



STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION SPECIAL MEETING
Wednesday, September 21, 2016, 3:00 p.m.

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

MINUTES

PRESENT:

Commissioners

Commissioner Marilyn Baldwin
Commissioner Steven Miller
Commissioner James Mullenix
Commissioner Robert Loeb
Commissioner Marcie Thorp
Alternate Commissioner Craig Futterman
Alternate Commissioner Timothy O'Neill
Alternate Commissioner Stephen Thurston

Staff on dais

Rob Olmstead (Executive Director)
Michelle Jenkins (Staff Attorney)
Dr. Ewa Ewa (Chief Financial Officer)
Roxana Malene (Commission Assistant)

I. Call to Order/Members Present

On September 21, 2016, at approximately 3:26 p.m., Commissioner Marcie Thorp presided over the meeting in the stead of absent Chairwoman Cheryl Starks. Present were Commissioners Baldwin, Loeb, Miller, Mullenix, Thorp, and alternate Commissioners Futterman, O'Neill, and Thurston, constituting a quorum.

II. Approval of Minutes

Commissioner Thorp called for a motion to approve the draft minutes of the August 24, 2016, meeting. Commissioner Miller so moved and Commissioner Mullenix seconded the motion. The minutes for the August meeting were unanimously approved.

III. Chief Financial Officer's Report

Dr. Ewa reported that funds previously allocated to the Commission subsequent to the recent budget compromise have already largely been expended to pay off vendors holding outstanding debts accumulated in FY15 and FY16. The funds were insufficient to extinguish all debts and a budget for FY17 was not yet been approved.

IV. Executive Director's Report

Executive Director Rob Olmstead reminded Commissioners that Governor Bruce Rauner signed Public Act 99-688 on July 29, 2016. The Act amended 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, extended jurisdiction throughout Cook County and re-opening the claim period through August 10, 2019. Its passage necessitated a special meeting to amend the Commission's Administrative Rules. Amendments were discussed and approved at the August meeting and Staff Attorney Michelle Jenkins already submitted the amendments for publication to the Illinois Secretary of State in anticipation of their publication in the Illinois Register by mid- to late October.

Staff continued to interview claimants and witnesses, while also responding to new correspondence. A notice of the new amendments to the TIRC Act was posted in Illinois prisons. This prompted a surge in letters. To date, the Commission received 212 inquiries seeking claim forms and 3 new claim forms. The staff sought additional volunteers to address the increased workload. A former volunteer is expected to re-join the Commission on a part-time basis and two law students are expected join as interns next month. Additionally, a volunteer with grant writing experience may join the Commission and focus her efforts on obtaining funding.

Director Olmstead informed Commissioners and the public that additional staff attorneys and support personnel are needed to timely address the increase in workload. He will submit a final request to the governor's office and the legislators after conferring with the Chair and the Chief Financial Officer and memorialize the Commission's needs in an end of the year report.

Lastly, Mr. Olmstead informed the Commission that nearly all 129 claimants whose claims had previously been suspended pending resolution of the Commission's jurisdiction over Non-Burge cases by the courts and the legislature of Illinois have been notified that they fall within the Commission's jurisdiction. Those not yet notified will be addressed today for a final resolution.

Commissioners discussed and suggested where to seek and find additional funding for the timely functionality of the Commission given the anticipated increase in case load. Mr. Olmstead noted their recommendations and concluded his report.

V. Claims

1) **BoClair, Reginald (2011.106-B)**

Director Olmstead informed the Commission that this claim will be delayed to be heard at the upcoming November 16, 2016, meeting.

2) **Hubbard, Ernest (2014.242-H)**

This claim tests the definition of torture as recently amended by the legislature, specifically, torture “occurring within a county of more than 3,000,000 inhabitants,” Cook County being the only such county in Illinois. Mr. Hubbard alleged two incidents of torture: one committed by Glendale police in DuPage county and a second one that occurred at the Illinois Rehabilitation Institute of Chicago (IRC) where DuPage County detectives questioned him while he allegedly was heavily medicated.

Director Olmstead noted that the recommended determination assumes, without deciding, that the alleged conduct rises to the level of torture and that the IRC facility where Mr. Hubbard had been hospitalized is in Chicago, within Cook County borders. Director Olmstead discussed various interpretations of the language of the statute and recommended that the Commission, in accordance with the administrative rules it approved in August, dismiss the Hubbard claim because the conviction originated in the courts of a county outside Cook County.

Commissioner Loeb moved the Commission to vote on the summary dismissal and Commissioner Mullenix seconded. Commissioners adopted Mr. Olmstead’s recommendation unanimously. The case was summarily dismissed.

3) **Hommerson, Peter (2013.170-H)**

Somewhat similar to Mr. Hubbard’s claim, Mr. Hommerson alleges that he was tortured by Chicago and Barrington Hills Police, but was convicted in a Lake County court. Lake Count has less than 3,000,000 inhabitants. For this reason and for those detailed in the written Summary Dismissal shared with the Commissioners, Mr. Olmstead recommended the case be dismissed. Commissioner Miller, seconded by Commissioner Loeb, moved to dismiss the case. Commissioners dismissed unanimously.

4) **Green, Willie (2014.211-G)**

Mr. Green’s felony conviction occurred in the St. Clair County court system. Mr. Olmstead recommended summary dismissal of this case as well. Seconded by Commissioner Loeb, Commissioner Thurston moved to dismiss Mr. Green’s claim. Commissioners dismissed by unanimous vote.

5) Ursery, Fernandez (2014.236-F)

Mr. Ursery was also convicted in the courts of St. Clair County and Mr. Olmstead recommended his claim be summarily dismissed. Commissioner Loeb moved to dismiss and Commissioner Baldwin seconded the motion. Commissioners dismissed by unanimous vote.

6) Perry, Ernest (2013.181-P)

Mr. Perry's conviction occurred in the courts of Madison County. Mr. Olmstead recommended it be dismissed for this reason and others detailed in the draft recommendation. Commissioner Loeb moved to adopt the summary dismissal recommendation. Commissioner Mullenix seconded and Commissioners dismissed by unanimous vote.

7) Anderson, Dale (2014.251-A)

Ms. Jenkins presented Mr. Anderson's claim. Anderson was also convicted in St. Clair County, Illinois. Mr. Anderson alleged abuse by Jon Burge and the Illinois State Police without submitting any documentation to support his allegations. Anderson's conviction in St. Clair County, however, renders this case outside the Commission's jurisdiction both under the old and the new TIRC Act. For this reason and others outlined in her draft recommendation, Ms. Jenkins recommended summary dismissal. Commissioner Thurston moved to adopt the recommendation. Commissioner Mullenix seconded and the recommendation was adopted unanimously.

8) Hampton, Willie (2013.141-H)

Mr. Olmstead informed the Commission that Mr. Hampton alleged that he and his codefendant were tortured by Chicago Police and subsequently convicted in the Cook County criminal system. Mr. Hampton, however, denied that he himself had made any incriminating statements to Police or that any prosecutors or police had testified to any statements he made. Instead, it was his co-defendant who had confessed and made statements incriminating Hampton. The TIRC Act gives the Commission jurisdiction over allegations that a claimant himself was tortured into confessing and confessed, but does not grant the Commission jurisdiction to investigate tortured statements of witnesses. While this limitation of the TIRC Act is regrettable and the Commission does not condone the alleged conduct, the Commission is bound to investigate only those claims that clearly fall within the parameters defined by its law, the TIRC Act. The Commission has in the past dismissed cases for the same reasons. In keeping up with that precedent, and because this case does not fall within parameters of the TIRC Act, Mr. Olmstead recommended summary dismissal.

Commissioner Miller opined that he is not comfortable with summarily dismissing this case because an unsophisticated claimant may not be capable of identifying when a statement was used in court to obtain the claimant's conviction. He also pointed to other details of Hampton's allegations which are consistent with prior allegations in credible cases. Commissioner Miller asked that additional investigative work be done

before dismissal. Commissioner Mullenix concurred and elaborated on the manner in which a co-defendant's statement may amount to a confession in the sense encompassed by the TIRC Act.

Commissioner Miller moved to defer the case for further investigation. Commissioner Mullenix seconded. Commissioners voted unanimously to defer the claim for additional investigation.

VI. Public Comment

Upon request to speak, Commissioner Thorp invited Ms. Perez, Jamie Hauad's mother, to speak to the Commission. Ms. Perez asked for procedural clarifications and the time expected for claims such as Mr. Hauad's to be addressed again by the Commission. Mr. Olmstead emphasized that he could not speak to particular claims, but that, in general, those that were dismissed by the Commission or the Courts solely for lack of jurisdiction before the amendment of the TIRC Act, but now fall within the Commission's jurisdiction, will be reinstated once the Administrative Rules are approved. The approval procedure for Administrative Rules is a lengthy one and that will directly affect the reinstatement timeline. Ms. Perez thanked and commended the Commission for its efforts.

VII. Adjournment

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