

MINUTES OF THE MEETING OF THE TRIAL PROCEEDINGS
SUBCOMMITTEE #3 OF THE CAPITAL PUNISHMENT REFORM STUDY
COMMITTEE (CPRSC)

June 19, 2006

**Criminal Justice Information Authority
Chicago, IL**

Notice of the meeting was sent to all members and posted on the Illinois Criminal Justice Information Authority website.

Present: Jeff Howard, Randy Stone and Peter Baroni (in person); Boyd Ingemunson and Ed Parkinson (via teleconference).

The meeting was called to order at 3:30 p.m.

The minutes of the meeting on May 10, 2006 were approved as submitted.

Discussion Topic #1: Survey Instrument

Jeff Howard led a discussion regarding information gathering on subject matter within the purview of the Subcommittee. Mr. Howard outlined the meeting of the subcommittee co-chairs and the recommendation at that meeting that a survey instrument should be created in concert with all subcommittees of the CPRSC. He then discussed the specific suggestions for Subcommittee #3. There was consensus among the members of the subcommittee as to the following: (1) each member of the subcommittee would be assigned a subject within the jurisdiction of the subcommittee; (2) each member would develop a list of questions he would like answers to based on the assigned subject matter; (3) each member would determine the appropriate audience for the questions developed; and (4) each member of the subcommittee would determine how frequently he would like the questions asked via survey. The subject matter jurisdiction of the Subcommittee was assigned to members as follows (based on the jurisdiction set forth in the minutes for the May 10, 2006 Subcommittee #3 meeting):

Jeff Howard:

7. Trial court proceedings to determine mental retardation. 725 ILCS 5/114-15;
12. Assignment of qualified prosecution and defense counsel from capital litigation bar. Sup. Ct. R. 416(d);
14. Case management conferences to ensure competence of counsel and disclosure requirements in capital cases. Sup. Ct. R. 416(f); and
15. Respective certifications of readiness by prosecution and defense counsel before trial in capital cases. Sup. Ct. R. 416(g) and (h).

Boyd Ingemunson:

2. Murder statute: new mitigating factor for mental/physical abuse and diminished mental capacity. 720 ILCS 5/9-1(c)(6) & (7);
4. Murder statute: judicial decision to non-concur with a jury verdict of death. 720 ILCS 9-1(g);
5. Murder statute: trial court decertification of capital case. 720 ILCS 9-1(h-5)(P.A. 93-605, Sec. 10);
9. Use of the Capital Litigation Trust Fund at trial. 730 ILCS 5/5-4-3

Ed Parkinson:

3. Murder statute: new standard for imposing death – is death appropriate (changes from mitigation sufficient to preclude death). 720 ILCS 9-1(g) -- Illinois Pattern Jury Instructions Committee drafting instruction reflecting this change;
6. Mandatory taped interrogations in homicide cases use at trial. 725 ILCS 5/103-2.1;
8. Informant testimony (snitch) pre-trial hearing on reliability. 725 ILCS 5/115-21; and
11. Notice requirements on seeking the death penalty and notice practice followed by prosecutors. Sup. Ct. R. 416(c).

Randy Stone:

1. Murder statute: redefinition of witness murder aggravating factor. 720 ILCS 5/9-1(b)(8);
10. Specific description and disclosure of Brady material by the prosecution. Sup. Ct. R. 412(c);
13. Discovery depositions in capital cases. Sup. Ct. R. 416(e); and
16. Jury Voir Dire and Instructions

It was further agreed that Jury Instructions and Voir Dire would be within the scope of Subcommittee #3 and that Prof. Stone would conceive of questions for that subject area. Mr. Howard also explained the process that the co-chairs would take in finding a social scientist to assist the CPRSC in creating a survey. The Subcommittee chose July 7, 2006 as the date questions should be submitted to Mr. Baroni for compilation. Mr. Baroni was also asked to email a list of Chip Coldren's questions, created for Subcommittee #1. to all Subcommittee #3 members to review in compiling their list of questions.

Discussion Topic #2: Common Law Records in Capital Cases

The Subcommittee next discussed obtaining the common law records for all capital cases. Mr. Howard outlined the import of obtaining common law records for determining the jury instructions given in a particular case, as well as how jury selection was conducted. Mr. Baroni was asked to order the entire common law record for all capital cases that have gone to verdict.

The next Subcommittee meeting was set for July 10, 2006 at 1:00 p.m. at the Criminal Justice Information Authority in Chicago.

The Subcommittee adjourned at 4:15 p.m.