



## CONVICTION INTEGRITY UNIT

The Conviction Integrity Unit (the "CIU") investigates claims of innocence, to determine whether there is clear and convincing new evidence that the convicted defendant was not the person who committed the conviction offense. As stated in the American Bar Association standards, Rule 3.8(h), "When a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit, the prosecutor shall seek to remedy the conviction." CIU makes recommendations to the Wayne County Prosecutor about the appropriate remedy (if any) that should result from its findings. The Wayne County Prosecutor makes all final decisions about whether a remedy should be provided to a person seeking review by the CIU.

The CIU is not a court and its work is not governed by court rules of procedure. CIU investigates claims of actual innocence based on new evidence; it does not function as a "13<sup>th</sup> juror" to review factual questions that already have been decided by a jury. Its mission is to determine whether new evidence shows that an innocent person has been wrongfully convicted of a crime, and to recommend steps to rectify such situations. Only a court can actually set aside a conviction.

### Overview of Procedures

This overview outlines the approach CIU usually takes in cases brought to its attention. Depending on the circumstances of a case, CIU may use a different approach suited to the unique facts of a specific case.

#### **Who can petition the CIU for review?**

Anyone associated with either the convicted person or the case may petition for relief based on innocence from a case prosecuted by the Wayne County Prosecutor's Office.

#### **What kinds of cases are eligible for review by CIU?**

CIU investigates claims that meet two essential criteria. First, the claimant must assert "actual innocence," which means that the defendant maintains that he or she was wrongfully convicted because he or she played no role in the criminal act(s) in question. Second, for the CIU to recommend that the conviction be overturned, the investigation

must lead to the discovery of new evidence that was not considered by the trier of fact (i.e., judge or jury) during the proceedings that led to conviction.

CIU may also, in its discretion, investigate other claims of actual innocence and/or wrongful conviction in extraordinary circumstances.

### **Are there kinds of cases that CIU will decline to investigate?**

Yes. Because its focus is on claims that could exonerate a defendant from any role in an offense, CIU generally will not investigate claims that newly discovered evidence supports an affirmative defense, such as consent, self-defense, or lack of intent. Similarly, CIU will not consider claims that a decision to prosecute was not appropriate or that a sentence was unfairly harsh.

### **Will CIU consider a claim where a defendant pled guilty?**

Yes, a defendant whose conviction resulted from a plea of guilty in a Circuit or District Court in Wayne County is eligible for consideration by the CIU. As noted, however, CIU only investigates claims by a person who asserts actual innocence, which requires that the claimant must have no criminal responsibility for the crime of conviction.

### **Must I solve the case in order to get relief?**

No. CIU exists to correct convictions of innocent people. A person can get relief even if the true offender is never identified nor prosecuted for the crime.

### **Who can file a claim with CIU? Must a lawyer be involved?**

Any person authorized by the defendant can file a claim with CIU. It may be filed by the defendant who was convicted of an offense, by a family member or friend of the defendant, or by a lawyer acting on behalf of the defendant. As long as the defendant authorizes the filing, CIU will accept claims from any source. A claim will receive attention regardless of whether it is submitted by a lawyer.

### **How is a claim filed?**

CIU has prepared a useful form that can be found on the website of the Wayne County Prosecutor. Although CIU will accept any writing that provides the necessary information, claimants are encouraged to use the CIU form, or to provide the data requested by the CIU form on a written document. CIU requires that claims must be brought to its attention in a written document, sent to the CIU through the U.S. Mail or an e-mail (sent to [vnewman@waynecounty.com](mailto:vnewman@waynecounty.com)). **CIU will not consider claims presented through telephone calls.** Claims can be submitted to:

Wayne County Prosecutor's Office, Conviction Integrity Unit  
Frank Murphy Hall of Justice  
1441 St Antoine,  
Detroit, MI 48226

### **When can a claim be filed?**

A claim can be filed with CIU at any time after the conviction is final; there is no requirement that the person be in custody when filing a claim. A person convicted of a felony in Wayne County does not have to reside in Michigan to seek relief from CIU.

### **Is CIU part of the appellate/post-conviction process provided by Michigan law?**

No. There are important differences between a review by CIU and any appellate filings. CIU was not created by statute, its investigations are not part of a court action, and it is not governed by court rules of procedure. CIU does not focus on determining whether important constitutional rights were violated, it focuses on determining whether an innocent person has been wrongfully convicted.

### **Who will investigate and evaluate the claim of actual innocence?**

Claims brought to CIU are reviewed and investigated by Assistant Wayne County Prosecutors and investigators assigned to the Conviction Integrity Unit. Consistent with its mission, CIU stands apart as an independent division within the Prosecutor's Office. It functions outside the traditional prosecutor function and its recommendations will be brought directly to the Prosecutor.

The Director, Assistant Prosecutors and Investigators in the Unit have decades of experience in the criminal justice system. They work full-time in CIU and they will not be involved in the investigation or prosecution of any pending criminal cases. No Assistant Prosecutor, police officer, or investigator who was involved in the prosecution of the case under review by CIU will play any investigative role in evaluating the claims brought to CIU.

### **What will happen after CIU receives a claim of actual innocence?**

CIU first reviews the claim to confirm the person's eligibility for consideration. This means CIU evaluates the claim to confirm that it arises from a case prosecuted by the Wayne County Prosecutor's Office and raises a claim of "actual innocence," i.e., does it allege facts which, if true, would exonerate the defendant from the crime of conviction? CIU also reviews the procedural history of the case to find out whether the evidence on which the claim of innocence is based has already been considered by the court which imposed judgment.

After satisfying itself that the claim is eligible, CIU conducts an investigation into the newly available evidence and into the history of the case. CIU lawyers review available materials from the criminal proceedings that led to conviction, including police reports, trial transcripts and pleadings. CIU investigators locate and interview witnesses who are identified as supporting the claim of innocence. To the extent that a claim requires new or additional forensic analysis of items of physical evidence, arrangements are made to perform those tests where feasible.

CIU may seek to interview the claimant to further explore claims of actual innocence. CIU also may ask to interview the attorney[s] who represented the claimant during the circuit court (trial or guilty plea) proceedings. CIU will not conduct such interviews, however, until after the claimant has the opportunity to consult with counsel, and if unrepresented request the appointment of counsel. If the claimant chooses to proceed without counsel then the claimant must make a knowing and intelligent waiver of the rights protected by the Fifth and Sixth Amendments to the United States Constitution. A claimant may elect not to waive those rights. In such circumstances, CIU will investigate the factual claims to the greatest extent possible.

CIU operates on the expectation that the claimant has produced (or will voluntarily make available) all the evidence, documents and information relevant to the claim of actual innocence that are in the possession or under the control of the claimant. CIU reaches decisions based on all the relevant information, and claimants who withhold information or who decide to release information in stages may be considered not to have participated in the review process in good faith.

CIU makes an effort to evaluate every claim of actual innocence brought to its attention. It cannot, however, give immediate investigative attention to every claim it receives.

## **Conflicts**

The WCPO will determine issues of disqualification and conflicts of Interest for CIU and WCPO personnel on a case by case basis.

## **How will I know what conclusions have been reached by CIU?**

CIU is aware that claimants are anxious to know that their claim has been received, that it is being considered, and that they will be advised of the decisions reached by the Unit. Upon receipt of a written claim, CIU conducts an initial screening process to determine whether the claim is eligible for consideration, based on the two criteria discussed above. If this initial review shows that the claim is not eligible, the claimant is notified in writing of that determination, and CIU takes no further action. If the review shows the claim is eligible for review, CIU will notify the claimant that it intends to investigate the factual merits of the claim.

Where appropriate, CIU will work with claimants or their counsel to pursue factual investigations. Claimants do not, however, enjoy an absolute right to have notice of all investigative activities or results obtained by CIU. To protect the integrity of its

investigation, CIU reserves the right to determine when investigative efforts and results should be disclosed.

Claimants will be informed of the conclusions reached by CIU about their claim. Further, claimants (and/or their authorized representatives) may request to meet with the Director of the CIU to discuss its conclusions and the recommendations CIU intends to forward to the Prosecutor.

### **What relief can be granted by CIU?**

CIU evaluates, investigates and recommends, but the final decision whether to agree to relief rests solely with the Wayne County Prosecutor. Further, the nature or form of any agreed upon relief likewise is a matter solely within the Prosecutor's discretion. Only a court can actually set aside a conviction.

### **If I disagree with the conclusions of the CIU investigation, what rights do I have for further review?**

The existence of the Conviction Integrity Unit does not create or confer any "right" on those who bring claims of actual innocence. For this reason, there is no "right" to appeal its determinations. Because CIU's investigation is not part of a court proceeding, CIU's decisions or recommendations do not prevent a claimant from raising the same claims of innocence in another forum, such as through a Motion for Relief from Judgment. All claimants who file papers with CIU should be aware, however, that the evidence developed by CIU during its investigation will be shared with other units within the Prosecutor's Office.