



Testimony Concerning HB 637

“Courts – Discovery – In-Custody Witness Testimony”

Submitted to the House Judiciary Committee

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Position: SUPPORT

Dear Chair Clippinger and Vice Chair Atterbeary,

I, Dr. Jeff Kukucka, Assistant Professor of Psychology at Towson University, strongly support HB 637. My research examines the causes and consequences of wrongful convictions in the criminal justice system. In my career, I have published 18 peer-reviewed papers on this topic and presented my work at professional conferences over 50 times. This testimony represents my own views based on the extant scientific literature and does not necessarily represent the views of Towson University.

Since 1989, the National Registry of Exonerations has catalogued over 2,500 wrongful convictions in the United States. On average, these individuals spent nine years incarcerated for crimes that they did not commit. The most common cause of these miscarriages of justice, seen in 59% of these cases, was false incriminating testimony given by someone other than the exoneree—often by incentivized jailhouse informants.

Laboratory studies suggest that incentivizing informants increases the risk of obtaining unreliable information, but does not produce a concomitant increase in reliable information. For example, two studies have found that offering informants an incentive to implicate another person in a transgression made them more likely to *falsely* implicate an innocent person, but not any more likely to *truly* implicate a guilty person.

Importantly, research has also shown that informant testimony is persuasive to jurors even if they know the circumstances under which it was obtained. Mock jury studies have found that neither awareness of the incentive, nor knowledge of the informant’s testimony history, nor hearing expert testimony on the unreliability of informant testimony weakened jurors’ perceptions of the informant’s credibility. As such, documenting

and disclosing information as to how such testimony was obtained should not inhibit prosecutors' ability to convict guilty individuals.

HB 637 would require State's Attorneys' offices to document and disclose the benefit received by an in-custody informant as well as the number of other cases in which that informant has previously testified. This increased transparency would allow the Court to make more informed decisions as to the reliability (and therefore admissibility) of the informant's testimony without undermining prosecutors' work.

For these reasons, I urge your favorable consideration of HB 637.

Sincerely,



Jeff Kukucka, Ph.D.
Assistant Professor of Psychology
Towson University

