

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE
MINUTES OF SUBCOMMITTEE NO. 3 MEETING

January 9, 2009

Subcommittee 3 met at the Law Office of the Cook County Public Defender, Chicago, Illinois, on January 9, 2009. Attending were subcommittee members Jeffrey M. Howard, Edwin R. Parkinson (via teleconference), and Boyd J. Ingemunson (via teleconference).

Ed Parkinson brought to the subcommittee's attention that funding in the Capital Litigation Trust Fund (CLTF) for prosecution of capital uses outside of Cook County had been eliminated. The subcommittee voted to recommend restoring the funding in the CLTF for prosecution of capital cases outside of Cook County.

The subcommittee discussed any recommendations the subcommittee believes it should make for inclusion in the upcoming annual report. All the recommendations the subcommittee believes should be included in the annual report have been made throughout the year and now need to be discussed and voted upon by the entire Capital Punishment Reform Study Committee.

A jury instruction concerning cross-racial identification was discussed. This instruction is attached as Attachment 11. The subcommittee voted two to one that the cross racial instruction is not necessary. However, the subcommittee decided that this instruction should be submitted before the full CPRSC for its consideration.

ATTACHMENT - 11

In this case, the defendant, _____ (*insert name*), is of a different race than _____ (*insert name of identifying witness*), the witness who has identified [him] [her]. You may consider, if you think it is appropriate to do so, whether the fact that the defendant is of a different race than the witness has affected the accuracy of the witness' original perception or the accuracy of a later identification. You should consider that in ordinary human experience, some people may have greater difficulty in accurately identifying members of a different race than they do in identifying members of their own race.

You may also consider whether there are other factors present in this case which overcome any such difficulty of identification. [For example, you may conclude that the witness had sufficient contacts with members of the defendant's race that [he] [she] would not have greater difficulty in making a reliable identification.]