

The Conviction Integrity Unit (CIU) will begin operations January 11, 2021, as a part of the Jefferson County District Attorney's Office, Bessemer Division. The Protocols developed by this office for the establishment and operation of the CIU are as follows:

### **Introduction**

It is the duty of the prosecutor to protect the innocent before, during and after trial. The prosecutor is to seek truth and justice, not merely obtain convictions. Alabama Rules of Professional Conduct Rule 3.8 sets forth the special responsibilities of a prosecutor and includes the following:

The prosecutor in a criminal case shall:

- (1) Not willfully fail to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense; and
- (2) In connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.

When a prosecutor knows of clear and convincing evidence establishing that a defendant was convicted in the prosecutor's jurisdiction of an offense that the defendant did not commit, the prosecutor shall seek to remedy the conviction.

To promote best practices, the Office of the District Attorney has established a Conviction Integrity Unit (CIU) to formalize and standardize, within the 10th Judicial District, Bessemer, actions called for by the Alabama Rule of Professional Conduct Rule 3.8.

CONVICTION INTEGRITY UNIT • 10TH JUDICIAL CIRCUIT, BESSEMER • JEFFERSON COUNTY

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## **Eligible Cases**

The conviction must have occurred within the Bessemer Division of Jefferson County. The application must be based on new credible and verifiable evidence of innocence. The CIU will not attempt to act as a thirteenth juror and reweigh evidence. The CIU will not consider requests for review while any appeal, petition, or writ is pending in court. We retain the discretion to review any case if it is in the interest of justice to do so.

Any request coming from a convicted person or one other than a convicted person must include the convicted person's written approval of the request, including a completed Conviction Integrity Request Questionnaire form provided by the CIU which is available upon request or online.

## **Confidentiality Agreement**

In order for the CIU to consider a request for review, the convicted person must agree on the following cooperation:

1. The convicted person will waive privilege and share anything relating to guilt or innocence in the case.
2. The convicted person and the CIU must both consent to disclosure of material not already in the public record before any disclosure to any third party.
3. The Office of the District Attorney retains the right not to disclose the following:
  - a. Information that would compromise an investigation of an alternate suspect;
  - b. Information that would endanger the life of a witness; or
  - c. Information that is prohibited by law from being released.

## **Conviction Integrity Review Procedure**

Once a case is referred to the CIU, the procedure is as follows:

1. After initial screening, the Assistant District Attorney(s) assigned to further evaluate conviction review applications will review the request and either:
  - a. Request additional information which may include forensic testing and proceed to step 2 after receipt of information;
  - b. Determine that further review is needed and proceed to step 3; or
  - c. Decline review if no new evidence of actual innocence is present. If review is declined, the convicted person will be informed of the reason(s) and will be given an opportunity to respond.
2. Review additional information and either:
  - a. Determine that further action is needed and proceed to step 3; or
  - b. Determine that no further action is needed.
3. After submission of a case report and upon approval of the same, the Assistant District Attorney(s) will proceed with a full investigation. The CIU Assistant District Attorney(s) will work with a District Attorney's Office Criminal Investigator to complete the new investigation.

4. The original file, the new investigation and recommendation of the CIU Assistant District Attorney(s) will be forwarded to the Chief Assistant District Attorney and the District Attorney.
5. The District Attorney will render a decision after considering the recommendations of the CIU Assistant District Attorney(s) and the Chief Assistant District Attorney, and will base that decision on all available facts.

### **Procedural Request for Forensic Testing**

1. Initial investigation: The CIU will determine if evidence is available and assess its location and condition.
2. Authorization for testing: Testing of evidence must be approved by a member of the CIU. Decisions to test will be made on a case by case basis in consideration of the facts and circumstances of the case and relevance and materiality of the evidence.
3. Case review: Once testing is complete, the CIU will examine the claim and conduct further investigation if needed.

### **Victim Notification**

If the CIU decides to proceed with a full investigation, the Office of the District Attorney will notify the victim(s) of the case pursuant to the Alabama Crime Victims' Bill of Rights.

### **Conviction Review Report and Recommendation**

If the CIU conducts a full investigation, the CIU ADA will prepare a report summarizing the case facts, the issues presented by the application, and any investigative findings. The report will contain the CIU's recommendation and be presented to the Deputy District Attorney and the District Attorney. The decision to recommend or not recommend that the conviction be vacated rests with the District Attorney.

### **Standard for Decision to Recommend Vacating Conviction**

The standard to be used by the Jefferson County District Attorney's Office – Birmingham Division is “clear and convincing evidence” that a defendant was convicted in our jurisdiction of an offense the defendant did not commit.

A recommendation to vacate a conviction will be made if the District Attorney no longer has confidence in the conviction because of clear and convincing evidence of actual innocence.

## **Notification to Convicted Person**

The convicted person will be notified in writing of the District Attorney's final decision.

## **Annual Report**

The CIU will maintain records of cases reviewed and the decisions resulting from those reviews in a case management system. The CIU will present an annual report to the District Attorney.

## **Root Cause Analysis (RCA)**

Understanding that all human systems are fallible and that risks in a system can be minimized, the Office of the District Attorney strives to be a high reliability organization, which engages in self-monitoring and self-improving by incorporating established practices. The Office of the District Attorney shall create and maintain protocols around the conduct of RCA to reduce non-conforming work or departures from policies and procedures revealed during the conviction review process.

## **Office Training Resulting from RCA**

The CIU will assist with training programs to promote best practices and to reduce non-conforming work or departures from policies and procedures.

## **Notification to Other Agencies of Needed Changes Revealed by RCA**

Criminal justice agencies providing non-conforming work or departing from policies or procedures which is revealed by RCA will be notified. The Office of the District Attorney will offer to provide training for those criminal justice agencies.

## **Policy Statement**

As a general policy, the CIU will not investigate, in the absence of other compelling justification, claims where the convicted person knew or should have known the basis of his or her current claim at the time of the conviction, or where the convicted person now disavows his or her trial testimony and offers a different theory of innocence. Additionally, absent a compelling showing that a guilty or no contest plea was entered to avoid a more significant sanction, the convicted defendant must have continually maintained his or her innocence in order to merit review.

It is also the policy of the District Attorney's Office and the CIU to preclude any member of this office that participated in the prosecution of a case that is being reviewed from the decision-making process for that case.

# CONVICTION INTEGRITY REVIEW REQUEST

**Convicted Person's name:** \_\_\_\_\_  
last first middle

**Primary Language:** \_\_\_\_\_

**CIU Case No.** \_\_\_\_\_ (to be supplied by the DA's Office)

## **INSTRUCTIONS - READ CAREFULLY**

The Jefferson County District Attorney's Office, Bessemer Division may review, upon request, certain convictions that occurred in Jefferson County. This questionnaire is considered a person's request to have their claim of innocence reviewed.

### **The Conviction Integrity Unit will review cases that meet the following criteria:**

1. The conviction must have occurred in the 10<sup>th</sup> Judicial Circuit of Alabama - Jefferson County, Bessemer Division.
2. The applicant must present a claim of actual innocence (he/she did not commit or participate in the crime.)
3. The convicted person must be living. The CIU will not review convictions of a person who is deceased.
4. The conviction must be of a serious, violent, felony offense with individuals who are incarcerated being the highest priority of review.
5. The claim must be supported by information or evidence not previously litigated before the original trier of fact (Judge or jury).
6. The claim must be capable of being investigated and resolved, and if substantiated, would bear directly on the issue of innocence.
7. The CIU will not attempt to act as a thirteenth juror and reweigh evidence.
8. The CIU will not consider requests for review while any appeal, petition, or writ is pending in court. If during CIU review an appeal, writ, or petition is filed, the conviction review process will be halted until the Court render a determination on the new filing.
9. The claim must not be frivolous.

A plea of guilty is not a bar to review. However, the case will be subjected to a higher level of scrutiny.

The primary purpose of the CIU is to evaluate claims of innocence based on information and evidence not presented to the original trier of fact. The CIU will consider new information and evidence, along with information and evidence that had been previously presented. The CIU ***is not*** reviewing lawful sentences.

### **Initial each statement below to indicate your understanding and agreement:**

\_\_\_\_\_ Acknowledgement of receipt of the application by the District Attorney's Office does not indicate acceptance of the case for investigation, nor does it infer acceptance of the validity of the claim of innocence.

\_\_\_\_\_ Requesting review of your case by our office does not toll the time you have to pursue post-remedies, such as file an appeal or post-conviction motions.

\_\_\_\_\_ I understand this is an extrajudicial process and there is no right of appeal from declination by the CIU. All decisions made by the CIU, including the decision to accept an application in regard to re-opening a case investigation, as well as how the claim will be investigated and resolved, are at the discretion of the Jefferson County District Attorney's Office, Bessemer Division.

IF YOU ARE REPRESENTED BY COUNSEL,  
THIS FORM MUST BE SUBMITTED BY YOUR ATTORNEY.

Once completed, submit this questionnaire and attached documents to

[ciu@jeffcobessemerda.org](mailto:ciu@jeffcobessemerda.org)

Or mail to:

Office of the District Attorney, Bessemer Division  
Conviction Integrity Unit  
P.O. Box 1207  
Bessemer, Alabama 35021

**ALL COMMUNICATION WILL BE IN WRITING. PLEASE DO NOT CALL OR HAVE  
ANYONE CALL THE DISTRICT ATTORNEY'S OFFICE.**

The following information is required for the Conviction Integrity Unit of the Jefferson County District Attorney's Office, Bessemer Division to consider your request and determine whether the conviction will be reviewed:

1. Convicted person's date of birth: \_\_\_\_\_  
month day year

2. Last four digits of convicted person's Social Security number: \_\_\_\_\_

4. Is the convicted person incarcerated? Yes No

5. If presently incarcerated, please provide the following information:

a. AIS No. (Alabama Institutional Serial number): \_\_\_\_\_

b. Prison where incarcerated: \_\_\_\_\_

6. If not incarcerated, please provide the contact information for the convicted person:

a. Home address: \_\_\_\_\_  
street city state zip

b. Mailing address: \_\_\_\_\_  
street city state zip

c. Phone number: \_\_\_\_\_  
home cell

d. Email address: \_\_\_\_\_

7. Name and division of the court where the person was convicted and sentenced:

\_\_\_\_\_  
Name of Court Division

8. Date convicted: \_\_\_\_\_  
month day year

9. Date sentenced: \_\_\_\_\_  
month day year

10. Sentence received: \_\_\_\_\_

11. Expected release date: \_\_\_\_\_  
month day year

12. How was the person convicted? (Please check which one below.)

a. Jury Trial \_\_\_\_\_

b. Bench (Judge) Trial \_\_\_\_\_

c. Guilty Plea \_\_\_\_\_

13. Trial Attorney (represented the convicted person in the trial):

a. Name: \_\_\_\_\_  
last first middle

b. Address: \_\_\_\_\_  
street city state zip

c. Phone Number: \_\_\_\_\_  
office cell

d. Email Address: \_\_\_\_\_

14. Appellate Attorney (represented the convicted person in the appeal):

a. Name: \_\_\_\_\_  
last first middle

b. Address: \_\_\_\_\_  
street city state zip

c. Phone Number: \_\_\_\_\_  
office cell

d. Email Address: \_\_\_\_\_





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|--|-----|----|
| 18. Is the conviction currently being challenged on appeal?                    | Yes | No |
| 19. Is there a Post-Conviction Relief Appeal pending (Habeus Corpus, Rule 32)? | Yes | No |
| 20. Did the convicted person give a statement to law enforcement?              | Yes | No |
| 21. If there was a trial, did the convicted person testify in the trial?       | Yes | No |

**If the answer to either 18 or 19 is yes, a conviction review will not be done while those court actions are pending.**





25. You may attach exhibits or documents to this questionnaire to assist the Conviction Integrity Unit's examination of your request.

26. If submitted by someone other than the convicted person, please provide so that we can contact you:

- a. Your name \_\_\_\_\_
- b. Your address \_\_\_\_\_
- c. Your phone number \_\_\_\_\_
- d. Your email address \_\_\_\_\_
- e. Your relationship to the convicted person \_\_\_\_\_ - \_\_\_\_\_

27. If submitted by the convicted person, please sign below:

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Type or Print (Handwrite) Name

Date: \_\_\_\_\_  
Month Day Year

Once this questionnaire is received by the Jefferson County District Attorney's Office, you will be contacted and informed of the status of your request.