

Sentencing felony offenders in Illinois

By David Olson, Ph.D.

An offender's criminal history, the crime for which he has been convicted, and the circumstances surrounding his offense are taken into account in Illinois courts during sentencing.

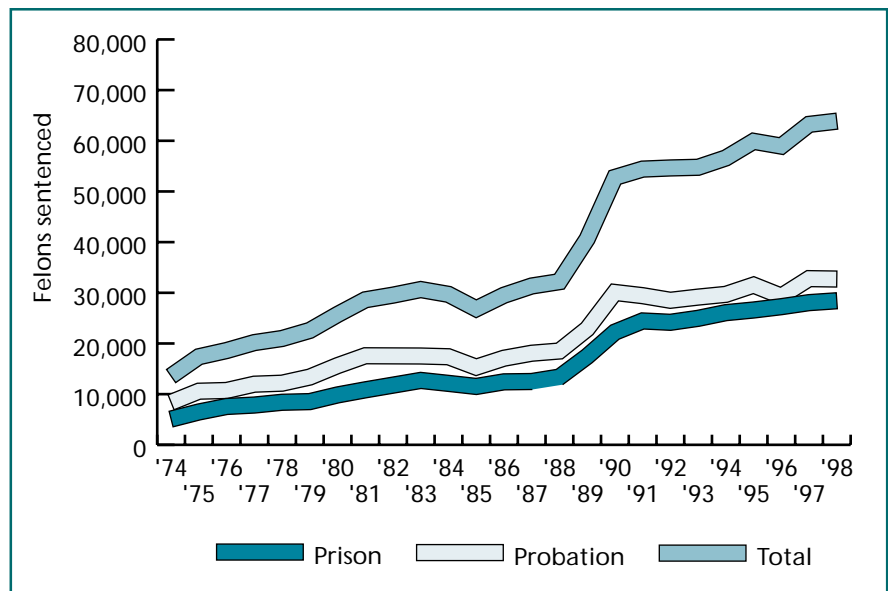
Sentencing options include the death penalty, incarceration in a state prison or county jail, community-based sanctions — such as probation, electronic monitoring, and home confinement — paying restitution to victims, performing community service, participating in substance abuse or other treatment, submitting to drug testing, and paying fines and supervision costs. The range of options reflect the multiple purposes of sentencing, including deterrence, incapacitation, rehabilitation, punishment, and restoring the balance between victims and offenders.

This *Trends and Issues Update* examines current and long-term trends in the characteristics and nature of sentences imposed on convicted felons in Illinois.

Trends in felony sentencing

In 1998, more than 63,800 convicted felons were sentenced in Illinois, which is twice the number sentenced in 1988 and more than four times the number sentenced in 1974 (Figure 1). Near-record numbers of convicted felons were sentenced to both probation and prison during 1998, with the number of probation sentences (32,716) outnumbering prison sentences (28,429) statewide. Between the mid-1980s and 1998 a

Figure 1
Felony sentences in Illinois
1974 - 1998



dramatic increase was seen in the number of felony prosecutions, convictions, and prison and probation sentences in Illinois. Between 1988 and 1998, the number of felons sentenced to probation increased 76 percent, from 18,514

to 32,716. During that same period, the number of felons sentenced to prison increased 112 percent, from 13,371 to 28,429.

The increase in the number of defendants processed through felony courtrooms and sentenced to

About the data

- Annual aggregate data on sentences imposed on convicted felons was taken from the Administrative Office of the Illinois Courts (AOIC) *Annual Report to the Supreme Court of Illinois*;
- Data on prison sentence lengths was collected from the Illinois

Department of Corrections' *Statistical Presentation*; and

- Probationer-level data, including the characteristics of probation sentences imposed in Illinois, was collected from a study by the AOIC's Probation Division.

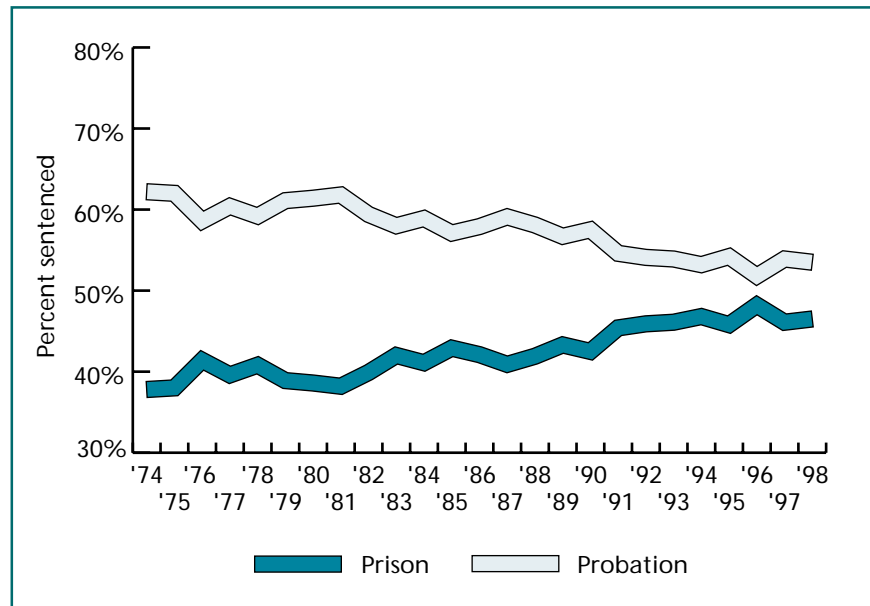
probation or prison can be partly attributed to the increase in arrests for violations of Illinois' Controlled Substances Act during that time period. Between 1987 and 1998, statewide arrests for violations of the Controlled Substances Act increased 200 percent, from 14,330 to 43,465. The Controlled Substances Act prohibits the manufacture, delivery, sale, and possession of cocaine, heroin, and other drugs, except cannabis. Nearly every offense defined by the Illinois Controlled Substances Act is a felony (most cannabis offenses are misdemeanors).

The proportion of felons sentenced to prison increased over the past three decades, while the proportion of felons sentenced to probation decreased (Figure 2). The proportion of convicted felons sentenced to prison between 1974 and 1979 averaged 38 percent, and increased to an average of 40 percent in the 1980s, and 45 percent during the 1990s.

The increase in prison sentences could be attributed to the Illinois legislature ruling more offenses non-probationable, such as Class X felonies; harsher sentencing practices by the courts; an increase in the seriousness of the offenses; more serious criminal histories of the offenders; or a combination of the four. Unfortunately, due to data limitations, the factors contributing to this change cannot be determined.

Considerable differences exist in sentencing practices across the state. For example, in each of Illinois' 102 counties, the proportion of convicted felons sentenced to prison ranged from less than 30 percent in 29 counties to more than 60 percent in six counties. Similarly, dramatic differences were seen in the percentages of convicted felons given prison sentences across the 22 judicial circuits of Illinois (30 to 63 percent).

Figure 2
Percent of convicted felons sentenced to prison, probation in Illinois



Characteristics of state felony probation sentences

Despite increases in prison sentences, probation is still the most frequently imposed sanction for felony offenders statewide. Individuals sentenced to probation are supervised in the community under court-ordered conditions by probation officers. In addition to varying periods of supervision, many convicted felons sentenced to probation also are required by the court to undergo treatment for substance abuse, sexual deviance, or other mental health problems. In addition, many are required to pay fines and supervision fees, make restitution to victims, or perform community service.

The length of a probation sentence varies depending on the severity of the offense, but must fall within a statutorily defined range. For offenders convicted of a Class 1 or Class 2 felony and placed on probation, the initial period of probation cannot exceed 48 months, while those convicted of a Class 3 or Class 4 felony can be sentenced to probation for up to 30 months. Based on data available for one

group of Illinois probationers, the average sentence length imposed on Class 1 and Class 2 felons was between 52 and 60 percent of the statutory maximum of 48 months (Table 1). Class 3 and Class 4 felons placed on probation received an average sentence that was between 77 and 82 percent of the statutory maximum of 30 months. About 12 percent of those placed on probation for a Class 1 or Class 2 felony received the maximum sentence length of 48 months, while 31 percent of Class 3 and Class 4 felony probationers received the maximum 30-month sentence.

Statewide, 34 percent of convicted felons on probation were required to participate in some form of treatment. By the time they were discharged from their probation sentence, almost 75 percent of those ordered had completed their treatment or were still enrolled. The remaining quarter did not complete treatment.

In addition to treatment, 43 percent of convicted felons on probation were ordered to pay supervision fees, which are used to offset the costs of probation. One

half were ordered to pay court costs, and 37 percent were ordered to pay fines, which are distributed to various funds and governmental agencies. Among felony probationers ordered to pay supervision fees, the average judgment was for \$370. The average court cost ordered per probationer also was \$370, and the average fine imposed on felony probationers was about \$690. Nearly 30 percent of convicted felons placed on probation were ordered to perform community service. Individual felony probationers were sentenced to an average of 120 hours of community service. Finally, the average amount of restitution felony probationers were ordered to pay was \$1,694. More than 90 percent of offenders who completed their probation sentences complied with court orders to pay fees, fines, and restitution.

Characteristics of Illinois prison sentences

Probation is a sentencing option for offenders convicted of Class 1, 2, 3, and 4 felonies. Most convicted felons who were not sentenced to probation received a sentence to state prison. Offenders convicted of first degree murder or a Class X felony are required by state statute to serve a prison term. As with probation sentences, the statutorily defined length of a prison sentence varies by offense class, the presence of aggravating circumstances, and the criminal history of the offender (Table 1). For example, defendants convicted of a Class X felony that was without additional aggravating circumstances must be sentenced to between six and 30 years of incarceration. Offenders convicted of a Class 4 felony that was without aggravating circumstances can receive probation, or a one- to three-year prison sentence.

The presence of aggravating circumstances, such as an extensive criminal history, the brutality of the crime, or the victim's vulnerability at

Table 1
Average sentence length imposed on adult felons in Illinois

	Average prison sentences (in months)		Statutory range (in months)*	Average probation sentence (in months)	Statutory range (in months)
	1990	1997		1997**	
First degree murder	354	433.2	240 to 720***	Statutorily not eligible for probation	
Class X felony	129.6	142.8	72 to 360		
Class 1 felony	72	72	48 to 180	25	Up to 48
Class 2 felony	48	50.4	36 to 84	28.8	Up to 48
Class 3 felony	36	36	24 to 60	24.5	Up to 30
Class 4 felony	21	20.4	12 to 36	23.1	Up to 30
Total	62.3	60		20.2	

*Sentence lengths are for offenses that did not include additional aggravating circumstances.

**Probation sentence lengths by offense class were collected from the 1997 Illinois Probation Outcome Study. See *Results of the 1997 Illinois Probation Outcome Study*, published by the Authority in December 1998, for more information.

***Defendants sentenced to life in prison or death were not included in the analyses.

the time of the offense, allow the judge to exceed maximum sentence limits, but only up to statutorily defined lengths. In most instances, the presence of aggravating circumstances allows a judge to sentence someone to up to twice the statutory maximum. Someone convicted of a Class 1 felony with aggravating circumstances can be sentenced to up to 30 years in prison — 15 years if no aggravating circumstances were present. In first degree murder cases, the presence of aggravating circumstances allows for the imposition of the death penalty or a prison sentence of natural life or up to 100 years.

Since 1990, the average length of prison sentences imposed has increased for first degree murder, Class X, and Class 2 offenses; remained the same for Class 1 and Class 3 offenses; and decreased for Class 4 felonies. The average sentence length imposed on Class X felony offenders in 1997 was about 143 months, or nearly 40 percent of the statutory maximum of 360 months. The average prison

sentence length for those convicted of a Class 4 felony in 1997 (20.4 months) represented an average of 56 percent of the statutory maximum (46 months).

Most felons sentenced to prison in Illinois receive credits toward their sentence for good behavior and participation in specific rehabilitative programs. For some felons sentenced to prison, the amount of time credits they can receive are limited. Under Illinois' truth-in-sentencing law, certain serious offenders must serve between 85 and 100 percent of their court-imposed sentence. Specifically, anyone convicted of first-degree murder for a crime committed after June 19, 1998, must serve 100 percent of their court sentence, while those convicted of other specific violent crimes must serve at least 85 percent of their court-imposed sentence. Through June 30, 1999, 184 felons were sentenced to prison under truth-in-sentencing legislation.

Other than the period of incarceration, most convicted felons

sentenced to prison have few other court-imposed conditions. For example, during 1992 in Illinois outside of Cook County (the last year these data were available through AOIC), less than 15 percent of felons sentenced to prison also were fined by the court. However, when offenders are released from prison in Illinois, the Prisoner Review Board can impose requirements for the mandatory supervised release period, such as participation in treatment.

Death sentences

The death penalty has been a sentencing option under strictly defined circumstances since June 1977. A death sentence may be imposed if an offender is convicted of first degree murder, was at least 18 years of age at the time of the crime, and one or more aggravating conditions existed. Between 1977 and 1998, there were 293 death sentences imposed in Illinois. Although the number of death sentences imposed each year varies

somewhat, a slight downward trend was seen in the use of this sentencing option. For example, in the 1980s, the average number of death sentences imposed per year was 17.5, while an annual average of 11.3 death sentences were imposed between 1990 and 1998. Between 1977 and 1998, 11 death sentences were carried out in Illinois. By comparison, the number of offenders convicted of murder and sentenced to life in prison increased from an average of 50 per year during the 1980s to more than 66 per year during the 1990s. Similarly, the number of convicted murderers sentenced to less than life in prison increased from an average of 290 per year during the 1980s to more than 480 per year during the 1990s.

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