



Ohio Innocence Project

Lois and Richard Rosenthal Institute for Justice

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Ohio Innocence Project Helps Raymond Towler— Ohio's Longest-Serving Wrongfully Convicted Inmate—to Freedom After 29 Years in Prison

Raymond Towler, who has served nearly three decades in prison for a crime he did not commit, was released as a free man on May 5, 2010, thanks to the efforts of the Ohio Innocence Project at the University of Cincinnati College of Law.



Photo courtesy of Columbus Dispatch

Towler is the longest serving wrongfully incarcerated inmate to be released in Ohio history, and one of the longest in United States history. He is the 10th individual released through the efforts of the Ohio Innocence Project since its founding in 2003.

“It’s hard to believe he’s been in prison for 30 years—it’s hard to wrap my mind around that,” says Eric Gooding, who was one of the UC law students who worked on Towler’s case. “But his patience was amazing. He never seems angry when you talk to him.”

DNA testing completed May 3 conclusively proved that Towler was not the perpetrator in a juvenile rape and assault case that occurred on May 24, 1981, in Cleveland. Towler, who is now 52 years old, was convicted and sentenced to life in prison on September 18, 1981.

UC law students who worked on Towler’s case include recent graduates Eric Gooding and Brian Howe, and third-year students Matt Katz and Chris Brown.

Cuyahoga County Common Pleas Judge Eileen Gallagher wept during a final hearing as she read the words that freed Towler. “It was great to see, and it got very emotional,” says Brian Howe, who was also in attendance at the hearing in which Towler was freed. “The judge read that old Irish prayer about ‘May the road rise up to meet you,’ and then she made an eloquent speech. She got very emotional at the end.”

Back in 2008, Howe and Gooding were disappointed when they received the results from an initial batch of testing. They had hoped the results would have cleared Towler, but, unfortunately, the results were deemed not conclusive enough by the justice system. “He’s always been upbeat, though,” Howe said of Towler. “One of the downsides of working with the Innocence Project is that the cases take so long that most times you aren’t around to see them end. But I loved working with the Innocence Project, and now this is a great gift to have occur during the same week as graduation.”

Howe and Gooding took part in the UC College of Law’s 177th annual Hooding Ceremony a few days after Towler was released.

Other members of the Ohio Innocence Project who have been working on Towler’s case since 2004 were in attendance at the hearing, as were attorneys who represented Towler from the law firms of Jones Day and Berkman, Gordon, Murray & DeVan.

Among those who worked on Towler’s behalf were:

- Mark Godsey, director of the Ohio Innocence Project
- David Laing and Carrie Wood, staff attorneys with the Ohio Innocence Project
- David B. Alden, attorney for Raymond Towler from Jones Day law firm
- James E. Young, attorney for Raymond Towler from Jones Day law firm
- Ann C. Weinzimmer, attorney for Raymond Towler from Jones Day law firm
- Mark R. DeVan, counsel for Raymond Towler from Berkman, Gordon, Murray & DeVan law firm
- John Parker, a Cleveland-based lawyer who assisted with the case ■

(News story courtesy of UC News)

Governor Strickland Signs Groundbreaking Package on Wrongful Convictions, Making Ohio a National Model

On April 5, 2010, Governor Ted Strickland signed one of the nation’s most comprehensive criminal justice reform packages into law, making it easier to exonerate prisoners through DNA testing and helping prevent wrongful convictions from happening in the first place.

“This law will strengthen the criminal justice system substantially. It will help law enforcement apprehend the guilty, and it will help the wrongfully convicted prove their innocence,” said Professor Mark Godsey, Director of the Ohio Innocence Project at the University of Cincinnati College of Law.

By passing the law, Ohio becomes a model state for implementing reforms that address and prevent wrongful convictions. While other states have adopted reforms that are similar to parts of the package in Ohio, no other state has adopted an omnibus bill of this magnitude that includes such comprehensive changes to police practices.

Specifically, the newly signed law creates:

- A requirement for preservation of DNA evidence in all cases of serious crime, such as homicide and sexual assault
- Police incentives for the recording of all interrogations from beginning to end in cases of serious crime
- A requirement for police lineups and photo identification procedures to be conducted in double-blind fashion, meaning the officer who oversees the eyewitness procedure with the witness does not know who among the sample pool is the suspect
- An expansion of Ohio’s post-conviction DNA testing law to allow for DNA testing to be done during the parole phase of the justice cycle

“This is a huge step forward for Ohio and a model for other states to follow. In the months and years ahead, policymakers around the country will look at what Ohio has done and understand how they, too, can create a more fair, accurate and reliable criminal justice system,” said Rebecca Brown, Policy Advocate at the Innocence Project, which is affiliated with Cardozo School of Law in New York.



Governor Strickland signs SB77 while Representative Weddington (left) and Senator Goodman (right) look on. Photo courtesy of Columbus Dispatch

The reform package stems from a joint project between the Ohio Innocence Project and the *Columbus Dispatch*, which found serious problems in addressing and preventing wrongful convictions. Two years ago, a group of first-year law students who were part of the Ohio Innocence Project at the University of Cincinnati College of Law began researching and drafting the legislation. They were supervised by Godsey and Cincinnati attorney Michele Berry. The Innocence Project, a national organization based in New York, worked closely with the Ohio Innocence Project to build legislative support for the bill over the last two years, including legislative testimony, meetings with key legislators and substantial background on social science research and the effectiveness of reforms in other states.

(continued on pg. 2)

What is the Ohio Innocence Project?

The Ohio Innocence Project (OIP) seeks to identify and assist prison inmates who claim to be actually innocent of the crimes for which they were convicted. The OIP will review an inmate’s request and conduct an investigation to determine whether the request meets OIP review and screening criteria. The OIP will work only on those cases where new evidence, whether newly discovered or developed through investigation, supports the inmate’s claim of innocence. The best type of new evidence is physical evidence (i.e., DNA) that was not tested prior to trial. The OIP also will work on cases that do not involve DNA if the appropriate criteria are met. While there is no fee for OIP services, inmates may be required to pay for DNA testing or other expert witness fees.

Meet the OIP Team

2010-2011 OIP Fellows—Nicole Billec, Molly CaJacob, Guy Cardamone, Andrew Cleves, Lauren Creditt, Megan Collard, Jen Coy, Kayla Delk, Zach el-Sawaf, Lindsey Fleissner, Claire Gutmann, Nathan Henegar, Julie Kathman, Jessica Lantaff, Sean Martz, Hilly McGahan, Dominique Mix, Ryan McGraw, Angela Neyer, Amanda Rieger.

Director—Mark Godsey
Staff Attorneys—Jennifer Bergeron, Karla Hall, and Carrie Wood
Administrative Coordinator & Policy Analyst—Jodi Shorr
OIP Interns—Jessica Sarko and Jenny Brown

OIP fellows, students who work for the program, are actively investigating 287 cases. Approximately 34 of them are currently being litigated. The OIP is currently reviewing cases of inmates housed in 26 state correctional institutions. Their cases come from 50 Ohio counties.

As a result of the wide distribution of inmates and cases around the state, fellows and staff spend many hours reading and writing letters and speaking with inmates about their cases. Prior to actively taking on a case, the OIP staff and fellows will meet the inmate in person to discuss the case, the plan for litigation, and all expectations of the case. ■

The prospect of innocents languishing in jail or, worse, being put to death for crimes that they did not commit should be intolerable to every American, regardless of race, politics, sex, origin, or creed.

- **5079** (The number of case review requests received by the OIP since 2003)
- **287** (The number of cases that the OIP is actively investigating or litigating)
- **34** (The number of cases OIP is actively litigating)
- **258** (The number of US DNA exonerations)
- **7** (The number of exonerations obtained thus far by OIP)
- **3** (The number of “releases” by parole board or Governor (clemency) where OIP has asserted innocence)
- **10** (The number of OIP clients released or exonerated on grounds of innocence)



Mark Godsey in Johannesburg with members of the Justice Project at Witswatersrand University. In July 2010, Professor Godsey spoke at Witswatersand Law School about the international innocence movement, and met extensively with members of the Justice Project in South Africa. The Justice Project works to free the wrongfully convicted in South Africa. pictured left to right Mark Godsey, Nantie Steyn, Michele Berry Godsey, Jeremy Gordin (Director) and Margaret Renn.

Date	OIP Milestone
January 2002	University of Cincinnati College of Law Dean Joseph Tomain, College of Law Professor Jack Chin, Cincinnati City Councilman John Cranley, and local attorney Bill Gallagher, along with many others, meet to discuss plans to establish an Innocence Project. Initial funding by Tom and Cathy Crain helps start the Urban Justice Institute to study inequality in the criminal justice system.
May 2003	The Ohio Innocence Project launched with co-directors John Cranley and Mark Godsey as part of the Urban Justice Institute.
September 2004	The Urban Justice Institute becomes the Rosenthal Institute for Justice as a result of a generous gift from Lois and Richard Rosenthal.
February 2005	Gary Reece paroled on grounds of innocence after spending 25 years in prison for rape.
December 2005	Clarence Elkins exonerated from a life sentence after serving seven years for murder and rape that DNA testing proved he did not commit.
May 2006	Chris Bennett’s conviction overturned by court of appeals, following DNA testing which proved he was not the driver of a vehicle that crashed and caused a death years earlier.
July 2006	Senate Bill 262 becomes law. This bill, drafted by the OIP, expands the eligibility for post-conviction DNA testing.
January 2008	<i>Test of Convictions</i> published in <i>Columbus Dispatch</i> . This award-winning series, which was part of a joint project between OIP and the <i>Dispatch</i> , highlighted the need for reform in Ohio’s criminal justice system to protect the innocent, and identified 30 cases in which DNA was needed to conclusively prove innocence or guilt.
January 2008	Bruce Paul released by Parole Board after serving over 14 years in prison for rape.
August 2008	Robert McClendon exonerated after serving 18 years for a rape that DNA testing proved he did not commit.
August 2008	Senate Bill 77 introduced in the Ohio Senate, proposing state-wide requirements for biological evidence preservation, expansion of the eligibility for post-conviction DNA testing, recording of custodial interrogations, and eyewitness identification procedures.
March 2009	Joseph Fears exonerated after serving 25 years for a rape that DNA testing proved he did not commit. This was a result of a renewed investigation for evidence in Franklin County following the exoneration of Robert McClendon.
June 2009	Nancy Smith and Joseph Allen exonerated in the child molestation case for which they had always maintained innocence.
June 2009	Senate Bill 77 passed in the Senate. Advocacy for the bill was provided by the OIP, <i>Columbus Dispatch</i> , and former Ohio Attorney General Jim Petro.
November 2009	Willie Knighten, Jr., released after wrongful murder conviction when Governor Strickland granted clemency in the face of mounting evidence of innocence.
April 2010	Senate Bill 77 signed by Governor Strickland and becomes law, making Ohio the national model regarding innocence protection reforms.
May 2010	Raymond Towler exonerated after serving 29 years in prison for a rape DNA testing proved he did not commit.

Strickland Signs SB77 (continued from pg. 1)

Those who were key to the bill’s success include Professor Godsey, Rebecca Brown and Zeke Edwards of the Innocence Project in New York, Jodi Shorr, Representative (and now Judge) Tyrone Yates, Senator Bill Seitz, Senator David Goodman, Senator Erik Kearney, former Ohio Attorney General Jim Petro, Representative Bill Coley, Representative Carlton Weddington, Representative Connie Pillich, Cincinnati attorney Michele Berry Godsey, Cincinnati attorney Bill Gallagher, Tim Young of the Ohio Public Defenders, Barry Wilford of the Ohio Association of Criminal Defense Lawyers, Washington D.C. Detective Jim Trainum, Chicago attorney and former U.S. Attorney Tom Sullivan, social activists Jennifer Thompson and Ronald Cotton, and OIP benefactor Dick Rosenthal. A particular expression of gratitude goes out to Robert McClendon, Walter Smith, and Clarence Elkins, three exonerees who spent countless hours meeting with legislators to build support for the law. ■

(Original news story courtesy of UC News)

Case Updates

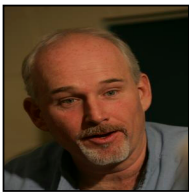
Below are summaries of some of the 34 cases OIP is currently litigating.

David Ayers, Court of appeals victory



Last year's victory in the Eighth District Court of Appeals awarded OIP client David Ayers the right to DNA testing in his case, after the prosecution had fought against testing for more than 2 years. The prosecution then appealed this decision to the Ohio Supreme Court. On May 26, 2010, the Ohio Supreme Court dismissed the prosecution's appeal and the case returned to the trial court for testing. Ayers was convicted in 2000 of the aggravated murder of an elderly woman who lived in the apartment complex where Ayers lived and worked. Unreliable "jailhouse snitch testimony" was the primary basis for Ayers' conviction. The snitch claimed Ayers confessed to him in prison, and all charges against the "snitch" were dropped after he testified against Ayers. From the crime scene, the police collected pubic hair (including from inside the victim's mouth), blood, fingernail scrapings and eventually a rape kit. The prosecution is now contesting the OIP's victory in the Court of Appeals, claiming that decision only authorized testing of limited and not all items from the crime scene. Hopefully all issues of this nature will soon be resolved and the case will move forward to testing so that a more definitive answer as to Ayers' guilt or innocence can be determined. We should obtain a definitive result in late 2010 or early 2011.

Roger Dean Gillispie, Moving forward in state and federal courts



The OIP has been working on Roger Dean Gillispie's case since 2003. Gillispie's is one of the few "non-DNA" cases that the OIP has undertaken. During the OIP's investigation, evidence surfaced that the original detectives assigned to the case had eliminated Gillispie as not being a viable suspect, and had written reports to that effect. These reports disappeared and were never disclosed to the defense prior to Gillispie's trial. In addition, compelling evidence was developed connecting an alternative suspect to the rapes for which Gillispie was convicted. This alternative suspect not only looks exactly like the composite sketch of the perpetrator in this case, and committed copycat rapes after Gillispie was arrested, but he told people things eerily similar to what the rapist told the victims in this case: that he was a contract killer, that he is from Columbus and Texas, that he was molested at age 12, and many other very specific facts. The issue involving the undisclosed reports is in federal court right now, and the OIP is seeking an evidentiary hearing to prove that the State violated Gillispie's constitutional rights in failing to turn over the reports. The issue involving the alternative suspect is currently being litigated in state court in Dayton. The first part of the hearing was held on July 9, 2010. The hearing will be continued in November after the court sorts out various evidentiary issues. The OIP should have answers regarding this case sometime in 2011.

Dewey Jones, DNA testing granted



On April 5, 2010, Dewey Jones sat quietly and watched as the hearing he had been waiting for had finally come. He had been in prison for more than 15 years for aggravated murder and aggravated robbery, and had always asserted his innocence. Dewey has been trying to get DNA testing in his case since October 2005, and was not successful in getting an evidentiary hearing until his case became one of the 30 cases that are part of the OIP/Columbus Dispatch joint project. The purpose of the hearing on April 5th was to determine whether DNA testing should go forward on a number of items, including fingernail scrapings, a rope used to tie the victim's hands, a cigarette butt, two separate spots of blood, and a .22 ruger which was determined to be the murder weapon. On April 29, 2010, the OIP received the court's decision: DNA testing will go forward. Fortunately, the Summit County Prosecutor's Office chose not to appeal the decision. The case is now proceeding forward with free DNA testing provided by DDC in Fairfield, Ohio. As a result, determining Dewey's guilt or innocence once and for all will not cost the taxpayers a dime.

Elwood Jones, OIP seeking DNA testing



Elwood Jones worked at a Blue Ash hotel (Cincinnati suburb) at the time a grisly murder occurred there. A woman was beaten to death in her room while her two traveling companions ate breakfast downstairs. During the attack, two of the woman's front teeth were knocked out of her mouth. Elwood Jones came to the attention of law enforcement because he was the only hotel employee known to have a cut on his hand that contained eikenella, a bacteria commonly found in the human mouth. The teeth are still in the custody of law enforcement officials and contain blood that is inconsistent with the victim's blood type. DNA testing could not only potentially prove Mr. Jones innocent, but could also match the true perpetrator. DNA Diagnostics Center has agreed to perform DNA testing on the teeth at no cost. OIP attorneys will work with local officials to determine whether or not they will voluntarily submit the teeth for DNA testing. If not, the OIP will file a motion in Hamilton County Common Pleas Court to formally request statutory DNA testing. Mr. Jones remains on death row awaiting his execution date. As in all cases in which the OIP is merely seeking DNA testing, the OIP takes no position as to whether or not Elwood Jones is innocent or guilty. The OIP's position is merely that if evidence exists that could be DNA tested and that will shed light on innocence or guilt, such DNA should be tested.

Glenn Tinney, Ex-parte conversations stall reversal of guilty plea



In 1988, a person entered the Akron Waterbed Store in broad daylight and beat the store's owner, Ted White, to death with a blunt object. Nearly five years after the murder, Glenn Tinney, a man who struggles with severe mental illness, confessed to the murder. Although his guilty plea was quickly accepted without objection from his court-appointed attorney, Glenn "confessed" to using the wrong murder weapon, at the wrong time of day, in the wrong part of the store, disabling a security system that did not exist, inflicting injuries to the wrong part of the victim's body, and stealing items during the murder that were never stolen. In addition, Glenn "confessed" to murdering Mr. White because he fired Glenn from the store even though all of the evidence indicates that Glenn never worked for the store.

Spreading the Word: Where Have OIP Folks Been Speaking?

MARK GODSEY

- gave a lecture in July 2010 on wrongful convictions at Witwatersrand Law School in Johannesburg, South Africa.
- appeared numerous times on the Bill Cunningham show on WLW to discuss issues of wrongful conviction, and to discuss the unfortunate passing of Gary Reece in June 2010.
- gave a public lecture in June 2010 with Jim Petro and exonerees Robert McClendon, Clarence Elkins and Raymond Towler to approximately 150 Ohio judges at the annual Ohio Common Pleas Judges' Association at Miami University, Oxford.
- appeared on NPR, BBC and many other national news programs regarding the May 5th, 2010 exoneration of Raymond Towler of Cleveland.
- spoke on wrongful convictions in May 2010 at the annual Sixth Circuit Judicial Conference for federal trial and appellate judges in the jurisdiction of the Sixth Circuit Court of Appeals.
- testified numerous times in the Ohio House of Representatives in favor of Senate Bill 77, which Governor Strickland signed into law on April 5, 2010.
- moderated a panel at the annual Innocence Network convention in Atlanta.
- gave a public lecture with exoneree Clarence Elkins in April 2010 at Ohio University in Athens, Ohio.
- spoke with exoneree Clarence Elkins in February 2010 at a Sunday Salon for Women Helping Women, held at the home of Dean Louis Bilionis and Professor Ann Hubbard.
- organized and moderated a panel of experts on wrongful conviction at the January 2010 convention of the Association of American Law Schools in New Orleans.

JENNIFER BERGERON

- gave a presentation about the innocence movement and recent OIP cases at the National Association of Appellate Court Lawyers Conference in Louisville in July 2010.
- organized and moderated a panel on how to litigate cases involving recantations at the annual Innocence Network conference in April 2010 in Atlanta.
- spoke about the OIP and wrongful convictions with Robert McClendon in April 2010 for the Cincinnati Academy of Leadership for Lawyers.

JODI SHORR

- spoke to high school seniors through the Law and Leadership program at UC about the work of the Ohio Innocence Project in July 2010.
- spoke to the Osher Lifelong Learning Institute (OLLI) program at UC about the work of the Ohio Innocence Project in May 2010.

CARRIE WOOD

- presented a CLE to the Greater Cincinnati Criminal Defense Lawyers Association in July 2010 regarding SB77 changes to line up procedures, recording of interrogations and DNA collection, as well as changes to Ohio's discovery rules.
- spoke to Heads of Juvenile Public Defenders Offices and Organizations from across Ohio on the work of OIP and SB77 in July 2010.
- spoke to Ninth Graders through the Law and Leadership program here at UC about the work of the Ohio Innocence Project with Robert McClendon in July 2010.
- presented regarding the work of Innocence Projects to visiting delegation of Armenian attorneys at the University of Cincinnati College of Law in July 2010.

KARLA HALL

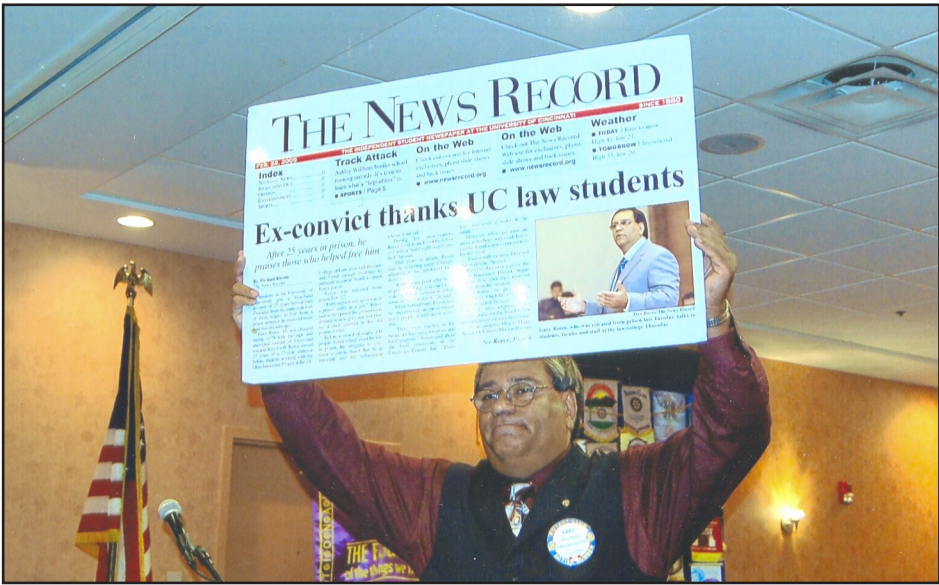
- spoke to two different groups of criminal justice students at Miami University—once by herself and once with Robert McClendon and Joseph Fears in February 2010.
- spoke to students at the Summit Country Day School as part of a speaker series on justice in May 2010.
- spoke to several church groups and senior citizen volunteer groups around Cincinnati and central Ohio. ■

Many years later, at the request of detectives from the Mansfield Police Department (including the current Chief of the Major Crimes Unit), the Ohio Innocence Project became involved in this case. In October 2009, an OIP attorney filed a motion to withdraw Glenn's guilty plea. The State objected, and the motion became ripe for adjudication. In May 2010, the Richland County Common Pleas Judge assigned to the case determined that the motion should be granted, and Tinney should be allowed to withdraw his nearly 18-year-old guilty plea. However, instead of issuing a ruling granting the motion, the Judge telephoned the prosecutor (without the knowledge of anyone from the OIP) to inform the prosecutor that he intended to grant the motion and allow Tinney to withdraw his guilty plea. At the prosecutor's request, the Judge then arranged for the OIP attorney to meet the prosecutor for plea negotiations. At no time did either the Judge or the prosecutor notify the OIP attorney that the Judge had already decided to grant Tinney's motion to withdraw his guilty plea or that the Judge and the prosecutor had engaged in multiple discussions regarding the fact that the Judge intended to grant the motion.

After plea negotiations were unsuccessful, the Judge removed himself from the case at the prosecutor's request. The case now must begin again before the only other Common Pleas Judge in Richland County. Meanwhile, Mr. Tinney remains incarcerated. ■

The Passing of Former OIP Client Gary Reece

We are sad to report that the first inmate the OIP helped to be released from prison—Gary Reece—died on July 26, 2010 after battling cancer for nearly 2 years. He was 51. Gary spent 25 years in prison for a rape and attempted murder he did not commit. He enjoyed more than 5 years of freedom after the parole board unanimously granted his release in 2004 following the discovery of new evidence that strongly suggested he was innocent. Gary was a friend and inspiration to many lawyers and students who served in the OIP over the years. His greatest gifts were his zest for life and positive attitude. Despite spending half of his life behind bars for a crime he didn't commit, and despite contracting cancer shortly after his release, Gary never let these obstacles affect his upbeat disposition. Gary told a friend shortly before his death that he was confident in the afterlife because he had seen the face of God. He said that he had seen the face of God in his wife Rita—who met and married Gary while he was still in prison—and in the faces of the law students who helped him obtain his long-sought freedom and vindication. Gary will be sorely missed and will remain an inspiration to those who were fortunate enough to know him. ■



Thank You!

The Ohio Innocence Project also wishes to thank the following people for their continued support and assistance:

Assistance:

- Dave Alden, Jim Young, and Ann Netzel of Jones Day Cleveland, for their outstanding pro bono work on several OIP cases
- Mark DeVan of Berkman, Gordon, Murray & DeVan for his pro bono effort in the Raymond Towler case
- Bill Gallagher for his pro bono assistance in the Bryant Gaines case
- Jim Petro, former Attorney General of Ohio, for his efforts in the Roger Dean Gillispie case and in pushing SB77 through the Senate
- Senators Bill Seitz and David Goodman for their tireless efforts in getting SB77 successfully through the Senate with a 32-1 vote
- Exonerees Clarence Elkins, Robert McClendon, Walter Smith, and Danny Brown, for their efforts in testifying and supporting SB77 on numerous occasions in committee hearings before the Senate
- Representatives Tyrone Yates, Bill Coley, Carlton Weddington, and Connie Pillich for their work in support of SB77 in the House
- The Innocence Project staff, particularly Rebecca Brown, Zeke Edwards, and Steve Saloom, for their continued advice and assistance throughout the legislative process

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