

Office of the Chief State's Attorney

CONVICTION INTEGRITY UNIT



CONVICTION INTEGRITY UNIT
ANNUAL REPORT 2023

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INTRODUCTION

This is the annual report on the work of the Conviction Integrity Unit (CIU) at the Office of the Chief State's Attorney. The information contained in this report is the result of stored documentation and prior reports issued by the CIU. The CIU reports directly to the Deputy Chief State's Attorney of Operations and is a dedicated unit with no other responsibilities but to review all applications presented for conviction integrity consideration.

The CIU performs initial screening of all applications to confirm if the Basic Qualifications for further review are met. If the Basic Qualifications are met, the claim is accepted for review. The accepted claim is then subject to a thorough investigation and is prepared for a possible presentation to the Conviction Review Panel (Panel).

The CIU can also refer claims involving biological or scientific evidence or improper forensic testing to the Forensic Review Panel (FRP). The Forensic Review Panel is comprised of third-party subject matter experts retained by the Division of Criminal Justice (DCJ) to independently review the scientific analysis and conclusions of the original expert witnesses in the case.

The Conviction Review Panel consists of a retired Judge, an experienced criminal defense attorney and two current or former prosecutors with no connection to the underlying conviction. The Panel may ask CIU for further investigation. At the conclusion of the Panel's review, the Panel reports its findings and recommendations to the Chief State's Attorney (CSA) and the State's Attorney of the judicial district where the conviction originated. The State's Attorney of the originating jurisdiction will decide if any appropriate action is required to do justice in the matter.

HISTORY

The Division's creation of the Conviction Integrity Unit reflects the DCJ's ongoing duty to assure that justice is done in all cases. The unit operates as an additional layer of review, separate and apart from the post-judgment collateral challenges afforded to prisoners by statute.

Many of the recommendations for Connecticut's Unit came from the Conviction Integrity Unit Working Group. The CIU Working Group was formed in January 2020. The working group included criminal justice experts from Division of Criminal Justice community partners, including:

- Retired Chief Justice of the Connecticut Supreme Court, the Hon. Chase T. Rogers
- Retired Chief Public Defender Susan O. Storey
- Retired Chief State's Attorney Kevin T. Kane
- Melvin J. Medina and Kelly Moore of the American Civil Liberties Union – Smart Justice Campaign
- Fiona Doherty, Clinical Professor of Law, Yale Law School
- Attorney and Criminal Justice Commission Member Reginald Dwayne Betts
- Deputy Chief State's Attorney Kevin D. Lawlor
- Former New Britain State's Attorney now Superior Court Judge Brian W. Preleski

This group met extensively during 2020 and produced a basic framework and best practice recommendation report to the Chief State's Attorney. The group's goal was to provide recommendations that assure that the Unit works effectively. Of equal importance, the group's recommendations sought to provide confidence to the public that the Division of Criminal Justice has an effective capability to review conviction integrity issues of any kind including, but not limited to, wrongful convictions.

Timeline of Formation of the Conviction Integrity Unit

- The Division of Criminal Justice requested funding for the CIU from the Joint Committee on Appropriations on Feb. 26, 2021.
- Funding became available starting Oct 1, 2021 (FY 2022-2023).
- The staffing of the CIU started by transferring personnel from within the DCJ to the CIU in November of 2021 after they completed their duties at their past duty stations.

- The DCJ hired personnel from outside the Division in February and March 2022 to foster a culture of non-traditional prosecutorial case review.
- The CIU made its first referral to the Conviction Integrity Panel in June of 2022.
- The CIU was fully staffed in September of 2022.
- Due to personnel transfers and vacancies within the DCJ, the CIU was minimally staffed with one prosecutor, three inspectors and one paralegal starting January 2023 until another prosecutor was transferred into CIU in August 2023.

PERSONNEL

The original CIU Staff transferred into the unit from other DCJ locations as they completed their previous responsibilities. New members were hired from outside the DCJ beginning in the spring of 2022. Many prospective applicants were interviewed and a concerted effort was made to hire a staff with diverse backgrounds to foster a culture of non-traditional prosecutorial review. The Unit’s method of review focuses on independence, flexibility and transparency. The DCJ supports the concept that that the CIU staff should not just have experience prosecuting difficult cases. The CIU staff also must independently review cases based on their substantive merits even if the ultimate result will not support the prior conviction.

Title	Name	Started at CIU
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Sup ASA	Stacey Miranda	11/17/2023
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Attorney Miranda has 23 years of prosecutorial experience.

Insp.	John Betz	11/19/2021
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Inspector Betz has been a DCJ inspector for 10 years and retired as a Hartford Police Captain after 23 years with significant internal affairs experience.

SASA **Melissa Patterson** 8/25/2023

Attorney Patterson has almost 17 years of prosecutorial appellate experience.

Paralegal **Liz Dolbeare** 2/11/2022

Paralegal Dolbeare has 24 years in the State of Connecticut Public Defenders Legal Services Unit, Habeas Corpus Unit and CT Innocence Project.

Insp. **Jim Naccarato** 3/25/2022

Inspector Naccarato served with the New Haven Police Department for 23 years, retired from the East Haven Police Department as Deputy Chief after 7 years and has significant internal affairs experience.

Sup Insp. **Pete Acosta** 9/8/2022

Supervisory Inspector Acosta has been a DCJ inspector for 11 years and retired as a Waterbury Police Sergeant after 20 years with significant major crime investigative experience.

CONVICTION INTEGRITY UNIT

PREAMBLE

The Division of Criminal Justice (DCJ) has no more important obligation than ensuring the integrity of the convictions it has secured. Wrongful convictions are a blight on the moral authority of the criminal justice system, and they cause incalculable damage to the people who are condemned unjustly. A single wrongful conviction is too much for any honorable system to bear.

Mistakes and missteps are inevitable features of any project as complicated as the system for arresting and prosecuting criminal defendants. When the DCJ receives plausible and verifiable information that casts doubt on a conviction's integrity, it must launch a searching investigation that is free from ignoble concerns such as the embarrassment

of past misjudgments revealed. The investigation should be transparent, open, and earnest, with evidence of official misconduct being treated with particular urgency and candor. The people entrusted with overseeing the investigative process must be resolute and act with unimpugnable independence, recognizing that there is no higher public service than righting a wrongful conviction.

By developing a Conviction Integrity Unit, the DCJ acknowledges the role of prosecutors and law enforcement in past wrongful convictions, and more importantly acknowledges its duty to rectify past harms and safeguard the integrity of the criminal justice system going forward.

CONVICTION INTEGRITY REVIEW PROTOCOLS

The adoption of these protocols does not foreclose or preclude any other action a state's attorney may take concerning a conviction in which information is developed that has led that state's attorney to lose confidence in that conviction.

Initial Screen

The Conviction Integrity Unit (CIU) shall (1) Receive requests for review; (2) Confirm that the basic qualifications are met (See "Basic Qualifications" below); (3) If basic qualifications are met, make a recommendation to the CSA, based on priority and resources, to open an investigation; (4) Make this decision as expeditiously as possible given the complexity of the request and available resources. If those criteria prevent opening a case at this time, the CIU will indicate that to the claimant/requestor. If the criteria are not met, the CIU will respond to initial claimant/requestor. Additional information may also be requested from the claimant / requestor.

Basic Qualifications:

1. Claimant/Requestor can be a convicted person, attorney for a convicted person, representative of a convicted person, the Chief State's Attorney, a State's Attorney, the Civil Litigation Bureau, the Appellate Bureau, the Superior, Appellate or Supreme Court.

2. The convicted person must have been convicted in state court in Connecticut by trial or by guilty plea.

3. The convicted person need not be currently incarcerated or serving a sentence imposed in connection with the conviction. However, the CIU will prioritize the claims of convicted persons who are currently incarcerated or serving a sentence imposed in connection with the conviction.

4. The claim must identify plausible and verifiable evidence that, if true, would reasonably support a claim of (1) actual innocence or (2) cause a reasonable person to lose confidence in the conviction due to issues of official misconduct, discredited forensic or eyewitness evidence, the misapplication of forensic science, or due process violations. If the application presents evidence that was available but not presented at a previous trial (including habeas trials), the CIU may request the convicted person provide reasons why the evidence was not presented previously.

The following additional qualifications must be satisfied for any claims made by an attorney on behalf of the convicted person:

A. The convicted person's request for review will be considered in light of its consistency with any prior statements he/she made to law enforcement concerning the matter, any plea of guilty or, if applicable, his/her trial testimony, unless, in the case of prior statements, there is a legitimate reason to doubt the reliability thereof such as our greater understanding of false or coerced confessions.

B. The convicted person shall provide a written waiver/authorization which allows the CIU to contact and speak with previous attorneys regarding any non-privileged matters and allow the CIU access to the client file as maintained by the previous attorney and view any information other than privileged communications or attorney work-product contained within the file. The CIU retains the right to request additional privileged information from the convicted person. The convicted person always retains the right to refuse to waive the privilege. However, the CIU, on a material request may presume that a waiver refusal is due to information detrimental to their position and may prevent the CIU from substantiating important material evidence. This may lead to the CIU rejection of the convicted person's claim.

C. The convicted person may agree to be interviewed under oath by the CIU. Written statements by all parties questioned by CIU will be taken under oath, under penalty of false statement. Moreover, the convicted person must agree to provide physical evidence and biological samples to the investigators upon request, and fully cooperate in their investigation. Failure to cooperate with the investigators (subject to the privilege limitations outlined above) at any time may result in the termination of the review process.

Cooperation and Information Sharing with Defense Counsel

This is an independent DCJ inquiry. Given the different ethical obligations of the prosecutor and the attorney for the requestor, cooperation is required. The CIU prosecutors and investigators have an ongoing discovery obligation to defense counsel in these matters and will zealously follow those ethical guidelines.

The CIU will, at all times, attempt to conduct their inquiry in a cooperative manner with the convicted person and their counsel. The goal of the CIU will always be to find the truth and respect the rights of the victim and convicted person.

A. The CIU will provide open file discovery – of prosecutors' files, files from law enforcement, files from forensic labs, and files from other investigative agencies – to claimant / requestor's counsel. As necessary, the CIU will require counsel to execute confidentiality agreements or protective orders to facilitate the release of sensitive information.

B. If the CIU withholds any files from Petitioner's Counsel, the CIU will maintain a withholding log and provide the log to counsel.

C. To the extent possible, the CIU will conduct investigations jointly with claimant/requestor's Counsel.

D. The CIU will keep claimant/requestor's Counsel updated on progress and share memoranda and investigative plans during the investigation.

E. The CIU will report any exculpatory information gathered during a case review without delay to claimant / requestor's Counsel.

F. As a presumptive matter, forensic testing will be completed by the Connecticut Forensic Science Laboratory (Department of Emergency Services & Public Protection – Division of Scientific Services). If the Petitioner arranges for the testing to be done in a private lab under procedures approved by the CIU, the Petitioner must pay for the testing.

G. Once the CIU becomes aware of the existence of evidence in a case, the CIU will take the steps necessary to ensure its preservation.

H. The CIU will provide Petitioner/Petitioner's Counsel with an updated list of all such evidence.

Forensic Testing

The CIU will agree to forensic testing if recommended by the Forensic Review Panel (FRP) in all cases where a nexus exists between the biological material and the crime of conviction. The testing will presumably be done by the Connecticut Forensic Science Laboratory (Department of Emergency Services & Public Protection - Division of Scientific Services) unless there is a conflict or if the FRP recommends that another lab do the work.

The results will be made equally available to the CIU and to Petitioner/Petitioner's Counsel. In conjunction with these duties, the CIU will work as a liaison with the FRP. The FRP will be a resource available to CIU.

In cases referred to the CIU involving forensic evidence issues, that panel may evaluate the claims for scientific merit to assist the Conviction Review Panel in assessing whether evidence can be subject to new testing methodologies or re-testing. The FRP will be appointed by the CSA and consist of outside forensic experts in the particular areas in question. Selection of FRP members should be done in consultation with the CDLA and the CBA in order to foster trust in the process with the defense community. Funding should be allocated to members of the FRP for consultation on matters under investigation. The FRP should ensure that testing or re-testing decisions are based on the most up-to-date science

and help guide the CIU and CRP in assessing whether evidence that contributed to a conviction was based on a discredited forensic method or misapplied science.

Conviction Integrity Unit Review

The CIU shall receive each case accepted for investigation and prepare it for review by the Conviction Review Panel (CRP or Panel). The CIU will retrieve the disposed file, transcripts and copies of any relevant materials held by other agencies. The CIU will also attempt to make any victim of the underlying offense or their representative aware of the review. The CIU will review this material to uncover any potential issues and then provide the CSA and the Panel with a synopsis of the matter and an opinion on any of the issues presented. At the conclusion of the review, the synopsis and opinion will also be shared with Petitioner/Petitioner's Counsel. The review will be concluded as expeditiously as possible given the complexity of the request and available resources.

Any claims of improper testimony or testing of forensic evidence shall be referred by the CIU to a Forensic Review Panel (FRP). The FRP is necessary to make an initial, independent interpretation that testing particular samples is both scientifically feasible and likely to obtain a legally relevant result to the matter before the CIU. This decision will be made with an understanding that testing is preferred unless it would lead to confusing or irrelevant results. The FRP will consist of outside experts in the particular scientific areas in question appointed by the CSA to provide unbiased opinions on the validity of the claims. The FRP will prepare a report which will be included in the CIU synopsis presented to the Panel.

Structure of the Conviction Review Panel:

Members of the CRP shall be selected by the CSA in consultation with the Chief Public Defender and the Chief Justice of the Connecticut Supreme Court in a manner that fosters confidence in the review process. Permanent members of the CRP will be chosen by the CSA from among candidates nominated by the Chief Court Administrator and the CTLA/CBA after consultation with the CSA.

There shall be:

- (1) Two current or former prosecutors with no connection to the underlying conviction selected by the CSA appointed on a case by case basis.
- (2) One retired State of Connecticut Judge/Justice or Federal Judge as Permanent Member.
- (3) A Connecticut barred attorney nominated by the CTLA as Permanent Member.

The aforementioned group of four (4) shall be referred to as the “Conviction Review Panel” (the CRP or Panel).

CRP members who are not currently employed as full-time members of the DCJ shall be compensated for their work on the Panel based on available funding.

Action by the Conviction Review Panel

The Panel will review all material provided by the Conviction Integrity Unit. The Panel may ask for further review or investigation. At the conclusion of the review, the Panel will report its findings and any recommendation for further action to the Chief State’s Attorney and the State’s Attorney for the Judicial District in which the conviction occurred. The Panel will issue its conclusion and findings as expeditiously as possible given the complexity of the request and available resources. These findings, and the individual vote of each Panel member, will be made known to the claimant / requestor and their attorney, to any victim of the underlying crime and will be publicly available on the Division’s website.

The Panel shall be empowered to recommend or support all available and appropriate remedies, including recommending dismissal or expungement of the case, supporting a petition for the restoration of rights, moving for a reduction of sentence, or supporting a request for clemency, parole, or pardon when appropriate.

The State’s Attorney for the original jurisdiction will be presented with the Panel’s findings and recommendation, including any minority opinion. After consultation with the Chief State’s Attorney, the State’s Attorney for the originating jurisdiction will decide on the appropriate action required to do justice in the matter.

Root-Cause Analysis

A. In cases in which the Panel determines that there was a wrongful conviction, the CIU must conduct a root-cause analysis and draft a remedial/corrective action plan. At least one external expert must participate in the analysis and formulation of the plan.

B. The CIU must present the analysis and its plan to the Panel, the Chief State's Attorney and the State's Attorney of the Judicial District where the conviction occurred.

C. The CIU must convene a "sentinel event" or "all stakeholder review" in any wrongful conviction case in which people from more than one agency were involved. If ineffective representation was a contributing factor, a representative from the Office of the Chief Public Defender or the Connecticut Bar Association, if the client had private counsel, should be present.

D. The lessons learned from the root-cause analysis shall be the subject of ongoing DCJ trainings and policy development.

Evidence of Official Misconduct

The CIU must thoroughly investigate all plausible and verifiable allegations of official misconduct presented in an application.

If the CIU finds credible evidence of official misconduct during its investigation, it must report the evidence to the Panel, Petitioner/Petitioner's Counsel, the Criminal Justice Commission, the State's Attorney for the jurisdiction where the conviction occurred and the Chief State's Attorney.

Allegations of official misconduct revealed by the CIU will be investigated according to procedures established by the DCJ.

Transparency and Data Collection

A. Due deference to the need for confidentiality of case records and safety for potential witnesses is paramount. In addition, it is essential that the CIU implement reasonable measures to ensure transparency of CIU activity and to publicize the CIU's impact within the Office and within the larger community.

B. The CIU's policies and procedures that assist participants in case submissions and review, and what to expect from the CIU, shall be committed to writing and made available to the public.

C. The CIU should develop a case management database to serve as a log for all correspondence received from defendants, defendant's relatives, victims, interested parties, and attorneys.

D. The closure of any cases should also be marked in the case management database. In addition, any such closure should be accompanied by a written rationale that is communicated to the defendant.

REFERRED TO CONVICTION REVIEW PANEL

In June of 2022, the Conviction Integrity Unit submitted the case of State v. Daryl Valentine, CR91-0347896, CIU #2021-0728, for consideration by the Conviction Review Panel (Panel).

Panel members the Hon. Peter T. Zarella (Ret.), Criminal Defense Attorney Barry Butler, State's Attorney Michael Gailor, State's Attorney Christian Watson and the CIU Staff met three times - in June, August and November, 2022 - to discuss the Valentine matter. During the June and August meetings, the Panel requested that the CIU investigate and gather additional information.

The CIU received the Panel's unanimous conclusion, findings and recommendation in January 2023. This decision was forwarded to the Chief State's Attorney and New Haven Judicial District State's Attorney John P. Doyle, Jr., the State's Attorney for the originating jurisdiction for consultation.

The CIU also forwarded its Final Panel Submission Memorandum and additional documentation at the request of Mr. Valentine's attorney and victim's contact information to State's Attorney Doyle who will decide if any

appropriate action is required to do justice in the matter. As of December 31, 2023, there was no decision by State's Attorney Doyle

Per CIU Protocol, the CIU Final Panel Submission Memorandum, the Conviction Review Panel's written decision and recommendation, along with the vote of each panel member, has been made public by posting on the Division of Criminal Justice CIU website.

REFERRAL DIRECTLY TO STATE'S ATTORNEY

On April 7, 2023, the CIU issued a report in State v. Derrick Taylor, CIU #2022-0407-DT and forwarded it to the Hartford State's Attorney's Office (HSAO). The HSAO requested that the CIU gather certain documentation following a request for sentence modification. After reviewing the report written by the CIU, the Hartford Judicial District State's Attorney, Sharmese Walcott, agreed to a sentence modification. The petitioner agreed to withdraw a pending habeas and waive any future habeas, civil, or federal claims, and any other claims including further conviction integrity review related to his conviction. The petitioner received an agreed upon sentence modification of a time-served sentence which resulted in his immediate release from the Department of Corrections.

On May 16, 2023, the CIU issued a report directly to the New Haven Judicial District State's Attorney John P. Doyle, Jr. in State v. George Gould, CIU #2022-0316, regarding its Preliminary Synopsis and Findings. This matter was previously subject to review by the New Haven State's Attorney's Office. That review predated the CIU's formation.

The CIU also forwarded its Preliminary Synopsis and Findings and additional documentation at the request of Mr. Gould's attorney and victim's contact information to State's Attorney Doyle who will decide if any appropriate action is required to do justice in the matter. As of December 31, 2023, there was no decision by State's Attorney Doyle.

Per CIU Protocol, the CIU Preliminary Synopsis and Findings report has been made public by posting on the Division of Criminal Justice CIU website.

REFERRED TO FORENSIC REVIEW PANEL

There are two pending CIU referrals to the Forensic Review Panel (Case #s 2021-1019-CC and 2022-0509-MJ).

CIU STAFF TRAINING

In 2023, the prosecutors in the CIU participated in numerous trainings.

Supervisory Assistant State's Attorney (SASA) Stacey Miranda received training in Reimagining the Criminal Justice System, Professional Development for Supervisory Assistant State's Attorney's, The Law of Hate, and participated in the Annual Prosecutors Conference. SASA Miranda provided training in Sexual Assault and Abusive Head Trauma, Disciplines of MDT, Homicide Tool kit and Case Preparation.

Senior Assistant State's Attorney Melissa Patterson received training in NAAG Supreme Court Advocacy, Achieving Justice, Recent Public Acts involving gun violence and cannabis, Appellate Topics, the Annual Prosecutor's Conference, and Serving LGBTQIA+ Children and Families in the MDT process.

In 2023, all inspectors received training in Firearms, Axon, DCJ Policies, Extraditions, Witness Protection, Cold Case Interstate Subpoenas, and Search Warrants.

CLOSED CASES

In the year 2023, CIU closed 14 claims and had 123 claims remaining. All closed cases were accompanied by a written rationale that was communicated to claimant and/or counsel. CIU closed cases for failure to meet Basic Qualifications; Claim did not identify Plausible and Verifiable Evidence; Contained similar claims that had been extensively litigated in post-conviction proceedings; Claim was not material to the charges on which the claimant was convicted; Claimant admitted culpability; or Claim was constitutional in nature.

<u>Case Number</u>	<u>Date Closed</u>	<u>Reason</u>
2022-0213-BG	3/31/2023	Constitutional Claims

2022-0407-DT	8/1/2023	Sentence modification granted
2022-0606-FR	8/2/2023	Direction from attorney to have no contact
2023-0901-AB	9/6/2023	Not guilty verdict
2023-0904-AB	9/6/2023	Not guilty verdict
2022-0407-NG	9/13/2023	Commutation granted
2023-0904-DC	9/28/2023	No plausible and verifiable evidence
2022-0423-AB	9/28/2023	No plausible and verifiable evidence
2022-0501-SW	10/11/2023	No plausible and verifiable evidence
2022-0501-CG	10/27/2023	No plausible and verifiable evidence
2022-0510-SG	11/1/2023	No plausible and verifiable evidence
2023-1106-JC	11/7/2023	Failed initial screening – non-CIU issue
2023-1017-EH	11/14/2023	Application withdrawn
2022-0614-FW	12/8/2023	Commutation granted – no response
2022-0623-JS	12/8/2023	No plausible and verifiable Evidence

IN SUMMARY

In 2023, the CIU issued reports in the matters of *State v Darryl Valentine*, *State v. Derrick Taylor* and *State v. George Gould*. The reports have been made public by posting on the Division of Criminal Justice CIU website.

- Supervisory Assistant State’s Attorney Stacey Miranda was hired in November 2023 as the new supervisor of the CIU.

- In 2023, the CIU received 52 requests for case review.
- In 2023, the CIU reviewed and closed 14 cases. The CIU sends to the defendant and/or the attorney representing him /her, a written rationale for closure of the investigation.
- As of Dec. 31, 2023, the CIU had 123 pending cases in the investigation stage. In 2023, one matter was referred to the local State's Attorney for consideration of the Conviction Integrity Panel's recommendation.