

Illinois Sentencing Policy Advisory Council
Regular Meeting Minutes
June 15th, 2018 10:00AM – 12:45PM

Location: Illinois Criminal Justice Information Authority
300 West Adams Street, Suite 200
Chicago, IL

Members Present – Amy Campanelli, Jim Chadd, Gino DiVito (Chairman), Craig Findley, Annie Fitzgerald, Michael Glick, John Maki, Margo McDermed, Stuart Palmer, Alan Spellberg, Don Stemen, Gladyse Taylor, Julian Thompson, Warren Wolfson (Vice Chair) and Danielle Young (Marcia Meis).

Members Present by Phone – Kathryn Bocanegra, Nicholas Kondelis and Stu Umholtz.

Members Absent – Jason Barickman, Marcus Evans, Kwame Raoul (Vice Chair) and Kristen Ziman.

Non-Members Present – John P. Carroll, Michael Elliott, Lily Gleicher, Bryant Jackson-Green, Roger Franklin, Era Laudermilk, Sharone Mitchell, Lynne Mock, Adriana Perez, Mark Powers, Ben Ruddell, Kathy Saltmarsh, Nate Inglis-Steinfeld and Michael Toomin.

Non-Members Present by Phone – David Risley.

Welcome and Introductions

Chairman DiVito called the twenty-ninth regular meeting of the Illinois Sentencing Policy Advisory Council to order at 10:00 a.m. Chairman DiVito gave the opening remarks, including a summary of the agenda and purpose of the meeting:

- Welcome to Jim Chadd, our new State Appellate Defender. Jim is now an official member after attending several of our meetings in the past as a representative of the office.
- Introduction of John Specker, new research analyst replacing Yasmine El-Gohary. John recently graduated from Loyola with his master's degree in Criminal Justice & Criminology. He also interned at ICJIA where he worked with the pilot program for Criminal Justice Coordinating Councils. We will be hearing from him later as he did a significant amount of work on the misdemeanor report.
- Today we are discussing misdemeanors. We will begin with a brief tutorial of sentencing options for misdemeanors from Pete Baroni, who is joining us via a video recorded earlier in the week and an interactive overview of the report you all received prior to the meeting. We will then hear from a panel of courtroom practitioners about the real-world experience in misdemeanor courtrooms and probation offices.
- Finally, we will give our unvarnished feedback on the report draft you all received earlier this week. Misdemeanors are not well understood and some of the information in the report is surprising. Our goal is to give the SPAC staff the benefit of our feedback and follow up questions

to incorporate into the final draft. SPAC staff has the goal of publishing a finished report before the end of the year.

Vote: Approval of the meeting minutes from the November 17, 2017 SPAC meeting

Alan Spellberg moved to approve the minutes, seconded by Warren Wolfson. The minutes from the November 17, 2017 SPAC meeting were approved by unanimous voice vote.

Misdemeanor Sentencing in Illinois – A Legal Overview

Peter Baroni, of Leinenweber, Baroni & Defada, co-author with Gino DiVito of the Illinois Sentencing and Disposition Guide gave the council via video, a brief explanation of how sentencing is structured in Illinois and some insights from his practice.

Data Analysis of Misdemeanor Arrests, Charges & Sentencing

Kathy Saltmarsh, SPAC Executive Director, began with a brief introduction into why SPAC wanted to focus on misdemeanors, a significant portion of our criminal justice system.

Policy work in the criminal justice arena often focuses on felonies, with the more serious or notorious offenses getting the bulk of the attention, which led the Illinois Sentencing Policy Advisory Council (SPAC) to take a deep dive into the world of misdemeanor sentencing. The volume of misdemeanor arrests and dispositions far outstrips those for felony offenses, yet we know little about this kind of offender or how they are sentenced. Over half of the people in State prisons have a history of misdemeanor arrests and one or more convictions. However, most people arrested for or convicted of a misdemeanor do not go on to commit felonies. As with felonies, criminal history remains the most significant factor in determining the sentence imposed. Kathy emphasized that many misdemeanors move into felony classification based on second or subsequent offenses. The draft report focuses on the offense characteristics, dispositions, criminal history, and demographics for 2017 arrests and dispositions and recidivism patterns for a 2014 group of misdemeanants.

Key Takeaways from the draft report:

- In 2017, misdemeanor arrests accounted for 71% of all adult arrests and 59% of all guilty dispositions submitted to and reported in the State's Criminal History Record Information (CHRI) data system.
- 78% of people with reported misdemeanor guilty dispositions never get convicted of a felony, but 52% of convicted felons have prior misdemeanor dispositions.
- 16% of misdemeanor guilty dispositions began as felony arrests, with the most prevalent being Class 3 and 4 felonies.
- 92% of convictions were for Class A misdemeanors; driving under the influence was the most common offense.
- The average age at arrest was 33 years old.
- 45% of misdemeanants in 2014 were rearrested and 24% were reconvicted within three years of the first disposition. Overall, only 8% of all misdemeanants had any felony conviction within three years.
- 47% of guilty dispositions were orders to court supervision. This disposition results in charges being dismissed without a conviction if the court-imposed conditions are met.
- Other than the offense itself, criminal history was the most significant factor in the type of sentence imposed and the term of the sentence.
- The differences between black and nonblack defendants' case outcomes were not statistically significant when controlling for criminal histories.

- Gender was statistically significant after controlling for other demographic factors and criminal history: men were 27% less likely than women to receive court supervision for the same offense.
- 20% of misdemeanor sentences include some credit for time served in jail prior to final disposition.

After Kathy's introduction of the report and SPAC's finding, SPAC Research Analyst John Specker, engaged the audience and council members with an interactive quiz, testing everyone's perceived knowledge of misdemeanor sentencing in Illinois. SPAC members did well at identifying the correct trends and discussed the advantages and disadvantages of the current system.

The Real World of Misdemeanor Sentencing & Supervision

After the presentation of SPAC's misdemeanor findings, Kathy Saltmarsh, went on to moderate a panel of those who practice in this arena to give us a real-world view into misdemeanor sentencing and supervision. Panelists included:

- Elizabeth Schroeder, Lake County Public Defender's Office – Elizabeth began as misdemeanor defender, ascended through the ranks to the felony division and then returned to the misdemeanor docket at her request. She brought a unique perspective to this discussion as someone focused on misdemeanor cases.
- Lisa Aust, Kane County Probation & Chair of the Research Committee for the Illinois Probation & Court Services Association – Lisa returned to SPAC from our past meeting on probation and she agreed to give her perspective on misdemeanors, including her insights gained from her association.
- Nancy Donahoe, DuPage County State's Attorney's Deputy Chief of Traffic and Misdemeanors – Nancy brought her perspective as a manager of attorney's in DuPage County that handle misdemeanor cases.
- Jeff Allen, Cook County State's Attorney's Supervisor of the First Municipal Division – Jeff brought the Cook County misdemeanor perspective, as he manages the Assistant State's Attorney's in the courts that handle all Chicago misdemeanor prosecutions.

Legislative Session Roundup

Michael Elliott, SPAC Intergovernmental Affairs and Communications Advisor touched on a few new laws approved by the General Assembly this Spring that may affect the Illinois sentenced population:

House Bill 1804 (Andrade, D-Chicago; John Cullerton, D-Chicago) amends the Illinois Vehicle Code to provide that knowledge that a vehicle or essential part is stolen or converted may be inferred from: (1) the surrounding facts and circumstances, which would lead a reasonable person to believe that the vehicle or essential part is stolen or converted; or (2) if the person exercises exclusive, unexplained possession over the stolen or converted vehicle or essential part, regardless of whether the date on which the vehicle or essential part was stolen is recent or remote. Additionally, it amends the Juvenile Court Act of 1987 to provide that for a minor arrested or taken into custody for vehicular hijacking or aggravated vehicular hijacking, a previous finding of delinquency for vehicular hijacking or aggravated vehicular hijacking be given greater weight in determining whether secured custody of a minor is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another. ***Effective immediately.***

House Bill 5341 (Gordon-Booth, D-Peoria; Harmon, D-Oak Park) prohibits a court from denying a sealing or expungement petition because the petitioner has not satisfied an outstanding legal financial obligation established by a court; law enforcement agency; or state, county, or other unit of local government. It exempts an obligation that is court-ordered restitution unless the restitution has been converted to a civil judgment. ***Effective immediately.***

*Senate Bill 3388 (Clayborne, D- East St. Louis; Gordon-Booth, D-Peoria) amends the Adult Redeploy Illinois program to include those convicted of a probation-eligible offense rather than a non-violent offender. **Effective January 1, 2019.***

New Business

Chairman DiVito reminded all members that the next meeting will be held on September 21st, at the same time and location.

Adjournment

Michael Glick, moved to adjourn the twenty-ninth regular meeting of the Sentencing Policy Advisory Council, seconded by James Chadd. The twenty-ninth regular meeting of the Sentencing Policy Advisory Council was adjourned at 1:00 p.m. by unanimous voice vote.