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## NEWS

# Tenn. Innocence Project 'optimistic' about Mulroy's promise of conviction reviews

**Lucas Finton** Memphis Commercial Appeal

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Two detectives approached Anthony Ray Hinton while he mowed his mother's lawn in Birmingham, Alabama, on what he called one of the hottest days in July. They had a warrant for Hinton's arrest.

They placed him in handcuffs, but as he was being put in the squad cruiser asked for the opportunity to let his mother know he was being arrested. They agreed and Hinton walked inside to show his mother the handcuffs before walking back to the cruiser. He was on his way to the Birmingham County Jail.

"You must have a hearing problem," the detective told Hinton. "Didn't I just tell you I don't care whether you did or didn't do it?"

Hinton relayed his story as he stood behind a lectern on the second floor of the National Civil Rights Museum, just south of Downtown Memphis. He was speaking at an event, hosted by the Tennessee Innocence Project, to advocate against the death penalty and bring awareness to wrongful convictions from the perspective of a man who faced the electric chair for almost three decades.

And said Jessica Van Dyke, the executive director and lead counsel for the Tennessee Innocence Project, is hopeful that the new top prosecutor in Shelby County, Steve Mulroy, will fulfill a campaign promise to create a conviction review unit.

And, Mulroy told The Commercial Appeal on Friday, he aims to keep that promise.

## **An Exoneree's Tale**

After being arrested, Hinton kept asking the detectives what he was being arrested for.

When they told him, he asked if he would be found guilty for a crime he did not commit. The cruiser was driven a little further before that same detective turned around and spoke to him again.

"By the way, there are five things that are going to convict you," the detective said. "Would you like to know what they are?"

"Yes," Hinton replied.

"Number one, you're Black. Number two, a white man is going to say you shot him whether you shot him or not — and believe me, I do not care. Number three, you will have a white prosecutor. Number four, you will have a white judge. And number five, you're going to have an all white jury," the detective told Hinton. "Do you know what that spells? Conviction, conviction, conviction, conviction, conviction."

Hinton had been working at a warehouse that was miles away when the crime he was charged with happened, but police charged him with two capital murders instead. He was sentenced and would spend the next 28 years on death row for a crime he did not commit before being exonerated in 2015.

Since 1973, there have been 190 people on death row who were exonerated, including three in Tennessee. That places Tennessee in the top 16 for death row exonerations in America according to the Death Penalty Information Center, a national nonprofit organization that analyzes information on capital punishment.

## **'In the emergency room of a hospital'**

Overall, 3,248 people have been exonerated in the United States since 1989. Tennessee, one of the last states to have a group of attorneys strictly dedicated to exonerating those who have been wrongfully convicted, has had 37 exonerations in that time.

The Tennessee Innocence Project (TIP) was the first full-time innocence project in the Volunteer State and opened its doors in 2019. Four of those 37 Tennesseans exonerated have gone through TIP for their cases.

"It's such an unbelievable thing to believe that we might wrongfully convict someone," Van Dyke told the Commercial Appeal. "For the most part, we're not doing that every day. But when we do wrongfully convict someone, we need to do a full autopsy of that case and figure out why they were wrongfully convicted so we can prevent it in the future."

Van Dyke said the work TIP does feels like they are "in the emergency room of a hospital" in their attempts to determine what claims incarcerated people are bringing to their attention, along with sorting through the "hundreds and hundreds of inquiries."

Incarcerated people are able to fill out applications to have their case reviewed by TIP, which Van Dyke calls a two-part application. Those applications can be found in law libraries in the various prisons across Tennessee, but not every facility allows the applications.

TIP has also worked to be in the public eye more often, hoping family members will see the organization and reach out to them too.

"Maybe a mom or sister sees a segment on TV, and then they know this is an option that did not exist in Tennessee for a very long time," Van Dyke said. "So those letters come in and before we actually accept a case, we oftentimes spend months investigating it because we are looking for claims of actual innocence."

## **A new DA, dreams of a conviction review unit in Shelby County**

Although the group is based in Nashville, Van Dyke knew in 2019 Memphis and Shelby County would be a big part of their work. With the promise of criminal justice reform from Mulroy, she is looking forward to seeing change come in.

"I'm really optimistic that DA Mulroy is going to put the infrastructure in place that we need for a conviction review unit," Van Dyke said. "A lot of people haven't heard of a conviction review unit. I know it was a campaign topic in the last election. But that has been a big part of our exonerations in Nashville, that collaborative justice component where we work together seeking truth and justice. So I'm optimistic based on what I'm hearing that we'll see that becoming part of the Memphis scene as well."

Nashville, although having a conviction review unit since 2016, did not vacate a conviction until 2020. While on the campaign trail, Mulroy spoke about Shelby County's need for a conviction review unit, something that has become common for large counties around the nation.

In 2018, a report from the National Registry of Exonerations said there were 44 conviction review units around the nation. However, Marissa Bluestine, assistant director at the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Carey Law School, told the Commercial Appeal in March that number had grown to about 105.

Now the sitting district attorney, Mulroy plans on having Shelby County's own conviction review unit active by the end of 2022.

"I have had a chance to discuss this, both internally with staff here inside the office and also with my external transition team, and even with people from criminal justice reform groups across the country," Mulroy said. "I'm still committed to doing it. I still think it's feasible. It will require some staffing, but I'm ok with that and I'm actively considering who I would want to head up the new unit."

Outside of staffing the unit is the biggest hurdle the conviction review unit has to clear before it can get up and running, but Mulroy believes "one or two experienced lawyers, a paralegal, and an investigator" would get the unit off the ground.

In the months before the unit is established, though, he said his office will still handle postconviction motions that cannot wait until then to be reviewed.

Mulroy's conviction review unit would also take a look at sentences that have already been handed down and reassess whether those sentences were proper.

"These are things that matter to people, it's very important and could give years back on your freedom," he said. "The legal details about how we go about doing it may vary. In some cases, it's easier than others.

"We have, for example, a law about penalty enhancement for possessing or distributing drugs within so many feet of a school. The legislature has gone back and changed it so that it's not as strict about how close you are to a school and they allowed it to be retroactive. There are people right now who need to file a claim and say, 'My sentence really should be shorter than it is. So rather than letting me out in four years, you should let me out next year.'"

Allocating staff to the conviction review unit is critical in Mulroy's eyes since it would place more objective eyes when reviewing the cases, eyes that he believes could catch mistakes in old cases.

"If I have to review my own work, I'm less likely to catch an error than if you review my work," he said. "Another advantage is, as you work these cases, you develop some expertise, you develop the ability to quickly spot the egregious cases from the non-egregious cases. I think it's useful to have a dedicated team of objective people with expertise who are doing quality control, going back and checking on our work, and weeding out the clear cases of injustice."

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