culprit was convicted. The parents of the young children in his care. A daycare provider had molested 60 Minutes
In the early 1990s, the news program committed. How could this happen? years in prison for a crime they did not
commit. How could this happen? Allen were exonerated after a Lorain
County judge granted their motion for
innocence. They each spent 15
years, along with private
investigator Martin Yant, and
worked on the case over the
many OIP students
had been for every committee hearing
and discussion of the bill throughout
the process. The exonerees received a
standing ovation by the senators for their
efforts in getting the bill successfully
moved through the Senate. The bill,
which has the support of both Governor Strickland and Attorney General Richard Cordray, will go before the House of
Representatives this fall.

NANCY SMITH AND JOSEPH ALLEN EXONERATED AFTER 15 YEARS IN PRISON!

On June 24, 2009, Nancy Smith, a Head Start bus driver, and Joseph Allen were exonerated after a Lorain County judge granted their motion for a new trial and then acquitted them in the face of mounting evidence of their innocence. They each spent 15 years in prison for a crime they did not commit. How could this happen?

In the early 1990s, the news program 60 Minutes aired an episode in which a daycare provider had molested the young children in his care. The culprit was convicted. The parents sued. Because the center was funded by the federal government through the Head Start program, the parents were able to collect huge settlements. After this episode aired, copycat stories of pain…redemption…friendship. Don’t miss this event.

"Picking Cotton: Our Memoir of Injustice and Redemption," a New York Times bestseller, is the story of Jennifer Thompson-Cannino, who was raped as a college student, and Ronald Cotton, who Cannino selected in a line-up as her attacker. Cotton served 13 years in prison for the attack before DNA proved that he was not the perpetrator. Two years after Cotton was released from prison, he and Cannino met and have since developed a very special friendship. Don’t miss this gripping story.

Former U.S. Attorney General Janet Reno says about Picking Cotton: “Few people have done more to put a human face on issues involving wrongful convictions than Jennifer Thompson-Cannino and Ronald Cotton. Yet through their shared pain, they have been able to forge a friendship that most of us search our lives for.”

This event is sponsored by the Cincinnati Museum Center, the Rosenthal Institute for Justice/Ohio Innocence Project, and the YWCA of Greater Cincinnati. Register online at www.law.uc.edu/institutes/rosenthal/pickingcotton.shtml. For more information, call 513.556.4275.

On June 24, 2009, the Ohio Senate voted overwhelmingly in support of SB 77, legislation aimed at drastically reducing the risk of convicting the innocent. The OIP initially proposed the legislation to Governor Ted Strickland and the legislature in February 2009. Soon after its submission, the legislation was quickly supported by sponsor Senator David Goodman and Senator Bill Seitz, the Senate Criminal Justice Committee chair. The bill proposes to identify specific procedures for the preservation of biological evidence for DNA testing, the recording of custodial interrogations for certain felonies, and the “double blind” preparation of photo line-ups for eyewitness identification.

The measure requiring the video recording of interrogations is designed to cut down on false confessions. The requirement that police use a “double blind” process for line-ups, which means the officer administering the lineup does not know which person in the lineup is the suspect, is designed to reduce misidentifications by eyewitnesses. Mistaken identification due to outdated lineup procedures is the leading cause of wrongful conviction.

On the day of the vote, Senator Goodman provided sponsor testimony before the senate voted 31-1 in support of the legislation. On hand during the vote were Ohio exonerees Robert McClendon, Joseph Fears, and Walter Smith, as they moved through the Senate. Th e bill, which has the support of both Governor Strickland and Attorney General Richard Cordray, will go before the House of Representatives this fall.

SB 77 Approved by Ohio Senate

university of cincinnati college of law
lois and richard rosenthal institute for justice

Nancy Smith, center, with family, in photo taken in prison.
What is the Ohio Innocence Project

The Ohio Innocence Project (OIP) seeks to identify and assist prison inmates who claim to be actually innocent of the crimes for which they were convicted. The OIP will review an inmate's request and conduct an investigation to determine whether the request meets OIP review and screening criteria. The OIP will only work on those cases where new evidence, whether newly discovered or developed through investigation, supports the inmate's claim of innocence. The best type of new evidence is physical evidence (i.e., DNA) that was not tested prior to trial. The OIP also will work on cases that do not involve DNA if the appropriate criteria are met. While there is no fee for OIP services, inmates may be required to pay for DNA testing or other expert witness fees.

Meet the OIP Team

Director — Mark Godsey
Staff Attorneys — Jennifer Bergeron, Karla Hall, and David Laing

OIP Intern — Virginia Vega-Sifred (from University of Cincinnati Sociology Program)

Kyle Healey '07 Takes OIP Experience to Job

Before law school, if someone had told me that I would make a cross-country move to pursue the job of my dreams, I would not have believed them. Today, as an Assistant U.S. Attorney in Tucson, Arizona, I couldn’t be more pleased with where life has taken me. My current position wasn’t something I seriously considered before law school; in fact, I attended law school with little intention to practice law. I intended to become a FBI agent. But that slowly started to change as I became more involved with the Ohio Innocence Project. Law school helped me understand the legal system; the Innocence Project prepared me to be a lawyer. On a whim, I applied for the assistant United States attorney position in Tucson. I held little hope for this job as I’d already been turned down for the Department of Justice honor’s program. But at this point I thought it couldn’t hurt to apply for the supplemental position that became available. Fortunately, I received an interview and my interviewer was impressed with my OIP work and my understanding of DNA. At my second interview I was asked multiple ethical questions focusing on discovery and exculpatory evidence. These questions were much more difficult than anything asked on the MPRE. My time at the Innocence Project helped me answer these questions because I recognized several of them from cases we read as part of our training.

On the Job

My first few months on the job have opened my eyes to the large problem facing our country involving the southwest border and the Mexican drug cartels. I had read about the drug smuggling problem in Arizona, but had no idea of the magnitude or the violence that accompanied it. To say the least, moving to the desert and working for the U.S. Attorney’s office has been a significant change compared to working for the Innocence Project in Cincinnati. I became an OIP Fellow during my second year of law school and continued during my third. My project partner, Eric Ecles, and I worked on the Doug Prade case. I, along with many others, am eagerly awaiting the Supreme Court’s response on that one. I also worked on the Columbus Dispatch’s Test of Convictions project. In hindsight, it was probably one of the best decisions I made in law school.

I was given the freedom to examine each case and determine the most suitable ones for DNA testing. I learned, first-hand, the importance of properly marking evidence and retaining it. After seeing the consequences it can have on a case, or more importantly, someone’s freedom, it’s something I take seriously. I wasn’t sure how I felt about becoming a prosecutor after my OIP experience. But I remembered something that exonerate Gary Reece said when asked about what he thought of the future plans of an outgoing class of Fellows. Surprisingly, he said he hoped they actually would become prosecutors because he knew they would understand the importance of their position and know how incredibly important it is for them to do their job correctly and honestly. I am forever grateful to the OIP, Mark Godsey, and Jenny Carroll for all they have helped me accomplish.

Project 262, Part 2 Death Penalty Cases

In 2006 the OIP, together with The Columbus Dispatch, reviewed numerous Ohio criminal cases where DNA might exist that would identify the perpetrator of the crime. OIP attorneys then fought for DNA testing and worked with various offices to locate potential DNA evidence. We named that effort “Project 262” in honor of Senate Bill 262, the newly passed post-conviction DNA testing law. Although much of the DNA evidence sought through the project had been lost or destroyed over the years, Project 262 has resulted in the exoneration of two innocent Ohio citizens, with more on the horizon.

Based on the success of Project 262, the OIP, in cooperation with the Ohio Public Defender’s Office, is now beginning “Project 262, Part 2.” OIP staff and attorneys are reviewing the cases of Ohio inmates currently on death row with an innocence claim. The OIP hopes to locate any DNA that may exist in these cases that will exonerate these men before they are put to death for a crime they did not commit.

Assistant U.S. Attorney and Former OIP Fellow, Kyle Healey
Former AG Petro Presented with Painting from Gillispie

On April 6, Juana Gillispie, mother of Roger Dean Gillispie, presented former Ohio Attorney General Jim Petro with a painting done by Mr. Gillispie. General Petro has put in hundreds of hours for the OIP on a pro bono basis attempting to exonerate Mr. Gillispie. The painting, entitled “The Native Cowboy,” is of the same style as J.D. Challenger, one of Gillispie’s favorite artists. Accompanying the painting was this description:

“The Native Cowboy

It is a great honor and privilege to present this painting to Mr. Jim Petro, a man of the people, one who has never lost sight of the common working man and who has put forth a great effort to correct a wrong that occurred nearly twenty years ago.

Faith and encouragement have once again been restored to a family that had lost all but their prayers. They can now see a twinkle of light at the end of this long dark nightmare that gives hope that the truth will free an innocent man, their son.

This painting was done with heart felt gratitude and personal integrity for a man who has and will continue to make a difference.

– Dean “SPIZ” Gillispie

Roger Dean Gillispie, evidence suggests another suspect guilty of crime

Gillispie was convicted in 1990 of raping twins in Dayton based on identifications made by the victims two years after the crimes were committed. The OIP developed evidence strongly suggesting that another suspect committed these crimes and also discovered that the police had destroyed or failed to turn over exculpatory evidence prior to Gillispie’s trial. Upon learning the facts of this case, former Ohio Attorney General Jim Petro was compelled to join the OIP as co-counsel on the case, working in a pro bono capacity. The OIP/Petro team sought to exonerate Gillispie in court in July 2008 and lost. In July 2009, Petro argued the case to the 2nd District Court of Appeals in Dayton. The appeals court reversed the lower court and remanded for an evidentiary hearing, to be held in the fall of 2009.

Case Updates

Father Gerald Robinson, DNA comparison may be key to true killer

In 1980, Sister Margaret Ann Pahl was murdered near the chapel at Mercy Hospital of Toledo as she prepared the facility for Easter services. An intruder strangled and stabbed her. After remaining unsolved for more than 20 years, a cold case squad re-opened the case in 2004 and re-interviewed the few elderly alleged witnesses that were still alive. Father Gerald Robinson, a 72-year-old Catholic priest with an immaculate service record, was arrested and convicted. By the time Father Robinson was actually tried for the crime, a substantial amount of meaningful evidence and the only witness who could establish his whereabouts at the time of the murder were no longer available. Male DNA has now been collected from under the deceased nun’s fingernails; however, the DNA does not belong to Father Robinson. The OIP is in the process of having the unknown male DNA compared to DNA samples taken from possible suspects in the murder, including a known serial killer who was actively killing women in a similar manner during the early 1980s. The OIP hopes to soon have conclusive DNA evidence that will identify the true killer and free Father Robinson.

Alan Butts, victim of scientific discovery too late

Butts, a kind, soft-spoken young man, had never been accused of violence toward anyone. In fact, he had acted as father for 2-year-old Jaydyn for almost two years, fixing breakfast, playing games and reading with him. In 2005, however, Jaydyn, who had been ill and was taking medication, became unconscious and had trouble breathing while in Butts’ care. He quickly summoned emergency services, but Jaydyn died in the hospital the next day. The prosecution was unable to locate a single witness who indicated that Butts had ever been unkind or intolerant. No suspect of Jaydyn’s presented a likely or innocent story.

Charles Dumas, DNA matches inmate

In 1998, Dumas was convicted of raping a child in Columbus. His original Application for DNA Testing was rejected in 2004 and 2007. He was also told that the evidence in his case could not be located. In 2008, following the exoneration of Robert McLeod, Franklin County Prosecutor Ron O’Brien encouraged staff in his office to look for the evidence and two pieces were located. After a DNA profile was derived from the crime scene evidence, Dumas refused to give a sample of his own DNA for comparison. At that time, the OIP moved to withdraw from the case as his counsel. Subsequently, the prosecutor got a court order forcing Dumas to provide a sample; the results came back and matched Dumas’ DNA to the DNA from the crime scene. “We have had several cases come back from DNA testing showing that the inmate is guilty. That is the best result we could ask for,” said OIP Director Mark Godsey. “It shows the judicial system got it right, the true perpetrator is being punished, and an innocent person is not languishing in prison.”
The Ohio Innocence Project gives a special thank you to Lois and Richard Rosenthal for their continued support. The Lois and Richard Rosenthal Institute for Justice (RIJ) at the University of Cincinnati College of Law was founded in the aftermath of the racial strife and civil unrest that shook Cincinnati in April 2001. The RIJ seeks to harness the idealism, energy, and intellect of law students and turn those qualities into a vehicle for positive social and legal change in Cincinnati, the state of Ohio and beyond.

Their gift establishing the RIJ at the College of Law funds the Ohio Innocence Project, which identifies inmates convicted of crimes they did not commit. This program has supported efforts resulting in the release of eight inmates. “The freedom of these innocent inmates is priceless,” says Mark Godsey, UC professor of law and faculty director of the Lois and Richard Rosenthal Institute for Justice/Ohio Innocence Project. “All future inmates who gain their freedom will have the Rosenthals to thank.” The RIJ also serves as an umbrella organization for RIJ Research Projects and Reports, which has resulted in the passage of numerous progressive reform laws in Ohio, and the RIJ Speaker Series.

“With every success of the Lois and Richard Rosenthal Institute for Justice, its caseload grows exponentially as more and more people become aware of its crucial work. Thanks to Lois and Dick’s tremendous commitment, leadership and generosity, the project is strengthening its ability to make a difference and bring justice to the wrongly convicted,” says Louis D. Bilionis, dean of the UC College of Law and Nippert Professor of Law.

Thank You!
The Ohio Innocence Project also wishes to thank the following people for their continued support and assistance:

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- Dave Alden, Jim Young, and Ann Netzel of Jones Day Cleveland, for their outstanding pro bono work on several OIP cases
- Mark DeVan of Berkman, Gordon, Murray & DeVan for his pro bono effort in the Raymond Towler case
- Bill Gallagher for his pro bono assistance in the Bryant Gaines case
- Jim Petro, former Attorney General of Ohio, for his efforts in the Roger Dean Gillispie case and in pushing SB77 through the Senate
- Senators Bill Seitz and David Goodman for their tireless efforts in getting SB77 successfully through the Senate with a 31-1 vote
- Exonerees Robert McClendon, Walter Smith, Joseph Fears and Danny Brown, for their efforts in testifying and supporting SB77 on numerous occasions in committee hearings before the Senate
- OIP alumna and attorney Michele Berry ’06, for her efforts in drafting the legislative proposal that resulted in SB77
- The Innocence Project staff, particularly Rebecca Brown, Zeke Edwards, and Steve Saloom, for their continued advice and assistance throughout the legislative process

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• 45 (The number of cases OIP has represented or is actively litigating)
• 8 (The number of DNA exonerations in Ohio)

Contribute online to OIP at www.law.uc.edu/institutes/rosenthal.