

Conviction Integrity

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What is Guilt?

- Actual Innocence?
- How Measure?

How Detect?

- Arrest
- Preliminary Hearing/Grand Jury
- Trial
- Appeal
- Habeas
- Federal
- CIU?

What Role for a CIU?

- New Evidence
- New Look
- Special Training
- Risk Factors

Almost By Definitions

- Everyone “looks” guilty
- Everyone has a motive to lie.

Story of Two Cases

- Early Innocence Claim
- Horrible Rape of Young Mother
 - Child Asleep Next Room
- Hard Case
 - Defendant Convicted and Sentenced to Life

Innocence Claim

- Eyewitness Identification by Victim
 - Poor Light
 - Weapon Focus
 - Cross Racial
- Find DNA on bed-sheet

Test the DNA

- A decade later
- Proves that
 - Liar and a Rapist
- Multiple Choice
 - Media Firestorm on how DA Got it Right
 - Award for original Trial DA
 - Oprah
 - Nothing

Bullington and Foley



What is a Conviction Integrity Unit?

- Risk Assessment
- Two Components
 - Reactive
 - Crisis
 - Cases
 - Proactive
 - Policy
 - Training

Reactive Element

■ Cases

- Post-Conviction Assertions of Innocence

■ Crisis

- Hair Macroscopy
- Allegations of Prosecutorial Misconduct

Proactive Element

- Recording Suspect Statements
- Brady Policy
- Collateral Consequences
- Eyewitness Identification
- Prosecutorial Misconduct Protocol
- Training
- Body Cams

Exonerations

- 349 DNA Exonerations
- 340 Exonerations found by Prof. S. Gross in his seminal study “Exonerations in the United States 1989 through 2003.”
 - Gross study uses the conservative methodology that only counts “official” exonerations.
- 3000 – 2012 Study by Prof. Gross

Definition

“Exoneration,” -- a defendant who was convicted of a crime was later relieved of all legal consequences of that conviction through a decision by a prosecutor, a governor or a court, after new evidence of his or her innocence was discovered.

-- NB. Both under/over inclusive

Marquis/NDAA Theory

- Take the 340 known exonerations;
- Assume that for every one we've found, ten more exist for a total of about 4000 total innocents.
- Divide the total number of exonerations from the total number of convictions over the same period (about 15 million) to get the error rate.

Marquis/NDAA Error Rate

- 4000 Wrongful Convictions
- 15, 000, 000 total prosecutions
- $4,000 / 15, 000, 000 = 0.000267$
- $0.000267 = 0.0267\%$
- $0.027\% = \text{Error Rate}$
- $99.97\% = \text{Accuracy Rate}$

Marquis/NDAA Error Rate

- 4000 total exonerations / 15 million total prosecutions = 0.027% error rate;
- 99.973% success rate;
- **3 innocent people are convicted for every 10,000 prosecutions.**

NDAA/Marquis Estimate

**3 Innocent People are Convicted
for Every 10,000 prosecutions.**

Problems with Low Estimate

- Multiplier Could be Wrong;
- Low estimate looks at error rate of all prosecutions instead of error rate of all trials.
- Pinto Example.

Error Rate in *Trials*

- First, let's look at the error rate in all felony trials;
- 15,000,000 felony cases were prosecuted;
- 750,000 felony *trials*;
- $4000/750,000 = 0.5\%$
- One false conviction for every 200 trials.



Wrongful Convictions a Problem?

- For every 10,000 prosecutions
 - 3 wrongful conviction;
 - 99.97% Accuracy Rate
- For every 200 trials
 - 1 wrongful conviction.
 - 99.5% Accuracy Rate

Final Suggestions

- Discovery
- DNA
- Get to Merits
- Collaborate *when can*
- Risk Management Mode
- Evaluate outside litigation context

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