


Office of the Public Defender
7th Judicial Circuit



James S. Purdy
 Public Defender

*“Let me make it plain.
 We must preserve the rights
 of the accused.
 Indeed, that was one of
 the principles we fought a
 revolution to secure.”*

The Bill of Rights.

ARTICLE I
 Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II
 A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III
 No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV
 The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V
 No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI
 In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII
 In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII
 Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX
 The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X
 The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

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Built In Constitutional Protections

1. Police must have "probable cause" to arrest for a crime.
2. Prosecutor must have "probable cause" AND admissible evidence sworn to him or her to be true and, if true, would prove the offense charged.
3. A competent defense attorney to test the prosecutors evidence and establish any defense that may exist.
4. A disinterested judge to insure a fair trial and the orderly admission of relevant evidence.
5. An impartial jury to determine whether the defendant is either guilty beyond a reasonable doubt or not guilty.
6. The right to appeal the sufficiency of the evidence to prove guilt and legal rulings of the trial judge.

Article V of the Florida Constitution provides:

Section 18. Public Defenders - In each judicial circuit a public defender shall be elected for a term of four years, who shall perform duties prescribed by general law.... Public defenders shall appoint such assistant public defenders as may be authorized by law.



What is the Public Defender's Job?

Defending indigent citizens charged with criminal offenses or who are subject to Civil Commitment.

Why is the Public Defender's Office Important to the Community?

Our Judicial System is like a Car with 4 tires



Our Judicial System only works right if all 4 tires are full of air



If any of these protections break down, a miscarriage of justice results.

Therefore, one of the primary responsibilities of the Public Defender is ...

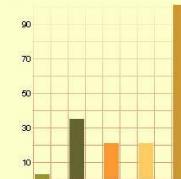
Preventing a Miscarriage of Justice

To Date, *244 convicted defendants* have been exonerated by the Innocence Project as the direct result of DNA evidence!

Most were serving very long prison sentences for heinous crimes.

Heinous crimes they did not commit.

FACTORS LEADING TO WRONGFUL CONVICTIONS
The most common factors leading to wrongful convictions that were found in the first 100 DNA exonerations.



- 3 DNA Inclusions at Time of Trial
- 35 False Confessions
- 21 Informants / Switches
- 21 Microscopic Hair Comparison Matches
- 101 Mistaken I.D.

10 convicted defendants have been exonerated in Florida
by
The Innocence Project

They are:

1. Orlando Bogue, convicted in 1983, exonerated in 2006 after serving 23 years.

Bogue was convicted of Attempted Sexual Battery and Burglary.
His sentence was 50 years in prison.

The cause of his wrongful conviction was "Eyewitness Misidentification"

2. Alan Crotzer, convicted in 1981, exonerated in 2006 after serving 24.5 years.

Crotzer was convicted of Sexual Battery, Kidnapping, Burglary, Aggravated Assault, Robbery and Attempted Robbery.
His sentence was 130 years in prison.

The cause of his wrongful conviction was "Eyewitness Misidentification"
And "unreliable science".

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3. Wilton Dedge, convicted in 1982, exonerated in 2004 after serving 22 years.

Dedge was convicted of Sexual Battery, Burglary and Assault.
He was sentenced to Life.

The cause of his wrongful conviction was "Eyewitness Misidentification" and Unreliable Science.

4. Luis Diaz, convicted in 1980, exonerated 2005 after serving 25 years.

Diaz was convicted of Kidnapping, Sexual Battery and Aggravated Assault.
He was sentenced to Life.

The cause of his wrongful conviction was "Eyewitness Misidentification".

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5. Jerry Townsend, convicted in 1979, exonerated in 2001 after serving 21.5 years.

Townsend was convicted of several murders and rape.
He was sentenced to Life.

The cause of his wrongful convictions was a series of false confessions.

Jerry Townsend is mentally retarded with the IQ of a 8 year old.

DNA proved that the real murderer was **Eddie Lee Mosley**.

6. Frank Lee Smith, convicted in 1986, exonerated in 2001.

Smith was convicted of Murder and Sexual Battery and sentenced to **DEATH**.

DNA evidence proved that the real murderer was **EDDIE LEE MOSLEY!**

However, it was too late for Smith. HE DIED ON DEATH ROW in 2000.

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7. Cody Davis, convicted in 2006, exonerated in 2007 after serving 5 months of a 3 year sentence for Robbery.

The cause of his wrongful conviction was "Eyewitness Misidentification".

The FDLE Crime Lab simply didn't get around to his DNA testing until after the trial.

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8. Larry Bostic, convicted in 1989, exonerated Sept. 21, 2007.

The cause of his wrongful conviction was "Eyewitness Misidentification".

Bostic plead guilty to sexual battery and robbery and was sentenced to 8 years.

In 2005, he requested DNA testing. It showed he was not the perpetrator.

Even though he was no longer serving his sentence, this stain on his record has now been removed.

If he was innocent, why did he plead guilty?

A ninth defendant, Chad Heins, convicted of First Degree Murder in Jacksonville, was granted a new trial in December 2006 after DNA discovered on skin tissue under the victim's fingernails did not match Chad's DNA.

Chad Heins was convicted of murdering his sister in law in 1996 by stabbing her 27 times with a knife.

Even though hairs found on her body were not his, and the DNA under her fingernails matched the DNA on those hairs, Chad Heins remained in jail in Jacksonville for a full year pending a new trial.

Charges were finally dropped December 4, 2007

10 convicted defendants have been exonerated in Florida

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The Innocence Project

Most Recently, in Brevard County just south of us:

10. William Dillon, convicted in 1982, exonerated December 10, 2008,
after serving **27 years in prison**.

Dillon was convicted of First Degree Murder and sentenced to Life in prison.

The causes of the wrongful conviction were:

1. subsequently recanted testimony of a star witness who was threatened by and having sex with the State's lead investigator;
2. fraudulent scientific testimony of dog handler John Preston;
3. testimony of a jailhouse snitch whose pending rape charge was dismissed after fingering Dillon; and
4. A mistaken eyewitness identification by a man legally blind in one eye.

(A "perfect storm" for a wrongful conviction).

Post Script on Eddie Lee Mosley,
the real perpetrator in the Smith & Townsend cases:

Mosley is a convicted rapist and murderer currently living in
the State Center for Mentally Retarded Defendants in Gainesville.

www.innocenceproject.org

"Actual Innocence" in our Circuit

We have had the following clients arrested by the police,
prosecuted by the State Attorney's Office and then had
their charges dismissed by the State when Public Defender
Investigators proved they were actually innocent.

CASE NUMBER ONE

Michael S. came to Daytona on vacation with a friend who owned a sports car.

On December 15, 2005, Michael and his friend were at Razzle's on Seabreeze.

At Razzle's they met two girls from England.

In an attempt to impress one of the girls,
Michael let her drive the sports car while he rode in the passenger seat.

The girl drove down A1A "English Style", *on the wrong side of the road!*

After hitting a vehicle causing injuries, she jumped out and ran.

Michael chased her. When questioned, she said Michael was the driver.

Michael was arrested and charged with Leaving the Scene of an Accident
With Injuries, Driving Under the Influence and
Driving While License Suspended.

BOOKING PHOTOGRAPH OF MICHAEL S.



CASE NUMBER TWO

Erin P. was charged with Dealing in Stolen Property

Erin was arrested for selling a stolen X box game console and golden nugget man's ring to Cash America Pawn on July 25, 2005.

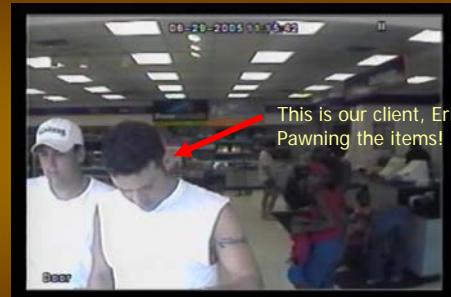
The victim, Ron D. Jr., alleged Erin stole the items from him while Erin was visiting the motel room Ron D. Jr. was staying in.

Erin signed and thumb printed the Cash America Pawn slip.

Ron D. Sr. was very angry that Ron D. Jr. lost the X Box and ring.

Ron D. Sr. insisted charges be filed even though items recovered.

This is the surveillance video at Cash America Pawn showing the transaction.



This is our client, Erin Pawning the items!

This surveillance video was overlooked by the police investigators and discovered by a public defender investigator

Charges against Erin were dropped.

Ron D. Jr. was charged with and convicted of perjury.

CASE NUMBER THREE

A bank robbery occurred at Bank of America in Ormond Beach.

The robber wore sunglasses and a cap to disguise himself.

After showing a surveillance photo in the newspaper, a tip identified David L.

David had a criminal history, was recently released from prison and matched the description of the robber.

Police put his picture in a photo line up and he was identified by the teller as the robber.

David was arrested and charged with Bank Robbery.



PROOF OF DAVID'S INNOCENCE

The Robbery occurred on May 12, 2006 at 11:55 a.m.

Investigation by a public defender investigator established:

David worked as a house painter in New Smyrna Beach

David's brother Daniel says he worked with David all day painting a house.

David went to his mother's house for lunch at 11:30 in NSB.

David's friend Kathy called him at his mother's house at 11:45

A neighbor Lenore spoke to David between 12 and 12:30.

Boss verified David was back at work by 12:40.

The distance is 28.35 miles. David does not have a car.

The Public Defender Investigator interviewed the bank teller and showed her a picture of David. The teller stated that she recalled the robber being heavier and shorter and was not sure if David was the man who robbed the bank.

While David was in jail, another bank robbery occurred at the Regions Bank in Indialantic, Brevard County.

The Public Defender Investigator handling this case saw the news report of the Indialantic Bank Robbery and obtained the surveillance photo from the newspaper's website.



After being shown this evidence, the State Attorney's Office became convinced the robber in Ormond Beach was the same man who robbed the Regions Bank in Indialantic.

Since David was incarcerated at the time of the Indialantic Robbery, and had a very good alibi for the Ormond Beach Bank Robbery, charges against David were dropped.



In November, 2006, while I was on the Marc Bernier Show, State Attorney John Tanner called in to the program and stated that in the 2 years since I assumed office, we have been able to establish the actual innocence of more clients than in his entire previous three terms as State Attorney.

The work of our investigative team has not gone unnoticed.

In August, 2007 at the Annual Florida Public Defender's Association Summer Conference, my Chief Investigator, **Jake Ross**, was named Florida Public Defender Investigator of the Year.

My Hope for the Future

- +Accountability to the Citizens
- +Best Quality Representation
- +Increase Professionalism
- +Improve System Efficiency
- +Be a good steward of your tax dollars.

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*“Public defenders,
by protecting
the downtrodden and the poor,
shield against the infringement
of our protections,
and in reality,
protect us all.”*

Hightower v. State,
592 So. 2d 689 (Fla. 3rd DCA, 1991)

Thank You for Having Me Here



Are There Any Questions?

You may contact
me at:

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