

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Minutes of meeting August 6, 2007

The twenty third meeting of the Capital Punishment Reform Study Committee was held at the Illinois Criminal Justice Information Authority, 120 S. Riverside Plaza, Chicago, Illinois from 1 to 2:30 P.M.

Those present

Leigh B. Bienen
James R. Coldren, Jr. (via teleconference)
Theodore A. Gottfried (via teleconference)
Jeffrey M. Howard
Boyd J. Ingemunson (via teleconference)
Edwin R. Parkinson (via teleconference)
Richard D. Schwind (via teleconference)
Randolph N. Stone (via teleconference)
Thomas P. Sullivan
Michael J. Waller (via teleconference)

Not present

Kirk W. Dillard
Gerald E. Nora
Geoffrey R. Stone
Arthur L. Turner

Also present: Peter G. Baroni, Special Counsel; David E. Olson, Research Analyst and Patrick Foley, Mr. Olson's assistant, Loyola University; Mark Myrent, Director of Research and Analysis, and Jack Cutrone, General Counsel and Chief of Staff, IL Criminal Justice Information Authority; Pat McAnany, IL Coalition to

Abolish the Death Penalty; Catherine McMillan, Campaign to End the Death Penalty; Mark Warnsing, Legal Counsel, Senate Republican staff and Mr. Dillard's staff attorney (via teleconference); and Jennifer Cordis, Michael Margolis and Sapna Lalmalani, Jenner & Block.

The minutes of the July 6, 2007 meeting, as amended by Ms. Bienen, were approved unanimously.

1. Legislation – Senate Bill 1023.

Mr. Baroni reported to the Committee that legislation filed by Mr. Turner included two recommendations in the Committee's Third Annual Report: (1) creation of a capital crimes database, and (2) development of guidelines for the mandated recording of custodial homicide interrogations. The proposals are embodied in House Amendment #1 to Senate Bill 1023. The amended bill was heard in the House Judiciary II Committee on July 11, 2007, and voted out unanimously. On July 12, 2007 the House passed SB 1023, as amended, unanimously. The Senate Judiciary Criminal Law Committee held a hearing on July 26, 2007, on a concurrence motion filed by Senator John Cullerton, regarding House Amendment #1 to SB 1023. The Committee voted unanimously to concur with the House amendment. Later that same day, the Senate voted unanimously to concur with the House amendment.

SB 1023 thus has passed both legislative chambers and is awaiting certification for transmission to the Governor.

Mr. Baroni was requested to draft a letter to the Governor from the chair and co-chair, on behalf of the Committee, in support of SB 1023.

2. *Committee appropriation.*

As requested by the Committee, Mr. Turner has sought a state budget appropriation for the Committee in FY2008 in the amount of \$250,000. The current State operations budget proposal contains that appropriation. Meanwhile, a one month appropriation for July 2007 was approved based on an annual rate of \$150,000, or \$12,500.

3. *Capital Crimes Database appropriation.*

Mr. Myrent of CJIA reported that after discussions with Mr. Cutrone and Mr. Olson, he believes CJIA would need an appropriation of approximately \$100,000 to cover the cost of creating and maintaining the Capital Crimes Database provided for in SB 1023. Mr. Baroni was asked to convey that figure to the appropriate personnel in the General Assembly, for inclusion in the state budget.

4. *Committee contract with special counsel.*

Mr. Cutrone presented a question relating to the Committee's contract with Special Counsel Peter Baroni. The Comptroller's office interprets the contract

differently than the Committee in terms of the allocation of compensation during a single fiscal year. Pursuant to Mr. Cutrone's suggestion, the Committee agreed to revise its contract with Mr. Baroni to more accurately reflect the intent of the Committee.

5. *Third Annual Report recommendation relating to use of blind administrators in lineups and photo spreads (page 16).*

The Committee agreed to hold matter on the agenda until Mr. Nora's return from a leave of absence.

6. *Reports of subcommittees.*

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

Mr. Coldren reported that the subcommittee met on August 2, 2007 to prepare for a joint subcommittee 1 and 4 meeting on September 17, 2007 at 2 P.M. at the CJIA offices. The joint meeting will have guest speakers from the Attorney General's Office and other law enforcement agencies, to discuss various training programs implemented as a result of the reforms to the capital punishment system.

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

Ms. Bienen said the subcommittee met at 10 A.M. on July 6 (the draft minutes have not yet been approved), and at noon on August 6, 2007, at the CJIA offices. The focus of both meetings was on data collection, and coordination of the efforts of Ms. Bienen and Mr. Olson. Mr. Sullivan reported on his efforts contacting individual State's Attorneys across the State that have not responded to the Committee's request for first degree murder indictments. Messrs. Parkinson and Schwind agreed to assist Ms. Bienen and Mr. Sullivan in seeking information from those State's Attorneys.

Mr. Howard said he will appoint a substitute for Mr. Sarley to provide non-privileged information from the files of the Cook County Public Defender.

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

Mr. Howard reported that the subcommittee met on July 23, 2007, and approved the minutes of the June 11 meeting. The subcommittee members discussed Mr. Olson's survey drafts. The subcommittee also discussed its efforts to obtain records of all cases in Illinois in which capital punishment was imposed since January 2003. The subcommittee is to meet on Tuesday, August 7, 2007 at 3 P.M. at the Cook County Criminal Court Building, 26th and California, with several circuit judges who have presided over capital cases.

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

Mr. Gottfried reported that the subcommittee has not met since the last full Committee meeting. It will meet for the joint subcommittee 1 and 4 meeting on September 17, 2007 at 2 P.M. at the CJIA offices.

7. *Resignation of James B. Durkin.*

Mr. Sullivan reported that Mr. Durkin resigned from the Committee. The members expressed appreciation to Mr. Durkin for his efforts as a Committee member. At Mr. Sullivan's request, Mr. Warnsing agreed to ask House Republican Leader Tom Cross to expedite appointment of a replacement for Mr. Durkin.

8. *Public Hearing Transcript.*

Mr. Sullivan discussed a memorandum one of his associates drafted, allocating among the subcommittees various topics raised at two Committee public hearings, to be utilized by subcommittees as each deems appropriate.

9. *Next meeting – September 17, 2007, 1 P.M.*

It was agreed that the next meeting of the full Committee will be on September 17, 2007 at 1 PM, at the Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois.

Thomas P. Sullivan
Chair
September 11, 2007