

Secretive system keeps parole-eligible inmates behind bars



Andy Manis

The Rev. Willie Brisco of New Covenant Baptist Church in Milwaukee talks during a news conference in the Senate parlor at the state Capitol on Wednesday. More than 100 people protested at the Capitol, demanding Corrections Department reforms that would allow more inmates to be paroled.

By [Gina Barton](#) of the Journal Sentinel
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Photo Gallery

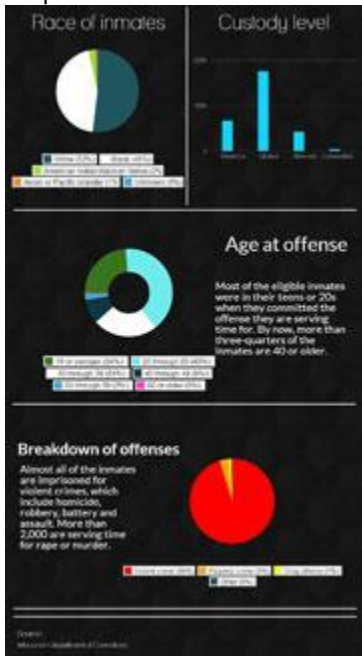


[Rally to reform parole](#)

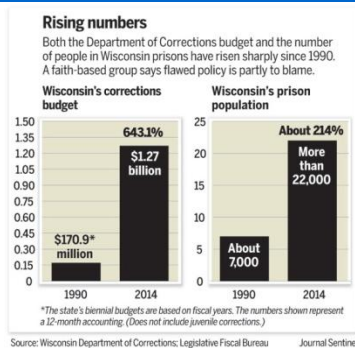
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Locked In: The Price of Truth in Sentencing

A 2004 Journal Sentinel investigation looked at the costs of longer prison sentences, limitations on early release and a lack of support once offenders are released.

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By all accounts, Anthony K. Brown is no longer a danger to society.

Officials at Oakhill Correctional Institution, a minimum-security prison in Dane County, trust Brown so much they allow him to leave the lockup unsupervised almost every day to work on a state-owned farm.

He gets there, Brown says, in a Department of Corrections van driven by a fellow inmate.

In 2010, the Wisconsin Parole Commission decided Brown — one of three men convicted in a 1987 armed robbery that resulted in the victim's death — was rehabilitated and should be allowed to hold down a job in the community in preparation for his release.

During the robbery, Brown, then 17, shot the victim once in the back, wounding him as he tried to run away. One of his co-defendants then fired five shots into the victim's head, killing him.

The man who fired the fatal shots was paroled years ago.

But Brown, 43, is still in custody. He is among about 400 minimum security inmates who are eligible for parole but remain in prison. The taxpayer cost to keep them there is more than \$15 million a year — part of a skyrocketing corrections budget that now surpasses that of the University of Wisconsin System.

"The process in place now is completely irrational," said former Department of Justice administrator Jerry Hancock, who now directs the prison ministry at First Congregational Church in Madison. "It doesn't enhance public safety and it wastes a huge amount of money."

A secretive system that robs the parole board of its power is to blame.

State law gives the parole board the authority to release prisoners it deems rehabilitated if their crimes were committed before truth in sentencing took effect at the end of 1999. But in practice, a little-known administrative rule at the Department of Corrections, written 20 years earlier, transfers that authority to prison employees.

What's more, the Corrections Department says it does not keep official records of which workers are part of the internal decision-making groups, known as program review committees. As a result, they are accountable to no one outside the system — including the public.

Here's how it happens:

The parole board cannot release prisoners until they have met certain standards, such as getting drug or alcohol treatment and behaving well in a minimum-security setting.

But it's up to the program review committee at each prison — not the parole board — to enroll inmates in counseling or move them to a low-risk facility. If the committees don't follow through, there is nothing the parole board can do about it. As a result, inmates can't meet the standards and aren't paroled.

Inmates may appeal the committees' decisions only to Department of Corrections officials, not to the courts.

Parole board members have resigned themselves to the situation.

"Hopefully we can work together, but let's be real: We don't always agree on every single case. And I have to respect that," Parole Commissioner Steven Landreman said of the parole board's relationship with the committees. "If they don't agree with me today, I maybe hope six months from now they'll agree."

His statements came at a Feb. 19 meeting between officials from the parole board and the Corrections Department and a group of [faith leaders and activists known as WISDOM](#).

Since that meeting, an audio recording of which was obtained by the Milwaukee Journal Sentinel, Gov. Scott Walker, who oversees both the Department of Corrections and the Parole Commission, has declined to speak with representatives of the group.

As a result, more than 100 people protested at the Capitol last week, [demanding Walker reform the Corrections Department](#) and its policies, which they called cruel, immoral and an unnecessary drain on taxpayers. The demonstrators want each of the some 2,800 people whose sentences allow for parole — including the 400 housed in minimum security — to have the opportunity for fair hearings in the public eye.

Further, Walker should mandate that the parole commission and the program review committees work together, said David Liners, executive director of WISDOM.

"We're not saying just throw the doors open and let everyone out," he said. "But we need to take a fresh look at every case and be sure that we release the people that are able to be released."

Walker, through his spokeswoman, Laurel Patrick, declined to be interviewed. Walker staffers already have met with WISDOM, and the Department of Corrections produced a report in response to the group's concerns, Patrick said in an email.

"The report highlights the fact that 95 percent of the 'close to 3,000 parole-eligible inmates' cited by WISDOM are still serving time for violent offenses" such as robbery, battery, sexual assault and homicide, she said.

Patrick did not answer specific questions regarding the program review committees or the 400 inmates in minimum security.

More inmates, costs

Wisconsin's prison population has tripled since 1990, increasing from about 7,000 to more than 22,000. The amount spent on corrections rose 620% through 2012, not accounting for inflation. The corrections budget for 2013-'15 is \$2.54 billion.

In Wisconsin, truth in sentencing eliminated the possibility of parole for anyone whose crime occurred on or after Dec. 31, 1999. Under the law, among the toughest in the nation, all prisoners must serve every day of the sentence imposed by a judge. Unlike many other states, which reserve truth in sentencing for serious offenses, Wisconsin's law applies to all crimes, not just violent ones. Inmates get no credit for good behavior.

Walker authored the legislation when he served in the Assembly. He has said his main goal was not longer sentences but certainty for victims about how long perpetrators would spend behind bars.

But longer sentences have become the reality.

[A Journal Sentinel analysis published in 2004](#) found that both prison and extended supervision time significantly increased under truth in sentencing. The trend shows no sign of abating.

Meanwhile, the number of inmates released on parole has decreased dramatically in recent years, from 1,146 in 2005 to 132 in 2012, the most recent figure available.

Corrections officials say the reason for the drop is simple: About 19,000 of Wisconsin's inmates, more than 85% of the total, are subject to truth in sentencing and cannot be released early.

"Over time, you have less people eligible for parole, so you have less parole taking place," Tony Streveler, director of research and policy for the Corrections Department, told the group at the February meeting.

Nonetheless, about 2,800 people whose sentences allow for parole — including the 400 housed in minimum security — are in prison today, at a total cost of about \$100 million a year.

These prisoners become eligible for parole after serving 25% of their sentences. In most cases, they are required to be paroled after serving two-thirds of their time. In the interim, it is ostensibly up to parole commissioners to decide which prisoners deserve early release.

For example, an inmate sentenced to 20 years under the old law would become eligible for parole after five years. After 13 years and three months — the two-thirds mark — the inmate must be paroled. (A few exceptions apply for people who committed serious felonies between April 1994 and the end of 1999.) In between, these inmates are entitled to be considered for parole.

"I believed in the parole system and I believed if they did well in prison they would be seriously considered for parole," Milwaukee County Circuit Judge David Hansher said in an interview. "Under old sentencing practices, we took that into consideration. We gave longer terms at that time because we expected they could be paroled.

"Now (under truth in sentencing) the sentences are shorter because we believe they are going to serve each and every day of the sentence."

Other circuit court judges, including Bruce E. Schroeder of Kenosha County and C. William Foust of Dane County, have made similar statements.

Patrick, the governor's spokeswoman, pointed out that 2,000 of the parole-eligible offenders are serving time for rape and murder. But those crimes don't preclude parole or placement in minimum security. Brown, for example, was convicted of being a party to the crimes of armed robbery and first-degree murder, and a judge decided he should be eligible for release after serving 14 years and three months. So far, he has been locked up nearly twice that long.

Liners, of WISDOM, says men like Brown deserve a chance for parole with cooperation from program review committees.

"They *were* violent criminals," he said. "The question is: Are they still?"

Release dates not set

Under the law, it is up to a single parole commissioner to answer that question for each prisoner. No inmate meets with the entire parole board, although individual commissioners sometimes consult with the board chair.

The governor appoints the chair of the parole board. The other parole commissioners are hired via the state's civil service process. Commissioners rarely decided to release someone on the spot, and they never set a future date certain for release, according to Landreman.

"I can't just come into a hearing and tell an inmate, 'Well, you've got two more years to do. We'll let you out in two years.' That's not how it works," he said at the February meeting. "There's a lot of factors in considering how much time an individual needs to do based on all of the factors with that inmate and his situation."

Instead, the commissioner tells the inmate when they want to meet again and what they want him or her to do in the meantime. But Landreman conceded that commissioners have no authority to ensure program review committees follow through on giving the inmates those opportunities.

"We try to work with them the best we can and give them cues when we feel the inmate is ready," he said. "But ultimately it's their decision."

The administrative rule that created program review committees lists almost no standards for serving on them.

Each correctional institution has its own committee. The committee chairs must hold the position of "classification specialist" — a job that does not require any specific education or work experience, although it does require an exam. Committee chairs are selected by the director of the department's Bureau of Classification and Movement. There must be at least one other committee member, a prison employee chosen by the warden.

Last month, Department of Corrections spokeswoman Joy Staab said she could not provide the Journal Sentinel with committee members' names because there are no department records that list them. There also is no set length of time for how long employees serve on the committees.

Staab said most wardens choose two or three prison staff members to work with the chair on their respective committees, generally representing some combination of the security, social services and education departments.

After Staab declined to disclose the names, the Journal Sentinel contacted the wardens of 37 facilities individually by mail, requesting a list of committee members, their job titles, the number of years they have worked at the institution and the length of time they have served on the committee.

In response, Staab provided a spreadsheet that listed only committee members' names and job titles.

Under the parole system, program review committees' decisions were routine because all inmates were on equal footing when it came to programs such as substance abuse counseling or anger management.

Today, the large group of prisoners sentenced under truth in sentencing and the much smaller group eligible for parole are constantly competing for space in programs. Demand always exceeds supply — and some facilities don't even offer the programs required for parole.

In order to allow inmates to finish their programs before they re-enter the community, decisions about who can enroll are based on release dates: The sooner the release date, the more likely a prisoner is to get a slot.

For parole-eligible inmates, the program review committees use the two-thirds threshold rather than the 25% threshold, a corrections official said at the February meeting.

That means committees assume someone with a 20-year sentence won't be released until he has served 13 years and three months — even though he is eligible for parole after five years.

As a result, truth-in-sentencing inmates — whose sentences tend to fall somewhere between one-fourth and two-thirds of what they would have been under the old law — almost always get priority for programming, leaving parole-eligible inmates constantly shifted to the back of the line.

In an email to the Journal Sentinel, Staab contradicted what was said in the meeting. The two-thirds date is "of high interest" to program review committee members, but they also consider the 25% date and other dates, including when the inmate first got to prison, Staab said.

The process subjects prisoners hoping for parole to "a level of almost cruelty," Hancock told parole commission members and corrections officials at the February meeting.

Linda Ketcham, director of the Madison-Area Urban Ministry, questioned whether the tax money spent to keep people such as Brown locked up could be better spent.

"Does incarceration really serve any good at this point?" she said. "Does it serve any useful purpose? What else could we use that \$38,000 a year for?"

A different person now

Brown contends he is a different person from the teenager who committed armed robbery in 1987. Brown shot the victim, Jesse Gamino, 36, in the back before co-defendant Adam J. Howard killed him with multiple shots to the head. The robbery netted \$4.

Brown and the two other robbers, also teens at the time, spent the money on a six-pack of beer and a bottle of wine.

Howard was released from prison in 2011, according to online Department of Corrections records. The third co-defendant, Johnny L. Conner, who did not have a gun, was freed in 2008.

Brown took his case to trial and lost. At his sentencing, the judge estimated Brown would be released on parole between 14 and 20 years after the crime — as soon as 2001, according to a transcript.

While incarcerated, Brown has earned his high school equivalency degree, participated in substance abuse counseling and earned a certificate in culinary arts, among other things. He also has completed a parenting class, even though he doesn't have children.

"It was a senseless crime that took place. I'm fully aware of that," Brown said in a telephone interview. "Everybody makes mistakes — some bigger than others. I made a huge mistake, but I'm no longer the same kid I was at 17. I'm thinking for myself now. I'm an adult."

No relatives of Gamino spoke at Brown's sentencing hearing, and none could be located for comment via a public records search.

Brown has completed all the programs parole commissioners and prison officials deem necessary for his rehabilitation. Four years ago, the parole board recommended he be placed in community custody, the lowest security classification, which allows inmates to get jobs at local businesses.

Four months ago, Brown was given a job milking cows on the 540-acre Oregon state farm, which surrounds the prison.

But the program review committee has not yet allowed him to be moved to community custody — usually the final step before parole.

Last month, Brown was denied parole for the 11th time.

The parole commissioner wants to see him again in January.



James E. Causey | In My Opinion

A Wisconsin epidemic: imprisoning black men



[James E. Causey](#)

The Rev. Willie Brisco, president of MICAH, the coalition of Milwaukee innercity religious congregations, said the religious community needs to be the voice of those who are not being heard. He called the black male prison crisis deplorable.

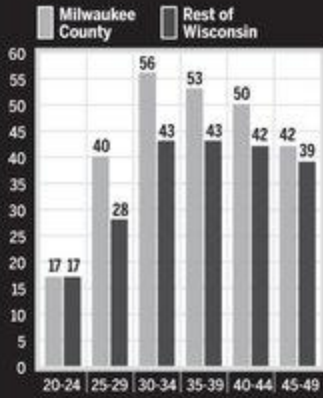
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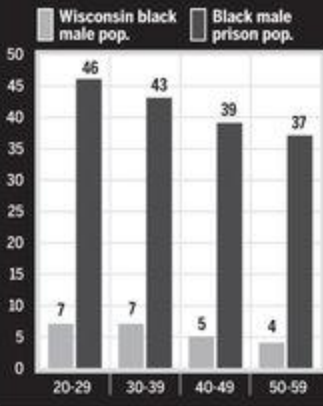
Wisconsin black male incarceration

African-American men are being incarcerated at epidemic levels throughout the state and not just in Milwaukee County. About 43% of black men between the ages of 30 and 39 have been incarcerated in state correctional facilities.

Percentage of African-American men incarcerated, or spent time in state correctional facilities, by age, 1990-2012



African-American men as a percentage of all state males and as a percentage of male state prison population



Source: UW-Milwaukee, Statewide Imprisonment of Black Men in Wisconsin

Journal Sentinel

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James E. Causey

Nearly 100 members of WISDOM met in Madison on Wednesday to speak out against the mass incarceration of black men in the state.



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Nearly 100 members of WISDOM met in Madison on Wednesday to speak out against the mass incarceration of black men in the state.

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More than 40% of black men in Wisconsin between the ages of 30 and 44 have served time in a state prison or are currently incarcerated, [a new study from University of Wisconsin-Milwaukee researchers](#) shows.

The latest study on the mass incarceration of black males should shock everyone. We are not talking about the worst areas of Chicago, Detroit or Baltimore. These are men from Milwaukee, Racine, Green Bay and Kenosha — all in the prime of their lives. Black men make up only 6% of the state population, but they account for more than 50% of the prison population. This is an epidemic of destroyed lives.

And here's the thing: We are not safer. Ninety percent of the imprisoned will get out.

Other states, including California, Michigan, New Jersey and New York, have figured out prison alternatives and have begun to reduce their prison rolls. New York is a particularly interesting case, because as its prison rolls have gone down, so, too, has crime, according to the [Vera Institute of Justice](#).

Wisconsin should do the same thing; it will take a statewide effort, according to researcher Lois Quinn, who co-authored the latest mass incarceration report released last month.

Quinn is optimistic. I'm not. In fact, I'm cynical, because even in light of the latest numbers, I'm sure that some people still will see this as a "black problem." They will see it as "their problem," instead of "our problem."

When we have deteriorating roads, lawmakers figure out how to fix them. "They need to do the same thing to address this problem because these are people," Quinn said.

In April 2013, Quinn co-authored "[Wisconsin's Mass Incarceration of African-American Males: Workforce Challenges for 2013](#)" to shed light on how communities were crippled by mass incarceration in Milwaukee County. The study sparked faith-based organizations such as WISDOM to push lawmakers to come up with prison alternatives for nonviolent offenders and to reduce the prison population from 22,000 to 11,000 by 2015.

On Wednesday, dozens of members of [WISDOM](#) met with Wisconsin's Criminal Justice Coordinating Council to share stories on how incarceration has affected them. They talked about how parole was being denied for those who had met the Department of Corrections' standard of safety. They discussed how some men are inhumanely placed in solitary confinement for months and even years. And they made the case for limiting what the public can see on the state court system's free online database.

Currently, the state Department of Corrections is [denying parole](#) for about 2,800 prisoners who are eligible for release but who were sentenced prior to the start of truth-in-sentencing guidelines. Some have completed all the necessary classes and programs. If only 100 people eligible for parole were released, the state would save more than \$3 million a year — money that could be reinvested in alternatives to prison programs or in education and job skills.

If a person is imprisoned because of a drug problem and that person has committed a nonviolent act, it is a lot less expensive and more effective to treat the addiction. Does it really make sense to lock up crack addicts for possession rather than treating their addiction, especially when it costs about [\\$38,000 a year to house a prisoner](#), compared with about \$7,000 a year for drug or alcohol treatment?

Wisconsin allocated more than \$2 billion for state corrections in the 2013-'15 state budget, adding up to more than 25% of general fund appropriations. In 2013-'15, more state tax dollars were appropriated from the general fund for corrections than for the entire University of Wisconsin System.

I am not anti-prison. People who commit heinous crimes, regardless of their race need to be punished. But I believe we need to be smarter. Should we be spending more to house prisoners than educating future graduates? Are you safer because of mass incarceration?

I don't feel safer. I've seen the unintended consequences of incarceration — broken homes and children growing up without fathers or seeing their fathers behind bars. This traps families in a cycle in which some fathers and sons are imprisoned at the same time.

On Wednesday, an ex-con who served six months for a marijuana conviction told me that he remembers pulling his 5-year-old daughter's loose tooth in the prison visiting room.

"That's not an image I wanted her to have, but it's one she will always remember," he said.

Quinn said the breakdowns by age of the imprisoned population in the state show large disparities at all age levels. For men in their 20s, African-Americans make up only 7% of the Wisconsin male population, but 46% of them have spent time in prison. Black men in their 40s make up 5% of the state male population, but 39% have been imprisoned.

Quinn cited a number of reasons for the high black male incarceration rate: poverty, more interaction with the police and lack of jobs.

Job creation for black men needs to be a top priority because if it's not, taxpayers will pay more to keep them locked up in the future.

Devah Pager, a Harvard University sociologist who conducted her [field research in Milwaukee](#), said discrimination and a person's criminal history affect a black man's ability to find work.

In her 2004 study, Pager identified job openings listed by 350 employers in the Milwaukee area for entry-level jobs with no experience or education requirements beyond high school.

Two teams of men — black and white — applied for jobs alternating as to whether they listed an 18-month criminal record on their application, and with otherwise comparable educational and experience levels.

Although Wisconsin has laws outlawing employment discrimination because of incarceration, 34% of whites without a listed prison record received callbacks compared with only 14% for African-Americans. For those who listed that they had a prison record, 17% of whites received callbacks, compared with only 5% for African-Americans.

The study shows us that if a black man has a criminal record, it's a scarlet letter that he has to wear for the rest of his life.

Fixing the black male incarceration crisis will require statewide solutions and a sweeping revamp of current practices. But this is a problem we can't afford not to fix.

James E. Causey is a Journal Sentinel columnist and blogger. Email jcausey@journal sentinel.com.

Facebook: fb.me/james.causey.12 Twitter: twitter.com/jecausey