

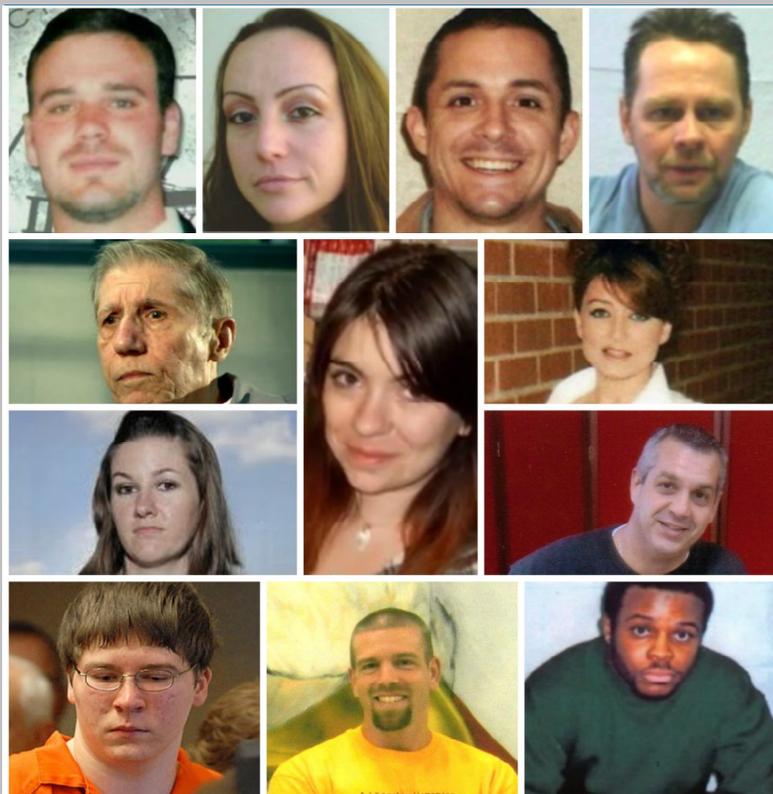


Injustice Anywhere

an organization working to correct wrongful convictions

Injustice Anywhere Newsletter

Winter 2017



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February 24, 2017

According to the [National Registry of Exonerations](#), courts in the United States overturned 165 wrongful convictions in 2016, which broke 2015's record of 149 corrected wrongful convictions. It is promising to see that the numbers continue to be on the rise. If you look at data over the past 25 years, we are now seeing substantial progress.

Over the past quarter century, America has incarcerated more people than any civilized nation on earth. A disturbing number of those incarcerations have been wrongful convictions. Hundreds of exonerations can be credited to advanced DNA technology. But research on topics like, bite mark evidence, fire investigation technology, and shaken baby syndrome, have all played a significant role as well. The ability to distribute information via the internet has also proven to be an invaluable resource when fighting wrongful convictions.

Exoneration statistics show that we are on the right track, but we have a long way to go. We need to correct the mistakes we have made, all while working to reforming the system which allowed those mistakes to occur in the first place. Sadly, the wrongful conviction problem is far more pervasive than most people realize, and even with increased interest, most cases continue to lack the attention they warrant. Many innocent people remain in prison. They need others to be their voice. They need you. Please join us in the fight to free the innocent.

Brian Peixoto Case Update

By Lisa Munger

Twenty one years ago, Brian Peixoto was arrested and charged with murdering his then-girlfriend's three-year-old son, Christopher Affonso, Jr. Despite his adamant protestations of innocence, on March 7, 1997, Brian was convicted of first-degree capital murder and sentenced to a term of natural life without the possibility of parole.

According to the prosecutor, Brian had flown into a fit of rage after the child wet his pants. After speaking with private investigator John Nardizzi and Attorney Jen Fitzgerald last year, Westport EMT now Fire Chief Brian Legendre, the first responder at the time confirmed in an affidavit that the boy's diaper was dry upon presentation to the fire station. What is momentous is that the prosecutor and now sitting Superior Court Judge Renee Dupuis knew this yet she deliberately presented this knowingly false information as motive for murder.



Brian Peixoto by Dana Smith

At the time of his arrest, Brian had been dating Christopher's mother, 20-year-old Ami Sneed, for just a few months. For the majority of that time, he had been working two jobs in order to provide for his then-four-year-old daughter Amber. He was living in a basement apartment in Westport, MA and had no prior criminal record whatsoever. Ms. Sneed and her two children were at Brian's apartment because Ms. Sneed's telephone, electricity and heat had been turned off due to non-payment. Brian found Tarisa, 4 and Christopher in Sneed's dark apartment wearing coats. He offered to take them to Ms. Sneed's mother's house but she refused as she told him that her mother had been trying to help one of the children's fathers get custody of both kids.

Brian's trial was originally scheduled to start on January 6, 1997. It was continued to March 3, 1997 after Brian fired his court-appointed attorney, Lance Garth who did not meet with him during the year he was held prior to trial. Mr. Garth, who later went onto become a District Court Judge ignored countless requests for communication from Brian and his family. After a call from Brian's case manager, Mr. Garth met with Brian just days before the trial was scheduled to start. He told his client that he could "get him numbers" and when Brian would not plea to something he did not do; Mr. Garth said that he would "whip up a defense by Monday." Brian fired him on the spot.

The prosecutor's theory of the case was that on January 22, 1996, around 5:30 PM, Tarisa called out from the basement that her brother was sick and throwing up, and Peixoto alone went downstairs in response to her call. According to Sneed's trial testimony, she initially ignored her daughter's call and chose to remain upstairs smoking her cigarette. The prosecutor stated that Peixoto arrived downstairs to find that Christopher had yet again wet his pants. Already pissed off about an argument he had just had with Sneed, Peixoto's discovery that Christopher had had another toilet training accident infuriated him and sent him over the edge – it caused him to fly into an uncontrollable, homicidal rage. Yet Sneed testified that she heard no screaming or crying from either child.

The state put on three experts to testify on behalf of the prosecution. The ER doctor had misdiagnosed the existence of a retinal hemorrhage. The medical examiner, Dr. James Weiner, who was not certified in forensic pathology, testified that the head injury was not survivable and had to have been inflicted at or about the time of death meaning that one of the adults present in the home was responsible. Dr.

Weiner concluded his pathology report and formed his opinions without having examined the brain or the neuropathology report. He later testified that he did not see the ER post-mortem x-rays or radiology report and was not aware that any X-rays were taken at the hospital. He also testified that he did not read the narrative from

Brian Peixoto Case Update (continued)

the ER doctor.

Dr. Weiner testified that Christopher arrived at the autopsy wearing a hospital gown and a soiled disposable diaper, and the prosecutor seized upon this testimony, urging the jury during closing argument to look carefully at a photograph of Christopher's diaper which had been offered into evidence. Dupuis told the jury that the photograph showed that Christopher had defecated in his pants. What she did not tell the jury was that the diaper depicted in the photograph was not the diaper the boy had been wearing when he arrived at the ER the night he died. Dupuis knew that it could not have been the same diaper because the diaper Christopher had been wearing when he arrived at the ER had been seized, at her instruction by DA investigator Tom Carroll directly from the hospital, and Christopher did not arrive at the medical examiner's office until the following morning.

The state also brought in Dr. Eli Newberger to testify in the field of child abuse. Dr. Newberger is a pediatrician with a self-professed expertise in cases of child abuse. He is not a forensic pathologist and has no expertise in postmortem wound analysis. It is very important to note that at the time the trial was originally scheduled to start in January, Dr. Newberger was not on the witness list for the state. He was called in to provide an opinion regarding whether or not Christopher was the victim of child abuse. The prosecutor selected a few, specific reports and photographs for her expert to review. Dr. Newberger ultimately determined that, in his opinion Christopher was the victim of chronic and severe child abuse. Dr. Newberger provided the prosecutor with a written summary of his opinion two weeks before the start of trial. Yet inexplicably, and much to the detriment of the defense, the prosecutor did not immediately notify the defense that it had even hired Dr. Newberger. Instead, Dupuis waited an additional nine days before finally notifying the defense leaving Brian's attorney, one business day to prepare to cross examine the doctor who would ultimately prove to be the star witness for the prosecution.

Dr. Newberger was called to the stand to testify to various unsupported medical conclusions regarding the cause and manner of Christopher's death that the medical examiner, himself had not drawn. His testimony at Brian's trial was patently inconsistent with the science of the time. He testified as to objectively false facts which significantly prejudiced Brian's case. Considering the specifics of the indictment, the solicitation of Dr. Newberger's testimony had no legitimacy other than sensationalism. A hired gun for the prosecution, Dr. Newberger was highly visible in the news at the time for his state subsidized opinion in the now well-known Louise Woodward case.

In presenting her theory of motive, Renee Dupuis told the jury that in the weeks before his death, Christopher began having sudden, frequent toilet training accidents and episodes of bed wetting, and that this infuriated Peixoto. Dupuis did not produce any evidence whatsoever that Christopher had had a toilet training accident on the day he died, or that Peixoto had become aware of it. Not a single witness, including Sneed, alleged such a thing. There was no physical evidence or even circumstantial evidence that specifically pointed to Brian as inflicting a single injury on Christopher. The prosecution built their case against Brian on the cooperation of the boy's mother, Ami Sneed and the opinions of the state's medical experts. Ms. Sneed had cut a deal with the prosecution. Brian's attorney did not call a medical expert to testify for the defense or to contest any of the inconsistent opinions or conclusions offered by the state's experts. Sadly, the pattern of lazy, negligent defense counsel continued for years.

Despite continued court denials, Brian and his family have refused to stop fighting for his freedom. Hundreds of letters have been written to doctors and lawyers. His support team has been successful in recruiting help, one expert at a time. A website was launched in early 2014. There have been over 42,000 hits since that time. Many go the site not only to learn about the case but also for the available medical research.

Brian Peixoto Case Update (continued)

The family presented the case to Injustice Anywhere in 2014. Efforts from the organization have been a catalyst in drawing support for Brian's case. The organization endorsed the case and later advanced sponsorship as a **featured case**. With the help of Injustice Anywhere, a **Facebook page** was created two years ago and has been a forum of ongoing support for Brian.

And it was through this connection that the family was able to secure the assistance of Jen Fitzgerald, a former public defender from Rhode Island who has most selflessly dedicated herself to overturning Brian's conviction. There has been an incredible surge of efforts in the past two years resulting in the acquisition of significant new evidence. In addition, Jen's arguments will address the cumulative and egregious ineffective assistance of counsel and prosecutorial misconduct. The testimony of the state's experts unfairly bolstered Ms. Sneed's credibility and undercut Brian's in a case where credibility was his entire defense. The historically incessant neglect by Ms. Sneed was significantly downplayed throughout the investigation and trial. This is an argument which will be heavily supported through the introduction of new evidence. Information contained in probate records will support Brian's original and only version of events. The errors are voluminous, cumulative and egregious. To deny Brian a new trial would be an even greater injustice.

A 2016 feature article in Boston Magazine introduced this case to a mass audience. The article questions the reliability of the witnesses. The consensus of readers by and large is that Brian did not get a fair trial. Boston Magazine is looking to publish an updated article once Jen files her Motion for New Trial. In any event, support for Brian's innocence is strong and his case continues to gain public momentum.

If you wish to help Attorney Fitzgerald and Brian Peixoto's support network, please start by signing his petition. Please be sure to sign up for updates on the website and follow us on Facebook and Twitter.

Nyki Kish and Ministerial Review

By Christine Bivens

Having a Wrongful Conviction overturned in Canada is a very different journey than it is in most other countries. If the appeal fails and most do, you must find fresh evidence and file an application to the Minister of Justice indicating a miscarriage of Justice has occurred. There are no Habeas Corpus hearings here. A minute amount of cases may be heard by the Supreme Court of Canada but almost all our Wrongful Convictions that are rectified go through a ministerial review.

The Canadian Department of Justice's website has this to say about the review process: When an innocent person is found guilty of a criminal offence, there has clearly been a miscarriage of justice.

A miscarriage of justice may be suspected where new information surfaces which casts serious doubt on whether a convicted person received a fair trial – information had not been disclosed to the defense.



Nicole "Nyki" Kish

The application for ministerial review must be supported by new matters of significance – usually important new information or evidence that was not previously considered by the courts. If the Minister is satisfied that those matters provide a reasonable basis to conclude that a miscarriage of justice likely occurred, the Minister may

Nyki Kish and Ministerial Review (continued)



Nicole "Nyki" Kish

grant the convicted person a remedy and return the case to the courts – either referring the case to a court of appeal to be heard as a new appeal or directing that a new trial be held. The Minister may also refer a question to the court of appeal in the appropriate province.

The Minister's decision that there is a reasonable basis to conclude that a miscarriage of justice likely occurred in a case does not amount to a declaration that the convicted person is innocent. Rather, such a decision leads to a case being returned to the judicial system, where the relevant legal issues may be determined by the courts according to the law.

The Crown tried Nyki's case as "bareboned" as possible. They used the least amount witnesses possible to bolster the story that Nyki was an enraged killer who could take down a man twice her size, stab him multiple times and avoid exchanging any DNA with him or if that was too hard to swallow, she could take a knife from a friend, transport it from one scene to another, give it someone else and have them use it to commit murder. The Crown's case screamed out reasonable doubt and highlighted the chaos of the scene. Nyki's defense team did a good job of confronting the slim testimony the Crown offered but did not introduce its own theory of what really happened, they did not feel the Crown had reached the level of certainty for conviction. This meant when the Judge did the unthinkable and found Nyki guilty of 2nd degree murder there was a plethora of unheard witnesses.

We have been working on these unheard witnesses, looking for things that reach the level of fresh evidence. We have been investigating things the police should have but didn't and keeping track of a few individuals the police gave a free pass to. We feel we almost have enough fresh evidence to submit the application but are holding back until two key players can be located.

We have been blessed to have some of the most outstanding supporters that a wrongly convicted person can have. Everyday people who have looked into the nooks and crannies of Nyki's case and have helped our efforts to move forward. They have conducted experiments, written briefs and articles, reached out to keep Nyki's spirits up and helped us fund professionals to investigate. We are years ahead because of people who care and they invigorate us to keep going.

The time is right for Nyki to submit her application, we have a Minister of Justice who believes in real justice and a department under her that is working diligently to process all the applications, all we need now is the last few pieces to fall into place. We have lawyers on two continents helping to access what needs to be included and most of all we have the truth, Nyki did not cause anyone's death.

Please visit the [Free Nyki](#) Facebook page to keep up to date with the case.

Nevada Supreme Court Reopens Kirstin Lobato Case

By Philip Mause

On November 23, 2016, the Nevada Supreme Court issued an order opening the window for a reexamination of the notorious Kirstin Lobato case. The Innocence Project has agreed to step in and Las Vegas super lawyer David Chesnoff will team with Barry Scheck in the new proceedings in district court. A status hearing was held on February 22 to determine dates for an evidentiary hearing on whether or not Lobato should get a new trial. At the hearing, the prosecution requested more time to allow the conviction integrity panel to review the case. Another status hearing is set for March 22.

Lobato was convicted of manslaughter in the slaying of Duran Bailey on July 8, 2001. There was absolutely no forensic evidence pointing in her direction and a great deal of evidence suggesting a male perpetrator. Lobato had no motive and, in fact, no prior contact with or knowledge of Bailey. The prosecution's sole evidence was a statement made by Lobato referring to an event in late May in which she defended herself by slashing an attacker in the penis. Because Bailey's penis had been cut off, the police decided to pin this one on her. The problem is that she told at least eight people about the May incident at various times before July 8 so that her story about that incident could not possibly refer to the Bailey slaying. A bigger problem is that she was 170 miles away from Las Vegas (as conceded by the prosecution) at all times on July 8 after 11 a.m. and the crime had to have been committed in the evening. The prosecution stretched the time of death into a window which barely gave Lobato time to commit the crime but there is overwhelming evidence that the time of death could not possibly have been prior to the time the prosecution conceded she was 170 miles away. Kirstin Lobato is probably the most obviously innocent person convicted of a major crime in the United States.



Kirstin Blaise Lobato

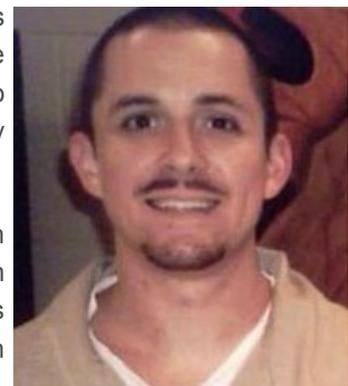
The Nevada Supreme Court sent the case back for further hearings on the issue of actual innocence and the possible ineffective assistance of counsel due to a failure to contest the prosecution's very questionable time of death argument with competent forensic testimony. This will be a very interesting case to watch.

Please visit the Free [Kirstin Blaise Lobato](#) Facebook group to keep up to date with the case.

Charles Erickson Case Update

Charlie continues to prepare for his future, as his defense team works on his appeal. According to Charlie's mom, Marianne, Charlie has transferred his college credits from Moberly Area Community College, University of Missouri, and LSU, to Ohio University in order to pursue a degree. He will begin his Ohio University coursework soon.

Marianne also noted that Charlie has received permission from Pearson Longman Publishing to use portions of one of their textbooks to prepare an African American History course as part of the Northeast Correctional Center's education series. He is just finishing the curriculum and will begin teaching it soon. It is the first time an African American history course has been available at this correctional facility. Charlie has the interest and support of the NAACP members in this effort. He recently led a debate in the NAACP club regarding the relationship between unfair US drug laws and their



Charlie Erickson

Charles Erickson Case Update (continued)

effects on mass incarceration of minorities in American prisons. He has also served as the Vice President for Education in the NAACP chapter there.

As well as teaching the history course, Charlie would also like to participate in the Puppies for Parole Program. According to their [website](#): "Puppies for Parole is a unique program made possible through our partnerships with animal shelters and animal advocate groups statewide. Selected offenders have the opportunity to become trainers to rescue dogs in the program. Offenders work with the dogs teaching them basic obedience skills and properly socializing the animals, making them more adoptable. Once the dogs have successfully completed the program, they will be adopted through their original shelter." Charlie is asking his supporters to send a letters of support for him to be accepted into the program. Please send letters to: c/o Warden, NECC, 13698 Airport Rd., Bowling Green, MO 63334

Charlie has written several poems during his time in prison. His poem "Butterfly in a Hurricane" is a popular one with his supporters. Charlie's hurricane reference depicts the fence that surrounds the prison with the rolled barbed wire on top. Please visit the [Free Charles Erickson](#) Facebook page to keep up to date with the case.

"Butterfly in a Hurricane" by Charles Erickson

Butterfly in a Hurricane

It flaps its wings, past chain links

All the time, on the brink

Up and down, through razor wire

Sometimes lower, sometimes higher

As I watch, I urge it on

Past the fence and toward the dawn

So easy to find a hole

For some reason, it just won't go

Is it stuck, stuck like me?

All those holes, it doesn't see?

Back and forth, it doesn't leave

Despite all it could achieve

Then, in an instant, it is gone

Through a hole, across the lawn

I had doubted and it proved deft

I have to wonder, why did it stay?

What lesson have I learned today?

It was free all of this time

No matter where it was, or what the climb

Supporters For Jeff Havard Are Asking For Donations For His Prison Canteen

By Bruce Fischer

Jeff Havard currently sits wrongfully convicted on death row in Mississippi for a crime that never happened. He has recently been granted an evidentiary hearing based on new evidence in his favor, but the hearing is not set to take place until August of 2017. The Committee to Free Jeff Havard, a group I am a part of, has set up a [gofundme account](#) with the hope of helping to fund Jeff's prison canteen as he waits for his hearing.



Jeff Havard

Jeff has had the support of his family since the beginning. Throughout Jeff's life, he developed a special relationship with his grandparents, Billy and Ruby. Jeff went to live with them when he was 13-years-old, spending his crucial teen years gaining positive influence from two people that he will forever cherish.

For 13 years, Billy and Ruby saw to it that Jeff had money in his prison canteen. Unfortunately, Jeff's grandfather passed away in March of 2015. His grandmother has done everything in her power to continue funding Jeff's canteen on her own, but she is currently unable to continue doing so.

Jeff spends 23 ½ hours a day locked up alone in his prison cell. The living conditions at Mississippi State Penitentiary are rough. The food is often unbearable. The poor sanitary conditions of the prison kitchens made headlines in July, when the prison's largest kitchen was shut down by the state after reports of roaches, rodents, flooding, dirty rusty food trays and general uncleanliness.

The goal of the gofundme campaign is to make sure that Jeff continues to have access to basic necessities as he eagerly awaits his chance to prove his innocence. When Jeff has money in his canteen, he can purchase packaged food that he can eat in his cell. He can also purchase hygiene items, writing instruments, and other basic supplies. Our \$2000 goal will properly fund Jeff's canteen until his hearing in 2017.

Jeff's Case

Jeff Havard was wrongfully convicted in 2002 and sent to death row for a crime that never happened. The charges against Jeff are disturbing but have no merit. Jeff's conviction was secured on the false premise that he sexually assaulted his girlfriend's infant daughter, which resulted in the child's death due to Shaken Baby Syndrome (SBS). The truth is the infant slipped from Jeff's arms while lifting her from the tub, causing her head to hit the nearby toilet. The blunt force trauma caused a fatal brain hemorrhage. There was absolutely no evidence of a sexual assault or SBS. The death was an accident, not a murder.

There are currently 6 well qualified experts who support Jeff's claims. There are currently no experts who support the prosecution's theory.

There is new evidence to show that the infant's death may have resulted from a preexisting subdural hemorrhage resulting from a traumatic birth. This preexisting medical condition left Chloe vulnerable to illness or injury from a minor impact.

There is also new evidence regarding Shaken Baby Syndrome that was not available at the time of Jeff's trial. Cases of subdural hemorrhage and injury from short falls have been notably misdiagnosed as SBS in past cases. Multiple experts have now reviewed Jeff's case that have concluded that the infant's death was not the result of violent shaking.

Supporters For Jeff Havard Are Asking For Donations For His Prison Canteen (continued)

This extensive new expert evidence along with a new revelation of Brady violations committed by the prosecution, completely crumbles the case against Jeff Havard. Thankfully, this new evidence has led to an evidentiary hearing. But for now, Jeff continues to wait.

This extensive new expert evidence along with a new revelation of Brady violations committed by the prosecution, completely crumbles the case against Jeff Havard. Thankfully, this new evidence has led to an evidentiary hearing. But for now, Jeff continues to wait.

Jeff greatly appreciates the support that he receives. If you are able, please consider helping Jeff continue to cope with daily prison life by making a donation to fund his canteen: <https://www.gofundme.com/jeffhavard>.

All funds collected, minus the 5% gofundme fee, will go directly to Jeff's commissary account (canteen). All funds from this campaign are managed by the Committee to Free Jeff Havard, in association with Injustice Anywhere. Please visit www.freeJeffreyHavard.org to learn more about Jeff's case.

After Seventeen Years David Thorne Continues To Wait For Justice

By Bruce Fischer

David Thorne was convicted on January 25, 2000, and sentenced to life without parole in Ohio, for allegedly hiring an acquaintance to kill his son's mother Yvonne Layne in 1999. The problem is that evidence clearly shows that David Thorne is an innocent man.

The appeals system in the United States operates at an incredibly slow pace, making it difficult to correct a wrongful conviction no matter how strong the case for innocence may be. And, as seen in Thorne's case, the system often fails to recognize wrongful convictions even when presented with overwhelming evidence of innocence. As a result, an estimated 100,000 innocent people remain in our prisons today, all but forgotten by society.



Thorne has proclaimed his innocence from the beginning, and evidence has come forward since his trial showing that egregious misconduct took place during the investigation and prosecution of his case. Investigators displayed a bad case of tunnel vision by failing to pursue other possible suspects. They also obtained a coerced false confession from a young man with a cognitive deficiency, who not only implicated himself but also implicated Thorne. The prosecution furthered the misconduct by withholding exculpatory witness evidence from the defense which could have greatly benefited their case. Sadly, two innocent people are now in prison, while the perpetrator remains free.

Thorne, who has an iron-clad alibi, was implicated by a mentally and emotionally impaired man named Joseph Wilkes. After being interrogated and threatened with the death penalty, Wilkes told his interrogators that he was hired by Thorne to commit the murder. The problem was that Wilkes was unable to provide accurate details of the crime scene. Forensic Scientist **Brent Turvey** analyzed the case for Thorne's defense during his appeals. According to Turvey, Wilkes got every detail of the crime wrong, except the type of weapon used. Shockingly, the jury bought the flawed confession, despite its glaring inconsistencies, putting Wilkes and Thorne in prison for the rest of their lives.

After Seventeen Years David Thorne Continues To Wait (continued)

Wilkes has since recanted his confession and implication of Thorne, stating that he recited everything the police told him because he was fearful of being put to death.

Brady Rule

Cornell University Law School: "The Brady Rule, named for *Brady v. Maryland*, 373 U.S. 83 (1963), requires prosecutors to disclose materially exculpatory evidence in the government's possession to the defense. "Brady material" or evidence the prosecutor is required to disclose under this rule includes any evidence favorable to the accused-- evidence that goes towards negating a defendant's guilt, that would reduce a defendant's potential sentence, or evidence going to the credibility of a witness."

In addition to obtaining a completely unreliable confession from Joseph Wilkes, the prosecution also committed a blatant Brady violation. During their investigation, police interviewed a man named George Hale. Hale lived in the neighborhood where the murder took place. The morning after the murder occurred, Hale witnessed a man walk out of the Layne's home carrying a garbage bag. Hale approached police to tell them what he had seen. This led police to present Hale with a photo lineup of possible suspects. During the first photo lineup session, which did not include a photograph of Thorne, Hale picked a police officer out of the lineup. This may seem like an honest error on the surface, but it's far more suspicious when looking at the troubled history Layne may have had with local law enforcement.

After Thorne's photograph was taken by police, Hale was called back in for a second photo lineup. This time, the lineup did include Thorne, but Hale failed to pick Thorne out of the lineup. After Joseph Wilkes was arrested, police never considered having Hale come in a third time to view a possible lineup including Wilkes. Why? Their entire case was built on the theory that Wilkes was hired to commit the crime. Wouldn't it have been wise for investigators to see if Hale recognized Wilkes as the man leaving the scene of the crime?

The prosecution never told the defense that Hale identified a police officer in the first lineup. Why is this important? According to Turvey's report, a police officer may have been pressuring Layne into providing sexual favors. According to Turvey: "Alliance Police Officer Quintin Artis had issued Yvonne Layne a summons prior to her death. He took her driver's license and returned it at a later date while apparently off duty. It has been stated by various witnesses that Yvonne Layne claimed that Officer Artis wanted sexual favors in return for the license. This does not appear to have been investigated."

Layne, according to various witnesses, was having trouble with a police officer. A witness who saw a man leaving the scene of the crime identified a police officer in a photo lineup. This information is certainly exculpatory and should have been given to the defense. The information is also disturbing in light of the fact that police stopped pursuing Hale as a witness after he identified a police officer in a lineup, all while failing to identify Thorne.

Tunnel Vision

Yvonne Layne's lifestyle may have led her to have relationships with unsavory people. Turvey's report suggests that Layne may have been working as a prostitute. According to Turvey: "There were many opened and unopened packs of condoms lying in plain sight in Yvonne Layne's bedroom area. This should have clued investigators in to the possibility that this victim may have been engaging in prostitution. There is, in fact, little investigation into the victim's background at all. If the victim were engaged in prostitution, this would put her at extremely high risk for suffering injury or death related to criminal activity. It would also dramatically increase the suspect pool in this case."

The media-prosecution relationship in Italy (continued)

Printed and online newspapers usually have a dedicated section for crimes and trials, especially for notorious ones, but it is TV which has the lion share.

Initially there were two or three rather specialistic true crime shows, like “Quarto Grado” o “Chi l'ha visto”, aired once a week, then, progressively, many entertainment shows for families airing every day, some in the morning and some in the afternoon, began to host a section dedicated to true crimes.

What may happen, and indeed usually happens today, is that if a case becomes notorious enough to deserve the attention of the media, you may find it treated on Italian TV, on multiple networks, on almost every day of the week, almost around the clock.

And if the case is high profile enough, this treatment may well go on throughout the whole year leading to the trial and then throughout at least the first grade trial, which in Italy may itself last about a year.

That means that when the first grade verdict arrives, the whole nation may have been “flooded” by news about that case for a full two years.

But what is the quality of the information the Italian public is flooded with?

This is the point where the nature of the relationship between the prosecution and the media really becomes crucial.

Many of the readers of this newsletter may be acquainted with the Amanda Knox case and the way it was treated on the media, especially in the critical initial phase.

Many among the supporters of Knox and Sollecito's innocence suspected at the time that the so called “leaks” which provided the media with the material for their salacious headlines and for the defendants' character assassination were a deliberate operation organized by law enforcement agencies.

What we know for sure today, thanks to the “Amanda Knox” Netflix documentary and journalist's Nick Pisa quite spontaneous and tale-telling testimony, is that the media at the time received abundant news material from law enforcement officials and published it without any form of independent check, for admitted inability to perform it and fear of losing scoops.



Amanda Knox

That case marked my involvement in the field of wrongful convictions and problems of justice and at the time it all looked as quite new and unprecedented to me.

But in the years since I have followed other Italian cases and noticed constant patterns in the way high profile cases are treated by the media, nor I am the only one to have noticed that.

First, reporters get most of their info from sources close or directly linked to the prosecution, which in Italy may well also be the police, since prosecutors directly control and lead the investigations in Italy. Opposite information coming from the defense usually gets much less coverage. Some Italian commentators surmise that this may be due to journalists having to keep a good relationship with law enforcement seen as a whole, lest their sources dry up for the next case.

The media-prosecution relationship in Italy (continued)

Second, they only at times, if ever, add some critical analysis to such news material, as we have learnt from Nick Pisa.

Third, there are specific TV shows and magazines which appear to systematically tilt their presentation of the news in a way unfavorable to the defendant. Due to how legal things go in Italy I will not name them explicitly, but browsing Italian sites and forums dealing with true crime, one may notice the way some of them are seen by thoughtful commentators.

Some of the most conspiracy oriented voices on the Internet have even wondered if some news outlets have more or less formal connections or associations with one or more Offices of the Prosecution, working as fully fledged house organs.

Even excluding such an extreme possibility, a manifest example of the importance attributed by the Offices of the Prosecution to the relationship with the media comes from the recent first grade trial of Massimo Bossetti for the murder of Yara Gambirasio.

You may read my global analysis of the case at: <https://bossettiade.wordpress.com>, but what I want to deal with in this article is the so called “video made for communication needs” by the Carabinieri, Italian Military Police.

In the year leading to the trial this video, made with a collection of images taken from various CCTVs surrounding the gym where Yara Gambirasio was last seen alive, all of them showing a certain type of truck, was aired countless times by the media in the many months leading to the trial, with the more or less tacit assumption that the truck appearing multiple times in the video was Bossetti’s truck.



Massimo Giuseppe Bossetti

The interpretation most of the watchers gave to those images was that Bossetti was circling as a bird of prey close to the last place where the victim was seen alive and precisely on the evening of her disappearance.

That video was not entered as evidence at trial, hence technically and formally it did not contribute to Bossetti’s conviction, but when the head of the RIS of Parma, the section of the Carabinieri which put together that video, was asked about it by the defense during cross-examination, he admitted that for many of the trucks appearing on that video there was not even a “compatibility” match with Bossetti’s and that the video itself was assembled for “communication needs” upon request of the Office of the Prosecution.

After Bossetti’s conviction his lawyers harshly stigmatized this behavior in their appeal and even tried to have the Carabinieri prosecuted because of it.

A judge ruled that there was no ground for a criminal action and surely the strict formality of the law has been respected, both by the Carabinieri and the prosecution and by this judge.

But other, wider considerations come to mind if one looks beyond the letter of the codes.

Let us begin by specifying that any Court of Assizes ruling on serious crimes (and clearly murder is a most serious one) is made of two professional (or “robed”) judges and six lay (or “popular”) judges.

The media-prosecution relationship in Italy (continued)

The “robed” ones are professionals who work continuously, usually until retirement, as judges.

The so called “popular” judges are, instead, ordinary citizens drawn not, as in Common Law countries, from the general population (or from all those having the right to vote), but from specific lists.

And how are these lists compiled?

From the applications coming from the citizens themselves.

In practice one has to fill a form and file it with the Chancellery of the local Tribunal, the one with jurisdiction over the area where one officially resides.

Hence one has to apply for a place as popular judge.

And who would you expect to apply for such a role?

Certainly someone with some spare time, but, above all, someone who is interested in justice, crime and cases.

It is indeed quite difficult that someone without any such interest may decide to fill forms, follow the bureaucracy and then perhaps also lose working days.

And what do usually do those who are interested in justice, crime and cases?

They read whatever they are able to find on their beloved subjects, watch TV shows about those subjects, and attentively follow every news about high profile cases.

So, if a video put together by the RIS for “communication needs” upon request by the Office of the Prosecution and showing a collection of trucks, all allegedly being images of just one truck, Bossetti’s, which “circles” around the gym where Yara Gambirasio was last seen, is repeatedly shown on every media for about a year before the trial even begins, how many times every potential popular judge has watched it?

Even assuming, without certain proof, that professional judges come from Mars and are totally immune to such suggestions, can we seriously tell the same about popular judges?

Anyone can guess how much believable it is that ordinary citizens, who are interested exactly in that kind of news and who, hence, are even more statistically exposed to them than those who will never be popular judges, may effortlessly set themselves free of a more or less explicit brainwashing gone on for a year or more, just because the Criminal Procedural Code says that evidence is formed at trial and that video is not in the trial documents.

The consequence of all the conditioning exercised by the media before the trials concerning high profile case (of course it does not concern just Bossetti, but also Parolisi, Stasi, Knox and Sollecito, Sabrina Misseri and her mother, just to restrict oneself to the best known Italian cases of the recent years) is that the jury is never truly impartial.

This already unpleasant situation would be made appalling if the allegations of those conspiracy oriented minds who reckon that such conditioning does not happen by chance but by design were ever to be substantiated.



Yara Gambirasio

Jamie Snow Case Featured On Crime Watch Daily



“One thing that’s been hard for me to figure out is how can I be sitting in this prison when I know that when someone walked into that gas station and murdered Billy Little I was sitting in my living room clear across town.” — Jamie Snow

Significant breakthroughs came to light in the [Jamie Snow case](#) in 2016. The Exoneration Project of Illinois and Jamie Snow presented new evidence to Crime Watch Daily. The television show featured the Jamie Snow case in October of 2016, and they also published an investigative report on their website.

The story began in 1991, when William Little became the victim of an apparent robbery while working as a gas station attendant in Bloomington, IL. It wasn’t until 2001, that Jamie Snow would find himself wrongfully convicted for the crime. Snow has always maintained his innocence and says he was at home eating dinner with his family at the time of the murder. Snow is currently serving a life sentence without the possibility of parole.

There is no physical evidence of any kind that incriminates Snow. His conviction was secured solely on unreliable witness testimony. No one saw the crime take place. The prosecution presented eye witnesses who claimed to see Snow leaving the scene and also a series of jailhouse snitches who claimed that Snow confessed to them that he had committed the crime. New evidence is now available that highlights many inconsistencies in the eye witness statements, and numerous jailhouse snitches have now recanted.

You can watch the Crime Watch Daily featured report [here](#). You can also read Crime Watch Daily’s report on their website [here](#).

Unfortunately, this past December, a federal court judge rejected a petition by Jamie Snow to reopen his case. In response to the ruling, one of Snow’s attorneys told the [Pantagraph](#), “we’re obviously disappointed that the court did not grant Jamie’s petition, but we’re going to keep fighting to prove his innocence, and the battle is not over.”

Jamie Snow’s supporters have vowed to never give up. The fight will go on for as long as it takes. Jamie Snow is an innocent man. Read more at [FreeJamieSnow.com](#).



Mary Jane Veloso – A Filipina in Indonesia



By Stuart Lyster – IA Advisory Board

The Indonesian wheels of justice grind slowly, as they do in The Philippines.

In the Winter 2016 IA Newsletter, I reported that the Indonesian government had postponed Mary Jane Veloso's execution (originally set for April 2015), pending the outcome of the Philippine trial of her alleged recruiters/traffickers: Maria Cristina Sergio and Julius Lacanilao, who were accused by the Philippine DOJ of duping Veloso into bringing heroin into Indonesia.

Last July 2016 in Davao, Mindanao (Philippines), the International Conference for People's Rights Philippines, together with Migrante International, held a workshop on Veloso's plight as she awaited the outcome of the Sergio/Lacanilao trial. There we heard the whole story.

As a poor woman caught in the international forced-employment-migration reality, Veloso found herself at the mercy of the word of her recruiters. Being promised a job in Indonesia was not something she could afford to turn down; and she did not question the last minute addition of a piece of luggage she was told to carry.

When arrested in Jakarta, there was little legal counsel for her and no support from the Philippine Embassy. When asked at trial if she wanted to "dispute the court", she said "no" because she knew she was in trouble already and did not want to worsen it. Between her lawyer and translator, though, they'd failed to inform her she'd just plead guilty.

It was when her execution was announced in 2015 that the Philippine government became involved. Because of public pressure from the Philippine migrant community, Sergio and Lacanilao turned themselves in to face trial in Manila for human trafficking.

In September 2016 outspoken Philippine President Rodrigo "The Punisher" Duterte was quoted by Indonesian President Joko Widodo: "that Indonesia now has the go ahead to execute Veloso." After a flurry of activity from migrants rights groups, Widodo clarified what he'd heard from Duterte. Veloso would not be executed until she could give evidence in the Philippine Sergio/Lacanilao trial.

In 2017 Veloso's position remains precarious, and justice for her relies heavily on international support. As such, please follow the [Injustice Anywhere Forum](#), or see [#SaveMaryJane](#), or go to: <http://migranteinternational.org/tag/mary-jane-veloso/>.

Neil Bantleman & Ferdinand Tjiong – Indonesian JIS School scandal, wrongful conviction



Neil Bantleman

By Stuart Lyster – IA Advisory Board

In 2014 ten cleaning staff and two teaching staff were convicted of charges of abusing kindergarten students at the Jakarta Intercultural School (JIS). The JIS is where 2,500 children of many expatriates, diplomats and wealthy Indonesians are enrolled. Neil Bantleman of Burlington, Ontario, Canada, and Ferdinand Tjiong were sentenced to 10 years. One of the 10 cleaning staff had died at interrogation.

In August 2015 Bantleman and Tjiong were freed by the Jakarta High Court, which cited the failure of the local court to take into account key, exculpatory evidence. Bantleman was not allowed to leave the country pending what many thought would only be a rubber stamp by the Indonesian Supreme Court.

That same month a civil suit brought by one parent against Bantleman, Tjiong and the JIS was thrown out, because of reasons which the NYTimes reported as, “failing to give a clear indication for how the sexual assaults (of children) could have occurred.”

Instead of upholding the criminal reversal, in Feb 2016 the Indonesian high court reinstated the convictions and added a year to each sentence.

The hope for both Bantleman and Tjiong, not to mention the remaining 9 cleaners, rests on a judicial review of the Indonesian high court ruling. Canadian Ambassador Donald Bobiash visited Bantleman after the high court reconviction to assure him that the government of Canada is doing everything it can to gain his freedom.

New evidence was uncovered by the Canadian public affairs program, the fifth estate. This new evidence includes a series of lab reports which claim a child had contracted herpes, had in fact not. The stories of the “secret room”, “the magic stone”, and “the blue potion” which was alleged to have been used by Bantleman have been proven either not to exist or have no basis in evidence.

See the latest in the [Injustice Anywhere forum](#), or search for “Neil Bantleman” on Facebook for the latest. #freeneilandferdi #justicefortheinnocent

<http://www.cbc.ca/news/canada/hamilton/christmas-without-neil-injustice-the-new-normal-forbantleman-family-1.3914088>

<http://www.cbc.ca/fifth/episodes/2015-2016/nightmare-in-indonesia> - the fifth estate documentary

New Injustice Anywhere Endorsed Case: Edward “Max” Lewis

By Tom Zupancic and Karen Harden

Edward “Max” Lewis was convicted in Wisconsin in 2004 for the repeated sexual assault of his step-daughter, over a span of two-years beginning in 2002. Lewis was sentenced to 22 years of incarceration. He was released from prison in 2015, and is currently on probation until 2025. Due to Wisconsin’s bifurcated sentencing system, Lewis is still considered incarcerated during his probation and can be returned to prison at any time. Also as a result of this system, Lewis is still able to appeal his sentence, even though he is not currently in prison.

Lewis’s case is a complicated one that involves several people in Lewis’s own family. Evidence, and especially the lack thereof, now shows that Lewis is the victim of a wrongful conviction. His story is not one that is easy to explain, and many of the details are disturbing because they deal with accusations of sexual assault of children and family members.



Max Lewis

Lewis had a brutal childhood, living as a Native American orphan in a flawed Indian child welfare system that left him homeless by the age of 15. Throughout his childhood, he was subjected to neglect and abuse in the foster care system and was also the victim of a failed adoption which left him devastated. In spite of all this, Lewis was a music prodigy and became an extremely talented musician.

Lewis overcame adversity and got back on his feet in his later teen years by working a variety of jobs and pursuing his passion for music. At the age of 18, Lewis obtained placement of his five siblings who had also suffered through rough childhoods. Lewis married Tammy Lewis, who had three children of her own. They all came together to live in a house owned by Tammy. Max and Tammy would go on to add to the bunch with a child of their own. Lewis’s sense of obligation to care for his family was a fundamental component of his character.

Still, Lewis was in treatment for mental illness over a long period of time. He was able to keep things together as he tried to provide for his growing family, but in September of 2003, Lewis had a mental breakdown that would change his life forever.

Lewis fell into a state of psychosis while attempting to deal with disturbing activities that were taking place in his home. Lewis’s five-year-old step-daughter was showing signs of sexual behavior that seemed odd to Lewis and his wife. The child was rubbing up against a pillow in a sexual way. The child also showed the same behavior while on a nap mat at school.

One morning while watching *Dora the Explorer*, the five-year-old was influenced by the subject of the show, which was a discussion about playing games. While watching the show, the child began talking about a “game” that her uncle Orin (Lewis’s brother) and her brother (Lewis’s step-son) would play. The “game” involved sexual activity. Hearing this information sent Lewis over the edge. While in a poor mental state, Lewis told his wife that he was responsible for the “game” that was being played, referring to his sense of obligation to look after his family. He had, after all, brought Orin into the household. Lewis’s wife was concerned and consulted with her mother for advice. As a result, Lewis’s mother-in-law called the police, and Lewis was taken into custody.

Lewis’s mental illness is a core issue of his case. Lewis had been through a series of tragic events throughout his life, which all contributed to his breakdown. Besides the abuses he suffered in foster care, Lewis also had family events which would have a deep impact.

New Injustice Anywhere Endorsed Case: Edward "Max" Lewis (continued)

Lewis was witness to seeing his brother die after being hit by a car, and in a shocking family twist, he would later have to deal with his brother-in-law's suicide, after his brother-in-law found out that his own father was having an affair with his wife. The brother-in-law's death was not immediate, which gave him the opportunity to give Lewis a message from his deathbed. He told Lewis that he was holding him accountable for taking care of his sister (Lewis's wife). This was a responsibility that Lewis took very seriously.

These traumatic events may have been handled better if Lewis had not been suffering with a mental illness. But due to his illness, Lewis became paranoid that he was going to die, just like his brother and brother-in-law had. He also feared that his dead brother-in-law was going to come back to kill him for failing to properly take care of his wife. In Lewis's mind, he was responsible for everything that occurred in his home. The trauma that was occurring with his step-daughter proved to be more than Lewis could bear.

Upon his arrest, Lewis's mental health issues were apparent, and a jail nurse tried to help get him treatment. But in a critical turn of events, Lewis was denied assistance. Initially, Lewis had an attorney who raised an issue of competency. Lewis had a court order to be transferred to an inpatient facility. However, the district attorney failed to execute the court order and then later lied about why this occurred. As Lewis was later appointed a new attorney and judge, no one realized Lewis never received critical treatment. Despite this, competency was alluded to again shortly before trial, and the district attorney lied again, telling the court that Lewis had already received a competency hearing. This was a serious act of misconduct.

During the investigation, authorities became aware of the involvement of Lewis's brother Orin and Lewis's stepson. As a result, the district attorney offered Lewis's brother immunity and a plea agreement in return for testifying that he was also a victim and that he observed other acts of abuse in the home. In exchange for his testimony, the prosecution offered a punishment of time served, meaning that Orin would be a free man if he was willing to testify against his brother for the prosecution.

The details surrounding the five-year-old victim's statements after Lewis's arrest are troubling to say the least. Investigators interviewed the child multiple times without the child ever making any incriminating statements against Lewis. The child was given to Lewis's in-laws to care for her during this time. After the child spent time with the in-laws, her story abruptly changed to incriminate Lewis.

In yet another twist, at the time all of this was happening, Lewis's in-laws were under investigation for sexually assaulting a grandchild. The grandchild just so happened to be the daughter of Lewis's brother-in-law who committed suicide after finding his own father in bed with his wife. The father-in-law was not only allegedly having an affair with his daughter-in-law, he was also allegedly molesting his granddaughter.

Why was Lewis's five-year-old step-daughter sent to stay with grandparents who were under investigation for sexual assault? And why did the child change her story to incriminate Lewis only after spending time with her grandparents? These questions remain unanswered. It is also unknown if the child's changed story, which benefited the prosecution, had anything to do with the investigation of the grandparents being dropped.

At trial, Lewis didn't stand a chance. He had not received proper treatment for his mental illness and was in no condition to stand trial. Shockingly, due to the fact that Lewis's mental health had not been evaluated before trial, his mental illness was not even mentioned to the jury.

Even more shocking was the fact that Lewis was put on the stand. Because of Lewis's mental state, he was faced with questions he could not understand. Without having proper knowledge that Lewis was suffering with a mental illness, the jury had no explanation for Lewis's behavior in court.

Additionally, the judge refused to allow the information regarding the brother's inducements and his plea deal to be heard by the jury. An agreement that dismissed the brother's greater charge (the charge Lewis was found guilty of). The judge also allowed State witnesses to introduce numerous hearsay issues based on the inducements provided by Lewis's brother which were never testified to by the alleged victim.

New Injustice Anywhere Endorsed Case: Edward "Max" Lewis (continued)



Max Lewis is a talented musician

The jury was unaware of the fact that Lewis was suffering from a mental illness. They had testimony from the victim pointing to Lewis, that was far from accurate. The child's account of events was manipulated by investigators and others before the trial to induce her to implicate Lewis. Her statements were then distorted by the prosecution to mislead the jury. In addition, they heard damning testimony from Lewis's brother, Orin. Based on the information they were provided; it was not shocking that it only took minutes of deliberation for the jury to find Lewis guilty.

Lewis was initially placed in prison. However, it became apparent that he could not live in a prison setting as he continued to suffer from mental illness.

It was at this time that he was sent to an inpatient hospital where he was diagnosed with a number of severe mental health issues and a previously undiagnosed form of epilepsy called complex partial seizures. These mental health issues would have been recognized before Lewis's trial if the prosecution's office had done its job properly.

Once Lewis regained partial functioning, he began to appeal his conviction. During Lewis's appeal process, his brother Orin recanted his statements and admitted that he lied. He also stated that the prosecutor implied to him that he knew his testimony was false, but he allowed it to be used anyway. As a result of Orin's recantation, the court ridiculously ordered the district attorney's office to investigate itself. Of course, the district attorney's office cleared itself and concluded that Orin's recantation was false.

Even though Lewis's brother recanted his testimony, Lewis has been unsuccessful in his appeals, despite the fact that there is currently no solid evidence to support his conviction. The appeals system in America is a complicated one, and it is incredibly difficult to overturn a wrongful conviction regardless of overwhelming proof of innocence.

Lewis does not have the means to hire an attorney who is capable of giving him his best chance of clearing his name. He also lacks the means to hire experts to present the actual facts of his case. That is one of the major shortcomings of our justice system. Without money, it is very difficult to properly defend yourself, no matter how ridiculous the charges might be.

Lewis is currently serving a ten-year probation in Wisconsin. He is hopeful that an attorney will come forward to take his case pro bono. As of now, that is Lewis's only hope of finding justice.

Max Lewis's case is now an Injustice Anywhere endorsed case. Injustice Anywhere will be providing many more details of this case in the coming weeks and months. Please visit InjusticeAnywhere.org to learn more about this case and to keep up to date with current events.

Supporters Asking For Funds To Support Melissa Calusinski's Family As She Continues To Fight For Her Freedom

By Bruce Fischer

A [gofundme account](#) has been set up to help Paul and Cheryl Calusinski, the parents of Melissa Calusinski. Paul and Cheryl have suffered financial hardship as they have fought to free their daughter from prison.

Melissa Calusinski was convicted of murder in 2011 and was sentenced to 31 years in prison in Illinois. Calusinski was accused of throwing a child to the floor, causing fatal injuries, while working as a teacher's aide at a day care center.

Calusinski has long maintained her innocence, and evidence now shows that she was wrongfully convicted based on false medical testimony and a coerced confession. In 2013, Eupil Choi, the pathologist who performed the autopsy on the child, stated in a sworn affidavit that he had missed an old injury. Choi's statement was a major breakthrough in the case, because it supported Calusinski's defense team's longstanding argument that the child's death was the result of a pre-existing injury. But the real bombshell came last year, which blew the case wide open. Lake County's coroner, Dr. Thomas Rudd, reclassified the child's death from a homicide to undetermined, after a new set of X-rays was discovered by his office. These X-rays show no sign of fresh injuries on the child at the time of death.



Melissa Calusinski

Calusinski is currently being represented by Kathleen Zellner, a high profile defense attorney who is credited with overturning eighteen wrongful convictions to date. Calusinski's supporters are hopeful that Zellner will soon be adding one more case to her long list of successful exonerations.

Zellner's involvement has been a blessing for the Calusinski family. Unfortunately, even with the best representation, the wheels of justice turn very slowly. The vast majority of wrongful convictions which are overturned go through multiple appeals over the course of many years before being corrected.

Paul and Cheryl Calusinski will continue to fight for their daughter for as long as it takes. And they have a strong group of supporters who are determined to make sure that they never have to fight the battle alone.

Please visit the [Official Justice for Melissa Calusinski Family Page](#) on Facebook to learn more about the Melissa Calusinski case.

If you would like to make a donation to help the Calusinski family, you can do so here: <https://www.gofundme.com/paulandcherylcalusinski>



Paul and Cheryl Calusinski

An Overview Of Presumptive And Confirmatory Testing In The Forensic Sciences

By Christopher Halkides

The Amanda Knox case introduced some observers to the uses and misuses of presumptive and confirmatory blood tests. The use of two stages of testing is encountered in at least two forensic disciplines: testing for body fluids (blood, saliva, and semen), and testing for illicit drugs. Some clinical testing also employs two-stage testing. Focusing on blood among body fluids and cocaine among illicit drugs, this article will cover the basic theory of testing and discuss some problems in the criminal justice system surrounding presumptive and confirmatory testing.



Sensitivity and specificity in clinical tests

Altman and Bland defined sensitivity as “the proportion of true positives that are correctly identified by the test,” and they defined specificity as “the proportion of true negatives that are correctly identified by the test.” A web site at Emery University states, “A sensitive test helps rule out disease (when the result is negative)...A very specific test rules in disease with a high degree of confidence.”

Lalkhen and McCluskey define sensitivity as the ratio of true positives to the sum of true positives plus false negatives. They define specificity as the ratio of true negatives to the sum of true negatives plus false positives. Lalkhen and McCluskey further state, “Although the ideal (but unrealistic) situation is for a 100% accurate test, a good alternative is to subject patients who are initially positive to a test with high sensitivity/low specificity, to a second test with low sensitivity/high specificity. In this way, nearly all of the false positives may be correctly identified as disease negative.”

Harvey Motulsky wrote, “Sensitivity measures how well the test identifies those with the disease...Specificity measures how well the test excludes those who don’t have the disease...” He continued, “Consider a screening test for a disease that is fatal if untreated but completely treatable. If the screen test is positive, it is followed by a more expensive test that is completely accurate and without risk. For this screening test you want to set the sensitivity very high, even at expense of a low specificity. This ensures that you will have few false negatives but many false positives. That’s OK. False positives aren’t so bad, they just result in a need for a more expensive and more accurate (but safe) test.”

Presumptive tests must generally be sensitive and confirmatory tests must generally be specific. Kobilinsky, Liotti, and Oeser-Sweat wrote, “Initially a presumptive screening test is used to identify the evidence. Presumptive tests are usually sensitive but not specific, and thus small amounts of the substance can be detected. False-negative results are very uncommon unless the amount of specimen is so small as to go undetected. However, occasionally, false-positive results that could potentially be misleading may be observed. Presumptive tests are useful as preliminary screening procedures that reduce the number of items that would otherwise have to be analyzed. Substances that provide negative presumptive results are not tested further. Presumptive tests that are positive should always be followed by confirmatory tests. The latter are less sensitive but more specific and therefore results are more reliable.” (p. 34)

Presumptive and confirmatory tests in body fluid analysis

In a 2009 review article Virkler and Lednev wrote, “Each of these fluids has one or more screening tests that are presumptive in nature, and some of them have confirmatory tests that will conclusively identify their presence. There are also some tests which can identify the species of a particular fluid, and these are also considered to be confirmatory.” They continued, “Once a positive result is obtained from a presumptive blood test, several confirmatory tests are available to identify absolutely an unknown stain to be blood.” The use of the word screening suggests the dual function of presumptive tests, to identify some stains for further analysis and to identify others as being of no further interest for the questioned substance. The same logic that applies to blood applies to other body fluids.

An Overview Of Presumptive And Confirmatory Testing In The Forensic Sciences (continued)

In 2014 Tobe, Vennemann and their collaborators wrote, "Such testing strategies [for blood and semen] provide easy-to-use, low-cost and time efficient tools for forensic science. However, detailed knowledge of specificity and sensitivity of presumptive tests is crucial for correct interpretation and inclusion into forensic investigations."

A positive result from a presumptive test for blood indicates the possibility that blood is present. A positive result from a confirmatory test allows one to conclude that blood is present. The Amanda Knox/Raffaele Sollecito case illustrated the problem of relying upon one positive presumptive test for blood (luminol) while ignoring negative results from another presumptive test, tetramethylbenzidine. The Gregory Taylor case illustrated the situation that arises when a presumptive test for blood is positive, the confirmatory test is negative, and the laboratory chooses to obfuscate. In the Lindy and Michael Chamberlain case, negative results from a presumptive test were ignored, and positive results were claimed to indicate that blood was present. Furthermore some positive results from the presumptive test came from an inaccessible location in the Chamberlain's car, a result that should have caused the forensic workers to reassess their conclusions. Based upon these cases, one might imagine that the limitations of presumptive testing for blood are well understood. However not every laboratory performs confirmatory testing for blood; instead, some move straight into DNA profiling, as noted by Castro and Coyle.

No one can be certain of the future directions that confirmatory testing for body fluids may take. Virkler and Lednev suggested that quantitation of ribonucleic acid, RNA, may be used. In this technique RNA is reverse-transcribed into DNA, and the DNA is amplified by the polymerase chain reaction. Because RNA is generally more prone to degradation and because there is an extra step, relative to the quantitation of DNA, this technique requires carefully executed controls, or the experiment will provide misleading information. The laboratory which undertook the RNA testing in the Mark Lundy retrial may have detected DNA, which is not useful in identifying a particular body fluid.

Presumptive and confirmatory tests in drug analysis

On page 223 of Forensic Chemistry Suzanne Bell wrote, "Drug analysis, and to a lesser extent, toxicology utilize traditional color-based presumptive testing, targeting both drugs and diluents. In a recent survey, 86% of responding laboratories reported using spot testing (another term used to describe presumptive testing) for drug analysis" After visual screening and presumptive testing, is "a definitive identification of the controlled substance or a determination that the sample does not contain one at detectable levels."

Changes of color are part of many presumptive tests in drug analysis, and the competent analyst must be keenly aware of the details of the protocol. On pages 225-226 Suzanne Bell sounded an important note of caution: "The time of contact is an important consideration in color testing in general; leaving samples in the reagents, many of which contain strong acids, can lead to colors unrelated to the presence of the target analyte." The Kastle-Meyer presumptive test for hemoglobin will give a false positive for blood if the incubation time is too long. Another problem with color-change tests is that there is often some subjectivity in reading it.

Some presumptive tests for cocaine use cobalt thiocyanate; one such test is the Scott test (Bell). John Kelly was highly critical of U.S. District Court Judge William Alsup for declaring that the cobalt thiocyanate test is a confirmatory test, and rightly so. This test produces false positives both in the laboratory and in the field. John Kelly quoted a United States Army forensic chemist who stated in 1982 that, "As a footnote, twenty to thirty percent of all substances initially field tested positive for a drug and subsequently submitted to this laboratory for analysis are devoid of any drugs or contain a drug different than the one indicated by the field test." David Lohr mentioned a Nevada study that indicated that thirty-three percent of field tests gave false positives, although it is unclear from his report whether this refers to tests for cocaine or includes other illicit drugs.

Kelly sketched the case of Janet Lee, in which flour gave a false positive. She spent three weeks in jail before further testing showed that the substance was indeed flour. David Lohr offered the case of truck drivers Gale Griffin and her husband Wendell Harvey, in which baking soda gave a false positive. Ms. Griffin and Mr. Harvey spent eight weeks in jail; their truck was damaged; and their security clearances have yet to be reinstated. In some instances it is well understood why a given chemical would give a false positive in the Scott test; however sodium bicarbonate does not resemble these. Flour is a complex mixture, and one can only speculate as to what might have given the false positive.

An Overview Of Presumptive And Confirmatory Testing In The Forensic Sciences (continued)

In some ways Ms. Lee and Ms. Griffin were lucky. Ryan Gabrielson and Topher Sanders recounted the story of Amy Albritton, who was arrested in Harris County, which includes the city of Houston, Texas. Her lawyer seemed to think that a presumptive test proved the presence of cocaine. According to Barry Scheck field testing was intended to minimize testing backlogs at crime laboratories. Such a policy assumes that innocent people would not plead guilty after a false positive field test; however, as Mr. Scheck pointed out empirical evidence from many cases in Harris County in Texas refuted this belief (and indeed it is unreasonable to expect the average person to be aware of the difference between a presumptive test and a confirmatory one). Upon being apprised of the problem of guilty pleas based on incorrect presumptive test results, DA Devon Anderson then implemented a policy that did not allow for guilty plea deals unless a positive confirmatory result was also observed. This is a sensible reform.

Chromatography and microcrystalline tests

Chromatography is a family of techniques that separates substances based upon their chemical or physical characteristics. The characteristics might be boiling point, polarity, charge, size, or other chemical or physical properties. The distance a compound move or the time it takes the compound to move a defined distance is often measured as part of a chromatographic experiment. Types of chromatography include gas chromatography, liquid chromatography, and thin-layer chromatography. Chromatography may be performed as part of either a presumptive or confirmatory test. On their own chromatography tests may be employed as screening tests for drugs. This time or distance of migration of a compound has some limited value in identifying the substance, but it is prone to misinterpretation. In the Patricia Stallings case chromatography results misidentified propionic acid as ethylene glycol and nearly put an innocent woman away for life. A single chromatography experiment is insufficient to identify a compound with a high degree of certainty. Likewise, the morphology of a small crystal (microcrystalline tests) should not be used as confirmatory test.

Conclusions and suggestions for reforms

Some high profile cases, such as those of Lindy and Michael Chamberlain, Amanda Knox and Raffaele Sollecito, and Gregory Taylor have illustrated the pitfalls of incorrectly interpreted presumptive tests for blood. Yet the lessons of these cases are not being entirely heeded. Moreover in terms of quantity, the far more significant problem is probably overinterpretation of presumptive tests for illicit drugs, as pointed out by Ryan Gabrielson and Topher Sanders.

With respect to presumptive testing for illicit drugs, one might specify a maximum time that a person could be held on the basis of a positive result, such as seventy-two hours. If a confirmatory test were not run or if it were negative, then the person would have to be released. Alternatively, a positive result would not be grounds for arrest but only for taking a sample for confirmatory testing. This might alleviate one problem, that of incorrectly performed field tests, a problem noted by Gabrielson and Sanders.

One could exclude the results of presumptive drug or body fluid tests in criminal trials unless they are supported by confirmatory tests; some states do this with respect to testing for blood. However, this reform would not be of any use in most cases, which are decided by plea bargain. The Harris County policy of not accepting plea deals without a confirmatory test could be made mandatory across the country.



Raffaele Sollecito

An Overview Of Presumptive And Confirmatory Testing In The Forensic Sciences (continued)

With respect to presumptive testing for illicit drugs, one might specify a maximum time that a person could be held on the basis of a positive result, such as seventy-two hours. If a confirmatory test were not run or if it were negative, then the person would have to be released. Alternatively, a positive result would not be grounds for arrest but only for taking a sample for confirmatory testing. This might alleviate one problem, that of incorrectly performed field tests, a problem noted by Gabrielson and Sanders. One could exclude the results of presumptive drug or body fluid tests in criminal trials unless they are supported by confirmatory tests; some states do this with respect to testing for blood. However, this reform would not be of any use in most cases, which are decided by plea bargain. The Harris County policy of not accepting plea deals without a confirmatory test could be made mandatory across the country.

Web Resources

<https://www.med.emory.edu/EMAC/curriculum/diagnosis/sensand.htm>

A discussion of positive and negative predictive value can be found here.

http://sphweb.bumc.bu.edu/otlt/MPH-Modules/EP/EP713_Screening/EP713_Screening5.html

A discussion of positive and negative predictive value is also found here.

<http://www.ncids.com/forensic/>

This site (from the North Carolina Indigent Defense Services) has information on a variety of forensic sciences and also has a terminology section.

Viewfromwilmington.blogspot.com

The author's website has several discussions of presumptive and confirmatory testing for blood and a treatment of the Patricia Stallings case.

References

Douglas G Altman and J Martin Bland, "Diagnostic Tests 1: sensitivity and specificity" 1994 British Medical Journal 308 1552-1553.

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Diane Castro and Heather Coyle, unpublished manuscript.

Ryan Gabrielson and Topher Sanders, "Busted" The New York Times Magazine, 7 July 2016.

John Kelly, "False Positives Equal False Justice" California Association of Criminalists (2008)

Wendy Koen and C. Michael Bowers, eds., Forensic Science Reform 2017 Elsevier.

David Lohr, "Unreliable Field Drug Tests Result In Innocent People Pleading Guilty" The Huffington Post 18 November 2016.

Harvey Motulsky Intuitive Biostatistics 1995, Oxford University Press.

Lawrence Kobilinsky, Thomas Liotti, Jamel L. Oeser-Sweat, and James D. Watson, DNA Forensic and Legal Applications, 2004, Wiley-Interscience.

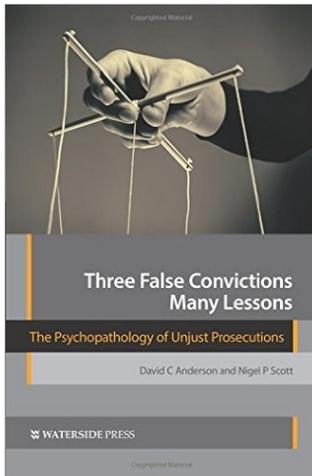
Richard Saferstein, Criminalistics: An introduction to forensic science, 9th ed. Pearson Prentice Hall (2009)

Barry Scheck "Unreliable Field Drug Tests Result In Innocent People Pleading Guilty" The Huffington Post, 15 July 2016.

Marielle Venneman, Georgina Scott, Lynn Curran, Felix Bittner, and Shanan S. Tobe "Sensitivity and specificity of presumptive tests for blood, saliva, and semen" (2014) Forensic Science Med Pathol 10 69-75.

Kelly Virkler and Igor K. Lednev, "Analysis of bodily fluids for forensic purposes: From laboratory to non-destructive rapid confirmatory identification at a crime scene" 2009 Forensic Science International 188, 1-17.

Recommended Reading

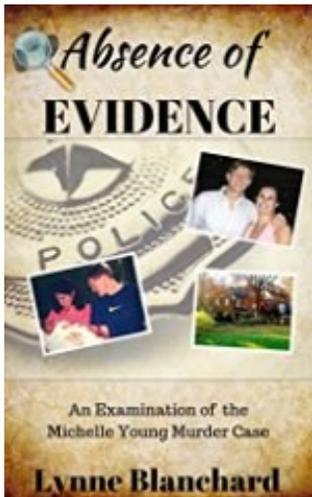


Three False Convictions, Many Lessons: The Psychopathology of Unjust Prosecutions

By David C Anderson and Nigel P Scott

From Amazon.com: “A new perspective on the roles of psychopathology, confirmation bias, false confessions, the media and internet (amongst other causes) of unjust accusations. Putting lack of empathy at the fore in terms of police, prosecutors and others, it considers a wide range of other psychopathological aspects of miscarriages of justice.

By looking at three high profile cases, those of Amanda Knox and Raffaele Sollecito (Italy), Stefan Kiszko (UK) and Darlie Routier (USA) -- the authors show that motive forces are a mind-set in which psychopathy (what they term 'constitutional negative empathy') may be present and the need to reinforce existing supposition or lose face plays a part.”



Absence of Evidence: An Examination of the Michelle Young Murder Case

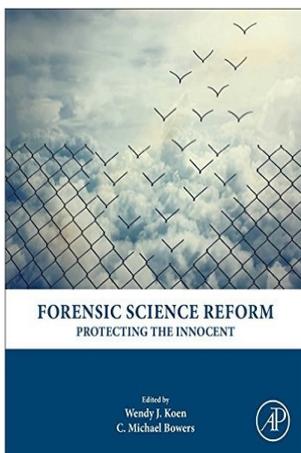
By Lynn Blanchard

From Amazon.com: Michelle Young was living the American dream. The former NC State cheerleader was married to Jason. They had a beautiful two year old daughter and a son on the way. The couple enjoyed a comfortable life in the quiet Enchanted Oaks community of Raleigh, North Carolina.

It was autumn—a time for football games and holiday plans, but on November 3, 2006 Michelle was found beaten to death in her home. It shook the community and quickly attracted national attention.

Police immediately began investigating Jason . . . but he was out of town at the time of the murder. Would they discover enough evidence to solve the crime? Discover the facts about this fascinating and controversial case

Educational Resource For Forensic Science



Forensic Science Reform: Protecting the Innocent 1st Edition

By Wendy J Koen (Editor), C. Michael Bowers D.D.S. J.D. (Editor)

From Amazon.com: “Forensic Science Reform: Protecting the Innocent is written for the nonscientist to help make complicated scientific information clear and concise enough for attorneys and judges to master. This volume covers physical forensic science, namely arson, shaken baby syndrome, non-accidental trauma, bite marks, DNA, ballistics, comparative bullet lead analysis, fingerprint analysis, and hair and fiber analysis, and contains valuable contributions from leading experts in the field of forensic science.”

Injustice Anywhere Advisory Board Member Christopher Halkides coauthored chapter eight, “Presumptive and Confirmatory Blood Testing”.

Publish Your Own Articles

Injustice Anywhere offers two resources to help advocates publish articles online: GroundReport.com and WrongfulConvictionNews.com

This Is A Great Opportunity For Advocates

Are you currently advocating for someone that has been wrongfully convicted? Are you currently lobbying to improve the system in order to reduce wrongful convictions? Are you an expert that would like to help educate the public? Are you a past victim of wrongful conviction that would like to tell your story? If you answered yes to any of these questions then Ground Report and Wrongful Conviction News are the right websites for you.

You do not need to be a professional writer to contribute. If you are credible, passionate, and knowledgeable about your cause, then you have what it takes to publish your message.



Utilize The Power Of Google News

GroundReport is a citizen journalism website that has been dedicated to giving a voice to everyday citizens for over a decade. Bruce Fischer became President of Open News Platform Inc., a not-for-profit 501(c)(3) corporation which owns and operates GroundReport, in December of 2015.

GroundReport is a vital resource for Injustice Anywhere. We feel that our involvement is well worth the investment. GroundReport articles are picked up by Google News and Bing, providing our articles with top placement on the major search engines. This is another excellent opportunity for advocates to have their voices heard.



Wrongful Conviction News is a crowd-sourced media platform. The site's mission is to provide a wide range of wrongful conviction news while providing free advertising to help advocates promote the cases they support.

Wrongful Conviction News is driven by the writers that contribute content. This platform is designed to give you an opportunity to bring more attention to the cases that you advocate for.

Free Advertising On Wrongful Conviction News

The advertisements you see on Wrongful Conviction News are posted free of charge. Our mission is to bring more attention to wrongful convictions. Wrongful Conviction News wants to help you promote your blog or website. If you would like to submit a banner for placement on Wrongful Conviction News, please send your banner image with desired destination link to injusticeanywhere@yahoo.com. Please put "Ad for Wrongful Conviction News" in the subject line of your email.

Injustice Anywhere Podcasts

<http://www.speaker.com/show/injustice-anywhere>

The Injustice Anywhere online radio program debuted on August 6, 2013, on BlogTalkRadio. We moved the show to Spreaker in February of 2015 in order to reach out to a wider audience. Spreaker provides an outstanding user friendly format for listeners on multiple listening devices.

The Injustice Anywhere Radio Program, hosted by Bruce Fischer, welcomes guests who come on to discuss a wide range of wrongful conviction topics. If you would like to be on the show, or if you have an idea for a show topic, please send us an email. injusticeanywhere@yahoo.com.

Please watch for updates about upcoming shows on the Injustice Anywhere homepage: www.injusticeanywhere.org.



You can listen to podcasts anytime by visiting the [Injustice Anywhere Radio archive](#).

Popular Podcasts



The Barry Beach Case in Montana

Guests: Dan Gengler and Joyce Ranum



The Mark Lundy Case In New Zealand

Guests: Geoff Levick, Chris Halkides, and Mark White



Debra Milke Discusses Her Exoneration

Guest: Debra Milke

Coming Soon!

Injustice Anywhere will be launching a weekly YouTube based wrongful conviction news webcast in March 2017. The show will focus on current wrongful convictions that are in our daily news feeds. We will also work to provide in depth analysis of various wrongful conviction cases. With the YouTube format, we will now have the ability to incorporate video and photographs into our analysis. In addition, we will be interviewing featured guests via Skype on our new video wall. Stay tuned!





Rally for Injustice Anywhere

Donate here: <https://rally.org/injustice-anywhere>

Injustice Anywhere is an all-volunteer organization which was created to bring more knowledge and attention to wrongful convictions and to work to bring much needed reform. We currently have six featured cases and we endorse six others. Please visit injusticeanywhere.org to learn more about these cases.

Our efforts rely on contributions from our supporters. Contributions make it possible for Injustice Anywhere to cover the operational costs of our websites, which include: injusticeanywhere.org, injusticeanywhereforum.com, freebrendan.org, freecharleserickson.org, freejeffreyhavard.org, amandaknoxcase.com, injusticeinperugia.org, and wrongfulconvictionnews.com.

We also have a podcast archive on speaker.com, and we run groundreport.com, a citizen journalism website that provides advocates a platform to help bring attention to their causes. GroundReport articles are featured on Google News.

Contributions also make it possible for Injustice Anywhere to cover the costs of managing our LLC, obtaining legal documents, legal counsel, insurance, updated media contact data, and Google and Facebook advertising to help bring attention to our featured cases. Please visit InjusticeAnywhere.org today to learn more about supporting our cause.

Purchasing Injustice Anywhere apparel is another great way to support our efforts!

Now is your chance to support a good cause and look great while doing it! Choose from a range of styles and colors. Choose from Haynes tagless tees, Gildan long sleeve tees, Gildan heavy blended hoodies, or American Apparel women's fitted tees.

Teespring makes it easy. Shipping is just \$3.99 for the first apparel item and \$2.00 for each additional apparel item.



Place your order for Injustice Anywhere apparel today!

Please only consider making a monetary contribution if you are able to do so. Much of our progress to date has absolutely nothing to do with money. Dedicated individuals that invest their valuable time to advocate for Injustice Anywhere are truly the backbone of our organization. The time and effort put forth by our members is invaluable. Injustice Anywhere greatly appreciates those efforts.

Who are we?

Founding Members

Bruce Fischer: Executive Director

Sarah Snyder: Director of Operations

Our Advisory Board

Tammy Alexander: Advocate, co-founder of Justice for Illinois Wrongfully Convicted

Luca Cheli: Author, Advocate, Translator

Doug Matthews: Author, Advocate

Jen Fitzgerald: Attorney, Advocate

Christopher Halkides: Professor of Biochemistry

Ron Hendry: Retired Forensic Engineer

Jim Lovering: Advocate, Freelance Writer

Stu Lyster: Advocate

Philip Mause: Attorney, Advocate

Steve Moore: Retired FBI Agent

Robert Owen: Advocate, Financial Professional

Michael Scadron: Retired Senior Trial Counsel with the United States Department of Justice, Advocate

Nigel Scott: Author, Advocate

Clive Wismayer: English Solicitor, Advocate

Tom Zupancic: Molecular Biologist, Advocate

Please visit InjusticeAnywhere.org to learn more about our volunteers. Several of our board members have provided photos and bios.

In addition to the members listed here, Injustice Anywhere also has over 2150 members on our [discussion forum](#) and over 1500 members in our [Facebook group](#). We greatly appreciate the efforts of all involved. Several breakthroughs have been discovered by members of our discussion forum that have proven to be beneficial to the cases that we actively support.

Please keep in mind that members of our advisory board do not necessarily agree with every one of our featured cases. Injustice Anywhere understands that many cases are controversial. We welcome the input of our members regardless of personal opinion on guilt or innocence. We believe open dialogue is crucial when working to find the truth.

Our Mission

Our first mission began in early 2010 when we created Injustice in Perugia (IIP), a grassroots organization that worked to secure freedom for Amanda Knox and Raffaele Sollecito, two innocent people wrongfully convicted for murder in Perugia, Italy. Both have now been fully exonerated by the Italian Supreme Court.

Our work with IIP opened our eyes to a growing worldwide problem that continues to go mostly unnoticed by anyone not directly affected. Wrongful convictions occur all around the world. We must do more to prevent the unjust imprisonment of innocent people, and in doing so, we must focus on the larger picture, not just the cases we see highlighted on television. If we choose to turn our backs on this problem, we risk creating more victims like Clarence Elkins, Christopher Turner, and Danny Brown. Who are these people? Even though their cases were not sensational enough to get the attention of cable news programs, they were all cases of wrongful conviction, only to be corrected after each had lost many years of their lives. There are hundreds of similar cases that go mostly unnoticed, but are of no less importance than any case that happens to attract the attention of the media. Our current mission is to work to bring more attention to wrongful convictions. The first step is to awaken the public to the fact that the problem actually exists. We have seen great progress in recent years. People are finally beginning to taking notice. Public support is vital when it comes to freeing the innocent.

Injustice Anywhere Website

Injustice Anywhere currently has eight featured cases and six endorsed cases . Please visit our website to learn more about our organization and the cases we support.



Injustice Anywhere Forum

We encourage you to join the discussion on the **Injustice Anywhere forum**. Our forum currently contains over 180,000 posts from over 2150 members, who are passionate about discussing a wide range of issues pertaining to wrongful convictions. Registration is quick and easy. Once registered, you can join in on the ongoing discussions or create a new discussion topic of your own.

Social Media

Please like us on Facebook and follow us on Twitter.

Facebook – [Injustice Anywhere](#)

Twitter – [NJusticeAnywhere](#)