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

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CENTER FOR IMPACT RESEARCH  
OCTOBER 2004

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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

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- 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

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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.



# INTRODUCTION

Policymakers, advocates, and taxpayers have become increasingly concerned about the growing 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.<sup>1</sup> 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.<sup>2</sup> The wardens also believed that on average, 50% of inmates could be released without endangering public safety.

A 1998 study found that drug and alcohol abuse and addiction were implicated in the incarceration of 80% of adult inmates and an estimated 70% to 85% of inmates were in need of substance abuse treatment.<sup>3</sup> In many instances, inmates have a dual diagnosis of substance abuse and mental illness.<sup>4</sup> Without adequate treatment in prison and treatment and support services upon release, persons with substance abuse problems, and particularly those with a dual diagnosis face grave obstacles to rehabilitation and reintegration.

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.<sup>5</sup> 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.

By developing such estimates and communicating them to interested parties in Chicago and around the state, the DJC hopes to mobilize public support for reforming sentencing laws and promoting effective

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<sup>1</sup> Jails hold persons awaiting trial or serving shorter sentences; prisons hold persons convicted of federal or state offenses.

<sup>2</sup> Judith Greene and Vincent Shiraldi, "Cutting Correctly: New State Policies for Times of Austerity," Center for Juvenile and Criminal Justice, February 2002.

<sup>3</sup> "Behind Bars: Substance Abuse and America's Prison Population," National Center on Addiction and Substance Abuse at Columbia University (CASA), January 1998.

<sup>4</sup> According to NAMI, an estimated 16% of jail and prison inmates have severe mental and substance abuse disorders. Among detainees with mental disorders, an estimated 72% have a co-occurring substance abuse disorder, "Dual Diagnosis and Integrated Treatment of Mental Illness and Substance Abuse Disorder," NAMI, September 2003. For information about a Dual Diagnosis Court program in Orange County, California, see Christine Kleinpeter, Elizabeth Piper Deschenes, Jeff Blanks, and Cory R. Lepage, "Providing Recovery Services for Offenders with Co-Occurring Disorders," April 2004, presented at the Conference of the Center for Mental Health Services and Criminal Justice Research.

<sup>5</sup> Developing Justice Coalition members include: ACORN; Ambassadors for Christ Church; Brighton Park Neighborhood Council; Chicago Coalition for the Homeless; Community Renewal Society; Developing Communities Project; Foster Park Neighborhood Council; Garfield Area Partnership; Global Outreach Ministries; Inner-City Muslim Action Network; Northwest Neighborhood Federation; Organization of the North East; Protestants for the Common Good; SERV-US; Southwest Organizing Project; Target Area Development Corp.; and West Side Health Authority.

sentencing alternatives such as drug treatment programs for nonviolent offenders. Such programs have the potential to counter the epidemic of addiction and recidivism, a severe public health problem in Illinois, and contribute to stabilizing and rebuilding the lives of individuals, families, and communities.

## 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.<sup>6</sup> 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. Conversations with policy professionals and researchers as well as a review of research on the effectiveness and cost savings associated with various treatment programs also provided information about potential savings to the state of Illinois.<sup>7</sup> Such savings could be realized through alternative sentencing policies and practices for nonviolent drug offenders, specifically by sentencing to drug treatment programs.

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<sup>6</sup> There is an abundance of research and analysis on these issues. Informative studies include: "Shoveling Up: The Impact of Substance Abuse on State Budgets," National Center on Addiction and Substance Abuse at Columbia University, January 2001; Maria Bruni, Beth-Anne Jacob, and Sylvan Robb, "The Effectiveness of Substance Abuse Treatment: Results of the Illinois Statewide Treatment Outcomes Project," Illinois Department of Human Services, Office of Alcoholism and Substance Abuse, September 2001; Jonathan P. Caulkins, C. Peter Rydell, William L. Schwabe, and James Chiesa, "Mandatory Minimum Drug Sentences: Throwing Away the Key or Taxpayers' Money?" RAND, 1997; Ryan S. King and Marc Mauer, "State Sentencing and Corrections Policy in an Era of Fiscal Restraint," The Sentencing Project, February 2002; Doug McVay, Vincent Schiraldi, and Jason Ziedenberg, "Treatment or Incarceration: National and State Findings on the Efficacy and Cost Savings of Drug Treatment Versus Imprisonment," Justice Policy Institute, March 2004; Judith Greene and Vincent Schiraldi, "Cutting Correctly: New State Policies for Times of Austerity," Center for Juvenile and Criminal Justice, February 2002; Judith Greene and Vincent Schiraldi, "Cutting Correctly: New Prison Policies for Times of Fiscal Crises," Center for Juvenile and Criminal Justice, February 2003.

<sup>7</sup> For their assistance on this project, CIR would like to thank Joanne Archibald of Chicago Legal Advocacy for Incarcerated Mothers; Deanne Benos and Steve Karr of the Illinois Department of Corrections; Lisa Braude of TASC; Michael Darcy of Gateway Foundation; David Olson of the Illinois Criminal Justice Information Authority; and Paula Wolff of Chicago Metropolis 2020.

# WHY SENTENCING REFORM?

## AMERICA'S WORLD RECORD FOR INCARCERATION

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The United States is the global leader in incarceration, with more people in prison and jail than any other country in the world. At mid-year in 2003, the number of people incarcerated in the United States was 2,078,570. State and federal inmates accounted for about two-thirds of this population with the other third in local jails. Since 1995, the average annual increase in the incarcerated population was 3.7%.<sup>8</sup>

The 2003 incarceration rate in the United States of 715 per 100,000 residents—one out of every 140 persons—is the highest rate in the country's history. In fact, the United States has the highest rate of incarceration in the entire world. Russia is a distant second with a rate of 584 per 100,000.<sup>9</sup> The rate of incarceration in the United States rose by 49% between 1991 and 2002.<sup>10</sup>

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.<sup>11</sup> At mid-year 2003 in Illinois, 43,186 adults were incarcerated in state prisons and 33,692 adults were on parole.<sup>12</sup> At year end 2003, there were 144,454 adults on probation in Illinois.<sup>13</sup> When the number of persons in jail is included, Illinois had a total of 244,400 adults under correctional supervision in 2003.<sup>14</sup>

Studies of the growth of the prison population indicate that the rise is a result of current sentencing policy, including mandatory minimum sentencing laws, and not increasing crime rates.<sup>15</sup> Mandatory minimum sentencing laws were passed by Congress and implemented by most states in the late 1980s in conjunction with the War on Drugs; many of these laws are still in use. Mandatory minimums emphasize law enforcement strategies and punishment—prison sentences for more offenders and longer prison stays—instead of community supervision and mandated drug treatment and rehabilitation for drug offenses. Proponents of mandatory minimum sentencing believed that this policy would reduce crime and increase uniformity in the criminal justice system. The result, however, is quite different: burgeoning prison populations and expenditure on corrections, high rates of recidivism, and dire effects on men, women, and children across the country, and particularly in urban, low-income minority communities.

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<sup>8</sup> Paige M. Harrison and Jennifer C. Karberg, "Prison and Jail Inmates at Midyear 2003," *Bureau of Justice Statistics Bulletin*, May 2004.

<sup>9</sup> "New Prison Figures Demonstrate Need for Comprehensive Reform," The Sentencing Project, May 2004. For comparison, consider incarceration rates in other industrialized nations: 143 per 100,000 in England and Wales; 116 per 100,000 in Canada; 114 per 100,000 in Australia; 96 per 100,000 in Germany; 95 per 100,000 in France; and 54 per 100,000 in Japan.

<sup>10</sup> *Ibid.*

<sup>11</sup> "2002 Statistical Presentation," Illinois Department of Corrections.

<sup>12</sup> "Fiscal Year 2003 Fact Sheet," Illinois Department of Corrections, June 30, 2003.

<sup>13</sup> Lauren E. Glaze and Seri Palla, "Probation and Parole in the U.S., 2003," July 2004, Bureau of Justice Statistics.

<sup>14</sup> *Ibid.*

<sup>15</sup> Ryan S. King and Marc Mauer, "Distorted Priorities: Drug Offenders in State Prisons," The Sentencing Project, September 2002.

## Mandatory Minimum Sentencing and the War on Minority Drug Offenders

Under mandatory minimum sentencing laws, the type and amount of drugs involved in the offense determine the length of the prison sentence. In most cases, judges cannot take into consideration the defendant's character, the effect of incarceration on the offender's dependents, and the nature or the circumstances of the crime. As a result of these laws, many people convicted of nonviolent drug offenses have received and continue to receive prison sentences, and do not have the option of mandatory drug treatment and community supervision.

The War on Drugs and mandatory minimum sentencing laws have led not only to the incarceration of a disproportionate number of African Americans and Latinos, but also to an enormous increase in resources devoted to policing, the courts, and corrections.<sup>16</sup> Drug related arrests in the United States nearly tripled from 580,900 in 1980 to 1,579,566 in 2000.<sup>17</sup> The number of inmates incarcerated for drug offenses at all levels of the criminal justice system, including local jails and federal and state prisons, increased from 40,000 in 1980 to 453,000 by 1999.<sup>18</sup> These escalating figures have grave effects on entire communities: more and more people who are incarcerated for drug offenses are separated from their families and communities and sent to jail and prison, where they do not receive the treatment they need to address the substance abuse problem that led to their arrest in the first place.

### Incarceration of Drug Offenders in Illinois

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, compared to increases of 16.3% for crimes against persons, 27.0% for sex offenses, and 8.3% for property crimes.<sup>19</sup> Drug offenses went from 15.9% of annual prison admissions in 1988 to 41.6% in 2002. The percentage and number of drug offenders in Illinois prisons have increased from 20.1% (6,925) in 1993 to 25.5% (10,884) in 2002. Despite the fact that drug offenders have the highest percentages of prison sentences imposed (38.9%), admissions (41.6%), and releases (41.5%), they represented only one-quarter of the prison population because sentences for drug offenses are shorter than for other types of offenses. The average prison stay in 2002 for a drug offender was 0.9 years, or 10.8 months.

In addition to drug offenses themselves, drugs are considered to be a widespread factor in other criminal activity. IDOC reports that approximately 60% of all adult male arrestees statewide and approximately 82% in Chicago test positive for at least one illegal drug.<sup>20</sup> Among inmates, as many as 69% are incarcerated for a drug or a drug-involved offense.<sup>21</sup> In fact, according to IDOC Director Roger Walker,

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<sup>16</sup> The largest one-year increase (52%) in the number of persons incarcerated for drug offenses occurred in 1988-1989, following the passage of the Anti-Drug Abuse Act, the legislation that inaugurated the current War on Drugs. See Arthur Lurigio, "Disproportionate Incarceration of African Americans for Drug Offenses in the U.S.," *Research Bulletin*, Illinois Criminal Justice Information Authority, January 2004. The composition of prisoners under state and federal jurisdiction in 2002 was: 45.1% Black, 34.2% White, 18.1% Hispanic, and 2.6% other. See Paige M. Harrison and Allen Beck, "Prisoners in 2002," *Bureau of Justice Statistics Bulletin*, July 2003. At midyear 2003, 12% all African American men in their twenties were in prison or jail, compared to 3.7% for Latinos, and 1.6%. See Paige M. Harrison and Jennifer C. Karberg, "Prison and Jail Inmates at Midyear 2003."

<sup>17</sup> Ryan S. King and Marc Mauer, "Distorted Priorities: Drug Offenders in State Prisons."

<sup>18</sup> Ibid.

<sup>19</sup> Data discussed here for 2002 are from "2002 Statistical Presentation," Illinois Department of Corrections.

<sup>20</sup> "Governor Reopens Sheridan Correctional Center," *DOC Report Online*, June 15, 2004.

<sup>21</sup> "Governor Signs Law that Improves Public Safety by Building Partnerships between Parole and Drug Courts," Illinois Office of the Governor, Rod Blagojevich, August 24, 2004.

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.”<sup>22</sup>

When mandatory minimums were introduced, a punitive attitude toward drug addiction was combined with a belief that longer sentences would act as a deterrent to criminal activity. However, studies show the more often an individual is imprisoned, the more likely the individual is a drug or alcohol addict or abuser.<sup>23</sup> In recent years, policymakers, advocates, and taxpayers are increasingly concerned that sentencing policies have succeeded in enlarging the prison population and increasing criminal justice expenditure, but have failed to address the epidemic of drug use and addiction and its enormous financial and social costs.<sup>24</sup> The longer the epidemic of addiction continues to spread, the larger the population of persons convicted of nonviolent drug offenses or drug involved offenses—who are then imprisoned and released.<sup>25</sup>

This expansion of incarceration is prompting many states to reconsider and reform parole and sentencing laws for drug offenses.<sup>26</sup> Such changes are essential to stabilize and eventually reduce the size of the prison population and the amount spent on corrections.<sup>27</sup> Thus a number of states are showing an interest in shifting the priority from punishment and imprisonment to treatment and rehabilitation.

## COSTS OF INCARCERATION IN ILLINOIS

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State budgets throughout the United States are more constrained today than during any period since the late 1970s and the Illinois state budget is no exception.<sup>28</sup> Fiscal concerns are forcing Illinois lawmakers and policymakers to evaluate cost-saving alternatives for areas of greatest expenditure, including corrections. The more the state spends on corrections, the more money that is lost to other key programs such as education, health, and social services—including programs that are crucial for preventing crime. As one report notes, “The nearly \$10 billion spent in direct costs to maintain the nation’s incarcerated drug offender population is significant in its own right, but even these figures do not include the large costs to communities when resources are spent on prisons rather than other local social services.”<sup>29</sup>

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<sup>22</sup> Ibid.

<sup>23</sup> “Behind Bars: Substance Abuse and America’s Prison Population,” National Center on Addiction and Substance Abuse.

<sup>24</sup> Economic and social costs of substance abuse cover a broad range of public expenditure. For example, one study estimated 12.2% of the 1998 Illinois budget was spent on programs related to substance abuse (criminal justice, education, health, social services, mental health, public safety, state workforce), including only 0.4% that was spent on prevention, treatment, and research. See “Shoveling Up: The Impact of Substance Abuse on State Budgets,” National Center on Addiction and Substance Abuse.

<sup>25</sup> In 2002, 81,000 people were admitted voluntarily or as a result of a court order to state-funded substance abuse treatment program for abuse of an illegal drug. See David Olson, “The Justice System’s Response to Drug Offenses and Substance Abuse,” *Research Bulletin*, Illinois Criminal Justice Information Authority, August 2003.

<sup>26</sup> Ryan S. King and Marc Mauer, “State Sentencing and Corrections Policy in an Era of Fiscal Restraint.”

<sup>27</sup> “New Prison Figures Demonstrate Need for Comprehensive Reform,” The Sentencing Project.

<sup>28</sup> Judith A. Greene, “Smart on Crime: Positive Trends in State-Level Sentencing and Corrections Policy,” *Families Against Mandatory Minimums*, November 2003.

<sup>29</sup> The authors note that between 1980 and 2000 in New Jersey, “jobs in arresting and imprisoning New Jersey’s citizens grew at 2.5 times the rate of jobs to educate the state’s citizenry and twice the rate of social service employment to treat people outside the justice system.” See Vincent Shiraldi and Jason Ziedenberg, “Costs and Benefits? The Impact of Drug Imprisonment in New Jersey,” Justice Policy Institute, October 2003.

In fiscal year 2003, IDOC spent \$1.2 billion.<sup>30</sup> This spending on corrections comprised 6.3% of the state's general fund expenditure and 3.3% of its total expenditures in fiscal year 2003.<sup>31</sup> These funds covered facility operating expenses and salaries for 13,596 criminal justice employees.<sup>32</sup> The annual cost to incarcerate an adult in an IDOC facility during fiscal year 2003 was \$22,627.<sup>33</sup>

**In 2003, drug offenders constituted 25% (10,891) of the Illinois adult inmate population.<sup>34</sup> It cost Illinois taxpayers an estimated \$246 million per year to incarcerate adult inmates for nonviolent drug offenses in 2003.<sup>35</sup>**

However, the cost of incarcerating drug offenders does not include the cost of incarcerating all offenders who have substance abuse problems. As mentioned above, many more inmates, who are in prison for other types of nonviolent offenses such as property crimes, have substance abuse problems.<sup>36</sup> Furthermore, the total cost of sentencing nonviolent offenders with substance abuse problems to prison is much larger than simply the cost of incarceration. It 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.

## **IMPACTS OF INCARCERATION ON INDIVIDUALS, FAMILIES, AND COMMUNITIES**

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As extensive as the costs of policing, the courts, and corrections are, the economic and social impact of high rates of incarceration is even greater as released inmates face barriers to employment and many need housing, food and medical assistance, substance abuse treatment, and other services. Alternatives to incarceration for nonviolent drug offenders have gained popularity in recent years not only because of the economic benefits but also because of the social benefits of keeping people out of prison—and positively and productively connected with their communities.

More than 630,000 people will be released from state and federal prisons this year with hundreds of thousands more released from local jails.<sup>37</sup> This number has increased from about 400,000 in 1990.<sup>38</sup> In

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<sup>30</sup> "Fiscal Year 2003 Fact Sheet," Illinois Department of Corrections. Illinois operates 26 correctional centers, six work camps, two boot camps, eight adult transition centers, eight juvenile institutions, and 25 parole offices.

<sup>31</sup> "2002 State Expenditure Report," National Association of State Budget Officers, 2003.

<sup>32</sup> "Fiscal Year 2003 Fact Sheet," Illinois Department of Corrections.

<sup>33</sup> IDOC bases this estimate of cost by dividing the sum of the annual expenditure of Adult Division Facilities and all administrative costs by the average annual inmate population of the facilities. See, "Financial Impact Statement 2003," Illinois Department of Corrections.

<sup>34</sup> "Fiscal Year 2003 Fact Sheet," Illinois Department of Corrections.

<sup>35</sup> This figure was arrived at by multiplying the number of 2003 drug offenders (10,891) by the average annual cost of incarceration (\$22,627).

<sup>36</sup> "Behind Bars: Substance Abuse and America's Prison Population," National Center on Addiction and Substance Abuse.

<sup>37</sup> "After Prison: Roadblocks to Reentry," Legal Action Center.

<sup>38</sup> Edmund F. McGarrell, Natalie Hipple, Duren Banks, "Applying Problem Solving Approaches to Issues of Inmate Re-Entry: The Indianapolis Pilot Project, Final Report," February 2004.

Illinois, 30,068 adults were released from prison in 2001, more than 2.5 times the number released in 1983.<sup>39</sup>

Sentencing nonviolent drug offenders to imprisonment instead of to mandatory treatment and supervision creates problems for families and communities during the period of incarceration and has adverse effects after release. The problems associated with incarceration and re-entry are further compounded when inmates with substance abuse problems have not received adequate treatment in prison and lack access to treatment on release.

Released inmates face substantial challenges in recovering from the personal, social, and economic disabilities of incarceration. A nonviolent drug conviction destabilizes persons whose lives often are already unstable—and stigmatizes them with a criminal record. Released inmates need intensive support to build a stable life, which often includes assistance in finding a place to live, obtaining a living-wage job, and rebuilding relationships with family members and friends.<sup>40</sup> Many also need substance abuse treatment and mental health care. However, adequate assistance is typically difficult to locate and access.

Another critical aspect of re-entry and reintegration concerns employment opportunities. Without an income, released inmates cannot provide for themselves and their families, often resulting in criminal activity and recidivism. Without a job, it is difficult to find and pay for housing. The lack of a stable residence makes it hard to find and keep a job. This places stress not only on individuals, but also on their families and communities. Individuals may face further challenges related to family reunification, including barriers to regaining visitation rights or custody of their children. An estimated 3.2 million children are affected by having a parent in prison or jail, recently released, or on parole.<sup>41</sup>

The incarceration of large numbers of adults increases social and economic instability within communities, and particularly in communities that have a disproportionate number returning from Illinois prisons. For example, 51% of the adults released from Illinois prisons in 2001 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).<sup>42</sup>

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<sup>39</sup> Nancy G. La Vigne, Cynthia A. Mamalian, Jeremy Travis, Christy Visher, "A Portrait of Prisoner Reentry in Illinois," Urban Institute, April 17, 2003.

<sup>40</sup> For a detailed discussion of re-entry issues, see *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities*, edited by Jeremy Travis and Michelle Waul, Urban Institute Press, 2004. For information about reentry from the perspective of persons released from Illinois prisons, see Christy Visher, Nancy LaVigne, and Jill Farrell, "Illinois Prisoners' Reflections on Returning Home," Urban Institute, September 2003. See also, Paul Street, "The Vicious Circle: Race, Prison, Jobs, and Community in Chicago, Illinois, and the Nation," Chicago Urban League, October 2002; and Marcia Festen and Sunny Fischer, "Navigating Reentry: The Experiences and Perceptions of Ex-Offenders Seeking Employment," Chicago Urban League, January 2002.

<sup>41</sup> "Prisoners Once Removed Probes 'Indescribable Burden' of Imprisonment and Reentry on Children, Families, and Communities," Urban Institute, February 6, 2004.

<sup>42</sup> Nancy G. La Vigne, Cynthia A. Mamalian, Jeremy Travis, Christy Visher, "A Portrait of Prisoner Reentry in Illinois."

## INCARCERATION, RECIDIVISM, AND TREATMENT

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Mandatory minimum sentencing practices yield increased expenditures, higher rates of recidivism, and more nonviolent drug offenders in prison and jail—many without access to effective substance abuse treatment programs.<sup>43</sup> Recidivism is the relapse into criminal activity and is generally measured by a person's return to prison for a new offense. Rates of recidivism reflect the degree to which released inmates have been rehabilitated and the role correctional programs play in reintegrating prisoners into society. The rate of recidivism in the United States is estimated to be about two-thirds, which means that two-thirds of released inmates will be re-incarcerated within three years.<sup>44</sup>

The recidivism rate in Illinois for inmates released in fiscal year 2001 was reported to be 54.6%.<sup>45</sup> High rates of recidivism result in tremendous costs both in terms of public safety and in tax dollars spent on policing, court costs, and incarceration of re-offenders. High rates of recidivism also lead to devastating social costs to the communities and families of offenders, as well as the personal costs to the offenders themselves.

A systems approach to substance abuse problems of offenders that coordinates treatment with the entire criminal justice system—sentencing, probation, prison, and parole has been found to produce positive results.<sup>46</sup> Most studies over the past two decades have shown that treatment programs reduce the incidence of criminal behavior and increase the length of time without a crime for released inmates.<sup>47</sup> Studies show that drug treatment programs can reduce recidivism by as much as 31%.<sup>48</sup> Improved access to treatment programs in jail and prison as well as mandated treatment in the community have the potential to reduce significantly the amount of drug abuse as well as the rate of recidivism. Due to the severe costs, programs for inmates and released inmates that reduce recidivism can be cost effective—even those that have more modest rates of success. Improved access to treatment programs in jail and prison as well as mandated treatment in the community have the potential to reduce significantly the amount of drug abuse as well as the rate of recidivism.<sup>49</sup>

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<sup>43</sup> IDOC suggests that sentencing laws led to an increase in the number of incarcerated drug offenders in Illinois by 57.3% from 1993 to 2002. Additional information is available at "2002 Statistical Presentation," Illinois Department of Corrections.

<sup>44</sup> Edmund F. McGarrell, Natalie Hipple, Duren Banks, "Applying Problem Solving Approaches to Issues of Inmate Re-Entry."

<sup>45</sup> The figure represents the percentage of inmates who return to prison within three years after release. Steve Karr, IDOC, personal communication, September 29, 2004.

<sup>46</sup> Faye S. Taxman, "Effective Practices for Protecting Public Safety through Substance Abuse Treatment," National Institute on Drug Abuse, March 24, 2000.

<sup>47</sup> Faye S. Taxman, "Reducing Recidivism through a Seamless System of Care," Office of National Drug Control Policy, Treatment and Criminal Justice System Conference, February 20, 1998.

<sup>48</sup> For a review of studies on the impact of treatment, educational, and employment programs on recidivism, see Lise McKean and Charles Ransford, "Current Strategies for Reducing Recidivism," Center for Impact Research, August 2004.

<sup>49</sup> For discussion of treatment programs in prison, see H.K. Wexler, "The success of therapeutic communities for substance abusers in American prisons," *Journal of Psychoactive Drugs* 27(1): 57-66, 1997; and H.K. Wexler, "Therapeutic communities in American prisons," in *Therapeutic Communities in American Prisons*, edited by E. Cullen, L. Jones, and R. Woodward (New York: Wiley and Sons, 1997).



## Treatment in Prison in Illinois

IDOC has recently introduced a policy of universal screening of inmates for substance abuse and mental health problems. Screening, referral, and other strategies to increase participation in treatment programs in prison are particularly important not only because so many people are not knowledgeable about accessing treatment, but also because substance abuse is a complex medical, psychological, and social problem that commonly requires more than one episode of treatment. For example, a study of nearly 2,000 persons receiving substance abuse treatment in Illinois found that 80% had been convicted of a crime, with an average of 3.1 convictions; 39% had entered treatment via the criminal justice system; and 70% had been in treatment before with an average of 2.1 prior treatment episodes.<sup>50</sup>

However, the capacity of treatment programs does not accord with the need. The number of IDOC inmates in treatment programs is a small proportion of the substance-involved prison population: the number in drug treatment at the end fiscal year 2004 was 3,353, compared to 2,440 for 2003, and 2,481 in 2000.<sup>51</sup> The number of inmates who completed treatment during the fiscal year, however, declined from 3,991 in 2000 to 3,052 in 2003, with a slight increase over 2003 to 3,185 in 2004.<sup>52</sup>

The Gateway Foundation is a major provider of substance abuse treatment programs to inmates in correctional facilities in Illinois and in other states. Gateway has programs in Illinois at eight prisons, one adult transitional center, and a women's program at the Cook County jail. Gateway reports that its services cost \$6 to \$12 per day (\$2,190 to \$4,380 per year), per individual, depending upon program size and scope.<sup>53</sup>

**Effective programs for inmates can be an efficient and economical way to increase access to treatment to a large number of drug involved offenders.**

Illinois reopened the Sheridan Correctional Center in January 2004 as the nation's largest state prison dedicated to substance abuse treatment and community crime reduction program. Based on best practices from successful prison treatment and recidivism reduction programs elsewhere, Sheridan is a promising and robust model of not only substance abuse treatment in prison but also continued treatment and intensive case management and parole supervision for released inmates. Moreover, with its focus on treatment and comprehensive post-release services, Sheridan has the potential to generate long-term cost savings associated with the reductions in substance abuse and recidivism rates that result from successful treatment.

The Impact Incarceration Program (IIP) is an IDOC program offered at two Illinois correctional facilities that incorporates treatment and is reducing costs of incarceration by reducing length of prison stays and

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<sup>50</sup> Maria Bruni, Beth-Anne Jacob, and Sylvan Robb, "The Effectiveness of Substance Abuse Treatment: Results of the Illinois Statewide Treatment Outcomes Project," Illinois Department of Human Services, Office of Alcoholism and Substance Abuse, September 2001.

<sup>51</sup> These figures represent the number of inmates enrolled in treatment on a given day at the end of the fiscal year, not the total number of inmates enrolled in treatment throughout the whole year. Steve Karr, IDOC, personal communication, September 29, 2004.

<sup>52</sup> Ibid.

<sup>53</sup> Michael Darcy, Gateway Foundation, personal communication, July 1, 2004.

rates of recidivism.<sup>54</sup> IDOC describes IIP as “a highly structured program of discipline. Devised to develop responsibility, self-esteem and positive self-concept, the program also addresses the underlying issues that often lead to criminal behavior and substance abuse.”

Since 1990, judges have referred 30,587 offenders to IIP, 22,467 have been admitted, and 72% (15,863 inmates) have graduated from the program. The recidivism rate of graduates for a new felony offense is 23.3%, contrasted a rate of 32.9% for comparable inmates.

**The largest reductions in recidivism rates are associated with IIP’s boot camp programs that offer more focus on treatment and more intensive community supervision and services after release. IIP 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.<sup>55</sup> 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 a cost of \$3.2 million for treatment services.**

## **BENEFITS OF ALTERNATIVES TO INCARCERATION**

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Expansion of alternative sentencing and reform of sentencing practices for drug offenses would provide for more nonviolent drug offenders to be sentenced to probation, mandatory treatment, and other forms of community supervision.<sup>56</sup> Several states have begun sentencing reform efforts in order to reduce criminal justice expenditures as well as address recidivism. Some states are already projecting and measuring the benefits and are increasing access to treatment, and reducing drug addiction and recidivism. 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.

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<sup>54</sup> Information about the program is from “Impact Incarceration Program: 2003 Annual Report to the Governor and the General Assembly,” Illinois Department of Corrections.

<sup>55</sup> “The Cost and Benefits of Substance Abuse Treatment: Findings from the National Treatment Improvement Evaluation Study (NTIES),” Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, National Evaluation Data Services, August 1999. These data from the NTIES report are referred to in “Drug Treatment in the Criminal Justice System,” Executive Office of the President, Office of National Drug Control Policy, March 2001.

<sup>56</sup> In addition to the increased number of arrests for drug offenses, the growth in the number of persons incarcerated is a result of Illinois drug laws that have been introduced since the late 1980s. These laws reduced the amount of controlled substance that lead to a more serious felony offense class; increased the number of offenses that are non-probationable; and introduced provisions that allowed for drug offenses committed under certain conditions to qualify for a more serious offense class. See David Olson, “The Justice System’s Response to Drug Offenses and Substance Abuse,” *Research Bulletin*, Illinois Criminal Justice Information Authority, August 2003.

For example, the Washington Department of Corrections recently proposed sentencing policy changes that would shorten the average length of stay in prison for nonviolent offenders and reduce or eliminate their community service after prison. Taken together, these policy changes are projected to reduce the state's prison population by 1,872 (allowing for facility closures) and the community supervision caseload by 53,000, producing an estimated overall savings of \$74.4 million.<sup>57</sup>

In November 2000, California voters approved the Substance Abuse and Crime Prevention Act, also known as Proposition 36. Under the act, nonviolent drug offenders can be sentenced to probation with drug treatment instead of incarceration. Offenders on probation or parole who commit nonviolent drug related offenses or violate drug-related conditions of their release are also eligible to receive treatment. The act provides for up to 12 months of community-based substance abuse treatment and up to six months of aftercare; it also authorizes the court to mandate vocational training, family counseling, literacy training, and other services. In its first year, the initiative reportedly saved California taxpayers \$275 million and diverted over 37,000 people to treatment.<sup>58</sup> Furthermore, the California Legislative Analysts Office estimated that even after paying \$120 million for treatment services for those diverted from prison by Proposition 36, the state will reduce prison costs by as much as \$1.5 billion over five years.<sup>59</sup>

In a slightly different vein, a RAND study estimated the effects on cocaine consumption of spending \$1 million on different types of anti-crime strategies. It found that spending \$1 million on mandatory minimum sentences would reduce consumption of cocaine by 13 kilograms; spending \$1 million to arrest, confiscate, and prosecute dealers using conventional prison terms would reduce consumption by 27 kilograms; and spending \$1 million to treat heavy users would reduce consumption by 100 kilograms.<sup>60</sup>

## **Probation and Treatment for Drug Offenders in Illinois**

In 2002, 53% of drug offenses in Illinois were for possession of small amounts of drugs (Class 4 Felony).<sup>61</sup> Of all adult felony drug offenders, approximately 50% were sentenced to probation, and 50% to prison. However, an Illinois study of sentencing practices found that several specific factors influenced whether an adult was sentenced to prison rather than probation. In fact, 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. Furthermore, the study found evidence suggesting that drug treatment may be key to sentencing decisions: "It also appears that orders to drug treatment mitigate the use of prison sentences for drug offenders, possibly indicating that the availability or acceptance of drug treatment may reduce the likelihood of prison sentences for drug offenses."<sup>62</sup>

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<sup>57</sup> Judith Greene and Vincent Shiraldi, "Cutting Correctly: New Prison Policies for Times of Fiscal Crises."

<sup>58</sup> "Prop. 36 Exceeds Expectations with Huge Savings," Drug Policy Alliance, July 2003.

<sup>59</sup> Judith Greene and Vincent Shiraldi, "Cutting Correctly: New State Policies for Times of Austerity."

<sup>60</sup> Jonathan P. Caulkins, C. Peter Rydell, William L. Schwabe, and James Chiesa, "Mandatory Minimum Drug Sentences: Throwing Away the Key or Taxpayers' Money?" RAND, 1997.

<sup>61</sup> Data in this discussion on probation in Illinois are from David Olson, "The Justice System's Response to Drug Offenses and Substance Abuse."

<sup>62</sup> Ibid.

The importance of mandatory substance abuse treatment for persons on probation for drug offenses cannot be overstated. In 2002, an estimated 50% of all probationers in Illinois have a current or past substance abuse problem, and probationers with a substance abuse problem are 2.5 times more likely to be arrested while on probation. Drug offenders comprise 24% of all adult probationers, and 42% of all adult probationers serving a sentence for a felony. The trend in probation sentencing 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, however, exist within Illinois for court orders and referrals to services that support probation sentences for drug offenders. For example, although two-thirds of the state's felony drug probationers were in Cook County, only 30% of those discharged in 2000 were ordered or referred to substance abuse treatment compared to more than 70% of drug offenders in rural and other urban areas who were ordered to treatment. Similarly, orders of urinalysis as part of a probation sentence were made for 31% of cases in Cook County and 75% in other urban jurisdictions.

Providing community supervision and treatment to offenders who would have otherwise been sentenced to prison provides substantial cost savings for Illinois.<sup>63</sup> For example, Treatment Alternatives for Safe Communities (TASC) reports 2,212 persons in Illinois received TASC services rather than go to prison at an annual cost of \$6,860 per person for supervision, probation, and treatment.<sup>64</sup> **Keeping these 2,212 persons out of prison resulted in a savings of \$35 million in 2003.**<sup>65</sup>

Even modest increases in the number of drug offenders sentenced to treatment and community supervision instead of prison would have considerable cost savings implications. **For example, if only 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.**<sup>66</sup>

## Drug Courts

Drug courts for nonviolent drug offenses which mandate community supervision and treatment are another strategy for addressing the epidemic of substance abuse and reducing expenditure on incarceration. Evaluations of drug courts in a range of states provide data on outcomes for a variety of measures, including rates of recidivism and cost savings.<sup>67</sup> Drug courts offer treatment options depending

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<sup>63</sup> According to the 2002 annual report of the Probation Services Division of the Administrative Office of the Illinois Courts, the annual costs for a person on probation in 2002 were: \$1,200 for standard probation; \$2,400 for Specialized DUI probation; and \$4,500 for Intensive Probation Supervision.

<sup>64</sup> Lisa Braude, TASC, personal communication, September 3, 2004.

<sup>65</sup> The savings of \$35 million is based on the difference between the cost of incarceration per year (\$22,627) for 2,212 persons (\$50 million) and the cost of TASC services and treatment per year (\$6,680) for 2,212 persons (\$15 million).

<sup>66</sup> This estimate is based on 1,089 (10% of drug offenders in prison in 2003) multiplied by \$15,747 (the difference between the annual cost of incarceration [\$22,627] and the estimated annual cost of treatment and community supervision [\$6,860]).

<sup>67</sup> The following data on drug courts are from the review of drug court studies and evaluations by C. West Huddleston, Karen Freeman-Wilson, and Donna L. Boone, "Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States," National Drug Court Institute, May 2004. Issues related to the quality of drug court evaluations and the need for accreditation of drug courts are

on the participant's needs and the cost and availability of treatment types, which may include intensive outpatient, methadone maintenance, inpatient, and therapeutic communities. Support services for drug court participants may include employment services, drug testing, counseling, and case management.

In addition to reductions in recidivism and cost savings, the coercive power of drug courts is effective for moving people quickly into treatment and for increasing the length of time they stay in treatment, which has been proven to be a strong indicator of positive outcomes.<sup>68</sup> Drug courts as well as other programs that involve court-mandated treatment also have been shown to be more effective than other types of treatment. One study found that 60% of drug court participants were still in the program within a year of starting compared to 10% to 30% for other programs.<sup>69</sup> With motivation provided by the criminal justice system, individuals are more likely to participate and complete treatment. A study of drug courts in the District of Columbia found that offenders are four times less likely to continue to use drugs when they are sanctioned, that is when they are punished for drug use or noncompliance and rewarded for good performance.<sup>70</sup>

Drug courts are available throughout most of the United States. According to one study, they have been found to reduce recidivism by nearly one-third: "In comparing participants enrolled in six of the New York's oldest drug court programs to similar defendants from each jurisdiction that did not enter a drug court, the study found an average decline in recidivism of 31.7 percent for drug court participants (including both graduates and failures) in the year following program completion. Studies of drug courts in other states, including Maryland, Oregon, Florida and California, echo these findings."<sup>71</sup> A study by the Drug Court Clearinghouse and Technical Assistance Project indicates an average recidivism rate of 5% to 28% for drug courts compared to 45% for courts using conviction and incarceration.<sup>72</sup> Another national survey of drug courts, sponsored by the U.S. Department of Justice (DOJ), found re-arrest rates for drug court participants declined 2% to 20%, with the majority of re-arrests for new drug possession violations or traffic violations.<sup>73</sup>

There is mounting evidence from studies by individual states that shows substantial cost savings and benefits of drug courts when compared to incarceration of nonviolent drug offenders. A Washington study estimates a 13% reduction in recidivism for drug court participants and a total of \$1.74 in benefits for every dollar spent on drug court.<sup>74</sup> A study of drug courts and other programs providing mandated treatment as sentencing alternatives in Maryland estimated that these programs reduced the annual cost of housing an offender from \$20,000 to \$4,000.<sup>75</sup>

Researchers studying drug courts in California calculated that they generated a minimum of \$18 million in savings per year, estimating a total cost avoidance of \$43.3 million over two years. Furthermore, in

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discussed by John Roman in "Accreditation Key to Creating the Next Generation of Drug Courts," Urban Institute, September 9, 2004.

<sup>68</sup> C. West Huddleston, Karen Freeman-Wilson, and Donna L. Boone, "Painting the Current Picture."

<sup>69</sup> "Drug Courts Reduce Recidivism by 32 percent," *Daily Record of Rochester*, November 14, 2003.

<sup>70</sup> Faye S. Taxman, "Reducing Recidivism through a Seamless System of Care."

<sup>71</sup> "Drug Courts Reduce Recidivism by 32 percent," *Daily Record of Rochester*.

<sup>72</sup> "Drug Courts," Illinois Attorney General.

<sup>73</sup> "Looking at a Decade of Drug Courts, 1999 Update," Drug Courts Program Office, 1999.

<sup>74</sup> C. West Huddleston, Karen Freeman-Wilson, and Donna L. Boone, "Painting the Current Picture."

<sup>75</sup> Doug McVay, Vincent Schiraldi, and Jason Ziedenbert, "Treatment or Incarceration: National and State Findings on the Efficacy and Cost Savings of Drug Treatment Versus Imprisonment," Justice Policy Institute, March 2004.

recognition of the reduced prison days and other savings associated with drug courts, 58% of drug court funding in California is received by a direct transfer from the state's Department of Corrections.<sup>76</sup> A study of New York drug courts estimates a savings of \$254 million in incarceration costs resulting from the diversion of 18,000 nonviolent drug offenders into treatment, an average savings of \$14,100 per person.<sup>77</sup>

A study of the seven-year-old drug court in St. Louis, Missouri found that despite higher costs for drug court participants associated with treatment provision compared to similar offenders who completed probation, during the two years after program completion, drug court graduates cost the city \$2,615 less than those who had been on probation.<sup>78</sup> Economists studying the Dallas Drug Court estimated that every dollar spent on drug court realized \$9.43 in tax dollar savings over a 40-month period.<sup>79</sup>

In 1996, Arizona voters approved an initiative that diverted nonviolent drug offenders from prison. A second vote on the same issue in 1998 created the Drug Medicalization, Prevention and Control Act. Together, these initiatives established the Drug Treatment and Education Fund to create capacity for treatment for eligible offenders. The Administrative Office of the Courts in Arizona reports that the initiative is producing savings of more than \$6 million per year.<sup>80</sup>

### **Drug Courts in Illinois**

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.<sup>81</sup> However, Illinois lawmakers are exploring ways to expand access to drug courts throughout the state: in 2004, an amendment to the Drug Court Treatment Act was proposed that would mandate the establishment of a drug court in each county in the circuit with a population exceeding 50,000.<sup>82</sup>

The Attorney General's discussion of drug courts notes, "the savings offered by Drug Courts is substantial," and refers to a national study that estimated a \$2,000 annual cost per participant, which means an annual savings of approximately \$21,000 per person over the cost of incarceration.

**Illinois could realize an annual cost savings of \$15 million if 10% of nonviolent drug offenders were brought before drug court instead of being convicted in court and sentenced to prison.<sup>83</sup>**

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<sup>76</sup> C. West Huddleston, Karen Freeman-Wilson, and Donna L. Boone, "Painting the Current Picture."

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> T.B. Fomby and V. Rangaprasad, "DIVERT Court of Dallas County Cost Benefit Analysis," Dallas County DIVERT Court, August 2002.

<sup>80</sup> Judith Greene and Vincent Schiraldi, "Cutting Correctly: New State Policies for Times of Fiscal Austerity."

<sup>81</sup> C. West Huddleston, Karen Freeman-Wilson, and Donna L. Boone, "Painting the Current Picture."

<sup>82</sup> Amendment to Illinois House Bill 1875, filed April 5, 2004.

<sup>83</sup> This estimate is based on multiplying \$13,767 (the difference between the annual cost of incarceration [\$22,627] and the estimated annual cost of drug court [\$2,000], treatment, and community supervision [\$6,860]) by 1,089 (10% of drug offenders in prison in 2003).

## Parole Reform

Depending on one's perspective, parole supervision can be seen as a way to return persons to prison for violating conditions of parole and committing new offenses, or it can be seen as an opportunity to assist persons reintegrate into the community after they are released from prison, or it can be seen as a combination of the two views. Parole reform offers considerable scope for savings on the costs of incarceration of nonviolent drug offenders, particularly those who are returned to prison for technical violations. A person commits a technical violation when conditions of parole or mandatory supervised release are not met, for example, if the person on parole does not report according to schedule to an agent of IDOC, uses illegal drugs, or does not submit to urinalysis. Technical violations may result in revocation of parole and return to prison. A number of states have introduced reforms to parole practices, including graduated sanctions short of return to prison for technical violations of parole.<sup>84</sup>

Parole reform is particularly attractive because measures that rely on decisions made by the parole board can be introduced administratively, and do not require legislative changes. For example, by introducing new parole guidelines, Texas increased the rate at which parole is granted to low-risk prisoners. Through reforms to its parole guidelines that involved a risk management approach to assess offenders, Ohio nearly doubled the annual number of low-risk offenders released on parole. This strategy contributed to Ohio's 5.7% annual decline in its prison population between 1998 and 2000.

Another important area for parole reform involves responses to violations of parole supervision and length of time under community supervision. By implementing intermediate sanctions for violations of parole, Texas reduced the number of parole revocations, keeping an average of 280 persons per month from returning to prison. Kansas passed legislation with two major parole reforms: the requirement that both probation and parole violators be sanctioned within the community corrections rather than be returned to prison; and a reduction in the length of parole for low-level offenses.

An approach that has even greater potential for cost savings is to place a portion of the lower risk parolee population on unsupervised parole. California Legislative Analysts Office estimates that the elimination of parole supervision for nonviolent, non-drug sale offenders would save the state \$98.5 million in one year.

### Parole Reform in Illinois

Legislation (SB 2654) was recently signed into Illinois law that provides access to drug courts for parolees. This enables certain drug offenders released from prison to concurrently serve under both probation and parole supervision, allowing for their participation in drug courts. According to Governor Blagojevich, "the new law has potential to save costs of incarceration by giving drug court judges the option of imposing shorter sentences combined with probation and parole."<sup>85</sup>

In 2003, 20% or 7,015 of admissions to IDOC were for technical violations of parole, with an average sentence of 6 months.<sup>86</sup> Parole reforms for low-risk, nonviolent, substance-involved offenders could

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<sup>84</sup> This discussion of parole reforms activities in Texas, Ohio, California, Kansas, and New York is based on information in Judith Greene and Vincent Shiraldi, "Cutting Correctly: New State Policies for Times of Austerity."

<sup>85</sup> "Governor Signs Law that Improves Public Safety by Building Partnerships between Parole and Drug Courts," Illinois Office of the Governor, Rod Blagojevich, August 24, 2004.

<sup>86</sup> "Fiscal Year 2003 Fact Sheet," Illinois Department of Corrections.

divert a portion of these parole violators from prison to community supervision with graduated sanctions and treatment.

**By providing alternatives to reincarnation for 1,000 nonviolent, low-level drug offenders who commit technical parole violations, Illinois could save an estimated \$7.9 million per year.<sup>87</sup>**

## **PUBLIC OPINION ON SENTENCING, ADDICTION, AND TREATMENT**

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As no public official would want to appear soft on crime, public opinion on sentencing, crime rates, and prevention as well as addiction, drug offenses, and mandatory treatment is a crucial factor in efforts to reform sentencing practices and expand alternative sentencing. 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.<sup>88</sup>

A national survey of 1,056 adults conducted in 2001 by Hart Research found that the majority (54%) consider America's strategy on crime and criminal justice to be on the wrong track, compared to 35% who say it is headed in the right direction. It also found that public opinion has shifted since 1994 on the best preemptive approach to crime, with the majority (65%) now favoring an approach that addresses the underlying causes, and a minority (35%) supporting deterrence through strict sentencing. When asked about the best strategy for dealing with crime, 37% said that prevention should received top priority, 20% punishment, 19% enforcement, and 17% rehabilitation. Over three-fourths (76%) of respondents stated that there is too little emphasis on prevention; 58% think that efforts to rehabilitate prisoners have been unsuccessful compared to 34% who think rehabilitation efforts have been successful.

Attitudes about public spending covered in the Hart study found that 75% favor reducing prison spending and increasing the amount of public dollars spent on public schools and community development, with 53% strongly in favor. In fact, at 28% each, prisons and transportation were the two top categories respondents selected for reductions in public expenditure.

This study also showed a decline in support for mandatory sentencing. In 2001, 48% regarded judicial discretion on sentencing as a good idea and 38% felt mandatory sentencing to be preferable; whereas in 1995, 55% of respondents had preferred mandatory sentencing and 38% judicial discretion. Furthermore, 56% favor reforming a range mandatory sentencing laws, with 38% opposed to such reforms. However, it seems that many persons are not well informed about these laws, with over one-half of respondents (57%) "just somewhat familiar" or "not that familiar" with them.

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<sup>87</sup> This estimate is based on multiplying \$15,767 (the difference between the annual cost of incarceration [\$22,627] and the estimated annual cost of substance abuse treatment, and community supervision [\$6,860] multiplied by 0.5 (6 month average sentence for technical violator) by 1,000.

<sup>88</sup> For a discussion of several public opinion studies, see Judith Greene and Vincent Shiraldi, "Cutting Correctly: New State Policies for Times of Austerity;" and Judith Greene and Timothy Roche, "Cutting Correctly in Maryland," Justice Policy Institute, February 2003. See also "Changing Public Attitudes toward the Criminal Justice System," Peter D. Hart Research Associates, February 2002; and "Survey Finds Illinois Voters Believe Addiction is a Public Health Issue," Illinois Alcohol and Drug Dependence Association (IADDA), March 3, 2003.



The Hart study found that Americans more commonly regard drug addiction as a medical and public health problem than as a criminal problem. When asked about attitudes toward nonviolent drug offenses, twice as many respondents (63%) described drug abuse as being a medical problem that requires counseling and treatment, rather than as being a serious crime that should be addressed through the courts and prison system (31%). Accordingly, a large majority favored alternatives to incarceration for persons convicted of drug possession, with 76% favoring supervised mandatory drug treatment and community service, compared to 20% opposed to alternative sentencing. Mandatory treatment and community service for persons found guilty of selling small amounts of drugs also was preferred by 71% of respondents, compared with 27% who opposed it. Even larger proportions favored keeping youth (85%) and persons with mental illness (82%) out of prison, and sentencing them to more appropriate programs.

A survey of Maryland voters found that—by a two-to-one margin—they thought too many people were in prison.<sup>89</sup> Five times as many respondents felt that the drug problem was getting worse rather than better; the majority (53%) said persons were more likely to commit crimes after being released from prison than before incarceration; and 86% of respondents favored allowing judges the option of sentencing some drug users to treatment rather than prison.

### Public Opinion in Illinois

An Illinois study surveyed 500 likely voters in 2002 to learn about attitudes on drug addiction and sentencing and treatment for drug offenders.<sup>90</sup> The study 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 3% of respondents viewed addiction as an isolated problem that primarily affects low-income persons, high crime communities, homeless people, or minorities.

Table 1 shows responses about sentencing for nonviolent offenders with substance abuse problems, with nearly 75% of respondents recommending treatment. When asked who should receive priority for receiving treatment, 73% of respondents said those who commit crimes to support their addiction should be given very high priority (43%) or a somewhat high priority (30%). When asked if they agree with the statement, “Drug and alcohol addiction is a public health problem that is handled better by prevention and treatment programs than by the criminal justice system,” 85% said that they strongly agree (60%) or somewhat agree (25%).

**Table 1**  
**Illinois Public Opinion Study: Recommended Sentencing for Nonviolent**  
**Offenses Committed by Persons with a Substance Abuse Problem<sup>91</sup>**

Treatment	74%
Prison	9%
Paying a fine	5%
Probation	5%
Other	5%

<sup>89</sup> “Maryland Voter Survey,” Potomac Incorporated, December 2003.

<sup>90</sup> Data on the Illinois survey are from, “Survey Finds Illinois Voters Believe Addiction Is a Public Health Issue,” Illinois Alcoholism and Drug Dependence Association.

<sup>91</sup> Data presented in the table on the Illinois survey are from, “Survey Finds Illinois Voters Believe Addiction Is a Public Health Issue,” Illinois Alcoholism and Drug Dependence Association.

Although both the national and the Illinois studies show that public opinion is positively disposed to a public health rather than a criminal justice approach to persons with substance abuse problems, the public needs more information about the issues of addiction, sentencing, and treatment.

**A key finding of public opinion studies on sentencing issues pertains to the importance of informing the public about alternatives to incarceration: “the more the public is educated about non-incarcerative options, the more supportive they are about such options.”<sup>92</sup>**

By both better informing and better understanding public opinion on these issues, advocates can develop strategies that advance sentencing reform and at the same time educate policy makers and the community about the fiscal, social, and public safety benefits of such reforms.

## 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.

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<sup>92</sup> Judith Greene and Vincent Shiraldi, “Cutting Correctly: New State Policies for Times of Austerity.”

- 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.

## **DEVELOPING JUSTICE COALITION**

The overarching goal of the Developing Justice Coalition is to provide a platform that educates and empowers residents and local clergy to take leadership roles in addressing the current policies in the administration of justice in Illinois. These local leaders work in partnership with politicians, public officials, and other community leaders to dismantle discriminatory policy and to develop new policy that helps to sustain and promote healthy urban communities.

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## **CENTER FOR IMPACT RESEARCH**

Founded in 1975, the Center for Impact Research (CIR) focuses its work on issues of economic and social justice. CIR uses community-based research to advocate for and achieve changes in public policy and programs. CIR works collaboratively with diverse partners, who are all striving to eliminate the fundamental causes of poverty and injustice. CIR is focusing its current work in four project areas: Working Families; Children and Adolescents; Seniors; and Alternatives to Incarceration.

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