

January 2010

Virtue In Action

Science & Wisdom in the Pursuit of Justice

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FOSTERING CITIZENSHIP THROUGH CHARACTER EDUCATION



In recent years, various TV shows have highlighted the use of advanced scientific techniques in solving crimes. The December 2009 release of James Bain, after serving 35 years in prison for a crime he didn't commit, is a real-life example of how science is being used in the service of **justice** by freeing those wrongfully convicted of crimes.

Bain was convicted for the kidnapping and assault of a nine-year-old boy, having been identified by the victim as the assailant.

Bain (right) was proven innocent through the work of the Innocence Project, a group that uses advanced techniques in DNA, and knowledge of the law to identify and free those wrongfully convicted of a crime.



DNA is the genetic material unique to each individual that determines all of our individual physical characteristics and is present in each of our cells. DNA tests can be administered that identify a suspected criminal's DNA and whether it matches the DNA present on a victim's body or at the scene of a crime.

In 2009, the Innocence Project freed 27 people wrongfully convicted of crimes; since 1989 there have been 248 post-conviction **exonerations** achieved by examining DNA. The work of the Innocence Project provides us with a powerful model of how the virtues of **duty**, **perseverance**, and **wisdom** are important in working for justice.

Duty and Justice

The Innocence Project is a non-profit foundation affiliated with the Benjamin N. Cardozo School of Law at Yeshiva University. It was created by faculty members Barry C. Scheck and Peter J. Neufeld in 1992, who believe it is their **duty** to work for **justice** by exonerating wrongfully convicted individuals.



As stated in the group's Web site, "The project is a national litigation and public policy organization dedicated to exonerating wrongfully convicted people through DNA testing and reforming the criminal justice system to prevent future injustice.

"Most of our clients are poor, forgotten, and have used up all legal avenues for relief. The hope they all have is that biological evidence from their cases still exists and can be subjected to DNA testing. All Innocence Project clients go through an extensive screening process to determine whether or not DNA testing of evidence could prove their claims of innocence. Thousands currently await our evaluation of their cases.

"DNA testing has been a major factor in changing the criminal justice system. It has provided scientific proof that our system convicts and sentences innocent people — and that wrongful convictions are not isolated or rare events. Most importantly, DNA testing has opened a window into wrongful convictions so that we may study the causes and propose remedies that may minimize the chances that more innocent people are convicted."

The Innocence Project points out that most wrongful convictions are the result of incorrect eyewitness identification and/or misconduct and poor training in **forensics** labs. Other less common causes include false confessions, untruthful jailhouse snitches, incompetent or inadequate defense lawyering and prosecutorial/police misconduct.

In working to exonerate the wrongfully convicted, the Innocence Project has developed a unique and comprehensive approach that enables individuals from a variety of fields to participate in its mission. Teams

of law students handle the legal work for individual cases, under the supervision of attorneys and the Project's full-time staff.

Perseverance and **patience** are important aspects of their work. Once someone is convicted of a crime, there are understandably high barriers to re-examine a case. In some cases the legal team has to submit multiple petitions and counter prosecutor's objections over many years to have a case re-examined. In the case of James Bain, the State of Florida rejected four petitions for DNA testing over three years. The fifth petition was finally accepted.

The Innocence Project is eventually successful in many of their cases due to their in-depth knowledge of the laws in each of the states, the science of DNA testing and in-depth knowledge of the various ways that procedures in eyewitness identification and in forensics labs can yield inaccurate results.

The ability of the Innocence Project to apply their knowledge, experience and understanding in ways that are effective is the essence of **wisdom**, and points to the value of education in giving us the tools to work for justice.

Fundraising is critical to sustain the work of the Innocence Project. It requires significant resources to pay for the full-time staff of the project, to review the thousands of applicants requesting assistance from the Innocence Project, and to pay for DNA testing. Fortunately, volunteers across America have stepped up to offer their own financial support and to organize fundraising projects; however, the request for assistance is still much larger than financial resources of the Project to provide a timely response to all of the applicants.

Reform and our Role

Scheck, founder and co-director of the Project, was



delighted with the results of James Bain's case, but saddened by what Bain's plight says about our legal processes. "[Bain's case] tells us that we better get serious about eyewitness identification reform," Scheck commented to *The Independent World*. "It's the single greatest cause of the conviction of the innocent."

Reforming the processes of criminal investigation to assure greater accuracy requires the involvement of individual members of the community and the press in reaching out to and highlighting these issues with law enforcement officials and state legislators. The Innocence Project Web site points out that "Many of the causes of wrongful convictions are decided locally. For example, policies and procedures about

conducting lineups and recording interrogations are often set by city and county agencies. As a concerned community member, you have the right to know what the local practices are. Contact the city police, county sheriff and/or other local agencies to find out what they're currently doing and what the process is for evaluating and revising their policies. If their procedures and policies are not adequate for preventing wrongful convictions, urge decision-makers to change them and reach out to Innocence Network groups to let them know what you've learned."

The "What can I do?" section of the Innocence Project Web site (innocenceproject.org) offers many specific suggestions for becoming involved from the perspectives of being a public policy advocate, fundraising, and generating awareness of the problem of wrongful convictions.

Forgiveness Amidst Injustice

A surprising and powerful aspect of James Bain's story is his attitude and statements upon being freed. Although Bain has reason to be bitter and resentful, having been unjustly imprisoned from age 19 to 54, he stated, "I cannot feel angry. I put all that in God's hands. I have to think about my family and God, and friends I knew in prison who inspired me to move forward."

"I think [Bain's case] teaches us all something about the power of the human spirit and **forgiveness**, and I think we could all be a little more like him," said Melissa Montle, a young attorney who worked on Bain's case and described him as a "sweet, kind, loving, human being." Bain's ability to forgive challenges us to consider whether we are as forgiving as we should be when others harm us in much less serious ways.

The wrongful conviction of James Bain is a sad reminder of the injustices that still exist in our world. However, Bain's exoneration and the work of the Innocence Project also affirm the reality that education, knowledge and most importantly wisdom in using our skills effectively are powerful tools in building a more just world.

Vocabulary

Exonerated: to clear, as of an accusation; free from guilt or blame

Forensics: the application of scientific knowledge to legal problems

Forgive: to grant pardon for an offense or debt; to stop being resentful or angry against another person

Justice: fair treatment, due reward or punishment in accordance with honor, standards, or law

Duty: something that one is expected or required to do according to one's own standards, moral or legal obligation, especially as it relates to one's status as a citizen and/or member of various communities

Wisdom: ability to apply knowledge, experience, understanding in ways that are effective and good. The ability to discern or judge what is true, right or lasting

Perseverance: Trying hard and continuously in spite of obstacles and difficulties

Integrity: Steadfast adherence to a moral or ethical code; being true to oneself

Subpoena: a writ issued by a court of justice requiring a person to appear before the court at a specified time

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Lesson goals

- Help students develop a more in-depth understanding of justice, and some of the factors that can lead to injustice
- Encourage students to be more aware of injustices in our nation and throughout the world
- Inspire students to work for justice by presenting models of others working for justice
- Develop appreciation for the value of education in helping us to develop knowledge and skills, and wisdom in using these effectively in working to advance social justice
- Encourage students to be more open to forgiveness, even in the midst of severe injustice

Highlighted Virtues

Justice: fair treatment, due reward or punishment in accordance with honor, standards, or law

Duty: something that one is expected or required to do according to one's own standards, moral or legal obligation, especially as it relates to one's status as a citizen and/or member of various communities

Forgiveness: to grant pardon for an offense or debt; to stop being resentful or angry against another person

Wisdom: ability to apply knowledge, experience, understanding in ways that are effective and good. The ability to discern or judge what is true, right, or lasting

Perseverance: Trying hard and continuously in spite of obstacles and difficulties



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Discussion Question Options

1. What is the work of the Innocence Project?
2. How many people have been freed through DNA testing since 1989? Does this number surprise you?
3. Give specific examples of how the work of the Innocence Project exemplifies specific virtues including justice, duty, perseverance and wisdom.
4. What method of convicting criminals does Innocence Project co-founder, Barry Scheck, blame for most cases of wrongful imprisonment?
5. Name at least two ways ordinary citizens can help the Innocence Project. How do you think students from our community can best contribute to advancing the goals of the Innocence Project, both individually and as a group?
6. How does James Bain's ability to forgive speak to our everyday lives? Do you think there any advantages for someone who is able to forgive others even in the face of enduring significant injustice?

Journal Writing Options

1. James Bain expressed forgiveness after he was freed. Write about how you think you would have reacted and why under similar circumstances, and whether your expected reaction is the same after learning the story of James Bain.
2. Write a letter to an elected state official and / or local law enforcement official on your view concerning your local procedures in regards to eyewitness identification.

Extended Learning Activities

1. Organize the class into teams, tasking each team with presenting to the class your local law enforcement procedures in regards to eyewitness criminal identification, forensics lab policies, and use of jailhouse informants. Each presentation should also include an analysis from the team as to whether they think the policy needs improvement.
2. Ask the students to come up with fundraising ideas (at least three) for the Innocence Project and determine how they would want the money spent, depending on the needs of the project.
3. Have the students find an article about an exonerated inmate and—as a class or as individuals—write a letter or e-mail to the journalist who wrote it, per the Innocence Project's request.

Internet Resources

“Innocence Project on Trial,” Indystar.com, Ken Bode: <http://www.indystar.com/article/20091127/OPINION12/911270319/1002/OPINION/Innocence-Project-on-trial>

“Peoria Native Helped Free Innocent Florida Man,” Elyse Russo: “<http://www.pjstar.com/news/x1599182529/Peoria-native-helped-free-innocent-Florida-man>”

CBS News: “DNA Clears Man After 35 Years”
<http://www.youtube.com/watch?v=YmwbrQ95cNU>

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