

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Minutes of meeting May 10, 2006

The twelfth meeting of the Committee was held at the Illinois Criminal Justice Information Authority, 120 S. Riverside Plaza, Chicago, Illinois from 2 to 4:30 P.M.

Those present

Leigh B. Bienen (via teleconference)

James R. Coldren, Jr. (via teleconference)

Theodore A. Gottfried

Jeffrey M. Howard (via teleconference)

Gerald E. Nora

Edwin R. Parkinson

Richard D. Schwind

Thomas P. Sullivan

Arthur L. Turner (via teleconference)

Not present

Kirk W. Dillard

James B. Durkin

Boyd J. Ingemunson

Geoffrey R. Stone

Randolph N. Stone

Michael J. Waller

Also present: Peter G. Baroni, Special Counsel; Linda Hui, research assistant to Leigh Bienen; Derek Persico, legal counsel to the Illinois House Republican Caucus; and Ed McAnany, Illinois Coalition to Abolish the Death Penalty.

The minutes of the meeting of March 22, 2006 were amended and approved unanimously.

1. *Resignation of Thomas P. Needham.*

Mr. Sullivan reported that on May 8, 2006, Thomas P. Needham resigned from the CPSRC, owing to his inability to devote the time and effort required of Committee members due to the nature of his law practice. The Committee unanimously extended its appreciation to Mr. Needham for the work he has done on the Committee and wished him well. Rep. Turner said he would contact the Governor's office to attempt to expedite the process of finding a replacement for Mr. Needham.

2. *Appropriation for fiscal year July 1, 2006 to June 30, 2007.*

Mr. Baroni and Rep. Turner reported that the recently passed State budget contains a line item in the Criminal Justice Information Authority's budget of \$150,000 as the CPRSC's appropriation.

3. *Reports of Subcommittees.*

(1) *Report of Subcommittee 1 – Police Investigations.*

Mr. Coldren reported that the subcommittee met on May 5, 2006. The members discussed a number of matters, reflected in the minutes for that meeting, attached as Appendix 1.

The first matter was the creation of a survey to be disseminated to major crimes task forces across the state, as well as other law enforcement entities in more rural areas, addressing issues of interest to his subcommittee. To that end, Mr. Coldren submitted a draft list of survey questions, which are attached to the subcommittee minutes. The members discussed engaging a neutral social scientist to assist in creating an appropriate survey instrument and database for accumulating information. It was agreed by the members of the full Committee that Mr. Baroni should investigate the prospects of engaging an appropriate social scientist, and report to the subcommittee at its next meeting.

Mr. Coldren then discussed the “Report to the Legislature of the State of Illinois: the Illinois Pilot Program on Sequential Double-Blind Identification Procedures,” dated March 17, 2006. Mr. Coldren’s typewritten summary of findings and comments received are attached as Appendix 2. Mr. Schwind agreed to distribute the Report and Appendix to members of the full Committee who do not have copies. This subject will be discussed at the next subcommittee meeting.

Mr. Coldren stated that the subcommittee will further investigate whether there is sufficient funding for electronic recordings of homicide interrogations in the south Chicago suburbs.

Mr. Coldren reported that the subcommittee will try to arrange for Ms. Crystal Marchigianni, Chief of the Cook County Public Defender Homicide

Task Force, to appear at the next subcommittee meeting, scheduled for 2 P.M. on June 5, 2006 in Geoffrey Stone's office at the University of Chicago.

Additional meetings of the subcommittee are scheduled for August 7, October 2 and December 4.

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

Ms. Bienen reported that the subcommittee held a meeting on April 13, 2006, dealing with the topics reflected in the minutes for that meeting, attached as Appendix 3. Ms. Bienen reported that the subcommittee continues to collect and input into its database indictment information being received from State's Attorney's offices. More than 70 of the 102 county prosecutors in the State have responded. Mr. Baroni reported that he has contacted the offices of State's Attorneys who have yet to respond.

Ms. Bienen provided the Committee with a list of category headings used in the subcommittee 2 databases for compiling information obtained from first-degree murder indictments.

Mr. Baroni reported that he has spoken to a person in the Governor's Office regarding the DNA testing backlog, who said the State Police would provide the information requested.

(3) *Report of Subcommittee 3 – Trial Proceedings.*

Mr. Howard reported that the subcommittee met earlier in the day, and dealt with various topics as reflected in the minutes, attached as Appendix 4.

Mr. Howard outlined two topics discussed. The subcommittee endorsed the request of subcommittee 1 that the Committee consider retaining a social scientist to assist in the preparation of a survey instrument and database. The survey would be sent to capital litigation trial bar members and judges approved to hear capital cases. The person selected should be neutral, that is, not aligned with either side in the capital punishment abolition debate.

Mr. Howard reported that the subcommittee intends to interview several guest speakers, including (1) a representative from the Illinois Pattern Jury Instruction Committee; (2) a representative of the Administrative Office of the Illinois Courts; (3) members of the capital litigation trial bar (prosecutors and defense attorneys); and (4) judges who have presided over capital cases.

Mr. Nora suggested the approach with the members of the judiciary be couched as an invitation to educate the subcommittee. Mr. Schwind suggested the subcommittee insure that input come from across the state, and not be limited to the Chicago area.

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

Mr. Gottfried reported that the subcommittee met on March 29, 2006, as reflected in the minutes for that meeting, attached as Appendix 5.

Mr. Gottfried stated that the subcommittee was in the process of developing a survey for attorneys handling direct appeals from criminal convictions and collateral post-conviction litigation. Those to be surveyed include the State Appellate Defender, the State Appellate Prosecutor, the Attorney General, and the Cook County State’s Attorney and Public Defender.

Mr. Gottfried reported that the next subcommittee meeting is scheduled for May 11, 2006, and will have as a guest speaker a member of the Illinois Laboratory Advisory Committee.

Mr. Nora suggested the jurisdiction of subcommittee 4 should extend to an overview of the clemency process.

4. *Other Business.*

(1) Mr. Sullivan pointed out that the Committee’s enabling statute provides: “The Committee shall hold public hearings on a periodic basis to receive testimony from the public regarding the manner in which reforms have impacted the capital punishment system.” (20 ILCS 3929/2 § 2 (c).) All members of the Committee agreed that the Committee should hold public hearings, both in the Chicago area and in downstate Illinois. Mr. Gottfried and Mr. Parkinson agreed to

consult with Mr. Baroni, and present a proposal for the conduct and location of public hearings at the next meeting of the full Committee.

(2) Mr. Baroni distributed a draft memorandum of May 2, 2006, attached as Appendix 6, entitled "CPRSC Subcommittee Reform Assignments." It was agreed that this memorandum would provide guidance to the subcommittees as to the statutes and rules they should be investigating in the course of their work.

5. *Next Meeting – June 19, 2006, 1 P.M.*

It was agreed that the next meeting of the Committee will be held on Monday, June 19, 2006 at 1 P.M. at the Illinois Criminal Justice Information Authority, 120 S. Riverside Plaza, Chicago, Illinois.

Thomas P. Sullivan
Chair
June 3, 2006

Attachments: Appendices 1 through 6.