

# Wrongful Convictions

## *A Report from the Innocence Project of Texas*



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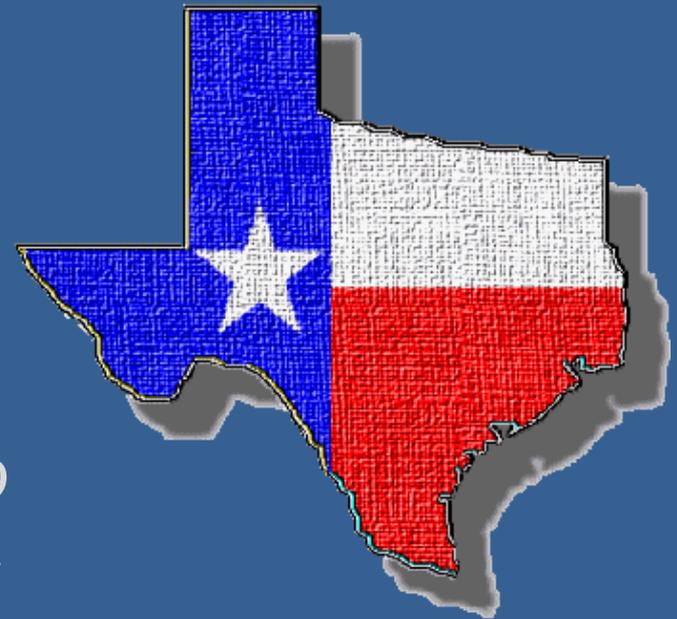
# Working on Behalf of the Innocent

- The I.P.O.T. Mission: To exonerate those wrongfully convicted of crimes they did not commit, to educate citizens and public officials about the causes of wrongful convictions, and to work toward critical criminal justice system reforms.
- I.P.O.T. currently has more than 500 claims of innocence in line for review.
- The organization also has more than 100 members, who actively assist on case review and investigations. These members include students, attorneys, paralegals, and other community members.
- At any given time, these members have between 50 and 100 cases under active investigation.
- There are approximately 20 cases currently in the litigation phase of the I.P.O.T. program.



# The Wrongful Conviction Problem

- Texas is home to more DNA-verified wrongful convictions than any other state. DNA has exonerated **45** Texas men.
- Recent I.P.O.T. exonerations include:
  - Timothy Cole (exonerated posthumously in 2009 after serving 13 years in prison for a sexual assault he did not commit)
  - James Woodard (pardoned in 2009 after spending 27 years incarcerated for a murder he did not commit)



# Johnny Pinchback



- Accused of sexually assaulting two teenage girls in an Oak Cliff field in 1984
- The victims spotted Johnny Pinchback driving a vehicle a few days after their attack. They then called police with the license plate number. Pinchback became the primary suspect.
- Pinchback attempted to clear his own name by voluntarily visiting the police department when he found out the victims were accusing him of sexual assault.
- Despite his innocence and no physical evidence tying him to the crime, Pinchback was convicted and sentenced to 99 years in prison.
- A Y-STR DNA test of pubic hair cuttings collected from one of the victims after her attack conclusively proved Pinchback's innocence in 2011.
- He was released after 26.5 years of incarceration.

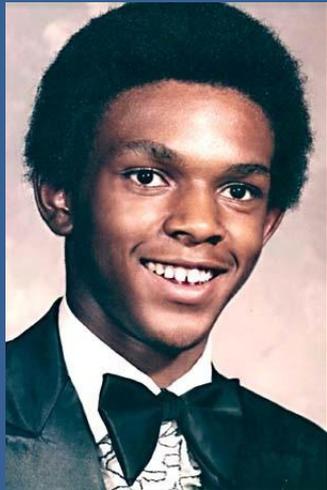
# DNA Exonerations in Texas

## *What We've Learned*

- On average, Texas DNA exonerees spent more than 13 years incarcerated on their wrongful convictions.
- The great majority of DNA exonerations in Texas have occurred in Dallas County. Possible reasons:
  - Dallas County is a leader in preserving biological evidence
  - District Attorney Craig Watkins's Conviction Integrity Unit is proactively seeking to identify and correct wrongful convictions
- More than 75% of those proven innocent by DNA in Texas were victims of faulty eyewitness identifications.
- Other leading causes of wrongful convictions in Texas include prosecutorial misconduct, inadequate defense representation, forensic science misconduct, and false confessions.

# What We Can Do

- By proving the innocence of our clients with DNA testing and other means, we open the door for reforms that are critical to preventing wrongful convictions in the future.
- For example: TIMOTHY COLE



Timothy Cole was wrongfully convicted of a sexual assault in Lubbock County and later exonerated by the Innocence Project of Texas. He was proven innocent by DNA testing that implicated another man in the crime. Cole died in prison serving time for the crime, but his family continues to speak out on behalf of the exonerated and those wrongfully incarcerated.

# Timothy Cole

- DNA conclusively proved that Timothy Cole was innocent, which allowed us to garner a tremendous amount of public support. During Cole's exoneration hearing we focused on the causes & effects of his wrongful conviction in order to highlight the need for critical reforms.
  - Eyewitness identification reform
  - Increased access to the courts for inmates & those claiming innocence
    - The actual perpetrator confessed to the crime several times before Cole's death, but no one in the courthouse would listen to him.
  - Lack of compensation for those exonerated posthumously & insufficient compensation for others who suffered at the hands of wrongful convictions
  - Need to research additional reforms to curb Texas's wrongful conviction problem

# Reforming the System

- In the wake of Timothy Cole's exoneration, the Texas Legislature formed the Timothy Cole Advisory Panel to study the causes and effects of wrongful convictions.
- The Tim Cole Compensation Act was also adopted during the 81<sup>st</sup> Legislative Session to adequately compensate those proven innocent and exonerated by the Court of Criminal Appeals or an actual innocence pardon.
- During the 82<sup>nd</sup> Legislative Session, Legislators passed laws requiring the preservation of biological evidence, providing healthcare to exonerees, expanding access to post-conviction DNA testing, encouraging the testing of backlogged rape kits, and improving eyewitness ID procedures...

# Eyewitness ID Reform

- New law requires the Bill Blackwood Law Enforcement Management Institute to create a model policy for the administration of photo and live lineups (by end of December, 2011).
- Each Texas law enforcement agency must adopt and implement a written policy regarding lineup administration (by September 1, 2012).
  - May adopt the institute's model policy
  - May adopt their own policies so long as they conform with best practices as set out in the statute

- The policies must be based on:
  - Credible research on eyewitness memory
  - Guidelines designed to reduce erroneous identifications
- The policies must address:
  - The selection of filler photos and lineup participants
  - The instructions given to a witness before a lineup is administered
  - The documentation and preservation of lineup results
  - Procedures for administering a lineup to an illiterate or non-English speaking person
  - Procedures for using blind lineup administrators where practicable

# Innocence Project of Texas

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"Justice is truth in action." - Benjamin Disraeli

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