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Special Committee on Criminal Justice White Paper on Conviction Integrity Units

The Special Committee on Criminal Justice was asked to provide subject-matter background on the issue of Conviction Integrity Units.

A Conviction Integrity or Conviction Review Unit (CIU or CRU) can be defined as a division or office within the local prosecutor's office that "conducts extrajudicial, fact-based review of secured convictions to investigate plausible allegation of actual innocence¹."

As of November 2019, out of the 2,300 local prosecutor's offices nationally, there are 58 identifiable conviction integrity units currently operating². In Florida, there are four State Attorneys Offices who have active Conviction Integrity Units: the 4th Circuit (Clay, Duval, and Nassau Counties); 9th Circuit (Orange and Osceola Counties); the 13th Circuit (Hillsborough County); and the 17th Circuit (Broward County).

The Innocence Project located at the Benjamin Cardozo School of Law produced a best practices' report in October of 2015. In that report, it is stated that "there are two aspects to developing best practices for Conviction Integrity Units (CIU): 1) Individual case re-investigation of potential miscarriages of justice; and 2) Developing policies, practices, and reforms to apply and respond to the lessons learned from the re-investigations³".

Another key resource is Fair and Just Prosecution (FJP), made up of newly elected local prosecutors "committed to promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility." One of the group's key issues is conviction integrity and review, and in a report FJP issued they offer key ingredients/best practices for Conviction Integrity or Review Units:

- The CIU should be an independent unit that operates based on written policies formulated after consultation with stakeholders through a transparent process. It should be led by a

¹ https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=2615&context=faculty_scholarship

² <https://www.law.umich.edu/special/exoneration/Pages/Conviction-Integrity-Units.aspx>

³ <https://www.innocenceproject.org/wp-content/uploads/2016/09/Conviction-Integrity-Unit.pdf>

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respected senior lawyer who reports directly to the State Attorney and be staffed with prosecutors and investigators committed to its mission.

- In most instances, the CIU should not be part of the appellate unit or report to an appellate supervisor; their functions are distinct and it is best to maintain separation of these two parts of the office.
- To promote public accountability and credibility, the CIU should seek the input of outside experts and/or an external review board.
- The CIU should be given a broad mandate to review a wide range of integrity issues, including claims of actual innocence, violations of due process, and claims of corrupt law enforcement practices.
- The CIU should not preclude review of convictions simply because they are based on a guilty plea, have an appeal pending, or the defendant has served his or her sentence.
- The CIU should have authority to investigate and prioritize felony cases, but should also have discretion to review misdemeanor convictions—especially where systemic issues may be present.
- The CIU should specifically review convictions that relied on discredited forensic methods.
- As part of a commitment to effective and robust conviction review, offices should approve, and not oppose, requests for DNA testing.
- The CIU should allow individuals seeking review and/or their attorneys to have access to all non-privileged and non-sensitive information in the case files under review; using limited disclosure agreements, the CIU and a petitioner’s lawyer should also consider in appropriate cases sharing work product information.
- The CIU should be empowered to seek or support all available and appropriate remedies, including seeking dismissal or expungement of the case, supporting a petition for the restoration of rights, directly advocating before parole boards for early release, moving for a reduction of sentence, or supporting a request for clemency or pardon when appropriate.
- The CIU should support the enactment of systems of compensation for those wrongfully convicted and advocate for the elimination of restrictions that preclude compensation based simply on a prior unrelated conviction. The CIU should also assist in securing necessary support and documentation, such as declarations of innocence, that facilitate successful reentry into the community.
- Errors identified by the CIU should be used to inform proactive accountability measures and training within offices, and there should be a well-defined method for the CIU to recommend needed policy and procedural changes.

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- In order to increase public understanding of and trust in the CIU, offices should publish annual reports detailing the results of conviction and case review and actions taken.⁴

⁴ <https://fairandjustprosecution.org/wp-content/uploads/2019/08/Conviction-Integrity-Statement-of-Principles.pdf>