Advocating for Freedom

An Introduction to The Northern California Innocence Project

Presentation at Alcatraz - June 23, 2023

Juneteenth

NORTHERN CALIFORNIA Innocence Project

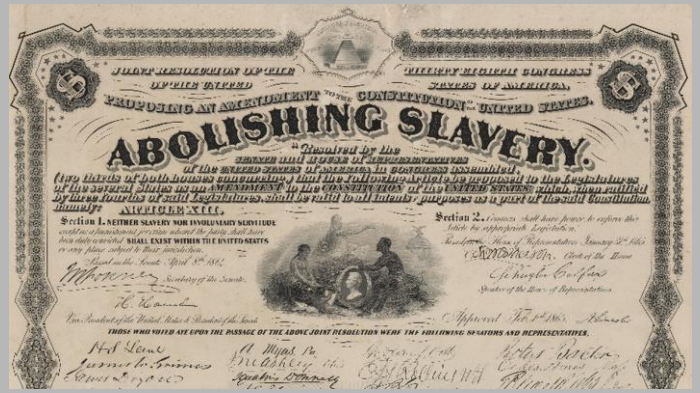
- Juneteenth commemorates the end of 200+ years of slavery in the United States
- On June 19, 1865 the Union Army rode into Galveston, Texas and Union soldiers proclaimed to Texas that the 250,000 still-enslaved Black people there were free.
- This happened over 2 years after President Abraham Lincoln issued the Emancipation Proclamation (which could not be enforced in areas under Confederate control) and two months after the end of the Civil War.



The Rise of Racial Inequality in the Criminal Legal System

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- After Juneteenth the U.S. entered into the era of Reconstruction
- The 13th Amendment was passed in 1865. It reads:
  - "Neither slavery nor involuntary servitude, ***except as a punishment for crime whereof the party shall have been duly convicted***, shall exist within the United States, or any place subject to their jurisdiction." (U.S. Const.)
- This exception allowed the enslavement of Black people to continue in a new form
  - Convict Leasing
  - Angola in Louisiana – the "Alcatraz of the South"
  - Non-Unanimous Juries
  - Vagrancy Laws
  - Anti-Miscegenation Laws



History of Innocence Work



“If there was no chance for a fair trial in these cases, we should have the facts to use in an appeal to public opinion."

- Ida B. Wells

Ida B. Wells

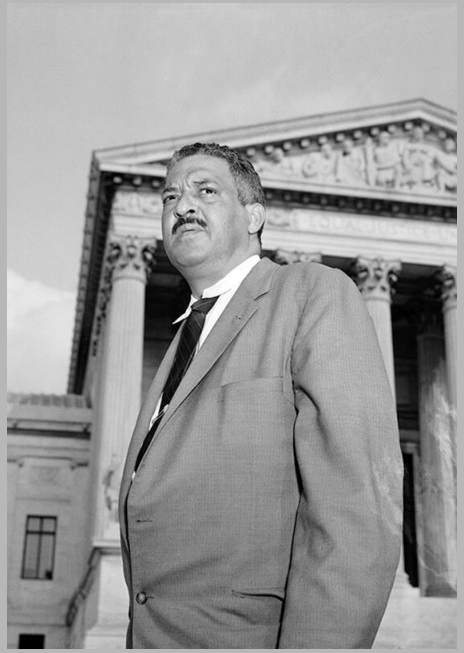
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- From 1868 through 1965 over 4000 lynchings occurred in the U.S., according to records maintained by NAACP (National Association for the Advancement of Colored People)
- 72% of lynching victims were Black
- During her lifetime, Ida B. Wells, an investigative journalist, educator, and co-founder of the NAACP devoted herself to working to end lynching
- Ida used the power of the innocence narrative to garner public support: she gathered and documented evidence that the victims of the lynchings were innocent, and then publicized that evidence.
    - Did not trust the courts and prosecutors who were white

Thurgood Marshall

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- Black American Civil Rights Attorney —> First Black Supreme Court Justice
- Also an Innocence Lawyer
- Worked at the Legal Defense Fund to use litigation to end segregation in the U.S. through the 1930s and 50s until he became a judge in the 1960s
- While there he represented folks pro bono in their trials and post-conviction
- Looked for 3 criteria:
  - 1) Injustice because of race or color
  - 2) That person is **innocent**
  - 3) Possibility of establishing precedent for the benefit of due process and equal protection in general and the protection of Black people's rights in particular



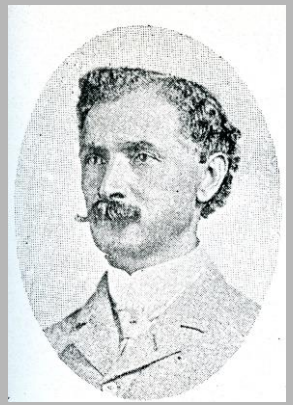
The Ed Johnson Case



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- 1906 - One of the first documented innocence cases
- Mr. Johnson, a Black man, was wrongly accused of assaulting a white woman in Tennessee
- His lawyers, Noah Parden and Styles Hutchins both of whom were Black, took his case all the way up to the Supreme Court of the United States and successfully won a stay of execution
- But Mr. Johnson did not see justice until almost a century after his death





Chattanooga Daily

"GOD BLESS YOU ALL---I AM INNOCENT"

Ed Johnson's Last Words Before Being Shot to Death By a Mob Like a Dog

MAJESTY OF THE LAW OUTRAGED BY LYNCHERS

Mandate of the Supreme Court of the United States Disregarded and Red Riot Rampant.

Terrible and Tragic Vengeance Bows City's Head in Shame

Johnson Taken From County Jail Last

A New Era of Racial Inequality

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- Despite new laws (Civil Rights Act, Voting Rights Act), systemic racism persists through use of the carceral system
- Punitive Policies in the 70s, 80s, 90s lead to mass incarceration and a prison population that is disproportionately black
- Black people are incarcerated for drug offenses at a rate 10 times greater than that of whites, despite the fact that blacks and whites use drugs at roughly the same rates



The Modern Day Innocence Movement

- Innocence Project established in NY in 1992 when DNA testing begins showing wrongful convictions
- Northern California Innocence Project (NCIP) established at Santa Clara University in 2001
- 72 innocence projects worldwide and each project independent
- 4 innocence projects in CA



50% Exoneree Population is Black versus 13% of U.S. population





Our Mission

NORTHERN CALIFORNIA Innocence Project

- Promote a fair, effective and compassionate criminal justice system and protect the rights of the innocent.

HOW DO WE DO THIS?

The Work of NCIP

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- Exonerate
- Educate
- Reform
- (Reentry)

What is the Process?

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1. Potential client writes letter
2. NCIP sends questionnaire & preliminary investigation begins
3. Case assigned to attorney for full investigation
4. Litigation

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WHAT DOES IT MEAN TO BE INNOCENT?

How do we choose our cases?

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- I was in the car, I drove them there but I didn't do the crime
- I did it, but it was in self-defense
- My sentence is excessive
- I wasn't there, I didn't do it

Northern & Central CA Counties

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All counties north of San Luis Obispo County, Kern County and San Bernardino County to Oregon border



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Northern California Innocence Project Initial Screening Questionnaire

Please return to: NCIP, 900 Lafayette Street, Suite 105, Santa Clara, CA 95050

Name: _____
Date of Birth: _____ _____
Prison Inmate CDC #: _____
Your Race: _____
Address: _____
_____
Date Filling Out Questionnaire: _____

I. Case Information:

A. What were you convicted of? Charge(s): _____
Penal Code(s): _____
B. County of Conviction: _____
C. Date of Conviction: _____
D. What was your sentence? _____
E Presumptive parole Date: _____
F. Co-Defendants' First and Last Names _____
G. Race of Victim(s): _____
H. Trial Attorney Name: _____
I. Appellate Attorney Name _____
J. State/ Federal Habeas Attorney(s) Name(s) _____

II. Innocence Claim:

A. Are you innocent of the crime(s) for which you were convicted? Explain.
_____
_____

B. Did you confess to this crime? If so, when and why?
_____
_____

C. Did you plead guilty to this crime? If so, why?
_____
_____

D. Were you there when the crime was committed? If yes, explain.
_____
_____

E. How and why were you identified as the perpetrator of this crime?
_____
_____

F. What evidence was used at trial to convict you?
_____
_____

G. What was your defense?
_____
_____

H. List any biological evidence in your case (e.g. semen/sperm from rape kit, blood identified as perpetrator blood, etc.) and specify whether it is evidence from the victim or perpetrator: _____
_____
_____

I. Has any of this biological evidence been tested? If so, please specify. What were the results of testing? Was this evidence presented at trial?
_____
_____
_____

J. What *new* evidence exists that could prove your innocence? (New evidence is evidence that was not presented at trial.)
_____
_____

K. Was this evidence available at the time of trial? If so, why was it not used at trial?
_____
_____

L. Was this evidence presented on appeal or in a habeas petition?
_____
_____

M. Can someone's testimony prove your innocence? Who?
Did they testify at the original trial? What would they say now?
_____
_____

N. Would you be willing to submit to a DNA test, knowing that the test could confirm your innocence or your guilt? Yes:___ No:___

O. Would you be willing to submit to a lie detector test to assist in proving your innocence? Yes:___ No:___

What is the Process?

NORTHERN CALIFORNIA Innocence Project

1. Potential client writes letter
2. NCIP sends questionnaire
3. **Case assigned to attorney for full investigation**
4. Litigation

How to we prove someone is innocent?

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- Forensics
  - DNA
- Advancements in Technology
  - Debunking junk science
- What if no physical evidence?
  - Witnesses
    - Witnesses admit they lied
    - Find new witnesses
  - Discover things that law enforcement knew but never shared
  - Discover that the trial lawyer made an egregious error
  - Find true perpetrator

By the Numbers



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Data from July 1, 2021 - June 30, 2022

What is the Process?

NORTHERN CALIFORNIA Innocence Project

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Litigation

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1. Approach District Attorney's Office
    - Creation of CIUs
    - Concessions
2. File Writ of Habeas Corpus
    - What is it?
    - Which court?
3. Evidentiary Hearing
4. What if we lose?

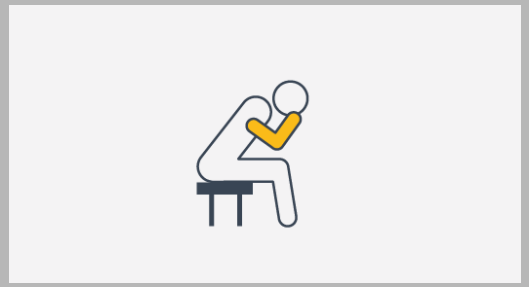
Exoneration?

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- This means that a conviction is overturned and the person is back in the position they were in before trial.
  - The state can re-try the case.
- We have helped to free 35 people who have served a combined 525 years in prison.

Causes of Wrongful Conviction

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False Confessions



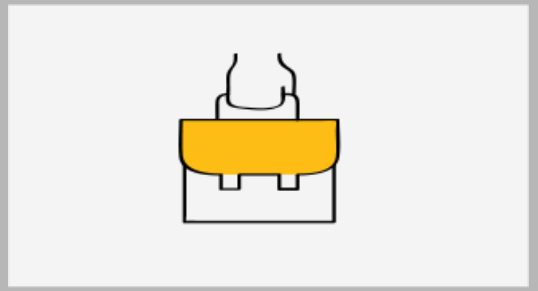
Jailhouse Informants



Faulty Forensic Science



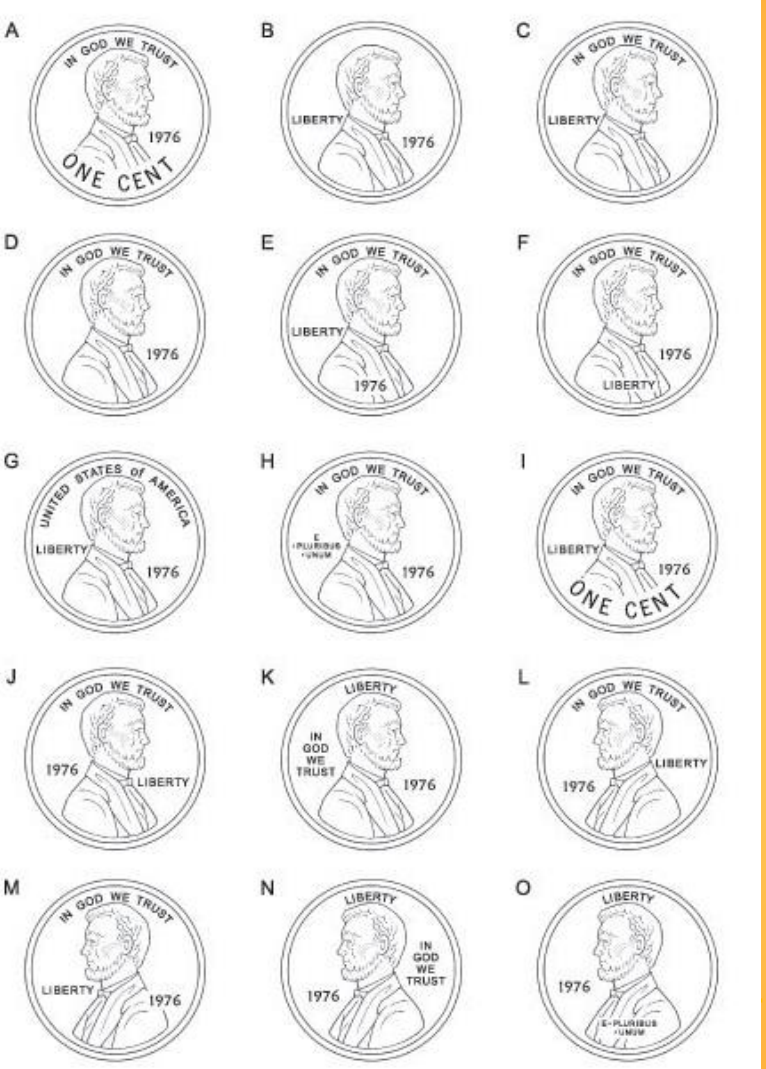
Government Misconduct



Bad Lawyering



Mistaken Eyewitness Identification



Which Penny is Real?

Tunnel Vision

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- Confirmatory bias: seek, interpret information to support existing beliefs, expectations
- Hindsight bias: overemphasizes certain facts, reiteration effect
- All product of human nature and external forces

Cognitive Bias

FINISHED FILES ARE THE RESULT OF YEARS OF SCIENTIFIC STUDY COMBINED WITH THE EXPERIENCE OF YEARS

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Exonerations by the Numbers

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- 3,394 Exonerated nationwide by both DNA and non-DNA evidence (since 1989)
- 268 California
- 570 Exonerated as a result of DNA testing
- 14 Average length of incarceration
- 28,770 Years lost
- 50% Exoneree Population is African American versus 13% of U.S. population

Educate

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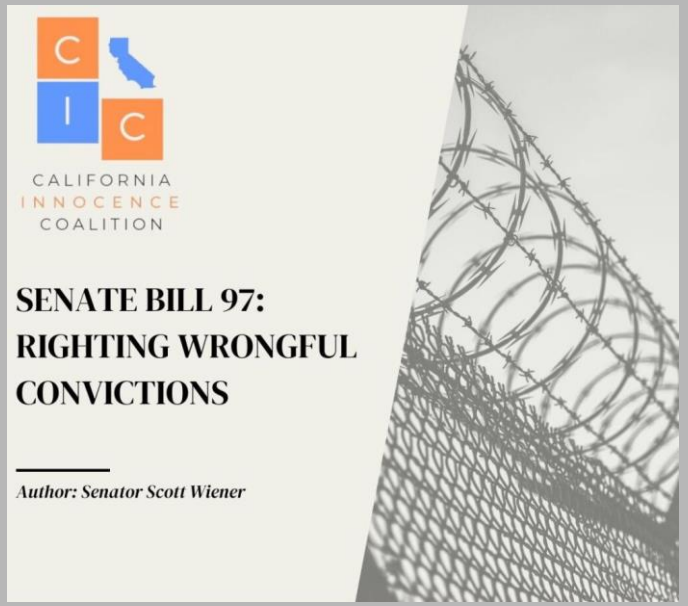
- Supervise and mentor next generation of lawyers
- Trainings
- Symposia
- Interns/Volunteers
- Speaking Engagements

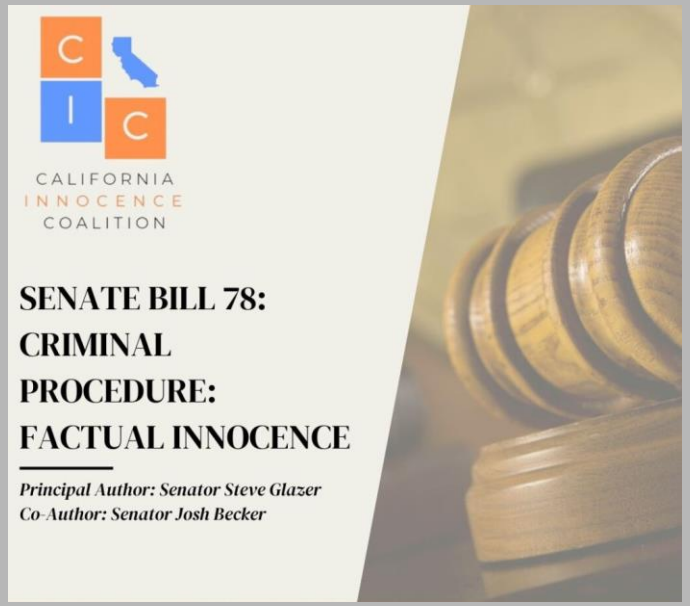


Reform

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- Advocate for legislation that helps our clients and communities impacted by the criminal legal system more generally





Reentry: What Happens When Our Clients Come Home?

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- Gaps in finances, work history, relationships, experiences
- Housing
- Compensation
- Civil Lawsuit
- Transition home is unique and difficult

Exonerees

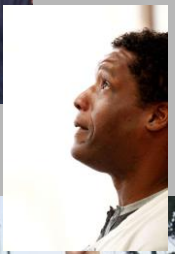
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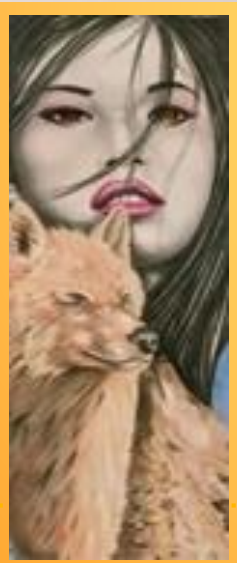



FREEDOM













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Thank you so much!
Questions?

Check out our website:
www.ncip.org

Follow us on social media!

Northern CA
Innocence Project

@NorCalInnocence

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@NorCalInnocence