

INNOCENCE PROJECT

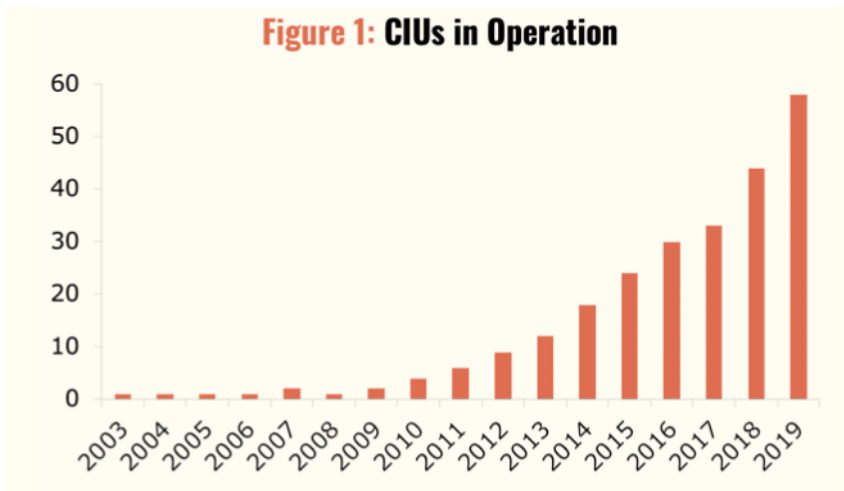
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Senate Bill 819A (Favorable)
Laurie Roberts, Innocence Project
House Committee On Judiciary
March 31, 2021

The Innocence Project is a national organization dedicated to freeing the innocent and working on changes to law and policy to strengthen the justice system. Since 1992, the Innocence Project has worked to exonerate 375 innocent men and women through DNA evidence.

When the state takes an innocent person’s liberty, the state has a responsibility to correct such a miscarriage of justice. According to the National Registry of Exonerations, which maintains a database of all wrongful convictions since 1989, Conviction Integrity Units based out of prosecutor’s offices have already exonerated 486 people nationwide since 2003. Ensuring that prosecutors have the tools available to correct injustices is critical to preventing, identifying, and correcting wrongful convictions.

With this legislation, Oregon would empower its prosecutors to engage in the same conviction integrity work that the many offices are doing around the country. Indeed, the number and rate of CIUs is increasing rapidly. At the end of 2019, we are aware of 59 CIUs in operation nationwide, a nearly 40% increase over the year before and four times the number of units since just five years ago (see figure 1 below illustrating the extraordinary growth in CIUs). We are aware of recently established CIUs in districts as varied as Orange Co., CA; Fulton Co., GA; St. Louis City, MO; Queens Co., NY; and for the entire state of Michigan.



Nationwide, CIUs achieved 59 exonerations in 2019 -- more than a third of all the exonerations that year. Almost two-thirds of those exonerations were accomplished in concert with an innocence organization, like the Innocence Project, the Oregon Innocence Project, or the Forensic Justice Project.

This data demonstrates that district attorneys around the country are already utilizing similar powers granted under SB 819A to exonerate innocent people and further the interests of justice. The ability to jointly petition

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the court for resentencing is crucial for correcting past wrongs. This is especially true in cases where there is strong evidence of innocence, but do not meet the current high bar for postconviction relief under Oregon Revised Statute 138.530. The Innocence Project has worked on numerous cases where grave doubts emerge about the conviction, but evidence has degraded beyond the capabilities of DNA testing technology, or the original police files have been lost, or other obstacles make an exoneration the grounds of actual innocence unlikely. In those instances, resentencing is a crucial middle ground. Resentencing can also ensure that a wrongfully convicted person does not spend even more time behind bars while their case is more thoroughly investigated.

For example, the Innocence Project recently obtained an exoneration for Felipe Rodriguez, who was convicted in 1990 and sentenced to 25 years to life for a Long Island, NY murder he didn't commit. Contributing factors to his wrongful conviction included a mistaken witness identification, perjury by several testifying witnesses, and official misconduct by law enforcement. By 2007, neither the Innocence Project nor the district attorney's office could locate the original police file and most of the physical evidence from the victim's body and clothing had been destroyed pursuant to the medical examiner's protocols at the time. Nearly a decade later, in 2016, because of doubts about the guilty verdict, as well as Felipe's extraordinary prison record, Governor Andrew Cuomo granted a petition for clemency and commuted his sentence to time served. Subsequently, at the Innocence Project's request, Queens County executive assistant district attorney Robert Masters commenced a re-investigation of the case.

As a result, additional reports and notes from the detectives' files were discovered that had never been disclosed to Felipe's defense; most crucially, evidence was discovered that Masters later told the Queens County Supreme Court could have "impeached the entire investigation." In light of those findings, the conviction was vacated and Felipe was declared innocent.

This example illustrates the need and goals for SB 819A. First, it shows that while clemency is a powerful tool for our clients, it is not sufficient because the process is incredibly lengthy and inherently political. Second, it demonstrates how motivated prosecutors are able to locate evidence that is often out of reach of innocence organizations and defense attorneys. Third, it shows how prosecutors and the defense can work collaboratively to reexamine old cases in the interests of justice. Finally, because the exoneration hinged on the participation of the elected district attorney, the power to bring Felipe home was in the hands of the local community.

Ultimately, SB 819A would not result in a single person immediately walking out of prison -- it merely establishes a *framework* for reconsideration *by a court*. A judge would still act as a check on the back end, and, moreover, no prosecutor would be required to utilize the tools granted under this legislation. But for those that do, CIUs nationwide have demonstrated the power of this kind of collaboration to correct the tragedy of wrongful conviction.

The Innocence Project applauds this committee for considering how prosecution and defense can work together to advance the interests of justice. We remain committed to being a resource to Oregon as it continues to pursue this work and support consideration of all of the elements of a robust conviction integrity framework. Please do not hesitate to contact me if I can be of assistance to lawmakers at lroberts@innocenceproject.org.