

September 12, 2013

Open Letter to Governor Pat Quinn

Dear Governor Quinn:

The Pueschel and Heinrich families appreciate your efforts to correct the serious violations and failures of the Illinois Torture Inquiry and Relief Commission (TIRC). We called for the termination of the Executive Director in early August, and we welcome your decision to do the same now.

We also appreciate your commitment to filling the three vacancies on the Commission. We trust that your appointments will mean that the Commission is better equipped than it is now to do its work in a way that is objective, unbiased and fair, as the statute that created the Commission demands. Further, it is our hope that by filling these vacancies, the new, reformed TIRC will be composed of members representing the entire spectrum of the criminal justice system, not just a mere sliver of it, as is currently the case.

We also concur with your interpretation that the mission of the TIRC is to make recommendations to the courts about whether those convicted of serious crimes actually committed them *and* were not just coerced into confessing. There is overwhelming evidence, physical and otherwise, that Jerry Mahaffey is guilty of murdering Dean, sexually assaulting and murdering JoEllen, and attempting to murder Richard. The Federal 7<sup>th</sup> Circuit Court of Appeals has said as much:

The evidence of Mahaffey's guilt of these crimes is overwhelming, including Richard's identification of Mahaffey, Mahaffey's confession, and that property taken from the Pueschel home was found in Mahaffey's home. Indeed, Mahaffey's attorney admitted at oral argument that the State of Illinois "can prove its case" even now, almost three decades later, were we to order a new trial. (Jerry MAHAFFEY, Petitioner-Appellant, v. Anthony RAMOS, Respondent-Appellee. No. 08-3916.)

The TIRC must take this evidence into consideration prior to sending a case to the courts for review and prior to putting victim's families through the very real pain and agony that accompanies such a process. It is our hope that a reformed TIRC will do this not just in the Mahaffey case, but in every case it considers.

Once trust and integrity is lost, it is difficult to replace. The actions and recommendations you have made are a step in the right direction to correcting the problems plaguing the TIRC. However, further reforms are necessary in order to turn the TIRC into a credible public body worthy of the public's trust.

We ask for your support for the following initiatives:

1. A call for the TIRC to cease and desist from any further proceedings until the multitude of alleged violations of the law, Open Meetings Act violations, Freedom of Information Act violations and Ethics Law violations can be thoroughly investigated and corrected. With the financial crisis facing our state, the TIRC must not be allowed to continue wasting tax-payer money until they can prove they are competent and productive.
2. A call for Attorney General Lisa Madigan to conduct a full investigation into the activities of the TIRC, including the Executive Director, regarding the numerous violations of various state laws, and to bring appropriate sanctions and/or criminal prosecution of any violation that can be proven beyond a reasonable doubt. I think you would agree that the TIRC cannot be truly reformed until a full review and accounting of these violations is conducted.
3. A complete and thorough review by your office of all current commissioners to ensure each one is able to take on a fair and impartial approach to their mission. This review should include the removal of commissioners that bring obvious bias to the TIRC or are, by virtue of the work they do, ethically or professionally conflicted. Several commissioners, for example, have profited financially in the wrongful conviction/police brutality business and bring an extreme prejudice and bias the TIRC as well as a conflict of interest. All commissioners must show through clear and convincing evidence that he or she is not involved in the wrongful conviction/police brutality business and holds no bias towards police, prosecutors or the victims of violent crime. Fairness and due process must be woven into the fabric of the TIRC and that can only happen with a fair and impartial Commission.
  - a. The TIRC is a state commission, not a Cook County commission. As such, a truly fair and unbiased Commission will be comprised of commissioners residing and employed outside of Cook County.
4. A complete and thorough review by your office of all current commissioners to ensure each meets the qualifications specified in the statute.
5. The new executive director must show through clear and convincing evidence that he or she is not involved in the wrongful conviction/police brutality business and holds no bias towards police, prosecutors or the victims of violent crime.
  - a. A call to establish a separate, outside non-partisan committee tasked with properly vetting and recommending any candidate for the position of executive director.
6. The three vacancies you plan on filling **MUST** be voting members (not alternates) and **MUST** bring the perspective of the victim and victim's family into the Commission's deliberations.
  - a. One of the appointees must be a former assistant state's attorney *with significant experience in prosecuting criminal cases*. This experience and perspective does not exist on the current Commission, even though a position must be filled by a "former prosecuting attorney".
  - b. One of the appointees must have significant experience as a victim advocate. The need for this is obvious.
  - c. The third appointee, regardless of the position filled, must show through clear and convincing evidence that he or she is not involved in the wrongful

conviction/police brutality business and holds no bias towards police, prosecutors or the victims of violent crime.

7. A call for the General Assembly to modify the existing code to mandate that the TIRC take into consideration any evidence of guilt or innocence *beyond confessions* in any case they agree to hear.
8. A call for the TIRC to modify its existing rules and remove the current practice of allowing “informal inquiries” and “summary referrals” that are designed to bypass victim notification and are contrary to state law governing the TIRC proceedings.
9. A call for the TIRC to modify its existing rules to include a TIRC victim notification protocol. It is clear one does not exist currently.
10. A call for the TIRC to conduct complete and thorough investigations of all claims brought forward for consideration.
  - a. Investigators should be selected from the ranks of retired federal law enforcement agents, *not* attorneys.
  - b. Thorough vetting and screening of claimants by trained and experienced investigators, including the use of polygraph examinations to provide investigative information regarding the truthfulness of claims of torture as well as guilt or innocence.
11. A call for the TIRC to be more transparent and forthright in complying with FOIA requests.

To be clear, we do not condone police misconduct or torture. We are not opposed to the mission of the TIRC. However, we do expect the process to be fair and objective, per the statute. Further, the voices of victims need to be given equal weight to the voice given to convicted criminals like the one who murdered Dean and JoEllen.

Sincerely,

The Family of Dean, JoEllen and Richard Pueschel