

**CAPITAL PUNISHMENT REFORM STUDY COMMITTEE**

**Minutes of meeting September 17, 2007**

The twenty-fourth 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.

Theodore A. Gottfried

Jeffrey M. Howard

Gerald E. Nora

Richard D. Schwind (via teleconference)

Thomas P. Sullivan

Michael J. Waller (via teleconference)

Not present

Kirk W. Dillard

Boyd J. Ingemunson

Geoffrey R. Stone

Edwin R. Parkinson

Randolph N. Stone

Arthur L. Turner

Also present: Peter G. Baroni, Special Counsel (via teleconference); David E. Olson, Research Analyst, Loyola University; Pat McAnany, IL Coalition to Abolish the Death Penalty; Catherine McMillan, Campaign To End the Death Penalty; and Mark Warnsing, Legal Counsel, Senate Republican staff and Mr. Dillard's staff attorney (via teleconference).

The minutes of the Committee meeting held on August 6, 2007 were approved.

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

Mr. Baroni reported that the Governor vetoed the portion of CJIA's budget that included the Committee's application for \$250K for FYE 6/30/08. The State Comptroller has declined the Committee's request for payment of bills for services rendered by Messrs. Baroni and Olson during June and July, 2007.

The members of the General Assembly are continuing to discuss budgetary matters for many agencies and programs, including CJIA's, which contains the Committee's requested \$250K. Mr. Sullivan said he and Mr. Schwind have sent a letter to the President of the Illinois Senate and others (attached as Appendix 1), urging them to restore the Committee's budget.

Mr. Sullivan said he called Senate President Jones and left a message asking Mr. Jones to call, but he has received no response from Mr. Jones. Mr. Howard said he will request Public Defender Edwin A. Burnette to discuss the Committee's budget request with Senate President Jones.

2. *Senate Bill 1023.*

This bill was passed by the General Assembly and is awaiting action by the Governor. Mr. Baroni said that if the Governor does not act by October 24, 2007, the bill will automatically take effect and become law. The bill includes two of the

recommendations contained in the Committee's Third Annual Report, concerning training and protocols for recording custodial interviews in homicide investigations, and collection of data regarding IL homicide prosecutions.

Mr. Sullivan said he and Mr. Schwind have sent a letter to the Governor, attached as Appendix 2, urging him to approve this bill.

3. *Lobbying registration.*

Messrs. Sullivan and Baroni led a discussion as to whether or not the Committee is required to register as a lobbying organization under State law. Mr. Baroni agreed that prior to the Committee's next meeting he will distribute the letter he received on this subject from the Secretary of State, and the pertinent regulation. This item will be placed on the agenda for further discussion at the Committee's next meeting.

Mr. Baroni said he is a registered lobbyist, and that he has registered the Committee as a client.

4. *David Olson's surveys.*

Mr. Olson reported that the surveys to be sent to the State's Attorneys and Public Defenders – previously distributed to all Committee members for review and comment – have been revised and submitted to the Internal Review Board of Loyola University. He anticipates receiving the IRB's response later this week. When he receives IRB approval, he will distribute copies of the surveys to all

Committee members. Mr. Olson said despite the budgetary complications, he will be able to advance the costs involved in sending the surveys to the State's Attorneys and Public Defenders, but not the cost of coding the responses.

Mr. Olson said he is still working on the police/sheriff survey, and will distribute a draft to members of the Committee before he submits it to the IRB. He said he will not be able to advance the costs for distributing this survey, or coding the responses.

Mr. Olson said he will continue to seek information from the IL Department of Corrections on persons incarcerated in IL prisons for homicide since January 1, 2003.

5. *Recommendation on page 16 of Third Annual Report.*

Mr. Nora moved, and after discussion, it was unanimously agreed, that prior to the next Committee meeting Mr. Sullivan will distribute a draft letter to all of those to whom the Third Annual Report was sent, stating that the Committee withdraws the recommendation on page 16 of the Committee's Third Annual Report – regarding the use when feasible of blind administrators during eyewitness identification procedures – for further study and discussion of this subject.

6. *Replacement Committee members.*

Mr. Gottfried said that, owing to his planned year end retirement as IL Appellate Defender, he intends to resign from the Committee, and name a replacement. The members unanimously thanked Mr. Gottfried for his excellent, devoted work on the Committee.

Mr. Warnsing said he has spoken with his contacts in the office of Thomas Cross concerning the naming of a replacement member for James Durkin, who has resigned.

7. *Reports of subcommittees.*

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

Mr. Coldren said that the subcommittee met on August 2, 2007, and approved the draft minutes of the subcommittee's meetings on May 30 and June 29, 2007, attached as Appendices 3 and 4. The minutes of the August 2 meeting have not yet been approved. The Committee is to meet today, together with subcommittee 4, at 2 P.M.

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

Ms. Bienen said the subcommittee met this morning at 11 AM.

Mr. Olson reported on the status of his surveys, summarized above. The subcommittee is continuing to collect all homicide indictments for the period

January 1, 2003 to December 31, 2005. Messrs. Parkinson, Schwind, Sullivan and Waller are assisting in this effort.

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

Mr. Howard said that the subcommittee met on August 7 with Cook County Circuit Court Judges Vincent Gaughan and Joseph Kazmierski, who recently tried capital cases. The report of those interviews will be contained in the subcommittee's minutes, which have not yet been approved. Highlights are:

Both judges approved of pretrial depositions based upon good cause shown, because they tended to focus the issues, expedite the trial process, and aid in the just disposition of the cases. Both reported they believe mandatory videotaping of custodial interviews in homicide investigations are beneficial, so that the fact finder may observe the actual circumstances under which the statements were taken, and exactly what was said and done. They have found the training for trial judges to be good, and the lawyers on both sides experienced and well prepared. They also believe the certificates of readiness requirement is an improvement, and that case management conferences are helpful. As to jury questionnaires, Judge Gaughan said he favored them, while Judge Kazmierski has not used them.

Members of the subcommittee are examining the common law records in four capital cases, in order to observe the progress of the cases.

The next subcommittee meeting has not yet been scheduled.

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

Mr. Gottfried said the subcommittee has not met since the last full Committee meeting, and is to meet today at 2 PM in a joint meeting with subcommittee 1.

8. *Other business.*

Mr. Olson called attention to a news story about defendant Santiago Strickland, whose confession was suppressed on the ground that the videotape revealed the police did not comply with his request for a lawyer.

*Next meeting - November 8, 2007 - Noon.*

It was agreed that the next meeting of the full Committee will be held on November 8, 2007 at noon, at the Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois.

Thomas P. Sullivan  
Chair  
October 9, 2007

Attachments - Appendices 1 through 4.

# Capital Punishment Reform Study Committee

Thomas P. Sullivan  
Chair

Richard D. Schwind  
Vice Chair

Leigh B. Bienen  
James R. Coldren, Jr.  
Kirk W. Dillard  
Theodore A. Gottfried  
Jeffrey M. Howard  
Boyd J. Ingemunson  
Gerald E. Nora  
Edwin R. Parkinson  
Geoffrey R. Stone  
Randolph N. Stone  
Arthur L. Turner  
Michael J. Waller

Peter G. Baroni  
Special Counsel

September 5, 2007

Via UPS

President Emil Jones Jr.  
Illinois State Senate  
James R. Thompson Center, 16<sup>th</sup> Floor  
100 W. Randolph St.  
Chicago, IL 60601

*Re: Amendatory veto of the entire Capital Punishment Reform Study  
Committee budget*

Dear Mr. President:

The Governor's amendatory veto of the 2008 State operations budget included a complete removal of the Capital Punishment Reform Study Committee's budget. The Committee was created in 2003 in connection with the reform legislation enacted pursuant to recommendations of the April 2002 Report of the Governor's Commission on Capital Punishment. 20 ILCS 3929.

The Committee members – three of whom you appointed – are serving without compensation.


The Committee has actively pursued its statutory charge for the last two years, with an annual appropriation of \$150,000 to pay for legal counsel and a research analyst. This year our requested appropriation was increased to \$250,000, in order that we may pay expenses in connection with an important, unique statewide survey of first degree murder cases from 2003 through the present.

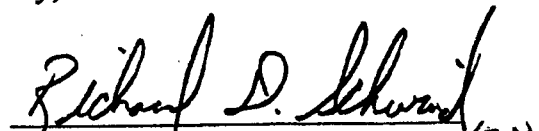


President Emil Jones Jr.  
September 5, 2007  
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We respectfully request that you restore the budget of the Capital Punishment Reform Study Committee, so we may continue to study and report to the General Assembly concerning the ground breaking reforms you championed in 2003.

Sincerely,

  
Thomas P. Sullivan

  
Richard D. Schwind (51)

Chair  
330 N. Wabash Avenue  
Chicago, IL 60611  
312-923-2928

Co-Chair  
100 W. Randolph St., 12th Fl.  
Chicago, IL 60601  
312-814-5387

cc: Mr. Andrew Menar  
Appropriations Director  
Senate Democratic Caucus  
Illinois State Capital Building  
Springfield, IL 62706

Mr. William Burns  
Deputy Chief of Staff  
Senate Democratic Caucus  
James R. Thompson Center, 16<sup>th</sup> Floor  
100 W. Randolph St.  
Chicago, IL 60601

Members, CPRSC

# Capital Punishment Reform Study Committee

Thomas P. Sullivan  
Chair

Richard D. Schwind  
Vice Chair

Leigh B. Bienen  
James R. Coldren, Jr.  
Kirk W. Dillard  
Theodore A. Gottfried  
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Randolph N. Stone  
Arthur L. Turner  
Michael J. Waller

—  
Peter G. Baroni  
Special Counsel

August 23, 2007

Honorable Rod Blagojevich  
Governor of the State of Illinois  
100 W. Randolph St., 16th Floor  
Chicago, IL 60601

Re: *Senate Bill 1023 – Recommendations of the Capital  
Punishment Reform Study Committee*

Dear Governor Blagojevich:

The Capital Punishment Reform Study Committee is a statutorily-created body charged with studying reforms to the capital punishment system enacted over the last six years in Illinois. 20 ILCS 3929. The Committee's makeup is a combination of statutory positions, legislative leader appointments and a gubernatorial appointment. It is required to report annually to the General Assembly with findings and recommendations.

The Committee's Third Annual Report, dated April 9, 2007 (a copy of which was sent to Your Honor), made several unanimous recommendations requiring legislative and gubernatorial action. Senate Bill 1023 contains two of those recommendations.

The state agencies tasked with implementing SB 1023 – the Criminal Justice Information Authority and the Law Enforcement Training and Standards Board – support the bill. There was no opposition to the bill in the House Judiciary II Committee, the Senate Criminal Law Judiciary Committee, or on the floor of either chamber. Senate Bill 1023 passed the House unanimously on July 12, 2007 and the Senate unanimously on July 26, 2007.

**1. *Technical guidelines for the mandatory recording of interrogations.***

You will recall that, pursuant to a bill you signed into law in July 2003, all Illinois law enforcement agencies are required to make electronic recordings of in-custody interviews of suspects in first degree murder investigations. 725 ILCS 5/103-2.1.

The mandatory recordings began in July 2005. The Committee has received reports from police, sheriffs and prosecutors that this statutory requirement is proceeding favorably. A portion of SB 1023 directs the development of technical guidelines for the recordings. The guidelines will be developed through the Illinois Law Enforcement Training and Standards Board, working with relevant and knowledgeable law enforcement and technology accreditation groups.

The Committee's recommendation is based on information the Committee gathered from law enforcement officials and agencies, who told us that statewide guidelines for the appropriate use of technology in recording interrogations would assist them in fulfilling the statutory mandate. We respectfully urge your approval.

**2. *Statewide capital crimes database.***

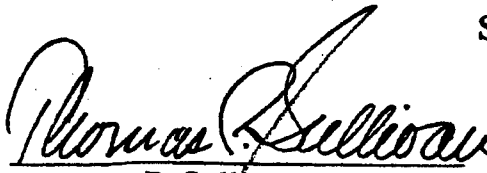
Another portion of SB 1023 will establish a statewide capital crimes database, repository, and monitoring system. Members of the Committee, and an expert we have retained to assist us in the collection and analysis of data, have encountered great difficulty in obtaining reliable factual information about the number of indictments for first degree murders, which were eligible for capital punishment, which were prosecuted as capital cases, and the judgments entered. The legislation will provide for a statewide collection of relevant information relating to the capital punishment system, and readily accessible central information storage with the Illinois Criminal Justice Information Authority. We respectfully urge your approval.

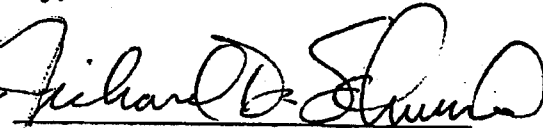
Honorable Rod Blagojevich  
August 23, 2007  
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*Conclusion.*

The members of the Capital Punishment Reform Study Committee unanimously support the two provisions of SB 1023 described above. Should you or your staff have questions about this matter, please contact either of us, or any other Committee member. Thank you for your consideration.

Sincerely,

  
Thomas P. Sullivan

  
Richard D. Schwind

Chair  
330 N. Wabash Avenue  
Chicago, IL 60611  
312-923-2928

Vice Chair  
100 W. Randolph St., 12th Fl.  
Chicago, IL 60601  
312-814-5387

cc: Members, CPRSC  
Peter G. Baroni, Special Counsel  
David E. Olson, Research Analyst

**Capital Punishment Reform Study Committee**  
**Minutes of Subcommittee No. 1 meeting**

**May 30, 2007**

Subcommittee 1 met via teleconference from 2 to 3:10 P.M.

Attending were James R. Coldren, Jr., Richard D. Schwind and Geoffrey R. Stone. Also in attendance was Peter G. Baroni, Special Counsel.

The minutes of the December 4, 2006, December 11, 2006 and February 7, 2007 subcommittee meetings were approved unanimously.

*1. Third Annual Report.*

The subcommittee discussed Mr. Schwind's concern that the recommendation on page 16 of the Third Annual Report did not reflect Committee consensus or the deliberations of the annual report subcommittee. Mr. Schwind said that he would raise the issue at the next full Committee meeting.

*2. Mandatory recording of homicide interrogations.*

The subcommittee discussed investigating the viability of utilizing advanced technology for recording and memorializing interrogations. Mr. Coldren agreed to seek out a technology expert to advise the subcommittee.

Mr. Coldren raised the question of whether the mandatory recording of interrogations had resulted in fewer successful motions to suppress. After a discussion, the subcommittee concluded that it would be very difficult to

objectively answer the question posed by Mr. Coldren. The subcommittee will discuss the issue with Mr. Olson.

3. *Eyewitness identification procedures.*

Mr. Coldren suggested the subcommittee put together a bibliography of research studies comparing eyewitness identification procedures, especially those completed since the publication of the Illinois pilot study. Mr. Coldren agreed to work with Mr. Baroni to compile that list before the next subcommittee meeting. Geoffrey Stone suggested that the subcommittee prepare a review of those studies in anticipation of the next annual report.

4. *Training of judges, attorneys and police.*

The subcommittee directed Mr. Baroni to distribute all recommendations from Governor Ryan's Commission on Capital Punishment Report relating to training of judges, attorneys and police. The subcommittee agreed to review those recommendations and determine if they have been implemented. *See* 20 ILCS 3929/2(b)(2) explicitly mandating the Committee study the "implementation of training for police, prosecutors, defense attorneys, and judges as recommended by the Governor's Commission on Capital Punishment."

5. *Review of February 2007 public hearing transcript.*

Mr. Coldren suggested each subcommittee member review the two public hearing transcripts to determine if any subjects discussed should be studied by the

subcommittee. The subcommittee agreed to conduct that review. Mr. Schwind will review the transcript from the public hearing held in Springfield, Mr. Coldren will review the first half of the Chicago hearing transcript, and Mr. Stone will review the second half of the Chicago hearing transcript, in preparation for the next subcommittee meeting.

6. *Next meeting – June 29, 2007*

It was agreed that the next subcommittee meeting will be on June 29, 2007 at 10 A.M. at Geoffrey R. Stone's office at the University of Chicago Law School, 1111 East 60th Street, Chicago, IL 60637. The subcommittee also agreed that Mr. Olson will be invited to attend the meeting.

Peter G. Baroni  
Special Counsel  
June 21, 2007

**Capital Punishment Reform Study Committee**  
**Minutes of subcommittee No. 1 meeting**

**June 29, 2007**

Subcommittee 1 met via teleconference from 2 to 11:30 A.M.

Attending were James R. Coldren, Jr., Richard D. Schwind (via teleconference) and Geoffrey R. Stone. Also in attendance were Leigh B. Bienen, Peter G. Baroni, Special Counsel and David E. Olson, Committee Research Scientist, Loyola University.

The minutes of the May 30, 2007 subcommittee meeting was approved unanimously.

*1. Olson's draft Committee survey.*

The subcommittee discussed the survey prepared by Mr. Olson. Mr. Olson outlined the philosophical underpinnings he followed in drafting the survey – (1) answering the Committee's questions regarding capital punishment reforms; (2) making the survey instrument as simple as possible for the target audience to respond; and (3) providing objective data to inform future Committee discussions. Mr. Olson will also work with the Loyola Institutional Review Board to set up survey protocols and procedures insuring the integrity of the data collection process.



Mr. Olson told the subcommittee that surveying the entire state would be better than surveying a sampling of jurisdictions because there is no need to limit the discernable universe of potential respondents. Subcommittee members provided Mr. Olson with feedback on the draft survey as it related to the subject matter and questions suggested by subcommittee 1.

Mr. Schwind was unable to provide his feedback due to an early departure from the meeting. Mr. Baroni was instructed to follow up with Mr. Schwind for that information.

Mr. Coldren asked Mr. Olson about the efficacy of doing a capital punishment system cost study. Mr. Olson views cost studies as weak and uninformative. Cost studies have too many variables and it is virtually impossible to place a price tag on good public safety – how do you account for better public safety?

Mr. Olson said that he hopes to disseminate the Committee surveys by August or September. His goal is to provide the survey results to the Committee by the end of the year.

2. *Mandatory recording of homicide interrogations.*

The subcommittee agreed to discuss the issue of utilizing advanced technology for recording and memorializing interrogations at the next

subcommittee meeting. Mr. Coldren agreed to seek out a technology expert that might advise the subcommittee.

3. *Eyewitness identification procedures.*

Mr. Coldren agreed to work with Mr. Baroni to compile a bibliography of research studies comparing eyewitness identification procedures before the next subcommittee meeting.

4. *Training of judges, attorneys and police.*

The subcommittee requested Mr. Baroni to invite Ellen Mandeltort and the chief training officer for the Chicago Police Department to a joint meeting of subcommittees 1 and 4 in September. Mr. Baroni reported receiving copies of training material from Ms. Mandeltort. He was requested to distribute copies of the material to all subcommittee chairs and the Committee chair and vice-chair. Mr. Coldren suggested that, at the next full committee meeting, a time and date be agreed upon by both subcommittees for a joint meeting in September.

5. *Review of February 2007 public hearing transcript.*

Mr. Coldren and Mr. Stone found nothing relevant or within the scope of the committee's charge appropriate for study, based on a review of the transcript from the Committee's public hearing in February 2007. There were some interesting testimonial witnesses at the hearing, in particular

several victims' rights advocates, however, victim's issues do not fall within the Committee's charge or jurisdiction. For that reason, the subcommittee chose not to pursue questions relating to the rights of victims raised at the public hearing.

6. *Next meeting – August 2, 2007*

It was agreed that the next subcommittee meeting will be on August 2, 2007 at 2 P.M. in the Dean's Conference Room, University of Chicago Law School, 1111 East 60th Street, Chicago, IL 60637.

Peter G. Baroni  
Special Counsel  
July 3, 2007