

Examining The Impact and Reasons for Technical Violations of Mandatory Supervised Release on Prison Admissions in Illinois

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Loyola University Chicago's Center for Criminal Justice, through the support of the John D. and Catherine T. MacArthur Foundation, collaborated with the Illinois Department of Corrections' Planning and Research Unit to examine the number, characteristics, and circumstances of individuals on Mandatory Supervised Release (MSR, or "parole") who violated conditions of their release and were returned to prison (i.e., "technical violators"). Over the past two decades, between 20% and 30% of all admissions to the Illinois Department of Corrections (IDOC) have been individuals returned to prison as MSR technical violators. Given the substantial impact of these technical violations on overall prison admissions in Illinois, this report examines the characteristics and circumstances that led to those returns to prison during state fiscal year (SFY) 2020 (July 2019 through June 2020). Specifically, the Loyola team analyzed detailed information for all those returned to prison due to technical MSR violations during SFY 2020 (N=5,052), and compared it to findings from similar research that was conducted with a one-month sample of technical MSR violator admissions in 2010 (see <https://spac.illinois.gov/publications/research-reports/msr-violators>).

What Did We Find?

- 1) The rate of technical violation admissions to IDOC has been relatively stable over the past decade, whether measured as a percent of admissions or as a percent of IDOC exits returned to prison within 3 years of release. Over the past two decades, technical violators have accounted for somewhere between 20% and 30% of all admissions to prison; similarly, between 20% and 30% of all of those returned to prison within 3 years of their release during this period have been returned as technical violators.
- 2) Although technical violators account for 20% to 30% of all admissions to IDOC, they tend to stay in prison for a shorter period of time than court-sentenced individuals. Over the past two decades they have accounted for a smaller proportion - between 7% and 12% - of the IDOC population.
- 3) Although the proportion of admissions accounted for by technical violators has remained relatively consistent over the past decade, the *number* of admissions for technical violations has decreased, consistent with the overall decrease in admissions to prison. During the 10-year period from 2010 to 2019 (pre-COVID), total admissions to prison fell 39%, with a 38% decrease seen in admissions for technical violations and a 40% decrease in court sentences.
- 4) Although previous research found wide fluctuations from month to month in the number of technical violators returned to prison during the 2001 to 2011 period, often due to politically-driven crackdowns, the only substantial change in admissions during the past decade occurred when COVID-19 dramatically reduced arrests and admissions to prison in Illinois.
- 5) Of those individuals returned to prison due to technical violations in SFY 2020, most (58%) were returned, at least in part, because of an *arrest* while on MSR, often for a violent crime or firearm possession offense.

6) One out of every 5 people (20%) “returned” to prison for technical violations in SFY 2020 did not have an approved place to live, and so were not in fact released at all (referred to as “gate violators” by IDOC). Most (84%) of those returned as gate violators had been serving prison sentences for sex offenses, a population that historically has challenges finding approved housing upon release from prison.

7) COVID-19 dramatically reduced the number of admissions to IDOC for technical violations and resulted in a shift in the nature of technical violations that resulted in admission to prison. While the percent of prison admissions accounted for by technical violations did not change between SFY 2011 and the portion of SFY 2020 that preceded the beginning of the COVID-19 pandemic, a *smaller* portion of those admitted in the pre-COVID part of SFY 2020 were for non-arrest violations and a *larger* share of admissions involved new arrest charge(s), particularly for violent and firearm possession offenses.

Introduction

Under Illinois’ sentencing structure, when individuals are sentenced to prison following a conviction for a felony offense, they are subject to a period of supervision following their release from prison. The length of this period of Mandatory Supervised Release (MSR) is determined primarily by the felony class of the offense that resulted in the sentence to prison, and generally ranges from 1 to 3 years. For individuals sentenced to prison for domestic battery offenses, their MSR period is 4 years, and for those sentenced to prison for specific sex offenses, their MSR period is a minimum of 3 years, but can last indefinitely. During this period of MSR supervision, individuals can be returned to prison if they violate conditions of their release, including conditions set by Illinois’ Prisoner Review Board (PRB) or standard conditions that all individuals on MSR must abide by (e.g., completion of ordered treatment, not committing new crimes, etc.). If an individual is returned to prison as an MSR violator, the PRB holds a hearing to determine if there is sufficient evidence to indicate a violation occurred, and if so, how long the individual will be held on the violation. However, an individual cannot be held in prison on an MSR violation for a period longer than the time remaining on their MSR period.

Over the past 30 years, the impact on Illinois’ prison admissions and population of people returned to prison as “technical violators” of their MSR conditions has varied considerably due to multiple factors, including: changes in the number of people released from prison onto MSR, changes in parole agent staffing levels, changes to Illinois Department of Corrections (IDOC) policy regarding how violations are handled, changes in the extent and nature of MSR conditions imposed by the Prisoner Review Board, and changes to Illinois law regarding how violations involving new arrest charges for specific types of crimes are handled. In 2010, the Illinois Sentencing Policy Advisory Council (SPAC) asked researchers at Loyola University Chicago and the IDOC to examine in detail technical violators returned to prison, in an effort to better understand the degree to which these individuals influenced the size and characteristics of the state’s prison admissions and population, and the reasons for these admissions. That report provided a detailed description of the history and evolution of admissions to prison for those who had technical violations of their MSR.¹ The purpose of this report is to provide an update, examining the extent to which the characteristics and volume of individuals returned to prison for technical violations has changed since 2010.

¹ See <https://spac.illinois.gov/publications/research-reports/msr-violators>

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 a “technical violator.” Admissions to IDOC for technical violations include all individuals who have been returned to prison not as a result of a new conviction and sentence imposed by a judge, but rather, for violations of conditions of their MSR. These violations can include: 1) having no approved housing site to be released to upon completion of the prison sentence (these are referred to as “gate violators” since they are not technically released from prison onto MSR, but rather are held on this new status due to this technical violation of MSR), 2) arrests for new criminal charges during the MSR period,² 3) violations of electronic monitoring (EM) or global-positioning-system (GPS) monitoring, 4) failure to report to their parole agent over a period of time (referred to as being absent without leave or “AWOL”), and/or 5) other non-compliance with MSR conditions (e.g., treatment requirements).

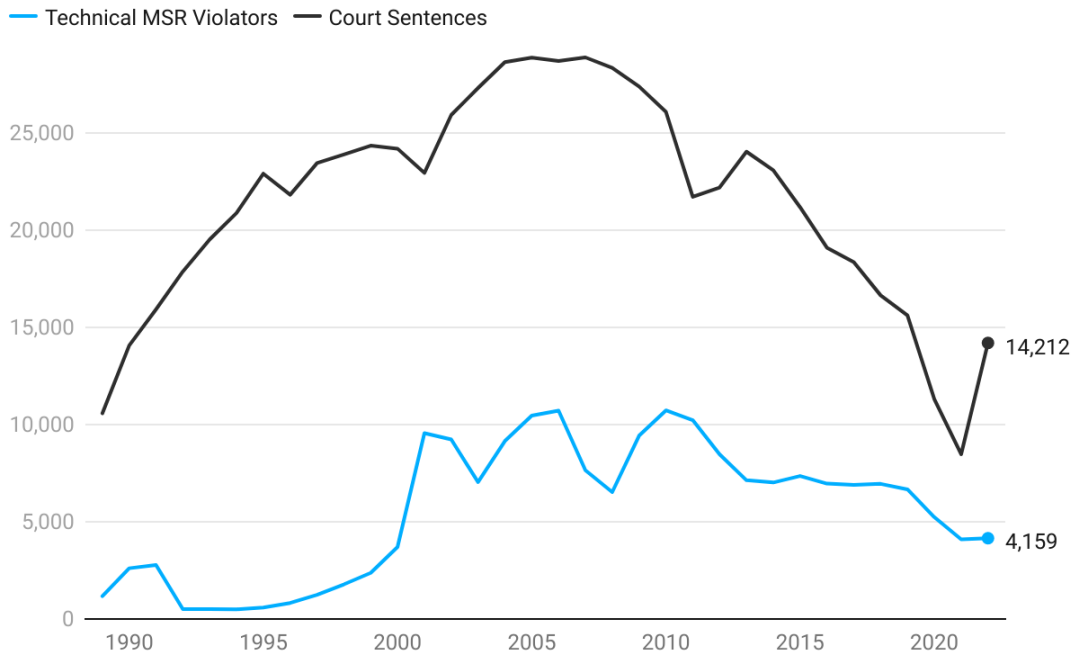
Placing Technical Violations into the Larger Context of MSR Populations, Prison Admissions & Prison Population

While looking at the sheer number of individuals returned to prison for technical violations provides insight into the issue, it is also important to place these numbers into the larger context of how many people are on MSR, the total number of admissions to IDOC, and IDOC’s total prison population. The number of individuals admitted annually to IDOC for technical violations has fluctuated considerably over the past three decades. These fluctuations can be attributed to changes in the number of individuals sentenced to and released from prison onto MSR, fluctuations in the number of parole agents employed by IDOC (during the 1990s), specific periods of more stringent enforcement of MSR conditions (during 2001, 2004-2006, and 2010), and the impact of COVID-19 on arrests and prison admissions.³ By contrast, since 2011, the number of admissions for technical violations has remained relatively stable, with the exception of the substantial decrease seen during the onset of COVID-19.

² For individuals returned as technical violators for new criminal charges during the MSR period, they may be held in an IDOC facility as the criminal case is heard in court. In these cases, the defendant/MSR violator will be transported back and forth to court, as necessary, for hearings associated with their case. However, they can only be held in an IDOC facility as a technical MSR violator until the end of what would have been their MSR period.

³ (For a more detailed description of these factors influencing technical violation admissions prior to 2011 see <https://spac.illinois.gov/publications/research-reports/msr-violators>.)

Number of Admissions to IDOC

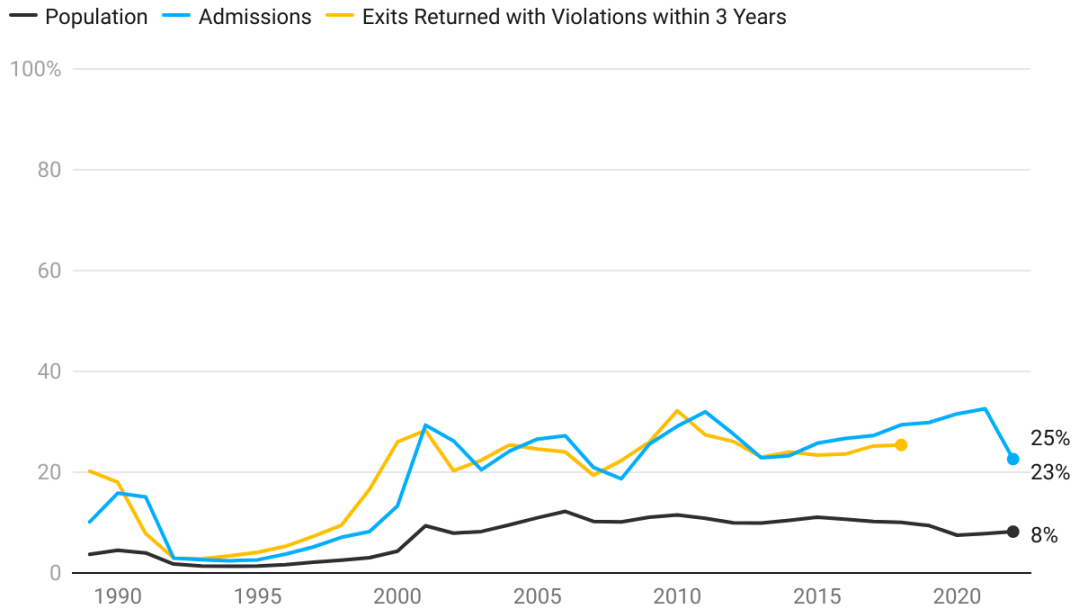


From 2012 to 2019, between 23% and 30% of all prison admissions were for technical violations of MSR. Beginning with the period of COVID-19 mitigation, when court admissions to IDOC were limited and decreased dramatically, the *proportion* of prison admissions for technical violations increased, accounting for 33% of all admissions in SFY 2021; this was true even though the actual number of technical violation admissions fell. For example, between SFY 2019 (pre-COVID) and 2021 (during COVID-19 mitigation), court admissions to IDOC decreased 46%, while admissions for technical MSR violations fell 39%. Because the decrease was larger for court than technical violation admissions, these technical violation cases accounted for an increased proportion of total admissions. Further, during the early COVID-19 mitigation period (e.g., March to June 2020), a larger and growing share—more than 40% of all technical violation admissions—were accounted for by gate violators (i.e., those that could not be released due to no approved housing site). For a more detailed description of the impact COVID-19 had on admissions to IDOC for technical violations of MSR, see section *The Impact of COVID-19 on Admissions to Prison for Technical Violation of MSR* below.

Similarly, the percent of individuals released from prison that were returned to prison within three years as a result of a technical violation of MSR also ranged between 23% and 26% from 2012 through 2018. However, individuals returned to prison for technical MSR violations tend to stay for much shorter periods of time than sentenced individuals. For example, of those exiting prison from 2020 through 2022, those that had been admitted as technical violators spent an average of 7.7 months in prison, compared to an average of 27.1 months among those who had been sentenced to prison. As a result, technical violators accounted for a much smaller, and decreasing proportion of the total prison population. Between SFY 2010 and 2019, technical violators accounted for 9% to 12% of the total prison population, and that proportion has remained at 8% since SFY 2020. Thus, since 2011, the percent of admissions accounted for by technical violations of MSR, and the percent of those released from prison returned for a technical violation, have both been stable—between 23% and 30%. Similarly, the

proportion of the total prison population accounted for by technical violators has also been relatively consistent, ranging from 8% to 12%.

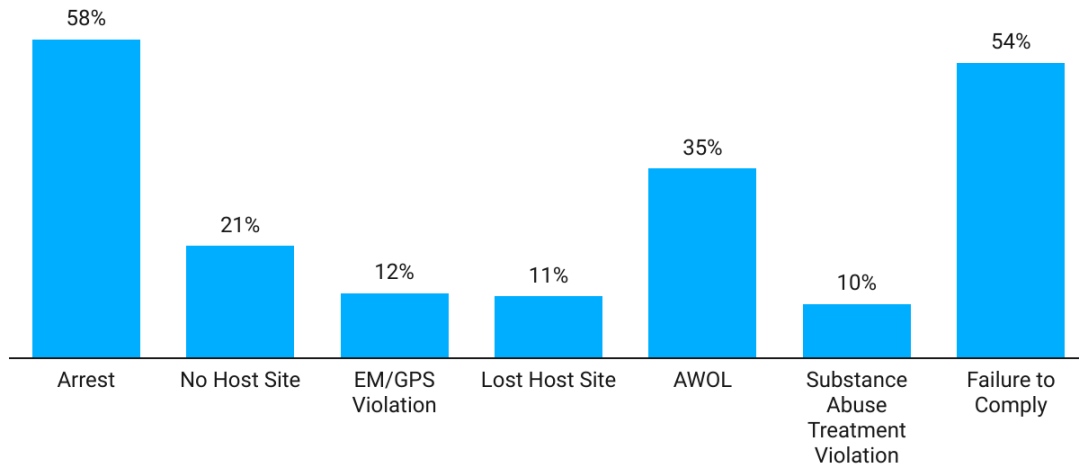
Technical Violators as a Percent of IDOC Population, Admissions, and Exits



Reasons for Admissions of Technical MSR Violators

Out of all the individuals returned to IDOC for technical violations during SFY 2020, 58% had a new arrest(s), 35% were noted as being AWOL, 21% had no host site, 12% had an EM/GPS violation(s), 11% lost their host site, and 10% had a violation of their substance abuse treatment condition(s). However, because individuals can have multiple violations noted in the warrant, these percentages add up to more than 100%. Further, some violations, such as not having a host site, will prevent an individual from being released at all, thereby eliminating the possibility of other violations.

Reasons for Technical Violations, SFY 2020

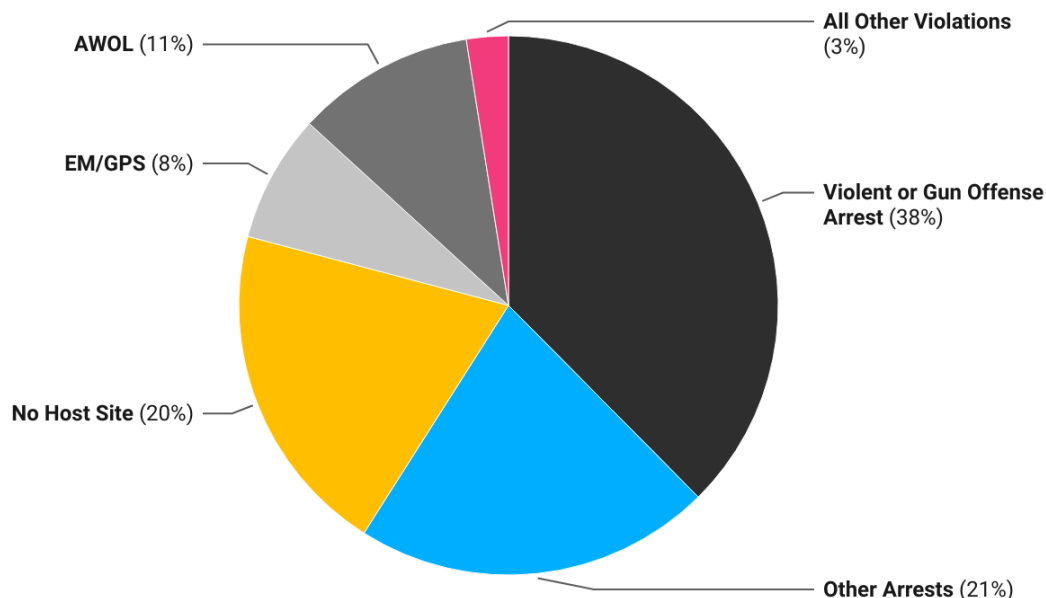


Because of these issues, we created a hierarchy to classify the reasons for return on technical violations to better understand what factors may be driving these admissions to prison:

- 1) No host site (no approved housing at time of release from prison)
- 2) Arrest
 - a. Arrest for a domestic violence offense (with or without other violations) (per state statute, since 2009, anyone on MSR arrested for a domestic violence incident must be returned to IDOC as a technical MSR violator)
 - b. Arrest for other violent offense (with or without other violations; excluding those with an arrest for a domestic violence offense)
 - c. Arrest for gun possession offense (with or without other violations; excluding arrests for domestic violence or other violent offenses)
 - d. Arrest for other offenses (with or without other violations; excluding arrests for domestic violence, other violent offenses, or firearm possession offenses)
- 3) EM/GPS Violation (excluding those with an arrest)
- 4) AWOL (excluding those with an arrest or an EM/GPS violation)
- 5) All other violations (e.g., lost host site, non-compliance with treatment; excluding those with an arrest, an EM/GPS violation or being AWOL)

Based on this hierarchy, roughly one in five (20%) technical violation admissions were for no host site (i.e., gate violators). Importantly, the vast majority (84%) of these individuals had been sentenced to IDOC for sex offenses, a population that is often unable to secure housing. This difficult to secure housing is due to sex offender registration requirement restrictions and stigma that may discourage family or friends from allowing the individual to live with them, or landlords to rent to them.⁴ Apart from consisting overwhelmingly of individuals sentenced to prison for sex offenses, almost all those in the no-host-site category were male, 60% had been sentenced to IDOC outside of Cook County, and 52% were over 40 years old.

Top-Ranked Reason for Technical Violations



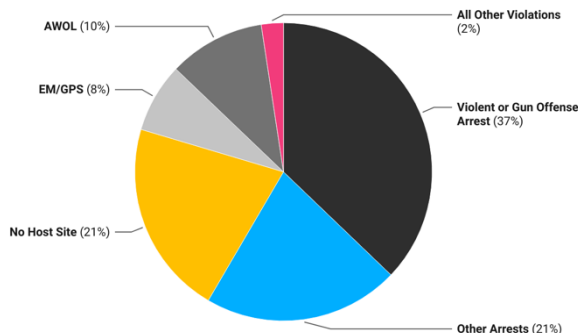
Of the individuals returned to prison as a technical violator, 58% had a new arrest(s) noted in the warrant for their return to custody. Out of all of those admitted to prison for a technical violation, 27% had an arrest(s) for a violent crime noted for the reason for their return to prison and 11% had an arrest(s) for a firearm possession offense. After taking into account those admitted for no host site or a new arrest, a relatively small proportion (8%) of those admitted to prison for a technical violation had an EM/GPS violation noted and roughly 11% were admitted for being AWOL. Thus, after taking into account all of these violations, only 2% of those returned to prison as technical violators were returned for only being non-compliant with treatment orders (e.g., substance abuse, sex offender, or domestic batterer treatment) or lost housing.

When separate analyses were performed for male and female technical violators, some differences were evident. First, a larger proportion of prison admissions of males than females were for technical violations (e.g., 32% of male IDOC admissions in 2019 were for technical MSR violations, compared to

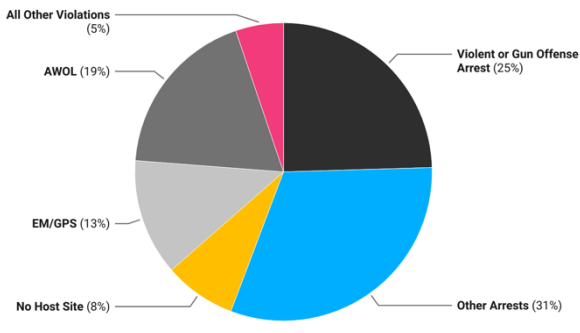
⁴ See Illinois’ Sex Offenses & Sex Offender Registration Task Force Final Report at <https://icjia.illinois.gov/researchhub/articles/sex-offenses-and-sex-offender-registration-task-force-final-report/>

18% among females that year). Differences were also evident when the reasons for technical violation admissions were compared. Generally, males were more likely to be admitted as technical violators for no host site than were females (21% vs. 8%, respectively). Roughly similar proportions of both males and females were admitted as technical violators for new arrests (58% vs. 56%, respectively), but males were more likely to be admitted for arrests involving violent charges (28% vs. 21%, respectively) and firearm possession charges (9% vs. 4%, respectively). On the other hand, a larger proportion of females (19%) than males (10%) were returned as technical violators for being AWOL.

Male - Top-Ranked Reason for Technical Violations



Female - Top-Ranked Reason for Technical Violations



Overall, the majority (58%) of individuals admitted to IDOC as technical violators during SFY 2020 had a new arrest charge(s) as at least one of the reasons noted on the warrant for their return to prison. However, this includes in the denominator the large group of “gate violators,” who are counted as technical violations admissions even though they were never actually released from prison. In order to determine the prevalence of arrests among technical violators who were actually released to the community, a separate set of analyses were performed that excluded these cases. When “gate violators” are removed from the analyses, almost two-thirds (63%) of technical violators were returned for a new arrest(s) (either alone or in combination with other technical violations), and half of these involved violent crimes. Even more specifically, almost 17% of all the non-gate technical violators returned during SFY 2020 were arrested for a domestic violence offense while on MSR, which under Illinois law requires return to prison as a technical violator.

Of technical violators who had a new arrest, the likelihood of having additional, non-arrest violations varied by the nature of the new arrest charge. For example, among those admitted with a new arrest for a domestic violence offense, other violent offense or a firearm possession charge, only 18% had other violations noted (e.g., being AWOL, EM/GPS violations, etc.). On the other hand, more than 54% of those admitted with any other arrest had other violations noted; for example, 50% of such admissions had being AWOL listed as a separate reason for their return to prison, a violation that likely *preceded* the arrest and was noted to provide more information to the PRB as they review the violation.

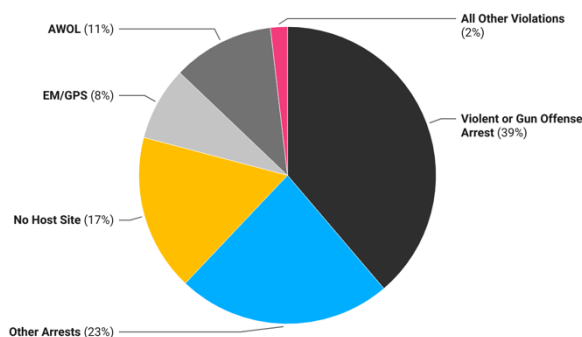
The Impact of COVID-19 on Admissions to Prison for Technical Violation of MSR

Because the data collected and examined for this project covered SFY 2020 (i.e., July 1, 2019 through June 30, 2020), it was possible to compare the rates and reasons for admissions of technical violators before and after the onset of COVID-19. COVID-19 mitigation efforts began in Illinois during March 2020. From February 2018 through February 2020, a steady monthly average of 567 individuals were admitted to prison for technical violation. By comparison, from March through June 2020, the monthly average

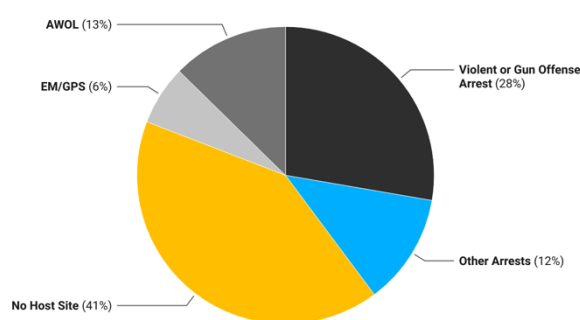
number of technical violation admissions fell to just 184 admissions per month – a 67% decrease. Monthly technical violator admissions rebounded somewhat thereafter, but continued at lower levels through SFY 2021 and 2022, when they averaged 344 admissions per month.

In addition to a dramatic drop in the *number* of admissions to IDOC for technical violations in the period coinciding with initial COVID-19 mitigation measures, a dramatic shift in the reasons for technical violation admissions also occurred. For example, although the overall technical violator admissions fell, a larger proportion of the technical violator admissions were for no host site (i.e., gate violators). In the pre-COVID period, 17% of all technical MSR violator admissions were gate violators, but during the March through June 2020 period 41% of the MSR violator admissions were gate violators. Conversely, the proportion of technical violator admissions where a new arrest charge was noted fell considerably; in the pre-COVID period, 62% of all technical MSR violator admissions had a new arrest charge, compared to only 40% among the March through June 2020 technical violator admissions. Thus, the onset of COVID-19 dramatically reduced technical violation admissions to IDOC, likely, in part, to the broader decrease in arrests in Illinois during that period, including among those on MSR.

Pre-COVID - Top-Ranked Reason for Technical Violations



COVID - Top-Ranked Reason for Technical Violations



Comparing the Rate & Reasons for Technical MSR Violation Admissions Over Time

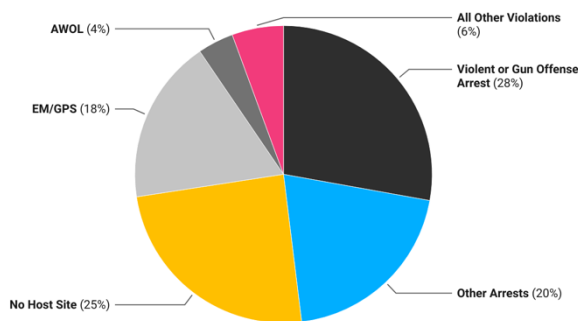
As mentioned earlier, the only previous attempt to examine technical MSR violator admissions to prison in Illinois took place more than a decade ago, when a sample of SFY 2011 technical violator admissions were analyzed.⁵ In order to determine if the rate and reasons for technical violator admissions have changed since then, comparisons were made between the SFY 2011 sample and the *pre-COVID* SFY 2020 cases. In SFY 2011, 32% of all IDOC admissions were accounted for by technical violations, which was exactly the same as during the period from July 2019 to February 2020 (the pre-COVID period of SFY 2020). Thus, the percent of total admissions to IDOC accounted for technical violations were the same between the two study periods.

Despite the similarity in the *proportion* of admissions accounted for by technical violators, the *reasons* for the technical violation admissions did change. Broadly, a *smaller* proportion of the technical violator admissions in pre-COVID 2020 were accounted for by *non-arrest violations* (38% of all technical violator admissions) than in the 2011 technical violator admissions (52% of all technical violator admissions). Specifically, substantive *decreases* were seen in the proportion of technical violator admissions accounted for by no host site (i.e., gate violators) between 2011 and 2020, falling from 25% to 17% of all

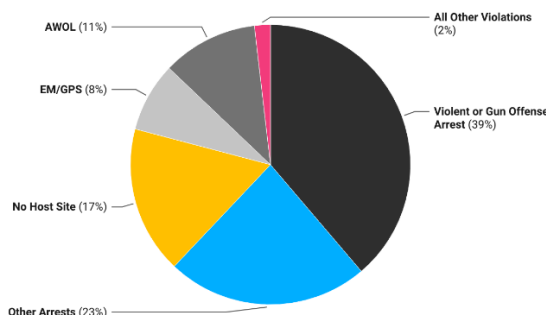
⁵ See <https://spac.icjia-api.cloud/uploads/SPAC%20Report%20MSR%20violator%209-13-20191127T16244660.pdf>

technical violator admissions. Similarly, the percent of technical violator admissions due to EM/GPS violations fell from 18% to 8% between 2011 and 2020.

2011 - Top-Ranked Reason for Technical Violations



Pre-COVID 2020 - Top-Ranked Reason for Technical Violations



On the other hand, a *larger* proportion of the technical violator admissions were accounted for by cases involving *new arrest charges*. In 2011, 48% of all admissions for technical violations involved a new arrest charge(s), compared to 62% in the pre-COVID 2020 cases. Further, much of this increase was attributed to a larger percent of technical violator admissions with arrest charges specifically for violent crimes and firearm possession offenses. In 2011, 23% of the technical violator admissions had a new arrest charge(s) for a violent crime, compared to 29% of the pre-COVID 2020 cases. Similarly, in 2011, just 5% of the technical violator admissions had a new arrest charge for a firearm possession offense, compared to 10% among the pre-COVID 2020 cases.

Thus, while the overall proportion of admissions to prison in Illinois accounted for by technical violators remained consistent at 32% between SFY 2011 and the pre-COVID period of SFY 2020, the reasons for individuals being returned to prison changed substantially. Specifically, while the problem of gate violator admissions continued (largely driven by barriers to housing for individuals with sex offense convictions), it appeared to become less of an issue over time. Similarly, the proportion of individuals admitted as technical violators with violations for EM/GPS violations also decreased, potentially indicating a reduced use of EM/GPS as a condition of MSR.

Methods

To examine the characteristics and circumstances for those individuals admitted to IDOC as technical MSR violators during SFY 2020, Loyola’s Center for Criminal Justice collaborated with the Illinois Department of Corrections’ Planning and Research Unit to obtain detailed information for the 5,244 admissions to IDOC for a technical violation of MSR. Although information regarding *who* was admitted for a technical MSR violation is readily available through IDOC’s existing information systems, information regarding the specific reason(s) for the technical MSR violation are recorded in narrative/text fields within the warrants issued by parole agents. Loyola worked with IDOC to obtain these narratives/text fields, and then coded all of the narratives/text fields to classify the violations into specific categories. These categories included: 1) no host site (AKA “Gate Violators”), 2) lost host site (i.e., while in the community the individual lost their previously approved host-site), 3) an arrest while on MSR, including the nature of the arrest charges, 4) a violation of electronic or Global Position System monitoring (i.e., EM or GPS violation), 5) failure to report to the parole agent over a period of time (i.e., AWOL), 5) non-compliance with substance abuse treatment orders, 6) non-compliance with some other

condition of MSR. Out of the 5,244 admissions to IDOC for a technical violation of MSR during SFY 2020, the Loyola research team was able to match warrant information/data to 5,053, or 96.4% of the cases.