

**Capital Punishment Reform Study Committee**  
**Minutes of Subcommittee No. 2 meeting**

**September 17, 2007**

Subcommittee 2 met at the offices of the Criminal Justice Information Authority from 11 A.M. to noon. Attending were subcommittee members Leigh B. Bienen, Thomas P. Sullivan and Michael J. Waller (via teleconference). Also present were James R. Coldren, Peter G. Baroni, Special Counsel; David E. Olson, Research Analyst; Catherine McMillan, Campaign To End the Death Penalty; and Mark Warnsing, Senate Republican staff legal counsel (via teleconference).

*1. Committee survey and data collection.*

Ms. Bienen reported that she and her assistant had received from Daniel Coyne of Chicago-Kent Law School the list of cases for the database he has been developing to support a challenge to the application of the Illinois capital punishment statute based upon principles of proportionality. We now have both the print version of cases from Cook County, going back to 1996, and the electronic version. In addition we have the cases that Mr. Coyne and his colleagues

identified from the other 101 counties. These will all be cross-checked and compared with what we already have in our indictment based database.

Ms. Bienen's research assistant who was working on this project has taken another job and moved, so she is working to train another person to take over the task. When the two databases are conformed, we will assess how many indictments we need to ask for from Cook County and from the other counties. At some point we will request the indictments for post-2005 all counties. Ms. Bienen will report the results of this work as they become available.

Mr. Sullivan had agreed with Messrs. Schwind and Parkinson to call the county prosecutors who had replied to our request for the indictments for the years 2003-2005. We are still waiting for indictments from several counties. Mr. Sullivan agreed to ask Messrs. Parkinson, Schwind and Waller to contact the States Attorneys in those counties.

Mr. Sullivan reported on the database he has been analyzing, defined as all cases in which a notice of factors was served and the case

reached final disposition in the trial court in the calendar year 2006.

Mr. Sullivan is having his assistants enter data with regard to the dispositions of these cases, whether that result be acquittal, a judgment of guilty for a non-homicide offense, a judgment of guilty of non-capital homicide, or the imposition of the death penalty.

Mr. Olson reported on the current status of preparation of the data collection instruments for presentation to the Loyola University Institutional Review Board (IRB). These are the surveys to be sent to various criminal justice agencies, the police, the States Attorneys, the Administrative Office of the Illinois Courts, the administrators of the Capital Litigation Trust Fund, and others, as mandated by our charge to study the effects of the reform of the capital punishment statutes in 2003. The principal concern of the IRB will be the protection of human subjects and assurance of anonymity. The instruments have been submitted this week to the IRB, and a decision is expected soon, perhaps as early as next week, which will be communicated to the Committee.

Mr. Olson said that he was continuing to check the data in the Department of Corrections public database, information on what

sentences were received by offenders identified as persons originally indicted for murder.

With regard to 825 attorneys certified by the Capital Litigation Trial Bar (CLTB), a discussion was held with regard to whether a random survey of these attorneys would be useful, directed to their experience with capital cases since the enactment of the reforms, e.g., the efficacy of training, and the suitability of the requirements and process for being certified. It is not clear from the listing of CLTB attorneys who has actually conducted a capital trial, either as an Assistant State's Attorney or as a defense attorney. A cross-check of the disbursement of funds may provide additional information as to who has actually prosecuted capital cases.

Regarding the information on homicide cases collected from police reports by the Illinois Criminal Justice Authority, this data collection effort, except for the reporting of aggregate numbers, will be reviewed by the Loyola University IRB.

2. *Next meeting – November 8, 2007, 11 A.M.*

It was agreed that the next meeting of the subcommittee will be held at 11 AM on Thursday, November 8, 2007, at the Illinois Criminal Justice Information Authority, 120 S. Riverside Plaza, Chicago, Illinois.

The meeting was adjourned at noon.

Leigh B. Bienen  
Thomas P. Sullivan  
10/9/07