

## A Call to Move Wisconsin into the Modern Era of Criminal Justice

*Submitted by WISDOM to the WI Legislative Council Study Committee on Reducing Recidivism*

**October 17, 2016**

Criminal justice reform is sweeping the country, especially at the state level. States that are reforming are reaping financial and public safety improvements. Findings from a WISDOM review of state-level reforms that are completed and in process<sup>1</sup> make it clear that Wisconsin is seriously behind the rest of the nation. In our findings, we classified state reforms into four groups: big and comprehensive reform – 18 states; significant reform – 15 states; modest reform – 12 states; and last, negligible reform – 5 states. Wisconsin is not only in the last group, but also is the *only* state to have taken significant steps that are the reverse of those taken by more successful states: for example Wisconsin has doubled down on “tough on crime” sentencing and narrowed the use of parole!

Moreover, ordering the states from highest crime rate *decrease* to highest *increase* from 2009 through 2014, Wisconsin comes in at **#47**, with a 12% increase, while, for example, our sister state, Minnesota, shows a 6% decrease. “Tough on crime” is not really tough on crime. For example, experience in multiple states suggests it actually fosters crime. We call on our leaders to join almost all the other states in the criminal justice reforms they are undertaking. In doing so, we could save more money than it takes to implement extensive crime reduction measures.

Here are key findings about what are other states are doing to reform criminal justice:

1. Almost universally, the driving motivation for reform is the crippling cost of incarceration. But the states did not proceed to save money by reducing incarceration until they felt assured that they could protect, and even enhance, public safety.
2. Proposals for rehabilitation often confront the idea that giving a convict something beneficial to them contradicts the goal of punishment. For purposes of agreeing to fund rehabilitation, this problem is resolved by a tacit understanding that when punishment creates more crime, it is too much punishment. Long sentences, no hope for parole or early release, and skimpy reentry services are all tied to higher recidivism, which is to say “more crime.”
3. The specific reforms are common, largely differing in how fast and broadly they are applied.
  - Most undo, to an extent, the main causes of the growth in incarceration—longer sentences imposed, the greater portion of the sentences actually serviced, and criminalizing drug usage;
  - But reforms go far beyond that. Based on the fact that most prisoners eventually are released and might re-offend, the reforms promote successful transition by offering a range of services, and eliminating practices and laws that obstruct successful reentry, such as the myriad financial penalties forced on ex-prisoners.
4. Mostly, the states making substantial reform are using the same four *strategies* to design and implement reform:
  - They form a task force, commission or some other new body that they charge to conduct a detailed analysis, develop recommendations, and sometimes oversee implementation. In the case of Colorado, it is a permanent body.

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<sup>1</sup> WISDOM Document. October, 2017. “Criminal Justice Reform: A Review of the States in the Current Decade.” Available at [www.rocwisconsin.org/resources](http://www.rocwisconsin.org/resources).

- They ensure that the reform body is widely representative, always bi-partisan, with all the stakeholders included.
- They invest in experts who, drawing on extensive knowledge of what works in other states, identify which “evidence-based” reform solutions will most likely work best in each new state, and provide guidance on the implementation processes. “Evidence-based” has become a catch-all term sometimes applied to anything for which there is evidence. By employing the specialist organizations, they ensure that the meaning of “evidence-based” includes an increased likelihood that the recommended measures actually will work. Most use one or more of four groups who have a long history in working together: PEW, VERA, the Council of State Governments, and the Justice Assistance unit of the Justice Department. As a bonus, when states do it this way, subsidies come in and these groups do not charge for their services.
- They commit to a reinvestment strategy, in which upfront costs for reform measures are amply recouped, over time, by the resulting reduction in the costs of incarceration.

### **There Is No Room to Wonder: Wisconsin Can Change for the Better!**

States on all sides of the political spectrum--from Texas and Georgia to California and Oregon--are in the top 18 that are making major reforms and reducing the costs of excessive incarceration. But Wisconsin, with its perhaps too cautious approach, is going the other way! Compared to Minnesota, our neighbor similar in so many ways, Wisconsin has approximately twice as many people in prison, about 10,000 more. Wisconsin spends more than \$300M to incarcerate these extra 10,000. And the extra cost figures usually quoted understate the cost difference. Other costs accrue to our taxpayers due to incarceration. For example, the family or partner of a person who had been earning a legal income and who is then incarcerated is often forced to seek public assistance. The result is that Wisconsin has experienced an increase in cost and an increase in crime rate, while, for example, Minnesota has seen both decrease.

### **Recommendations:**

We ask the Wisconsin legislature to embark on a serious program of reform, adopting the big goals and serious strategies that so many other states are taking. Start by learning from others. (1) Call in PEW Charitable Trusts, one of the leaders in the field, and ask them to show how it works and what can be accomplished; and (2) ask a couple other states that have already done this to come tell the Council how it worked there.

In the meantime, there are four “low hanging fruits” that can be harvested immediately.

1. Conduct an immediate review of the status of the 2,800 parole-eligible prisoners, to identify those who no longer pose a real risk to public safety. At least half could be released immediately, which would reduce the state prison population by a number greater than the capacity of our largest prison.
2. Fully fund TAD, expanding its coverage to all counties and beyond opiates. When we say “it eventually pays for itself but we cannot afford it now,” we are not being sensible.
3. Adopt a graduated sanctions program along the lines the reforming states have. Doing this could shrink the prison population by about 4,000 in less than two years.
4. Wisconsin had an early release practice that was stopped. It was financially rewarding to our state and protected public safety, and we should return to the direction we had. Not coincidentally, it was humane.