



NORTHERN CALIFORNIA INNOCENCE PROJECT

SPRING 2005

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Year in Review

NCIP helps free two men in 2004

By Keren Wasserman
and Barbara Kelley

Two men wrongfully convicted of crimes they did not commit were exonerated last year due to the efforts of the Northern California Innocence Project. Both men were convicted on the basis of testimony coerced by overzealous investigators. Their cases serve to validate the passage of California Senate Resolution 44, recently enacted to address flaws in the criminal justice system.

John Stoll spent nearly 20 years in prison for crimes he did not commit. His case grew out of the 1980s child molestation hysteria that led to the convictions of scores of innocent people in Bakersfield, California, and other communities throughout the country. His 1985 conviction was based solely on the testimony of children who had been subjected to coercive interviewing techniques by Kern County social workers, sheriff's officers, and other county authorities. Officials pressured six young children into falsely testifying they were sexually abused. No



Exoneree John Stoll (second from left) chats with NCIP students Jonathon Nicol, Angela Mitchell, and Supriya Bhat at a Santa Clara University reception in his honor. Photo by Diane Kreiter.

physical evidence corroborated their testimony. A jury convicted Stoll of 17 counts of child molestation, and the court sentenced him to 40 years in prison.

In 2002, NCIP and co-counsel California Innocence Project at California Western School of Law filed a petition for writ of habeas corpus on behalf of Stoll. Following full briefing, the Kern County Superior Court ordered an evidentiary hearing be held.

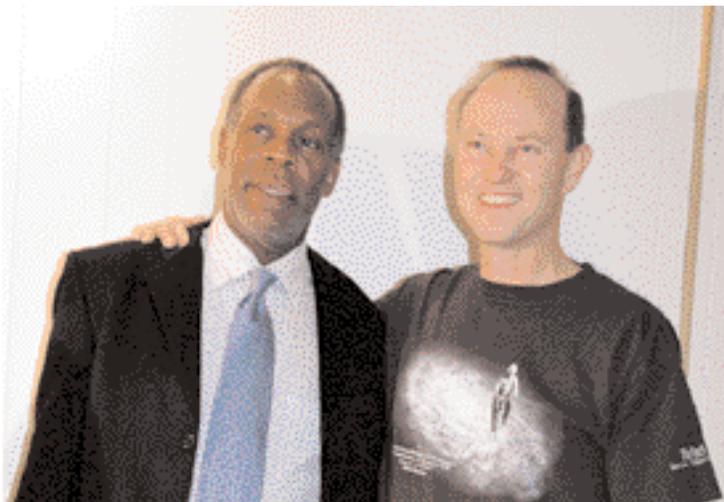
NCIP law student Samantha Reardon had drafted legal documents and interviewed Stoll in prison. She also assisted

with research and preparation for the hearing and attended several days of the Bakersfield proceeding. Reardon recalls, "Hearing the decision was one of the most dramatic and rewarding moments I have ever experienced. As a student whose faith in the legal system had diminished, that one moment taught me that no matter how the odds are stacked against you, justice will prevail as long as you are a passionate advocate and are willing to fight for it."

Stoll attorney Jill Kent said, "This case was so important in teaching our students how an unchecked government can victimize its citizenry."

During the hearing five of six former child witnesses recanted their testimony. "These young men gave dramatic, emotional testimony that showed they were indeed victims as children — but victims of authorities who purported to help them, not of John Stoll," said Linda Starr, NCIP legal director and Stoll attorney. The court issued a writ of habeas corpus reversing all of Stoll's convictions. The

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Danny Glover plays cop for NCIP production

Award-winning actor Danny Glover takes time for a photo with Santa Clara University Dance Professor David J. Popalisky. Glover recently met with Popalisky and NCIP's Cookie Ridolfi, co-creators of the dance "Barred From Life," to film an interrogation scene for the production. Glover portrays a police officer in one of the many video clips scattered throughout the performance. "Barred From Life" explores the tragic and often invisible accounts of people wrongly convicted of crimes they did not commit. The performance includes dance, video imagery, interviews with exonerees, and live appearances by people who suffered wrongful imprisonment. For full story, see page 3.

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court found that Kern County had obtained Stoll's convictions in violation of his constitutional right to due process because they were based on unreliable testimony procured by county employees' improper interviewing techniques.

Stoll was released from prison on May

“[T]hat one moment taught me that no matter how the odds are stacked against you, justice will prevail as long as you are a passionate advocate and are willing to fight for it.”

Samantha Reardon

4, 2004, his 61st birthday, after the district attorney admitted it could not retry the case and dropped all charges against him.

An investigation by the California Attorney General condemned Kern County's improper methods in investigating cases of suspected child abuse during that period. Since then, federal and state courts have reversed the convictions of 34 defendants in Kern County molest cases. Stoll's case is the latest.

Stoll's exoneration was soon followed by that of Peter Rose. In 1994,

Rose was arrested for the sexual assault of a 13-year-old girl who had been badgered by police to name someone as her assailant. He recalls being in complete shock as he stood for his sentencing. "I couldn't believe it was happening to me," says Rose, 36. "I kept waiting for the jury to come back and say, 'You're free to go,' but they didn't."

Ten years later, his conviction was overturned when DNA testing cleared him. He was set free on Oct. 29, 2004.

On February 18, 2005, a judge declared Rose factually innocent and signed an

order of exoneration.

Rose's exoneration, along with six others in California, was possible due to recent California legislation. In 2000, the legislature passed Penal Code section 1405, the first California law to give defendants the right to post-conviction DNA testing, and section 1417.9, which addresses preservation of evidence.

According to Anthony Williams, former aide to bill sponsor Sen. John Burton, "There were several people in Illinois who were exonerated by DNA testing after their convictions. We realized that there were no laws addressing that in California."

Penal Code section 1405 states that inmates can gain approval for DNA testing if the evidence has never been tested or if retesting has the probability of contradicting prior results; if the evi-

2004 revealed that DNA found on the victim's clothing did not match Rose.

Rose believes he would still be in prison were it not for Penal Code section 1417.9, which states that evidence must be preserved for the length of an inmate's incarceration unless the government provides notice of its intention to destroy the evidence and the inmate is given a chance to respond. Rose attorney Janice Brickley, of NCIP's Golden Gate University office, originally thought the evidence might have been destroyed but continued looking. "My heart sank," Rose says. "But finally she found a few small samples in the lab where the original testing was done. I believe if it wasn't for that law passing, those samples would have been destroyed too and I would not be free."

GGU student Marilyn Underwood said, "When I first starting looking for the evidence in Pete's case, I had no appreciation for the chain of events that were being put into motion."

Exonerations such as Rose's and Stoll's prompted Burton to develop Senate

Resolution 44, The California Commission on the Fair Administration of Justice, which is designed to review the state's criminal justice system as a whole, including issues related to wrongful convictions that go beyond DNA testing. "The fact is, DNA [evidence] does not exist in most cases," said Williams. "But because it has an

amount of certainty to it people are willing to accept it. That begins to bring up the question of innocence in general." The commission will deal with issues such as misidentification, improper line-up procedures and coerced confessions.

Both Stoll and Rose have filed claims against the State of California under Penal Code section 4900 for the statutory \$100 per day for every day they were wrongfully incarcerated. Stoll is now living in Northern California, trying to pull together the pieces of his interrupted life. A suc-



Smiles all around from Silky Sahnan, George Dierig, Professor Susan Rutberg, Peter Rose, Craig Ching, supervising attorney Janice Brickley, and Marilyn Underwood of NCIP's Golden Gate University office, following their successful attempt to secure Rose's freedom. Photo by Brian Baer.

dence sought to be tested is material to the issue of identity as the perpetrator or accomplice; and if DNA testing would raise a reasonable probability that the verdict would have been different at the time of trial if the DNA testing had been available. According to Rose, the original DNA tests from 1995 were inconclusive due to the lack of technology.

"I always told my lawyer we need to have the evidence retested," Rose says. "I was convinced that it would show my innocence, and it did." Advanced DNA tests conducted during the summer of

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Barred From Life: a dance for justice

By Alexis Undi

He moved back and forth across the stage, looking for a place to hide. Sirens blared and lights flashed as he looked for somewhere to take cover. As he wedged his body inside a box, the audience felt his tension and fear.

"But I didn't do it!" he screamed.

Everyday, ordinary men and women are convicted of crimes they did not commit. Santa Clara University dance professor David Popalisky joined forces with Northern California Innocence Project director Cookie Ridolfi to bring the horrors of wrongful conviction to the stage.

The two professors co-created a dance piece based on interviews with Chicago and Bay Area exonerees. "Barred From Life" combines dance movement, video imagery, music, and excerpts of interviews with the exonerees. It includes an original score by True D. Rosaschi II.

"The stories I heard were compelling, moving, humane, and rich," Popalisky said. "I wanted to create and perform a piece that was the same in order to bring the stories of these innocent men to life."

"I tried to convey how these people must have felt at each step along the way," explained Popalisky. "There's the urgency of something not being right and the frustration of things not getting fixed."

At the end of the performance, a panel of exonerees tells their stories and answers audience questions.

"By the end of the show, the audience is ready to hear the experiences of these men," continued Popalisky. "All feelings of non-caring wash away, the gap is bridged, and the audience is exposed to a new world."

"Society doesn't understand that our system routinely convicts and punishes innocent people," said Ridolfi. "This piece educates our communities about this important issue in a unique way." So unique, in fact, that the American Association of Law Schools awarded the piece a Creative Award for its approach to confronting important legal and humanitarian issues while exemplifying inter-disciplinary collaboration.

"Barred From Life" debuted at Santa Clara University and has been performed in San Francisco, San Diego, Milwaukee, Chicago, and Santa Cruz.

Program helps exonerees re-enter society

By Mary Anne Sunseri

Exonerees leave prison with the clothes on their backs and maybe a small amount of cash. The lucky few have families to go home to, some life to return to. But for most, even those with supportive families, the future is uncertain.

The Life After Exoneration Program (LAEP) was created by Lola Vollen to help exonerees rebuild their lives after the ordeal of wrongful imprisonment.

Ernest Duff is the director of LAEP. "This pro-

gram is the nation's first attempt to provide services to the exonerated," he said.

Exonerees re-join society with myriad financial, legal, employment, health, and social issues.

Many exonerees cannot find employment due to their lack of work history. John Stoll, a recent exoneree, joined a temporary job placement service with the help of LAEP.

Still, employers have been reluctant to take him on.

LAEP has also guided him to online courses that can bring him up to date on computers, which were not so prevalent when he

went to prison in 1985. Now he is computer-literate and better adapted to the outside world.

Duff said exonerees suffer problems similar to those of prisoners of war. Exonerees are encouraged to call LAEP if they need counseling to get over their nightmarish experiences.

"It's more than Post-Traumatic Stress Disorder," said Duff. "It's so common for exonerees to have depression and anxiety issues."

Duff is also trying to build an alliance of exonerees that can advocate for further reform.

News Briefs

NCIP executive director Cookie Ridolfi was honored with an appointment to the California Commission on the Fair Administration of Justice recently created by the State Senate.

The Commission will study the failings of California's criminal justice system that resulted in wrongful convictions and explore ways to address the problems.

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NCIP case manager and forensic nurse Mary Likins will be speaking on "Sexual Assault Exams: Policies, Procedures, Documentation and Evidence Collection" at the Educational Conference of the California Association of Licensed Investigators this fall.

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The California Association of Licensed Investigators recently honored NCIP's Sheila Klopper with their Investigator of the Year Award. The award honors outstanding service to the community and profession.



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Successful contractor before his conviction, he now suffers from arthritis and at age 61 can't find a job. He has no resume, no savings, no health insurance, and a hard time explaining his lack of work experience over the past 20 years. His son still refuses to speak to him.

Rose, meanwhile, is hoping to make up for the time he lost with his children, now aged 9-16. "Without their dad their life has been a lot different," said Rose. "They have been emotionally scarred, and it is going to take a lot of time and work to fix that."

A year ago Rose felt trapped "like a wild animal in a cage that would chew its left leg off just to get out." Today, he feels hopeful. He plans to work with his cousin, a crab fisherman, in Bodega Bay and to spend time with his family.

A note on this issue

In the fall of 2004, students in Santa Clara University's Advanced Journalism class participated in an immersion journalism project that resulted in the articles in this newsletter. Loretta Beavers served as editor/coordinator of this project. Many of the students first became aware of the issues surrounding wrongful convictions the previous spring when they met exoneree John Stoll, who was the topic of discussion in a beginning journalism class. They were entranced – both by the injustice inherent in his story, and by his quiet, gentlemanly charm. They wanted to know more. After meeting with exoneree Peter Rose, student Keren Wasserman said, "I had the opportunity to understand a story from an emotional, empathetic standpoint — a truly invaluable experience."

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