



FAMM

Families for Justice Reform



famm.org

Time for Justice

The Urgent Need for Second Chances
in Illinois' Sentencing System



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FAMM is a national nonpartisan advocacy organization that seeks to create a more fair and effective justice system that respects our American values of individual accountability and dignity while keeping communities safe.



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Executive Summary

Far too many people in Illinois who do not currently pose a risk to public safety languish in prison for decades because Illinois' laws don't give them a second chance.

Particularly given recent increases in serious crime, it is crucial for Illinois to direct public safety dollars toward preventing crime rather than continuing to incarcerate people who have been rehabilitated. This report, which focuses on people with expected lengths of stay of 15 years or longer, looks at the harms and injustices of extreme sentences in Illinois as well as opportunities for reform.

Key findings

Illinois' extreme sentencing practices have caused thousands of people, particularly Black people and people who were young at the time of the crime, to grow old in prison.

- Despite recent declines in its prison population, Illinois still imprisons more than four times as many people as in 1971. That growth was largely driven by punitive policy choices that do not make Illinois residents safer.
- The population serving extreme sentences in Illinois has surged in the last few decades. In particular, there were more than four times the number of people serving life or virtual life sentences in 2020 than serving life, virtual life, or death sentences in 1988.
- Illinois' extreme sentencing practices have overwhelmingly impacted Black people, who make up less than 15% of Illinois' population but 66% of people serving life sentences, 67% of people with virtual life sentences, and 61% of people with expected lengths of stay of 15-40 years.
- Due in large part to Illinois' extreme sentencing practices, compared to 1988, Illinois prisons now hold about eight times as many people age 50 or older, 10 times as many people age 60-64, and 14 times as many people age 65 or older.

- The people serving the longest sentences were disproportionately young at the time of the crime. That means that although they committed their crimes at a time when their brains were still developing and their level of culpability was diminished, they will generally spend more time in prison than people who were older and more culpable at the time of the offense. The majority of people with virtual life sentences were under age 25 at the first date listed on their case, as were 45% of those with expected lengths of stay of 15-40 years and 36% of those serving life without parole.
- Recent reductions in Illinois' prison population have mostly left behind older individuals and people who have already served many years, groups that present a low risk of reoffending.

Illinois' extreme sentences are a high-cost, low-value proposition that does not make taxpayers safer.

- Researchers have found no evidence that severe sentencing policies discourage people from engaging in crime.
- Extreme sentences are not necessary for preventing recidivism, because the vast majority of people who commit crimes – even very serious crimes – naturally grow out of criminal behavior as they age and mature. In particular, people over age 50 have the lowest recidivism rates of any group leaving prison.
- Based on average incarceration costs, the Illinois Department of Corrections (IDOC) is spending \$309.5 million per year to incarcerate 4,433 people who have already served at least 15 years. The true cost is undoubtedly higher because incarceration costs increase dramatically as people age and need more medical care.
- Over time, those serving the longest sentences in Illinois prisons become extremely costly to imprison, and less and less likely to commit new crimes after release. Lengthy prison terms waste billions of taxpayer dollars on those whose continued incarceration does not make the public safer.

Extreme sentences harm communities, families, and the economy.

- Extreme sentences deprive the community of valuable human resources. Many people serving extreme sentences could be productive economic assets in their communities if released and could play important roles in community violence prevention and intervention.
- Extreme sentences devastate families emotionally, psychologically, and financially, and contribute to poverty.

Extreme sentences are often unjust, excessive, and imposed without considering individuals' level of culpability or other mitigating factors.

- In particular, mandatory sentences or enhancements deprive judges of the opportunity to make individualized sentencing decisions that take into account all important facts of a case.

Existing release mechanisms fail to remedy extreme sentences.

- Illinois abolished parole in 1978, making it 1 of only 7 states in which people serving life sentences are categorically not given any opportunity for parole.
- Sentence commutations declined in the late 1990s and early 2000s and then became essentially non-existent for at least eight years. They have increased in recent years, but remain rare in relation to the number of people with no other way out. And clemency alone will never be sufficient to address all excessive sentences doled out in Illinois in the era of mass incarceration.
- One recent bright spot is the 2021 passage of the Joe Coleman Medical Release Act. While it will not address the broader problems of extreme sentences, it presents tremendous potential for ensuring that ill, infirm, and disabled individuals can receive the treatment and care they need outside of prison.

Recommendations

- Establish mechanisms for all people serving extreme sentences to demonstrate their rehabilitation and earn the opportunity for release.
 - Repeal mandatory sentences and sentencing enhancements.
 - Address other laws that lead to excessive sentences.
 - Make all sentencing reforms retroactive.
 - Roll back Truth in Sentencing.
 - Implement the Joe Coleman Medical Release Act fully and effectively to ensure consistent release of eligible individuals.
- Make regular use of the resentencing power the Illinois legislature granted to state's attorneys.
 - Increase commutations and make the clemency process fairer and more efficient.
 - Ensure that the Prisoner Review Board (PRB) expeditiously and fairly reviews cases, with decision-making focused on the individual's rehabilitation and current risk.
 - Reinvest savings resulting from reduced incarceration in reentry and victim services.
 - Include data collection and reporting requirements in all reforms to monitor for and address any disparities that may arise.

Time for Justice

The Urgent Need for Second Chances in Illinois' Sentencing System

"I'm always thinking," Steven Hawthorne says. "What can I contribute and give back that will outweigh the mistakes that I've made in the past? How can I be remembered not as somebody who took a life, but as somebody that's contributed something to the world?"

Steven Hawthorne displaying certificate for completing Green ReEntry HVAC course. ▶



In 1984, Steven was sentenced to life in prison for murder. He was 16 years old, and behind bars he had a hard time finding focus, let alone purpose. His father was a gang leader on death row, and Steven's childhood had been traumatic. But with time, he grew to understand the true impact of his actions. He wrote to his victims' families, apologizing for the pain he had caused. "Time, patience, and maturity created regret and remorse."

It was then that Steven's worldview shifted from "lifer's despair" to hope. He dove into programming and reading, found faith, and earned his GED diploma. In 2017, because of the Supreme Court decision *Miller v. Alabama*, which held that mandatory sentences

of life are unconstitutional for people who were under age 18 at the time of the crime, Steven was resentenced, which resulted in him being released after 34 years behind bars.

He's been very busy since then – and he likes it that way. He's a certified HVAC technician, was a manager and supervisor of a youth leadership home and manager of a halfway house, and is a mentor to young men looking to escape gang life. He works with students at Northwestern University Law School to assist them in becoming better advocates and is a community organizer. "I'm looking out for my community, and for justice. It's up to me to prove that second chances work."

Thousands of other people have similarly matured, grown, and changed during lengthy prison sentences. Yet, Illinois laws do not give them a meaningful chance to have their sentences reconsidered and, if appropriate, reduced or modified. If Illinois wants its criminal justice system to be fair, use taxpayer dollars wisely, and make the public safer, it must give people the opportunity for a second chance. While people serving the longest sentences tend to have been convicted of the most serious crimes, such as murder, sexual assault, or crimes involving firearms, data makes it clear that people who have already served long sentences are unlikely to reoffend, regardless of their crime. By denying these individuals an opportunity to show that they have been rehabilitated and can safely return to their communities, Illinois wastes millions of dollars a year without public

safety benefit. This report, which focuses on people with expected lengths of stay of 15 years or longer,¹ looks at the harms and injustices of extreme sentences in Illinois as well as opportunities for reform.

For decades, Illinois policymakers have failed to address the ever-growing consequences of the state's extreme prison sentences, costing the state hundreds of millions of dollars each year and causing an immeasurable level of harm to families and communities. This is particularly untenable given recent increases in serious crime, which make it even more crucial for Illinois to direct public safety dollars toward preventing crime rather than continuing to incarcerate people who have been rehabilitated. Reform is needed *now*.

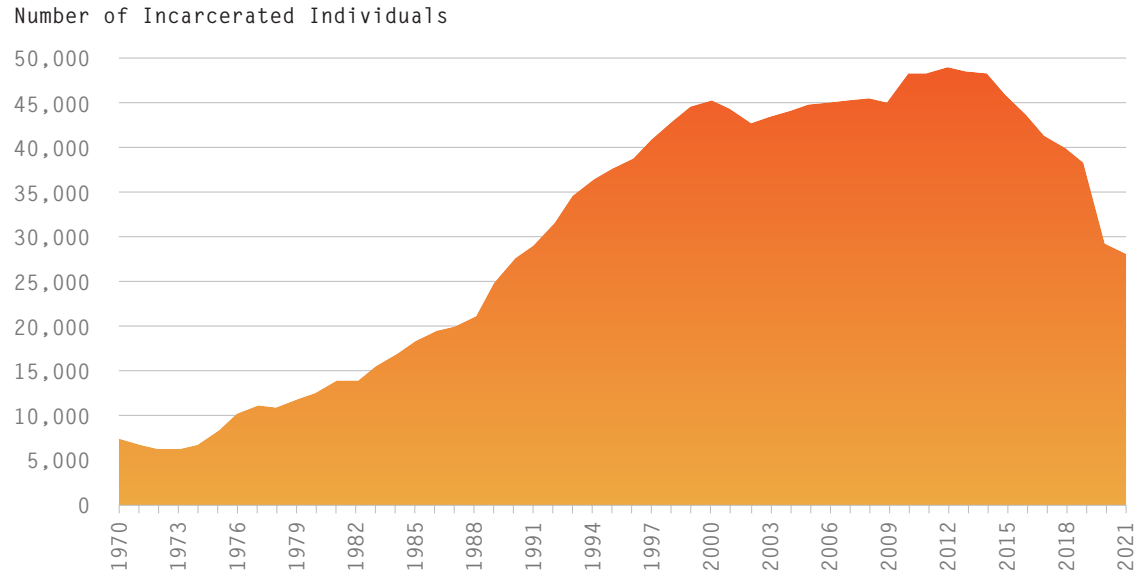
Illinois' extreme sentences and growing prison population

Illinois' prison population exploded during the 1980s and continued to skyrocket through the early 2000s (see Figure 1). Despite recent declines in Illinois' prison population, Illinois still imprisons more than four times the number of people that it did in 1971.² **The increased incarceration was not tied to increases in crime, as incarceration continued to increase for many years when crime rates were dropping.**³ Nor was the crime decline due to more incarceration; between 75% and 100% of the drop in crime in the U.S. since the 1990s is attributable to factors other than incarceration, such as increased graduation rates, employment, and wages, as well as changes in policing strategies.⁴ Moreover, researchers have consistently found that increasing incarceration has no impact on violent crime.⁵ The lack of connection between incarceration and crime is further illustrated by the fact that between 2007 and 2017, 34 states reduced incarceration and crime rates simultaneously.⁶

Instead, punitive policy choices drove the massive growth in Illinois' prison population. Not only did more people enter prison, an increasing number of them remained there for a very long time. These longer stays resulted from a combination of laws that lengthened sentences and the enactment of "Truth in Sentencing" (TIS), which requires people to spend a larger portion or all of their sentence in prison. On the back end, pathways for release from prison dried up as parole was eliminated and commutations declined. Illinois' prisons consequently filled with people staying longer, growing older, and declining in risk to public safety.

Illinois has made tremendous progress in recent years in reducing its prison population. In fact, the number of people with expected lengths of stay shorter than 15 years and the number of people under age 50 in Illinois prisons are both now nearly as low as they were in 1988. However, recent reforms have largely left behind many people who present little risk of reoffending but cost the most to incarcerate: elderly individuals and people who have already served many years. Both of these populations are now dramatically larger than they were in 1988.

Fig. 1
**Staggering
 Growth of Illinois
 Prison Population**



Black, elderly, and in for decades: How Illinois' extreme sentencing practices shape the prison population

Far too many people in Illinois spend far too long in prison. That is driven in part by a complex web of laws that create, and in many cases mandate, overly harsh sentences that (as discussed in the next section) do not improve public safety. For example:

- In Illinois, people can be punished for crimes they did not commit, intend to commit, or even anticipate. Under Illinois' expansive accountability and felony murder laws, an individual can be convicted for a crime committed by someone else if the person played only a very minor role in aiding the crime or agreed to participate in a less-serious crime with someone who unexpectedly committed a more serious crime.⁷
- Illinois mandates life without the possibility of parole (LWOP) for adults convicted of several categories of murder (e.g., if there was more than one victim), regardless of mitigating factors, the specifics of the crime, or the role the individual played in it.⁸
- Illinois law requires that for people convicted of certain crimes, if there was a firearm involved, additional time must be added *on top of the sentence*

they are given for the crime itself: 15 years must be added if they merely possessed a firearm during the crime, 20 years if they discharged a firearm, and 25 years or up to a term of natural life if they caused substantial physical harm by discharging a firearm – even though such harm is already reflected in the sentence for the crime itself.⁹ This is the most severe firearm enhancement scheme in the country;¹⁰ several states do not have any mandatory enhancements for firearms, and among those that do, enhancements tend to be in the range of about one to five years.¹¹

- Illinois' "Habitual Offender Law" mandates LWOP for people who receive a third conviction for certain offenses, without any consideration of the facts of the crimes themselves or the individual who committed them.¹² If the Habitual Offender Law did not apply, many of these offenses could result in sentences as short as six years.
- Many people who committed crimes as children are serving much longer adult prison sentences because Illinois law permits minors to be convicted and sentenced in adult courts, despite evidence that prosecuting children as adults increases recidivism.¹³



Deborah Sims

Pain has been a presence for Deborah Sims, now 40, for her whole life. As a child, she was sexually molested by family. At 13, she began to drink and use drugs. She enjoyed brief periods of sobriety, but they didn't last. When she was 19 and needed money, she drove a getaway car after her friends stabbed someone as part of a robbery. She was sentenced to 25 years in prison.

She has now lived behind bars for 20 years. In those decades, Deborah has participated in addiction treatment, as much programming as possible, sexual abuse support groups, and spiritual counseling. "I have done all that I can to change me from a person who would agree to rob someone to a person who will stand up and speak against violence of any sort. I hurt so many people with the decisions I made that weekend. So many families were affected by my choice. A community was harmed."

Deborah is ready to return to society and prove that she is more than what she did that horrific night. And she wants the world to know that remorse informs everything she does. "Mr. Downes did not deserve to die like he did. He was trying to be helpful, and we in our selfish desire for fast cash took his life. My heart hurts when I think of it now."

In addition to laws that impose excessive sentences, Truth in Sentencing (TIS), first adopted in 1995, drastically increased the amount of time many people spend in prison.¹⁴ Prior to TIS, most individuals served only 35% to 50% of their sentences because they were able to reduce their sentences through good conduct and participation in rehabilitative programming.¹⁵ TIS limited sentence reduction opportunities for people convicted of certain crimes, instead requiring them to serve 85% or 100% of their sentences (a 75% category was subsequently added for certain drug offenses).

The expectation when TIS passed was that sentences would be reduced by a corresponding amount so that there would be minimal change in the amount of time people spent in prison. In reality, though, sentences only got slightly shorter, so lengths of stay for those subject to TIS – currently about half the prison population – grew dramatically.¹⁶ The Illinois State Commission on Criminal Justice and Sentencing Reform, established in 2015 by then-Governor Bruce Rauner and made up of two dozen criminal justice practitioners and policymakers, concluded that TIS requirements are counterproductive because they remove incentives for individuals to take rehabilitative steps while incarcerated.¹⁷

The population serving extreme sentences in Illinois has surged over the last several decades. This report focuses on three categories of sentences: life without parole (LWOP); virtual life sentences (also called *de facto* life sentences), defined as expected lengths of stay of longer than 40 years;¹⁸ and expected lengths of stay of 15-40 years.¹⁹

The number of people in Illinois serving expected lengths of stay shorter than 15 years grew for many years but has been declining for nearly a decade; there are now only slightly more people serving these sentences than there were in 1988, the earliest year for which data is available (see Figure 2).²⁰

In contrast, the number of people serving longer sentences has swelled over the past few decades and seen very little decline. While fewer people have been receiving these sentences in recent years, this population nevertheless continues to accumulate because these individuals remain in prison for so long. In 1988, only 483 people were serving life or death sentences statewide (death sentences were subsequently abolished in Illinois in 2011), 501 had virtual life sentences, and 2,370 had expected lengths of stay of 15-40 years.

Fig. 2
Rise and Fall of Expected Lengths of Stay Under 15 Years

Number of People Expected to Serve Less Than 15 Years

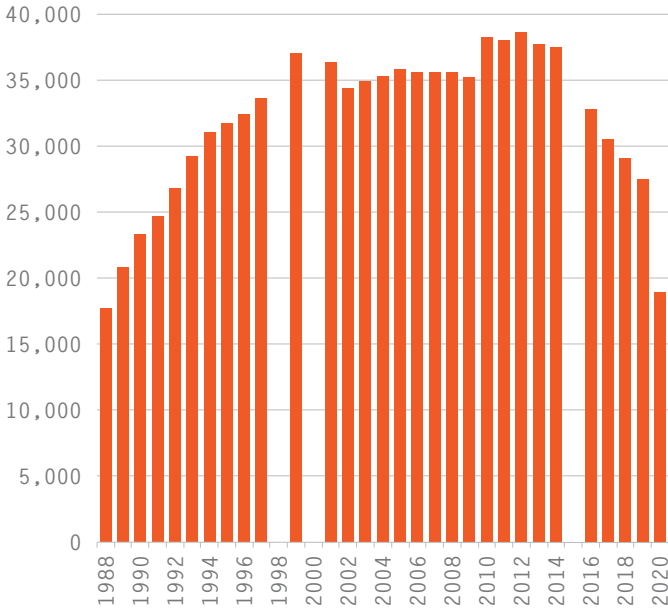
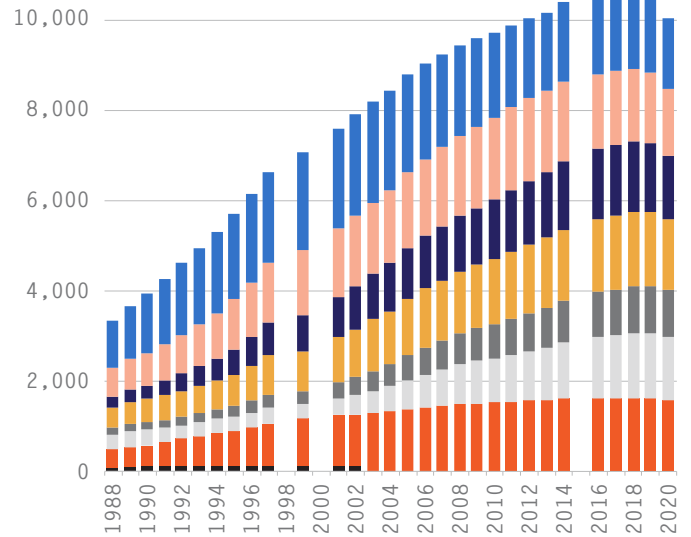


Fig. 3
Growth of Long Expected Lengths of Stay (15+ Years)

Expected Length of Stay in Years

15-20 20-25 25-30 30-40 40-50 50+ Life Death

Number of People Expected to Serve 15+ Years

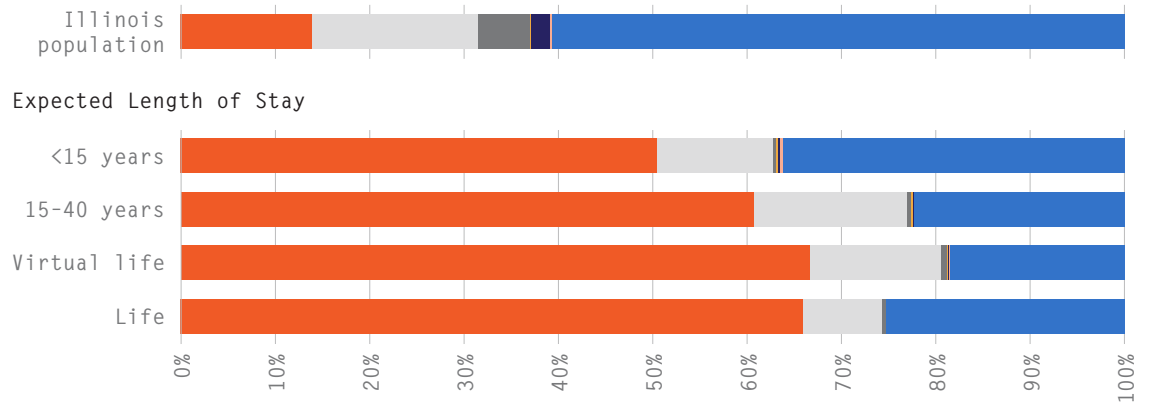


By 2020, 1,579 people were serving LWOP, 2,472 had virtual life sentences, and an additional 6,069 had expected lengths of stay of 15-40 years. In total, there were more than four times the number of people serving life or virtual life sentences in 2020 than the number of people serving life, virtual life, or death sentences in 1988 (see Figure 3). Notably, while the overall prison population has drastically dropped in recent years, the population serving extreme sentences continued to expand during most of that period. As a result, the proportion of the prison population serving extreme sentences has more than doubled, from 16% in 1980 to 35% in 2020.²¹

Illinois' extreme sentencing practices have overwhelmingly impacted Black people. Black people are vastly overrepresented in Illinois prisons: They make up less than 15% of Illinois' population²² but 54% of Illinois' prison population.²³ Their overrepresentation is *even greater* among those serving the longest sentences: 66% of people serving life sentences are Black, as are 67% of people with virtual life sentences, and 61% of people with expected lengths of stay of 15-40 years. In contrast, white people account for 61% of Illinois' population but only one-quarter of the people serving life sentences, 19% of those with virtual life sentences, and 22% of people with expected lengths of stay of 15-40 years (see Figure 4).

Fig. 4
Expected Length of Stay by Race/Ethnicity Compared to Overall Illinois Population

- Black
- Latino
- Asian
- American Indian
- Two or more races
- Other/unknown
- White



Compared to white people, Black people in Illinois are about 11 times more likely to be sentenced to life without parole, 16 times more likely to have virtual life sentences, and 12 times more likely to have expected lengths of stay of 15-40 years. Latino people are about two-and-a-half times more likely than white people to have either virtual life sentences or expected lengths of stay of 15-40 years.²⁴

Black and Latino people serving extreme sentences also tend to have been younger²⁵ at the time of the crime than white people serving extreme sentences. This means that they will typically spend longer in prison for conduct that occurred when their brains were less developed and when they should have been considered less culpable than older counterparts²⁶ (see Figure 5).

Revisiting extreme sentences is therefore an important step toward addressing racial disparities in the criminal justice system.

Fig. 5
Estimated Age at Time of Crime by Race/Ethnicity for People with Life and Virtual Life Sentences

Estimated Age at Time of Crime

- <18
- 18-20
- 21-24
- 25-29
- 30+

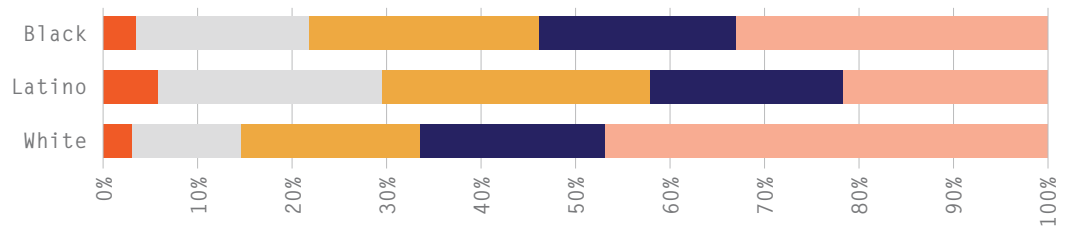
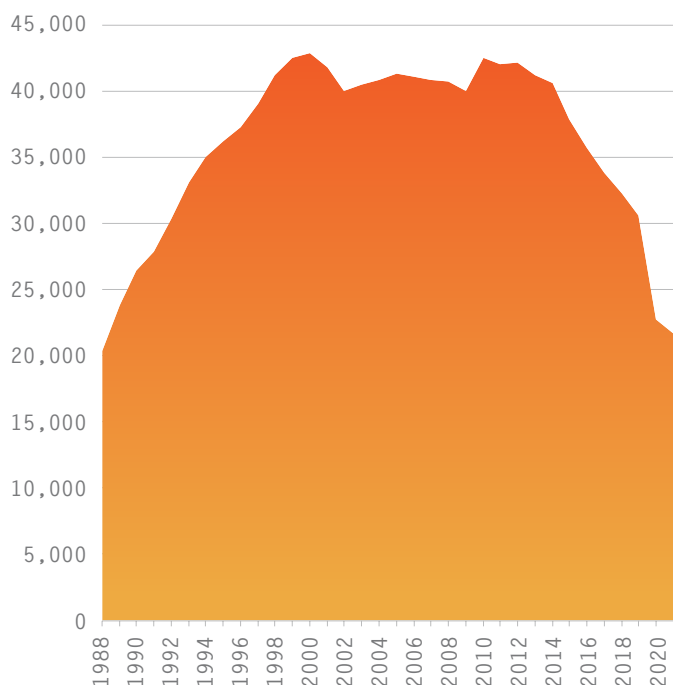
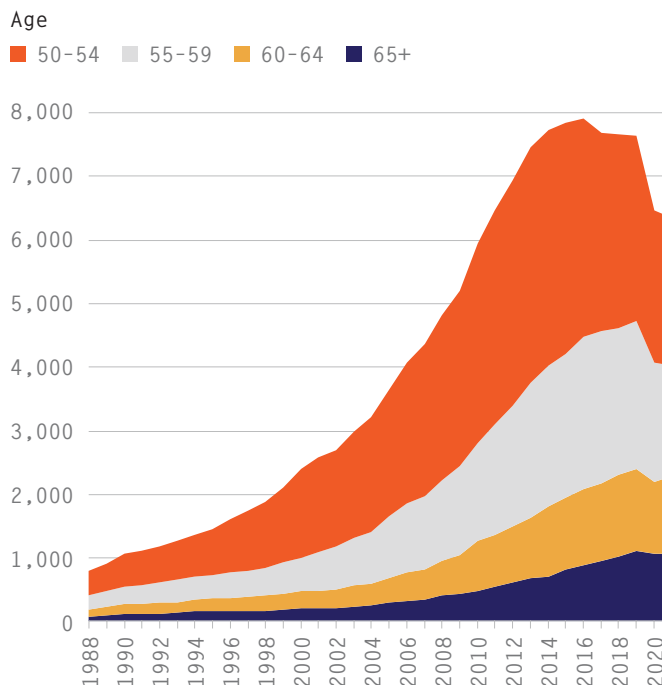


Fig. 6
Rise and Fall of Illinois Prison Population Under Age 50



Illinois' extreme sentencing practices have created a large elderly prison population, and the recent reduction in incarceration has mostly left behind the oldest people in prison. When looking at prison population trends by age, the pattern is very similar to what was seen above regarding sentence length; there are now only slightly more people under age 50 in prison in Illinois than there were in 1988 (see Figure 6), whereas the population age 60 or over has continued to increase every year except during the Covid-19 pandemic in 2020 (see Figure 7). Compared to 1988, Illinois prisons now hold about eight times as many people age 50 or older, 10 times

Fig. 7
Growth of Illinois Prison Population Age 50 and Older



as many age 60-64, and 14 times as many age 65 or older.²⁷ Around 23% percent of people in Illinois prisons now are 50 years or older, compared to only 4% in 1988.

Many of these older individuals are in prison for crimes committed decades ago and are very different people today than they were at the time of the crime. That is particularly true for older people serving life and virtual life: Of those who are age 50 or over, 60% have been in prison for at least 20 years, and of those 60 and older, 69% have been in prison for at least 20 years (see Figure 8).

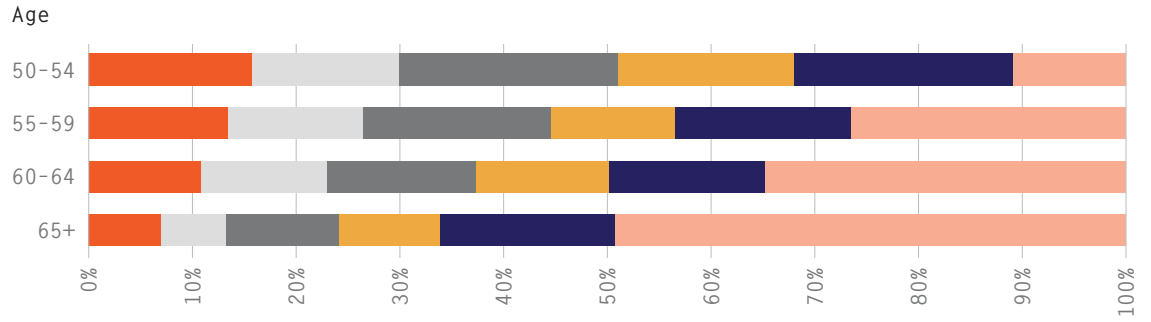
"[V]aluable infirmary beds are occupied by elderly, frail, disabled, mentally challenged, and wheel chair bound patient-inmates who have few acute medical needs but require huge amounts of nursing and porter resources to manage their chronic conditions, body fluids, and activities of daily [living]. If non-medically trained civilians walked through the IDOC infirmaries, their initial observation would be 'why are these men and women incarcerated when they are so overtly and obviously no longer a danger to society.'"²⁸

- Statement by court-approved health care monitor that is overseeing the Illinois Department of Corrections compliance with a consent decree regarding medical care in Illinois prisons.

Fig. 8
Age by Time Served for People with Life and Virtual Life Sentences

Time Served in Years

- <10
- 10-15
- 15-20
- 20-25
- 25-30
- 30+



The people serving the longest sentences were disproportionately young at the time of the crime.

Illinois' sentencing laws disproportionately result in harsh punishment for people whose brains were not yet fully developed, making them less culpable than older adults. For example:

- TIS primarily applies to the types of crimes that tend to be committed by younger people, and therefore disproportionately impacts people who were young at the time of the crime. Of people who were under age 25 at the first date listed on their case, 56% are subject to TIS, compared to only 44% of people who were age 25 or over.
- Young people are more likely than older adults to co-offend with others,²⁹ making them more likely to be ensnared by Illinois' broad accountability and felony murder laws.³⁰

- Life and virtual life sentences are, in practice, typically significantly longer for younger people than for those who are older. A person given LWOP at age 20 will likely spend much more time in prison than someone given LWOP at age 40. Ironically, life and virtual life sentences mean more punishment for those who are less culpable because of their age and incomplete brain development.

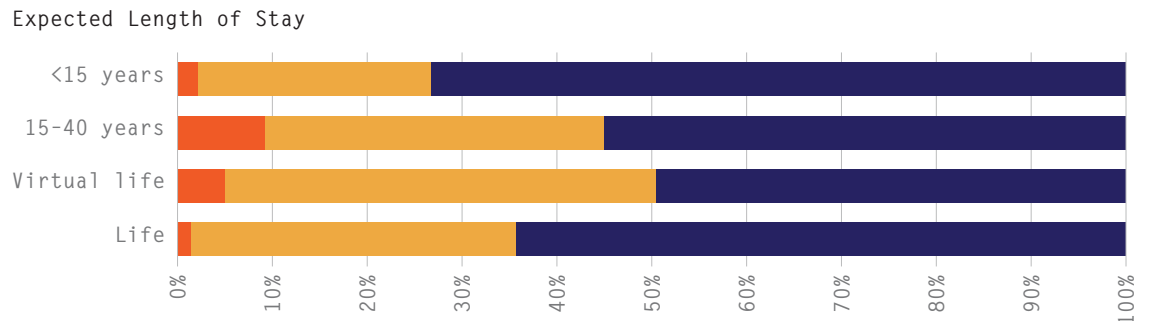
As a result of Illinois' sentencing system, the majority of people with virtual life sentences were under age 25 at the first date listed on their case, as were 45% of those with expected lengths of stay of 15-40 years and 36% of those serving LWOP. In contrast, 73% of people with expected lengths of stay under 15 years were 25 or over at the first date listed on their case (see Figure 9).

Since Black and Latino people serving long sentences were disproportionately young at the time of the crime, these laws also exacerbate racial disparities in sentencing.

Fig. 9
Estimated Age at Time of the Crime by Expected Length of Stay

Estimated Age

- <18
- 18-24
- 25+



EXTREME SENTENCES: High cost, low value for taxpayers

Extreme sentences do not make communities safer: They do not deter people from criminal activity, and they waste limited public safety resources on incarcerating people well past the period in which they present a risk to the community.

Researchers have found no evidence that severe sentencing policies discourage people from criminal activity.³¹ People are not generally even aware of the potential penalties for specific crimes or of the length of sentences actually imposed, so harsh punishments are not an effective approach for deterring crime. It is the certainty of getting caught, not the length of punishment, that deters crime.³²

Extreme sentences are not necessary for preventing recidivism, because the vast majority of people who commit crimes – even very serious crimes – naturally grow out of criminal behavior as they age and mature. Young people’s brains continue to develop through their mid-20s, particularly the prefrontal cortex, which is responsible for the ability “to exercise good judgment when presented with difficult life situations.”³³ Young people are therefore more impulsive and susceptible to peer influence than older adults and less able to inhibit inappropriate behavior, manage intense emotions, and fully consider consequences of their behavior.³⁴

Consequently, criminal activity peaks during the late teen years and early 20s. In fact, breaking the law is normal behavior during this period: In self-reporting surveys, *most* adolescents report having done so.³⁵

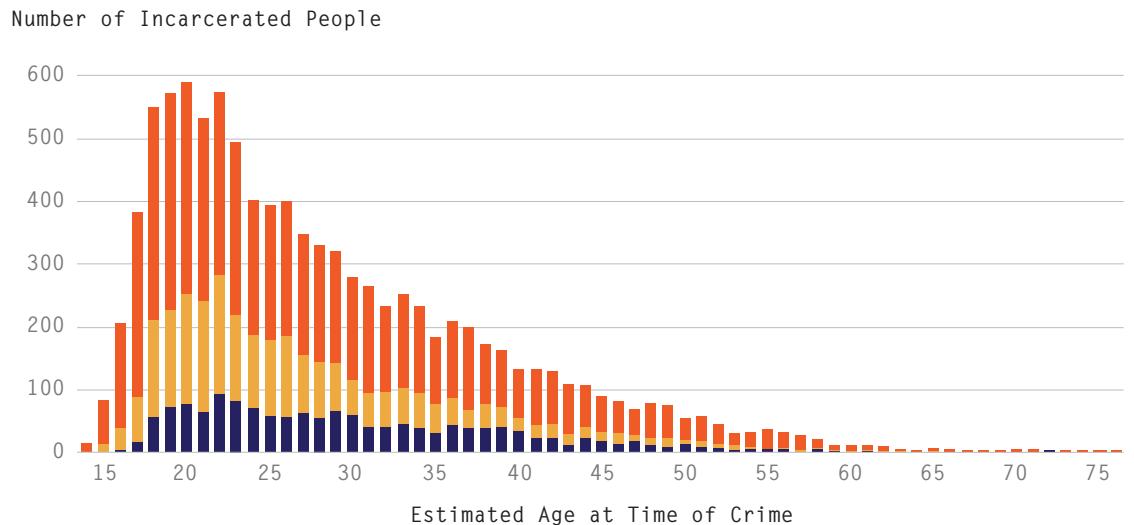
Fortunately, people grow and change. As people age, they become less and less likely to engage in crime.³⁶ Arrests drop steeply by the early 30s. Almost three-quarters of arrests are of people below age 40; fewer than 4% are of people age 60 or over.³⁷ Consistent with these findings, most people serving extreme sentences in Illinois were young at the time of the crime (see Figure 10).

Recidivism rates decline dramatically as people age. This is true even for those convicted later in life. It is also true for those convicted of violent offenses, who are often found to be *less* likely to reoffend after release from prison than those with other offenses.³⁸ In one study, only 4% of people convicted of violent crimes released between ages 45 and 54 and 1% released at age 55 or older were reincarcerated for new crimes within three years. Among people previously convicted of murder, those rates fell to 1.5% and 0.4%, respectively.³⁹ In comparison, when looking at the full Illinois prison population, 39% to 44% of individuals released between fiscal years 2013 and 2018 were reincarcerated within three years.⁴⁰

Fig. 10
Estimated Age at Time of Crime for People with Expected Length of Stay of 15+ Years

Expected Length of Stay

- 15-40 years
- Virtual life
- Life





Dahvon Wilson, in his own words

My first thought when I got to prison at age 18 was, “I can’t spend decades in here.” Trying to wrap my head around that still is tough. But I was sentenced to 40 years for attempted murder. I made some very bad decisions and harmed people. I needed to grow up and fully understand responsibility. I needed a reality check, and prison gave me that. But I didn’t need 40 years to learn those things.

I’ve tried to look at prison as school instead of incarceration. I try not to waste energy on worrying about when I’m going home but instead on learning as much as I can so I can be successful when I do go home. I got my GED diploma within two months of being locked up. Then I tutored, helping other guys get theirs. I’ve worked every job I could, taken every class I could. My family sends me books and I devour them – especially books about finance. I’ve got plans to build a trucking business when I get out, and I just keep my focus on that – and on my son, Shamar.

Shamar is everything I wanted him to be: smart, respectable, and talented. I love him with all my heart. When I got locked up, he was 10 months old. Now he’s 14. He’s the reason I need a second chance. I want to be someone Shamar looks at as someone he would like to be. I want him to see that bad choices don’t define you, but instead the time you put into being a better man does.

The low risk of recidivism for people convicted of serious crimes who have served long sentences is illustrated by case studies from other states. For example, 174 people from Philadelphia – all of whom had been sentenced to life for homicides committed while they were under age 18 – were resentenced and released following landmark U.S. Supreme Court decisions. After they had been in the community for an average of 21 months, only two (1.1%) had been reconvicted of any offense.⁴¹ Similarly, in Maryland, 188 people serving life without parole (mostly for murder or rape), most if not all of whom were adults at the time of the crime, were released after serving 30-plus years because a court found that there had been constitutional errors in their trials. Six years later, only five (2.7%) had returned to prison for violating parole or committing a new crime.⁴²

Extreme sentences are exorbitantly expensive.

Based on the average annual cost of \$69,811 per person in prison in Illinois,⁴³ the Illinois Department of Corrections (IDOC) is spending \$309.5 million per year to incarcerate 4,433 people *who have already served at least 15 years*. The true price tag is undoubtedly substantially higher.

Incarceration costs increase dramatically as people get older, primarily due to increased need for medical care. Illinois does not distinguish costs associated with older individuals in prison, but estimates from other U.S. prison systems have found that older adults cost somewhere between twice as much and nine times as much to incarcerate per year compared to the general population.⁴⁴ Plus, due to factors such as inadequate medical care prior to and during incarceration, substance use disorder, and the stress of being in prison itself, the aging process is typically accelerated for incarcerated individuals.⁴⁵ IDOC therefore considers individuals age 50 or above to be “older individuals in custody.”⁴⁶ Costs continue to rise as more and more people in prison reach that age group. Moreover, IDOC is not equipped to provide adequate medical care to this population and has been engaged in costly litigation for more than a decade due to that and other failures.⁴⁷

In short, Illinois’ extreme sentences are a high-cost, low-value proposition for taxpayers: They fail to deter crime, do not protect communities, keep low-risk people locked up too long, and increase prison costs astronomically.

Wasted Money, Wasted Opportunities to Prevent Crime and Address Victims' Needs

Particularly given recent increases in homicides and other serious crimes in Illinois, it is critical to ensure that public safety funding is directed toward policies and programs that actually increase public safety, rather than on warehousing people who have been rehabilitated. Illinois' extreme sentences waste hundreds of millions of dollars that could otherwise be spent on preventing crime and addressing all victims' needs. For example:

- READI Chicago provides evidence-based interventions – including cognitive behavioral interventions, paid transitional jobs, and support services – to young men at very high risk for gun violence involvement. Preliminary

research found that participants have 79% fewer arrests for shootings and homicides compared with a randomized control group.⁴⁸ It costs about \$2.4 million annually for 100 READI Chicago participants.⁴⁹

- Traditional victims' services agencies leave behind most survivors of serious crimes.⁵⁰ The trauma recovery center model, currently found in five communities in Illinois,⁵¹ is effective at reaching these underserved survivors, improves crime survivors' mental and physical health, and increases their odds of returning to work. Trauma recovery centers have a recommended annual budget of \$1 million.⁵²

EXTREME SENTENCES:

Harming communities, families, and the economy

Extreme sentences deprive the community of valuable human resources. When given the opportunity, many people serving extreme sentences complete educational or vocational training programs, obtain jobs, serve as mentors to their younger peers, and take on other leadership roles within prisons as they mature.⁵³ These individuals would be valuable economic assets to their communities if they were released and could find work, volunteer, and help support their families. Moreover, some of the most effective community violence interventions rely on formerly incarcerated individuals, who are often uniquely able to serve as mentors and develop relationships with at-risk youth.⁵⁴

Extreme sentences devastate families and contribute to poverty. When someone is incarcerated, their families "do the time" with them. The incarcerated individual can no longer contribute to the household income, which often makes it difficult for their families to meet basic needs, such as food, housing, and utilities.⁵⁵ Plus, many family members spend hundreds of dollars a month to visit, call, and email their loved ones and to provide prison commissary funding for toiletries and other essentials.⁵⁶ The emotional and psychological toll of the incarcerated individual's absence from major milestones and day-to-day life is horrendous. Children of incarcerated parents experience significantly higher rates of mental health, educational, behavioral,

developmental, and relationship problems than their peers.⁵⁷ Similarly, incarceration is associated with negative mental and physical health consequences for adult family members.⁵⁸ In Illinois, the impact on families is exacerbated by the fact that, although 57% of people serving long sentences were sentenced in Cook County, none of IDOC's correctional centers are in Cook County, while many are hours away and inaccessible by public transportation.⁵⁹

Providing meaningful opportunities for release to people serving long sentences gives them hope and incentivizes them to engage in rehabilitative activities. Participation in rehabilitative programs in prison can reduce problematic behavior in prisons and lower recidivism upon release, making people safer both inside and outside of prisons.⁶⁰

EXTREME SENTENCES:

Unjust and excessive

Extreme sentences are frequently imposed without considering individuals' levels of culpability or other mitigating factors, and the harshest sentences are often given to people with lower levels of culpability. Due to mandatory minimums and mandatory enhancements, judges are frequently denied the opportunity to make individualized sentencing decisions that take into account all important facts of a case, like the role the person played in the offense. In addition, Illinois' sentencing laws disproportionately impact people

who were young at the time of the crime, as discussed above, and lead to other unjust outcomes as well. For example, a survey of more than 600 women incarcerated for manslaughter or murder found that 30% had been trying to protect themselves or loved ones from physical or sexual violence, either by killing the person who was the source of the threat or by contributing to the death of a third party under duress at the order of someone who abused them.⁶¹ However, compulsion is not a defense to first degree murder in Illinois.⁶²

Existing release mechanisms fail to remedy extreme sentences

Because extreme sentences are unjust, costly, and provide little public safety benefit, it is crucial to ensure that people serving these sentences have meaningful opportunities for release. Existing mechanisms in Illinois fall far short of meeting that need. Illinois abolished parole in 1978, making it 1 of only 7 states in which people serving life sentences are categorically not given any opportunity for parole.⁶³ The lack of

parole means that for most people serving extreme sentences, the only way to have their sentences reduced is through a commutation by the governor.⁶⁴

But commutations have been and remain exceptionally rare in Illinois. About five people were granted sentence commutations each year on average from 1978 to 1989.⁶⁵ This increased to an average of 10.6 per year

from 1990 to 1995. However, commutations declined in the late 1990s and early 2000s at the same time that the population serving life and lengthy sentences grew steeply. Commutations then became essentially non-existent for at least eight years.⁶⁶ They have increased in recent years, especially during the Covid-19 pandemic.⁶⁷ But they remain rare, even though the population with

no other way out is many times larger than it was during the 1970s through early 1990s. Clemency must be expanded, but it will never be sufficient to address the thousands of excessive sentences doled out in Illinois in the era of mass incarceration.

Medical release: A promising reform

One recent bright spot is the 2021 passage of the Joe Coleman Medical Release Act, which established an opportunity for early release for individuals in custody who are suffering from a terminal illness or medical incapacitation.⁶⁸ It went into effect at the beginning of 2022, shortly before the publication of this report, so it is too soon to know the full impact of this law. While it will not address the broader problems of extreme

sentences, it presents tremendous potential for ensuring that ill, infirm, and disabled individuals can receive the treatment and care they need outside of prison. These people cost much more to incarcerate because of their medical needs, and present almost no risk to public safety because of their physical condition. Their release would save money that could be better spent elsewhere to increase public safety.



Recommendations for Illinois

Establish mechanisms for all people serving extreme sentences to demonstrate their rehabilitation and earn the opportunity for release.

Illinois should adopt a broad second-look mechanism that allows anyone to request a reconsideration of their sentence after they have served 15 years in prison. Because most people who commit crimes age out of criminality, adopted policies should avoid categorical exclusions based on type of offense or length of sentence. The decision-making process should focus primarily on the person's situation and condition today and whether continued incarceration is necessary to protect the public and worth the cost to taxpayers. There are a range of potential mechanisms for giving people the opportunity to show that it no longer makes sense to incarcerate them. For example:

- The Model Penal Code (MPC) recommends a second-look sentencing provision that allows people to be considered for a sentence modification after they have served 15 years and to be reconsidered every 10 years after that.⁶⁹ For people who were under age 18 at the time of the crime, the MPC recommends consideration for sentence modification after 10 years, or earlier if recommended by the sentencing court.⁷⁰

- Washington, D.C.'s Second Look Amendment Act, which went into effect in 2021, allows anyone incarcerated for a violation of D.C. law who was under age 25 at the time of the crime to petition the court for a sentence reduction after serving 15 years.⁷¹ That expands a successful sentence review process that was originally established by legislation passed in 2016 for individuals who were under age 18 at the time of the crime. As part of a project to update its criminal code, D.C. is currently considering expanding this sentence review opportunity to anyone who has served at least 15 years.⁷²

Repeal mandatory sentences and sentencing enhancements. These laws prevent judges from taking into account the specifics of the case, such as an individual's role in a crime or mitigating factors; fail to account for the reality that people grow and change; and do not protect public safety. Examples of mandatory sentencing requirements that should be eliminated include mandatory LWOP sentences for certain categories of homicide cases, such as murders involving more than one victim; habitual offender sentences; and firearm enhancements.

Address other laws that lead to excessive sentences.

For example, children who are charged with crimes should always remain in juvenile court,⁷³ and Illinois' felony murder and accountability laws should be revised to ensure that people are not punished for crimes that they did not commit, intend, or expect.⁷⁴

Make all sentencing reforms retroactive. When lawmakers pass smart sentencing reforms or revise an unjust penalty, they should apply those reforms retroactively. In Illinois, this is particularly important given the human and fiscal crisis presented by the state's growing, aging prison population.

Roll back Truth in Sentencing. TIS has been one of the biggest drivers of longer prison stays and is rooted in a false assumption that longer prison stays make communities safer. It also increases racial disparities and disproportionately impacts people who were young at the time of the crime. Illinois lawmakers should consider significant TIS reform.

Implement the Joe Coleman Medical Release Act fully and effectively to ensure consistent release of eligible individuals. The act provides a promising opportunity to promote human dignity and avoid

wasteful prison spending on people who are dying or medically incapacitated, but must be implemented well and used in all appropriate cases for this promise to be realized.

Make regular use of the resentencing power that the Illinois legislature granted to state's attorneys. State's attorneys have long had the power to seek new sentences through Illinois' revestment process, but in 2021, the Illinois legislature passed SB2129, which more explicitly established prosecutor-initiated resentencing.⁷⁵ In doing so, the legislature reaffirmed that state's attorney offices can and should revisit sentences that no longer advance the interests of justice. This authority is also consistent with prosecutors' duty to promote justice and public safety.⁷⁶ State's attorney offices should therefore establish sentence review units or processes and accompanying policies to identify and advance cases that are appropriate for resentencing, including allowing individuals who are incarcerated or their attorneys or advocates to request that the state's attorney office review their case. To be most impactful, these policies should prioritize cases involving extreme sentences and should avoid categorical exclusions.

Second Chances and Victims of Crime

Extreme sentences are often framed as serving crime victims. However, survivors of serious crimes have a range of opinions on extreme sentences,⁷⁷ and there is no evidence that extreme sentences actually improve victim well-being.⁷⁸ Moreover, the criminal justice system's primary functions are to promote justice and to protect the community. To ensure that justice, not vengeance, is the touchstone of the criminal legal system, the U.S. Constitution guarantees that society at large, not crime victims, determines what crimes to charge, who will be convicted (hence, the right to trial by jury), and what

sentence is appropriate. Decisions regarding second chances should likewise be made in the interest of justice, safety, and broader community needs. One person's desire to see the full service of an extreme sentence should not trump public safety – communities are less safe when people remain in prison unnecessarily, at enormous cost to taxpayers. At the same time, it is imperative to ensure that victims are kept informed about the case and provided with services and resources to help support their healing.⁷⁹ A portion of the savings from reduced prison sentences can be reinvested for that purpose.

Increase commutations and make the clemency process fairer and more efficient. In particular, the governor should consider establishing categorical clemency and/or expedited clemency review for certain categories of cases. For example, if the legislature fails to make sentencing reforms retroactive, the governor can address that gap through sentence commutations for individuals who would have received or been eligible for a shorter sentence under current law. Other reforms to improve the clemency process, such as access to counsel, also would be worth considering.

Ensure that the PRB expeditiously and fairly reviews cases, with decision-making focused on the individual's rehabilitation and current risk. The PRB should be fully staffed with members from diverse professional and personal backgrounds and fully resourced. PRB decisions should reflect the evidence that most people grow and change, and should therefore be based on who the person is today, not on the original offense.⁸⁰

Reinvest savings resulting from reduced incarceration in reentry and victim services. While reentry support, both during and after incarceration, is important for anyone leaving prison, it is especially necessary for people who have been disconnected from their communities for decades. It is also crucial to ensure that those who have undergone trauma, including recognized victims, are connected with appropriate support and resources, particularly as people are released from prison.

Include data collection and reporting requirements in all reforms to monitor for and address any disparities that may arise. It is vital to get a complete picture of how second chances reforms are used so that shortcomings can be identified and improved in the future.



Conclusion

Illinois' extreme sentencing system is unjust, costly, and makes Illinois residents less safe.

Extreme sentences keep people locked up for decades or life. They deny people hope, harm families and communities, and exacerbate racial and other disparities. And they cost taxpayers hundreds of millions of dollars, without providing commensurate public safety benefits in return.

Providing meaningful release opportunities for people serving extreme sentences makes everyone safer. Illinois cannot afford to waste dollars and prison cells on people who have been rehabilitated or no longer pose a danger to the public. The time for reform is now, with the passage of second chances legislation and other much-needed administrative and statutory reforms.

Endnotes

- 1 "Expected lengths of stay," as used throughout this report, are rough estimates of the amount of time someone is expected to serve given available data. For people with indeterminate sentences (sentences received prior to the elimination of parole), their minimum sentence is their expected length of stay. For people with determinate sentences (those sentenced after the elimination of parole), expected lengths of stay were calculated by multiplying their sentence by their Truth in Sentencing (TIS) percentage. For those with determinate sentences prior to TIS and those with Day-for-Day sentences under TIS, a 50% multiplier was used. Individuals sentenced prior to TIS or with Day-for-Day sentences may have been able to reduce their sentences below this amount, but only by small amounts, such as 90 or 180 days, which would be unlikely to have substantial impact on the long sentences that are the focus of this report.
- 2 Unless otherwise noted, historical/longitudinal data throughout this report is from Illinois Department of Corrections Data File 220112117, on file with FAMM.
- 3 Illinois Criminal Justice Information Authority (2022). *Uniform Crime Report Index Offense Explorer: Index Offenses in Illinois*. https://app.icjia.cloud/app_direct/ucr-index-offense-explorer/.
- 4 Stemen, D. (2017). *The Prison Paradox: More Incarceration Will Not Make Us Safe*, Vera Institute of Justice, 1-2. https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf.
- 5 Id. at 2.
- 6 Kimble, C. & Grawert, A. (2019). *Between 2007 and 2017, 34 States Reduced Crime and Incarceration in Tandem*, The Brennan Center. <https://www.brennancenter.org/our-work/analysis-opinion/between-2007-and-2017-34-states-reduced-crime-and-incarceration-tandem>.
- 7 Illinois Compiled Statutes, 720 ILCS 5/5-2, *When accountability exists*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=072000050K5-2>; Illinois Compiled Statutes, 720 ILCS 5/9-1, *First degree murder; death penalties; exceptions; separate hearings; proof; findings; appellate procedures; reversals*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=072000050K9-1>; Troutman, B. (2018). *A More Just System of Juvenile Justice: Creating a New Standard of Accountability for Juveniles in Illinois*, 108 J. Crim. L. & Criminology 197, at 211-215 (2018). <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7621&context=jclc>; Restore Justice, *Know More: Illinois' "Law of Accountability"*. <https://restorejustice.org/about-us/resources/know-more/know-more-law-of-accountability/>; Restore Justice (2021), *Felony-Murder in Illinois*. <https://restorejustice.org/learn/felony-murder/>.
- 8 Illinois Compiled Statutes, 730 ILCS 5/5-8-1, *Natural life imprisonment; enhancements for use of a firearm; mandatory supervised release terms*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073000050K5-8-1>.
- 9 See, e.g., Illinois Compiled Statutes, 730 ILCS 5/5-8-1, *Natural life imprisonment; enhancements for use of a firearm; mandatory supervised release terms*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073000050K5-8-1>; Illinois Compiled Statutes, 720 ILCS 5/19-6, *Home Invasion*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=072000050K19-6>; Illinois Compiled Statutes, 720 ILCS 5/18-4, *Aggravated vehicular hijacking*. <https://ilga.gov/legislation/ilcs/fulltext.asp?DocName=072000050K18-4>.
- 10 Rovner, J. (2021). *Commentary: Pass bill that excludes people under 21 from mandatory sentencing enhancements*, The State Journal-Register. <https://www.sj-r.com/story/opinion/2021/04/22/illinois-should-pass-bill-limits-mandatory-sentencing-enhancement/7335871002/>; Restore Justice (2018). *Know More: Firearm Sentence Enhancements*. <https://restorejustice.org/about-us/resources/know-more/know-more-firearm-sentence-enhancements/>.
- 11 Restore Justice, *Know More: Firearm Sentence Enhancements*, *supra* note 10.
- 12 Illinois Compiled Statutes, 730 ILCS 5/5-4.5-95, *General Recidivism Provisions*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073000050K5-4.5-95>; Soble, J. (2020). *Hundreds serving mandatory life sentences under Illinois 'three strikes' law*, InjusticeWatch. <https://www.injusticewatch.org/commentary/2020/hundreds-serving-mandatory-life-sentences-under-illinois-three-strikes-law/>. The qualifying offenses are Class X felonies (the most serious category of felonies, including armed robbery, aggravated kidnapping, aggravated battery of a child, home invasion, certain possession or drugs with intent to deliver cases, and other crimes), criminal sexual assault, aggravated kidnapping, and first degree murder.
- 13 Justice Policy Institute and Campaign for Youth Justice (2020). *The Child Not the Charge: Transfer Laws Are Not Advancing Public Safety*, at 13. http://www.campaignforyouthjustice.org/images/child_not_the_charge_report_1.pdf. Recognizing the harms of transferring juveniles to adult court, Illinois has substantially reduced the number of children who are prosecuted in adult court, both by raising the age of juvenile jurisdiction and reforming its juvenile transfer laws. Nevertheless, some people who were under 18 at the time of the crime are still tried in adult court, and there are many people serving adult court sentences that were imposed before those

- changes who would likely receive much shorter sentences in juvenile court if they were sentenced today. Kooy, E. (2020). *When Juvenile Court is the Default Starting Place for Youth: A Review of Outcomes Following 2015 Automatic Transfer Changes in Cook County*, Juvenile Justice Initiative. <https://justice.org/wp-content/uploads/Transfer-Report-2020.pdf>.
- 14 Illinois Compiled Statutes, 730 ILCS 5/3-6-3, *Rules and regulations for sentence credit*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073000050K3-6-3>. Legislation establishing TIS in Illinois first passed in 1995, but the Illinois Supreme Court found that law to be unconstitutional. The current TIS law was passed in 1998. Olson, D.E., Seng, M., Boulger, J., and McClure, M. (2009). *The Impact of Illinois' Truth-in-Sentencing Law on Sentence Lengths, Time to Serve and Disciplinary Incidents of Convicted Murderers and Sex Offenders*, Prepared for The Illinois Criminal Justice Information Authority, at 10. <http://www.icjia.state.il.us/assets/pdf/ResearchReports/FINAL%20REPORT%20The%20Impact%20of%20Illinois%20Truth-in-Sentencing%20Law%200609.pdf>.
 - 15 *Id.* at 3, 8.
 - 16 For example, the average sentence length for people convicted of murder was reduced by 3.9 years after TIS, but their average expected length of stay increased by 17 years. *Id.* at 4.
 - 17 Illinois State Commission on Criminal Justice and Sentencing Reform (2016). *Final Report (Parts I & II)*, at 59. http://www.icjia.org/cjreform2015/pdf/CJSR_Final_Report_Dec_2016.pdf.
 - 18 The Illinois Supreme Court has found sentences longer than 40 years to be *de facto* life sentences for people who were under 18 at the time of the crime. *People v. Buffer* (2019). 2019 IL 122327. <https://www.illinoiscourts.gov/Resources/bf52fdbd-7a9e-4a3b-afa3-3e8c8c5394c2/122327.pdf>. Because adults have a shorter expected amount of time left to live than children, sentences longer than 40 years would logically be *de facto* life sentences when applied to adults as well.
 - 19 This report focuses on sentences of 15 years or longer because the Model Penal Code calls for people to be given an opportunity for resentencing after they have served 15 years. Model Penal Code § 305.6. *Modification of Long-Term Prison Sentences; Principles for Legislation*, American Law Institute. <http://www.thealadviser.org/wp-content/uploads/2019/03/Modification-of-Long-Term-Prison-Sentences.pdf>.
 - 20 TIS data was missing for the year 2000, and there were inconsistencies in the data in 1998 and 2015, so those years were omitted from Figures 2 and 3. Data was also missing for small numbers of individuals in other years, so those individuals were also excluded.
 - 21 In 1988, 2.3% of the prison population had life or death sentences, 2.4% had virtual life sentences, and 11.2% had expected lengths of stay of 15-40 years. In 2020, 5.4% had life sentences, 8.5% had virtual life sentences, and 20.8% had expected lengths of stay of 15-40 years.
 - 22 United States Census Bureau (2021). *Quick Facts: Illinois*, <https://www.census.gov/quickfacts/IL>.
 - 23 Data regarding the current prison population, as used throughout this report, is from Illinois Department of Corrections (2022), *December 2021 Prison Stock*. <https://www2.illinois.gov/idoc/reportsandstatistics/Documents/December%202021%20Prison%20Stock.xls>.
 - 24 Out of every 100,000 white people in Illinois, 4.9 are serving LWOP, 5.9 have virtual life sentences, and 17.1 have expected lengths of stay of 15-40 years. Out of every 100,000 Black people in Illinois, 56.1 are serving LWOP, 92.2 have virtual life sentences, and 202.1 have expected lengths of stay of 15-40 years. Out of every 100,000 Latino people in Illinois, 5.6 are serving LWOP, 15.3 have virtual life sentences, and 43.0 have expected lengths of stay of 15-40 years. United States Census Bureau (2019). *American Community Survey Demographic and Housing Estimates: Illinois*. <https://data.census.gov/cedsci/table?g=0400000US17&tid=ACSDP1Y2019.DP05>.
 - 25 Data on age at the time of the crime is unavailable. To estimate age at the time of the crime, this report uses age at whichever of the following dates was the earliest: Custody Date, Current Admission Date, or Sentence Date (in most cases the Custody Date was the earliest date). Because time may have elapsed between the date of the crime and the aforementioned dates, this overestimates age at the time of the crime by an unknown amount.
 - 26 Arain, M., et al. (2013). *Maturation of the adolescent brain*, *Neuropsychiatric Disease and Treatment*, 9, 449-461. <https://doi.org/10.2147/NDT.S39776>.
 - 27 In 1988, there were 795 individuals age 50 or over, including 123 age 60-64 and 79 age 65 and over. As of 2021, those numbers had grown to 6,352 people age 50 or over, 1,213 age 60-64, and 1,083 age 65 or over.
 - 28 Raba, J. (2020). *Health Care Monitor 2nd Report Lippert v. Jeffreys*, at 14. https://www.aclu-il.org/sites/default/files/field_documents/lippert_2nd_monitor_report_aug2020.pdf.
 - 29 See, e.g. Lantz, B. and Ruback, R. B. (2017). *The relationship between co-offending, age, and experience using a sample of adult burglary offenders*, *Journal of Developmental and Life-Course Criminology*, 3, 76-97. <https://link.springer.com/article/10.1007/s40865-016-0047-0>; Reiss, A. J. and Farrington, D. P. (1991). *Advancing knowledge about co-offending: Results from a prospective longitudinal survey of London males*, *Journal of Criminal Law and Criminology*, 82, 360-395. <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6702&context=jclc>.
 - 30 Ocegueda, R. and Hilles, C. (2022). *Illinois Change in 'Felony Murder Rule' Left Some Behind*, US News and World Report. <https://www.usnews.com/news/best-states/california/articles/2022-01-29/illinois-change-in-felony-murder-rule-left-some-behind>.
 - 31 U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (2016). *Five Things About Deterrence*. <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.
 - 32 *Id.*
 - 33 Arain, *supra* note 26.
 - 34 *Id.*
 - 35 Bonnie, R.J., et al. (Eds.). (2013). *Reforming Juvenile Justice: A Developmental Approach*, National Academy of Science, 100. <https://www.nap.edu/read/14685/chapter/6#100>.
 - 36 Snyder, H.N. (2012). *Arrest in the United States, 1990-2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/aus9010.pdf>.

- 37 Federal Bureau of Investigation, Criminal Justice Information Services Division. (2020). *2019 Crime in the United States*, Table 38. <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-38>.
- 38 Prescott, J.J., Pyle, B., and Starr, S.B. (2020). *Understanding Violent-Crime Recidivism*, Notre Dame Law Review, 95:4, 1643-1698, 1688. <http://ndlawreview.org/wp-content/uploads/2020/05/9.-Prescott-et-al..pdf>.
- 39 Id. at 1688-1690.
- 40 Illinois Department of Corrections (2021). *3-Year Recidivism Rates*. https://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY21_Online_Recidivism_Table.pdf.
- 41 Daftary-Kapur, T. and Zottoli, T. (2020). *Resentencing of Juvenile Lifers: The Philadelphia Experience*, Montclair State University. <https://digitalcommons.montclair.edu/cgi/viewcontent.cgi?article=1084&context=justice-studies-facpubs>. Four others were rearrested, but their cases were dismissed.
- 42 Justice Policy Institute. (2018). *The Ungers, 5 Years and Counting: A Case Study in Safely Reducing Long Prison Terms and Saving Taxpayer Dollars*. <https://abell.org/publications/ungers-5-years-and-counting-case-study-safely-reducing-long-prison-terms-and-saving>.
- 43 Saltmarsh, K. (2021). *2021 Update: Dynamic Marginal Costs in Fiscal Impact Analyses*, Illinois Sentencing Policy Advisory Council, at 1. <https://spac.icjia-api.cloud/uploads/DMC%202021%20Update%20-%20IDOC%20and%20Jail%20costs-20210217T21163662.pdf>. About \$5,000 of the per-person cost are fixed costs that would generally remain constant regardless of decreases in the prison population. The remainder is more closely dependent on the size of the prison population; about \$10,000 are variable costs associated with individuals, while about \$54,000 are "step" costs, which remain constant until population decline crosses a threshold, after which costs change (in a step) and then remain steady until the next threshold.
- 44 Ahalt, C., et al. (2013). *Paying the Price: The Pressing Need for Quality, Cost and Outcomes Data to Improve Correctional Healthcare for Older Prisoners*, J Am Geriatric Soc., 61(11). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3984258/pdf/nihms517981.pdf>.
- 45 Chiu, T. (2010). *It's About Time: Aging Prisoners, Increasing Costs, and Geriatric Release*, Vera Institute of Justice, 4-5. https://www.vera.org/downloads/Publications/its-about-time-aging-prisoners-increasing-costs-and-geriatric-release/legacy_downloads/Its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf.
- 46 See, e.g. IDOC. *Frequently Asked Questions: What is the situation with older individuals in custody?*. <https://www2.illinois.gov/idoc/aboutus/Pages/faq.aspx#qst6>.
- 47 Uptown People's Law Center. *Lippert v. Jeffreys*. <https://www.uplcchicago.org/what-we-do/prison/lippert.html>; Raba, J. (2021). *Health Care Monitor 4th Report: Lippert v. Jeffreys*, at 15-16. <https://www.uplcchicago.org/what-we-do/prison/monitor-report-september-2021.html>.
- 48 READI Chicago (2021). *Working Together Toward Safer Communities: Reflections from READI Chicago*, at 10. <https://www.heartlandalliance.org/wp-content/uploads/2021/09/READI-Chicago-Working-Together-Toward-Safer-Communities-small.pdf>.
- 49 The average cost per READI Chicago participant is \$23,000 to \$24,000. Philadelphia Inquirer (2021). *10 ideas to stem the tide of Philly's gun-violence crisis*. <https://www.inquirer.com/opinion/commentary/homicides-philadelphia-spike-gun-violence-solutions-20210326.html>.
- 50 Of people who survive a violent crime that is reported (which excludes more than half of violent crimes), only 1 in 10 receive direct assistance from a victim service agency. National Alliance of Trauma Recovery Centers (2020). *Trauma Recovery Centers: Addressing the Needs of Underserved Crime Survivors*, at 1. <https://allianceforsafetyandjustice.org/wp-content/uploads/2020/02/TRCBrief-R3.pdf>.
- 51 There are trauma recovery centers in Evergreen Park, Libertyville, Rockford, Peoria, and Springfield. Alliance for Safety and Justice. *Find a TRC*. <https://www.traumarecoverycentermodel.org/find-a-trc-2/>.
- 52 National Alliance of Trauma Recovery Centers, *supra* note 50.
- 53 Mauer, M. and Nellis, A. (2018). *The Meaning of Life: The Case for Abolishing Life Sentences*, The New Press, at 48-49.
- 54 See, e.g. Credible Messenger Justice Center. *The Credible Messenger Approach: A Transforming Approach to Justice*. <https://cmjcenter.org/approach/>.
- 55 deVuono-powell, S. et al. (2015). *Who Pays? The True Cost of Incarceration on Families*, Ella Baker Center, Forward Together, Research Action Design, at 18. <http://whopaysreport.org/who-pays-full-report/>.
- 56 Lewis, N. and Lockwood, B. (2019). *How Families Cope with the Hidden Costs of Incarceration for the Holidays*, The New York Times. <https://www.nytimes.com/2019/12/17/us/incarceration-holidays-family-costs.html>.
- 57 Eddy, J. M., & Poehlmann-Tynan, J. (Eds.). (2019). *Handbook on Children with Incarcerated Parents: Research, Policy, and Practice (2nd ed.)*, at 4, Springer Nature Switzerland AG. <https://doi.org/10.1007/978-3-030-16707-3>.
- 58 Sundaresh, R., Yi, Y., and Harvey, T.D. (2021). *Exposure to Family Member Incarceration and Adult Well-being in the United States*, JAMA Netw Open, 4(5). <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2780438>; Wildeman, C., Goldman, A.W., and Lee, H.L. (2019). *Health Consequences of Family Member Incarceration for Adults in the Household*, Public Health Reports, 34(Supplement 1), at 15S-21S. <https://journals.sagepub.com/doi/pdf/10.1177/0033354918807974>.
- 59 Illinois Department of Corrections (2022). *IDOC Facility Map*. <https://www2.illinois.gov/idoc/facilities/Documents/IDOC%20Facility%20Map.pdf>.
- 60 For example, after Georgia adopted a policy that required people convicted of certain crimes to serve at least 90% of their sentences, those who were impacted by that policy did not have the previously available meaningful opportunity to substantially reduce their sentences. Disciplinary actions in prison and recidivism both increased among this population, while completion of rehabilitative programming declined. Kuziemko, I. (2013). *How should inmates be released from prison? An assessment of parole versus fixed-sentence regimes*, The Quarterly Journal of Economics, 371-424. https://scholar.princeton.edu/sites/default/files/kuziemko/files/inmates_release.pdf.

- 61 Van der Leun, J. (2020). *'No Choice But to Do It'* The Appeal. <https://theappeal.org/criminalized-survivors-survey/>. While this was a national survey, local data shows that 99% of women in Illinois prisons have experienced emotional, physical, and/or sexual abuse, and the vast majority have been abused by intimate partners, suggesting that these findings would be similar in Illinois. Reichert, J., Adams, S., and Bostwick, L. (2010). *Victimization and help-seeking behaviors among female prisoners in Illinois*, Illinois Criminal Justice Information Authority, at 8-9. https://www.jrsa.org/awards/winners/10_Victimization_Help_Seeking_Behaviors_Female_Prisoners_Illinois.pdf.
- 62 Benos, D., and Benedict, A. (2021). *Redefining the Narrative*, Women's Justice Institute, at 5A37 – 5A42. <https://redefine.womensjusticeinstitute.org/wp-content/uploads/2021/04/WJI-Redefining-the-Narrative-Bro-L01.pdf>.
- 63 Ghandnoosh, N. (2017). *Delaying A Second Chance: The Declining Prospects For Parole On Life Sentences*, The Sentencing Project, at 5. <https://www.sentencingproject.org/wp-content/uploads/2017/01/Delaying-a-Second-Chance.pdf>. The other states that have eliminated parole for adults serving life sentences are Florida, Iowa, Louisiana, Maine, Pennsylvania, and South Dakota.
- 64 There are still a small number of individuals who are parole eligible because their cases predated the elimination of parole. In addition, legislation passed in 2019 created parole eligibility for most people who were under age 21 at the time of the crime and sentenced on or after June 1, 2019. Illinois General Assembly. 730 ILCS 5/5-4.5-115, *Parole review of persons under the age of 21 at the time of the commission of an offense*. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073000050K5-4.5-115>. However, this law was not retroactive, so it had no impact on parole eligibility for people who had already been sentenced.
- 65 Commutation data from 1978 to 2019 is from the Illinois Prisoner Review Board Annual Reports. In 1981, the PRB changed the time period covered by each report. Therefore, there is a 1980-1981 report that includes data from January 1981, while the next report covers the full 1981 calendar year. The former lists four commutations in total, one of which was listed as being on the January 1981 docket, while the latter lists four commutations as being on the January 1981 docket and states that these are repeated from the 1980 report. It is therefore unclear how many are double-counted and a precise mean cannot be calculated. The annual reports from 1978 to 2002 are available at <https://catalog.hathitrust.org/Record/Q12408337>. The "Executive Clemency" page of the 2003 annual report is on file with FAMM. The annual reports from 2004 to 2019 are available at <https://www2.illinois.gov/sites/prb/Pages/prb15anlrpt.aspx>. The PRB separately provided FAMM with sentence commutation data for each year from 2008-2021, but for some years this data did not match what was listed in the PRB annual reports. As of when this report was submitted for publication, the PRB had not provided an explanation for these discrepancies, so this report relies on the published data from the PRB annual reports.
- 66 There were no commutations in 2004, 2005, 2007, 2009, and 2010, and only one in 2011. The 2002, 2003, 2006, and 2008 reports do not distinguish between different types of clemency cases, though there was only one executive clemency of any type granted each year in 2006 and 2008. It is not clear whether these were commutations or an alternate type of clemency, such as a pardon or expungement.
- 67 At least 90 sentence commutations were granted in the two years from 2020 to 2021. Hilles, C. (2022). *Prosecutors said her sexual orientation was motive to kill. Now, she's asking Illinois' governor for clemency*, InjusticeWatch. <https://www.injusticewatch.org/news/2022/bernina-mata-clemency/>.
- 68 Illinois General Assembly (2021). *Public Act 102-0494: AN ACT concerning criminal law*. <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0494>.
- 69 Model Penal Code § 305.6. *Modification of Long-Term Prison Sentences; Principles for Legislation*, American Law Institute. <http://www.thealiadviser.org/wp-content/uploads/2019/03/Modification-of-Long-Term-Prison-Sentences.pdf>.
- 70 Model Penal Code § 6.14(8). *Sentencing of Offenders Under the Age of 18*, American Law Institute. <https://thealiadviser.org/sentencing/sentencing-of-juveniles/>.
- 71 D.C. Law 23-274. *Omnibus Public Safety and Justice Amendment Act of 2020*, TITLE VI, Sec. 601. <https://code.dccouncil.us/us/dc/council/laws/23-274>.
- 72 Austermuhle, M. (2021). *D.C. Council takes on sweeping rewrite of 100-year-old criminal code*, WAMU 88.5. <https://www.npr.org/local/305/2021/11/05/1052710660/d-c-council-takes-on-sweeping-rewrite-of-100-year-old-criminal-code>.
- 73 See *The Child Not the Charge*, *supra* note 13.
- 74 For example, California narrowed its felony murder law in 2018. California Legislative Information (2018). *SB-1437 Accomplice liability for felony murder*. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1437.
- 75 Illinois General Assembly (2021). *SB2129: AN ACT concerning criminal law*. <https://www.ilga.gov/legislation/fulltext.asp?DocName=10200SB2129enr&GA=102&SessionId=110&DocType=SB&LegID=134780&DocNum=2129&GAID=16&SpecSess=&Session>.
- 76 Bloomenthal, E. (2020). *Revisiting Past Extreme Sentences: Sentencing Review and Second Chances*, Fair and Just Prosecution. https://www.fairandjustprosecution.org/staging/wp-content/uploads/2020/02/FJP_Issue-Brief_SentencingReview.pdf; For the People (2021). *Prosecutor-Initiated Resentencing: California's Opportunity to Expand Justice and Repair Harm*. https://static1.squarespace.com/static/5d44c4376e48120001a8b1d3/t/61b78a2d526eac298c3b17d/1639418438235/ForThePeople_Report_12.13.21.pdf.
- 77 Alliance for Safety and Justice (2019). *Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety And Justice*. <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.
- 78 Sered, D. (2019). *Until We Reckon*, The New Press, at 39.
- 79 *Id.* at 27-28.
- 80 For additional discussion of potential PRB reform, see Aagard, S., Dillon, R., Dole, J., and Dorado, R. (2018). *Parole Reform White Paper*, Parole Illinois. <https://paroleillinois.org/2018/12/27/parole-reform-white-paper-by-sarah-aagard-rosalind-dillon-joseph-dole-and-raul-dorado/>.



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