

Conviction Review Unit San Mateo County District Attorney's Office

The Conviction Review Unit ("Unit") reviews and investigates claims of actual innocence raised after a criminal conviction, relating to offense or degree, regardless of whether the defendant is still serving a sentence. Claims of prosecutorial or other misconduct during the pendency of a criminal matter will continue to be fully investigated and handled in accordance with standard office policy.

The Unit shall consist of the Chief Deputy and two senior trial attorneys designated by the Chief Deputy. No assigned personnel shall conduct the examination and/or investigation into any matter that he or she was assigned as the primary prosecutor during the pendency of the initial prosecution. Any other Deputy District Attorney or Inspector assigned to assist in the examination and/or investigation of a conviction review case shall not have had responsibility for or substantial involvement in the initial prosecution of the case.

When confronted with a claim of innocence in any closed case, Deputy District Attorneys must notify the Chief Deputy.

Protocol

The initial review of all post-conviction claims of actual innocence shall be by the Chief Deputy, who will ensure that the claim is properly documented in the office case management system. The Chief Deputy shall review each claim to determine whether any further action or investigation is warranted. Generally speaking, that review will be limited to determining:

- whether the claim of innocence is based upon credible and verifiable evidence of innocence, or upon the existence of new technologies to test or retest remaining relevant evidence; and
- whether the applicant has agreed to fully cooperate with the Conviction Review Unit, which includes providing disclosure of all relevant information during the review process.

Conviction review shall not be limited to cases which proceeded to trial, as the possibility exists that an innocent defendant may have pled to a crime he or she did not commit to avoid a potentially more severe sentence.

If after conducting the initial review a determination is made that the claim does not warrant further investigation, the Chief Deputy shall notify the District Attorney of that conclusion and the reasons supporting it. If the District Attorney concurs, the Chief Deputy shall notify the defendant (and the requesting party if the request was not made by the defendant) and any known counsel that no further action will be taken on the claim.

Claims with strong indicia of actual innocence will be investigated by Unit personnel, as assigned by the Chief Deputy, and will typically consist of an assigned Deputy District Attorney and Inspector. Among other tasks, the assigned personnel will review trial transcripts, interview witnesses, and conduct other logical investigation as necessary.

Claims may originate from sources other than the convicted person, such as from the defense attorney or from an organization that advocates on behalf of persons claiming wrongful conviction. Requests submitted by others, without the consent of the convicted person, will not be reviewed. Absent unusual circumstances, claims must be submitted in writing, clearly setting forth the basis for the claim. The filing of formal court documents, or documents submitted under penalty of perjury, is not required.

Unit members shall comply with all Constitutional, statutory, and ongoing ethical obligations to promptly and fully disclose information uncovered by the post-conviction review process.

At the conclusion of the investigation, the Chief Deputy, as head of the Unit, shall determine whether all avenues of inquiry have been exhausted and whether based on the investigation there is a plausible claim of innocence undermining confidence in the integrity of the conviction. The existence of a reasonable doubt as to guilt will not necessarily result in a conclusion that the defendant is actually innocent; the standard is whether the review revealed, by clear and convincing evidence, a plausible claim of actual innocence undermining confidence in the conviction.

The Chief Deputy will report the findings of the review to the District Attorney who will make the final determination as to what action, if any, is warranted. Based upon the circumstances of the particular case, the District Attorney will decide whether to seek input from the law enforcement agency which investigated the case and/or from the victim or the victim's next of kin. Prior to announcing the decision, the District Attorney or Chief Deputy will notify the requestor, the victim (or victim's next of kin) and the involved law enforcement agencies of the District Attorney's decision. If the decision is that the District Attorney has lost confidence in the conviction, prosecutors will seek to have the conviction vacated.

To submit a claim of innocence, an Application for Conviction Review (available on our website) should be completed and delivered to the San Mateo County District Attorney's Office.