

HOUSE No. 3075

By Mr. Rushing of Boston, petition of Byron Rushing, other members of the General Court and others for an investigation and study by a commission of the events following a certain violent crime committed in Suffolk County in October, nineteen hundred and eighty-nine. The Judiciary.

The Commonwealth of Massachusetts

Petition signed by:

Byron Rushing
Shirley Owens-Hicks
Alvin E. Thompson
Augusto F. Grace
Gloria L. Fox
Nelson Merced
Bill Owens

Raymond A. Jordan, Jr.
Bruce C. Bolling
Charles C. Yancey
Gerald Anderson
Jean McGuire
John D. O'Bryant
Juanita Wade

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In the Year One Thousand Nine Hundred and Ninety.

RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A COMMISSION RELATIVE TO CERTAIN EVENTS IN SUFFOLK COUNTY.

1 *Resolved*, That a special commission to consist of eleven mem-
2 bers is hereby established to investigate and study as a basis for
3 legislative action the events following the murder of Carol Stuart
4 in the City of Boston on October 23, 1989; the reportage and
5 release of information related to the investigation of the Carol
6 Stuart murder; and the existence of conditions which may have
7 led to the occurrence of those events.

8 Said commission shall consist of two persons to be appointed
9 by the governor, the attorney general, a person who at the time
10 of his or her appointment is on the faculty of a law school located
11 in the commonwealth to be appointed by the governor, the
12 president of the Boston Bar Association or another member of
13 that association designated by him to be appointed by the
14 governor, one member of the judiciary or a retired justice to be
15 appointed by the governor; and five members to be appointed by
16 the governor. The said five appointments by the governor shall
17 be from a list of nominees submitted by the Massachusetts Black
18 Legislative Caucus.

19 Any vacancy on the commission shall be filled by the
20 appropriate or designating authority, unless there is at the time
21 of such vacancy no such authority, in which case the governor
22 shall fill such vacancy. Such vacancy shall not affect the powers
23 and duties of the commission. A quorum of six members shall

24 be necessary to conduct the business of the commission; provided,
25 however, that upon a majority vote of the commission a hearing
26 may be held before a single member of the commission. A majority
27 vote of the commission shall mean a majority of the members
28 authorized to be appointed to serve.

29 The members of the commission shall serve unless otherwise
30 provided herein without compensation but shall receive their
31 necessary expenses incurred in the discharge of their official
32 duties. The commission shall be provided with offices.

33 The commission may employ an executive director, legal
34 counsel and such other assistance as it may deem necessary,
35 subject to appropriation. The commission may accept and expend
36 any appropriations, grants of money, professional services,
37 consultant services, clerical or other services and supplies from
38 the commonwealth, or any private or other public source, in
39 the course of its investigations. The commission and its staff may
40 travel within and without the commonwealth.

41 The commission may request reasonable assistance from the
42 attorney general, the commissioner of public safety, the mayor
43 of Boston, the Boston police commissioner, the district attorney
44 of Suffolk county, and said officers shall furnish the commission
45 with any relevant information in their possession which is
46 requested by the commission. Any justice of the supreme judicial
47 court or of the superior court may upon application by the
48 commission and after notice of said application having been given
49 to such officer who shall have an opportunity to be heard in
50 opposition thereto, compel compliance with a request by
51 subpoena for such information, consistent with the provisions of
52 the following paragraph. The commission may also request
53 reasonable assistance from the United States Attorney for the
54 District of Massachusetts.

55 The commission may request that persons appear before it to
56 testify or produce evidence or information. Notice of such request
57 shall be sent to the attorney general, the district attorney for
58 Suffolk County and the United States Attorney for the District
59 of Massachusetts, any of whom may request the commission to
60 delay such testimony or production because of a pending criminal
61 or civil rights investigation or prosecution which would be affected
62 or prejudiced by such request.

63 Every person who behaves in a disorderly or contemptuous
64 manner before such commission shall be deemed guilty of a
65 misdemeanor punishable as provided in section twenty-eight A
66 of chapter three of the General Laws.

67 The commission shall establish rules of procedure governing the
68 conduct of its hearings which shall be made available in printed
69 form, to each witness prior to his testimony. Witnesses shall have
70 the right to be represented by counsel and shall before testifying
71 be sworn.

72 All hearings of the commission shall be public, however by a
73 majority vote of the commission membership present, the
74 commission may, at any time, conduct a private hearing. Private
75 hearings shall be governed by the same provisions with reference
76 to secrecy which govern proceedings of a grand jury.

77 Upon order of the commission, the counsel shall, under
78 conditions of confidentiality, submit to the attorney general, the
79 United States Attorney for the District of Massachusetts, a district
80 attorney or other law enforcement agency, such evidence which
81 has come to the attention of the commission as in the opinion
82 of the commission warrants such presentation or submission. Any
83 evidence of misconduct by a licensed or regulated professional
84 shall be presented to the appropriate professional disciplinary
85 body; provided, however, that such presentations may be limited
86 to evidence which, in the opinion of a majority of the commission,
87 is reasonably credible.

88 The governor shall designate one member as chairman.

89 There shall be a legislative advisory committee to said
90 commission. Said advisory committee shall consist of twelve
91 members, nine of whom shall be currently serving as members of
92 the House of Representatives to be appointed by the Speaker of
93 the House of Representatives, and three of whom shall be
94 currently serving as members of the Senate to be appointed by
95 the President of the Senate. Seven of the members of the said
96 advisory committee appointed by the Speaker shall represent the
97 fifth Suffolk, the sixth Suffolk, the seventh Suffolk, the ninth
98 Suffolk, the twelfth Suffolk, the thirteenth Suffolk, and the
99 sixteenth Suffolk districts, respectively. Two of the members of
100 the said advisory committee appointed by the President shall
101 represent the first Suffolk and the second Suffolk districts,
102 respectively.

103 The chairman of the commission shall meet with the legislative
104 advisory committee at least once every month during its
105 investigation and study.

106 The chairman of the commission shall notify the legislative
107 advisory committee and the general court when all appointments
108 have been made and the commission is ready to commence its
109 investigation.

110 The commission may file interim reports with the clerk of the
111 house of representatives but shall file its first interim report on
112 or before May 1, 1990 and shall file the final report of its
113 investigation and study and its recommendations, if any, together
114 with drafts of legislation necessary to carry its recommendations
115 into effect, by filing the same with said clerk on or before
116 December 1, 1990. The commission may at any time after thirty
117 days after the effective date of this resolve, report to the clerk,
118 with prepared legislation, if the commission believes that
119 amendments are necessary to compel testimony or obtain other
120 information to further the work of the commission.

121 The commission shall cease its investigation and study upon
122 filing its final report and, except as otherwise provided herein,
123 shall forward all records and documents, including stenographic
124 notes, to the attorney general, with a recommendation on which
125 records and documents should be made public or sealed. The
126 attorney general shall be the custodian of such records, the sealed
127 records he shall place in a separate and segregated vault and shall
128 seal the same. Said records shall not be public records and shall
129 be available only upon a court order. The attorney general shall
130 retain said records and documents for seven years after receipt
131 thereof. The attorney general may file the public records and
132 documents with the secretary of the Commonwealth.

