



**STATE OF ILLINOIS  
TORTURE INQUIRY AND RELIEF COMMISSION REGULAR MEETING  
April 22, 2020, 3:00 p.m.**

Virtual Meeting  
held via WebEx Software

MINUTES

**PRESENT:**

Commissioners Present

Alternate Chairwoman Kathleen Pantle  
Commissioner Robert Loeb  
Commissioner Marilyn Baldwin  
Commissioner James Mullenix  
Commissioner Barry Miller  
Commissioner Steven Miller  
Commissioner Stephen Thurston  
Commissioner Tim Touhy  
Alternate Commissioner Autry Phillips  
Alternate Commissioner Craig Futterman

Staff Present

Rob Olmstead (Executive Director)  
Michelle Jenkins (Staff Attorney)  
DeAndrea Brown (Administrative Assistant)

**I. Call to Order/Members Present**

On April 22, 2020, at approximately 3:00 p.m., the meeting of the Illinois Torture Inquiry and Relief Commission (TIRC or Commission) was called to order. Executive Director Rob Olmstead briefly addressed a few introductory rules and guidelines pertaining to the remote proceeding. He noted that the Governor signed an Executive order suspending the requirement that a quorum of Commissioners must meet in person in one location and the reason for this order was due to the COVID-19. Commissioners names were called out individually and they responded "present". A quorum was established consisting of the following: Commissioners and Alternate Commissioners: Pantle, Loeb, Baldwin, Mullenix, Barry Miller, Steven Miller, Phillips, Touhy, Futterman and Thurston.

## **II. Approval of Minutes**

Executive Director Olmstead noted that there was an error in the drafted minutes submitted to Commissioners prior to the meeting. He addressed the error and stated that said changes were made and reflecting in the minutes that they were approving. Chair Pantle called for a motion to approve the draft minutes of the February 19, 2020, meeting. A motion was made by Commissioner Touhy and seconded by Commissioner Mullenix to approve the minutes as written. The minutes were unanimously approved by voice vote.

## **III. Chief Financial Officer's Report**

Due to Dr. Ewa's absence, the agenda item was stricken.

## **III. Executive Director's Report**

Director Olmstead reported that due to the COVID-19, the governor instructed all departments in mid-March to move functions that they could to at home work environment. He mentioned that Staff Attorney Michelle Jenkins and Administrative Assistant DeAndrea Brown had been working exclusively from home, and he had been working primarily from home and coming in to the office one to two days a week to perform functions that cannot be done from home.

Olmstead reported that the TIRC offices are down the hall from the Illinois Emergency Management agency and due to the pandemic, members of the National Guard had taken up residence not only in the IEMA offices but some of TIRC unused offices, The Court of Claims offices, and conference rooms. He noted that TIRC staff was pleased to be providing whatever office space and resources they could to support their efforts to flattening the infection curve.

Olmstead informed Commissioners that COVID-19 had forced TIRC had to shift the nature of our claimant interviews. He stated that claimant interviews were previously conducted from the Illinois Department of Corrections offices, but due to COVID-19 IDOC, had adapted their video conferencing practices to not only allow TIRC to work from home, but claimants' attorneys to attend the waiver and interview sessions from their homes as well. He mentioned that the first attempt at the new system would take place with an interview scheduled for the following week.

Olmstead reported that he did receive approval from the governor's office to fill the vacant third attorney position. However, the amount of time that passed since the interviews were conducted exceeded the Central Management Services guidelines, and that would require TIRC to re-conduct those interviews. He informed Commissioners that as he and the chair were preparing to repost that position and conduct online interviews, COVID-19 put a halt to the state's budget and a hiring freeze was instituted. TIRC remains in a holding pattern for that position to be filled.

Olmstead reported that prior to the pandemic, the governor's office approved a budget increase for TIRC that would allow hiring positions for a total of 10 attorneys and paralegal position to address the backlog of cases. Before that request could be approved by the legislature, the pandemic struck, and the Appropriations Hearings scheduled in March was cancelled. Olmstead mentioned that he would

continue to gather information and keep commissioners updated. Olmstead reported that TIRC had been utilizing the extra budget preparation time to examine the operations of the commission and draft other documents such as a preliminary standardized manual for new staff. Olmstead welcomed questions from Commissioners. There were none.

#### **IV. Claims**

##### **1) Childs, Thomas (2011.037-C)**

Executive Director Rob Olmstead informed Commissioners that the claim of Childs was researched and drafted by Emily Morrison, an attorney from Kirkland & Ellis law firm under the supervision of Andrew McGann and Alexandra Mihales. Olmstead thanked all the partners at Kirkland & Ellis and a special thank you to the pro bono department who had taken on several cases assisting the Commission. Olmstead noted that he agreed with Morrison's recommendation.

Olmstead informed Commissioners that crime victim family notifications were sent out and any of those victim relatives that were present and wanted to address Commissioner, would be afforded that opportunity before Commissioners voted on the claim. Olmstead noted commissioners had a slightly modified draft of the disposition before them and asked Commissioners to review changes. Olmstead asked Commissioners if there were any questions regarding changes. There were none.

Morrison briefly outlined the facts of the underlying crime. She informed Commissioners that Thomas Childs and his co-defendant, Tedd Mitchell, were convicted of murdering Yusef Wright. Childs claimed that Chicago Police Detectives John Halloran and Kenneth Boudreau slapped him during interrogations on November 13 and 14, 1992, coercing him into signing a written confession used as evidence against him at his trial. Morrison informed Commissioners that Childs unsuccessfully filed a motion to suppress his statement. She stated that in both his written motion to suppress and his testimony under direct examination at the motion to suppress hearing, Childs did not mention being physically abused by police detectives. Morrison informed Commissioners that Childs now alleges that he was slapped by Detectives Boudreau and Halloran while he was in custody but did not raise any allegations about slapping in his appeal of his conviction. She stated that he raised allegations of being slapped in his first post-conviction petition only alleging Detective Halloran, not Boudreau.

Morrison informed Commissioners that Childs filed a TIRC claim on June 22, 2011. In the claim, Childs alleged that Detectives Halloran and Boudreau slapped him until he agreed to confess to murdering Mr. Wright. Morrison informed Commissioners that TIRC interviewed Childs for the first time July 25, 2013. During that interview, Childs stated that Detectives Boudreau and Halloran took turns slapping him. He stated that he failed to include mention of Detective Boudreau in his first post-conviction petition in 1998 because he could not remember detective Boudreau's name, and later discovered his name by going through transcripts. Childs also stated that he had mentioned allegations to both to his trial lawyer and the judge at his bond court hearing. Morrison mentioned that allegations mentioned during his interview were consistent during his second TIRC interview which happened September 21, 2018.

Morrison informed Commissioners of the factors weighing in favor of Childs claim such as the histories of complaints against both Detective Boudreau and Detective Halloran. Both had extensive histories. She also mentioned that during the suppression hearing, Detective Halloran testified that he did not recall Childs being intoxicated during the interrogation, while other testimonies suggest that Childs was very intoxicated. This led to question the credibility of Halloran's previous testimonies against

Childs. Lastly, Childs' co-defendant, Tedd Mitchell, also made abuse allegations against Detectives Halloran and Boudreau in his motion to suppress.

Morrison informed Commissioners of the factors weighing against Childs' claim. She mentioned the inconsistencies of Childs testimony and statements regarding who was involved in the slapping and its severity. After review of bond court transcripts, she was unable to find evidence to support Childs claim. Morrison stated that Childs claimed to have informed his trial counsel about the slapping prior to suppression hearing. She informed Commissioners that TIRC interviewed Childs' trial attorney, Gary Stanton and he did not recall if Childs alleged physical abuse or torture and it was unlikely that Childs had informed him of the physical abuse prior to the suppression hearing. Another factor that she believed to have weighed against Childs credibility, was the photograph taken of Childs shortly after giving his statement to Detective Halloran and ASA Clancy. The photograph did not show evidence of physical harm. For these reasons, Morrison recommended that evidence of torture in the record were insufficient and does not meet the standard to merit judicial review.

Chair Pantle opened the floor for discussion. Commissioner Jim Mullenix recused himself from the discussion because he was Child' co-defendant, Ted Mitchell, trial attorney. Steve Miller stated that he disagreed with the recommendation to deny the claim as he believed there were several corroborating points that weighed in Childs favor. He named Childs consistent allegation of being slapped, the pattern and practice of the detectives, and the fact that his co-defendant raised the same allegation from detectives. He thought that it was a very close case and felt that there was enough evidence to support referral for judicial review. Commissioner Futterman agreed with Commissioner Steve Miller and added that in addition to the long history of complaints of abuse during interrogation for Halloran and Boudreau, he felt that the Judge during the motion to suppress hearing wasn't presented with evidence of these detectives' long and troubling history. Chair Pantle was troubled by Childs' complaint of being slapped 30-40 times resulting injuries and showed no evidence in the photographs and his failure to mention such allegations to his lawyer. Commissioner Barry Miller felt that it was a close case as well but ultimately felt there wasn't sufficient credible evidence of torture to merit judicial review. Commission Steve Miller stated further reasons why he felt that the claim merited enough evidence for judicial review. Chair Pantle asked if there were any more comments. There were none.

Chair Pantle asked if there were any family members of the victim present and wanted to address the Commission. There were none. Pantle asked there were any claimant family members present. There were none.

Chair Pantle called for a vote. Commissioners Steve Miller voted to refer the claim to court. Commissioners Baldwin, Barry Miller, Touhy, Thurston, Loeb and Pantle voted to dismiss. By a 6/1 vote, Commissioners voted to dismiss the claim of Thomas Childs.

## **2) Terrell, Jimmie (2019.620-T)**

Director Olmstead recommended summary dismissal of the claim of Jimmie Terrell. Olmstead informed Commissioners that Terrell did not allege that either police or prosecutors tortured him nor that he made an incriminating statement that was used to obtain his conviction at trial. Olmstead stated that he alleged that approximately 20 years after he was convicted, he signed an affidavit and testified that he was solely responsible for the arson that led to the deaths of six people. Olmstead believed that

Terrell's claim did not constitute torture for two reasons; first implicit in TIRC's Statute in rules and explicit in constitutional law that is the concept that a confession cannot be deemed involuntary without some misconduct on the part of the state. Olmstead informed Commissioners that Terrell does not allege police or prosecutors forced him to confess rather his confession was the byproduct of their prosecution of his wife after he was already convicted. Without State action against Mr. Terrell, there is no constitutional violation, Olmstead noted.

Olmstead other reason he believed this claim did not constitute torture was that TIRC's rules define torture to require that torture be deliberately inflicted upon the confessor with the goal of inducing a confession to a crime. Because there wasn't any state action in this conviction, and any suffering Terrell incurred was not deliberately inflicted upon him for producing a confession, there was no torture. Olmstead recommended the commission to summarily dismiss the claim of Jimmie Terrell. He also noted the claim never went to formal inquiries and there was no requirement for crime victim notification. Olmstead welcomed questions from Commissioners.

Chair Pantle welcomed comments from Commissioners. There were none.

Chair Pantle called for a vote. Commissioners unanimously voted to dismiss the claim of Jimmie Terrell.

#### **V. Proposed Administrative Revisions Concerning Conflicts of Interest and Appointment of Counsel for Claimants**

Director Olmstead stated that the recommended amendments to the rules were the same rules presented at the February meeting which were deferred for consideration. He mentioned that there had been a few edits and changes were highlighted in Redline text in the draft before Commissioners. Olmstead recapped the two main thrust to the changes. The first change was addition of administrative rule 3500.325 to codify a conflict of interest policy outing in writing the self-examination that Commissioners have always done when considering whether to recuse themselves from a matter. The second change was the amendment of administrative rule 3500.350 to align the administrative rules more closely with the statue on the required representation for claimants. Olmstead stated that this change would make it easier for TIRC to recruit Council for claimants and process more cases quickly. Olmstead welcomed question or comments from Commissioners.

Chair Pantle added that the changes of the conflict of issues rules was to be like the language from Illinois rule of evidence 201b that deals with judicial notice its a definition and she made clear that TIRC was not adapting Illinois rule of evidence 201b rather adopting the concept. She welcomed discussion and questions. Olmstead thanked Staff Attorney Michelle Jenkins for her contributions to the rule changes. Commissioners had no questions or comments.

Chair Pantle called for a vote. Commissioners Thurston made a motion to adopt changes regarding appointment of Counsel for Claimants. Loeb Seconded. Commissioners Steve Miller, Baldwin, Barry Miller, Touhy, Thurston, and Pantle voted to adopt change.

Commissioner Loeb moved to adopt administrative revisions regarding conflicts of Interest. Commissioner Baldwin seconded. Commissioners Steve Miller, Barry Miller, Touhy, Thurston, and Pantle unanimously voted to adopt change.

## **VI. Public Comment**

The chair called for public comments. There were none.

## **VII. Adjournment**

Commissioner Thurston moved to adjourn; Commissioner Mullenix seconded. The commission voted unanimously to adjourn.