

Justice Alternatives for Wisconsin: Reducing the Costs of the Criminal Justice System

Prepared for the Wisconsin Joint Legislative Council

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Foreword

This report looks at alternatives to incarceration in Wisconsin—what exists in Wisconsin and elsewhere, plus what the cost savings and effects on recidivism rates imply about programs that could be further explored or implemented. It is the product of collaboration between the Robert M. La Follette School of Public Affairs at the University of Wisconsin–Madison and the Wisconsin Joint Legislative Council. This partnership gives graduate students at La Follette the opportunity to practice their policy analysis skills while contributing to the capacity of public agencies to analyze and develop policies on issues of concern to the residents of the State.

The La Follette School of Public Affairs offers a two-year graduate program leading to a master’s degree in public affairs. Students study policy analysis and public management, and pursue a concentration in a public policy area of their choice. They spend the first year and a half taking courses that incorporate the tools needed to analyze public policies. The authors of this report are all enrolled in Public Affairs 869, Workshop in Public Affairs, Domestic Issues, Section 2. Although acquiring a set of policy analysis skills is important, there is no substitute for doing policy analysis as a means of learning policy analysis. Public Affairs 869 provides graduate students that opportunity during the final semester in the program.

The students were assigned to one of four project teams. One team worked on this project for the Wisconsin Joint Legislative Council, while the other groups conducted research and analysis for the Wisconsin Department of Revenue, the Wisconsin Department of Health and Family Services, and the U.S. Government Accountability Office. The topic of this report—an investigation of the effects on incarceration costs and recidivism of various alternatives to incarceration programs—was chosen by the staff of the Wisconsin Legislative Council.

Wisconsin spends an increasing share of its state budget on incarceration, a reflection in part of the rapid growth in its prison population. The incarceration rate in Wisconsin is now higher than the national or Midwest average. This report is concerned with incarceration and alternative justice programs for non-violent drug- and alcohol-involved offenders. It explores the alternative programs that exist in Wisconsin and in other states, their costs, and their effects on recidivism rates.

This report cannot provide the final word on the complex issues the authors address. The authors are graduate students constrained by the semester time frame, and the topic they address is large and complex. Nevertheless, much has been accomplished, and I trust that the students have learned a great deal, and that the Joint Legislative Council will have been given valuable insight as they consider incarceration alternatives.

This report would not have been possible without the support and encouragement of Terry Anderson, director of the Wisconsin Legislative Council staff, with whom I first discussed the possibility of this project. Anne Sappenfield, senior staff attorney, acted as the primary contact between the project team and the Legislative Council Staff. Tony Streveler, policy initiative advisor, Office of the Secretary, Department of Corrections, was extremely generous with his time and advice. A number of other people also contributed to the success of the report. Their names are listed in the acknowledgments.

The report also benefited greatly from the support of faculty and the staff of the La Follette School of Public Affairs, especially that of Karen FASTER, La Follette publications director, who edited the report and shouldered the task of producing the final bound document.

I am very grateful to Wilbur R. Voigt whose generous gift to the La Follette School supports the La Follette School public affairs workshop projects. With his support, we are able to finance the production of the final reports, plus other expenses associated with the projects.

By involving La Follette students in the tough issues faced by state government, I hope they not only have learned a great deal about doing policy analysis but have also gained an appreciation of the complexities and challenges facing state and local governments in Wisconsin. I also hope that this report will contribute to the work of the Joint Legislative Council and to the ongoing public discussions of corrections policies in the state of Wisconsin and elsewhere.

Karen Holden
May 9, 2007

Acknowledgments

We would like to thank the Wisconsin Joint Legislative Council for the opportunity to work on this project, especially Anne Sappenfield at the Wisconsin Legislative Council for her assistance.

Several people and groups assisted us with data or information. We would like to thank Judge Sarah O'Brien and Lori Hahn from the Dane County Drug Court Treatment Program as well as Judge John Perlich, Anne Patton, and Dr. Bill Zollweg from the La Crosse County Drug Court for sharing information about their drug court programs; the National Drug Court Institute for allowing us to use some of their data and figures; University of Wisconsin Law School Professor Ken Streit for providing us with a copy of his Wisconsin Community Based Correctional Accountability Act proposal and for his feedback on a draft of this report; Tony Streveler from the Wisconsin Department of Corrections for his invaluable assistance and sharing of data and numerous reports; Erin Slattengren at Wisconsin Supreme Court Operations; and Robert Margolies and Deb Rosenthal for the data and informational support on day reporting centers. We very much appreciate the assistance of all these individuals and groups. Any errors in the presentation or interpretation of provided data are our own.

Finally, we would like to thank Professor Karen Holden and Karen FASTER for their assistance in revising and editing this report.

Key Terms and Abbreviations

AODA: Alcohol and other drug abuse. Persons with AODA issues or needing AODA treatment are addicted to or dependent on drugs and/or alcohol.

Drug court: Specialized court that processes cases involving drug-involved offenders through use of comprehensive supervision, drug testing, treatment services, and immediate sanctions and incentives.

Drug offender: A person charged with or convicted of a drug crime.

Drug- or alcohol-involved offender: An offender with a drug or alcohol addiction or dependency; his or her charge or conviction may or may not be for a drug or alcohol crime, but the addiction or dependency is a reason for his or her criminal activity.

Extended supervision: Supervision occurring after an offender is released from prison. Extended supervision replaced parole under Wisconsin's Truth in Sentencing law. Convicted offenders now receive a bifurcated sentence consisting of a confinement portion served in prison and extended supervision.

Recidivism: When an offender commits a new crime. More specifically, recidivism may be defined as a new arrest, conviction, or prison sentence.

Recidivism rate: The percentage of offenders who commit new crimes in a specified period of time following program completion or release from incarceration. The recidivism rate depends on what event constitutes recidivism (arrest, conviction, or prison sentence).

Revocation: When an offender's parole, probation, or extended supervision is taken away as a result of violating the terms of release, such as for drug-use violations. The offender must then be incarcerated for the remainder of his or her sentence.

SACPA: California's Substance Abuse and Crime Prevention Act is legislation that requires certain drug offenders to be offered treatment instead of incarceration.

WDOC: The Wisconsin Department of Corrections

WJLC: The Wisconsin Joint Legislative Council, the client for this report

Executive Summary

Wisconsin's incarcerated population has grown quickly in recent years, and the current rate of incarceration is costly. In this report, we focus on incarceration and alternative justice programs for non-violent drug- and alcohol-involved offenders. A number of alternative justice programs offer similar or improved recidivism outcomes at a lower cost than incarceration. We recommend that the Wisconsin Joint Legislative Council further study these alternative programs and implementation options, looking at their cost savings and recidivism rates, and seriously consider recommending one or more of the implementation options to the full Legislature.

Between 1983 and 1999, Wisconsin's incarcerated population more than tripled. Wisconsin has a higher incarceration rate than the national and Midwest averages. Drug- and alcohol-involved offenders account for a significant portion of the growth in the incarcerated population. Drug offenders account for more than 20 percent of the growth in the prison population from 1996 to 2006, and drug and operating-while-intoxicated offenders account for more than 60 percent of the growth from 2001 to 2006. Eighty-three percent of prisoners have an identified substance abuse treatment need.

We focus on cost and recidivism rates as key measures when evaluating incarceration and alternative justice programs. Incarceration is costly, with a year of incarceration in a minimum security prison costing nearly \$30,000 per prisoner in 2006. This cost contributes to a Wisconsin Department of Corrections budget of more than \$1 billion per year. A significant portion of offenders recidivate following their incarceration, with an average of 38.7 percent of released offenders being convicted of new offenses and sent back to prison within three years of their release.

Program alternatives can be divided into three broad categories: pre-incarceration, during-incarceration, and post-incarceration. Pre-incarceration programs include drug courts and statewide treatment instead of incarceration initiatives such as those in Arizona and California. These result in cost savings by avoiding incarceration altogether. During-incarceration programs include the Earned Release Program and Challenge Incarceration Program, which reduce the time an offender spends in prison if the offender completes drug and alcohol treatment. These result in cost savings by reducing the length of incarceration. Day reporting centers are the major post-incarceration alternative program we discuss, and these provide an alternative to revocation, by more closely supervising offenders who have violated the conditions of their extended supervision or parole in the community rather than returning them to prison. Each of these programs results in cost savings compared to incarceration, and recidivism rates are generally comparable to or lower than those for incarceration.

Some of these programs are administered at the county level, while others are or would be state-operated programs. The state can directly implement programs it operates, while multiple options exist under which the state could support implementation of county-level programs. Implementation options for pre-incarceration programs include a statewide treatment instead of incarcerations program, or increased state funding for county programs such as drug courts. County programs could be supported by expanded Treatment Alternatives and Diversion grants that provide money to counties, or by a state community corrections act that would create financial incentives for counties to keep more offenders in community-based alternatives rather than sending them to state prison. Implementation options for during-incarceration programs and day reporting centers are simpler, as these are state-run programs that the state could expand.

Given the high cost of incarceration and the potential for alternative justice programs to provide similar or improved outcomes at a lower cost, we urge the Wisconsin Joint Legislative Council to consider the alternative justice and the implementation options we identify in this report. We recommend that these alternative programs and their implementation options be studied further:

- Alternative 1: Expand state grants to provide greater support for county programs
- Alternative 2: Support county programs through a community corrections act
- Alternative 3: Require treatment alternatives to be offered statewide
- Alternative 4: Expand programs occurring during incarceration
- Alternative 5: Expand use of day reporting centers
- Alternative 6: Modify Truth in Sentencing to give credit for extended supervision time served

These alternative programs and the options for implementing them are not mutually exclusive; more than one implementation alternative could be adopted, and the programs may be complementary. We recommend that the council focus on the criteria of cost savings and recidivism rates. We suggest that the Legislative Council consider recommending that the Legislature adopt of one or more of these programs.

I. Introduction

Wisconsin's incarcerated population has grown quickly in the past two decades, and Wisconsin now has a high incarceration rate compared to other states. Wisconsin's incarcerated population more than tripled between 1983 and 1999, representing the fourth largest increase in that timeframe among all states (Stephen, 2001). As of 2005, the state incarcerated 258 individuals per 100,000 residents, a rate exceeding both the average for Midwest states (187 per 100,000 residents) and the nation (252 per 100,000 residents) (Harrison & Bock, 2006).

Non-violent drug- and alcohol-involved offenders make up a substantial portion of the growing prison population, and it is this population on which we focus in this report. This group includes offenders charged with or convicted of drug- or alcohol-related crimes, and offenders who have committed crimes such as theft or burglary that are driven by substance abuse problems. We use the term "non-violent drug- and alcohol-involved offenders" to refer to both groups. Some of the policy alternatives we address focus on drug or alcohol offenders, while others are open to drug- and alcohol-involved offenders more broadly.

Non-violent drug- and alcohol-involved offenders account for a significant portion of the growth in Wisconsin's prison population. Eighty-three percent of prisoners have an identified alcohol or other drug abuse (AODA) treatment need. From 1996 to 2006, non-violent drug offenders constituted one-fifth of the growth in the statewide prison population, and more than one-third of the growth in the prison population from Milwaukee County. From 2001 to 2006, more than 60 percent of the growth in the prison population was from operating while intoxicated and drug offenses. In addition to non-violent drug offenses, non-violent property crimes such as burglary have contributed to the increasing incarcerated population. Judges and other criminal justice professionals state that addiction often motivates burglary (Greene & Pranis, 2006).

We evaluate incarceration and alternatives based on cost and recidivism outcomes. These are clear, measurable goals on which each alternative can be evaluated. We further discuss our reasons for focusing on these goals in Appendix A.

We first note the current cost of incarceration and recidivism outcomes following incarceration. We then describe types of alternative programs for drug- and alcohol-involved offenders, dividing these into three categories: pre-incarceration, during incarceration, and post-incarceration. We next consider alternative means by which the Legislature could implement or promote the use of alternative justice programs. We conclude that there are several alternative justice strategies worthy of further consideration, and we recommend that Wisconsin Joint Legislative Council further study these alternatives. We recommend that in studying the alternatives, the council focus on cost and recidivism, and that the council seriously consider recommending that the Legislature adopt one or more of the implementation options.

II. The Status Quo: Incarceration's Costs and Recidivism Rates

Incarceration is costly: the average annual incarceration cost in a minimum security facility in 2006 was \$29,751 per prisoner (Wisconsin Department of Corrections [WDOC], 2006a).¹ In recent years, the WDOC budget has totaled more than \$1 billion annually, and WDOC is the fifth largest general fund program in 2006-07 (Wisconsin Department of Administration [WDOA], 2007; Wisconsin Legislative Fiscal Bureau, 2005). The corrections department's budget continues to grow: WDOC recently faced a budget shortfall, requiring additional appropriations of more than \$40 million in a recent budget bill, and the governor's budget proposal would increase the WDOC budget by 14.8 percent in 2008 (Wisconsin Legislative Fiscal Bureau, 2007a; WDOA, 2007).

A significant proportion of incarcerated offenders are convicted of new offenses (recidivate) after release. We compare alternative justice programs' recidivism rates to those for offenders released from incarceration. According to WDOC (2006b), the average recidivism rates² are:

- For those released from incarceration: 38.7 percent
- For those ending community supervision: 28.9 percent

¹ Given our focus population and the types of alternatives we will consider, minimum security incarceration is the most appropriate comparison. Overall, the average annual incarceration cost was \$27,572 per prisoner in 2006 for all types of facilities (WDOC, 2006a).

² Where recidivism is defined as "committing a new offense resulting in a Wisconsin criminal court disposition of custody or supervision under the WIDOC" within "[three] calendar years following date of release from confinement [or supervision]" (WDOC, 2006b). These recidivism rates are averages for all offenders; however, given that 83 percent of offenders have drug or alcohol problems, and that a large percentage of offenders are non-violent, we expect that recidivism rates specifically for the population on which we focus are similar.

III. Program Alternatives

In this section, we present three broad categories of alternative justice programs. Alternatives in the first category (pre-incarceration alternatives) occur prior to or during a criminal trial, providing a drug treatment program that, if successfully completed, reduces or eliminates the defendant's sentence. This type of intervention is employed at the county level in some Wisconsin counties and has been implemented statewide in Arizona and California.

The second category of alternatives (during-incarceration alternatives) consists of programs occurring while the offender is incarcerated. In these programs, completion of drug or alcohol treatment during incarceration allows offenders to be released from prison early, serving more of their sentence on extended supervision and less in prison. These programs reduce incarceration costs by shortening the time offenders spend in prison. Two such programs, the Earned Release Program and Challenge Incarceration Program, operate in Wisconsin.

The third category (post-incarceration alternatives) consists of programs for offenders on extended supervision or parole after incarceration. These programs provide an alternative to revocation for individuals who violate the terms of their extended supervision or parole for drug or administrative infractions. Alternatives to revocation give such offenders the chance to complete drug treatment in lieu of returning to prison. If individuals complete the program successfully, they return to their prior extended supervision, parole, or probation status instead of returning to prison.

Alternatives to revocation programs can be also be used for individuals who violate their terms of probation. Such individuals may have been sentenced to probation in lieu of prison, and in this case, the programs are not post-incarceration. Although alternatives to revocation can be used at more than one point in the justice process, we categorize them as post-incarceration alternatives because they are the main type of post-incarceration program to prevent a return to prison for revocation, while there are many other pre-incarceration alternatives exist. However, alternatives to revocation may be considered as a pre-incarceration option.

We briefly describe programs in each of these categories and consider their costs and recidivism rates in comparison to those of incarceration. Some of the alternatives are state-level programs that could be directly implemented at the state level, while others are county-level programs that the state could require, encourage, or support rather than directly implementing them at the state level. In this section, however, we focus only on how the programs operate and their costs and recidivism rates; we discuss implementation options in the subsequent section. Table 1 summarizes the program alternatives discussed in this section.

Table 1: Program Alternatives Matrix

Details	Policy Alternatives					
	<i>Prison</i>	<i>Drug Courts</i>	<i>Statewide Treatment Instead of Incarceration</i>	<i>Earned Released Program</i>	<i>Challenge Incarceration Program</i>	<i>Day Reporting Centers</i>
Who is served	Convicted criminals	Defendants charged with drug or drug-related criminal offenses	Convicted, non-violent, first-time drug offenders, some probationers and parolees	Convicted non-violent offenders with substance abuse treatment needs	Convicted non-violent offenders with substance abuse treatment needs	Probationers and alternatives-to revocation-recipient at high risk of reentering prison
Number of Program Slots	Many (cannot specify because contract beds in county jails are used as needed)	Within the two longest running programs in Wisconsin (Dane and La Crosse Counties), about 50 – 75 in each program	Offered by law to all who are eligible	230 beds (200 male, 30 female); annual capacity 460	232 (220 male, 12 female) annual capacity 464	3,716 slots statewide
Cost	\$76 per person per day	\$800 - \$8700 per participant (GAO); \$2500 average (Dane County)	Cost of treatment is approximately \$9/day on average	About \$98 per person per day.	About \$104 per person per day	\$131- \$1,280 per participant; for Milwaukee, \$22/day/participant
Reduction in Prison Population	N/A	Incarceration reduction of 143 days on average for drug court graduate (Dane County)	35 percent reduction in number of individuals serving time for drug crimes	Estimated average population reduction of 204 prisoners in 2006; on average 346 bed days saved per release	Estimated average population reduction of 430 prisoners in 2006; on average 570 bed days saved per release	Average of 122 days longer to re-arrest for participants who recidivate
Effectiveness	Approximately 38.7 percent recidivate within three years after release from incarceration (Wisconsin)	Cost benefit studies indicate net gains from drug courts to be \$1000 to \$15,000 per participant (GAO)	Saved California more than \$500 million in first three years	Saves approximately \$22,000 in incarceration costs per release; too early to conclude on recidivism but initial rates low	Saves approximately \$39,000 in incarceration costs per release; recidivism rates similar to average rates for released offenders	Cost savings range between \$1,420 and \$9,650 per participant
Point of Intervention	N/A	At the time of charging	At sentencing or before parole is revoked	During incarceration	During incarceration	Probation or post incarceration

Another program, which we do not discuss in detail, is the Assess, Inform and Measure, which provides additional information to judges to use in sentencing, and can be used in conjunction with any of the other alternatives. We discuss Assess, Inform and Measure in Appendix B because of its potential to facilitate the program alternatives that we examine.

Program Category 1: Pre-Incarceration Alternatives

The first category of alternatives to incarceration diverts offenders directly into treatment programs. Different programs intervene at different points, and offenders may be diverted prior to conviction or sentencing. In Wisconsin, these programs exist only at the county level, and not all counties have such programs. Drug courts are the main type of program used to divert offenders from incarceration in Wisconsin.

County-Based Adult Drug Courts

Adult drug courts are specialized courts that process cases involving drug-involved offenders through use of comprehensive supervision, drug testing, treatment services, and immediate sanctions and incentives (Smith, 2007). Drug courts are one type of the general class of “problem-solving courts” that attempt to address the underlying causes of criminal behavior (Wisconsin Court System, 2007a).³ Because this report focuses on incarceration and alternative justice programs for adult offenders, we limit the discussion and analysis to adult drug and operating while intoxicated courts. Cities with serious drug-crime problems developed the drug court model in the early 1990s, and the number of drug courts has continually grown rapidly (National Drug Court Institute, 2005). For further background on drug courts, see Appendix C.

A defendant is referred to a drug court after being charged in a traditional criminal court. If a drug court participant completes the program, the charges against him or her are typically dropped. If the participant fails to complete, then he or she is normally sentenced based on a conditional plea of guilty or no contest entered as a requirement of the program, as in the Dane County Drug Court Treatment Program (S. O’Brien, personal communication, March 28, 2007)

Target Population of Drug Courts

The prototypical drug court participant is a non-violent first-time offender whose crime is drug-related or driven by his or her drug addiction or dependence. During a March 2007 Wisconsin Legislative Council Symposium, two judges emphasized that non-violent drug-involved offenders should be identified as appropriate for participation in drug courts, while violent or repeat offenders should be incarcerated (Smith, 2007; L. Stark, presentation, March 21, 2007).⁴

³ Other types of specialized problem-solving courts include: mental health courts, juvenile courts and domestic violence courts

⁴ See <http://www.legis.state.wi.us/lc/seminars> for more information, including Judge Joanne M. Smith’s presentation.

The type of offender or accused eligible for drug court depends on the specific program. Criteria may include any of the following: the current offense, criminal justice histories, whether the person is on probation or parole, frequency and type of substance or alcohol use, prior drug treatment experiences, and the person's motivation to seek treatment (Government Accountability Office, 2005).

Although no studies have focused on the extent to which drug courts may attempt to enroll participants who are more likely to succeed in the program,⁵ one often-cited study did analyze which participant characteristics influence success during and after drug court. It found that graduation from the program was more likely for older participants and less likely for those whose primary drug was heroin. Older participants and those charged with drug crimes were less likely to recidivate, while participants charged with property crimes and those with prior criminal convictions were more likely to recidivate. (Rempel, et al., 2003)

Drug Courts Operating in Wisconsin

Wisconsin has thirteen drug courts, with an additional two in the planning stages (Wisconsin Court System, n.d.).⁶ The two courts in operation the longest, the Dane County Drug Court Treatment Program (established 1996) and the La Crosse County Drug Court Program (established 2001), are described in more detail in Appendix D and E, respectively.

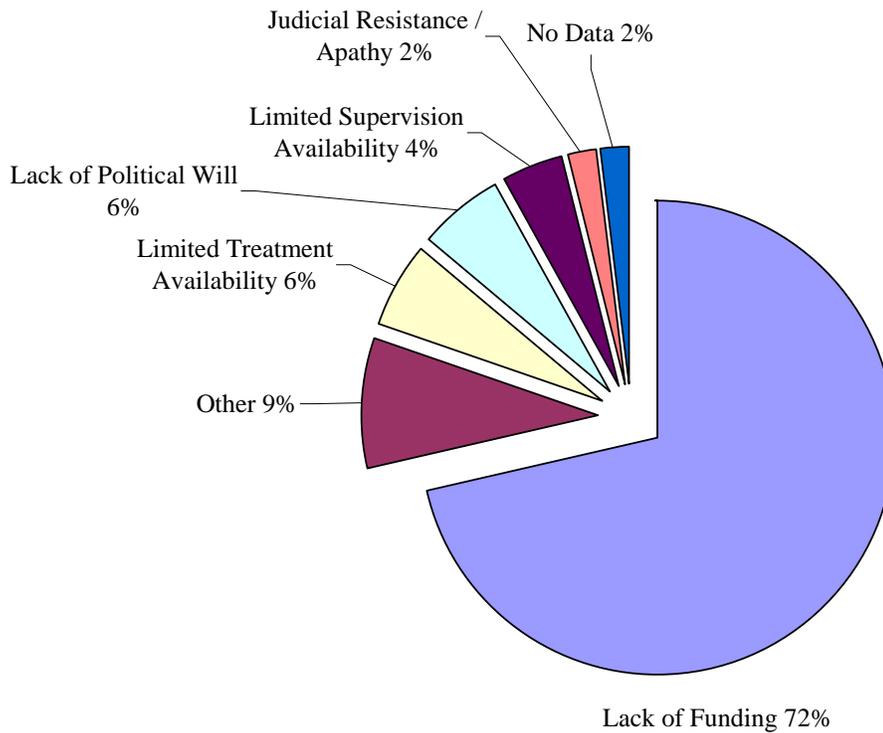
Drug Court Funding

Wisconsin provides no funding earmarked for drug courts. Some states have taken a more active, direct role in funding drug courts. For example, Michigan provided \$2.5 million in appropriations in 2005, while Florida provided \$22 million. In a 2005 survey regarding the top reasons that drug court capacity is limited (illustrated in Figure 1), nearly three-quarters of the respondents cited lack of funding (National Drug Court Institute, 2005).

⁵ Enrolling only participants who are likely to succeed may result in "selectivity bias," a statistical inaccuracy that may inflate the rate of successful outcomes when a drug court program is evaluated.

⁶ See <http://www.wicourts.gov/about/organization/programs/docs/problemsolvingdirectory.pdf> for a list of drug courts in Wisconsin.

Figure 1: Primary Reasons Limiting Drug Court Capacity



Source: National Drug Court Institute, 2005

Drug Court Cost Savings

The cost savings from drug courts are due to two primary factors: (1) reduced incarceration costs and (2) reduced recidivism costs. Drug courts attempt to move participants quickly into treatment programs to avoid the costs of continuing to incarcerate that person. Overall incarceration costs can be greatly reduced compared to traditional sentencing, even though costs are not eliminated because the offender is typically incarcerated until he or she enters the program and may spend additional time in jail as a punishment for lack of compliance. The reduction in the rate of recidivism compounds these savings because successful drug-court participants recidivate at reduced rates, thus avoiding future costs to the criminal justice system as well as victimization costs.

The U.S. Government Accountability Office (GAO) has analyzed studies that attempted to quantify these costs savings. It identified two key benefits: (1) recidivism reduction, which yields judicial system cost savings, and (2) avoided costs to potential victims. The benefits outweighed the costs of the drug court programs in all programs, with net benefits ranging from \$1,000 to \$15,000 per participant. The GAO notes that the actual net benefits are probably higher because the studies did not attempt to measure other significant benefits, such as reduced costs of medical care for participants completing the programs (2005).

However, the methodologies among the studies for measuring costs and benefits varied widely, and the GAO reports vast differences between benefit estimates for avoided victimization. Importantly, only two of the seven studies showed positive net benefits once the victimization benefits were removed from the equation, leaving only the benefits from saved criminal justice resources due to reduced recidivism (2005).

An additional and important long-term benefit which is often unmeasured in cost benefit analyses of drug courts is the improved health of female participants' offspring – i.e., drug-free babies. Alcohol and drugs, particularly cocaine and other narcotics, harm developing and newborn babies (National Drug Court Institute, 2005), and the attendant costs can be extraordinary. For example, the additional costs for delivering and caring for a drug-exposed baby run from \$1500 to \$25,000 per day (Cooper, 2004), while newborn intensive care costs may be as high as \$250,000 over the first year of life (Office of Justice Assistance, 1997).

The precise cost savings resulting from county drug courts vary by program. Two examples are the La Crosse County Drug Court Program and the Dane County Drug Court Treatment Program. Research by the Dane County program evaluator indicates decreased incarceration costs accrue for all Dane County participants. An evaluation of the La Crosse program finds the annual savings due to avoided incarceration to be \$18,755 per participant. However, these findings should be interpreted with caution due to potential methodological limitations (L. Hahn, personal communication, March 5, 2007; Zollweg, 2005). For further details, see Appendix D and E.

Drug Court Recidivism Rates

Hundreds of studies have attempted to measure the effectiveness of drug courts, including reductions in recidivism; however, many of these studies were undertaken without sufficient scientific rigor. In 2005, the GAO analyzed the existing research and drew some positive initial conclusions about a single measure of effectiveness: recidivism reduction. The GAO examined only studies that met criteria for methodological soundness. The key findings are summarized as follows:

- Drug court participants had “fewer incidents of rearrests or reconvictions and a longer time until rearrest or reconviction than the comparison group.”
- Evidence regarding whether substance-use relapse reduced by drug courts was “limited and mixed.”
- No conclusive evidence was found that specific elements of the drug court programs were instrumental in reducing recidivism. These elements include “the behavior of the judge, the amount of treatment received, the level of supervision provided, and the sanctions for not complying with program requirements.”

In Wisconsin, research by the Dane County Drug Court Treatment Program evaluator indicates that the program has reduced recidivism. The recidivism rate⁷ is 35 percent for all participants, including graduates and those not completing the program. The recidivism rate for the comparison group – people who qualified but declined to participate in the program – is 61 percent. Therefore, the program achieved a recidivism reduction rate of 42 percent, near the high end of the national range of 13 to 47 percent (Dane County Drug Court Treatment Program, n.d.b).

OWI Courts

Operating (or driving) while intoxicated (OWI) courts are similar to traditional drug courts but focus instead on people charged with OWI. The goal of OWI courts is to improve public safety by addressing the underlying cause of the criminal behavior – the offender’s alcohol or other drug dependency. Employing the general drug court model, OWI courts bring together traditional criminal justice actors with alcohol and drug treatment professionals. Some drug courts also accept OWI offenders (National Drug Court Institute, 2005). The drug court model may be useful for OWI offenders, as most OWI offenders have alcohol dependencies (Minnesota Supreme Court Chemical Dependency Task Force, 2006). Given the similarities between OWI and drug courts, we would expect the two to offer similar cost savings and recidivism rates, but no studies evaluate this.

OWI Courts in Wisconsin

In Wisconsin, two dedicated OWI courts began operating in 2006: Waukesha County Alcohol Treatment Court (Waukesha County Alcohol Treatment Court, 2005) and La Crosse County OWI Treatment Court (La Crosse County Human Services, n.d.). The Waukesha program targets people charged with their third OWIs. Participants must plead guilty to the charge and have no prior convictions for violent felonies (Waukesha County Alcohol Treatment Court, 2005). Three other drug courts operate also handle some OWI offenders. Drug courts in Racine and Trempealeau counties accept people charged with fourth OWI offenses (Wisconsin Court System, n.d.). The Burnett County Adult Drug Court and Alcohol Court began operating in July 2006 (Office of Governor Jim Doyle, 2006a) and as of March 2007 had six participants (Burnett County Ag/Extension Committee, 2007). Because these are new programs, our research uncovered no evaluations of cost savings or recidivism during our research.

Statewide Treatment Instead of Incarceration Initiatives

Another type of program in the pre-incarceration program category is a statewide program providing treatment instead of incarceration for low-level drug offenders. In recent years many states have begun to consider the feasibility of such an alternative. Many states, including Maryland, Texas, Kansas, and New York, have begun to utilize some treatment option instead of incarceration. So far two states,

⁷ For purposes of this evaluation, recidivism was defined as a rearrest for a misdemeanor, felony and criminal traffic violation but not non-criminal traffic citations. (Dane County Drug Court Treatment Program, n.d.b).

Arizona and California, have implemented statewide treatment instead of incarceration programs.⁸ These programs have been largely well received in both states and have been reauthorized for continuation. We use California as an example to explain the general details of these programs.

California's Substance Abuse and Crime Prevention Act (SACPA) was a voter initiative that passed with more than 60 percent of the vote in November 2000.⁹ This vote created a new law that mandated offering all non-violent, drug-possession offenders the option to receive substance abuse treatment. If the individual successfully completes the program, he or she is released instead of serving a prison sentence. SACPA went into effect on July 1, 2001, and was initially funded with an annual budget of \$120 million for five years. In 2006, SACPA was reauthorized with a higher budget and few changes to the program itself.

To be eligible, an offender must be arrested and charged with a non-violent drug possession offense. The definition of "drug" utilized in SACPA is limited to those drugs on California's list of controlled substances, and does not include alcohol or tobacco. Individuals must be first- or second-time offenders and those charged with manufacturing or sale of illegal drugs are ineligible. For more on eligibility rules, see Appendix F. By law, judges at sentencing must offer all eligible individuals the option of treatment in lieu of serving their sentences. If the offender opts in, he or she must immediately enroll in a SACPA-approved drug treatment program.

A SACPA-approved program must be certified to provide drug treatment and may encompass a variety of techniques including, but not limited to, outpatient treatment, narcotic replacement therapy (i.e., methadone), and limited inpatient treatment. A participant has three chances to complete treatment. If he or she does not complete treatment on the third try, then the participant must serve her or his sentence.

SACPA differs significantly from California's drug courts in that: (1) It does not selectively choose clients. All offenders are offered SACPA as long as they meet the basic requirements; (2) SACPA offers clients a number of different treatment alternatives and relies less on the judicial power of the court to ensure compliance; and (3) it is available to individuals who violate probation or parole due to drug-related offenses. Due to the fact that this intervention is largely for people just entering the criminal justice system, we focus on this intervention as a "pre-incarceration" option.

⁸ In Arizona, this law is known as Proposition 200 and was passed in 1996. California enacted its own version, Proposition 36, in 2000.

⁹ Sixty percent is a significant majority for a voter initiative and represents widespread support for the program.

SACPA is financed with state funds allocated to 58 counties for implementation. The funds are distributed on a yearly basis and must be re-appropriated every five years. Although the funding these programs receive is limited, no individuals are allowed to be turned away, so many treatment programs must accept more individuals than they are funded for.

SACPA Cost Savings

According to an independently conducted benefit-cost analysis from the University of California, Los Angeles (UCLA), SACPA has saved California's taxpayers more than \$2.50 for every dollar invested in the program, amounting to between \$140 million and \$160 million in avoided incarceration costs per year. In the first two years of the program alone, more than 66,000 individuals were diverted to treatment. In addition to the direct savings, California closed a women's prison and scrapped plans to build a \$500 million facility (Longshore, et al., 2006), which resulted in significant cost savings.

SACPA Recidivism

Due to the fact that SACPA is administered at the county level, large differences in implementation exist across counties. These differences are due to demographics of clients, availability of certain drug therapies (e.g., methadone), and compliance of providers. These differences, coupled with the fact that this program has only been in place a few years, have made it difficult to assess the long-term impacts on recidivism. An important consideration of any evaluation of a SACPA program is that the participants are all self-selected.

According to the UCLA report, on average, more than 62 percent of those who chose to enter treatment completes it. Although critics claim that SACPA's success rates are low, they actually are significantly higher than those of the California drug court system. While drug courts technically have higher success rates (about 70 percent), they can cherry pick the most promising clients for diversion. Required by law to offer its services to anyone who meets the eligibility rules, SACPA has a completion rate of 62 percent. SACPA also has reduced the number of individuals serving time in prisons for drug possession offenses. By the end of 2003, prisoners incarcerated for drug possession had dropped by 7,055, a reduction of almost one-third (Longshore, et al., 2006).

Program Category 2: During Incarceration Alternatives

This category of interventions occurs while a drug- or alcohol-involved offender is incarcerated. Wisconsin has two programs that provide substance abuse treatment to incarcerated offenders. Upon successful completion of the treatment program, participants can be released from prison early to serve a greater portion of their sentences on extended supervision. This provides an alternative to incarceration for a portion of the time an offender would otherwise spend in prison.

These two are the Challenge Incarceration Program and the Earned Release Program, both WDOC operated and funded. Both are open to non-violent

offenders who need substance abuse treatment and are eligible at sentencing. These programs may be good alternatives for drug and alcohol offenders, but they are open to any offender involved with drugs or alcohol.

An offender who completes either program is released from prison and placed on extended supervision. Under Wisconsin Truth in Sentencing laws, the offender will have received a bifurcated sentence that includes a confinement portion served in prison and an extended supervision portion during which the offender is released from prison and is under the supervision of a parole agent (Wisconsin Legislative Reference Bureau, 2002). When an offender completes the Challenge Incarceration Program or the Earned Release Program, the court modifies the bifurcated sentence, shortening the confinement portion and lengthening the extended supervision portion, leaving the overall length of the sentence unchanged (WDOC, n.d.a.).

Challenge Incarceration Program

The Challenge Incarceration Program is a “boot camp” with military drill, physical exercise, individual and group counseling, alcohol or drug abuse treatment, education, employment in the facility, and release planning. The inmate progresses through a series of levels, and progress is evaluated weekly. To be eligible, inmates must meet the following requirements:

- be less than 40 years old or less than 30 years old if sentenced before July 26, 2003,
- have no physical or psychological limitations,
- not be convicted of a violent crime or sex crime against a child,
- have an identified substance abuse treatment need,
- sign a memo of agreement to participate, and
- be deemed eligible by the judge at sentencing if sentenced under Truth in Sentencing (WDOC, 2005).

Challenge Incarceration Program Cost Savings

The Challenge Incarceration Program has saved Wisconsin money through avoided incarceration costs. A 1999 WDOC audit found that the program had saved between \$1 million and \$9 million since its inception. The range of estimates comes from varying assumptions regarding when prisoners would have been released had they not participated in the Challenge Incarceration Program. Such assumptions are necessary because the study covers a pre-Truth in Sentencing period when it was uncertain when prisoners would be released on parole.

The Challenge Incarceration Program allows prisoners to be released earlier than they would otherwise be eligible. The prison time avoided is the time between the prisoners’ actual release upon completing the Challenge Incarceration Program and the time they would otherwise have been released. Had they not participated in the program, prisoners in the WDOC audit could have been released anywhere

between their earliest parole eligibility date and their mandatory release date.¹⁰ The estimated prison time avoided and related estimated savings vary with the release date used in the calculation. Use of the earliest parole eligibility date results in less estimated prison time avoided and lower estimated savings. Use of the mandatory release date has the opposite effect on estimates of prison time avoided and savings from avoided incarceration. The actual savings likely lie somewhere between the two estimates, and even the most conservative estimate still clearly shows that the Challenge Incarceration Program saves money.

An updated estimate of savings from avoided incarceration costs can be calculated using data from WDOC on incarceration and program costs and on the number of days in prison avoided per release. In 2006, the Challenge Incarceration Program resulted in savings of approximately \$39,000 per released prisoner. This is the savings net of the additional cost of the Challenge Incarceration Program beyond the cost of minimum security incarceration. Appendix G presents more detailed calculations.

Challenge Incarceration Program Recidivism Rates

Challenge Incarceration Program recidivism rates have generally been comparable to the recidivism rates for all prisoners released from incarceration. Recidivism following the program has been measured in two ways: new offenses resulting in a court disposition of any type, and new offenses resulting in a prison sentence. From 1991 to 2003, on average 35 percent of Challenge Incarceration Program completers committed new offenses within three years of their release, resulting in a court disposition of any type (Simonson, 2006). The overall recidivism rate for all offenders released from confinement from 1980 through 2002 was slightly higher at 38.7 percent (WDOC, 2006b). Twenty-seven percent of Challenge Incarceration Program completers had new offenses within three years of their release that resulted in a prison sentence (Simonson, 2006). The overall rate for convictions that resulted in new prison sentences was 24 percent, slightly lower than that of Challenge Incarceration Program completers (WDOC, 2006b).

Recidivism rates have varied quite a bit throughout the history of the Challenge Incarceration Program. They have been lower than overall recidivism rates in some years and higher in others. For people who complete the program and then commit new offenses, the recidivism rate has ranged from a low of 27 percent to a high of 50 percent for those released in a given year. For participants committing new offenses that result in a prison sentences, the range is 20 percent to 45 percent (Simonson, 2006). See Appendix H for further comparison of recidivism rates for Challenge Incarceration Program offenders and all offenders released from incarceration.

¹⁰ Under Truth in Sentencing, prisoners are now released on extended supervision rather than parole. However, most of the period covered by the 1999 audit is pre-Truth in Sentencing, and so the authors use the term parole.

In considering the variation of recidivism rates between 1991 and 1996, Long and Crego (2000) suggest that two 1994 changes may have tended to increase recidivism rates. First, policies were changed to increase the number of graduates. Second, the number of drug-addicted participants increased, when previously the program had served more alcohol-addicted inmates. However, the program appears to have adjusted to these changes. The number of graduates has continued to increase, while the recidivism rate has remained below the 1994 and 1995 high of 50 percent, with rates declining each year 2001-2003 (Simonson, 2006).

Earned Release Program

The Earned Release Program allows offenders who complete an intensive substance abuse treatment program to be released from prison early and serve more of their sentences on extended supervision. The program was created in the 2003-2005 Wisconsin budget to provide an incentive for incarcerated persons with drug and alcohol addictions to participate in a drug and alcohol treatment program (WDOC, n.d.a.).

For offenders sentenced after July 26, 2003, the judge determines at sentencing whether they are eligible for the Earned Release Program. (July 26, 2003, is when the budget provisions creating the program became effective.) Inmates sentenced before that date may petition for eligibility. Criteria for eligibility include not having been convicted of a violent crime or a sex crime against a child, having an identified substance abuse treatment need, and having a “nexus of criminal behavior and substance abuse” (WDOC, n.d.a.).

After being sentenced, offenders are initially incarcerated and must serve at least six months or 25 percent of their sentence, whichever is greater. Criteria for beginning participation in the Earned Release Program include:

- demonstrating appropriate behavior during incarceration;
- being classified as minimum or minimum community custody;
- not being classified as needing sex offender treatment;
- not having dropped out of the Challenge Incarceration Program; and
- signing a memo of agreement.

Inmates with physical or mental health limitations are subject to a case-by-case review because on-site clinical services are limited and off-site treatment significantly disrupts participation in the Earned Release Program (WDOC, n.d.a.).

Once offenders begin the Earned Release Program, they receive six months of intensive residential treatment involving 35 hours of structured program per week, 30 hours of which is intensive alcohol or other drug abuse treatment. The program also includes planning for release and reintegration into the community. Offenders must meet all program requirements and complete the treatment program, or their participation is terminated and they serve the remainder of their sentences in prison. Offenders who complete the program are placed on extended supervision for the remainder of their sentences (WDOC, n.d.a.).

Earned Release Program Cost Savings

A 2007 evaluation finds that the Earned Release Program resulted in significant savings through avoided incarceration costs due to the early release of offenders, nearly \$10 million as of June 2006. This does not include program operation costs but represents substantial savings nonetheless (Van Stelle, 2007).

A per-release estimate of savings from avoided incarceration costs can be calculated using data from WDOC on incarceration and program costs and on the number of days in prison avoided per release. In 2006, the Earned Release Program resulted in savings of about \$22,000 per released prisoner. This is the savings net of the additional cost of the Earned Release Program beyond the cost of minimum security incarceration. More detailed calculations are presented in Appendix G.

Earned Release Program Recidivism Rates

Three percent of Earned Release Program graduates have been convicted of new crimes. However, many graduates have been only recently released, and so they have not had much time or opportunity for recidivism. The actual recidivism rate will become clearer once more Earned Release Program graduates have been released for more extended periods (Van Stelle, 2007). Thus, while the initial recidivism rate appears much lower than the general three-year recidivism rate of 38.7 percent, there have not been enough Earned Release Program completers released for at least three years to draw conclusions regarding the Earned Release Program's impact on recidivism. Although it is too early to consider any recidivism results conclusive, the initial results may suggest that Earned Release Program completers have low recidivism rates.

Program Category 3: Post Incarceration Alternatives

When offenders violate the terms of parole, probation, or extended supervision, they generally face three consequences. Their parole, probation, or extended supervision can be revoked, and they then serve the remainder of their sentence in prison. Individuals can participate in institutional or community-based programming as alternatives to revocation. Institutional programming consists of sentences of 30-120 days in prison or jail. Community-based programming provides treatment services in the community. After completing their alternatives to revocation, individuals are then released under terms of parole, probation, or extended supervision. If unsuccessful or non-compliant, individuals are returned to prison.

The community-based programs take a variety of forms, from residential programs such as halfway houses, to non-residential programs such as day reporting centers and electronic monitoring (Brown, 2004). We focus on day reporting centers because they offer the most cost effective treatment that also addresses the underlying reasons for imprisonment such as substance abuse problems or a lack of employment skills.

Day Reporting Centers

Day reporting centers are nonresidential facilities providing supervision and treatment to offenders. Participants are permitted to leave to work, seek employment, or attend school or court appearances, and are allowed to spend nights at home, often in conjunction with electronic monitoring. These community-based programs offer treatment options that include alcohol and drug treatment groups, anger management, domestic violence treatment groups, and employment readiness training. All treatment options are aimed at making positive changes in offenders' lives to reintegrate them into the community. Day reporting centers regularly test for drug use to monitor compliance with the program guidelines (Martin, et al., 2003).

Day reporting centers can be used as an alternative to incarceration at several points along the timeline from arrest to final release. They can be used as a pretrial alternative to incarceration, for probation, or as an alternative to revocation. We highlight day reporting centers as post-incarceration programs because they offer individuals at risk of revocation the best quality of service in a nonresidential setting. A center, or its appointing jurisdiction, can choose to serve one client population exclusively, or take any combination of pretrial detainees, probationers, or those at risk of revocation. This flexibility allows day reporting centers to serve a wider scope of clients, to adapt local demand for correctional services, and adds to their desirability as an alternative to incarceration.

The DOC funds nine county-administered day reporting centers in Dane, Rock, Racine, Kenosha, Eau Claire, Marathon, Ashland, and Milwaukee counties. Milwaukee County has two day reporting centers, one serving men exclusively, the other women exclusively. The Wisconsin 2005-07 budget funded the creation of the centers in Rock, Kenosha, and Milwaukee counties. In some cases, such as the Dane County Day Reporting Center, the WDOC administers the programs and contracts with providers to conduct treatment. In other cases, such as the Milwaukee County Day Reporting Centers, the programs are administered and conducted entirely by outside contractors (D. Rosenthal, personal communication, March 9, 2007).

Day Reporting Center Cost Savings

As noted, people granted an alternative to revocation can be sentenced to 30-120 days of incarceration or relegated to the supervision of a community-based program, such as a day reporting center. It is important to compare the costs of these two alternatives to fully appreciate the cost savings day reporting centers provide. At a standard rate of \$82 per day for incarceration costs, the cost per participant for a short stay of incarceration as an alternative to revocation can range from \$2,460 to \$9,840. Table 2 below depicts the annual budget, the number of clients served annually, and the cost per participant for each of the nine WDOC day reporting centers. Even the most costly day reporting centers, such as the one in Ashland County, provide significantly lower costs per participant and significant cost savings compared to incarceration.

Table 2: Cost and Cost Savings for Day Reporting Centers

Location	Annual Budget	Clients Served Annually	Cost Per Participant	Cost Savings Compared to 30 Days in Prison (\$2,460)	Cost Savings Compared to 120 Days in Prison (\$9,840)
Dane	\$197,500	1,087	\$182	\$2,278	\$9,650
Rock	\$99,550	100*	\$996	\$1,464	\$8,844
Racine	\$123,380	941	\$131	\$2,329	\$9,709
Kenosha	\$70,250	100*	\$703	\$1,757	\$9,137
Milwaukee (male)	\$103,950	100*	\$1,040	\$1,420	\$8800
Milwaukee (female)	\$97,050	100*	\$971	\$1,489	\$8,869
Eau Claire	\$117,000	559	\$209	\$2,251	\$9,631
Marathon	\$173,082	720	\$240	\$2,220	\$9,600
Ashland	\$11,520	9	\$1,280	\$1,180	\$8,560

*Minimum anticipated capacity for new facilities. Historically, WDOC has exceeded this number, driving down the cost per participant.

Source: D. Rosenthal, personal communication, Wisconsin Department of Corrections, Division of Community Corrections, March 9, 2007.

The governor's proposed 2007-09 Wisconsin biennial budget incorporates the potential cost savings created by day reporting centers and other community alternatives to revocation, such as halfway houses and transitional job training programs. In total, the governor proposed \$1,922,500 for 2007-08 and \$4,217,500 for 2008-09 for all community alternatives to revocation. This includes creation of five day reporting centers budgeted at \$125,000 for 2007-08 and \$625,000 for 2008-09. As a result of the expanded community alternatives to revocation, the budget calls for a reduction in contract bed¹¹ funding by \$1,224,200 or 65 beds in 2007-08 and \$3,474,800 or 185 beds in 2008-09. The absolute increase in the budget associated with expanding community alternatives to revocation is thus \$698,300 for 2007-08 and \$742,700 for 2008-09. Considering the additional services these budget increases provide, such as the five additional day reporting centers, investing in community alternatives to revocation may be a good use of taxpayer money (Wisconsin Legislative Fiscal Bureau, 2007b).

¹¹ WDOC contracts with counties to house state prisoners in county jail beds when state prisons are full. These county jail beds are known as contract beds.

Day Reporting Centers Recidivism Rates

The literature regarding day reporting centers suggests that participation in these programs reduces the rate of recidivism and lengthens the time to rearrest for those who do recidivate. In a study of the Cook County Day Reporting Center in Illinois, 14 percent of those in the control group remained arrest-free for 14 months following discharge whereas 25 percent in the day reporting center treatment group remained arrest-free. Of those who recidivated, day reporting center treatment participants remained arrest-free for an average of 122 days longer than the control group (Martin, et al., 2003).

Evaluative studies of recidivism from WDOC day reporting centers participants have not been undertaken. Such a study would not yet be appropriate for the facilities created by the 2005-07 biennial budget because they have not been in existence long enough to validly determine their outcomes. It would be more beneficial to study the longer-established day reporting centers.

IV. Implementation Options

In this section, we discuss options for implementing the above types of alternative justice programs. While all of these programs could provide significant benefits in Wisconsin, a number of options for implementation exist. Some types of programs, such as drug courts, are necessarily county-level programs, because prosecution, trial, and sentencing of non-violent drug- and alcohol-involved offenders occurs at the county level. Others are state-level programs that state agencies such as WDOC would be implement. We thus consider some implementation alternatives that would provide state support to county-level programs, and others that would involve the state itself enacting and implementing a program.

Alternative 1: Expand State Grants to Provide Greater Support for County Programs

Counties require resources to operate drug courts or other programs that provide treatment for substance abuse and offer an alternative to incarceration. As discussed in the drug court section, lack of funding limits the capacity of programs such as drug courts. The 2005-07 budget created the Treatment Alternatives and Diversion (TAD) grant program (Wisconsin Court System, 2007b). The state could expand alternatives to incarceration in Wisconsin by increasing grant funding (such as through TAD) to provide greater resources to county programs.

Thus far, the governor has provided nearly \$1 million in TAD grants to seven counties: Burnett, Dane, Milwaukee, Rock, Washburn, Washington and Wood (Office of Governor Jim Doyle 2006a, 2006b). The Burnett, Dane, Wood, and Washburn county grants will fund drug courts (see section on Dane County Drug Court Treatment Program above). Federal funding for the Dane County program ran out, and its TAD grant will help fill this gap (Office of Governor Jim Doyle, 2006a). The Dane County grant will also fund the establishment of a day report and treatment program to provide four to six months of coordinated treatment, counseling, and skill-building sessions to non-violent alcohol and drug abusers as part of their bail agreements.

The TAD grant program in Rock County differs, offering a treatment program for jail inmates provided by the Department of Corrections, providing up to twelve weeks of treatment (Office of Governor Jim Doyle, 2006a). The Milwaukee TAD grant also departs from the traditional drug court model. This \$275,000 grant will fund six new positions – mostly “drug and alcohol diversion specialists” – who will interview newly jailed individuals. If the individuals have alcohol or drug abuse problems, the specialists will determine whether they are eligible for social services to help address their problems. If these individuals do not have serious mental illness or co-occurring substance abuse issues, they will be enrolled in the jail diversion project and referred to appropriate social service providers. Local officials estimate that 90 percent of program participants will not recidivate (Office of Governor Jim Doyle, 2006b).

Alternative 2: Support County Programs through a Community Corrections Act

A community corrections act is state legislation that provides localities with the authority and money to develop and operate community-based correctional programs for non-violent offenders as an alternative to incarceration (Carey, 1996). A community corrections act does not establish any one alternative program statewide but provides a framework within which communities can develop their own alternative programs. The act also provides funding for those programs (Carey, 1996; Shilton, 1995).

Some states have found that community corrections acts are a cost-effective way of increasing the number and quality of alternatives to incarceration (Carey, 1996). Minnesota was the first state to pass a community corrections act, authorizing counties to develop community corrections programs in 1969 and beginning to subsidize these programs in 1973 (Minnesota Department of Corrections, n.d.). Twenty-five states had community corrections acts by 1995 (Shilton, 1995).

States' community corrections acts vary in a number of ways. Nearly all are decentralized with the exception of Florida, whose system is centralized. Some focus on probation reforms, while others focus on developing new alternatives to incarceration. They can also vary in target audience. Community corrections acts usually focus on non-violent felons, but some may include offenders convicted of misdemeanors who might crowd county jails (Shilton, 1995).

Another important feature of some community corrections acts that varies from state to state is the inclusion of "chargeback" provisions. Chargeback provisions take away funding from localities that send too many offenders to prison (Shilton, 1995). For example, Indiana's community corrections act provides for a chargeback if certain non-violent offenders are sent to state prison when community corrections programs are not at capacity (Indiana Department of Correction, 2007). Minnesota began its community corrections act in conjunction with sentencing guidelines tending to limit incarceration in prisons to more serious felons. Minnesota initially used a chargeback provision for offenders sent to prison outside of these guidelines. However, they eliminated the chargeback provision after observing a very high rate of compliance with guidelines (Streit, 2007).

One Proposal:

The Wisconsin Community Based Correctional Accountability Act

University of Wisconsin Law School Professor Kenneth Streit has developed a specific proposal for a community corrections act in Wisconsin. The "Wisconsin Community Based Correctional Accountability Act" would create a system of financial incentives for counties to develop alternatives to incarceration programs. Participation would be voluntary, and counties would receive start-up grants to begin programs. Counties would then receive payments or be charged based on how many offenders they sent to state prisons (Streit, 2007).

To determine payments or charges to participating counties, the state would calculate the anticipated prison population from each county using average daily population figures from the past five years. Each quarter, for every one inmate below the projected prison population from a county, the county would receive a payment equal to 75 percent of what it would have cost to incarcerate an offender for the quarter. For every one inmate above the projected prison population from a county, they would be charged 75 percent of what it cost to incarcerate an offender for the quarter (Streit, 2007). This charge to counties is a chargeback provision.

Potential Variations on the Proposed Act

Streit's proposal is not the only way that a community corrections act could be structured in Wisconsin. As discussed above, different states' community corrections acts vary in a number of ways. The "Wisconsin Community Based Correctional Accountability Act" may be a good starting point in considering a community corrections act as a way to support local alternative to incarceration programs. However, it is important to also consider potential variations on this one proposal.

The provision of state funding for community corrections programs, and how this funding affects counties' incentives, is an important element of a community corrections system. Without state funding, counties must pay for their alternatives-to-incarceration programs, or seek grants, which are usually only available for a limited time. Sending offenders to prison, which is paid for by the state, is thus less costly to the county. The proposed community corrections act changes the incentives for participating counties so that it is in their interest to send fewer offenders to prison. Changing the funding provisions could change the counties' incentives.

The chargeback provision is a key element. In the above proposal, the chargeback is based on sending an above-average number of offenders (*all* offenders) to prison. Some states include no chargeback provisions, while others have based chargebacks only on offenders sent to prison outside of guidelines, or certain types of offenders being sent to prison. Indiana also appears to make an exception when community programs are at capacity.

Chargebacks influence the incentives of prosecutors and judges in charging and sentencing offenders. Chargebacks can create incentives to send offenders to alternative justice programs instead of prison. Different chargeback provisions may provide weaker or stronger incentives. The method of calculating chargebacks may also influence prosecutors' incentives. Including only certain types of offenders in a chargeback provision could create an incentive for prosecutors to charge offenders with or accept plea agreements for offenses that would not result in a chargeback to a county.

Payments to participating counties could also be structured a number of ways. The proposed system of start-up grants plus payments based on reductions in prison population from the county is one option. Payments could also be based

on reductions in the number of certain types of offenders sent to prison. Other potential variations on the proposal might include providing some base level of funding to counties plus an incentive payment based on reductions in the prison population. The payments to counties create a strong incentive to send fewer offenders to prison. Different payment structures may provide weaker or stronger incentives.

Advantages and Disadvantages of a Community Corrections Act

The potential advantages and disadvantages of this alternative might vary depending on the details of its implementation. In general, a main advantage is the additional source of funds for counties seeking to develop community-based alternatives to sending offenders to prison. Depending on the structure of the funding and chargeback provisions, it might provide strong incentives for counties to avoid sending offenders to prison when community-based alternatives might be appropriate. Disadvantages may include the potential start-up costs that would have to be paid before the savings from incarceration could be realized, the uncertainty regarding how many counties would participate if the act were optional, and the potential financial risk to counties resulting from a chargeback provision.

Alternative 3:

Require Treatment Alternatives to be Offered Statewide

Another option for Wisconsin is to amend the state statutes in the same manner as California and Arizona have done. This would require that all non-violent drug offenders be offered the option to complete a drug treatment sequence in lieu of incarceration. In addition to the significant cost savings these programs can offer, they are widely appealing, as only non-violent offenders are eligible for treatment. Another attractive aspect of this alternative is that it easily runs in conjunction with other interventions including the popular Wisconsin drug court system.

To implement this program, treatment programs would need to be accredited by the state, and state statutes would have to be changed to reflect the new law. Otherwise this intervention could be handled through the traditional court system or in conjunction with current drug courts.

Alternative 4:

Expand Programs Occurring During Incarceration

The Earned Release and the Challenge Incarceration programs could be expanded to offer these alternatives to more offenders. Currently, each program has the capacity to serve around 460 offenders per year. The Challenge Incarceration Program has 220 slots for men and 12 for women (Join Together, 2005). As the program takes about six months to complete, approximately 440 men and 24 women could complete the program each year. The Earned Release Program has 200 slots for men and 30 for women (Van Stelle, 2007). As a six-month program, it could serve up to 400 men and 60 women each year.

Governor Jim Doyle has been trying to expand the Earned Release Program. In 2005, his proposal to add 400 slots did not pass in the Legislature (Marley, 2005; Forster, 2005). Doyle’s 2007-09 executive budget released in February 2007 again proposes expansion, although it does not specify how many additional program slots would result (Wisconsin Department of Administration, 2007).

One argument in favor of expanding the two programs is that both have waiting lists, though based on those numbers only a limited expansion is likely warranted. Table 3 provides figures on eligible, suitable, waiting, and enrolled prisoners, as defined by the WDOC. For both programs, thousands of offenders were found eligible when convicted, but far fewer are suitable to enroll in either program, according to the WDOC (Simonson, 2006). For those prisoners who do not meet WDOC suitability requirements for either program, we recommend consideration of how these offenders could become suitable to begin either program or how one of the programs could be adapted to address these offenders’ needs.

Table 3: Number of Eligible, Suitable, Waiting, and Enrolled Prisoners as of November 2006

Program	Eligible per Judgment of Conviction	Suitable per WDOC	Waiting List	Enrolled
Earned Release	4,005	441	232	196
Challenge Incarceration	5,378	354	171	190

Source: Simonson, 2006

Comparing the Earned Release and the Challenge Incarceration Programs

Either or both of Earned Release Program and Challenge Incarceration Program could be expanded. Estimated savings from avoided incarceration costs are substantially higher for the Challenge Incarceration Program than for the Earned Release Program, which might make Challenge Incarceration Program expansion appear more appealing. Challenge Incarceration Program savings are higher because more bed days are saved per release, which indicates that Challenge Incarceration Program completers have more time left than Earned Release completers on the confinement portions of their sentences when they are released.¹² However, in comparing the two programs, it is important to remember factors other than avoided incarceration costs. The Earned Release Program can serve some offenders not eligible for the Challenge Incarceration Program, including those who are too old or have health limitations preventing them from participation in a boot camp. Earned Release Program participants may have a lower recidivism rate than those in the Challenge Incarceration Program, although the former is too new a program for us to draw that conclusion.

¹² This may be because Challenge Incarceration Program offenders on average have longer confinement sentences, or offenders may be able to begin and complete the Challenge Incarceration Program earlier in their sentences, or a combination of these factors.

Given that both programs result in substantial savings from avoided incarceration costs and that observations on overall effectiveness cannot yet be made, we do not conclude that one program is more effective than the other. Rather, we suggest that both appear to be effective, and expansion of either or both warrants consideration.

Advantages and Disadvantages of Earned Release Program and Challenge Incarceration Program Expansion

The major advantage to expanding these programs is the potential increased cost savings. Each program saves thousands of dollars per release, and increasing program capacity will increase the number of releases. Any advantages with regard to recidivism are less clear; on average, Challenge Incarceration Program recidivism is only slightly below the general recidivism rate, and it is too early to draw conclusions on the Earned Release Program's impact on recidivism. However, expanding the Earned Release Program could be advantageous if the initially low recidivism rate continues, and Challenge Incarceration Program recidivism rates on average are no worse than general recidivism rates.¹³

The disadvantage is the limited potential for expansion. As discussed, the majority of offenders who were found eligible at sentencing are not deemed suitable for these programs by WDOC. Unless this can be resolved, even the somewhat expanded programs will have only a limited impact on the number of prisoners incarcerated in Wisconsin and the costs associated with incarceration.

Alternative 5: Expand Use of Day Reporting Centers

In the context of Truth in Sentencing reforms, community-based alternatives to revocation become increasingly important. As offenders sentenced under Truth in Sentencing complete the confinement portion of their bifurcated sentence, they are being released on extended supervision at an increasing rate. The number of offenders sentenced under Truth in Sentencing released to extended supervision increased from an average of 26 per month in 2001 to 256 per month in 2004. Truth in Sentencing has also increased the average length of post-incarceration extended supervision from an average of 31 months to 55 months (Greene & Pranis, 2006). Longer periods of extended supervision increase the risk of revocation, and a preliminary analysis shows a significant percentage of Truth in Sentencing offenders have their extended supervision revoked.¹⁴ The growing number of individuals on extended supervision and the lengthier terms they serve make day reporting centers an important alternative to revocation.

¹³ It is also possible that as pre-incarceration diversion efforts keep offenders who are less likely to recidivate out of prison, more of those participating in during-incarceration programs are more difficult cases who are more likely to recidivate. We are uncertain as to whether pre-incarceration programs divert enough offenders from prison to have such an effect. If they do, then steady or improving recidivism rates in during-incarceration programs would represent improved outcomes for a more difficult to serve population.

¹⁴ According to one preliminary analysis, 40 percent of individuals on extended supervision went back to prison before completing their extended supervision. Ten percent had their extended supervision totally revoked and spent their entire sentence behind bars (Greene & Pranis, 2006).

Expansion can occur in a number of ways, including transforming current WDOC and county-based correctional facilities into day reporting centers or by contracting with treatment service providers to conduct treatment off site. One area of study that could be beneficial in the planning expanded day reporting centers would be a comparative cost analysis of transforming current facilities versus private contracting. Funding for the expansion of day reporting centers is proposed in the governor's 2007-09 biennial budget.

Day reporting centers offer significant cost savings over incarceration while giving needed services not usually provided in prisons. The main disadvantage to expanding the use of day reporting centers is the risk to public safety posed by allowing convicted offenders free into the community. This risk can be mitigated by imposing program restrictions that require participants to be non-violent offenders who have been assessed as acceptable for the program.

Alternative 6: Modify Truth in Sentencing to Give Credit for Extended Supervision Time Served

Under Truth in Sentencing, individuals who are revoked from extended supervision are not given credit for the time they successfully serve in the community. In effect, once extended supervision is revoked, the clock on time served turns back to the day that the individual was released from prison. This means that an individual may serve more time on extended supervision than in the original sentence. For example, if an offender is sentenced to 20 years of extended supervision, completes 19 years, and then has her or his extended supervision revoked, the offender must start over with 20 years left on his or her sentence. The offender may be sent back to prison for some or all of this time; the remainder will be served on extended supervision. This scenario represents the maximum punishment allowable under Truth in Sentencing. Offenders may thus serve more of their bifurcated sentence behind bars than the confinement portion of their original sentence indicated. Some offenders may even serve their entire sentence in prison.¹⁵

Truth in Sentencing could be modified to credit offenders who are revoked from extended supervision with the time they had successfully served on extended supervision prior to revocation. This could be done by formula, or by granting judges the discretion to award credit on a case-by-case basis. This alternative would reduce incarceration resulting from extended supervision revocation.

¹⁵ A preliminary analysis indicated approximately 10 percent of offenders sentenced under Truth in Sentencing serve their entire bifurcated sentence in prison (Green & Pranis, 2006).

V. Recommendations

Incarceration is costly, and a significant percentage of offenders recidivate after their release from prison. Alternative justice programs divert individuals from prison with lower costs and comparable or lower recidivism rates. However, these programs are not widely available, and are thus not achieving their full potential. We recommend that the Wisconsin Joint Legislative Council study these alternative justice programs and their related implementation options:

- Alternative 1: Expand state grants to provide greater support for county programs
- Alternative 2: Support county programs through a community corrections act
- Alternative 3: Require treatment alternatives to be offered statewide
- Alternative 4: Expand programs occurring during incarceration
- Alternative 5: Expand use of day reporting centers
- Alternative 6: Modify Truth in Sentencing to give credit for extended supervision time served

Although we have discussed the alternatives individually, they are not mutually exclusive. As many of the alternatives occur at different points in the criminal justice process (prior to, during, or following incarceration), multiple alternatives could be used together. Pre-incarceration options such as drug courts may treat some offenders in the community, while judges may decide that others should be incarcerated until they complete treatment through something like the Earned Release Program or Challenge Incarceration Program. Post-incarceration alternatives serve yet another population: those on extended supervision or parole. Implementation of a pre-incarceration alternative with expansion of during- and post-incarceration programs may be appropriate.

In conclusion, alternative justice programs may offer significant benefits to Wisconsin, and there are a number of ways that the state could implement new or expanded alternative justice programs. We recommend that the Wisconsin Joint Legislative Council further study these alternative justice programs and implementation options, especially their potential for cost savings and reduced recidivism, and that the council recommend to the full Legislature adoption of one or more of the implementation options.

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Appendix A: Goals of Incarceration and Alternative Justice Strategies

Criminal justice system and sentencing goals traditionally include deterrence, incapacitation, retribution, and rehabilitation (Osler, 2004). Thus, it is desirable for incarceration or any other sentence or program for offenders to deter people from committing crimes, incapacitate the offender so he or she cannot commit crimes, punish the offender for his or her crime, and rehabilitate the offender to prevent criminal activity.

We also include minimizing cost as a goal of alternative justice programs. As we discuss below, incarceration is costly. The goals discussed above should be met as efficiently (with as low a cost) as possible. Therefore, we consider the cost of incarceration and the potential cost savings of each alternative program.

The goals of deterrence, incapacitation, and rehabilitation are all related to public safety: each goal is a way of reducing crime, thereby improving public safety. Incapacitation and rehabilitation both aim at preventing a particular offender from committing more crimes, and are thus captured by measures of recidivism. Therefore, we also evaluate data on recidivism following incarceration and alternative justice programs.

Alternative justice programs generally focus more on rehabilitation and less on retribution; beyond this, the extent to which different alternatives set forth in this report are retributive is difficult to determine. This increased focus on rehabilitation may be appropriate; many consider substance abuse a health issue and believe treatment to be more appropriate than incarceration for addicts (Greene & Pranis, 2006).

To the extent that alternative justice programs are less punitive, they might be considered to have less of a deterrent effect. However, incarceration may not be a strong deterrent when addiction motivates crime. There is limited evidence of the deterrent effect of incarceration or alternative justice programs.

We focus on recidivism and cost as measures of the extent to which incarceration and alternative justice strategies achieve criminal justice system goals. Retribution is difficult to measure and may be a less appropriate goal for the population we are considering, and deterrence is difficult or impossible to measure. We believe that this justifies a focus on recidivism and cost.

Given these goals, alternative justice strategies merit serious consideration if they result in similar or improved recidivism outcomes (less recidivism, which means better public safety) at a lower cost. We find that there are several such alternative justice strategies for the Wisconsin Joint Legislative Council to consider. We do not attempt to determine which of the alternatives discussed below is the best choice; such a determination merits further study, and is a matter for the

Wisconsin Joint Legislative Council. We also do not consider political feasibility issues; this is a matter for legislative consideration. Instead, we evaluate the available evidence on the recidivism impacts and costs of the alternatives and present this information to the Wisconsin Joint Legislative Council.

Appendix B: Assess, Inform, and Measure Pilot Project

The Assess, Inform, Measure (AIM) Pilot Project is a planning initiative originating from the Wisconsin Court System. The project has two main components: a pre-sentencing offender assessment and an evaluative “feedback loop” of information that tracks the effectiveness of the alternatives to incarceration. These two components are designed to address two major challenges the court system faces: 1) how to determine if it is appropriate and safe to divert an individual from incarceration, and 2) how to measure the success or failure of alternatives to incarceration.

The offender assessment component of the project consists of four major parts:

- Risk assessment, which gauges the threat the individual poses to public safety;
- Needs assessment, which investigates the origins of the individual’s criminal behavior, such as drug addiction, and the social services needed to address these issues;
- Responsiveness assessment, which gauges the individual’s willingness to change, and the cultural, gender, and learning approaches best suited to him or her;
- Summary of available community-based alternatives to incarceration that address the individual’s identified service needs.

The “feedback loop” component of the project is designed to provide the court and local criminal justice systems with process and outcome data of alternatives to incarceration. The outcome used to judge the success or failure of alternative programs will be recidivism rates. Also included in the planned objectives of AIM is the development of baseline recidivism rates using data from 1980-2003. This will provide the participating counties with a basis for comparison when judging the effectiveness of alternative to incarceration.

The AIM pilot project will be instituted in five counties: Eau Claire, La Crosse, Portage, Marathon and Iowa (WDOC, n.d.b).

Appendix C: Drug Courts in the United States

This appendix presents information on the number and type of drug courts in the United States, their rapid growth, and the general principles under which most of these drug courts operate.

The Number and Type of Drug Courts in the United States

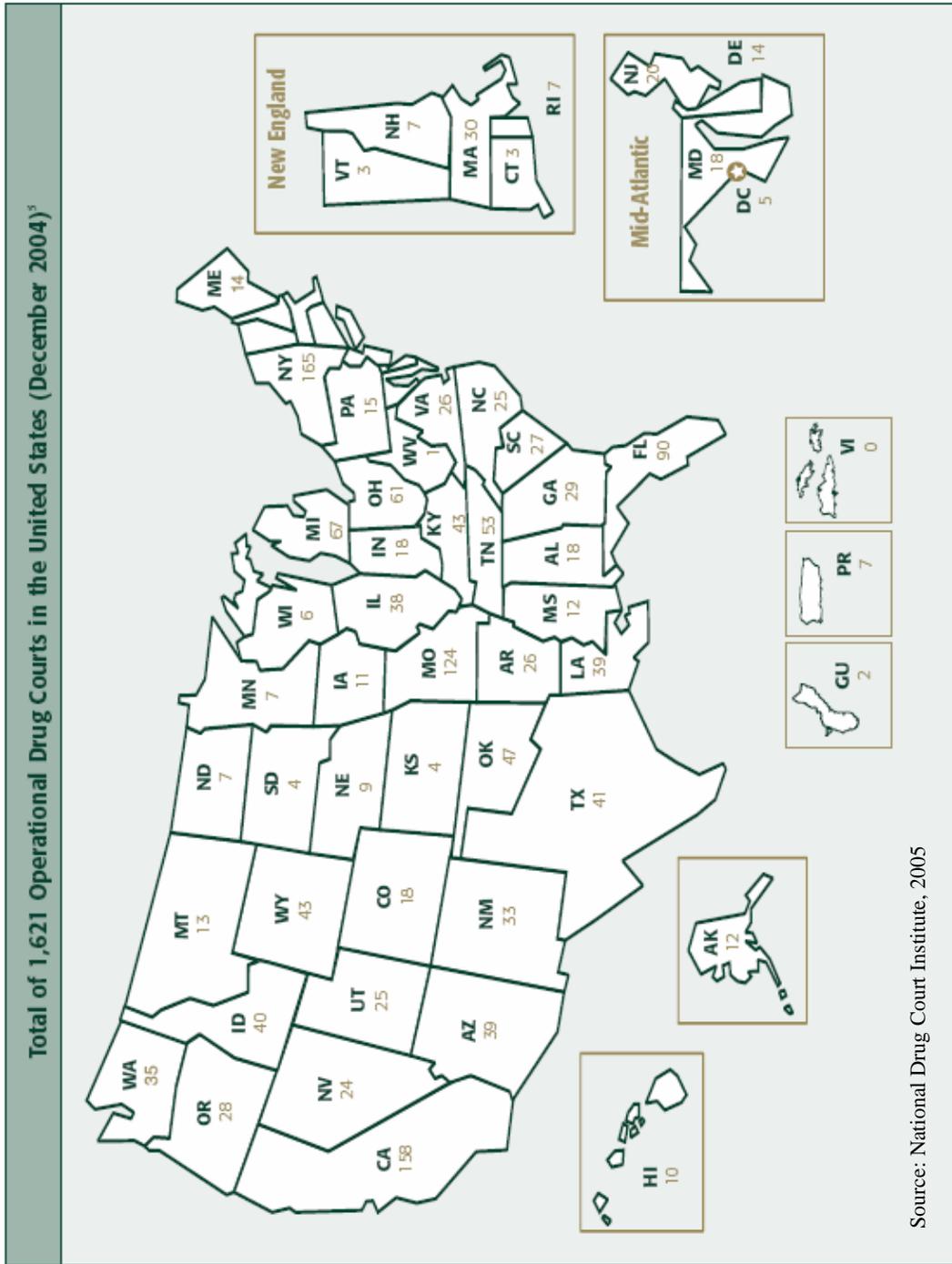
Table C-1 and Figure C-1 illustrate the number and types of drug courts in operation in the United States. Note that because of the rapid growth rates of drug courts, the number of courts is probably substantially higher than reflected in the table. The table is useful, however, for comparing the relative numbers of drug courts among various states. In particular, three states have a high number of drug courts: California (158), Missouri (124), and New York (165). Wisconsin has thirteen drug courts, including juvenile drug courts and operating-while-intoxicated courts, with two more in the planning stages (Wisconsin Court System, n.d.).

Table C-1: Number and Type of Drug Courts in the United States

	Total Drug Courts										Total Drug Courts														
	Adult	Post-pre	Pre-pre	Juvenile	Family	Tribal*	DWI	Designated DWI	Hybrid DWI	Campus	Reentry Drug Court	Federal Judicial District	Adult	Post-pre	Pre-pre	Juvenile	Family	Tribal*	DWI	Designated DWI	Hybrid DWI	Campus	Reentry Drug Court	Federal Judicial District	
Alabama	18	15	0	1	1	1	0	0	0	0	0	0	18	15	0	1	1	1	0	0	0	0	0	0	0
Alaska	12	5	0	0	1	1	1	5	3	2	0	0	24	6	0	4	3	4	5	5	0	0	2	0	0
Arizona	39	8	6	2	12	3	13	3	3	0	0	0	7	0	0	5	0	0	2	2	0	0	0	0	0
Arkansas	26	25	23	2	1	0	0	0	0	0	0	0	20	15	15	0	4	1	0	0	0	0	0	0	0
California	158	91	57	8	39	22	0	4	4	0	2	0	33	6	6	13	3	5	6	6	0	0	0	0	0
Colorado	18	8	0	0	6	1	2	0	0	0	1	0	165	79	79	0	5	28	0	51	0	51	0	1	1
Connecticut	3	3	3	0	0	0	0	0	0	0	0	0	25	15	14	5	5	2	1	2	2	0	0	0	0
Delaware	14	9	3	6	3	0	0	0	0	0	2	0	7	2	2	0	3	0	2	0	0	0	0	0	0
D.C.	5	2	1	1	1	1	0	1	0	1	0	0	61	27	-	-	19	12	0	3	3	0	0	0	0
Florida	90	42	24	27	28	17	0	1	1	0	2	0	47	31	31	0	10	2	3	1	1	0	0	0	0
Georgia	29	18	4	14	6	1	0	4	4	0	0	0	28	16	16	6	2	0	4	2	2	0	0	0	0
Guam	2	1	0	1	1	0	0	0	0	0	0	0	15	8	5	3	3	0	0	2	2	0	0	2	0
Hawaii	10	4	4	4	4	1	0	0	0	0	1	0	7	7	-	-	-	0	-	-	-	-	-	-	0
Idaho	40	22	22	0	10	1	1	6	2	4	0	0	7	1	0	1	4	1	0	0	0	0	0	1	0
Illinois	38	17	0	0	3	0	0	1	1	0	17	0	27	12	0	0	12	3	0	-	-	-	-	-	0
Indiana	18	12	1	11	4	0	0	1	0	1	0	1	4	0	0	0	4	0	0	0	0	0	0	0	0
Iowa	11	6	-	-	3	1	0	0	0	0	1	0	53	35	35	1	13	1	0	3	3	0	0	0	0
Kansas	4	1	0	1	2	0	1	0	0	0	0	0	41	24	17	12	6	3	1	3	0	3	0	4	0
Kentucky	43	30	30	11	2	0	0	0	0	0	0	0	25	12	5	8	5	6	0	2	0	2	0	0	0
Louisiana	30	24	23	1	15	0	0	0	0	0	0	0	3	2	1	1	0	1	0	0	0	0	0	0	0
Maine	14	5	5	0	6	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	18	7	7	0	9	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Massachusetts	30	17	17	0	5	0	0	1	0	1	0	7	0	0	0	0	0	0	0	0	0	0	0	0	0
Michigan	67	25	-	-	14	5	2	21	21	-	-	0	35	13	1	12	10	6	5	1	1	0	0	0	0
Minnesota	7	5	4	5	2	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0
Mississippi	12	9	8	2	2	0	0	1	0	1	0	0	6	3	3	2	1	0	2	0	0	0	0	0	0
Missouri	124	53	35	23	18	10	0	19	2	17	0	24	43	12	12	6	8	2	1	20	20	0	0	0	0
Montana	13	2	0	2	2	4	1	0	1	0	0	0	1,621	811	568	214	357	153	54	176	90	86	1	68	1

Source: National Drug Court Institute, 2005

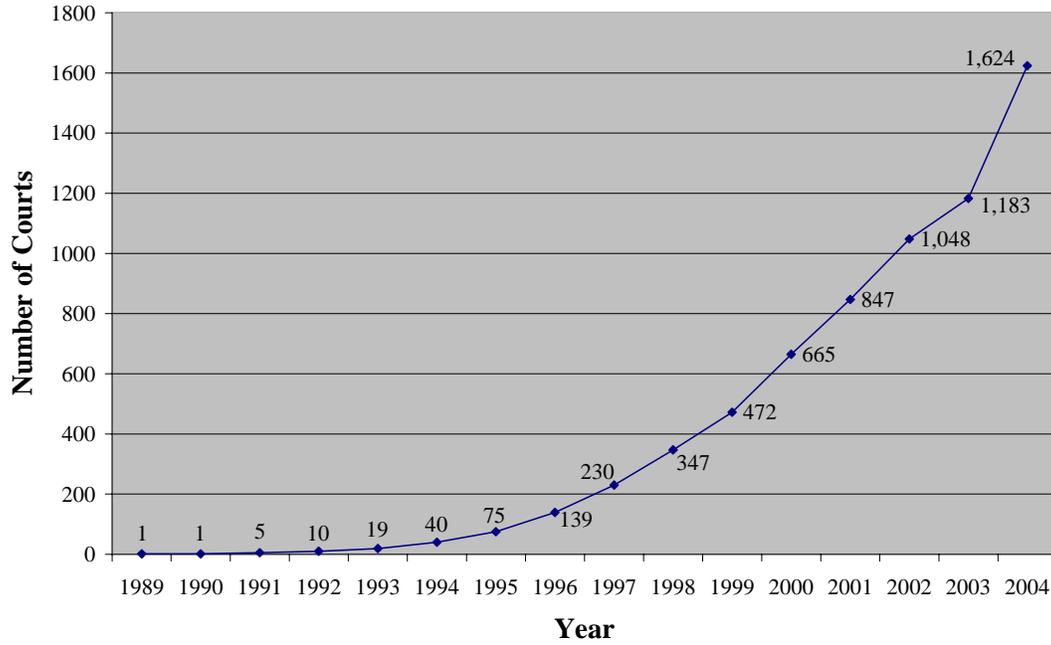
Figure C-1: Drug Courts in the United States by State



The Rapid Growth of Drug Courts in the United States

The number of drug courts in the United States has grown rapidly since their inception in 1989. Figure C-2 depicts that growth:

Figure C-2: Growth of Drug Courts in the United States



Source: National Drug Court Institute, 2005

The Key Components of Drug Courts in the United States

The National Association of Drug Court Professionals published a seminal paper in 1997 setting forth the ten key components of a drug court. These are:

Key Component 1

Drug courts integrate alcohol and other drug treatment services with justice system case processing.

Key Component 2

Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

Key Component 3

Eligible participants are identified early and promptly placed in the drug court program.

Key Component 4

Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

Key Component 5

Abstinence is monitored by frequent alcohol and other drug testing.

Key Component 6

A coordinated strategy governs drug court responses to participants' compliance.

Key Component 7

Ongoing judicial interaction with each drug court participant is essential.

Key Component 8

Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

Key Component 9

Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.

Key Component 10

Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

Appendix D: Dane County Drug Court Treatment Program

The Dane County Drug Court Treatment Program targets non-violent drug-involved offenders, including those charged with misdemeanors or felonies (Dane County Drug Court Treatment Program, n.d.a). The key requirement of a participant is that his or her offense relates “directly to controlled substances or is a non-drug offense resulting from the defendant’s drug abuse.” The program is the longest-running drug court in Wisconsin, established in 1996. In the approximately ten years that it has been running, 939 participants have enrolled (Dane County Drug Court Treatment Program, 2006). It offers two tracks, the Treatment Track for offenders with a history of drug use or abuse problems, and the Education Track for those without such a history (Dane County Clerk of Court, n.d.). The program has the following goals for its participants:

- Reducing recidivism
- Reducing drug use
- Improving employment related outcomes (Wisconsin Court System, n.d.).

Seventy percent of participants completed the program, a much higher rate than the 46 percent average for drug courts (Dane County Drug Court Treatment Program, 2006).

As with nearly all drug court programs (Government Accountability Office, 2005), the costs incurred by the Dane County court system in administering the program are higher than conventional criminal justice court processes. The different types of treatment provided to participants have different costs. In 2003, Dane County incurred the following average costs per participant:

- Case management including drug-testing, monitoring, and assistance with ancillary services: \$1,658 per person;
- Outpatient treatment and educational services (78 percent of participants): \$927 per person;
- Residential treatment services (17 percent of participants): \$4,092 per person; and
- Day treatment services (5 percent of participants): \$2,925 per person (Dane County Drug Court Treatment Program, 2006).

No average program cost per participant was calculated, however the Dane County program provided a rough estimate of \$2,500 (L. Hahn, personal communication, March 5, 2007), which is on the low end of the scale compared to national averages that range from \$800 to \$8,700 per participant (Government Accountability Office, 2005).

The Dane County evaluator found that cost savings resulted from each participant due to reduced time spent incarcerated. On average, a graduate spends 8.4 days in jail and zero in prison (8.4 days total); a non-completer 94.2 days in jail and 52.6 days in prison (146.8 days total); and a decliner 72.5 days in jail and 79.0 days in prison (151.5 days total) (Dane County Drug Court Treatment Program, n.d.c). This research was performed as an internal evaluation and suffered from some methodological weaknesses. For example, the average reduction in incarceration time was calculated based on days sentenced, which is typically greater than that actually served by an offender. (L. Hahn, personal communication, March 5, 2007). Therefore, the actual reductions in incarceration time would be lower, although we cannot estimate the range based on the data provided.

Appendix E:

La Crosse County Drug Court Program

The La Crosse County Drug Court Program began in 2001, started in part by La Crosse County Circuit Court Judge John Perlich (DuPre, 2006). The court has been highly successful, serving as a model for others throughout the state, and earning Judge Perlich the “Judge of the Year” award in 2003 (Wisconsin Bar, 2004). Initially the court was funded through a grant from the National Drug Court Institute (B. Zollweg, personal communication, February 20, 2007), and then through a La Crosse Foundation grant after the federal grant ran out (DuPre, 2006).

The program requires participants to progress through three phases and a minimum of twelve months in the program. Participants must meet the four following requirements to be accepted into the program: (1) no prior felony convictions for violent crimes or felony convictions involving a weapon; (2) established residence in La Crosse County; (3) charged with and/or convicted of a felony or enhanced misdemeanor involving possession, use, or sale of a controlled substance or a crime motivated by the applicant’s drug addiction or dependence; and (4) drug addiction or drug dependence. The prosecutor and defense attorney typically jointly recommend an applicant to the program. A unique feature of the program is that participants are not allowed to quit the program once they commence; a person must complete or be expelled from the program to leave (La Crosse County Drug Court Program, 2005).

An evaluation of the La Crosse program found the annual savings per participant due to avoided incarceration costs to be \$18,755. The average incarceration time of a participant was 51 days versus 392 days for a statistically equivalent non-participant. The calculation employed a \$55 cost per day of incarceration in jail (Zollweg, 2005). However, this evaluation should be interpreted cautiously because it does not specify the methodology for some of the calculations. For example, the recidivism rate calculation for drug court graduates does not indicate the time frame after graduation that qualifies as a recidivism event.

Appendix F: Eligibility under the California Substance Abuse and Crime Prevention Act

To qualify for treatment under California's Substance Abuse and Crime Prevention Act (SACPA), offenders fall into one of three different eligibility categories (Drug Policy Alliance, 2006):

New convictions: People with new convictions for drug offenses qualify for treatment provided that they are not convicted of sale or manufacture or any non-drug crimes at the same time. Offenders are excluded if they have a prior conviction for a serious or violent felony (a "strike"), unless they have served their prison time and have been out of prison for five years with no felony convictions or misdemeanor convictions involving the threat of violence. Finally, individual offenders may "opt out" of treatment by formally refusing it, in which case they face sentencing under pre-existing law.

Persons on probation: People previously convicted of a SACPA-qualifying drug offense will be eligible if they violate a condition of probation deemed to be "drug-related." In essence, this means that some drug offenders who would have qualified for SACPA treatment will get it, instead of facing jail time, if they test positive for drug use or violate other probation conditions. Within two to three years, this category of offenders will simply disappear, once current probation terms expire and all new drug convictions are being processed under SACPA.

Non-violent parole violators: After July 1, 2001, a person on parole who commits a non-violent drug possession offense or who violates a drug-related condition of parole may be eligible for a treatment regimen in the community, instead of return to prison. To qualify, the parolee must have no prior convictions at any time for a serious or violent felony. Parole authorities, rather than the courts, will set monitoring conditions for these parole violators and will punish violations of the treatment program, up to and including return to prison for serious or repeat violators.

Appendix G: Detailed Earned Release Program and Challenge Incarceration Program Avoided Incarceration Cost Calculations

To calculate per release savings from avoided incarceration costs net of program costs for the Challenge Incarceration Program and the Earned Release Program, we began by calculating incarceration and program costs. We assumed that if offenders were not participating in the Challenge Incarceration Program or the Earned Release Program, they would be incarcerated in another minimum security correctional facility. Using a Wisconsin Department of Corrections fiscal year 2006 cost report, we calculated the average cost of incarceration in minimum security facilities other than those housing the Earned Release and Challenge Incarceration programs, and for the two separately. We then calculated the difference between regular minimum security incarceration and incarceration in the Earned Release or Challenge Incarceration programs to get the additional cost of the two programs. The results of these calculations are shown in Table G-1 below.

Table G-1: Incarceration and Program Costs

Facility or Program	Cost
Non-Earned Release/Challenge Incarceration Minimum Security Facility, Six Months	\$ 13,924
Earned Release Facility, Six Months	\$ 17,855
Challenge Incarceration Facility, Six Months	\$ 18,048
Additional Cost of Earned Release	\$ 3,930
Additional Cost of Challenge Incarceration	\$ 4,123

Source: WDOC, 2006a.

For each program, we then took the number of prison bed days avoided multiplied by the daily cost of incarceration in a non-Earned Release/Challenge Incarceration Program minimum security facility. The result is the average avoided incarceration costs per release. From this figure, we subtracted the additional program cost to get the average savings from avoided incarceration net of additional program cost. The results for the Earned Release and Challenge Incarceration Programs are presented in Table G-2 and Table G-3.

Table G-2: Earned Release Program Savings Per Release

Type of Cost or Cost Savings	Amount of Cost or Cost Savings
Average Avoided Days in Prison	346
Average Cost/Day, Minimum Security Prison	\$76
Avoided Incarceration Cost	\$26,399
Additional Program Cost	\$3,930
Average Savings, Net of Additional Program Cost	\$22,469

Sources: WDOC, 2006a, and Simonson, 2006.

Table G-3: Challenge Incarceration Program Savings Per Release

Type of Cost or Cost Savings	Amount of Cost or Cost Savings
Average Avoided Days in Prison	570
Average Cost/Day, Minimum Security Prison	\$76
Avoided Incarceration Cost	\$43,490
Additional Program Cost	\$4,123
Average Savings, Net of Additional Program Cost	\$39,367

Sources: WDOC, 2006a, and Simonson, 2006.

These calculations are all for savings per *release* from each program. Some offenders do begin a program, thus requiring some additional expense on their participation, but do not complete it, thus not resulting in any savings from avoided incarceration. The majority of offenders who participate complete the program, however. The drop-out rate is about 22 percent for the Earned Release Program and about 35 percent for the Challenge Incarceration Program (calculations based on data from Simonson, 2006).

Estimated savings from avoided incarceration costs per *enrollment* in each program cannot be calculated. We do not have data on at what point, on average, participants drop out of each program, and so the losses due to program funds spent on dropouts cannot be calculated. However, given that most enrolled offenders complete the program and are release, and that there are significant cost savings from avoided incarceration for each released, it is probable that the programs also result in significant cost savings per enrollment.

Appendix H: Challenge Incarceration Program Recidivism Rates

As the table and graphs below show, the Challenge Incarceration Program completer recidivism rate and the general recidivism rate for all prisoners released from incarceration have varied from year to year. In some years, the Challenge Incarceration Program recidivism rate has been lower than the general recidivism rate, and in some years, it has been higher. Each recidivism rate shown below is for three years following release from incarceration.

Table H-1: Recidivism Rates for Challenge Incarceration Program Releases and All Releases from Incarceration, 1991-2002

	Recidivism Rate			
	All New Offenses		New Prison Sentence Only	
	<i>Challenge Incarceration</i>	<i>General</i>	<i>Challenge Incarceration</i>	<i>General</i>
1991	46%	43%	31%	28%
1992	28%	43%	21%	28%
1993	44%	45%	26%	31%
1994	50%	44%	36%	30%
1995	50%	41%	45%	28%
1996	33%	41%	25%	28%
1997	41%	39%	30%	26%
1998	34%	38%	27%	25%
1999	28%	40%	20%	26%
2000	42%	39%	31%	24%
2001	36%	38%	30%	25%
2002	34%	34%	25%	21%

Sources: Simonson, 2006, and WDOC, 2006b