



**STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION MEETING
Wednesday, January 20, 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 Robert Loeb
Commissioner Steve Miller (via telephone conference)
Commissioner James Mullenix
Commissioner Paul H. Roldan
Commissioner Marcie Thorp
Alternate Commissioner Doris Green (via telephone conference)
Alternate Commissioner Craig Futterman
Alternate Commissioner Timothy O'Neill
Alternate Commissioner Stephen Thurston

Staff on dais

Rob Olmstead (Interim Executive Director)
Roxana Malene (Commission Assistant)

I. Call to Order/Members Present

On January 20, 2016 at approximately 3:00 p.m., Chairman Cheryl Starks called to order the meeting of the Illinois Torture Inquiry and Relief Commission (TIRC). Present were Chairman Starks and Commissioners Baldwin, Loeb, Mullenix, Roldan, Thorp, and alternate Commissioners Futterman, O'Neill and Thurston, constituting a quorum. Commissioner Miller

and alternate public Commissioner Green attended remotely via telephone, per unanimous approval by Commissioners on Commissioner Mullenix' motion. Interim Executive Director Rob Olmstead was also present.

II. Approval of Minutes

Chairman Starks called for a motion to approve the minutes of the November 18, 2015 meeting. Commissioner Loeb moved for approval and Commissioner O'Neill seconded the motion. The minutes for the meeting were approved unanimously.

III. Approval of the Draft Determination Language

a. Jerry Mahaffey (2011.043-M) – Approval of draft language reflecting prevailing November 18, 2015 vote

Interim Executive Director Olmstead noted that at its November 2015 meeting, the Commission voted five to three not to refer this case for judicial review, and Commissioners now had a draft opinion reflecting that vote. Commissioner Thorp, seconded by Commissioner Baldwin, moved for approval of the language of the written disposition. The motion was unanimously approved, formally dismissing the claim.

b. Claim of Ivan Smith

Interim Director Olmstead noted that at its previous meeting, the Commission voted six to two to refer the case of Ivan Smith to Cook County Circuit Court for further review and that it now had a draft disposition reflecting that vote. Commissioner Mullinex moved to approve the draft language and Commissioner Loeb seconded the motion. The draft language was unanimously approved as reflecting the vote cast at the November 18, 2016 meeting. The case was referred to Circuit Court for further judicial review.

Commissioner Green was unable to remain on the phone for the remainder of the meeting. Commissioner Miller observed the meeting via telephone for another twenty minutes.

IV. Interim Executive Director's Report

Interim Executive Director Rob Olmstead welcomed the two recently appointed Alternate Commissioners: Alternate public defender Commissioner Timothy O'Neal and Alternate public member Commissioner Steven Thurston. Reverend Thurston serves as the pastor and current CEO of the New Covenant Baptist Church in Chicago. He is also a member of the NAACP, former President of the National Baptist Convention of America, and a former board member of the Illinois Ethics Board. Attending his first meeting as well was Mr. O'Neill, a former Cook County Public Defender and a current law professor at the John Marshall Law School, a regular columnist on criminal procedure review in the Daily Law Bulletin. Mr. Olmstead also welcomed back Commissioners Thorp and Miller, who were reappointed at the beginning of 2016.

Mr. Olmstead reported on his and Malene's efforts to recruit donated legal services. Eight *pro bono* firms are now assisting the Commission with claims.

The staff has also refined the process of obtaining court files from the Circuit Court Clerk's Office. A single person will serve as our point of contact to make the response more efficient. Additionally, the Clerk's Office will direct the Commission staff to other offices and agencies when files we request have been checked out. TIRC has begun obtaining such files directly from those offices rather than waiting their return to the clerk's office.

Interim Director Olmstead updated Commissioners on the possibility that police unions may succeed in destroying or de-indexing police complaint and disciplinary files older than 4 to 7 years old. Mr. Olmstead informed the Commission that City attorneys plan to appeal recent arbitration rulings directing the police to destroy or de-index these files. While TIRC has served subpoenas in an attempt to preserve the files it needs, Interim Director Olmstead, in consultation with the chair, continues to explore whether further protections are necessary and obtainable. Interim Director Olmstead noted such files are vital to the Commission's work and their destruction would greatly challenge the Commission's ability to investigate its cases.

II. Claims

a. Claim of Marvin Scott

Interim Director Olmstead recounted the fact that this claim was previously brought in front of the Commission in May by former Executive Director Barry Miller who recommended it be summarily dismissed for lack of jurisdiction. Mr. Scott had indicated that his confession had not been used at trial. The Commission tabled the claim for further investigation whether the confession had been otherwise used to secure Mr. Scott's conviction.

Recently obtain trial transcripts indicate that Mr. Scott's prosecutors agreed on the record not to use the confession in either their case in chief or rebuttal. Interim Executive Director Olmstead recommended that the case be dismissed for lack of jurisdiction.

Commissioner Loeb moved to accept the recommendation and dismiss the claim; Commissioner Mullenix seconded the motion. The recommendation was adopted unanimously, summarily dismissing the claim.

b. Claim of Rickey Robinson

Interim Executive Director Olmstead briefly recounted the facts of this claim and noted that this claim was also tabled at the last meeting for one additional inquiry. Mr. Robinson had been convicted of the murder of Nicole Giles on December 28, 1997.

Supporting Robinson's claim is the fact that he passed a Chicago Police polygraph test in

which he denied involvement in the murder, and the detective involved in the case had a long history of abuse claims and findings by courts against his reliability. Weighing against referral was Robinson's long delay in ever claiming torture and his trial attorney's statements to TIRC that Robinson had never alleged any mistreatment to him. Additionally, as requested by the Commission, further questions to Mr. Robinson's trial attorney confirmed that the attorney did not preserve any contemporaneous notes on the case or the file itself. The Director recommended that the Commission dismiss the claim for lack of sufficient evidence of torture.

Relatives of the crime victim in the case were present at the hearing but declined to speak. Mr. Robinson's attorney, Ms. Ruth Greenberg was present and declined to speak. Chair Starks moved the Commission to vote on the final determination of this claim. Commissioner Roldan moved to accept the recommendation and dismiss the claim, Commissioner Mullenix seconded the motion. The Commission unanimously adopted the Director's recommendation to dismiss the case.

VI. Public Comment

Chair Starks invited the public to comment; no one came forward.

Chair Starks invited a motion to retire to closed session under Section 2(c)(1) of the Open Meetings Act (personnel). Interim Director Olmstead also noted that impending litigation would also be discussed. Commissioner Loeb so moved, and Commissioner Mullenix seconded the motion. The motion was approved unanimously.

VIII. Closed Session

The Commission retired to closed session to discuss pending litigation matters and personnel matters. Approximately 40 minutes later, the Commission reconvened in open session.

XI. Final Action on Items Discussed in Closed Session

Upon reconvening in open session, the Chair recommended that Interim Executive Director Rob Olmstead be promoted to the position of Executive Director. Commission Roldan so moved and Commissioner Mullenix seconded the motion. Commissioners unanimously approved the motion.

The Chair congratulated Mr. Olmstead and informed him that she wants to discuss several candidates for the position of Staff Attorney, now vacant subsequent to Mr. Olmstead's promotion.

XII. Adjournment

Commissioner Mullenix moved to adjourn; Commissioner Baldwin seconded. The motion passed unanimously.