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THE TEXAS TRIBUNE

State Rep. Ruth McClendon Submits Letter of Resignation

by [Jamie Lovegrove](#) | Jan. 26, 2016 | [4 Comments](#)



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Photo by Bob Daemmrlich

Sen. Rodney Ellis and State Rep. Ruth Jones McClendon, D-San Antonio, celebrate Gov. Abbott's signing of HB48 that establishes the Timothy Cole Exoneration Review Commission. In background is Cole's brother, Cory Session.

State Rep. [Ruth Jones McClendon](#), D-San Antonio, has submitted a letter of resignation to Gov. [Greg Abbott](#), effective Jan. 31, the governor's office confirmed Tuesday.

McClendon had [previously announced](#) she would not be running for re-election in 2016, citing plans to spend more time with her family. McClendon chaired the House Committee on Rules and Resolutions and served on the appropriations and transportation committees.

In the 84th legislative session, McClendon secured passage of a bill establishing an innocence commission to examine wrongful

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convictions — one of her longtime goals. Despite battling an illness that left her frequently using a wheelchair, McClendon stood at the front of the House chamber and spoke about her bill before it was passed.

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Colorado Recording of Interrogations Bill Unanimously Passes Key House Committee

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Posted: February 17, 2016 5:55 PM



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Chris Ochoa

Wrongfully convicted man Chris Ochoa joined Innocence Project, stakeholders in testifying in support of bill that would prevent false confession, wrongful conviction

(Denver, Colorado – Feb. 11, 2016) A Colorado bill ([HB 16-1117](#)) that would require police to record the entirety of interrogations in class 1 and class 2 felonies unanimously cleared the state's House Judiciary Committee today, 11-0. [Chris Ochoa](#), who was wrongfully convicted of murder in Texas in part because of a false confession, attended today's hearing with the Innocence Project and members of Colorado's prosecutorial, law enforcement and defense communities to testify in support of the legislation. False confession is a leading contributor to wrongful conviction, having played a role in over a quarter of the nation's such cases proven by DNA evidence. Recording suspect interrogations is a proven method to protect against this well-documented phenomenon. The bipartisan bill was introduced in the House by Reps. Daniel Kagan (D-3) and Lori Saine (R-63) and is co-sponsored by Sens. Irene Aguilar (D-32) and John Cooke (R-13).

While many police agencies in Colorado, such as the Denver Police Department, have been recording the entirety of interrogations for decades and have attested to the effectiveness of this practice as a way to build solid cases, HB 16-1117 would ensure that all agencies are using this critical fact-finding tool. The bipartisan legislation is the latest collaborative proposal to be borne out of the Colorado Best Practices Committee, a group formed in 2014 and led by the Colorado Attorney General and the Colorado District Attorneys Council, in close partnership with law enforcement and the Colorado Criminal Defense Bar and in consultation with the Innocence Project. Last year, Colorado passed another strong innocence reform [measure](#) that reduces eyewitness misidentifications by improving the way identification procedures are conducted.

The phenomenon of false confession can be difficult to grasp as many may understandably wonder how one could possibly confess to a crime that he or she did not commit. Yet we know from the data that this psychological phenomenon is actually all too common. There are a variety of factors that have contributed to innocent people falsely confessing, among them: physical or verbal coercion, mental limitations, intoxication, threat of a harsher sentence, prolonged interrogations, lack of food or sleep, and more.

Ochoa and a co-defendant were arrested in 1998 as suspects in the murder of a young woman in Austin, Texas. Police interrogated Ochoa for hours and threatened that, unless he confessed to the murder and pled guilty, he would face the death penalty and likely be convicted. Under immense pressure to avoid the death penalty, Ochoa falsely confessed and entered a guilty plea. None of this was electronically recorded; had the entirety of the interrogations been recorded, law enforcement officials might have refrained from tactics such as threatening the death penalty, or the interrogation could have been analyzed at later stages by the prosecution, defense, judge and jury to understand what led to the confession. . Ochoa was wrongfully convicted and served 13 years in prison before DNA testing proved his innocence. He now lives in Wisconsin and has earned a law degree.

Requiring the recording of interrogations also protects against the impact of a wrongful conviction on public safety. After all, the only person to benefit from a wrongful conviction is the true perpetrator of the crime. Of the wrongful convictions proven by DNA evidence that stemmed from false confessions, nationally, real perpetrators identified in those cases remained free to commit and be convicted of 46 additional violent crimes, including 11 rapes and 24 murders. After Ochoa was wrongfully convicted of murder, the real perpetrator in his case, Achim Josef Marino, was able to commit two aggravated robberies with a deadly weapon.

“The judge never saw what I went through. I was interrogated numerous times, for hours on end, and finally cracked after the threat that I would likely face the death penalty. I felt that there was no doubt that an all-white jury would vote to sentence me to death. It was just too much for me to bear, so I confessed,” said Chris Ochoa. “No Coloradan, or anyone else, should have to experience what I did. The primary way to protect against false confession is to require police to record interrogations, and the only

way to make sure that all departments are doing it is to pass a law requiring it. I urge Colorado lawmakers to do just that.”

“As a former lieutenant with the Denver Police Department with over three decades of experience, I can affirm that recording interrogations works. It provides law enforcement with an irrefutable record of the conditions of the interrogation, which helps to strengthen good cases and protects police from any unjustified claims of coercion,” said Jonathyn Priest, a former lieutenant with the Denver Police Department. “This is a bill that is, at its core, designed to protect public safety and should be passed.”

“False confession is an all-too-common contributor to wrongful conviction, and recording the entirety of interrogations will help prevent future miscarriages of justice. I commend all of the stakeholders and lawmakers who have supported this important measure,” said Maureen Cain, a Colorado criminal defense lawyer.

“This bill is another example of Colorado law enforcement, prosecutors, criminal defense attorneys and many other stakeholders coming together in the interest of justice and public safety. With HB 16-1117, Colorado continues to demonstrate its commitment to address and prevent the root contributors to wrongful conviction,” said Amshula Jayaram, State Policy Advocate with the Innocence Project, which is affiliated with Cardozo School of Law.

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Amshula Jayaram, (609) 462-9273, ajayaram@innocenceproject.org

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Conviction reviews good public policy

Express-News Editorial Board

Published 4:59 pm, Monday, January 11, 2016

Prosecutorial conviction integrity units are making their mark across the country.

They are credited with shedding new light on questionable convictions on a record number of cases in the last several years, resulting in a record high of 125 exonerations in 2014. That year, there were 39 exonerations in Texas, 33 of them drug cases out of Harris County, according to the National Registry of Exonerations website.

We are pleased to see the fledgling Bexar County unit, created by District Attorney Nico LaHood shortly after he took office, has been doing a brisk business during its first 11 months of operation.

The three-person office has handled about 200 case reviews in its first year and is working on another 500 post-conviction cases involving DNA, said First Assistant District Attorney Woody Halstead.

Bexar County's Conviction Integrity Unit recently facilitated the release on bond of a 39-year-old man who has been incarcerated since he was 16 for alleged involvement in a gang rape of a 13-year-old girl, the Express-News reports.

The reopening of Rogelio Gutierrez's case after it was found that key evidence was withheld from the defense lawyer does not mean Gutierrez is automatically free and clear of all charges. It does mean there will be close scrutiny of the way the case was handled, and the action could lead to reforms to ensure such lapses do not recur.

Texas has long been a national leader in the number of exonerations of people wrongfully convicted of crimes. That dubious distinction has given rise to a general distrust of the system and prompted serious questions about the integrity of criminal justice system.

It is encouraging to see an increasing willingness among prosecutors to review innocence claims and allegations that the process used to gain a conviction was flawed.

All Texas major metropolitan areas now have conviction integrity units; some, like Bexar County's, have been in operation only a short time. This type of service should be available to everyone, not just defendants prosecuted in larger cities.

It is understandable that the costs associated with establishing conviction integrity units might prove prohibitive in some smaller jurisdictions, but that is unfair to defendants convicted in those counties. The state needs to address those needs.

During the last session of the Legislature, Rep. Ruth Jones McClendon, D-San Antonio, was successful in co-sponsoring a bill with Sen. Rodney Ellis, D-Houston, to create a commission to review all exoneration cases since 2010.

The panel, which includes Atascosa District Attorney Rene Pena, chairman of the Texas District and County Attorneys Association, and former Bexar County Medical Examiner Vincent DiMaio, presiding officer of the Texas Forensic Science Commission, is charged with recommending how the state can avoid wrongful convictions in the future.

It took seven years to gain approval of the legislation that created the commission. The version of the legislation approved in the waning days of the 84th Legislature was substantially rewritten in the Senate.

The final bill signed by Gov. Greg Abbott was a watered-down version of the original legislation and dissolves the commission on Dec. 1.

McClendon has announced her retirement and will not be returning for the 85th Legislature, but we urge Ellis to continue pursuing efforts to establish a permanent state innocence commission.

Texas has made significant strides in recent years toward leveling the playing field for defense attorneys with legislation affecting eyewitness identification procedures and access to evidence, but that is simply not enough.

The integrity of the Texas criminal justice system is at stake, and we all have a vested interest in ensuring that it operates properly.

Wrongful convictions point to flaws

Express-News Editorial Board | *February 20, 2016*

In 2015, Texas still led the nation in exonerations, many of them coming from Harris County and its Conviction Integrity Unit. All major metropolitan areas in Texas have such a unit, including Bexar County.

But here's the sad truth about the units and about exonerations generally:

There simply aren't enough of either.

Legislatures have failed to help in significant ways.

The circumstances under which these exonerations occur point to deep flaws in how defendants are prosecuted.

This is made clear in a [sobering report](#) by the National Registry of Exonerations. The group is a project of [the University of Michigan](#) Law School.

Last year, says the report, was a record one for exonerations — 149, with Texas producing 54. Forty-three of these came from Harris County and two from Bexar — assault and sexual assault cases. Most of the Harris exonerations were for drug convictions, but they also included one homicide.

In Texas, 81.4 percent of those exonerated were minorities — nearly 60 percent black. Of the record homicide exonerations nationally, half of the defendants were black. And nationally, exonerees served an average of 14½ years in prison.

Some problems are clear.

Conviction integrity units

“So far, only about 15 percent of the national population lives in jurisdictions with CIUs, and over 60 percent of counties with populations over one million have no CIUs,” says the report.

It defies logic to reason that wrongful convictions occur only in urban areas with large district attorney staffs. Only large counties can devote the resources to such units. That means smaller counties in Texas should be pooling resources to create units or ...

The state can step in

In the last session, the Legislature created a commission to review all exoneration cases since 2010. But it sunsets Dec. 1, and its job is to recommend how *future* wrongful convictions can be avoided.

A worthy endeavor, but in those jurisdictions without conviction integrity units, this leaves unscrutinized the cases of wrongful convictions that are virtually certain to exist elsewhere in Texas.

According to the report, only one state — North Carolina — has formed a commission to investigate and evaluate post-conviction claims of innocence. The North Carolina Innocence Inquiry Commission is independent and makes recommendations to a review board, which can refer cases to a judicial tribunal that can exonerate. This has produced nine exonerations.

Texas should either help counties with funding to create their own units or create such a commission. The number of Texas exonerations uncovered so far is surely the tip of the iceberg.

The flaws

Here are the characteristics of the wrongful convictions reported by the registry:

False confessions (16 percent), mostly involving homicides or defendants who are younger than 18 or who have mental health issues, or both;

Official misconduct (43.6 percent), three-quarters of these involving homicides;

Guilty pleas (43.6 percent), mostly drug cases;

Finally, cases in which no crime actually occurred (about half). Two-thirds of these no-crime cases involved drug possession. Lab tests revealed no illegal substances.

The report authors logically ask, “In 2014 and 2015, 73 innocent defendants who pled guilty to low level drug crimes in Harris County, Texas, were exonerated by lab drug tests — and more to come. But how many innocent defendants have pled guilty in Harris County in cases for which no lab tests are available? And how many thousands more in the thousands of other counties across the country?”

Got that? People were arrested for carrying perfectly legal substances and then entered guilty pleas to either get out of jail quickly or because, perhaps with previous records, they had no confidence in the system, feared convictions and were offered a plea bargain. The same circumstances obviously help drive false confessions.

In those drug cases, police were conducting notoriously unreliable “field tests” on substances to make arrests. This is likely happening all over Texas.

Yes, the sentences for the drug defendants in Texas amounted to days or months, rather than years. Still, police records for individuals were created that would have dogged them the rest of their lives. And please note the high percentage of “official misconduct” cited by this report.

The path is clear. Uncovering *all* cases of wrongful convictions should be a priority when the Legislature returns in 2017.



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Dallas County exoneree on mission to find the truth that will set others free

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By JENNIFER EMILY

Staff Writer

Published: 07 December 2015 11:05 PM

Updated: 08 December 2015 09:53 AM

Christopher Scott figures he has 30 seconds to grab the attention of the person who comes to the door.

He opens with a sure winner.

“My name is Christopher Scott. I was wrongly convicted of murder. The actual perpetrator came forward 12 years later and confessed to the crime. I’ve made it my mission to help others locked up for crimes they didn’t commit ...”

At this point, the chain usually slides off and the door opens.

He’s hooked them. They often don’t need to hear the story of the man standing next to him, Johnnie Lindsey, another Dallas County exoneree with his own horror story of wrongful conviction.

Scott and Lindsey are invited in and, more often than not, served lemonade and cookies.

Together with another exoneree, Steven Phillips, they run [House of Renewed Hope](#), an organization that does just what Scott tells people at their door.

But their investigations — DNA tests, polygraphs — cost money. They’re holding a fundraiser Thursday at the Richardson Woman’s Club.

Scott, who founded the organization and is working on his private investigator license, calls the fundraiser “Believe in Miracles” because Christmas is the time for such things.

Freed in 2009

Scott was freed in 2009, along with another man, after serving 12 years in a Dallas County capital murder case. They were the first non-DNA exonerations in the county.

“It’s a miracle that I’m here today,” said Scott, sitting on a brown ottoman recently inside his Cedar Hill clothing store, Christopher’s Men’s Wear. “How many people would come back and confess to a capital murder case when there’s no statute of limitations on murder?”

“This is the time of the year when miracles happen.”

It’s also the time of year when he struggled the most in prison. Memories of his mother loading him and his siblings into a station wagon to see Christmas lights both sustained him and made spending the holiday behind bars more difficult.

He and several other inmates who vigorously trumpeted their innocence vowed in prison that whoever got out first would help the others. Scott was the first one. Some of those other men have been exonerated. But others remain behind.

Scott, Lindsey and Phillips are currently working four cases, including one for a man on death row and another for a man who has served nearly 40 years for a robbery the three don’t believe he committed. They get a letter or call a day about other cases. But to make progress, they must limit the load.

Attorney Michelle Moore, who volunteers her time with the group and has helped free the wrongly convicted, said the men reach people who wouldn’t otherwise talk.

“They have street cred,” said Moore. “Witnesses actually talk to them.”

Evidence needed

Moore advises House of Renewed Hope on what they need legally when seeking to clear someone’s name. They need new evidence or their gut feelings of innocence won’t go anywhere.

Their work is the subject of a documentary called *True Conviction* that has been submitted to film festivals and will air next year on PBS.

In addition to witnesses, they interview jurors, victims, police officers, attorneys and the person they believe could be the real perpetrator. They’ve had one man confess to them, but he refuses to come clean to authorities.

Sometimes they spend months tracking their subjects. Once, they drove around Austin for 21/2 days to find their man.

“We tracked him down like we were some bloodhounds,” said Scott, smiling at the memory.

Sometimes their efforts support guilt rather than innocence. One woman recanted her claims of sexual abuse after 18 years. A polygrapher — the same man who tested Scott before he was freed — told the men her recantation wasn’t truthful.

That cost \$2,500. But Scott said his mission was to find the truth, and that’s what he did.

But the amount of help Scott, Lindsey and Phillips can offer depends on how much people open up when the men knock on doors.

Scott said he is always mindful that he’s a black man often showing up in small towns where almost everyone is white. He always wears a suit, he said, so that’s the first thing people see when they peek through the blinds.

Getting that first invitation inside makes all the difference. When they leave, the person who helped them often calls ahead to the next house, as sort of a reference.

And often, lemonade and cookies will be waiting.

Believe in Miracles

WHAT: Fundraiser to benefit House of Renewed Hope. There will be drinks, appetizers, music, dancing, karaoke, a silent auction and a raffle.

WHEN: Thursday from 7 to 10 p.m.

WHERE: Richardson Woman’s Club, 2005 N. Cliffe Drive in Richardson

TICKETS: \$35 each; can be purchased at houseofrenewedhope.org.

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