

## 1. THE SENTENCING COMMISSION

**Q.** What year was the commission established? Has the commission essentially retained its original form or has it changed substantially or been abolished?

The Illinois Sentencing Policy Advisory Council (“SPAC”) was created in 2009<sup>1</sup> as part of the Illinois Criminal Law Edit, Alignment and Reform (“CLEAR”) Commission’s efforts to create a streamlined process of compiling and analyzing sentencing data in the state.<sup>2</sup> The commission has existed in substantially the same form since that time.

**Q.** Membership: who appoints them, for what terms, with what required qualifications?

SPAC consists of a nonpartisan group of state and local criminal justice system stakeholders.<sup>3</sup> Some councilmembers serve by virtue of their public office or position (or are designated as members by such officials) and serve only as long as they hold their particular office. These members include:

- The President of the State Senate, or designee;
- The Minority Leader of the State Senate, or designee;
- The Speaker of the State House, or designee;
- The Minority Leader of the State House, or designee;
- The Governor, or designee;
- The Illinois Attorney General, or designee;
- The State’s Attorney of Cook County, or designee;
- The Public Defender of Cook County, or designee;
- The State Appellate Defender, or designee; and
- The Director of the Administrative Office of the Illinois Courts, or designee.

The majority of the posts previously mentioned are filled by designees who represent “state and local criminal justice system stakeholders.” These ten members in turn appoint seven additional members as follows:

- Two retired judges from the circuit, appellate, or supreme court level;
- A victim of a violent felony or representative of a crime victims’ organization;
- A representative of a community-based organization;
- A criminal justice academic researcher;
- A representative of law enforcement from a local unit of government; and
- A sheriff.

The State’s Attorney’s Appellate Prosecutor appoints a State’s Attorney not from Cook County. This member and the seven appointed by the commission members serve until the Council ends on its date of repeal, which is currently scheduled for December 31, 2020.

The final four individuals are “ex officio” council members who serve by virtue of their state government title, and whose tenures last only for as long as that title is held. These remaining members must consist of:

- The Director of Corrections, or designee;
- The Chair of the Prisoner Review Board, or designee;
- The Director of the Illinois State Police, or designee; and
- The Director of the Illinois Criminal Justice Information Authority (“ICJIA”), or designee.

The full Council elects a Chair and Vice Chair by majority vote.<sup>4</sup>

**Q.** Is the commission an independent agency, or is it located in or hosted by some other state agency?

SPAC is an independent Council created under the jurisdiction of the Governor.<sup>5</sup> By law, SPAC has the power to perform the functions necessary to carry out its duties, and has independent authority to request information from any other executive agency or department in state or local government while executing those duties. SPAC is required to report annually in writing to the General Assembly, the Illinois Supreme Court, and to the Governor.<sup>6</sup>

**Q.** How many staff does the commission have? Are they dedicated to the commission, or shared with another agency?

SPAC has six full-time dedicated staffers at the time of this writing.<sup>7</sup>

**Q.** What is the commission's current statutory mandate?

SPAC's main duties are to: (1) collect and analyze sentencing data, crime trends, and other similar information; (2) prepare criminal justice population projections; (3) analyze data relevant to proposed sentencing legislation and its effect on current policies or practices; (4) prepare system-wide criminal justice resource statements, identifying the fiscal and practical effects of proposed criminal sentencing legislation on state and local stakeholders; (5) study sentencing practices under Section 5-4.5-110, which relates to weapons offenses committed by offenders with prior convictions for certain violent offenses; (6) perform such other studies or tasks pertaining to sentencing policies as requested by the Governor or the Illinois General Assembly. The Council is also permitted to perform "such other functions as may be required by law or as are necessary to carry out the purposes and goals of the council" listed in statute.<sup>8</sup>

**Q.** Do statutes and/or guidelines identify management of prison and jail resources as a goal?

SPAC is required to oversee and analyze the adequacy of "resources and facilities" for carrying out sentences. It is mandated to accomplish this goal through research and reporting on the "practical effects" of new legislation on the prison population as well as the court system and local governments.<sup>9</sup>

**Q.** Are sentencing practices studied by means of annual or other regular data sets? If so, are those data sets made available to outside researchers?

SPAC regularly produces online publications on the fiscal impact of any proposed legislation related to criminal sentencing. It also reports on the cost-benefit of practices already in place and on criminal activity

trends. The results of this research are summarized each year in an annual report which is also available online.<sup>10</sup> SPAC utilizes data from the Department of Corrections and circuit court clerks, cost data collected from state and local justice systems, and criminal history data.<sup>11</sup>

## 2. PRISON RELEASE DISCRETION

**Q.** Does the jurisdiction utilize parole release discretion or has it been abolished for all or most offenders?

Illinois utilizes determinate sentencing for most offenses, meaning that Illinois law requires a deciding judge to set most sentences for a definite term within a certain range depending on its statutory classification, thus eliminating the use of parole.<sup>12</sup>

**Q.** Does the state have a "truth in sentencing" law, limiting the extent of early release?

Illinois passed its "truth-in-sentencing" legislation in its current form in 1998.<sup>13</sup> It requires the Department of Corrections to create rules and regulations for awarding and revoking "good time credits" that allow for early release, and for those rules to be approved by the Prisoner Review Board. Individuals who have been sentenced to death or life in prison, or who have been sentenced for first-degree murder or terrorism must serve 100% of their term. Individuals convicted of various other serious crimes must serve 75% or 85% of their incarceration sentence.<sup>14</sup>

<sup>1</sup> 730 Ill. Comp. Stat. 5/5-8-8 (2018).

<sup>2</sup> *About Us*, Ill. Sentencing Policy Advisory Council, <http://www.icjia.state.il.us/spac/index.cfm?metasection=about> (last visited Jun. 19, 2018).

<sup>3</sup> 730 Ill. Comp. Stat. 5/5-8-8(c) (2018); *SPAC Council Members*, Ill. Sentencing Policy Advisory Council, <http://www.icjia.state.il.us/spac/index.cfm?metasection=about&metapage=council> (last visited Jun. 19, 2018).

<sup>4</sup> 730 Ill. Comp. Stat. 5/5-8-8(c) (2018).

<sup>5</sup> 730 Ill. Comp. Stat. 5/5-8-8(a) (2018).

<sup>6</sup> 730 Ill. Comp. Stat. 5/5-8-8(e–f) (2018).

<sup>7</sup> Correspondence with Kathryn Saltmarsh, Executive Director, Illinois Sentencing Policy Council (Nov. 2, 2016).

<sup>8</sup> 730 Ill. Comp. Stat. 5/5-8-8(d) (2018). Though the weapons-related sentences to be tracked by SPAC are referred to as “sentencing guidelines” with a procedure for entering a “departure,” see 2017 Ill. Legis. Serv. P.A. 100-3, in application, the sentencing provisions function more like a mandatory minimum sentence with a safety valve.

<sup>9</sup> 730 Ill. Comp. Stat. 5/5-8-8(d) (2018).

<sup>10</sup> See *SPAC Publications*, Ill. Sentencing Pol. Advisory Council,

<http://www.icjia.state.il.us/spac/index.cfm?metasection=publications> (last visited Jun. 19, 2018).

<sup>11</sup> Correspondence with Kathryn Saltmarsh, *supra* note 7.

<sup>12</sup> See 730 Ill. Comp. Stat. 5/5-4.5-20 et seq. (2018).

<sup>13</sup> 1998 Ill. Legis. Serv. P.A. 90-592, 90-593 (West). The Truth-in-Sentencing scheme was originally passed in 1995, but a constitutional challenge to the law on procedural grounds prompted the legislature to amend the original law and replace it 3 years later. See Olson et al., *The Impact of Illinois’ Truth-in-Sentencing Law on Sentence Lengths, Time to Serve and Disciplinary Incidents of Convicted Murderers and Sex Offenders* 10 (June 2009), <http://www.icjia.state.il.us/cjreform2015/pdf/Olson%20-%20Impact%20of%20TIS%20Report.pdf>.

<sup>14</sup> See 730 Ill. Comp. Stat. 5/3-6-3(a), (c) (2018). Release is available to most inmates after serving ½ of their incarceration term. All life sentences in Illinois are for the term of “natural life” with no possibility of discretionary release.