



## Timothy Crosby

In April 1988, Dana Garner reported to the police in New York City that he had been kidnapped at gunpoint by a group of men, but had escaped. While walking the streets with police looking for suspects, Garner identified Timothy Crosby as one of the men who kidnapped him. Garner also identified two other men who, in exchange for more lenient sentences, testified against Crosby at his trial. Crosby was convicted in 1989 of felony assault and criminal possession of a weapon and sentenced to 10-years-to-life in prison. Nine years after Crosby's conviction, it was discovered that Garner had made false accusations in two other, unrelated cases. Once the pattern of false accusations came to light, a legal aid attorney looked at Crosby's conviction, as it was also based on Garner's identification. The attorney met with Garner and the two co-defendants, who recanted their testimony and admitted that Crosby had no role in the crime. Crosby's attorney filed a motion to vacate his conviction, which was granted by the trial court in 1999.

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**State:** New York

**County:** Kings

**Most Serious Crime:** Assault

**Additional Convictions:** Illegal Weapon

**Reported Crime Date:** 1988

**Convicted:** 1989

**Exonerated:** 1999

**Sentence:** 10 to Life

**Race:** Black

**Sex:** Male

**Age:** 27

**Contributing Factors:** Perjury or False Accusation

**Did DNA evidence contribute to the exoneration?**  
No

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## ABOUT THE REGISTRY

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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Notes from Innocent: Inside Wrongful Conviction Cases, by Scott Christianson  
pages 74-75

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(searching Google Scholar for polygraph and “wrongful conviction”

Related to the Blake case.

Crosby passed a polygraph examination in which he denied any knowledge of the crime.

## Ex-Officer Off Tough Beat Seeks to Free the Innocent

By JIM DWYER  
Published: June 10, 2001

With the palm of his hand, Michael S. Race pushed open the door of the Brooklyn courthouse, and there, standing under a spring sun and drawing their first breaths of freedom in 14 years, were Anthony Faison and Charles Shepherd: innocent men, home from serving time for someone else's murder. Mr. Race smiled.

As a detective-sergeant during one of Brooklyn's bloodiest eras, Mr. Race had sent hundreds of handcuffed people into the criminal courts -- usually, he freely acknowledges, after rushed investigations and often on the word of a single eyewitness.

In 1993, with 750 murder cases behind him -- only one of which was "done the correct way, from A to Z," Mr. Race said -- he retired with his family to a small town in upstate New York. He ran a sidewalk hot-dog stand, indulging an old daydream.

Then Mr. Race returned. He worked as a private investigator to make a few dollars and to stay busy. When Mr. Faison wrote to him from prison, Mr. Race sent back a price schedule, but changed his mind. He dropped his fee to zero and finally worked another case, from A to Z.

After two years of digging, Mr. Race not only cleared the two men last month, but also led the authorities to a new suspect whose fingerprints had been found at the crime scene and never processed.

"Mike Race gave me back the rest of my life," said Mr. Faison, convicted with Mr. Shepherd in 1988 of murdering a cabdriver.

Mr. Faison and Mr. Shepherd are the fourth and fifth men, wrongly convicted or accused of murder, to walk to freedom on a bridge built by Mr. Race, private investigator.

The wrongs that he is righting are not just the years stolen from the men he has been able to help, say those who know him. His work, they say, must be seen against a larger canvas of sloppy investigations during the chaotic years of crack bloodshed; failures by prosecutors and the courts to scrutinize those cases; and perhaps Mr. Race's own role in the conviction of at least two innocent people.

"As an act of penance or atonement, this work is particularly meaningful," said Ron Kuby, the lawyer persuaded by Mr. Race to take on the cause of Mr. Shepherd and Mr. Faison. "People's motivations are complicated. Mike, having been a homicide cop in East New York during a time when there was so much bad police work going on, has a very deep understanding of just how easy it is to convict innocent people."

As Mr. Faison saw it, "Whatever he did then, it would be hard for anyone to look at Mr. Race now and say that he is anything other than a moral person. It's just a paradox. He is so caring about injustice. That's based on his actions -- not just what comes out of his mouth."

Others say that Mr. Race is able to unravel wrongful convictions because he knows the investigative slipknots, having bound up innocent people himself. "Race is recovering from what he used to do," said Charles J. Hynes, the Brooklyn district attorney. "Maybe he has honest guilt."

Confident that both critics and friends are wrong about what drives him, Mr. Race professes bewilderment at suggestions that his work as a private investigator is an attempt to make amends for his life as an officer, or that people can speculate intelligently about his motives.

"I don't know how people can make a determination like that when I can't," Mr. Race said. "I'm not on a guilt trip. I don't like shifting blame, but everyone involved has a responsibility to realize what was done."

Indeed, in several of Mr. Race's police cases that went wrong, a share of the responsibility would appear to fall on the office of one of his critics, Mr. Hynes.

In three separate cases, men were arrested and convicted on the word of an informant, Dana Garner, developed by Mr. Race in his police days. Two of those people have been exonerated and sent home from prison.

All parties now accept that the informant fabricated his testimony; only the source of Mr. Garner's knowledge of the cases is in dispute. The informant says Mr. Race fed him the details, a point emphatically denied by the former detective, who suggested that Mr. Garner heard street talk about the crimes and passed it off as direct knowledge.

One fact is clear from police and court records: virtually no effort was made by detectives working under Mr. Race's supervision or prosecutors from Mr. Hynes's office to corroborate Mr. Garner's claims, despite two florid warning signs.

Mr. Garner appeared in Mr. Race's squad room on Monday, June 25, 1990, to claim he had witnessed a gun battle. Remarkably, he returned to the same detectives two days later to claim that he had witnessed a different shooting -- one that had taken place a few hours before his

visit on Monday morning, though he had not bothered to mention it then.

In addition, Mr. Garner claimed his mother also saw the second shooting. The mother later said in a post-conviction court proceeding that her son's story was fiction, but she was not interviewed by police detectives or the district attorney's investigators.

A year later, as one of the shooting cases was moving to trial, a cousin of Mr. Garner came to the courthouse with an urgent message: he told the prosecutor in a hallway that Mr. Garner had not even been in the state at the time of the crime. The prosecutor asked the judge for a recess, saying he wanted to arrange a polygraph test before presenting Mr. Garner as his sole eyewitness. During the recess, however, Mr. Garner was interviewed by a polygraph examiner but was not tested, for reasons that have not been explained. Nevertheless, he testified and an innocent man, Jeffrey Blake, was convicted of murder.

Years later, Mr. Blake and a second man sent to prison on Mr. Garner's word, Timothy Crosby, were exonerated through the efforts of lawyers from the Legal Aid Society, Michelle Fox and Sara Bennett. Mr. Hynes acknowledged that the convictions had been wrong. A third man, Ruben Ortega, has a habeas corpus petition pending in federal court, said Steve Wasserman, a Legal Aid lawyer who represents him. He said Mr. Race had much to answer for.

"This is someone uniquely qualified to identify a lack of integrity in the process of an investigation," Mr. Wasserman said. "He knows what people do because he did it himself."

Mr. Race denied that he ever railroaded an innocent person.

"I have never done a thing in my life to be ashamed of," Mr. Race said. "Did I make mistakes? Yeah. Do I sleep at night? Yeah."

The neighborhood endured well over 100 murders during the crack years, and there were five times as many nonfatal shootings that also had to be investigated. The volume of crimes turned every day into a blur, Mr. Race said. For instance, he said, he could not recall that Mr. Garner had come to the precinct twice in 48 hours.

"You were dealing with a minimum number of detectives and a vast number of bodies," said Mr. Race. "A habitual liar comes forward and fooled me. Me, the D.A., the D.A.'s detectives, the grand jury, the judge, the trial jury."

Born in Brooklyn in 1951, Mr. Race grew up on the streets of East New York and then Sheepshead Bay, the son of a detective.

Mr. Race enlisted in the Marines after he graduated from Sheepshead Bay High School in 1969. He joined the Police Department in March 1973. He met his wife, Ellen, while she was working as a waitress in a diner across from the 109th Precinct station house in Flushing. She had two sons, Donovan and John, from an earlier marriage, whom Mr. Race adopted, and together, he and his wife have a third child, Jennifer.

In 1985, he was assigned as a detective to the 75th Precinct in East New York, just as crack was added to the menu of New York's torments.

"A plague hit our community," said Mr. Faison. "People were throwing their own kids off roofs, setting them on fire."

Mr. Faison became a victim of that plague: a crack addict seeking reward money was the sole witness to say that Mr. Faison and Mr. Shepherd killed a cabdriver in 1987. At the law library in Greenhaven Prison, Mr. Faison spotted Mr. Race's name and his Seaford address on a bulletin board. He wrote a letter.

In an age when many wrongly convicted people are freed through DNA tests performed in dust-free laboratories, Mr. Race's exoneration of Mr. Faison and Mr. Shepherd stands as an especially muscular act of redemption. For two years, he knocked on the doors of drug dealers and killers, liars and hookers, the frightened and the fearless.

He found the original witness. She recanted. Mr. Race found a person who admitted plotting with the witness to score \$1,000 in police reward money. Mr. Race found one lawyer to take the case for free, and when that lawyer's efforts failed, he cold-called Mr. Kuby. Then he found a witness who said her boyfriend had confided, years earlier, that he had shot the cabby. Mr. Race suggested that the boyfriend's fingerprints be checked against several collected from the back seat of the cab. They matched, and Mr. Hynes agreed to the immediate release of Mr. Faison and Mr. Shepherd.

"Hey, it happens," Mr. Race said.

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