

**SETTING THE RECORD STRAIGHT:
THE TRUTH ABOUT “EARLY RELEASE” FROM ILLINOIS PRISONS**

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Many individuals contributed to the research and preparation of this report, but the observations, conclusions, findings and opinions expressed in this report are those of the author.

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INTRODUCTION

Over the past year, Illinois citizens have read and heard troubling stories about a program providing men and women “early release” from state prisons. Reporters and commentators have written sensational accounts of a “secret” program by which the Department of Corrections “shaved” the sentences of dangerous and violent prisoners. Candidates for offices have either attacked the program – called MGT (Meritorious Good Time) and MGT-Push -- or disowned it.

Nearly all of the charges against the program are false.

Contrary to media reports, MGT-Push has not been responsible for a single illegal or premature release of dangerous criminals or for the commission of additional violent crime. MGT-Push did not cut prison sentences by months or years. It did not add to the public risk or endanger public safety. And it was not “secret.”

But the controversy over MGT-Push has had harmful effects. It has resulted in ill-advised legislative and Administration decisions including some that may actually increase risks to public safety. In addition, the MGT controversy and the decisions it spawned have resulted in a sharp and sudden increase in the prison population that will overburden corrections and cost the state millions.

The purpose of this report is simply to set the record straight concerning MGT. Subsequent reports will consider the impact of decisions curtailing MGT on the future of corrections in Illinois.

I. MGT AND MGT-PUSH

Background

In June 2009, Michael Randle accepted Governor Pat Quinn’s appointment as Director of Illinois’ Department of Corrections. A native of Illinois, Randle had worked in the Ohio Department of Corrections under the leadership of its innovative and highly respected chief Reginald Wilkerson. Randle was one of few out-of-state professionals appointed to direct Illinois’ Department of Corrections. Within months of his appointment he introduced MGT-Push as a relatively minor modification to the long-standing “good time” credit program intended to help ease a problem that had bedeviled Illinois corrections for years: the very large portion of the nearly 37,000 Illinois prisoners released each year who served only weeks or one or two months in state prison before being released.

Called “short termers,” these prisoners placed a disproportionate burden on the Department. The Department devotes time and resources to assess, test, and diagnose each new prisoner’s medical, mental, behavioral and physical condition prior to assigning him or her to an appropriate prison facility. For each of thousands of prisoner who are released within just weeks of arrival each year, this effort serves little purpose. Even if a short term prisoner is diagnosed with mental or physical illness or is found to have special educational or treatment needs, he or she will be released well before reaching the end of long waiting lists for programs intended to address those needs.

Even before Randle’s arrival in June 2009, Illinois policymakers had been considering ways to reduce the number of short-term prisoners.¹ The Illinois legislature expressly endorsed the concept of keeping a significant portion of this group out of prison altogether by passing the Crime Reduction Act of 2009 (hereafter, “CRA”).² The CRA established Redeploy Illinois, a program for adult offenders patterned after one Illinois had put in place for juveniles that provides incentives to counties to provide local services and assistance to felony offenders in lieu of sentencing them to state prison for short terms.³ In tandem, the Illinois legislature established the Sentencing Policy Advisory Council, or “SPAC,” a non-partisan panel of stakeholders charged with reviewing sentencing policies and practices and their cost and impact.⁴ SPAC is Illinois’ equivalent of a sentencing commission. Lastly, the CRA included provisions creating a Risk, Assets and Needs Assessment Task Force (“RANA”) which is to design an assessment instrument that judges and corrections officials will use to determine who should be sentenced to or retained in prison.

Randle’s focus on short term prisoners therefore appeared in synch with concepts to which the Illinois legislature had committed itself with the passage of the CRA.

Randle’s plans to utilize good time credits to address the problem of short term prisoners and cut costs was were conceptually on solid ground. Nationally, corrections professional value “good time credit” programs which permit them to reduce time served for well behaved prisoners.⁵ Nearly all of the nation’s leading corrections chiefs and many state legislatures have recommended that early release programs be opened including to some prisoners convicted of violent offenses.⁶

Other states have successfully deployed “merit good time” programs to sharply reduce prison populations. For example, Mississippi’s legislature approved large scale retroactive increases in “meritorious earned time” and reinstatement of parole eligibility in order to release some 3,100 prisoners before the end of 2009. By implementing their “early release” and parole program, Mississippi officials expected to avoid building and operating some 5,000 prison beds over the next ten years.⁷ They also provided the cover story for *Governing* magazine bearing the sub-title, “How America’s reddest state – and most notorious prison – became a model of corrections reform.”⁸

In Illinois the systems of awarding credit to prisoners for “good time” long predated Director Randle or the current administration. MGT was created over 30 years ago during the administration of Illinois’ iconic Republican Governor James Thompson. Under Thompson’s administration it resulted in the release of many more prisoners longer in advance of their scheduled release dates than did MGT-Push and then did MGT as it operated in 2009. The Thompson Administration’s MGT credit program was created for the express purpose of reducing overcrowding in state prisons. This history is relevant to today.

In 1977 Illinois legislators replaced an indeterminate sentencing structure with the state’s current determinate sentencing system. As part of the effort to insure that convicted defendants served the time provided in the sentencing code, legislators attempted to limit to 90 days the amount of “good time” credits the Director of Corrections could award.⁹ When the new sentencing code drove prison populations over capacity, Michael Lane, Governor Thompson’s Director of the Department of Corrections, construed the new law to allow him to award MGT to prisoners in multiple 90 day increments, reducing time served by as much as 313 days.¹⁰ Over the course of three years Lane approved awards of MGT to some 21,000 prisoners, reducing the overall prison population by approximately 2,500.¹¹

Several States Attorneys challenged in local courts the amount of “good time” Lane was awarding offenders. Their cases were consolidated in the Illinois Supreme Court. There, Lane argued that the awards of additional good time credits were necessary to meet the threat of dangerous and unconstitutional overcrowding. The Supreme Court rejected Lane’s interpretation of the law in 1983.¹²

But as the prosecution of drug law violations drove the prison population ever higher, Illinois was again forced to confront record-breaking increases in incarceration in 1989 and 1990.¹³ At the Thompson administration’s request, in 1990 the legislature revised the law to allow good time credits of up to 180 days¹⁴ for the express purpose of controlling the size of the prison population.¹⁵ MGT has operated much the same way ever since. In the 19 years between 1992 and 2009, the average amount of MGT and other “good time” credited released prisoners exceeded 115 days. In 15 of those 19 years the average good time credit for released prisoners eligible for credits exceeded 140 days.¹⁶

The details of MGT and MGT-Push

Illinois’s Corrections department has no control over how many persons are sentenced to prison, the length of their sentences, and the amount of time the prisoners must serve in a local jail

waiting for trial or the conclusion of plea negotiations. Even sentencing judges are constrained in their ability to manage the amount of time a particular defendant may end up in prison. Trial prosecutors and defense counsel jockey their cases to reach plea agreements that are acceptable to defendants, including sentences that minimize prison time in favor of time served at the local jail near family and friends, all the while working under the pressure of overbearing caseloads.¹⁷

When a prisoner is released and then returned to prison following a violation of the conditions of his or her release, a quasi-independent Prisoner Review Board determines the new length of stay for the prisoner unless a criminal court imposes a new sentence for a new offense.

The bottom line is that the only direct control the Department of Corrections has over the length of time a prisoner serves in prison comes from MGT or one of the other, more significant time-reduction programs. For example, sentences imposed in court on all but murder, some sex offenses and a few other serious crimes are typically reduced in half by “statutory” or “day-for-day” good time. This credit is awarded up front and in advance of time being served. It can be taken away as a disciplinary measure, but seldom is.

Prisoners can also earn good time credits for their participation in educational programs, treatment and vocational programs and completion of a GED.¹⁸ These are important but quantitatively less significant credits than MGT.¹⁹

Credit for MGT is awarded to prisoners up to three years in advance of their release dates. Accordingly, prisoners with less than three years to serve – as noted above a very large number - - are awarded good time credits in advance and up front, soon after they are admitted to the Department of Corrections.

This means that a prisoner arriving at the Department after being sentenced in a county court and in most cases having served time in a county jail is credited with MGT as soon as Corrections staff obtains paperwork and apply legislatively determined criteria and Departmental regulations. The process may take only days or a couple of weeks to complete. By custom, though, the Department of Corrections would not award any prisoner good time credits until that prisoner had served at least 60 days in the IDOC. Only prisoners whose release dates fell within the 60 day period even without credit for good time were released before the end of the 60 day period.

For example, then, an eligible defendant sentenced to three years in court will be credited with half that time, or 18 months, of statutory or “day-for-day” good time. A prisoner sentenced to one year will be credited with six months and serve six months.

A prisoner with six months left to serve on his or her sentence at the time he or she is admitted to the Department of Corrections and legally eligible for MGT could be awarded up to 180 days of good time and released from prison as soon after his or her arrival as he or she can be put through a required pre-release briefing.

Except, of course, that the Department delayed the award of good time credits 60 days.

For prisoners with court-ordered sentences in the 1-3 year range and who are the beneficiaries of statutory or “day for day” good time credits MGT could reduce prison time to a matter of

months. For example, MGT credit could reduce by up to 180 days the 18 months to be served on a court-ordered three year sentence. MGT could reduce the six months to be served by a prisoner with a court-ordered sentence of one year to, basically, no time to be served except the 60 days during which the Department delayed the award of good time credits for all new prisoners.

Even for prisoners with court-ordered sentences considerably longer than 1-3 years MGT combined with other credits could still reduce to a matter of days or weeks the time they would spend in state prison. This is because many defendants serve months or even years in county jails waiting for trial or to work out a guilty plea. Jail time is credited to prison time. So, a defendant who served 15 months in a county jail before being sentenced to four years would arrive at the Department of Corrections with nine months left to serve. MGT could reduce those nine months by 180 days, or to three months.

MGT-Push, Randle's modification to MGT, put an end to the Department's longstanding custom of withholding the award of MGT until a newly admitted prisoner had served at least 60 days in prison.²⁰ Under MGT-Push, the criteria according to which MGT was awarded did not change. Prisoners still had to be vetted, processed and undergo a program designed to take 15 days to complete. The time taken by these activities and the fact that many prisoners were accepted into the program while they were already into the 60 day period were two reasons that MGT was actually responsible for reducing time to be served by, on average, 37 days.

The facts are, then, that in implementing MGT-Push, Randle at most marginally changed the "good time" equations that had been in place since the legislature approved up to 180 days credit at the behest of the Thompson administration in 1990. The amount of time by which short term prisoners' time to serve was reduced by MGT-Push amounted to less than 2% of the time the overall MGT program reduced prison terms for the 24,172 prisoners who received on average 135 days' credit in FY 2009.

With these facts in plain view, one might have thought that a reporter looking for a story would not have found it in MGT-Push. The real story – if there was one -- was that sentencing judges, prosecutors, attorneys negotiating guilty pleas, and the legislature set penalties, negotiated guilty pleas, and imposed sentences knowing full well the impact of Illinois' various good time credit programs which since 1990 awarded up to 180 days of MGT for the purpose of managing the size of the prison population.

But someone in the news media found a story in MGT-Push.

II. THE CONTROVERSY

The Department of Corrections implemented MGT-Push in September 2009.

By December 2009 a media firestorm was in full force.

Associated Press Reporter John O’Conner wrote the first story, highlighting three prisoners released through MGT-Push who had served 13, 17 and 18 days for an accident- and injury-producing DUI, carrying a .25 caliber hand gun while on probation, and possession of a small bag of cocaine. An editor assigned a headline that, though twice false, framed the public debate for months to come: “Illinois prisons shave terms, secretly release inmates.”²¹

But it was not the “Illinois prisons” that “shaved” terms.

Each of the three persons O’Conner named entered a plea to a criminal charge or of having violated probation at a bond court hearing held within a day of his arrest or at a preliminary hearing held with two or three days. In Cook County the courtrooms in which these court hearings are held are fast moving. The attorneys in these courts work without any police reports save the arresting officer’s brief account, and defense attorneys -- frequently in-experienced -- seldom talk more than a few minutes to their clients, and then in a crowded lock up. In a matter of minutes, a lot of wheeling and dealing goes on supported by an absolute minimum of information.²² The prosecutor holds the cards, and unless the prosecutor decides to settle the case with the defense attorney in the few minutes of negotiation available to them, it will be continued to a later date in another courtroom where it can be considered in more depth. But the hearings in those subsequent court hearings come at least ten days and sometimes several weeks, after the first or preliminary hearing.

From the short length of time these defendants served in the Cook County jail, O’Conner – an experience courtroom hand -- should have known that each pleaded guilty at one of the first court hearings. And because each negotiated sentence was for one year, O’Conner should also have known (or could easily have found out) that each defendant was certain to spend almost no time in state custody.

What was true for each offender named in O’Conner’s article, and what O’Conner neglected to state, was that the short-term sentence and date of release for each of the defendants he described was the result of a plea bargain approved by a trial court prosecutor and agreed to by the defense and the judge in the same courtroom. These were decisions over which the Department of Corrections had no influence what so ever.

What was also true for each of the three defendants, and which O’Conner incorrectly stated, was that the Department didn’t “shave” time off the sentences imposed in court. Under Illinois sentencing law, these three inmates’ sentences had essentially been completed by the time they arrived at the Department of Corrections. What the MGT-Push program did was simply reduce the 60 day delay in awarding MGT credits. The amount of time saved by MGT-Push in these three cases was 39, 42 and 43 days. These amounts of time were minor compared to the 50% reduction effected by “day-for-day” or “statutory” good time.

These shortened sentences may be unfamiliar to members of the public or legislators not familiar with criminal court proceedings in Illinois, but they are well known by prosecutors, defense attorneys, judges, police and others embedded in the criminal justice system. Sentences shortened by day-for-day and good time credits are incentives used to induce defendants to plead guilty in cases prosecutors deem less serious or in which the evidence is weak. They are the grease on which cases slide expeditiously through a court system that is every bit as crowded as are Illinois jails and prisons. Yet despite their own daily reliance upon a legislatively-approved scheme which turns a year or an eighteen month sentence into almost no time and two year sentence into six months' incarceration, prosecutors cited by O'Connor alleged that the few extra days by which MGT-Push reduced time in prison "could threaten public safety or increase crime."²³

O'Conner's story caught on, carried by many state newspapers and picked up from the Associated Press by out of state media

Not every reporter or columnists blamed the Department of Corrections for short sentences.

The Chicago Tribune's Eric Zorn joined with many others who reacted to the "early release" of Derrick King 18 days after he arrived at the Department of Corrections convicted of a brutal attack that resulted in 85 stitches, 18 teeth lost, and permanent injury and disfigurement to a woman unable to provide King the cigarettes he asked for. Zorn, as angry as others about King's release, decried the State's Attorney's decision not to prosecute King for attempt murder and to accept a plea to a three year prison term which in conjunction with statutory and meritorious good time would mandate his release in 18 months. Zorn also correctly noted that King served 13 months in the Cook County jail before being transferred to the Department of Corrections²⁴

But few in the news media reported the facts as accurately as had Zorn. News coverage that followed O'Conner's AP story focused on allegations of misconduct and crimes allegedly committed by prisoners released "early" and of violent criminals sent home "for the holidays." There were widespread claims that prisoners released through the MGT-Push program were committing crimes or violating conditions of parole in huge numbers,²⁵ something that might have been expected in a state in which the recidivism rate for all prisoners exceeded 50%.²⁶

News reports targeted the "most high-profile" of the offenders released through MGT-Push. In so doing they understated the amount of time prisoners who were released under the MGT-Push program actually served in custody, ignored time prisoners served in county jails waiting for trial, and incorrectly assigned responsibility for decisions made by governing law, prosecutors and sentencing courts that determine the amount of time offenders serve and whether they were to serve it in jail or prison to the Department of Corrections. (See, "Murder suspect out of Illinois Prison after 40 days," on following page).

In response to the unrelenting political attacks on Governor Quinn in the run-up to the Democratic primary, the Governor ordered MGT-Push "terminated" on December 30, 2009.

Also under pressure, Governor Quinn appointed a committee to review MGT and MGT-Push. The Committee, chaired by David Erickson, a former judge with no apparent corrections experience, informally provided the Governor its opinion about failings and deficiencies in the

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Headline: "Murder suspect out of Illinois Prison after 40 days" ³⁰

Reporter Matt Hanley's story in the Aurora Beacon News was up on the Illinois Republican Party's website, We Are Illinois.org on January 6, 2010.

Its subject, Michael Rodriguez, is described in the article as, "among the most high-profile of the more than 1,700 inmates who were released as part of 'MGT-Push'" ...

The article characterizes Kane County prosecutors as being "uncomfortable" cutting a deal for 5 ½ years on a plea of guilty to conspiracy to commit murder in exchange for Rodriguez's testimony against "fellow gang members" who fired the fatal bullets in a Halloween 1990 attack on a rival.

Rodriguez's history was "sprinkled with other violent offenses" for which he served prison time: aggravated robbery, aggravated battery with a firearm and residential burglary.

Based on the story, Rich Miller of Capital Fax called for a "legislative investigation, with subpoena power, of this early release program. "Literally giving convicted attempted murderers a Get Out of Jail Free card is beyond the pale..." *

But a closer look indicates that Rodriguez was released only 20 days sooner than he would have been had there been no MGT Push. More completely presented, Rodriguez' story, like many of the MGT-Push cases cited by news media and political partisans, is greyer than it is black or white.

Rodriguez was 18 days past his 17th birthday when in 1990 he participated in a deadly firearms attack at an Aurora residence. The two other defendants were the leader of the Latin Kings street gang apparently bent on assassinating a rival, and his son. They almost got away with it. No arrests were made until a three-year FBI-Aurora Police "Cold Case" Task Force broke the case, along with 20 other homicides, in June 2007.

One year after this unsolved murder, at age 18, Rodriguez was convicted of a class 4 criminal damage to property and sentenced to two years. At age 28 he was sentenced to 10 years for a residential burglary and aggravated robbery, a sentence he completed

before he was finally arrested on June 29, 2007 for the Halloween 1990 murder.

Uncomfortable though they might have been in cutting him a deal, the prosecutors must have needed Rodriguez's testimony. Their case was hardly air tight. In a bench trial, the judge acquitted the father but convicted the son, whose fingerprints were on the murder weapon. Rodriguez fulfilled his side of the deal. According to news reports, his was the "strongest testimony yet" in a trial held 18 years after the shooting. As both father and son had been convicted in another of the "cold case" murders, both went to prison, the son on a mandatory life sentence.

Procedurally and in terms of the kinds of judgment calls trial prosecutors have to make, Rodriguez' case was not unusual. He spent 30 months in the local jail while prosecutors negotiated his "deal" and waiting to testify. He entered the IDOC on 30 October 2009, the 854th day of a negotiated sentence. On 9 December 2009 Rodriguez was released, only 20 days in advance of the end of the 61 day period for which he would have been granted MGT sentence credit. His release also came 110 days in advance of March 28, 2010, which would have been his 1004th day in custody and the last date on which the Department could legally hold Rodriguez under any circumstances absent disciplinary actions.

The bottom line for the Department of Corrections was this: after being held in Kane County for nearly 30 months and coming to the IDOC on a plea approved by prosecutors for apparent good reason, Rodriguez had at most about three months during which IDOC might change his life. Tools as well as time were lacking: the waiting time for most programs exceeds three months. He met MGT-Push's requirements and was released.

Rodriguez appears to have joined those who were returned to prison after release under MGT-Push, but not for a new crime. As of August 10, 2010 Rodriguez was incarcerated at Shawnee Correctional Center having been twice detained for violating rules of his release including failing to live in an approved residence.

overall MGT program and recommended MGT-Push be terminated. Of much greater import, however, the Committee also recommended that the overall MGT program be suspended until revised.²⁷ Governor Quinn acted on this recommendation in December 2009, at which time the Committee had not released its report.²⁸ Significantly as it turned out, there no review or assessment of the soundness or the accuracy of the Committee's work prior to Governor Quinn acting on the Committee's informal recommendations.

Although the Governor had terminated MGT-Push, the legislature took it upon itself to pass in record time legislation reinstating by law, as opposed to "custom" or administrative rule, the 60 day delay in awarding good time credits. The new law also added a 14 day period during which local law enforcement was to be notified about a proposed release. Governor Quinn signed the bill into law on January 14, 2010, effective the following day.²⁹

Neither the Governor's nor the legislature's actions ended the controversy over MGT-Push. It served too many interests too well to be allowed to die.

III. THE HIGH ROAD NOT TAKEN: ILLINOIS STRUGGLES TO PRODUCE ITS OWN “WILLIE HORTON”

The critical, angry news reports and commentary continued into the New Year. But there were also supportive statements from, almost alone, the *Chicago Sun-Times*.³¹

Governor Quinn won the Democratic primary. His opponent in the general election continued the political attacks on the Quinn administrations “secret” “early release” programs.

In the summer of 2010 Republicans in the state legislature called for an investigation of the “secret” early release program. Claiming that the Democratic leadership refused to hold hearings or provide information, Republicans formed a panel and scheduled public forums on MGT-Push. They selected Peoria, Illinois for the first hearing because it was the location of a brutal murder allegedly committed in May 2010 by a former prisoner named Edjuan L Payne who had been released from prison in September 2009 through the MGT-Push program.³²

At the forum elected officials, victim’s groups, prosecutors and members of the public spoke against the “early release” program. Alan Mills, lead plaintiff’s attorney in litigation over conditions at Tamms Supermax Prison and highly knowledgeable on corrections issues, stated the case in support of MGT and MGT-Push succinctly:

Under MGT-Push, no prisoner was released “early.” To the contrary, the Director just started following the law as written. The real problem at the Department of Corrections is overcrowding. The state needs to come to grips with this issue and figure out what to do about it.³³

In addition, Mills offered a salient point about the level of the public debate to date. As he put it, the practice among the media and politicians of sensationalizing every case in which a released prisoner commits another crime “kills the chance of having a serious discussion if the standard by which any change in policy is that no one released ever commits another crime.”

The accusations which flew between the Quinn administration, opposing politicians, the IDOC, and the Prisoner Review Board as to who was responsible for Edjuan L Payne’s release seemed to have proven Mill’s point. As it developed, and contrary to impressions created in the media, Payne’s being out of prison at the time of the murder had no direct connection to MGT-Push.³⁴ There was no evidence of impropriety or irregularity in either release decision. The murder was a terrible tragedy. But it was a tragedy that could not fairly be attributed to the decision to release Payne under MGT-Push or after serving two months for a minor violation of the conditions of mandatory supervised release.

On or about July 27, 2010 Jorge Montes, longstanding Chair of the Prisoner Review Board resigned. Montes, who enjoyed a national and state-wide reputation for professionalism and balance, sometimes the target of Illinois organizations who opposed release of any of the dwindling number of prisoners eligible for parole, was reported to have been a casualty of the controversy over the Payne case.³⁵

On Friday, August 13, 2010, the Administration publicly released the *Report on the Meritorious Good Time and MGT Push Programs* prepared by the Committee chaired by David Erickson. (Hereafter cited as, "Erickson Committee Report") at a press conference in state offices at the Thompson Center in Chicago.

At the same press conference the Department of Corrections announced the release of a second report, *Meritorious Good Time Program Findings and Recommendations*, prepared by members of a departmental Operations Committee with the pro bono assistance from the consulting firm Ernst & Young. (Hereafter cited as "Operations Committee Report")

Almost without exception, news media and editorialists accepted the Erickson Committee's bottom line and eminently quotable finding: "The MGT Push program was a mistake."³⁶ Almost no one noted that while generous in its criticisms, *the Erickson report failed to report a single case in which an inmate released under MGT-Push was a) released contrary to law; or b) caused harm or injury to another person during the days in which the prisoner was in the community due to MGT-Push.*³⁷

Governor Quinn's opponent in the fall elections and other Republicans charged the Governor with "failure" for not firing Director Randle.

The exception among news media was the Chicago Sun-Times. On the morning of August 25, 2010 it published an op-ed in which Stephen F. Eisenman, a professor at Northwestern and knowledgeable prison activist, factually contested many of the Erickson Committee's assertions. In essence, Eisenman wrote:

- 1) Nobody was "released early;" all prisoners served terms mandated by law or determined by judges and state's attorneys.
- 2) The scheduled release of prisoners under MGT-push was not a secret but was publicly announced by Randle at a press conference in September 2009, and the names of the released convicts were on an Illinois Department of Corrections website.
- 3) MGT-push did not endanger the public; the average sentence reduction was just 36 days, and there is no reason to think that an extra month of prison would have reduced recidivism rates.
- 4) Most states have some version of MGT or MGT-push.
- 5) The Republican bill to restrict MGT has already increased the state's prison population by more than 2,500 at a cost of more than \$64 million per year.³⁸

No one on the panel of legislators who spoke at the second Republican forum held later in the day responded to Eisenman's fact-based counter-claims. Instead, the hearings opened with one of the more gruesome television pieces that followed the Derrick King case, showing the victim's shaved, stitched and swollen head, despite the fact that the case had little or nothing to do with MGT or MGT-Push and everything to do with the plea deal reached in a Cook County court.

David Erickson being apparently unable to attend, a staff person read his Committee's bottom-line conclusions to the panel members.³⁹

Members of the "panel" repeatedly decried the Governor's failure to fire Director Randle although the panel itself never issued any findings or formal recommendations alleging specific wrongdoing.

On September 2, 2010, IDOC Director Randle resigned his position effective 17 September 2010. Governor Quinn told news media he had not pressured his Director to leave. Prisoner advocates decried Randle's departure. Quinn's opponent asserted Quinn should have fired Randle long before as the "top official responsible for one of Illinois' worst public safety failures."⁴⁰

Again the Chicago Sun-Times broke from the pack chasing the story of "early release." Weighing the state's financial interest in curbing the Department of Correction's budget and the political risks of implementing reforms, the paper's editorial board announced that, "we really do have an early release scandal in the Illinois' prison system . . . the early departure of state Corrections Director Michael Randle."⁴¹

No other major media came to Randle or the administration's defense over MGT-Push.⁴² For that matter, there was a fair degree of silence from Democratic politicians as well. Also not heard from were the various criminal justice commissions, committees, bar associations and professional groups that figured in Illinois crime policy.

In the final weeks of the campaign, the Republican candidate for governor ran a television add that described Quinn as an inept official on whose watch thousands of "hardened" criminals were released to the street only to commit violent crimes and be returned home. Quinn responded with ads that claimed he found out about the problem and "took action." John O'Connor wrote a "fact checking" story for the Associated Press. He got part of it right --- that the prisoners released under MGT-Push were not the hardened criminals described by Candidate Brady. But he erred by inferring that MGT-Push reduced time served by four months or more.⁴³

But the issue seemed to lose its momentum. There never was a follow-up to the Republican forums. The cases originally cited to show the injustices and crimes that resulted from MGT-Push lost their punch as the facts in each one failed to support hastily-made conclusions.

Then, on or about Sunday October 17, 2010 Republican officeholders issued a new charge: Governor Quinn had "lied" when he declared he had "closed down" all good time credit programs. As reported by the Associated Press, a group of Republican state Senators, two of whom at least were members of the forums held in Peoria and Chicago over the summer, issued a press release announcing that the good time credit programs Quinn had promised to close down were in fact operating; 2,000 inmates had received awards as a result.⁴⁴

The claim was partly true. In December 2009 Governor Quinn did in fact end MGT-Push and in January he suspended any further awards of MGT credit; in that sense he "closed down" the

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program. But what he didn't do was to attempt to revoke good time credits previously awarded prisoners, as we have described the process, "up front" and within three years' of a release date. Nor could he have done so. The governing statute provides for revocation of good time credits previously awarded prisoners only when a prisoner commits specific rule violations; moreover, any revocation of more than 30 days must be based on charges brought before the Prisoner Review Board.⁴⁵ There is no provision for some kind of wholesale administrative revocation of credits awarded for good time. But the 2,000 prisoners released after January 2010 with credit for good time awarded prior to January 15, 2010 gave the political opposition a toehold on truth, and that was all that was needed.

These were trumped up allegations. Governor Quinn was accused of lying for not having attempted the impossible: retroactively revoking "good time" credits from all prisoners to whom they had been awarded prior to January 15, 2010. But by making the allegation, no matter how ill founded, the Republican opposition once again successfully put MGT-Push back into the news, a symbol of the Administration's alleged incompetence, bad faith and disregard of public safety.⁴⁶ MGT-Push had been an effective issue with which to attack the Governor in the Democratic primary; it was, obviously, going to be just as effective for his opponents in the general election.

Illinois had found its Willie Horton, without actually having had the crime, the criminal or the victim!

IV. RECAP: WHAT EXACTLY WERE THE FAILURES OF THE “SECRET” “EARLY RELEASE PLAN”?

The media, commentators, the specially-appointed Erickson Committee, and politicians running against the incumbent in the Democratic Primary and the General Election produced a spate of allegations about MGT-Push. Almost none of were true or supported by fact:

Undeserving prisoners were awarded “good time” credits?

The Erickson Committee wrote:

inmates had to do little or nothing to demonstrate ‘meritorious’ conduct deserving of MGT Credit awards.... Under MGT Push and under the old MGT program, inmates were labeled as “Meritorious” simply by virtue of being delivered into DOC custody.⁴⁷

If by “little or nothing” the Committee meant that Illinois prisoners do not have to engage in educational, treatment or vocational programs or employment in prison to earn MGT credits, then the Committee is accurately describing good time credits as they have been administered since 1975. In that year Corrections administrators recognized that since the Department did not have enough programs for all prisoners who desired and were eligible to engage in them, it was unfair to deny good time to prisoners who through no fault of their own could not participate in programs. So it stopped doing so.⁴⁸

But if the Committee meant that all inmates who entered prison custody received MGT without regard to their behavior in custody, its complaint lacked factual basis.

By law, some offenders are excluded from eligibility for MGT or are limited in the amount of credit they can be awarded based on the offense of which they were convicted.⁴⁹ For prisoners legally eligible for good time credits, Departmental rules require the Director of the Department or his or her designee to consider conduct reports, a prisoner’s disciplinary record, job performance and involvement in programs before they award good time credits to a prisoner.⁵⁰

Neither the Erickson Committee, the Republican “forum,” nor the press has identified a single instance in which the Department failed to follow rules regarding the award of MGT.

Information presented to the Committee indicated that historically, the IDOC has denied or reduced MGT for a significant number of eligible prisoners:

- An appellate court case to which the Erickson Committee itself referred cited evidence submitted in a trial court proceeding that “clearly demonstrates” 4,106 of 21,611 inmates (19%) released in fiscal year 1997 received less than 90 days MGT, and 2,194 (10%) received no award at all.⁵¹
- According to the IDOC Operations Working Group report, also before the Erickson Committee, 1,904 of 36,965 inmates (5%) released in fiscal year 2009 received “zero days” or “no time” in MGT credits.⁵²

The Department of Corrections released hundreds of violent offenders who should not have been released?⁵³

The Erickson Committee’s Report, news reports and commentators, and politicians accused the IDOC and the administration of releasing “hundreds” of “violent” offenders through MGT-Push.

The only evidence provided in the Erickson Committee Report is a line entry in a table in Exhibit F to its report, according to which 14.8% (or about 260) of all prisoners released by the MGT-Push program had been “convicted of violent crimes.” But the Erickson Committee Report does not define what it meant by “violent crimes.” In a report that alleged the Department of Corrections improperly released “violent” offenders, this was an oversight of the first order.

By law, a conviction of certain offenses limits or bars the award of good time credits. These offenses are specifically enumerated in the code.⁵⁴

As acknowledged by the Ericson Committee, the Department of Corrections is barred by law from denying offenders MGT credit on the basis of convictions or accusations other than those which are enumerated.⁵⁵ DUI, domestic violence, and several other offenses which the Committee, commentators and a section of the criminal code pertaining to victims⁵⁶ define as “violent” are not among the specifically enumerated offenses which bars or limits an award of MGT credits. By law the Department could not deny MGT credit to an offender on the basis of his or her conviction of committing one of these more generally-defined crimes. Those prisoners were entitled to MGT and, for short term prisoners, to release under MGT-Push.

We do not know because the Erickson Committee Report does not define what it means by “violent” offenses, but it is likely that *most if not all of the prisoners identified in Exhibit F to the Erickson Committee Report as “violent offenders” could not on that basis have been denied MGT credit. The fact is that as far as can be determined neither the Erickson Committee Report nor news reports identifies a single case in which MGT-Push resulted in the release of a statutorily-ineligible violent offender.*

For that matter, neither the Erickson Committee Report, news articles, nor the members of the Republican forums have identified a single prisoner released under MGT or MGT-Push contrary to law. No reports or articles identify a single prisoner who would have been held in custody longer than 60 days if he or she had not been released under MGT-Push. *No reports or articles cite a single instance in which the release of a prisoner in advance of the 60 day period led to harm to any member of the public* although, given Illinois’ 50% or greater recidivism rate, it was highly likely that some MGT-released prisoners would again engage in crime.

Among those cases in which there has never been a showing of an improper or unlawful release decision are those identified by the media, starting with the three featured in O’Connell’s December 2009 AP story, the Derrick King case, the case of Michael Rodriguez, or the Edjuan L Payne tragedy. The lack of follow-up or evidence of an improper release decision is hardly surprising, for, as we have seen, MGT-Push did not cause the harm or injustice complained of in these news stories.

The Program was “Secret”?

The headline allegation in the O’Conner story of December 13, 2009 of a “secret” Department of Corrections program was misleading.

Randle’s approach to the problem of managing large numbers of lower level offenders and offenders who serve less than a few months at the Department of Corrections was a matter of official record. The principles underlying MGT-Push were first announced in Chicago at a public John Howard Association of Illinois event on 17 September 2009. Randle told the group:

We must reduce the number of offenders coming into prison. We know that 47 percent of the offenders who are released from the IDOC have been in our custody for six month or less. It is our belief that these mostly, low-level non violent offenders can be punished in less expensive community options.⁵⁷

Randle went on to develop his ideas in media interviews⁵⁸ and in memoranda circulated to his staff.⁵⁹

While MGT-Push was hardly secret, it also was not announced with a press conference. The Department treated MGT-Push as what it was: an administrative change in a practice that was unsupported by law, the result of which was to credit prisoners with “good time” to which they were entitled without an arbitrary 60 day delay and to reduce the cost of putting the Department through an expensive classification process the outcome of which was irrelevant for prisoners soon to be released in any event.

This proved to be the Department’s fatal mistake: Department officials and the Administration failed to anticipate the eagerness with which the news media, commentators, and political opponents would equate “early release” with increased risk to public safety no matter the facts. In a display of terrible public relations, Department officials themselves described MGT-Push as an “early release” program. Even when the heat was on, they stuck to their designation, calling MGT-Push “accelerated release” in press releases and written statements. For reporters sensing a headline story and politicians bent on discrediting the incumbent Governor, the image of a “secret” “early release” program was irresistible. The “secret” label stuck like glue; it appears in almost every news story and political press release running right up to the November 2, 2010 election.

V. PUTTING ILLINOIS CITIZENS AT RISK

The controversy over MGT and MGT-Push in Illinois demonstrates the degree to which policymakers and the public are wedded to the belief that letting a prisoner out earlier than the date set by attorneys during plea negotiations or imposed by a judge at sentencing adversely affects public safety. Though tightly held, this belief doesn't stand up under scrutiny.

Claims that MGT-Push endangered the public by advancing release dates were misplaced and unfounded.

Many critics based their concerns about public safety on the misapprehension that MGT-Push let offenders leave prison months or years in advance of their scheduled release date. However, some critics who understood that MGT-Push only ended a 60 day delay period claimed that removing that delay endangered public safety. As articulated by the Erickson Committee report, the 60 day delay in awarding good time credits

affords the Department sufficient time to assess whether an inmate has earned MGT Credit through good conduct in prison and, relatedly (sic), whether releasing the inmate early with an MGT Credit award would create an undue risk to public safety.⁶⁰

The “assessment period” concept has diminished value given current realities. Most prisoners entering the IDOC spend about 3-4 or more weeks in one of four Reception and Classification facilities, the largest of which is located at Joliet where prisoners live and eat isolated in a single cell. They are escorted under tight security to medical exams and for testing. Corrections officers and staff have no opportunity to observe their behavior in a normal prison setting. Officers might notice psychotic or overtly antisocial behavior but not anything less obvious.

After their time in Reception and Classification prisoners are transferred to a regular prison where different staff must for the first time begin to observe them. They do not begin programs, however, because long waiting lists prevent short term prisoners from entering them.

The automatic 60 day rule, now extended to 74 days by legislation, may very well increase public risk. This is because in Illinois, a discretionary decision to retain or return a sentenced offender to prison shortens the time he or she may be supervised in the community. Once released, prisoners do not accumulate the statutory day-for-day credits which reduce the time he or she serves in prison.

Release on MSR (Mandatory Supervised Release), then, effectively extends the period during which parole agents, supporting and rehabilitating services including mandated drug treatment can supervise an offender in the community. While community-based programs and services are limited and parole supervision less than optimal in Illinois, the automatic rule delaying the release of all new prisoners for a minimum of 60 days no matter when they become legally eligible for release also delays their entry into a community-based structured program of treatment and supervision which, for some offenders, would produce better outcomes.

**WHY AUTOMATICALLY WITHHOLDING MGT AWARDS FROM ALL NEW PRISONERS
FOR 60 DAYS MAY PUT THE PUBLIC AT GREATER RISK**

Most if not all Illinois prisoners who are eligible for MGT credit also receive statutory "day for day" good time. This means that for each day they are incarcerated, a day is deducted from the time they are to serve. Thus a prisoner sentenced to three years for felony theft will serve no more than 18 months. Upon release, the prisoner serves the remaining time under a kind of parole supervision called "Mandatory Supervised Release," or "MSR." No "day for day" good time is awarded for time served on MSR.

When a former prisoner on MSR is charged with violating the rules or a new crime and is returned to custody, "day for day" good time is again deducted from his or her sentence. For example, if the prisoner sentenced to three years and released after 18 months is arrested and returned after 24 months for violating a condition of release, he or she will have six months to serve if incarcerated but 12 months to serve on MSR. At the conclusion of either time period, the former prisoner will be discharged from the three year sentence. Thus the Department will have no authority to supervise the offender who serves the additional six months in prison after he or she is released.

As the Crime Control Act of 2009 explicitly recognized, supervision and treatment in the community is more effective and less expensive than is prison incarceration for many convicted persons. During the recent controversy over the award of MGT credit, Illinois opted for the more expensive and less effective approach in two ways:

- Parole officer took offenders into custody for minor rule violations rather than attempting to correct behavior by other means or, as reportedly happened in many cases during the "early release" controversy, parole officer took offenders into custody simply because "the program ended;" and
- The state withheld the award of MGT from all new prisoners rather than considering whether for some offenders a better option would be to place them in a program of parole supervision, treatment and employment while on MSR in the community (to which, we repeat one more time, they will be returning in a matter of months in any event.)

Under Illinois law, either or both of the above steps shortens the period of time offenders may be supervised in the community under MSR by two days for each day the offender is held in prison. Thus the irony of a policy pursued in the name of "public safety:" the doubtful usefulness of taking offenders into custody for minor rule violations or of withholding MGT credit from all new prisoners for a minimum 60 day period costs the public twice: the amount by which the financial expense of incarceration exceeds the expense of parole supervision or community-based programming; and, the loss of the positive benefit to public safety that can come from 120 days of parole supervision and constructive assistance in the community.

Illinois’ own history refutes the claim that good time credit programs increase crime

Illinois’ history of two large-scale increases in the award of good time credits under Governor James Thompson provided an opportunity for research into the effects of such programs. As it happens, the data contradicts the argument that letting prisoners out in advance of a scheduled date increases crime rates.

Among at least a dozen studies of the relationship between “early release” programs and crime rates are two that looked at the large scale programs put in place in Illinois in 1980-1983 and then again in 1990 when the legislature authorized an increase in MGT to 180 days. Both studies showed that prisoners released with good time credits did not experience greater numbers of re-arrests or returns to prison.⁶¹

In today’s context, these findings make sense. The Department of Corrections has no opportunity to work constructively with short term prisoners who will be released long before they can be placed in any serious programming. For long-term prisoners, those with a year or more to serve, the Department has demonstrated its capacity to change behavior and reduce recidivism by as much as 62% through intensive, dedicated drug treatment, educational and vocational programming.⁶²

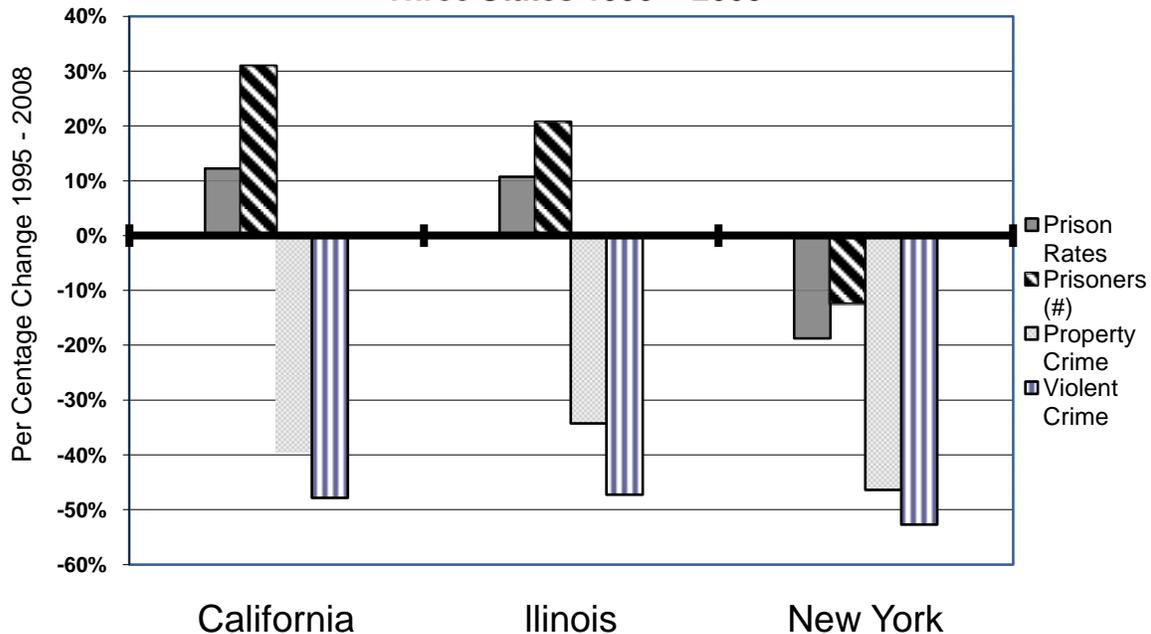
Comparisons among other states continue to show that reducing prison incarceration can accompany reductions in crime rates

Recent experience among states that have succeeded in reducing prison populations compared to those that have increased prison populations show that the former have done better in terms of increasing public safety.

The June 2009 report which was something of a precursor for this one provided Illinois policymakers an opportunity to consider the relationship between changes in the size of a state’s prison population and public safety by comparing California, whose prison population had grown at record rates, New York, which had reduced its prison population by thousands, and Illinois which was then maintaining a fairly constant prison population. The data showed that crime fell faster in New York than in California or Illinois.⁶³

Updated data shows the same results a year later. New York continued to enjoy a faster decline in crime than California or Illinois even as it continues to reduce incarceration by, among other steps, ending the harshest aspects of its Rockefeller Drug Laws. The relationship is shown in Figure 1 on the following page.

Fig. 1: Change in Prison Incarceration and Crime Rates in Three States 1995 - 2008



And while the FBI’s report on crime by state for 2009 has not been available, the agency has released relevant data about crime in large cities and for the nation as a whole. In 2009, violent crime decreased 5.5 percent and property crime declined 4.9% nationwide.⁶⁴ In New York City, which drives criminal justice data in New York State in much the same way that Chicago drives Illinois crime data, murder rates fell by 9.9%. New York’s Mayor Bloomberg celebrated a decrease in overall crime that outpaced the national average, declaring the City to be “the safest big city in America.”⁶⁵

One year after the initial comparison between New York, California and Illinois, new information shows that New York State’s dual downward trend in incarceration and crime was not simply an idiosyncratic fluke. In its 2010 report, *Downscaling Prisons: Lessons from Four States* The Sentencing Project describes various policy initiatives which political leaders undertook in Michigan, New Jersey, and Kansas (as well as New York) in order to successfully reduce prison incarceration:⁶⁶

- Michigan reduced prison incarceration 12% from 2006 – 2009 by eliminating most mandatory sentences for drug offenses, accelerating parole release through risk assessment, planning two “reentry prisons” near Detroit, creating reentry assistance for released prisoners, and establishing intermediate sanctions for parole violators.
- New Jersey obtained a 19% reduction in incarceration from 1999 – 2009 by revising plea negotiation guidelines to permit “open pleas” and greater judicial discretion at sentencing, increased use of drug courts, risk assessment-based parole decisions and day reporting, electronic monitoring and a restrained approach to parole rule violators.

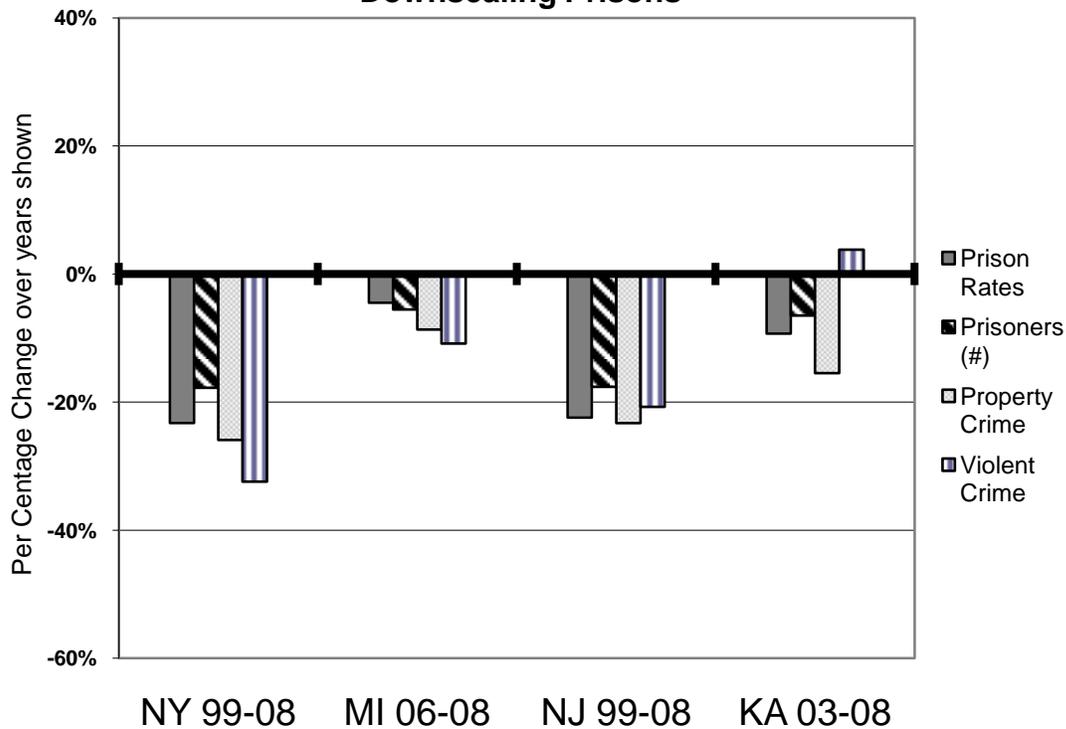
- Kansas reduced its prison population by 5% from 2003 – 2009 in large part by removing mandatory sentences and reducing penalties for drug offenses, improving community supervision and reducing parole revocations.
- New York achieved a 20% reduction in incarceration from 1999 – 2009 by implementing a combination of prosecutor-based and wide-spread publicly funded alternatives to incarceration (ATI) programs, and by making significant use of “merit time” and earned good time credits that could remove nearly a year from an imposed sentence.
- Also in New York, reform of the Rockefeller drug laws in 2009 has reduced monthly prison admissions for drug offenses from an average of 431 to just fewer than 270 in November 2009.⁶⁷

According to The Sentencing Project, Kansas, Michigan, New Jersey and New York experienced a “steady decline in crime rates” at the same time that they were reducing prison incarceration.⁶⁸ Data available for incarceration and crime rates through the end of 2008 now quantifies The Sentencing Project’s general finding. This data, appended on pages 24-25, shows for the six states with which we have been closely concerned, that:

- Crime rates decreased in nearly all categories in all four states.⁶⁹ The single exception was in an increase in violent crime in Kansas between 2003 and 2008.⁷⁰
- Crime reductions in the states that reduced incarceration most -- New York, Michigan, and New Jersey -- were of the same magnitude or greater than crime reductions in Illinois, where the prison population increased. In Kansas property crime decreased faster than did the rate for property crimes over the same period (2003-2008) in Illinois.
- Murder and Non-negligent homicide rates in the states which decreased their prison population are lower (in the range of 4.0-4.3 per 100,000 adult residents) or declining and at levels lower than they are in Illinois and California which have not reduced incarceration (in the 5.8 – 7+ per 100,000 adult residents range). Detroit joined New York as a city that celebrated a decline in its murder rate --- by some 22%.⁷¹

Figure 2, on the following page, shows the relative changes in incarceration and crime for the four states profiled in “Downscaling Prisons.” It is important to note that because Uniform Crime Reports are not yet available for 2009, the comparisons shown in Figure 5 extend only through 2008. Hence in Michigan – which achieved a further reduction of 2,360 inmates and an estimated incarceration rate of 455 prisoners per 100,000 residents in 2009, the decrease in incarceration is understated in the chart.

Fig. 2: Change in Incarceration and Crime - Four States Over Time Period (ending 2008) Profiled in "Downscaling Prisons"



The experience in these four states reinforces the proposition that reducing prison incarceration can also lead to lower crime rates. And although it will take further research to explain why crime appears to have decreased at a faster rate in states that are reducing prison incarceration than in states that are not, really this result intuitively makes sense. States reducing incarceration have done so by employing strategies that increase and improve community-based supervision, provide constructive support for prisoners released on parole supervision, and fund treatment alternatives to incarceration. Put another way: states have reduced both crime and incarceration by substituting more human contact, support and assistance for offenders through community-based programs for prison incarceration. These states have put themselves in a position to reduce corrections costs and to free up public funds for alternative programs and services, including those that prevent crime and improve public safety.⁷²

VI. CONCLUSION

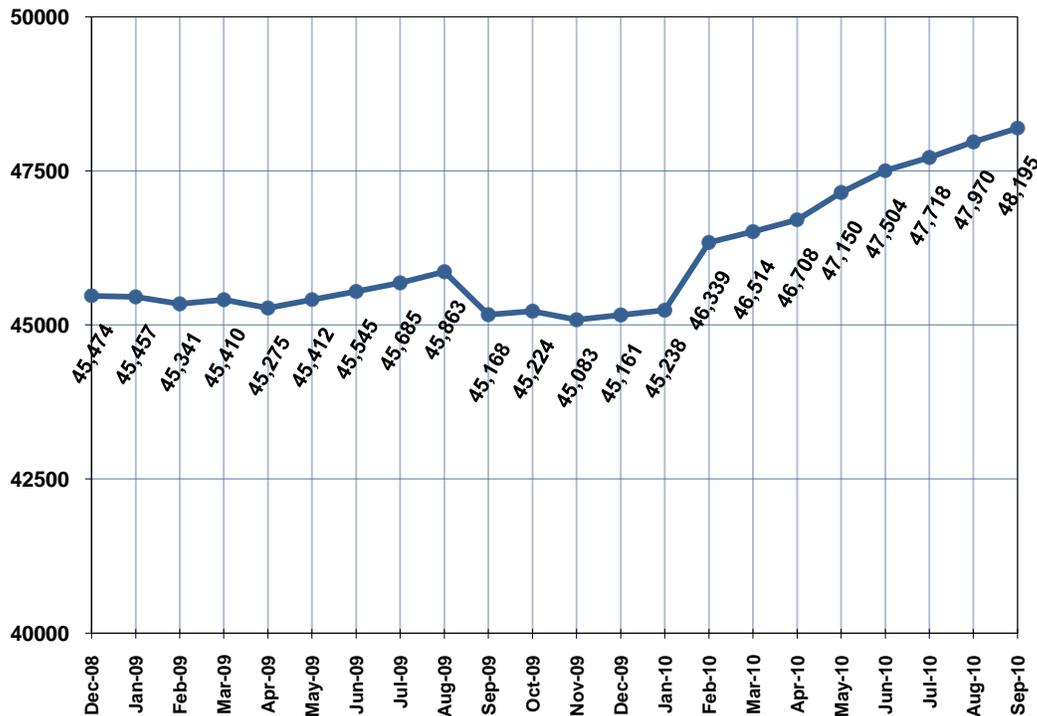
Illinois has endured almost a full year of sensationalist media coverage and politically motivated debate about an important aspect of crime policy. Perhaps the outcome of an election will be determined by this debate.

But there are other issues at stake.

The state has a tremendous deficit. The state’s prison system is severely overcrowded. The deficit will get much worse if we lose control of the prison population, which will inevitably lead to an increase in the corrections budget. These are facts.

The impact of the controversy over MGT-Push, the pressured decisions to end MGT-Push and to suspend MGT on Illinois’ prison population can already be seen. Figure 3, below, shows what the numbers have been at the end of each month since December 2008. In the nine months following the end of December 2009, Illinois’ prison population increased by 3,034, from 45,161 to 48,195. Illinois has become a text-book example of what can happen when politics overrides sound policy and facts yield to hyperbole in criminal justice decision-making.

Fig. 3: Illinois Prison Population 31 Dec 2008 - 30 Sep 2010



The future impact of decisions Illinois policy-makers have made about crime and corrections over the past year and that they will make in coming months is to be detailed in a subsequent report.

California rates for:	<u>1980</u>	<u>1985</u>	<u>1990</u>	<u>1995</u>	<u>1999</u>	<u>2000</u>	<u>2003</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Murder & Non-negligent homicide	14.5	10.5	11.9	11.2	6.0	6.1	6.8	6.9	6.8	6.2	5.8	---
Robbery	384.2	327.7	377.0	331.2	181.1	177.9	179.7	176.0	194.7	193.0	188.8	---
Violent Crime total	893.6	765.3	1,045.2	966.0	627.2	621.6	579.3	526.0	532.5	522.6	503.8	---
Property Crime total	6,939.5	5,752.7	5,568.4	4,865.1	3,117.8	3,118.2	3,424.3	3,321.0	3,170.9	3,033.0	2,940.3	---
Burglary	2,316.5	1,701.1	1,345.4	1,120.3	675.3	656.3	682.8	692.9	676.0	648.4	647.1	---
Prison Incarceration: Prison Inmates	24,569	34,718	97,309	131,745	160,517	160,412	162,678	168,982	173,942	172,856	172,583	169,413
Incarceration rate/100,000 residents	98	181	311	416	481	474	455	466	475	471	467	---
Illinois rates for:	<u>1980</u>	<u>1985</u>	<u>1990</u>	<u>1995</u>	<u>1999</u>	<u>2000</u>	<u>2003</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Murder & Non-negligent homicide	10.6	8.0	10.3	10.3	7.7	7.2	7.1	6.0	6.1	5.9	6.1	---
Robbery	367.0	287.1	394.0	330.8	219.4	206.5	188.2	182.2	185.3	179.7	186.4	---
Violent Crime total	808.0	714.8	967.4	996.1	732.5	653.8	556.8	552.0	541.6	533.2	525.4	---
Property Crime total	5,461.1	4,596.5	4,967.7	4,459.6	3,774.1	3,585.4	3,284.4	3,092.0	3,019.6	2,935.8	2,932.6	---
Burglary	1,559.6	1,135.8	1,063.0	917.6	712.3	659.1	618.7	608.2	602.1	587.6	612.1	---
Prison Incarceration: Prison Inmates	11,497	18,634	27,516	37,658	44,660	45,281	43,418	44,919	45,106	45,215	45,474	45,161
Incarceration rate/100,000 residents	94	161	234	317	368	371	342	351	350	355	351	349
											130	est.
New York rates for:	<u>1980</u>	<u>1985</u>	<u>1990</u>	<u>1995</u>	<u>1999</u>	<u>2000</u>	<u>2003</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Murder & Non-negligent homicide	12.7	9.5	14.5	8.5	5.0	5.0	4.9	4.5	4.8	4.2	4.3	---
Robbery	641.3	504.4	624.7	399.7	240.8	213.6	186.3	182.1	178.6	161.1	163.0	---
Violent Crime total	1,029.5	929.9	1,180.9	841.9	588.8	553.9	465.2	444.0	434.9	414.1	398.1	---
Property Crime total	5,882.0	4,658.6	5,182.8	3,718.3	2,690.5	2,545.7	2,248.3	2,102.0	2,052.7	1,978.6	1,993.5	---
Burglary	2,061.6	1,235.1	1,160.7	808.1	512.3	463.4	393.4	352.2	355.1	336.1	337.3	---
Prison Incarceration: Prison Inmates	21,956	48,280	54,895	68,484	72,899	70,198	65,198	62,743	62,177	62,177	59,959	58,546
Incarceration rate/100,000 residents	123	195	311	378	400	383	339	326	322	322	307	300
											195	est.
US State Rates excludes federal)	130	187	272	379		432		433	445	447	445	

	<u>1985</u>	<u>1990</u>	<u>1995</u>	<u>1999</u>	<u>2000</u>	<u>2003</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Michigan rates for:											
Murder & Non-negligent homicide			8.5	7.0	6.7	6.1	6.1	7.1	6.7	5.4	---
Robbery			187.3	143.0	138.0	111.7	131.8	140.7	133.2	129.6	---
Violent Crime total			687.8	574.9	555.0	511.2	552.1	562.4	536.0	501.5	---
Property Crime total			4,495.0	3,749.9	3,554.9	3,277.3	3,091.1	3,212.8	3,065.7	2,934.8	---
Burglary			909.7	777.9	702.2	677.2	696.8	753.9	748.9	741.5	---
Prison Incarceration: Prison Inmates	17,775	34,267	41,112	46,617	47,718	49,358	49,546	51,577	50,233	48,738	45,478
Incarceration rate/100,000 residents	196	366	429	472	480	489	489	511	499	488	455
										100	
New Jersey rates for:											
Murder & Non-negligent homicide			5.1	3.5	3.4	4.7	4.8	4.9	4.4	4.3	---
Robbery			283.0	174.9	161.1	154.7	151.6	153.1	144.5	146.3	---
Violent Crime total			599.8	411.9	383.8	365.8	354.7	351.6	329.3	326.5	---
Property Crime total			4,103.1	2,988.2	2,776.6	2,544.4	2,333.0	2,291.9	2,213.1	2,293.4	---
Burglary			875.2	577.2	522.0	503.0	447.1	452.0	431.5	465.3	---
Prison Incarceration: Prison Inmates	11,335	21,128	22,808	31,493	29,784	27,246	27,359	27,371	26,827	25,953	25,351
Incarceration rate/100,000 residents	149	271	340	384	362	314	313	313	308	298	291
										87	est.
Kansas rates for:											
Murder & Non-negligent homicide			6.2	6.0	6.3	4.5	3.7	4.6	3.9	4.0	---
Robbery			108.2	77.1	76.2	82.5	65.3	67.9	72.6	42.5	---
Violent Crime total			420.7	382.8	389.4	395.5	387.4	425.0	452.7	410.6	---
Property Crime total			4,466.2	4,055.9	4,019.4	3,994.0	3,787.0	3,750.2	3,678.7	3,377.2	---
Burglary			1,068.4	824.2	799.1	803.6	689.2	723.3	729.9	699.9	---
Prison Incarceration: Prison Inmates	4,732	5,777	7,055	8,567	8,344	9,132	9,068	8,816	8,696	8,539	8,641
Incarceration rate/100,000 residents	192	227	274	321	312	334	330	318	312	303	307

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¹ *Report of the Taxpayer Action Board*, Illinois State Government June 2009 (hereafter TAB Report); (accessible on line at: <http://www.illinois.gov/PressReleases/Documents/TAB%20Report%20FINAL.pdf>); Malcolm C. Young, “Controlling Corrections Costs in Illinois: Lessons from the Coasts” (Bluhm Legal Clinic Northwestern University School of Law, 3 June 2009); See, Recommendation 10 at p. 26 and n. 64, suggesting that in order to reduce the extraordinary cost of these sort stays unaccompanied by any rehabilitative benefit, the state or the Department of Corrections in conjunction with local governments prohibit or restrict the county court’s authority to refer short term prisoners to the Illinois Department of Corrections.

² Illinois Crime Reduction Act of 2009, enacted as Senate Bill 1289; P. A. 96-076; codified in 730 ILCS 190/1 et. seq.

³ Illinois Crime Reduction Act of 2009, op. cit., 730 ILCS 190/5:

Sec. 5. Purpose and Definitions.

(a) Purpose. The General Assembly hereby declares that it is the policy of Illinois to preserve public safety, reduce crime, and make the most effective use of correctional resources. Currently, the Illinois correctional system overwhelmingly incarcerates people whose time in prison does not result in improved behavior and who return to Illinois communities in less than one year. It is therefore the purpose of this Act to create an infrastructure to provide effective resources and services to incarcerated individuals and individuals supervised in the locality; to hold offenders accountable; to successfully rehabilitate offenders to prevent future involvement with the criminal justice system; to measure the overall effectiveness of the criminal justice system in achieving this policy; and to create the Adult Redeploy Illinois program for those who do not fall under the definition of violent offenders.(Emphasis added.)

⁴ Enacted as Senate Bill 1320; P. A. 96-0711.

⁵ For a description of several “earned good time” programs and a table of state laws and programs, see, Alison Lawrence, *Cutting Corrections Costs: Earned Time Policies for State Prisoners* National Conference of State Legislators (July 2009). (The report’s table information is summarized in *Meritorious Good Time Program Findings and Recommendations*, report prepared by members of a departmental Operations Committee with the pro bono assistance from the consulting firm Ernst & Young; hereafter cited as “Operations Committee Report”) The objectives of earned good time programs include prison management and reducing the size of prison populations. In summary,

States are creating and expanding earned time programs that reduce the length of stay for certain offenders while maintaining public safety. Among policies that states use to reserve prison beds for the most dangerous offenders, earned time also creates an incentive for motivated offenders to work, take part in rehabilitation, and otherwise prepare to be successful in the community. Earned time is helping states reduce the corrections budget burden and allows funds saved to be invested in programs that reduce recidivism and help build safe communities. (Emphasis added).

⁶ See, for example, the discussion presented in: *The Future of Sentencing in New York State: Recommendations for Reform*, New York State Commission on Sentencing Reform (January 30, 2009):

Undeniably, many violent felony offenders have committed egregious criminal acts that would argue against eligibility for a merit time release. By the same token, DOCS’ experts point out that a number of these offenders have demonstrated, over a span of many years, a deep sense of remorse, recognition of the harm they have caused, a strong determination to reform their lives and a desire to serve the common good by becoming law-abiding citizens. * * * On balance, the Commission finds that affording a merit time incentive to incarcerated offenders with a past history of violence for participation in programs likely to lead to a change in criminogenic attitudes and better prepare them to lead law-abiding lives after release is a positive public safety measure that should be implemented in New York.

(Pages 162, 163-164; citations omitted).

⁷ James Austin, “Reforming Mississippi’s Prison System,” monograph prepared by the JFA Institute with assistance from the Mississippi Department of Corrections for the Public Safety Performance Project, Pew Center on the States (undated; circa. 2009/2010), at p. 4. With 22,800 state prisoners in 2007, Mississippi had the second highest incarceration rate, 735 residents per 100,000 residents, among American states. Approved by the legislature, the plan to reduce the population by expending parole eligibility and parole release rates targets only non-violent offenders and excludes from its benefits most drug offenders. (Id., at pp. 2, 4, 8). By implementing these several reforms, Mississippi lowered its projected prison population of 28,000 in 2017 by 5,000.

This document may be accessed at: http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=56957 and <http://dl.dropbox.com/u/8200082/JFonMississippi.pdf>.

⁸ John Buntin, “Mississippi’s Corrections Reform,” *Governing* magazine on line for August, 2010. Accessed on 18 October 2010 at <http://www.governing.com/mag/August-2010.html>

⁹ *Guzzo v. Snyder*, 261 Ill. Dec. 94, 762 N. E. 2d 663, 326 Ill. App. 3d 1058, 1063, following *Lane v. Skladowski* 97 Ill. 2d 311, 3 Ill. Dec. 462, 454NE 2d 322, 324-325 (1983), reviewing the history and legislative purpose of the Pub. Act 80-1099, 1977 Ill. Laws 3264.

¹⁰ *Lane v. Skladowski* id., 454 NE 2d at 322, 324-325.

¹¹ Carolina Gusman, Barry Krisberg & Chris Tsukida, “Accelerated Release: A Literature Review,” (NCCD, January 2008), at p.

7.

¹² *Lane v. Skladowski*, op. cit., 454 NE 2d at 322, 325.

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¹³ In 1989 Illinois along with other states experienced over 14% increases in prison populations, fueled by a doubling in drug arrests. Midyear 1989 the state’s prison population was 22,576; prisons were reported to be filled to double capacity. See, Tony Parker, “Surge in Prison Population,” *The Bloomington Pantagraph* (Bloomington, IL) September 12, 1989, p. A2.

¹⁴ 730 ILCS 5/3-6-3(a) amended July 13, 1990; see, *Illinois v. Kokendeis*, (Ill. App. Ct. 1st Dist. 1994) 632 N. E. 2d 158, 161 reviewing legislative history including source of confusion between “compensatory good time credit” which existed before 1978 and “good time credit” awarded under the new determinate sentencing law effective in 1978.

¹⁵ *Report on the Meritorious Good Time and MGT Push Programs* prepared by the Committee chaired by David Erickson. (Hereafter cited as, “Erickson Committee Report”) at p. 4 n. 3.

¹⁶ Operations Committee Report, op.cit. See, unnumbered table on p. 48 which sets forth the average good time credit awarded prisoners in all categories from 1985 – 2009.

¹⁷ Steve Bogira, *Courtroom 302: A Year Behind the Scenes in an American Criminal Courthouse* (Knopf, March 2005) describes the plea and trial process in Cook County in rich detail. See also, *A Report on Chicago’s Felony Courts* Chicago Appleseed Fund for Justice - Criminal Justice Project (Chicago, IL December 2007).

¹⁸ 730 ILCS 5/3-6-3(a)(4)-(4.6).

¹⁹ The average of “good time” credit awarded to prisoners who complete GED courses and other academic, vocational or rehabilitative programs for prisoners eligible for good time credits and released in 2009 was 15 days, Operations Committee Report, op cit., at p. 48.

²⁰ Director Randle also began to implement a long-authorized electronic monitoring / house arrest program which, unlike MGT-Push, actually was an “early release” program. Publicly announced to provide alternatives to prison incarceration for up to 1,000, the program was also swept up in controversy and closed down before reaching capacity. We do not address it here since it figured only briefly in the overall controversy surrounding “early release.”

²¹ Carried by many Illinois papers, the article can be retrieved at: <http://www.sj-r.com/archive/x1479444730/AP-report-Illinois-prisons-shave-terms-secretly-release-inmates>

²² Steve Bogira, *Courtroom 302: A Year Behind the Scenes in an American Criminal Courthouse*, op. cit; *A Report on Chicago’s Felony Courts* Chicago, op. cit.

²³ Spokesperson for Cook County State’s Attorney Anita Alvarez; Winnebago’s State’s Attorney Joseph Bruscato told the reporter that, “When an individual who was supposedly sent to prison shows up a month later, what are the people in the community saying, what is the victim thinking?” Prior to MGT-Push, of course, individuals sentenced after a plea bargain as these three were would have “showed up” less than two months later.

²⁴ Eric Zorn, “Time to get serious about prison terms,” *Chicago Tribune*, January 4, 2010. Accessed on line at: http://blogs.chicagotribune.com/news_columnists_ezorn/2010/01/king.html on 17 August 2010.

²⁵ Examples of unfavorable news coverage include: “An initiative by Governor Quinn to save taxpayers about \$5 million annually by letting 1,000 inmates out of prison early is off to a rocky start – with dozens of burglars, repeat drunken drivers and financial criminals all being sent home for the holidays.” The article quotes Mothers Against Drunk Driving spokesperson who “bristled at the suggestion that drunken-driving is a non-violent crime,” and Governor Quinn’s primary opponent opposed to “releasing dangerous criminals.” Chris Fusco and Frank Main, “Inmates freed early not exactly ‘low level offenders.’” *Chicago Sun Times* December 22, 2009.

Frequent wire service stories carried oppositional statements by prosecutors and others, see, e.g. “Ill. Prosecutors: Early Release hurts justice,” *Associated Press* 13 December 2009, accessed on 1 June 2010 at:

<http://www.wandtv.com/Global/story.asp?S=11669611>. Blogs were even more heated: see, e.g., <http://www.chicagonow.com/blogs/arresting-tales/2009/09/governor-quinn-announces-new-catch-release-program.html>.

²⁶ Illinois Department of Corrections 2009 Annual Report p. 31; in 2009 a total of 12,698 or one third of all IDOC admissions were of former prisoners returned to the custody for violating conditions of their release.

²⁷ Erickson Committee Report, op. cit. at p. 10, states that after reviewing “our preliminary recommendations” Governor Quinn “terminated” the MGT-Push program on December 30, 2009 at which time he “instituted an overall of all Departmental early release programs.” According to the Report, the IDOC “stopped awarding any MGT Credit to inmates, pending overhaul of the Department’s processes for sentence calculation, credit award and release.”

²⁸ Press Release: “Governor Quinn Overhauls Prison Release Program,” Office of Governor Pat Quinn December 30, 2009. The Press Release states that Governor Quinn was suspending “MGT Push” by reinstating with a formal rule the long-standing Department practice of requiring inmates to spend at least 61 days in the Department of Corrections before being released because of credits for good time.

²⁹ Public Act 96-860, 730 ILCS 5/3-6-3(a) (3) effective 15 January, 2010.

³⁰ The following were sources for information provided in the text box, “The headline reads: “Murder suspect of Illinois Prison after 40 days,” (1/7/2010): Rich Miller, “Complete utter insanity” blog on Capital Fax for Wednesday 6 January 2010, accessed at <http://www.weareillinois.org/connect/newsdetail.aspx?newsid=8277> on 13 August 2010. Other references include: IDOC Inmate Search page; “Press Release :Task Force Nets Indictments, Arrests in Cold Case Homicides” Office of the Kane County State’s Attorney John A. Barsanti, June 29, 2007; Matt Hanley, “Shooter says father and son orchestrated rival’s murder,” *The Beacon News* (Aurora, Illinois 31 October 2008; Clifford Ward, “18 years later, Aurora man guilty of murder,” *Chicago Breaking News.com* November 7, 2008 accessed on 10 August at <http://www.chicagobreakingnews.com/2008/11/18-years-later-aurora-man-guilty-of-halloween-murder.html>.

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³¹ An editorial in the Chicago Sun Times responded to an apparent rumor that Governor Pat Quinn was poised to fire Director Randle, stated: “If Quinn fires Randle ... he will have * * * * [s]et back the cause of prison reform in Illinois for years to come, at a great waste of taxpayer’s money” Editorial, “Consequences of Quinn firing Randle,” Chicago Sun Times March 7, 2010.

³² In May 2010, news media reported widely on the arrest of a former inmate who had served time for murder and then was released early from a sentence imposed for a less serious offense, see Matt Buedell, “Slaying Suspect was twice released early from prison,” Peoria Journal Star, May 14, 2010 accessed on line 1 June 2010 at:

<http://www.pjstar.com/news/x1070008192/Suspected-killer-was-released-early-from-prison-two-times>

³³ Notes from oral presentation provided by Alan Mills 18 October 2010. Mills’ comments during and after the forum were recorded by local media including television.

³⁴ John O’Conner, “Corrections agent passes blame on early release,” Associated Press wire story as posted on line by the *LincolnCourier.com* May 18, 2010:

Gov. Pat Quinn criticized the Prisoner Review Board over the weekend for the early release of a man now charged with murder, but he ignored a vital fact: While he says the board should have ordered Edjuan Payne held for six months, his administration recommended two, about the same amount of time Payne was locked up.

Payne was serving time for criminal damage to property when he got out last fall as part of Quinn’s secret early prison release program, although he also had an earlier murder conviction. He was sent back in January for violating parole on the property damage charge by drinking alcohol and not properly reporting to his parole agent. He was freed in March. On Friday, he was charged with murder in Peoria.

Quinn responded Saturday by saying the review board, which decides whether parole violators will stay locked up, should have kept him for six months, to make up for good-conduct time Quinn’s Corrections Department shaved off earlier.

But records reviewed by The Associated Press show Corrections recommended Payne serve only two months for his parole infractions.

Payne was locked up longer than that before the PRB set him free.

Corrections spokeswoman Sharyn Elman said Monday that Payne’s parole agent suggested the two-month term and it was not an official agency recommendation, although it was signed by her supervisor. Elman also said PRB didn’t consider all of Payne’s transgressions.

Payne, 40, is charged with murder, attempted murder and child endangerment in the death of Orvette Davis, 41, of Peoria, whose 8-month-old granddaughter is recovering after she was found near Davis’ body Thursday morning.

Payne was part of the secret “MGT Push” early release program last fall and had more than five months of good-conduct time shaved off his sentence as soon as he arrived in prison. Quinn suspended the program Dec. 30 after the AP reported it.

Accessed 30 August 2010 at <http://www.lincolncourier.com/news/x1070012472/Corrections-agent-passes-blame-on-early-release>

O’Conner fairly describes various officials including Governor Quinn’s efforts to assign blame for Payne’s release but he incorrectly described the administration of “good time” credits. Contrary to O’Conner’s implication that a prisoner sentenced on a minor property offense should have been denied MGT credits on the basis of a prior murder for which he had served his sentence, the IDOC can not deny MGT credit based on crimes committed prior to the offense for which a prisoner is committed to the IDOC. In referring to the “secret ‘MGT-Push’ early release” program, O’Conner incorrectly implies the Department “shaved” “more than five months of good-conduct time” off Payne’s sentence through MGT-Push. What is correct is that MGT credits would reduce Payne’s time served by up to 180 days, and that MGT-Push only came to play because Payne, a prisoner sentenced for a minor offense, satisfied the requirements for MGT credits. MGT-Push reduced time served by days and only because the 60 day rule was delaying his release. Lastly, O’Conner slides over the fact that, even had the Department denied Payne all of his MGT credits, he would in any event have been released prior to the May murder.

³⁵ Conversations with senior Department of Corrections staff. A number of advocacy groups and individuals submitted letters asking Governor Quinn to decline to accept Montes’ resignation. As expressed in private conversations many who knew Montes were convinced Montes was forced out.

³⁶ Erickson Committee Report, op. cit., at p. 10; or, as a concluding judgment, “The MGT Push program was ill conceived,” at p. 19. The Bloomington, Illinois *Pantagraph* Editorial Board bought the Erickson Committee’s statements and conclusions completely, criticizing Quinn’s response as “reforms [that] don’t come close to instituting the well-thought-out recommendations of Erickson’s three person panel.” *Pantagraph* Editorial Board, “Early-release program needs more changes,” *Pantagraph*, August 25, 2010.

³⁷ Comments and reports supporting MGT-Push and critical of the Erickson Committee Report were published: Steven Eisenman, “The Scandal that Wasn’t,” Chicago *Sun-Times* op-ed column 25 August 2010, cited below; and, Malcolm C. Young, “Preliminary Findings of an Investigation of Early Release in Illinois,” submitted to the Republican panel investigating MGT and MGT-Push on 25 August 2010 and subsequently published on *Chicago Tribune* Reporter Eric Zorn’s blog.

³⁸ Stephen Eisenman, “The Scandal That Wasn’t,” op.cit.

³⁹ The writer observed the panel’s Chicago proceedings and submitted oral and written testimony

⁴⁰ Sun-Times editorial board, “Prison chief is victim of political games,” Sun Times paper, online edition for September 3, 2010.

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⁴¹ Sun-Times editorial board, Prison chief is victim of political games," op. cit.

⁴² Stephen Eisenman's detailed recitation of factual errors behind the criticism of MGT-Push was published on line at MRZine: <http://mrzine.monthlyreview.org/2010/eisenman150910.html>.

⁴³ John O'Conner, "AP fact checks dueling Quinn, Brady ads on early release," Associated Press, Springfield, Illinois; accessed at <http://www.illinoistimes.com/Springfield/article-7904-administration-claims-no-more-early-release.html>

⁴⁴ Patrick Yeagle, "Administration claims no more early release," Illinois Times October 21, 2010: "The Republican group, which includes Sen. Kirk Dillard of Naperville, Rep. Dennis Reboletti of Elmhurst, DuPage County State's Attorney Joe Birkett and the Illinois Fraternal Order of Police, characterizes those releases as part of a continuing MGT program. They accuse Quinn of lying about the program's suspension and say that IDOC can and should revoke any good time credits already given." Accessed on October 21, 2010 at <http://www.illinoistimes.com/Springfield/article-7904-administration-claims-no-more-early-release.html>

⁴⁵ 730 ILCS5/3-6-3 (c) is unequivocal:

The Department shall prescribe rules and regulations for revoking good conduct credit, or suspending or reducing the rate of accumulation of good conduct credit for specific rule violations, during imprisonment. These rules and regulations shall provide that no inmate may be penalized more than one year of good conduct credit for any one infraction.

When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges therefore against the prisoner sought to be so deprived of good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(4) of Section 3-3-2 of this Code, if the amount of credit at issue exceeds 30 days or when during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. (Emphasis added).

⁴⁶ News reports which followed up on allegations by Republican of a continued "secret" "early release" program thoroughly conflated MGT and MGT-Push, inferred that MGT-Push released prisoners with long sentences left to serve "before they had even served 60 days," repeated allegations that offenders were being released after serving less time than expected by State's Attorneys and law enforcement officials, and equated MGT with a diminution of public safety. See for example, Doug Wilson, "GOP officials say early prison release program continues, corrections officials deny it," Quincy (IL) *Herald Whig*, October 21, 2010, excerpted below:

State Rep. Jil Tracy said the early prisoner release program that Gov. Pat Quinn says he ended last December is still putting dangerous convicts on the streets in Illinois.

Quinn has denied the charges and calls press conferences by Republican officials an election-year stunt to mislead voters.

Tracy and state's attorneys from Adams, Brown, Hancock and Schuyler counties held a press conference at the Adams County Courthouse to warn the public that prisoners are still winning early release.

"I don't think public safety should be jeopardized. This wasn't well thought out," Tracy said.

The Meritorious Good Time (MGT Push) early release of prisoners resulted in some prisoners winning release from the Illinois Department of Corrections before they had served even 60 days behind bars. Retired judge David Erickson of Chicago did a review of the program last year and suggested the program be abandoned. Quinn ended the program in December.

* * * *

Adams County State's Attorney Jon Barnard said a man who was sent to prison for armed robbery and received a seven-year sentence was at a football game about a year and a half after that sentence was to start.

Jon McCoy, the Republican nominee for Adams County sheriff, said he recently saw a man at a campaign event who was convicted of a bank robbery less than three years ago.

Hancock County Sheriff John Jefferson said Western Illinois is fortunate to have good judges. He does not think sentences recommended by the judges should be reduced.

Tracy said the MGT Push release program was initiated to ease a funding crisis that has Illinois facing a \$13 billion deficit.

Barnard agrees that money is at the heart of the problem.

"The problem is that money should never and can never take precedence over safety," Barnard said.

* * * *

Accessed on 21 October 2010 at <http://www.whig.com/story/news/Early-prison-release---FRI-10-22>.

⁴⁷ Erickson Committee Report, op. cit., at p. 12.

⁴⁸ *Hampton v. Rowe* 88 Ill. App. 3d 352, 43 Ill. Dec. 511, 410 N. E. 511,512-513.

⁴⁹ 730 ILCS 5/3-6-3 as amended.

⁵⁰ See, Sec. 107.210 of the Illinois Administrative Code, reproduced in *Braver v. Washington* (1st District, 1999) 311 Ill. App. 3d 179, 243 Ill. Dec. 759, 724 N. E. 2d 68 at 75.

⁵¹ *Braver v. Washington*, op. cit. 724 N. E. 2d 68 at 74.

⁵² Operations Committee Report, op. cit., at p. 16.

⁵³ "Hundreds" became 2,000 in the political ad aired by the Brady campaign in October 2010.

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⁵⁴ 730 ILCS 5/3-6-3(a)(2) defines the offenses the commission of which renders an offender ineligible for various good time credits. The section prohibits totally the award of day-for-day good time credits to prisoners serving a prison term for first degree murder. Awards of day-for-day or “statutory” good time credits are limited to no more than 4.5 days per month served for specified violent offenses including attempt murder, aggravated criminal sexual assault, criminal sexual assault, and aggravated battery with a firearm and aggravated domestic battery, see 730 ILCS 5/3-6-3 (a)(2). Section 730 ILCS 5/3-6-3(a)(3) prohibits the award of “meritorious” good time credits (MGT) to offenders who after specified dates committed most of the same offenses enumerated in 730 ILCS 5/3-6-3(a)(2) including first degree murder, aggravated driving under the influence of alcohol or other drugs, aggravated criminal sexual assault, and aggravated battery of a spouse.

⁵⁵ “Currently, so long as the offense [of conviction] is MGT credit-eligible, the Director ... cannot differentiate between credit-eligible violent and credit-eligible non-violent offenses.” Erickson Committee Report, op. cit., at p. 5, citing *Howell v. Snyder* (4th Dist. 2001) op. cit., 236 Ill. App. 3d at 454 and *Guzzo v. Snyder* (3d Dist. 2001) 326 Ill. App. 3d 1058, 1063.

⁵⁶ Compared to 730 ILCS 5/3-6-3(a)(2), cited above, Illinois’ Rights of Crime Victims and Witnesses Act, 725 ILCS 120/1; Illinois P. A. 88-489 defines “violent crime” broadly and inclusively. Crimes defined in the Rights of Crime Victims and Witnesses Act include offenses which are not defined as “aggravated” under the Illinois criminal code while many of the crimes specified in 730 ILCS 5/3-6-3(a)(2) are limited to the “aggravated” offense. The section states:

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1 or 11-20.3 of the Criminal Code of 1961, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

⁵⁷ Michael Randle, Remarks to the John Howard Association of Illinois 17 September 2009 (Delivered at the Association’s Annual Meeting and Luncheon; carried on the IDOC website for at 11 months). p. 2.

⁵⁸ Michael Randle, Remarks to the John Howard Association of Illinois, op. cit; “IDOC Director Randle Announces Prison Reforms,” eNews Park Forest, 21 September 2009.

⁵⁹ For a copy of an implementing memorandum issued by the Department of Corrections published on September 17, 2009, see Exhibit E to the Erickson Committee Report.

⁶⁰ Erickson Committee Report, op. cit. at p. 13.

⁶¹ Carolina Gusman, Barry Krisberg & Chris Tsukida, “Accelerated Release: A Literature Review” op. cit., summarizes research findings from more than 12 peer-reviewed articles, dissertations and state reports describing merit good time credit programs that were in place over a 23 year period, including Supplemental Meritorious Good Time, the program implemented by the Thompson Administration which awarded multiple 90 day blocks of “good time” credit to Illinois prisoners from 1979-1983 and in 1990. For a 1986 evaluation that concluded that Illinois prisoners whose release date was advanced by MGT did not have a higher probability of arrest or return to prison than those who served a full prison term, see: James Austin, “Using Early Release to Relieve Prison Crowding: A Dilemma in Public Policy,” *Crime and Delinquency* (October 1986).

⁶² The combination of reentry services that help formerly-incarcerated persons reintegrate into their communities, employment gained through preparation while incarcerated, notably at Sheridan Correctional Center (one of two drug treatment prisons which provides educational and vocational training) and continued community services and supervision bring recidivism rates over three years from an average of 52.3% for all prisoners released in FY 2005 to 16-20%. “Safer Foundation Three Year Recidivism Study 2008” (Undated single page summary released by the Safer Foundation, Chicago, Illinois)

⁶³ “Controlling Corrections Costs in Illinois,” op. cit. at p. 2.

⁶⁴ Press release, “FBI Releases Preliminary Annual Crime Statistics for 2009,” FBI National Press Office, Washington, D.C. 24 May 2010.

⁶⁵ In New York, Mayor Bloomberg hailed the decrease in city homicides and cited causes: "There have been 43 fewer murders, 1,415 fewer robberies and 491 fewer cars stolen than this same time just a year ago * * * "Using innovative policing strategies and a focus on keeping guns out of the hands of criminals, we are continuing to do more with less, in spite of the economic downturn." Bill Sanderson, Associated Press, “NY Safest of All Big Cities,” New York Post 3 June 2009, accessed on line 3 July 2010 at: http://www.nypost.com/p/news/regional/item_KwpOPTSU9ivJn69UinZMWM Chicago actually experienced a 10.2% decline in murders from 2008 to 2009. But with a 2.8 million population, Chicago’s 458 murders in 2009 represent a far higher rate than does New York with a population of 8.4 million and 471 reported murders. Source: Crime in the United Preliminary Uniform Crime Reports, FBI Washington, D.C. 24 May 2010, accessed at: <http://www.fbi.gov/ucr/prelimsem2009/index.html>

⁶⁶ Judith Greene and Marc Mauer, *Downscaling Prisons: Lessons from Four States* (The Sentencing Project – 2010), at p. 2.

⁶⁷ *Downscaling Prisons: Lessons from Four States*, op. cit., at various pages.

⁶⁸ *Downscaling Prisons: Lessons from Four States*, id. 60.

⁶⁹ Figure 1 and the discussion in the accompanying text are based on time periods ending in December 2008 because Uniform Crime Report data for end of year 2009 has not been reported at the time this section was written. Consequently the decrease in

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incarceration shown for Michigan is understated as the state further reduced incarceration by 3,260 in 2009, bringing its incarceration rate to an estimated 455. (See data presented in the Appendix).

⁷⁰ But as shown in Attachment A, Kansas’ offense rates for both murder and robbery, already relatively low in comparison to Michigan, Illinois, Michigan, New York and in recent years in New Jersey, over this same time period. Kansas’ fluctuation in overall violent crime appears driven principally but not exclusively by changes in aggravated assault, a less serious offense the reporting of which fluctuates more than does reporting for more serious offenses; see, FBI Uniform Crime Reports for 2003-2008.

⁷¹ Statistics released by Detroit city officials show that the city suffered 140 homicides during a portion of 2010, a 27 percent reduction from the same period in 2009. Nonfatal shootings in the same period decreased 22 percent. Public officials credited a new Chief who deployed officers to crime “hot spots” identified by reported data and who set up a mobile strike force with special units to tackle gang violence and apprehend fugitives. George Hunter, “Homicides Down in Detroit from 2009, statistics show,” DetroitNews.com (June 27, 2010) accessed on 15 July 2010 at

<http://www.detnews.com/article/20100627/METRO/6270311/1409/Homicides-down-in-Detroit-from-2009--statistics-show>

⁷² Alison Laurence, *Cutting Corrections Costs Earned Time Policies in State Prisons*, op. cit., see text of note 28, supra.