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EARLY RELEASE PROGRAMS IN ILLINOIS: JUSTIFIABLE OR OBJECTIONABLE?

by BILL SCHRAMM

As a result of budget shortfalls, many states are turning to early release programs to trim their deficits.¹ Specifically, in Illinois, Gov. Quinn adopted two programs in September 2009.² The first program, Meritorious Good Time Push (MGT Push), assisted offenders who exhibit good behavior, while a separate program was created solely for non-violent offenders who are within the last year of their sentences.³ Both programs were short-lived, however, because Gov. Quinn suspended MGT Push in December 2009 and the other program in January 2010 due to political and public pressure.⁴

Support still exists for early release programs. Proponents of early release argue that it is cost effective and does not place the safety of the community at risk.⁵

Yet, opponents contend that the program undermines the judicial system and presents legitimate public safety issues.⁶ Early release programs relieve budget deficits, but with the integrity of the criminal justice system and the safety of the public at issue, at what cost?

WHO SHOULD BE ELIGIBLE?

Under MGT Push, 1,700 inmates received accelerated good-time credit for their sentences.⁷ Inmates in this program could be granted up to 90 days of credit based on their good behavior in prison regardless of whether they were convicted of violent or nonviolent crimes.⁸ Many received this credit immediately, and thus some served only weeks in jail.⁹

The second program Gov. Quinn suspended affected nearly 1,000 inmates, all of whom were nonviolent offenders.¹⁰ Unlike under MGT Push, potentially violent offenders, such as those convicted of aggravated and domestic battery, were not eligible.¹¹ These two programs with their different eligibility requirements demonstrate an important question in this debate: who should be eligible for these programs?

Public Defender Jim Mullenix says, “The vast majority of inmates are not beyond salvaging and can coexist with others in society.”¹² According to Mullenix, the ideal early release inmates are typically inmates convicted of property or possession (drugs, weapons and other contraband) crimes, elderly inmates, inmates serving the last portion of their sentences and inmates convicted of non-violent crimes.¹³

Mullenix acknowledges that there are some people who are too violent and cannot function appropriately in society.¹⁴ However, he states, “the vast majority of people who fall into the situation where they commit crimes do so, not because they are bad, but because they are unfortunate and have little other means to make a living.”¹⁵ Mullenix believes these less violent individuals would benefit the most from an early release program.¹⁶

Former Cook County State’s Attorney Richard Devine takes a different, but not entirely opposite, position.¹⁷ “It should be people that fit within the context of the overall policy and law that have done the things that are appropriate to earn credits. It should not simply be because someone is aging.”¹⁸

While there is no general consensus on who should be eligible, both opponents and advocates seem to agree that any early release program should not include violent offenders.¹⁹

ADVOCATES AND OPPONENTS OF EARLY RELEASE PROGRAMS

Januari Smith, a spokeswoman for the Illinois Department of Corrections (IDOC), is an advocate of early release programs. “[We support the program] because of the budget crisis as well as to enforce Gov. Quinn’s prison-reform efforts. We believe these low-level, non-violent offenders . . . can be better served in the community where there are more resources available than at IDOC,” she states.²⁰ Smith also believes that it is important for the public to realize that eligible inmates are low-level, non-violent offenders who will be coming back to the community soon.²¹ According to Smith, IDOC wants “to get them the resources, the services they need, to rehabilitate themselves to re-enter society successfully.”²²

However, not all public officials agree. Many criminal prosecutors opine that the early release of prisoners may save money now but will ultimately undermine the Illinois court system.²³ Echoing this sentiment, a spokeswoman for current Cook County State’s Attorney, Anita Alvarez, states that “the programs could threaten public safety or increase crime.”²⁴ Prosecutor Joseph Bruscato of Winnebago County agrees. “When an individual who was supposedly sent to prison shows up less than a month later, what are the people in the community saying? What is the victim thinking?”²⁵

However, according to Mullenix, these programs provide an obvious financial benefit to the state as well, which is the true reason for the development of early release programs.²⁶ “Once in the system, a prison is responsible for every aspect (medical, dental, housing, food) of an inmate’s life in addition to guarding the inmate, and training him through occupation and rehabilitation programs.”²⁷ “That all adds up,” says Mullenix, “and once released back to society, this cost is no longer the penitentiaries’ to bear.”²⁸

Anita Alvarez’s predecessor, Richard Devine, still has doubts.²⁹ Devine believes allowing budget issues to drive corrections policy is problematic.³⁰ “If credits are allowed and encouraged for positive things that prisoners do in order to get their lives back on track, that’s fine.”³¹ Devine remains concerned, however,

that the Governor wants to release a certain number of prisoners for budget issues and then work backwards from there.³²

Devine states, “It is too important for the public and especially the victim of crimes and for their families who rely on the justice system to go through a process where they determine what the punishment will be. These programs affect not only the victims of crime, but the public as a whole.”³³ If passed by the legislature, the Governor will be bound to enforce early release programs.³⁴

Devine adds, “One of the most important things that the Government does is to provide prisons for people who have been convicted of crimes. You do not cut back prison funds; you cut other things back.”³⁵

CONCLUSION

According to Devine, the justice system should not be scaled back by general budget cuts without a thought to the potential long-term implications it would have on the operation of that system.³⁶ Gov. Quinn and the Illinois legislature must make these difficult decisions while keeping Illinois citizens’ overall best interests in mind.

With the end of budget concerns nowhere in sight, the Illinois government is faced with the daunting task of balancing the budget while maintaining a safe and efficient prison system.

NOTES

1 Posting of Kamika Dunlap to Findlaw Blotter, <http://blogs.findlaw.com/blotter/2009/12/criminal-prosecutors-early-jail-release-undermines-illinois-court-system.html> (Dec. 15, 2009, 12:15 EST).

2 Monique Garcia, *2nd Early Release Program Suspended*, CHI. TRIB., Jan. 1, 2010; John O’Connor, *AP Report: Illinois Prisons Shave Terms, Secretly Release Inmates*, THE STATE J. REG., Dec. 13, 2009, available at <http://www.sj-r.com/archive/x1479444730/AP-report-Illinois-prisons-shave-terms-secretly-release-inmates>.

3 Garcia, *supra* note 2; O’Connor, *supra* note 2.

4 Garcia, *supra* note 2; O’Connor, *supra* note 2.

5 Interview with Jim Mullenix, Public Defender, Cook County Public Defender, in Skokie, Ill. (Feb. 19, 2010); Interview with Richard A. Devine, Partner, Meckler Bulger Tilson Marick & Pearson LLP, in Chi., Ill. (Feb. 4, 2010).

6 Interview with Jim Mullenix, *supra* note 5; Interview with Richard A. Devine, *supra* note 5.

7 O'Connor, *supra* note 2.

8 Monique Garcia, *Gov. Pat Quinn Admits Mistake on Early-release of Prisoners, Blames Corrections Chief*, CHI. TRIB., Dec. 31, 2009, available at <http://www.chicagotribune.com/news/elections/chi-quinn-parole-program-31dec31,0,1503040.story>.

9 *Id.*

10 Garcia, *supra* note 2.

11 *Id.*

12 Mullenix, *supra* note 5.

13 *Id.*

14 *Id.*

15 *Id.*

16 *Id.*

17 Mullenix, *supra* note 5.

18 Devine, *supra* note 5.

19 *Id.*; Mullenix, *supra* note 5.

20 *Illinois: Gov. Quinn to Set 1,000 Inmates Free Early*, CBS2Chicago.com, Sept. 20, 2009, <http://cbs2chicago.com/local/Quinn.prisoners.release.2.1194>.

21 *Id.*

22 *Id.*

23 Dunlap, *supra* note 1.

24 *Quinn Suspends Inmate Early-Release Program*, CBS2Chicago, Dec. 13, 2009, <http://cbs2chicago.com/local/Illinois.prisons.early.2.1367219.html>.

25 *Illinois Prisons Shave Terms, Secretly Release Inmates*, Chicagoist, Dec. 13, 2009, http://chicagoist.com/2009/12/13/illinois_prisons_shave_terms_secret.php.

26 Mullenix, *supra* note 5.

27 *Id.*

28 *Id.*

29 Devine, *supra* note 5.

30 *Id.*

31 *Id.*

32 *Id.*

33 *Id.*

34 Devine, *supra* note 5.

35 *Id.*

36 *Id.*