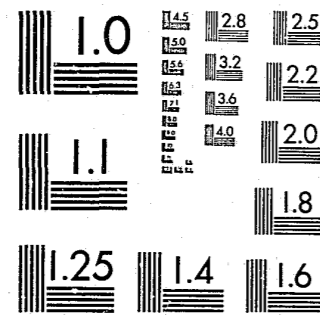


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FOR WANT OF A RECORD.....

PROBLEMS IN THE TRANSFER OF RECORDS FROM THE
COOK COUNTY JAIL TO THE ILLINOIS DEPARTMENT OF CORRECTIONS

by
Paul Bigman

A report sponsored jointly by the
Chicago Law Enforcement Study Group,
John Howard Association, and
Illinois Prisons and Jails Project

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I. INTRODUCTION

Roughly seventy percent of the men and women in the custody of the Illinois Department of Corrections are from Cook County. Each of these 7,500-8,000 prisoners was tried and convicted in Cook County. Unless they had enough money to post bond immediately upon arrest, each spent at least some time in the custody of the Cook County Department of Corrections prior to trial and sentencing. After being sentenced to a term in a State prison, they were moved from the Cook County Jail to the Reception and Classification center at either Joliet Correctional Center (for men) or Dwight Correctional Center (for women).

Officials of both the County and State departments of corrections have for some years been aware of serious problems related to the transfer of certain types of records from the County Jail to the State prisons. Outside organizations, such as the Illinois Prisons and Jails Project, have brought numerous examples of these problems to light. Yet despite repeated efforts by the two departments to deal with the situation, major difficulties persist.

This report is the result of a six week study conducted jointly by the Chicago Law Enforcement Study Group, Illinois Prisons and Jails Project and the John Howard Association. The effort drew upon the substantial experience of IPJP and JHA with Illinois correctional systems, as well as the research capabilities of the Study Group. Research was conducted primarily through personal interviews with authorities both within and outside the two correctional agencies.

It is not the intent of this report to affix blame for the difficulties described. The personnel involved in the transfer of records face trying working conditions, heavy workloads and inadequate funding. A major obstacle is simply poor communication among the agencies involved.

That the problems are systemic is, however, of little consolation to the men and women directly affected. This study has focused on two areas of particularly serious consequence: the failure to forward medical information concerning prisoners and the failure to transfer accurate accounts of the amount of time served by prisoners prior to their arrival at a State prison.

It should be noted that these are not the only problems relating to transfer of prisoners' records to the Illinois Department of Corrections. Many prisoners have had great difficulty in effecting the transfer of their money from the Cook County Jail inmates' trust fund; the responsibility for this difficulty cannot be clearly assessed without further study. Staff at the records offices in State prisons report that they have never seen copies of either the summary of facts prepared by the Cook County State's Attorneys or pre-sentence investigation reports prepared for the sentencing courts. These last two documents should form the basis for classification of prisoners. Prisoners' classifications can determine whether time is served in a maximum, medium or minimum security prison. In addition, a high security classification can adversely affect a prisoner's chances for parole or early release. Prison officials indicate that, given doubts as to which of two classifications should be assigned a prisoner, they will uniformly opt for the higher security classification to avoid the risk of potential disruption of lower-security facilities. The absence of fact summaries and pre-sentence investigation reports has almost certainly had a serious negative impact on many Cook County residents in the custody of the Illinois Department of Corrections.

While the report has discussed the specific situation in Cook County, the problems involved are by no means unique. Discussions with national experts in the field of corrections indicate that similar difficulties exist in many other States. Both the analysis of the causes of these problems and the recommendations for reforms are sufficiently generic to be of utility in numerous jurisdictions throughout the country.

II. NATURE OF THE PROBLEM

A. Medical Records

Medical records for inmates of the Cook County Jail are maintained at Cermak Memorial Hospital, the Jail's medical facility. These records may include such information as the results of diagnostic tests, serious on-going health problems, and data concerning needed medication or other treatment.

Each Friday morning a busload of male prisoners is sent from the County Jail to Joliet Correctional Center's Reception and Classification center (R&C). Because the number of women prisoners is small, there is no regular schedule for transfers to R&C at Dwight Correctional Center. Women prisoners are driven to Dwight whenever a carload is ready for transfer.

No medical information accompanies the prisoners transferred. Cermak is given no advance notice as to who will be shipped out on any given day. On the day of transfer, Cermak is supplied with a list of those already on their way.

The R&C medical personnel must rely on two sources for information on the medical histories of incoming prisoners: the prisoners themselves and telephone contact with Cermak. The most common source, and usually the first, is the prisoners. In certain types of cases, this can be reasonably informative. A diabetic or epileptic, for example, can generally identify the medical problem involved, if not the treatment received, while at the County Jail. But a person on life-support medication (for example, a diuretic to control malignant hypertension) can rarely provide precise information as to the nature or dosage of that medication. Moreover, the accuracy of such information is sufficiently suspect that no medical personnel could safely rely on it. Still more troublesome are cases in which an individual may be completely unaware of a serious medical problem, such as a low white blood cell count or a dangerous heart condition.

Cermak staff sometimes telephone R&C medical personnel to alert them to incoming prisoners with special medical problems. But this is by no means a regular procedure. A report from the Illinois Prisons and Jails Project noted that, in the week prior to its volunteers' April 19, 1979 visit to Joliet Correctional Center:

...there were three rather serious medical problems: a man whose jaw had been wired together after an injury, a man recovering from a kidney operation, and a man with one lung suffering from pneumonia. Reportedly, only in the case of the wired jaw was information phoned ahead to Joliet.

More recently, Joliet received a paraplegic from the County Jail with no advance notice. The problem is not new. Dr. Meyer Kruglik is a psychiatrist who has provided psychiatric services to the Illinois Department of Corrections since 1947. On April 15, 1977, Dr. Kruglik was deposed in connection with Joseph v. Sharp (76 C 1275, N.D. Ill.), a pending federal action brought on behalf of a young man who died in December of 1975 while a prisoner at Stateville Correctional Center. The following is an excerpt from Dr. Kruglik's deposition:

Q: Did you have an opportunity to confer with anyone from the County Jail, Cook County Jail, concerning Jones [the deceased] prior to his death?

A: Well, that is kind of a lost cause. We have tried any number of times to get information from the County Jail when they bring people in.

I remember one time quite a while ago asking to see someone that to a layman was obviously quite ill. I had his temperature taken. This was somebody that had just come from Cook County just off the bus with a temperature of 104 and a man in his late 40's, it was kind of unusual. I had listened to his chest, I heard a lot of--Well, to make a long story short what he had was something we don't see very often these days, tuberculous pneumonia, and no information whatsoever came in, and it is pretty characteristic.

I am sure you know that, and it is still going on, we don't get any information.

The frequent failure of Cermak staff to telephone Joliet Correctional Center's R&C is exacerbated, according to officials at the Illinois Department of Corrections, by the fact that calls regarding prisoners bussed to Joliet Correctional Center have often been made by Cermak staff to Stateville Correctional Center, a separate facility also located in the town of Joliet.

When medical problems of incoming prisoners are apparent to the R&C medical staff, either from physical evidence or from information provided by the prisoner, the staff will telephone Cermak for advice as to Cermak's knowledge of the problems. Cermak reports that such information can be obtained between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. Since prisoners generally arrive at either Joliet or Dwight well before noon, serious problems can usually be identified in time to call Cermak for necessary information.

This rather haphazard communication of medical data has three serious drawbacks. First, medical problems requiring prompt attention, such as the case referred to by Dr. Kruglik, may not be readily apparent, making timely treatment impossible. This may also result in interruption of what should be continuous treatment for a specific medical problem. Second, problems such as paraplegia require special advance preparation by R&C medical staff. Finally, the fact that no medical records are forwarded even after the arrival of the prisoners necessitates repetition of diagnostic tests. Medical personnel at both Cermak and the State Department of Corrections stressed the pointless waste of time and money involved when tests performed at Cermak are needlessly repeated. The Medical Services office of the Illinois Department of Corrections indicates that, in some cases, as much as six months are required to replicate all of the tests administered to a prisoner while at County Jail.

More seriously, unnecessary delays in the provision of medical treatment may have dire consequences for the health of the prisoner. As one State Department of Corrections official succinctly noted, "Someone could die."

In fact someone did die, although he was not from Cook County. Madden v. Kuehn, 56 Ill. App. 3d 997, 317 N.E. 2d 1131 (1978), is a pending action brought by the administrator of the estate of a prisoner from Stephenson County who died while at Vandalia Correctional Center. The prisoner suffered from familial periodic paralysis, a hereditary disease which creates a severe potassium deficiency. The State prison doctor, not having been given the prisoner's jail medical records, is alleged in the complaint to have negligently diagnosed and treated the disease. The prisoner had been in Vandalia before, and the court found that the county jail was not liable because the Illinois Department of Corrections should have been aware of the problem from earlier records and from information provided orally by the prisoner. But legal liabilities and niceties aside, had medical information accompanied the man, the result might have been very different. For want of a record, a life was lost. A sentence to serve time in prison should not be a sentence to physical deterioration or death.

Two other agencies are sometimes involved in the compilation and maintenance of medical records for Cook County residents awaiting trial. Within the past six months, Ward 75 of the Cook County Hospital has begun providing in-patient care for Cook County Jail inmates. When a prisoner is sent to the County Hospital, Cermak officials report that they send along a copy of the inmate's medical work-up. The Hospital in turn sends a copy of the patient's discharge summary back to Cermak with the inmate. While such summaries are less thorough than full medical records, they provide the basis for a reasoned medical analysis as to whether further data are required.

Pre-trial detainees whose capacity to stand trial is in question may be placed by the court in the custody of the Illinois Department of Mental Health and Developmental Disabilities (DMHDD). DMHDD will not release medical records without an authorization form signed by the individual in question. The Illinois Department of Corrections regularly uses such forms to request information regarding the number of days which a prisoner has been in DMHDD custody, but apparently rarely, if ever, requests medical information. Since a prisoner may spend literally years in a mental health facility prior to trial, this results in a loss to the State correctional system of access to what could be a substantial body of detailed medical information.

B. Time-served Records

From the moment the prison gates clang behind a prisoner, his or her foremost thought usually becomes, "How soon can I get out of here?" Receiving proper credit for every day of incarceration becomes a matter of utmost importance.

--Illinois Prisons and Jails
Project Report on Visit to
Joliet, 3/18/77

By the time prisoners reach an Illinois State prison, they have usually served at least a portion of their sentences. As discussed below, Illinois law provides that prisoners get credit on their sentence for all time spent in custody pertaining to the offense for which they have been sentenced. Virtually all State prisoners have spent time in a county jail of the county in which they were sentenced. Some have also been in the custody of the Illinois Department of Mental Health and Developmental Disabilities pending a determination of their fitness to stand trial. Those arrested out-of-State on a detainer for an alleged Illinois offense will have served time in a jail in the State of arrest. Occasionally, this may also entail a stay in a mental health facility in that State. Those sent to prison

for violating the terms of parole or probation are entitled to credit for the parole or probation time served prior to the issuance of the arrest warrant for the violation.

Illinois law requires the clerk of the sentencing court to provide the Department of Corrections with an accurate record of how many days should be credited to a prisoner's sentence prior to the prisoner's arrival at a State prison. Staff in the records offices at Joliet, Stateville, and Dwight Correctional Centers report that this procedure is rarely, if ever, followed by the Circuit Court of Cook County. The failure to automatically forward such information is compounded by the difficulty in obtaining the information subsequent to prisoners' arrival.

Prisoners arriving at Joliet or Dwight Reception and Classification centers from Cook County are transported by security personnel from the County Jail. These officers carry with them mittimus papers for each prisoner transported.¹ The mittimus papers are supposed to include information on the time which the prisoner has already served as a result of the charge for which he or she is now being sent to prison.

According to records office personnel at Joliet and Dwight, the mittimus papers for prisoners from Cook County show only the last continuous period of confinement in the County Jail. A prisoner who has been in and out of the County Jail or transferred between the various divisions at the Jail before coming to Joliet or Dwight will therefore not be credited with much of the time served. Information pertaining to time served in the custody of the Illinois Department of Mental Health and Developmental Disabilities, time served in another State on a detainer, or time served while on parole or probation is virtually never included. Moreover, when prisoners have been sentenced for more than one offense, there is frequently no indication as to whether the sentences are to be served concurrently or consecutively.

The problem is exacerbated by the procedure used by the Cook County Department of Corrections to assign identification numbers to prisoners in its custody. Each time a prisoner is admitted to either the Cook County Jail or the County House of Corrections, he or she is assigned a new number. Thus a prisoner incarcerated at the County Jail for a period of time prior to posting bond is given a new number upon readmittance following sentencing. Similarly, an individual in the custody of the County Department of Corrections who is sent to a mental health facility is assigned a new number upon return to the County Jail. Records office personnel at the County Jail indicate that even prisoners sent out for the day to see an outside physician are sometimes officially discharged from the Jail, then given a new number upon their return.

1. Mittimus papers contain information pertaining to the offense for which the prisoner has been convicted and the sentence imposed as a result of that conviction.

Both the Cook County Department of Corrections and DMHDD have established procedures to provide verification of time served to the State prison system upon receipt of completed form requests (see Apps. C,D). These forms are supplied to incoming prisoners not only at the Joliet and Dwight R&C centers, but also at the other Illinois correctional centers. At Joliet R&C the forms are distributed to every incoming prisoner. Department of Corrections staff explain to the men the importance of filling out the forms, as well as the procedures involved. Joliet records office personnel estimate that approximately half of incoming Cook County prisoners complete the forms at this time.

Dwight R&C goes a step further. Each incoming Dwight prisoner fills out the form upon arrival at Dwight. The verification requests are then sent to the Cook County Jail and DMHDD.

The County Jail will not respond to verification requests sent directly by inmates. Jail personnel indicate that they are unable to deal with the volume of such requests, and must limit their responses to those requests forwarded by correctional personnel. Yet even these requests frequently go unanswered. Records office personnel at Stateville stated that the County Jail simply "doesn't answer letters," and that the Stateville records office has frequently sent four or five letters for the same prisoner with no response. At Dwight, records office workers describe the difficulty with getting information from the County Jail as "terrible." Reflecting the sense of frustration among records office personnel in the State prisons, an official in the Joliet records office complained that they "can't do anything unless you get people who are competent and concerned" at the County Jail. One high ranking State correctional official lamented, "I don't understand how Cook County Jail and DMH can afford to be so cavalier about our requests."

The frustration is easy to understand. The Stateville records office estimates that fully 80% of residents admitted to Stateville from Cook County lack complete records of their time served. Estimates were somewhat lower at Dwight and Joliet.

The consequences of this failure to transfer accurate records can be severe. At Joliet Correctional Center, which generally houses younger men with shorter sentences than those at Stateville Correctional Center, the records office indicated that there are usually one or two men each week who remain in prison beyond the date on which they should have been released. Worse still, a significant portion of these are men still in Reception and Classification, a process which takes from one to four weeks. These are men whose prison sentences were almost or entirely served before they were sent to Joliet from the County Jail.

Staff at all three State institutions surveyed related no comparable problems with obtaining time-served information from jurisdictions other than Cook County. Other Illinois counties often send verifications of time served with the prisoners. If no verification accompanies a prisoner, there is apparently little problem with getting the information by mail. Requests to out-of-State institutions regarding time served while held on a detainer are often answered only after significant delay, but rarely require more than one letter.

State correctional staff report that the Department of Mental Health and Developmental Disabilities is usually responsive to requests for time-served information, providing the prisoner in question has submitted a signed authorization for the release of the information. As with requests to out-of-State facilities, however, there is usually a delay of some weeks before a request is answered. One of the most frequent criticisms of DMHDD procedures is evidently unwarranted, and reflects the surprisingly poor communication among the agencies involved. State prison officials contacted uniformly believe that, to obtain time-served information for prisoners who have been housed in more than one mental health facility, it is necessary to request verification from each facility involved. Mental health department officials report that, in fact, the last institution in which the prisoner spent time has complete information on time spent in DMHDD custody and can provide a thorough accounting of the number of days involved. Moreover, they indicate that this information is also available from the Department's offices in Springfield.

Clearly, many State correctional records staff view their counter-parts at the County Jail as indifferent to the records transfer problem. Yet it is difficult to imagine how the Jail's record office could operate efficiently under current conditions. When prisoners are discharged from the Cook County Jail, their records are placed in the Jail's dead records office. Although many of these records are needed to provide accurate time-served information, they are stored in worn cardboard boxes, some literally falling apart. Records are boxed alphabetically by year. Until last year, these boxes were kept in a damp, dark basement, resulting in significant damage due to water seepage. They are now in an unheated, unpainted, cement-floored room. To further complicate the task of the largely female dead records office staff, the only access to women's toilet facilities is past the area in which incoming prisoners shower.

The Jail's computers have inadequate disc space to store dead records. Pertinent information in a Jail inmate's file is kept in the computer while the inmate is at the Cook County Jail. At the time of the prisoner's transfer, this information is removed from the computer. Microfilm equipment has been obtained but, due to inadequate funding for needed personnel, remains in the shipping cartons. Two years ago file cabinets were delivered for storage of dead records. The cabinets are too

narrow for the legal-sized records, however, and staff are laboriously engaged in cutting down the records to fit the cabinets.

Only three clerks are assigned to work in the Jail's dead records office. Yet staff indicate that the workload requires a minimum of six full-time workers, and perhaps as many as twelve. Moreover, these three clerks must interrupt their work to answer incessant telephone calls.

The Jail's practice of assigning more than one identification number to the same prisoner makes correlation of records difficult. This is aggravated by the use of aliases by many prisoners, resulting in records for the same individual being maintained under different names as well as different identification numbers. Most records contain the prisoners' indictment numbers. But this is less than reliable as a means to correlate records. First, records from the time of arrest may, if the individual made bond prior to indictment, contain only the arrest number, but no indictment number. Second, a prisoner in on more than one count may have records in separate files containing different indictment numbers. In short, the Jail currently has no way to ensure accuracy in compilation of time served within its walls. The situation is compounded for those who are entitled to credit for time served in any other institution.

A number of staff at the Cook County Jail offered an explanation for the failure of county officials to properly accumulate and transfer time-served records: At each step of the process, personnel who are in a position to obtain and record time-served information have no vested interest in the accuracy of the information. Problems which arise concerning a prisoner's sentence will be the headache not of County officials, but of State officials who will be the ones accused of holding a man or woman who should be at liberty. No one has suggested that the County workers' lack of future use for time-served records results in any conscious indifference on their part. But because these Jail personnel often lack an overview of the importance of the information, they may have inadequate incentive for ensuring the accuracy of pertinent records.

Two other problems relating to credit for time served bear mention. An official at Joliet Correctional Center estimates that as many as ten percent of the men received there for violation of parole are not initially given proper credit for the time they spent on parole. Prison staff were critical of Cook County parole officers for failing to ensure inclusion of such information in relevant documents.

Second, often there is no indication on a prisoner's mittimus papers as to whether multiple sentences are to be served concurrently or consecutively. Staff at State prison records offices maintain that, absent a notation that the sentences are to be served consecutively, there is a presumption that

the sentences are intended as concurrent. Jailhouse lawyers and some prisoner advocates recall instances in which they believe a contrary policy was followed. There seems to be little question, however, that, if such instances occurred, they were the exception to usual practice.

The failure to provide the State Department of Corrections with accurate records of time served has three major consequences. First, men and women remain imprisoned past the time that, according to the sentence imposed by the court, they should have been released. In some particularly striking cases, an individual may have actually served his or her entire prison sentence prior to imposition of that sentence. This is most likely to occur when a prisoner has spent extensive time in mental health facilities prior to trial, pending determination of fitness to stand trial. An example of this situation is the case of Willie Nunn. Nunn was sentenced in November of 1977 to a term of six years to six years and a day, following nearly seven years of pre-trial custody by the Department of Mental Health. By Illinois law, he had already served his entire sentence. Yet he was returned to the County Jail and sent on the bus to Joliet. Two months later, in disciplinary segregation at Stateville, Nunn spoke with a representative of the Illinois Prisons and Jails Project. He was subsequently released in late January of 1978. The sentencing judge in Nunn's case, James M. Bailey, commented that "the courts have to be honest with these guys. It's bad enough to try to rehabilitate them with our prisons but if they can't get justice.... I don't know."

The Department of Corrections has developed a procedure for processing people whose prison time is served at the time sentence is imposed on them. Written policy (see Appendix E) calls for transportation of such individuals from the Cook County Jail to the Office of Adult Parole Services in the State of Illinois Building at 160 North LaSalle Street, in Chicago. There, the prisoners are to be processed and released on parole. This procedure seems an efficient means of dealing with criminal defendants to whom it applies. Unfortunately, it clearly has been under-utilized.

The situation involving transfer of accurate time-served information is sufficiently confused that, while no instances were cited, the possibility exists for release of a prisoner before his or her sentence ends. Joliet record office personnel indicate that they have received mittimus papers under aliases for men apparently in their custody. Extensive work is necessary to determine on which prisoner the time indicated by those papers is to be imposed.

The second major consequence may be of less concern to the prisoners affected. Problems related to the transfer of time-served records are an enormous waste of taxpayers' money. The cost to house a single prisoner in Joliet Correctional Center

for the year of 1978, for example, is estimated by the Illinois Department of Corrections at \$7,401. At Dwight the figure is \$11,507. This means that the custodial costs for Willie Nunn alone amounted to over \$1,200 during a period when he should not have been in prison. That figure doesn't take into account the pointless expenditure of funds to transport Nunn from Chicago to Joliet, then to Stateville; nor associated costs involved in processing new prisoners.

Data are not available at this time as to the average length of time that prisoners affected remain past their proper release date. As indicated above, officials at Joliet Correctional Center estimate that one or two men a week at that facility find themselves in this situation. If the average stay beyond that time is a mere five days, however, the cost for Joliet Correctional Center alone could be over \$8,000 this year solely for unnecessary and, in fact, illegal custodial care for 75 men; if the average is a month, the waste on custodial care alone will be about \$50,000. This, of course, represents only one type of cost at one institution, Joliet Correctional Center, although as the reception center for male Cook County prisoners it may have the most severe problem.

The custodial costs for those prisoners who actually serve extra time represent only a small portion of the wasted money. Records office staff at the County Jail, the State prisons and the Department of Mental Health and Developmental Disabilities must spend countless hours trying to track down the information necessary to confirm complaints that inmates are not credited with time served. Significant demands are also made on the time of the legal staff of the various agencies, the Office of Advocacy Services of the Illinois Department of Corrections, the Prison Review Board, court personnel, publicly-financed legal services programs, wardens, assistant wardens, correctional counselors, staff in the Springfield and Chicago offices of the relevant State agencies--in short, anyone whom a desperate prisoner believes might be able to help.

Perhaps the most serious consequence, however, is one that cannot be measured. Under the best of circumstances, a prison is rarely a pleasant place to be, either for the prisoners or for the staff. The atmosphere is greatly worsened by the inability of the institution to determine when a prisoner is entitled to be released. One official of the Illinois Department of Corrections described the resultant environment as one of "hopelessness, helplessness for both staff and residents.... A guy who was supposed to be out yesterday, he's going to hurt somebody." Staff at the prison records offices are frustrated and demoralized by what often seems to be a near-impossible task. Worse still is the effect on prisoners who rightfully feel that they have served the sentence imposed by the court and are entitled to reclaim their position in free society. If obeying the rules pays no dividends, hopelessness and helplessness may give way to anger and violence.

III. RELEVANT STANDARDS AND LAW

A. Medical Records

Illinois Revised Statutes, Chapter 51 §5.1 prohibits the disclosure by a physician or surgeon of "any information he may have acquired in attending any patient in a professional character, necessary to enable him professionally to serve such patient," except under certain specified circumstances. Such information may, however, be released "with the expressed consent of the patient." Indeed, Chapter 51 §73 requires a physician to permit examination of a patient's records by the patient's physician or attorney upon the patient's demand. In the absence of specific authorization by a prisoner, then, it is not clear that any medical information may be legally transferred from Cermak to the State prisons.

The most recent tentative draft of the "American Medical Association Standards for Health Services in Jail" includes, as Standard 135, the following:

Written policy requires that summaries or copies of the health record are routinely sent to the facility to which the inmate is transferred. Written authorization by the inmate is necessary for the transfer of health record information unless otherwise provided by law or administrative regulation having the force and effect of law. Health record information is also transmitted to specific and designated physicians or medical facilities in the community upon the written authorization of the inmate.

This position by the A.M.A. would seem to recommend adoption of law or administrative regulations ensuring routine transfer of medical information from pre-sentence detention facilities to State prisons.

The A.M.A.'s comment on proposed Standard 135 raises precisely the sort of questions addressed in this report: "An inmate's health record or summary follows the inmate in order to ensure continuity of care and to avoid the duplication of tests and examinations."

This view is echoed in a monograph entitled "Health Care in Jails: Inmates' Medical Records and Jail Inmates' Right to Refuse Medical Treatment," by William Paul Isele, Staff Attorney with the Office of the General Counsel of the American Medical Association. Isele comments that "when either the inmate or the physician permanently leaves the institution, medical records should be provided to the successor physician."

Medical information is provided by Cermak staff to medical personnel at the State prisons, albeit rarely in written form. If it is the interpretation of the courts that such transfer of information is in violation of Chapter 51 §5.1, an insurmountable burden might be placed on provision of adequate medical treatment for prisoners. Provision is already made in the Unified Code of Corrections (Illinois Revised Statutes, Chapter 38, §1003-8-2(b)) for transfer of medical information within the Illinois Department of Corrections. Doubts about the transfer of medical information from Cermak to State prisons could be resolved either by the use of an authorization form analagous to that used by the Department of Mental Health and Developmental Disabilities, or through appropriate legislation.

It is possible that the failure to transfer medical information could result in a finding of liability for serious medical injury to a prisoner. The United States Supreme Court, in Estelle v. Gamble, 429 U.S. 97 (1976), held that "deliberate indifference to serious medical needs of prisoners constitutes the unnecessary and wanton infliction of pain proscribed by the Eight Amendment...[and] states a cause of action" under 42 U.S.C. §1983 (429 U.S. at 104-105). The "deliberate indifference" standard is high, but conceivably could be applied to failure to notify a successor physician of a life-threatening situation.

The case of Madden v. Kuehn, 56 Ill. App. 3d 997, 372 N.E. 2d 1131 (1978), has been discussed above. In that case the Stephenson County officials were held not liable on the grounds that the medical information was already contained in State records and had been orally conveyed to the State officials by the inmate. The plaintiff in Madden had not made alternative pleadings regarding the liability of the County officials, resulting in dismissal of the suit as applied to those County officials, since their failure to provide the information in question was not, in light of the Department's constructive knowledge of the problem, held to be negligent. It should be noted, however, that had the deceased not been in the custody of the Illinois Department of Corrections three years earlier, the County officials might have been held liable for their failure to forward vital medical information.

New York State has adopted legislation requiring that medical records be transported with a jail inmate transferred to a State prison:

Hereafter whenever a person is convicted of a felony or of any of the offenses specified in section five hundred and fifty two, before sentencing such person the court shall have before it the fullest information available as to the previous criminal record, if any, of such person, as well as his social history, including any reports that may have been made as a result of a mental, psychiatric or physical examination of such person. Such information, with a copy of the prisoner's fingerprints duly certified by the clerk of such court, in a sealed envelope, shall accompany such person to the prison, reformatory, penitentiary or other penal institution in which he is to be confined; and shall be brought to the attention of the head of such institution at the time of the prisoner's arrival and shall remain there while the prisoner is therein confined. (emphasis added)

N.Y. Crim. Proc. Law §943
(McKinney)

Even in the absence of such legislation in Illinois, however, current State law (Illinois Revised Statutes, Chapter 38 §1005-4-1(e)(6)) provides a means for judges to ensure the transfer of medical information:

The clerk of the court shall transmit to the department, agency or institution, if any, to which the defendant is committed, the following:....(6) all additional matters which the court directs the clerk to transmit.

Although the current failure to transmit information specifically required to be transferred by Chapter 38 §1005-4-1 (see below) does not bode well for such a solution, it is a possibility which might be explored by the court.

B. Time-served Records

Illinois Revised Statutes, Chapter 38 §1005-4-1(e)(4) requires the clerk of the circuit court to provide the Illinois Department of Corrections with, among other information, the following for each person assigned by the court to a State prison:

...the number of days, if any, which the defendant has been in custody and for which he is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff...

Chapter 38, §1005-8-7(b) provides that

The offender shall be given credit on the determinate sentence or maximum term and the minimum period of imprisonment for time spent in custody as a result of the offense for which the sentence was imposed.

This provision has been held explicitly to apply to time spent in the custody of a county jail, People ex rel. Herring v. Woods, 37 Ill. 2d 435, 226 N.E. 2d 594 (1967), and People v. Pugh, 49 Ill. App. 3d 174, 363 N.E. 2d 1212 (1977); time in an Illinois State mental health facility, In re Estate of Schneider, 130 Ill. App. 2d 440, 264 N.E. 2d 805 (1970); time served in an out-of-State jail while on detainer, People ex rel. Bradley v. Davis, 17 Ill. App. 3d 920, 309 N.E. 2d 82 (1974); and time spent in an out-of-State mental health facility while on detainer, People v. Williams, 23 Ill. App. 3d 127, 318 N.E. 2d 962 (1974).

Chapter 38, §1003-3-9 specifically provides for credit for time spent on parole, prior to violation of the terms of that parole. This has been repeatedly applied by the courts; for example, see People v. Banks, 42 Ill. App. 3d 318, 356 N.E. 2d 121 (1976), or People v. Knowles, 48 Ill. App. 3d 296, 362 N.E. 2d 1087 (1977), for recent decisions.

The United States Court of Appeals for the Fifth Circuit has handed down two decisions of particular relevance to prisoners' rights regarding release at the end of the sentence imposed. In Whirl v. Kern, 407 F. 2d 781 (Fifth Cir. 1969), the plaintiff remained in jail for nine months after dismissal of all indictments against him because the indication of dismissals had been "lost in a shuffle of papers" (407 F. 2d at 786) by the Sheriff's office. Whirl brought an action for violation of civil rights under 42 U.S.C. §1983 and the Texas law of false imprisonment. The court found that improper motive is not a prerequisite to a successful action under §1983 and charged the Sheriff with a statutory duty to know his prisoners' sentence times.

More recently, in Byron v. Jones, 530 F. 2d 1210 (Fifth Cir. 1976) (en banc), cert. den., 429 U.S. 865, the court discussed an inmate who, because of a typographical error, was retained in custody after dismissal of indictments. The court held that

In a case such as this one, where there is no discretion and relatively little time pressure, the jailer will be held to a high level of reasonableness as to his own actions. If he negligently establishes a record keeping system in which errors of this kind are likely, he will be held liable. But if the errors take place outside his realm of responsibility, he cannot be found liable because he has acted reasonably and in good faith. (emphasis added) (530 F. 2d at 1215)

The Byron court recognized the defense of reasonable good faith established in a number of recent United States Supreme Court decisions, including Wood v. Strichland, 420 U.S. 308 (1975), and O'Connor v. Donaldson, 422 U.S. 563 (1975). Whether a showing of reasonable good faith could be made with regard to efforts at the Cook County Jail is difficult to determine; certainly the Jail operations could not be generally described as involving "relatively little time pressure."

In sum, it is not clear whether an action brought against the Cook County Department of Corrections for failure to transfer accurate information regarding time in their custody would succeed. But it is clear that the provisions of existing Illinois law are not being followed, with the grim results described in this report.

IV. ATTEMPTS TO DEAL WITH THE PROBLEMS

A. Medical Records

The most common approach to coping with the lack of a formal procedure for transfer of medical information has been, and continues to be, the telephone communication already described. As noted, most of the telephone contact is initiated by personnel at Joliet or Dwight after prisoners have arrived from the County Jail. The problems with this telephone system have been outlined above.

In the past, Cermak, upon notification by the Jail of the names of inmates transferred to Joliet or Dwight, prepared a medical summary for each prisoner who had serious medical problems (see Appendix A). This summary included diagnostic information, including the results of significant tests. Such summaries were provided for approximately half of the prisoners transferred, reflecting the proportion of prisoners found to have significant medical problems. One physician spent eight to ten hours a week preparing these summaries for prisoners transferred. Due to the lack of advance notification as to which prisoners were to be transferred, the reports were sent to Joliet or Dwight with the next shipment of prisoners. In the case of Joliet, this resulted in a one week delay following the arrival of a prisoner before his medical summary, if any, was received. The practice has been discontinued due to lack of funds, according to Cermak officials.

The office of Medical Services of the Illinois Department of Corrections has developed a proposal for computerizing medical information. Terminals for entry and retrieval would be installed at Cermak as well as in State correctional facilities. In order to maintain the confidentiality of the records, information would be available only to medical personnel. The plan called for development of a standardized battery of diagnostic tests. Only results indicating medical problems would be entered into the computers, minimizing the storage space needed. The printout would then list the entire battery of tests, identifying which tests had suggested problems. The proposal has not been funded, and is currently dormant.

B. Time-served Records

The Illinois Prisons and Jails Project has repeatedly brought to the attention of correctional agencies the difficulties resulting from the failure of Cook County officials to forward accurate information concerning time served to the State prisons. Following a March 18, 1977 visit to Joliet, IPJP noted that:

...frequently county authorities do not forward verification of all jail time. Very often, repeated requests from the Joliet record office, from the inmate and from legal assistance groups are necessary before the time is properly credited.

On this visit, as the committee moved down the tiers in the reception center, the problem of time credit arose again and again, one man claiming that he was already overdue for release from his sentence of one year to one year and a day, having served 10 months in the Cook County House of Corrections which had not been credited. Subsequent calls by IPJP verified the young man's claim. Despite the obvious injustice of keeping him imprisoned over a month longer than the sentence required, the record offices at Joliet and Cook County refused to make telephone verification when the written notification failed to arrive. Intervention of the Department of Corrections legal counsel effected his release.

Following an October 12, 1977 visit to the County Jail, IPJP reported:

Dead records are most frequently referred to for verification of time spent in jail while awaiting trial. Illinois law requires that persons held in jail prior to conviction must be given credit for jail time against any sentence that is imposed. It might be expected that this information would be transmitted when a prisoner is committed but this is often not the case, especially when an individual was out on bond and/or arrested more than once. The inaccessibility of the records becomes a matter of crucial importance for a prisoner given a rela-

tively short sentence, most of which was already served by the time the sentence was imposed. Without the necessary papers from the jail confirming the dates, a prisoner may remain days or weeks beyond the term imposed by the court.

Five months later, the IPJP report on its March 14, 1978 visit to the County Jail stressed that:

It is small wonder that one of the most persistent and continuing complaints of inmates in the state prisons is the difficulty they have in trying to secure verification of their jail time for credit against their sentences, as required by law.

IPJP has also repeatedly stressed in its reports the record-keeping tangle at the County Jail, which is detailed above.

The problem of credit for time served has been the subject of numerous discussions between the State and County departments of corrections. The Jail reports that its staff briefly experimented with a procedure of automatically sending verifications of time served at the Jail and the House of Corrections. Verifications were sent to Joliet one week after the arrival of the prisoners involved, according to records office staff at the Jail. The County officials maintain that the automatic verification process did not significantly reduce the number of verification requests from State prisons, resulting in a discontinuation of the procedure. Staff at State correctional records offices do not recall any such procedure having been followed. They, in turn, have apparently adopted a process of automatically requesting verification from the Jail, with the limited results described above.

The office of the Illinois Department of Corrections legal counsel attempted a year ago to deal with the problem of people who have served most or all of their sentence prior to imposition of that sentence. A memorandum was sent to Public Defenders, asking that they alert R&C personnel immediately whenever the possibility of such a situation arose, so that the matter could be dealt with expeditiously. (See Appendix F) The Joliet records office staff could not recall a single instance in which a Cook County Public Defender had complied with this request. They indicated that private attorneys occasionally apprise them of such situations. Since most State prisoners have been represented by Public Defenders, the activities of private counsel have had minimal impact.

The prisoners affected have sought help from a variety of sources. Counselors and records office personnel at the various prisons deal with the problem daily, although one jailhouse lawyer at Stateville described the institution's records office as "obstinate" in the face of claims from prisoners that there is time served but not credited. Many prisoners seek help from the Prison Litigation Unit of the Legal Assistance Foundation of Chicago, but greatly reduced funding has left that agency unable to deal with such individual problems. Appeals directed to sentencing judges generally go unanswered, whether sent by inmates or correctional staff. The Dwight records office reports that prisoners there have taken to writing to newspaper "action line" columns for help. Frequent appeals are directed to such private organizations as the Illinois Prisons and Jails Project, John Howard Association or Safer Foundation. The Department of Corrections has an Office of Advocacy Services designed to help prisoners deal with the correctional bureaucracy. Yet despite the apparent magnitude of the problem, that office reports that it receives no more than about half a dozen requests a month relating to problems of credit for time served.

Recently, three major steps have been taken to deal with the problem. The Cook County Circuit Court re-designed its mittimus form, partially with the intent of providing more accurate information as to time served. Unfortunately, information on this new form is almost entirely hand-written, and records office staff report that they literally cannot read what is contained on the forms. The workers add, moreover, that--to the extent that the papers are legible--the information on time served seems no more accurate than it was prior to the introduction of the new form. Judge Richard Fitzgerald, Presiding Judge of the Criminal Division of the Circuit Court of Cook County, has indicated the possibility of a meeting with the judges assigned to the Criminal Division and officials of the Cook County Department of Corrections to discuss design of a new mittimus form which would be more responsive to the needs of the Illinois Department of Corrections. He also raised the possibility of requiring a review of time-served information on the mittimus by the Cook County Department of Corrections before the form is sent to Joliet or Dwight, in order to ensure the accuracy of time credited.

The State Department of Corrections has established the position of Chief Records Officer. This position has been filled only since July 16 of this year. It is, consequently, far too early to evaluate how successful the Chief Records Officer can be in dealing with the chaotic state of Cook County time-served records, particularly in the absence of any re-organization of the Jail's records office. The move is, however, clearly a step in the right direction.

The Cook County Department of Corrections has recently secured a \$400,000 allocation for computerization of dead records at the County Jail. This step, for which funding had been sought for the past two years, will greatly increase both accuracy and efficiency of records transfer. Department officials indicate that the computerization process will be initiated next year.

V. RECOMMENDATIONS

A. Short-Term Reform

1. The Presiding Judge of the Criminal Division of the Circuit Court of Cook County should, as he has suggested, meet as soon as possible with the judges of the Criminal Division and appropriate officials of the Cook County Department of Corrections to discuss problems related to transfer of records. This meeting should also include appropriate officials of the Illinois Department of Corrections, the Illinois Department of Mental Health and Developmental Disabilities, the Illinois Department of Law Enforcement, Cermak Memorial Hospital and the Sheriff of Cook County. The discussion should focus on safeguards to ensure accurate transmittal of time-served data from the various agencies involved in pre-sentence custody to the Illinois Department of Corrections.
2. The mittimus form currently in use in Cook County should be re-designed to ensure legible entry of information needed by records offices at Illinois prisons.
3. Judge Fitzgerald's suggestion for a possible review of the mittimus by County Jail officials should be adopted. This would permit verification of time served prior to the transfer of a prisoner, reducing sharply the number of prisoners sent to a State prison when the prison portion of the sentence imposed has already been served. Computation of County Jail time, however (as distinct, for example, from DMHDD time), represents only a portion of the problem, albeit a major portion. The Cook County Sheriff and the clerk of the circuit court must assume ultimate responsibility for the accuracy of time served credits, as currently required by law.
4. In all cases in which a criminal defendant has served the prison portion of his or her sentence at the time of imposition of sentence, the court should so inform the Cook County Department of Corrections. This will facilitate proper processing of the individual through the Chicago office of the Adult Parole Services and avoid needless transportation of the prisoner to either Joliet or Dwight Correctional Centers' Reception and Classification centers.
5. A form verifying time served in the custody of the Cook County Department of Corrections should be prepared by the County Jail at the time each prisoner is transferred

to the custody of the Illinois Department of Corrections. This verification should be attached to each prisoner's mittimus papers. If, despite adoption of this procedure, a prisoner arrives at Joliet or Dwight without such a verification attached to the mittimus papers, a request for verification of time served should automatically be sent to the County Jail, as is current practice at Dwight.

6. Forms authorizing the release of records from the Department of Mental Health and Developmental Disabilities should be made available to those who are in DMHDD custody pending determination of fitness to stand trial. Given the sensitive nature of mental health records, the Department should give consideration to development of an additional authorization form, provisionally authorizing release of time-served information to the Illinois Department of Corrections only in the event of subsequent assignment of the individual by the court to the custody of the Department of Corrections.
7. Currently, Illinois Department of Corrections staff rarely use the DMHDD authorization form to obtain medical information, generally limiting their requests to time-served data. The form should also be used for transfer of medical records for those prisoners who wish the prisons to have such information. Further, the Illinois Department of Corrections should utilize the centralized records of the DMHDD rather than sending requests to each individual facility in which a prisoner has been housed prior to trial.
8. The list of prisoners to be transferred from the Cook County Jail to either the Joliet or Dwight Correctional Centers should be prepared at least 24 hours in advance of the transfer. A copy of this list should be given to Cermak staff at least 24 hours prior to the departure of the prisoners. This is the procedure currently used at Rikers Island, the New York detention facility analogous to the Cook County Jail.
9. The records of all pre-trial detainees at the Cook County Jail who have medical problems should be readily identifiable at both the Jail and Cermak. This would facilitate preparation of a medical summary for prisoners with medical problems prior to their transfer. Again, Rikers Island serves as an example. There, such medical summaries are currently prepared for prisoners transferred to New York State prisons. (See Appendix B) These summaries should be sent in the same vehicle with the prisoners to whom they pertain.
10. The Records Office at the Cook County Jail should be reorganized to permit some degree of specialization. Clerks responsible for preparation, maintenance and transfer of records must be able to work without significant interruption. Further, an evaluation should be made of the current staffing of the dead records section to determine whether

additional personnel should be assigned to that office. Clearly, the rate of response of that office to requests for verification from the State prisons suggests a substantial backlog.

11. The Cook County Jail should establish a full-time position of Records Maintenance Officer. This individual's sole responsibility would be to supervise the preparation and transfer of records and to review such records for accuracy.
12. The Illinois Department of Law Enforcement maintains records on all those arrested and fingerprinted in Illinois. These records include a fingerprint number for each individual. This fingerprint number should be used by all of the agencies involved, and most urgently by the Cook County Department of Corrections, to identify individuals in their custody. This would not necessarily involve abandoning any current identification system, but could serve as a cross-reference. The use of a constant number would not only greatly facilitate coordination of files within and among the various agencies, but would also solve many of the problems surrounding the use of aliases. Adoption of the I.D.L.E. fingerprint number should be initiated as soon as possible at the Cook County Jail and the County House of Corrections for all incoming prisoners.
13. Judge Fitzgerald should explore the possibility of taking judicial actions to ensure transfer of medical information. An order from the trial judge to the clerk of the circuit court could require the clerk to send not only the records now required by law but medical information as well to the Illinois Department of Corrections.
14. The Presiding Judge of the Criminal Division of the Circuit Court of Cook County should ensure monitoring of the process by which time-served information is transmitted. Specifically, this monitoring should ensure compliance with the provisions of Illinois Revised Statutes, Chapter 38 §1005-4-1(e)(4):

The clerk of the court shall transmit to the department, agency or institution, if any, to which the defendant is committed... (4) the number of days, if any, which the defendant has been in custody and for which he is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff.
15. Clearer lines of responsibility must be established at every step of the process. Each of the agencies with major responsibilities for ensuring transfer of time-served information--the Cook County Sheriff, Cook County Department of Corrections, Illinois Department of Mental Health and Developmental Disabilities, Illinois Department

of Corrections, and Circuit Court of Cook County--should identify one person with primary responsibility for ensuring that accurate records are transferred. Each prison records office should similarly assign one person primary responsibility for obtaining accurate information. Other responsibilities for these individuals should be sufficiently limited to allow adequate time to deal with this task.

B. Long-Term Reform

1. There is serious under-utilization of computer technology by all of the agencies involved. Although expanded use of computers requires an often substantial initial outlay of money, in the long-run the increased efficiency and accuracy can produce enormous savings. The initiative shown by the Cook County Department of Corrections in obtaining funds for computerization of dead records at the County Jail is a commendable first step in computerization of time-served data. This should be expanded upon by other agencies involved, with the goal of having all such information stored in computers.

Medical information should also be computerized, in line with the proposal developed by the Illinois Department of Corrections Medical Services office. The Cook County and Illinois departments of corrections and the Illinois Department of Mental Health and Developmental Disabilities should establish compatible computer programs and shared systems to permit computer transfer between the agencies of both medical and time-served information.

2. The Cook County Jail should review records created before the introduction of the fingerprint number to include the I.D.L.E. number in those files. As this process develops, multiple files on the same individual should be cross-indexed using the fingerprint number.
3. Generally, the state of records maintenance at the Cook County Jail leaves much to be desired. Some of the most obvious improvements which could be made immediately, such as unpacking the microfilm equipment or providing adequate toilet facilities for the female staff in the dead records office, have already been alluded to. The number of such relatively simple improvements which could be made is so large as to suggest the need for a thorough review of the records maintenance procedures and working conditions for records staff at the Jail.
4. We strongly recommend that Judge Fitzgerald, in consultation with the directors of the agencies involved, appoint a panel to monitor measures adopted to remedy the problems discussed in this report. This panel should also evaluate compliance with existing legal standards, setting forth

the responsibilities of the court and of correctional officials for the transfer of records. The panel should include, at a minimum, the following:

- (a) a judge of the Criminal Division of the Circuit Court of Cook County;
- (b) an attorney with substantial experience in the area of prisoners' rights;
- (c) a physician with substantial knowledge of medical administration in correctional facilities;
- (d) a consultant on computer technology; and,
- (e) an expert in the field of records maintenance.

This panel should meet at least quarterly for a minimum period of one year to evaluate progress made. At the end of each quarter, the panel should issue a written report on its findings.

5. Illinois law should be amended to provide for automatic transfer of medical information from pre-trial detention facilities to State prisons. N.Y. Crim. Proc. Law §943 (McKinney), quoted above, could serve as a model for such remedial legislation.

* * * * *

The current situation regarding transfer of both time-served and medical information is untenable, involving gross injustice to prisoners, massive waste of taxpayers' money and, in some cases, outright violation of the law. The situation must be changed.



Appendix A

DATE September 8, 1976

TO: MEDICAL STAFF
ILLINOIS DEPT. OF CORRECTIONS
FROM: CERMAK MEMORIAL HOSPITAL
RE: MEDICAL PROBLEM LIST SUMMARY

Name	Cook County Dept. Of Corrections #	Date of Birth
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Problem # 1 Asymptomatic Hematuria.
In Cermak Hospital, 12/2 - 12/12/75.
Workup and IVP - WNL
Treated with Macrochantin.
No problem since.

Problem # 2 Recurrent cystitis by history.
In Cermak Hospital 11/26/75.
No findings in workup.
See above, problem # 1

Problem # 3 Sinus per EKG, 11/25/75.
No symptoms or followup
No problem since.
EKG attached.

Problem # 4 Drug Allergies - PCN and Talwin.
Not well-documented.
None given here.

#5 Tuberculin skin test applied 11/18/75 - Negative

The foregoing information is a problem list only. For more detailed information or complete copies of medical records, a signed consent form should be sent to

Medical Records
Cermak Memorial Hospital
2800 S. California Ave.
Chicago, Illinois 60608

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APPENDIXES

APPENDIX B

Montefiore Hospital and Medical Center

Rikers Island Health Services

MEDICAL RECORD SUMMARY

Date: _____

I. Patient Identification

- a) Name _____ AKA _____
- b) Birth Date _____ c) Soc. Security # _____
- d) Last known address _____

II. Major Health Problems

(includes medical and psychiatric problems, allergies)

III. Plan: (Include current date,

treatments, medications and follow-up needs)

IV. Latest Available Laboratory Data

Test	Date Done	Results
Serology		
Urine Dipstick		
G.C. Culture		
Pap Smear		
Pregnancy		
PPD		

Montefiore Health Staff



RICHARD J. ELROD
SHERIFF
PHILIP T. HARDIMAN
EXECUTIVE DIRECTOR

COOK COUNTY DEPARTMENT OF CORRECTIONS

Records Office
2700 S. California Ave.
Chicago, IL 60608

To Whom It May Concern:

In order to comply with your request for information concerning your recent confinement at this Department, please supply the information requested below:

- 1. Name _____ Alias _____
- 2. CCDOC No. (s) _____ Present No. _____
- 3. Date of Birth _____ Mo. Day Yr. Place of Birth _____ Age _____
- 4. Social Security No. _____ - _____ - _____
- 5. Next of Kin _____
- 6. Date of Arrest _____ Mo. Day Yr.
- 7. Address at Time of Arrest _____
- 8. Criminal Charge(s) _____ Case No. (s) _____
- 9. Date Released from CCDOC _____ Mo. Day Yr.
- 10. Additional Information Pertaining to Your Request

The information you requested will be forwarded to you as soon as possible.

Sincerely

Robert E. Glotz
Assistant Director-Security

By: _____ Name _____

_____ Title _____

_____ Dept. _____

Appendix D

DMHDD-146
Rev. 1/79

Illinois Department of Mental Health and Developmental Disabilities

AUTHORIZATION FOR RELEASE OF INFORMATION

I authorize _____ to release
(facility/therapist)

_____ (state specific nature of information to be disclosed)

about _____ to
(recipient's name)

_____ (receiving agency/person)

_____ (address)

for the purpose of _____

This consent is valid until _____

I understand that I may revoke this consent at any time and that the above-named person authorized to receive this information has the right to inspect and copy the information to be disclosed.

It has been explained to me that if I refuse to consent to this release of information, the following are the consequences

(specify, if any): _____

_____ (witness)

_____ (signature)

_____ (date)

_____ (date)

If signature is not of recipient indicate legal relationship to recipient and legal basis on which consent is given for recipient.

NOTICE TO RECEIVING AGENCY/PERSON: Under the provisions of the Illinois Mental Health and Developmental Disabilities Confidentiality Act, you may not redisclose any of this information unless the person who consented to this disclosure specifically consents to such redisclosure.

Under the Federal Act of July 1, 1975, Confidentiality of Alcohol and Drug Abuse Patient Records, no such records, nor information from such records may be further disclosed without specific authorization for such redisclosure.

Appendix E

PROCEDURE FOR PROCESSING
TIME CONSIDERED SERVED SENTENCES

The following procedure shall be utilized to process a criminal defendant into the Illinois Department of Corrections who has served the imprisonment portion of his criminal sentencing prior to the disposition of his trial, in other words where the sentencing judge has sentenced the defendant to time considered served. The defendant in any event is still obligated to serve a statutory parole term under the Criminal Code of 1973 or a mandatory supervised release term under the Criminal Code of 1977.

Upon sentencing, the defendant is committed to the custody of the Illinois Department of Corrections to complete his statutory parole or mandatory supervised release term. The mittimus will specifically reflect the fact that the imprisonment portion of the sentence has been served.

The defendant shall be conveyed by the sheriff to the nearest processing facility designated by the Department in order to execute the mittimus of commitment. Criminal defendants from Cook County shall be produced for processing at the following location:

State of Illinois Building
Adult Parole Services
160 N. LaSalle St., Rm. 1640
Chicago, Illinois 60601

Criminal defendants from any other county shall be produced at the nearest Reception and Classification Center for processing.

The clerk of the sentencing court shall transmit via the sheriff the following documents to the processing facility with the defendant:

- (1) the sentence imposed
- (2) any statement by the court of the basis for imposing sentence

- (3) the number of days, if any, which the defendant has been in custody and for which he is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff;
- (4) all presentence reports
- (5) all statements of counsel with the facts and circumstances of the offense for which the person was committed together with all other factual information accessible to them in regard to the defendant prior to his commitment relative to his habits, associates, disposition and reputation and any other facts and circumstances which may aid such department agency or institution during its custody of such person.

The documentation will be examined at the processing facility prior to the acceptance of the defendant. The resident shall be accepted only if his mittimus is properly completed and the number of days credit against his sentence is provided.

A defendant who is received with a time considered served sentence shall be processed on the day he is received at the processing facility, and released to complete his statutory parole or mandatory supervised release.

MEMORANDUM

Date: July 3, 1978

To: ALL RECORD SUPERVISORS
R & C CENTERS

From: Joseph Moscov
Deputy Chief Legal Counsel

Subject: CALCULATION OF TIME CONSIDERED SERVED SENTENCES

Distribution:

Please review the attached letter recently sent to all state public defenders. The issue involves those defendants delivered to your R & C Centers who may be eligible for immediate release as a result of receiving a time considered sentence which includes the calculation of their good time. The public defenders have been asked to notify you regarding these defendants.

When you receive notification from an attorney that you will be receiving such a defendant, please tag his name immediately and place the calculation of his sentence on a priority basis. If the computation of his sentence with good time does in fact make him eligible for release, the procedures must be initiated immediately.

JM/lk/jbv

Joseph Moscov
Joseph Moscov
Deputy Chief Legal Counsel

STATE OF ILLINOIS BUILDING 160 NORTH LA SALLE STREET CHICAGO, ILLINOIS

(312) 793-3017

Room 416

July 3, 1978

TO: ALL PUBLIC DEFENDERS
FROM: Joseph Moscov
Deputy Chief of Legal Services
SUBJECT: TIME CONSIDERED SERVED SENTENCES

There are occasions where a defendant receives a time considered served sentence which may cause him to be eligible for release because of the length of his incarceration in a county jail and his earning of statutory good time or day-for-day good time. As the sentencing judge is not in a position to calculate good time, the defendant must be sent to a Reception and Classification Center for processing. The problem arises when the defendant is subsequently delivered to one of the state's R&C Centers without written verification of his jail time and custody date. Until the records clerks receive the documentation it is impossible for them to accurately compute the defendant's time and initiate the procedures for his release, if he is eligible.

Therefore, if you are representing a client whom you believe is eligible for release as a result of the sentence imposed, we suggest the following two procedures:

1. Have all the written documentation, including his custody date and jail credit, accompany the defendant to the Reception and Classification Center, and
2. Immediately notify the records supervisor at the Center of the defendant's name, sentence, and possible eligibility for release. The supervisor will then be placed on notice to give a priority basis to the calculation of the

defendant's sentence upon his arrival at the Center.

As the R & C Center should be notified in writing, it may be appropriate for your office to devise a simple form letter that specifically addresses the issue of time considered served sentences. If it is not possible for you to send the necessary documentation with the defendant, we urge that you forward this material to the records clerk with the appropriate cover letter as soon as you have been able to collect same. Please remember that no defendant's sentence can be accurately computed without written verification of his custody time from the county jail.

For your convenience the following is a list of all the Reception and Classification Centers and the Records Supervisors to whom your documentation should be directed:

Joliet R & C Center
P.O. Box 515
Joliet, Illinois 60434
Attention: Jean Vogen

Dwight Correctional Center (women only)
Reception and Classification
P.O. Box C
Dwight, Illinois 60420
Attention: Maxine Davies

Vandalia Correctional Center
Reception and Classification
P.O. Box 500
Vandalia, Illinois 62471
Attention: Darrold Rhodes

Menard Correctional Center
Reception and Classification
P.O. Box 711
Menard, Illinois 62259
Attention: Jerry Bradley

Joseph Moscov
Deputy Chief of Legal Services

JM/LK/bbs
cc: State's Attorneys

END