

# Prison sentences for drug offenses

By David Olson, Ph.D.

The prison population across the U.S. has increased more than 150 percent over the past two decades. In Illinois, the prison population almost tripled between the end of 1983 and 1999, climbing from about 15,000 inmates to more than 44,600. This unprecedented growth is usually attributed to the aggressive enforcement of drug laws and the sentencing of drug offenders to prison.

This *Trends and Issues Update* provides an overview of trends in the sentencing of adult drug-law violators to prison in Illinois. The data used in this report came from the Illinois Department of Correction's (IDOC) annual *Statistical Presentation*, and from unpublished data generated by the IDOC Planning and Research Unit.

To place this information in context, several points should be made about the sentencing of drug offenders. First, many of those convicted of felony drug offenses in Illinois are sentenced to probation. During 1997, for example, about 9,600 felony drug-law violators were placed on probation in Illinois, while 9,432 drug offenders were committed to a state prison. Also, most drug-law violators in Illinois go to state courts; and, if convicted and sentenced to prison, are incarcerated in state-operated institutions. In 1998, for example, there were almost 15,000 prison sentences imposed on drug-law violators in Illinois' state courts, while only 350 federal prison sentences were imposed. This *Trends and Issues Update* looks only at sentences to state prison in Illinois.

## Drug-related prison sentences

There are four state statutes that address drug offenses. They are:

- The Controlled Substances Act.
- The Cannabis Control Act.
- The Hypodermic Syringes and Needles Act.
- The Drug Paraphernalia Control Act.

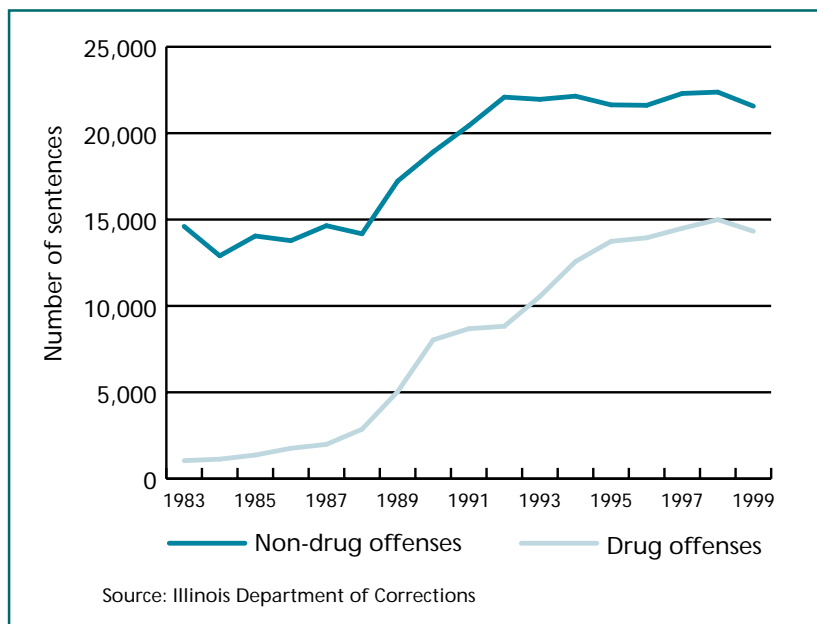
Illinois' Controlled Substances Act prohibits the possession, sale, delivery, and manufacture of substances such as cocaine, heroin, LSD, and other drugs except cannabis (marijuana). The Cannabis Control Act covers offenses involving cannabis, and the punishments for the possession, sale, delivery, or manufacture of the drug. The other

two drug laws prohibit the illegal possession, sale, or delivery of instruments frequently used to facilitate the use of illegal drugs.

When considering prison sentences for drug offenses, it is important to note that almost every violation of Illinois' Controlled Substances Act is a felony, punishable by either a probation or prison sentence. Most violations of the other drug acts are misdemeanors and cannot result in prison sentences. During 1999, fewer than 1,000 people were sentenced to IDOC for felony offenses involving cannabis.

The number of prison sentences for drug offenses increased more than 1,200 percent between 1983 and 1999, when more than 14,300 drug offenders were sentenced to prison. Between

Figure 1  
Prison sentences in Illinois for drug and non-drug offenses



1983 and 1987 the number of prison sentences imposed for drug-law violations was relatively low — averaging only 1,450 per year (Figure 1). Beginning in 1988, however, there was a dramatic increase in arrests for violations of Illinois' Controlled Substances Act, and a corresponding increase in the number of sentences to prison. Between 1988 and 1989 alone the number of prison sentences for drug-law violations increased 75 percent, and it jumped an additional 60 percent during the next year. The number of prison sentences for drug offenses continued to increase in the 1990s at a slower rate. By comparison, the total number of prison sentences imposed for non-drug offenses increased 47 percent between 1983 and 1999, and by less than 15 percent during the 1990s. As a result, sentences for drug-law violations increased as a percentage of prison sentences. Drug sentences made up less than 7 percent of all prison sentences in 1983, but accounted for 40 percent of all prison sentences by 1999.

However, while much of the increase in prison sentences for drug-law violations can be attributed to increased arrests for felony drug offenses, it appears that during the period examined the proportion of arrests resulting in a prison sentence also increased. Dividing the number of prison sentences by the number of arrests for violations of the Controlled Substances Act provides a rough estimate of sentences to prison relative to arrests. Doing so indicates that in 1983 approximately 11 percent of those arrested for a violation of the Controlled Substances Act received prison sentences, while 30 percent received prison terms during 1998.

### Sentences versus admissions to prison for drug offenses

Not all convicted felons who are sentenced to prison for drug offenses are admitted to prison for those offenses. This is because while an individual convicted of several felonies could receive multiple,

concurrent prison sentences, only the longest sentence is counted for the purpose of admission to prison. Thus, a person sent to prison for drug possession and armed robbery would receive two prison *sentences* that would be recorded as one prison *admission*, for the armed robbery, since it carries the longer sentence. Hence, in 1999, drug offenses accounted for more than 14,000 sentences to prison, but fewer than 10,000 of the admissions.

In general, although the numbers are different, the trends in prison sentences and prison admissions are similar. Just as sentences for drug offenses made up 40 percent of all sentences, admissions for drug offenses accounted for 40 percent of all admissions to IDOC in 1999.

### Regional differences

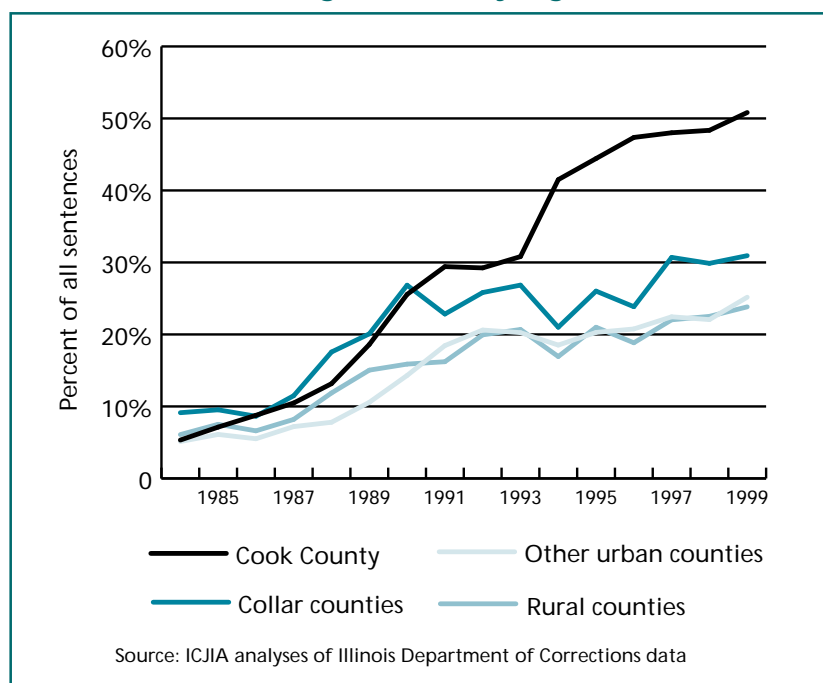
Although every region of Illinois experienced increases in the number of drug-law violators sentenced and admitted to state prison, the magnitude of the increase and the admission rates relative to total prison sentences

varied by region. During 1983, for example, drug-law violators accounted for 5 to 7 percent of total admissions from all regions (Figure 2). By 1999, however, 51 percent of prison admissions from Cook County, 31 percent of prison admissions from the Collar counties, and 24 percent of admissions from Illinois' rural counties were for drug offenses.

### Sentences by offense class

Penalties for drug offenses in Illinois vary depending on the quantity of the drug involved, whether the offender was convicted of drug sale, delivery, or possession, and where the offense occurred, such as near a school. At one end of the spectrum are Class X felonies, which involve the sale or delivery of 15 grams or more of cocaine or heroin. During 1998, 15 grams of cocaine or heroin had an average street value of about \$1,500 in Illinois. Upon conviction for a Class X felony, judges are required to impose a minimum prison sentence of six years. However, while these offenses are considered the most

Figure 2  
Percent of total prison admissions for drug offenses, by region



serious drug-law violations in Illinois, a relatively small number of prison sentences for these offenses are imposed (Figure 3). During the 1990s, although the lengths of sentences for Class X felony drug offenses increased, the number of prison sentences for these offenses decreased.

Class 1, 2, and 3 felonies generally involve the sale of small drug quantities, or possession of large drug quantities. These offenses can result in either a prison or probation sentence upon conviction. Almost all offenders sentenced to prison for Class 1, 2, and 3 felonies were convicted of a drug sale or delivery offense.

These classes of drug-law violations accounted for more than one-half of all prison sentences imposed for drug offenses in Illinois throughout the 1980s and until 1999. Further, the number of prison sentences imposed for these offenses increased considerably, and the lengths of these sentences also increased.

Class 4 felonies are the least serious in terms of possible penalties and include possession of less than 15 grams of drugs such as cocaine or heroin. They also can result in either a sentence to prison or probation. During the 1990s, prison sentences for Class 4 felony drug offenses increased more than any other offense. However, the average prison sentence length for these Class 4 felony drug offenses decreased slightly during the period examined. While these offenses represent the least serious felonies, a 1996 study sponsored by the Authority found that most offenders admitted to IDOC for these Class 4 felonies had extensive and serious criminal histories, including prior arrests for non-drug offenses, violent crimes, and prior sentences to probation and prison.<sup>1</sup>

Two important trends are evident in the prison sentences imposed for drug offenses over the past two decades. First, prison sentences for Class 4 felony drug offenses increased as a proportion of total drug sentences, from one-third to one-half of all drug sentences between 1983 and 1999,

Figure 3

### Prison sentences imposed on drug-law violators

Class of felony	Year	Sentences	Average sentence length of offenders admitted (years)	Average incarceration length of offenders released (years)
X	1983	94	6.6	1.9
	1990	901	7.7	4.3
	1999	598	8.3	3.9
1, 2, 3	1983	607	3.5	1.3
	1990	5,061	4	1.7
	1999	6,404	4.3	1.6
4	1983	344	2	0.7
	1990	2,067	2	0.7
	1999	6,764	1.8	0.6

while Class X, 1, 2, and 3 drug offenses decreased as a proportion of total drug sentences. As a result of this, and since the average sentence lengths for these Class 4 felony offenses tend to be much lower and have decreased, the average prison sentence imposed on all drug-law violators during the period decreased slightly. Between 1983 and 1988, the average prison sentence imposed on all drug-law violators in Illinois was 3.7 years, compared to an average sentence of 3.4 years between 1993 and 1999.

### Lengths of stay in prison, by offense class

The actual length of incarceration for most drug-law violators is much less than the court-imposed sentence. This is because most inmates are eligible to receive various credits toward their sentences for good behavior or participation in specific rehabilitative programs.

Among offenders admitted to prison in Illinois for Class X felony drug offenses and released during 1999, the average length of time served was 3.9 years, while the average sentence imposed on these offenders was more than eight years. At the other

end of the sentencing spectrum, the average length of time served by those sentenced for Class 4 drug felonies and released in 1999 was just more than seven months, whereas the average sentence for these offenders was 1.8 years. Included in these figures is pretrial time spent in jail, which is usually credited to the prison sentence by a judge. When this pretrial time served is subtracted from the total length of time served, the average amount of time a Class 4 drug felon actually spent in an IDOC facility during the 1990s was less than five months. Among all drug offenders admitted to prison in Illinois during the 1990s, the average length of time served — including pretrial jail and prison time — was just more than one year and three months, while the amount of time actually spent in an Illinois prison averaged one year.

Many feel that the length of time served by those sentenced to prison for drug-possession violations is inappropriate — either too short or too long, depending upon their perspective. What is clear, however, is that the general public in Illinois is under the impression that drug-law violators serve longer periods of incarceration.

Results from a 1996 survey, sponsored in part by the Authority, revealed that the public thought offenders incarcerated for drug possession spent an average of four years in prison.<sup>2</sup>

### Conclusions

Based on these analyses, a number of conclusions can be made. First, the number of offenders sentenced to and incarcerated in Illinois prisons for drug-law violations increased dramatically over the past two decades. While much of this increase can be attributed to increased arrests, it also appears that the proportion of those arrested and subsequently sentenced to prison also increased. This may be due to a change in the sentencing of drug-law violators, a change in the seriousness of the offenses drug-law violators are being arrested for, or both. Based on available data, there is support for both hypotheses. During the 1980s and 1990s there was a slight increase

in the proportion of all convicted felons sentenced to prison. Similarly, arrest data available in Illinois reveal that between the mid-1980s and early 1990s the proportion of drug arrests for more serious sale and delivery offenses also increased.

In addition, a large proportion of drug offenders sentenced to prison were convicted of Class 4 drug possession offenses and, as a result, received relatively shorter sentences.

<sup>1</sup>Cowles, E.L. & Gransky, L.A. (1996): *A Review of Incarcerated Illinois Class 4 Felony Offenders: Are Alternative Sanctions Appropriate?* Illinois Criminal Justice Information Authority, Chicago, Ill.

<sup>2</sup>Dran, Ellen M. (1996): Illinois Policy Survey, 1996. Center for Governmental Studies, Northern Illinois University, DeKalb, Ill.

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