

**STATE OF ILLINOIS TORTURE INQUIRY
AND RELIEF COMMISSION**

Meeting of the Torture Inquiry and Relief Commission
July 17, 2013
3:02 p.m.

James R. Thompson Center
Conference Room 9 - 031
100 West Randolph Street
Chicago, IL 60601

MINUTES

PRESENT:

Commissioners

Chairman Cheryl Starks
Craig Futterman (Alternate)
Doris Green (Alternate)
Marcie Thorp (Alternate)
Neil Toppel
Rob Warden

Absent Commissioners

Leonard Cavise
Hipolito ("Paul") Roldan

Staff

David Thomas
Rosa Martinez (Private Secretary)
Francine Sanders (Paralegal)

Attendees

Human Rights Commission

Dr. Ewa Ewa, Chief Fiscal Officer
Donyelle Gray, General Counsel

Members of the Public:

Thomas Bennett
Katie Brill
James Carlton
Armanda Shackelford
Helen Charity

Francisco J. Ornelas
Mary Ornelas
Bettice Pulphus
Marquan McCright
Nigela Williams
Ashanti Pulphus
Dementria Seawood
Tara Akiwande
Tara Thompson
Matthew Kugler
Bertha Escamilla
D. Edward Gaines
Wallace Gator Bradley
Saul Vasquez
Jared R. Cloud
Maria De Luna
Anthony Jakes
Eliza Davis
Alexandra Mihalas
Ryan Pullman
Emma Mitts
Jessie Mae Jakes
Howard Davis
Elois P. Clayton
Anabel Perez
Hersea Brown
Chondra Williams
Faye Murray
Cassandra M. Blakely
Christopher Dean
Standish E. Willis
Mark Clements
Donald Goldhamer

I. Call to Order

On July 17, at 3:02 p.m., Chairman Cheryl Starks called to order a meeting of the Illinois Torture Inquire and Relief Commission (TIRC). Pursuant to the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., it was determined that a quorum of the public body was present at the meeting.

II. Introduction of TIRC Commissioners in Attendance

Present are Commissioners, Craig Futterman, Doris Green, Marcie Thorp, Neil Toppel and Rob Warden. Prior to the meeting, Commissioners Leonard Cavise and Paul Roldan gave notice (and good cause as defined by the Illinois Open Meetings Act) to the Executive Director David Thomas that they would be unable to attend the July 15, 2013 meeting.

Chairman Starks appoints Rosa Martinez to take minutes of Commission meetings and be responsible for taping the meetings.

III. Approval of Minutes

May 15, 2013

The Commission voted to approve the minutes of the May 15, 2013, meeting as submitted by staff. Motion to approve the minutes made by Commissioner Toppel and seconded by Commissioner Warden. Motion carried 6-0.

IV. Claim Dispositions

Robert Smith: Claim No. 2011.024-S

Executive Director Thomas has recommended in writing that Mr. Smith's Claim be found credible and be referred for judicial review and appropriate relief. Mr. Smith was convicted of the murders of two women found in a home that had been burned. Mr. Smith was interrogated for approximately 17 – 18 hours. He alleges he was choked, beaten and kicked in the chest. The trial judge refused to impose the death penalty so Mr. Smith received a sentence of natural life. The confession conflicts with much of the physical evidence in the case. There were no eyewitnesses and no physical evidence tying Mr. Smith to the offenses. There is no evidence of a motive for Mr. Smith to commit the murders. Mr. Smith testified that he told the detectives he needed to see a doctor, given that he had surgery for a skull injury prior to his arrest. Documents subpoenaed from Rush University Medical Center reveal Mr. Smith was treated for a skull fracture approximately two (2) months before being arrested. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found the claim of Robert

Smith to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Scott Mitchell: Claim No. 2011.034-M

Executive Director Thomas has recommended in writing that Mr. Mitchell's Claim be found credible and be referred for judicial review and appropriate relief. Mr. Mitchell was arrested for a double murder committed during an armed robbery. In a Motion to Suppress before trial Mr. Mitchell alleged physical coercion. A psychiatric evaluation of Mr. Mitchell demonstrates significant evidence of numerous psychiatric disorders and severe brain trauma. One of the characteristics of the Burge era was to coerce confessions from the mentally handicapped. Mr. Mitchell had a stipulated complaint of injury during medical intake at Cook County Jail. Executive Director Thomas states there is a discrepancy between the allegations in the motion to suppress and those before TIRC. In Mr. Mitchell's testimony at the motion hearing he never mentioned the phone/login book claim, and in the TIRC Claim Form he never mentions being beaten with fists. Mr. Mitchell's psychiatric and mental condition explain the discrepancy between the Motion to Suppress and TIRC Claim. In an interview conducted by TIRC, Mr. Mitchell maintained that he was beaten with fists and a phone/login book. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found the claim of Scott Mitchell to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Executive Director David Thomas states that, pursuant to TIRC procedures, a written Recommendation has been sent to each Commissioner prior to the TIRC meeting and discussed with each Commissioner individually. Chairman Starks states that Commissioners review all the written Recommendations prior to the TIRC meeting. Executive Director David Thomas provides the Commissioners with additional information and answers any questions in regards to the Recommendations.

Sidney McCray: Claim No. 2011.088-M

Executive Director Thomas has recommended in writing that Mr. McCray's claim be found not credible. Mr. McCray was convicted of murder, home invasion and armed robbery of a drug dealer. Four (4) co-defendants pled guilty to lesser charges and testified against Mr. McCray, identifying him as the shooter. In a Motion to Suppress before trial Mr. McCray alleged only the denial of the right to counsel. Mr. McCray testified at trial but did not claim any mental or physical coercion in obtain the statement. The TIRC claim is the first time an abuse allegation has been made. There was no incentive for

detectives to coerce a confession from Mr. McCray because of the evidence provided by the co-defendants. The Commissioners voted on the recommendation. In a unanimous vote, the Commissioners did not find credible evidence of torture in the Claim of Sidney McCray.

Michael Brandon: Claim No. 2011.020-B

Executive Director Thomas has recommended in writing that Mr. Brandon's Claim be found credible and be referred for judicial review and appropriate relief. Mr. Brandon was convicted of a 1991 murder and armed robbery involving female co-defendants who lured the victim into an alley, and Mr. Brandon shot the victim during the robbery. Mr. Brandon has been consistent in asserting his claim. During the initial bond court hearing, Mr. Brandon informed the trial judge he had been beaten. Mr. Brandon's motion to suppress is consistent with his TIRC claim form. TIRC subpoenaed the Clerk of the Circuit Court of Cook County, Cook County Public Defender and the Cook County State's Attorney office for photographs that were introduced during trial that demonstrate Mr. Brandon's injuries. Photographs could not be found by any office. Mr. Brandon has credibility issues, insisting he was interrogated at Area 3, where Jon Burge was Commander, instead of Area 6. The Commissioners voted on the recommendation. In a vote of four (4) to two (2), Commissioners Futterman and Thorp dissenting, the Commission found credible evidence of torture in the Claim of Michael Brandon. Chairman Starks entertained a motion to table Mr. Brandon's final voting decision for the next scheduled meeting. Motion approved by Commissioner Futterman and seconded by Commissioner Warden. Motion carried 5-1, Commissioner Thorp dissenting.

Daniel Vaughn: Claim No. 2011.023-V

Executive Director Thomas has recommended in writing that Mr. Vaughn's claim be found not credible. Mr. Daniel Vaughn was convicted of the murder of his girlfriend's 2 1/2 month old son, whom he was babysitting at the time. Mr. Vaughn testified during trial that the victim's death was accidental. Mr. Vaughn alleges that he was struck by Detective Yucaitis. In an interview conducted by TIRC, TIRC showed Mr. Vaughn a deposition given to the Special State's Attorney where he stated Detective Yucaitis did not strike him. Mr. Vaughn denied ever giving a deposition with the Special State's Attorney, and denied stating that he was never struck by Detective Yucaitis. Mr. Vaughn also testified that the Assistant State's Attorney at his interrogation never advised him of his rights and refused to leave the room. The Assistant State's Attorney was interviewed by the Special State's Attorney and denied Mr. Vaughn's allegations. After leaving the

State's Attorney's office she became an attorney representing criminal defendants at the Office of the State Appellate Defender. Executive Director Thomas inquires whether the Commission would like to conduct a video conference to determine Mr. Vaughn's credibility. At the Motion to Suppress Mr. Vaughn testified he was tired and therefore signed a confession. The Commissioners voted on the recommendation. In a unanimous vote, the Commissioners did not find credible evidence of torture in the Claim of Daniel Vaughn.

Robert Ornelas: Claim No. 2011.022-O

Executive Director Thomas has recommended in writing that Mr. Ornelas' Claim be found not credible. Mr. Ornelas was convicted of a double homicide involving a shotgun slaying in an alley in 1990. Mr. Ornelas alleges that while in custody at Illinois State Police headquarters in Joliet, Detectives Yucaitis and Steven Brownfield physically coerced him to make a statement. In a hearing on a Post- Conviction Petition, Illinois State Police Agent Hwang testified Mr. Ornelas was never alone with Detectives Yucaitis and Brownfield. Mr. Ornelas was in the custody of the Illinois State Police in a visible room in the Illinois State Police station. The trial judge who denied the post-conviction found the Illinois State Police Agent to be a credible witness. The testimony of his trial attorney, who was a childhood family friend, also argues against the credibility of Mr. Ornelas' claim of physical coercion. In an interview conducted by the TIRC, Mr. Ornelas was asked to submit additional documents that would support the claim of torture. The materials submitted to TIRC were self serving affidavits from as long ago as 1997 and 1998. The Commissioners voted on the recommendation. In a unanimous vote, the Commissioners did not find credible evidence of torture in the Claim of Robert Ornelas.

Jerry Mahaffey: Claim No. 2011.043-M

Executive Director Thomas has recommended in writing that Mr. Mahaffey's Claim be found to be credible and be referred for judicial review and appropriate relief. Executive Director Thomas introduced Mr. Ryan Pohlman from Kirkland & Ellis LLP, who assisted TIRC with the investigation. The Commissioners thanked Mr. Pohlman for the work conducted on behalf of the Commission. Mr. Mahaffey was convicted of murder, rape, and related offenses in connection with the notorious 1983 home invasion of a north side couple and their son. Mr. Mahaffey alleges physical coercion by Area 2 Detectives Bryne, Lotito, Boffo, and Grunhard. In a motion to suppress Mr. Mahaffey introduced medical records from Cermak indicating that he was hit in the rib cage and on the temple, and that he had abrasions on the right lower rib and a contusion on the left lower rib. The Commissioners voted on the recommendation. In a vote of five (5) to one (1),

Commissioner Thorp dissenting, the Commissioners found the Claim of Jerry Mahaffey to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Anthony Jakes: Claim No. 2011.035-J

Executive Director Thomas has recommended in writing that Mr. Jakes' Claim be found to be credible and be referred for judicial review and appropriate relief. Mr. Jakes, fifteen (15) years of age at the time, was convicted of the murder of a victim who was shot and killed near Mr. Jakes' home. Mr. Jakes was alleged to be the lookout and was sentenced to forty (40) years on the murder. Mr. Jakes was paroled in June, 2012. Photographs were introduced at Mr. Jakes' initial probable cause hearing which demonstrated bruising in the stomach area, back, and left ribs. They also showed injuries to his elbow and right knee. TIRC sent subpoenas to obtain the photographs, but the photographs could not be found. Mr. Jakes gave a confession after being in custody for over sixteen (16) hours without a guardian or lawyer being present. Mr. Jakes alleges Michael Kill and Kenneth Boudreau physically coerced him to make a statement. Detectives Michael Kill and Kenneth Boudreau have an extensive history of abuse allegations. Many of these cases involve juveniles. There were no eyewitnesses and no physical evidence tying Mr. Jakes to the offenses. Mr. Jakes' statement conflicts with a co-defendant's statement, which was also witnessed by Kenneth Boudreau. The co-defendant's statement does not mention an accomplice or a lookout. The Commissioners voted on the recommendation. In a unanimous vote, the Commissioners found the Claim of Anthony Jakes to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Mark Maxson: Claim No. 2011.019-M

Executive Director Thomas has recommended in writing that Mr. Maxson's Claim be found credible and be referred for judicial review and appropriate relief. Executive Director Thomas introduced Mr. Jared Cloud from McDermott Will & Emery LLP, who assisted TIRC with the investigation. The Commissioners thanked Mr. Cloud for the work conducted on behalf of the Commission. Mr. Maxson voluntarily went to Area 2 and was kept for a period of fifty eight (58) hours before a court-reported statement was taken. Mr. Maxson took a polygraph test, gave blood samples, hair samples and saliva samples and was told he had failed the polygraph test. There was no physical evidence tying Mr. Maxson to the offense. Mr. Maxson alleged on his TIRC Claim Form that he was abused by Robert Dwyer; however at the hearing on the motion to suppress he identified Detective James Dwyer. In an interview conducted by TIRC, Mr. Maxson

stated he read an article on police torture, saw the name Dwyer (Robert), and assumed it was the same Dwyer who had interrogated him. In Mr. Maxson's statement he stated he was voluntary assisting in the investigation to "clear himself". The Commissioners voted on the Recommendation. In a vote of four (4) to two (2), Commissioners Toppel and Thorp dissenting, the Commissioners found the Claim of Mark Maxson to be credible. Chairman Starks entertained a motion to table Mr. Maxson's final voting decision for the next scheduled meeting. The Motion carried.

James Hinton: Claim No. 2011.031-H

Executive Director Thomas has recommended in writing that Mr. Hinton's Claim be found not credible. Mr. Hinton was convicted of murder in 1997 for the shooting of an individual who had shot Mr. Hinton in 1990. After Mr. Hinton's motion to suppress was denied, he pled guilty and was sentenced to forty (40) years. Mr. Hinton alleges Detectives Kenneth Boudreau and John Halloran psychologically coerced him by showing him photographs of two close friends who had been shot in the face and head. Mr. Hinton also alleges his mother was threatened. Executive Director David Thomas states that the issue with Mr. Hinton's abuse allegations is whether it constitutes "torture" under the TIRC rules and the UN definition. Mr. Hinton stated he was suffering from a mental disability and was receiving Social Security Disability benefits; however, he did not know the diagnosis. TIRC subpoenaed the Social Security Office and the Office of the Cook County Public Defender for Mr. Hinton's records. The Social Security Office had administratively destroyed the records and the records were not part of the Office of the Cook County Public Defender's file. The Commissioners voted on the recommendation. In a vote of five (5) to one (1), Commissioner Futterman dissenting, the Commissioners did not find credible evidence of torture in the Claim of James Hinton.

Kevin Murray: Claim No. 2012.108-M

Executive Director Thomas has recommended in writing that Mr. Murray's Claim be found credible and be referred for judicial review and appropriate relief. Executive Director David Thomas introduces Francine Sanders, the TIRC paralegal/investigator who assisted in the investigation, and also introduces Tara Akinwande, a TIRC summer intern. Mr. Murray was convicted of a gang-related double murder where he confessed to driving the getaway car and was sentenced to natural life. Mr. Murray alleges Detectives Kristen Kato and John Summerville from Area 4 physically coerced him to make a statement. Mr. Murray was arrested two months after the murder had occurred. Detective Kristen Kato has many abuse allegations against him. Detective John Summerville was convicted and sentenced to prison for sexually assaulting women during traffic stops. At

the initial bond court appearance Mr. Murray's attorney George Zuganelis informed the court of Mr. Murray's allegations. Mr. Zuganelis retrieved a sweater from Mr. Murray that had a foot print in the chest. Mr. Zuganelis testified that he observed injuries on Mr. Murray. Mr. Zuganelis obtained an order to send Mr. Murray to the hospital; however there is no evidence that Mr. Murray was ever taken to the hospital. Mr. Murray's conviction is solely based on upon the confession. There were no eyewitness identifications or physical evidence tying Mr. Murray to the murders. The Commissioners voted on the recommendation. In a unanimous vote, the Commissioners found the claim of Kevin Murray to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

V. New Business

A. Status of Cases referred May 15

Chairman Starks states TIRC has not heard from Chief Judge Evans' office. Executive Director David Thomas states that he had a discussion with a representative from Judge Evans' Office, and was told that once court room availability had been determined TIRC will be informed.

B. TIRC Sunset Provision

General Counsel Donyelle Gray states that the TIRC statute has a "sunset provision" of August 10, 2014. Discussions have been taking place with General Counsel Donyelle Gray, the Governor's office and Chairman Starks regarding the interpretation of the statute. Chairman Starks states TIRC is looking to extend the sunset provision to finish investigating all claims, and is hopeful more information can be provided at the next scheduled meeting.

C. Fiscal Report

Dr. Ewa reports that the TIRC budget for FY 2014 (July 1, 2013, through June 30, 2014) has been approved for \$300,000. TIRC is currently operating on the \$160,000 funding received from the Illinois Criminal Justice Information Authority. Dr. Ewa has been in conversations with Executive Director David Thomas in regards to hiring a Staff Attorney. Executive Director David Thomas indicated he had been discussing awarding advisors a stipend of \$250 to advise claimants with Dr. Ewa. Chairman Starks stated a set amount will have to be determined before it can be approved.

D. Setting Calendar of Meetings

The Commissioners discussed the next available meeting date, and agreed that the next meeting will be scheduled for September 11, 2013, at 3:00 p.m.

VI. Executive Session

Pursuant to the Open Meetings Act (5ILCS 120/2(c) (1)), the Commissioners voted to close a portion of the meeting at 4:24 p.m. in order to discuss personnel matters. Motion made by Commissioner Toppel, seconded by Commissioner Green. Motion carried 6-0.

At 4:43 p.m. the open meeting resumed.

Chairman Starks states the Commission discussed staffing matters that are to remain confidential, as appropriate pursuant to the statute.

VII. Open Floor to Statements from the Public

Mr. Stan Willis states the TIRC Act contains a provision that the Act can be amended through the recommendation of the Commission.

Ms. Elois Clayton, asked if the Commission can consider broadening the scope of its inquiry to investigate claims of patients in mental health facilities who are mistreated. Chairman Starks states the TIRC is limited to accepting claims from individuals that have been tortured into giving a false confession that lead to their incarceration.

Ms. Helen Charity, a member of Black People Against Police Torture, thanks the Commission for its work and is grateful that the Commission is now operating.

VII. Adjournment

The meeting was adjourned at 4:51 p.m. Motion made by Commissioner Futterman with a second by Commissioner Warden. Motion carried 6-0.

Respectfully submitted,

Cheryl Starks, Chairman
Torture Inquiry and Relief Commission