

1 a legal action, and that Subsection 3-B -- and it's
2 our position that 3-C applies also, to authorize the
3 disclosure sought here and the production sought here.

4 The primary power to require this is found
5 in the Sheriff's Merit System law. I do have copies
6 of the Personnel Records Act for the Board's attorney
7 and the Board, if desired.

8 MS. GAINES: The question is whether the
9 Sheriff must produce the personnel file of Rebecca
10 Marvin for the avowed purpose of showing unfair
11 treatment in the matter of alleged sick leave abuse.
12 The Commission has reviewed the many written
13 submissions, the statutory history and the cases
14 interpreting the statute as well as the plain meaning
15 of the statutory language.

16 We are aware that there is no authorization
17 by Miss Marvin to release her records. In fact,
18 received a letter today specifically denying that
19 authorization. The statute involved, 820 ILCS 40/1 et
20 seq, is subject to some speculation. The statute has
21 been held unconstitutional in *Spinelli v. Immanuel*
22 *Lutheran Evangelical Congregation*, 118 Ill. 2d 389
23 (1987).

24 Although the statute has been amended, and

1 then Governor Thompson's comments seem to indicate
2 that the Legislature addressed the court's concerns,
3 that no case has been subsequently decided to remove
4 the court's decision. The law remains on the books,
5 with the warning that it has been held
6 unconstitutional.

7 The Commission views this case as more than
8 a matter of sick leave abuse. While one employee's
9 sick leave abuse punishment may be relevant to what
10 may turn out to be a parallel matter, this Commission
11 does not view the Cox-Marvin matters as similar.

12 Accordingly, the Commission orders as
13 follows: Ms. Marvin's personnel file is not to be
14 disclosed. There is no release in the file from her.
15 The statutory authority relied on is somewhat
16 questionable, and the reason advanced for wanting the
17 record is relevant to only one issue out of several
18 that we feel are pending.

19 MR. KLOCKE: Will we be able to see the
20 record then of any discipline relating to sick leave
21 abuse?

22 MR. FERGUSON: I didn't understand the
23 request.

24 MR. O'KEEFE: The question is will they be