



FAIR AND JUST PROSECUTION

Promoting justice through leadership and innovation

STATEMENT OF PRINCIPLES

Conviction Integrity and Review

Key Principles and Best Practices for Ensuring Justice and Accountability

Fair and Just Prosecution (FJP) brings together recently elected district attorneys¹ as part of a network of like-minded leaders committed to change and innovation. FJP hopes to enable a new generation of prosecutive leaders to learn from best practices, respected experts, and innovative approaches aimed at promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility. In furtherance of those efforts, FJP provides district attorneys with best practices about a variety of critical and timely topics. For each topic, FJP has additional “Issues at a Glance” briefs available on the FJP website, as well as supporting materials, including model policies and guidelines, key academic papers, and other research. If your office wants to learn more about this topic, we encourage you to contact us.

OVERVIEW

Prosecutors must be leaders in ensuring that convictions are the result of processes that are fair, transparent, and consistent with the pursuit of justice. Conviction Integrity or Review Units (CIUs or CRUs) are well-settled vehicles for reviewing and, when necessary and appropriate, seeking to overturn convictions where there is evidence of actual innocence, prosecutor or law enforcement misconduct, or other considerations that undermine the integrity of the conviction.

CIUs now exist in over 45 jurisdictions across the country and there is a growing consensus around their importance as a mechanism for scrutinizing past cases where concerns arise in regard to the integrity of the conviction or the existence of misconduct that corrupted the process. As more of these units start to form around the nation, Fair and Just Prosecution has compiled these fundamental principles and best practices for offices to consider in formulating policies that will promote accountability and ensure the integrity of past convictions.

¹ The term “district attorney” or “DA” is used generally to refer to any chief local prosecutor, including State’s Attorneys, Prosecuting Attorneys, etc.

“Our obligation to do justice and to strengthen community trust in the criminal justice system does not end when a conviction becomes final.”

— KINGS COUNTY (BROOKLYN, NY) DISTRICT ATTORNEY ERIC GONZALEZ

The principles below are based on the following predicates:

- Community trust in the justice system is vital to the operation of that system and integral to promoting public safety;
- Community trust is eroded when individuals are wrongfully convicted or when systemic injustices occur; and
- Community trust is strengthened when an office has an effective mechanism for integrity review.

KEY PRINCIPLES AND BEST PRACTICES

Offices should establish a CIU or CRU, or some other similar process, to conduct review of past convictions when concerns regarding the integrity of the conviction arise. The following principles should be considered as key ingredients of that process:

- 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 respected senior lawyer** who reports **directly to the District 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 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

“We have an imperfect system. And wrongful convictions, although rare, do exist. And this is why it’s important to have a system in place to fix and minimize wrongful convictions.”

— 13TH JUDICIAL CIRCUIT (TAMPA, FL) STATE ATTORNEY ANDREW WARREN

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.
- 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.

Although these principles focus on the establishment and operation of a CIU, they should also inform office culture as a whole. With these principles in mind, offices should **transform performance metrics** that enforce a “win at all costs” mentality (such as basing performance or promotion on conviction rates) to a system that **recognizes and rewards prosecutors for doing justice**. Offices should also encourage open discussion, preferably with a designated ethics officer or some other high-level supervisor, about critical case-related decisions, keeping the pursuit of justice and the avoidance of wrongful convictions at the forefront of each decision.

For more information on this topic, see FJP’s Issue at a Glance brief on “[Conviction Integrity Units and Internal Accountability Mechanisms](#).”²

² Fair and Just Prosecution (2017), *Conviction Integrity Units and Internal Accountability Mechanisms*, <https://fairandjustprosecution.org/wp-content/uploads/2017/09/FJPBrief.ConvictionIntegrity.9.25.pdf>.

FOR MORE INFORMATION: Contact FJP at info@fairandjustprosecution.org

