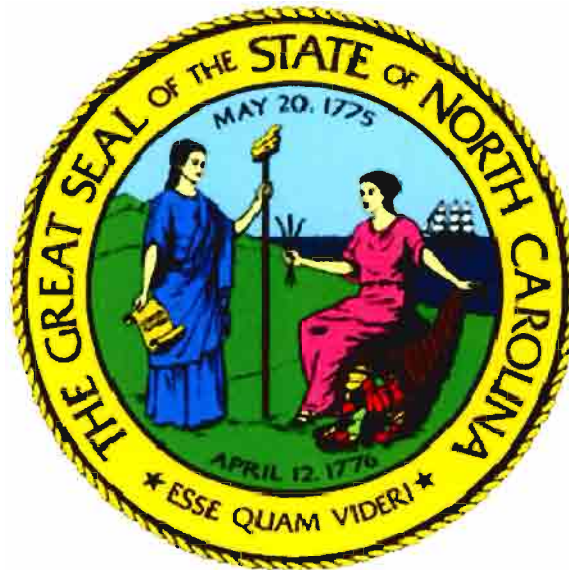


PowerPoint
Presentation given to
the North Carolina
Innocence Inquiry
Commission
at the
December 14, 2008
hearing

The North Carolina Innocence Inquiry Commission

December 14, 2007 Hearing



Welcome Commissioners!



The North Carolina Innocence Inquiry Commission An Official State Agency*

Judge Quentin T. Sumner
Chairman

Charles Beeton
Mel Laura Chilton
Jacqueline Greenlee
Heath Jenkins
William Kenorly
Barbara Pickens
Wade Smith

Administrative Office of the Courts
North Carolina Innocence Inquiry Commission
P. O. Box 2448
Raleigh, NC 27602
phone: (919) 890-1580
fax: (919) 890-1937

Kendra Montgomery-Blinn
Executive Director

Michael R. Epperly
Staff Attorney

Grace Wallace
Administrative Assistant

Commission Hearing Agenda

Chairman: The Honorable Quentin T. Sumner
 Court Reporter: Tory Pittman
 Date/Time: Friday December 14, 2007 10:00 a.m.
 Location: North Carolina Judicial Center

Item #	Start Time	Duration	Description	Action	Person Responsible
1	10:00	5 min	Call to Order		Judge Sumner
2		5 min	Approval of Previous Meeting Minutes	Vote	Judge Sumner
3		5 min	Travel Reimbursement Forms		Ms. Montgomery
4		15 min	Procedural Matters		Ms. Montgomery
5			Hearing Begins		Judge Sumner Commission staff
6	1:00 p.m.		Lunch (catered in)		
7	3:00 p.m.		Afternoon Snack / Break		
8			Deliberations		
9			Vote and Finding of Fact	Vote	Judge Sumner
10			Discussion about Release of Information		Ms. Montgomery
11			Adjournment		

State of North Carolina

v.

Henry Archie Reeves

99CRS 65056

Conviction for Indecent Liberties
with a Child

Pitt County, North Carolina

Indecent Liberties with a Child

North Carolina General Statutes 14-202.1

Taking indecent liberties with children.

- (a) A person is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years older than the child in question, he either:
- (1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or
 - (2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.
- (b) Taking indecent liberties with children is punishable as a Class F felony.
-

Investigations that did not lead to New Factual Evidence

- Begins on page 140 of brief
 - ❑ Regina Moore
 - ❑ Steven Fisher
 - ❑ Amanda Smith Stroud
 - ❑ Kimberly Robb
 - ❑ Detective Johnny Craft
 - ❑ Dr. Rebecca Coker, M.D.
 - ❑ Dr. Betty Robertson, Ph.D.
 - ❑ Bobby Lemaine
-

Investigations that led to New Factual Evidence

- Supplements to the Brief:
 - Affidavit of Curtis Hardy
 - Disclosures of Abuse Chart (will go through later)
 - Character References
 - Polygraph
 - Affidavit of Kelvin Nobles
 - Notes from Barbara Glatthorn (pages 10-17 and 20-27 are not in the brief)
-

Polygraph

Overview | Research | Results

Polygraph – Overview

- Not a “lie detector” – measures 3 physiological indicators:
 - Respiration, cardiovascular activity, electro-dermal response
 - Examiner obtains responses to structured set of questions (relevant, control, irrelevant) and draws inference regarding truthfulness
 - Compare patterns of arousal for relevant/control
 - No known indicator unique to lying or deception
-

Polygraph – Research

- Office of Technology Assessment, *Scientific Validity of Polygraph Testing* (1983) – (OTA)
 - National Research Council of the National Academy of Sciences, *The Polygraph and Lie Detection* (2002) – (NAS)
-

OTA Report

■ **Field Studies (10)**

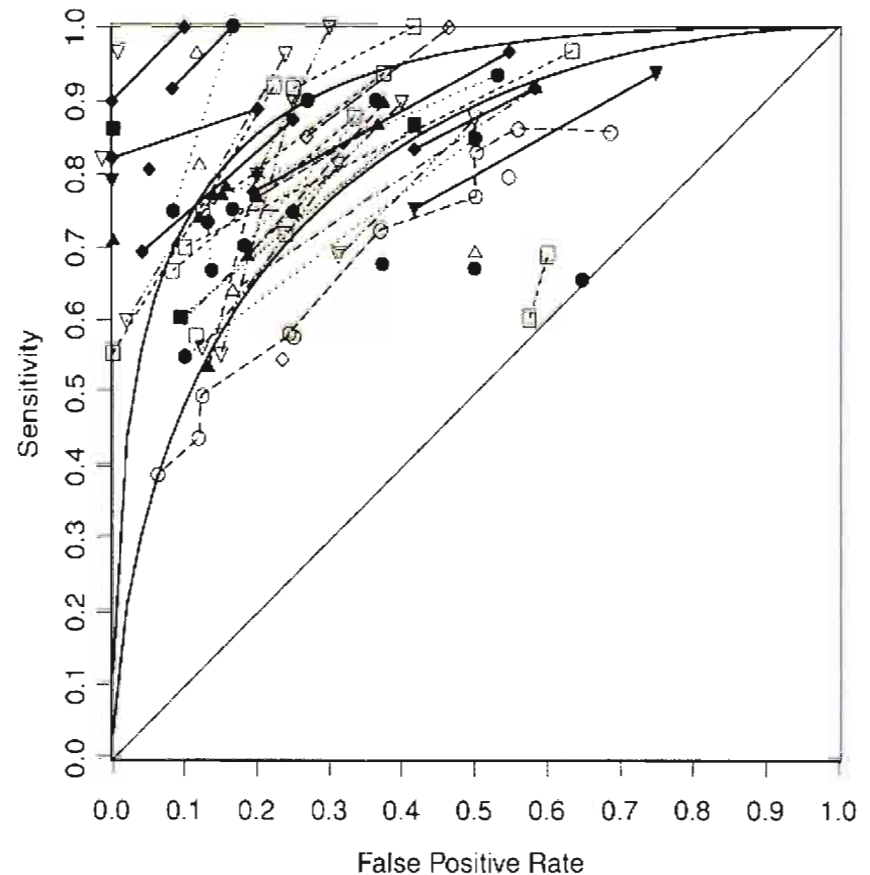
- ❑ Deception: 86.3 %
- ❑ Truthful: 76.0 %
- ❑ False positive: 19.1 %
- ❑ False negative: 10.2 %

■ **Lab Studies (14)**

- ❑ Deception: 63.7 %
 - ❑ Truthful: 57.9 %
 - ❑ False Positive: 14.1 %
 - ❑ False Negative: 10.4 %
-

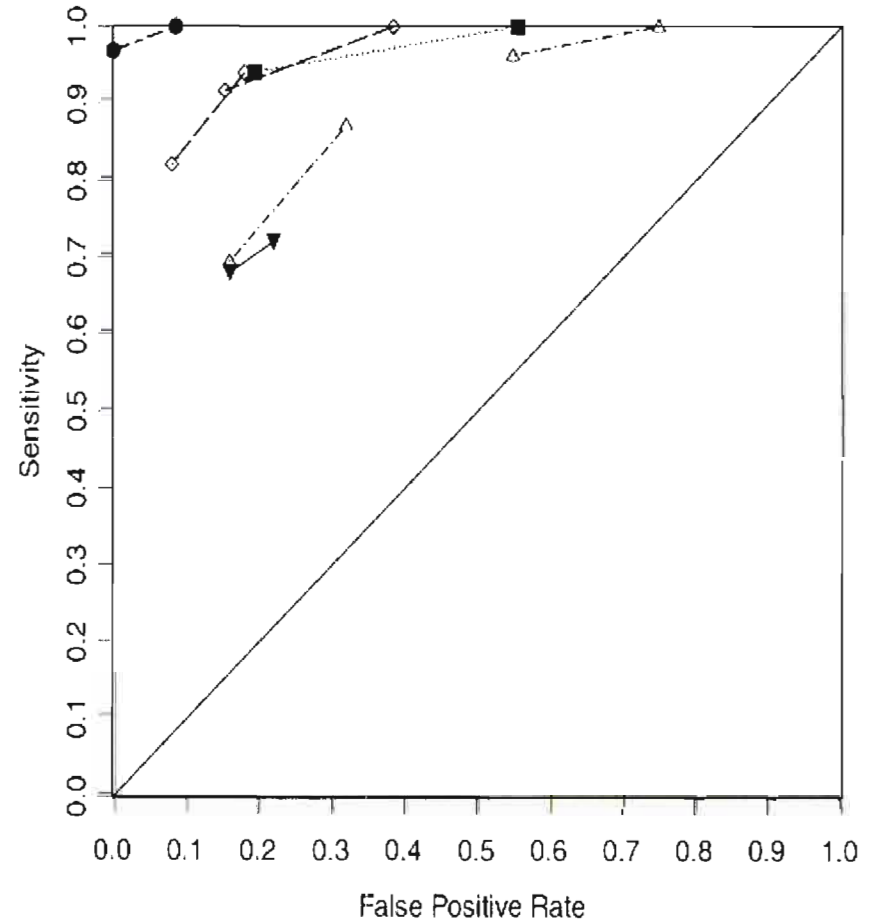
NAS Report

- 52 lab studies
- Interquartile Range: 81% – 91%
- Median Accuracy: 86%



NAS Report

- 7 field studies
- Range: 71% – 99%
- Median Accuracy: 89%



NAS Conclusions

- “[I]n populations of examinees . . . untrained in countermeasures, specific incident polygraph tests can discriminate lying from truth telling at rates well above chance, though well below perfection.” (NAS p. 4)
 - Estimated accuracy indexes (between 0.81 and 0.91) “most likely over-states true polygraph accuracy in field settings involving specific-incident investigations.” (NAS p. 129)
-

Polygraph – Factors Affecting Validity

- **Examiner Experience:** Experienced examiners made **91.4%** correct judgments, compared to **77.5%** for inexperienced examiners. (OTA Ch. 6, p.1)
 - **Stigma:** Truthful members of socially stigmatized groups and truthful examinees who are believed to be guilty may exhibit physiological responses during polygraph tests that mimic the responses of deceptive individuals. (NAS pp. 3, 89)
 - **Differential Response:** Relevant questions may be inherently more threatening to some individuals than comparison questions.
 - “[I]ndividuals who have **experienced punitive outcomes from being wrongly accused in the past** . . . may, in theory, be more reactive to relevant than control questions even when responding truthfully.” (NAS p. 78)(emphasis added)
-

Polygraph – Admissibility

- Polygraph evidence is not admissible in any trial, even if the parties stipulate to its admission. *State v. Grier*, 307 N.C. 628, 300 S.E. 2d 351 (1983).
 - *See also, United States v. Scheffer*, 523 U.S. 303 (1998)(no consensus that polygraph evidence is reliable).
-

Reeves' Polygraph (Examiner)

- Charles E. “Chuck” Slupski
 - Examiner (1983 – present)
 - Director/Instructor – American International Institute of Polygraph (1997 – present)
 - Georgia Bureau of Investigation
 - Asst. Director/Instructor – DoD/US Army Polygraph Institute (1992 – 1996)
 - SA/Examiner – US Army CID (1983-1992)
-

Reeves' Polygraph (Phase I)

Question: Did you rub your bare penis against Marquita's vagina in 1999 while living in North Carolina?

Answer: No.

Question: Did you physically touch Marquita's bare vagina with your bare penis when living in North Carolina during 1999?

Answer: No.

Question: Was there skin contact between your penis and Marquita when she was 6 years old?

Answer: No.

OPINION: "Mr. Reeves was not being truthful when answering the above listed pertinent questions." (Slupski Aff. 2)

Reeves' Polygraph (Phase II)

Question: In 1999, did you say anything to Marquita about putting your penis in her mouth?

Answer: No.

Question: Regarding telling Marquita anything about putting your penis in her mouth, did you say anything to her about that?

Answer: No.

OPINION: "Mr. Reeves was not being truthful when answering the above listed pertinent questions." (Slupski Aff. 2)

Final Notes

- **Pre-test Interview:** “[R]eported depression concerning his wrongful conviction and subsequent treatment.” (Slupski Aff. 1)
-

Marquita Reeves

- Victim
- Was six years-old at time of allegations
- Was seven years-old during trial
- Is now 14 years-old



	Word Used	Pain	When	Where	Clothes on/off	Sexual Abuse	Physical Abuse	Not to Tell
To Bobby Lemaine 6/7/99	Dick	Burns	Unknown (had been complaining of pain)	Parent's bedroom		·Tells to suck dick ·Puts dick in front & back ·Shows dick		If tells, will take off clothes & beats her
At hospital 6/7/99		No physical complaints	-Yesterday -2-3 days ago					
To Det. Craft & Ms. Asbell 6/7/99	Coon-coon & Boom-boom	Itches and Burns		Bathroom	Takes clothes off & beats	·Shows boom-boom when pees ·Hurting me (pointed at crotch)	·Toe cracking ·Hurts hands, feet, & legs ·Hits stomach & forces head to ground	
To Dr. Coker 6/8/99	-Coon-coon, Boom-boom -Used dick once	-Hurt -Gives a headache	-Yesterday -Over & over -Bedtime "Don" outside	Wakes up when asleep	Brown wrap thing (likely a bathrobe)	·Put soap on coon-coon & peed in it ·Tells her to suck his dick, she won't	·Cracking foot ·Tries to break arms ·Found probable physical abuse	
To Dr. Robertson 07-08,1999	·Coon-coon, Boom-boom ·Used dick twice	Hurt	-"A lot" -While watching TV	-In his water bed -Laying on chair	Brown thing (likely a bathrobe)	·Sucks his dick (later said didn't) ·Put boom-boom in coon-coon & butt	·Cracking foot ·Found no physical abuse	Not to tell Mom & Grandma
Testimony 1/16/01	Thing he / I pee with	-Hurt Burns	-Twice One time (clarification)	Parent's bedroom	He wore a shirt & pants	·Put thing he pees with in her thing ·Told to suck thing		Never told her not to tell anybody
Testimony 1/31/01	Thing he / I pee with	Stinging	One time Before school Brothers at school	Parent's bedroom	Both had all their clothes off	·Put thing in mine ·Told to suck thing ·Never put thing in her back, just front ·Peed in her thing, later said didn't pee	·Never hit her in the stomach	

Barbara Denise Hardy

- Victim's mother and convicted person's partner/wife
 - Planned to testify at criminal trial, but arrested for failure to appear
-

Barbara Denise Hardy
Testimony

Henry “Hank” Reeves

- Convicted person
- Did not testify at trial



Henry “Hank” Reeves Testimony

Pringles Commercial

<http://www.youtube.com/watch?v=R3gV78Wwt8Q>

Donald Reeves

- Brother of victim and son of convicted person
 - Was 8 years-old at the time of allegations
 - Was present for Marquita's initial disclosure to Bobby Lemaine
 - Initially gave some statements corroborative of abuse to Sheriff's and DSS
 - Now states that never saw any abuse and Bobby Lemaine coached Marquita
-

Donald Reeves Testimony

Curtis Hardy

- Half-brother of victim
 - Around 14 years-old at time of allegations
 - Was present for Marquita's initial disclosure to Bobby Lemaine
-

Curtis Hardy
Testimony

Lamar Hardy

- Half-brother of victim
 - Around 13 years-old at time of allegations
 - Was present for Marquita's initial disclosure to Bobby Lemaine
-

Lamar Hardy Testimony

Barbara Glatthorn, M.S.W.

- Provided therapy to Henry Reeves
 - Provided therapy to Donald, Lamar, and Curtis
 - Offered as a corroborative witness
 - Able to testify as an expert witness on ultimate issue
-

Barbara Glatthorn, M.S.W.
Testimony

Kevin Swinson

- Son of Bobby Lemaine and young brother of Barbara Hardy
 - May have been present for disclosure
 - Not testifying today
-

Dr. Douglas Slavin, Ph.D.

- CV on page 268 of brief
 - Worked with Marquita for behavioral problems through school
 - Has reviewed Marquita's psychological and educational testing
 - Can provide expert testimony about suggestibility
 - Can provide expert testimony about ultimate issue
-

Dr. Douglas Slavin, Ph.D.
Testimony

Officer Art Manning

- Commander of the Eastern North Carolina Multi-Jurisdictional Taskforce
 - Had an encounter with Marquita shortly after Mr. Reeves was arrested
-

Officer Art Manning Testimony

Deliberation

N.C. G.S. 15A-1468

“If five or more of the eight voting members of the Commission conclude there is **sufficient evidence of factual innocence to merit judicial review**, the case shall be referred...”

Commission Vote

State of North Carolina
v.
Henry Archie Reeves

99CRS 65056
