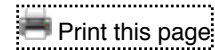



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## Oklahoma prosecutors embrace alternative sentencing

by: RON J. JACKSON JR. Oklahoma Watch  
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**Editor's note:** This is the latest installment in a series of stories in which Oklahoma Watch, the Tulsa World and The Oklahoman are examining the issue of Oklahoma's female incarceration rate. For more, visit [tulsaworld.com/okwatch](http://tulsaworld.com/okwatch).

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Comanche County District Attorney Fred C. Smith spoke to a local civic group recently about the ever-increasing role new technology and alternative sentencing will play in the criminal courts.

Fifteen years ago that talk probably never would have happened.

"I'm a prosecutor," Smith said recently in a tidy Lawton office buzzing with activity. "That's what I've been trained to do - prosecute. But district attorneys are being asked to do more and more every year. Our roles have evolved over the last 20 years.

"Now we're also being asked to be social workers."

Prosecutors today carry the burden of choosing from a variety of nontraditional sentencing options, many of which stretch far beyond their areas of expertise. Options now can include drug court assignments and mental health and anger management counseling.

GPS monitoring devices for sex offenders, alcohol monitoring bracelets and drug patches are some of the newer tools being introduced into the complex web that is the probation system.

By all accounts the evolution of alternative sentencing is a necessity borne from prison overcrowding and shrinking state budgets. In Oklahoma - a conservative state that prides itself on tough talk and swift justice - it has created the inevitable dilemma.

Being tough on crime comes with a price.

"What's the answer?" Jerry Massie, the state Department of Corrections spokesman, asked rhetorically. "Build more prisons."

New state prisons won't be built anytime soon. The state's financial landscape is a mess, and agencies across Oklahoma are bracing for another round of budget cuts.

The 4,100 state Department of Corrections employees are now all required to take one furlough day a month - a move that saves the state \$600,000, Massie noted.

"The problem is we're asking for a \$9 million supplemental this year to meet our budget needs," Massie said. "But it's always been difficult for us to get the necessary resources. Eleven of the last 13 years we've had to ask the Legislature for supplemental money."

Oklahoma's prison population has swelled by nearly 9,000 inmates in that time.

Today, the state prison population hovers around 26,600, including some 1,300 inmates backed up in county jails. The total incarceration numbers account for 96.5 percent of the department's bed capacity. State medium- and minimum-security prisons are running about 99.1 percent and 98.2 percent full, respectively.

"Generally speaking, anytime you're running over 96 percent, that's not good," Massie said. "That leaves very little room for emergencies."

Alleviating Oklahoma's overcrowded prisons will be no easy task.

"I think everyone would agree something has to be done," said Gene Christian, executive director of the state Office of Juvenile Affairs. "It's just going to take some creative thinking."

Christian served as Stephens County's district attorney from 1991 to 2006 before moving into his current position. Like Smith, he witnessed dramatic change in the district attorney's office and the emergence of alternative sentencing.

Christian also watched as the truth-in-sentencing campaign took root in 1997, requiring certain offenders to serve 85 percent of their sentence before being eligible for parole. Politicians started by targeting 11 offenses, but that number has grown to more than 20 today.

The result has been a logjam of inmates in Oklahoma prisons.

Christian suggests a simpler approach.

"I've long believed we should be stricter on our first-time offenders," Christian said. "Those are the people you still have a chance to rehabilitate. Instead, we tend to deal with offenders incrementally until they're so far gone there's little hope."

In time, Christian became a fan of drug court - a last-chance opportunity for drug offenders to avoid prison and turn their lives around.

"I always thought drug courts were productive," Christian said. "In reality, it's a stricter form of probation because participants are strictly monitored and held accountable for their actions."

"Drug courts also allow problems to be handled at a county level. In the future, I think we could benefit from other, similar county-based programs. But like anything else, it's going to take money to establish and run these programs."

Smith agrees.

Comanche County - Oklahoma's fourth-largest populated county - can afford 35 participants at a time in its drug court, Smith said. Participants are monitored by one full-time supervisor, who is required to make periodic home visits.

"If the state could provide additional money for another supervisor, I'd be happy to expand our drug court," Smith said. "But as it stands now, our one supervisor is handling just about all he can handle."

Yet programs such as drug court might be the first step in breaking an individual's criminal cycle.

"I'm a huge supporter of drug court," said Jackson County District Attorney John Wampler, also the Oklahoma District Attorney Council's chairman. "I've seen a lot of success stories come out of it. ... The problem we have is a lot of legislators want to see immediate results, and so there is a reluctance to put money into certain programs. They're not looking at the long-range dividends."

"For instance, we always release someone from prison and watch them struggle to get back on their feet. Eventually, they go back to their old ways. That's all they know. We need to give them the tools so when they do get out, they have the skills to find a job and lead productive lives. That's how you make real change."

A lot of prosecutors contend that the lack of staffing for new programs - or more precisely the money to pay for those programs - remains a roadblock to true criminal reform.

Oklahoma's probation system is fertile ground for such a debate. Some 256 probation and parole officers oversee the 23,017 people in the state Department of Corrections' probation system, meaning officers are on

average juggling about 90 clients at any given time. More district officials are thus turning to new technology to maximize their probation needs.

Smith is one prosecutor who is embracing new technology. Alternative sentencing options he has initiated include the alcohol monitoring system, the drug patch, GPS monitoring and mental health court.

"We have to be smarter about how we do things," Smith said. "If the technology is there, and it makes legal and fiscal sense, why not utilize it?"

The problem is that every conversation about alternative sentencing, an effective probation process and jail overcrowding seems to circle back to the issue of money.

"Frankly, the vast majority of law enforcement and those of us in the justice system want to do the right thing," Smith said. "We're simply underfunded."

Wampler agrees with Smith's conclusion.

"Obviously, there is only so much money to go around," Wampler said. "But I think the people of this state will listen to what we have to say as long as there's a sensible approach, and prosecutors have worked real hard to provide some answers."

### **Original Print Headline: Prosecutors embracing alternative sentencing**

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#### **Alternative sentencing options**

**Alcohol monitoring system:** An ankle bracelet that detects whether alcohol has been consumed. The device allows a parolee to work and lead an otherwise normal life. Parolees may bring the device in to be checked as required in the time it takes for a lunch break.

**Drug court:** A highly structured judicial intervention program in which participants enter through a plea agreement in lieu of incarceration. Participants are held accountable for their actions by a board, which generally consists of a judge, prosecutor, defense attorney, law enforcement representative, treatment provider, probation officer and social worker. The program's aim is to break the cycle of substance abuse addiction and crime, and it is generally seen as a last chance for participants. Payne County began the first drug court in 1995. Today, there are nearly 40 drug courts statewide.

**Drug patch:** Like the alcohol ankle bracelet, the drug patch detects whether drugs have been consumed. The drug patch costs \$22.50 a week as opposed to the \$105 a week it costs for a drug test.

**GPS monitoring:** Allows law enforcement agencies to monitor offenders' whereabouts around the clock, tracking their movements and alerting them of certain "hot zones" such as schools for sex offenders or individuals who have filed protective orders against them.

**Domestic abuse court:** Patterned after drug court, this program allows participants to work with professionals in marriage counseling and anger management.

**Mental health court:** Patterned after drug court, the program focuses on those with mental health issues and allows participants to work with professionals in the field of mental health.

**Veterans court:** Another county-based court program that deals specifically with the unique issues associated with veterans returning from the war front. House lawmakers unanimously voted last week to approve House Bill 1555, which establishes a Veteran's Treatment Court through the state Department of Mental Health and Substance Abuse Services. The bill now goes to the Senate for approval. Tulsa established a similar court last year.

#### **Associated Images:**



**PROPONENT**  
**District Attorney John Wampler: "I'm a huge supporter of drug court. I've seen a lot of success stories come out of it."**

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