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After 83 people serve 888 years for crimes they didn't do, Ohio taking a second look at system

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Odds are that some Ohioans are living a fate worse than anyone should ever be ordered to endure.

Deprived of liberty, loved ones, livelihoods and day-to-day life, innocent people are confined to prison cells for crimes they did not commit, their existence shattered by a wrong that society has been slow to shed.

Wrongful convictions continue to afflict Ohio's justice system, the byproduct of mistaken eyewitness identifications, coerced false confessions, misconduct by police and prosecutors, and misleading forensic evidence.

The National Registry of Exonerations identifies 83 people who have been wrongfully convicted in Ohio since 1989, representing the cumulative loss of 888 years of their lives behind bars — an average of 10.6 years each.

The total includes 32 people convicted of murder, including eight men who once sat on death row.

Ohio's top jurists say the time has come to make a concerted effort to minimize the number of wrongful convictions.

Supreme Court Chief Justice Maureen O'Connor is establishing a Task Force on Conviction Integrity and Postconviction Review, with members to be named this week and recommendations due by the end of the year.

"We know from exoneration data that justice isn't always served in our state, and this task force would be a great first step in making improvements," O'Connor said.

She called instances of wrongful conviction "troubling," speaking of many that involve mistaken eyewitness identification. She hopes the task force will identify ways to reduce wrongful convictions and potentially find a mechanism to review questioned cases that slip through.

With more than one-third of Ohio's total, Cuyahoga County, which includes Cleveland, has accumulated the largest number of wrongful convictions at 30, with Franklin County a distant second at 11.

What is the compensation for being deprived of freedom and confined in prison while innocent? The state calculates such a bottom-line figure, one critics call laughingly low considering the price paid.

State law now values loss of liberty at \$55,046 a year, with Ohio paying out \$30.7 million in damages for wrongful imprisonment to 57 freed prisoners since 1981.

Putting the pieces together

Against the odds, the work of Mark Godsey at the University of Cincinnati and his team of lawyers and law students has led to freedom for 28 people.

"For every single one of them, you could say but for this miracle and that miracle ... we found the right person at the last moment ... every single one of them required coincidence after coincidence," he said.

As co-founder and director of the Ohio Innocence Project, Godsey notes other effects of wrongful convictions and their ongoing peril to public safety.

"Every time you convict an innocent person, the true perpetrator remains on the streets to commit more crimes."

He notes cases where potentially innocent people remain in prison, beyond even the help of his crusade: "Witnesses are dead. Evidence is destroyed. We're missing that last piece."

The Ohio Innocence Project put the pieces together for Ricky Jackson, one of three Cleveland men convicted of murder in 1975 on the basis of bogus testimony by a 12-year-old boy intimidated by police.

Sent to death row at age 18 as the alleged gunman, Jackson was released at age 57 in 2014 after wrongly serving 39 years, three months and nine days in prison. At the time, that stretch was the longest an innocent man had spent behind bars in the U.S.

Godsey said criminal forensics and eyewitness identification techniques must be improved to help lessen wayward convictions. "One of the leading causes is forensics are not properly validated and the results are overstated in court. It's a national crisis."

Prosecutors' duty to justice

In a letter to O'Connor last year urging the appointment of a task force, Justice Michael Donnelly suggested that prosecutors fight to protect verdicts and convictions.

"Too often, it is not enough that parties possess either newly discovered evidence or an ability to directly refute the theory of guilt that was used to convict them in the first place.

"Long delays, zealous opposition focused solely on protecting the verdict and a general reluctance to revisit a settled matter often frustrate many of the stakeholders in the criminal justice system," Donnelly wrote.

O'Connor added that "official misconduct," such as police and prosecutors withholding favorable evidence from defendants, "crops up an awful lot."

"I think the overarching role or duty of a prosecuting attorney is to seek justice, and that's every step of the way," she said. "The duty to seek justice doesn't stop once the trial is over."

Lou Tobin, executive director of the Ohio Prosecuting Attorneys Association, said, "No prosecutor wants to convict an innocent person. They have a duty to seek the truth. We have a lot of safeguards in place to prevent wrongful convictions, but it never hurts to take a look at things."

Tobin said prosecutors have an ethical responsibility "to get people out of prison who demonstrate actual innocence. Most of our prosecutors have shown a willingness to do that."

He pointed to Cuyahoga County's conviction integrity unit as a good model for prosecutors reviewing cases in which evidence and verdicts are called into serious doubt following criminal convictions.

Ohio Public Defender Tim Young, who has been asked to serve on the task force, said, "It's a nightmare to imagine. It's hard to imagine much worse than being locked up for decades of your life for something you didn't do."

With mistaken eyewitness identification a major factor in wrongful convictions, Young said there should be rules of evidence or "scientific processes" to test the reliability and accuracy of witnesses' recall.

Young said nearly everyone has called out on the street to a person they think they recognize, only to discover it's a stranger. "We want to believe our eyes are like cameras, and they are not. They resolve missing pieces of the pattern with what is most familiar to us."

A statewide "innocence commission" could examine the most controversial cases to offer an opinion on guilt and innocence, he said.

"The strength of the system is measured on error correction. How willing are we to fix our mistakes and prevent future mistakes?" Young asked.

While DNA evidence is "very effective in helping to solve and exonerate people" in serious crimes, it's only available in a fraction of cases, often the most serious, he said.

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