NCIP wins state compensation for exonerees

John Stoll awarded $704,700 and Peter Rose awarded $327,200 for 20 years and 9 years of wrongful incarceration, respectively.

On May 18, 2006, in a huge victory for those wrongfully convicted, the California State Board of Control granted NCIP’s petition and awarded $704,700 to John Stoll to compensate him for the nearly 20 years he spent in state prison wrongfully convicted of child sexual abuse. This award followed closely the March 2006 award of $327,200 to Peter Rose, in compensation for his 9 years' wrongful imprisonment for a rape he did not commit. With only a handful of these awards ever granted, these judgments represent a tremendous victory for Stoll, Rose, and NCIP.

In 2004, NCIP, working in collaboration with the California Innocence Project at California Western School of Law in San Diego, won Stoll's freedom. When Stoll was released, he had nothing — no money, no job, no home, and no family. He lost most of his teeth while in prison, and those that remained were decayed and abscessed. Many thought that surely the State of California or Kern County would provide for him in some way after wrongfully depriving him of so much. Sharing the belief that the State should do so, NCIP filed a claim for compensation on Stoll’s behalf under a provision of state law that allows inmates $100 a day for each day of wrongful imprisonment.

In the meantime, Stoll moved into a one-room cottage at the home of two of his attorneys, where he lived for the next year. An anonymous donor gave him $1,000 for clothing, students purchased him a cell phone, other donors moved by his story sent him money in varying amounts, and the father of a journalist who had covered the story gave him an interest-free loan for living expenses. In an extraordinary demonstration of generosity, a local periodontist and two dentists donated extensive treatments and procedures including dentures. Without this outpouring of support, Stoll would have been homeless and struggling to survive.

Two years after Stoll’s release, the Attorney General agreed that NCIP had sufficiently demonstrated that Stoll had been wrongfully convicted, and the State Board of Control recommended to the State legislature that his claim be paid. This was remarkable in that it is one of the few cases where an award was granted on evidence of innocence other than DNA evidence. The legislature then voted to award Stoll his compensation.

In October 2004, the Golden Gate University office of NCIP won Peter Rose's freedom when DNA evidence demonstrated that he could not have committed the rape for which he had been convicted. When Rose was released, he moved to the Point Arena area where his ailing mother had been caring for his four children while he was incarcerated. Overjoyed to be reunited with his family, he looked forward to providing for them what he could not while in prison for nine years. But released from prison with no money or job, he struggled. Working with the law firm of Morrison & Foerster, NCIP filed a claim for compensation under state law.

In March 2006, the State awarded Rose $327,200. He and three of his children now live in a trailer on land he bought with his award. He spends his days building a home for his family on the land, taking care of his children and his mother, and celebrating the end of his nightmare.
Letter from the Director

(WHILE COOKIE RIDOLFI IS ON SABBATICAL DURING THE FALL OF 2006, SCU LAW PROFESSOR ELLEN KREITZBERG IS ACTING DIRECTOR OF NCIP.)

Men and women continue to be falsely accused and convicted across the United States. Through the work of NCIP and its sister projects around the country, exonerations through DNA evidence and the discovery of new witnesses in old cases is also increasing. California has 175,000 people in its prisons. We know many of them are innocent — we just don’t know which ones.

Since January 2001 when NCIP opened its doors at Santa Clara University, we have received over 5,000 letters from inmates and their families asking for our help. The screening to determine which letters assert factual innocence and of those which cases we are able to help is formidable. At this moment we have 88 active cases in which we are investigating claims of innocence. Over 350 more requests for help must wait. With our current staffing, it will take us almost three years to reach these cases. Meanwhile, more letters arrive daily.

NCIP is in the forefront of working to free the innocent in the State of California. Students and staff work tirelessly to write pleadings, locate records and witnesses, and visit clients.

However, many roadblocks obstruct our ability to exonerate inmates. We are frequently frustrated by the lack of cooperation that still exists with many prosecutors. In one county we negotiated for almost four years before we were allowed to review the trial evidence to see if there was anything that could be scientifically tested. In another county, the district attorney refuses to allow the evidence to be DNA tested. In the end, there may be justice. But the process is slow — and costly.

This work is important. But funding is another challenge. SCU continues to provide significant support to NCIP, but it is not enough. This year, through the work of Cookie Ridolfi and friends of NCIP, the legislature included $400,000 in the State budget to support our work to free innocent people. The Governor vetoed this item, so once again NCIP will receive no state funding. Although the State is responsible for the incarceration of innocent people, it is unwilling to support the work to exonerate and free them.

We thank you for your past support. We turn to you again for help to continue our work. Tell your friends about the work of NCIP. Call upon others to speak out for fairness in our criminal justice system. Let the Governor’s office know that this work should be supported by State funding. Your generous contributions allow us to continue. You have the ability to give someone back their life. Your support makes a difference.

NCIP collaborates with law firms

Many law firms, both local and national, volunteer to assist NCIP with work on cases. This collaboration not only provides clients with extraordinary representation but has allowed our law students to work with extremely talented lawyers. The human and financial resources provided by law firms have enabled us to advance cases more quickly, to conduct extensive factual and legal research that NCIP cannot afford, and to engage in complex and important litigation not otherwise possible.

Law firms have contributed legal research, pro bono representation of NCIP as amicus curiae on a novel legal issue, pro bono representation of NCIP to obtain owed costs and fees from the court, and representation of clients in major litigation in both state and federal courts. Firms that have provided pro bono services include Morrison & Foerster; Howard Rice Nemerovski Canady Falk and Rabkin; Weil, Gotshal and Manges; and Orrick, Herrington and Sutcliffe.

We at NCIP, our clients, and our students greatly appreciate the contribution of these firms to this work. If you or your firm is interested in providing pro bono services, please contact Linda Starr, NCIP’s legal director at 408.554.1945.
NCIP represents numerous inmates in state and federal courts in a wide range of proceedings aimed at demonstrating their innocence. We also seek to obtain access to evidence that could demonstrate innocence. Here are just a few of those cases:

**The Case of Mr. S.**

NCIP represents Mr. S. in a federal petition for a writ of habeas corpus. Mr. S. was convicted of murder when a house that he owned burned down, killing the occupants. Local authorities considered the fire an arson. At trial, the prosecution argued that a substance on Mr. S.'s shoes could be the same as a substance detected on carpet samples from the burned home and that it "told the tale" that he was present and set the fire. The first trial ended in a hung jury when unbiased witnesses testified that Mr. S. had no financial motive to burn the house and experts challenged the conclusion of arson. In the second trial, the defense inexplicably failed to call any witnesses to dispute the prosecution's case after promising to do so in opening statements. Mr. S., who faced the death penalty, was convicted and given a sentence of life without the possibility of parole.

NCIP, working with the law firm of Orrick, Herrington and Sutcliffe in San Francisco, has uncovered new scientific evidence that indicates that the substance found on Mr. S.'s shoes is not the substance found on the carpet in the house. NCIP and Orrick have filed a petition in federal district court arguing that this new evidence, provided by one of the country's leading arson experts, as well as the ineffective assistance of trial counsel, requires that Mr. S.'s conviction be reversed.

**The Case of Mr. M.**

NCIP is also collaborating with the law firm of Weil, Gotshal and Manges and The Innocence Project at Cardozo Law School in New York in representing Mr. M. before the Ninth Circuit Court of Appeals. Mr. M. seeks DNA testing of biological material found in his case. He argues in a federal civil rights suit that by denying him access to the material to have it tested, the State deprived him of his federal constitutional rights. This case represents a significant opportunity to establish a federal constitutional right to post-conviction DNA testing.

**The Case of Mr. R.**

The Superior Court in Yolo County has appointed NCIP to represent Mr. R. in order to investigate, and if appropriate, file a motion for DNA testing of biological evidence. The trial judge, in declining to impose the death penalty against Mr. R., wrote that he had a "deep, lingering and continually growing doubt as to Mr. R.'s guilt." NCIP is in the process of locating, cataloguing and evaluating over 20 boxes of court exhibits, as well as other evidence not introduced in court, to determine whether any evidence exists that can be scientifically tested.

While these are only three of our active cases, they represent hundreds of hours of work by students, faculty, staff, and law firms. We are working on dozens more cases, and hundreds more await our attention. Without our efforts, these cases may remain unexamined and innocent prisoners will remain unfairly incarcerated.

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**Students create prisoner outreach program**

By Ritika Puri

Two years ago, "The Montel Williams Show" featured an exoneree from the Northern California Innocence Project. The show led me to an incredibly profound understanding: our society's legal safeguards are not perfect, and there is no greater injustice than when our justice system betrays the people that it is designed to protect. "Montel" inspired my greatest dream — to work with an Innocence Project.

This summer, I had that opportunity. I contacted the Northern California Innocence Project and agreed to help implement a statewide outreach program that had been envisioned by former NCIP student Marco Campagna. I coordinated the San Quentin-NCIP outreach program through Centerforce, a group that specializes in prisoner education.

NCIP struggles to reach the hopeless, innocent prisoner who is a needle in a haystack of guilty prisoners. Effective outreach is essential to NCIP's mission, values, and cause. In order to find the innocent inmates, we must search California's prisons — outreach will help us do that. Our next step is to find funding and another volunteer to pick up where I left off.
NCIP is pleased to introduce its first Development Director, Beau Takahara. Working with NCIP faculty, staff, and board members, Beau will raise program and operating funds for NCIP and develop community and donor relations. Beau was recently in charge of fundraising for the successful ZeroOne San Jose Festival presented in August in downtown San Jose. In 2000 she co-founded ZeroOne, the non-profit organization that organized and produced the ZeroOne Festival, and served for five years as director and CEO. During the previous five years, she was part of the fundraising team for the Tech Museum of Innovation leading up to and following The Tech’s inauguration in 1998.

The Northern California Innocence Project sponsored a public forum to discuss the problems with the use of “snitch” testimony. Held at SCU’s law school, the panel included George Kennedy, Santa Clara County District Attorney; Jerry Uelmen, SCU law professor and Executive Director of the California Commission on the Fair Administration of Justice; and Gloria Killian, an exoneree who was convicted on the basis of snitch testimony and exonerated after 16 years in prison. Speaking to a room filled with SCU students and the public, the panel discussed the dangers of using testimony from jailhouse informants.

The Judicial Council of California Science and the Law Steering Committee invited two NCIP representatives to participate in its regional meeting in San Francisco in October 2006. Executive Director Cookie Ridolfi and Case Manager Mary Likins addressed representatives from the judicial, legal and science communities. They helped attendees assess the impact of science and technology on the California courts. Topics included the presentation and evaluation of scientific evidence, ethical issues in science and technology, and the adequacy of court rules and facilities. Once again, Santa Clara University and NCIP took a leadership role and position of prominence in this area of the law.

NCIP was well-represented at the April 2006 “The Faces of Wrongful Conviction” conference hosted by UCLA Law School to bring attention to the serious problems in California’s criminal justice system that cause wrongful convictions. Joining the many exonerees and national experts in addressing participants at various workshops were NCIP faculty and staff members Cookie Ridolfi, Ellen Kreitzberg, Susan Rutberg, Linda Starr, Janice Brickley, and Mary Likins. The conference received national news coverage and generated the Golden Gate University Law Review’s Wrongful Conviction Symposium issue (Vol. 37, Issue 1).

NCIP and the arts

The frequency and horror of wrongful convictions and incarcerations, along with the growing number of exonerations, have begun to resonate with the media and the general public. This past year, NCIP has reached out to the arts community in several collaborations to help increase public awareness of these injustices.

In September, 2005, NCIP and Golden Gate University celebrated the anniversary of Peter Rose’s exoneration with a viewing of After Innocence in San Francisco. This documentary by Jessica Sanders explores seven exonerees, their journeys back into society, and their efforts to rebuild their lives. The film raises basic questions about society’s moral obligation to those who are exonerated.

One month later, NCIP presented “Barred From Life” at the Mountain View Community Center. With a cameo by actor Danny Glover, “Barred From Life” is a multimedia performance that explores the tragic accounts of the wrongfully convicted. NCIP Director Cookie Ridolfi collaborated with SCU dance professor David Popalisky to create a performance that expresses the problems of an exoneree’s life.

In February 2006, NCIP brought Kyle MacLachlan (Desperate Housewives), formerly of the ABC series In Justice, which dramatized an Innocence Project’s efforts to free the wrongfully convicted, to Santa Clara University to speak with law students about post-conviction innocence work. From May through July 2006, NCIP sponsored a showing of “The Innocents: Headshots,” a series of photographs by Taryn Simon, at Santa Clara University’s de Saisset museum. “The Innocents” features 45 dramatic photographs of victims of mistaken identity and corrupt justice. Accompanying the showing was an exhibition of “A Life Reclaimed: The Journey of Recent Exoneree Alan Crotzer,” by San Francisco-based photographer Vance Jacobs.

NCIP holds its inaugural alumni event

In October, NCIP held its first celebration bringing together past and present NCIP students to catch up with our graduates and let everyone know what NCIP is currently doing. The event was held at San Jose's
The California Commission on the Fair Administration of Justice, created by the California Senate, has been charged with examining the causes of wrongful conviction and recommending changes to improve the state’s criminal justice system. Former California Attorney General John Van de Kamp is Chair of the Commission and Jerry Uelmen, SCU law professor and former NCIP board member, is Executive Director. Membership in this bipartisan group includes police officers, district attorneys, defense attorneys, community leaders and victim’s rights advocates.

As a member of the Commission, NCIP Executive Director Cookie Ridolfi continues to be an important voice around the state on the issue of wrongful convictions. She has participated in the investigative hearings held by the Commission and has assisted in the preparation of its reports.

The Commission has already held three sets of hearings on practices and procedures identified as contributing to wrongful conviction. The first set of hearings examined problems surrounding mistaken eyewitness identification. The Commission learned how in four out of five cases in which DNA evidence exonerated an individual, mistaken identification contributed to the wrongful conviction.

The second set of hearings examined false confessions. Poignant testimony came from Christopher Ochoa and Harold Hall, both convicted and given life sentences based in large part on their confessions to crimes they did not commit. Hall emotionally related how after 17 hours of interrogation his only goal was to survive — and survival meant telling the police he committed the crime. Ochoa related his terror when the police showed him photos of the execution chamber and threatened that he would end up there unless he confessed.

The California legislature responded and passed two bills: one requiring law enforcement to adopt policies to improve eyewitness identification and the second mandating electronic recording of custodial interrogations in serious felonies.

The third set of hearings addressed the vagaries of testimony by a “snitch,” or jailhouse informant. All too often, these informants turn out to be lying in order to escape prison terms. Following each hearing, the Commission drafted a report and a series of recommendations. The California legislature responded and passed two bills: one requiring law enforcement to adopt policies to improve eyewitness identification and the second mandating electronic recording of custodial interrogations in serious felonies. The Governor vetoed both bills. Neither bill required any significant cost to implement.

John Van de Kamp expressed disappointment in the Governor’s response “especially when the Commission was able to achieve virtual unanimity in its recommendations.” The Commission plans to seek reintroduction of both bills. For more information on the Commission go to www.ccfaj.org.
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