



# 2023 ANNUAL REPORT

Lindsey Guice Smith  
Executive Director  
December 29, 2023



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**A Neutral State Agency**  
Charged with Investigating Post-Conviction Claims of Innocence

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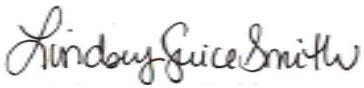
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## LETTER OF TRANSMITTAL

TO THE MEMBERS OF THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY OF THE 2023-2024 SESSION OF THE GENERAL ASSEMBLY OF NORTH CAROLINA:

The North Carolina Innocence Inquiry Commission herewith submits to you for your consideration its annual report pursuant to N.C.G.S. § 15A-1475.

Respectfully Submitted,



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Lindsey Guice Smith  
Executive Director  
North Carolina Innocence Inquiry Commission  
(919) 890-1580  
[NCIIC@nccourts.org](mailto:NCIIC@nccourts.org)

## PREFACE

The North Carolina Innocence Inquiry Commission (Commission) was established in 2006 by Article 92 of the North Carolina General Statutes. The Commission is an independent Commission that is charged with investigating and evaluating post-conviction claims of factual innocence. The Commission staff carefully reviews new evidence and investigates cases in a neutral and impartial manner. North Carolina General Statute §15A-1475 requires the Commission to provide an annual report to the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year.

## 2023 ANNUAL REPORT

This annual report to the Joint Legislative Oversight Committee on Justice and Public Safety is provided pursuant to G.S. § 15A-1475. This report details the activities of the North Carolina Innocence Inquiry Commission in 2023 and the Commission's plans for 2024. Included are statistics for 2023 as well as cumulative case statistics detailing case data since the Commission began operating in 2007. The Commission is proud of the accomplishments we continue to achieve in making North Carolina a leader in answering the call to improve our criminal justice system.

### I. LEADERSHIP AT THE NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

The Commission's Executive Director is Lindsey Guice Smith. Ms. Guice Smith graduated *summa cum laude* from Elon University in 2005 with a Bachelor of Arts in Political Science. She graduated with Honors from the University of North Carolina School of Law in May 2008 and is admitted to practice law in North Carolina. Ms. Guice Smith has worked for the Commission since January 2010 and has been Executive Director since October 2015. Ms. Guice Smith will be leaving the Commission at the end of 2023 to pursue other opportunities. A new Executive Director will be announced in the new year.

Ms. Guice Smith currently serves as Secretary on the Board of Directors and as a Lead Instructor for the International Association of Property and Evidence (IAPE). IAPE is a leader in the evidence field in providing training to evidence custodians and developing and distributing best practices in the industry. Additionally, Ms. Guice Smith currently serves as the immediate Past President of the North Carolina Association for Property and Evidence (NCAPE).

During her time as Executive Director of the Commission, Ms. Guice Smith focused on increasing efficiency, streamlining processes, and updating policies and procedures to ensure the continued success of the Commission. Ms. Guice Smith also made a concentrated effort to raise awareness about the Commission and to educate criminal justice partners on the success and sustainability of the Commission model. This included education at the local, state, national and international level. In 2023, Ms. Guice Smith testified before the Justice and Human Rights Committee of Canada's House of Commons to provide in depth information on the Commission's model as Canada considers creating their own innocence commission.

Corinne Fowler is the Commission's Associate Director for Legal, Legislative, and Policy matters. Ms. Fowler first joined the Commission in February 2021 as a Grant Staff Attorney, investigating cases with a DNA component and later became a Staff Attorney for the Commission in 2022. In 2023, Ms. Fowler completed NILE's Public Policy Certification program and currently maintains her certification. Ms. Fowler graduated from Florida Gulf Coast University in 2015 with a Bachelor of Arts in History and in Political Science. She graduated from Florida A&M University College of Law in 2018. Ms. Fowler is admitted to practice law in North Carolina.

Catherine Matoian is the Commission's Associate Director for Investigations. Ms. Matoian became the Commission's Associate Director for Investigations in June 2022, previously serving as a Staff Attorney at the Commission since 2013. As a staff attorney, Ms. Matoian became well versed in post-conviction DNA testing and DNA testing technologies, having worked under the Commission's Post-Conviction DNA Testing Assistance Program grant for 9 years. Ms. Matoian graduated from the University of North Carolina at Asheville in 2008 with a Bachelor of Arts in History. She graduated from the Norman Adrian Wiggins School of Law at Campbell University in 2012. Ms. Matoian is admitted to practice law in North Carolina.

The Commission's Chair is Senior Resident Superior Court Judge Thomas H. Lock. Judge Lock was elected to the superior court bench in 2006 and currently serves as the Senior Resident Superior Court Judge for Judicial District 11B (Johnston County). Judge Lock graduated with a B.A. from the University of North Carolina at Chapel Hill in 1978 and from the University of North Carolina School of Law in 1981. Prior to his election as a superior court judge, Judge Lock worked as an assistant district attorney, worked in private practice, and served as elected district attorney in the Eleventh Prosecutorial District. Since his election to the bench, Judge Lock has served on the executive board of the North Carolina Conference of Superior Court Judges. Prior to joining the Commission, Judge Lock served as chief judge of a post-Commission three-judge panel in the Innocence Inquiry Commission case of State v. Joseph Sledge. Judge Lock's term as the Commission's Chair will come to an end at the end of 2023.

Senior Resident Superior Court Judge Jason Disbrow has been appointed as the Commission's next Chair and his term will begin January 1, 2024. Judge Disbrow became a superior court judge in 2020 and currently serves the Senior Resident Superior Court Judge for Judicial District 13B (Brunswick County). Judge Disbrow graduated from NC State University in 1994 with a Bachelor of Arts in Business Administration. Judge Disbrow went on to graduate from NC Central University School of Law in 1998. Prior to his service as a superior court judge, Judge Disbrow worked in private practice for 17 years and served as a district court judge for 4 ½ years.

Photographs of Commission staff and Commissioners can be found on the following pages. Biographies for the Commission staff and Commissioners can be found on the Commission's webpage at [www.innocencecommission-nc.gov](http://www.innocencecommission-nc.gov).

## Innocence Commission Staff



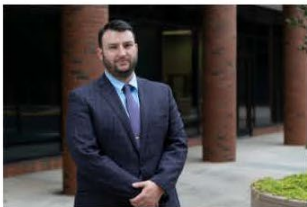
**Lindsey Guice Smith**  
**Executive Director**  
[Lindsey.G.Smith@nccourts.org](mailto:Lindsey.G.Smith@nccourts.org)



**Catherine Matoian**  
**Associate Director**  
[Catherine.L.Matoian@nccourts.org](mailto:Catherine.L.Matoian@nccourts.org)



**Corinne Fowler**  
**Associate Director**  
[Corinne.R.Fowler@nccourts.org](mailto:Corinne.R.Fowler@nccourts.org)



**Josh Cox**  
**Staff Attorney**



**Alex Strombotne**  
**Staff Attorney**



**Taylor Miller**  
**Staff Attorney**



**Michael Hancock**  
**Grant Staff Attorney**



**Nicole Hancock**  
**Grant Staff Attorney**



**Emma Paul**  
**Victim Services Program Manager**



**Jason Fitts**  
**Case Manager**



**Kristie Parker**  
**Paralegal**

# Commissioners



**The Honorable  
Thomas H. Lock  
Commission Chair**



**The Honorable  
Jason Disbrow  
Alternate Chair**



**Ashley Welch  
Prosecuting Attorney**



**Luther Johnson Britt  
Criminal Defense  
Attorney**



**Sheriff Van Shaw  
Sheriff**



**Robin Colbert  
Victim Advocate**



**Todd Williams  
Alternate Prosecuting  
Attorney**



**Deborrah Newton  
Alternate Criminal  
Defense Attorney**



**Sheriff Joey Lemons  
Alternate Sheriff**



**Scott Bass  
Alternate Victim  
Advocate**



**Kieran Shanahan  
Discretionary Member I**



**Judge Beth Tanner  
Alternate Discretionary  
Member I**



**Paul "Skip" Stam  
Discretionary Member II**



**Yvonne Mims Evans  
Alternate Discretionary  
Member II**



**Immanuel Jarvis  
Public Member**



**Edward Landis  
Alternate Public Member**



## **II. ACTIVITIES OF THE NORTH CAROLINA INNOCENCE INQUIRY COMMISSION**

2023 was another busy year for the Commission. In late 2023, the North Carolina General Assembly passed, and the Governor signed, a budget that included a budget expansion for the Commission, solidifying the State's confidence in the Commission's ability to carry out its mandate of providing an independent and balanced truth-seeking forum for credible post-conviction claims of factual innocence.

In 2023, the Commission focused on efficiently moving claims through the Commission process, pursued a new position created by the budget expansion, educated other countries, states, groups, and stakeholders about the Commission model, completed an overhaul of the Commission's antiquated database, and held one Commission hearing.

### **A. CASE MANAGEMENT**

The Commission received a total of 225 new claims in 2023, bringing the Commission's yearly average to 208 claims per year.

Beginning in 2016, through a concentrated effort to increase efficiency and streamline processes at the Commission, the Director and Commission staff worked to reduce the amount of time between when the Commission receives a questionnaire from a claimant and when the Director makes a determination on whether the case meets the statutory case criteria for further review or closes the case.<sup>1</sup> Prior to this effort, this process could take up to a year. Again in 2023 this effort has continued and the average length of time for this process remains at just a couple of weeks. The Commission anticipates that the length of time for this process will see yet another decrease with the addition of the Commission's new administrative secretary; discussed in more detail below. Although each case is unique and the length of time to fully review a case is not predictable, the streamlining and increased efficiency of this process has allowed Commission staff to focus on further review and investigation of cases in an effort to reduce overall review time. Going forward, the Commission anticipates that it will be able to keep up with the initial reviews in a timely manner consistent with that which it has achieved since 2017; especially with the addition of a new administrative secretary position whose assistance is greatly needed to keep up with the influx of applications to the Commission.

As mentioned above, after reducing and stabilizing the amount of time for the Commission's initial review process, beginning in 2018, the Director shifted the focus to moving cases through the further review, investigation, and formal inquiry processes in a more timely and efficient manner. At the end of 2022, there were two active cases that had been with the Commission for more than three but less than five years and five cases that had been with the Commission between two and three years. In 2023, the Commission has closed five of these seven cases.

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<sup>1</sup>This also includes claims where a questionnaire is not sent because a determination as to eligibility can be made at the time the claim is received.

Subsequently, also this year, the Commission has two cases within the three to five year mark and six cases within the two to three year mark. All remaining cases with the Commission are under two years. The Commission anticipates that these outstanding older cases will reach resolutions by the end of 2024.

While true that post-conviction innocence work, in the broader sense, often takes a decade or more to see resolution, the Commission has instituted processes and procedures that ensure that the Commission is reviewing innocence claims in a timely and efficient manner.<sup>2</sup> Although each case is different and the circumstances of a case may affect the amount of time a case takes to be fully investigated by Commission staff, the Director is confident that the Commission is in a position to effectively and efficiently evaluate innocence claims as was the intent of the General Assembly when it created the Commission in 2006.<sup>3</sup>

## B. GRANT FUNDING

### DNA GRANTS

In October 2020, the Commission was awarded a two-year grant in the amount of \$531,894 through the Bureau of Justice Assistance FY 20 Postconviction Testing of DNA Evidence Program (formerly housed under NIJ). This funding was slated to begin on October 1, 2020 and run through September 30, 2022; however, a new grants management system and technical glitches along the way pushed back the start date under this grant until February 2021. In 2022, the Commission sought a one-year extension given the delay in receipt of funding. That extension was approved, and this grant ended on September 30, 2023. For violent felonies where the convicted person is claiming innocence and DNA testing might show innocence, the grant funding covered two full-time staff positions, case reviews, evidence searches, travel, training, supplies, forensic experts, and DNA testing.

Using the 2020 Grant funds, the Commission was able to investigate 21 cases. It conducted 18 searches for evidence and had DNA testing conducted in 10 cases. The Commission conducted 63 tests on 31 pieces of evidence.

In September 2022, the Commission was awarded a three-year grant in the amount of \$550,000 through the Bureau of Justice Assistance FY 22 Postconviction Testing of DNA Evidence Program. This funding was slated to begin on October 1, 2022, and run through September 30, 2025; however, the funds were not released for use until December 2022. As with our 2020 Grant, for violent felonies where the convicted person is claiming innocence and

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<sup>2</sup>Anecdotally, the Commission reviewed and subsequently closed, as to not duplicate efforts, a claim where the NC Court of Appeals remanded an MAR back to the trial court to be heard on the merits, but due to an oversight, that hearing didn't occur for four years. As of the date of this report, there has been movement on the claimant's individual filings but the case is still not resolved. In another case, an MAR filed in 2018 has yet to be heard. In that case, the claimant's attorney withdrew due to his law license being suspended in 2021, the claimant requested an attorney, and as of the date of this report the request for an attorney has not been addressed, no hearing has been scheduled, and no decision has been made.

<sup>3</sup> See Preamble to Session Law 2006-184.

DNA testing might show innocence, the grant funding covers two full-time staff positions, case reviews, evidence searches, travel, training, supplies, forensic experts, and DNA testing.

In 2023, the Commission was invited to apply for a non-competitive, one-year extension to the 2022 Grant with \$246,310 in additional funds. This will allow the 2022 Grant to run until September 30, 2026. Additionally, BJA held its first Annual Forensics Program in October 2023 for grantees to discuss challenges, innovations, and best practices. The Commission was invited to speak at a workshop on overcoming barriers to completing work under the grant using the Commission model and its approach to searching for evidence and DNA testing. In its invitation for the Commission to speak at the workshop, the grant administrators noted that the Commission consistently conducts more DNA testing than all other grantees.

The Commission has received funding continuously from NIJ and/or BJA since 2010, receiving seven grants, totaling over \$3.75 million, for post-conviction DNA related cases. Since that time, twelve individuals have been exonerated or had their convictions vacated through Motions for Appropriate Relief and been granted pardons of innocence based on investigations, evidence searches and/or DNA testing conducted by the Commission under these grants. Furthermore, the Commission has also had DNA testing conducted in 13 cases that supported the conviction and located files and/or evidence which had previously been declared missing, lost or destroyed in 29 cases.

Through the current and past grants, the Commission has developed strong working relationships with state and local agencies, as well as private laboratories. The Commission has been able to secure competitive rates for DNA testing at private laboratories, allowing the Commission to conduct DNA testing with the latest technology. The Commission has a strong working relationship with the NC State Crime Laboratory (NCSCCL) and uses NCSCCL, when possible, for DNA and other forensic testing, as well as to upload DNA profiles to the Combined DNA Index System (CODIS). The Commission will continue to apply for additional grant funding to offset the costs associated with investigating cases, conducting DNA testing, and evidence searches.

#### VOCA GRANTS

In 2023, the Commission continued implementing its Victims of Crime Act (VOCA) grant from the Governor's Crime Commission. The Commission currently has a 2022-2024 VOCA grant to fund a partnership with the national nonprofit Healing Justice. Healing Justice is a unique organization that utilizes restorative justice and justice reform to provide healing to individuals and families harmed by injustices and to prevent future harm. This grant awards the Commission \$48,855.50 over two years, from October 1, 2022, to September 30, 2024. The purpose of the partnership is to offer restorative justice services to crime victims and family members impacted by Commission investigations, as well as exonerees, their family members, and other criminal justice stakeholders who were involved in the wrongful conviction and exoneration. While the Commission's Victim Services Program provides support to crime victims during the process of an investigation, there are few resources to offer after an exoneration to address these victims' feelings of loss, grief, betrayal, fear, and abandonment.

This project addresses this gap in NC by creating restorative justice processes through which the Commission, in partnership with Healing Justice, can meet the needs of crime victims in the wake of exonerations. As a victim-centered response to crime, restorative justice processes are primed to address the complexity of exoneration cases and the unique harm they cause to crime victims. Restorative circles, conferences, and other activities will be used to provide victims with a safe space to meet others involved in these cases and ask questions, share, and understand different perspectives, and explore opportunities for healing.

### C. CASE STATISTICS

In 2023, the Commission received a total of 225 new innocence claims. Since it began operating in 2007, the Commission has received 3,602 claims of actual innocence. As of December 29, 2023, 3,508 cases had been reviewed and closed. Also in 2023, the Commission confirmed guilt in two cases, reviewed 3,020 prison/jail calls (totaling well over 700 hours), conducted over 50 interviews and reviewed over 34,000 pages of case material.

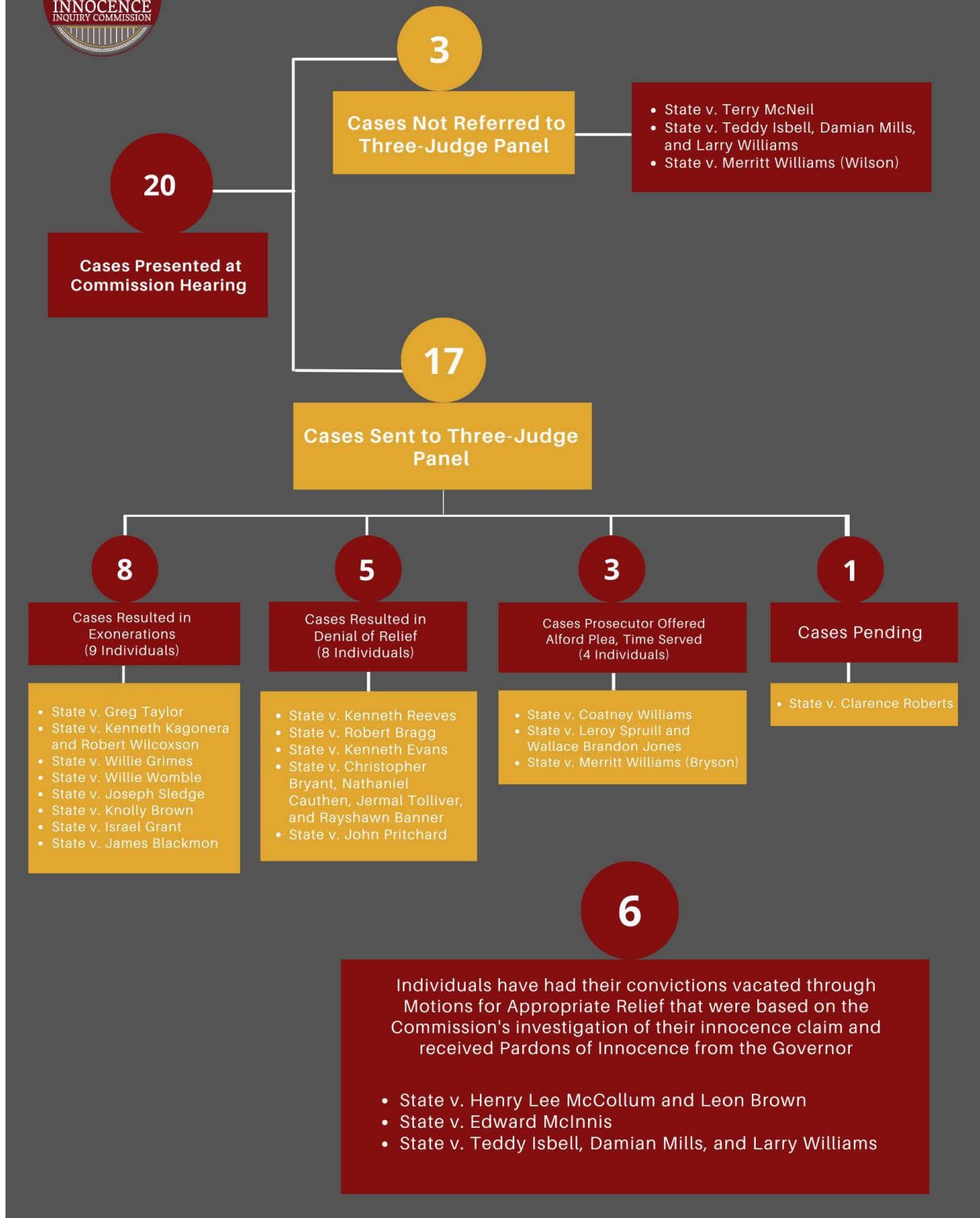
Since the Commission's creation, the Commission has held 19 hearings, including one held in 2023.<sup>4</sup> Fifteen individuals have been exonerated by a post-Commission three-judge panel or had their convictions vacated through a Motion for Appropriate Relief and been granted a pardon of innocence by the Governor based on the Commission's investigation of their claim.<sup>5</sup> The public records documents for each case presented at a Commission hearing or presented at a Motion for Appropriate Relief hearing based on a Commission investigation are available on the Commission's website at: [www.innocencecommission-nc.gov/cases.html](http://www.innocencecommission-nc.gov/cases.html).

Throughout the Commission process, statistics are maintained for each case. These statistics reflect the types of crime at issue, the basis of the innocence claims submitted, and the reasons for rejection. The statistics show that the types of convictions reviewed by the Commission vary, with murder and sex offenses being the most common. As in 2022, this year 28% of cases are rejected by the Commission because the evidence was heard by the jury or was available at the time of plea. The Commission can only consider cases in which new evidence of innocence is now available. Included on the following three pages is a compilation of statistical data for the Commission. Further statistical data is available from the Commission's Director upon request.

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<sup>4</sup> One of the hearings involved two separate and unrelated convictions of one claimant; thus 20 cases have been heard.

<sup>5</sup> Of the 20 cases that have been presented at Commission hearings, 17 were sent forward to a three-judge panel and three were not. Of the 17 sent forward to a three-judge panel, eight resulted in the exonerations of nine individuals (one co-defendant case). Five cases sent forward to a three-judge panel resulted in a denial of relief by the three-judge panel (eight individuals). Three cases (four individuals) sent forward to a three-judge panel resulted in the prosecutor offering the claimant an Alford Plea for time served, negating the need for the three-judge panel hearing. There is currently one case pending a three-judge panel. Additionally, six individuals have had their convictions vacated through Motions for Appropriate Relief that were based on the Commission's investigation of their innocence claims and have received Pardons of Innocence from the Governor.





## **CASE STATISTICS**

The Commission began operation in 2007

**3602**

TOTAL NUMBER OF CLAIMS RECEIVED SINCE COMMISSION'S CREATION

**3508**

TOTAL NUMBER OF CASES CLOSED SINCE COMMISSION'S CREATION

**225**

NUMBER OF CLAIMS RECEIVED IN 2023

**19**

NUMBER OF HEARINGS CONDUCTED SINCE COMMISSION'S CREATION

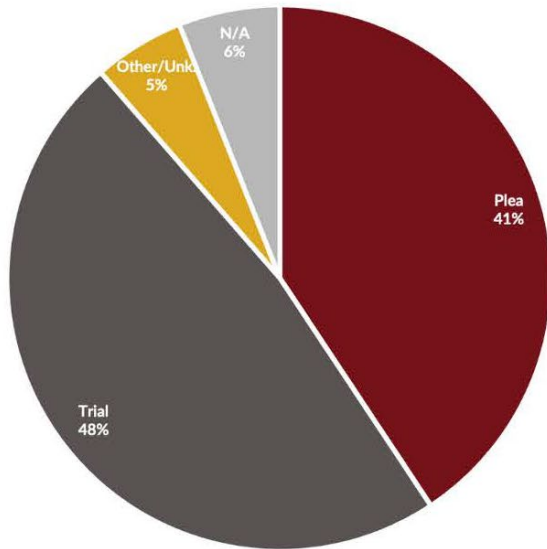
**15**

EXONERATIONS\*

Data compiled December 29, 2023

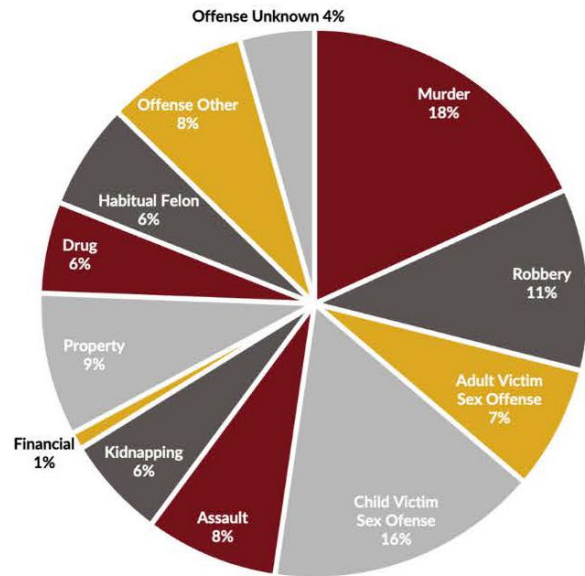
\*Includes individuals exonerated as a result of the Commission's investigations either through a post-conviction three-judge panel or a Motion for Appropriate Relief (MAR) and governor's pardon of innocence. There is one case pending a hearing before a post-Commission three-judge panel

### Convictions Resulting from Trial or Plea



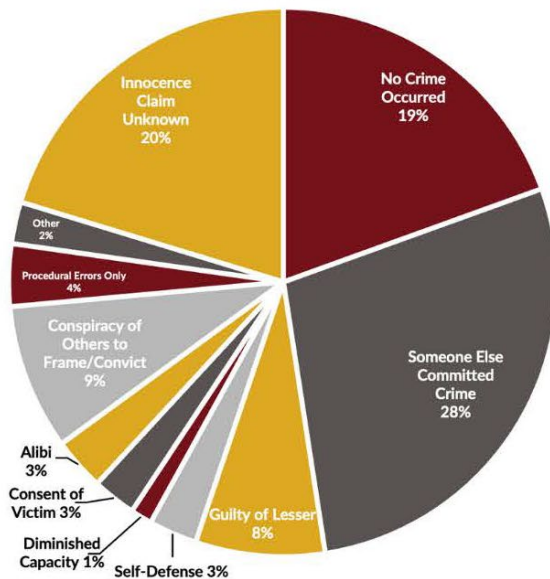
- Alford and no contest pleas are included in plea category.
- N/A is for individuals who apply but have not been convicted.

### Applicants' Convictions



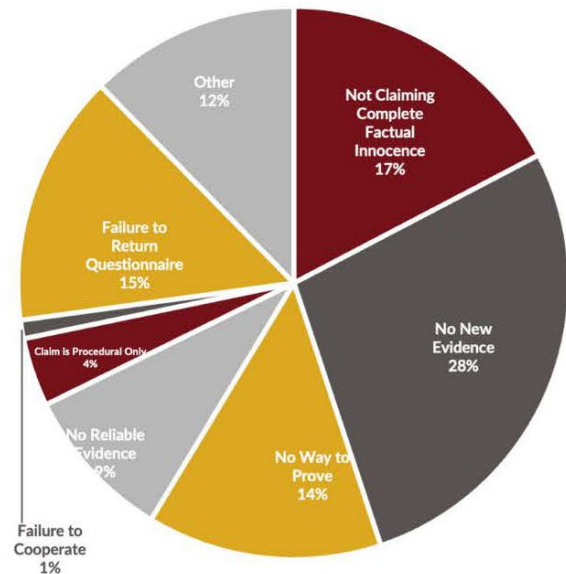
- Some applicants were convicted of multiple offenses.

### Applicants' Innocence Claims



- Some applicants made multiple innocence claims.
- Several of these categories do not fit the statutory requirement for actual innocence and result in an automatic rejection.

### Reasons for Rejection



- Some cases were rejected for more than one reason.



#### D. RESULTS OF INVESTIGATIONS

The Commission staff continues to review and investigate cases in a neutral and thorough manner. In 2023, the Commission had 70 cases that were actively being reviewed in the further review, investigation, or Formal Inquiry phases. These cases included the review of files, documents, trial transcripts, and jail/prison calls; interviews and depositions; subpoenas, motions, and proposed orders; searches for evidence; submission of evidence for DNA and other forensic testing; and consultation with experts, among others.

The Commission has been granted the authority to request that agencies search for physical evidence and the Commission staff may request to conduct their own searches when necessary. By working with law enforcement, district attorneys, and clerks' offices throughout the state, the Commission has located evidence in dozens of cases. These conversations and searches have given the Commission, and the agencies the Commission is working with, the opportunity to address the best practices for handling evidence. Moreover, the Commission has successfully located physical evidence and/or files in 29 cases when previous efforts by other agencies had resulted in conclusions that the evidence or files had been destroyed or lost. In some of those cases, the prior searches had been court-ordered with findings of fact made regarding the missing evidence. In fact, 80% of the Commission's exonerations were cases where the evidence was said to have been destroyed or missing.

In 2023, Commissioners determined there was sufficient evidence of factual innocence to merit judicial review in the case of *State v. Clarence Roberts*, and the case was sent forward for a three-judge panel hearing. The Commission anticipates this case being scheduled for a three-judge panel and heard in 2024.

2021 was the first year since its inception, in which the Commission saw a prosecutor offer an Alford Plea for time served in lieu of having the case heard at a three-judge panel. The Commission has now seen this occur in three cases, which may indicate that this will become a more common outcome going forward. In those cases, the claimants, along with their attorneys, were faced with a decision, much like defendants are faced with pre-trial: to weigh moving forward with a three-judge panel hearing, where the burden of proof is on them, versus taking an Alford Plea which provides them with time served and allows them to effectively continue to maintain their innocence while obtaining immediate relief. The practical implications for this outcome are that the claimant, who has claimed innocence and for which the Commission has found sufficient evidence of innocence to merit judicial review, is not in fact determined to be innocent, but rather retains a conviction on their record and is released from prison. Further, without an exoneration through the Commission process or a pardon of innocence from the Governor, these claimants are not eligible for compensation through the Industrial Commission for a wrongful conviction. In all three cases, the claimants were serving lengthy prison sentences.



## E. OTHER 2023 ACTIVITIES AND ACCOMPLISHMENTS

### COMMUNICATIONS

The Commission continues to send out its quarterly newsletter full of updates and other helpful information for readers. To receive the newsletter and keep up with the work of the Commission throughout the year, sign up on our website at <https://innocencecommission-nc.gov>.

### BUDGET

As part of the FY2023-2024 budget, in October 2023, the Commission received funding for one additional state funded position, an administrative secretary. This position will assist with the day-to-day operations of the Commission as well as provide additional assistance to the Commission's attorney staff. The Commission received approval from OSBM in December 2023 and is looking forward to filling this position early in 2024.

As a result of Session Law 2023-74, discussed in detail below, the Commission is now required to include the receipt and expenditure of any private donations, gifts or devices the Commission receives during the year and report those funds annually in this report. In 2023, the Commission did not receive any private donations, gifts or devices.

The Commission also experienced turnover in 2023, with one staff attorney and one grant staff attorney leaving for other positions. After promoting from within for several positions, similar to 2022, a portion of 2023 was spent recruiting, hiring, and training new staff. The Commission currently has two vacancies: one staff attorney position and one administrative secretary position.

### DATABASE

The Commission received additional funds from the General Assembly in January 2022 that allowed the Commission to begin working to identify a software program and database developer to overhaul and replace the Commission's Access database. The Commission is happy to report that this goal was achieved and a new modern database was implemented in April 2023. One of the crucial components of this new database is the ability for it to generate reports for the Commission instead of Commission staff having to manually hand count data. In 2024, the Commission is looking forward to adding additional functionality to this database to allow the commission to further mine data.

### STATUTE CHANGES

The Commission was notified earlier this year of a bill that was introduced in the North Carolina House that aimed to amend several provisions of the Commission's operating statute. The Commission was successful in working with those involved, the Conference of District Attorneys and several legislative members, to make sure the concerns about the Commission's process were addressed while ensuring the integrity of the Commission's process as well as the hallmarks of the Commission were upheld. The bill was passed into law (Session Law 2023-74)

and the Commission has successfully implemented the changes. The link to the full text of the law can be found here: <https://www.ncleg.gov/BillLookup/2023/H790>.

### RESEARCH

In 2023, The Commission was approached by two different individuals to provide volunteer research assistance to the Commission. Over the course of the next year, it is the goal that each volunteer will be able to provide the Commission with tangible data and information on the success of the Commission model as well as areas for improvement. The volunteers will also assess trends that emerge from studying the Commission's data and how that impacts the work of the Commission. The Commission is very excited to use its new database to assist in this endeavor and looks forward to the results from these projects.

### VICTIM SERVICES PROGRAM

In 2023, the Commission's Victim Services Program Manager Emma Paul sought to share lessons learned in providing post-conviction victim services with other criminal justice stakeholders across the state, including District Attorneys' offices, public defenders, victim advocates, and law enforcement. Campbell Law School, NCVAN and the NC Association for Property and Evidence are only a handful of the groups Ms. Paul was able to present to this year. This effort aims to address the dearth of victim services and information in the post-conviction space and to open the door to coordinating post-conviction services between agencies. This effort will continue in 2024.

### TRAINING

In 2023, Commission staff completed several trainings allowing them to continue to grow their investigative, legal and trauma-informed skills. The National Institute for Trial Advocacy (NITA) conducted an in-house training for staff on deposition skills and advanced interviewing techniques. A grant staff attorney attended a Forensic Investigative Genetic Genealogy (FIGG) Conference where she learned how FIGG is playing a role in the investigation of DNA cases. Several staff members attended the 22<sup>nd</sup> Annual Bode Forensic DNA Conference, allowing staff to stay up-to-date on current changes in DNA technology. Staff also attended the Techno Security and Digital Forensics Conference and learned about the impact digital forensics is having on cases. Finally, staff attended the 1<sup>st</sup> Annual NC Southeastern Task Force Conference on Combating Violent crime to learn about various complexities of violent crime, including those related to gang activity. In 2023, the Commission will continue to seek out unique and relevant training opportunities for staff to attend.

### OUTREACH

Since becoming Director in 2015, Ms. Guice Smith has increasingly focused on outreach and education regarding the Commission's unique mission and neutral investigative function. North Carolina is a leader in post-conviction innocence work due to this state-supported Commission. In fact, as it stands, the Commission has proven to be the most efficient method for timely and

thorough review of post-conviction claims of factual innocence.<sup>6</sup> The Commission model has proven successful and sharing both within and outside of North Carolina how well the model works is important to ensuring the innocent, as well as the guilty, receive justice. In addition, because the Commission is neutral and unique in its purpose, it is vital to the Commission's success to distinguish itself from non-profit organizations, private attorneys, or other types of innocence groups whose role may not be based in neutrality. The Commission has become a leader in the fields of post-conviction and evidence practices.

Notably, in 2023, the Commission continued to work with Canada as they move forward in their efforts to create the Canadian Criminal Case Review Commission. A bill was introduced under the Justice and Human Rights Committee of Canada's House of Commons this session that moves the creation of their commission one step further. The Commission's Executive Director was invited to testify before this committee to provide in depth information on the Commission's model. A full recording of the meeting can be found here: [https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12442187&fbclid=IwAR1-LjKIQ20a4I\\_tTaT76icVdA51P0nvBDqszuWNGiobJhR1zyWYN-yPtFQ](https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12442187&fbclid=IwAR1-LjKIQ20a4I_tTaT76icVdA51P0nvBDqszuWNGiobJhR1zyWYN-yPtFQ). The Commission is very grateful for this opportunity and looks forward to continuing to work with Canadian legislators through this process.

The Executive Director was also invited to participate in a panel before a subcommittee of the Defense Advisory Committee on Investigation, Prosecution and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) where she spoke on the Commission model. DAC-IPAD is a committee that is part of the Department of Defense and are currently considering how to best address post-conviction claims of innocence in the military. DAC-IPAD will make a recommendation to the Secretary of Defense of what they believe will be the best course of action.

Also this year, the Commission was contacted by U.S. Congresswoman Deborah Ross' office to discuss the possibility of creating a federal commission. The Executive Director and Legal, Legislative, and Policy Associate Director had several virtual meetings with staff from the Congresswoman's office. During which, the Executive Director and Associate Director discussed the history of the Commission as well as the Commission model as a whole and the importance of bi-partisan support in creating a federal commission. Congresswoman Ross' staff is in the preliminary research gathering stage but will keep the Commission updated on their progress.

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<sup>6</sup> See article: Local Law Scholars Differ on How to Approach Actual Innocence Work, But Agree That Reticence Among Prosecutors to Reopen Cases is One of the Greatest Obstacles to Achieving True Justice.

<https://indyweek.com/news/northcarolina/local-law-scholars-differ-on-how-to-approach-innocence-work/> Additionally, in 2022, the Commission screened cases in an average of 14.5 days from receipt of the claim/questionnaire. The Commission's oldest case has been active with the Commission for less than five years and is anticipated to be heard at a hearing in 2023. The Commission acknowledges that the role of the Commission is different than the role of defense attorneys representing clients in post-conviction innocence litigation but submits that the Commission's neutral model which includes broad statutory authority to obtain files and evidence necessary to its inquiry is the most efficient method for timely and thorough review of post-conviction claims of innocence.

The Commission's Executive Director and Associate Directors also gave presentations to and met with governmental agencies, civic groups, educational institutions, and the public. In 2023, virtual or in-person presentations were given to over 20 entities. Some of those entities included: the Superior Court Judges Conference, the American Bar Association, the NC Law Enforcement Officers Association, Elon University, the NC Public Defender's Conference, the New Hanover DA's Office, the Gaston County Bar Association, the Innocence Network Conference, Campbell Law School, the Bode Technology Conference and Wake Forest School of Law Innocence and Justice Clinic.

Additionally, the Commission's Executive Director and Associate Directors routinely participated in meetings and interviews and answered questions about the Commission process with members of the General Assembly, other state government agencies and officials, media outlets, writers, legal scholars, students, chiefs of police, and various other organizations and agencies. Given the Commission's training and experience, law enforcement agencies have reached out to the Commission for assistance with their evidence storage rooms and evidence questions.

The Commission's Executive Director has used her knowledge and expertise in best practices for evidence handling to educate both law enforcement agencies and clerk's offices about the best practices for handling evidence, particularly biological evidence. The Commission continues to see the benefits of this education as law enforcement agencies and clerk's offices make changes to their evidence handling and storage procedures.

The Commission's Executive Director and staff continued to make information about the Commission publicly available. One way this is done is by publishing public information on the Commission's website. The website can be viewed at: <http://innocencecommission-nc.gov>. In 2023, Commission staff continued to post regularly on the Commission's Facebook page information about the Commission, public interest pieces related to innocence work, and other information related to criminal justice and the courts.

### **III. AUDIT OF THE NORTH CAROLINA INNOCENCE INQUIRY COMMISSION**

In 2015, the General Assembly passed a provision requiring the Administrative Office of the Courts to conduct an annual audit of the Commission. In 2023, the Commission's eighth annual audit was conducted. This was a detailed process that included several meetings and communications between the Commission's Director, Associate Director, and AOC auditor.

The audit was completed on August 16, 2023. The Commission was evaluated in several risk categories, including evidence, accounting, and reporting and annual audit requirements. With respect to all the above-mentioned categories, the audit found that internal controls were designed to reduce risk and were appropriate.

The Commission has been given an overall audit rating of “Effective.” This is the highest rating of three possible ratings: Effective, Some Improvement Needed, and Major Improvement Needed. The Effective rating was given to only 57% of those audited by AOC since 2015 and only 66% of those audited in 2023. The Commission has received an Effective audit rating every year that it has been audited. The Commission will undergo another audit in 2024 and anticipates that the results will be similar. A copy of the Commission’s audit report is available upon request.

#### **IV. THE NORTH CAROLINA INNOCENCE INQUIRY COMMISSION IN 2024**

##### **A. PLANS FOR 2024**

In 2024, the North Carolina Innocence Inquiry Commission plans to continue to focus on reviewing and investigating innocence claims in the most neutral, detailed, and efficient manner possible. In addition to casework, the Commission will also focus on outreach, continuing the database project, training, and further developing its Victim Services Program.

In 2024, the Commission’s new Executive Director will continue to manage the day-to-day operations of the of the Commission, review all claims that come to the Commission and focus on sharing the Commission model through outreach to other states and countries considering the Commission model for post-conviction innocence review. The Executive Director will also focus on outreach to criminal justice stakeholders, as well as the public, in an effort to educate them on the Commission’s role in the criminal justice community.

The Commission’s Associate Director for legislative, legal and policy matters, Corinne Fowler, will focus on the Commission’s legislative priorities as well as complex legal matters before the Commission. Ms. Fowler will be available to members of the General Assembly to provide education about the Commission and answer any questions they may have. The Commission’s Associate Director for investigations, Catherine Matoian, will focus on ensuring Commission staff investigates claims efficiently and fully and moves any cases that are ready forward to a hearing. The Commission anticipates holding at least one hearing in 2024.

The Commission will also continue to train staff in areas crucial to their day-to-day investigative work. This will include attendance to various conferences on DNA testing, trauma-informed practices and deposition and interviewing techniques. The Commission’s evidence custodians will attend trainings through the North Carolina Association for Property and Evidence to ensure that the Commission is handling and storing evidence in accordance with best practices and statutory requirements.

In 2024, the Commission’s Victim Services Program will continue to collaborate with Healing Justice under its 2022 Victims of Crime Act (VOCA) grant on its restorative justice program.

Additionally, the Commission will continue to work on developing services to assist exonerees in their transition from incarceration. In 2024, the Commission will continue to aim to identify partner organizations and create a process for connecting exonerees with resources and services as they work to rebuild their lives. Finally, the Commission will continue to provide training for criminal justice partners who interact with victims of crime in the post-conviction context with respect to what the Commission has learned through implementation of its Victim Services Program.

The Commission serves as a resource for other agencies and elected officials who receive innocence claims but lack the resources to investigate and evaluate them. Over the last few years, the Commission has seen an increase in the number of contacts from superior court judges related to cases with pending Motions for Appropriate Relief and cases being referred to the Commission by attorneys and law school innocence projects and clinics. In 2024, the Commission will continue to field calls from judges and accept case referrals in an effort to make the criminal justice system more effective. One of the original reasons for the creation of the Commission was to provide relief to the court system related to post-conviction motions. The Commission is fulfilling that role and will work to continue educating the legal community about its mission and ability to relieve the court system in this manner.

Members of the General Assembly may refer post-conviction innocence claims from their constituents to the North Carolina Innocence Inquiry Commission. Although the Commission does not currently plan to request any statutory changes to its governing statute, the Commission's Director and Legal, Legislative, and Policy Associate Director will be available to members of the General Assembly throughout the 2024 Session should any legislation be proposed related to the Commission.

## **B. FUTURE NEEDS OF THE COMMISSION**

Pursuant to N.C.G.S. § 15A-1475, the Commission's Annual Report shall recommend the funding needed by the Commission. In evaluating our fiscal needs over the last year, the Commission had determined that it currently does not need additional funding. With the transition of Executive Directors, the Commission anticipates the new Executive Director will evaluate the Commission's needs over the course of 2024 and make recommendations on the Commission's needs in the next annual report.

## **CONCLUSION**

The members and staff of the North Carolina Innocence Inquiry Commission would like to thank the Joint Legislative Committee on Justice and Public Safety and the entire General Assembly for their creation and support of this groundbreaking part of the criminal justice system. The criminal justice system in North Carolina is strong and the Commission is proud to serve the important role of uncovering evidence while strengthening the public confidence in the justice system. We take seriously our mandate to ensure that the innocent, as well as the guilty,

receive justice. The General Assembly, through its support of the Commission, has positioned North Carolina to continue to be a leader in innovative criminal justice reform.

The Commission receives on average 208 claims per year and continues to investigate cases that ultimately result in the exoneration of innocent individuals, confirm guilt of convicted persons, and lead to arrests and convictions of other individuals who have gone undetected. The steady flow of cases and hearings demonstrate the need for the continued existence and funding of the Commission.

As described above, the Commission maintains a website ([innocencecommision-nc.gov](http://innocencecommision-nc.gov)) that provides the public with general information about the Commission.

The Commission's Chair, Director, and Legal, Legislative, and Policy Associate Director are available to meet with any member of the General Assembly to further discuss the work of the Commission. They can be reached at (919) 890-1580 or [NCIIC@nccourts.org](mailto:NCIIC@nccourts.org). The Commissioners and staff are pleased to serve the people of North Carolina and look forward to continuing that service each year.



Prepared by  
Lindsey Guice Smith  
Executive Director  
North Carolina Innocence Inquiry Commission

P.O. Box 2448  
Raleigh, NC 27602

919-890-1580

[nciic@nccourts.org](mailto:nciic@nccourts.org)



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**[innocencecommission-nc.gov](http://innocencecommission-nc.gov)**