
**Statement of the John Howard Association
Minimize COVID-19 Transmission Risks between
County and State Correctional Facilities
August 5, 2020**

It is indisputable that COVID-19 has an enormously increased harmful impact on the health and lives of people in jails and prisons as compared to the general public. The most effective and humane strategy is and remains releasing as many incarcerated people as possible in order to limit exposure and contagion inside correctional institutions. While research and data show that there are many people inside our prisons who could be released without threatening community safety, including but not limited to those who are elderly, medically incapacitated, in on class 4 or 3 felonies, and/or close to the end of their sentences, release of these populations and others have not occurred in large scale. JHA along with other advocates continues to push for Illinois officials to release people from the Illinois Department of Corrections (IDOC) whose incarceration no longer remedies legitimate public safety concerns. Rational policies regarding the release of prisoners should not be discarded due to political concerns surrounding the single issue of why someone is in prison.

The Governor has issued several emergency executive orders during the pandemic in order to protect the health of everyone in Illinois. One of these, in order to better cope with this public health crisis, provided discretion to the Acting Director of IDOC to determine when and how to transfer people from county custody into the state correctional system. This temporary measure was focused on allowing IDOC to effectively respond to rapidly fluctuating information regarding the COVID-19 virus, testing and treatment capacity, and public health guidance as to prevention of COVID-19 transmission and infection. This measure is still required, as COVID-19 remains an immediate threat to public health and poses an imminent danger to those who live and work in correctional institutions. The more people are moved, both within a prison system and into it from another system, the greater the likelihood of a dramatic increase in the number of people exposed and infected by the virus. For this reason, IDOC has accepted few new people into state custody in the last several months.

The Sheriffs who operate county jails pushed back on the temporary measure to restrict transfers into state custody and oppose [IDOC's new rules about transfers which were put forward by the Department on July 27, 2020](#). Under mounting pressure from the Sheriff's Association and ongoing litigation, IDOC created this policy to safeguard health. Some of the requirements may pose financial or logistical difficulty for county jails to implement, however, such as the 14 day quarantine period and COVID-19 testing within the 72 hours prior to transfer, and no transfer of people who test positive for the virus. The steps outlined in the IDOC policy may be expensive and difficult to administer; however, the use of quarantine and testing is necessary to keep the men and women who live and work in state and local correctional institutions safe. The costs and cost shifting concerns among government actors should not be of consequence when weighed against the value of peoples' lives. Sheriffs involved in this litigation maintain that keeping people in their jails creates undue hardship related to jail overcrowding and access to medical care for people in custody; these same hardships exist

within IDOC facilities. This contention by the Sheriffs better supports the need to release people from physical custody altogether than to transfer custody within the correctional system.

On August 3, 2020, an order was issued by the Circuit Court of Logan County requiring IDOC to take people transferred from county jails without the waiting periods or testing called for in the Agency's new policy (Case No. 2020MR70). In the order the Court stated that, "IDOC has options once it receives a person committed to IDOC." Specifically, the order articulated that the Department can: release the offender on parole, recall a parole violation warrant, provide a system of supervision and guidance for committed persons in the community or offer diversion programs. The order further stated that, "[g]iven the lack of options for persons sentenced to IDOC that are housed in a County jail operated by a Sheriff, the balance of hardship favors the plaintiffs." While it is true that Sheriffs have no lawful options to release people who have been sentenced to IDOC, the number of people coming into IDOC custody who are statutorily eligible for the aforementioned interventions is unclear and certainly limited. JHA urges diversion from custodial confinement for anyone who qualifies for one of the options above and for broad discretion to be used in utilizing these mechanisms to reduce the populations inside jails and prisons. JHA also recommends that people be released onto these forms of supervision without transfer into IDOC in order to minimize risk of exposure and contagion to the virus. These are tools that should be used more widely every day but are currently even more critical to the health and safety of people who live and work in jails and prisons.

For those who do not qualify for the opportunities that avoid custodial confinement, JHA supports using the transfer process laid out by IDOC to accept people from county facilities safely and responsibly. Risk to everyone's health should be the primary consideration and this order does not allow the necessary precautions to be implemented. The period of quarantine and the need to test for the virus are practices that are designed to keep everyone safe. Release should continue to be the focus of harm reduction strategies in the face of this dangerous pandemic; undoing the other steps that minimize exposure to the virus is shortsighted and prioritizes administrative expediency over human lives and well-being.

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