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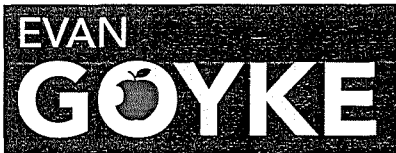
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Good Morning Chairman Spiros and Committee Member. Thank you for holding this hearing on Assembly Bill 817.

Under Wisconsin's Constitution all persons, before conviction, shall be eligible for release under reasonable conditions designed to assure their appearance in court. A judge or court commissioner may release a defendant with no bail, for cash bail, or on an unsecured bond, the conditions of which require the person to pay the amount of the bond to the court in the event the defendant fails to appear at the required time. In the event of a deposit of cash bail, the money is forfeited in the event the defendant fails to appear.

It is not uncommon for some defendants to fail to appear, especially in cases in which no bail is required, or if the defendant is released on an unsecured bond, or if the cash bail is set too low. This bill would prohibit a court from releasing defendants for no bail or on an unsecured bond who have previously been charged with bail jumping, or failure to appear in court at an appointed time.

This bill does not impose any additional penalties for bail jumping, nor does it prohibit a judge from imposing any specific bail amount. It simply will require someone who previously jumped bail from being released without bail or on an unsecured bond.



STATE REPRESENTATIVE
18th ASSEMBLY DISTRICT

January 30, 2020

Written Testimony of State Representative Evan Goyke

Re: Assembly Bills 802, 803, 804, 805, 806, 807, 808, 809, 817 – The “Tougher” On Crime Package

Mr. Chairman and Members of the Assembly Committee on Criminal Justice and Public Safety,

Thank you for the opportunity to testify today regarding Assembly Bills 802, 803, 804, 805, 806, 807, 808, 809, and 817 – The Wisconsin Republican “Tougher” On Crime Package.

On Criminal Justice: President Trump gets it - mostly. Vice President Pence gets it. Former Speaker Ryan, Senator Ron Johnson, and Congressmen Sensenbrenner, Grothman and Gallagher also get it.

President Trump signed The First Step Act – Public Law 115-391 into law on December 21, 2018. The law makes dozens of positive changes to our criminal justice system including opportunities to be released from incarceration early, the reduction of mandatory minimums, and investments in prisoner re-entry.

During the 2019 State of the Union speech, President Trump acknowledged two formerly incarcerated individuals and highlighted the bipartisan First Step Act as a key legislative victory of his administration. Assembly Bills 805, 807, and 809 do the opposite of the First Step Act.

The question for the committee today – and the Legislature moving forward – is why Legislative Republicans disagree with President Trump and so many members of Congress? Who’s right and who’s wrong?

Wisconsin Republican Legislators are wrong. Here’s why.

More incarceration does not mean less crime. The authors of the bills site rising crime rates as justification for increased incarceration – yet incarceration has increased at the same time the crime rate has. Since 2013, the Legislature has increased penalties or created a new crime over 50 times and our prison population has grown too. We don’t need more of what’s not working.

Many states have experienced crime reductions while they’ve reduced incarceration. This is achieved by moving resources from incarceration (the most expensive criminal justice intervention) to more effective options like treatment and supervision (much less expensive). America now has over a decade of evidence that this works, with 45 states having enacted some justice reform legislation to reduce their prison populations.

Conservative and Liberal organizations have supported these bipartisan reforms, including here in Wisconsin where conservative-leaning groups like Americans for Prosperity, The Badger Institute, Right on Crime have joined with liberal-leaning groups like the ACLU and WISDOM in working to bring this legislative reality to Wisconsin. These groups in Wisconsin, like their counter parts around the country, have conducted or reviewed the strong and growing evidence that criminal justice reform can be done safely. They also warn of the massive expense of not enacting reforms.

In the 2019-2021 budget, the Legislature approved a 5% increase in the Department of Corrections budget, with an annual budget now above \$1.3 Billion. Included in the budget was an estimate that the prison population will grow roughly 600 additional inmates by the end of the biennium – which would place Wisconsin’s prison population at an all-time high of 24,350. To accommodate this growth, the DOC estimates that by 2020, roughly 1,000 inmates won’t fit within the existing prison system and will need to serve their sentence at a contracted facility.

Select Geometry

Specific Location
within Geographic Area



Milwaukee Police Department

Data current through:
1/16/2020

Police District

(All)

CompStat Part 1 Crimes

4 Week - 4 Week

Incident Map
2020

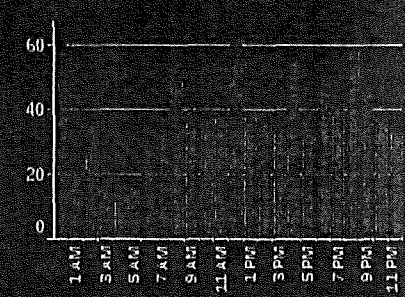
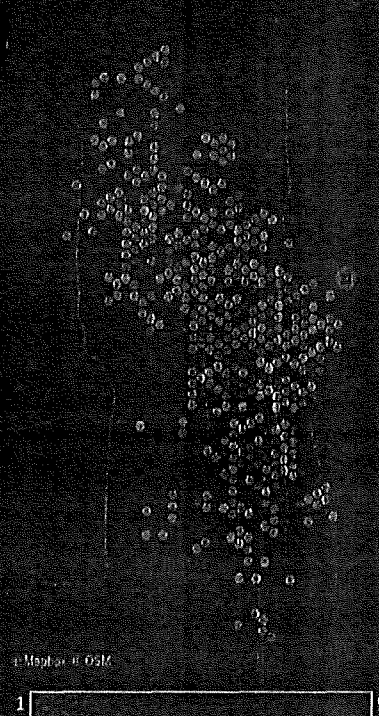
Filter Crime
Type

<All Part 1 Crimes>

2020 Incident Time Analysis
Based on selected time period

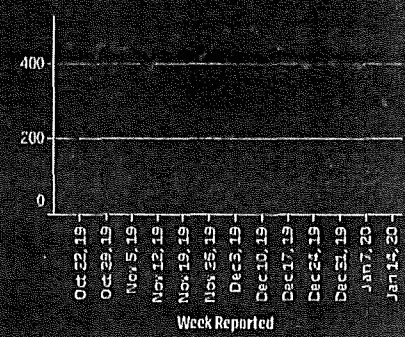
Hour

UCR/Incident	Full Year			Year-to-Date			Comparison Time Frame Date Ranges auto-update		
	2010	2019	% Change 2010-2019	2019	2020	% Change 2019-2020	11/23/2019 -12/19/2019	12/20/2019 -1/16/2020	% Change Time Frame
Homicide	99	97		7	1		5	4	
Rape	499	487		40	25		40	35	
Robbery	2,320	1,994		125	86		150	147	
Aggravated Assault	5,002	5,757		322	210		469	405	
Burglary	4,432	3,683		231	139		260	263	
Theft - Larceny	8,458	7,973		515	329		686	558	
Motor Vehicle Theft	4,651	3,401		235	154		340	256	
Arson	263	202		9	11		14	14	
Grand Total	26,317	23,511		1,468	949		1,967	1,672	



Weekly Incident Trend Analysis
Based on selected date range

12 Week



Uniform Crime Reporting (UCR) guidelines for Part 1 Offenses include counting Homicide, Rape, and Aggravated Assault by victims. All other crime types are counted by incidents. Geographic areas are based on reporting districts. Incidents without an identified reporting district in the incident report are coded as null locations. Specific locations and names of persons involved have not been included to protect the identity of the individuals. Information is not yet verified and may include mechanical or human error. Preliminary crime classifications may be changed at a later date based upon further investigation(s).



NIBRS CITYWIDE PART I CRIME

Offense	2017	2018	2019	17-19 % Change	18-19 % Change
Homicide	119	99	97	-18%	-2%
Rape	445	499	460	3%	-8%
Robbery	2,950	2,326	1,993	-32%	-14%
Aggravated Assault	6,097	5,794	5,720	-6%	-1%
Burglary	5,719	4,430	3,678	-36%	-17%
Auto Theft	5,448	4,646	3,488	-36%	-25%
Theft	10,559	8,450	7,960	-25%	-6%
Arson	315	262	203	-36%	-23%
Violent Crime	9,611	8,718	8,270	-14%	-5%
Property Crime	22,041	17,788	15,329	-30%	-14%
Total	31,652	26,506	23,599	-25%	-11%

Part I crime data was obtained from the Wisconsin Department of Justice (DOJ) and reflects preliminary UCR Summary Statistics for the time period of January 1 - December 31, 2017-2019. UCR statistics are subject to change for a period of up to two years. Homicide data was obtained from the OMAP Homicide database and counts victims for the time period of January 1 - December 31, 2017-2019.

“Tougher” on Crime Won’t
Make us Safer

Why you should oppose Assembly Bills 802-809 & 817

By Representative Evan Goyke (not his staff)



From the State of the Union, 2019:

“Inspired by stories like hers [after recognizing a recently released individual] my administration worked closely with members of both parties to sign the First Step Act into law.

This legislation reformed sentencing laws that have wrongly and disproportionately harmed the African-American community. The First Step Act gives nonviolent offenders re-enter society. Now states across the country are following our lead.”

Wisconsin Congressional Republicans Supported the First Step Act



The First Step Act and “Tougher on Crime” go in the opposite directions:

The First Step Act:

- Reduces Mandatory Minimums (AB 807 creates a new one)
- Expands options for Early Release (AB 809 takes them away)
- Increases Judicial Discretion (ABs 809, 808, 807 take it away)

- Increases funding for re-entry (none)
- Increases funding for treatment (nope)
- Clears red tape as individuals re-enter (zilch)

The “Tougher on Crime” package – issues

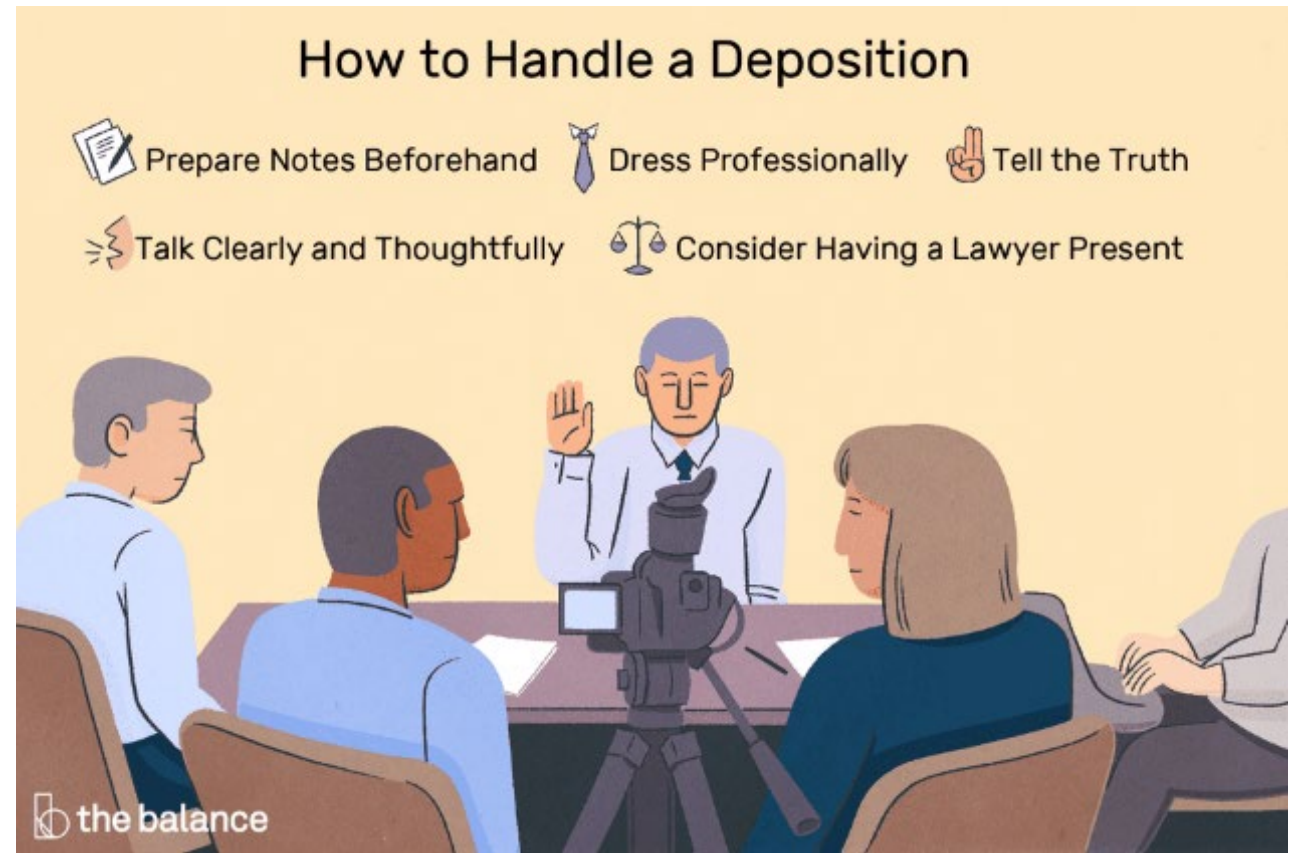
AB 802:

The intent of the bill, to increase the use of video conferencing, is a good one. The bill is short and to the point, but also probably not necessary.

Current law allows a judge to consider: “Any other factors that the court may in each individual case determine to be relevant” to assess whether to use video conferencing.

AB 803

- Sixth Amendment of the US Constitution: “to be confronted with the witnesses against him” – meaning the defendant may have the right to be present at the deposition and/or admission could be difficult
- Adds work to Judges, DA’s, and Defense by creating a new hearing, with a new standard of proof



- Depositions may be more intimidating than trial
- Defense Counsel may have more room to cross examine the witness

AB 804

Felony Intimidation exists and includes:

Whenever the person is already charged with a felony

Any “expressed or implied threat of force, violence, injury”

Domestic Violence as defined in the bill includes:

- his or her spouse or former spouse,
- an adult with whom the person resides or formerly resided,
- an adult with whom the person has a child in common

AB 805 – part 1

- Re-introduction of 2017 Senate Bill 54 – exact same language
- DOC's 2017 fiscal estimate had the prison increase of over 1,000 inmates per year
- Speaker Vos hired the Council of State Governments to validate the DOC fiscal estimate
- A substitute amendment was passed, which included \$350 Million in new bonding authority to build a new prison
- The substitute amendment estimated \$57 Million annually for increased operational expenses

Speaker Vos CSG Memorandum

MEMORANDUM

TO: Wisconsin Assembly Speaker Robin Vos

FROM: Marc Pelka, Deputy Director of State Initiatives, CSG Justice Center
Ed Weckerly, Research Manager, CSG Justice Center

CC: Marshall Clement, Director, Council of State Governments Justice Center

DATE: January 12, 2018

RE: Independent Review of Impact Estimates for Legislation (SB54 and AB94)

“...WI DOC’s impact estimate
rightly considers impacts on the
prison population.”

“...WI DOC’s methodology is sound..”

This memo responds to a request for an independent review of the impact estimate the Wisconsin Department of Corrections carried out for legislation (SB54 and AB94) pending in the legislature.

AB 805 – part 2

Revocation hearings are very different than trials:

- Lesser rules of evidence
- Lower burden of proof
- Lesser appellate rights

When the DOC recommends revocation, the Administrative Law Judge follows the recommendation 92% of the time

“Charged” with a crime does not mean guilty. If the individual is not guilty or the charge is dismissed, the revocation can still go forward (sometimes it’s already over), the bill has no provision for these situations

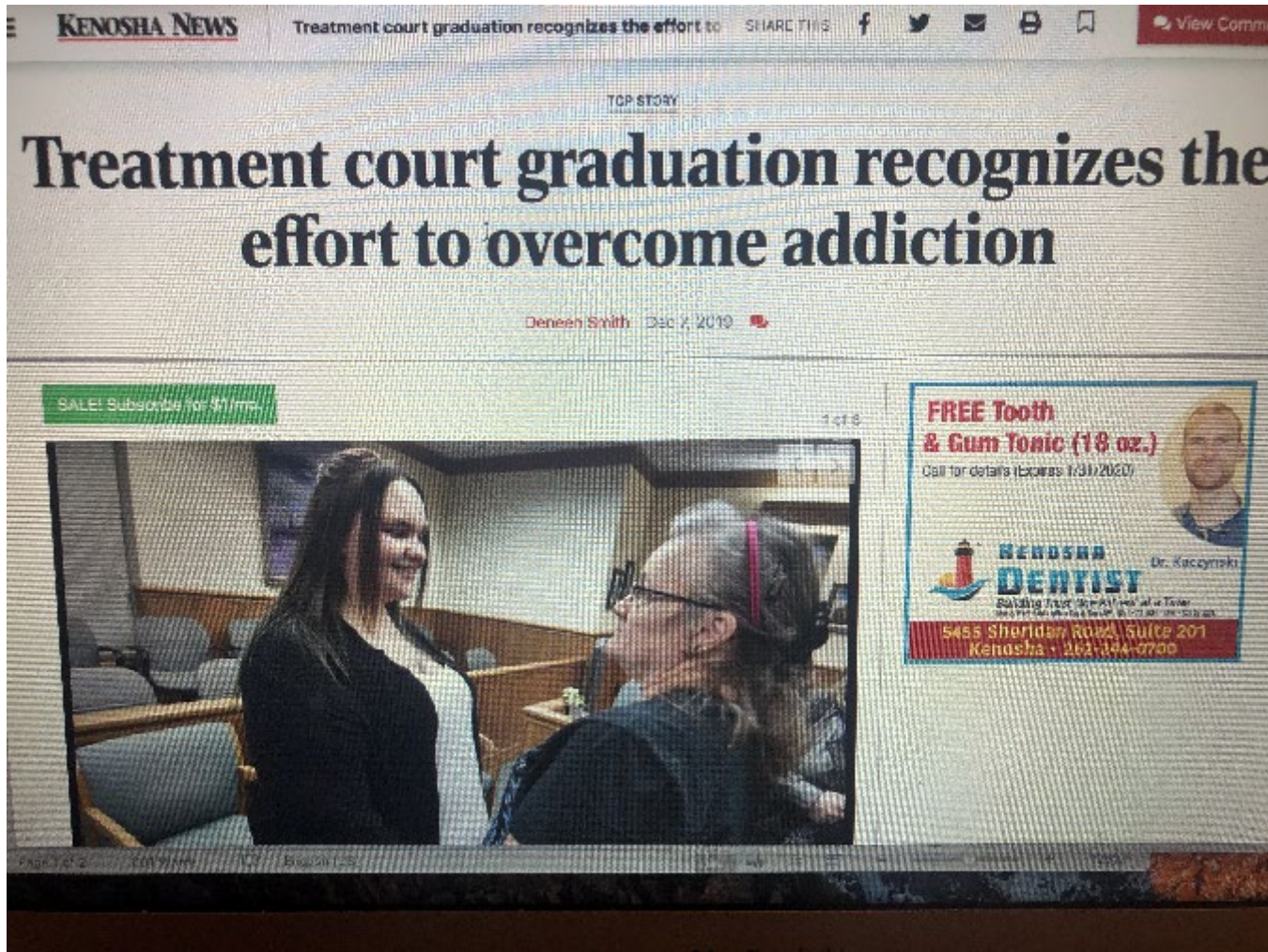
AB 806

- It has been 679 days since the passage of 2017 Act 185
- Funding is stalled by the GOP in Joint Finance – breaking the impasse should be the top priority of Legislative Republicans
- AB 806 will increase the juvenile prison population and create the need for an additional juvenile prison
- The bill allows a juvenile to go to prison and be supervised until age 25 for “any felony”
- The bill also treats “any felony” as prima facie evidence “that the juvenile is a danger to the public and in need of restrictive placement”
- Felonies could include: any heroin or opiate, 2nd offense marijuana, theft of property over \$2,500 – roughly 500 felonies in Wisconsin

AB 807 – part 1

- Mandatory Minimums don't work
- Donald Trump says these types of laws “***disproportionately harmed the African-American community***”
- Reduce Judicial discretion and increase litigation
- Not necessary: current law Wis. Stat. 939.62 “Habitual Criminality” allows and increased penalty for: 1 felony or 3 misdemeanors within the previous 5 years
- With 180 days required jail, individuals would not be able to participate in treatment, drug courts

AB 807



When the judge called Detective Jeff Bliss to the front of the courtroom, Katie Erickson looked over at her friends and whispered, “that’s who arrested me.”

This meeting was a much different from the last day Erickson and Bliss met in April 2017. Then, Erickson was a 26-year-old heroin user stealing to support her habit. Now, Erickson was two years clean, graduating from drug treatment court, the mother of a healthy baby girl and a mentor to people in the program.

AB 808 – part 1

Violent offenders are currently not eligible to participate in TAD programs:

Wis. Stat. 165.95 Alternatives to incarceration; grant program.

(3) (c) The program establishes eligibility criteria for a person's participation. The criteria shall specify that a violent offender is not eligible to participate in the program.

Removes the discretion of a DA to amend or dismiss the charge

Reduces judicial discretion to amend or dismiss the charge

Possible violation of Separation of Powers to require judges to write reports explaining their discretionary decisions to partisan elected legislators

AB 808 – part 2

There are a lot of reasons a charge may be amended or dismissed:

- The person is innocent

- The evidence was obtained unlawfully and was suppressed

The lack of discretion is at odds with a lawyer's ethical obligation:

SCR 20:3.8 Special responsibilities of a prosecutor. (a) A prosecutor in a criminal case or a proceeding that could result in deprivation of liberty shall not prosecute a charge that the prosecutor knows is not supported by probable cause.

AB 809 – part 1

- The sick, dying and aging population represents one of the most expensive (and growing) populations for DOC
- Terminal or elderly individuals represent a reduced risk to public safety
- The bill reduces judicial discretion to craft the appropriate sentence
- The bill reduces the DOC's discretion to release when safe and earned
- The bill takes away an individual's incentive to perform required rules of supervision – including paying restitution

AB 809 – part 2



Frail, Old and Dying, but Their Only Way Out of Prison Is a Coffin

Kevin Zeich had three and a half years to go on his prison sentence, but his doctors told him he had less than half that long to live. Nearly blind, battling cancer and virtually unable to eat, he requested “compassionate release,” a special provision for inmates who are very sick or old. – NYT, 2018

He died the day before he was to be released

AB 817

- Just eliminate cash bail, create a pretrial detention system and be done with it
- Bail jumping is over used and doesn't require the commission of a new offense – can be used as leverage to plead guilty, this bill may make that worse through pretrial incarceration
- Services and monitoring is more effective to assure appearance and promote public safety than cash bail
- 7 Wisconsin counties are working on evidence based risk assessments to guide bail decisions, this is the way forward

More incarceration does not equal more safety

The
Economist

Locking up more people does not reduce crime

But it has a heavy social cost

**BRENNAN
CENTER**
FOR JUSTICE

Between 2007 and 2017, 34 States Reduced Crime and Incarceration in Tandem. Some still argue that increasing imprisonment is necessary to reduce crime. Data show otherwise.

**SCIENTIFIC
AMERICAN®**

Do Prisons Make Us Safer?

New research shows that prisons prevent far less violent crime than you might think

Racial Disparities and Costs in Wisconsin Corrections

January 30th, 2020

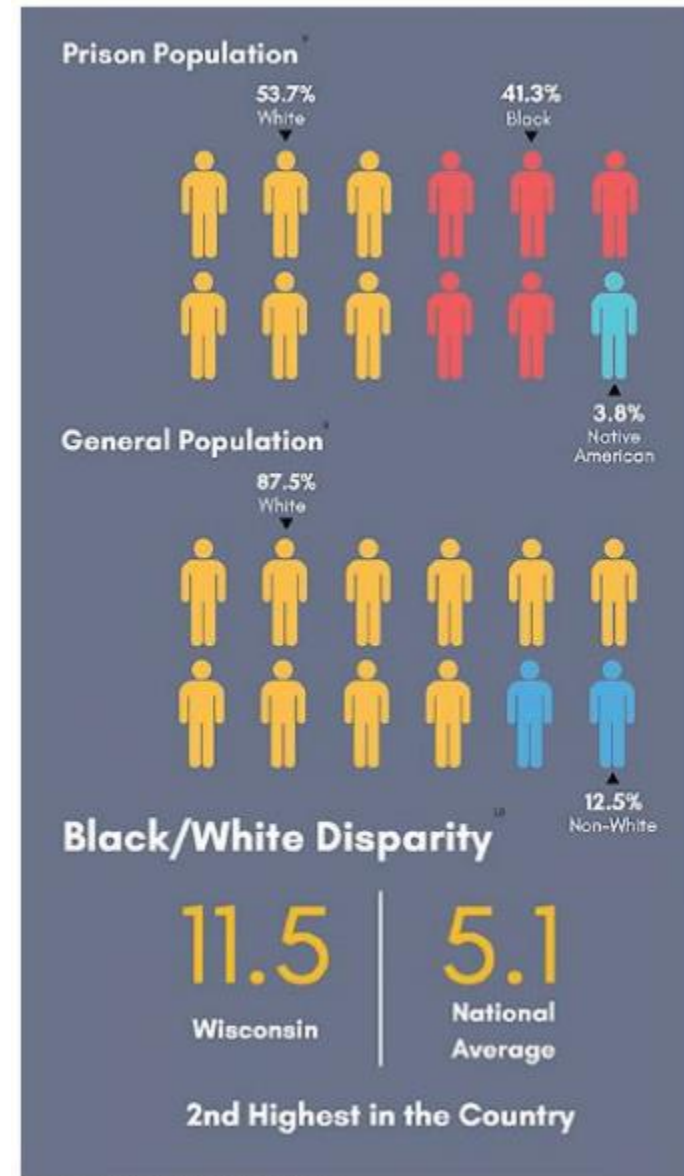
Wisconsin Prison Population: 23,555

Contract Beds: 532

Cost today of contract beds: \$27,400

2020 DOC Budget: roughly
\$1,300,000,000

Estimated Prison population by 2021:
24,350



From Wisconsin Lawyer. Graphic: Greg Grohman

- Crime is real, victims deserve justice, the system can be improved
- Incarceration doesn't make us safer and is the most expensive intervention we have
- If passed in current form, the “tougher on crime” package will require a new prison, plus annual operational costs
- 45 States and Congress are going in the opposite direction – including Wisconsin Congressional Republicans and President Trump
- Bi-partisan criminal justice reform and re-investment in what is most effective is the way forward

Thank you!