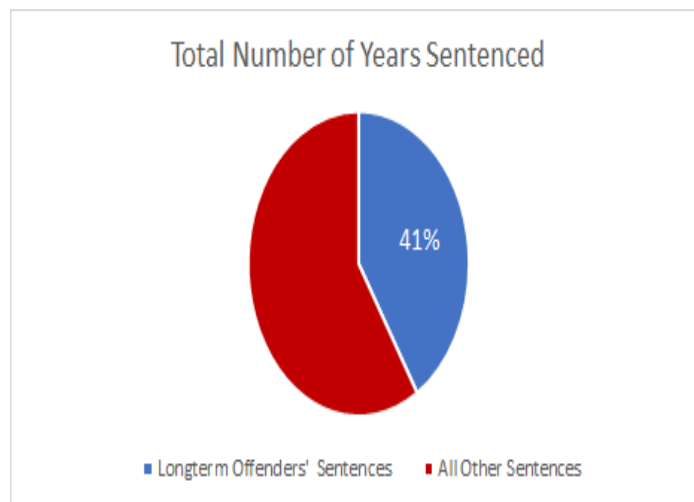
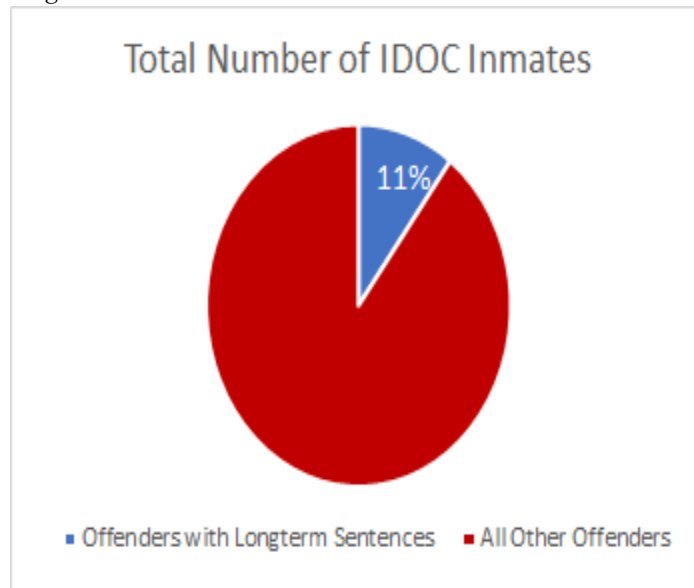


SENTENCING REPORT

In Illinois, there are currently roughly 37,000 people incarcerated in prisons, of whom 11% account for more than 41% of the total sentences as a result of long term, life and virtual life

*Fig 1 **



1576 Prisoners with Life sentences are not included.

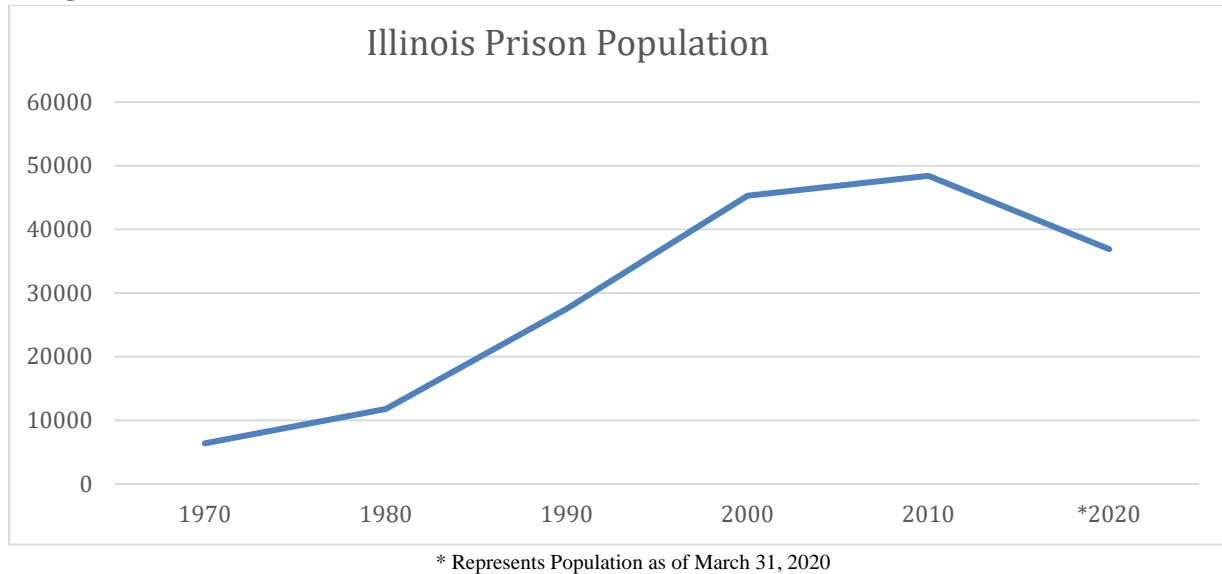
sentences. *Fig 1.* In total, the prison population in Illinois has risen more than 750% in the last fifty years at its highest point, with prison sentences more than quadrupling, and the cost increasing nearly twenty fold. *Fig 2.* At this rate, Illinois will be in dire straits in no time, since there seems to be no sign of things changing or letting up anytime soon. “But how did we end up here?” so many people question. With looming budget pitfalls and an increasing deficit, how can Illinois continue to spend so much of its budget on prisons?

Especially with the Illinois Department of Corrections heads asking for even more, \$420 million more, just for this year alone?

Although the crime rate has declined to half of early 1990 numbers, the number of people imprisoned has risen nationally by 490% since 1980. Illinois has kept pace with national numbers by incarcerating more than a half a million people and raising the Illinois prison population more than 415% in that same span of time. *Fig 3.*

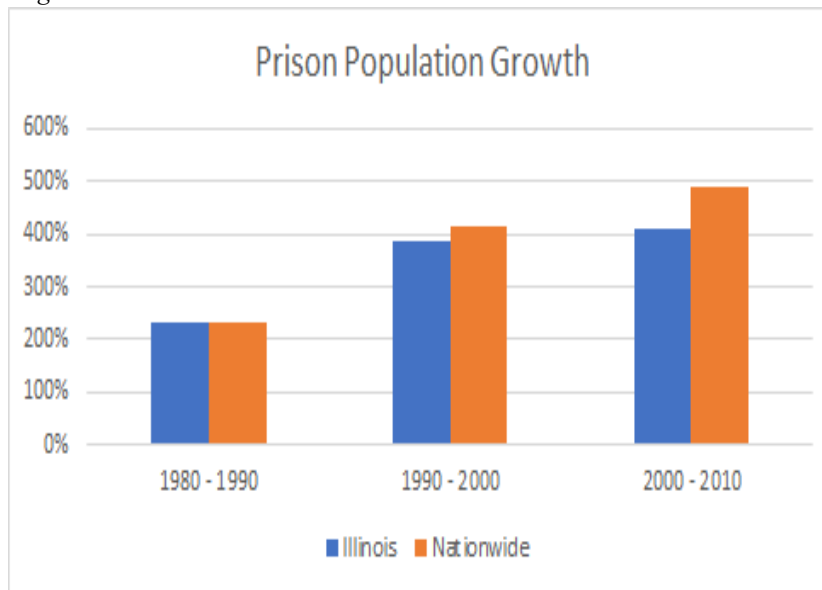
How could this be, when there has not been any increase in crime rates, convictions, or cases solved? Many scholars and criminologists point to the sentencing schemes that have been enacted as the reason for such high incarceration numbers, while at the same time pointing out that citizens are no safer as a result of these laws.

Fig 2



Here in this report we will look specifically at violent crime in Illinois and how Illinois' laws, sentencing guidelines, and other factors have led to a long term incarceration crisis, earning the state the dubious distinction of being the 9th most incarcerated state in the nation. Illinois is currently on pace to be the 7th due to other states making reforms to their criminal justice systems, to shrink their prison populations, while Illinois continues on its devastating path.

Fig 3



In addressing what got us here, we will first have to take a look at crime and punishment in Illinois before the prison boom, presently, and where we are headed in order to fully understand how important our decisions regarding reform are today.

THE PAST

In the sixties and seventies Illinois had a very liberal approach to crime and punishment, like nearly all other states. People convicted of crimes were given moderate sentences that allowed for a return to society, while in prison most people had access to schooling, trade programs, and an opportunity to receive good conduct credit or work their sentences down by working, attending school, or other programs.

During that time sentences were given on an indeterminate basis, meaning someone convicted of a crime would receive a sentence such as “10 to 25 years”. After 5 years, the person would go before the parole board to determine if they were worthy of release at that point. If release wasn’t granted they would return each year until parole was granted or they completed their sentence which was only half of the maximum original sentence, in this example 12½ years, unless it is shortened by other good conduct credit, or lengthened by the person getting into trouble and receiving infractions.

In 1978 all of that changed in large part due to a rise in crime, prison overcrowding, and a defunct parole system that was stagnant in releasing prisoners but had the misfortune of releasing some prisoners early that went on to reoffend or commit other notable crimes. In response to this problem Illinois did away with its parole system altogether, and changed the way it sentenced people convicted of crimes to “determinate sentences”, a practice that remains today.

A person convicted of a crime under a determinate sentence model receives a direct sentence from a Judge that they must serve, such as “20 years”. After serving their sentence they would be released, no parole board to see year after year or uncertainty as to when they would be released. Back then, under Illinois’ Determinate Sentences model, a person convicted of a crime would receive a sentence then be given day for day credit, meaning for every day served they would be given an extra day credit, thereby cutting their sentences in half, plus that person could also be allowed to participate in programs and schooling that would further reduce their sentence. These types of incentives encouraged people to behave and better themselves while in prison, or run the risk of spending more time incarcerated.

This model seemed to work and help reduce crime and adequately punish wrongdoers, while at the same time restoring people to useful citizenship by having them return to society better prepared than when they committed their crimes.

THE PRESENT

In the eighties, the prison boom began with the “War on Drugs” and a heavy focus on cracking down on gangs. The prison population more than doubled, and crime skyrocketed. Illinois responded by building more prisons, and had several others in development. Although no real change to sentencing or legislation occurred during this decade, it set the stage for the massive overhaul that would occur in the years to come.

In the nineties, there was a political shift regarding people convicted of crimes and prisons. During that time, a tough on crime approach became acceptable. Rehabilitation was no longer

the focal point and schooling and programs were snatched from prisons. Legislators began passing laws to extend prison sentences and tough mandatory minimums were introduced.

TRUTH IN SENTENCING

Illinois followed suit by enacting similar laws. Its most notable came in 1998 when it successfully passed its truth in sentencing law. The Illinois Truth in Sentencing Law is a byproduct of the federal government's [Violent Crime Control and Law Enforcement Act](#) that created the Violent Offender Incarceration and Truth in Sentencing program which incentivized states to change its laws to get tougher on crime.

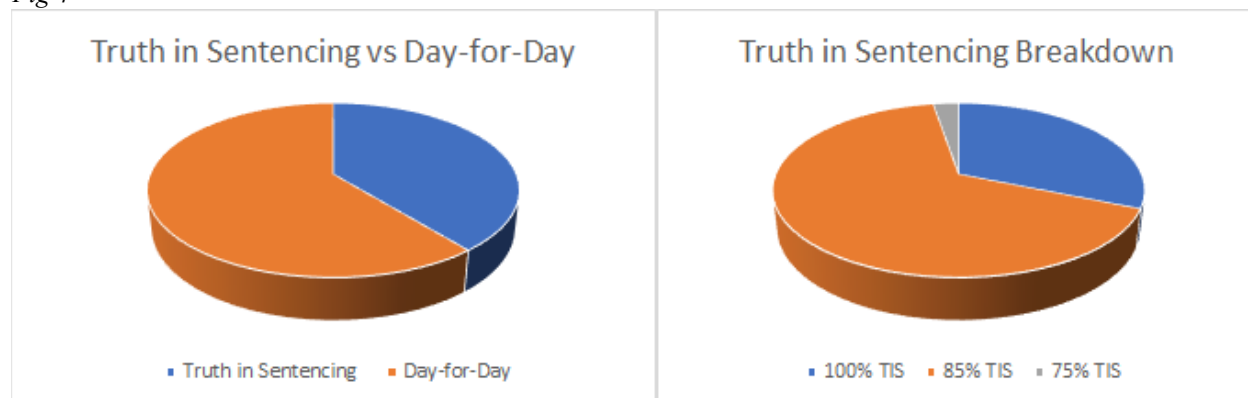
The federal Violent Offender Incarceration and Truth in Sentencing program appropriated nearly \$20 billion to states that extended the percentage of a convicted person's sentence that must be served, punished juveniles more severely, banned assault weapon-styled guns, got harsher when punishing gun crimes and added a host of others more severe penalties. Illinois changed its sentencing scheme, and several laws and statutes to become eligible for these federal funds. Many question whether this change was necessary or whether it was just for the money given the fact that crime rates in Illinois had been decreasing in each of the five years prior to the enactment of these provisions.

Illinois' most notable change as a result of truth in sentencing was the change made to increase the percentage of time a person convicted of certain crimes, mostly violent, would serve. This change marked the beginning of a devastating period for Illinois justice because it, in essence, made any person convicted of a laundry list of crimes have to serve 85-100 percent of their sentence before they could be released. It also marked the beginning of the violent and nonviolent offender binary that has become dominant today.

This provision raised some sentences for crimes such as armed robbery, attempted murder, rape, and others that the legislature deemed violent to be served at 85%, a drastic change from the day for day good conduct credit that people were getting prior. The provision also called for anyone convicted of 1st degree murder to serve 100% of their sentence. The most troubling part about the changes to the sentencing guidelines is that no one affected by Truth in Sentencing is eligible for good conduct nor can they work their sentence down through school or other programs, thus destroying the incentives for doing well while in prison or preparing themselves for release.

Truth in Sentencing currently affects 1 out of every 3 inmates, up 40% from a decade ago and it is growing every year. That growth is sparked in part by the changes in the law to include other

Fig 4



crimes like arson, driving under the influence, and drug offenses which were not intended to be a part of this provision. The added years, as a result of Truth in Sentencing, onto the convicted people's sentences will cost taxpayers more than \$5 Billion, and more importantly the human toll that it takes by adding such a significant amount of time onto sentences is troubling due to the fact that it in essence gives nearly every "violent" offender under this provision a life sentence. *Fig 4.*

FIREARM ENHANCEMENT

The second provision that has led to the prison boom in Illinois is the firearm enhancement, enacted in 2000 under 730 ILCS 5/5-8-1(a)(1)(d) that adds additional time to any sentence for an offense committed with a gun. 730 ILCS 5/5-8-1(a)(1)(d)(i) through (iii) adds 15 years to a person's sentence if that person possessed a firearm doing the commission of a crime, it adds 20 years to a person's sentence if the person discharged a firearm during the crime, and it adds 25 years to life if a person discharged the firearm and caused great bodily harm or death.

Illinois has the most severe penalty for firearm usage with this provision. No other state in the nation comes close to punishing firearm possession or usage to this extent. The enactment of this other states have mandatory possession minimums that come close. Firearm possession during a felony carries a 10-year minimum in both Florida and California (California recently made all of its firearm enhancements fully discretionary, meaning that prosecutors and judges have the power and choice of whether to impose the sentence or not). Rhode Island also requires an additional 10 years for a first firearm offense, but this only applies in cases of "use," not necessarily for possession alone. Alaska requires a mandatory enhancement of 25 to 35 years for firearm use during the commission of a limited set of crimes involving the sexual exploitation, abuse, or assault of minors. Outside of these offenses, however, Alaska's minimum enhancement for a first firearm-assisted crime is 5 years. In other states, the enhancement for firearm possession tends to range from 1 to 5 years, and some states do not criminalize firearm

possession or usage during a crime at all, or allow judges discretion to withhold the enhancement.

Furthermore, for the purposes of sentencing, few states outside Illinois distinguish between possession, discharge, and “use”. Still, if we compare Illinois to other states that distinguish between the various forms of “usage” and penalize felony use, we find again a general range of 1 to 5 years, compared to the 20 or 25-year enhancement for firearm discharge in Illinois. As mentioned before, only Florida and California come close, and only in Florida is the enhancement also mandatory in nature. Beyond length, Illinois enhancements are also rigidly mandatory. (Until a slight policy change in 2015, that allows Illinois judges discretion in applying the firearm enhancements to cases involving juvenile defendants).

This provision has dramatically increased the Illinois prison population by increasing the sentences of some crimes by more than 250%. This is extremely harsh when, in most of those instances, no one is physically harmed. For example armed robbery in Illinois is punishable by 6 to 30 years in prison. However after 2000, if the robbery was committed with a firearm, the 15 year firearm enhancement is automatically added thereby raising the sentence for armed robbery to 21 to 45 years in prison, or maybe even life if someone is shot and it’s deemed to be great bodily harm. In most instances, no one is hurt and the crime is identical to the one committed prior to the enhancement, yet the minimum sentence is increased by 250% and the maximum sentence is extended to life.

The firearm enhancements affect roughly 12,000 inmates for a total of 225,000 years added to their sentences, and costing taxpayers more than \$8 Billion additional. This enhancement stresses the seams of the Illinois Department of Corrections by filling prisons for longer periods and costing the state an exorbitant amount of money with no benefit to anyone, since there is no proof that gun usage or crime has been affected in any way by this provision. In fact, many argue that this provision has had the opposite effect by causing criminals to be more desperate in their attempt to elude capture due to the severity of the penalty they may face upon arrest, thereby putting the community at large in greater danger.

CONSECUTIVE SENTENCING

Consecutive sentences also contribute a big part to the prison boom. Illinois Consecutive Sentencing law 730 ILCS 5/5-8-4 allows for sentences to be imposed consecutively in different cases or sometimes the same case depending on the circumstances. The reasons that defendants can be sentenced consecutively vary due to the severity of the crime, if “great bodily harm” or murder occurred during the crime, the crime was sexually motivated, and/or involved a minor or elderly person, or if the crime occurred while the person was on bail or incarcerated for another crime. All of these may seem like good reasons in theory, however sometimes the statute is abused and applied arbitrarily to people it shouldn’t be applied to, and is applied to non-violent

people where it serves no purpose to have them incarcerated longer. One of the most troubling aspects of this law is that it can be applied by judges on their own, for no reason and with no required evidentiary basis for their decision.

Many may think this statute means nothing in the grand scheme of things, however if you consider the implications of adding the sentences consecutively along with the enhancements described above, anyone can end up facing decades in prison for nearly any offense. This should be troubling to society at large, in part because it is their hard-earned tax dollars paying for this, not to mention the lives that are forever changed as a result of someone spending an extended amount of time in prison for nothing because society is no safer with them incarcerated.

THE FUTURE

REFORMS

As stated earlier, Illinois cannot continue operating at this level because the entire system is on the brink of collapse. The prosecutor and public defender offices cannot continue to be bombarded with cases at this rate, the courts are showing that they cannot handle the sheer volume of cases that they are being given efficiently and effectively, and the prisons and jails throughout the state cannot continue to function beyond their intended capacities and at the costs that they are currently operating. Something must be done to change this crash course that we are on. Reforms all around the board are the only way that we can survive. Below are a few of the reforms that other states have made in an effort to fix and repair their criminal justice systems from overcrowding, overspending, and over sentencing people convicted of crimes.

TRUTH IN SENTENCING

One of the more notable changes that some states have taken is repealing their Truth in Sentencing laws. Mississippi reduced from 85% to 50% the portion of a sentence that some “violent” offenders would serve. Other states like Missouri, Oklahoma, South Carolina, and Louisiana have all repealed or have introduced legislation in an effort to do away with long term sentences and mandatory percentage requirements before someone can be released.

PAROLE

Some states have also begun to consider or reinstate parole as a viable means to release prisoners or have made substantial changes to their existing parole systems in an effort to reduce prison populations and combat aging prisoners with extremely long sentences. For instance, Maryland which is one of those states that took away roadblocks within its parole system to allow lifers the

chance at parole. Virginia, which did away with parole, during the Truth in Sentencing era, is considering laws to reinstate its parole system. California now requires a specialized parole hearing for anyone serving life for a crime committed under the age of 26. New York has also changed its parole board's policy of reviewing prisoners' crimes and has shifted to a more "risk assessment" based review when making its parole decisions.

PROGRESSIVE PROSECUTORS

Prosecutors in some cities and states have been using their power within their office to single-handedly change the course of the criminal justice system. Philadelphia's District Attorney, Larry Krasner, is the epitome of the progressive prosecutor, his approach towards resentencing juveniles sentenced to life without parole, not seeking the maximum sentences for violent offenses, forcing prosecutors to get approval before seeking or accepting pleas for long-term sentences, and pushing for people sentenced to life without parole to be evaluated after 15 years are all novel ways of thinking for a District Attorney.

These approaches and running platforms are being adopted by other prosecutors in the Bay Area and other cities like Chicago, Illinois and Newark, New Jersey.

ENHANCEMENTS

Some states and criminologists are calling for a change to enhancements that add significant years onto a person's sentence. California is leading the way with SB136, which is a bill to repeal its "3 Strike Law", the enhancement that made it mandatory for anyone convicted of three felonies to be sentenced 25 to life. California has already passed SB180, which took off the enhanced sentence for drug dealing. California also has several dozen other bills, to do away with some of its other enhancements, that are either pending or in the works, as part of its plan to reduce spending and its prison population.

CONCLUSION

After taking a look at Illinois' criminal justice system there can be no way that anyone could reason that all around change should not be made. The current way of doing things is putting the state at risk of spending too much of its budget on an aging prison population, that serves no penological or societal interest in keeping them incarcerated. So the biggest question to those that have the power to make this decision is, "Are we using prisons and the criminal justice system to punitively punish people or is it meant to restore and rehabilitate people to useful citizenship as the Illinois Constitution states?" The answer to that question, alone, will determine the fate of the state.