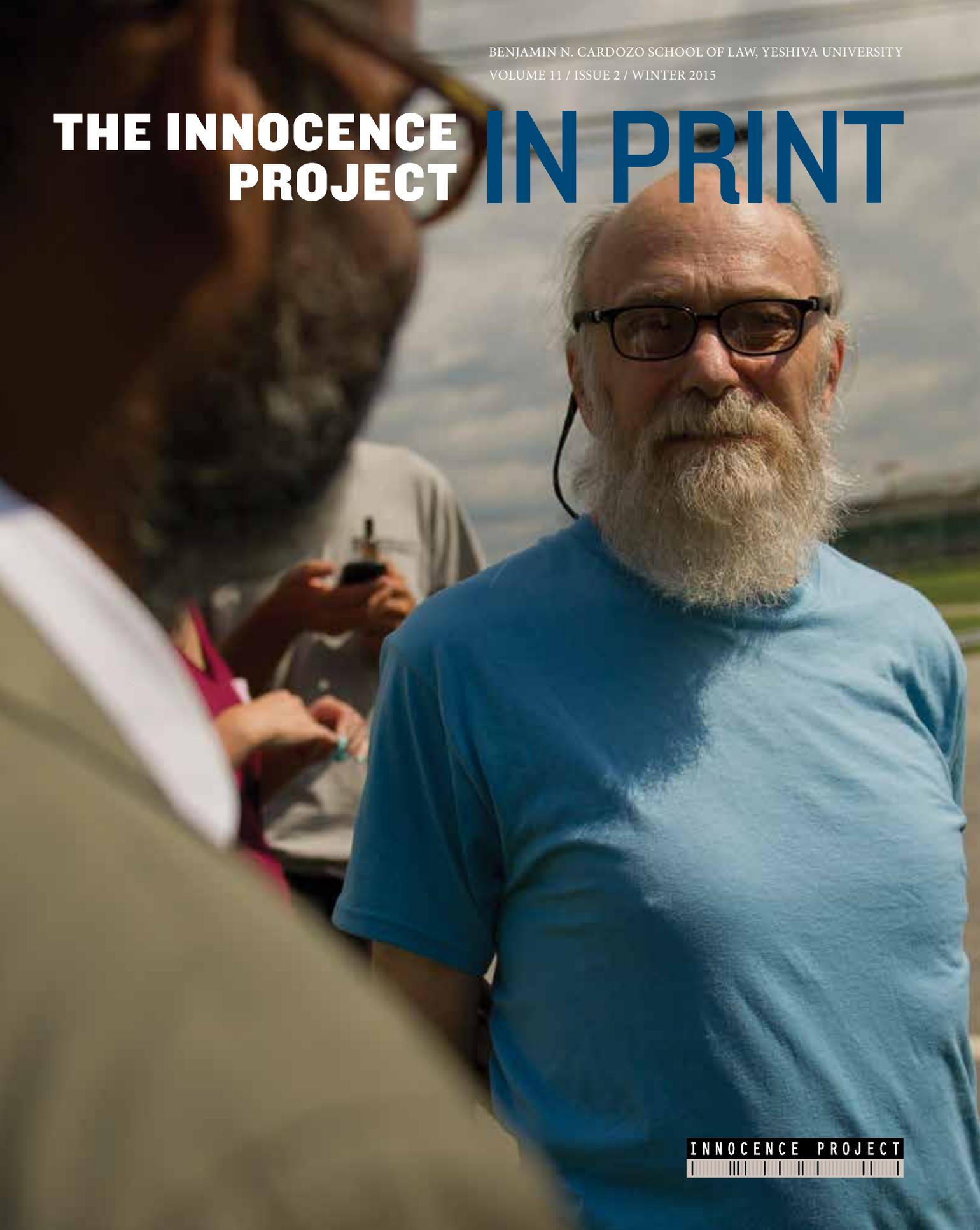


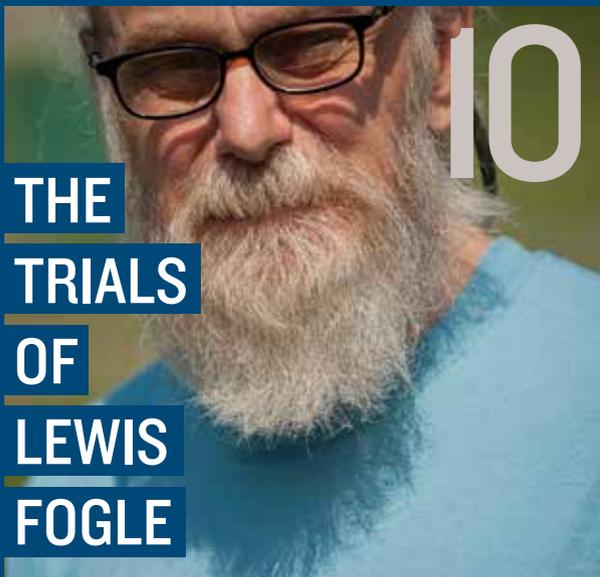
BENJAMIN N. CARDOZO SCHOOL OF LAW, YESHIVA UNIVERSITY  
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# THE INNOCENCE PROJECT

# IN PRINT



INNOCENCE PROJECT



# THE TRIALS OF LEWIS FOGLE

# 10



# HOME FOR THE HOLIDAYS

# 18

PAGE

# 03

LETTER FROM THE EXECUTIVE DIRECTOR

PAGE

# 04

IP NEWS

PAGE

# 08

IN THEIR OWN WORDS  
An interview with Alexandra Natapoff

PAGE

# 22

JUST THE FACTS  
Prosecutorial Misconduct: How Prevalent Is It?

## ON THE COVER

Lewis Fogle in a photo taken on the day he was freed—August 13, 2015—after spending 34 years in prison for a rape and murder he didn't commit. PHOTO: Jeff Swensen/AP Images.

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## INNOCENCE PROJECT

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Writer and Editor: Carlita Salazar

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## BEFORE THE DAWN



To celebrate the Thanksgiving holiday, the Innocence Project staff recently sat down together to share a specially prepared lunch. Before taking part in the bountiful meal, we took a moment to quietly reflect on what this time of year means to us. For me, these last weeks of the year follow the arc of the Winter Solstice, especially in regard to the work at the Innocence Project. Like the long and dark nights of winter, my heart is

heavy; many innocent people will spend their holidays in prison cells rather than at the shared dinner table with loved ones. But, just as there is comfort in knowing that after the winter come days filled with light, I take heart in knowing that the Innocence Project will strive to exonerate as many of these people as possible. As of December, 336 individuals in the United States have been exonerated by DNA testing, with the Innocence Project assisting in 177 of these cases.

In this issue of the *Innocence Project in Print*, we explore the complex juxtaposition of emotions—the delight and the sorrow, the dark and the light; it's one that exonerees often experience around the holiday season and in day-to-day life as they reconcile the reality of everything they've gained alongside all that they've lost.

In "The Trials of Lewis Fogle" we learn about a recent exoneree who, after spending more than half of his life wrongfully incarcerated, is hoping for a simplified life but sees challenges ahead given that the state where he was exonerated—Pennsylvania—doesn't have a compensation statute. And in "Home for the Holidays," Innocence Project clients give us candid first-person accounts about their holidays since being released from prison. Some of the clients even made personal videos of themselves speaking about their holiday experiences. See the videos here: [www.youtube.com/innocenceproject](http://www.youtube.com/innocenceproject).

I hope that you will read these articles and watch these videos and be as humbled and moved as I am by the tenacity of these men. Their lives and their stories are the heart of our work at the Innocence Project, and they give us hope for even better days to come.

Thank you for your ongoing support of our mission and our efforts to further justice.

Best wishes to you for a prosperous New Year and one with more justice and more freedom,

*Maddy deLone*

Maddy deLone

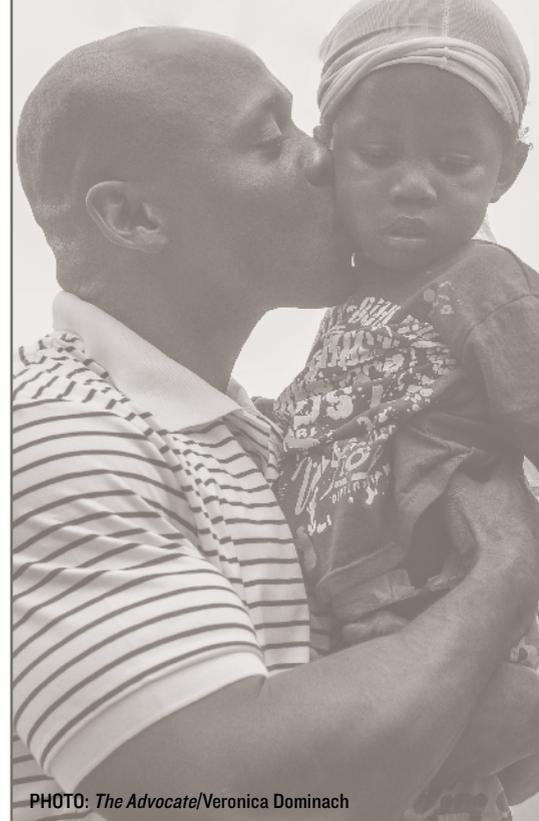


PHOTO: *The Advocate*/Veronica Dominach

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# STATES TAKING A **DEEPER LOOK** INTO CASES INVOLVING **DISCREDITED FORENSIC METHODS**

Earlier this year, the Innocence Project filed a complaint with the Texas Forensic Commission in which it asked the agency to conduct an audit of all of the state's convictions in which bite mark comparison—a popular forensic practice discredited by scientists and legal experts in recent years—played a role. The complaint came in the wake of the case of Innocence Project client Steven Mark Chaney; his wrongful conviction was based on the erroneous testimony of forensic experts who claimed that bite mark analysis was foolproof in matching culprits to violent crimes.

The decision follows the commission's comprehensive examination of arson investigations. That review, also prompted by a complaint by the Innocence Project, resulted in the commission's conclusion that the state was using outdated science and techniques to determine guilt in arson investigations.

The commission is also reviewing all criminal cases in Texas in which microscopic hair analysis contributed to convictions. That audit was prompted by the U.S. Federal Bureau of Investigations, which, earlier this year, announced that 26 out of 28 of its agents/analysts gave either testimony with or submitted lab reports with erroneous statements in cases involving hair analysis. At the encouragement of the federal bureau, some state law enforcement agencies have decided to conduct their own investigations into microscopic hair analysis cases.

The Massachusetts State Police, for example, is auditing its hair analysis cases, dating from 1980 to 2000. The review has already resulted in one conviction being overturned. Michael Sullivan was convicted of a 1986 murder based on the testimony of a state police analyst. Sullivan is currently awaiting a new trial.

Law enforcement agencies in Iowa, North Carolina and New York are also reviewing their cases in which microscopic hair analysis contributed to convicting defendants. ■

“When we’re relying on science in prosecutions like this, it’s critical that we continue to apply the newest standards, and when these standards change, we review and reconsider these cases,” said Dallas District Attorney Susan Hawk on the day of Chaney’s release.





# ENHANCED LAWS GIVE EXONEREES MORE OF WHAT THEY NEED

In recent months, legislators in California and Illinois decided that it was time for their states to provide exonerees with more of the resources they need to remake their lives.

In July, Illinois lawmakers passed a law to provide tuition assistance for residents who have been wrongfully convicted and exonerated. The law—known as Section 62 of the Higher Education Student Assistance Act—will give financial aid to individuals pardoned by the governor due to actual innocence or awarded a certificate of innocence by a circuit court. Exonerees can put the money toward earning their high school equivalency, undergraduate or graduate certificates and degrees—part-time or full time—at any public Illinois-based university or community college. The law will fund students as long as they remain in good academic standing for up to eight semesters or 12 quarters. Under the state’s exoneration compensation statute, Illinois currently provides \$85,350 to those who served up to five years, \$170,000 for those who served between five and 14 years and \$199,150 for those who

served more than 14 years, along with attorneys’ fees and other social services.

In October, California followed suit of states like New Jersey that increased the amount of money that local exonerees are eligible to receive. Senate Bill 635 will provide \$140 per day of wrongful incarceration, a definite improvement to the previous amount of \$100 per day, which had been adopted 15 years ago.

Senator Jim Nielsen (R-Gerber), who co-authored the legislation with Senator Mark Leno (D-San Francisco), said of the improved compensation measure: “In cases where an innocent person has been wrongly accused and incarcerated... we as a society have the responsibility and moral obligation to acknowledge that our system is not perfect, and they deserve compensation to get their lives back in order.”

The Innocence Project endorses the federally recommended standard of \$63,000 per year of incarceration, with up to an additional \$63,000 for each year spent on death row. ■





# MAKING STRIDES TOWARD JUSTICE: **RAYMOND TEMPEST JR. AND STEVEN MARK CHANEY** *Released*

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**Steven Mark Chaney** enjoying a steak lunch on the day of his release from prison in Dallas, Texas.

PHOTO: LARA SOLT

**IN LATE SEPTEMBER, RAYMOND TEMPEST JR. CAME ONE STEP CLOSER TO BECOMING A FREE MAN.** The Rhode Island Supreme Court released him from prison on bail while it considers an appeal brought by the prosecution to overturn a court decision reversing Tempest's 1992 murder conviction. That prior ruling was based on evidence that prosecutors failed to turn over exculpatory evidence that may have prevented Tempest from being convicted in the first place.

At the 1992 trial, there was neither physical evidence nor eyewitnesses linking Tempest to the crime scene. For its case, the state presented the testimony of four individuals who said that Tempest had confessed to them. As it turns out, all of those individuals faced pressure to fabricate their testimonies given their own criminal records in drug trafficking, drug use and prostitution, but at trial their word was enough to convince the jury to convict Tempest of murder. He was sentenced to 85 years.

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“There is not a shred of credible scientific research validating the practice [of bite mark analysis], yet for decades courts have allowed so-called experts to provide incredibly powerful testimony that is nothing more than subjective speculation masquerading as science.”

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The high court will hear arguments in Tempest’s case in March. In the meantime, Tempest has been ordered to remain on home-confinement at an undisclosed location. Tempest is being represented by the Michael Kendall, Kate Dyson and Matthew Turnell of McDermott, Will & Emery; Lauren E. Jones of Jones Associates; Betty Anne Waters and the Innocence Project. ■

**ON OCTOBER 12, STEVEN MARK CHANEY SHED TEARS OF JOY.** At a hearing held at the Dallas courthouse, a judge reversed his 1987 murder conviction and declared that Chaney was free to go home with his wife and family while the Texas Court of Criminal Appeals reviews his case. The moment that Chaney stepped foot outside the courthouse his brothers encircled him in a group embrace, elated as they lovingly looked at him, face-to-face.

In 1987, Chaney was convicted of killing John and Sally Sweek, who were found dead earlier that year in their apartment. Mr. Sweek sold cocaine, and an informant told investigators that Chaney had previously been one of Sweek’s customers and still owed the couple

\$500. On that tip, he became the prime suspect.

Chaney’s conviction was based largely on the testimony of two forensic dentists who claimed that Chaney’s teeth matched a mark on John Sweek’s body. One of the dentists claimed that there was a “[o]ne to a million” chance that someone other than Chaney could have left the bite mark, a statistic he claimed was in “scientific literature.” Chaney presented nine alibi witnesses. Despite testimony that generally confirmed Chaney’s whereabouts during the entire day of the crime, he was convicted and sentenced to life.

At the urging of Chaney’s legal team, Dallas District Attorney Susan Hawk conducted an in-depth investigation into Chaney’s case which uncovered numerous pieces of previously undisclosed exculpatory evidence, as well as numerous contradictory statements made by the informant. DNA testing of all available crime scene evidence excluded Chaney.

“After a thorough review of Mr. Chaney’s case led by Patricia Cummings and our conviction

integrity unit, we have concluded that the bite mark evidence that was critical in his conviction has been discredited, and it’s our obligation to move to set aside his conviction,” said Hawk.

“This is yet another in a growing list of cases proving that bite mark evidence has no place in our court rooms,” said Chris Fabricant, director of the Innocence Project Strategic Litigation Unit. “There is not a shred of credible scientific research validating the practice, yet for decades courts have allowed these so-called experts to provide incredibly powerful testimony that is nothing more than subjective speculation masquerading as science. We are grateful to District Attorney Hawk for acknowledging the injustice of Mr. Chaney’s conviction and hope that other district attorneys around the nation will follow her lead by not relying on this discredited evidence and reinvestigating cases where it was used.”

Since 2000, at least 25 people have had their convictions reversed or indictments dismissed based on discredited bite mark testimony. ■



# Q & A IN THEIR OWN WORDS

PHOTO COURTESY OF ALEXANDRA NATAPOFF

**Alexandra Natapoff**—attorney and professor of law at Loyola Law School, Los Angeles—is one of the country’s preeminent experts in criminal informants. In 2009 she published *Snitching: Criminal Informants and the Erosion of American Justice* (NYU Press), a first-of-its-kind examination and analysis of the impact of the unseen world of informants on criminal investigations and trials. For this edition of “In Their Own Words,” Professor Natapoff spoke with the *Innocence Project in Print* about jailhouse informants, specifically, and the risk that they pose in leading innocent people to being wrongfully convicted.

**Q** How prevalent is the use of criminal informants?

**A** The use of criminal informants is a massive problem within the criminal justice system.

And the use of jailhouse informants, in particular, compromises the integrity of police investigations as well as the work of prosecutors, and greatly increases the risk of wrongful convictions.

Northwestern University Law School issued a report (*The Snitch System*) in 2005 that showed that the use of criminal informants was the single greatest contributor to wrongful convictions in capital cases in the United States. A large portion of those

informants were jailhouse informants. And there have been major scandals involving jailhouse informants. Los Angeles County had a scandal about 30 years ago in which the integrity of investigations were undermined. They now hardly use informants as a result. And we now see an almost identical scandal unfolding within spitting distance of Los Angeles County, in Orange County.

The criminal justice system has long relied on jailhouse informants, and the U.S. Supreme Court has said that we can use them without violating Constitutional rights, but that doesn’t mean that it’s a good idea.

**Q** So many factors—no transparency around deals offered to informants, poor tracking of informants and their own criminal history, no disincentive against false testimony—contribute to the problem of perjured testimony and unreliable informants, but where is the heart of the breakdown really happening?

**A** The breakdown is that the government is permitted to pay for information without the usual checks and balances that are used in other aspects of our adversarial-based criminal justice system. Every inmate knows that if they come up with

information, they have the possibility of being rewarded. But prosecutors don't know whether these witnesses are telling the truth, and they often have no meaningful way of vetting the reliability of that testimony.

**Q** Cross-examination is intended to vet the reliability of informants' testimonies, but if informants stick to their stories, how are defense attorneys able to protect themselves and their clients from perjured testimony?

**A** It is very difficult for defendants to protect themselves against informants. And the criminal justice system doesn't really provide their attorneys with the tools to do so. Cross-examining these witnesses is extremely challenging; they're famously skilled at sticking to their stories because their own liberty is on the line.

It can be especially tricky for defense attorneys to learn about the types of deals that have been made between informants and prosecutors, especially given that informants can in fact testify before formal written agreements have been made; in those cases they can legally say that they have not been promised leniency in exchange for their information, even though everyone in the room knows that they're going to strike a deal with the prosecution.

**Q** If there are still so many problems linked to using informants as witnesses, what is being done to change the system?

**A** There are new procedural reforms that we can introduce to reduce the risk of fabrication in criminal cases: corroboration requirements, jury instructions, enhanced discovery and disclosure requirements, reliability hearings.

Prosecutors have been reluctant to share their informant practices publicly, but that doesn't mean that states haven't considered restricting the use of informant testimony. States around the country have passed or are considering reform. The changes are driven largely by the innocence movement and the revelation that people are being wrongfully convicted because of false testimony by informants.

Texas, California, and Illinois have all passed legislation to increase the reliability of informant testimony. Los Angeles County, specifically, has created a registry which tracks jailhouse informant activity and whether someone has been used previously as a witness. The county district attorney's office also has an informant committee. Prosecutors must get permission from the committee before using a jailhouse informant as a witness.

And in Texas, one of the legislators has proposed that the state just shouldn't use informants in capital cases at all—that if there's going to be a death penalty, the state should not be depending on evidence that is inherently unreliable. ■

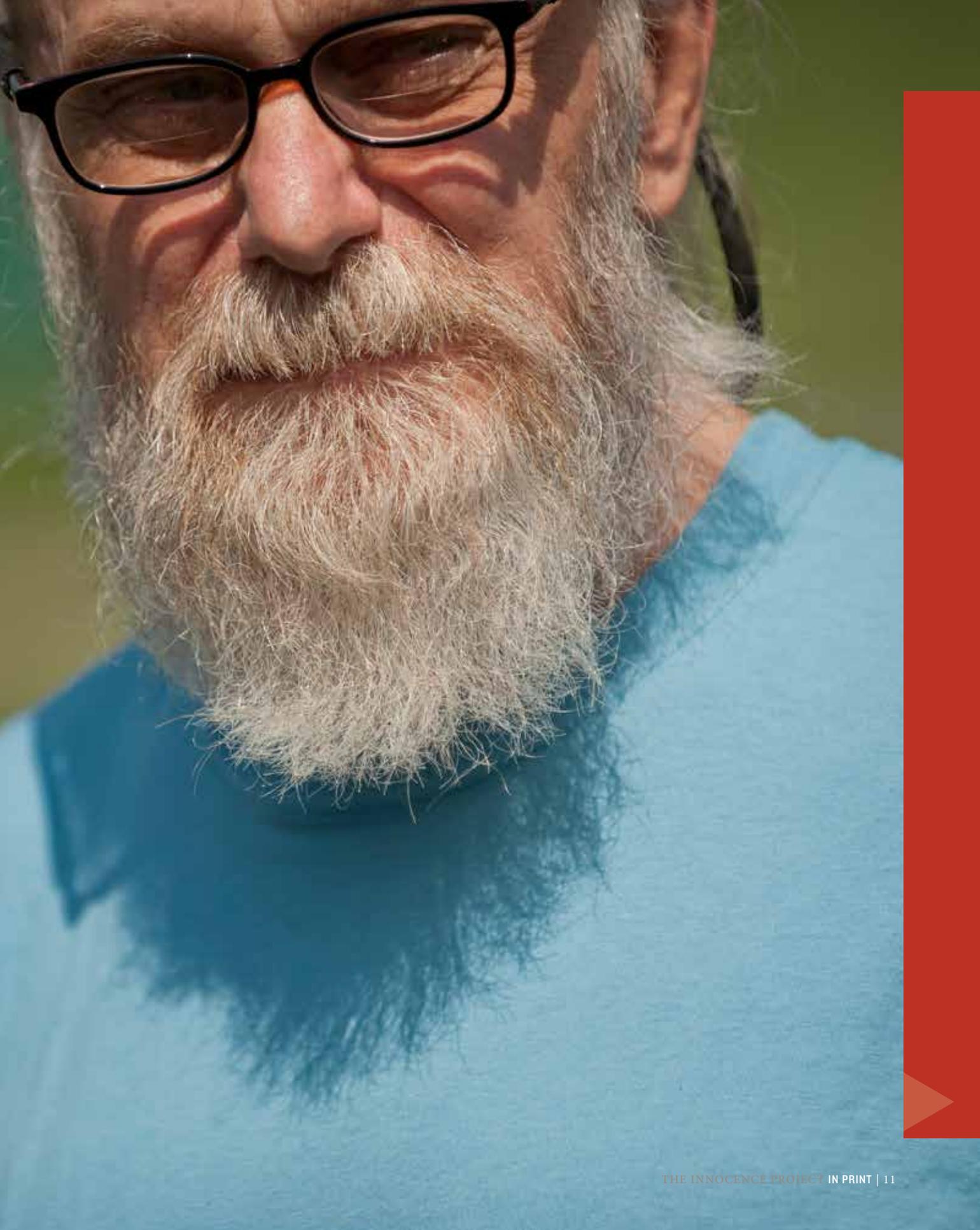
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*“Every incarcerated person knows that if they come up with information, they have the possibility of being rewarded. But prosecutors don't know whether these witnesses are telling the truth, and they often have no meaningful way of vetting the reliability of that testimony.”*

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Lewis “Jim” Fogle has had the unfortunate circumstance of embodying Friedrich Nietzsche’s famed quote, “That which does not kill us makes us stronger.” For most of his life, Jim has been marred by hurt—let down by the people he needed most. That pain has morphed into the source of Jim’s strength. Now, 34 years after being wrongfully convicted of raping and murdering a young girl, Jim’s golden years are on the horizon; he’s hoping that he can finally see what it’s like to live freely. But reentering the world with family ties that could unravel and with limited prospects for work, he is being thrown into the deep end, and as he’s been forced to do many times before, he drawing upon his pain to keep himself afloat.

# THE TRIALS OF LEWIS FOGLE



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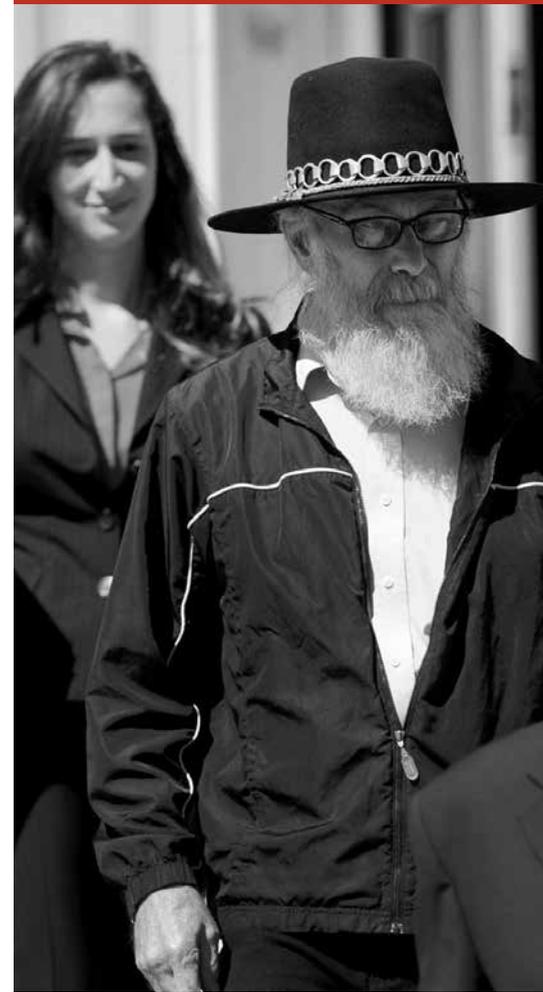
**It isn't that Jim fails to acknowledge that his redemption and freedom are cause for celebration; simply, he knows he has a thorny road ahead.**

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**O**n the late summer day that Lewis “Jim” Fogle was exonerated, he was dressed all in black, wearing matching pants and jacket and a large-rimmed black hat. He looked like an aged Billy Jack, the cult-film hero of whom he was a huge fan in the 1970’s. If he feels an ever deeper affinity with the fictional protagonist now, it would make sense; aspects of their lives mirror one another: innocent men unjustly imprisoned for crimes they didn’t commit and, consequently, driven to independently pursue justice. But on this day—the day in which a judge declared Jim innocent and cleared him of all wrongdoing—Jim wasn’t simply identifying with a Hollywood hero; he was the hero.

Jim is one of the longest serving DNA-based exonerees in Pennsylvania’s history. In 1982, he was wrongfully convicted and sentenced to life in prison. And for 34 years, he was treated like a man not worthy of ever again walking outside a prison yard. Ultimately, though, he triumphed, at least in a way. In August of this year, he became the 333rd person in the United States to be exonerated through DNA evidence.

Jim’s victory lies in his stamina and resourcefulness. He was unwavering in his efforts to uncover the truth in his case. Over the decades that he was in prison, he taught himself the law. His attorneys at the Innocence Project say that Jim’s legal know-how helped lead to his own exoneration. Simply put, his strength is remarkable.



But underlying that strength is frailty. Jim’s fight is rooted in his pain.

According to Jim, much of what he went through when he was wrongfully convicted, he faced alone. Time and disappointment chipped away at Jim’s life until nearly nothing was left, taking from him his marriage, his sons and any prospects of him pursuing his dream of becoming a professional artist. The dejection led him to become his own advocate, but it’s also taken its toll.

At 64, he’s forlorn. Consequently, today he harbors hurt and resentment toward the people in his life who’ve let him down, especially those who had a role in his wrongful conviction.



Fogle, leaving the Indiana County courthouse moments after he was exonerated, surrounded by his legal team. At the helm of his case was Innocence Project Staff Attorney Karen Thompson, pictured in top right in black jacket. Innocence Project Managing Attorney David Loftis is pictured in a dark suit, center.

PHOTO: MICHAEL HENNINGER © PITTSBURGH POST-GAZETTE, 2015, ALL RIGHTS RESERVED. REPRINTED WITH PERMISSION

It isn't that Jim fails to acknowledge that his redemption and freedom are cause for celebration; simply, he knows he has a thorny road ahead.

Pennsylvania is one of the 20 states in the country that does not compensate exonerees for the years they were wrongfully imprisoned. With few prospects for securing a steady income, Jim's later years will be defined as barebones, at best, unless state legislators make a much needed change.

And while the exoneree says he's got enough fight left in him to lobby for a compensation bill, after toiling for more than half of his life to get his wrongful conviction overturned, should he also be expected to wrestle the state for what's rightfully his?

**A** major factor that led to Jim's eventual exoneration was his learned belief that he could rely only on himself.

One of the first lessons came when he was a boy. As a child he loved to paint. As early as the age of four, he knew that he wanted to be a professional artist, and he had talent, having won several art contests by the time he was nine years old. His mother recognized his budding talent, and pressed his father to pay for art classes for the child. The man balked.

But Jim responded to his father with equal defiance. "I taught myself how to paint," he says. "Painting will always be a part of my life."

It wasn't the last time the then-young man would find that he didn't have an ally in his corner. In 1981, based on an extremely bizarre turn of events, Jim was being investigated for the 1976 murder of a 15-year-old girl named Kathy Long. No one—neither investigators nor his defense attorney—seemed interested in pursuing the truth or hearing Jim's side of the story; rather, their actions made for a story that, even now, seems almost dreamlike.

According to the victim's younger sister, a man with black hair and a heavy mustache and eyebrows went to her family home claiming that the girls' older brother had been badly injured in a car wreck. He needed the eldest Long sister to accompany

him to see the boy. That sister was not home. However, Kathy Long, who saw the man parked in front of her house as she returned home from a visit with a friend, got into his car instead. It was the last time Kathy's family saw her. The next morning, a local man discovered her body in the backwoods of Cambria County on his way to pick blackberries. She'd been raped and shot in the head.

There was no physical evidence linking Jim to the crime scene or to the victim. And, having red hair down the length of his back and a large and full beard to match, he didn't fit the description of the perpetrator. Rather, he was implicated based on the word of a single person—Earl Elderkin, a local man who had been diagnosed as being sociopathic and who had long suffered from paranoid schizophrenia.

Police had interrogated Elderkin back in 1976; he fit the composite sketch of the perpetrator. While Elderkin denied involvement in Kathy's murder, he did tell investigators that he was present for the last moments of her life and gave numerous statements to the police in the years following the crime. Each time, he changed his story and implicated different men from around town.

In February 1981, Elderkin checked himself into a psychiatric hospital; he told the hospital staff that he had information about Kathy's murder and that he had been dreaming about killing her. To help jog Elderkin's memory, the hospital staff hired an amateur hypnotist to put Elderkin under "hypnosis," during which he implicated Jim, his brother Dennis and two other men. Despite Elderkin's vulnerable state of mind

and the completely unorthodox means used to secure his statement, police considered Elderkin and his testimony reliable. Elderkin's account led police to arrest the two Fogle brothers.

Ultimately, a pre-trial judge struck down Elderkin's testimony about the Fogles, ruling it inadmissible. But the harm was already done. While charges against Dennis were eventually dismissed, Jim was placed in the Cambria County jail. While Jim was in custody, officers at the jail secured fabricated statements from three jailhouse informants, who said that during the time they'd shared a cell with Jim, he'd confessed to raping and killing Kathy.

When interrogated by the police, Jim maintained his innocence. He had an alibi. On the evening that Kathy was killed, he was at his mother's house, sharing a meal with her and other family members. Later that night he traveled to a friend's house, where he hung out drinking for a couple of hours and then headed to a local bar with his friend and brother.

Numerous witnesses corroborated his story, but investigators were quick to discredit them, especially his mother, laments Jim; she couldn't recall certain details about the night of the crime. But as he points out, "It had been almost five years [since the crime had occurred]. How is anyone supposed to remember what they made for supper on a particular night five years ago?" Jim was charged with second-degree murder.

He went to court in 1982. If ever Jim needed an ally, it was during the four days that he was on trial. But he recalls that two days before the trial even started, he began to



question whether he could rely on his attorney—the person whose sole purpose was to defend Jim. "He told me that if I could come up with \$2,000, I would walk. I couldn't do that," says Jim.

Throughout the trial, the attorney's actions were telling; the lawyer neglected to cross-examine witnesses, even when their testimonies in court contradicted earlier statements they'd made to investigators.

"One of the original eyewitnesses said that there was only one [perpetrator], and that I was not that man. But my attorney did not ask her to describe the perpetrator," says Jim. "I thought that was his job."



“Painting truly helped me a lot when I was in prison. It was a source of something positive for me.”

Fogle proudly displays some of his paintings outside of the courthouse on the day of his exoneration. “I can paint anything I have a photograph of,” he says. PHOTO: MICHAEL HENNINGER © PITTSBURGH POST-GAZETTE, 2015. ALL RIGHTS RESERVED. REPRINTED WITH PERMISSION

Jim stepped up to the plate to try to save himself. He testified in his own defense, emphatically giving his alibi and arguing his innocence. His words fell on deaf ears.

The prosecution called on the same three informants from the Cambria County Jail to testify against Jim in court. According to Jim, at least two of the informants had their criminal charges reduced or totally eliminated in exchange for their testimonies, in which they reasserted that Jim confessed to them.

Jim was convicted. He was sentenced to life in prison without the possibility of parole.

Once in prison, he felt increasingly alienated. “For 34 years, the only person I could count on was myself. I couldn’t even depend on my family,” he confesses. It was an unquestionably difficult time for Jim, who felt that he didn’t have support, from even his own wife.

“I kept trying to get information I needed to prove my case,” he recalls. For years, no one would help.

Knowing that he had neither the money to hire an attorney nor a true ally on whom he could depend, Jim taught himself the law. “I worked on my case. I learned a lot about the law. Law is a part of me now,” he asserts.

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“For 34 years I’ve been working  
to see justice,” says Jim.

“Now, I can’t pull back. I can’t  
stop. I have to keep on fighting.  
Not just for myself but for others  
like me in the future. I’m not  
going to take any prisoners.”

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Perhaps the only other thing that the man could rely on, besides himself, was his painting.

“Painting truly helped me a lot when I was in prison. It was a source of something positive for me.”

His attorney, Innocence Project Staff Attorney Karen Thompson agrees. “He’s lucky,” says Thompson. “He’s lucky he had his art. I think it saved him.”

The thing that his father had snubbed decades prior served Jim in perhaps the most important way possible: it gave him the encouragement he needed during the most troubling episode of his life.

For years, he filed appeals as well as motions for post-conviction

DNA testing. All of his requests were denied. “But, I had patience,” he says.

Finally, nearly three decades after his sentence, Jim saw the first break in his case. He had written to the Innocence Project after he’d read about the organization in the newspaper. After accepting his case, the organization got the court to grant DNA testing of evidence from the 1976 crime scene. The initial testing was inconclusive, but in 2014 the Innocence Project had additional evidence tested. Results revealed that Jim was excluded as the contributor of the male DNA found in the victim’s pubic hair, confirming what Jim had argued for more than half of his life—that he was not the man who murdered and raped Kathy Long.

In August of this year, Jim was released from prison; he was exonerated several weeks later.

He praises Thompson not only for the critical work she did on his case to finally get him exonerated, but for the ways that she encouraged him to maintain an active role in his case. “I love her to death,” he says of Thompson. “Karen let me be a part of it,” he extols of his attorney.

“I want people to know the truth about my case,” says Jim, still deeply disturbed by the fact that the identity of Kathy’s murderer remains unknown. But it may be impossible for the person or the motive behind her death to ever be brought to justice. Most of the people involved in the original investigation, including Elderkin, have since died.



LEFT: Fogle on the day of his exoneration in September 2015.

ABOVE: Fogle admits that his relationship with his wife Deb, pictured here, is rather complicated. On the other hand, his newly formed relationship with his two-year-old granddaughter Olivia, pictured here kissing one of Fogle's paintings, is, perhaps, his greatest source of joy. "She's magnificent," says Fogle.

BOTH PHOTOS: MICHAEL HENNINGER © PITTSBURGH POST-GAZETTE, 2015, ALL RIGHTS RESERVED. REPRINTED WITH PERMISSION

**J**im is out and exonerated, but his work around his wrongful conviction case is far from extinguished. His course of action is an act of necessity.

Several weeks after being exonerated at the Indiana County Courthouse, he met with at least one state legislator to discuss the need for a statute to compensate wrongfully convicted people in Pennsylvania.

"People keep asking me what I'm going to do with my life now that I'm free. I have no idea. And there's no way that I can even think about rebuilding my life without compensation to do so," he laments.

And he's right. As of now, he has no real source of income. At his age, he no longer has the strength to handle the manual labor that he once did when he was a younger man, and

he's lacking relevant job skills given the many years he was imprisoned.

Although Jim and his immediate family are working hard to foster relationships, the process is tenuous and delicate. His current safety net simply may not be secure enough to support him to the degree he needs it right now, especially financially. Without compensation from the state, Jim's days of freedom could be colored by the sad hues of poverty.

Painting may once again be Jim's saving grace. He's working with a number of people who have volunteered to create a site online where he can display, commission and sell his paintings. "People have asked me if they could buy my art after seeing pictures of my paintings in the newspaper," says Jim. "I'm hoping that I can make some money to help support myself by selling

some of my artwork, at least for a while."

Ultimately, though, Jim doesn't want to have to bear the burden of making things right—not this time; that responsibility belongs to Pennsylvania lawmakers, and he's prepared to let them know.

"For 34 years I've been working to see justice," says Jim. "Now, I can't pull back. I can't stop. I have to keep on fighting. Not just for myself but for others like me in the future. I'm not going to take any prisoners." ■



# HOME FOR THE HOLIDAYS

As one might expect, for many people who are wrongfully convicted and in prison, separation from their loved ones creates a void that simply cannot be filled; holidays can be especially hard to bear. Hence, going home and reconnecting with family post-release can be filled with an overwhelming mix of thoughts and emotions for exonerees, from long-imagined moments of celebration to pleasing comforts of family to the twinge of sadness of what's been lost. Here, recent exonerees give their firsthand accounts of why their first holidays home are unforgettable.



## SEDRICK COURTNEY

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Sedrick was exonerated in 2012 based on DNA evidence which revealed that he had been wrongfully convicted of armed robbery in Oklahoma. Earlier this year, Sedrick was finally awarded compensation for the more than 16 years he spent in prison for a crime that he didn't commit.

I have a big family. Before I was wrongfully convicted, all of my relatives would cook and we would all gather in one place. It was everybody—aunts, uncles, cousins. My favorite thing about the holidays back then was just getting together with my family.

Since being exonerated in 2012, my family continues to celebrate together; the traditions have stayed much the same. Sadly, I've moved away so I don't always make it to family celebrations.

But now I have a baby girl, Jakobi; everyday with her is a celebration. And just having a baby in the house—to chase her around and spend time with—is so much fun during the holidays.

I'm married now, too, so now I have in-laws. That means that my holidays are a bit more divided between two places. But it means that I have more family to celebrate with, too.

For the holidays this year, I don't know if I'll be cooking; I don't really have a specialty. But it will be nice to have the traditional meal—turkey, dressing, gravy—at least on the day of Thanksgiving; the food is good to me just once a year.

For the New Year, I'm looking forward to traveling a little bit, but I don't know where I'm going to go quite yet. For right now I'm just making plans in my mind. ■

## STEVEN MARK CHANEY

 Steven was released from prison in Texas when a Dallas judge overturned his 1987 murder conviction in October. Findings by the Innocence Project revealed that the conviction was based on discredited bite mark testimony. Steven is out on bail while the Texas Court of Criminal Appeals reviews his case. This is his first holiday home in 28 years.

I feel great about being home this year to celebrate the holidays. Some of the loneliest times in the penitentiary are the holidays. It's a struggle to not get depressed and to feel lonely.

The facility where I was located was more than 250 miles from my home, and more than 500 miles away from where my mother lived. The day that I was released [in October] was the first time that I'd seen my mom in 14 years. This year I'm going to celebrate with her and the rest of my family.

I have four brothers. They're coming over to my house for Thanksgiving. They're going to bring their guitars. We've all played in bands over the years, so we'll probably have a jam session and just have a real good time.

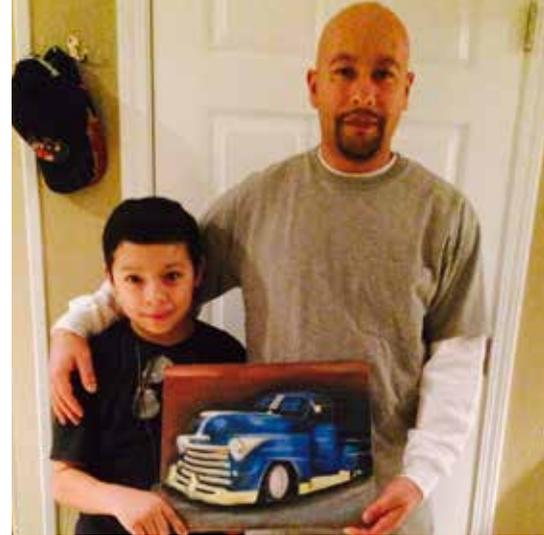
I'm looking forward to it. And my wife and my sister-in-law cook like crazy, so I know we're going to have a bunch of good food. And maybe later in the weekend we'll replace a burned out engine in my brother's car. We've always worked on cars together.

I have nine grandkids. I used to have 10, but one of my grandsons died when I was in the penitentiary; he was killed in an automobile accident. I never got to celebrate Christmas with him. I've actually never celebrated Christmas with any of my grandkids, so this will be a first. This will also be my first Christmas with my wife in 28 years. I'm real excited about it.

I don't know if there are words to describe how happy I really feel. ■



**Steven Mark Chaney** with his brothers and his mother outside the Dallas courthouse in October. PHOTO: LARA SOLT



**Angel Gonzalez** and one of his young family members share a special moment.

PHOTO: COURTESY OF ANGEL GONZALEZ

## ANGEL GONZALEZ

 Angel was exonerated in 2015 after he spent 20 years in an Illinois prison for a rape he didn't commit. This year marks his first holiday season home in decades.

This year is going to be a big celebration. I'm definitely excited and a little nervous, too. In certain situations I don't know how to respond because I'm just so happy.

Thanksgiving will be an important holiday for me. I just want to give thanks.

Christmas will be a big party—probably 50 people at least. The family will gather together—have dinner. Like always, my mom will be up for cooking. Traditionally, we have mole, tamales, pozole. We'll start celebrating on Christmas Eve.

When I was in prison, my family still celebrated the holidays, but my mom said that the days weren't complete without me there. There was always an empty chair. ■

## RANDY MILLS

 Randy was exonerated in April of 2014 after 11 years in prison and three years living as a registered sexual offender. DNA evidence secured by the Innocence Project excluded Randy from crime scene evidence.

Since I was exonerated last April in 2014, I have enjoyed my grandkids. I do enjoy a lot of Thanksgiving food [and] Christmas food: ham, turkey green beans, corn bread. But Christmas, I think, is my favorite [holiday] because of my grandkids. ■

## NATHAN BROWN

 Nathan was exonerated in 2014 of aggravated sexual assault in New Orleans. After spending 17 years in prison for a conviction based on eyewitness misidentification, Nathan was proven innocent when the Innocence Project secured DNA from the victim's dress, excluding him as the perpetrator of the 1997 crime. This year, he'll celebrate his second holiday season home with his family.

Last year, I wasn't in the condition to bless the people I wanted to bless for the holidays. I had just been exonerated a few months earlier. There were things that I wanted to do for the people that I love but that I couldn't do. One of the reasons was that I didn't have the financial means to do so. Also, I was confused about a lot. I was trying to adjust to life—trying to figure it all out.

This year is different. I'm in a better place.

I have three grandkids—ages 3, 5 and 6. They're basically my life. My daughters are grown, so my grandkids are my babies. This year I can provide for them. For Christmas I can give them gifts and the things that they ask for—the games and toys that they see on television. I'm looking forward to doing that for them.

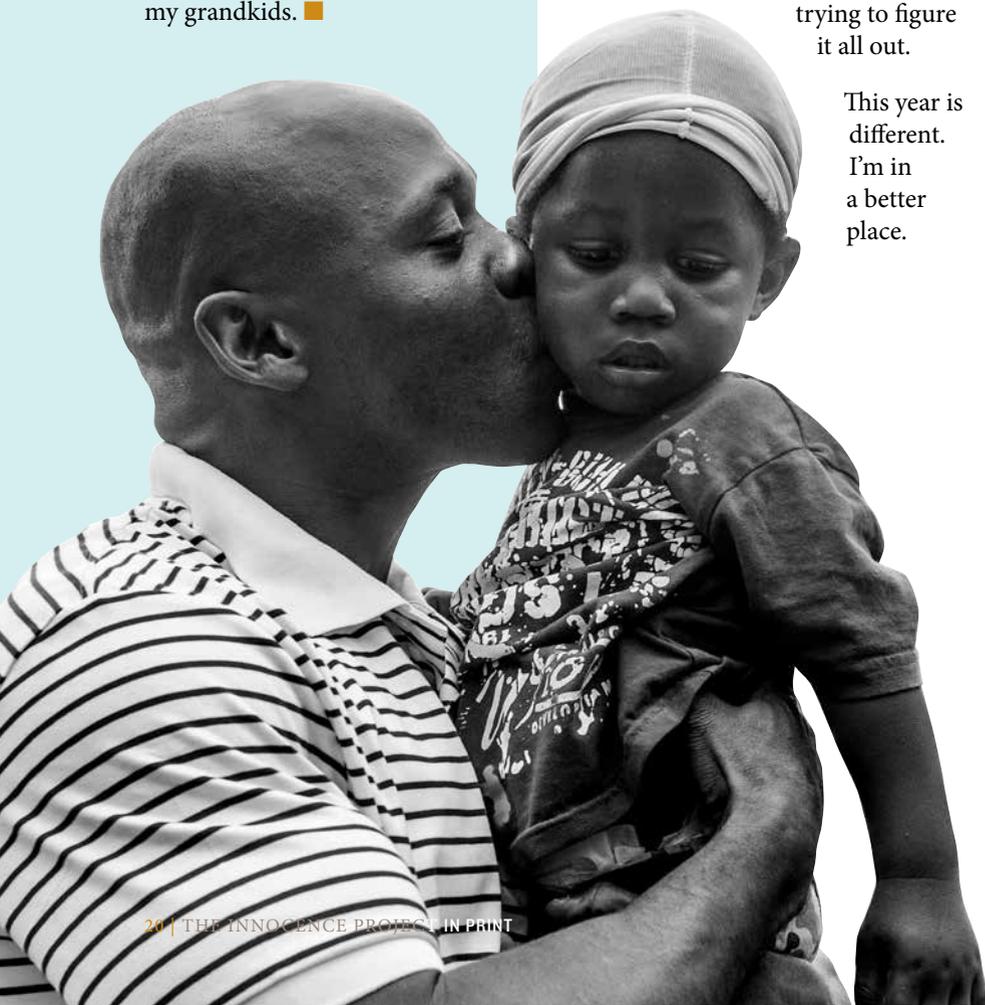
Also, this year, I'm in a more positive state of mind. I've realized that I can just take my life day by day. The rest is up to God. That mind set has allowed me to help my daughters—to give them a hand with the kids by picking them up from school, babysitting them. And I'm so happy to be able to do it. These are the things that I use to dream about doing. Now I can do them, and I'm thankful for that.

For the New Year, I'm fulfilling a personal goal—to go to school. I'm going to be a full-time student, studying mass communications. I'll be starting in January.

This year all together was a better year. Sometimes it felt like it was moving in slow motion, but I figure that slow motion is better than no motion. ■

**Nathan Brown** hugs his grandson on the day of his exoneration in 2014.

PHOTO: THE ADVOCATE/VERONICA DOMINACH



## ANGEL CORDERO

 The Innocence Project is consulting on the case of Angel Cordero, who was convicted of attempted murder and robbery in New York in 1999 and served the entirety of a 13-year sentence. He was released from prison in 2012, but he is still fighting to prove his innocence. This fall, a documentary titled *Coming Home* was released; the film documents Angel's quest for justice and his efforts to establish a relationship with his teenage daughter.

When I was younger, my favorite thing about the holidays was the food; my mom would always cook up something special. It was also about family. I always knew that the family was going to gather together. Sometimes I would even see family members who I'd never met before. And then there were always the presents, obviously, and trying to guess what I was going to get. But there was also the stress around spending money on presents.

After I was wrongfully convicted and I was in prison . . . I try not to harp on things, you know, but the first few years were difficult. But after a while, you become accustomed to your environment. The best part about the holidays then was that I knew that my family was going to have time off, so they would be able to visit me; I'd get to be with them for a little while.

I clearly remember the first holiday after I was released; it was Thanksgiving and my birthday all on the same day. It was amazing. The house was full of people; the family came over. We all celebrated Thanksgiving at my house. And my wife and I put up a Christmas tree.



And my mom put up a Christmas tree in her house, too, the first time in 13 years. We celebrated Christmas at her house.

Now the holidays are real special. I have a little boy, Luke. This year he's going to be more aware of what's going on and will be able to enjoy the holidays a bit more.

In the end, it's really all about seeing my family more than anything else. ■

The Cordero family's 2014 holiday card.

PHOTO: COURTESY OF ANGEL CORDERO



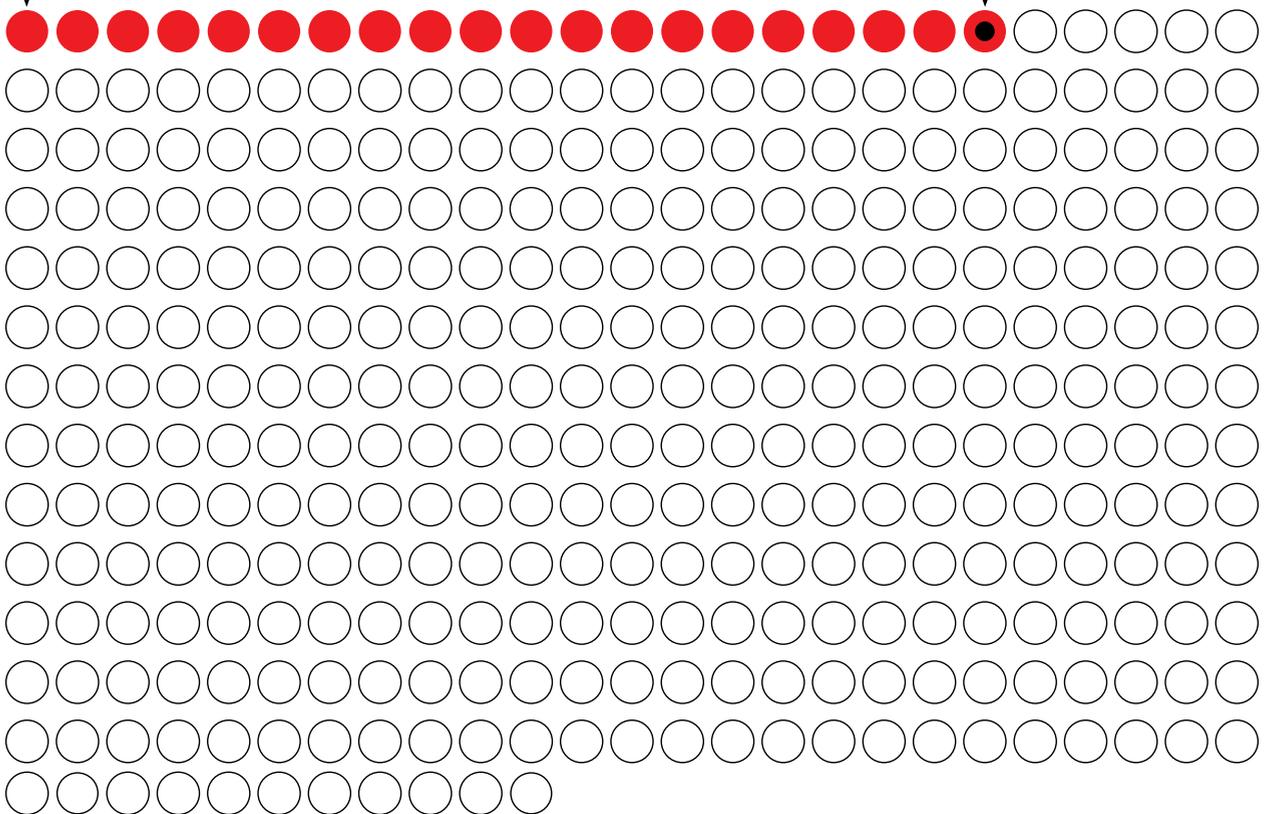
# JUST THE FACTS

## *Prosecutorial Misconduct: HOW PREVALENT IS IT?*

Prosecutors have tremendous power over life and liberty, but we have very little information on how often their conduct contributes to wrongful convictions. Prosecutorial misconduct is defined as any behavior by prosecutors that violates the rights of defendants. Examples include not disclosing evidence pointing to the defendant's innocence, making improper arguments at trial and allowing false testimony to stand uncorrected. While most misconduct is unintentional, we know of some instances where prosecutors intentionally committed acts of misconduct that contributed to wrongful convictions. Because misconduct is often secretive in nature (i.e. failure to disclose evidence of innocence), it is nearly impossible to know the full extent of the problem. The only reported data on prosecutorial misconduct is published court findings of misconduct, which only account for those cases where defendants were aware of the misconduct and raised the issue on appeal. In the 336 DNA exonerations, we are still uncovering evidence of misconduct in cases long after the people were exonerated.

There are **20 cases** in which the Innocence Project has found evidence of prosecutorial misconduct through post-conviction investigation and/or court decisions.

Of those 20 cases, there is **only one** instance in which a prosecutor has been disciplined by the courts.





SEPTEMBER 10, 2015:  
**ANGEL GONZALEZ  
RECEIVED A  
NOTEWORTHY GIFT**

On this day, exoneree Angel Gonzalez was in disbelief when Wilco Bassist John Stirrat, and representatives from bass maker Lakland and musical instrument distributor Korg USA, arrived at his Chicago home bearing a brand new electric bass and amplifier. Angel had been on the hunt for a bass in hope of joining his brother's band for local gigs. When Stirrat learned about Angel through photographer Zoran Orlic (who shot photos of Angel for an Innocence Project article) and his quest for a bass, he wanted to help. In response to the kind gift, Angel said, "I can't believe it. It's awesome. Thank you!"

STAFF

Olga Akselrod, *Senior Staff Attorney*; Angela Amel, *Director of Operations*; Elena Aviles, *Document Manager*; Kareem Belt, *Forensic Policy Analyst*; Bryce Benjet, *Staff Attorney*; Rebecca Brown, *Director of Policy*; Candice Carnage, *Chief Financial Officer*; Paul Cates, *Director of Communications*; Sarah Chu, *Forensic Policy Advocate*; Michael Coleman Jr., *Finance Assistant*; Ken Colosky, *IT Systems Administrator*; Ariana Costakes, *Communications Assistant*; Valencia Craig, *Case Management Database Administrator*; Dana Delger, *Staff Attorney, Strategic Litigation*; Madeline deLone, *Executive Director*; Keshara DeSousa-Murray, *Intake Assistant*; Ana Marie Diaz, *Case Assistant*; Julia DiLaura, *Assistant Director of Institutional Giving and Special Initiatives*; Emily Dindial, *Policy Analyst*; John Dumey, *Organizational Development Specialist, Innocence Network Support Unit*; Chris Fabricant, *Director of Strategic Litigation (Joseph Flom Special Counsel)*; Michelle Feldman, *State Policy Advocate*; Natalie Fine, *Paralegal*; Andrew Giacalone, *Communications Manager, Engagement and Special Projects*; Jonathon Giron, *Legal Operations Coordinator*; Edwin Grimsley, *Senior Case Analyst*; Barbara Hertel, *Finance Associate*; Mandy Jaramillo, *Investigations Attorney*; Amshula Jayaram, *State Policy Advocate*; Robyn Trent Jefferson, *Administrative Associate, Legal*; Jeffrey Johnson, *Office Manager*; Matthew Scott Kellner, *Paralegal, Strategic Litigation*; Meredith Kennedy, *Director, Innocence Network Support Unit*; Shoshannah Kennedy, *Special Projects Assistant*; Sanghee Kim, *Development Assistant*; Sara LaCava Lieberman, *Development Specialist, Innocence Network*; Erika Lago, *Receptionist/Administrative Assistant*; Audrey Levitin, *Director of Development and External Affairs*; David Loftis, *Managing Attorney*; Laura Ma, *Assistant Director, Online Giving and Donor Services*; Alicia Maule, *Digital Communications Manager*; John McKeown, *Director of Information Technology*; Vanessa Meterko, *Research Analyst*; Nick Moroni, *Policy Communications Associate*; Nina Morrison, *Senior Staff Attorney*; Peter Neufeld, *Co-Director*; Karen Newirth, *Senior Fellow Strategic Litigation*; Indrani Nicodemus, *Manager of Special Events*; Corinne Padavano, *Director of Human Resources*; Danielle Pointdujour, *Human Resources Associate*; Vanessa Potkin, *Senior Staff Attorney*; N. Anthony Richardson, *Administrative Assistant, State Policy Reform*; Leslie Rider, *Executive Assistant to the Executive Director*; Marguerite Sacerdote, *Policy Associate*; Seema Saifee, *Staff Attorney*; Carlita Salazar, *Publications Manager*; Norah Scanlan, *Network Operations Associate*; Barry Scheck, *Co-Director*; Meryl Schwartz, *Deputy Executive Director*; Amol Sinha, *Policy Advocate*; Melissa Sopher, *Paralegal*; Karen Thompson, *Staff Attorney*; Elizabeth Vaca, *Executive Assistant to the Co-Directors*; Marc Vega, *Case Assistant*; Hayato Watanabe, *Paralegal*; Karen Wolff, *Social Worker*.

The Innocence Project was founded in 1992 by Barry C. Scheck and Peter J. Neufeld at the Benjamin N. Cardozo School of Law at Yeshiva University to assist prisoners who could be proven innocent through DNA testing. To date, more than 300 people in the United States have been exonerated by DNA testing, including 20 who served time on death row. These people served an average of 14 years in prison before exoneration and release. The Innocence Project's full-time staff attorneys and Cardozo clinic students provided direct representation or critical assistance in most of these cases. The Innocence Project's groundbreaking use of DNA technology to free innocent people has provided irrefutable proof that wrongful convictions are not isolated or rare events but instead arise from systemic defects. Now an independent nonprofit organization closely affiliated with Cardozo School of Law at Yeshiva University, the Innocence Project's mission is nothing less than to free the staggering number of innocent people who remain incarcerated and to bring substantive reform to the system responsible for their unjust imprisonment.



**Innocence Project, Inc.**

40 Worth Street, Suite 701  
New York, NY 10013

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