Black and busted in Dane County | First of 3 parts

As simple as black and white?

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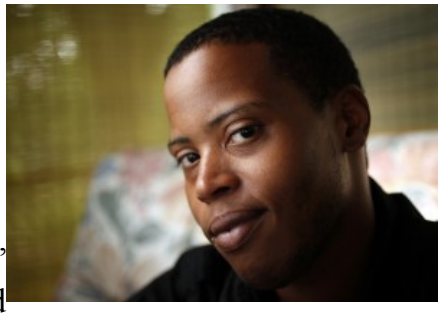


Teivon McNair started getting in trouble at school and with police shortly after the grandmother who raised him died of a stroke at age 45. McNair was just 12.

A solitary boy who struggled with being overweight and diabetic, McNair lived with relatives who moved around Dane County and Chicago. He was estranged from his mother and separated from his five younger siblings.

At age 12, McNair was arrested after a friend used his BB gun to shoot at people in their Sun Prairie neighborhood. He spent time in a series of group and foster homes, a juvenile boot camp and eventually a juvenile correctional center. By the time he was 18, he was charged with participating in the armed robbery of a Sun Prairie gas station.

McNair was headed for a common and tragic destiny for many young black men in Dane County: At any given time, nearly half of the county's black men between 25 and 29 are in prison, jail or under some form of state supervision, according to one study.

Another study found that, in 2007, a black resident in Dane County was 97 times more likely to be incarcerated for a drug crime than a white resident — the widest racial disparity for that measure in the nation.

For now, McNair has avoided that fate. He participated in a county program that

dropped the charges against him in exchange for completing community service and counseling.

But few blacks in Dane County benefit from such diversion programs, according to an analysis of electronic court records done for the Wisconsin State Journal by Court Data Technologies of Madison. The analysis was funded by a grant from the Center on Media, Crime and Justice in New York City.

The analysis found that between Jan. 1, 2008, and Dec. 7, 2010, 6.6 percent of cases involving black defendants ended with deferred prosecutions — a little more than half of the 11.3 percent of cases involving white defendants.

For one of the most frequently charged crimes — disorderly conduct — 8.2 percent of black defendants received deferred prosecutions versus 17.7 percent of white defendants. The analysis did not account for a defendant's prior criminal record, which often is a factor in sentencing.

A slightly smaller disparity exists in Milwaukee County, the analysis found.

"The data clearly show evidence of racial disparity in deferred prosecutions," said Pamela Oliver, a professor of sociology at UW-Madison and an expert in racial disparities in criminal justice systems. "The big question that is unanswered by these tables is why the disparity occurs."

A persistent problem

Dane County is considered a leader in Wisconsin in diverting people from jail and prison, spending $3.5 million a year on 18 alternative programs.

Former Dane County Executive Kathleen Falk credits the programs with keeping the county jail population at about 1,000 inmates — the same as it was when she took office 14 years ago — at a time when Dane County's population has ballooned by about 100,000 people. Early in her tenure, Falk vetoed a $30 million expansion of the county jail, choosing instead to offer some defendants a way to stay in the

community.

But the racial imbalance persists. Roughly 44 percent of inmates in the Dane County Jail today are black compared to just 6 percent of the county's population, said Dane County Sheriff's Capt. Jeff Teuscher, who runs the Downtown jail and the work-release facility on Madison's South Side.

What's keeping more black defendants from participating in alternatives to incarceration? Officials cite a number of factors, including:

• Some defendants prefer stints in the Dane County Jail to longer-term diversion programs lasting up to three years.

• Some young people accept time behind bars as a rite of passage.

• The programs are seen as overly cumbersome by some defendants, especially those lacking transportation or family support. Defendants also must pay for all treatment and classes, and some cannot afford it.

• Some defendants with criminal records don't qualify for deferred prosecution.

Choosing jail over probation

Dane County Assistant District Attorney Everett Mitchell, who is black, is frustrated by what he sees as the casual acceptance by some black defendants of serving jail time. Mitchell said he routinely refers blacks to alternatives to incarceration, but many turn them down.

Mitchell recounts a recent case in which a 19-year-old black defendant rejected probation because he did not want to follow the conditions for staying out of jail.

"His mother was crying. She said, 'Take probation,'" Mitchell recalled. "We were all advocating for this young man. The judge asked, 'Where do you see yourself in three years?' He said, 'I see myself in prison.'"

Mitchell said he sees as many white defendants as black ones. "But the difference is

the white defendants will take (alternatives to incarceration) in a heartbeat," he said.

An obvious barrier for some is the cost for counseling and other services, which can run into the hundreds or even thousands of dollars, said Pat Hrubesky, who runs the district attorney's Deferred Prosecution Unit.

"We have no money (to help offenders pay) for direct services," Hrubesky said. "For young people of color, it's very difficult because those folks often have no resources. They're typically not coming from families with insurance."

Nor are the benefits of participating immediately obvious.

Officials need to "recognize the nature of the people we're dealing with," said the Rev. Jerry Hancock, a former prosecutor who now runs a prison outreach program. "(They're) impulsive, focused on short-term gain versus long-term consequences."

Arrest was wake-up call

Growing up, McNair thought teachers perceived him as "dumb" because he was black. Sometimes, he said, he would explode in anger — or escape.

His home life was little comfort as he bounced among relatives in Sun Prairie, Madison, Stoughton and Chicago. McNair never knew his father, a young man who died from a stray bullet in Chicago when McNair was just a baby. "I got no picture of him. Nothing."

Until recently, McNair, now 20, had no goals — not even a vision for what life as an adult might hold.

In 2009, he was charged with a felony after an acquaintance borrowed his jacket and robbed a Sun Prairie gas station at gunpoint while McNair waited in the car. Distrustful of the police, McNair never reported it.

That arrest was a wake-up call. McNair had been incarcerated as a juvenile, and, unlike some of his peers, saw nothing cool about going to prison. When offered the

chance to avoid an adult conviction, McNair took it.

'Give them something to do'

Under the guidance of Melvin Juette, McNair completed 75 hours of community service sorting and collecting clothes for the Community Action Coalition for South Central Wisconsin. He also participated in the African American Male Initiative Group run by Juette, a Chicago native paralyzed in a gang shooting when he was 16.

Juette uses his own life story to relate to the young men he works with. He quit the gang, graduated from UW-Whitewater and became a world-class wheelchair basketball player.

"Everybody in the group looked up to him," McNair said. "He's a black male who's successful. We can tell him how we feel, and he understands."

Juette acknowledges the unfairness of the criminal justice system. Blacks are more likely to be stopped for minor traffic violations, which leads to a disproportionate number of tickets and arrests. And drug laws penalize crack cocaine sales much more severely than other drug crimes, a policy that affects blacks more than whites.

"The system is prejudiced," Juette says. "The question I have is, 'Then why do you want to get involved in it?'"

McNair is taking that advice. He's working at a temp agency, studying computer science at Madison Area Technical College and moving toward confirmation in the Catholic Church.

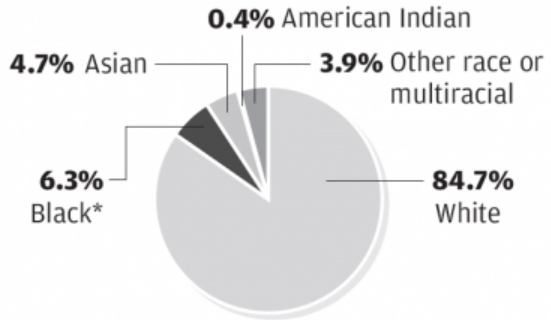
What would have kept him out of the criminal justice system to begin with?

"Give them (children) something to do besides just going to school and going outside," McNair said. "How parents are, it's like, that's how kids are going to be.

"I think people should do things with kids. If I had had people doing things with me, I think things would've been different."

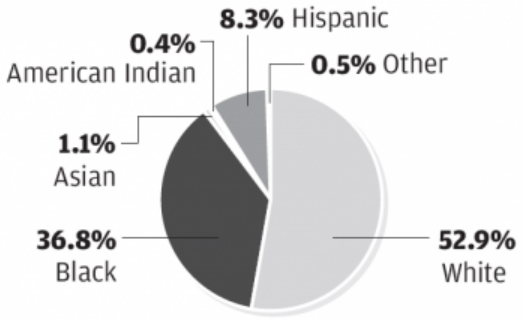
Population in Dane County, by race

The total population of Dane County in 2010 was 488,073, according to the U.S. Census Bureau.



Criminal cases in Dane County, by race and ethnicity

There were 28,760 criminal cases filed in Dane County between Jan. 1, 2008, and Dec. 7, 2010:



NOTE: Hispanics can be of any race. According to U.S. Census ethnicity data, 5.9% of Dane County is Hispanic or Latino.
* Includes respondents who identified themselves as biracial including black.

SOURCE: Wisconsin Demographic Services Center, state Department of Administration, Court Data Technologies

State Journal

Statistics

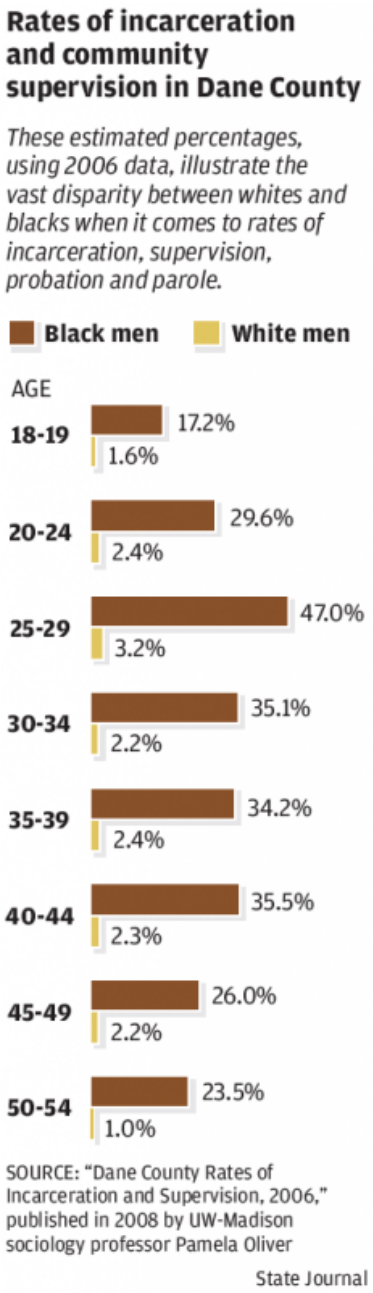
44 percent: Inmates in the Dane County Jail today who are black, compared to just 6 percent of the county's population.

$3.5 million: Amount spent each year in Dane County on 18 alternative programs.

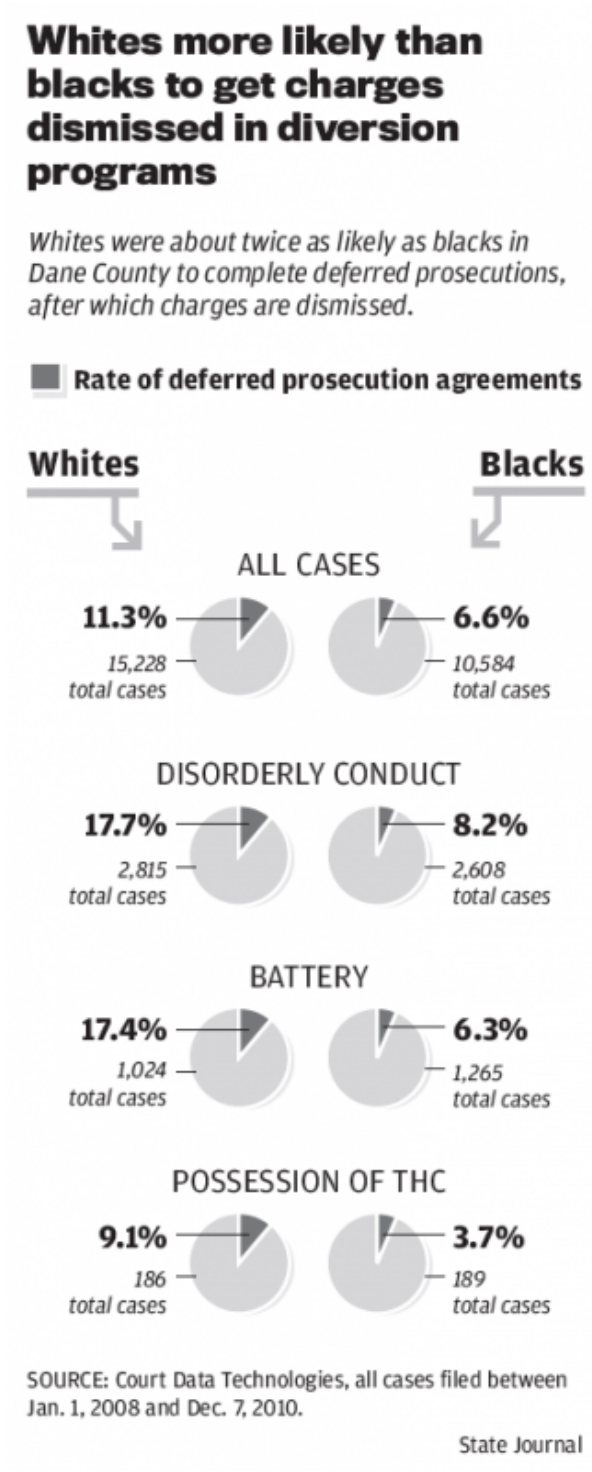
6.6 percent: Dane County cases involving black defendants that ended with deferred prosecutions, compared to 11.2 percent for white defendants.

* between Jan. 1, 2008, and Dec. 7, 2010

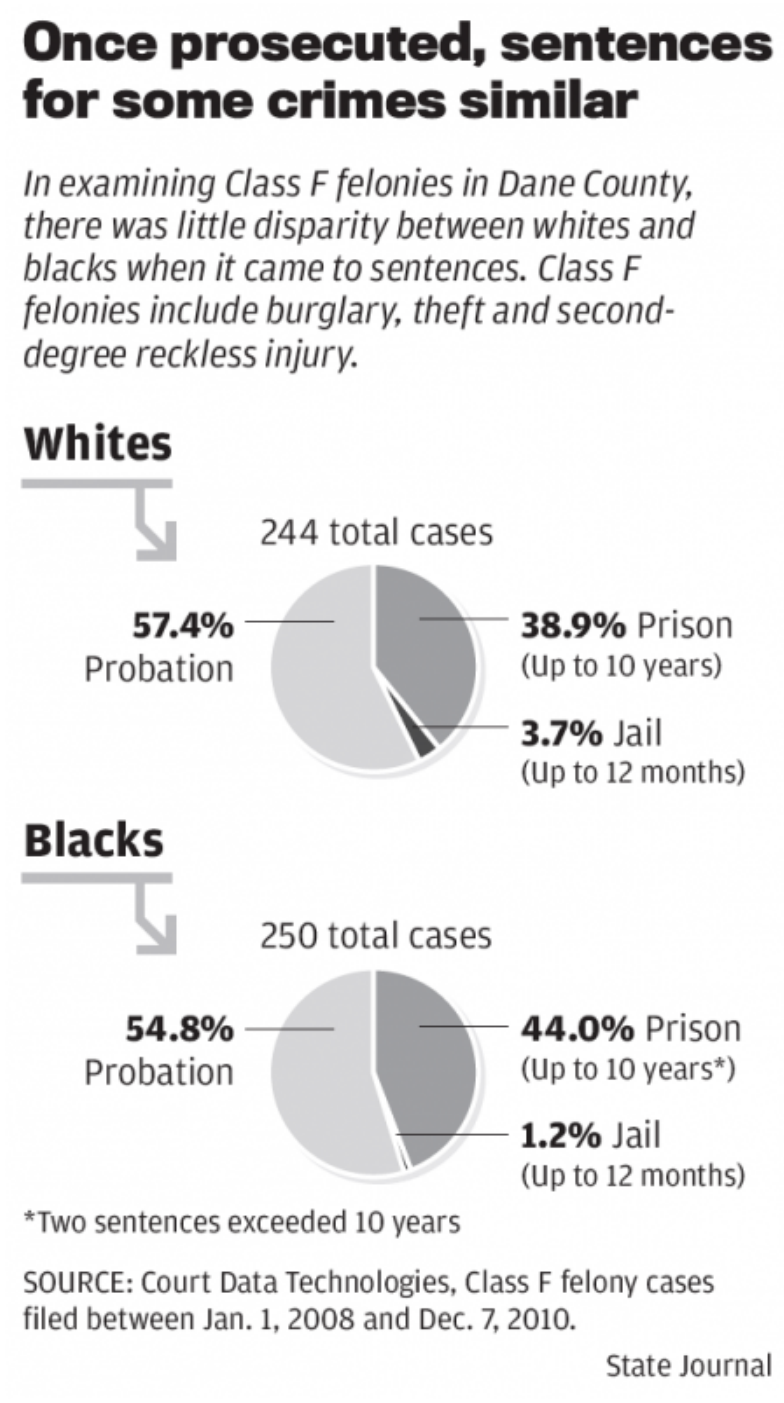
Incarceration rates



Diversion programs



Sentencing


Once prosecuted, sentences for some crimes similar
In examining Class F felonies in Dane County, there was little disparity between whites and blacks when it came to sentences. Class F felonies include burglary, theft and second-degree reckless injury.
Whites
244 total cases
57.4% Probation
38.9% Prison (Up to 10 years)
3.7% Jail (Up to 12 months)
Blacks
250 total cases
54.8% Probation
44.0% Prison (Up to 10 years*)
1.2% Jail (Up to 12 months)
*Two sentences exceeded 10 years
SOURCE: Court Data Technologies, Class F felony cases filed between Jan. 1, 2008 and Dec. 7, 2010.
State Journal

Black and busted in Dane County| Second of 3 parts

Reasons for racial disparity in Dane County penal system are complex

http://host.madison.com/wsj/news/local/crime_and_courts/article_fea23fac-b625-11e0-b588-001cc4c002e0.html

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When she speaks to groups about the legal gulf separating whites from blacks in Dane County, Celia Jackson likes to pull a bleach-stained T-shirt over her tailored business suit.

"We have a stain in this community," she says. "We need to own it."

It's a simple but effective prop, illustrating the incongruity of a county that likes to consider itself enlightened on matters of social justice locking up young black men at a rate beyond almost any other place in the country.

"If you are black, your son has a 50 percent chance of being incarcerated in this community," said Jackson, a former head of the state Department of Regulation and Licensing who, until recently, led an effort to combat the problem in response to a 2009 task force.

That task force found that at any given time, nearly half of the county's black men between 24 and 29 are in prison, jail or under some form of state supervision. By comparison, about 3 percent of white men in that same age group are under some type of state correctional control.

How did things go awry?

Experts say the causes of racial disparity in the justice system — in Dane County and elsewhere — are complex. Marc Mauer, executive director of the Washington, D.C.-based group, The Sentencing Project, has studied the imbalance on a national level since the 1970s. He cites the following factors:

• Socioeconomic disadvantages, such as poverty and unemployment, that lead more minorities to engage in criminal behavior

• Enforcement, prosecution and sentencing policies that more heavily target minority communities

• Limited options for diversion from jail or prison

• Biased decision-making among police, prosecutors, judges and others in the criminal justice system.

"We can debate the relative contribution of each of these factors," Mauer said, "but there are few who would dispute that each plays at least some role."

The Rev. John Mix, chaplain at the Dane County Jail, believes there are two main reasons blacks commit more crimes, proportionally, than whites. The first is lack of education. The Madison School District graduates just 48 percent of its black

students in four years, for example, compared to 87 percent of whites.

And then there is what Mix calls the "unresolved grief" in many offenders.

"There is so much loss, so much abuse, so much violence that never got addressed and dealt with," Mix said.

Drugs drive the train

One of the major drivers of the disparate treatment of blacks and whites nationally is the uneven enforcement of drug laws. In his book, "Race to Incarcerate," Mauer found that between 1985 and 1995, the number of white inmates in state prisons for drug crimes shot up 300 percent, while the number of blacks imprisoned for drug crimes exploded by 700 percent.

Policies that treat one pound of powder cocaine the same as 5 grams of crack — roughly the weight of two pennies — has led to even longer sentences for blacks, who are much more likely to sell crack than powder cocaine, he said. The federal government recently enacted new federal sentencing guidelines that significantly close the gap between the two drugs and eliminates a mandatory minimum sentence for simple possession of crack.

White defendants are also more likely than blacks to be able to afford drug treatment as an alternative to jail time, Mauer said.

"Is it race? Is it class? Is it resources?" he asked. "How do we level the playing field?"

‘Us-versus-them' attitude

In comparatively well-off and safe Dane County, there are elements woven into the fabric of life here that may contribute to the disparity.

"I think what many African-Americans will tell you who come here from Chicago is we enforce a lot of petty laws that they don't enforce down there," said Dane County Circuit Judge Sarah O'Brien. "I would argue that's a good thing. The reason they came

here is for safer communities and better schools."

But that can develop into an us-versus-them attitude, particularly when it comes to people of color from Chicago or Milwaukee, which leads to more police scrutiny of minority communities.

"There is a sense that the majority population be protected from this ‘alien' culture, and the elected officials tend to respond to that concern," said the Rev. Jerry Hancock, a former career prosecutor who is now a United Church of Christ minister.

Former Dane County Circuit Judge James Martin said he retired in 2009 in part because of his frustration over the problem.

He cited a 2006 hazing incident among members of the UW-Madison marching band that included young women being forced to kiss other women, and male upperclassmen forcing freshman women to drink alcohol. The scandal was handled as a school disciplinary matter rather than a crime.

"If that had happened on Allied Drive," Martin said, naming one of Madison's poorest neighborhoods, "you'd have criminal charges."

Police: We go where crime is

At times during his 28 years with the Madison Police Department, Noble Wray has shared Martin's view.

Wray, who is black, said racism certainly plays a role in the disparate treatment of blacks. But he also sees a more complicated set of dynamics in play, including a lack of economic opportunity and education among minorities, discretion by officials about whether to charge or arrest someone, and — significantly — political pressure to be tough on crime.

In the seven years he's been chief of the department, Wray has tried a variety of strategies. He has built a workforce that is nearly 20 percent employees of color. All

officers are required to take anti-bias training. And some are stationed in troubled neighborhoods to build rapport with residents.

Yet, the efforts have failed to budge a longstanding statistic: About half of the people arrested by Madison police each year are black, even though blacks make up just 8 percent of the city's residents.

With the city's low crime rate, residents demand action when violent or property crime goes up. That can lead to extra policing and more arrests in low-income neighborhoods, which can impact minorities more heavily.

"If there's a neighborhood or there's a side of town with people saying, ‘You've got to do something about it (crime),' that's where you put your resources," Wray said. "We've got to be there — it's a public safety issue. Our charge is to deal with racial disparities without compromising public safety."

BLACK & BUSTED IN DANE COUNTY | LAST OF THREE PARTS

Ex-drug dealer has blunt message: Stop waiting for others to solve race woes

http://host.madison.com/wsj/news/local/crime_and_courts/article_5cb1179e-b716-11e0-a4ba-001cc4c002e0.html

DEE J. HALL | dhall@madison.com | 608-252-6132 | Posted: Tuesday, July 26, 2011 7:45 am

Richard Harris has a simple solution to the problem of racial disparities in Dane County's criminal justice system: "Don't go out there and get in trouble."

Harris, a former drug dealer who spent nine years in prison, exhorts black residents to help solve the problem by being mentors to young people and helping their own children stay out of trouble and stay in school.

"We've got everybody else trying to solve our problem," Harris said. "The black community needs to get together and tell young black people that selling drugs is not

entrepreneurship."

Harris, executive director of the Madison-based Vision Beyond Bars, knows his message is controversial. Its runs counter to the belief that racism is the main culprit for the disproportionate number of minorities who end up in the Dane County Jail and the state prison system.

Harris doesn't doubt that part of the cause is discrimination and policies that have larger effects on people of color, including heavier police patrols in minority neighborhoods, more frequent traffic stops and longer prison sentences for dealing crack than powdered cocaine.

But that's all the more reason, he said, minorities must do all they can to avoid getting caught up in the criminal justice system in the first place.

The Dane County Human Services Department will spend an estimated $2.7 million this year on programs to help young people stay out of trouble, including treatment for drug and alcohol problems, after-school tutoring, employment training — even a Madison Spartan Basketball League.

Numerous community groups also are working to keep young people on the right track.

Yet recent history shows about half of the young black men in Dane County will end up in jail, prison or on some type of supervision.

"We're creating another underclass in this country," said Jerome Dillard, who works for Nehemiah Community Development Corp., a Madison faith-based program that helps disadvantaged people with academic and job skills, provides help to people recovering from abuse and offers other services. "Young men and women are losing their right to vote even before they're eligible to vote."

Multiple strategies needed

Marc Mauer, an expert on the nation's exploding incarceration rate and its disparate effect on minorities, said many officials are looking at the wrong end of the problem by emphasizing punishment over community building.

"Some kids have the bad luck to be born in dysfunctional families," he said. "We need to help parents find other responsible adults who can offer support, because if we don't do that, the results are fairly predictable."

Yet counties have no financial incentive to pay for alternatives to prison since the state pays the full cost of incarceration, said Dane County District Attorney Ismael Ozanne.

And Dane County Board Chairman Scott McDonell said cuts in state aid and limits on property taxes could jeopardize what services the county does offer.

"If it (service) is not mandated, it's probably one of the first things to go," McDonell said. "We don't have to provide prevention programs."

Some officials favor an idea floated by Milwaukee County District Attorney John Chisholm to allow counties to keep half of the cost of incarcerating people — about $30,000 a year — for each offender they divert from prison. That would provide funding for prevention and alternative programs.

'Bottom of Niagara Falls'

Those could include more programs such as the one Harris runs, which warns young people of the devastating effects a criminal record can have on their lives. The program, Vision Beyond Bars, aims to teach young people how to avoid confrontation with authorities and make better choices to stay out of the criminal justice system. It is funded by private donations and gets no government money.

Another program, the Madison-area Urban Ministry, pairs adult mentors with children of incarcerated parents, who face a much higher likelihood of themselves going to prison. About 40 students a year are served by the program, although there's

a waiting list for more, said Linda Ketcham, MUM's executive director.

In its seven years, Mentoring Connections has helped almost every one of the participating children stay out of trouble, Ketcham said.

But her program serves just a small part of the need.

"There are probably at this point a couple of thousand kids in Dane County who have a parent in prison, and that doesn't even (include) jail," she said.

Melvin Juette works with young black men who have been charged with crimes in Dane County. Those who finish his program through the Dane County District Attorney's Office can have their charges dismissed.

But he and others in the criminal justice system worry about how few minorities take advantage of such programs. An analysis by Court Data Technologies of Madison showed blacks were about half as likely as whites to get deferred prosecution agreements.

Juette said preventing involvement in crime should be the first priority.

"We (at the district attorney's office) cannot adequately deal with the disparity issue," he said. "We're at the bottom of Niagara Falls with a bucket trying to throw some of the water back up."

Lifelong consequences

Harris' no-nonsense approach is grounded in hard lessons he learned growing up in Chicago and Kenosha. He came from a home with two hard-working parents. He did fairly well in school. But the excitement of being in a gang pulled him into a life of crime — one he sorely regrets.

"I sold drugs. I carried a gun. I was a gang-banger," Harris, 43, said. "When you live that life, you accept that you may end up in prison or you may lose your life."

In 1993, Harris was convicted in Kenosha County of dealing crack cocaine and

carrying a weapon. He was sentenced to 20 years in prison by a judge who told him he was punishing Harris for perpetuating a drug epidemic that was ruining communities and families. “That judge had a big impact on me,” he said.

While behind bars, Harris met some older volunteers who told him, “If you want to change, we’ll help you.” He said his initial wariness that older white people could have anything to say to a young man of color melted away as the volunteers returned week after week to help.

Harris was paroled in 2002. He is now married and raising a family.

His message: “There’s nothing positive you’re going to achieve by being a gang member. There’s no life insurance benefits. There’s no burial benefits. There’s no financial aid package. You will suffer lifelong consequences.”

And he encourages young people to stay in school, even if they have been told they will fail because they are poor or because they are black.

One in five black students in the Madison School District is at some point suspended or expelled for violating rules, according to district figures. Fewer than half of the district’s black students graduate in four years, compared to 87 percent of white students (although 65 percent of black students eventually graduate or get a high school equivalency diploma).

“All the people I know who are successful — who look like me — education was the avenue they pursued,” said Harris, who is finishing a degree in social work at UW-Whitewater. “Education was our passport to the future.”