

Illinois Sentencing Policy Advisory Council
Regular Meeting Minutes
September 17, 2021 10:00AM – 12:45PM

This meeting was held virtually on Zoom.

Members Present by Video – John Cullerton, Delrice Adams, Scott Main for Jim Chadd, Craig Findley, Anne Fitzgerald, Doug Harvath, Sen. Steve McClure, Stuart Palmer, James Piper, Tobar Richardson, Sen. Elgie Sims, Don Stemen, Rep. Patrick Windhorst

Members Absent – James Chadd, Marcus Evans, Rob Jeffreys, Marcia Meis, Sharone Mitchell, Stuart Umholtz

Non-Members Present by Phone or Video – Mary Ann Dyar, Nate Inglis-Steinfeld, Ryan Kennedy, Charlene Kornoski-DuVall, Nancy Negrete, Mark Powers, Lori Jo Reynolds, Opal Rodriguez, Kathy Saltmarsh, John Specker, Douglas Thomson

Welcome and Introductions

Chairman Cullerton called the thirty-seventh regular meeting of the Illinois Sentencing Policy Advisory Council to order at 10:05 a.m.

Vote: Approval of the meeting minutes from the November 2020 SPAC meeting – Elgie moved, Delrice seconded. The minutes were approved unanimously by roll call vote.

Vote: Election of New Members – Chairman Cullerton introduced the four candidates to fill SPAC vacancies: Don Bernardi, retired judge replacing Warren Wolfson; Augie Torres, community organization replacing Kathryn Bocanegra; Lisa Daniels, crime victim replacing Julian Thompson; and Sheriff Ron Hain the first member to fill the seat for a non-Cook County sheriff. Chairman Cullerton asked for a vote on the group or a request for individual votes. Sen. Elgie Sims moved to adopt the four nominees on one motion. The motion was seconded by Scott Main and the four nominees were unanimously approved.

The substantive portion of the meeting began with Chairman Cullerton summarizing the history of SPAC, which sprang from the work of the Criminal Law Edit Align and Reform (CLEAR) Commission, chaired by former Governor Jim Thompson and SPAC's former Chairman, Gino DiVito and including legislative members who would translate the Commission's recommendations into legislative action. He noted that during his tenure in the legislature criminal justice policymaking centered on high profile crimes triggering a legislative response of enhancing penalties or creating new crimes. Chairman Cullerton detailed the work of the Commission in editing the Criminal Code and reorganizing the Code of Corrections, as well as the work with legislative staff that resulted in 12 bills enacting the CLEAR rewrite, including the bill creating SPAC. As President of the Senate Chair Cullerton created a CLEAR subcommittee to assess if proposed legislation complied with the CLEAR principles.

Kathy Saltmarsh gave an overview of SPAC in the national discussion and how SPAC's work has evolved in response to feed back from SPAC members and legislators. She set out three questions that would frame the discussion following the presentation:

For seasoned SPAC members: Is there something you'd like to change?
For new members: Is there something you'd like to know more about?

How do we improve our engagement with local stakeholders?
Is it time to start focusing more on non-prison sentences?

SPAC in the National Context

SPAC was created at a point in time when national reform organizations and efforts included recommendations to create sentencing commissions to constantly examine sentencing practices and outcomes. The National Association of Sentencing Commissions provides a network for sharing information and experiences. Since one of the most frequently asked questions is “what are other states doing?” SPAC has joined with the commissions of Ohio, Pennsylvania, and Virginia to focus on what our similarly situated states are doing. That group is now working on legislation to give state sentencing commissions access to federal criminal history data. Director Saltmarsh noted that SPAC differs from many other commissions in that it has more public interaction, more non-system members and several seats filled by SPAC members. She also noted that SPAC was the first sentencing commission in the nation to have a member who had experienced incarceration firsthand.

SPAC In the Legislature

Over time SPAC has modified its approach based on feedback from SPAC members and legislators. Fiscal impact analysis was modified to include victimization costs in response to a SPAC member commenting that the fiscal impact notes filed by state agencies were not legitimate because victimization costs were not included. Demographic breakdowns by race, gender and geographical region were included in part because of legislative interest in racial impacts.

The way SPAC presents information has also evolved. An infographic that visually represents how prison resources are consumed by offense class was developed after a question in a committee about calculating costs based on bed years rather than number of people in the system. It incorporated the number of people, breakdown of violent and non-violent within class, and length of stay with a fiscal calculation and found its way onto the office walls of a number of legislative staffers.

Rapid Response Capability – Director Saltmarsh gave two examples of how SPAC analysis impacted legislative negotiations. For the Neighborhood Safety Act (P.A. 100-003) provided the data analysis to target the sentence enhancement to repeat offenders with serious criminal histories. More recently SPAC provided an analysis of the impact of expungement provisions in the cannabis legalization bill as well as explaining why numbers provided from several different agencies over several months did not match up by explaining that the numbers for records, cases and people will be different. One person may have multiple cases and within one case there can be multiple arrest or conviction records, so depending on how the question was asked different numbers would be provided.

John Specker presented on the “greatest hits” from the SPAC website, highlighting the annual pie charts of prison admissions, exits and the population on June 30th of each year. One of the most popular things SPAC has produced is “Average Joe” profiles. These were developed in response to a member’s comment that our focus on extreme cases has resulted in a lack of knowledge about typical cases. SPAC produces one set of profiles that focuses on the prison population exits, and one on average conviction profiles which encompasses prison and non-prison sentences. Both sets are broken out by offense types, and demographic profiles such as the average female, average downstate, and average older “Joes”.

The comprehensive list of non-probationable offenses was the most recent addition to the website. The list was created in response to repeated questions about whether a list existed. To create the list SPAC looked at not only the non-probationable statute but also the Criminal and Vehicle Codes to identify offenses which provide that a violator of a statutory section “shall be sentenced to a term of imprisonment.” Two versions are provided, one in an easy to use chart for practitioners and one that links the data source codes from IDOC, the Administrative Office of the Courts and the Criminal History Reporting Information systems for researchers.

SPAC Research - Data Evolution & Gaps and SPAC Research Reports

Mark Powers gave an overview of how SPAC has gained access to more case level data and how our research reports are initiated. He also explained the difference between aggregate and case-level databases and the utility of each type. For SPAC's work case-level data is necessary but is not always collected or accessible.

Over the last ten years SPAC's access to case-level databases has grown from just IDOC in the early years to Offender 360, the CHRI data maintained by ISP, the Automated Disposition Reporting system maintained by the AOIC, and Circuit Clerk data which tracks progress of cases. SPAC also had to negotiate with ISP and ICJIA to get identified data, which is the most useful. Most recently SPAC was granted access to the case-level data from Adult Redeploy Illinois (ARI).

SPAC research reports are initiated by SPAC staff or by request. One report SPAC initiated was an analysis of misdemeanor sentences, a topic that is rarely researched in part due to challenges accessing data. SPAC was able to identify misdemeanor sentencing trends and also the recidivism patterns of misdemeanants finding that about 80% of people with misdemeanor convictions don't go on to develop felony records, but most of those with felony histories have misdemeanors in their background. More recently SPAC looked at the use of prison in jurisdictions with ARI programs. SPAC found that counties with ARI programs did reduce their use of prison.

SPAC has two statutorily mandated reports. The first is on the use of presentence investigations when sentencing a Class 3 or 4 conviction to prison. The law requiring a presentence report be considered before a person who had no violent crime and no prior sentences to probation in their histories could be sentenced to prison was passed in response to a recommendation of Governor Rauner's Commission on Criminal Justice & Sentencing Reform. SPAC's reports found that the number of presentence investigations has declined though the sentences to prison for Class 3 & 4 felonies have remained steady.

SPAC is also mandated to report on the impact of the Neighborhood Safety Act, which raised the mandatory minimum on repeat gun offenders with serious felony histories while allowing a departure from that sentence if certain factors were found. SPAC found that those repeat offenders with the required predicates were both more likely to get longer sentences and the sentences were 4 to 5 months longer.

Mark also explained data gaps that impacted SPAC's work. When data is insufficient to do a full fiscal impact we try to provide useful information on the people who have been sentenced for the crime at issue to give a sense of how many people could be eligible for a changed policy result, including the demographic breakdowns previously discussed.

There have been notable improvements to data collection as well. Implementation of the National Incident Based Reporting System (NIBRS) would resolve many data issues by providing more detailed information such as demographic information on both victims and perpetrators, the value of property stolen, and the type and weight of drugs seized among other data points. Mark also noted the improvements in data access provided by datasets on IDOC and AOIC websites over the last several years. AOIC provides monthly probation data reports and IDOC puts case level data on the current prison and parole populations on its website.

DISCUSSION

Suggestions for change:

- Focus more on non-prison sentences – the right direction for the system to go
- Understanding sentencing patterns and the factors influencing them – geographic breakdown of factors; looking at race and gender disparities.
- Should we have broader discussion on the deterioration of public safety in Chicago, and why not more input from CPD?

New members shared what they would like to know more about, including but not limited to these broad themes:

PRISON

- Learning more about the prison population, including recidivism reduction through programming; early release mechanisms; and evidence-based sentencing
- UYW charges arrests, convictions disparate impact for UYW convictions that are not repeat offenders.

LOCAL ENGAGEMENT

- Outreach to Criminal Justice Coordinating Councils that have been formed across the state – they are hungry to understand how they fit in the larger patterns within the state.
- Extension of data access to speak to greater need for transparency and transmitting data out into the community. There should be a mechanism for community groups to identify issues for SPAC to research that the members could consider and approve.

GENERAL QUESTIONS:

- Does the Cook County SA decision not to prosecute retail theft skew the data? Mark Powers explained that the data is not skewed but rather the data reflects the impact of that decision, particularly on the IDOC population.
- What is the impact of Covid going forward? Cook County jail is seeing a lasting effect. Huge decrease in people admitted to jail, but now there is a lasting reduction in the number of bookings. What is the domino effect on prison population?
- Bail reform - What will jail pops look like after elimination of cash bail? Does bail reform impact crime rates?
- Several SPAC members expressed support for having a meeting in a prison to allow members to speak with prison staff and inmates.

Chairman Cullerton asked legislators what effect SPAC has on the legislature as criminal law bills are debated. The legislative members find SPAC to be a valuable resource that is respected and used by both Republican and Democratic legislators. Though there are arguments about data methods SPAC is seen as a trusted resource for accurate non-biased information that is apolitical. It was noted that the Chair of House Judiciary II committee has a standing rule that penalty enhancements will not be considered.

PUBLIC COMMENT – Several members of the public offered comments: residential burglary should be eligible for probation; agencies are doing better at working together to address issues across disciplines; and with the exclusion of sex offenders from our reform discussions, there remains a significant need to address housing policy for sex offenders so they are not detained in prison or become homeless for lack of housing.

NEW BUSINESS – Director Saltmarsh reported on the appointments to the Resentencing Task Force, including SPAC's appointment of Yaakov Delaney from the Lieutenant Governor's office who brings the perspective of a formerly incarcerated person which fills gap in the membership. SPAC is also planning to add an attorney with some system experience to SPAC's staff.

Motion to adjourn – Chairman Cullerton moved to adjourn, Sen. McClure seconded and the meeting was adjourned.