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HEARING OF THE  
CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Illinois State Capitol  
March 2, 2009

Members:

- Mr. Thomas P. Sullivan, Chairman
- Mr. Richard Schwind
- Mr. Edwin Parkinson
- Mr. Walt Hehner
- Ms. Jennifer Bishop-Jenkins
- Mr. Charles Schiedel
- Ms. Leigh Bienes
- Mr. Jeff Howard
- Mr. James R. Coldren, Jr.

Speakers:

- Mr. Michael Krelhoff
- Ms. Dora Larson
- Mr. Kevin Lyons
- Mr. Peter Wise
- Ms. Tammera Sigwerth
- Mr. Jeremy Schrader

Rhonda K. O'Neal, CCR, RPR

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ORIGINAL

1           CHAIRMAN SULLIVAN: Ready to start, and thank  
2 you very much. We have Rhonda O'Neal as a court  
3 reporter, and Rhonda, I'm going to ask each of the  
4 members of our panel to identify themselves and  
5 spell their names so that we get it correct. I  
6 notice Walt Hehner is spelled incorrectly on the  
7 previous--.

8           MR. HEHNER: I'll answer to anything.

9           CHAIRMAN SULLIVAN: When Chip gets here,  
10 we'll begin.

11          MR. HEHNER: I'll go ahead and start. Walt  
12 Hehner, H-e-h-n-e-r. Cook County State's Attorney's  
13 office.

14          CHAIRMAN SULLIVAN: We're not identifying by  
15 office, just by name.

16          MS. BISHOP-JENKINS: I'm Jennifer  
17 Bishop-Jenkins; that's a hyphenated last name,  
18 Bishop-Jenkins, and I am a murder victim's family  
19 member.

20          MR. SCHIEDEL: My name is Charles Schiedel,  
21 S-c-h-i-e-d-e-l.

22          MS. BIENES: Leigh, L-e-i-g-h, middle initial  
23 B, B-i-e-n-e-s.

24          CHAIRMAN SULLIVAN: Thomas P. Sullivan.

1           MR. SCHWIND: Richard Schwind, S-c-h-w-i-n-d,  
2           from the Illinois Attorney General's office.

3           MR. PARKINSON: Edwin R. Parkinson,  
4           P-a-r-k-i-n-s-o-n.

5           MR. HOWARD: Jeff Howard, H-o-w-a-r-d.

6           CHAIRMAN SULLIVAN: The other person who will  
7           be sitting over here is Charles Coldren,  
8           C-o-l-d-r-e-n.

9                   All right. Thank you very much for your  
10           patience in waiting for us because of our slip-up in  
11           not arranging for the court reporter. This is the  
12           members of the Capital Punishment Reform Study  
13           Committee formed pursuant to an Illinois statute.  
14           We are directed in the statute that creates us to  
15           study the impact of the various reforms to the  
16           capital punishment system enacted by the 93rd  
17           General Assembly and to report annually to the  
18           General Assembly on the effect of those reforms, and  
19           then there's a listing of some of the reforms that  
20           we should look at in particular.

21                   And it also provides the committee shall  
22           hold hearings on a periodic basis to receive  
23           testimony from the public regarding the manner in  
24           which reforms have impacted the capital punishment

1 system. We have previously held three public  
2 hearings, one here in Springfield and two up in  
3 Chicago. So this will be the second hearing  
4 downstate. And our statutory life will expire on  
5 December 31, 2009, this year.

6 Chip, I already gave your name to the  
7 court reporter.

8 MR. COLDREN: Thank you.

9 CHAIRMAN SULLIVAN: And we are now in the  
10 process of drafting our fifth annual report, and  
11 then next year after we're expired, we'll draft our  
12 sixth annual report and that will be our final  
13 report. So we will receive testimony from the five  
14 people who have signed the sign-in sheet, and if  
15 there's anybody else that wants to speak, they can  
16 come up and sign this sheet. Is there any, is there  
17 any person or are there any persons who's on our  
18 sheet who has a time problem? Is there anybody here  
19 that's got--?

20 Okay. I'm just going to call them in the  
21 order in which they appear on the sheet. And the  
22 first one would be Michael Krelloff appearing on  
23 behalf of the Chicago Council of Lawyers. Come  
24 ahead, Mike.

1           MR. KRELOFF: Thank you, Mr. Chairman and  
2 Mr. Vice Chairman and members. I'm Michael Kreloff,  
3 K-r-e-l-o-f-f. I'm an attorney in Cook County,  
4 Illinois and a member of the Chicago Council of  
5 Lawyers. And I have to say I'm here to present some  
6 testimony from the president of the council,  
7 Professor Coyne. I, candidly, I'm here more for  
8 reasons of geography than for reasons of expertise,  
9 but I will be glad to either entertain any questions  
10 or refer them back to Professor Coyne and Malcolm  
11 Rich, the director of the Council.

12                   And as you know, the Council of Lawyers  
13 has been around now since, it's I think about 38, 39  
14 years. Reform Bar Association centered in Chicago  
15 has tried to fulfill a role of speaking out on  
16 important issues concerning the justice system  
17 including the issue of the death penalty. The, I  
18 believe you received a written statement.

19                   I will read it in briefly. I think it's  
20 about four minutes, if you'll bear with me. This is  
21 the testimony of Professor Daniel T. Coyne,  
22 President of the Chicago Council of Lawyers, to the  
23 Capital Punishment Reform Study Committee.  
24 Professor Coyne is both president of the Chicago

1 Council of Lawyers and the Associate Clinical  
2 Professor of Law at Chicago Kent College of Law.

3 It is the position of the Council that the  
4 death penalty system as administered in Illinois is  
5 hopelessly flawed. We come to this conclusion after  
6 exhaustive research into why this system has failed  
7 to provide the essential safeguards designed to  
8 prevent wrongful imposition of the death penalty.

9 During the past dozen years, the Chicago  
10 Council of Lawyers has examined Illinois' capital  
11 punishment system, issued proposals to reform that  
12 system, and monitored developments in capital  
13 punishment in Illinois and the United States. After  
14 it became known that several innocent men had been  
15 sentenced to Illinois' death row, the Council in  
16 1997 called on all three branches of Illinois  
17 government to impose a moratorium on executions and  
18 to appoint commissions to recommend reforms.

19 In 2000, the Council and Chicago Appleseed  
20 Fund for Justice issued a report entitled Due  
21 Process and the Death Penalty in Illinois that  
22 analyzed death penalty cases, discussed why the  
23 system was failing to provide due process of law,  
24 and made dozens of recommendations aimed at

1 improving both trial and post-conviction procedures  
2 in capital cases. In the same year, then-Governor  
3 George H. Ryan imposed a moratorium on executions  
4 and established a Commission on Capital Punishment,  
5 which ultimately made 85 recommendations.

6 After looking at both our research and the  
7 work of others, it is the view of both the Council  
8 and Chicago Appleseed that full implementation of  
9 essential safeguards designed to prevent wrongful  
10 imposition of the irrevocable sentence of death is  
11 more than an aspiration. It is a necessity.

12 Unfortunately, the Illinois General  
13 Assembly has turned a blind eye toward this  
14 necessity. There have been implemented a few  
15 reforms, but most recommendations have gone  
16 unheeded. In 2003, Governor Ryan commuted the death  
17 sentences of all 167 inmates on Illinois' death row,  
18 noting that the legislature had failed to act on his  
19 commission's recommendations.

20 In December of 2007, in an effort to  
21 stimulate reform, the Board of Governors of the  
22 Chicago Council of Lawyers voted to support the  
23 abolition of the death penalty in Illinois if the  
24 Illinois General Assembly did not take aggressive

1 action to immediately implement all of the  
2 recommendations found in the governor's and the  
3 council's reports.

4 In the last 12 months since that position  
5 was taken, there has been no discernible effort made  
6 by the General Assembly to implement any additional  
7 reform regarding the death penalty. The vast  
8 majority of recommended reforms have not been  
9 implemented, and death penalty prosecutions continue  
10 to place an economic burden on the state budget.

11 We are spending millions of tax dollars  
12 pursuing criminal prosecutions through a system that  
13 does not work. We both squander needed dollars and  
14 put human life at risk. While the Council and  
15 Chicago Appleseed have recommended changes to the  
16 death penalty system in the past and have given the  
17 Illinois legislature time to act, we now conclude  
18 that this persistent and deliberate indifference to  
19 a crisis in the administration of justice in  
20 Illinois is intolerable. Accordingly, the Council  
21 urges the immediate elimination of the death penalty  
22 in Illinois.

23 CHAIRMAN SULLIVAN: Mike, does that conclude  
24 your remarks?



1 MR. KRELOFF: Yes, sir.

2 CHAIRMAN SULLIVAN: All right. We will--I'm  
3 going to go around, and I'll do this with each of  
4 our witnesses to see whether anyone here would like  
5 to make comment or ask a question of the witnesses.  
6 So if you'll just hang on for a minute.

7 MR. KRELOFF: Sure.

8 MR. COLDREN: Yes. Thank you, Tom. Again,  
9 my name is Chip Coldren from Governors State  
10 University. Could you just go into a little bit  
11 more detail regarding the research that was  
12 undertaken by your organization that was funded by  
13 Appleseed.

14 MR. KRELOFF: Mr. Coldren, what I can tell  
15 you is that there is a report that was issued--I  
16 suspect members are familiar; this was in March of  
17 2000, and this is available on the Internet at the  
18 Council of Lawyers web site--that went through many  
19 of the unfortunate situations that had been  
20 occurring in Illinois. And I'm not sure that I'm  
21 really in a position to give you specifics on what  
22 they--.

23 MR. COLDREN: But it was essentially an  
24 examination of the death penalty cases?

1 MR. KRELOFF: Yes, sir.

2 MR. COLDREN: Okay, thank you.

3 CHAIRMAN SULLIVAN: And if the Council would  
4 like to send 16 copies of the report to me, I will  
5 distribute it to the members. Because I don't think  
6 we have done that up to now. I know I got one when  
7 I was on the Governor's Commission, but I don't  
8 think we've gotten that report on this committee.

9 Walt?

10 MR. HEHNER: I don't have any questions.

11 CHAIRMAN SULLIVAN: Jennifer?

12 MS. BISHOP-JENKINS: Thank you for your work  
13 with the Chicago Council of Lawyers. I just wanted  
14 to ask if the Council has taken any position on the  
15 Capital Litigation Trust Fund, what should happen to  
16 it if abolition of the death penalty were to happen.  
17 Have they taken a position on that issue that you  
18 know of?

19 MR. KRELOFF: No. I am not aware of a  
20 position.

21 MS. BISHOP-JENKINS: Thank you.

22 CHAIRMAN SULLIVAN: Chuck?

23 MR. SCHIEDEL: Okay. Well, I'd generally  
24 like to ask if you think there's a meaningful way

1 that the cost of capital punishment could be  
2 measured, and if so, do you have any suggestions for  
3 us as far as looking into that?

4 MR. KRELOFF: Well, sir, I think there's a, I  
5 think the tone of the statement is really there's a  
6 certain frustration really about the ability to move  
7 further beyond from where we are because a certain  
8 sense that further reforms will not achieve the  
9 purposes that the Council thinks are essential. I  
10 think financially it's sort of the same thing, that  
11 it's really very hard to measure the impact of  
12 having a death penalty statute on the books. I  
13 mean, bluntly, having the moratorium is a very  
14 workable system for the Illinois legislature. But  
15 I'm not sure it's workable for anyone else including  
16 the people who have to appropriate tax dollars. The  
17 cost of having a death penalty on the books is still  
18 there.

19 MR. SCHIEDEL: Thanks.

20 MS. BIENES: Thank you very much for your  
21 testimony. I just have a quick question for you.  
22 Do you have any suggestions or recommendations how  
23 we as a committee authorized by the state  
24 legislature can obtain a reliable count or record of

1 the number of cases in which a notice of factors of  
2 the intention to seek death was served by the 102  
3 county prosecutors in Illinois, the number of cases  
4 in which there was a factual basis for serving such  
5 a notice of factors, and the number of cases which  
6 went to trial as capital cases during the period  
7 2003 through 2008? Can you give us any assistance  
8 as to how we might get that information for the  
9 education of the public?

10 MR. KRELOFF: Commissioner, it's a very  
11 interesting question. I'm thinking back to a former  
12 life when I was director of the Cook County Judicial  
13 Advisory Council, and we tried to get into  
14 statistics like that. It is a very difficult  
15 problem. I also was a former prosecutor and am  
16 quite aware of the use of qualifying factors as a  
17 way to impact the case even if there was no real  
18 expectation of a death penalty being imposed. So  
19 that's a fascinating problem. I guess I've not  
20 dealt with it, though, specifically here. I take it  
21 the Criminal Justice Information Authority is not--

22 MS. BIENES: Well, we have received a great  
23 deal of cooperation from a number of agencies, and  
24 we continue to seek this information. And we don't

1 just want a number floating around in the air. If  
2 we're going to make a meaningful report, we have to  
3 be able to say in County X these are the cases,  
4 Jones, Smith, whatever, in County Y these are the  
5 cases. That's the only way to have any sort of  
6 reliable record.

7 And to date, we have not been successful  
8 in obtaining that information and I can only say  
9 that we look forward to working with agencies of the  
10 state and counties in developing data for the final  
11 report of this committee, but to date, we have not  
12 received it and we look forward to getting that  
13 information. If you have any suggestions as to how  
14 that might be facilitated, we would most appreciate  
15 it.

16 MR. KRELOFF: I would think that Director  
17 Malcolm Rich and Professor Coyne would be very  
18 pleased to go to Chief Judge Beagle (sp) or  
19 Presiding Judge Beagle and see what can be put  
20 together. I confess I'm just not that familiar with  
21 what this commission's done, but I think everyone  
22 knows Judge Beagle would try to be as cooperative as  
23 he could. I have tried to get statistics from the  
24 court system, and it's not always very easy.

1 MS. BIENES: Right. Understandably.

2 MR. KRELOFF: You can, I'm sure.

3 MS. BIENES: And Mr. Coyne has been very  
4 helpful to this committee and has provided some  
5 information that he compiled on behalf of the  
6 organization and other people, and we've had the  
7 benefit of that. And it would be, we would welcome  
8 any assistance, further assistance he can provide  
9 us.

10 MR. KRELOFF: I'll pass that on.

11 MS. BIENES: Thank you.

12 CHAIRMAN SULLIVAN: Jeff?

13 MR. HOWARD: I just want to say to the  
14 Council thank you for all their hard work, but I  
15 have no questions of you.

16 MR. KRELOFF: Thank you.

17 CHAIRMAN SULLIVAN: Ed?

18 MR. PARKINSON: Ed Parkinson. In reading the  
19 statement of Professor Coyne about the fourth  
20 paragraph, he says and your group says that if the  
21 essential--paraphrasing--essential safeguards had  
22 been implemented, could we assume that you would be  
23 in favor of a death penalty?

24 MR. KRELOFF: Speaking for Mr. Coyne, which

1 is--or Professor Coyne, which is not something I  
2 like doing, I believe the tone of this is that  
3 there's really not any way to get at it. I think  
4 people in good faith try to figure out better ways,  
5 and I think better ways have been figured out. I  
6 mean, when I started out as a lawyer, the imposition  
7 of the death penalty I think was, I think we can  
8 compare it, it was, you know, more arbitrary than  
9 safeguards that have been implemented since.

10 But I think there's also a feeling after  
11 my nearly 40-year career there's really no way that  
12 the reforms are going to cure the problems. And  
13 again, in my experience, I mean, when we see the  
14 advances in science and in DNA testing and opening  
15 cold cases, I think there's just the feeling that  
16 the finality of the death penalty is something that  
17 just can't be justified given the current state of  
18 the world.

19 MR. HOWARD: Thank you.

20 MR. SCHWIND: Mr. Kreloff, I have a question  
21 kind of along the same lines as Ed Parkinson just  
22 asked you in that paragraph that we both kind of  
23 underlined at the same time. It says after--and I'm  
24 reading verbatim from the statement. It is the

1 fourth. It says: After looking at both our  
2 research and the work of others, it is the view of  
3 both the Council and the Chicago Appleseed that full  
4 implementation of essential safeguards designed to  
5 prevent wrongful imposition of the irrevocable  
6 sentence of death is more than an aspiration. It is  
7 a necessity.

8 What essential safeguards are not  
9 implemented now that you're referring to there?

10 MR. KRELOFF: And that's certainly the issue  
11 that I was most concerned someone would ask me today  
12 because these are the issues really to go back to  
13 Professor Coyne.

14 MR. SCHWIND: And I--believe me, Mr. Kreloff,  
15 I'm not trying to put you on the spot or anything.  
16 It's really a fact-finding question.

17 MR. KRELOFF: Right. And as I understand  
18 from the statement, there is a belief that the  
19 General Assembly has not chosen to implement many of  
20 the reforms. And if they just did sign off on  
21 everything, I guess we would see how that worked.  
22 But the tone of this letter and I think the  
23 Council's conclusion is that even had the, all the  
24 reforms been implemented, there's just no way to



1 make it work.

2 MR. SCHWIND: So I take it you're then  
3 referring to the governor's commission in the 85, I  
4 believe you stated 85 reforms that were recommended  
5 or the 85 recommendations?

6 MR. KRELOFF: That's the focus of that  
7 statement. And just how many of those 85 have been  
8 implemented or not I don't have a count.

9 MR. SCHWIND: Okay. Thank you.

10 CHAIRMAN SULLIVAN: Okay. I thank you, Mike.  
11 On a personal level, I also thank you for your help  
12 with the Anna McCabe case.

13 MR. KRELOFF: Thank you.

14 CHAIRMAN SULLIVAN: When you were a law  
15 student.

16 MR. KRELOFF: One of the factoids here is  
17 that when I started out, I clerked for Mr. Sullivan,  
18 and then when Rick started out, he clerked for me.

19 MR. SCHWIND: That's right.

20 MR. KRELOFF: So somehow we skipped a  
21 generation. Thank you very much.

22 CHAIRMAN SULLIVAN: Thanks, Mike.

23 MR. SCHWIND: Thank you.

24 MR. HOWARD: Thank you.

1           CHAIRMAN SULLIVAN: Next we have Dora Larson.

2           MS. LARSON: It's Dora Larson. Dora as in  
3 the Explorer, and then L-a-r-s-o-n. I want to tell  
4 you how much it means to me to have such a  
5 distinguished panel as for victim testimony, and  
6 that is the only reason for, you know, the only  
7 heading (sp) kind of thing and how much I appreciate  
8 it very, very much. And I've given testimony, I  
9 gave testimony, you know, in Chicago. But this old  
10 picture has been all over the United States of  
11 America, but when I gave talks in schools and for  
12 parents, this is my Vicky. This was her last school  
13 picture. She was 10 years old. And so that you  
14 might see a picture and how beautiful she was.

15                   Last February 8 would have been her 40th  
16 birthday. And it was kind of a hard one because  
17 it's been a number of years, but 40's kind of a, you  
18 know, milestone birthday. But I just kind of wanted  
19 you to see her. I've come again and with numerous  
20 ideas that I'd like to present to you. But just a  
21 little piece of what our family has done since her  
22 murder in '79. You know, again, he was given  
23 natural life in the murder and 30 years for the  
24 rape. And we've already spoken to the Prison Review

1 Board once; as a matter of fact, it was in this  
2 room.

3 And it was the toughest thing I'd done  
4 since her funeral. And I mean, I was used to  
5 talking to maybe 3,000 people at one time. But this  
6 summer we received another letter from the Prison  
7 Review Board, and after 30 years, I couldn't imagine  
8 from his letter, Mr. Darnell, how that crime changed  
9 from '79 until this year. It was like it was all an  
10 accident and there just happened to be a grave or a  
11 little hole there. He fails to mention in his  
12 letter to the Prison Review Board he confessed the  
13 day that they apprehended him that he dug that grave  
14 three days before.

15 Then we had the Apprendi law come through,  
16 and you know, that was a time that if you were given  
17 too much time, you know, according to some judge's  
18 mind, then the prisoner had a chance to get out.  
19 We're on our third step in the County of Henry where  
20 the murder occurred, and from everything I know and,  
21 you know, researched, if he fails in Henry County,  
22 then he can go to the prison in the county where  
23 he's imprisoned in Menard, that he could start all  
24 over again.

1                   And also, you know, staying over to  
2           testify tomorrow to a bill, House Bill 45, that  
3           inadvertently capitalized is age 50 you're  
4           considered a senior citizen, and we're going to let  
5           you as a prisoner out. And Vicky's killer's 46.  
6           And I can promise you right now if he's released,  
7           there's going to be more dead children. Because  
8           when you start out as a kindergartener torturing and  
9           killing little animals and proceed from there to  
10          rape, kidnapping a 10-year-old boy or a 10-year-old  
11          girl and proceed to murder, it'll happen again.

12                   We also--and Jennifer's very familiar with  
13          this too is that they're trying to say that if you  
14          were 18 and under, you were a mere child and  
15          couldn't know that you had done these horrible  
16          crimes. And on a state and a federal level, you  
17          know, they're talking about releasing these, these  
18          people too. And that's pretty darn scary. And as  
19          hard as, you know, I've fought all these years and  
20          I'm here now for other victims, there is no way I'm  
21          ever going to get my child back.

22                   But I am trying to protect all of the  
23          other children, your children, your grandchildren,  
24          because it will happen again. And no child should

1 have to go through what Vicky did, and no parent or  
2 family should have to go through what we had to.  
3 And really even his family. The killer's family was  
4 a very, very--I knew his grandparents very well, and  
5 they were wonderful people. Very upset about what  
6 happened.

7 So you can see for a victim or the  
8 survivors, they come into our lives and they take  
9 our children and they really never leave. And when  
10 you're victimized, it goes on and on and on forever.  
11 So that's why it's very important that we have these  
12 kind of meetings so that people can better  
13 understand victimization. And I asked you last time  
14 that the victims need money too hopefully so that we  
15 can, you know, help victims. And again, it would be  
16 to make sure that victims are notified about  
17 appeals, about early release.

18 You know, just a number of things that we  
19 have to make sure that victims are notified. I  
20 would even like to see legislation passed that you  
21 ask a victim. I know there's a law that says you  
22 are to ask a victim if they want to be notified.  
23 But there's nothing to stand behind that, and  
24 oftentimes victims are not told. And the first

1 thing they get is a letter from the Prison Review  
2 Board if they're registered. And I'm saying you  
3 ask, do you want to be notified, then we do it right  
4 there. If you don't want to, and I respect anyone  
5 who doesn't as a victim want to be notified, then we  
6 won't.

7 But we must make sure that victims are  
8 included in decisions and know what's going on. I  
9 also would just love to have money so that when  
10 victims have to travel to the Prison Review Board  
11 hearings or to go to an appeal in another  
12 county--some victims move out of the state--so that  
13 they might be able to have money to travel to attend  
14 the Prison Review Boards and to the appeals or  
15 whatever might come up. There should be money for  
16 those people.

17 I desperately feel that we need to do a  
18 more intense training for victim advocates  
19 especially at the state's attorney's office level.  
20 Many of these victim advocates really are not that  
21 familiar with what a victim goes through. And if  
22 they--you know, I know there's a number of victim  
23 advocates in the state's attorney's office have been  
24 victimized themselves. And every victim has a

1 different feeling, but it seems like it's kind of a  
2 general thing. You know, we follow, it's a normal  
3 kind of thing. But I don't want to have to have a  
4 victim advocate that's been through that, God  
5 forbid.

6 But oftentimes a victim advocate in this,  
7 you know, in the county doesn't understand. And  
8 it's just a job. And if we could get to those and  
9 other victim advocates with really, really intense  
10 training especially on these capital cases, it would  
11 help the victims so very, very much. Really  
12 sometimes all it needs is somebody just to be  
13 sitting there with them. But these people would  
14 know what to tell a victim. And it's so important  
15 too if you have an advocate who knows how to talk to  
16 the state's attorney, go to the victim and explain  
17 it, what the state's attorney just said.

18 And also victims, we have a tendency to be  
19 so overwhelmed with answers we forget so we can go  
20 to the victim advocate and continue asking. I found  
21 in my work that helped any state's attorney that I  
22 was involved with because, you know, the little  
23 bitty things and also almost a cheerleader for the  
24 state's attorney when I could say, now, wait a

1 minute, I know you want this and I know you want  
2 that for a victim, but what the state's attorney's  
3 trying to do and explain it to them. Such as, if we  
4 don't go slow here, you want to make sure every t's  
5 crossed and every i is dotted so it doesn't go to  
6 appeal and we have to do this again.

7 Now, my dream would be that we would have  
8 a special team of victim advocates that would go out  
9 on capital cases when asked and that we would work  
10 hand in hand with the victim advocacy groups in that  
11 county, not taking over, but that we would be, you  
12 know, on the sidelines giving whatever help we  
13 could. And I've also found that survivors of  
14 homicide to families, they relate to someone who has  
15 been through it or totally understands. And that  
16 would be my dream if I had all the money that, you  
17 know, we needed. Again, I appreciate you listening  
18 to me one more time, but I will continue for the  
19 victims' rights forever. So again, I thank you, and  
20 if anyone has any questions, the only thing I won't  
21 answer is my weight so--.

22 MR. HOWARD: Again, I'm sorry for your loss.  
23 Your testimony here today more or less says that  
24 there's some more things that may need to be



1 implemented into the system. I'm just curious also,  
2 though, any comments or observations about the  
3 changes in the law that occurred in 2003 on capital  
4 punishment? Any observations about those changes  
5 and how they've either improved or had no impact on  
6 the system?

7 MS. LARSON: Again, I didn't read the report,  
8 but anything that can be on the books that will  
9 further help a victim and not do them further harm  
10 is great, in my book. And another piece that we're  
11 working on right now is strengthening the victim  
12 rights amendment. Because we feel that even though  
13 it says it should happen, so many times it's not,  
14 and we just, we need some teeth in this. How many  
15 victims are not told about dates, or they go sit in  
16 the court, you know, out in the hall for two hours  
17 at a time and somebody forgot to notify them that  
18 the case was not going.

19 So as far as being--and I apologize for  
20 not knowing exactly what went down in 2003. And I  
21 have to say too, things have definitely changed over  
22 the years and for the good. It's just when they  
23 sneak these other bills in on the side of the  
24 offender, and again, I mean, I'm restorative justice

1 all the way, but there's unfortunately some monsters  
2 who can't be out. And so any law that we can help  
3 the victims any further is, you know, wonderful.  
4 Thank you.

5 MR. PARKINSON: Ed Parkinson. Thank you for  
6 your courage in putting a face and a heart and a  
7 soul to victims and survivors because it reminds me  
8 at least that this is not a statistic. And I think  
9 a lot of us on boards and even in prosecution cases  
10 look at it as a statistic, and that's not the way we  
11 should, so thank you for your testimony and your  
12 ongoing courage.

13 MS. LARSON: Thank you so much. That means a  
14 lot.

15 MR. SCHWIND: Ms. Larson, I want to echo  
16 that. Thank you for coming in here and sharing the  
17 picture of your beautiful daughter.

18 MS. LARSON: Thank you.

19 MR. SCHWIND: Being a father of two  
20 daughters, I understand. I don't want to say that I  
21 understand. I should say your loss. I could not  
22 fathom having lost one of my daughters. It's just  
23 unfathomable. But unfortunately through my career  
24 I've met too many people like yourself. But on the

1 other hand, I hope to continue to hear your voice.

2 I can tell you that I travel throughout  
3 the state prosecuting cases now, and I can't think  
4 of a prosecutor that is worth his salt that wouldn't  
5 try to keep the victim informed, the victim's family  
6 informed of what's going on in the case. And I know  
7 that we try to do that. It's not an excuse that I'm  
8 busy or it slipped through the cracks. We do try to  
9 let victims know ahead of time so when they come  
10 into court they know what's going to happen.

11 I was just in court on a death penalty  
12 posttrial motions Friday, and we sat down with the  
13 victim's family, as we always did, and let them know  
14 what's going to be coming on in court and what we  
15 expect may happen. And we, after court we come out  
16 and we sit down with the family and ask them if they  
17 have any questions. I think families should be able  
18 to reach out any time of the day or night 24/7 to  
19 anybody in state government that has something to do  
20 with their case if they have a question that hasn't  
21 been asked or answered. Because invariably, you  
22 walk away and you think as you're driving home, I  
23 wish I would have asked that question and you have  
24 to wait. You should be able to pick up a phone or

1 contact or e-mail. And that I think is good.

2 In regard to your recommendation, I think  
3 it's a very good recommendation that the state  
4 should if needed, should be able to assist in the  
5 expense of having victims' families travel to the  
6 appellate or the Supreme Court in death penalty  
7 cases to listen to the arguments and listen to what  
8 the Supreme Court is saying about the case that  
9 involved their loved one and to go to if the person  
10 is not sentenced to death or if he's coming up for a  
11 mandatory supervised release that we assist. And I  
12 think maybe the Capital Litigation Trust Fund should  
13 be changed or amended to allow for that, so thank  
14 you for that recommendation.

15 MS. LARSON: Thank you so much. You know,  
16 and I appreciate everything that you do, and I  
17 traveled with the attorney's general's office for a  
18 couple of capital cases. And they were beautifully  
19 handled by the state's attorney and with the help of  
20 the attorney general. We were so blessed that we  
21 had a good state's attorney who's now chief judge in  
22 that county area. But so many of the state's  
23 attorneys are not practicing that.

24 You know, and I think maybe--I mean,

1 Patrick and that's always been really good about the  
2 state's attorneys, and I've spoken to their group a  
3 number of times. And I don't think any of them  
4 purposely do it, do it so it doesn't hurt. But I  
5 think that there's still enough that don't, and I  
6 wish that would change. Because, you know, the  
7 thing of it is, well, for one thing, when you're a  
8 victim, you've lost complete control.

9 And there's nothing more frightening than  
10 that. And your whole life now depends on that or in  
11 my case a man who's going to try this case. And I  
12 didn't know what to ask. If my son's godfather  
13 who's an attorney hadn't helped me with we're going  
14 to be doing this and you might ask, I wouldn't have  
15 known. And of course, now I do because of all the  
16 cases that I've been involved with.

17 So knowledge is so important to victims.  
18 Just to know what's going on, where things are, you  
19 know, and I never--and as a matter of fact, if I  
20 hear a state's attorney or a cop say, we're going to  
21 get him, he's going away forever, please don't do  
22 that to a victim either. Because that, that's not  
23 fair. Because no one knows what's going to happen  
24 in that courtroom.

1           As a matter of fact, I held a big giant  
2 cop one time. He was crying after one of my talks.  
3 And I put my arm around him. He had promised a  
4 little five- or six-year-old little girl, we're  
5 going to get that guy who raped, or you know, he  
6 sexually assaulted her. The man walked. He had to  
7 go tell the victim and her family. So I don't want  
8 that ever. But we're going to do everything that's  
9 humanly possible.

10           MR. SCHWIND: Thank you.

11           MS. LARSON: Thank you very much.

12           CHAIRMAN SULLIVAN: Chip?

13           MR. COLDREN: Nothing specific. I just want  
14 to thank you as well for your testimony, and I  
15 think, and I'm sure my colleagues would agree, that  
16 anybody that considers any reforms to the death  
17 penalty system should absolutely consider the  
18 victims. And I hope you're confident that we do  
19 that.

20           MS. LARSON: Thank you very much. Thank you.

21           MR. HEHNER: Ms. Larson, again, thank you for  
22 your articulate presentation. And I've been doing  
23 this for 20 years. And I know that in all violent  
24 crimes, the victims' families are always forgot

1 about. Everything's focused in court on the  
2 defendants and the defendants' constitutional  
3 rights. And I know that oftentimes sickens the  
4 victims' families because a lot of times victims'  
5 families ask and have told me what bothers them. So  
6 what you say today is not being forgotten. It's  
7 going to be taken into consideration. But thank  
8 you.

9 MS. LARSON: Thank you.

10 MS. BISHOP-JENKINS: Thank you, Ms. Larson,  
11 obviously for speaking, reminding us all why we have  
12 a death penalty in the first place, because there's  
13 been a murder and the consequences of that. And I  
14 wanted to echo the wonderful sentiments made by  
15 Mr. Schwind, Mr. Hehner, other members of this  
16 committee about how important it is for us to  
17 consider as we examine the effectiveness of reforms.

18 And one of the major reforms given to the  
19 death penalty in the state was the implementation of  
20 this Capital Litigation Trust Fund. But, you know,  
21 we've been spending a lot of taxpayer dollars on  
22 offenders throughout the country. In criminal cases  
23 there's an endless supply of it seems like sometimes  
24 resources to focus on making sure that the offender

1 has every little i dotted and t crossed in their  
2 process.

3 And thank you for pointing out how often  
4 that is not the case for the victims of these  
5 crimes, which is why there is a crime in the first  
6 place. And I think that one of the best things that  
7 can come out of this is hopefully an examination as  
8 to what the process is doing for victims and what  
9 resources should be going there that are not  
10 currently going there. And I particularly highlight  
11 the need for training for more victim advocates.  
12 I'm sure that most of the problems you've  
13 articulated with state's attorneys are usually  
14 problems of lack of resources.

15 MS. LARSON: Right.

16 MS. BISHOP-JENKINS: Which is, most counties,  
17 20 counties in the state don't even have victim  
18 advocates. Many of them share them. They only have  
19 one person or a part-time person. It's a  
20 significant issue. My question to you is you said  
21 you were coming down here to testify on another bill  
22 that would end life without parole in the state.

23 I'm wondering if you see a trend or a  
24 connection in terms of what you have seen in your



1 years of working on criminal justice and murder case  
2 issues on the criminal victim perspective, do you  
3 see any connection between the state's examination  
4 of whether or not there should be a death penalty  
5 linking to this, to these other bills that you're  
6 seeing now with the life without parole, the  
7 questions, the challenges to life without parole?  
8 Are you, is that troubling to you in any way, or are  
9 you concerned about that?

10 MS. LARSON: That makes me really sit back  
11 because when I first started, personally really what  
12 I was doing, you know, definitely--but as things  
13 went along, a lot of legislators, you know, it was,  
14 we really feel sorry for you, but there's not  
15 anything really we can do. And they learned that I  
16 was going to keep coming back. But I can't remember  
17 seriously, and whether it's, you know, the question  
18 of capital punishment or what, but there seems to be  
19 more of these let's release them.

20 You know, with the bill last year letting  
21 juveniles go if they were 18 and under. And  
22 especially this 45--or excuse me--50 and out. I've  
23 never come up against that, anything quite that  
24 drastic. So maybe it is. I truly don't know the

1 answer to that one. But I do know that there's been  
2 a lot more, more offender-oriented pieces of  
3 legislation so--.

4 MS. BISHOP-JENKINS: So here you are 30 years  
5 later still having to come and testify. Thank you.

6 MS. LARSON: You're welcome. Thank you.

7 MR. COLDREN: I'd like to thank you for  
8 coming also, and it's good to be reminded of where  
9 this all comes from, as painful as it has to be.  
10 People that--I hope you'll indulge me in asking a  
11 couple of sort of legal questions.

12 MS. LARSON: Sure.

13 MR. COLDREN: You mentioned that the offender  
14 was sentenced to natural life.

15 MS. LARSON: Right.

16 MR. COLDREN: And based on the case being as  
17 old as it is and even given developments in the law  
18 since that time, if it's any reassurance to you, I  
19 think that I can say that after this amount of time,  
20 if the offender has not gotten any legal relief from  
21 his case, it's virtually certain that he never will.  
22 I don't know what, if the prosecutors who were  
23 handling the appeals post-conviction matters, how  
24 much contact they had with you. Assuming that

1 they're even involved because--

2 MS. LARSON: They are.

3 MR. COLDREN: (Continuing)--because at this  
4 point, he doesn't have any right to attorneys to  
5 represent him in attacks on his sentence or his  
6 conviction at this point.

7 MS. LARSON: That makes me feel better.  
8 Thank you.

9 MR. COLDREN: But I was a little curious  
10 about your saying that you, that there are PRB  
11 proceedings going on. Is that with regard to the  
12 other sentence?

13 MS. LARSON: Right.

14 MR. COLDREN: You haven't come up on this  
15 individual, on your murderer's case?

16 MS. LARSON: Right. Although I've come with  
17 a number of other victims as they came in.

18 MR. COLDREN: I understand.

19 MS. LARSON: Yeah. And when I work for the  
20 Department of Corrections, I go into Taylorville.  
21 As a matter of fact, I helped write their victim  
22 piece for the inmates. And I would go down to Ina  
23 and talk to sex offenders three times a year on the  
24 victims they created. And you can't imagine how

1 much money I receive from inmates sending \$2 or \$5,  
2 and we use that money to help bring in victims.

3 And I would meet them at the train or the  
4 airport and put them, get them to their hotel, maybe  
5 take them to dinner, ride with them to the Prison  
6 Review Board hearings. You know, any way that--you  
7 know, we were really fortunate they were handled  
8 very well. But it was like the only kidnapping I'd  
9 ever heard of was Charles Lindbergh's baby really.  
10 And everything was just so new. And I didn't want  
11 anyone, you know, if I could help it, have to be  
12 there alone again so--.

13 MR. COLDREN: And I, just in terms of legal  
14 remedies that he has, I really think that there are  
15 not any. Now, I can't speak for what the  
16 legislature might do or what the governor might do.

17 MS. LARSON: I know.

18 MR. COLDREN: But I appreciate your, thank  
19 you for listening to me.

20 MS. LARSON: No. I appreciate it really.  
21 Thank you.

22 MS. BIENES: I also want to thank you for  
23 coming here today and for educating us, and also I  
24 want to thank you very much for the important

1 educational role you play in the community and for  
2 the effort you expend on behalf of other people. I  
3 think that is very valuable and important, and I  
4 hope the work of this committee will benefit you and  
5 the people you advocate for. And it seems to me  
6 anything we can do to shed light on the proceedings  
7 and have greater citizen involvement and public  
8 awareness of what goes on in court can only benefit  
9 the victims you advocate for, and I hope that will  
10 happen. So thank you for coming.

11 MS. LARSON: Thank you very much.

12 CHAIRMAN SULLIVAN: Is there any pending  
13 legislation that you're--did you say you were down  
14 here for pending legislation?

15 MS. LARSON: Right. It's House Bill 45  
16 authored and sponsored by Representative Turner and  
17 Representative Washington. And I don't have a bill  
18 in front of me, but in essence, it's saying that if  
19 we have an inmate that has served 30 years and gets  
20 to be 50 years of age, he be released or she be  
21 released. And what's so frightening about that, I  
22 mean, there's many more that I worry about. But I  
23 also worry about Vicky's killer because at this  
24 time, he's 46 years old. And again, if he gets out,

1 I, I can't even imagine what carnage he's going to  
2 release.

3 CHAIRMAN SULLIVAN: If they're 50 years old  
4 and have served what?

5 MS. LARSON: Thirty years.

6 CHAIRMAN SULLIVAN: That would be, I assume,  
7 eligibility rather than direct release?

8 MS. BISHOP-JENKINS: Yeah. Go to PRB.

9 MR. SCHWIND: I think the bill you're  
10 referring to I think says that they can petition the  
11 sentencing judge for a, there's a term for it, but  
12 to ask the sentencing judge for a reduced sentence  
13 to allow them to be released.

14 MS. LARSON: Right.

15 MS. BISHOP-JENKINS: That was last year's  
16 bill. This year's bill takes it to the PRB for a  
17 re--.

18 CHAIRMAN SULLIVAN: What did you say?

19 MS. BISHOP-JENKINS: This year's version of  
20 the bill doesn't go back to the sentencing court.  
21 It would take them to the PRB. It basically turns  
22 them all into C number cases where they can go to  
23 the PRB for early release.

24 MR. SCHWIND: If I'm not mistaken, it's for

1 all defendants that have been sentenced to a  
2 sentence other than death.

3 MS. BISHOP-JENKINS: Right.

4 MR. SCHWIND: It doesn't apply to death row  
5 inmates, but it does apply to people that have been  
6 sentenced to natural life.

7 MS. LARSON: It is going to be?

8 MR. SCHWIND: So in effect, it takes away  
9 that there is not, if it would go into effect, it  
10 would take away the, it would make a life without  
11 parole not true.

12 MS. LARSON: Right, right. But it is a lie  
13 anyway, truthfully, you know. When--I just thought  
14 he was going to be away forever, but all the time  
15 something new is coming up that he could be  
16 released. And I think too what scares me, well, for  
17 one thing, I've done it before is that you get a  
18 bill through and then you amend it because you  
19 realize it wasn't strong enough. But this is the  
20 part that scares me is if we get this piece on the  
21 books, what next step is it going to be.

22 MR. SCHWIND: You're exactly right.

23 MS. LARSON: And that on any of these bills  
24 just scares me to death. And then when we have to

1 worry about even the federal laws changing and--you  
2 know, I understand that Illinois then would have to  
3 vote on it. But what they're doing, they're holding  
4 the prisons hostage because if you don't follow what  
5 we say, you're not going to get any funding.

6 So this children thing, and the money that  
7 this group has put together to put out booklets, I  
8 mean, slick cover booklets. You know, put pictures  
9 of these inmates who were children at the time. I  
10 didn't see Vicky's picture in any of them. So, you  
11 know, it's sort of like we're, our victim groups are  
12 like David and Goliath. But he won and so will we.  
13 I'm sorry.

14 CHAIRMAN SULLIVAN: The system we have is  
15 that legislation can be changed.

16 MS. LARSON: Uh-huh.

17 CHAIRMAN SULLIVAN: So unless it's put into  
18 the constitution, which would then embed it into the  
19 law until there's a later constitutional change, you  
20 always will run the risk of that.

21 MS. LARSON: I know.

22 CHAIRMAN SULLIVAN: But we all thank you for  
23 your testimony again.

24 MS. LARSON: Thank you.



1           CHAIRMAN SULLIVAN:  It's good to see you,  
2   Dora.

3           MS. LARSON:  Good seeing you.  Thank you.

4           CHAIRMAN SULLIVAN:  All right.  We will now  
5   hear from Kevin Lyons, State's Attorney at Peoria  
6   County.

7                        Go ahead.

8           MR. LYONS:  I'm Kevin Lyons.  I'm the Peoria  
9   County State's Attorney.  I appear here today with  
10   my colleague, Tom Brown, who's the Livingston County  
11   State's Attorney in Pontiac, and together we  
12   represent the Illinois State's Attorneys  
13   Association.  Ladies and gentlemen, good morning.  
14   On occasion a pastor friend of mine reminds his  
15   congregation that everybody wants to go to heaven  
16   but nobody wants to die.  Except in rare instances,  
17   the same description applies to persons facing the  
18   death penalty as a result of a murder for which they  
19   have been convicted.

20                       Therefore, this Commission could meet from  
21   now until the end of time and still never get any  
22   closer to some compromise where the defendant will  
23   wave the white flag of surrender and say he's ready  
24   to concede that his guilt has been proven and he is

1 ready to meet his maker. This Commission's  
2 examination of Illinois' death penalty has been  
3 many, many things. It has been thorough, intense,  
4 meaningful, far-reaching, and very successful.

5 It has examined the constitution, helped  
6 to change the law, improve police procedures, modify  
7 the standard for imposing the death penalty. All of  
8 these things along with the previous governor's task  
9 force. They've demanded better witness reliability,  
10 mandated video recording of suspect interrogations,  
11 and encouraged perhaps the most sweeping but quietly  
12 unnoticed change in Illinois law which now allows  
13 the Illinois Supreme Court to completely vacate a  
14 death sentence if it on its own concludes that the  
15 death penalty is, quote, fundamentally unjust as  
16 applied to the particular case.

17 We believe as state's attorneys that  
18 Illinois has experienced the most far-reaching  
19 positive examination of its death penalty laws than  
20 any other state in the nation. The changes that I  
21 have listed and many more have served well the fine  
22 men and women that deal in the death penalty as  
23 prosecutors and defense attorneys. It has served  
24 well the courts and the entire criminal justice

1 system. It has served very well the accused, and by  
2 its very nature, it has served to protect even  
3 better, better than before, the principle that  
4 ensures that guilty persons are convicted and  
5 innocent persons are not mistakenly or falsely  
6 accused.

7 Mr. Sullivan, you and I were at this from  
8 the very beginning. And the exchange of thoughts on  
9 this sensitive subject between you and I and between  
10 the fine people of the Commission, the legislature,  
11 the prosecution bar, and the defense bar has been  
12 passionate and spirited, but it has been productive.  
13 And while some people argue about meaningless things  
14 as if they are matters of life and death, please  
15 know that the prosecutors of Illinois appreciate the  
16 work of this commission and its subparts that have  
17 always, although sometimes wrong, treated these  
18 matters with the utmost of respect. Because really  
19 and truly, these cases are matters of life and  
20 death.

21 This commission and the preceding  
22 governor's death penalty task force has been  
23 thorough and vigilant, and the legislature has been  
24 swift in being appropriately responsive. For six

1 years, they have been this. Now they need to be one  
2 more thing. Done. The state's attorneys of  
3 Illinois are not lobbyists for the death penalty,  
4 but we are supporters of the law. And we believe  
5 that law-abiding citizens in Illinois are hopelessly  
6 confused about whether a death penalty even exists  
7 in Illinois. Trust me. We see it happen 12 people  
8 at a time.

9 No death penalty jury ever gets selected  
10 in Illinois today without several prospective jurors  
11 getting odd looks on their faces and in reply to  
12 questions, they answer, well, I thought they didn't  
13 impose it anymore. After all, how could they not  
14 wonder such a thing? Out of whole cloth, a former  
15 governor simply invented the notion that a statute  
16 could be casually ignored or suspended until, until  
17 what? And he called it a moratorium. Perhaps  
18 because it seemed so harmless, the phrase took off  
19 and other people began to use it as though the  
20 courts had to salute this new creature, this  
21 moratorium.

22 When the question is asked, when will the  
23 moratorium be over, an answerer usually shrugs his  
24 shoulders and says something like, well, I guess

1 when the thing gets fixed. Or when they finally get  
2 it right. It is time to tame the toothless tiger.  
3 I submit that the moratorium on the death penalty in  
4 Illinois was politely honored in the very beginning  
5 because it appeared that honorable efforts were in  
6 motion to review, refresh, reconstruct, and reinvent  
7 the death penalty laws of Illinois and the  
8 procedures surrounding them.

9           However, what the moratorium became was a  
10 technique for death penalty abolitionists to  
11 accomplish indirectly what they had been unable to  
12 achieve directly. The legislature then and other  
13 elected officials weirdly opine that a moratorium  
14 puts the issue of the death penalty out of their  
15 reach. Under this theory, store merchants should  
16 pray that some governor doesn't some day declare a  
17 moratorium on shoplifting.

18           Let me please be clear. The millions and  
19 millions of Illinoisans that do not commit murder  
20 and who faithfully show up for jury duty should not  
21 have to live the better part of a decade wondering  
22 whether or not Illinois even has a death penalty.  
23 The Illinois State's Attorneys Association calls  
24 upon this commission to do as statutory told and

1 timely conclude on December 31, 2009. To the  
2 Illinois General Assembly we encourage two words:  
3 Do something.

4 We call upon the legislature to debate and  
5 to decide this session and by individual vote  
6 whether death penalty reforms now implemented shall  
7 result in full and unfettered movement of dealt  
8 penalty cases or if the death penalty in Illinois  
9 shall be abolished. Period. The muddy, murky,  
10 middle of a moratorium fosters total disregard of  
11 the law for law-abiding Illinoisans. It is the very  
12 definition of stuck in neutral going nowhere.

13 For six years, the death penalty in  
14 Illinois has floated without purpose in unknown  
15 waters, and while talked about, prospective jurors  
16 are told it exists, but they have no reason to  
17 believe that it truly has meaning. The death  
18 penalty in Illinois has become the 21st century  
19 counterpart to the Gabor sisters. It has become  
20 famous for merely being famous. Thank you,  
21 Mr. Sullivan and Mr. Schwind and the members of this  
22 committee, for productive efforts.

23 The commission should now wind down to  
24 conclusion. Respectfully, we submit that the

1 legislature, the governor, and the Attorney General  
2 should commend your efforts, find favor with the  
3 safeguards and changes made, and remove the  
4 invisible and nonstatutory brick of moratorium from  
5 the death penalty path on which the worst murderers  
6 of Illinois should timely travel. Thank you.

7 MR. SCHWIND: Thanks, Kevin.

8 CHAIRMAN SULLIVAN: Chip?

9 MR. COLDREN: Nothing from me. Thank you.

10 CHAIRMAN SULLIVAN: Walt?

11 MR. HEHNER: Kevin, as usual, thanks for your  
12 always well-thought-out presentation. Got a  
13 question for you though. What's your opinion on  
14 reducing the aggravating factors for the death  
15 penalty maybe down from six to 10?

16 MR. LYONS: Or less.

17 MR. HEHNER: Well, no. I would say it should  
18 be no less than 10, but I threw that out there just  
19 to appear diplomatic.

20 MR. LYONS: Well, I'm nothing if I'm not  
21 diplomatic. It's strange that you would say that.  
22 State's attorneys are no different than other  
23 humans. They sometimes privately speak things that  
24 they don't publicly say. But the truth is is that a

1 very small number of the, what are their, 16  
2 aggravating factors or something?

3 MR. HEHNER: It's up to 21 now.

4 MR. LYONS: A very small number of those are  
5 really truly used. In fact, several of them have  
6 never been used. But some horrific event happens, a  
7 massive number of public servants get killed in the  
8 course of a bombing, and all of a sudden it becomes  
9 a different factor, a greater factor because now if  
10 you kill a public servant it's a death penalty case.

11 It's a matter of management. And it's  
12 hard to do when you're a legislator, I would think,  
13 to vote to take away a factor that somebody already  
14 holds in their pocket. But if the purpose is to  
15 focus and to manage the death penalty, I do believe  
16 that the state's attorneys of Illinois, in fact, I  
17 know that the overwhelming majority of them believe  
18 that they should probably be reduced. Now, having  
19 said that, please don't ask me which ones we should  
20 take away.

21 MR. HEHNER: That's it. I think the one we  
22 should do away with is the terrorism factor because  
23 I think if a terrorist gets to Illinois--well,  
24 that's not going to happen. I don't think it would



1 get past the U.S. Attorney's office. Thanks, Kevin.

2 MR. LYONS: Thank you. Appreciate it.

3 MS. BISHOP-JENKINS: Thank you, Mr. Lyons,  
4 for, especially to all of the prosecutors in the  
5 state for the work that you do because you all are  
6 and I know you personally especially are very  
7 passionate about helping victims' families and  
8 standing with them, and so for that I'm very  
9 grateful to you.

10 I was just curious, you've spoken very  
11 eloquently about the impact of the moratorium on  
12 people like you and potential jurors and the public  
13 and so on. What specifically--could you provide any  
14 short anecdotes about the impact that you see on  
15 victims' families? I believe that of the 15 cases  
16 that are currently on death row, are one of them, a  
17 couple of them from your county? I'm not sure.

18 But have you had an opportunity to observe  
19 what impact the moratorium has had on victims? The  
20 confusion that you spoke to especially with regard  
21 to jurors. Is that--.

22 MR. LYONS: Right. The confusion is much  
23 greater with jurors because they're making a  
24 decision which, like it or--you know, even--it's

1 strange. Even though most people, many people would  
2 say, please, this person will get struck by a meteor  
3 before he'll ever be put to death under Illinois'  
4 death penalty, but strangely, a defendant doesn't  
5 quite see it that way. A defendant still thinks,  
6 you know, we're talking about me.

7 So jurors are only one step ahead of that.  
8 Jurors take it very seriously, as well they should,  
9 when they decide that. But I would mention that a  
10 prosecutor could never say in an open courtroom to a  
11 jury, well, you know, look, you know, this isn't  
12 that big of a deal. Go ahead and vote for the death  
13 penalty because we all know how long it takes to get  
14 there. That case could be reversed that quickly.

15 So we have to sort of pretend that it's  
16 moving along on its little path. But I've not had a  
17 death penalty case yet that more than, many jurors,  
18 prospective jurors ask, well, I thought they did  
19 away with that. They weren't commenting on it, they  
20 just thought it didn't exist. And so we put them  
21 in, no, no, it exists, and they think, well, I must  
22 have not read the paper that day. It's very  
23 impacting.

24 With regard to victims, victims actually

1 have had a reduced faith in the system, I think.  
2 Because while they believe that perhaps their case  
3 should be one that would be death-penalty eligible  
4 or qualified, they sometimes sort of in a show of  
5 defeat, well, you know, why bother? But I will say  
6 this: Whether a person supports the death penalty  
7 or not, and truly, prosecutors, you know, if you,  
8 the legislature changed the law tomorrow to  
9 everything to life without parole, the prosecution  
10 should support that. That's just how it is.

11 You know, everybody has their role. But  
12 there is a value of leverage for the prosecution  
13 when the defendant knows that a death penalty case  
14 is, can be considered by the prosecutor, and it  
15 does, so it does have a leverage tool where the  
16 defendant's attorney, of course, can come and say,  
17 look, I have a client that might be interested in  
18 pleading to something different if you can take this  
19 off the table. So it has its value, but it's, in  
20 the courtroom it's almost as though we wink about it  
21 and go about our life.

22 MS. BISHOP-JENKINS: Okay.

23 MR. SCHIEDEL: Yes. Mr. Lyons, I'm really  
24 glad that you could come today, and I'm grateful for

1 the chance to talk to you and I hope--I don't want  
2 to go on too long, but a couple years ago there was  
3 an event put on by the League of Women Voters in  
4 Peoria where I was supposed to debate you, but I was  
5 told--

6 MR. LYONS: Chickened out, huh?

7 MR. SCHIEDEL: I was told that you were ill.  
8 But Ms. Mermelstein showed up, and we had a lively  
9 discussion. I also want to say that as much as it  
10 pains me to say this, I'm not sure that a Peoria  
11 death penalty case was reversed by the Illinois  
12 Supreme Court.

13 MR. LYONS: In a way. We had a governor that  
14 reversed them all.

15 MR. SCHIEDEL: Yes. Yes. Putting that  
16 aside. So I think that you've tried these cases  
17 fairly and competently obviously, but I have a  
18 couple questions about the moratorium and how it  
19 affects juries. Do you think it helps the state or  
20 the defense more if the jury thinks, well, they're  
21 never really going to do this?

22 MR. LYONS: It's a good question because I  
23 used to think that. But after I talk with them when  
24 it's over, I'm giving away what people say, but

1 what, what tends to happen is that people that are,  
2 that seem to be passionate death penalty persons,  
3 you know, let me plug the chair in myself, that kind  
4 of stuff, they tend to say after the fact, well, we  
5 didn't think that this would really get implemented,  
6 so we think we're going to make him suffer more by  
7 giving him life without parole.

8           You know, they do this value judgment  
9 thing as though, death is too good for him, we're  
10 going to give him life without parole. So I've sort  
11 of stopped trying to out-think jurors because  
12 there's a lot of them. But I don't think that they  
13 cheapen it, and therefore, I have to give it because  
14 they don't do it but, you know, it's hard for the  
15 prosecutor to even act as though we're on the path.  
16 People, legislators are quick to say, we have a  
17 moratorium, but no governor is going to be  
18 addressing this issue for many, many, many years.

19           MR. SCHIEDEL: Well, that's the last point  
20 I'd like to ask you about is you characterize a  
21 moratorium as putting fetters on the movement of  
22 death penalty cases.

23           MR. LYONS: Uh-huh.

24           MR. SCHIEDEL: But as we sit here, death

1 penalty cases are being prosecuted up and down the  
2 state, and people are being sentenced to death. The  
3 cases are being appealed. Try as we defense  
4 attorneys might, we're not going to slow them down  
5 that much. They're moving forward, they've moving  
6 through the Illinois Supreme Court, the Illinois  
7 Supreme Court has upheld six, five or six cases  
8 already. Those cases are moving into  
9 post-conviction.

10 I'm sure the judges are not slowing them  
11 down. I'm sure the prosecutors are not slowing down  
12 the processing of those cases, and when those  
13 rulings, whatever they may be, are appealed, the  
14 Supreme Court is not going to slow them down. And  
15 if the appeals are unsuccessful in the  
16 post-conviction process, the federal courts, there's  
17 a deadline of habeus petition that will have to be  
18 filed.

19 It's not going to be affected by the  
20 moratorium, it's not going to be slowed down by the  
21 moratorium. The federal district judges are not  
22 going to slow these cases down. The Seventh Circuit  
23 Court of Appeals is not going to slow them down, and  
24 U.S. Supreme Court is not going to slow them down.

1 So where are the fetters? The process is moving  
2 along.

3 And I don't know if, you know, at the  
4 state court level, I can't, I mean, I don't know if  
5 prosecutors feel that they're hindered because  
6 there's a moratorium. I mean, I hope you're right  
7 that it helps the defense because fewer people will  
8 receive the death penalty, but I'm sure there are  
9 cases where, I would assume there are cases where  
10 the opposite is the effect.

11 Maybe we'd have to hear from, I don't  
12 know, the defense people as far as how they think a  
13 juror feels when he or she doesn't think there's  
14 ever actually going to be an execution, whatever the  
15 person votes for. I'm sorry for going on so long,  
16 but interested to hear your response.

17 MR. LYONS: My only reply would be that no  
18 one would ever watch a baseball game if they only  
19 let you get to the third. And in a moratorium, we  
20 do what we do at the trial level, appellate level  
21 and you say the Supreme Court level, and then we put  
22 it in neutral and set it aside, and a death date is  
23 not given. If a death date is given, then we march  
24 up against the backdrop of the death date. But that

1 doesn't happen. Because there is no petition for  
2 death date by the Attorney General. There is no  
3 death date that's set for the person on death row.

4 MR. SCHIEDEL: But if I could interrupt,  
5 that's not affected by the moratorium.

6 MR. LYONS: Sure.

7 MR. SCHIEDEL: Excuse me. When the Supreme  
8 Court upholds a death sentence, as they have done  
9 within the last few months, they set an execution  
10 date. It's not stayed by the moratorium, it's  
11 stayed by the further legal proceedings. The  
12 Attorney General's got nothing to do with anything  
13 about requesting a death date until the legal  
14 proceedings are over. The moratorium doesn't affect  
15 that in the slightest.

16 MR. LYONS: No, that's not true. The  
17 moratorium, in fact, is, comes from the top down,  
18 not from the bottom up. A governor will say that, I  
19 will not have this proceed on its path. The  
20 Attorney General has indicated that the Attorney  
21 General's office will not intervene with the  
22 governor's decision to do that.

23 MR. SCHIEDEL: Well, if I could--excuse me  
24 for interrupting, but perhaps we should get someone



1 from the Attorney General to comment on this.  
2 Because you're not involved at this point in seeking  
3 execution dates because the cases are still in the  
4 courts.

5 MR. SCHWIND: This is Rick Schwind from the  
6 Attorney General's office. I can tell you that I  
7 know of no movement by Attorney General Madigan to  
8 seek an execution date on any of the defendants that  
9 are currently on death row.

10 MR. SCHIEDEL: Well, she wouldn't be able to  
11 because they're stayed by the courts.

12 MR. SCHWIND: That's true. That's true.

13 MR. SCHIEDEL: Well, that's an important  
14 point to bring out, don't you think?

15 CHAIRMAN SULLIVAN: Well, I know that we need  
16 to keep debating. I think Kevin's got a good point,  
17 which is that the end step can't be taken. You got  
18 to get to third, but you're not going to get home or  
19 home to heaven or hell or wherever you're going to  
20 go when you get killed by the state. So I don't  
21 know that we need to beat this horse any further.

22 MR. SCHWIND: I just want to say I think  
23 there's the legal and then there's the realistic.  
24 And I look at it as a trial lawyer, as Kevin says,

1 and I agree with Kevin, it's in the minds of the  
2 jurors because nine times out of 10, you'll get a  
3 motion in limine that you don't talk about the  
4 moratorium, you don't question it because it  
5 shouldn't come in to the jurors' decision.

6 MR. SCHIEDEL: I agree.

7 MR. SCHWIND: But it's there. It's like  
8 ignoring an 800-pound gorilla that's in the  
9 courtroom. You can't do that. But I agree that it  
10 is a tripping point or a brick, I think as Kevin  
11 said, in the road to stop. It's either got to be  
12 lifted or permanently put there.

13 MR. LYONS: On something we might agree,  
14 unless--and I don't know you folks, but unless this  
15 person is a person, unless a person says, I want a  
16 moratorium in order to not have the death penalty,  
17 so set that person aside. Unless that's a person's  
18 objective, I would hope that you would agree with me  
19 that a moratorium on almost any issue should not be  
20 ad infinitum. It should not go in perpetuity.  
21 Because a moratorium is sort of a suspension or a  
22 keeping things from not going forward until  
23 something is accomplished. So until that  
24 person--unless that person has as their objective

1 that, it seems to me a moratorium should conclude  
2 for all issues at some time.

3 MS. BIENES: I'd just like to add a brief  
4 comment on this debate, and then I have two  
5 questions for you. Thank you very much for your  
6 testimony, Prosecutor Lyons. We're very happy to  
7 hear you today. Just my comment on this brief  
8 exchange, it's my understanding that there's a great  
9 deal of academic work involving interviews with real  
10 capital jurors which has been published in legal  
11 journals and other places which shows that when a  
12 juror believes that a death penalty is not going to  
13 be imposed, that juror's more likely to vote for  
14 death than not for death, and I refer you to that  
15 literature, which I'm sure you're familiar with.

16 However, my two questions are not  
17 involving that. One is will you and your associates  
18 help us develop a reliable list of cases that have  
19 gone to capital trial in the entire state, cases for  
20 which there was a factual basis for the death  
21 penalty being sought where a notice of factors was  
22 served and cases where there was a factual basis for  
23 the death penalty being sought and a notice of  
24 factors was not served?

1                   We very much rely upon your office to  
2                   assist us in developing this, and we hope that you  
3                   will help our committee do something, in your own  
4                   words, to assist the state legislature in doing  
5                   whatever it sees fit to do and inform the  
6                   legislature as best as we can how the death penalty  
7                   in Illinois has been working in practice and in  
8                   effect. So I hope that you will--my question to you  
9                   is will you assist us in this process.

10                   MR. LYONS: The short answer is yes. The  
11                   extension of my answer is that there are a lot of  
12                   persons at everybody's door wanting data for this  
13                   and data for that, and so I, I would only submit  
14                   that the request for whatever those things are  
15                   should be something easily understood so that it  
16                   could be provided uniformly as opposed to can you  
17                   imagine if somebody said, well yeah, here are the  
18                   three cases we had, and here's a little synopsis of  
19                   it? You know, then you have to collate that and  
20                   compile that.

21                   But that's not a difficult thing to do,  
22                   but it needs to be concise and uniform. But I,  
23                   we've discussed that before, and I suppose it's  
24                   because up to this point, it's really a letter in

1 the mail as opposed to a unified effort from the  
2 association. I think we would be amenable to that.

3 MS. BIENES: My understanding is a letter  
4 from this committee has gone out to every state's  
5 attorney in the state asking them for the  
6 information and a copy of the indictments in all  
7 cases where the notice of factors was served. And  
8 again, of course, a competent prosecuting attorney  
9 such as yourself is very well aware of what cases  
10 have gone to capital trial in his or her county and  
11 how they came out so that the information is not  
12 wishy-washy or vague with regard to a case that went  
13 to capital trial.

14 And such a letter has come from this  
15 committee, and we have received diligent responses  
16 from a number of county attorneys, and we appreciate  
17 that very much and we would like to receive  
18 additional ones. By the way, we're only asking for  
19 information from the years 2003 through 2008 and  
20 only for cases which have been completed. And  
21 again, we know a competent attorney such as yourself  
22 would be very well aware of what those cases are in  
23 your own county.

24 MR. LYONS: Well, and I would reply to a

1 capable panel member as you that, in fact, I do  
2 respond to those things.

3 MS. BIENES: Thank you.

4 MR. LYONS: And I do respond to them in a  
5 timely fashion. But, you know, the more you speak,  
6 the more you give qualification to it. 2003 to  
7 2008, only those cases that have been completed on  
8 factors that copies of an indictment. You know,  
9 these are not simple matters of dropping something  
10 at the door and wanting it to come back because  
11 prosecutors may, in fact, qualify a case for a death  
12 penalty and seek it, but somewhere along the path,  
13 it may settle or it may reach another disposition.

14 So to suggest that every prosecutor in  
15 every county in some way keeps some mental list of  
16 the factors, the indictments, the cases that have  
17 concluded but only from 2003 to 2008 and not before,  
18 you know, is disingenuous, and that's not how data  
19 is collected, collated, nor would we disseminate it.  
20 I think that my previous answer is the same, and  
21 that is that we would be interested in giving  
22 information that is uniform and that is compelling  
23 and that is not simply a letter in the mail. That's  
24 not how you collect data.

1 MS. BIENES: Well, when you say a letter in  
2 the mail, are you suggesting that it's not possible  
3 to identify cases in terms of which cases went to  
4 capital trial and sentence and indictment in those  
5 cases?

6 MR. LYONS: No. Those things are always, are  
7 almost always retrievable.

8 MS. BIENES: I mean, presumably members of  
9 this committee do not have to travel to every corner  
10 of the state in order to receive information  
11 concerning cases in the farthest corners of the  
12 state.

13 MR. LYONS: No. I don't think a personal  
14 visit's required.

15 MS. BIENES: I very much appreciate that, and  
16 we will certainly call on you to help us in this  
17 endeavor. My second question is, is it your  
18 experience and what do you--that defendants will  
19 plead guilty in order to avoid a capital trial, and  
20 what do you think of that?

21 MR. LYONS: Well, every defendant should be  
22 entitled to operate with that as a possibility. Am  
23 I to prevent them from asking me? That's certainly  
24 a fair part of the exchange that occurs between

1 prosecutors and defense lawyers. And a  
2 prosecutor--maybe, maybe I'm reading between the  
3 lines. Maybe your question is that a prosecutor  
4 would seek a death penalty in order to enhance his  
5 or her position so that before we get to the trial  
6 the defendant would plead guilty and we'd package up  
7 our case, and that happens.

8 But I would say that the premise of that  
9 is not entirely inappropriate in the sense that a  
10 prosecutor always should file a case that they  
11 believe can be proven, and if something short of the  
12 maximum result of the charge filed can be achieved  
13 and the parties agree on it and the court approves  
14 it, that's something I think that should always be  
15 on the table; do you not.

16 MS. BIENES: Thank you.

17 MR. LYONS: Do you not think that?

18 MS. BIENES: You know, I'm not a practicing  
19 attorney, and I wouldn't comment. I was interested  
20 in what you thought.

21 MR. LYONS: I think prosecutors should  
22 because the opposite of that notion is more chilling  
23 to me. And that is the prosecutor said, I'm seeking  
24 death, and I'm going to close my door until the day



1 we pick a jury. That seems a little weird to me.

2 MS. BIENES: My understanding is at least in  
3 some states the rule is that once a notice of  
4 factors is filed it cannot be removed and set for  
5 cause. It can't be removed, it's part of the plea  
6 bargain.

7 MR. LYONS: Well, in Illinois, you know, one  
8 of the things that has been made in the course of  
9 your panel life here has been that a court can  
10 decertify a case that's been certified as prosecutor  
11 under a few circumstances, single witnesses and so  
12 on.

13 MS. BIENES: Right.

14 MR. LYONS: And I think that's a good thing.

15 MS. BIENES: Thank you. I look forward to  
16 working with you on these endeavors.

17 MR. HOWARD: As a trial attorney, any of the  
18 laws that came into effect in 2003 having a negative  
19 impact, and are there any of the laws that took  
20 effect that need to be expanded to make them more  
21 effectual?

22 MR. LYONS: The Capital Litigation Trust Fund  
23 is being milked like a cow by the, not just the bar  
24 of Illinois but every little piece and parcel of it.

1 I'd never even heard of the phrase mitigation expert  
2 until seven or eight years ago. What, do these  
3 people just make up these things and then they  
4 become that? And then they get paid by the hour?

5 In my opinion, that is, that makes--and it  
6 doesn't happen all the time, but it makes the rest  
7 of the whole thing look awful because the public  
8 says, what? A million dollars? And my suggestion  
9 to improve that is that a judge should set a budget  
10 for that and at the commencement of the matter  
11 should say to the trial counsel, here's what I  
12 believe this case, you should be able to defend this  
13 case for that amount, and if you want to exceed  
14 that, you can petition us. But that is really  
15 draining the bank.

16 MR. HOWARD: But that change, that has taken  
17 place at the beginning of a case with the trial  
18 judge setting the budget.

19 MR. LYONS: The, there's an in-camera,  
20 there's an in-camera hearing where the prosecution  
21 doesn't even attend and isn't allowed in, in fact,  
22 where the defense lawyer becomes another dog barking  
23 at the gate and gives the judge his or her new and  
24 improved list of services, and then the court signs

1 off on that. And it's endless, and it's, it really  
2 needs--it was well-intended, I think, but it really  
3 needs to be brought under control.

4 The other is that the training for  
5 prosecutors, first time in the country I might add,  
6 that prosecutors have been required to reach a level  
7 and be certified, and I think that's been a good  
8 thing. The other items that are evidentiary in  
9 nature are very good. And although I'm not much of  
10 an apologist, as you may have learned, I have to  
11 tell Mr. Sullivan, Tom, that you were right with  
12 regard to that videotaping of suspects in homicide  
13 cases.

14 I thought that it would be more chilling,  
15 and I thought that it would result in, and it has  
16 resulted in hours of hours of videotape. But I  
17 think the courts have done a good job in redacting  
18 it and paring it down. You'll remember that that  
19 was my fear that we would have jurors falling asleep  
20 watching, you know, six hours of a guy eating a  
21 Steak 'n' Shake meal while he was still denying it.  
22 But it's, that was a pretty good--and we didn't  
23 agree on that, you'll recall. But that's been a  
24 healthy addition, I think, to the--you know the old

1 saying a picture says a thousand words, and so  
2 there, a video is a thousand pictures. And I like  
3 that so--.

4 CHAIRMAN SULLIVAN: I've always regarded that  
5 as a--there's somebody else that wants to sign in.

6 MR. SCHWIND: No. He's already signed in.

7 CHAIRMAN SULLIVAN: I've always regarded that  
8 as a law enforcement--of greater benefit to law  
9 enforcement than to the defense.

10 MR. LYONS: Right.

11 CHAIRMAN SULLIVAN: But overall a benefit to  
12 the criminal justice system on both sides.

13 MR. LYONS: Right. And actually I, I  
14 probably am even more agreeable to the expansion of  
15 it in other cases.

16 CHAIRMAN SULLIVAN: Right. That was one of  
17 the recommendations 83 in the governor's commission  
18 that the reforms that are applicable in non-death  
19 cases should be adopted in non-death cases. We'll  
20 see. I think it's moving in that direction. Many  
21 states are now adopting recording statutes and not  
22 applying them only to homicides but to other serious  
23 felonies.

24 MR. LYONS: And I'm not going to tell war

1 stories except that last year I had a case where it  
2 was, I mean, it was a fervent denial; why do you  
3 people have me here? And of course, we're watching  
4 the entire thing and it was just, you know, why do  
5 you keep doing that? And then right before your  
6 eyes, I did it. It's a case study in psyche.

7 CHAIRMAN SULLIVAN: Was this a homicide?

8 MR. LYONS: Yeah. And it was, and it was one  
9 of those moments where you could describe that, but  
10 to show that to any person of conscience, and you  
11 would say, good heavens, I was believing that lie  
12 right up until that moment. So if I, if it works  
13 for me on those cases, I think it should work the  
14 other way too. And it shows it was a good  
15 suggestion and, well, that's that.

16 CHAIRMAN SULLIVAN: Thanks.

17 Go ahead. Jeff, did you finish?

18 MR. HOWARD: Yes.

19 CHAIRMAN SULLIVAN: Ed?

20 MR. PARKINSON: I will my five minutes to the  
21 gentleman from the Cook County--no. From the  
22 Attorney General's office. I always wanted to say  
23 that when we're in a legislative room.

24 MR. SCHWIND: Mr. Lyons, I just have two

1 things, and they're two hot-button issues with this  
2 committee that we've dealt with and kicked around  
3 and are still talking about. One is the  
4 arbitrariness of seeking the death penalty from  
5 county to county, and included--and I'm going to ask  
6 you because I do respect your experience because  
7 you're in the heart of the state. You're in Peoria,  
8 and I've been there, and I know that while it is a  
9 metropolitan area, it does have a very good pulse of  
10 rural Illinois.

11 So I guess the first question I have is  
12 the arbitrariness of seeking the death penalty from  
13 state's attorney to state's attorney or county to  
14 county and if you would incorporate your comments in  
15 the use of the guidelines that have been written by  
16 the State's Attorneys Association in conjunction  
17 with the Attorney General's office, whether they are  
18 used, how often in your experience.

19 And the second thing goes somewhat to what  
20 my colleague asked you about in regard to the  
21 Capital Litigation Trust Fund. While I totally  
22 agree with you that the trust fund is being used and  
23 abused, it has been floated in this committee a  
24 question that maybe sometimes the state's attorneys'

1 offices would seek the death penalty just to pass  
2 the cost of the prosecution to the Capital  
3 Litigation Trust Fund and not to have your county  
4 pay for the murder prosecution, so to speak. If you  
5 would address those two issues, I'd appreciate it,  
6 sir.

7 MR. LYONS: Let me do them in reverse,  
8 please. I agree that if I'm going to sit here and  
9 not defense lawyers who do it and they can document  
10 that in whatever journal they want to, then  
11 prosecutors ought to be subject to the same thing.  
12 The St. Louis Post Dispatch has done that, Chicago  
13 Tribune has done that, and it's, you know, you live  
14 by the sword, you die by the sword. And the  
15 prosecutor I think also should simply, like the  
16 defense lawyer, have his or her chance to explain.  
17 And if you can explain well, then so be it.

18 With regard to the Capital Litigation  
19 Trust Fund, the last thing I was going to say is  
20 that the budget-setting bill that was proposed or  
21 new also allows for an additional check after the  
22 fact. You can still return to the judge and ask for  
23 more money, another check even after all things are  
24 done. And with regard to the arbitrariness of those

1 things, most counties of Illinois, as you know, 102  
2 counties, many counties go not only a year but  
3 decades without having a murder at all.

4 But I want to tell you that I believe that  
5 the state's attorneys of Illinois for the most part  
6 are people of great conscience and, but you have 102  
7 people, you have 102 thoughts. I will not deny that  
8 some places, depending on where you are, think  
9 differently; that every murder is the electric chair  
10 murder or something.

11 And if you don't believe me, you only need  
12 to turn to the Southern Poverty Law Center and  
13 Morris Dees, who does a wonderful job, I think, in  
14 exposing the difference of a prosecutor in a  
15 southern state that may seek the death penalty in a  
16 case that no one remembers and another person who  
17 doesn't seek the death penalty in the triple murder  
18 of the school children from the town library.

19 And the, it's a difficult thing, but the  
20 state's attorneys have a very, have vigilantly tried  
21 to--we've all received and we've tried to embrace  
22 the principles of those guidelines that we do have,  
23 and I suppose that it's a geographic thing. Mainly  
24 because any murder in X town of small happenings is



1 a major event. But yet that same murder at the  
2 corner of walk and don't-walk in Chicago, that same  
3 killing may not spike the chart.

4 It's a complicated equation. But I agree  
5 with you that if certain cases, a profile that we're  
6 all aware of, had occurred in different counties,  
7 the result would be different. I'm not sure how to  
8 balance it, but I do know that geography plays a  
9 role in that, and we should continue working on  
10 that.

11 MR. SCHWIND: Thank you, sir. Thank you for  
12 your comments.

13 CHAIRMAN SULLIVAN: Kevin, one of the  
14 recommendations of the Governor's Commission was  
15 that there be a review commission, statewide review  
16 commission made up of prosecutors and one retired  
17 judge to try to even things out statewide. The  
18 state, as I understood, the State's Attorneys  
19 Association opposed that on the grounds that it was,  
20 would impinge upon their constitutional authority.

21 MR. LYONS: Do you mean when the death  
22 penalty case is sought or not?

23 CHAIRMAN SULLIVAN: Right.

24 MR. LYONS: At that point?





1           CHAIRMAN SULLIVAN: Right. In other words,  
2 before the state's attorney could, after a state's  
3 attorney decided that he wanted to seek the death  
4 penalty, this review panel would have to approve it,  
5 and if it wasn't approved, then the state's attorney  
6 would not be permitted to ask for the death penalty.  
7 And that was opposed by the, I am told it was  
8 opposed by the association on the ground that it  
9 would impinge on the constitutional rights of  
10 state's attorneys as separately elected officials in  
11 their counties to determine which charges to bring.  
12 I don't agree with that legal analysis, but putting  
13 aside the legal question of whether that would be  
14 constitutional or not, do you have any thoughts  
15 about the wisdom of that kind of a system?

16           MR. LYONS: I don't remember the association  
17 being opposed to that, but I certainly am. And I  
18 believe that it's because the state's attorneys in  
19 Illinois hold an oddly different role, I think, than  
20 most other county officers. They're statewide  
21 constitutional officers, but they are county  
22 officers and are thought of, in my opinion, by the  
23 residents of the county as the person that should  
24 reflect the thoughts of those persons in the county.

1                   And it's a very troubling thing--perhaps  
2                   when I say downstate I'm generalizing. But it's a  
3                   very troubling thing for persons outside the collar  
4                   counties and outside the metropolitan city of  
5                   Chicago to believe that in some way the makeup of a  
6                   panel of which they have no control over--maybe the  
7                   Senate president appoints two and the House  
8                   something appoints two and the governor appoints  
9                   two, and we all seem to think that this gives us  
10                  some equality and balance. But I think relegating  
11                  or delegating those decisions that citizens that  
12                  vote for you every 48 months to some panel is, has  
13                  ugly written all over it. Well-intentioned, but it  
14                  would be, you know, cat bag out of.

15                  CHAIRMAN SULLIVAN: Additional questions?

16                  MS. BIENES: Mr. Lyons, I just want to say  
17                  you just described the way this committee was  
18                  appointed, of course.

19                  MR. LYONS: I thought I did.

20                  CHAIRMAN SULLIVAN: Kevin, thank you very  
21                  much.

22                  MR. COLDREN: I have one question.

23                  CHAIRMAN SULLIVAN: Go ahead.

24                  MR. COLDREN: Hi, Mr. Lyons. Chip Coldren

1 from Governors University. Thank you very much for  
2 being here today. One other issue that this  
3 committee will be discussing over the next few  
4 months has to do with blind administration of  
5 line-ups in homicide cases. So I'm wondering if the  
6 association has taken a position on blind  
7 administration up to this point.

8 MR. LYONS: That question is probably boring  
9 to some people, but it's certainly not to me because  
10 I think that prosecutors and defense attorneys know  
11 better than most people in America the difficulty  
12 with relying solely on eyewitness. And so when the  
13 witness comes and the line-up, you know, it's  
14 always, well, we always pick number 3 or whatever it  
15 is. And Shirley Methenberg (sp) in the blind,  
16 double-blind study that was crafted was, had a  
17 surprising result to me.

18 And I think that, and the prosecutors, I  
19 think most prosecutors have read that. It's a very  
20 detailed report. And I think that it's, I think it  
21 has parts to it that are good and other parts to it  
22 that maybe are not compelling. In other words, I  
23 think that having a witness--well, I won't go into  
24 details of it, but I think it's an important thing

1 especially if your case pivots on the eyewitness  
2 testimony of a person. Because I think most people  
3 know that prosecutors are very nervous about cases  
4 that rely solely on, not solely but certainly  
5 primarily upon the person that says, that's the  
6 person.

7 Because the older you get, the more you  
8 have the chance to be falsely accused yourself of  
9 something, even if it's just in the workplace. But  
10 it's a very interesting issue that you raise, and  
11 yes, I do believe that prosecutors find it, that  
12 they want to improve that if we know how to improve  
13 it. I don't think that we're satisfied under the  
14 old way, bring them in, take a look. I don't  
15 think--that may work, but it can certainly be  
16 better.

17 MR. COLDREN: Thank you very much.

18 MR. LYONS: Thank you.

19 CHAIRMAN SULLIVAN: Kevin, thanks very much  
20 for coming.

21 MR. SCHWIND: Thank you.

22 MR. LYONS: Thank you very much.

23 CHAIRMAN SULLIVAN: We have the next witness,  
24 we have three more witnesses, and we're going to

1 take a 10-minute break, and then we'll pick it up  
2 with Tammy Sigwerth. All right? It's now 27  
3 minutes after 12, according to my watch. At 37  
4 minutes after 12 we'll resume.

5 (Whereupon a short recess was  
6 taken at 12:27 p.m.)

7 CHAIRMAN SULLIVAN: Would the next witness  
8 please identify yourself.

9 MR. WISE: My name is Peter Wise. I wrote  
10 down on the sign-in sheet since there was a space  
11 for organizations that I'm with the Illinois  
12 Association of Criminal Defense Lawyers. It is true  
13 I'm the past president of that organization and, but  
14 Chuck asked me to be here and I think testify not  
15 only as a representative of that organization but  
16 personally my experience of trying and being  
17 involved with a number of death penalty cases and  
18 speak to pre-reform cases and then post-reform  
19 cases. I think that would be I think a useful  
20 exercise.

21 CHAIRMAN SULLIVAN: Peter, can I ask you, do  
22 you practice privately, and if so, what do you  
23 practice?

24 MR. WISE: I'm in private practice. I've had



1 the unique experience of being in private practice  
2 doing primarily criminal defense work since the day  
3 I started practicing law. I didn't have a stint in  
4 the state's attorney's office or the appellate  
5 defender's office or the prosecutor's office. Right  
6 out of box I've been practicing here in Springfield  
7 doing mostly criminal defense work for the  
8 past--scary to say it--25 years.

9 MS. BIENES: Do you ever work as what we used  
10 to call pool attorneys? In other words, someone  
11 who's hired in conflict cases in capital cases  
12 particularly because the public defender has a  
13 conflict and so they have to hire outside counsel?

14 MR. WISE: In federal cases I'm on what's  
15 called the CJA panel, the Criminal Justice Act panel  
16 that handles conflict cases when the federal  
17 appellate defender has a conflict. I have twice  
18 been appointed by, through the Capital Litigation  
19 Trust Fund, and in one death penalty case prior to  
20 the fund, I worked on privately with my then  
21 partner--actually I wasn't a partner then but with  
22 Mike Metnick. I was first associate in his firm and  
23 then became a partner with him and since started my  
24 own firm about 12, 13 years ago.

1 MS. BIENES: But that was by appointment of  
2 the federal public defender, did you say?

3 MR. WISE: I'm sorry?

4 MS. BIENES: Did you say that was by  
5 appointment of the federal public defender?

6 MR. WISE: No, no. All the death penalty  
7 cases I've done have been in state court. And  
8 actually, to rethink, the pre-reform case I was  
9 involved in we were actually appointed by Macoupin  
10 County by Judge Koval, so that was not a private  
11 case.

12 MS. BIENES: Thank you.

13 CHAIRMAN SULLIVAN: Go ahead with your  
14 testimony, please, Peter.

15 MR. WISE: Well, my testimony, I had the  
16 impression from speaking to Mr. Schiedel that I  
17 would be subject to intense questioning  
18 interrogation by the panel. So my remarks will be a  
19 little bit more stream of consciousness than  
20 well-thought-out remarks of Mr. Lyons. But had I  
21 known, I would have not watched the U of I game  
22 yesterday and prepared some remarks. But again,  
23 there are some--I want to talk about and speak to my  
24 experiences in pre-reform cases, specifically the

1 Danny Hines case is a Macoupin County case, and then  
2 the second case is kind of a hybrid case because the  
3 facts of the case arose prior to the reforms, but  
4 the case was tried just as the reforms were being  
5 implementing. The third case, the Hamm case, where  
6 Ed was a, one of the prosecutors, was a full-bore  
7 reform case. There's a big difference. The Hines  
8 case was tried in the late 80s.

9 CHAIRMAN SULLIVAN: How do you spell the last  
10 name?

11 MR. WISE: H-i-n-e-s. Daniel Hines was our  
12 client. We got a call one, I remember clearly one  
13 summer afternoon from Judge Koval's office. He had  
14 a hard time trying to get a Macoupin County attorney  
15 to be appointed to this case and had called Mike,  
16 and Mike asked me to get in the car and drive down  
17 to Macoupin County and where we met Mr. Hines in the  
18 old Macoupin County jail. If anybody has ever been  
19 in Carlinville across from the courthouse, it's the  
20 building that, while it's two stories, I think the  
21 two stories are about 20 feet tall. People must  
22 have been much shorter then. And we met Mr. Hines  
23 in the kitchen of that room, and that was how we got  
24 appointed.

1           That case involved some forensic issues,  
2           and we had to fight tooth and nail to get Judge  
3           Koval to appoint a pathologist to help us in that  
4           case. He did. The pathologist was a, actually a  
5           physician here in Springfield, Grant Johnson, who is  
6           the dean of local pathologists, at least forensic  
7           pathologists. And again, that was our good fortune  
8           because he was always interested in those cases and  
9           wanted to work on them. But it was difficult to get  
10          funding for that case. That case went to trial,  
11          Mr. Hines was convicted, but Judge Koval found him  
12          not eligible for the death penalty, so we didn't  
13          have the issue of doing the mitigation part of that  
14          case.

15                 The next case was the Huff case and that  
16          case was--H-U-F-F, James Huff; that was tried in  
17          Macon County, and that was a, that case wound around  
18          for a number of years before Mr. Huff was even  
19          considered a suspect and later charged. If anyone  
20          recalls that case, that was the death of a  
21          three-year-old girl whose body had been dumped in  
22          the Sangamon River, and the prosecution evidence  
23          was, the police evidence was that she had been  
24          sexually assaulted.

1                   And there was a trailer court security  
2 guard who was the subject of quite a, of the police  
3 investigation but and even some, even a state grand  
4 jury investigation, but no charge was ever filed  
5 against him. Mr. Huff became a suspect when as a  
6 result of conviction in another offense, his DNA was  
7 obtained, and later there was a, just a, there's a  
8 CODIS hit, and he became a suspect.

9                   He was interviewed a number of times,  
10 denied his involvement, and he was then subpoenaed  
11 to testify before a grand jury appearance, and a  
12 young police officer interviewed him without note,  
13 without taking any notes, without taking, without  
14 having any partner there, without any video or audio  
15 equipment, and according to this young police  
16 officer, Mr. Huff then confessed and then he was  
17 charged. I was not the--

18                   CHAIRMAN SULLIVAN: Did you say there was a  
19 hit in CODIS of Hines'--?

20                   MR. WISE: No, no, no. Huff.

21                   CHAIRMAN SULLIVAN: I mean Huff.

22                   MR. WISE: Yeah. Huff, he was, one of the  
23 reasons he was charged was a CODIS hit. His DNA  
24 was, his DNA was actually in the room where Sarah

1 Cramer had been sleeping. There was later an  
2 explanation for that which was developed by some  
3 expert testimony. But Huff, Judge Graneous (sp) was  
4 the first trial judge in Decatur involved in that  
5 case, and he treated it as if it were a, you know,  
6 the trust fund had been in effect, the new reforms  
7 were in effect.

8 He appointed me after an earlier-hired  
9 private attorney claimed that he had run out of  
10 money, and actually John Hanlon at the appellate  
11 defender's office called me and asked me if I would  
12 be interested in being appointed, and I was. My  
13 experience in that case is that the reforms worked  
14 exactly like they were supposed to work. Judge  
15 Graneous and later Judge Payne were effective  
16 gatekeepers of requests for money.

17 Not every request that I submitted was  
18 honored. There were experts that I asked for that  
19 Judge Payne said, you know, think, let's look at the  
20 long term, do you really need that, and said no.  
21 John Hanlon of the trial, the capital litigation  
22 trial assistant's office worked along with me as the  
23 second attorney in the case. There weren't two,  
24 there weren't two capital litigation trial

1 bar-qualified attorneys appointed to that case.

2 Mr. Hanlon, who at that time had not  
3 received his certification from the Supreme Court  
4 but was certainly qualified given his experience,  
5 tried that case with me, and his assistance from the  
6 appellate perspective was absolutely invaluable not  
7 only in trying the case but trying it efficiently  
8 and effectively. The ability to take depositions in  
9 that case, which is one of the reforms, was  
10 absolutely crucial to a good result.

11 I guess you have to define what a good  
12 result is. It was certainly a good result for the  
13 defense. Mr. Huff was acquitted of all the  
14 intentional and knowing murder counts which would  
15 make him eligible for the death penalty. He was  
16 found guilty of a felony murder count of home  
17 invasion. That's kind of an odd result, and  
18 debriefing jurors afterwards, couldn't really,  
19 really didn't get a great explanation of why that  
20 happened. But that's what happened.

21 But the ability to take depositions of the  
22 state's pathologists and microscopists and blood  
23 biology experts in this case that across the board  
24 had an array of expert issues and rather complex

1 blood biology issues, rather complex microscopy  
2 issues with some fibers that were one of the  
3 centerpieces of the state's case and then the  
4 pathology issue which was central to their sexual  
5 assault count, we were, the ability to hire good  
6 experts, have the court hire good experts through  
7 the trust fund resulted in the jurors accepting I  
8 think the defense explanation of the sexual assault  
9 that the injury that the state was relying on as  
10 evidence of sexual assault was an injury that  
11 happened during the autopsy process.

12 It was determined by our experts to be a  
13 postmortem injury rather than a pre-death injury,  
14 and that went a long way I think to convincing  
15 jurors on those counts. The microscopy--and without  
16 being able to depose the state's pathologists and  
17 expose a lack of expertise on their part and have  
18 them, and confront them with the defense explanation  
19 and the state's experts actually agreeing with it,  
20 that isn't going to happen in interviews, but it's  
21 more likely to happen in the deposition process.

22 The same with the state's microscopy  
23 evidence. We were able to hire an excellent expert  
24 and through the deposition process of the state's



1 experts expose some flaws there that just would not  
2 have been done in a pre-reform type of case where if  
3 you're granted an interview with a state police  
4 microscopist, it's going to be a limited type thing,  
5 and you're not going to be able to spend the time  
6 that you have at a deposition to flesh out the  
7 issues.

8 In that case, you know, I heard Mr. Lyons  
9 talk about lawyers milking the fund. I've seen some  
10 eye-popping numbers that make my blood boil.  
11 There's no doubt about that. I checked my books  
12 prior to coming over here as I was thinking about  
13 this last Friday. I billed the Capital Litigation  
14 Trust Fund on this case. In fees I billed about  
15 \$180,000, and in costs I billed about \$70,000, and I  
16 can tell you right now I could have done better  
17 there.

18 You know, there's a number of different  
19 layers that apply in controlling costs, and one of  
20 them is, hey, I'm the attorney in charge of this  
21 case, and the buck stops with me. I had--there were  
22 two experts that got appointed, one of them before I  
23 was involved in the case and one of them after, and  
24 there's no point in having two experts--or two

1 investigators, excuse me. And there were some  
2 strong heads, bullish heads, about what the right  
3 theory in that case was, and it's up to the lawyer  
4 to run the theory of the case.

5 I had an investigator--I don't think it's  
6 appropriate to name his name--but was off running  
7 around investigating a theory that we need to find  
8 somebody who actually committed the offense rather  
9 than challenge various aspects of the state's case.  
10 The state had looked for six years and couldn't nail  
11 this on the trailer court security guard, and that  
12 wasn't going to be my theory of the case, but we had  
13 somebody chasing that around, and I didn't do a good  
14 enough job of stopping him.

15 I don't know what that cost in the end,  
16 but the buck stops with the attorney that's trying  
17 the case. So when I see cases from southern  
18 Illinois where the trust fund is billed for a  
19 million dollars, that, I can't fathom that. If I  
20 can try a case, a very complex case to verdict for  
21 \$180,000, I don't know why that can't be done. I  
22 mean, certainly there's complex cases, and every  
23 case has its own hills and valleys, but that's--and  
24 I'm not saying that should be some type of cutoff,

1 but that's about where I was.

2 The Hamm case was the Clinton County three  
3 children drowning case. I think anybody that talks  
4 about that case, that's immediately what comes to  
5 mind. And there was a co-defendant, Maurice  
6 LaGrone, who was involved in that case, and four  
7 lawyers were represented or were appointed to that  
8 case to represent Mr. LaGrone, two to represent  
9 Ms. Hamm. That case was a case, again, where I  
10 think the trust fund worked the way it was supposed  
11 to work.

12 There were expert issues, complex issues  
13 of the dynamics of a car in water. And that's an  
14 odd, that's not expert--that isn't like a DNA issue.  
15 We had an expert from California in that case. And  
16 Ms. Hamm had given a number of different statements.  
17 All of them except for one had been either  
18 audiotaped or videotaped, and we had, actually we  
19 had two experts that helped us decipher how those  
20 statements developed.

21 And I think in the end one of them  
22 testified, Richard Ofshe, whose I think name is  
23 familiar to many people who are involved in false  
24 confession work and the nature of confessions and

1 the nature of how police interrogate. I think that  
2 his testimony and the, first of all, the ability to  
3 hire him, the ability to work with him on a basis  
4 where we're not constrained by a, by a very limited  
5 budget, ability to work with him that I think proved  
6 invaluable to the result in that case.

7 In the end, the state after Mr. LaGrone's  
8 trial but before Ms. Hamm went to trial, the state  
9 withdrew its notice to seek the death penalty in the  
10 Hamm case, so I was not actually involved in the  
11 trial. The judge ended my appointment prior to  
12 trial. It was kind of a behind-the-scenes person  
13 but did not, was not in trial but, and the county  
14 eventually paid for Mr. Ofshe to testify in that  
15 case. But it was the work that was done while the  
16 case was a capital case that I think paid dividends  
17 for the result in that case.

18 But I think that the trial assistant  
19 division, Mr. Hanlon and his division are invaluable  
20 tools for attorneys that are appointed in these  
21 cases. He is knowledgeable, he is helpful, he is a  
22 diplomat that can, if there are--I'm not saying that  
23 there were ego problems in the Hamm case. Steve  
24 Skelton tried that case with me from Bloomington,

1 and we got along great. But John did an excellent  
2 job of coordinating issues and, again, looking at  
3 things from the appellate angle and frankly from the  
4 death penalty angle.

5 All the death penalty motions that need to  
6 be filed in these cases, John had that information,  
7 and it was a don't-reinvent-the-wheel type of  
8 situation. If he's there and his office has  
9 developed that expertise, if he weren't involved, it  
10 would be far more expensive to have to build those  
11 motions and build that body of work from scratch. I  
12 think the trust fund worked in that case. Judge  
13 Peters again was tight with a buck. And I, again,  
14 we worked to effect a division of labor so that we  
15 weren't double-billing.

16 We knew that we would be under scrutiny in  
17 this case or in every case and, for instance,  
18 Mr. Skelton handled the car expert, and I was  
19 working more with Amanda's statements and how to do  
20 that. Again, the buck stops with the attorney  
21 that's appointed in the case. And I think the idea  
22 of budgeting, I know there's some, that happens a  
23 little bit now. I have not been appointed on a  
24 death penalty case in the last couple years, but

1 that would be very limited to me.

2 I think that I would rather work from the  
3 prospect or from the process of, you know, Judge,  
4 here's what I'd like, here are my hours, and have  
5 the judge tell me, you're on track or you're not  
6 rather than have to submit to a judge that I'd like  
7 a fund of \$150,000, \$200,000, or whatever. I think  
8 that at least I am better suited to working that  
9 way.

10 I think the videotaping reform, I think  
11 that was a, that is, I've heard Mr. Lyons say that  
12 he welcomes that now. He was resistant to it at  
13 first. It's interesting to compare the two cases;  
14 Huff, where there was no taping, and there was an  
15 immense amount of litigation, you know, deposition  
16 testimony, trying to get an understanding of what  
17 happened in the room where Huff was alleged to have  
18 made incriminating statements.

19 There was a video camera across the hall  
20 that wasn't used. I think we, that would have  
21 resolved a lot of problems from, it would have  
22 answered a question what happened in that room. I  
23 think that jurors in the end discredited much of  
24 what the officer had to say, but it was, but it

1 could have been resolved.

2 And the Hamm case, again, all of the  
3 statements except for one, which, and the one  
4 happened where the officer claimed not to be able to  
5 get to a recording device, all of those were taped  
6 and provided and a fascinating view of a rather  
7 hopeless, helpless woman. Maybe Ed would disagree  
8 on the hopeless and helpless, I don't know. I  
9 haven't talked to him. But a fascinating view of  
10 what happens in interrogation to actually see a good  
11 cop/bad cop interrogation unfold I think was  
12 enlightening to me and to jurors.

13 And to see a police officer's theory  
14 unfold as he is trying, as he is asking questions I  
15 think was enlightening to everybody. So I think  
16 that's an excellent reform, and I would fully  
17 endorse that reform being applied across the board.  
18 In other first degree murder cases that I've tried  
19 that weren't death penalty cases in the last few  
20 years, I have certainly welcomed the fact that a  
21 statement of the suspect and later defendant was  
22 videotaped.

23 Mr. Sullivan said earlier this morning  
24 that he believes that helps the prosecution. The

1 cases I've tried it's been an absolute boon for the  
2 defense too. So there may be cases where it  
3 certainly is helpful to the prosecution, and I can  
4 see that. But a couple cases where we were able to  
5 establish a false confession in a so-called shaken  
6 baby case that led to an acquittal was, it was  
7 essential that that was videotaped, and we could see  
8 how that, you could see how it happened.

9 And then most recently, another Decatur  
10 first degree murder case, the taping, the  
11 videotaping of statements proved to be very  
12 beneficial to the defense.

13 I think the reforms are working well. I  
14 haven't spent enough time talking about how  
15 effective and how important it is to take  
16 depositions. And I can only add that we didn't do  
17 that a lot in the Hamm case. Some of the other  
18 attorneys that were appointed didn't believe in  
19 strongly taking depositions as I did. But in the  
20 Huff case we ended up taking maybe 13, I think, and  
21 I think in the end it saved time, money, and effort  
22 at trial, and it worked out very well.

23 And I've lectured extensively on taking  
24 depositions in death penalty cases and always point



1 out that it's great to have a tool that my civil  
2 brothers and sisters have been using for years to  
3 fight over bushel baskets of money, and now we get  
4 to use it when our client's life is at stake. So  
5 I'll take questions. I was looking for a more  
6 active appellate bench here so I didn't have to do  
7 all the talking, but happy to take questions.

8 CHAIRMAN SULLIVAN: Chip?

9 MR. COLDREN: Two questions. One probably a  
10 quick question. Are they working well enough for  
11 the Defense Lawyers Association? They're working  
12 well, you say. Are they working well enough?

13 MR. WISE: We had a board meeting a couple  
14 Saturdays ago, and I told them that I, I told my  
15 fellow board members I'd be speaking on this topic.  
16 We didn't, I didn't know the exact breadth of this  
17 hearing, so we didn't, I didn't have a discussion on  
18 that issue whether the reforms are working. So I  
19 can speak for myself, I can't speak for the  
20 organization.

21 MR. COLDREN: Okay. Your thoughts about  
22 blind administration of lineups.

23 MR. WISE: I think it's a great idea. If for  
24 no other reason, you remove any question of officer

1 bias, of witness bias, and I liken it a little bit  
2 to a taped statement. I mean, you remove any hint  
3 of officer bias. There's no mystery about what is  
4 going on there, and I would go one step further and  
5 I think there's no reason lineups shouldn't be  
6 videotaped so we can see that process too.

7 MR. COLDREN: Appreciate it.

8 CHAIRMAN SULLIVAN: Walt?

9 MR. HEHNER: What other reforms do you and  
10 your association, could you suggest to make death  
11 penalty prosecutions much more reliable than they  
12 are right now?

13 MR. WISE: We talked about the number of  
14 aggravating factors at our meeting, and I think that  
15 it would--I'm not breaking new ground when I point  
16 out that many of them aren't used. I think that, I  
17 think that would be an important consideration. I  
18 think that one of the other issues that we talked  
19 about was a little bit more transparency, to use a  
20 word that's become popular in the political lexicon.  
21 I didn't know of that word in that regard until  
22 about six months ago. When it comes to a prosecutor  
23 deciding to seek or not seek the death penalty.

24 In the Hamm case, originally both cases

1 were death cases, then Amanda's case was de-deathed  
2 and, for a number of months, and then after a period  
3 of time, the state reinstated its notice to seek the  
4 death penalty. And I'm not going to give my  
5 personal opinions about why I thought that happened,  
6 but I think more transparency in that regard would  
7 be important.

8 MR. HEHNER: Nothing else, Tom.

9 CHAIRMAN SULLIVAN: Thank you. Jennifer?

10 MS. BISHOP-JENKINS: Thank you for your  
11 testimony and for your fine work. I have two  
12 questions. One is in the times that you have used  
13 the laboratories when there's been testing work done  
14 in the laboratories, have you noticed any, comparing  
15 over all your cases, any differences in the labs  
16 that were privately administered as opposed to state  
17 labs that you or any other differences that you'd  
18 like to comment on?

19 MR. WISE: In the Huff case we used a lab in  
20 St. Louis, Genetic Technologies. And the lab is run  
21 by a woman by the name of Jamie Harmon, and I can't  
22 speak highly enough of her. She did an excellent  
23 job. I think that the, for the most part, the state  
24 lab, the ISP lab does a nice job. And the forensic

1 biologists in the Huff case were willing to speak to  
2 me. One had been, one had over the course of the  
3 case had retired but was still very willing to speak  
4 to me.

5           You know, I know there's been other cases  
6 where the ISP lab has been, it's come under some  
7 criticism, but at least with the blood biology  
8 issues, I thought that I didn't see much difference,  
9 and I know that Jamie works closely and has, the ISP  
10 people know her and vice versa. So they worked  
11 together, they've been adversaries, and so I did not  
12 see a difference there.

13           In the microscopy work that was done in  
14 the Huff case, I'd have to level a little bit of  
15 criticism that the state tried to pass off a theory  
16 that really did not have any basis in science, and  
17 why do that from the get-go. I mean, it really, we  
18 spent a lot of time dwelling on an issue that I  
19 thought we had no reason to be dwelling on and, in  
20 fact, tried to get the trial--you know, then again,  
21 asked the trial judge to prevent the state from  
22 presenting their testimony, and he let them do it  
23 anyway.

24           So not to get too detailed, but I asked

1 for a Fry hearing, the state has to, the theory that  
2 they were trying to pass off with respect to their  
3 microscopy evidence was indeed novel and, but, and I  
4 was a bit chagrined that we got as far as we did on  
5 some pretty thin testimony in that regard. But I've  
6 never, but the, and the private microscopy lab that  
7 we were using, the McCrone Institute outside of  
8 Chicago, was very helpful, and they've all ended up  
9 working with them in other cases. They do a nice  
10 job.

11 MS. BISHOP-JENKINS: So then for the lab work  
12 that you can control and ask for, do you tend to  
13 steer them one way or the other for any given  
14 reasons?

15 MR. WISE: John Hanlon had recommended Jamie  
16 Harmon become involved in the Huff case because he  
17 was familiar with her work, so that's how we ended  
18 up there. I, in terms of a private lab versus a  
19 state-funded lab, you know, I'll find who I can find  
20 and who can work best with me given my theory of the  
21 case.

22 MS. BISHOP-JENKINS: Thank you. And my  
23 second question was very much in the theme of what  
24 Mr. Hehner just asked about what we could do to make

1 things better with regard to the Capital Litigation  
2 Trust Fund's administration and the protections, and  
3 I appreciate very much your pointing out the  
4 specific things that you, your specific costs and  
5 comparing them to some of the more egregious cases  
6 that have made more headlines in terms of abuse,  
7 perhaps abusive use. Do you think now that some  
8 reforms have been made that those reforms are  
9 adequate, or would you from where you sit recommend  
10 there be others to that fund?

11 MR. WISE: I can't think of any others. You  
12 know, Nadine Jacobowski does a nice job. You wonder  
13 if there couldn't be an added layer of oversight  
14 even at her level. She sees some numbers that come  
15 in that, and she never, she didn't question a single  
16 bill I submitted. I think she understood or  
17 operates from an understanding that all the  
18 oversight, all the gatekeeping is done below her.  
19 But, you know, that may be something to be  
20 considered.

21 MS. BISHOP-JENKINS: Thank you.

22 MR. SCHIEDEL: Peter, thanks a lot for coming  
23 in and sticking around. On the trust fund area, if  
24 we're going to do a meaningful evaluation or a study

1 of how it's working or what flaws it has, do we need  
2 to ask judges to comment on why they have allowed  
3 the expenditures that have gotten the publicity that  
4 they've gotten? Because my understanding is that  
5 the judge has to sign off on every penny that's  
6 requested by the lawyers. Is that correct?

7 MR. WISE: That is correct. And in the Huff  
8 case, Mr. Hanlon and I would go to Judge Payne's  
9 chambers and we would have a sealed motion asking  
10 for an expenditure and, you know, it wasn't just a  
11 rubber stamp. Why is this necessary? Who is this  
12 person? What is this person's, what are their  
13 qualifications? You know, why isn't, you know, why  
14 isn't it enough that you have--you have one expert,  
15 why do you need this additional person?

16 And it, in that case, we had, we had a  
17 microscopist that was working for us from the, who  
18 was a former microscopist for the St. Louis County  
19 crime lab. But you know, he just didn't have it.  
20 He didn't have, he was more of a, I learned my trade  
21 from hands-on work, and we didn't think that was  
22 enough. We wanted McCrone, who I had dealt with in  
23 other cases.

24 He was, Judge Payne was, he grilled me a

1 long time why I had spent six, eight months with one  
2 expert and decided that that wasn't the right guy  
3 and why this didn't happen earlier. So I think that  
4 if you want to do an evaluation, yes, the trial  
5 judges are I think the first gatekeepers and the  
6 most important gatekeepers. And if they want, if  
7 they'll come, if they want to sit down and talk to  
8 you--I don't know if they will or not.

9 MR. SCHIEDEL: Yeah. That was my next  
10 question.

11 MR. WISE: Yeah. Because some of these--the  
12 two cases that I'm talking about there's no pending  
13 litigation, so both cases are fully resolved. The  
14 cases that are in post-conviction or some direct  
15 appeal I think judges may be a little less likely to  
16 want to talk to you.

17 MR. SCHIEDEL: Do you have any theories about  
18 why these legendary much-publicized expenditures  
19 were approved?

20 MR. WISE: You know, I've thought about that  
21 and the case, the Southern Illinois case, the  
22 Sutherland I think the guy's name is. I can't  
23 imagine how that happened. I just can't, knowing  
24 the process that happened in Huff and Hamm where you



1 have a judge that kept a watchful eye on what he  
2 was, Judge Peters and Judge Payne, on what they were  
3 signing. And I, I just can't figure that one out.

4 MR. SCHIEDEL: Okay. Thanks.

5 MS. BIENES: Thank you very much for your  
6 testimony. Just a couple of quick questions. One  
7 is why did the judge decide the case should not be a  
8 capital case in the Hines case, was it?

9 MR. WISE: No. In Hamm?

10 MS. BIENES: Hamm. Whichever--

11 MR. SCHIEDEL: She's asking why the judge--

12 MR. WISE: In Hines. Okay, right, right.  
13 The judge, the aggravating factor was, that the  
14 state had, was seeking death on was that, was the  
15 felony, the injuries occurred in the course of a  
16 felony that caused death. And there was a, there  
17 was an issue of what Mr. Hines did at the time those  
18 injuries occurred and--

19 MR. SCHIEDEL: There were more than one,  
20 there were multiple defendants.

21 MR. WISE: Right. There were three  
22 defendants. The Turner brothers, Robert and there's  
23 a younger one. And the decedent was stabbed. And  
24 the fairly convincing evidence was that Mr. Hines

1 was, had removed himself from that stabbing location  
2 when that actually happened.

3 MS. BIENES: So it was a question of the  
4 facts involved?

5 MR. WISE: Yes, exactly. Exactly.

6 MS. BIENES: My second question is is it your  
7 experience and observation that defendants have or  
8 will plead guilty to avoid the death penalty, and  
9 what to you think of that?

10 MR. WISE: In both Huff and in Hamm, there  
11 were offers on the table, and there were lengthy  
12 discussions with Ms. Hamm and Ms. Huff about those  
13 offers. I think I agree with Mr. Lyons in that  
14 regard that negotiation is a part of the work we do  
15 in criminal justice, prosecutors and defense  
16 attorneys, and if the facts of the case are such  
17 that the prosecutor offers a disposition that  
18 removes death from the table and that's the right  
19 thing to do and that's what the defendant wants to  
20 do, then so be it.

21 In the Sangamon County case, that  
22 developed into a huge problem in the Scott case. I  
23 think that in any case, you know, I think Mr. Scott  
24 may have had some buyer's remorse when he agreed to

1 a plea and then pled and then said no, that's not  
2 what I want. So you just have to, as an attorney,  
3 as a defense attorney, you got to make sure that  
4 that's what the client wants, and you explain the  
5 consequences.

6 But I have no problem with that, and I  
7 think it's a factor that some defendants consider.  
8 I think the cases I'm talking about the facts were  
9 such that obviously the defendant decided to go to  
10 trial and worked out fairly well given what the  
11 offers were.

12 MS. BIENES: Thank you.

13 MR. WISE: Uh-huh.

14 MR. HOWARD: I don't know if you can speak on  
15 behalf of the organization or just on behalf of  
16 yourself, but since you've lectured on depositions,  
17 should the ability to take depositions be expanded?

18 MR. WISE: To non-death cases?

19 MR. HOWARD: No. In death cases.

20 MR. WISE: In death cases? Well, the  
21 experience I've had is that the Macon County  
22 prosecutors in the Huff case were, they didn't  
23 object to us taking the depositions that we wanted  
24 to take, and Judge Graneous and then Judge Payne,

1 that put very little limitations, so I'm not, I'm  
2 not personally, you know, I've heard some Cook  
3 County lawyers talk about judges saying no deps, but  
4 I think that the rule, and I can't quote it chapter  
5 and verse right now, where the judge considers the  
6 complexity of the case and the need for the  
7 deposition and the inability to get the testimony or  
8 what you need elsewhere, I think that's a fairly  
9 workable standard at least as I've encountered it,  
10 and in my meeting, we didn't talk about expanding  
11 depositions, so I can't really speak to the  
12 association's view.

13 MR. PARKINSON: I know Mr. Wise for all of  
14 those 20, 25 years that he's practiced. I  
15 appreciate you testifying here today, giving us  
16 perspective of both pre-reform and after. Just make  
17 a comment that it's good to have litigators like him  
18 on the other side from my perspective because he's  
19 all business, he makes us work harder, and I think  
20 that's important when you're trying to seek the  
21 ultimate penalty, in my opinion, anyway, every  
22 prosecutor should welcome someone as qualified as  
23 you who will do the work. Because the end result  
24 will be better, and I just wondered if you noticed

1 that with the Capital Litigation Bar now that have  
2 you noticed that some defense attorneys shy away  
3 from even wanting an appointment? You don't, but  
4 why does that happen? Because of the time  
5 consumption or what?

6 MR. WISE: Why do some people shy away and  
7 why do I want--

8 MR. PARKINSON: Why do some defense attorneys  
9 who would otherwise be very qualified trial  
10 attorneys, I know for a fact and you do too, I  
11 think, that some choose not to qualify as capital  
12 trial lawyers from the defense side. Why do they do  
13 that?

14 MR. WISE: Yeah. I, maybe we know some of  
15 the same, maybe we're thinking of some of the same  
16 people. I can't answer that. I mean, it's  
17 certainly been, frankly, an honor to be appointed in  
18 these cases. It's a recognition by a trial judge  
19 that you're held in high regard to try this type of  
20 case. I think that the trial bar is a good thing  
21 for a number of reasons. The continuing legal  
22 education that has been put on by OSAD to become a  
23 member of the trial bar is quite excellent and  
24 serves not only the community of attorneys that try

1 death penalty cases from the defense perspective but  
2 certainly across the board.

3 I think having the Capital Litigation  
4 Trial Bar has raised, and those attorneys who have  
5 become qualified, it has raised the standard of  
6 practice in non-death cases too. So I can't, you  
7 know, I can think of a couple people that--and  
8 again, maybe we're thinking about the same. I never  
9 really have talked to, you know, there are a few  
10 attorneys that practice criminal defense in  
11 Springfield that routinely in state court but are  
12 not qualified and don't want to be, and I've never  
13 really asked them that question, so I can't tell you  
14 what they're thinking.

15 MR. PARKINSON: Thank you.

16 MR. SCHWIND: Good afternoon, sir. My name  
17 is Rich Schwind. I'm with the Attorney General's  
18 office. I want to ask you about depositions and the  
19 Capital Litigation Trust Fund. Depositions, you  
20 used, it seems like you used extensively in the Huff  
21 case?

22 MR. WISE: Correct.

23 MR. SCHWIND: That was mainly for expert,  
24 probably exclusively for expert opinions, correct?

1           MR. WISE: No. We deposed probably at least  
2 a half dozen police officers on the issue of Huff's  
3 statements.

4           MR. SCHWIND: What was the purpose for  
5 deposing the officers as opposed--were they, did  
6 they refuse to talk to you beforehand, before going  
7 to trial, like just sitting down and interviewing  
8 them? What did the deposition give you that going  
9 to them and saying, Officer Jones, can I interview  
10 you and he says, yeah, sure, and you talk to him  
11 that way?

12           MR. WISE: Well, first of all, I'm flipping  
13 back the mental pages here. I know that there were  
14 a couple officers that were unwilling, there was a  
15 retired officer whose name I can't remember that was  
16 unwilling to speak to us.

17           MR. SCHWIND: Okay.

18           MR. WISE: And he was the lead investigator  
19 on the case for most of time that Mr. Knight, the  
20 security guard, the trailer park guy, was the focus  
21 of the police investigation. So we had certainly  
22 wanted--the only way we could speak to him was  
23 through a--

24           MR. SCHWIND: Court order to take a

1 deposition.

2 MR. WISE: Right. Now, the officer that took  
3 Mr. Huff's so-called or allegedly incriminating  
4 statement, we asked for a deposition in that because  
5 of the complexity of the issue, and frankly, the  
6 ability to transcript so that we had his statement  
7 that could be used for impeach--

8 MR. SCHWIND: You couldn't interview him and  
9 record it on a tape recorder or videotape it or  
10 whatever it may be? I'm just trying--

11 MR. WISE: Okay. Let me answer that because  
12 we did that in Hamm, and I'm trying to see Ed here.  
13 We did that in the Hamm case. There was, the lead  
14 investigator in that case, the defense--I certainly  
15 argued for a deposition, but another attorney in the  
16 case thought it would be a good idea just to do an  
17 interview. Well, and that's what we did. And you  
18 had four attorneys in there, but unfortunately, we  
19 didn't have a 12-year-old kid who knew how to run a  
20 good digital recorder, and the transcript turned out  
21 to be a mess.

22 And with a court-reported deposition, you  
23 have a court reporter who's accountable for a  
24 reliable transcript or tape. We had, we, you know,



1 there were questions over what word this was, there  
2 were questions over, you know, there were parts of  
3 it you couldn't hear very well, so I think it's a  
4 lot cleaner and a lot easier and in the end more  
5 efficient to have a deposition where you have an  
6 expert taking the testimony rather than a bunch of  
7 lawyers who think they know what they're doing with  
8 recording equipment, and we didn't.

9 So we spent more time trying to figure out  
10 what this transcript's supposed to say--we didn't  
11 spend a lot of time, I don't think, but it became an  
12 issue in a couple points. So I think it would have  
13 been much cleaner, easier, and in the end, more  
14 efficient simply to have done a deposition.

15 MR. SCHWIND: And more cost-efficient?

16 MR. WISE: I think so.

17 MR. SCHWIND: You think so?

18 MR. WISE: Absolutely.

19 MR. SCHWIND: Okay. In regard to the Capital  
20 Litigation Trust Fund, I, and I agree with you, the  
21 judge should be the gatekeeper when looking at  
22 spending the taxpayers' money, whether it be for the  
23 state or for the defense, and you're absolutely  
24 right. Unfortunately, judges are not given any

1 guidelines. You can get a different decision in one  
2 county and have the same situation occur in a  
3 neighboring county and get a totally different.

4 And I don't fault the judges too much  
5 because they aren't given any guidelines other than  
6 what it should be a necessary and reasonable  
7 expense. And that's basically what I've always  
8 said. If the judge would just follow that, you  
9 wouldn't have a problem. But some judges think  
10 that, well, there's a Capital Litigation Trust Fund,  
11 this is a death penalty case, it's an open  
12 checkbook, versus the other end of the spectrum  
13 where the judge makes you cross every t and dot  
14 every i and account for every penny before you spend  
15 it.

16 That's the problem that the Capital  
17 Litigation Trust Fund has now. That's why a case  
18 like the Sutherland case where over a million  
19 dollars is spent and abuse comes in. That's why you  
20 have cases where an investigator is charging for  
21 things that he's doing in East St. Louis as well as  
22 for the same day for things he was allegedly doing  
23 up in cook County. He's double-billing, okay?

24 So, I mean, those things happen. And what

1 I, I guess what I'm getting at is I think you would  
2 agree that there needs to be rules regarding the  
3 specificity of billing that is given to a judge.  
4 Would that be fair to say?

5 MR. WISE: I think a judge has, I think he or  
6 she has a good handle on what the case is about. I  
7 think, you know, we, judges are elected and  
8 appointed as reasonable men and women, and, you  
9 know, I can't speak for judges in the Sullivan or  
10 the Sutherland, that situation. I can speak to the  
11 three situations where Judge Koval, the pre-reform  
12 case, who was very, very protective of Macoupin  
13 County's funds. If anybody knows Joe Koval--

14 MR. SCHWIND: Because it was Macoupin  
15 County's fund and not the Capital Litigation Trust  
16 Fund. I'm not saying anything against the judge.

17 MR. WISE: And I disagree that judges, that  
18 Judge Graneous, Judge Payne, or Judge Peters was any  
19 less vigilant because it was in somebody, because it  
20 was a little farther away from them.

21 MR. SCHWIND: I agree.

22 MR. WISE: It wasn't their county board they  
23 had to answer to. So I don't like the idea of more  
24 rigid restrictions. I think that judges need to be

1 called to account for expenditures that proved to be  
2 by any reasonable measure unreasonable.

3 MR. SCHWIND: Well, I've never been in  
4 private practice, so I've never submitted a billing  
5 to a client, but you do, correct?

6 MR. WISE: And I think that helps me in these  
7 cases because I--

8 MR. SCHWIND: You have to be specific in your  
9 billing as to what you're billing for, how long you  
10 did it, and who did the work, correct?

11 MR. WISE: Absolutely.

12 MR. SCHWIND: Don't you think that should be  
13 applied to defense lawyers as well as prosecutors in  
14 asking a judge to sign off on billing that is put  
15 forth to be billed out of the Capital Litigation  
16 Trust Fund?

17 MR. WISE: I think that's a system that's in  
18 place now. I think that I had to account for what I  
19 wanted, I had to explain for what I wanted, for a  
20 particular expert, and the judge said yes or no.  
21 And Judge Payne said no a number of times.

22 MR. SCHWIND: I understand. But that's in,  
23 but that's your personal way of doing it. You'd  
24 think that if there's guidelines and specificity as

1 to the rules that you, the specificity you have to  
2 have in the billing should be in place.

3 MR. WISE: You know, I think that  
4 common-sense notions of accountability could be  
5 written into a rule, yes.

6 MR. SCHWIND: Thank you.

7 MR. WISE: If anybody could tell me the time.  
8 I have a 1:30 court appearance.

9 MR. SCHWIND: It's 1:30 right now.

10 MR. WISE: Okay.

11 CHAIRMAN SULLIVAN: Did you say that Richard  
12 Ofshe testified?

13 MR. WISE: Ofshe testified.

14 CHAIRMAN SULLIVAN: In which case?

15 MR. WISE: In the Hamm case.

16 CHAIRMAN SULLIVAN: In the Hamm case.

17 MR. WISE: At that point, it was a non-death  
18 penalty case when he testified.

19 CHAIRMAN SULLIVAN: To what? The factors  
20 that might go into a false confession?

21 MR. WISE: He testified into the  
22 interrogation process and how the police develop an  
23 interrogation and how it actually works, yeah. The  
24 short answer to your question is yes.

1 CHAIRMAN SULLIVAN: Did he testify to that in  
2 front of a jury?

3 MR. WISE: Yes.

4 CHAIRMAN SULLIVAN: And did he give an  
5 opinion as to whether the confession was true or  
6 false?

7 MR. WISE: No. No. And I've used him in  
8 another case, in fact, where that was the judge's  
9 question or the judge's issue, and we used the, it  
10 was a federal district court case that laid out the  
11 scope of Dr. Ofshe's testimony in that case, and for  
12 the life of me, I can't remember the name of the  
13 case right now.

14 CHAIRMAN SULLIVAN: That was a central  
15 district case?

16 MR. WISE: Yes.

17 CHAIRMAN SULLIVAN: I'm familiar with that.

18 MR. WISE: I think we know which case we're  
19 talking about. And that was what Judge Graneous, in  
20 this case Jason Copeland. It was a case I tried in  
21 Macon County where Dr. Ofshe testified. And we used  
22 that as the standard for the opinions Dr. Ofshe  
23 could give, and I think that case works out fairly  
24 well. I think Judge Graneous was not going to let

1 Dr. Ofshe testify in that case, that his personal  
2 opinion that this particular confession, this  
3 particular statement was false. And I tended to  
4 agree with that, frankly.

5 CHAIRMAN SULLIVAN: Right.

6 MR. WISE: I think the jurors would be a  
7 little, I think this doctor's trying to do too much.

8 CHAIRMAN SULLIVAN: Right. The last thing,  
9 and you can go to your court hearing.

10 MR. WISE: Yeah.

11 CHAIRMAN SULLIVAN: Is this: When you talk  
12 about taping the ID, witness ID, if it's done on a  
13 live lineup, you potentially trigger the  
14 eavesdropping, the Illinois Eavesdropping Act.  
15 Because if words are spoken by the different, the  
16 five or six people, you cannot tape that under  
17 Illinois law without their permission.

18 MR. WISE: Legislators have been very skilled  
19 at creating exceptions to the eavesdropping statute.  
20 I can think of one right now that police use to  
21 their great advantage, and that's in videotaping DUI  
22 stops. I think that the vast majority of drivers  
23 who are stopped for driving under the influence have  
24 no idea they're being videotaped. And officers

1 exploit that they know that they're taping and the  
2 driver does not. And I think that officers exploit  
3 that. And there's an exception in the statute that  
4 allows for police officers to videotape in those  
5 situations. So I think an exception can be created  
6 without any problem.

7 CHAIRMAN SULLIVAN: So it would require a  
8 statutory--

9 MR. WISE: Right.

10 CHAIRMAN SULLIVAN: Like you have for the  
11 homicide videotaping or recording?

12 MR. WISE: Correct.

13 CHAIRMAN SULLIVAN: Yes.

14 MR. WISE: And I think--I can't quote the  
15 exceptions chapter and verse right now, but I think  
16 that the current exceptions may even be broad enough  
17 to allow for the videotaping of a lineup. I'd have  
18 to read it.

19 CHAIRMAN SULLIVAN: I don't think they do,  
20 but I'll have to re-read.

21 MR. WISE: Okay.

22 CHAIRMAN SULLIVAN: Thank you very much.

23 MR. WISE: Thank you.

24 CHAIRMAN SULLIVAN: Appreciate it.



1 All right. Next we've got Tammy Sigwerth,  
2 and then we've got Jeremy Schrader.

3 MS. SIGWERTH: My name id Tammera Sigwerth.  
4 T-a-m-m-e-r-a, S-i-g-w-e-r-t-h. You can call me  
5 Tammy. Never been here before, so please bear with  
6 me. I've only been to Springfield for the State  
7 Fair; that's been about it. But I'm here to speak  
8 on my son's behalf. I am not the victim. My son  
9 Joe was the victim. He was murdered January 8,  
10 2005, so I am actually his voice, as someone told  
11 me. I'm just going to show you a couple pictures.

12 These are my children. Joe is the  
13 dark-haired one. There are three of them. Joe,  
14 Steph, and Ben. This is Joe the Christmas before he  
15 was murdered with his little girl who was 10 months  
16 old and his little boy who he had custody of, Damian  
17 and Adrian. He was four and a half. This is Joe  
18 holding Adrian when she was a baby, and these are  
19 recent pictures of Adrian and Damian. And this is  
20 my family. My two surviving children and my  
21 grandchildren that are left. Okay?

22 I don't even know where to begin. The  
23 night Joe was killed I was actually babysitting for  
24 him so his fiancée and him go could pick out their

1 wedding bands because they were going to get married  
2 that year. And I got a call in the middle of the  
3 night asking me if I was alone, and I said no. And  
4 they would not tell me--it was my son's fiancée's  
5 mother--would not tell me what the problem was.  
6 They asked to speak to who I was with, and I knew at  
7 that moment my son was dead.

8           Why would my son's fiancée's mother call  
9 me in the middle of the night? There was no other  
10 reason. But what followed was the hardest part. My  
11 children were raised to never look at a person from  
12 the outside, never view them by their color, their  
13 religion, their beliefs. They were raised to take  
14 the person for who they were on the inside. My  
15 youngest son Ben had a birthday party for a friend,  
16 and my son and his, Joe and his fiancée Amy ended up  
17 at this party.

18           And there were quite a few people there,  
19 black, white, Mexican. It was all mixed. And right  
20 around the corner there were two other people at  
21 another house, and they opted to crash their party.  
22 And these people were white supremacists. They were  
23 young. They were 19 and 20 years old. And the  
24 moment they came in the door, they started a fight

1 with one of the black kids.

2 My youngest son, Ben, which is also the  
3 biggest one of the three, tried to break up the  
4 fight, asked the people to leave. They didn't want  
5 to leave, they started a fight. So my two boys and  
6 their one best friend were in the center of this  
7 fight with these two kids. Both of my boys were  
8 stabbed. Ben didn't even know he was stabbed  
9 because he had also at the same time gotten hit in  
10 the face with, I don't know, a glass bottle or  
11 something. So he didn't feel the pain of both at  
12 the same time.

13 And in all that confusion, no one knew  
14 where Joe was. And all of a sudden, they saw Joe  
15 falling down outside. And we found out that the guy  
16 with the knife had stabbed Joe three times, twice in  
17 the heart, once in the liver. His right aorta was  
18 severed. And at the time I was going to nursing  
19 classes, so I knew what they were talking about. He  
20 bled out within 30 seconds. There was no saving  
21 him.

22 In all of this, again, I do not feel I am  
23 the victim in this. My grandchildren, they're the  
24 victim because they're never going to see their dad

1       again.  Adrian will never know him, Damian had his  
2       daddy for four and a half years.  You know, he was  
3       raised by daddy actually since he was seven months  
4       old.  I'm just trying to be the voice for Joe, and  
5       I've always sought for justice for Joe.  The guy who  
6       did kill my son was sentenced.  He, at the time of  
7       the sentencing, the one he received, was not  
8       eligible for parole at all until the age of 72.

9                       Well, now that sentencing has been  
10       overturned because they appealed the case, and he  
11       won a re-sentencing on he was discriminated against  
12       is the only way to put it.  The judge called him a  
13       Nazi.  He has swastikas tattooed on his body, on his  
14       neck, his arm.  He was wearing a red sweatshirt with  
15       a huge swastika on the front of it the night he  
16       killed my son.  He also has been an admitted member  
17       of the Nazi group that is in Joliet.  And there was  
18       all kinds of--

19                      CHAIRMAN SULLIVAN:  In where?

20                      MS. SIGWERTH:  In Joliet.  There are all  
21       kinds of postings, if you were to look up my son's  
22       name on the web site, of this leader asking for help  
23       to free their brother from jail.  Daniel Judge was  
24       19 years old at the time he took my son's life.  So

1 in essence, his life is ended too. Both families  
2 have lost in this. To me, there is never going to  
3 be a winner. No matter if they find this young man,  
4 you know, if they sentence him to a death penalty or  
5 whatever they do to him, there is no justice for  
6 losing my son. Everybody has lost in this case.  
7 Not sure what to say. I really have never done this  
8 before so--.

9 CHAIRMAN SULLIVAN: Well, thank you, Tammy.  
10 Can I ask you something about the reversal because  
11 of the sentence? Has the re-sentence occurred?

12 MS. SIGWERTH: No. It has been going on  
13 again since July of last year. Every month they  
14 keep putting it off.

15 CHAIRMAN SULLIVAN: What was the original  
16 sentence?

17 MS. SIGWERTH: The original sentence was 100  
18 percent of 42 years for stabbing Joe, and then he  
19 was also sentenced to 13 years for stabbing Ben.  
20 The only reason he didn't get more for stabbing Ben  
21 was because Ben survived even though he almost died.  
22 And he had to serve 85 percent of that 13 years.

23 CHAIRMAN SULLIVAN: Jeff?

24 MR. HOWARD: Sorry for your loss.

1                   During the process as a survivor from what  
2                   the justice system could have done for you in the  
3                   way of making it more understandable or more  
4                   accommodating, can you comment on that?

5                   MS. SIGWERTH: From what I've understood and  
6                   been told, it was handled completely wrong. I was  
7                   never brought into the state's attorney's office and  
8                   explained anything. They've never explained  
9                   anything to me. I was given a court date. I would  
10                  get a letter every month telling me what date to  
11                  show up at court and at what time. They did explain  
12                  that there was survivor benefits to help pay for his  
13                  funeral and that, which they did do. But that's  
14                  been about it.

15                  Until I got a call last July, I didn't  
16                  even know that there was an appeal in place. I had  
17                  no idea that it was an automatic process. That he  
18                  just appealed, his lawyer appeals automatically and  
19                  it just, you know, from there goes on. And until  
20                  then, I did not even know that that happened. Every  
21                  month I keep showing up for court, and this last  
22                  month I showed up. I called the night before, and I  
23                  showed up when I was told.

24                  Get there and I'm looking for the

1 assistant state's attorney--which she's  
2 wonderful--looking for my victim's advocate,  
3 couldn't find her anywhere. So I called the office  
4 and they said, yes, it's at 9:00 this morning. Two  
5 hours later called again, where is everybody?  
6 Nobody's even in this courtroom. And then I found  
7 out when I did finally find one of the girls from  
8 the office that it had been cancelled again till  
9 March. So there's not been a lot of communication  
10 or support is how I feel. But I didn't know even  
11 what my rights were as the mother. Do you know what  
12 I mean? I just show up for court. That's all I've  
13 been doing.

14 MR. PARKINSON: Ed Parkinson. I echo the  
15 sorrow that Mr. Howard expressed to you because it  
16 sounds to me like you weren't kept in touch with  
17 very well about what was going on. For instance, I  
18 didn't gather, was there a trial, or was there a  
19 plea? Did they plea?

20 MS. SIGWERTH: No. There was a trial.

21 MR. PARKINSON: Okay.

22 MS. SIGWERTH: It took about two years, a  
23 year and a half to two years I think it was finally  
24 before he was sentenced. The jury came back

1 extremely fast. And in fact, at his sentencing, the  
2 juror members all came back and the couple that  
3 couldn't sent their wives. Because they were very  
4 interested in the case, especially the way my family  
5 was. I had probably--there's room for eight people  
6 in the jury, in the courtroom on each side, and I  
7 probably had 20 to 30 people with me every time.

8 And it got frustrating during the trial  
9 because the Will County police kept taking us to our  
10 cars, and I was like, what have I done wrong? I  
11 felt like I was doing something wrong. Well, his  
12 brother was a known gang member, and they were  
13 fearing for our lives. Well, nobody explained to me  
14 that we were all being escorted because of this.

15 And here I kept thinking that I was doing  
16 something wrong every time the cops were going out  
17 the court door with me, you know. And then finally  
18 I got mad and I blew up. And they sat me down and  
19 explained to me, there have been threats against  
20 your lives. Well, you could have told us this. You  
21 know, we would have understood. But to be escorted  
22 out like we were the criminals, I felt horrible.

23 MR. PARKINSON: So he's going to stand for a  
24 re-sentencing, which may be the same sentence. In



1 other words, a new judge probably is going to hear  
2 evidence and maybe sentence him to the same  
3 sentence?

4 MS. SIGWERTH: It could be.

5 MR. PARKINSON: It could be, but it won't be  
6 more.

7 MS. SIGWERTH: They told us it would never be  
8 more, which doesn't make sense to me in a way.

9 MR. PARKINSON: I know it doesn't make  
10 sense because you don't understand why he only got  
11 42 in the first place but--.

12 MS. SIGWERTH: No. Because everybody lost in  
13 that. To me, I really feel it was a lose-lose  
14 situation no matter what he got. His family was  
15 losing their son in an essence. He was going to  
16 jail never to live his life, never to have  
17 grandchildren, you know. My son, I had 25 wonderful  
18 years with him, and I have children, you know, that  
19 will carry on his name. So it was lose-lose for  
20 everybody.

21 MR. PARKINSON: Well, good luck to you. I  
22 hope they keep you better informed. It sounds like  
23 you have a relationship with the assistant state's  
24 attorney at least that you can go to her.

1 MS. SIGWERTH: Yes.

2 MR. PARKINSON: Rather than the advocate  
3 people, right?

4 MS. SIGWERTH: Yes. And I do realize she's  
5 busy, but it would be nice to know ahead of the  
6 game, you know, what is going on.

7 MR. PARKINSON: Well, thank you for appearing  
8 here today.

9 MS. SIGWERTH: Thank you.

10 MR. SCHWIND: Ma'am, I'm from the Attorney  
11 General's office. My name is Rich Schwind. And I  
12 too want to express my condolences for your loss.  
13 What county was this in?

14 MS. SIGWERTH: Will.

15 MR. SCHWIND: Will County?

16 MS. SIGWERTH: (Nodded head up and down.)

17 MR. SCHWIND: Again, as I said here before,  
18 it's not an excuse, but we do try as prosecutors to  
19 keep the victims' families informed, and the  
20 questions that need to be asked have to be asked. I  
21 always tell my victims' families and my victims if  
22 they're alive, you know, the only stupid question  
23 that's asked is the one that isn't asked. That's  
24 the only--so again, I can only say on behalf of

1 prosecutors we try our best to do the best we can  
2 for our victims. We give a 110 percent. I can't,  
3 I'm not going to sit here--and I know the Will  
4 County State's Attorney's office, the woman that's  
5 in charge of the criminal division used to be one of  
6 my bureau chiefs, Lee Norbitt; she's very good. I  
7 just hope that the things that you've expressed to  
8 us, we will certainly take it to heart, and I will  
9 pass it on to my victim witness coordinators that go  
10 out and work with the state's attorney's victim  
11 witness coordinators and pass that on that there has  
12 to be more, and I agree, more open lines of  
13 communication and contact. Thank you very much.

14 MS. SIGWERTH: You're welcome.

15 CHAIRMAN SULLIVAN: I'm going to go out of  
16 order here? Leigh?

17 MS. BIENES: Yes. I would just like to, one,  
18 thank you for your testimony and apologize because I  
19 must leave to tell the cab to wait for us so we  
20 could get a plane to go back to Chicago and also too  
21 apologize to other members whose testimony I might  
22 not hear and will certainly read it in the  
23 transcript, but thank you so much for your  
24 testimony. We very much appreciate your coming, and

1 please excuse me.

2 MS. SIGWERTH: Yes.

3 MR. COLDREN: No questions for me. Thank you  
4 very much for talking to us today.

5 MR. HEHNER: I appreciate your candor today,  
6 and I apologize for your having the experience. Did  
7 you prepare a victim impact statement?

8 MS. SIGWERTH: Yes, I did. I did read it in  
9 court.

10 MR. HEHNER: Okay.

11 MS. SIGWERTH: And when I had found out about  
12 him getting a re-sentencing, I did ask about doing a  
13 new victim's impact statement. And they originally  
14 told me that that would not be allowed. And I asked  
15 them why. He is getting things new. He actually  
16 had a psych evaluation and a lot of other things  
17 that followed that I should be able to speak again  
18 because everything I spoke on happened with the  
19 first year and a half of my son being gone.

20 And they finally did concede that I can do  
21 a new one, but I have to watch what I say. I cannot  
22 talk about the things that have happened in the last  
23 four years since Joe's been gone. I can't say, you  
24 know, about his little boy now being eight and a

1 half and his little girl for four years has not had  
2 her father. I can't talk about those things and the  
3 trauma that they have experienced of not having a  
4 dad with them.

5 And I, to myself, I don't feel that it's  
6 fair when he gets to talk about what a good little  
7 boy he's been in jail. Who cares? You're in a  
8 10-by-10 cell. You're a good little boy, okay.  
9 That's because you're not out in the world to  
10 traumatize it. I should be allowed to talk about  
11 what these children go through every day without  
12 their father. How his little girl talks about the  
13 ghost in the room, and we think it's the daddy, you  
14 know.

15 It's not right that he gets to say what  
16 he's gone through and what he feels and I cannot  
17 talk about my son's children and what they've gone  
18 through. If you're going to give to one, you must  
19 give to all.

20 MR. HEHNER: Thank you, ma'am.

21 MS. SIGWERTH: You're welcome.

22 MS. BISHOP-JENKINS: Tammera, there are no  
23 words that I can say to express how much my arms are  
24 around you, and you know we've shared a horrible

1       bond. I'm very grateful to you for coming today.  
2       I'm particularly grateful because you have pointed  
3       out over and over and over again the need for the  
4       extension of victims' rights in the Illinois  
5       constitution that many of us are supporting right  
6       now that would give victims' rights some  
7       enforceability and extend them into the appellate  
8       process which is incredibly important.

9                   I know this is an unusual question because  
10       there is no best outcome; as you've already stated,  
11       everybody's a loser. And the only positive outcome  
12       would be if this never happened in the first place.  
13       Setting that aside, I'm going to play a horrible  
14       what if. Assuming that you can't change what  
15       happened that night, if you could make after that  
16       crime occurred the best possible outcome for you in  
17       terms of the sentence of the offender and what  
18       happened procedurally, I think obviously you've  
19       already spoken to your notification and your right  
20       to consultation and to not have the content of your  
21       statement edited and all these other things. But  
22       what would be the best outcome for you in terms of  
23       sentence for the offender.

24                   MS. SIGWERTH: The best outcome, huh? That's

1 a hard one to say. I think it should be left as it  
2 stands. Black is black and white is white. And  
3 yes, the judge may have called this young man a  
4 Nazi. But he's an admitted, an admitted Nazi; do  
5 you know what I mean? And I don't think anybody  
6 including the judge should be punished, if you would  
7 say, for saying that word. The young man stood up  
8 there on that stage--not stage--on the witness stand  
9 with his little smirk talking about what he is. And  
10 to me, white is white, black is black, and the best  
11 this kid could get was splitting the difference. He  
12 could have gotten 60 years for the murder of Joe.  
13 As little as 25, as much as 60 they told me.  
14 Forty-two will never replace Joe. A thousand would  
15 never replace him. So let it stand.

16 MS. BISHOP-JENKINS: I commend you for your  
17 actually lack of vengeance, your great strength for  
18 your grandchildren especially.

19 MR. SCHIEDEL: Yes. I agree with what people  
20 have said before, and I'm sorry that it, you had to  
21 listen to a bunch of lawyers talking back and forth  
22 for all that time before you got to speak. And I'm  
23 sorry that things like telling about the appellate  
24 process apparently didn't happen in that county.

1 I'm puzzled as to why the prosecutor would not have  
2 let you know that there would be an appeal and keep  
3 you informed of the progress of that.

4 Because while you wouldn't have had input  
5 into that process, you would have still been, you  
6 were certainly entitled to see the arguments that  
7 were made on the other side and the arguments that  
8 the state would have made in terms of whether there  
9 should be another sentencing hearing. And I don't  
10 know why that didn't happen, and just on behalf of  
11 the system, I'm sorry for that. But I'm grateful  
12 that you were willing to come forward and show us  
13 these things and tell us this.

14 MS. SIGWERTH: I think the only thing I can  
15 say is going forward it would be nice not for myself  
16 but for other voices, not victims, voices, families  
17 left behind, the survivors, would be that they would  
18 be more informed. I mean, you can't change the  
19 outcome of what I've gone through, nobody can, but  
20 going forward--and they are, the victims' advocates  
21 are under a lot of stress. I mean, I would talk to  
22 her, and she'd be, I got to get off the phone, I got  
23 to go take care of this person and that person.

24 And yes, my case is four years old, but to



1 me, it happened yesterday. You know? It happened,  
2 it happens daily, it happens momentarily. I can see  
3 something silly, the word justice all over this  
4 room. In my impact statement I use some of Martin  
5 Luther King's statement, and then I put, I need  
6 justice, justice for Joe. And this whole room has  
7 the word justice all over it. I was not going to  
8 speak today. But to see the word justice all over  
9 this room told me I had to say something. Because  
10 if not justice for Joe, justice for others. So  
11 thank you for hearing me.

12 CHAIRMAN SULLIVAN: Let me ask you something.  
13 You said there was an assistant, a female assistant  
14 in Will County that was responsive to you?

15 MS. SIGWERTH: Yes. Kathy Patton.

16 CHAIRMAN SULLIVAN: How do you spell her  
17 name?

18 MS. SIGWERTH: P-a-t-t-o-n is her last name.  
19 And she's wonderful. I love Kathy.

20 CHAIRMAN SULLIVAN: Okay. Now, we have  
21 sitting up here three people who are employed, two  
22 by, one by the attorney general, one by the  
23 appellate prosecutor, and one by the Cook County  
24 State's Attorney. One of them might well make a

1 call to her and point out what you just told us.

2 MS. SIGWERTH: If you do, I hope you do it in  
3 a positive way.

4 CHAIRMAN SULLIVAN: I won't do it. I'm not  
5 employed by the state or the county.

6 MS. SIGWERTH: Whoever does it.

7 CHAIRMAN SULLIVAN: I think it might be a  
8 good idea when we finish that these three men get  
9 together, figure out which one's going to make the  
10 call.

11 MS. SIGWERTH: As long as it's done in a  
12 positive fashion I'm okay with that.

13 CHAIRMAN SULLIVAN: They're all positive  
14 people. I cannot imagine what you've gone through.  
15 I think about it every once in a while when I see my  
16 children, my grandchildren and what I would think  
17 about, do, if that happened to me. It's beyond my  
18 ability to imagine.

19 MS. SIGWERTH: I don't think anybody knows  
20 what they would do until they're in that situation.

21 CHAIRMAN SULLIVAN: I agree with you  
22 absolutely. Thank you for coming.

23 MS. SIGWERTH: You're welcome. Thank you.

24 MR. SCHWIND: Thank you, ma'am.

1           CHAIRMAN SULLIVAN: I want to ask Chuck, is  
2 this something that will be put in the record, or do  
3 you have time to get to that?

4           MR. SCHIEDEL: Well, I was just going to  
5 submit it as part of what the committee has been  
6 presented with.

7           CHAIRMAN SULLIVAN: All right. We'll  
8 distribute this. This is a statement Office of the  
9 State Appellate Defender's Impact of Death Penalty  
10 Reforms on Practice. And that will be made a part  
11 of this record. So I won't have the reporter type  
12 it in.

13          MR. SCHIEDEL: No.

14          CHAIRMAN SULLIVAN: Our next and last witness  
15 is Jeremy Schrader?

16          MR. SCHRADER: Schrader's correct.

17          CHAIRMAN SULLIVAN: My mother's father  
18 M. Carl Schrader emigrated from West Germany in the  
19 1890s, so I'm very familiar with the name Schrader.

20          MR. SCHRADER: Well, I appreciate that.

21          CHAIRMAN SULLIVAN: His wife was Sandy  
22 Schrader.

23                 Ms. Reporter, I am going to have to go to  
24 the airport now, and Mr. Schwind will take my place.

1 I apologize to you.

2 MR. SCHRADER: Not a problem. I'm actually  
3 just here to let you know we gave testimony in  
4 Chicago as well as submitting written testimony. I  
5 just wanted to bring it to the committee's attention  
6 that we have abolitionist groups from Bloomington as  
7 well as Decatur here today, and I just want to offer  
8 if we have any other follow-up questions from our  
9 testimony, I just want to give you the opportunity.  
10 Thank you for all the hard work that you do.

11 MR. SCHWIND: Jeff?

12 MR. HOWARD: I have nothing. Thank you.

13 MR. SCHWIND: Ed?

14 MR. PARKINSON: As a prosecutor, I'll speak  
15 for myself, and I think I speak for Mr. Schwind, but  
16 I know your work is sincere. I've met many of your  
17 members over the years. I know that when we go,  
18 I've been involved with, in my last count, I think  
19 15 death penalty cases over the years, some of them  
20 pre-reform. I've been involved in many murder cases  
21 that were not. When jurors express a reluctance to  
22 even sit on a death penalty case because of their  
23 convictions, their moral commitment against the  
24 death penalty for whatever reason, that that is not

1 looked upon by prosecutors, at least me and many  
2 others, as a bad thing.

3 I mean, those people have, I mean, I  
4 really think this occurs in trials, maybe you have  
5 experienced watching some, but that's a very  
6 difficult bridge to cross when we as representatives  
7 of the state are trying to take the life of someone  
8 for what we consider the worst of the worst. So my  
9 only comment to you is your work is invaluable to  
10 those of us who do pursue the death penalty, and we  
11 always want to hear your voice and your reasons for  
12 why it should be abolished.

13 So I just want to make that clear. A lot  
14 of people--I know you understand that, but a lot of  
15 people think that we're just willy-nilly out there  
16 seeking death, and we're not. And you're not out  
17 there voice against it just for no reason at all.  
18 It's because you sincerely believe in your work. So  
19 that comes up in jury selection, I know it does with  
20 Rich too, and it's a very serious sombering moment.

21 MR. SCHRADER: Well, I thank you very much  
22 for that comment. I also want to thank the  
23 prosecutors, yourself and others in the room, for  
24 the service you do Illinois. Because I know that

1 it's, I wouldn't say for the death penalty insincere  
2 reasons. I think it's very much as an attorney you  
3 put yourself in the mindset of how do you explain  
4 this to the jury, and unfortunately, you have to put  
5 yourself in some very horrible situations. And I  
6 really appreciate the work that you've done. Thank  
7 you for that comment.

8 MR. SCHWIND: I can only echo Ed's  
9 statements. I respect your opinion as I'm sure you  
10 would respect ours. We don't, as Ed said and I  
11 think all prosecutors, we don't seek the death  
12 penalty and get a thrill out of it. We seek the  
13 death penalty because we believe it's the  
14 appropriate sentence for the crime that was  
15 committed, okay?

16 I've heard people say this, and many  
17 people have said this: Let me on that jury. I  
18 could pull the switch or I could pull that, I could  
19 put that person to death. And I'll tell you, I've  
20 talked to every jury that I've done. And those  
21 jurors, once they get seated--I don't want a juror  
22 that says, give the death penalty, forget the  
23 evidence, just as I don't want a juror that says, I  
24 can never consider the death penalty no matter what

1 the person did.

2 I don't want those kind of jurors. No  
3 prosecutor wants those kind of jurors. They don't  
4 want to have to try cases again. They don't want to  
5 have to put our victim's family through that again.  
6 So we want to make sure that it gets done right, it  
7 gets done fair, and that a just sentence comes out  
8 of it. And I tell my victims' families, don't look  
9 down at the sentence, okay?

10 We want to see justice. Getting the death  
11 penalty is not necessarily, if it's not given  
12 justice isn't done, okay? As long as I can look at  
13 my victims' families and say, we tried our hardest,  
14 and I believe justice was done. You've gotten your  
15 day in court, okay? That's what we look for.

16 When a juror takes on this cloak of being  
17 a juror, it's unbelievable the change of mentality  
18 that a person takes on that they look at things much  
19 more circumspect and try to really look at it with a  
20 different eye. So these people that say, let me on  
21 that jury, I can--I don't want those kind of people.  
22 Because those aren't the people that look at things  
23 the right way. But thank you.

24 MR. SCHRADER: Thank you.

1           MR. SCHIEDEL: Well, thanks for waiting all  
2 this time, Jeremy. It's nice to see you again. I'm  
3 curious about your attitude with regard to  
4 legislation affecting long-term sentences. I mean,  
5 just on strategic or on just philosophical grounds.  
6 If you think that, for example, that the only  
7 alternative in a death-eligible case to the death  
8 penalty was natural life. Do you think that would  
9 decrease the number of sentences, or is that  
10 something that's too nuts-and-bolts in terms of  
11 should we, is the death penalty something we just  
12 shouldn't have because of moral and ethical grounds?

13           MR. SCHRADER: I already let it out that I'm  
14 an attorney, so I'm going to give you an attorney  
15 answer. There's two answers to that. I mean, yes  
16 about kind of the political ramifications. We don't  
17 take the position. We have introduced legislation  
18 this session that simply erases the death penalty  
19 from the books. Anywhere it says death penalty it  
20 crosses it off. Leaves it up to judicial review.  
21 We have life without parole here in Illinois. And  
22 anyone could be sentenced to that if our bill is  
23 enacted. How--and I'm sorry. What was the other,  
24 the next part of that I guess?



1 MR. SCHIEDEL: I think you covered it.

2 MR. SCHRADER: Okay.

3 MS. BISHOP-JENKINS: You didn't answer the  
4 strategic part of that, but I'm going to leave it to  
5 that because I already know the strategic impact  
6 because I heard it today from legislators, which is  
7 that life without--legislation that would abolish  
8 life without parole effectively such as this bill  
9 that's being heard that Dora's testifying against  
10 has a negative impact on attempts to abolish the  
11 death penalty. I just wanted to say thank you for  
12 the reports that the ICDAP has submitted, the annual  
13 reports that you all have done over the years.  
14 There have been how many of them now? Five?

15 MR. SCHRADER: Five now.

16 MS. BISHOP-JENKINS: They have been  
17 incredibly well done. Very, very helpful to the  
18 statewide dialogue about this public policy issue,  
19 and I just commend the process that goes into those  
20 reports, and thank you for them and encourage them  
21 to continue.

22 MR. SCHRADER: Okay. Thank you. I'd like  
23 just to let you know we are trying to do one, an  
24 update this year. It won't be kind of a full

1 report. We had a very thorough report last year,  
2 and being new to the position, I want to do somewhat  
3 of an update and make sure we're treading water this  
4 year to have a very much more thorough report next  
5 year.

6 MR. HEHNER: I don't have any questions for  
7 you. Thank you.

8 MR. SCHRADER: Okay.

9 MR. COLDREN: No questions for me either.  
10 Thank you for everything that you do. I did want to  
11 just extend a word of thanks to those that have  
12 joined us today that have not testified. Appreciate  
13 your citizenship.

14 MR. SCHRADER: Thank you very much for the  
15 opportunity.

16 MR. SCHWIND: Thank you, sir. Is there  
17 anybody else that wishes to give public comment to  
18 this board or this committee?

19 For the record, not seeing anyone or  
20 hearing anyone wishing to make further public  
21 comment, do I have a motion to adjourn?

22 MS. BISHOP-JENKINS: So moved.

23 MR. PARKINSON: Second.

24 MR. SCHWIND: Second. With that, we are

1 adjourned. I believe our next full committee  
2 meeting is up in Chicago on March 9 at 1:00 at  
3 Jenner & Block, the law offices of Jenner & Block.  
4 Thank you, everyone. Have a safe trip back home and  
5 God bless.

6 (Proceedings Concluded)

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C E R T I F I C A T E

I, Rhonda K. O'Neal, a Notary Public,  
Certified Court Reporter, and Registered  
Professional Court Reporter, do hereby certify that  
on the 2nd of March, 2009, the foregoing hearing was  
taken down in shorthand by me and afterwards  
transcribed, and that the foregoing transcript  
contains a true and accurate transcription of all  
such shorthand notes.

I further certify that I am a  
disinterested party to the proceedings herein, and  
that I am not a relative of any of the parties  
hereto, or their attorneys, that I am not in the  
employ of any of the attorneys for the parties  
hereto, and am not otherwise interested in the  
outcome of this cause of action.

In witness whereof, I have hereunto set my  
hand and affixed my seal this 13th day of April  
2009.

*Rhonda K. O'Neal*

Notary Public and  
Certified Court Reporter and  
Registered Professional Reporter

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