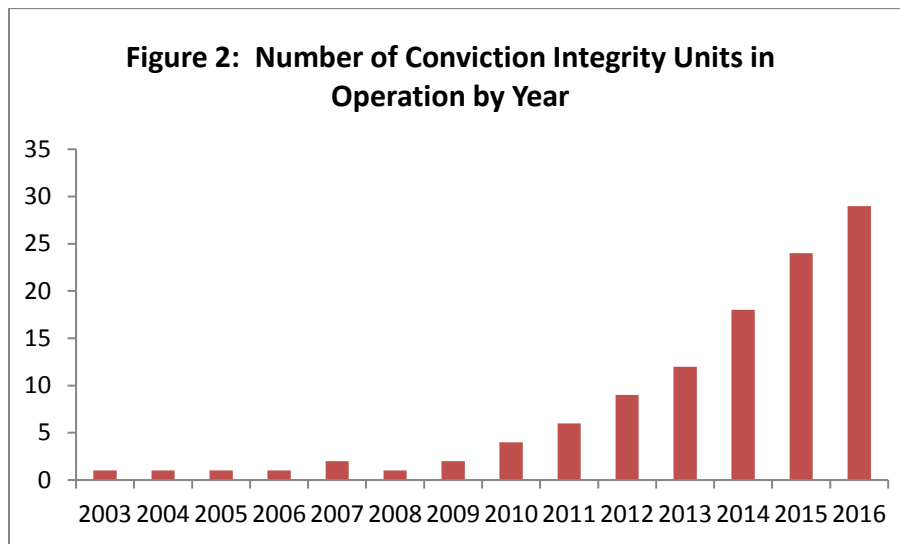


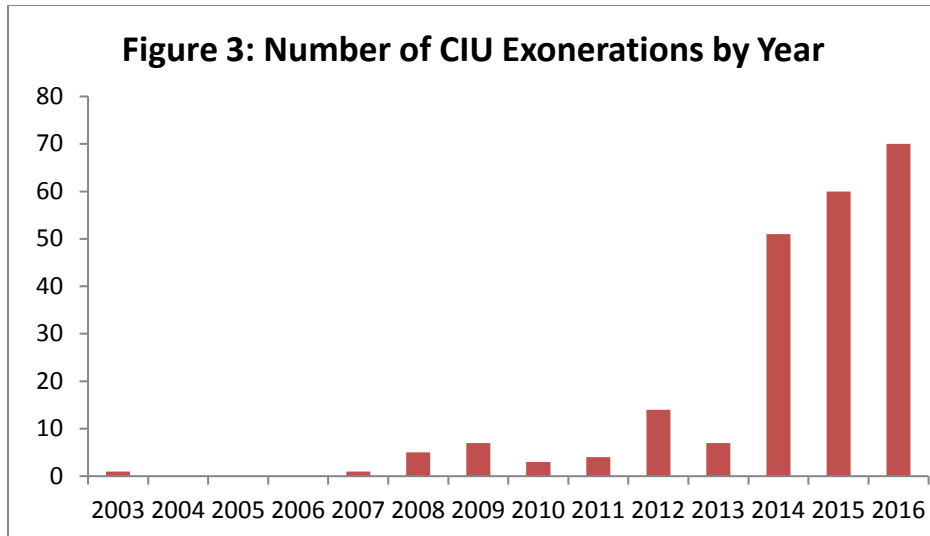
### **III. Conviction Integrity Units**

A Conviction Integrity Unit (CIU) is a division of a prosecutorial office that works to prevent, identify, and remedy false convictions. In our reports on exonerations in 2014 and 2015, we discussed the rapid growth in the number of CIUs and CIU exonerations since 2007. These trends have continued. Three new CIUs began operation in 2016, and one folded. In addition, we have learned of two CIUs that were in existence in 2015 but not included in our Report, bringing the total to 29. See Figure 2.



Conviction Integrity Units<sup>1</sup> have been involved in 225 exonerations through 2016, mostly in the last three years. A record 70 of these CIU exonerations occurred in 2016. See Figure 3.

<sup>1</sup> The Conviction Integrity Units we count are long-term operations that work to prevent, identify, and remedy false convictions. These units all operate under the authority of local prosecutors with primary responsibility for prosecuting crimes in a county or district. Most but not all are called “Conviction Integrity Units,” the term we use as a general reference. We list every prosecutor’s office that claims to have a Conviction Integrity Unit for which we were able to contact an employee of the office who verified the CIU’s existence. We do not include structures within prosecutors’ offices that have no dedicated staff or only function intermittently, such as innocence panels or committees that meet periodically to make recommendations on how to respond to claims of innocence from outside parties. We also do not include four one-shot projects that we know of that were set up to review particular sets of cases for possible errors: (i) a review of cases with potentially flawed forensic evidence in Wayne County, Michigan, *see* Doug Guthrie, “Legal unit to monitor Detroit gun cases,” *Detroit News*, December 13, 2008; (ii) a review of homicide cases by the [Milwaukee](#) County DA’s office because of concerns about DNA collection procedure; (iii) a state-wide effort to identify old cases for DNA testing in [Connecticut](#); and (iv) a similar state-wide project in [Colorado](#).



Since 2014, a majority of all exonerations have been the work of CIUs, largely because of the high number of drug-possession guilty plea cases. (We also know of [seven CIU exonerations to date in 2017](#), including 2 drug-possession guilty plea cases, out of a total of [21](#) exonerations thus far in 2017.) In addition, in 2016 the CIU in Cuyahoga County, Ohio initiated a 43-person “group exoneration” that is discussed in in our companion report on **Race and Wrongful Convictions in the United States**.

In Table A in the Appendix, we summarize information about these units, including the numbers, dates, and crimes of any exonerations they handled. As Table A shows, the 225 CIU exonerations through 2016 are very unevenly distributed among the offices. Eighty-five percent (193/225) occurred in four counties: Harris (128), Dallas (25), Kings (23) and Cook (20), and more than half are drug-crime guilty plea cases from Harris County (124/225).

In an earlier report, we said that “several Conviction Integrity Units have accomplished a great deal in a short period of time. They may have initiated a fundamental change in the way false convictions are addressed in the United States, but that remains to be seen.”

That is still true. A few of the Conviction Integrity Units have indeed accomplished a lot, and there has certainly been an uptick in the number of offices that claim to have formed CIUs. It is still too soon to know how much of a change this trend will produce, but we can say something about what these units have been doing. (Much of the basis for the comments that follow is contained in the information presented in Table A in the Appendix.)

- **County Populations.** There are over 2,300 local prosecutorial offices in the United States, serving populations that range from several hundred to several million. Table A shows that Conviction Integrity Units are concentrated in large counties. The three most populous

counties all have CIUs (Los Angeles, Cook, and Harris); so do six of the top 10, 11 of the top 20, and 18 of the top 50. In theory at least, there are CIUs in counties with approximately 17% of the national population.

As we have noted before, a dedicated CIU—one with its own assigned attorneys who work only or primarily on claims of wrongful conviction—is not feasible in a small office with only a handful of prosecutors. It makes sense that several CIUs with dedicated full-time staff are located in some of the largest prosecutorial offices in the country.

Smaller jurisdictions can, however, adapt the structure of CIUs created in larger offices to serve the same function in a smaller setting. Some mid-size jurisdictions have combined conviction integrity review with another specialized unit. San Francisco, for example, has recently formed an Independent Investigations Bureau, which focuses on police misconduct as well as conviction integrity.

At least one prosecutor in a small county has found a way to adjust the CIU model to fit his constraints. The District Attorney’s Office in Putnam County, New York, has fewer than a dozen lawyers in a county of 99,710 people. The District Attorney and the First Assistant District Attorney review claims of actual innocence. If they agree that the defendant is likely innocent, they ask a local defense attorney to take the case and do any additional reinvestigation that may be necessary. If the District Attorney and his First Assistant do not agree, a third lawyer in the office serves as a tie-breaker. This procedure led to the 2016 exoneration of [William Haughey](#).

- **Numbers of Exonerations.**

- ♦ **The CIU exonerations we list.** The CIU exonerations we count are, of course, all exonerations by [the criteria](#) for inclusion in the Registry. In addition we [require](#) that:

A Conviction Integrity Unit in the prosecutorial office that prosecuted the exoneree helped secure the exoneration. (This does not necessarily mean that the prosecutorial office in question made a factual determination that the defendant is innocent.)

Because we are not privy to the internal decision making in prosecutors’ offices, we contacted all CIUs in counties that have had exonerations to ask which ones they “helped secure.” Our classifications are based on their designations.

How much the CIU did to help secure the exoneration varies greatly from case to case. At the high end, for example, [Stephen Brodie](#) was exonerated in 2012 in Dallas, 17 years after he was falsely convicted of child sex abuse, based entirely on an investigation that was initiated by the Dallas County CIU after Brodie’s father wrote to the unit. Most CIU

exonerations, however, were initially investigated by defense attorneys, innocence organizations, journalists, or others. We leave it to the CIUs themselves to decide whether their role qualifies under our criteria.

- ◆ **Numbers of CIU exonerations by county.** Over half of all CIUs have not been involved in any exoneration (15/29). To some extent, that is to be expected. Three CIUs began their operations in 2016 and need time to get underway. On the other hand, the CIUs in Nassau, Oneida, Suffolk, and Sacramento counties have had no exonerations in four years of existence. In contrast, the Lake County, Illinois CIU was founded the same year, and they have had three exonerations (including one in 2017). Those in Cuyahoga,<sup>2</sup> the District of Columbia, Pima, and Yolo have had no individual exonerations in three years, four others have had none in two years, and a few CIUs that had one or more exonerations in the past have had none for years.

At the other end of the range, three CIUs have been notably active. The Dallas CIU has had 25 exonerations for violent felony convictions over the last ten years. Kings County has had 23 CIU exonerations—including 19 murder cases—in the past five years. And Harris County has had 123 drug crime exonerations since mid-2014.

- **Accessibility.** Three indications of accessibility are presented in Table A. Under “*Web Address*” we post a link to the Internet address of the CIU that provides information about the unit, or indicate “No” if we could not find that information. Under “*Contact Info*” we enter a “W” if contact information for the CIU can be found on the general office web site, and we enter a “P” if we were able to get that information and our calls were answered or returned by an attorney in that unit by calling the general access telephone number for the prosecutorial office.

We found web addresses for twelve CIUs, nine of which could also be located on the general office web site or by phone or both. Eight of the CIUs without web addresses could be contacted by telephone; nine of the 29 could not be found by any of these means.

This does not mean that these nine units do not exist. We have been in contact with an attorney or the press office in each of these offices to confirm its existence. But reaching them required significant research, repeated calls, or, especially, personal contacts within the offices.

As a result, it appears that these units are not, as a practical matter, accessible to the public at large. In particular, innocent criminal defendants and concerned family members who seek

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<sup>2</sup> However, as we have noted, in 2016 the Cuyahoga County, Ohio, CIU initiated a 43 person “group exoneration” that is discussed in our companion report on **Race and Wrongful Convictions in the United States**.

exoneration are not likely to be able to present their cases to these CIUs, unless they can afford to hire lawyers.

Three CIUs that do not have dedicated websites are located in offices that underwent changes in leadership after the 2016 election (those in Harris, Cook, and Travis counties). Very likely they will make that information available soon. But several others that are equally difficult to find—those in Santa Clara, Baltimore City, Oneida, Suffolk, and Middlesex counties and in the District of Columbia—have been in existence for years.

Conviction Integrity Units are a positive development, but they are not a panacea.<sup>3</sup> Prosecutors who take on the task of reviewing convictions obtained by their own colleagues and predecessors may find it difficult to be objective and thorough. Particular units have been criticized as mere window dressing, or public relations ploys.<sup>4</sup> These criticisms may be fair when a prosecutor's office benefits from the positive publicity it gets from announcing the creation of a unit that ultimately produces no exonerations and is difficult even to access.

Some CIUs with few or no exonerations may have focused their efforts less on reviewing past wrongful convictions and more on preventing future mistakes. The Suffolk County CIU, for example, takes partial credit for a program to reform the practice of obtaining eyewitness identifications. And the New York County (Manhattan) CIU has devoted a great deal of systematic attention to identifying sources of preventable erroneous convictions, and has assembled an external Policy Advisory Panel to help in that work.<sup>5</sup> Others—for example the Philadelphia County CIU—are now expanding after operating for years with a minimal staff.

That said, we could find little in the records of several CIUs to answer the criticism that they are mere window dressing.

The variability in the performance of CIUs reflects the fact that they are internal organizational choices of the elected prosecutors who create them. The prosecutor may choose to create a unit with the resources and authority to conduct rigorous reexaminations of questionable convictions, or she may be satisfied with something more passive.

The 123 drug-crime guilty plea exonerations by the Harris County CIU, and the five similar cases by the Multnomah County CIU, turn entirely on drug tests by crime labs. The work of the

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<sup>3</sup> For a detailed discussion of the issue, see Barry Scheck, [Conviction Integrity Units Re-Visited](#), Ohio St. J. Crim. L. (forthcoming 2017).

<sup>4</sup> See, e.g., id.; Elizabeth Barber, [Dallas targets wrongful convictions, and revolution starts to spread](#), Christian Science Monitor, May 25, 2014; Hella Winston, [Wrongful Convictions: Can Prosecutors Reform Themselves?](#) The Crime Report, March 27, 2014.

<sup>5</sup> See Scheck, [Conviction Integrity Units Re-Visited](#), supra, at pp. 36-37.

CIU is limited to obtaining the tests (or learning about them) and arranging for court proceedings in cases where they prove innocence. That is a considerable task in Harris County, with hundreds of cases to review and defendants to exonerate, based on convictions spread out over a dozen years,<sup>6</sup> but the process is straightforward and can be accomplished entirely within the law enforcement community.

The murder and sexual assault exonerations that dominate the work of the Dallas and Brooklyn CIUs are entirely different. Each requires a detailed, on-the-ground reinvestigation of a violent crime that occurred years if not decades earlier. Most require assessments of the credibility of witnesses. Many include a history of serious misconduct by prosecutors or police. Almost all benefit greatly from the cooperation of the defendant and her lawyers.

In that setting, a close working relationship between a CIU and the criminal defense bar has obvious advantages.<sup>7</sup> The two CIUs that have been most successful in violent crime exonerations—those in Dallas and Brooklyn—were both set up with the help of local defense attorneys, public defenders, and innocence organizations. The Dallas CIU has always been run by an attorney with a background in criminal defense and innocence work. The Brooklyn CIU was designed with the assistance of a former public defender, and has an external review panel including defense lawyers. This model was most recently adopted by the newly-formed Clark County CIU in Las Vegas, Nevada, which will be run by a veteran public defender.

Most CIUs, however, have no formal relationship with the defense bar. And in at least one county, this model was tried but failed. The Orleans Parish CIU in New Orleans began in late 2014, during the district attorney's re-election campaign, as a one-of-kind partnership with the Innocence Project New Orleans. The unit began operation in January 2015, worked on one exoneration, and was disbanded one year later.<sup>8</sup>

In one respect, this is a growth industry. From 2013 through 2016 the number of Conviction Integrity Units has increased by nearly 250%, and the total population served by a county CIU has grown by nearly 23 million. We expect the number of CIUs to continue to increase. Beyond that, however, we make no predictions.

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<sup>6</sup> In addition to the 123 exonerations we report in the Registry, the Harris County District office has dismissed a comparable number of cases in which post-guilty plea lab revealed that the seized substance included a lesser quantity of the drug than required for the specific crime the defendants pled to, or a different controlled substance than the one specified in the plea. Such cases do not count as exonerations by our criteria because they include unexplained physical evidence of guilt of crimes closely related to those of which the defendants were convicted.

<sup>7</sup> See Scheck, [Conviction Integrity Units Re-Visited](#), supra; Barry Scheck, [Professional and Conviction Integrity Programs: Why We Need Them, Why They Will Work, and Models for Creating Them](#), 31 Cardozo L. Rev. 2215 (2010).

<sup>8</sup> John Simerman, [Cannizzaro, Innocence Project call it quits on project to unearth false conviction](#), The New Orleans Advocate, Jan. 9, 2015.

A few CIUs have been highly active; several show no real signs of life. Some are just getting underway; the rest have been involved in one exoneration, or a couple, over a period of years. Some CIUs are accessible and transparent; some are inaccessible and opaque. The structure and the operating procedures of the units, to the extent that we have been able to determine, are extremely variable.

One of the hallmarks of the American system of criminal justice is the extraordinary and unreviewable power that is vested in local prosecuting attorneys. The short history of CIUs reflects that. They have proliferated rapidly because local prosecutors have the authority to create such units as a matter of administrative discretion. They are as variable as the circumstances and preferences of the prosecutors who founded them. Their future will turn on the policies of the elected prosecutors who will lead those offices in the years to come, and on the political contexts in which they operate.

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*The [National Registry of Exonerations](#) is a joint project of the University of California Irvine Newkirk Center for Science and Society, the University of Michigan Law School, and the Michigan State University College of Law. It provides detailed information about every known exoneration in the United States since 1989—cases in which a person was wrongly convicted of a crime and later cleared of all the charges based on new evidence of innocence.*

**Appendix Table A: Conviction Integrity Units and CIU Exonerations, by County and Year**

County	State	Population <sup>1</sup>	Web Address	Contact Info – Web	2002	2003	2004-	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	TOTAL <sup>2</sup>
Santa Clara	CA	1,862,041	No			<u>1M</u>		<u>1R</u>		<u>1SA</u>			<u>1SA</u>					<u>4</u>
Dallas	TX	2,368,139	<a href="#">Yes</a>						<u>1M, 2M, 2SA, 3SA, 1K</u>	<u>2CSA</u>	<u>1CSA</u>	<u>3CSA, 1R</u>	<u>1M, 3SA, 3R</u>		<u>1SA, 1R</u>			<u>25</u>
Harris	TX	4,092,459	No	P							<u>2SA, 1D</u>	<u>1CSA</u>			<u>1R, 31D</u>	<u>44D</u>	<u>48D</u>	<u>128</u>
New York	NY	1,585,873	<a href="#">Yes</a>	W, P									<u>2R, 1A</u>	<u>1SA</u>			<u>1M</u>	<u>5</u>
Kings	NY	2,504,700	<a href="#">Yes</a>	P									<u>1A</u>	<u>1M</u>	<u>10M</u>	<u>5M, 1B, 1G</u>	<u>4M</u>	<u>23</u>
Baltimore City	MD	621,342	No												<u>3M</u>		<u>1M</u>	<u>4</u>
Cook	IL	5,194,675	No										<u>4M, 2M</u>	<u>1SA</u>	<u>4M</u>	<u>3M</u>	<u>3M, 4D</u>	<u>20</u>
San Diego	CA	3,211,252	<a href="#">Yes</a>	W, P										<u>1M</u>				<u>1</u>
Lake	IL	703,462	<a href="#">Yes</a>	P												<u>1M, 1SA</u>		<u>2</u>
Oneida	NY	234,878	No															<u>0</u>
Middlesex	MA	1,503,085	No													<u>1SA</u>		<u>1</u>
Nassau	NY	1,339,532	No	P														<u>0</u>
Sacramento	CA	1,418,788	<a href="#">Yes</a>	P														<u>0</u>
Suffolk	MA	722,023	No															<u>0</u>
Ventura	CA	839,620	No	P												<u>1M</u>		<u>1</u>
Cuyahoga	OH	1,280,122	<a href="#">Yes</a>	W, P														<u>0</u>
Dist. Columbia	DC	601,723	<a href="#">Yes</a>															<u>0</u>
Multnomah	OR	756,530	No	P														<u>5</u>
Philadelphia	PA	1,526,006	No	P													<u>1M, 1AM</u>	<u>2</u>
Pima	AZ	1,003,235	<a href="#">Yes</a>	W, P														<u>0</u>
Yolo	CA	204,593	<a href="#">Yes</a>															<u>0</u>
Bexar	TX	1,714,773	<a href="#">Yes</a>	W, P												<u>1A</u>	<u>1A</u>	<u>2</u>
Los Angeles	CA	9,818,605	No															<u>0</u>
Orleans <sup>3</sup>	LA	NA	NA	NA												<u>1M</u>		<u>1</u>
Tarrant	TX	1,809,537	<a href="#">Yes</a>	W, P														<u>0</u>
Travis	TX	1,024,266	No															<u>0</u>
Putnam	NY	99,710	No	P													<u>1AN</u>	<u>1</u>
Clark	NV	1,951,269	No	P														<u>0</u>
Orange	NY	372,813	No	P														<u>0</u>
San Francisco	CA	805,235	No															<u>0</u>

**Key**

**Format:**  
 For each county, shaded years are those without a CIU, unshaded years are those with a CIU, and highlighted years are those with CIU exonerations.

**Exonerations by crime:**  
 For each year in which a county had one or more CIU exonerations, we list the number of CIU exonerations for each type of crime, coded as follows:

- A – Assault
- AN – Arson
- B – Burglary
- CSA – Child Sex Abuse
- D – Drug Possession
- G – Gun Possession
- K – Kidnapping
- M - Murder
- R – Robbery
- SA – Sexual Assault (adult)

For example, “2SA” means that there were two CIU Sexual Assault exonerations in the county in that year.

**“Contact Info - Web” Column:**  
 W – Contact information found on office Web site  
 P – Contact information provided by Phone

**TOTAL Population 51,170,286**

**TOTAL CIU Exonerations 225**

1. All population figures are from the 2010 United States Census.  
 2. The pages at the links for *Dallas*, *Harris*, *Kings*, *Lake*, and *Los Angeles* counties, and for *TOTAL CIU Exonerations*, include additional exonerations that occurred in 2017.  
 3. The CIU in New Orleans, Louisiana, went out of existence in 2016; current population, web address and contact information are not applicable.