



Summer 2013

Drivers of the Sentenced Population: MSR Violators

Research Briefing

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Key Findings

- The number of technical mandatory supervised release (MSR) violators returned to prison has ranged from approximately 6,000 to over 10,000 per year since 2000. This research bulletin examines the long-term trends in the number of MSR violators returned to the Illinois Department of Corrections (IDOC) from FY89 through FY11, identifies some of the factors that influence the number of these returns to IDOC, and identifies some of the policy implications of returning these offenders to IDOC.
- Characteristics such as age, prior arrests, exposure to treatment in prison, and disciplinary incidents are more reliable predictors of recidivism than the felony class of the offense. Under Illinois law, MSR terms are based solely on felony class.
- MSR supervision terms based solely on offense level, rather than the risk and needs of the offender, present a significant potential that offenders who have a high risk of reoffending will be supervised for short periods of time and if returned as a technical violator will be re-released with no supervision. Conversely, individuals who have a low risk of reoffending may be on MSR for longer periods than necessary with no public safety benefit.
- Offenders returned to IDOC for a technical violation typically spend less than 3 months in prison and are released without any additional supervision because the remainder of the MSR term was served in that 3 months.
- The proportion of annual *admissions* to IDOC accounted for by technical MSR violators ranged from less than 5 percent to more than 30 percent during the period examined. By SFY 2011, technical MSR violators accounted for 32 percent of IDOC admissions, but due to their relatively short length of stay, they accounted for 11 percent of IDOC's total daily population.
- Based on a sample of those returned to IDOC as technical MSR violators during a one-month period in 2011, 71% were returned for: not having an approved place to live for sex offenders, resulting in a technical violation at the time of release (i.e., "gate violators"), new arrests for violent crimes, or violations of electronic monitoring requirements.

Introduction

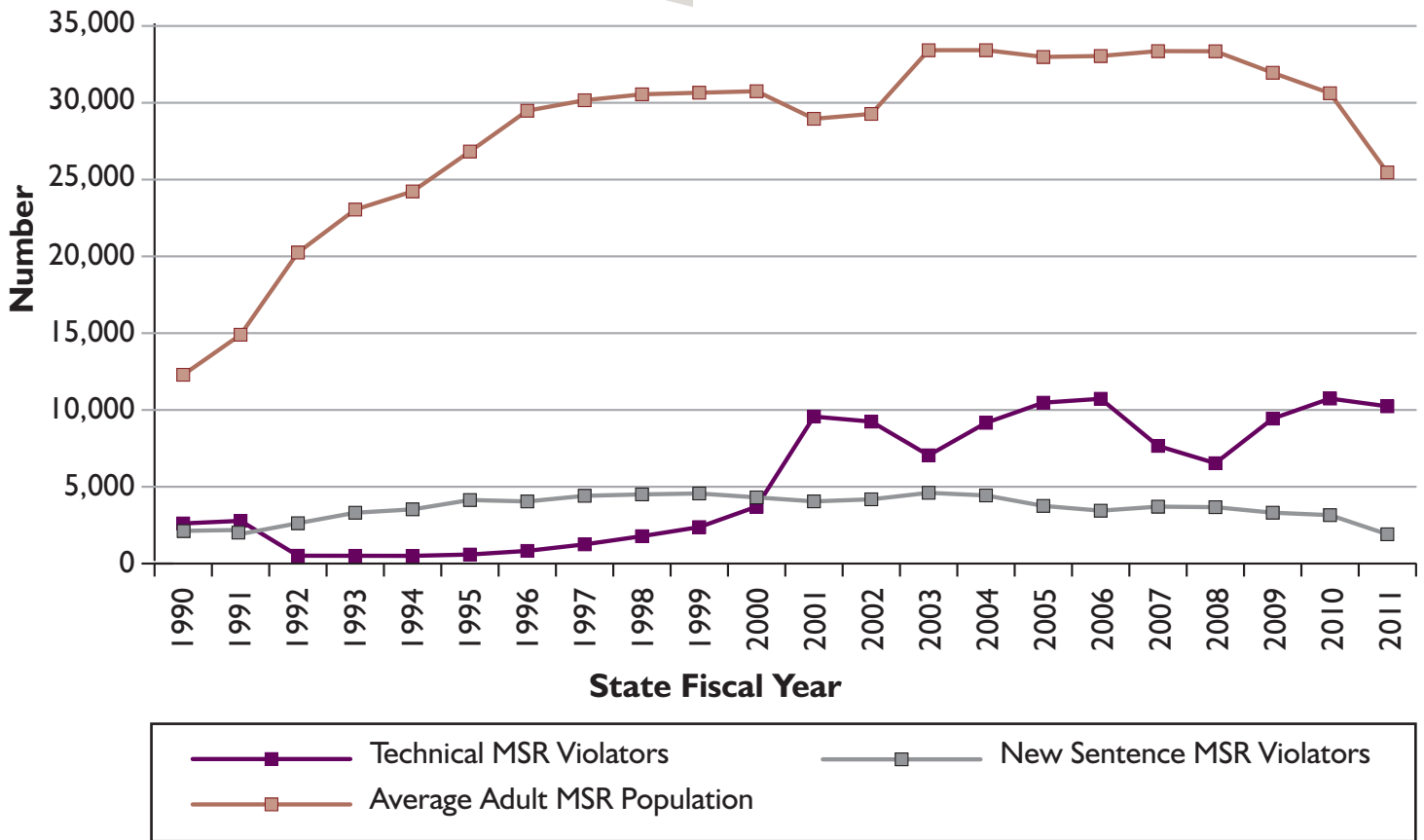
Over the past 22 years, the impact on Illinois' prison admissions and population of those on Mandatory Supervised Release (MSR) returned to prison as technical violators or with new prison sentences has varied considerably, the result of multiple factors, including changes in the number of prison releasees, changing parole agent staffing levels, changes to Illinois Department of Corrections policy, changes in MSR conditions imposed by the Prisoner Review Board, and changes to the Illinois Compiled Statutes regarding how parole violations are handled.

When Illinois changed its sentencing structure from one of indeterminate sentencing to determinate sentencing in 1978, the mechanisms by which those sentenced to prison were eventually released, and supervised following that release, also changed. Under determinate sentencing, those sentenced to prison must be released onto Mandatory Supervised Release

(MSR) once they have served their court-imposed prison sentence, minus any credits to the sentence received as a result of time spent in jail awaiting their conviction and good conduct or earned-time credits they receive while in prison.¹ While on MSR, individuals are supervised in the community by "parole agents" employed by the Illinois Department of Corrections (IDOC) and are also required to abide by conditions imposed by the Illinois Prisoner Review Board (PRB), which can include participation in treatment, drug testing, electronic monitoring, etc.

Thus, MSR is a required component of prison sentences in Illinois and extends the period of supervision beyond the actual time the convicted felon spends in prison. Further, if an individual on MSR violates the conditions of their release or is rearrested for a new crime, they can be returned to prison as MSR violators. As seen in Figure 1, due to the dramatic increase in admissions to prison during the 1990s, there was also a dramatic increase in the number of people released from prison onto MSR. Between Fiscal Year (FY) 1990 and 2000, the number of people on MSR in Illinois increased from fewer than 13,000 to more than 30,000.

Figure 1



¹ The analyses presented in this report include both those released onto MSR as well as those released onto parole (i.e., those who had been sentenced to prison prior to 1978 under the indeterminate sentencing structure and released onto parole supervision). However, the number of inmates released onto parole, and returned to IDOC as parole violators, accounted for a very small percent (less than 1 percent) of the total exits and admissions to IDOC during the period examined in this report.

2 Drivers of the Sentenced Population: MSR Violators

In Illinois, practitioners and policy makers are faced with the challenges of a prison population that is exceedingly high—both in terms of available prison beds as well as the financial costs associated with incarceration. However, despite the fact that the number of technical MSR violators returned to prison increased dramatically during the 1990s, and has ranged from approximately 6,000 to more than 10,000 per year in Illinois since 2000 (Figure 1), there has not been much research published that examines the long-term trends in these admissions to IDOC, the characteristics of those returned to prison as technical MSR violators, and the impact that changes in policy and practice have had on the number of technical MSR violators returned to prison. This *Research Bulletin* fills this void and examines trends in the number of technical MSR violators returned to IDOC over the past 22 years (FYs 1989 through 2011), identifies some of the factors that influence the number of these returns to IDOC, and also identifies some of the policy implications of these MSR violators returned to IDOC.

Table 1: Statutory MSR Lengths & Number of New Prison Exits onto MSR

Felony Offense Class	Statutory Length of Mandatory Supervised Release (MSR)	New Releases to MSR in FY 2011
Murder	3 years	243
Class X	3 years	1,352
Class 1	2 years	2,853
Class 2	2 years	4,244
Class 3	1 year	3,274
Class 4	1 year	7,586
Domestic Violence *	4 years	397*
Sex Offender**	3 years to life	385**

* 300 were Class 4 felonies, 3 were Class 3 felonies, and 94 were Class 2 felonies. These were deducted from the figures for those felony classes in the table

** Estimated at 385, based on effective date of legislation and holding offenses. These figures were NOT deducted from the figures for the felony classes in the table

The Process of Returning Technical MSR Violators to Prison

If an individual supervised on MSR violates the ordered conditions, fails to report to their parole agent, or is arrested for a new crime, they can be returned to prison as a “technical MSR violator.” If a parole agent detects a violation of MSR, they can request a warrant be issued, or in some cases a warrant must be issued for the

individual’s return to prison as a technical violator. If the violation is purely technical, the individual is taken into custody and transported to one of the Illinois Department of Corrections’ Reception and Classification Centers, and readmitted to prison. If the violation is criminal in nature (i.e., an arrest for a crime), the individual will be held in a county jail until a court hearing to determine if there was probable cause for an arrest to be made. If probable cause is found, a parole agent can request a warrant be issued, or in some cases a warrant must be issued for the individual’s return to prison as a technical violator. Shortly after their readmission to prison, the inmate/alleged MSR violator has a hearing to determine if there was probable cause that a violation occurred, if there is probable cause, the inmate will eventually appear before the PRB where the inmate may be declared a violator and the duration of re-incarceration as an MSR violator is decided. The amount of time the PRB can keep an inmate incarcerated as a technical MSR violator is limited by the amount of MSR time left to serve, minus any good conduct credits they may be eligible for and receive while re-incarcerated. If an individual on MSR is arrested, reconvicted *and* resentenced to IDOC, they are not considered “technical violators,” but rather, “new court commitments” and serve the new court-imposed sentence.

Lengths of Time on Mandatory Supervised Release

When Illinois’ sentencing structure changed in 1978, the Illinois General Assembly also specified how long someone released from prison would spend under MSR, tying the length of MSR to the felony class of the crime for which the individual had originally been sentenced to prison. As seen in Table 1, the statutorily required length of MSR is 3 years for the most serious felony classes (First Degree Murder and Class X felonies) and 1 year for the least serious felony classes (i.e., Class 3 and 4 felonies). The largest group of inmates released from IDOC in SFY 2011 onto MSR was released after having served a sentence for a Class 4 felony, accounting for 38 percent, or 7,586, released inmates (Table 1). Those released from prison after having served a sentence for First Degree Murder, on the other hand, accounted for the smallest group of individuals released onto MSR in SFY 2011. Determining length of MSR supervision based exclusively on the felony class of the conviction offense which resulted in the prison sentence has been in place since 1978. In 2005, the legislature began increasing supervision terms for specific crimes.

For example, in 2005, Illinois law changed to require those released from prison after having served a prison sentence for a sexual assault offenses to be supervised on MSR for an *indeterminate* period of time, ranging from a minimum of 3 years up to the rest of their life. However, because a relatively

small number of people are sentenced to prison for sexual assault offenses, and those that are tend to stay in prison for a relatively long period of time, this change to an indeterminate length of MSR has not yet been imposed on a large number of offenders. Specifically, among those inmates released from prison onto MSR during SFY 2011, it is estimated that fewer than 400 were individuals subject to this requirement of an indeterminate length of MSR (Table 1, page 3). However, what potentially makes the impact of this change substantive is that these individuals may be on MSR for extremely long periods of time, and as a result, each year there will be additional inmates released from prison onto MSR with potential lifetime periods of MSR supervision. The effect of this will be a buildup of individuals on MSR being supervised under indeterminate lengths of supervision.

Similarly, on January 1, 2010, legislative changes were made requiring domestic violence (DV) offenders released from prison to have a 4 year period of MSR supervision, regardless of the felony class of the crime (PA 96-282). As seen in Table 1 (page 3), a relatively small number of DV inmates are released from prison onto MSR each year—less than 400 in FY 2011. However, roughly three-quarters of these offenders had been sent to prison for a Class 4 felony domestic violence offense. Thus, while the number of releasees impacted by this change was relatively small, for most, it increased their length of MSR from 1 year for a Class 4 felony, to 4 years for a domestic violence offense.

Thus, MSR supervision lengths are based exclusively on the *conviction* offense class (i.e., the crime), not necessarily the risk, dangerousness, or the needs of the offender (i.e., the individual). What this likely results in is some of those released from IDOC being on MSR for too short a period of time, and others being on MSR for too long of a period of time. Further, research conducted on prison releasees in Illinois found that characteristics such as age, prior arrests, exposure to treatment while in prison, institutional behaviors (i.e., disciplinary incidents) were much more predictive of post-prison rearrests than either the current conviction offense or the felony class of the current conviction offense.² Indeed, for criminal justice practitioners and policy makers familiar with the plea bargaining process used to dispose of most felony cases in the courts, the current conviction offense often does not fully describe the extent and nature of the crime(s) which the individual may have been involved in at the time of the arrest. It is expected that with the adoption of a Risk, Assets and Needs Assessment (RANA) tool by the IDOC and the Prisoner Review Board, which incorporates static and dynamic risk factors, the length and intensity of supervision *could* be dictated by traits and characteristics that more

accurately gauge risk for public safety, as well as evidence of rehabilitation and strengths of the releasee that may reduce the risk of recidivism, as opposed to simply the felony class of the crime for which they were sentenced to prison. But this will require a change in the current statute which dictates the length of MSR.

Returns to Prison of those on MSR

As described earlier, there are two ways that an individual on MSR can be returned to prison. The first, and the primary subject of this research bulletin, are those returned as technical MSR violators. If an individual on MSR violates the conditions of their release, a parole agent can request a warrant be issued to have them returned to prison as a “technical violator,” and a hearing takes place to determine if there was sufficient evidence to support the allegation of a violation, and if so, the PRB will determine how long they will remain in prison for their violation. Thus, technical violator returns to prison do not go through the criminal courts, and include violations such as being *arrested* for a new crime, not having an approved place to live for sex offenders, violating the requirements of electronic monitoring, testing positive for drug use, non-compliance with treatment orders, etc. Technical violations due to new arrests are not the same as “new sentence violators,” the second way individuals on MSR can be returned to prison. The difference is that an arrest for a new crime in and of itself is sufficient grounds for a parole agent to request a warrant and return someone on MSR to prison as a technical MSR violator.

The second way someone on MSR can be returned to prison is if they are rearrested for a new crime, retried in the criminal courts, reconvicted and resentenced to prison. If this occurs, the PRB has no role in evaluating the evidence, nor do they have any say in the length of incarceration: both of these are determined by the judge in the criminal case. Someone on MSR, who is resentenced to prison for a new crime, is referred to by IDOC as a “new sentence violator.” As seen in Figure 1 (page 2), between FY 1992 and 1999, when the number of technical MSR violators returned to prison was relatively low, the number of new sentence violators was relatively high. Indeed, there is a moderately strong, inverse relationship here in that when the number of technical MSR violators returned to prison *decreases*, the number of new sentence violators returned to prison *increases*.

This relationship is important for practitioners and policy makers to consider as it reflects how decisions and processes within Illinois’ criminal justice system are interrelated. While the process of retrying, reconvicting and resentencing someone on MSR does not directly involve IDOC, its parole agents or the PRB, it is likely that the actions and decisions made by parole agents and the PRB

² Olson, Escobar & Stalans: A Multi-level, Multi-dimensional Examination of Risk Factors for Prisoner Recidivism. Paper presented at the American Society of Criminology Annual Conference, San Francisco, CA, November 2010.

about offenders on MSR who are rearrested for a new crime influences the decision by local prosecutors to file charges or seek convictions in these cases. For example, if someone on MSR is rearrested for a non-violent Class 4 felony (i.e., retail theft or drug possession), and as a result is returned to prison as a technical violator of MSR, a local prosecutor may not feel it necessary to seek a conviction, since the sanction of being returned to prison satisfies the need for punishment and incapacitation. On the other hand, if someone on MSR is arrested for a serious crime, such as robbery or sexual assault, a prosecutor would seek a conviction and subsequent prison sentence for this new offense, since being returned as a technical violator of MSR would not result in a sufficient length of incarceration and the victim would expect and deserve a trial, conviction and appropriate sentence. Similarly, if a local prosecutor did not feel as though the response by parole or the PRB was sufficient (i.e., someone rearrested was not returned as a technical violator of MSR), the prosecutor may seek a conviction and new sentence. Thus, there is some relationship between the decisions made as a result of parole policy and by the PRB regarding how technical violations involving new arrests are handled and decisions by local prosecutors on which of these new arrests may warrant the filing of charges and a new trial. The decisions by all of these practitioners are influenced by the nature of the new arrest and the characteristics of the offender, such as prior criminal history.

Over time, the gap between parole policy and local prosecutions has narrowed in scope as many arrests involving criminal charges for violent offenses require a parole violation warrant be issued by statute. Finally, those resentenced to prison while on MSR (new sentence violators) tend to get longer sentences than those resentenced to prison who, although they had been to prison before, were not on MSR at the time of their new offense, even after accounting for the felony class of the new conviction offense.³

Factors Influencing the Number of Technical MSR Violators Returned to IDOC

The analyses uncovered a number of factors that have influenced the number and rate of technical MSR violators returned to prison over the past 25 years, including changes in the number of inmates released from prison onto MSR, changes in the number of parole agents employed in Illinois, changes in the number and nature of conditions imposed on those released onto MSR by the PRB, short-term changes in parole policy, and long-term changes in legislation governing how parole violations are handled by the IDOC.

Number of Releasees on MSR

As seen in Figure 1 (page 2), the number of people on MSR in Illinois increased dramatically during the 1990s, more than doubling from an average daily population of under 13,000 in 1990 to more than 30,000 by 1997. In general, the trends in the average number of people on MSR during this time period mirrored trends in admissions and exits from IDOC during that time period. Thus, the large increase in the MSR population was fueled by the large increase in admissions to prison—primarily for drug-law violations—during that time period, which also resulted in large increases in exits from prison. During the period from 1990 to 1997, 60 percent of the increase in inmates released from prison onto MSR can be attributed to those who had been in prison for drug-law violations. Between 1997 and 2010, the average MSR population in Illinois remained relatively stable, and hovered between 30,000 and 34,000, reaching its peak of 33,425 during 2004. However, as a result of a dramatic decrease in IDOC admissions from the courts in SFY 2010 and 2011, and the suspension of the awarding of Meritorious Good Time (MGT) credit that resulted in longer prison stays, there was a subsequent reduction in the number of releases from prison onto MSR, resulting in an average MSR population in 2011 of 25,465—the lowest number since 1994. Thus, the number of individuals on MSR increased dramatically during the 1990s, and remained relatively stable and at a high-level since then, placing many more individuals at risk of committing a technical violation of MSR than was the case in the early 1990s.

Interaction Between Technical MSR Violators and New Court Commitments to IDOC of those on MSR

Also evident in Figure 1 (page 2) is the inverse correlation between the number of technical MSR violators returned to IDOC and the number of new court commitments to IDOC of people who were on MSR described previously. Specifically, during periods when fewer technical violator returns to IDOC occurred, the number of people on MSR reconvicted and resentenced to IDOC increased. Part of the explanation is that, as described previously, if someone on MSR is *arrested* for a new crime, they *can* be returned as a “technical violator” because of this new arrest. If this is less likely to occur during periods when parole staffing is low, then the likelihood that new arrests will result in formal processing through the courts, and the offender being resentenced by the courts to IDOC, increases.

Parole Staffing Patterns

Critical to understanding trends in the return to prison of those

³ For example, among those admitted to IDOC between FY 2009 and 2011 for a Class 1 felony, those who were resentenced to IDOC while on MSR received an average sentence of 7.2 years compared to an average of 6.6 years for those resentenced to IDOC who had been in IDOC previously, but were not on MSR at the time of the new offense. The majority of these Class 1 offenses for both groups were non-violent in nature.

on MSR, were dramatic fluctuations in the number of parole agents in Illinois—the IDOC staff who supervise those on MSR. During the early 1990s, budget cuts resulted in the *reduction* of parole agents in Illinois at a time when the number of inmates released from prison onto MSR was *increasing*. For example, between 1990 and 1995, the number of parole agents in Illinois decreased from more than 100 to fewer than 70, during a period when, as described above, the number of people on MSR in Illinois doubled. As a result of these two divergent trends, parole caseloads exceeded 400 per agent during the mid-1990s. During this period of fewer parole agents, both the number and rate of people on MSR returned to IDOC as technical violators decreased substantially. For example, in 1990, roughly 20 percent of those on MSR were returned to prison as a technical violator, compared to 2 percent in 1995. The actual number of those on MSR returned as technical violators during that period fell from just over 2,600 to fewer than 600. Conversely, as the number of parole agents employed by IDOC grew from the mid-1990s through 2001, the number and rate of returns to IDOC of technical MSR violators also increased, even as the number of people on MSR remained relatively stable.

Changes in MSR Policy and Practice

In addition to greater numbers of people on MSR and increases in parole staffing, changes in practice and policy by IDOC's Parole Division, changes in MSR requirements imposed by the PRB, and legislative changes that require revocation of MSR for specific types of violations have also had an impact on the number of technical violators returned to IDOC. Some of these changes in policy and practice were incremental, and had a gradual impact on technical MSR violators returned to prison, whereas some changes had much more dramatic and short-lived impacts. When data regarding technical MSR violators returned to IDOC were disaggregated and examined on a monthly basis, the immediacy and significance of these practice and policy changes on the numbers of technical MSR violators returned to prison is even more evident.

The first example (#1 in Figure 2) of an immediate, dramatic and relatively short-lived change in policy that impacted the number of technical MSR violators returned to prison can be seen in Figure 2. In July 2000, Operation Windy City was implemented by then Governor George Ryan and Mayor Richard Daley “following the shooting deaths of several

children in Chicago in July 2000.”⁴ Operation Windy City involved a joint effort between the IDOC and the Chicago Police Department to crack down on those on MSR in Chicago, including drug testing and interviews with parole agents and police.⁵ In addition, the number of parole agents in Illinois also increased from fewer than 100 agents in the community to more than 350.⁶ As a result, the number of technical violators returned to prison increased from a *monthly* average of 311 during SFY 2000 (the year before Operation Windy City), and quickly jumped to a monthly average of 798 during SFY 2001, with a peak of 1,336 in the month of July 2001 alone. Thus, from July of 2000 to July of 2001, the monthly number of technical MSR violators returned to prison in Illinois increased from 373 to 1,336. Operation Windy City ended in the fall of 2001, and by July 2002, the monthly number of technical MSR violators returned to prison was down to 625.

The second example (#2 in Figure 2) of a more gradual, but still substantive change in policy that had an impact on the number of technical MSR violators returned to IDOC had to do with increased requirements imposed on sex offenders. Some of these policies were established by legislative mandate, including increased residency restrictions on all registered sex offenders, the use of Global Positioning System (GPS) monitoring (by statute for all predatory offenses and violators of orders of protection, and by discretion of the PRB), and the establishment of a Sex Offender Supervision Unit (SOSU) (by statute requiring special training, smaller caseloads, closer scrutiny). More legislative changes were signed into law by the Governor on July 10, 2005,⁷ such as the move towards indeterminate lengths of MSR supervision (described earlier), more stringent sex offender registration requirements, and the prohibition of released sex offenders and registrants residing at the same address. As a result of all of these changes, the number of technical MSR violators returned to (or never released from) IDOC who were required to register as a sex offender, either because of their current offense or a previous conviction, increased substantially. For example, in the fiscal year prior to when the Governor signed these measures into law (FY 2004), the monthly average number of sex offenders (current offense and/or required to register as a sex offender) returned to IDOC as technical violators was 160 per month. During FY 2006, the year these laws and policies went into effect, the monthly average number of sex offenders (current offense or requirements to register as a sex offender) increased to 243 per month, a 50 percent increase. Thus, in the year leading up to these changes FY 2005, those required to register as sex offenders) accounted for less than 20 percent of all technical MSR violators returned to

⁴ Press Release from Governor George Ryan titled “Governor's Parole Initiative Cracks Down on Crime” issued November 7, 2001.

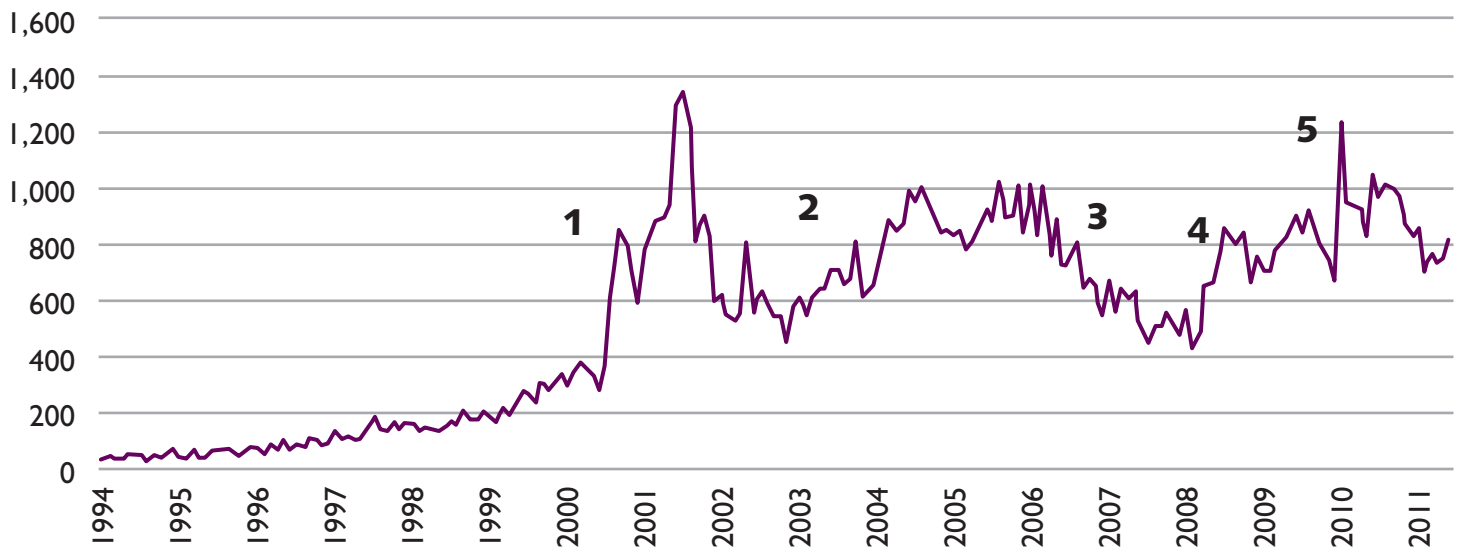
<http://www.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=1&RecNum=1558> Retrieved on July 20, 2012.

⁵ Ibid.

⁶ Ibid.

⁷ Press release from Governor Rod Blagojevich titled “Governor Signs Law Requiring Lifetime Supervision for Most Dangerous Sex Offenders” issued July 10, 2005. <http://www.idph.state.il.us/public/press05/7.10.05.htm> Retrieved on July 20, 2012.

Figure 2: Technical Violator Admissions by Month



prison, but between FY 2006 and 2011, sex offenders accounted for 27 percent of those returned as technical MSR violators.

Another example of an IDOC policy change that resulted in a reduction in the number of technical MSR violators returned to prison can also be seen in Figure 2 (#3). During FY 2007 and 2008, the Parole Division implemented a graduated sanctions matrix that sought to balance the severity of the MSR violation with responses that ranged from increased reporting, placement on electronic monitoring, all the way up to being returned to IDOC as a technical MSR violator. As a result of this sanctioning matrix, the number of technical MSR violators returned to IDOC *decreased* substantially, from a monthly average of nearly 900 returns to IDOC of technical MSR violators during FY 2006 to a monthly average of 640 returns of technical MSR violators during FY 2007. This decrease in technical MSR violators returned to IDOC was accompanied by only a *slight* increase in new court commitments of those on MSR during that same period.

Thus, this policy shift appeared to be having a substantive impact on the number of technical MSR violators returned to prison without the concomitant increase in new sentence violators that had historically been associated with reduced numbers of technical MSR violator admissions.

However, following a murder committed by an individual on MSR that stemmed from an earlier domestic violence incident in April 2008 (#4 in Figure 2), legislation was introduced in the Illinois General Assembly in May 2008 requiring anyone on MSR arrested for a domestic violence incident, including

domestic battery, stalking or violating an order of protection be returned to prison as a technical MSR violator.⁸ Although this proposal was not actually signed into law until August of 2009, with an effective date of January 2010, IDOC changed its policies in April 2008 to reflect what the proposed legislation, and new law, required. Thus, in the six months preceding the tragic murder, and subsequently proposed legislation, the number of technical violators returned to prison each month averaged 505 (from October 2007 to March 2008), and jumped to a monthly average of 783 in the 6 months following the introduction of the legislation (June 2008 to November 2008), an increase of 55 percent.

Another relatively recent, but short-lived, policy change by IDOC was implemented in January 2010 in reaction to the public and media outcry over a policy put into place in 2009 that resulted in inmates being awarded their Meritorious Good Time (MGT) credits upon release rather than after 60 days in IDOC (referred to as MGT "PUSH"). In January of 2010 (#5 in Figure 2), IDOC imposed intensive monitoring and zero tolerance over the PUSH releasees, as well as the general MSR population, resulting in increased returns for technical violations of parole coupled with increased use of warrants for those arrested with new criminal charges. As seen in Figure 2 (page 7), as a result of this change, returns to IDOC of technical violators increased from an average of just under 800 per month in 2009 to more than 1,200 during January 2010, and a monthly average of roughly 960 during all of 2010. By 2011, the monthly number of returns to IDOC of technical MSR violators had fallen back to the pre-MGT PUSH levels.

The last change in policy and practice that influenced on the

⁸ PA 96-282 (HB 2541), known as the Mersaides McCauley Act.

number of technical MSR violators returned to IDOC during the period from FY 2000 to 2011 were the proportion of inmates released from IDOC with specific requirements ordered by the PRB. In addition to supervision, the PRB can also require those released on MSR to participate in drug or mental health treatment, be supervised on electronic monitoring, have no victim contact, participate in alcoholics anonymous and attend anger management counseling, among other requirements. Those released from prison onto MSR with relatively few conditions have fewer opportunities to violate conditions of their MSR, while those with numerous conditions and requirements have greater chances of violating one of those requirements and therefore become subject to possible revocation of MSR and return to prison. Annual fluctuations in the proportion of inmates released onto MSR with additional requirements were correlated to some degree with the changes in the number of technical MSR violators returned to IDOC from FY 2001 to 2011.

Overall, more than 85 percent of the inmates released onto MSR in FY 2011 had at least one of these special conditions ordered by the PRB, the highest proportion seen during the FY 2000 to 2011 period, and up dramatically from the 60 percent in FY 2007. By far the most frequent condition imposed on those released from prison onto MSR in Illinois is the requirement to participate in substance abuse treatment, and this too has increased substantially in the past 5 years. During FY 2011, more than 70 percent of those released from prison and placed on MSR were required to participate in substance abuse treatment programming in the community, up from 50 percent among those released in FY 2007. Between FY 2007 and 2011 there has also been an increase in the proportion of those placed on MSR ordered to attend mental health treatment—climbing from 8 percent to 12 percent during that time period—and an even more substantial increase in the proportion ordered to attend anger management counseling, up from roughly 10 percent among the FY 2007 releases to nearly 25 percent among those placed on MSR in FY 2011.

Finally, the proportion of newly released inmates placed onto MSR with the requirement to be on electronic monitoring increased from 10 percent or less before FY 2005 to 29 percent among those released in FY 2011. Thus, more than one out of every four newly released inmates from IDOC in FY 2011 was ordered to be on electronic monitoring. The significance of this changing pattern is that the sanctioning matrix used by IDOC's Parole Division identifies electronic monitoring as the most serious sanction that can be imposed on parole violators before a decision to return them to prison is made. Thus, if someone on MSR violates their electronic monitoring condition, there are few options available to parole agents other than returning the inmate to prison as a technical violator. In addition, by releasing

offenders with orders for electronic monitoring from the very start reduces the options for community-based supervision as that sanction is no longer available to agents to bring offenders into compliance.

Detailed Analyses of Those Returned as Technical MSR Violators

Detailed analyses of those returned to IDOC as technical MSR violators during a one month period (August 2011) revealed the complexity of the reasons behind these returns to prison and also illustrates the influence of some of the specific policies described previously (Table 2). For example, 25 percent of the technical MSR violators were violated at the gate, immediately upon the expiration of their court-imposed sentence because they did not have an approved place to live, and mostly involved sex offenders who could not find appropriate housing arrangements. An additional 28 percent of the technical violators returned were arrested for a violent crime or weapon offense while on MSR (alone or in combination with other technical violations), and 18 percent violated their electronic monitoring conditions. Combined, these three reasons accounted for 71 percent of technical MSR violators returned to IDOC in August 2011. The remaining reasons for technical MSR violation returns to IDOC included new arrests for non-violent crimes (with or without other technical violations of MSR), which accounted for 20 percent of the returns, and 9 percent that were returned for only technical violations that did not involve appropriate housing or electronic monitoring violations, but often involved individuals supervised by IDOC's Sex Offender Supervision Unit (SOSU). Twelve percent of *all* technical MSR violators returned to IDOC were arrested for a domestic violence offense while on MSR and returned on the statutorily required pursuant to PA 96-282.

Length of Stay in Prison of Technical MSR Violators

When an individual is returned to IDOC as a technical MSR violator, they can be held in prison for only the amount of time that was remaining on their MSR, minus any credits they may be eligible for during their reincarceration (i.e., day for day good conduct credit). If someone returned as a technical MSR violator remains in prison until the end of their MSR period, they must be released and are no longer subject to supervision. On the other hand, if an individual returned as a technical MSR violator is released with time remaining on their MSR period, they go back onto MSR, and are supervised until that MSR period ends. During the SFY 1989 to 2011 time period, there was considerable variation in the length of time MSR violators served when reincarcerated, resulting in varying proportions that were ultimately re-released back onto MSR. Summarized in Table 3 (page 10) are the mean and median

Table 2: Detailed Examination of Technical MSR Violators Returned to IDOC in August 2011

felony were released back onto MSR, and the average length of time they spent in IDOC for the technical violation was 137 days.

	Number	Percent within Sub-Groups	Percent of Total
New Arrests Only	282	100.0%	32.3%
Violent crime	165	58.5%	18.9%
Unlawful use of a weapon	36	12.8%	4.1%
Other offenses (property, drug)	81	28.7%	9.3%
New Arrests plus Violation(s) of other MSR Condition(s)	137	100.0%	15.7%
Violent crime rearrest plus violation of MSR condition(s)	37	27.0%	4.2%
Unlawful use of a weapon rearrest plus violation of MSR condition(s)	5	3.6%	0.6%
Other crime rearrest plus violation of MSR condition(s)	95	69.3%	10.9%
Violation of MSR Condition(s) Only	453	100.0%	51.9%
No Host Site (“Gate violator”)	214	47.2%	24.5%
Electronic Monitoring violation	156	34.4%	17.9%
AWOL	34	7.5%	3.9%
Other violations (including lose of host site, positive drug tests, possession of pornography, contact with victim, etc)	49	10.8%	5.6%
TOTAL	872		100%
Specific Groups Already Included Above			
Domestic Violence Arrests (Alone or in combination with other violations)	109	31.9% of new arrests only 13.9% of new arrests plus violation(s)	12.5%

The length of time spent in IDOC by those returned to prison as technical MSR violators showed some year-to-year fluctuation over the period examined (FY 1989 to 2011), with some time periods seeing technical MSR violators serving less time in IDOC and other periods showing longer lengths of time served, even after the felony class of the original offense was taken into account. As a result, and as described above, this resulted in varying proportions of technical MSR violators being released back onto MSR or discharged without any supervision. From the analyses, the length of time technical MSR violators remained in prison appeared to be correlated with the overall volume of technical MSR violators returned to prison: during periods when there were large numbers of individuals returned to IDOC as technical MSR violators, the length of time served for the violation was lower than during periods when fewer technical MSR violators were returned. This would suggest that when the number of technical MSR violators returned to IDOC increases dramatically, such as during the “crackdown” associated with Operation Windy City, the length of time they

lengths of time served by those released in SFY 2011 after having been returned as a technical MSR violator, and also whether or not they were released back onto MSR or had to be discharged from IDOC custody. As seen in Table 3, for SFY 2011, and consistent for most of the time period examined, those returned as technical violators with a more serious felony class of the crime that originally resulted in being sentenced to IDOC, the more likely the released technical MSR violator was to be released back onto MSR and the longer they served in IDOC for the technical MSR violation. For example, more than one-half (52.7 percent) of those originally sentenced for a Class X felony (one of the most serious and carrying a 3 year period of MSR) and released as a technical violator in SFY 2011 were released back onto MSR and served an average of 119 days for their technical violation. On the other hand, less than one-third (30.1 percent) of the technical MSR violators released in SFY 2011 who were originally sentenced to IDOC for a Class 4

spend in IDOC is shorter than during periods when the number of technical violators returned to prison goes down or is low, such as when IDOC’s Parole Division implemented their sanctioning matrix, and these patterns may be related to the severity/seriousness of the technical violation that resulted in the return to prison. Finally, some of the patterns in the length of time technical MSR violators spent in IDOC seen over the period from FY 1989 to 2011 may also reflect changes in PRB practices and policy as PRB members and Chairs of the PRB changed over time.

Table 3: Statutory MSR Lengths, Number of New Prison Exits onto MSR, and Technical Violator Returns to ID

Original Felony Class	Technical Violators Released in FY 2011	Mean/Median Length of Stay for Technical Violation in Days	Percent of Violators Released Back onto MSR
Murder	129	69 / 424	58.8%
Class X	1,014	119 / 402	52.7%
Class 1	1,468	109 / 214	44.7%
Class 2	3,203	108 / 190	45.3%
Class 3	1,522	84 / 177	32.3%
Class 4	2,907	85 / 118	30.1%
Domestic Violence *	224	103 / 137	27.2%

*Domestic violence offenses also included in their respective felony classes above, and therefore are duplicative of the technical violators included in the other felony classes.

The Overall Impact of Technical MSR Violators on IDOC Admissions, Exits & Population

Summarized in Figure 3 is the proportion of total IDOC admissions, exits and the end of the fiscal year population accounted for by technical MSR violators. During much of the 1990s, when parole staffing levels were relatively low and court admissions to IDOC were increasing at unprecedented levels, technical MSR violators accounted for a relatively small percent of all IDOC admissions—5 percent or less from FY 1993 through 1997. However, as a result of the increased numbers of parole agents and the numerous changes to MSR policy and practice described above, the sheer number and rate of technical MSR violators increased dramatically in the late 1990s and into early 2000. Since SFY 2001, the number of technical violators returned to IDOC has been relatively large in number (ranging from roughly 7,000 to nearly 11,000 each year), and annually has accounted for between 20 and 30 percent of all IDOC admissions. Indeed, in recent years the increase in technical MSR violators admitted to IDOC has run counter to the decrease in sentences to IDOC (i.e., individuals sentenced to prison by the courts).

However, those returned to IDOC as technical MSR violators serve relatively short periods of reincarceration, particularly compared to sentenced inmates. As a result, the proportion of exits from prison accounted for by technical MSR violators closely mirrors, both in trend and percent, the percent of admissions accounted for by

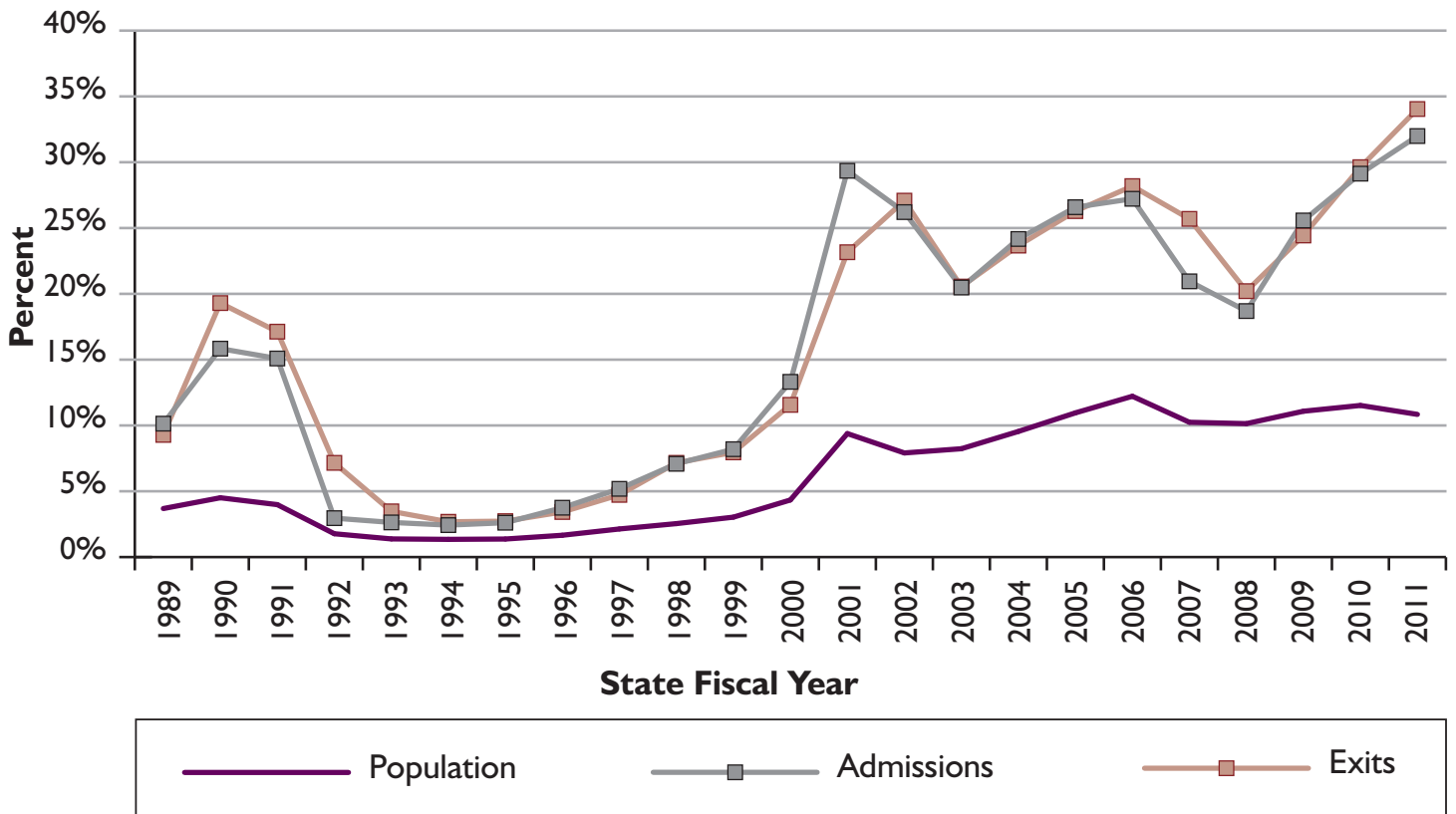
technical MSR violators. During FY 2011, technical MSR violators accounted for roughly 32 percent of IDOC admissions and 34 percent of all exits from IDOC. Further, because of the short period of time technical MSR violators spend in prison, and their high rate of turnover in the IDOC population, they accounted for “only” 11 percent of the IDOC population—roughly 1 out of every 10 inmates-- during most of the period from 2001 to 2011. Still, this translates to more than 5,000 inmates at the end of FY 2011 in prison for a technical MSR violation, and a large number of admissions that must be processed through IDOC’s Reception and Classification Center and transferred to prisons throughout the state for their relatively short period of incarceration.

General Conclusions

Between FY 1989 and 2011, the number of technical MSR violators returned to IDOC has fluctuated dramatically, and has been influenced by the number of people released onto MSR, parole staffing levels, changes in IDOC and PRB practice and policy, as well as changes to Illinois law that requires revocation of MSR under specific circumstances. In some instances, these changes to policy or practice were the result of specific incidents and resulted in short-term, dramatic increases in the number of technical MSR violators returned to prison, while others resulted in more gradual, but still substantive, changes. As a result of the combined effects of all of these changes, 20 percent to 31 percent of all admissions to prison in Illinois over the past 10 state fiscal years have been for technical MSR violations, accounting for roughly one out of every 10 people housed in Illinois’ prisons since 2001. Ultimately, these MSR violators spend relatively short periods of time in IDOC—typically less than 3 months—and are then released from prison without any additional supervision due to having spent the remainder of their MSR time in prison on the technical violation.

However, detailed analyses of all those returned to prison as technical MSR violations in August 2011 revealed the complexity of issues and reasons for their return on technical violations. Specifically, the majority of those returned to IDOC as technical violators were the result of either specific IDOC policies or legislative requirements regarding the release of sex offenders to approved host sites, new arrests for crimes of violence, or violations of electronic monitoring, which is one

Figure 3: Technical violators as a percent of admissions, exits and population



of the most stringent requirements based on IDOC's sanctioning matrix. Almost three-quarters of all the technical violators returned to prison fell into one of these three categories: gate violators with no approved host site, new arrests for violent crimes (including arrests for domestic violence offenses that require revocation under PA 96-282), or violations of electronic monitoring. Of the remaining violations resulting in returns to IDOC, most involved multiple violations (i.e., new arrests for non-violent crimes PLUS other technical violations).

Finally, the analyses also point to the importance of basing decisions regarding the length and conditions of MSR supervision, and the response to technical violations of MSR, on more than just the conviction offense of the individual being released from IDOC. The fact that all of Illinois' policies regarding the length of MSR supervision are based on the felony class of the conviction offense, and not the risk or needs of the individual being released, potentially results in high-risk offenders being supervised for short periods of time and, if returned as a technical violator to IDOC, released due to the expiration of the time left on MSR, not due to a reduction in risk, needs, or likelihood of recidivism. Similarly, this process

also results in individuals who may pose relatively little risk, with few needs and having gained significant assets while in prison (i.e., completion of substance abuse treatment, obtaining vocational training, etc) being supervised on MSR for longer periods than necessary. Similarly, the ordering of MSR conditions by the PRB without the benefit of a validated risk/needs assessment likely results in conditions being based, at least in part, on the conviction offense and not necessarily the risks or needs of the individual.

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This project was supported by Grant # 07-DJ-BX-0084 awarded to the Illinois Criminal Justice Information Authority by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and

not necessarily represent the official position or policies of the U.S. Department of Justice or the Illinois Criminal Justice Information Authority.