

State Commission Delves Into Risks in Using Jail-House Informants

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SAN FRANCISCO — A commission investigating the causes of wrongful convictions in California is scheduled today to examine a long-running controversy over the use of informants.

The California Commission on the Fair Administration of Justice, launched by the state Senate, is working on a package of reform proposals to submit to the Legislature next year.

In previous meetings, the commission addressed problems surrounding eyewitness misidentification and false confessions.

Informant testimony has played a part in dozens of wrongful convictions, according to Gerald Uelman, a professor at Santa Clara University School of Law and the executive director of the commission.

Out of 111 exonerations of in-

mates on death row nationwide, informant testimony was a significant factor in the convictions of 45 percent, said Ellen Yaroshevsky, the executive director of the Jacob Burns Ethics Center at Benjamin N. Cardozo School of Law in New York. She is scheduled to testify before the commission today.

In exchange for their testimony in court against criminal defendants, informants get benefits ranging from special treatment in prison to leniency in sentencing and financial assistance once they are released.

The commission will consider whether there should be a requirement that all informant testimony be independently corroborated. California law does not require corroboration. Existing law requires that prosecutors notify defense attorneys and courts of any benefit informants receive in exchange for their testimony. Also, judges are re-

quired to warn jurors about potential problems with informant testimony.

If an informant gets a reduced sentence, notice must be given to anyone who was a victim of the informant's crimes.

Wednesday's session will focus on whether practices used by Los Angeles County prosecutors should be adopted by prosecutors throughout the state.

In Los Angeles County, a grand jury investigated the scope of unreliable jail-house informant testimony used by Los Angeles prosecutors in the late 1980s.

Gigi Gordon, a veteran criminal defense attorney and the director of the Los Angeles-based Post Conviction Assistance Center, was one of the leaders in the push to get the grand jury to investigate the problem.

She said the high number of informants who were always available in important cases in Los An-

geles County in the 1980s signaled that the problem was "endemic."

"The stakes were getting a lot higher," Gordon said, as prosecutors were willing to give "more and more [benefits] to worse and worse people" acting as informants.

In its 1989-90 report, the grand jury faulted the Los Angeles District Attorney's Office for ignoring the problem.

Sixteen years later, after a series of reforms, that same office is hailed as a model of best practices.

Now, any use of an informant requires the approval of an internal committee of prosecutors. In addition, informants must provide information that is not included in police reports, and their testimony must be independently corroborated.

"Very, very few cases ever pass that criteria," said John Spillane, the Chief Assistant District Attorney in Los Angeles.