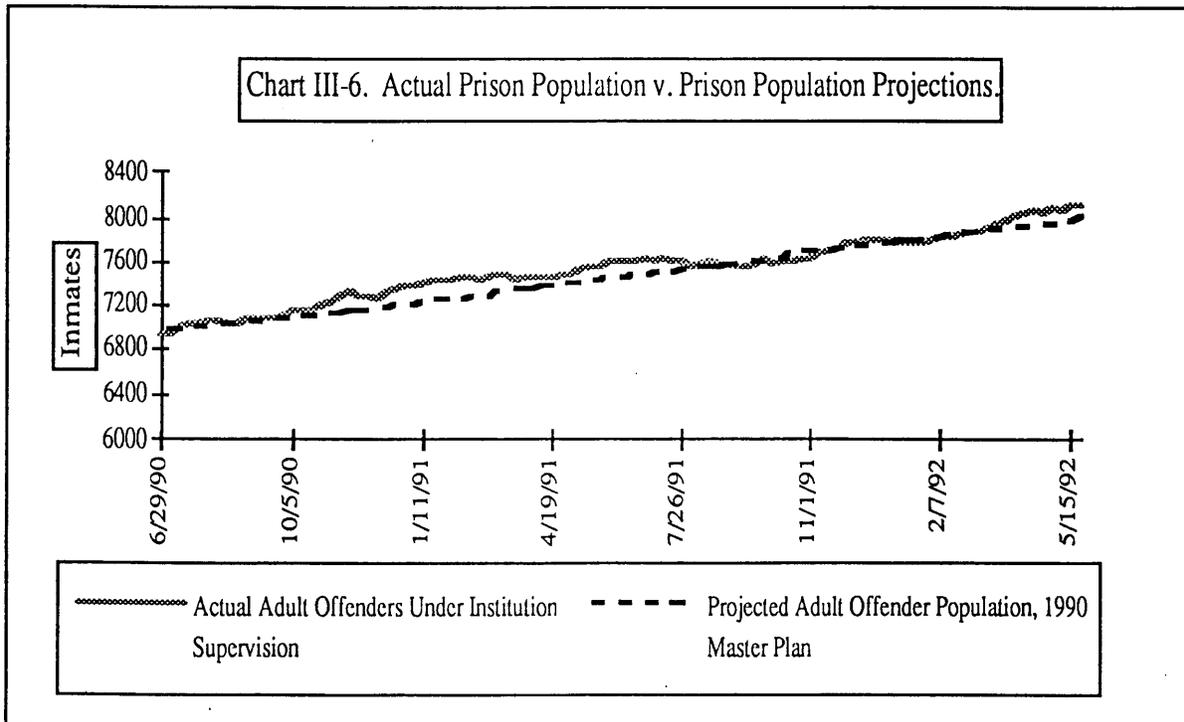
"...Public and private cash isn't enough. The area also has to deal with crime and its affects on attracting homeowners and families," said the article. Some of the crimes which might make offenders eligible for "intermediate sanctions" include: theft, burglary, criminal damage to property, vandalism, possession of burglary tools, and others.

- A few weeks later, in early May, the Milwaukee media published stories on the \$9 million investment by Marquette in its ambitious Campus Circle redevelopment project. Marquette officials have said controlling the burgeoning crime wave north and west of its campus is essential to its future. Campus Circle spokesmen point out that the University has a \$300 million annual impact on the Milwaukee economy, an impact which is directly threatened if crime and fear of crime is not controlled.
- The May 21 Sentinel prominently featured the following page-one headline: "City declares gunshot epidemic...5 wounded children treated in 10 hours." The article quoted the director of Milwaukee County emergency medical services:

"A whole generation of youngsters is growing up today afraid to walk outside their homes because they may get shot. This is one of the deepest problems we have in our society...Milwaukee used to be a good place to live."

These stories illustrate why current state corrections policy carries a cost for cities like Milwaukee that far exceeds a \$22,000-a-year prison bill. More prisons and more probation and parole agents mean new dollars, but the cost of crime is vastly greater. Research by DiIulio/Piehl (cited earlier) estimates the potential "cost" to society of various crimes. Using their research, the cost of crime by 1991 Wisconsin parole violators was much greater than the cost which would have been incurred to imprison them.

Chart III-6 shows prison inmate projections from the 1990 state prison master plan⁴⁴ and actual inmate populations (through May 15, 1992)⁴⁵.



⁴⁴More recent projections indicate inmate levels could grow faster.

⁴⁵Department of Corrections' weekly population reports, June 29, 1990 through May 15, 1992.

The accuracy of the forecast so far means that when the cells authorized last year by the Legislature are finished, prison populations will exceed prison capacity by perhaps thousands of inmates. The pressure for more parole and fewer prison commitments will build. Without more capacity to detain dangerous convicts, the consequence will be more crime than otherwise would occur.

IV. WHAT'S NEXT?

Will Governor Thompson try again in 1993 to have more prisons authorized? If so, how will the Legislature react?

Any plan to build new prisons would face an uphill fight. An example from the last legislative session illustrates why. In 1991, the Legislature approved a scaled-down prison plan including 200 cells for inmates with a history of alcohol and drug abuse. But in 1992, the Joint Committee on Finance denied Governor Thompson's request for startup funds, thus delaying the date when actual operations will begin.

Why approve a prison in 1991 and then in 1992 delay funds to begin its operation?

The contradiction is explained by the fact that several key legislators believe a corrections agenda should include as few prisons as possible. When the Legislature reconvenes in 1993, the views of these legislators will be significant in determining what happens to any corrections spending plan.

Other important factors will include:

- Whether Mayor Norquist and/or County Executive Ament commit some of their political capital to lobbying for more prisons.
- Whether citizens and local officials outside Milwaukee County view prisons as part of a strategy to improve public safety in their communities.
- Whether the job-creation aspect of prisons influence legislators to support one in their district. This occurred in 1991, marking a change from previous years, when legislators tended to resist location of a prison in their district.
- Whether new spending on prisons and corrections can compete with other spending supported by more organized constituencies.
- Whether criminal justice officials such as Judge Geske continue to frame decisions in the context of neighborhood and community impact, thus conveying a more realistic view of the "cost" of prisons and corrections.

ABOUT THE INSTITUTE

The Wisconsin Policy Research Institute is a not-for-profit institute established to study public policy issues affecting the state of Wisconsin.

Under the new federalism, government policy increasingly is made at the state and local level. These public policy decisions affect the lives of every citizen in the state of Wisconsin. Our goal is to provide nonpartisan research on key issues that affect citizens living in Wisconsin so that their elected representatives are able to make informed decisions to improve the quality of life and future of the State.

Our major priority is to improve the accountability of Wisconsin's government. State and local government must be responsive to the citizens of Wisconsin in terms of the programs they devise and the tax money they spend. Accountability should be made available in every major area to which Wisconsin devotes the public's funds.

The agenda for the Institute's activities will direct attention and resources to study the following issues: education; welfare and social services; criminal justice; taxes and spending; and economic development.

We believe that the views of the citizens of Wisconsin should guide the decisions of government officials. To help accomplish this, we will conduct semi-annual public opinion polls that are structured to enable the citizens of Wisconsin to inform government officials about how they view major statewide issues. These polls will be disseminated through the media and be made available to the general public and to the legislative and executive branches of State government. It is essential that elected officials remember that all the programs established and all the money spent comes from the citizens of the State of Wisconsin and is made available through their taxes. Public policy should reflect the real needs and concerns of all the citizens of Wisconsin and not those of specific special interest groups.