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ILLINOIS' CRIMINAL JUSTICE SYSTEM GOES TO SCHOOL

by JOHN MAKI

In Illinois, thousands of people who could be sent to prison with a felony conviction may soon instead go to drug rehabilitation school.¹ This change is the result of House Bill 2734, the Drug School Act.² Set to become law in January 2008, the Drug School Act will allow the state's attorneys of all 102 Illinois counties to send people charged with low-level drug offenses to state-funded rehabilitation programs.³

Advocates for the Drug School Act promise that the new law will benefit everyone, from the average taxpayer to the thousands of people ensnared in the state's criminal justice system.⁴ While Illinois spends more than \$22,000 to incarcerate one adult for a single year, it will only cost approximately \$300 for

a person to attend drug school.⁵ When treatment programs are offered in the place of incarceration, the state stands to save more \$17 million every year.⁶

Moreover, drug treatment programs have proved significantly more effective at reducing recidivism than incarceration.⁷ In Illinois, 53 percent of non-violent drug offenders will return to prison after they are released, whereas the program on which the Drug School Act is modeled has a success rate of over 85 percent.⁸

The passing of the Drug School Act followed from almost two years of legislative advocacy and community organizing led by Chicago's Developing Justice Coalition (DJC).

Advocates see the passing of the Drug School Act as an important victory, but they also realize that more work needs to be done.

"We know that one law is not going to change these problems," said Rev. Patricia Watkins, founder of the DJC. "We know that two laws are not going to change these problems. We need to change the whole system."⁹

THE SYSTEM

While advocates generally agree that they need to effect systemic change, the sheer size of the penal system presents a daunting challenge. The United States imprisons a greater number of people at a higher percentage of its total population than any other country in the world.¹⁰ In May 2006, U.S. Department of Justice statistics showed more than 2.2 million people in state and federal prisons, which is almost equivalent to the entire population of Nevada.¹¹ In Illinois, which has the eighth highest prison population in the country, there are more than 40,000 people in state-operated prisons and more than 60,000 in state and federal prisons combined.¹²

Illinois' rate of incarceration has spiked in recent decades.¹³ Since 1970, the number of people imprisoned in Illinois state prisons and jails has increased by more than 500 percent.¹⁴ The Illinois Department of Corrections attributes this growth "to longer prison terms and increased court admissions due to the enactment of stricter laws, many written to enhance the penalties for drugs and

weapons violations,” as well as “a greater proportion of inmates sentenced to prison with shorter sentences for lower class offenses.”¹⁵

This explosive growth has left many prisons overcrowded, understaffed and under-funded.¹⁶ Illinois, for example, spends nearly \$250 million a year on prisons, but according to a 2004 Illinois Department of Correction report, “the adult prison population was 35.1 [percent] over rated capacity, totaling 44,054 inmates in a correctional system with a rated capacity of 32,609.”¹⁷

This shortfall leaves prisons ill-suited to accommodate the increasing number of people they hold.¹⁸ It also cuts into education programs and health services for prisoners, which “research has shown can contribute to positive post-release outcomes, including reduced recidivism.”¹⁹

A 2004 Urban Institute study on re-entry in Illinois noted that “despite the potential benefits of these programs, prisoners nationwide are less likely to have participated in prison programs than they were in the past.”²⁰ For many prisoners, these programs are vital.²¹ Compared to the general population, inmates are far more likely to suffer from mental illnesses, substance abuse problems, infectious diseases, as well as a lack of employable skills.²²

By failing to enroll prisoners in needed education and health programs, the penal system may be creating what some social commentators suggest is an environment that provides “advanced degrees in criminality.”²³

Cornelius, a native Chicagoan who spent several years in federal prison, said that when he was incarcerated, “I learned by just sitting around and talking to guys how to do, like, fifteen crimes I had never even heard of.”²⁴

Moreover, life in prison can provide a savage education on the power of humiliation and physical violence. “In prison, you get degraded,” says David, a native Illinoisan who spent more than 20 years in state and federal prisons. “Prison guards and officials can make you strip anytime they want to, they can search your cell anytime they want to, and they have a tendency to beat you.”²⁵

“Many people think that prisons need be tough because they think prisoners require discipline,” says Johnnie, who spent more than 30 years in prison. “But what you have in prison is not discipline. Discipline means care and concern

for people trying to make a transition, not stepping on you when you are already down.”²⁶

“YOU WANT TO MAKE CHANGE, BUT CHANGE AIN’T THERE FOR YOU.”

These current conditions present significant safety risks to inmates, as well as to the communities to which incarcerated people will return. While the United States is incarcerating more people than it ever has, it is also releasing more prisoners. In 2006, more than 600,000 people were released from prisons, which is about the population of a city the size of Boston or Milwaukee.²⁷

According to recent figures, Illinois in 2001 released more than 30,000 people from its state operated prisons.²⁸ Because of prior problems and lack of assistance in prison, many former inmates “will have difficulties reconnecting with jobs, housing and perhaps their families when they return, and will remain beset by substance abuse and health problems.”²⁹ As a result, “most will be re-arrested, and many will be returned to prison for new crimes or parole violations.”³⁰

In addition to a lack of assistance inside prison, ex-offenders also suffer from a lack of opportunity on the outside.

“In many ways, the coldest part of being in prison was leaving there with that X on my back,” said David. “You want to make change, but change ain’t there for you.”

The problem is that “ex-offenders have no real job prospects,” says Lynda Jones, the deputy director of WECAN, a Chicago advocacy group that works on increasing employment opportunities for ex-offenders. “When I think of prospects, I think of a resume and job skills—things that prisons don’t provide people with.”³¹

Apart from the lack of employable skills and work experience, ex-offenders also face systemic barriers that in effect constitute a “first strike, you’re out” policy.³² According to provisions in state and federal law, ex-felons are often automatically barred from receiving public housing, so if an ex-offender has family members who live in public housing, the ex-felon is prevented from returning to them.³³

Similarly, state and federal laws bar ex-offenders from jobs that require state licenses.³⁴ Alongside such legal restrictions, many companies also refuse to hire ex-offenders.³⁵

Robert, a Chicago native, has been out of prison for 14 years, during which time he has stayed clean, earned his bachelor's degree, and is now working on his master's degree in psychology.

Despite his accomplishments, Robert's criminal record still haunts him. In 2006, his employer found out about his criminal record and fired him. For six months, as Robert looked for another job, he was frequently told by employers that even though he was qualified they couldn't hire him because of his past.³⁶

"The message is that society wants me to commit crimes," says Robert, "That's not who I am any more, but it's difficult — I have four kids and a house, and you got to eat. Your kids got to eat."³⁷

Patricia Watkins of the DJC understands that ex-offenders like Robert often find themselves in nearly impossible situations coming out of prison. While there are tremendous obstacles to reforming the criminal justice system and removing the barriers people face coming out of prison, she believes that advocates like her must succeed because the stakes are too high for them to fail. As Watkins sees it, "our children ha[ve] become the raw material for the prison industry."³⁸

Lynda Jones of WECAN agrees: "the system is where the change has to take place. . . Things cannot remain as they are, but it's going to take a movement — not just of ex-offenders, but their families, their friends and people in the community."³⁹

NOTES

1 Drug School Act, Ill. Public Act 095-0160 (2007).

2 *Id.*

3 *Id.*

4 *Id.*

5 *Id.*; also see IMAN, The SMART Fact Sheet (Winter 2007) (The earlier version of the Drug School Act was the SMART Act, which stands for Substance Abuse Management Addressing Recidivism through Treatment).

- 6 Drug School Act, *supra* note 1.
- 7 *Id.*
- 8 *Id.*
- 9 Josina Morita, *Developing Justice Coalition; Developing Justice in Illinois A Profile of a Coalition with an Integrated and Long Term Vision for Criminal Justice Policy Reform in Illinois*, 4 Area (April 6, 2007), available at <http://areachicago.org/pi/issues/issue-4/developing-justice-illinois/>.
- 10 Sentencing Project, *Incarceration*, <http://sentencingproject.org/IssueAreaHome.aspx?IssueID=2>
- 11 Press Release, Department of Justice, Nation's Prison and Jail Population Grew 2.6 Percent During 12 Months That Ended June 30, 2005 (May 21, 2006), available at <http://www.ojp.usdoj.gov/bjs/pub/press/pjim05pr.htm>.
- 12 Sentencing Project, Statistics by State, <http://sentencingproject.org/StatsByState.aspx>; Illinois Department of Correction, 2004 Statistical Presentation (October 7, 2005), http://www.idoc.state.il.us/subsections/reports/statistical_presentation_2004/default.shtml
- 13 Nancy G. La Vigne, Cynthia A. Mamalian, Urban Institute: Justice Policy Center, *A Portrait of Reentry in Illinois*, 1 (2003), available at <http://www.urban.org/publications/410662.html>.
- 14 *Id.* at 3.
- 15 Illinois Department of Correction, 2004 Statistical Presentation (October 7, 2005), http://www.idoc.state.il.us/subsections/reports/statistical_presentation_2004/default.shtml
- 16 *Id.*
- 17 *Id.*
- 18 *Portrait of Reentry in Illinois*, *supra* note 13 at 34.
- 19 *Id.*
- 20 *Id.*
- 21 Jeremy Travis, Amy L. Solomon, Michel Waul, *Urban Institute Justice Policy Center, From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*, 25-36 (June 2001), <http://www.urban.org/publications/410098.html>.
- 22 *Id.*
- 23 Bob Herbert, *A Trend Grows in Policing*, NEW YORK TIMES, September 29, 2007, available at http://www.nytimes.com/2007/09/29/opinion/29herbert.html?_r=1&oref=slogin.
- 24 Interview with Cornelius, in Chicago, Ill. (September 28, 2007).
- 25 Interview with David, in Chicago, Ill. (September 28, 2007).
- 26 Interview with Johnnie, in Chicago, Ill. (September 28, 2007)
- 27 U.S. Department of Justice, Prison Statistics (2007), <http://www.ojp.gov/bjs/prisons.htm>.
- 28 *Portrait of Illinois*, *supra*, at 1.
- 29 *Id.*
- 30 *Id.*
- 31 Interview with Lynda Jones, Deputy Director of Woodlawn East Community and Neighbors (WECAN), in Chicago, Ill. (October 2, 2007).
- 32 Corrinne Carey, *No Second Chance: People with Criminal Records Denied Access to Public Housing*, 36 U. Tol. Rev. 545, 560 (2006).
- 33 In Illinois, see Housing Authorities Act, 310 ILCS 10/25; also see Carey, *No Second Chance*, 36 U. Tol. Rev. 545; Manny Fernandez, *Barred from Public Housing, Even to See Family*, NEW YORK TIMES (October 1, 2007), available at <http://www.nytimes.com/2007/10/01/nyregion/01banned.html>.
- 34 Joan Petersellia, *When Prisoners Come Home: Parole and Prisoner Reentry* 114 (2003).
- 35 *Id.* at 116-18.

36 Interview with Robert, in Chicago, Ill. (October 31, 2007).

37 *Id.*

38 Don Terry, *Patricia Watkins: "I'm the One Who Makes the Noise"* Chicagotribune.com (January 30, 2005), <http://www.chicagotribune.com/news/custom/religion/profiles/chi-050130-watkinsprofile>

39 Interview with Lynda Jones, *supra* note 31.