

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

Meeting of the Torture Inquiry and Relief Commission
December 13, 2010
10:00 a.m.

James R. Thompson Center
Conference Room 2 – 025
100 W. Randolph Street
Chicago, Illinois

MINUTES

PRESENT:

Commissioners

Chairman Patricia Brown-Holmes
Leonard Cavise
Daniel Coyne
Neil Toppel
Rob Warden
Jeanette Wilson (Alternate)

Absent Commissioners

Robert Acton (Alternate)
Bernetta D. Bush (Alternate)
Doris Green (Alternate)
Hipolito Roldan
Marcie Thorp (Alternate)
Andrea Zopp

Attendees

Human Rights Commission

Harriet Parker, General Counsel
Ewa Ewa, Chief Fiscal Officer
Michael Evans, Chief Administrative Law Judge
Donyelle Gray, Deputy General Counsel
LaNade Bridges, Private Secretary

Members of the Public:

David Thomas

NOTICE:

Closed Meetings of the Illinois Torture Inquiry and Relief Commission are audio recorded and Public Meetings may be audio recorded.

I. Call to Order

On December 13, 2010, at 10:05 a.m. Chairman Patricia Brown-Holmes called to order a meeting of the Illinois Torture Inquiry and Relief Commission, (“TIRC”)

Pursuant to the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., it was determined that:

- 1) A quorum of the public body was present at the meeting without the physical presence of Commissioners Roldan and Zopp.

II. Consideration of Minutes

October 25, 2010

The TIRC voted to approve the minutes subject to an amendment of the minutes, at *Present Commissioners*, to correct the spelling of Commissioner Rob Warden’s last name, to *Warden* and to correct the spelling of Commissioner Wilson’s first name, to *Jeanette*. Motion to approve the minutes as amended made by Commissioner Cavise and seconded by Commissioner Toppel. Motion carried 5-0.

III. Introduction of Commission:

Chairman Holmes greeted the Assembly and invited the members of the TIRC to introduce themselves. After introductions had been made Chairman Holmes introduced Professor David Thomas, whom the Commissioners had chosen as the TIRC’s first Executive Director, at the October 25, 2010 TIRC meeting. Although E-par approval to hire Professor Thomas is pending in the Office of the Governor, Chairman Holmes has met with Professor Thomas regarding TIRC matters.

IV. Budget Update

Chairman Holmes shared that she has been working with Illinois Human Rights Commission (“HRC”) Chief Fiscal Officer, Dr. Ewa Ewa on the TIRC’s budget for fiscal year 2011 (“FY 2011”). The TIRC budget for FY 2011 (FY 2011 runs from July 1, 2010, through June 30, 2011) has been approved for \$374,000. Appropriations

for staff salaries, office furniture and equipment were briefly discussed. Chairman Holmes stated that the positions of staff attorney and confidential assistant have been approved by the Civil Service Committee and are Rutan exempt.

V. Short Term Goals

A. Determination Not to Hire Fulltime Investigator

Chairman Holmes stated that she and Professor Thomas had determined, because there is presently no work for a full-time investigator, this position will not be filled at this time. They determined that when and if needed, the services of firms specializing in the forensic sciences, including DNA specialists, and testing facilities may be contracted. A discussion ensued regarding possible forensic and investigatory sources, including the Illinois State Police and Illinois Central Management Services (CMS). In response to inquiries regarding who will be responsible for providing investigatory services, Chairman Holmes stated that Professor Thomas will head investigations including outsourcing for such services if required and the staff attorney will provide assistance. It was agreed that if needed, the issue of hiring an investigator may be revisited. Commissioner Toppel suggested that the State Police be contacted to ascertain if the TIRC may utilize their forensic services. Although Professor Thomas expressed some concern with using the services of the State Police, it was decided this possible resource should be examined. It was determined that CMS should also be contacted to ascertain the procedure for outsourcing and or contracting for forensic and or investigatory services.

B. Professor David Thomas, TIRC Provisional Executive Director

Professor Thomas has not yet been hired, due to pending E-par approval. Professor Thomas has nonetheless been working on behalf of the TIRC. Professor Thomas has identified a candidate, Kellye Keyes, for the position of staff attorney. Ms. Keyes was a candidate for the position of TIRC ED. The staff attorney's duties include assistance with the budget, Human resources, legal researcher and legal assistant, rule making, and the administration of the office. Professor Thomas has spoken with Ms. Keyes and believes she has the qualifications and experience required for this position. Professor Thomas plans to meet with Ms. Keyes again before making a recommendation. Professor Thomas stressed that time is of the essence to hire staff to get the office up and running and to assist in budget preparation as the TIRC budget for FY 2012 is due in early February 2011.

Professor Thomas briefly explained why he and Chairman Holmes had decided not to hire an investigator. Professor Thomas stated that after reading the OPS Report on Burge which was based solely on a review of records, and Special Prosecutor Egan's Report, which identified over 200 identified torture cases, it appears that much of the investigation that the TIRC may have needed has already been completed. Professor

Thomas stated, his investigation also revealed that rather than hire a full time investigator, the Special Prosecutor's office had contracted with a private firm consisting mainly of ex-FBI agents, on a case-by-case bases. Thereafter, a lengthy conversation ensued regarding what constitutes "forensics needs."

Professor Thomas stated that with respect to claims of torture, the complainant must have been convicted and the confession must have been obtained as a result of torture. Professor Thomas stated there may be a need to perform DNA testing using enhanced technology that was not available at the time of the conviction.

Chairman Holmes reiterated that Ms. Keyes is being considered for the staff attorney position. Chairman Holmes and Commissioner Wilson participated in a teleconference with the Civil Service Commission regarding the confidential assistant position. The confidential assistant will perform administrative duties for the ED and staff attorney. Judge Holmes has recently received written confirmation that the confidential assistant position and the staff attorney position have been approved by the Civil Service Committee with Rutan exemption.

A lengthy discussion ensued regarding the roles/duties of the ED, staff attorney, and confidential assistant. Chairman Holmes explained that the ED is responsible for the entire operation of the Commission. Professor Thomas, who was hired, in large part because of his trial and Law School teaching expertise, will be expected to assist in the preparation of cases for presentation. The staff attorney will serve as the legal assistant to the ED. As this is a small staff, the assistant attorney may conduct research into the claims of torture, be responsible for HR, assist with the drafting of Administrative Rules, and generally assist the ED in getting things done.

The confidential assistant will serve as the support staff to the ED and staff attorney and will be responsible for all administrative support functions of the Commission. The approved job descriptions of these positions will delineate the job functions and percentage of time allotted for each particular task. The approved job descriptions will be placed on the next meeting's agenda.

A lengthy discussion ensued regarding the following: *the decision not to hire the investigator, *the outsourcing of investigative work, *the scope and mandate of the TIRC, *the specific roles and duties of the ED, staff attorney and confidential assistant, *possible duplication of efforts between the TIRC and Special Prosecutor Nudelman's office, *whether staff should be hired before the specific functions of the TIRC have been established, *whether items not on the agenda may be discussed and or voted on.

Commissioners Cavise and Coyne expressed concern regarding what they perceive to be a delay in getting the Commission up and running. Commissioner Cavise suggested that issues including, clarifying the functions of the TIRC and how the

work of the TIRC will be accomplished; and the duties of the ED, staff attorney, and confidential assistant should be added to today's agenda as New Business since the TIRC meets infrequently. Ms. Parker, General Counsel for the Human Rights Commission stated that while new items may be added to today's agenda, the new items may not be voted on until the next meeting as the public must receive notice. Professor Thomas concluded his comments by stating he shares the Commissioners' eagerness to get the TIRC up and running.

VI. New Business

There was discussion regarding filed and or received complaints. Commissioner Toppel asked whether the HRC or other entities of the State of Illinois had received any written complaints or petitions alleging torture by Burge. Chairman Holmes responded that the TIRC had received 2 inquiries. Currently the HRC accepts all such petitions which will be forwarded to the TIRC once its offices have been established. Absent offices, staff and a protocol for assessing the validity of the petitions, these petitions cannot be processed. A discussion ensued regarding the establishment of Administrative Rules for the TIRC. There was voiced concern regarding the implicit delay attendant with the promulgation of Administrative Rules. Ms. Parker shared information relative to rule making and the formation of possible subcommittees (including a possible Publication subcommittee as per the Human Rights Commission) of the TIRC.

As Special Prosecutor Nudelman has been appointed to review allegations of torture from a prosecutor's perspective, Commissioner Warden, asked whether the TIRC may inform the 22 individuals who are the focus of Judge Nudelman's investigation that claims of torture may now be filed with the TIRC. Chairman Holmes asked for volunteers to write letters to these 22 individuals and Commissioner Cavise volunteered. It was decided the letters will be drafted before the next meeting and that Chairman Holmes will review the letters. It was decided that a general announcement advising that the TIRC will receive petitions and claims at 100 W. Randolph St., Suite 5-100 will be placed on the HRC's website under the TIRC website heading.

Commissioner Toppel requested that any letters alleging torture received by the HRC be brought to the attention of the TIRC. Ms. Parker shared that the HRC has been receiving letters addressed to the TIRC since the inception of the statute and that those letters had been forwarded to the Governor's Office. Chairman Holmes stated that all future such letters will be processed by the ED once he has been hired. Dr. Ewa promised to look into the E-par approval for Professor Thomas.

Chairman Holmes requested that the TIRC Calendar for 2011 be published on the website. Commissioner Coyne requested that the creation of TIRC Subcommittees be

be placed on the January 31, 2011, agenda. Chairman Holmes stated that other topics for the January 31, 2011, agenda include the following.

- Approval of job descriptions
- Subcommittee formation
- Letters received alleging torture
- Report regarding letters to 22 individuals in prison
- Timeline to establish rules and regulations

VII. Executive Session

There was no convened Executive Session.

VIII. TIRC Twelve Month Calendar

The Calendar of Meetings of the TIRC for 2011 is as follows:

- January 31, 2011 10:00 a.m.
- April 11, 2011 10:00 a.m.
- June 20, 2011 3:00 p.m.
- August 23, 2011 3:00 p.m.
- October 18, 2011 3:00 p.m.

All meetings of the TIRC will be held in Room 2-025 of the James R. Thompson Center. Chairman Holmes announced that the 2011 calendar will be published on the website in late December 2010.

IX. Adjournment

The meeting was adjourned at 11:40 a.m. Motion made by Commissioner Toppel and seconded by Commissioner Warden. Motion carried 6-0.

Respectfully submitted,

Patricia Brown-Holmes, Chairman
Torture Inquiry and Relief Commission