**Section 3500.375 Formal Inquiry**

a) If the claim is not summarily dismissed, a formal inquiry will be initiated by the Director on behalf of the *Commission.* In conducting the formal inquiry, *any measure provided in the Code of Civil Procedure* [735 ILCS 5] *and the Code of Criminal Procedure of 1963* [725 ILCS 5] may be used *to obtain* *information necessary to the inquiry*, including but not limited to:

1) Issuing and serving *subpoena*s *or other process to compel the attendance of witnesses and the production of evidence*;

2) *Administering oaths*;

3) Issuing written interrogatories;

4) Conducting oral depositions;

5) Petitioning the *appropriate Circuit Court for enforcement of process or for other relief,* such as contempt; [775 ILCS 40/40(d)]

6) Conducting physical and/or psychological examinations of the convicted person to ascertain evidence of torture;

7) Hiring experts or other specialists as needed to assist the Commission in the inquiry; and

8) Conducting on-site visits to detention centers or other locations where torture is alleged to have taken place.

b) *All State discovery and disclosure statutes in effect at the time of the formal inquiry shall be enforceable as if the convicted person were currently being tried for the charge for which the convicted person is claiming torture*. [775 ILCS 40/40(f)]

c) Prioritization of Inquiries

1) In prioritizing formal and informal inquiries, the Commission considers several factors, including but not limited to:

A) whether the claimant is currently incarcerated solely for the crime to which the convicted person claims torture;

B) whether the claimant's allegations involve former Chicago Police Commander Jon Burge, officers under Burge's supervision, or officers formerly under Burge's supervision;

C) the order in which the claims were filed; and

D) the efficient workflow of the Commission.

2) No one factor is dispositive and weight of the factors is determined by the Director, subject to the supervision of the Chairman and the Commission.

d) *All records of the Commission are confidential until the proceedings before the Commission are concluded and a final decision has been made by the Commission*. [775 ILCS 40/45(e)]

e) If a witness is represented by counsel, the witness is entitled to have counsel present and to consult with counsel at any interview or formal testimony. Counsel may provide information in writing or make requests of the Commission. Nevertheless, counsel has no right to examine witnesses or to participate as if a party to litigation.

f) *If, at any point during an inquiry, the convicted person refuses to comply with requests of the Commission or is otherwise deemed uncooperative by the* *Commission*, *the Commission shall discontinue the inquiry*. [775 ILCS 40/40(g)] The Director may recommend that the inquiry be terminated. The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members appointed. At least 4 votes are required to accept a recommendation to terminate a claim.

g) Whenever any person knowingly fails or refuses to comply with a subpoena served in accordance with this Section, the Commission will petition the appropriate Circuit Court for an order enforcing the subpoena.

h) *If a formal inquiry regarding a claim of torture is granted, the Director shall use all due diligence to notify the victim in the case and explain the* formal *inquiry process. The Commission shall give the victim notice that the victim has the right to present his or her views and concerns throughout the Commission's investigation.* [775 ILCS 40/40(c)] A victim shall have the right to present his or her views and concerns in writing throughout the Commission's investigation. A victim shall also have the right to present oral comments during the Commission's public comment period, and will, at the discretion of the Chair, ordinarily be permitted to speak before other persons make public comments. At any meeting at which a claim is scheduled for decision by the Commission, a victim, if present, shall be permitted to present oral comments before the Commission decides the claim. The victim shall abide by the rules applicable to comments set forth in Section 3500.310(e).

i) At the completion of the formal inquiry, the Director shall report the results and his or her recommendation to the full Commission. The written report will summarize all the relevant evidence, include the reasons for the recommendation, and present any other matters necessary for the Commission to make an informed decision regarding the claim. Following transmission of the Director's report and recommendation, the Commission may elect to receive additional evidence in the form of an evidentiary proceeding under Section 3500.380. In all other cases, the Commission shall vote to decide the disposition of the claim as set forth in Section 3500.385.

(Source: Amended at 41 Ill. Reg. 3941, effective March 17, 2017)