

**CAPITAL PUNISHMENT REFORM STUDY COMMITTEE**

**Minutes of meeting December 11, 2007**

The twenty-sixth meeting of the Capital Punishment Reform Study Committee was held at the Illinois Criminal Justice Information Authority, 120 S. Riverside Plaza, Chicago, Illinois from noon to 1:45 P.M.

Those present

Leigh B. Bienen  
James R. Coldren, Jr. (via teleconference)  
T. Clinton Hull (via teleconference)  
Boyd J. Ingemunson (via teleconference)  
Gerald E. Nora (via teleconference)  
Edwin R. Parkinson (via teleconference)  
Charles M. Schiedel (via teleconference)  
Randolph N. Stone (via teleconference)  
Thomas P. Sullivan

Not present

Kirk W. Dillard  
Jeffrey M. Howard  
Edwin R. Parkinson  
Richard D. Schwind  
Geoffrey R. Stone  
Arthur L. Turner  
Michael J. Waller

Also present: Peter G. Baroni, Special Counsel; Pat McAnany, IL Coalition to Abolish the Death Penalty; and Catherine McMillan, Campaign To End the Death Penalty.

The minutes of the Committee meeting held on November 8, 2007 were approved.

1. *Budget for FYE 6/30/08.*

Mr. Baroni reported that the current budgetary impasse in the General Assembly continues, and that our Committee's relatively small application is caught in the throes of larger disputes. He reported that Mr. Turner has made several unsuccessful attempts to secure approval of our application. There is little we can do at this time but wait for the contending parties to resolve the larger issues, which in turn should result in our budget application being approved.

2. *Disclosures of economic interest.*

After discussion, it was agreed that each member of the Committee should promptly complete the form entitled "Disclosure of Appointee Interest in State Contracts," and send it to the Secretary of State Index Division, Ethics Section. A copy of the form is attached as Appendix 1.

3. *David Olson's surveys.*

Mr. Olson was unable to attend the meeting. (After the meeting, Mr. Sullivan spoke with Mr. Olson, who said that he will add two items to the surveys questions: whether it is advisable to have (1) a form jury questionnaire for capital trials, and (2) pattern jury instructions for jury issues that are peculiar to capital trials. Mr. Olson also said the Loyola University Internal Review Board expects to have its review of his revised survey forms completed within the next 10 days.)

4. *Reports of subcommittees.*

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

Mr. Coldren said the subcommittee has not met since the last full Committee meeting.

Mr. Coldren stated that the subcommittee will submit a proposed insert for the Fourth Annual Report concerning police practices in lineups and photo spreads, and recording custodial interviews. As to recording custodial interviews of homicide suspects, Mr. Coldren said the overall response the subcommittee has received from law enforcement personnel and defense lawyers has been extremely favorable, but that a number of practical problems have arisen that should be addressed. For example, in a number of police stations the walls of the interview rooms are not thick enough to block outside noise, so that in some instances the recordings have been difficult to hear, particularly when the officers or suspects do not speak distinctly or lower their voices. Also, there have been reports that officers have inadvertently forgotten to change a tape, and similar oversights. Mr. Coldren said he has heard that some communities, for example, Aurora, are building new stations in which the interview rooms will have thicker, soundproof walls.

Mr. Nora said that he spoke some years ago with officers in London about the station at Paddington Street, in which microphones were inserted into the

molding of the interview rooms at various places, in order to make clear recordings when voices were lowered or words uttered indistinctly.

(2) *Report of Subcommittee 2 – Eligibility for capital punishment and proportionality.*

Ms. Bienen reported that the subcommittee has not met since the last full committee meeting.

Ms. Bienen said that the subcommittee is continuing to collect data about all cases in Illinois from January 1, 2003 through 2006 in which a defendant was indicted for murder, and expects to extend the data collection for cases in 2007. She reported that a person from the Center for Disease Control conducting a study on victims of crime, funded by the Department of Justice, and is willing to share data with our Committee.

Ms. Bienen pointed out that the CJIA budget application was submitted before SB 1023 was enacted into law, and therefore contained no application for funds with which CJIA is to collect the information for the Capital Crimes Database. Mr. Parkinson said that we should consider re-thinking whether funds might be obtained from the Capital Litigation Trust Fund. Mr. Nora stated he believed the statute as now written precludes use of CLTF funds for the Database, and Mr. Baroni concurred; perhaps the CLTF statute should be amended to allow payment for collection of information for the Database.

(3) *Report of Subcommittee 3 – Trial court proceedings.*

Mr. Ingemunson said the subcommittee members spoke by telephone a few weeks ago to discuss their agenda for next year. They decided to pursue the drafting of several pattern jury instructions, and a jury questionnaire, for capital cases. There are samples questionnaires now in use in Cook County, which the subcommittee will consider. The subcommittee's drafts will be designed to be submitted to the IL Pattern Jury Instruction Committee - Criminal.

Mr. Parkinson said that in the capital cases he has tried, the judges and lawyers found it helpful to have a jury questionnaire.

(4) *Report of Subcommittee 4 – Post-conviction proceedings, DNA and general topics.*

Mr. Nora said the subcommittee has not met since the last full Committee meeting.

It was suggested by Mr. Nora that Mr. Schiedel should be appointed chair of subcommittee 4, which was agreed to by the Committee members.

Mr. Schiedel said that the IL Supreme Court recently decided *People v. O'Connell*, in which the Court held that, based upon the wording of the new statute regarding availability of DNA testing to defendants who have been convicted, it was inapplicable to defendants who were not tried, that is, the statute was inapplicable to defendants who pled guilty. Mr. Schwind suggested that perhaps

the Committee should recommend that the statute be amended to include post-conviction DNA testing to defendants who pled guilty where there was an issue of identification involved in the case.

Regarding forensic laboratories, it was agreed that the subcommittee will speak again with Director Garcia, and the chairperson of the Illinois Laboratory Advisory Committee, and submit the subcommittee's suggestions for inclusion in the Committee's Fourth Annual Report. This was deemed especially important in light of the comments made about the laboratories in the Committee's Third Annual Report, pages 26 to 30.

5. *Other business.*

(1) *Appointments to the committee newly formed by Senate Joint Resolution 9.*

Mr. Sullivan again urged the members to recommend qualified potential candidates for appointment to the Illinois Justice Study Committee.

(2) *Cases certified for capital punishment disposed of in IL trial courts in 2006.*

Mr. Sullivan said his analysis of these cases would soon be made available to Committee members, and in his opinion the results show, among other things, far too many cases have been certified for capital punishment, especially in Cook County.

(3) *The Governor's appointment to the Committee.*

Our many efforts to persuade the Governor to name a replacement on the Committee for Tom Needham, who resigned in 2006, have thus far been unsuccessful, for reasons we have been unable to learn. Several members recently spoke about this with John Harris, the Governor's Chief of Staff, who said that the appointment remains "under consideration" by the Governor.

(4) *Discussion and recommendations for the Committee's Fourth Annual Report.*

Mr. Sullivan urged each member of the Committee to submit to the relevant subcommittee Chair, or to Mr. Sullivan, matters that should be discussed and recommendations that should be made in the Committee's Fourth Annual Report. Mr. Sullivan said he will attempt to send the report to the General Assembly during January 2008, and therefore asked that each member give this matter prompt attention.

(5) *Extension of the Committee's tenure.*

Mr. Sullivan led a discussion of whether the Committee should request the General Assembly to extend its tenure to December 31, 2009. The primary reason is that this extension will allow the Committee to render five substantive reports to the General Assembly, as contemplated by the statute establishing the Committee.

The statute creating the Committee became effective November 19, 2003, but the delay in members being appointed to the Committee resulted in the Committee's first Annual Report, covering the period January through April 2005, containing nothing of substance. The Second and Third Annual Reports, relating to the years 2005 and 2006, are substantive reports, as will the Fourth Annual Report, to be filed shortly after the end of this year, relating to the year 2007. The statute provides that the Committee is to expire after five years from the date the statute became effective, so that under the present terms of the statute the Committee will expire on November 18, 2008. An extension of the Committee's tenure to December 31, 2009 will permit the Committee to file substantive reports for the years 2008 and 2009, thus bringing to five the number of substantive annual reports made to the General Assembly.

Several members of the Committee pointed out that the capital cases take a great deal of time to process fully through the court system, and therefore a five year extension of the Committee's tenure may be more practical.

After discussion, it was agreed that at this time the Committee will include in the Fourth Annual Report a request that the Committee's tenure be extended to December 31, 2009, and that as that date approaches, the Committee will again consider whether to request an additional extension of its tenure.



6. *Next meeting - January 28, 2008 - Noon.*

It was agreed that the next meeting of the full Committee will be held on January 28, 2008 at noon, at the Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois.

Thomas P. Sullivan  
Chair  
December 19, 2007

Attachment - Appendix 1.

**Disclosure of Appointee Interest in State Contracts  
to be filed with the Secretary of State  
Secretary of State Index Department, Ethics Section**



111 E. Monroe  
Springfield, IL 62756  
217-782-0643  
217-524-0930 (fax)  
www.cyberdriveillinois.com

Appointee's Name: _____			
Mailing Address: _____			
City, State, ZIP: _____			
Name and type of organization for which this disclosure is being filed: _____			
<input type="checkbox"/> Board <input type="checkbox"/> Commission <input type="checkbox"/> Authority <input type="checkbox"/> Task Force	<table border="1"> <tr> <td>Date of Appointment: _____</td> </tr> <tr> <td>(This date must be completed.)</td> </tr> </table>	Date of Appointment: _____	(This date must be completed.)
Date of Appointment: _____			
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**GENERAL DIRECTIONS**

Pursuant to 5 ILCS 420/3A.30, upon appointment to a board, commission, authority or task force authorized or created by State law, a person must file with the Secretary of State a disclosure of all contracts the person, or his or her spouse or immediate family members living with the person, have with the State and all contracts between the State and any entity in which the person, or his or her spouse or immediate family members living with the person, have a majority financial interest.

List all contracts with the State of Illinois in effect on or after the date of appointment:  
(If additional space is needed, please attach a supplemental listing.)

Name of individual or entity contracting with the State of Illinois:

Name of State agency or department contract is with:

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
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\_\_\_\_\_

**VERIFICATION**

"I declare that this disclosure statement (including any supplemental listing) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of any contracts that I am required to identify pursuant to the Illinois Governmental Ethics Act. I understand that the penalty for willfully filing a false or incomplete statement shall be a business offense punishable by a fine of \$1,001.

It is further understood that an unlawful conflict of interest may arise if, as an appointee, I, my spouse, or immediate family member living in my residence has or acquires a contract or has or acquires a direct pecuniary interest in a contract with the State that relates to the board, commission, authority or task force of which I am an appointee during and for one year following the conclusion of my term of office."

\_\_\_\_\_  
Signature of Appointee Making Statement

\_\_\_\_\_  
Date

(Source: Added at 29 ILL. Reg. 8908, effective June 10, 2005.)