

Burrell case exposes need for reform of jailhouse snitch prosecutions

Prosecutors aren't required to track and disclose the activities of jailhouse informants, meaning false testimonies go unchecked.

By Mike Hansen and John Kingrey | DECEMBER 28, 2020 — 5:07PM

This month, the Minnesota Board of Pardons commuted Myon Burrell's sentence for the 2002 murder of sixth-grader Tyesha Edwards and attempted murder of Timothy Oliver. In arriving at their decision, the members of the pardon board cited the growing science of juvenile brain development as it relates to lengthy prison sentences. But there is another significantly troubling aspect to this case that bears examination: the use of jailhouse informants.

An independent panel that recently reviewed Burrell's case and made recommendations to the pardon board looked closely at the use of jailhouse informants in the prosecution. The members of the panel were troubled by the use of multiple informants who also testified in other unrelated cases, and by the fact that many of the informants were members of a rival gang who had motives to lie.

The deals with some informants were not made explicit, so the judge could never know what benefit they actually received for their testimony against Burrell. Two of those informants have since admitted they lied at Burrell's trial.

Harvard Prof. Alexandra Natapoff, the leading national expert on jailhouse informants, conducted her own independent review of the Burrell case. She identified several concerns: the use of multiple informants who may have colluded; repeat informants who knew how to manipulate the system and get information about the defendant with whom they were incarcerated; and the structural and psychological barriers to effectively evaluating the credibility of this sort of testimony.

The message from these independent reviews of the Burrell case is clear: It's past time for Minnesota to join the growing number of states that have added protections against false jailhouse informant testimony.

Unfortunately, the full extent of the activities of jailhouse informants in Minnesota is unknown because prosecutors are not required to formally track and disclose it to defense attorneys. Defense attorneys are missing critical information that could cast doubts on jailhouse informants' motivations and credibility, and prosecutors are putting their convictions at risk by basing them on informant testimony that may later turn out to have been manufactured.

Community safety also is compromised when serial jailhouse informants can act with impunity. When the wrong person is convicted of a crime, an actual criminal is left free to commit additional crimes. Victims of an informant's own crimes are denied justice when the informant trades false information for leniency.

One of us — Mike Hansen — knows firsthand the damage an unreliable informant can do. In 2006, a jailhouse informant falsely testified that Hansen had confessed to killing his infant daughter. After 6 years of wrongful imprisonment based on the lies of that informant, Hansen was freed from prison. But he will always carry the pain of being falsely accused and convicted of killing his own child.

There must be stronger protections when such inherently unreliable witnesses are used. In Connecticut, Maryland and Oklahoma prosecutors are required to track each case in which informants testify and their cooperation agreements, which is entered into a statewide database. This allows prosecuting attorneys to look up previous jailhouse informant activities before putting a potentially unreliable witness on the stand. Laws in



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Supporters of Myon Burrell hold posters calling for his release outside Minnesota Correctional Facility-Stillwater on Dec. 15 in Bayport, Minn.

these states, plus Florida and Nebraska, specify when and what types of information prosecutors must disclose to the defense. In Connecticut and Illinois, judges must screen jailhouse witness testimony for reliability before it is heard by a jury.

These reforms provide prosecutors with better information before putting a jailhouse informant on the stand and protect against expensive appeals and post-conviction claims alleging problems with jailhouse witness evidence. They also provide juries and judges with the knowledge they need to evaluate a jailhouse informant's credibility. Reforms protect the survivors of jailhouse informants' own crimes by preventing informants from getting unjustified deals.

Offenders need to be held accountable and the public deserves to have the confidence in our criminal justice system. When the Legislature meets in January, we will work with all stakeholders to fix this broken part of the criminal justice system.

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