

**Sentencing Policy Advisory Council
Regular Meeting Minutes
September 10, 2012, 10:00 AM – 1:30 PM**

**Location: Michael Bilandic Building
160 N. LaSalle - Rm. N502, Chicago IL**

Members Present: Gino DiVito (Chair), Warren Wolfson (Vice-Chair), Kwame Raoul (Vice Chair), Garvin Ambrose (for Alan Spellberg), Jack Cutrone, Margaret Egan, (for Tom Dart), Margie Groot (for Mike Tardy), Mike Hood, Jeff Howard, Nick Kondelis, John Millner, Adam Monreal, Bernie Murray (for Robert Berlin), Gladyse Taylor, Patricia Van-Pelt Watkins, Pat Unsinn (for Michael Pelletier), Karen Yarbrough

Members Absent: William Clay III, Ronald Holt, Dennis Rebolletti, David Yellen

Non Members Present: Pete Baroni, Khadine Bennett, Paul Biebel, Shauna Bolliker, Jordan Boulger, Walter Boyd, Laura Brooks, John Carroll, Mike Carter, Veronica Cunningham, Christine Devitt-Westley, Stephanie Didwania, Mary Ann Dyar, Esther Franco-Pane, Aviva Futorian, Samantha Gaddy, Kanako Ishida, Daryl Jones, Matt Jones, Simeon Kim, Lindsey LaPointe, John Maki, Dominique Nong, Dave Olson, Mark Powers, Laurie Jo Reynolds, Kathy Saltmarsh, Sharon Shipinski, Lisa Stephens, Ronn Tonn, Michael Toomin, Rick Veenstra, Malcolm Young

Due to a technical malfunction, no one present by phone.

Welcome, Introductions and Agenda Overview

Chairman DiVito called the eleventh meeting of the Sentencing Policy Advisory Council to order at 10:15 a.m. The Chairman started by making some opening remarks, including:

- A welcome to Margaret Egan, Director of Government and Policy at the Cook County Sheriff's Office, who will be representing Sheriff Dart in our meetings.
- The meeting today will be for members to discuss the direction that SPAC wants to go in light of the research on the Drivers of the Sentenced Population completed by Dave Olson and Don Stemen at Loyola.
- In lieu of an oral report, Ms. Saltmarsh has provided the members with a written Executive Director's Report.
- Member and retired Appellate Court Justice Tom Callum has submitted his resignation from SPAC. He will be missed, and members will have to choose his replacement.
- Chair DiVito asked Judge Paul Biebel, head of the Criminal Division in Cook County, and Judge Michael Toomin, head of the Juvenile Division in Cook County, to join the meeting. Current judges play a vital role in dealing with sentencing issues because they know the ins and outs of the system and have a great handle on the current law.

Vote: Approval of the minutes from the April 13th 2011 Meeting

There was one change to the minutes: John Blakey was incorrectly listed as Robert Blakey. Gladys Taylor moved to approve the minutes with that change, seconded by Warren Wolfson, the minutes from the April 13th meeting, as amended, were adopted.

Updates from Risk Assets Needs Assessment (RANA) and Adult Redeploy Illinois (ARI)

Orbis Partners, Inc. was the chosen vendor for the RANA tool. Once the contract is accepted, IDOC will bring Orbis to Chicago to meet SPAC members and to obtain feedback from SPAC. The new goal is to begin implementation during the first quarter of calendar year 2013 for inmates who are within 6 to 13 months of release.

Mary Ann Dyar gave an update of ARI. The 10 pilot sites have collectively diverted 683 individuals who might have otherwise been sentenced to the Department of Corrections, resulting in an estimated savings of \$11 million dollars. Ms. Dyar discussed the gathering of performance measure data from the pilot sites. ARI will share the data with SPAC.

Presentation: Driver's of the Sentenced Population Analysis; Probation and Length of Stay

Two primary sources were used to do the probation analyses. The first was the data reported to the Court Services Division of the Administrative Office of the Illinois Courts (AOIC). However the information is aggregate so it is not possible to tease out specific offender characteristics. The other source used was information that is reported monthly to the Probation Services Division of AOIC by individual county probation offices. This is also aggregate information so it is not possible to tease out individual offender characteristics. The AOIC has been collecting this information since 1993. The research was carried out by Dave Olson, Don Stemen, and two graduate assistants from Loyola University.

Dr. Dave Olson gave a presentation on the major findings of the analyses of probation and length of time served. He also provided updated information on the number of felons under correctional supervision.

Updated information on the total number of felons under correctional supervision in Illinois:

There are about 80,000 people under the supervision of the Department of Corrections, we often forget that many of the offenders who are under the authority of the Department of Corrections are in the community.

Dr. Olson described how crimes reported to the police and arrests have been going down since the early 2000s. Yet, despite the decrease in arrests, the number of felons sentenced to the Department of Corrections has remained stable; therefore the population has remained relatively stable. This illustrates that many inmates in prison today are there as a result of drug law and policy decisions that were made ten to fifteen years earlier.

Use of Probation:

When looking at the data, Dr. Olson saw that there was about a 10,000 offender gap between the number of offenders on probation versus the number of offenders in prison in the 1980s and 1990s. At the end of 2011, that gap was down to a few thousand people. The use of probation has gradually decreased and the use of prison has increased. Particularly in the last few years, because of the suspension of meritorious good time, offenders are staying in prison longer. This has led to a small increase in the population. There were also some changes in the parole population, partly because longer lengths of stay mean that fewer people are being released from prison. This trend, however, may be changing.

Noticeable Trends:

- In Cook, the number of felons increased dramatically in the early 1990s. Through a number of sources, we know that this was driven by the increase in arrests for possession of a controlled substance. Since

the early 2000s the number of felons in Cook County has gone down dramatically, again due to the change in police activity and policy related to violations of the Controlled Substances Act.

- The changes were not as dramatic outside of Cook County. There are nearly twice as many felons outside of Cook put into probation as inside of Cook County.
- Class 3 felonies account for the second largest percentage of all probation sentences.
- Class 4 felonies account for the majority of all felons sentenced to probation, primarily due to possession of a controlled substance.
- Of all of those convicted of a Class 2 felony in Cook County, there has been a decline in the number who get probation, driven by the number of Class 2 felonies that are non-probationable. It gets more complicated when looking at the rest of the counties where the trends are not as clear.

Due to a lack of detailed criminal history information at this point, Dr. Olson referred to these numbers as estimates.

The researchers also found that a larger percentage of felons are over the age of 40; in 1993 only 10% of people placed on probation were that old. By 2000, the over-40 age group accounted for more than 20%. Males still account for the majority, but the percentage of females has increased. There is also a larger percentage of Whites and Hispanics. Some of this is due to the changes in the types of crimes that are non-probationable (i.e. driving under the influence).

Outcomes of Felony Probation Sentences– Outside of Cook County

We could not do this particular analysis for Cook due to the changes in the way they define some probation statuses in certain time periods relative to the types of terminations. The percent terminated as unsatisfactory has increased from 10% to 15%. The number of those revoked has remained constant.

Most people complete their probation term successfully. We have seen an increasing number of probationers who are classified as higher risk using the LSI-R. However, despite the increase in risk, most persons are still terminated from probation satisfactorily. The differences in risk categories of the LSI-R (low, medium, high) help to target services to the areas that are needed for the individual offender and their criminogenic risk factors.

One important question has been, “How many people admitted to prison were on probation immediately before incarceration?” Two sources were used to gather this information: IDOC self-reporting data from the reception and classification centers, and information from the AOIC on how many offenders on probation were sentenced to IDOC.

Outside of Cook County, about 20% of people admitted to prison were on probation immediately prior to their incarceration, either because they committed a new crime while on probation that resulted in a disposition of incarceration or because their probation was revoked. Therefore, 1 in 5 inmates enter IDOC having already had an LSI-R performed as part of their original probation sentence. This can be helpful when implementing the RANA tool and for inter-agency data sharing.

This number is much smaller in Cook County; the data shows that only about 5% to 10% of people going to prison were on probation at the time they were sentenced. This is due, in part, to the way in which probation counts and defines an active status and whether absconders or those on warrant status have been removed from the active rolls. This information is important to know because we can partly answer – “Of the number of those coming to prison, how many did we try to do something with already?”

Dr. Olson also discussed the Probation Outcomes Study (2000) completed by AOIC and the Illinois Criminal Justice Information Authority where they found that of those who were successfully discharged from probation, the recidivism rate 8 years post successful discharge was fairly low.

Analysis of Length of Stay – Data from 1989 through 2011

The data for this portion of the study comes entirely from the Department of Corrections. With this analysis, Dr. Olson looked at the total amount of time served in both prison and jail. He looked at the average sentence length for those who were released in each year between 1989 and 2011. He was not able to look at people who will not be getting out for long periods of time since we are looking only at exits between 1989 and 2011. It is important to keep in mind that 1 in 7 inmates in IDOC still has 10 years or more left to serve on their sentence. Murder was not looked at in this analysis because it will require a different methodology due to truth-in-sentencing and other mandated sentence lengths.

Because we are looking at exits, there is some lag-time in the policy decisions that resulted in changes in lengths of sentence. The average sentence length for Class X offenders who were exiting prison in 2011 was around 11 years, up from 9 years for those exiting in the early '90s. Some of this is a reflection of the "get tough on crime" philosophy of the late 1980s. For Class 1 felonies, we went from an average time served of 5 years to an average of 6 1/2 years. For all classes, with the exception of Class 4 felons, the sentence imposed has increased. This is partly due to an increasing number of prisoners coming in who had been in prison before and therefore receive longer sentences.

What percentage of the total time served is actually served in jail?

Overall about 15% of a Class X felon's total time incarcerated is spent in jail awaiting the disposition of their case. In Cook County, it is about 20%. Some of this is a function of the use of pretrial detention and the time that it takes to dispose of a case in Cook County. We also found that in Cook, offenders are generally sentenced to less time in prison. Therefore, offenders from Cook spend less time in prison and more time in jail. As we go down the level of felony class, we see a much higher amount of time spent in county jail. For example, for Class 4 offenders who were sentenced to IDOC and exited in 2001, over 1/3 of their sentence was spent in jail. For the rest of the state ¼ of the time was spent in jail.

Discussion of SPAC's Next Steps and Future Role

Chairman DiVito opened the discussion with two questions:

- 1. Based on the research Dave has completed, what more do you need to know to feel comfortable making recommendations about how to address the drivers of the sentenced population?*
- 2. How should SPAC interact with the legislature in the coming session?*

Comments from members and observers were welcomed and the following issues were raised:

- How does criminal history affect sentencing?
- How do we encourage the General Assembly to shift to evidence-based decision making?

Probation: Probation is effective, in part, because the use of statewide risk assessment allows services to be targeted to offenders who are at a higher risk of reoffending, however:

- Probation is "dramatically" underfunded
- Staff need more training opportunities
- Limited availability of services in large cities and rural areas
- It would be helpful to have a more in-depth view of recidivism rates of those sentenced to probation. The point was made that the 2000 study would be a good baseline as it was completed prior to implementation of evidence based practices.

Reintegration: How do we reduce the number of offenders who recidivate without working on reintegration, especially barriers to employment? We need to take a better look at whether offenders can effectively perform

in the community and whether there is an ability to recover from incarceration. It would be helpful if inmates could receive licensing and certification while in IDOC that they could carry with them back into the community.

The Task Force for Inventorying Employment Restrictions is one response to this issue. Their mandate is to inventory employment and licensing restrictions in state agencies and state licensing agencies for felons. The next step is to look at the broader problem of employment restrictions due to criminal history and companies that do background checks for employment. Many of the background check companies are unregulated and are not getting rid of or redacting events that should have been expunged, etc.

Programming: Are there enough programs out there? Even though offenders are ordered to attend programming, availability trumps the requirement.

Communication: everyone agreed that communicating SPAC's research was critical. Members were more comfortable with an approach of not recommending specific responses but rather pulling together the information we think is relevant and providing it as we did with the RICO bill last session. Everyone agreed that meetings with the legislative leaders should be scheduled to review the research and get feedback from them on how they would like to proceed. Staff will also be contacted to brief them on the consequences of criminal justice bills. Senator Millner and Ms. Saltmarsh will explore the possibility of presenting on SPAC at the new legislator training.

Other Business and Next Steps

We were looking at December 7th for our next meeting, but that date conflicts with the ICJIA board meeting. Kathy and Samantha will send an email requesting availability to set the next meeting.

Adjournment

Gladyse Taylor made a motion to adjourn, seconded by Warren Wolfson. The eleventh regular meeting of the Sentencing Policy Advisory Council was adjourned at 1:30 pm.