

# Restore Justice Foundation

## Criminal Justice Issues and Prisoners' Rights

<https://restorejustice.org/illinois-needs-public-phase-4-guidance-for-prisons/>

### Newsletters

*As Illinois Enters Phase 4, the Guidelines for Controlling the Growing Health Crisis in Illinois Prisons Remain Unclear.*

As Illinois enters Phase 4 in the plan to [Restore Illinois](#), Governor JB Pritzker's office has yet to release public guidance on the plan for Illinois prisons. The Restore Illinois plan identified key benchmarks for movement from Phase 3 to Phase 4: 1. widely available testing regardless of symptoms, and 2. the establishment of an expansive system for contact tracing. The road map to move from Phase 3 to Phase 4 indicated that testing would need to be available in (each) region regardless of symptoms or risk factors, and the State should begin contact tracing and monitoring within 24 hours of diagnosis for more than 90% of cases in (each) region. Unfortunately, similar or aligned standards have not been articulated for Illinois prisons.

More than [36,000 people were in prison in Illinois](#) as of March 31 (most recent complete data), yet only 900 had been tested as of June 9, less than 3 percent. In spite of the fact that there are large outbreaks among incarcerated people as well as staff at Stateville, East Moline, Sheridan, and Hill, testing of incarcerated people remains well below the level required to control viral spread, and the protocols for contact tracing have not been made publicly available.

Governor Pritzker and the Illinois Department of Public Health have been clear and consistent in their response to COVID-19 in almost all areas of the state, with the notable exception of prisons. The Governor has made robust testing a priority statewide since day one, and recently expanded testing so any Illinois resident can be tested, whether or not they have symptoms. And yet, in Illinois prisons, few incarcerated people have been tested, even with outbreaks at [Stateville](#) and [East Moline](#) correctional centers.

[[Review Pennsylvania Department of Corrections Plans for Resuming Activities Safely: Demobilization Plan](#)]

The lack of public reporting means that the consequences of these shortfalls in testing and other protocols may already be playing out in ways that will have a long-term negative impact on prison community safety and Illinois public health outcomes. The Illinois Department of Corrections (IDOC) has only [reported 320 positive COVID-19 tests](#) among incarcerated people as of June 28, and, as of June 1, 13 deaths. The IDOC does not report hospitalizations.

The obscured and emerging crisis in prisons did not have to be this acute. Thousands of people in Illinois prisons today are due to be released in the next few months. Releasing people from prison is the most direct route to reduce risk. Many incarcerated Illinoisans are elderly, and more than 40 percent have chronic health conditions, which increase their risk. Now they are subject to exposure to a deadly disease, which spreads at a much higher rate inside prison walls.

According to informal reports, there may be somewhere around 3,000 fewer people incarcerated than the most recent IDOC data provided to the public on March 31 report indicates. This may be the result of a freeze on intake, among other factors that could only become clear upon a review of complete, public data. Even given this possible relief on population size and some use of [early release mechanisms](#), the risk of COVID-19 exposure in Illinois prisons continues to be acute. Our June 5 [report](#) goes into more depth on this data.

Prison staff circulate between the congregate environment of the prison and the community at large, and may be doing so more openly as Illinois moves into [Phase 4](#). Illinois currently lacks public policies (policies that are available for the community to review) on safe transfer of sick incarcerated people to community hospitals, and does not articulate procedures for safe movement within facilities, including for basic daily routines like dining. Restore Justice's hundreds of communications from incarcerated people and their families indicate wide disparities in how such basic functions are handled at different facilities with documented cases of COVID-19. Further, a [John Howard Association survey](#) of incarcerated people, released June 10, notes, Illinois prisons often operate as individual units, varying in the interpretation and implementation of Agency-wide policy, thus creating a lack of consistency and uniformity. This is problematic under ordinary circumstances, but more so during times of crisis.

According to an April 2020 memo sent to Illinois legislators by the Governors Office, 4,460 incarcerated people were held in quarantine at that time due to presumed exposure to COVID-19, or illness. Since that time, no meaningful updates (including data on testing, hospitalizations, or quarantines) have been made public. This uncertainty contributes to the major threat COVID-19 in prisons poses to the health of all Illinoisans. *How is it possible for the IDOC to report 4,460 people in quarantine in April, and then in May, to report no significant changes in testing levels, no hospitalizations, and no updates to quarantine trends?*

[[Review Ohio DOCs Public Data](#)]

Prisons are congregate care settings, and like nursing homes, the institutionalized people's overall health is often compromised. Sanitation and access to hygiene like hand washing is limited. Public health experts have made clear that the three critical steps to controlling the pandemic in congregate settings are widespread **testing, tracing, and isolating** cases. We add a fourth component to these steps, which is **transparency**. The timely analysis and sharing of information are critical as individuals in communities with congregate care settings make decisions about how to protect themselves and their families in Phases 4 of reopening.

**To enact testing, tracing, isolating, and transparency, the IDOC will need to adopt a centralized, consistent, cross-facility approach to controlling the virus, and to treating those who become sick.** Testing, tracing, and isolation policies must align across the system, and must apply consistently to all staff and incarcerated persons as well as to vendors, lawyers, and other visitors. Similarly, the IDOC must develop centralized, consistent policies for the transparent sharing of public health data about the pandemic in the IDOC during this emergency period.

We have received little to no information on the practice of contact tracing in the IDOC, other than what is reported occasionally via IDOC social media, some of which is removed days after it is posted. As a result, we have not made specific recommendations to improve contact tracing here.

For the safety of all Illinois residents, the Governor and the Illinois Department of Public Health (IDPH) should issue substantial and, where appropriate, **public** guidelines to control the outbreak of COVID-19 in IDOC facilities, prioritizing:

We are confident that these measures will save the lives of incarcerated people as well as those who work in prisons or live in surrounding communities as the pandemic continues to make its way through our state.

### **ONE | Rapidly Expand Testing of Incarcerated People**

As of April 30, 2020, the IDOC only had complete data for 419 tests conducted by one of several labs being utilized (University of Illinois), with just two tests still pending results. More than three months into the pandemic, on June 9, the [IDOC has only reported 900 hundred tests for COVID-19](#) in total, out of [36,904 people currently incarcerated](#).

It is also critical to maintain an accurate database, documenting the number of tests conducted, the results of those tests, and those that remain outstanding.

#### **[Review [Texas DOCs Testing Results: Over 114,000 Incarcerated People Tested](#)]**

Testing protocols should be shared with the public in a clearly written policy, including who is being tested, under what criteria for eligibility, under what conditions, and through which laboratories. Protocols should lay out what incarcerated people can expect with regard to testing and being informed of their results.

Finally, staff must also be tested, and reports on staff tests must be consistent. Prisons can screen workers for fever and respiratory symptoms at the beginning of shifts. If symptomatic, they should leave the workplace. More information is available in the [Healthcare Professional Work Restriction Guidance](#). While this may be happening at some facilities during some periods of time, Restore Justice has received dozens of reports over the past three months indicating inconsistent uptake of this set of protocols.

### **TWO | Tracking and Reporting Robust Data Internally and Externally**

Sharing accurate public health information is key to controlling the pandemic. [In contrast to departments of correction in other states](#), such as Ohio, the IDOC is not issuing detailed data reports to the public, making efforts to track the pandemic in prisons difficult. Perhaps most alarming, an April 2020 memo issued to legislators indicates that the IDOC can't release clear data because it was not being tracked, and as of April 30, the department may not have had a centralized database for this purpose. According to the April 30th memo, With the addition of the Carle testing facility, new Abbott testing instruments, and the use of Illinois Department of Public Health (IDPH) labs, there was no central reporting. IDOC had to build our own database to attempt to capture all information.

In addition to failing to consistently report the testing of incarcerated people, according to the April memo, the IDOC is not tracking testing information for correctional officers or other staff who may test positive through private medical care. These data are critical to any serious effort to control the viral outbreak in Illinois prisons. A disorganized and haphazard response will only lead to increased deaths among incarcerated people and those who work in Illinois prisons.

### **Restore Justice is Tracking COVID-19 Data and Policy Responses in IDOC**

In an attempt to address the lack of transparency from the IDOC on facility response to the pandemic, Restore Justice created a data tracker to document COVID-19 outbreaks, policies, and responses from IDOC officials. Restore Justice has received more than 600 reports during the past three months from incarcerated individuals and their loved ones. This data provides an inside view of the COVID-19 procedures IDOC facilities have implemented. More than 50 reports indicate medication is not being properly dispensed at some correctional facilities. Multiple reports indicate incarcerated individuals are unable to seek medical or mental healthcare unless it is life-threatening or COVID-19 related. We have received several reports that individual requests for medical care have been ignored by staff and have led to threats made by correctional officers. An incarcerated person at Big Muddy Correctional Facility reported correctional officers threatened to issue tickets if incarcerated people did not wear face masks; however, there are numerous reports that correctional officers at that facility have not been wearing masks themselves. These firsthand accounts from incarcerated people and their family members demonstrate that health and safety concerns of incarcerated people are not being handled consistently within IDOC facilities.

**Current Data.** Working with any data IDOC **has made public** combined with two reports IDOC has written to legislators upon their request, we have the following incomplete picture of the spread of COVID-19 in Illinois prisons:

As part of a consistent strategy for controlling the viral outbreak across Illinois prisons, public reporting should be listed by facility, and should include the number of positive and negative tests, tests outstanding, people in quarantine, people hospitalized, and deaths, along with the dates of those deaths. Here are some other important details about tracking:

**Deaths.** The IDOC is not regularly reporting the number of COVID-related deaths to the public. On June 9, a memo to incarcerated people posted on the IDOC website indicated that there have been 13 deaths among incarcerated people in Illinois thus far: 12 at Stateville and one at Pontiac. Outside of news stories, no official information has been released about the deaths from the IDOC. This information

should be easy to find and communicated in regular updates on the IDOC website.

#### [Review Michigan DOCs [Handling of Deaths in Custody](#)]

More troublingly, family members of incarcerated people have not all received timely notification when their loved ones have died of COVID-19. A 2019 legislative proposal, [HB3090](#), which would have required jails and prisons to provide family members and the Illinois Criminal Justice Information Authority, with information about prison deaths, [failed to pass the state legislature](#). Advocates, including the nonpartisan prison watchdog John Howard Association, pushed for this legislation, arguing that transparency around prison and jail deaths would help prevent physical abuse and medical neglect. Both the [IDOC and the Illinois Sheriffs Association opposed the legislation](#).

As the number of deaths among incarcerated people rises, the lack of transparency poses a dire threat to people in prison as well as their surrounding communities. Administration officials should act immediately to track and report every COVID-related death, and ensure that a full mortality review is conducted for each person who dies in IDOC custody during the period of the pandemic. Measures should be put in place at the IDOC to mirror the requirements in Illinois long-term care facilities (LTCFs), which mandate that next of kin be notified of hospitalization or death within 24 hours.

**Hospitalizations.** The IDOC has not released a current count of overall hospitalizations related to COVID-19. The Department has previously released the number of incarcerated people who are currently hospitalized but only upon requests made by legislators. This information should be posted to the IDOC website on a daily basis.

**Other Notification Protocols.** Facilities should more frequently and thoroughly notify incarcerated people, family, and staff when COVID-19 cases are identified within the facility where they live, work, or where their loved one is incarcerated. As of June 9, incarcerated people had received four memos from the IDOC about the pandemic, each about a page in length. These memos include instructions on proper hand-washing techniques and hygiene, yet not about signs and symptoms of the virus. And, the memos do not include detailed information about quarantine or hospitalizations. Incarcerated individuals have told Restore Justice they rely heavily on local news stations to receive information on the COVID-19 situation.

Prisons could consistently implement guidelines similar to those of LTCFs, which are required to provide notification within 24 hours of the facility becoming aware of a diagnosis (timeframe dictated by 77 Ill. Admin. Code 300.3210(n)). The code says, long-term care facilities must provide notification to staff, residents, residents next of kin and guardians, and the Department of Public Health when persons working or residing in the long-term care facility are diagnosed with COVID-19. Such notification shall identify whether the diagnosed individual was a staff member or resident. The facility shall not, however, reveal personally identifying information about the diagnosed individual, including their name, except as necessary to notify the residents next of kin or guardian and to ensure staff takes sufficient safety precautions.

The IDPH has issued clear *local* guidance for LTCFs reporting outbreak data, and this offers a useful starting point for the IDOC: [Communicating about COVID-19 in Congregate Settings](#). No such transparent *local* guidance is published for IDOC (like all departments of correction nationwide, IDOC is, based on informal reports, following the guidelines set forth in the CDCs [Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities](#)).

This local IDPH guidance for LTCFs and related testing guidance from the CDC names five categories of rationales for testing for SARS-CoV-2 (coronavirus) with [viral tests](#) (i.e., nucleic acid or antigen tests):

Per the CDC guidance, Generally, viral testing for SARS-CoV-2 is considered to be diagnostic when conducted among individuals with symptoms consistent with COVID-19 or among asymptomatic individuals with known or suspected recent exposure to SARS-CoV-2 to control transmission, or to determine resolution of infection. Testing is considered to be surveillance when conducted among asymptomatic individuals without known or suspected exposure to SARS-CoV-2 for early identification, or to detect transmission hot spots or characterize disease trends.

Given the [well documented outbreak of COVID-19 in Stateville Correctional Center](#), and that 71 incarcerated people are reported to have tested positive in East Moline following an unexpected surge in individuals reporting symptoms, **mass testing is warranted as surveillance in Illinois prisons**. Widespread testing has been conducted in prisons in Ohio, Michigan, and Pennsylvania, all of which revealed that the rate of spread was much higher than originally suspected, and which has clearly informed their intervention strategies. Illinois leadership has made widespread testing and tracing the standard outside of prisons. Yet, no plans for mass testing or indications of the commencement of widespread testing have been articulated.

**Information Drives Self-Care.** Instituting policies that require facilities to share clear information about the outbreak with incarcerated people will also reduce barriers to self-reporting of symptoms and other communication efforts about the pandemic by people in prison. Advocates have heard reports that incarcerated people who attempt to share information about the COVID-19 outbreak with other prisoners have faced punitive measures or retaliation from corrections officers. [The John Howard Association survey affirms these reports](#); 13% of respondents reported they asked for healthcare in the past week and had not received it.

Rather than punishing incarcerated people who attempt to share information, the IDOC should implement similar [communications strategies](#) for incarcerated people and their families to those recommended in Illinois LTCFs. Clear communication about the number of cases and risks of exposure, in addition to expanded public health education for incarcerated people, will help to ensure that incarcerated people who have symptoms are not afraid to report them, will engage them as knowledgeable advocates for their own care, and will increase their capacity to protect the health of others.

#### **THREE | Establishing Clear and Consistent Protocols for Testing, Tracing, Quarantine, and Other Safety Measures at all IDOC Facilities**

The Governors Office should make public the guidelines and protocols for testing, tracing, quarantine, hospitalizations, and other safety measures within the IDOC. There are two major reasons for this: the first is referred to earlier; the IDOC does not have a track record of

consistent implementation of protocols across facilities. The second is that some IDOC protocols, such as testing, are clearly not consistent with public health guidance. Family members, journalists, and advocates should be able to compare IDOC protocols with other public health guidance to assess the soundness of those protocols for themselves, in order to make more informed decisions. States across the nation have implemented widespread testing of incarcerated individuals and staff members. In a 15-day period, Michigan officials tested every individual within their Department of Corrections system. Texas implemented strike teams to conduct more than 66,500 COVID-19 tests on incarcerated individuals. The IDOC must implement widespread standardized testing protocols.

**Symptom Monitoring.** Protocols for symptom monitoring and reporting should be aligned across IDOC facilities. Restore Justice has received multiple reports of staff using malfunctioning thermometers that produce faulty temperature readings. Incarcerated individuals have reported that IDOC staff are not screening regularly. In contrast, IDPH guidance to LTCFs indicated that they should screen residents for symptoms regularly, even multiple times per day. Prisons are also congregate care settings, and should have been given this guidance. Rapid identification and management of ill residents should be a high priority of the IDOC. LTCF guidance included active monitoring of all residents for fever and respiratory symptoms. For Chicago facilities, there is also a requirement that LTCFs must notify CDPH of any cluster or residents with symptoms of respiratory infection. Specifics include:

**Quarantine.** Quarantine conditions seem to vary widely, and Restore Justice has received reports that some facilities are still segregating the ill in solitary confinement facilities, rather than in healthcare facilities or under appropriate medical supervision. Access to hospital care also seems to vary dramatically; there are no clear public policies on the safe transfer of incarcerated people to community hospitals. In rural Southern Illinois communities with thousands of people in prison, ICU care is extremely limited, and incarcerated people could be competing for beds with community residents.

IDPH guidance to LTCFs included placing patients with COVID-19 symptoms in a private room, or with another symptomatic/positive patient. Here is further [Cohorting Guidance](#).

When patients with COVID-19 must leave quarantine, the shortest route should be utilized and the immediate area/route to the exit/treatment areas should be cleared of all residents and unnecessary staff.

**Decision Protocols.** LTCFs were given clear guidance for decision protocols. We look to these because no such guidance was given for prisons.

**Hygiene and Sanitation.** LTCFs are also required to maintain standard contact and droplet precautions, including eye protection. These may seem like common-sense steps to controlling the virus in closed environments, but we have not seen the same guidelines applied to the IDOCs 28 prisons.

**Activity and Movement.** One of the primary modes of transmission of COVID-19, we have learned, comes from prolonged exposure to individuals at close range, indoors. Both LTCFs and prisons in Illinois restricted movement in March and closed facilities to non-essential outside contact.

According to an IDOC press release, law libraries were to remain open during the pandemic. However, all locations have now reported that [law libraries are closed](#). In spite of the relatively higher risk of communal dining as compared to library usage for virus transmission, IDOC has not taken action to reduce the size of groups for dining.

According to Restore Justice contacts, Illinois prisoners now routinely walk to meals in lines of 150 or more people, two across, shoulder to shoulder. These contacts say there are no rules in place for limiting the number of people who can sit together during meals. Mealtimes and other congregate settings should have strict social distancing protocols in place, if they happen at all.

Its essential to limit movement in and out of the facilities until we have adequate testing and/or treatment for this virus. People at county jails throughout Illinois have tested positive for COVID-19, and the Cook County Jail remains among the foremost sites of the pandemic in the United States. This is a time for creative solutions. County and state officials can and should work together to create alternatives to resuming transfers. Prison staff go to work and then home to their families, neighbors, and stores. At work, they care for an aging population in what every public health expert considers the highest of high-risk settings. Governor Pritzkers executive order preventing transfers protects prison staff, people who are incarcerated, and everyone living in prison communities.

### ***Conclusion | Its Time to Issue Realistic Guidelines to Control the Outbreak of COVID-19 in IDOC Facilities***

Governor Pritzker has repeatedly stated his unequivocal commitment to protecting the lives of incarcerated people, and now it is time to align the policies of the IDOC with that commitment. Not only do these individuals have loved ones outside prison walls who deserve to know about their safety, but communities where prisons are located will suffer the same consequences as the prison itself when it comes to lack of control and safety with COVID-19.

The proven steps of testing, tracing, and isolating cases will set up the IDOC for a new period of safety, transparency, and health in its facilities and surrounding communities.

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