

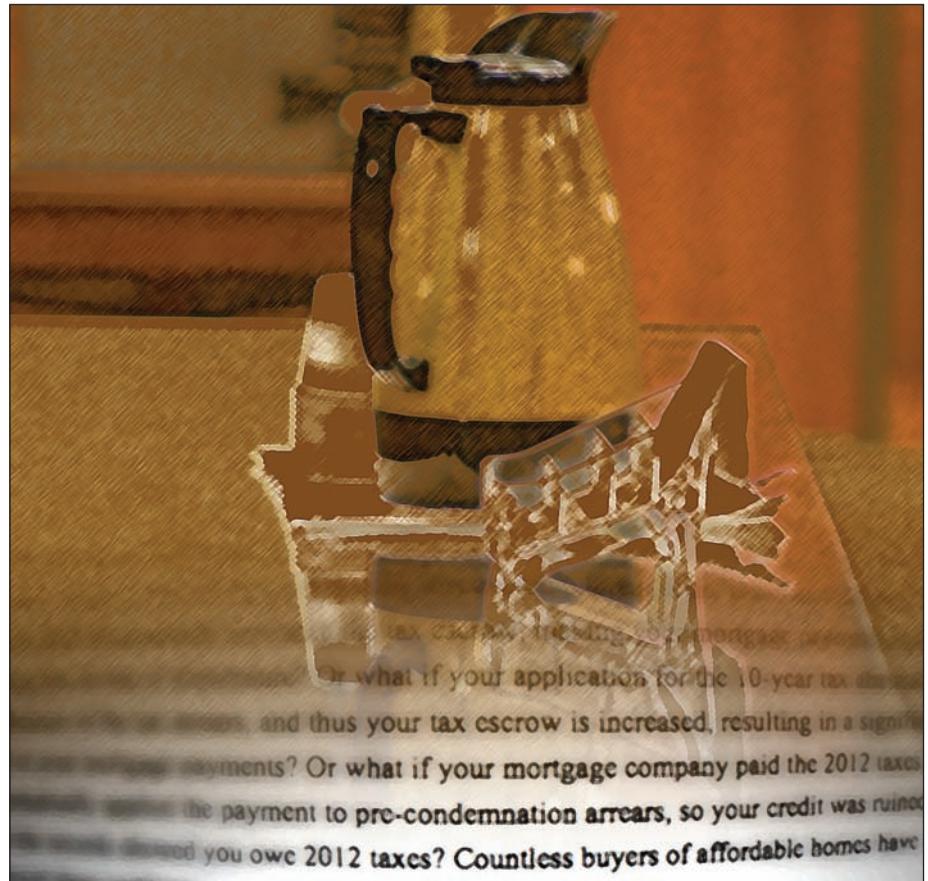
# Civil Practitioners Can Aid Defender Association

## *Witness Interviews, Document Analysis a Boost to Defense*

**R**ecently, I gave a copy of the book “Actual Innocence” by Barry Scheck to a law firm senior partner, a commercial litigator in Philadelphia. “Actual Innocence” contains descriptions of the many convictions that the national Innocence Project has overturned as the result of DNA testing. The convictions were overturned because the defendants were innocent despite eyewitness testimony or false confessions of the defendants. The attorney’s letter to me was dramatic and disturbing.

“This book was a compelling read. The description of how seemingly commonplace investigative techniques can be so fundamentally flawed and manipulated was eye-opening. As a commercial lawyer, my experience with the criminal process was limited to reruns of “Law and Order” for the most part. On the TV show, the innocent are never found guilty, eyewitness testimony is always reliable, defense counsel are never overwhelmed by their caseload, and the investigators seek only truth, not the speedy closure of open cases ending with the incarceration of the “guilty” party. This volume taught me that the reality of the criminal justice system bears no close resemblance to the well-ordered system portrayed on television. Rather, it is chaotic, biased and, more importantly, institutionally unwilling to acknowledge that mistakes can and are frequently made in a rush to judgment. This book ought to be required reading for all new lawyers.”

I bring this to the reader’s attention because it presents an opportunity. At least 80 percent of the bar is comprised of civil practitioners who have little or



no familiarity with the criminal practice. Many of these practitioners could be a valuable asset to the overworked public defenders. I am not advocating that the civil practitioners devote weeks of their time to assisting the public defenders. That is unrealistic. I am suggesting that the civil practitioners donate a few hours a month to assist the public defenders who could use assistance on the practical aspects of defense. I am referring to interviewing witnesses in scattered locations, reviewing and analyzing documents, locating witnesses for the sentencing hearing, organizing exhibits, obtaining police reports, or writing a motion and brief. These call for half-day spans of time, but are tasks that

are necessary in the defense of a case. Public defenders are very strapped for help in these ancillary tasks.

I will guarantee the lawyers participating will find it fascinating and, I predict that if an attorney performs such tasks, he or she will not give it up and continue throughout their career. In addition, it will certainly provide some investigative skills for their own practice. I will make this proposal to the Public Defender and the Philadelphia Bar Association. ■

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