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To save money on prisons, states take a softer stance

By Kevin Johnson, USA TODAY

SALINA, Kan. — In a hushed conference room overlooking the town's main drag, eight convicted felons, including an aspiring amateur fighter, brandish bright Crayola markers.

Their goal is to match their personalities to one of four colors. Tim Witte, 27, on probation for evading arrest, eyes the task as if sizing up a fellow middle-weight on Kansas' gritty cage-fighting circuit. Witte and two drug offenders settle on orange.

The color, indicative of a restless, risk-taking personality, is the hue of choice for most offenders, says Michelle Stephenson, the corrections officer leading the unusual exercise.

Not long ago, Stephenson admits, the evening state-sponsored "behavioral modification" session — designed to help ex-offenders avoid costly prison time — might have been considered a perversion of this conservative state's strict law-and-order credo. But this isn't the same Kansas anymore.

"It used to be that it was more about waiting for them to mess up and send them back to prison," Stephenson says. "In this time and this economy, you can't afford to keep doing that. There is a better way to do business."

The class is part of a state effort to save millions of dollars in prison costs by changing how criminals are treated. Kansas is closing some prisons, boosting support for offenders on probation and declining to return them to prison for every probation violation.

Here and across the nation, the deepening financial crisis is forcing dramatic changes in the hard-line, punishment-based philosophy that has dominated the USA's criminal justice system for nearly two decades.

As 31 states report budget gaps that the National Governor's Association says totaled nearly \$30 billion last year, criminal justice officials and lawmakers are proposing and enacting cost-cutting changes across the public safety spectrum, with uncertain ramifications for the public.

There is no dispute that the fiscal crisis is driving the changes, but the potential risks of pursuing such policies is the subject of growing debate. While some analysts believe the philosophical shift is long overdue, others fear it could undermine public safety.

Ryan King of The Sentencing Project, a group that advocates for alternatives to incarceration, says the financial crisis has created enough "political cover" to fuel a new look at the realities of incarcerating more than 2 million people and supervising 5 million others on probation and parole.

"It's clear that locking up hundreds of thousands of people does not guarantee public safety," he says.

Joshua Marquis, a past vice president of the National District Attorneys Association, agrees the economy is prompting an overhaul of justice policy but reaches a very different conclusion about its impact on public safety.

"State after state after state appears to be waiting for the opportunity to wind back some of the most intelligent sentencing policy we have," Marquis says. "If we do this, we will pay a price. No question."

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- Kansas officials closed two detention facilities last month to save about \$3.5 million. A third will be shuttered by April 1, says Roger Werholtz, chief of the state prison system. Inmates housed in the closed units will be moved to other facilities in the state.
- A California panel of federal judges recommended last month that the cash-strapped state release up to 57,000 non-violent inmates from the overcrowded system to help save \$800 million.
- Kentucky officials last year allowed for the early release of non-violent offenders up to six months before their sentences end to serve the balance of their time at home.
- New Mexico and Colorado are among seven states where some lawmakers are calling for an end to the death penalty, arguing capital cases have become too costly to prosecute, reports the Death Penalty Information Center, which tracks death penalty law and supports abolition of the death penalty.

"State governments operated on the principle that if you built it, they would come," King says of prison construction during the economic boom. Since 1990, corrections spending has increased by an average of 7.5% annually, reports the National Association of State Budget Officers.

"As soon as they built those prisons, they filled them," King says. "They were never able to keep up with it. There is certainly a different atmosphere now."

New approach to punishment

Kansas House Speaker Mike O'Neal admits he isn't the "logical guy" to lead the charge for anything that could be considered soft on crime.

During his 25 years in the state Legislature, O'Neal, a Republican, has sought longer sentences for sex offenders, backed tougher sanctions for drug dealers and supported executions.

"We're kind of a hang-'em-high state," O'Neal says.

Yet in 2007, as prison construction costs soared and state prisons reached near-capacity, O'Neal made what he calls a "surprising" political calculation: He helped push through a measure calling for a 20% reduction in probationers sent to prison for violating conditions of their release.

Despite O'Neal's fears that the new policy could allow offenders to commit other crimes, he felt spiraling costs demanded a new approach to punishing criminals.

The law gives local probation departments broader authority to decide whether technical violations of release, such as missed meetings with probation officers or failed drug tests, should result in prison. In Kansas, up to two-thirds of all new prison admissions each year are offenders who violated terms of their release.

The criminal justice overhaul has gained urgency because of the economic collapse, O'Neal says. Yet the sour economy also could jeopardize the new \$4 million probation program. O'Neal is fighting to keep it, arguing it will save the state money over time.

So far, the cuts in prison admissions have saved about \$80 million in future construction costs, state prison chief Werholtz says.

Among the most successful probation operations, Werholtz says, is the small community corrections office run by director Annie Grevas in Salina, a central Kansas town of about 46,000.

Over the past year, Grevas has transformed the enforcement-oriented operation, heavily focused on the surveillance of offenders, into a service broker. Probation officers now help offenders find work, health care, housing, counseling, transportation and child care.

During the past several months, for example, the office spent \$110 to cover an offender's utility payments; \$500 for a rent payment; \$600 for six bikes the office loans to get to job interviews; \$77 for a YMCA membership to help an offender improve his physical condition and \$320 for eight anger-management counseling sessions.

All of the assistance is aimed at keeping offenders out of costly prison cells, although Kansas officials say they are only beginning to review whether the offenders who received the assistance have committed new offenses.

Last year, Grevas says Salina cut its probation revocations by 35%. "It is a total philosophical change," she says. "Just as we expected clients to change, we needed to change."

Sentencing policies criticized

Jeremy Travis, president of the John Jay College of Criminal Justice in New York, says financial troubles are forcing fundamental changes in criminal justice philosophy well beyond Kansas.

"Out of this turmoil, some states realize that the size of the prison population is more than they can bear," he says. "And the public safety yield (from jailing so many) is largely uncertain."

He says mandatory minimum sentencing and the so-called "three-strikes" mandatory life terms for repeat offenders, which swept the country in the early 1990s, "may have to be modified or completely undone."

A report out this month by the Pew Center on the States, a public policy research group, found costly prison growth and higher incarceration rates do not reflect an increase in crime or the nation's population.

"More people are behind bars principally because of a wave of policy choices that are sending more lawbreakers to prison and ... imposing longer prison stays on inmates," the report says.

As a result, it concluded, state corrections-related costs have soared from \$10.6 billion two decades ago to more than \$44 billion last year.

"Coupled with tightening state budgets, the greater prison expenditures may force states to make tough choices about where to spend their money," it said.

Margaret Colgate Love, director of the American Bar Association's Commission on Effective Criminal Sanctions, says the public "is very ready to support crime-control strategies aimed at helping people."

She says strict sentencing policies have "devastated" families and contributed to the "disastrous" overcrowded prison system in California, one of the first states to adopt the three-strikes sentencing law.

"Every time we say something or someone is soft on crime, we perpetuate a dysfunctional response to crime control," Colgate Love says. "If one good thing comes out of this economic crisis, it would be that we deal with people differently."

New Mexico, citing excessive costs, is making a dramatic change in its system. Lawmakers voted last week to abolish the death penalty, a move projected to save the state "millions of dollars," according to a state report on the measure's fiscal implications. Gov. Bill Richardson has until today to decide whether to veto the legislation.

"New Mexico does not receive much return on its death penalty investment," the state report said, adding there is just a 4.5% chance that any "multimillion-dollar" death penalty prosecution will end with an execution.

David Albo, a Republican delegate to the Virginia Legislature who has supported eliminating parole and harsher sentences for drug dealers, rejects money-saving proposals that involve early release of offenders, prison closures and other strategies.

This year, Virginia lawmakers defeated a proposal to allow for the early release of non-violent offenders as part of a plan to save \$5 million. Albo and other opponents argued altering punishments amounted to "fraud on the citizens of Virginia."

"If a jury said you are going to serve 10 years, you don't go back and change that," Albo says. "I'm against anything that changes a person's sentence."

'My goal is to break the chain'

Patrick Young swears he'll do better this time.

Now on probation in Kansas for burglary, theft and failure to register as a sex offender, Young, 29, has been to prison four times since age 17. Three of those prison terms were triggered by violations of probation or parole.

The sex offense, involving a relationship with a 15-year-old girl when he was 17, has turned off more than one prospective employer, Young says.

His case is one of many that will test how well Kansas' new approach to crime and punishment works. In regular meetings with his case officer, Young is getting more support than he has received at any time in his adult life.

More than a year ago Young, given his long record of failure, likely would have been buried in the state prison system, says Ruth McDaniel, a Salina corrections officer who manages his case.

Now, McDaniel believes Young has better than long odds of successfully completing his sentence outside prison walls. She says he has matured since starting his term of supervision in Salina in March 2007.

Before he was laid off at the end of February, he was a forklift operator at a local food company for 18 months, the longest stretch of continuous employment in his life.

McDaniel helped arrange family counseling sessions to teach Young how to cope with the recent birth of a son. He is seeking financial aid to enroll in an electronics course to improve his chances at a better job.

"He has good family support," McDaniel says, adding that he has repaired strained relationships with his parents. "I see him as someone who will successfully complete his probation."

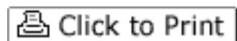
Young still has a ways to go. He must pay \$7,000 in fines before he is released from supervision. That means finding more steady work amid an economic crisis.

"When I went to prison, I didn't get a lick of help," he says. "My goal is to break the chain. This place has given structure to somebody who didn't know how to change."

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