

Preventing Wrongful Convictions Involving Jailhouse Witnesses

The Problem

- **Potential for wrongful convictions.** Jailhouse witnesses testify against defendants with the expectation of receiving leniency or other benefits, which creates a strong incentive for them to lie.
- **Lack of transparency/Potential for constitutional violations:** The U.S. Supreme Court and Minnesota discovery rules require prosecutors to disclose discrediting evidence on state witnesses to the defense, including promised benefits and complete criminal history. However, when this information is disclosed late, incompletely, or not at all, the accused cannot raise reliability concerns to the judge and jury.
- **Better for prosecutors.** If information about jailhouse witnesses is kept in a central database, prosecutors will be able to access the information easily in order to better assess the credibility of their witness.
- **Increase the integrity of convictions.** In some cases, jailhouse witnesses recant their trial testimony after they have received the benefit of their bargain, which can lead to post-conviction claims of innocence by the convicted defendant. More regulation around the use of jailhouse witnesses will increase the integrity of convictions and reduce post-conviction claims of innocence in those cases.
- **Victims of crimes committed by jailhouse witnesses may be denied justice** when leniency is traded for testimony.

Proposed Legislation

- **Prompt disclosures of specific jailhouse witness evidence** including cooperation deals; criminal history, and other cases in which they testified for benefits.
National Picture: Connecticut, Florida, Illinois, Nebraska, Oklahoma, Texas have laws to specify when and what types of jailhouse witness evidence must be disclosed to the defense.
- **Tracking jailhouse witness testimony:** Requires the Attorney General to maintain a statewide record of jailhouse informant testimony and benefits for prosecutors to have better information on potential witnesses.
National Picture: Connecticut, Maryland and Oklahoma have statewide tracking of jailhouse informant evidence. Texas and Nebraska require each prosecutor's office to maintain a central record.
- **Victim notification:** The victims of the jailhouse witness's crimes will be notified before leniency or benefits are provided for testimony.
National Picture: Maryland and Nebraska require notification of cooperation deals to victims of jailhouse informants' crimes.



Michael Hansen was wrongfully incarcerated for six years for the 2006 murder of his infant daughter who had in fact died of natural causes. His false conviction was secured with the help of a jailhouse informant who testified against him. In exchange for that testimony, the jailhouse informant received a dismissal and reduction of charges so he could avoid prison.