



"Faith and
Justice at Work"



SENTENCING REFORM FOR NONVIOLENT OFFENSES: BENEFITS AND ESTIMATED SAVINGS FOR ILLINOIS

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EXECUTIVE SUMMARY

The United States is the global leader in incarceration, with the highest rate of incarceration and more people in prison and jail—2,078,570—than any other country in the world. The rate of incarceration in the United States rose by 49% between 1991 and 2002. Illinois follows the national trend of skyrocketing numbers of incarcerated adults. Sentencing practices and statutory revisions in Illinois contributed to a 5.6% annual growth rate in adult prison population between 1977 and 2002—from 10,982 to 42,693. In 2003 in Illinois, 43,186 adults were incarcerated in state prisons; 33,692 adults were on parole; and 144,454 adults were on probation. When the number of persons in jail is included, Illinois had a total of 244,400 adults under correctional supervision in 2003.

Policymakers, advocates, and taxpayers have become increasingly concerned about the huge number of persons incarcerated in jails and prisons in Illinois, and the large number of nonviolent offenses that are directly related to substance abuse and addiction. When a larger proportion of inmates were incarcerated for violent offenses, a survey of prison wardens conducted in 1994 found that 92% of wardens felt greater use should be made of alternatives to incarceration. The wardens also believed that on average, 50% of inmates could be released without endangering public safety.

The Developing Justice Coalition (DJC), a group of community agencies concerned with criminal justice issues, wanted to learn more about sentencing reform and the cost-savings potential that changes in Illinois sentencing laws for nonviolent drug related offenses could have on criminal justice expenditures at the state level. Specifically, the DJC felt it was important to estimate costs of alternative sentencing programs, such as substance abuse treatment programs for nonviolent offenders, and compare them with the costs associated with incarceration. To better understand the potential effects of sentencing reform on the state budget, the DJC requested the Center for Impact Research (CIR) to undertake a study of this issue.

Study Design

To contextualize the issue and the potential impact of sentencing reform for the state of Illinois, CIR reviewed both research on costs and outcomes of substance abuse treatment and research on sentencing reforms in other states and estimates of their effect on reducing the costs of incarceration. With programs such as the Sheridan Correctional Center, Operation Spotlight, and Drug Courts, Illinois is taking important steps towards reform. However, Illinois can learn much from the experiences of other states that have implemented legislative and administrative reforms pertaining to sentencing, probation, and parole to reduce the number of nonviolent drug offenders in prison and the length of their prison stay and parole period.

To develop estimates for Illinois, CIR reviewed financial information from the Illinois Department of Corrections (IDOC) and studies by the Illinois Criminal Justice Information Authority. These figures were used to develop estimates of the costs of alternative sentencing for non-violent drug-related offenses with a particular focus on drug treatment and rehabilitation programs. These cost estimates were then compared to the costs of incarceration as reported by the IDOC to develop an estimate of the potential for reductions in direct state expenditures on incarceration.

KEY FINDINGS

- The growth of the prison population is largely the result of current sentencing policies, including mandatory minimum sentencing laws that have increased the number of offenders who are sentenced to prison and the length of prison sentences. Mandatory minimums emphasize law enforcement strategies and punishment instead of drug treatment and rehabilitation for drug offenses. The War on Drugs and mandatory minimum sentencing laws in effect since the late 1980s have led to the incarceration of a disproportionate number of African Americans and Latinos.
- Aggressive policing and prosecution of drug offenders in Illinois led to a 57.3% increase between 1993 and 2002 in the number of persons incarcerated for drug offenses. Drug offenses went from 15% of annual prison admissions in 1988 to 42% in 2002. In 2002, 53% of drug offenses in Illinois were for possession of small amounts of drugs. Of all adult felony drug offenders, approximately 50% were sentenced to probation, and 50% to prison. The average prison stay in 2002 for a nonviolent drug offense was 0.9 years, or 10.8 months.
- In addition to drug offenses, drugs are considered to be a factor in a wide range of criminal convictions. As many as 69% of adult inmates in Illinois are incarcerated for a drug or a drug-involved offense. IDOC Director Roger Walker reports that substance abuse is so prevalent that “at any given time more than 25,000 inmates in Illinois prisons are in need of some form of drug intervention—if not full clinical treatment.”
- In fiscal year 2003, IDOC spent \$1.2 billion, which was 6.3% of the state’s general fund expenditure and 3.3% of its total expenditures. The annual cost to incarcerate an adult in an IDOC facility in 2003 was \$22,627.
- In 2003, drug offenders constituted 25% (10,891) of the Illinois adult inmate population. **It cost Illinois taxpayers an estimated \$246 million per year to incarcerate adult inmates for nonviolent drug offenses in 2003.**
- The cost of incarcerating drug offenders does not include the cost of incarcerating all offenders who have substance abuse problems. The total cost of sentencing nonviolent offenders with substance abuse problems to prison also includes other costs such as the expense of building prisons, the lost income and tax revenue of inmates, and the cost of public benefits and social services for an inmate’s family members. The increasing number of women in Illinois prisons, many of whom have children, drives up the social services costs associated with incarceration.
- Incarceration creates social and economic costs associated with the return of released inmates to their communities. In Illinois, 30,068 adults were released from prison in 2001, more than 2.5 times the number released in 1983. Of the adult inmates released in 2001, 51% returned to Chicago, and of those returning to Chicago’s 77 communities, 34% went to six low-income minority communities (Austin, Humboldt Park, North Lawndale, Englewood, West Englewood, and East Garfield Park).

- The recidivism rate in Illinois for inmates released in fiscal year 2001 was reported to be 54.6%. Drug treatment programs can reduce recidivism by as much as 31%.
- Effective programs for inmates can be an efficient and low-cost way to increase access to treatment for a large number of drug involved offenders. With their focus on substance abuse treatment and intensive post-release supervision and services, IDOC's Impact Incarceration Program and the Sheridan Correctional Center are strategies for reducing correctional costs by reducing the length of prison sentences and recidivism for drug-involved offenders. **The Impact Incarceration Program has saved the state an estimated \$54 million since 1990.**
- A national study estimated the average benefit per person of treatment to be three times the cost of treatment, with the average cost of treatment per person of \$2,941, and a benefit of \$9,177 per person. The benefit to society of treatment includes reduced costs related to crime and health care and increased earnings. **Using this model, the potential economic benefit to Illinois of the treatment of 10% (1,089) of inmates with nonviolent drug offenses would be nearly \$10 million, compared to an estimated cost of \$3.2 million for treatment services.**
- Sentencing alternatives for nonviolent offenders cover a range of programs, including intensive probation, drug courts, community based corrections facilities, halfway houses, day reporting, and electronic monitoring. Several states have begun sentencing reform efforts and are benefiting from reductions in criminal justice expenditures and rates of recidivism—without adverse effects on crime rates or public safety.
- The trend in probation sentencing in Illinois indicates recognition of the importance of treatment, with an increase from 12% in 1990 to 35% in 2000 of mandatory substance abuse treatment in probation sentencing for those convicted of non-DUI offense.
- Notable disparities exist within Illinois regarding probation, with several specific factors influencing whether an adult was sentenced to prison rather than probation. Controlling for other factors, persons were five times more likely to be sentenced to prison if they were a minority, male, and older, if they were sentenced in Cook County, and if they were convicted of selling drugs rather than of felony drug possession.
- Even modest increases in the number of drug offenders sentenced to treatment and community supervision instead of prison would have considerable cost-savings implications. **If 10% (1,089) of the nonviolent drug offenders in prison in 2003 were instead sentenced to community supervision and treatment, the state could have saved an estimated \$17 million in annual incarceration costs.**
- Drug Courts are an effective and increasingly adopted alternative to incarceration for nonviolent offenders that increases participation in substance abuse treatment programs and reduces recidivism. Illinois had 18 adult drug courts at the end of 2003, compared to 90 in California, 62 in New York, 42 in Missouri, 41 in Florida, 26 in Ohio, and 25 in Oklahoma. **Illinois could realize an estimated savings of \$15 million if 10% of nonviolent drug offenders were brought before drug court and completed their sentence instead of being convicted in traditional court and sentenced to prison.**

- Drug courts can yield substantial long-term cost savings. A Texas study estimated that every dollar spent on drug court realized \$9.43 in tax dollar savings over a 40-month period.
- Parole reform also offers considerable scope for savings on the costs of incarceration of nonviolent drug offenders. A number of states have introduced reforms to parole practices, including graduated sanctions short of return to prison for technical violations of parole and reduced length of supervision. Parole reform measures that rely on decisions made by parole boards can be introduced administratively, and do not require legislative changes.
- In 2003, 20% or 7,015 of admissions to IDOC were for technical violations of parole, with an average sentence of 6 months. Parole reforms for low-risk, nonviolent, substance-involved offenders could divert a portion of these parole violators from prison to community supervision with graduated sanctions and mandatory substance abuse treatment. **By providing alternatives to re-incarceration for 1,000 nonviolent, low-level drug offenders who commit technical parole violations, Illinois could save an estimated \$7.9 million per year.**
- Recent studies of public opinion find that the majority of respondents consider prison sentences for nonviolent drug offenders the wrong approach to the problem of addiction and crime. A 2002 public opinion poll in Illinois found that 95% of respondents regarded addiction to be a pervasive illness that affects people from all communities, income levels, social statuses, and races; and 74% thought that mandatory drug treatment is a better response to the problem of nonviolent crime committed by drug users compared to 9% supporting conventional prison sentencing for these offenders. **A key finding on public opinion about sentencing issues pertains to the importance of informing the public about alternatives to incarceration: the more the public knows about sentencing options, the more likely it is to support them.**

RECOMMENDATIONS

Public concern over skyrocketing costs of incarcerating nonviolent offenders, and particularly those convicted of low-level drug offenses—compounded by the state’s budget crisis—make this an opportune time to move forward with implementing sentencing and parole reforms for nonviolent offenses. Such reforms have the potential to reduce expenditure on corrections and the many other economic and social costs associated with incarceration. Furthermore, they provide considerable scope for increasing access to substance abuse treatment, assisting individuals to overcome addiction, and preparing them to contribute positively to their families and communities.

- Review mandatory sentencing laws and identify areas for reform and for restoration of judicial discretion in sentencing for nonviolent offenses. Such reform will provide more low level offenders with substance abuse problems the option of being diverted from prison and sentenced to substance abuse treatment and the appropriate level of community supervision.
- Increase the number of inmates who are enrolled in effective substance abuse treatment programs in IDOC facilities.

- Increase the capacity of drug courts to provide more nonviolent drug offenders access to effective treatment and community supervision as an alternative to incarceration.
- Reform parole practices with graduated sanctions and mandatory substance abuse treatment to reduce the number of persons who returned to prison for technical violations of parole.
- Determine treatment capacity needs for inmates in prisons and for offenders mandated to inpatient or outpatient treatment in the community and develop effective programs to meet the needs.
- Conduct a study of sentencing practices for nonviolent drug offenses in Illinois counties to determine accessibility of alternatives to incarceration and the factors supporting access and the success of programs in reducing recidivism.
- Conduct an audit of potential cost-saving measures for corrections (e.g., the annual report on corrections by the California Legislative Analysts Office) to inform policy makers and the public of the range of options and their budgetary effects.
- Increase public awareness about the effects of mandatory minimum sentencing on incarceration costs for nonviolent offenses and the benefits of alternative sentencing and mandated substance abuse treatment.