



Illinois Criminal Justice Information Authority

MEMORANDUM

Meeting Minutes

Task Force on Constitutional Rights and Remedies

September 23, 2021

12:00 p.m.

Conducted via WebEx

Minutes

Task Force Members Attendees: Tamara Cummings, Larry Rogers, Khadine Bennett, Michael Wilder, James Kaitschuk, Christopher Conrad, Dana O'Malley, Elgie Sims, Justin Slaughter, Matt Davis, Ashley Wright, Barbara Crowder, Dan Ugaste, John Curran, Carolyn Shapiro

Not Present: Craig Futterman and Joel D'Alba

Also present: Delrice Adams – ICJIA Acting Director, Cherise Williams – Deputy Director, Karen Sheley, Crystal D. Johnson – ICJIA General Counsel, Jaquelyn Gilbreath – ICJIA Research Analyst

1. Call to Order
 - Meeting was called to Order at 10:10 am – Co-Chair Elgie Sims, Senator-17th District
 - Roll Call completed with certification of number of members to constitute a quorum
2. Introductory Remarks
 - Co-chair, Elgie Sims, Senator
3. General discussion on task force members
 - Chairman Slaughter thanked the board members for their time, effort and energy to the task force. He stated that the work is critical, not just locally, but at many levels of state government and that the task force includes many views and entities across the criminal justice spectrum. He further stated that we're looking for this body to educate and bring guidance on how the state should move forward.
 - Chairman Sims stated that we know the topic of Qualified Immunity has been

polarizing in our goal of improving policing. He stated our intent here is to have an open dialogue with practitioners in this field and experts. He stated we are going to have some challenging conversations, but they are not intended to be antagonistic or confrontational. He further stated we're likely to have differences of opinion, but we have assembled a group of policy makers, law makers, law enforcement, and we are in a position to have discussions that move this issue forward. He thanked everyone for their work and requested comments from Senator Curran and Representative Ugaste.

- Senator Curran requested a list of the task force members.
- Chairman Sims also requested a link to the webpage where task force members were listed.
- General Counsel Sheley put the link in the chat.
<https://www2.illinois.gov/sites/bac/SitePages/AppointmentsDetail.aspx?BCID=1232#:~:text=The%20purpose%20of%20the%20Task,qualified%20immunity%20for%20peace%20officers>.
- Representative Ugaste stated he appreciates the conversation.
- Chairman Sims asked everyone to give a brief introduction themselves.
 - Co-Chair Sims, state senator 17 district.
 - Co-Chair Slaughter: state rep, 27 district. Currently house chair of community
 - Senator Curran: former state's attorney. Labor and employment in SA attorney
 - Rep. Ugaste: Central Kane county. Practiced law 33 years.
 - Ashley Wright: Chief of Legal Affairs for Attorney General's Office; formerly General Counsel for Department of Children and Family Services
 - Tamara Cummings: Attorney for 28 years. Attorney with Illinois FOP. GC. Don't represent Chicago or state troopers, but all others.
 - Khadine Bennet: Director of Advocacy and Government affairs at ACLU.
 - Peter Hanna, have worked on a number of civil rights issues.
 - Michael Wilder: Bd for Littler, chair of the black male lawyers association
 - Jim Kiatschuck: Ill. Sheriffs
 - Chris Conrad: City Manager of Highland , 21 years.
 - Dana O'Malley—GC for the CPD. Reperesented officers at the City, was in plaintiff firms before.
 - Carolyn Shapiro: Served as Ill solicitor general with experience as a Civil rights lawyer and currently a tenured professor at Chicago Kent Law School
 - Matt Davis: Ill state police.
 - Judge Barbara Crowder: retired circuit judge. President of Illinois Judges Association and State bar association. Had a civil jury call and familiar with immunities.
 - ICJIA staff did introductions.

- Senator Sims asked General Counsel Sheley to explain the voting process.
 - General Counsel Sheley explains to the group the need to take a roll call vote for each vote during the meetings. She explains that there are no planned votes for this meeting.

4. Review of Constitutional Rights and Remedies Act

- Chairman Slaughter directed members to pages 28-31 of Public Act 101-0652, Safe-T Act Trailer Bill. Chairman Slaughter explains that the first section covers the members and on page 30, it outlines the duties and responsibilities for the task force. He states the task force will meet at least 3 times and says there can be some discussion around the time frames. He told the task force that this is the first meeting and that subsequent meetings will be discussed.
- Chairman Slaughter stated that the task force shall review available research and formulate best practices to formulate recommendations. He stated the key question is whether Illinois will have qualified immunity or not and we want to get there by reviewing the available research.
- Chairman Slaughter stated the task force will issue a report and that it shall be submitted by October 31, 2021. He stated we will make every effort to meet that deadline and that date. He further stated this is what is required by the statute and the report is due to the governor and the General Assembly on that date.

5. Proposed plan for meetings/writing report

- Chairman Sims opened a discussion of subsequent meetings noting that the report was due in 38 days. He stated we would like to propose a meeting plan and for voting on the report. He stated we will have to vote on each recommendation of the task force.
 - The proposed plan for meetings/writing report:
 - 10/7/2021—12:00 p.m. -2:00 p.m.
 - 10/21/2021—3:00 p.m.- 5:00 p.m.
 - 10/25/2021—1:00 p.m. – 3:00 p.m.
 - Fourth meeting (if needed): If no consensus in Meeting 3, finalize the report.
- Chairman Sims proposed the last two dates and acknowledged that the legislature will be in session.
- General Counsel informed members that all of the meetings will be virtual with the exception of October 21, 2021, which could be a hybrid version if preferred.
- Representative Ugaste stated he had a conflict on October 7, 2021.
- Chairman Sims stated he does not have an issue with modifying times to meet and anticipates there will be no votes at the second meeting because it will consist of only subject matter experts.

6. Open Discussion

- Senator Curran asked if task force members will receive the names of experts ahead of time along with the materials?

- Chairman Sims asked if there are subject matter experts that you'd like to hear from? Are there items you'd like to address?
- Khadine Bennett asked if there is work we can do? Is each meeting supposed to have a focus? What is the scope and type of the recommendations that you're anticipating?
- Chairman Sims explained that the recommendations will be those that the majority of the task force votes in favor of. He further explained that he has come to this with no preconceived results, but envisioned a process where members of the task force educate each other.
- Chairman Sims suggested that ICJIA provide information that will give the task force time to digest other legislative work done in this area. He further asked for input from members of this task force and requested that members send materials, including law review articles, legal cases, other information, and lists of presenters.
- Chairman Slaughter invited members of the task force to present on recommendations and provide information at the second meeting. He stated that at the third or fourth meeting, the task force will discuss the recommendations. He noted that the goal was to create recommendations and educate the public. He further noted New Mexico has a report on this topic.
- Jim Kaitschuk asked if there are identified people who will testify.
- Chairman Sims stated no, they wanted to hear from members of the task force.
- Professor Shapiro suggested Joanna Schwartz at UCLA law school and noted that she is a leading expert in this field.
- Tamara Cummings suggested Larry James, the General Counsel for the National FOP, she further stated he put together a task force and he prepared a report on qualified immunity.
- Chairman Simms stated Crystal Johnson will be the repository of all the information.
- Representative Ugaste stated it sounds like we're narrowed to qualified immunity, and asked do we anticipate needing speakers on other topics as well?
- Chairman Simms explained that the task force was not directed to only address qualified immunity. There are other topics and asked the members of the task force to guide the discussion.
- Representative Ugaste stated that he was not prepared to make recommendations and suggested that the task force contemplate another meeting.
- Chairman Sims explained that was reason for the wide distance between today's meeting and the second meeting.
- City Manager Conrad suggested Jack Ryan, an instructor on legal liability and risk management institute, it follows a lot of the federal law.
- General Counsel Sheley stated we will set a date for the members to provide the information and we will also post it.

- Larry Rogers recommended member to read the decision in *Jamison v. McClendon*, a district court opinion provides guidance on this issue. He noted that it highlighted opinions throughout the country, and that {the judge} was bound to dismiss the cause of action. The further stated the case describes the times when a judge feels that their hands are tied.
- Chairman Sims stated for the purposes of this task force-use the ICJIA website for information.
- Peter Hanna from ACLU noted that as folks are introducing case law, this fictitious doctrine breaks the administration of justice. [He said] it extinguished liability where morally and legally it should be available. He further noted that the Seventh Circuit case that was mentioned did not find that qualified immunity did not apply, but that there were facts that needed to be assessed at summary judgment.

7. Public Comment:

- Chief Mitch Davis stated he had contacted the executive director for NOBLE for information on qualified immunity.
- John Socal, noted that he was the former general counsel for the Chicago Police Department. He commented that a WebEx address was not made available to the public and that he believed that the comments in the chat were not available as required in the open meetings act.
- General Counsel Sheley noted that the materials would be available online, that they had been read aloud during the meeting, and that they would be noted in the minutes.

8. Adjournment:

- General Counsel Sheley called for a motion to adjourn the meeting.
- Representative Ugaste moved to adjourn the meeting.
- The motion was seconded by Deputy Jim Kaitchuck.
- The meeting was adjourned at 11:30 a.m.