

Disclosure, Ethics and the Michael Morton Case: Lessons Learned

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Introduction

There are many lessons to learn from the Michael Morton case. Although it has been almost four years since the exoneration, it is safe to say we have learned some of the lessons but not all of them.

As in the case of any wrongful conviction, we first and foremost tried to understand how our criminal justice system allowed Michael Morton to be wrongfully convicted. Then, since we were lucky enough to learn what the causes were that led to his wrongful conviction, we started taking the necessary steps to reform our criminal justice system so that the likelihood of other wrongful convictions will be minimized at the front end.

The evolution of how these lessons have been learned is best demonstrated by reviewing actual documents from the trial, post-conviction proceedings and the legislative efforts to reform the system. As a consequence, the following resources are attached for your review:

Reference Materials

ITEM	PURPOSE
Green Van Report	To illustrate evidence prosecutor had before trial that was not disclosed to the defense.
Monster Transcripts	To illustrate evidence prosecutor had before trial that was not disclosed to the defense – note long version v. short version.
Pretrial and Trial Excerpts	To illustrate how discovery and Brady issues were litigated during pretrial hearings and trial.
Court of Inquiry	To illustrate process employed to prove causes that led to wrongful conviction.
State Bar Petition	To illustrate ethical issues regarding failure to disclose evidence during prosecution.

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Judgment of Contempt	To illustrate legal consequences of prosecutorial misconduct.
Full Text of Michael Morton Act	To illustrate the specific changes in the statute to support defense discovery requests in a contested hearing.
Bill Analysis – Michael Morton Act	To illustrate the legislative intent behind the new discovery rules.
Full Text of CCP 39.14(a) with comments	For reference; for understanding the importance of specific phrases in the new discovery rules.
Brady v. Maryland Outline prepared by the Special Litigation Division of the Public Defender Service for the District of Columbia: http://www.pdsdc.org/resources/sld/bradyoutlinefinal2012.pdf	An outstanding resource for what is <i>Brady</i> evidence, where the prosecutor must look for <i>Brady</i> evidence, how prosecutors must assess materiality, and a compendium of all significant <i>Brady</i> cases.
The Cost of Compliance: A Look at the Fiscal Impact and Process Changes of the Michael Morton Act	For reference; Executive summary regarding study of early implementation issues of the Michael Morton Act.
“The Prosecutor & Post-Conviction Claims of Innocence: DNA and Beyond?” By Douglas H. Ginsburg & Hyland Hunt: http://moritzlaw.osu.edu/osjcl/Articles/Volume7_2/GinsburgHunt-FinalPDF.pdf	For reference; Essay regarding the changing nature of a prosecutor’s ethical obligation after conviction.
“Improving Prosecutorial Decision Making: Some Lessons of Cognitive Science” by Alafair S. Burike: http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1232&context=wmlr	For reference; Law review article regarding how cognitive bias in prosecution can lead to wrongful convictions.
“How Preconceptions & Bias May Have Led to Wrongful Convictions of West Memphis Three” by Jennifer L. Mnookin: http://www.deathpenaltyinfo.org/how-preconceptions-and-bias-may-have-led-wrongful-convictions-west-memphis-three	For reference; Op-ed regarding causes of wrongful convictions of West Memphis Three.

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