



**Governor's Eugenics Compensation Task Force
MINUTES**

**(The Governor's Task Force to Determine the Method of Compensation for Victims of
North Carolina's Eugenics Board, Henceforth Referred to as 'The Task Force')**

Wednesday, May 25, 2011

Authorization of the Task Force

The Governor's Task Force to Determine the Method of Compensation for Victims of North Carolina's Eugenics Board, henceforth referred to as 'The Governor's Eugenics Compensation Task Force' or 'The Task Force' was created and authorized by Executive Order 83. The primary duties of the Task Force according to Executive Order 83 are to 1) recommend possible methods or forms of compensation to those persons forcibly sterilized under the North Carolina Eugenics Board program, 2) evaluate recommendations from previous commissions regarding the North Carolina Eugenics Board program and sterilization victims, and 3) perform such other duties as may be assigned by the Governor. The Task Force is required to submit its preliminary report to the Governor on August 1, 2011 and its final report on February 1, 2012. The Departments of Administration, Cultural Resources and Health and Human Services are required to collaborate and support the efforts of the Task Force.

Task Force Members:

Dr. Laura Gerald, *Chair* -Physician
Demetrius Worley Berry, JD -Attorney
Dr. Lenwood G. Davis -Historian
Fetzer Mills, JD -Retired Judge
Phoebe Zerwick -Journalist.

Official Minutes

The Governor's Task Force to Determine the Method of Compensation for Victims of North Carolina's Eugenics Board convened for its second meeting on Wednesday, May 25th, 2011 at 10am. The meeting was held at the Governor's Crime Commission Conference Room located at 1201 Front Street, Suite 200 in Raleigh, North Carolina. The Task Force meeting was called to order at 10:03 a.m. by Phoebe Zerwick, Acting Chair, in the absence of Chairwoman Dr. Laura Gerald. Dr. Gerald was called away to attend to legislative matters. The meeting was also attended by the following individuals:

Charmaine Fuller Cooper	NC Justice for Sterilizations Victims Foundation
Dalisha Vickers Johnson	NC Justice for Sterilization Victims Foundation
Tequila Peele	NC Justice for Sterilization Victims Foundation

Gretchen Aycock	NC Department of Administration
William Zeke Creech	NC Department of Administration
Jill Lucas	NC Department of Administration
Meghan Brown	Office of the Governor
Bertha D. Marks	Daughter of Sterilization Victim
Australia Clay	Daughter of Sterilization Victim
Dahlresma Marks	Grand-Child of Sterilization Victim
Barbara Pullen-Smith	NC Office of Minority Health & Health Disparities
Lisa Hodges	NC Office of Minority Health & Health Disparities
Jennifer Calhoun	Fayetteville Observer
Mr. G. Scott	WPTF
Cory Berd	News 14
Debbi Blake	NC Department of Cultural Resources - State Archives
Sarah Koonts	NC Department of Cultural Resources - State Archives
Thomas R. Cooper Jr.	Private Citizen
Lisa Sorg	Independent Weekly
Adam Barrett	John Locke Foundation

At 10:07 a.m., the Task Force members reviewed the April 27th meeting minutes in silence. **Phoebe Zerwick** asked if all present Task Force members approved April 27th, 2011 meeting minutes and everyone approved. Ms. Zerwick signed the official copy of the aforementioned Task Force meeting minutes and opened the meeting to **Barbara Pullen-Smith**, Executive Director of the North Carolina Office of Minority Health & Health Disparities to offer a power-point presentation on State Eugenics Efforts-Post 2003-2009 and Previous Task Force Recommendations.

Presentation - NC Office of Minority Health & Health Disparities (OMHHD)

Barbara Pullen-Smith began her presentation by stating that Governor Easley made an apology in December 2002 and that began the first look at how to support benefits for survivors. Ms. Pullen-Smith went on to explain that Representative Larry Womble wanted more than an apology and Governor Easley responded by establishing a Eugenics Study Committee in 2003. Governor Easley appointed co-chairs for the committees which were Larry Womble from NC House of Representatives and Carmen Hooker Odom who was the Secretary for NC Department of Health and Human Services. The Eugenics Study Committee was charged with three tasks:

1. Explore the history of the program
2. Ensure that the Eugenics Program is never repeated in North Carolina, and
3. Make recommendations on how to assist the survivors of the state's involuntary sterilization program.

Ms. Pullen-Smith stated that proposed strategies from 2003 through 2009 for finding and locating potential survivors included outreach campaigns, multimedia, newspaper, television,

radio, billboards. Proposed potential partners to assist in identifying victims included the NAACP, health professionals, church, and civic organizations. Past recommendations for victims consisted of nonprofit foundation/support groups, a method to find the survivors, determination of validity of the claims, health care and education benefits. The Department of Health and Human Services was to take the lead on the following past recommendations:

- Method to find survivors
- Determination of Validity of Claims
- Health Care for survivors

Past recommendations also focused on making sure North Carolina's eugenics history was documented and a memorial established. Ms. Pullen-Smith noted that the 2003 Gubernatorial Eugenics Study Committee recommendations included system changes such that North Carolina's Department of Public Instruction should include information about the Eugenics program in its curriculum in history courses. The Department of Cultural Resources was tasked with the creation of a memorial to ensure that no one forgets what the state of North Carolina once perpetrated against its own citizens. Ms. Pullen-Smith made mention that the memorial needed to be tangible and offer a constant reminder of the program long after the survivors have passed on. In 2003, it was also proposed that the UNC system and community college systems explore the creation of endowed chairs or special scholarships that will memorialize the program.

Ms. Pullen-Smith discussed the Department of Health and Human Services (DHHS) response to recommendations proposed in 2003 by explaining that the Secretary appointed the Office of Minority Health and Health Disparities (OMHHD) to lead the department's follow-up efforts. DHHS' Mission was not to address issues of racial injustice but to represent the under-served. A Memorandum of Agreement between DHHS and Cultural Resources to access the records was formulated. Ms. Pullen Smith also stated that there was a systems change specific to DHHS where the department was to create a required and mandatory ethics program that included information on the Eugenics Board for every DHHS professional. A seminar would be organized to talk about the program, hear from survivors and discuss its implications in today's world. The seminar would include presentations from experts, including Dr. Johanna Schoen.

Lisa Hodges, also with OMHHD, referenced that the Eugenics Traveling Exhibit was developed in partnership with Dr. Johanna Schoen, Eugenics victims, and an artifacts curator. The Eugenics Traveling Exhibit was to build upon a permanent educational tool about the Eugenics program and the victims were useful and helped design the exhibit. The exhibit launched in June 2007 at the North Carolina Museum of History. Ms. Lisa Hodges was very instrumental in the exhibit which was a 14 panel display that was interactive with headsets to hear the victim's voices telling their story. The exhibit begins as "Why me?" and the victims begin to tell their stories while the history of the state program is outlined. Representative Larry Womble took the exhibit to Winston Salem State University and Bennett College. Several requests from other colleges and community colleges could not be entertained because funding ran out before the vision of

moving the exhibit to other parts of the state could be completed. Ms. Hodges passed around a mock of the 14 panel exhibit for all those in attendance to view and a short discussion ensued regarding the cost to restore the exhibit which was said to be anywhere from \$40,000.00 to \$75,000.00 by **Charmaine Fuller Cooper**. The Task Force asked Ms. Fuller Cooper to seek out a cost estimate to restore the exhibit and for travel and set-up costs.

Ms. Pullen-Smith noted that in 2008 recommendations were made to the Governor by Representative Larry Womble and Ronnie Sutton that included:

- Mental Health Counseling Benefits for Survivors
- Creation of a Database on Eugenics Program Records
- Verify Status of Self-Identified Survivors
- Creation of a Historical Marker
- Educational Materials and Benefits for Survivors
- Interview and Document Survivors
- Ethics training Module
- Preserve and allow appropriate access to program records
- Media Campaign and,
- \$20,000.00 Compensation for Survivors

Ms. Pullen-Smith concluded her presentation by stating that a transfer of responsibilities occurred in 2008, where DHHS negotiated with Cultural Resources to house the Eugenics Exhibit and manage the victim's database. In 2008, DHHS and OMHHD made a presentation to the House Select Committee on compensation for victims of the Eugenics Sterilization Program and in 2009, OMHHD oriented the new Executive Director for the new North Carolina Justice for Sterilization Victims Foundation.

Charmaine Fuller Cooper, Foundation Executive Director, shared that a database had never been created and that the Department of Cultural Resources stepped in to answer victim records request. Currently, the Department of Cultural Resources works with the Foundation to search for name matches to patient case files. The Foundation handles all victim contact and distributes and screens verification request forms prior to taking them to Cultural Resources. The only other recommendations from 2003 through 2009 that have been completed are the creation of the Eugenics Historical Highway marker on the corner of McDowell and Jones streets in Raleigh, NC, inclusion of Eugenics history of the curriculum of the NC Department of Public Instruction and setting up the NC Justice for Sterilization Victims Foundation to verify the status of self-identified victims. Funding for any efforts other than set-up of the Foundation has never been provided. Foundation funding was divided over three fiscal years and will run out on June 30th, 2012.

Task Force Questions and Answer for OMHHD

Demetrius Worley Berry wanted to know if there were measures gauging the effect of the traveling exhibit and **Lisa Hodges** didn't replay to past measures and stated it was very effective and it was too bad that funding ran out to complete the college tour.

Dr. Lenwood Davis asked if the exhibit is to go out again, what will take to update the exhibit. **Lisa Hodges stated** that Design Dimension charge per mileage from where it the exhibit is housed to where it will travel, labor, and setup so it may cost about \$8,000.00-\$10,000.00 depending upon the current gas rates.

Dr. Lenwood Davis also wanted to know possible costs to add more information to the existing exhibit and **Lisa Hodges** responded that the exhibit tells the history, but the leadership panel will need to change and there is space for more victims to tell their story but that she could not offer a cost to add to those panels because that is out of her knowledge base.

Dr. Lenwood Davis followed up to Ms. Hodges response by asking if it is feasible to have those who want to see the exhibit share the cost of having the exhibit at their location? **Lisa Hodges** stated it's a shame that it's in a basement and not telling the history but additional resources would be helpful.

Phoebe Zerwick asked what happened to requests to provide medical benefit to the survivors. **Barbara Pullen-Smith** stated that there must be federal approval in order to make them eligible for Medicare strictly as Eugenics victims. **Megan Brown** from the Office of the Governor added that she believed the victims are Medicare eligible already. **Lisa Hodges** stated victims who were sterilized at a young age would not be eligible for Medicare due to their age and the requirements to be Medicare eligible would put those victims out of the age restrictions.

Phoebe Zerwick asked what happened to providing medical benefits through the State Health plan? **Barbara Pullen-Smith** stated that there was not follow-up on this item. **Phoebe Zerwick** asked why and who was responsible and **Pullen-Smith** responded that all the DHHS leaders, Secretary and Deputies responsible for follow-thru on health benefits are gone now.

Dr. Lenwood Davis was curious to know how much cooperation is between local health departments in various counties and DHHS. **Barbara Pullen-Smith**, did not have a full response to the question and stated that the importance of their task was to make recommendations from DHHS. **Charmaine Fuller Cooper**, Director for the NC Justice for Sterilization Victims Foundation, added that the Foundation has sent over 2,000 outreach posters announcing the Clearinghouse, verification process for victims, and the Foundation's toll-free number throughout the state to local social service agencies, hospitals, nursing homes, CNA assignment

agencies and more. An additional 1,000 posters will be sent to Public Health agencies and other local entities that serve the target demographic over the summer.

Presentation – Department of Cultural Resources and Eugenics Records in State Archives

At 10:46am, **Sarah Koonts** with the Department of Cultural Resources began her presentation by stating that her office is governed by General Statute 121 and that statute is the authority in which her office operates. Ms. Koonts went on to make the Task Force members and audience aware that in 2005 revisions were made to the “finding aide” for North Carolina Eugenics items. Ms. Koonts stated that the State library is part of Cultural Resources and that her office has digitized past documents to be archived. She went on to add that any and all documents that are identified as achievable will exist forever and that Eugenics records have received the same treatment in a climate controlled space within the Cultural Resources Department. Ms. Koonts made it clear that it is not the intention or within the responsibility of Cultural Resources to house highly active records but that the Eugenics records are safe and will remain in the custody of Cultural Resources until further action is taken, if at all. **Koonts** provided examples of the finding aid, patient case files and Eugenics Board program minutes for the Task Force to review during her presentation.

Phoebe Zerwick asked **Ms. Koonts** “what was the standard for sterilizing someone?” Ms. Koonts replied that from the records various reasons were mentioned such as: feeble minded, mental health and IQ. **Ms. Koonts** stated that NC Eugenics Board records have been in Cultural Resources custody since the 1950s.

Dr. Lenwood Davis asked **Ms. Koonts** if there are originals and redacted copies of the records. **Ms. Koonts** responded by stating that the originals are not touched but a copy is made and then redacted. **Dr. Davis** asked if there were records that have been requested and not returned. **Ms. Koonts** indicated that two women sued the state of North Carolina and their records were requested and there is proof they were checked out by the Eugenics Board since it was still active but they never came back to the collection. **Ms. Koonts** clarified that Cultural Resources has most of all the records that have been transferred from Health and Human Services.

Sarah Koonts also mentioned that it’s not within Cultural Resources duties to create new databases and provide access to the records. The records are owned by the Department of Health and Human Services. **Ms. Koonts** went on to add that a digitized grant, as recommended to previous commissions, is not feasible to digitize and redact records because it would cost more than \$75K due to extreme labor needed.

Ms. Zerwick asked how the minutes of the Eugenics board are treated under HIPPA. **Ms. Koonts** stated that the minutes are confidential and that identifying information is redacted. **Ms. Koonts** added that clarity is needed on how to redact patient files and Eugenics records consistently. **Ms. Koonts** welcomed questions as it related to how her office has been and will continue to be of help to the Foundation and concluded her presentation. The Task Force members did not have any follow-up questions or comments.

Address from Victim's Family Members

At 11:15 a.m. **Phoebe Zerwick** was informed that descendants of a program victim were present and the Acting Chair opened the meeting to the sisters, **Bertha Delores Marks** and **Australia Clay**, to speak about their mother who was an identified sterilization victim through the North Carolina Eugenics Board Program. **Ms. Australia Clay** began by stating that she is the oldest of her siblings and recalls a great deal of what her mother and siblings endured while her mother was at Cherry Hospital. The oldest daughter tells her story of how she and her siblings made sure they were well educated and began careers that would help people in need. **Ms. Clay** added that she is a school teacher and her sister is a nurse and that what they experienced as young girls was heart breaking and terrible. **Ms. Clay** gave a detailed account of how they had no idea that their mother had endured so much pain and medications while at the hospital until obtaining her medical records from the Foundation. **Ms. Clay** went on to talk about how she believes her mother was sterilized against her knowledge because she loved her children and their father could not read so the signature that is on the medical forms could not possibly be that of their dad. **Ms. Clay** went on to state that her sister, Delores, taught her father how to write his signature later in life and that they believed his signature had been forged.

Ms. Delores Marks stated that she had been protected by her siblings from a lot of the abuse that occurred while her mom was confined to Cherry Hospital. She added that they experienced physical abuse. **Ms. Clay** added that she was sexually abused while living with other caregivers during her mother's confinement. Neither sibling understood how their mother was allowed to come home without medicine for Christmas and was fine when home but was drugged consistently while at Cherry. **Ms. Clay** shared that her mom was the victim of electric shock while at Cherry Hospital and recounted her mom's accounts of having a device placed on her head and electricity sent through her body. **Ms. Clay** felt that her mom was only confined at Cherry until a consent for sterilization was obtained and then she was allowed to leave after a lot of time away from her kids. **Ms. Clay** said her mom was experiencing what would now be called post-partum depression but that she was a kind lady who loved her kids.

Initial Compensation Discussion - Task Force Members

At 11:32 **Phoebe Zerwick** opened the meeting for recommendations and explorations of compensation.

Charmaine Fuller Cooper listed past recommendations considered or proposed by past commissions:

- Monetary Compensation - \$20,000 for Survivors
- Outreach & Support
 - Establish Foundation
 - Create Database of Eugenics Program Victims
 - Identification and Verification of Program Victims
 - Mental Health Counseling
 - Health Care
 - Document Survivor Stories
 - Education Benefits for Survivors
 - Eugenics Memorial (Historical Marker)
 - Inclusion of Eugenics in Public History Curriculum
 - Ethics Training for DHHS/Health Care Practitioners

Australia Clay who is the daughter of a verified NC Eugenics Board sterilization victim, stated that she wanted to make sure this doesn't happen again because there is a fear that it could. **Ms. Clay** asked where the \$20,000 compensation figure come from. Charmaine Fuller Cooper stated that the figure came from the 2008 House Select Committee that originally considered \$50,000 per surviving victims and reduced their suggestion to \$20,000 per living victim.

Demetrius Worley Berry stated that she agrees with the \$20,000 figure because her thoughts were if you request an amount that is too high it may be denied by the legislature and that \$20,000 seemed to be a feasible starting point for the legislature to consider based on past discussion by other bodies. She acknowledged that the legislature had already postponed a decision on compensation since 2003 and that she didn't want to make a recommendation that would not be considered. **Ms. Berry** indicated that she would like to see something positive happen for the victims sooner than later and that asking for figures that the Legislature or the Governor may deem to be inflated may cause this issue to linger on longer than anyone would like.

Dr. Lenwood Davis added that Representative Larry Womble argued for \$50,000 and it was denied. **Dr. Davis** said that asking for a high figure would mostly likely not be accepted by the general assembly and this issue needs to be brought to a close.

Phoebe Zerwick wanted to know if punitive damages are something to look at for the victims and **Judge Fetzer Mills** stated that he wanted to make sure the State does not repeat this terrible history in the future and included that one aspect of damages is to punish the wrongdoer and to deter the State from ever doing this again. Judge Mills added that there is never going to be a good time to provide compensation but it needs to be done to ensure that it doesn't happen again and that it shouldn't come from Golden Leaf or any other tobacco fund. He added that it [compensation] needs to come from the General Fund so taxpayers also bear the responsibility of knowing that this was wrong and should never be done again.

Australia Clay interjected and proposed \$50,000 as a method for compensation and her daughter, **Dahlesma Marks**, added that the NC Eugenics Board program affected victims' entire lives and wants to know if Task Force members are looking at the totality of the process of sterilization because many people were not able to live productive lives or maintain employment.

Meghan Brown from the Governor's Office stated that it might be important to determine who should receive compensation and set parameters for if it would matter the method of sterilization. **Don Akin** of the State Center for Health Statistics added that the age at which a victim was sterilized may have some consideration as to the amount of compensation and what form of compensation would be best suited for individual victims.

Phoebe Zerwick stated that she would like to move forward with recommendations that are simple enough to be considered by the Governor for future legislative approval. **Dr. Lenwood Davis** said he agrees with \$20,000 across the board for everyone that is deemed to be a victim. **Judge Fetzer Mills** stated that he is not ready to decide on the figure because he wants more time to discuss the issue.

Phoebe Zerwick also proposed medical benefits and **Judge Mills** stated that the Task Force members are limited to the direct effect of the sterilization and everything that occurred as a reason of the sterilization through the NC Eugenics Board. On the suggestion of counseling, **Worley Berry** stated that mental health would be the major priority and **Ms. Clay** interjected into the Task Force discussion and disagreed by stating that compensation should be monetary. **Zerwick** stated that a package of monetary and counseling would be most beneficial. **Worley Berry** wanted to know who would qualify for the counseling and if that too would be limited to survivors?

Phoebe Zerwick asked how do you go about reaching victims and **Fuller Cooper** shared that the Foundation is giving its best efforts to get the word through media outreach and poster distributions. **Fuller Cooper** also indicated that there is a Foundation hotline and also a website where potential victims and others can contact the Foundation staff to receive information relating to the NC Eugenics Board program. **Fuller Cooper** shared that face to face outreach at

the local level and through more nonprofit groups is limited due to the Foundation having one full-time staff person and temporary assistants to staff the hotline.

Gretchen Aycock suggested that if there was any information on how the Federal Government went about compensation for the victims of the Japanese Internment Camps it would be a good model to look at and determine possible compensation or the NC Eugenics Board sterilization victims. **Jill Lucas** added that the Eugenics Board exhibit would take considerable refurbishing and questioned the assessability of the exhibit. **Charmaine Fuller Cooper** mentioned partnering with other organizations that support the Foundation and Task Force as a method to offset some financial costs for the exhibit to travel again.

Fuller Cooper stated that House Bill 374 is being considered to provide clarity that records are not public information to prevent victims from further victimization through unauthorized records releases. She added that Eugenics records are owned by DHHS and there needs to be a formal policy as it relates to the records. **Zerwick** added that it would be nice to have a representative from DHHS at the Task Force meetings to address these concerns.

Phoebe Zerwick asked for more press releases on this issue and **Dr. Lenwood Davis** wants people to know they are welcome and have full input at the next open public meeting which is scheduled for Wednesday June 22, 2011. **Australia Clay** indicated that Larry Stogner from WTVD will be in contact with the Foundation and the Task Force. **Phoebe Zerwick** asked if **Meghan Brown** or the Governor's Office would record a public service announcement to get the word out about the upcoming task force meetings and feels it will be powerful. **Ms. Brown** had already departed the meeting. **Ms. Clay** stated they are ready and willing to share their stories at the next meeting that has been scheduled for the victims and their families to come and tell the Task Force members their stories as victims of the NC Eugenics Board program.

Phoebe Zerwick added that she wants to gain a better understanding of the politics surrounding this issue. **Fuller Cooper** added that there is bi-partisan support on the issue. However, the primary barrier for legislators has been where to cut to obtain the funding for compensation or other services. Many legislators across both sides of the aisle support justice for living victims. There has been some debate on compensation for living victims versus those who have passed. Numerous groups support eugenics efforts including Disability Rights, the NAACP and more. The John Locke Foundation has stated that it supports compensation but only for living victims. **Fuller Cooper** mentioned that a representative of the Locke Foundation was present.

Adam Barrett, intern for the John Locke Foundation, stated that the Locke Foundation has published an opinion about Eugenics efforts but could not speak on behalf of Darren Bakst who has taken the lead on this issue for their Foundation.

Public Feedback

Phoebe Zerwick opened the Task Force meeting to the public for any questions, comments, or concerns and **Bertha Delores Marks**, daughter of an identified Eugenics Board sterilization victim, made her concern clear that she believed the \$20,000.00 compensation figure being talked about throughout the meeting would not suffice. **Ms. Marks** indicated that she would like the Task Force members to reconsider the figure and think of the victims and families that had to endure the pain that resulted from the Eugenics Board program. **Ms. Zerwick** addressed **Ms. Marks** and offered her sympathy and stated that there is no figure amount that is adequate enough to erase or compensate what has been done and that the Task Force members will collectively take her concerns into consideration when deciding what recommendations are best suited to present to the Governor.

Task Force Member **Judge Fetzer Mills** moved to adjourn the meeting at 12:56 p.m.

Official Task Force Meeting Recorder:

Dalisha Vickers Johnson, Processing Assistant
NC Justice for Sterilization Victims Foundation

Charmaine S. Fuller Cooper, Executive Director
NC Justice for Sterilization Victims Foundation

Respectfully Submitted:

Dr. Laura Gerald, Chair