REPORT

OF THE

EXTENDED MARCH 2003

COOK COUNTY, ILLINOIS

GRAND JURY

AUGUST 30, 2004

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GRAND JURY REPORT

PREFACE

Two incidents occurred in the Cook County Jail (also referred to in this Report as the Department of Corrections and/or DOC), one on February 24, 1999, and another on July 29, 2000, that sparked the attention of the news media. (see Exhibit 1 on CD-ROM that can be found attached to the back cover of this Report). Such media attention, along with the requests of John Stroger, President of the Cook County Board (Exhibit 2) and the Honorable Timothy Evans, Chief Judge of the Circuit of Cook County, led the Honorable Paul Biebel, Jr., Presiding Judge of the Criminal Division of the Circuit Court of Cook County, to request that the March 2003 Grand Jury agree to extend its period of service in order to investigate the above-referenced incidents as well as the overall conditions and operation of the Cook County Jail, and to issue a report on its findings (Exhibit 3).The Grand Jury accepted Judge Biebel's invitation and its term was extended. This report describes in detail, the Grand Jury's observations, fact-finding, conclusions and recommendations.

In order to assist the work of the Extended March 2003 Grand Jury, Judge Biebel appointed Thomas A., Hett, a Retired Cook County Circuit Court Judge and former

Assistant State's Attorney, to act as the Investigator for the Grand Jury and to assist the Grand Jurors in their endeavors. The Investigator quickly determined that the task was beyond the abilities of just one person, and after a search, hired Lawrence Oliver, II, a former Assistant United States Attorney, who is presently in private practice with the firm of Perkins Coie, LLP, to assist him. The private investigative firm of Quest Consultants International, Inc., and especially retired FBI agents Robert Long, Richard Stilling and Lee Flosi were also retained to assist the Grand Jurors in a number of non-legal tasks. Michael Bane, a law student, was retained by the Investigator to examine documents and provide a statistical analysis of those documents. The firm of TPH Consultants, Inc. was retained to put the voluminous documents acquired during the course of the investigation into a digital format for better document management.

It should be remembered that the Grand Jury is an investigating Grand Jury not an indicting body. Moreover, it should also be noted that the charge of this Grand Jury is to investigate the DOC and not conduct a sweeping investigation of the Sheriff's Office as a whole. The findings and discussions in this report concern only the Department of Corrections and incidental actions of other departments of government as well as the Sheriff's Office will be mentioned in so far as they impact on the operations of the jail.

Any facts gleaned by the Grand Jury that suggest possible criminal behavior will be turned over to the Cook County State's Attorney and the United States Attorney for the Northern District of Illinois. The details of those submissions will be related in later portions of this Report.

This Report is presented in three parts. Part One contains the analyses, findings and conclusions the Grand Jury has arrived at during its investigation into incidents occurring on February 24, 1999 and July 29, 2000. Part One also discusses a statistical review of all the claims of excessive force made during the last five years as well as lawsuits emanating from those claims. Part Two discusses matters that go to the conditions of the jail and the treatment of the detainees. Finally, Part Three contains observations and recommendations of the Grand Jurors as a result of its eighteen-month investigation.

PART ONE

FEBRUARY 24, 1999 INCIDENT

The following discussion of the February 24, 1999, incident consist of findings of fact and reasonable inferences made by the Grand Jury, after consideration of the underlying internal investigation as well as evidence—documentary and testimonial—gathered over the past 18 months.

SORT Morning Entry

At approximately 6:25 a.m. on February 24, 1999, an incident occurred at the Cook County Jail involving the beating of detainees in Wings 3E & 3F of Division 9, maximum security facility, by certain members of the Special Operation Response Team (SORT), including SORT Superintendent ("Supt.") Richard Remus (Exhibit 4). At the time, the detainees were confined to their cells (on "lockdown") by the division officers, following a stabbing involving rival gang members that broke out three days earlier. After the stabbing, the division officers conducted a "shakedown" wherein they searched the wings, or tiers, for weapons and contraband. Accordingly, on February 24, 1999, all the detainees, who by this time had already eaten breakfast, were quiet—many were asleep—and locked in their cells. Supt. Remus was the first to arrive. He told Wing Officer Darnette Purdiman[1] that the SORT Team was on its way to conduct a shakedown. Purdiman then contacted her superior, Captain Jeffery Malek, and advised him of the situation (Exhibit 5).

[1] Officer Purdiman gave a voluntary interview to members of the Grand Jury

According to Purdiman, Supt. Remus ordered her to "pop the cells," which meant that she was to unlock the doors, which she did. There were approximately 70 detainees in Purdiman's care at the time. The rest of the SORT Team arrived shortly thereafter along with un-muzzled canine units. Among the SORT Team was Lieutenant ("Lt.") Tyrone Everhart. Everhart told Purdiman that during the previous 3-to-11 shift, there had been problems on Wings 3E & 3F, and that this was the reason SORT was conducting a shakedown. Purdiman stated that she was unaware of any problems on her shift (11 p.m.-7 a.m.) or the previous shift, although she vaguely recalled that there had been a rumor for several days that there may be a problem with some of the detainees. Purdiman reiterated that up to this point in her shift there were no problems whatsoever and that all the detainees were locked in their cells.

Officer Purdiman requested that Captain Malek relieve her of her duties because she did not want to see naked male bodies exposed during the strip search. Captain Malek agreed and sent male officers to relieve Purdiman. The detainees in Wings 3E & 3F stated consistently in separate interviews with Internal Affairs Division (IAD) Investigator Charles Holman that the SORT Team brought the detainees into the dayroom, strip searched them and beat them with batons, open hands and fists. Although most detainees were unable to identify individual SORT members engaged in the beatings, Supt. Remus was identified by several detainees as leading the unit, directing the beatings and hitting some of the detainees. When SORT left the wing about one-half hour later, Remus instructed Division Corrections Officer Sergeant Osayande Watson to call the paramedics in order to treat the detainees requesting medical treatment. Most of the detainees' complaints involved bruises and broken dental work (Exhibit 6).

SORT Commander Lt. Tyrone Everhart told SORT Investigator Holman that no reports had been written by SORT for any entries into Division 9 occurring on February 24, 1999, although General Orders require such reporting. After Everhart's representation, Holman received incident reports dated February 24, 1999, from SORT Officers Juan Diaz and James Tylka. Diaz stated in his one-page report:

> "On FEB 24th at approx. 0630 HRS SORT unit Responded to Div 9 E and F House (an unruly Tier) These wings had a situation in the morning after taking the court calls. SORT unit Responded Brought out all detainees and conducted a cell and body search. Upon completion of the search several detainees stated that they wish to see Paramedic Supervisors[.] Called Div 5 for paramedics to respond to tier Medical Needs...."

In the "Administrative Assessment" section, Diaz wrote, "S.O.R.T. Unit Re-Gained Control and Conducted Body and Cell Searches. All Detainees Needing Medical Attn. Received Medical Attn." Diaz's report was signed off on by SORT Sergeant David Rosario, who was present during the SORT entry into Wings 3E & 3F.

In a two-page incident report also dated February 24, 1999, Sergeant James Tylka wrote, in part:

> "The SORT Unit Was Activated to Tier 3-E For A Hostile Situation. When SORT Arrived there was [sic] Detainees in the Day Room Refusing to Obey Staff Orders. SORT Preformed [sic] Several Cell Extractions and When Order was Restored all detainees Were Placed in

Prone Position on The Day Room Floor To be Searched. Several Wooden Sticks with Handles made out of Bed Sheets were Recovered from The Room. During A strip Search of The Detainees it was Discovered That a majority of The detainees Had injuries from a Prior Disturbance. . .."

In the "Administrative Assessment" section of page one, Tylka wrote, "All detainees were seen by PARAMEDICS. . .. All Reports were written to justify action's [sic] taken by officers on tier 3E Div. #9." In violation of the rules and regulations, no wooden sticks, or other weapons or contraband, were turned in by SORT. Tylka's report was signed off on by SORT Lt. Everhart, who was present during the SORT entry into Wings 3E & 3F. These reports were later determined to be false by Investigator Holman, but, as discussed in more detail below, these findings were later "Altered" by the Inspector General's (IG) office.

SORT Evening Entry

Later that night, a second, and similar, incident occurred at approximately 8:30 p.m. At that time, approximately forty-two SORT members, again led by Supt. Remus and Lt. Tyrone Everhart, along with three un-muzzled K-9 units, made an unannounced entry into all twelve wings of the South Tower in Division 9. Mary Johnson, the Chief of Security for Division 9 (Exhibit 9), was the highest ranking division officer confirmed to be on duty at the time.[2] Also on duty were Watch Commander Lieutenant Isaac Chatman, Sergeant James Smith and Wing Officer Eric Dublin, among others. Remus, as

[2] Division 9 Superintendent James Edwards was cited in a living unit log as being present during part of the evening; however, Edwards testified that he was not present during the SORT entries.

was his practice, ordered all division staff out of the area while SORT was engaged with the detainees. By virtually all accounts, it was understood that Remus and SORT had *carte blanche* when they entered an area. Thus, all division staff knew that they were not permitted to stick around when SORT was in the area, even though there was no written rule, or good justification, for such practice. Chief Johnson testified that of all the times she observed SORT come into her area, which could have been as frequently as weekly, they were never needed, i.e., the detainees were under control and/or locked up and secure. According to Chief Johnson, Remus' appearances would "baffle" her. She testified that Remus was referred as the "Teflon Superintendent."

More specifically, Wing Officer Eric Dublin testified in the Grand Jury that he was overseeing Wing 2E and likely 2F (relieving a partner for lunch) at approximately 8:30 p.m. when he got a call from his supervisor, Sergeant Smith, who told him that the SORT Team was on its way to his tier (Exhibit 8). When Dublin inquired as to why, he recalled that he did not get a clear answer but that Smith made a vague reference to "something that had happened earlier in the week." Supt Remus and the SORT team arrived shortly thereafter. Remus ordered Dublin to give his cell keys to an unidentified SORT officer and then was told to wait outside in the hallway. Dublin complied because Remus was his superior and he knew, even though this was the first time SORT came to his tier that SORT got its way. Dublin testified that the tier was already on lockdown and under control when he received the call. Therefore, he felt SORT was not needed. He waited in the hallway for approximately 15 minutes before SORT exited the wings. While he waited, Dublin stated that he could only hear that someone had turned the

volume up on the television set. When SORT came out, Remus handed him his cell keys and the ID's of the detainees who were to receive medical treatment.

Following the second SORT entry on February 24, 1999, numerous detainees consistently claimed, in separate interviews with Investigator Holman, to have suffered an unprovoked beating at the hands, and under the direction, of Remus and the SORT Team. In sum, the detainees claimed that they were locked in their cells when SORT arrived and that Remus then "popped" the cells and ordered the detainees into the dayroom. The detainees who were gang members or had tattoos were made to go down a double line of SORT officers, at which time they were beaten about the body. Other detainees were made to lie on the floor where they were stomped in their backs and legs. The detainees were told to not look at the SORT officers in the face, and those who did, were punched in the face. Several detainees reported that during the beatings, Remus taunted the detainees by yelling that "SORT runs the jail" and by telling the SORT officers to send the detainees to Cermak Hospital if they say a word.

Officer Dublin testified that after he re-entered his tier that several detainees complained of having just been beaten by SORT officers. Dublin specifically recalls seeing Earnest Blossom limping and complaining of leg pain. Dublin did state that Blossom had experienced leg problems before SORT's arrival but that he could not recall if Blossom had a limp before SORT arrived.

Among the detainees who claimed they were beaten were Bert Berrios and Cello Pettiford. According to Investigator Holman, who examined Berrios a few days after the incident, Berrios suffered two black eyes and a burn mark on his neck. Berrios claimed

that Supt. Remus struck him in the face with a closed fist. Berrios also sustained bruises on his body and burn marks around his neck, which he claimed were the result of his being choked with rosary beads by a "black SORT officer", later identified as Lieutenant Everhart. Pettiford suffered seizure-like symptoms and urinated on himself. Berrios and Pettiford, and several other detainees, claimed that they were denied medical treatment, claims that are supported in part by some of the division officers' logbooks. However on the next shift, Pettiford was taken to Cermak Hospital where he was treated and returned to the jail, shortly thereafter. As Pettiford was being transported to the hospital on a stretcher by the paramedics, Chief Johnson testified that she observed Pettiford trembling. She testified that he also appeared to have urinated on his clothes and that he reeked of urine. When the Cermak paramedics (Jim Stoll, [FNU] Ybarra and Bob Rosso) were tending to Pettiford, First Shift Watch Commander Captain Jefferey Malek told them that several other detainees were complaining of needing medical attention after being beaten by SORT members, this according to Investigator Holman's report and by Malek in a voluntary interview with members of the Grand Jury's staff. The paramedics responded that Steve Fullilove, their supervisor, who responded to Division 9 after SORT's evening entry, informed them that all other detainees refused medical treatment.

Fullilove testified before the Grand Jury that that he had no recollection of the 1999 incident but that he is sure that he did not tell anyone that the detainees refused medical treatment (Exhibit 10). He stated that anyone attributing such a statement to him, including his three subordinates and Captain Malek, would be lying. Fullilove testified that if a detainee had refused medical treatment, he would have had the detainee

sign a form indicating his refusal and that such form would be in the detainee's medical records. Also, in the medical records of any detainee, according to Fullilove, should be Emergency Response Reports, which would log everything a detainee says to the medical personnel during an emergency call, and a Daily Encounter Form, which paramedics must fill out for all contacts they have with detainees. Note, that a subpoena of various detainees' medical records uncovered no such Emergency Response Reports or Daily Encounter Forms.

Putting aside the fact that there appears to be no motivation for Malek or the paramedics to lie, Fullilove made other statements to the Grand Jury that appear to be incredible on their face. He testified that in his 11-year experience as a paramedic or paramedic supervisor with DOC, he has never been told either by a detainee or subordinate, that a detainee was injured by a jail guard (Exhibit 11). Moreover, Fullilove testified that he has never so much as suspected that a detainee needed medical treatment due to the actions of a jail guard. Fullilove's supervisor, Howard Hradek, the Interim Director of the Correctional Medical Technicians (CMT) Department, told the Grand Jury that he would expect someone in Fullilove's, or any paramedic's, shoes to have been told by detainees on many occasions that they were injured by a jail guard. Hradek also testified that if a detainee refuses medical treatment it is usually because they are trying to protect another inmate, or if they are scared of a jail guard. Hradek's theory makes it even more unlikely that the maximum security Division 9 detainees—the most hardened—would have refused medical treatment, especially given that many of them sought medical treatment shortly thereafter.

Chief Johnson testified that after the incident, she secured the building, made sure the detainees received medical attention and compiled reports, although Pettiford is the only detainee she specifically recalls being injured. Chief Johnson testified that she had no recollection of any injured detainee refusing medical after the incident and that it would make no sense for a detainee claiming to be have been injured by a jail guard to refuse medical attention.

The reports that Chief Johnson claims were written by her (or at her direction) have never been uncovered. She was unable to explain why this was so. She also had no explanation for why she told Investigator Holman in 2002, that she had no recollection of the February 1999 incident.

The Superintendent of Division 9 at the time, James Edwards, testified before the Grand Jury that he has no recollection of being in the division during the second SORT entry, although certain officers' living unit logs place him there (Exhibit 12). He further testified that if he was there, it would have been as the Administrative Duty Officer (ADO) or because someone, likely Chief Johnson, would have paged him. Lynda Pinson, the ADO on duty the night of February 24, 1999, told Investigator Holman that she was never contacted about any SORT entry. Edwards acknowledged that SORT did not need permission to enter a wing but that he expected his division officers to remain on site if SORT came into their area. Edwards also testified that he never had a conversation with any of his officers about any of the detainees' alleged injuries.

Based on documents shown to Edwards during his Grand Jury testimony, he recalls seeing Bert Berrios around March 3, 1999, after the John Howard Association

made an inquiry into the alleged abuses. Although he does not specifically recall Berrios' condition at the time, he stands by his letter written to Assistant Executive Director Marcus Lyles, that Berrios essentially showed no evidence of significant injury and that Berrios stated to Edwards that the SORT incident was exaggerated. Investigator Holman found this letter to be false, given his personal observation of Berrios around the same time.

Photographs of Bert Berrios

On March 3, 1999, Inv. Charles Holman, before he was originally assigned to investigate the February 24, 1999 incidents, was directed to photograph Bert Berrios pursuant to a court order obtained at the behest of Berrios' family. Contrary to Supt. Edwards reported observations occurring around that same time, Holman, who spoke voluntarily to members of the Grand Jury, maintains that he observed Berrios still had two black eyes and a burn mark on his neck. According to Holman, the injuries sustained by Berrios were still clearly visible, some eight or nine days after the incident. Holman took Polaroid photographs, and afterwards, gave the photographs to his immediate supervisor, Deputy Chief Investigator Samuel Mosley, who gave the photos to IAD Investigator Rudolpho Gomez, the first investigator assigned to the case. Holman also stated Gomez supposedly then placed the photos into the case file. When the case file was formally assigned to Holman in April 1999, the photographs along with Holman's memorandum of interview of Berrios were missing. Remus denied taking the photos.[1]

[1] Because the aforementioned photos of Berrios were taken with Polaroid film, there were no negatives. However, Berrios's private attorney at the time, Sandra G. Ramos, also took photographs of Berrios at the same time as Holman. Ms. Ramos was unable to locate her set of the photos after searching her files.

Deputy Chief Samuel Mosley, in a voluntary interview with members of the Grand Jury, stated that Holman gave the photos to Chief Henry Barsch (Exhibit 13). This seems plausible given that Holman told the members of the Grand Jury that Remus told him during the investigation that Barsch showed Remus the Berrios photos. It should also be noted that Mosley presented himself in a very candid, unbiased and credible manner.

For his part, Investigator Rudolpho Gomez, who is now a Chicago Police Officer, testified in the Grand Jury that he had no specific recollection about the brief period he was assigned the 1999 Investigation (Exhibit 14). Nor does he recall if photos were ever a part of the file. Gomez also testified that, even to this day, he is not familiar with the facts of the case. He did testify that he shared an office space with two other investigators and that they locked the office at the end of each day. Gomez stated that the practice of the IAD investigators was to keep their respective files in his or her unlocked personal drawer. He stated that it was possible for someone to go in his drawer and remove something from the file without him knowing, although he does not recall any suspicious activity of this nature. He stated that even though he and his fellow investigators would lock the office door at night, some mornings they would come into work only to find that the door was unlocked, suggesting that someone unlocked it after they left the previous night. The only individuals, to Gomez's knowledge, who had a key to the office were Deputy Chief Mosley and Chief Barsch. Gomez testified that it would not have been proper for one his superiors to go in his drawer and handle the file without his knowledge. Gomez also testified that it was Barsch who would physically hand the files to the investigators when they were assigned or reassigned.

During his interview (Exhibit 15), Holman stated that he believes that Barsch would have been the last person to see the photos. When Holman asked Barsch where the Berrios photographs were located, Barsch responded that he did not know. According to Holman, Barsch was "politically connected" but had a "shaky reputation" for doing underhanded things for the Inspector General, thus putting Barsch in a position to "put a damper" on what was a sensitive investigation. Specifically, Holman stated that Barsch was known to "change files" and would write supplemental reports in order to affect the outcome of the original investigator's report. Holman cited one such example of a changed investigation and provided supporting documentation, although it was not readily apparent that there was a corrupt motive behind that particular change.

In April 1999, Barsch reported to IG Joseph Shaughnessy. As such, when Holman discovered the Berrios photos were missing from the files, he suspected that Barsch removed them to protect Remus and James Ryan, the Sheriff's Chief Legal Advisor at the time, and who Holman described as being close to Remus. In Holman's opinion, such action would violate Cook County Department of Correction (CCDOC) General Order 3.8(III)(c), which governs conflicts of interests and which prohibits any CCDOC employee from "enter[ing] into any activity or agreement, directly or indirectly, which presents a conflict of interest or is inconsistent with the performance of his/her official duties while employed by the Sheriff of Cook County. . .."

Holman stated that he did not believe that he could have gone over Barsch's head to his superior, IG Shaughnessy, without putting his own job in jeopardy, because of the close relationship between Barsch and Shaughnessy. According to Holman, Barsch was Shaughnessy's "boy." Also, Deputy Chief Samuel Mosley, Holman's supervisor at the

time, told us that Barsch was deferential to Remus. Before the February 1999 incident Shaughnessy promoted Barsch from an Investigator in IG to Chief Investigator in IAD. Sometime in 2001, Shaughnessy promoted Barsch again, this time to Deputy Inspector General. Holman described Shaughnessy as being part of the "inner circle" of the Sheriff's Department. Both Barsch (Exhibit 16) and Shaughnessy (Exhibit 17) were subpoenaed to testify in the Grand Jury and both refused to answer substantive questions, citing their right against self incrimination under the Fifth Amendment to the United States Constitution.

"Transfer" of Case to Inspector General

According to Holman, as his investigation progressed in the Spring of 1999, it became apparent to him that criminal charges might be appropriate against Richard Remus and the SORT participants. It was around this time (June 20, 1999) that Holman reported his preliminary findings to Chief Barsch. Barsch told Holman that he had spoken to the Inspector General's office about the investigation and that Holman was to put his preliminary findings together as a preliminary report to be forwarded to the IG's office for additional investigation. Barsch told Holman that this was being done at the direction of the Sheriff's Legal Advisor, James Ryan. Accordingly, on June 23, 1999, Holman submitted his report to Barsch who, with a cover memo dated July 12, 1999, purportedly forwarded it to IG Joseph Shaughnessy pursuant to James Ryan's direction.

Between July 12, 1999 and May 2001, there was no activity on the investigation whatsoever. Then, in May 2001, almost two years later, Barsch, who by this time had been promoted by Shaughnessy to Deputy Inspector General, contacted Holman, and

reassigned the case back to Holman. Saul Weinstein had replaced Barsch in the IAD's office as the Chief Investigator in IAD. Holman told the Grand Jury (Exhibit 18) that, after reviewing the file, Holman determined that the file had never been referred to the IG's office. Holman knew this because there was no stamp showing that the file had ever been referred or sent to the IG, something, according to Holman, that would have definitely occurred. The standard procedure at the IG's Office is to photocopy everything that they receive, but this apparently was never done with respect to this file. Except for the July 12, 1999 (Exhibit 19), cover memo from Barsch to Shaughnessy, there were no documents indicating that the file had been sent from the IAD to the IG, and no investigative work whatsoever was done by the IG's office. Also, according to Holman, if the case had actually gone to the IG's office, it most certainly would have likely been assigned for review to IG Investigator Frank Podolsky, who was detailed from the IG's office to review DOC IAD cases. Holman stated that Podolsky later confirmed to him that he never saw the file between the time periods of July 1999 to May 2001.

In early May 2001, IG Shaughnessy produced, for Brian Flaherty (Exhibit 20), at the time the Chief Legal Counsel for the Sheriff and James Ryan, in May 2001, the Chief of Operations, a file purporting to be the investigative file of this incident. It contained a memo from Barsch to Shaughnessy asserting that Ryan had ordered the investigation stopped.

James Ryan, the Director of Operations for the Cook County Sheriff's Office ("CCSO") since 2001, and who was the Sheriff's Chief Legal Advisor in July 1999, appeared before the Grand Jury in April 2004 (Exhibit 21). At that time, he testified that he did not see until May 2001, the July 12, 1999 memo from Barsch to Shaughnessy, in

which it was stated that Ryan ordered the transfer of the investigation. He testified that the July 12, 1999 memo, as well as a second related July 1999 memo (Exhibit 22) from Barsch to Shaughnessy was brought to his attention when someone in the Sheriff's Office inquired about a Sheriff's employee who was involved in the 1999 incident and an unrelated incident. Ryan related that in this second memo, Barsch tells Shaughnessy that Ryan actually ordered the halting of the 1999 investigation. This second memo was not a part of Holman's IAD file and was not otherwise made known to the Grand Jury before Ryan appeared to testify. Ryan initially denied that he *ordered* either the transfer or the halting of the investigation. Later during his testimony, when pressed on the subject, he conceded that he may have *requested* that the investigation be transferred to the IG's office, but that he had no recollection of doing so, nor did he recall having any conversations with any one in the Sheriff's office in 1999 about the investigation. His explanation for what was arguably an exercise in semantics was that as Chief Legal Advisor he could not *order* any one to do any thing but could only advise and make suggestions. Ryan maintained, however, that he did not order the halting of the investigation. Ryan went on to testify that if he did make the transfer request it would have likely been his idea due to the fact that civil litigation arising out of the 1999 incident had commenced against the Sheriff by Cello Pettiford *et al.* (Exhibit 23). Because of this litigation, Ryan, in retrospect, believes it would make sense to transfer the investigation to the IG, but offered no explanation as to why the investigation, supposedly transferred for its importance, would sit dormant for almost two years.

Ryan was asked what he did once he learned that his name was apparently improperly connected to the transfer and/or stopping of the investigation. Ryan testified

that he called a meeting with Shaughnessy and then-Chief Legal Advisor Brian Flaherty (now Cook County Circuit Court Judge) in which he first asked Shaughnessy the reason the case sat for two years. Ryan testified that Shaughnessy simply shrugged his shoulders, which Ryan interpreted to mean that Shaughnessy did not know what happened and that he was dumbfounded. Ryan also testified that he was "hot" that his name was invoked in connection with the delay in this case and that he was going to write a memo to the file but that Flaherty and Shaughnessy—the person on whose watch the case sat—advised Ryan that they would "take care of it" and, therefore, there was no need for him to write a memo. Ryan, an attorney with individual professional responsibilities to be concerned with, testified that he took their advice and did nothing because he trusted them.

James Ryan did not inquire of Henry Barsch as to why Barsch had used Ryan's name in the two memos. He did not ask for an investigation of the use of his name. He did not ask for an investigation of the delay.

Ryan stated that he could not recall telling the Sheriff about his discovery but assumes that he did. Accordingly, Ryan does not recall the Sheriff's reaction but stated that "Knowing him he'd probably say 'is it taken care of? Take care of it,' you know, knowing him." Exhibit __, at 61. Ryan also testified that he never heard that the Sheriff made any inquiry regarding this discovery with anyone, including Shaughnessy, Flaherty or Barsch.

Completion of Investigation by Holman

While Holman was in the process of finishing the investigation (between May 2001 and September 200) he was told in March 2002, before his investigation concluded, by an Assistant State's Attorney to whom he had gone for Grand Jury subpoenas in aid of his investigation, that the Statute of Limitations had expired on potential charges.[4] Holman commented to the Grand Jury that, when the case was reopened, it was common knowledge to everyone involved, including Barsch that the Statute of Limitations was in jeopardy.[5] The only penalty that could be enforced would be administrative in nature, not criminal. An official could also be terminated from service, but only if the Merit Board recommended such a course of action. Holman also stated that he felt at the time that there was little chance of anyone being terminated. Therefore, in Holman's view, it was easy for Barsch to now say, in essence, "Go ahead and investigate, and let the chips fall where they may."

Holman's report on his exhaustive investigation was completed on September 5, 2002. Holman issued numerous sustained findings against Remus and several of his underlings, pertaining to, among other things, the use of corporal punishment, Remus' directing subordinates to use corporal punishment, the making of false reports and the failure to turn in contraband. Sustained findings were issued against members of the K-9

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[4] In March 2002, an Assistant State's Attorney informed Holman that subpoenas could not be issued against certain paramedics who responded to Division IX on February 24, 1999 because the statute of limitations had expired.

[5] Indeed, in May 2001 the 18-month statute of limitations for any possible criminal misdemeanors had already expired, leaving less than a year to bring any felony charges under the 3-year statute of limitations. Given that at this point very little investigation had been done on this mammoth case, bringing felony charges before February 2002, was highly impracticable.

units for bringing un-muzzled dogs into the living units. Sustained findings were issued against Superintendent James Edwards for making a false report regarding the physical appearance of Bert Berrios following the incident and for not alerting IAD and others to the SORT Team's misconduct. Sustained findings were issued against paramedic supervisor Steve Fullilove for refusing medical treatment for the detainees on February 24, 1999. According to Holman, most of individuals cited, with the exception of Remus, were eventually promoted.

Holman's report was signed off on by Deputy Chief Samuel Mosley and Chief IAD Investigator Saul Weinstein, who replaced Henry Barsch after Barsch's promotion to the IG's office. Also, IG Investigator Frank Podolsky, who was detailed to IAD, reviewed and verbally approved the report. However, Holman told members of the Grand Jury that he felt Chief Weinstein deliberately put off signing the report until toward the end of 2002, thus delaying it from going to the final Command Channel review process, which is when specific discipline is meted out. Weinstein gave a voluntary interview to members of the Grand Jury staff during which time he stated that he agreed with the outcome of Holman's report but that he had some technical/stylistic problems with it that caused tension between him and Holman Exhibit 24). Weinstein, however, asserted his Fifth Amendment rights and refused to testify (Exhibit 25) when subpoenaed before the Grand Jury.[6]

[6] It should be noted that Weinstein is a named defendant in the Cello Pettiford civil litigation.

Media Coverage/Ordering of Supplemental Report

In mid-February 2003, reporters from the Chicago Tribune began making inquiries into the February 24, 1999 incident including the possible cover-up of the investigation (Exhibit 26). According to James Ryan, it was at this time that Sheriff Sheahan ordered the Inspector General to review Holman's findings:

> "I think at the time we were getting calls from the Tribune, everything was coming down, the file was sitting there for five years, four years, something like that, obviously people didn't do their job and the Tribune was making allegations of a cover-up and things of that nature and [the Sheriff] wanted Shaughnessy to take a look at it and put his seal of approval on it, that's why I believe he had Shaughnessy do a supplemental report."

(Exhibit 21,Tr. at 69). As to the need to do a supplemental report, James Ryan testified that he was not sure if Sheriff Sheahan even read Investigator Holman's report before making the decision to have the IG review the file. Nevertheless, on February 18, 2003, IG Shaughnessy directed IG Investigators James Cleary and Rodney Pavilionis to review Holman's report and findings, resulting in the issuance of a supplemental report dated February 26, 2003 ("Supplemental Report") (Exhibit 27).

The Sheriff's and Shaughnessy's action were seemingly without any basis and came after his own subordinate, IG Inv. Frank Podolsky, approved Holman's report and finding. The Supplemental Report, which was signed off on by Shaughnessy, Acting

Executive Director John Maul[7] and Undersheriff Zelda Whittler on March 4, 2003, (Exhibit 28) "Altered", or vacated, all of the serious sustained findings of misconduct with little-to-no explanation, and with no additional investigative work being done. For example, all the findings pertaining to the use of corporal punishment by, and at the direction of, Remus, were altered. The findings that SORT Officer Juan Diaz and SORT Sergeant James Tylka made false reports when they wrote that the wings were unruly on February 24, 1999, were changed with no explanation except that there was "insufficient evidence." This change is most startling given the overwhelming evidence (Division logs and a number of Division Officers' testimony) that the wings were already on lockdown when SORT arrived. Holman expressed particular bemusement at the fact that the Supplemental Report was signed off by all three individuals on the same day, which meant the report had to be physically routed and reviewed by all three in one day. Perhaps most shocking to everyone close to the event, was the fact that before the Supplemental Report was commissioned by Shaughnessy and completed, SORT Officer Juan Diaz was promoted to Chief Investigator in IAD, replacing Saul Weinstein and, as such, was Holman's superior. Holman commented that this turn of events was proof of Remus' clout.

Frank Podolsky, a 79-year old veteran IG investigator, and retired Chicago Police Department internal affairs investigator, was shown a copy of the Supplemental Report when he appeared for a voluntary interview in April 2004 (29). He stated that not only did he not request any supplemental report be done, but that this was the first time he had

[7] Maul took over for Ernest Velasco, who at the time had been nominated by Governor Blagojevich to head the Illinois Department of Corrections. After the Chicago Tribune series, Velasco withdrew his name from consideration for the position.

seen it. After reviewing the report, Podolsky stated that he was offended by it because he had originally reviewed Holman's report and findings and thought it was accurate and thorough. Podolsky explained that supplemental reports typically become necessary when something is missing in the summary report. For example, there may be missing exhibits that should have been included in the summary report. If such omission exists, a request is then made for a supplemental report. However, this was not the case with Holman's report.

Podolsky also stated that although he normally sits in on final reviews, he did not here, either when Saul Weinstein signed the IAD report, or when the Supplemental Report was approved. Podolsky opined that if Barsch acted inappropriately with respect to the report, IG Shaughnessy would have certainly helped him. Podolsky admitted that his previous trust of his superiors might have been misplaced. He stated, "I'd be a fool not to think it now after seeing [the Supplemental Report]." He stated that he did not understand why Shaughnessy might have done such a thing.

James Ryan also acknowledged that the Supplemental Report could give the impression that, assuming there was a cover-up, such misdeed would be exacerbated by the altering of the most serious sustained findings. Ryan testified that he was not personally troubled by the altering of many of the sustained findings because he never read Holman's complete report and did not even read the entire Supplemental Report.

Co-author of the Supplemental Report, Investigator James Cleary (Exhibit 30), appeared before the Grand Jury pursuant to subpoena and testified that the entire review of the file and writing of the Supplemental Report spanned eight days, including a

weekend in which he and co-author Investigator Rodney Pavilionis did not work. He testified that he would have liked more time to conduct the review but that he was told by IG Shaughnessy to complete it "as soon as possible." Investigator Cleary initially stood by the Supplemental Report's conclusion that there was no evidence to corroborate the alleged beatings of the detainees. In so doing, Cleary stated that he considered the detainees' accounts to simply be separate one-on-one versions and, according to Cleary, there were no supporting identifications of the alleged perpetrators. When it was brought to Cleary's attention that numerous detainees positively identified Supt. Remus and other SORT officers as taking part in the beating, he was asked, "In light of those and other versions of detainees[,] when you and Investigator Pavilionis wrote that there was no alleged evidence . . .to support or corroborate the alleged beatings that wasn't true, was it?" (Exhibit 30, at 84). Cleary responded, "No. It doesn't look like it." (Exhibit 30, at 84).

Regarding Cleary and Pavilionis' finding in the Supplemental Report that there was insufficient evidence to support Investigator Holman's finding that SORT officers Juan Diaz and James Tylka wrote false reports in connection with whether the tiers were unruly and refusing to lock down, Cleary, after reviewing the Supplemental Report and portions of Investigator Holman's report, admitted that he was incorrect. Cleary's explanation for these errors was, with respect to the Diaz' report, "I must have overlooked it." (Exhibit 30, at 91). With respect to Tylka's report, Cleary stated that he misunderstood the finding at the time, believing it went only to whether the Tylka's report was incomplete. (Exhibit 30, at 96-97). ("I apparently was focusing on something else as far as the reports were concerned. I was looking at the completeness of the report and

not the falseness of the report and, therefore, I changed it, the findings, instead of sustaining as far as false. . .") When asked if he now believed the statements were false, Cleary stated, "Yeah, they apparently were." (Exhibit 30, at 96). Toward the end of Cleary's testimony he stated that he no longer had pride in his work.

Cleary stated that the fact that there was a two-year delay in which the investigation sat dormant did not strike him as unusual or irregular.

Investigator Pavilionis (Exhibit 31), in the face of the same documentary evidence that led Investigator Cleary to acknowledge errors with the Supplemental Report, was unyielding in his view that his findings were supported. He testified before the Grand Jury that he may have used the wrong language in the Supplemental Report in saying there was "no evidence" to support the claims of corporal punishment. He explained that, in retrospect, he should have said there was "little evidence." Pavilionis' biggest problem with the detainees' claims was that, in his view, there was no medical evidence to corroborate the beatings as described. He stated that he felt there were medical records missing and, as a result, went to Dr. James McAuley (Exhibit 32), former head of medical services at Cermak. Pavilionis recounted that Dr. McAuley admitted that the medical recordkeeping was lacking. Nevertheless, the doctor was apparently able to find additional records showing the triage at Division 9 of numerous detainees on February 24, 1999. This discovery came *after* the Supplemental Report was forwarded by Cleary and Pavilionis to Command Channel Review. Pavilionis testified that he informed Shaughnessy of the discovery and was told to do a supplement to the Supplemental Report (Exhibit 33), which Pavilionis did on March 13, 2003, one week after the Supplemental Report was signed off on. Pavilionis brought this report with him to the

Grand Jury. It should be noted that neither this report nor the underlying medical records were disclosed to the Grand Jury pursuant to subpoenas served on the Inspector General's office or Cermak Hospital. Subsequently, the medical records have been located.

Inspector Pavilionis, after discussing the newly discovered records with Dr. McAuley, felt that the alleged beatings were not medically corroborated inasmuch as they only reflected "minor contusions, bruises and scrapes."

As to the length of the investigation, Pavilionis testified that he commented to Shaughnessy about the extreme delay in completing the investigation. According to Pavilionis, Shaughnessy told him, "just read it and tell me what you think about [the underlying charges."] (Exhibit 31, at 178). Pavilionis agreed that Shaughnessy took no apparent interest in the age of the case. Pavilionis finally conceded that the investigation "either got lost or got buried." (Exhibit 31, at 201). Assuming it was buried, Pavilionis was asked what would be the reason. He stated that any one at the superintendent-level, like Remus, is "quite connected in the County", therefore, perhaps "somebody is trying to protect him." (Exhibit 31, at 202). Pavilionis emphasized that this was just a "guess" and "conjecture" and that he had no personal knowledge of such. He also admitted that he would be unwilling to go over his Shaughnessy's head to bring to the Undersheriff's attention possible wrongdoing that caused the delay. (Exhibit 31, at 180). ("I would never override my boss like that.").

Command Channel Review of Supplemental Report

The Supplemental Report, dated February 26, 2003, was not approved until it went through Command Channel Review, which included reviews by IG Joseph

Shaughnessy, John Maul, the Acting Executive Director, and Undersheriff, Zelda Whittler. All reviewers signed off on the report on March 4, 2003, which according to Investigators Holman and Podolsky, was amazing given the logistics of routing the report to the various offices in different locations and the sheer time required to provide a meaningful review.

IG Shaughnessy's approval would appear to be the least surprising. His name was on the written request to the investigators to conduct the review, a review being conducted within his department. Also, to the extent that the Supplemental Report totally failed to address the conspicuous and unaccounted 2-year delay that occurred on the IG's watch, Shaughnessy, perhaps, was the most at risk, professionally and criminally. As stated earlier, Shaughnessy exercised his Constitutional right not to incriminate himself by refusing to testify in the Grand Jury.

John Maul, the Acting Executive Director in March 2003, testified pursuant to a subpoena on June 21, 2004 (Exhibit 34). It was Maul who came up with the discipline recommendations, including Supt. Remus getting 29 days suspension, Lt. Everhart getting 5 days, Sergeants Tylka and Rosario getting 3 days each and Officer Diaz, who Holman found wrote a false report, getting off with a reprimand. Maul testified that he had the entire IAD and Supplemental Report in front of him when he signed off on the Command Channel form. He stated that he was not aware at the time that the findings that would have supported criminal charges—corporal punishment related findings and false reports findings—were the ones that were "Altered" in the Supplemental Report. Maul stated that with respect to the Altered findings of making false reports, he agreed with Holman that the reports were not correct but sided with the "Altered" result because:

"Having seen the S.O.R.T. team in action I don't find them to be brutal or use excessive force. In my opinion from what I've observed when they're in a tier, searching a tier, it's a very professional operation and from my personal experiences having seen them the thing that I think they did wrong was they falsified reports and did bad reports where if they would have done correct reports this would not - I wouldn't be sitting here right now."

(Exhibit 34, at 106). Maul reiterated throughout his testimony that although he believed the SORT reports were false, he did not believe that corporal punishment occurred because he had never seen SORT behave improperly in the past. Maul also cited the fact that a Dr. Dolton of Cermak supposedly saw some of the detainees who claimed to have been beaten and found no significant injuries. However, Maul was surprised to learn that the Grand Jury had never heard of Dr. Dolton or seen any documents supporting any medical treatment by Dr. Dolton. (All medical records of Cermak Hospital were subpoenaed by the Grand Jury and a thorough review of all the documents fails to disclose not only any report by a Dr. Dolton, but they fail to even mention the name of a Dr. Dolton). Maul testified that he was concerned that it appeared that someone may have intentionally stopped the investigation but that he did not do anything or recommend any action because he knew that, by this time (February-March 2003) every one in the Sheriff's office was aware of it.

Undersheriff Zelda Whittler testified pursuant to subpoena on June 21, 2004 (Exhibit 35). As Undersheriff, Whittler oversees all operations of the CCSO and all department heads report to her. With respect to her signing off on the Supplemental Report, Whittler testified in essence that, although she read Holman's report and the

Supplemental report during he afternoon of March 4, 2003, she gave a great deal of deference to Joe Shaughnessy and John Maul, who had already signed off on the Command Channel Review form earlier that day. Whittler testified that she was troubled by the delay in the investigation and other aspects of the investigation but that her focus at that time was on coming up with ways to prevent it from happening in the future. Accordingly, Whittler pointed to the newly-instituted 30-, 60-, and 90-day tracking system in the IG's office as a major implementation which should go a long way toward preventing similar delays. She was also very complimentary of Joe Shaughnessy and presumed that a fair and just outcome had occurred due to the fact that Shaughnessy had two investigators review the IAD report. Ms. Whittler never called for an investigation into the delay, nor into the areas of difference between Holman's report and the Supplemental Report's statement that there was no evidence to corroborate Holman's findings.

Chicago Tribune Expose

In February 2003, reporters from the Chicago Tribune began inquiring about the February 24, 1999 and July 29, 2000 incidents within the Cook County Jail, including the apparent cover-up of the 1999 incident (Exhibit 26). This inquiry preceded, and seemingly led to, the review of the IAD report by the IG's Office. On February 27, 2003, the first of a series of articles was published in the Chicago Tribune (Exhibit 1), which set forth details of the incidents and raised questions about the apparent cover-up of the 1999 incident. Sally Daly, Sheriff Sheahan's spokesperson, was quoted throughout the February 27th article. In responding to the delay of the investigation into the 1999 incident, Daly stated that it "should have been completed in a more timely fashion" but

that it was not "intentionally halted or put on the shelf." Daly also stated that "If there had been any evidence of criminal conduct uncovered in the investigation, we would have brought it back" to the State's Attorney's Office.

In her testimony before the Grand Jury (Exhibit 26), Daly acknowledged being accurately quoted in the February 27, 2003 article. She testified that when the reporters called her that was the first time she had heard of the incidents. Daly stated that she went to the Sheriff who, in her view, was also hearing about it for the first time. According to Daly, the Sheriff told her to go out and talk to whoever she needs to talk to and then respond to the reporters.

Daly stated that in order to find out what happened, she had a meeting with the Chief Legal Advisor at the time, Brian Flaherty, along with Inspector General Joseph Shaughnessy and Deputy Inspector General Henry Barsch. During this meeting, Daly was verbally briefed on the 1999 incident by Shaughnessy and Barsch, who told her about the underlying allegations involving SORT. As to the delay of the investigation, Daly stated that Shaughnessy and Barsch gave two reasons. The first was that the investigation was very broad, involving the interview of hundreds of people in various places across Illinois and Indiana. The second reason the two offered Daly was that there was some sort of "miscommunication" between IAD and the IG's office, whereby IAD believed the case was being investigated by the IG's Office and the IG's office believed the case was still in the IAD's office. This explanation by Barsch and Shaughnessy further implicates the two because Barsch himself, when he was still in IAD, wrote the memos to Shaughnessy stating that, per James Ryan, the case was being transferred, in one memo, and stopped, in the other. In June 1999, Barsch verbally instructed Holman

that the case was being taken away from him and sent to the IG's office. Accordingly, Barsch and Shaughnessy's "miscommunication" explanation to Daly is simply not credible.

Daly testified that at the time she met with Barsch and Shaughnessy, it did not occur to her that they may be personally responsible for the delay.

Daly stated that she also spoke with James Ryan, the Director of Operations and former Chief Legal Advisor. According to Daly, Ryan told her that in 1999, as the Sheriff's lawyer, he directed the case be transferred to the IG's office after Cello Pettiford filed his civil lawsuit. Ryan denied to Daly that he stalled or quashed the investigation. If true, Ryan's testimony before the Grand Jury was, at best, coy. Ryan told the Grand Jurors early in his testimony that he had never seen the two Barsch memos before May 2001 (Exhibits 21), suggesting that the content of the memos was false or foreign to him. As it turns out, Ryan told Daly that he directed the transfer of the investigation to the IG's office. After being pressed, he told the Grand Jury that he may have *requested* the transfer of the investigation.

After speaking to Ryan, Daly stated that, before speaking to the press, she gave the Sheriff her take on the situation, which basically was that there was some miscommunication problem. Daly stated that she could not recall the Sheriff's response. When asked about the possible inaccuracy of the information she was receiving, Daly emphasized that her job was to "relay the information" and that she does not "get involved in, you know, evaluating it to the extent of is it right." (Exhibit 26, at 38). Daly stated that she never spoke to Holman about the incident before going to the press and, at

most, may have read portions of Holman's report. Daly stated that she had no reaction to the fact that Holman's findings and the IG's findings were directly at odds. Therefore, when she spoke confidently to the press that there was no evidence to support the beatings, Daly admitted that she was speaking only from what Shaughnessy and Barsch told her. The following exchange during her testimony then took place:

Q. "So whatever [Shaughnessy] told you you just parroted?"

A. "Yes. That's my job. I'm not there to conduct the investigation."

(Exhibit 26, at 52).

With respect to her statements in the February 27, 2003 Tribune article, Daly maintained that she was simply providing information that was given to her by Shaughnessy, Barsch and Ryan, without regard to the other possible sides to the story, and without consideration that the persons providing her the information may have engaged in wrong doing.

Sheriff Sheahan's Testimony

During his testimony, the Sheriff (Exhibit 36) stated that he never read Holman's report or the Supplemental Report and, therefore, could not comment on the underlying allegations of beatings or the alleged cover-up. However, the Sheriff admitted that he was involved in the decision to have the IG's office review Holman's report, as James Ryan had testified to. Left unanswered is why the Sheriff would direct the IG to conduct the review if he never assessed the thoroughness and accuracy of Holman's report, and why he did not read the Supplemental Report, which he ordered. The best explanation the

Sheriff offered was that he essentially does not have time to get involved in all the many investigations, apparently even as high-profile as the 1999 investigation which resulted in front-page Tribune coverage. Seemingly contradictorily, the Sheriff testified that he did find time to read the Tribune series, which in total, rivaled the length of his staff's investigative reports. Sheahan repeatedly stated that he had people underneath him to oversee the investigations. The problem the Grand Jurors have is that those people failed to apply even minimal scrutiny to the obvious wrongdoing made clear in Holman's report, and which was covered up in the Supplemental Report. In short, the Sheriff engaged in a not-too-skillful exercise of deliberate ignorance, even as his people failed miserably in their responsibilities. He made sure he knew little-to-nothing so that he would be unable to deal with specific issues that arose. Such abdication of responsibility is especially troubling to the Grand Jury.

Retaliation

After the February 2003 Chicago Tribune articles detailed the alleged brutality incidents occurring at the Cook County Jail (Exhibit 1), Holman was removed from his position as an IAD Investigator. This action was taken because the Cook County Sheriff's Office believed that Holman had been the source for the Tribune story. Officials at the Sheriff's Office believed that Holman had leaked the story, although Holman maintains that did not speak with Tribune reporters until after the story first appeared in the newspaper. The cruelest irony is that Investigator Holman was disciplined by the newly-promoted Chief of IAD, Juan Diaz, the former SORT Officer who Holman found made a false report. Holman accepted a three-day suspension for the alleged infraction.

Conclusions of Grand Jury Regarding 1999 Incident and Investigation

After examining all the evidence available to the Grand Jury several findings/conclusions emerge.

First, the Grand Jury holds no serious doubt that the clout-heavy Richard Remus and the SORT Team he led engaged in gross, if not criminal, misconduct on February 24, 1999. This misconduct was fostered by an environment in which the SORT Team enjoyed what was described as *carte blanche*, i.e., they could come, go and do as they pleased with impunity. (In a number of inmate grievances of excessive force examined by Michael Bane – described in a later section of this Part One – the SORT Team was cited as being brutal and characterized by the inmates as the "Darkie Terrorist Squad.") This environment was evidenced by the fact that no division officer—low-level or high ranking—was allowed to witness SORT's interaction with detainees. Such was the unwritten rule. Indeed, the division personnel largely ignored the incident except for facilitating subsequent medical treatment. Wing Officer Eric Dublin was told to wait in the outside hall where the only thing that he could hear was the volume of the television increase. Moreover, SORT did not feel obligated to do reports, and when they did them in this instance, they were false.

Secondly, the Supplemental Report "Altered" the IAD's findings of corporal punishment in the face of substantial and persuasive evidence that supported those findings. The sheer consistency among the numerous detainees' statements given shortly after the incident and throughout the investigation strongly suggests the alleged beatings occurred as described. These detainees were in various wings in Division 9, making

concoction a remote possibility. In addition to the environment that SORT operated in, the beatings were corroborated medically. Right after SORT exited following the evening incursion, Chief Mary Johnson observed a urine-soaked Cello Pettiford trembling with seizure-like symptoms. Wing Officer Eric Dublin observed Earnest Blossom with a pronounced limp immediately following the encounter. Investigator Holman observed Bert Berrios with black eyes and a neck burn still visible a week after the incident. The photos taken by Holman documenting Berrios' condition mysteriously disappeared with no one particularly concerned about discovering how or why, even though Remus told Holman that then-IAD Chief Henry Barsch showed him the photos at some point. As documented by Dr. McAuley, several detainees had contusions, bruises and scrapes, documentation the Grand Jury was not provided until Investigator Pavilionis referenced them before the Grand Jury. Because these injuries were not considered "serious" by those signing off on the Supplemental Report, the entirety of the detainees' claims were dismissed as having no support. This total dismissal is also puzzling given that several detainees stated that SORT was careful to administer body blows in order to avoid leaving physical evidence of the beating and several detainees claimed that they were refused medical treatment. Apparently, it is okay for guards to beat inmates as long as the medical evidence is not overwhelming.

Third, the beatings are corroborated by the fact that the only reports written by SORT concerning the incident were false, in that they stated that SORT was called to the tiers because they were unruly and refusing to lock down. It is understood and admitted by most everyone, based on the unequivocal evidence, that these statements were false. Even Investigator James Cleary, who co-authored the Supplemental Report, and John

Maul, the Acting Executive Director at the time, conceded under oath that the reports were indeed false. Any other interpretation, as stubbornly maintained by Investigator Pavilionis, is an insult to common sense and patently not credible. SORT had the authority to search the cells and detainees without a reason, but the fact that they lied, leads to only one reasonable inference: SORT went to the tiers for an improper reason, i.e., to beat detainees, and were trying to cover their tracks.

Fourth, there was a concerted effort to derail this investigation from the beginning, starting with the false SORT reports. The evidence also strongly points to Henry Barsch as being involved in the disappearance of the Bert Berrios photos. Barsch physically handled the file by assigning it to Investigator Gomez and reassigning it to Holman. Barsch also had general access to Gomez's file drawers where he kept the file. Most powerfully, however, is Remus' statement to Holman during the course of the investigation, that Barsch showed him the photos. Such action was in clear violation of the General Orders. Holman stated he was not comfortable going over Barsch's head to IG Shaughnessy because Barsch and Shaughnessy were very close.

The purported transfer of the case in July 1999 from IAD to the IG's office, where the case sat inactive until May 2001, is perhaps as more troubling than the underlying beatings. The people responsible for policing ethical lapses and other misconduct were the perpetrators of what appears to be blatant obstruction of justice. The only aspect of the obstruction still in question is the scope. IG Joseph Shaughnessy, who the Sheriff, Undersheriff and others, described as having utmost integrity, clearly was involved in stopping the investigation. The file sat in his department and two memos from Barsch were written to him in July 1999, one saying per James Ryan, the investigation was being

transferred, and the other saying per James Ryan, the investigation was being stopped. Although James Ryan impliedly denied ordering the transfer of the investigation and expressly denied stopping the investigation, the first memo was part of the file. According to Ryan, Shaughnessy simply shrugged his shoulder when asked about the reason for the extreme delay.

Henry Barsch is implicated in the obstruction, to the extent that he authored the memos and given his reportedly close relationship with Barsch (recall that Shaughnessy promoted Barsch from Chief of IAD, to Deputy Chief IG during the pendency of the investigation). Barsch also likely had a hand in the disappearance of the Berrios photos. If James Ryan was truthful in saying he did not order the transfer or stopping of the investigation, then it would suggest Barsch and Shaughnessy may have acted alone. Ryan did admit that he may have *requested* the case be transferred to the IG's office but that he could not recall. Sally Daly, the Sheriff's spokesperson, testified that Ryan told her that he directed the investigation be transferred to the IG's office. In any case, Ryan' role should be scrutinized more closely. One thing is clear, the investigation, large in magnitude and high in profile, sat dormant for almost two years until there was no realistic chance of bringing criminal charges.

For some still-unexplained reason, no one in the Sheriff's office felt it necessary to confront Shaughnessy or Barsch and get to the bottom of the delay. James Ryan didn't press Shaughnessy. He didn't confront Barsch. The Command Channel review of the Supplemental Report not so much as commented on the possible reason for the delay. Moreover, no one raised the obvious conflict of interest of having IG Shaughnessy review an investigation that he very possibly intentionally delayed. John Maul didn't

believe it was within his province to raise the issue inasmuch as the IG does not report to him. Undersheriff Whittler gave monumental and unjustified deference to Maul and Shaughnessy. Sheriff Sheahan, it appears, engaged in a skillful exercise of deliberate ignorance by never reading either Holman's report or the Supplemental Report, the latter report he personally commissioned. Therefore, he did not delve into the reasons why the investigation was delayed. The bottom line is that all the perpetrators got an administrative pass for the blatant halting of the investigation.

CRIMINAL LAWS IMPLICATED

State Laws

With respect to the delay and other impediments in connection with the internal investigation, various criminal laws are implicated. Most notably are obstruction of justice, 720 ILCS 5/31-4 (Exhibit 37), and official misconduct, 720 ILCS 5/33-3 (Exhibit 38).

Obstruction of Justice

The obstruction of justice statute provides in part:

> A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he knowingly commits any of the following acts:
>
> (a) Destroys, alters, conceals or disguises physical evidence, plants false evidence, furnishes false information; or

> (b) Induces a witness having knowledge material to the subject at issue to leave the State or conceal himself; or
>
> (c) Possessing knowledge material to the subject at issue, he leaves the State or conceals himself.
>
> (d) Sentence
>
> (1) Obstructing justice is a Class 4 felony...
>
> * * *

720 ILCS 5/31-4 (emphasis added). A person convicted of a Class 4 felony can be imprisoned for up to three years and fined up to $25,000. 730 ILCS 5/5-8-1(a)(7) (Exhibit 39); 730 ILCS 5/5-9-1(a)(1) (Exhibit 40).

Under the obstruction statute, the State must show that the defendant committed the act supporting the obstruction charge "with intent to obstruct prosecution." *People v. Gerdes*, 173 Ill. App.3d 1024, 527 N.E.2d 1310 (5th Dist. 1988); *People v. Powell*, 48 Ill. App. 3d 723, 362 N.E.2d 1329, *reversed on other grounds*, 72 Ill.2d 50, 377 N.E.2d 803 (1st Dist. 1977). Direct evidence of intent is not required, but intent may be inferred from all the surrounding circumstances. *People v. Hollingsead*, 210 Ill. App.3d 750, 569 N.E.2d 216 (4th Dist. 1991). Nevertheless, it must be kept in mind that, as a procedural matter under Illinois law, a charge of obstruction of justice must be pled with particularity. *In re M.F.*, 315 Ill. App.3d 641, 734 N.E.2d 171 (2d Dist. 2000).

The most common type of obstruction of justice involves the making of false statements. As outlined above, there is evidence of this type of obstruction throughout the course of the 1999 Investigation. From an evidentiary standpoint, these infractions seem readily provable, assuming the statute-of-limitation hurdles can be cleared (*See infra*). In addition, the concealment of evidence is viable under the statute. *See, e.g., People v. Morgan,* 169 Ill. App.3d 368, 523 N.E.2d 560 (4th Dist. 1988)(evidence was sufficient to support obstruction conviction where shown that defendant took records subject to subpoena and concealed them at various rest areas throughout State in order to prevent his prosecution on obscenity charges); *People v. Cole,* 50 Ill. App.3d 133, 365 N.E.2d 133 (5th Dist. 1977) (defendant's removal of decedent's vehicle from crime scene and leaving it several miles away supported conviction for obstruction of justice).

Secondly, although additional investigative techniques would be needed to encourage subjects of the investigation to come forward or "flip," it appears that a fairly solid case of obstruction by concealment can be made out with respect to the investigation being derailed for almost two years.

Official Misconduct

The official misconduct statute provides in part:

> A public officer or employee commits misconduct when, in his official capacity, he commits any of the following acts:
>
> (a) Intentionally or recklessly fails to perform any mandatory duty as required by law; or

> (b) Knowingly performs an act which he knows he is forbidden by law to perform; or
>
> (c) With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority;
>
> * * *
>
> A public officer or employee convicted of violating any provisions of this Section forfeits his office or employment. In addition, he commits a Class 3 felony.

720 ILCS 5/33-3 (emphasis added). A person convicted of a Class 3 felony can be imprisoned for up to five years and fined up to $25,000. 730 ILCS 5/5-8-1(a)(6) (Exhibit 41); 730 ILCS 5/5-9-1(a)(1).

The failure to perform a "duty as required by law," which forms the basis of the offense, can be rooted not only in statutory law, but in an administrative rule or regulation, even though the rule or regulation might not, itself, carry any penalty. *People v. Becker*, 315 Ill.App.3d 980, 734 N.E.2d 987 (1st Dist. 2000); *People v. Selby*, 298 Ill.App.3d 605, 698 N.E.2d 1102 (4th Dist. 1998); *People v. Samel*, 115 Ill.App.3d 905, 451 N.E.2d 892 (2d Dist. 1983). Accordingly, violation of either the obstruction of justice statute or CCDOC's general orders would support a charge under the official

misconduct statute against employees of CCDOC[8]. Note, that the CCDOC general orders do not govern the conduct of the Inspector General's Office.

It should also be noted that under the official misconduct statute, a public officer performs an act in his "official capacity" if it is accomplished by exploitation of his position. *People v. Kleffman*, 90 Ill.App.3d 1, 412 N.E.2d 1057 (3d Dist. 1980). Thus, the acts and omissions at issue in our investigation, being carried by CCDOC personnel during the course of their employment, would fall squarely within their "official capacities," so long as any indictment under this statute specifically set forth the act or omission. *Cf. People v. Davis*, 281 Ill.App.3d 984, 668 N.E.2d 119 (1st Dist. 1996) (indictment that alleged police department employee committed official misconduct by failing to promptly report to the police department information concerning certain crimes,

[8] More specifically, CCDOC General Order 4.1 governs Internal Investigations and sets forth several actions that constitute "Serious Misconduct" and "Less Serious Misconduct," both of which can subject a violator to disciplinary action. Included among the acts of Serious Misconduct are, (1) commission of any misdemeanor or felony offense, (2) failure to observe Federal, State and local laws, (3) detainee, employee or visitor abuse, (4) willful destruction of property, (5) making of a false report and (6) engaging in any conduct unbecoming an employee of the CCDOC which tends reflect discredit on the Department of Corrections or Sheriff's Office. Therefore, a violation of the obstruction statute would also constitute a violation of the official misconduct statute. The missing Berrios photos would come within the purview of General Order 4.1

Also, General Order 3.8 governs Ethics and Standards of Conduct for CCDOC and provides, among other things, that "It shall be unlawful for any CCDOC employee to enter into any activity or agreement, directly or indirectly, which presents a conflict of interest or is inconsistent with the performance of his/her official duties while employed by the Sheriff of Cook County. . .." GO 3.8III(C). Paragraph 3.8III(B)(2) states that "[a]ny effort by any person to influence an employee to violate standards of ethical conduct set forth in this policy or to engage in conduct which would create a justifiable impression in the public mind that such trust is being violated shall be a violation of ethics and standards of conduct." Paragraph 3.8III(B)(11) states that "Employees will not use their position or authority to secure personal privileges or advantages." Paragraph 3.8III(B)(13) states that "No employee will receive or attempt to solicit money or anything of value for performing or failing to perform their official duties." Paragraph 3.8 III(G) provides that "It shall be the responsibility of every employee to immediately report to their divisional Superintendent/Unit Head and the department Internal Investigations Unit verbally and in writing, any fact or situation which may give rise to or be construed as corrupt, illegal or unethical behavior and/or a possible conflict of interest. This shall include, but not be limited to, reporting anything which could impair the employee's performance of their duties in a fair and impartial manner."

in violation of department rules, was insufficient inasmuch as indictment failed to inform what information that he failed to report).

Conspiracy

From a prosecution standpoint, the broadest approach would be to charge all the actors in a wide-ranging conspiracy to obstruct justice or commit official misconduct, as discussed above. The specific object of the conspiracy would be to cover up misconduct carried out by clout-heavy Remus and SORT. The Illinois Criminal Conspiracy statute provides in part:

> (a) Elements of the offense. A person commits conspiracy when, with the intent that an offense be committed, he agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement is alleged and proved to have been committed by him or by a co-conspirator
>
> (b) Co-conspirators.
>
> It shall not be a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:
>
> (1) Has not been prosecuted or convicted, or
>
> (2) Has been convicted of a different offense, or
>
> (3) Is not amenable to justice, or
>
> (4) Has been acquitted, or

(5) Lacked the capacity to commit an offense.

* * *

720 ILCS 5/8-2. *See also People v. Kliner,* 185 Ill.2d 81, 705 N.E.2d 850, 879 (Ill. 1998) (setting forth and applying statutory elements). For purposes of this discussion, the sentence for a conspiracy conviction is the same as the underlying offense that is the object of the conspiracy. 720 ILCS 5/8-2(c) (Exhibit 42).

Under this theory, the period of the conspiracy would span from February 24, 1999, when the false reports were dated, until the last identified overt act, arguably, March 2003 when the Supplemental Report issued.

Of particular importance to the facts of our investigation is that the co-conspirators, to be guilty of the offense of conspiracy need not have entered into conspiracy at the same time or have taken part in all the actions. *People v. Harmison,* 108 Ill.2d 197, 483 N.E.2d 508 (Ill. 1998). Thus, a defendant is vicariously liable for all the acts done by any parties to the conspiracy already composed, either before or after his entrance into the conspiracy, as long as such acts were in furtherance of the conspiracy. *People v. Brown,* 107 Ill.App.3d 742, 438 N.E.2d 250 (3d Dist. 1982).

Perjury

The Illinois Perjury statute provides in part:

> (a) A person commits perjury when, under oath or affirmation, in a proceeding or in any other matter where by law such oath or affirmation is required, he makes a false statement,

material to the issue or point in question, which he does not believe to be true.

(b) Proof of Falsity

> An indictment or information for perjury alleging that the offender, under oath, has made contradictory statements, material to the issue or point in question, in the same or in different proceedings, where such oath or affirmation is required, need not specify which statement is false. At the trial, the prosecution need not establish which statement is false.

* *

(e) Sentence

Perjury is a Class 3 felony.

720 ILCS 5/32-2. A person convicted of a Class 3 felony can be imprisoned for up to five years and fined up to $25,000. 730 ILCS 5/5-8-1(a)(6); 730 ILCS 5/5-9-1(a)(1).

The Grand Jury believes that perjury charges might be appropriate for certain witnesses who testified before as discussed above, but, as with the other State criminal laws implicated, leaves that decision in the hands of the Cook County State's Attorney.

Statute of Limitations

The general statute of limitations that would govern the possible offenses at issue is 3 years from the commission of the offense. 720 ILCS 5/3-5(b) (Exhibit 43). In the

case of conspiracy, the 3-year statute begins to run when the last overt act is committed. *See* 720 ILCS 5/3-8 ("When an offense is based on a series of acts performed at different times, the period of limitation . . .starts at the time when the last such act is committed.") (Exhibit 44); *People v. Konkowski*, 378 Ill. 616, 39 N.E.2d 13 (1941) (in conspiracy case, the statute of limitations begins to run on the date of the last overt act in furtherance of the conspiracy). Also, for offenses that involve official misconduct—as we have here—the applicable limitation period may be extended an additional one-to-three years under 720 ILCS 5/3-6 (Exhibit 45), which provides in part:

> § 3-6. Extended limitations. The period within which a prosecution must be commenced under the provisions of Section 3-5 or other applicable statute is extended under the following conditions:
>
> * * *
>
> (b) A prosecution for any offense based upon misconduct in office by a public officer or employee may be commenced within one year after discovery of the offense by a person having a legal duty to report such offense, or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.
>
> * * *

720 ILCS 5/3-6. Accordingly, "the maximum duration for the period of limitations for the offense of official misconduct [is] six years (three years for the [underlying felony] plus a three-year extension where the offense involved is official misconduct)." *People v. Stevens*, 66 Ill. App.3d 138, 383 N.E.2d 688 (5th Dist. 1978).

Under a broad conspiracy theory, which captures all the actors and misconduct, the period of the conspiracy would span from February 24, 1999 until as late as March 2003. Thus, the general 3-year statute of limitations would then expire in March 2006. Of course, to the extent that a conspiracy is not alleged, or is defined more narrowly, the expiration of the 3-year statute date would be adjusted accordingly, and in fact, several isolated offenses are already time barred.

If the last cited overt act, the March 4, 2003 Supplemental Report, is not included, the last overt act might be May 2001, the end of the stalling of the investigation, meaning the statute would have expire in May 2004, unless extended. An argument can be made that under 720 ILCS 5/3-6, an extension should apply because the offense was never "discovered" by a person having a legal duty to report such a duty, nor has the "proper prosecuting attorney become aware of the offense." "Legal duty" is not defined under the statute and there is a paucity of case law on the subject. In any case, it is reasonable to conclude that under the CCDOC general orders, as discussed *supra*, Inv. Holman had a "legal duty" to report at least certain of the misconduct once discovered; namely, the missing Berrios photos and, arguably, the concealing of the investigation. In response, Inv. Holman has stated that he did not feel free to express to IG Shaughnessy (Barsch's boss) his concerns about the photographs likely being removed by Barsch (his superior) because Shaughnessy and Barsch were known to be good friends, coupled with the fact

that Remus had a lot of influence in the Sheriff's office. Holman stated that he was concerned about the security of his own job if he took the matter any further. Deputy Chief Samuel Mosley also told us that if someone tried to go straight to the Sheriff or Undersheriff, everyone in the Sheriff's Office would be aware of it, given the bureaucratic difficulty of getting an audience that high up the chain of command.

With respect to the concealing of the investigation, Holman stated that it was common knowledge that the statute of limitations was essentially blown when he was reassigned the case in May 2001. Nevertheless, and like the Berrios photos, Holman did not feel free to expose his direct superiors. Also, Holman's beliefs regarding the various forms of obstruction were, at that time, only that: beliefs or hunches, albeit pretty good ones. Therefore, whether this constitutes "discovering" the offense for purpose of triggering a reporting duty is unclear. However, *People v. Wenstrom*, 43 Ill.App.3d 250, 356 N.E.2d 1165 (2d Dist. 1976) provides decent support for the proposition that a person who otherwise has a legal duty to report misconduct under Section 5/3-6, should be excused from reporting such misconduct if that person was under undue influence or duress.

The second part of the extended limitations statute which triggers its running states that in the "in the absence of such discovery [by person with a legal duty to report], within one year after the proper prosecuting officer becomes aware of the offense." 720 ILCS 5/3-6(b). It seems clear that the Cook County State's Attorney has not been "made aware" of the offenses at issue. The closest that the prosecuting office has come to being formally made aware of potential offenses is when Inv. Holman sought subpoenas for the Cermak Hospital paramedics in March 2002, but was told the statute had expired. Under

no reasonable interpretation of Section 5/3-6 could Holman's request be construed to put the States Attorney on notice of the breadth of the potential offenses as discussed herein. It seems that the only reasonable interpretation would be to take the position that the States Attorney was placed on notice for the first time through this sitting grand jury.

Accordingly, it is reasonable to assume that under Section 5/3-6, the full additional 3years should apply to many of the acts of misconduct.

Federal Laws Implicated

Obstruction of Justice

The most probable federal charge that could the brought for the obstruction-related conduct described herein would likely come under Title 18 United States Code 1512(b) (Exhibit 46), which provides in part:

> **(b)** Whoever knowingly uses intimidation or physical force, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to –
>
> * * *
>
> **(3)** hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined under this title or imprisoned not more than ten years, or both.

18 U.S.C. § 1512(b)(3) (emphasis added).

"Another person" has been interpreted to include state investigators who acquire knowledge during the course of an investigation. *United States v. Veal*, 153 F.3d 1233, 1245 (11th Cir. 1998) (finding that "another person" was unambiguous and means "*any* person")(emphasis in original). Thus, internal investigators would necessarily come within the purview of this term.

The term "misleading conduct" under the obstruction statute is defined as–

(A) knowingly making a false statement;

(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(E) knowingly using a trick, scheme, or device with intent to mislead;

18 U.S.C. § 1515(a)(3)(emphasis added) (Exhibit 47). A literal application of Section 1515(a)(3) would sweep within its reach, at a minimum, those who are found to have participated in the concealment of Holman's preliminary investigation/findings for almost two years, as well as the perpetrator of the missing Berrios photos.

The requirement that the offender intend to "hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense," has been interpreted very broadly. In *Veal*, the Eleventh Circuit contrasted Section 1515(b)(3) (Exhibit 48) with other federal obstruction provisions, whose jurisdictional bases are more narrowly drawn, and concluded:

> [F]ederal jurisdiction under § 1512(b)(3) is based on the federal interest of protecting the integrity of potential federal investigations by ensuring that transfers of information to federal law enforcement officers and judges relating to the possible commission of federal offenses be truthful and unimpeded. By its wording, § 1512(b)(3) does not depend on the existence or immanency of a federal case or investigation but rather on the *possible* existence of a federal crime and a defendant's intention to thwart an inquiry into that crime. As [the other obstruction provisions] evidence, Congress could have limited the conduct proscribed in § 1512(b)(3) if that had been its intention.

Id. at 1250 (emphasis in original). Moreover, it makes no difference that the defendant is unaware of the federal nature of the potential crime. *Id.* at 1252 ("Indeed, it would be

ironic if congressional intent to ensure the integrity of investigations into possible federal crimes could be defeated simply by a defendant's ignorance, feigned or real, about the federal character of the crime. "). Along these same lines, it is not a requirement that wrongdoer intend that a federal investigator or judge receive the corrupted information; "it is relevant only that a federal investigator or judge *received it*." *Id.* at 1252 (emphasis in original)(citing *United States v. Fortenberry*, 971 F.2d 717, 720 (11th Cir. 1992)).

The facts of our investigation as they relate to the alleged SORT beatings on February 24, 1999, presented a potential or "possible" federal criminal civil rights case under Title 18 United States Code § 242.[9] Indeed, there is an ongoing federal grand jury investigation considering these facts. The efforts to conceal or stall the internal investigation of those facts, and by giving the misimpression to Inv. Holman and IAD, that the IG's office was actively investigating the case, implicates the obstruction statute. Thus, under the teaching of *Veal*, the requirements of Section 1512(b)(3) would appear to be satisfied.

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[9] This section provides in part

> Whoever, under color of any law statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. . .shall be [in the case of bodily injury] fined under this title or imprisoned not more than ten years, or both. . . . 18 USC Sec.242

Conspiracy

Very similar to criminal conspiracy under Illinois law, Title 18 United States Code Section 371, is the federal counterpart and essentially proscribes the same type conduct with respect to agreements to commit federal crimes. It provides in part:

> If two or more persons conspire either to commit any offense against the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to affect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.
>
> * * *

18 U.S.C. § 371.

Therefore, like Illinois law, an overt act must be committed by a co-conspirator in furtherance of the conspiracy. *See* 18 U.S.C. § 371; and *United States v. Mullins*, 22 F.3d 1365 (6th Cir. 1994) (to convict defendant of conspiracy to obstruct justice, government must show there was an agreement whose object was to obstruct justice, that defendant knowingly and voluntarily joined in agreement, and that at least one overt act was committed in furtherance of object of conspiracy); *United States v. Lahey*, 55 F.3d 1289 (7th Cir. 1995).

Statute of Limitations

The federal statute of limitations that governs Section 1512(b) (Exhibit 46) and criminal conspiracy, as well as most other non-capital crimes, provides that formal charges must be brought within 5 years after the offense was committed. 18 U.S.C. § 3282.[10] In the case of a continuing offense—like a continuing obstruction—or conspiracy, the statute of limitations begins to run at the time of the last criminal act. *See, e.g., United States v. Jaynes*, 75 F.3d 1493 (10th Cir. 1996).

Therefore, depending on the defined scope of a would-be conspiracy to obstruct justice, the statute of limitations could remain viable until 2008 (using March 2003 supplemental report as last overt act).

The details of the Grand Jury's investigation related above has been, along with the legal analysis concerning possible criminal charges and the issue of the Statute of Limitations, turned over to the State's Attorney of Cook County and the United State's Attorney for the Northern District of Illinois. These two agencies have the tools to more fully investigate the actions related to the February 24, 1999 incident and its investigation through March 4, 2003. As previously stated, the Extended March 2003 Grand Jury was charged, not with advancing a prosecution, but rather to investigate the incident and write a report. The Jury's duty, under its charge has been discharged by advising the appropriate prosecutorial agencies of the facts of the investigation, and by issuing this Report.

[10] Section 3282's 5-year limitations period effectively bars any federal criminal civil rights charges arising out of February 24, 1999, alleged SORT beatings.

THE JULY 29, 2000 INCIDENT

As has been the method of this Report used in detailing the events concerning the February 24, 1999, incident, this section will describe the facts learned, make findings and express conclusions concerning the second of the two events that triggered the extension of this Grand Jury and are specific to the charge given by Judge Paul Biebel.

In the 1999 incident, all parties are on distinct sides; all the detainees accuse the SORT team led by Superintendent Richard Remus of excessive force, and all the SORT Officers deny the charges. In the investigation of the 2000 incident, we find two resigned Correction Officers on the side of five detainees who claim excessive force, while four other detainees have testified to facts that are definitely in favor of the Corrections Officers.

From the documents supplied to the Grand Jury by the late E. Michael Kelly[11], the then attorney for the Sheriff, it appears that on July 29, 2000, around 9:30 AM, after a shakedown of cells in Division 1, Special Incarceration Unit (SI 2), located in the basement of the original Cook County Jail, located immediately west of the Criminal Court Building, 2600 South California Avenue, Chicago, Illinois, Nathson Fields, an inmate, punched Corrections Officer (CO) Adrian Molina (Exhibit 50). Inmate Luis

[11] E. Michael Kelly, the Sheriff's attorney throughout this investigation, and who was the liaison to the Grand Jury Investigator, died on his way to a Court appearance in connection with this investigation on August 9, 2004. The sympathy of all the Grand Jurors goes out to his family.

Sanchez also attacked Molina, and a fight then broke out between detainees Fields, Sanchez, Andre Crawford, James Scott and Edward Mitchell and COs Molina, Michael Baker, David Griffin, Ezequel Velasquez, Brian Bonarek, Carl Anderson and Lt. Edward Byrne. According to the COs, the five detainees that fought were eventually cuffed, shackled and removed to a detention area away from SI 2, known as the pump room, where paramedics and a nurse treated the detainees prior to sending them to Cermak Hospital. A number of
the COs were also injured and taken to Cermak Hospital. All other detainees on SI 2 were safely returned to their cells without incident and without any complaint of excessive force.

The Detainees' Claims and Injuries

The five detainees claim that CO Molina first struck Fields, that Sanchez went to Fields defense, that more than 20 COs waded in and beat them, cuffed and shackled the five, put them in the pump room, where about 30 COs beat them for 30 minutes to an hour, kicking them, punching them, and walking and jumping on their backs and legs.

Four of the five detainees, Fields, Sanchez, Crawford and Mitchell, were transported from Cermak Hospital to Mount Sinai Hospital. Scott went to County Hospital. Medical records of the five detainees reviewed by the Grand Jury do not indicate any serious injuries – minor cuts and bruises (Exhibit 51). The five were all returned to the jail the next day after overnight observation. Officer Molina was cut and

bleeding from head injuries, and was bruised on the right foot as well. Officer Velasquez suffered a swollen right cheek. Officer Bonarek injured his knee. Lt. Byrne was bruised on the leg. Officer Baker was hit in the right side of the face and head, and injured his right ankle after being stepped on by an inmate. Officer Griffin received hand, finger and wrist injuries. Officers Molina, Baker and Velasquez were taken to St. Anthony's Hospital.

The five inmates filed suit (Exhibit 52), claiming an unprovoked attack by the officers who were shaking down the tier and further beating them when the five were put into the pump room. After the lawsuit was filed, when asked to give formal statements, all five refused.

Other Inmates' Versions of Events

After the incident, another inmate, Edward Terry, wrote a letter to Lt. Byrne, advising that he had overheard Nathson Fields talking to an unknown inmate saying they were tired of the shakedowns and something should be done to the officers doing the searching. At a later date, Terry also told the Lt. that a death contract had been put out on Terry because he had made the disclosure to Byrne. In a further statement to IAD Investigator Norbert Kustra, Terry said the other four detainees stated that they knew of the pending shakedown (the barber shop was closed when shakedowns were to take place) and indicated that if they were taken to the pump room "they would all claim they were beaten there." In this way they could cash in with a lawsuit against the County. It

was the inmates' view that when sued the County usually settled for big dollars. Terry also said Fields coerced him into writing a letter saying the inmates were beaten by the COs – but Terry never sent it.

In furtherance of his investigation, Investigator Kustra took a statement from an inmate, Randall Jarrett, who corroborated the COs' version of how the fight started. Jarrett said Fields sucker punched Molina and kept hitting the Officer and that Sanchez hit Molina in the back of the head. Jarrett recounted that he saw the other three inmates fighting with other COs present. Jarrett also told of being coerced by Fields to write a grievance and to give a statement to Fields' lawyer. In the statement he gave to Kustra he said that both of these coerced statements were false. According to Jarrett, if he had not written the grievance and given the statement to the lawyer, his life would have been in jeopardy. Jarrett also corroborated Terry's story of pre-planning, going so far as to say that Fields and the other four intended to start a fight with the Officers during the shakedown, and then claim to be beaten when they would be taken to the pump room.

Another detainee, Michael Nieto, told of detainee Sanchez talking to him a few days before the incident, saying that Fields and the others planned to pick a fight with the guards. Sanchez said Nieto should get involved because he was already hurt and he could get a lot of money. When Nieto refused, Fields also came to him, but again, Nieto refused to join. On the day of the incident he saw Fields and Sanchez hit Molina in the head; he saw Sanchez hit another guard in the back; he saw Mitchell hit Lt. Byrne; he saw Crawford punch an Officer twice; and he saw Scott striking an Officer. When the guards

tried to restrain Fields, Nieto saw Fields kick the Officers. Finally, the COs were able to restrain the five and remove them from the tier. When Fields returned from the hospital he forced Nieto to write a grievance saying if he did not he'd put some steel in him. Nieto said he came forward when he heard Fields and Crawford talking about stabbing Lt. Byrne.

The Claims of Roger Fairley and Richard Gackowski

A Corrections Officer, Roger Fairley (Exhibit 53), who subsequently resigned from DOC in 2003, asserted that he was called to the scene of the incident and arrived as the detainees were being removed from the tier. The first thing he saw was four inmates with an Officer in the day room of the tier. They were not fighting. An unidentified Sergeant told Fairley to get some cuffs and shackles, which he did. He gave the cuffs and shackles to Officer Fermaint, who Fairley says he saw punching Fields. Fermaint shackled, cuffed and dragged Fields out of the cell area. Fairley says he saw Officer Griffin pick inmate Scott off the ground, cuff, shackle, and carry him out of the cell area. Fairley says that as Griffin and Scott were going through the door, Griffin banged Scott's shoulder into the bars. He said he also saw Griffin hit Scott twice.

During the same statement Fairley also related that while he was in the dayroom, before going past the pump room, he saw Officer Molina all bloody and with a big laceration on his head. Fairley characterized Molina as being the worst injured. He said the only Officers he knew had been hurt were Officers Molina, Baker and Schmidt, and he knew of the latter's injury because Schmidt told him his back was sore.

Another Sergeant ordered Fairley and Officer Boston to lock up the five prisoners who were in the day room. They did so without incident. Fairley was then told he could return to his post on the upper floors of Division 1. As he passed the pump room, Fairley says he heard yelling, sounds of a fight and fist against flesh. He looked into the pump room and says he saw the five inmates on the floor, face down, cuffed and shackled (Mitchell had a cast on one leg that was not shackled) and saw Officers Fermaint, Bercasio, Bonarek and Griffin beating the inmates, jumping up in the air and coming down on their heads with the Officers' knees, kicking the five in every part of their bodies, stomping on their faces and heads, and kicking them in the face.

Fairley said he yelled for the beatings to stop, but the COs did not do so. He said a Nurse Velinda Llorens arrived on the scene. According to Fairley, she put her hand over he mouth and started yelling for the COs to stop the beating. Fairley also said he heard Lt. Byrne say, "They want to hurt my officers? Fuck 'em. Kill 'em, they deserve it."

Then, an unidentified CO ran into the pump room and said that the Chief was coming down the elevator. The beatings stopped and the COs ran out of the room. Farley then says he heard Fields say to Scott, "at least we got him good." As the Chief and Sgt. Porch got off the elevator, Fairley got on. He was able to see Paramedic Ambrose and Nurse Llorens enter the pump room to treat the prisoners.

Fairley claims that after the incident, during which he told the COs to stop, his fellow COs began to verbally harass him – calling him a social worker and inmate lover, and saying that Fairley couldn't fight and wouldn't be there to back up fellow Officers. Fairley's friend, Officer Gackowski (Exhibit 54), to whom Fairley allegedly confided, said he received a death threat aimed at Fairley and which Gackowski also believed was

directed at him since he was Fairley's friend. The threat came in December 2002, just before both Fairley and Gackowski quit the DOC.

Facts Contrary To Roger Fairley and Richard Gackowski's Version

Fairley did not report what he had seen and heard on July 29, 2000, to any superior, never wrote out an incident report, or followed any of the DOC rules of procedure. This is so even though Lt. Byrne told him, soon after the incident, that IAD investigators would call him to be interviewed about what he knew of the incident. Fairley maintains that he made some contemporaneous notes but says he threw them away. The first report he wrote out was for his lawyer about two weeks before his deposition on January 17, 2003.

When questioned by a lawyer from Hinshaw & Culbertson, defending the lawsuit brought by the five detainees, Fairley said: "I told him [the lawyer] I basically got down there at the end of the incident and I didn't really get to see too much because it was over with by the time I got there."

Nurse Llorens, who Fairley says saw the beatings in the pump room and yelled at the COs to stop, was deposed in the same lawsuit (Exhibit 55). Ms. Llorens denied that she saw any CO beating or abusing prisoners, denied she heard anyone yelling stop, and denied that she ever yelled stop. When shown Fairley's statement she said she didn't remember any of it. She also testified in the deposition under oath that she has never seen

an inmate being beaten by a CO. She explained that she saw the prisoners in the pump room, some were on their back, others were face down and some were on their sides. None of the prisoners said anything to her about the circumstances of their injuries or that they had been beaten by the Officers. Llorens stated that she and some paramedics administered first aid, put neck braces on the inmates or gave oxygen where appropriate. She remembered one inmate complaining about having a hard time breathing. She could not recall any inmate complaining about losing consciousness. She acknowledged that inmates might have said so to paramedics, but she did not hear it.

Ms. Llorens is not a Cook County employee. She is employed by Med Cal and assigned to work at Cermak Hospital. She has been so assigned for twelve years. Cermak personnel then assign her duties each day. She usually works in Division 1.

The Determination of the State's Attorney

The three-year Statute of Limitations for felony charges expired on July 28, 2003. Prior to that time the Grand Jury's Investigators met with representatives of the State's Attorneys Office and informed them of the facts set forth above. After further consideration, reading of the extensive investigative report of the IAD, and agreeing with the Sheriff's Investigator, Norbert Kustra's determination that the evidence was in conflict, the State's Attorney decided not to bring charges against either the detainees or the guards (Exhibit 56).

Facts Learned by the Grand Jury Subsequent To The State's Attorney's Determination

The medical reports of the five detainees, from Cermak Hospital, Cook County Hospital and Mt. Sinai Hospital, were secured. Dr. Jeffery Graff (Exhibit 57), a noted and respected emergency room physician, reviewed all of the medical information and concluded that there were no indications of major injuries (Exhibit 58). There were indications of scrapes and bruises, but all were minor in nature. The Sheriff sent the same medical records to Aric Hausknecht, a well-credentialed physician (Diplomat, American Board of Psychiatry & Neurology, Diplomat, American Academy of Pain Management) in New York, who examined the same material as well as X-rays for Fields, Crawford, Mitchell and Sanchez. Dr. Hausknecht came to the same general conclusions as Dr. Graff (Exhibit 59).

The Grand Jury also examined the lawsuit filed by the five detainees, *Field, et al. vs. Lt. Edward Byrne, et al.,* 00L009339 (Exhibit 52), filed in the Circuit Court of Cook County, Law Division, particularly focusing on the nature and extent of the claimed beatings, then matched the known injuries, and came to the conclusion that the evidence did not support the detainees' claims.

The State's Attorney mentioned in his determination not to bring charges, that three inmates had told State's Attorney's investigators that "the five inmates involved in

the brawl had said they provoked the incident in order to file a civil suit against the County to get 'some easy money'."

Since the State's Attorney's determination, another inmate, Santana McCree (Exhibit 60), has given Sheriff's investigators/attorneys a lengthy court reported statement in which he revealed that he was a cell-mate of Andre Crawford (one of the five) in 2004, and that Crawford confided to McCree that the five inmates had planned the incident, had provoked the guards, had taken the first swings, and had, once taken from the tier and brought to the pump room, thrashed about and yelled so that it appeared that they were being abused. McCree further stated that the five had planned to escape from custody if, as they expected, Cermak Hospital doctors would send them to an outside hospital for examination. They anticipated they would all go to the same hospital, but when that did not occur that part of the plan was abandoned and aborted. Crawford also said, as related in McCree's statement, that the five faked back and neck injuries and falsely claimed to have been rendered unconscious.

McCree made this statement before being sentenced to 45 years in jail for murder. He said he did not expect to receive any sentencing consideration by making the statement. An examination of the sentencing transcript held before the Honorable Leo Holt reveals absolutely no reference to any cooperation or the statement, and the stiff sentence imposed by Judge Holt does not support any inference of any reduction because of this act of cooperation (Exhibit 61).

The Grand Jury is aware of a lawsuit filed by Roger Fairley and Richard Gackowski, the former DOC guards (Exhibit 62). The Jurors have read the allegations made in the lawsuit and the related documents in the Sheriff's investigative file relating to the claims of both Fairley and Gackowski (Exhibit 63), as well as their various statements from 2000 to 2003. The Grand Jury has also noted the story in the September issue of Chicago Magazine (Exhibit 64) retelling the story from the point of view of Fairley and Gackowski. Fairley alleges observing abuses to the five detainees by fellow guards. But, as the State's Attorney points out: "investigators interviewed two disinterested witnesses not connected to the Sheriff's office or any inmate who contradict the former guard's version of events of July 29, 2000. It should be noted that the former guard, Roger Fairley, came forward only 2 and 1/2 years later to accuse fellow guards of brutality." (Exhibit 56). During those 2 and 1/2 years, Fairley also denied observing any brutality. Gackowski, who did not observe any of the events in the Special Incarceration Unit, says that a former superior guard officer, Lt. Edward Byrnes, told him that he attacked the prisoners. Lt. Byrnes denies any abuse or making any such statement (Exhibit 65).

Conclusions

The Grand Jury, taking all the evidence into consideration, has concluded that the evidence does not arise to probable cause to suggest that excessive force was exerted upon any of the detainees. The Grand Jury concludes that the evidence does not show that the guards acted improperly nor inappropriately to quell a disturbance started by the five

detainees. In quelling the inmates, the force that was used appears not to have been of such nature as to be classified as excessive. This determination is supported by the fact that the injuries suffered by the five inmates were minor and consistent, in the opinion of the Grand Jurors, with what would naturally occur when legitimate authority is attempting to legally control persons who have incited an incident and who refuse to be subdued.

Other incidents, not within the charge of the Grand Jury, were brought to the attention of the panel during the 18 months of the Jury's existence, and the Grand Jury has reviewed the available investigative files and the State's Attorney's investigative reports. Please see Exhibits 97 through 101 for a discussion of these incidents.

EXAMINATION OF INVESTIGATIONS OF ALLEGATIONS OF EXCESSIVE FORCE FOR THE LAST FIVE YEARS

Contents of 74 Boxes

It soon became obvious to the Grand Jury that it needed to examine a history of excessive force complaints in order to get a fair and accurate understanding of the activity in this area. A review of a five-year history of such complaints was considered to be a reasonable time span. After some time, in which the United State's Attorney's Office subpoenaed the cited material, necessitating the Grand Jury to subpoena the same excess force documents, 74 banker boxes of records were turned over by the Sheriff. To be clear,

the delay was not caused by the Sheriff. It was caused by the simultaneous request by the Federal government which claimed priority. Michael Bane, a DePaul Law School student, was retained to examine the documentation, provide a brief summary of the contents, undertake a statistical analysis of his examination (including determining which Division engendered the most complaints and a listing of DOC officers who had been accused), and report the results of his review.

To the Grand Jury's knowledge, none of files had been statistically examined by the Sheriff's Office up to this time. This was borne out by the testimony of Zelda Whittler, Undersheriff, who acknowledged in her testimony before the Grand Jury (Exhibit 35) that in 1999 and 2000 the investigative process was a paper driven process. The Sheriff's Office, recognizing that truism, and understanding that it did not have a process in place to track the results of grievance and other investigations, has recently provided the Inspector General's Office (since the newspaper expose in March of 2003), with software capable of tracking the course of investigations, and pin-pointing areas of the jail where there are an excess of complaints, as well as determining which DOC Officers are accumulating the most complaints.

According to Mr. Bane he found a hodge-podge of documents in the 74 boxes (Exhibit 66):

> "incidents as a whole, were poorly organized, and there were copies of the same investigation found later in other boxes. A fair number of the investigations had material missing that was listed to be present in the

contents of the investigation."

Interspersed among the DOC documents were complaints concerning Court Services and other Divisions of the Sheriff's Office. The latter were numbered, but not thoroughly examined as the investigation of Court Services and other Divisions is outside the parameters of the charge of the Grand jury.

In the 74 boxes, Mr. Bane found 472 files had been opened by the Sheriff since 1998. 355 files involved Officers of the Department of Corrections for on-the-job offenses, 13 were against the Transportation Division, 18 involved Court Services, and 8 involved other Division personnel. 15 open files contained no documents (Mr. Bane determined that these were very recently opened files). Finally, 18 files were opened concerning DOC personnel in off-duty incidents.

Of the 355 files opened against DOC Officers for on-duty incidents, only 33, or just a shade over 9% were sustained in the five-year period. Of the 33, only 18 were sustained for excessive force – equaling 5% of the cases. The other 15 were sustained for a variety of reasons not pertinent to this Report.

610 DOC Officers were named in the 472 disciplinary files. 125 were named in more than one incident, a number having been named in multiple incidents, for a total of 783 times DOC Officers were named in excessive force complaints. A complete listing of

the Officers can be found in the Exhibits contained on the CD-ROM provided. Also provided in the Exhibits are bar-graphs showing the incidents by Division by year.

There were 734 assaults by inmates on inmates in the same five-year period. 191 of the assaults, or 26%, were investigations closed by the arrest of the inmate perpetrator As noted above, only 5% of claims of excessive force made against Officers were sustained as opposed to 26% of claims involving inmate-on-inmate assault closed by arrest. Mr. Bane detailed the extraordinary requirements of proof that must be met for a claim of excessive force against an Officer to be sustained – an inmate witness merely hearing an incident, but not seeing it is not enough proof to overcome an "Inconclusive" determination, even though the detainee/putative victim returns to his cell where the witness can observe him bleeding, with bruises and a cut lip. In short, no amount of circumstantial observation is sufficient – if a detainee accuses an Officer of physical abuse and has medical reports that corroborate the claims of injuries, if the Officer's denies the allegation, that is typically enough to classify the investigation as "Inconclusive." Also, a file is classified as Inconclusive in circumstances where the detainee cannot correctly and absolutely identify his assailant, even when it is apparent that one of a number of COs had subjected him to physical abuse.

Mr. Bane produced graphs of his findings (Exhibit 67) and as the graphs disclose, the highest incidents of claimed excessive force by Officers on detainees comes from Division 5, the receiving department for new inmates and detainees, followed by Division 9, a maximum security unit. Most complaints against SORT come from inmates of

Division 9. The SORT complaints all have a familiar ring. They speak of mass beatings where inmates are forced to stand, face against a wall, for an extended period of time, often naked, where they would be subjected to both verbal and physical abuse; any sign of insubordination was usually met with physical punishment. Some inmates, in their written complaints referred to the SORT Team as the "darkie terrorist squad."

It is worth noting that detainee complaints, not involving excessive force, were mostly for lack of proper medical attention.

The conclusion the Grand Jury makes of the material examined by Mr. Bane are:

1. At the time the recordkeeping of the Sheriff's Office concerning grievances and complaint investigations were abominable;
2. The extraordinary proof required for a finding sustaining a claim of excessive force provided a convenient way to ignore the truth and protect unfit individuals, allowing them further interaction with detainees. The Sheriff must review this extraordinary proof requirement. Fairer and more objective criteria must be crafted so that true brutality will not be swept under the rug by artificially high requirements for proof. The newly installed management tools given to the Inspector General's Office must be used and must be made available to the Executive Director and the Sheriff, so that potential hot-spots can be identified and prevented and guards who have a history of excessive force complaints can be

moved to less sensitive positions and afforded re-training or separation from the force.

Lawsuits

In the course of the investigation into the DOC, questions arose about the number and outcomes of lawsuits filed where allegations of excessive force were presented. In his review of all the excessive force investigations made by the Sheriff's Office over the last five years, Michael Bane found and reported to the Grand Jury on 102 cases filed in the Circuit Court of Cook County covering incidents that occurred from 1999 to and including 2003 (Exhibit 68).

Inquiry was then made of the State's Attorney of Cook County, the lawyers for the Sheriff in civil litigation, and they reported that from 1999 to 2003, they have or are defending in 98 cases Exhibit 69). (Several cases were handled by private counsel for which no numbers are available).

In the 98 cases reported to this Grand Jury by the State's Attorney, 76 have been disposed of and 33 remain open. 33 were disposed of with no payout by the County, five were disposed of for a $1,000 or less, and the remaining cases either were settled or went to judgment in amounts from $1,200 to $225,000. The total money paid to detainees in these lawsuits up to the time of the report from the State's Attorney is $767,650. That averages $10,100 per disposed matter. If that $10,100 per case average payout continues

there will be an additional $333,300 paid out on the remaining 33 excessive force cases involving DOC people, or a grand total of $1,100,950. This amount does not include the costs of defense, the salaries of the Assistant State's Attorneys handling the cases, the fees paid to jurors, witnesses and experts, court reporter fees, costs of furnishing and manning the courtrooms and clerical personnel required to handle the cases, and the not insubstantial salaries of the Judges trying the cases.

The Chicago Magazine story (Exhibit 64) in the September 2004 issue, previously referred to, claims that between 1998 and 2000 there were32 cases "accusing deputies, some of them jail guards, of brutality were settled for a total of about $1.5 million. Another case resulted in a $5-million federal jury verdict against the sheriff's office." The obvious discrepancy in amounts may be attributed to the fact that Mr. Bane looked at 1999 to 2003 cases and only those involving DOC personnel. Nevertheless, the cost to the taxpayers of Cook County is very substantial.

To the mind of the Grand Jury, these not-inconsiderable sums are a reflection of poor training, poor administration, and poor handling of investigations of excessive force claims. If excessive force is kept to a bare minimum by guards and an administration that are well trained, well motivated, and properly disciplined, payouts of this magnitude will be significantly reduced in the future and incidents that trigger lawsuits will be lessened.

We are not so naïve as to be oblivious to the fact that detainees do not always tell the truth; that they oft-times seek confrontations to cause injuries that lead them to file

frivolous lawsuits; and they oft times retaliate against guards enforcing the rules by filing false grievances. But, doing the job right in the first instance will lessen the possibility of excessive force being used, and thus remove the basis for many of the frivolous claims.

PART TWO

The Grand Jury has kept an open mind throughout this investigation and examined the work of the Sheriff and the DOC in relation to the operation of the jail and the circumstances of the prisoners therein. The following series of sections speak to the findings and conclusions made by the Jury in the following specific areas:

ACCOMPLISHMENTS OF THE SHERIFF AND HIS STAFF

Since Michael Sheahan took over the Sheriff's Office in November of 1990, a number of significant improvements in the operation of the Sheriff's Office as a whole and the Department of Corrections, specifically, have been put into place. For convenience sake, this Report will, in the main, describe the changes made prior to the 1999 incident and those that occurred after that date.

Prior to 1999

1. Early in his administration, the Sheriff took badges and credentials away from about 400 persons who held themselves out as Deputy Sheriffs but did not perform any duties. These badges and credentials were part of a holdover patronage system (Exhibit 36).

2. In 1991, the Sheriff revamped the inmate classification system and added to the system in the late 1990's by including CAB, a software linkup with the Chicago Police and the Illinois State Police that allows extremely quick identification of an individual from a thumb print alone.

3. In response to the five recommendations of the An Assessment of the Felony Case Process in Cook County, Illinois and Its Impact on Jail Crowding, The American University – Bureau of Justice Assistance, Team Leader, Charles D. Edelstein, Investigator, Joseph Trotter, Jr., November 1989, commonly known as the Trotter Report (Exhibit 70), the Sheriff caused the adoption of changes that met all five. He lessened the reliance on Administrative Mandatory Furloughs (known as AMF, formerly referred to as Sheriff's I Bonds) that allowed inmates to be released without posting bond, and referred most who would otherwise meet the qualifications for AMF release to one of the programs provided by the Department of Community supervision and Intervention (DCSI); distributed to all in the Criminal Justice system members monthly reports on jail count; allowed Public Defenders to have greater access to their locked up clients; and began transferring prisoners to IDOC more frequently than once a week.

4. Speaking of DCSI, the Sheriff has created the department to provide release of detainees on electronic monitoring (presently at 1,500 persons) and a day-reporting section that provides educational opportunities to up to 400 detainees as well as drug education and treatment.

5. A women's furlough program has been instituted, now supervised by the Department of Women's Justice (DWJS) to release low risk persons, mostly those accused of minor drug and prostitution charges, and a program for incarcerated mothers known as MOMS (Exhibits 36 and the testimony of Executive Director Callie Baird, Exhibit71).

6. The Sheriff provided specific areas of the jail and at DCSI for drug treatment through TASC (Treatment Alternatives to Street Crimes).

7. A Boot Camp for persons convicted of non-violent crimes who would otherwise be sentenced to the penitentiary was created with emphasis on education and physical fitness. A significant difference from most correctional boot camps is that there is supervision for an extended period of time after the successful completion of the Boot Camp program.

8. In 1999 the Sheriff outfitted the CCSPD squad cars with video surveillance cameras that recorded the interaction of the Police Officer with the citizenry.

9. Based on the success of the video-in-squad car program, in 2000 the Sheriff, as a pilot project, equipped the Markham Courthouse, with its 24 hour, 7 day a week holding cells, with video-capable surveillance cameras.

After 1999

Since the 1999 and 2000 incidents, the Sheriff's Office has made changes to ensure against and prevent the use of excessive force by Department of Corrections Officers and SORT, as well as a number of other significant changes. They are:

1. In 2003, changed the method of manning and performing searches at entry points of the jail to beef up security of the institution and to prevent slackness in the work of the search personnel (Exhibit 71).

2. Following the 2003 incident reported previously in Part One, began a program to retrofit and jimmy-proof all the cell door locks in the maximum security Divisions of the jail, after an incident in 2003, described in Exhibit 97. (See also Exhibit 72).

3. Created a medical log in 2003, with the cooperation of Cermak Hospital, that requires every request by a detainee for medical attention to be logged in an effort to prevent detainee grievances and complaints about delayed or denied medical treatment.

4. Began a study in 2002 to re-wire, with fiber-optic cables, the entire campus. This will enable the administration to have, among other things, access to state-of-the–art management software that will allow better tracking of prisoners, grievances

and investigations, better determination of staffing needs, increased financial reporting ability, as well the use of other normal management tools (Exhibits 35, 36 and 71).

5. In April 2003, put into effect a paper system to track grievances and instituted time lines for the completion of investigations of grievances made by detainees. Full implementation of the tracking will not come about until the management software discussed above has been installed.

6. In March 2003, began a program of videotaping all SORT cell extractions and shakedowns.

7. Instituted reforms to SORT in 2003 that require prior notice to and approval of Division administrators before SORT enters a facility; created a program of random shakedowns throughout the entire jail so the SORT forays are not, as Executive Director Baird said, predictable; required that detainees be removed from their cells by Division Officers before SORT conducts their shakedown; banned the use of dogs is close proximity to inmates; and required a Division supervisor and other Division Officers to be present when SORT operates in a Division. The SORT Team is now reporting directly to an Assistant Executive Director of DOC, has a new, experienced Superintendent directing day-to-day activity, the training regimen of the SORT Team has been changed, and in June and/or July 2004, all SORT Team members have been sent for intensive training in the use-of-force and the de-escalation continuum taught to all new recruits (Exhibits 35, 36 and 71).

8. Hired KPMG in March 2003 to look at the Orders relating to the use of force, training in that area, and investigation of excessive force complaints (Exhibit 73). KPMG reviewed a new use-of-force report Exhibit74), instituted in September 2002, that is required to be filled out by any Officer when **any** use-of-force has been exerted on a prisoner. The obligation for seeing that the reports are filed has been placed on Supervisors (Exhibit 71) . The use-of-force reports are designed to allow administration the ability to track and identify potential trouble spots and problem Officers. However, the system is now a paper system and will be fully operational only when the management software is installed. KPMG suggested that the training in use-of-force and de-escalation be improved and made uniform throughout the Sheriff's Office. That has been instituted.

9. KPMG recommended that the various Department Internal Affairs units be placed under the direct supervision of the Inspector General, thereby streamlining responsibility and investigations (Exhibit 78). This recommendation was put into effect in March 2003, at about the same time as tracking software was provided to the Inspector General's Office so that investigations can be tracked and time lines for completion imposed(Exhibit 71).

10. Automatic investigation of all charges reported in any civil lawsuit filed against the Sheriff's Office was instituted in 2002 (Exhibit 36).

11. In March 2003, the Sheriff created the Bobb Committee (discussed in this Report elsewhere) that has studied and is drafting a report that will make recommendations for changes to the grievance system, recommendations about acquiring and implementing new hardware and software to be used for classification of prisoners, tracking grievances and investigations and other utilization of manpower, and recommendations surrounding the problems of overcrowding and understaffing.

12. In May 2002, the CCSPD was assigned the task of investigating all claims of excessive force and all incidents that might rise to be criminal in nature. The CCSPD also is to be a liaison with the State's Attorneys Office.

13. With the help of a court order in 2003 from Judge George Marovich, of the United States District Court, who is supervising the *Duran v. Sheahan (formerly Duran v. Elrod)* 74 C 294, United States District Court for the Northern District of Illinois, the overcrowding consent decree, the Sheriff has begun shipping back to IDOC all writ prisoners and all those held on parole warrants, except those who have court dates in 10 days or less. Almost 2,000 prisoners rightfully in the custody of IDOC will be returned to the penitentiary (Exhibit 36).

14. Since 2003, Department heads have been afforded input in and helped design curricula and courses taught to new recruits and sworn DOC Officers during their annual 40 hours of training (Exhibit 71).

15. Recently, the Sheriff brought in the National Institute of Corrections (NIC) to train DOC staff to review all General Orders concerning operation of the jail, to weed out archaic and duplicative orders, and to write new and appropriate orders for the efficient and safe operation of the DOC (Exhibit 71).

The Grand Jury is appreciative of the actions of the Sheriff and of his response to the problems revealed by the Chicago Tribune expose in March 2003. Specific comment on some of the accomplishments are made hereafter.

NATIONAL INSTITUTE OF CORRECTIONS

Early in this investigation, it was decided to contact the National Institute of Corrections (NIC), a federally funded agency that assists correction organizations by providing expert consultants in areas covered under the umbrella of "corrections." The requirement for NIC assistance is simply a written request by the head of the corrections facility, after which an agreement would be entered between the requesting agency and NIC for the latter to furnish an expert or experts in the particular corrections field under discussion. The consultant is paid for by NIC, making it free to the requesting agency (Exhibit 75).

Since the Grand Jury has been presented with evidence that, in some areas, the rules under which the DOC operates were antiquated, not workable, and at cross-purposes; and that the current rules were often not complied with by DOC guards, the Grand Jury advised the late E. Michael Kelly, the Sheriff's outside legal counsel, that the

Jurors suggested to the Sheriff that he contact NIC and arrange for that agency to furnish a consultant or consultants versed in the field of General Orders, Rules and Regulations for the proper operation of a jail, and seek the expert's opinion on the propriety, currency and appropriateness of the General Orders, Rules and Regulations that govern the DOC, so that it could be determined if the General Orders were up to date, appropriate for the Cook County DOC, and were understandable in order to be followed. In addition, the Grand Jury suggested that the expert from NIC also monitor or audit the present compliance with General Orders by DOC personnel.

Mr. Kelly, soon thereafter, advised the Grand Jury that unknown persons had advised the Sheriff not to follow the suggestion – the stated reason being that KPMG was already looking at the General Orders and the added consultant would be superfluous.

KPMG was engaged by the Sheriff, as the Grand Jurors have read, to review the General Orders concerning use-of-force and the investigative process. An overall review of the General Orders was not part of the KPMG charge.

Soon after the Sheriff appointed Ms. Callie Baird as the Executive Director of the DOC, Mr. Hett renewed with Ms. Baird the previous suggestion of bringing NIC in to look at the full scope of the General Orders. Ms. Baird was familiar with NIC and what it could do, and indicated that she would again request the Sheriff to consult with NIC for an analysis of the operating orders governing DOC (Exhibit 72).

When Ms. Baird testified before the Grand Jury on June 28, 2004, the Jurors learned that the NIC engagement consisted of a consultant coming to the DOC to teach DOC personnel how to review existing General Orders; to determine if any of those Orders are in conflict, unneeded, or not appropriate for the operation of the jail; and then how to write new Orders. In the Jurors' minds, this engagement is deficient in that it does not bring to the review of the General Orders outside expertise concerning new and innovative trends and procedures extant in other corrections venues, and how those trends can be applied to the Cook County Jail General Orders. It certainly does not seek to assess, either by monitoring or auditing, current compliance with the present General Orders by rank and file DOC officers.

If the officers are ignoring and not following the present General Orders and Rules, how likely are they to buy into obeying any new ones? An audit or monitoring of current usage would alert the Sheriff to areas where retraining would be required.

The Grand Jury recommends that the Sheriff employ and implement the advice of an expert consultant to assist the DOC in drafting modern, up-to-date, appropriate General Orders for the operation of the jail, and that the expert monitor or audit current compliance so that the Sheriff will have a point of reference in determining the scope of needed retraining.

THE BOBB COMMITTEE

Soon after the articles appeared in the newspapers concerning the incidents on February 24, 1999 and July 29, 2000, the Sheriff asked several prominent citizens to review the operations of the jail (Exhibit 36). The members were Michael Mahoney, former Executive Director of the John Howard Association, Rita Fry, retired Chief Cook County Probation Officer, Rene Turrado, attorney, and the Chair of the committee, Patricia Bobb, prominent litigation attorney, former Assistant State's Attorney, and member of the Chicago Police Board.

Investigators for the Grand Jury have met and talked with the Bobb Committee's distinguished members on a number of occasions and exchanged information and ideas. The Bobb Committee decided to concentrate their efforts on examining three issues (Exhibit 76):

1. The Grievance Process,
2. The management tools available to the DOC to track inmates, staffing, grievances, investigations and other regular and normal uses management employs to better and more efficiently operate an enterprise -- in this case the jail, and
3. The related problems of overcrowding and understaffing.

In a conversation with Ms. Bobb on August 2, 2004, it was learned that the Bobb Committee Report will not be completed until the end of August 2004 or the beginning of September of the same year. The Grand Jury Report is also due at the same time.

Rather than reinvent the wheel, and relying on the collective experiences of the members of the Bobb Committee, the Grand Jury made a conscious decision to not explore, in depth, the three issues to be reported on by the Bobb Committee. The Grand Jury, nevertheless, has learned about shortcomings in all three areas, and will comment, where appropriate, on these shortcomings, and make recommendations that they be solved. The Grand Jury relies on the expertise of the Bobb Committee to craft workable and comprehensive recommendations to the Sheriff, the County Board and the public that will, it is hoped, quickly resolve the obvious shortcomings in the present Grievance process, the lack of modern and workable management tools, and the long standing problems of overcrowding and understaffing.

THE GRIEVANCE PROCESS

As part of the Grand Jury's inquiry about the conditions at the jail, testimony was heard from Michael Mahoney (Exhibit 77), a consultant on corrections, past Executive Director, President and CEO of the John Howard Association (JHA), a former court appointed consultant for the Federal Court in the *Duran* overcrowding consent decree case and court appointed monitor of litigation about conditions of confinement at the Cook County Juvenile Temporary Detention Center. Testimony was presented by Charles

Fasano (Exhibit 78), Director of the Prisons and Jail Program of the John Howard Association. Both of these renowned experts indicated that the Grievance process at the jail was wanting; that it took too long and the time requirements were not being met; that the inmates have no faith in the system; the inmates feel the grievance petitions they do file are ignored; and inmates fear that staff may retaliate against those who file grievances. The May 2004 Report of the JHA to the Federal Court in the *Duran* case repeats these claims of deficiency (Exhibit 79). Reviewing the documents the Jurors have been provided concerning the cases of Cello Pettiford (who has sued as a result of alleged excessive force on February 24, 1999 (Exhibit 23)) and Kevin Askew (who also has filed suit and was involved in the incident on the July 27, 2003 (See Exhibit 98)), both assert, among other things, that their grievances were not answered and were ignored.

The Grand Jurors, as discussed in another section of this Report, sent three of its members to inspect Rikers Island, one of the jails of the New York City Department of Corrections (Exhibit 80). They had full and frank discussions with inmates, officers and administrators of that institution. One of the items that the Riker's Island staff stressed was that they modernized and revamped their grievance system with enforceable time lines, put systems in place to track the progress of the grievance, and provided an opportunity for give and take - mutually respectful discussion with inmates about their individual grievances. They claim that the inmates have finally bought into the new system, and tension and agitation due to petty grievance matters, in the main, are no longer an issue. The result is less animosity between inmates and staff and less time and

expense trying to quell disturbances that, in the past, had occurred because of displeasure with the grievance system.

From this perspective, considering the report from Mr. Bane of the grievances filed during the last five years, and relying on the knowledge and expertise of the New York Department of Corrections' staff, Mike Mahoney and Charles Fasano, as well as the in-depth study of the grievance process undertaken by the Bobb Committee, discussed in other sections of this Report, the Grand Jury recommends that an in-depth inquiry into the grievance system – an undertaking beyond the capability of the Jurors -- be authorized and that the Sheriff and the administrators of the DOC adopt the recommendations of the experts systematically, comprehensively and thoroughly looking at the issue, be it the Bobb Committee or others hired for this specific reason.

The Grand Jury also recommends that the operation of the Department of Correction's grievance system be monitored by an outside agency, and details of this recommendation can be found in the Part Three of this Report concerning the Cook County Board of Corrections. The heart of this recommendation is to ensure that the grievances are investigated in a timely fashion and that the legitimate complaints of the detainees, the vast majority of whom are presumed to be innocent, are not ignored.

KPMG REPORT

On March 18, 2003, Sheriff Michael Sheahan engaged KPMG, a management consulting firm, to review the Sheriff's use-of-force policy and procedures, assess the effectiveness of the General Order issued by the Sheriff in September 2002, dealing with the use-of-force and matters related to that employment charge (Exhibit 73). The Grand Jury has had the benefit of that document and has considered the observations and recommendation by KPMG in light of the investigation the Grand Jury has made. Most of the observations and recommendations of KPMG are right on point and are appropriate to the problems of the Sheriff's Office. KPMG's observations concern:

1. The Sheriff's Use-of-Force Continuum policy of the Department,
2. Appropriate reporting of the use-of-force,
3. Reporting of complaints of improper use-of-force
4. Training given members of the Sheriff's Office in use-of-force and reporting of same,
5. The investigation of use-of-force complaints.
6. Overcrowding and use of space
7. Tracking of complaints – a management tool

The Sheriff, when testifying before the Grand Jury (Exhibit 36) agreed with the conclusion by KPMG that changes in these areas are required. The Grand Jury, in another section of this report, furnishes additional comments on the need for these institutional changes. Reporting by DOC officers of their use-of- force is particularly necessary in the eyes of the Grand Jury and KPMG's call for continuing auditing of the reporting is a wise and necessary recommendation that the Grand Jurors particularly applauds.

There are two parts of the KPMG report, however, that disturb the Grand Jury. In connection with the training required, only passing reference is made to the difference in circumstance between situations calling for the use-of-force faced by an armed police officer in an open environment of the street and the circumstance facing DOC Officers who are unarmed, and are interacting with detainees in an extremely confined environment. KPMG and all the witnesses heard by the Grand Jury or those interviewed by the investigative staff (Exhibits 71, 77, 78, 81, 82, 83,and 84) have stated that the training in the use-of-force is that appropriate to police officers. KPMG did observe a training session for Court Services Officers and did suggest that their training be geared more to the circumstance those officers experience on a daily basis. That is especially true in the case of DOC officers. The training must include and stress scenarios and discussions of the use-of-force continuum policy as it applies to DOC personnel, along with the general training that applies to police, Court Services and DOC officers.

The Grand Jury recommends that the training of all DOC recruits be changed to include DOC specific training in the appropriate use-of-force.

The Grand Jury also recommends that the annual 40 hours of training required by statute for all DOC personnel include a segment on DOC specific use-of-force.

KPMG has also suggested to the Sheriff that the investigative process for complaints brought against Sheriff's officers be changed to centralize all investigations under the Inspector General of the Sheriff's Office. KPMG also recommended that the IG get appropriate tracking software and computers to allow proper "early warning" of problem areas and problem personnel. The Grand Jury has been advised that the IG has been furnished with such tracking software (Exhibits 35 and 71) . This body has also been made aware of other newly enacted rules and regulations for the conduct of investigations that appear to ensure promptness and completeness of investigations (Exhibit 85).

The Grand Jury, however, does not think that those changes go far enough. The responsibility for investigation is now centralized in one person, the Inspector General, but there has been no indication that there is any further formal oversight of the Inspector General, his office, or the investigative process.

The Grand Jury recommends that there be put in place a monitoring system to ensure that the Inspector General and his investigative personnel follow the new rules and time lines, and to guarantee that investigations are not purposely stalled, delayed, rigged or intentionally and/or corruptly compromised. To this end, the Grand Jury recommends

that legislation be enacted to reconstitute and reinvigorate the Cook County Board of Corrections to perform the monitoring of investigations, and that the Cook County Board of Corrections report their findings on a frequent basis to the President and Commissioners of the Cook County Board. Further reasons for and details on the use of the Cook County Board of Corrections as an outside monitor will be found in Part Three of this Report dealing specifically with the Cook County Board of Corrections.

KPMG also briefly refers to the detainees' ability to complain about the improper use-of-force. This is a reference to the Detainee Grievance system. The Grand Jury, in a previous section of this Report, discusses the Detainee Grievance system and the need for reform in the system.

The Grand Jury also recommends that the Cook County Board of Corrections be utilized to monitor the execution of the Grievance system. For further reasons and details on the use of the Cook County Board of Corrections as an outside monitor of the grievance system, the reader should again refer to Part Three of this report.

JAIL OVERCROWDING AND UNDERSTAFFING

On the issues of overcrowding and understaffing, the Grand Jury has considered information from various sources including, the testimony of Charles Fasano, Director of the Prisons and Jail Program of the John Howard Association (Exhibit 78), reports by the

John Howard Association to the Federal Court in the *Duran* overcrowding consent decree case, especially its report dated May 4, 2004 (Exhibit 79), the testimony of Executive Director Callie Baird given on July 12, 2004 (Exhibit 71), the report from Grand Jury members on their visit to the New York City Department of Correction facility on Rikers Island (Exhibit 80), and the testimony of Sheriff Michael Sheahan, given before the Cook County Board (Exhibit 86) and before this body on August 16, 2004 (Exhibit 36). All relate to the twin problems of understaffing and overcrowding.

The effective ratio of guards to inmates at Rikers Island is 4 to 1. The effective ratio of guards to prisoners at the Cook County Jail is 11 to 1, according to Executive Director Baird and Charles Fasano of JHA. Rikers Island and other NYC DOC jail facilities have a capacity of 14,000 inmates with a compliment of 9,700 guards (Exhibit 80). In Cook County, the stated capacity is 10,252 inmate beds, the population, in fact, has fluctuated between 10,093 in May of 2003 and 10,589 in March 2004, and has been as high as 11,614 in November 2002 (at the end of 2003 the average daily bed space was 10,100 and the average daily population was 10,664). Yet, Cook County has only 2,750 DOC positions and an average CO complement last month of just over 2,300 (Exhibit 79).

The Sheriff has not had an increase in DOC staff approved by the County Board since 1996. In November 1996, staff for the DOC was 2,760 and the average monthly jail population was 9,343. In March of 2004, the number of DOC personnel fell by 56 guards while the average monthly population rose to 10,551, an increase of 1,208. That is a

decrease of 2% in budgeted guard strength while experiencing a 2.9% population increase Exhibit 79).

The Sheriff and the Executive Director have described the requirement of cross-watching that forces one Officer to watch two tiers of approximately 120 inmates Exhibits 36 and 71). Charles Fasano severely criticized this practice (Exhibit 78). In his view, cross-watching is inherently unsafe and is a direct result of insufficient personnel. Fasano stated that lack of staffing puts a tremendous burden on the DOC officers, leading to stress that can lead to inappropriate behavior out of frustration with the extreme work load. It is also a condition that is inherently unsafe.

The Investigators for the Grand Jury, in conversations with J.W. Fairman, former Executive Director of the Department of Corrections and presently Cook County Director of Public Safety, heard him urge the Grand Jury to recommend to the County Board to renew funding to the Sheriff that will allow continuous training of new recruits (Exhibit 84). The JHA May 4, 2004 report reiterates this recommendation, and the Sheriff in his appearance before the panel made the same observation. At the present time, a recruit class is only begun when a determined level of understaffing has occurred. Then, the class lasts for 14 weeks. In the time between the last class of recruits that graduate and begin service as Corrections Officers to the end of the next 14 week cycle, many vacancies are created with no person to fill the void. With a continuous class process, when someone retires or quits, there are recruits to replace them within a short period of time.

Coupled with the lack of staff, the Sheriff and JHA say with alarm that the Jail has an acute overcrowding situation. While Executive Director Baird has indicated that the present population of the jail was hovering around 10,500 (Exhibit 71), there have been instances when, as the Sheriff stated before the Cook County Board in March 2003 (Exhibit 86), the jail has housed over 11,000 prisoners. Many of the prisoners are confined for drug related offenses that usually carry low bonds. These individuals, for whatever reasons, are not eligible for home confinement, day reporting, electronic monitoring or other programs the Sheriff has instituted and managed by the Sheriff's Department of Community Supervision and Interventions (DCSI) or the Department of Women's Justice (DWJS).

Common sense suggests that overcrowding, as the Sheriff has said in testimony before the County Board, "breeds agitation and tempers flare as a result. And when you have maximum security inmates – who have been behind bars for years, not weeks, violence is almost inevitable. ...[O]vercrowding contributes to volatility in a correctional setting. It increases the burdens and stress on staff and it agitates the inmate population. It contributes to the occurrences of inmate-on-inmate violence, as well as the potential for excess force."

The administrators of Rikers Island attribute their benign atmosphere to a lack of overcrowding and a lack of tension between guards and inmates.

To be candid, the Grand Jurors have heard another side of the understaffing/ overcrowding issue. J.W. Fairman (Exhibit 84), with a lifetime of experience in corrections, opines that the calculation of an inmate's average length of stay figure of 180 days is inaccurate. He asserts that when he was in charge, the length of stay was 22 days on average. Since his departure, the yearly population has increased by only 10 percent, or from roughly 90,000 to 100,000 prisoners a year passing through the Cook County Jail, so that the 180-day length of stay recited by Executive Director Baird on July 12, 2004, seems excessive. (Ms. Baird indicated that the length of stay figures come from the JHA). A great number of the prisoners are there on drug charges, charges that usually lead to some type of referral to DCSI or bonding out on a low cash requirement. Thus, according to Fairman, the calculation should include every instant of a person entering the jail and correspondingly, every instant of a person leaving the jail facility, by bonding out, by referral to DCSI or DWJS, by acquittal, by transport to the Illinois Department of Corrections, by the Pre-Release Center that is administered by DCSI and the Sheriff's Work Alternative Program (SWAP), by the Sheriff's Administrative Furloughs (AMF), previously referred to as Sheriff's I Bonds and given to low risk prisoners who are on low bonds but still are unable to finance their own release on bond), or any other way that a prisoner leaves the custody of the jail facility.

The Sheriff questioned the 22-day length of stay figure related by Mr. Fairman, but did not know exactly how the figure is calculated (Exhibit 36).

The Grand Jury is also aware of the Trotter Report (Exhibit 70) , formally known as An Assessment of the Felony Case Process in Cook County, Illinois and Its Impact on Jail Crowding, The American University – Bureau of Justice Assistance, Team Leader, Charles D. Edelstein, Investigator, Joseph Trotter, Jr., November 1989. Joseph Trotter and his group, who examined the jail and the criminal justice system as a whole as they relate to the issue of overcrowding, made a number of recommendations for change. Many of the recommendations have been followed, both by the court system, other parts of the criminal justice system and by the Sheriff's Office.

In an informal discussion with the Grand Jury, Presiding Judge Paul Biebel, Jr., reported that the Criminal Court Judges, 40 in number, have averaged 900 dispositions last year by the 40 Judges. That comes to about 36,000 cases disposed of each year. That compares most favorably to the disposition rates in New York City and Los Angeles County. New York City's 129 Judges disposed of 26,500 cases, or an average of just over 205 cases per Judge per year. Los Angeles did somewhat better. 106 Judges disposed of just over 35,000 cases last year, or an average of 330+ per Judge per year. Thus, it appears that the utilization and efficiency of the Cook County Judges are not the source of the problem.

In testimony before the Cook County Board in March 2003 (Exhibit 86), the Sheriff placed much of the blame for overcrowding on extremely long periods of time that some prisoners remain in the jail. He also inferred that the judges were not working hard enough to dispose of cases quickly enough to have an effect on the overcrowding

problem. The figures of the Criminal Court Judges' disposition rate would seem to belie the second claim of the Sheriff. As to the first claim, J. W. Fairman believes long stays, that entails only 33 long-time prisoners, could not, from a statistical standpoint, have a significant impact on the computation of the length of stay (Exhibit84). In addition, Judge Paul Biebel, Presiding Judge of the Criminal Court, has put in place a courtroom that is devoted to handling only the low bond drug cases and has instituted a process whereby defendants are pleading guilty and being sentenced right off of arraignment, the first formal appearance a defendant has in the criminal justice system. The Sheriff, in his testimony on August 16, 2004, suggested that the State provide Cook County with more judges who then could dispose of even more cases to cut down the overcrowding (Exhibit 36).

The Sheriff indicated that Mr. Trotter has been hired by the County Board to return to the Jail and the Courts to revisit his comprehensive study. The Grand Jury recommends that the team brought in by Mr. Trotter, or some corrections expert, examine the method of determining the length of stay. The Grand Jury applauds the County Board for this move. Also, the Grand Jury applauds both the Sheriff, who has instituted many of the recommendations previously made, and the Cook County Criminal Court Judges who are working hard to dispose of cases, a key method of reducing overcrowding.

About a decade or so ago, according J.W. Fairman (Exhibit 84), a staffing analysis was made by experts hired by the County and the Sheriff that led to a reduction in overtime. The reduction was fueled, in part, by allowing cross-watching (Exhibit 71), a

practice that would put one guard watching two living quarters. We also recommend that the Trotter team determine the proper level of staffing needed to keep the jail safe. A new staffing analysis is long overdue. With that information the Sheriff should have ammunition for a favorable decision by the County Board to immediately increase the number of personnel required to man the Cook County Jail and keep the inmates and the staff safe and secure.

The May 2004 Report of the John Howard Association in the *Duran* case (Exhibit 79), chronicles a welcome trend – a lowering of the average daily Jail population. The recommendation to accurately determine the true length of stay and to revisit staffing criteria, might allow the Federal Court, the Sheriff and the County Board to make decisions about the future with reliable, accurate and verifiable data. In light of the legitimate questions raised about the accuracy of these vital statistics, precision can only be achieved if the issue is fairly examined. The Trotter Team seems to be the logical choice.

STANDARDS AND CRITERIA FOR EMPLOYMENT

The Grand Jury has been concerned, since the inception of this investigation, on the quality of the personnel who have an impact on the operations of the Department of Corrections. During the course of the inquiry, additional information has come to the fore that increases those concerns. While the employment of rank and file Department of

Corrections' personnel is governed by a Merit Board, there is no psychological testing of the recruits in an attempt to weeds out persons who may have tendencies toward brutality or violence. The Grand Jury has been told, by Executive Director Baird (Exhibit 71), that psychological testing is standard for employment as a Chicago Police Officer. Such testing, in light of the allegations in the 1999 incident, seems an absolute minimum requirement. That is especially true of the SORT team, whose main jobs are to be a strike force to quell disturbances and to assist in forcible cell extractions. These are circumstances that call for the utmost restraint by guards, and where most agitating and friction occur between inmate and guard.

The Grand Jury has also learned that in the exempt ranks, those in upper management, the Sheriff has no written criteria for hiring his top administrators (Exhibit 36). The Sheriff has, at times, hired top professional people to assist him in running the jail and his executive office. However, he has filled a number of positions of importance, directly impacting the operations of the jail, with people who appear to have no background in corrections – Zelda Whittler, the Undersheriff, James Ryan, the Director of Operations, and Richard Remus, Superintendent of the SORT unit at the time of the 1999 incident.

Even the present Executive Director, Callie Baird, has no experience in corrections (Exhibit 71). She is a lawyer, familiar with the jail as a Public Defender, and heard the gripes of her clients. She also was head of the Chicago Police Department of Professional Services, the agency that investigated crimes by police officers. She has

instituted many of the changes listed above, but, nevertheless, from her background alone, she has never held any position in any prison or jail. She serves at the pleasure of the Sheriff who has supplied her with no written goals or guidelines for her position.

The Grand Jury does not know, and no one can, what someone with professional corrections credentials would have done, what changes that person would have instituted, if the Sheriff had selected a corrections professional instead of Ms. Baird. And, as will be discussed in Part Three in connection with the Cook County Board of Corrections, the Sheriff selected Ms. Baird in defiance of the statutory selection requirements of 55 ILCS 5/3-1503 (Exhibit 94).

The Grand Jury suggests that, in the future, only a professional corrections person be appointed to the sensitive and demanding post of Executive Director of the Department of Corrections.

Ms. Whittler testified before this body (Exhibit 35) that her background was in court advocacy for battered women, probation and probation administration and in personnel work. She has no prior experience in corrections; she is not sworn personnel; and she has taken none of the training required of most Sheriff's Office employees. As further indication of her unfamiliarity with corrections, Ms Whittler, when testifying before the Grand Jury stated that the ratio of detainees to guards at the DOC was 4 to 1. All persons who commented to the Grand Jury or the Jury's Investigators, including the Sheriff, say that the ratio is 11 to 1. She indicated that she had oversight of the

investigative process; a process that the Jury feels fell apart, at the very least, in regards to the 1999 incident. And when given the original, extensive investigation by Charles Holman, and the Supplemental Report by the Inspector General, Ms. Whittler admitted there were factual details that troubled her. Yet, she did nothing to inquire about the matters that troubled her, did not ask any questions of anyone involved in the investigation, but relied completely on the report of the Inspector General. In other words, she did not oversee that office.

James Ryan, a cousin of Sheriff Sheahan, also testified before the Grand Jury (Exhibit 21), and aside from the fact that the Grand Jury generally found him to be not credible, he offered no background in either management or corrections to justify his position. As Director of Operations, he is supposed to assist the Departments and Divisions in furnishing those things that would allow the unit to properly carry out its assigned tasks. Yet, in two instances that have directly come to the attention of the Grand Jury, and anecdotal information gleaned from a number of sources (Exhibits 86, 87, 88 and 89), Mr. Ryan interferes in the operation of the jail, interferes in promotions, and gives orders or countermands orders that are inimical to the proper operation of the jail. It has been said that Mr. Ryan doesn't listen, is belligerent, and has no expertise in corrections.

Another example of employment that adversely affected the operation of the jail was the appointment of Richard Remus as Superintendent of the SORT unit (Exhibit 87). It was Remus who personally led the two SORT Team incursions into Division 9 on

February 24, 1999. It was his actions and that of his SORT Team who have used excessive force. It is the investigation of his and SORT's actions on that day that the Grand Jury believes were purposely stalled and eventually emasculated by high-up members of the Sheriff's staff trying to protect him. Remus never attended the Sheriff's Training Academy and his personnel file does not indicate any prior experience in corrections. He received his Illinois State Law Enforcement Officer Certification, a prerequisite to employment as a Corrections Officer, after Sheriff Michael Sheahan sent a letter to State officials asking that the training requirement for certification be waived – asserting that the time Remus served in the military was sufficient. An examination of the personnel file of Richard Remus that contains that letter, his military records and military certificates, to the minds of the Jurors, is unremarkable and discloses no military experience that should substitute for specific training as a Corrections Officer, or a Superintendent, no less.

Richard Remus, before and after his employment with the Sheriff's Office has practiced the trade of plumber. He lives in the 19th Ward of the City of Chicago, the same area where the Sheriff resides and the Ward where Sheahan, before election as Sheriff, represented as Alderman of the City of Chicago (Exhibit 88). Mr. Remus also declined to answer questions when he appeared before the Grand Jury (Exhibit 88).

The employment of Richard Remus, a 19th Ward neighbor, and James Ryan, a relative, both of whom, in the eyes of the Grand Jurors, are unqualified to participate in,

supervise, and direct operations of the Department of Corrections, raises the specter of cronyism in the selection of the higher ranks of the Office.

The Grand Jury understands that an office holder has the right to select as his assistants, those in whom he has trust and confidence. However, that selection process should be tempered by seeking persons, qualified by background and experience, to do the job. To better assist the Sheriff in executing his duties, especially in relation to the operation and management of the Jail, the Grand Jurors strongly recommend that the Sheriff prepare written job specific criteria and minimum standards, required for all of the top level exempt ranks in the Office that have any affect upon the operations of the Department of Corrections.

The legislature should also study the present system for selecting members of the Merit Board that hire and fire rank and file members of the Department of Corrections. The statute now in place requires the Sheriff to appoint Board members (Exhibit 36). To avoid the appearance of favoritism and cronyism, that Board ought to be independent of the Sheriff, including not being beholden to the Sheriff for their appointment. True Merit Board independence may be the way to go, but the Grand Jurors also recommend that the State legislature and the County Board study the system for hiring Department of Correction employees (except for a few upper echelon members of the Sheriff's office) under a full civil service system in order to better guaranty the integrity and independence of the work force and to prevent cronyism from being the watchword for employment.

THE TRAINING CURRICULUM

Richard Stilling, the first Inspector General of the Sheriff's Office, a prior Director of Training, and a retired FBI agent, was asked by the Grand Jury to review the training manuals and curricula employed for teaching new recruits and present DOC Officers. The Sheriff expressed displeasure with the Jury's employment, complaining that Stilling had called sworn personnel to divulge confidential information (Exhibits 89 and 92). The truth is that Mr. Stilling telephoned the present Director of Training to ask for an opportunity to interview her in connection with his assigned task, but the telephone call was never returned. No "State secrets," whatever that might be, were ever put in jeopardy. The Sheriff's fears, whatever they may be, were misplaced.

Mr. Stilling was tendered twelve training manuals sent by the Sheriff's attorney that purported to be all the training manuals. Mr. Stilling reported:

> "These documents are the type of documents one would expect to see when beginning an examination of a department's training program. Documents meet the general training standards expected and in actual practice would be used as the instructional guidelines by the administrators and instructors. They were found to be well organized and they followed the Illinois Law Enforcement Training and Standards Board[']s guidelines. The documents only make up one important part of any training program. Without further inspection, it must be assumed that these documents are the documents that are used by the department's

> administrators and instructors when putting this program into practice." Stilling also said: "They were found to have a good instructional foundation ...." (Exhibit 90).

Based on this analysis, the Grand Jury has no recommendation concerning the training curriculum, expect as previously mentioned, i.e., that training should include DOC specific scenarios and training in use-of-force.

RIKER'S ISLAND VISIT

On July 8-9, 2004, several members of the Grand Jury (including a Grand Jury Investigator) toured the Riker's Island Corrections facility, which is part of the New York City, Department of Corrections (Exhibit 80). Overall, the entire jail houses approximately 13,000 detainees, including in the satellite boroughs. Each day approximately 1400 inmates are transported to court.

Riker's Island is made up of various housing units depending on the profile of the inmate. The members of the Grand Jury observed a juvenile facility and a maximum security facility, which included sections for detainees with mental illnesses and a section for high profile detainees, such as accused cop killers, escapees, etc. The members also observed, with about 30 minutes notice, Riker's equivalent to the SORT unit, the Emergency Response Unit ("ESU") conduct an unannounced search of detainees returning from visitation.

Overall, the members were extremely impressed—almost overwhelmed--with the operation of Riker's. They we first struck with the level of professionalism among the staff and the level of respect between the inmates and staff. The staff practices the military-style saluting of members of higher rank when they enter an area. If inmates are in the hall on work detail or being transported, they either fall in a straight line on one side of the hall or turn facing the wall until the staff passes. The inmates must wear color-coded ID badges clipped to their coverall's which lets the staff know, based on the color, whether the inmate has ever been caught with a weapon or contraband. Riker's strictly enforces the ID badge rule.

The inmates were consistently respectful when approached by staff. When the members asked about the level of respect between the inmates and staff, one of the wardens explained that by showing the inmates respect over the years, including talking to them about their concerns/issues at the Warden level (Cook County's equivalent of a superintendent), and by treating fellow staff members with respect, it fosters an environment of respect and professionalism throughout the organization. It was further explained that the inmates now appreciate the environment to the point that they police each other and will confide in the staff if a new inmate attempts to "rock the boat." Unlike what was observed during the tours of the Cook County Jail, the detainees at Riker's did not use the Grand Jury's tour, which was led by wardens, as an opportunity to vent complaints and grievances about conditions within the jail. This environment also translates into a very immaculate jail throughout. The inmates obviously take pride in

the appearance of the facility as evidenced by the abundant, and excellent, artwork painted on the walls by the inmates.

The Grand Jury members were also impressed with fact that Riker's strictly adheres to a one detainee per cell policy. [12] In short, overcrowding is not an issue. In fact, several cells were vacant during the tour. Also, Riker's employs many more Corrections Officers per inmate than Cook County, with roughly a 4:1 inmate-to-guard ratio, compared to about 11:1 in Cook County.

One big contributing factor to Riker's ability to maintain one inmate per cell is that an inmate's length of stay, approximately 10 weeks, is much shorter than the 180 days in Cook County. As mentioned in other portions of this report, there are several factors that impact on the length of stay and all must be examined in order to reduce the length of stay in Cook County.

The wardens also unofficially reported very few use-of-force incidents, somewhere around 5-6 per month in juvenile section (1500 detainees) and about 5 per month in the biggest maximum security section (1300 detainees). The Grand Jury members were told that the low use-of-force incidents can be attributed to changes that were implemented within the last 7-8 years in response to lawsuits over the years, including videotaping for all cell extractions and any non-routine search, where even minimal use-of-force is anticipated. Riker's staff also extensively uses non-physical

[12] This excludes the juvenile facility which has dormitory-style wings, or modules, with about 50 beds per module.

techniques to get control of a situation, such as stun guns, pepper spray, electric shock-type shields. They have found this to be most effective in preventing the violent and drawn out physical encounters that were prevalent there years ago. Also, to conduct searches, Riker's uses, depending on the level of the search, (1) regular correction officers, (2) specialized search units of individual who have an keen ability to find weapons and contraband, (3) the Emergency Service Unit (ESU)—there equivalent to SORT, as well as canine units, which are trained to give both passive and aggressive alerts.

Riker's makes a concerted effort to deal with gang problems. It employs a Gang Intelligence unit that constantly monitors the number of gang members per gang and, through confidential informants, any planned activity. Riker's also has a flexible approach with dealing with the number of members in any particular gang. Some units limit the number of gang members in any given area to no more than 12, whereas in other units, the strategy is to keep members of a gang together in order to contain them and prevent them from recruiting new members.

Riker's invests a lot into the medical treatment of detainees. The Grand Jury members toured the health clinic in the maximum security unit and noted that it impressive for its organization, cleanliness and comprehension. There is always a doctor on site, which, coupled with their urgent care facility, cuts down tremendously on hospital runs. Also, medical specialists in virtually every field rotate in during the week, and have patient rooms setup and dedicated for each specialty. The dental facility is also

quite ample to meet virtually any dental need. There is also a "Patient Advocate" on staff who is available as an intermediary between the inmate and jail staff. All the medical personnel are under a separate city agency, thus allowing them to main a certain level of independence.

Any incident where force is used or where inmates fight each other requires that the inmate be seen by a doctor, no matter how trivial the incident. If the inmate declines treatment, he must do so in front of a doctor. Moreover, anyone officer who is involved with, or witnesses, the use of force must fill out a report. Riker's personnel emphasized that compliance is 100%.

The Grand Jury members also visited the Emergency Services Unit (ESU). ESU is essentially Riker's SORT unit. The unit consists of approximately 96 permanent officers and 13 Captains, as well as about 100 officers and 15 Captains on a part-time or reserve basis. The reserve personnel have regular jobs within the jail and are called into action on an as-needed basis. They are on-call 24/7 and must respond within an hour. The canine units, consisting of German Shepherds that do aggressive alerts, and Labradors that do passive alerts, are also under ESU. Similar to SORT, ESU has its own reporting structure, but unlike in Cook County, it appears ESU has a healthy relationship with the jail staff. For instance ESU does not enter wing uninvited (other than a real emergency) or seek to perform an operation outside the presence of the regular staff. ESU does at least one search every shift, or tour. Their focus is gangs, drugs and

weapons. ESU also loans it officers out for special projects such as 9-11 and work with NYPD.

The selection process for ESU officers consists of jail staff submitting their names to ESU. Each candidate's file is sent to the Inspector General for a background check. If the candidate has any excessive force violations, or a pattern of unsustained complaints, he or she is disqualified. If the candidate makes it through IG, the next step is to go through Health Management to ensure they don't have any health disqualifiers. Finally, the candidate goes through a "hell week" type experience, which tests physical endurance. If they make it through, they become a part of the reserve team. At this point the candidate begins a series of extensive training in firearms, fire safety, cell extractions, speed cuffing, physical fitness, platoon training, which teaches, among other things, how to talk to inmates to deescalate a situation, and hazardous materials handling. ESU also cross trains with NYPD, Homeland security and participates in mock prison riot training in West Virginia. There is no separate psychological screening/testing, other than the candidate's history, as discussed above.

ESU members must videotape all uses of force and fill out an incident report on all uses of forces that they observe.

Probably the biggest testament to the professionalism of ESU was the leader allowing the members of the Grand Jury, with about 20 minutes notice, to accompany the team on an unannounced search of inmates returning from the visitation room. The

search was done quietly, efficiently, thoroughly, professionally, with complete cooperation of the inmates. Labradors were used for any possible passive alert to drugs. One officer stood by wearing a gas mask and holding a pepper spray gun.

Posted around the jails are signs urging anyone with knowledge of corruption to report it via hotline to the Inspector General. The caller has the option of remaining anonymous. Any observation by a subordinate of abuse or corruption by a superior must be reported, not to anyone in the chain of command, but to the IG's office.

The investigators are made up of civilians and uniform personnel. The department looks for candidates with prior investigative experience, usually with the police. Once brought on, the investigators go through a 40-hour course, then a 3-week course with NYPD's internal affairs department, followed by training with HIDTA (High Intensity Drug Trafficking Agency), to name a few.

The Warden of the jail can refer a case to the Investigations and/or conduct a separate investigation at the jail level, with the investigations department either signing off on or pressing for more investigation or discipline. For staff infractions, a grid system typically spells out the appropriate punishment so that much of the subjectivity is removed from the process. If a staff member protests a result, it will be referred to the "trials" section of investigation department, which prosecutes cases in front of an administrative law judge.

Riker's instituted a no smoking policy about a year ago. As a result, there have been no reports of inmates starting fires, although the policy has caused the black market price to rise to a reported $75 per pack. Because Cook County Jail has a history of inmates, who are allowed to smoke and thus possess matches/lighters, starting fires, it is strongly urged that DOC implement a no smoking policy. Such policy would go a long toward preventing what could potentially be a disastrous situation.

Lastly, Riker's employs a T.E.A.M.S. system that stands for Total Efficiency accountability Management System. In short, this is a result of the Gulliani Administration's efforts to quantify, record, and track a variety of indicators on a monthly basis in order to zero in and solve problems, such as excessive force incidents, weapons/contraband found, sick calls by staff, etc. The system requires virtually everyone at every level to faithfully input data in the computer so that a useful report can be generated up the chain. Riker's personnel touted this system as achieving tremendous. A sample report was provided to the Grand Jury.

The Grand Jury thanks the four who took the time to travel to Rikers Island. Their observations and impressions have led to several suggestions noted elsewhere in this Report. Rikers Island is not the Cook County Jail, and to advise the Sheriff to slavishly copy all the things the New York people do would be foolish. However, the Grand Jury recommends that the Sheriff and top administrators of the DOC visit Rikers Island, if they have not done so recently, and see for themselves what Commissioner Horn has accomplished, and bring back to the DOC those operational systems that would fit at the

Cook County Jail, and would lead to improvements in its operations – for the betterment of safety, of staff, and of the inmates. A safer and more easily controllable facility will lead to less opportunity for confrontation, less opportunity for excessive force to be used, less opportunity for detainees to complain about excessive force and other grievances, thereby providing the citizens of the County a local penal system that is a facility not subject to media exposes, probes and regularly called into question.

PHYSICAL CONDITIONS OF THE JAIL

Jail Tours

The Grand Jurors, on two separate occasions, had an opportunity to tour the jail facilities. They were impressed with the tunnel system that protects the public by making sure that the bulk of the prisoners who are required to attend Court in the adjacent Criminal Court Building never are required to travel above ground. The tunnel system connects all jail facilities (except Division 11, built on the east side of California Blvd.) to each other and to the Court Building. In fact, the tunnel system brings prisoners right to elevators that take them to the holding cells behind each courtroom. The tunnel also is used for inter-jail travel and movement of detainees.

In the main, the facilities were clean, painted, well-lit, and clean-smelling. The exception is the original Cook County Jail Building located immediately behind and to the west of the Criminal Court Building. That jail building, erected in the 1920s, is dark

and dank feeling, looks overcrowded even though the detainees appear to have personal space, and is noisy to an extreme. It was here that the Jurors were taken into SORT headquarters, a separate part of the jail to which, at the time of the first Jury visit, even the Executive Director did not have keys and had to ask permission to enter. Since that first visit, the Executive Director has testified that the unit has been placed under the ultimate authority of the Executive Director and Department of Corrections' supervisors have access keys to the SORT domain.

SORT headquarters has a very well-equipped gym with free weights and machines that would be the envy of many private clubs. SORT Officers, at the time of the first jail tour, spent their time training, performing SORT cell searches and cell extractions, guarding special risk prisoners, and exterior security. At all other times SORT Officers ate, slept and congregated in the gym-equipped SORT headquarters. Access to the gym equipment was not made available to other non-SORT Department of Corrections Officers. SORT Officers dress in different styled uniforms, and acted, when in the Jurors' presence, in a very military manner – martinet-like. They swaggered and exuded an aura of superiority to other Department of Corrections Officers.

The Grand Jurors have been advised that the SORT team has a new Superintendent who is attempting to instill in the SORT Officers a feeling of being a part of the Department, not an elitist group. The new Superintendent, who reports directly to an Assistant Executive Director of the DOC, is requiring the unit's members to do other tasks that relieve Division Officers when SORT is not performing its regular duties. He

has changed SORT training to emphasize respect for the detainees, and the use of minimum force to do their job, in accordance with the Sheriff's new General Orders regarding "use of force."

The facilities visited by the Jurors (the Jurors were not denied inspection of any area of the jail they asked to see) had recreational facilities and basketball courts that were in constant use. The Jurors were shown and told about the many educational opportunities inmates have if they wish to avail themselves of the programs, including drug counseling. The food was never the subject of inmate complaints during the tours, except that they were not jumping for joy with cold cut sandwiches at lunch.

Cermak Hospital, a fully accredited medical facility, a part of the Cook County Medical Department, is located on the grounds of the jail with direct access through the previously described tunnel system. It is staffed, 24/7 with medical doctors, nurses and paramedics. Paramedics also man small infirmary-type offices within the various Divisions to treat minor problems. The Grand Jury reviewed the allegations from the 1999 incident that SORT members refused to allow injured prisoners to get medical attention. The review of all investigations into claims of excess force for the last five years, commissioned by the Grand Jury disclosed many inmate grievances concerning denial of access to medical attention.

The Grand Jury has considered the extensive report on the physical conditions of the Jail and their affect on the inmates and staff presented by the John Howard

Association Report of May 2004 to the *Duran* Court (Exhibit 79). That Report needs no further elaboration. The Grand Jury also studied the results of the Accreditation of the jail in 2002 by the American Correctional Association, Commission on Accreditations of Corrections (Exhibit 91)

In 2002 the American Correctional Association, Commission on Accreditation for Corrections, issued its "Excellent" rating to the Cook County Jail, a rating good for three years. The ACA has developed standards for examining a facilities plant, training, sanitation, safe and secure environment, due process, discipline, access to courts, mail and visiting privileges, searches, and confinement of difficult to manage offenders.

However, the investigation of the Grand Jury, including the observations of the Jurors who visited the Riker's Island facility of the New York City Department of Corrections, makes the assessment of the ACA appear to be much too glowing for the observations of the Jurors. The ACA should return to re-examine the facility and perhaps use more stringent criteria when re-evaluating the facility.

The Grand Jurors who visited Rikers Island commented that the facility was cleaner and better lit than the DOC. But, under the circumstances of not being able to do their own maintenance (Exhibit 71), the overcrowding, and the budgetary and manpower restraints imposed on the Sheriff, the Grand Jury finds that the Sheriff and the personnel of the DOC have done an adequate job in providing food, shelter, health care, recreation, educational opportunities, and drug counseling in the described environment.

The ACA standards call for a review of the rules governing an institution. However, the ACA report for 2002 did not address the scope or appropriateness of the rules and regulations governing the Cook County Jail. The ACA auditors also did not comment on the grievance process except to list raw numbers. The Auditors never commented about the lack of management tools to give supervisors the ability to track inmates, staff, grievances and investigations; nor that the training of recruits did not include DOC specific scenarios or use-of-force instruction that mirrored the work of DOC Officers on a daily basis.

PART THREE

OBSERVATIONS

The Sheriff's Reluctance

During the course of the Grand Jury's extended tenure, cooperation between the Jury and the Sheriff was excellent. Thousands of documents were provided. Personnel were made available for interviews or testimony. Questions were answered thoroughly and with speed. Then the Grand Jury asked the Sheriff to testify.

The cooperation ceased. The Sheriff balked at being sworn under oath. The Sheriff refused to testify if he was to receive Miranda warnings. The Sheriff balked at having his press secretary, Sally Daly, testify. The Sheriff tried to dictate, in part, the people the Grand Jury employed to assist in its work. The Sheriff also attempted to tell the Jury how, when and where it should question the Sheriff (Exhibit 92).

Eventually, the Sheriff went to court to try to block subpoenas served on Ms. Daly and himself (Exhibit 89). In an extensive and scholarly ruling, Judge Michael Toomin, a Supervising Judge in the Criminal Division of the Circuit Court, upheld the power of the Grand Jury to issue subpoenas to compel testimony (Exhibit 93), and first Sally Daly, and

then Sheriff Michael Sheahan, appeared before the Grand Jury and testified under oath. The Sheriff promised that the cooperation would resume as he ended his testimony. To date, August 30, 2004, that promise has not been fulfilled.

In opposing the subpoenas, the Sheriff asserted no privilege. He merely complained about the scope of the Grand Jury's inquiry; a complaint he never raised during the entire previous 16 months of requests for documents, etc., and a complaint shot down by Judge Toomin's opinion and order.

The inquiry into the general operation of the jail since 1999 has not revealed any major failing – except for the previously described excessive force incident and the failings in the investigative process and inmate grievances. The recommendations of the Grand Jury concerning management tools, training, manpower, overcrowding, classification, length of stay, grievances, and even reorganization of the investigative process, are not earth-shattering revelations. These recommendations, while important, are of the "let's fix some loose nuts and bolts."

What, then, led the Sheriff to try so hard to avoid testifying before this body under oath? Rather than speculating, an exercise the Jury should not participate in, the panel will list a number of facts leading up to the Jury's initial request for his testimony and later the subpoena to compel it. The readers can form their own opinions on his possible motivation.

1. There is much evidence that led the Jury to conclude that on February 24, 1999, Richard Remus, Superintendent, personally, and the SORT team he headed, administered corporal punishment to detainees, without provocation.
2. Richard Remus was and is a resident of the 19th Ward of the City of Chicago, and was claimed, by many who provided evidence to the Grand Jury, to have "clout downtown," meaning within the Executive Offices of the Sheriff on the seventh floor in the Richard J. Daley Civic Center.
3. Michael Sheahan resides in the 19th Ward, and before election as Sheriff was the Alderman of the 19th Ward.
4. Michael Sheahan wrote to the Illinois Law Enforcement Commission, asking them to waive the 400 hours of training requirement for Richard Remus; a requirement all other DOC Officers must satisfy.
5. Henry Barsch, then head of the DOC IAD unit, showed Richard Remus photographs of Bert Barrios, taken eight days after the 1999 incident; photos that depicted two black eyes, bruises and a

ligature burn on the neck. The photographs are missing from the file where they were placed immediately after they were taken. Barsch had them, then they were gone.

6. Henry Barsch ordered Charles Holman, the investigator who had preliminarily indicated that criminal charges possibly would come out of a full investigation of the 1999 incident, to stop his inquiry and send the file to the Inspector General for further investigation.
7. Holman saw a copy of a two page memo Barsch sent to Inspector General Joseph Shaughnessy, saying that James Ryan, the Chief Legal Advisor and cousin of Sheriff Sheahan, had ordered the transfer of the investigation.
8. Both Ryan and Shaughnessy were part of the Executive Office of the Sheriff.
9. Barsch had been promoted from IAD investigator to head of the IAD unit in DOC by Joseph Shaughnessy before the February 24, 1999 incident, and in 2001, while the investigation was languishing in Shaughnessy's office, promoted Barsch to be Deputy Inspector General. After the file was transferred to the IG's office in 1999, nothing was done with the file, no investigative work of any kind was performed. When later questioned about why there was a two year delay in completing the investigation, Shaughnessy merely shrugged his shoulders.

10. In the file that Shaughnessy had in his office another memo from Barsch to Shaughnessy was found, saying that James Ryan ordered the investigation stopped. The net effect of the two memos was to have Shaughnessy transfer the file and then to stop the investigation.

11. In May 2001, Barsch ordered Holman to resume his investigation – after the Statute of Limitations for misdemeanors had lapsed, and with about nine months remaining on the felony Statute of Limitations. Holman's investigation thereafter led to his interviewing 140 witnesses, many of whom were in penal institutions in various parts of Illinois and Indiana.

12. When James Ryan allegedly learned of the existence of the two memos, although he said he was "hot," he did not write a memo to the file or to anyone rebutting the assertions that he had ordered the investigation either shipped to the IG and/or stopped; did not ask Barsch or confront Barsch as to why Ryan's name had been used, and did not call for an investigation of what had occurred.

13. When Holman completed his report in September 2002, and after he had been told by an Assistant State's Attorney that the three year Statute of Limitations had expired, and after the replacement for Barsch as head of the DOC IAD unit, Saul Weinstein, delayed signing and forwarding the Report to Shaughnessy for an additional three months.

14. When Holman's report hit Shaughnessy's desk in late-2002 or early-2003, Shaughnessy apparently did nothing with it until the Tribune reporters began inquiring about the underlying facts, even though the report itself revealed findings indicative of criminal behavior by Richard Remus and several SORT Officers, and the evidence of cover-up (findings that would call for referral to the Merit Board for termination proceedings), Shaughnessy then commissioned two of his IG investigators to look at Holman's report. The result was the Supplemental Report referred to in other portions of this Report. The Supplemental Report emasculated Holman's findings - reducing any finding that (absent the lapse of the Statute of Limitations) could have implicated violations of the criminal laws and requiring referral to the Merit Board for termination proceedings - to findings of relatively minor administrative rule failings which would not require termination proceedings. Shaughnessy signed off on the Supplemental Report.

15. John Maul, Acting Executive Director of DOC at the time, followed the IG's recommended findings without question, even though he wondered about the lengthy delays and saw that the Holman investigation contradicted the Supplemental Report language that said there was no evidence to corroborate Holman's key findings on the serious charges.

16. Zelda Whittler, the Undersheriff, also followed the IG's findings without question, even though, she too, wondered about the extreme delays, and the dichotomy between the evidence revealed in the Holman investigation and the Supplemental Report's statement that there was no corroborative evidence.

17. Neither Maul nor Whittler called for any investigation. Neither asked any questions of Shaughnessy, Barsch, Ryan or Holman.

18. When the Sheriff learned of the Tribune expose and the paper's charges of brutality and cover-up, he did not bother to read either the Supplemental Report or the Holman Report. He either ordered Shaughnessy to look at Holman's Report, as Ryan claims, or told Brian Flaherty, the Sheriff's Chief Legal Advisor in March 2003 (presently a Judge of the Circuit Court), to have Shaughnessy take care of the problem, as the Sheriff has stated. The Sheriff did not call for an investigation. He did not talk to Shaughnessy or Barsch. He did not talk to Holman. He stated he doesn't remember talking to Ryan.

19. Barsch, Shaughnessy, Weinstein and Remus all refused to answer questions before the Grand Jury prior to the time the Jury asked the Sheriff to appear; a fact his lawyer, the late E. Michael Kelly was aware of.

These facts may give a reason for the Sheriff's reluctance to testify.

As a Result of Trip to Riker's Island

It bears repeating, the Grand Jury thanks the four who took the time to travel to Rikers Island. Their observations and impressions have led to several suggestions noted elsewhere in this Report. Rikers Island is not the Cook County Jail, and to advise the Sheriff to slavishly copy all the things the New York people do would be foolish. However, there clearly is a superior system (Riker's) to recruit professionals with corrections backgrounds, develop staff, monitor performance, initiate corrective actions, develop clear lines of responsibility and accountability, and develop a positive culture. This is very much lacking at the Cook County Department of Corrections.

The Grand Jury suggests that the Sheriff and top administrators of the DOC visit Rikers Island, if they have not done so recently, and see for themselves what Commissioner Horn has accomplished. They can then bring back to the DOC those operational systems that would fit at the Cook County Jail; that would lead to improvements in its operations – for the betterment of safety, of staff, and of detainees.

A safer and more easily controllable facility will lead to less opportunity for confrontation, less opportunity for excessive force to be used, less opportunity for detainees to complain about excessive force and other grievances, thereby providing the citizens of the County a local penal system that is a facility not subject to media exposes, probes and regularly called into question.

RECOMMENDATIONS

Cook County Board of Corrections

At the present time there is a Cook County Board of Corrections authorized by statute, 55 ILCS 5/3-1503 (Exhibit 94), composed of five members, appointed by the Sheriff, with the advice and consent of the Cook County Board, whose statutory duties are:

1. To recommend to the Sheriff policy for the Department of Corrections (DOC),
2. To establish rules for the administration of the DOC, and
3. To nominate to the Sheriff the names of three candidates from which the Sheriff shall select an Executive Director of the DOC.

There is also specific statutory language prohibiting the Cook County Board of Corrections from exercising any administrative or executive duties and stating that it "shall not deal with specific procedural matters" of the DOC.

In all the material presented to the Grand Jury, either by way of testimony or documents, including that of Sheriff Sheahan on August 16, 2004 (Exhibit 36), except for the nominating power, there is no evidence that the Cook County Board of Corrections recommends policy or establishes rules for the administration of the DOC. The Sheriff

denied that the CCBofC ever formally recommended policy or suggested rules. The only policy or rule making comes solely from the Sheriff. And the one power it has exercised in recent years, nominating names for the Executive Director position, is at odds with the Sheriff and tied up in Court.

What the citizens of Cook County have, then, is a Board with little to do, that is forbidden to do anything of substance, and who is embroiled in litigation.

To give credit where credit is due, Richard Stilling, the first Inspector General and later Director of Training for the Sheriff, Michael Mahoney of the Bobb Committee, and Charles Fasano of the John Howard Association, have all suggested that this under-utilized Board be reanimated, reconstituted and reinvigorated with duties in the nature of an ombudsman (Exhibits 77 ,78 and 83) .

The Grand Jury believes there is merit in that suggestion and would recommend that legislation be introduced so that the Cook County Board of Corrections be reconstituted with specific duties of monitoring two areas of the jail:

1. Detainee Grievance Procedures, and
2. The process of investigating all incidents occurring in the jail – the work of the newly-reformed Inspector General's Office, his investigators, and the CCSPD assigned to investigate crimes and excessive force incidents at the Cook County Jail.

The Grand Jurors realize that a new use of the Cook County Board of Corrections will require legislation, and in that regard, the Grand Jury recommends that the new Cook County Board of Corrections be completely independent of the Sheriff and not be appointed to their positions by the holder of that Office. The Grand Jury further recommends that the Cook County Board of Corrections report to the President and Commissioners of the Cook County Board and to the Sheriff, at least on a quarterly basis, and in writing, the results of its monitoring, with emphasis on those instances where the Cook County Board of Corrections finds that the General Orders and Rules for the Detainee Grievance Procedure and the Investigative functions are not being followed by members of the Sheriff's Office.

In previous sections of this Report the Grand Jury has commented on the evidence that General Orders, in relation to Grievances, were not being followed – to such an extent that the detainees do not trust the Grievance system, do not believe that they will get a fair hearing, and are deterred from filing grievances out of fear of retaliation from the guards. The John Howard Association has, and the Bobb Committee will recommend that the Grievance system and procedures be revised and improved.

The Grand Jury heartily agrees with the apparent recommendations of these two bodies, but updating and refining, revising and improving the rules of the Grievance system will not ensure that the new process will be followed. Placing an outside, independent agency as an official monitor of the process and compliance with the established Orders and Rules, who report on that process and compliance to, not only the

Sheriff, but to the County Board as well, the agency that governs the Sheriff's budget, should be a powerful incentive to the Sheriff's personnel to maintain both the spirit and letter of the Grievance system.

If the detainees believe the Grievance system works, i.e., gives them an opportunity to express their gripes in a fair and open manner, without fear of retribution from staff, such an atmosphere should go a long way, over time, to remove one major area of dispute that leads to tension and animosity between detainees and the guards.

The second suggested area for the new Cook County Board of Corrections to monitor is the investigative functions involving the Inspector General, his Investigators in the Department of Corrections, and Cook County Sheriff Police Department assigned in the jail. Such monitoring is needed, in the view of the Grand Jury, because of the failure of the investigative system in relation to the investigation of the February 24, 1999 incident reviewed above. The investigative system was manipulated, stalled, delayed, and finally emasculated by the persons in charge of the Inspector General's office and those in the then IAD office of DOC, from February 24, 1999 to March 4, 2003.

The Grand Jury heard extensive evidence, which has been described in this Report, of the fact that there was no oversight of the IG, and the IAD during this period. And when the Command Channel Review of the emasculated findings presented by the Inspector General was reviewed by the Undersheriff and the Acting Executive Director, there was no real independent look at the case by either. Each testified that they relied on

the opinion of Joseph Shaughnessy, the IG, and concurred with his findings, even when they realized that there had been unexplained gaps in the investigation and much evidence that contradicted the findings of the IG. They relied on one man, who happened to be the person most implicated in causing the delay.

That is exactly the reason why the Grand Jury is suggesting the monitoring of the work of investigators in the DOC. Too much reliance on one man or woman is not good – with no aspersions intended on the present Inspector General. There was little or no oversight of the investigative process in the 1999 incident, and anecdotal evidence that 1999 was not the first time the process was not on the up and up.

KPMG suggested that the entire investigative process be placed under the direction of the Inspector General. That, at least, pinpoints accountability. But that does not guarantee that intentional shenanigans by corrupt persons in the future will not result in a duplication of what the Grand Jury has found in this case. The Grand Jury has also learned that the Sheriff has put into place a computer program that will allow the Inspector General's office to track investigations, track the time investigations take, track the areas of the jail from whence complaints arise, and track the names of guards against whom complaints are registered. That is a worthwhile and necessary improvement, but, again, it does not guarantee against the fertile mind of venal men finding a way to corrupt the tracking system – as unsophisticatedly as by not entering data into the system.

Experience tells this Grand Jury that, in the very delicate circumstance of investigating wrongdoing or rule violations by guards, the people involved and the system and process of investigation must be monitored.

The Sheriff and Undersheriff stated that the Undersheriff monitors the work of the IG. While Ms. Whittler may have sterling qualities and experience, she has no direct experience in corrections, and she did not monitor, did not question, but just rubber-stamped the findings presented to her by the former IG in the February 24, 1999 incident

An outside monitoring agency appears to be a solution. While the John Howard Association has done yeoman's work in observing the workings of the jail, and it has been given monitoring authority under an order consistent with the *Duran* decree, they are not yet ready, according to Charles Fasano in his testimony on June 28, 2004, to begin monitoring and they intend to do so with one part-time person (Exhibit 83, at 85).

Unfortunately, the John Howard Association does not have the "clout" nor the resources needed, and has no enforcement powers. They have the power to shed light on a problem, and they have done this magnificently, but they have no direct ability to enforce the rules. The system that the Grand Jury is proposing, that the monitoring body report quarterly to both the Sheriff and the President and Commissioners of the Cook County Board, the body that parcels out the money for the Sheriff's budget, should provide leverage to the Cook County Board of Corrections, as reconstituted in their

monitoring activities, to ensure that the Sheriff's top priority is to guarantee that any and all investigations are on the up and up and that the Grievance process run smoothly.

Since the Grand Jury is suggesting that the redesigned Cook County Board of Corrections oversee areas of the Sheriff's work, controlled in large measure by persons part of or working in the Department of Corrections, it appears that it would be a conflict of interest if the present duties of that Board remain as part of the statutory scheme for the Cook County Board of Corrections (suggest procedures and rules and select candidates for the Executive Director's position). The Jury does not propose to suggest to the legislature how the Executive Director of the DOC should be selected (although the 1976 Grand Jury, in a Report on Jail conditions, recommended that the Sheriff and the Sheriff alone, have the authority to hire and fire the head of the jail (Exhibit 95). The 1976 Grand Jury made this suggestion to place responsibility directly and unalterably, on the shoulders of the occupant of the Sheriff's Office). We do feel, however, that it is within our mandate to point out that there is a body that is not performing its statutory duties (policy recommendations and administrative rule making); that there is a real need for some one to step in to monitor the actions of the Sheriff's employees as suggested; and that within the legislative process, a heretofore underutilized governmental body, could be enlisted to really assist in a needed public service.

The heart of this recommendation is to ensure that grievances are investigated in a timely fashion; that the legitimate complaints of detainees, the vast majority of whom are

presumed to be innocent, are not ignored; and that the investigative process be placed beyond the machinations of venal men or women.

1. To Recap the above, the Grand Jury recommends that the duties and purpose of the Cook County Board of Corrections be legislatively changed, including the power to appoint its members, along with its current personnel, to place that body as a monitor of the grievance and investigative processes of the Sheriff's office, and that the Cook County Board of Corrections, as reconstituted, report, in writing, its monitoring findings on a quarterly basis to both the Sheriff of Cook County and the Cook County Board.

2. The extraordinary proof required for a finding sustaining a claim by a Detainee of excessive force provides a convenient way to ignore the truth and protect unfit individuals, allowing them further interaction with detainees. The Grand Jury recommends that the Sheriff review this extraordinary proof requirement. Fairer and more objective criteria must be crafted so that true brutality will not be swept under the rug by an artificially high requirement for proof. The Grand Jury also recommends that the newly installed management tools given to the Inspector General's Office must be used and must be made available to the Executive Director and the Sheriff on a timely and consistent basis, so that potential hot-spots can be prevented and guards who have a history of excessive force complaints can be moved to less sensitive positions, afforded re-training or separation from the force.

3. The Grand Jury recommends that a sweeping inquiry into the grievance system, an undertaking beyond the capability of the Jurors, be authorized and that the Sheriff and the members of DOC adopt the recommendations of the experts systematically, comprehensively and thoroughly looking at the issue, be it the Bobb Committee or others hired for this specific reason.

4. The Grand Jury recommends that the team to be brought in by Mr. Trotter, or some other qualified expert, examine the method of determining the length of stay of prisoners in the Jail.

5. The Grand Jury recommends that DOC implement a no smoking policy, thus prohibiting the possession of matches and lighters. Such a policy would go a long way toward preventing what could potentially be a disastrous situation. Such a policy would also provide a healthier environment for inmates and staff.

6. The Grand Jury also recommends that the Trotter team, or other appropriate expert, determine the proper level of staffing needed to keep the jail safe.

7. The Grand Jury strongly recommends that the Cook County Board immediately authorize an increase in the number of DOC Corrections Officers, providing DOC with the number of personnel determined by the expert/experts

hired to perform the staffing study referred to in the previous recommendation, a staffing necessary for the safety of the public, the guards and the inmates of the Cook County Jail.

8. The Grand Jury suggests that the Sheriff and top administrators of the DOC visit Riker's Island, if they have not done so recently, and see for themselves what Commissioner Horn has accomplished. They can then bring back to the DOC those operational systems that would fit at the Cook County Jail; that would lead to improvements in its operations – for the betterment of safety, of staff, and of detainees.

9. The Grand Jury also recommends that the Cook County Board resume funding a continuous recruit training program to prevent undue lapses in effective guard strength.

10. The Grand Jury recommends that the Sheriff hire an expert to review and make recommendations for upgrading, and modernizing the present old classification of prisoners system; and making classifications appropriate to present circumstance facing the jail.

11. The Grand Jury recommends that the Sheriff hire an expert, versed in and familiar with the latest trends and opinions concerning rules and regulations governing operation of a jail, in order to assist the DOC personnel presently

attempting to upgrade and modernize the General Orders under which the jail operates.

12. The Grand Jury recommends that the Cook County Board adequately fund augmentation of technology for the DOC to provide better inmate management and DOC performance tracking, as well as environmental improvements in the Jail.

13. The Grand Jury recommends that the training of all new recruits concerning use-of-force and the use-of-force continuum (and the annual training required of all DOC Corrections Officers) be changed to include not only training in use-of-force appropriate to a police officer, but training as well that is specific to the circumstances facing unarmed Corrections Officers in the confined space of the jail.

14. The Grand Jury recommends that the Sheriff and the County Board provide for psychological testing of all new recruits in order to weed out potential persons with a propensity for brutality; and that the present and future SORT Officers be subject to psychological testing for the same purpose.

15. The Grand Jury recommends that the Sheriff immediately draft, and thereafter apply and follow, written standards and criteria for employment of any person of exempt rank, not subject to the Merit Board, who has any authority over, or in connection with, the operation of the Cook County Jail.

16. The Grand Jury also recommends that the legislature change the Merit Board Act to require that the appointment of the Merit Board members be made by some person or body other than the Sheriff.

17. The Grand Jury also recommends that the entire issue of employment as a Correction Officer be reviewed with an eye toward exploring placing Corrections Officer under a true civil service system.

18. The question of Jail overcrowding has been with the citizens of Cook County since at least 1982. It is the height of naiveté for the Grand Jury to think that by recommending that the problem be solved, that in fact, the problem will go away. Nevertheless, the Grand Jury strongly urges and recommends that all parts of the criminal justice process, from the Courts, police, prosecutors, Public Defenders, private attorneys, the Sheriff and DOC employees, the Cook County Board, the Illinois Department of Corrections, and the Illinois Legislature, as well as all the committees and groups already put in place to consider solutions to the problem, all put their heads together to put aside partisanship and turf concerns, petty disputes and finger-pointing, and work diligently and creatively to solve the extremely dangerous situation of too many detainees cramped into facilities not capable of affording each of them the dignity of a sufficient space to live.

19. The Grand Jury strongly recommends that the DOC not put three

people in a cell engineered for only two.

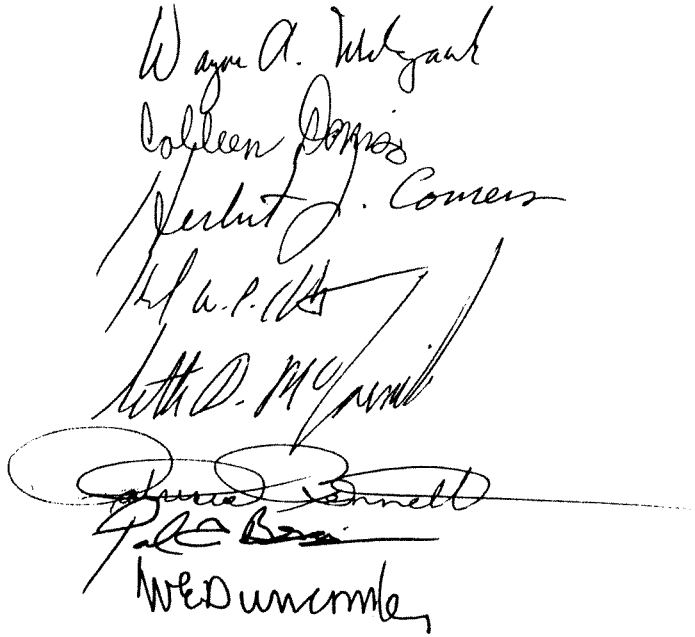
20. The Grand Jury has concluded that there has been a great deal of evidence of and inferences raised by that evidence, that there was a cover-up of the investigation into the 1999 incident. The Grand Jury fervently hopes that the prosecutorial agencies to which this body of evidence will be turned over to, will diligently pursue that evidence, and seek to assign culpability where it rightfully should lie.

21. The Grand Jury also recommends that the Sheriff put into place rules or orders or processes whereby persons who knowingly and or negligently ignore obvious failings of staff or processes, be held responsible for their ineptitude.

22. Finally, the Grand Jury leaves to the electorate to make final comment on the conduct of the Sheriff and many of his staff regarding their reactions to the investigation of the 1999 incident – conduct that some would say was and still is "HEAR NO EVIL, SEE NO EVIL, SPEAK NO EVIL."

CONCLUSION

Pursuant to the charge given to the Grand Jury by the Honorable Paul Biebel, Jr., and the applicable provisions of the Code of Criminal Procedure (725 ILCS 5/112-1, et seq.) and the County Jail Act (730 ILCS 125/1, et seq.), we the undersigned members of the Extended March 2003 Grand Jury, hereby present the foregoing as our report on the incidents that occurred in the Cook County Jail on February 24, 1999 and July 29, 2000, and the conditions of the operations of the said Cook County Jail.



LIST OF EXHIBITS

1. Tribune Articles
2. County Board President John Stroger's Letter
3. Three Orders Relating to Grand Jury Extension
4. Investigator Holman's 1999 Incident Report
5. Officer Purdiman's Statement
6. Officer Watson Transcript
7. Mary Johnson Transcript
8. Eric Dublin Transcript
9. Captain Malek's Interview
10. Steve Fullilove Transcript
11. Howard Hradek Transcript
12. Superintendent Edwards Transcript
13. Sgt. Mosely's Interview
14. Officer Gomez Transcript
15. Investigator Holman's Interview
16. Henry Barsch Transcript
17. Joseph Shaughnessy Transcript
18. Investigator Holman Transcript
19. Two Page Memo, Barsch to Shaughnessy
20. Brian Flaherty's Interview
21. James Ryan Transcript

22. One Page Memo, Barsch to Shaughnessy
23. Pettiford Lawsuit
24. Saul Weinstein's Interview
25. Letter from Weinstein's Lawyer
26. Sally Daly Transcript
27. Supplemental Report
28. Command Channel Review Forms
29. Frank Podolosky's Interview
30. Investigator Cleary Transcript
31. Investigator Pavilionis Transcript
32. Dr. James McAuley's Interview
33. Pavilionis' Supplemental Report
34. John Maul Transcript
35. Zelda Whittler Transcript
36. Sheriff Michael Sheahan Transcript
37. 720 ILCS 5/31-4
38. 720 ILCS 5/32-2
39. 720 ILCS 5/33-3
40. 730 ILCS 5/5-8-1(a)(7)
41. 730 ILCS 5/5-9-1 (a)(1)
42. 730 ILCS 5/5-8-1 (a)(b)
43. 720 ILCS 5/8-2 (c)
44. 720 ILCS 5/3-5(b)

45. 720 ILCS 5/3-8
46. 720 ILCS 5/3-6
47. Title 18, United States Code 1512(b)
48. Title 18, United States Code 1515 (a)(3)
49. Title 18, United States Code 1515 (b)(3)
50. Title 18, United States Code 371
51. 2000 Incident Report
52. 2000 Medical Records from Cermak Hospital and Other Hospitals
53. 2000 Lawsuit, *Nathson Fields v. Lt. Byrnes, et al*
54. Roger Fairley's Deposition
55. Richard Gackowski's Deposition
56. Nurse Llorens' Deposition
57. State's Attorney's Press Release Re: 2000 Incident
58. Dr. Jeffrey Graff's CV
59. Dr. Graff's Report
60. Dr. A. Hausknecht's Report
61. Santana McCree's Statement
62. Sentencing Transcript – Santana McCree
63. Fairley and Gackowski Lawsuit
64. Sheriff's Investigative File on Fairley and Gackowski's Complaints
65. Chicago Magazine Story
66. Lt. Byrne's Case
67. Michael Bane's Report on 74 Boxes of Records

68. Bane's Graphs
69. Bane's List of Lawsuits
70. State's Attorney's Lawsuit Report
71. Trotter Report, 1989
72. Callie Baird Transcript
73. Callie Baird's Interview
74. KPMG Report
75. New Use-Of-Force Report Form and Order
76. Letter and Memo Re; National Institute of Corrections
77. Bobb Committee Memos
78. Michael Mahoney Transcript
79. Charles Fasano Transcript
80. May 2004 John Howard Association Report
81. Lawrence Oliver, II - Riker's Island Report and Attachments
82. John Maul's Interview
83. John Robinson's Interview
84. Richard Stilling's Interviews
85. J.W. Fairman's Interviews
86. New Orders and Rules for Inspector General's Office
87. Sheriff's Testimony Before Cook County Board
88. Personnel File of Richard Remus
89. Richard Remus Transcript
90. Motion To Quash Subpoenas, Briefs, and Transcript of Argument

91. Stilling's Report on Training Manuals and Curriculum

92. American Corrections Association, 2002 Accreditation Report

93. Letters From Sheriff's Attorney Re: Conditions for Testifying

94. Honorable Michael Toomin's Opinion and Order

95. 55 ILCS 5/3-1503

96. 1976 Report of Grand Jury

97. Staff of the Grand Jury

98. 2003 Incident – Askew et al.

99. Askew Lawsuit

100. State's Attorney's File on 2003 Incident

101. 2004 Incident – Fitzgerald 1

102. 2004 Incident – Fitzgerald 2