



April 2009

## JUSTICE REINVESTMENT IN WISCONSIN

# Analyses & Policy Options to Reduce Spending on Corrections and Increase Public Safety



## Background

**I**N 2008, GOVERNOR JAMES DOYLE, Chief Justice Shirley Abrahamson, Senate President Fred Risser, and then Assembly Speaker Michael Huebsch requested technical assistance from the Council of State Governments Justice Center (“Justice Center”) to help develop a statewide policy framework to reduce spending on corrections and reinvest in strategies to increase public safety in Wisconsin.

The Justice Center is a national, nonpartisan organization that works with state policymakers to analyze data and develop fiscally sound, data-driven strategies. Assistance is made possible through funding support provided by the Bureau of Justice Assistance, a component of the U.S. Department of Justice, the Public Safety Performance Project of The Pew Charitable Trusts’ Center on the States, and the State of Wisconsin.

In January 2009, the Wisconsin Legislative Council established the Special Com-

mittee on Justice Reinvestment Oversight, a bipartisan, bicameral, and inter-branch advisory group to guide the Justice Center’s analyses of the state’s criminal justice system and development of policy options. Over the next four months, the committee met with the Justice Center to review analyses of the state’s criminal justice system, examining areas such as crime, arrests, prison admissions, length of confinement and supervision time, probation and post-release supervision populations, recidivism rates, and behavioral health and unemployment.

This policy brief summarizes the analyses conducted by the Justice Center and provides state policymakers with a data-driven policy framework designed to achieve the goals established by the committee: reduce spending on corrections and reinvest in strategies to increase public safety in Wisconsin.

# Analyses

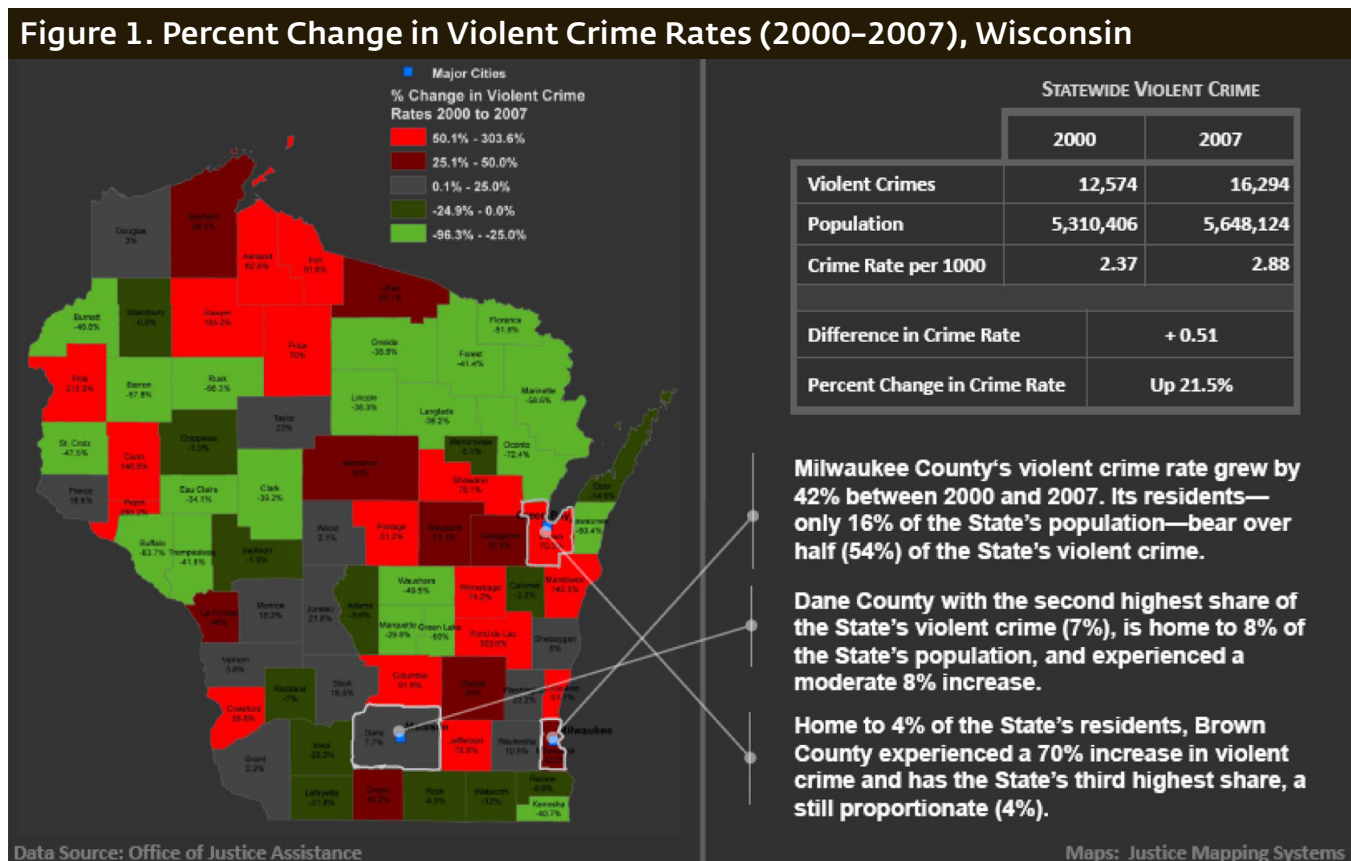
## I. Crime Trends and the Prison Population

### Crime Trends

- Between 2000 and 2007, Wisconsin’s violent crime rate increased 23 percent.<sup>1</sup>
- A disproportionate share of the state’s violent crime takes place in Milwaukee: in 2007, although

16 percent of the state population lives in Milwaukee, the city reported over half (55 percent) of the state’s violent crime.<sup>2</sup>

- In Milwaukee, violent crime is concentrated in specific neighborhoods. In Aldermanic District 15, the violent crime rate is 81 per 1,000 residents, which is 10 times higher than the violent crime rate in District 11, where the city’s violent crime rate, 8 per 1,000 residents, is the lowest.<sup>3</sup>



**Table 1. Crime Trends in Wisconsin, Other Midwestern States, and the Nation (2000 and 2007)**

	VIOLENT CRIME RATE (PER 100,000 RESIDENTS)		PERCENT CHANGE
	2000	2007	
Wisconsin	237	291	23%
Minnesota	281	289	3%
Michigan	555	536	-3%
Nationwide	506	467	-8%

1. Data submitted by Wisconsin Office of Justice Assistance. Internal analysis by Council of State Governments Justice Center (March 2009).

2. Ibid.

3. Ibid.

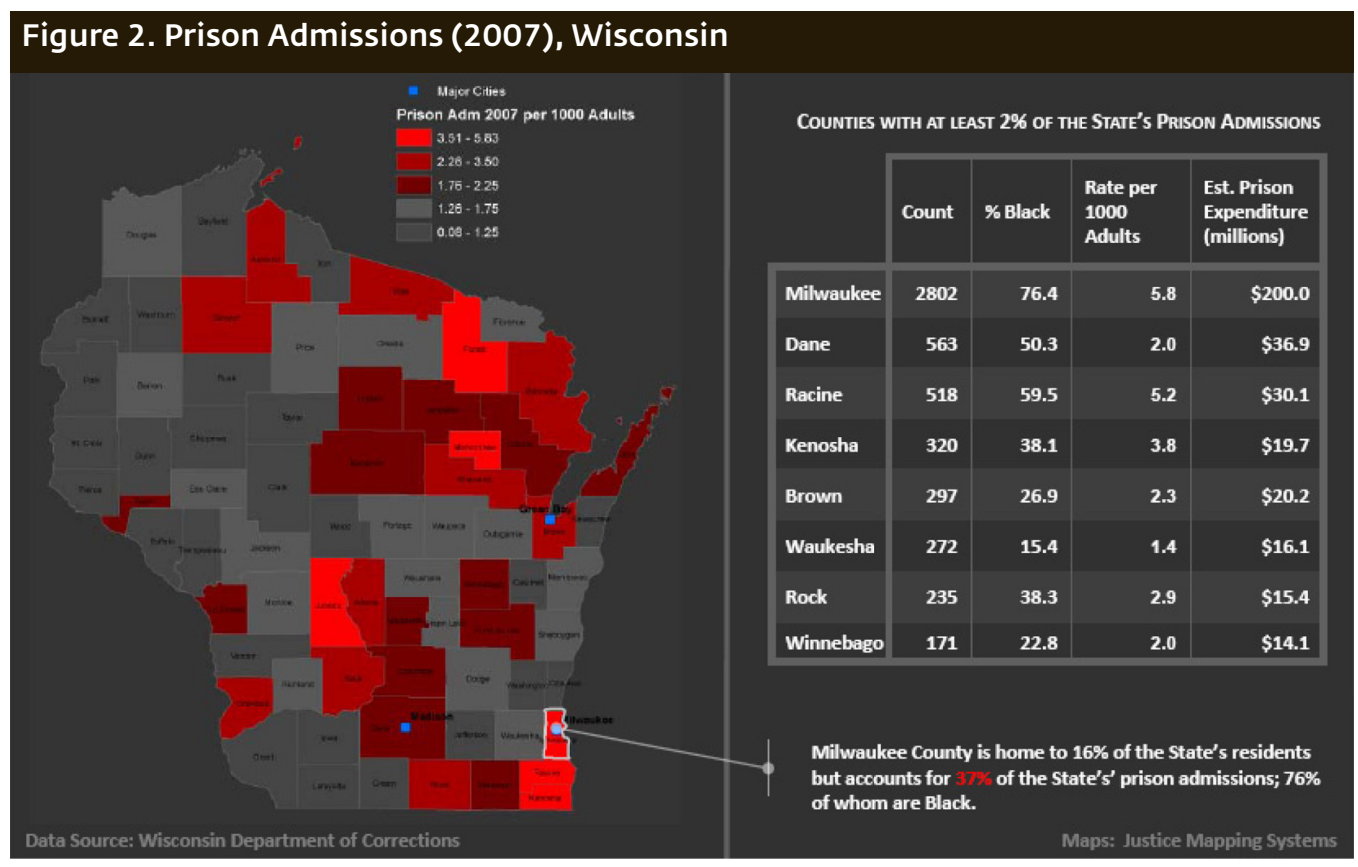
- In 2007, Wisconsin’s violent crime rate was lower than the national violent crime rate and was comparable to the violent crime rate in Minnesota, where the demographics are comparable to Wisconsin.<sup>4</sup>

### Historical and projected growth in the prison population

- Between 2000 and 2007, Wisconsin’s prison population increased 14 percent.<sup>5</sup>
- From 2008 to 2019, the state prison population is projected to grow from 22,500 to 28,019, an increase of 25 percent.<sup>6</sup>
- Between 2009 and 2019, according to WI DOC estimates, it is estimated to cost Wisconsin \$2.5 billion to reduce overcrowding in the prison system and accommodate the projected growth in the

prison population. This estimate comprises \$1.4 billion in new construction costs and \$1.1 billion in new cumulative operating costs over that 10 year time period.<sup>7</sup>

- Admissions to state prison disproportionately come from the state’s urban areas: in 2007, for example, Milwaukee County accounted for 37 percent of state prison admissions. The total estimated annual cost of incarcerating people from this county was \$200 million.<sup>8</sup>
- Prison admissions from the City of Milwaukee are tightly concentrated in a few districts: 12 percent of the city’s population resides in Aldermanic Districts 15 and 6, but these districts together account for approximately 31 percent of the city’s prison admissions.<sup>9</sup>



4. U.S. Department of Justice, Federal Bureau of Investigation. *Crime in the United States, 2000* (September 2001). Retrieved February 10, 2009, from <http://www.fbi.gov/ucr/00cius.htm>; U.S. Department of Justice, Federal Bureau of Investigation. *Crime in the United States, 2007* (September 2008). Retrieved February 10, 2009, from <http://www.fbi.gov/ucr/cius2007/index.html>.

5. Wisconsin Department of Corrections, "Depot Update through 2007" (as of October 16, 2008). Internal analysis by Council of State Governments Justice Center (February 2009).

6. Naro Ware, Wendy, James Austin, and Roger Ocker. JFA Institute, *Wisconsin Department of Corrections Ten-Year Prison Population Projections: 2009–2019*, March 2009; Huck, Jennifer, Richelle Winkler, and Paul Voss, Applied Population Laboratory, University of Wisconsin-Madison, *Wisconsin Offender Projections, Department of Corrections, State of Wisconsin*, February 2008.

7. Based on Wisconsin Department of Corrections budget estimates.

8. Data submitted by the Wisconsin Department of Corrections. Internal analysis performed by Justice Mapping Center.

9. Ibid.

## II. Drivers of Prison Population Growth<sup>10</sup>

### Revocations

- Between 2000 and 2007, the number of people admitted to prison who did not comply with the conditions of their community supervision increased 40 percent. The number of people admitted to prison who committed new offenses, however, decreased 11 percent.
- At the end of 2007, more than half (55 percent) of the people incarcerated in state prison were there because they had failed to comply with the conditions of community supervision or because they had committed a new crime while under supervision.

### Costs of Revocation

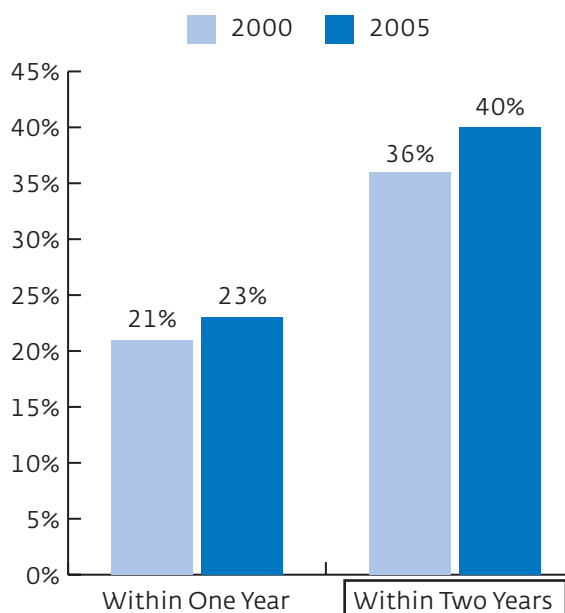
- In 2007, the state spent an estimated \$285 million to incarcerate people revoked from supervision with no new sentence (e.g. probation, extended supervision, parole, and mandatory release).

- In 2007, the average length of stay for in prison for a person revoked from extended supervision with no new prison sentence was 18 months. Based on 2007 figures, incarcerating this population incurred an estimated \$99 million in annual costs to the state.

### Recidivism

- Forty percent of the people released from prison in 2005 were re-incarcerated in state prison within two years. This recidivism figure reflects an 11 percent increase above the percentage of people from the population re-incarcerated within two years of prison in 2000.
- Recidivism rates were the highest for the youngest people released from state prison. Fifty-five percent of people released from prison in 2005 were re-incarcerated within two years. This recidivism figure reflects a 45 percent increase above the population re-incarcerated within two years of prison in 2000.

Figure 3. Percent Returned to Prison



Percent Returned to Prison Within Two Years

	2000	2005
Male	37%	41%
Female	23%	29%
<b>Age at release</b>		
17-21 (443)	38%	55%
21-25 (1,574)	34%	45%
25-30 (1,750)	35%	41%
30-35 (1,356)	39%	40%
35-40 (1,203)	37%	42%
40-50 (1,995)	33%	36%
50-60 (517)	22%	29%
60+ (109)	8%	17%

10. Unless otherwise cited, data presented in Section II were submitted by the Wisconsin Department of Corrections and analyzed by the Justice Center.

## Truth in Sentencing in Wisconsin<sup>11</sup>

IN RECENT YEARS, the state has made significant changes to its sentencing structure. Offenses committed on or after December 31, 1999 were no longer eligible for indeterminate sentencing: discretionary parole, good time credits, and mandatory release were eliminated.

Determinate sentencing has since been applied to offenses committed on or after December 31, 1999. All persons sentenced to felonies are now assigned a bifurcated sentence consisting of a term of confinement in prison followed by a period of extended supervision (ES) in the community. ES terms must be at least 25 percent of the confinement time ordered. For individuals whose ES is revoked, prior successful time spent in the community does not count toward the completion of the overall sentence.

Offenses committed on or after February 1, 2003 are subject to modifications made to Wisconsin's determinate sentencing structure. Among the modifications was the authorization of certain people serving time in prison to petition the court for sentence modification and the subsequent creation of the Earned Release Program.

## III. Community Supervision<sup>12</sup>

### *Length of supervision*

- Between 2000 and 2007, the average period of post-release community supervision to be served for individuals receiving a new prison sentence more than doubled, increasing from 23 to 54 months.
- The average confinement period also increased, albeit by a smaller margin, from 31 to 40 months.

### *Concentrations of People Under Community Supervision*

- In the 15th and 6th Milwaukee Aldermanic Districts, respectively, 13 percent and 11 percent of adults are under a form of community supervision (i.e. probation, extended supervision, parole, or mandatory release).<sup>13</sup>

### *Mental Health*

- In 2007, 10 percent of people admitted to prison were assessed as having a serious mental health disorder; an additional 21 percent were assessed as having some mental health need.
- Forty-six percent of people with serious mental illness who were released to the community in 2005 were re-incarcerated within two years. That recidivism rate is higher than the recidivism rate for the overall prison population (40 percent).
- Wisconsin law enforcement executives have described concerns about the lack of booking alternatives in their jurisdictions for people with the mental illness with whom they come into contact.<sup>14</sup>
- Although screening and assessment for mental health needs occurs in some parts of the criminal justice system (jail, court, prison, and supervision), the processes are not always consistent and compatible across the system.

11. Carmichael, Christina. "Felony Sentencing and Probation," Legislative Fiscal Bureau, Informational Paper 56, January 2007.

12. Unless otherwise cited, data presented in Section III were submitted by the Wisconsin Department of Corrections and analyzed by the Justice Center.

13. Wisconsin Department of Corrections

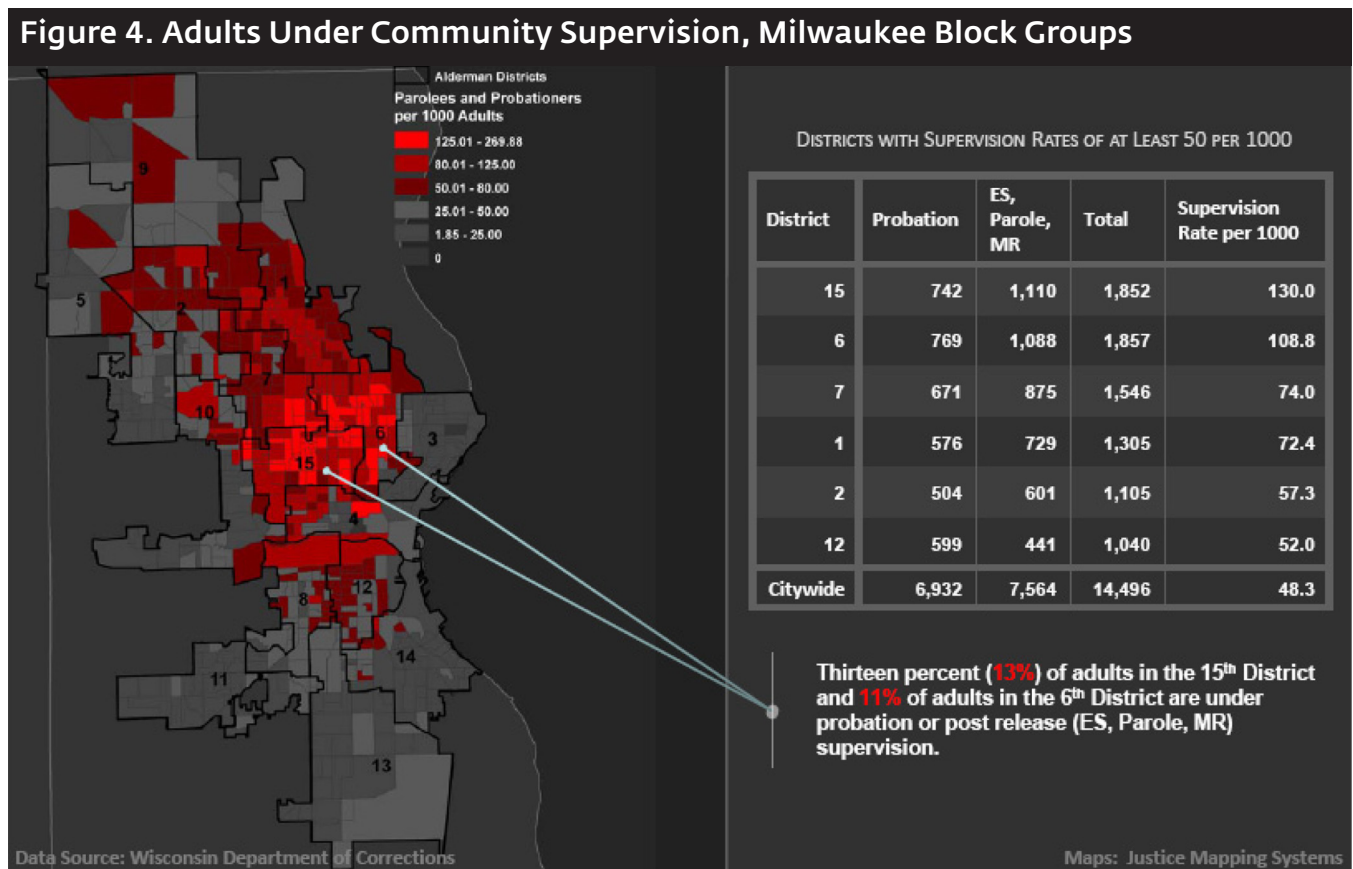
14. The Justice Center assisted Madison Police Chief Noble Wray and Milwaukee Police Chief Edward Flynn with the organization of two regional law enforcement focus groups, held respectively on March 9 and March 10, 2009.

### Substance Abuse

- In 2007, 38 percent of people whose community supervision was revoked reported frequent drug use and an additional 39 percent reported some drug use.
- Screening and assessment of substance abuse treatment needs among the criminal justice population is inconsistent and insufficient to ensure that offenders receive the right level of substance abuse treatment in the community.

### Employment

- In 2007, 68 percent of the people whose post-release supervision was revoked were unemployed at the time of revocation.
- Milwaukee’s 15th and 6th Aldermanic Districts, which receive more people released from prison than any other district in the city, have high unemployment rates: 19 percent in the 15th district and 18 percent in the 6th district.
- In 2009, there are an estimated 12,000 Wisconsin residents on community supervision who are unemployed, but state-funded programming to connect people on community supervision with transitional employment, on-the-job training, and placement is below the capacity needed.



15. Unless otherwise cited, data presented in Section IV were submitted by the Wisconsin Department of Corrections and analyzed by the Justice Center.

## IV. Effective Assessment and Evaluation<sup>15</sup>

### *Assessment at the Pre-Sentencing Level*

- The Assess, Inform, Measure (AIM) project, currently piloted in six Wisconsin counties, provides the sentencing court with a risk and needs assessment. Currently, the reliability and type of information available to the court is limited.<sup>16</sup>

### *Quality of Community-Based Programs*

- Between 2004 and 2009, the state increased funding available for the purchase of community-based programs for people on community supervision from \$19 million to \$27.5 million, a 45 percent increase.
- No system exists to monitor program quality, track levels of participation and program completion, or measure outcomes.

- With only 2.2 full-time equivalent positions overseeing these funds, the state's ability to effectively target resources according to a systematic assessment of the supervised population's risk and needs is hindered.

### *DOC Research Capacity*

- Although the Wisconsin Department of Corrections collects a significant amount of data, the agency lacks a research and program evaluation capacity to analyze these data and to provide user-friendly reports to inform major policy and funding decisions.

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16. Wisconsin Court System, "Court Programs: Effective Justice Strategies," <<http://www.wicourts.gov/about/organization/programs/alternatives.htm>>.

# Policy Framework to Reduce Spending on Corrections & Increase Public Safety

POLICY OPTION	POLICY DETAILS
<b>Target Resources</b>	
<b>1. Focus Supervision Resources</b>	<ul style="list-style-type: none"> <li>• Limit the length of extended supervision (ES) imposed at sentencing to no more than 75 percent of the length of confinement time.</li> <li>• Exclude sex offenders and Class A–C offenders from this change in policy.</li> <li>• Ensure that community supervision resources are focused on the initial months and year of supervision, when the risk of recidivism is the highest and the potential to increase public safety is the greatest.</li> <li>• Balance this limit on ES time with the need to ensure an adequate period of time to collect victim restitution.</li> <li>• Apply this policy change only to offenders sentenced on or after the enactment date.</li> </ul>
<b>2. Reallocate Revocation Expenditures to Community-Based Strategies</b>	<ul style="list-style-type: none"> <li>• Reduce resources currently allocated to incarcerate people revoked from extended supervision with no new sentence and expand community-based mental health and employment strategies.</li> <li>• Establish a swift and certain reconfinement period of 6 months for people whose extended supervision has been revoked but who have not been convicted of committing a new crime. <i>(A set reconfinement period eliminates the need for reconfinement hearings and would reduce jail, prosecutor, public defender and court time currently being consumed with the reconfinement hearing process.)</i></li> <li>• Allow the Department of Corrections to hold an offender up to 90 days beyond the 6 month reconfinement period (i.e., 9 months total) for institutional infractions or failure to participate in required programs.</li> <li>• Expand community-based mental health services for people released from prison on to ES who have a serious mental illness and pose a high risk to public safety.</li> <li>• Expand the state’s transitional employment and job placement services for people on community supervision.</li> </ul>



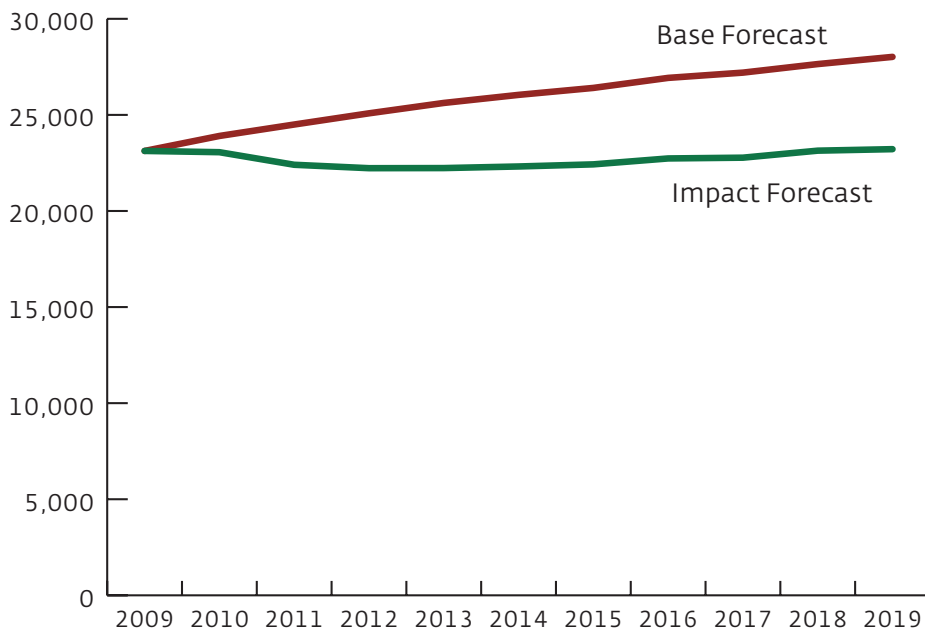
POLICY OPTION	POLICY DETAILS
<b>Change Behavior</b>	
<b>3. Create Sentencing Option to Reduce Risk Prior to Release</b>	<ul style="list-style-type: none"> <li>• Provide the court with a sentencing option that creates an incentive for an offender to complete programs prior to release while adhering to the principles of Wisconsin’s truth-in-sentencing system.</li> <li>• Provide the court with the ability to impose a risk reduction sentence in addition to an offender’s confinement sentence. The risk reduction sentence would automatically be established at three-quarters of the amount of confinement sentence ordered.</li> <li>• In these cases, the offender’s successful completion of programs designed to reduce risk to public safety would determine which of the sentences he or she would serve. If the offender successfully completes one or more programs required by the Department of Corrections, corresponding to the assessment conducted, and demonstrates satisfactory institutional behavior, he or she will serve 100 percent of the risk reduction sentence. If the offender does not successfully complete the required programs, he or she will serve 100 percent of the confinement sentence.</li> <li>• Require the Department of Corrections to complete a comprehensive and validated risk/needs assessment for each offender admitted with a risk reduction sentence. After determining which programs the offender will be required to complete, the Department of Corrections shall notify the sentencing judge of the results of the assessment and required programs.</li> <li>• Require that the Department of Corrections assess the quality of programs that qualify for offenders with risk reduction sentences. At least 75 percent of those programs would be required to be certified as being modeled on evidence-based programs by 2011.</li> </ul>
<b>4. Set Redivism Reduction Goal</b>	<ul style="list-style-type: none"> <li>• Establish a statewide goal of reducing recidivism rates for people on probation and released from prison by 25 percent from 2008 levels by 2011. Measure the reduction in revocations to prison from probation and post-release supervision by 25 percent, re-conviction rates by people on probation and post-release supervision, and re-arrest rates.</li> <li>• Improve assessment processes, align supervision resources according to risk and needs, connect offenders to the right services to reduce violations, and tailor responses to violations to improve compliance.</li> <li>• Expand the capacity of community-based alternatives to revocation (ATRs), such as substance abuse treatment, day reporting centers, and other sanctions and services.</li> </ul>

## Combined Impact of the Policy Options

The following analysis projects the impact of the policy options on the baseline prison population projection. The baseline prison population projection was conducted by the JFA Institute using a microsimulation model that assumes no changes to current trends in prison admissions or to the crim-

inal code. Averted costs are based on the Wisconsin Department of Corrections’ estimates of cumulative construction and operating costs of accommodating the projected growth in the prison population during the time periods indicated below.

### JFA Prison Population Projection Versus Estimated Combined Impact of Policy Options



	BASE FORECAST	IMPACT FORECAST
2009	23,125	23,125
2010	23,904	23,059
2011	24,499	22,405
2012	25,082	22,227
2013	25,622	22,233
2014	26,042	22,316
2015	26,404	22,426
2016	26,926	22,734
2017	27,200	22,774
2018	27,645	23,139
2019	28,019	23,217

## Averted Costs & Reinvestment Analysis

YEAR	FY2010–2011	FY2012–2013	FY2014–2015	FY2016–2017	FY2018–2019	10 YEAR TOTAL
Averted Costs	\$242,552,100	\$418,264,000	\$462,181,000	\$400,500,200	\$942,817,800	<b>\$2,466,315,100</b>
Reinvestment	\$30,000,000	\$30,000,000	\$30,000,000	\$30,000,000	\$30,000,000	<b>\$150,000,000</b>
Total Averted Costs	\$212,552,100	\$388,264,000	\$432,181,000	\$370,500,200	\$912,817,800	<b>\$2,316,315,100</b>

### Reinvestment Detail

POLICY OPTION	REINVESTMENT DETAIL	FISCAL BIENNIUM TOTAL
2. Reinvest Revocation Resources in Community-Based Strategies	<b>Community-Based Mental Health Care for High Risk Individuals Placed on Extended Supervision</b> <ul style="list-style-type: none"> <li>Target high-risk, high-need individuals released from prison with serious mental illnesses and enroll as many as possible in Medicaid upon release.</li> <li>Supplement existing resources with state funding to cover about 40 percent of mental health service cost for Medicaid enrolled target population and leverage Federal funding to cover remaining 60 percent of service cost; funding would cover all service costs for non-Medicaid enrolled individuals in target population.</li> </ul>	<b>\$8,000,000</b>  <i>(The above state funding would leverage \$3,171,000 in federal Medicaid resources.)</i>
	<b>Targeted Efforts to Reduce Unemployment Among High Risk Individuals on Extended Supervision</b> <ul style="list-style-type: none"> <li>Provide vocational assessment, transitional employment, and job development and placement services for approximately 10 percent of the currently 12,000 individuals on post-release supervision who are unemployed. Services should be targeted at high risk offenders where employment can have the greatest impact on recidivism.</li> </ul>	<b>\$12,000,000</b>
4. Reduce Recidivism by 25 percent	<b>Expand Community Based Alternatives to Revocation</b> <ul style="list-style-type: none"> <li>Drug and Alcohol Treatment                             <ul style="list-style-type: none"> <li>Residential</li> <li>Intensive Outpatient</li> <li>Outpatient</li> <li>Aftercare</li> </ul> </li> <li>Cognitive Group Intervention</li> <li>Day Reporting Centers</li> </ul>	<b>\$10,000,000</b>
<b>Total Reinvestments FY2010–2011 Biennium</b>		<b>\$30,000,000</b>

To learn more about the justice reinvestment strategy  
in Wisconsin and other states, please visit:  
[www.justicereinvestment.org](http://www.justicereinvestment.org)

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THE COUNCIL OF STATE GOVERNMENTS

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities.

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To learn more about the Bureau of Justice Assistance, please visit: <http://www.ojp.usdoj.gov/BJA/>.

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To learn more about the Public Safety Performance Project, please visit: <http://www.pewpublicsafety.org/>.

Points of view, recommendations, or findings stated in this document are those of the authors and do not necessarily reflect the official position or policies of the Bureau of Justice Assistance, U.S. Department of Justice, The Pew Charitable Trusts, Council of State Governments Justice Center, or the Council of State Governments' members.

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