

**NORTH CAROLINA ACTUAL INNOCENCE COMMISSION
MISSION STATEMENT, OBJECTIVES, AND PROCEDURE**

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I. MISSION STATEMENT

The North Carolina Actual Innocence Commission is established to provide a forum for education and dialog among prosecutors, defense attorneys, judges, law enforcement personnel, legal scholars, legislative representatives, and victim advocates regarding the common causes of wrongful conviction of the innocent and to develop potential procedures to decrease the possibility of conviction of the innocent in North Carolina, thereby increasing conviction of the guilty.

Members of the Commission have varying viewpoints with regard to capital punishment and the necessity for a moratorium in North Carolina. Members unanimously agree that the Commission will not take a position on these issues and that individual Commission members will not represent their personal viewpoints on these issues as being shared by other Commission members or the Commission as a whole.

II. PROBLEM SUMMARY

Recent developments in DNA testing have confirmed the long standing fear that, despite the superior nature of our justice system, there still exists the possibility that individuals can be convicted of crimes they did not commit. Exoneration cases in North Carolina include Ronald Cotton, Leslie Jean, Leo Waters all of whom were exonerated by DNA; and Terrence Garner, and Charles Munsey, whose exonerations were not based on DNA. Although it is believed that the risk of conviction of an innocent person is small in North Carolina, the cause of even one innocent conviction should be identified and corrected if possible. Wrongful conviction of the innocent not only destroys the lives of those convicted and their families; it allows the actual perpetrator of the crime to go unpunished and to be free to potentially commit additional crimes. Additionally, injustices negatively impact public trust and confidence in the justice system.

III. COMMISSION BACKGROUND

On November 22, 2002, North Carolina Chief Justice I. Beverly Lake invited key representatives from the criminal justice system and legal academic community to meet with him to discuss the issue of the wrongful conviction of the innocent. The impetuses for the meeting were the recent exonerations in North Carolina and the Chief Justice's continued concern regarding the general public's negative perceptions and decreasing confidence in the justice system.

Discussion during the meeting on November 22nd was candid and productive, with agreement among representatives that causation issues associated with conviction of the innocent need to be understood by all members of the enforcement and justice system and that corrective options should be identified and actions implemented where possible. The Chief Justice thereby made the decision that a working study commission should be established.

IV. OBJECTIVES

The primary objective of the North Carolina Actual Innocence Commission is to make recommendations which reduce or eliminate the possibility of the wrongful conviction of an innocent person. Through its work, the Commission hopes to raise awareness of the issues surrounding wrongful convictions. It is anticipated that accomplishment of this objective will increase the conviction of the guilty, positively impact public trust and confidence in the State's justice system, and decrease the overall cost of the prosecution, trial and appeal processes.

Specific Commission objectives are:

1. To identify the most common causations of conviction of the innocent, both nationally and in North Carolina.
2. To provide education to members regarding each type of causation.
3. To provide a forum for open and productive dialog between Commission members regarding each type of causation.
4. To identify current North Carolina procedures implicated by each type of causation.
5. To identify, through research, experts, and discussion, potential solutions in the form of procedural or process changes or educational opportunities for elimination of each type of causation.
6. To consider potential implementation plans, cost implications, and the impact on conviction of the guilty for each potential solution.
7. To issue interim reports recommending solutions for each causation issue identified, including recommended implementation plans, cost implications, and potential impact on the conviction of the guilty.

V. RULES OF PROCEDURE

- (a) The Commission will meet once every six to eight weeks.
 - (b) The Commission shall meet at such time and place as determined by the chairman announced at least one month in advance of meetings with notice to each member.
 - (c) To the extent possible meetings will take place during lunch time or after business hours to minimize disruption to work routines.
 - (d) At all meetings, fifteen shall constitute a quorum for the transaction of business. Voting may be in person, by proxy, by letter or by telephone. Any matter or proposition discussed shall not be binding upon the Commission without the affirmative vote of at least half of the number of the current membership of the Commission. Additionally, a representative from prosecution, defense, law enforcement, judiciary, and victim assistance network is required to be present at any meeting where a majority vote is reported.
 - (e) Although the Commission will benefit from the expertise of its membership, it will be necessary to provide the Commission members with research materials as topics are reached. A research analyst will conduct research and accumulate and distribute materials; however, members will be encouraged to discuss issues with the constituencies and come to meetings prepared as representatives to discuss the viewpoints of members of their area of expertise. Additionally, experts from North Carolina and other states will be invited to speak to the Commission as topics are reached.
 - (f) Studies and surveys of North Carolina practices will likely be conducted as part of the Commission's work.
 - (g) Topics to be studied by the Commission may include eyewitness identification procedures, DNA evidence/testing, false confessions, discovery and disclosure, informant/accomplice testimony, law enforcement and attorney investigation procedures, rules of professional conduct and their interplay with innocence, and the post conviction review of claims of actual innocence. A concrete topic list will not be established, as it is anticipated that issues will be raised and considered throughout the Commission's work.
 - (h) Local law school students will be recruited to assist with research for the Commission. Additional research may be contracted out.
 - (i) The Commission may look at individual cases where innocence has already been proven for the purpose of identifying causations of those convictions. However, unproven innocence claims will not be reviewed.
 - (j) Written minutes will be kept of all meetings.
 - (k) All research will be organized and consolidated for future reference.
- (l) The Commission will issue interim reports outlining its findings and recommendations as the study of each topic area is completed.

Additionally, the Commission will issue a final report outlining all findings and recommendations.

- (m) The Commission will hereafter adopt any additional rules as are necessary to carry out its objectives.

VI. COMMISSION COMPOSITION

The Commission is a “working” commission of no more than thirty members, invited to participate at the discretion of the Chief Justice. Individuals who are invited to participate will be reminded of the substantial commitment of time and energy that may be requested of them.

Additional expertise and constituent representation may be provided by organizing the Commission into task forces, with persons in addition to Commission members being asked to serve on each task force. However, the majority of the Commission’s work will be done as a whole and not as task forces.

Initial Commission members were invited to voluntarily participate in the Commission’s work based upon individual competence, experience, and anticipated commitment. Invitations were further based on the need for the Commission to be diversely representative of the criminal justice system.

Although members are invited to participate at the discretion of the chair, representation must include at least one member from the following constituencies: prosecution, defense, law enforcement, judiciary, and victim assistance network. The specific number of representatives from each constituency will not be established and may vary over the life of the Commission at the discretion of the chair.

The initial representation of the Commission is made up of three judicial representatives, two representatives from the Governor’s office, three defense attorneys, six law enforcement representatives, five prosecution representatives, three law professors, one victim assistance representative, one journalism professor, and two general interest representatives. Following is a list of the initial roster of Commission participants, as of February 2003.

The Honorable Bryan E. Beatty, Secretary of Crime Control and Public Safety
Robert Brown, Jr., Public Defender, Durham County
Professor James Coleman, Duke University Law School
The Honorable Roy Cooper, North Carolina Attorney General
Chief Michael R. Gauldin, Burlington Police Department
The Honorable Donald Harrison, Sheriff, Wake County
Malcolm R. Hunter Jr., Executive Director, N.C. Office of Indigent Defense Services
The Honorable Robert F. Johnson, District Attorney, Alamance County
The Honorable William Kenerly, District Attorney, Rowan County
The Honorable I. Beverly Lake, Jr., N.C. Supreme Court Chief Justice
Chris Mumma, Legal Counsel, N.C. Center on Actual Innocence
Associate Dean Theresa Newman, Duke University Law School
The Honorable Robert Orr, N.C. Supreme Court Justice
Robin Pendergraft, Director, N.C. State Bureau of Investigation

Donna Pygott, N.C. Victims' Assistance Network
Professor Richard Rosen, UNC School of Law
The Honorable Thomas W. Ross, Executive Director, Z. Smith Reynolds
Foundation
Chief Darrel Stephens, Charlotte-Mecklenburg Police Department
The Honorable Donald Stephens, Senior Resident Superior Court Judge, Wake
County
Dick Taylor, Executive Director, Academy of Trial Lawyers
Thomas Walker, N.C. Assistant Attorney General
Pete Weitzel, Executive Director, N.C. Center on Actual Innocence
The Honorable Colon C. Willoughby, Jr., District Attorney, Wake County
Nina Wright, Deputy Chief, Charlotte-Mecklenburg Police Department
Reubin Young, Deputy Legal Counsel, N.C. Governor's Office

These individuals offer differing perspectives and expertise that will enable the Commission to meet its overall mission and specific objectives.

Senate and House representatives will be added to the Commission at a later date. Additionally, Commission members may suggest the addition or substitution of members as the work of the Commission progresses and/or if a current member is unable to participate on an ongoing basis.

It is anticipated that the work of the Commission will take approximately two years. With the exception of the chairman, members of the Commission serve on a voluntary basis and are invited to serve for two years. However, Commission members may provide for termination of membership of a member under appropriate circumstances and upon approval of the Chief Justice as chair.

VII. OFFICERS

The officers of the Commission shall be a chairman, an executive director and/or vice chairman, a secretary and a treasurer. The Commission's chair will be the Chief Justice or his designee. The executive director and/or vice chairman, the secretary and the treasurer shall be elected by the Commission on recommendation of the chairman.

The executive director will be responsible for supervisory and administrative responsibilities; performing and compiling research, data and reports; identifying and coordinating expert testimony where appropriate; and assuming an oversight role by developing expertise in, keeping abreast of, and contributing to the substantive work of the Commission and task forces. Research associates, through law school externships and volunteer student work, as well as contractor services, will assist the executive director with these tasks.

VIII. FUNDING

A grant application for \$37,250 annually has been submitted to the Governor's Crime Commission. Funds will be paid through and managed by the AOC, as a receipt-supported activity. With the assistance of the AOC's grants administrator, Commission staff will process requisitions and other expense documentation. Grant funding will be used to cover copying, mailing, meeting expenses, expert travel expenses and consulting fees, and contractor services for excessive administrative or research needs.

Commission members will be donating their time, energy and expertise. Expenses for travel by Commission members will be paid through grant funds.

IX. EFFECTIVE DATE

The effective date of the organization of the NC Actual Innocence Commission shall be deemed to be February 14, 2003 as of the time of the initial meeting of the full body of the Commission as reflected by the minutes.