

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

Meeting of the Torture Inquiry and Relief Commission

May 15, 2013

3:00 p.m.

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

MINUTES

PRESENT:

Commissioners

Chairman Cheryl Starks
Leonard Cavise
Craig Futterman (Alternate)
Doris Green (Alternate)
Hipolito ("Paul") Roldan
Marcie Thorp (Alternate)
Neil Toppel
Rob Warden

Staff

David Thomas
Rosa Martinez (Private Secretary)

Members of the Public:

Helen Charity
Rita Srivastava
Robine Morrison (Winston & Strawn)
Greg McConnell (Winston & Strawn)
Jeanette Plummer
Anabel Perez
James H. Daniel
James H. Daniel Jr.
Gladys Daniel
Ted Pearson
Kim Chanbonpin

Maxine Franklin
Bertha Escamilla
Aidali Oquendo
Nicole Lofton
Aida Valencia
Yolanda Espinosa
Francine Sanders

I. Call to Order

On May 15, at 3:00 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 Leonard Cavise, Craig Futterman, Doris Green, Paul Roldan, Marcie Thorp, Neil Toppel and Rob Warden.

Chairman Starks welcomes Commissioner Craig Futterman to the Commission, and thanks General Counsel Donyelle Gray for overseeing TIRC matters while the Commission was not operational.

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

III. Approval of Minutes

March 27, 2013

The Commission voted to approve the minutes of the March 27, 2013, meeting as submitted by staff. Motion to approve the minutes made by Commissioner Roldan and seconded by Commissioner Toppel. Motion carried 8-0.

IV. Executive Session

Pursuant to the Open Meetings Act (5ILCS 120/2(c) (1)), the Commissioners voted to close a portion of the meeting at 3:06 p.m. in order to discuss investigative matters.

Motion made by Commissioner Toppel, seconded by Commissioner Warden. Motion carried 8-0.

At 4:03 p.m. the open meeting resumed.

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

V. Claim Dispositions

Jackie Wilson: Claim No. 2011.021-W

Mr. Wilson's claim of torture was investigated by Robine Morrison and Greg McConnell from Winston & Strawn due to a conflict of interest on the part of Executive Director Thomas. The Recommendation is to find the Claim to be credible, and to refer it for judicial review and appropriate relief. Jackie Wilson and his brother, Andrew Wilson, were both charged for the double murder of two (2) police officers in the South Side of Chicago in 1982. The detectives involved in Jackie Wilson's claim are some of the same detectives in Andrew Wilson's case. Mr. Wilson alleges that he was hit over the head with a phonebook, had a gun put into his mouth, was subject to electroshocks, and was physically beaten. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found the claim of Jackie Wilson to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Jaime Hauad: Claim No.2011.025-H

Executive Director Thomas has recommended in writing that Mr. Hauad's Claim be found to be credible and be referred for judicial review and appropriate relief. Mr. Hauad alleges that he was threatened with having his toes cut off if he did not make a statement to the police. Mr. Hauad produced photographs that demonstrate the front section of his gym shoes cut off. The gym shoes appear to be cut off with a paper cutter as he alleged on his Claim Form. In the first lineup Mr. Hauad is photographed with the gym shoes in their normal condition and the second lineup demonstrates the toe section of the gym shoes has been cut off. Mr. Hauad also alleged being slapped and physical mistreatment while in custody. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found the claim of Jaime Hauad to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Tony Anderson: Claim No.2011.014-A

Executive Director Thomas has recommended in writing that Mr. Anderson's Claim be referred for judicial review and appropriate relief. Mr. Anderson claims Detective Michael McDermott and Detective Anthony Maslanka physically abused him. Both detectives have a history of numerous abuse allegations with the TIRC and would have been indicted by the Special State's Attorney in 2006 if it wasn't due to the statute of limitation. Mr. Anderson has been very consistent in raising his claim in his Motion to Suppress and numerous Post-Conviction Petitions which have been denied or dismissed on procedural grounds without reaching the merits. The abuse allegations made by Mr. Anderson were made before the OPS Sanders Report and OPS Goldstein Report became public. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found the claim of Tony Anderson to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Darrell Fair: Claim No. 2011.018-F

Executive Director Thomas has recommended in writing that Mr. Fair's Claim be found credible, and be referred for judicial review and appropriate relief. Mr. Fair alleges that he was denied his asthma medication, was kicked in the leg, and was threatened with a gun. Mr. Fair was in custody for a period of 32 hours before a statement was written by the Assistant State's Attorney. The written statement and the corrections made were not signed by the Detective or Mr. Fair. The only signature that appears on the statement is that of the Assistant State's Attorney. The Assistant State's Attorney also signed Mr. Fair's name on the waiver of right signature line. Documents confirm Mr. Fair did in fact have asthma and informed the lock up personnel of this fact. The written motion to suppress asserts the asthma and kicking claims, and the post-conviction petition is completely consistent with the TIRC Claim. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found that the Claim of Darrell Fair is credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Clayborn Smith: Claim No. 2011.007-S

Executive Director Thomas has recommended in writing that Mr. Smith's claim be found credible, and referred for judicial review and appropriate relief. Mr. Smith was interrogated for a period of 39 hours at 51st and Wentworth by Detectives Halloran, Boudreau and O'Brien. All three (3) were involved in the 1992 case of Peter Williams, Dan Young and Harold Hill, who were beaten into falsely confessing. The written

confession gives a detailed description of the events but it conflicts with other evidence in the case. Mr. Smith has been consistent in asserting his claim. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners found that the Claim of Clayborn Smith was credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Harvey Allen: Claim No.2011.017-A

Executive Director Thomas has recommended in writing that Mr. Allen's Claim be found not to be credible. Mr. Allen's motion to suppress is very detailed and consistent with his Claim. However, Mr. Allen has not been consistent in asserting his claim, and the claim is not supported by either witnesses or physical evidence. There were no eyewitnesses, nor was there any scientific evidence, to prove that Mr. Allen was at the crime scene, which does provide an incentive to coerce a statement. Commissioner Futterman states Mr. Allen's claim is a very difficult case, however he believes it should be referred for judicial review. Mr. Allen's confession was given after two (2) days of being held in custody and a very detailed motion to suppress was filed. Mr. Allen stated during his TIRC interview that the confession was induced in part by promises of leniency by the detectives and Assistant State's Attorney. A short discussion ensued whether Mr. Allen's trial attorney made a strategic decision to not pursue the Motion to Suppress but instead focused on the lack of probable cause for the arrest. Chairman Starks inquired whether the Commission would like to interview the trial attorney to inquire if in fact it was a strategic decision not to pursue the abuse allegations. Executive Director Thomas stated the trial attorney did raise the abuse allegations but did not question Mr. Allen about them. The Commissioners voted on the recommendation. In a unanimous vote, the Commissioners found the Claim of Harvey Allen to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

Vincent Wade: Claim No. 2011.009-W

Executive Director Thomas has recommended in writing that Mr. Wade's Claim be found credible, and referred for judicial review and appropriate relief. Mr. Wade alleges that he was beaten with a baton-like stick while his chest was covered with an open phone book. There are three (3) photographs demonstrating injuries to Mr. Wade's face. Police officers stated that Mr. Wade's injuries were a result of a scuffle that occurred at the time of his arrest, but the testimony was that there were no injuries to Mr. Wade's face resulting from the scuffle. In a unanimous vote, the Commissioners found the Claim of Vincent Wade to be credible, and referred the case to the Chief Judge for judicial review and appropriate relief.

William Atkins: Claim No. 2011.011-A

Executive Director Thomas has recommended in writing that Mr. Atkins claim be found to be not credible. Mr. Atkins alleges that he was choked with a tie until he lost consciousness in an interrogation room in Logan Correctional Center. Mr. Atkins' Claim Form states that the choking broke partial false teeth in the back of his mouth. Medical records subpoenaed by TIRC do not support this claim. The Claim is not supported by either witnesses or physical evidence. The Commissioners voted on the recommendation. In a vote of seven (7) to one (1), Commissioner Cavise dissenting, the Commissioners did not find credible evidence of torture in the Claim of William Atkins.

Drew Terrell: Claim No. 2011.040-T

Executive Director Thomas has recommended in writing that Mr. Terrell's Claim be found to be not credible. Mr. Terrell alleges that Area 4 detectives punched him in the chest, twisted the collar of his shirt "stopping him from breathing", and screamed at him and threatened him. There is no corroboration of Mr. Terrell's testimony. The Claim is not supported by either witnesses or physical evidence. There does not appear to be any other avenue of investigation or corroboration of Mr. Terrell's claim. The Commissioners voted on the Recommendation. In a unanimous vote, the Commissioners did not find credible evidence of torture in the Claim of Drew Terrell.

Joseph Davis: Claim No. 2011.010-D

Executive Director Thomas has recommended in writing that Mr. Davis' Claim be found to be not credible. Mr. Davis did not make a Motion to Suppress before trial. The trial attorney argued that the statements were exculpatory. In a post-conviction petition filed in 2007, Mr. Davis complains of mistreatment, but does not allege that the statement was a product of physical coercion or abuse. There is no corroboration of this Claim. The Commissioners voted on the Recommendation. In a vote of seven (7) to one (1), Commissioner Toppel dissenting, the Commissioners did not find credible evidence of torture in the Claim of Joseph Davis.

VI. New Business

- A. Obtaining Files from Clerk's Office

Executive Director Thomas informs the Commission that on May 13, 2013, a meeting was held at the Clerk of the Circuit Court to discuss the retrieval of files. Executive Director Thomas expressed the importance of receiving these files in a timely manner. He is hopeful that the TIRC will begin to receive a flow of files to continue the investigation process. Executive Director Thomas indicates that Kirkland & Ellis LLP has increased their interest in investigating claims. Commissioner Green asked how many pending claims TIRC currently has. ED Thomas stated there are about one hundred (100) cases.

B. Advisors for Claimants

Executive Director Thomas stated that four (4) additional advisors have expressed interest in advising TIRC claimants. ED Thomas is also working with the Chicago Bar Foundation to recruit additional advisors. Chairman Starks advised Commissioners to refer any attorneys that express an interest in being an advisor to ED Thomas.

Commissioner Warden recommends that Assistant State Attorneys and Judges be identified in the Recommendations. Executive Director Thomas suggests including the identities in the Recommendation and letting the Commission decide whether to include the information in the decision filed with the Clerk of the Circuit Court. The Commissioners agreed with the ED's suggestion.

C. Setting Calendar of Meetings

Commissioners discussed the next available meeting date, and agreed that the next meeting will be scheduled for July 17, 2013, at 3:00 p.m.

D. Open floor to Statements from the Public

Ms. Maxine Franklin states that the Assistant State Attorney's name should be made public as most of the time they are present when the abuse is occurring. Ms. Franklin also inquires about the status of her son's claim, Jerry Gillespie. Executive Director Thomas requests Ms. Maxine provide the TIRC with her contact information to discuss Mr. Gillespie's status.

Mr. Ted Pearson states that he is pleased to see the Commission is now fully operating. Mr. Pearson expresses his concern about future funding for TIRC and would like to know whether the Commission will continue to receive funding. Executive Director Thomas states that the Commission is currently funded through the Illinois Criminal Justice Information Authority (ICJIA) through February 2014. Currently there is a pending application before the ICJIA to receive funds for the fiscal year of March 2014 through February 2015. Mr. Pearson also expresses his concern that the State has neglected its

responsibilities for funding TIRC. Executive Director Thomas states that the ICJIA is a State agency.

Ms. Bertha Escamilla asks if the claims being referred for judicial review will be investigated by Judge Stewart Nudelman. Chairman Starks states that Mr. Nudelman is a Special Prosecutor and will not personally investigate the claims. All claims will be assigned a Special Prosecutor due to conflict of interest on the part of the Cook County State's Attorney's Office.

Kim Chanbonpin, states that she teaches at the John Marshall Law School. Mr. Chanbonpin thanks Executive Director Thomas and the Commissioners for their work. Ms. Chambonpin would like to remind the Commission about its power to a hold evidentiary hearing in cases where the Commission finds a claim is difficult to decide whether to refer it or to deny it.

Ms. Gladys Daniel asks what happens to the claims that are pending before the Commission if funding were to be terminated. Chairman Starks states all claims need to be filed before August 2014 to be heard by the TIRC.

Ms. Anabel Perez states that she is the mother of Jaime Hauad and thanks the Commission for referring her son's claim.

Ms. Nicole Lofton states she is the daughter of Jesse Hatch and asks if the Independent Police Review Authority has provided the TIRC with Mr. Hatch's files. Executive Director Thomas states the documents have been subpoenaed but the TIRC has not received them. ED Thomas also states that he hopes to present Mr. Hatch's Recommendation at the next Commission meeting.

VII. Adjournment

The meeting was adjourned at 5:21 p.m. Motion made by Commissioner Toppel with a second by Commissioner Cavise. Motion carried 8-0.

Respectfully submitted,

Rosa Martinez
Private Secretary