

OHIO INNOCENCE PROJECT GUIDELINES AND QUESTIONNAIRE

Send completed questionnaire to:

Ohio Innocence Project
College of Law
University of Cincinnati
PO Box 210040
Cincinnati, OH 45221-0040
Inmate phone: 513.861.2946

In order for your case to be considered by the Ohio Innocence Project, you must carefully read the guidelines below and answer the questions to the best of your ability.

If you do not have the information we are asking for, please send it to a family member or friend who can help you answer the questions. Also, if you are having trouble understanding this questionnaire, please let us know if there is anyone we can talk to who can help us understand your case.

Not every question is relevant to every case, but answer as many questions as you can which are relevant to your case. The better explanation of your case you can give us, and the better job you do of answering these questions, the better chance you have of us being able to accept your case.

If you use a separate piece of paper to finish answering any of these questions, please be clear on that piece of paper as to which question you are completing.

NOTICE: The Ohio Innocence Project and the Ohio Public Defenders Office - Wrongful Conviction Unit have signed a Joint Litigation, Common Interest, and Confidentiality Agreement. This means that at times our office and the OPD Wrongful Conviction Unit may share information about cases to avoid duplication of efforts.

Name: _____
Inmate number: _____
Address: _____

County of conviction: _____
Date of conviction: _____

Question 1: Are you currently incarcerated? Due to limited resources, we are only able to assist inmates who are currently incarcerated.

- ☐ yes
- ☐ no

If “yes,” please continue.

Question 2: Were you convicted in Ohio? Due to limited resources, we are only able to assist inmates who were convicted in Ohio.

- ☐ yes
- ☐ no

If “yes, please continue.

Question 3: Are you claiming **actual innocence** for the crime for which you are currently incarcerated? By “actual innocence,” we do not mean that maybe you committed the crime but received too high of a sentence. We are also not asking whether you are guilty but might be able to overturn your conviction based on “technicality.” What we mean is that you are ***truly and completely innocent.***

3A: Are you actually innocent?

- ☐ yes
- ☐ no

If “yes,” please continue.

3B: Are you currently incarcerated on the charge for which you are innocent and were wrongfully convicted?

- ☐ yes
- ☐ no

If “yes,” please continue.

Question 4: What is/are the crime or crimes for which you are both claiming innocence, and still incarcerated for committing, and which you want us to review?

Question 5: For this crime(s), did you plead guilty or go to trial? By “go to trial,” we mean that you contested the case, the prosecution presented evidence of alleged guilt to a jury or judge, and the judge or jury agreed with the prosecution and ruled that you were the person who committed the crime. By “plead guilty,” we mean that you did not contest the case and agreed to plead out.

- ☐ I pleaded guilty
- ☐ I went to trial

Comment (optional): _____

Question 6: If you pleaded guilty to this crime instead of going to trial, please explain why you pled guilty even though you did not commit the crime:

Question 7: If you went to trial, what was your defense?

Examples:

- self-defense
- the sex was consensual (agreed upon)
- they have the wrong guy. I didn’t do it

Question 8: Give us the names of everyone you can remember who testified in your case or talked to the police, and tell us a summary of what they said:

Name #1: _____

Summary:

Name #2: _____

Summary:

Name #3: _____

Summary:

Name #4: _____

Summary:

Name #5: _____

Summary:

Question 9: If you confessed to the police or anyone else, please explain why you confessed to someone even though you did not commit the crime:

Question 10: What was your sentence for this crime(s)?

Question 11: Did you appeal your conviction? Please explain below.

Question 12: Do you have any litigation pending in court on this case right now? Please explain in the space below.

Question 13: How many more years in prison do you have to serve for this crime?

Question 14: When are you next eligible for parole?

Question 15: What is your earliest possible release date under your current sentence?

Question 16: What is your latest possible release date under your current sentence?

Question 17: Did the prosecution use any of the following “sciences” against you to convict you? If you check any of these boxes, please comment below.

- ☐ Bite mark analysis (an expert report said that the bite mark on the victim’s body matches your teeth)
- ☐ Microscopic hair comparison (an expert placed your hair under a microscope and said it matches hair found at the crime scene)
- ☐ Arson science (an expert testified that the fire was caused by arson and was not an accidental fire)
- ☐ Gun shot residue (an expert tested your clothes or skin and said that you had fired a gun before being arrested)
- ☐ Shaken baby-syndrome (an expert testified that the baby died from being shaken)
- ☐ Blood typing (AB, O, etc.)
- ☐ microscopic fiber or carpet analysis

If you checked any of the boxes above, please provide as much detail as possible as to how this “science” was used against you:

Question 18: Were DNA test results used against you to convict you?

- ☐ yes
- ☐ no

If “yes,” please explain what was DNA tested and how they used it against you. Attach copies of any DNA reports if you have them.

Question 19: Is there new evidence in your case—or could there be new evidence in your case—which would demonstrate your actual innocence? Before you answer this question, below, please read the following discussion of “new evidence” very carefully.

“New evidence,” means evidence that was not used by either side—the defense or the prosecution—at the time you were convicted.

Some examples of new evidence include:

- 1) A DNA test that a lab contacted by the Ohio Innocence Project could perform on the crime scene evidence which would conclusively prove that you did not commit the crime.
- 2) A DNA test which a lab could perform which would point to someone else having committed the crime
- 3) A DNA test on the crime scene evidence which could be put in the national DNA database of convicted felons and which might match to a convicted felon showing that that person actually committed the crime.
- 4) A key state witness against you at the time you were convicted who has now recanted his or her testimony. By “recanted,” we mean that the witness is now saying that he or she lied against you before, or was mistaken before, and that they now are saying something different that shows you are innocent.
- 5) A newly discovered witness who has recently come forward, and who did not testify before, who can now testify that you are innocent. This can be someone who saw the crime and says it was someone else who they saw do it, or someone who provides you with a solid alibi because they were with you somewhere else when the crime occurred.
- 6) Evidence that the cops or prosecutors hid evidence that would have proven you innocent had they not covered it up.
- 7) Evidence of other misconduct or corruption by the police or prosecutors that caused you to be wrongfully convicted.

- Note:** The above list is not a complete list of the different types of new evidence, but is a list that helps explain the concept of “new evidence” by giving several examples.

This image shows a blank sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Question 20: Has this “new evidence” ever been presented to a court before where you used this evidence to try to prove your innocence and get your conviction overturned?

- ☐ yes
- ☐ no

If “yes,” please explain when and where it was used and what the result was. Attach any court opinions having to do with this new evidence:

If you want DNA testing done in your case, please answer questions 21-23. If your case does not involve possible DNA testing, please skip to question 24.

Question 21: If the “new evidence” is a DNA test that you want done on the crime scene evidence, please explain, to the best of your abilities and memory, which pieces of evidence from the crime scene you want tested. Some examples include:

- A rape kit
- Semen
- A pubic hair from the victim’s clothes
- The victim’s fingernail scrapings
- Clothing or objects worn or handled by attacker during the crime, etc.

Question 22: Do you have any evidence logs, police reports, or other documents showing that there might have been things collected by the police during the investigation that could now be tested for DNA?

- ☐ yes
- ☐ no

If “yes,” please include copies of these documents in this mailing

Question 23: Please explain exactly how doing DNA testing in this case would prove you innocent.

Example: “There was semen taken from the victim’s body at the hospital, and testing it would show it was not me and I wasn’t the rapist.”

Or, “The victim struggled with the attacker before he was killed, so testing his fingernail scrapings would show that it was someone else and not me.”

[illegible]

Question 24: Please describe how the cops or prosecutors think the crime happened. Tell the story. How far away was the attacker from the victim? Was there discharge or fluid, like semen, saliva, or blood? Was there a struggle? Did the perpetrator touch several items at the crime scene, thereby leaving his DNA? There may be DNA in your case and you don't even know it. If you tell us the "story" of how the crime occurred, we might have a better idea of whether there may be DNA that you don't even know about. Continue writing on additional blank pages if necessary.

[illegible]

Question 25: If your “new evidence” involves the victim (or victims) changing their story and now saying you did not commit the crime, please explain why they lied against you originally and why they are now changing their story:

Question 26: If your “new evidence” involves new statements from people who have information proving you innocent, please describe your relationship with these people. Examples include”

- *“He is my brother.”*
- *“She is my ex-wife.”*
- *“I never met this person before in my life.”*

If there is more than one person, be clear who are you are talking about as you list the people.

Question 27: If your “new evidence” involves new statements from people proving you innocent, do you have affidavits from these people? Examples include:

- *“The victim is now saying that I did not do it.”*
- *“A new witness to the shooting, John Smith, has come forward and said he saw someone else perform the crime.”*
- *“A new witness, Jane Jones, recently dated the cop who arrested me and she says the cop admitted to her that he lied in my case.”*

Do you have such statements in affidavit form yet?

- ☐ yes
☐ no

If “yes,” please include copies of these affidavits in this mailing

Question 28: If your new evidence involves statements from people proving your innocence and you do NOT have affidavits from them yet, please tell us how their statements might be taken. Examples include:

- *“The person’s name is John Smith, and his address and phone number are _____, and he is willing to talk to you.”*
- *“The person named _____ is now telling everyone that he lied at my trial when he testified against me, but you would have to get someone to secretly record what he is saying because he is not cooperating with me.”*
- *“John Doe has confessed to this crime, and five different people named _____ with the following phone numbers have heard him confess.”*
- *“My mom has this information, and here is her phone number.”*

Question 29: If your new evidence involves new statements by people, like the examples above in question 24, please tell us as much as you can about these witnesses, including:

- Name
- Address
- Telephone number
- The names of people who have heard them give their statements proving you are innocent, etc.

Question 30: If your new evidence involves new statements from people proving your innocence, please tell us why this statement wasn't available when you were convicted?

Examples Include:

- *"I didn't know about this person when I was convicted, but he recently came forward and said he saw someone else rob the store. My mom heard about it and talked to him and he is ready to talk."*
- *"I knew about this witness at trial, but back then she was lying and now she has decided to tell the truth."*
- *"This witness was available back then, but my lawyer did not call him as a witness for the following reasons."*

Question 31: If your case involves a claim that the police or the judge were corrupt against you, please tell us how this can be proved. Do you have witnesses? What are their names? What will they say? Do you have affidavits from them?

Question 32: If your claim is that your lawyer messed up your case by not calling a witness or following through on something, please give as much detail as you can about what your lawyer did wrong. Please consider the following:

- Who was involved
- What the lawyer knew or didn't know at the time

Also, please describe how you would have won the case had your lawyer done a better job:

Question 33: If your lawyer was bad and caused you to get convicted, tell us how we can prove it. If there were witnesses who should have been called, who are they? Do you have affidavits from them? Please tell us in detail how your lawyer messed up, what he missed in your case, and how we can prove it.

Question 34: If we have not asked a question about new evidence that is relevant to your case, please now describe your new evidence.

Note: Simply writing, “The cops lied against me,” or “The judge was unfair,” is not helpful. If the cops lied, tell us how we can prove it. Are there witnesses who can testify to this? If so, what would these witnesses say? What are their names and addresses? Do you have affidavits from them? Etc.

Please provide as much specific detail as possible. General, vague statements are not helpful.

Question 35: Please list names and contact information (address and phone number) for family members of friends who we can contact to find out more about this case. By listing a name and contact information below, you are giving us permission to contact this person.

In addition, please provide a description of why we might contact each person. Examples include:

- *“My sister has all the documents in this case. Her name is Mable and this is her phone number.”*
- *“My brother John talks to me on the phone twice a week. You can call him at any time if you want to pass on information to me in prison. His telephone number is _____.”*

Question 36: Please list the names and contact information for each lawyer who has worked on this case. Please indicate what job each attorney performed. Examples include:

- *“Sally Whorter was my trial attorney. Her address and number is _____.”*
- *“David Elms was my appellate attorney. His address and number is _____.”*

Question 37: Are you currently represented by another attorney or organization on this case?

☐ yes

☐ no

If “yes,” please provide contact information here:

Question 38: Do you give us your permission to contact your past or current attorneys on this case to discuss the case with them?

- ☐ yes
- ☐ no, I do not give you permission to speak with my prior attorneys.

If “yes,” fill out and sign this release below:

I, _____, hereby authorize any and all entities and persons, including but not limited to my former attorneys in this case, to release to the Ohio Innocence Project (OIP), or to its staff or student representatives, any and all records, files, report, and information of any kind related to me or to any criminal case involving me. I fully understand that there may be statutes, rules, and regulations that protect the confidentiality of some of the records, files, reports, and information covered by this release; it is my specific intent to waive the protection of all such statutes, rules, and regulations. By my signature below, I represent that this waiver is voluntary and given without any reservation.

Signed this _____ day of _____, 201_.

Signature

Note: Denying us permission to talk to your prior attorneys may seriously hurt our ability to work on your case, and may cause us to reject your case unless you give us a good explanation for why he or she should not be contacted.

Question 39: If you do not understand something about this questionnaire, or have other evidence of innocence that was not brought out by these questions, please explain now:

PLEASE SIGN BELOW AND MAIL TO THE ADDRESS ON THE FIRST PAGE

WE DO NOT REPRESENT YOU AS YOUR ATTORNEY UNLESS AND UNTIL WE INDICATE TO YOU IN WRITING THAT WE HAVE ACCEPTED YOUR CASE AND WILL BE TAKING IT BACK TO COURT ON YOUR BEHALF. AT THAT TIME, WE WILL FILE A NOTICE OF APPEARANCE IN THE COURT. BY SUBMITTING THIS QUESTIONNAIRE, YOU UNDERSTAND THAT AT THIS POINT WE ARE ONLY LOOKING INTO YOUR CASE TO SEE WHETHER OR NOT WE WILL ACCEPT IT. NO PROMISES ARE BEING MADE TO YOU AT THIS POINT THAT WE WILL DO ANYTHING NOW OR IN THE FUTURE TO ASSIST YOU.

ALSO, WE ONLY LITIGATE CASES OF ACTUAL INNOCENCE. THE OTHER TYPE OF CASE WE WILL LITIGATE IS CASES WHERE THERE IS DNA TO TEST AND WE HAVE TO FILE A PETITION IN COURT TO GET IT TESTED. BY SIGNING BELOW, YOU UNDERSTAND THAT IF EVIDENCE COMES TO LIGHT THAT UNDERMINES YOUR INNOCENCE CLAIM, WE WILL NOT WORK ON YOUR CASE ANYMORE AND WILL NO LONGER REPRESENT YOU IF REPRESENTATION HAS STARTED. FOR EXAMPLE, IF WE LITIGATE TO GET DNA TESTING FOR YOU, AND THE DNA TEST RESULTS DO NOT PROVE YOUR INNOCENCE, WE WILL DISCONTINUE REPRESENTATION. THIS INCLUDES CASES WHERE WE HAVE STARTED REPRESENTING YOU AS YOUR ATTORNEYS, BUT THEN EVIDENCE COMES FORWARD THAT SHOWS US YOU NO LONGER MEET OUR CRITERIA. BECAUSE WE ARE A NON-PROFIT ORGANIZATION WITH A LIMITED MISSION OF ASSISTING PEOPLE ONLY IF THEY HAVE A LEGITIMATE INNOCENCE CLAIM, IF WE END UP TAKING YOUR CASE AND REPRESENTING YOU, AND THEN NEW EVIDENCE COMES FORWARD THAT UNDERMINES YOUR INNOCENCE CLAIM, WE WILL STOP REPRESENTING YOU AT THAT TIME.

I have read and fully understand the information above.

Signature of inmate: _____ Date: _____