

# free at last!



## How DNA testing and re-examining old cases is winning the freedom for those wrongfully accused

In November 2000, The Thomas M. Cooley Law School initiated an Innocence Project for the State of Michigan. The Cooley Law School Project is part of the Innocence Network now being organized to allow a sharing of resources with other projects around the country. The work of Innocence Projects, nationally, has been credited with the release of dozens of wrongfully convicted inmates mainly through the use of sophisticated DNA testing.

The purpose of the Cooley Innocence Project is to identify, provide legal assistance to, and secure the release of those persons who are imprisoned for crimes they did not commit. The exact number of innocent people in prison is unknown. However, recent statistics in relation to DNA cases indicate that the number is large. According to the National Institute of Justice report on innocence there were approximately 10,000 sexual assault cases referred to the FBI in the previous eight years. In 26% of those cases, the primary suspects were exonerated due to DNA. Without DNA, a relatively new and expensive scientific process, many of those suspects would likely have been convicted.

Unfortunately, the nation's prisons and jails hold inmates who could not afford DNA testing at the time of their conviction. Others were locked up before the testing reached its present degree of sophistication. There are many more cases where there is strong evidence of innocence apart from DNA, yet due to police and/or prosecutorial misconduct combined with ineffective assistance of counsel, a conviction was obtained. In the past three years, The Innocence Project in New York has obtained the release of 50 wrongfully convicted prisoners through the use of DNA. In non-DNA cases, the Washington Innocence Project has obtained the release of nine wrongfully convicted prisoners in the past two years. The successes of these and like programs dramatically illustrate the scope of the problem.

Formation of the Michigan project was spurred by Lansing attorney F. Martin Tieber, an adjunct professor at Cooley and long-time director of the Lansing Office of the Michigan State Appellate Defender. Mr. Tieber organized a group of approximately 160 of the best criminal defense practitioners state-wide who will form a participating attorney panel to take project

cases into court. The Cooley Innocence Project will be run by Professor Norman Fell, the school's Director of Clinical Programs. Professor Fell had twenty years of state and federal criminal defense experience prior to joining the Cooley faculty.

"Cooley Law School's Michigan Innocence Project, in contrast to several others operating in other states, is uniquely modeled on a participating attorney panel concept. Attorneys from every corner of the state have agreed to work with the Project on a pro bono basis. Anyone in the know who looks at this list will agree that it includes the best and most experienced criminal defense practitioners, at trial and appeal, in Michigan. That so many attorneys of this caliber would donate their time and energy to this cause speaks volumes about the importance of this effort," said Tieber.

The Cooley Innocence Project does not have a political agenda, is non-partisan, and is neither liberal or conservatively based explained Fell.

"It is about right and wrong. It is about correcting an imperfection in our system of justice. To allow an innocent person to languish their life away in prison for a crime he did not commit is unconscionable. We now have scientific means by



FROM LEFT TO RIGHT: FRANK REYNOLDS, NORMAN FELL, BARRY SCHECK, MARTY TIEBER AND DOREAN KOENIG. ATTENDING CONFERENCE, BUT NOT PICTURED: CAROL KOENIG.

Barry Scheck is the founder and director of the Innocence Project at Cardozo Law School in New York City and is a nationally recognized DNA expert and author. He will be at Cooley Law School on Friday, March 2, 2001, to deliver a lecture and host the fundraising reception to kick off the Cooley Innocence Project. The lecture is from 3:30 p.m. to 5:00 p.m. in the Cooley classroom building 6<sup>th</sup> floor auditorium. The fundraiser/reception follows from 5:00 p.m. to 7:00 p.m. For more information call (517) 334-5764.

which guilt or innocence may be established to certainty. We have the means to correct a wrong. There can be no reasonable justification for not doing so. The system of justice will not be weakened by the process, but strengthened. It is wise to recognize that even the best of human systems will experience error. It is

a sign of strength to own up to our mistakes, to minimize their impact and to correct them when we can," said Fell.

Cooley Law School students will have the opportunity to work directly on the Project operating as one of Cooley's clinical programs. Cooley students will be intricately involved in various aspects of the program such as creating screening procedures, reviewing case files, applying screening devices, investigating facts, interviewing involved persons, writing case histories, doing case analysis, and preparing written case evaluations. As cases are selected for assignment to participating attorneys, the Project will provide student assistance to the attorneys in the form of a blended intern/externship program.

"The Cooley Innocence Project is a fantastic addition to the school's clinical opportunities and demonstrates the school's commitment to practical legal scholarship," stated Fell.

The Thomas M. Cooley Law School Innocence Project will focus on cases that require DNA and other hard scientific evidence, but will not strictly limit itself to this type of case. The Cooley Innocence Project clinical program started in January 2001 and will begin accepting cases in Spring 2001. ■



F. MARTIN TIEBER  
DIRECTOR, LANSING OFFICE (DEPUTY DEFENDER)  
STATE APPELLATE DEFENDER OFFICE  
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B.S. UNIVERSITY OF NOTRE DAME  
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F. Martin Tieber has worked in the State Appellate Defender Office since 1973 and has been the office director since 1978. Along with his caseload responsibilities, he assists in the administration of the entire agency for the Detroit and Lansing area, the administration of the Lansing office, acts as the legislative liaison and represents the office at budget hearings before House and Senate Appropriations Committees and testifying on criminal law and criminal procedure legislation before the House Judiciary and Corrections Committees and the Senate Judiciary and Criminal Justice Committees.

He has been an adjunct professor with Cooley Law School since 1985 and teaches courses in Postconviction Remedies, along with substitute work in Evidence and a clinical course in appellate practice.



NORMAN FELL  
PROFESSOR AND EXECUTIVE DIRECTOR OF  
CLINICAL PROGRAMS  
B.S. WAYNE STATE UNIVERSITY 1965  
J.D. WAYNE STATE UNIVERSITY 1968

Professor Fell worked in private practice in the Ann Arbor, Michigan, area with a concentration on criminal trial and appellate litigation. He has appeared statewide in state, district, circuit, appellate, and federal courts. Professor Fell has been active in the Washtenaw County Legal Aid Society and has held several positions in the organization.

As a member of the Los Angeles Public Defender's office, Professor Fell served as chief deputy defender in the Long Beach Municipal Court.

At Cooley, he serves as Executive Director and supervising attorney in the Sixty Plus and Criminal Law Defender Clinics and for the new Thomas M. Cooley Law School Innocence Project.

He teaches Clinical Skills, Elderlaw Practice, Lawyering Before Trial, Professional Responsibility, and Criminal Law.