



Feature

Innocence Project Exonerates Those Who Have Been Wrongly Imprisoned

By Heather Jung

In this day and age, it is hard to imagine the justice system sending innocent men and women to jail, especially in light of new developments in DNA testing. But before there was DNA testing, the justice system depended on eyewitness accounts, which have proven, in some cases, to be flawed. According to a study conducted by Columbia Law School, the Department of Justice, and the United States Senate, there may be as many as 100,000 falsely convicted prisoners in jails across the country (given a 5% failure rate in the U.S. justice system).



In response to this alarming statistic, civil rights attorneys Barry Scheck and Peter Neufeld created the Innocence Project at the Benjamin N. Cardozo School of Law in 1992. Since its inception, the Innocence Project has spawned more than 30 similar projects, which now make up the Innocence Network. Together, the more than 30 projects have helped in the exonerations of 195 innocent individuals.

The project is alive and well 15 years later. Through the clinic at the Cardozo School of Law, law students get the opportunity of a lifetime: to help exonerate innocent people who have been wrongly imprisoned.

"It has been the greatest experience of law school, by far," Gregory Weiss, a 3L at Cardozo, said. "I think many people are in my position where they go to law school because they really want to proactively make a difference, and they think this is a great opportunity to gain the knowledge and the skill to be able to better their community. Having these types of clinics really allows you to do that, as opposed to just have your head buried in textbooks 24 hours a day. So it's been an amazing experience and keeps the inspiration and motivation alive for why I went to law school in the first place."

Weiss has helped with various cases, including one in Florida that was recently featured in *New York Times Magazine*. The client, a Cuban immigrant, spent 25 years in prison after being falsely identified in a parking lot late at night by the victim of a burglary and assault. Thanks to the Innocence Project, the man was released based on DNA testing that proved he was not the man who committed the crime.

According to Weiss, who is currently serving as a teaching assistant for the Innocence Project, the project serves as the "auditor of the justice system." He feels that it is just as important, if not more important, to keep innocent people out of jail as it is to put guilty people in jail.

Lauren Kaeseberg, another 3L at Cardozo, said that she decided to attend Cardozo based on its involvement with the Innocence Project.

"I had heard about the work that they did," Kaeseberg said. "What made me want to go to law school was wanting to get involved in the criminal justice system and certain things that I saw were wrong with it. I was intrigued by the idea that the IP does both direct representation of clients and also uses those cases to try to effect change in the system. I decided to go to Cardozo mainly because of the IP."

Kaeseberg, who is also a teaching assistant, feels that there are many benefits to helping with the project. For instance, it can help students develop enhanced communication skills by speaking with attorneys, clients, police officers, and other people involved in cases. It teaches students to think outside the box, and it raises the consciousness and awareness of law students, who are the future lawyers of America. It has also been extremely rewarding for her to see people who are truly innocent released from prison.

"When someone is released from prison because they are innocent, no matter where you fall on the side of the criminal justice spectrum—if you are conservative or a liberal—the idea of anyone innocent being in prison is horrifying and no one can deny that," she said.

Founded in 1998, the Arizona Justice Project is the fifth-oldest of the Innocence Projects and has helped exonerate three people based on factual innocence, including Byron Lacy. Lacy was accused of murdering a security guard and injuring another guard at a social club with a .45-caliber gun, a bullet from which allegedly hit the guard in the face, went through his skull, exited out the back of his head, and entered the other guard in the shoulder. Student volunteers from the Sandra Day O'Connor College of Law at Arizona State University proved that the bullet hole from the back of the victim's skull was smaller than the bullet the prosecutor said killed the man. Lacy was subsequently released and, due to double jeopardy, will never be retried.



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According to Larry Hammond, who has served as chair of the Arizona Justice Project since its founding, it is one of the only projects that not only looks at cases of actual innocence but also cases of manifest injustice. The project helps women who killed their abusive husbands, who, until recently, could not claim battered-woman syndrome and had to prove self-defense. One such case was that of Carol Herriman, who endured years of abuse at the hands of her husband and eventually shot him through the bathroom door. She received a life sentence, and her daughter was charged with aiding and abetting due to the fact that she handed her mother the gun. The Arizona Justice Project succeeded in convincing the governor to grant Herriman clemency.

"These projects have changed the face of law and society in America," Hammond said. "If one looks back, from 1995 forward, there is no greater movement or development than the creation of these projects across the country."

Hammond said that the projects are deeply rooted in America's finest law schools and have benefited the students who participate as well as those they help.

Beth Johnson, an associate professor of psychology at Oglethorpe University in Atlanta, helped with the Georgia Innocence Project for a little over a year.

"For me, it's a social justice issue," Johnson said. "It's the worst imaginable thing that an innocent person could be incarcerated for 20 years."

Victoria Tandy, a 3L at Arizona State University's Sandra Day O'Connor College of Law, began working with the Arizona Justice Project as a Spanish/English translator after receiving an email during her first year stating that the project was looking for translators. Tandy, who is originally from Colombia, now helps with cases in addition to her translation work.

"It's very important because I think that a lot of people that don't have the resources to pay for a different attorney or maybe pursue their cases in a different way don't get the right legal representation—not because of their attorney's fault; a lot of times they just have a lot of cases or they overlook a lot of issues," Tandy said. "I feel this is definitely a service to the community, and this is one of the only sources of help these people have."

The Georgia Innocence Project (GIP) was established in 2002 and has procured the releases of three innocent men, including Pete Williams. Williams was incarcerated for nearly 22 years on charges of rape, sodomy, and kidnapping. Among

those involved in the case was Georgia State University College of Law 3L Cliff Williams, who helped the case by locating crucial evidence that was locked in the evidence vaults of the Georgia Bureau of Investigation. The evidence was retested and proved that Pete Williams was not the person responsible for the crimes. Thanks to his experiences with the GIP, Cliff Williams now knows that he wants to pursue a career in criminal defense.

According to Johnson, students like Cliff Williams are crucial parts of the Innocence Project. The work they perform is not always glamorous, and they do not receive payment, but they do it because they care about their cause.

"They were what made the operation," she said. "It was pretty impressive to see their willingness to do that."

Greg Hampikian, a professor of biology at Boise State University, is the director of the Idaho Innocence Project and serves on the board of the GIP. The Idaho project was initially housed at the University of Idaho in Moscow, ID, but has benefited from its move to Boise, the state capitol.

According to Hampikian, the Idaho Project was inspired by the release of Calvin Johnson in Georgia. Hampikian was the DNA expert on Johnson's case and was greatly affected by the man's story.

"It's knowing somebody who went through this that really inspired me," Hampikian said.

Hampikian, like many others involved in the various Innocence Projects across the country, acknowledges that the justice system is necessary and often beneficial but that it also has its flaws.

"You are looking at a pretty fine grid of sifting, and what we are looking for is the diamonds that sift through the grid—these innocent lives that are being destroyed and their families are being destroyed because of a mistake, because of an error."

As a member of the Innocence Network, the California Innocence Project serves Southern California and is based out of the California Western School of Law in San Diego. Since its creation in 2000, the project has helped five men clear their names, including Timothy Atkins, whose conviction was overturned on February 8 after he spent 23 years in prison.

According to Assistant Director Jeff Chinn, students are the main actors in the program and do all the "heavy lifting."



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“They talk to the witnesses. They talk to victims,” Chinn said. “They’re the ones who are negotiating with the evidence labs just for us to gain access to look at evidence. They’re the ones who are dealing with the prisons for their prison visits to get access to inmates. They’re the ones calling district attorneys to try and get access to old files or to defense attorneys to try and get access to see what their opinion of the case was and see if they have any files that might be helpful to us. Dealing through the maze of people you need to talk to to make progress on a case—[it] is still just amazing to me that these students can do that.”

So how do these wrongful convictions occur? According to the Innocence Project’s website, there are several common causes: eyewitness misidentification, unreliable or limited science, false confessions, forensic-science fraud or misconduct, government misconduct, informants/snitches, and bad lawyering. Thanks to advances in DNA and forensic evidence, these occurrences are becoming less common, but the Innocence Project and projects like it will not rest until everyone who has been wrongly imprisoned is exonerated.

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