



Statement of Innocence Network Concerning Victims

Adopted by Innocence Network Board of Directors, November 15, 2008

The Innocence Network is an organization of member projects whose fundamental missions are to:

- 1) Provide investigative services and legal representation to individuals who have been convicted of crimes for which they are factually innocent; and
- 2) Redress the underlying causes of wrongful convictions and reform the criminal justice system to prevent such convictions from occurring.

In seeking the exoneration of innocent individuals who have been convicted of crimes, the Network is acutely aware that our representation may understandably concern victims of those crimes, as well as family and friends of those victims. We recognize that our involvement in many cases may create pain or anguish by:

- 1) Forcing victims to re-experience painful memories.
- 2) Causing victims to misperceive that our clients could be released from prison based on “technicalities” or errors in the system despite their true guilt.
- 3) Causing victims to fear that, should the conviction be vacated, the victim may be unfairly blamed by the exoneree, the media, those in the criminal justice system, or others as the cause of the wrongful conviction.
- 4) Causing victims to once again endure the trauma of the criminal justice process and possible further public scrutiny as the case proceeds through the system.
- 5) Causing victims to fear that the actual person who did commit the crime against them will know where they are and will have access to them and their families.

Although these consequences are unintended, the Innocence Network seeks to minimize them, while remaining devoted to its mission to exonerate innocent individuals and reform the system. In so doing, the Network believes that it shares several fundamental values with victims. They are:

- 1) If a person is actually innocent of the crime for which he/she was convicted, the conviction should be vacated, regardless of the length of time that has passed since the conviction and regardless of the reasons which caused the conviction or which led to that exoneration. This principle is premised on the recognition that, when an innocent person is convicted of a crime, not only does the guilty individual remain free to commit other crimes, but the harm suffered, the wrongfully convicted person, deserves to be mitigated.
- 2) Except in cases of perjury or deliberate obstruction, victims are not to be blamed for wrongful convictions. The single most common cause of conviction of the innocent is mistaken eyewitness testimony. In the vast majority of such cases, the witness sincerely believes, although incorrectly, that he/she made the correct identification.
- 3) Reforms should be undertaken within the criminal justice system to improve the precision of police investigations, the accessibility and reliability of forensic evidence, and the accuracy of judicial determinations of guilt or innocence.
- 4) Victims should have ready access to counseling or other services that are designed to decrease trauma and to assist them in the process as the cases work their way through the criminal justice system.

The Network believes that in representing defendants on their claims of innocence, attorneys and their agents should conduct themselves in ways that are consistent with these values, and therefore encourages its members to engage in the following “best practices” while investigating or litigating cases:

- 1) Victims are to be treated with respect and with the recognition that they rarely are responsible for the wrongful conviction of the defendant.
2. Before filing a postconviction motion in court seeking to either vacate a conviction, or seeking discovery of evidence, the attorney should consider the appropriateness of notifying the victim of the claim. Efforts should be made to contact those entities that can help shape such a determination, including the office of victim services (or other relevant entity) and, if possible, the victim advocate of record. If such notification is deemed appropriate, to the extent permitted by rules of confidentiality and the attorney's duty to his or her clients, notification of the victim should be done in a sensitive manner, recognizing the trauma this may cause. Such notification should generally be done by victim advocates, rather than directly by the attorney or his or her agents. Additionally, we support broader efforts to empower victims to inform the state and its relevant agents to communicate only that information about which the victim wishes to learn.

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