

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Minutes of meeting January 23, 2007

The seventeenth 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 4 P.M.

Those present

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

Not present

Boyd J. Ingemunson
Geoffrey R. Stone
Arthur L. Turner
James B. Durkin

Also present: Peter G. Baroni, Special Counsel; David E. Olson, Committee Research Scientist, and Patrick Foley, Mr. Olson's assistant, Loyola University;

Regan McCullough and Patrick McAnany, Illinois Coalition to Abolish the Death Penalty; and Derek Persico, Illinois House Republican staff attorney.

The minutes of the December 13, 2006 meeting were amended, per Mr. Nora's request, and approved unanimously.

1. *Public hearing in Chicago.*

The Committee chose Monday, February 26, 2007, at 10 A.M. in the auditorium of the James R. Thompson Center as the date and location of the next public hearing. Mr. Schwind has made the arrangements. Mr. Baroni will handle publicity and notification of interested groups and persons.

2. *Governor's appointment to the Committee.*

Mr. Persico agreed to attempt to learn the status of the Governor's appointment to the Committee.

3. *Reports of subcommittees.*

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

Mr. Coldren reported that the subcommittee had not met since the three meetings held on December 4 and 11, 2006. The subcommittee may meet next with law enforcement personnel in Lake County.

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

Ms. Bienen reported that the subcommittee held a meeting on January 16, 2007 at the Northwestern University School of Law. The meeting focused on

Ms. Bienen's requests for homicide indictment information from all State's Attorneys in Illinois. Mr. Olson discussed his views on how to utilize the information and how to pursue additional information in the future. Mr. Olson presented a summary of all arrests for murders in Illinois from 2003 to 2005, based on Illinois State Police data, broken down by total arrests in each county and the number of law enforcement agencies and officers involved in the arrests (Appendix 1). Mr. Olson created the chart to illustrate how best to focus future surveys. If the information is sought from law enforcement agencies, or a sampling thereof, that made most or all the arrests, the survey response rates should increase, and the results should be more representative and accurate. Mr. Olson is in the process of designing a survey for each area of the criminal justice system in which the Committee seeks information.

Mr. Olson also provided a summary, from the Illinois Comptroller's Office website reporting the expenditures made by the Capital Litigation Trust Fund for 2005, 2006 and 2007 (Appendix 2). Expenditures total approximately \$14 million per year. The ensuing discussion related to the wide variation in Capital Litigation Trust Fund budget management approaches taken by judges around the state, and often within the same county. Mr. Schwind suggested that, to achieve consistency, guidelines be adopted so judges throughout the state will apply the same standards.

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

Mr. Howard reported that the subcommittee was to meet on December 11 with Judge Stephen H. Peters of DeWitt County, but owing to a conflict in the judge's schedule, the meeting has been reset for January 30, 2007 at the DeWitt County Courthouse in Clinton, Illinois. Mr. Howard said Judge Dale A. Cini of the 5th Judicial Circuit in Charleston presided over a capital case after 2003, but was unwilling to meet with the subcommittee. Mr. Howard said Judge Terry H. Gamber, Mt. Vernon, who presided over *People v. Sutherland*, is willing to meet with the subcommittee. Mr. Parkinson said he will contact Judge Gamber to schedule a meeting date.

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

Mr. Gottfried reported that the subcommittee met earlier in the day on January 23, 2007. The subcommittee approved the minutes of the meeting on December 13, 2006 (Appendix 3). The guest speaker was Michael Atterbury, the Attorney General's appointee to the Illinois Laboratory Advisory Committee (ILAC). Mr. Atterbury explained ILAC's function and membership. He also spoke about whether all Illinois labs should obtain accreditation, the costs involved, and the difficulties imposed on both the prosecution and the defense. He also spoke about the labs' budget problems, including difficulties in filling vacant

positions; and whether Illinois should apply for federal grant money for DNA testing.

Mr. Schwind and Mr. Gottfried provided the subcommittee with training materials they have used in training of capital litigation trial bar attorneys.

4. *Other Business.*

Third Annual Report. Mr. Sullivan reported that he is preparing the Third Annual Report of the Committee to the Illinois General Assembly, and before the next Committee meeting he will circulate a draft to all members for review and comment.

5. *Next meeting – February 13, 2007, 1 P.M.*

It was agreed that the next meeting of the full Committee will be held on Tuesday, February 13, 2007 at 1 P.M., at the Illinois Criminal Justice Information Authority, 120 S. Riverside Plaza, Chicago, Illinois.

Thomas P. Sullivan
Chair
February 6, 2007

Attachments: Appendices 1 through 3.

The following table summarizes the distribution of arrests for murder between 2003 and 2005 (combined) across each of Illinois' 102 counties, and also summarizes the number of individual local police departments that made at least one murder arrest during that 3 year period within each county. The counties are grouped into those with more than 10 murder arrests during the entire 3 year period, those with between 2 and 10 murder arrests during the entire 3 year period, those with only 1 murder arrest during the period, and those without any murder arrests during the period. Thus, as an example of how to interpret the table, if one were to look at Cook County the table reveals that during the 3 years from 2003 to 2005 there were a total of 1,549 arrests for murder reported in the county, with these 1,549 arrests being made across 62 of the 148 individual local police departments in Cook County. Similarly, in Lake County, there were 26 murder arrests during the 3 year period, made across 9 of the 43 local police departments in Lake County.

**Summary of the Number of Murder Arrests Between 2003 and 2005 (Combined)
By County & The Number of Local Police Departments Making Arrests (Source:
Illinois State Police, Uniform Crime Report Program)**

County	Total Murder Arrests 2003-2005	
	Arrests per County	Police Departments with Any Murder Arrests
Cook	1,549	62/148
Winnebago	48	4/12
Will	42	7/37
Kane	39	7/26
St. Clair	31	10/31
Madison	27	6/24
Lake	26	9/43
Macon	23	1/10
Du Page	22	13/41
Champaign	21	4/14
Peoria	20	2/9
Vermilion	20	4/18
Rock Island	12	3/14
Total Counties/police departments with more than 10 murder arrests between 2003 and 2005	12	160/405
Kankakee	8	3/12
McHenry	8	5/27

Perry	7	2/3
Sangamon	7	2/25
Knox	6	2/8
McLean	6	2/14
Adams	5	1/5
Kendall	5	3/10
De Kalb	4	1/13
Jefferson	4	2/3
Morgan	4	2/7
Alexander	3	2/2
Edgar	3	2/3
Jackson	3	1/6
Logan	3	3/5
Ogle	3	2/6
Boone	2	2/4
Clay	2	1 / 2
De Witt	2	1/3
Ford	2	2/4
Hancock	2	1/9
Jo Daviess	2	2/8
La Salle	2	2/16
Montgomery	2	1/8
Shelby	2	1 / 4
Stephenson	2	1/3
Washington	2	1/5
Wayne	2	1/3
White	2	1/6
Whiteside	2	1/10
Total Counties with more than 1 murder arrests, but fewer than 10 murder arrests, between 2003 and 2005	30	53/234
Clinton	1	1/11
Coles	1	1/5
Effingham	1	1/3
Lee	1	1/3
Macoupin	1	1/14
Massac	1	1/3
Menard	1	1/3
Piatt	1	1/3
Putnam	1	1 / 2
Randolph	1	1/6
Tazewell	1	1/15
Union	1	1 / 4
Warren	1	1/3
Williamson	1	1/7
Total Counties with 1 murder arrest between 2003 and 2005	14	14/82

Bond	0	3
Brown	0	2
Bureau	0	12
Calhoun	0	1
Carroll	0	7
Cass	0	5
Christian	0	7
Clark	0	4
Crawford	0	5
Cumberland	0	5
Douglas	0	7
Edwards	0	4
Fayette	0	4
Franklin	0	8
Fulton	0	10
Gallatin	0	4
Greene	0	5
Grundy	0	7
Hamilton	0	2
Hardin	0	1
Henderson	0	2
Henry	0	12
Iroquois	0	5
Jasper	0	2
Jersey	0	4
Johnson	0	4
Lawrence	0	4
Livingston	0	5
Marion	0	6
Marshall	0	5
Mason	0	7
McDonough	0	5
Mercer	0	3
Monroe	0	4
Moultrie	0	5
Pike	0	4
Pope	0	1
Pulaski	0	4
Richland	0	2
Saline	0	4
Schuyler	0	2
Scott	0	3
Stark	0	1
Wabash	0	2
Woodford	0	8
Total Counties with 0 murder arrests between 2003 and 2005	45	0/45

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Fund: 0614 - CAPITAL LITIGATION
**Expenditures by Agency
Appropriated Spending
for Fiscal Year 2005**

Code	Agency	Expended YTD
<u>370</u>	<u>TREASURER</u>	\$8,292,752.64
<u>290</u>	<u>OFF OF THE STATE APPELLATE DEF</u>	\$2,668,357.87
<u>295</u>	<u>STATE'S ATTYS APPELLATE PROSEC</u>	\$223,129.63
<u>340</u>	<u>ATTORNEY GENERAL</u>	\$51,391.46
<u>528</u>	<u>COURT OF CLAIMS</u>	\$38,062.07
<u>799</u>	<u>STATUTORY TRANSFERS</u>	\$1,553.00

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Fund: 0614 - CAPITAL LITIGATION
**Expenditures by Agency
Appropriated Spending
for Fiscal Year 2006**

Code	Agency	Expended YTD
<u>370</u>	<u>TREASURER</u>	\$9,064,110.07
<u>290</u>	<u>OFF OF THE STATE APPELLATE DEF</u>	\$2,782,554.99
<u>799</u>	<u>STATUTORY TRANSFERS</u>	\$2,448,766.00
<u>295</u>	<u>STATE'S ATTYS APPELLATE PROSEC</u>	\$343,213.31
<u>340</u>	<u>ATTORNEY GENERAL</u>	\$86,007.80
<u>528</u>	<u>COURT OF CLAIMS</u>	\$31,046.90

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Fund: 0614 - CAPITAL LITIGATION
**Expenditures by Agency
Appropriated Spending
for Fiscal Year 2007**

<u>Code</u>	<u>Agency</u>	<u>Expended YTD</u>
<u>370</u>	<u>TREASURER</u>	\$6,671,334.57
<u>290</u>	<u>OFF OF THE STATE APPELLATE DEF</u>	\$1,678,827.04
<u>295</u>	<u>STATE'S ATTYS APPELLATE PROSEC</u>	\$331,665.75
<u>528</u>	<u>COURT OF CLAIMS</u>	\$91,291.47
<u>340</u>	<u>ATTORNEY GENERAL</u>	\$62,629.38
<u>799</u>	<u>STATUTORY TRANSFERS</u>	\$1,162.00

Capital Punishment Reform Study Committee
Minutes of Subcommittee No. 4 meeting

December 13, 2006

On December 13, 2006 at noon, a meeting of Subcommittee 4 was held at the Criminal Justice Information Authority. Attending were Theodore A. Gottfried, Richard D. Schwind, Jeffrey M. Howard and Arthur Turner (via teleconference).

Minutes of the October 23, 2006 Subcommittee meeting were approved.

Police perjury.

Mr. Baroni spoke with the Executive Director of the Illinois Law Enforcement Training and Standards Board, Dr. Tom Jurkannon, to determine if a police perjury case had been filed. Mr. Jurkannon said the Board has established procedures for a complaint, but none has been filed.

Training of attorneys and judges.

Mr. Baroni reported speaking to the Administrative Office of Illinois Courts (AOIC). He first spoke to Lisa Jacobs who handles judicial training for capital cases. He then spoke to Paul Taylor who handles Capital Litigation Bar training. Mr. Baroni requested the curriculum required for training of capital judges and capital litigation trial bar members; he was told that the AOIC requires formal authorization from the Illinois Supreme

Court. Mr. Baroni said he will follow up with Chief Justice Robert R. Thomas.

Messrs. Schwind and Gottfried agreed to provide the Subcommittee with training materials they have used in the training of Capital Litigation Trial Bar Lawyers. Mr. Schwind said he will also provide an agenda and curriculum for the Association of Government Attorneys in Capital Litigation (AGACL). Mr. Schwind said the AOIC requires all organizations that conduct capital litigation training courses to be pre-approved and to submit the material and agenda to be used for the training.

Mr. Gottfried said the Office of the State Appellate Defender (OSAD) held two capital litigation training programs, one through IICLE, and the other through Professor Andrea Lyons, DePaul University School of Law. Mr. Gottfried will provide the training material and agenda for those programs to Mr. Baroni. Mr. Gottfried said the National Legal Aid and Defenders Association, as well as the National Association of Criminal Defense Lawyers sponsor yearly capital litigation training seminars, but they are generic, not state specific. Mr. Baroni was requested to obtain the agenda for those training seminars.

Mr. Howard said the Cook County Public Defenders Office provides training for its 85 attorneys who are Capital Litigation Trial Bar members.

The training was two days long in July 2006 for Cook County Public Defenders lead capital trial attorneys. The training requirements set forth by the Supreme Court mandate the courses to be at least 12 hours long. That requirement requires the commitment of two days for attorneys attending. Mr. Howard believes a one day course would be beneficial and more practical, especially for private defense attorneys.

Mr. Gottfried said the Subcommittee's next meeting will be held on Tuesday, January 23, 2007 at noon at the Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois.

The Subcommittee adjourned at 1 P.M.

Peter G. Baroni
Special Counsel to the CPRSC
Leinenweber & Baroni
Attorneys at Law