



STATE OF ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

Meeting of the Torture Inquiry and Relief Commission
January 22, 2014
3:00 p.m.

Michael A. Bilandic Building
Auditorium C-500
160 North LaSalle Street
Chicago, Illinois 60601

MINUTES

PRESENT:

Commissioners

Chairman Cheryl Starks
Charles Dahm
Craig Futterman (Alternate)
Doris Green (Alternate)
Hipolito ("Paul") Roldan
Marcie Thorp Rob Warden

Staff on dais

Barry Miller (Executive Director)
Rob Olmstead (Staff Attorney)
Dr. Ewa Ewa (CFO, Human Rights Cmsn.)

I. Call to Order/Members Present

On January 22, 2014 at 3:03pm., Chairman Cheryl Starks called to order a meeting of the Illinois Torture Inquiry and Relief Commission (TIRC). It was determined that a

quorum was present via the above-listed Commissioners. Approximately 75 members of the public were present.

II. Approval of Minutes

Cmsr. Futterman moved to approve the November 20, 2013 minutes and Cmsr. Warden seconded; the motion carried.

III. Introduction of Executive Director and Staff Attorney

Chairman Starks introduced the new Executive Director (Barry Miller) and the new Staff Attorney (Rob Olmstead).

Mr. Miller thanked the Commission for their confidence in him and assures that he will do his best for fair results in each case and to have the Commission's affairs run well and in an orderly manner. He and the Interim Executive Director (James Sledge) went through an application process and selected Mr. Olmstead as staff attorney in consultation with the Chairman. Mr. Olmstead thanked the Commission and invited Commissioners to contact him day or night.

IV. Resolution Thanking Interim Executive Director James Sledge for his Service

Cmsr. Warden read aloud Resolution 14-R-001 thanking Interim Executive Director James P. Sledge for his service to the Commission. Chairman Starks asked the Commission for a motion to accept the Resolution. Motion made by Cmsr. Futterman with a second by Cmsr. Green. The motion carried.

V. Executive Director's Report

Mr. Miller stated he has undertaken two major efforts: meeting with stakeholders and working with staff to organize Commission files. He has asked the staff to identify three categories of cases; the first are cases that involve allegations of torture by Jon Burge or officers directly under his supervision at the time; the second are cases that involve allegations of torture done by persons who previously had been under the supervision of Jon Burge but were not under his active supervision at that time; and the third are cases that appear not to have a direct relationship to Jon Burge and his subordinates.

Staff has identified tentative numbers for each category. There are 16 cases of persons incarcerated solely for the crime for which they claim torture by Burge or people under his supervision. Those cases are important because the statute says those cases are to be given priority in the Commission's work. There are a total of 26 open cases of persons who claim torture by Burge or persons under his supervision at the time. There are approximately 45 open cases involving persons who claim torture by officers who had been under the supervision of Jon Burge. There are approximately 123 cases that appear not to have a direct relationship to officers involving Jon Burge.

Cmsr. Roldan asked for clarification on the Burge case numbers, noting that there are 7 closed cases in addition to the 26 just-mentioned open cases of those incarcerated solely on a crime where torture is alleged, for a total of 33 statutory-priority cases. Mr. Miller confirmed that was accurate. Cmsr. Roldan asked for a clarification on the nature of the 45 cases just mentioned. Mr. Miller clarified the 45 cases he mentioned appear to be related to Jon Burge, but involve officers who had previously been under the supervision of Jon Burge, but were not at the time of the alleged torture.

Mr. Miller stated there appear to be a total of 194 open cases. The law gives priority to persons who are in custody solely because of the Burge claim of torture by Burge or officers under his supervision. He strongly recommended working on those cases and deferring the others and that the deferred claimants should be notified as to why their claim is being delayed. There are 3 or 4 non Burge cases that were granted and forwarded to the courts by the Commission in the past. The court ruled on one of those cases that there was no jurisdiction for this Commission to act on cases that are not related to Jon Burge. It is a trial court decision and that case was not appealed and there is no Appellate Court ruling.

Chairman Starks noted that no motion was needed at this time regarding this issue, that this simply means staff will focus on the first category of Burge cases for the immediate future.

Cmsr. Roldan stated that the Commission should be thinking about a strategy for exclusively non-Burge cases, in the event that those cases do not qualify for consideration by the courts.

Chairman Starks stated that the Commission will inform non Burge claimants of the status of their case and that the Commission is waiting for further direction from the courts.

Mr. Miller addressed the topic of the Commission's forms and procedures and stated proposed rules changes will be submitted to the Commission in the near future. He further stated that the Auditor General provided comments as part of a review of the Commission's work. Several comments went to the issues of providing notice to crime victims and improving the condition of Commission files. The commission is working to improve notice procedures and the condition of the files to meet the standards that the Auditor General suggested. Chairman Starks stated that the Auditor General's concern with the files regarded uniformity among files. Mr. Miller noted the staff is drafting a response to the Auditor General's findings.

Mr. Miller stated that he has drafted a new Mission Statement and would like to post it on the website; he invited Commissioners to submit changes to him and he would revise accordingly. He has worked with Dr. Ewa Ewa, Chief Financial Officer of the Human Rights Commission, regarding a proposed budget Fiscal Year 2015.

Dr. Ewa stated that the Commission had previously received a government grant of \$160,000. A few thousand went unspent and will be returned. The legislature has budgeted to the Commission approximately \$300k (as of July 1, 2013), which will be allocated based on the Executive Directors submission of the Commission's administrative budget necessities.

VI. Claims of (1) Jaime Hauad, 2011.025-H; (2) Jackie Wilson, 2011.021-W; and (3) Jerry Mahaffey, 2011.043-M:

Mr. Miller stated that he is not going to work on the substance of the Jackie Wilson case, Mr. Olmstead will address that case. Mr. Miller has reviewed the Mahaffey file and Mr. Olmstead reviewed the Wilson file, and based on preliminary reviews staff would like to conduct further review before presenting those cases to the Commission for a fresh decision. Mr. Miller stated he wants to hear what the victims have to say and look at any written statements before making any recommendations to the

Commission. Under the statute, the Commission will let victims know when the matters will be formally considered by the Commission for decision again.

Mr. Miller stated that the Hauad case does not appear to involve officers related to Jon Burge. Mr. Miller recommended that the case be deferred. Chairman Stark asked if there were any objections to deferring all three cases. No objections were raised.

VII. Public Comments Including Victim Statements

The following public attendees made a statement as the victim and as family members of the victim in the Jerry Mahaffey case:

Dawn Pueshel
Mary Heinrich
Joe Heinrich
Jim Heinrich
Jerry Heinrich
John Heinrich
Rick Pueshel

Dawn Pueshel, sister of Victim Dean Pueshel, stated that photographs taken of Jerry Mahaffey at the time of his arrest do not show any injuries to him; that a doctor's report found no signs of abuse but rather a slight abrasion equivalent to a scratch; and that she personally saw Mr. Mahaffey at his arraignment and did not see any signs of abuse. Mary Heinrich encouraged the Commission to review all relevant evidence and keep an open mind. Joe Heinrich reiterated that appellate courts have reviewed a photograph of Mr. Mahaffey taken after his arrest and have not found abuse occurred; he noted Mr. Mahaffey's confession was 20 pages long and far from cursory. Jim Heinrich argued that Mr. Mahaffey's escape from jail after his arrest goes against his credibility. Jerry Heinrich noted Mr. Mahaffey had many convictions prior to the crime in question and frequently used pseudonyms, which goes against his credibility; he encouraged the Commission to subpoena the impounded Mahaffey photographs. John Heinrich cited a Cook County Jail medical intake form, which found no injury to Mr. Mahaffey. Victim Richard Pueshel reminded Commissioners of their duty to be objective, and of Mr. Mahaffey's criminal record. Multiple family members emphasized the brutality of the crime and stated that there was overwhelming evidence against Mahaffey and thus no need to torture a confession from him. Family members also presented a written submission, which was accepted by the Commission.

The following public attendees made a statement as the victim and as family members of the victim of the Jackie Wilson case:

Erin Fahey
Joan Frangella
Casey Fahey
John Fahey
Jamie Fahey

Erin Fahey cautioned the Commission against assuming that, since courts have found Andrew Wilson was abused, Jackie Wilson must have been abused as well. Joan

Frangella, sister of Officer William Fahey, noted photographs of Andrew and Jackie Wilson have been confused at times. Casey Fahey, sister of Officer William Fahey, noted that Jackie Wilson has changed his story a number of times. John Fahey, brother of Officer William P. Fahey, noted the family has been enduring court proceedings regarding this crime for over 30 years. Jamie Fahey, daughter of Officer William Fahey, questioned the objectivity of Commission staff, noting that the former executive director once represented Jackie Wilson, and that the current executive director prosecuted Jon Burge. Executive Director Barry Miller responded that he has recused himself from the Jackie Wilson case. Chairman Starks also responded that the former executive director had also recused himself from the Wilson case. Chairman Starks promised that the Commission would review all the evidence and would be impartial. Fahey family members also submitted written materials, which were accepted by the Commission.

The following attendees made public comments:

Marilyn Baldwin
Mark Clements
Cathy Lang
Nichole Thusius

Marilyn Baldwin stated that the past non-inclusion of victims is a serious matter that should not be minimized. Chairman Starks agreed. Mark Clements stated he grieves with the crime victims, however, not one of them has suffered torture at the hands of the police as he did as a 16-year-old boy, and that whether claimants were tortured is separate from whether they are guilty of the underlying crimes. Cathy Lang spoke in support of the Pueschel crime victims. Nichole Thusius also spoke in support of the Pueschel crime victims.

VIII. New Business

Chairman Starks stated that the next meeting date of March 19, 2014 is already posted on the website. Barry Miller added that due to the requirement that meetings be posted for the year, he picked tentative dates of March 19th, May 21st, July 16th, September 17th, and November 19th.

Chairman Starks stated that March 19th was agreed upon by the Commission, and recommended that the public always check the website for meeting dates and location.

IX. Adjournment

The meeting was adjourned at 4:33 p.m. after a motion from Cmsr. Thorp and a second by Cmsr. Dahm.