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JAN 23 2008

JUDGE ROBERT W. GETTLEMAN
UNITED STATES DISTRICT COURT

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JAN 23 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

King v. Walker et al.
No. 06 C 204

United States District Court
for the Northern District of Illinois
Eastern Division

The Honorable Robert W. Gettleman

January 18, 2008

COURT MONITOR'S REPORT

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This report reflects monitoring activities relating to an assessment of compliance with the Consent Decree in this case since November 1, 2007. As described in our previous reports of November 20, 2007 and August 16, 2007, these activities have included observations of preliminary parole revocation hearings and analysis of data, including **King** hearing schedules, individual hearing reports, and other documents introduced during hearings and generated by staff of the Illinois Prisoner Review Board (PRB), the Illinois Department of Corrections (IDOC), various law enforcement agencies, and other data; and meetings with PRB, IDOC, and Cook County Department of Corrections (CCDOC) administrators and staff, and counsel for the parties and for the Sheriff of Cook County). During this period, most of the monitoring activities have been conducted by Charles A. Fasano, Director of the Prisons and Jails Program of the John Howard Association (JHA). The Association's Executive Director, Malcolm C. Young, also participated in activities pertaining to this case.

The scope of this report covers the major provisions of the Consent Decree during a period of two months, from November 1, 2007 through December 31, 2007. Collectively, the three monitoring reports cover a period of nearly one year, dating from the approval of the Consent Decree on January 26, 2007. This report also includes recommendations for improvements that could enhance the quality and consistency of the hearing process and related activities and help to ensure that the substantial compliance achieved to date persists beyond the termination of monitoring in this case.

HEARINGS AT CCDOC AND IDOC

During the two months covered in this report, a number of PRB staff have conducted **King** hearings. This cadre has included Jeanetta Cardine, who had previously conducted the great majority of these hearings. The recent broadening of this responsibility to a larger cadre of staff has allowed Ms. Cardine to spend more time on her other duties, including arranging for program placements for parolees, itself an important activity for **King** class members who may qualify for reinstatement on parole if suitable placements are achieved.

The schedule of **King** hearings has remained as described in our previous reports. **King** hearings have occurred once weekly at CCDOC since June 2006¹ and twice weekly at NRC since January 2007. The hearings at CCDOC occur every Wednesday beginning at 9:00 a.m. and normally extend over a period of 2 – 4 hours. Hearings at NRC occur every Monday and Thursday, and these hearings also begin at 9:00 a.m. The NRC hearing schedule docket continues to contain more hearings on Thursdays than on Mondays, which is largely attributable to the schedule of inmate shipments from CCDOC to IDOC, which occur three days each week. During the month of December 2007, the regular seasonal phenomenon of decreased admissions to CCDOC has contributed to a decrease in the number of **King** hearings at both locations.

Based on data analyzed by the Monitor, the majority of **King** hearings since entry of the Consent Decree in this case continue to be held at IDOC's Northern Reception Center following

¹ Some of the parole revocation hearings held at CCDOC before December 31, 2006 were Morrissey hearings.

the transfer of inmates from CCDOC. During the period November 1, 2007 – December 31, 2007, a total of 181 hearings were conducted with inmates at CCDOC. As described below, 59 of these hearings resulted in continuances based on requests from inmates. A total of 122 hearings resulting in dispositions (probable cause or no probable cause) occurred at CCDOC during this period. During this same period, a total of 362 hearings were conducted with inmates at NRC. 70 continuances were granted, and dispositions were reached in the remaining 292 cases.

These data indicate that 29.5% of dispositions were reached while inmates were at CCDOC, in comparison to 70.5% of dispositions that were reached after inmates had arrived at NRC. This distribution of hearings between the two locations is virtually unchanged from that described in the report of November 20, 2007 and consistent with the distribution described in the August 16, 2007 report: at that time, 30.9% of hearings with dispositions were occurring at CCDOC, in comparison to 69.1% of hearings with dispositions that were reached at NRC.

The number of dispositions achieved at these preliminary hearings on a monthly basis has also remained relatively constant over time. Based on the data presented in the August 16, 2007 report, an average of 247 dispositions were reached in **King** hearings monthly, including an average of 45 dispositions monthly at CCDOC and 202 dispositions monthly at NRC. Between August 1, 2007 and October 31, 2007, an average of 241 dispositions were reached in these hearings monthly, with an average of 71 dispositions monthly at CCDOC and 170 dispositions at NRC. Between November 1, 2007 and December 31, 2007, a monthly average of 207

dispositions were reached, with an average of 61 dispositions monthly at CCDOC and 146 dispositions at NRC.

A more accurate comparison of the relative frequency of hearings at the two locations can be gained by analyzing data for calendar year 2007. Since January 10, 2007, a total of 705 hearings resulting in dispositions occurred at CCDOC. In comparison to the 2,217 dispositions reached during hearings at NRC, hearings at CCDOC represent 24.1% of King hearings with dispositions, as contrasted to 75.9% of **King** hearings that achieved dispositions during hearings at NRC during 2007. The distribution of hearings remains virtually unchanged from that described in our report of November 20, 2007. The main reason for this chronic disproportionate breakdown appear to be that most newly arrested inmates at CCDOC have not experienced preliminary hearings by the time they are afforded their first **King** hearing, with many requesting continuances from the **King** Hearing Officer. In conjunction with CCDOC's practice of rapidly shipping parolees to NRC², these facts result in the presence of hundreds of parolees at that site, where they receive a finding of probable cause or no probable cause at a **King** hearing.

Inmates at both CCDOC and NRC have continued to request continuances with considerable frequency, a phenomenon that we first described in the August 16, 2007 report. During the two month period covered in the current report, 59 continuances were requested

² Based on Cook County's interpretation of Judge George M. Marovich's October 30, 2003 order in **Duran**.²

during a total of 181 **King** hearings conducted at CCDOC, representing approximately 33% of all hearings at that location. This is significantly lower than the continuance rate of 43% described in the November 20, 2007 report but higher than the continuance rate of 26% for hearings at CCDOC described in the August 16, 2007 report. For **King** hearings at NRC during the preceding two months, 70 continuances out a total of 362 hearings were granted, representing a total of 19.3%, noticeably lower than the 25.9% continuance rate described in the November 22, 2007 rate and slightly lower than the 21.7% continuance rate described in the August 16, 2007 report. Our observations support the conclusion that the great majority of continuances are still requested in order to await the outcome of preliminary hearings or other proceedings in the Circuit Court of Cook County. Many inmates believe that pending criminal charges may be dropped during their next court appearance, which they believe would enhance their chances of receiving a finding of no probable cause at the **King** hearing.

While all of the hearings at NRC and the vast majority of hearings at CCDOC involve male inmates, a few female inmates at CCDOC are included in the plaintiff class in this litigation and received **King** hearings in accordance with the provisions of the Consent Decree. Between November 1, 2007 and December 31, 2007, a total of eight (8) females received preliminary parole revocation hearings while incarcerated at CCDOC, in contrast with 16 females who received these hearings between August 1, 2007 and October 31, 2007. During the past two months, dispositions were reached in 7 of these cases, all of which were findings of probable cause, and the remaining case involved an inmate who was transferred to Dwight Correctional Center before a disposition was achieved.

As noted in our previous reports, a special segment of the plaintiff class in this litigation involves young inmates who were still under juvenile parole supervision despite the fact that they had passed their seventeenth birthdays and been subsequently arrested and charged as adults. Insofar as the hearings for these individuals are represented in the statistics for hearings conducted at CCDOC, the handling of their hearings is indistinguishable from those provided to their older colleagues. At the same time, however, these individuals have become a progressively more serious problem for the Illinois Department of Juvenile Justice³, which retains the responsibility for housing these individuals. The special problems associated with many of these individuals are restated below.

TIMELINESS OF HEARINGS

Our ongoing assessment of the timeliness of **King** hearings remains based largely on analysis of data contained in daily hearing schedules and records, which provide summary information on hearing decisions and some of the dates pertinent to the time provisions of the Consent Decree.⁴ As noted in both of our previous reports, schedules for hearings at CCDOC still do not include dates parole warrants were served⁵, although individual hearing records do contain these data. The absence of these data continues to make it difficult to empirically evaluate the timeliness of hearings and to ensure that parole warrants were served in all cases. We have, however, reviewed records pertaining to all hearings between November 1, 2007 and

³ The Illinois Department of Juvenile Justice was formerly the Juvenile Division of the Illinois Department of Corrections (until July 1, 2006) and retains statutory responsibility for housing juveniles adjudicated as delinquents, offenders younger than 17 who have been convicted as adults, and individuals under juvenile parole supervision.

⁴ All data in the current and previous monitoring reports relating to the number of days between service of parole warrants and preliminary hearings refer to business days, as specified in the Consent Decree.

⁵ The forms currently used do contain a column for date served (for parole warrant/notice) that is not used but do not contain a column for jail admission date.

December 31, 2007, and we feel confident restating our previous conclusion that virtually all initial **King** hearings conducted at CCDOC are taking place within the 10-day time limit specified in the Consent Decree. Only one case in this two-month period was identified in which more than 10 business days elapsed before a **King** hearing was conducted, and this case involved a period of 12 business days.

At NRC, the schedules for hearings do contain admission and warrant service dates, but frequent requests for continuances make accurate calculation of timeliness of **King** hearings somewhat difficult in these cases. This limitation has not, however, precluded an analysis of compliance with the provision requiring a **King** hearing within 10 days of imprisonment.

Data provided by the PRB indicate that a total of approximately 362 **King** hearings occurred at NRC between November 1, 2007 and December 31, 2007. During this period, the average (mean) length of time between incarceration and initial **King** hearings in the 292 cases in which continuances were *not* requested was 3.9 business days, and virtually all cases in this category were heard within the 10-day limit. This compares favorably with an average length of time between incarceration and initial hearings of 8.6 days described in the report of November 20, 2007. Although shorter hearing dockets may have contributed somewhat to the improvement in timeliness, this achievement is nonetheless commendable.

At the other end of the spectrum, cases in which continuances were requested took considerably longer to achieve dispositions than in previous periods. An analysis of a sample of

cases involving continuances reveals that these cases took an average of more than 22 days to achieve disposition, despite the fact that most continued cases were nonetheless disposed of within the 10-day limit. The lengthy average appears to be attributable largely to a few cases which involved extended periods to reach disposition. Even in these cases, however, the initial **King** hearing was usually conducted within the 10-day limit.

CONDUCT OF HEARINGS

As noted above, a number of PRB staff have served as the designated **King** hearing officer for hearings conducted during November and December 2007. The distribution of this responsibility has enabled Jeanetta Cardine to spend more time on her other PRB duties, including arranging program placements for parolees.

As described in our previous reports, two or more IDOC Parole Agents are present at all **King** hearings in their capacities as **King** investigators. These agents are routinely sworn in by the Hearing Officer at the beginning of each day's hearings. They provide testimony at each hearing based on information in police reports or communications from other law enforcement agents. At each hearing, the inmate is sworn immediately by the Hearing Officer, who also verifies that s/he has received notice of charges. The Hearing Officer also reads the specific violations alleged and, in appropriate cases, explains these allegations.

Based on hearings observed by the Monitor and a review of hearing reports, **King** investigators almost invariably obtained and recorded the names and badge numbers of law-

enforcement personnel with whom they spoke. In all hearings either observed by or with reports reviewed by the Monitor, the **King** investigators attempted and usually succeeded in contacting the arresting officer or law-enforcement investigator for confirmation of and/or elaboration on information contained in arrest reports. In many cases, the investigators are able to obtain additional information about the alleged offense from police; however, a significant number of cases remain in which investigators are only able to obtain statements that police "stand by the information" in their reports. Virtually all **King** hearing reports reviewed by the Monitor have included notations regarding the information obtained by the **King** investigators.

King investigators also frequently contacted other IDOC parole agents who had information pertinent to the situation of the inmates. These contacts often reveal other relevant information, such as participation in mandatory activities including substance abuse treatment programs or compliance with electronic detention conditions. Some of this information has constituted grounds for a technical parole violation, separate and distinct from the criminal charges that led to the incarceration of the individual. When such information has been provided, it has been taken into consideration by the **King** Hearing Officer. Hearing reports also reflect frequent efforts by IDOC parole agents to modify conditions of supervision, including arranging for placement into treatment programs and other facilities and adjusting levels of supervision in accordance with a detailed "sanction matrix", which lists a wide variety of sanctions to be implemented in response to various types of parole violations.

During (as well as prior to) **King** hearings, the **King** investigators continue to routinely utilize data contained in computerized databases, including IDOC's AMS system and the Offender Tracking System (OTS); in addition, a GPS tracking system utilized by Parole Agents is also accessible and utilized regularly. CCDOC's Correctional Inmate Management Information System (CIMIS) is also utilized routinely for hearings at the jail. The database maintained by the Clerk of the Circuit Court of Cook County continues to be utilized frequently, when information regarding current and former criminal charges is needed.

Based on our observations of hearings and review of records, John Howard Association staff can report that the various **King** Hearing Officers have continued to consider a full range of pertinent information from **King** investigators, inmates, and other sources in their handling of cases. We have continued to observe numerous cases in which a finding of no probable cause was entered because time limits had been exceeded and/or criminal charges had been dismissed. We have also observed hearings and reviewed records in which inmates were not served in timely fashion, and in these cases the Hearing Officer entered a finding of no probable cause. We have also observed numerous cases in which arresting officers have been unable or unwilling to provide factual information that goes beyond the rote statement that they stand by their (arrest) reports. In some of these cases, the **King** Hearing Officers have identified substantive deficiencies in arrest or parole violation reports and have entered findings of no probable cause. After months of observing hearings and reviewing hearing reports, JHA staff remain impressed by the exercise of independent judgment which these findings reflect.

Since the beginning of November 2007, we have continued to observe cases in which **King** Hearing Officers took steps to modify conditions of supervision to more appropriately meet the needs of parolees. We have also observed ongoing collaboration between the various Hearing Officers and PRB Chairman Jorge Montes, who continues to exercise his authority to modify parole conditions pending approval by the full PRB.

Participation by Witnesses and Attorneys

During the period covered in this report, witnesses have continued to appear for **King** hearings at both CCDOC and NRC, although they remain few in number. Most of the witnesses who have participated have testified on behalf of inmates. To date, all witnesses have appeared in person. A videoconferencing site already established has not been utilized to date.⁶ In those cases in which witnesses have chosen to come to the facilities, the **King** Hearing Officer has interviewed them in the lobby of the facility (Division V of CCDOC) or immediately outside the main entrance (at NRC), both of which are outside the presence of the inmate (or his representative). The decision to interview witnesses in these locations is attributed to security concerns regarding public access to internal portions of the facilities. While the Monitor has not been made aware of any complaints about the inability of inmates to question witnesses directly, we remain concerned about this makeshift arrangement and urge both CCDOC and IDOC to make good-faith efforts to devise more suitable accommodations. We restate our

⁶ IDOC has made videoconferencing facilities for witnesses and attorneys available at an IDOC facility at 100 North Western Avenue in Chicago. Videoconferencing with the NRC (and other IDOC facilities) is possible when this system is working. In a few of these situations, witnesses whose identity has been positively established by IDOC staff at the facility have been permitted to participate telephonically when videoconferencing has been unavailable. At NRC, the videoconferencing equipment is not available in the room used for King hearings but is accessible to the King hearing officer.

previous recommendation that the parties explore the availability of space in the Criminal Courts Building at 2600 South California Avenue, where civilian witnesses and police officers could be afforded easy access in an environment that provides appropriate security for all concerned.

A few attorneys have also participated in these hearings, but these remain relatively rare occurrences. We observed one case in which an attorney was permitted access to the Receiving Room for a hearing at CCDOC, although he was unable to remain for the hearing because of a significant delay in transporting the inmate from Division XI, across the street from the main jail complex.⁷ As noted in our last report, no requests for attorney participation by phone have been received in recent months.

Hearing Accommodations

Hearings conducted at CCDOC take place in the Receiving Room, located in the basement of Division V. This location has a number of drawbacks and can only be described as minimally adequate. It is, however, one of the only areas within the vast jail complex that is readily available to inmates from all 10 divisions. The **King** Hearing Officer uses a booth normally used for intake screening. The booth provides a modicum of auditory privacy but little more. Inmates scheduled for **King** hearings are held in a nearby bullpen. IDOC Parole Agents participating in these hearings occupy adjacent booths and respond to questions from the Hearing Officer. Only the individuals participating in the hearings are normally within earshot of the hearing, although Correctional Officers are stationed in the general area.

⁷ Delays in transporting inmates from Division XI to the Receiving Room appear to occur with some regularity, affecting a number of **King** hearings.

At NRC, the **King** hearings continue to occur in an area designed as a classroom but being converted into a law library in one of the cellblocks in the facility. The area includes ample desk space and seating for the Hearing Officer, Parole Agents, and the inmate/parolee. Inmates awaiting hearings are lined up outside the hearing room and, although the door to the room is left open, the inmates are at sufficient distance from the door that there is reasonable privacy for discussions of potentially sensitive matters. Other than those persons participating in the hearings, only a Correctional Officer is present in the room during hearings, for security reasons.

CROWDING AT CCDOC AND INMATE TRANSFERS

As the court monitor in **Duran v. Sheahan et al.**, John Howard Association staff are thoroughly familiar with the status of inmate population and crowding at CCDOC. In addition to court monitoring reports, JHA issues monthly updates on inmate population, crowding, and the utilization of release mechanisms to reduce the level of crowding. As documented in our most recent update, dated January 11, 2008 (attached as Appendix A), the size of the overflow population at the jail began to increase in May 2007 and remained at fairly high levels (averaging more than 550 inmates sleeping on floors nightly) from August 2007 through October 2007. The jail's overflow population decreased in November 2007 and December 2007, following a predictable seasonal pattern observed for many years, but this pattern already appears to be ending by mid-January 2008. Despite the changes noted, the level of crowding at CCDOC would be higher still but for the fact that a number of inmates from Cook County, ranging from approximately 50 to 180, remain in custody in Kankakee and Jefferson Counties under a contractual arrangement that has existed for some time. In addition to this population,

several hundred inmates facing criminal charges in Cook County courts are incarcerated at NRC on any given day, many awaiting reinstatement of parole by the PRB at which time they are returned to full-time custody at CCDOC.

As we noted in our previous reports, crowding at CCDOC has been affected by fiscal constraints as well as policy decisions made by Sheriff Thomas Dart. As previously described, the Office of the Sheriff of Cook County, like other Cook County agencies, experienced significant cuts in the FY 2007 (December 1, 2006 – November 30, 2007) budget. The Cook County Department of Community Supervision and Intervention, which operates most of the release mechanisms developed to reduce crowding in the jail, was affected by significant budget cuts. In addition to these reductions, Sheriff Dart restricted eligibility criteria for release of pretrial detainees and began efforts to transfer responsibility for deciding which inmates should be released to the Circuit Court of Cook County. The rationale for this proposal is that Sheriff's personnel do not have access to a full range of information on inmates, including complete criminal histories, whereas this information is readily available to the courts, where prosecutors and defense counsel can debate the merits of this information and a judge can make a decision based on a more comprehensive set of facts than is available to the Sheriff. While this debate between the Sheriff and the Circuit Court of Cook County is as yet unresolved, the Sheriff continues to operate a range of release mechanisms whose caseloads or populations have decreased steadily and drastically since January 2006. The size of these programs is described in the table entitled Cook County Release Mechanisms: Average Daily Caseloads/ Population, contained in the attached appendix.

As noted above, CCDOC administrators have continued to expedite the transfer of inmates with unexpired sentences of confinement since the beginning of 2007. The transfer of inmates with pre-existing sentences back to IDOC was authorized in an order by Judge George M. Marovich in **Duran v. Sheahan et al.** issued October 30, 2003, permitting the Sheriff to transfer persons housed at CCDOC who had been previously sentenced to IDOC for an unexpired sentence of confinement. This order was precipitated by recurring episodes of increased crowding at CCDOC aggravated by the presence of hundreds of IDOC inmates still serving prison sentences who had been housed at CCDOC on court writs and by the presence of as many as 1,600 pretrial detainees with parole holds or warrants. In years past, it was common practice for parole "holds" or warrants to be issued whenever parolees were arrested on new charges, making them ineligible for release by the Sheriff of Cook County. As mentioned in previous status hearings in this case, Judge Marovich's order was clearly intended to apply to inmates still serving prison sentences who were only residing at CCDOC by virtue of writs issued by Judges of the Circuit Court of Cook County and not parolees. Following the entry of Judge Marovich's order, former Sheriff Michael F. Sheahan returned hundreds of inmates to IDOC custody, who were still serving prison sentences. Long after this task was accomplished, Sheriffs Sheahan and Dart began the process of transporting inmates still under parole supervision at the time of their arrest on new charges back to IDOC.

The IDOC currently transports scores of inmates from NRC to the Criminal Courts Building on a daily basis, and the costs of transportation have remained extremely high. In addition to this substantial added expense, the inmates transferred to NRC are less readily

accessible to their attorneys, most of whom are Cook County Assistant Public Defenders, as well as their relatives and friends, for whom visiting becomes more difficult and costly; in addition, opportunities for exercise and programming are extremely limited during their confinement at the Northern Reception Center. The conditions of confinement at NRC for these inmates, many of whom served prison sentences for non-violent crimes and now face relatively minor criminal charges, are essentially more restrictive than those that exist at IDOC's maximum-security facilities. In addition to the restrictive confinement experienced by these inmates, the continuing presence of this population has contributed to a situation in which NRC is operating at approximately 95% of its capacity.

In addition to the added costs of housing and transporting these inmates borne by IDOC, CCDOC has incurred some additional costs involved with transporting some of these inmates back to the jail, which also occurs on a regular basis. While these transportation costs are considerably less than the costs of confinement, the added expense may prove to be a significant factor in the future as both state and county budgets continue to face extreme pressures.

Since the last Status Hearing in this case on November 29, 2007, IDOC and CCDOC administrators have met once in early December 2007 with Charles A. Fasano to discuss issues arising from **King and Duran**. In addition, Mr. Fasano met via teleconference with IDOC parole administrators and counsel later that month for an extended discussion of issues relating to this litigation. The first meeting resulted in no progress toward the objective of increasing the number of inmates released from IDOC and CCDOC custody under various forms of supervision

(such as electronic monitoring), which could have a significant effect on members of the plaintiff class in this litigation. In fact, CCDOC officials raised the possibility of increasing the number of inmates transferred back to IDOC custody by reducing the time until their next court appearance from 10 days to 3 days.

The process of identifying and tracking inmates at CCDOC who are potential members of the plaintiff class in this litigation has been facilitated by IDOC officials who have developed database records of individuals facing possible parole revocation. These weekly reports enumerating the number of parolees incarcerated at CCDOC, which list the number of inmates on whom warrants have been issued and those where no warrant has been issued. These reports, dating back to late August 2007, clearly indicate that only a small percentage of a rather significant number of parolees facing new criminal charges also face parole warrants. Since August 29, 2007, the total number of parolees held at CCDOC has ranged from 1,346 to 1,537, but the total number with parole warrants has only ranged from 53 (3.9%) to 99 (7.1%). These data provide significant corroboration for the contention that parole warrants are being issued very selectively, in contrast to the practice in years past.

Although IDOC officials did agree to provide these reports to CCDOC officials on a regular basis, this has not occurred. As of January 10, 2008, CCDOC officials reported that they had received only one such report since early December 2007. IDOC officials have informed the Monitor that their efforts to generate these voluminous reports (listing more than 1,400 individuals) have been impeded by their lack of access to CCDOC's computer system (CIMIS),

which CCDOC officials promised to provide at a meeting in November 2007. This failure to collaborate as previously agreed does not serve the legitimate interests of either IDOC or CCDOC and should be rectified without further delay. As we noted in our report of November 20, 2007, these systems interfaces and other forms of information sharing can enhance the process whereby the parties can identify candidates for appropriate and timely diversion. This process may include (1) expedited approval of placement on electronic monitoring, which requires PRB approval for inmates still on parole, (2) more timely placement of technical parole violators into community-based programs, and (3) efforts to expedite requests for restoration of good time, which must also be approved by the PRB. These initiatives, representing collaborative efforts by IDOC, CCDOC, and the PRB, offer a realistic hope of decreasing both the number of inmates in CCDOC and IDOC custody and the length of stay for many of these inmates.

The ability of the PRB to sustain the efforts achieved thus far appears to depend in significant part on their success in obtaining an immediate increase in funding from the State of Illinois. As we noted in our most recent report, the need for additional funding to provide **King** hearings and community placements consistently and in timely fashion had already been clearly established.

The monitor met with IDOC parole administrators and other officials via teleconference on December 18, 2007, at which time state officials articulated a wide variety of actions that may not have received recognition in previous monitoring reports. The Monitor does wish to bring to the attention of the Court and the parties the dedication of significant resources on the part of

dedicated parole agents, both those serving as **King** investigators and others supervising parolees, supervisors, administrators, and others who have contributed to the achievement of substantial compliance with the provisions of the Consent Decree in this litigation.

JUVENILE PAROLE VIOLATORS

As noted in our previous reports, a small number of **King** cases involved individuals charged with crimes who were still under juvenile parole supervision. These individuals had been housed at CCDOC, based on their age at the time of the most recent adult offense, prior to their transfer to the Illinois Department of Juvenile Justice. Most of the individuals in this category were transferred to IDJJ's maximum-security facility, the Illinois Youth Center – Joliet, shortly after completing the reception process at St. Charles. Our observations have concluded that the parole status of these persons relating to the provisions of this Consent Decree been handled in the same fashion as those of their older colleagues, and IDOC and PRB staff have managed to achieve substantial compliance with regard to these youthful offenders.

Their situation in IDJJ facilities, however, remains problematic. The Monitor recognize that these concerns are outside the parameters of this case, but we wish to inform the Court and the parties of our plans to continue meeting with IDJJ and PRB officials to discuss strategies to ameliorate the problems affecting these individuals and their more youthful colleagues in state juvenile facilities.

CONCLUSIONS

Despite a decrease from the levels achieved during previous months during November 2007 and December 2007, the number of **King** hearings conducted to date has remained substantial. As the data indicate, PRB and IDOC staff has managed to conduct timely hearings in the vast majority of these cases, regardless of the location of the hearings. The Monitor remains concerned, however, about the ability of both agencies to sustain this level of performance over time, which we believe will require additional resources.

The Monitor also wishes to restate our belief that the problem of continuances requested at **King** hearings remains linked to the pace of criminal case processing in the Circuit Court of Cook County. We continue to believe that, since the Criminal Division of the Circuit Court now utilizes a differential case processing system, cases involving defendants on parole, particularly juvenile parole, receive expedited handling, at least insofar as the timing of preliminary hearings is concerned. If hearings in these cases could be expedited without compromising the rights of the state or the defendant, it might reduce the number of **King** continuances, enabling more rapid dispositions of many of these cases.

King hearing officers continue to scrutinize the information presented by the **King** investigators. The Monitor has concerned to review hearing reports in which arrest reports and/or parole violation reports appear insufficient to establish probable cause, as well as those situations in which arresting officers provide no additional corroboration, and Hearing Officers have entered findings of no probable cause on this basis. These efforts are well documented in

the reports generated by the Hearing Officers. In the opinion of the Monitors, these activities signify ongoing efforts to maintain substantial compliance with the provisions of the Consent Decree in this case.

RECOMMENDATIONS

1. For hearings conducted in Cook County, more suitable space remains an unmet need. We urge Cook County officials to identify such space either within CCDOC or at the Criminal Courts Building. Meanwhile, CCDOC officials should take steps to ensure that inmates from Division XI are transported in timely fashion to the Receiving Room for these hearings.
2. Additional technical resources, including more laptop computers with wireless internet capability and portable printers, should be available at all hearings at both CCDOC and NRC.
3. IDOC administrators should consult with local law enforcement administrators to enlist their cooperation in notifying officers of the need to provide corroboration and/or additional information in response to requests from **King** investigators.
4. The Monitor urges the Court and parties to emphasize to state officials the importance of the PRB's request for funding for additional staff to conduct **King** hearings, establish timely placements into community-based programs for parolees, and other essential tasks, which may well increase in the near future. It is doubtful whether the PRB will be able to fulfill these expanding responsibilities without additional appropriations, but these will be far less costly than the enormous expenditures already occurring because of the housing and transportation of thousands of defendants.

5. The situation involving juvenile parolees might be susceptible to amelioration if decisions to terminate parole were made in appropriate cases (*e.g.* – those involving very serious charges with significant evidence of guilt). The Monitor urges IDJJ officials to review these cases to determine which, if any, warrant such a recommendation.

CONCLUSION

As the monitoring activities described in the three reports submitted in this case have documented, the Illinois Department of Corrections has achieved substantial compliance with the provisions of the Consent Decree in this litigation. This has been achieved with considerable effort on their part and, in no small measure, on the part of the Prisoner Review Board and the Cook County Department of Corrections. Work remains to be done, and some of the progress achieved to date is based, in many respects, on temporary arrangements that do not inspire confidence that they can be sustained over any significant period of time.

The efforts to achieve compliance have involved enormous expenditures on the part of IDOC, which has borne the expense of housing hundreds of inmates shipped back to state custody pursuant to Cook County's interpretation of the order issued by Judge Marovich in **Duran**; in addition, IDOC has dedicated the work of numerous staff to the task of conducting **King** hearings that, in the opinion of the Monitor, have achieved substantial compliance with the provisions of the Consent Decree in this case.

The transfer of inmates between state and county facilities and their extended stays in a restrictive reception center not designed for such lengthy confinement have been two of the most noteworthy unintended consequences of this litigation. The Monitor intends to continue working with Cook County and Illinois officials on these issues to ensure that inmates' legal rights are not violated as a result of the new arrangements resulting from these cases.

**POPULATION AND CAPACITY SUMMARY
COOK COUNTY DEPARTMENT OF CORRECTIONS
THROUGH DECEMBER 31, 2007**

January 11, 2008

Duran v. Sheahan et al.

74 C 2949

The Honorable Virginia M. Kendall
United States District Court
for the
Northern District of Illinois
Eastern Division

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**Cook County Department of Corrections
2007 POPULATION AND CAPACITY SUMMARY**

	<u>Available Beds</u>	<u>Average Daily Population</u>	<u>Overflow Population (Daily Average)</u>	<u>ADP/C⁸ Aggregate Release Mechanisms</u>	<u>No. of Days of Overcrowding</u>
Jan	9803	9548.5	501.6	1901.1	31/31
Feb	9820	9314.3	364.8	1789.8	28/28
Mar	9754	9429.9	410.2	1688.4	31/31
Apr	9803	9520.2	458.9	1706.4	30/30
May	9790	9354.6	317.6	1594.3	31/31
Jun	9713	9478.3	363.5	1537.8	29/30
Jul	9792	9607.9	441.6	1516.9	31/31
Aug	9819	9878.5	574.9	1465.5	31/31
Sep	9930	10088.2	564.8	1468.0	30/30
Oct	9954	10048.8	586.3	1425.5	31/31
Nov	9775	9741.6	419.2	1418.4	30/30
Dec	9746	9185.6	145.1	1384.3	28/31
<hr/>					
YEAR-TO- DATE TOTAL	na	na	na	na	na
<hr/>					
DAILY AVERAGE	9824.8	9600.9	429.3	1573.4	362/365

JOHN HOWARD ASSOCIATION

⁸ ADP/C: average daily population or caseload.

Cook County Department of Corrections
INSTITUTIONAL GROWTH: 1988 - 2007

	<u>Average Daily Population</u>	<u>Year-to Year Growth</u>	<u>Available Beds</u>	<u>Year-to Year Growth</u>	<u>Occupancy Level</u>	<u>Overflow Population</u>	<u>Year-to Year Growth</u>
1988	5327	na	5571	na	95.6%	138.7	na
1989	6492	+ 21.9%	6150	+10.4%	105.6%	582.8	+320.2%
1990	6827	+ 5.2%	6217	- 1.1%	109.8%	806.0	+ 38.3%
1991	7590	+ 11.2%	6173	- 0.7%	123.0%	1499.4	+ 86.0%
1992	8789	+ 15.8%	6623	+ 6.6%	132.7%	2443.0	+ 62.9%
1993	8881	+ 1.0%	7953	+20.1%	111.7%	1543.4	- 36.8%
1994	8907	+ 0.3%	7927	- 0.3%	112.4%	1455.7	- 5.7%
1995	8751	- 1.8%	7683	- 3.1%	113.9%	1360.4	- 6.5%
1996	9035	+ 3.2%	8857	+15.3%	102.0%	624.7	- 54.1%
1997	9153	+ 1.3%	9262	+ 4.6%	98.8%	414.1	- 33.7%
1998	9475	+ 3.5%	9360	+ 1.1%	101.2%	531.9	+ 28.4%
1999	9492	+ 0.2%	9639	+ 3.0%	98.5%	304.3	- 42.8%
2000	9953	+ 4.9%	9721	+ 0.9%	102.4%	535.4	+ 75.9%
2001	10642	+ 6.9%	9720	- 0.0%	109.5%	1147.1	+114.3%
2002	11082	+ 4.1%	9827	+ 1.1%	112.8%	1419.6	+ 23.8%
2003	10664	- 3.8%	10100	+ 2.8%	105.6%	990.3	- 30.2%
2004	10536	- 1.2%	9932	- 1.6%	106.1%	950.4	- 4.0%
2005	9776	- 7.2%	9641	- 2.9%	101.4%	643.7	- 32.3%
2006	9360	- 4.3%	9838	+ 2.0%	95.1%	266.5	- 58.6%
2007	9601	+ 2.6%	9825	- 0.1%	97.7%	429.3	+ 61.1%
Cumulative Growth	+ 4274	+ 80.2%	+ 4254	+76.4%	+ 2.1%	+ 290.6	+209.5%

JOHN HOWARD ASSOCIATION

Cook County Release Mechanisms
AVERAGE DAILY CASELOADS/POPULATION
Jan 2006 – Dec 2007

	NON-CUSTODIAL				CUSTODIAL				
	EMP	DRP	SFFP/ CCDAW	AGGREGATE DLY CSLD	PRC	WJSRP	MOMS	AGGREGATE DAILY POP	AVG DLY POP ALL REL MECH
JAN 2006	1521	431	180.3	2132	437.7	114.5	15.6	567.8	2699.8
FEB	1481	418	169.4	2068	440.7	116.8	13.7	571.2	2639.2
MAR	1433	398	166.2	1997	441.2	109.8	12.6	563.6	2560.6
APR	1365	435	152.7	1953	440.5	108.6	14.2	563.3	2516.3
MAY	1129	461	160.4	1750	441.3	111.5	15.6	568.4	2318.4
JUN	792	447	156.1	1395	439.7	111.0	16.2	566.9	1961.9
JUL	605	381	148.8	1135	440.6	107.6	14.7	562.9	1697.9
AUG	809	287	154.4	1250	438.1	116.0	14.1	568.2	1818.2
SEP	967	253	158.7	1379	441.3	116.5	13.0	570.8	1949.8
OCT	1013	231	138.0	1382	440.2	115.7	12.5	568.4	1950.4
NOV	1034	296	159.0	1489	434.4	102.7	12.3	549.4	2038.4
DEC	926	330	147.5	1404	438.1	111.5	15.2	564.8	1968.8
\bar{X} (2006)	1089.6	364.0	157.6	1611.2	439.5	111.5	14.1	565.1	2176.3
JAN 2007	917	281	133.9	1332	438.5	116.7	13.9	569.1	1901.1
FEB	855	250	122.4	1227	441.0	115.5	6.3	562.8	1789.8
MAR	908	184	143.4	1235	440.1	115.0	7.5	562.6	1798.0
APR	848	140	146.2	1141	439.3	117.1	9.0	565.4	1706.4
MAY	743	141	140.0	1027	440.7	116.7	9.9	567.3	1594.3
JUN	675	153	138.2	966	447.0	115.4	9.4	571.8	1537.8
JUL	649	159	141.4	949	442.2	117.5	8.2	567.9	1516.9
AUG	570	175	147.9	893	447.6	115.4	9.6	572.6	1465.5
SEP	552	197	151.3	900	442.9	117.1	7.6	567.6	1467.9
OCT	487	204	166.2	857	443.4	116.9	8.0	568.3	1425.5
NOV	478	205	163.6	847	442.9	116.9	12.6	572.4	1419.0
DEC	449	203	158.3	810	446.5	117.5	10.0	574.0	1384.0
\bar{X} (2007)	677.6	191.0	146.1	1015.3	442.7	116.5	9.3	568.5	1583.9