



ILLINOIS SENTENCING POLICY ADVISORY COUNCIL

2011 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 maintained its bi-monthly meeting schedule and held five meetings in 2011.
- **Staffing** - SPAC added Senior Policy Advisor Samantha Gaddy in July.
- **Research** - The Retrospective Analysis of trends in crime and sentencing was updated with 2010 and 2011 data. Work began on the analysis of what drives the Sentenced Population.
- **Fiscal Impact Analysis** - SPAC adopted the cost calculator of the Washington Institute of Public Policy Cost-Benefit Analysis model for its fiscal impact statement. Data collection for the model is underway and technical assistance is being provided by the Results First Project of the Pew Center on the States.

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. That process led to the conclusion that, although many agencies collected statistics and data about sentencing in Illinois, no agency compiled sentencing data specifically to perform comprehensive analysis for reporting to policy makers. 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 community organizers. The directors of the Illinois State Police, Department of Corrections, Prisoner Review Board, and Criminal Justice Information Authority 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 the Illinois Criminal Justice Information Authority's website at the SPAC link:

<http://www.ICJIA.state.il.us/public/index.cfm?metasection=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 to be mindful of and aim 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

Kathy Saltmarsh is the Executive Director of SPAC. Samantha Gaddy joined the SPAC staff on July 1, 2011. She has a bachelor's degree in criminal justice and a master's in legal studies. Samantha was previously with the Legislative Affairs Bureau of the Illinois Attorney General's office. SPAC is currently funded through the Department of Corrections budget and also receives technical assistance, grant funding, and administrative support from the Illinois Criminal Justice Information Authority (ICJIA) and the Illinois Department of Corrections (DOC).

Research

Pursuant to the short term work plan drafted by the SPAC strategic planning committee, Dr. Dave Olson and Dr. Don Stemen of Loyola University of Chicago completed a retrospective analysis of trends in crime and sentencing.

The analysis found that, despite dramatic reductions in reported crime in Illinois from the early 1990s through 2008, correctional populations in Illinois—including probationers, prison inmates and those on mandatory supervised release from prison—continued to grow, as a result of:

- Dramatic increases in the number of arrests for felony-level drug-law violations
- Dramatic increases in the number of felony cases filed, in which defendants were convicted and sentenced
- A slow, but steady increase in the proportion of convicted felons sentenced to prison
- An increasing number of crimes that were misdemeanors and are now felony-level offenses
- An increasing number of crimes that carry mandatory prison sentences
- Longer lengths of stay in prison due to truth in sentencing
- High rates of recidivism

Legislative action that most frequently impacts the sentenced population does one of the following:

- Makes ineligible for probation an offense that was previously probationable
- Moves a crime up the offense level ladder, particularly through reclassifying of misdemeanors as felonies
- Limits the authority of DOC to manage its population

The analysis was presented to members of SPAC, and to legislators and advocates at a legislative briefing. Dr. Olson subsequently updated the analysis with 2010 and 2011 data, and that update will be added to the analysis for a second printing.

The report is available on the SPAC link of the ICJIA website:

<http://www.ICJIA.state.il.us/public/index.cfm?metasection=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 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.

The recommendation to adopt the model in this limited fashion was based on its history in the state of Washington and implementation in additional states. The model was developed in the mid 1990s to analyze juvenile justice programs. It has been repeatedly tested and refined since that time. The Washington legislature currently uses the cost-benefit analysis done by WSIPP to set funding priorities in the areas of juvenile and adult justice, child welfare, education, and public health. Though SPAC is not using the model for full blown cost-benefit analysis, its statistical assumptions and formulas have been well tested and are sound for SPAC's purposes.

The WSIPP model must be populated 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. Data on how offenders move through the system, and how many times they do so, is also incorporated for 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.

This model can be modified to fit Illinois-specific needs. As data collection improves, new questions will arise. The model can be modified to address new questions, refine

the fiscal impact analysis as new data becomes available, and eventually, perform full cost-benefit analysis if needed.

The software and technical assistance in implementing the model is provided at no cost through the Pew Center on the States Results First Project. Pew staff members have travelled to Illinois on several occasions to render technical assistance and to give presentations on the model to SPAC and executive agency staff. This assistance is critical to assuring that Illinois' specific needs and issues are addressed.

Analysis of the Drivers of the Sentenced Population

Illinois 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. Evidence-based decision making is critical to meeting these challenges successfully, and it must be supported by 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.

On July 23, 2011 Senate President John Cullerton requested that SPAC complete an analysis of the sentenced population. In response, a three part research plan has been designed by Drs. Olson and Stemen. The analysis will focus on mandatory supervised release (MSR) violators who are returned to DOC, probation sentences and outcomes, and length of stay in a corrections facility.

As each phase of the research is completed, a briefing paper will be issued. The goal is to facilitate implementation of effective and cost efficient methods to properly address the fiscal and social consequences of sentencing.

Collaborative Partnerships

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

SPAC is also 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 is currently awarding funds to local units of government to develop alternatives to incarceration that utilize evidence-based practices. SPAC will collect data from the Adult Redeploy program on an ongoing basis to support the fiscal impact statements and population projections that

SPAC is mandated to perform. The Request for Proposal (RFP) for the risk assessment tool RANA is required to choose has been posted. Implementation of the tool will provide additional data on offender characteristics and risk factors that will be helpful in evaluating how programs and services affect recidivism.

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. The Pew Charitable Trust, which funds Vera, is engaged in Illinois through Vera staff. 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, Rep. Karen Yarbrough and Toni Irving, Deputy Chief of Staff for the Governor, attended the National Association of Sentencing Commissions' annual conference with Kathy Saltmarsh. The conference provided an opportunity to attend substantive workshops on fiscal impact analysis, setting priorities for entities such as SPAC, and policy developments on the federal level, including a new law that allows sentencing commissions to access FBI data. The expenses for attending this conference were paid by the Pew Public Safety Performance Project of the Pew Center on the States.

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 the short-term work plan.

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 2011, SPAC built on the foundation of research done in 2010 to prepare for the 2012 legislative session and continued dialogue with other stakeholders and advocates. In the coming year, SPAC will continue to focus 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.

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