Advocacy of Eyewitness Identification Reform in California Proceeds on all Fronts

While the Northern California Innocence Project (NCIP) puts the finishing touches on its report about current statewide eyewitness identification practices, we continue to advocate for the adoption of best practices with policy-makers.

Legislative efforts improving California identification policies, sponsored by the California Public Defenders Association and others, have repeatedly met with the strong opposition of organized law enforcement in the state. Most recently, AB 308, a bill that proposed “further study” by the Attorney General and the Commission on Peace Officer Standards and Training, has stalled out in the Senate Appropriations Committee.

NCIP is, however, continuing to build a coalition with those in law enforcement who are updating their practices. In October 2011, NCIP Executive Director Cookie Ridolfi, Supervising Attorney Maitreya Badami and New York Innocence Project Senior Policy Advocate Rebecca Brown met with a representative of the California Attorney General’s Office. They discussed eyewitness identification best practices and reform in other states, as well as possible steps in California. At NCIP’s invitation, David Angel, from the Santa Clara District Attorney’s Office’s Conviction Integrity Unit, and Garen Horst, Senior Deputy District Attorney from the Placer County district attorney’s office, joined the meeting to advocate for reform from a law enforcement perspective. Both counties employ most or all of the best practices recommended by the California Commission on the Fair Administration of Justice (CCFAJ).

Angel discussed the fiscal benefits to Santa Clara County from the reduced number of defense expert witnesses being called to testify. Because Santa Clara law enforcement voluntarily employ many of the most critical best practices, defense experts have generally agreed that the identifications obtained are reliable. Because defense experts are paid for by the county and financed by taxpayers, fewer defense experts called to testify translates to savings for Santa Clara County taxpayers.

NCIP Supervising Attorney Maitreya Badami and Research Attorney Todd Fries review materials for an upcoming panel on eyewitness identification.

Continued on page 7
Dear Friends,

In 2011, we celebrated the 10th anniversary of the Northern California Innocence Project by looking back at all we accomplished together in those 10 years. This year we begin our second decade looking toward the future and continuing our mission to exonerate the innocent, educate our students and community about the causes of wrongful conviction, and advocate for needed changes in our judicial system to prevent wrongful convictions. We also are working on new, high-impact projects in keeping with that three-part mission.

NCIP’s work fighting wrongful convictions continues to take us all over the state of California. We have filed pleadings for cases in California state courts and in federal district and appellate courts. On behalf of the Innocence Network, we have filed amicus briefs in the United States Supreme Court and federal circuit courts. We continue to partner with major law firms which support our work. Our students and staff work tirelessly, often on nights and weekends, to write pleadings, locate records, find witnesses and visit clients. Many of our students stay on to continue working on their cases long after their semester enrollment is complete.

Our executive director, Cookie Ridolfi, is on leave until the end of the school year to focus on the Prosecutorial Oversight Initiative, a series of panel discussions in cities across the country designed to raise public awareness about prosecutorial misconduct (see page 3). NCIP is one of four projects participating in the series and we will host a panel discussion later this year. While Cookie is on leave, I will serve as interim executive director of NCIP.

We are excited to launch the NCIP Speakers Bureau to help exonerees prepare for public speaking opportunities that can help them earn supplemental income while educating the community. Please consider inviting an exoneree to speak at your next event. More about this on page 11.

As you read this we are hard at work planning Justice for All 2013. Our theme next year is Educating the Public: Wrongful Conviction in the Media. Join us on March 21, 2013, when we will honor people who bring stories of wrongful conviction to the public and shine a bright light on the problems in our judicial system. We cannot do this very important work without your support and we hope to see you at JFA 2013. Save the date!

Sincerely,

Nikki D. Pope
Interim Executive Director
NCIP Advisory Board Member
Prosecutorial Oversight—a Nationwide Dialogue Begins

“We have different standards for people and we keep using terms like mistakes, abuses, ethics violations [in referring to prosecutor misconduct]; we use everything to justify an act, and that act, if I’m doing it, is called breaking the law,” said exoneree John Thompson at a forum on prosecutorial misconduct in New York on February 6, 2012.

It was the first stop of “Prosecutorial Oversight: A National Dialogue in the Wake of Connick v. Thompson,” a national campaign to raise awareness about the need for prosecutorial oversight organized by NCIP’s Veritas Initiative, John Thompson, the New York Innocence Project and others.

Thompson, who lost his appeal before the U.S. Supreme Court in 2011, was stripped of his $14 million civil award for the intentional misconduct that caused his wrongful murder conviction and near execution. The Connick v. Thompson case raised an important question: if the nation’s highest court would not permit the prosecutors in Thompson’s case to be sued for monetary damages, and the prosecutors have not been criminally charged or sanctioned by the Louisiana Bar, then what protection does anyone have from the prospect of wrongful arrest, prosecution and conviction?

The Prosecutorial Oversight campaign seeks answers to this question. The campaign builds on the Veritas Initiative’s groundbreaking studies, which documented the lack of accountability of California prosecutors. Supported by a multistate research effort documenting the widespread failures of our system to address prosecutorial misconduct, the tour will feature John Thompson.

“Prosecutors—who are no doubt just as concerned about misconduct as we are—are in an excellent position to help identify and correct improper prosecutorial actions. Their input will be invaluable as we move forward with collaborative discussions focused on solving this problem,” said Cookie Ridolfi at the launch of the tour. Ridolfi pioneered the research methodology used in the multi-state research projects and NCIP’s Veritas Initiative is providing the research for the six-state tour.

In addition to New York, forums will be held in California, Louisiana, Texas, Arizona and Pennsylvania. At each event, John Thompson’s story will be told, and a panel of justice-system practitioners will examine the forum state’s system for dealing with prosecutorial misconduct and explore the remedies that could improve the system.

Please email us at ncip@scu.edu to receive updates on this tour.

Veritas Reports Spark Progress

When NCIP’s Veritas Initiative released its first report, “Preventable Error: Prosecutorial Misconduct in California 1997-2009,” in October 2010, prosecutorial misconduct was only just beginning to become a recognized and documented issue in our justice system. Now, more than a year later, NCIP and its Veritas Initiative have garnered national attention, influenced California State Bar policy, and become leaders in the national dialogue on prosecutorial oversight.

Since the release of that first report, we have published an update covering 2010 and will release the second update this year. Veritas researchers have identified over 800 cases of prosecutorial misconduct in California and shed light on the problem of multiple offenders. In almost one-third of the cases, misconduct was committed by prosecutors who had committed misconduct on at least two other occasions. Prosecutorial misconduct can no longer be denied as a problem in our criminal justice system and a cause of wrongful conviction.

Continued on page 7
In August 2011, the United States Court of Appeal for the Ninth Circuit issued an order directing a federal judge to hold an evidentiary hearing regarding George Souliotes’ claim of actual innocence. It was an enormous victory for NCIP and the law firm of Orrick, Herrington and Sutcliffe LLP who fought long and hard for this opportunity.

The case was not new for either NCIP or Orrick, both of which have been involved with the Souliotes case for 10 years. NCIP began working with Orrick in 2002, after having reviewed Souliotes’ case and realizing that much had gone wrong at his trial. Mr. Souliotes was convicted of triple homicide in 2000 after a house fire killed his tenant and her two children in Modesto, California. The prosecution’s case was based largely on a chemical found on one of Mr. Souliotes’ shoes that the state claimed “matched” a chemical substance found inside the tenant’s house and that the state alleged came from an accelerant used to start the fire. The state also presented an alleged eyewitness whose own criminal charges “went away” after she agreed to testify against Mr. Souliotes, and a (false) theory of financial motive. A first jury hung. A second convicted when the defense inexplicably failed to present any of the witnesses it presented at the first trial.

Orrick hired fire science experts and investigators who concluded that the chemical found on Souliotes’ shoes did not match the substance found at the home, and that the supposed indicators of arson that the state relied upon did not in fact support a finding of arson.

After the district court granted the state’s motion to dismiss the petition for writ of habeas corpus, Orrick devoted even more time and resources to fighting for the case to be heard on the merits. It took hundreds of hours to prepare and argue the case in the Ninth Circuit, where NCIP and Orrick ultimately prevailed in August 2011, winning the right to an evidentiary hearing regarding Souliotes’ claim of actual innocence.

Since then Orrick has worked tirelessly to help demonstrate Mr. Souliotes’ innocence, from hiring forensic experts to re-enacting the alleged crime scene. At the January 2012 hearing in federal court, the prosecution’s experts agreed with those hired by Orrick that there is no scientific basis for concluding that the fire was an arson and that the substance on the shoes does not match the substance found at the fire scene. The federal court must now decide, on an expedited basis as ordered by the Ninth Circuit, if innocence has been sufficiently proven to permit consideration of Mr. Souliotes’ constitutional claims.

NCIP Legal Director Linda Starr praised Orrick’s work saying, “They have stuck with a case that’s become increasingly difficult. That kind of commitment to a case is terrific. Their extraordinary efforts have turned this case around.”

For their unflagging pro bono effort and countless hours of top-notch legal work, NCIP commends all the attorneys of Orrick, Herrington & Sutcliffe LLP and is proud to present them with the 2012 Justice for All Pro Bono Award.

The Northern California Innocence Project would like to extend its thanks to the following firms which have provided thousands of pro bono hours and resources to pursue justice for all:

- Arnold & Porter LLP*
- Cooley LLP
- Goodwin Procter LLP
- Keker and Van Nest LLP
- Latham & Watkins LLP
- McDermott Will & Emery
- Morgan, Lewis & Bockius LLP
- Morrison & Foerster LLP
- Orrick, Herrington & Sutcliffe LLP
- Quinn Emanuel Urquhart & Sullivan LLP
- Reed Smith LLP
- Shearman & Sterling LLP
- Simpson Thacher & Bartlett LLP
- Weil, Gotshal & Manges LLP

* Arnold & Porter and Howard Rice combined effective January 1, 2012
NCIP and the California Innocence Project at California Western School of Law in San Diego have been awarded a second grant of $2.2 million to continue their wide-reaching DNA testing program.

The California Post-Conviction DNA Testing Assistance Program (CADNAP) helps eligible California inmates pursue post-conviction DNA testing to support their claims of innocence.

The second grant, like the first, will pay for reviews of eligible post-conviction cases of violent felonies, especially forcible rape and homicide; for locating and analyzing biological evidence samples associated with these cases; and for litigating petitions requesting DNA testing.

In 2009, the program won a $2.4 million federal grant. Since then, seven lawyers and six paralegals and investigators have worked to identify inmates, from among the 33 adult prisons statewide, who appear most likely to be exonerated by DNA testing. This second grant will enable the lawyers to continue this highly labor-intensive work for another 12 months.

CADNAP’s program is by far the most concerted effort undertaken in California to identify and review potential cases for post-conviction DNA testing. During the first six months of the program 17,670 informational packets were sent to prison inmates convicted of qualifying offenses. More than 3,300 cases were screened and reviewed and 196 cases were opened for investigation. DNA testing is proceeding in eight cases. Just recently another 22,000 packets were mailed, targeting inmates with convictions since the year 2000. Additional outreach efforts to contact all qualifying inmates will continue over the next few months.

If DNA testing results indicate the inmate could not have committed the crime, the innocence projects will pursue post-conviction relief with the court system and local district attorney’s offices.

The funding for this program comes from the National Institute of Justice, a part of the Kirk Bloodsworth Post-Conviction DNA Testing grant program, included in the 2004 Justice for All Act sponsored by Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.). The Bloodsworth grant was intended to allow states to conduct DNA tests in cases in which someone has already been convicted but key DNA evidence was not tested. The grant funds were awarded competitively to the California Emergency Management Agency, which oversees CADNAP’s programs and funds distribution.

“I have been heartened to see that grants awarded through the program are having an impact and will contribute to the growing number of innocent people exonerated, and guilty people identified, through DNA testing, and I remain committed to preserving this important program.”

~ Sen. Patrick Leahy

Senator Leahy said, “The Kirk Bloodsworth Post-Conviction DNA Testing Grant Program, which was one of the key programs created in the bipartisan Justice for All Act, helps ensure that the innocent are not punished while the guilty remain free. I have been heartened to see that grants awarded through the program are having an impact and will contribute to the growing number of innocent people exonerated, and guilty people identified, through DNA testing, and I remain committed to preserving this important program.”

“We are grateful for this second grant as we are seeking testing in over two dozen cases around the state,” said Cathy Dreyfuss, CADNAP directing attorney at NCIP. “Any of these cases may result in the exoneration of a wrongfully convicted inmate.”

CADNAP is determined to change the way that California addresses the needs of the wrongfully convicted, Dreyfuss added. “Preservation of biological evidence and legal documents is the backbone of post-conviction DNA testing litigation,” she said. “By exposing inherent problems in how such material is retained, we uncover avenues for legislative reform.”

“The continuation of this program is very significant for California prisoners,” said Cookie Ridolfi, executive director of NCIP. “This is the broadest and largest undertaking in any state in the nation. It has the potential not just to exonerate the wrongfully convicted but also, with DNA analysis, identify the actual perpetrators. This grant, however, is to fund very specific programs; NCIP still needs and greatly appreciates help from supporters to fund existing operations of its pro bono legal clinic.”

Get the NCIP newsletter by email!

Get the latest news delivered directly to your inbox. Sign up by emailing us at ncip@scu.edu.
Where Are They Now?
NCIP Alums Trained for Success in All Fields of Law

As part of NCIP’s educational mission, we take pride in preparing our students for their futures in the legal profession. Not only does the NCIP clinic open students’ eyes to the causes of wrongful conviction, it also gives them a chance to learn, develop and practice their legal skills in preparation for any field of law they choose.

Our clinic has inspired some students to seek careers in the criminal justice field. One student said, “My experiences at NCIP inspired me to seek employment in criminal law, where I am currently employed as a public defender. NCIP exposed me to a career path which I otherwise may not have sought, and it helped lead me to what I believe will be a very fulfilling career.”

Some of our students use their experiences to become better prosecutors. A former student, now an assistant district attorney in Southern California, said, “My work at NCIP provided the writing experience that so many classes in law school ignore. Synthesizing the statutes, case law and facts of our client’s case into a legal document which was submitted in Superior Court exposed me to the kind of work I do on a regular basis in my current position.”

However, a recent survey of approximately two-thirds of NCIP alums shows that the majority, over 50%, have taken their legal knowledge into the private sector. The practical experience and abilities that they learned in the NCIP clinic have helped them gain employment with some of the area’s top law firms, or given them the opportunity to start their own practice. One former student, now working at a large law firm, said, “Working at NCIP opened my eyes to injustices that I had not previously imagined possible. Being part of the team that exonerated Obie Anthony will always be one of the proudest parts of my legal career and I look forward to continuing to perform important pro bono work as my career progresses.”

Whether they are working for the prosecution, defense, academia, a large law firm or a small non-profit, NCIP is proud to have taught such talented students and we look forward to seeing what our alums can accomplish in the future.

NCIP alumni find success in many areas: a breakdown of where they are now.
Horst explained that he can pursue charges against suspects identified in procedures with confidence that no unnecessary suggestiveness has been injected, because such identifications obtained using test practices are demonstrably more reliable than identifications obtained in more traditional procedures.

Recently, Badami and NCIP Research Attorney Todd Fries were invited to attend a Berkeley City Council meeting to comment in favor of a proposal recommending the adoption of the CCFAJ’s best practices for gathering eyewitness identification evidence. By unanimous vote, the council adopted the proposal and tasked the city manager with updating the Berkeley police department’s current practices. We have also been asked to participate in the meeting with the city manager.

NCIP also was invited to participate in a panel on eyewitness identification at the March 2012 California Police Chiefs Association annual symposium in Sacramento. The other panelists included Rebecca Brown; Garen Horst; Jennifer Dysart, an eyewitness identification expert; Chief Pete Dunbar of the Pleasant Hill Police Department; and Karen Amendola, Chief Operating Officer of the Police Foundation, a nonprofit organization dedicated to supporting innovation and improvement in policing. The symposium was an excellent opportunity for alliance-building with senior law enforcement officials from around the state.

Additionally, NCIP continues to write amicus briefs on this issue. More information on page 10.

NCIP looks forward to continuing its efforts to advance statewide reforms in eyewitness identifications.

For the latest on these efforts, sign up for email updates by emailing us at ncip@scu.edu.

In California, NCIP has begun a dialogue with the California State Bar (the Bar) to help make prosecutors who commit misconduct accountable and train others in their ethical responsibilities. After the publication of our first report, the Bar opened or re-opened disciplinary investigations into over 130 cases mentioned in the report. The new interim California Bar Chief Trial Counsel, Jayne Kim, initiated contact with NCIP Executive Director Cookie Ridolfi as part of an effort to be more open and engage both sides of the debate.

After the publication of our first report, the Bar opened or re-opened disciplinary investigations into over 130 cases mentioned in the report.

The reports have gained national attention as well. Articles detailing our findings have appeared in the Los Angeles Times, Wall Street Journal, and on CNN and local news stations. The research has been cited in a Yale Law Journal article and more than 10 other states have expressed interest in using our methodology to study the issue in their states. Veritas also tracks prosecutorial misconduct stories nationwide on our website www.veritasinitiative.org/news-new. We have noticed an abundance of news stories in the past year as awareness has grown.

As leaders in the field of prosecutorial misconduct research, NCIP and the Veritas Initiative have partnered with Innocence Project New Orleans, Voices of Innocence and the Innocence Project to create a nationwide tour: “Prosecutorial Oversight: A National Dialogue in the Wake of Connick v. Thompson.”

NCIP and its Veritas Initiative continue to provide expertise in the area of prosecutorial misconduct in California and nationwide. Cookie Ridolfi recently presented to the First District Appellate Project, educating appellate panel attorneys on prosecutorial misconduct. We have received numerous emails and phone calls from attendees complimenting Ridolfi on the presentation.

Other plans include developing law school curriculum specifically targeted at the ethical responsibilities of prosecutors and defense attorneys, legislative reforms to abolish absolute prosecutorial immunity, and continued collaboration with district attorneys around California. Santa Clara University School of Law Dean Donald Polden has offered a $10,000 matching grant to help us continue this important policy work. If you would like to help us reach that goal, please go to www.ncip.scu.edu, click “Donate to NCIP” and put Veritas or prosecutorial misconduct in the “Comments” box. Or, scan the code below with your smartphone and you’ll be taken directly to the donation page.

We appreciate your support!
The Impact of Your Gift: The Costs

In February 2008, NCIP received a letter from Obie Anthony. Convicted of murder and robbery in 1995, he maintained his innocence and requested help. It was not the first time he had asked for a review of his conviction. But it was the first time someone took him seriously. When Anthony walked out a free man, on October 4, 2011, he had spent 17 years in prison.

NCIP, working with Loyola Law School’s Project for the Innocent, spent an estimated 5,100 attorney hours to win his freedom. If NCIP were to be compensated for all hours spent (which we are not), the court would pay approximately $513,600 based on an average court compensation rate.* If a firm were to bill for a mid-level associate working those hours, the bill would be four times that amount or $2,054,400.

Although NCIP began work on Anthony’s case in February 2008, it wasn’t until May 2010 that the court appointed NCIP as Anthony’s attorney. Only at that point could NCIP start billing for time spent on the case. Billing for the time spent prior to NCIP’s appointment is not allowed, thus, from February 2008 to May 2010, NCIP will not be compensated.

Below are estimates of some of the costs involved with an innocence case, using Anthony’s case as an example:

<table>
<thead>
<tr>
<th>Task</th>
<th>Approximate Attorney Hours for Anthony’s case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gathering and reviewing thousands of pages of case documents</td>
<td>500</td>
</tr>
<tr>
<td>Interviews throughout the state and country of key witnesses</td>
<td>400</td>
</tr>
<tr>
<td>Prison visits and meetings with the client</td>
<td>375</td>
</tr>
<tr>
<td>Researching legal issues related to the case</td>
<td>300</td>
</tr>
<tr>
<td>Writing a petition for writ of habeas corpus (which is often about 600 pages with exhibits)</td>
<td>550</td>
</tr>
<tr>
<td>Prepare and file petition for writ of habeas corpus</td>
<td>20</td>
</tr>
<tr>
<td>Meetings and conversations with the district attorney</td>
<td>40</td>
</tr>
<tr>
<td>Responding to the opposition’s papers: informal response, traverse</td>
<td>500</td>
</tr>
<tr>
<td>Court appearances</td>
<td>60</td>
</tr>
<tr>
<td>Motions</td>
<td>200</td>
</tr>
<tr>
<td>Preparing for and conducting evidentiary hearings at which we essentially have a re-trial—except we have the burden of proving our claims, including actual innocence</td>
<td>2,120</td>
</tr>
<tr>
<td>Briefing before and after the hearing (this is often much greater)</td>
<td>25</td>
</tr>
<tr>
<td>Preparing for a possible re-trial after the conviction is overturned (In some cases this number can be much higher—in Maurice Caldwell’s case our attorney spent three months of 10- to-12-hour days at the public defender’s office working with the assigned attorney and writing motions before the case was dismissed.)</td>
<td>10</td>
</tr>
</tbody>
</table>

**TOTAL:**
Not including the thousands of hours spent after the charges are dropped helping exonerees re-acquaint with the world, housing them when they have nowhere to go, teaching them computer and other skills, and helping them find jobs, and even civil lawyers.

* Courts pay approximately $100 per hour, depending on the county.
As demonstrated by Obie Anthony’s case, exonerations are complex and time intensive. NCIP is fortunate to have the support of Santa Clara University, Santa Clara Law and generous donors. However, even that financial support is not enough to take innocence cases to exoneration, to educate law students and the public, and to effect reform. NCIP works hard to amplify our resources by looking outside our organization and enlisting the help and support of others.

**Corporate and Law Firm Partnerships**

Through our corporate and legal partnerships we obtain additional funding, legal support, media relations and marketing support, and in-kind donations. Each year we call on our relationships with law firms, private investigators, forensic scientists, advisory board members and vendors to help us make every dollar you donate work harder.

**Solo Practitioners, Investigators and Volunteers**

Many private investigators and forensic scientists have worked with us on multiple cases at reduced rates. Some even donate their time because they firmly believe in our client’s innocence.

Volunteers also play an important role in stretching every donation dollar. A paralegal has volunteered her time to clear accounts receivable where state, county or city government agencies owe fees for NCIP’s work as a court-appointed attorney in our pro bono legal cases. Other volunteers help at events or with administrative support.

**University and Law School Resources**

Santa Clara University and Santa Clara Law are essential partners. Their direct and indirect support are instrumental in ensuring that we advance our three-part mission of education, exoneration and reform. As a part of Santa Clara Law’s expanding clinical program, NCIP clinic students get hands-on experience doing legal work which helps them find jobs after law school. In addition to teaching students who take our clinical classes, we employ law students through a student employment program.

Undergraduate schools and students also play a role in our success. We have partnered with the Markkula Center for Applied Ethics, which co-sponsored a Breakfast Briefing event. The theatre department has performed productions about wrongful conviction and now is helping us launch a Speakers Bureau [more on pg. 11]. Students from programs in business, information systems and communications have helped NCIP, often for class credit.

NCIP also has collaborated with others including Stanford and Golden Gate University (GGU) law schools. From Fall 2001 to December 2005 we worked with GGU, and the GGU office, headed by professor Susan Rutberg and supervising attorney Janice Brickley, secured the exoneration of Pete Rose in 2004. More recently, Loyola Law School, specifically Laurie Levinson and Adam Grant from Loyola Marymount’s Project for the Innocent, collaborated with us on Obie Anthony’s case.

**National and International Innocence Movement**

Recognizing that large scale reform of our justice system requires collaborative and collective action, we are also a leading member of the international Innocence Network. The Innocence Network, co-founded in 2004 by our Executive Director Cookie Ridolfi, is comprised of 65 state and international innocence projects, with 55 in the United States and 10 operating in other countries. The Network members share expertise, talent and best practices to further our work.

Innocence cases are challenging. They require immense resources. They are almost never solved quickly and take years to weave their way through the court system. Effective advocacy programs require resources to effect change at the local, state and national level. We work hard to maximize the impact of your donations toward this work to ensure that innocent clients receive justice and that our justice system is fair.

**By the Numbers**

- NCIP attorneys and support staff along with 60-90 students per year make up NCIP’s pro bono legal clinic.
- Since its founding in 2001, NCIP has evaluated almost 10,000 requests for help. In virtually every instance the inmate is indigent.
- NCIP reviews nearly 1,000 letters per year, and is working on 78 active cases. The Project litigates an average of 25 cases in any given year.
- Project attorneys and students have helped win the freedom of 13 men and women.
- Exonerations are so time-intensive, the average statewide and regional innocence projects secure approximately .55* exonerations per year. NCIP has secured an average of 1.18 exonerations per year.

* based on the average of 28 statewide and regional innocence projects in the Innocence Network which share statistics.

Your gifts help us to investigate innocence claims and start the long process to freedom. Please make your gift for freedom today.
Amicus Briefs Aid in Advancing Wrongful Conviction Issues

As part of NCIP’s mission to educate, exonerate and reform, we often file amicus briefs in courts throughout the country. Sometimes we are asked to do so by the parties involved in the case. Other times we seek to file amicus briefs on issues of significant importance to our clients or more general issues pertaining to wrongful convictions. Each case has the potential to change the legal landscape.

Weighing in as “amici” allows the Project to offer its expertise on the causes and remedies of wrongful conviction over a broad range of legal issues and to help shape the developing jurisprudence. Over the years, amicus work has helped influence judicial decisions about forensic science evidence, police and prosecutorial misconduct, access to DNA testing, the concept of actual innocence and more.

NCIP sometimes receives pro bono assistance on amicus briefs from some of the nation’s top law firms. We also partner with the Innocence Network, an international organization of 65 innocence projects co-founded by NCIP Executive Director Cookie Ridolfi, to write briefs on important criminal law issues. Here are highlights of some cases for which NCIP has filed briefs over the last 10 years.

**Amicus Brief:**
The term *amicus* is short for the Latin *amicus curiae*, which means *friend of the court*. Litigants who are not parties to the action before the court file amicus briefs to assist the court in deciding an issue before it. Typically, amicus briefs are filed by organizations to support a particular issue important to the organization's mission. It is for this reason that NCIP files amicus briefs when courts are deciding important issues of criminal justice that pertain to our legal efforts to exonerate the innocent.

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**Van Buskirk v. Baldwin, Ninth Circuit Court of Appeals.**

**Issue:** Access to Courts  
**Pro Bono Legal Partner:** Morrison Foerster LLP

In this case, a three-judge panel held that a habeas petitioner is required to show that he used due diligence in pursuing his claim of innocence in order to overcome a valid procedural default which would otherwise prevent him from seeking habeas corpus relief. A petitioner is required to show due diligence by demonstrating that, despite the fact that a prior court had good reason to refuse to review his claim, he actively investigated and presented his claim to the prior court with enough effort to require the federal court to consider the merits of his claim. NCIP asked that the Ninth Circuit review the case en banc (the full panel of judges). Although the court denied the request for en banc review, the three-judge panel amended its opinion and removed the due diligence requirement from its holding.

**Lee v. Lampert, Ninth Circuit Court of Appeals.**

**Issue:** Access to Courts  
**Pro Bono Legal Partner:** Cooley LLP

On a very similar issue, NCIP, with the Innocence Network, filed an amicus brief with the law firm Cooley LLP in support of the petitioner to seek en banc review that helped reverse a particularly troubling panel decision of the Ninth Circuit Court of Appeals. In the case of *Lee v. Lampert*, the original panel of Ninth Circuit judges held that petitioners seeking habeas corpus relief who file their petitions beyond the one-year statute of limitations cannot use evidence of their innocence as an exception to the statute of limitations. NCIP attorneys immediately recognized the potentially negative impact of this decision on many NCIP clients without the resources to file a habeas corpus petition within that strict time period. Moreover, the Ninth Circuit’s decision was in conflict with similar cases from other federal courts. The Ninth Circuit granted en banc review and reversed the panel’s decision pertaining to the statute of limitations.
Conviction Issues

State v. Avery, Wisconsin Court of Appeals.

**Issues:** False Confessions & Mistaken Eyewitness Identifications  
**Pro Bono Legal Partner:** Cooley LLP

In *State v. Avery*, the issues before the court were at the core of causes of wrongful conviction—false confessions and mistaken eyewitness identifications. The brief was filed in association with the law firm of Cooley LLP and marked the beginning of a fruitful collaboration with the firm. The Court of Appeals reversed Brian Avery’s conviction and ordered a new trial based upon the new evidence presented concerning his confession and eyewitness misidentification.

Richards v. People, California Supreme Court.

**Issue:** Forensic Science  
**Pro Bono Legal Partner:** Cooley LLP

William Richards was convicted of killing his wife, primarily on the basis of expert testimony that a mark on her body was consistent with Mr. Richards’ bite mark. The reliability of this testimony was called into question when the experts who testified at Mr. Richards’ trial later testified at an evidentiary hearing that they were wrong. NCIP consulted with Cooley LLP on this amicus brief filed by the Innocence Network arguing that the science behind bite mark evidence is not precise enough to identify perpetrators. The case is still pending in the California Supreme Court.

*For a more extensive list of amicus briefs filed by NCIP, visit [www.ncip.scu.edu](http://www.ncip.scu.edu), under the Policy & Law Reform section.*

Speakers Bureau

**NCIP to Launch Speakers Bureau**

NCIP is excited to launch the NCIP Speakers Bureau to help exonerees prepare for public speaking opportunities that can help them earn supplemental income while educating the community. Each exoneree will attend a series of workshops led by faculty of Santa Clara University. In these workshops, exonerees will learn how to craft and deliver a speech with a particular message. All exonerees, whether or not they are NCIP clients, are eligible to participate in the Speakers Bureau. NCIP hopes to expand the potential audience beyond traditional law schools, law firms and community organizations and attract corporate clients looking for motivational speakers. Please consider inviting an exoneree to speak at your next corporate event and contact the NCIP Speakers Bureau. Visit [www.ncip.scu.edu/innocence-matters.cfm](http://www.ncip.scu.edu/innocence-matters.cfm) to learn more about this program.
Thanks to the generous support of our donors, we can continue our important work—fight for justice for those who have been wrongly convicted, raising public awareness about the prevalence and causes of wrongful convictions, and promoting substantive legal reforms to prevent future wrongful convictions.

Please note: this list reflects cumulative gifts and pledges received between July 1, 2010 and February 29, 2012. We make every effort to compile an accurate list. If your name is missing, misspelled or there are other inaccuracies, please contact Haley Kaprielian, Marketing Associate, at 408-551-3000 x5604 or email hkaprielian@scu.edu.

Names in red indicate consistent giving

<table>
<thead>
<tr>
<th>EXONERATORS ($100,000+)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anonymous</td>
</tr>
<tr>
<td>Gerbode Family Foundation/Colin, Ian and Sharon Gerbode</td>
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<tr>
<td>Frank and Denise Quattrone Foundation/Frank and Denise Quattrone</td>
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<table>
<thead>
<tr>
<th>LIBERATORS ($50,000 – $99,000)</th>
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<tbody>
<tr>
<td>William J. Brady</td>
</tr>
<tr>
<td>John Donahoe</td>
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<tr>
<td>eBay</td>
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<td>Elaine and Kenneth Langone</td>
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<thead>
<tr>
<th>FREEDOM FIGHTERS ($25,000 – $49,000)</th>
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<tbody>
<tr>
<td>Anonymous (2)</td>
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<tr>
<td>Fred and Marilyn Anderson</td>
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<tr>
<td>James Anderson</td>
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<tr>
<td>Ann and L. John Doerr</td>
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<tr>
<td>GoDaddy.com, Inc.</td>
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<tr>
<td>Listwin Family Foundation/Don Listwin</td>
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<tr>
<td>Worth and Andy Ludwig</td>
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<td>Qatalyst Partners</td>
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<tr>
<th>JUSTICE SEEKERS ($10,000 – $24,999)</th>
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<tr>
<td>Anonymous (4)</td>
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<tr>
<td>Bonnie Addario</td>
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<tr>
<td>Asset Management Company</td>
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<tr>
<td>Bredt Family Fund/Polly and Thomas Bredt</td>
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<tr>
<td>The Campbell Family Foundation/</td>
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<tr>
<td>Bill Campbell</td>
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<tr>
<td>Gail and Ron Conway</td>
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<tr>
<td>Cooley LLP</td>
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<tr>
<td>Davis Polk</td>
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<tr>
<td>Anne and Adrian Dollard</td>
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<tr>
<td>Farella Braun &amp; Martel LLP</td>
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<tr>
<td>Sarah and Patrick Gibbs</td>
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<tr>
<td>Kenneth Goldman and Susan Valerioyte</td>
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<tr>
<td>Reed Hastings, Jr. and Patty Quillin</td>
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<tr>
<td>Nancy Heinen and Dennis DeBroeck</td>
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<tr>
<td>Franklin “Pitch” Johnson</td>
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<tr>
<td>Keare/Hodge Family Foundation/</td>
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<tr>
<td>Stacy Keare and John Hodge</td>
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<tr>
<td>Keker &amp; Van Nest LLP</td>
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<tr>
<td>Kathryn and Richard Kimball</td>
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<tr>
<td>Kleiner Perkins Caufield &amp; Byers</td>
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<tr>
<td>Stan McKee</td>
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<tr>
<td>Miller Family Foundation/</td>
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<tr>
<td>Jeff and Karen Miller</td>
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<td>Morgan Lewis &amp; Bockius LLP</td>
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<tr>
<th>PATRIOTS ($5,000 – $9,999)</th>
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<tr>
<td>Anonymous (2)</td>
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<tr>
<td>Adobe Systems</td>
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<tr>
<td>Fred Amoroso</td>
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<tr>
<td>Arnold &amp; Porter LLP</td>
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<tr>
<td>C. Edwin Baker 2001 Trust</td>
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<tr>
<td>Ann Baskins and Tom Defilippis</td>
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<td>Aneel Bhusri</td>
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<td>George and Danielle Boutros Brocade Communication Systems, Inc.</td>
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<tr>
<td>Sharene and Alfred Chuang</td>
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<td>DLA Piper LLP</td>
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<tr>
<td>The Draper Foundation/</td>
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<tr>
<td>Melissa and Timothy Draper</td>
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<tr>
<td>Mary Jane and Bill Elmore</td>
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<td>Judith Estrin</td>
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<td>Ronda and Gordon Eubanks</td>
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<td>Kathryn Gould</td>
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<td>Greylock Partners</td>
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<tr>
<td>Salvador Gutierrez and Mary Anderson</td>
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<td>Hackworth Family Foundation/</td>
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<tr>
<td>Jean and Mike Hackworth</td>
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<td>John Hollway and Jami McKeon</td>
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<td>Howard Rice Nemerovski Canady</td>
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<td>Falk &amp; Rabkin PC</td>
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<td>Julie and Mitchell Kertzman</td>
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<th>ADVOCATES ($2,500 – $4,999)</th>
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<tr>
<td>Diane and Aldo Branch</td>
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<tr>
<td>Sally and John Bourgoin</td>
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<td>Chief Enterprises</td>
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<td>Clare and John Davis</td>
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<td>Pamela Dougherty</td>
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<td>Patricia Dunn and William Jahnke</td>
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<tr>
<td>Barbara Fargo and Marty Williams</td>
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<td>Donald E. Field</td>
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<td>Norm Fogelson</td>
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<td>Mary Ellen and Mike Fox</td>
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<td>Andrew Gabelman</td>
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<tr>
<td>Institutional Venture Partners</td>
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<tr>
<td>Karin and John Jelavich</td>
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<tr>
<td>Tom Lehrer</td>
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<td>Miriam and Sean Kali-Rai</td>
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<td>John &amp; Jill Kispert</td>
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<td>Patti and Michael Klayko</td>
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<td>Michael Kresser and Darby</td>
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<td>Siemkelpark</td>
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<td>Lori and Dennis McBride</td>
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<td>Robert McIntosh</td>
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<td>Sharon and Stan Meresman</td>
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<td>Margie and Dennis Sullivan</td>
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<td>Tiger Woods Foundation</td>
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<tr>
<th>DEFENDERS ($1,000 – $2,499)</th>
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<tbody>
<tr>
<td>Anonymous (1)</td>
</tr>
<tr>
<td>Jeryl and Ronald Abelmann</td>
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<tr>
<td>Janice and William Anderson</td>
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<tr>
<td>Michele and Allen Asch</td>
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<tr>
<td>Edward (Ned) Barnholt</td>
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</tbody>
</table>
Donor Honor Roll

Consistent Giving

How do I get my name in red?

There are several ways to make sure your giving pattern is consistent and to join the supporters who are highlighted this year.

**EFT:** Set up an electronic funds transfer with your bank on a monthly, quarterly or annual basis.

**Recurring Gifts:** Set up recurring payments with your credit card. You can decide the frequency.

**Pledge:** Make a pledge commitment over five years. We will remind you annually.

**Grant:** Recommend a multiyear grant to your charitable trust or community or family foundation. Most foundations can set up annual installments over a five-year period.
Donor Honor Roll

Christine Solley
Kathleen and Neal Stephens
Stuart Taylor, Jr.
Chris Waters and Melissa Wardlaw

COUNSELORS ($100 – $249)
Anonymous (4)
William Abriel
Audrey Alonis
Hadi Amjadi
Grace Ashikawa
Barbara Babcock
Maitreya Badami
Ann LaFargue Balin
Stephanie Barclay
Susan and John Barisone
Pamela and Mike Barnes
Polly and Owen Baylis
Jennifer and Charles Beeler
Susan Bishop
Stephen Bloch
Tanya Bracegirdle
Chris Bradshaw
Geoffrey Braun
Jerome Braun
Debra Brodsky
John Cardoza
Barry Carr
Jeanne and Edward Cavallini
Jesse Choper
Stephanie Clarke
Nell Clement
Barbara Cox
Collette and Roller Crutcher
Laurel Davidson
Rodrigo DeGuzman
Martin Dermer
Floyd Dickman
Richard Doctoroff
Natasha Doner
Adrienne Drell and
Franklin Nitikman
Tracy Dressner
Cathy Dreyfuss
Diana Farrell
Roberta Fitzpatrick
Seth Flagsberg and Louella Tsai
David Flamm and
Margaret Stevenson
Kelley Fleming
Tom and Kama Fletcher
Linda Fox
Susan French

Maria Consuelo Garcia
Audrey and E. Jackson Going
Barbara Gooding
John Haramalis
Rosie and Andre Harrison
Ray Hasu
Anne Hawkins
Amara Hayashida
Deborah and Judge Dale Ikeda
Intel Foundation
Manju Jayasuriya
Katherine Hart Johns and
Craig Johns
JRS PI.
Conrad Klein
Carol Koenig
Eleanor Kraft
Jack Lambert
Judge Mary Jo Levinger
Joyce and Mark Levy
Aimee Logan
Katrina Logan
Linda Rose and Jerry Mar
Sr. Pat Mitchell, SFCC
Catherine and Edith Murphy
Merry and Glenn Nolte
Richard O’Brien
Tyler Ochoa
Georgia and David Osborne
Christine Pack
Virginia Phillips
Julia and David Popowitz
Marie and Michael Pressman
Barbara Bullock Pyles
Sharon Raab
Lee Raney and Nick Marinaro
Ann Ratcliffe
Lynne Reade
Lynne and Lawrence Reardon
Gary Rose
Pearl Rosenthal
Ellen Rudy
Spencer Ryono
Carol Sanger
Santa Clara Host Lions Club
John Scardamaglia
Patricia Seeds
Carl & Sherrilee Seibert
Tom Silveroli
Alan Siraco and Amanda Roze
Courtney Smith
Scott Solis
Barbara Steinberg and Frank Lossy
Mary Strong
Camille Tilley

Jennifer Tran
Carolyn and H. Anton Tucker
Cathy and Willie Walker
Thomas Welle
William Whisnant
Edward and Patricia White
Matthew Wilson
Benjamin Woods
Patricia and Christine Yam

FRIENDS (UP TO $100)
Anonymous (2)
Cecilia and William Arzbaecher
Deanne Ball
Maureen and Louis Basile
Robert Brownstein
Angela Caballero de Cordero
Tunde Campbell
Emily Chandler
Janice Cole-Wilson
Caroline Cooper
Mary Sue Crawford
Randy Danto
Daniel Dean
Maryellen and Thomas Duell
Jan and Jerry Finney
Connie Garcia
Deborah Gettleman
Joan Harrington
Michael Hemker
Sharon Hilke
Matthew Izzu
Jessica Jackson
Martina Kanau
Kristin Kelly
Gretchen Kenney
Kiwanis Club of West San Jose
Zachary Knoles
James Lee
Marilou Lieman
Susan and Robert Lopez
Billie Markim
Carol Marks
Casey McBride
Cory McBride
Mercedes and Terence McCaffrey
Stephen McIntosh
R. Jesse McLaren
Autumn Mesa
Elizabeth Messmer
Kathleen and Clyde Miller
Michael Millman and Cynthia Taylor
Jo Ann Morgan

Mark & Randy Nordstrom
Ha & T. Nguyen
Jonathon Nicol
Mark and Randy Nordstrom
Beverly Norman-Cooper
Kia-Jacquelyn Omotalade
Debra and Arnold Pinck
R. Torre & Company
Samantha Reardon-Carter
Laurel Rest and Bill Kedem
James Rudy
Marian Jane Sanders
Kandise Scott
Nishal Shah
Mary and Henry Talifer
Joan Taylor
Jill and Rob Ultan
Joy Valentini
Elizabeth and Richard Waldo
Wm. Robert Wall/
Wall Investigations
Charles Wallau
Alice Wolin

HONORING
In honor of Fred and
Marilyn Anderson
Terry Eastman
William Carrico and Suzan Woods
In honor of Carly Balleto and
Paul Hasbrook
Georgia and David Osborne
In honor of Judge Gregory Brown
Donna and William Brown
In honor of Melissa Davidson
Laurel Davidson

EFT Giving Now Available
Automate your gift payments by signing up for our recurring funds transfer program. You choose how much to give and how often—weekly, bi-monthly, monthly or quarterly—from your debit or credit card, checking or savings account. It’s easy! Contact Valerie Calvano in Gift Processing at 408-554-4994 or vcalvano@scu.edu to get signed up today.
Exonerees are released from prison without any assistance after losing years of their lives. If you or someone you know would be interested in helping recently released exonerees, please email us at ncip@scu.edu. We would be especially interested in job assistance or training, educational opportunities and medical help.

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www.YouTube.com/NorCalInnocenceProj
Upcoming NCIP Events

April 11, 2012
Topic: The Use of Snitch Testimony in Obtaining Criminal Convictions
Speaker: Chuck Sevilla
Convictions based on the testimony of jail house snitches—someone who stands to gain something in exchange for his testimony against another—contribute to more than 15% of the cases of wrongful conviction overturned by DNA testing. Yet snitch testimony is frequently used at trial. Using case examples, we will explore the use and misuse of snitch testimony and the risks inherent in that use, such as: How and when do prosecutors rely on snitch testimony? What motivates snitches to provide this information? Why does California now require inmate snitch testimony to be corroborated?
This event qualifies for one hour of CLE credit.

May 9, 2012
Topic: Fixing Lineups: Eyewitness Identification Reforms
Speaker: Maitreya Badami, NCIP Supervising Attorney & Jessica Sargeant, NCIP Research Attorney

September 12, 2012
Topic: Absolute Immunity vs. Qualified Immunity: Why the Bad Prosecutors Never Pay
Speaker: Margaret Johns, senior lecturer, UC Davis School of Law

October 10, 2012
Topic: Prosecutorial Oversight: John Thompson’s Story
Speaker: John Thompson, exoneree

November 14, 2012
Topic: Full Circle: A True Story of Murder, Lies and Vindication
Speaker: Gloria Killian, exoneree & co-author

December 12, 2012
Topic: NCIP Case Files
Speaker: NCIP Staff Attorney

March 21, 2013
NCIP Sixth Annual Justice for All Awards Dinner
Save the date!

Breakfasts begin at 7:30 a.m. and the sessions run from 8 to 9 a.m. Go to www.ncip.scu.edu/innocence-matters.cfm to register.