

By Lindsay N. Richardson

Recently, I was hired by the family of a young man who was facing a serious felony charge here in the metro area. He had been in-custody for several months and little progress had been made on his case despite the efforts of his previous attorney. His family was desperate, and after feeling like they were not being heard and nothing was being done, they turned to FGMC to help. They knew the young man had done something wrong, but felt like the offer made by the district attorney – which was to brand this young man with a permanent felony conviction – was unjust. Upon accepting the case, I engaged in an activity that I learned way back in law school that I like to call *reading the law*. I reviewed the elements of the crime and compared it to the underlying facts to determine if there were any weaknesses or problems with the state's case that I could use in my client's defense. Upon doing so, I came across a change in the law effective nearly two years prior that rendered the exact act at issue a very low level misdemeanor rather than the class three felony with which the young man was charged. This meant that the district attorney had made a very serious mistake – one that could have resulted in my client carrying around the very heavy weight of an unwarranted (not to mention unlawful) felony conviction simply because the state failed to do its job. Without effective representation, this young man's life would have been unjustly and forever changed.

Unfortunately, if you think that this type of situation is unusual or that it could not happen to you or someone you love, you may have way more confidence in the government than what it deserves. This is certainly not the first time in my career that I have dealt with a wrongful charging decision, or an altogether innocent client who did nothing more than be in the wrong place at the wrong time. The Innocence Project, a national litigation and public policy organization dedicated to exonerating wrongfully convicted individuals, estimates that between 2.3% and 5% of those currently serving a prison or jail term in the United States are factually innocent of the crime for which they were convicted.<sup>1</sup> This equates to nearly 50,000 people on the lower end of the spectrum who are incarcerated for something they did not do. Of course, the number would increase exponentially if we included innocent persons who were sentenced to probation.

Even one wrongfully convicted person is too many in my book. It is indisputable that if you are wrongfully accused of a crime, you cannot expect the government to uncover that fact on its own. You must retain an effective and zealous criminal defense attorney to show the government where it went wrong. The criminal defense attorneys at FGMC dedicate themselves to that fight each and every day.

But innocent people are not the only ones who absolutely need an attorney before entering the courtroom on a criminal case. Like the young man discussed above, the fact that you may have done something wrong does not mean that the prosecutor charged you correctly (or fairly), or that the government intends to play by the rules. The name of the game for the prosecution in the criminal justice system is to charge as many offenses and as serious an offense as they legally -- or sometimes

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<sup>1</sup> See The Innocence Project, *Frequently Asked Questions*, available September 9, 2015: <http://www.innocenceproject.org/faqs/how-many-innocent-people-are-there-in-prison>

illegally -- can. The prosecutor expects to have to make a plea offer, and the starting point for negotiations depends on what and how many charges are filed. Clearly, the more charges and/or the more serious charges that are filed places the government in a more powerful bargaining position. A misdemeanor offer might sound great to someone charged with a felony -- but what if the act at issue should have never been charged as a felony to begin with? Or what if law enforcement in another jurisdiction only charges the misdemeanor on the same set of facts to begin with, so had the crime been committed ten blocks over the individual would be starting with a lower level crime and negotiating from there? Is that justice?

The only way you can assure yourself that you are being treated in a just and fair manner by the criminal justice system is to hire your own advocate who is dedicated to protecting your future and legal rights. Even the most minor criminal conviction can have disastrous consequences -- loss of current and future employment or promotional opportunities, educational opportunities, legal rights (i.e., possession of firearms) and many more. FGMC's elite criminal defense practice is devoted to protecting all of the rights of each client that walks in the door. Whether that means uncovering facts to prove your innocence, or simply ensuring that your one minute mistake does not result in a lifetime of consequences, we endeavor to mount the best and most effective defense available anywhere in the country. When you hire FGMC, you can rest assured that your case will be handled in a way that assures a fair and just outcome.