

Illinois Sentencing Policy Advisory Council
Regular Meeting Minutes
September 16th, 2016 10:00AM – 1:30PM

Location: Treatment Alternatives to Safe Communities (TASC)
700 South Clinton Street
Chicago, IL

Members Present – Rich Adkins (for Michael Tardy), Stephen Baker, Kathryn Bocanegra, Jim Chadd (for Michael Pelletier), Gino DiVito (Chairperson), Marcus Evans, Craig Findley, Annie Fitzgerald, Michael Glick, John Maki, Margo McDermond, Stuart Palmer, Kwame Raoul (Vice Chair), Alan Spellberg, Don Stemen, Gladyse Taylor, Warren Wolfson (Vice Chair), and Kristen Ziman.

Members Present by Phone – Jason Barickman, Nicholas Kondelis, and Stewart Umholtz.

Members Absent – Julian Thompson.

Non-Members Present – Sherie Arriazola, Laura Brookes, Peter Coolson, Mary Ann Dyar, Sav Felix, Yasmine El-Gohary, Michael Elliott, Roger Franklin, Candice Jones, Brian Kenner, Stephanie Kollmann, Era Lauder milk, Korynna Lopez, Janelle Prueter, Sara Orlan, Cesar Orozco, Ben Ruddell, Michael Toomin, Kathy Saltmarsh, Nate Inglis Steinfeld, Paula Wolff, and Ashley Wright.

Non-Members Present by Phone – None.

Welcome and Introductions

Chairperson DiVito called the twenty-fourth regular meeting of the Illinois Sentencing Policy Advisory Council to order at 10:00 a.m. Chairperson DiVito gave the opening remarks, including:

- Introduced Rep. Margo McDermed who is replacing Rep. John Anthony. Rep. McDermed was elected to her seat for a full term in November, 2014. She is a graduate of DePaul University College of Law, and has a varied career including practicing corporate law for 30 years, serving as the Frankfort Township Trustee and Clerk, and as Will County Board Member. We look forward to benefitting from her county government perspective on the administration of criminal justice.
- Provided an overview of the agenda and purpose of the meeting, focusing on three major topics that were generated by the work SPAC did during this past legislative session on several sentencing proposals, as well as the research work it has provided to the Governor's Commission on Criminal Justice and Sentencing Reform. First, TASC will describe a potentially transformative policy change, the State's application for an 1115 waiver for Medicaid. Second, the SPAC research team is working on an update of the general overview of trends in felony sentencing that was first written by Dr. Dave Olson in 2011. Our newest staff member, Yasmine El-Gohary, has been doing the analysis from that report and will present on the more recent data. Third, Nate & Kathy will walk us through their recent analysis of Illinois Three Strikes laws and how repeat gun offenses are sentenced. This research was sparked by a few pieces of legislation filed this year.

Vote: Approval of the meeting minutes from the June 17, 2016 SPAC meeting

Stephen Baker, moved to approve the minutes, seconded by John Maki. The minutes from the June 17, 2016 SPAC meeting were approved by unanimous voice vote.

Illinois' 1115 Medicaid Waiver Proposal Update

Sherie Arriazola, TASC Administrator, Medicaid Policy and Program Development, provided the Council with an update on the State's Behavioral Health Transformation, which includes the filing of the 1115 Waiver Application. A draft of the State's application was released for public comment on August 26, 2016 and later updated on September 2, 2016. The waiver was provided to all Council members. If the waiver is approved, the federal government will waive certain Medicaid requirements to allow for various innovations to occur in Illinois' Medicaid program. Illinois' application focuses specifically on behavioral health, and includes provisions focusing on transitioning individuals from correctional care to community based care upon release from Cook County Jail or the Illinois Department of Corrections (IDOC). This includes the funding of services rendered prior to release, such as assessments, treatment planning, and linkage services, as well as medication-assisted treatment at select facilities. Further, the State is proposing to expand the number of substance use and mental health services available under Medicaid to include substance use case management, screening, brief intervention, and referral to treatment (SBIRT), recovery coaches, clinically managed detox, methadone, and most notably an exception to the IMD exclusion (an Institutions for Mental Diseases (IMD) limit on use of Medicaid financing for residential treatment facilities with more than 16 beds) for both substance use and mental health residential facilities for a period of up to 30 days.

SPAC Trends Analysis Update and Discussion

Yasmine El-Gohary, SPAC Research Analyst, began her presentation by reminding the Council that back in 2011 and 2012, SPAC published two summary reports on key trends in Illinois' felony sentencing. By looking retrospectively, the reports identified some of the forces driving the dramatic increases in probation and prison populations as crime rates decreased in the State. The forces behind the dramatic increases in probation and prison populations are complex and involve multiple levels of government and components of the justice system. SPAC reported, "Changes in correctional populations are driven by changes in the legal classification of crimes and the sentences available for those crimes, crime patterns and arrest practices of the police, prosecutorial charging and plea decisions, judicial sentencing decisions, and correctional supervision and release practices." Either individually or in combination, in Illinois over the past two decades these forces have led to significant increases in probation and prison sentences, and thus correctional populations, requiring substantial expenditures of public funds.

The Crime Reduction Act of 2009 required the use of risk and needs assessment in IDOC and created Adult Redeploy Illinois, a performance-incentive funding program that incentivizes local jurisdictions to divert people from prison. Both statutes focused on the importance of implementing evidence-based practices to produce better outcomes. The question is, have we made progress? If progress has not been made, what must we do to achieve the new goals of safely reducing the prison population by 25% and sustaining that reduction over time?

This briefing returns to the original retrospective and provides an updated review of the sentenced populations and the forces that influence them. In addition to updating past work with more recent data, a summary of the financial trends in the criminal justice system and a baseline population projection of what the population is likely to be if reforms that directly address the drivers of the sentenced population are not enacted are included. These additions demonstrate that current policies and practices, which are shaped by historical practices, have

important implications for improving public safety and for how we budget and plan financially to produce better outcomes in Illinois.

Updates from SPAC Partners

Illinois Criminal Justice Information Authority (ICJIA): Director John Maki reminded everyone that ICJIA is always engaged in supporting ARI, SPAC, and the Illinois State Commission on Criminal Justice and Sentencing Reform. ICJIA has been heavily involved in providing research assistance to aid in the Governor’s Commission’s work, but in addition to the agency’s normal duties, it also will be staffing two newly created task forces: the Law Enforcement Information Task Force (*P.A. 99-0874*) and the Sex Offenses and Sex Offender Registration Task Force (*P.A. 99-0873*).

Director Maki went on to say that ICJIA is now the State’s lead agency in the President’s Data-Driven Justice Initiative. In order to break the vicious cycle of incarceration, the current Administration has launched the Data-Driven Justice Initiative with a bipartisan coalition of city, county, and state governments who have committed to using data-driven strategies to divert low-level offenders with mental illness out of the criminal justice system and to change approaches to pre-trial incarceration so that low risk offenders no longer stay in jail simply because they cannot afford a bond. These innovative strategies, which have measurably reduced jail populations in several communities, help stabilize individuals and families, better serve our communities, and, often save money in the process. Director Mary Ann Dyar of ARI is currently working on putting together a conference ICJIA will be hosting in December. The hope is to listen and learn from local and state officials, private sector companies, nonprofits, and community organizations about the new, specific, and measurable steps that they are ready to take to further the development of a smarter, more data-driven criminal justice system.

Adult Redeploy Illinois (ARI): ARI Program Director Mary Ann Dyar provided an update of funding, site statistics, and current site issues. As of the last SPAC meeting, ARI was struggling to survive during the state budget impasse. The good news is that ARI was one of a few programs included in the stopgap budget passed on June 30th, and that from two sources the appropriation is sufficient to cover all sites’ SFY16 expenses and SFY17 grant awards for continuing sites. In other words, ARI is fiscally stable through June 30, 2017. However, ARI did not emerge from the impasse unscathed. Three of ARI’s 21 sites (Kane, Kankakee, and McLean) were lost, and several other sites suffered severe cutbacks that will take months from which to recover. Some sites have permanently scaled back their programs. As a result, enrollments last quarter were down 52% from the average of prior quarters. Over the next several months, ARI will be helping with ramp-up efforts, and offering a planning grant opportunity to continue bringing new sites on-board. ARI is continuing to collect information from its sites about the impact of the impasse and what it needs to restore its programs. Additionally, ARI is conducting “exit interviews” with the three sites that have elected not to continue, to find out why they left, what are lasting impacts from ARI investments and what it might take to bring them back into the ARI network.

Several sites noted that multi-year grants are needed, and expressed support for expanding eligibility to all probationable offenses subject to the screening and assessment processes at the local sites rather than limiting participation to non-violent offenders. This eligibility expansion proposal SPAC raised has received support in principle from our Oversight Board. In pursuit of one of our strategic plan goals—“ARI will support community-led justice efforts consistent with ARI principles”—staff is assisting with the implementation of the Governor’s Commission recommendation for criminal justice coordinating councils statewide, as well as assisting with the Graduated-Reentry Initiative, community justice pre-investment/reinvestment strategies, data-

driven justice projects focused on “super-utilizers,” and the development of a toolkit for community involvement in adult diversion programs featuring case studies from ARI sites.

Last month, ARI staff presented at the American Probation and Parole Association (APPA) national training institute in Cleveland about how an ARI-type program could be replicated in other jurisdictions. Our greatest lesson learned is the importance of our relationship-oriented approach, which sustained us through the budget impasse.

Risk Assets Needs Assessment (RANA): IDOC Assistant Director Gladyse Taylor began with an update on the implementation status of Offender 360 and the Risk and Needs Assessment (RANA) tool. The first part of the Offender 360 process began this past December when IDOC launched Offender 360. To do this task, IDOC converted its 40 year old mainframe to a state-of-the-art cloud-based solution for offender management. Offender 360 will allow IDOC to both receive information from committing counties and other sources, which will better inform the intake and classification processes. This new tool in turn will also help with determining what treatment and programming are best for the offender and will also allow IDOC to send this information back to the counties to which offenders are released from an IDOC facility. In conjunction with Offender 360 implementation, there are three pilot programs in operation to help IDOC and Illinois counties reduce the \$50 million in annual intake costs and streamline the sharing of offender information so there is no duplicative work performed. The pilot programs will also look at the link between jails and health care management services in those counties, with a goal of performing evaluations on the local level and not wait until the intake process with IDOC. The pilot projects are funded through a federal grant from the U.S. Department of Justice. Winnebago County’s pilot program is nearing completion, Cook County’s pilot program is just underway with the hope of completion by June of next year, and the third pilot will be up and running in Lake County beginning early next year. The intention is to utilize the money saved from this process to improve IDOC’s current and potential programming options.

RANA is well underway, and the federal funding that came through allowed IDOC to keep the implementation moving forward. Assistant Director Taylor hopes to have the first group of state-funded social workers on staff by November 1, and it is their plan to bring on additional staff every 90 days until the staffing goal is realized. IDOC is now training staff statewide on core correctional practices, which will help to change the culture at IDOC from essentially punitive, to a balance of both treatment and security. Lastly, Assistant directory Taylor relayed that electronic scoring for all offenders has been targeted for April 1, 2017.

SPAC Overview of Illinois’ Habitual Offender Laws and Discussion

Nate Inglis Steinfeld, SPAC Research Director, provided the Council with an overview of Illinois’ habitual offender laws. Steinfeld determined that many states have some form of “three strikes” laws that increase incarceration terms for offenders with at least two prior convictions. These laws, sometimes called habitual criminal or recidivism laws, are intended to increase public safety by incapacitating for longer periods those convicted of numerous offenses over time. Illinois approaches habitual offender laws through both an offense, Armed Habitual Criminal, 720 ILCS 5/24-1.7, and through the Habitual Criminal sentence enhancement, 730 ILCS 5/5-4.5-95. Both laws allow for more punitive sentences after three or more convictions. As we have seen with our statutory definitions of violent crime, there is some overlap in terms. And, within those terms, the people who are eligible for these enhancements may be sentenced under one or the other, but our knowledge of how the overlap actually works is limited.

This year, SPAC undertook an analysis of Illinois' three strikes laws. It began as an analysis Senate Bill 3292, which, among other reforms, offered new limitations for the use of the habitual criminal sentencing provision. Although SPAC was unable to complete the bill's fiscal impact analysis due to data limitations, SPAC continued the analysis for purposes of developing a Research Report on this topic. The primary goal is to describe this current sentencing structure and how it is used in Illinois. Because of data limitations, SPAC estimates which individuals may have been eligible for the Illinois version of the three strikes laws based on Illinois criminal history. The report then describes the offense and criminal history characteristics, sentences, and overlap between these laws. The armed habitual criminal offense is technically unrelated to the habitual criminal sentencing provisions. Despite similar names, the armed habitual criminal is an offense for which individuals may be arrested, charged, and convicted. The armed habitual criminal statute has similarities with the habitual criminal sentence, but neither law specifically references the other.

The SPAC research team will continue working on this report, which will be distributed to SPAC members and posted on our website upon completion.

New Business

Chairperson DiVito reminded members that the next regular SPAC meeting will take place on Friday, November 18.

Adjournment

Gladys Taylor, moved to adjourn the twenty-fourth regular meeting of the Sentencing Policy Advisory Council, seconded by Kwame Raoul. The twenty-fourth regular meeting of the Sentencing Policy Advisory Council was adjourned at 1:34 p.m. by unanimous voice vote.