

## Why it is Imperative that Incarcerated Illinoisans Have a Right to Review Their “Master Files” and a Way to Challenge any Inaccurate Information Contained within Them.

By Joseph Dole

The Illinois Department of Corrections (IDOC) maintains what is called a “master file” on every incarcerated individual under its control. Among other things, the master file contains a statement of facts about the crime he or she was convicted of, their sentence calculation (or mittimus) sheet, their disciplinary history, grievances they have filed, and much more.

During clemency proceedings, the Prisoner Review Board has unfettered access to the master file of any incarcerated person seeking clemency. If a parole system were to be reinstated in Illinois, any parole board would most likely have unfettered access as well, just as they did under the previous parole system.

IDOC staff likewise have unfettered access to incarcerated persons’ master files, and can place within them negative information without any check on the veracity of the information. However, under current IDOC regulations, not only is an incarcerated person barred from accessing their own master file to determine if there is false, misleading, or fabricated information contained within it, but there is also no formal mechanism to challenge the inclusion of such information if one, by chance, discovers it.

Negative information in one’s master file can have dire consequences, especially when it is erroneous. It can literally be used to increase one’s punishment for new disciplinary infractions,<sup>1</sup> can sway the Prisoner Review Board to recommend that the Governor deny the person clemency, and if a parole system is reestablished, could be used to deny a person parole. Thus, as the courts already have noted, incarcerated individuals have a liberty interest, and thus a due process right, not to have inaccurate information in their master files.<sup>2</sup>

The problem is that you don’t know what you don’t know. If someone is denied access to his or her master file and it contains false information, he or she lacks the knowledge of the inaccuracy to challenge it. Moreover, as there is no mechanism for challenging the inaccurate information (in those rare instances when it comes to light) it becomes impossible to have it removed short of a court order.

As noted, it is rare that one obtains access to their master file. This is usually only achieved through a subpoena or other discovery requests during civil litigation or post-conviction criminal proceedings. When it occurs, though, the incarcerated individual often finds false, misleading, or outright fabricated information therein. Sometimes it will be inaccurate disciplinary information, such as a finding of guilt for an infraction a person was actually found not guilty of, or which was supposed to have been expunged. Other times, they find a master file devoid of any the person’s accomplishments while incarcerated (due to counselors not wanting to include information that reflects positively on the incarcerated individual), thus giving a misleading impression of the person being unproductive while in prison. Some people find inaccurate prison

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<sup>1</sup> 20 Illinois Administrative Code Section 504.20 (b)(5).

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work histories, or erroneous “facts” in the “statement of facts,” or learn that good time was unlawfully revoked when the IDOC Director didn’t approve such revocation.

Then there is also the fabrications put in by staff members retaliating against the incarcerated person for filing grievances or lawsuits, or for engaging in verbal or physical altercations with staff. This type of retaliatory fabrication of negative information being placed in one’s master file can range from false allegations of threats of violence to fabricated nicknames or gang affiliations.

Therefore, to protect a person’s due process rights and ensure basic fundamental fairness in any parole system, it is imperative that all incarcerated Illinoisans have unfettered access to their own master files, and that a timely mechanism to challenge and remove erroneous information therein be created and available prior to any parole hearing. One’s freedom may depend on it.