

California Commission on the Fair Administration of Justice

Thank you for the opportunity to submit this statement to the Commission on the issue of Jailhouse Snitch/Informant testimony.

The following is a list of cases which have seriously prejudiced the trial outcome because of false testimony by jailhouse snitches or informants:

- 1. Michael Morales sentenced to death for the murder 1981 of Terri Winchell.**

Background: Bruce Samuelson, a jailhouse informant testified that Morales confessed to him in Spanish. As Morales does not speak Spanish this testimony was false. Samuelson was promised favorable treatment for his testimony.

- 2. Gloria Killian sentenced to 32 years to life for conspiracy and murder based on false testimony of a repeat felon named Gary Masse. Gloria Killian was released after spending 18 years in prison when Masse recanted his testimony.**

Based on the dubiousness of accepting testimony of Jailhouse Snitches it is proposed that the Commission adopt the following recommendations of the Illinois Commission on Capital Punishment:

Recommendation 50

Illinois law should require that any discussion with a witness or the representative of a witness concerning benefits, potential benefits or detriments conferred on a witness by any prosecutor, police official, corrections official or anyone else, should be reduced to writing, and should be disclosed to the defense in advance of trial.

Recommendation 51

When the state may introduce the testimony of an in-custody informant who has agreed to testify for the prosecution in a capital case to a statement allegedly made by the defendant, at either the guilt or sentencing phase, the state should promptly inform the defense as to the identification and background of the witness.

Recommendation 52

(a) Prior to the trial, the trial judge shall hold an evidentiary hearing to determine the reliability and admissibility of the in –custody informant’s testimony at either the guilt or sentencing phase.

(b) At the pre-trial evidentiary hearing, the trial judge shall use the following standards:

The prosecution bears the burden of proving by a preponderance of evidence that the witness testimony is reliable. The trial judge may consider the following factors, as well as any other factors bearing on the witness credibility:

- (1) The specific statements to which the witness will testify.**
- (2) The time and place, and other circumstances regarding the alleged statements.**
- (3) Any deal or inducement made by the informant and the police or prosecutors in exchange for the witness’ testimony**
- (4) The criminal history of the witness**

- (5) Whether the witness has ever recanted his/her testimony**
- (6) Other cases in which the witness testified to alleged confessions by others**
- (7) Any other known evidence that may attest to or diminish the credibility of the witness, including the presence of absence of any relationship between the accused and the witness.**

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