

## THE INNOCENCE PROJECT'S FIRST DNA RESULT – AND ITS FIRST EXONERATION!

On June 17, 2003, Kenneth Wyniemko walked out of prison after having served almost 10 years for a crime he did not commit.

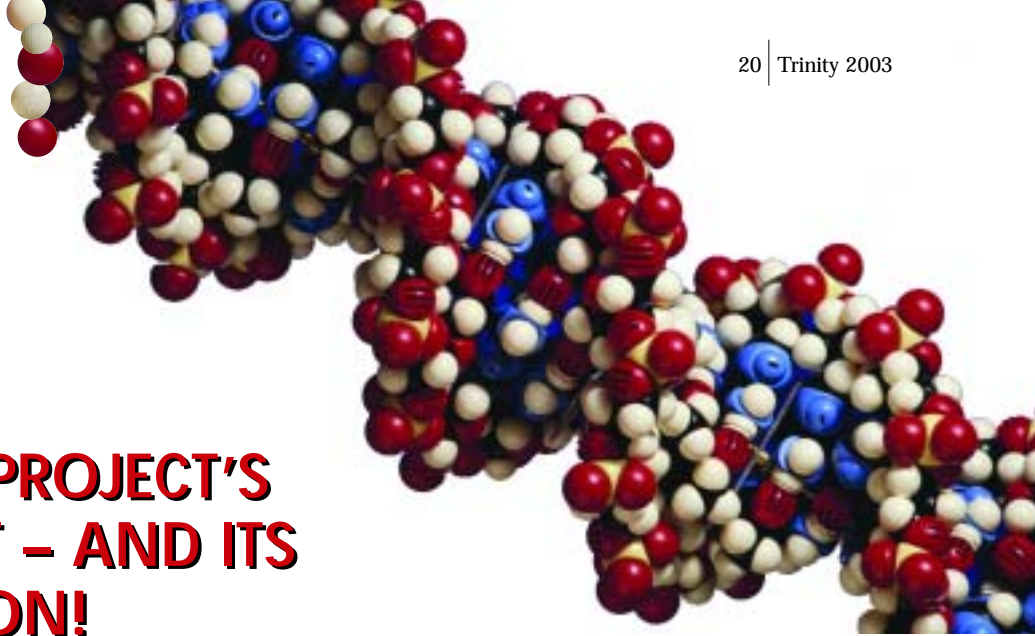
His innocence was conclusively established by sophisticated DNA testing, prompted and pursued by students and faculty at the Thomas M. Cooley Innocence Project. Mr. Wyniemko was the 132nd person exonerated by DNA testing, and the second person to be so exonerated in the state of Michigan.

At the time of Mr. Wyniemko's trial, several key pieces of forensic evidence raised doubts about his involvement:

Biological evidence left at the scene of the crime was tested at the time of trial using basic blood type testing, but excluded Mr. Wyniemko as the source. Although Mr. Wyniemko steadfastly maintained his innocence from the time of his arrest, he was convicted of 15 counts of First Degree Criminal Sexual Conduct

and sentenced to 40-60 years for each count.

In November 2002, the Cooley Innocence Project — working with pro bono local counsel, Gail Pamukov — filed a motion for DNA testing under Michigan's postconviction DNA testing law. In December 2002, the Michigan State Police Crime Laboratory was directed to conduct DNA testing on all the evidence in the case. Because of advances in DNA technology, personnel at the Crime Laboratory were able to perform more sophisticated testing on items that could not have been tested at the time of Mr. Wyniemko's 1994 trial. That testing, completed in June 2003, definitively showed that Mr. Wyniemko had not committed this horrendous crime. And, while the DNA testing in this case also provided a DNA profile of the real perpetrator of this crime, he has not, as of this writing, been apprehended.



### About The Cooley Innocence Project

On Jan. 1, 2001 Michigan enacted a DNA testing statute (MCL § 770.16), which provides a postconviction remedy for those individuals who claim factual innocence, and whose innocence can be established by DNA testing of the biological evidence collected at the time of the offense. Shortly after the statute went into effect, the Thomas M. Cooley Law School initiated The Cooley Innocence Project, and in May 2001 it began operation as a law school clinic. The project's dual mission is to identify, provide legal assistance to, and secure the release of persons who are wrongfully imprisoned for crimes they did not commit, as well as to provide its students with an excellent learning experience. It is the only such project in the state.

Each term, the project accepts a handful of qualified Cooley students to work with faculty experienced in criminal and postconviction law to screen postconviction cases for strong evidence of factual innocence and prepare appropriate cases for court action. Cooley Law School students, under faculty supervision, work directly on the project and are intricately involved in various operations of the project, such as creating screening procedures, obtaining and reviewing case histories, applying screening devices, investigating facts, interviewing involved persons, writing case time lines and summaries, performing case analyses, and preparing written case evaluations and pleadings. As a case is selected for legal action, the project prepares pleadings for court filing and a student is assigned to assist a participating attorney. A group of over 160 criminal defense practitioners statewide have agreed to work with the project faculty and students in taking cases to court on a pro bono basis.

As of this date, the project has received, screened, and reviewed over 2,000 requests for assistance. Ken Wyniemko's case was filed by the Cooley Innocence Project under the new DNA statute and was the project's first exoneration. At this time, Cooley Innocence Project student interns are actively investigating about 150 cases, and the project has several other cases in litigation.

### Cooley Innocence Project Faculty and Staff

The project is administered and taught by Professors Norman Fell, Kathy Swedlow, and Marla Mitchell, with the assistance of Staff Attorney Donna McKneelen.

Professor Fell has been chairperson of the Clinical Skills Department at the law school and is co-director of the project. In addition, he teaches Criminal Law and Professional Responsibility. Before coming to Cooley in 1987, Professor Fell served as a public defender and legal aid attorney, and conducted a private practice for 15 years, concentrating in criminal defense work.

Professor Swedlow is co-director of the Cooley Innocence Project. She teaches Criminal Law, Criminal Procedure, and a Death Penalty Seminar. She served as a staff attorney in the U.S. Courts of Appeal for the Second and Third Circuits, and for the past eight years, has been involved in death penalty and postconviction litigation.

Professor Mitchell, in addition to her work on the project, is a faculty supervisor and clinical skills teacher in Cooley's Sixty Plus, Inc., Elderlaw Clinic. Before coming to Cooley, Professor Mitchell taught in criminal law clinics at the University of Akron, Case Western Reserve Law School, and the University of Dayton. Prior to teaching, she was a public defender in the



**Front row, from left:** Katherine Bordner (Innocence Project staff), J. Kevin Wright and Matthew Galasso. **Second row, from left:** Staff attorney Donna McKneelen, Professor Marla Mitchell, Darin Poole, Ken Wyniemko, Heidi Hagen, Therese Maloney, and Professor Kathy Swedlow.

Donna McKneelen is a 2002 Cooley graduate and has been with the project from its inception. As a student, Ms. McKneelen volunteered her time to the project; later, she worked in the project for four terms as a student intern. After graduating from Cooley, Ms. McKneelen worked in the project as an adjunct professor and now serves as its staff attorney.

### How Can You Be a Part of the Cooley Innocence Project?

The Cooley Innocence Project exists because concerned persons support it. You can show your support by sending your tax-deductible donations to: The Thomas M. Cooley Innocence Project, P.O. Box 13038, 300 S. Capitol Ave., Lansing, Mich. 48901.