



ILLINOIS SENTENCING POLICY ADVISORY COUNCIL
2020 ANNUAL REPORT

Hon. Gino DiVito, Chairman

<http://spac.illinois.gov/>

Table of Contents

2020 Council Members.....	3
2020 SPAC Staff.....	4
Message from the Executive Director	5
Purpose	6
• Meetings.....	6
• Membership	6
• Staffing and Budget.....	6
2020 Legislative Session Fiscal Impact Analyses.....	6
SPAC Research Reports.....	7
Special Topic SPAC Meetings	8
Population Projections.....	11
Snapshots of the Illinois Criminal Justice System	12
Conclusion	17
Appendix.....	18

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2020 Council Members

Hon. Gino DiVito, Chairperson
Tabet DiVito & Rothstein, Chicago

Hon. Warren Wolfson, Vice-Chairperson
DePaul School of Law

Amy Campanelli
Office of Cook County Public Defender

James Chadd
Office of the State Appellate Defender

Rep. Marcus Evans
Illinois House of Representatives

Craig Findley
Prisoner Review Board

Henriette Grateau
Office of the Cook County Sheriff

Nathalina Hudson
Office of the Attorney General

Rob Jeffreys
Illinois Department of Corrections

Sen. Steve McClure
Illinois State Senate

Rep. Margo McDermed
Illinois House of Representatives

Marcia Meis
Administrative Office of the Illinois Courts

Hon. Stuart Palmer (Ret.)
First District Appellate Court

James Piper
Illinois State Police

Sen. Elgie R. Sims, Jr.
Illinois State Senate

Alan Spellberg
Cook County State's Attorney's Office

Don Stemen
Loyola University Chicago

Stewart Umholtz
Tazewell County State's Attorney

Kristen Ziman
Chief of Police, Aurora Illinois

2020 SPAC Staff

Kathy Saltmarsh

Executive Director
401 S. Spring, Room 617
Springfield, IL 62706
217-558-4749

Kathy.Saltmarsh@illinois.gov

Nathaniel Inglis Steinfeld

Research Director
300 West Adams, Ste. 200
Chicago, IL 60606
312-814-5964

Nate.Steinfeld@illinois.gov

Michael R. Elliott

Intergovernmental Affairs
401 S. Spring, Room 617
Springfield, IL 62706
217-558-4748

Michael.Elliott@illinois.gov

John Specker

Research Analyst
300 West Adams, Ste. 200
Chicago, IL 60606
312-793-4341

John.Specker@illinois.gov

Mark Powers

Senior Research Analyst
300 West Adams, Ste. 200
Chicago, IL 60606
312-793-0472

Mark.Powers@illinois.gov

Ryan Kennedy

Data Manager
300 West Adams, Ste. 200
Chicago, IL 60606
312-814-5964

Ryan.C.Kennedy@illinois.gov

Message from the Executive Director

The pandemic continued to keep SPAC working from home on projects related and unrelated to legislative activity. The team kept in touch with each other through weekly Zoom meetings and email, but we all felt the impact of pandemic isolation. For me, that impact included gratitude for the integrity of the people I work with who kept up, kept on, and innovated through this unique time.

The pandemic caused unprecedented changes to the state's prison population. Not since the early 1990s had the population dropped below 30,000 people. The congregate settings of prisons were super-spreaders of Covid-19 across the country. Courts slowed the processing of cases and the gates to the prisons were closed to all admissions for an extended period. The power of admissions to drive the prison population was starkly illustrated at the state level while those convicted of crimes served their terms in county jails.

Part of the power of Covid was seeing in real time how policies limiting the DOC's ability to release people contributed to the crisis. On the other hand, many who were released returned to communities where they were not protected, living with families of essential workers who didn't have masks or paid sick leave if they caught the virus. The social determinants of ill-health were starkly illustrated in the communities that are most impacted by mass incarceration.

SPAC meetings with members sharing lunch afterward became Zoom meetings with staff monitoring who wished to speak, keeping time, and documenting virtual attendees. Again, I was grateful. SPAC members actively participated as they always have, even as our way of connecting with each other changed.

Would any of this impact our collective views of criminal justice? Would the inability to manage the population to limit the spread of a deadly virus lead to changes in release policies? Would there be more limits on the use of prison in order to keep the population low and more manageable? Could the human cost of warehousing people be assessed differently because those warehouses helped the virus keep a foothold outside of the prison walls? If Covid did not motivate bolder change, would anything? There is no statistical analysis that can sum up what the pandemic did to all of us. But we look forward to analyzing the policies that might come of these harsh lessons from this most difficult period in our history.

Kathy Saltmarsh
Executive Director

Purpose – The Sentencing Policy Advisory Council’s purpose is to provide policymakers with sound data and analysis to inform evidence-based public safety policy decisions and produce system-wide fiscal impact analysis to support prioritizing resources to better support the desired outcomes.

- **Meetings** – SPAC held two meetings in 2020.

In 2020, SPAC’s June Meeting was canceled due to the COVID-19 Pandemic. SPAC’s September meeting was held virtually and focused on the Legislative Black Caucus’ Legislative Agenda. The final meeting of 2020, also held virtually, focused on the Illinois Department of Corrections, the changes that resulted from COVID-19, and the consent decrees to which the Illinois Department of Correction is subject. Meeting agendas and materials are accessible on the SPAC website: <https://spac.illinois.gov/>.

- **Membership** – SPAC membership changed during 2020:

The following members left the board during 2020: Kathryn Bocanegra, Jason Stamps, and Julian Thompson.

The SPAC Board added the interim director of ICJIA, Charice Williams, to replace Jason Stamps, but did not immediately replace the other two departures. Vacancies will be filled as soon as possible in 2021.

- **Staffing and Budget** – In 2020, SPAC was staffed by Kathy Saltmarsh, Executive Director; Michael Elliott, Intergovernmental Affairs and Communications Advisor; Nathaniel Inglis Steinfeld, Research Director; Mark Powers, Senior Research Analyst; John Specker, Research Analyst; and Ryan Kennedy, Data Manager who joined SPAC in May of 2020. SPAC’s budget remained stable at \$668,000.

SPAC also had its first legal intern over the summer. Megan Archibald, a first year law student at the University of Illinois, joined us virtually from San Diego California and made valuable contributions to the development of a comprehensive list of non-probationable offenses as well as lending her expertise as a virtual student to develop SPAC’s Zoom protocol.

2020 Legislative Session Fiscal Impact Analyses

The 2020 legislative session was significantly impacted by the COVID-19 pandemic. The pandemic resulted in limited bill proposals related to sentencing policies. During the 2020 legislative session SPAC produced fiscal impact analyses of the following bills. None of the bills SPAC analyzed were passed.

SB 2292 – Felony Murder

Senate Bill 2292 amended the first-degree murder statute to separate felony murder into cases where the person causes death while committing a forcible felony other than second-degree murder, (a)(3), and cases where the other parties to the forcible felony cause the death (a)(4). Consistent with current law, both primary and accountable defendants would face first-degree murder sentences.

SB 3072 – Habitual Criminal Reform

Senate Bill 3072 amended the Unified Code of Corrections in two ways: (1) for a natural life enhancement the required age at the time of the first strike was raised to 21; and (2) the Class X enhancement was limited to only forcible felonies.

SB 3349 – Mandatory Supervised Release Term Reduction

Senate Bill 3349 reduced the required Mandatory Supervised Release (MSR) term from 3 years to 18 months for Class X felonies, excluding some sex offenses, and reduced the MSR period for Class 1 and Class 2 felonies from 2 years to 12 months. SB 3349 also eliminated MSR for Class 3 or Class 4 felonies.

SPAC Research Reports

In addition to fiscal impact analyses, SPAC’s research team publishes research reports centered on important and relevant aspects of the criminal justice system. These reports provide more detail to policymakers, public officials, and other stakeholders to improve their knowledge of the system and shine a light on areas of the criminal justice system that are often overlooked or need further analysis. SPAC also publishes reports mandated by legislation. In 2020, SPAC published 4 research reports:

Trends in Sentencing: Mandatory Presentence Investigation Reports

In Spring 2020, SPAC published a statutorily mandated report on Public Act 99-0861 ([PA99-0861](#)). The statute was based on a recommendation of the Illinois State Commission on Criminal Justice and Sentencing Reform. Commission Recommendation 12 addressed the use of prison for Class 3 and 4 felonies:

Before an offender is sentenced to prison for a Class 3 or 4 felony, require that a judge explain at sentencing why incarceration is an appropriate sentence when: a) The offender has no prior probation sentences; or b) The offender has no prior convictions for a violent crime.

The rationale for the recommendation was “to ensure that where defendants as a group are less likely to require imprisonment, courts give proper consideration to the possibility of probation, and to do so in a transparent and consistent manner.”

PA 99-0861 went further than Recommendation 12 by requiring a person to meet both criteria, which narrows the pool of those eligible for probation, and requiring consideration of a PSI:

In imposing a sentence of imprisonment or periodic imprisonment for a Class 3 or Class 4 felony for which a sentence of probation or conditional discharge is an available sentence, if the defendant has no prior sentence of probation or conditional discharge and no prior conviction for a violent crime, the defendant shall not be sentenced to imprisonment before review and consideration of a presentence report and determination and explanation of why the particular evidence, information, factor in aggravation, factual finding, or other reasons support a sentencing determination that one or more of the factors under subsection (a) of Section 5-6-1 of this Code apply and that probation or conditional discharge is not an appropriate sentence.

SPAC analyzed the trends in number of PSIs reported, the sentencing trends and provided the demographics of the target population. SPAC’s report concluded that Public Act 99-861 has not produced the desired legislative outcome of reducing the number of Class 3 and 4 admissions to IDOC. Overall, the number of Class 3 and 4 admissions remained steady while the total number of PSIs went down. The more restrictive language of the public act and the failure to allocate additional resources for probation departments to support producing additional PSIs undermined the implementation of this change.

The Safe Neighborhoods Reform Act

SPAC is statutorily mandated to report on Public Act 100-0003 ([PA100-0003](#)) which increases the mandatory minimum sentence for people convicted of aggravated unlawful use of a weapon and unlawful use of a weapon by a felon if they have convictions for one or more serious felonies specified in the Act. The bill also provides a safety valve that allows a judge to depart from the minimum based on specified criteria. Due to the limited data, SPAC could not produce a report in 2020. To address the data collection issue, SPAC developed a

sentencing order that was approved by the Conference of Chief Judges. SPAC expects to publish the first analysis of the impact of this legislation in the Spring of 2021.

SPAC Analysis of Prison Use by Adult Redeploy Illinois (ARI) Counties

ARI is a performance-incentive funding program that awards grants to county governments to reduce admissions to state prisons. ARI, created in 2009 as part of the Illinois Crime Reduction Act ([PA 96-0761](#)), provides grants and in exchange requires a county to reduce prison admissions by 25% from the prior three years. SPAC created quasi-experimental statistical models to assess the ARI impact and progress. The models test whether a reduction in either the prison admissions rate and/or the probability of an eligible conviction receiving a prison sentence occurs after counties join ARI.

The analysis found that ARI counties reduced prison usage overall by having fewer Class 3 and Class 4 non-violent prison admissions than non-ARI counties. Further, it found a decrease in the probability of prison sentences after a county joined ARI. Both results were statistically significant and translate to an average reduction of approximately 14 prison admissions per 100,000 people. For example, the estimated impact would be a reduction of 21 prison admissions per year for a county with a population of 150,000 adults.¹

2020 Prison Pies

SPAC updates the prison pie graphic each fiscal year to provide any easy reference for the offenses that make up prison admissions and exits, as well as the offenses that are represented in the June 30th prison population each year.

User Manual IDOC Online Exit File

This user manual provides guidance to individuals who are interested in analyzing the online exit file provided by the Illinois Department of Corrections in response to the COVID-19 pandemic. The exit file is available on IDOC's website:

<https://www2.illinois.gov/idoc/Offender/Pages/CommunityNotificationofInmateEarlyRelease.aspx>

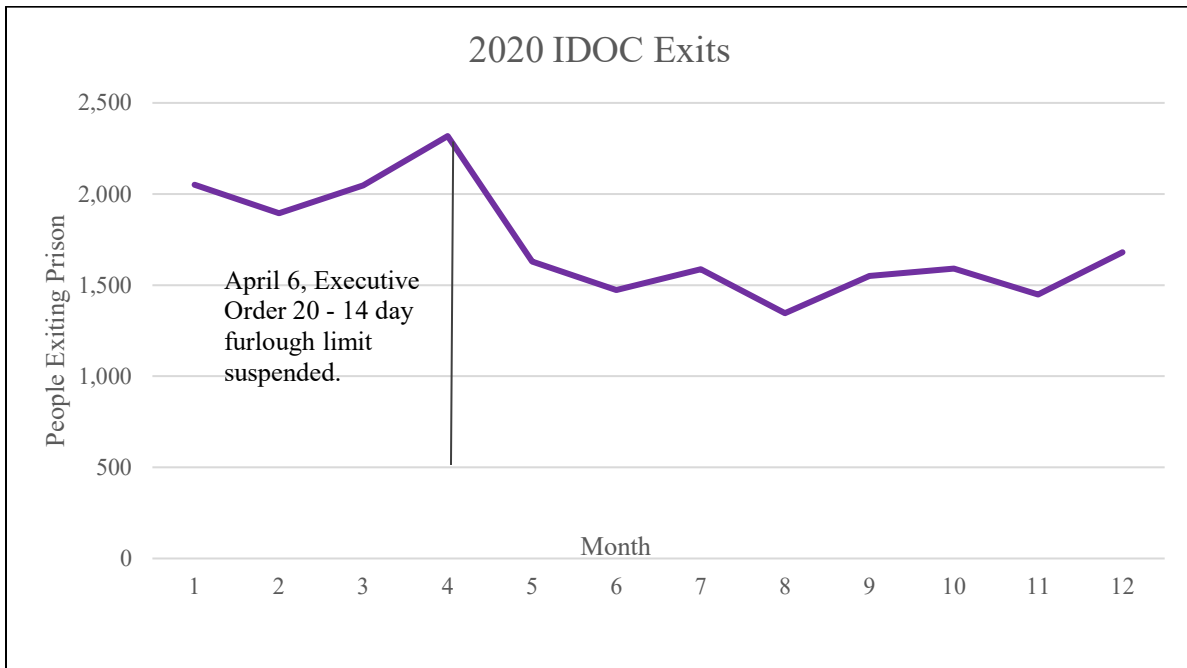
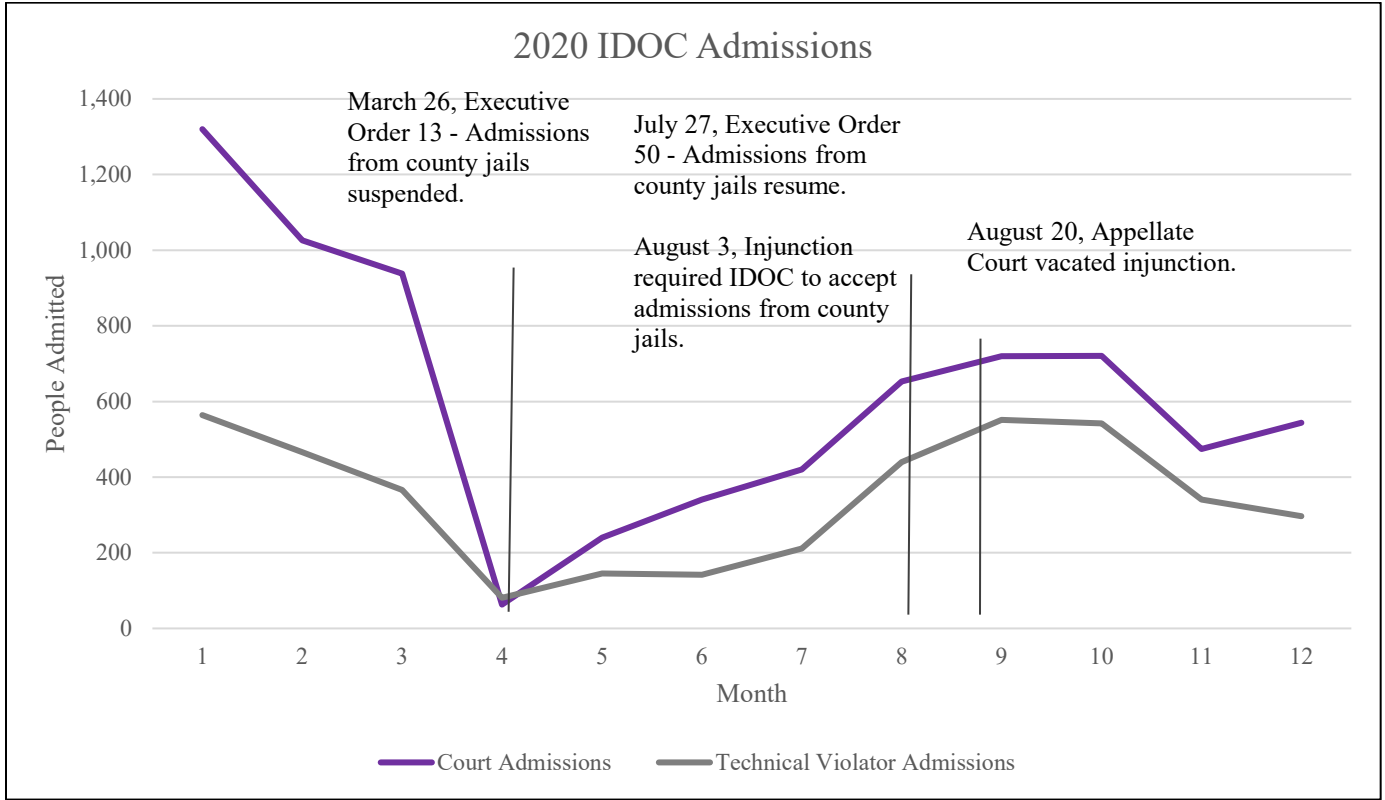
Special Topic SPAC Meetings

SPAC Research Lunch Get Togethers

SPAC hosts Research Lunch Get-Togethers for criminal justice researchers around the state to discuss current research issues. Attendees include academics, researchers at other state agencies, and researchers from local groups that work with Illinois specific criminal justice data. SPAC hosts these meeting quarterly in Chicago and downstate as an opportunity to develop relationships, discuss ongoing projects, share analysis techniques, ask questions, and provide feedback to help ensure that criminal justice research in Illinois. This year, SPAC held two Research Lunches remotely. The virtual meetings enabled easy attendance from researchers outside of Chicago and led to several discussions of variable coding strategies and how to deal with COVID-19-affected 2020 data in future years.

¹ Both Champaign and Sangamon counties have about 150,000 adults, meaning that if a county of this size implemented an average ARI program, the prison admissions from that county would reduce by 21 people per year. Note that the model did identify significant variation across ARI sites, but the results were statistically significant for ARI as a whole.

Covid Impact on Prison Admissions and Exits



The impact of shutting down admissions also shows up in the number of exits. With fewer people coming in, there are fewer people who are exiting, as the number of people eligible for release shrinks.

Table 1: 2020 Prison Population Characteristics

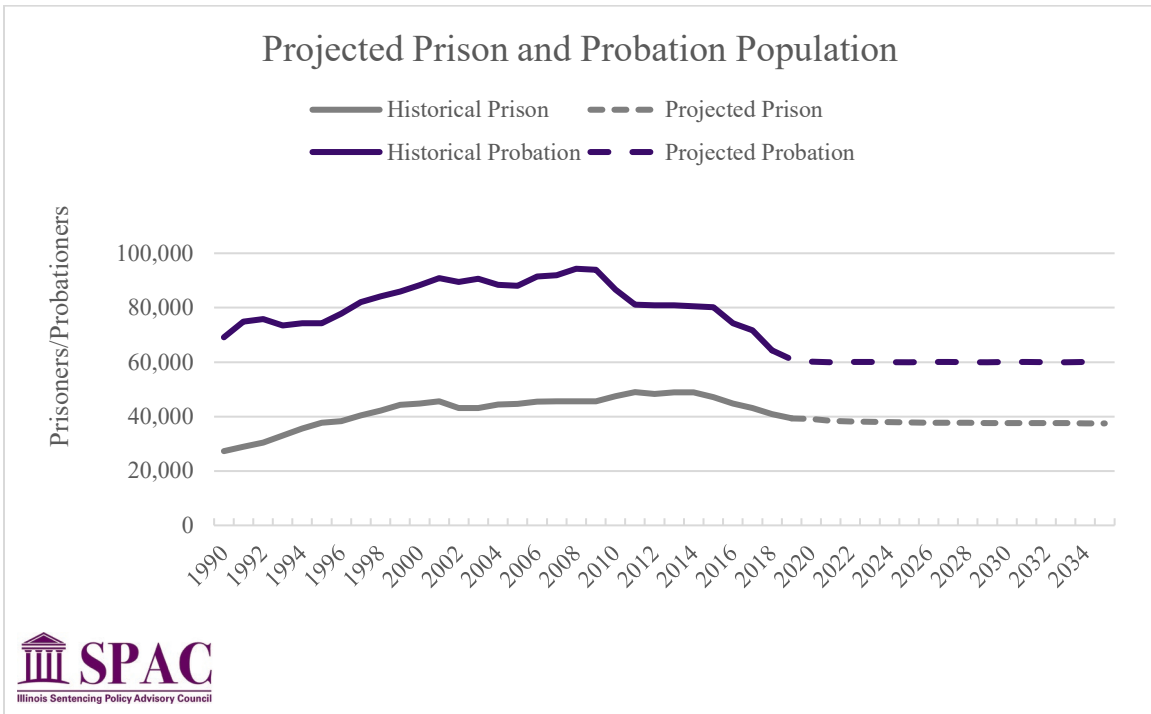
	March 31, 2020 36,904		Dec. 31, 2020 29,111	
Characteristic	Count	Percent	Count	Percent
Race				
White	11,806	32%	9,234	32%
Black	20,091	54%	15,824	54%
Hispanic	4,714	13%	3,802	13%
Other	293	1%	251	1%
Sex				
Male	34,778	94%	27,698	95%
Female	2,126	6%	1,413	5%
Class				
Murder	6,581	18%	6,385	22%
Class X	11,621	31%	10,449	36%
Class 1	5,105	14%	3,937	14%
Class 2	6,891	19%	4,883	17%
Class 3	3,546	10%	1,977	7%
Class 4	2,994	8%	1,320	5%
Unclassified	166	0%	160	1%

Population Projections

2020 Baseline Illinois Department of Corrections Population Projection

The SPAC prison population projection takes the two key policy levers—admissions and length of stay—to create a reasonable estimate of the state’s future prison population. Both admissions and the average prison terms are held constant from the average of the past year. This approach gives a plausible baseline to compare any simulated policy changes. The implicit assumptions are also familiar to system stakeholders. For example, if a reader believes admissions were abnormally low for the past year, they can read the model’s output as a conservative underestimate of the future prison population. Likewise, a reader who believes admissions will continue to fall can read the output as an overestimate of the future prison population. Both can understand the projection based on familiarity with past experience.

Using the latest data for both populations, SPAC projects the prison population for 2020-2035 using the average prison admissions, sentences, and sentence credit policies of FY2019. SPAC projects the probation population for 2019-2035 using probation sentences and sentence lengths. The projection model projects the prison population to continuously decrease to around 37,500 and the probation population to be relatively flat at 60,100. Note that the 2020 projections were made before the coronavirus pandemic began and were used only as a baseline for policy comparisons, using pre-COVID-19 data. Predicting what will happen in the next few years is not possible and SPAC is not suggesting these projections are future forecasts.



Actual FY2019 admissions are at the lowest number since prior to 1995 and the ratio of prison admissions to exits are also relatively low compared to the 1990s and 2000s. An increase in prison admissions in future years may result in an underestimated projection and a further decline in admissions may result in an overestimated projection. Similarly, probation sentences have dropped substantially in recent years and the probation projection may also be an overestimate. However, the use of historical admissions presents a realistic status quo projection if the downward trend of admissions slows and stabilizes at current levels. If Covid-19 disrupts admissions, which it already has

since this projection was calculated, the estimates provided likely overestimate the prison population in the next few years.

Snapshots of the Illinois Criminal Justice System

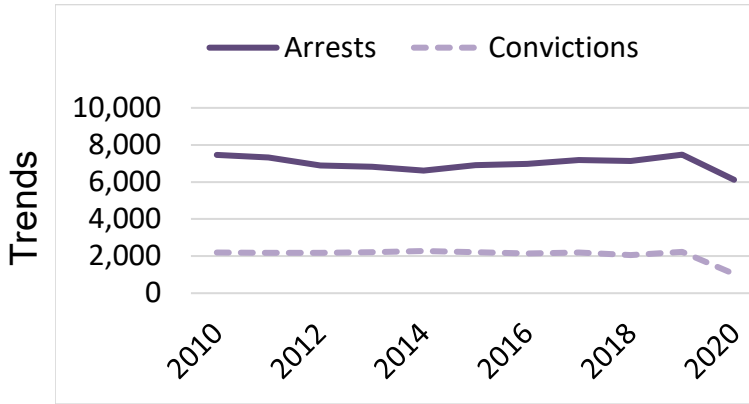
These snapshots provide 2020 data including trends in arrests, convictions, and court supervisions, racial demographics of those people who are convicted, the conviction class and the sentences imposed (statewide and SPAC geographical regions), and three-year recidivism measurements for people who were convicted of these offenses in 2015.

Aggravated Battery – 2020

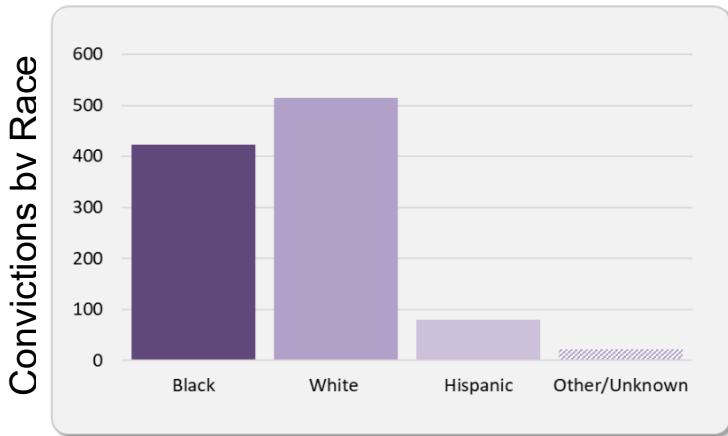
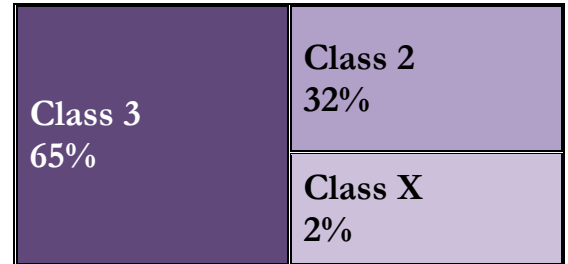
720 ILCS 5/12-3.05

Arrests: 6,120

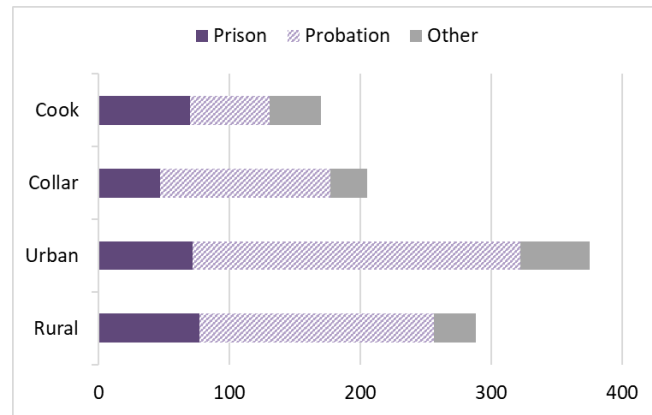
Convictions: 1,038



Conviction Class

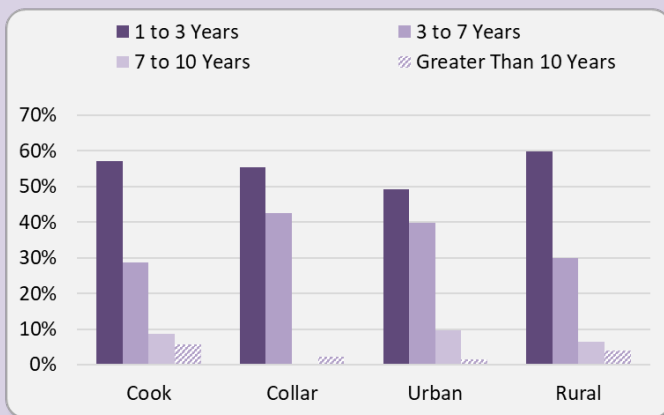


Most Severe Sentence

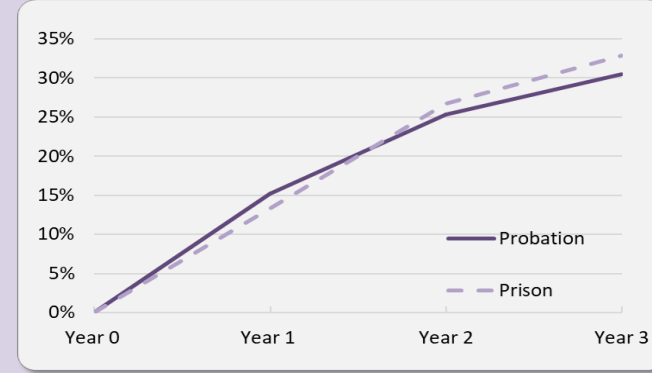


Sentence Type	2010 Average Sentence Imposed	2020 Average Sentence Imposed	Percent Change
Prison	4.81	4.24	-12%
Probation	2.14	2.31	8%

Sentence Distribution by Region



Recidivism



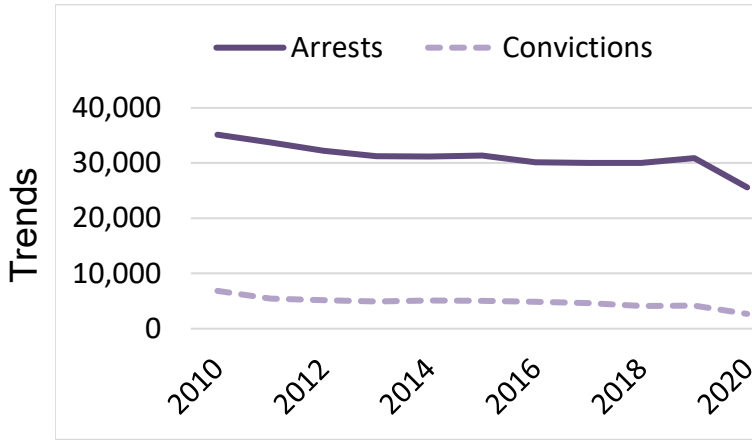
Recidivism: convictions that occur within three years of (a) sentence to probation or (b) release from prison, counted in convictions' arrest year. Data from 2017 probation sentences and prison releases.

Domestic Battery – 2020

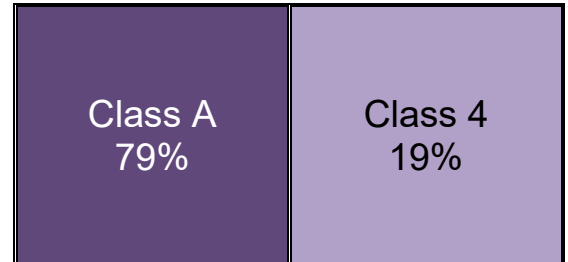
720 ILCS 5/12-3.2

Arrests: 25,593

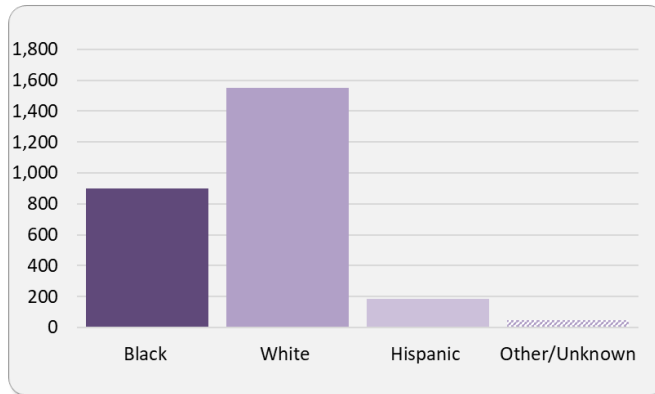
Convictions: 2,677



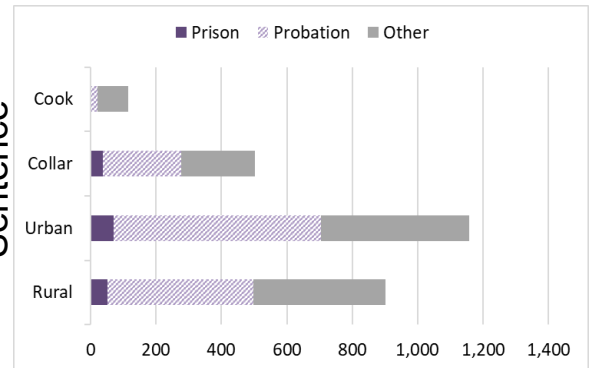
Conviction Class



Convictions by Race

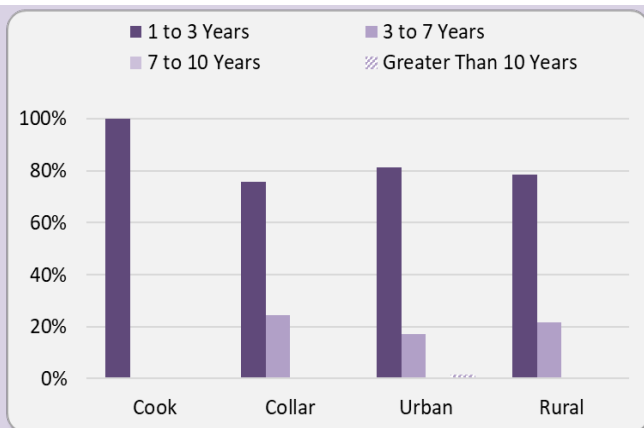


Most Severe Sentence

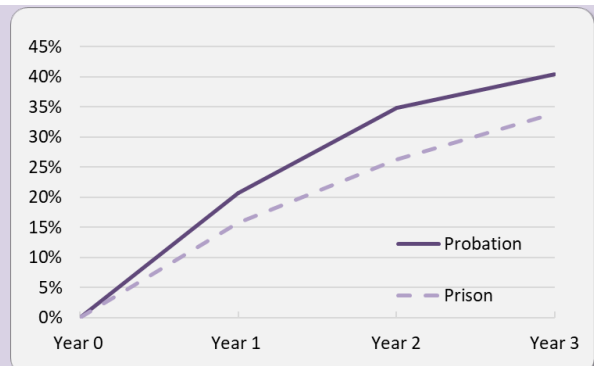


Sentence Type	2010 Average Sentence Imposed	2020 Average Sentence Imposed	Percent Change
Prison	2.23	2.74	23%
Probation	1.58	1.76	11%

Sentence Distribution by Region



Recidivism



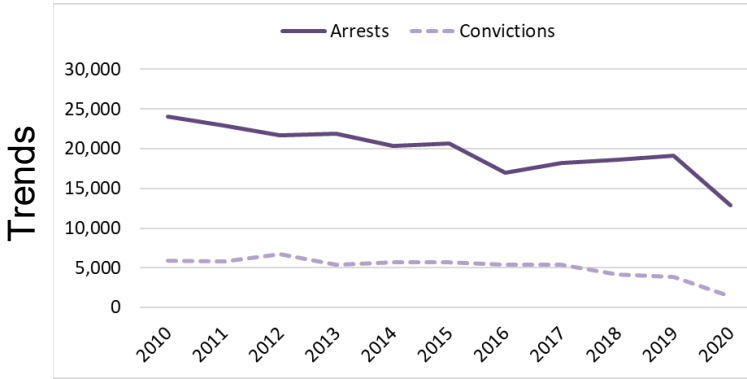
Recidivism: convictions that occur within three years of (a) sentence to probation or (b) release from prison, counted in convictions' arrest year. Data from 2017 probation sentences and prison releases.

Possession of a Controlled Substance – 2020

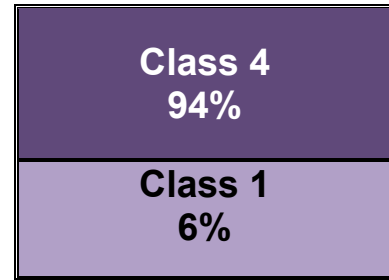
720 ILCS 570/402

Arrests: 12,863

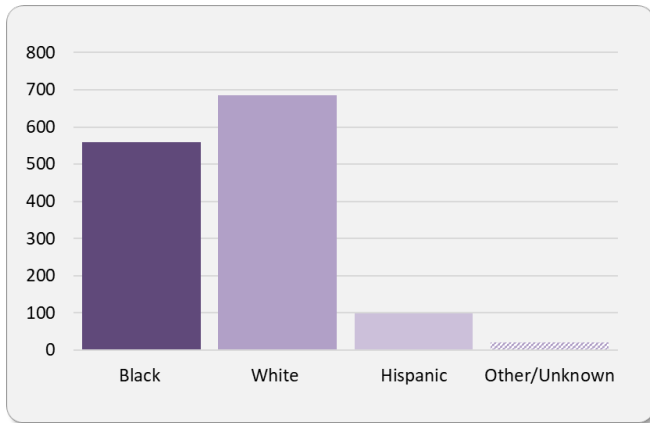
Convictions: 1,364



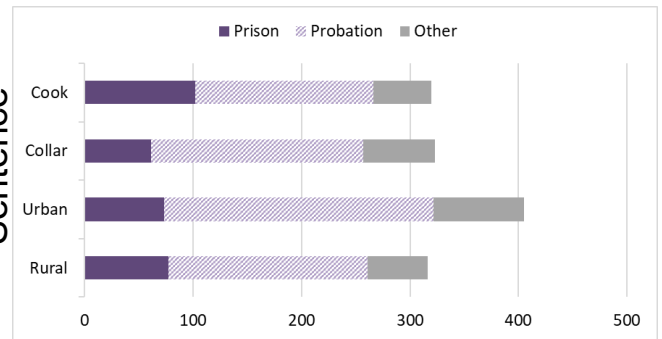
Conviction Class



Convictions by Race

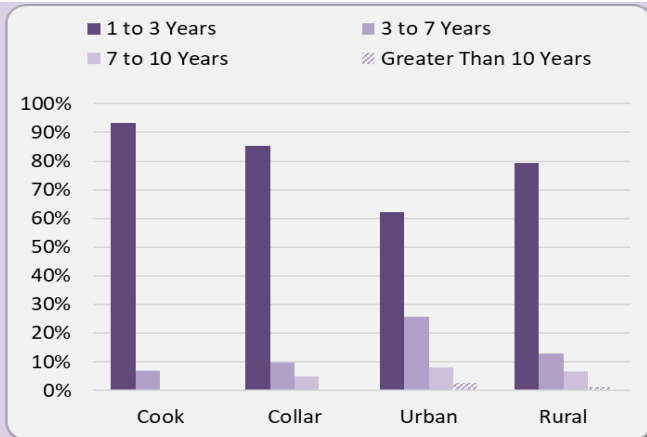


Most Severe Sentence

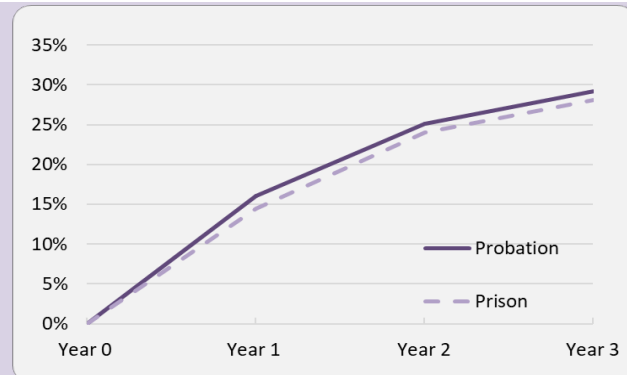


Sentence Type	2010 Average Sentence Imposed	2020 Average Sentence Imposed	Percent Change
Prison	2.21	2.46	11%
Probation	2.07	2.09	1%

Sentence Distribution by Region



Recidivism



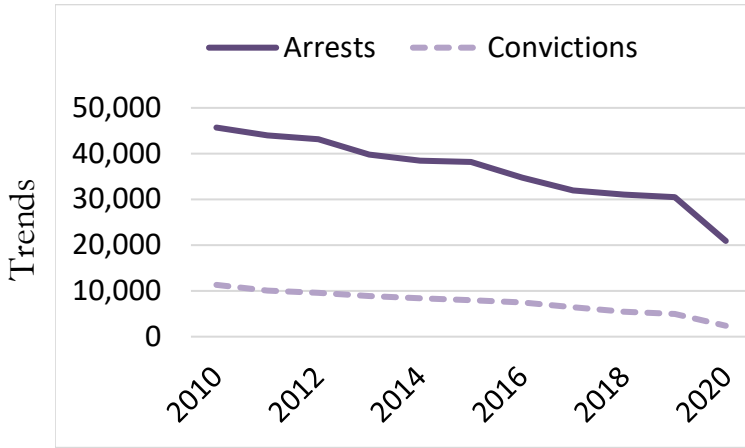
Recidivism: convictions that occur within three years of (a) sentence to probation or (b) release from prison, counted in convictions' arrest year. Data from 2017 probation sentences and prison releases.

Driving Under the Influence – 2020

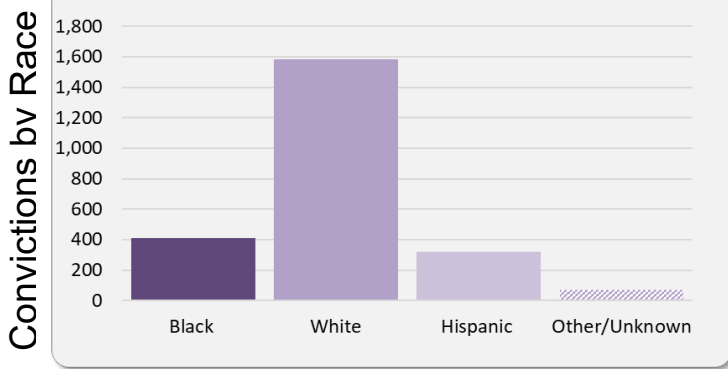
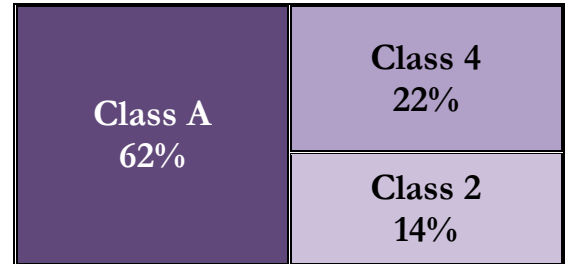
625 ILCS 5/11-501

Arrests: 20,919

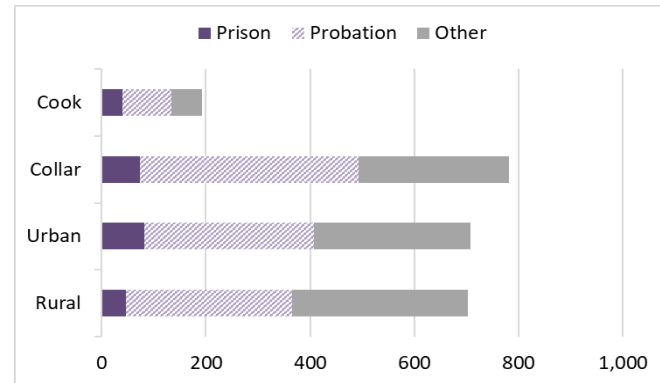
Convictions: 2,384



Conviction Class

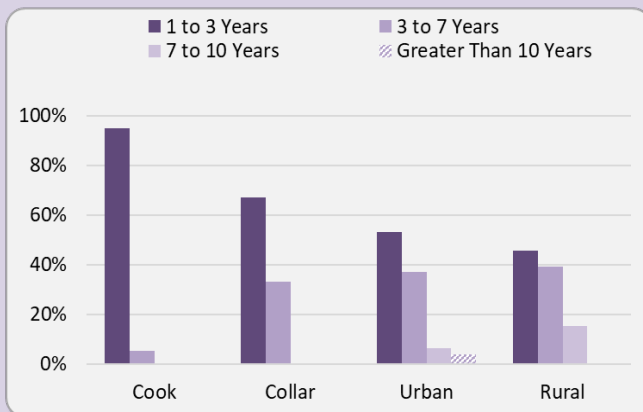


Most Severe Sentence

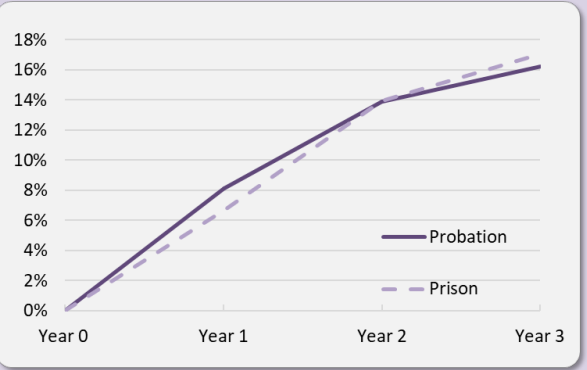


Sentence Type	2010 Average Sentence Imposed	2020 Average Sentence Imposed	Percent Change
Prison	2.60	3.61	39%
Probation	1.75	1.96	12%

Sentence Distribution by Region



Recidivism



Recidivism: convictions that occur within three years of (a) sentence to probation or (b) release from prison, counted in convictions' arrest year. Data from 2017 probation sentences and prison releases.

Conclusion

There are many ways the pandemic could help us assess our sentencing structure. Isolation from friends and family, and disconnecting from society as a whole to limit the spread of a germs changed the way we felt and behaved around other people. Should we reassess the way we use isolation and disconnection as features of the prison system? If virtual learning does not maintain academic progress, should we embrace it so eagerly for those who are incarcerated? Does a crisis that impacts both staff and prisoners without regard for who has the power and who does not tell us anything about how to improve the way they interact with each other after the crisis passes? Compared to many prison sentences, the time spent with a shared fear of harm from the virus was short. But the harm was the same as that faced by people living and working in the prison system in that it was caused simply by being in close proximity to each other. ????

Appendix

730 ILCS 5/5-8-8

Sec. 5-8-8. Illinois Sentencing Policy Advisory Council.

(a) Creation. There is created under the jurisdiction of the Governor the Illinois the Sentencing Policy Advisory Council, hereinafter referred to as the Council.

(b) Purposes and goals. The purpose of the Council is to review sentencing policies and practices and examine how these policies and practices impact the criminal justice system as a whole in the State of Illinois. In carrying out its duties, the Council shall be mindful of and aim to achieve the purposes of sentencing in Illinois, which are set out in Section 1-1-2 of this Code:

(1) prescribe sanctions proportionate to the seriousness of the offenses and permit the recognition of differences in rehabilitation possibilities among individual offenders;

(2) forbid and prevent the commission of offenses;

(3) prevent arbitrary or oppressive treatment of persons adjudicated offenders or delinquents; and

(4) restore offenders to useful citizenship.

(c) Council composition.

(1) The Council shall consist of the following members:

(A) the President of the Senate, or his or her designee;

(B) the Minority Leader of the Senate, or his or her designee;

(C) the Speaker of the House, or his or her designee;

(D) the Minority Leader of the House, or his or her designee;

(E) the Governor, or his or her designee;

(F) the Attorney General, or his or her designee;

(G) two retired judges, who may have been circuit, appellate, or supreme court judges; retired judges shall be selected by the members of the Council designated in clauses (c)(1)(A) through (L);

(G-5) (blank);

(H) the Cook County State's Attorney, or his or her designee;

(I) the Cook County Public Defender, or his or her designee;

(J) a State's Attorney not from Cook County, appointed by the State's Attorney's Appellate Prosecutor;

(K) the State Appellate Defender, or his or her designee;

(L) the Director of the Administrative Office of the Illinois Courts, or his or her designee;

(M) a victim of a violent felony or a representative of a crime victims' organization, selected by the members of the Council designated in clauses (c)(1)(A) through (L);

(N) a representative of a community-based organization, selected by the members of the Council designated in clauses (c)(1)(A) through (L);

(O) a criminal justice academic researcher, to be selected by the members of the Council designated in clauses (c)(1)(A) through (L);

(P) a representative of law enforcement from a unit of local government to be selected by the members of the Council designated in clauses (c)(1)(A) through (L);

(Q) a sheriff outside of Cook County selected by the members of the Council designated in clauses (c)(1)(A) through (L); and

(R) ex-officio members shall include:

(i) the Director of Corrections, or his or her designee;

(ii) the Chair of the Prisoner Review Board, or his or her designee;

(iii) the Director of the Illinois State Police, or his or her designee;

(iv) the Director of the Illinois Criminal Justice Information

Authority, or his or her designee; and

(v) the Cook County Sheriff, or his or her designee.

(1.5) The Chair and Vice Chair shall be elected from among its members by a majority of the members of the Council.

(2) Members of the Council who serve because of their public office or position, or those who are designated as members by such officials, shall serve only as long as they hold such office or position.

(3) Council members shall serve without compensation but shall be reimbursed for travel and per diem expenses incurred in their work for the Council.

(4) The Council may exercise any power, perform any function, take any action, or do anything in furtherance of its purposes and goals upon the appointment of a quorum of its members. The term of office of each member of the Council ends on the date of repeal of this amendatory Act of the 96th General Assembly.

(5) The Council shall determine the qualifications for and hire the Executive Director.

(d) Duties. The Council shall perform, as resources permit, duties including:

(1) Collect and analyze information including sentencing data, crime trends, and existing correctional resources to support legislative and executive action affecting the use of correctional resources on the State and local levels.

(2) Prepare criminal justice population projections annually, including correctional and community-based supervision populations.

(3) Analyze data relevant to proposed sentencing legislation and its effect on current policies or practices, and provide information to support evidence-based sentencing.

(4) Ensure that adequate resources and facilities are available for carrying out sentences imposed on offenders and that rational priorities are established for the use of those resources. To do so, the Council shall prepare criminal justice resource statements, identifying the fiscal and practical effects of proposed criminal sentencing legislation, including, but not limited to, the correctional population, court processes, and county or local government resources.

(4.5) Study and conduct a thorough analysis of sentencing under Section 5-4.5-110 of this Code. The Sentencing Policy Advisory Council shall provide annual reports to the Governor and General Assembly, including the total number of persons sentenced under Section 5-4.5-110 of this Code, the total number of departures from sentences under Section 5-4.5-110 of this Code, and an analysis of trends in sentencing and departures. On or before December 31, 2022, the Sentencing Policy Advisory Council shall provide a report to the Governor and General Assembly on the effectiveness of sentencing under Section 5-4.5-110 of this Code, including recommendations on whether sentencing under Section 5-4.5-110 of this Code should be adjusted or continued.

(5) Perform such other studies or tasks pertaining to sentencing policies as may be requested by the Governor or the Illinois General Assembly.

(6) Perform such other functions as may be required by law or as are necessary to carry out the purposes and goals of the Council prescribed in subsection (b).

(7) Publish a report on the trends in sentencing for offenders described in subsection (b-1) of Section 5-4-1 of this Code, the impact of the trends on the prison and probation populations, and any changes in the racial composition of the prison and probation populations that can be attributed to the changes made by adding subsection (b-1) of Section 5-4-1 to this Code by Public Act 99-861.

(e) Authority.

(1) The Council shall have the power to perform the functions necessary to carry out its duties, purposes and goals under this Act. In so doing, the Council shall utilize information and analysis developed by the Illinois Criminal Justice Information Authority, the Administrative Office of the Illinois Courts, and the Illinois Department of Corrections.

(2) Upon request from the Council, each executive agency and department of State and local government shall provide information and records to the Council in the execution of its duties.

(f) Report. The Council shall report in writing annually to the General Assembly, the Illinois Supreme Court, and the Governor.

(g) (Blank).

(Source: P.A. 100-3, eff. 1-1-18; 100-201, eff. 8-18-17; 101-279, eff. 8-9-19.)