



NOVEMBER/DECEMBER 2021

WHY ARE POST CONVICTION INVESTIGATIONS NECESSARY?

Kitty Hailey CLI

WHY ARE POST CONVICTION INVESTIGATIONS NECESSARY?

Many private investigators were former members of law enforcement. During a career of serving and protecting our public they were responsible for the arrest and incarceration of hundreds and thousands of individuals involved in the criminal world. Now, years later, during a second career in the private sector these same individuals are asked to work on cases that are based on the premise that something was done incorrectly by the police and the court system? Can this be done objectively? Fairly? Without maligning their former lives?

There has been an upsurge in the number of wrongful convictions that have met the light of day. Organizations such as “The Innocence Project” and “The Federal Defender Capital Habeas Unit” as well as numerous college-based investigative courses center on freeing the wrongfully convicted. As a result, hundreds of formerly incarcerated individuals have been seen to either walk free, or leave death row for general population.

Is this a commentary on the quality of policing in the past? Is this a commentary on the court system? Well, yes and no.

Police work is a good and honorable job. Done correctly, officers serve the public by enforcing laws, protecting citizens and ensuring the safety of our streets, roadways and public property. The job has changed as more scrutiny is placed upon the individual officers and situations change within our inner-cities. The availability of drugs and weapons places an added burden upon the individual officer. The job is more dangerous than ever before. The rise in social media, availability of cellphone video and body cameras have brought to light the good and the bad of policing.

So how does a former LEO work on the criminal defense of a previously incarcerated individual?

The answer is simple: The investigator just does the job.

If a conviction was based upon solid evidence, proper procedure and actual facts; there is no problem. If the jury was fairly selected and evidence was honestly and properly presented; there is no problem. If witnesses were not testifying based upon a promise of future favors; there is no problem. If information was completely presented and evidence was not cherry picked to only reflect guilt; there is no problem. So working on such a case is nothing more than a day’s work for an honest, thorough investigator doing his/her job. Nothing will be found that changes the decision of the courts because the underlying work was properly prepared. It was a righteous arrest and an honest conviction.

However, if an officer had decided that he/she was judge and jury before the trial; there is a problem. If evidence was tweaked or skewed to fit the prosecutor’s desire for conviction; there is a problem. If snitches were offered deals to testify against an innocent person; there is a problem. A good investigator will find out these things and a conviction will be overturned.

The question is now up to the investigator. As a former member of LEO, can YOU carefully review a previously tried case and honestly evaluate each and every piece of evidence? Can you re-interview previously called upon witnesses and elicit their part in a possible scheme to convict an innocent person? Can you stand up to the scrutiny of your former brothers in blue and say “NO. You did this wrong.” It is a matter of honor and honesty. Providing equal protection under the law and ensuring the rights of all people does not stop with law enforcement. It is the duty of all investigators to do the job correctly. Sometimes that means finding out that someone before you did it incorrectly.

The spotlight is currently on wrongful convictions. Unfortunately there have been way too many of them in the past. The hope is that the careful scrutiny of previous cases results in a more careful adjudication of future cases.

This is good, honest investigation. It is rewarding and fulfilling. It is difficult, as it delves into the past and sometimes unearths uncomfortable truths. The former police officer who did his/her job with pride and integrity will be more appreciated. The ones who did not will now face the light of day. The investigator can be proud of a job well done in either case.

Kitty Hailey Investigations is a Criminal Defense firm that concentrates on civil rights and post-conviction investigations. With a combination of more than 50 years experience, Kitty Hailey, CLI, Malik Mubashshir and Anthony Colagreco have served the legal community as investigative adjuncts. We are all available to answer questions or share expertise. Visit: www.kittyhailey.com. Or call: 215-574-8127.