

Norway, England and Scotland have each established a non-political organization that functions independent of the judiciary and prosecution to document a possible wrongful conviction or excessive sentence, so that it can be corrected after further review by the courts.

## JD Editorial

# There Is No Political Will In The United States To Correct Wrongful Convictions

Not a single applicant has been exonerated, and only 1 out of 243 applicants has even been referred for judicial review of their conviction – and that is a former policeman’s case.

The NCIIC’s record ineffectiveness is magnified because it is in a state with

Those bodies are known in all three countries as the Criminal Case Review Commission (CCRC). The hallmark of the CCRC concept is that evidence, arguments or circumstances not considered at trial or on direct appeal can be weighed in evaluating whether a miscarriage of justice has occurred in a case. These CCRCs have each proven their remarkable effectiveness at culling the meritorious cases of misjustice from the many applications submitted. (See the chart at the bottom of this page: “Norway’s CCRC success rate”) The extraordinarily high rate of courts granting relief in cases referred by one of the CCRCs is proof of their value as a back-stop to catch cases in which either the verdict or sentence is erroneous.

almost 40,000 adult prisoners. More than 100 people *per year* could be expected to be exonerated in North Carolina under the structure of Norway’s CCRC legislation. That isn’t happening, because as we prophesized in our editorial, the NCIIC is fulfilling its true function of falsely confirming “...the legal system’s effectiveness, and how rarely it errors by convicting the wrong person.” We repeat our call for repeal of the legislation creating the NCIIC, and we repeat that it is worse than nothing.

A person innocent of a crime has at least as good of a chance of being acquitted at trial in England, Scotland and Norway as in the United States. In those countries, however, there is an infinitely greater probability that a person’s wrongful conviction will be corrected either on direct appeal, or if necessary, by a CCRC referral of the case to the courts for consideration on new grounds.

The political compromises that make the NCIIC more window dressing than substantive is illustrative of the lack of political will necessary to put even the slightest dent in correcting the multitude of wrongful convictions that occur every day across the length and breadth of this country.

If each state in the U.S. and the federal government enacted legislation creating a mirror of Norway’s CCRC, it could be expected to result in more than 4,000 exonerations each year of an innocent person now trapped in prison until he or she finishes their sentence, dies from natural causes or medical neglect, or is carted off to an execution chamber. Large population states like California and Texas could have an average of more than one exoneration per day. (See the chart at the bottom of this page: “CCRC success rate projected for the U.S.”)

There is no question that the CCRC approach of non-political independent case investigation and review adopted since 1996 in Norway, England and Scotland works. It has been proven by 25 years of cumulative experience to be remarkably effective at discovering and rectifying trial court conviction and sentencing errors that were not corrected by the normal appeal process. Each state and the federal government should establish an independent CCRC organization, and we believe Norway’s implementation is the best model to emulate.

Yet in spite of the horrific human toll being exacted in this country, there is no prospect on the horizon that the current situation will change. There are at least two reason for that: Influential people in the legal system are not interested in doing anything meaningful to alleviate wrongful convictions; and, Politicians and other people outside the legal system believe that the few exonerations that now occur are aberrations of a sound system.

It is a pipe dream, however, to think that a CCRC will be faithfully implemented in this country until the lack of political will to do so is overcome. The first step, and it is a huge step, is to demolish the myth that the United States has the “best” legal system in the world. That fiction lives on in spite of the many legal jurisdictions in this country that function on a third-world level, and the inability of state and federal courts to either reliably prevent the erroneous conviction of innocent people, or correct those false convictions on direct appeal or during the post-conviction process.

The one “reform” there has been, the North Carolina Innocence Inquiry Commission (NCIIC), is deceptively named because it lacks the enabling legislation necessary to ferret out and judicially correct the large number of wrongful convictions that are affirmed on appeal. *Justice:Denied* editorialized in Issue 34 (Fall 2006) that the NCIIC is worse than nothing, and its first 18 months of operation bears that out:

However, as long as there is no perceived need on the state or federal level for a radical reform to the handling of post-conviction miscarriage of justice claims, there will be no meaningful changes to the existing deficient processes. One antidote to that situation is information. To that end *Justice:Denied* and other organizations and individuals are explaining the truth about the dire reality faced by an innocent person in this country seeking to rectify the wrong committed against him or her by a false conviction.

Country	Population (2007)	Prisoners (sentenced)	Average convictions overturned annually	Avg yearly exonerations per 1,000 prisoners	Avg sentences reduced annually	Average yearly sentence reductions per 1,000 prisoners
<b>Norway’s CCRC success rate</b> (Convictions overturned and sentences reduced after referral to courts for post-conviction review)						
Norway	4.6 mil.	3,048	8	2.625	1.75	.574
<b>Norway’s CCRC success rate projected for the United States and several states</b>						
Alabama	4.6 mil.	29,412	77	"	17	"
California	36.6 mil.	173,312	455	"	100	"
Ohio	11.5 mil.	49,889	131	"	29	"
United States	303.2 mil.	1,528,041	4,011	"	877	"

Notes: All population and prisoner figures are for 2007. The information about Norway’s CCRC is derived from “CCRC Annual Report 2007”, Cases and procedures, p. 7. Norway’s annual totals are the average of the first four years of CCRC operation from 2004 to 2007. Because of the U.S.’ assembly line criminal process that produces almost ten times as many convictions per capita as Norway, the projections for the U.S. could be significantly underestimated.