

**John Howard Association Testimony, April 12, 2023
Illinois Department of Corrections FY24 Proposed Budget
Illinois Senate Appropriations—Public Safety and Infrastructure Committee**

John Howard Association (JHA) is the only independent, not for profit, not partisan, citizen correctional oversight organization in Illinois. JHA does not receive any government funding. JHA monitors Illinois' prisons by going into them to observe conditions and speak with staff, administrators and people who are incarcerated, and by conducting system wide surveys and receiving information from directly impacted people and correctional staff through our prison communications unit. JHA's work increases system transparency, identifies issues and puts forward recommendations for reform in order to improve conditions of confinement, treatment inside prisons, outcomes upon release from prison and public safety for our communities.

I. JHA puts forth the following findings and recommendations regarding the proposed budget for IDOC, Fiscal Year (FY) 2024:

1. In Calendar Year (CY) 2022, the Illinois Department of Corrections (IDOC) hired an outside consultant to provide a comprehensive evaluation of IDOC facilities, which was paid for by Illinois taxpayers. The report from the infrastructure assessment should be made public as soon as possible in order for stakeholders to best decide how to allocate limited resources in order to increase successful outcomes for individuals leaving state custody and public safety. Both goals require resourcing a prison system that is safe, humane, and rehabilitative.
2. Illinois must begin to repurpose, consolidate, and close old, decrepit, unsafe and inhumane prisons. In calendar year 2022 IDOC put forward an initial consolidation plan that has not yet been realized, first steps to close the most inhumane and unsafe living units should be taken immediately. The current reduced number of incarcerated people in IDOC, work force staffing crisis plaguing IDOC and most correctional systems in the United States, and the amount of funding needed to make most Illinois prisons safe and habitable all indicate the need to reduce the size of the prison system.
3. Focus on filling all lower security beds maintained by IDOC or the entities with which the Agency contracts to run the Adult Transition Centers. This will place people in the facilities that offer the most programming and out of cell time while also reducing security costs borne by IDOC.
4. Ensure that there are resources for contracts in place that provide constitutionally adequate medical and mental health care. IDOC is legally mandated via consent decrees due to litigation to have specific staffing levels to treat peoples' medical and mental health while in state custody which have not yet been realized. Additionally, continued poor conditions of confinement for people in prison degrades the identified goals of rehabilitation and a return to useful citizenry, while also perpetuating inhumane treatment.

- Utilize early release mechanisms to release more people from prison who are serving extreme sentences and revise sentencing policies that keep people in prison far longer than is required to further public safety and applying these revisions retroactively.

II. JHA puts forth the following reasons for the recommendations pertaining to the FY24 budget of IDOC:

Recommendation 1: In CY 2022, IDOC hired CGL, an outside consultant, to provide a comprehensive evaluation of IDOC facilities, which was completed months ago. The report from the infrastructure assessment should be made public as soon as possible in order for stakeholders to best decide how to allocate limited resources and identify the best plan to repair, replace and/or close facilities in need of the most significant investments. According to the proposed FY24 Capital Board Budget the estimated deferred maintenance for IDOC is over \$2.5 billion.¹ Making prison physical plants safe and humane is critical to the wellbeing of people who are incarcerated and the people who work inside prisons.

Infrastructure problems in IDOC have reached the point that they render the Department effectively incapable of meeting the programmatic, medical and mental health, and rehabilitative needs of people in custody. Leaking roofs, broken equipment, the presence of vermin, and failed plumbing are but a few of the many systemic problems that are pervasive throughout IDOC. JHA has witnessed these issues firsthand as an independent citizen monitoring organization that routinely goes into prisons to observe and document the conditions of Illinois' correctional facilities. JHA has also heard from thousands of incarcerated people who are deeply concerned with whether the water they drink is safe or the air they breathe is clean.² Many of IDOC's prison staff have also described the immense challenges they routinely face when trying to implement modern correctional practices and treatment using antiquated equipment and spaces in outdated facilities, and the legitimate security concerns created by problems such as failing communication systems.

Selected incidents from the past twelve months may give a general sense of IDOC's infrastructure concerns. Legionella was detected at several prisons across Illinois in CY 2022, a continuation of a Legionella problem that has existed in IDOC for years.³ In October 2022, Stateville, built in 1925, was forced to rapidly transfer hundreds of incarcerated people after a boiler failure.⁴ Other facilities with significant boiler trouble in FY 2023 included Pontiac, built

¹ See *Illinois State Capital Budget*, Fiscal Year 2024, 36 <https://budget.illinois.gov/content/dam/soi/en/web/budget/documents/budget-book/fy2024-budget-book/Fiscal-Year-2024-Capital-Budget.pdf>.

² See, e.g., JHA, *Monitoring Visit to Menard Correctional Center 2021*, 37-39 (describing serious infrastructure concerns at Menard) <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/627c020a1d630f549d123b8e/1652294155395/JHA+Report+Menard+2021+FINAL.pdf>; and JHA facility-based reports (for other issues regarding conditions of confinement in Illinois prisons) <https://www.thejha.org/what-we-do?sectionscrollto=section-special-reports-section>.

³ Elizabeth Weill-Greenberg, *Illinois Prison Water Contamination Keeps Getting Worse*, The Appeal <https://theappeal.org/illinois-prisons-legionnaires-disease-water-new-testing/>; JHA, *The Need for Public Health Involvement in Prisons: from Pandemic to Pontiac Fever* <https://www.thejha.org/statements-and-testimony/091120> (JHA statement on Legionnaires' at Pontiac).

⁴ See Adriana Martinez-Smiley, *Lockdowns and transfers have disrupted college classes for students at this Illinois prison*, WBEZ <https://www.wbez.org/stories/lockdowns-and-transfers-have-disrupted-college-classes-for-students-at-this-illinois-prison/odbbb641-1512-4c7d-be58-c46b4b621c91>

in 1870, and Menard, 1878, which secured emergency Capital Development Board funding to repair or temporarily replace failing boilers.⁵ Logan temporarily closed multiple housing units for repairs during CY 2022, and in March 2023 reports emerged that the Illinois EPA had issued drinking water violation notices to 10 prisons, including Stateville and Pontiac, in the previous three months.⁷ This is only a sampling of recent infrastructure problems in IDOC, and excludes many pressing physical plant problems.

Until Illinois addresses the degrading and inhumane conditions people who live and work inside the state prison system must endure, improvements to treatment, programming and reentry success will remain difficult to obtain, if not impossible. The independent infrastructure report must be shared publicly in order for stakeholders to understand the exact nature of the problems and costs associated with addressing them. This will allow legislators to more effectively allocate and assess the best use of resources for the prison system.

Recommendation 2: Illinois must begin to repurpose, consolidate, and close old, decrepit, unsafe and inhumane prisons. The current reduced number of incarcerated people in IDOC, workforce staffing crisis plaguing IDOC and most correctional systems in the United States, and the amount of funding needed to make most Illinois prisons safe and habitable all indicate the need to reduce the size of the prison system.

In February of 2022, IDOC shared an overview of the Agency’s plan to consolidate and convert existing units in prisons, noting that as an agency it is critical to “ensure we are safely and efficiently operating our facilities and managing our population.”⁸ This plan proposes closing units that pose the greatest danger and worst living units for people inside the prisons. Illinois’ reduced prison population⁹ provides the opportunity to repurpose, consolidate, and close the most outdated units and facilities. IDOC is currently well below the rated operational capacity of the prison system,¹⁰ allowing for consolidations and closures which would benefit incarcerated people and staff without a dangerous risk of overcrowding.

⁵ Pontiac: <https://cdb.illinois.gov/content/dam/soi/en/web/cdb/procurement/emergency-procurement-documents/120-200-127-mid-illinois-mechanical-extension-hearing-disposition-7-25-22.pdf> ; Menard: <https://cdb.illinois.gov/content/dam/soi/en/web/cdb/procurement/emergency-procurement-documents/120-200-127-mid-illinois-mechanical-extension-hearing-disposition-7-25-22.pdf>

⁶ See Chicago Alliance Against Racism and Political Repression, Facebook post, Dec. 23, 2022 (“we are receiving reports from those inside IL prisons that they are struggling to stay warm, with inhumane levels of cold”) <https://www.facebook.com/caarpr/posts/pfbido2gfcRWswxeP3cuqDiPjnhJy6rztvJMAbTCnmwUuZ3zQTfLumtsoL2aTttHYLky4ql> , and *Pushing Envelopes Chicago*, Facebook post (Dec. 23, 2022) <https://www.facebook.com/pushingenvchi/posts/pfbidoKRrZJFrJYi2fc1tmGbKrYooTVaXSqbJuuKwG1nn3eSvkChiiRDwgnWnmhhtzZihfl> .

⁷ See Mawa Iqbal, *The Illinois EPA has issued drinking water violation notices to 10 state-run prisons*, WBEZ (Mar. 18, 2023) <https://www.wbez.org/stories/illinois-prisons-notified-about-unsafe-water-by-state/5fdbode1-e0e6-4coe-bd67-539fc2f601ea>

⁸ Ill. Dep’t. of Corrections, *Facility Consolidation/Conversion Overview*, (Feb. 2022) <https://bloximages.chicago2.vip.townnews.com/pantagraph.com/content/tncms/assets/v3/editorial/b/47/b47923d4-ec40-585b-909a-d8cd9216a5c4/620c21ae327cf.pdf.pdf> .

⁹ Between FY 2013-24, the Illinois incarcerated population decreased by 19,432 people, or 39.7%, from its peak of 48,957, population; as of January 1, 2023, population was 29,698. <https://idoc.illinois.gov/content/dam/soi/en/web/idoc/reportsandstatistics/documents/IDOC-Quarterly-Report-January-2023.pdf> ;

¹⁰ *Id.*, Ill. Dep’t., Corrections, *Quarterly Report, January 1 2023* <https://idoc.illinois.gov/content/dam/soi/en/web/idoc/reportsandstatistics/documents/IDOC-Quarterly-Report-January-2023.pdf>

The staffing crisis plaguing IDOC and the rest of the United States is another reason it is time to repurpose, consolidate, and close prisons.¹¹ In CY 2022 IDOC had a quarter of posted positions vacant at many prisons. It is difficult to reduce the number of staff needed without reducing facility size or number.¹² According to a 2020 report by the Institute for Illinois' Fiscal Sustainability of the Civic Federation, "[p]rison population declines do not always lead to immediate operational expenditure reductions due to safety and legal concerns. A minimum number of guards is needed to safely staff a given facility. A significant portion of IDOC's expenditures are fixed costs, meaning large drops in population are necessary to make major cost-saving changes, such as consolidating facilities."¹³

Both infrastructure problems and the high cost of addressing them and the staffing problems in IDOC indicate that it is time to repurpose, consolidate, and close some of Illinois' prisons. Massive investments are needed to repair IDOC infrastructure problems, facility consolidation, repurposing and closures mitigate the costs associated with addressing the enormous infrastructure needs of the system. Even without the independent infrastructure report, total deferred maintenance for IDOC currently sits at over \$2.6 billion, nearly a third of all deferred maintenance for State facilities.¹⁴ Vandalia, for example, was built in 1925 and had around \$70 million in deferred maintenance as of early CY 2022.¹⁵ Infrastructure costs are only likely to increase in the future. The amount of deferred maintenance in IDOC has increased each of the last four Fiscal Years, and IDOC has led state agencies in deferred maintenance each of those years.¹⁶ There are also ongoing class-action lawsuits concerning infrastructure problems at Stateville¹⁷ and the Stateville Northern Reception Center.¹⁸ To mitigate these truly enormous capital costs, and improve conditions and safety for people who are incarcerated and corrections staff IDOC needs to begin to repurpose, consolidate, and close its prisons.

Recommendation 3: Focus on filling all lower security beds maintained by IDOC and the entities with which the Department contracts to run the Adult Transition Centers. This will place people in the facilities that offer the most programming and out of cell time while also reducing security costs borne by IDOC.

In order to sensibly use resources and facilitate successful reentry, lower-security beds in IDOC should be filled. Lower-security facilities typically have more access to vocational and

¹¹ Gabriel Petek, *The 2023-24 Budget: The California Department of Corrections and Rehabilitation*, (Feb. 2023) <https://lao.ca.gov/reports/2023/4686/CDJR-Budget-021623.pdf> (analyzing California prisons: "most staffing costs... are only saved when capacity is reduced").

¹² *Id.*

¹³ See *Trends in Illinois Department of Corrections Spending and Prison Population*, Civic Federation (Mar. 20, 2020) <https://www.civicsfed.org/iifs/blog/trends-illinois-department-corrections-spending-and-prison-population>

¹⁴ See *Illinois State Capital Budget, Fiscal Year 2024* <https://budget.illinois.gov/content/dam/soi/en/web/budget/documents/budget-book/fy2024-budget-book/Fiscal-Year-2024-Capital-Budget.pdf>, pg 36.

¹⁵ Ill. Dep't. of Corrections, *Facility Consolidation/Conversion Overview*, Feb. 2022 (draft plan to consolidate Pontiac and Vandalia) <https://bloximages.chicago2.vip.townnews.com/pantagraph.com/content/tncms/assets/v3/editorial/b/47/b47923d4-ec40-585b-909a-d8cd9216a5c4/620c21ae327cf.pdf> .

¹⁶ See *Illinois State Capital Budget, Fiscal Year 2024*, p. 37 <https://budget.illinois.gov/content/dam/soi/en/web/budget/documents/budget-book/fy2024-budget-book/Fiscal-Year-2024-Capital-Budget.pdf>, .

¹⁷ See *Dobbey v. Weilding*, <https://clearinghouse.net/case/17473/>

¹⁸ See *Shipp v. Gomez*, <https://www.uplccchicago.org/what-we-do/prison/shipp-v-gomez.html>

educational programming, rehabilitative opportunities and allow incarcerated people more freedom of movement, significantly improving their quality of life and providing a chance to gain needed life skills for reentry. It also makes fiscal sense to keep as much of the incarcerated population as possible in lower security facilities given the reduced costs of operating these facilities as compared to higher-security prisons.¹⁹

In addition to increased programming at lower-security facilities, incarcerated people at these facilities are able to obtain Earned Program Sentence Credit, shortening their sentences by hitting program goals, while also gaining vocational skills that will help them outside of prison. Adult Transition Centers also allow people to work in the community, facilitating reentry by allowing people to begin their transition away from prison life more gradually, and allowing them to save money. IDOC's lowest-security beds should be filled for the benefit of incarcerated people, for fiscal reasons, and because it will facilitate successful reentry.

Recommendation 4: Ensure that there are resources for and contracts in place that provide constitutionally adequate medical and mental health care. IDOC is legally required to meet the health needs of people in its custody, finding enough, qualified professionals to provide care is essential, as is addressing the poor conditions of confinement that degrade care and the identified goals of rehabilitation and a return to useful citizenry, while also perpetuating inhumane treatment.

IDOC is not, and has not been, adequately funded or structured in a way that allows the Department to fulfill its goal of increasing public safety by promoting positive change and rehabilitation, operating successful reentry programs, and reducing victimization. Currently the Department can merely incapacitate the majority of the men and women in its custody, but cannot provide the level of care, education, training, and treatment necessary to further its mission or serve the best interests of Illinois. Securing needed medical and mental health treatment for people who are incarcerated has not come to fruition.²⁰ Ongoing water problems and shortages in commissary items²¹ inside Illinois prisons make clear that IDOC has not provided adequate food, clothing, hygiene items and other necessities to people in custody for quite some time and must begin doing so.

IDOC is also not in full compliance with consent decrees or court orders resulting from litigation²² and several statutes, including the Crime Reduction Act of 2009, which calls for much more than implementing risk assessment instruments, one of the areas in which the Department is finally beginning to execute. The Legislative Audit Commission, for example, reported multiple statutory compliance problems outstanding as of CY 2021.²³

¹⁹ See Conn. General Assembly Office of Legislative Research, ("A minimum-security prison costs less per inmate than a maximum-security prison") <https://www.cga.ct.gov/PS95/rpt/olr/htm/95-R-0728.htm> .

²⁰ *Lippert* (medical care): <https://clearinghouse.net/case/12384/> ; *Rasho* (mental health care) <https://clearinghouse.net/case/12369/>; *IDOC Lawsuit: Mentally ill Black inmates are majority in segregation* (Nov. 1, 2022) <https://www.wglit.org/local-news/2022-11-01/idoc-lawsuit-mentally-ill-black-inmates-are-majority-in-segregation> ; and *Federal judge orders IDOC to comply with health care decree*, WGLT (Feb. 22, 2023) <https://www.wglit.org/local-news/2023-02-22/judge-orders-idoc-to-comply-with-health-care-decree> .

²¹ JHA 2022 Commissary survey: <https://www.thejha.org/special-reports/071322> ; JHA 2021 Commissary statement: <https://www.thejha.org/statements-and-testimony/120621>

²² *Lippert*: <https://www.aclu-il.org/en/cases/lippert-v-godinez> , <https://clearinghouse.net/case/12384/> ; *Monroe*: <https://www.aclu.org/cases/monroe-v-rauner> , <https://clearinghouse.net/case/17355/>

²³ Legislative Audit Commission *FY 2020 DOC Audit*, <https://ilga.gov/commission/lac/Reviews/DOC20.pdf> .

The reduced prisoner population may provide IDOC some opportunity to make up for lost ground by meeting urgent needs that have gone unaddressed for years and respond to needs made even more clear during the pandemic, such as need to improve technological infrastructure throughout IDOC and make communications devices available to everyone in state custody.²⁴ IDOC's population is also aging, which increases the costs of incarceration due to needed care.²⁵ Funds for services and programming for individuals in custody should not be reduced as they remain inadequate, however more careful scrutiny of the availability to people in prison and outcomes from them must be given to ensure that resources are being wisely invested.

Recommendation 5: Utilize early release mechanisms to release more people from prison who are serving extreme sentences and revise sentencing policies that keep people in prison far longer than is required to further public safety and applying these revisions retroactively.

Excessive sentences have been shown to have little impact on public safety, while causing harm in myriad ways.²⁶ Recent scholarship using Illinois data indicates that retroactively reducing long prison sentences would be unlikely to significantly increase the crime rate.²⁷ Better aligning punishment with rehabilitative and community safety goals will make more efficient use of limited funds and recognize our common humanity. In order for sentencing policy reforms to affect the current prison population, they must be made retroactive.

Currently available, limited, avenues of early release should be used and complimented by additional avenues. The Joe Coleman Medical Release Act and prosecutorial resentencing motions are both welcome reforms, but have been narrow in their application. Medical release and prosecutorial resentencing should both continue to be used, and expanded. In addition, other early release opportunities that will apply to a larger portion of the population must be adopted and implemented.

Retroactive sentencing reform is also imperative to any plan for reducing the prison population long-term. Research on Illinois indicates that retroactively shortening long prison sentences is critical to reducing the custodial population.²⁸ For reforms of long prison sentences to affect currently incarcerated people, and to benefit Illinois by decreasing the prison population, they must be applied retroactively.

In the near term, IDOC will be able to provide better conditions and services for people in custody if the prison population is reduced further. Lower prisoner to staff ratios, for security staff and non-security staff will improve programmatic outcomes for prisoners. Also, reduced demand upon the scarce resources available within Illinois' prisons should result in beginning to address inhumane living conditions.

²⁴ Illinois Fiscal Year 2024 Operating Budget, 305 ("IT infrastructure upgrades and device purposes,") <https://budget.illinois.gov/content/dam/soi/en/web/budget/documents/budget-book/fy2024-budget-book/Fiscal-Year-2024-Operating-Budget.pdf>

²⁵ It costs over twice as much to house an elderly prisoner in comparison to younger prisoners according to the National Institute of Justice (*See Addressing the Needs of Elderly, Chronically Ill, and Terminally Ill Inmates*, <https://s3.amazonaws.com/static.nicic.gov/Library/O18735.pdf>).

²⁶ Council on Criminal Justice Task Force on Long Sentences, *The Impact of Long Sentences on Public Safety* <https://counciloncj.org/wp-content/uploads/2022/11/Impact-of-Long-Sentences-on-Public-Safety.pdf>

²⁷ See Council on Criminal Justice Task Force on Long Sentences, *The Public Safety Impact of Shortening Lengthy Prison Terms* <https://counciloncj.foleon.com/tfls/long-sentences-by-the-numbers/the-public-safety-impact-of-shortening-lengthy-prison-terms>

²⁸ *Id.*

JHA appreciates the opportunity to share our findings and recommendations with the Illinois General Assembly.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Jennifer Vollen-Katz".

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