



Advisory Commission on
Wrongful Convictions
Minutes
May 12, 2004

Attorney Conference Room
Supreme Court Building

Minutes

Attendees: Judge Joseph Pellegrino, Professor James M. Adcock, Al Barrueco, Attorney James Bergenn, Aaron Crowell, Attorney Michael Dearington, Bessie Dewar, Attorney Brett Dignam, Sarah Dungan, Attorney Melissa A. Farley, Amanda Hoegen, Attorney John W. Hogan, Jr., Representative Michael P. Lawlor, Chief Robin Montgomery, Major Timothy Palmbach, Attorney James F. Papillo, Attorney Judith Rossi, Attorney Hope Seeley, Attorney Gerard A. Smyth

- I. Judge Joseph H. Pellegrino welcomed the attendees and members introduced themselves. Judge Pellegrino asked Representative Michael Lawlor to conduct the meeting.
- II. A brief discussion of the membership was discussed. The commission agreed to invite Thomas Flaherty of the Police Officers Standards and Training Council to be a member.
- III. Professor Brett Dignam discussed some of the topics that the students were asked to review:
 - a) Eyewitness Identification

The state's attorneys are looking at the benefits and drawbacks of videotaping and sequential identification. A report will be coming out regarding the benefits of double-blind and sequential identification from the State of New Jersey:

- False identification is the number one reason why wrongful convictions occur.
- It is virtually impossible to implement double-blind interrogation in small police departments.
- Is sequential better than simultaneous? The answer to the question is not conclusive, although it is still worth looking at.

The state's attorneys are in the process of developing recommendations to improve eyewitness identification.

The commission members agreed that it would be very helpful to know how many wrongful convictions are the results of false eyewitness identification in Connecticut. In addition, the commission members asked the educators if they can provide recommendations as to what mechanism could be used for state's attorneys and public defenders to submit cases anonymously.

The commission discussed the use of DNA evidence and that approximately 30% of requests for DNA analysis are for exclusion purposes.

There are many cases that are nolle before the defendant is convicted, when prosecutors realize that the eyewitness identification is inaccurate. If there are procedures that could be implemented easily and cost efficiently that would reduce mistakes, they should be implemented, even if the number of instances where the mistakes occur is small.

It is more likely that wrongful convictions will be discovered with the advent of more DNA analysis. There may be an exoneration based on DNA review, at some point. If this occurs, how does the commission respond to the public's call to make changes to prevent another wrongful conviction?

b) False Confessions

Another group of state's attorneys is looking at making recommendations to reduce the number of false confessions.

In most cases, the system doesn't rely on confessions, solely, to convict. There is other corroborating evidence.

Support is building in the legislature to enact a law requiring confessions to be videotaped.

In New Haven, the police department has been cassette recording confessions for many years.

Some concerns with videotaping include:

- The expense.
- The concern that the actions taken by police may be constitutional and acceptable but viewed negatively by the jury, and the effect it will have on the case.

c) Snitches, Informants, and Cooperators

The use of informants is necessary for our system of justice to work effectively, but when dealing with informants, it is necessary to manage the process carefully. Most police departments that use informants use the 9-point system mentioned in the paper, as it is necessary to develop a bonafide case.

Police standards:

There are 96 municipal police departments in Connecticut. There is no uniform standard for using informants. POST can play a role by identifying a standard that can be used statewide for all police departments.

IV. The proposed mission statement and by-laws were discussed. The members will review the proposal and submit comments to Melissa Farley at Melissa.Farley@jud.state.ct.us, who will forward the comments to all commission members. The mission statement will be discussed at the next meeting.

V. The members discussed the role of the commission.

- a) It is to review and study issues that may cause wrongful convictions;
and/or
- b) It is to review individual cases of wrongful convictions.

It was agreed that the educational institutions will develop a proposal to identify cases of wrongful conviction and a protocol for reviewing those cases, although concerns were expressed about reviewing the work of other attorneys.

The question still remains: What is a wrongful conviction? Is it simply exoneration?

VI. At the next meeting, the commission will:

- Review the proposed mission statement.
- Review individual case review models that the educational institutions will provide.

VII. The next meeting will be held on Wednesday, September 29, 2004 at 12 noon in the Attorney Conference Room, in Hartford at 231 Capitol Avenue.