



# ILLINOIS SENTENCING POLICY ADVISORY COUNCIL

## 2015 ANNUAL REPORT

Hon. Gino DiVito, Chairman

Hon. Warren Wolfson, Vice Chair

Senator Kwame Raoul, Vice Chair

<http://ilspac.illinois.gov>

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ILLINOIS SENTENCING POLICY ADVISORY COUNCIL

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## EXECUTIVE SUMMARY

- **Purpose** – The Sentencing Policy Advisory Council’s purpose is to provide policy-makers with sound data and analysis to inform evidence-based public safety policy decisions.
- **Meetings & Membership** – SPAC welcomed Anne Fitzgerald, who replaced Ruth Caufman as the representative of Cook County Sheriff Tom Dart at the August 7, 2015 meeting. Three meetings were held that covered the work of the Governor’s Commission on Criminal Justice and Sentencing Reform; the impact on sentencing of an arrest or conviction for a crime defined as violent, including a discussion of how violent crime is defined in Illinois; and a statewide overview of probation. At the August meeting, members voted to require at least three, rather than four, meetings per year in response to a member request not to meet during legislative session.
- **Staffing** – In March, Michael Elliott joined SPAC staff as the Senior Policy Advisor, replacing Samantha Gaddy who moved to Governor Rauner’s policy team. Roger Franklin joined SPAC as its data manager, bringing over 20 years experience in the private sector managing large databases and problem solving. SPAC maintained level funding for FY16 which supports the addition of an additional research analyst and cost-benefit analysis researcher.
- **2015 Legislative Session Fiscal Impact Analysis** – 2015 was the first year SPAC was able to include victimization costs in its fiscal impact analysis, addressing a consistent concern expressed by prosecutors that fiscal impact analysis that looks only at system costs does not reflect the true cost of crime. SPAC was able to use the Results First model’s calculation of tangible and intangible costs to victims multiplied by likely recidivism rates to reasonably project victimization costs. Included in these costs is an economic value for the pain and suffering victims experience in addition to the financial losses.
- SPAC analyzed the following bills:
  - HB 218 Enrolled - Sentence Reductions for Possession of Cannabis under 100 Grams
  - HB 218 HA1 - Sentence Reductions for Possession of Cannabis under 30 Grams
  - HB 1310 - Elderly Sentence Modification Program
  - HB 3884 - GED Sentence Credit
  - HB 4123 - Reduction to Truth-In-Sentencing
  - SB 753 - Sentence Reductions for Possession of Cannabis under 30 Grams by people over 21
  - SB 1848 - Reclassification of Controlled Substance Amounts
- **Governor’s Commission on Criminal Justice & Sentencing Reform** – Kathy Saltmarsh was appointed to serve on the Commission and the SPAC staff provided research support for the Commission and for the Budget and Capacity Subcommittee. For the Subcommittee work, SPAC analyzed public safety funding at the local level for a diverse sample of counties. SPAC also presented to the Commission on the capacity for treatment and services to support community corrections and returning citizens, a critical element for safely and sustainably reducing the prison population.
- **Research** – With the addition of victimization costs to SPAC fiscal impact analyses, an in-depth explanation of the methodology and the role victimization costs play in assessing fiscal impact was produced and distributed. All SPAC reports, fiscal analysis, and graphs are available at: <http://www.icjia.state.il.us/spac/index.cfm?metasection=publications>.

- **Cost-Benefit Analysis** – SPAC published “The High Cost of Recidivism,” its first cost-benefit report utilizing the Pew-MacArthur Results First cost-benefit analysis model. The report detailed the average tangible and intangible costs associated with a recidivism event, defined as a new crime resulting in a conviction. The report concluded that the average cost of a recidivism event was \$118,746, the majority of which is borne by the victims of crime. The report was accompanied by a detailed supplement explaining the methodology of the cost-benefit model and SPAC’s calculations. A copy of the report and supplement are available at: <http://www.icjia.state.il.us/spac/index.cfm?metasection=publications>
- **The Crime Reduction Act** – Pursuant to the Crime Reduction Act, 730 ILCS 190/5 *et seq.*, three entities, Adult Redeploy Illinois (ARI), the Risk, Assets, Needs Assessment Task Force (RANA) and the Prisoner Review Board (PRB) are required to report data to SPAC annually. IDOC has just begun to implement the risk assessment tool, therefore, neither RANA nor the PRB have data to report. ARI is working with SPAC on data collection and reporting, and SPAC has access to quarterly data reports from ARI.

## Introduction

The concept for the Sentencing Policy Advisory Council (SPAC) was developed by the Criminal Law Edit, Alignment and Reform (CLEAR) Commission. Based on successful sentencing commissions nationally, 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 is also mandated to do system-wide fiscal impact analysis so that the impacts on local jurisdictions can be considered. SPAC reports directly to the Governor, the General Assembly and the Illinois Supreme Court. *See* 730 ILCS 5/5-8-8(f), Appendix.

The members of SPAC represent diverse viewpoints. SPAC members include legislators, retired judges, and a representative of the Illinois Attorney General, prosecutors, defense attorneys, representatives of the Administrative Office of the Illinois Courts, a victim advocate, law enforcement officials, academics, and a community-based organization. The directors of the Illinois State Police, Department of Corrections, Criminal Justice Information Authority and the Chairman of the Prisoner Review Board serve *ex officio*. SPAC is chaired by the Honorable Gino DiVito. The Honorable Warren Wolfson and Senator Kwame Raoul are Vice-chairpersons.

SPAC is subject to the Open Meetings Act. Meeting agendas and minutes are posted on our website: <http://www.icjia.state.il.us/spac/index.cfm?metasection=meetings>.

## 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 mindful of and seeks 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 and Budget**

In 2015 SPAC was staffed by Kathy Saltmarsh, Executive Director; Michael Elliott, Senior Policy Advisor; Nathaniel Inglis Steinfeld, Research Director, Mystik Miller, Research Analyst, and Roger Franklin, Data Manager. Samantha Gaddy left SPAC to take a position as Policy Advisor for Public Safety in Governor Rauner's administration.

SPAC is funded through a lump sum grant of \$668,000 passed through the Department of Corrections budget. While no budget was passed for FY16, SPAC continues to operate at a level consistent with FY15.

The SPAC sunset was extended to December 31, 2020 from December 31, 2015. (P.A. 99-101, effective 7/22/2015)

### **Fiscal and Cost-Benefit Analysis<sup>1</sup>**

SPAC's first cost-benefit analysis report, *The High Cost of Recidivism*, was published over the summer. This report established two primary points intended to shape the discussion of criminal justice policy going forward: (1) that the majority of the costs of recidivism were borne by victims, not the system; and (2) that small improvements in the recidivism rate over time would yield significant benefits in terms of reduced victimizations and financial costs to the state. A detailed supplement on the methodology used in the report was also published, explaining in detail the data and calculations underlying the report. This report was cited several times in media reports on reform efforts.

The research and writing of this report highlighted for SPAC staff the need to frame the criminal justice reform policy discussions more broadly than reducing the prison population or improving re-entry programs. The true outcome measure for improving public safety is reducing victimizations, which in turn changes the demand for prison beds and improves the state's ability to invest in other strategies that prevent crime, reduce recidivism, and strengthen the informal social controls of crimes at the community level. Investing in community-based programs and services that are not administered through the criminal justice system is important to insure access to these community-based programs and services without having to be involved in the criminal justice system.

Using the cost calculations in the Illinois Results First model and the national research on intangible victim costs embedded in the model, SPAC incorporated victimization costs in its fiscal impact analysis this year. Including victimization costs more accurately reflects the fiscal impact of a proposed policy. If a policy reduces the prison population but is likely to increase victimizations, the costs could exceed the expected benefits and would not improve public safety. Including these costs addresses the legitimate criticism of prosecutors that fiscal notes focused only on the

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<sup>1</sup> Software and technical assistance in implementing cost-benefit analysis continues to be provided at no cost through the Pew-MacArthur Results First Initiative.

Department of Corrections are not sufficient. Victimization costs are a significant element of a system-wide analysis of fiscal impact.

All fiscal impact analyses are available on SPAC's website:

<http://www.icjia.state.il.us/spac/>

SPAC's cost-benefit work benefitted significantly from the work of Brandon Watson, an intern at IDOC who reached out to programs in individual facilities to gather the data required by the model. The goal of this project was to support SPAC's first CBA report on specific programs both within IDOC and outside of the Department. Brandon also facilitated a tour of the Taylorville Correctional Center to talk with both staff and inmates involved in the Lifestyle Redirections program, which shares many components with cognitive behavioral therapy. The fact that IDOC staff developed this program based on what they saw repeatedly in the individuals they supervised was inspiring, as was the discussion with the inmates who were involved in the program.

In August, SPAC staff, accompanied by the Public Safety Budget Manager from the Governor's Office of Management & Budget, attended the Washington D.C. convening of all the states implementing the Pew-MacArthur Results First model. SPAC's report on the high cost of recidivism was highlighted, and Kathy Saltmarsh served on one of the panels to share Illinois' experience getting started with implementation. Topics ranging from foundation funding for CBA to the importance of evaluations were covered.

SPAC continued to work with staff at the Pew-MacArthur Results First Initiative to brief budget staff and legislative leaders on the benefits of cost-benefit analysis. Results First staff came to Illinois to meet with Senate President John Cullerton, House Majority Leader Barbara Flynn Currie and Assistant Majority Leader Elaine Nekritz to talk about implementing Results First more broadly. The budget staffs for the four caucuses and the Governor's Office of Management & Budget were also given a demonstration of the model which was uniformly well-received. There remains the challenge of finding a home for the model so that it can be used in other policy areas to inform future budget processes.

## **Research**

### **Dynamic System Modeling**

Nate Inglis-Steinfeld initiated a dialogue with Argonne National Laboratories to determine if a dynamic system model (DSM) could be developed for the criminal justice system. The idea developed from a meeting with staff at the Cook County Jail, where an Argonne scientist had undertaken a DSM of the jail system on a pro bono basis. SPAC staff met with Dr. Charles Macal, the Director of the Center for Complex Adaptive Agent Systems Simulation at Argonne to discuss the practicalities of developing such a model for the purpose of showing how the discretionary nature of criminal justice administration could affect the outcomes generated by policy changes produced by current criminal justice reform. Dr. Macal was enthusiastic about pursuing the project; however, funding proposals submitted to both the Laura & John Arnold Foundation and the MacArthur Foundation were not successful. SPAC will continue to pursue other avenues of financing for this project.

## **Population Projection Model**

One of SPAC's statutory mandates is to produce annual population projections for the sentenced populations. This year, SPAC staff finished the first iteration of its prison population projection model. SPAC collaborated with outside experts in actuarial science and mathematics, and worked with members of the ICJIA staff to finalize the model. The model will be vetted with these experts as well as others identified by SPAC research staff before finalizing and fully implementing it. Once the model is finalized population projections will be included in SPAC fiscal impact analyses, and annual projections of the prison population will be produced as mandated in our authorizing statute.

## **Governor's Commission on Criminal Justice & Sentencing Reform Research Support**

Kathy Saltmarsh was appointed to serve on the Illinois State Commission on Criminal Justice & Sentencing Reform which was created by Executive Order on February 11, 2015. SPAC staff also joined the research team that supported the Commission's work and included Dr. Megan Alderden, Associate Director for Research at ICJIA; Dr. David Olson of Loyola University of Chicago; and Andrew Leipold, Edwin M. Adams Professor of Law at University of Illinois College of Law.

Starting with the Governor's stated goal of reducing the prison population 25% by 2025, the research work centered on analyzing available data and research to support discussion of specific proposals and assess the likely population impact. SPAC staff member Mystik Miller presented to the Commission on the changes in capacity for drug and mental health treatment access, which is a component of community supervision and re-entry.

The Commission created several subcommittees. Kathy Saltmarsh chaired the Budget & Capacity Subcommittee which had the goal of doing an in-depth analysis of how public safety funds were apportioned by both state and local governments. SPAC staff identified a sample of geographically diverse counties and used publically available fiscal data to look at funding levels for various functions under the public safety umbrella. The SPAC team consulted with the Civic Consulting Alliance for several months in the initial phase of the project.

Part one of the Commission's report was published in December 2015 and is available at:

<http://www.icjia.state.il.us/cjreform2015/pdf/CJSR%20Final%20Report%20Part%20I%201-4-2016.pdf>

## **Collaborative Partnerships**

SPAC continues to be represented on the Adult Redeploy Illinois (ARI) Oversight Board. ARI continues to add sites and has completed its first process evaluation. The feedback from the ARI sites is very valuable in developing an understanding of the importance of local design and control and the potential for communities to play a more significant role in sanctioning people who commit crimes.

Kathy Saltmarsh and Nate Inglis-Steinfeld continued to participate in Second Chance Grant planning and implementation. Meetings with technical assistance providers from the Council of State Governments highlighted the need to address some issues within IDOC. One benchmark for the grant was the hiring of a project manager, Jennifer Parrack, whose work significantly advanced the work funded by the grant.



SPAC staff participated in the first Smart Decarceration Conference hosted by Dr. Matt Epperson of the University of Chicago and Dr. Carrie Pettus of Washington University. Kathy Saltmarsh presented on a panel of experts and focused on the need to engage with those responsible for state and local budgets to effectuate sustainable change rather than depending on philanthropic funding.

## **Conclusion**

SPAC's progress with cost-benefit analysis improved the quality and relevance of fiscal impact analysis produced. The work done with the local jurisdictions on county level public safety budgets fed into the cost-benefit work and also highlighted the varied challenges localities would face if a 25% reduction in the prison population is achieved and sustained over the long term. Bridging the gap between policy and resources is critical to this effort. SPAC will continue to work to meet this challenge in the coming year.

SPAC continued to contribute to the criminal justice reform policy discussions through its work with the Governor's Commission on Criminal Justice & Sentencing Reform as well as its ongoing collaborations with Adult Redeploy Illinois and the Illinois Department of Corrections.

## APPENDIX - THE ENABLING STATUTE

(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; retired judges appointed prior to the effective date of this amendatory Act of the 98th General Assembly shall be, selected by the members of the Council designated in clauses (c)(1)(A) through (L), and retired judges appointed on or after the effective date of this amendatory Act of the 98th General Assembly shall be appointed by the Chief Justice of the Illinois Supreme Court;

(G-5) two sitting judges, who may be circuit, appellate, or supreme court judges, appointed by the Chief Justice of the Supreme Court; one member appointed under this paragraph (G-5) shall be selected from the Circuit Court of Cook County or the First Judicial District, and one member appointed under this paragraph (G-5) shall be selected from a judicial circuit or district other than the Circuit Court of Cook County or the First Judicial District;

(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); and

(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; and

(iv) the Director of the Illinois Criminal Justice Information Authority, or his or her designee.

(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, the Illinois Supreme Court, and the Governor.

(g) This Section is repealed on December 31, 2020.

(Source: P.A. 96-711, eff. 8-25-09; 96-1000, eff. 7-2-10; 97-775, eff. 7-13-12; P.A. 98-065, eff. 7-15-13)

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