

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Minutes of meeting July 22, 2008

The thirty-second meeting of the Capital Punishment Reform Study Committee was held at the Illinois Criminal Justice Information Authority, 300 W. Adams, Chicago, Illinois from noon to 3 P.M.

Those present

Leigh B. Bienen

T. Clinton Hull (via teleconference)

Boyd J. Ingemunson (via teleconference)

Gerald E. Nora

Charles M. Schiedel (via teleconference)

Randolph N. Stone

Thomas P. Sullivan

Michael J. Waller (via teleconference)

Not present

Jennifer A. Bishop-Jenkins

James R. Coldren, Jr.

Kirk W. Dillard

Jeffrey M. Howard

Edwin R. Parkinson

Richard D. Schwind

Geoffrey R. Stone

Arthur L. Turner

Also present: David E. Olson; Greg Cheyne, student, University of Chicago Law School; Daniel Diorio, Northwestern University undergraduate; and Mark Warnsing, Senate Republican staff (via teleconference).

The minutes of the Committee meeting held on June 12, 2008, were approved.

1. Extension of Committee's tenure.

The bill extending the Committee's tenure to December 31, 2009 has been passed by the General Assembly, and is awaiting action by the Governor.

2. Committee's funding for FYE 6/30/09.

The Governor approved \$125K for the Committee, included within the budget of Illinois Criminal Justice Information Authority.

3. Retention of expert consultant.

Mr. Sullivan stated that he has been informed by Hank Anthony of CIJA that the RFP has been posed to the State's Procurement Bulletin. The proposal is for a contract expected to run from October 1, 2008, and to terminate on or before June 30, 2009, in an amount not to exceed \$75,000, with provisions for renewal up to \$50,000 for a term running July 1, 2009 through December 31, 2009. Proposals are due on or before August 28. As before, the chair and vice-chair – and any other

member who wishes to do so – will review the applicants, and present their recommendations to the full Committee.

4. *Retention of special legal counsel.*

This matter was postponed for discussion at the next Committee meeting.

5. *Report of David Olson re surveys.*

David Olson reported that at the next Committee meeting he will present written summaries of his surveys to State's Attorneys and Public Defenders.

6. *Reports of subcommittees.*

(1) *Report of subcommittee 1 – Police and investigations.*

When this agenda item was reached, Mr. Hull had left the meeting in order to attend a court hearing. Accordingly, no current report was presented.

(2) *Report of subcommittee 2 - Eligibility for capital punishment and proportionality.*

Messrs Sullivan reported that he and Mr. Schwind have sent letters to all Illinois State's Attorneys, asking them to submit to Ms. Bienen copies of all first degree murder indictments for the period January 1,

2003 through June 30, 2008, together with a request for information about the cases.

- Attached as Appendix 1 is a sample of the letters dated July 21, 2008, sent to State's Attorneys who, in response to the Committee's earlier request of December 19, 2005 for first degree murder indictments from January 1, 2003 through December 31, 2005, sent their indictments to Ms. Bienen.

- Attached as Appendix 2 is a sample of the letters dated July 21, 2008, sent to State's Attorneys who responded that there were no first degree murder indictments in their counties during 2003, 2004 and 2005. Mr. Sullivan stated that the letter to the State's Attorney of Will County is dated July 30, 2008, and contain language that is slightly different, because the State's Attorney's earlier response that there were no first degree murder indictments in Will County during the period appeared inaccurate.

- Attached as Appendix 3 is a sample of the letters dated July 21, 2008, sent to State's Attorneys who did not respond to the letter

of December 19, 2005. Mr. Sullivan stated that the letter to the State's Attorney of Cook County is dated July 30, 2008.

There was a discussion of other potential sources of information about the first degree murder indictments from January 1, 2003 through June 30, 2008, for example, the Illinois Criminal Justice Information Authority, the Illinois State Police, and the Administrative Office of Illinois Courts. Mr. Olson stated that Professor Donald Stemen of the University of Illinois, Chicago Circle Campus, may also be a source of information regarding the dispositions of first degree murder cases. Ms. Bienen stated she will contact Professor Stemen.

There was a discussion as to why the State's Attorney of Cook County, which has by far the greatest number of first degree murder indictments in Illinois, has failed to respond to our earlier request for first degree murder indictments from January 1, 2003 through December 31, 2005. Mr. Nora stated that he needed assurances from the Committee that the information, if provided, would be used solely for Committee purposes, and not shared with defense counsel in pending first degree murder cases; and that he has been informed that Committee

members have provided some of this information to defense counsel, although he declined to identify the sources of this information.

Mr. Sullivan stated that this was an entirely new point of concern, not expressed by Mr. Nora before, and that in any event the information the Committee is seeking is all a matter of public record. Ms. Bienen stated that she has not shared any of the information she has obtained to date with anyone outside the Committee. Nevertheless, in order to satisfy Mr. Nora's concern, Mr. Sullivan obtained a pledge from each Committee member present that the information would be used only for Committee purposes.

Mr. Nora stated that on or before September 15, 2008, he will provide Ms. Bienen with the following information from Cook County, not including certain suburban communities, relating to first degree murder indictments returned in Cook County from January 1, 2003 through June 30, 2008: the case numbers and names of defendants; the statutory aggravating factors present in each case which authorize capital punishment. Mr. Sullivan and Ms. Bienen pointed out that this is only part of the material and information sought in the letters sent by

Messrs. Sullivan and Schwind to all Illinois State's Attorneys, including the State's Attorney of Cook County.

(3) Report of subcommittee 3 - Trial court proceedings.

By the time this agenda item was reached, Mr. Ingemunson had left the meeting to attend a court hearing. Accordingly, no current report was presented.

(4) Report of subcommittee 4 - Post-conviction proceedings, DNA and general topics.

Mr. Schiedel stated that he has been in telephone contact with Ms. Bishop-Jenkins and Mr. Nora. Representatives of subcommittee 4 will attend the September meeting of the Illinois Laboratory Advisory Committee. Mr. Schiedel also stated that there are four capital cases which are in the post-conviction stages in Illinois trial courts, being handled by the Illinois Appellate Defender. Mr. Schiedel stated that he will track those cases, and report to the Committee on their status.

7. Other Business.

It was agreed that at the next full Committee meeting we will discuss holding additional public hearings, and funding for the recently enacted data collection bill.

8. *Next meeting – Wednesday, September 17, 2008, at 9:30 A.M.*

It was agreed that the next full Committee meeting will be held at 9:30 A.M. on Wednesday, September 17, 2008, at the office of Jenner & Block, 330 N. Wabash Avenue, 40th Floor, Chicago, IL.

Thomas P. Sullivan
Chair
August 13, 2008

Attachments – Appendices 1 - 3.

Capital Punishment Reform Study Committee

July 21, 2008

Thomas P. Sullivan
Chair

Richard D. Schwind
Vice Chair

Leigh B. Bienen
Jennifer A. Bishop-Jenkins

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Re: Capital Punishment Reform Study Committee

In 2003, the Illinois legislature enacted a statute forming the Capital Punishment Reform Study Committee, whose function is to report to the General Assembly concerning the status and effect of reforms to the Illinois capital punishment system.

Last year we sent a letter to all Illinois State's Attorneys asking for copies of first degree murder indictments returned in each county from January 1, 2003 until December 31, 2005. If you responded, the results are summarized on Attachment 1.

In order to fulfill our statutory obligations, and make a complete, accurate report to the Illinois General Assembly, we require copies of all first degree murder indictments returned in Illinois from January 1, 2003 until June 30, 2008, and a statement of the disposition of each case in the trial court. Accordingly, we will greatly appreciate your providing us

July 21, 2008

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with the following information; to the extent you have already supplied a portion of this information to us, you need not do so again:

(1) The names and court numbers of all of first degree murder indictments returned in your county during the period January 1, 2003 through June 30, 2008 (whether or not a capital punishment notice was filed).

(2) The cases in which a capital punishment notice was filed (whether or not it was later withdrawn).

(3) Information about the final disposition in the trial court of each indictment. As to those still pending in the trial court, please note current status.

(4) Copies of the indictments, and trial court clerk's docket, for each case listed in answer to (1).

To assist you, we have appended as Attachment 2 a form which you may use for your answers to (1), (2) and (3) above.


Please send the information to Committee member Leigh Bienen, Northwestern University School of Law, 357 E. Chicago Ave., Chicago IL 60611-3069. If you have questions or concerns about this matter, please contact Ms. Bienen or either of the undersigned. Ms. Bienen may be reached by telephone at 312-503-2425, fax 312-503-2035, email lbbienen@law.northwestern.edu.

July 21, 2008

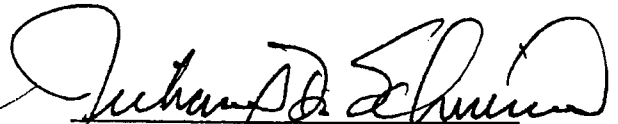
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We look forward to receiving your response, and thank you for your assistance in this important work.

Yours truly,



Thomas P. Sullivan
Chair
330 N. Wabash Ave.
Chicago, IL 60611
312-923-2928
tsullivan@jenner.com



Richard D. Schwind
Vice Chair
100 W. Randolph, 12th Fl.
Chicago, IL 60601
312-814-5387
rschwind@atg.state.il.us

Attachments

ATTACHMENT 1

County Indictment # Last Name First Middle Offense Date First Charge

ATTACHMENT 2

County: _____

Defendant Docket
 No.

CP notice? Trial court disposition/status

July 21, 2008 letter sent to State's Attorneys who returned copies of murder indictments:

Adams
Boone
Brown
Bureau
Champaign
Christian
Clay
Clinton
DeKalb
Dewitt
DuPage
Edgar
Effingham
Fayette
Ford
Franklin
Gallatin
Hancock
Iroquois
Jackson
Jasper
Jefferson
Jo Daviess
Kane
Kankakee
Kendall
Knox
Lake
Lawrence
Logan
Macon
Madison

Massac
McDonough
McHenry
McLean
Menard
Monroe
Montgomery
Morgan
Ogle
Peoria
Piatt
Pope
Putnam
Randolph
Richland
Rock Island
Saline
St. Clair
Shelby
Stephenson
Tazewell
Vermillion
Warren
Washington
Wayne
White
Whiteside
Williamson
Winnebago

Capital Punishment Reform Study Committee

July 21, 2008

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Last year we sent a letter to all Illinois State's Attorneys asking for copies of first degree murder indictments returned in each county from January 1, 2003 until December 31, 2005. You advised us that there were no murder indictments in your county during that period.

In order to fulfill our statutory obligations, and make a complete, accurate report to the Illinois General Assembly, we require copies of all first degree murder indictments returned in Illinois from January 1, 2003 until June 30, 2008, and a statement of the disposition of each case in the trial court.

July 21, 2008

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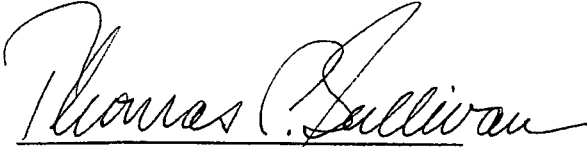

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July 21, 2008
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 <u>Thomas P. Sullivan</u>	 <u>Richard D. Schwind</u>
Chair	Vice Chair
330 N. Wabash Ave.	100 W. Randolph, 12th Fl.
Chicago, IL 60611	Chicago, IL 60601
3129-923-2928	312-814-5387 60601
tsullivan@jenner.com	rschwind@atg.state.il.us

Attachment

County: _____

Docket

No. _____

CP notice? Trial court disposition/status

No Indictments received for First Degree Murder by County (Years 2003-2005)

Alexander
Bond
Calhoun
Carroll
Cass
Clark
Crawford
Cumberland
Douglas
Edwards
Greene
Grundy
Hamilton
Hardin
Henderson
Henry
Jersey
Lasalle
Lee
Livingston
Marion
Marshall
Mason
Mercer
Moultrie
Perry
Pike
Pulaski
Sangamon
Schuyler
Scott
Stark
Union
Wabash

Will
Woodford

July 21, 2008

letter sent to

Capital Punishment Reform Study Committee

July 21, 2008

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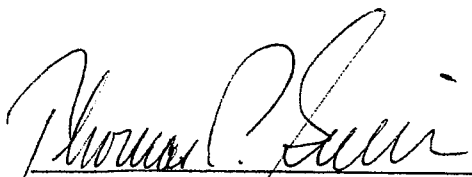
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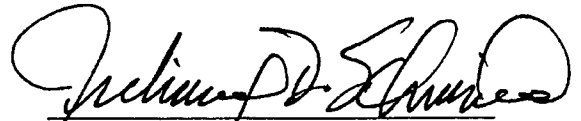
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Attachment

County: _____

Docket
No. _____

Defendant

CP notice?

Trial court disposition/status

July 21, 2008 letter sent to State's Attorneys who were not on either list:

Coles

Fulton

Johnson

Macoupin