

Chair Prozanski, Members of the Committee:

My name is Lucinda Hites-Clabaugh, and I reside in Forest Grove, Oregon. I will start with a quote from the National Innocence Project Headquarters Policy staff: Why do we need Criminal Justice Reform Commissions or an INDEPENDENT Innocence Inquiry Commission in every state? Because "convicting an innocent person represents a failure in our criminal justice system."

I am including websites and links to the National Innocence Project which describe several states' Commissions, successes, and areas for improvement. North Carolina has only one Black man on their Commission, for example, so we can design our Innocence Inquiry Commission with a strong commitment to being more balanced and culturally-responsive. A person should be able to come before *an oversight body in which implicit or explicit bias will not be the cause of wrongful incarceration and they can be assured they will be heard by the equivalent of a jury of his/her Cultural Community peers.*

I see a South African "Truth and Reconciliation Commission" model to guide us, with a Governor-appointed Special Ombudsperson or Co-Facilitators fulfilling the Archbishop Desmond Tutu and Nelson Mandela roles. These Ombuds will be known and respected for Civil Rights, Human Rights, and/or International Law expertise, perhaps with former careers as Public Defenders. They will be granted the Authority to sentence for the crime of prosecutorial misconduct and facilitate the processes of any requests for forgiveness and restorative compensation.

I see the Governor appointing these rotating volunteer Commissioners who are trained in Compassionate-Listening techniques (such as many who participate in Ecumenical Ministries of Oregon such as the Black Baptist Ministerial Alliance and the Imams from the Muslim Educational Trust, known respected faith leaders, as well as Cultural-Community activists, such as Black Lives Matter, Don't Shoot PDX, NAACP, Imagine Black, Black Resilience, Black Resistance, ACLU, PCUN, APANO, etc.).

The Complaints of Misconduct, including Brady Violations or implicit or explicit bias, would provide a pro bono Oversight Hearings process, where a wrongfully convicted person could show exculpatory evidence of innocence and be exonerated, receive compensation (\$65,000 per year of wrongful incarceration suffered), a State Certificate of Innocence, an acknowledgment of error, signed and dated by the Governor, Re-entry services including Job Placement Assistance, mental health counseling and physical healthcare, dental, and vision vouchers, housing and transportation vouchers, etc. as needed to get back on your feet, State assistance in removal from all Municipal, County, State, LEADS, NCIS, FBI, Federal and State-licensing databases or national consortium databases, NORCOM, and INTERPOL databases. I would be happy to participate in any workgroups or answer any questions I can about this body which seeks to bring Healing to the innocent and reconciliation, if possible, to the Community at large.

The above promised resources, four pages of photo attachments, are the January 11, 2021 New York State Assembly Bill A1729 sponsored by Assemblyman J. Gary Pretlow , which creates the Crime of Prosecutorial Misconduct. Originally written in 2013, the same year that a California bill established that it is a Felony Crime to withhold exculpatory evidence, we passed our own Brady Violations bill in Oregon. Unfortunately without any enforcement consequences, OR prosecutors have continued business as usual. Using the NY bill and the Memorandum in Support of Legislation, which can be tweaked by Oregon Legislative Counsel as a template, we could add such an Amendment to any Omnibus Criminal Justice Reform Bill. The NY bill "Justification" reads:

"If it is discovered that a prosecutor in a criminal case willingly withholds exculpatory information that would possibly help in proving a person accused of a crime was innocent, then that prosecutor should be held accountable for his/her actions. By instilling steep penalties against withholding information, this legislation will successfully deter this practice. If a prosecutor sends an innocent person to jail by preventing exculpatory information from being heard in order to get a conviction, that prosecutor deserves to be severely sanctioned."

How would it work? If convicted and sentenced for committing a Brady Violation deliberately, the prosecutor could accept that prison time or request to come face-to-face with those who suffered harm as a result of his/her prosecutorial misconduct, held in the presence of a FULLY INDEPENDENT Oregon Innocence Inquiry Commission, admit that guilt or harm, offer apologies, beg forgiveness, and if accepted, offer restoration and compensation as the innocent sees fit or not. The restoration and redress could be quite Gandhian in nature, for example, ..."my children didn't get to complete a college education because all of the college fund money was drained to pay bail, so you should pay for their college and career education."

<https://innocenceproject.org/81-of-exonerated-people-who-have-been-compensated-under-state-laws-received-less-than-the-federal-standard-new-innocence-project-report-shows/>

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Thank you again for this opportunity to be heard. I pray that an INDEPENDENT INNOCENCE INQUIRY COMMISSION becomes the chosen focus and mechanism, for to NOT address the Fox guarding the chicken coup will NOT serve those of us who have been wrongfully convicted. Sen. Lew Frederick has my contact information, and I would be happy to serve on any working group or answer any further questions regarding Quaker AVP (Alternatives to Violence Project) and transformative justice and reconciliation processes.

Respectfully,
Lucinda Hites-Clabaugh