



## CONVICTION INTEGRITY UNIT

### CHARTER GUIDING PRINCIPLES

The Office of the Illinois Attorney General works with every part of Illinois' criminal justice system to ensure that victims' rights are preserved, the innocent are protected, and the guilty are convicted and punished. However, *wrongful* convictions destroy lives. Furthermore, such errors diminish faith in our criminal justice system and put victims and public safety at risk by allowing true perpetrators to escape punishment.

To pursue the truth and protect the innocent, the Office of the Illinois Attorney General has established a Conviction Integrity Unit (OAG-CIU) to investigate claims of actual innocence for forcible felony cases where new, credible evidence of innocence has been discovered or where new technologies now exist to test or retest remaining evidence.

The OAG-CIU shall conduct strategically collaborative, good-faith case reviews to ensure the integrity of challenged convictions, remedy wrongful convictions, and correct injustices uncovered. In cases where the OAG-CIU concludes actual innocence—where the person convicted did not commit the crime—the OAG-CIU will seek to identify the true perpetrator of the underlying crime(s).

The OAG-CIU will also collect and study data on the causes of wrongful convictions in Illinois in an effort to improve policies/procedures statewide and strengthen confidence in the criminal justice system overall.

The OAG-CIU shall seek the truth, respect crime victims, and regularly report its case review numbers to the public. To fulfill its mission, the OAG-CIU will operate independently from all trial, appellate, and post-conviction litigation units within the office, and will, whenever possible, approach its investigations and reviews in a non-adversarial manner, always with the goal of ensuring that justice prevails in each and every case.

## CASE REVIEW CRITERIA

To qualify for a conviction review, an applicant's claim MUST meet all the following eligibility criteria:

1. The applicant must have been convicted by an Illinois state court; the applicant's case cannot be a federal case.
2. The conviction must have been for a forcible felony; misdemeanors and infractions will NOT be reviewed. **NOTE:** "Forcible felony" means any felony which involves the use or threat of physical force or violence against any individual that results in great bodily harm or permanent disability or disfigurement, such as first or second-degree murder, criminal sexual assault, robbery, arson, kidnaping, or aggravated battery. (See 720 ILCS 5/2-8 for a complete definition)
3. The applicant must make a claim of actual innocence (i.e., the applicant did not commit or participate in the crime of which s/he was convicted).
4. The applicant MUST be incarcerated, currently serving time on the sentence imposed for the asserted claim of actual innocence.
5. There is newly discovered evidence that was NOT presented during trial NOR during post-conviction appeals (e.g., direct appeal, habeas corpus, etc.), or was not tested at trial.
6. The new evidence must be credible, verifiable and create a substantial probability of exoneration.
7. There cannot be any pending habeas corpus petitions, appeals or litigation of any kind.

**NOTE 1:** *The OAG-CIU may redirect an applicant to first apply for a post-conviction review through his/her local State's Attorney's Office (SAO) (for example, if the applicant's SAO operates an independent CIU). If an applicant has a pending post-conviction case review with their State's Attorney's Office/CIU, the OAG-CIU may defer its initial intake screening and/or subsequent review until the local State's Attorney's Office has made a determination.*

**NOTE 2:** *The OAG-CIU shall be authorized to undertake a review and investigation in cases that do not meet its intake criteria, IF doing so will serve the interests of justice. The interests of justice shall be served where the applicant alleges and the OAG-CIU concludes that further investigation is warranted to determine whether there is a substantial probability that the applicant is actually innocent.*

## **OAG-CIU INDEPENDENCE**

In view of the expanding body of evidence demonstrating that wrongful convictions occur with greater frequency than should be acceptable in any criminal justice system and based on the best practices employed in CIUs in other jurisdictions, the OAG-CIU shall be an independent unit that reports directly to the Attorney General or his designee.

The OAG-CIU shall have the independence and authority to review a wide range of issues relating to wrongful convictions. To ensure a full and fair review of each eligible case, OAG-CIU attorneys, investigators, and other staff shall operate independently—without authorization, direction, or participation from the original prosecutors, except as needed to obtain historical information about a case.

Furthermore, to the extent possible, the OAG-CIU shall not disclose or discuss ongoing investigations with personnel from other units within the Attorney General’s Office, other than the Attorney General or his designee. Nor will the OAG-CIU share information from ongoing investigations with other governmental entities, except when specifically required to do so by law, contractual agreement, or if approved by the Attorney General or his designee.

## **CASE RESOLUTION & REMEDIAL OPTIONS**

Once the OAG-CIU completes a full investigation and review, a recommendation will be submitted to the Attorney General. The recommendation will consider all information uncovered during the investigation, including but not limited to the following: 1) current technical guidance about the quality and reliability of the evidence; 2) relevant, current practices and standards; and 3) any other reliable evidence that was not previously presented at trial or during any post-conviction litigation.

After considering the factors above, the OAG-CIU shall determine whether the evidence, in the aggregate, creates a substantial probability of innocence. “Substantial probability” means that the totality of evidence is either irrefutable or satisfactorily compelling. If so, the OAG-CIU shall recommend that the Attorney General’s Office, in conjunction with the state’s attorney from the county of conviction, seek relief from the conviction.

The Attorney General shall have discretion to either accept or reject the CIU’s recommendations (in whole or in part). However, state’s attorneys retain primary jurisdiction (in their respective counties) to determine whether it is in the interest of justice to seek relief from a conviction or sentence.

If the determination is made that relief is not warranted, the OAG-CIU shall communicate, in writing, the reasons for its decision to the applicant or his/her attorney.

If the determination is made that relief is warranted, the OAG-CIU, in conjunction with the state's attorney, shall consider all available and appropriate remedies, which may include recommendations for: exoneration; vacating or reversing a conviction; or other post-conviction relief.

The OAG-CIU shall not unduly delay an applicant's release from custody whose entitlement to post-conviction release has been established. The Unit shall recommend conditional release of those individuals pending the formalization of the conviction being vacated.

### **VICTIM OUTREACH & ADVOCACY**

The process of uncovering wrongful convictions understandably creates pain, anguish, and concern among victims and their families and friends. Therefore, the OAG-CIU shall keep victims apprised of investigation results when the outcome may affect or change the nature of the conviction or sentence.

The OAG-CIU shall comply with all statutes and policies governing victims' rights and shall engage a victim representative, whenever doing so serves the victim or the interests of justice. Upon the Attorney General's decision to seek relief in a case, the OAG-CIU shall offer victims whatever support and resources are mandated and available.

### **ACCOUNTABILITY**

The OAG-CIU will report colorable claims of official misconduct committed by prosecutors, defense attorneys, law enforcement personnel, judges, and/or other government employees to appropriate authorities. The destruction or willful withholding of evidence from the OAG-CIU may likewise result in notifications to appropriate authorities. In either case, civil and/or criminal penalties may apply.

### **TRANSPARENCY**

The OAG-CIU reserves the right to determine when investigative efforts and results should be disclosed. Without compromising the integrity of its investigations and data, the OAG-CIU will conduct business in the most transparent manner possible, including but not limited to annual updates to its website on the number of cases submitted, under review, and recommendations accepted or rejected.

## **POLICY/PROCEDURE DEVELOPMENT**

The OAG-CIU's extrajudicial investigations provide critical opportunities to identify systemic gaps that go beyond individual errors. Proper analyses of evidence and data can lead to the development of policies and procedures that will prevent future wrongful convictions.

Accordingly, the OAG-CIU shall develop and maintain records to track errors and other causes of wrongful convictions uncovered during the course of its investigations and case reviews. Not less than once a year, this collected data shall be reviewed to proactively recommend policy and procedural changes statewide. The OAG-CIU shall establish well-defined methods to implement and train the office on these changes, and it shall publish its findings and policy changes on its website annually.