Incarcerated Without Conviction: The Abuse of Revocation in Wisconsin
“Innocent until proven guilty.”

When I was in high school, I was taught that the presumption of innocence was a hallmark of the United States system of justice. Unlike some other parts of the world, you could not be deprived of your liberty without having your day in court and without having it proven, beyond a reasonable doubt, that you had committed a crime.

What they taught me was not true. I only learned the truth when I was able to meet and hear the stories of people who have been found guilty and punished without any proof of a crime.

It turns out that the presumption of innocence doesn’t apply to everyone. It does not apply to the tens of thousands of people in Wisconsin who are on Extended Supervision or Parole or Probation. They can be locked up without being convicted, or even accused, of a new crime. They can be incarcerated for breaking any one of a number of “rules of supervision,” which can range from a failed drug test to missing an appointment to crossing the state line without permission. They can also be imprisoned because they were accused of a crime, even if that accusation is not accompanied by proof.

About 3,000 people are sent to our state prisons every year because of “revocations” that do not include a conviction for a new crime. There are those who try to justify this practice by claiming that many of them probably did commit a new crime, but that no charges were brought against them. That seems very far away from the standard we were taught in school. People who have been through the system tell us that the revocation process is very subjective and very uneven. The rules are so stringent that almost anyone can be revoked if those who oversee them want them to be.

WISDOM and EXPO (EX-Prisoners Organizing) are organizations dedicated to leveling the playing fields of public policy and public debate. Our belief is that the people closest to a problem are also closest to the solution. And, we believe that our democracy is stronger when all voices are heard, not just the voices of those with privilege or power.

This book gives voice to some people who have been caught up in the system of “Community Corrections”, the system within the Department of Corrections that oversees people on Supervision and Parole. It is a place for them to tell their stories. The book also includes some information that was gathered by members of the WISDOM Post-Release workgroup – data that backs up the reported experience of so many people.

The thousands of people in our prisons and jails, and those still under Community Corrections’ authority are not just statistics or numbers. Every one of them is a human being, part of a family. Everyone has hopes, dreams, regrets, fears and a desire to live a meaningful life. Their stories matter. They need to be heard if we are to know the truth.

David Liners
WISDOM State Director
November, 2016
Introduction

In June 2015, Governor Walker said that the “challenges in terms of people being incarcerated for relatively low offenses is not a significant issue in the state of Wisconsin.” Actually, it is a huge problem.

The first step to solving a problem is admitting you have one. Walker must face the fact that crimeless revocation, the practice of re-incarcerating individuals on probation, parole, or extended supervision for minor rule violations, is more than significant. It is a failed policy, a waste of money, and an embarrassment to Wisconsin.

We are talking about imprisoning people for minor infractions like unauthorized computer or cell phone use, crossing county lines, missing appointments, failing alcohol tests, and entering bars. Incarcerating people for rule violations that do not involve new crimes destroys lives, contributes to overcrowding in jails, and adds nothing to public safety. It is also fiscally irresponsible.

Crimeless revocation plays a significant role in maintaining mass incarceration in Wisconsin and explaining why Wisconsin imprisons Black men at a higher rate than any other state except Oklahoma. Data released by the Wisconsin Department of Corrections in 2015 demonstrates that crimeless revocations accounted for about half of all new admissions to Wisconsin prisons since 2000.

Wisconsin taxpayers regularly pay more than $100 million each year to unnecessarily imprison individuals who have not been convicted of crimes. This money should instead be used to build human potential.

The stories below will help you gain a stronger understanding of this issue.

A high value for WISDOM and EXPO is making sure that everyone's voice is heard. The stories in this book are the exact, unedited words of the men and women who sent them in. We have not fact-checked every detail, nor have we edited for style. People who have been marginalized and told that their lives don't matter deserve a chance to speak the truth they see in their own words.
What Is Revocation?

- A revocation occurs when Department of Corrections (DOC) officials reincarcerate an individual who is on probation, parole, or extended supervision for . . .
  - committing a new crime OR
  - violating a rule of supervision that does NOT involve a new crime.
- What we call *crimeless revocations*, the DOC calls “revocation only”: both terms refer to re-incarceration of a person who has not been convicted of a crime.
Behind bars in Wisconsin

Most people sent to prison every year are locked up because they violated probation, parole or supervised release.

Adult prison admissions by type

- Revocation only:
  - '00: 3,744
  - '01: 4,049
  - '02: 5,466
  - '03: 5,466
  - '04: 5,466
  - '05: 5,466
  - '06: 5,466
  - '07: 4,049
  - '08: 2,668
  - '09: 1,314
  - '10: 1,010

- New sentence only:
  - '00: 2,688
  - '01: 3,038
  - '02: 2,688
  - '03: 2,688
  - '04: 2,688
  - '05: 2,688
  - '06: 2,688
  - '07: 2,668
  - '08: 1,047
  - '09: 1,314
  - '10: 1,010

- New sentence with revocation:
  - '00: 1,047
  - '01: 1,314
  - '02: 1,314
  - '03: 1,314
  - '04: 1,314
  - '05: 1,314
  - '06: 1,314
  - '07: 1,314
  - '08: 1,010
  - '09: 1,010
  - '10: 1,010

Source: Wisconsin Department of Corrections

Journal Sentinel
INCARCERATED WITHOUT CONVICTION STORIES

Ron Schroeder

My Extended Supervision Was Revoked and I was Re-Imprisoned for 3½ Years for Writing My Children, Attending a Job Fair, Applying For A Job at an Employment Agency, and Going to a Social Service Agency for Food

I’ve been writing my daughters weekly since 2007 per a family court order.

Prior to my Oct. 2013 release from prison, my ex-wife told my probation agent she no longer wanted me to write our kids. The agent filed an unsigned memo, without legal counsel, with Waukesha County Judge Kathryn W. Foster (my criminal judge), who held a hearing. According to the transcript, the sole reason for the no contact restriction was simply because the mother (my ex-wife) requested it (there were no allegations of misconduct towards the kids on my part at the time). I objected because the memo wasn’t signed by DOC legal counsel and thus the agent was practicing law without a license, a crime.

I also objected that the ban prohibited contact with my children and others and violated my First Amendment right but Judge Foster replied, “You want to throw the 1st Amendment in, you are going to waste my time and your time” and implemented the prohibition.

I then pleaded with Judge Foster, saying that I’ve been writing my daughters weekly for years and now they’re going to wonder why I’ve abandoned them. Judge Foster’s shocking response was, “Mr. Schroeder, shush.”

While appealing, I wrote my daughters after my release from prison under the 1st and 14th Amendment Constitutional protections. I simply didn’t want my daughters to think I’d abandoned them. My agent moved to re-imprison me for 3½ years for continuing to write them. He also sought to revoke my supervision for attending a Goodwill Industries job fair, applying for employment at a temp agency, and going to a social service agency for food – I left prison penniless. After a hearing, an administrative law judge ordered me re-imprisoned for 3½ years. I’m appealing.

This should be shocking, especially to civil/children’s/father’s rights advocates. It’s a clear case of abuse of probation agent and judicial power.

Ron Schroeder,
Jackson Corr. Inst. – Melrose
P.O. Box 233
Black River Falls, WI 54615
**Ventae Parrow**

I’m Ventae Parrow. I live in Milwaukee. I’m here today to discuss being revoked three times without committing a crime and being warehoused in the criminal justice system and the penitentiary.

I’m a college student at MATC. I’m doing the Human Services Associate Degree to become an alcohol and drug abuse counselor.

It strikes me as interesting that I could go from being a college student to the penitentiary without committing a crime or breaking the law. They were able to take me in front of an administrative law judge and give me two years in prison and then turn around and give me 14 months in prison and then turn around and give me a year and eight months in prison and then turn around and give me a 45-day sanction. It has been an ongoing theme since 2008 where I’ve been in and out of the penitentiary but haven’t committed a crime since 1999: this strikes me as significant. If I’m not mistaken prison is a place for those who break the law, not for those who abide by the law, pay taxes and are upright citizens such as myself. I’m not saying that I’m perfect because I did commit a crime and I paid my debt to society. I feel like because I paid my debt to society I shouldn’t have to continue to be penalized from something that happened in 1999 due to the way that the system is rigged up for me to fail instead of for me to succeed.

I want to get the awareness out here that people are being revoked without committing crimes and these agents have more power than the judge. You could be put in prison just for a minor violation that is not against the law of the land.

It’s frustrating when you’re out here working a job, going to college, having a place to lay your head and helping your family out and then whenever they feel like it they snatch the rug from under your feet and they place you in prison even though you have not committed any crime. It’s unfair for a law-abiding citizen to be placed in prison without committing a crime. I’m not saying the person shouldn’t receive some type of discipline or punishment, but they shouldn’t be put back in prison. There should be a way for them to rehabilitate themselves, some type of program that is really going to benefit society. I feel like society would be safer with the person being rehabilitated and being reintegrated back into the community.

**Tricia L. Quinnies**

My son Spencer's P.O. is Jodi Alwin. She accused Spencer of 2 parole violations (contact with the police and lying to his P.O.) and the judge sentenced him to 45 days in the House of Corrections. He has been incarcerated since August 3, 2016 with no communication from Jodi Alwin.

Jodi did not include in her memo to the judge that Spencer had taken two baking classes at MATC-Milwaukee last spring. The classes started at 7am. He worked 30 to 40 hours at Toppers doing the closing shift. He walked in the door at 6am, washed up, put on his culinary whites, turned around got on the bus at 6:15am and made it to class by 7:10am. He got A's in both his classes.
I am continuing to research and record Spencer's situation and will inform you of the progress.

I have come to realize that Jodi Alwin lies and uses fear tactics to coerce Spencer and confuse him. He has been diagnosed with ADD, a math disorder and per his neuro-psych evaluation he is a "slow processor".

Jodi uses his weaknesses to get him to say things that will incriminate himself. I have been working with Spencer on his communication skills. But he's been naive/immature. His previous psychologist estimated that his maturity was approximately 4 years behind his chronological age and that he is on the autism spectrum.

It is difficult navigating Jodi Alwin's fear tactics and lies. For my Autistic ADD kid, it's frighteningly difficult and ripe for failure.

Spencer lost his job and his schooling because of Jodi Alwin.

What kind of system is this? I am the daughter of a Milwaukee County Sheriff and the goddaughter of the one-time chief of police in Glendale. I am utterly heartbroken that my son is being jailed for "fraudulent pizza"! At the taxpayer's expense.

I witnessed Spencer trying to communicate to Jodi. She bullied him and said that he had to tell the truth even if it meant that he would go to prison. How is anyone supposed to be forthright and honest given those two choices? But Spencer tried!

Yep! We have to get another parole officer. Yep, I know the next one will be even worse, but I don't think Spencer's going to survive this one.

Thanks for your help in this matter. Please let me know what we can do to vouch for Spencer and let someone in the system know that he doesn't deserve to be there.

Sincerely,

Tricia L. Quinnies

**Louis Joshua Taylor Jr.**

My name is Louis Joshua Taylor Jr.

I am incarcerated right now over false allegations. The allegations are as follows.

1. On or about 2-22-16 Louis Taylor, per his admission purchased a vehicle without Agent’s approval.

2. On or about 8-06-16 Louis Taylor did take an Oldsmobile Aurora without owner’s consent.
3. On or about 8-06-16 Louis Taylor did consume alcohol.

4. On or about 8-06-16 Louis Taylor did consume drugs.

They are all false allegations against me! Here is my story, and you can tell others my story too! I met a woman by the name of Ruth Williams, who did a lot of things for me. She gave me a car for my birthday with many other gifts. I would ask her time after time where she lives. She would tell me she lives with her sister. She would never even take me by her sister’s house! I found out she was married, so I ended our relationship. Time went by and I did not hear from Ruth. My birthday was Aug 7. I saw my P.O. Solen Richberger on Aug 11. All was well. Ruth called me Aug 16 at night, and said she will no longer be calling me and that she is moving on with her life. She asked me why I lied to her. I said about what! She said about what I went to prison for. She told me that she looked on C-CAP and it said I beat an old lady! And I did not go to prison! I asked Ruth how is the name spelled. She said Lewis. I told her my name is spelled Louis! So we ended our call. Ruth called me three more times but I did not take her call so on the 11th of Aug. Ruth called probation/parole. They told her that my Agent is Solen Richberger, and so Ruth talked with Solen, and gave false allegations against me and that’s how I ended up in jail. I have no new crime at all. I was about to be working for Uber and I lost my place and all of my belongings. There is no justice in Wisconsin for a Black person. It’s just us Blacks alone. Black lives will never matter in Wisconsin. I am trusting God to give me the victory at my revocation hearing. Feel free to come pray for God to deliver me from this unjust system. Call probation/parole!

P.S. Please read Hebrews 13:3 and stand on it with God’s love and help.

Love Brother Louis J. Taylor

Lisa Weise

Dear WISDOM:

My name is Lisa Weise. I am 32 years old and from Brown County, WI. We’re going to go back a few years so I can provide you with some history and details. I was convicted October 2012 of OWI (4th) Class H Felony, and sentenced to 9 months county time and 36 months extended supervision. I completed my jail sentence and was doing fairly well on my probation. I was making all appointments and making all obligations as ordered. No mandatory treatments were discussed at any time. My agent was happy. I was working. I was a single mom. I even managed two years sobriety on my own, with no group settings or family support.

I was nearing the end of my probation, maybe 6 months away when I was attending a fastball game in Green Bay, WI. I got arrested for charges that were dismissed. But I was on supervision and had been drinking so I served 10 days in jail. Then in September my probation officer offered me an ATR due to me getting arrested (consuming alcohol) to be on the sober link program. Approximately a month later I ended up turning myself in to her for failing a test on the sober link. I obviously needed more invasive treatment. She jailed me right away on 10/8/15. I was under the impression I’d be able to go to ARC rehab in Fond du Lac, WI. It’s a 3-month
rehab program given to many women statewide with a range of addiction issues. But, ultimately my probation period would expire about a week or two prior to the program finishing. So, I wasn’t given the option any longer.

I was sitting in a jail cell in Brown County with no representation facing more time, scared as hell and all I wanted was help. I thought my only choice was to sign my revocation papers. So, that’s what I did. I had no knowledge of what that really meant and I also thought all my ES time served would count! Instead I went in front of the judge who sentenced me to 2.5 years stayed, 3 years ES. The District Attorney only wanted 20 months, PSI 1 year. No new charges were needed to get confinement for me, when I needed treatment. I guess I wasn’t asking the right questions but neither was the state hired agent who saw me for 2 years steady. I’m planning on working as many programs in this prison stay as possible to rehabilitate myself and better myself for my life, my family, and most importantly my daughter. Hope to provide some wisdom!

Respectfully,

Lisa Weise

Mark Rice

My experience with the revocation process in Milwaukee reveals some of the problems with the current system. I have suffered from paranoid schizophrenia for the last 17 years. During this time period, I was convicted of several offenses that were associated with this disabling mental condition.

One day during the summer of 2007, Milwaukee police officers arrested me for disorderly conduct. I went to court a few days after getting arrested. The judge, the public defender, and the prosecutor all agreed that my behavior did not fit with the definition of disorderly conduct.

The judge dismissed the case, but I did not get to go home. My probation officer, who had no specialized training in mental health issues, moved forward with the revocation process.

My former probation officer, a mental health specialist in Madison, disagreed with the decision of my probation officer in Milwaukee. He believed that an alternative to revocation treatment program would have been a better option.

My probation officer forced me to stay in the Milwaukee Secure Detention Facility (MSDF) for nearly six months while I fought the revocation. Eventually, a Milwaukee administrative law judge revoked my probation.

After spending a few more weeks in a county jail, I went to court again. I faced a maximum of 12 years in prison, but the sentencing judge decided to let me go home.

Imprisonment often exacerbates the problems of people who suffer from mental illness. Mentally ill individuals who violate the rules of their supervision can often be treated more effectively in communities.
I witnessed the deterioration of numerous people living with mental illnesses during my time in the special needs unit of MSDF. One individual attempted to commit suicide, a few people severely mutilated themselves, and correctional officers put several other men under suicide watch after they became suicidal.

My case demonstrates the need for reform in a few important areas. All mentally ill people under the supervision of the Department of Corrections (DOC) should be assigned only to officers who have completed specialized training in how to work with this population. In addition, people on probation should not be incarcerated for long periods of time while awaiting decisions about minor rule violations.

The Milwaukee police officers arrested me a few days before I was going to start my second year of graduate school at the University of Wisconsin-Milwaukee. During the 2006-2007 school year, I worked as a project assistant at the university and received a full tuition scholarship. I lost my job, my scholarship, and my apartment because of the revocation. I also lost my Supplemental Security Income, health insurance, and FoodShare benefits. I had to re-apply for all of these benefits after I got released.

I returned to UW-Milwaukee after my release. However, I never got my job and scholarship back. I earned a master’s degree from the university in 2009, but I had to take out several loans in order to complete the program.

I am now a PhD candidate at UW-Milwaukee, a statewide organizer with EXPO (EX-Prisoners Organizing), the chair of WISDOM’s Post-Release Issues Workgroup, and a board member of Project RETURN, a nonprofit organization in Milwaukee that helps men and women leaving prison make a positive and permanent return to our community.

My case demonstrates the potential of rehabilitation programs. The services that I received from numerous mental health professionals helped me to reach the level of functioning I am at today.

**Anonymous Revocation Story**

Dan got out of prison at the end of July 2015 and began 25 years of extended supervision. In the 16 months since then, the Department of Corrections (DOC) has tried to revoke his probation twice.

Late on Thanksgiving night 2015, Dan had some troubling thoughts and left his house to go for a walk, and he took with him a paring knife from the kitchen. He had not walked far before calling the police, telling them exactly where he was and that he was thinking of hurting someone. The police showed up with guns drawn. Fortunately, Dan had dropped the knife before they arrived. They took him into custody and recognized he was having a mental health crisis. They wanted to take him to a hospital, but following protocol they called the community mental health agency and were told to take him to jail. So, Dan was in jail from the end of November until the end of February. Dan’s probation agent didn’t want to revoke him, but DOC nevertheless sought revocation. Dan had to go before an Administrative Law Judge (ALJ). The ALJ denied the

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1 The name has been changed because the person in this story is still under a revocation proceeding by the DOC.
DOC’s request, writing that she had to base her decision on what happened, not on what might have happened. In her decision, she advised Dan to call the police in the future if he had another mental health crisis like this.

Dan was released from jail on February 28. He immediately got a part-time job. He enjoyed the job and the employer liked him as a worker. Things were looking up for Dan. He complied with all of his counseling appointments, appointments with his probation agent, and his required classes.

Six weeks after leaving jail, Dan again had some disturbing thoughts. Following the advice of the ALJ about what to do when he had “bad thoughts,” he called the police and asked them to take him to a hospital. The police officer took Dan to the hospital ER and stayed with him. The officer asked him what seemed to be the problem. Dan stated that he was having thoughts of killing his probation agent and wanted to be in a safe environment so that he wouldn’t do anything and could get these thoughts out of his mind. The thoughts were repulsive to Dan because he really liked his probation agent. He again told his story to the psychiatrist who came down to the ER. The doctor did not think that medication changes would be necessary and they declined to admit Dan to the hospital. It appears that now you can only get mental health treatment at the hospital if it involves medication changes, not therapy. Dan was discharged from the ER and was transported by sheriff deputies to Winnebago Mental Health Institute. However, everything that he had been thinking, and told to both the officer and the psychiatrist, was communicated to the DOC.

On the night of the event, the DOC had declined to place a probation hold on Dan. Now that they knew what he was thinking, they decided that he needed to be arrested and instituted revocation proceedings. He needed to be sent back to prison for his thoughts. He was transferred from the Mental Health Institute to the Winnebago County Jail. The DOC sent two agents to transport him from Oshkosh to the Dane County Jail in Madison, where he is getting no mental health treatment other than medication.

Two weeks after being placed in the Dane County Jail, Dan locked a deputy in his jail cell (while Dan was outside the cell, but still within the locked cell block). No one was harmed in any way, but this resulted in new charges against Dan. If he hadn’t been in jail in the first place, there would have been no incident at all. It is quite possible that DOC, knowing their case for revocation was weak, incarcerated Dan in hopes that he would misbehave in jail and give them a stronger basis for revocation.

Dan has been languishing in jail for 7 months now. Multiple court hearings, both on the revocation and the new charges, have been scheduled and postponed, due to multiple changes in agents and assistant prosecutors assigned to his cases, loss of files, and failure to provide Dan’s attorney with documents and evidence. Dan is trying to remain positive, but it is hard. He of course lost his job and his life is once again on hold. He is missing many events to help him reintegrate into the family and community. He is also missing out on therapy and classes that DOC required him to take. Nothing helpful to Dan or the community will result from this. Meanwhile, enormous amounts of resources are being wasted trying to revoke Dan, as well as incarcerating him.
Frank Davis

This account of Frank’s story is based on testimony he recently provided at two public events in Madison.

EXPO (EX-Prisoners Organizing) Leader Frank Davis served over 20 years in Wisconsin state prisons. After being released from prison, Frank adjusted well to life on the outside. He worked as a freelance writer for UMOJA magazine and the Madison Times. However, after he broke up with his girlfriend, she proceeded to tell his parole officer about some potential rule violations. Although Frank never used his computer to do anything illegal, the Department of Corrections decided to force Frank to spend nearly three years in prison because of unauthorized computer use.

Frank is now a board member of EXPO and the lead organizer of MOSES. He is helping to lead EXPO’s efforts to eliminate the use of incarceration for crimeless revocations in Wisconsin. Frank is also a member of the Focused Interruption Coalition, a group of grassroots organizers, community members, and leaders of color that recently released a 15-point plan to reduce racial disparities, recidivism, and violence in Madison.

Wayne Murphy
(SwankMaster)

Revocation

JUNE 2004:  Revoked by the Odana Rd parole agency in Madison, WI for “Passing out drunk in public.” Sent back to prison for Thirty-Two (32) Months. (They got tired of me challenging their rules and their authority through the d.o.c. Grievance process, and temporarily erased their headache.) Released 2007.

SEPT. 2009:  Revoked to prison AODA program for 3rd OWI. Most clients who held gainful employment and had stable housing would have had outpatient AODA in the community. Upon going to prison I lost my job, my housing and had to start all over again after release six (6) months later. I then lived in a homeless shelter and sometimes with a friend for another six months.

OCT.  2011:  Revoked for not going to the Odana office to sit with agents from 5pm until 9pm on Halloween “to protect trick-or-treating children,” when I have no history of any abuse to children or minors. I called the agent, Amy Bell, while inside the homeless shelter and told her I did not have bus fare to get to the office. She threatened me. I asked if one of them would come pick me up. No. They started revocation procedures. I refused to sign the “alternative to revocation” papers. I spent fifty-six (56) days in Sturdevant until I got tired of my sister and one of my best friends begging me to take the ATR. I did, and spent three months in a halfway house along with other bogus restrictions.

Dec.  2012: After being on probation for eleven (11) years, the Odana agency got so sick of my bringing them to court, filing Grievances against bogus rules that I did not sign, and
challenging their authority every step of the way, that this satanic agency put me on GPS monitoring. The excuse they used was that I failed one (1) question out of eighteen: That question was, “have you had sex with anyone within the last two years?” (We were Not allowed to have consensual sex without prior agent approval.)

Jody Voegele, set-up artist Dave Brockman, ringleader and head-racist Christopher Nolet, Amy Merrill, Chelsea Balzan, supervisor/overseer Bill Lazar, and the princess of tyrannical rule, Amy Bell. As crazy as it sounds, Bell told me I can no longer text other clients. She usurped my 1st Amendment right to Freedom of Speech, among others. And lastly, sexual therapist Kathy Malkasian, who became so frustrated with me for telling her that I don't look at kids in a deviant manner that she gave me a deviant fantasy: She told me to, “Picture a little girl on a swing in a short dress.” I was told by her to batter my penis to this thought for forty-five (45) minutes. I went into the twilight zone and got kicked out the class. She used this barbaric laboratory experimentation at the recommendation of the debunked and mad scientist, Dr Gene Abel. The federal courts ruled his methods unconstitutional. Malkasian knew this, because I filed a Grievance about it with the d.o.c.

In ongoing, I hope this is printed verbatim. Don't worry about me. I have proof of everything I've stated about all of them. There are good agents at the Odana agency, but not many. Should anyone want to see what I've stated here, I have plenty of documentation of my and their procedures and processes.

SwankMaster

Andre Barnes

Hi, my name is Andre Barnes. I’m writing in hopes that WISDOM could be of some assistance to me and my revocation case and even if me and my case can possibly be of any assistance to WISDOM’s cause.

First, as a grand understatement, I have been diagnosed as mentally ill throughout my entire life since age 5 til now, with various and many different illnesses and medications. If it wasn’t for God, I would by no means be as intelligent in an intellectual sense as I am today! Very humbly, I declare unto you I’m a talking and walking miracle that shouldn’t of been and shouldn’t be.

When I was seventeen years old, I plead guilty to an armed robbery me and a then friend committed with toy guns. I was waived to adult court and sentenced to 18 years in October 2000 under the new truth-in-sentencing law. I was released in 2008.

After 2 ½ years of decent behavior, I faced revocation because of false allegations made by my girlfriend. Although the charges were dismissed, I still faced revocation. While I was incarcerated, I fell into approximately 4 months of psychotic illness and a severe suicide attempt. And after competency evaluations (no treatment!) at Wisconsin Resource Center and Mendota Health Complex and found competent, I was immediately presented with the revocation paper work and I waived the hearing and signed to one and a half years of revocation incompetently,
honestly! I was totally sick. My attorney Charles Wingrove had confidence in winning. I was a mess at the time and signed away. My clinical record I’m sure would prove my incompetency at the time.

After release from that revocation, I did even better on extended supervision; a manager again, promotions which included the highest paid position, sales associate, at a full-service car wash in Hales Corners, Wisconsin, no dirty UAs, supervision fees paid, completed all programs, etc.

I now have 12 allegations of which 9 or 10 are based on police reports that the Milwaukee District Attorney found no probable cause to even charge me and had it not been for my parole hold on extended supervision I would be released as there was a no process of charges and I received an administrative release from the Milwaukee County Jail. I’m fighting my revocation with no mental health treatment and basically no legal representation.

I have not once my entire time on extended supervision been referred to a mental health parole officer nor referred to any mental health treatment despite the office of my P.O. (State Office Building) having a floor that deals specifically with mentally ill parolees. They deny trying to destroy me or kill me, but when looking at my entire criminal and psychological life and records, I don’t believe them.

Thank you and may Yahweh bless you!

John Delsman

Crimeless Revocation for first-time rule violation contradictory to Wisconsin ACT 196 legislation!

I’m a professional Civil and Architectural engineer, self-employed in land development since my tenure as a Municipal engineer and Urban Planning Commission board member here in Wisconsin dating back to 1976. I was convicted of OWI in 2005 and sentenced to 16 months in prison and 36 months of ES of which I successfully completed 28 months of in Arizona before relocating to Costa Rica to manage a large-scale land development project planned years earlier. I was on minimum supervision in Arizona, meeting with my agent 4 times a year and often times that was constituted by her dropping a business card in my mailbox or by my filling out a report form and leaving it with the receptionist. In any event, I absconded from supervision by relocating to Costa Rica without prior permission. On June 20, 2014, I flew to Ft. Lauderdale, Florida immediately upon news that my 93-yr. old Father was dying. I was arrested at the Broward County International Airport by Homeland Security and U.S. Customs agents on a warrant by the State of Wisconsin DOC for absconding. I was extradited back to Wisconsin, a 15-day horrific event in itself, then was held at MSDF for a total of 11 months (another horrific event with inhumane conditions), 3 months during and 8 months after being revoked for all 36 months of my ES. I was never offered or even considered for an ATR. My appointed lawyer told me to remain silent during the revocation hearing explaining that I had not committed nor been convicted of any new crime and therefore revocation was unwarranted. Unlawfully I was revoked for all 36 months and remained incarcerated in violation of Wisconsin ACT 196 legislation that still to date has not been implemented or adhered to by the DOC.
I lost both my Father and Mother who had been married 68 years without a chance to say goodbye or to support my siblings during these most difficult times. My personal life, business reputation and financial losses have been staggering and debilitating. Nothing can ever replace my losses or my lost life opportunities. All this needless destruction and devastation at the hands of our very own Wisconsin government. I’m presently seeking assistance with an ongoing legal appeal for wrongful incarceration. RSVP to chasebldr@gmail.com

Sincerely with kind regards,
John K. Delsman

Karen Broomfield

My husband David Broomfield, DOC #296773 is a good man.

When I recently told my doctor, Raul Mateo about all his physical problems he said: “It sounds like he’s dying!”

He has

1) Stage IV cholangiocarcenoma (Bile Duct Cancer)
2) Diabetes
3) High Blood Pressure
4) Kidney failure/ dialysis threatening/ wants to be on a transplant list
5) Alcoholism

He is not getting the care he needs in prison. His doctor at UW Hospital in Madison, Dr. Maursetter, is a kidney specialist. She put him on a special diet which the prison refused to give him. He also should be on purified bottled water which he has not received! Fox Lake, where is he now has a sign out stating there is lead in the water—we have a picture of it!

The DOC is failing him and that alone could kill him. I don’t want him to die in prison.

He is in on a probation rule violation. It was on TV that Milwaukee has the highest crime rate in the USA. Dave was going to buy me a gun and have me sign for it as a Christmas present. He could have been home in 2015 but the system refuses to give him the course he needs to be home—they say they have no openings. Why can’t he be home on a bracelet? This fear I have of him dying in jail has me on anti-depressants. I cry every day.

I need him home also for financial reasons as he doesn’t receive his disability/SSI in prison. I went through most of our savings—I don’t want to lose our home. I need him to cut the grass as I’m allergic to it and the doctor doesn’t want me outside if someone else is cutting it. I need him home and I can take him to his doctor appointments and see that he’s on a proper diet. I recently broke my shoulder and need him here.

Please help us out. I miss him and don’t want him dying in prison. Give him an extraordinary release on his rule violation and because of his health. God bless you all.

P.S. I am a Christian woman and never drink alcohol.
Scott Walker Is Clueless About His Jails

Unbeknown to the governor, Wisconsin’s jails are flooded with nonviolent offenders—and he may pay a price for his ignorance on the 2016 campaign trail.

BETSY WOODRUFF
06.08.15

Governor Scott Walker says he is proud of the way Wisconsin handles nonviolent criminals. The Badger State governor traveled to Disney’s Magic Kingdom last week to speak at a forum hosted by Florida Governor Rick Scott for some of the 2016 presidential contenders. He spoke very highly of his own record on criminal justice.

“I think, nationally, that’s something we need to look at,” Walker said, discussing reform of mandatory minimum sentences for nonviolent drug offenders. “In our state, we have relatively few compared to the federal government.”

Then he added, “The challenges in terms of people being incarcerated for relatively low offenses is not a significant issue in the state of Wisconsin.”

The only problem? Criminal justice advocates argue he’s totally wrong.

Wisconsin’s criminal justice system has long drawn criticism from inside and outside the state, in part because roughly half of new inmates each year get imprisoned because they break the rules of parole—not because they’re convicted of new crimes.

This could potentially hinder the governor’s presidential ambitions, as other presidential contenders—like Senator Rand Paul and former Texas Governor Rick Perry—have prioritized criminal justice reform efforts.

The state’s prisons had 22,156 inmates at the end of April 2015—roughly twice as many as Minnesota’s, even though the two states’ total populations are about the same.

As you’d imagine, keeping all those people in prison doesn’t come cheap. The state spends more on prisons than it does on the University of Wisconsin system.
In its most recent budget, for the 2013-2015 biennium, the state appropriated $2.315 billion for the Department of Corrections and $2.247 billion to the university system. Politifact notes that sentencing laws passed in the 1980s contributed to the state’s prison population growth.

When he was in the state Assembly, Walker advocated for Truth-in-Sentencing legislation. Bipartisan critics say that policy also spurred more incarceration.

And while the prison populations in Wisconsin have been higher—in 2007-2008, the average daily population was 23,338, according to the state’s Legislative Fiscal Bureau—advocates say the state’s criminal justice system still needs serious help.

But Wisconsin doesn’t just draw criticism for the size of its prison population; a 2013 study showed that it incarcerated a higher percent of its African-American male population than any other state in the union.

Marilyn Walczak of the Justice Initiatives Institute said Minnesota’s criminal justice policy puts Wisconsin’s to shame. “There’s something magical in the Mississippi River, I guess, on their side of the river,” she said drily. “But it’s not magic. It’s that back in the ’70s, they took a stand and decided that they were not going to bankrupt the state on building prisons and filling them up,” she said of Minnesota.

*The Cap Times* noted that 12.8 percent of African-American men in Wisconsin were incarcerated, significantly more than in Oklahoma, which incarcerated the second-highest percent of its African-American male population, 9.7 percent.

Some criminal justice reform advocates say one factor is an outsize contributor to both the size and racially disparate nature of the state’s prison population: crimeless revocation.

Of the 8,000 people sent to prison in the state in 2013, more than half were incarcerated because they broke the rules of probation. In other words, they didn’t go to prison because they committed new, violent crimes. Probation agents have significant sway over whether or not to re-incarcerate people on parole who break the rules, and their pushes for re-incarceration don’t
come cheap. The state spends more than $100 million a year on crimeless revocations, according to *The Milwaukee Journal-Sentinel*.

“Once accused of violations, people on parole can be sent back to prison for years without proof beyond a reasonable doubt—and they are left with little chance of a successful appeal,” the *Journal-Sentinel* reported.

Crossing county lines, using a computer or cellphone without authorization, entering a bar, borrowing money—these things can all land ex-cons back in prison for years, according to Mark Rice, who chairs a revocations workgroup for the criminal justice reform organization WISDOM.

“It’s things most people do every day, and take for granted,” he said.

Rice said the Wisconsin Department of Corrections sent one Madison man back to prison for four years after his initial release because he opened an email account without his probation agent’s permission. Administrative law judges oversee revocations, Rice added, and nearly always rule in favor of probation agents.

These cases aren’t handled by criminal courts, where someone facing a new round of incarceration would have more resources to fight that outcome. “There’s really no due process involved,” Rice said.

And some argue that crimeless revocations result in racially disparate outcomes because the process gives significant discretion to parole agents. Nino Rodriguez, who does volunteer work on local jail issues with the Madison chapter of WISDOM, noted that African-American men are much more likely to be revoked than their white counterparts.

“Wherever there is more discretion in a criminal justice process, there are opportunities for racial bias to influence what’s going on,” he said. Because about half of the people incarcerated in Wisconsin every year end up there due to breaking probation rules (rather than committing new crimes), Rice said Walker’s comment about nonviolent incarceration is “misleading.”
“We definitely have an incarceration problem,” said David Liners, the executive director of WISDOM.

That said, Walker’s comments about revisiting federal mandatory minimum sentencing laws drew praise from some criminal justice reform advocates.

“It sounds like Governor Walker wants to focus more money on cops, investigators, and prosecutors who can put violent offenders away and less on prison guards babysitting drug offenders,” said Greg Newburn, the state policy director for Families Against Mandatory Minimums. “We agree with that approach and think the American people do, too.”

Walker has also invested heavily in programs designed to reduce recidivism rates, said spokeswoman Laurel Patrick. The Department of Corrections defines recidivism as a new offense resulting in a conviction and sentence to the WI DOC.” Those efforts seem to be paying off: Data from the Department of Corrections indicates that the state’s recidivism rate has gone down dramatically during Walker’s tenure, from 30.1 percent in 2009 to 14.3 percent in 2011.

So, while Walker’s grasp on his state’s problems may not be completely firm, people pushing for a leaner criminal justice system haven’t given up hope.

“My gut tells me he probably doesn’t pay enough attention to this issue to really know what the issues are,” said Walczak.
The Color of Revocation in Wisconsin

- Crimeless revocations by WI DOC have an extremely disproportionate impact on Wisconsin’s Black community members.

- Black people were 12 times more likely to be sent to prison by WI DOC for crimeless revocation than white people in 2013 (compared to the general population).

Hypothesis:
Large Discretion + Little Due Process = Bigger Racially Disparate Impacts

Because...

- WI DOC has LARGE DISCRETION over people admitted to and released from prison for revocations, especially crimeless revocations.

- There is LITTLE DUE PROCESS for people alleged to have violated technical, non-criminal rules of supervision.

- Due to bias, BIGGER RACIALLY DISPARATE IMPACTS are found in criminal justice processes where there is more discretion and less due process.

Therefore we expect to find...

- BIGGER RACIALLY DISPARATE IMPACTS among people that WI DOC re-incarcerates in prison for crimeless revocations.
Tony Snell

I am requesting your help in bringing to light what these government officials who are working in concert with a group of elite corporate officials have done and are doing in darkness as a secret society and underworld where they are running this big slave operation, empire and machine called the prison system to crucify, murder or to destroy people and their families for personal reason, personal profit, gain or money and of course, POWER! This system is exceedingly wicked and the people running it are utterly corrupt, lawless, cruel, abusive, hate-filled, vicious, cold-BLOODED, DECEITFUL, TREACHEROUS, and what these people working for the government have done and are doing behind these walls or fences in darkness in the name of the law and justice which is only something existing in theory and not reality because they hate the law, justice, righteousness and anybody who is about the law, justice, righteousness, things of God or that which is most wholesome and good for the people, public or society.

On November 7, 2011, I was served with a Notice of Violation, Recommended Action, Statement of Hearings Rights and Receipt and Waivers and Custody Decisions which states: The Division of Community Corrections has recommended revocation of your probation/parole, extended supervision based on the following:

1. On or about 10/30/11, Mr. Snell was in a place where alcohol was consumed. This behavior is in violation of the Rules of Community Supervision #20 signed by Mr. Snell on 10/27/10; and
2. On 10/30/11, Mr. Snell was in possession of Sexually Explicit Materials. This behavior was in violation of the Rules of Community Supervision #30 as signed by Mr. Snell on 10/27/11.

I was revocated on the original two charges which were fabricated, trumped up and false, and a third charge was added for failure to complete the ATR AODA Program which in reality I completed according to their rules. I was revocated and sent to prison for 15 years under the pretext that I was present in a place in where alcohol was sold and consumed even though I was at home and had not drank any alcoholic beverages, no alcohol was found at the residence or on the premises – EMPTY BEER CANS WERE IN THE DOWNSTAIRS KITCHEN SINK AND IN TWO OF THE ROOMS UPSTAIRS WHICH TENANTS COLLECTED FOR RECYCLING PURPOSES, AND ON THE FALSE CHARGE THAT I WAS IN POSSESSION OF A SEXUALLY GRAPHIC MAGAZINE.

To make a long story short, after MCSD deputies and DOC DCC agents came to my residence and discovered what I had done and was doing to file legal actions, lawsuits, civil rights complaints, criminal complaints and other legal actions against numerous DOC DCC agents, officials, employees and private corporations and people working under contract with the DOC DCC who collaborated, conspired, plotted, planned, agreed and worked in concert with the State and DOC DCC to hurt, harm, injure, oppress, persecute, torture, torment and to severely punish me, they unlawfully arrested me, kidnapped me from my home, took me to MSDF and brought fabricated, false or trumped-up charges against me claiming that I had violated my rules of community supervision as stated above, and they effected the conspiracy and revoked my
probation, a seven year stayed sentence by unlawful means and sent me to prison for fifteen years for imaginary rule violations in order to prevent me from publishing the articles I had written about them and all of their evil, wicked, corrupt, racist, discriminatory, dehumanizing, abusive, vicious, torturous, malicious, sadistic and unlawful acts or activities which they had perpetrated against me and society by what they had done to me as well as others, and which they were and still are perpetrating against me and society by what they are doing against the law at whim with a callous, reckless and insipid disregard for the law and my state and federal constitutional rights as a man, person, human being and citizen of the state and the United States.

Thomas Bush

I write to provide my own brief rendition on my revocation, which occurred in 1992, after getting a DUI while on interstate parole to Atlanta, Georgia.

I was found not guilty by a magistrate in the Atlanta area, but extradited back to serve the remaining term; despite granted a parole in 1994: My Eau Claire agent, refused to approve all of my 6 release plans submitted over a 3-year period (from 1994-1997).

Keep in mind, I was revoked initially for consuming wine and was refused/denied any alternatives to my revocation by my agent/supervisor, despite having a complete hearing in an Eau Claire court before a judge.

I was subsequently held for civil commitment when my prison term was completed in March, 1997; where I’ve remained incarcerated ever since, at the Sand Ridge Secure Treatment Center, 19 years later. The devastating results of my revocation some twenty-four years ago, when I had successfully completed the 2-year in-patient Sex Offender Treatment Program at O.C.I. prior to my release on parole. Currently I’ve been trapped into involuntary sex offender treatment at Sand Ridge for the last 19 years (4 years prior at Winnebago C.I’s civil commitment branch before transferring to Mauston in 2001).

Please note, Sand Ridge in every sense of the word is a MAXIMUM SECURITY PRISON complete with armed guards, inner perimeter electrified fence and outer raiser-wired fence, surrounding this entire complex: With 2 armed 24/7 perimeter vehicles. As non-prisoners we patients are cuffed with legs shackled to medical/appointments off-grounds while in custody of two DOC guards as citizen. We are also monitored 48 times a day (every half hour) regardless, where we are in the complex. Our mail is monitored, as are phone calls paying the going prison rate of .10 per minute to .15 cents included paying for toll-free approved calls which are fully monitored, as well.

My technical violation (being without any misdemeanor/ nor felony) has resulted in loss of my parents/and family, employment/wages, while spending over $400,000 on litigation and appeals due to my drinking of alcohol. Yes, it was my responsibility and fault in consuming alcohol. Yet, to call the Revocation Process excessive is an understatement: More to the point the process is corrupted and utilized as a vindictive organ of Corrections; which has piggy-backed Civil Commitment into their system; as a punitive measure which has gone unheard.
I hope this account may result in WISDOM’s looking into these revocations which apparently has been a way of life, that has helped to promote civil commitment; in my case and perhaps others? The implications of a ‘slippery slope’ cannot be ignored as a simple technical revocation for consuming alcohol, has had devastating effects, not only for myself, but many others.

Respectfully Submitted,

Thomas Bush

Jewel L. Springfield

Dear WISDOM/MICAH,

Enclosed is all the information needed to summarize what has happened and what is going on. I’m in prison at Taycheedah Correctional Institution, on a bogus Revocation from the DOC, and my po Melissa Othmer with no new charges. First off, I was swindled to take a plea under Duress by my last attorney Allison M Ritter. She told me that if I didn’t take the plea that she would make sure I would get 18 years on the bail jumping charges. I initially plead not guilty three times prior to this plea. Now the district attorney, Erin M Karshe, didn’t want a not guilty plea so my previous attorneys, Susan M. Roth, Steven Kohn, and Glen Kulkoski went along with Karshen’s imposition with no evidence, just hearsay from my Grandson’s mother Mailani Velez, whom should be charged with Obstructing Justice. I’ve take Lie Detector Tests for my Probation Officer and I have Passed them both. They didn’t show me the results and they expect me to pay for them. Don’t I have a right to see them? After I took the Lie Detector Test the first polygrapher said and I quote “You Fucking Tricked the Test”. What kind of professional polygrapher does that? So now to make a long story short I’m here fighting for my innocence and my freedom.

Jewel L. Springfield

Robert E. Beene

Dear Mr. David Liners,

How are you doing at this moment? Spiritually blessed and also glad to be receiving another letter from me I hope!

But as for myself staying focused on what matters the most to me and my family and that is my freedom. But beside that I’m blessed.

Mr. Liners, I am one of many that has got revocated for a non “criminal activity”. The D.O.C. has a category of violation in place for individuals like myself.

I have 6 years 0 months 6 days on Truth in Sentencing. The D.O.C. asked for 3 years 7 months and 9 days for not being in any criminal activity.
Not only that but the administrative law judge Vince Varone gave me 3 years for absconding, change of residence, and fleeing to another state, which I was apprehended for here in Milwaukee.

When I appealed my decision, Brian Hayes gave me 3 years 7 months and 9 days for not engaging in any criminal activity.

Sincerely,

Mr. Robert E. Beene

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Costs of Crimeless Revocations

Incarcerating individuals for crimeless revocations . . .

- destroys lives (people often lose jobs, housing, and the opportunity to support their families),
- contributes to overcrowding in jails,
- adds nothing to public safety in the vast majority of cases, and
- is fiscally irresponsible (imprisoning people for technical rule violations regularly costs taxpayers over $150 million dollars per year).

Anonymous

The following story was submitted by a currently incarcerated woman who wishes to remain anonymous because she is fighting a habeas corpus petition right now for a crimeless revocation and is pursuing a civil rights claim for damages.

On or about 02/24/2015 the probation agent received a notice of non-sufficient funds on behalf of the petitioner. Instead of contacting the petitioner as the DOC rules imply; the probation agent by her own admission contacted the petitioner’s financial institution without consent or authorization. During the course of the call the supervising agent obtained confidential information of an automobile loan, and other financial services rendered to the petitioner. The supervising agent reached out to speak with the financial institution’s security director to confirm the information the agent obtained. On March 11, 2015 based on the new information, the supervising agent requested a check stub and tax documents from the petitioner. On March 20, 2015 at a regular office visit the petitioner was detained on a false charge of ‘making a payment
with fraudulent account’. The petitioner was denied her right to freedom when she was detained illegally.

The supervising agent also made false allegations against the petitioner alleging that she engaged in illegal financial activity. The supervising agent gave this defamatory statement to the financial institution, the petitioner’s employers, and property management firm. The supervising agent revealed to the petitioner while she was detained; confidential financial records that belonged to the petitioner. The agent elicited by suggestive questioning a written statement in the words and writing produced solely on the information that the supervising agent obtained. The petitioner (who has never been through a violation of probation) was not aware that signing the statement would be an admission of guilt and therefore deny her right to a preliminary hearing. The petitioner did make a side note on the statement to reflect that she did not write the statement, she did not provide the information, that it was not her words, and she felt forced to sign the statement. The elicited incriminating statement and consent was not voluntary.

The petitioner was charged with several disciplinary offenses by the supervising probation agent.

The arbitrary and capricious actions by the supervising agent denied the petitioner a fair hearing when the parole agent’s flagrant misconduct of committing an unlawful act of intrusion was allowed to introduce the illegal documents. Documents and/or evidence she obtained when she conducted a warrantless search without a warrant, subpoena, probable cause, or good faith.

The petitioner’s revocation resulted from an error of constitutional dimensions which was not shown to be harmless beyond the reasonable doubt. The unlawful act the parole agent committed, unauthorized use of an individual’s personal identifying information or documents (Wis. Stat. 943.201) is not only a constitutional violation, it is also a crime.

Searches and investigations made by parole officers are supposed to be ‘reasonable’. The parole agent became the petitioner’s agent in September 2014; at a time when the petitioner had to move due to health reasons and started to have financial distress.

From October 2012 until October 2014 the petitioner made supervision and restitution payments monthly via the ECU bill payment service. The petitioner set up recurring automatic payments to be deducted from her account and mailed directly to the agent and/or DOC.

Acting responsibly the petitioner informed her agent of the financial constraints when she thought she had a non-sufficient funds incident in October 2014. At that time to ensure that an NSF would not occur; the petitioner requested to provide an alternate method of payment via money order. The petitioner requested to provide an alternate method of payment via money order. The petitioner informed the agent by email that she was working on reconciling her account. After being approved by Educator’s Credit Union, the petitioner was allowed to participate in the “Fresh Start” program, an account reconciliation program offered through ECU. Per the program the customer’s account would be temporarily closed for up to 3 months until the account was reconciled and it would then be reopened. When the NSF occurred; ECU had submitted an electronic bill payment in error. The petitioner’s account was already participating within the account reconciliation program and was temporarily closed. Had the
agent inquired with the petitioner; she could have reminded the agent that she was participating into an account reconciliation program.

The evidence derived from the illegal search and seizure was used to revoke the petitioner. This is a direct violation of the 4th/14th US Amendment, and Art. 1, 11, of the Wisconsin Constitution. The parole agent’s conduct constitutes a violation of the US and State Constitution that protects the petitioner’s rights from unwarranted intrusion within the Due process clause and Equal protection.

The revocation resulted from a detention that was based on illegal derivative evidence which was also a constitutional violation. Evidence that was obtained by an agent committing a crime; this evidence should be suppressed.

**Duane Bull**

I was placed on 5 years probation in 1984. My ex-wife was extremely vindictive, and insanely jealous, after our divorce and my remarriage to a most wonderful woman. In the words of my PO, “I need an assistant just to investigate all the allegations that your ex-wife lodges against you.” None of her allegations were ever found to be true.

In 1988 she claimed that I had molested our son during his regular visits at our home. My agent immediately placed me in jail on a PO hold. However, social service could not tell us what I was supposed to have done. My boss had to send someone out of the Milwaukee branch, up to Reedsburg to fill my place during the time I was held in jail.

At my revocation hearing, my ex-wife was called first and she gave a different date that this was to have taken place and gave several inconsistent statements as compared to what she stated in her original statement.

Then my son was called, despite protests of social service. The judge did all the questioning of my son so that neither side could pressure him. He stated that he was familiar with the complaint, but repeatedly state I had never touched him like that, finally he admitted it never had happened, and went on to say it was what his mom and “that lady” told him to say, because dad was a bad man and should go to jail for a long time.

Then a child counselor testified that in his experience with the family, my ex-wife was extremely jealous and vindictive, and was guilty of parent alienation syndrome, because of the children wanting a natural healthy relationship with their father. He recommended that the children be removed from their mother for a period of time, while she and the children both, received professional help, and at such a time that she was found to be a fit mother again.

After the judge conducted his own investigation and all the evidence and testimony, as well as my son’s denial of the claim I had touched him, the judge ruled that social service had failed to prove anything against me, and ordered my release from jail.
All the time I was held in jail, unable to work and unable to make child support payments. Immediately, social service filed an order of non-payment of support against me, asking that I be sent to jail until all arrears were paid in full.

We borrowed money and paid it up, so social services failed once again. Then they filed a CHIPS action, but a separate branch of court also dismissed that case as well. Finally, social service filed a new criminal case, based on the same, or similar claims. Still a different judge threw that case out as well.

By this time, I had lost my good job, we had gone deep in debt with all the legal expenses and were emotionally drained.

**Arbitrary Application of the Rules**

- Some agents will recommend alternative sanctions for people who violate rules.
- Other agents will recommend years of imprisonment for people who violate rules.
- The story of a mentally disabled WISDOM leader who allegedly violated a rule of supervision illustrates this point:
  - One agent, who was a mental health specialist, recommended an alternative to incarceration program;
  - Another agent, who had no training in mental health, recommended the revocation of the person’s probation.

**Stanley Blodgett**

Well the first time I got revoked back to prison, I went to the State Fair without permission. I could get to Fair that night easily because a good friend saved this old car for me to have for free when I got out of prison. The car was old but it ran very well thanks to my friend’s efforts keeping it all fixed and ready for me year after year till I got out of prison.

Unfortunately, the car was not takes care of after my revocation. There is no consideration for property of persons when revoked, just put him in jail. Before I got out of prison, I had no conduct reports, but suddenly I am now accused of lying about everything. No conduct reports for almost ten years. Yes, I went to the State Fair and I did nothing wrong while I was there. It was wrong to go without permission but no one would of known I went if I hadn’t told them, and this is true about almost everything I’ve ever been accused of. But agents like to call me a liar. I got some employment so I told them, but they say I’m lying about my employment. Why can’t they be happy?
Matthew Raap

Matthew shared this testimony during a public meeting at the State Capitol on August 31, 2016.

Matthew Raap, who is originally from Colgate, Wisconsin, began to use and sell various types of drugs when he was a teenager. He developed a serious addiction problem. He was arrested in 2004 of delivery of cocaine and possession with intent to deliver marijuana. He was convicted and spent time in the Wisconsin prison system. After his release, he continued to be re-incarcerated frequently because of failing drug tests. He did not get convicted of any new crimes. Matthew was originally sentenced to 15 months in prison and 6 years of probation and ended up spending 68 months in prison. Matthew believes that his addiction to cocaine played a central role in explaining his pattern of re-incarceration. At one point, he served 3 years in prison for failing a drug test. Matthew got stabbed while he was in prison. He questions why we are imprisoning people for failing marijuana tests for years in medium and maximum security prisons. He does not believe that this is in the best interest of the public.

Matthew has turned his life around in recent years. He has been completely sober since 2014. He is now a successful business owner. Matthew has urged public officials to stop re-incarcerating people for failing drug tests.

Troy Hawkins

Revocation Nightmare: “The Polygraph”

By: Troy Hawkins

Received 18-month revocation for failing polygraph test.

I had just completed a 4-month stay in MSDF’s AODA residential treatment program on December, 29 2009. I attended church services on New Year’s Eve with my aunt to be sure that I was sober when the New Year came in. I was attending 3-4 12-step meeting during the week, and enrolled in an employment job search program.

As a sex offender on probation/supervision in the State of Wisconsin, your probation agent or sex offender treatment provider can request that a polygraph test be administered at any time to any participant in the program.

Title VII of the Civil Rights Act protects unlawful discriminatory practices upon a select group of individuals. The D.O.C. routinely uses this test as a ‘tool’ to not only discriminate against a select group of individuals, but also as a means of revocation for this select group…’the sex offender’. Questions that are asked during the polygraph are then used against us. A direct violation of my constitutional right to not incriminate myself. Then you are asked to write a ‘statement’ about the area(s) in question, and that statement is then used as a legal document during the revocation hearing. This all taking place after the P.O. tells you that they are not going to ‘use this document’.

Due process is thrown out the window, the Administrative Law Judge and the probation agent are, judge, jury and executioner. I even asked the Administrative Law Judge, after reading some
article in the Wisconsin State Statute, “Your honor, don’t you have a responsibility to protect me as a person on supervision sitting in this revocation hearing, to protect me from this type of illegal persecution from the P.O.?” He asked me if I had spent time in law school, I stated no.

The cost of the polygraph to the individual is about $375 which is attached to any state taxes to be claimed at a later date.

On April 26, 2010, I was scheduled to take another test (2nd polygraph totaling $750, while still unemployed). I was scared, nervous & sweating. In my sex offender treatment group I had heard so many stories about guys who had failed the test and were sent back to prison. The polygraph administrator informed me that I had failed again, (the first time I was told to go talk about it in my S.O.T. group). I had just spent 4-months in custody and completed the AODA program; for which I had admitted to alcohol and drug use, and paying for prostitutes. During the current polygraph test I had admitted to the test administrator that the period of alcohol and drug use was a couple of months more than I had admitted to, and the number of prostitutes was more like 5 or 6 instead of the 2 or 3 I had previously confessed to.

So basically, they were using the previous allegations (admitted during polygraph) that were used to get me locked up for the 4-months at MSDF, and complete the AODA program:

- Use of alcohol & crack cocaine
- Having unauthorized sex without permission
- Sex with prostitutes

These are the exact same allegations that were used in my revocation hearing that I had just been released from MSDF for. Only this time they said “they could be used again because of the admitted discrepancies of the length of my admitted alcohol & drug use, and the number of sexual encounters I had paid for”.

But during this period of my release from the AODA program until the polygraph I had:

- Been on time to every weekly P.O. office visit
- Never missed a monthly home visit
- Not received a complaint from a neighbor or any law enforcement agency
- Dropped clean for every U.A.
- Not paid for sex with a prostitute, not once!
- Been attending 8-10 A.A / N.A. meetings weekly & working with a sponsor
- Attended weekly church services & Monday nite bible study at New Creatures in Christ Church
- Helping out in family clothing business part-time in exchange for rent, while seeking f/t employment

As you can see, I was staying out of trouble, and complying with D.O.C. policy, this is why the polygraph is administered to the sex offender, as a ‘tool’ to get us sent back to prison, “It’s not fair!”
I had successfully completed 2-yrs on supervision, with 2-yrs left to go. The Administrative Law Judge sentenced me to 18-months in prison and 2 ½ years on supervision. Four years all over again! I wanted to die.

I was transferred to Sturtevant Correctional while awaiting to hear the outcome of the revocation hearing. I was then sent to Dodge Correctional for several months, then finished the last 10-months of my revocation in Columbia Correctional, Portage...a maximum security prison where mass murderer Jeffrey Dahmer was killed.

As of April 2015, I will be celebrating 5-yrs clean & sober! I am currently enrolled in the Paralegal Program at MATC. I am an active member of Project Return, New Creatures in Christ Ministries, The Friendship Club, and mentor African American young men to become better citizens & future leaders of tomorrow. Thank You.

There is Very Little Due Process in Revocation

- For revocations, DOC administrators use the evidentiary standard of preponderance of evidence instead of proof beyond a reasonable doubt.
- People facing revocation in Wisconsin
  - are not guaranteed access to a preliminary hearing if they admit to violating rules,
  - have no right to bail, and
  - have no access to a circuit court judge or jury.

James Morgan

The Lifelong Threat of Revocation by James Morgan

Thirty-two years ago I committed a serious crime when I sexually assaulted an adult woman, and attempted to rob another woman. I will forever deeply regret my actions from a period in my life when I was young, full of rage, on drugs, and out of control. I spent over 25 years in prison where I slowly began to realize who I really was. For the first time, prison educators and others told me I was someone of value, that I could become a better person, and that I was intelligent. My life began to change, as I took classes and eventually got an Associate’s Degree from UW-Extension, Center System, began to paint and write poetry, and realize how satisfying a good life could be. I eventually began tutoring others in prison and started several informal charities.
whereby those incarcerated could contribute to community activities that would help others outside the bars.

When I was released from prison five years ago, my goal was to lead a good life and help others to change the mindset that had led me to prison. I became very active in my community, joined organizations working for social justice, successfully completed the UW-Madison Odyssey course and earned six UW credits, received a scholarship to continue my education, and completed a UW entrepreneurship course. I also did a lot of informal street counseling of those living on the street.

Unfortunately, the Department of Corrections had different plans for me. As a “sex offender”—even if it was 32 years ago—DOC put me on life-time GPS monitoring (known as “the bracelet”) and has worked hard at revoking me. There is evidence that DOC’s GPS system works abysmally. In the first four years of being home, I was arrested and jailed approximately 12 times for the malfunctioning GPS, which resulted in 175 days of incarceration with no charges issued, just lost time, lost work, and lost hope.

Only once did DOC decide to charge me: when my GPS monitor malfunctioned 3 times in one day, DOC tried to revoke me to prison for eight years for allegedly tampering with my bracelet. After I produced witnesses that I was exactly where I was supposed to be, and ten community supporters demanded that the head of DOC Community Corrections meet with them about me, I was offered an “alternative to revocation (ATR),” but only if I admitted that the charge against me was valid. At that point, having already been jailed for months waiting resolution, I signed the ATR, knowing I had not done what they claimed.

Now, years later, I have been revoked and am back in prison, because after I was given a computer, I signed up for an email account without the permission of my agent. DOC decided to revoke me for 4 years for this action, which is a “crime” under the rules of Wisconsin’s Sex Offender registry. I lost the apartment I was renting for almost nothing because I had totally rehabbed it after it had been destroyed by others. I cannot use my scholarship. I lost the grant I had received to mentor young black men coming out of prison, filled with the same rage I experienced 32 years ago. Taxpayers are paying $35,000 a year to house me. DOC is not interested in my rehabilitation; its revocation system is just excessive punishment and a way to keep Wisconsin prisons full.

**Lucas Alan Dietsche**

In a college criminology class in 2013, the position of the professor was that 99 percent of sex offenders reoffend. I want to clear the difference between the words reoffending and revocation in the case of sex offenders. Reoffending is having any sexual contact towards a minor, sending sexually explicit pictures, or use of sexually explicit language towards a minor with use of computer, etc, *after the initial offense*. During revocation, the offender is taken from probation by violating one or a combination of probation rules.

In 2006 at the age of 24(I am 34 at the time of this paper), I plea bargained to guilty to using the computer to facilitate a child sex crime. (State of Wisconsin Vs. Lucas Dietsche case number
2007AP001509. Use Computer/Facilitate Child Sex Crime. Statute: 948.075(1) I talked for some time on a chat room with what I thought was a 13-year-old girl from Ashland, Wisconsin. I also drove up to what I thought was her apartment and was arrested in the parking lot. I was put in jail and two days later was released on a signature bond. I plead out to minor charges. I received three months on the ankle monitor and initially four years’ probation. After being revoked, I had to serve another five years’ probation.

The Wisconsin Department of Corrections and Sex Offender Treatment reiterated the point that I actually talked a 13-year old girl. Like many court cases, I rationalized that being a virgin, having hardly any sexual contact; I deserved extra-legal ways of bridging the relationship experience gap. I was very arrogant somewhat being on probation. Since I did not have a real victim, I thought I should not take probation seriously as my crime was not so severe. I did go on the internet without my probation officers ‘approval. I was knowingly breaking probation rules without reoffending explicit” sites against sex offender rules and went on phone chats with consenting women. A year after starting probation, I kissed a female of age, without probation permission. I was jailed for two days on a probation hold.

A few months later in March 2008, while going to University of Wisconsin-Green Bay, I received a phone call from my probation officer. She said that I had to take a polygraph (lie detector test). Before a person takes it, there is the pre-test. The polygrapher asks questions specifically for one’s sex offender rules and probation rules. They ask if I had relationship contact, looked at “sexually explicit material”, drank alcohol,etc. I told him I did not break any probation rules. I admitted that I was at a park, but it was more for a historical site. Then, without the machine, the polygrapher asked questions for the real test. He asked “Are you sitting down”, “Is your name Lucas”, “Have you disclosed everything to your P.O., the treatment provider, and to this interviewer?” “Have you taken drugs or alcohol?” “Have you had contact with children”. Then he puts straps around my chest, one on my arm, and a flat pillow under me. This was to measure sweat and breathing. Any deviating from the polygrapher’s instructions can be presented as counter-measures and/or deceit. I did research counter-measures before taking the test, but did not implement them. I failed the test, because of being deceptive. I told him I did look at the site Maxim.com, went on phone chat, etc.

I had to talk with my probation officer. I had to fill out a statement about what I did was deceptive about. The probation officer put me in jail and later handed me my revocation papers. I lost the revocation hearing and ended up serving total two years’ incarceration with one of those years at Stanley Correctional Institution. It would not be till 2015 that I would finally be done with probation.

Rob Schreiber

MSDF where I spent my Christmas 2009, Rob Schreiber

A part of the SOT, (Sex Offender Treatment) the facilitator and probation officer can randomly pick individuals who are participating in the SOT program to take a Polygraph test. The individual is required to pay for this test, it was $385 when I had the last one. I had two tests before this December test. I passed them both. Now in Wisconsin a Polygraph test cannot be
used in the court of law. However, the Department of Corrections can use it to send you to MSDF, back to jail or even back to prison. Where you would be required to complete your stayed sentence. Basically starting over. This means you would have to start all of the time you had on your charge in prison. I wanted to explain this because the pressures that a person is under when going to take a polygraph test are literally unmeasurable. If the probationer refuses he faces is revocation. If he fails, the test he faces revocation. If he can't pay for the test or it has to be rescheduled, he can also face revocation. So when the facilitator announces who will be having a schedule polygraph test everyone in the SOT group feels the pressures.

I want to share some of the questions I remember, I have been trying to forget about them all to be very honest with you. The questions are very personal. Have you masturbated since your last test? If you have how often? Who were you thinking about? Have you had any guests in your home, have you had any sexual contact with anyone? Have you used a urinal in a public restroom (You are supposed to use a stall)? Have you looked at Pornography? Have you thought about the people in it if you have? Have you visited a park? Had contact with police, spoken with kids, gone to a mall, gone for a walk, rode a bus. You get the idea. Now when you answer these questions if your breath wrong sneeze moves your hand or your leg or foot or make any movement you fail.

This was my last test. I passed it. I answered every question correctly. However, the person that gave the test told me he didn't like my answers and was going to discuss it with my probation officer, who told me I failed. Even though I answered all of the questions correctly. I passed the test, but they failed me because they didn't like my correct answers that I had to give to pass the test.

I was sent to MSDF, my probation officer told me it would be for the weekend. Three days. It ended up being 7 weeks. I had no way of contacting anyone. I had just got a job and was going to start the following Monday. I couldn't call because I had no money or information with me to make the call. It was the holiday season, so people in the probation office were also on Holiday.

I will say this my probation officer was on my side during this situation. She did contact the Director at Project RETURN who let my brother know. My brother paid my rent so I wouldn't lose my apartment. He also contacted Pastor Joe Ellwanger who came to visit me. Pastor Joe told me what he knew about my situation. He actually knew more than I did. When I left MSDF 7 weeks later I had lost 40 pounds and was not recognizable. I did not face revocation and am grateful for that. I did lose my job, almost lost my apartment and had a bunch of late bills phone, gas and electric when I got out. I considered myself lucky. However, I know others that were in my SOT group that were not. They did not commit any new crime or have a new case. The facilitator just didn't like their response to something and had them hauled away by the sheriff’s department.

When I look back I can see and realize that everything was based on fear. The treatment, the support, everything was on the negative that came from the Department of Corrections. You were on your own and had to deal with the pressures they applied. I did find my own support system and I did get permission from my PO to rely on them, the staff at Project RETURN.
DOC’s Procedural Denial of Rights

- DOC officials can issue a warrant for arrest based upon a mere telephone complaint or suspicion of a rule violation.
- DOC will usually not offer alternatives to revocation unless individuals sign statements admitting that they violated rules—even when they didn’t.
- If an individual chooses to challenge the decision of the agent, the individual will often have to spend 90 days or more in jail before going to a hearing in front of an administrative law judge.
- If a person gets a preliminary hearing, it is potentially biased because it is held in front of DOC magistrate (usually an agent or supervisor not involved in the decision making on the case).
- DOC magistrates will likely not want to overrule their peers.

Stories from Gary Grass

Phil pled guilty under heavy pressure to use of internet to facilitate a child sex crime. He presented an expert at sentencing that said he was not a pedophile; he had a co-actor that was probably the motor force behind the crime, who had a reputation for liking young girls, who was never charged. Anyhow, he had a fairly lenient agent who let him pile up lots of minor violations. An old girlfriend, an adult in her 30s, came back to town to visit and met him at his parents' house. Apparently, he gave her a hug and patted her ass. His agent was convinced they had done more. The actual events were never cleared up, because even a hug is a rule violation, and when they sought to revoke him, they went through and charged him with every possible violation in his record to that point. The judge sent him back for twice the time recommended by the agent, saying he made no effort, couldn't follow any of the rules, a whole bunch of stuff. I got the case to appeal the revocation sentence. I looked into the alleged violations by going back to the agent's file, which his first attorney apparently never did. It turned out that the judge's factual findings were clearly wrong on point after point. She said he never paid for his treatment. In fact, he made dozens of payments and should have been given a waiver because he was so poor. She said the treatment provider found him disruptive and wanted him out of the program. The opposite was true: the provider had wanted him out when there were problems early on, but they had been almost completely fixed by the time of revocation and the provider recommended he remain in the community. The judge said he could not be trusted on electronic monitoring because he was out night after night and no one knew where he was. In fact, the nightly alarms had only occurred for a brief period while he was awaiting a fresh battery for his monitor. He also got about a third of his alarms for being exactly where he was supposed to be, but the agent did not properly enter permissions into the monitoring schedule. We raised all this to the reviewing judge, and he said it made no difference. The court of appeals reversed and we got a new sentencing. His re-confinement period was cut by two thirds, but by then it had already been served, and he was re-confined again. By that time, they had eliminated judicial review of re-
confinement sentences. He was re-confined because of contact with a minor (remember that he is not a pedophile) even though he was supervised, had received treatment, and had no risk factors. The incident was reported to his new agent (really strict) by a parent who was embroiled in a bad divorce and wanted to win custody. Phil was not allowed to apply the time he got back to the new re-confinement. He plans to seek a modification of his sentence.

The other example is John. He was convicted of having child pornography. He was re-confined for a series of rule violations. One was visiting a school (though it was a Saturday, children were not present, and he was there with a crew, brought despite his objections, by his agent-approved job). When determining his period of re-confinement, they considered statements he made in treatment, in violation of his Fifth Amendment rights. (Even if it had been legal to use those statements, they were used in a grossly inaccurate way. For example, the judge said he had seven prior assaults on minors because he filled out a form listing seven prior assaults. But if you looked at what they were, none were real assaults by him. One was kissing a girl when he was 12, one was a sexual contact between him and a much older teen.) Again, we had to go to the court of appeals. His re-confinement sentence was dramatically reduced; he was set free shortly after resentencing.

These cases stand out to me because it took lengthy judicial review to fix significant miscarriages of justice by the DOC and even the circuit court. Now both those levels of review have been eliminated. These cases show the necessity for more due process. Even though there were revocable violations in both cases, revocation was arguably unnecessary and both times rights violations led to excessive sentences.

Thousands of parolees go back to prison for technical reasons, faith leaders say
Members of faith-based coalition call for reform
Aug. 20, 2014

By Sarah Maslin of the Journal Sentinel

More than 100 faith leaders and prison reform advocates rallied Wednesday outside the Milwaukee Secure Detention Facility to urge the state to fix a system they say lands nearly 4,000 parolees in prison each year because of "technical violations," costing taxpayers $140 million.

The rally was organized by the statewide faith coalition WISDOM as part of its 11x15 Campaign for Justice, which aims to reduce the Wisconsin prison population to 11,000 inmates by 2015. More than 22,000 people are now behind bars in the state.

The number of people incarcerated has tripled since 1990, and the amount spent on corrections rose 620% through 2012 — not accounting for inflation — according to state figures.

Wisconsin is the nation's leader in black male incarceration. One in eight African-American working-age men are in state prisons and local jails, according to a 2013 report by researchers at the University of Wisconsin-Milwaukee.

One contributing factor, according to faith leaders at the rally, is the high rate of parole revocation.
Prisoners who have been released can be sent back to prison for committing a new crime or for violating one of the rules of their supervision, which include traveling outside the state, associating with felons and substance abuse, among other things.

Most of the 4,000 people sent back to prison have not committed new crimes, according to Jerry Hancock, a former Department of Justice administrator and the director of the Prison Ministry Project for the United Church of Christ. "People are being revoked for what most of us take for granted, like using a cellphone or a computer," he said Wednesday.

The faith leaders also decried the Department of Corrections' electronic GPS monitoring system, saying malfunctions of ankle bracelets had sent parolees back to jail unjustly, causing them to lose income and opportunities.

After a series of speeches, the protesters marched to the State Office Building on N. 6th St., where they delivered a letter to Gov. Scott Walker's office.

Walker spokeswoman Laurel Patrick referred questions to DOC spokeswoman Joy Staab, who said in an email: "The Department of Corrections is responsible for the safe and humane custody of 22,000 inmates in prisons and correctional centers and the supervision of 68,000 adult offenders on court-ordered probation, parole or extended supervision in the community. One of our primary goals is to keep Wisconsin citizens safe.

"An offender's supervision may be revoked if the offender violates a rule or condition of supervision. An administrative law judge makes the final revocation decision at a revocation hearing. Public safety is the primary consideration in any revocation decision."

Staab also said about 40% of offenders imprisoned for revocations in 2013 were classified as violent offenders, although the reasons for the revocations weren't necessarily violent. WISDOM contends those classifications were made at the time of the crime, which may have occurred decades earlier.

Charlotte Mertins spoke on behalf of her fiancé, Hector Cubero, who was released in 2008, after more than 27 years behind bars. In 2012, Cubero, an amateur artist, gave a tattoo to a young man who claimed he was 18 years old but wasn't, according to Mertins.

The young man's mother contacted Cubero's parole agent, and within days Cubero was locked up again. Mertins and her adult children have not been allowed to visit Cubero in prison since, she said. "Our lives have been at a standstill for the past two years," Mertins said.
Hector Cubero

No new conviction, but sent back to prison

Re-incarceration for rule, parole violations costs taxpayers millions

Jan. 17, 2015

Tattoo results in order to return to prison

By Gina Barton of the Journal Sentinel

More than half of the nearly 8,000 people sent to Wisconsin’s prisons in 2013 were locked up without a trial — and they weren't found guilty of new crimes.

Some were punished for violating probation or parole by doing things such as accepting a job without permission, using a cellphone or computer without authorization, or leaving their home county. Some were suspected of criminal activity, but not charged.

Re-incarcerating people for breaking the rules costs Wisconsin taxpayers more than $100 million every year. The process that forces violators back behind bars relies largely on the judgment of individual parole agents, which can vary widely. Once accused of violations, people on parole can be sent back to prison for years without proof beyond a reasonable doubt — and they are left with little chance of a successful appeal.

Hector Cubero's agent, for example, recommended he be returned to prison on his original sentence of life with the possibility of parole after he inked a tattoo on the shoulder of a 15-year-old boy.

The tattoo featured a cross and a quote from peace activist Marianne Williamson: "Our deepest fear is not that we are inadequate, our deepest fear is that we are powerful beyond measure." Cubero maintains the teen lied about his age.

Had Cubero been found guilty of tattooing a minor, a city ordinance violation, he would have been ticketed and fined $200. If he had been convicted of tattooing without a license, a misdemeanor, he could have been fined $500 and faced a maximum of 30 days in jail. But because he was on parole at the time, Cubero, 52, has served more than two years — with no guarantee he will ever go home.

Cubero already had spent more than 27 years behind bars for being a party to the crimes of first-degree murder and armed robbery. Court records show Cubero, 18 at the time of the offense, did not plan the robbery or fire the shots that killed the victim, a Milwaukee dentist.

Until the parents of the 15-year-old complained about the tattoo, Cubero had never violated parole, according to Corrections Department records. During the four years he'd been free, he passed all his drug tests, paid his restitution and court costs and worked fairly steadily.
Nonetheless, Cubero's parole agent recommended he be sent back to prison. The agent, with cooperation from a prison social worker, also blocked his fiancée, Charlotte Mertins of Delafield, and her three children, all in their 20s, from visiting him.

The parole agent, Tammy Caputa, claimed Mertins and her children knew Cubero was violating the conditions of his release by tattooing minors but did not report him.

"Due process has just completely gone to hell," said Pamela Oliver, a sociology professor at the University of Wisconsin who has spent decades studying the state's prison system. "When they're sent back, the vast majority had no new sentence. Even if they are arrested on a new crime, they go back to prison right away, and the new crime might not even be charged."

Voice-mail messages left for Caputa were returned by Department of Corrections spokeswoman Joy Staab, who declined to answer specific questions about the case. Instead, she released paperwork from Caputa that explained why she revoked Cubero's parole.

"Considering the immature nature of a teenager's decision-making skills, it is unacceptable to blame the children for Mr. Cubero's decisions," Caputa wrote. "Hopefully, the tools used to complete the tattoos were sanitary and there will be no adverse medical concerns. Not to revoke Mr. Cubero's parole would place the community at risk of continued criminal behaviors."

In a statement, Staab said, in part: "Revocation is the last resort when other alternatives have been tried but failed."

Those other options could include outpatient treatment for substance abuse or sanctions such as a short stay in jail. But no alternatives were used in Cubero's case, the records show.

**Police Surround Home**

Mertins and Cubero were introduced by a mutual friend in 2010. He told her about his criminal record on their second date. "It was shocking but I appreciated his honesty," she said. "We all have things in our past that we wish we didn't have, things we've done that we wish we didn't do. It's not my place to be judging anybody."

They took it slow, meeting for coffee and talking. Sometimes, he came over for dinner with her family. He bonded quickly with her children, who were teenagers at the time. When he told them he spent time in prison, it served as a teachable moment.

"He never judged," Mertins said. "He would help them with anything. He would give them advice and be there for them."

In August 2012, three months after Cubero asked Mertins to marry him, police surrounded her Delafield home. She called Cubero, who was visiting his mother, and he went to the station to talk with the officers. He's been locked up ever since.
3 Factors Considered

In 2013, the most recent year for which statistics are available, 7,727 people were sent to prison in Wisconsin. According to the Department of Corrections, 2,668 were there as a result of a new criminal conviction. Another 1,010 were locked up because they did not follow the rules of their parole or supervised release and also were convicted of a new crime. The rest — 4,049 — were there only because probation and parole agents determined they violated the rules or suspected they had done something illegal. Like Cubero, they were not convicted of breaking the law while on supervision.

A Wisconsin Supreme Court ruling known as the Plotkin decision requires agents to consider three factors when deciding whether to send someone back to prison. They are: Whether prison is required to protect the public; whether necessary treatment would be most effectively provided behind bars; and whether a lesser sanction would depreciate the seriousness of the violation.

Agents seeking revocation must provide offenders with written notice of the reasons. Those who wish to contest the allegations are entitled to have an attorney represent them at a hearing before an administrative law judge, a lawyer who works for the state Department of Administration. Having a jury or circuit judge hear the case is not an option.

A Phone Call To Police

Cubero's trek back to prison began when the 15-year-old's parents called Delafield police about the tattoo. Police then contacted Caputa, his parole agent. In the end, she accused him of tattooing two 15-year-olds and a 17-year-old, smoking either marijuana or synthetic marijuana while doing one of the tattoos, and lying to her when she asked him about it.

"The department will not take away that he did do well initially; however, as time went on Mr. Cubero got too comfortable and began engaging in criminal activities and attempting to cover his behavior through compulsive lying," Caputa wrote on Cubero's revocation summary.

His chief lie, according to Caputa, was that he had tattooed only one underage person, whereas the Delafield police said they heard allegations from three. Cubero's explanation — that he designed the art for many tattoos but someone else actually inked all but one of them — fell on deaf ears.

Unlike a criminal defendant, Cubero didn't have the right to remain silent, since refusing to answer questions would have been construed as failure to cooperate with his parole officer — an automatic violation of his supervision.

"Mr. Cubero has always maintained, and continues to maintain, that he only did a tattoo on (one teenager)," his attorney, Jeffrey Morgan, wrote in Cubero's defense. "Thus, Mr. Cubero's statement to Agent Caputa was not false. There is also no credible evidence that Mr. Cubero deliberately lied or attempted to mislead anyone."
Standards Change

The standard for proving parole violations is "preponderance of the evidence," which means "more likely than not." That's a lower benchmark than "beyond a reasonable doubt," which is required to prove a crime.

The rules of evidence, paramount in criminal cases, don't apply to administrative hearings. For example, at Cubero's revocation hearing, a police officer said she heard a 15-year-old-girl telling her father Cubero gave her a tattoo, according to records of the proceeding. The girl didn't come to the hearing and instead submitted a sworn affidavit that said Cubero drew the picture, but someone else actually did the tattoo.

At a criminal trial, the officer's testimony would have been prohibited as hearsay. At Cubero's hearing, Administrative Law Judge Andrew Riedmaier accepted the officer's version of events as true.

As for the allegation that Cubero used marijuana or synthetic marijuana, Riedmaier took the word of the 15-year-old boy Cubero admitted tattooing — the boy Cubero said lied about his age. Officials never did a drug test to determine whether Cubero was telling the truth when he said he smoked only flavored tobacco, which is legal, from a water pipe called a hookah.

The third teen testified at the hearing that Cubero had not done her tattoo. She was characterized by the administrative law judge as "uncooperative" with both him and the police. The allegation that Cubero did a tattoo for her was the only one the administrative law judge threw out for lack of proof.

The parole agent, in her analysis, concluded Cubero was "clearly in need" of substance abuse treatment — even though he was subjected to four random drug tests while on parole and passed them all.

He "victimized teenage children by placing tattoos on them," the agent wrote in Cubero's revocation summary. "There are no alternatives to revocation for lying and deceptive behaviors. There are no alternatives to revocation for criminal behaviors, especially when children are involved," she wrote. "Mr. Cubero made an extremely poor choice and instead of taking responsibility he has built a web of lies that even he cannot keep straight."

Differences In Philosophy

Some Wisconsin probation and parole agents think their primary focus should be helping former inmates succeed outside prison. Other agents feel strongly that violators should be punished. "They have a lot of power over someone's life, and there's no consistency," said Linda Ketchum, executive director of Madison-Area Urban Ministry, an advocacy group that has been working for change in the criminal justice system for two decades.

The differences in philosophy play a large part in determining whether a parolee is sent back to prison and for how long. In Cubero's case, agent Caputa chose punishment. The administrative
law judge agreed with her recommendation that Cubero be returned to prison to continue serving life with the possibility of parole.

Cubero's only option was to appeal the decision to an administrator at the state Department of Administration's hearings and appeals division. The state does not appoint attorneys for revocation appeals. With financial help from his fiancée, Cubero hired attorney Morgan to assist him. He lost.

The Department of Corrections does not keep detailed statistics about revocations, according to Staab. She said she could not find any information about how often violators are sent back to prison vs. being offered alternatives; how often administrative law judges adopt the agents' recommendations; or how often parolees win appeals.

Stephanie Marquis, spokeswoman for the Department of Administration, said administrative law judges preside over roughly 9,000 revocation hearings each year. She could not provide a specific number of how many are appealed. But of those that are, administrators overturn or modify fewer than 100, she said.

"Our attorneys are focused on protecting the public and ensuring the parties involved have received a fair review of their case," she said. "A full reversal is rare, and it's more likely a decision would be modified, such as changing the prison term or reviewing the credit for time already served."

Now it's up to the parole commission to decide whether Cubero will be let out of prison. The number of people paroled annually has decreased dramatically since 2008, when Cubero was first released. That year, he was among 440 prisoners to be paroled. By 2013, the most recent year for which statistics are available, that number had dropped to 152.

Corrections officials say the reason for the drop is simple: About 19,000 of Wisconsin's inmates, more than 85% of the total, are subject to truth in sentencing and cannot be released early. Nonetheless, about 2,700 of the state's prisoners remain eligible for parole — including some 400 in minimum security — because they committed their crimes before truth in sentencing took effect on Dec. 31, 1999.

Cubero has seen the parole board twice since he was re-incarcerated, once in January 2014 and once in December. The second hearing offered a glimmer of hope. Parole Commissioner Danielle LaCost decided he should be transferred to minimum security and granted work release. The program review committee, a group of prison employees tasked with making sure such transfers happen, agreed.

At the same time, LaCost concluded Cubero still has not been punished enough and said releasing him would pose an unreasonable risk to the public. He will be considered for parole again in 10 months.
Conclusion

The stories presented here testify to the personal costs imposed by the abuse of revocation. After reading them, it is important to keep several things in mind. First, more than half of all prison admissions in Wisconsin are “crimeless revocations” in which people on probation, parole, or post-prison release are (re)imprisoned without being convicted of a new crime. Most of these revocations are for non-criminal rules violations – that is, people are sent to prison for violating the conditions of their community supervision. Second, the financial cost of imprisonment is approximately 15 times as great as that of community supervision.

High revocation rates are the result of a rule-oriented, enforcement approach to community supervision. People on probation, parole, and extended supervision are often required to comply with literally dozens of rules. Some of these rules are sensible and contribute to public safety, but many are arbitrary conditions that can impose an impossible burden of compliance without reducing the risk of re-offending. Individuals cannot appeal the conditions of their release to community supervision, and they have no due process rights when revoked to prison for rule violations. Moreover, the chance of being (re)imprisoned for violating what are often vague and arbitrary rules increases over time, especially when rule compliance does not earn any reduction in the length of community supervision. Given the number and financial costs of crimeless revocations, many states are changing the way they respond to rule violations and modifying the conditions and length of community supervision sentences. A few states have imposed legal restrictions on the kind of rule violation that can lead to (re)imprisonment. But a more common approach is to require probation and parole agents to follow a set of graduated sanctions such as curfews, travel restrictions, increased reporting requirements, and short jail sentences before revoking community supervision. These so-called sanctioning grids do not eliminate abuse, but by linking the use of graduated sanctions to increasingly important rule violations they prevent probation and parole agents with heavy caseloads from arbitrarily revoking community supervision for minor infractions. For example, Colorado requires parole officers to impose graduated sanctions for rule violations and allows them to file a revocation petition only after those intermediate sanctions are exhausted.

In addition to changing the way they respond to rule violations, many states are reducing the period of time people spend under supervision, either by capping probation and parole sentences or by allowing those who comply with rules and participate in treatment and training programs to reduce the length of their sentences. North Dakota caps probation terms at three to five years for most felonies, and at one to two years for the most serious misdemeanors. Illinois reduces the supervision terms of those who earn GED’s or more advanced degrees, while Utah reduces probation and parole sentences by 30 days for every month of compliance with the conditions of supervision. These reform measures are being widely enacted and are not limited to states with either Democratic or Republican administrations. According to the Sentencing Project, during 2014 and 2015 at least nine states, including Arkansas, Connecticut, Georgia, Mississippi, Montana, New York, Oklahoma, Texas, and Utah, adopted probation and parole policies that allow for greater flexibility in sanctioning rule violations and for shorter terms of supervision.
The third thing to keep in mind after reading these personal accounts is that Wisconsin is not included among the states making the kind of changes needed to reduce high revocation rates. As a result, Wisconsin taxpayers spend more on our correctional system than upon our state universities, and that spending gap continues to grow. We can start to reverse that trend by demanding an end to revocation abuse.

Potential Solutions

Community Revocation Panels

- Let’s revoke the DOC’s authority to imprison people for crimeless revocations!
- Community revocation panels give control to communities.
- Community revocation panels would include active or retired judges, social workers, mental health specialists, substance abuse specialists, and several community members.

Community Revocation Panels (CONT.)

- The DOC would be required to:
  - prove that violations warrant imprisonment,
  - explain all of the other sanctions it has attempted,
  - prove that a person presents an immediate threat to the community, and
  - explain why its requested period of incarceration is the minimum amount of time necessary.
- The revocation panel would either accept or reject the DOC request, or formulate its own sanction.
- The panel’s decision would be binding unless reversed by a circuit court.
Community Revocation Panels Solve Multiple Problems

- They limit the threat of DOC imposing harsh revocations to keep prisons open and maintain DOC's 10,000 jobs.
- They create a fair revocation procedure with due process guarantees.
- As the number of crimeless revocations decline, corrections costs will dramatically decrease, and allow for the gradual closing of prisons.

Community Revocation Panels Solve Multiple Problems (CONT.)

- By injecting community oversight and fairness into the revocation process, people actually revoked will have much less reason to be angry about the process.
- By protecting procedural rights, formerly incarcerated individuals will be better able to protect their families, employment, and community integration.
- The panels will create a safer, healthier, more just community for all of us.
Some Potential Solutions: Changing Laws

1. Place a cap of 30 days on the amount of time that parolees and probationers can be imprisoned for the most common types of rule violations.

2. Count good time served on supervision as time served.

Some Potential Solutions: Due Process Changes (Cont.)

1. Do not hold people in county jails while awaiting the hearing before the administrative law judge.

2. During the revocation process, release on bail all people on supervision who get picked up for rule violations that do not involve new crimes.

3. Enable a person who gets revoked to see a circuit court judge for sentencing.
Some Potential Solutions: Administrative Changes (Cont.)

1. Require more agents to obtain training in how to work with people who suffer from mental illness.

2. Hire more social workers to work as agents.

3. Develop more alternative to incarceration programs.

4. Increase the use of “quick dips” (the strategy of sending people who violate technical conditions of supervision to jail for two or three days instead of immediately sending them to prison for years).

5. Create a system of incentives that rewards agents for the success of individuals under their supervision.

Some Potential Solutions (Cont.)

End the practice of incarcerating people for crimeless revocations!
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To get involved or learn more:

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You can get involved by:

• joining a local EXPO chapter;

• participating in a WISDOM or EXPO leadership development program;

• joining a ROC Wisconsin policy workgroup;

• joining a ROC Wisconsin Task Force;

• asking an EXPO or WISDOM leader to give a presentation to your organization, congregation, or class; and

• making a tax-deductible contribution to WISDOM or EXPO.