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The Disproportionate Incarceration of African Americans for Drug Crimes:  
The Illinois Perspective

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November 2005

This program was supported by Grant # 02-DB-BX-0017 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, through the Illinois Criminal Justice Information Authority. Points of view or opinions contained within this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice or the Illinois Criminal Justice Information Authority.



The disproportionate incarceration of African Americans for drug-law violations has been documented in numerous studies. For example, the Human Rights Watch (HRW), a New York City-based organization that investigates human rights violations around the world, reported in 2000 that racial disparities in sentencing for drug-law violations are rampant in the United States. The HRW report was based on analyses of data from the “Corrections in America” data set compiled by the Bureau of Justice Statistics. The data set contained information on each state’s prison admissions in 1996, including the demographic characteristics of state prison inmates and the types of crimes for which inmates were admitted to prison. The HRW report indicated that, in every state, African Americans were significantly more likely than members of other racial groups to be arrested, convicted, and sentenced to prison for drug crimes. According to the report, African Americans’ involvement in the criminal justice system greatly exceeded their representation and overall rate of drug use in each state’s general population (Human Rights Watch, 2000).

The HRW study found that Illinois ranked first in the country with respect to Black-White disparities in prison sentences for drug crimes. Specifically, African American men in Illinois were 57 times more likely than White men in Illinois to be sentenced to prison for drug crimes. This unexpected and disturbing finding prompted TASC and Loyola University Chicago to seek a research grant from the Illinois Criminal Justice Information Authority (ICJIA) for funding an investigation of the state’s apparent problem with disproportionate sentencing practices (Lurigio, 2004).

The ICJIA awarded a small grant to TASC in 2001, which provided a year of funding for a preliminary investigation of racial disproportionality in sentencing for drug

crimes. The primary purposes of the project, known as the Disproportionate Minority Confinement Project (DMC), were to review the national literature on racial disparities in sentencing; examine the relationship between Illinois statutory changes and prison sentences for drug crimes; and explore whether the HRW's findings were consistent with the results of analyses of city, county, and statewide data on drug arrests and admissions to prisons in Illinois (Lurigio, 2004).

The current report is the third in a series of publications that highlight the disproportionate incarceration of African Americans for drug crimes in Illinois. The first report in the series focused on the issue of racial disproportionality in sentences for drug crimes from the national perspective. The second focused on the passage of drug laws in Illinois from 1985 to 2003.

The purpose of the current report is twofold. The first purpose was to describe the results of analyses of statewide data in order to test whether HRW's findings on disproportionality were replicable. HRW's conclusions were based on analyses of 1996 raw data collected by the Bureau of Justice Statistics and available through the bureau's public-access files entitled *Correctional Populations in America*. Our goal was to examine and extend HRW's findings, using local data from a substantially wider pool of sources. The information for our project was drawn mostly from data sets that the ICJIA culled from the Illinois State Police, the Illinois Department of Corrections, and the Chicago Police Department. The second purpose was to consider a few hypotheses that suggest explanations for the arrest and imprisonment data and provide a basis for future discussions of remedies for racial sentencing disparities.



## **Illinois Statistics**

### **Prison Sentences and Admissions**

The numbers of persons sentenced to prison in Illinois for drug offenses have been steadily rising, from approximately 2,647 in 1988 to 13,412 in 1999, which is more than a five-fold increase. During the same time period, prison sentences for nondrug crimes also increased but to a much lesser extent, from approximately 15,000 in 1983 to 22,000 in 1999, an increase of 47 percent (Olson, 2000). The same trends apply to the numbers of persons admitted to prison in the state for drug and nondrug offenses. As shown in Chart 1, from 1990 to 2000, prison admissions for drug crimes rose five-fold from 1,984 to 11,086, and prison admissions for nondrug crimes more than tripled, from 5,441 to 17,801. In 1990, prison admissions for drug crimes constituted 27 percent of all Illinois prison admissions; in 2000, they constituted 40 percent of all prison admissions.

### **Race and Prison Admissions**

The numbers of African Americans admitted to Illinois prisons for drug offenses far outweigh those of Whites and Hispanics. From 1990 to 2000, the number of African Americans admitted to prison for drug offenses grew six-fold from 1,421 to 9,088. In contrast, the number of Whites and Hispanics admitted to prison for drug offenses remained relatively stable (Chart 2). Throughout the 1990s, African Americans represented an average of 80 percent of all persons admitted to Illinois prisons for drug offenses and an average of 59 percent of all persons admitted to Illinois prisons for nondrug offenses (Charts 3 and 4). In 2000, half of all African Americans admitted to

prison were sentenced for drug offenses, compared with 30 percent of Hispanics and 15 percent of Whites.

### **CSA Arrests and Prison Admissions**

From 1980 to 1999, the number of arrests in Illinois for drug crimes nearly quadrupled, from 27,608 to 106,609. Although Cook County constituted 43 percent of the state's population in 1999, the county accounted for nearly two-thirds of all drug arrests in the state. Arrests for Controlled Substances Act (CSA) offenses accounted for an average of 66 percent of all drug arrests in Illinois. Persons admitted to Illinois prisons for drug offenses were overwhelmingly sentenced for CSA offenses.<sup>1</sup> Chart 5 shows that CSA-related prison admissions accounted for an average of 95 percent of all the state's prison admissions for drug offenses from 1990 to 2000, a much larger percentage than CSA-related arrests in the state for the six years in which both arrest and prison admissions data are available.

The proportion of African Americans arrested for CSA offenses increased steadily from 1983 to 1992, from 46 percent to 82 percent of those arrested for such crimes. The proportions of Whites arrested for CSA offenses, however, decreased steadily during those years, from 41 percent to 11 percent. Arrest data, available for three years during the late 1990s, indicated that African Americans, on average, constituted 72 percent of all persons arrested in Illinois for CSA offenses (Chart 6). The racial distribution of CSA-related prison admissions is consistent with the arrest data for those offenses. As Chart 7 shows, African Americans represented an average of 82 percent of all persons sentenced

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<sup>1</sup> Illinois Controlled Substances Act prohibits the manufacture, distribution, delivery, sales, and possession of substances, including heroin, cocaine, LSD and other drugs except for marijuana, which is prohibited under the Cannabis Control Act.

to Illinois prisons for CSA offenses (Illinois Department of Corrections and Illinois State Police Statistical Reports).

### **Location and Prison Admissions**

The proportion of Illinois prison admissions attributable to persons admitted to prison for drug offenses is greatest in Cook County, followed by other urban counties, the Collar Counties, and rural counties (Chart 8). From 1997 to 2000, approximately 50 percent of persons admitted to prison from Cook County were convicted of drug crimes. The proportionate difference in prison admissions from Cook County, compared with prison admissions from other urban counties, jumped from 5 percentage points in 1992 to 15 percentage points in 1993. From 1993 to 2000, Cook County prison admissions for drug offenses exceeded the next highest geographic area (i.e., other urban counties) by an average of 20 percentage points.

During the latter half of the 1990s, the numbers of prison admissions for drug offenses have been fairly steady across geographic areas, with Cook County averaging approximately 7,000 admissions, other urban counties averaging approximately 900 admissions, the Collar Counties averaging approximately 700 admissions, and rural counties averaging approximately 500 admissions (Chart 9). In contrast, prison admissions for nondrug crimes decreased in Cook County but increased elsewhere in the state. For example, from 1993 to 1999, Cook County nondrug prison admissions fell 13 percent; in the rest of the state, nondrug prison admissions rose 24 percent.

### **Location, Race, and Arrests**

Since 1984, Cook County has accounted for 80 percent or more of the arrests for CSA offenses in Illinois. From 1983 to 1992, the proportion of African Americans



arrested for CSA offenses in Cook County grew steadily from 55 percent of those arrested to 85 percent of those arrested. At the same time, the proportions of Hispanics and Whites declined steadily. The former declined from 15 percent to 7 percent, the latter, from 30 percent to 8 percent. Since 1983, an average of 90 percent of all CSA arrests in Cook County occurred in Chicago, and an average of 74 percent of those arrested for CSA offenses in the city were African American. In the rest of Cook County, outside Chicago, the percentage of African Americans arrested for CSA offenses also increased from 1983 to 1992, climbing from 19 percent to 64 percent. However, the percentage of African Americans arrested in Cook County (outside Chicago) for CSA offenses declined in the late 1990s, from 54 percent in 1997 to 41 percent in 1999. The patterns of African Americans arrested for CSA offenses in urban, collar, and rural counties were similar. In all three types of counties, the proportion of African Americans arrested for CSA offenses increased from 1983 to 1992 and then declined from 1997 to 1999.

### **Location, Race, and Prison Admissions**

Throughout the entire 1990s, the proportions of African Americans sentenced to prison for CSA offenses greatly eclipsed those of Hispanics and Whites. As presented in Chart 10, from 1993 to 2000, nonwhites constituted more than 95 percent of persons admitted to prison for CSA offenses in Cook County; 90 percent of the nonwhite persons admitted from Cook County were African Americans. During the same time period, large percentages of persons in Cook County admitted to prison for nondrug crimes were also nonwhite, ranging from 84 percent to 88 percent. However, African Americans constituted a relatively smaller percentage of nonwhites admitted to prison for nondrug

crimes in Cook County, ranging from 71 percent to 77 percent of all nondrug prison admissions from the county. In urban counties, African Americans were also over-represented among persons admitted to prison for CSA offenses, averaging 76 percent of all persons admitted to prison and 86 percent of all nonwhite persons admitted to prison. Finally, in the rural counties, significantly smaller proportions of African American were admitted to prison for CSA offenses, averaging 42 percent of all prison admissions from 1990 to 2000 (Chart 11).

### **Explanations for Racially Disparate Sentencing**

All of our analyses confirmed the HRW's findings regarding the disproportionate incarceration of African Americans in Illinois for drug-law violations. Arrests and convictions of African Americans for CSA violations in Chicago and in Cook County are driving the state's racial disparities in imprisonment. Three major factors help explain racial disparities in sentencing for drug offenses. The first two factors are related to the nature of drug sales in African American communities. The third factor is related to drug charges, and the fourth to drug treatment mandates and perceptions of the relative punitiveness of prison and probation sentences. We note throughout the following discussion that the factors discussed are only suggestive of the possible causes of the disproportionate incarceration of African American for drug-law violations.

#### **Outdoor Drug Sales**

As described in the current project's report regarding racial disproportionality on the national scene, outdoor drug markets are more vulnerable to police strategies designed to arrest sellers (Lurigio, 2004). Increased vulnerability stems from two features of drug sales in Chicago's African American communities: outdoor or open-air drug sales

and sentencing enhancements. Considerable evidence suggests that drug sales in the city's African American communities occur largely outdoors and are controlled by street gangs. Outdoor or street-corner drug selling is ongoing, systematic, and entrepreneurial. Such activities net substantial amounts of illicit income for African American gangs, which operate as sophisticated and well-organized criminal enterprises rather than as loosely connected or fluid social networks (Chandler, 2004; Huppke, 2004). In pursuit of the drug selling business, street gangs have adapted successfully to confound a variety of enforcement strategies and have modified their sales techniques and locations in order to avoid prosecution for more serious crimes. For example, drug sellers have removed their stashes of drug supplies from the sales site, which increases the likelihood of being charged with simple possession rather than possession with intent to deliver (Butterfield, 2005).

Despite the efforts of street gangs to elude the police, outdoor drug sales—because of their public and disruptive nature—are highly susceptible to police tactics to reduce the supply and sales of drugs, such as sting and reverse sting campaigns. Furthermore, outdoor drug sales are highly disruptive to the social order of neighborhoods and are typically associated with other offenses, including, disorderly conduct, unlawful use of a weapon, and criminal trespass. Residents' calls to the police to report outdoor drug selling are highest in African American neighborhoods, where citizens clamor for the police to take action to combat street-level gang and drug activities. These activities are often inextricably linked in those communities and result in citizens clamoring of the police to combat gang- and drug sales-related crimes on their streets (Chicago Police Department, 2003).

The Chicago Police Department has ramped up its efforts to eradicate public drug sales as a key component of a larger initiative to lower the city's homicide rate. When the current Superintendent, Phil Cline, acceded to office, he proclaimed that "gangs, drugs, and guns" would be the focal point of his department's law enforcement practices (Cline, 2004). A centerpiece of this orientation involved the deployment of targeted response units that respond to citizens' calls for service and to gang intelligence regarding eruptions of violence on the street, especially in African American communities (Lemmer, 2005). The change in police deployment tactics appeared to be the driving force behind a 25 percent reduction in homicides from 2003 to 2004 (Donovan, 2005).

### **Sentencing Enhancements**

Persons who sell drugs in outdoor markets are not only more likely to be arrested but are also more likely to be charged with felony crimes and more likely to be admitted to prison for those crimes. As presented in Lurigio, Whitney, and Heaps (2003), ILCS 570/407 prescribes a number of sentencing enhancements that result in mandatory prison terms for any possession or delivery of any controlled substance within certain geographical boundaries of 1,000 feet. The statute also elevates to a felony offenses that would be misdemeanors absent the 1,000 foot or safe zone enhancements. The creation of safe zones was intended to deter persons from selling drugs in public places thereby avoiding the highly disruptive consequences that are attendant with public drug selling. The provisions affect drug sales within a 1,000-foot boundary of schools or school bus stops; public housing properties or property leased by public housing agencies, such as scattered-site public housing; hospitals; store-front churches and other places of worship; nursing homes and other facilities for the care of the elderly; and truck stops and rest

areas. These restrictions encompass virtually every residential area of Chicago and Cook County and are most common in poor, African American neighborhoods, which, per capita have more public housing units and store-front churches than any other communities in the city.

### **Racial Differences in Sentencing**

Olson (2001) explored the factors in Illinois that predict sentences to probation or prison. He employed a multivariate analysis that tested the independent effect of each variable on sentences to probation or prison for probationable crimes in three categories: violent, property, and drug. The independent variables included in the study were age, race, gender, educational level, instant offense, jurisdiction type, and history of imprisonment. Results showed that three factors predicted a sentence to prison for a drug-law violation, holding all other variables constant: type of instant offense (drug possession versus drug sales), history of imprisonment (prison record versus no prison record), and race (Whites versus persons of color).

Olson (2001) reported that persons convicted of drug sales and those with previous prison sentences were each six times more likely to be sentenced to prison for drug crimes, compared with persons who were convicted of drug possession and those without previous imprisonments. More germane to the current discussion, persons of color (mostly African Americans) were three times more likely to be sentenced to prison for any drug-law violation, compared with Whites. Therefore, it appears that race has an independent effect on prison sentences for drug-law violations. However, as Olson (2001) cautions, his study describes—but does not explain—the effects of race on prison sentences for drug offenses.

### **Analyses of Charges**

Loury (2003) examined the relationship between race and sentences for drug crimes in Cook County. His bivariate, descriptive analysis of 110,000 felony drug-only cases found that more than 50 percent of African Americans were charged with Class X, Class 1, and Class 2 felony crimes whereas Whites were charged with Class 3 and Class 4 felony crimes. Prison sentences are mandated for Class X felonies and more likely for Class 1 and Class 2 felonies, compared with Class 3 and Class 4 felonies. Similarly, Olson (2000) suggested that an examination of racial disparities in sentencing must consider differences in specific charges for drug crimes. Most charges for driving under the influence (DUI) offenses and violations of the Cannabis Control Act (CCA) are misdemeanors. As such, persons convicted of these crimes are ineligible for prison sentences in Illinois. The majority of Illinois residents convicted of DUI and CCA crimes are White. In contrast, the majority of Illinois residents convicted of CSA crimes are African American. Racial differences in charges lead to racial differences in eligibility for prison sentences, which lead to racial disparities in sentencing.

### **Perceptions of Sentencing Severity and Treatment**

Research has shown that when offenders are given a choice many opt for prison instead of probation because of the perception that the former is less onerous than the latter. For example, Petersilia (2002) reported that one-third of the offenders in a study of Oregon offenders preferred a prison sentence with few demands instead of a probation sentence with several demands, such as participation in treatment, urinalyses, and frequent visits with a probation officer (also see Petersilia and Deschenes, 1994). The preference for prison over probation might be explained by three reasons (Petersilia,

2002). First, the imprisonment of young men in poor African American communities is so common that it has become less stigmatizing and more normative. Second, prison sentences, especially for lower-level drug crimes, are relatively shorter and much less demanding than probation, especially intensive probation supervision sentences (Olson, 2003; Petersilia, 2002). Third, a sentence to prison within some groups, such as gang members and drug sellers, can afford former inmates with elevated status and respect in their neighborhoods (Petersilia, 2002).

In a study of Cook County Drug Court for probation violators charged with drug offenses, Olson (2001) reported that nearly half of the offenders (mostly African Americans) chose prison rather than probation with mandatory treatment, urinalysis, and other conditions of release. Olson (2001) also indicated that African American probationers were less likely than White probationers to be ordered to drug treatment.

The above findings have implications for racial disparities in sentencing for drug-law violations. Specifically, African American offenders' decisions to choose prison over probation could result in significantly more prison sentences for subsequent drug offenses. As Olson (2001) reported, offenders with previous prison sentences were significantly more likely to be sentenced to prison for instant drug crimes than those without previous prison sentences. In addition, access to treatment is critical to probation success and continued criminal activity. As numerous investigations have shown, addiction is a crime intensifier (Bruni, Jacob, & Robb, 2001; Lurigio, 2000). African American probationers' diminished access to treatment could make them more likely to commit crimes, exposing them to more arrests and convictions and increasing the

likelihood of a prison sentence because of the relationship between the length of criminal histories and sentences to prisons (Olson, 2003).

### **Summary and Conclusions**

The current study replicated the HRW results and found that disproportionality has been occurring for many years in Illinois. The study also reported that disparities in arrests and prison sentences are common across the state (i.e., in urban, suburban, and rural areas) and attributable mostly to violations of Illinois' CSA. Moreover, the research showed that disproportionality is driven largely by arrests and prison admissions from Chicago. Because of its limited funding and scope, however, the DMC study was unable to investigate in depth the causes and consequences of racial disparities in sentences for drug offenses. As most advocates have noted, lasting remedies for disproportionality are difficult to achieve without an exploration and eradication of its ultimate causes. Hence, future studies should continue to examine the effects of drug markets and arrests in African American communities as well as the relationship between race and types of charges and severity of sentences for drug offenses.



## References

Bruni, M, Jacob, B., & Robb, S. (2001). The effectiveness of substance abuse treatment in Illinois: Results of the statewide treatment outcomes project. Chicago, IL: Illinois Department of Human Services, Office of Alcoholism and Substance Abuse.

Butterfield, F. (2005, January 16). "Guns and jeers used y gangs to buy silence." New York Times.

Chandler, S. (2004, June 13). "Gangs built on corporate mentality." Chicago Tribune.

Chicago Police Department. (2003, November 18). Chicago police to target open-air drug markets. Press Release. Chicago, IL: Author.

Donovan, L. (2005, February 25). "January's homicide toll is lowest for month since '64." Chicago Sun-Times.

Huppke, R. W. (2004, April, 18). "On streets, drug trade the only game in town." Chicago Tribune.

Human Rights Watch. (2000). Punishment and prejudice: Racial disparities in the war on drugs. New York: Author.

Loury, A.K. (2003). Black offenders face stiffest drug sentences. Chicago Reporter, 31, 3-5, 10-11.

Lurigio, A. J. (2004). Disproportionate incarceration of African Americans for drug offenses in the U.S. Research Bulletin 2, 1-8.

Lurigio, A.J. (2000). Drug treatment availability and effectiveness: Studies of the general and criminal justice populations. Criminal Justice and Behavior, 27, 495-528.

Lurigio, A. J., Heaps, M.M., & Whitney, T. (2002, September). Disproportionate confinement of minority drug offenders in Illinois: Policy issues, legislation, and the national scene. Testimony presented to the Illinois Criminal Justice Information Authority.

Olson, D. E. (2000). Prison sentences for drug offenses. Trends and Issues Update 1, 1-4.

Olson, D.E. (2001). Racial disparities in drug sentencing. Testimony presented to the Illinois House Judiciary: Criminal Justice Committee. Chicago, IL: Olive-Harvey College.

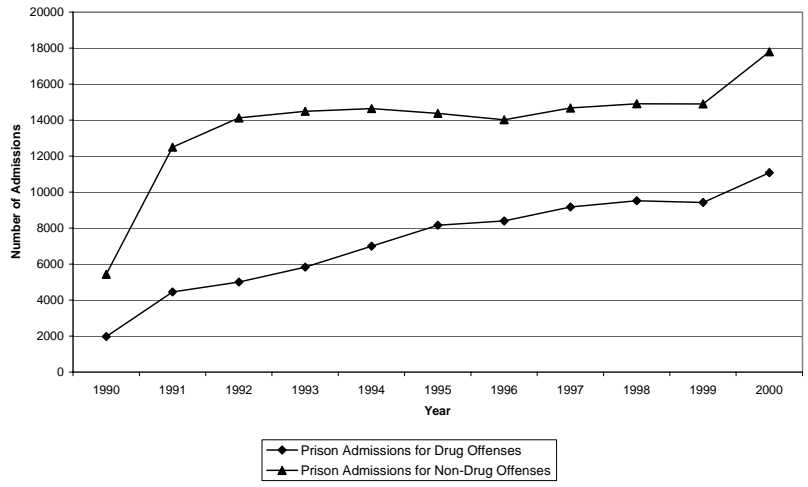
Olson, D.E. (2003). The justice system's response to drug offenders and substance abuse. Research Bulletin, 2, 1-8.

Petersilia, J. (2002). Reforming probation and parole in the 21<sup>st</sup> Century. Lanham, MD: American Correctional Association.

Petersilia, J. & Deschenes, E. P. (1994). Perceptions of punishment: Inmates and staff rank the severity of prison versus intermediate punishments The Prison Journal, 74, 306-328.

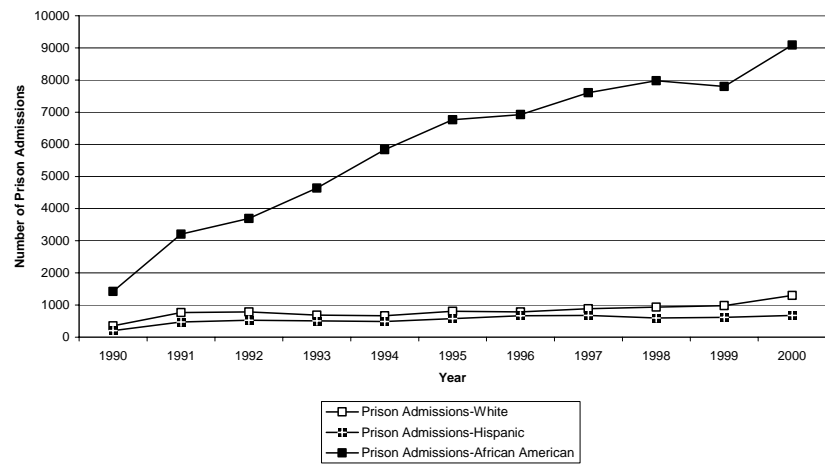
Prison Admissions: Drug vs Non-Drug Offenses

Chart 1



Prison Admissions for Drug Offenses by Race

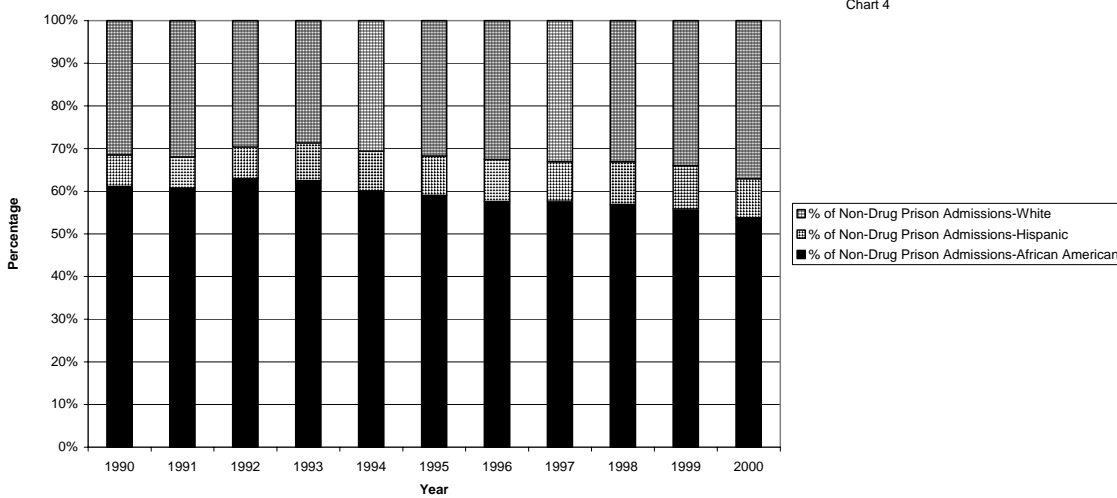
Chart 2



Prison Admissions for Drug Offenses by Race



Non-Drug Prison Admissions by Race



CSA Arrests vs Prison Admissions as a Proportion of all Drug

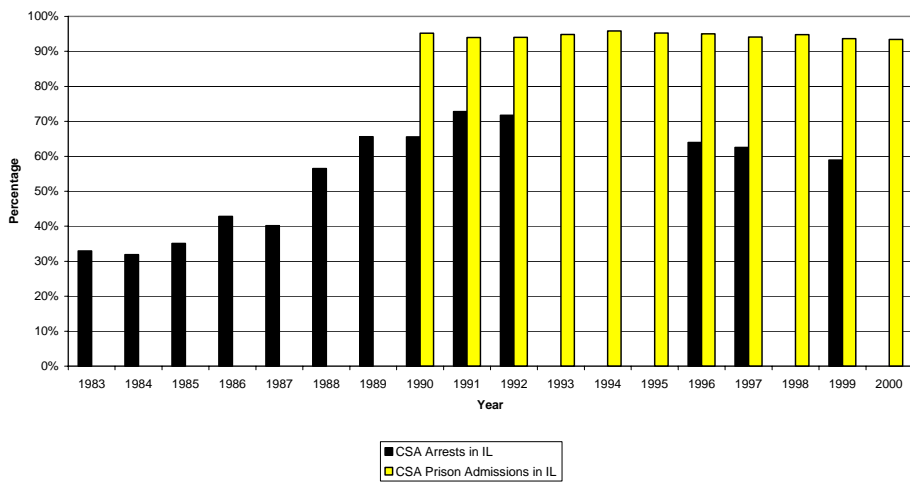


Chart 5

CSA Arrests by Race

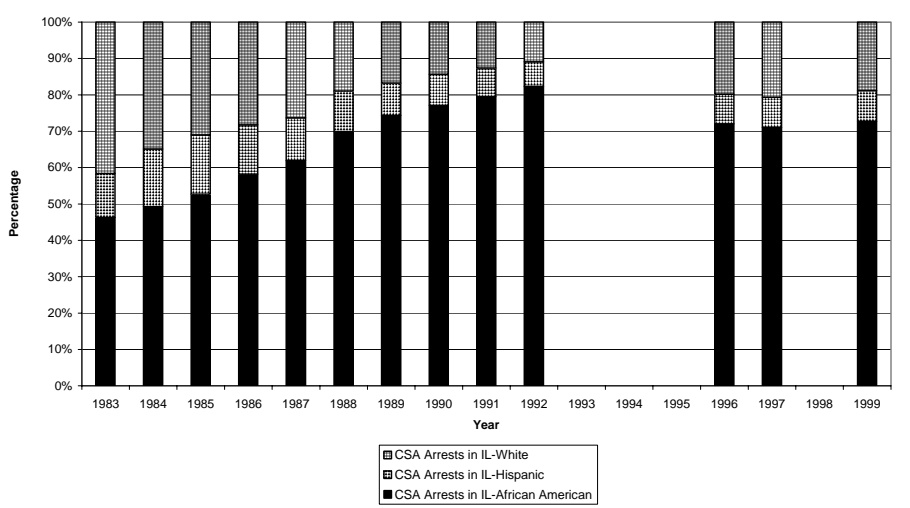
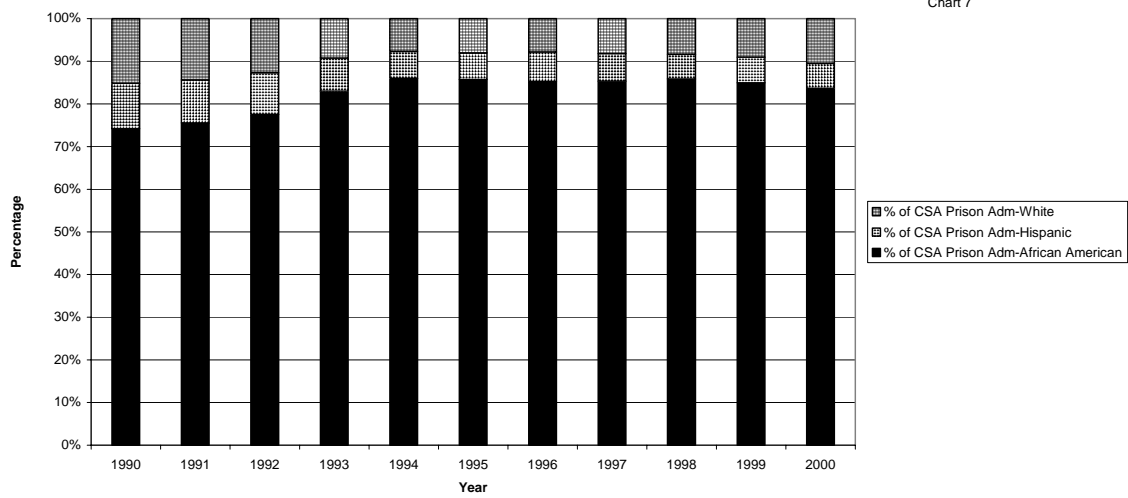


Chart 6

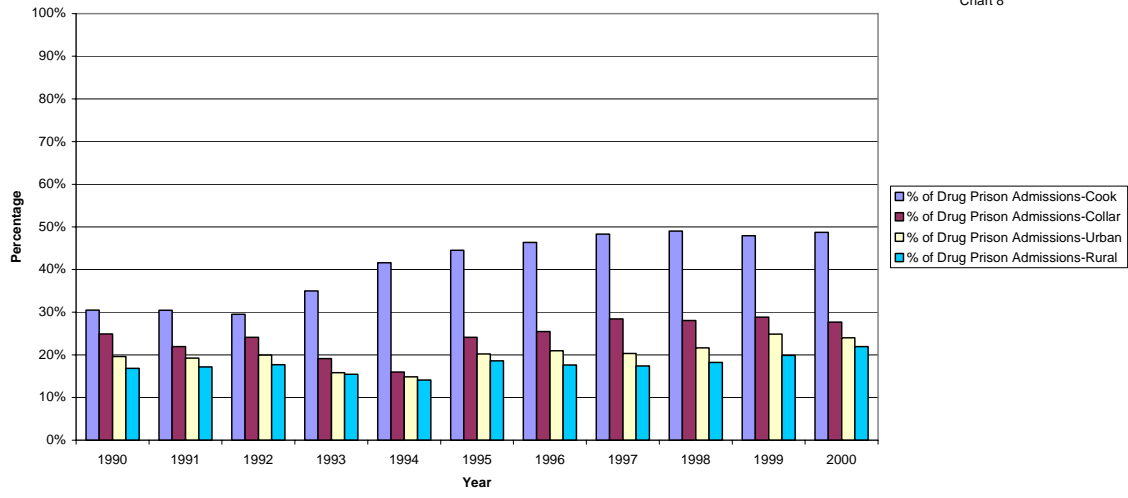
CSA Prison Admissions by Race

Chart 7



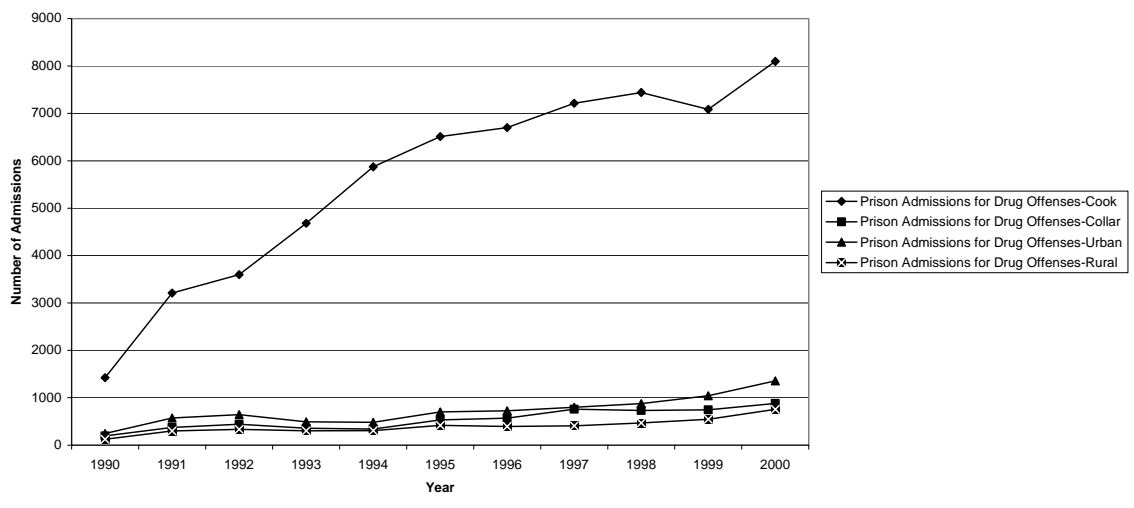
Drug Prison Admissions as a Proportion of all Prison Admissions by County Type

Chart 8



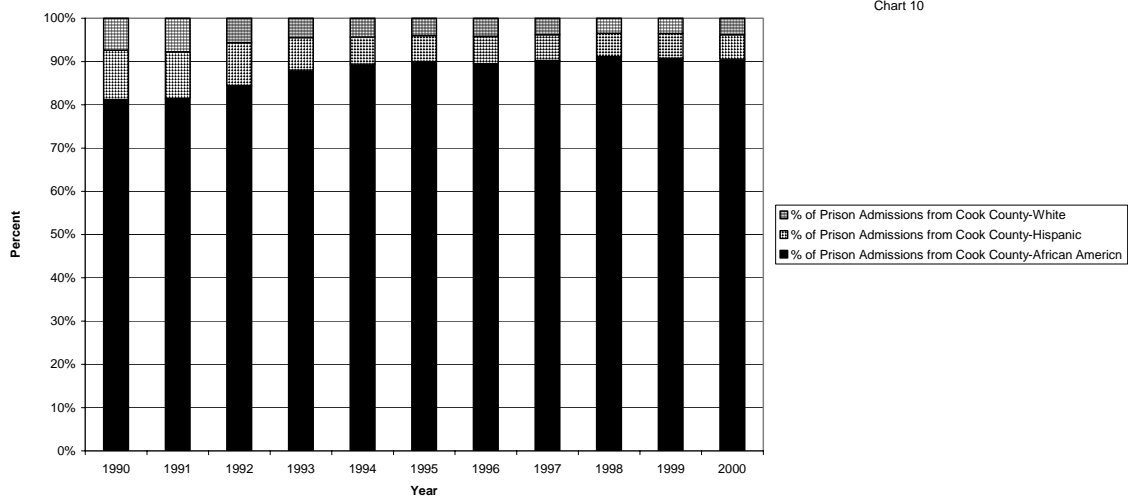
Drug Prison Admissions by County Type

Chart 9



CSA Prison Admissions from Cook County

Chart 10



CSA Prison Admissions from Rural Counties by Race

