

USC Institute for Justice and Journalism Story Behind the Story

“Conning Ourselves”

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The story idea

For years, critics of Wisconsin’s approach to corrections have pointed out that Minnesota, our neighbor to the west, incarcerates a third the number of people Wisconsin does. This despite the fact that the two states are nearly identical in size, demographics and crime rates.

I had hoped with this project to examine what Minnesota was doing differently and see if Wisconsin could learn anything from that state’s experience. Once considered an innovator in correctional policy, Wisconsin had fallen into a business-as-usual approach to crime: giving prosecutors more crimes with which to charge someone, increasing penalties and moving toward determinate sentencing.

Judges got the message and, as a result, the state’s prison population nearly tripled in 15 years.

We wanted to build a series of stories around the issue that examined not only the social costs of locking up so many people but the real fiscal impact to taxpayers.

The process

Although the project was accepted by the Institute for Justice and Journalism, my editor and I almost immediately rethought the proposal. He felt that, while a comparison with Minnesota might be useful, a story or series of stories around the question wouldn’t interest readers enough for them to read all the way through. For my part, I quickly realized it would be challenging enough just trying to get my arms around what we do in Wisconsin, let alone try to understand what they’re doing in another state. (My beat is the state Legislature, not criminal justice, so, while I had a passing familiarity with most of the issues raised by this project, my understanding was woefully inadequate.)

My preliminary reporting on the Minnesota-Wisconsin question also put me off that story. There were many factors that appeared to explain the difference in incarceration rate, some of which could be changed, others couldn't. For example, Minnesota has a much stronger sentencing commission than Wisconsin, which likely influences judges' behavior. The state also takes money into account when it crafts sentencing guidelines, which creates incentives for counties to use alternative penalties.

But critics point out that Minnesota's crime rate, though similar to Wisconsin's, is still higher than Wisconsin's in almost every category. One could argue, then, that the price for a more community-oriented corrections policy is more crime. Wisconsin has a far higher arrest rate than Minnesota, which could help explain Wisconsin's higher incarceration rate; but there was no data linking arrests to incarceration. Some even argue that the high arrest rate, especially for non-serious offenses, means police in Wisconsin are more apt to intervene sooner, heading off the kind of behavior that leads to prison. Perhaps most significantly, there's Milwaukee's close proximity to Chicago. Milwaukee produces 40 percent of Wisconsin's prison inmates, and a substantial portion of them come from Chicago. That could mean Wisconsin's growing prison population has as much to do with geography than policy.

We decided to make the state-to-state comparison a sidebar.

So I started casting around for a new hook. This began a very frustrating three or four months of somewhat aimless research, interviews and data analysis. We needed a fresh, compelling take on this topic. But it seemed everything I wanted to do, we'd done several times before already. Like newspapers everywhere, we have reported extensively on the consequences of our state's correctional policy over the years.

I have some skills in computer-assisted reporting so, working with a data analyst from the National Institute of Computer Assisted Reporting, I began working on an exhaustive database containing the records of every inmate who had been through the state system since 1990. We worked on it, off and on, for months looking for trends in sentencing, time served, recidivism, the fiscal impact of determinate sentencing. It proved to be a heartbreaking waste of time. The database is a rich source of information: 123,000 records, one for each admission to prison, with each record containing nearly 240 fields for things as diverse as the inmate's name, race and hometown to educational and vocational level. But the database was deeply flawed. Thousands of records contained no data in particular fields of interest. And the most interesting queries I had hoped to do, say, the length of time someone with no previous prison experience served for simple drug

possession cases, or how many people are arrested and convicted within three years of being released, were utterly impossible because the database could not be linked to the state's court database. The only conviction and sentencing data it contained were too obscure to use in all cases except those where someone had been convicted and sentenced for a single offense -- by far the minority of new prison admissions. I ultimately used the database only for some very superficial analyses

I also spent several weeks compiling a chronology and collecting highlights of legislative changes and initiatives in corrections in recent years, using our state's Legislative Reference Bureau. Going back more than 30 years, I found studies and reports presented to the Legislature or governor by groups of learned experts calling for broad changes in how Wisconsin handles its criminal justice system. Yet, these suggestions were almost universally ignored in favor of more facile, "get-tough" approaches.

What I found resonated with an idea I first had during my week with the Institute for Justice in Journalism and suggested a possible theme for my series: that the wrong people seem to be in charge of setting correctional policy. On the one hand, it seemed like an un-democratic idea. But then, the Legislature leaves lots of other areas to the experts: It lets local school boards set curriculums; it leaves the regulation of countless professions to other state agencies or independent commissions. A separate Board of Regents sets university policy. But when it comes to fighting crime, lawmakers seem compelled to micromanage it, telling judges and jailers what to do. I was most struck by the emphasis judges, prosecutors, correctional officials and academics -- in these studies and in many interviews -- put on *prevention* and public safety, compared to the efforts by the Legislature to ensure stricter *punishment* after the fact.

Another theme that emerged in my research was the Legislature's studious disregard for the effects of their decisions. A committee set up to evaluate the impact of new criminal legislation never met; for years, lawmakers specifically exempted crime legislation from a state law requiring each bill to include a fiscal note; provisions of crime bills that called for evaluations of their effectiveness were routinely removed; funding for assessments and follow-up studies of people released from prison was cut. Given the urgent and specific reforms suggested over the years, the Legislature's and governor's response seemed reckless and wasteful.

I started reporting in the obvious places, by having long conversations with many of those who argued for reform, and with lawmakers who opposed them. But I felt readers would relate best to the stories of victims, in whose name most crime policy is implemented yet who, according to surveys,

aren't so big on punishment as they are on prevention. Through a local prison reform group, I got in touch with two men convicted of armed robbery, and a woman convicted of drug crimes. The offenders, and several others I spoke with, had each gotten in trouble to support a drug or alcohol problem. Their victims, while not sympathetic, said they wished the men had gotten treatment before they had a chance to prey on them. But neither one was particularly traumatized by crimes that happened to them, so I looked for someone else who might grab readers more.

Madison has very few murders each year, so I started by going through the list of homicides. I started looking into one particularly gruesome case involving Benjamin Bryant, who murdered a gas station clerk, Ericha Von Hoken, late one night in 1995. Bryant was on probation at the time, and there had been a series of convenience store murders in the years leading up to the event, which suggested that the crime might have been prevented had his supervision been tighter, or had the store voluntarily (or through legislation been forced to) taken measures to improve security such as having two clerks on duty. On a whim, I thought I'd see what the Legislature was up to around that time; what were they doing in the area of community supervision or ensuring security for store clerks. Completely coincidentally, I found that the former governor, Tommy Thompson, had that very day signed that year's state budget which, among other things, called for a considerable increase in prison spending. Hours before Bryant committed his murder, Thompson boasted he was being tough on crime.

In a lengthy prison interview, Bryant made plain that nothing the Legislature had been doing -- increasing sentences, adding penalty enhancers, making more things a crime -- would have dissuaded him from robbing the store that night. A stronger safe might have, or a second clerk maybe -- the kinds of commonsense precautions crime experts had been calling for. I determined to make Von Hoken's murder the lead, figuring readers might relate to her and raising the question, Could this crime have been prevented through a more creative approach to fighting crime?

It was a gripping tale, augmented by memories of Von Hoken's best friend, who was with her until shortly before the murder. But the anecdote ran on for more than 20 inches before I got to the nut graph, an unacceptably long introduction. We finally decided to cut almost all the details out, boiling it down to about 5 inches.

Although the project still didn't have a focus, we knew roughly where we were going. Throughout, my editors and I discussed how best to tell the story. What would resonate with readers the most. We decided we would hit the money angle pretty hard -- how fast the corrections budget has grown,

the cost of incarcerating a person for a year -- supported with lots of graphics. But I was also struck by the fact that, far from locking people up and throwing away the key -- as lawmakers professed they were doing -- our corrections policy was, at best, buying a few years' reprieve, after which these problems would be back in the community. I wanted to write something that said we should care about whether or not these people succeed because, to one degree or another, they're our neighbors.

That prompted a sidebar, which we called "the felon next door" (I live next to a felon myself, so I didn't consider it over-reaching). I wanted to debunk the notion that I think many people have that everyone who is on probation or parole lives somewhere else. I asked the Department of Corrections for the names and addresses of everyone on supervision. The department at first balked, saying the addresses may not be covered under Wisconsin's open records law, and raising concerns offenders would be harassed if that information were made public. I made clear that I was only interested in plotting their locations on a map of Dane County, so we compromised: they gave me two listings, one of the names, offenses and other information for each person on probation and parole, and the other with just the Geographic Information System (GIS) (the exact latitude and longitude) of each person. Our graphics editor was then able to plot those points on a map, which we ran six columns inside. It demonstrated unlike anything else how democratic crime is: Offenders were scattered almost evenly throughout the city and much of the county.

To further make that point, a photographer and I on two occasions rode along in a prison van as it picked up inmates being released from prison. We followed them from their moment of freedom to their ultimate destination, then periodically revisited them. I was drawn to one young man, Delmarcus Burnette, who was getting out after two years for selling drugs, and who had worked just one real job in his life -- for two weeks. Like a lot of offenders, he blamed everyone but himself for his predicament, harbored unrealistic expectations about his life outside of prison, and had next to no motivation. To me, he embodied the threat posed by a Corrections system that emphasizes punishment over effective supervision, help and treatment once a person is released. We decided to turn his story into yet another sidebar.

Through inmate advocacy groups, I was able to hook up with several ex-offenders on supervision who were battling drug and alcohol problems. We decided to make some of those stories into another sidebar raising the obvious, but essential, point that if these people had received treatment or been better supervised, their crimes might have been prevented. But I was also struck how often I heard -- from offenders, from prison officials, from treatment authorities -- how the solution is far more complex than "offering"

these people treatment. They have to want to take it, to be ready for change. It was an important distinction that needed to be made: I heard many offenders in prison complain they weren't getting any programming. But in many cases, they had been given numerous opportunities at treatment before they got to prison.

For the entire project, I worked with one editor, Phil Glende, and one photographer, Craig Schreiner, which really helped provide consistency. By the end Craig had a very strong grasp on the subject, which led to some remarkable photographs. We picked a publication date of Jan. 16, 2005, but I was under orders to finish writing two weeks earlier. That extra time to lay out the stories, answer questions, work together on headlines and even shoot some more photos proved immensely useful. The page designer, Dave Dombrowski, also did an exceptional job with the layout, which employed fewer photos than normal in a project of this scope but played far bigger than usual.

The product

Against the advice of everyone at the IJJ, who kept suggesting we needed to hone our focus, we plunged into an everything-including-the-kitchen-sink project that ran over six days (Sun-Mon, Wed-Thur, Sat-Sun). We called the project "Conning Ourselves," which I thought fairly captured the idea that taxpayers are being lulled by the empty symbolism of tough-on-crime laws while paying through the nose for it.

The first day was an overview and general critique of Wisconsin's emphasis on punishment rather than prevention, with a sidebar examining to what extent filling prisons can be credited with reducing crime (answer: not much). The package was loaded with helpful charts and tables of data gathered from the state DOC and the Bureau of Justice Statistics outlining changes in costs, incarceration rates and crime rates.

Day 2 sought to explode the myth that our tough-on-crime policy has resulted in removing all the bad people from street. In fact, most offenders live among us, on probation or parole, and it's in our interest that they succeed. It ran with the map pinpointing where each of these people live in Dane County.

Day 3 was the profile of Delmarcus Burnette, and Day 4 was the sidebar on drugs. Day 5 summarized the litany of advice the state has ignored, under the headline "Said, and said again." The final installment focused on efforts in two counties to better integrate, and supervise, offenders released from prison, with a short sidebar on the unsung efforts by countless churches and

community groups to fill the gaps Corrections has left, with phone numbers for readers who might want to get involved.

With each day's installment, we ran three "recommendations from the trenches" that somehow related to that day's story. These were short, useful suggestions that reflected the advice of numerous folks, which we ran without attribution.

We ultimately didn't do a sidebar on how Minnesota does things differently. I was simply too exhausted, and too frustrated at how long the project had taken, to do the reporting, and we had too many elements even without it. This was probably a mistake, since I still think the comparison could have been instructive. But like most everything else with this project, nothing really went as planned.

The results

About six weeks before our series ran, the Milwaukee Journal Sentinel, in a related IJJ project, ran a series on the cost of the state's determinate sentencing system. That series prompted a promise by one legislator to seek an audit of the relatively new policy. Our series echoed the need for such accountability measures. Combined, I think both of our projects have created an expectation that policymakers need to get smarter in how they deal with crime and punishment and generally elevated the level of debate on the subject.

But it also bears noting that many of solutions my project pointed at -- alternative sanctions, drug treatment, improved community supervision -- had previously been listed as priorities by the governor and the state secretary of Corrections. Many lawmakers from both sides of the aisle had also increasingly been getting behind such measures. The effect my series has had in all this is still unclear but should not be overstated.

As for what happened personally and within our organization, I think the project has changed our approach to covering how the Legislature deals with crime. The expertise I've gained has made me a far more critical reporter in this area, and I'm less likely to let legislators or the governor get away with unsubstantiated claims about the effectiveness of proposed crime legislation.

In the end, I liked how the project read, how the stories flowed, and the conclusions we reached. They were probably useful to people who aren't already expert in the field. It may have helped change the overall debate on corrections. But I also feel we never overcame the lack of focus that dogged

this project from the beginning, which makes it hard to point to any particular reform and say, "We did that."