



ILLINOIS SENTENCING POLICY ADVISORY COUNCIL

2012 ANNUAL REPORT

Hon. Gino DiVito, Chairman

Hon. Warren Wolfson, Vice Chair

Senator Kwame Raoul, Vice Chair

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ILLINOIS SENTENCING POLICY ADVISORY COUNCIL

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EXECUTIVE SUMMARY

- **Purpose** -- The purpose of SPAC is to provide policy-makers with sound data and analysis to facilitate evidence-based public safety policy decisions.
- **Meetings** - SPAC held two meetings in 2012.
- **Staffing** - SPAC received funding for FY13 to hire two research positions and is in the process of hiring a research director.
- **Research** - Current fiscal and public safety challenges must be addressed through evidence-based decision making and sentencing practices. Evidence-based decision making cannot succeed without reliable data and analysis. Understanding the drivers of the sentenced population, including probation and alternatives to incarceration, is critical to crafting appropriate and effective criminal justice policies that are based on fact rather than emotional reactions to highly publicized crimes. In 2012 three research briefings were completed which examined the drivers of the sentenced population: the rate of return to DOC for offenders who violate conditions of mandatory supervised release; probation sentences and outcomes; and length of stay in prison facilities due to a sentence of incarceration.
- **Fiscal Impact Analysis** - At the end of 2011, SPAC adopted the cost calculator portion of the Washington Institute of Public Policy Cost-Benefit Analysis model for its fiscal impact statement. Collection of fiscal data has been completed and marginal cost figures calculated. Data from service and treatment providers is currently being collected for incorporation into the model.
- **Data collection** - SPAC made data requests to the Circuit Clerks of the 14 counties that commit the highest number of offenders to the Illinois Department of Corrections (IDOC). Ten clerks provided specific information on every felony and misdemeanor case for which a disposition was entered in the years 1995 through 2010. This information fills some of the gaps in state-wide criminal justice data and initially will be utilized to complete studies showing how offenders move through the system, and recycle through the system when sentenced to prison and to probation. Those studies will then be incorporated into the fiscal impact model.

SPAC also worked with the Sheriff's Association to obtain data on jail costs and continues to work with the Administrative Office of the Illinois Courts to calculate a reliable marginal cost figure for probation offices.

- **The Crime Reduction Act** - pursuant to the Crime Reduction Act, 730 ILCS 190/5 *et seq.*, three entities, Adult Redeploy Illinois (ARI), the Risk, Assets, Needs Assessment Task Force (RANA) and the Prisoner Review Board (PRB) are required to report data to SPAC. Because the risk assessment tool is still in the final stages of the procurement process, neither RANA nor the PRB have data to report.

Adult Redeploy Illinois is a performance incentive funding grant program. It was created to target non-violent offenders who are facing prison sentences and divert them into community based programs that utilize evidence based practices designed to reduce recidivism.

ARI has very specific parameters guiding implementation towards its goals. Using a data-driven process, the sites must identify a target population, and develop evidence based programming that addresses the needs of individual offenders based on a validated risk and needs assessment. Individualized case management is a hallmark of the ARI program. In each pilot site there is a team, usually involving probation officers, community-based treatment providers, prosecutors, defense counsel, and judges. Sites are required to collect and report specific case level data from inception. This gives SPAC, ICJIA and other evaluators the ability to analyze outcomes and calculate the cost-benefit ratios of the programs as data is provided.

ARI currently has ten pilot sites throughout the state of Illinois. At this point, ARI has collected sufficient data to begin process evaluations. These evaluations will be helpful in identifying strengths and weaknesses in implementation of the evidence based programs to insure that diversion targets are met. Initial performance measurement data indicate that sites are on target to meet or exceed their diversion goals.

- **2012 Legislative Session** – Two sentencing bills were of particular interest during this session, SB2621 which defined a new system for awarding good conduct credit to prison inmates, and HB1907, which created a racketeering (RICO) offense under Illinois state law. Both bills were presented to the Council's full membership and the feedback of individual members was incorporated into HB1907. SPAC's bill review process was effectively tested through the review and discussion of these bills.

Introduction

The concept for the Sentencing Policy Advisory Council (SPAC) was developed by the Criminal Law Edit, Alignment and Reform (CLEAR) Commission. The CLEAR Commissioners studied and reorganized the Unified Code of Corrections in an effort to make it less confusing and easier for the public and practitioners to use. The Commission concluded that there was a need for more substantive analysis of the fiscal and social impact of sentencing policies. SPAC was created to collect, analyze and present data from all relevant sources to more accurately determine the consequences of sentencing policy decisions and to review the effectiveness and efficiency of current sentencing policies and practices. SPAC reports directly to the Governor and the General Assembly. See 730 ILCS 5/5-8-8(f), Appendix.

The members of SPAC represent diverse viewpoints. SPAC members include legislators, retired judges, the Illinois Attorney General, prosecutors, defense attorneys, representatives of the Administrative Office of the Illinois Courts, a victim advocate, law enforcement officials, academics, and a community-based organization. The directors of the Illinois State Police, Department of Corrections, Criminal Justice Information Authority and the Chairman of the Prisoner Review Board serve *ex officio*.

SPAC is chaired by the Honorable Gino DiVito. Vice chairs are the Honorable Warren Wolfson and Senator Kwame Raoul.

SPAC is subject to the Open Meetings Act. Meeting agendas and minutes are posted on:

<http://www.icjia.state.il.us/spac/>

Statement of Purpose

The purpose of SPAC is to review sentencing policies and practices and examine how those policies and practices impact the criminal justice system as a whole in the State of Illinois. In carrying out its duties, SPAC is mindful of and seeks to achieve the purposes of sentencing in Illinois, which are to:

- (1) prescribe sanctions proportionate to the seriousness of the offenses and permit the recognition of differences in rehabilitation possibilities among individual offenders;
- (2) forbid and prevent the commission of offenses;
- (3) prevent arbitrary or oppressive treatment of persons adjudicated offenders or delinquents; and
- (4) restore offenders to useful citizenship.

(see 730 ILCS 5/8-8(b); see also 730 ILCS 5/1-1-2)

Staffing and Budget

Kathy Saltmarsh is the Executive Director of SPAC. Samantha Gaddy is the Senior Policy Advisor for SPAC. SPAC is funded through the Department of Corrections budget. For FY13 SPAC received a lump sum grant sufficient to fill two research positions and is in the process of hiring for them.

SPAC also receives technical assistance, and administrative support from the Illinois Criminal Justice Information Authority (ICJIA) and the Illinois Department of Corrections (IDOC). In FY12 SPAC received grant funding from the Office of the State's Attorney Appellate Prosecutor.

Research

To date, SPAC has completed five research reports:

1. Data Gap Analysis - (2010)
2. Retrospective Analysis of Trends in Crime and Sentencing (2010; 2011 update)
3. The Drivers of the Sentenced Population:
 - A. Mandatory Supervised Release (MSR) Technical Violators (2012)
 - B. Probation (2012)
 - C. Length of Stay in Correctional Facilities (2012)

The Illinois prison population has reached an historic high several times during calendar year 2012. Policy-makers are facing the challenges of reducing the level and costs of incarceration while protecting public safety and imposing effective sanctions that hold offenders accountable for their criminal conduct. The focus is shifting to budgeting based on positive outcomes, and prioritizing spending based on valid performance measures. Evidence-based decision making in the criminal justice arena is critical to successfully addressing these challenges, but it cannot succeed without reliable data and analysis. Understanding the drivers of the sentenced population, including probation and alternatives to incarceration, is critical to crafting appropriate and effective criminal justice policies that are based on fact rather than emotional reactions to highly publicized crimes.

SPAC contracted with Dr. David Olson and Dr. Don Stemen at Loyola University Chicago to complete an analysis of the drivers of the sentenced population. Their analysis, presented in three parts (mandatory supervised release (MSR) violators who are returned to IDOC, probation sentences and outcomes, and length of stay in a corrections facility) has been completed and will be available on the SPAC website. This research will be the basis for ongoing discussions of what we must do to successfully reduce our reliance on mass incarceration.

This is the type of research that is the first step in formulating policy responses that can successfully reduce the use of incarceration and enhance public safety. The goal is to address public safety concerns through implementation of validated, evidenced-based sanctions and cost-effective sentencing policies.

The key findings from the three part analysis of the drivers of the sentenced population are:

Technical MSR Violators:

- The number of people on MSR increased from an average of 13,000 in 1990 to more than 30,000 by 1997, fueled by the large increase in prison admissions and releases, primarily for drug related crimes. From 1997 through 2010 the MSR population has remained between 30,000 and 34,000 offenders.
- In 2006 IDOC implemented graduated sanctions that match the severity of the sanction to the severity of the violation. This decreased the monthly average of violators returned to IDOC from nearly 900 per month in 2006 to 640 during 2007.
- Individual characteristics such as age, prior arrests, exposure to treatment while in prison, and disciplinary incidents are more reliable predictors of recidivism than the felony class of the offense, MSR terms are based solely on felony class under Illinois law. MSR supervision terms based solely on offense level present a significant potential that offenders with a high risk of reoffending will be supervised for short periods of time. Conversely, individuals who are at a low risk of reoffending may be on MSR for longer periods than necessary with no public safety benefit.
- Typically an offender that is returned to IDOC for a technical violation spends less than three months in prison and is released without any additional supervision because the remainder of the MSR term was served in that three-month period.

Probation

- The number of convicted felons sentenced to probation in Illinois increased dramatically during the late 1980s through 2002, reaching 35,000 felony probation sentences in 2002 and accounting for just over one-half of all sentences imposed on convicted felons. As with felons sentenced to prison, much of this growth in felony probation sentences during the 1990s was fueled by increases in the number of Class 4 felony sentences.
- Overall, the proportion of convicted felons sentenced to prison decreased between the mid-1990s and 2010, a pattern consistent across all felony classes (Class 1, 2, 3, and 4 felonies). The decreased use of probation for Class 1 and 2 felonies appeared to be primarily due to an increasing proportion of these crimes now being non-probationable (*i.e.*, mandatory prison sentences), while the decreased use of probation for Class 3 and 4 felonies does not appear to be due to an increase in the number of these offenses being non-probationable.
- As a result of these changes, from the mid-1990s through the mid-2000s, an increasing proportion of felony probationers in Illinois were convicted of Class 4 felonies, the least serious of the felony offenses in Illinois, and a decreasing proportion of probationers were convicted of a Class 2 felony.
- Between 1993 and 2011, females, whites, Hispanics, and older offenders accounted for an increasing proportion of felony probationers in Illinois.
- The majority of felons discharged from probation were successfully terminated from supervision throughout the period examined. The proportion of felons discharged from probation as a result of a revocation of probation for either a technical violation or a new offense remained stable, at or below 10 percent statewide throughout the time period examined.
- Success on probation can mean less reliance on prison, but failure on probation can result in commitment to the Illinois Department of Corrections. Individuals who had their probation revoked or were reconvicted of a new crime while on probation

accounted for roughly 15 percent of all those sentenced to prison, a proportion that remained relatively stable through the time period examined.

Length of Stay

- Between 1990 and 2011 the average lengths of prison sentences imposed remained relatively stable for less serious Class 3 and 4 felonies, while the average lengths of prison sentences imposed for more serious Class 1 and Class X felonies increased.
- The average time served *in prison* decreased slightly for Class 3 and Class 4 felonies through 2010, but increased sharply in 2011 due largely to the reduced amount of meritorious good time and supplemental good time credits awarded.
- Cook County offenders sentenced to prison received roughly 45% more credit for time spent in jail prior to sentencing than offenders in other counties because those in Cook County were held in jail for a longer period prior to sentencing.
- The average amount of meritorious good time and supplemental meritorious good time credit awarded per-inmate increased through the late 2000s before decreasing sharply in 2011. Overall, increases in time served among those released between FY 2010 and 2011 due to suspension of good time credit equated to an increase of 3,697 annualized prison beds. For example, if the average time served was 1 year, each admission would use 1 annualized prison bed; if the average time served increased to two years, then each admission would require one *additional* annualized prison bed.
- The average amount of earned good time credit days awarded for participation in education, treatment, and prison industries has decreased steadily for all felony classes since the late 1990s, with the exception of Class 1 felonies, primarily due to a decrease in the proportion of inmates eligible for these credits as well as limited capacity to offer these types of programs to all those inmates who may be eligible.

All of the SPAC research reports will be available on the SPAC website:

<http://www.icjia.state.il.us/spac/>

Fiscal Impact Statements

The primary focus of SPAC's work this year has been on developing the methodology with which to produce the fiscal impact statements that SPAC is mandated to provide. At the September 30, 2011 meeting, the members of SPAC voted to use the cost calculation portion of the Washington Institute for Public Policy (WSIPP) Cost-Benefit Analysis model to calculate the marginal costs associated with changes in criminal justice policy.

Work began immediately to populate the WSIPP model with the actual expenditures for criminal justice and public safety agencies at both the state and county levels. Victimization costs are also included. The fiscal data is just one portion of the model. Cohort studies of offenders sentenced to both probation and incarceration are required for the purposes of determining the average cost of an offense and the marginal costs of increasing offense levels, sentences, or policies that impact them. After risk assessment data becomes available, it will be incorporated into the model as well.

Data Collection

In order to complete the cohort studies SPAC requested case level data from the Circuit Clerks in the 14 counties with the highest rates of commitment to the Department of Corrections (IDOC). The following data points were requested from all of the Clerks for all misdemeanor and felony cases disposed of from 1995 through 2010:

1. Offender name and date of birth if DOB is available, along with any demographic information on race and ethnicity
2. Document Control Numbers (DCNs) and State Identification Numbers (SIDs)
3. Statutory citation for the charges filed with the class of offense
4. Statutory citation for the offense of conviction with class of offense and date of conviction
5. All dispositions for all charges, including dismissals, as well as post-sentencing disposition such as revocation of probation
6. Sentence imposed for each conviction and the date of sentencing

Responses were received from ten of these offices, and the data underwent rigorous cleaning and organization into a single database that is more easily used for analysis. The result is a uniquely extensive, data set that can be used to determine how people move through the system, the probability of being sentenced to either prison or probation if convicted, and how charges change from the point of arrest through conviction.

The software and technical assistance in implementing the model continues to be provided at no cost through the Pew Center on the States Results First Project. This assistance continues to be critical to SPAC's implementation of the model. Pew staff members have traveled to Illinois on several occasions to render technical assistance. In July, SPAC staff attended a meeting of all the states currently implementing the model. There was significant benefit to sharing implementation experiences. Each state represented at the meeting found the lack of reliable evaluations of their state programs to be the most significant challenge to full implementation.

Collaborative Partnerships

SPAC continues to benefit from collaborative partnerships. In addition to their representation on SPAC, both ICJIA and IDOC have continued to be valuable research partners and to provide administrative support.

SPAC continues to be represented on the Adult Redeploy Illinois (ARI) Oversight Board and the Risk, Assets, Needs Assessment (RANA) Task Force. Both entities are focused on implementation of evidence-based practices in the corrections sector. Their work will provide valuable data for SPAC. Adult Redeploy Illinois currently has ten pilot sites and is actively engaged in bringing additional sites into the program. The risk assessment tool selected by the RANA task force has been procured and implementation will begin early in 2013. This tool will provide additional data on offender characteristics and risk factors that will be helpful in evaluating how programs and services affect recidivism.

As a member of the Adult Redeploy Oversight Board, Kathy Saltmarsh joined a site visit to McLean County which included meetings with the probation staff involved in the program as well as the criminal court judges.

In addition to ARI and RANA, Kathy Saltmarsh was asked to participate in the Budgeting For Results initiative as a member of the Public Safety Results Team. The team met for the purpose of identifying priorities for insuring that Illinois citizens feel safe where they live, work and play. This team stressed the importance of data collection and program evaluation in its presentation to the Budgeting For Results Steering Committee.

SPAC also enjoys collaborative relationships with national organizations. The Vera Institute of Justice has been instrumental in providing technical and research assistance to SPAC. Vera's work on the national level brings a unique perspective to efforts here in Illinois. As noted above, the Pew Center on the States Results First Initiative provides technical assistance to SPAC on implementing the WSIPP model cost calculator.

In August the National Association of Sentencing Commissions' annual conference was held in Chicago and Chairman DiVito welcomed delegates from sentencing commissions all over the country. The conference provided an opportunity to attend substantive workshops on fiscal impact analysis, the challenges of implementing justice reinvestment reforms, and successful implementation of evidence based practices.

These collaborative relationships provide broad expertise as SPAC develops the processes and procedures for meeting its mandates. The opportunity to vet ideas with national and state partners has been invaluable in setting SPAC's goals and developing effective strategies for achieving them.

Conclusion

Illinois remains a leader in the arena of criminal justice reform. The progress of SPAC and Adult Redeploy Illinois demonstrates the potential to effectively reform sentencing practices to achieve the two goals of reducing costs and improving public safety. Organizations such as the Pew Charitable Trust and the Vera Institute of Justice are interested in collaborating with Illinois because concrete benchmarks continue to be met.

In 2012, SPAC focused on developing the tools to improve data collection and the best analytical procedures to fully support policy makers with reliable, objective, and easily accessible analysis of complex criminal justice issues. The fiscal model progressed significantly and SPAC continued to participate in the greater discussion of cost effective strategies that enhance public safety while deterring criminal conduct.

APPENDIX - THE ENABLING STATUTE - Public Act 96-0711; 730 ILCS 5/5-8-8

Sec. 5-8-8. Illinois Sentencing Policy Advisory Council.

(a) Creation. There is created under the jurisdiction of the Governor the Illinois Sentencing Policy Advisory Council, hereinafter referred to as the Council.

(b) Purposes and goals. The purpose of the Council is to review sentencing policies and practices and examine how these policies and practices impact the criminal justice system as a whole in the State of Illinois. In carrying out its duties, the Council shall be mindful of and aim to achieve the purposes of sentencing in Illinois, which are set out in Section 1-1-2 of This Code:

- (1) prescribe sanctions proportionate to the seriousness of the offenses and permit the recognition of differences in rehabilitation possibilities among individual offenders;
- (2) forbid and prevent the commission of offenses;
- (3) prevent arbitrary or oppressive treatment of persons adjudicated offenders or delinquents; and
- (4) restore offenders to useful citizenship.

(c) Council composition.

- (1) The Council shall consist of the following members:
 - (A) the President of the Senate, or his or her designee;
 - (B) the Minority Leader of the Senate, or his or her designee;
 - (C) the Speaker of the House, or his or her designee;
 - (D) the Minority Leader of the House, or his or her designee;
 - (E) the Governor, or his or her designee;
 - (F) the Attorney General, or his or her designee;
 - (G) two retired judges, who may have been circuit, appellate or supreme court judges, selected by the members of the Council designated in clauses (c)(1)(A) through (L);
 - (H) the Cook County State's Attorney, or his or her designee;
 - (I) the Cook County Public Defender, or his or her designee;
 - (J) a State's Attorney not from Cook County, appointed by the State's Attorney's Appellate Prosecutor;
 - (K) the State Appellate Defender, or his or her designee;
 - (L) the Director of the Administrative Office of the Illinois Courts, or his or her designee;
 - (M) a victim of a violent felony or a representative of a crime victims' organization, selected by the members of the Council designated in clauses (c)(1)(A) through (L);
 - (N) a representative of a community-based organization, selected by the members of the Council designated in clauses (c)(1)(A) through (L);
 - (O) a criminal justice academic researcher, to be selected by the members of the Council designated in clauses (c)(1)(A) through (L);
 - (P) a representative of law enforcement from a unit of local government to be selected by the members of the Council designated in clauses (c)(1)(A) through (L);
 - (Q) a sheriff selected by the members of the Council designated in clauses (c)(1)(A) through (L);
 - (R) ex-officio members shall include:

- (i) the Director of Corrections, or his or her designee;
 - (ii) the Chair of the Prisoner Review Board, or his or her designee;
 - (iii) the Director of the Illinois State Police, or his or her designee;
 - (iv) the Director of the Illinois Criminal Justice Information Authority, or his or her designee; and
 - (v) the assistant Director of the Administrative Office of the Illinois Courts, or his or her designee; and
- (1.5) the Chair and Vice Chair shall be elected from among its members by a majority of the members of the Council.

(2) Members of the Council who serve because of their public office or position, or those who are designated as members by such officials, shall serve only as long as they hold such office or position.

(3) Council members shall serve without compensation but shall be reimbursed for travel and per diem expenses incurred in their work for the Council.

(4) The Council may exercise any power, perform any function, take any action, or do anything in furtherance of its purposes and goals upon the appointment of a quorum of its members. The term of office of each member of the Council ends on the date of repeal of this amendatory Act of the 96th General Assembly.

(d) Duties. The Council shall perform, as resources permit, duties including:

(1) Collect and analyze information including sentencing data, crime trends, and existing correctional resources to support legislative and executive action affecting the use of correctional resources on the State and local levels.

(2) Prepare criminal justice population projections annually, including correctional and community-based supervision populations.

(3) Analyze data relevant to proposed sentencing legislation and its effect on current policies or practices, and provide information to support evidence-based sentencing.

(4) Ensure that adequate resources and facilities are available for carrying out sentences imposed on offenders and that rational priorities are established for the use of those resources. To do so, the Council shall prepare criminal justice resource statements, identifying the fiscal and practical effects of proposed criminal sentencing legislation, including, but not limited to, the correctional population, court processes, and county or local government resources.

(5) Perform such other studies or tasks pertaining to sentencing policies as may be requested by the Governor or the Illinois General Assembly.

(6) Perform such other functions as may be required by law or as are necessary to carry out the purposes and goals of the Council prescribed in subsection (b).

(e) Authority.

(1) The Council shall have the power to perform the functions necessary to carry out its duties, purposes and goals under this Act. In so doing, the Council shall utilize information and analysis developed by the Illinois Criminal Justice Information Authority, the Administrative Office of the Illinois Courts, and the Illinois Department of Corrections.

(2) Upon request from the Council, each executive agency and department of State and local government shall provide information and records to the Council in the execution of its duties.

(f) Report. The Council shall report in writing annually to the General Assembly and the Governor.

(g) This Section is repealed on December 31, 2012.

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 8/25/2009