

OK ACADEMY



"TO HELL WITH IT, WATSON."

# OKLAHOMA STYLE CRIMINAL JUSTICE

THE 2008 OKLAHOMA ACADEMY TOWN HALL IN ARDMORE, OCTOBER 26-29

## Quotable Quotes

*In America, the means available to the authorities to uncover crime and to arrest criminals are small in number. . . .*

*However, I doubt whether crime evades punishment less often in any other country. The reason for that is that everyone feels involved in providing evidence of the offense and in apprehending the offender. During my stay in the United States, I saw inhabitants of a county where a major crime had been perpetrated spontaneously form committees with the aim of arresting the guilty man and handing him over to the courts. In Europe, the criminal is a luckless fellow, fighting to save his life from the authorities; the population, to a degree, watches as he struggles. In America, he is an enemy of the human race and has everyone entirely against him.*



*From Alexis de Tocqueville's "Democracy in America" (1835): Notable & Quotable (Wall Street Journal, July 14, 2008; Page A15)*

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*... philosopher Cesare Beccaria, whose ideas influenced Thomas Jefferson and John Adams, wrote in a seminal 1764 treatise, "Crimes are more effectually prevented by the certainty than the severity of punishment." Beccaria also postulated that the swifter the punishment, the likelier offenders would be to associate them with their crimes."*  
*Mark Schoofs, Wall Street Journal, July 24, 2008 (A11)*

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*"On the floor of the Senate, when the HB 1213 repeal appeared imminent, one of the bill's crafters commented that the State would ultimately rue the day its leaders lacked the political courage to create a sensible sentencing system. "(Oklahoma Senate, 1999)*

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*"Here we are again. Same problems, same solutions - but a different Legislature and different Governor - and different state budget. Will we blink again?" (Oklahoma Academy Research Committee)*

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*"It's all about getting re-elected" (David Braddock, State Representative)*

# **CRIMINAL JUSTICE IN OKLAHOMA**

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**THIS TOWN HALL.**



## **Public Attitudes**

### *The Gallup Poll*

Attitudes to approaches to lowering the crime rate in the U.S.: Question: "Which of the following approaches to lowering the crime rate in the United States comes closer to your own view--do you think more money and effort should go to attacking the social and economic problems that lead to crime through better education and job training or more money and effort should go to deterring crime by improving law enforcement with more prisons, police, and judges?"

	<b>Attack social problems</b>	<b>More law enforcement</b>	<b>Don't know/ refused</b>
National.....	65	31	4
Male .....	64	31	5
Female .....	66	30	4
White.....	61	34	5
Nonwhite .....	77	19	4
Black .....	84	14	2
18 to 29 years .....	71	27	2
30 to 49 years .....	66	30	4
50 to 64 years .....	64	33	3
50 years and older .....	61	34	5
65 years and older .....	57	35	8
College post graduate.....	74	24	2
College graduate.....	65	31	4
Some college .....	66	30	4
High school or less.....	59	35	6
\$75,000 and over.....	65	34	1
\$50,000 to \$74,999.....	67	26	7
\$30,000 to \$49,999.....	67	29	4
\$20,000 to \$29,999.....	70	24	6
Under \$20,000 .....	59	36	5
Urban area.....	71	25	4
Suburban area .....	63	33	4
Rural area .....	59	35	6
East.....	63	34	3
Midwest.....	64	31	5
South.....	64	31	5
West.....	67	28	5
Republican.....	50	47	3
Democrat .....	77	19	4
Independent.....	66	29	5
Conservative .....	55	41	4
Moderate.....	70	26	4
Liberal .....	80	19	1

Sourcebook of Criminal Justice Statistics Online  
<http://www.albany.edu/sourcebook/wk1/t200132006.wk1>  
 Table constructed by SOURCEBOOK staff from data provided by The Gallup Organization,

## **LAW ENFORCEMENT**



## **LEGAL & JUDICIAL**



## **CORRECTIONS**



## *Why Are We Having This Town Hall?*

*Oklahoma Academy Research Committee*

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### **THIS TOWN HALL**

The Oklahoma Legislature has expressed significant concern about the criminal justice systems in Oklahoma. The immediate concern is over incarceration volumes and associated expense. The issues involved are inter-related, inter-dependent and reside at municipal, county, regional and state levels. Ultimately the overall question is how to punish offenders enough without punishing excessively and unnecessarily.

In July 2007, the leadership of the Oklahoma State Legislature, through the Legislative Services Bureau, requested that MGT of America conduct a comprehensive performance review of the Oklahoma Department of Corrections. The Audit was delivered to the leadership of the House and Senate on December 31, 2007. The Audit team interviewed scores if not hundreds of Oklahomans.

The final report was 275 pages. The Audit contained 141 recommendations. It was received with reviews that ranged from “we already knew that” ... “it was just done for political purposes” - “it was too broad” ... it wasn’t broad enough” ... “all they want is more money” ... “wow, this is really well done and interesting”. Jennifer Kirkpatrick, of our Research Team, will provide an overview of The Audit later in this document.

It has occurred to us that Oklahoma’s criminal justice system, and incarceration rates/expenditures are EXACTLY what Oklahomans prefer given the information they have. The people elect their representatives and the representatives insist they listen to the people. On the other hand there is general dissatisfaction over the fiscal consequences. Perhaps Oklahomans would believe and demand differently if the issues are framed differently – and if different and relevant information were shared by all. Therefore this Town Hall.

This Town Hall stipulates that The Audit is in play. This Town Hall suggests that there are more fundamental public policy issues to be resolved than the Audit could legitimately propose. Therefore we suggested our overall Town Hall sub-theme: “Can we be just as tough but twice as smart.” It is a clever question. We suspect the answers will be difficult to both define and pass the political test in our Legislature.

Sound easy? If it were easy - we wouldn’t be having this Town Hall, would we? If it were easier, one of the gentlemen below would have claimed credit for its reformation and transformation. So here we are.



## ***This Research Says ... "Let's Stay Tough But Get Smarter"***

*Oklahoma Academy Research Committee*

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### **THIS TOWN HALL**

There are certain observations in this research worth highlighting here. The others will be for the reader to absorb and develop per this research document. The Oklahoma Academy has been here before - just a decade ago. In the mid-1990's the state was alarmed about "prison overcrowding". At that time (1995) we had about 18,000 inmates. The Academy was one of many groups providing input into HB 1213 - our "solution". The bill was crafted - passed - enactment delayed - and repealed. Since then our inmate population has risen to 25,000. So here we are again.

Based upon this research, here's how we simplistically see things today. The Oklahoma criminal justice system is one of the most efficient (lowest cost per offender) in the nation yet some voters/legislators want to "cut costs" and "squeeze out the fat"; Oklahoma has one of the highest incarceration rates in America yet no voter/legislator is complaining about Oklahoma being too tough on crime; nevertheless the Oklahoma voters/legislators wonder why "we spend so much". Please!! It seems to us that we spend precisely what we INTEND to spend. So let's no longer pretend faux surprise. If Oklahoma mirrored the national average of revenue source mix, counties in Oklahoma would pay \$250 million more every year; and the state government would pay \$250 million less. What does that tell you about our paucity of local and community programs?

Something has to give - or we have to be adult about this and pony up the money that we are DEMANDING be spent. And it is likely that to change any of the equation, the change must be transformational and not incremental. In other words being "tough" AND "smart". The accelerated growth in persons in prison is a direct product of the effective enforcement of drug laws and the closures of mental institutions. While the Oklahoma systems seem cost efficient - they are costly simply because of such a sizable prison/jail population. We are not likely to solve the cost issues by "eliminating waste". That was done long ago.

The prison population will continue to grow despite a declining crime rate and reduced "admissions". Why? Because of the implementation of the 85% rule requiring that 85% of sentences be served regardless of circumstances. That is not a value judgement. It was a major finding of the DOC Audit commissioned by the Legislature. In accordance with state budget physics, a dollar spent on "beans and bullets" for incarcerated criminals is a dollar not expended elsewhere in our society. Finally, technology and innovative alternatives to incarceration have a place in the system and need to be optimized and maximized. But we don't think our problems are going to be solved by computers, circuit boards and ankle bracelets. And you? Good luck ...

### **CAN WE ... LEARN TO BE ... JUST AS TOUGH ... BUT ... TWICE AS SMART?**



**JULIE KNUSTON**



**MIKE LAPOLLA**



**CRAIG KNUSTON**



**JENNIFER KIRKPATRICK**



**LOU KOHLMAN**

## Oklahoma House of Representatives

State Representatives David B. Braddock (D, Altus) and Ron Peters (R, Tulsa)

Representatives Braddock, Peters and Lamons are active Oklahoma Academy Board members, and were persuasive in suggesting that this difficult issue be the 2008 Town Hall theme. The Academy Board applauds their candor and willingness to lead.

Why hasn't the Legislature done something about this issue? What is the problem? Those might be your first two questions regarding this year's Town Hall. You, Mr. and Mrs. Taxpayer have every right to be asking those questions and wondering why.

Our first response would be if it were easy we (the Legislature) would have solved it a long time ago. Thus from the non-activity for the last 30 or 40 years it must not be easy. And it isn't.

The short answer is "**it's all about winning**". Generally most of the relative problems in the arena of Criminal Justice can be traced back to that statement. How does one explain that?

Well let's start with the fact that we have made an agreement between us that this is a horribly difficult issue for the Legislature – and it is one that literally requires the involvement of a group such as the Oklahoma Academy. We are stepping out on a political limb – but we think that is our responsibility.

It starts first with our District Attorneys at the local level. Let me say that we are good friends with many of our DA's. They are generally very good people with a true desire to serve their fellow man. However, because we have elected District Attorneys they must be concerned with the political side of their actions. In other words they must generally be looked upon by the voting public as "tough on crime". If they are not viewed that way typically they will not survive the next election.

**It's all about winning.** And that is not to say that it is bad that they are concerned about the public view of their efforts toward crime. That is just the way it is. In our personal opinion it tends to skew things in the criminal justice for our state. They put the "bad guys and gals" in jail. They are not necessarily



concerned with how much it costs to incarcerate an individual. That is the Legislatures' problem. And to be fair, the DA's are following the laws that the Legislature put into place.

Well then isn't the Department of Corrections at fault here? What are they doing? To be honest they are only responsible for housing the inmates they receive. They have no control over who goes to jail or what sentence someone receives. They just have to figure out where to put people and how to pay for them.

Then that leaves the Legislature, what are they doing to improve this situation? Let's take a look at its perspective. If you are running for the House or Senate you have to be what? **Tough on Crime!!!** We didn't say smart or intelligent. We said tough. That translates to passing laws each year to add jail time to crimes, to put more people who violate the law in jail.

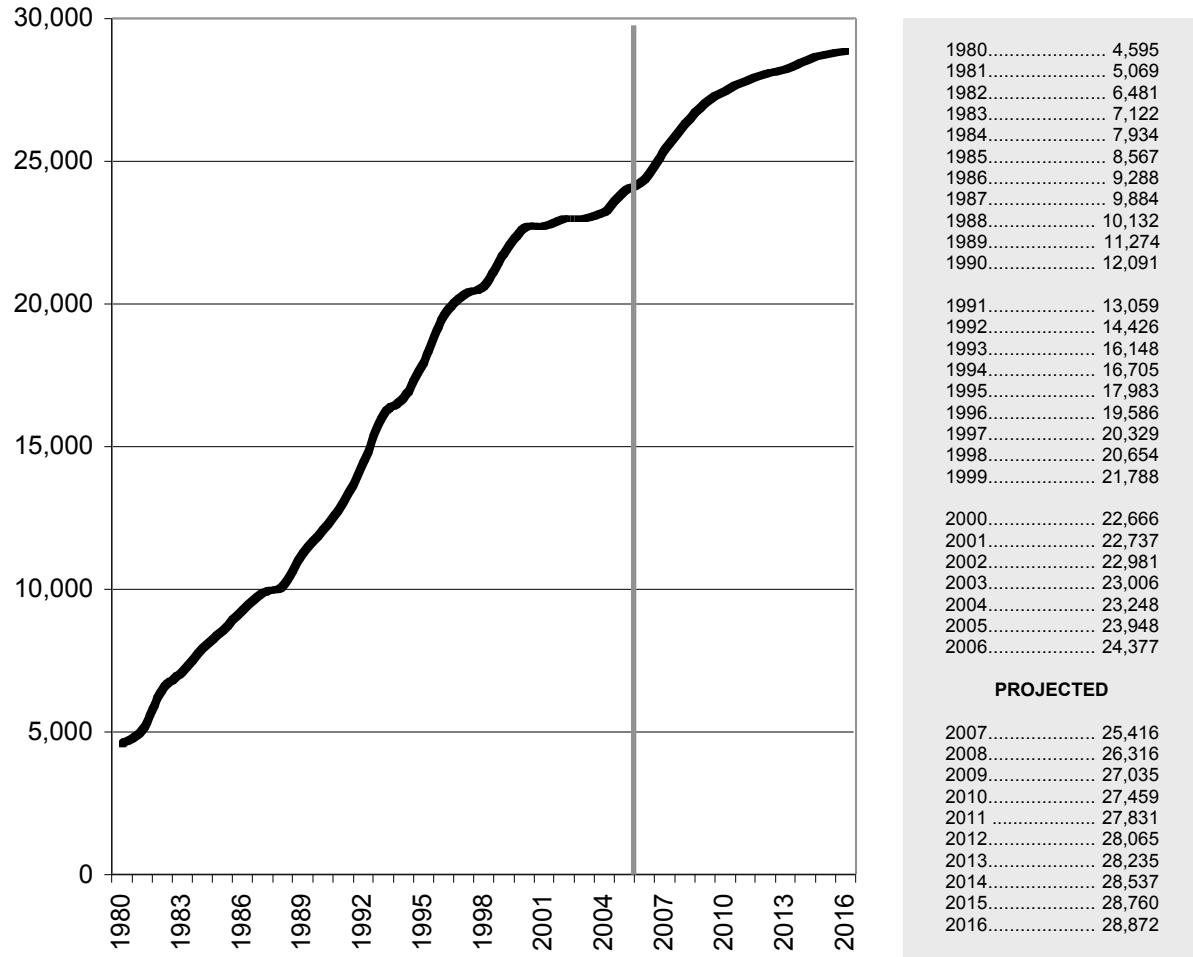
Our Western heritage has somewhat compounded this phenomenon. In the Wild West it was shoot 'em up or lock 'em up! So why don't they, the Legislature, do something about it? Remember our premise? **It's all about winning!!!!** The people running for the Legislature want to win. After they win they want to be re-elected.

Again, **it's all about winning**. Everyone is scared, members of both parties and both caucuses. The pressure is immense. Controlling the Legislature is the pot of gold at the end of the rainbow. The problem is the citizens of the great State of Oklahoma have to pay for the pressure politics that got us into this situation in the first place.

What is the answer? We think trying to move the Criminal Justice issues away from the political arena. That is so much easier said than done. It also will take people realizing that financially we are better off as a state if we can help people get off drugs and keep people out of jail. Save prison for people that we are afraid of. When the public has had enough financially, that is when there will be changes made in the system.

## ***State of Oklahoma Inmate Population, 1980-2006 and Beyond***

*Source: Oklahoma Criminal Justice Resource Center*



## **Thoughts About Race**

Academy Research Committee

This research will not dwell on racial differences concerning arrest and incarceration rates. If we thought for moment that race could be addressed via this Town Hall, we'd press the issue. But it cannot for several reasons.

A primary one is that it is stipulated that blacks have significantly higher incarceration rates than other races in ALL states. In fact, the differential in Oklahoma between blacks and other races is BELOW (smaller than) the national average. And southern and western states have LOWER differentials than northern and eastern states. Furthermore, if one considers the ten states with the highest rates of incarceration, each of them have racial rate disparities BELOW (smaller than) the national average. Clearly something else is in play.

Then we noted the following observation published by the Oklahoma Criminal Justice Resource Center in June 2005. It said in part

"It must be strongly stated that the documented presence of racial disparity in any given aspect of law enforcement or the criminal justice system does not "explain" it. Complicated studies must be designed to examine as many possible causative factors, other than race, that might explain the disparity. Recent studies (Blumstein, A., 1993, as cited in The Sentencing Project, 2003, p. 1, and U. S. Sentencing Commission, 2004, chap. 4) seem to indicate that much of the disparity results from the prosecution of drug crimes and other non-violent offenses.

Other studies indicate that social factors, such as income and family situation, affect criminality and justice outcomes, which may mitigate racial effects (Hannon and Defronzo, 1998; Krivo and Peterson, 2000; Spohn and Holleran, 2000). In some cases, simple geography might be a contributor to an apparent disparity in sentencing results. For example, prison diversion programs might not be uniformly available as a sentencing option for all geographic regions.

A comprehensive discussion of the complications arising from geographic factors in traffic stop data may be found in Fridell (2004, chap. II). Geography could be one reason for lower minority participation in the prison diversion programs in Oklahoma. Nevertheless, it is hoped that the methodology demonstrated in the current report will be a useful tool for those interested in researching the causes of racial disparity in the criminal justice system.

*Source: Racial Disparity in the Criminal Justice System: An Oklahoma Perspective [www.ocjrc.net/publications.asp](http://www.ocjrc.net/publications.asp). Oklahoma Criminal Justice Resource Center, June 2005*

## **Incarceration by Race, 2005**

Bureau of Justice Statistics

Ratios of incarceration rates by race: Reading this table. The incarceration rate for blacks nationally is 6.6 times higher than for whites; and for hispanics nationally it is 2.4 times higher than for whites. The Oklahoma ratio is 6.0 and 1.8 and are clearly below the national average by 9% and 25% respectively..

STATE	B/W	H/W
West Virginia.....	17.1 .....	7.6
DC.....	16.5 .....	5.6
Connecticut.....	15.0 .....	8.4
South Dakota .....	14.8 .....	3.4
Minnesota .....	14.3 .....	5.2
New Jersey .....	14.3 .....	4.8
Rhode Island.....	13.8 .....	4.1
Iowa .....	12.6 .....	3.1
Wisconsin.....	11.6 .....	2.5
Pennsylvania.....	11.1 .....	8.0
Vermont.....	11.1 .....	4.4
New York.....	10.7 .....	5.5
Illinois.....	10.5 .....	2.0
New Hampshire .....	10.3 .....	5.9
New Mexico .....	10.1 .....	2.6
Nebraska.....	9.9 .....	3.6
Utah .....	9.5 .....	2.9
Colorado .....	9.4 .....	2.6
Kansas.....	9.3 .....	1.9
Massachusetts.....	8.9 .....	7.0
Wyoming .....	8.8 .....	1.8
Montana .....	8.7 .....	3.3
Maine .....	8.4 .....	3.7
Ohio .....	8.0 .....	2.6
Oregon.....	8.0 .....	1.6
North Dakota.....	7.5 .....	5.8
Kentucky .....	7.2 .....	4.4
Washington .....	7.0 .....	1.8
Delaware.....	6.9 .....	0.9
Indiana .....	6.9 .....	1.6
California.....	6.4 .....	1.7
Virginia .....	6.4 .....	1.1
Arizona.....	6.3 .....	2.1
Michigan.....	6.3 .....	2.7
Maryland .....	6.2 .....	0.8
North Carolina.....	6.2 .....	1.7
OKLAHOMA.....	6.0 .....	1.8
Louisiana.....	5.9 .....	4.1
Florida.....	5.7 .....	1.4
Missouri.....	5.7 .....	1.8
Texas.....	5.4 .....	1.7
Alaska .....	5.2 .....	1.8
Nevada.....	5.1 .....	1.1
South Carolina .....	5.1 .....	2.2
Mississippi.....	5.0 .....	8.9
Tennessee.....	5.0 .....	2.0
Alabama.....	4.8 .....	2.4
Arkansas.....	4.7 .....	3.6
Idaho.....	4.5 .....	2.2
Georgia .....	4.0 .....	1.1
Hawaii .....	3.3 .....	3.4

# **OKLAHOMA ACADEMY BOOKSHELF**



## **Book Reviews: Ideas To Reduce Incarceration**

*“Downsizing Prisons” (Michael Jacobson) and “Unlocking America” (JFA Institute) by Craig Knutson*

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*Craig Knutson is a senior Academy Board member and a long time policy researcher for the Academy’s conferences and Town Halls. He currently serves as the Chief of Staff at the Oklahoma Insurance Department.*



*Craig graduated from the University of Oklahoma with degrees in political science and regional planning. He has worked as an economist in several organizations over the past two decades. He serves on the Board of Governors of the Communities Foundation of Oklahoma, the Oklahoma Council of Economic Education, the Norman Area Land Conservancy, and the Oklahoma Academy for State Goals. He is a graduate of Leadership OKC, Oklahoma League and the Philip Crosby Quality College.*

*Craig received the Oklahoma Academy’s Key Contributor Award for 2006. He currently serves as the volunteer research co-coordinator for the Oklahoma Academy’s Town Hall research efforts.*

Wikipedia defines the criminal justice system as consisting “of law enforcement (police), courts, prosecutors, defense attorneys and corrections.” That definition has a clear emphasis on what to do TO those who commit crimes but provides little in the way of what to do FOR those who commit crimes, especially those of a non-violent nature (almost 60% of crimes committed in Oklahoma). While standards of conduct, necessary to protect individuals and communities, must be enforced, we know that 95% of all who enter the criminal justice system leave it; the question is, for better or for worse? If it’s the latter, an eventual return is a foregone conclusion.

Short of prayer or dumb luck, achieving the former is hoping against long odds. To spend \$18-25K/year on a prisoner, without performing accurate needs assessment and offering/requiring the appropriate medical and evidence-based training interventions to

ensure a better than even chance of re-integration into the community upon release, yields a poor but predictable return on investment. Our pocketbooks are “bleeding” much more than our hearts, and there is no tourniquet in sight. With that, I give you the following . . .

After my heavy involvement in the Academy’s 1996 conference on this topic, coupled with this year’s effort, which began in earnest in January of this year, I can attest to the enormity of this topic.

Criminal justice and the correctional system represent a series of *tentacles* that reach and impact our families, communities, all three branches of our government, and figure heavily in the debate of how to allocate scarce public resources. The tremendous growth in incarceration over the past few decades relates directly to this country’s and state’s present difficulties in adequately funding its educational and health care systems.

Of all the tentacles, I’d like to restrict my discussion to three particular areas: drugs, proportionality, and the realignment of probation/parole resources.

These observations come primarily from having read two resources: *Downsizing Prisons*, from Michael Jacobson, and *Unlocking America*, by the JFA Institute. I believe virtually all, regardless your political persuasion, will admit that the 40 year “War on Drugs” is a failed safety and social policy. The Anti-Drug Abuse Act of the mid-1980s imposed almost 30 mandatory minimum sentences for drug offenses; the 50 states have followed up locally with their own legislation on drug offenses.

This type of legislation has had little impact on the amount of drugs imported, manufactured or consumed in this country/state. While arrests for drug possession/sale have surged, the supply of drugs has continued unabated.

In Oklahoma, during the 2006-2008 time periods, the top two crimes, representing almost ONE-THIRD of all new incarcerations, were: “Distributing Controlled Dangerous Substances” and “Possession or Obtaining Controlled Dangerous Substances.” Assault, Murder and Robbery, crimes that are typically classified as “serious violent crimes,” accounted for a COMBINED 22% of all crimes. It is estimated that over 50% of all Oklahoma inmates have a drug abuse problem.

Both publications, plus other research materials, cite successful “pre-incarceration” programs & models for those identified with drug addictions. But I believe that we should re-think sentencing

requirements AND lengths of stay for behaviors we have criminalized that have no direct or obvious victim other than the perpetrator (many are classified “victimless crimes”).

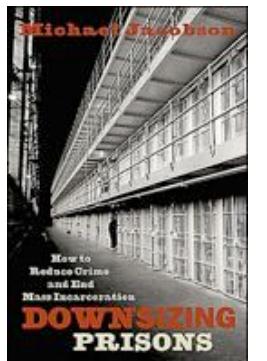
Such a policy does not condone such behaviors but merely emphasizes that “punishment should fit the crime.” The evidence suggests that most drug offenses are non-violent in nature and the perpetrator can be more effectively rehabilitated within other, existing systems (e.g., drug courts), utilizing evidence-based drug rehabilitation and job training programs.

Philosopher Cesare Beccaria, whose ideas influenced Thomas Jefferson and John Adams, wrote in a 1764 treatise: “Crimes are more effectively prevented by the certainty than severity of the punishment”. I believe most would agree that the drug and mental health court systems are a far less severe setting than our correctional system, with more effective rehabilitation outcomes.

There is an effective probationary program, only four years old, in the State of Hawaii that has this concept as its central tenet. The program uses “flash” incarceration, with clear expectations, outcomes and support, to spare offenders from long prison

sentences, which (the latter) is far more costly to the taxpayer and produces worse outcomes.

Finally, research has proven that if parole dollars are concentrated in the first 6-12 months of a parole term, the transition from prisoner to citizen is far more successful. Remember, probation (the previous example in Hawaii) involves a sentence in lieu of prison; parole involves community supervision once a portion of a prison sentence has been served. How prevalent is that? 95% of all prison admissions are released, and 80% of those are released to parole or some kind of after prison supervision.



What time period is the offender most likely to offend? In the first twelve month of probation. If we simply concentrated our resources (drug treatment, mental health counseling, temporary housing, job training, etc.) at the beginning of the parole process, violations, both technical and non-technical, decline. That slows the

“revolving door” we see too often within the existing correctional system.

In closing, let me cite a passage from Jacobson’s book (p. 89) that summarizes my thoughts and supports the title/theme of this Town Hall document.

“In the past year, 25 states have passed laws eliminating some of the lengthy mandatory minimum sentences so popular in the 1980s and 1990s, restoring early release for parole and offering treatment instead of incarceration for some drug offenders.

In the process, politicians across the political spectrum say they are discovering a new motto. **Instead of being tough on crime, it is more effective to be smart on crime.**” I hope each of you reading this can approach this problem in a smarter, more effective way than we have to date.

## **A Book Review: Mandatory Mental Health Treatment**

*"The Insanity Offense"* by E. Fuller Torrey. Reviewed by Paul McHugh

*Wrong Prescription: How the emptying of state-run mental hospitals produced a social disaster.* By Paul McHugh, June 14, 2008; *Wall Street Journal*, Page W10. *The Insanity Offense*, By E. Fuller Torrey Norton, 265 pages, \$24.95.

Dr. McHugh is a University Distinguished Service Professor of Psychiatry at Johns Hopkins University. His book "Try to Remember: Psychiatry's Clash Over Memory, Meaning, and Mind" will be published in October.

There are times and situations that call for prophets. Not fortunetellers or soothsayers, but biblical prophets like Amos or Jeremiah who furiously proclaim the old truths, puncture our pretensions and predict from current tribulations worse to come if what lies deeper than sin — idolatrous worship of false gods — continues. E. Fuller Torrey, a psychiatrist who cares for patients with schizophrenia and manic-depression, is to my mind the doctor nearest in character to an ancient Hebrew prophet.

In "The Insanity Offense," he describes the grim consequences — in death, violence and suffering — of laws that, beginning in the late 1960s, released the seriously mentally ill from the oversight of state mental-health services and permitted them to wander away from the treatment and protection they desperately needed. Dr. Torrey identifies an unholy alliance of rash conservatives seeking to save public money by abandoning a traditional state obligation and self-righteous liberals defining the neglect of these patients as "defending their civil rights." We need prophets to confront such alliances — anything less will fail — and in this splendid book we hear one.

"The Insanity Offense" is "about one of the great social disasters of recent American history," Dr. Torrey writes. "It began within the lifetime of many of us, is continuing, and today affects approximately

400,000 individuals and their families. In the annals of twentieth-century American history, it should be included among the greatest calamities."

Some of the background should be familiar. From the mid-19th century right up until the 1960s, state governments accepted responsibility for the care and treatment of the seriously mentally ill. This arrangement came about because in the 1840s such civic crusaders as Dorothea Dix (in what may be the first piece of social research ever conducted in America) revealed the special ordeal of delusional and distressed mental patients: They tended to lose their way in life and, because of their unpredictable and occasionally violent propensities, filled the country's jails, workhouses and shelters, where they often suffered ugly mistreatment. Dix reported to the Massachusetts legislature in 1843 on "the present state of Insane Persons confined within this

Commonwealth, in cages, cellars, stalls, pens! Chained, naked, beaten with rods, and lashed into obedience!"



The state mental-hospital system was founded to care for these patients. Though psychiatrists before the mid-20th century could offer them little more than shelter and protection, even that modest level of care was far from inconsequential: It kept the patients and the community from harm. State mental hospitals stood as beacons of a public obligation.

By the 1950s, though, these hospitals had become overcrowded and were themselves prompting calls for reform. It was a missed opportunity: Much could have been accomplished if psychiatric leaders at the time had moved quickly to repair a failing system and to educate the public about serious mental illness. The discovery of "anti-psychotic" phenothiazines and "anti-depressants" meant that the symptoms of these patients could be greatly relieved

and their dangerous behavior much reduced if such medications were used properly.

Steps could have been taken to address the concerns of the growing civil-rights movement and ensure that long-confined patients were not victims of neglect. And the increasing zeal for fiscal restraint and tax reform in state government should have been met head-on with a frank discussion about the costs and benefits of shouldering responsibility for some of our most vulnerable citizens.

Instead, psychiatric leaders at the time offered little or no defense. Worst of all, they failed to explain why state responsibility should continue, no matter what changed in the settings for patient services, so that the mentally ill would be monitored and not slip from sight. Patients with schizophrenia and manic-depression, it should have been explained, often lack any sense of their own mental disorders and so need regular supervision to sustain their treatment.

Why the psychiatric establishment failed to meet these challenges is not obvious. Many doctors wilted before criticism of state-hospital services and mustered weak arguments to defend them. Many others at the time were absorbed in the psychotherapy of patients with milder mental disorders and had little interest in the seriously mentally ill, whose care they were happy to leave to the state and others. As a result, laws were passed in the late 1960s with the direct intent of emptying state hospitals, releasing the patients and saving money — consequences be damned.

The new laws deprived psychiatrists of the authority to hold patients under surveillance. In the past, psychiatrists could keep patients in a hospital if they were “of such mental condition . . . [as being] in need of supervision, treatment, care, or restraint.” Now patients could not be held unless “immediately” or “imminently” dangerous to themselves or others.

The harrowing effects were evident almost immediately, and Dr. Torrey recounts them in vivid detail in “The Insanity Offense.” First he offers plenty of statistics to indicate the state of the problem as it exists today — citing, for instance, the number of seriously mentally ill who are in prison (218,000)

or homeless (175,000) at any given time. But just as “numbers are too abstract” to convey the magnitude of a large-scale tragedy such as an earthquake or flood, he says, the true horror that resulted from the “deinstitutionalization” of the seriously mentally ill is best conveyed by individual stories.

#### *Two paragraphs omitted*

Given the difficulty of committing the seriously mentally ill for involuntary treatment, our jails and prisons have become de facto mental institutions. Dr. Torrey’s data indicate that more than 30% of inmates are mentally ill. He also describes the abuse they suffer in these brutal environments and the increase in suicides by mentally ill prisoners. The hellish scenes described by Dorothea Dix in 1843 have returned — with a vengeance, given the huge increase in the American population since the mid-19th century.

What is to be done? “The Insanity Offense” calls for a restoring of some central state responsibility for these patients in ways that would permit monitoring them regularly, keeping them on their medications and insisting on a protected-care setting if they relapse. It is not necessary to reopen all the old state hospitals: The programs that are needed could be carried out in clinic offices with backup, shorter-stay hospital beds.

Dr. Torrey points to successes in a few states. He particularly endorses a program in Wisconsin that provides outpatient tracking and regular medication treatment along with resources for ready involuntary commitments when either treatment fails or the patient becomes unable to control behavioral outbursts.

The issue is whether the public can be rallied to support these reforms. One obstacle: Legions of lawyers are opposed to such changes, claiming that they are infringements on “civil liberty.” More than a few such lawyers are heard to proclaim that the violence and murder committed by mentally ill people are “the price we must pay for democracy.” Here is idolatry of the most blatant kind — with human sacrifice, no less — and hence our need for the fury of a prophet.

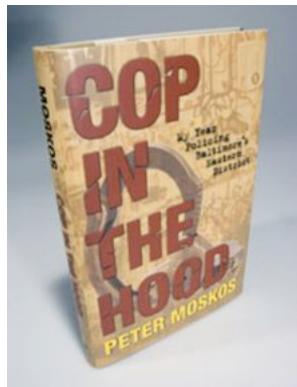
## A Book Review: A Closer Look at Mean Streets

"Cop in the Hood" (Peter Moskos) reviewed by Daniel L. Horan, Wall Street Journal, 7/14/08

High on the list of things that police officers loathe -- and the list is a long one -- is the sight of an egghead doctoral candidate approaching the precinct house in the hope of finding a research subject. Among cops it is generally assumed that, no matter how much time an academic researcher may spend on ride-alongs in the field, and no matter how well intentioned he may be, he will remain an outsider, studying a culture that is all but impenetrably foreign to him. Which makes Peter Moskos's "Cop in the Hood" all the more remarkable and all the more welcome.

Mr. Moskos is an assistant professor of law and political science at New York's John Jay College. In 1999, as a graduate student in sociology at Harvard, he was granted permission to join a police academy class in Baltimore for the purpose of studying police training. On his second day, though, he was pulled from the class and told that he could not continue. A shift in Baltimore's political winds had swept out the police commissioner who had approved the project, and the interim commissioner was unreceptive to the idea.

But Mr. Moskos was offered an interesting alternative: He could continue his research, he was told, if he completed the city's hiring process and became an actual police officer. He accepted the challenge, passing a battery of tests that included the first mile-and-a-half run of his life. In "Cop in the Hood" he acknowledges that having been on the payroll of the organization he was studying presented, in strict academic terms, a



potential conflict of interest, but he writes that "a meager paycheck can go a long way to advance the noble pursuit of knowledge, especially since none of my grant applications had been accepted."

Mr. Moskos completed his training and was assigned to the midnight shift in Baltimore's Eastern District. He spent 14 months as a patrol officer before returning to Harvard, but in that short time he saw more mayhem than most police officers see in 14 years. The murder rate in Baltimore is six times that of New York City, and the Eastern District is the city's most violent.

Mr. Moskos discovered that the police academy, with its emphasis on quasimilitary formalities and tedious routines, did little to prepare him for the reality of Baltimore's meanest streets. Like most rookie police officers, who tend to be law-abiding members of the middle class, he had had little exposure to life in what he unabashedly calls the "ghetto," where he was routinely called into people's homes "because the residents have, at some level, lost control."

He describes in unsparing detail the conditions he found to be all too common -- homes "without heat or electricity, rooms lacking furniture filled with filth and dirty clothes, roaches and mice running rampant, jars and buckets of urine stacked in corners, and

multiple children sleeping on bare and dirty mattresses." Entering a "normal" home, one that was "well furnished and clean," he writes, was "so rare that it would be mentioned to fellow officers."

*For all the book's detail, Mr. Moskos reserves his most passionate writing for a call to abandon the war on drugs. He claims that the drug war -- with its violent turf battles and revolving-door cycles of arrest -- has caused more social devastation than drugs themselves. This is an opinion much in vogue today, one no doubt shared by most of Mr. Moskos's colleagues in academia but not by most police officers.*

A lot of his time on patrol was spent "clearing the corners" of young drug dealers. The task was usually accomplished through a simple assertion of dominance, in which the cops stopped their car and stared the dealers down. The dealers who got the message and moved on were allowed to do so, while those who defiantly returned the stare were detained and often arrested for loitering. As Mr. Moskos discovered, much of police work simply involves the cops exerting their authority, either formally or informally, over those they believe to be lawbreakers. "Every drug call to which police respond," he writes, "indeed all police dealings with social or criminal misbehavior, will result in the suspect's arrest, departure, or deference."

In "Cop in the Hood," Mr. Moskos manages to capture a world that most people know only through the distorting prism of television and film, where police officers are usually portrayed as quixotically heroic or contemptibly corrupt. "Incidents [of corruption] do happen," Mr. Moskos says, "but the police culture is not corrupt."

For all the book's detail, Mr. Moskos reserves his most passionate writing for a call to abandon the war on drugs. He claims that the drug war -- with its violent turf battles and revolving-door cycles of arrest -- has caused more social devastation than drugs themselves. This is an opinion much in vogue today, one no doubt shared by most of Mr. Moskos's colleagues in academia but not by most police officers.

One must admire Mr. Moskos for his willingness to walk in a police officer's shoes for 20 months. But it is important to remember, while reading "Cop in the Hood," that though he wore the badge and carried the gun, in his heart he was still a researcher foremost, not a police officer. He lacked the attribute that marks out the genuine cop -- that rare and inexplicable impulse to run toward gunfire when other sane people are running away. It is an attribute that may be described and analyzed at Harvard, but it is not often found there.

*Mr. Horan is a police officer in California.*

# **OKLAHOMA SYSTEM OVERVIEW**



## ***Our System From 50,000 Feet***

*Lou Kohlman, Staff Attorney, Oklahoma Court of Criminal Appeals*

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The “criminal justice system” is a vast entity. Broadly, it refers to the process by which the State apprehends persons charged with crimes, resolves criminal cases, and punishes those convicted of crimes. While components of the system may be private or quasi-private entities the system itself is wholly a function of the State: only government has the power and authority to arrest, try and punish criminals.

Oklahoma’s criminal justice system is primarily funded through the State as well, with county and local government bearing a smaller share of the costs. A brief glance at the system reveals several layers: the path an accused person may take through the larger criminal justice system, the various entities he may encounter along that path, and the structure of the court system.

This essay sets forth a broad overview of each layer.

For the Oklahoma defendant, the end result of a trip through the system is often incarceration in prison. However, there are several points along the path at which a defendant could be diverted away from imprisonment, while preserving the State’s interest in punishing and deterring crime.

### **THE COURTS**

The structural framework forming the backbone of the criminal justice system is the courts. Most states have a trial court, intermediate court and high appellate court.

Oklahoma is unique in that our criminal court system has only two levels. The district attorney begins the process by filing criminal charges against a person in one of Oklahoma’s 77 district courts. The defendant may either have a trial or plead guilty at the district court level. If the defendant is convicted at a trial he has an automatic right to appeal that conviction. If he pleads guilty he may apply to withdraw that plea (a very difficult thing to do).



#### **OK Supreme Court**

The Oklahoma Supreme Court handles only civil cases and hears no criminal matters, while all criminal appeals are decided by the Court of Criminal Appeals.

#### **OK Court of Criminal Appeals**

In Oklahoma, all appeals from every type of criminal case go directly to the Oklahoma Court of Criminal Appeals. This five-judge court is a court of last resort, just like the Oklahoma Supreme Court.

The only court which may overturn a Court of Criminal Appeals decision outright is the United States Supreme Court. While lower federal courts may grant relief in criminal cases, their rulings of law are not binding on the Court of Criminal Appeals.

The Court handles all Oklahoma criminal cases, from misdemeanors through capital cases, and handles collateral attacks on convictions by post-conviction applications as well as direct appeals. In addition it hears and decides over a thousand applications for extraordinary relief a year, including writs of mandamus and prohibition, juvenile cases, probation revocations, appeals from pretrial decisions and State appeals.

While the courts constitute the framework through which the criminal is convicted and sentenced, many entities are necessary to support that framework.

### **LAW ENFORCEMENT**

First is law enforcement: local police forces, county sheriffs, state organizations including the Oklahoma State Bureau of Investigation and the Highway Patrol, and, depending on the location of the crime, tribal law enforcement organizations. These groups get the first report of a crime, investigate it, and give their results to the local District Attorney. In addition many defendants are housed in municipal or county jails, and are the responsibility of the local police or county sheriff, until their case is resolved.

## **PROSECUTION**

After investigation comes prosecution. While the state Attorney General has some limited responsibility for criminal prosecution, virtually all initial prosecution is done at the county level by the local District Attorney. It is the District Attorney's office which charges you with a crime in a district court.

Depending on the circumstances of the crime the District Attorney may have a choice as to what type or severity of crime was committed, and part of the filing decision is determining which crime best fits the investigation results. Once you are charged with a crime you are entitled to an attorney. While private attorneys handle criminal cases, many Oklahoma criminals cannot pay for a defense – are – “indigent”, to use the system’s language – and are entitled to a defense attorney at public expense.

The two largest counties, Oklahoma County and Tulsa County, have public defender services. The other counties are covered by the Oklahoma Indigent Defense System, which uses a combination of staff attorneys and contract attorneys to provide criminal defense representation to defendants statewide. Oklahoma can justly be proud of its indigent defense system, which indicates a public policy commitment to the importance of fair trials with competent counsel.

Before and during a trial, both the State and the defense rely on investigators and may use experts to prepare their cases. If a case is tried before a jury, the local citizens become part of the system for the duration of that trial.

## **CORRECTIONS**

After a defendant is convicted and sentenced the Department of Corrections becomes involved. A defendant may be imprisoned in a DOC facility; may receive probation or community sentencing, including GPS tracking, electronic monitoring or weekends in jail. This involves

probation departments and local law enforcement. Juveniles are within the jurisdiction of the Office of Juvenile Affairs. Many sentences include requirements for education, treatment or counseling. This brings in the state and local mental health departments and community counseling resources.

These entities may also be involved if a defendant is diverted. After a defendant is released he needs help with re-entry into the community. In addition to some DOC programs, this involves more community, private and faith-based organizations. Also, of course, the defendant may appeal his conviction and sentence. This involves the Court of Criminal Appeals, the Indigent Defense System, public defenders and private defense counsel, and the state Attorney General’s office, which handles criminal appeals on behalf of the State.

## **THE JOURNEY:**

### **CRIME THROUGH PUNISHMENT**

Now that you know the players, let’s consider your journey as an adult through the criminal justice system. Your path is labyrinthine, with several potential areas of diversion.

#### **The Crime**

Your entry into the system begins when you commit a crime.

#### **The Arrest**

After your crime is reported, you may be caught after an investigation. You may be arrested, then released without prosecution if the investigation shows either that you did not commit the crime or there was in fact no crime. Some diversion options might be feasible at this point in the system. If you are younger than eighteen, you will enter the juvenile justice system rather than the district court system.



#### **Charges Filed**

If you are not released, charges will be filed against you in a district court. Once again you might be released without

prosecution after charges are filed. You might be diverted to a drug court, mental health court or other program. If you successfully complete that diversion program you will be out of the system.

You may be charged with either a misdemeanor or felony, depending on the seriousness of your crime. If you're charged with a misdemeanor you will be arraigned on the charge, and your case will be assigned to a district court judge and set for trial. Felony defendants are entitled to a preliminary hearing, at which the prosecutor must show that a crime has been committed and you probably did it.

You may waive your preliminary hearing or be bound over for trial after the hearing. You are arraigned, your case is assigned to a district judge and set for trial. Once a case is set for trial it may still be dismissed; you may plead guilty; you may be tried by a jury or waive your right to jury trial and ask that your case be heard by a judge. If you plead guilty, you will probably do so in return for a sentence recommended by the District Attorney (a "plea bargain"). You may be acquitted, at which point you're out of the system.

### The Judgement

If you are convicted at trial or plead guilty, you are sentenced. Oklahoma sentences are to a specific term of years, life, life without parole or death, depending on the crime. Several crimes carry specific sentence restrictions, such as a requirement that you serve 85% of your sentence before being eligible for parole or that you register as a sex offender. For many crimes the judge may suspend some or all of your sentence, putting you on probation. If you break any conditions of your probation, including committing a new crime, your probation may be revoked and you will go to prison for some or all of your original sentence. If you are a misdemeanor defendant you cannot have a sentence of imprisonment longer than one year (though you can be put on a longer probation) and you will serve that year in the county jail rather than state prison.

### The Punishment

After you have been convicted and sentenced, and your appeal has been denied, your case is final. There are several ways you can attempt to collaterally attack your conviction through the state and federal court systems. Eventually you may become eligible



for parole, and the Pardon and Parole Board will consider your request for parole. The Board gives its recommendations to the Governor, who may grant or deny parole. You may also appeal to the Governor for executive clemency in your case.

### SUMMARY

This is a brief summary of the system. Up close, it is even more confusing. The key points in the Oklahoma system are:

- (a) there are opportunities for diversion before and after criminal charges are filed;
- (b) District Attorneys have discretion over the type and severity of charge a defendant faces;
- (c) District Attorneys can influence the length and type of sentence in guilty pleas by agreeing to plea bargains; and
- (d) judges have some discretion in sentencing but are largely bound by jury recommendations and statutory sentencing restrictions and requirements.

## *A Conversation With The Judge ...*

*Edward Cunningham, District Judge, Canadian County by Lou Kohlman*

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### **“Must Cover” Town Hall Ideas**

I met with Canadian County District Court Judge Edward Cunningham on Monday, March 10. Judge Cunningham has been on the bench for twenty-eight years. He has extensive experience with the criminal justice system. He’s been a member and an executive Board Member of the National Conference of State Trial Judges. Canadian County has a mix of urban and rural components, but he still often knows the people who appear before him as defendants.



As we spoke, Judge Cunningham became excited about the Academy’s project and spoke passionately about areas he feels need attention. He also said he would like to continue a dialogue with the Academy on the topic. He offered to talk to the other Canadian County judges and find out their “must cover” ideas, and communicate them to us. I accepted on the Academy’s behalf.

After introducing the Academy, describing the Town Hall process, and explaining the 2008 Town Hall genesis and work so far, I asked Judge Cunningham to discuss the handful of topics he feels must be discussed if the criminal justice and corrections issues are addressed.

### **Substance Abuse**

He immediately brought up substance abuse—drugs and alcohol, but particularly alcohol. Almost all his sentencing have something to do with alcohol and/or drugs. The biggest problem is that Oklahoma culture accepts drinking as normal and not a problem, and by extension tacitly approves drinking and driving. While there is a stigma against drugs, alcohol is viewed as potentially causing problems but okay in itself.

Kids grow up thinking it is fine to drink beer, particularly since the most accessible beer here is 3.2. This is easy to get; some parents either supply the beer themselves, allow drinking at their homes, or

turn a blind eye to it. He mentioned the increasing popularity of social host laws which stem from this cultural acceptance. The acceptance of alcohol leads to other complications, including teen pregnancy (by breaking down inhibitions, alcohol consumption encourages Oklahoma’s high teen pregnancy rate), and drinking and driving.

### Alcohol

Drunk driving is a tremendous problem in Oklahoma. Twenty-seven years ago Judge Cunningham helped set up the DUI schools, drinking & driving courses, DUI victim impact schools, and policy that drunk driving results in loss of a driver’s license.

He discussed a recent study that shows these programs have had an effect on the Oklahoma DUI rate. Oklahoma has some of the strictest DUI laws in the nation. However, the cultural acceptance of alcohol means we still have a high DUI rate despite the consequences.

Judge Cunningham told me of a recent sentencing. The defendant, a teenager, had been drinking before driving two younger friends in a pickup. The parents knew the boys were drinking—had allowed it in their own yard—and told the boys not to leave their location. Of course they did and had a single-car accident. The younger boy was killed; the driver and passenger both had broken backs. The driver was prosecuted. Judge Cunningham received over 25 letters from parents and community members who asked him not to send the boy to prison, because he was just drinking and didn’t mean to kill anyone.

### Meth

He also noted methamphetamine is a tremendous problem, much worse than heroin and other drugs. He has seen everyone from ministers to soccer moms destroy their lives, even stooping to prostitution, and emphasizes that after just one try, many people are hooked and wind up losing everything. He served on

the Governor's training task force on methamphetamine and goes to schools and community events giving programs on the methamphetamine problem.

### **Poor State Support**

Judge Cunningham briefly noted the problem trial courts face in getting support from the State; many trial judges have no bailiff or other staff support. He recognizes that this is probably beyond the Town Hall's scope, but notes that the judiciary cannot be regarded as an equal branch of government when it must ask for money from the legislative branch. More in line with the topic, he noted that judges do not get the support they need up front for cases, although the Legislature keeps filling and funding the prisons.

### **Alternative Courts**

Judge Cunningham talked about the importance of alternative courts such as drug and mental health courts. He is an advocate for these, but noted that they have had the most success in large or urban counties.

He indicated that, in general, rural counties may not have these courts either (a) because they have sufficient jail space for their detainees, and thus don't feel the urgency larger counties have; and/or (b) rural counties have fewer mental health providers and facilities to help run drug courts.

He had a very interesting explanation for why Canadian County has no adult drug court. They do have a very successful juvenile drug court. Judge Cunningham looks at drug court as a way to keep prison-bound felony defendants out of prison. He said that for two years he laid groundwork for an adult drug court, but the Canadian County District Attorney will not divert prison-bound defendants.

As the district attorney will not participate by recommending defendants, he cannot have an effective drug court. He explained that he had not asked whether she would agree to diverting misdemeanor defendants into a drug court because she would not even discuss diverting felons.

### **Sentencing**

He discussed the pros and cons involved in the various types of mandatory sentencing: mandatory minimum sentences, life without parole sentencing, requirements that a defendant serve a certain percentage of an imposed sentence such as the 85% rule. He discussed punishment enhancements – such as the current mandatory minimum of 20 years if a defendant has two or more felony convictions.

He recalls that several years ago district attorneys were pleading defendants out to suspended sentences with regularity, just to get a conviction. However, five or ten years later those defendants committed a second (or third) crime and that first conviction really hit them

– people were put in prison for ten or twenty year minimums for relatively minor felony offenses, thanks to the mandatory minimums. This pattern continues.

He believes this contributes significantly to the prison overcrowding problem. He believes the 85% Rule is working well, both as a deterrent to defendants and as a guide for juries who want to know how much of the time they recommend a defendant is likely to serve.

Judge Cunningham noted that generally he believed in trial court discretion. However, regarding the possibility of sentencing guidelines, he would be willing to give up some discretion in order to have more consistency in sentencing statewide. He noted that where you are charged with a crime in Oklahoma – which jurisdiction – makes a difference in how much time you will serve. Currently there is a wide discrepancy in sentences recommended by county juries. Juries will often take the recommendation of the district attorney as to sentence, as they view the D.A.s as professionals whose judgment they will trust.



Urban and rural juries recommend very different sentences at trial; district attorneys may offer different plea bargain sentences. Trial court discretion is particularly helpful in rural counties, where the judge probably knows the people he is pronouncing sentence on, and has a personal basis to calculate the probable success of a suspended sentence, probation, community service, etc. This is not true of urban judges.

He brought up environmental and cultural concerns again, noting that this really hit home for him when he began sending a third generation in the same families to prison.

### **Continuing Professional Education**

Judge Cunningham suggested educational programs for the working professionals in the system. He wants D.A.s and the D.A. council, judges, defense counsel, legislators and the executive branch to begin to work together. He'd like to see workshops or seminars where representatives from all these groups would get together to share perspectives and work to come up with something different.

He advocates much wider use of alternative court systems. In addition to drug and mental health courts, he suggests you can include all kinds of offenses, such as bogus check writing (a significant and recurring problem, and one in which a single defendant is likely to commit offenses over time and in several counties).

In addition to the Town Hall, he suggested a weekend "CLE" (continuing legal education program) inviting the working professionals. He notes that judges and many trial attorneys have their calendar set for a year ahead, and may find it difficult to attend weekday functions. However, he suggests that if the Oklahoma Supreme Court Chief Justice issues an order to clear dockets to attend a meeting, and the District Attorney's Council does the same for D.A.s, then judges and attorneys can attend.



### **The 85% Rule**

*Title 21, Section 13.1 of the Oklahoma Statutes, amended in 2007, provides that persons convicted of the following crimes shall serve no less than 85% of their sentence before becoming eligible for consideration for parole. These persons are not eligible for earned credits or other credits which would reduce the length of their sentence to less than 85% of the sentence imposed. This is known as the—"85% Rule".*

1. First degree murder;
2. Second degree murder;
3. Manslaughter in the first degree;
4. Poisoning with intent to kill;
5. Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm;
6. Assault with intent to kill;
7. Conjoint robbery;
8. Robbery with a dangerous weapon;
9. First degree robbery;
10. First degree rape;
11. First degree arson;
12. First degree burglary;
13. Bombing;
14. Any crime against a child provided for in Section 7115 of Title 10 of the Oklahoma Statutes;
15. Forcible sodomy;
16. Child pornography;
17. Child prostitution;
18. Lewd molestation of a child;
19. Abuse of a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes who is a resident of a nursing facility; or
20. Aggravated drug trafficking.

*A separate statute within the Uniform Controlled Dangerous Substances Act provides that any person who is convicted of aggravated manufacturing, or who is convicted of a second or subsequent offense of drug distribution, dispensation or transport with intent to distribute or dispense, or who possesses drugs with the intent to manufacture, distribute, or dispense, or who solicits or uses a person under 18 years old to cultivate, distribute or dispense drugs, must serve 85% of any imposed sentence before being eligible for earned credits or consideration for parole.*

## ***“Dreaming of Solutions I Hope To Live To See ...”***

*James Drummond, Commissioner Emeritus (2001-2006), Oklahoma Sentencing Commission*

### **OUR PROBLEMS**

#### Corrections

Corrections officers are drastically underpaid, turnover is high, and qualifying to serve involves both testing and background checks, understandable but making it even harder to fill vacancies.

Probation officers under the current system do little to actually stem recidivism.

Offenders who are paroled or who flat-time out of prison have no training during their incarceration and little chance of finding jobs. Would you hire one of the 50% of offenders who were imprisoned of drug-related crimes even if you were short-handed?

#### Specialty Courts

Drug courts and mental health courts are excellent but just scratch the surface of the problem. District

Attorneys have absolute veto power over access to these courts, which are

not in every county, and the Legislature has not been able to appropriate more than a minuscule fraction of the money which would be required to make rehabilitation of drug offenders the primary correctional tool in Oklahoma.

This is true even though the overall cost of drug courts are less than a third of the costs of incarceration over time; the fly in the ointment is that all the drug court money has to be spent in two-three years.

The drug court benefits: recidivism is cut by two-thirds, 90% graduate successfully and are clean within three years, and average income compared to pre-incarceration pay rises 31% for men & 200% for women. They work and pay taxes and hurt no one.

#### 85% Rules

The Legislature continues to expand the list of crimes

which require serving 85% of the sentence before eligibility for parole; the average is 91-92%. If a legislator tries to get “smart on crime” by reducing drug sentences and reallocating resources for drug treatment and vocational training, that Legislator is likely dead meat, picked to death by sound-bite buzzards screaming “hug-a-thug.” But do not blame the buzzards; the voters are to blame, entirely, absolutely. The enemy is us.

#### Drugs

Many drug crimes harm no one except the offender and the offender’s beleaguered family. When the offender is imprisoned instead of salvaged, children are at risk for addiction and crime, spouses may commit crimes to make ends meet after the long-term loss of a breadwinner (most families have two



working parents/spouses). Many drug offenders are not dealers, but are sentenced like dealers or presumed to be distributing based solely on the quantity of drugs.

#### Women

Meanwhile we incarcerate more women per capita than anyone in the world. The average female offender in prison is 32 years old with three children and a high school diploma. Nationally she is 27 with two children and an eighth grade education. We are not only victimizing our better educated women (who were often victims of spousal abuse and the drug culture), but we are ignoring a smart, trainable work force which would pay taxes.

#### Juveniles

Juvenile justice is in shambles. This is where the most impact could be made, yet we are blowing it. Regimentation camps have uneven results in rehabilitation. One study by Judge Leo Whinery decades ago showed conclusively that one-on-one counseling by a supportive elder of the same gender will reduce juvenile recidivism by 90%.

#### Aging Inmates

Aging lifers pose a huge medical expenses burden,

which in fact is seldom met adequately. I have personally lost a client because the prison utterly failed to manage his diabetes. His feet were turning black from necrosis when he died of a heart attack at age 51. They are imprisoned long after they could possibly pose a danger to society, and neglect of preventative care and poor diet makes us pay more even for the inadequate care they get.

#### The Voting Public

Every single problem listed above could have been avoided by a voting public able to be alarmed enough to seek real solutions instead of building more prisons only to find that even private prisons could not relieve the political abscess on the body politic that is the Oklahoma penal system. Instead society's leaders have stood by indifferently until a crisis is upon us. We have let this problem develop; we have listened to prosecutors who sincerely believe their duty to protect society means ever stiffer sentences for drug crimes, and who delude us (if not themselves) that drug task forces are even putting a dent in the problem.

The Drug War is both an expensive failure and a huge business. Many entrenched interests will have to be displaced before we recognize the wisdom of the Law Enforcement Against Prohibition (LEAP) organization, which asserts that drugs should be treated as a medical problem and that officer lives are squandered along with billions of dollars in stemming a tide that cannot be stemmed through interdiction.

The only way to reduce drug use is to decriminalize it, bringing down the cost and facilitating open rehabilitation. The conservative philosophy means being thrifty with public money while getting maximum results. Instead we throw money into a yawning abyss: the Oklahoma Department of Corrections. The infrastructure is suffering, guards are in danger, prisoners have no hope, and racial gangs are rampant.

Yet Corrections is the second largest budgetary expense. Conservatives like value for their money. So: is this position paper liberal, or truly conservative? Isn't it tax-and-spend liberalism to continue catering to vested interests in the status quo, at great public risk (hardened parolees eventually get out), and spending money in the same way while insanely expecting better results?

## OUR SOLUTIONS

Dreaming of solutions I hope I'll live to see:

#### Drug Treatment Emphasis

Spend the bulk of federal Byrne grant money on drug treatment and re-entry services for prisoners being released, instead of technological interdiction devices and drug task forces (old boys and their toys).

#### Hold Elected Officials Accountable

Question candidates on these issues and put your money where their mouths and hearts are. The impression from below is that lobbyists target special interest bills which benefit commerce while letting untrained and indifferent legislators legislate embarrassing, self-defeating social and criminal justice legislation (remember John Marquez who got life in prison for spitting on an officer?)

#### Reformed Sentencing

Garner bipartisan support for real truth in sentencing and proportional sentencing (imprison the criminals we're afraid of, not everyone we are mad at based on single crimes and irrational planning).

#### Visit Minnesota

Minnesota has had great success in reducing recidivism and the overall prison population. Minnesota excels in every single category where Oklahoma fails. A delegation empowered to make real changes should study Minnesota carefully.

#### The Money

It will take a lot of time and a lot of money up front. If the corporate and energy worlds in Oklahoma hate taxes, let them initiate and fund programs to rehabilitate women as a beginning— as a demonstration of what is imminently and privately possible.

**But the truth is that nothing short of a political earthquake in appropriations will turn the tide and pull this excellent State out of the hole it has dug for itself.**



## ***What If Oklahoma Were ... Average?***

*Oklahoma Academy Research Committee*

The following are factoids and calculations using national data. We simply identified the national average - and the corresponding Oklahoma data - and asked "what would the increases or be if our metrics were at the national average.

***What if our state incarceration rate were at the national average instead of among the highest in the nation? How many would NOT be in prison?***

At the national average, we would have 22% fewer men and 47% fewer women in prisons and jails - or a total of 6,100 persons. Those 6,100 people could represent the entire population of the cities of Henryetta, Hugo, Pauls Valley, Tecumseh or Vinita. It annually costs an estimated \$100 million a year to house, feed and secure those 6,100 inmates in the state's correctional system.

***Consider all of the people "under correctional supervision". If our mix of those in prison/jails vs. probation and parole were at the national average (31% and 59%), what would be the impact?***

We would have almost 11,000 fewer inmates under lock and key. That would translate to an immediate reduction of 37% in the size of our prisons and jails as those inmates would be transferred to parole and other community based programs.

***If Oklahoma simply expended the national average per capita on our criminal justice system, how much more money would we have to spend to achieve the national average?***

Oklahoma would have to spend an additional \$560 million annually. Of that, \$279 million would be for enforcement; \$158 million for judicial; and \$123 million for corrections. Or put another way, counties would have to expend an additional \$426 million and municipalities another \$170 million. And the state government would spend \$36 million LESS.



***If the MIX of governmental sending on our criminal justice system were the same as the national average mix (without increasing spending) - how would state, county and municipal budgets be impacted?***

The average mix of funding for the nation and Oklahoma is below. ***It is obvious that the state-county proportions are the outliers.***

	<u>US</u>	<u>OK</u>
State	38%	55%
Counties	30%	13%
Municipalities	31%	32%

If Oklahoma is to mirror the national mix of revenue sources, counties in Oklahoma would pay \$250 million more every year; and the state government would pay \$250 million less.



**OKLAHOMA  
LAW ENFORCEMENT**



## *The Babies In The River*

*W. A. Drew Edmondson, Attorney General, State of Oklahoma*

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My wife, Linda, tells the story about a group of human service and government professionals picnicking by the side of a river. They are enjoying the scene when someone spots a baby floating down the stream. They immediately spring into action and recover the baby from the waters. But soon they spot another baby floating down the river, and again they save it from peril. And then a third, and a fourth, and while the others are wading and swimming to the rescue, a social worker begins to walk up the river bank.

"Where are you going," asked one of the others, "why aren't you helping us."

"I'm going upstream to find out who is throwing the babies in the river," she replied, "and stop him."

So it seems to be with the State of Oklahoma and its problems with criminal justice and over-crowded prisons. We respond to increased criminal activity with harsher punishments and mandatory minimums. We respond to prison overcrowding by building new prisons and contracting with private prisons. We respond to budget crunches by under-staffing our prisons and underpaying our corrections employees. And nobody seems to be going upstream to find out who is throwing the babies into the river.

When I was a prosecutor I tried to keep social workers off my juries because they did not want to put anybody in prison. But they were awfully good at pointing out the underlying problems associated with criminal activity and incarceration. It is not rocket science. A short list would include: broken homes, child abuse, inadequate nutrition during pregnancy and early childhood development, unwanted pregnancies, availability and use of alcohol and drugs during pre-teen and teen years, low self-esteem, shortages of counseling services in our schools, paucity of drug and alcohol treatment programs, and lack of caring adult role models.



These factors put the babies in the water and their grownup selves in prison. To meet these problems will require short term sacrifice because putting more money into health, mental health and education in a way to impact crime and corrections will not produce immediate effects; they will be long term. These efforts will reduce the prison population but it will be 15 to 20 years down the road, not tomorrow. In the meantime we must, as former Governor Walters has said, try to reserve scarce prison cells for those we are afraid of, not those we are just mad at.

We must make alternatives to incarceration effective by coupling them with drug and alcohol treatment programs, literacy and high school equivalency education. We must either take the governor out of the parole process or give him the political latitude to make tough decisions without public criticism. We must intervene early when parents, teachers and counselors spot future problems – the earlier the better. We must expand and lower the age for pre-k learning programs.

We must be willing to risk failure with innovative approaches and community programs that test new ground. We must work with our faith community to strengthen families. And we must work with our human services agencies to intervene effectively and rapidly when families fail and children are at risk. We must work to be sure that every pregnancy represents an intended and wanted child and that every child is nurtured, cared for, protected and educated.

And we must foster the awareness that pre school programs can be prison reduction programs and that Big Brothers and Big Sisters are crime fighters. Or we can continue building prisons until there is no money left for education, roads, health, our universities, or the protection of our environment. It is our decision to make.

## ***Victims' Rights: Seeking Justice***

*Allyson Carson and Susan Damron Krug, Office of Attorney General, Victims Services Unit*

Imagine that your sister has been murdered. While walking home from work one evening, she was robbed, shot, and left to bleed to death. Although the police arrested her murderer, you receive no notice about the arraignment, continuances, or other critical events in the case.

The defendant was charged with first-degree murder but then – as the case entered its third year – allowed to plead guilty to a lesser charge. Your family was not allowed to deliver an impact statement at the sentencing. Even more agonizing, during the time the convicted killer was serving a 15-year sentence, you receive no notifications when her killer is eligible for parole. How would you feel?

According to the 2006 U.S. Census Bureau, Oklahoma has a population of 3,579,212. Every 29 minutes and 33 seconds, a violent crime occurs with a non-violent crime occurring every 4 minutes and 3 seconds. Criminal behavior is one of the major domestic concerns in our nation today, and our citizens have the right to be informed of the full nature, magnitude, and trend of the criminal justice problem.

Ultimately, the public pays the costs of criminality. Behavior patterns are altered by fear of attack; murder victim's families live and suffer from the loss of their loved one, and people also suffer the consequences of not only physical assault but also when their possessions are stolen or damaged (2006 Uniform Crime Report).

The number of offenders is enormous, but the number of victims is too many to count. The criminal justice system has been designed to ensure a defendant's rights are not violated. Historically, crime victims and survivors have been treated as just another "piece of evidence" in a criminal case. However, with the first package of legislation comprising the victims' bill of rights becoming effective in 1982, Oklahoma led the way toward



placing an emphasis on the human aspect of the criminal justice process and addressing the emotional toll taken on victims and survivors due to a criminal act. This is an emotional toll that is typically not brought on by an act of the victim but is triggered by someone else, the defendant. The act of violence committed by an

offender takes away control of one's environment and ultimately impacts the victim's life, or if that victim is a victim of homicide, their survivors' lives forever.

### **HISTORY OF VICTIMS RIGHTS**

Until the past few decades, victims of crime and their families regularly endured such disappointments and injustices when dealing with the criminal justice system. In 1982, President Ronald Reagan established the Presidential Task Force on Victims of Crime. In addition to every state and the federal government establishing statutory rights for victims, Oklahoma and 32 other states have amended their constitutions to further protect those rights. Oklahoma's Constitutional Amendment, Article II, § 34, passed by 91% of the vote in 1996. Yet, despite these advances, victims still face significant hurdles to attaining real justice. Victims across the state often feel mistreated by the very people who claim to be their voice and to be seeking justice for their loved ones.

Among the rights of Oklahoma victims, there is a requirement that a victim be notified by law enforcement of the location of the defendant at various times: following an arrest; during prosecution of the criminal case; when the defendant is sentenced to probation or confinement, and when there is any release or escape of the defendant from confinement. An exercise of any right by a victim or the failure to provide the rights shall not change the status or conviction of the defendant.

According to 22 O.S. § 215.33, the district attorney's office shall inform victims and witnesses of certain

rights including keeping them informed of the progress of pretrial proceedings that could substantially delay the prosecution of the case, any plea bargain negotiations, and if a sentence is overturned, remanded for new trial or otherwise modified by the Oklahoma Court of Criminal Appeals. Those within the victim services profession are well aware that the victims' participation in the criminal justice process is likely to be limited if they are not notified of their rights and given appropriate instructions on how to implement those rights.

Criminal justice professionals and many policy makers have recognized that fulfilling their obligations to meet victims' needs and to be sure that their constitutional rights are implemented in accordance with law requires the integration of victim services into the standard operating procedures of the criminal justice system. There is a moral, as well as legal obligation, to provide services and assistance to victims of crime.

However, those within the criminal justice system in Oklahoma struggle with the basic day-to-day mandates, many of which are unfunded, on top of the fact that they have heavy workloads. There are many resource challenges in ensuring that victims' services are incorporated in the daily routine and coordinated across multiple systems in Oklahoma. Although most agencies are committed to doing the best they can do with the resources that are available, it is critical that regardless of these hindrances at least basic victim services are provided.

Failure to provide basic services to victims is not only a violation of their constitutional rights, but can result in great harm or even death. In 2006, 146,486 crimes were reported with most crimes targeting people ages 15-54 (2006 Uniform Crime Report). "Of all the tasks of government, the most basic is to protect its citizens from violence." John Foster Dulles (1888-1959)

### **WHAT DO VICTIMS NEED?**

What justice means to victims is both complex and varied, but most victims of crime express the same priorities. They want to be safe and made whole. They want their physical and emotional wounds healed and their property restored. They want offenders held accountable for their crimes. They

want a voice and to take part in the process that holds their offenders responsible. They want their communities to stand respectfully behind them as they strive to rebuild their lives.

Victim services advocates continue to strive to meet those expectations, and various activities incorporate the dedication of these individuals to promote the needs of victims. Every year during the month of April, victims and survivors are honored in a ceremony hosted at the State Capitol during Crime Victims Rights Week. Additionally, the Tree of Honor and Remembrance is held in December allowing survivors of homicide victims to recognize those loved and lost to violent crime. The one thing that continues to be a struggle is consistency across the state. Victims need to be able to count on the fact that no matter where they live in Oklahoma, their rights will be afforded to them.

### **WHERE WE ARE TODAY**

Through many initiatives, we are making great strides. For example, in the Office of Attorney General, we have been successful in establishing two statewide programs that impact every county across the state.

The first is VINE (Victim Information and Notification Everyday): Oklahoma's Criminal Tracking and Victim Notification. This system allows citizens across the state to access current custody status information regarding offenders sitting in county jails and the Department of Corrections. This service provides victims, law enforcement and the general public access to information when they want it. It provides victims the added peace of mind of knowing where their assailant is and empowers victims to know when their perpetrator is released from custody. (*see insert next page*)

Secondly, is VINE Protective Order. This system provides the victim with notification and information regarding the status of their protective order including service, notices of hearing dates and reminders of expiration.

The Attorney General has also dedicated a Victims Services Unit within the office. The mission of the unit is to improve services for crime victims and families who have suffered injustice at the hands of a

perpetrator. Services provided include appellate notification, address confidentiality for victims of domestic violence, sexual assault and stalking, certification of domestic violence, sexual assault, stalking and batterers intervention programs, and regional and statewide training to law enforcement, advocates, and other allied professionals across the state regarding victim-related issues.

Each of the 27 District Attorney Districts have Victim/Witness Coordinators, with many having Victim/Witness Assistants, who strive to ensure the basic rights of victims within their jurisdiction.

The Department of Corrections has a Victim Liaison dedicated to serving victims of offenders housed in the prison system. This liaison has not only been instrumental within the department, but has made a significant impact across the state on behalf of ensuring rights of victims.

The Pardon and Parole Board has a victim notification service for those who wish to be notified of their offender's eligibility of parole. Many victims each month make the tough decision to voice their concerns regarding the potential release of that offender.

The District Attorneys Council administers the Crime Victims Compensation program that provides a method of compensation and assistance to persons who are victims of criminal acts and who suffer physical or psychological injury or death as a result. They also administer the Sexual Assault Examination Fund as well as provide grants to various agencies to help support direct services to victims.

There are many other organizations and individuals across the state working to achieve balance for victims as they attempt to find their way through the criminal justice system. The main thing these advocates have in common with each other is that they are there to help pick victims and survivors up when they stumble, need a helping hand or a shoulder to cry on.

## CONCLUSION

It is important to emphasize that the promise to victims cannot be kept without recognition of the fact that when crime affects one person, it affects us all. Rather than waiting until something tragic touches our lives, it is important for all of us to advocate not for the rights of crime victims, but for the rights of all law-abiding citizens of this state. The defendant will always be afforded their rights, regardless of what's going on locally, at the state level, or nationally. Their victims and survivors deserve nothing less. "Any time we deny any citizen the full exercise of his constitutional rights, we are weakening our own claim to them." Dwight D. Eisenhower (1890-1969)

The dedication and work of many crime victims and survivors, service providers, and policy makers over the last 30-plus years across the nation have resulted in more than 32,000 victims' rights laws and more than 10,000 organizations serving crime victims.

However, there is still much to be done.

A study conducted by the National Center for Victims of Crime, funded by the U.S. Department of Justice, National Institute of Justice, concerning the impact of legal protection on crimes victims' rights indicates that while extremely important, merely providing statutory rights for victims does not guarantee the enforcement of such rights. Even in states with relatively strong protection for victims' rights, many crime victims are denied their rights. Not surprisingly, victims in the states with weaker protection of victims' rights are even less likely to be afforded their rights, even when mandated by law.

It is up to each of us, individually and collectively, to continue to fight for the rights of our citizens who have been affected by crime. The public needs to be reminded that victims bear the brunt of crime. Because crime can strike anyone, victims' rights are everyone's rights. Without justice for victims, there can be no justice for all.

*Source acknowledgement: 2008 National Crime Victims' Rights Week Resource Guide, developed in partnership with the National Center for Victims of Crime*

## ***Arrests in Oklahoma***

*Number of Arrests by County, 2007 Oklahoma Uniform Crime Report*

<b>COUNTY</b>	<b>POP</b>	<b>INDEX</b>	<b>DRUG</b>	<b>ALCOHOL</b>	<b>OTHER</b>	<b>TOTAL</b>
Adair	21,902	101	48	526	311	986
Alfalfa	5,593	8	16	23	42	89
Atoka	14,512	35	73	96	153	357
Beaver	5,380	25	14	26	46	111
Beckham	19,700	103	168	506	1,081	1,858
Blaine	12,475	25	30	183	57	295
Bryan	39,563	212	282	919	1,204	2,617
Caddo	29,296	162	174	793	567	1,696
Canadian	103,559	245	351	692	1,958	3,246
Carter	47,582	520	401	1,439	887	3,247
Cherokee	45,393	196	207	558	190	1,151
Choctaw	15,011	44	60	185	263	552
Cimarron	2,664	2	7	39	11	59
Cleveland	236,452	1,066	1,203	3,044	6,984	12,297
Coal	5,709	14	59	40	29	142
Comanche	113,811	964	672	563	4,239	6,438
Cotton	6,299	9	76	122	146	353
Craig	15,195	78	174	213	330	795
Creek	69,073	216	221	838	660	1,935
Custer	26,111	97	275	763	271	1,406
Delaware	40,406	91	175	322	953	1,541
Dewey	4,338	6	43	52	166	267
Ellis	3,911	4	12	26	20	62
Garfield	57,657	154	343	775	872	2,144
Garvin	27,141	120	194	434	641	1,389
Grady	50,615	119	155	366	368	1,008
Grant	4,497	6	7	43	16	72
Greer	5,810	9	23	69	152	253
Harmon	2,837	3	7	16	73	99
Harper	3,254	8	18	34	70	130
Haskell	12,059	62	87	182	107	438
Hughes	13,680	49	36	125	119	329
Jackson	25,778	118	135	270	942	1,465
Jefferson	6,273	25	39	101	14	179
Johnston	10,402	39	139	188	283	649
Kay	45,638	346	314	1,060	1,099	2,819
Kingfisher	14,320	17	53	133	96	299
Kiowa	9,456	24	23	126	76	249
Latimer	10,508	9	15	15	24	63
Le Flore	49,715	111	159	573	274	1,117
Lincoln	32,272	56	86	168	111	421
Logan	36,435	213	370	285	374	1,242

***Arrests in Oklahoma***  
*Number of Arrests by County, 2007 Oklahoma Uniform Crime Report*

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COUNTY	POP	INDEX	DRUG	ALCOHOL	OTHER	TOTAL
Love	9,112	6	63	161	48	278
Major	7,190	14	25	87	148	274
Marshall	14,830	41	224	374	114	753
Mayes	39,627	165	201	638	681	1,685
McClain	31,849	70	264	382	236	952
McCurtain	33,539	160	299	511	466	1,436
McIntosh	19,709	64	79	106	215	464
Murray	12,695	21	130	345	262	758
Muskogee	71,116	461	424	1,117	2,960	4,962
Noble	11,124	37	38	59	90	224
Nowata	10,723	49	37	77	188	351
Okfuskee	11,248	28	20	63	48	159
Oklahoma	701,807	5,059	4,999	7,833	14,559	32,450
Okmulgee	39,300	152	157	541	437	1,287
Osage	45,523	78	80	335	1,364	1,857
Ottawa	32,474	106	109	375	331	921
Pawnee	16,447	75	100	274	398	847
Payne	79,931	276	501	1,558	1,032	3,367
Pittsburg	44,711	256	450	478	707	1,891
Pontotoc	36,571	344	397	1,070	857	2,668
Pottawatomie	69,038	386	295	1,036	1,488	3,205
Pushmataha	11,666	55	110	359	196	720
Roger Mills	3,308	6	8	25	24	63
Rogers	83,105	150	279	740	741	1,910
Seminole	24,179	96	139	483	627	1,345
Sequoyah	41,024	320	693	874	1,042	2,929
Stephens	43,322	123	174	474	1,362	2,133
Texas	20,032	75	33	164	344	616
Tillman	8,148	35	75	56	137	303
Tulsa	585,068	5,668	4,262	7,901	10,605	28,436
Wagoner	67,239	163	241	437	1,133	1,974
Washington	49,888	293	279	435	2,148	3,155
Washita	11,667	19	39	76	35	169
Woods	8,319	12	66	155	54	287
Woodward	19,505	90	90	357	1,100	1,637
<b>STATE</b>	<b>3,617,316</b>	<b>20,664</b>	<b>22,324</b>	<b>46,887</b>	<b>72,456</b>	<b>162,331</b>

**DEFINITIONS**

**County:** Includes the county sheriff's department and all reporting agencies within that county. **Index Crimes:** Murder, Rape, Robbery, Aggravated Assault, Burglary, Larceny, and Motor Vehicle Theft. This category DOES NOT include Manslaughter and Other Assualts (not aggravated). **Alcohol Related:** The reported alcohol related offenses include Driving Under the Influence, Liquor Law Violations, and Drunkenness. **Drug Related:** All drug arrests reported as Sale/Manufacturing and Possession.

## ***Mix of Arrests in Oklahoma***

*Mix of Arrests by County, 2007 Oklahoma Uniform Crime Report*

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<b>COUNTY</b>	<b>POP</b>	<b>INDEX</b>	<b>DRUG</b>	<b>ALCOHOL</b>	<b>OTHER</b>	<b>TOTAL</b>
Adair	21,902	10%	5%	53%	32%	100%
Alfalfa	5,593	9%	18%	26%	47%	100%
Atoka	14,512	10%	20%	27%	43%	100%
Beaver	5,380	23%	13%	23%	41%	100%
Beckham	19,700	6%	9%	27%	58%	100%
Blaine	12,475	8%	10%	62%	19%	100%
Bryan	39,563	8%	11%	35%	46%	100%
Caddo	29,296	10%	10%	47%	33%	100%
Canadian	103,559	8%	11%	21%	60%	100%
Carter	47,582	16%	12%	44%	27%	100%
Cherokee	45,393	17%	18%	48%	17%	100%
Choctaw	15,011	8%	11%	34%	48%	100%
Cimarron	2,664	3%	12%	66%	19%	100%
Cleveland	236,452	9%	10%	25%	57%	100%
Coal	5,709	10%	42%	28%	20%	100%
Comanche	113,811	15%	10%	9%	66%	100%
Cotton	6,299	3%	22%	35%	41%	100%
Craig	15,195"	10%	22%	27%	42%	100%
Creek	69,073	11%	11%	43%	34%	100%
Custer	26,111	7%	20%	54%	19%	100%
Delaware	40,406	6%	11%	21%	62%	100%
Dewey	4,338	2%	16%	19%	62%	100%
Ellis	3,911	6%	19%	42%	32%	100%
Garfield	57,657	7%	16%	36%	41%	100%
Garvin	27,141	9%	14%	31%	46%	100%
Grady	50,615	12%	15%	36%	37%	100%
Grant	4,497	8%	10%	60%	22%	100%
Greer	5,810	4%	9%	27%	60%	100%
Harmon	2,837	3%	7%	16%	74%	100%
Harper	3,254	6%	14%	26%	54%	100%
Haskell	12,059	14%	20%	42%	24%	100%
Hughes	13,680	15%	11%	38%	36%	100%
Jackson	25,778	8%	9%	18%	64%	100%
Jefferson	6,273	14%	22%	56%	8%	100%
Johnston	10,402	6%	21%	29%	44%	100%
Kay	45,638	12%	11%	38%	39%	100%
Kingfisher	14,320	6%	18%	44%	32%	100%
Kiowa	9,456	10%	9%	51%	31%	100%
Latimer	10,508	14%	24%	24%	38%	100%
Le Flore	49,715	10%	14%	51%	25%	100%
Lincoln	32,272	13%	20%	40%	26%	100%
Logan	36,435	17%	30%	23%	30%	100%

## ***Mix of Arrests in Oklahoma***

*Mix of Arrests by County, 2007 Oklahoma Uniform Crime Report*

<b>COUNTY</b>	<b>POP</b>	<b>INDEX</b>	<b>DRUG</b>	<b>ALCOHOL</b>	<b>OTHER</b>	<b>TOTAL</b>
Love	9,112	2%	23%	58%	17%	100%
Major	7,190	5%	9%	32%	54%	100%
Marshall	14,830	5%	30%	50%	15%	100%
Mayes	39,627	10%	12%	38%	40%	100%
McClain	31,849	7%	28%	40%	25%	100%
McCurtain	33,539	11%	21%	36%	32%	100%
McIntosh	19,709	14%	17%	23%	46%	100%
Murray	12,695	3%	17%	46%	35%	100%
Muskogee	71,116	9%	9%	23%	60%	100%
Noble	11,124	17%	17%	26%	40%	100%
Nowata	10,723	14%	11%	22%	54%	100%
Okfuskee	11,248	18%	13%	40%	30%	100%
Oklahoma	701,807	16%	15%	24%	45%	100%
Okmulgee	39,300	12%	12%	42%	34%	100%
Osage	45,523	4%	4%	18%	73%	100%
Ottawa	32,474	12%	12%	41%	36%	100%
Pawnee	16,447	9%	12%	32%	47%	100%
Payne	79,931	8%	15%	46%	31%	100%
Pittsburg	44,711	14%	24%	25%	37%	100%
Pontotoc	36,571	13%	15%	40%	32%	100%
Pottawatomie	69,038	12%	9%	32%	46%	100%
Pushmataha	11,666	8%	15%	50%	27%	100%
Roger Mills	3,308	10%	13%	40%	38%	100%
Rogers	83,105	8%	15%	39%	39%	100%
Seminole	24,179	7%	10%	36%	47%	100%
Sequoyah	41,024	11%	24%	30%	36%	100%
Stephens	43,322	6%	8%	22%	64%	100%
Texas	20,032	12%	5%	27%	56%	100%
Tillman	8,148	12%	25%	18%	45%	100%
Tulsa	585,068	20%	15%	28%	37%	100%
Wagoner	67,239	8%	12%	22%	57%	100%
Washington	49,888	9%	9%	14%	68%	100%
Washita	11,667	11%	23%	45%	21%	100%
Woods	8,319	4%	23%	54%	19%	100%
Woodward	19,505	5%	5%	22%	67%	100%
<b>STATE</b>	<b>3,617,316</b>	<b>13%</b>	<b>14%</b>	<b>29%</b>	<b>45%</b>	<b>100%</b>

### **DEFINITIONS**

**County:** Includes the county sheriff's department and all reporting agencies within that county. **Index Crimes:** Murder, Rape, Robbery, Aggravated Assault, Burglary, Larceny, and Motor Vehicle Theft. This category DOES NOT include Manslaughter and Other Assualts (not aggravated). **Alcohol Related:** The reported alcohol related offenses include Driving Under the Influence, Liquor Law Violations, and Drunkenness. **Drug Related:** All drug arrests reported as Sale/Manufacturing and Possession.

## ***Arrest Rates in Oklahoma***

*Arrests Rates by County, 2007 Oklahoma Uniform Crime Report*

<b>COUNTY</b>	<b>POP</b>	<b>INDEX</b>	<b>DRUG</b>	<b>ALCOHOL</b>	<b>OTHER</b>	<b>TOTAL</b>
Adair	21,902	461.1	219.2	2,401.6	1,420.0	4,501.9
Alfalfa	5,593	143.0	286.1	411.2	750.9	1,591.3
Atoka	14,512	241.2	503.0	661.5	1,054.3	2,460.0
Beaver	5,380	464.7	260.2	483.3	855.0	2,063.2
Beckham	19,700	522.8	852.8	2,568.5	5,487.3	9,431.5
Blaine	12,475	200.4	240.5	1,466.9	456.9	2,364.7
Bryan	39,563	535.9	712.8	2,322.9	3,043.2	6,614.8
Caddo	29,296	553.0	593.9	2,706.9	1,935.4	5,789.2
Canadian	103,559	236.6	338.9	668.2	1,890.7	3,134.4
Carter	47,582	1,092.9	842.8	3,024.3	1,864.2	6,824.0
Cherokee	45,393	431.8	456.0	1,229.3	418.6	2,535.6
Choctaw	15,011	293.1	399.7	1,232.4	1,752.0	3,677.3
Cimarron	2,664	75.1	262.8	1,464.0	412.9	2,214.7
Cleveland	236,452	450.8	508.8	1,287.4	2,953.7	5,200.6
Coal	5,709	245.2	1,033.5	700.6	508.0	2,487.3
Comanche	113,811	847.0	590.5	494.7	3,724.6	5,656.7
Cotton	6,299	142.9	1,206.5	1,936.8	2,317.8	5,604.1
Craig	15,195	513.3	1,145.1	1,401.8	2,171.8	5,232.0
Creek	69,073	312.7	320.0	1,213.2	955.5	2,801.4
Custer	26,111	371.5	1,053.2	2,922.1	1,037.9	5,384.7
Delaware	40,406	225.2	433.1	796.9	2,358.6	3,813.8
Dewey	4,338	138.3	991.2	1,198.7	3,826.6	6,154.9
Ellis	3,911	102.3	306.8	664.8	511.4	1,585.3
Garfield	57,657	267.1	594.9	1,344.2	1,512.4	3,718.5
Garvin	27,141	442.1	714.8	1,599.1	2,361.7	5,117.7
Grady	50,615	235.1	306.2	723.1	727.1	1,991.5
Grant	4,497	133.4	155.7	956.2	355.8	1,601.1
Greer	5,810	154.9	395.9	1,187.6	2,616.2	4,354.6
Harmon	2,837	105.7	246.7	564.0	2,573.1	3,489.6
Harper	3,254	245.9	553.2	1,044.9	2,151.2	3,995.1
Haskell	12,059	514.1	721.5	1,509.2	887.3	3,632.1
Hughes	13,680	358.2	263.2	913.7	869.9	2,405.0
Jackson	25,778	457.8	523.7	1,047.4	3,654.3	5,683.1
Jefferson	6,273	398.5	621.7	1,610.1	223.2	2,853.5
Johnston	10,402	374.9	1,336.3	1,807.3	2,720.6	6,239.2
Kay	45,638	758.1	688.0	2,322.6	2,408.1	6,176.9
Kingfisher	14,320	118.7	370.1	928.8	670.4	2,088.0
Kiowa	9,456	253.8	243.2	1,332.5	803.7	2,633.2
Latimer	10,508	85.6	142.7	142.7	228.4	599.5
Le Flore	49,715	223.3	319.8	1,152.6	551.1	2,246.8
Lincoln	32,272	173.5	266.5	520.6	344.0	1,304.5
Logan	36,435	584.6	1,015.5	782.2	1,026.5	3,408.8

***Arrest Rates in Oklahoma***  
*Arrests Rates by County, 2007 Oklahoma Uniform Crime Report*

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COUNTY	POP	INDEX	DRUG	ALCOHOL	OTHER	TOTAL
Love	9,112	65.8	691.4	1,766.9	526.8	3,050.9
Major	7,190	194.7	347.7	1,210.0	2,058.4	3,810.8
Marshall	14,830	276.5	1,510.5	2,521.9	768.7	5,077.5
Mayes	39,627	416.4	507.2	1,610.0	1,718.5	4,252.2
McClain	31,849	219.8	828.9	1,199.4	741.0	2,989.1
McCurtain	33,539	477.1	891.5	1,523.6	1,389.4	4,281.6
McIntosh	19,709	324.7	400.8	537.8	1,090.9	2,354.3
Murray	12,695	165.4	1,024.0	2,717.6	2,063.8	5,970.9
Muskogee	71,116	648.2	596.2	1,570.7	4,162.2	6,977.3
Noble	11,124	332.6	341.6	530.4	809.1	2,013.7
Nowata	10,723	457.0	345.1	718.1	1,753.2	3,273.3
Okfuskee	11,248	248.9	177.8	560.1	426.7	1,413.6
Oklahoma	701,807	720.9	712.3	1,116.1	2,074.5	4,623.8
Omulgee	39,300	386.8	399.5	1,376.6	1,112.0	3,274.8
Osage	45,523	171.3	175.7	735.9	2,996.3	4,079.3
Ottawa	32,474	326.4	335.7	1,154.8	1,019.3	2,836.1
Pawnee	16,447	456.0	608.0	1,666.0	2,419.9	5,149.9
Payne	79,931	345.3	626.8	1,949.2	1,291.1	4,212.4
Pittsburg	44,711	572.6	1,006.5	1,069.1	1,581.3	4,229.4
Pontotoc	36,571	940.6	1,085.6	2,925.8	2,343.4	7,295.4
Pottawatomie	69,038	559.1	427.3	1,500.6	2,155.3	4,642.4
Pushmataha	11,666	471.5	942.9	3,077.3	1,680.1	6,171.8
Roger Mills	3,308	181.4	241.8	755.7	725.5	1,904.5
Rogers	83,105	180.5	335.7	890.4	891.6	2,298.3
Seminole	24,179	397.0	574.9	1,997.6	2,593.2	5,562.7
Sequoyah	41,024	780.0	1,689.3	2,130.5	2,540.0	7,139.7
Stephens	43,322	283.9	401.6	1,094.1	3,143.9	4,923.6
Texas	20,032	374.4	164.7	818.7	1,717.3	3,075.1
Tillman	8,148	429.6	920.5	687.3	1,681.4	3,718.7
Tulsa	585,068	968.8	728.5	1,350.4	1,812.6	4,860.3
Wagoner	67,239	242.4	358.4	649.9	1,685.0	2,935.8
Washington	49,888	587.3	559.3	872.0	4,305.6	6,324.2
Washita	11,667	162.9	334.3	651.4	300.0	1,448.5
Woods	8,319	144.2	793.4	1,863.2	649.1	3,449.9
Woodward	19,505	461.4	461.4	1,830.3	5,639.6	8,392.7
STATE	3,617,316	571.3	617.1	1,296.2	2,003.0	4,487.6

**DEFINITIONS**

**County:** Includes the county sheriff's department and all reporting agencies within that county. **Index Crimes:** Murder, Rape, Robbery, Aggravated Assault, Burglary, Larceny, and Motor Vehicle Theft. This category DOES NOT include Manslaughter and Other Assualts (not aggravated). **Alcohol Related:** The reported alcohol related offenses include Driving Under the Influence, Liquor Law Violations, and Drunkenness. **Drug Related:** All drug arrests reported as Sale/Manufacturing and Possession.

## **Total Arrest Rates**

*County Total Arrest Rates in Descending Order, 2007 Oklahoma Uniform Crime Report*

Arrest rate/100,000				Arrest rate/100,000			
<b>County</b>	<b>Pop</b>	<b>Arrests</b>	<b>Rate</b>	<b>County</b>	<b>Pop</b>	<b>Arrests</b>	<b>Rate</b>
Beckham	19,700	1,858	9,431.5	Texas	20,032	616	3,075.1
Woodward	19,505	1,637	8,392.7	Love	9,112	278	3,050.9
Pontotoc	36,571	2,668	7,295.4	McClain	31,849	952	2,989.1
Sequoah	41,024	2,929	7,139.7	Wagoner	67,239	1,974	2,935.8
Muskogee	71,116	4,962	6,977.3	Jefferson	6,273	179	2,853.5
Carter	47,582	3,247	6,824.0	Ottawa	32,474	921	2,836.1
Bryan	39,563	2,617	6,614.8	Creek	69,073	1,935	2,801.4
Washington	49,888	3,155	6,324.2	Kiowa	9,456	249	2,633.2
Johnston	10,402	649	6,239.2	Cherokee	45,393	1,151	2,535.6
Kay	45,638	2,819	6,176.9	Coal	5,709	142	2,487.3
Pushmataha	11,666	720	6,171.8	Atoka	14,512	357	2,460.0
Dewey	4,338	267	6,154.9	Hughes	13,680	329	2,405.0
Murray	12,695	758	5,970.9	Blaine	12,475	295	2,364.7
Caddo	29,296	1,696	5,789.2	McIntosh	19,709	464	2,354.3
Jackson	25,778	1,465	5,683.1	Rogers	83,105	1,910	2,298.3
Comanche	113,811	6,438	5,656.7	Le Flore	49,715	1,117	2,246.8
Cotton	6,299	353	5,604.1	Cimarron	2,664	59	2,214.7
Seminole	24,179	1,345	5,562.7	Kingfisher	14,320	299	2,088.0
Custer	26,111	1,406	5,384.7	Beaver	5,380	111	2,063.2
Craig	15,195	795	5,232.0	Noble	11,124	224	2,013.7
Cleveland	236,452	12,297	5,200.6	Grady	50,615	1,008	1,991.5
Pawnee	16,447	847	5,149.9	Roger Mills	3,308	63	1,904.5
Garvin	27,141	1,389	5,117.7	Grant	4,497	72	1,601.1
Marshall	14,830	753	5,077.5	Alfalfa	5,593	89	1,591.3
Stephens	43,322	2,133	4,923.6	Ellis	3,911	62	1,585.3
Tulsa	585,068	28,436	4,860.3	Washita	11,667	169	1,448.5
Pottawatomie	69,038	3,205	4,642.4	Okfuskee	11,248	159	1,413.6
Oklahoma	701,807	32,450	4,623.8	Lincoln	32,272	421	1,304.5
Adair	21,902	986	4,501.9	Latimer	10,508	63	599.5
STATE	3,617,316	162,331	4,487.6				
Greer	5,810	253	4,354.6				
McCurtain	33,539	1,436	4,281.6				
Mayes	39,627	1,685	4,252.2				
Pittsburg	44,711	1,891	4,229.4				
Payne	79,931	3,367	4,212.4				
Osage	45,523	1,857	4,079.3				
Harper	3,254	130	3,995.1				
Delaware	40,406	1,541	3,813.8				
Major	7,190	274	3,810.8				
Tillman	8,148	303	3,718.7				
Garfield	57,657	2,144	3,718.5				
Choctaw	15,011	552	3,677.3				
Haskell	12,059	438	3,632.1				
Harmon	2,837	99	3,489.6				
Woods	8,319	287	3,449.9				
Logan	36,435	1,242	3,408.8				
Okmulgee	39,300	1,287	3,274.8				
Nowata	10,723	351	3,273.3				
Canadian	103,559	3,246	3,134.4				



## ***Index Crimes Arrest Rates***

*County Index Crime Arrest Rates in Descending Order, 2007 Oklahoma Uniform Crime Report*

Arrests; Percentage of all arrests; Arrest rate/100,000

Arrests; Percentage of all arrests; Arrest rate/100,000

<b>County</b>	<b>Pop</b>	<b>Arrests</b>	<b>Pct</b>	<b>Rate</b>	<b>County</b>	<b>Pop</b>	<b>Arrests</b>	<b>Pct</b>	<b>Rate</b>
Carter	47,582	520	16%	1,092.9	Harper	3,254	8	6%	245.9
Tulsa	585,068	5,668	20%	968.8	Coal	5,709	14	10%	245.2
Pontotoc	36,571	344	13%	940.6	Wagoner	67,239	163	8%	242.4
Comanche	113,811	964	15%	847.0	Atoka	14,512	35	10%	241.2
Sequoah	41,024	320	11%	780.0	Canadian	103,559	245	8%	236.6
Kay	45,638	346	12%	758.1	Grady	50,615	119	12%	235.1
Oklahoma	701,807	5,059	16%	720.9	Delaware	40,406	91	6%	225.2
Muskogee	71,116	461	9%	648.2	Le Flore	49,715	111	10%	223.3
Washington	49,888	293	9%	587.3	McClain	31,849	70	7%	219.8
Logan	36,435	213	17%	584.6	Blaine	12,475	25	8%	200.4
Pittsburg	44,711	256	14%	572.6	Major	7,190	14	5%	194.7
<b>STATEWIDE</b>	<b>3,617,316</b>	<b>20,664</b>	<b>13%</b>	<b>571.3</b>	Roger Mills	3,308	6	10%	181.4
Pottawatomie	69,038	386	12%	559.1	Rogers	83,105	150	8%	180.5
Caddo	29,296	162	10%	553.0	Lincoln	32,272	56	13%	173.5
Bryan	39,563	212	8%	535.9	Osage	45,523	78	4%	171.3
Beckham	19,700	103	6%	522.8	Murray	12,695	21	3%	165.4
Haskell	12,059	62	14%	514.1	Washita	11,667	19	11%	162.9
Craig	15,195	78	10%	513.3	Greer	5,810	9	4%	154.9
McCurtain	33,539	160	11%	477.1	Woods	8,319	12	4%	144.2
Pushmataha	11,666	55	8%	471.5	Alfalfa	5,593	8	9%	143.0
Beaver	5,380	25	23%	464.7	Cotton	6,299	9	3%	142.9
Woodward	19,505	90	5%	461.4	Dewey	4,338	6	2%	138.3
Adair	21,902	101	10%	461.1	Grant	4,497	6	8%	133.4
Jackson	25,778	118	8%	457.8	Kingfisher	14,320	17	6%	118.7
Nowata	10,723	49	14%	457.0	Harmon	2,837	3	3%	105.7
Pawnee	16,447	75	9%	456.0	Ellis	3,911	4	6%	102.3
Cleveland	236,452	1,066	9%	450.8	Latimer	10,508	9	14%	85.6
Garvin	27,141	120	9%	442.1	Cimarron	2,664	2	3%	75.1
Cherokee	45,393	196	17%	431.8	Love	9,112	6	2%	65.8
Tillman	8,148	35	12%	429.6					
Mayes	39,627	165	10%	416.4					
Jefferson	6,273	25	14%	398.5					
Seminole	24,179	96	7%	397.0					
Okmulgee	39,300	152	12%	386.8					
Johnston	10,402	39	6%	374.9					
Texas	20,032	75	12%	374.4					
Custer	26,111	97	7%	371.5					
Hughes	13,680	49	15%	358.2					
Payne	79,931	276	8%	345.3					
Noble	11,124	37	17%	332.6					
Ottawa	32,474	106	12%	326.4					
McIntosh	19,709	64	14%	324.7					
Creek	69,073	216	11%	312.7					
Choctaw	15,011	44	8%	293.1					
Stephens	43,322	123	6%	283.9					
Marshall	14,830	41	5%	276.5					
Garfield	57,657	154	7%	267.1					
Kiowa	9,456	24	10%	253.8					
Okfuskee	11,248	28	18%	248.9					



## *Adult Arrests By Offense, Male & Female*

*2007 Oklahoma Uniform Crime Report*

<b>ADULT ARRESTS</b>	<b>MALE</b>	<b>FEMALE</b>	<b>ALL</b>
Drunkenness.....	19,826.....	4,474.....	24,300
DUI .....	14,402.....	3,666.....	18,068
Drug Possession-Marijuana .....	8,211.....	2,071.....	10,282
Other Assault .....	7,052.....	1,931.....	8,983
Larceny .....	4,156.....	3,515.....	7,671
Aggravated Assault.....	3,186.....	738.....	3,924
Liquor Laws .....	2,040.....	818.....	2,858
Drug Possession-Cocaine.....	1,948.....	719.....	2,667
Drug Possession-Synthetic (Meth).....	1,825.....	832.....	2,657
Fraud.....	1,501.....	1,111.....	2,612
Disorderly Conduct .....	1,752.....	598.....	2,350
Weapons.....	1,915.....	260.....	2,175
Burglary.....	1,873.....	281.....	2,154
Stolen Property.....	1,629.....	458.....	2,087
Drug Possession-Other .....	1,121.....	531.....	1,652
Drug Sales-Marijuana.....	883.....	260.....	1,143
Vandalism .....	832.....	215.....	1,047
Family/Children.....	767.....	249.....	1,016
Forgery/Counterfeiting.....	506.....	453.....	959
Drug Sales-Synthetic (Meth) .....	652.....	249.....	901
Car Theft .....	578.....	143.....	721
Sex Offenses .....	638.....	72.....	710
Robbery .....	535.....	80.....	615
Embezzlement .....	273.....	290.....	563
Drug Sales-Other.....	361.....	148.....	509
Drug Sales-Cocaine .....	384.....	106.....	490
Prostitution.....	136.....	297.....	433
Rape .....	255.....	7.....	262
Murder.....	144.....	24.....	168
Arson.....	134.....	33.....	167
Manslaughter .....	17.....	10.....	27
Gambling.....	4.....	- .....	4
All other.....	26,765.....	9,928.....	6,693
<b>TOTAL.....</b>	<b>106,301.....</b>	<b>34,567.....</b>	<b>140,868</b>



## ***The ABLE Commission: Alcohol and Crime***

*Jim Hughes, Assistant Director, The Oklahoma ABLE Commission*

Kids drinking beer and alcohol; what is the world coming to?

OK, I guess this is not a new problem. It has been a concern since I was a kid and my parents worried about me. It was a concern to me when my daughters were teenagers. What do we need to do and what can we do to address this problem before my grandchildren are teens?

We all know that if young people want to drink, they will find a way to obtain alcoholic beverages in some form. Recent surveys indicate that 65% of Oklahoma youth say getting alcoholic beverages or low-point beer is easy. Whether from a parent, family member, friend or retailer, adults are often the main source of alcohol for kids.

According to a 2001 study, underage drinking in that same year cost the citizens of Oklahoma \$771 million. Included in the cost are medical care, loss of work, pain and suffering from problems due to use of alcoholic beverages. This same study showed that underage drinkers consumed 20% of all alcoholic beverages sold in Oklahoma, totaling \$ 184 million in sales.

The Governor established a task force on the Prevention of Underage Drinking and requested a comprehensive plan to address the problem. The task force was comprised of community leaders, state and local law enforcement, Department of Mental Health officials, legislators and educators. Most, if not all, are parents or grandparents.

The task force made its final recommendations in December 2006 with little or no publicity or fanfare. To date, even with the growing problem, there has been no effort to take advantage of the group's efforts. Will this study be bound and placed on the shelf like so many others and

referenced only during the next study authorized to again examine the issue?

The task force made the following recommendations:

1. Create or designate a single agency to be responsible for coordinating underage drinking enforcement. Currently an individual receives a license from the state, the county and the municipality, which allows for the sale of alcoholic beverage and low-point beer.

The regulation and enforcement of state alcoholic beverage laws and low-point beer laws is parceled between local and state law enforcement agencies. There is clear authority over licensing but the enforcement of low-point beer law is an area that must be done by local authorities; while alcoholic beverage laws may and must be enforced by all law enforcement entities in the state.

Reporting underage sales or complaints of minors in possession of alcoholic beverages is not funneled to one responsible entity and is often lost in law enforcement's list of priorities and limited resources.

2. Name the ABLE Commission as the agency authorized to enforce laws pertaining to low-point beer, as well as alcoholic beverages. The ABLE Commission has clear authority to license all establishments involved in the manufacture, sale, delivery, mixing and serving of alcoholic beverages in the state of Oklahoma.

It has been the sole authority since 1959. It has established offices, policies and procedures in place that would easily assimilate the inclusion of low-point beer enforcement. Currently most on-premise licensees have an alcoholic beverage license



- and a low-point beer license. ABLE agents during tobacco enforcement visit other low-point licensed locations. The Constitution and Attorney General opinions prevent low-point beer enforcement by the ABLE Commission.
3. Re-define low-point beer as an alcoholic beverage. The Oklahoma Constitution makes a clear distinction between low-point beer (once referred to as non-intoxicating liquor) and alcoholic beverages.
  4. Strengthen state laws pertaining to underage drinking. Youth Access to Alcoholic Beverages and social host laws are a great start, but perhaps attention should be placed on the individuals or locations that continue to furnish kids with alcohol.
  5. Increase law enforcement funding and resources to allow for proper and consistent enforcement of underage drinking laws.
  6. Increase the tax on alcoholic beverages and low-point beer.
  7. Encourage funding and implementation of prevention approaches that are evidence based; Cops-in-shops, shoulder tap, green card are a few programs that have proved to be successful in minimizing sales to minors. All are time and manpower intensive which strain limited resources.
  8. Require and provide licensee education, to include employee training. This has been found to be a valuable asset for the regulator and licensees. The training allows special emphasis to be given to problem areas such as underage sales
  9. Develop and implement a statewide media effort. This has proven its worth in slowing youth use of tobacco as demonstrated by Health Department involvement and statistical information
  10. Enhance opportunities for youth leadership efforts. Proven that most effective anti-sales programs concerning youth use of tobacco are originated with and put forward and supported by the youth themselves. Just as many kids are interested in minimizing alcohol use and abuse. Mental Health and Health Departments have a successful track record that is easily modified to target underage drinking
- The recent social host laws and ordinances put into place by several communities are a great first step. But lets not stop there we can do so much more.
- How great would it be that after a very short time, most Oklahomans were talking about the changes made across the state that have made a difference in our youth's access to alcohol. By increasing the penalties for providing alcohol to young people we could send a strong message that would make adults think twice before handing it to them. That it was certainly not worth losing a job or the money spent on fines or living with the consequences of the actions of that underage person drinking.
- Assigning responsibility of state law enforcement to a law enforcement agency and increasing those enforcement efforts would certainly seem the logical course of action by the state. The media effort, education of kids, parents, retailers and servers could be done with oversight from the Department of Mental Health, who currently coordinate the efforts to prevent youth access to tobacco.
- Bottom line is that the cost of doing nothing is too high. We can certainly do better and this Task Force's recommendations make sense and should receive strong consideration from our state leaders. Oklahoma's youth are important to all of us. There is absolutely no reason Oklahoma can't be a leader in this effort.
- The task force created a template for positive change in the way we address this problem, lets use it.

## ***Alcohol Arrests***

*County Arrest Rates in Descending Order, 2007 Uniform Crime Report, State of Oklahoma*

County	Pop	Arrests	Pct	Rate	County	Pop	Arrests	Pct	Rate
Pushmataha	11,666	359	50%	3,077.3	Texas	20,032	164	27%	818.7
Carter	47,582	1,439	44%	3,024.3	Delaware	40,406	322	21%	796.9
Pontotoc	36,571	1,070	40%	2,925.8	Logan	36,435	285	23%	782.2
Custer	26,111	763	54%	2,922.1	Roger Mills	3,308	25	40%	755.7
Murray	12,695	345	46%	2,717.6	Osage	45,523	335	18%	735.9
Caddo	29,296	793	47%	2,706.9	Grady	50,615	366	36%	723.1
Beckham	19,700	506	27%	2,568.5	Nowata	10,723	77	22%	718.1
Marshall	14,830	374	50%	2,521.9	Coal	5,709	40	28%	700.6
Adair	21,902	526	53%	2,401.6	Tillman	8,148	56	18%	687.3
Bryan	39,563	919	35%	2,322.9	Canadian	103,559	692	21%	668.2
Kay	45,638	1,060	38%	2,322.6	Ellis	3,911	26	42%	664.8
Sequoyah	41,024	874	30%	2,130.5	Atoka	14,512	96	27%	661.5
Seminole	24,179	483	36%	1,997.6	Washita	11,667	76	45%	651.4
Payne	79,931	1,558	46%	1,949.2	Wagoner	67,239	437	22%	649.9
Cotton	6,299	122	35%	1,936.8	Harmon	2,837	16	16%	564.0
Woods	8,319	155	54%	1,863.2	Okfuskee	11,248	63	40%	560.1
Woodward	19,505	357	22%	1,830.3	McIntosh	19,709	106	23%	537.8
Johnston	10,402	188	29%	1,807.3	Noble	11,124	59	26%	530.4
Love	9,112	161	58%	1,766.9	Lincoln	32,272	168	40%	520.6
Pawnee	16,447	274	32%	1,666.0	Comanche	113,811	563	9%	494.7
Jefferson	6,273	101	56%	1,610.1	Beaver	5,380	26	23%	483.3
Mayes	39,627	638	38%	1,610.0	Alfalfa	5,593	23	26%	411.2
Garvin	27,141	434	31%	1,599.1	Latimer	10,508	15	24%	142.7
Muskogee	71,116	1,117	23%	1,570.7	<b>DRUNK DRIVING IN AMERICA</b> <i>Mothers Against Drunk Driving</i>				
McCurtain	33,539	511	36%	1,523.6	• Alcohol-impaired driving is the most frequently committed violent crime in the U.S. (NHTSA, 2003)				
Haskell	12,059	182	42%	1,509.2	• Nearly 17,000 people died in alcohol-related traffic crashes in 2004. (NHTSA, 2005)				
Pottawatomie	69,038	1,036	32%	1,500.6	• In 2004, 12,874 people were killed in crashes where the driver had a .08 percent blood alcohol concentration (BAC) or higher. (NHTSA, 2005)				
Blaine	12,475	183	62%	1,466.9	• In 2001, more than half a million people were injured in crashes where police reported that alcohol was present—an average of one person injured approximately every minute. (Blincoe, Seay et al., 2002)				
Cimarron	2,664	39	66%	1,464.0	• An estimated three of every 10 Americans will be involved in an alcohol-related traffic crash at some time in their lives. (NHTSA, 2001)				
Craig	15,195	213	27%	1,401.8	• Research shows that alcohol-related crashes cost the public an estimated \$114.3 billion annually—this includes an estimated \$63.2 billion lost in quality of life due to these crashes. (Taylor, Miller, and Cox, 2002)				
Okmulgee	39,300	541	42%	1,376.6	• The societal costs of alcohol-related crashes average \$1.00 per drink consumed. People other than the drinking driver paid \$0.60 per drink. (Taylor, Miller, and Cox, 2002)				
Tulsa	585,068	7,901	28%	1,350.4	• Approximately 1.4 million drivers were arrested in 2003 for driving under the influence of alcohol or narcotics. This is an arrest rate of 1 for every 135 licensed drivers in the United States (NHTSA, 2004).				
Garfield	57,657	775	36%	1,344.2					
Kiowa	9,456	126	51%	1,332.5					
<b>STATE</b>	<b>3,617,316</b>	<b>46,887</b>	<b>29%</b>	<b>1,296.2</b>					
Cleveland	236,452	3,044	25%	1,287.4					
Choctaw	15,011	185	34%	1,232.4					
Cherokee	45,393	558	48%	1,229.3					
Creek	69,073	838	43%	1,213.2					
Major	7,190	87	32%	1,210.0					
McClain	31,849	382	40%	1,199.4					
Dewey	4,338	52	19%	1,198.7					
Greer	5,810	69	27%	1,187.6					
Ottawa	32,474	375	41%	1,154.8					
Le Flore	49,715	573	51%	1,152.6					
Oklahoma	701,807	7,833	24%	1,116.1					
Stephens	43,322	474	22%	1,094.1					
Pittsburg	44,711	478	25%	1,069.1					
Jackson	25,778	270	18%	1,047.4					
Harper	3,254	34	26%	1,044.9					
Grant	4,497	43	60%	956.2					
Kingfisher	14,320	133	44%	928.8					
Hughes	13,680	125	38%	913.7					
Rogers	83,105	740	39%	890.4					
Washington	49,888	435	14%	872.0					

**OKLAHOMA**  
**LEGAL & JUDICIAL.**



## ***The Oklahoma District Attorneys Council***

*Suzanne McClain Atwood, Executive Coordinator, District Attorney's Council*

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*Growing up in Pauls Valley, Oklahoma, Suzanne McClain Atwood earned her undergraduate degree in Letters from the University of Oklahoma and her Juris Doctorate from the University of Oklahoma College of Law in 1983.*

*Following graduation from law school, she accepted a position as an Assistant District Attorney for District Attorney District 17, covering McCurtain, Choctaw, and Pushmataha Counties in far southeastern Oklahoma.*

*In 1989, she joined DAC as Staff Attorney and three years later was promoted to Assistant Executive Coordinator. In March, 1997, the five member District Attorneys Council appointed her Executive Coordinator of the District Attorneys Council.*

*Upon assuming the position as Executive Coordinator, Atwood remarked, "I have dedicated my career to working with and for prosecutors and to improving the criminal justice system in Oklahoma. I am proud to serve the District Attorneys of this state and those that work with them, and I look forward to the challenge of serving as your Coordinator."*

*Suzanne resides in Norman with her husband, Oklahoma State Bureau of Narcotics and Dangerous Drug Control Director (Ret.), Malcom Atwood. Her parents, Judge Richard (Ret.) and Leta Rae McClain, live in Pauls Valley.*

### **Introduction**

As the elected official responsible for prosecuting crimes within the district, the District Attorney decides which criminal cases are filed, prosecutes the cases and recommends sentences. In touch with the community, the District Attorney is in direct contact with the citizens in the district.

He or she presents cases to citizens serving on a jury, speaks to them at civic functions and educational events, and serves as the representative of the State when crime strikes its citizens. This continual contact provides the District Attorney with insight into the opinions and views of the citizens regarding crime and punishment.



Much is said about the high incarceration rate in Oklahoma. As we discuss this issue, instead of referring to "concern" about the incarceration rate, I prefer to consider it a review of the incarceration rate in Oklahoma, and, as the authors note in the preface remarks for this town meeting, determine whether Oklahoma's incarceration policy benefits its citizens.

History shows that our Legislature has taken steps to address incarceration rates. When the "Truth in Sentencing" legislation was considered in 1994, policy makers agreed on a guidelines concept that proved to be too costly. Some policy makers then proposed structuring guidelines to fit a certain number of prison beds.

Prosecutors submitted that our prison policy should not be dictated by the number of beds, but that our prison policy should dictate the number of beds. We advocated a review and determination of which offenses warrant prison time and for how long, recognizing that each incarceration comes with a cost. However, we must also recognize that failing to incarcerate appropriate offenders also carries a cost.

When the initiative was proposed, prison population was projected to grow dramatically. In 1999, 2000, 2001, and 2002, and since that time, prosecutors worked with legislators and other policymakers to propose and enact positive changes which impacted the prison population. These include:

- *Creation of community sentencing;*
- *Elimination of the mandatory 20 year sentence for third-time offenders;*
- *Increasing the felony threshold for theft offenses from \$500 to \$1000 for prison time;*
- *Authorizing probation for third-time offenders upon waiver of DA;*
- *Enactment of 85% crimes;*
- *Decreasing the mandatory minimum for manufacturing drugs from 20 years to 7;*
- *Repeal of CAP law;*
- *Increasing earned credits;*
- *Implementing drug courts/other diversion programs.*

Through these and other changes, prison population has increased at a much slower rate than originally projected. In 2000, prison population was 23,375; in 2005, it was 24,993.

I propose the following three areas for discussion.

### **(1) Recognize and accept that prison is the appropriate sentence for certain offenders**

Incarceration has several purposes including, but not limited to, punishment, incapacitation, deterrence, retribution and rehabilitation. One of the consequences of incarceration is the cost of prison to taxpayers. Often not raised, as it is difficult to quantify, is the cost to society of not incapacitating offenders or deterring future criminal conduct. Additionally, the costs of victimization must be considered.

Legislators have the difficult task of balancing the responsibilities of government with the ability to pay for them. Since the early 90's, and probably even before that, inmate population has been a focal point of legislators across the country when trying to deal with shrinking state budgets. Oklahoma has not been immune to this phenomenon. It is often stated that Oklahoma ranks first in the nation in women incarcerated and fourth in the nation in men incarcerated per capita. Typically, the reaction to these numbers has been to address the number of incarcerates not by providing adequate funding to the Department of Corrections, but by considering whether Oklahoma incarcerates too many individuals.

Certainly, society should be vigilant when it comes to making the decision to deprive someone of their liberty. While not everyone who commits a crime should be imprisoned, many should.

Some have suggested we should be "smart on crime" rather than being "tough on crime." District Attorneys agree we should be smart, but may disagree that the phrases are mutually exclusive. People who believe we have too many people in prison have said we should incarcerate those we are afraid of and not those we are "mad at".

There are two problems with this statement. First, we are afraid of some so-called "non-violent" offenders. Those "non-violent" offenders include

burglaries and DUI. When a home is burglarized, one's very safety and security is violated. It may take years to recover financially from the loss of items stolen, not to mention the loss of sentimental items that are priceless and cannot be replaced, and to recover from the loss of security within one's home. When the family of four is hit head-on by a drunk driver, they will never recover from the loss of a child. We are, and should be, afraid of many of these "non-violent" offenders. Should all of those individuals go to prison? Perhaps not, but many should and we must be prepared to pay that bill where prison is appropriate.

Second, let's consider those we are "mad at". An elderly person whose life savings have been drained by a caretaker may well be afraid of that offender. Yet, even assuming we are simply "mad at" the offender, when the thief has been granted probation, thumbed his nose at the system and disregarded all sentencing options, often there is no other recourse than prison. Where an offender commits multiple and subsequent offenses, or disregards the chance at probation, there must be a consequence. This is appropriate, proper and necessary to encourage compliance with the rules of society.

Drawing the line when offenders should go to prison and when they should get probation is difficult. Yet, that is why we have legislators, judges, prosecutors, defense attorneys and juries. Certainly, probation is the appropriate punishment for certain offenders. But, do not mistake that prison is an effective, necessary and completely appropriate alternative that cannot be rejected.

### **(2) Provide early intervention and effective supervision of offenders**

Most people agree that violent offenders should be subject to prison time. Likewise, many people believe that first-time "non-violent" offenders should be sentenced to an alternative to incarceration. In our current system, most offenders considered "non-violent" are initially placed on probation, either through a deferred sentence, a suspended sentence, drug court, community sentencing, or some other combination of alternatives. They have a chance at rehabilitation prior to being considered for prison. Sanctions are often the first recourse, but where the offender chooses not to comply, prison is the necessary option. It is sometimes said that certain offenders have to "work their way" into prison.

Probation has always been an alternative to prison, providing a way for offenders to be held accountable for their offenses early in their criminal careers. The need for drug court and community sentencing programs partially grew from underfunded and ineffective probation programs. When a court orders probation, the offender should satisfy the terms and conditions or there should be swift and certain consequences. Drug court operates effectively on this premise.

Offenders should be held accountable at each step in the process. If the first contact is a juvenile contact, effective intervention may rehabilitate the offender before further contact with the system. Deferring a young person from a life of crime will no doubt save prison dollars in the future, as well as reaping the benefits from a strong, productive member of society.

Most misdemeanor offenders previously had no supervision unless specially ordered by the Court. The law now provides for Cost Administrators within the Courts to monitor offender payments as ordered by the Courts, which encourages compliance and accountability.

More recent changes have encouraged District Attorneys to adopt supervision programs for cases not supervised by the Department of Corrections. These programs ensure cases are reviewed for compliance, and again, attempt to ensure offenders are held accountable for their actions.

In more serious cases, supervision is ordered through the Department of Corrections. Trained, professional probation officers are charged with assessing and monitoring offenders to ensure compliance with the conditions of probation. However, hired by the Department of Corrections, probation officers are often placed in a difficult position of conflict.

They attempt to hold offenders accountable, yet are constantly aware that prison beds are limited. When monitoring an offender and learning of a potential violation of conditions of probation, they also realize that the sanction for violation may well be a return to prison. The conflict between accountability and available prison space looms.



The use of alternatives to incarceration requires punishment options. Likewise, the need for swift and certain consequences when probation is violated precipitates the need for punishment options. Courts should have access to day reporting centers, treatment centers, debt counseling, job placement and other resources to assist offenders in completing terms and conditions of probation. An overnight stay in jail may be what the offender needs to encourage completion of his conditions; however, Oklahoma's rural counties often do not have the funds to make county beds available.

**(3) Consider the costs of failing to incarcerate**  
Any discussion on the costs of incarceration must also consider the costs of failing to incarcerate. While sometimes difficult to quantify, the costs of victimization are real. The DUI offender who is granted probation and again drives drunk and crashes into the family of four, killing their child, comes at tremendous cost to the family. Certainly, there are significant financial costs to the family and insurance companies; yet, these are minor compared to the very real emotional costs of the loss of a child. Both the direct financial cost and the emotional cost are costs to society, costs which have been shifted from the government to the victim. These costs were preventable should the offender have been incarcerated.

Even more difficult to measure are the cost savings when the very real threat of prison deters others from committing crime. When others choose not to drink and drive due to the threat of prison, the deterrent effect prevents future cost. The costs of failing to incarcerate are real.

## **Keymasters, Gatekeepers and the Steady Pathway to Change**

*Linda Morrissey, District Judge and Millie Otey, Special Judge of the Tulsa County District Court*

Whenever a system is at “crisis level”, there is an outcry throughout the region for help and assistance; an outcry to “fix the problem, and fix it NOW”. The outcry focuses on stalling the crisis and creating a new functionality to the system.

Those involved in the crisis look for leadership, guidance and plan for the new functioning of the system. By 1999, Oklahoma’s prison system had been at a crisis level for decades. The crisis involved prison overcrowding and the expense involved in the support of the overcrowding. The citizenry, judicial, legislative and executive branches of state government were acutely aware of the need to resolve the crisis. The state legislature responded with the help and assistance by implementation of the Oklahoma Community Sentencing Act in 1999.<sup>1</sup>

This plan of easing prison overcrowding and the expense associated with incarceration was new and controversial.<sup>2</sup> Many people however, thought it to be the pathway to change in Oklahoma’s prison system. Now, almost a decade after initial implementation, it is time to see if “hindsight is 20/20”; it is time to take a look and examine the progress. The question presented at this 2008 Oklahoma Academy Town Hall is: “Can we learn to be . . . just as tough but twice as smart?” My response is: through community sentencing,” **we have already learned to be tough and twice as smart.** The present question should be: **How do we CONTINUE to be smart?**

### **The Keymaster**

The Oklahoma Community Sentencing Act was a smart, if not brilliant, piece of legislation purposefully designed to “protect the public ... adequately supervised felony offenders punished under a court-ordered community sentence.”<sup>3</sup> The **smart** part of the legislation was the focus on the long-term benefits of community sentencing. The desired result would be to diminish recidivism (stop the revolving door of the Department of Corrections)



through treatment options and ease the financial burden of prison overcrowding. The belief being that the offender, with low criminogenic needs could be identified, sentenced to a treatment plan and remain in the community at less expense to the criminal penal system.<sup>4</sup>

Ultimately, the source of the criminal behavior would be eliminated through treatment<sup>5</sup> and therefore, the offender would not repeat the criminal conduct and the cycle of recidivism would be eliminated.

The built-in safeguards created a Keymaster/Gatekeeper system. The District Attorney acts as “Keymaster” and the Judge acts as “Gatekeeper”. The District Attorney holds the key to the community sentencing door; the Judge, through sentencing procedures acts as the “Gatekeeper” for offenders who enter the community. Initially, the District Attorney targets the *potential* participants through statutory qualifications. The District Attorney is charged with investigation of a potential participant’s criminal history. Qualification is wrapped in statutory safeguards that exclude any offender charged with a violent crime; any offender with more than two prior felony convictions; and the ability of the District Attorney to exercise discretion to exclude other crimes.<sup>6</sup>

Because of these safeguards, the District Attorney has the key to open the door for *potential* qualification for community sentencing. This was smart. It was smart because the keymaster approach set up the second level for approval for community sentencing. This approach squarely placed the ultimate responsibility on the judge as the gatekeeper.

### **The Gatekeeper**

Once an offender is deemed qualified by the District Attorney, the offenders enters a plea and an LSI-R is ordered.<sup>7</sup> The scoring range on an LSI-R can very from 1 to 54. In order to reach the second qualifying stage for community sentencing, to reach the Gatekeeper, the LSI-R score must fall within the

“moderate range” of 19 to 28. This scoring concept also demonstrates another *smart* aspect of the Act. Offenders testing in the low range (1 to 18) are considered low risk and not likely to re-offend. Therefore, the State does not need to expend large amounts of money on rehabilitation that is not needed. Offenders testing in the high range (29 to 54) are more likely to be non-responsive to treatment plans. There is, however, a mental health exception to the high range qualification. Offenders testing in the high range are often placed on probation under the supervision of the Department of Corrections. After compilation of the LSI-R results, criminal history, additional facts pertinent to a particular case, and the recommended treatment plan<sup>8</sup>, the judge must act as the Gatekeeper.

The ultimate decision to allow an offender to remain in the community, while serving his sentence, is a heavy burden for the judge. The judge must be satisfied that the safety of the community is intact while the offender serves his sentence; and that the offender has a strong desire to effectuate positive behavioral modification. When the judicial gatekeeper determines that the offender is qualified and motivated, then, and only then, is the gate to the community opened for the offender to serve his sentence. The offender has now embarked on the Pathway to Change.

### **The Pathway to Change**

The sentence imposed by the Court includes an individualized treatment plan implemented through services provided at state expense. The *smart* part of the treatment plan consists of private service providers who are educated and trained in treatment of drug and alcohol addictions, as well as behavior modification through the rigors of a sanction matrix. The sanction matrix is designed to bring the offender from the initial contemplation stage of change through the varied stages of progress and finally to appropriate conduct for non-criminal life in the community.

Each treatment plan is designed to address the individual problems and needs of the offender. The progress made on this pathway to change is dependent on the desire of the offender to effectuate change through the treatment plan in conjunction

with guidance from the case manager provided by the state.<sup>9</sup> Overall, the pathway provided by the Act is wrought with many difficulties for the offender; but ultimately positive change is made.

### **Staying Smart**

The Act and its implementation demonstrate how *smart* we have been. It was smart; it was economical; it was progressive to implement community sentencing. How do we continue being smart? The answer is simple: we need to promote and finance community sentencing for the future. The entire concept is more than smart. . .it is a brilliant response to societal needs. This Act addresses the problems of offenders with socio/criminal problems that can be resolved through treatment, at less expense to the state; and allows the offender to work out problems while staying connected with family and employment. Yes, we were smart. Once again, how do we continue to be smart? We need to support community sentencing above and beyond its current level.

### **We will continue to be smart if we utilize judges who are committed to Community Sentencing philosophy, utilize the expertise of professionals for treatment plans and increase financial support.**

<sup>1</sup> 22 O.S.£988. <sup>2</sup> Equally new to the criminal system was the “Drug Court” concept. These courts are often confused with community Sentencing because treatment plans are also developed for offenders. Community Sentencing and Drug Court are completely different; drug courts are delayed sentencing programs, whereas an offender is sentenced immediately to community sentencing and begins serving the imposed sentence. <sup>3</sup> 22 I,S,£88.1 <sup>4</sup> The general community would benefit from this form of punishment by allowing families to remain intact; offenders could remain employed or find employment or pursue educational options. Instead of draining the community of needed public funds, the Act contemplated positive societal contributions by offenders. <sup>5</sup> It is understood that offenders with drug and alcohol addictions are prone to relapse. Therefore, sanctions can be imposed by the sentencing judge. Applications to Accelerate and Applications to Revoke are not uncommon on community sentencing dockets. <sup>6</sup> In Tulsa County, District Attorney Tim Harris specifically excludes felony DUI cases from the community sentencing docket because of the high risk nature to all citizens as potential victims of drunk drivers. This exercise of discretion was fully contemplated by the legislature when it promulgated the Act. <sup>7</sup> LSI-R stands for Level of Service Inventory-Revised. This diagnostic tool has proven valuable in the assessment of offender’s ability to complete a treatment plan and to alter negative/criminal behavior. <sup>8</sup> The Act requires inclusion in the LSI-R a general treatment plan prior to sentencing. <sup>9</sup> In cases where the offender has lost his desire to change, the District Attorney has the ability to file an Application to Accelerate or an Application to Revoke requesting the Judge to accelerate or revoke the community sentence and place the offender in the custody of the Department of Corrections.

## ***A Rational Punishment Policy? It's A Distant Memory***

*Robert Ravitz, Public Defender, Oklahoma County*

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Truth in sentencing ...  
We have heard this term.  
What does it really mean?"

To the people of the State of Oklahoma, this concept has required the placement of millions and millions of more dollars into a broken criminal justice system which has done nothing to improve public safety, but has heightened the inequities in our criminal justice system.

### **House Bill 1213**

In 1998, the Oklahoma Legislature passed House Bill 1213 establishing levels of punishment for offenders and presumptive sentences including county jail time for offenders based on the seriousness of the offense and criminal history of the offender, reducing numerous crimes to misdemeanors and requiring offenders to serve 85% of the sentence.

The Legislature delayed implementation of the bill for one year and prior to its implementation repealed the bill in favor of a bill that adopted the concept of Community Sentencing, allowing for some non-violent offenders to be placed in the community and establishing a requirement of punishment of 85% of the sentence received for a list of 12 specific crimes.

No attempt was made in the bill to lower the punishment ranges of these crimes which, in essence, at least doubled the amount of actual time offenders would serve. This list of crimes has been repeatedly amended and additional crimes added. Naturally, the monetary costs to run the system have also substantially increased.

Today we have numerous offenses requiring an offender to serve at least 85% of his sentence and even more punishments carrying mandatory life or life without parole sentences. Additionally, we have numerous offenses requiring mandatory minimum sentences. Individuals who were routinely serving 30% to 70% of their sentences are now serving at least 85% with no corresponding decrease in the length of sentence.



### **An Irrational Policy?**

The attempt to create a rational punishment policy for the State of Oklahoma is a distant memory. The addition of community sentencing and drug court, while preventing the increase in costs from being even more excessive, has not had much effect on preventing the rising prison population.

Legislators who understand the problem and costs associated with the increase in these penal punishments do not speak out for fear of being tagged soft on crime. The concept of Truth in Sentencing only works in a state that recognizes there is always an aberrational criminal act or sentence which does not automatically require legislators to increase the length of punishments for the crime as a whole. When we react to the aberrational crime, all sentences go up, even for those whose criminal act is considered a routine crime, not aggravated or mitigated.

Truth in sentencing in its simplest form assumed someone who receives a sentence will serve some percentage of it. It helps to enable lawmakers to predict prison costs. However, the scheme only works in a system that doesn't have wide ranges of sentences like Oklahoma does. A system which allows for modification of future sentences by a sentencing commission when needed because of unforeseeable events in the criminal justice system, allows for presumptive probation, and restricts the length of probated sentences.

### **Tough On Crime**

In Oklahoma, district attorneys have total control over the criminal justice system. No law can get passed rationally determining criminal sentences without the endorsement of the Oklahoma District Attorney Association. Few district attorneys want to look soft on crime, hence, even if they agree that something needs to be done to reform sentencing, they won't endorse the reduction.



### **Meaningful criminal justice reform is impossible.**

Additionally, most district attorneys like our current system of justice. Who wouldn't like a criminal justice system they have total control over. A defendant who has two prior convictions, even if given probation on both of those prior convictions for non-violent crimes, may not enter into a drug court program, receive probation, or community sentencing unless the district attorney agrees.

Defendants with these same two prior convictions are facing enhanced punishments, often 20 years to life in prison requiring at least 85% of the sentence to be served or facing 10 years or 20 years to life for non-violent crimes unless the district attorney reduces the sentencing range.

### **The Case of Sheila Devereux**

When we look at irrational criminal justice system cases, we need go no further than the Tulsa County case of Sheila Devereux. Devereux had been placed on probation on prior occasions in 1998 and 2001 for possession of small amounts of drugs. Devereux had never received a sentence of incarceration longer than four months nor probation longer than two years. Devereux lived in a crack house with a co-defendant and her job was simply to assist the dealer.

Since more than five grams were found in the house, all involved qualified as traffickers. Devereux was offered a 13-year plea bargain sentence in exchange for her guilty plea. She rejected the deal and was

found guilty by a jury. The only sentencing option for the jury and judge for the crime of trafficking under 63 O.S.£ 2-415 was life without parole.

They, unlike the district attorney, had no discretion.

While the district attorney had recommended a 13-year plea sentence if she had pled guilty and Devereux would have probably served four years, her decision cost her a life without parole sentence and an estimated cost, based on her life span, of \$608,000 to the people of the State of Oklahoma.

Oklahoma law allows district attorneys to drop prior convictions or mandatory minimums such as the mandatory minimum that Sheila Devereux faced. It does not correspondingly allow judges or juries to nullify that punishment without violating Oklahoma law. It is not this author's desire to condone drug trafficking, but what is drug trafficking? Is it a drug-addicted woman living in a crack house who assists the owner of the house in return for drugs to support her habit, or is it the profitee, the big-time dealer who probably doesn't even use drugs who we as a society want to punish with a life without parole sentence.

### **Barbaric Laws?**

The need to repeal this barbaric law as it relates to small-time users or even small dealers who sell small amounts of drugs is obvious. That is the problem with a system that does not rationally relate the individual's crime to criminal culpability.

### **A Rational Sentencing Policy?**

How do you have a rational sentencing policy? One must understand that all crimes cannot be called felonies. Oklahoma has, for the last 20 years, added crime after crime to the list of felonies that are misdemeanors in other states.

- Simple assaults on individual people in a large percentage of the cases have become felonies.
- Small amounts of drugs or drug residue are felonies, as is possession of numerous prescription drugs without a prescription.



This causes the breakdown of the criminal justice system, as individuals who are convicted of felonies are not punished in the county jail, but are shifted to the state penitentiary. Those who receive felony convictions in many cases have it on their record forever, cannot get good jobs, or are given lengthy probated sentences where they have numerous opportunities to violate probation and go to prison for long periods of time.

Additionally, Oklahoma charges defendants costs for incarceration, supervision, treatment, lab fees, OSBI fees, etc. as conditions of their sentences. These offenders often owe thousands of dollars on their convictions and live paycheck to paycheck.

Desperation ultimately sets in and the offender turns to substance abuse which got him in trouble in the first place, or he fails to report to his probation officer. We set probationers up for failure with these unrealistic costs and conditions of probation. The absurdity of calling everything felonies and burdening the system with offenses that in every other state are misdemeanors, guarantees that Oklahoma can never have a rational sentencing policy or control skyrocketing prison costs.

Requiring individuals to serve mandatory minimum sentences, mandatory life without parole sentences, or 85% sentences reduces the individualized nature of the sentencing consideration. Prohibiting judges from suspending sentences, giving probation or placing defendants in drug courts or community sentencing without district attorney approval places

the control and length of sentence in the hands of one party, the district attorney, and ruins the checks and balances of the criminal justice system. There are some offenders who should serve a life sentence. There are far more that need creative, individualized sentencing plans.

There are those who fault jury sentencing for the criminal justice capacity issues. In fact, jury sentencing makes up a fraction of our criminal justice cases so its effect is minimal. Jury sentencing has always been a hallmark of our populist tradition. If we do away with mandatory minimums and tell a jury a defendant will serve a proscribed portion of his sentence and allow juries to give probation, recommend drug court, mental health court or community sentencing as we do district attorneys we can favorably impact the system.

In closing, the hopes of many, including myself, to create a rational criminal sentencing policy will never be fulfilled and our prison system will continue to drain us of resources that could be spent on education, early childhood development activities, children, bridges, highways, mentally ill, elderly health care, etc., as long as 15-second sound bites can label legislators, district attorneys and judges who want to do something about this problem soft on crime.

This can only be changed by thoughtful citizens who demand of their elected officials a rational criminal justice policy and elected officials who are courageous enough to do what is right.

## *A Case For Keeping Jury Sentencing*

*Rob Hudson, District Attorney, Payne and Logan Counties*

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A segment of the American Criminal Justice System has been steadily eroding since the Sixties – it is the movement away from Jury Sentencing to Judge Sentencing. Oklahoma has until recently been “high and dry” from this erosion, but it threatens to creep over the borders of Oklahoma riding on the back of the beast of overcrowded prisons and the clamor of high incarceration rates. Oklahoma is one of only five (5) states left in the U.S. that still permits juries to make sentencing decisions. The others are Arkansas, Missouri, Texas and Virginia.

It is the position of this author that a departure from Jury Sentencing in Oklahoma would be a tragic legal and philosophical mistake, and that our Legislators should resist the temptation to follow the masses.

This paper will briefly examine the fallacy of Judge Sentencing and the possible constitutional problems associated with it. And, the most compelling reason for leaving Sentencing with Juries rather than Judges may be the “disconnect” with the grassroots citizens that occurs when Sentencing is taken out of the hands of the people.

The assumption which appears to be the root cause for abandoning Jury Sentencing is the belief that Judges are more competent to make Sentencing decisions than are juries. Interestingly, the empirical data from numerous case studies does not bear this out, and leaves the argument without merit and indeed hanging on a thin thread of arrogance by so-called legal scholars.

One such case study concluded: “it appears to be considerably more dangerous to leave the sentencing decision to a single person, whose membership in a particular group might skew his or her views considerably, than to leave it to many people, whose memberships in many groups will force them to



accommodate their inter-strata differences”.

The issue becomes even more absurd when one considers the paradox that in the American Criminal Justice System, a juror’s ability to reach a just verdict on the issue of guilt or innocence is seemingly unquestioned.

Yet, the same system affords no confidence in the jury’s ability to impose just sentences. Then, to further magnify the paradox, consider that if a jury has found a defendant guilty of murder and faces the death penalty, suddenly the jurors are again trusted to decide life or death! This leaves one bewildered in that jurors are necessary and trustworthy only at the two ends of the “importance” continuum – in determining guilt or innocence and in capital cases where a life is at stake, thereby implying they are somehow unnecessary or untrustworthy in the vast middle!

Also, consider the provisions of the Sixth Amendment to the United States Constitution, which provides that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State wherein the crime shall have been committed. Only recently did the U.S. Supreme Court even mention this fundamental right of a jury’s role did not extend beyond the guilt phase of a trial to the punishment phase. So, until recently some of the most significant insights on the issue came from what the Court had not said about the issue. And, even more recently, a series of federal criminal cases dealing with mandatory minimum sentencing provisions in federal drug cases have opened the door that jury sentencing may actually be required by the Sixth Amendment.

A final point, which may be the most poignant for Legislators to pay heed, is that Jury Sentencing may be the last bastion for public input to the Criminal Justice System. It provides a litmus test for prosecutors, defense attorneys and



## **Tribal Justice Systems**

*Source: National Tribal Justice Resource Center*

### **Tribal Court History**

Since time immemorial, Native American and Alaska Native tribes have been keeping the peace and administering justice in their homelands through the use of their own ancient laws, traditions and customs. Historically, the United States federal government has recognized the inherent sovereignty of Indian nations to “make their own laws and to be ruled by them.” (*Williams v. Lee*, 358 U.S. 217, 1958.)

Traditionally, most tribes resolved disputes and addressed criminal activity by consensus, not by an adversarial system, as do Anglo-Americans. While each of the more than 560 federally recognized tribes in the U.S. possesses traditional methods of dispute resolution, formal court institutions are a relatively recent development in Indian Country.

The development of tribal courts as they are now known can be traced to a case arising in the 1880's on land that is now the Rosebud Sioux reservation in South Dakota, when a Lakota tribal member, Crow Dog, killed a fellow tribal member, Spotted Tail. At the time, there was no formal court system utilized by the Lakota people.

Utilizing traditional methods of dispute resolution, the tribe required Crow Dog to provide restitution to Spotted Tail's family in the form of goods and provisions. Although the victim's family was satisfied with the resolution, in the eyes of the federal government, the tribal approach did not inflict what it thought was appropriate punishment.

As a consequence, the Department of the Interior, the federal agency responsible for directing Indian affairs, set up “Court of Indian Offenses” to handle less serious criminal offenses and to resolve disputes between tribal members through the application of federal law and regulations—not tribal law or custom.

It was not until 1934, with the passage of the Indian Reorganization Act, that tribes were encouraged by the federal government to enact their own laws and to establish their own justice systems. Many tribes, however, did not adopt their own codes at that time, but rather operated under provisions of the Code of Federal Regulations (CFR). Due to lack of financial resources, many smaller tribes could not afford to operate their own tribal courts and retained the CFR courts operated by the Bureau of Indian Affairs. There are approximately 23 CFR courts still in existence.

Approximately 275 Indian nations and Alaska Native villages have established formal tribal court systems. There is widespread variety in the types of forums and the law applied in each is distinctly unique to each tribe. Some tribal courts resemble Western-style judiciaries where written laws and rules of court procedure are applied. An increasing number of tribes are returning to their traditional means of resolving disputes through the use of peacemaking, elders' councils and sentencing circles.

Each tribe, in developing its justice system, confronts three considerations: (1) Is our justice system effective in reaching prompt, long-term resolutions to disputes? (2) Does our system ensure the safety and well being of our community by preventing crime? (3) Does our justice system inspire confidence in its abilities to the tribal community and the outside American society?

In an effort to address all of these goals, many tribes establishing new tribal courts, or enhancing established ones, are developing hybrid or blended systems that will incorporate traditional dispute resolution elements that have proven effective within their culture and community while also insuring that due process is provided.



**National Tribal Justice Resource Center**

A Project of the National American Indian Court Judges Association

## **Indian Tribal Courts Program**

Understanding that increased law enforcement activity on reservations would impact already overburdened tribal justice systems, \$5,000,000 was appropriated to establish the Indian Tribal Courts Program to be administered by the U.S. Department of Justice, Bureau of Justice Assistance (BJA).

BJA announced in June 1999, as part of the Initiative, the availability of grants to support the development, enhancement and continuing operation of tribal judicial systems. At the same time, grants to develop an extensive training and technical assistance program to serve the tribal court grantees as well as all other tribal judicial systems were also announced.

Forty-six tribes were awarded tribal court planning grants of \$30,000 each. Six of those grants were awarded for the development of inter-tribal courts. Enhancement grants of up to \$50,000 each were awarded to fifteen tribes and larger grants of up to \$100,000 were awarded to another fifteen tribes. A majority of the enhancement projects involve efforts to improve the processing of tribal court caseloads through the implementation of case management computer software.

Other funded projects include one or more of the following components: development or revision of tribal codes and/or rules of procedure; hiring of additional personnel such as prosecutors, criminal defense counsel and judges; purchase of needed equipment such as recording systems and fireproof storage cabinets; law library materials and access to computerized legal research and training for tribal judges and court personnel.

In May of 2000, technical assistance grants were awarded to: the Alaska Intertribal Council to work with planning grantees in the State of Alaska, the Northern Plains Tribal Judicial Institute to serve planning grantees in the lower 48 states, and NAICJA to assist tribes receiving enhancement grants and to establish a national tribal court resource center.

National Tribal Justice Resource Center, 4410 Arapahoe Ave. Suite 135, Boulder, Colorado 80303

## **Participating Tribal Courts Tribal Court Opinions**

*Cherokee Nation of Oklahoma (OK)*

*Chitimacha Tribal Court of Appeals (LA)*

*Colville Confederated Tribes Court of Appeals (WA)*

*Coquille Tribal Court (OR)*

*Crow Court of Appeals (MT)*

*Fort McDowell Yavapai Nation Tribal Court (AZ)*

*Confederated Tribes of Grand Ronde Tribal Court (OR)*

*Ho Chunk Nation Tribal Court (WI)*

*Hopi Tribal Court (AZ)*

*Las Vegas Paiute Court of Appeals (NV)*

*Makah Tribal Court (WA)*

*Mashantucket Pequot Tribal Court & Court of Appeals (CT)*

*Mohegan Gaming Disputes Court of Appeals (CT)*

*Mohegan Tribe of Indians Tribal Court (CT)*

*Navajo Nation - Dist. Court, Court of Appeals & Supreme Ct.*

*Puyallup Tribal Court of Appeals (WA)*

*Saint Regis Mohawk Tribal Court (NY)*

*Tunica-Biloxi Tribal Court (LA)*

### **Coming Soon**

*Chilkat Indian Village (AK)*

*Coushatta Tribal Court (LA)*

*Confederated Tribes of Goshute (UT)*

*Eastern Band of Cherokee Indians (NC)*

*Gila River Community Court (AZ)*

*Kialegee Tribal Town (OK)*

*Lower Brule Sioux Tribal Court (SD)*

*Lower Elwha Tribal Court (WA)*

*Native Village of Shishmaref (AK)*

*Nome Eskimo Community (AK)*

*Otoe-Missouria Tribal Court (OK)*

*Passamaquoddy Tribal Court (ME)*

*Red Cliff Tribal Court (WI)*

*Salt Ste. Marie Chippewa Tribal Court (MI)*

*Village of Kotlik (AK)*

*Winnebago Tribe of Nebraska (NE)*

*Yankton Sioux Tribal Court (SD)*



# **OKLAHOMA CORRECTIONS**



## Prison Incarceration Rates by State

Bureau of Justice Statistics, 2007 Data

*Prisoners sentenced to more than 1 year per 100,000 U.S. residents. Based on census estimates for July 1, 2007.*

	Total	Male	Female
United States	509	957	69
Louisiana	857	1,649	108
Mississippi	723	1,366	119
Texas	682	1,267	99
<b>OKLAHOMA</b>	<b>670</b>	<b>1,223</b>	<b>131</b>
Alabama	611	1,169	86
Georgia/e	558	1,059	73
Arizona/e	546	998	92
South Carolina	526	1,011	66
Florida	521	985	72
Missouri	509	955	83



National Average	509	957	69
Nevada	508	909	92
Michigan	503	979	41
Kentucky	499	908	106
Idaho	491	869	107
Virginia	490	920	76
Arkansas	489	922	73
Delaware/c	485	949	48
California	478	891	65
Colorado	466	830	97
Alaska/c	451	793	82
Ohio	440	832	66
South Dakota	432	767	99
Tennessee	430	814	63
Indiana	422	785	70
Wyoming	404	708	92
Wisconsin	399	754	49
Connecticut/c	399	771	45
Maryland	399	784	38
Oregon	373	695	55
Pennsylvania	363	707	37
North Carolina	362	697	41
Montana	359	655	63
Hawaii/c	338	594	77
New Jersey	327	635	32
New York	327	644	28

	Total	Male	Female
New Mexico	320	587	59
Kansas	319	596	47
West Virginia	312	572	63
Iowa/e	295	546	50
Washington	269	495	45
Vermont/c	262	499	32
Massachusetts/d	248	499	13
Nebraska	244	446	45
Utah	243	434	47
Rhode Island/c	229	453	18
North Dakota	224	402	45
New Hampshire	212	401	29
Minnesota	190	357	25
Maine	133	258	14
Illinois/b	:	:	:

:Not calculated.

a/The number of prisoners sentenced to more than 1 year per 100,000 U.S. residents. Based on census estimates for July 1, 2007.

b/Totals estimated. Illinois did not provide data.

c/Prisons and jails form one integrated system. Data include total jail and prison populations.

d/The imprisonment rate includes an estimated 6,200 inmates sentenced to more than 1 year, but held in local jails or houses of corrections.

e/Population based on custody counts.

### Incarceration Rates 2007

Bureau of Justice Statistics, Appendix table 5:  
Imprisonment rates of sentenced male and female prisoners under the jurisdiction of state or federal correctional authorities, by gender, region, and jurisdiction, June 30, 2007. Report title: Prison Inmates at Midyear 2007 NCJ 221944. Data source: National Prisoner Statistics, 1A. Authors: William J. Sabol and

## Female Incarceration Rates by State

Bureau of Justice Statistics, 2007 Data

	Total	Male	Female
<u>Five Highest</u>			
<b>OKLAHOMA</b>	<b>670</b>	<b>1,223</b>	<b>131</b>
Mississippi	723	1,366	119
Louisiana	857	1,649	108
Idaho	491	869	107
Kentucky	499	908	106
United States	509	957	69
<u>Five Lowest</u>			
New York	327	644	28
Minnesota	190	357	25
Rhode Island/c	229	453	18
Maine	133	258	14
Massachusetts/d	248	499	13

## **Oklahoma State Prison Population by Offense (August 18, 2008)**

Source: Courtney Charish, Statistical Analyst. Oklahoma Department of Corrections

OFFENSE CATEGORY	COUNT	PERCENT
<b>INDEX CRIMES</b>		
Assault .....	2,608.....	10.3%
Manslaughter .....	436.....	1.7%
Murder 1.....	1,743.....	6.9%
Murder 2.....	434.....	1.7%
Rape .....	1,846.....	7.3%
Robbery .....	2,060.....	8.1%
Arson.....	142.....	0.6%
Burglary 1.....	338.....	1.3%
Burglary 2.....	1,208.....	4.8%
Larceny .....	1,547.....	6.1%
Auto Theft .....	477.....	1.9%
<b>Sub-Total Index Crimes</b>	<b>12,839</b>	<b>50.6%</b>
<b>DRUG/ALCOHOL CRIMES</b>		
Distributing CDS .....	4,104.....	16.2%
Possession CDS.....	2,986.....	11.8%
Alcohol Related.....	1.....	0.0%
Driving Under Influence (DUI) .....	746.....	2.9%
<b>Sub-Total Substance Abuse Crimes</b>	<b>7,837</b>	<b>30.9%</b>
<b>OTHER CRIMES</b>		
Bogus Check/Card.....	137.....	0.5%
Embezzlement .....	45.....	0.2%
Escape .....	277.....	1.1%
Explosives.....	42.....	0.2%
Forgery.....	616.....	2.4%
Fraud.....	192.....	0.8%
Kidnapping.....	110.....	0.4%
Sex Crimes .....	1,505.....	5.9%
Weapons.....	804.....	3.2%
Misc Violent.....	231.....	0.9%
Misc Non-Violent.....	737.....	2.9%
<b>Sub-Total Other Crimes</b>	<b>4,696</b>	<b>18.5%</b>
<b>TOTAL</b>	<b>25,372</b>	<b>100%</b>
INDEX CRIMES.....	12,839.....	50.6%
DRUG/ALCOHOL CRIMES.....	7,837.....	30.9%
OTHER CRIMES .....	4,696.....	18.5%
<b>TOTAL</b>	<b>25,372</b>	<b>100.0%</b>

## ***Reviewing The ODOC Performance Audit***

*Jennifer Kirkpatrick, Attorney, Elias, Books, Brown & Nelson, P.C.*

In July of 2007, the Oklahoma State Legislature, through the Legislative Services Bureau, contracted with MGT of America, Inc., a Florida based company, to perform a “comprehensive performance review” of the Oklahoma State Department of Corrections (the “Audit”). The Audit, a full 275 pages, was completed, and results delivered to the Legislature on December 31, 2007. The results were subsequently made public on the legislature’s website. At first glance, the Audit provides an abundance of information.

However, questions regarding the scope, premise and usefulness of the Audit remain. So, where do we go from here?

This article examines the background, motivation and stated rationale for the Audit, provides a summary of the basic recommendations presented to the Legislature, and provides final thoughts regarding the scope, premise and usefulness of the results.

### **Background, Motivation and Rationale**

Oklahoma’s criminal justice system was a hot topic of discussion in the 2007 Oklahoma State Legislature. Recognizing the quandary of managing an ever growing prison population in a safe and humane manner on a limited budget, the leadership of the Legislature sought funding for an independent performance review of the Oklahoma Department of Corrections (“ODOC”) to determine whether national best practices were being followed.<sup>1</sup>

After an early veto by Gov. Brad Henry and opposition from State Treasurer Scott Meacham, the bipartisan budget agreement providing \$1 million for the performance study and audit was resurrected in July. According to state legislative leaders, the review was not intended to merely be an audit of the ODOC finances, but a full performance study of the entire prison system in order to find solutions to the department’s long-term funding problems<sup>2</sup> and address concerns relating to infrastructure,



overcrowding, staffing requirements and administrative controls.<sup>3</sup>

The stated objectives of the Audit were to “improve operational efficiency and reduce costs, while assessing and planning for the growth of the offender population” and the scope of was defined as “... a review of the [Corrections] department’s operations with a primary focus on improving efficiency, reducing costs, and planning for the growth of the system’s inmate population in a manner consistent with public safety.”<sup>4</sup>

To reach these objectives, the Legislature and MGT further agreed on the following “primary tasks” which were to be included in the assessment of ODOC: (1) collect relevant data; (2) develop preliminary profile of ODOC; (3) solicit staff and stakeholder input; (4) conduct diagnostic review of ODOC management and administrative functions, organizational structures and operations; (5) tailor study guidelines for ODOC; (6) review DOC administration; (7) review institution security and operations; (8) review ODOC community supervision programs; and (9) review ODOC population management.<sup>5</sup>

To complete these “tasks,” the MGT review team conducted more than 500 face-to-face interviews with departmental employees, administrators, supervisors, sheriffs, judges, district attorneys, public defenders, representatives of professional organizations and interest groups as well as interested citizens. MGT also conducted briefings to discuss the progress of the Audit, discuss problems encountered, obtain feedback and summarize preliminary findings.

After completion of the review process, MGT arrived at 141 specific recommendations for consideration by the Legislature summarized below. The complete Final Report is available for inspection at [www.okhouse.gov/Documents/OKRVSDFinalReport080103.pdf](http://www.okhouse.gov/Documents/OKRVSDFinalReport080103.pdf).

**Summary of the Audit's Basic Recommendations**  
MGT's findings and recommendations can be broken down into five major categories: (1) population and capacity; (2) capacity management; (3) community programs; (4) institutional operations and support services; and (5) administration. A summary of the findings and recommendations under each category follows.

## POPULATION & CAPACITY

### Analysis of Prison Population Growth

The Oklahoma Criminal Justice Resource Center (CJRC), which calculates population projections for ODOC, forecasts that ODOC's prisoner population will rise from approximately 25,000 in 2007 to nearly 29,000 by fiscal 2016. MGT found that "virtually all" the projected growth is a "consequence of longer periods of imprisonment associated with the 85% sentencing laws, accompanied by a very low parole grant rate."<sup>6</sup> Additionally, the projected growth suggests that the number of offenders incarcerated for 85% crimes will almost double in the next ten (10) years.<sup>7</sup>

### System Crowding

ODOC currently maintains 24,845 beds, including jail beds, private prisons and halfway houses. As of November 30, 2007, 24,124 beds were filled. Based on the projected growth, MGT found that ODOC needs to either expand its present capacity to at least 28,872 beds by fiscal 2016 or implement other alternatives to slow the projected growth. While MGT found that ODOC's proposed capacity expansion plan "appears warranted and appropriate," it noted the immediate need for more maximum-security beds.

The following recommendations were made by MGT:

- Commission of a formal engineering and architectural master plan of ODOC's facility and bed needs;
- Approval of funding for a multi-year contract for maximum-security bed expansion;

- Evaluation of opportunities for further expansion of private prison capacity to serve as an alternative or adjunct to the current capacity expansion plan.

### Privatization

According to MGT's data, private prison beds currently cost the state \$47.14 per day as compared to the \$51.94 cost of the most directly comparable state-run medium security facilities. Despite this price disparity, Oklahoma's use of private prisons has dropped 26 percent since fiscal 2002.

However, cost is just one factor to be considered. The ability of the private sector to develop and open new facilities quickly must be balanced with the risk of losing private correctional space due to the cancellation of contracts for service (i.e., Cornell's termination of its contract with the state). MGT recommended "improved systems for contract control and management, and an approach for procurement that emphasizes competition and diversification" to address concerns related to the risks involved with privatization.

## CAPACITY MANAGEMENT

### Classification

ODOC's classification system uses a point system to determine the appropriate level of custody for each inmate. System scores reveal that a large majority of the current prison population does not pose a significant management problem. However, MGT discovered that ODOC classification personnel excessively make changes to the security level indicated by the point system in order to match available bed space. MGT recommended that ODOC base an inmate's custody level with his, or more likely her, individual risk factors rather than available bed space.

Additionally, all current maximum-security bed space is on permanent lockdown status. MGT recommended that ODOC lock down maximum-security inmates for administrative and disciplinary purposes and establish a maximum-security general population status.

## **County Jail Beds**

Oklahoma's county jails are "backed up" with offenders committed to the state correctional system waiting on available bed space. The Audit reveals some astounding statistics. For example,

- The number of backlogged offenders rose from 637 in 2000 to 1,323 in 2007;
- Backlogged offenders spend an average of 55 days in county jail before ODOC reception as compared to 47 days in 2005;
- ODOC's backlog represents 11 percent of the state's total county jail bed capacity.

MGT attributes this issue to ODOC's capacity issues and recommended that ODOC develop a strategic plan to establish and maintain a 45-day cap on jail backup detention. To facilitate this, MGT recommended that ODOC expand its reception capacity to a level that allows for the processing of inmates in a routine manner. MGT further recommended that the Legislature "clarify and expand" ODOC's responsibility for the medical expenses of state inmates in county jail. Current policy, which restricts ODOC from reimbursing counties for inmate medical care under most circumstances, places a substantial fiscal burden on the counties and interferes with medical care that inmates may require.

## **Community Programs**

### Drug Courts

Oklahoma's drug courts are unique in two ways. First, the program explicitly targets prison bound defendants. Second, if the offender does not complete the program, a length prison term must be served. MGT found that Oklahoma's drug court system is well conceived with "a high degree of support, credibility and impact on recovery and recidivism." In order to "refine" the system, MGT recommended as follows:

- Cap prison sentences for revocations so that they more closely mirror sentences for non-drug court participants with similar criminal histories;
- Conduct research on the type of offender and offense most appropriate for drug courts;

- Allow for greater use of judicial review to reduce the undue influence of district attorneys in selecting cases for the drug court system;
- Require all drug court program participants to have at least one prior felony conviction;
- Reassess the number of available slots on an annual basis.

### Community Sentencing

In theory, the Community Sentencing program is a diversion from prison by providing a community sanction, including deferred or suspended sentences, for eligible felony offenders. In reality, 75 of the participants in Oklahoma have either one or no prior felony convictions indicating a low probability of serving a prison sentence for their offense.

Additionally, 67 percent of the participants were drug or DUI offenders meaning that the program's target population substantially overlaps with that of the drug court system.

MGT recommended the following:

- The establishment of target population criteria which clearly differentiate this program from the drug court system;
- Completion of a long-term study of program participant recidivism to ensure it is reducing prison commitments;
- Elimination of the program since it does not appear to target prison bound offenders.

### Parole Decision Making

Parole review in Oklahoma involves ODOC, the Pardon and Parole Board along with the Governor. Oklahoma is the only state that makes the governor directly responsible for routine approval of all parole releases. MGT recommended that current statutory and constitutional provisions requiring gubernatorial review of all parole releases be modified to review the governor's review only for select heinous crimes. MGT further recommended that routine parole decisions be the sole responsibility of the Pardon and Parole Board.

### Community Corrections

ODOC's Community Corrections Division is tasked with the supervision and oversight of the department's correctional centers and halfway houses, for monitoring offenders placed on parole or probation as well as administering specialized programs including GPS supervision, work release, work centers and other community-based treatment programs. As of September 30, 2007, the division was responsible for 27,415 probation offenders, 3,637 parolees, 1,109 inmates housed in correctional center facilities and 1,307 inmates housed in contracted halfway houses.

MGT made the following recommendations:

- Expansion of efforts to monitor the performance and recidivism rates of offenders placed on administrative status and report the findings annually to the Legislature;
- Funding of an additional 50 parole and probation officers authorized by the Legislature two years ago;
- Proposal of legislative solutions to problems related to finding housing for registered sex offenders posed by restrictions on their residential placement;
- Alteration of state law requiring certain sex offenders to be monitored through GPS monitoring to encourage greater use of GPS in sex offender cases;
- Review of supervision fee collection policies to conform with current operating practices;
- Amendment of CLEET requirements to permit creation of a special peace officer category with modification of training curriculum that is more consistent with the duties and responsibilities of a probation and parole officer.

### **INSTITUTIONAL OPERATIONS & SUPPORT**

#### **Institutions**

MGT found that officer staffing at many ODOC facilities is "below advisable levels." The data indicated this was based on insufficient budgets coupled with recruiting and retention issues. MGT recommended that ODOC prioritize institutional staff budgets to insure that facilities facing the greatest problems in maintaining safety and security received the staff resources they need. MGT also recommended that ODOC enhance its recruitment and retention strategies to combat low salaries, ample alternative employment opportunities and the challenges of correctional work.

#### **Physical Plant and Infrastructure**

MGT found uniform evidence of serious deterioration to ODOC's physical plant and infrastructure placing the health and safety of staff and inmates alike at risk. MGT recommended that a review of the capital needs of the department be included in the formal engineering and architectural master plan project recommended above allowing it to prioritize needed capital repairs, and determine long-term costs and benefits associated with running older facilities as compared to beginning to replace them.

#### **Prison Gangs**

ODOC has had a policy of not recognizing gangs or persons affiliated with them resulting in a lack of formal preventative measures or a coordinated statewide intelligence system to address the impact of gangs on daily operations. MGT recommended development of a management plan to assess, identify and coordinate information related to gangs and related individuals or activities. MGT further recommended that ODOC develop a comprehensive intelligence system that includes trained staff members, an electronic data system and coordination within the department and with outside agencies to identify and answer potential security threats in its facilities.

#### **Housing and Classification**

As of November 5, 2007, ODOC facilities were housing more than 97 percent of the rated capacity making it difficult to provide housing for newly assigned inmates and internal transfers. The

excessive practice of overriding the classification system to match an inmate with available bed space results in mixed populations of varying levels of risk putting inmates and staff alike in unsafe situations. MGT “underscores” its recommendation to expand department capacity in appropriate security classifications.

### **Health Care**

MGT recognized ODOC’s steps to contain medical costs placing Oklahoma on the low end of the correctional department medical cost spectrum. However, MGT identified several other areas of concern.

MGT’s audit of ODOC’s claims management and utilization review system indicated a 24 percent error rate with more than \$193,000 in payment and coding errors on just 148 claims. MGT recommended that if the findings were validated, ODOC should assess alternatives and consider an alternative provider network to achieve greater savings.

MGT’s review of ODOC’s clinical staffing rates indicated Oklahoma had the second-lowest ratio of health care workers to inmates in the nation in 1999. That ratio has worsened from one health care worker to every 63 inmates to one health care worker to every 67 inmates. This ratio, coupled with a 39 percent turnover rate among medical staff, places a severe strain on ODOC’s ability to provide health care services.

Finally, MGT discovered that ODOC has only 42 infirmary beds to serve a population of over 24,000 inmates resulting in unnecessary hospitalizations and potentially denial of care. MGT recommended that any expansion of department capacity include additional infirmary space.



### **Female Offenders**

Oklahoma has the nation’s highest female incarceration rate. As recognized by others in this Research Document, this is a complex issue which, according to MGT, is the result of a combination of factors including a shortage of local jail bed space for short-term incarceration, the availability of mental health services and extensive use of delayed sentencing options.

MGT recommended that ODOC assess the number of jail beds and local sentencing options available for female offenders to determine if these options should be expanded and monitor the use of delayed sentencing to ensure that it is not used simply as an alternative to local incarceration.

## **ADMINISTRATION**

### **Information Technology**

MGT found that ODOC lacks an effective information technology system. MGT recommended that ODOC fund a thorough review of its

requirements, including a comparison of the benefits and costs of adding more resources and upgrading.

### **Budget**

Oklahoma is one of the nation’s least expensive correctional systems yet allocates a much higher percentage of its budget to corrections than a majority of other states. MGT attributed this to Oklahoma’s high incarceration rate.

### **Supplemental Funding**

In an effort to control ODOC spending, the Legislature has established a practice of only providing partial-year funding for the department with a supplemental appropriation late in the fiscal year to supply the rest. MGT found that this practice is not effective public policy and recommended the following:

- development of a realistic agreement on the department's annual budgetary needs to be fully funded in the annual appropriations process;
- supplemental appropriations only for unforeseen emergencies or important developments not addressed during consideration of the annual appropriation request;
- modification of the department's appropriation bill by the Legislature to establish specific funding allocations for major operations and program components.

### 2009 Budget

MGT further recommended a budget for fiscal 2009 that fully funds known rate and price increases, provides resources to open and operate new beds and contract for new maximum security beds. ODOC data indicate that this will require an additional \$29.7 million.

### **Potential Savings**

MGT found limited opportunities for significant additional savings since ODOC is cost –efficient “by virtually every objective measure of unit costs or staffing ratios.” However, MGT did identify several options, such as removing the governor from the routine parole review process, which could result in potential savings of \$55 million.

### **Unfunded Needs**

MGT also identified several areas that require additional funding to assure effective operation. Those areas include:

- Contract for 600 new maximum-security beds;
- Budget 48 medical care positions;
- Budget 50 additional probation and parole officer positions;
- Budget 42 additional correctional officers;
- IT study;
- Architectural/engineering facility master plan.

### **Organizational Structure and Governance**

MGT recommended that the board responsible for overseeing ODOC's operations be abolished or limited to an advisory role as it offered few benefits and requires additional administrative work.

### **FINAL THOUGHTS**

Although the State Legislature leadership has formally approved the Audit stating that it is good government, other members of the Legislature have wondered whether it presents an accurate picture of Oklahoma's correctional system and if it presents any substantial recommendations which can be implemented. One thing is clear: the Audit is premised upon the assumption that no systematic change is likely or practical in Oklahoma. The challenge of the Town Hall process is to operate under the opposite premise. Assume that systematic change is not only practical, but necessary. Assume that as educated, engaged citizens we can make such systematic change not only likely but predictable.

The Audit is complete and the results delivered. The rest is up to you.

### **FOOTNOTES**

<sup>1</sup> As stated by then House Speaker Lance Cargill in July of 2007, “we are spending a half-billion a year on an agency; we want to make sure we are following all the best practices nationally.” *The Oklahoman*, July 31, 2007. *Audit to Settle Prisons Funding Dispute*. Jennifer Mock.

<sup>2</sup> “This was not (to be) an accounting audit, but a performance audit to ‘find ways to better use taxpayer dollars, to maximize savings, increase efficiencies and create more accountability in the state’s prison system.’ ” – Speaker Pro Tempore of the House Gus Blackwell, R-Goodwell. *The Tulsa World*. July 23, 2007. *Commentary: Overdue Audit of Corrections Department Begins*. William O. Pitts.

<sup>3</sup> “In this particular audit we want to examine population capacity management, staffing requirements, administrative controls so we can ensure that Corrections is doing everything it should to keep costs down.” – State Sen. Kenneth Corn, D-Howe. *The Tulsa World*. July 23, 2007. *Commentary: Overdue Audit of Corrections Department Begins*. William O. Pitts.

<sup>4</sup> *Performance Audit of the Department of Corrections for the Legislative Service Bureau of the Oklahoma Legislature Final Report* at p. 2-1.

<sup>5</sup> *Id.* at pp. 2-2, 2-3.

<sup>6</sup> *Performance Audit of the Department of Corrections for the Legislative Service Bureau of the Oklahoma Legislature Final Report* at p. 1-2

<sup>7</sup> *Id.* at pp. 1-2, 1-3.

## *A Sunday Conversation with Justin Jones*

*Julie Bisbee, Staff Writer, The Oklahoman, Sunday, July 6, 2008*

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As the director of the state Corrections Department, Justin Jones has a tough job. Oklahoma puts more people in jail per capita than almost any other state, and state prisons are full and crowded. Oklahoma ranks first, per capita, in the number of women in jail and third, per capita, for the number of men in jail.

Nationally, 1 out of every 100 U.S. citizens is a convicted felon, while in Oklahoma, 1 out of every 20 adults is a convicted felon, Jones said.

The state's correctional system is more than a warehouse, and Oklahoma might be better served if more criminal justice programs were available at the local level, Jones said. Jones, 52, began his career with the Corrections Department as a parole officer in 1977; he recently spoke with The Oklahoman about the issues facing the state's correctional system.

***Q. You deal with a lot of challenging issues in corrections: an increasing prison population and old facilities, all while seeking funding from the Legislature. Do you think the Legislature understands the needs of the Department of Corrections?***

A. I do think they understand the complexity of corrections. I do think they understand the funding issues and overcrowding issue, but when it comes to priorities there is a tradition that corrections is considered last, and it's not popular to invest in the disenfranchised in Oklahoma. It's not popular to invest in people who have committed crimes that have sent them to prison.

At the same time, one of the best investments you can make is prevention on the front end to keep people from going to prison.

On the second part of that, on the back end, treating their addictions, their mental illness issues and causations of criminal activity. This is all in exception of people we have incarcerated who are



violent offenders or sex offenders or those people who are incarcerated and try to make a living off a criminal lifestyle. That's really a small percentage of offenders who are incarcerated. The majority of them are there because they committed a crime to support a drug habit or have mental illness episodes.

***Q. Oklahoma puts women in jail at the highest rate per capita and has the third highest rate for men. How do you explain Oklahoma's rate of putting people in prison?***

A. We've been first in women six consecutive years and been in the top five for women well over a decade. We actually incarcerate women, per capita, at twice the national average. There's not a state that really comes close to Oklahoma on the rate of incarcerated women per 100,000. There are lots of reasons for that. One of them I think is substance abuse issues, mental illness issues, lack of alternatives in the community. Some of the basic reasons come down to the fact that Oklahoma's constitution has a real strong executive branch of government and sometimes a very weak and poorly funded branch of local government.

If you compare our female incarceration rates to other states that are similar in size, like Kansas, Minnesota — under 4 million people — you find that they have a lot of local autonomy and local programs. A lot of women who end up in prison in Oklahoma would have been dealt with locally at the county level in other states. This was reaffirmed by the MGT Audit, normally referred to as the "million dollar audit."

These auditors were fairly amazed by the women that were incarcerated. From the states that they came from, which was Illinois and Michigan, they normally would not see those women in prison.

***Q. Do you see that once females enter the prison system that they are more likely to reoffend?***

A. The statistics wouldn't show that. The Bureau of Justice Statistics show that Oklahoma has one of the lowest rates of recidivism for women and one of the lowest rates of recidivism for men. So we're doing something right. The auditors also said if the recidivism rate would go up that might not be a bad thing. That might indicate that you are incarcerating high-risk offenders and not incarcerating as many low-risk offenders.

Their assumption was that our recidivism rate is low partly due to the fact that we don't have a lot of options at the county level, and they were seeing people in our system that in other systems were not being incarcerated, especially (with) female offenders.

***Q. What are some of the alternatives that are being used in other states?***

A. Other states are using locally funded treatment programs, residential treatment programs and locally funded mental health programs. They are using a cadre of innovative cost-avoidance, intermediate sanctions at the local level. When I talk about these cases I'm talking about your drug offender, or your property offender who are committing those crimes to satisfy a drug addiction and the mentally ill.

I'm not talking about the predators or the people who have victimized communities or committed crimes. Certainly, they deserve to go to prison. Nonviolent offenders make up over 60 percent of the people in prison. You always have to put a caption on non-violence. That's their current crime. That does not mean they haven't committed a violent crime in the past or the potential for violence.

***Q. Who are allies in trying to get Oklahoma to change the way it sentences people for crimes, if the Legislature isn't willing to provide funding?***

A. It's incumbent upon not only my staff and I, but all citizens to understand and to promote the fact that one of the best investments in the future of Oklahoma is to continue to reduce recidivism and continue to address this insatiable appetite for drugs and other narcotics in Oklahoma. I think the investment in the human factor for the disenfranchised, who are either committing crimes or in prison, is just as good an investment on the dollar



as building bridges and infrastructure. It's not just the \$18,000 a year to feed them and give them medical care.

When you invest in the human factor, you see it's a broader issue. They've (prisoners) got children. Children with incarcerated parents have a higher percentage of going to prison than those whose parents aren't in prison. We've got to address preventative measures with them. You need people to be employed, pay taxes, be self sufficient, so the dollar amount is not just \$18,000.

Any investment in drug treatment programs, mental health programs, whether it's community based or prison based, is worthwhile.

***Q. What is the biggest misconception about the state's correctional system?***

A. I think the misconception is that it's not as simple as it sounds. There's a lack of knowledge, and it's not from us not trying to educate the public. If it doesn't affect your family, it's not something you really care about. As long as we don't have mass escapes that cost the state undue resources.

The MGT audit said we were the most efficient system in the nation. The average person has a too-simplistic view of corrections — where you basically feed them and you lock them up. ... Anytime you're dealing with a human being, every offender is unique. You've got to deal with them on an individual basis. And when you've got 26,000 and another 1,500 backed up in county jails, there's a huge complexity to that.

## *A Proposal for a Prison Facilities Assessment Commission*

*John Whetsel, Oklahoma County Sheriff and President, Oklahoma Sheriffs' Association*

I think most would agree - our prisons are in a mess. We have prisons that used to be hospitals or schools, some up to 100 years old, most unfit to securely hold the most violent inmate - and yet we continue to pour tax dollars into these public facilities and attempt to staff each of them.

Over the years we have reached this point partly because of legislators who view prison projects as economic development prizes for their districts. As we have piece-mealed our prison infrastructure, we have caused the increased cost of labor, upkeep and transportation and continue to place prison employees at risk.

It may be time to close many old facilities and build some large expandable facilities that would be energy and staff efficient in close proximity to the major metropolitan areas where most inmates come from - Oklahoma City, Tulsa and Lawton. This would have the potential of saving hundreds of thousands if not millions of tax dollars in personnel, transportation and maintenance costs.

But to know if that is the best for taxpayers, I am suggesting the creation of a Prison Assessment Commission, an independent body tasked with reviewing all prison facilities from an economic, business and mission perspective, and recommending continued operation, realignment of mission, or closure of each facility, and/or construction of new facilities. Their mission would be similar to the Federal military Base Realignment and Closure Commission.

Several entities should participate in appointments to this commission including the Governor, legislature, courts, business, labor, mental health, health, legal profession and law enforcement. I would recommend that members be regular citizens with many from the business sector and that members have no connection with the Department of Corrections or private prisons, nor be current or former elected officials. This body would have to be free of all political influences and pressure. This commission would need minimal staffing and funding for transportation, expenses and the hiring of independent corrections consultants to help in assessments and deliberations.

The Commission should be given 12 to 24 months to visit, assess and learn the mission of each facility before making final recommendations. When final recommendations are presented, the legislature would have the opportunity to accept or reject the recommendations in their entirety - not individually - and then work on financing.

The time to find nonpolitical solutions to our prison system issues is now! While this idea only addresses brick and mortar issues, we must also continue work on viable alternatives to incarceration and crime prevention programs to enhance the safety of our citizens. We can't continue doing the same thing in corrections year after year and expect different results.



## ***The Tulsa County Jail***

*Sheriff Stanley Glanz, Tulsa County Sheriff's Office*

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*Stanley Glanz was elected Sheriff of Tulsa County in 1988, and re-elected in 1992, 1996 and 2000. Previously, Stanley Glanz was a Tulsa Police Officer for twenty-three years; attaining the rank of Major. While with the Tulsa Police Department, Major Glanz won the Award for Excellence twice from the American Automobile Association for his traffic safety programs. He also received the Chief's Award for his innovative reorganization of the Traffic Division.*



*Sheriff Stanley Glanz received a Bachelor of Science from the University of Tulsa and a Masters in Criminal Justice Administration from the Oklahoma City University. He was selected as Sheriff of the Year in 1996 by the Oklahoma Sheriff's Association; and was named the Sheriff of the Year in 2000 by the National Sheriff's Association.*

### **The Sheriff Says ...**

While the jails in America are becoming more aware of the various ways to ease some of the issues involved with running a jail, the fundamental issues that impact our budgets are still present. The issues effecting our jails often times impact different areas of the jail, such as population increase, medical dilemma's, transportation costs and so forth, the one issue that is at everyone's forefront is that of the impacts on our budget. Issues such as foreign born inmates, mental health inmates and the rising cost of medical expenses for each of these has a large impact on everyone's budget that needs to be addressed and various solutions need to be explored, such as creating district or regional judicial systems.

### **Immigration**

In the past, one of the most difficult issues facing law enforcement, in particular patrol deputies, is that of having to deal with individuals, stopped for one reason or another, who do not have the proper credentials such as a driver's license or identification card, and who don't speak English.

Procedures on dealing with these type of issues has always been, when necessary, to take the individuals into custody, contact ICE (or what used to be INS) and wait, if the agent agrees to respond. More often than not, unless the charge was a major felony, there were not enough agents to come and get the suspect or the interest in the suspect was not great enough, on part of the ICE agents to justify coming to pick up the individual in question.

This would leave the arresting deputy a dilemma. Not knowing the true identity of the individual in question, the possibility of booking that person into jail is extremely minimal, as would be writing that individual a ticket, thus often times the individual would be released with little or no consequence for the infractions that they committed in the first place.

Recently the government has adopted a program known as the 287-G program, used to deport foreign nationals who have committed a serious crime or is stopped, or picked up, who have a serious criminal history. Since its inception, the 287-G program has not only lowered the local crime rate, but it has effected the correlations that go along with that, to include our jail population.

While the program has only been in effective for a short time, it has proven to be effective, but for any real difference to be made the immigration laws need to be tougher, more stringent and need to be thoroughly enforced.

### **Mental Health**

Our jails today could almost be considered large mental institutions, due to the large number of inmates that are in need of some sort of mental intervention. Often times these inmates are uncontrollable, abusive and hard to safely maintain. The costs associated with these inmates is on a continuous incline due to the rising cost of

medications, special considerations and the extra procedures put into place for dealing with the special needs of these inmates.

We, as county jails, need for there to be some type of legislature to provide the monies necessary for the care of these inmates or to provide some type of alternative for their care. The institutions that were once opened for housing this type of inmate have been closed, which in turn forces the city and county jails to bear the burden, often times ineffectively.

Years ago, the facilities that once housed inmates with mental issues were closed, leaving the city/county jails to deal with these individuals. The problems arose when the jails were forced to deal with these inmates without much knowledge on how to do just that, or the financial capabilities to accomplish what needed to be put in place for the special needs of these inmates.

To efficiently and effectively deal with the needs of these special individuals, current policy needs to be changed to address the special issues that arise with each inmate, from the financial support, to medical/mental evaluations and the special considerations needed when housing these individuals.

### **Medical Costs**

The cost of providing medical assistance to jail inmates is at an all time high. Most of the larger county jails seek outside agencies to provide medical services, in house, for a negotiated contract price.

The issue with rising medical costs rests on the issue of inmate accountability. Until very recently, inmates were not responsible for the cost of medical attention incurred while in custody. Often times, leaving the individual facilities responsible for emergency medicine and those conditions deemed pre-existing. This becomes a huge issue for those counties that have little to no budget.

A second issue is that of the county jails receiving the monies owed them by the prisons that the inmates have been assigned to at sentencing. When an inmate is sentenced, that inmate immediately belongs to the Department of Corrections, as should the

financial burden for the care of that inmate. Unfortunately, it often does not happen that way. County jails, a majority of the time, are housing large numbers of DOC sentenced inmates, forced to bare the burden of costs associated with the care of the inmate, because the DOC system does not, or can not, handle the larger influx of DOC sentenced inmates.

Policy should be addressed in effort to assist the county jails when dealing with state institutions after inmate sentencing, specific to inmate care funding and relief of DOC sentenced inmate population.

### **Regional Jails**

The regional jail concept is not a new idea, however, it is yet unexplored in areas where they could do the most good. To take 4 to 6 counties in Oklahoma, making them one district, or region, and create one judicial system would be financially beneficial to each participating county.

Each county would maintain their own law enforcement agency, or align with the Sheriff's Office and the District Attorney's Office as well as the judicial staff. They would build a single correctional facility to create a seamless regional judicial system, from arrest to sentencing. Doing this would benefit not only the individual counties but the citizens of each of those counties as well. As it is, in Tulsa County the bond for felony embezzlement is pre-set at \$ 2,000, but in the neighboring Rogers County the bond is not preset and can be as much as \$10,000 with the sentencing for the first time offender being much more stringent than that of the bigger county.

Combining the various counties to create such a system would reduce the huge costs associated with running the jails, sustaining the courts and funding the local law enforcement, and has proven to increase the revenue streams for each participating county.

Short term issues, such as reduction of staffing for the local courthouses, judicial staff and District Attorney's, while not pleasant would be necessary. The long term operational and financial benefit would be well worth the consolidation of each component.

## ***The Oklahoma County Jail***

*Staff Writer John Estus. Contributing: Jay F. Marks. The Oklahoman, April 12, 2008*

### **Oklahoma County locks people up at a higher rate than all but eight counties in the United States despite chronic overcrowding at its jail, a study released Tuesday shows.**

In the past two decades, the number of people sent to county jails nationwide has nearly doubled, according to the Justice Policy Institute's study. This has put a strain on the pocketbooks of counties, which are forced to commit bigger chunks of their budgets to deal with bulging jail populations.

**The study found that the number of inmates booked into the Oklahoma County jail rose at a higher rate than bookings at every major county jail in the nation between 2001 and 2006.**

**Oklahoma County's jail bookings rose about 53 percent during that time.**

But Oklahoma County Sheriff John Whetsel said the 2,850-capacity jail's inmate population has become more manageable in the past year, thanks to a court ruling that forced the removal of several hundred state Department of Corrections inmates from county cells and new District Attorney David Prater's work to speed up prosecutions.

"It's gotten exceptionally better," Whetsel said.

The jail's average daily inmate count is down from about 2,900 a year ago to about 2,400 in recent weeks,"Whetsel said. Still, every penny the sheriff gets from Oklahoma County's annual budget goes right to jail expenses and additional money has to be generated for other expenses, said Maj. John Waldenville, who leads the sheriff's administration bureau.

"It takes more than the county gives us to operate this place," he said.

The sheriff's department makes most of its additional money by housing city, state and federal inmates at the jail and selling goods to the inmates while they're locked up.

Waldenville said about 78 percent of the department's annual operating budget is spent on the jail. Last fiscal year, the jail's projected operating cost was about \$27 million.

County commissioners assembled a jail funding task force in 2003 in an effort to come up with solutions to the jail's funding woes. Its work has stalled, and county officials said it will likely be summer before they try to salvage the work that has been done.

### **Drug Charges and Long Waits Clog System**

Of the 38,296 bookings at the Oklahoma County jail last year, two-thirds were for drug charges, according to booking records.

Nationally, only a quarter of people jailed in 2002 faced drug charges, according to the study. But that's still a stark contrast from 1983, when about 9 percent of jail inmates faced drug charges.

The study blames poor drug enforcement policy for the dramatic rise in jail inmates. It also notes that more inmates are being held in jail for longer amounts of time before trial.

In 2006, there were 766,010 people in jails nationwide and 62 percent hadn't been convicted. The study said many inmates had been waiting long periods of time on a bogged-down justice system to give them their day in court. Oklahoma County Public Defender Bob Ravitz said Oklahoma County officials have made a concerted effort to reduce the number of people jailed as they await trial.

Prater said he and Ravitz monitor the length of stay for pretrial inmates to ensure no one needlessly languishes in jail. "We make every effort to keep those pretrial incarceration numbers down," Prater said. Ravitz said there are about 2,000 fewer such inmates in the jail than there were a couple of years ago.

"The key is staying on top of this stuff," he said.



## Oklahoma County Looks to Ease Jail Crowds

By Bryan Dean and John Estus, *The Oklahoman*, August 6, 2008

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### *Editor's Comment:*

*Well - here we are. Build a bigger jail - or do something very different? The issue is now squarely in front of Oklahoma County voters and the local and state policymakers. Should we be tougher - or smarter - or perhaps both?*

The fallout from a scathing Justice Department report released Monday about conditions at the Oklahoma County jail points to one overriding problem — overcrowding.

The responsibility for the jail lies primarily with Sheriff John Whetsel, but overcrowding is not a new problem, and it's not one that can be solved by Whetsel alone, community leaders said Tuesday.

Oklahoma County Public Defender Bob Ravitz said since the jail was built in 1991, it has been common practice to put two and three inmates into cells initially built for one. "You can't take a facility that was built for 1,200 people and double-bunk these people and all of the sudden have 2,800 people," Ravitz said.

Area leaders said solving overcrowding likely will solve the problems detailed in the Justice Department report.

***Oklahoma City Ward 4 Councilman Pete White said state and local governments must work together. "They've got to start funding drug court so that everyone is not locked up," White said. "They've got to start funding diversion programs. Either that or we've got to build an Empire State Building-sized jail."***

Oklahoma County commissioners are expected to form a committee next week that will look at options for solving overcrowding. Building a new jail will get serious discussion, District 3 Commissioner Ray Vaughn said.

Ravitz and others said the tensions and complications of an overcrowded jail lead to many of the problems described in the report, which ripped the jail for lax

supervision of inmates, inadequate medical care and a prevalence of violence among other things.

The report was based on investigations of the jail between 2003 and 2007, but Justice Department spokeswoman Jamie Hais said she couldn't say why the agency chose to investigate the jail.

According to federal law, the Justice Department can only investigate a county jail if there is a perceived pattern or practice of illegal acts in the jail. The sheriff's department must respond to the agency's complaints or it could be forced to pay a settlement or face a lawsuit by the U.S. attorney general.

Ravitz filed a lawsuit in 2006 that led a county judge to order Whetsel and the state Corrections Department to remove hundreds of state inmates from the county jail to ease overcrowding. Since then, the jail population has gone down.

It was frequently hovering around its 2,890 capacity each day, but is now typically in the 2,200 range. On Tuesday, 2,256 inmates were in the jail. Still, that's about 1,000 more than the 1,200 inmates the jail was built to hold.

### **Why it's everyone's problem**

Like most cities in Oklahoma County, Oklahoma City has a contract with Whetsel to keep city inmates at the county jail.

Oklahoma City pays the county \$41.87 a day to hold an inmate. Last year, city police sent more than 15,000 inmates to the county jail and the city paid the county about \$2.2 million to house them. White said the issues raised in the report are serious, and obligate city leaders to follow up with Whetsel. "Given the gravity of these complaints, I think the city ought to take a look at it," White said.

Oklahoma City Manager Jim Couch said he sent Whetsel a letter Monday after he read the report. Couch's letter cites the city's contract with Whetsel, which states that he will operate the jail in

compliance with state and federal statutes, and requests that Whetsel and the county work with the Justice Department to solve the issues cited in the report and keep the city updated.

Del City Mayor Brian Linley said all cities that contract with the jail have an obligation to follow up on the report.

"I definitely think we need to look at it to ensure folks that we take over there are being taken care of above board," Linley said. "I'm sure all municipalities are concerned with the report they are looking at."

The stickier problem is what might happen if the problems at the jail aren't fixed, White said. Oklahoma City closed its jail years ago and has nowhere else to keep prisoners being held on municipal charges.

Other cities in Oklahoma County don't house nearly as many prisoners as Oklahoma City, but few have their own jails, meaning they must rely on the county to hold people who don't pay fines or are sentenced to jail time for municipal offenses. "This is a problem that belongs to all of us," White said.

### **Consensus, Leadership Needed**

Whetsel said he spoke with Couch on Tuesday and was encouraged by his willingness to help. "He's committed to helping us find solutions," Whetsel said. "I know the Oklahoma City Chamber is committed to helping us find solutions. It is going to have to be a collective effort."

Representatives from several cities and other stakeholders have taken part in committees looking at overpopulation and funding problems at the jail. Although the issues have been discussed at length, no long-term solution to the jail's funding shortfall has been found.

Edmond Mayor Dan O'Neil said he and other municipal officials are willing to get on board if the county can come up with a workable plan. "It is a county-wide issue," O'Neil said. "It's going to take leadership, and it's going to have to come from the county. It's going to take consensus from the leadership down there. They haven't had that."

### **COUNTY JAILS IN THE U.S.**

#### ***Jail rates per 100,000 population***

Source: Justice Policy Institute  
Federal Bureau of Justice Statistics

<b><i>Philadelphia city jail</i></b>	<b>602</b>
<b><i>Davidson County, TN</i></b>	<b>596</b>
<b><i>Shelby County, TN</i></b>	<b>594</b>
<b><i>District of Columbia</i></b>	<b>553</b>
<b><i>Polk County, FL</i></b>	<b>457</b>
<b><i>Jacksonville, FL. city jail</i></b>	<b>455</b>
<b><i>Hampden County, MA</i></b>	<b>452</b>
<b><i>Denver County, CO</i></b>	<b>428</b>
<b><i>Oklahoma County</i></b>	<b>416</b>
<b><i>Pinellas County, FL</i></b>	<b>400</b>

- **21 percent:** The increase of jail populations nationwide between 2001 and 2006.
- **10 percent:** People in local jail in the U.S. who have been sentenced to prison.
- **More than 15 percent:** The increase in the number of state and federal prisoners held in local jails in the past five years.
- **62 percent:** People being held in jail in 2006 who had not been convicted.
- **About 60 percent:** People in jail who have a mental illness.

Source: Justice Policy Institute,  
Federal Bureau of Justice  
Statistics

*John Estus and Jay Marks*  
*The Oklahoman, April 12, 2008*

## ***Inmate Recidivism as a Measure of Private Prison Performance***

*Andrew L. Spivak, University of Nevada, Las Vegas and Susan F. Sharp, University of Oklahoma,*

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### **Abstract**

The growth of the private corrections industry has elicited interest in the comparative performance of state and private prisons. One way to measure the service quality of private prisons is to examine inmates' postrelease performance.

Current empirical evidence is limited to four studies, all conducted in Florida. This analysis replicates and adds to the Florida measures in a different state and enhances previous methods. It uses data for a large cohort of Oklahoma state prison inmates released between 1997 and 2001. Controlling for known covariates, multivariate survival analysis revealed comparative rates of reincarceration for inmates in multiple exposure and comparison groups.

**These results are unique among prior studies on this topic; private prison inmates had a greater hazard of recidivism in all eight models tested, six of which were statistically significant. Finding no empirical support for claims of superior service from private corrections, the authors discuss policy implications and prospects for future research.**

### **Conclusion**

The results from Oklahoma are unique among all of the prior studies on this topic; curiously, the analyses indicate a significantly greater hazard of recidivism among private prison inmates in six of the eight models tested. In every categorical model (including the two that were nonsignificant), private prison inmate groups had a greater hazard of recidivism than did public inmate groups.

**Although we find no indication that private prison incarceration improves post release performance, we would recommend caution before interpreting these results to necessarily imply the reverse.**

The description recalls a qualitative caveat in the anecdotal experience of one of the authors (Spivak). While a casemanager at a medium-security public

prison in Oklahoma in 1998, he noted an inclination for case management staff (himself included) to use transfer requests to private prisons as a method for removing more troublesome inmates from case loads. With state correctional budgets constrained to the point of mandatory furloughs, case loads were often prohibitively large (this author had a protracted double roster of 180 inmates for several months), and private prisons provided an outlet for staff members to avoid the time-consuming burden of inmates with greater disciplinary problems, excessive complaints and grievances, and other issues.

These inmates tended to be younger, had fewer years in prison, were often minority and drug offenders who were reputed to be associated with gangs, and often appeared to be seeking social status through violent confrontations with other inmates and by adverse interactions with security and management staff. They were usually cooperative and often favored such transfers because the private prison facilities were typically newer and featured airconditioned housing units (absent in most public facilities' housing units).

These offenders may have differed qualitatively from inmates less troublesome to staff (and thus less likely to be transferred) in ways that would enhance their hazard of recidivism but not be adequately captured by the control variables. Private-sector claims of greater efficiency may be tempered by concerns that for-profit budgets result in service quality allocations that are inadequately geared toward corrections' overall human service goal. Private prison advocates might respond that politically strained state budgets are no less inclined to cut corners.

**Unless future studies find contradictory results, this study supports that of Bales et al. (2002) in the conclusion that future policy decisions should focus on relative expense issues, as the most complete analyses thus far find no indication that private prison services are superior to those of public prisons, as measured by inmate recidivism.**

## **Oklahoma Drug Courts: Fighting Addictions, Changing Behaviors**

*Michael Tupper, Assistant District Attorney, Cleveland County*

### **About the Author**

*Michael Tupper has proudly served as an Assistant District Attorney for the Cleveland County District Attorney's Office since 2002. He is currently assigned to the major crimes unit, which handles all homicides, violent offenses, and sexual abuse cases. In addition, Mr. Tupper is the prosecuting attorney for the Cleveland County Drug Court, serving in this role since March 2004. In January 2007, the Cleveland County Drug Court was honored with the SOAR award, an annual award given by the Department of Mental Health recognizing the Outstanding Drug Court of the Year.*

Oklahoma's drug courts are working.

From the inception of the first drug court in Payne County in 1995, to the now 57 operational drug courts statewide, this therapeutic court system has transformed from a grass roots movement of "specialized courts" to an institutionalized way of doing business in the Oklahoma criminal justice system. Drug courts represent the coordinated efforts of the judiciary, prosecution, defense bar, probation and parole, law enforcement, treatment, mental health, and social services to forcefully intervene and break the cycle of substance abuse, addiction and crime. By focusing on intensive drug treatment, daily supervision, and a demand for offender accountability, drug courts offload non-violent felony offenders from the traditional court system and places them into a highly structured, therapeutic system designed to achieve total abstinence, reduce recidivism and save taxpayer money.

While drug courts have achieved a secure place in the Oklahoma criminal justice system, many in the legal community are still unfamiliar with the overall scheme of drug courts. The purpose of this article is to provide a general overview of the Oklahoma drug court system, including the identification of eligible offenders, an explanation of program requirements, and a clarification of graduation and termination criteria. Following this overview, some recent developments in the law as it pertains to drug courts



will be discussed. This article will conclude with some statistics highlighting the long-term outcomes attributable to drug courts. It is my hope that this information will serve the legal community well, because a good understanding of the overall drug court process is essential for attorneys to effectively and competently advise their clients who may be appropriate candidates for the program. Making use of the resources that drug courts can provide will benefit all Oklahomans by effectively and efficiently treating drug addicts, changing their behaviors and slowing the traditional revolving door of drug offenders into the criminal justice system.

### **What is a drug court?**

Oklahoma's drug court initiative grew with the passage of the Oklahoma Drug Court Act in 1997.

This Act provided broad powers to the district courts in administering the drug court programs. Under Oklahoma law, a drug court is defined as an immediate and highly structured judicial intervention process for substance abuse treatment of eligible offenders, which expedites the criminal case and requires successful completion of the plea agreement in lieu of incarceration.

The typical "drug court team" consists of a judge, prosecutor, defense attorney, treatment provider, law enforcement representative, probation officer, and

social worker. Each team member provides an essential ingredient to the overall program's success. The drug court team typically meets weekly, assesses participants' progress, and decides as a group on the next appropriate course of action for each participant.

Prior to entering drug court, each participant must plead guilty to their underlying offense and execute a performance contract with the drug court team. This performance contract binds the participant to the program requirements, which include weekly court appearances, random drug testing, and daily supervision. Sentencing is stayed pending completion or termination from the program. Each participant's sentence, in the event of graduation or termination, is expressly included in the plea agreement and will be strictly enforced by the sentencing judge. Those who do not graduate face a prison sentence for their original charges. Charges against those who successfully complete the program often times are dismissed. Under no circumstances will a successful graduate be sentenced to prison for their underlying offense.

Each jurisdiction's drug court program is unique, yet all operate under the same guiding principles and framework. Each drug court must adhere to certain components to be recognized as a credible drug court program.

While not exhaustive, the following components are the foundation for policies and procedures utilized by Oklahoma drug courts.

The primary component in drug courts is the use of a non-adversarial approach. To facilitate a participant's progress in treatment, the prosecutor and defense counsel must shed their traditional adversarial courtroom relationship and work together as a team. In doing so, prosecution and defense counsel promote public safety as well as protect participants' due process rights. Once the offender is accepted into the drug court program, the team's focus is shifted to the offender's recovery and law-abiding behavior, not on the merits of the pending case.

It is important for eligible offenders to be identified early and placed into the drug court as efficiently as possible. Diligent placement of offenders into a drug

court program is necessary to circumvent the addictive mindset giving rise to criminal behavior. In addition, rapid and effective judicial action provides protection to the public and increases public confidence in the criminal justice system.

Frequent court-ordered alcohol and drug testing is essential to any successful drug court. A regular, random drug-testing program is the most effective and efficient way of ensuring compliance and gauging each participant's progress. Drug courts should reward cooperation as well as respond swiftly to noncompliance. To this end, ongoing judicial interaction with each drug court participant is imperative. Most drug courts require participants to personally appear in court each week. This structure allows for early and frequent judicial intervention. Thus, compliant participants receive weekly encouragement and incentives while non-compliant participants receive swift and immediate sanctions.

#### **Is my client eligible for drug court?**

By statute, drug court programs shall not apply to any violent criminal offenses.

Most drug courts construe this as prohibiting admission of any of the enumerated offenses in 57 O.S Sec 571 (2). Drug Trafficking charges are also statutorily non-eligible offenses. Some drug courts further restrict eligible offenses by prohibiting drug distribution or manufacturing charges. While not statutorily prohibited, felony domestic abuse charges





should be screened with great caution and investigated thoroughly prior to acceptance in order to ensure safety to victims and the public. With these exceptions, any other felony offense is drug court eligible. A common misconception is that an offender must be charged with a drug crime, such as possession, in order for drug court to become an option. In reality, an offender who is charged with an eligible offense must simply admit to having a substance abuse addiction or have been diagnosed with one in order to participate in drug court.

To properly identify appropriate drug court offenders, full and honest disclosure between the offender and the drug court team is imperative. However, the need for this sort of exchange information raises fundamental concerns regarding participants' constitutional rights, specifically Fifth Amendment self-incrimination protections. The Oklahoma Legislature recognized this important issue by mandating that any statement or information regarding an offender that is made during the course of any drug court investigation shall not be admissible in the underlying criminal case against the offender.

Thus, if a particular offender undergoes a drug court investigation yet is denied admission, he will be ensured that the information obtained during the investigation will not be used against him in the criminal prosecution. This protection encourages a full and frank exchange of relevant information between the offender and the drug court team while ensuring the protection of the offender's constitutional rights.

#### **What will my client have to do in drug court?**

The fundamental goal and requirement of drug court participants is total abstinence from illicit drugs and alcohol. However, as anyone with experience in

counseling substance abusers will attest, achieving sobriety takes time and patience. Drug courts recognize this fact and realize that relapse is an inherent component to recovery. To facilitate the recovery process drug courts have instilled a system of phase requirements that must be met by each participant prior to progressing through the program. Most drug courts employ a four-phase tier, where each participant begins in phase I and progresses through phase IV. Each phase is normally a minimum of 10 weeks in duration and is often times extended depending upon the individual participant's progress. The statewide average for drug court duration is 19 months.

Each drug court sets its own phase requirements in order to meet its particular needs, but the following are some traditional requirements of drug court participants.

Each participant prior to reaching a new phase must achieve a predetermined number of days of continuous sobriety. Participants are required to attend both group and individual substance abuse counseling each week. Participants must meet with their individual probation officer in person at least once per week. In addition, a strict curfew, normally 10 p.m., must be adhered to. Participants must attend self-help (Alcoholics Anonymous/Narcotics Anonymous) meetings each week. Also, random drug testing is administered on a weekly basis. Participants also must report in person to court each week when drug court is in session. Participants may not be eligible to leave their county of residence without prior authorization from the drug court team. Each participant is required to maintain full-time employment or be attending school full-time during their drug court participation. If not employed or attending school, the participant will be required to complete community service each week until employed or attending classes.

Failure to abide by these phase requirements will result in swift sanctions. These sanctions are imposed on a weekly basis and include the following: increased drug testing, increased AA/NA meetings, house arrest, placement into residential treatment, decreased curfew time, electronic monitoring, community service, and incarceration of up to five

days for each violation. By identifying and addressing noncompliance issues in such a steadfast manner, drug courts are more able to effectively intervene, thus facilitating recovery.

#### **Graduation and Termination Criteria:**

Upon successful completion of phase requirements, a participant will become a candidate to graduate from drug court. Prior to graduation several criteria must be met, including an acceptable level of continuous sobriety as determined by the drug court team on an individual basis. Each graduation candidate must have obtained gainful, consistent employment or be involved in a vocational or academic training program. Consistent attendance at all drug court proceedings and treatment appointments is also a graduation prerequisite. Moreover, prior to graduation, a participant must be maintaining a stable, sober living arrangement as determined by the drug court team. Upon graduating from drug court, the participant's felony case(s) is normally dismissed and expunged pursuant to 22 O.S. Sec 991(c), and the drug court file is sealed.

Though the drug court team must recognize relapse and restarts, which are considered to be part of the rehabilitation and recovery process, continued and consistent violations of a performance contract will result in termination from drug court.

Prior to termination notice must be given to the offender and a hearing must be held.

The requisite standard to warrant drug court termination is simply that disciplinary sanctions have been unsuccessful in gaining compliance with the performance contract.

This intentionally broad standard allows the sentencing judge to consider many factors in making a termination decision. These factors include repeated violation of the performance contract; failure to complete phase requirements in a timely manner; failure to complete residential treatment or continued drug use following completion of residential treatment; failure to appear at drug court proceedings; and new criminal charges. In the event of termination, the offender shall be revoked from the program and sentenced immediately for the underlying offense as provided in the original plea agreement.

Thus, upon a judicial finding that continuing sanctions have been unsuccessful in gaining compliance with the performance contract, the sentencing judge has no discretion to modify the original plea agreement and must sentence the offender accordingly.

When addressing a potential termination from drug court, both the defense and prosecution must be certain that the specific violation(s) justifying the termination has not previously been sanctioned. For terminating an offender for a violation of the performance contract that had previously been sanctioned will give rise to a double jeopardy claim. The Court of Criminal Appeals addressed this very issue in *Knoles v. State*.

In *Knoles*, the State filed a motion to revoke *Knoles* from drug court, alleging that he had violated the terms of his performance contract on four separate occasions.

*Knoles* claimed that he was previously sanctioned for each of these violations and that terminating him from drug court based upon these violations constituted double jeopardy.

Citing *Hagar v. State*, the Court agreed with *Knoles* and treated drug court terminations as similar to situations where a defendant's sentence is deferred pending completion of certain terms of probation.

The Court held that once a sanction is imposed for a probation violation in a drug court case, the State may no longer use that particular violation as the basis for a subsequent application for sanctions or to terminate the defendant's participation in drug court.

#### **Recent Developments:**

Most drug court participants have prior criminal records, often times quite lengthy. As such, a great number of participants have had their driving privileges suspended or revoked. This fact has made it extremely challenging for participants to attend all of the treatment and court appointments required of them in drug court. Recognizing this serious impediment, the Legislature recently responded by amending 22 O.S. Sec 471.6 to allow for a stay of suspension or revocation of a drug court participant's driving privileges under certain circumstances. This

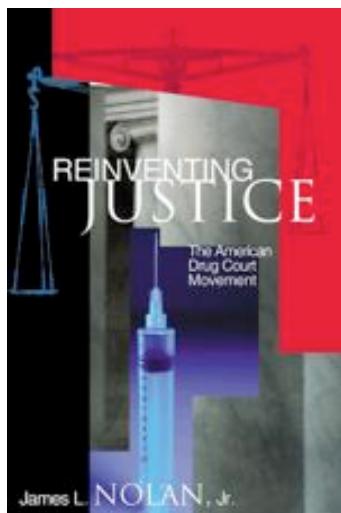
amendment provides that if the drug court judge is satisfied that no other means of transportation is available, the drug court judge may enter a written order requiring the Department of Public Safety to stay any and all suspensions, revocations, or cancellations of the participant's driving privileges.

This stay will only remain in effect during the offender's participation in drug court and may be rescinded by the drug court judge at any time. Moreover, any such stay of suspension will be removed upon graduation from drug court. Thus, if a participant has been granted a stay and is able to drive while being a drug court participant, upon graduation, the stay will be lifted and the graduate's license will revert to being suspended until completion of all DPS requirements necessary to regain permanent driving privileges. This stay will not be construed to grant driving privileges to an offender who has not been issued a driver's license by DPS or whose Oklahoma driver's license has expired.

Prior to the drug court judge ordering a stay of any driver's license suspension or revocation, the participant must provide proof of insurance for any vehicle to be driven by the participant.

### **Long-term Outcomes:**

Each year the Oklahoma Department of Mental Health and Substance Abuse Services compiles data from each of the state's drug court programs and analyzes this data in order to evaluate the effectiveness of Oklahoma's drug courts. The recent statistics on Oklahoma drug courts are strong indicators that these courts are making a positive impact. To assess outcomes comparisons were made between graduates' characteristics at entry and graduation. The findings reveal the following trends regarding drug court graduates: there was an 84.4% decrease in unemployment; a 59.7% increase in income; a 19.5% decrease in the number of persons without a high school diploma; a 20.5% increase in the number of participants who had their children living with them.



These figures clearly indicate that successful drug court graduates are applying the tools provided to them during the program with positive results.

Comparing recidivism rates, measured by re-arrests, of drug court graduates to that of standard probation offenders or released prison offenders revealed the following: drug court graduates were 63% less likely to be re-arrested than standard probation offenders; and drug court graduates were more than two times (or 131%) less likely to be re-arrested than released prison

inmates.

The yearly cost to treat an offender in drug court is approximately \$5,000, whereas the yearly cost to house an inmate in the Department of Corrections is approximately \$16,000.

The four year cost to DOC, if drug courts did not exist, would have been over \$87 million.

These numbers clearly illustrate the long-term effectiveness of drug courts as well as the huge taxpayer savings provided by these programs.

### **Conclusion**

The statistics and results speak for themselves. This mounting evidence clearly indicates that Oklahoma drug courts are working. Perhaps no other judicial intervention program has been as effective in furthering two legitimate goals of the criminal justice system: accountability and rehabilitation. In furthering these goals, Oklahoma drug courts are effectively fighting addictions and changing behaviors.

The success of drug courts has provided a model for other diversionary programs, such as mental health courts, DUI courts, and truancy courts. As drug courts continue to achieve their goals, these programs offer great hope in the fight for long-term reduction in drug-related crime in Oklahoma. And that is something that all Oklahomans should strive for and support.

## ***Drug Arrests***

*County Arrest Rates in Descending Order, 2007 Uniform Crime Report, State of Oklahoma*

Arrests; Percentage of all arrests; Arrest rate/100,000					Arrests; Percentage of all arrests; Arrest rate/100,000				
County	Pop	Arrests	Pct	Rate	County	Pop	Arrests	Pct	Rate
Sequoah	41,024	693	24%	1,689.3	Greer	5,810	23	9%	395.9
Marshall	14,830	224	30%	1,510.5	Kingfisher	14,320	53	18%	370.1
Johnston	10,402	139	21%	1,336.3	Wagoner	67,239	241	12%	358.4
Cotton	6,299	76	22%	1,206.5	Major	7,190	25	9%	347.7
Craig	15,195	174	22%	1,145.1	Nowata	10,723	37	11%	345.1
Pontotoc	36,571	397	15%	1,085.6	Noble	11,124	38	17%	341.6
Custer	26,111	275	20%	1,053.2	Canadian	103,559	351	11%	338.9
Coal	5,709	59	42%	1,033.5	Rogers	83,105	279	15%	335.7
Murray	12,695	130	17%	1,024.0	Ottawa	32,474	109	12%	335.7
Logan	36,435	370	30%	1,015.5	Washita	11,667	39	23%	334.3
Pittsburg	44,711	450	24%	1,006.5	Creek	69,073	221	11%	320.0
Dewey	4,338	43	16%	991.2	Le Flore	49,715	159	14%	319.8
Pushmataha	11,666	110	15%	942.9	Ellis	3,911	12	19%	306.8
Tillman	8,148	75	25%	920.5	Grady	50,615	155	15%	306.2
McCurtain	33,539	299	21%	891.5	Alfalfa	5,593	16	18%	286.1
Beckham	19,700	168	9%	852.8	Lincoln	32,272	86	20%	266.5
Carter	47,582	401	12%	842.8	Hughes	13,680	36	11%	263.2
McClain	31,849	264	28%	828.9	Cimarron	2,664	7	12%	262.8
Woods	8,319	66	23%	793.4	Beaver	5,380	14	13%	260.2
Tulsa	585,068	4,262	15%	728.5	Harmon	2,837	7	7%	246.7
Haskell	12,059	87	20%	721.5	Kiowa	9,456	23	9%	243.2
Garvin	27,141	194	14%	714.8	Roger Mills	3,308	8	13%	241.8
Bryan	39,563	282	11%	712.8	Blaine	12,475	30	10%	240.5
Oklahoma	701,807	4,999	15%	712.3	Adair	21,902	48	5%	219.2
Love	9,112	63	23%	691.4	Okfuskee	11,248	20	13%	177.8
Kay	45,638	314	11%	688.0	Osage	45,523	80	4%	175.7
Payne	79,931	501	15%	626.8	Texas	20,032	33	5%	164.7
Jefferson	6,273	39	22%	621.7	Grant	4,497	7	10%	155.7
Latimer					Latimer	10,508	15	24%	142.7
STATEWIDE	3,617,316	22,324	14%	617.1					
Pawnee	16,447	100	12%	608.0					
Muskogee	71,116	424	9%	596.2					
Garfield	57,657	343	16%	594.9					
Caddo	29,296	174	10%	593.9					
Comanche	113,811	672	10%	590.5					
Seminole	24,179	139	10%	574.9					
Washington	49,888	279	9%	559.3					
Harper	3,254	18	14%	553.2					
Jackson	25,778	135	9%	523.7					
Cleveland	236,452	1,203Ä	10%	508.8					
Mayes	39,627	201	12%	507.2					
Atoka	14,512	73	20%	503.0					
Woodward	19,505	90	5%	461.4					
Cherokee	45,393	207	18%	456.0					
Delaware	40,406	175	11%	433.1					
Pottawatomie	69,038	295	9%	427.3					
Stephens	43,322	174	8%	401.6					
McIntosh	19,709	79	17%	400.8					
Choctaw	15,011	60	11%	399.7					
Okmulgee	39,300	157	12%	399.5					



## Oklahoma Mental Health Courts

Edward M. Blau, Assistant District Attorney, Oklahoma County

### About The Author

Ed Blau is an assistant district attorney for Oklahoma County, and his primary duties include overseeing Oklahoma County's Drug Court and Mental Health Court. Prior to joining the DA's office, Mr. Blau served as an assistant public defender for Oklahoma County. Mr. Blau earned a B.A. in political science with a minor in business administration from the University of Oklahoma in 2001 and his J.D. from the University of Oklahoma College of Law in 2005.

This article Mental Health Courts (Published 78 OBJ 2823 (November 3, 2007)

For many Oklahomans, the issue of mental illness is shrouded in ignorance and misunderstanding. Schizophrenia, bipolar disorder, dissociative identity disorder and major depression are words we often hear, but the real life effects of these disorders can seem distant unless you or someone you are close to has suffered from a mental illness. However, mental illness affects us all, either directly or indirectly.<sup>1</sup>

The state of Oklahoma has the highest rate of serious mental illness in the country, estimated to be at least 10.4 percent of the population. Hawaii has the lowest rate at 5.1 percent, with the national average being 7.4 percent.<sup>2</sup> According to the National Alliance on Mental Illness' state by state report card, Oklahoma earned a "D" for its failure to make the mentally ill a statewide priority.<sup>3</sup> Oklahoma is ranked 46th nationally in per capita funding for the treatment of mental illness, and that lack of support for the mentally ill translates into an overall economic impact of \$1.8 billion annually. This impact stems from disability payments (SSI or Medicaid) to the seriously mentally ill, treatment costs, loss of productivity, and the burden on the criminal justice system.<sup>4</sup>



Beginning in the 1960s, there was a movement toward deinstitutionalization of the mentally ill. Nationally, the number of mentally ill patients in long term in-patient facilities has fallen from approximately 500,000 to fewer than 70,000 over the last 30 years.<sup>5</sup> This trend was felt in Oklahoma as well, and that movement is still

occurring. According to NAMI's report card narrative for the state of Oklahoma:

"Since 2000, the state has closed one of two hospitals, attempting to redirect resources to community-based services. The strategy's implementation has proven chaotic and exposed state disorganization and lack of service capacity. [T]he state is now floundering to provide an adequate number of psychiatric beds. Many Oklahomans who need psychiatric hospitalization face four to six hour trips to the nearest receiving hospital."<sup>6</sup>

As the treatment options for the seriously mentally ill have waned, the number of mentally ill individuals in the criminal justice system has skyrocketed. In effect, jails and prisons have become the new "psychiatric hospitals." The Oklahoma County jail houses approximately 2,800 inmates, 500 of which are prescribed psychotropic medication, making it in effect the state's largest mental institution. In addition, a recent report by Human Rights Watch found that American prisons and jails contain three times more mentally ill people than do our psychiatric hospitals. This statistic becomes even more significant considering Oklahoma is in the top five states in per capita incarceration and is the top state in female incarceration.<sup>7</sup>

It is estimated that in Oklahoma's prisons, one-third of inmates have some symptoms of mental illness, one-fifth have been diagnosed with a serious mental

illness and one-sixth take daily medication for their illness. Additionally, of the inmates who have been diagnosed, nearly 57 percent are incarcerated for non-violent offenses. The numbers are staggering, especially in light of the fact the average yearly incarceration cost for one inmate is approximately \$20,000.<sup>8</sup> According to the Governor's and Attorney General's Blue Ribbon Task Force on Mental Health, Substance Abuse, and Domestic Violence, the fiscal year 2003 cost attributed to mental health conditions within the Oklahoma criminal justice system was \$214 million, which has undoubtedly increased since that date. The cost included expenditures related to judicial, corrections and law enforcement services required by individuals with mental illnesses.<sup>9</sup>

At present, the Oklahoma Department of Corrections is at capacity, meaning it cannot process an inmate into the system without first processing an inmate out. As truth-in-sentencing laws remain in effect, there will be fewer and fewer beds available in DOC for non-violent offenders or those violent offenders whose sentences do not fall into the "85 percent crime" category, meaning a full 85 percent of their sentence must be served before they are eligible for parole. Given the limited resources available to corrections, lawmakers have begun to move toward alternatives to incarceration for non-violent or minimally violent offenders.<sup>10</sup>

### **HISTORICAL CONTEXT**

The mental health court concept originated in Broward County Florida in 1997, in the wake of the national drug court movement. The pressures that led to the development of the mental health court strategy included crises in community mental health care (the long-term effects of the aforementioned deinstitutionalization), the drug epidemic of the 1980s and 1990s, the dramatic increase in homelessness over the last two decades, and widespread jail overcrowding. Broward County's goal was to "develop a system of care for the mentally ill defendants and to devise ways to integrate and more closely link the community-based mental health care system with the criminal justice system." Shortly after Broward County developed its program, Seattle, San Bernardino, Anchorage and Salt Lake City followed suit.<sup>11</sup>

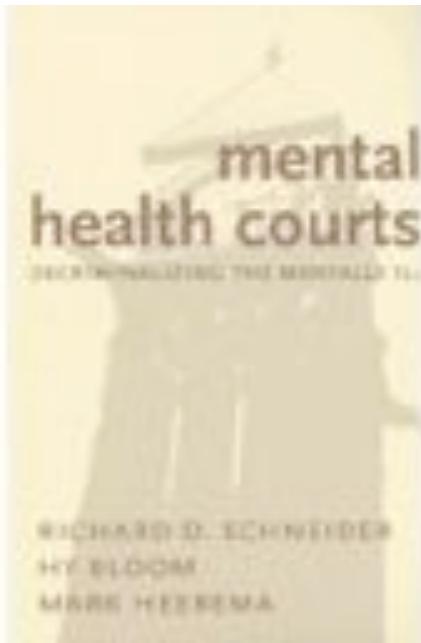
In May 2002, the Oklahoma legislature passed and the Governor signed into law the "Anna McBride Act," allowing for the development of mental health courts in Oklahoma.<sup>12</sup> Anna McBride was a tireless advocate for the mentally ill in Oklahoma, and her leadership resulted in the legislation which bears her name. Unfortunately, Ms. McBride passed away shortly after the legislation took effect and was unable to see the growth of the mental health court system in Oklahoma. This growth started with the development of the Oklahoma County mental health court, the first in the state. Currently, Oklahoma has seven mental health courts.

### **MENTAL HEALTH COURTS IN PRACTICE: OKLAHOMA COUNTY**

According to its mission statement, the Oklahoma County Mental Health Court is "a program that integrates mental health care with the criminal justice system for the promotion of public safety, individual responsibility, citizenship, reduction of the recidivism rate and restoration of human dignity for those diagnosed with mental disorders." It continues, "the MHC program promotes public safety by bridging the gap between persons with mental illness and mental health services. The ultimate purpose of this program is the continued wellness of the participant and the reduction of the incidents of crime committed by persons with mental illness." On the most basic level, the MHC program offers a treatment-based alternative to incarceration, which greatly benefits both the participant and the Oklahoma taxpayer.<sup>13</sup>

In its current configuration, the MHC is a "pre-sentence/post plea" program, meaning the defendant must plead guilty to the crimes with which s/he is charged. Sentencing is postponed until the participant graduates from the program, at which time the case is dismissed, or until the participant is revoked from the program, at which time the defendant is immediately sentenced to a previously agreed number of years in DOC.

The eligibility criteria for participation are specific. The offender must have a diagnosed serious mental illness (SMI-Axis I) that factored into the crime the offender is charged with. The offender must have



pending felony or serious misdemeanor charges. If the defendant is charged with or has a prior conviction that is considered violent under 57 O.S. Sec 571, then s/he is not eligible for the program. Additionally, the offender must be legally competent and capable of benefiting from the MHC program, which is limited to Oklahoma County residents only. All decisions on admittance are made by the MHC "team."

As it is configured in Oklahoma County, the MHC team is made up of two separate groups; the MHC Core Team and the MHC Support Team. The Core Team includes the (special) judge, assistant district attorney, public defender or defense attorney, probation officer, MHC intensive case manager, and the mental health court liaison. The Support Team includes the psychologist, crisis intervention team officers of the Oklahoma City Police Department, and representatives of the Oklahoma Mental Health Consumer Council. Any of the Core Team members can recommend an applicant to be denied based on their priority and area of expertise, but all team members should freely disclose all relevant information on applicants and participants to the team. The final decision, however, is made by the judge.

The applicant intake process starts when an individual is referred to the MHC, and that referral can come from any source. The most frequent referrals come from either the individual's defense attorney or the prosecutor originally assigned to the case. Once referral is made, the Liaison tracks the applicant and keeps the other team members advised of all issues affecting the applicant. However, before the individual can be fully processed he must first pass an initial eligibility assessment made by the MHC liaison and by the assistant district attorney. Initially, the Liaison interviews the applicant and has the applicant consent to release all mental health records from the previous year. This is done to ensure the presence of an Axis I diagnosis and to ensure the applicant truly wants to be a member of the MHC. Concurrently, the assistant district attorney reviews the candidate's current charges as well as the candidate's full criminal background, which is supplied by the OCPD crisis intervention team member. If there are no red flags, the liaison then arranges for the team's probation officer to conduct a Level of Services Inventory-Revised and for the team's psychologist to conduct a full psychological report of the defendant.

Once all the steps are completed, the team reviews all the data that has been compiled in order to make a final decision on the candidate. If there are no objections based on the previously compiled reports, the candidate is then interviewed by the MHC team. This interview allows the team to observe the applicant's demeanor and affect and to allow the team to ask any pertinent questions. Assuming no issues, the candidate is given a date on which to plead into the MHC program, usually within one to two weeks. It should be noted that at any time during the entire application process the defendant may withdraw his application; additionally, the MHC team may deny the defendant's application for any reason deemed appropriate.

After the new participant has pled into the program, s/he is then placed in one of two tiers of treatment: the individual support track or the program support track. Participants in the individual support track are those at highest risk for decompensation and/or re-offending. IST participants are generally moderate to



low functioning, and it is the team's goal that these participants can maintain a reasonable level of self-care, independence and responsibility. Most IST participants live in a residential setting where they can be monitored and offered any support they may require. They must take all medications as prescribed, meet regularly with the MHC probation officer, meet individually with the judge and team and abstain from all drugs and alcohol. An IST participant may graduate from MHC after a minimum of one year consecutive medication compliance and stability with no new offenses.

The program support track is for the seriously mentally ill individual who can benefit from the guidance and encouragement of both the MHC team and the other participants. The PST is a leveled system where a participant moves through four levels of treatment and supervision, depending on their progress within the program. The levels start with the most intensive supervision and, with each level promotion, the participant's level of supervision is decreased. Ultimately the goal is graduation and eventual independence of any court supervision. As the participant progresses through the levels, the treatment requirements will be revised to meet the changing needs of the participant. The participant must be on each level a minimum of three months before s/he's eligible to move up.

All MHC sessions, with the exception of those participants on the IST, are considered "open court." Due to privacy concerns, all participants are

addressed with their first name only. At each court session attended, the participant comes forward and sits in the witness stand and gives the court an update on his/her progress. Participants are encouraged to share any positive experiences they have had since their previous court date; however, they are also encouraged to self-report any violations of MHC rules. It is the judge's responsibility to give both positive reinforcement and issue sanctions where appropriate. Depending on the level of violation of MHC rules, the participant may be sanctioned to community service, to write a paper, or in the most serious situations, a few days in the county jail.

Once the requirements have been met, the participant must petition the court, stating their progress in order to be promoted to the next level. The criteria for promotion should be based on the participant's progress, compliance with orders, length of sobriety, the meeting of treatment goals, attitude and any other relevant factors. These levels are designed to be outcome based focusing on results as opposed to time served. If the team denies a participant's petition for promotion, the team must state the reason and what is necessary for the participant to be eligible for promotion. On promotion to the next level, the participant receives an incentive and is directed by the judge to move their "star" to the next level on the Honor Roll, which is a large public chart indicating each participant's progress. As a newly promoted participant is moving their star, the other participants and the MHC team are encouraged to applaud and otherwise give support and appreciation.

As a participant moves through the MHC program, all aspects of their life are monitored by the team. If a participant suffers a relapse or if their mental health status changes, the team may elect to place the participant in an inpatient treatment setting, which may be either short term or long term. Additionally, the team is in contact with the participant's psychiatrist or prescribing physician to ensure that all aspects of their treatment are covered. Each participant's living situation is closely monitored to make sure they have a healthy environment in which to live, and it is required that they continue to make restitution or pay their court costs if ordered to do so by the court.

Once a participant reaches Level 3, s/he begins the slow transition to life outside the MHC structures. Each participant is required to invest a minimum of one hour per week on a selected community giveback activity. This provides the participant a proactive means to strengthen connections with and contribute to the general welfare of his community. Also, each participant must complete a Transition Plan, which is the participant's blueprint for independence from the court's jurisdiction. The goal is for the participant to continue to live as a responsible and productive member of the community.

A participant who has successfully progressed through the four levels must submit a petition to the court for graduation from MHC. The participant's criminal charges are disposed of according to the plea agreement as long as all financial obligations are met. The participant's family, friends, treatment providers and other guests are invited to attend. The participant is given a copy of his/her case dismissal and a certificate of graduation. After graduation, the participant is encouraged to maintain a connection with the MHC by being involved in the Court Alumni Club, which meets four times per year at the direction of the MHC liaison.

A participant may be revoked from the program for repeated non-compliance with his/her court requirements and/or after available graduated sanctions have been exhausted without correction of the identified problematic behavior(s). The team must give the participant notice that s/he is at risk for revocation in a time frame that allows the participant to correct the identified problematic behavior. A new offense is immediate grounds for revocation. An application to revoke will be filed by the assistant district attorney in accordance with the negotiated plea agreement. The participant has an absolute right to request a full hearing before either the MHC judge or the original district judge to whom the case was originally assigned. If the state's application to revoke is sustained, the participant is immediately sentenced to previously agreed upon number of years in the Oklahoma Department of Corrections.

## CONCLUSION

Across the nation, mental health courts were developed as a therapeutic diversion program to mandate and enforce appropriate mental health and substance abuse services for seriously mentally ill offenders. By using this approach, the community benefits by increased safety of mentally ill offenders without the cost of incarceration, which generally is \$13,000 per year more than mental health court and with reduced probability of recidivism. The participants benefit by the provision of treatment opportunities to increase personal skills, decrease debilitating effects of mental illness and remain in the community as an active member of society.

- (1. Mental Health, Substance Abuse, and Domestic Violence. Source: *Oklahoma Governor's and Attorney General's Blue Ribbon Task Force*, February 2005.
- (2. 2001 State Estimates of Substance Use and Serious Mental Illness. Source: SAMHSA, Office of Applied Studies, National Household Survey on Drug Abuse, 2001.
- (3. NAMI: Grading the States 2006: Oklahoma – Narrative
- (4. "Shoveling Up: The Impact of Substance Abuse on State Budgets". The National Center on Addiction and Substance Abuse at Columbia University. January 2001."
- (5. Adelson, Tom, "Spending on Prisons: Guns or Butter", [www.tomadelson.com/issues/prison.funding.php](http://www.tomadelson.com/issues/prison.funding.php).
- (6. See footnote 3.
- (7. Simpson, Susan, "Should Prisons Punish or Prevent?", *The Daily Oklahoman* , November 11, 2005.
- (8. *Ibid.*
- (9. See footnote 1.
- (10. Associated Press, "Oklahoma: Sentencing policies to add hundreds of state prisoners,""The Joplin Globe, July 27, 2007.
- (11. U.S. Department of Justice, "Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts", April 2000.
- (12. 22 O.S.£ 472.
- (13. All information contained in this section and Conclusion was derived from the Oklahoma County Mental Health Court operations manual and from the personal knowledge of the author.

## **Tulsa County Mental Health Courts**

*Bill Braun, World Staff Writer, Tulsa World, July 8, 2008*

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*"Specialized court has a full house: Nonviolent mentally ill criminal defendants outnumber spaces."*

*'So many people with aggressive behavior will clearly have a mental health issue.' Larry Edwards defense lawyer*

The demand to get into Tulsa County's Mental Health Court has substantially surpassed the supply of treatment slots for nonviolent but mentally ill criminal defendants. With one year of operation under its belt, the therapeutic court had 38 active participants as of July 1.

About three times that many defendants who were referred to the program have been declined admission for a variety of reasons.

The specialized court, whose initial docket was called in June 2007, received state funding to fit in a caseload of 50 people. Mental Health Court provides an alternative to incarceration, with an emphasis on monitoring and accountability, for criminal offenders who have been diagnosed with serious mental illnesses. Participation is voluntary, and people who want in can't claim that they are innocent.

Prosecutors have veto authority to keep a candidate from being admitted. At the time of their admission into the program, Mental Health Court participants have faced an assortment of charges, such as drug possession, larceny, unauthorized use of a vehicle, burglary, driving under the influence of alcohol, false impersonation, malicious injury to property and obstructing an officer.

Charges involving certain violent crimes are grounds for automatic exclusion, but the court is treating some defendants who are charged with assault and



battery, including a couple who are charged with assault and battery on a police officer. Those assault cases were "not egregious," and assaulting a

police officer "is very typical" behavior by a mentally ill person, Assistant District Attorney Kim Hall said. "Every alternative court is a work in progress because you are always trying to figure out the best way to protect the public, but at the same time figure out who is best served by treatment as opposed to prison,"

First Assistant District Attorney Doug Drummond said in an e-mail. "If we can identify those defendants with specific mental health needs and help them stay away from crime, then it is a win-win situation," he wrote. Drummond thinks this court has "done extremely well."

Defense lawyer Larry Edwards, who has two clients in Mental Health Court, said the program "provides additional treatment they couldn't get in another court." He thinks court officials, in deciding whom to let in, are eliminating people with "aggressive tendencies" who could benefit from the services available. "So many people with aggressive behavior will clearly have a mental health issue," Edwards said.

Special Judge Carlos Chappelle, who has presided over the court since February, said, "the potential is there to do a whole lot of good." The regimen consists of four phases" - orientation and engagement, stabilization, building independence, and transition. The program involves mandatory mental health treatment, regular and frequent courtroom appearances, medication compliance and drug testing. It is set up to require at least 13 months to complete.

Tulsa County's Mental Health Court has not yet had its first graduate. Three defendants have been terminated from the program - two who were sent to prison and one who was transferred to Drug Court, Hall said. Defendants who don't comply with the program's rules can face sanctions that include judicial admonishment, increased drug testing, community service and jail stints."

"We use jail sanctions as a last resort," Chappelle said. The primary diagnoses of program participants are bipolar disorder, schizophrenia, clinical depression and bipolar disorder with psychosis. Almost all participants have a "co-occurring substance abuse disorder," records show.

People with a mental health issue often "self medicate" in an effort to cope, said District Judge Rebecca Nightingale, who has a supervisory role over the court's progress." The whole idea is for people to get control of their mental health problems so that they can get control of their lives," she said.

Rose Ewing, who has worked on multiple specialized courts for the Community Service Council of Greater Tulsa, said getting clients clean and sober doesn't ensure that "everything is going to be just fine." It is a lifelong condition," Ewing said.

The local court system has regularly handled civil proceedings related to involuntary mental health commitments, but previously there was no therapeutic court approach to criminal defendants with mental illnesses.

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## *Alternative Courts Gain Ground for Petty Criminals*

*Donna Leinwand, USA Today, June 10, 2008*

Cities and counties increasingly are creating innovative community courts to deal with the growing number of habitual petty criminals that police call "frequent fliers."

Criminals who are arrested repeatedly for crimes such as public drunkenness, trespassing and panhandling are crowding jails and sapping police resources, officials say. The cost of handling small-time criminals who cycle in and out of jail is becoming a more pressing problem for communities as budgets tighten and jail populations swell.

The new courts sentence "frequent fliers" to treatment plans and social services, such as mental health and substance abuse treatment, instead of jail.

"It's the new frontier," says Amy Solomon, who studies criminal justice at The Urban Institute in Washington. "There is a new realization and recognition" that incarceration is not the best solution. "I think it'll grow and continue to pick up."

Lincoln (Neb.) Police Chief Tom Casady says that his list of people arrested more than 200 times each has grown from 17 in 2002 to 83. "The overall impact of the 'frequent flier' on the criminal justice system is great," Casady says. "If you can stop that trend in one way or another, there's a huge amount of money that can be conserved" — perhaps thousands of dollars in Lincoln alone.

Cities began taking low level crime seriously in the 1990s, says Greg Berman, director of the Center for Court Innovation. Now communities — many with overcrowded jails — must deal with these offenders.

In the last two years, community courts have opened in Lynchburg, Va., Santa Monica, Calif., and San Antonio. Among courts set to open:



- Orange County, Calif., will open a community justice center in August. Defendants will have access to 24 social service agencies, including substance abuse treatment, housing and a mobile pharmacy. Police officers may choose not to charge offenders who agree to seek treatment.

"What we needed to do is revamp the way we handle these individuals," Superior Court Judge Wendy Lindley says.

- Newark will open the first phase of its community court project this summer, says Julien Neals, the city's attorney.

Last year, the existing court system handled about 500,000 disorderly person offenses, up from 480,000 the previous year, Neals says. Many of the offenders are unemployed or have alcohol, drug or mental health problems, he says. Community court staff will screen defendants to identify their problems and link them with services instead of jail or fines.

- Athens-Clarke County in Georgia will open the Treatment and Accountability Court in July. Mentally ill offenders will be sentenced to treatment plans instead of jail, Superior Court Judge David Sweat says. Completing treatment and tasks will bring rewards, such as bus passes and food coupons, while failures will bring sanctions such as jail time or more contacts with probation officers, he says.

An analysis of the county's overcrowded jail in August 2007 found most of its male inmates had been there before — on average, 10 times in the past 15 years, says court administrator Tracy BeMent. One inmate was on his 112th visit.

"The judges finally realized this isn't working," says Probate Judge Susan Tate. "We sentence them, we set

## *A “Technocorrectional” Approach to Prison Alternatives*

*Michael Connelly, PhD, Administrator, Evaluation & Analysis, Oklahoma Department of Corrections*

*Dr. Connelly previously served as executive director of sentencing commissions in Maryland and Wisconsin as well as research director for the Oklahoma sentencing commission. He has also managed grant projects for the Justice Research and Statistics Association and been an associate professor of public policy and administration for Southwestern Oklahoma State University as well as adjuncting for the University of Maryland and Norwich University. His research has appeared in policy, political science, education, criminal justice, and sentencing journals as well as in government publications.*

As Oklahoma’s prison policy continues to run up against finite resources, it is all but inevitable that “technocorrections” will increasingly dominate discussions about alternatives. The term, originally coined in 2000 in a National Institute of Justice “paper” by Tony Fabelo, then director of the Texas Criminal Justice Policy Council, refers to “[e]merging technologies” in three areas:

- *electronic tracking and location systems,*
- *pharmacological treatments, and*
- *genetic & neurobiological risk assessment*

Fabelo understood the emerging reality eight years ago: “Diverse, convergent cultural forces are promoting them. While these technologies may significantly increase public safety, we must also anticipate the threats they pose to democracy.”

His reaction? “We need to start debating the ethical and legal questions that have to be answered if we are to understand how to prevent the state from using the



technocorrectional establishment in ways inconsistent with constitutional or ethical standards. Because the application of technologies tends to move faster than the enactment of laws to manage them properly, legal protections need to be developed immediately.”

Fabelo broke the three elements of technocorrections into these examples:

**Electronic tracking/location systems** - electronic monitoring as currently exists, satellite tracking, creation of electronic “safe zones” triggering alarms and warnings, miniature cameras in residences, miniature electronic devices implanted to track and to monitor bodily functions;

**Pharmacological treatment** - drugs to affect levels of brain neurotransmitters to control substance abuse or serotonin levels impacting violence; and

**Biotechnology** - results of DNA and genome research driving development of “gene management” technology in humans as currently used in agriculture and some areas of medicine, specifically on levels of serotonin and dopamine (associated with substance abuse, risk-taking, and sexual behavior), and leading to genetic profiling and preventive intervention (already preceded in civil commitment of sex offenders).

Fabelo noted that individual and corporate entrepreneurs had already succeeded in marketing “solutions” to our ever-increasingly risk-averse society. New interventions get sold, as he said, based on the assumption that “[a]nything that can

happen *could* happen and therefore needs attention [emphasis in original].” When the risk-aversion occurs in public safety, the result is demand for and supply of “solutions” for recidivism and avoidance of “poster children” criminals highlighted by media and interest groups, including the entrepreneurs.

The rise of these advances, Fabelo believed, possessed clear advantages, but he concluded with lucid consideration of their potential dangers as well:

*. . . today, the interval between product development and the market can be almost instantaneous. We no longer have the luxury of time to anticipate the effects of technological innovations on society or to prepare for violations of our rights and privacy that they might suggest. The implementation and marketing curve has surged far ahead of the relatively sluggish enactment of legal and regulatory standards for appropriate applications of technology.*

*As the development of technological innovation soars exponentially, it is not too early to start debating their potential threats. Can we shape the way these technologies will be applied to corrections? Can we encourage—through policies, funding, or research and development—the application of these technologies in less regimented and more effective ways and thereby prevent the development of an extensive, government-controlled surveillance, incapacitation, and preventive incarceration apparatus?*

Fabelo suggested a call for “values-based technocorrections.” “There needs to be a consensus about a values framework for promoting appropriate technocorrections,” he said. And he called for three initial steps in its development:

- *Sponsoring an initiative to identify emerging technologies, indicate how they might be applied to corrections, and provide scenarios for applying them, with timelines of their marketability.*
- *Organizing private and public symposiums to develop scenarios of how best to apply the technologies, identifying and weighing the anticipated benefits and disadvantages of each technology profiled.*
- *Developing model policies, for consideration by State policymakers, that minimize the potential threats in applying the new technologies in a correctional setting.*

He concluded that “[i]n our democracy, the debate over how best to balance the use of correctional techniques to maintain public safety against the need to preserve essential freedoms must take on a new urgency as technocorrections develop.”

One of the problems with Fabelo’s call for action, the development of awareness and networking of public and private entities around the need for planning and structuring, was that he proposed no mechanism to form and coordinate this response. That does not mean that Fabelo’s recommendations and action plan are doomed. It just means that states need to consider specific structures for their development and implementation.

They need to create councils devoted specifically to technocorrections that can then provide research, information, guidance, education, and warnings to policymakers and advocacy groups as the technologies expand and colonize our correctional policies and operations.

What would, say, an “Advisory Council on Technocorrections” (ACT) look like?

## **Here's one possibility.**

Since the issues associated with technocorrections involve biotechnology applied to corrections of adults and juveniles, ACT should be composed not only of the state directors of corrections, probation, parole, and juvenile justice, but also of health, mental health, and substance abuse treatment, as they are configured in the individual states. ACT could operate out of the governor's office, a department of administration or corrections, or a legislative bureau.

To support these busy directors, ACT would also oversee a support committee made of research, treatment, and administrative representatives of each state department and of designated university specialists in science and engineering. This latter body would use their representatives' support staff to produce each year a draft report on use, costs, and the near future of technocorrections as well as making recommendations for state action. ACT would then consider and approve its version of this report for an "Annual Report and Recommendations" to the governor and the legislature.

What would ACT's focus and jurisdiction be? While not forgoing discretion to expand as necessary as technology evolves, ACT would be required to address at least five areas each year: ethics, monitoring, implementation, research, and education. Ethics would include development of standards for adoption and practice of any technocorrections sanctions or treatments as well as preparation of complaint and challenge mechanisms.

Monitoring would include oversight, program review, and evaluations of any ongoing technocorrections practices as well as analysis of the fiscal and social impact of

proposed legislation and regulations. Implementation would include program planning, testing, piloting, and coordination within and across state and local agencies as well as liaison with private organizations and the federal government to resolve jurisdictional and liability disputes.

Existing drug and mental health courts, community sentencing programs, and institutional treatment programs would provide excellent institutional mechanisms through which to funnel the reports and the recommendations for use and action. In fact, funding for these efforts could be made contingent on demonstrated and evaluated application of the recommendations and remedies.

Research would include provision and oversight of grant funding to appropriate bodies to test, pilot, and review technocorrections activities in the particular state as well as holding annual research conferences and sponsoring peer-reviewed journal articles and books on technocorrections applications and problems. Education would include development of materials, workshops, and counsel to assist public knowledge and consideration of technocorrections as well as ensuring adequate comprehension of trial practitioners and of policymakers of the advantages and disadvantages of specific technocorrections alternatives as well as technocorrections generally.

Each ACT annual report would detail its activities and outcomes in these five areas and in others that might arise. From its work, the governor and the legislature would each year receive a blueprint to guide both the cost-effective and the ethical use of technocorrections in the state for the long-term benefit of public safety, health, and budgets in the future.

## **Solving Prison Overcrowding Circa 1995**

*Sharon R. Neumann, Deputy Director, Community Sentencing, Oklahoma Department of Corrections*

*Editors Note:*

*Prison overcrowding? Recently our Legislature paid almost \$1 million to purchase a study of its options concerning prison overcrowding circa 2008. It's "déjà vu" all over again.*

*Oklahoma faced down this very same issue a decade ago - then blinked and lost its political nerve. Opportunity lost. In the mid-90's the Legislature asked for a study, drafted and passed an Omnibus Bill (HB 1213), delayed implementation, and then repealed the bill. One of few programmatic "survivors" was a community sentencing reform.*

*The Oklahoma Academy was involved in this debate. The Academy sponsored a major 1996 conference "Building Safer Communities - Crime: Prevention, Detention and Community Action." Among other issues, the conference featured the benefits of alternative sentencing and community corrections. The Academy's recommendations became one of many inputs into HB 1213.*

*This is a chronicle of events written by Ms. Neumann.'*

The State traditionally has had a very high incarceration rate. The War on Drugs and Get Tough on Crime policies of the early 1990's furthered Oklahoma's burgeoning prison population.

### **1995 ... Prison Overcrowding**

By 1995, overcrowding had reached crisis proportions. The Oklahoma Department of Corrections (DOC) became active in seeking a solution to this prison overcrowding.

The DOC applied to the Edna McConnell Clark Foundation (EMCF), funded by the heirs of Avon cosmetics, for a grant to become a member of its State Centered Program (SCP) which focused on data driven criminal justice public policy. The DOC, through a competitive process, was selected in early 1995 as a grantee and SCP participant. To guide grant activities, the SCP required the selection and



participation of a Steering Committee comprised of State leaders involved in making, implementing, or driving sentencing policy.

The Oklahoma Criminal Justice Reform Steering Committee selected included leaders from both legislative bodies, representatives of the judiciary, a prosecutor, the executive director of the sheriffs' association, directors of State criminal justice agencies, and members of citizen groups focused on policy related issues.

With the assistance of EMCF funded staff and subject matter experts, the Steering Committee examined the State's criminal laws, punishments, and sentencing practices as well as its incarcerated, parole, and probationary populations. Through educational seminars attended by representatives of the various SCP grantees, the members were afforded the opportunity to learn about the impact in other states of structured sentencing (sentencing guidelines) and community corrections acts.

The Steering Committee's plan for the 15 month grant period focused on two major initiatives, supported by an intensive public education program: developing sentencing guidelines, which would incorporate truth in sentencing, tied to capacity; and creating and implementing a community corrections act. A Truth in Sentencing Policy Advisory Commission was legislatively tasked with similar goals. While the Steering Committee offered assistance to the Commission with resources from the SCP grant, the groups coordinated efforts minimally.

The Steering Committee also chose members of the Communications Council, which managed the public education campaign. That group commissioned two public opinion surveys, one conducted by an out-of-state firm and one conducted by the University of Oklahoma, along with citizen focus groups. Similar outcomes were produced by all studies. Oklahomans tended to think of violent offenses such as murder or rape when they heard the term "crime" and to think

## **Percentage Behind Bars**

*2005 Bureau of Justice Statistics*

Listed below are the total number, by state, "under correctional supervision" - and the percentage who are in jails and prisons as opposed to being in the community on probation or parole. Oklahoma has the fifth highest percentage (47.9%) in prison suggesting longer than average sentences with fewer opportunities for early release.

STATE	TOTAL	PCT
Mississippi.....	47,500.....	56.0
Virginia .....	102,500.....	54.6
West Virginia.....	14,000.....	50.5
Nevada.....	32,400.....	49.7
Oklahoma.....	62,100.....	47.9
Utah .....	22,400.....	46.9
Kansas.....	34,400.....	45.7
Tennessee.....	90,900.....	45.6
Louisiana.....	106,600.....	45.5
South Carolina .....	79,400.....	45.5
New Hampshire .....	9,400.....	43.6
New Mexico .....	30,100.....	43.6
Kentucky.....	63,100.....	43.4
Alaska .....	10,900.....	41.7
Alabama.....	74,200.....	39.2
South Dakota .....	11,600.....	38.2
Montana.....	12,500.....	38.1
Arizona.....	112,700.....	36.9
Missouri.....	110,600.....	36.0
Wyoming.....	8,100.....	35.5
New York.....	278,400.....	35.3
North Dakota.....	5,700.....	34.0
Wisconsin.....	101,800.....	33.9
Iowa .....	36,200.....	33.7
California.....	725,600.....	33.2
Colorado .....	84,700.....	33.0
Florida.....	423,900.....	31.8
<b>UNITED STATES.....</b>	<b>6,889,800.....</b>	<b>30.2</b>
North Carolina.....	165,500.....	30.0
Arkansas.....	59,600.....	29.9
Texas.....	738,000.....	29.0
Maryland .....	128,400.....	28.6
Illinois.....	244,400.....	26.6
Maine .....	13,400.....	26.4
Nebraska.....	25,800.....	26.2
Connecticut.....	74,100.....	26.0
Delaware.....	26,200.....	25.9
Michigan.....	263,100.....	25.6
New Jersey.....	183,600.....	25.1
Pennsylvania.....	315,000.....	24.0
Indiana .....	155,300.....	23.6
Oregon.....	83,100.....	22.4
Ohio .....	301,400.....	21.6
Hawaii .....	25,200.....	21.0
DC/c.....	15,400.....	20.3
Massachusetts.....	153,300.....	14.6
Washington .....	199,500.....	14.5
Rhode Island.....	27,700.....	12.8
Vermont.....	12,000.....	11.9
Minnesota .....	127,900.....	10.6
Georgia .....	533,500.....	(d)
Idaho.....	43,600.....	(d)
<b>NORTHEAST.....</b>	<b>1,067,000.....</b>	<b>25.7</b>
<b>MIDWEST.....</b>	<b>1,418,300.....</b>	<b>25.6</b>
<b>SOUTH .....</b>	<b>2,730,900.....</b>	<b>31.2</b>
<b>WEST.....</b>	<b>1,390,800.....</b>	<b>30.5</b>
<b>UNITED STATES .....</b>	<b>6,889,800.....</b>	<b>30.2</b>



of prison as the proper punishment for such crime. However, when "crime" was given more specific definition, such as listing a non-violent property or substance abuse related offense, Oklahomans were likely to support treatment in the community as an appropriate punishment. These results encouraged the Steering Committee.

Nonetheless, reform efforts stalled.

Legislative members of the Steering Committee unsuccessfully sought passage of a community corrections act during both the 1995 and the 1996 sessions. Sentencing guidelines, which were not linked to resources and were projected to be quite costly in terms of prison beds, were developed by the Truth in Sentencing Policy Advisory Commission but did not find legislative support.

### **1996 ... The Fields and Fields Incident**

Meanwhile ... back at the DOC ranch, prison overcrowding reached such proportion that in December, 1995, the department began contracting and leased 560 beds in Texas. Every possible administrative early release mechanism was employed until ... the horrific August, 1996, Lamont Fields incident. An inmate on an early release program killed a former girlfriend and her parents before he was killed by police.

Amidst much media attention, finger pointing, and blame, the incident ultimately resulted in the resignation of Director Larry Fields later that month. In September, 1996, James Saffle, who was a regional director under Larry Fields, was named interim director, and Michael Quinlan came to the

State to assess the department and make recommendations to Governor Frank Keating. It was a time of great conservatism. The department's involvement with EMCF was questioned. The Steering Committee met less frequently. Mr. Quinlan determined that the agency was not seriously mismanaged and suffered most from overpopulation.

### **1997 ... HB 1213 Passed**

Governor Keating challenged the Democratic legislature to solve the prison overcrowding crisis when the session began in January, 1997. The process began in early March, 1997, when the Speaker of the House and the President Pro Tempore of the Senate created the Criminal Justice Reform Group, which included legislators involved with the EMCF SCP Steering Committee, to develop a balanced and comprehensive approach to the criminal justice crisis. The bipartisan working group was asked to develop the specifics of a plan that could be supported by the House, Senate, and, ultimately, the Governor. Certain parameters were established, and specific components had to be addressed. These included:

- *A community corrections component;*
- *An affordable truth-in-sentencing plan that fit the existing population projections;*
- *An appropriation for immediate needs, as well as the annualized costs, for up to 1,500 beds in private prisons; an appropriation to fund bed spaces for at least an additional 800 medium security beds, not to exceed a total of 1,500 beds in public prisons;*
- *A Request for Purchase (RFP) process for any additional private prison beds;*
- *An RFP process for any additional public prison beds; and*
- *A statutory method of dealing with overcrowding.*

Corrections officials as well as other stakeholders were invited to attend meetings of the group and made contributions. The Criminal Justice Reform Group completed a 600 page product, HB 1213, on April 8, 1997. The components of HB 1213 included the Steering Committee's two major initiatives: sentencing guidelines, which incorporated truth in

sentencing, and linked to capacity; and a community corrections act.

The watershed piece of legislation overwhelmingly passed the House on April 9, cleared the Senate in similar fashion on April 14, and was signed by the Governor on April 22. A trailer bill, HB 1225, was later passed and contained clean-up language and some additional compromises. The sentencing reforms were to become effective a year later, July 1, 1998. **The legislation (HB 1213) was heralded in Oklahoma as fiscally responsible public safety and nationally as well conceived and progressive.**

The resource-linked structured sentencing portion of the legislation, known as the Oklahoma Truth-in-Sentencing Act, defined sentencing policy for the State and contained a truth-in-sentencing requirement. Violent and repeat offenders would be required to serve 85% of their sentences; non-violent offenders would serve 75% of their sentences.

Structured sentencing was based on a sentencing grid structure which had four separate grids or "matrices" organized around nine prior offense levels and grouped by severity of charge: one each for drug crimes, sex crimes, and intoxicant crimes involving a vehicle and one for the remainder of the crimes, called the "main matrix." Additionally, defined enhancers authorized increased levels of punishment.

The overarching sentencing policy expressed by the legislature in this new law was that sentencing was resource limited. The grid structure for each of the four matrices identified: a group of offenders who would be prison bound; a group of offenders for whom limited discretion by sentencing authorities would result in either State incarceration (DOC), local incarceration (jail), or community sanctions; and the remainder of offenders who would mandatorily receive non-prison sentences.

As a result, fewer offenders could/would be sentenced to State prison. However, the violent and repeat offenders for whom the scarce prison resources were allocated would serve longer periods of incarceration.

The purpose of the Oklahoma Community Sentencing Act contained within the omnibus legislation was to provide the planning, policy, process, and programming needed at the local level

to respond to offenders targeted by the legislature for community sanctions and services. There were legislatively targeted offenders.

The primary goal of the newly formed Community Sentencing Division within the Oklahoma Department of Corrections was to establish and implement the structures necessary for the successful introduction of the new “resource limited” sentencing policy of the State legislature.

This task was complicated by the fact that Community Sentencing Division employees had to not only educate State and local stakeholders on the purposes and implementation of the new community corrections law but also explain this law within the context of the Truth-in-Sentencing Act.

While the community corrections legislation was not particularly controversial or difficult to accept by local stakeholders, the new sentencing structure WAS because it was clearly designed to limit the discretion wielded by local criminal justice decision makers on the use of prison, jail, and community sanctions and services. The nature of the omnibus law made implementation and training issues somewhat unique because very few states have passed such comprehensive structured sentencing and community corrections legislation simultaneously.

The Truth-in-Sentencing and Community Corrections Joint Committee, comprised primarily of the bipartisan Criminal Justice Reform Group, met between sessions to conduct both House and Senate interim studies. The group encouraged entities having concerns to bring forth their issues so that resolution could be recommended prior to scheduled implementation. Sheriffs and prosecutors requested numerous changes. Sheriffs feared a shortage of jail bed space accompanied by financial worries; prosecutors wanted tougher punishments and a delay in the implementation date.

Governor Keating supported law enforcement concerns and backed a piece of legislation which proposed that the structured sentencing grids be eliminated and that offenders serve 85% of current statutory sentences, thus removing the link between resources and prison capacity. Community sentencing would be maintained with some changes.

## COMMUNITY SENTENCING STATISTICS

- **58 counties are currently active in community sentencing**
- **13,000 offenders have received a community sentence, 2/3 have substance abuse related offenses**
- **Only 20% of participants fail to successfully complete the program and are revoked or accelerated to prison**
- **Community Sentencing is a proven investment in public safety—90.5% of offenders who successfully completed the program at least three years ago remain in the community today**
- **Community Sentencing is a cents-able alternative to incarceration, costing only \$1,700 annually per participating offender**

*Sharon R. Neumann, Deputy Director,  
Community Sentencing and Offender  
Information Services. Oklahoma Department  
of Corrections. 3700 N. Classen, Suite 110,  
Oklahoma City, Oklahoma*

### 1998 ... HB 1213 Delayed

During the 1998 session, implementation was delayed until 1999.

### 1999 ... HB 1213 Repealed

Opposition mounted, and support for the omnibus crime bill deteriorated further. It was repealed during the 1999 legislative session. On the floor of the Senate, when the repeal appeared imminent, one of the bill’s crafters commented that the State would ultimately rue the day its leaders lacked the political courage to create a sensible sentencing system. The community corrections program was salvaged in a separate piece of legislation, the Oklahoma Community Sentencing Act. Pilot programs were authorized for FY 2000. However, community corrections had lost its legislatively mandated targeted population.

## **RECOMMENDATIONS**

*Academy's 11th Conference (May 1996)  
Building Safer Communities:  
"Crime: Prevention, Detention and Community Action"*

*Oklahoma Academy members  
participating in the Academy's 1996  
annual conference on "Building Safer  
Communities" proposed policy  
recommendations to address the crime  
related topics of prevention, detention,  
and community action.*

### **PREVENTION**

*Clearinghouse functions  
Research church supported programs  
Department of Education coordination  
Use unallocated state block grant money  
Public school curriculum enhancement  
Public awareness educational campaign  
Increase public funding for program types  
Evaluate requirements for daycare  
workers*

### **DETENTION**

*Truth in Sentencing support  
"Literacy prior to release" philosophy  
Data audit for criminal/judicial agencies  
Alternative Sentencing Program creativity  
Comprehensive Juvenile Justice study  
Build/contract high security prison beds  
Develop judicial scoring system for judges*

### **COMMUNITY ACTION**

*Coordinated truancy reduction efforts  
Celebrate successful communities  
Multi-media presentations*

### **Prison Overcrowding - It Could Be Worse**

The first full year of statewide operation for Community Sentencing was FY 2001. A local community sentencing system, a partnership between the State and one or more county governments, uses public and private entities to deliver services to the sentencing court for punishment of eligible felons under the authority of a community sentence. The program is optional, and counties may choose to participate.

Each active community sentencing planning council is charged with: developing the local community sentencing system; preparing an annual plan and budget; targeting offenders for participation; identifying resources and services to support court ordered sanctions to address the criminogenic needs of sentenced offenders; and promoting local involvement and support for the Act. Planning councils choose to provide supervision for their offenders by State probation and parole officers or by another qualified source of the council's choosing.

An assessment instrument, the Level of Services Inventory – Revised (LSI-R), is used to identify offender eligibility for the program and to identify the criminogenic needs of participants. Offenders scoring in the moderate range of the LSI-R are eligible for participation and for funding for services.

A legislative amendment to the Community Sentencing Act authorized prosecutors, beginning July 1, 2004, to consent to a community sentence for offenders scoring outside the moderate range on the LSI-R and with a mental illness, a developmental disability, or a co-occurring mental illness and substance abuse disorder if the offender is not otherwise prohibited by law.

The Community Sentencing Division focuses on increasing public safety by reducing the risk of offenders and the likelihood of future law violations through treatment of criminogenic needs. Evidence based practices form the basis of process/outcome measures for all contracted services.

### **SUMMARY**

Here we are, 13 years later. Same problems, same solutions - but different Legislators and Governor. Will we blink again?

## ***“Flash Incarceration” - Scared Straight by Probation***

*Mark Schoofs, Wall Street Journal, July 24, 2008*

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HONOLULU - Jobert Sumibcay, father of a toddler, was in jail only for the weekend, but it was bitter. “Father’s Day, missing Father’s Day,” he lamented.

The 21-year-old admitted car thief and methamphetamine addict, usually free on probation, added: “It’s actually real good that I come to prison” because it “wakes you up: Why are you doing this? You could be out there instead of being in here.”

An innovative program in Hawaii offers a model for fixing the nation’s troubled probation system by using “flash incarceration”, short but immediate jail sentences for any probation violation. WSJ’s Mark Schoofs reports.

That is the message an innovative Hawaiian probation program aims to send. Started about four years ago by a former U.S. attorney who is now a judge, the program has the potential to transform the nation’s broken probation system, some crime experts believe. Known as HOPE, for Hawaii’s Opportunity Probation with Enforcement, the strategy has sharply reduced probation violations among participating criminals. Preliminary evidence from law enforcement suggests it can also reduce repeat crimes.

The key: “flash incarceration” that sends offenders to jail for short but immediate sentences for violating virtually any probation condition. Those who follow the rules are rewarded with looser supervision.

The U.S. has the world’s highest rate of incarceration, according to a study of 214 countries by King’s College London. But even larger numbers are on probation: 4.2 million at the end of 2006, according to the Department of Justice, 1.8 million more than were locked up in all correctional facilities across the country. As many as half of probationers go on to break the law again, exemplifying how poor the system is at rehabilitation.

One reason: the criminal justice system has increasingly tilted toward “tough on crime” severity, such as “three strikes and you’re out,” giving short shrift to what has been known about changing human behavior since at least the Enlightenment. That’s when philosopher Cesare Beccaria, whose ideas

influenced Thomas Jefferson and John Adams, wrote in a seminal 1764 treatise, “Crimes are more effectually prevented by the certainty than the severity of punishment.” Beccaria also postulated that the swifter the punishment, the likelier offenders would be to associate them with their crimes.

There are caveats. Some prosecutors fear that a special, strictly monitored probation may tempt judges to place people in it who should actually be behind bars. (Probation is community supervision in lieu of prison; parole is for prisoners released early. Criminals deemed violent are usually ineligible for any probation, including HOPE.) Two men selected for HOPE allegedly committed murder before they were formally enrolled in the program. Such cases, said Honolulu prosecuting attorney Peter Carlisle, could spark a political backlash.

“The million-dollar question,” Mr. Carlisle added, is whether HOPE reduces the rate of new crimes committed by probationers. “Intuitively I would believe that it does,” he said, “but you’ve got to show me.” Final data on that question are expected by year end.

Others wonder whether the program, which requires efficient coordination among multiple agencies, can be replicated in larger bureaucracies. Prof. David Kennedy of New York’s John Jay College of Criminal Justice counters, “This is not rocket science, this is training-a-puppy stuff.”

Nationally, more than half of men arrested test positive for drugs when they are apprehended, according to Justice Department research. But one of HOPE’s standout successes, reducing drug use, embroils it in a debate: whether jail, however brief, is appropriate for addicts who relapse into drug use. Some drug-policy reformers argue that incarceration perpetuates the paradigm of addiction as a crime rather than a disease. HOPE proponents counter that flash incarceration spares offenders longer prison terms by helping them get off drugs, obey probation and refrain from committing new crimes.

Prof. Kennedy said the research conducted so far on HOPE shows that even tough, drug-using felons “can be very effectively reached by a very common-sense structure of clear expectations, clear, predictable consequences, and real help and support.”

While in jail, Kenneth Costa, a 44-year-old convicted drug felon who said he started using methamphetamine more than 25 years ago, heard about HOPE from fellow inmates, some of whom described it as a “last chance” and told him it “keeps you on track. My fiancée was pregnant. I was sick and tired of being sick and tired.” He said the program provides the “structure” to help his treatment succeed. He said he has been drug-free for 14 months.

HOPE is the brainchild of Judge Steven Alm, an energetic 55-year-old former U.S. attorney for Hawaii who drives a black Corvette. He was assigned to criminal court in 2004 and immediately faced a slew of motions to revoke probation. In every case, he recalls, the defendant had “pages of violations stretching back months or even years” yet had suffered virtually no consequences for any of them.

That is the reality across the U.S., Prof. Kennedy said. Probation, administered by a patchwork of state and local systems and often starved for resources, “basically teaches people to ignore” probation officers’ warnings, he said, until violations accumulate to a tipping point. Then, offenders face dire — and expensive — consequences: in Hawaii, as much as 20 years in prison.

To Judge Alm, this system seemed as absurd as parents failing to respond to a child’s persistent misbehavior and then suddenly kicking him or her out of the house. His idea: Instead of one severe sanction after many violations, mete out relatively minor but “swift and certain” sanctions for every violation.

The judge holds a “warning hearing” to explain the HOPE rules. Under regular probation, for example, offenders are usually drug-tested only when they meet with their probation officer, giving them time to wash out the drugs. In HOPE, probationers with a drug problem must call in every weekday morning to see if they are scheduled for a random drug test that day.

Virtually every violation results in immediate arrest, a hearing within 72 hours and almost certain jail time, varying from a few days for a first violation to a few months for subsequent ones. Participants who accumulate several violations risk having probation revoked and being sent to prison for years.

“I thought it would be counterproductive,” recalled probation officer Sheri Shimbakuku. “How will I help them if they’re in jail?” But she says HOPE probationers seemed much more receptive to help: “Boy, it was just different seeing their reaction to being in jail.”

Flash incarceration has been used around the U.S. by specialized courts established to adjudicate drug cases, with demonstrated success. But the Hawaii program is one of the first to test the approach among a broader group of probationers. In a randomized, controlled trial of more than 500 probationers, researchers from Pepperdine University and the University of California at Los Angeles found HOPE probationers were less than half as likely as controls to miss probation-officer appointments or test dirty for drugs, even though the controls knew in advance when they would be tested and HOPE participants didn’t. These preliminary findings are being announced Thursday, and full results are expected by year end.

Hawaii’s state legislature allocated \$1.2 million last year for the program, almost two-thirds of which went toward drug treatment slots. But not everyone in HOPE gets treatment. Not all users are addicts; some users can stop without treatment. Those who are truly addicted triage themselves into treatment by repeatedly testing dirty. The program now has more than 1,200 participants, out of Oahu’s total population, excluding domestic violence offenders, of about 7,650 felony probationers.

Its emphasis on sanctions led some to dub it “yank and spank.” But in court, Judge Alm seems less the law-and-order hard-liner than the basketball coach he once was, giving his probationers pep talks. Because Mr. Sumibcay, the father of the toddler, has a job as an airport porter, Judge Alm said he could serve his six-day sentence over two weekends so he wouldn’t miss work. Mr. Sumibcay said he was grateful for the choice.

## ***Teaching Skills to Inmates***

*Dom Garrison, Oklahoma CareerTech Skills Centers*

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### **Author**

*Dom Garrison is the Associate State Director of the Dropout Recovery and Skills Centers within the The Offender Training Division of the Oklahoma Department of Career and Technology Education*

### **Overview**

The Skills Centers School System (SCSS) opened for operation on February 15, 1971 at Hodgen, Oklahoma in the Ouachita Forest in southeastern Oklahoma. Three programs were offered at this site during its first year of operation. The site, today known as the Jim E. Hamilton Skills Center, was the first of nineteen Skills Centers' campuses. The Skills Centers School System is a division of the Oklahoma Department of Career and Technology Education. The Skills Centers School System currently operates training sites in twelve state-owned correctional facilities, four community correctional centers and three juvenile detention centers in Oklahoma. The SCSS also administers diversion programs such as the State's Dropout Recovery Initiative and the Young Offender Initiative.

Through the SCSS, offenders are given the opportunity to develop occupational competence, related academic knowledge, and life/employability skills while incarcerated. Also, the SCSS has developed strong relations with businesses and trade organizations in our state so that employment can be a reality for our graduates when they re-enter society.

In FY2007, the Skills Centers graduated 782 students who were housed in correctional facilities. To the credit of staff of the Skills Centers, 75.4% of these individuals were placed in jobs related to their occupational training. These facts are important since studies relating to ex-offender survival "on the streets" generally show that occupational training and education help individuals become more successful once released from prison.

When compared to a demographically matched set of offenders, the group of Skills Centers' graduates who entered employment related to the training they received represented a 17% survival rate increase after five years. Through its training and re-entry initiatives, the Skills Centers help keep ex-offenders productive and out of prison.

Each day over 700 offender/students are in attendance in programs in state-run adult or juvenile correctional facilities. The Oklahoma Department of Corrections estimates that over 8,000 Oklahoma offenders will be released from prison during FY08.

Of the 75 current Skills Centers' employees, 65 actually work within the confines of a facility that houses offenders.

### **Funding Sources**

Funding sources for the Skills Centers includes state appropriations, federal funding from the Carl Perkins Act, and contracts with other state agencies. In July of 2005, the Skills Centers Division was awarded a

\$1 million grant through the United States Department of Labor to serve Young Offenders. This grant is designed to prepare young offenders

to enter high-demand, high-growth industries. The Department of Labor grant has been funded for three consecutive years, but will end on prior to the end of fiscal year 2008.



### **Occupational Training**

Since 1971, providing occupational training that prepares offenders for entry into "free world" jobs has been the primary mission of the Skills Centers School System. The occupational training is designed to meet the specific needs of identified industry partners. Input is gained through regular meetings with company representatives and then incorporated into program curricula. The result has been that our graduates are seen as viable candidates

to fill positions with our partners. Over the past three years, 67% of all offenders who completed training were placed in jobs related to their training (within 180 days of release).

The school system has a student-centered instructional philosophy. The Skills Centers staff strives to align interests and past work experiences of potential students with occupational programs available in the SCSS. Key objectives are getting the right student in the right training program, identifying potential employment opportunities, and securing employment upon completion of training. Instruction is competency-based, thus maximizing critical learning of the students while in the program.

Occupational training programs are offered in a variety of industries. Industry-related programs represent the licensed trades, commercial and residential building construction, automotive service and repair, heavy highway construction, technology-based customer service, information technology, and manufacturing.

The majority of the Skills Centers programs are located in minimum-security correctional facilities. The offenders trained will leave prison shortly after completing their training and will seek "free world" employment. However, a select few programs are offered to medium-security inmates who will work within the correctional facilities for approximately five years. These offenders are critical to the maintenance and repair of facilities and production within Oklahoma Correctional Industries.

Ninety-seven inmates have attained journeyman status in the licensed trades in the past three years. These individuals were trained by the Skills Centers and amassed the required hours as apprentices under a Department of Corrections supervisor. The state-recognized licensing assessment vendor has brought the testing capability to the offenders while they are still incarcerated. Once licensed, these medium-security inmates perform critical tasks on behalf of the correctional facilities while incarcerated and have the ability to secure high-wage employment once released. Currently, 37 medium-security offenders are enrolled in a U.S. Department of Labor, Bureau of Apprenticeship Training program and work in the

furniture factory for Oklahoma Correctional Industries. This apprentice program is a partnership between the Skills Centers and Oklahoma Correctional Industries.

Recently, the workforce needs of manufacturers in Oklahoma have created numerous opportunities for the Skills Centers. Over the past three years, several minimum-security programs have been converted to meet manufacturers' needs. Worker shortages in areas such as welding, precision machining, product assembly, industrial maintenance and warehouse operations and distribution have caused the Skills Centers to change the focus of several existing training programs. One result of these program modifications is an increased wage at entry for graduates. Another positive outcome is an increase in the percentage of graduates who are selected for these high-growth, high-demand positions. Both of these results affect graduate success and recidivism.

### **Female Offender Initiatives**

Many female offenders immediately take the role of mother and provider upon release. They must be prepared to manage a household, care for children, and find quality employment to meet new financial obligations. Issues such as child care, housing, health issues, and management of financial resources become critical challenges to successful transition. Recognizing that female offenders need additional support and guidance, SCSS employs a Female Transition Specialist to work specifically with females as they transition from corrections to the local community.

Traditional career/technical education programs that interest female offenders often fail to produce quality employment opportunities. SCSS has worked with business/industry partners to identify employment needs in non-traditional markets that could be filled by female offenders. SCSS female offender programs have evolved to include Transportation, Distribution & Logistics to meet Oklahoma's growing warehouse and distribution center needs. The construction industry also continues to seek qualified skilled employees in the area of electrical trades. Females are readily accepted as electricians and have a significant earning capacity. As a result, these two programs currently exist at Mabel Bassett Correctional Center.



SCSS is also developing a manufacturing class that will soon be added. Manufacturers are sending many jobs out of state and abroad because they cannot find skilled employees. Female offenders will be trained to fill a very diverse set of industry needs. Traditional secretarial programs have been replaced with Business & Information Education training. Female offenders train for occupations requiring a knowledge base of software applications, management of business operations, customer sales/service, and communications.

Many offenders have been incarcerated for an extended period of time and the world of technology has advanced to include on-line social service applications, employment applications and securing information utilizing the Internet. Basic computer skills are vital to function in society and the workplace today. SCSS offers female offenders discharging from correctional institutions the opportunity to complete a Fundamentals of Computers course. Upon completion of the course, these offenders can utilize on-line systems to complete applications, seek social services and employment. In many cases, fundamental computer knowledge can provide employment opportunities for entry-level positions.

### **Life Skills**

Inmates do not fall victim to recidivism because they are skilled employees, they return to prison because they cannot function in society. SCSS realizes career/technical education is vital for success, but we also recognize that life/employability skills development is critical for offender success. Offenders returning to the local community must

have the skills and knowledge to function as productive citizens and contribute to the economic base of the local community.

The Skills Centers School System has a comprehensive Life/Employability Skills curriculum to address individual student transition needs. Students receive individualized instruction related to removing barriers facing them as they return to the workforce and their community. SCSS students complete performance elements and are measured against specific instructional criteria. Every student is pre-assessed and works with instructors to formalize a "Life Success Plan" designed specifically for that student.

Offenders returning to the workforce must know how to seek employment and meet employer expectations in the workplace. Employers also want employees that possess higher order thinking skills and can solve problems. SCSS students prepare resumes, complete mock interviews, and develop an employment portfolio. Students also work to earn an ACT Career Readiness Certificate that is nationally recognized by business/industry as documentation that the potential employee has work readiness skills needed to be successful. Students completing this integrated approach of career/technical education and life/employability skills development have the potential of increasing earning capacity and maintaining steady employment.

The Life Skills also focus on issues related to society and family expectations. Many offenders do not understand the role of a good citizen in society. By addressing character traits, family relationships, and personal interaction skills, ex-offenders will have the knowledge and skills to achieve an improved quality of life as a citizen and family member. Life/employability skills training creates a better understanding of community and family expectations allowing offenders to be perceived as productive citizens and family members.

### **Diversion**

In September 2006, the Oklahoma Criminal Justice Resource Center reported that there were 3802 offenders between 18 and 25 in custody throughout the Department of Corrections' system and, of those,



2394 (62.97 percent) were reported as not having a high school degree or GED.

Due to the nature of data collection within the Department of Corrections, it is hard to tell how many of these individuals entered the system with a credential and how many got the credential after arrival. The data on an individual inmate is established at Lexington Assessment and Reception Center (LARC) during the first month of incarceration, but is altered, as needed, throughout the individual's time in custody.

The significance of this is that the percent that come to prison without a high school credential is higher than the 62.97 stated above. Those offenders who are transferred to a medium or minimum security facility are encouraged (and sometimes forced) to participate in education classes to prepare for GED testing. Therefore, many of the 3802 offenders entered the system with no high school credential, but attained a GED during incarceration.

Since 1995, the Oklahoma Department of Career and Technology Education has administered a grant program for serving high school dropouts. These Dropout Recovery Projects operate in seven regional technology centers across the state. Out-of-school youth are recruited for participation through various outreach activities. Each project offers academic education and technical training. Students are encouraged to complete the requirements for high school graduation. Older students who realistically cannot achieve this goal are offered an opportunity to attain a GED. Each year, approximately 900 students enroll in these critical programs. In fiscal year 2007, almost 350 participants completed requirements to

receive a high school credential. Currently, CareerTech is requesting additional funding through the Oklahoma Legislature to expand the number of Dropout Recovery Project sites. Several population centers in Oklahoma have large numbers of out-of-school youth who will benefit from this expansion.

Breaking the recidivism cycle is key to Oklahoma's economic health. Lack of education limits employment possibilities for most young offenders. The Skills Centers recognize that programs focused on the needs of young offenders are essential in reducing prison populations in the future.

The Skills Centers Division is in the third and final year of grant funding from the United States Department of Labor to train young offenders between 18 and 21 for success in a high-growth, high-demand occupation. Through this pilot project, offenders have been trained for careers in advanced manufacturing and construction technology.

Three of the young offender pilot sites were located at Technology Centers and served those who had been convicted of felonies, but were not incarcerated. These probationers participated in occupational training, academic education, and paid work-based learning activities. In the three years of operation, over 200 young offenders have participated in these pilot-training projects and almost 90% were placed in jobs after graduation. Recovering this lost human resource saves the state the cost of incarceration and helps to further develop our state's workforce.

Recidivism is high for offenders younger than 25. The return on investment for training, educating, and transitioning young offenders to achieve success in industry will be extremely high. The cost of incarcerating a minimum-security offender in an Oklahoma prison is approximately \$17,000 per year. The cost of arresting and convicting the young offender increases local and state costs and puts an additional strain on budgets. Also, the amount of earnings lost by this unemployed individual is easily \$20,000 per year. By preparing young offenders to be productive citizens, family members, and taxpayers, Oklahoma can reduce the prison population and provide employers with skilled workers needed to keep the economy strong.

## ***Confronting the Issues Faced by Women's Re-Entry After Incarceration***

*Nancy Weber, The Resonance Center, Tulsa*

*Nancy Weber, MA graduated Phi Beta Kappa with a BA in Psychology from the University of Tulsa, and has a master's degree in Industrial/Organizational Psychology from TU. She is a member of the American Psychological Association and the Society for Human Resource Management. Nancy is on the staff of Resonance A Support Center for Women; and is the author of Following God's Plan for My Life, a vocational work book for Teens. Ms. Weber is also is the founder of Career Concepts. Nancy is married to her husband Terry and they have two teen-aged children. She is a member of Trinity Lutheran Church in Broken Arrow.*

Resonance Center for Women, Inc. provides services leading to self-sufficiency for women and families experiencing changes, challenges, or adversity in their lives. Founded in 1977 as a listening center for women, Resonance has continued to respond to the needs of the community. Due to the high levels of incarceration of women in Oklahoma, Resonance began offering services to female ex-offenders and their families in an effort to reduce recidivism and the familial cycle of criminality

After years of working with female ex-offenders, Resonance has learned that there are two key issues for women being reintegrated into the community: 1) a job, 2) a meaningful relationship with a positive role model. For women regaining custody of their children, addressing these issues is even more imperative. Motives for success differ between men and women, which compels agencies and organizations working with the offenders to adopt gender-specific programming to assist offenders in their transition from prison to the community.



Resonance is addressing the needs of female ex-offenders through gender-specific programming that is based on research and lessons learned.

In an informal survey conducted by Resonance of local employers, it was determined only about 17% of the companies surveyed would even consider hiring a person with a felony conviction. Unlike employers in other states, Oklahoma employers do not usually use time limits for hiring felons.

For example, Oklahoma employers will ask an applicant if he/she has **ever** been convicted of a felony. This reduces employment opportunities for offenders tremendously. It is simple logic that if a person cannot support herself – and her family – through legitimate employment, she will engage in illegal activities to earn money. This explains why almost 80% of the women in Oklahoma prisons are there for non-violent, “poverty” crimes. Educating employers about how to read a criminal report can make a difference in whether that employer will give a felon a chance.

Employment assistance must begin as soon as a woman is incarcerated. An initial assessment of her knowledge, skills, and abilities can then be used to make decisions about the level of training and assistance she needs. With this information, she can engage in industry-specific training that will increase her earning capacity upon release.

Within a month of release, each woman needs to work with a job developer to polish her resume, practice for the interview, learn soft skills for the workplace, etc. Upon release, the woman needs to have access to that job

developer who can help her with placement into a job best suited for her and the training she has received. Other concerns also need to be addressed, such as housing, transportation, treatment services, medical care, proper clothing and issues surrounding her children if necessary.

In Oklahoma, if a woman is pregnant when she is incarcerated, she is given 24 to 48 hours with her newborn before they are separated. This lack of bonding time has very negative long-term consequences for both the mother and child. To avoid the problems associated with a failure to bond, a section of the prison could be established as an area for mother and child for a period of time as recommended by a trained therapist.

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The vast majority of women in prison were severely abused sexually, physically and emotionally as children and they have never addressed the impact the abuse has had on their lives. Having time for a mother to be with her child is an excellent opportunity for her to learn the parenting skills she was never taught. The money saved by allowing the mother to care for her child, rather than the state, will offset the cost of using a section of the prison for the mothers. The long-term savings will be recognized by a reduction in incarceration rates among children of incarcerated parents.

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Reducing recidivism requires a multi-faceted approach involving the collaboration of the judicial system, social agencies, families, and the offender. When a team approach is employed to develop an action plan prior to the offender's release, there is less likelihood of "silo" thinking. Using a collaborative wrap-around approach reduces duplication of services, thereby using funds more efficiently, and increasing the offender's of succeeding.

Assigning one person from the team to act as a mentor and role model offers the woman the opportunity to develop a positive relationship.



# **PREVENTION**



## ***The Children's Village of Tulsa***

*Robert W. Block, MD, FAAP, University of Oklahoma School of Community Medicine*

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*Dr. Robert Block is Professor and Daniel C. Plunket Chair, Department of Pediatrics, The University of Oklahoma Health Sciences Center, Tulsa Campus. He specializes in child abuse pediatrics. Dr. Block received his M.D. degree from the University of Pennsylvania, and completed his pediatric residency at the Children's Hospital of Philadelphia.*



*He has been a member of the OU College of Medicine faculty since 1975. As a faculty member, Dr. Block has been nominated for the Aesculapian teaching award six times, winning on three occasions.*

*In 1998, Dr. Block was awarded the prestigious Stanton L. Young Master Teacher Award. In 1999, he was awarded a Presidential Professorship. In 2001, the Accreditation Council for Graduate Medical Education awarded Dr. Block the Parker J. Palmer "Courage to Teach" Award. In 2003 and subsequently, he has been named one of the "Best Doctors in America."*

*In 2006, Dr. Block received the Ray E. Helper Award from the Ray E. Helper Society, in recognition of his work in the field of Child Abuse. He was appointed the first Chair of the newly formed subboard on Child Abuse Pediatrics by the American Board of Pediatrics, also in 2006.*

*Dr. Block was appointed Oklahoma's first Chief Child Abuse Examiner in 1989, and he continues to serve in that capacity. He is a member and past Chair of the Oklahoma Child Death Review Board. He is a member of the medical team for the Tulsa Children's Justice Center, and serves as a past president and continuing member of the board of directors for the Child Abuse Network, Inc. Dr. Block is a member of the Tulsa County District Attorney's Task Force on Crimes against Children.*

### **I Believe ...**

I have devoted my entire professional career to advocating for the abused child, and eradicating the social and environmental causes of such abuse. Why? There are many reasons. One is that I know - and most of us are learning - that such exposure to traumatic childhood events lead directly to adult chronic illnesses and conditions. I also know - through observation - that these events also will lead to aberrant social behavior and contribute towards delinquency, criminal conduct and incarcerations.

The following article summarizes the national studies of Drs. Anda and Felliti. It is our intent in Tulsa to develop the nation's first Children's Village that will be organized and operated to directly attack the "ACES" - Adverse Childhood Experiences.

### **Our Vision**

As the first collaborative project of its kind in the United States, the Children's Village will be devoted to programs responsive to current research describing the vital importance of adverse early childhood experiences as determinants for a multitude of outcomes for children, adolescents, and adults. New research and service delivery will support children and their families as collaborating community agencies and institutions meet, communicate, and work with one another to design effective methodologies for optimizing child and family developmental success.

### **Mission of the Children's Village**

We will create a unique, Tulsa community campus, supporting community agencies, governmental agencies, universities, and individuals addressing the prevention, detection, intervention in, and treatment of children traumatized by exposure to adverse early childhood experiences. Through research and development of best practices, programs at the Children's Village will minimize the negative consequences of adverse experiences by addressing



# Children's Village at OU-TULSA

*Because change starts small.*

the need for optimal health, mental health, safety, and developmental education of children and their families.

We Believe ...

We believe a child's future should not be negatively altered by severe adverse childhood experiences. No child should have to carry the devastating consequences of abuse, neglect, and family dysfunction into adulthood. Research shows adverse childhood experiences have detrimental and lasting neurobiological effects on brain development and are contributors of poor health status, depression, addiction, and premature death in adults. We have the tools to reduce the effects of adverse childhood experiences, but we are not using them to their full potential. Services addressing the behavioral and psychological health of children are fragmented and the systems that administer them are often complex and cumbersome. Children's village will simplify these complicated systems by providing a unified environment for the delivery of social services to children and families in need.

Oklahoma has a high incidence of family violence, child abuse, neglect, poverty, and a disparity in educational opportunities for children with behavioral and emotional needs. In 2005, one out of every 20,000 Oklahoma children died from child abuse – the highest rate in the nation.

It is the goal of the Children's Village to bring together various community service organizations on one campus to combat the negative consequences resulting from adverse childhood experiences. It will be a central location in the community where physical health, mental health, safety, behavioral education, and foster care resources are provided.

## ***Books About Kids & Crime***

Oklahoma Academy Research Committee

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**Ghosts from the Nursery: Tracing the Roots of Violence** by Robin Karr-Morse, T. Berry Brazelton, Meredith S. Wiley. Publisher: Grove/Atlantic, Inc. January 1999

### From the Publisher

How do boys develop character? And what can parents, teachers, and society do, from birth to late adolescence, to help nurture admirable qualities in young men? Eli Newberger brings decades of experience and insight to these vital questions. In a series of riveting stories, he shows boys facing the harsh challenges that forge or break character: cheating, bullying, drugs, alcohol, and competition.

*The Men They Will Become* delves to the deepest roots of male character and to the sources of attachment, honesty, self-control, sportsmanship, generosity, and courage. Rather than looking for flaws and vulnerabilities, Dr. Newberger celebrates all the wonderful qualities that make boys boys. The need for leaders of bold but non-violent character makes this wise book of urgent and timely importance.

**Lost Boys: Why Our Sons Turn Violent and How We Can Save Them** by James Garbarino. Publisher: Knopf Publishing Group. August 2000

### From the Publisher

After more than a decade of relentless increase in the urban war zones of large cities, violence by young boys and adolescents is on the rise in our suburbs, small towns, and rural communities.

Twenty-five years as a psychologist working in the trenches with such children has convinced James Garbarino that boys everywhere really are angrier and more violent than ever before.

In light of the recent school-based shootings, it's now clear that no matter where we live or how hard we try as parents, chances are our children are going to school with troubled boys capable of getting guns and pulling triggers. Beyond the deaths and debilitating injuries that result from this phenomenon



are the staggering psychological costs - children who are afraid to go to school, teachers who are afraid of their students, and parents who fear for their children's lives.

Building on his pioneering work, Garbarino shows why young men and boys have become increasingly vulnerable to violent crime and how lack of adult supervision and support poses a real and growing threat to our children's basic safety.

**The Men They Will Become: The Nature and Nurture of Male Character** by Eli H. Newberger. Publisher: Perseus Publishing. January 2000

### From the Publisher

How do boys develop character? And what can parents, teachers, and society do, from birth to late adolescence, to help nurture admirable qualities in young men? Eli Newberger brings decades of experience and insight to these vital questions.

In a series of riveting stories, he shows boys facing the harsh challenges that forge or break character: cheating, bullying, drugs, alcohol, and competition. *The Men They Will Become* delves to the deepest roots of male character and to the sources of attachment, honesty, self-control, sportsmanship, generosity, and courage. Rather than looking for flaws and vulnerabilities, Dr. Newberger celebrates all the wonderful qualities that make boys boys. The need

## ***When Four Aces Is Not A Winning Hand***

*Robert F. Anda, MD, MS and Vincent J. Felitti, MD*

*This article was abstracted from the WHO Abstract of ACE Study Presentation Forum 7, Geneve, December 2003 by Vincent J. Felitti, MD; Robert F. Anda, MD*

Our intent in Forum 7 is to provide an overview of the Adverse Childhood Experiences (ACE) Study, providing evidence that adverse childhood experiences cast a major shadow on health and well-being even 50 years later; we will illustrate how we have put that knowledge to clinical use. You may seek additional detail from the multiple ACE Study publications and abstracts that can be found at [www.ncbi.nlm.nih.gov/entrez/query.fcgi](http://www.ncbi.nlm.nih.gov/entrez/query.fcgi) (the National Library of Medicine web site), entering Anda or Felitti as the author's name. A newsletter in English, French, German, and Spanish is available at <http://acestudy.org/newsletter.php>



This background for the ACE Study began by accident in 1985 when, while operating a large weight loss program at Kaiser Permanente (KP) in San Diego, we noticed that we had a high drop out rate, which was almost totally limited to patients who were successfully losing noticeable amounts of weight. In the course of exploring this unexpected situation, we repeatedly stumbled across histories of childhood abuse. Indeed, we found that while obesity poses obvious long-term health risks, counterintuitively it often also provides hidden immediate benefits: many found obesity sexually, physically, or emotionally protective. We found that obesity, while conventionally seen as a problem, was often used as an unconscious *solution to* unrecognized problems dating back to childhood. We ultimately found that several other intractable

public health problems also frequently represented personal solutions to problems concealed by time, shame, secrecy, and social taboo.

Further evaluation of these patients suggested that adverse childhood experiences might play a more general role in adult health and well-being. Discussions with my co-principal investigator, Robert Anda MD, and his staff at the US Centers for Disease Control in Atlanta led to the collaborative effort known as the Adverse Childhood Experiences

Study in which more than 25,000 consecutive adult KP members were asked to provide, during the course of a comprehensive medical evaluation at Kaiser Permanente's Health Appraisal Center, intimate and detailed information about their childhood experiences. A total of 17,421 (68%) agreed and then had their childhood information matched against current health status, on average

a half-century later. The categories of childhood experiences studied were:

- childhood sexual abuse
- repeated physical abuse
- chronic emotional abuse, and

growing up in a household where:

- someone was alcoholic or a drug user
- a member was imprisoned
- mother was treated violently
- someone was mentally ill, chronically depressed, or suicidal
- parents were separated or divorced during childhood.

These categories turned out to be unexpectedly common in a main-stream, middle class American population; we found that every physician is likely to see several such patients each day, although none will be recognized unless routine screening questions are employed. For example, 1 in 5 patients had been sexually abused and 1 in 5 had grown up with a mentally ill household member; 1 in 4 grew up with alcohol or substance abusers; 1 in 7 grew up in a home where the mother was treated violently.

One of the seminal findings of the ACE study is that adverse childhood experiences (ACEs) are highly interrelated: if a study member had experienced one category of ACE, there was a 90% chance that there was a second category and a 70% chance that there was a third. Because ACEs occur in groups, we found it impractical and statistically unsound to assess the consequences of individual ACEs; we developed the ACE Score, which is simply an integer count of the number of categories of ACEs. The ACE Score works extremely well as a model of the cumulative stress of these childhood experiences and has repeatedly shown a dose-response relationship to a wide variety of high priority health and social problems. Notably, one third of a middle-class population had an ACE Score of 2 or more.

As a result of this landmark study, we were able to document that adverse childhood experiences:

- are unexpectedly common in the general population, although well-concealed
- have a dose-response relationship to multiple important health and social outcomes
- have a profound effect on adult health and well-being a half century later, and
- are prime determinants of adult health status in the United States, as well as of the social fabric of the nation.

Examples of the full range of our findings will be presented along with discussion of their implications for diagnosis, treatment, and prevention. For example, attempted suicide has a powerful and graded relation to adverse childhood experiences as

shown in the bar graph comparing exposure of 0 through 4-or-more categories of adverse childhood experience to later suicide attempts.

Another insight into the power of the ACE Study data may be gained from our finding that a male child exposed to any four of the eight categories of adverse childhood experience has a 1,200% increase in the likelihood of later becoming an intravenous drug user when compared with a male child having no such exposure. For a child exposed to any six ACE categories, the increased likelihood of intravenous drug use becomes 4,600%.

In short, we have uncovered what we believe is a basic causality underlying a number of chronic diseases and health behaviors representing the ten most common causes of death in America. An actual clinical example illustrates how this plays out in medical practice: recently, I was asked to consult on a 70-year-old woman who was diabetic and hypertensive. The initial description given to me left out the fact that she is morbidly obese (one doesn't go out of one's way to identify what one can't handle). Review of her chart showed her to be chronically depressed, never married, and, because we routinely ask the question of 58,000 adults a year, to have been raped by her older brother six decades ago when she was ten. That brother also molested her sister who is said now to be leading a troubled life.

What then is this woman's diagnosis? Is she just another hypertensive, diabetic old woman or is there more to the practice of medicine? Here is the way we now conceptualize her problems:

#### Childhood sexual abuse

Chronic depression

Morbid obesity

Diabetes mellitus

Hypertension

Hyperlipidemia

Coronary artery disease

Macular degeneration

Psoriasis

This is not a comfortable diagnostic formulation because it points out that our attention is typically



focused on tertiary consequences, far downstream. It reveals that the primary issues are well protected by social convention and taboo. It points out that we physicians have limited ourselves to the smallest part of the problem, that part where we are comfortable as mere prescribers of medication. Which diagnostic choice shall we make? Who shall make it? And, if not now, when?

In addition to the above described retrospective arm of the ACE Study, the same large cohort is being followed prospectively in order to match adverse childhood experiences against (a half-century later) outpatient medical utilization, pharmacy costs, emergency department visits, hospitalization, and death. The first of the series of publications of the initial five year prospective follow-up will be in press in 2004.

It should be possible for those familiar with the ACE Study to have an understanding of the need routinely to screen for adverse childhood experiences in *all* patients; to have an awareness of the relevance of adverse childhood experiences to chronic conditions and 'problem patients'; and to have a sense of appropriate approaches to treatment that will need to be devised for each case. Analysis of a 125,000 patient cohort where such screening was added to conventional biomedical evaluation showed a 35% reduction in healthcare utilization during the following year. The implications for medical practice of this comprehensive biopsychosocial approach are profound and have the potential to provide a new and improved platform upon which to base primary care medicine, worldwide.

#### Citations

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*Robert F. Anda, MD, MS, has designed and conducted epidemiologic studies for more than 20 years. He has written more than 100 peer-reviewed and government publications, as well as several book chapters. He is currently a senior researcher at CDC, sponsored by the Oak Ridge Institute for Science and Education. As Co-Principal Investigator for the ACE Study he played the principal role in the design of the study, subsequent analysis of the ACE Study data, and preparation of its numerous scientific publications. He is frequently invited to speak about the ACE Study, and has presented its findings at Congressional briefings.*

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*Vincent J. Felitti, MD, is Co-Principal Investigator of the Adverse Childhood Experiences Study, ongoing collaborative research between Kaiser Permanente and the Centers for Disease Control. A graduate of Johns Hopkins Medical School (1962), Dr. Felitti founded the Department of Preventive Medicine for Kaiser Permanente in San Diego, California in 1975, where he served as Chief of Preventive Medicine until March 2001. He is also Clinical Professor of Medicine at University of California, San Diego, a Fellow of The American College of Physicians, and founder of the California Institutes of Preventive Medicine.*

# **OKLAHOMA SPECIAL POPULATIONS**



## ***Our Plan To Be “Smart On Crime”***

*Terri White, Commissioner, OK Department of Mental Health and Substance Abuse Services*

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*Terri White, commissioner for the Oklahoma Department of Mental Health and Substance Abuse Services, has been involved in public policy related to mental health and substance abuse for a number of years.*

*She holds a master’s degree in social work from the University of Oklahoma, and has served in a number of leadership roles for the agency since joining ODMHSAS as a management analyst in October of 2001. In addition to serving as director of communications and public policy, she also has held roles as interim director of the Tulsa Center for Behavioral Health’s Co-Occurring Unit and was interim executive director for the Central Oklahoma Community Mental Health Center.*

*She was named commissioner in May of 2007.*

*The Oklahoma Department of Mental Health and Substance Abuse Services is one of Oklahoma’s largest agencies, with an annual budget of \$285 million and nearly 2,200 employees.*

### **The Commissioner Says ...**

Unfortunately, crime and punishment “Oklahoma Style” often means if you have symptoms of a mental illness or an addictive disorder, or your life has fallen into disrepair from either disease, you will end up incarcerated.

I cannot imagine Oklahomans tolerating the incarceration of individuals due to diabetes, heart conditions or cancer – yet, that is exactly what happens when it comes to the diseases of mental illness and addiction.

Diseases of the brain (mental illness and addiction) are no different than diseases that affect other organs. The symptoms, however, are often more overt. When an individual “sees” objects that are not present, feels the need to defend themselves based upon a delusion, or seeks the use of substances to feel “normal,” the neurotransmitters in the brain are functioning improperly – just as a person whose pancreas is functioning improperly experiences symptoms of diabetes.



Increasingly, neuroscientists and medical professionals are recognizing that mental and addictive disorders are predominantly medical problems and should be treated as such.

The medical advancements we have realized, particularly over the past 15 years, mean that individuals diagnosed with a mental or addictive disorder can reclaim full and productive lives, if they receive help.

Sadly, most individuals don’t receive help. And this is true nationwide, as states struggle to deal with burgeoning prison populations as a direct result of failing to provide access to treatment. We pay five times as much to incarcerate individuals as opposed to providing them the real help they need.

### **Oklahoma Must be ‘Smart on Crime’**

Oklahoma is in the midst of a crisis. As a state, we have failed to identify and meet the needs of those with mental illnesses and substance abuse. As a result, our criminal justice system is filled with people who have untreated mental or addictive disorders, at great cost to those in need, their families, our communities and our state.

**Out of 25,000 total inmates, the Oklahoma Department of Corrections estimates that approximately 11,000 have a serious mental illness – 76% of female inmates and 46% of male inmates have been diagnosed with a mental illness. Of these, 57% were incarcerated for non-violent offenses.**

In terms of substance abuse, approximately 33% of DOC inmates were imprisoned for drug and alcohol offenses, and at least 50% were incarcerated for a crime related to substance abuse. Additionally, 57% of the offenders on parole and 50% of those on probation had drug and alcohol offenses.

During FY 06, substance abuse related offenses comprised 67% of sentences ordered for the DOC community sentencing program and 57% of DOC offenders released needed substance abuse treatment.

Among DOC inmates, drug distribution is the #1 offense and possession of drugs is the 2nd most frequently occurring offense.

The result of these high incarceration rates for non-violent offenders has been skyrocketing cost to the taxpayer. Since 1991, appropriations to the Department of Corrections have more than tripled, rising from \$156 million in FY '91 to more than \$503 million this legislative session.

If we adhere to the trend we have established, this problem will only grow worse – unless we find a solution.

Nobody wants to be seen as being “soft on crime,” but we can still protect the public safety and address underlying issues by being “smart on crime.” That is why the Oklahoma Department of Mental Health and Substance Abuse Services has been actively promoting a “Smart on Crime” package at the state level. The components of the “Smart on Crime” package include programs geared to address mental illness and addiction at six diversion points. (Shown at right)

Putting people behind bars who could be better served by treatment doesn’t make sense, not only in terms of the human suffering that could be avoided by making services available, but also from a fiscal standpoint.

Oklahoma is not the only state grappling with this issue. State policymakers across the country are considering alternatives to prison for people with mental illness or addiction.

### **Florida**

In Florida, for example, as many as 125,000 people with mental illnesses are arrested and booked into Florida jails on an annual basis. Half or more of Florida’s juvenile offenders require mental health or substance abuse treatment, a figure similar to our own.

To address some of these issues, Florida officials are advocating increases in mental health and substance-abuse related community based prevention, treatment and support services.

### **Kansas and Texas**

Both Kansas and Texas are among a handful of states participating in the “Justice Reinvestment” project, a criminal justice policy program sponsored by the Council of State Governments Justice Center.

In Kansas, it was found that people with mental illnesses were 67% more likely than others to be reincarcerated within six months of their release. As a result, state agency leaders collaborated to jointly fund a specialized transition planning program, establish partnerships between the Department of Corrections and specific community mental health providers, improve data sharing among agencies, and develop and manage specialized mental health parole caseloads.

In Texas – long regarded as having some of the toughest criminal justice policies in the nation – the prison population was projected in 2007 to grow by more than 14,000 people over a five-year period, costing taxpayers an additional \$523 million to construct and operate new facilities. To reduce recidivism rates and avert further growth in the prison population, state lawmakers enacted a package of criminal justice policies to improve success rates for people on community supervision, expand the capacity of treatment and diversion programs, and enhance the use of parole for low-risk offenders.

By enacting these policies, the state saved \$210.5 million for the 2008-09 fiscal biennium. If new treatment and diversion programs are successful and no additional prisons are constructed, the state will save an additional \$233 million.

### **Other States**

Washington, Maryland, Michigan, Connecticut and other states are taking similar steps to reduce prison population growth and save taxpayer money.

In Oklahoma, several criminal justice entities are backing the proposed “Smart on Crime” package, including the District Attorney’s Council and the Oklahoma Sheriffs’ Association, both of which demonstrated unprecedented support for the program during the recent legislative session. These organizations recognize that such a partnership will reduce costs and recidivism, and re-channel resources to areas more directly related to public safety by giving law enforcement and district attorneys more than just one or two tools in their tool chest.

## **Prisons and Jails Are Ill-Equipped to Help Offenders with Mental Illness or Addiction**

In states across the country, jails and prisons have become the de facto mental institutions.

The American Psychiatric Association notes that people with mental illness are: much more expensive to incarcerate than other inmates; incarcerated longer than other inmates; are often in state or federal prison for non-violent crimes; have co-occurring substance abuse disorders; not receiving treatment and programs that would decrease recidivism; and are better served, economically and medically, with treatment in their communities.

For those with an addiction, not nearly enough are being helped during their time behind bars. They often leave with the same problem they came in with, a travesty that puts them right back onto the road of addiction.

People with mental illness are more likely to be exploited and victimized by other inmates. They typically are vulnerable, physically or sexually abused, and at increased risk of death by suicide.

Recidivism among people with mental illnesses and addiction also is high, when treatment is not available.

So, rather than providing needed, fiscally responsible resources that might be more effectively invested in mental health and substance abuse treatment, millions of dollars annually instead are being directed toward the huge costs needed to maintain jails and prisons.

### **Mental and Addictive Disorders Are Treatable**

The reality is that proven treatment options reduce the need for incarceration of individuals who have committed a non-violent offense. These programs offer a choice of family and community over the black hole of incarceration.

Appropriate treatment is an important element of crime prevention and can reduce the recidivism rate for offenders. This has been proven through partnership with the criminal justice system and programs such as mental health and drug courts.

The fact is that mental and addictive disorders are treatable, as treatable or even more successfully treated than common physical illnesses such as heart disease, cancer or diabetes.

Of those who suffer from bipolar disorder or major depression, 80% respond quickly to treatment. Additionally, 60% of those with schizophrenia can be relieved of acute symptoms with proper medication.

These medications allow those with psychosis to think clearly and rationally, and those so overwhelmed by depression that they can't work or care for themselves or their families to resume productive lives.

Truly, there is no reason today that anyone should suffer needlessly from a mental or addictive disorder. Today, more than at any time in history, recovery is possible.

As Oklahoma and states across the nation struggle with the increasingly expensive costs of imprisonment and its effects on vital public services, a comprehensive strategy is needed if policymakers are to control the rising incarceration rate.

The "Smart on Crime" initiative offers such a strategy, as it provides a framework that addresses both public safety and proven methods that treat a person's underlying mental illness or addiction.

Truly, it is possible to meet the needs of those with mental illness or addictive disorders at virtually any stage of involvement (and, ideally, *before* involvement) in the criminal justice system – and divert them into more effective, less expensive alternatives.

It is possible to tackle this issue in Oklahoma – and – "Smart on Crime" is a critical part of the solution.

## ***The Plan: Diversion Points and Goals***

*Governing Board, OK Department of Mental Health and Substance Abuse Services*

### **Prevention/Pre-booking**

- Police responders in every community trained in the identification of substance abuse and mental health symptoms and treatment and medication services for officers to divert individuals.
- Psychiatric and substance/methamphetamine abuse emergency responders throughout the state to respond to the scene when officers need assistance and/or emergency evaluations and treatment and medication services for officers to divert individuals.
- Substance abuse residential treatment services to meet the needs statewide for addiction, including programs specializing in methamphetamine.
- Statewide Systems of Care Services for youth and families who are at-risk of entering the criminal justice system.

### **Initial Detention/At Booking**

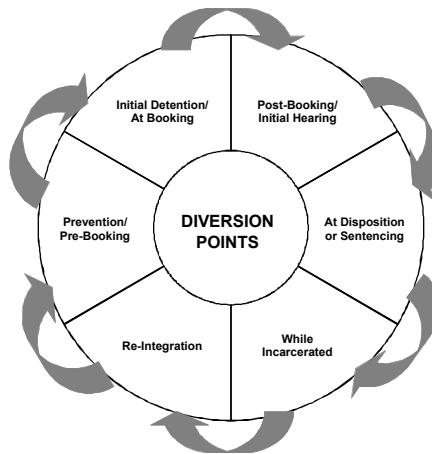
- Mental health and substance abuse jail screening services for each county with treatment and medication programs to divert offenders.

### **Post-Booking/Initial Hearing**

- Day Reporting programs designed to provide substance abuse and/or mental health treatment and evaluation for those waiting for disposition with recommendations for alternatives to incarceration.
- Treatment for individuals on probation/parole at-risk for re-incarceration due to mental illness and/or substance abuse dependence.

### **At Disposition or Sentencing**

- The continued support of Drug Courts to replicate their success in all areas.
- Expand Mental Health Courts statewide to divert eligible, non-violent offenders from incarceration.
- Expand Juvenile Drug Courts statewide to divert eligible youth from the criminal justice system.
- Provide substance abuse and mental health treatment for youth in the OJA system to prevent



further involvement with the criminal justice system.

### **While Incarcerated**

- Meet the mental health and substance abuse needs of those incarcerated.

### **Reintegration**

- Additional discharge specialists to assist individuals being discharged from DOC with linkage to treatment to help this population from recidivating.
- Intensive Care teams statewide to assist with re-entry from DOC incarceration for those with mental health, substance abuse, or co-occurring needs and housing, employment, treatment, and medications to keep this population from recidivating.
- Forensic PACT Teams designed specifically to provide services to those individuals with the most severe mental illnesses who are released from jails and prisons and at risk for incarceration.
- Statewide assistance with housing and employment for those re-integrating from or at high risk for involvement with the criminal justice system.
- Individuals at-risk for re-entering the criminal justice system without continued substance abuse treatment will receive treatment upon release from incarceration.

## *An Overview of Oklahoma's Drug Court Program*

*David Wright, PhD, Director of Research, OKDMHSAS*

**David Wright, Ph.D.** serves as the Evaluation Projects Manager in Decision Support Services for the Oklahoma Department of Mental Health and Substance Abuse Services.

The responsibilities of this position involve performing research, statistical analysis, and evaluation supporting the Transformation State Incentive Grant, the Co-Occurring State Incentive Grant, Adult and Juvenile Drug Courts, DUI Courts, Mental Health Courts, Jail Diversion Programs, and Substance Abuse Treatment Follow-up Surveys.

Prior to this position, Dr. Wright served as the Director of the Oklahoma Statistical Analysis Center and Director of Research at the Oklahoma Criminal Justice Resource Center.

He has received numerous awards and honors for his research publications. Dr. Wright received his Ph.D. in political science from the University of Houston, after receiving his Masters degree at Oklahoma State University and his Bachelors degree at Southwestern Oklahoma State University.

### **Understanding Aspects of the DOC Audit Regarding Drug Court**

#### **Introduction**

The recent release of an independent performance audit of the Oklahoma Department of Corrections assesses key elements of the current correctional system and recommends strategies to enhance system operations. This white paper is intended to clarify one aspect of the audit's final report as presented to the legislature – drug courts.

We realize that drug courts are just one facet of a broader system of programs and policies that collectively impact the status of our correctional system; yet, we believe that it is imperative to take advantage of opportunities for continued program improvement as a means to positively influence system outcomes.

#### **Drug Courts Work**

The audit report prepared by MGT of America commends drug courts as having "a high degree of support, credibility, and impact on recovery and recidivism." This is an undisputed statement evidenced by data comparing recidivism rates of drug court graduates to other offenders with the same crimes.

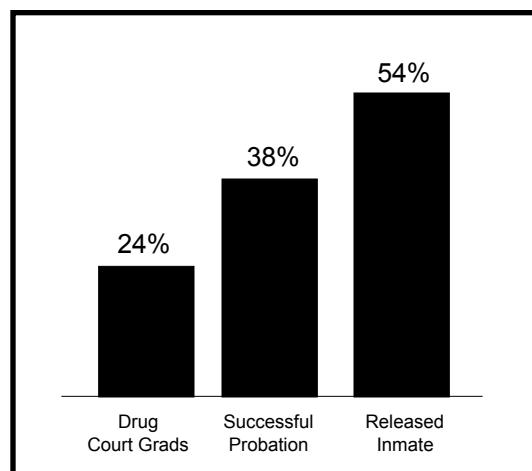
It should be noted that MGT of America has been very complimentary of the drug court program. At the press conference to announce the release of the report, they made a point to acknowledge the program's success, management and efficient operation.

#### **Drug Courts Divert Individuals from Prison and Save Tax Dollars**

The auditors did, however, question the ability of drug courts to achieve "significant reduction in prison admissions or the prison population for the targeted drug offenses."

As the authors of the DOC audit report stated at the press conference announcing their findings, the numbers they used to evaluate drug courts are fluid.

#### **Re-Arrest Rate by Release Type (2001 – 2005) Individuals Followed for Four Years**



As a result, they suggested the need to further work with the Oklahoma Department of Mental Health and Substance Abuse Services to provide perspective related to measures of effectiveness. We concur with this statement and believe that additional examination of data will be of benefit to further review the ability of drug courts to impact prison receptions, diversion rates and related expenditures.

#### Diversion from Corrections

The auditors recommend that requiring all drug court participants to have a prior felony conviction would increase diversion rates. In fact the audit points out that 75% of all drug court participants do have a prior felony conviction. Thus, using MGT's definition, we know that at least 75% of the individuals in the drug court program today have actually been diverted from prison. Of the remaining 25%, the majority had multiple prior felony arrests or charges, prior probation sentences, or other factors contributing to their being considered prison-bound.

It is apparent by these numbers that in the vast majority of cases, drug courts are diverting individuals who otherwise would have been prison bound. The question raised by MGT of America is how to ensure that this consistently occurs. Their recommendation that all participants be required to have a prior felony conviction is an issue worthy of additional discussion.

#### Cost Savings

MGT of America analyzed current drug court operations and projected a cost savings of nearly \$14 million annually. The audit's estimate of cost savings, however, is based on an incomplete count of drug court participants. Using the same MGT of America formula with the actual capacity of drug court (4,026 participants), the MGT formula projects an even greater cost savings in excess of \$28 million per year which is much closer to the number that ODMHSAS has reported.

The auditors do not offer a four-year estimated cost savings for comparison. Below are two ways to calculate a four years savings using MGT's formula.

- *Using the MGT annual formula, as published (\$14 million), and multiply it by four years, we arrive at a projected cost savings of \$56 million.*
- *Using the MGT annual formula, based on actual system capacity (\$28 million), and multiply it by four years, we arrive at a projected cost savings of \$114 million.*
- *Thus, ODMHSAS has reported a \$99 million four year savings as compared to a possible MGT range of \$56 million - \$114 million four year savings.*

#### Recommendations to Increase Cost Savings

The auditor's state that individuals who fail drug court receive too long a sentence, compared to sentences of those who have committed like crimes. The audit suggests an even greater cost savings for Oklahoma through adoption of their recommendation to cap the length of sentence for those who fail the program. This recommendation is also worthy of further discussion.

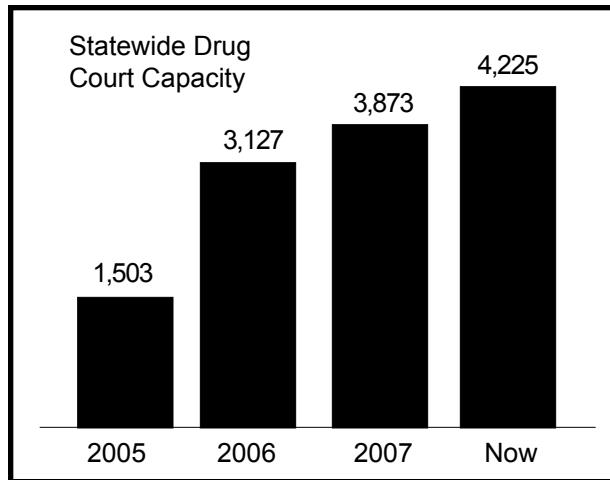
#### **Drug Courts are Functioning at Capacity**

There is an area of the report where we respectfully disagree with the author's conclusions – the potential reduction of drug court slots. The auditors suggested that only 3,000 drug court slots are needed to meet demand.

Again, their calculation is based only on the 1,900 new drug court participants admitted to the program in fiscal year 2007. However, the participants already active in drug court at the start of the fiscal year were not considered in the calculation.

For FY'08, the legislature increased the drug courts total capacity to 4,226. As of July 1, 2008 there were 4,342 active participants in drug courts across Oklahoma. A reduction in slots would mean eliminating actual people from the program and/or the loss of that slot for the next eligible person.

The auditors recommend that the legislature examine and assess the number of program slots on an annual basis in order to assure the necessary level of funding for the drug court program.



We agree with this statement and suggest that such a practice is an excellent evaluation tool for the program and provides necessary data to the Legislature in support of funding decisions.

In fact, we believe by doing so – using the MGT formula with the correct number of participants – the need for continued expansion of the drug court program would be clearly demonstrated.

### **Conclusion**

There are opportunities for improvement concerning Oklahoma's drug court program. We believe that the program's documented past success (see drug court outcomes below) along with the components that MGT praises will ensure that there are some changes that will result in an even stronger program.

By all accounts, this has been a very successful program and has provided an excellent return on tax dollars. Drug courts have proven their ability to divert individuals into a program that changes lives, saves families and strengthens communities.

### **Drug Courts Provide Positive Outcomes**

In addition to a reduction in participant involvement in the criminal justice system, the quality of participants' lives, and the community, are improved by supporting their developing skills needed to be productive citizens.

To assess outcomes, comparisons were made between participant characteristics at admission and at graduation on a number of indicators. The findings based on data from graduates for FY 2002 through FY 2007 are as follows:

- an 87% DECREASE in unemployment;
- a 74% INCREASE in income;
- a 34% DECREASE in the percent of participants without a high school diploma/General Education Diploma (GED); and
- a 38% INCREASE in the number of participants who had their children living with them.

Not only are these findings advantageous for the drug court graduates, but each of these findings also represents a significant benefit to society. However, it is important to mention that these positive impacts are not taken into account in the cost savings model, even though ultimately they result in savings to taxpayers. Furthermore, 56 drug-free infants were born to drug court participants (medical and social costs required to care for a drug-exposed infant are estimated at \$250,000 in just the first year of life; thus, potentially resulting in preventing additional costs totaling \$14,000,000 – another substantial cost saving not included in the cost comparison model).

*The Oklahoma County Drug Court consists of judges, lawyers, law enforcement, probation officers and treatment providers who work with clients who have a desire to recover from drug addiction. The Oklahoma County Drug Court Program started in May 1998. The program has had many great successes which include babies born drug free, clients completing GED or some type of skilled trade school, obtaining and maintaining gainful employment all while remaining drug free. This program address addiction issues which lead to criminal activity. In order to eliminate criminal activity, the Oklahoma County Drug Court provides the tools necessary for the client to live a life of recovery rather than incarceration. Drug Court is not "soft" on crime. Any client who elects to participate in the program must adhere to various levels of treatment, supervision and random drug testing throughout the program.*

**Kids and Crime**  
*Juvenile Arrests in Oklahoma, 2007 Oklahoma Uniform Crime Report*

Alphabetical order of county

COUNTY	Juveniles	Arrests	Rate
Adair	3,523	89	2,526.3
Alfalfa	584	2	342.5
Atoka	1,788	12	671.1
Beaver	821	6	730.8
Beckham	2,550	68	2,666.7
Blaine	1,573	8	508.6
Bryan	5,320	251	4,718.0
Caddo	4,704	124	2,636.1
Canadian	14,559	538	3,695.3
Carter	6,260	405	6,469.6
Cherokee	6,812	63	924.8
Choctaw	2,138	28	1,309.6
Cimarron	434	-	-
Cleveland	32,050	1,931	6,025.0
Coal	834	8	959.2
Comanche	17,966	839	4,669.9
Cotton	908	10	1,101.3
Craig	1,875	87	4,640.0
Creek	9,823	405	4,123.0
Custer	3,687	107	2,902.1
Delaware	5,211	126	2,418.0
Dewey	551	9	1,633.4
Ellis	442	2	452.5
Garfield	7,433	421	5,663.9
Garvin	3,517	180	5,118.0
Grady	7,159	123	1,718.1
Grant	658	1	152.0
Greer	643	26	4,043.5
Harmon	459	4	871.5
Harper	426	4	939.0
Haskell	1,650	49	2,969.7
Hughes	1,746	59	3,379.2
Jackson	4,257	84	1,973.2
Jefferson	829	13	1,568.2
Johnston	1,520	11	723.7
Kay	6,592	904	13,713.6
Kingfisher	1,942	3	154.5
Kiowa	1,259	23	1,826.8
Latimer	1,687	3	177.8
Le Flore	6,856	132	1,925.3
Lincoln	4,771	36	754.6
Logan	5,550	123	2,216.2
Love	1,244	17	1,366.6
Major	939	10	1,065.0
Marshall	1,819	34	1,869.2
Mayes	5,506	112	2,034.1
McClain	4,286	186	4,339.7
McCurtain	5,034	112	2,224.9
McIntosh	2,424	20	825.1
Murray	1,575	27	1,714.3
Muskogee	9,489	554	5,838.3
Noble	1,489	30	2,014.8
Nowata	1,515	17	1,122.1
Oklfuskee	1,416	25	1,765.5
Oklahoma	91,169	5,495	6,027.3
Oklmulgee	5,727	143	2,496.9
Osage	6,379	107	1,677.4
Ottawa	4,997	92	1,841.1
Pawnee	2,376	37	1,557.2
Payne	10,307	376	3,648.0
Pittsburg	5,661	116	2,049.1
Pontotoc	4,827	277	5,738.6
Pottawatomie	9,726	380	3,907.1
Pushmataha	1,644	55	3,345.5
Roger Mills	400	1	250.0
Rogers	12,208	132	1,081.3
Seminole	3,437	62	1,803.9
Sequoyah	5,887	247	4,195.7
Stephens	5,602	148	2,641.9
Texas	3,062	110	3,592.4
Tillman	1,281	60	4,683.8
Tulsa	78,431	4,474	5,704.4
Wagoner	9,623	201	2,088.7
Washington	6,583	297	4,511.6
Washita	1,564	16	1,023.0
Woods	1,125	9	800.0
Woodward	2,519	167	6,629.6
<b>STATEWIDE</b>	<b>494,638</b>	<b>21,463</b>	<b>4,339.1</b>

Descending order of arrest rate

COUNTY	Juveniles	Arrests	Rate
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## ***Final Answer or Right Direction? Learning from Missouri?***

*Robert E. Christian, Executive Director, Oklahoma Office of Juvenile Affairs*



The Missouri system of juvenile justice has been much discussed and studied throughout the nation during the past decade.

When many states were implementing more stringent penalties to combat juvenile crime, Missouri was turning

towards a system of community-based centers that stressed therapy and not punishment. Large juvenile justice institutions were abandoned and replaced with forty-two (42) community-based centers that were located throughout the state to allow visitation for the families of the juveniles in the facilities.

Missouri also established eleven (11) nonresidential day treatment centers to deal with reintegration issues once the juvenile was placed back into the community<sup>1</sup>. All of these changes are touted as not just good treatment practices, but also cost-savings measures with Missouri quoting an average cost of \$130 per day per bed<sup>2</sup>. Oklahoma has also established a system of juvenile justice that is treatment orientated and not punishment orientated. However, we, as a state, have just in the past five years begun to realize the benefits of smaller community-based facilities both in quality of treatment and costs.<sup>3</sup>

Currently, the Office of Juvenile Affairs (OJA) operates the following facilities:

- **Central Oklahoma Juvenile Center (COJC):**

A 116-bed physically secure facility located in Tecumseh with a 56-bed medium security program for males; a 40-bed medium security program for females and a 20-bed male sex offender program.

- **Lloyd E. Rader Center (LERC):**

A 148-bed physically secure facility for males located in Sand Springs. The facility has a 94-bed medium security program; a 42-bed maximum-security program; a 6-bed special care unit and a 6-bed behavior management unit.

- **Southwest Oklahoma Juvenile Center (SOJC):** A 78-bed physically secure facility for males located in Manitou.

From FY2001 to FY2007 the number of secure beds available in the larger institutions has been reduced from 451 to the current capacity 342.<sup>4</sup>

In FY2001, these secure beds were supplemented by an additional 421 staff-secure group home beds located throughout the state. In an effort to achieve the positive results of the smaller community facilities, it was anticipated that as the institutional beds were decreased the group home beds would increase. However, the severe budget cuts in FY2002-2003 contributed to a decrease of both secure beds and community-based beds for juvenile offenders in Oklahoma. In FY2007 OJA only had available 266 community-based group home beds, a 27% decrease of available beds from FY2001.

Consequently, Oklahoma is reducing the numbers in the larger institutions but financial considerations have not allowed them to be replaced by additional community-based facilities that provide better treatment and are much more cost effective. It is clear that the system will not work with the reduction of both institutional beds and community beds.

Also, the population of juvenile offenders served in the juvenile justice system further limits Oklahoma. The Missouri model is one based upon indeterminate sentences for juvenile offenders defined as juveniles less than 17 years of age<sup>5</sup>. Therefore, the older more violent seventeen-year-old offenders in Missouri go directly to adult corrections and not to the juvenile justice system as they do in Oklahoma since our age of majority is 18.

Missouri also provides a dual sentencing program<sup>6</sup> similar to Oklahoma's Youthful Offender Act.<sup>7</sup> With the passage of Senate Bill 1403<sup>8</sup> this past legislative session in Oklahoma, the Youthful Offender Act was

modified to reserve the assets of the juvenile justice system for juvenile offenders and better model the Missouri system.

Sections 7306-2.1 through 7306-2.13 of Title 10 of the Oklahoma Statutes are known as the “Youthful Offender Act”. The Act was implemented beginning January 1, 1998. Its intent was to better ensure public safety by holding youths accountable for the commission of serious crimes, while affording courts methods of rehabilitation for those youths the courts determine, at their discretion, may be amenable to such methods.<sup>9</sup>

The major impact of Senate Bill 1403 to the Youthful Offender Act was to change the disposition that the courts may order for a youthful offender. Prior to the modifications made in Senate Bill 1403 the court could impose a sentence as a youthful offender within the range prescribed by law for adult felony convictions except capital offenses. The youthful offender was placed in the custody of the Office of Juvenile Affairs until their release or they reached twenty-one (21) years of age. Upon reaching the age of twenty-one (21) they are released from the custody of the Office of Juvenile Affairs without the benefit of any mandated reintegration services.

Senate Bill 1403 now provides that the youthful offender shall be subject to the same type of sentencing procedures and duration of sentencing procedures and duration of sentence, except for capital offenses, including suspension and deferment, as an adult convicted of a felony offense. Any sentence imposed upon the youthful offender shall be served in the custody of, or under the supervision of, the Office of Juvenile Affairs until the expiration of the sentence, parole, discharge, or the youthful offender reaches eighteen (18) years of age, whichever first occurs.

When a youthful offender attains eighteen (18) years of age prior to the expiration of the sentence, he is returned to the sentencing court to determine whether he is allowed to finish his treatment with OJA; is sent to the Department of Corrections for incarceration or probation; or is released from custody.



The final answer to the questions concerning juvenile justice in Oklahoma may not be the adoption of the entire Missouri Model, but I do agree that it is more effective to have smaller facilities located in the communities throughout the state both in the terms of treatment and costs. Oklahoma currently lacks the infrastructure necessary to implement the program but additional community beds are being planned.

Oklahoma must adopt and implement a functional reintegration program complete with transitional housing, job training, job placement and mentoring.

Furthermore, dual sentencing is very necessary for a public that demands “law and order” and accountability, but the current state of affairs in the adult corrections systems most probably could not sustain the reduction in the age of majority from 18 years of age to 17. The over-burdened adult system could not handle the increased population that would stem from the lowering of the age of majority.

- 1 Griffin, Patrick. 2007. State Juvenile Justice Profiles. Pittsburgh, PA: National Center for Juvenile Justice. Online. Available: <http://www.ncjj.org/stateprofiles/>.
- 2 Average daily costs (excluding federal reimbursement) for Oklahoma for both secure beds and community beds combined exceed \$140.00 per day.
- 3 10 O.S. Section 7301-1.2.
- 4 Annual Report 2007-2008, Office of Juvenile Affairs, State of Oklahoma. Available online at: <http://www.ok.gov/oja>.
- 5 Missouri Revised Statutes, Chapter 211.021.
- 6 Missouri Revised Statutes, Chapter 211.073.
- 7 10 O.S. Sections 7306-2.1 through 7306-2.13.
- 8 2008 Okla. Sess. Law Serv. Ch. 277 (SB 1403) (West).
- 9 10 O.S. Section 7306-2.2.

## *Oklahoma's Incarcerated Women*

*Susan Sharp, PhD, Professor Department of Sociology, University of Oklahoma.*

### **Author**

*Susan Sharp is a Professor in the Department of Sociology, University of Oklahoma. Currently, she is completing her term as Executive Counselor for the Division on Critical Criminology of the American Society of Criminology. She has served as Chair of the Division on Women and Crime of the American Society of Criminology, as founding editor of Feminist Criminology, as Executive Counselor and Newsletter Editor for the Division on Women and Crime of the American Society of Criminology, and as Chair of the Oklahoma Coalition to Abolish the Death Penalty. Dr. Sharp is also a Faculty Fellow in the College of Liberal Studies at the University of Oklahoma and a member of the Honors Council.*



*She obtained her Ph.D. in Sociology from the University of Texas at Austin in 1996. Prior to pursuing her doctorate, she spent eight years as a Licensed Chemical Dependency Counselor in the state of Texas, including positions as Program Director for the Lavender Center for Adolescents in Austin, Texas, and Counseling Supervisor for the New Vision Treatment Program at Wackenhut Prison, Kyle, Texas.*

*Susan Sharp is the author of the book, *Hidden Victims: Effects of the Death Penalty on Families of the Accused* (Rutgers University Press, 2005). She is also the editor of the text *The Incarcerated Woman* (Prentice-Hall, 2003). She has authored more than 20 articles and book chapters focusing on gender, crime and the criminal justice system. Her current research focuses on capital punishment, the criminal justice system, and gender differences in crime and deviance.*

*Dr. Sharp received the following awards: Most Inspiring Faculty Award from the student athletes at the University of Oklahoma, 2000; Rufus G. Hall Faculty Award 2002; Phil Wahl Abolitionist of the Year Award, 2004, the Good Teaching Award for the University of Oklahoma, 2005, and the Kenneth G. Crook Faculty Award, 2007.*

### **OKLAHOMA'S DILEMMA**

Incarceration of women in Oklahoma is a serious problem, with both visible and invisible economic and social costs to Oklahoma citizens. Between September of 2005 and August of 2007, the number of women incarcerated in the state increased by almost 16%, yet the serious crime rate did not rise. Furthermore, Oklahoma incarcerates 131 women per 100,000

compared to the national female incarceration rate of 69 per 100,000. Drug offenses directly account for a high percentage of female incarcerations. Nationally, 29% of women prisoners are incarcerated for drug offenses. In Oklahoma, drug offenses account for 44% of the women in prison. The Oklahoma response to female drug offending clearly is a major explanation for why Oklahoma's female incarceration rate is almost double the national rate. Another issue is the requirement that the prisoner serve 85% of her sentence for certain crimes, including drug distribution, resulting in longer periods of incarceration.

### **OKLAHOMA DATA**

Three of the past four years, I have conducted a study for the state of Oklahoma focusing on incarcerated women and their children. The study is based on a survey conducted with prisoners, asking them questions about their childhoods, their lives before prison, their drug use and mental health histories, their crimes, and their children. Interviews with children's caregivers were also conducted. Several issues faced by women offenders in the state have become evident.

#### **Drug Offenses**

First and foremost, the number one offense of these women is drug possession or distribution. In the case of the latter, the offenses are frequently committed with a male relative, a boyfriend, or a husband. Furthermore, many of these women have sought drug treatment in the past but been unable to obtain it. There are limited beds available for state-supported residential drug treatment in Oklahoma, and few are

designated for women. Furthermore, most of the women have children and are often single-parents, making in-patient treatment difficult. Thus, prison may be the first opportunity many of these women have to receive much needed interventions.

However, in-prison treatment comes with a hefty price tag for both the women and for society. The women lose their freedom, they risk losing their children, and upon their return to society, their options are severely limited. Society is burdened with the debt of imprisonment and also loses the potential contributions of the women.

#### Minimal Skills

Education and job skills are sorely lacking in this population. Of the women surveyed in 2007, a representative sample of the women in Oklahoma prisons, more than one-fourth had not completed high school, and an additional almost 40% had only a high school diploma or GED. Two-thirds of the women reported working prior to incarceration, but a large percentage were only qualified for low-paying and unstable jobs due to their lack of job skills.

#### Mental Health

Further understanding of these women and their plight can come from examining their abuse histories and subsequent mental health problems. First, the majority of them report having been physically or sexually abused prior to the age of 18. In fact, the 2007 survey indicated that almost 90% of the women had been abused either as an adult or as a child.

Half of the women reported parental violence in the home when they were growing up, two-thirds reported childhood physical or sexual abuse, and three-fourths were victims of rape or domestic violence after the age of 18.

Clearly, these women could be expected to have abuse-related problems needing treatment. Not surprisingly, many of them have been diagnosed with a mental illness, with bi-polar disorder, PTSD, anxiety and depression being the most common diagnoses. Indeed, in many cases their drug use may be an attempt to self-medicate an existing psychiatric disorder. These women need therapy and possibly medication to deal with these problems. However,

therapy will only be effective if it is designed to deal with the underlying traumas and the results of those traumas.

Of course, substance abuse eventually complicates any existing mental health problem, and the woman is at risk of also developing a substance abuse disorder. In the 2007 study, we found that almost three-fourths of the women reported heavy drug use (more than once a week) in the month prior to their arrest.

Effective drug use in prison would ideally be coordinated with other programs in which they women participate. Evaluation research clearly indicates that a more holistic approach as well as long-term drug treatment are far more effective with women prisoners than substance abuse education, short-term programs, or treatment that is not designed to deal with the underlying issues.

#### Incarcerated Mothers

Perhaps the most important issue involved in incarcerating women is that the majority are mothers. When we incarcerate a woman, society must also deal with her minor children, as two-thirds of women prisoners have minor children, and about two-thirds of those mothers were living with one or more of their children at the time of incarceration. Thus, those children must be placed somewhere.

The most common placements are with the prisoners' parents. Recently, there has been an increase in the percentage of children who live with their fathers when the mother is sent to prison, but this accounts for only about one-fourth of the children. Others are sent to foster homes, and still others are living with friends of the prisoners, often former prisoners themselves. Although there is a state law that requires judges to order a home study if he or she has concerns about where minor children will live while their mother is incarcerated, this is rarely if ever done.

Instead, the children are often living in unstable situations, siblings are separated, and the children may have to move from one household to another. Because the law allows termination of parental rights if the parent fails to provide support, the mothers do

not want any official agencies involved with their children. Thus, they may allow children to live in less than ideal environments in order to not lose their children. Furthermore, families tend to be hesitant to apply for governmental aid, as in many cases the child's parent must repay any aid received once released from prison.

Recalling that many of the women grew up in abusive families, many of their children may now be living in the same situations, and their presence may add emotional and economic strain to an already fragile family.

What we do know from interviews with their caregivers as well as research with the women prisoners is that these children experience a myriad of problems and that many of their problems develop after the mother was sent to prison. In particular, these children experience school problems and problems with depression. Older children may also have substance abuse or legal issues.

Most of Oklahoma's female inmates plan to live with their children upon release, but contact with their children is problematic. This is a serious issue, as strong family relationships are essential for successful re-entry. When contact is limited, it is far more difficult to maintain healthy relationships.

However, less than half of the women report receiving visits from their children at least every other month, and some never receive visits. Because most women prisoners are in isolated areas (McLoud and Taft), it is hard for caregivers to take the children to visit the incarcerated mothers. Telephone calls are also problematic due to the expense. If the children are pre-school age, they cannot write to their mothers and may not understand who the letters sent by their mothers are from.

Ideally, if we are going to incarcerate mothers, programs should be in place to facilitate mother-child contact. Failure to do so jeopardizes the successful reentry of the women, the well-being of the children, and reintegration of the family unit.

#### Reintegration to Society

Finally, women prisoners face serious problems when they are released. Most are faced with paying court costs in addition to parole fees and the costs of mandatory treatment. Yet, these are women ill-equipped to earn enough money to support themselves and their children, much less to pay additional fines and fees. Furthermore, they may be unable to parole to their families because that would negatively affect government aid the family might be receiving.

The women themselves are also severely limited in the types of assistance they may be able to obtain. Laws restrict their access to Section 8 housing assistance, yet they often do not earn enough to rent adequate housing.

There are also statutory restrictions on jobs. Convicted felons are prohibited from employment in a number of fields, and even for jobs that they are legally allowed to work, they face employer discrimination. Thus, many become discouraged and return to old behaviors. They are subsequently re-arrested, for either parole violations or new offenses.

Approximately one-fourth to one-third of our women prisoners are reincarcerated for parole violations rather than new crimes. These may include failure to report to parole officers, failure to pay court costs and fees, positive drug tests, or associating with other known felons, often their boyfriends or family members.

It is obvious that more attention needs to be paid to developing and implementing effective reentry





programs that facilitate reintegration into the communities. Failure to do this ensures that we will continue to have revolving prison doors.

#### **POLICY NEEDS**

I have briefly described some of the problems that are common to incarcerated women. These women deal with abuse issues, drug addiction, mental health problems, low educational attainment and lack of job skills. Furthermore, the majority are incarcerated for low-level offenses, such as bad checks or drugs. Finally, most are the mothers of young children and plan to live with those children when released. Ideally, we should re-think our response to their crimes.

#### Outpatient Treatment

Most of these women need intensive substance abuse treatment, but an inadequate number of beds are available to them in this state. For those who are severely addicted, outpatient programs may simply not be intensive enough. Furthermore, most need better mental health treatment, especially counseling for trauma and abuse issues. For lower-level, non-violent offenders, the support and supervision of drug and mental health courts has been far more successful in reducing crime. However, this will

only work if there are adequate public substance abuse and mental health programs available to the women.

#### Prison Based Treatment

For those for whom incarceration is a better response, we need to re-examine our policies within the system. Currently, the resources are so limited that women may have to wait months or even years to get into a drug treatment program that will adequately address the reasons they use. Because drug use is a coping mechanism for many of these women, treatment is unlikely to be successful unless it addresses the underlying abuse, self-esteem and mental health issues. Additionally, research indicates that longer-term programs are more successful, and our choices of programs should be evidence-driven.

#### The 85% Rule

Additionally, the 85% rule should be reconsidered. This was originally intended to ensure that dangerous, violent offenders remained in prison. Now, this rule results in longer periods of incarceration for women who may be low-level drug offenders. Considering that many women's involvement with drug distribution is tangential to their relationship with a man who is higher up on the drug distribution chain, the harshness of our punishments results in disproportionately long prison terms, crowding the prisons with women who arguably are in need of other interventions. Other factors play into the 85% rule, such as programs not counting toward "good time" until 85% of the sentence has been served, thus discouraging the women from utilizing some of the limited resources which could help them increase their likelihood of remaining out of prison.

#### Reintegration

In order to facilitate successful re-entry, programs are needed that will ensure the returning offender has adequate support upon her return to the community. This may entail developing housing alternatives or addressing existing housing restrictions for those convicted of drug crimes. Additionally, programs are needed to link offenders with jobs prior to their incarceration. More serious consideration needs to be given to both the economic and time requirements that re-entering offenders are required to meet. It is

unreasonable to expect a woman with a relatively low earning capacity to be able to pay high court cost payments and fines, parole fees, payments to the parole officer and still be able to support herself and her family. While it is important to hold these offenders accountable, we should do so within reason in order to avoid unintended negative consequences.

#### Fragile Families

Finally, we need to take a long-range view. Our current policies help destroy family ties. While these families are already fragile, destroying the connections that do exist only causes further harm.

If we are going to continue incarcerating women for drug crimes, then we must find ways to help maintain and strengthen family ties, better prepare offenders to return to these families as more effective parents, and provide reintegration programs that help support and guide these families during the reentry period. This means programs that provide adequate individual and family counseling, safe housing options, and perhaps even economic supports.

Under our current policies, a high rate of recidivism is virtually inevitable. The women are faced with almost insurmountable obstacles in their efforts to remain drug-free, self-supporting, and crime-free. They return to their communities with unmarketable job skills, overwhelming financial obligations, and employers who are skeptical of hiring a convicted felon. Their housing choices are very limited due to current guidelines. Even if they want higher education and have the ability to attend college, access to financial aid is restricted.

#### **A FINAL WORD**

If we want to reduce the number of women in prison, we should make reintegration feasible. Currently, once they have “done their time” and “paid their debt to society” they find themselves still being punished by a society that is unforgiving.

It is also imperative that we take the effects on families, particularly children, into account and respond accordingly. Otherwise, we are in danger of creating a future generation of offenders, and we will all pay through high imprisonment costs and the lower productivity of this segment of our population.

#### **REFERENCES**

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## **Oklahoma's Female Incarceration Rates: Why?**

*Sherri Carrier, Director, Tulsa County Court Services*

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### **Meet Sherri Carrier**

*Sherri Carrier began her career with Tulsa County in 1993 as a Detention Officer working for the Tulsa County Sheriff's Office. Sherri performed duties at every detention facility and was promoted to a Certified Deputy. Before leaving the Sheriff's Office, she obtained the rank of Sergeant. She then pursued a career change into the Community Corrections field taking the position of Tulsa County Community Sentencing Coordinator. Sherri was chosen as the Director of Tulsa County Court Services in 2004.*

*She obtained a Bachelors Degree in Criminal Justice / Corrections and a Graduate Degree from the University of Oklahoma in Human Relations / Organizational Development. She is currently the Central Region Director for the National Association of Pretrial Services Agencies (NAPSA) representing 18 states in the United States.*

### **Introduction**

Being Number One is usually a goal that we all strive to achieve. Unfortunately for Oklahoma, being number one has a high financial cost and is permanently damaging some families. The question asked is: Why is Oklahoma number one in the nation for incarcerating women offenders? There have been many meetings, conversations, and task forces formed to research and answer this question.

When dealing with female offenders, as opposed to male offenders, there are many differences that must



be considered. Women have been treated as high risk when actually they have higher needs. There are different strategies for women than men when dealing with safety, relationships, financial and emotional support and children with needs.

Incarcerated women often face, the source of which is often unknown, a history of mental illness, domestic abuse and sexual abuse. Women offenders face issues of low self-esteem, minimal education, and few good paying employment opportunities. Although the national demographic profile of women offenders is about the same, Oklahoma continues to incarcerate more women offenders than any other place in the world.

In 2003, Tulsa County participated in a Technical Assistance Grant provided by the National Institute of Corrections. Tulsa County created a Women Offender Committee that consisted of several criminal justice entities, service providers and citizen representatives. Tulsa, Oklahoma was one of three cities chosen to participate in the grant, along with Nashville, Tennessee and Maui, Hawaii.

The Tulsa County Women Offender Committee established goals at the beginning of the grant process designed to yield pertinent information about incarcerated women.

Our first goal was to create a Gender Responsive Survey for current service providers that were providing treatment for women offenders. We wanted to make sure that Tulsa County was meeting the treatment needs of women offenders, or see if those treatment needs warranted enhanced services or techniques for programs. This was a productive study with positive results.

Our second goal was to conduct a Jail Exit Survey to learn what types of crimes women were being incarcerated for, and to compile information regarding the released women's plans for the future as it related to their families, housing and employment.

The 2003 Tulsa County Jail Exit Survey was a self report survey. We also conducted extensive criminal background research pertaining to the survey group of women offenders. The following statistics were gathered from the survey:

- *The average age of the Tulsa County Jail woman offender was 33 years old.*
- *The largest age group was 21 – 25 years old. Most of the women were first arrested between the ages of 18 and 21.*
- *Caucasian was the largest race represented in the study group.*
- *The average number of years completed in school was 11, although about 60% of our study population said they had completed high school.*
- *The average number of children per woman offender was 2, and 83% of the women surveyed had at least one child. 70% of these children were under the age of 18.*
- *59% of the women surveyed lived in a rent house or apartment.*
- *The majority of the women surveyed did not have a valid driver's license.*
- *40% of the women were not employed at their time of arrest.*
- *78% of the women had a personal income level of less than \$20,000.*
- *The most common drugs used were alcohol and marijuana; 77% said they had never had alcohol or drug treatment.*
- *The average number of prior arrests was 2. The highest felony current arrest category was drug possession and related crimes.*
- *When asked where the women would go when they were released from custody, 83% said they would return to their home.*

#### **Did we learn anything from the Jail Exit Survey?**

Yes. We learned that the women incarcerated in Tulsa are primarily arrested for drug related offenses or property crimes; they have children that are potentially affected by their arrest; they had little education, low paying jobs (if they had one); and they relied on community assistance to survive. The most important statistic from the survey as it relates to recidivism is that the majority of the women had no treatment options for their drug and alcohol issues.

The time that the Tulsa County Women Offender Committee met and completed their goals to attempt to answer the question of WHY Oklahoma incarcerates more women was very beneficial.

Through monthly meetings over a two-year period, the committee not only answered the question of WHY, but WHAT we needed to do to enhance our system. The committee studied the survey data, met with actual offenders and continued to work as a team with all of the criminal justice entities. Some answers to the specific needs of women were: more options for release for women who cannot afford to bond out of jail; increase availability for specialty therapeutic courts and programs that include more treatment options; increasing alternative sentencing for special needs cases, such as mental health, physical limitations and pregnancy. Since 2003, these suggestions have been recognized and continue to be utilized in Tulsa County. Still, we had not fully answered the question of WHY? The Committee issued a statement to this affect: Oklahoma incarcerates more Women because:

*Longer sentences / mandatory sentencing laws  
Higher court cost /fines  
False belief that incarceration = safer society  
(high risk instead of high need)  
Less resources for financial support (bond/attorney)  
Fear of criminal justice process  
Lacking support system  
Past victim of violence  
Gateway crimes leading to more offenses  
Self esteem issues  
Minimal education / low paying employment opportunities  
Need meaningful sentences / more sentencing options  
Need reintegration programs  
Caregivers of children should be considered*

I would encourage every community member who views or interacts with a woman offender to look beyond her criminal history, and view her as an individual person. It is imperative that the criminal justice system tailor sentences and programs to specific individual offenders. All the research in the world will not answer the question WHY, unless you get to know the person that is giving the answers.

In the future, being Number One for a list of successful programs that address women and their unique issues will be less expensive for taxpayers and more productive for women offenders.

## *Oklahoma's Female Offenders*

*Emily Redman, District Attorney, Atoka/Bryan/Coal Counties*

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*Emily Redman joined the District Attorney's Office in 1992 as a law clerk while she was a student at the University of Oklahoma School of Law. Immediately upon graduation, Redman became an Assistant District Attorney and in 2003 was appointed First Assistant by former District Attorney, Mark Campbell.*

*Governor Brad Henry appointed Redman to the position of District Attorney on October 7, 2005 to fill Campbell's unexpired term when he became Bryan County District Judge.*

*During her career, Redman has prosecuted a wide range of cases, with a special emphasis on crimes against children. Redman currently serves as Chairperson of the Board of the A.B.C. House, a Child Advocacy Center. She also teaches legal classes to potential law enforcement officers and has served as an officer for the Bryan County Peace Officers Association.*

*Redman has lived most of her life in Durant, graduating from Durant Public Schools, Southeastern Oklahoma State University and the University of Oklahoma School of Law. She currently resides in Durant with her husband, John Redman, a Rural Development Specialist for the U.S. Department of Agriculture, and their two sons, A.J. and Walker.*

According to the United States Bureau of Justice Statistics (BJS), Oklahoma incarcerates more women per capita than any other state in the nation. Reportedly, Oklahoma women are incarcerated at a rate of 129 per every 100,000; this is more than double the national average. According to reports of the Oklahoma Department of Corrections (DOC), 2,561 women were imprisoned at the end of June, 2007. At the same time, DOC reported the custody of 22,528 men, earning Oklahoma a rank of fourth in the nation per capita for the incarceration of males.

These numbers raise several questions. First, are there truly a disproportionate number of women incarcerated in this state? Or, are we simply



“Equal Opportunity Incarcerators?” Second, are Oklahoma women inherently bad as compared to females in the other 49 states? Or, instead are there societal and/or cultural issues unique to Oklahoma that affect the crime rate among women?

Next, what does the Oklahoma public want? Do we incarcerate out of a “thirst for vengeance” as some have suggested, or when setting sentences for the convicted, do we appropriately consider the three goals of the criminal justice system – punishment, deterrence and rehabilitation.

Lastly, if in fact the State of Oklahoma is over-incarcerating its women, what are the alternatives? Can we ensure the safety of the public, punish and rehabilitate criminals, and discourage others from resorting to a life of crime without incarcerating female criminals? Are there any reasonable, affordable and safe alternatives? If so, should criminal sentencing laws be changed accordingly?

An attempt to answer these questions would be futile without a review of the types of crimes for which Oklahoma’s women are most often incarcerated. Of the 2,561 women incarcerated within the custody of DOC in June, 2007, 627, or 52.8 percent, were convicted of drug or alcohol offenses.

It should be noted and understood that this category of offenses covers a wide range of crimes with a varying degree of seriousness. These crimes can range from a felony offense of driving a motor vehicle under the influence of alcohol to simple possession of a controlled dangerous substance to manufacturing, distributing, and/or trafficking illegal drugs.

Another 331 women, or 28 percent, incarcerated within the custody of DOC were convicted and sentenced for “property” crimes, ranging from embezzlement to burglary to forgery. As most first time property offenders are granted the privilege of

probation, it can be reasonably assumed that many of the women incarcerated for such crimes are either repeat offenders or that they failed to comply with the terms and conditions of their probation, causing courts to revoke their probationary sentences.

It should also be noted that a large number of women (and men for that matter) who commit property crimes do so to support a drug habit. Therefore, it could be argued that as many as 75 percent of females incarcerated in Oklahoma are there because of a drug or alcohol problem. This should be an important clue in answering the questions above.

In Oklahoma, and especially in rural Oklahoma, the predominant drug of choice is methamphetamine. This fact should frighten every Oklahoma citizen. Methamphetamine, also referred to as "speed," "crystal," "crank," or "ice," is an extremely dangerous and easily accessible drug. While legislation enacted in 2004 has significantly contributed to a decrease in the seizure of clandestine methamphetamine labs in Oklahoma, sadly, we have not seen a decrease in the number of users. The United States Drug Enforcement Administration (DEA) reports that, other than marijuana, methamphetamine continues to be the primary drug of choice in Oklahoma. The DEA also contends that most Oklahoma methamphetamine is brought into the state from Mexico by Hispanic organizations.

Methamphetamine is an extremely addictive and mind-altering drug. Made from ingredients such as cold tablets, drain cleaner, iodine, hydrogen peroxide, red phosphorous, anti-freeze and camping fuel, it can be injected, snorted, eaten or smoked.

The use of methamphetamine dramatically affects the central nervous system and first-time users generally experience a euphoric "rush" or "high." That feeling of extreme pleasure leads to further use, which in turn, leads to addiction. Methamphetamine imitates dopamine, a chemical naturally created by the brain, which gives the human body the ability to experience pleasure. Over time, methamphetamine use results in the brain's creating less and less dopamine, which ultimately results in a person's inability to experience pleasure or happiness without using the drug.

Some women have reported that the high created by methamphetamine makes them feel like they can do anything. Some have reported using meth to stay awake for longer periods of time when there aren't enough hours in the day. Often, women start using methamphetamine to lose weight. Unfortunately, the results of using methamphetamine are devastating. A short list of symptoms includes: hyperactivity, irritability, hallucinations, aggression/violent behavior, paranoia, depression, malnutrition, dental problems and welts on the skin.

Perhaps the most disturbing result of prolonged methamphetamine use is a loss in the addict's ability to care about others around her. Methamphetamine becomes first priority. Children are abused and neglected as addicts often forget to feed, bathe, or take their children to school.

Increased paranoia results in increased violence; sometimes children are the victims of this violence; they are often witnesses to it. Methamphetamine addicts do things they never would have dreamed of doing in their pre-meth lives. They are unable to hold down jobs, so they lie, cheat and steal in order to support their drug habit. Often women even trade sex for drugs.

As can be expected, women addicted to methamphetamine commonly associate with men who possess, manufacture, and/or distribute the drug. Often, these women who may not be major "players" in the drug trade are arrested, charged, convicted and imprisoned because they become involved enough to support criminal charges more serious than mere possession.

#### Four Years of Meth



1998

2002



# **CRIMINAL JUSTICE SYSTEM COSTS**



## **National Health Care & Criminal Justice Expense Growth**

*United States, 1982-2005, Oklahoma Academy Research Committee*

The table below (in billions) examines the growth in national expenditures of what we call our “criminal justice system”. These expenditures are measured against the national expenditures of our “health care system”. Why this comparison?

First: There is great national and state consternation about “out of control” health care costs and health insurance premium increases. There seems to be much less concern over the growth of criminal justice expense. Second: By measuring the growth from 1982 through 2005 we examine the full impact of four parallel social spending phenomena. In health care, that period coincided with the full maturation of

the national impacts of Medicare and Medicaid. In criminal justice, that period fully encompasses the “war on drugs” and closures of mental hospitals.

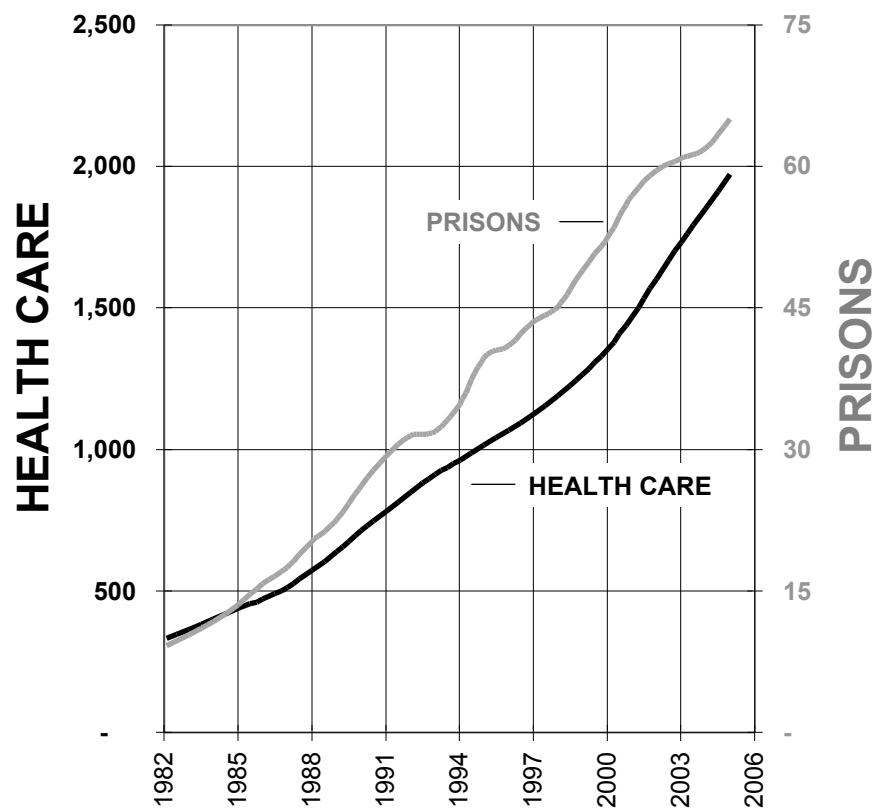
### Findings

Health care expense increased by 497% from \$330.7 million in 1982 to \$1.98 trillion in 2005. Yet federal (730%) and state (510%) criminal justice spending growth exceeded health care; and the spending growth (619%) for correctional facilities far exceeded health care. Additionally, the growth of the entire criminal justice system (police, legal and prisons/jails literally shadowed the growth in health care and at almost the same growth rate (see chart at next page).

	<b>HEALTH</b>	<b>SOURCE OF FUNDS CRIMINAL JUSTICE SYSTEM</b>			<b>CATEGORY OF EXPENSE CRIMINAL JUSTICE SYSTEM</b>			<b>TOTAL</b>
		<b>FED</b>	<b>STATE</b>	<b>LOCAL</b>	<b>POLICE</b>	<b>LEGAL</b>	<b>PRISON</b>	
1982	\$330.7	\$4.3	\$10.7	\$20.9	\$19.0	\$7.8	\$9.0	\$35.8
1983	\$364.7	\$4.8	\$11.7	\$23.1	\$20.6	\$8.6	\$10.4	\$39.7
1984	\$401.6	\$5.8	\$13.1	\$25.1	\$22.7	\$9.5	\$11.8	\$43.9
1985	\$439.3	\$6.3	\$14.9	\$27.4	\$24.4	\$10.6	\$13.5	\$48.6
1986	\$471.3	\$6.4	\$17.0	\$30.1	\$26.3	\$11.5	\$15.8	\$53.5
1987	\$513.0	\$7.2	\$18.5	\$33.2	\$28.8	\$12.6	\$17.5	\$58.9
1988	\$574.0	\$8.5	\$20.9	\$35.9	\$31.0	\$14.0	\$20.3	\$65.2
1989	\$638.7	\$9.2	\$23.0	\$38.7	\$32.8	\$15.6	\$22.6	\$70.9
1990	\$714.0	\$10.2	\$25.8	\$43.5	\$35.9	\$17.4	\$26.2	\$79.4
1991	\$781.6	\$12.1	\$28.5	\$47.0	\$39.0	\$19.3	\$29.3	\$87.6
1992	\$849.0	\$13.5	\$30.3	\$50.0	\$41.3	\$21.0	\$31.5	\$93.8
1993	\$912.6	\$14.4	\$30.7	\$52.4	\$44.0	\$21.6	\$31.9	\$97.5
1994	\$962.2	\$14.6	\$33.5	\$55.3	\$46.0	\$22.6	\$34.9	\$103.5
1995	\$1,016.5	\$16.7	\$37.4	\$58.8	\$48.6	\$24.5	\$39.8	\$112.9
1996	\$1,068.8	\$17.5	\$39.9	\$62.8	\$53.0	\$26.2	\$41.0	\$120.2
1997	\$1,125.3	\$20.5	\$42.4	\$66.9	\$57.8	\$28.5	\$43.5	\$129.8
1998	\$1,190.5	\$19.4	\$46.0	\$70.5	\$60.8	\$29.9	\$45.2	\$135.9
1999	\$1,265.6	\$22.1	\$50.0	\$74.4	\$65.4	\$32.2	\$49.0	\$146.6
2000	\$1,353.6	\$23.1	\$54.0	\$78.6	\$68.9	\$34.3	\$52.5	\$155.7
2001	\$1,469.6	\$25.3	\$58.8	\$83.0	\$72.4	\$37.8	\$57.0	\$167.1
2002	\$1,603.4	\$28.5	\$60.9	\$90.1	\$79.5	\$40.4	\$59.6	\$179.6
2003	\$1,732.4	\$30.2	\$61.7	\$93.5	\$83.1	\$41.5	\$60.9	\$185.5
2004	\$1,852.3	\$34.3	\$61.8	\$97.4	\$88.9	\$42.7	\$61.9	\$193.5
2005	\$1,973.3	\$35.4	\$64.9	\$103.8	\$94.4	\$44.6	\$65.1	\$204.1
<b>GROWTH</b>	<b>497%</b>	<b>730%</b>	<b>510%</b>	<b>396%</b>	<b>396%</b>	<b>474%</b>	<b>619%</b>	<b>470%</b>

*Legend: HEALTH: Total national health expenditures, all sources (Source: National Health Care Expenditure Survey). FED - STATE - LOCAL is the federal government, state government and county/municipal (local) government expense. POLICE is law enforcement agencies; LEGAL is the judicial and legal systems; and PRISON is all correctional expense related to lockups, jails and prisons. TOTAL is both the sum of Government Sector and Criminal Justice System components. (Source: Bureau of Justice Statistics).*

## 1982-2005 NATIONAL EXPENDITURES (BILLIONS)



## **Criminal Justice System Spending Per Capita, States**

*States in descending order of overall spending, 2005 Data. Source: Bureau of Justice Statistics*

	<b>STATE</b>	<b>TOTAL</b>	<b>POLICE</b>	<b>JUDICIAL</b>	<b>JAILS</b>
1	Wyoming	\$906	\$290	\$150	\$466
2	Alaska	\$841	\$311	\$231	\$299
3	California	\$815	\$340	\$203	\$272
4	New York	\$802	\$383	\$165	\$253
5	Nevada	\$718	\$324	\$163	\$230
6	Delaware	\$700	\$282	\$160	\$258
7	New Jersey	\$691	\$325	\$153	\$213
8	Maryland	\$642	\$267	\$114	\$261
9	Florida	\$640	\$317	\$113	\$211
10	Arizona	\$603	\$258	\$130	\$215
11	New Mexico	\$603	\$246	\$118	\$239
12	Oregon	\$572	\$250	\$93	\$229
13	Rhode Island	\$569	\$271	\$134	\$164
<b>UNITED STATES</b>		<b>\$569</b>	<b>\$251</b>	<b>\$118</b>	<b>\$200</b>
14	Michigan	\$562	\$224	\$114	\$223
15	Connecticut	\$559	\$238	\$155	\$165
16	Wisconsin	\$558	\$245	\$95	\$218
17	Louisiana	\$554	\$234	\$111	\$209
18	Colorado	\$539	\$255	\$92	\$192
19	Massachusetts	\$539	\$246	\$132	\$162
20	Pennsylvania	\$536	\$192	\$114	\$230
21	Hawaii	\$535	\$210	\$192	\$134
22	Ohio	\$526	\$230	\$134	\$162
23	Washington	\$525	\$205	\$105	\$216
24	Illinois	\$511	\$281	\$95	\$135
25	Virginia	\$502	\$214	\$85	\$204
26	Georgia	\$493	\$190	\$99	\$204
27	Utah	\$489	\$208	\$111	\$170
28	Minnesota	\$483	\$231	\$112	\$140
29	Montana	\$471	\$193	\$110	\$167
30	Texas	\$467	\$200	\$80	\$187
31	Vermont	\$459	\$216	\$88	\$155
32	Idaho	\$453	\$182	\$95	\$175
33	Kansas	\$443	\$212	\$98	\$133
34	North Carolina	\$427	\$193	\$59	\$175
35	Oklahoma	\$420	\$177	\$75	\$168
36	Missouri	\$419	\$200	\$74	\$145
37	Tennessee	\$418	\$197	\$82	\$139
38	Nebraska	\$414	\$170	\$81	\$164
39	Arkansas	\$413	\$173	\$75	\$164
40	Kentucky	\$409	\$161	\$88	\$160
41	New Hampshire	\$395	\$193	\$85	\$117
42	Alabama	\$387	\$181	\$74	\$133
43	Indiana	\$382	\$168	\$62	\$152
44	Iowa	\$381	\$180	\$91	\$110
45	Maine	\$369	\$164	\$71	\$134
46	South Carolina	\$369	\$175	\$58	\$136
47	Mississippi	\$362	\$176	\$63	\$123
48	South Dakota	\$359	\$160	\$79	\$119
49	West Virginia	\$356	\$123	\$100	\$134
50	North Dakota	\$352	\$157	\$90	\$106

*POLICE: all law enforcement expense; JUDICIAL: all courts and judiciary expense; JAILS: all prisons, jails and lockups. TOTALS: all Criminal Justice System expense. Bureau of Justice Statistics. Filename: cjee0508.csv. Per capita justice expenditure (fiscal 2005) and full-time equivalent justice employment per 10,000 population (March 2005) of State and local governments, by activity and State. Series Title: Justice Expenditure and Employment Extracts 2005, NCJ 219370. Data source: Criminal Justice Expenditure and Employment Extracts Program (CJEE). Author: Kristen Hughes. Refer questions to: askbjjs@ojp.usdoj.gov (202) 307-0765. Date of version: 8/10/2007.*

## **Criminal Justice System Spending Per Capita, Major Cities**

*Cities in descending order of overall spending, 2005 Data. Source: Bureau of Justice Statistics*

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	<b>CITY</b>	<b>TOTAL</b>	<b>POLICE</b>	<b>JUDICIAL</b>	<b>JAILS</b>
1	Washington, DC	\$1,079	\$704	\$95	\$279
2	Philadelphia, PA	\$758	\$350	\$162	\$246
3	New York, NY	\$694	\$478	\$62	\$154
4	San Francisco, CA	\$690	\$379	\$85	\$226
5	St.Louis, MO	\$676	\$447	\$109	\$121
6	Boston, MA	\$644	\$443	\$31	\$170
7	Baltimore, MD	\$606	\$525	\$82	\$0
8	Detroit, MI	\$600	\$521	\$79	\$0
9	Honolulu, HI	\$524	\$465	\$59	\$0
10	Newark, NJ	\$504	\$469	\$35	\$0
11	Denver, CO	\$494	\$296	\$82	\$115
12	Cleveland, OH	\$482	\$376	\$91	\$15
13	Oakland, CA	\$474	\$451	\$23	\$0
14	Nashville, TN	\$432	\$251	\$99	\$82
15	Chicago, IL	\$431	\$419	\$12	\$0
16	Los Angeles, CA	\$426	\$426	\$0	\$0
17	Indianapolis, IN	\$395	\$234	\$68	\$93
18	Long Beach, CA	\$387	\$365	\$22	\$0
19	Seattle, WA	\$378	\$312	\$44	\$22
20	Atlanta, GA	\$373	\$258	\$52	\$63
21	Cincinnati, OH	\$352	\$333	\$20	\$0
22	Milwaukee, WI	\$348	\$326	\$23	\$0
23	Kansas City, MO	\$345	\$324	\$21	\$0
24	Jacksonville, FL	\$329	\$225	\$36	\$68
25	Albuquerque, NM	\$317	\$219	\$9	\$89
26	Columbus, OH	\$312	\$261	\$36	\$15
27	Miami, FL	\$309	\$298	\$12	\$0
28	San Diego, CA	\$308	\$276	\$25	\$7
29	Memphis, TN	\$307	\$293	\$15	\$0
30	Phoenix, AZ	\$296	\$258	\$30	\$7
31	Toledo, OH	\$285	\$204	\$49	\$33
32	Tucson, AZ	\$281	\$241	\$40	\$0
33	Buffalo, NY	\$261	\$250	\$10	\$0
34	Minneapolis, MN	\$255	\$240	\$12	\$2
35	Houston, TX	\$253	\$229	\$17	\$7
36	Portland, OR	\$251	\$241	\$10	\$0
37	Austin, TX	\$250	\$224	\$26	\$0
38	Dallas, TX	\$249	\$225	\$18	\$5
39	<b>Oklahoma City, OK</b>	<b>\$247</b>	<b>\$212</b>	<b>\$35</b>	<b>\$0</b>
40	San Jose, CA	\$228	\$228	\$0	\$0
41	Charlotte, NC	\$210	\$208	\$2	\$0
42	Pittsburgh, PA	\$207	\$195	\$12	\$0
43	Fort Worth, TX	\$203	\$182	\$20	\$0
44	Omaha, NE	\$189	\$160	\$29	\$0
45	<b>Tulsa, OK</b>	<b>\$188</b>	<b>\$173</b>	<b>\$15</b>	<b>\$0</b>
46	San Antonio, TX	\$171	\$159	\$11	\$0
47	El Paso, TX	\$145	\$132	\$13	\$0

*POLICE: all law enforcement expense; JUDICIAL: all courts and judiciary expense; JAILS: all prisons, jails and lockups. TOTALS: all Criminal Justice System expense. Bureau of Justice Statistics. Filename: cjee0515.csv. Table 15 Justice system expenditure of 49 large city governments, by activity, and character and object, fiscal year 2005. Series title: Justice Expenditure and Employment Extracts 2005, NCJ 219370. Data source: Criminal Justice Expenditure and Employment Extracts Program (CJEE). Author: Kristen Hughes. Refer questions to: askbjjs@ojp.usdoj.gov (202) 307-0765. Date of version: 8/10/2007. Actual expenditures converted to per capita expense using 2007 population data. Baton Rouge and New Orleans have been omitted due to distortions of Katrina.*

## ***Governmental Funding Responsibilities***

*Oklahoma Academy Research Committee*

Criminal justice systems consist of three primary components: law enforcement (police, sheriffs, agents); judicial and legal (judges, district attorneys, public defenders); and corrections (prisons, jails, lockups, probation). All components of the system are funded by governments. Government funding may be federal, state and/or local (counties/municipalities).

This simple analysis examines Oklahoma financing balance with the national average. It will examine how well we fund our system compared to the national average - and the balance of our funding between government sources compared to the national mix. To do this we will express financing on a per capita basis for comparative purposes.

### **Findings**

On a per capita basis, the Oklahoma system is funded at 69% of the national average. In order to attain the national average, Oklahomans would have to raise revenue and/or cut spending by a total of \$500 million annually.

The balance of Oklahoma funding is weighted towards the state, while counties and municipalities pay much less than their peers nationwide. This is in keeping with the overall political culture of the state - the trend to shift a disproportionate share of public responsibility away from local and onto the state government.

### **2005 TOTAL AND PER CAPITA EXPENDITURES**

	<u>Police</u> State	<u>Judicial</u>	<u>Corrections</u>	<u>System</u>
<b>\$64,947,744</b>				
Counties	\$19,061,377	\$14,226,833	\$17,657,123	\$50,945,333
Municipalities	\$45,467,121	\$4,156,434	\$3,204,383	\$52,827,938
<b>NATIONAL TOTAL</b>	<b>\$74,525,440</b>	<b>\$34,966,363</b>	<b>\$59,229,212</b>	<b>\$168,721,015</b>
	<u>Police</u>	<u>Judicial</u>	<u>Corrections</u>	<u>System</u>
State	\$132,621	\$187,368	\$505,485	\$825,474
Counties	\$65,739	\$36,057	\$91,179	\$192,975
Municipalities	\$428,185	\$44,134	\$170	\$472,489
<b>OKLAHOMA TOTAL</b>	<b>\$626,545</b>	<b>\$267,559</b>	<b>\$596,834</b>	<b>\$1,490,938</b>
	<u>Police</u>	<u>Judicial</u>	<u>Corrections</u>	<u>System</u>
State	\$34.25	\$56.82	\$131.46	\$222.54
Counties	\$65.31	\$48.75	\$60.50	\$174.56
Municipalities	\$155.79	\$14.24	\$10.98	\$181.01
<b>NATIONAL PER CAPITA</b>	<b>\$255.35</b>	<b>\$119.81</b>	<b>\$202.94</b>	<b>\$578.10</b>
	<u>Police</u>	<u>Judicial</u>	<u>Corrections</u>	<u>System</u>
State	\$37.38	\$52.81	\$142.47	\$232.66
Counties	\$18.53	\$10.16	\$25.70	\$54.39
Municipalities	\$120.68	\$12.44	\$0.05	\$133.17

2005 population estimates are 291, 853, 000 national and 3,548,000 for Oklahoma

## **Economics of Incarceration: How Much Is Too Much?**

*Jeremy Oller, PhD & Mickey Hepner, PhD, Dept. of Economics, University of Central Oklahoma*

From 1990 to today Oklahoma's inmate population has doubled in size to more than 25,000 inmates—a growth rate that is six times faster than the growth rate of the overall state population. In FY 2009 the Legislature appropriated \$503 million to the Oklahoma Department of Corrections, mainly to house all of those inmates.

It is clear that Oklahoma's corrections system commands a significant portion of the state's resources. But how much incarceration is too much?

To answer this question one must compare the benefits and costs of incarceration. While the costs of incarceration are significant, it is important to note that incarceration also generates some substantial benefits in the form of reduced crime rates. This occurs for three main reasons: 1) sometimes incarceration is the only appropriate punishment for criminal behavior, 2) greater punishments helps deter criminal activity, and 3) incarceration reduces the opportunity for criminals to commit crimes.

In criminal law, fines and incarceration are two basic methods for punishing criminal activity and both entail a cost to the criminal. Fines impose a direct monetary effect on criminals and incarceration involves both an opportunity cost in terms of lost income and the value of one's freedom. From a social welfare standpoint, each has its benefits and shortcomings.

To examine the appropriateness of either sanction, society must assess the cost of administering each form of punishment with the benefit (reduction in crime) from taking a specific measure. The cost of deterring crime can either stem from efforts to increase the probability of apprehension and conviction or costs associated with administering the punishment.

In a world not bound by a criminal's financial resources and conceptions of cruel and unusual



punishment, an optimal solution would be to impose significant fines on criminal activity and focus little attention on apprehension and deterrence. The amount of the fine could be determined by dividing the social harm caused by the probability of conviction.

For example, if an auto thief stole a car valued at \$20,000 and the probability of conviction was only one percent, a fine of \$2,000,000 or more should be sufficient to deter the crime. This would be ideal from society's perspective because the cost of administering the fine would be low compared with incarcerating the criminal, and the cost of apprehension could be lowered if the focus was directed towards increasing criminal sanctions. However, the criminal's resources and notions of punishments fitting crimes clearly render this result infeasible.<sup>1</sup>

Given the constraint of a criminal's wealth, fines are not always an appropriate remedy. This is particularly true where the nature of the crime imposes significant social costs. Thus, when the social cost of a crime is high, society has two viable options to increase the expected costs to the criminal of committing a crime: 1) increase the probability of apprehension and conviction or; 2) incarceration.

Thus, incarceration offers a way to impose a feasible, yet significant punishment on criminal behavior. By providing more severe punishment than fines alone, incarceration reduces crime rates. This occurs for two reasons. First, incarceration generates a deterrent effect by increasing the expected cost of committing a crime. Second, by segregating people who are prone to commit crimes away from society, criminals are not able to commit as many crimes—what economists refer to as the incapacitation effect. Empirical research finds support for both of these effects.

One recent study estimated the effect that truth in sentencing legislation has on crime rates. The study finds that increasing the prison sentence does tend to reduce crime and serve as a deterrent in targeted criminal activity. Interestingly, the study also found that offenders tended to substitute violent crimes for property crimes as the penalty for property crimes became relatively more lenient.<sup>2</sup> Another well-known study estimated the incapacitation effect and found that crime is reduced by approximately fifteen index crimes per year from incarcerating an additional prisoner—providing an estimated social benefit of \$54,000.<sup>3</sup>

The problem involved with incarceration is that it entails significantly higher administration costs than imposing fines. The costs of building prisons, hiring guards, feeding and clothing inmates, as well as administrative costs can be significant. The cost of incarceration has been discussed in economic literature and estimates the costs between \$23,500 and \$35,000 per prisoner on average.<sup>4</sup>

However, examining the average cost of incarceration is not the relevant statistic. The optimal level of incarceration exists where the additional cost of incarceration equals the additional benefit of locking up a criminal. The additional cost of incarceration is quite likely to be less than the average estimate as the cost of incarcerating one additional criminal will not entail the fixed costs of building a prison facility or significantly more administrative costs. These estimates suggest that the additional benefit of incarceration exceeds the additional cost, which implies that incarceration should likely be used even more and certainly not less.

One interesting question for Oklahoma policymakers though is whether incarceration should be used as much for drug crimes. According to the Oklahoma Department of Corrections, the two most common offenses for which people are incarcerated in Oklahoma are drug-related offenses. Of all the inmates in Oklahoma, 17.6% are incarcerated for distributing a controlled dangerous substance, and another 13.4% are incarcerated for possession of a controlled dangerous substance. Thus, nearly one-third of all inmates are incarcerated for these two

offenses. Furthermore, 10% of all inmates are receiving treatment for substance abuse,<sup>5</sup> Policymakers need to weigh whether the benefit to society is worth the significant cost of incarcerating drug offenders, or whether a less-costly alternative is available.

From an economic standpoint incarceration is a valuable remedy for deterring and preventing criminal behavior. While it bears higher administrative costs, it appears to provide net social benefits, although there are some crimes for which incarceration generates net social costs.

Consequently, more incarceration is not an optimal solution for every crime. Incarceration is preferable to increasing costs of apprehension and convictions when those costs become high relative to the increased probability that criminal behavior is punished. It is also preferable to imposing fines in situations where the social cost of the crime is such that imposing fines would be constrained by a criminal's wealth.

Finally, incarceration is preferable when incarcerating criminals significantly reduces crime rates. In the end though, the benefits and costs of incarceration vary by the type of crime. Consequently, the answer to the question of "How Much Incarceration Is Too Much?" varies by the type of crime as well.

## ENDNOTES

<sup>1</sup> For a discussion of the economics of fines and incarceration, see Jeffrey L. Harrison and Jules Theeuwes, *Law and Economics*, Norton, 2008, pp. 422-441.

<sup>2</sup> Joanna M. Shepherd, *Police, Prosecutors, Criminals, and Determinate Sentencing: The Truth about Truth-In-Sentencing Laws*, Journal of Law and Economics, Vol. XLV., October 2002, p. 509.

<sup>3</sup> Steven D. Levitt, *The Effect of Prison Population Size on Crime Rates: Evidence From Prison Overcrowding Litigation*, The Quarterly Journal of Economics, May 1996. The index crimes measured were murder, forcible rape, aggravated assault, robbery, burglary, larceny, and auto theft.

## **Correctional Financing or Cost Avoidance**

*Justin Jones, Director, Oklahoma Department of Corrections*

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*Mr. Justin Jones has 31 years of criminal justice experience. He has served in numerous capacities since beginning his career with the Oklahoma Department of Corrections in September 1977, to include Probation and Parole Officer; Administrator of Prison Receptions; Interstate Compact, Extradition Officer; Oklahoma County District Supervisor of Probation and Parole; Deputy Director of Probation and Parole State Services; Warden; Regional Director of Institutions; Deputy Director of Community Sentencing; and Deputy Director of the Division of Community Corrections.*

*He was appointed Director by the Oklahoma Board of Corrections on October 27, 2005. Justin serves as Chair of the Community Corrections Committee of the American Correctional Association and Reentry Committee Chair for the Association of Correctional Administrators.*

*He also serves as Vice-Chair on the Governor's Transformation Advisory Board on Mental Health and Substance Abuse Services and is on the Board of Directors for the Council of State Governments Justice Center. Justin is a past President of the Oklahoma Correctional Association.*

*Mr. Jones has been a presenter and/or speaker at numerous training institutes to include those mentioned above, and the National Association of Sentencing Commissions, Correctional Education Association, and several national legislative and judicial conferences. He has also been a presenter on National Public Radio and has published several articles and has had a book published on the trials and tribulations of probation and parole work entitled, Tales of the Caseload. Mr. Jones has degrees in Sociology and Communications.*



Recent reports by the Pew Trust, Vera Institute and the Bureau of Justice Statistics have highlighted continual alarming trends in sentencing practices and incarceration within the United States. Although a few states have recently experienced some net decline in total incarcerated offenders, the United States continues to be number one in the world at 750 incarcerated per 100,000.

This translates to one in one hundred adults being incarcerated in some form. Oklahoma's rate is well above the national average and in 2005 it was 919 per 100,000.

It is obvious that the impact of the above statistics corresponds to increased spending and taxes directed toward incarceration. A recent audit of the Oklahoma Department of Corrections indicated that the main contributing factor to continuous net growth of the prison system was legislatively mandated enhancements to sentence length. Many of these enhancements are categorized as so called 85% crimes where an offender must serve 85% of his or her sentence before earned credits or parole can be considered. Research indicated that length of sentence has no statistical bearing on recidivism. The audit also indicated that Oklahoma places many non violent offenders in state prison that in many other states are sentenced to treatment programs, diverted to treatment and/or incarcerated at the local government level. The audit concluded that the Oklahoma Department of Corrections was one of the most efficient and cost effective in the nation. Being efficient is always a positive comment but being the most cost effective is not necessarily in the best interest of the state.

If a correctional system is said to be cost effective, one many times will assume the system's costs are not increasing. In the case of Oklahoma, it is simply

a matter of economy of scale. The costs are increasing and the daily per diem rate is slowly moving upward each year; but the fact that Oklahoma incarcerated women at twice the national average and is in fact currently first in the world and ranking third in men nationally, indicates our economy of scale is a good incarceration bargain. The current budget for Oklahoma corrections is a fraction over 500 million. Increase in medical and labor costs are the major contributors.

So how do you continue to find the funding to at best maintain the current prison population, much less the projected net increases of two to three percent per year for the next decade?

The challenge may not be how to fund increased correction budgets but cost avoidance and retooling the criminal justice system. Oklahoma has by constitution a very strong and well defined revenue source for state government and a very poorly funded county government. When comparing Oklahoma's incarceration rates with states of similar population there is always one glaring difference ... local government autonomy and funding.

In Oklahoma it is sometimes remarked that everyone deserves the right to go to prison. Since any felony for any length of sentence can go to prison in Oklahoma, then sometimes this remark is true. In many states non violent offenders with two or three year sentences must serve their sentence at the county level. These states also have local funding for diversion programs, treatment and other corrections best practices.

**In Oklahoma most funding for anything related to adult corrections is funded by the state and passed through a state agency. There are no incentives for offenders to be incarcerated at the local level so why would a county incur the cost when offenders can be sent to a state prison at no cost to the county?**

There is no statutory mandate that any adult felony offender has to serve his or her time at the county level, therefore the prisons often receive offenders with anywhere from 30 days to serve to many years on those aforementioned non violent cases. Cost avoidance through the use of prevention and

appropriate county diversion programs would most certainly reduce net prison growth.

In Oklahoma, prosecuting attorneys or district attorneys are elected officials. The fact that they must be elected and run for re-election has the effect that each candidate must be tougher on crime than his or her opponent. Anecdotal cases where someone placed on probation subsequently committed a new crime is often used as campaign rhetoric against an incumbent. This is also true at the national level as many may remember the infamous Willie Horton case used against a presidential hopeful. Having prosecutors appointed by local boards would certainly allow for more evidenced based decision making on sentence type and length and contribute to cost avoidance.

The expansion of drug courts and mental health courts are certainly a move in the right direction when you are reviewing the cost avoidance of prison cost. However many offenders who have treatment needs and/or mental health issues do not statutorily qualify for these programs.

The Department of Corrections program and treatment budget is less than 2% of its total budget with most treatment funds coming from grants. Research indicates that treatment programs in prison do reduce recidivism but funding for such programs even though requested, are not funded through the appropriations process.

Taking the Governor out of the parole process on at least all but violent offenses would be cost avoidance. Oklahoma is the last state to require the Governor to review, approve and sign all paroles. What all of these cost avoidance concepts have in common is the need for a new state constitutional convention. Our constitution is based upon a platform and culture of territorial law and certainly warrants a review.

So when discussions occur concerning increased funding to address Oklahoma's ever increasing prison population, what in reality should be considered and enacted are cost avoidance measures and efforts in prevention. For that is the only way the

## ***Financing Jails and Prisons***

*John Whetsel, Oklahoma County Sheriff and President, Oklahoma Sheriffs' Association*

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*John Whetsel has served as Sheriff of Oklahoma County since 1997. Sheriff Whetsel began his law enforcement career in 1967, joined the Choctaw Police Department in 1973 and served as Choctaw Chief of Police for 21 years before being elected Sheriff. Sheriff Whetsel began his second term in 2001.*



*He is a graduate of Midwest City High School, has earned an Advanced Law Enforcement Certificate, is a state certified police instructor, has earned an Associate degree in Police Science from Southwestern College, a Bachelor degree in Government and Sociology from the University of Central Oklahoma, and has Master's studies in Criminal Justice.*

*Sheriff Whetsel has authored many articles on law enforcement articles, has been a guest on the Phil Donahue Show, Larry King Live, Dateline, NBC Nightly News, Hard Copy, Front Page, America's Most Wanted and You Be The Judge, is a nationally recognized authority on police pursuits, and has testified before Congressional committees and legislative hearings.*

*Sheriff Whetsel is past president of the International Association of Chiefs of Police, the Oklahoma Association of Chiefs of Police, and the Oklahoma Sheriff and Peace Officers Association. He is a member of the Oklahoma Sheriff's Association, the National Sheriff's Association, and is a cofounder of the Major County Sheriff's Association.*

*Sheriff Whetsel has been the recipient of many honors, including 2001 Oklahoma Grand Law Officer of the Year, Oklahoma Rifle Association 1998 Law Enforcement Officer of the Year, the Oklahoma Highway Safety Officer Top Cop award, and named a U.S. Jaycees Outstanding Young Man of America.*

To many, funding for jails and prisons is a nasty word and citizens are usually less likely to approve dedicated funding for jail operations than other areas of government operations. Most Sheriffs find very little funding to go around and usually the jail is at the bottom of the list and funding is tight, even for the basic jail needs.

For many Sheriffs, budget conflicts include jail services sapping more and more funding in competition with law enforcement services including patrol functions required to protect citizens on the streets and in their neighborhoods, drug enforcement operations and crime prevention programs. The increasing funding needed for jail services also drains much needed local resources away from other elected county officers and operations.

A statewide funding source for local jails and state prison operations must be found. Citizens must decide if a local county jail is more financially viable than a regional jail many miles away. With the costs of transportation escalating and considering the small staffs of rural Sheriffs, regional jails may not necessarily be a cost saver or the answer. The issue must be more directed to finding a funding source that citizens are willing to approve for either option.

Inmate medical costs have increased each year and now food costs are soaring. The vast majority of jails outside the major metropolitan areas do not have contracted on-site medical services and must rely on local medical providers. These same jails usually purchase pre-made meals from local providers while large jails operate an on-site food service, saving money.

The Oklahoma Sheriffs' Association is looking at several funding possibilities, most directed at users of law enforcement or jail services - a user fee, however a funding source has not been identified that we are prepared to offer for consideration by lawmakers.

## ***My Town Hall Notes and Good Ideas***

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LOCK 'EM  
UP AND  
THROW AWAY  
THE KEY!

REHABILITATE  
OUTSIDE  
THE  
WALLS!



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