

**CAPITAL PUNISHMENT REFORM STUDY COMMITTEE**  
**Minutes of meeting, December 12, 2005**

The eighth meeting of the Committee was held at 120 S. Riverside Plaza, Chicago, from 2 to 4 P.M.

Those present

Leigh B. Bienen

Theodore A. Gottfried

Jeffrey M. Howard

Boyd J. Ingemunson (conference phone)

Gerald E. Nora

Edwin R. Parkinson (conference phone)

Thomas P. Sullivan

Michael J. Waller (conference phone)

Not present

James R. Coldren, Jr.

Kirk W. Dillard

James B. Durkin

Thomas P. Needham

Richard D. Schwind

Geoffrey R. Stone

Randolph N. Stone

Arthur L. Turner

Also present: Dan Rippy (conference phone); Hank Anthony (part of meeting); Lori Levin (part of meeting).

The minutes of the meeting of November 14, 2005 were approved as written.

1. *Retention of Reporter/ Special Counsel.*

Mr. Sullivan read an email he received from Mr. Schwind dated December 10, 2005, as follows:

“I do not think that I will be able to make the committee meeting Monday, December 12th at the Criminal Justice Authority. I will be down in Springfield attending to some rather urgent matters. I would like to inform you of my progress in getting the position of ‘special counsel’ ready for announcement.

“I met with Hank Anthony who is the designated ‘helper’ from the CJA. He and I met for over an hour to discuss exactly what we wanted and the different options available to us to reach our goal of filling the ‘special counsel’ position. It was decided that we would most likely have to follow and abide by the rules and regs of the Procurement Code. While this may sound simple, I have found out that the bureaucratic red tape is mind-boggling. However, both Hank and I are certain that we can overcome and succeed. I am working on providing Hank with a ‘Program Objective’; ‘Economic Justification’ and ‘History/Background’ information so he can create a Procurement Business Case. We then must submit our paperwork to the legal

counsel for CMS to be reviewed for accuracy and need. This deals with a CPO #33 that regulates the contracting of legal and related services.

“We must also come up with criteria for evaluating candidates once the position is posted for hiring. The post will be up for 30 days on the CJA website. Hank believes that we could get a good number of hits, based upon past experience. Therefore, we are going to try and make the job description rather specific in nature. I would ask that you survey the committee members for thoughts on what would be some good evaluation criteria and possibly submitting the idea of creating an evaluation sub-committee to handle the interviews once we select the candidates. Just some thoughts.

“Again, I apologize for not being able to make the meeting. Please extend my best wishes for a Happy Holiday and healthy New Year to you and my fellow committee members. Looking forward to seeing you in the New Year.”

Mr. Anthony stated that he had spoken with Mr. Schwind, and with personnel of the Central Management Services, the state agency that will handle this matter, and received approval for the Committee to prepare the RFP, or job description, and the Procurement Business Case, which are the first steps in the hiring process, followed by the RFP evaluation criteria. The RFP and the

evaluation criteria will be posted by CMS. Mr. Anthony and Ms. Levin stated that CJIA personnel will be available to assist as necessary.

It was agreed that Ms. Bienen, Mr. Gottfried, Mr. Schwind and Mr. Sullivan will work with appropriate CJIA personnel on this project, and report to the Committee at its next meeting.

2. *Committee's appropriation for fiscal year 2006-2007.*

As previously noted, the Committee's \$150K appropriation for the current fiscal year will expire on June 30, 2006, and not carry over to the next fiscal year. This requires that we obtain a new appropriation. Dan Rippey stated that Mr. Dillard will present a bill at the beginning of the next session of the IL Senate for an appropriation of \$150K for the fiscal year July 1, 2006 to June 30, 2007. Mr. Sullivan reported that he spoke recently with Mr. Turner, who indicated his willingness to introduce the bill in the House. Mr. Rippey said he will speak with Mr. Turner about introducing a similar bill in the House. The appropriation will be applied to the General Assembly's budget, rather than (as in the current fiscal year) the Governor's budget.

3. *Report of Subcommittee 1 - Police and Investigations.*

Mr. Nora reported that the subcommittee has not met since the last full Committee meeting, and has nothing new to report.

4. *Report of Subcommittee 2 - Eligibility for capital punishment, DNA, and proportionality.*

Ms. Bienen reported that the subcommittee has not held a meeting since the last meeting of the full committee, but that she and other subcommittee members have been working on the letter to be sent to all Illinois State's Attorneys, as discussed in the Committee meeting of November 14, 2005 meeting (see Minutes, par. 4 and Appendix 3). Mr. Waller reported that at the mid-winter meeting of the Illinois State's Attorneys Association (ISAA), he discussed the proposed letter with members of the Executive Committee, and they agreed to recommend that all State's Attorneys cooperate in providing responses. Mr. Parkinson, who was also present at the ISAA meeting, stated that there was no resistance expressed to responding to the letter. Mr. Waller and Ms. Bienen agreed to make revisions to the current draft of the letter. Ms. Bienen was authorized by the Committee members to sign the revised letter on behalf of the members of subcommittee 2, and mail it to all Illinois State's Attorneys.

Mr. Waller reported that the ISAA Executive Committee unanimously approved non-binding protocols for the selection of cases in which capital punishment will be sought by individual State's Attorneys. When Mr. Waller receives the final document, he will send it to Mr. Sullivan for distribution to the Committee members. The adoption of non-binding protocols was the subject of

Recommendation 29 of the Illinois Governor's Commission on Capital Punishment, and the 2003 reform legislation, 720 ILCS § 5/9-1(k).

5. *Report of Subcommittee 3 - Trial court proceedings.*

Mr. Howard reported that the subcommittee has not met since the last full Committee meeting. He stated that the subcommittee intends to send a questionnaire to all sitting Illinois trial judges, State's Attorneys and defense lawyers concerning matters pertinent to the subcommittee's assignment, and that no confidential information will be sought. He will report further to the full Committee at its next meeting.

Mr. Howard reported that the office of the Cook County Public Defender had received only 25% of the amount allocated to it under the Capital Litigation Trust Fund, and that this was the first time since the Fund began that the office received less than all of its allocated funds. This matter will be held for further discussion if necessary.

Mr. Parkinson reported that Lorainne Schmall of Northern Illinois University has sought to interview several members of the Committee regarding certain aspects of our work. He believes that Ms. Schmall is working in collaboration with Judge Michael Toomin, Chair of an Illinois Supreme Court committee dealing with the training of judges who try capital cases, which is

drafting protocols for capital trial judges. Mr. Parkinson will check on this and report at the next Committee meeting.

6. *Report of Subcommittee 4 - Post-conviction proceedings, and general topics.*

Mr. Gottfried reported that the subcommittee has not met since the last full Committee meeting. He stated that the subcommittee intends to send a survey document to lawyers in Illinois who handle criminal appeals. The subcommittee members will report on this subject at a forthcoming full Committee meeting.

It was agreed to table any issue regarding Ms. Maria Pappas' letter to Mr. Sullivan of September 27, 2005, attached as Appendix 6 to the minutes of November 14, 2005, because it appears that Ms. Pappas is correct in stating that she acts without exercising independent discretion when her office receives a request for payment under the Capital Litigation Act that appears to be in proper form.

7. *Next meeting - January 23, 2006, 2 P.M.*

It was agreed that the next meeting of the full Committee will be held on January 23, 2006, at the CJIA offices, 120 S. Riverside Plaza, Chicago.

Thomas P. Sullivan  
Chair  
December 21, 2005