

**Illinois Sentencing Policy Advisory Council**  
**Regular Meeting Minutes**  
**November 20<sup>th</sup>, 2020 10:00AM – 12:45PM**

**Location: Zoom Virtual Meeting**

**Members Present** – Amy Campanelli, Gino DiVito (Chairperson), Marcus Evans, Craig, Findley, Hanke Gratteau, Nathalina Hudson, Rob Jeffreys, Steve McClure, Margo McDermed, Marcia Meis, Shawn O’Toole, Stuart Palmer, James Piper, Elgie Sims, Alan Spellberg, Don Stemen, Stu Umholtz, Charisse Williams and Warren Wolfson (Vice-Chairperson).

**Members Present by Phone** – None.

**Members Absent** – Kristen Ziman.

**Non-Members Present** – Megan Archibald, Kathy Saltmarsh, John Specker, Mark Powers, Michael Elliott, Nate Inglis-Steinfeld, Ryan Kennedy, Tracy Buckley-Jones, Jason Sweat, Michael Lane, John Armdor, Laura Brookes, Katrina Bulet, Yaacov Delaney, Mary Ann Dyar, Garien Gatewood, Rebecca Ginsburg, Lindsey Hammond, Rodger Heaton, Patrice James, Paul Jones, Alice Kim, Korynna Lopez, Michael Lynch, Dave Olson, James Pagano, Robert Peters, Kelly Presley, Laurie Jo Reynolds, Sarah Ross, Ben Ruddell, Chez Rumpf, Bria Scudder, Bill Schneider, Gail Smith, Gustavo Stewart, Alexis Sturm, Gwyn Troyer, Alyssa Williams and Paula Wolff.

**Non-Members Present by Phone** – None.

**Welcome and Introductions**

Chairman DiVito called the thirty-fifth 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.

**Vote: Approval of the meeting minutes from the October 2, 2020 SPAC meeting**

Margo McDermed moved to approve the minutes, seconded by Warren Wolfson. The minutes from the October 2, 2020 SPAC meeting were approved by unanimous voice vote.

**Administrative Matters: (1) Initiative to Secure Access to Federal Criminal Justice Data for State Sentencing Commissions; (2) Posting Recordings of Our Meetings on Our Website; (3) 2021 Meeting Dates**

*Kathy Saltmarsh, SPAC Executive Director*, gave a brief overview of three administrative matters that required the Council’s vote.

- **Access to federal criminal justice data for state sentencing commissions:**  
The difficulty of accessing federal criminal justice data has become the focus of regular conference calls with our counterparts in Ohio, Pennsylvania, Maryland and Virginia. Under federal law, state sentencing commissions can access state criminal history data if permitted under state law, but if combined with other states’ criminal history data the request must go to the FBI and their regulations governing access are narrow and result in denials more frequently than grants of access. To address this issue, an informal working group for the National Association of Sentencing Commissions is drafting language to amend the statute to clarify that state sentencing commissions are to be treated as agencies that administer the

criminal justice system, the key factor for getting requested data – similar to Illinois law. This change will trigger changes to the regulations.

This data is important to our work because it allows us to analyze how many people may have convictions in other states or the federal system that could impact their sentencing outcomes here as well as improving the accuracy of our recidivism analyses. The Center for State Governments is working with us, and the National Association of Sentencing Commissions is expected to fully support this effort. SPAC's tasks would be outreach to our federal representatives and the Governor's office to educate them about the need for this data and secure their support. I am requesting that SPAC members vote to approve our active participation in this initiative.

Craig Findley moved to approve SPAC's active participation in this proposed initiative, seconded by Hanke Gratteau. The active participation in joining SPAC's counterparts in accessing federal criminal justice data were approved by unanimous voice vote.

- **Posting recordings of SPAC meetings on our website:**

After last meeting we received several requests for the recording of the meeting, one from Dave Olson for educational purposes and one from the John Howard Association. While our meetings are subject to the Open Meetings Act and SPAC is committed to transparency, we were not comfortable providing access to the recordings without approval from SPAC members. Staff also felt that if they were provided to anyone, they should be provided to everyone. If posting the recordings is approved, we will ask for guidance from the Attorney General's office on disclaimer language that prohibits the use of our meeting content in any political or advocacy campaign, as well as what if any action could be taken to address the misuse of recordings. Encouraging open and honest dialogue is the priority for SPAC and there is some potential that posting recordings will have a chilling effect on that priority, however recordings are the best record of the meeting and can add context to abbreviated meeting minutes.

Craig Findley moved to table the vote of posting SPAC meeting recordings on the SPAC website, seconded by Nathalina Hudson. Tabling this vote until more information about what other state agencies policies are surrounding this issue, were approved by unanimous voice vote.

- **Proposed 2021 SPAC Regular Meeting Dates**

The Proposed Meeting Dates for 2021: June 18, September 17 and November 19.

Warren Wolfson moved to approve SPAC's 2021 regular meeting dates, seconded by Margo McDermed. The 2021 SPAC regular meeting dates, were approved by unanimous voice vote.

### **The Prison Population Now and in the Future: What Has COVID Wrought?**

Less than a year after his appointment to head IDOC, *Rob Jeffreys, Acting Director*, was responding to a public health crisis that spread through jails and prisons at a furious rate. He spoke about the lessons learned, and what changes he implemented to handle the demands of the pandemic that may remain in place after the virus is controlled.

*Jeffreys began with an overview of the goals he established for IDOC when he came on board:*

1. Continue to Reduce Recidivism
2. Reduce the prison population by 6% by 2021
3. Improve the quality and availability of healthcare and mental health services across the Department
4. Improve the program quality in female facilities by January 1, 2022
5. Improve the quality and responsiveness of community supervision by 2021

6. Improve the safety of prisons for staff and incarcerated individuals
7. Improve operational efficiency
8. Modernize the hardware and software systems used across IDOC
9. Better plan, monitor, and implement capital and facility improvement projects
10. IDOC will get accredited based on national standards and best practices of the American Corrections Association
11. Improve the quality of IDOC trainings by updating and revising training practices and introducing more certifications and quality checks

*Director Jeffreys provided a current status report of what IDOC is doing to manage the COVID-19 crisis and where they stand now, as correctional centers present unique infection control challenges:*

- Provide for the safety of staff, offenders and the public.
- Collect daily information to create a common operating picture of the agency.
- Control guidance for prevention, mitigation, and response to the COVID-19 and implement as needed.
- Maintain IDOC COVID-19 Critical Incident Command Post.
- Communicate timely and accurate information to staff, offenders and stakeholders.
- Universal Source Control (Everyone in a face covering-based on exposure risk).
- Front Entrance Integrity (Screening for symptoms).
- Targeted deep cleaning in high volume areas and surfaces to aide in reducing the potential spread.
- Administrative and medical quarantine protocols (isolation, quarantine, to controlled movement).
- Contact Tracing (investigation of other potential infected individuals) in facilities.
- Communication Plans (for staff and offenders).
- Key messages (for staff and offenders)
  - Remain calm, ensure staff, offenders, volunteers and families feel safe.
  - If you are ill, stay home. Work with your supervisor if telework is an option.
  - Use normal hygiene techniques to prevent illness – handwashing, coughing into elbow, etc.
  - Visit the IDPH, IDOC and CDD websites for up-to-date information or call the IDPH hotline: 800-889-3931.

*Status of the IDOC population:*

- Currently the overall IDOC population is down 19.9% (30,651 on 10/31/20) since December 31, 2019 (38,259). The decreases remain consistent across race categories and the female population has decreased 0.9%, from 2,264 on 12/31/19 to 1,543 on 10/31/20.
- The population decrease is attributed to a few factors: The percent of all crime classes with the exception of Class 4s has remained consistent in the last 18 months. The percentages of average monthly admissions have also remained unchanged; Murder – 1.1%, Class X – 10.5%, Class 1 – 12.5%, Class 2 – 27.2% and Class 3 – 21.6%. Class 4 admissions which used to represent 30% of monthly admissions have been downward trending for the last year and continued throughout the shutdown and now hover around 25% of monthly admissions. These admissions include people who remain in county jails following a sentence to IDOC – so some offenders with shorter sentences can potentially spend their DOC time in county jail and release to MSR from jail, never entering a DOC R&C.
- The percent of the population from Cook County has also been reduced by 1% showing IDOC was able to release slightly more offenders to Cook, proportionally than in other parts of the state and/or, Cook has reduced admissions overall more than the rest of the state as a whole.
- Higher crime classes (M and X) represent an increased portion of the prison population although those numbers have also reduced in the last 10 months (48.5% in Dec vs. 56.3% in Oct).
- Person and sex crime categories as well as life sentence offenders now represent a higher percentage of the population when compared to 2019.

- Specific violent offense categories are also represented at a higher rate (homicide, sex assault, armed robbery) while all other categories remained the same or decreased.

*Who and how offenders were released during the past year:*

- Incident Command Center structure: Population Management Task Force to reduce the size of the prison population.
- Governor's executive order to expanded award of Earned Discretionary Sentence Credit or EDSC.
- Director can award 180 days of good conduct credit to certain individuals inside of IDOC.
- IDOC released more than 2,500 people out of prison through population management efforts;
  - EDSC awards
  - Eliminate hundreds of "turn arounds,"
  - 150 people onto home confinement
  - Limited number of medical furloughs under emergency authority from the Governor's Office.
- Centralized and streamlined reviews for EDSC and electronic detention.
  - For example, an EDSC reward previously required 7 approvals
  - Reduced to three and put that authority in the Programs Office
  - Tie awards to case planning and re-entry functions
  - Working on policy changes that will permanently tie the award of EDSC into programming and case planning and make it more attainable for more people
- Legislation is limited. It rules out people with certain offenses and offense types, regardless of behavior or risk to public safety.
- New policies will be built around evidence-based practices, so the reliance on committing offense to determine eligibility will no longer be standard practice
- What IDOC needs:
  - Increase eligible candidates and reward credits based on program completion and positive behavior.
  - Change the department philosophy from punitive to incentive based
  - Truth in Sentencing commitments to IDOC are not eligible for EDSC's. They account for roughly 45% of the population, they should be considered for credit.
  - Ability to release people who are elderly and more susceptible to COVID.

*IDOC's challenges and opportunities (Consent Decrees – Rasho and Murphy):*

- Consent Decrees provide mandates for enhanced care of individuals in custody.
- The Department's limited resources inhibit compliance
- With respect to Rasho and Lippert, a decreased population helps the strain on the medical and mental health system.
- Staffing in these departments is lower than IDOC would like.

***Rasho***

- *Rasho* requires confidential meetings with mental health staff outside of the cell.
- Initial COVID response restrictions created challenges for offender out of cell activity
- Movement restrictions and no family visitation have raised concerns of the mental health for offenders not normally on the caseload.
- As a result of COVID a normalcy task force was created to strategize programming, activities and additional amenities to assist with the population stress and anxieties.
- Increased rounds by mental health staff – at least weekly or daily in some facilities – which has had a positive impact on all offenders.
- Backlogs of MH evaluations, MH plans, and with psychiatric services must be reduced.

### ***Murphy – Release of Sex Offenders***

- Since the entry of the court’s preliminary injunction order in January of this year, IDOC has seen more than 100 sex offenders, serving 3 year-life MSR terms, who have been released into the community.
- Need to change how the public views people with sex offense convictions, as these individuals tend to be very successful in the community.
- A large number of sex offenders have been released since the inception of this lawsuit and the recidivism rate is miniscule.
- The one sex-offender per address rule is a real barrier and is not supported by the data in the field.
- *Barnes v. Jeffreys*, pending before Judge Kendall in the Northern District.
  - The case is very similar to *Murphy*, but applies to sex offenders more generally, not just those who have a MSR term of 3 years-life.
  - Judge Kendall has ordered on seven separate occasions that the Department place otherwise eligible sex offenders together.
  - This single move has resulted in the release of well over 100 sex offenders, who remained incarcerated after the completion of their sentence.
  - If IDOC could place these individuals together, without the need for a court order, it would do wonders to improve the population.
- Relaxing housing restrictions for sex offenders could have a real, immediate impact on the population.

*Where is IDOC going? Does IDOC expect policies, admissions, and releases to return to 2019 levels as the COVID-19 crisis eases in the future?:*

- COVID has forced us to closely examine those individuals who are in custody but qualified for early release and did not pose a risk to the community.
- Successful in reducing population
- Developed policies to consistently review the population for individuals who are appropriate for release.
- Track the number of people who are in county jails awaiting transfer to IDOC.
- Processing of Transfer Orders (TO).
  - During the spring and summer, IDOC has diverted more than 200 TO’s.
  - People who never have to come into a DOC facility but go through reception and then get turned around.
  - Legal team work with Cook County.

*What tools Jeffrey’s and IDOC would like to have in their toolbox for the next public health crisis?*

- Illinois has many complicated sentencing laws.
- Truth-in-Sentencing (TIS) people miss out on incentives because they’re required to serve some pre-determined portion of their sentence.
  - 45% of the population is under a TIS sentence.
  - Age of TIS population.
- No compassionate release authority.
- Need updated technology at IDOC.
  - Quality of life issues and programming interruptions could have been mitigated if IDOC had much better technology.
  - Requires a significant financial investment.
- MSR – The statute again relies on offenses to determine length and level of supervision.

- The statute should be modernized to reflect current thinking around risk levels and the appropriate role of supervision.
- Lack of electronic medical records was a big challenge.
- Identifying the vulnerable populations difficult
- Communication and intake with county jails very complex.
- NEED more qualified medical staff.
- Class 4 individuals should not come to prison.

### **New Business**

Our next meeting date is scheduled for Friday, June 18 via Zoom. SPAC's other 2021 meetings will be held on, Friday, September 17 and Friday, November 19. Due to the ongoing COVID-19 pandemic, we will reevaluate whether to hold our meetings via zoom or in person, closer to the meeting dates.

### **Adjournment**

Elgie Sims, moved to adjourn the thirty-fifth regular meeting of the Sentencing Policy Advisory Council, seconded by Craig Findley. The thirty-fifth regular meeting of the Sentencing Policy Advisory Council was adjourned at 12:00 p.m. by unanimous voice vote.