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## **COVID-19 Exposes the Detrimental Impact of Housing Restriction Laws on Releasing People from Prison**

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JHA has long urged Illinois to revisit the effectiveness of our laws creating unwarranted barriers to re-entry. This is particularly critical due to the COVID-19 pandemic when public health demands make the reduction of incarcerated populations even more urgent.

Currently IDOC is motivated and enabled to release people more expeditiously to reduce crowding and demands on limited prison and prison community healthcare resources. Population reductions within prisons will enable greater protections for staff, incarcerated people, and their home communities. IDOC could today release many people safely immediately to their homes; however, finding host sites that are appropriate and meet state law requirements for some people on parole, or Mandatory Supervised Release (MSR), remains challenging for many individuals who could otherwise be released. Even in non-pandemic times, IDOC struggles to find housing for some people on MSR due to onerous host site requirements or the individuals' healthcare needs.

During COVID-19, our Governor and others have shown leadership in modifying some impediments to IDOC taking swifter action to save lives and improve conditions in prison. There remain many such pressing opportunities to act to temporarily lift housing and care barriers. Governmental actors must collaborate to find ways to best reintegrate people to communities. Incarceration remains a hugely expensive and dangerous solution that will continue to be untenable.

One clear example of how lack of approved housing unnecessarily crowds our state prison system is the example of "door violators," which is the label for individuals held past their projected MSR outdate due solely to lack of an approved host site. Every year, IDOC houses enough people, or door violators, who could be otherwise released to fill a whole prison. While door violators have varying criminal history and housing needs such as requiring specialized medical or mental health treatment (as set out in [JHA's September 20, 2017 Testimony for the Sex Offense and Sex Offender Registry Task Force](#)), during fiscal year 2016 IDOC identified 1,309 people with sex offense convictions who were "door violated," meaning that they were denied parole on the basis of not having approved housing. Many housing restrictions for people who must register are legislated but known to be unrelated to risk.

Keeping people in prison for door violations serves no rehabilitative purpose and does nothing to ease inevitable eventual transition to the community. Furthermore, this needless incarceration is costly and increasingly dangerous during the pandemic, particularly for older and medically vulnerable prisoners. IDOC must be enabled to release people who are particularly vulnerable, including the elderly, who are tremendously taxing on healthcare resources (both on the care system internal to the prison, such as taking health care unit bed space and staffing attention, and in the community where many people must be transported to receive care at local hospitals and clinics), and present little or no threat to public safety. Aging people with sex offense convictions increasingly represent a disproportionate percentage of elderly prisoners. As a group, people over 50 present a lower recidivism risk and are a significantly more costly population due to having more healthcare needs.<sup>1</sup>

Approvable housing often depends on resources and many factors beyond an incarcerated person's control, yet individuals are required to try to find their own host sites that will meet the criteria to be approved, often with no resources and in counties where there are also very few available resources and housing. Waiving the rule that requires some people to return to the county of their conviction for housing is critical during the pandemic to increase possible approvable host sites and should be reconsidered in non-pandemic times. This rule frequently does not make sense for people leaving prison because they may desire and would benefit from a fresh start away from their prior negative influences. As stated above, many of the reasons for denying proposed parole housing for incarcerated people are legislated and beyond IDOC's control. However, there are some improvements that are accomplishable immediately and administratively, while other changes will require action by other governmental actors. Now is a good time to act. It is critical that we correct these inefficient and unfair laws in the immediate to alleviate a monumental health risk, and long-term to improve the system. It is also important that IDOC provide adequate notice, greater transparency, and means for review or appeal for host site denials. Under current circumstance, IDOC is devoting more staff assistance to helping find housing for people who cannot come up with it on their own; however, community housing remains scarce and adhering to limiting criteria creates enormous hurdles to approval of host sites.

Since 2017 litigation relating housing issues has progressed, resulting in some beneficial revisions to IDOC policy, which are slowly beginning to affect practice (see regular legal updates maintained on [Illinois Voices website](#)). In FY16, about one in 10 of the individuals door-violated had a term of 3 years to life MSR, meaning that they will not be released until they have approved housing, possibly never. There is no scientifically justifiable basis for such arbitrary lifetime supervision. To be clear there is no determination for these individuals that they are too dangerous to be released. In fact, it is the opposite; they have been approved for release, but for the fact

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<sup>1</sup> IDOC data from December 31, 2019 showed 2,516 people were identified as sex offenders and were over 50 years of age, which is considered elderly for prisoners. This is an alarming increase of approximately 25%, or 500 individuals, from the end of 2016. Inmates labeled as sex offenders accounted for more than a third (34.4%) of the 7,644 elderly individuals in IDOC custody, while people identified as sex offenders made up less than a fifth (19.3%) of the total IDOC population.

they have nowhere to live. Additionally, it has been demonstrated that individuals age out of criminal behavior and we have mechanisms to individualize and address the risk of reoffending without such costly and overreactive requirements.

In acknowledgement of the untenability of Illinois' practices, due to litigation and a January 15, 2020 injunctive order in the *Murphy* case, by 2021 IDOC must ensure that the class of individuals door violated with 3 years to life MSR terms are no longer imprisoned due to inability to obtain a host site, and IDOC has submitted a [Compliance Plan to the Court](#). Yet, as of May, during the COVID-19 pandemic, IDOC continues to struggle to find appropriate housing to release more than 250 such people, some of whom have already been imprisoned years beyond their otherwise permissible MSR outdate.

Illinois must roll back residency restrictions, permit housing of more than one individual with a sex offense conviction per site and provide transitional housing. The Governor has the authority under emergency powers orders to suspend these restrictions which will greatly assist IDOC getting people without housing who could otherwise be released out of prison and assist with their transition to the community under MSR. The Illinois Conditions of Parole, or MSR, statute contains numerous problematic provisions which could be suspended. During the pandemic, the Governor has taken action by Executive Order to assist IDOC in safely decreasing the population by allowing or making certain operations happen more expeditiously and with fewer restrictions, using his power to waive certain administrative hurdles to release for this population is in line with these actions. State agencies must work together to chart the best path forward to address the immediate needs.

Both in the immediate and going forward one of the most critical restrictions to address and suspend is the condition that no more than one individual identified as a sex offender can reside at the same address or in the same complex. See 730 ILCS 5/3-3-7(a)(7.6). This provision does not apply to MSR placements in healthcare facilities or IDOC licensed transitional housing facilities, **but** there are still zero such beds in licensed transitional housing facilities in Illinois. Moreover, if a host site is already deemed appropriate to house someone within residency and many other restrictions, it is illogical that the State could not take advantage of housing additional people there. Legislative fixes will still be needed to repeal the residency restriction limited to one individual per site or permit necessary modifications for transitional housing licensure so that these entities could exist; however, the Governor could use emergency powers to issue executive orders during the pandemic when it would help IDOC manage population, minimize risk of illness or death due to COVID19 and comply with mandates of litigation.

Another unnecessary and overbroad restriction that has also been the subject of litigation is the restriction on host site household internet access. While IDOC maintains that it has modified its practices and recently modified its ["Sex Offender Internet Use" policy](#), JHA continues to hear of host site denials due to this issue. This is particularly untenable at a time when people are being asked to work and school their children at home through the internet. When restrictions are put in place they must be individualized, logical, and benefit the goal of enabling return to useful

citizenship. As it stands, these restrictions are universal impediments to release and successful reentry.

JHA continues to support revisions to other residency and presence restrictions, which serve no public safety purpose and harm individuals and families attempting to lead productive, law-abiding lives. Changes to these policies would increase public safety and health, and help improve overcrowded under-resourced prisons, allowing people to be appropriately housed, treated and supervised, and not continually imprisoned when they could be released. We call upon our state leaders to continue to take a stand in an incredibly difficult time to do what is best for public health, the citizens of the state, and moving Illinois forward to be more just, humane, and safe. JHA acknowledges the divisive politics attendant to such issues; however, we urge government leaders to show courage by reasonably and fairly addressing them. In turn, this will allow considerable efforts and resources to be more appropriately redirected to continue to help others who could be released from our prisons.



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