

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE
MINUTES OF SUBCOMMITTEE NO. 3 MEETING

April 7, 2008

Subcommittee 3 met at 69 W. Washington, Chicago, Illinois, on April 7, 2008. Attending were subcommittee members Jeffrey M. Howard, Edwin R. Parkinson (via teleconference), Randolph Stone (via teleconference).

The minutes of the October 31, 2007, and January 28, 2008 meetings, were approved.

The subcommittee discussed the jury instructions found in the capital common law records the subcommittee had obtained. Upon review of the sentencing jury instructions, the subcommittee noted concerns over using the phrase “after weighing the factors in aggravation and mitigation” versus the phrase “after considering the factors in aggravation and mitigation” in determining whether to impose the death penalty.

The subcommittee decided to bring this concern to the full committee. Even if the full committee is not willing to recommend “considering” as opposed to “weighing,” then the subcommittee thought an instruction defining the word “weighing” should be recommended. Otherwise, the subcommittee thought the jury instructions used in capital cases mirroring the phrasing found in the capital sentencing statute were adequate.

The subcommittee decided to review the jury questionnaires to see what, if any, recommendations it believes are necessary.

The subcommittee also decided to recommend to the full committee that before a small county may access the Capital Litigation Trust Fund (CLTF), the State’s Attorney of that county must present his/her reasons for seeking death before an established committee of review. Such a review committee will need to be established.

If the review committee approves the State’s Attorney’s request, then the CLTF may be accessed. If the review committee disagrees with the State’s Attorney’s request, then the State’s Attorney may still seek death but not access the CLTF for prosecuting the case.