



## Jeffrey Scott Hornoff

In August 1989, Victoria Cushman was bludgeoned to death in her apartment in Warwick, Rhode Island. Her body was found by her employer after she failed to show up for work the next morning.

Jeffrey Hornoff, a Warwick police officer, was an early suspect because of his relationship with Cushman. Though Hornoff initially declined to say whether or not he was having an affair with Cushman, he later admitted that they had had an intimate relationship that he wanted to break off. However, Hornoff claimed he was with his wife and friends at a party on the night of the murder, an alibi that she and friends confirmed.

Hornoff was not arrested until 1994, after political pressure led the Rhode Island Attorney General to transfer the case to state police. No physical evidence linked Hornoff to the murder.

Hornoff was convicted by a jury of first-degree murder in June 1996 and sentenced to life in prison.

Following his conviction, Hornoff pursued several appeals and motions for a new trial, all of which were denied. In 2001, he requested DNA testing of the evidence found at the crime scene.

In November 2002, before the testing could be completed, another Warwick, Rhode Island man confessed to Cushman's murder and Hornoff was released.

In January 2003, after the real perpetrator pled guilty to second-degree murder, the prosecution joined Hornoff's attorney's motion to vacate the conviction and dismiss the charges, which was granted by the trial court.

In 2006, the city of Warwick agreed to settle a lawsuit filed by Hornoff for \$600,000 and \$47,000 annually in disability for life.

- *Stephanie Denzel*

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**State:** Rhode Island

**County:** Kent

**Most Serious Crime:** Murder

**Additional Convictions:**

**Reported Crime Date:** 1989

**Convicted:** 1996

**Exonerated:** 2003

**Sentence:** Life

**Race:** Caucasian

**Sex:** Male

**Age:** 26

**Contributing Factors:**

**Did DNA evidence contribute to the exoneration?** No  
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The National Registry of Exonerations is a joint project of the University of the Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

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Wednesday, Nov. 14, 2012

## Wrongful convictions are topic of college program

### Group works to lessen risk that innocents go to jail

By LINDSAY RENNER, Staff writer



Staff photo by LINDSAY RENNER Scott Hornoff, who was wrongfully convicted of murder in 1996 and spent six years behind bars while fighting to prove his innocence, speaks about his ordeal Thursday at the College of Southern Maryland's La Plata campus.





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Staff photo by LINDSAY RENNER Scott Hornoff, who was wrongfully convicted of murder in 1996 and spent six years behind bars while fighting to prove his innocence, speaks about his ordeal Thursday at the College of Southern Maryland's La Plata campus.

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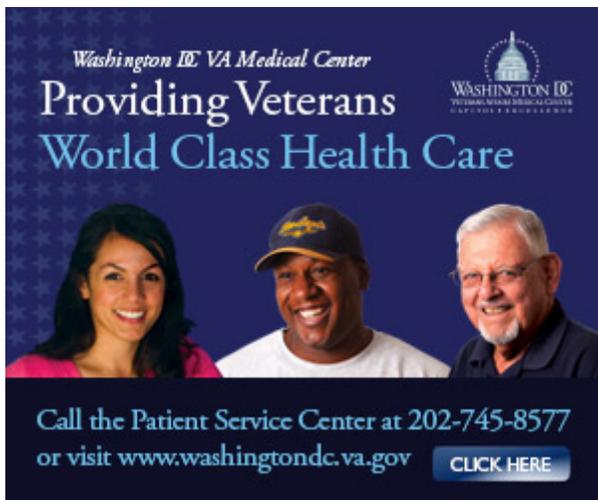
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As hard as police and court workers try, sometimes innocent people go to jail.

Established in 1992, the New York-based nonprofit organization The Innocence Project seeks to foster awareness and provide assistance for those who have been wrongly imprisoned. By providing attorneys for the wrongfully imprisoned and using DNA to prove innocence, the organization has recently seen its 300th successful exoneration, College of Southern Maryland students learned at a presentation Thursday.

For the group's senior advocate Katie Monroe, the subject of wrongful conviction holds personal significance: Monroe's mother was wrongfully convicted of murder in 1992 and served 10 years in prison before being proven innocent, which Monroe assisted with.

However, cases like her mother's that end happily are far from the norm.

"The vast majority don't have this benefit ... most will never be able to right the wrongs," Monroe said. "When the wrong person is in jail, the right one isn't."

Rather than seeking to overturn every conviction, Monroe emphasized the need to reform the system to ensure that it occurs less often. Many of the group's cases have come about as a result of factors including mistaken witness identification, false confessions and flawed forensic evidence. Other times, it comes down to factors as simple but devastating as a mishandling of the case on the lawyer's part.

"The system doesn't seem to fix itself. ... It's difficult to reopen courtroom doors once closed," Monroe said. "It's fallible. ... There's room for mistakes at every single level."

While Monroe has handled cases of this nature firsthand, Scott Hornoff has lived through the ordeal of wrongful accusation and imprisonment.

While working as a detective in his native Rhode Island, Hornoff found himself the prime suspect in the 1989 murder of a woman with whom he had at one point had an extramarital affair. Although Hornoff and the woman had parted amicably, he found himself under suspicion when she was found bludgeoned to death.

“I’d seen a lot of bad crimes ... but this was the first time I’d ever known anyone who had been murdered,” Hornoff said. “I had to sit down when I found out. It hit me right in the gut.”

After the woman’s death, Hornoff was questioned by his department, and his captain told him he was cleared of any suspicion. That was the last Hornoff heard in depth about the murder until 1992, when two journalists came to his door to ask him his feelings on being considered the prime suspect in her death.

“It was like a second sledgehammer to the gut when I found that out,” Hornoff said. “On one hand, I was fairly confident that I’d be cleared of this. ... I knew that I was innocent, and I thought they’d see that.”

Hornoff was brought in for questioning once more, and by the time his case went to trial, his confidence waned.

“I braced myself ... just because I knew her, they could have targeted me,” Hornoff said. “I should have looked into it as a cop and investigated it myself. The prosecutor only has to get the jury to dislike you, and because of my infidelity, that was easy enough for him.”

When convicted and put in prison in 1996, Hornoff found himself among people he’d helped put away while on the police force. Almost immediately upon arrival, he began looking for ways to fight his case and prove his innocence. After an initial hearing request was denied, Hornoff contacted the New York Innocence Project, which eventually put him in touch with lawyers from the New England Innocence Project. Ultimately, the attention Hornoff gained from fighting his case led the real murderer, the woman’s then-boyfriend, to confessing to the crime. In 2002, Scott Hornoff was exonerated by corroborating DNA evidence and became a free man.

“To survive in there, you adopt a philosophy of ‘I’ll believe it when I see it,’ and I just didn’t believe it,” Hornoff said. “It’s been kind of like surviving a war ... how did I get out when so many others didn’t?”

Since being released, Hornoff has made television appearances and is among the subjects of a 2005 documentary called “After Innocence” that details the struggles of Hornoff and six other men against a system stacked against them. Despite his ordeal, Hornoff retains faith in the American legal system.

“I’m still very much pro-law enforcement,” Hornoff said. “Just as I feel the innocent should be protected, I feel the guilty should be prosecuted.”

CSM program coordinator for the Institutional Equity and Diversity Office Jennifer Van Cory felt that, when selecting programs to bring to campus, The Innocence Project presented unique viewpoints.

“Our goal was to educate participants about the role that a grass roots, public policy/advocacy organization has played in the lives of so many,” Van Cory said in a follow-up email. “The Innocence Project is a tangible example of how individuals can advocate for change and can also receive justice. ... We were able to garner a very diverse audience.”

For Maria Musgrove of Cobb Island, attending the event was something of a wake-up call.

“It’s very scary that people in positions of power sometimes use that power to not do the right thing,” Musgrove said. “This is something that I think is really important. ... Someone has to stand up. If this can

happen to a member of law enforcement, then it can happen to anyone. What happens to someone who doesn't have the resources? It's scary."

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<http://caught.net/cases/hornoff.htm>

Hornoff was convicted of murder. **Judge Krause** denied Hornoff's request for a new trial saying the state's case was, "presented so convincingly and with such compelling force as to leave no doubt here that Jeffrey Scott Hornoff was properly and deservedly convicted of first-degree murder." **Rhode Island Supreme Court Justice Maureen McKenna Goldberg** said regarding the Hornoff appeal that, "the defense witnesses had been wholly incongruous and self-serving and had led the jury - properly - to convict. After serving 6 years, Mr. Hornoff was released in the fall of 2002 after the real killer confessed to the murder.

Complaint One: Mr. Hornoff asserts **Judge Krause** failed to instruct the jury properly and denied Hornoff's motion for a new trial before key witnesses could be produced. Hornoff asserts Judge Krause should have granted 2 motions for acquittal; once after the state rested its case, and again after Hornoff's case was presented. Hornoff asserts at both points the state did not meet its burden to prove beyond a reasonable doubt that Hornoff committed the murder he was charged with or that the murder was premeditated. Hornoff says there was no physical evidence linking Hornoff to the murder, nor could any witnesses testify that they had seen him in the victim's apartment or beating her that night. Hornoff asserts he was convicted on a flimsy foundation of "ambiguous inferences."



Hornoff asserts the state also failed to prove that the victim's killer had more than a moment to consider the consequences of his actions -- the legal standard for a first-degree murder charge. Hornoff asserts **Judge Krause** should have told the jurors, before deliberations, that they must disregard any circumstantial evidence that could equally prove two different and opposite conclusions. Hornoff also asserts **Judge Krause** prejudiced the jury with an offhand remark he made implying that the testimony of Hornoff's

brother was less than credible. Hornoff also asserts Judge Krause should not have rejected his request for a new trial based on newly discovered evidence.

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Also from Jeffrey Scott Hornoff:

Like my brother and sister officers, I am a warrior who placed my life on the line every night and I loved doing it, but it was very frustrating and difficult to rely on others to fight and advocate for me while I was locked away. I have so many people to thank: my Mom, my brothers Ronnie, Mike and Dave and their families, my sons Joshua, Zachary and Jacob, my kin down South, Tina and her family and friends- all who visited, wrote or spoke on the phone with me; giving me strength, renewing my hope and reminding me of faith and spirit. I also thank my attorneys, who I also consider friends: Joel Chase and his paralegal Linda Kelly, and Innocence Project attorneys Rob Feldman, Amanda Metts, Barry Scheck and their support staff.



I thank the National Police Defense Foundation and Joe Occhipinti for their support and for establishing a fund to help me recover some of my financial losses; and thanks to their former investigator Boris de Korczak... Attorney Bill Dimitri...Warwick Detectives Ed Pelletier and Scott Mancini, John Morgan, Bob Bensen, Steve Kenehan, and others from my department who believed in me, as well as those who have been man enough to admit that they were wrong.

One thing that's bothered me especially is former Attorney General Sheldon Whitehouse's statements immediately following my release, concerning my truthfulness during the Warwick and/or State Police investigations. He said that I repeatedly lied, contributing to my and my family's ordeal. Mister Whitehouse is

either poorly misinformed or he's been outright lying to you in a sad attempt to justify my wrongful imprisonment. I hope it's the former.

But I've been heartened by the people who continue to approach me with well wishes, who see his comments for what they are. I think you should know that he mumbled an apology to me in Judge Krause's courtroom on November 6th, but of course he didn't proffer one on camera though he wasn't even the A.G. who was originally involved.

I told one lie, and that was to Warwick Police Detective Captain Ronald Carter and Detective Lieutenant Edward Johnson early in their taped interrogation of me. Though they claim otherwise, I freely admitted to knowing Vicky. In fact, just minutes before I went into Captain Carter's office I had admitted as much to Detective Mike Babula... When asked if Vicky and I had had an intimate relationship, I told Carter and Johnson no. I lied because they were tape recording my interrogation and if my wife was to find out, it was going to be by my telling her and not by their playing the tape. Of course I didn't know that they would later lose the tape or tape over it, and then deny the interrogation was taped.

I also didn't know that Detectives Richard Santos and Kevin Collins were, at the same time, at my home and lying to Rhonda, telling her that I was involved in an altercation at the F.O.P. and that they were investigating it...But that was my one and only lie. And within an hour I owned up to it. I requested a polygraph test, and I admitted in the preliminary interview with polygraph examiner Warwick Detective Sergeant Ed Pierce that I had been intimate with Vicky, and I explained to him why I had denied it at first. At the steak fry fundraiser held last month for me, Johnson and Pierce said they didn't know of anyone who would have been forthcoming initially.

The Warwick Police Department's Major Crime Unit and B.C.I. Unit conducted a crime scene and follow up investigation akin to that in the Manson murders-Helter Skelter. The only one at the scene who wanted to do the right thing and treat me like a suspect was

Commander John Glendenning. He wanted to go to my home, take me to headquarters, seizing my clothing and towing my car to headquarters for processing. He wanted to treat me like a suspect, but he was ignored. If he had taken control, or if John Coutcher was chief, this never would have gotten this far. But as I so often heard over the years, 'Everything happens for a reason.'

Mister Whitehouse also said that I am one in a million. Considering the fact that there are approximately two point two million men and women imprisoned in the United States, that would mean that there's only one other innocent among them. Eddie Joe Lloyd, Mike Pardue, Kenneth Waters, Ron Williamson, Ronald Cotton, Ed Johnson, Roy Criner, Jeffrey Pierce, Gary Gauger, Rolando Cruz Perry Cobb...these are the names of just a few of the men, now over a hundred, who have been proven innocent of crimes which they were wrongfully imprisoned for. Whitehouse needs to recheck his figures.



And a couple of the scarier thoughts are that, unless DNA evidence exists, the one responsible comes forward or there's a successful appeal, the innocent are destined to languish in prisons, existing amid horrible conditions and among some dangerous people. Attorney Scheck told me that evidence is lost in 75% of the cases. I believe he said that in 24% of the cases, the person claiming innocence is proven so. So I have difficulty understanding why prosecutors and attorneys general aren't all in favor of DNA testing. Primarily it's because they don't want to admit that they were wrong.

They don't realize how bad they look by attempting to maintain a position of being free from accountability or of no remorse. Dozens of people have approached me and they all see through it. Judiciaries would raise their level of character and humaneness in the eyes of the citizens who they are sworn to protect if they would only admit their mistakes and apologize. The judge wouldn't even look at me on Monday. I expected as much, that's why I took my tie

off after Todd Barry's hearing.

I don't expect Nye, Santos, DeBonis, Mong, Morrissey, Hurst, Denniston, Judge Krause, or anyone else to be man enough to apologize and say they were wrong, but I forgive them every day—as much for myself as for them. There are enough bitter and petty people in this world; it's my way of not letting the anger or resentment consume me. I can forgive them, but they can still be held accountable.

I urge and encourage you all to visit the websites [npdf.org](http://npdf.org), [freeingtheinnocent.com](http://freeingtheinnocent.com), and [truthinjustice.org](http://truthinjustice.org). Unfortunately, I do not believe that there exists one truly great objective investigative reporter in Rhode Island. I do not say this with vindictiveness but with great concern. I hear of reporters in other states helping to free innocent people from prison and of being relentless in asking tough questions of those in authority. There's some good people among you, including Jack White, Glen Laxton, Jim Hummel, Karen Southern and Cathleen Crawley. Why not look harder into other claims of innocence, or spend a weekend in the protective custody or women's units at the prison? Then you'll see why I filed a federal civil suit. There are other important issues, but this is one of them. What happened to me could happen to all of you or to your loved ones, then you'll care.

There are others among you who I have little respect for professionally. You are abrasive and void of compassion. There's a time and place for in-your-face journalism, and some of you haven't learned how to act otherwise.

I know your bosses need to attract viewers and readers, but you and they have shouldered a huge responsibility. If you are going to report on criminal investigations and trials, I implore you to use great caution. Your words, tones and inflections can and do affect the jury pool. And law enforcement agencies can and do use you to further their agendas. I thank God that Ellen Lieberman is no longer a court reporter for the Providence Journal.

I also wonder why you have been silent in your criticisms of the Rhode Island State Police. Are you afraid of them? Don't be. State Police Detectives Richard Hurst and Thomas Denniston conducted a single and focused investigation into Vicky's murder, freely admitting to those who they interviewed that they weren't interested in any other possible suspects because they knew I did it. They threatened criminal charges on those witnesses who tried to offer information concerning others who might have been involved... Don't be afraid to investigate their actions, but do be wary if they ever ask you to go to their barracks regarding an investigation which they are conducting. My advice to you is not to go without an attorney, or better yet, don't go at all.

And I wonder if it is merely coincidence that Richard Hurst was promoted to the rank of detective captain and that Thomas Denniston rose from sergeant to detective lieutenant shortly after my conviction? Do the state police rise in rank with successful high profile convictions? If so, I now call on their colonel to at the least demote them both to patrolman status for their misconduct but I know that will never happen. The state police never admit their many mistakes. Perhaps that's one of the reasons they aren't well liked or respected by the real cops who work the cities and towns of Rhode Island.

During my interrogation and many of the interviews he conducted, Hurst told me and others to take our best guesses when we could not recall a particular date, time or action. He and Denniston picked and chose from the answers, what fit their speculation and conjecture, deeming my guesses as lies, and inconsistent guesses of others as irrelevant. I was wrong in placing my trust and faith in their non-existent professional abilities.

It took two grand juries to get an indictment on me. I wonder if the first set of jurors were leaning towards a no true bill and were thus dismissed?

The second grand jury convened at an East Greenwich National Guard armory on Route 2. When I testified it was a festive

atmosphere, with plates of food, people laughing, sleeping and snoring. Listen to the tapes yourselves and you'll hear how Prosecutor White conducted himself and manipulated the proceedings. If you spend any time around a courthouse you'll hear the phrase, 'You could get an indictment on the Pope or on a ham sandwich' Well, with my second set of grand jurors, Randy White could've gotten both. He is a man who wields much power over our freedom and he has grown callous and cynical, losing sight of his fundamental mission to protect the innocent, and not of winning convictions at all costs.

And I still can see Jeff Pine's smug image in my mind's eye, confidently stating how there was no evidence in my case. Oh yes there was. Take a look at the crime scene photos. Where's the bloody bandage? the blood on the everted index finger of the rubber glove? and why weren't Vicky's fingernails ever DNA tested? How could the Warwick police, State police and F.B.I. fail to preserve certain evidence, and lose and destroy other evidence? They did.

You've also been interested in any possible cover up by the Warwick Police, thinking that members may have protected me. Nothing could be further from the truth. Ask Warwick detectives Richard Santos and Thomas Nye if Major Joseph Duquette ever ordered them not to cooperate with the state police any longer in their functions as liaisons. Ask them if he ever said that he would do whatever it took to protect E.J., possibly wanting to cover up Johnson and Carter's poor investigation and loss of the tape. You'd have to verify this with Nye or Santos, now a CCRI guard; both thought I was guilty and helped initiate the state police's involvement.

It was widely rumored within headquarters that Duquette and Eddie Johnson aspired together to rise to the ranks of chief and deputy chief. And they both were wrong or outright lied when they claimed I made the derogatory comments about Vicky. I never have and I never will. There was no cover up by my department on my account. Even though I was cleared, it was just an incompetent

investigation all around.

And you in the media, as so often happens, have incorrectly described my and Vicky's relationship. I never called Vicky a temptress... She was not my lover...And I wouldn't call our intimacies an affair, it didn't last long in spite of what the state police would like you to believe. On November 4th, when I entered the room in High Security where Joel Chase, Bill Ferland, Randy White, Thomas Denniston and another state detective were seated, my first thought was, "What are they going to accuse me of now?" Though my guard was up, seeing Bill Ferland and having him inform me of Vicky's killer coming forward was easier to process. I went to the police academy with Bill and, besides Joel, he was the only one facing me who I consider a stand up guy.

I believe that he is the sole reason I was released so quickly. But they still wanted me to admit to going to Vicky's apartment the night she was murdered just so it would fit their scenario and I guess so they could feel better about themselves. It didn't happen so I wouldn't, even if it meant not walking free.

State Police Captain Michael P. Iarossi's statements to Journal reporter Cathleen Crowley should make you all shudder. "I can assure you from a state police standpoint, we did nothing different in this homicide investigation than we would do in any other."

Then they should have a really big wall in their museum, a wall of shame for all the innocent people they have wrongfully imprisoned and for those whom they will.

I again ask you in the media not to be so quick to judge. From May of '92 I was portrayed as the only viable suspect; just read the Providence Journal editorial from January 14th, 1995.

Be objective. Be good investigators. Whether a suspect is named or charged, don't be afraid to ask about other leads or suspects. Dare to doubt. Verify your facts. As just one more example, I was wrongfully imprisoned for six years, four months and eighteen

days, not five years as incorrectly reported just recently. There are some good cops, prosecutors and judges, and some good reporters; you are one of the defensive lines against all those who aren't.

Just as they were so quick to judge me, I now also call on the editors of the Providence Journal and Warwick Beacon to print apologies, and admissions that they not only failed me and my family, but their readers as well.

And for future information: In arraignments, at least, I believe, in capital cases, a not guilty plea is the only one allowed to be entered. It's a formality, but channels 6 and 12 called my mom to ask her what was going on. And your so-called legal analysts didn't know any more than she did. Call the A.G.'s office or do a little legal research yourselves in a law library. Check out the superior court rules book on criminal procedure.

As Morgan Freeman's character Red said in *The Shawshank Redemption*, "Andy Dufresne crawled through a river of shit and came out clean on the other side." And so did I.

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## ***A normal life?***

By KELLY SMITH -WARWICK - 06/05/2003

It has been seven months since Jeffrey Scott Hornoff walked out of prison a free man. With the clothes on his back, a small plastic bag of personal belongings and \$500, he was ready to rebuild his life. Or was he?

The former Warwick Police officer, who was wrongfully convicted of the 1989 murder of Victoria Cushman, spent six and a half years of his life behind bars. His youngest son was born three months after he arrived, and every day that followed he wished and hoped and



prayed for a miracle.

Fast forward to today. Since he was officially cleared of all charges in January after Todd Barry of Cranston stepped forward and confessed to the murder in November 2002, Hornoff has been reconnecting with his three sons, taking care of his mother, and spending time with his fiancée, Tina Dauphinais. He marvels at the things that have changed since he was in prison and continues to work on the hobby he picked up while incarcerated, drawing.

Hornoff now lives in Cranston with Dauphinais, whom he plans on marrying in September. He has no money, no job and recently discovered the City of Warwick has denied him his back pay, benefits and pension. Each day he endures the physical, emotional and financial heartache his wrongful imprisonment has brought on. Many of his days are consumed with networking and letter writing, doing whatever he can to help others like him and work on changing the system. He hasn't seen any of the movie or book offers so many expected he would receive.

Two of the groups that he and Dauphinais are involved with are "The Innocence Project," an organization headed by renowned attorney Barry Scheck designed to free the innocent based on DNA evidence, and the Life After Exoneration Project. LAEP is an organization created after Scheck and Innocence Project partner Peter Neufeld began to notice a trend in exonerees being released from prison with nowhere to go and no idea what to do. It aims to make society aware that there is no rehabilitative system in place for exonerees and move forward with setting one up.

In fact, according to their website, as of today, The Innocence Project has successfully worked to free 128 innocent men and women and not a single one has received any transitional services upon release. However, parolees who were (maybe) guilty and served their time have any number of resources available to them, including healthcare, job placement and help with living arrangements.

According to Aliza Kaplan, deputy director of The Innocence Project, LAEP is still in the beginning stages, and, once the initial seed money has been raised and the project has established itself, it will branch out onto its own and begin to raise funds and set up social services for exonerees.

“Life After Exoneration is still being created, and currently we are in the process of doing all the background work,” she said. “The goal will be to have a caseworker that personally advocates for each exoneree.” When asked why exonerees are not offered the same services as parolees, Kaplan said, “That’s a very good question. They barely get an apology. The whole way the state deals with it is close to unbearable.”

In an effort to jumpstart this cause, The Innocence Project held a conference in New York City May 8-11. It invited all of its exonerees to attend. Although Hornoff was released because Barry stepped forward, he had hoped that DNA would be his key to freedom. He continues to work closely with the organizations that help exonerees, and he and Dauphinais were invited to attend the convention.

Sponsored entirely by Jason and Wendy Flom, a New York couple who also wants to see justice served for the innocent wrongly accused, the weekend set up workshops where exonerees and supporters talked about many of the different things on their mind, including what type of services they think exonerees should be entitled to upon their release, invited them to attend a fundraiser for LAEP, and provided everyone with tickets to “The Exonerated,” a play written solely from letters to home and trial transcripts from exonerees. “By the end, everyone was crying, at least all the exonerees and their supporters,” said Dauphinais.

Although while in New York City the couple met a number of celebrities, including Gwyneth Paltrow, Ed Norton, Selma Hayek, Tim Daly (he starred in the play) and “NYPD Blue” producer Bill Clark, the best part was meeting the other exonerees. “A lot of them I had seen in newspaper articles and magazines,” he said.

“Tina would download them from the Internet or send the clippings. They gave us hope. They gave us inspiration.”

The couple talked about exoneree Eddie Joe Lloyd. Released after DNA evidence from a cigarette butt cleared him from the rape and murder of a 17-year-old girl, after testing from the rape kit test was considered inconclusive, Lloyd appeared on “The Today Show.” Both watched it at the same time and spoke on the phone shortly after. If it could happen for him, it could happen for Hornoff.

“I remember sitting on my bunk watching him on ‘The Today Show,’” he said. “I was really happy for him and for his family. But, I kept wondering, ‘When’s it going to be my turn?’” When they met Lloyd, they hugged. “It was an honor,” said Dauphinais.

While the weekend was somewhat therapeutic for Hornoff, he knows there is still a lot of work to be done. His already bad back worsened after six and a half years of sleeping on a metal cot and flimsy mattress, and he has yet to see a doctor. No healthcare services are available to him, and whatever free mental health counseling that might be available to him could never meet his needs for treatment related to post-traumatic stress disorder (PTSD) or legal abuse syndrome.

According to marriage and family therapist and author of the book “Overcoming the Devastation of Legal Abuse Syndrome,” Karin Huffer, legal abuse syndrome, a phrase she coined, is the mistreatment of individuals by the legal system due to the power it has over them.

“I could see that it was similar to PTSD,” she said in a telephone interview from her office in Las Vegas. “When you walk into a situation where you have much less power compared to the system, there is always a chance for abuse.”

Huffer said overcoming the devastation of legal abuse syndrome has been recognized by many professionals and most agree that the individuals that are abused to the extent that they are

wrongfully imprisoned suffer greatly from PTSD.

PTSD was first used to describe war veterans upon their return. Many had reoccurring nightmares about the war, difficulty sleeping and could not readjust easily to normal life. Nowadays, PTSD is used to describe the mental condition suffered after a person has lived through any traumatic experience.

Huffer said an exoneree's experience in prison is more like that of a prisoner of war. Much like a POW, or any other soldier that has been away from home, when an exoneree returns to society they find that nothing was how they left it and life has gone on without them. They are haunted by what they have seen and what they have been through. Putting an innocent person in prison, said Huffer, is like putting someone in a battlefield. In relationship to Hornoff, Huffer said he most likely has gone through a series of changes, and getting past his wrongful imprisonment will take time.

"To begin with," she said, "all of his body's chemistry has changed as a result of this. He is mentally, physically and emotionally exhausted because he has been unable to treat it. He still has no way to process this. As part of getting over this trauma, society has to do the right thing."

Huffer went on to say that "it is society's job to restore him and part of that process is to say we're sorry. That is tough for us to do because we lost the ability to say we're sorry and instead we try to just descend the wrong." "Hearing I'm sorry facilitates his healing," she said. "By not getting it, it adds more abuse and prevents his recovery."

While in prison, Hornoff lost the ability to make choices. Not just on the surface, as he never chose what clothes to wear, what meals to eat, when to go outside or where to go when he did, but mentally he forgot how. Now, a trip to the grocery store can be overwhelming. While it can be exciting to think about the many different cheeses, the vast array of cereal and the numerous kinds of cookies, Hornoff often finds he can't decide which brand to buy.

Which chips would he prefer, salt and vinegar or B-B-Q? Ooh, how about sour cream and onion? Lays, Wise, Pringles? Rippled or plain?

Another thing that has been hard for Hornoff is the tremendous loss of a career. “I didn’t just lose a job,” he said. “I lost a career. I chose to be a police officer. I went to school and chose that path for myself. Hornoff said that although he is always a police officer in his heart, he doubts he could ever go back. Speaking of having a chosen career, one of the struggles Hornoff has faced is the burning question everyone keeps asking: Why hasn’t he found a job yet? The answer is more complicated than it might seem. For starters, Hornoff said he has been keeping busy doing the things he feels he must do. He has written letters to Judge Mark Pfeiffer of the Rhode Island Supreme Court requesting that officials turn over the grand jury transcripts his friend, Paul Rossier, was granted access to more than six years ago.

Rossier is serving time for sexual assault. While in prison together, Rossier told Hornoff the act was consensual and he feels the transcripts will prove lies and inconsistencies made by East Providence Police. As a result of Hornoff’s efforts, Rossier has been granted a hearing. The first two were postponed, but a third is set for tomorrow. Hornoff said he also sent letters to Attorney General Patrick Lynch requesting that he appoint an independent investigator just as happened in 1995 with the Warwick Police Department.

“Patrick Lynch instead forwarded my request to Governor Carcieri, who forwarded it to the state police internal affairs, and they contacted me,” he said. “I told them I don’t think they are able to investigate their own any better than Warwick was able to and that I still intended to pursue seeking an independent investigation into the state police detectives’ conduct and misconduct [during his investigation and trial].” Hornoff feels there was an effort to convict him, regardless of whether he was innocent or guilty, even if it meant using manipulation and deceit.

Aside from spending his time reaching out to different groups and

fighting to help others he believes are wrongfully imprisoned, he has been speaking at different colleges and universities. So far, he has talked with students at Salve Regina, Roger Williams, Boston University and the University of Massachusetts at Amherst. It is, he said, what he needs to do.

“I’ve been putting myself out there to the colleges and universities to let them know I am interested in speaking at their school to guest lecture and/or teach,” said Hornoff. “I really feel it’s part of my new path to educate people who are or are going to be making the same decisions such as the ones that led to my wrongful imprisonment. At the same time, I’m still trying to de-program myself. My family and I have gone through a terrible ordeal. But I am a good dad. My boys and I have a really good time.

“I’ve been putting myself out there,” he continued. “I’ve looked into a couple of different positions and I’ve been extremely disappointed. But remember, it was only recently the City of Warwick denied me my back pay and benefits, and I’ve been dealing with that. Hornoff said prior to his release many people told him not to be surprised if the mayor and the chief of police were outside the courthouse with a check for him waiting to shake his hand. “That didn’t happen,” he said. Instead, he said, people approach him all the time letting him know they are upset with the city for not giving him his back pay and benefits. “They want to express their frustration with the city and the mayor for not giving me my back pay, benefits and pension,” he said. Hornoff and Dauphinais said it is most difficult for them to get people to understand that it isn’t just as easy as filling out a job application. Readjustment takes time.

“We’re trying to get across what it is about exonerees that is different,” said Dauphinais. “They suffer from legal abuse syndrome. They have been locked up, all control has been taken away from them and then they are supposed to just be thankful for getting out? We are very thankful, but freedom isn’t free. We saw this same kind of thing with POWs. That’s what happens when you are wrongfully imprisoned. You’re a POW battling the legal system

and society because now you've been portrayed to look like a murderer, a rapist or a child molester. People cannot conceive that. They have no concept of how horrible that really was."

However, Dauphinais also was adamant about making sure the public doesn't look at Hornoff like he cannot function or that there is something wrong with him. In fact, Huffer said it would be abnormal if he weren't experiencing this.

"Scott has PTSD, but it doesn't mean he can't be a good guy," she said. "He doesn't want people to think he's nuts. He's normal. He can function, but in a limited kind of way. His boundaries have changed and he's trying to figure out what that line is. It takes time. He's doing incredibly well, but still has issues he's working on. He needs to figure out where he needs to go, and that takes time."

Dauphinais said that anyone who has difficulty truly understanding Hornoff's experience ought to lock themselves in their bathroom and imagine what it would be like to be in there for 24 hours a day, seven days a week.

"How would you feel? People expect him to go to just any counselor," said Dauphinais. "But no, you can't. You need counselors who know about this [PTSD] and the experts all cost beaucoup bucks. They're not taking people for free. People think there is so much [help] out there, but with no children in the house he gets nothing. It's been the same way across the country."



As a result of all these factors, Hornoff has struggled financially. The National Police Defense Foundation has set up a fund in his name that will help him with his living expenses. The NPDF is a non-profit organization that, according to its website, sets out to provide important medical and legal support services to the national law enforcement community, as well as administer several NPDF law enforcement programs involving public safety and child safety programs.

The NPDF Executive & Advisory Board is composed of all volunteers and represents distinguished elected officials as well as the directors of several law enforcement, civil rights and community organizations. While in New York, the couple had the opportunity to stop by NPDF's annual awards ceremony, where Hornoff was honored with a Profile in Courage award. Coincidentally, the ceremony was in NYC at the same time and the couple managed to find time to stop by Thursday night. "I accepted that award on behalf of my mom, Tina and my boys," he said. "They were the real courageous ones." All donations are 100 percent tax deductible and go directly to Hornoff.

"I submit receipts for living expenses," said Hornoff, "and they'll reimburse me out of that fund. Everyone thought that when I got out I'd be a walking goldmine. [They thought I'd be offered] book and movie deals. That's not the case. Because my record still hasn't been cleared, I can't even open a checking account."

Hornoff and Dauphinais are hopeful that in time, once LAEP spreads its message and establishes programs for others that fall in Hornoff's shoes, these types of funds won't need to be set up. "He's like a POW coming back and life has gone on without him," said Dauphinais. "He has done really well, but it is a lot harder than people think. When Scott was released, he had \$500 in a bank account. He had no clothes and needed to spend \$200 just on a new wardrobe. There is nothing out there for these men and women. The VA is set up for soldiers, but there is nothing for exonerees."

Donations can be sent to The Scott Hornoff Fund, NPDF, 21 Kilmer Drive, Bldg. 2, Suite F, Morganville, NJ 07751. Credit card donations can be made by dialing 1-888-SAFECOP. For information on or to order Huffer's book, "Overcoming the Devastation of Legal Abuse Syndrome," call 1-800-829-8969. Information on The Innocence Project can be found at [The Innocence Project](#). [Return to Top](#)

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## **POST TRAUMATIC STRESS DISORDER AND THE EFFECTS OF INCARCERATION**

The prison population in the United States is growing at a rate so rapid it has superseded the rate of incarceration in all industrialized nations. There are currently over 2.2 million people confined to the state and federal prisons of this country. One in thirty-two United States citizens are presently incarcerated, on probation or parole. (Bureau of Justice Statistics, 2003). Prisons are overcrowded and rehabilitative services are being eliminated from budgets regularly. The effects of overcrowding, correctional officer brutality, gangsterism, and vulnerability can lead to lasting psychological effects on an individual even after their release. Ex-convicts may experience anxiety, sleeplessness, inability to concentrate, emotional numbing, isolation and depression that are related to their prison traumas.

The events experienced by a person while they are incarcerated can be so traumatic that it can lead to post traumatic stress disorder. Treatment by correctional officers can increase an already high level of anxiety while incarcerated. There is an increase in the number of inmates being deprived rehabilitative programs and being abused physically, psychologically and emotionally by correctional officers. There is also an increase in the number of inmates who are being held in solitary confinement for extended periods of time. Extended periods in solitary confinement leads to sensory deprivation and increased psychological trauma.

An increase in the rate of incarceration as well as the implementation of harsher sentences has led to the concern in regard to the long-term effects incarceration has on an individual. Dr. Stephen Richards, an Associate Professor of Criminology at Northern Kentucky University, has also served nine years in Federal prison. He has formed a group of ex-convict professors, together they have published books and journal articles, and have conducted research and studies on the effects of incarceration. They conclude, "Many still struggle with the guilt of surviving prison, while old friends are still incarcerated, and the pain they may have caused others, including their own families and loved

ones. Some may suffer from post-traumatic stress disorder relating to remembering their former criminal activities and time incarcerated.” (Richards, 2001). During a telephone conversation with Dr. Richards he expressed to me that “the lack of rehabilitation will lead to a noted increase in the inability for ex-convicts to readjust to society after they are released. We will also see a dramatic increase in ex-offenders with clinical diagnosis such as PTSD.”

Many ex-offenders report victimization while they were incarcerated. Power and control issues often lead to violence by inmates and correctional officers. “When violence erupts in prison, oppression of violence justifies the abuse of offenders, albeit innocent bystanders or not.” (Mostert, 2003). Inmates who are more vulnerable often lack such things as the knowledge of prison societal rules and physical strength. They have a higher chance of being sexually abused by other inmates as well as correctional officers. Understanding and appreciating the complex human dynamics between staff and inmates gives insight into the issue of sexual misconduct in prisons. The ultimate power of the correctional staff can lead some unethical staff to engage in sexual misconduct. Prison is a very sexualized environment. The inability for one to express their natural sexual desires is abnormal. This leads to an unsatisfied libido and an increase in sexual frustration. The two most prominent reasons for correctional officers being terminated or placed on disciplinary leave is the introduction of contraband into the facility, and sexual misconduct with an inmate or another officer on facility property. (American Correctional Association, 2002)

A typical adult has the ability to make general decisions such as what time to eat and whether or not they would like to turn the lights off in a room. When stripped of these basic rights some may become agitated and aggressive. This may lead to them seeking other means of obtaining a sense of control, in turn leading to victimization of other inmates. Once released the ability to make these simple decisions can be extremely overwhelming. “Ex-convicts may experience unexplained emotional reactions in response to stimuli that are psychologically reminiscent of the

painful events that occurred during incarceration. Some may relive especially stressful or fear-arousing events that traumatized them during incarceration.” (Craig Haney, 2002)

Limited contact with family members and other loved ones reduces inmate morale. Correctional officers use threats of taking away such things as telephone and visitation privileges as well as placement in solitary confinement as a way of controlling inmates. A fear of being unable to have contact with loved ones, or being held in segregation can lead to adverse reactions and outburst by some inmates as well as giving into inappropriate demands of officers and by other inmates. Correctional officers in some facilities can issue “tickets” to inmates for things such as not shaving or tucking in a bed sheet appropriately. These “tickets” can lead to loss of good time and directly effect an inmates release date. Thus the struggle of power and control becomes a daily ritual.

Judith Herman M.D. has suggested a new diagnostic category termed “complex PTSD”. “This diagnosis would be used to describe the trauma-related syndrome that prisoners are likely to suffer in the aftermath of their incarceration” (Craig Haney, 2002). She feels that this specific diagnosis is a direct result of “prolonged, repeated trauma or the profound deformations of personality that occur in captivity.” (Herman, 1992).

Terrence T. Gorski is considered an expert in substance abuse, mental health, violence and crime. Through clinical consultation work with the criminal justice system and incarcerated prisoners he conceptualized Post Incarceration Syndrome (PICS). “The Post Incarceration Syndrome is a set of symptoms that are present in many incarcerated and recently released prisoners that are caused by being subjected to prolonged incarceration in environments of punishment with few opportunities for education, job training, or rehabilitation. The symptoms are most severe in prisoners subjected to prolonged solitary confinement and severe institutional abuse.” (Gorski, 1999) The symptoms of PICS include: institutionalized personality traits, post-traumatic stress disorder, antisocial personality traits, and social-sensory deprivation.

Those ex-offenders with PICS have a higher rate of relapse related to substance abuse and mental health disorders as well as recidivism. "The effect of releasing this number of prisoners with psychiatric damage from prolonged incarceration can have a number of devastating impacts upon American society..." (Gorski, 1999). Gorski states that PICS is a direct result of the policies and procedures of the criminal justice system and can only be reduced by a change in the length of sentences and punitive environments the inmates are subjected to. Such changes should include converting most federal and state correctional facilities into rehabilitative program with education, vocational, substance abuse and mental health programs, leaving only a small number of super-max type facilities for the most dangerous offenders. This should also include pre-release programs to assist offenders with transitioning back into the community. The programs should be staffed by professionals with the knowledge, and experience to evaluate the offenders' needs and implement the appropriate treatment plans.

Funding for education and child welfare has been cut drastically across the nation. While in Florida alone, Governor Jeb Bush has recently taken \$65 million from reserves to fund the construction of more prison facilities. At the same he has cut all educational and drug treatment programs in these institutions. It seems to me that the prison system in this country is becoming more of a business than a system of corrections. Many wealthy Americans have invested in stocks such as Corrections Corporation of America, a private prison company. They have also invested in the companies that provide contracted medical and food services to state facilities such as Aramark Food services in Florida. Long-term incarceration therefore becomes beneficial to them financially.

We should all be concerned with the effects incarceration has on an individual. Last year approximately 800,000 inmates were released back into the community. Close to 90% of all inmates will one day be released back into the community and be our neighbors. If they are denied the basic skills needed to function in society and stripped of their self worth, what kind of neighbors will they be? Harsh sentences and the "lock them up and throw away

the key" theory is not working. We, as citizens, are responsible to ensure the mental health of our population. By ignoring the need for change in the criminal justice system we will not resolve these problems. If we continue to ignore the effects of incarceration we will continue to see an increase in the number of Americans in need of social services. Incarceration affects the families of 2.2 million people in this country. The families and children of inmates are subjected to the direct effects that incarceration has on their loved ones. As PTSD is more widely recognized and addressed and more ex-offenders are diagnosed with the disorder, I hope to see a change in the structure of the criminal justice system in this country.

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**Thursday, June 9, 2005**  
**America's Newest Subculture: The Innocent**  
**By Meaghan O'Neill**

After Innocence" explores the post-incarceration lives of men who were wrongly convicted of crimes and set free, only to find themselves with no support, no money, and still carrying a criminal record for a crime they didn't commit. On November 6, 2002, Scott Hornoff walked out of the Rhode Island Adult Correctional Institution a free man. After six years, four months, and 18 days in a maximum security prison, he was free to drive a car, play with his three sons, and kiss his girlfriend. But unlike any other prisoner who might have been released that day, Hornoff was not entitled to the financial help, employment services, or even parole officers that former inmates are given. Why? Because Scott Hornoff did not leave jail a guilty man who had served his time. He left as a man who had been exonerated for a crime for which he'd been wrongfully convicted.

In 1996, Warwick police detective Scott Hornoff was convicted of murdering a woman with whom he'd had a brief affair. The case, as many Rhode Islanders will remember, was a news media blockbuster. Hornoff was 33 years old at the time of the conviction, with a pregnant wife, two young sons, and a heap of bum luck. (The murder had taken place seven years earlier, when Hornoff

was just 26.) And though the mystery of the murder of Vickie Cushman has since been cleared up — former boyfriend Todd Barry eventually confessed in 2002 — life for Scott Hornoff and his family has not.

One of eight stories featured in the documentary film "After Innocence," which screens at the Newport International Film Festival on Saturday, Hornoff's is one of many that has slipped through the cracks of our legal system. Directed by Jessica Sanders, the film explores the difficult post-incarceration lives of men who were wrongfully accused and convicted of rape, murder, burglary, kidnapping, and other horrific crimes. With the help of the Innocence Project, a non-profit legal clinic and criminal justice resource center that works to exonerate the wrongfully convicted, these men have been freed from their physical chains. The weight of the world, however, continues to shackle them.

"The number one problem is that they're not provided for after they get out," says Sanders, whose heartfelt film took the Special Jury Prize at the Sundance Film Festival. "Guilty people get support, but exonerees get nothing." With no job, no money, and criminal records that haven't been expunged, the men struggle to reenter society, find jobs, and raise families. Struggling with their very manhood, they've got their freedom, but have no lives. And sadly, the justice system seems unwilling to help them out.

"Monetary support would be very helpful. But the most simple thing would be an apology," says Sanders, whose documentary short "Sing!" was nominated for an Oscar in 2002. "It's a huge part of the healing process." Unfortunately, prosecutors, judges, juries, and reporters seldom provide one. "I'm still in a position where I can't provide the way I'd like for my family," says Hornoff, who is owed more than \$500,000 in back pay, according to Superior Court, which also ruled that he be reinstated on the police force. The City of Warwick, however, has filed a suit against the order, leaving Hornoff in limbo. And even if he eventually gets the money, after taxes, legal fees, and alimony, there'll be little left to start a new life.

"I want to give my kids so much — everything they deserve," says the soft-spoken Hornoff, who divorced while in prison, remarried in 2003, and is expecting a baby girl with wife Tina in September. For a former cop with a B.S. in Administration of Justice from Roger Williams University, who is currently working on his master's degree in Criminal Justice through an online program at Boston University, and who isn't a felon, one would think pounding the pavement might not be too difficult. But Hornoff, who now suffers from post traumatic stress disorder, has been looking for a job for more than two years. And even though he thinks most people understand that he's not guilty and never was, he still feels a strong "undercurrent of negativity" in his community.

In a way, this isn't so surprising, because for the men in "After Innocence," exoneration doesn't mean a fresh start, or even a clean record. Most exonerees have been waiting years for their records to be expunged. That means they that when they fill out a job application, they still have check "yes" in the box that asks if they've been convicted of a felony. Despite exoneration, the system continues to fail them. And according to the Innocence Project, at least one percent of all prisoners in the U.S. corrections system are innocent — that's at least 22,000 people. The Innocence Project, which took on Hornoff's case in 2001, primarily works on cases where conclusive post-conviction DNA testing proves convictions wrong. A decade ago, DNA testing was still in its infancy. But despite the fact that evidence is often lost or not preserved, the Innocence Project has helped exonerate more than 150 people.

In Hornoff's situation, white lies, timeline discrepancies, a flurry of circumstantial evidence, a botched police investigation, and persuasively negative local media all fell on the wrong side of his luck. And in 1996, seven years after the murder of Vickie Cushman, when Hornoff was being tried, DNA testing was barely being used. After the Innocence Project got involved, Hornoff's case was the first post-conviction DNA case to be brought forth in Rhode Island. (His conviction, however, was eventually overturned due to Barry's confession.)

While he looks forward to rebuilding his life, Hornoff, who will attend the Newport screening this week, knows he still faces an uphill battle. His past inextricably affecting his future, he's quiet, with a spirit that's been damaged, to some extent, beyond repair. As a man who spent six years wrongfully incarcerated, Hornoff speaks more with caution than expectation. "It can happen to anybody and it does every day. Exonerees are America's newest subculture." Despite his grievances, for Hornoff, who decided at age 12 to become a cop, justice still reigns supreme. His faith in the justice system, however, certainly does not. Though he'd like to be a cop again, he doesn't think he could ever accuse or arrest anyone for a crime unless he saw it committed himself. "I'm still pro-law enforcement, but I realize now how much we need to protect the innocent."

### **After Innocence**

This documentary explores the difficult post-incarceration lives of men who were wrongfully accused and convicted of terrible crimes, including the case of Rhode Island Detective Scott Hornoff. With the help of the Innocence Project, these men have been freed from their physical chains. The weight of the world, however, continues to shackle them.

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**A great injustice -- Hornoff still seeks murder-case closure  
Saturday, June 11, 2005**

**Marc H. Simon: The Providence Journal Op-Ed**

THE NEWPORT International Film Festival (June 7-12) is screening *After Innocence*, an award-winning documentary about the lives of innocent people who were wrongfully convicted. The festival's description of the film asks this basic question: "Improved forensic science and DNA evidence have reversed numerous convictions in this grievously flawed criminal justice system. But what does life hold for the recently exonerated?"

Rhode Islanders should be outraged to learn that the answer for Jeffrey Scott Hornoff, a resident of Cranston, and one of the

exonerees featured in the film, has continued to suffer, in large part, because the City of Warwick refuses to respect a Rhode Island Superior Court ruling that would finally let Scott move on with his life. Scott's story has made headlines for over a decade. Scott was a decorated Warwick police officer, who in June 1996 was convicted of murdering a young Rhode Island woman named Victoria Cushman. He was sentenced to life in prison, but in November 2002, after serving "only" six years, four months, and eighteen days, Scott was released when Todd Barry, the actual murderer, came forward and confessed to the crime.

Scott thus lived an unbearable nightmare with a particularly cruel twist -- he was an innocent person imprisoned with men, whom as a police officer, he had helped to put behind bars. In January 2003, Scott was officially exonerated, but he was already realizing that freedom was just the beginning of a new struggle that his community of exonerees all face. While guilty persons often leave prison with support from an array of re-entry services such as the parole system, the exonerated (there have been 159 DNA exonerations alone since 1989) receive little or no assistance to help them transition back into society. There are virtually no government-funded programs that offer them health care, psychological counseling, social services, job training or even housing assistance.

Rhode Island, like most states, does not provide any financial compensation to the wrongfully convicted and the exonerated seldom have the means, wherewithal or even legal authority to prevail in a lawsuit that could provide monetary damages. As a result of his ordeal, Scott lost his home, his career and his savings. His mother was forced to sell her house to help pay Scott's legal bills and his wife divorced him while he was in prison. He also lost precious time away from his three sons, including the youngest of who was born shortly after Scott went to prison. Scott understood that the emotional and psychological damage wrought by his wrongful imprisonment would take countless years to repair, but he believed that his financial problems could be improved more quickly.

He requested the City of Warwick to reinstate him as a police officer and to provide him the back pay and pension payments that he lost as a result of his false arrest and conviction. When the city refused, Scott filed a lawsuit demanding his reinstatement. In January 2004, Rhode Island Superior Court Justice Joseph Rodgers ruled for Scott's reinstatement and subsequently awarded him back pay of \$507,591. Although the court's award excluded calculations for promotions, overtime and interest, Scott was content to have recovered his identity as a police officer and the financial means to move forward with his life.

But Warwick Mayor Scott Avedisian and the city's legal counsel continued to oppose Scott, and the city appealed the Superior Court's decision to the Rhode Island Supreme Court, arguing that Scott was not entitled to any back pay because, as a convicted murderer, his termination was completely proper under the law. It did not matter that Scott was actually innocent and that his termination was predicated on a wrongful murder conviction. In its appeal, the city requested that the Supreme Court stay Scott's reinstatement until the court could hear the case and on April 9, 2004, the Supreme Court granted the city's request. The earliest the case is scheduled to be heard is September 2005, thus further delaying closure for a man whose life has already been horribly interrupted.

Justice Rodgers, ruling in Scott's favor, opined, "Equity needs to be utilized here because, otherwise, it is likely that an innocent man will continue to suffer for another man's crime." And each day that the City of Warwick continues to deny Scott Hornoff his badge, his honor and his lost policeman's wages is another day that the principles of equity, fairness and justice fail in the state of Rhode Island. Marc H. Simon, a New York-based lawyer, is producer of *After Innocence*, which has been playing at the Newport Film Festival.

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**MOVIE REVIEW 'AFTER INNOCENCE'**  
**Highlighting a Tragic Chink in the Criminal Justice System**

**By STEPHEN HOLDEN**  
**October 21, 2005**

Calm, deliberate and devastating, Jessica Sanders's documentary "After Innocence" confirms many of the worst fears about weaknesses in the American criminal-justice system. In examining the cases of seven men wrongly convicted of murder and rape and exonerated years later by DNA evidence, the film reinforces the queasy feelings you have while following high-profile criminal trials. The pursuit of justice in those cases often seems secondary to the drama of competing lawyers and to the ferocious desire of prosecutors to win at all costs and protect their reputations. Like many of us, judges, lawyers and prosecutors may often go out of their way to avoid admitting mistakes.

Watching the interviews with those fortunate enough to have been exonerated, it is impossible not to imagine yourself in their shoes and wonder how you would feel if the best years, or decades, of your life had been lost to a wrongful conviction. Overwhelming rage, bitterness and despair would seem natural human responses. But although tears of frustration well up in the eyes of more than one subject, no one in the film seems completely crushed by his misfortune. Bitterness is tempered by gratitude and a personal sense of the miraculous; all seven want to get on with the rest of their lives as best they can.

Reflecting on his time spent in jail, Scott Hornoff, a Rhode Island police officer who served 6 and a half years of a life sentence for first-degree murder, declares that the goal of prison authorities is to break prisoners' spirits; his, thankfully, survived intact. After his release, he went to court to win back his job and his back pay, and he won, but the police department has appealed the decision. Like many in the film, he is now a staunch advocate for the innocent.

Three men in the film - Calvin Willis of Louisiana, Wilton Dedge of Florida and Nicholas Yarris of Pennsylvania - were imprisoned for more than two decades; Mr. Yarris spent most of that time in solitary confinement. The movie observes the three-year struggle that finally led to Mr. Dedge's release in August 2004; the state had

opposed his release because his DNA tests were taken five years before the law provided for such testing. Mr. Dedge's case is the film's most flagrant example of embarrassed justice officials throwing up roadblocks.

The film cites research, based on 70 DNA exonerations, that points to mistaken identity as the most common factor leading to a wrongful conviction. It offers a graphic example in the case of Ronald Cotton of North Carolina, who served 11 years for rape and burglary based on the eyewitness testimony of Jennifer Thompson-Canino identifying him in a police lineup as her rapist. When another man confessed to the crime 11 years later, DNA evidence bore out the confession. Mr. Cotton was released, and he and Ms. Thompson-Canino have become friends. Her story, sorrowfully told on camera, illustrates the chilling fact that even the most positive eyewitness identification can be wrong.

The film, written by Ms. Sanders and Marc Simon, was made in collaboration with the Innocence Project, a nonprofit legal clinic founded in 1992 by the lawyers Barry C. Scheck and Peter J. Neufeld at the Benjamin N. Cardozo School of Law in Manhattan. The clinic handles only cases in which post-conviction DNA testing can yield conclusive proof of innocence. Its work has helped exonerate more than 160 people, and it estimates that DNA testing could free thousands more. The movie addresses the question of compensation after wrongful imprisonment. Unlike paroled prisoners, who have a network of social services to help them re-enter society, the exonerated have little guidance or support. What does society owe these people for what they lost, not only in wages and career opportunities but as compensation for their suffering and humiliation? In most states compensation legislation has not been enacted.

The pain of these stories is mitigated by the movie's choice of interviewees, many of whom seem both humbled and ennobled by their ordeals. The film is careful about what it addresses: racism and the preponderance of African-Americans in prison are left for another film. And the actual prison experiences are not described. The issue of capital punishment is also largely skirted. But late in

the film there is a brief appearance by the former Illinois governor George Ryan, who put a moratorium on the death penalty after 13 death-row inmates were cleared of murder charges, some through DNA testing.

The Innocence Project has expanded into the Innocence Network, a growing nationwide group of law schools, journalism schools and public defender's offices. There is talk of it a new civil rights movement coalescing around it. "After Innocence" leaves you feeling that one is urgently needed.

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### **Compensation for those wrongfully convicted**

RIGL Section 12-25.2.

[This bill enacts an entirely new chapter of the General Laws]

RIGL § 12-25.2-1. Findings, declarations relative to persons wrongfully convicted.

a) The Legislature finds and declares that innocent persons who have been convicted of crimes and subsequently imprisoned have been frustrated in seeking legal redress and that such persons should have an available avenue of redress over and above the existing tort remedies to seek compensation for the physical injury of wrongful incarceration. The Legislature intends by enactment of the provisions of this act that those innocent persons who can demonstrate by clear and convincing evidence that they were mistakenly convicted and imprisoned be able to recover damages against the State.

b) In light of the substantial burden of proof that must be carried by such persons, it is the intent of the Legislature that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this section, may, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not

caused by such persons or those acting on their behalf.

RIGL 12-25.2-2. Suit for damages.

Notwithstanding the provisions of any other law, any person convicted and subsequently imprisoned for one or more crimes which he did not commit may, under the conditions hereinafter provided, bring a suit for damages in Superior Court against the Office of the General Treasurer for the physical injury of wrongful incarceration.

RIGL 12-25.2-3. Evidence claimant must establish.

The person (hereinafter titled, "the claimant") shall establish the following by clear and convincing evidence:

- a) That he was convicted of a crime and subsequently sentenced to a term of imprisonment, served all or any part of his sentence; and
- b) He did not commit the crime for which he was convicted.

RIGL 12-25.2-4. Time to bring suit.

The suit, accompanied by a statement of the facts concerning the claim for damages, verified in the manner provided for the verification of complaints in civil actions, shall be brought by the claimant within a period of two years after his release from imprisonment, or after the grant of a pardon to him; provided, however, that any eligible claimant released or pardoned during the five-year period prior to June 30, 2006, shall have two years from the effective date of this act to file a suit.

RIGL 12-25.2-5. Damages, attorney fees.

- a) Damages awarded under this act shall not exceed twice the amount of the claimant's income prior to his incarceration or \$ 50,000.00 for each year of incarceration, whichever is greater. The

total compensatory award for the physical injury of wrongful incarceration shall not be subject to taxation by the State of Rhode Island.

b) In addition to damages awarded, a claimant may also be awarded educational and social services paid for at state expense.

c) In addition to the damages awarded pursuant to subsection a., counsel for the claimant shall be entitled to receive reasonable attorney fees.

RIGL 12-25.2-6. Noneligibility.

a) A person shall not be eligible to file a claim for damages pursuant to the provisions of this act if the sentence for the crime of which the person was mistakenly convicted was served concurrently with the sentence for the conviction of another crime.

b) A person shall not be eligible to file a claim for damages pursuant to the provisions of this act if the claimant is the recipient of a private bill for compensation for wrongful incarceration.

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**Hornoff files civil rights suit  
By KELLY SMITH  
11/03/2005**

On Oct. 21, just over two weeks prior to the three-year anniversary of his release from prison, former Warwick Detective J. Scott Hornoff has filed a civil complaint with the U.S. District Court of Rhode Island naming, among others, the City of Warwick, Major Thomas Nye and retired Detective Sergeant Richard Santos. In 1996, Hornoff was wrongfully convicted of the 1989 murder of Victoria Cushman of Warwick. Though he served six years, four months and 18 days of a life sentence, he was released only after the true murderer, Todd Barry, a carpenter from Cranston, stepped forward and confessed to the killing. Sunday will be three years since Hornoff's release from a prison.

Today, the father of four asserts Warwick Police, namely Nye and Santos, violated his civil rights when they focused solely on him during the investigation into Cushman's murder and did not look elsewhere for a suspect who was waiting for them to question him. "[Former Police Chief Wesley] Blanchard, together with Defendants Santos and Nye and others, carried out the Warwick Police Department's custom and policy of lax investigative techniques that permitted or encouraged key evidence to be withheld, destroyed or lost, and that prevented discovery and disclosure of exculpatory evidence that would have come to light had the Warwick Police followed proper investigative procedures with respect to Hornoff as a suspect," says the complaint. "After taking and passing the polygraph test, Hornoff was advised he was not a suspect. However, certain officers within the Warwick Police Department continued to pursue Hornoff as the lead suspect, and these officers, including Defendants Santos and Nye, worked very hard to see that Hornoff be charged and convicted for Cushman's murder.

"Todd Barry was easy to find," it continues. "He had dated Cushman. Cushman's friends knew him. His name was in her address file. Yet the Warwick investigators never contacted him. They never questioned him. He left evidence all over the crime scene, and Cushman's blood was all over his clothes. In his written confession, even Todd Barry expressed surprise that the Warwick Police did not call to question him: 'I always thought I was going to be questioned [immediately] after her death. That never happened.' Similarly, the owner of a club that Cushman and Barry used to visit together wondered why the police never came to question him. While Barry awaited questioning that never came, Defendants Santos and Nye continued to pursue Hornoff, and they did whatever they could to keep the investigation focused on him. According to former Warwick Police officers, Santos, Nye and certain other individuals within the Warwick Police Department quietly worked to keep the investigation of Hornoff alive."

The 32-page complaint also names the State of Rhode Island, the Rhode Island State Police, retired state police officers Detective Captain Richard Hurst and Detective Lt. Thomas Denniston, as

well as defendants John and Jane Doe 1-10, “whose identities are currently unknown [but] were employees of the Warwick Police Department,” and John and Jane Doe 1-20, “whose identities are currently unknown [but] were employees of the Rhode Island State Police.”

“Hornoff’s arrest, trial, wrongful conviction and six-plus year incarceration were the result of documented and gross failures on the part of certain members of the Warwick Police Department and Rhode Island State Police,” says the complaint. “Warwick’s handling of the investigation into Victoria Cushman’s homicide was so delinquent that an independent investigation was launched to review the Warwick Police Department’s conduct. The independent investigation resulted in a scathing report issued by independent counsel Kevin J. Bristow on May 2, 1995, which described the Warwick Police Department’s conduct as ‘inexplicable,’ ‘deficient’ and ‘severely flawed’ and observed that Warwick officers failed to gather evidence “crucial in either implicating or clearing Detective Hornoff.

“In or about 1991, due to the documented ineptitude of the Warwick Police Department, the State Police were asked to assist in investigating the 1989 Cushman murder,” it continues. “The State Police worked with ‘liaison’ police officers from Warwick and, together, they began building a false case against Hornoff...Only by knowingly or recklessly destroying, suppressing and ignoring key pieces of evidence, intimidating and coercing witnesses, offering false evidence, using improper investigatory techniques and committing other misdeeds were the State of Rhode Island, the City of Warwick and various individuals able to convince a jury that Hornoff was guilty of a murder he did not commit.”

The complaint charges, “As a result of his wrongful conviction, Hornoff lost everything: his home, his profession, his family, and his freedom.” It also states not only is Hornoff looking for a monetary award, but that he wants to see others’ constitutional rights are not violated as he asserts his were. “Beyond compensating Hornoff for the six-plus years of his life that were wrongly taken from him and for his continuing injuries, this lawsuit

seeks to redress the unlawful municipal policies and practices that led to the violation of a Rhode Island and United States citizen's clearly established rights as guaranteed by the United States Constitution and its Amendments."

At the end of the complaint, Hornoff asks the Court to grant him compensatory and punitive damages "in an amount to be determined at trial" as well as court costs and attorney fees. Over the years there have been several cases of those wrongfully imprisoned successfully seeking damages. In October 2001, James Newsome of Illinois was awarded \$15 million – \$1 million for each of the 15 years he served in prison for a wrongful murder conviction. As for this lawsuit, no timeframe has been established. However, it is known that Judge Mary Lisi will reside over the case as Judge William Smith recused himself. Smith served as Warwick's city solicitor.

In the meantime, Hornoff and the city are still at odds over a reinstatement and back pay order handed down by Justice Joseph F. Rodgers in January and March of 2004, respectively. The city appealed Rodgers' decision and as of late the Rhode Island Supreme Court has set no date to hear the case, even though it had said it would expedite it April 2004 after it granted the city's request to stay Hornoff's reinstatement until it could hear it. Both Hornoff and his attorney, Robert Feldman, declined comment, as did Michael Healey, public information officer for the AG's office, saying he didn't think it was wise to comment and "we'll do our talking in court." None of the other defendants, including City Solicitor John Earle, could be reached for comment.

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<http://www.newenglandinnocence.org/2011/scott-hornoff/>

### **6 years**

Jeffrey Scott Hornoff was a 27-year-old detective with the Warwick, Rhode Island Police Department until he was charged, tried and convicted in 1996 of first-degree murder. In the summer of 1989, Victoria Cushman was bludgeoned to death with a fire extinguisher and porcelain jewelry box. When questioned, Hornoff admitted to superiors that he knew Ms. Cushman. After requesting and passing a polygraph examination supporting his claim of innocence, certain members of his police department prodded the Attorney General to appoint the Rhode Island State Police to investigate Hornoff. While there was no physical evidence or any witness identification linking him to the murder, Hornoff went to trial years after Ms. Cushman's murder, was convicted of first-degree murder and sentenced to life in prison. He served six years, four months and 18 days of a life sentence for another's crime, and was freed on November 6, 2002, five days after Ms. Cushman's boyfriend, Todd Barry, came forward and confessed to the crime; NEIP network attorneys represented Jeffrey Scott Hornoff.

<http://forums.officer.com/showthread.php?24395-Detective-Convicted-Murderer-Lifer-Exoneree-Guest-Speaker>

1. Detective/Convicted  
Murderer/Lifer/Exoneree/Guest Speaker  
Background check:

I entered the RI Municipal Police Academy in 1983, and was sworn into the Warwick Police Department.

I participated in the dive team, underwater assault team, RI Special Olympics Torch Run and other fundraisers, suffered an OJI that required the removal of a ruptured disc (back to work 6 weeks after surgery), obtained a B.S. from Roger Williams University...

In 1989, I was a newly-promoted detective and, for a short time, a murder suspect by my department. I requested and passed a polygraph, and was eliminated as a suspect.

In 1991, I was the target of a single and focused investigation by our state police. With the media's help, they got an indictment (not too difficult, but it took them two grand juries to do it), was tried, convicted and sentenced to life in prison.

Six years four months and eighteen days as a badge behind bars.

On November 6, 2002, I was freed and exonerated.

My city is fighting my reinstatement and backpay; it's at the RI Supreme Court level now. I've served jury duty, am on a prison reform commission, and volunteering for the New England Innocence Project.

I'm still and always will be pro law enforcement - ever more determined to protect the innocent while holding the guilty accountable.

I guest lecture at law and journalism schools, conferences, associations, etc.

If you feel that sharing my educational and inspirational experiences with your academy, agency, university, association, conference members or other training efforts might be of benefit,

feel free to contact me.

Stay safe,  
Jeffrey Scott Hornoff  
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