



STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION SPECIAL MEETING
Wednesday, August 24, 2016, 3:00 p.m.

James R. Thompson Center
100 W. Randolph Street, Meeting Room 9-040
Chicago, Illinois 60601

MINUTES

PRESENT:

Commissioners

Chairman Cheryl Starks
Commissioner Marilyn Baldwin
Commissioner Steven Miller
Commissioner James Mullenix
Commissioner Robert Loeb
Alternate Commissioner Timothy O'Neill

Staff on dais

Rob Olmstead (Executive Director)
Michelle Jenkins (Staff Attorney)
Roxana Malene (Commission Assistant)

I. Call to Order/Members Present

On August 24, 2016, at approximately 3:26 p.m., Chairwoman Cheryl Starks called to order a special meeting of the Illinois Torture Inquiry and Relief Commission (TIRC). Present were the Chair and Commissioners Baldwin, Loeb, Miller, Mullenix, and alternate Commissioner O'Neill, constituting a quorum.

II. Approval of Minutes

Chairman Starks called for a motion to approve the draft minutes of the July 20, 2016, meeting. Commissioner Baldwin so moved and Commissioner Miller seconded the motion. The minutes for the July meeting were approved unanimously.

III. Executive Director's Report

Executive Director Rob Olmstead reported that Governor Bruce Rauner signed Public Act 99-688 on July 29, 2016. The Act amends the Illinois Torture Inquiry and Relief Act (TIRC Act) to remove the requirement that torture claims be related to former Chicago Police Commander Jon Burge, extends jurisdiction throughout Cook County and re-opens the claim period through August 10, 2019. Its passage necessitated this special meeting to amend Administrative Rules so that they comply with the new law.

With the passage of the law, TIRC staff began notifying the approximately 129 non-Burge claimants with claims already on file that the issue of jurisdiction had been settled and that they do not need to re-file to be considered. All but a handful of non-Burge claimants (less than 10) have been notified.

Two remaining groups still need to be notified: those claimants whom TIRC or the courts dismissed because their claims were not related to Jon Burge, and those claimants who attempted to file claims after the initial August 10, 2016, application deadline. Their potential claims will be addressed by administrative rule changes.

Director Olmstead is investigating posting notice of P.A. 99-688 in the Illinois prisons.

TIRC has also begun planning to address the additional workload. A law school graduate is returning to volunteer his time, and two former interns, both still law students, are also returning to volunteer their time. Staff and Commissioner Miller are also seeking a suitable assignment for an MBA graduate who has expressed a willingness to volunteer. She may write grant applications seeking more funding. New Staff Attorney Michelle Jenkins is also coordinating with the Governor's Department of Innovative Technologies to explore whether a new case management system could streamline TIRC's work.

IV. Administrative Rule Revisions for P.A. 99-688

Director Olmstead reviewed each proposed Administrative Rule change with the Commission.

Chief among the proposed revisions were those to Title 2, 3500.330(b-c). Subsection b would deem automatically refiled those claims dismissed by the Courts or TIRC because they were not related to Jon Burge. Subsection c would deem filed those claims previously not allowed to be filed because they were filed after the now-extended August 10, 2014, deadline.

Section 3500.375 proposed revisions to address the legislature's removal of mandatory priority of certain cases, leaving it to the Commission to determine priority. Director Olmstead explained that this revision would consider various factors in prioritizing cases. Key among the factors is whether the claimant is incarcerated solely on charges for which they are claiming torture. This acknowledges that, first and foremost, personal liberty is sacred pre-eminent right, and if TIRC's decision could potentially affect someone's incarceration status, TIRC should prioritize those types of cases. Whether Burge or his officers were involved acknowledges the history of the Act and would likely give Burge-related cases in which the claimant is incarcerated solely on the

charge involving alleged torture priority over similarly situated non-Burge claimants. Filing date is also taken into account in prioritizing claims. Subsection (c)(4), however, gives the Commission some flexibility in dealing with special circumstances that arise in the day-to-day operating realities of the Commission. For instance, this subsection allows the Commission to immediately address non-Burge claims from counties other than Cook, which are clearly extra-jurisdictional, and allow them to be dismissed quickly rather than falsely extending hope to those claimants. It also allows the Commission to consider claims in which the claimant is no longer incarcerated, but a co-defendant claimant is incarcerated. While the non-incarcerated claim would ordinarily not receive priority, handling both claims at the same time conserves investigational resources when dealing with related facts, documents and witnesses. This subsection also allows for special circumstances staff can't yet anticipate, or those cases where a claimant's files cannot be found by the courts or other organizations.

Title 20, Section 2000.10 adds a definition for the phrase "occurring within a county of more than 3,000,000 inhabitants. Director Olmstead explained that although the phrase may seem clear in its wording initially, it is problematic on further examination. If it is literally interpreted to mean that it includes all cases in which torture occurs within the geographical boundaries of Cook County, that would encompass cases adjudicated in the courts of other counties. This was likely not the intent of the legislature since the Act allows the Commission to refer cases to the Chief Judge of the Cook County Circuit Court for judicial review. This could also lead to conflict with the Post-Conviction Hearing Act. Accordingly, the proposed definition clarifies that only convictions arising in Cook County Court may be considered by the Commission. It also preserves jurisdiction over cases in which convictions arose in Cook County, but the actual torture may have occurred in another county or state. TIRC has already adjudicated such cases, and specifying this comports with the stated intention of the Act's sponsor to expand, rather than reduce, the Commission's jurisdiction. The definition also provides a bright-line rule for delineating which cases are, or are not, within the Commission's jurisdiction.

Commissioner Baldwin noted that the new Act adds to the Commission's workload without providing any additional resources to handle it. Director Olmstead agreed that was the case.

Chair Starks invited any public comment before taking a vote on the proposed Administrative Rules changes. She also noted for the record that she would not be in attendance at the September, 21, 2016, meeting, and that Commissioner Thorp would facilitate that meeting.

V. Public Comment

Chair Starks invited the public to comment. No one came forward.

IV. Administrative Rule Revisions for P.A. 99-688 (continued)

Commissioner Bob Loeb moved to approve all the proposed Administrative Rules Changes; Commissioner Mullenix seconded the motion. The motion was unanimously approved 5-0.

VI. Adjournment

Commissioner Miller moved to adjourn and Commissioner Baldwin seconded. The motion passed unanimously.