

Wrongfully convicted

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The wrongful convictions of Donald Marshall Jr., David Milgaard and Guy Paul Morin have spotlighted what many call the failure of the Canadian justice system.

On June 8, 2000, Justice Minister Anne McLellan announced plans to try to avoid such cases from happening again.



McLellan

Her proposed changes, since enacted in Section 690 of the Criminal Code of Canada, enable the minister or justice to use his or her discretion to respond to persons who believe they have been wrongfully convicted.

According to a Department of Justice release, the amendment also provides for the use of "a special remedy to be used in exceptional circumstances where the Minister feels that there may have been a miscarriage of justice."

But advocates for the wrongly convicted say Section 690 doesn't go far enough, and have called for a fully independent agency to review wrongful conviction claims. Such an agency was created in the U.K., following several well-publicized cases.

Without the requirement for government consent, the U.K. agency has the power to assess, investigate and recommend cases for new trials or judicial review.

The Association in Defence of the Wrongly Convicted lists at least 21 Canadian cases of wrongful convictions. According to the organization, these represent a small percentage of actual numbers of the wrongly convicted in Canada. Members say this belief is underlined by the U.K experience.

Advocates say many convicts who were ultimately exonerated watched their applications languish for years in the federal review board.

They cite the following as examples:

Romeo Phillion

Phillion was sentenced in 1972 to life imprisonment for the murder of Ottawa firefighter Leopold Roy.



In May 2003 - 30 years into Phillion's sentence - a group of law students from York University announced they would apply to the minister of justice to secure Phillion's exoneration. The group spent four years studying the conviction.

Thomas Sophonow

On June 8, 2000, Winnipeg police announced DNA evidence cleared Thomas Sophonow in the killing of doughnut shop clerk Barbara Stoppel.



Authorities said they had a new suspect in the 1981 murder for which Sophonow was tried three times and spent nearly four years behind bars.

The Manitoba Court of Appeal acquitted him in 1985.

On Nov. 5, 2001, Manitoba Justice Minister Gord Mackintosh released a report by retired Supreme Court judge Peter Cory with 43 recommendations.

Cory said Sophonow should receive \$2.6 million in government compensation (50 per cent from the City of Winnipeg, 40 per cent from the Manitoba government and 10 per cent from the federal government) for his wrongful murder conviction.

David Milgaard

Milgaard was sentenced in 1970 to life imprisonment for the 1969 murder of Saskatoon nursing aide Gail Miller.



Milgaard spent 23 years in prison. The Supreme Court of Canada set aside his conviction in 1992. He was subsequently cleared by DNA evidence five years later.

In 1999, the Saskatchewan government awarded Milgaard \$10 million for his wrongful conviction. In the same year, Larry Fisher was found guilty of the rape and stabbing death of Gail Miller.

Donald Marshall Jr.

Marshall was sentenced in 1971 to life imprisonment for the murder of Sandy Seale. He spent 11 years in prison before being acquitted by the Nova Scotia Court of Appeal in 1983.



Guy Paul Morin

Morin was sentenced in 1992 to life imprisonment for the murder of nine-year-old Christine Jessop.

He was exonerated in 1995 by DNA testing.

