

# Restore Justice Foundation

## Criminal Justice Issues and Prisoners' Rights

<https://restorejustice.org/early-releases-exacerbate-racial-inequity/>

### Newsletters

**Governor JB Pritzker must address persistent racial inequities in the Illinois criminal legal system, including with COVID-19 early prison releases.**

As the global COVID-19 pandemic caused Illinois to shut down, Governor JB Pritzker acknowledged the dangers of our states overcrowded prison system. He encouraged Illinois Department of Corrections (IDOC) facilities to release incarcerated people in an effort to slow the spread of the virus.

Analysis of prison population and release datasets shows IDOC is not actually releasing many people early, and, of those released, there are startling racial inequities.

That said, there are some mitigating factors that could be considered with more data and analysis. For example, it is unclear whether IDOC implemented a centralized release strategy or whether facilities made critical review decisions on their own. IDOC has a strong history of decentralized management. And, our prison population is smaller by several thousand people than it was last year because of many factors, including sentencing reform efforts signed into law by Governor Pritzker and the Governors [Executive Order 13](#) that paused transfers between county jails and state prisons to reduce the spread of COVID-19.

Restore Justice analyzed data concerning all 5,938 people released from IDOC facilities since March 1, 2020. Though the state has released 3,381 people early in this timeframe, these early releases are insufficient to effectively reduce the prison population and protect public health. While we applaud efforts to make Illinois prisons safer, the state is actually releasing people from prison at a slower rate than at the same time last year. Measured by the median, the typical person released since March 1, 2020 left prison **just two days early**. In the face of the largest public health crisis in more than a century, the states response concerning its most vulnerable populations has been anemic.

As the graph below shows, in most weeks since February, fewer people were released than during the equivalent periods in 2019. This chart is created with data the Governors Office provided to Illinois legislators. We are unable to assess years prior to 2019 at this time, as Illinois has not yet made complete prison release data from previous years available to the public.

Our analysis, however, reveals a more troubling truth: **white people are being released from prison at much higher rates and much earlier than their Black and Latino peers**. While white people comprise just 32 percent of the Illinois prison population, they account for nearly half of all early releases.

Illinois released 12.4 percent of incarcerated white people early, while releasing just 6.9 percent of Latino people and 7.7 percent of Black people early. White people are 62 percent more likely to be released early than Black people and 79 percent more likely to be released early than Latino people.

Black people are less likely to be released early, and, when they are, they still typically stay in prison longer than white people.

The discrepancy mostly arises from two types of releases: electronic monitoring and Earned Discretionary Sentence Credits (EDSC). Officials utilized other forms of release more equitably.

The above graphs show the prison population in Illinois in March. The first graph shows all early releases between March 1 and June 4, including those released 90 or more and 180 or more days early, and the second graph focuses specifically on EDSC releases. **While Black people account for 54 percent of the IDOC population, they only account for 45 percent of early releases. Latino people comprise 13 percent of the IDOC population but just 10 percent of early releases.**

The discrepancy grows when you look specifically at EDSC releases. Through this sentencing [credit program](#), incarcerated people can have up to 180 days credited toward their sentences. Credits can be applied for a number of reasons, and there is room for immense subjectivity. Just 31 percent of those released early through these sentencing credits are Black. Black prisoners released early are largely being released through unidentified mechanisms, outside of programs such as EDSC. This exacerbates racial disparities because people released through programs such as EDSC are typically released earlier than those released through the unidentified mechanisms. As a result, of people released 90-180 days early, just 29 percent are Black, and just 26 percent of those released more than 180 days early are Black.

In March, [Governor Pritzker encouraged facility officials](#), IDOC, and the Illinois Prisoner Review Board to utilize a variety of early release methods. As discussed above, White people benefitted more often from EDSC and electronic detention, which means people are allowed to return home but wear a monitor so they can be tracked by corrections officials. The above chart shows all of the mechanisms used to release people early. Medical furloughs allow older and medically vulnerable residents to serve their sentences outside of prisons. These people can be brought back to their facilities. In addition, the Governor granted clemency to 20 people, reducing their sentences to time already served.

To be clear, there may be myriad causes of racial disparities in early releases because of racial bias at every stage of the criminal legal system. We review some of those here. Legal systems, in design and practice, have trapped Black Americans in generations of incarceration and poverty throughout our states history. Prisons throughout Illinois, often in largely white communities, depend on incarceration of predominantly Black men and boys for their livelihood.

The COVID-19 pandemic itself is making clear the heartbreaking cost of systemic racism. The Governor has noted inequities in medicine and healthcare access and reliance on frontline service work, and [in Chicago, 70 of the first 100 COVID-19 victims were Black](#).

Governor Pritzker has the opportunity to intervene today to reduce racial inequity in Illinois prisons, and, in so doing, further promote public health guidance around safety in congregate living settings. Early releases are critical to protecting those who are incarcerated, prison staff, and communities with prisons, in addition to flattening the curve for all Illinois residents. The 28 correctional centers in Illinois are old, overcrowded, and [they have been shown in court to provide inadequate healthcare](#).

## Key Findings

### Recommendations for Governor Pritzker, IDOC, and the Illinois General Assembly

#### Racism in Illinois Criminal Legal Systems

Racism in criminal legal systems, in addition to other aspects of American life, leads to immense racial disparities in the Illinois prison population. [Historically, elected officials have constructed definitions of crime to entrap Black communities](#) and legislated harsher punishments for Black people; take the [powder cocaine-crack sentencing disparity](#). **As a result, today, 54 percent of the people incarcerated in our state prisons are Black, while Black people comprise just 14.7 percent of our states population.**

Research and analysis shows [these aggressive criminal legal policies have little to no effect on reducing crime](#), but are nevertheless pervasive; they are the counter-narrative that undercuts the promise of American values. [Slavery](#), and then [racial terror, segregation](#), and policies such as [redlining](#) perpetuate racism in every aspect of the criminal legal system. As a result, Black communities deal with police more often, are arrested at higher rates, receive more serious charges, are sentenced to more extreme punishments and, ultimately, receive disproportionately harsh prison discipline.

#### Here are examples that illustrate racial disparities in arrests alone:

**Disparities in criminal sentencing are the core of our work at Restore Justice.** In Illinois, extended sentencing ranges, [truth-in-sentencing laws](#), and other tough on crime policies create a net that catches Black children and never lets them go. While we have grown since, Restore Justice was founded in 2015 to end the practice of sentencing children and youth to adult life sentences. There are roughly 1,900 people in Illinois prisons serving life or [de facto life sentences \(40+ years\)](#) for crimes that occurred before they were 26. More than 68 percent of the people serving these extreme sentences are Black. Each of the 12 Illinois counties that currently have more than 20 youth serving life or de facto life sentences dispensed those sentences disproportionately to Black youth.

In order to correct for those disparities, IDOC officials and wardens need to review people convicted of more serious felonies for release. The graph below shows these early releases by felony class. Class 4 is the least serious [felony class in Illinois](#). Class X and M are the most serious, with M including people convicted of murder. The not early category shows the people who served their entire sentences but happened to have release dates between March and June; it also includes people who were incarcerated for technical violations of supervised release and were released in this timeframe.

Between March 1 and June 4, 74 percent of the people released early were convicted of Class 4, 3, and 2 felonies. One possible explanation for this is that [some research indicates](#) that Black people are often overcharged and over-sentenced, which makes consideration of low-level offenders a de facto review of predominantly white people in prison.

**Racial disparities continue inside correctional centers.** While Black and white people are equally likely to engage in rule-breaking activity in prison, corrections officers are [much more likely to report Black people for these violations](#). This leads to disproportionate and pervasive levels of ticketing and other forms of disciplinary action against Black individuals in prison. A [New York Times investigation](#) of 60,000 disciplinary cases found Black and Latino prisoners are disciplined as much as twice as often. Disciplinary records are then used to determine who can be released early and, in some cases, when judges re-sentence people.

Inequitable punishment practices also apply to solitary confinement. In 2015, Black men made up 40 percent of the total prison population in the United States, [but they constituted 45 percent of those in solitary confinement](#), according to an analysis from the Association of State Correctional Administrators and Yale Law School. Additionally, while Black women make up about 23 percent of the women in prison in the United States, [they make up 40 percent of the women held in solitary confinement](#), according to a report released in February 2020.

#### Prisons (for mostly Black Illinoisians) are Uniquely At-Risk of COVID-19 Outbreaks

The above chart shows the occupancy rates and current population of each Illinois prison. (Click on any institution to track it across multiple measures.) It also shows the number of early releases between March 1, 2020 and June 4, 2020, and the number of releases necessary to reach a safer occupancy. (The occupancy goals are based on the Restore Illinois plans Phase 2; we recognize this is an imperfect proxy for setting a level of safe population reduction in carceral settings, but it does provide a standard of comparison with other workplaces.) As the graph shows, every Illinois correctional center except Vandalia is overcrowded. Further, the data indicates that many releases do not appear to be strategically related to facility crowding or capacity.

Consider Stateville Correctional Center. The Illinois Department of Corrections confirmed the first case of COVID-19 at Stateville on March 25. By April 6, 95 incarcerated people and 24 staff members had tested positive, and two people had died. As of June 9, 176 incarcerated people and 79 staff members had tested positive; [12 incarcerated people have died](#).

Illinois has not conducted widespread testing in prisons, but states that conduct such testing have found extremely high infection rates. For example:

People in prison are also at greater risk because of their age and health. Illinois incarcerates nearly 8,000 elderly people and many more who are sick and/or disabled. [Half of people who are incarcerated have at least one chronic disease](#), according to the Bureau of Justice statistics.

### Slowing the Spread of COVID-19 in Prison is Racial Justice

We have posited Black individuals are policed more aggressively, sentenced more strictly, and incarcerated more pervasively than white peers. And, we have established early prison releases to protect people from COVID-19 have been disproportionately white. Failure to slow the pandemic in Illinois prisons is a failure of our state to recognize its history of racial injustice in full.

Since the pandemic started, Illinois has not used the tools at its disposal to release *enough* people who are older or sick. The graph above examines the percent of people age 50 and older who have been released. In addition, only 122 people have received [medical furloughs](#), even though many more are elderly, sick, and disabled.

### Failure to Provide Humane Conditions is Racial Injustice

Inside prison, people are not receiving adequate care. Before COVID-19, lawsuits forced Illinois prisons to operate under a [consent decree for providing poor healthcare](#). The health care and correctional resources required to meet the needs of this aging population is staggering, but IDOC lacks the necessary infrastructure, a [court-ordered report](#) found.

IDOC infirmaries are becoming filled with patient-inmates who are confused, incontinent, and require assistance with the basic activities of daily living, according to the report.

### Conclusion

We can slow COVID-19s spread, protect people, and reduce the harm of racist policies and actions. But, we need to act quickly. We must release more people from each Illinois prison and do so in a manner that is conscious of both historic and current inequitable applications of legal mechanisms. We urge Governor Pritzker to centralize the release process, pursue clemency more aggressively, create clear guidelines for mitigating racial inequities in early releases, and provide more complete and consistent data to assure progress. We urge other elected officials, including the Illinois General Assembly, to ask tougher questions about the impact of race on our current criminal legal systems, and to generate more impactful legislation to mitigate that impact in the coming years. Systemic racism has created disparities in every element of the legal system. **We need to proactively prevent Black people from further bearing the brunt of COVID-19s devastation.** Ensuring Black people are also allowed to return home to their loved ones requires both commitment and strategy. It needs to start today.

**Methodology:** This report is based on an analysis of several sets of publicly available data published by the Illinois Department of Corrections (IDOC). The most important data set Restore Justice (RJ) analyzed was [IDOC Exits, March 31 to Current](#), which lists people who have been released from IDOC facilities since March 1, 2020. This data is updated frequently by IDOC; the version used in this report was downloaded on June 5, 2020 and lists all releases through June 4, 2020. In addition to all exits from IDOC facilities, this report contained a list of all people furloughed from IDOC facilities. This report also relied on snapshots of the IDOC population from [March 31, 2020 and December 31, 2019](#). Finally, Restore Justice analyzed clemency data obtained through a public records request.

Restore Justice modified the 5,945 IDOC Exits in the public data to exclude the initial releases of seven people who were listed as exiting IDOC facilities twice. (Presumably, these people are so-called door violators.) We also had found that many of the the Projected MSR Dates in the IDOC Exits file were unreliable. To get a more reliable Projected MSR Dates, we matched the IDOC Exits file to the Population Snapshots from December 31, 2019 and March 31, 2019 and used the oldest Projected MSR Date that was available. This resulted in Projected MSR Dates for all but 14 people released from IDOC facilities since March. Because these 14 people were serving life sentences or were a designated sexually dangerous person, they were assigned a days early value of 999.. We calculated how many days early a prisoner was released based on the days between their Projected MSR Date and the day that they were actually released. More than 20 percent of releases (1,268) were actually released after their projected MSR date. This group consisted largely of people incarcerated for technical violations of Mandatory Supervised Release and they were also coded as being released Not Early. In addition to the Projected MSR Date, we pulled other variables (race, sex, and admission type) from the December 31, 2019 and March 31, 2020 Population Snapshots. Ninety-three percent of cases in the IDOC Exits file were successfully matched. The 417 unmatched cases are omitted from analyses of race, sex, and admission type. Charts depicting race and ethnicity do not depict people classified as American Indian, Asian, Bi-Racial, and Unknown. Collectively, these categories amounted to 1 percent of all matched cases in the IDOC Exits file.

The publicly available IDOC data contained several problems regarding dates. People born before 1950 were reported in this data as being born in the 21st century rather than the 20th, and the projected Mandatory Supervised Release (MSR) dates of two people with sentences of 200 years or longer were reported as being in the late twentieth century rather than the late twenty-first or twenty-second century. Restore Justice manually changed these dates to be more accurate. It is possible that additional errors exist in the publicly available data that have gone without correction.

Data concerning Earned Discretionary Sentencing Credits and Electronic Detention were collected from the same IDOC Exits file, then matched to all other releases. Combined with Clemency, these release mechanisms explained less than 40 percent of early releases. This means that 2,103 people were released early from prison but that Restore Justice has been unable to determine the basis of their early release. These releases which are overwhelmingly early by very short periods of time are referred to in this report as releases through unidentified mechanisms. Three people who, according to IDOC data, were unclassified were released more than 180 days early are excluded from the chart Days Early by Felony Class.

Restore Justice calculated the prison populations on March 1, 2020 retrospectively, by assuming all prisoners released between March

1, 2020 and March 31, 2020 were incarcerated on March 1. Similarly, the June 5, 2020 population was calculated by subtracting from the March 31, 2020 snapshot all exits and furloughs from March 31, 2020 through June 4, 2020. This methodology is sound because Governor JB Pritzker [froze all admissions to IDOC facilities on March 26, 2020](#).

The chart Releases by Week, 2019 vs. 2020 is based on data provided to Rep. Lindsey LaPointe by Governor Pritzker's office. The trend lines depict linear regressions of 2019 and 2020 releases, respectively.

Safer capacity in IDOC facilities is defined as complying with [Phase 2 of Illinois Coronavirus Response](#), whereby workplaces should be limited to 50 percent of their capacity. It is important to note that this threshold is not designed for prisons or other institutions where people are confined to small and poorly ventilated living spaces. Capacity data for each IDOC institution were extracted from the IDOC website, with capacity data from subsidiary institutions added to the capacity of their parent institutions. The IDOC did not report the parent institutions for 7 facilities; these facilities and their 1,664 beds are omitted from the analysis.

**[Cyrus J. O'Brien](#), Postdoctoral Research Associate at the John C. Danforth Center on Religion and Politics at Washington University in St. Louis, analyzed the data and created the data visualizations. In the fall, Cyrus will be a Mellon/ACLS Public Fellow and a Research Fellow at the ACLUs national office in New York.**

Im a mother to a Black Man that is incarcerated at Murphysboro Life Skill Re-Entry Center It is unfair that Blacks are single out and are the last to get recognition for their accomplishment in the prison system. My son has been a model prisoner. Got his Ged taking college courses and is workingHe took a plea due to the incompetent of his lawyer Judge showed his prejudice side in sentencing..My son took a 10 year sentence which was to have been 7 years and 3 years parole..I took it back to court and the Judge said he changed it to 10 years and 3 years parole and refused to change it What was the purpose of the plea if it can be changed once he agreed. It was a shock to us allHow unjust is that..Thats Dupage County for you..My son should be coming home soon. He should be one with an early release and Im going to keep fighting til it get right. My son is a Human Being A Son A Father A Brother A Uncle and a Grandfather. I keep up with the info that you supply and pass it on to my son. Giving him hope that the system see their flaws and correct them Thank you for your continued work. I Believe I have Faith

☐ Less than half (46%) of inmates released early were Black, even though Black inmates make up 54% of the state prison population. Meanwhile, 43% of inmates who were released early were white, even though whites make up about 32% of the prison population, according to the Restore Justicereport. ☐

My brother has been locked in a cell 23 1/2 hours per day since March. This is nearly inhumane. I dont understand why Illinois DOC is failing to release inmates. Nonviolent offenders who have completed at least half of their sentence should be given the option to parole home on an ankle monitor for the remaining duration of their sentence. Not only would this reduce the number of incarcerated people, it would benefit the state by saving money from housing the offenders, along with the fact that these offenders would also be paying fees to the state to remain on the ankle monitor. If the state is not going to release offenders, it at least needs to offer extra good time because these inmates are being forced to live as if they are in a Maximum security prisons and yet theyre being offered nothing for it. Give these people day for day credit while living in these conditions. Lets start clearing out the overcrowded prisons.

☐ report put out by the Illinois-based advocacy organization Restore Justice documented how the states ☐

☐ also highlights the racial disparities in the early release of incarcerated people. Restore Justice issued a report in June 2020 finding that nearly half of those released early by Illinois were white, despite white ☐

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☐ the racial disparities within the early launch of incarcerated individuals. Restore Justice issued a report in June 2020 discovering that almost half of these launched early by Illinois had been white, ☐

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