

The Choice is Yours: An Innovative Alternative-to-Incarceration Program in Philadelphia

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Summary

The Choice is Yours (TCY) is an innovative alternative-to-incarceration program designed by District Attorney Seth Williams to create a new and more effective model to reduce repeat criminal activity. TCY is an outcome of collaboration among District Attorney Williams, the Lenfest Foundation, and Public/Private Ventures. JEVS Human Services, the Pennsylvania Prison Society, and the Center for Literacy were selected to handle implementation. TCY works to increase public safety and reduce recidivism rates by diverting first-time, non-violent felony drug offenders away from prison and into the labor market through positive job training and support (including mentoring, community service, housing assistance, education and other key services). This article describes the need for and value of programs like TCY, how alternative-to-incarceration programs work, and TCY's innovative qualities and social return on investment.

Introduction

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Meet Eric, an 18-year-old native of Philadelphia, Pennsylvania. Eric has just been charged with a crime for the first time: felony drug possession. Eric's mind is racing with the prospect of being sent to prison for a significant portion of his young life. He will not be able to attend college this year, work during the summer to save up for a car, or get a chance to be a normal 18-year-old. Eric's mistake will cost him, in the near term, his freedom and his time, and, long-term, knowing how hard it is for convicted felons to find jobs, it could potentially negatively impact the course of the rest of his life.

Eric is relieved when the judge offers him an alternative. Instead of being incarcerated in a prison system already stretched beyond capacity, Eric is enrolled into a program designed to reduce recidivism for first-time offenders through education, employment and record expungement. Eric will not be rehabilitated in prison with violent felons; he will not be reintegrated into the community with only the same skills that he had prior to incarceration; and he will not have the negative stigma of a felony conviction hindering his attempts at being a productive member of society.

Although this case study is fictional and "Eric" is a character created to illustrate a point, the story is all too real.

The Problem: Recidivism and Over-Reliance on Incarceration

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The percentage of Americans in prisons, jails and detention facilities is 5 times higher today than it was 3 decades ago, partly driven by high rates of recidivism among offenders (Mayes 2011). This trend has imposed a substantial financial burden on the municipalities responsible for operating these facilities. In the City of Philadelphia, which has the fourth-highest per capita inmate population in the country, the 2010-2011 Pennsylvania Governor's executive budget allocated more than \$13 million for the addition of 2,000 prison beds. In the interim, Philadelphia has begun to pay other counties to house inmates in their jails at rates from \$88 to \$105 per inmate per day (DiMascio 2011).

There are a number of factors contributing to the overcrowding of Philadelphia prisons, such as, for example, increased crime rates coupled with the length of sentences for inmates. But a growing reason for overcrowding is the number of individuals who cycle through the system repeatedly. A 2006 study by the Urban Institute found that of the 106,849 people incarcerated in Philadelphia between 1996 and 2003, only half of the inmates in the system were first-time offenders (Roman 2006). By 2003, more than two-thirds of newly

released inmates had been incarcerated at least one other time since 1996. Furthermore, almost one-fifth of the inmates released during a year had been released at least one other time during that year.

The numbers indicate that former inmates are returning to custody at high rates. In Pennsylvania, almost 50 percent of inmates released from prison return within 3 years. Association with felons for prolonged periods of time is known to affect the likelihood of recidivism, thereby perpetuating the growth of the prison population (Visher 2003). Theories as to why incarceration may increase a person's future proclivity to crime include:

- Prisons might be 'schools for crime' where inmates learn new criminal skills even as their non-crime human capital depreciates;
- The experience of imprisonment might increase future criminality by stigmatizing the individual socially and economically; and
- Official labeling through legal sanctions might cause an offender to become marginalized from conventionally structured opportunities, which in turn increases the likelihood of subsequent offending (Fletcher 2011).

These studies and alarming recidivism statistics raise the question of whether or not incarceration is the definitive solution to rehabilitating criminals, and have prompted many municipalities, including Philadelphia, to look for

alternatives. Several potential strategies are being explored.

Creating Alternatives to Incarceration

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One potential pathway to reduce post-incarceration recidivism is correctional education. In a study of 3,600 former prisoners from Maryland, Minnesota and Ohio conducted for the U.S. Department of Education, the Correctional Education Association found that when inmates attend school while incarcerated, recidivism is reduced by 29 percent (Steurer 2001). There are a number of reasons why education can reduce recidivism. For instance, education allows ex-offenders to reintegrate into society with viable employment opportunities, raising the opportunity cost of reverting to criminal behavior. Furthermore, the discipline required to achieve success in educational programs may increase risk aversion and improve decision-making (specifically the capacity to perform behavioral cost-benefit analyses) among ex-offenders (Visher 2003). A study entitled "Effects of Education on Crime" found that one extra year of schooling results in reductions in the probability of incarceration ranging from .10 to .37 percentage points.

The study suggests that educational attainment may affect recidivism by:

1. Increasing individual wage rates and the opportunity cost of crime;
2. Making incarceration more expensive due to time out of the labor market; and
3. Affecting the perception of crime and making criminal behavior unattractive (Lochner 2004).

Another method is a combination of incarceration and early release into social programs through so-called intermediate punishment programs. Intermediate punishment programs seek to reduce recidivism by attempting to remedy individual circumstances that may have led to criminal behavior. It is common, for instance, for prisoners to suffer from substance abuse. In a 1997 survey of inmates, 57 percent reported substance abuse. Other studies have linked substance abuse with recidivism, and released prisoners reported that their success or failure to confront their substance abuse problems emerged as a primary factor in their adjustment to reintegration. In October 2004, Pennsylvania enacted legislation to divert certain prisoners to an intermediate punishment program (PICA 2007). After a minimum of 7 months in prison, these prisoners would be eligible to spend at least 2 months in a community-based therapeutic facility and then 24 months in a halfway house or group home while receiving treatment for substance abuse.

How TCY Works

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TCY builds upon the research demonstrating that a person's earning potential is driven by their educational credential or vocational skill education and the lessons learned in best practices in alternative-to-incarceration programs to create a novel intervention. Rather than waiting until after a person has been imprisoned to intervene, TCY eliminates a felony conviction and potential prison for first-time offenders upon completion of the program goals.

TCY targets first-time felony drug offenders charged with possession with intent to distribute of powder or crack cocaine in the amount of approximately 2g–20g. Studies have shown that the abuse and sale of illicit drugs are central to the problems of overcrowding and recidivism. Furthermore, investigation and prosecution of drug crimes absorb a large proportion of the justice systems' resources. TCY addresses each of these problems through one comprehensive program.

The Philadelphia District Attorney's office will determine program eligibility based on the following criteria:

- U.S. citizen age 18 and older;
- No violent offenses in historical or presenting charges;
- Limited arrest history; exceptions will be made for no more than one non-violent misdemeanor; and

- No outstanding warrants.

In collaboration with the presiding judge and the adjudicated individual's defense attorney, the defendant will be given the option to enter a deferred guilty plea and agree to enter TCY and meet the program requirements, or decline the option and enter the traditional sentencing path.

TCY seeks to provide an alternative outcome by providing key educational, employment and social supports, and by leveraging the unique strengths of local service providers. Services will be targeted to meet the specific needs of participants, as determined by a risk-need assessment conducted upon entry into the program. Individualized service plans will be developed for each participant at the onset of entry into the program and continuously modified, taking the following factors into consideration:

- Antisocial/pro-criminal attitudes, values and beliefs;
- Pro-criminal associates;
- Family, temperament and personality;
- A history of antisocial behavior; and
- Low levels of educational, vocational or financial achievement.

TCY also requires an orientation period before an offender is considered formally enrolled, based on the approach used by Back on Track, an alternative-to-incarceration program in San Francisco, California that served as the

model for TCY. Back on Track's program requires a candidate to achieve a certain number of points, awarded for activities such as completing an intake and assessment form, and producing a birth certificate or social security card, before they qualify for formal enrollment. TCY's orientation will include community service, life skills training, restorative justice training and random drug testing. Upon successful completion of the orientation period, the offender is formally enrolled in the program.

Orientation Period

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TCY employs strategies from proven and promising practices for hard-to-employ populations, including those with criminal backgrounds. Job training and placement for TCY participants vary according to education and skill levels, as well as the interests and aptitudes of participants. JEVS Human Services and its partners, the Pennsylvania Prison Society and the Center for Literacy, will incorporate workforce and skills approaches that are linked to clearly identified jobs in the local labor market and a demonstrated understanding of the balance needed in providing opportunities for both immediate employment and longer term career opportunities. Case managers will work directly with admissions staff at local schools and programs to anticipate and place participants into

appropriate educational programs immediately upon admission to the program. TCY participants will benefit from literacy, education and work-based learning opportunities in partnership with local institutions.

The Innovation: Eliminating Prison from the Rehabilitation Equation

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TCY is innovative because the program disrupts the social norm of what rehabilitation typically looks like. The traditional model, based on incarceration and deterrence, seeks to punish first and rehabilitate later. This method has been proven to be ineffective at reducing recidivism, may actually increase the likelihood that first-time offenders will re-offend, and has increased the costs of maintaining and population of prisons. While other alternative-to-incarceration programs recognize the need to address the root causes of criminal behavior through educational and social services, they don't reach their target population until after incarceration has occurred. Although somewhat successful, these programs are, by default, unable to intercede before first-time offenders suffer the negative influences of being introduced into to the general prison population.

For first-time non-violent offenders, TCY takes prison out of the equation, adds in needed education, social

services, mentoring and counseling, and presents, if participants successfully complete the program requirements, the possibility of an expunged record, with the end goal being that individuals who complete the program will have increased their chances to become productive members of society and not repeat any criminal activity. The potential impact of the TCY program reaches far beyond the scope of the City of Philadelphia's, or even Pennsylvania's, prison problems. Directly confronting the question of whether incarceration causes more harm to the individual (lifetime dependent) and society (public safety and costs), TCY offers an innovative alternative that, if successful, can redefine traditional approaches to imprisonment and rehabilitation, and reverse skyrocketing prison budgets. Nationally and across the states, the stakes are high, but the need for such a model is evident.

Social Return on Investment: Contributing Members of Society

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The long-term impact for TCY is hard to measure because of the many different variables involved. A Harvard Law Review article on alternative-to-incarceration programs concluded that there is disagreement about how to measure such programs' successes. It is likely that, as

more programs like TCY are piloted and successfully implemented and there is more evidence supporting their positive impact, these disagreements will be resolved. What is already certain is that TCY has the potential to transition individuals from a statistical likelihood of re-offending and re-incarceration to a better likelihood of contributing meaningfully to society. The second and third order effects of this evolution, including the influence on an offender's family, friends and community, are immeasurable.

Lacking concrete, agreed-upon tools for measuring TCY's impact, for purposes of this article, in order to quantify social return on investment, we will consider two possible routes for our fictional teen Eric.

The general cost of incarcerating Eric is determined by calculating how much goes into taking care of a prisoner for a year. As of July 1, 2009, it costs the City of Philadelphia approximately \$35,000 to house an inmate for one year. Other attenuated factors that cannot be accurately quantified, but nevertheless should be identified, include societal costs of an offender on public assistance due to lack of employment opportunities, impact on family/children of the incarcerated individual, and loss in revenue from taxes because the offender is incarcerated.

The cost for Eric to join the TCY program is roughly \$8,500, which represents a cost savings of approximately

\$26,500. Again, this does not take into consideration the long-term societal benefits yielded from the TCY program. Benefits that are not too far attenuated include savings from Eric not requiring public assistance and tax revenue from Eric's earned income potential. These benefits, which can be thought of as "the value of success," equate with the sum of the net savings from Eric not requiring certain public assistance funds and taxes that Eric pays from gainful employment. The social return on investment (SROI) would then be the value of success less the cost of TCY enrollment. The direct correlation between the number of graduates and annual SROI potential creates a strong incentive to successfully reintegrate participants.

Vulnerabilities and Conclusion

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Alternative-to-incarceration programs like TCY have the potential to change the way society views rehabilitation, but they continue to face a number of challenges. First, there is not enough data to conclusively identify what variables need to be duplicated to make a program successful. TCY is modeled after San Francisco's Back on Track program, but it is not conclusive whether or not the process can be imported to Philadelphia and yield similar success. The differences in prison demographics as well as geographic dissimilarities may affect replicability.

Second, there is no consensus on what success is, what it should look like, and when we should expect it; how do you prove that it was TCY that has influenced Eric, his family or Philadelphia? A consensus will be of great importance when advocating policy change at the local, state and federal levels. Finally, there is and will continue to be resistance from society towards programs that "reward" individuals for their criminal behavior.

Proponents of this viewpoint will likely argue that if a crime is committed, prison time should be served.

Despite these and other challenges, TCY has momentum on its side. A report on Philadelphia prisons by the Pennsylvania Intergovernmental Cooperation Authority identified alternative-to-incarceration programs and programs that prepared inmates for reintegration to society as two of the key factors that could slow or reverse the prison population. TCY aims to do just that.

With the obvious deficiencies that exist in the traditional rehabilitative model, there is more support now than ever for alternative-to-incarceration programs. The disagreements on what variables to duplicate or to observe will be resolved over time as more alternative-to-incarceration pilot programs are launched and studied.

The appropriate measures of success will likewise be identified as programs like TCY produce more alumni for long-term studies to be modeled around. While there is no guarantee that TCY will have an effect on recidivism, TCY has a greater chance of creating social change than any other alternative that is being suggested in Philadelphia.

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