

# The University of Leeds Innocence Project

UoLIP

Educating Students  
&  
Assisting the Innocent

A Final Report for the White Rose Centre for Excellence in Teaching and Learning in Enterprise.



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## 1. Introduction: What is an Innocence Project?

An Innocence Project (IP) is a student-led project which centres upon the study of wrongful criminal convictions.<sup>†</sup> The defining feature of IPs is their investigation role, with students involved in real criminal cases. Through this investigative work – conducted by undergraduate students, supervised by academics and in conjunction with practicing solicitors – IPs endeavour to ensure that alleged wrongful convictions are successful in achieving a referral back to the Courts of Appeal via the Criminal Cases Review Commission (CCRC). Assistance is provided, *pro bono*, to prisoners who both maintain their innocence and have exhausted their legal appeals. However, IPs may also consider cases where individuals have already been released from prison. Each IP will establish from the outset how their project will operate, what their priorities are (e.g. student education/ ‘altruistic’ public service/ legal ‘skills’ training) and what their criteria will be for taking on cases (e.g. some limit intake by only examining ‘DNA cases’ and most US IPs only operate within their State). Since the establishment of the first student-led Innocence Project at New York’s Cardozo Law School in 1992, innocence projects have spread across the United States and are now also established in Canada and Australia.<sup>♦</sup> There are a variety of IP models, and not all take place in law schools. There are opportunities for other disciplines to be involved, in particular criminology/criminal justice/social science students, psychology students, and journalism students.

### *Educational Outcomes*

Student education or training is the *raison d’être* of most IPs (though as with other legal ‘clinics’, there need not be specific focus placed upon achieving educational goals, with clinics operating as an extra-curricular option for interested students). However, most IPs have at least an underlying educational rationale, with opportunity for students to achieve competency in the following:

- Critical thinking and analysis: Problem solving; creative/ lateral thinking; constructing logical, coherent, cogent arguments; critical reading and manipulation of complex materials.
- Case management: record keeping/ time management; organisation and prioritising; dealing with interruptions and unscheduled work; management of factual information.
- Fact finding: utilising variety of resources; application of law to the facts; use of different disciplines outside of law, use of information technology to retrieve resources; understanding and working with legal rules and procedure.
- ‘Master’ skills: dealing with people with integrity; collaboration and teamworking; acting like a professional and dealing with other professionals; communication skills – including written and oral presentation.

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<sup>†</sup> An Innocence Project can be distinguished from other types of legal clinics that may work on criminal cases by virtue of the fact that it ONLY deals with wrongful convictions, i.e. an innocent person has been convicted of a crime that they did not commit, or did not occur. This can be distinguished from the wider term ‘miscarriage of justice’ which can rightly include those who should not have been convicted, but may have in fact been guilty of the crime concerned, or some closely related criminal activity (i.e. they were convicted of murder, where the ‘correct’ verdict should have been one of manslaughter – they did actually kill someone). Therefore, the term ‘wrongful conviction’ should always be preferred when talking of Innocence Projects remit, than ‘miscarriage of justice’. This remit also precludes consideration of appeals against sentence, and variation of convictions (replacing the charge convicted of for one less serious.) Clinics that deal with such cases are vital, but are not properly categorised as an ‘Innocence Project’.

<sup>♦</sup> see the article ‘Liberating Legal Education’ in Appendix, for more details on the history and spread of IPs.

Innocence Projects then provide opportunities for:

- critical skills development;
- ‘employability’ skills;
- information literacy;
- experiential ‘deep’ learning;
- reflective learning;
- ‘enterprise skills’ development;
- novel assessment;
- ‘ethical’ training;
- inculcation with ‘altruism’;
- NOT necessarily pre-vocational skills.

This is important because demand among law students (et al) is growing for:

- innovative, high-quality teaching;
- contextual learning;
- wider socio-political perspectives;
- focus upon ‘justice, fairness and high ethical standards’;
- opportunities to participate in pro bono initiatives

With tuition fees, the student as ‘customer’ will have heightened expectations. Final year student focus groups in the School of Law have heard complaints that there were not enough places on the Innocence Project, and that there were no similar projects available. Opportunities for stimulating extra-curricular work, with the potential to ‘enhance’ CVs will be increasingly in demand.

At present, the clinical legal movement in the UK remains limited, though going through a growth spurt. However, the focus of student law clinics remains civil law & pre-practice vocational skills. The Innocence Project, while a variant of the traditional law clinic, enlivens the clinical movement, by giving students the opportunity to work within the criminal law. This could have a vital long-term impact on the legal profession, with graduates (particularly the most able), rarely pursuing a career in criminal law where salaries are comparatively low. This (among other things) is leading to a dearth of dedicated criminal lawyers, exacerbating the situation for wrongful conviction victims.

IPs provide unique ‘enterprise’ opportunities in the law curriculum (especially where no other ‘clinical’ or practical experience is available). For example, the Innocence Project at Leeds has:

- Stimulated team-working (firm friends have replaced strangers);
- Encouraged students to ‘think outside the box’ (develop innovative ideas);
- Encouraged networks with the local/ regional legal community;
- Required students liaise with real legal professionals/ other agencies;
- Insisted that students deal with others in a professional manner;
- Demanded problem solving/ creativity/ strategic thinking from the students;
- Unearthed hitherto untapped reserves of (self) motivation, altruism, and initiative;
- Developed advanced communication skills;
- Persuaded the students that they can have influence, power, and passion!

The project also encourages and facilitates pro bono work within criminal law by enabling solicitors to become involved in wrongful convictions, without the commitments that currently dissuade most. It also assists the overburdened CCRC in their mission to refer meritorious cases to the appeal courts. The project, as well as inspiring students, engaging lawyers and assisting a public body, stretches the ‘reach’ of the law school into the community, utilising its resources and expertise for the greater good of society. The project has assisted graduates with gaining the confidence to be assertive – to act with initiative – and be enterprising yet ethical. Employers will benefit from these skilled, enterprising and reflective graduates with a passion for justice, and a strong ethical foundation.

**Lawyers as social entrepreneurs... the possibilities are endless!**

## 2. The UoLIP Year

6 <sup>th</sup> September	SLS Annual Conference, Glasgow, Paper presented: 'Liberating Legal Education? Innocence Projects in the US and Australia'.
30 <sup>th</sup> September	Innocence Network meeting, Bristol University Law School. Paper presented: 'Educational Benefits of Innocence Projects'.
12 <sup>th</sup> October	First meeting of UoLIP student members.
15 <sup>th</sup> October	United Against Injustice (UAI) Annual Meeting, Manchester.
19 <sup>th</sup> October	2 <sup>nd</sup> meeting – 'What is an Innocence Project?'
26 <sup>th</sup> October	3 <sup>rd</sup> meeting – 'What is a wrongful conviction?'
28 <sup>th</sup> October	4 <sup>th</sup> meeting – 'Causes of wrongful convictions'.
2 <sup>nd</sup> November	5 <sup>th</sup> meeting – Dr Andrew Green: how to investigate a case.
9 <sup>th</sup> November	6 <sup>th</sup> meeting – Mrs & Ms Littlewood: personal account of MoJ.
16 <sup>th</sup> November	7 <sup>th</sup> meeting – Dr Andrew Green: how to apply to the CCRC.
23 <sup>rd</sup> November	8 <sup>th</sup> meeting – In the Name of the Father – film showing.
5 <sup>th</sup> December	Publication of 'Inside Times' letter.
7 <sup>th</sup> December	UoLIP visit to Bristol Innocence Project – CCRC talk.

### Xmas Break

18 <sup>th</sup> January	9 <sup>th</sup> meeting – Rob Rode (solicitor) 1 <sup>st</sup> visit.
25 <sup>th</sup> January	10 <sup>th</sup> meeting
1 <sup>st</sup> February	11 <sup>th</sup> meeting
8 <sup>th</sup> February	12 <sup>th</sup> meeting
11 <sup>th</sup> February	AMICUS talk – Manchester. UoLIP members attend.
15 <sup>th</sup> February	13 <sup>th</sup> meeting
20 <sup>th</sup> February	UoLIP office opening! Training on office protocols.
22 <sup>nd</sup> February	14 <sup>th</sup> meeting
March -	Law Teacher article 'Innocence Projects in the UK – the story so far.' With M.Naughton of UoBIP.  Short news item in Leeds & Yorkshire Lawyer: 'The Age of Innocence'.
1 <sup>st</sup> March	15 <sup>th</sup> meeting – Rob Rode visit
8 <sup>th</sup> March	16 <sup>th</sup> meeting

15 <sup>th</sup> March	Seattle, Innocence Network Conference. Plenary session: 'International Developments: Innocence Projects in the UK'.
15 <sup>th</sup> March	17 <sup>th</sup> meeting.
22 <sup>nd</sup> March	18 <sup>th</sup> meeting – John Weate (solicitors) visit.

Easter Break

26 <sup>th</sup> April	Module fair – UoLIP desk to attract 2006/07 members.
26 <sup>th</sup> April	19 <sup>th</sup> meeting.
3 <sup>rd</sup> May	20 <sup>th</sup> meeting – Rob Rode.
10 <sup>th</sup> May	21 <sup>st</sup> meeting
11 <sup>th</sup> May	Enterprise in Law, UKCLE, Leicester – Paper presented – 'Social Entrepreneurship and Innocence Projects'.
17 <sup>th</sup> May	22 <sup>nd</sup> meeting
24 <sup>th</sup> May	23 <sup>rd</sup> meeting
31 <sup>st</sup> May	24 <sup>th</sup> meeting – Certificate presentation.

End of UoLIP meetings.

30 <sup>th</sup> June	Publication of 'Liberating Legal Education? Innocence Projects in US & Australia' in (2006) 3 Web Journal of Current Legal Issues (peer reviewed).
12-13 <sup>th</sup> July	International Journal of Clinical Legal Education Annual Conference, London, Paper presented 'Law Student as Social Entrepreneur?: The Promise of Innocence Projects in England and Wales.'
14 <sup>th</sup> July	Clinical Legal Education Organisation Annual Conference, London, Paper presented: 'Liberating Legal Education? The Innocence Project as Social Entrepreneur Incubator'.
To come:	Enternet – 'Social Entrepreneurship and Innocence Projects'.

Statistics

192 letters of application.

157 questionnaires sent out.

102 questionnaires returned completed.

3 Cases taken on (2 with case files received and work proceeding).

14 Cases 'pending' (under consideration for possible investigation subject to further details).

### 3. End of Year Assessment

#### a) Practical issues

As with almost any extra-curricular project, there are practical issues that need consideration. An Innocence Project requires 'room' for students to work in and meetings to be held, but also space for files to be kept securely and confidentially. This requires some dedicated space that is not used for teaching. With space at a premium, this can prove difficult, but for an IP to work, such space is essential. The UoLIP was fortunate to be given some non-teaching space, which is large enough to be used for meetings, as well as holding two computer stations, and plenty of space for case files. This room can only be accessed by a key from the main law school office, and only students on the UoLIP are permitted access to this key. This security, while essential for the confidentiality of documents, also adds to the 'special' nature of the project, (which the members value), and also gives the UoLIP an 'identity' within the department, as it merits its own space. This of course assumes strong institutional support, without which an Innocence Project could easily flounder.

Along with necessary space, an IP is also time intensive, and requires close supervision by staff. This can be costly in terms of staff time and commitment and it is the staff-intensive nature of such projects that is most often cited as the reason for not attempting to commence a project, or its cessation. As well as expecting students to commit time for free, and also legal professionals, it may be incumbent upon staff to also supervise such projects 'pro bono' although it is clear that this is often not feasible.<sup>†</sup> The UoLIP was generously funded by the WRCETLE in its pilot year, and funding was secured for its short-term future, but the financial/ space/ and time demands of the project will mean that to sustain its long term sustainability, it will have to continue to secure external funding.

In addition to the commitment required by the institution, staff, and students, most IPs will require the input of legal professionals (those with a practising certificate). These are increasingly scarce in university law departments, particularly where there is no legal training courses offered (the LPC/ BVC). This requires the gaining of support from local solicitors. In the case of UoLIP, we have two solicitors who visit the project regularly for legal advice. However, as the UoLIP do not take the place of solicitors, and at no point do we offer legal advice to applicants, it avoids the necessity of indemnity insurance. It is anticipated, that as cases are taken on, and applications to the CCRC are developed, then increased legal oversight may be necessary and this issue may be re-visited. However, as any person can assist with an application to the CCRC, the UoLIP is able to 'assist' applicants without entering a lawyer-client relationship. All documentation makes it clear to applicants that the UoLIP is NOT offering legal advice, and that in all instances, it is recommended that professional legal assistance is pursued in preference. However, in the cases selected, this is no longer an option. In addition, there is potential in the future to be able to assist solicitors on cases where they are unable to do thorough investigations. In such instances, again, the UoLIP would be covered by the insurance etc. covering the solicitor.

\*\*It is not ruled out that in the future, the UoLIP may develop to the point where it may be desirable that staff are legally qualified, and indemnity insurance is required, and other projects should ascertain precisely how they are going to operate and if insurance is required for their projects.\*\*

#### b) Moral dilemmas

In addition to practical considerations, the nature of the UoLIP also provides opportunities for ethical dilemmas. While practical issues can normally be solved with some financial support and staff commitment, the ethical dilemmas may be less easily resolved and may require more external

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<sup>†</sup> Though it is tentatively suggested that if intending to demonstrate to students the benefits of *pro bono* work, and inculcate students with altruistic leanings, then it could be best done by leading by example, and having staff commit some of their 'free' time to such projects, as happened during the UoLIP pilot year.

support. However, this may not always be the case, and while many Innocence Projects have 'Advisory Boards' or detailed reporting procedures to external 'authorities', this has yet to become necessary at Leeds, and some other more long-standing projects that sometimes face similar dilemmas have not yet required the input/guidance of an Advisory Board. During the year, any 'ethical' dilemmas that have arisen were dealt with by having a debate with the students at one of the weekly meetings. ♦ Whilst there were often a variety of perspectives taken, at no point were we left with a less than unanimous decision. It was also decided that such decisions were to be taken in consultation with the students, rather than 'imposed' by external authorities. (This again, will be subject to review once the Project becomes more established).

However, there was an instance during the year when one applicant was dealt with by the Director and Manager alone, without involving the UoLIP student members, although it was explained to them that the nature of this applicant's initial letter and documents was such that it was not suitable for students to read. This decision was taken in consultation with the Head of the School of Law. In addition, there was one threatening letter from a prisoner whom we had rejected, although this, like all post, was addressed to the UoLIP Director, so was easily diverted from the students. It did however point to the necessity of project supervisors taking an active role in reading incoming letters to be able to identify such problematic cases from the outset, and prevent any unnecessary upset for student members. However, the students must understand the nature of the work involved, and that at some point, it may be necessary for them to read/view disturbing material. During the pilot year, the students have not shown any signs of distress and were given opportunity to discuss any potentially upsetting materials openly, or in private. This will be an ongoing necessity, particularly as case investigation develops.

#### c) Student participation.

All the students took an active role in the establishment of the Project protocols and criteria. Many however were disappointed that during the year, it was not possible to get too far into investigating cases, as time was taken with establishing the project, and dealing with letters of application. However, the students still appreciated the experience of setting up the project (see student feedback). Even from those letters of application, many of which were accompanied by documents, students were required to condense often complex cases and lots of information, extracting salient points from them. They had full 'ownership' of the cases that the IP worked on and chose which cases to work on, and the most effective way in which to begin investigating. That the students had such ownership was essential for the purposes of the project. The students almost all agreed that this made them feel like they were integral parts of the IP (see feedback).

Students were required to regularly update solicitors and other members of the project on the cases they were considering. Some of the students clearly found this a challenge as some cases were complex and the details not always set out coherently, but they did find it useful. By presenting salient features of their cases to the IP members, students became more confident about important key points and were keen to discuss 'their' cases. Due to confidentiality requirements, many members were pleased to be able to discuss their cases openly at meetings, as they are prohibited from discussing them outside of the project. The discussion about cases also inevitably led to lively discussion about how the justice system operates, and how and what solicitors have to deal with in their profession.

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♦ For example, were we to investigate cases where applicants were no longer imprisoned? This led to a unanimous decision that, while the presumed position would be that those imprisoned would be prioritised, there could be cases taken on where they were not in prison, and this would be decided on the individual merits of the case. In addition, the UoLIP members debated over whether to assist an applicant who claimed wrongful conviction for murder, but where he freely admitted committing previous murders. In this event, the decision was that as any assistance would not gain this person's release from prison, their case would not be investigated. Similarly, where applicants admitted sexual contact with 'victims' but claimed wrongful conviction because of a defence in law which made them 'innocent', these cases were debated, each on their merits, but it became clear that only in the most serious of cases of alleged wrongful conviction would such cases be considered for investigation.

d) Widening participation.

The IP was hindered in the beginning by a lack of enthusiasm from the local legal community. However, through contacts, a number of solicitors agreed to work with the project. It is not envisioned, for a variety of reasons, that a lack of professional volunteers will be problematic in the future. Through working with the solicitors who did agree to affiliate to the project, it became clearer how to 'sell' the project to local lawyers, and stress the benefits for them. It will be envisaged that more solicitors will be recruited in the future, but as these relationships need to be 'supervised' to a degree also, it is felt that there are sufficient numbers of lawyers at present, although there will be efforts made to recruit more legal professionals, in an effort to see if the UoLIP can be further extended in the coming years, without having to dedicate additional teaching staff from the School of Law.

An additional 10 students are being recruited onto the project in 2006/07, to join the 5 members who have spent a year on the project already. There are 5 second-year students who have already applied and been accepted, and it is anticipated that five first year students will also be recruited during induction week. There have been many more inquiries from students wishing to join the project, including interest from outside the School of Law (including philosophy and history students). The students on the pilot year were split between LLB Law students and BA Criminal Justice Studies students.

e) 'Enterprise' skills.

Students developed a number of skills which they may not have had the opportunity to develop had they not been in the project (see student feedback). Students at the commencement of the project, at times seemed reluctant to take firm decisions and as such, some cases took some time to be processed. The students were required to make a lot of decisions in a short time period – a result of the deluge of applications at the start of the project. Some of them did seem overwhelmed by the number of (hard) decisions that they were expected to make. By the end of the project however, the students were far more adept at taking swift(er) decisions and acting upon them with decisive action, rather than prevaricating.

The students most often proved to be far more proficient at talking than listening. This is a 'skill' which has still to be worked on in order for the project to work to its maximum potential. This was largely seen as a result of enthusiasm – each team was so keen to talk about their cases, it was difficult at times to get them to sit and listen to other teams. When the project proceeds next year, the case presentations will be more lengthy and detailed (as the case investigation proceeds) so it is anticipated that this small problem can be tackled by making clear time for each team – by splitting them into segments/ different weeks, in which the whole project will concentrate upon just their case.

All members of the project developed new skills during the year, and could be seen to have 'grown' in terms of confidence, and took great pride in their work on the project. Many expressed satisfaction at being able to think for themselves, rather than passively 'learn' from a curriculum. All the students had to forge relations with their partner, and the rest of the members of the project, at the same time as taking on a great deal of personal responsibility. The opportunity to get a real insight into the criminal justice system and the courts, by working with those who work in the system, and those who are subject to it, was welcomed by all the students.

While this year the students had to be creative in establishing the project, as the Project develops, the opportunities for the project members to be innovative and 'problem-solve' (in their case investigations), to liaise with other professionals and build the team, and to realise their self-motivation and initiative, will grow.

f) Accreditation/ assessment issues.

Students were cautious about the project being accredited and assessed. They agreed that the project was beneficial as an 'extra-curricular' activity and 'enjoyed' being able to spend their free time on the project. The reasons for reluctance to pursue accreditation varied but included concerns that if the project was assessed it would simply become just another part of their degree. Consequently, there were concerns that the project may attract students who simply wanted to gain credit, and were not truly dedicated to the ideals of the project. In addition, they would then not also benefit from any advantage that could be gained in the future as it would not 'stand-out' on a C.V. and their time spent on the project could just be seen part of simply another teaching module (many of the project members this year have already discussed their work on the project with future employers who have been very interested and some have claimed to have already gained a benefit from their involvement in terms of future positions).

There were also concerns that it would be difficult to accredit and assess the work done on the project (as well as adding significantly to the administrative/ supervision burden of the Director). Unlike a variety of other modules, it would be difficult to fairly gauge 'success' on an Innocence Project, or to allocate different grades. Indeed, the assessment issue is still debated among Innocence Projects across the US, who have been assessing students on such projects for many years.

g) Planning Ahead.

There are already in place the facilities to continue the UoLIP for the foreseeable future. During the pilot year, funding was secured from the City Solicitors Educational Trust, to pay 50% of a staff member's salary, who would contribute 30% of their allocated teaching allowance to supervising the UoLIP. This ensures the future of the project until at least 2008/09. The existence of the project is also an integral part of the Law Development Plan, with funding and facilities being sought to accommodate the project for the long-term future of the school of law.

A planned 'training' schedule has been drawn up for the first month of the project in 2006/07, which involves external speakers, and additional training by the Director. There may be a trip to the Innocence Project of Westminster, to spend a day on their Innocence Project. Speakers from the CCRC and from a prominent miscarriage of justice campaign have already been secured. In addition, a member from the pilot year, now undertaking their legal training in Leeds, is returning to assist with the supervision of the project and its new members (and continue with their casework already commenced).

It is anticipated that the second year of the project will be quite different from the pilot, as all the administrative setting up of the project is achieved, and the facilities and protocols are in place. This next year will be about building upon the success of the pilot, including working harder on the student experience of the project, something which was an issue in the feedback. Case work will commence as soon as the project regroups in October, enabling students to spend almost their whole academic year working on cases. This will enable the project to make some real progress on cases and get some applications started, if not completed, for the CCRC.

In addition to building upon the success of the pilot year of UoLIP, there are also 'spin-off' activities planned for 2007-08. These include (subject to further funding being secured) the running of an 'exchange' with the University of Washington at Seattle, (the Innocence Project Northwest), and an academic symposium on miscarriages of justice. During 2006, members of UoLIP went to the Innocence Network conference in Seattle, some with World Universities Network (WUN) funding, and the foundations were put in place for a symposium, one to be hosted by Leeds, the second to be hosted by Seattle. This symposium would be a great opportunity to highlight the position of the UoLIP as an accredited member of the international Innocence Network, and facilitate some research on miscarriages of justice between the UK and US. The members of the UoLIP would also clearly benefit from such activities, and would be expected to participate with the Leeds symposium.

## 4. Student Feedback

As part of their year, we asked students to write 500 words on what they had gained from being part of the Innocence Project pilot (and also how they would improve the project).

Many of them commented that the Project had helped them with deepening their understanding of the criminal justice system/ law, and helped them in their degree:

Criminal Justice and Criminology as a course is really interesting, but we are fed so much new information that sometimes it is hard to process, understand and remember it. The UoLIP offers students the chance to consolidate the theory that we are taught and apply it to real situations concerning real people. Personally, I have found that by being a member of the UoLIP, my understanding of the course has strengthened. I find myself relating to cases I have looked at with UoLIP when in lectures and seminars. On an academic level, I think that UoLIP has really helped and hope it will continue to do so!

I have found that the Leeds Innocence Project has been really useful to my degree. The project teaches you about the realities of the criminal justice system and therefore you get hands on experience of the positive and negative aspects. This information is obviously taught in lectures, but by using the criminal justice system myself I have gained more confidence in my knowledge. I have also found that mixing with the 3<sup>rd</sup> years meant that you could chat about our degrees with people who already knew them and this was really informative.

My experiences of the UoLIP have enriched the first year of my degree in terms of providing me with something relevant to my academic studies, yet something which I do through choice, without the pressure of assessment. I have learnt many things during my time so far in the UoLIP, but one of the most interesting concepts I have come across is the way in which different groups in society have varying opinions of the CJS in England and Wales, e.g. Policemen, solicitors, lecturers and students etc.

I have really enjoyed being part of the Innocence project, as I feel I have gained some invaluable experiences. I feel it has given me a much wider appreciation of the way that the criminal justice system operates in practice, by working on real cases and dealing with real life issues. It has helped me to understand that although the criminal justice system strives to achieve justice for all defendants, this is not always the case in practice and unfortunately, many people become caught up in a situation where they have been convicted for an offence they did not commit. Throughout the project, we have listened to a number of guest speakers, including prisoners' families, people from the CCRC and criminal solicitors, which has further deepened our knowledge about how the criminal justice system works in practice.

Throughout my time on the Innocence Project my knowledge and understanding of the Criminal Justice System in practice has grown. My involvement has helped me appreciate how complicated the appeal process is and difficulties and frustration prisoners encounter when trying to overturn their conviction. It has also given me the opportunity to appreciate the Criminal Justice System from the view of the criminal, and how in practice, sometimes offenders are 'let down' by the system.

I originally joined the project not knowing much about it, simply being interested in both criminal law and pro bono work. However, my experience of the project has provided a bigger insight into the world of criminal law than my three year degree has. While the start of the project was initially rather slow, it allowed for an interesting oversight into the appeals process and miscarriages of justice more generally. This was something I knew little about and so my knowledge has greatly increased. By being practically involved in this area of law I obtained a greater understanding of miscarriages of justice, which is an area of law often ignored in a law course.

The project has been a great way of meeting new people who have a similar interest in miscarriages of justice. Although it is an extra-curricular project, it has added to my academic learning in the field of criminal justice, which has helped me greatly in my criminal justice degree.

As a law student I feel the Innocence Project has given me a new way of looking at the law from a different perspective and has provided a welcome change from the traditional black letter approach taken by my course. It has made me more aware of my personal motivations for studying law and the way in which I would like to pursue a legal career. It has also given me the necessary experience to develop some of the skills which are invaluable in a legal career which are not provided for in a law degree alone.

The project has taught me about the fundamental problems that exist within the criminal justice system and as one of those that miscarriages of justice do occur but are however commonly overlooked by society. Additionally I have gained a greater in depth knowledge regarding the stage of the process of appeal and CCRC application. Complementary to my degree the project has allowed all members to experience live cases first hand, rather than taught about them through a textbook. These skills will contribute largely to the skills required in a career in the criminal justice system following university.

Others added to these benefits, 'skills' that they had learnt during the Project:

UoLIP has given me the opportunity to enhance skills which will be useful to me in the future such as communication, negotiation, analytical and organisational skills. Communication skills are essential in the UoLIP as you are required to communicate with your partner, to a small group of peers, with solicitors and with prisoners through written and verbal methods. Organisational skills are also essentials for arranging meetings with your partner, organising files in accordance with which stage of the process that particular file is at.

I wanted to join the UoLIP as it looked like something worthwhile, interesting and valuable not only for personal gain but also for the help it provided to miscarriage of justice victims. However I have gained a lot from the project. The work involved whereby communication must be made to vulnerable individuals for example many have learning and mental difficulties, has had great impact upon the development of my communication skills. The development of these skills has made me more confident in addressing others and has taught me how to communicate with individuals I don't know; values that I regard priceless when starting university and meeting new people.

Although I do feel that progress with specific cases has been limited, belonging to the project this year has been totally worthwhile nonetheless. I do not feel that I have built on my theoretical legal knowledge a great deal but have developed communication, decision-making, admin and organisational skills. My broader knowledge of the criminal system and how it works has grown immensely.

The project has been well organised, and has given everyone a 'hands on' opportunity to get involved with real-life cases. Despite the fact that it is extra-curricular, it has been thoroughly enjoyable and has provided me with the opportunity to do things which I may to have had the chance to do otherwise.

Working through the responses we received following our Inside Times article was interesting as it enabled me to learn about a wide range of different cases and prisoners in a short space of time. It also taught me the value of attention to detail and a prompt response to enquiries. It also gave me practical experience of how to manage a case effectively and the importance of confidentiality. Being involved in the process of choosing a case at which to investigate was very interesting. It taught me a lot about making decisions based on judgement and how to assess efficiently the merits of a case.

Some also commented on the impact the UoLIP had had on their outlook or career plans:

"Overall, I think that the innocence project is a good idea and it's working really well. It not only looks good on your CV and impresses people, but it is such a good life experience and has changed my outlook on a lot of things. It has taught me not to jump to conclusions and make judgments on the facts given; it is essential that you explore in more detail before forming an opinion! On the other hand it has shown me what 'real life' is really like; although I am studying Criminal Justice, I don't think I was fully aware of what people actually go through and how it must feel to be in the situation that some of our applicants are in. I'll be able to take with me some valuable skills into my future career."

Shortly after the innocence project began, we had members of a prisoner's family talk to us about their experience of a miscarriage of justice. This made me appreciate how devastating how such an ordeal can be not only for the prisoner but also for the family. It has also made me realise how important projects such as the innocence project are in trying to get innocent people out of prison.

It has been very interesting working on genuine cases with such life changing consequences. Also during my time on the project I have meet and worked with a few solicitors which, as my goal is in the future to be a solicitor, this has given me the opportunity to better appreciate such a profession.

Although this year we have not really got into any cases I am really glad that I have been part of the project from the beginning. The experience of setting up the project was a beneficial one and one that I can take into the work place in future. I also feel that now we have the room and all the computer databases set up we are ready to take on cases in an organised manner. Organisation is a key part of the project, as we are dealing with people's lives, and this is a skill which is essential to everyday life and therefore learning now will be good for my career.

I joined the Innocence Project on a whim having seen one lone poster advertising it in the law common room. I was unsure what the Project was about and what commitment it would involve, but was attracted by the idea of 'pursuing justice'. I had heard about famous miscarriages of justice and felt appalled by their occurrence; an opportunity to investigate them and possibly even rectify them was unmissable. Having studied law for two years, embarking on my third, the chance to look at the law in practice in real cases was something I was enthusiastic to do; extending my theoretical knowledge. The human aspect to criminal law has always appealed to me and I hoped that gaining experience in the legal criminal process would help me to decide whether it would be the right specialism for me in a legal career.

There were comments on the future of the Project and the aspects which they most enjoyed:

It was interesting to be part of the setting up of the project as it allowed me to have an influence over the running of the project and the direction it should take. It allowed the project to take on a personal meaning, feeling like something that we were actually a part of rather than following prescribed and fixed rules and procedures.

Experiencing a slice of reality; the realisation that letters were coming from real people made rejections really difficult, but pursuing a select few cases all the more rewarding. Receiving our first case file; it represented something tangible that we had achieved and a challenge ahead. Felt real excitement!

The Project as a whole has been a massive learning curve and I feel proud of what we have achieved over the year, essentially coming from nothing to a fully functioning Project. Ideally, our time would have been less taken up with admin and trudging through the massive influx of cases we initially received, but I think this was bound to happen as our service suddenly became available; the huge initial response was unavoidable. Our contribution has been valuable this year in setting up processes and bringing the Project to a point where it exists and is ready to get real case work underway. We could not have got to this point without all the preparation that has taken place over the year. While I appreciate this I feel disappointed on a personal level that I didn't get more intellectually involved in a specific alleged miscarriage of justice. I think that a priority for the Project next year is to really ensure that students do get involved with a case; after all that is what the Project is set up for. There is the potential for students to feel passionate and that is how they will learn the most from their experience.

The non-competitive ethos of a volunteering project is particularly valuable as people are involved because they are interested and not because they want to score points. I was impressed that the University had invested time, and office space (!), in an activity that is not part of the degree but simply meritorious by its nature. Should UoLIP become a module it will lose this quality.

I am sceptical of the system and have realised that nothing can be accepted on face value; the truth may be hard to spot and it is worth investigation to find it. The Project is now well-founded and will go from strength to strength I am sure. It has been a valuable addition to my university experience. I am certainly not put off a career in law!

Working on actual cases has been most definitely the most enjoyable part of the innocence project. Unfortunately as a third year student working on the project I was not able to fully investigate the case which my pair had chosen which was a shame as this is what we spent the year working towards. Hopefully this would not be a problem in future years since the project will already be underway when students begin.

There were also comments about some of the problems encountered during the pilot year:

As members of UoLIP in its preliminary stages, a heavy workload was required whereby hundreds of letters needed to be read and responded to every week. However the work wasn't a burden as I found it interesting and being split into pairs made it much easier and also enjoyable. As the project has been established this year we have faced many challenges and have had to reach difficult decisions for example what questions should be asked on the preliminary questionnaire and how they should be worded in order for them to be understood. Helping to establish the project by being involved in such decision-making has been of great value in contributing to my understanding of how an innocence project operates and how they can be set up.

Future students who take part in UoLIP are likely to have a much more rewarding experience as this year has been mainly focussed around the actual setting up of the project which involved general administrative duties. Obviously this was essential when starting up a new project, however, it is difficult to feel satisfaction if you never get to witness the results of your work.

One of the main problems with the Project has been the sporadic nature of the work load. At some points there was a great deal of reading and correspondence to deal with and a large amount of decisions to be made in a short space of time. Perhaps this is reflective of the time at which we joined the project, being in its first year.

As a whole the project has been a worthwhile experience that I wish to continue throughout my time at university. Although problems have arisen they have only challenged my partner and I to think of the most effect way of resolving them. As a whole the enjoyment and skills that have gained from the project have been invaluable.

The organization of the Innocence Project I feel on the whole has been good. At the beginning several different guest speaker came to talk to us and help us get to grips with how the project should be run and how various stages in the appeal processes work. This was extremely helpful not only in the running of the Innocence Project but also has helped me with aspects of my Criminology Degree.

The project has been informal yet well run. Both Dr Carole McCartney and Jonny Burnett have been efficiently well organised and dedicated. This has been shown throughout the project. The workings of the project have been much easier now that we have the use of a room and a computer. It has also given me an opportunity to meet new people with similar interests and work in a very proactive way.

On the whole, the students appeared to enjoy their year as part of the UoLIP. There was good attendance at meetings, although some were missed for the usual reasons. There was no noticeable 'drop-out' during times when the students workload was at its height – something that had been anticipated. Of the 10 students recruited, only 1 could be reported to having maintained a position on the 'sidelines', and this was a combination of personality and struggling with their first-year workload. During the year, there were also several attempts by others to join the project (including non-law students), having heard about it from the members/ website. The project now has a long list of students who wished to join the project next year – from which 5 second years have been chosen, to join the existing 5 members (also 2<sup>nd</sup> years next year) and 5 first years, to be recruited during Induction Week. In law school focus groups, some feedback commented specifically on the wish that more students could be involved in the Innocence Project.

## 5. Some Tips on Starting Casework

- ◆ Before any cases are 'opened' and investigations commenced, the Project must establish working protocols, so that all members know what is expected of them: how to work; how to keep records; and how they will have to report upon their work.
- ◆ **KEEP RECORDS!** There **MUST** be an 'institutional memory' created – so that students that come after you know what has/ has not been done with the case. Everything that is done/ read/ written/ investigated must be recorded – and a log kept of progress made.
- ◆ You **MUST** first know the facts that are public record. If you don't – no-one will take you seriously. That is **FIRST** and most important task.
- ◆ The second task: produce a timeline for the case – a detailed chronology of the incident, followed by important events (trials/ appeals etc.) Using a timeline, highlight the 'fissures' – the pressure points where you can find discrepancies or find problems with the case.
- ◆ The third task: produce a 'Dramatis Personae'; a cast of characters. Get **ALL** names and details of anyone who is involved at all in the case.
- ◆ Whilst doing all the above – create an inventory of documents – list all the documents on the case and where they are/ what they contain. The **PEOPLE** have to maintain a close relationship with the **PAPER!** This is a symbiotic relationship.
- ◆ Interview techniques should be discussed **BEFORE** students approach people. Practice ice-breaking and talking to people on human level (particularly witnesses/ victims). Start with 'funnel' approach – start open-ended and 'funnel' the interviewee down to specifics.
- ◆ Students **MUST** learn active listening techniques. Practice their manner of response – affirmation etc. 'nurturing' the interviewee to get better results (and avoid offence).

## 6. Top Ten Tips for Student Supervision on an IP

1. Establish procedures from outset on record keeping, information preservation, and reporting. The students must know what is required of them from the start. Procedures should be set up to HELP students organise their work and keep track of their work. Create systems to preserve information from year to year. Students MUST report REGULARLY and complete status reports. This gives the students a strong framework within which to work, and will assist them to work to best effect and prevent too much prevarication and time-wasting. Any 'drift' will also become apparent fairly quickly and can be halted.
2. Provide training while allowing autonomy. Must have induction training on how to work on cases (investigative techniques). Allow individual decision-making (it's 'their' case). This gives students investment in their cases, giving them responsibility improves dedication.
3. Maintain and initiate regular communication. PREVENT SLIPPAGE. Find a level of 'comfort' but make sure as supervisor you are pro-active – reach out to students to keep them enthused and engaged.
4. Provide appropriate incentives. Make sure they have reason to do the work – give them opportunity for hands-on work and expeditions out of classroom. This helps PASSION for the work (and distinguishes it from their other 'dull' classes).
5. Stay positive when progress is slow. Be honest with students about how hard the work may be and the small chances of any real progress being made very quickly. Recognise and deal with frustrations. Perseverance is required – but students accept this if they have been warned first.
6. Remember what you didn't know. There are different levels of experience when students enter project – assume little prior knowledge. Don't use 'jargon' or talk in terms of past cases that they might not know of.
7. Create opportunities for group learning and activity. Make sure it remains a GROUP – prevent students feeling isolated and working alone. Ensure SHARING of work and responsibility (brainstorming sessions for easing individual burdens).
8. Remain accessible. Ensure regular meetings and make supervision a pleasure – not daunting – you need to encourage students to come to you with problems and not hide them.
9. Give *and receive* feedback. PRAISE is essential so students know when they're working well and keep them enthused. Keep to constructive criticism. Ask for student's opinions on the project and how to proceed – they need 'ownership' of the project – let them tell you what to do (within reason!).
10. Share exoneration stories. Light the fire and keep it alive by sharing stories of cases overturned and lives reclaimed! Learn from / share with other projects. Students often then leave wanting to dedicate rest of life to the cause – which will come in useful for the future!

## 7. Office Protocols:

# UoLIP OFFICE PROTOCOLS

### **Initial Application Letter**

1. Open applicant Database
2. Create a new entry – record no. of applicant on D/B in RED PEN on top right corner of letter (make sure all safely paper clipped together).
3. Fill in name/ prison/ prisoner. No on D/B for new entry.
4. Print off 'Initial Response' letter (amending date/ applicant name). USE Leeds headed paper.
5. Write envelope – paper clip to letter.
6. Put in 'OUT' tray.
7. CM/ JB – photocopy onto PURPLE paper – sign & send.
8. Purple photocopy and original letter put in plastic file – and added to 'IN' tray.

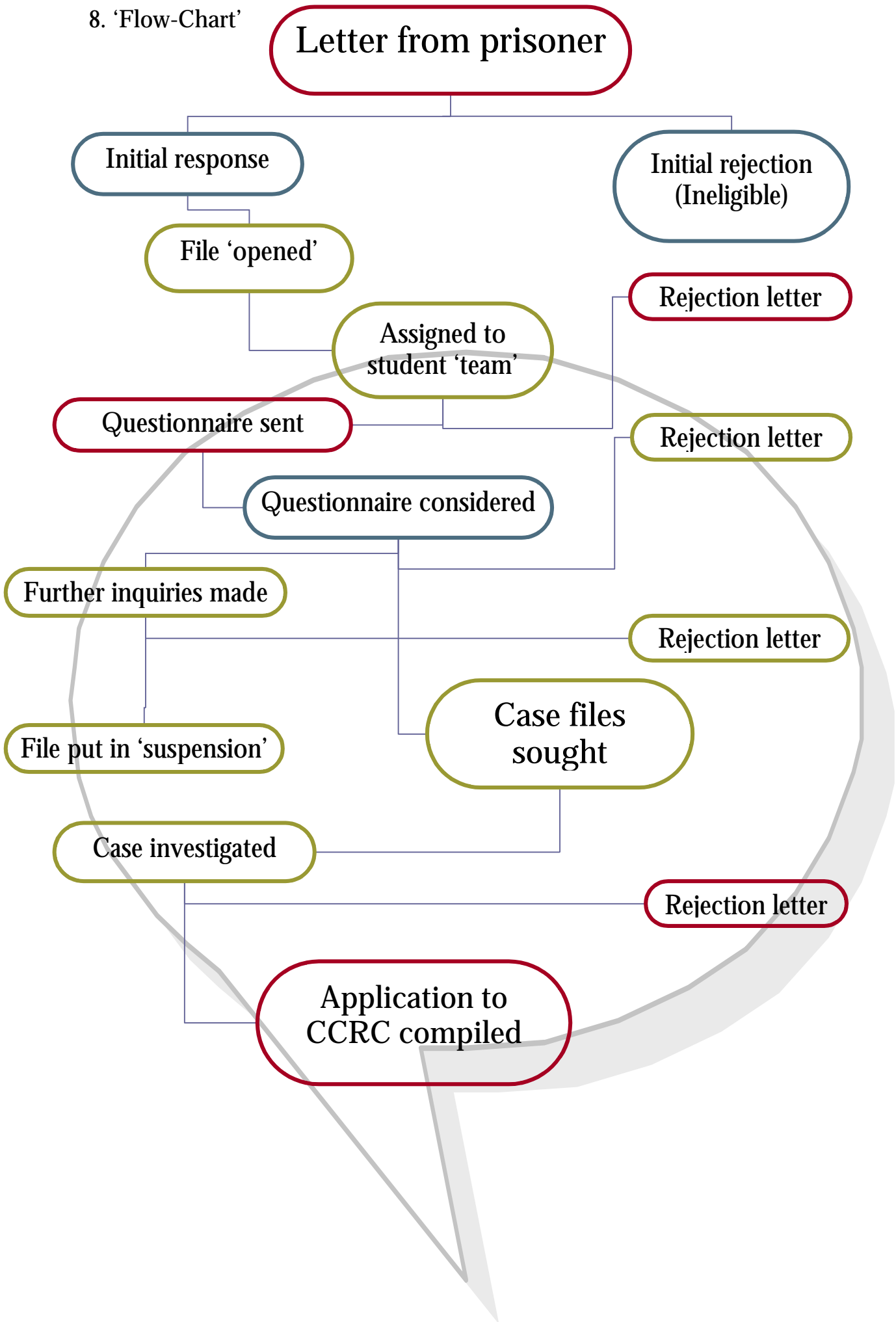
### **'Other' Letter**

1. Check urgency of letter – if appears urgent – put in 'OUT' tray for attention of Director – with Post-It note attached saying 'Urgent'.
2. If not URGENT - open applicant D/B – find applicant entry.
3. Put applicant no. on top right corner of letter.
4. ALSO – put on initials of team assigned to that applicant.
5. Place in the appropriate team postbag.

### **Completed Questionnaire**

1. Open applicant D/B – check ref. no for applicant.
2. Fill in any missing entries on D/B – AND put 'Q-R' in appropriate field.
3. Fill in date of receipt and team allocated on front of questionnaire.
4. Print off 'Questionnaire receipt' letter (amend name/ date).
5. Write envelope/ paper clip to letter – put in 'OUT' tray.
6. Write 'R' in top right corner of questionnaire.
7. Place questionnaire (carefully attach any extra papers) in appropriate team folder.

8. 'Flow-Chart'



## 9. Financial Statement

Date	Expense Details	Cost
30 <sup>th</sup> Sept 05	UoBIP Open Day – CM & JB – travel expenses.	110
15 <sup>th</sup> Oct 05	UAI Annual Meeting – Mancs CM & JB – travel expenses	38.10
7 <sup>th</sup> Dec 05	UoBIP Visit/ CCRC talk. All members.	376.80
7 <sup>th</sup> Dec 05	UoBIP Visit – lunch for UoLIP members	56.50
30 <sup>th</sup> Dec 05	JB Salary (Sept/Oct/ Nov).	270
30 <sup>th</sup> Jan 06	JB Salary	120
24 <sup>th</sup> Feb 06	CM – London Seminar – travel expenses	34.40
28 <sup>th</sup> Feb 06	JB Salary	120
Feb 06	Computer & printer for UoLIP Office	690.71
March 06	Innocence Network Conference – Seattle – Flights CM&JB	853.20
March 06	Innocence Network Conference – Seattle – Fees CM&JB	205.59
March 06	Innocence Network Conference – Seattle – Accom. CM&JB	443.60
March 06	Innocence Network Conference – Seattle – Travel CM&JB	26.00
March 06	Media Services – UoLIP Leaflet & Poster design/ printing	145.00
30 <sup>th</sup> March 06	JB salary	120.00
30 <sup>th</sup> April 06	JB salary	120.00
30 <sup>th</sup> May 06	JB salary	120.00
31 <sup>st</sup> June 06	JB salary	120.00
June 06	End of year Certificates - paper & frames	18.99
	<b>TOTAL:</b>	<b>3988.89</b>

## 10. Appendices

\* We operate a basic 'colour code' scheme for ease of case management. This means that ALL letters that we send to the applicant are photocopied in PURPLE and kept on file. The Preliminary Review Form for each file is YELLOW. The questionnaire is GREEN and the Authorisation form is ORANGE (which has now been short-handed to the 'orange form'). This simply makes it easier to find these documents in a mass of white sheets of paper.

Copies of:

Confidentiality agreement

Initial response letter

Preliminary Review Form (Yellow)

UoLIP Questionnaire (Green)

Questionnaire receipt

Reject letter – resources. (There are a series of template letters covering the majority of reasons for rejection – but each one is tailored specifically to 'fit' the applicant.)

'Summer break' letter.

Authorisation Form (Orange)

Case Review Log

Law Teacher article.

WJCLI article.

Seattle presentation.

UKCLE/ IJCLE / CLEO presentations (amalgamated into one).

# **The University of Leeds Innocence Project (UoLIP)**

## **Confidentiality Agreement**

### **Confidentiality**

1. From the moment a request for assistance regarding a wrongful conviction (past or present) is made to the UoLIP all details of the case are confidential.
2. Students can discuss details of a case only with other present members of the UoLIP including other students, legal representatives, and the Advisory Board.
3. All correspondence between members of the UoLIP and past or present applicants must be kept securely in the UoLIP office.
4. The UoLIP room must be locked if no staff or students are present.
5. Correspondence between past or present applicants and the UoLIP cannot be removed from the UoLIP office without prior authorisation from the UoLIP Director or Manager.
6. Documents relating to cases cannot be removed from the office without prior authorisation from the UoLIP Director or Manager.
7. Students must abide by the office rules of the UoLIP at all times.
8. UoLIP Students can discuss details of cases with other UoLIP students provided they do so in a manner where details cannot be, intentionally or otherwise, divulged to third parties.

### **Contact with applicants and others**

1. Unless authorised by the UoLIP Director or Manager, no phone calls between past or present applicants and UoLIP members are to be conducted.
2. All outgoing mail is to be sighted and signed by the UoLIP Director or Manager.
3. All phone enquires about the Innocence Project should be directed to the Innocence Project postal address, or email address.
4. Students will not identify themselves (i.e. their full name) in correspondence with applicants unless this is cleared by the UoLIP Director or Manager.
5. Students will not contact – by phone or by writing – any person connected to an applicant's case without authorisation from the UoLIP Director or Manager.
6. Students will not visit a past or present applicant without authorisation from the UoLIP Director or Manager.
7. Students will not visit a past or present applicant unless they are accompanied by a legal practitioner or any other person authorised by the UoLIP Director or Manager.
8. Students will not interview a person, investigate a site or do any other field investigation without authorisation from the UoLIP Director or Manager.
9. Students will not contact the victim, or members of the victim's family, friends, or colleagues.

### **Conflicts of Interest**

1. Students should not be involved in any case where they have prior dealings with an applicant or a witness or any other relevant party to the case.
2. If students know an applicant or any other party involved in a case that they have been assigned they should notify the UoLIP Director or Manager as soon as possible.

3. If students have worked with a solicitor or any other organisation which has previously represented an applicant, they should notify the UoLIP Director or Manager as soon as possible.

### **Case Work**

1. If a student wants to withdraw from a specific case for safety reasons, or due to other concerns, they are free to do so provided they contact the UoLIP Director.
2. If students have doubts, queries or concerns about the case that they are working on, they should notify the UoLIP Director or Manager as soon as possible so that they can be assigned to another case.
3. The Director has the discretion to remove students from any case at any time due to concerns she has about their safety, a real or perceived conflict of interest, a problem with confidentiality or any other reason.

### **Media Policy**

1. No student is to contact or speak to a journalist or media outlet without the permission of the UoLIP Director.
2. Any student can decline to be interviewed, filmed, photographed or otherwise involved in any media story or coverage of the UoLIP.
3. No student details will be given to any media outlet by the UoLIP Director or Manager.
4. No students will be identified by surname in any media story, photograph or footage without their consent.
5. Students will not discuss details of any case they are working on with journalists unless this has been discussed with and approved by the UoLIP Director, the applicant involved and any legal practitioner assisting with the case, prior to any discussion taking place.

**Student Name**.....

**Student Signature**.....

**Date**.....

# UoLIP

The University of Leeds Innocence Project  
The School of Law  
20 Lyddon Terrace  
Leeds  
LS2 9JT

DATE

Dear Mr,

Many thanks indeed for your letter. We are pleased that you have taken the time to write to our Project and send us some details of your case. The Project team will consider your letter in due course and will be in touch with you with regards to whether we are able to offer any assistance. We have to date had over \*\*\* requests for assistance, so please accept our apologies if you do not receive a response to your inquiry as quickly as we would wish.

May we remind you at this point, that the UoLIP is an educational project for students, with the aim of assisting those who have been wrongly convicted and lost their appeals, with writing an application to the CCRC. We do not take the place of legal representatives, and do not assist with first appeals. In addition, we only assist those who are innocent of the crime for which they have been convicted, we do not look at appeals against sentence.

From everyone at the project, we wish you well, and assure you that we will be in touch with you as soon as a preliminary decision has been made.

Yours sincerely

Dr. Carole McCartney  
UoLIP Director

# UoLIP

## Preliminary Review

### Applicant Details

<b>Name</b>	
<b>Sex:</b>	
<b>Date of Birth:</b>	
<b>Nationality:</b>	
<b>Prisoner no:</b>	
<b>Prison address:</b>	
<b>Date Received initial letter:</b>	<b>Our Ref:</b>
<b>Assigned to:</b>	
<b>Action:</b>	
<b>Sent Questionnaire Y/N:</b>	<b>Authorisation form sent Y/N:</b>
<b>If case not taken on, brief reasons:</b>	

<b>Conviction Date:</b>	
<b>Sentence:</b>	
<b>Plea:</b>	
<b>Appeal Details:</b>	
<b>Applied to the CCRC:</b>	

**Documents Reviewed:**

**Additional information:**

# UoLIP

## Preliminary Questionnaire.

Please complete as clearly and briefly as possible. Leave blank any sections that do not apply. If you are uncertain of an answer, please insert a question mark (?) in the box. Your answers will be treated as confidential and will be used to make preliminary decisions regarding your case. Completion of this form does not mean that the UoLIP will definitely assist with your case. If you do not wish information to be used anonymously in possible future research on wrongful convictions, please indicate this at the end of the form. Feel free to attach extra sheets if more space is required, but please do not send documentation with this form.

For our use only: Date Rec'vd.:	Our Ref:
Assigned to:	
Action:	

<b>Your Full Name:</b> (include any previous names)	
<b>Sex:</b>	
<b>Date of Birth:</b>	
<b>Nationality:</b>	
<b>Prisoner no.:</b>	
<b>Prison address:</b>	

**Details of your case**

**Your arrest:**

Which police force dealt with your case?	
When were you arrested?	
Where were you arrested?	
Did you make any admissions to the police after arrest?	
What were you charged with?	
During interview, were you legally assisted?	

Any additional relevant information regarding your arrest/ the police investigation?:

--

## Your trial:

Trial date:			
Court:			
Offence:	Plea: G/NG	Result: G/NG	Sentence:
Name any co-defendants:			
What was the main prosecution evidence?  (e.g. confession, victim identification, eyewitness identification).			
Was there any forensic evidence used at your trial?			

<p>What was your defence? (e.g. alibi/ perjury/ false confession/ false identification/ malicious accusation etc.)</p>	
<p>What evidence was used in support of your defence? (e.g. witnesses/ alibi/ experts)</p>	
<p>Do you know of any NEW evidence that may support your claims of innocence?</p>	

Any additional relevant information regarding your trial?:

--

## Your Appeal:

Have you been granted leave (permission) to appeal?	
Which court have you applied to? (please circle)	Crown Court                      Court of Appeal (Criminal)
Have you had an appeal?	
If so, what was the date of your appeal?	Day/ Month/ Year:
Where was your appeal heard?	Court:
Did you appeal against conviction/ sentence/ both?	Conviction: Sentence: Both:
What was the outcome of your appeal?	
If you have not appealed, why not?	
Have any legal advisers given advice on an appeal?  If yes, please give their details and indicate their advice.	
Have you applied to the CCRC?	
Have the CCRC made a decision on your case?  If yes, what was it?	

Any relevant additional information regarding your appeal/ the CCRC?

**Further Questions:**

Do you have legal representatives working on your case at this time?

If so, please include their name/ address.

Have any other solicitors worked on your case at any time? If so, please include their details.

Do you have any other support?

Are you happy for us to discuss your case with supporters? If so, please name them (and any relationship to you) and provide their contact details.

Do you have a parole date?

If so, when is it?

What do you think are the primary causes of your wrongful conviction?

Please now read and confirm that you understand the following:

I .....understand that by requesting the assistance of the University of Leeds Innocence Project, I am declaring that I am INNOCENT of the crimes detailed and/ or I have clearly stated my involvement in any crime(s). The Innocence Project can discontinue assisting with my case at any time, and this will automatically occur if the information I have provided on this form, or in any future communications, is false. The information provided in this form is correct to the best of my knowledge.

**Signed**..... **Date:** .....

**Please draw a line through the statement which does NOT apply.**

I am happy for the information on this form to be used ANONYMOUSLY in future research on wrongful convictions.

I do not wish the information on this form to be used for any future research purposes.

Have you applied to any other Innocence Projects? Yes / No

Have you attached any extra sheets with this form? Yes / No

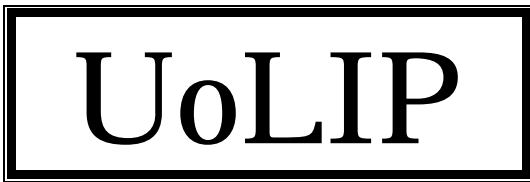
Please indicate how many extra sheets are attached:

Please return this form to:

UoLIP  
School of Law  
20 Lyddon Terrace  
University of Leeds  
LS2 9JT

We will acknowledge receipt of your form.

Educating Students  
&  
Assisting the Innocent



The University of Leeds Innocence Project  
The School of Law  
20 Lyddon Terrace  
Leeds  
LS2 9JT

DATE

Dear Mr,

Many thanks for your completed questionnaire and related documents, which we have received today.

Please be aware that we have very limited resources, and have had over \*\*\* requests for help so far, so it will not be possible to investigate all cases. May we also remind you at this point, that the UoLIP is an educational project for students, with the aim of assisting those who have been wrongly convicted and lost their appeals, with writing an application to the CCRC. We do not take the place of legal representatives, and do not assist with first appeals. In addition, we only assist those who are innocent of the crime for which they have been convicted, and we do not look at appeals against sentence.

We shall be in contact with you as soon as the Project team members have had an opportunity to assess your request. In the meantime, from everyone on the Project, we wish you well.

Yours sincerely

Dr. Carole McCartney

Educating Students  
&  
Assisting the Innocent

**UoLIP**

UoLIP Director  
The University of Leeds Innocence Project  
The School of Law  
20 Lyddon Terrace  
Leeds  
LS2 9JT

DATE

Dear

Many thanks for returning to us your questionnaire with the details of your case. The Innocence Project at the University of Leeds has very limited resources and regrettably, due to the number of requests for assistance, prioritising is necessary. Unfortunately, this means that at this time, the UoLIP will be unable to assist with your case.

We hope that in the years to come, we will be able to assist with more cases as the Project grows, and other Projects are established. We will keep your questionnaire on file however, and if circumstances change and we are able, we may reconsider whether we can investigate your case. If this happens, we will get back in touch with you.

Yours sincerely

Dr. Carole McCartney  
UoLIP Director

\*If the members of the UoLIP decide to proceed with inquiries, we will require access to documents and to communicate with third parties regarding your case. In order to do this, please read and sign the Authorisation below. This will be used **ONLY** if the UoLIP decides to make inquiries into your case. \*

# UoLIP

## **Authorisation for release of information.**

I hereby authorise any legal representative, student, or member of staff working with the University of Leeds Innocence Project to communicate with any legal bodies, including police and prison officials, previous solicitors/ barristers, and any other persons necessary for the evaluation of my case, and to examine and photocopy any documentation held by these bodies or persons regarding my case.

I hereby authorise any relevant body or person, to release to any legal representative, student, or member of staff working with the University of Leeds Innocence Project, any file or documentation that may be relevant to the evaluation of my case.

I understand that the University of Leeds Innocence Project undertakes to keep all communication and documentation regarding my case confidential and stored securely.

This authorisation is made voluntarily and without reservation, and is effective until revoked by the undersigned in writing.

Name (Print).....

Signed..... Date.....

# UoLIP

## Case Review Log

<b>Name of applicant.</b>	
<b>Prisoner no.</b>	
<b>Our no. ref.</b>	
<b>Case Team members.</b>	
<b>Date investigation commenced.</b>	

### **Documents in files:**

1. *Type in here the names of documents we have in UoLIP office. Add/ delete rows as needed*

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### **Document reviews:**

1. *Type in here your review of this document – summaries it's contents and note it's relevance. What does it help you understand about the case? Is it important to an appeal? Take as much room as required.*

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## Innocence Projects in the UK – the story so far.

*Michael Naughton & Carole McCartney*

This short article reports the emergence of Innocence Projects in the UK, more detailed articles are under review by legal education journals. The authors can be contacted directly for further information.

### ***What is an Innocence Project?***

An Innocence Project (IP) is a student-led educational project which centres upon the study of wrongful criminal convictions. The defining feature of IPs is their investigation role, with students involved in real criminal cases. Through this investigative work - conducted by undergraduate students, supervised by academics and in conjunction with practicing solicitors - IPs endeavour to ensure that alleged wrongful convictions are successful in achieving a referral back to the Courts of Appeal via the Criminal Cases Review Commission (CCRC). Pro bono assistance is provided, with priority given to prisoners who both maintain their innocence and have exhausted their legal appeals. However, IPs may also consider other cases, including those where individuals have already been released from prison.

### ***The Need for Innocence Projects in the UK***

Put simply, during any legal process, errors can be made, malpractice can occur, flawed trials can proceed, with the result that some guilty offenders will be acquitted as well as some innocent people being wrongly convicted. IPs are needed because across the UK, as in jurisdictions internationally, the criminal appeals system cannot guarantee that all those wrongfully convicted will overturn their convictions. The remit of the Criminal Cases Review Commission under the 1995 Criminal Appeal Act, dictates that they review the cases of alleged or suspected victims of miscarriages of justice. In effect, this means that if it is found that the procedures of the criminal justice process were contravened and that there is a 'real possibility' that the Court of Appeal will overturn the conviction, the case can be referred back to the Court of Appeal. However, it also means that the CCRC can refer for appeal, cases of factually guilty offenders, if their convictions are unsafe by virtue of procedural errors, while at the same time, remain helpless to refer the cases of factually innocent victims of wrongful conviction if not meeting the 'real possibility' test and satisfying the Court of Appeal requirements for successful appeals. Therefore, even if the CCRC have evidence that indicates that an applicant may be factually innocent, hurdles in place of appellants mean that the case may not be referred to the Court of Appeal. The result is innocent people who have exhausted their appeals, languishing in our overcrowded prisons, desperate for legal assistance.

### ***Educational Benefits Accrued from Innocence Projects***

Most importantly, in addition to assistance that can be provided to the wrongfully convicted, the establishment of IPs can achieve important educational aims. IPs provide students with unique educational opportunities, gaining unparalleled insight into the workings of the criminal law, criminal procedure and evidence law, including how these overlap and intersect in real criminal cases. Furthermore, IPs stimulate teamworking and the development of innovative ideas, and networks throughout the local legal community are fostered. The study of wrongful convictions exposes all aspects of the criminal justice process to critical scrutiny, encompassing socio-legal and criminological concepts. IPs can then educate future lawyers in how wrongful convictions occur – and how to overturn them – developing their skills of investigation and nurturing an in-depth understanding of the reality of appellate procedures. IPs can also lead students to question the use of their skills and the consideration of ethical behaviour. Indeed, Directors of IPs in the US are optimistic that their efforts to teach students how to behave ethically, will create solidarity in later years between ethical lawyers (a solidarity reported to be lacking at present).

The 'learning outcomes' are a focal point of IPs, with opportunity for students to achieve competency in the following:

- **Critical thinking and analysis:** Problem solving; creative/ lateral thinking; constructing logical, coherent, cogent arguments; critical reading and manipulation of complex materials.
- **Case management:** record keeping/ time management; organisation and prioritising; dealing with interruptions and unscheduled work; management of factual information.
- **Fact finding:** utilising variety of resources; application of law to the facts; use of different disciplines outside of law, use of information technology to retrieve resources; understanding and working with legal rules and procedure.

- **'Master' skills:** dealing with people with integrity; collaboration and teamworking; acting like a professional and dealing with other professionals; communication skills – including written and oral presentation.

Ongoing demands for innovative, high-quality teaching in law; contextual learning; wider socio-political perspectives; with a focus upon 'justice, fairness and high ethical standards', requires the law educator to address both the content of law courses, and their delivery and assessment. The clinical legal movement in the UK has provided some ideas, yet remains limited (and focussed almost exclusively upon civil law matters), with a focus upon pre-practice vocational skills. IPs can offer further ideas on course content and delivery, providing a range of opportunities for experiential 'deep' learning; novel assessment; reflective learning; critical skills development; and the introduction of 'enterprise skills', employability issues and information literacy into the curriculum. Furthermore, these skills are those required by any competent graduate, regardless of future career intentions.

### ***The Story So Far...***

The University of Bristol Innocence Project (UoBIP), established in January 2005, is a collaborative venture of undergraduate law students working under academic supervision, with guidance provided by local criminal solicitors. Solicitors suggest avenues for further exploration; the students then investigate individual cases in pursuit of grounds for possible appeal and/or an application to the CCRC. The UoBIP offers free assistance to prisoners:

- with a declaration of factual innocence, (as opposed to claims of a procedural miscarriage of justice);
- with a significant amount of time remaining on their sentence, to allow time for student investigation;
- who have no legal representation, or whose solicitors have granted permission for us to assist.

The UoBIP has to date received letters from over 140 prisoners maintaining innocence. Once letters are received, prisoners are sent a preliminary questionnaire for general information gathering, (a Stage One Investigation). Eligible cases are followed with more specific correspondence to the prisoner, answering specific queries arising from the initial questionnaire, as well as to their previous/ current solicitors for their view of the case. Documentation is then filed until allocated for a full Stage Two Investigation. The questionnaires are also utilised for research on the causes of wrongful convictions and the obstacles that the penal system presents to prisoners maintaining innocence. The UoBIP has attracted significant media interest since inception and this academic year had over 75 student applicants for admission onto the project.

Although the UoBIP is currently an extra-curricula initiative, all members undertake an 'induction unit', covering topics such as the distinction between miscarriages of justice and the wrongful conviction of the innocent; the key causes of wrongful convictions; the appeals process *et al.* This unit is currently informally assessed by seminar participation, oral examination and a 1,500 word essay. Perhaps more significantly, 3<sup>rd</sup> year students working on the UoBIP can elect to conduct their Research Project (Dissertation) on a related topic, adding a formal assessed element to the initiative. Specialist workshops supplement the induction unit. During the Autumn term, these included talks by victims of wrongful conviction; case organisation (by experienced case investigators); the appeals process (by solicitors); interviewing skills; and the operation of, and how to make applications to, the CCRC (by the CCRC). In line with the educational aims of the UoBIP, members keep 'reflective diaries' to collate critical reflections of the workshops and, when they are working on cases, report their experiences during the investigation process.

The University of Leeds IP (UoLIP) was founded in October 2005 with part-funding secured from the White Rose Centre for Excellence in Teaching and Learning in Enterprise (WRCETLE). Since December, the UoLIP has received over 120 requests for help. Students are now sorting through letters and deciding upon the next course of action for each request, including sending more detailed questionnaires before undertaking more detailed investigations under the guidance of local criminal solicitors. The UoLIP has similar criteria to UoBIP, insisting upon factual innocence, but may deal with cases where the prisoner is no longer in custody. Students have similarly heard from guest speakers and undergone preliminary training, and again in common with the UoBIP, it is the intention that in the coming years, the UoLIP will grow significantly in terms of student numbers, and will also become an assessed module.

The Cardiff Law School launched an IP in October 2005, attracting significant student applications. In common with the UoBIP and the UoLIP, CLSIP plans to assist prisoners with a declarations of factual

innocence. It differs from the UoBIP and the UoLIP, however, in that it forms a taught part of the Legal Practitioners Certificate.

### ***The Way Ahead?***

The exponential growth of IPs across the US (they currently number 37 with further projects in Australia and Canada), has become a catalyst for criminal justice reform. They have an impressive record of exonerations, with innocent prisoners freed with the help of students numbering well over 200 (many from death row). There have been further outgrowths from IPs in these countries, with demands made on the basis of evidence from projects about the degree, and sources of error in the criminal justice system, for wider legislative and procedural reform. Some states, such as North Carolina and Virginia, for instance, have established Innocence Commissions, which undertake and collate research on wrongful convictions. There have also been moratoriums on executions following high profile and repeated exonerations of death row inmates, with the American Bar Association continuing to pursue further moratoriums around the country. Further, the US Innocence Network (USIN), which links all innocence projects, has an annual conference at which a national priority is set, with concerted pressure then exerted on State legislatures on the same issue, (such as uniform tape recording of interviews or the preservation of evidence), a strategy that has met with some success.

An indicator of the potential success of Innocence Projects in the UK, is the pioneering work carried out at the Student Law Office of Northumbria University, where students assisted in overturning the wrongful conviction of Alex Allan, who had served six years in prison following a conviction for armed robbery. Further, on the eve of the Inaugural Innocence Projects Colloquium at the University of Bristol in September 2004, the Innocence Network UK (INUK) was launched. The Colloquium attracted international, national and local media interest and was attended by over 80 delegates comprised of prominent academics from the UK, the USA, and Australia, as well as interested parties from the campaigning organisations, leading activists, and criminal appeal lawyers. The Colloquium was concluded by Sir Ludovic Kennedy, with a rousing speech on the necessity of a united innocence movement to bring about meaningful and lasting reform of the criminal justice system. The INUK, as an umbrella organisation for IPs in the UK, then aims to:

- Encourage and assist the establishment of Innocence Projects in the UK;
- Raise public awareness of the wrongful conviction of the innocent;
- Undertake research that identifies the causes of wrongful convictions and effect legal reform.

In the twelve months since the launch of the INUK, the signs are that the seeds have been sown for a vibrant network of student and academic participation in alleged wrongful conviction cases. Three innocence projects are already in operation, albeit in different forms and stages of development, with still others in the pipeline.

Innocence Projects hold great potential educational utility, achieving important pedagogical aims and providing insights into the 'law machine' that are currently limited, while bringing innovation into the law curriculum. Projects can be adopted in any law school as part of the undergraduate degree, without becoming dominated by concerns over 'legal skills' intended for aspiring lawyers. Undoubtedly, there are particular challenges in establishing and operating IPs, but also undoubted benefits, for students; prisoners; the legal community; law schools; local communities; and society. What is apparent from the spread of such Projects internationally, is that it is possible, and beneficial, to resist the tendency of law schools that Toddington (1996:74) describes; 'to sprinkle moral and political commitment over the top of [legal facts] like so much icing sugar'.

\* Toddington, S. 'The Emperor's New Skills: The Academy, the Profession and the Idea of Legal Education' in Birks, P. (ed) *What are Law Schools For?* (Oxford University Press, 1996) p69.

# The Innocence Network UK

*Michael Naughton<sup>1</sup> & Carole McCartney<sup>2</sup>*

## Introduction

This short article details the birth of the Innocence Network UK, outlining the circumstances of its launch, and identifying the need for the establishment of innocence projects within universities in the UK. We examine potential benefits to students, (in addition to the wrongfully convicted and their supporters), and the impact to date of Innocence Networks in the US and Australia. We conclude with an invitation to the legal educational fraternity to support this essential, timely, and highly beneficial initiative.

## The Launch of the Innocence Network UK

The Innocence Network UK, an outgrowth of a joint initiative of the School of Law, University of Bristol, and the Centre for Criminal Justice Studies at the University of Leeds, was launched on the eve of the Inaugural Innocence Projects Colloquium, held at University of Bristol, 3 September 2004. The Colloquium, underwritten by the Socio-Legal Studies Association,<sup>3</sup> was attended by prominent academics from the UK, the US, and Australia, interested parties from the campaigning organisations, leading activists, legal professionals and criminal appeal lawyers.

The Colloquium was convened to explore the feasibility, and gauge support for, the establishment of innocence projects in UK universities. To this end, representatives from the Innocence Networks in the US and Australia shared experiences of the various models that innocence projects have taken, as well as their day-to-day running. Victims of wrongful imprisonment such as Paddy Hill (*Birmingham Six*) and Mike O'Brien (*Cardiff Newsagent Three*) also spoke of the harm that they had endured and their continuing struggle to fit back into society after their incarceration. Delegates from leading legal organisations, including the Law Society, the Historical Abuse Appeal Panel (HAAP), the Criminal Appeal Lawyers Association (CALA), and senior forensic scientists, all expressed a commitment to assisting with innocence projects, and the Innocence Network in the UK. The day was concluded by Sir Ludovic Kennedy, a campaigner against wrongful convictions for almost half a century, with a rousing speech on the necessity of a united movement to bring about meaningful and lasting reform of the criminal justice system. The Colloquium attracted international, national and local media interest in the form of television, radio, and press interviews and articles.

## Does the UK need an Innocence Network?

Eleven years since the Report of the Royal Commission on Criminal Justice, appointed in the wake of serious miscarriages of justice, and seven years since the establishment of the Criminal Cases Review Commission (CCRC), miscarriages of justice still plague the criminal justice system. Despite legislative developments aimed at preventing wrongful convictions, successful

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<sup>3</sup> See: <http://www.kent.ac.uk/slsa/>

appeals flow from the appeal courts at an alarming rate. More recent criminal justice legislation has the potential to worsen this situation by downgrading or abolishing suspect protections and evidential safeguards, amid a discourse of the rights of victims of crime and 'not letting the guilty go free'.<sup>4</sup>

The inherent fallibility of criminal trials is accounted for by a variety of opportunities available to alleged victims of miscarriage of justice to overturn their wrongful convictions. Yet the 'last hope' of the wrongfully convicted, the CCRC, was not designed to rectify the errors of the system and ensure that the innocent overturn their wrongful convictions. Instead, their remit under the 1995 Criminal Appeal Act dictates that they *review* the cases of alleged or suspected victims of miscarriages of justice to test whether they were obtained in strict accordance with the rules and procedures of the system.<sup>5</sup> If it is found that the procedures of the criminal justice process were contravened in any way and that there is a 'real possibility' that the Court of Appeal will overturn the conviction, the case is referred back to the Court of Appeal. As such, the CCRC will, logically, refer the cases of guilty offenders if their convictions were procedurally incorrect. At the same time, they are often helpless to refer the cases of innocent victims of wrongful conviction if they do not meet the required criteria of the CACD of fresh evidence or fresh arguments.

The 'real possibility test' as applied by the CCRC in its decisions on whether or not to refer a case back to the appeal courts is, essentially, an attempt by the Commission to second-guess the appeal courts, particularly the CACD.<sup>6</sup> As the CACD do not re-hear the facts of cases but, rather, consider fresh evidence or fresh arguments, if evidence that indicates an applicants' innocence was available at the original trial it may not constitute grounds for a referral.<sup>7</sup> The CCRC's position seems to be that it would be a waste of time as, whether the applicant is innocent or not, the case will not be overturned.<sup>8</sup> A further structural barrier exists, with cases able to be refused referral by a single Commission Member, while it requires three Commission Members to refer. As such, decisions about whether to, or more often not to, refer cases are skewed in favour of non-referral.

The context within which the limits of the criminal appeal provisions must be assessed illustrates the problem. Despite the popular image of miscarriages of justice as rare and exceptional occurrences, the official statistics on successful appeals against criminal conviction indicate that they can be conceived as a routine, even mundane feature of the criminal justice process.<sup>9</sup> In fact, every working day, of every working week in England and Wales, over 25 wrongful criminal convictions are overturned on appeal. Moreover, since 1984 and the enactment of the Police and Criminal Evidence Act (PACE) (in response to the high profile miscarriage of justice case known as the *Confait Affair*), which put police powers on a statutory basis, there have been over 85,000 successful appeals against criminal conviction.<sup>10</sup> Yet, at the time it was widely held that

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<sup>4</sup> Naughton, M. (2005) 'Evidence-based-policy' and the government of the criminal justice system: Only if the evidence fits!' *Critical Social Policy* 25(1): 49-67.

<sup>5</sup> James, A., Taylor, N. & Walker, C. (2000) 'The Criminal Cases Review Commission: Economy, Effectiveness and Justice' *Criminal Law Review* March, pp. 140-153.

<sup>6</sup> James, A. (2002) 'Miscarriages of Justice in the 21<sup>st</sup> Century' Paper presented at the Socio-Legal Studies Association Annual Conference at the University of Wales, Aberystwyth 3-5 April.

<sup>7</sup> Nobles, R. & Schiff, D. (2001) The Criminal Cases Review Commission: Reporting Success? *Modern Law Review* Volume: 64 Number: 2 pp. 280-299.

<sup>8</sup> John Wagstaff, Principal Legal Advisor, Criminal Cases Review Commission, speaking in a personal capacity at United Against Injustice 3<sup>rd</sup> Annual Miscarriage of Justice Day Conference, Conway Hall, Holborn, London, 9 October 2004.

<sup>9</sup> Naughton, M. (2003) How big is the "iceberg?": A zemiological approach to quantifying miscarriages of justice' *Radical Statistics* Number 81, Spring, pp. 5-17.

<sup>10</sup> Naughton, M. (2004) 'An innocent objection to reduced sentences' *The Observer* September 23.

PACE would put an end to the type of errors and police malpractice that had resulted in numerous miscarriages of justice.<sup>11</sup>

Furthermore, many factors continue to cause miscarriages of justice,<sup>12</sup> and a wide range of obstacles and barriers to overturning wrongful convictions have been identified.<sup>13</sup> Against this, the establishment of the CCRC can be said to have diverted the public gaze away from the problem. The kind of moral outrage and public crises of confidence once associated with miscarriages of justice has been replaced with an almost perverse need for miscarriages of justice as we now have an official organisation to deal with them! Thus, whilst the CCRC are a welcome addition to mechanisms for rectifying error, it has become increasingly clear that there are questions surrounding their achievements, and their workload is not diminishing. In addition, they now face large budget cuts. The CCRC concede that they are often unable to assist victims of wrongful conviction and recognise the contribution that could be made by innocence projects and an Innocence Network in the UK.<sup>14</sup>

## What is the Innocence Network UK?

The INUK will facilitate academic study of wrongful convictions and miscarriage of justice, providing identifiable, accessible expertise, and a repository of evidence-based research to exploit in efforts to influence criminal justice system reform and government policy. The INUK can also provide a forum to attract funding for research into the criminal justice system and collate research undertaken and identify knowledge gaps. The rationale for the initiative derives from the observation that academic research on the causes of wrongful convictions is an essential part of realising corrective reform of the criminal justice system. Its contribution to the resolution of wrongful convictions will primarily be its work to undertake and deploy research into both the causes of, and the provisions that exist to remedy, wrongful convictions.

The INUK exists to:

- Raise public awareness of wrongful convictions.
- Undertake research that identifies the causes of wrongful convictions and effects legal reform.
- Encourage the establishment of innocence projects in the UK.

The aim of innocence projects would be to formalise, and augment *ad hoc* investigations undertaken by students in academic settings, and other individuals (i.e. investigative journalists, pressure groups). Innocence projects can extend, and support the work carried out by voluntary organisations, who may have a more focused role, and help to overcome resource constraints. The INUK can use this role to raise the public profile of campaigns and general awareness of the occurrence of wrongful conviction and the ongoing nature of problems and provide a contact point for the media.

Innocence projects could assist those convicted of criminal offences who have exhausted appeal processes, whilst also achieving important pedagogical aims. Wrongful convictions have great educational value, elucidating all aspects of the criminal process as well as socio-legal and criminological concepts. There is an important legal and social history intertwined with

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<sup>11</sup> Steele, J. (1997) 'Police errors "could not be repeated"' *Electronic Telegraph* Issue 638: <<http://www.telegraph.co.uk>> accessed 12 November 2004.

<sup>12</sup> Naughton, M. (2002) 'The scales of injustice' *The Observer* July 28.

<sup>13</sup> Naughton, M. (2004) 'Redefining miscarriages of justice: a revived human rights approach to unearth subjugated discourses of wrongful criminal conviction' *British Journal of Criminology* (In Press).

<sup>14</sup> The Inaugural Innocence Projects Colloquium, University of Bristol, 3 September 2004, was attended by the Principal Legal Advisor, the Public Relations Officer and four Case Review Managers from the CCRC.

miscarriages of justice, with many reforms influenced by infamous miscarriage of justice cases.<sup>15</sup> Innocence projects within universities can educate future lawyers in how wrongful convictions occur – and how to overturn them – developing their skills of investigation and fostering an in-depth understanding of appellate procedures. The group investigation of alleged miscarriages also provides unrivalled team-working and valuable interaction with their local community. Innocence projects should also inject some scepticism into future lawyers, opening their eyes to the realities of criminal processes and fostering within legal professionals of the future, a real commitment to ethical practice and pro bono work, and an overriding sense of justice.

Further, it is argued that the existence, and success of innocence projects across the US, has made them catalysts for reform, promoting change in local and state due process and civil rights recognition and protection.<sup>16</sup> Indeed, the US Innocence Network, which links all innocence projects, has an annual conference at which a national goal is set for the coming year, with concerted pressure then exerted on State legislatures around the country on the same issue, such as uniform tape recording of interviews, or the preservation of evidence, a strategy that has met with some success and is replicated in other countries.

Additionally, there have been further outgrowths from innocence projects, with demands made on the basis of evidence from them about the degree, and sources of error in the criminal justice system, for wider legislative and procedural reform. Some states in America, such as North Carolina and Virginia, have established Innocence Commissions, external to university innocence projects. These Commissions undertake and collate research on wrongful conviction, recruiting law students for some work, but do not review individual innocence claims. There have also been moratoriums on executions following high profile and repeated exonerations of death row inmates, with the American Bar Association continuing to pursue further moratoriums around the country.<sup>17</sup> The Australian Innocence Network meanwhile, works to promote the correction, and prevention of wrongful conviction in all States, with their stated aims being:

- To encourage and facilitate the establishment of innocence projects or similar organisations in Australia;
- To co-ordinate and network the efforts, aims and objectives of innocence projects and similar organisations in Australia;
- To prevent, expose, correct and educate the public on wrongful conviction and other types of injustice within the criminal justice system;
- To support applications and submissions on legislation in the area of wrongful conviction and related issues;
- To liaise with the Innocence Network in the United States and other countries.

The Innocence Network UK already incorporates academics, legal practitioners, activists, journalists, forensic scientists, and other interested parties, as well as members of Innocence Networks in the US and Australia. As such, the Network will have an essential support network with considerable reputation for work in the area. The 2<sup>nd</sup> Innocence Projects Colloquium will be held at the University of Leeds, 8 July 2005. For information, contact the authors.

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<sup>15</sup> Naughton, M. (2001) 'Wrongful convictions: towards a zemiological analysis of the tradition of criminal justice system reform' *Radical Statistics* Number 76, Winter, pp. 50-65.

<sup>16</sup> Schehr, R. 'Innocence Projects as a New Civil Rights Movement: Making the Case' paper presented to Annual Socio-Legal Studies Association Conference, University of Glasgow, 6-8 April 2003.

<sup>17</sup> See: <http://www.abanet.org/moratorium/home>

## **Liberating Legal Education?**

### **Innocence Projects in the US and Australia.**

*Since the establishment of the first student-led Innocence Project at New York's Cardozo Law School in 1992, innocence projects have spread across the United States and are now also established in Canada and Australia. Founded upon experiences of Innocence Projects gained in the US and Australia, this paper explores the educational merits of this method of legal education. The potential benefits of Innocence Projects in the UK are discussed, with reference to ongoing demands for innovation in legal education; the pressing need to defeat plagiarism with novel assessment techniques; the requirement to provide students with 'enterprise skills' and enhanced 'information literacy'; and efforts to encourage 'deep' learning and reflective practice. This paper concludes that, as Burrige (2004) asserts, the UK has been slow to emulate international exemplary educational techniques that achieve important pedagogical aims. While student law clinics meet some of these aims, and there are encouraging signs of interest in innocence projects in the UK, this paper argues that valuable lessons from the US and Australia can still be learnt within the domestic legal education community.*

### **Demands Upon Legal Education in the UK**

The aims, and quality of undergraduate legal education in the UK has remained under the spotlight since the ACLEC Report of 1996, with increasing demand from all quarters for improvement in legal education. Innovation in teaching and assessment is becoming more urgent as plagiarism increases at the same time as expectations of student 'customers' are rising, with students becoming 'more discerning and demanding, thereby ensuring that the issue of teaching quality becomes more important as the 'customers' become more vocal and powerful.' (Thomas 2000:2).

There are also implications for legal educationalists arising from the changing student body, with the homogeneity of the student body having all but disappeared, leaving traditional teaching and assessment methods poorly reflecting the diversity of students; 'The law, it seems, is forever changing, but law teaching is not.' (Clegg 2004:40) Historically popular law degrees are now seen to be lagging behind; 'characterised by monotonous lectures and poorly attended tutorials'. (McFarlane 1988:534). As Thomas (2000:33) reminds: 'Law is not intrinsically boring but can be made so.' Meanwhile other disciplines and other countries have been:

'eagerly searching for ways to make their teaching more relevant and effective by engaging their students beyond the lecture and seminar discussion format. Law abounds with such possibilities... Many of today's law teachers have grown up with memories of the unacceptable face of law lecturing, yet it is still the overwhelming medium for passing down knowledge.' (Burrige 2004:1)

Additionally, at the same time that debate continues over Law Society proposals to 'relax' the strict routes of qualification for entry into the legal profession, employers have begun to call for greater influence, with a risk that; 'unless they are convinced that law degrees provide the development of critical analysis, legal reasoning and contextual understanding of the background to legal practice... they are

unlikely to support the continuation for the qualifying degree in its present form.’(Burrige 2004:1) In response, clinical legal education, well established in other jurisdictions, is increasingly seen as providing the aspiring lawyer not only with pre-practice experience, but a range of learning opportunities for all students, as well as benefiting the community and university. While the UK clinical movement is still considered marginal, there are now several university law schools offering clinical experience for students, with their activities providing; ‘valuable alternatives to the traditional diet of lecture and seminar’ (Thomas 2000:37). As Giddings (2003:21) explains, ‘clinics are promoted to students as the best environment in which to develop ‘hands on’ legal skills while being showcased to the general community as examples of university commitment to community services and access to justice.’

While ‘problem questions’ based on real cases have long been a staple of the law curriculum, real benefits do not accrue from repeated exposure to ‘fictional’ cases (no matter how entertaining), as a student of Griffith University Innocence Project confessed: ‘I am just so bored of hypotheticals over and over again’. Terenzini (1999:35/ 37) explains:

‘learning occurs best when it is ‘situated’, when the challenge encountered has real meaning in a real context. Learning is more likely when students encounter problems they *want* to solve, problems that are not mere exercises in a classroom or for a homework assignment, devoid of any meaningful context. Learning is enhanced when it occurs in the context of a ‘compelling situation’ which invites the student to draw upon past knowledge and competencies while adapting to new circumstances... Currently, however, we appear to believe that learning involves mastery of abstractions or principles.’

While not arguing for the rejection of ‘problem-solving’ practice, for ‘deep learning’ to occur, there needs to be greater innovation in both content delivery and assessment, as MacFarlane (1988:534) rightly comments:

‘it is wholly illogical, not to say unfair, to devote 90% of our teaching energies to administering lectures and handouts which focus on information, and then feel disappointed with essays or examination papers which are at least 90% dominated by regurgitated information, and lacking in analysis, creative research and application.’

Clinical legal education advocates espouse benefits arising from work on live-client cases, with graduates demonstrating ‘an ability to reflect and analyse and become self-reliant.’ (Brayne *et al*, 1998:xiii). Learning law in a clinical environment is also contextual, with Hinett (2002:1) stressing that for law students; ‘the context in which they learn and operate affects how and what they understand.’ As Brayne *et al* (1998:xiii) argue: ‘There is growing recognition that knowledge of the law is best understood in the context within which it operates in our complex society...’ Johnstone (1999:8) argues that is if of fundamental concern that law students find ‘greater interest in what they are studying, and this is achieved by continuously directing them towards its greater meaning’. Legal education clinicians lay claim to developing such perspectives within a socio-legal context, while Thomas (2000:7) argues that:

‘traditional doctrinal exposition is a desert fit neither for the habitation of the eclectically curious nor the single minded, would-be successful, legal practitioner... instead, content must reflect an awareness of the wider political and social structures that affect and are affected by the law and legal personnel.’

Such contextual learning with a socio-political perspective may approach satisfying Dearing's call; 'In a world which changes rapidly, the nation will need people with broad perspectives. (Dearing 1997: para.9.3).

The demand for contextual learning is coupled with calls for legal education to develop a 'moral voice', with ethical dimensions of law, previously neglected, playing a greater role. The ACLEC Report was the catalyst for a growth in emphasis for the moral aspect of legal education (Webb 1998:135), calling as it did for the development of 'a commitment to fundamental legal values of 'justice, fairness, and high ethical standards.'(ACLEC 1996: para 2.4). The ACLEC first report further claimed that: 'no amount of external regulation of professional practice will serve as an adequate substitute for the personal and professional values and standards that lawyers should internalise from the earliest stages of their education and training.' (para 1.19).

Such demands for innovative, high-quality teaching; contextual learning; wider socio-political perspectives; and a focus upon 'justice, fairness and high ethical standards', requires the law educator to address both the content of law courses, and their delivery and assessment. The clinical legal movement in the UK has provided some ideas, yet remains limited, with a perceived focus upon pre-practice skills not suited to students who may not pursue a career in the legal profession. The 'Innocence Project', as a variation of a law clinic, may offer further ideas on course content and delivery, which provides a range of opportunities for experiential 'deep' learning; novel assessment; reflective learning; critical skills development; and the introduction of 'enterprise skills', employability issues and information literacy into the curriculum. Before considering these issues, it is instructive to trace the growth of Innocence Projects in the US, Canada and Australia, and the nascence of an 'Innocence Movement'. The paper will then consider the learning and teaching benefits of Innocence Projects and challenges to their establishment in the UK.

## **The 'Innocence Movement' in the US, Canada and Australia.**

Whilst gaining in momentum and influence in the late 1990s, the 'innocence movement', (which some represent as constituting a new national civil rights movement in the US),<sup>i</sup> has its roots in a small non-profit organisation founded in 1983. Former corporate executive and lay minister James McCloskey instituted Centurion Ministries, dedicated to vindicating, and freeing the wrongfully convicted, particularly those facing the death penalty, or life imprisonment.<sup>ii</sup> Perhaps better known as the forerunner of the innocence movement, and the ignition for a developing 'innocence scholarship', is the non-profit legal clinic established by Barry Scheck and Peter Neufeld at the Cardozo School of Law in New York in 1992. This student project investigates and litigates cases where post-conviction DNA testing can provide conclusive evidence of innocence. To March 2006, they have assisted with 175 exonerations, many from death row.<sup>iii</sup> The founders, overwhelmed by the response to their project, with resources clearly unable to address the response adequately, undertook to establish 'satellite' innocence projects, and formed the Innocence Network. With the success of the Cardozo project, and those that have followed, not only has the pace of exonerations continued to grow, but innocence projects have spread across America, (with some States now having more than one project operational), and have reached Canada and Australia, to form an international Innocence Network of projects.

Innocence Projects are not uniformly constituted, and take different forms. Most, like the Cardozo project, are affiliated with law schools and are similar to many legal pro-bono clinics, but others incorporate other academic departments, such as journalism, criminal justice/criminology, or other social science disciplines.<sup>iv</sup> Some projects have no law school affiliation, instead locating supportive legal professionals in their communities to form local networks of dedicated volunteers and professionals working pro bono. Understandably, given their different constitutions and settings, projects have varying aims, priorities, and working practices. (Medwed 2003:1100). Individual projects determine their criteria for case acceptance, including whether they require there to be biological evidence, and whether there will be a requirement that there be a minimum sentence left to serve. (Innocence Projects continually receive large numbers of letters requesting help, so proper screening mechanisms and priorities are essential from the outset). However, as Medwed (2003:1101) emphasises:

‘Despite the differences between law school innocence projects,.. they tend to share a common emphasis on 1) seeking the release of prisoners whom members of the project believe to be innocent of the crimes for which they have been convicted and for whom there are few other alternatives for legal representation, while 2) simultaneously providing a first-rate educational experience for students.’

The Cardozo project has a wide remit, stating that its mission is to:

- Achieve the exoneration and release of factually innocent inmates through post-conviction DNA testing;
- Create a Network of schools, organizations, and citizens that will effectively address claims of actual innocence;
- Document and study the causes of wrongful convictions;
- Suggest and implement policies, practices, and legislation that will prevent wrongful convictions;
- Train and educate future attorneys and advocates;
- Provide information and educational opportunities for the public.

This remit is only limited by an insistence upon available DNA evidence (other projects accept cases with no biological evidence). The Northwestern Center on Wrongful Convictions has three components: 1) representation; where students, staff and lawyers work together to investigate innocence claims; 2) research; with staff and students identifying systemic problems in the criminal justice system; and 3) community services; developing initiatives to raise public awareness of the prevalence, social costs, and causes of wrongful convictions. The Center also works with community groups to assist exonerees cope with reintegration.

With the success and spread of Innocence Projects in the US, others have emulated this mode of legal education. Osgoode Law School at York University in Canada launched an Innocence Project in 1999 (with a further Canadian project in planning), while in Australia, two Innocence Projects were launched in 2001, at Griffith University, Queensland and the University of Technology, Sydney. A further project in Melbourne is also now operational, with plans in place for a project in Perth, WA. The Griffith University law school Innocence Project was launched in collaboration with two local law firms.<sup>v</sup> The project has four goals:

1. to secure the release of innocent but convicted people;
2. to achieve exonerations regardless of imprisonment;
3. to educate students on criminal justice system and potential for wrongful conviction;
4. to foster a sense of responsibility and a passion for justice in law students.

The Project at the University of Technology, Sydney, has stated their priority is ‘to provide a great learning experience for students, to train future lawyers to be critical and involved, practical and ethical’.<sup>vi</sup> The students are introduced to fundamental concepts in law such as practical skills; ethical responsibility; commitment to the community and the disadvantaged. The project accepts applications from prisoners in New South Wales who claim innocence, have more than two years of their sentence remaining, and are unrepresented legally. The majority of projects are similarly structured to be primarily led and run by students. Often these students will have studied wrongful convictions, or will have a grounding in criminal law, criminal evidence, or criminal justice studies.

Once a case is accepted after preliminary screening,<sup>vii</sup> participants read trial transcripts and other documentation. Cases are then re-investigated by students, with new evidence or new arguments pursued through the courts by the students or staff, or taken up by legal professionals. Most often, it takes several years before an exoneration may be secured, but experience demonstrates that once the first exoneration is secured, it does not take so long for others to follow. Exonerations, while clearly welcome and indicative of an effective project as well as incredible motivation for staff and students (and fund-raisers), are not an evaluative tool for innocence projects. ‘Success’ is measured rather, in educational terms, with student experiences and learning outcomes being the true evaluative mechanism.

Such an educational ‘mission’ is stressed by many projects, including the Northern Arizona Innocence Project which states that the project: ‘provides an unparalleled opportunity for theory and praxis to meet in a real-life experience. Students can apply their theoretical, conceptual, and empirical knowledge of due process and the justice system to real cases’.<sup>viii</sup> However, in contrasting the Innocence Projects of Sydney and Queensland, it has been found that focusing on exonerations has, perhaps counter-intuitively, lead to greater educational benefits, as the students have proved to be more engaged and motivated to work harder toward the goal of exoneration, than their own learning. It is the purported educational benefits of such work on ‘real’ wrongful conviction cases while working on Innocence Projects that this paper shall focus upon.<sup>ix</sup>

## **Learning and Teaching on Innocence Projects**

As described, an Innocence Project can take many forms, but essentially is a group of students studying previous wrongful convictions, and investigating alleged wrongful convictions with a view to achieving the exoneration of the individual(s). Projects usually offer a combination then of conventional study of law, alongside investigative work. This study of previous wrongful convictions and their causes has educational merit in of itself and can constitute a stand-alone module for those not wishing to establish an Innocence Project. However, the Innocence Project model potentially provides greater additional learning and teaching benefits which will be considered in brief.

## ***Studying Wrongful Convictions***

Wrongful convictions can elucidate all aspects of the criminal process as well as socio-legal and criminological concepts. There is also a valuable legal and social history entwined with wrongful convictions, with many significant reforms influenced by notorious cases (Naughton 2001). The study of wrongful convictions also has an inherently interdisciplinary perspective, with focus necessarily drawn to the interaction between science; psychology; criminology; jurisprudence; sociology; government; the media; and law, also providing an international perspective on justice. The study of previous wrongful convictions can also inject scepticism into students who may open their eyes to the realities of criminal processes and the application of the law previously learnt about from textbooks and lectures. The study of wrongful convictions then compliments modules on criminal law, criminal procedure etc. developing in particular, in depth knowledge of laws relating to the police, evidence, and appellate procedures. In particular, the study of wrongful convictions; ‘serves a valuable pedagogical purpose of breaking down the artificial boundaries that exist between criminal justice subjects.’(Roach 2003-4:363). Students receive a more balanced view of the criminal justice system, normally only being taught one side of the story (crime, prosecution etc.) and remaining generally ill-informed on what happens when system fails or breaks down and the consequences.

Further, as Roach (2003-4:361) explains; ‘A wrongful conviction should encourage students to explore the ethical foundations of the criminal justice system and why society may have less tolerance for wrongful convictions than wrongful acquittals.’ Study of wrongful convictions also necessarily provides an; ‘effective vehicle to discuss how the criminal justice system can discriminate against racial minorities, the poor, the mentally disabled, and others from disadvantaged groups... [encouraging] students to consider how the various phases and institutions of the criminal justice system interact and can work to the disadvantage of vulnerable groups.’(Roach 2003-4:365). A course can incorporate the many ‘popular’ writings and even films on previous wrongful convictions, exciting student interest but also demonstrating; ‘in a very concrete manner, the human consequences of the use of the criminal process’ (Roach 2003-4:352). As Roach (2003-4:351) concludes, the study of wrongful convictions:

‘can provide students with valuable insight into the interaction of various phases of the criminal process as they can combine to produce a miscarriage of justice... a case study is also an excellent way to make students reflect on issues of ethics and competence, the importance of fact-finding in the criminal process, the effects of discrimination on the criminal process, the way other countries confront the dangers of wrongful convictions, and finally, on the fallibility of the criminal process.’

## ***Educational Outcomes of Innocence Projects***

An Innocence Project goes beyond the study of previous cases and the ‘innocence scholarship’ on the causes of wrongful convictions. The defining feature of Innocence Projects is their investigation role, with students involved in real cases, seeking to assist in bringing successful appeals for their clients. Innocence Projects most often deal with serious, contested cases, which are rare (students need to be reminded that they are dealing with unusual cases in the context of the criminal justice system as a whole). Students are however, afforded the opportunity of seeing the system ‘in full flow’, with a wide range of agencies and processes involved, providing a more ‘holistic’ approach to law not achieved by the rigid compartmentalisation of most law degrees.

There are a variety of course structures, assessment regimes, and teaching methods, but what is stressed by project directors, is that the 'learning outcomes' are a focal point. While project directors prioritise different outcomes, there is a general consensus that most, if not all students should achieve competency in, or gain experience in the following:

- **'Lawyering' skills:** dealing with clients; acting like a professional and dealing with other professionals; communication skills – written/ oral/ formal presentation.
- **Critical thinking and analysis:** Problem solving; creative/ lateral thinking; collaboration.
- **Case management:** record keeping/ time management; organisation and prioritising; dealing with interruptions and unscheduled work.
- **Fact finding:** utilising variety of resources; use of different disciplines outside of law; application of law to the facts.

It is the essential element of working - most often in pairs or small teams, as well as part of the larger group - on 'real problems' as opposed to hypothetical, or simulated ones, that is their defining characteristic, and as Hinett (2002:25) describes, real problems

'do not have simple solutions, but require comparison and analysis of resources, strategies, and costs. As such, the learner has to develop skills of retrieval, selection and discrimination in order to solve the problem. Students also develop group working skills as they work together to solve a common problem.'

It is the engagement with real problems that gives students; 'an opportunity to understand for themselves the complexity of human problems.' (Hinett 2002:18). Their quest for solutions, and methods for overcoming hurdles, are central to the process of 'experiential learning', which stresses that learning is most effective when students are actively involved in their learning.

### ***Experiential Learning***

While experiential learning has been long been established as effective pedagogy (see Kolb 1984), it is undergoing renewed interest amongst educationalists in the UK (Thomas 2000:38). This interest is due to the now wide acceptance of the use of experiential learning to facilitate 'deep' learning, as opposed to the 'surface' learning so often seen now among 'strategic' students, and most often seen; 'as being correlated with a weak understanding of material and a poor examination performance.' (Entwistle and Ramsden, 1982:177). Yet research continues to demonstrate that; 'education systems often, in effect, lead students to work towards exams using an achieving, often surface approach, rather than towards more intrinsic, enduring outcomes, such as deep learning, personal development and transferable skills.' (Pee *et al* 2000:759). However, such learning; 'remains elusive in most law curricula,' (Sylvester 2003:29), with Burrige (2004:1) claiming that 'within legal education generally there is an absence of 'more imaginative experiential learning...''.

Medwed (2003:1142) states that the primary educational benefit of Innocence Projects in the US has been related to experiential learning, although he claims 'many pedagogical advantages.' Clinical legal education claims to provide 'experiential learning', by avoiding 'old style' teaching methods which aim to transmit information, which leads to; 'hopelessly short-term... knowledge which is not founded

upon understanding or reinforced by practice' (MacFarlane 1988:534). As Quigley (1995:475) explains: 'the single most critical defining element of clinical education is that it is experience-based learning... that students learn most effectively by participating in their own education by actually representing people.' Further, clinic students with their own 'clients' are often: 'more motivated to learn the material to help the 'real' client than they are to engage in the abstract classroom dialogue.' (Smith 1999:530). The Innocence Project goes further than most clinics operating in the UK, by assisting in criminal cases, allowing students what Barry *et al* (2000:15) call a 'tactile connection with the obligation to find substantive and creative ways to respond to unmet legal needs.'

Student interaction with real cases and attempting to satisfy unmet legal needs can provide a strong impetus to learn as Fell (1996:280) has seen in law clinics: 'for the first time for many law students, came the realisation that what they were doing was more than just about them.... Live-client representation proved to have a highly emotional and exhilarating impact on students.' Among Innocence Project graduates, there is identified a strong commitment to the work, one graduate of Griffith University claiming: 'There is no greater privilege in this profession than to be able to assist someone in the pursuit of justice.'<sup>x</sup> In addition, students on Innocence Projects have demands upon them to 'reflect' upon their experiences, which; 'is about maximising deep and minimising surface approaches to learning.' (Hinett 2002: preface). As Webb (1995:192) explains, while learning commences with an experience: 'to learn from that experience we require an opportunity for reflection on that experience, and the ability to abstract and internalise experiences and reflection in the form of a theory, which may then be tested in new situations.' Innocence Projects require reflection individually, in pairs and as a group, many requiring reflection to be demonstrated as part of their assessment.

### ***Student Journals and Reflective Learning***

Assessment has come in recent years, to be dominated by; 'concerns about authenticity of student work and the fear of plagiarism...'(Clegg 2004:4), prompting interest in assessment methods that can circumvent student malpractice, including the use of journals; 'a pedagogical tool with over two thousand years of recorded history' (Ogilvey 1996:55). As Ogilvey (1996:55) asserts: 'the journal is a pedagogical tool worthy of more explicit attention by both clinical law teachers and non-clinical faculty alike'. Most Innocence Projects, by way of assessment, require students to keep a reflective journal as part of a portfolio of work. Whilst there remain many challenges in the use of student journals (particularly concerning confidentiality; Pee *et al* 2000), they have significant benefits in tackling academic malpractice and plagiarism:

'the use of reflective diaries and portfolios can also be used to confirm authenticity. A carefully constructed set of criteria by which to assess reflective and affective capacities makes it difficult for students to pass someone else's work off as their own... it is difficult for others to fake.' (Hinett 2002:48)

As real-life problems present unique challenges (to students and staff), journals can be used to assist, and further capitalise upon their use for learning and teaching outcomes: 'many well structured problems can be resolved through the efficient use of memory. Few ill-structured problems can be resolved without a more complex and wide-ranging struggle for solutions, and a journal can be a valuable

tool for pursuing, as well as recording, that struggle.’ (Ogilvy 1996:73). The maintenance of a student journal encourages student engagement not only with critical writing, but: ‘probing beneath the surface of problems; thinking more deeply about the materials, products, and processes of learning; and taking more responsibility for their own learning.’ (Ogilvy 1996:60). It is this responsibility for learning that is central to Innocence Projects, with students given responsibility of not only their own cases and their own development during their time on the project, but also the running of the Project on a collective basis (indeed the Innocence Project at Georgetown University is wholly run by students, who liaise when required with the legal team of an Innocence Project at another local university). This student ‘ownership’ is at the heart of student responsibility for their learning, a coveted attitude which lecturers must attempt to inculcate:

‘In the context of the constantly evolving needs of the global employment market it is essential that students are equipped to be flexible, adaptable and prepared to take responsibility for their own learning and their own continuous personal and professional development. This places a responsibility on teachers and tutors in higher education to develop teaching environments which encourage students to take a more pro-active role in articulating and striving towards self-determined learning goals.’ (Stefani 1998:339).

In addition to building on efforts to scupper malpractice and plagiarism, and assisting in problem solving, journals are a vital tool for reflection; essential for deep learning: ‘reflection is...crucial to deep learning, being involved in making meaning. Reflection enables new experiences to be integrated into existing frameworks of knowledge; an idea fundamental to constructivist theories of learning.’ (Pee *et al* 2000:755). As Terenzini (1999:35) explains: ‘long term retention of what has been learned, and the ability to apply it to somewhat different, but related, problems, or in different settings, also require reflection. Reflection permits the consolidation, the internalisation, the ‘deeper learning’ we aim to facilitate’. Reflection can assist in contextualising and broadening learning:

‘The art of reflecting is one which causes us to make sense of what we’ve learned, why we learned it, and how that particular increment of learning took place. Moreover, reflection is about linking one increment of learning to the wider perspective of learning – heading towards seeing the bigger picture.’ (Race 2002:1).

This ‘bigger picture’ is of particular relevance to law students: ‘reflection on what they know and don’t know helps students to appreciate that law is a *social* science open to interpretation’ (emphasis in original) (Hinett 2002:5). Such reflection and critical writing is also vital for professional legal practice:

‘if students do not develop an instinctive habit of learning, developing, and applying the law through a critical writing process, they are less likely to be interested in or capable of engaging in the continual task of learning, creating, and applying the law by writing when they enter practice.’ (Kissam 1987:141)

Students also develop the reflective skills that facilitate ‘life-long learning’, the process of self-reflection enabling students to: ‘truly sharpen their practical legal skills and obtain a mechanism for deconstructing and learning from their experiences that will permit them to improve their skills continually over the course of their careers’ (Medwed 2003: 1131). Medwed (2003:1146) also asserts that

on an Innocence Project, 'self-evaluation' by students, compels them: 'to be more responsible for their education both in the clinic (the short-run) and later as practitioners (the long-run)'.

In addition, the provision of a humane legal service for clients; 'can only flow from a humane education, one which has promoted at least a little self-knowledge.' (Boon 1998 :168). As Webb (1998:138) claims: 'No-one is better placed than the academics to make the necessary early links between reflective learning and reflective practice.' To ignore this element of education may constitute: 'an abnegation of the academic responsibility to help shape, progressively, the legal profession of tomorrow.' (MacFarlane 1997:443). As Schon has convincingly argued, the best practitioners 'develop their skills through continual reflection about the uncertainties, complexity and value conflicts that confront them in practice situations.' (Schon 1995:250) (see also Maughan 1996). As such, the skills of critical thinking and reflection: 'are probably essential elements in the thinking of almost all truly effective lawyers.' (Ogilvey 1996:62).

### ***Beyond Legal 'Skills': Critical Thinking and Ethics***

Roach (2003-4:361), among others, rightly claims that: 'issues of ethics and competence cannot be ignored in the basic law school curriculum.' LeBrun and Johnstone (1994:165) call law an 'ethically saturated arena', that demands students be given 'opportunities to discuss ethical issues and moral dilemmas so that they are better equipped to reach their own decisions about law and the legal system'. The ACLEC first report itself stressed the need for 'contextual' learning in law and a commitment to the explicit teaching of values. (Webb 1998: 136) Johnstone (1999:7) argues that a liberal legal education should develop in students a critical understanding of the law machine, but also turn law students:

'not just into more able lawyers but into more able persons. University legal education should seek to promote personal development by cultivating knowledge and understanding, intellectual virtues, imagination, intellectual skills, self-reflection, moral virtues and habits, a capacity for social and political involvement, and a sense of responsibility for the values one espouses and the relationships into which one enters'.

Indeed, in interviews with students of the Griffith University Innocence Project, it was such attributes that students highlighted as inspiring them to work on the Project: 'I want a feeling of making a contribution'; 'some of us care about society, justice, social issues, etc. and the cases we work on represent that'; 'I believe in justice, I'm an idealist'. Proponents claim that personal reflection, so fundamental to Innocence Projects, 'encourages the development of both cognitive and affective theories of moral and ethical behaviour, challenging students to integrate these into their personal belief systems as a result of their experiences instead of (at best) passively absorbing the 'rules' of professional conduct.' (McFarlane 1998:16) Yet, as Webb (1998:138) explains, while traditional clinics teach students important skills: 'it does not necessarily encourage them to question the uses to which those skills are put.' As Boon (1996:129) elaborates:

'students need not just to 'do' but to develop a perspective which enables them to ask why, given particular circumstances, lawyers should 'do' in a particular way. This must involve a scholarly enquiry into action, motivation, and ethics, laying the foundation of an ability to reflect, not only on performance but on the underlying rationale for action.'

Innocence Projects, with their wider remit than most pre-practice skills development clinics, can lead to students seriously questioning the use of their skills and the consideration of ethical behaviour, satisfying Webb's call for: 'an explicit educational focus on the skills involved in developing moral judgement competence.' (Webb 1998:139) (see Nicolson 2005).

Directors of Innocence Projects in the US are also optimistic that their efforts to teach students how to behave ethically, will create solidarity in later years between ethical lawyers, (a solidarity reported to be lacking at present). Their concern is with producing 'responsible' lawyers for the future, with strong ethical foundations and a core goal of achieving justice. They believe that both skills and strong ethical values are essential to the future of justice, similar sentiments to those expressed by Boon (1998:167):

'the integration of skills and knowledge should assist practitioners in achieving the good of legal professions; achieving justice. The development of virtues consistent with this social good must be a central goal of legal education. They form a foundation for achieving the 'internal goods' intrinsic to a 'practice' which can only be achieved if a person engages with the practice with justice, courage and honesty.'

While skills training can be undertaken via simulations etc.; 'Responsibility is taught by the process of being responsible' (Redlich 1980:623), as Leleiko (1980:653) explains:

'it is the experience of relating to clients and having the power to affect another human being which invites the student to analyse the nature of the lawyer's responsibility, and in particular, his or her own reactions to exercising such responsibility'.

Critical thinking for the law student is essential, requiring; 'an attitude of reflective scepticism; an attitude that avoids oversimplification and is comfortable with complexity; an attitude of awareness and appreciation of the diversity of values' (Ogilvey 1996: fn12). Traditional legal education and training has previously most often been 'antithetical to the development of a creative or critical autonomy.' (Webb 1998:141). Students on an Innocence Project however, come to recognise law 'as a more complex and relational process than the law curriculum has conventionally allowed' (Webb 1998:147). The Innocence Project attempts to expand the capacity of students to think critically, and act creatively. It also demands a series of skills that are the focus of recent government initiatives: 'enterprise skills'; 'information literacy'; and 'employability skills'.

### ***Enterprise Skills, Information Literacy, and Student Employability***

Along with demands to 'widen participation' and diversify the student body, the government has stressed the need to teach all students 'master skills', regardless of discipline. The result has been initiatives to introduce 'enterprise skills' across curricula, and 'information literacy' for all students. Information literacy is described as the ability to recognise when information is needed, and the ability to locate, evaluate, and effectively use the required information. It could be assumed that the information literate, have learned how to learn. Information literacy then is becoming essential for all graduates, but of especial value to law students for whom the ability to demonstrate autonomy is essential:

‘with information readily available to the masses at the click of a mouse, society needs people who can search, select and discriminate between what is useful and what is potentially harmful information. Society needs people who can think on their feet and who can learn from experience. To be able to learn autonomously is specifically recognised as emblematic of ‘graduateness’ in the law benchmark statement...’ (Hinett 2002:10).

Law students, in an increasingly competitive employment environment, must fit with societal demands for multi-tasking and creativity. In addition:

‘Law students need to express themselves both verbally and in writing, seek out information, choose appropriate courses of action based on facts, evaluate the implications of decisions and juggle a number of clients and problems at once. Today it is not just law firms but also society as a whole that requires these skills in graduates.’ (Hinett 2002:10).

Enterprise skills comprise those skills identified as necessary for entrepreneurs (or intrapreneurs or social entrepreneurs), including innovation; communication; networking; creativity; problem-solving; and presentation skills. Whilst law students have not traditionally been identified as budding entrepreneurs, these ‘master skills’ are increasingly vital to any career path, as MacFarlane (1988:534) points out:

‘without these foundations firmly established – and there is no limit to the level of sophistication to which these and other ‘master skills’ may be developed – we will continue to produce graduates who fall short of our aspirations for them...’

Indeed, it is increasingly short-sighted for law lecturers to assume a legal career path of law graduates, with many more students entering law school than can enter the profession; the diversification of law students; and with surveys of university students typically finding that over half plan to become self-employed:

‘Increasingly law students are entering diverse careers, both within and outside law, in widely scattered countries. It is no longer appropriate, if indeed it ever were so, to project the typical career structure of the law graduate and seek to shape teaching around the simple goal.’ (Thomas 2000:12).

However, the experience of many Project directors is that time spent on Innocence Projects can alter career aspirations of students. Many find a social justice ‘vocation’ and become motivated to ‘reform’ oriented, or criminal defence careers (in the US, as in the UK this can be a costly career choice if they were expecting ‘corporate’ law salaries). This results from what directors call the ‘radicalisation’ of law students, and the student development of a progressive mindset.<sup>xi</sup>

Innocence Projects then, can contribute to many essential learning outcomes for students, permitting them the opportunity to develop skills within an experiential learning environment, while at the same time, they can take responsibility for their own learning and ethical development, undertaking reflective practices vital to ongoing professional development. However, Innocence Projects are not without their own challenges, and there are some clear differences between the US where they have been successful, and the UK. Some of these differences may make it more instructive to look to the Innocence Projects of Australia, where similarity with the UK is greater.

## Challenges for Innocence Projects

Whilst Innocence Projects have spread, there have been many false-starts, and some Innocence Projects have closed or been scaled down. However, the Innocence Network now provides extensive support for those starting a project, as well as those already operating, and there are available many experts willing to guide beginners away from common pitfalls. There are however, essential differences between law students in the US and UK,<sup>xii</sup> and the legal system in England and Wales, which potentially pose problems. The clearest difference is the existence in the UK of a body which investigates alleged miscarriages of justice. Whilst difficulties remain with the operation of the Criminal Cases Review Commission (CCRC) (Naughton 2005), prisoners who have exhausted their appeals must apply to the CCRC to obtain a new appeal, precluding domestic students from being as involved in getting cases back through the appeal courts as US students. However, the existence of the CCRC may assist with potential 'resource' problems.

Aside from what Medwed (2003:1108) calls 'the innate problem of determining whether the prisoner is, in fact, innocent', most initial concerns over establishing Innocence Projects are financial. Indeed, many Innocence Projects directors claim that their most time-consuming task is fund-raising.<sup>xiii</sup> However, US law schools tend toward having greater resources than most UK equivalents (Brayne 1990), and the small staff-student ratios can cause alarm, indeed, as Thomas (2000:37) explains: 'the climate of tightening law school budgets and increasingly unattractive staff-student ratios are obstacles to the wider adoption of clinical methods in the undergraduate curriculum.' The investigation of cases too can be costly, with DNA testing often expensive (although non-DNA cases: 'can linger for years, testing the patience and resolve of clinic students and faculty, and accrue significant investigation expenditures.' Medwed (2003:1107)). However, here the CCRC is beneficial, as in England and Wales, Innocence Projects can leave the more expensive and resource intensive aspects of investigations to the CCRC.

Innocence Projects also commence case investigation by obtaining and reading all trial transcripts. In England and Wales this initial task would be impossible in the overriding majority of cases, as trial transcripts are produced by a private company that demand significant monetary compensation for providing a prisoner with a transcript of their trial (though many prisoners will already have a great number of documents including the summing up of the judge etc. if they have had an appeal). Without a commitment to proper funding and staffing then, an Innocence Project may be thwarted in its efforts.<sup>xiv</sup> However, pro bono work is undergoing a resurgence of interest, with many law firms encouraging employees to partake in *pro bono* work, and contributing to schemes to enhance their corporate 'social responsibility' credentials.

One of the greatest challenges to the staff of an Innocence Project, is to ensure that all students receive the opportunity for the learning outcomes outlined previously. This poses a problem as not every case will have make similar demands upon students, meaning that they can have mixed learning experiences. Indeed, veteran Project directors advise that students need to be forewarned that most of their time will be taken up with the rather disappointing task of writing to people to inform them that the Project cannot assist them. Indeed, Medwed (2003:fn179) warns that; 'some students sometimes get depressed by the work for several reasons, including the obvious guilt of many potential clients and the fact that slogging through files is not particularly glamorous'. Staff can make use of mock, or

preparatory interviews and involve students in the cases of others on the Project, or in the administrative running of the Project (including fund-raising), to ensure they each get the full range of learning opportunities.

Similarly, students will rarely be able to see a conclusion to a case, with most cases carrying over a number of years. As Kruse (2002:440) explains:

‘probably the biggest challenge in involving students in active problem-solving in a project that spans several semesters or years is to provide continuity by giving students a sense of the process that has come before, and to give them meaningful input into the direction of the project after they leave.’

However, as Kerrigan (2002:1) explains from experience with the only case to date of students assisting with the overturning of criminal conviction in England and Wales (the Alex Allan case), such difficulties can be overcome:

‘here lies the advantage and, at times, the difficulty of dealing with long-running and complex cases in a clinical programme. With careful use of supervision sessions a large number of students can benefit from the experience of working on a ‘big’ case with clear potential for the introduction of wider issues about defects in the legal system and the role of lawyers. However, on the downside each student gains only a snapshot of the case....’

The experience of cases being investigated over a series of years, requires that the Innocence Project has an ‘institutional memory’; ‘so that the lessons learned in one year will be passed on in the next year.’ (Kruse 2002:441).

Challenges exist for Project directors, in ensuring an equitable distribution of work and fair assessment. Whilst group-work can motivate some students, it can also give some the opportunity to rely on others:

‘Peer pressure, especially the desire not to seem foolish in front of a classmate or to overburden ones co-equal, may make members of a team more motivated. Pairing students though does give each student a safety net;... shared responsibility may mean reduced responsibility.’ (Medwed 2003: fn209).

Along with the normal drawbacks of scheduling and interpersonal difficulties however, there comes the opportunity for students on Projects to ‘teach and learn from each other’ and lead to the ‘cross-fertilisation of experiences’ (Medwed 2003:1148), assisting again with ensuring each student gains from their time on the Project regardless of the progress made on their cases.

There may also be difficulty in introducing ‘reflection’ among students; ‘the introduction of reflection into legal education poses pedagogical, practical, and political challenges to the existing status quo, but it has the potential to transform learning for students’ (Hinett 2002:54). As McNeal (2001:372) warns: ‘[some] students are likely to respond with groans and perhaps even outright refusal to clinical teachers’ pleas for reflection...’ There also continues to be ongoing debate in the US over the proper ‘grading’ system for such assessment, whether work on the project should attract a pass/fail, or gradated mark, indeed, experienced Project directors report having tried both systems and still not having resolved this issue.

Despite such challenges, Innocence Projects continue to spread and achieve important pedagogical aims, as well as stimulating significant legal reform, and of course, liberating innocent people from prison. Burrige (2004:1) has argued that; 'here in the UK we have not seized upon opportunities to keep pace with either national or international developments', a criticism vindicated by reference to the growth of innocence projects of the US, Canada, and Australia.

## Conclusion

This paper has sought to illustrate some of the potential educational utility of innocence projects in the UK, to highlight their role in achieving important pedagogical aims by providing insights into the 'law machine' that are currently limited, and bringing innovation into the law curriculum. Such Projects are an example of particular type of law clinic, but can be adopted in any law school as part of the undergraduate law degree,<sup>xv</sup> without becoming dominated by concerns over learning 'legal skills' intended for aspiring lawyers. Undoubtedly, there are particular challenges in establishing and operating Innocence Projects, but also undoubted benefits, for students, for law schools, local communities, and society:

'it is not enough for law schools to proclaim that they teach ethics, they must also try to behave as ethical institutions... it undoubtedly begs questions of teacher competence, resource availability, and curriculum co-ordination, though I also suspect the scale of such problems is easily overestimated.' (Webb 1998:149)

As Burrige (2004:1) points out: 'If disdain for legal practice in the undergraduate curriculum is replaced by reflection, analysis and informed critique of legal process, ethics and legal work, then students, society and the embattled concept 'justice' will be the beneficiaries.'

Pring states that the goal of a liberal legal education is to 'develop the ability to reason, to think critically and to appreciate that which is worthy of being appreciated', arguing that, 'cultivating the intellect is intrinsically worthwhile and is perhaps the supreme human good' (Pring 1985:184-185), with benefits to be felt by society as a whole. Similarly, Webb (1998:139) posits that; 'If an education is to be liberal, it needs to be liberating'. Innocence Projects may approach satisfying many of the demands made of a liberal legal education, combining the liberation of students and the wrongly convicted. Whilst bearing in mind the demands of the professional community, university law schools have greater commitments, as Twining (1994:192) argues: 'The modern law school... by and large... has been assimilated into the university. As such its commitment is, and should be to the academic ethic, that is to the advancement, stimulation and dissemination of learning, broadly conceived...'

As Johnstone (1999:9) argues, there is room for the development of a broader interpretation of legal education, transcending the traditional 'vocational' and 'liberal' dichotomy. Students who work on Innocence Projects benefit from developing 'master' skills, as well as pre-practice 'vocational' legal skills, yet can also engage in reflection while taking on responsibility for their legal, and ethical, and wider 'liberal' education. Employers will undoubtedly benefit from skilled reflective graduates with a passion for justice, and a strong ethical foundation. Lawyers who have previously been exposed to the fallibility of the criminal process, must be more alert as a practitioner to flaws and as a reflective practitioner, will learn from their own mistakes more readily, for, as Roach (2003-4:369) asserts: the legal profession has a

professional obligation to learn from its mistakes at every possible opportunity.’ There are also obligations on the part of law schools, as Thomas (2000:47) outlines:

‘law lecturing should reflect the values of democracy, participation, justice, fairness and equal opportunity to which law itself aspires. Those law teachers whose only teaching tool is the traditional lecture declaimed in tedious tones are not just serving students badly. They are also purveying a concept of law that may mouth principle but the practice of which is predicated on submissive acceptance of its doctrines. If law is to be a dynamic process reflective of society’s instinct for fair dealing and open governance, then law learning has to adopt appropriate methods for its study.’

Indeed, one of the greatest assets of the Innocence Project espoused by the Director of the Griffith University Project, is its ‘dynamism’; ‘you never really know what is going to happen during the course’, forcing teacher and student alike to be ‘on the ball’ to adapt and work with developments, surely an antidote to ennui materialising during ‘traditional’ law courses and programmes (for staff and students alike).

There are clear resource issues for implementing an Innocence Project, but if law educationalists are to respond to the many demands being made of them, and take seriously the responsibility of producing proficient, and ethical lawyers with a lifelong commitment to pro bono work, and the pursuit of justice, then such innovation must be embraced. Students and staff alike can gain satisfaction from using their time at university to help those in most dire need of legal assistance; ‘merely participating in an innocence project and striving toward the exoneration of a wrongfully convicted prisoner has a certain intrinsic value: a chance for a student to associate themselves with a socially desirable objective, and accordingly, derive some personal fulfilment from that association.’ (Medwed 2003:1135) Whether Innocence Projects are to be successful domestically, what can be learnt from the spread of such Projects internationally, is that it is possible, and beneficial, to resist the tendency of law schools that Toddington (1996:74) describes; ‘to sprinkle moral and political commitment over the top of [legal facts] like so much icing sugar’.

While the UK does not have a death row, and there does exist a body that goes some way to addressing the problem of wrongful conviction, there are still clear demands upon the legal education community to address the changing needs of students, the legal profession, and the wider community. Law schools can connect with their local community and engage in some vital work, not necessarily just focusing upon those imprisoned for serious crimes, but also those convicted in the magistrates courts, where legal aid has been ruled not to be in the ‘interests of justice’. As Naughton (2003) demonstrates, miscarriages of justice are not limited, and their serious consequences not restricted to, those convicted of serious offences.

Bradney has claimed that the academic doctrinal project has entered ‘its final death throes’(Bradney 1998:71). He posits that law schools have undergone radical change, infusing legal scholarship with approaches from the social sciences and humanities and providing students a truly liberal legal education, as well as giving the law school a voice in intellectual debates (Bradney 1998). Such wider engagement is in line with Dearing’s view of higher education as having a major role: ‘in shaping a democratic, civilised, and inclusive society’. (Dearing 1997: para 5.11) Having already made such an evolutionary change to taking ‘socio-legal’ perspectives, perhaps now the modern law school is ready to

take a further step and look to the international 'innocence movement', and adopt Innocence Projects as a way of providing a truly 'liberating' liberal education, (with vocational training as a bonus). As Brayne (1990) may conclude, we may have less to fear and more to gain than we realise.

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<sup>i</sup> Spread of Innocence Projects seen as 'new civil rights movement' 06/06/2002 Dallas Morning News /Associated Press available at <http://www.truthinjustice.org/ipspread.htm> . For discussion of whether the US 'Innocence movement' does represent a new civil rights movement, see Schehr, R. 'The New Civil Rights Movement' paper presented at SLSA Annual Conference, Glasgow, April 2004.

<sup>ii</sup> See: <<http://www.centurionministries.org>> accessed 20 October 2004.

<sup>iii</sup> <http://www.innocenceproject.org>. A book published in 2001 was based upon a number of their early cases: Sheek, B., Neufeld, P. & J. Dwyer. (2001) *Actual Innocence: Five Days to Execution and other Dispatches from the Wrongly Convicted* New York: Signet Publications.

<sup>iv</sup> For example, see the Northwestern Center of Wrongful Convictions in Chicago: <<http://www.law.northwestern.edu/wrongfulconvictions>> accessed 5 January 2005.

<sup>v</sup> See: <<http://www.gu.edu.au/school/law/innocence/content.html>> accessed 5 January 2005.

<sup>vi</sup> See <http://www.handbook.uts.edu.au/subjects/76524.html>> accessed 5 January 2005.

<sup>vii</sup> Most projects have detailed questionnaires that inmates have to complete before their case is taken up. Examples of these can be found on various Innocence Project websites.

<sup>viii</sup> <http://jan.ucc.nau.edu/~d-najp/mission.html>

<sup>ix</sup> This discussion is based upon visits to the US Innocence Network National Conference, and time spent at three of the Australian Innocence Projects, as well as educational theory.

<sup>x</sup> Past-student quoted in Griffith University 2003-04 Law Courses Prospectus.

<sup>xi</sup> This of course may be peculiar to the US where law students are graduates, typically wealthier and most often Conservative upon starting law school. However, students on Australian Projects have also undergone similar transformations and they are more similar to UK students.

<sup>xii</sup> For instance, students are on average four years older in the US as they are all graduates, and because of the costs involved and the postgraduate nature of law degrees, it would be highly unusual for anyone to attend law school without wanting to be a lawyer.

<sup>xiii</sup> Particularly as they have no equivalent 'legal aid' system for indigent prisoners and costs do not follow in the event of losing in litigation.

<sup>xiv</sup> Financial support for the Innocence Projects at Bristol and Cardiff have come from Personal Development Planning funds, while the Innocence Project at the University of Leeds has had significant funding from the White Rose Centre for Excellence in Teaching and Learning in Enterprise. Each project also benefits from pro bono input from legal professionals, and the Leeds Innocence Project has also received funding for 2006-2008 from the City Solicitors Education Trust, to enable the Director to be allocated teaching time to work on the Project. So, resources can become available if imaginative methods are employed, which can lessen any resistance from those in charge of the law school budget, although there has been little or no resistance experienced at the 3 universities presently operating Innocence Projects and other universities are actively seeking to establish them during 2006/07.

<sup>xv</sup> Indeed, the University of Bristol Innocence Project operates separately from the law clinic, and the University of Leeds Innocence Project operates with no law clinic present. At the Student Law Office at the University of Northumbria they accept criminal cases as part of their normal caseload without professing to have an 'Innocence Project'.