

WHAT'S THE ALTERNATIVE?

Society has to respond to lawbreakers, but it doesn't always have to lock them up.

By Anne-Marie Cusac

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Photography by Marc Pokempner

Harold Conner spent last spring earning \$7 an hour waiting on customers at a video store in Milwaukee, Wisconsin. It wasn't the most exciting way for the 23-year-old to spend his days, but he preferred it to his other option: sitting in a prison cell.

Conner had been convicted of dealing cocaine and given a five-year sentence. But thanks to his relatively minor offense, the judge gave him a chance to enter an innovative program launched last year by Milwaukee authorities.

Instead of going to prison, young men with drug-related sentences of up to 11 years participate in a highly structured regimen focusing on what they need to stay out of prison: education (most participants have sub-sixth-grade reading and math skills), drug treatment, and counseling. After several months, successful participants like Conner can go on to get jobs in the community, while continuing to spend their nights in a locked facility.

Conner has now graduated to phase three: While still under a probation officer's weekly scrutiny, he lives at his mother's house. He says he no longer craves marijuana, his previous drug of choice. He recounts a transformative moment he experienced when counselors made him realize that the women he sold drugs to were often using money that should have gone to feed their families. "I didn't realize that I was taking food out of their kids' mouths," he says. "That sticks with me to this day."

Conner isn't the only one getting some good out of the program. Locking him up would cost the state \$22,629 every year. But the annual public cost of keeping him in the program is estimated at only \$1,610.

The Milwaukee program is just one of hundreds of creative attempts around the country to keep low-level, nonviolent offenders out of prison -- both for their sake and that of government budgets. As America's inmate population has skyrocketed from half a million in 1980 to some 2 million today, spending on it has grown even faster, from \$7 billion to \$45 billion. That staggering bill has motivated cities, counties, and states to begin experimenting with alternative responses to lawbreakers -- often with encouraging, albeit still mostly inconclusive, results. In many cases, participants remain working, tax-paying citizens and don't wind up with a prison record that could harm future career prospects. They are also often able to stay in or near their homes, so that their families are not torn apart -- a more humane arrangement for children, and one which again saves local authorities on foster-care expenses.

The common denominator among alternative programs is the recognition that the prison boom is fueled largely by convictions for nonviolent crimes, particularly drug offenses. "All criminal offenses certainly deserve a response," writes former *New York Times* editorial board member David C. Anderson in his recent book, *Sensible Justice: Alternatives to Prison*. "But why should it invariably be the penitentiaries [that] inflict so relentless a burden on taxpayers, turn lightweight offenders into more dangerous criminals, and do nothing to help them confront their basic problems?"

Drug courts and drug-treatment programs are perhaps the best-known alternatives. They are based on the idea that addiction is an illness, and that treatment is therefore more likely than prison to turn drug users into law-abiding, productive community members.

Drug courts, special programs that operate alongside regular criminal courts, typically review only low-level drug cases and determine whether to charge arrestees criminally or to divert them into an approved treatment program. Pioneered in Florida in the late 1980s, they have spread rapidly. There are now some 77,000 people in the United States who receive treatment because of drug

courts, says Caroline Cooper, director of the Drug Court Clearinghouse at American University. The public seems to like the idea. California recently enacted a voter-approved ballot initiative that mandates treatment rather than prison for first-time drug offenders; it is expected to divert at least 36,000 people annually.

There's a simple bottom-line explanation for the popularity of these programs. A 1999 Rand Corporation study found that public savings generated by drug-treatment programs nationwide were about \$9,177 per participant -- three times higher than their costs. An Arizona Supreme Court report supports the Rand findings, showing that in 1998, the state's drug courts saved taxpayers \$2.5 million by keeping 551 offenders out of prison.

Even officials who have spent years prosecuting criminals say that drug courts work. "I can be tough on crime, but I can also be smart," says ex-cop Jim Gregart, now the district attorney in Kalamazoo, Michigan, and a self-described conservative. "Drug courts are being smart on crime." Gregart says Kalamazoo drug courts have kept 400 people out of the lockup since 1992. And he notes a significant side benefit: "We are approaching 50 babies who were born crack-free and without fetal alcohol syndrome because their mothers were in the program." The government, he estimates, saves up to an additional \$500,000 per child in health-care and social-services costs.

Though drug courts get more press, the most widely used alternative sanction is "intensive supervision" -- essentially a far more stringent version of probation. Some 104,028 probationers were under intensive supervision in 1997, according to the Bureau of Justice Statistics. Those offenders are confined to their homes during specified hours, where they are often subject to surprise visits and drug testing. But they remain active members of society and may hold jobs, take classes, and undergo alcohol and drug treatment.

More than 15,000 of those under intensive supervision -- including Conner -- also have to wear an electronic ankle bracelet, which emits signals that allow authorities to track the wearer's movements. The device allows wearers to work jobs and attend classes, while enabling probation officers to ensure that they go home -- not back to the streets -- at night.

Another 2,128 probationers were sentenced to boot camps in 1997. These camps subject participants to a physically demanding, military-style regimen intended to instill both discipline and better values. (In at least some camps, that approach has crossed the line into [physical abuse of inmates](#).) The camps cost roughly the same as prisons but, in theory, save money over the long haul because their sentences tend to be shorter than prison terms.

Nearly every state is by now trying out one or more of these alternative programs. The fiscal logic seems compelling. According to the National Committee on Community Corrections, a Washington, D.C.-based research and advocacy group, a typical inmate can cost taxpayers up to \$25,000 a year, "not counting the cost of prison construction, providing welfare for the family, or foster placement for the children." Alternative sanctions come far cheaper, the group notes: \$2,500 for drug and alcohol treatment, and about \$6,000 for intensive supervision.

Still, alternative sentencing may not always end up saving money or keeping people out of prison. In some instances, such programs may ultimately wind up costing more, by catching more people in the criminal-justice net. Malcolm Young, executive director of the Sentencing Project, a nonprofit research organization that advocates alternative programs, says many jurisdictions set up alternatives that draw in offenders who probably wouldn't have gone to prison. Small fry who might have otherwise simply been let go can, thanks to a drug court or intensive supervision program, end up placed under a probation officer's scrutiny, where the penalty for even a minor slipup is jail.

Studies support Young's contentions. In 1999, Joan Petersilia, a criminology professor at the University of California, Irvine, found that offenders in intensive supervision programs "by and large were not prison-bound but rather were high-risk probationers."

Nor, said Petersilia, did intensive supervision programs shrink overall costs. People in boot camps, under electronic monitoring, and in drug testing had close supervision that probably uncovered more violations that got them sent to prison. In such cases, governments ended up paying for both the prison sentence and the alternative program.

Petersilia's findings are borne out by other studies. The Vera Institute of Justice, a New York-based research organization, last year reviewed much of the existing research on drug courts and concluded that half of all drug court participants across the country end up failing their

programs. Many of those wind up behind bars. "When interim jail stays are counted," the study found, "drug court participants could spend more time in jail than if they had never enrolled in the program." Boot camps seem to do even worse; in a 1998 study, the conservative Koch Crime Institute found recidivism rates of 64 to 75 percent among juvenile boot camp graduates.

Nonetheless, Petersilia's study included "an important and tantalizing finding." Among participants in alternatives that combined surveillance with drug treatment, employment, and community service, recidivism dropped by as much as 10 to 20 percent below programs that did not have such components.

Tim Roche, deputy director of the San Francisco-based Center on Juvenile and Criminal Justice, says that the shortfalls of alternative programs may be more a function of how they are run than the concept behind them: "We never addressed the fact that (a typical offender) is living in an alcoholic home. We never addressed the fact that he is 19 years old and can't read. We never addressed the fact that he has no marketable job skills. We never addressed the mental health issues. Then we say, 'Oh, god, now you've violated your parole.' So what would have been a two-year sentence becomes a five-year sentence."

Even in the Milwaukee program, which devotes relatively generous attention to participants' individual problems, 6 out of 18 people are currently failing the second phase and will likely wind up in prison.

Conner, meanwhile, lost his video store job in June for skipping a day. He's back to looking for work from his mother's house. But he's convinced that despite his slipup, in the long run the program will pay off for him -- and for his community. "I knew going to prison wouldn't change me," he says, "because I'd just get out and do it all over again."

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