

Getting to Know the Oregon Innocence Project Q&A with Bobbin Singh

by Traci Ray
YLS President

My computer chimed and I was reminded that Aliza Kaplan, Associate Professor at Lewis & Clark Law School, and Bobbin Singh, executive director at Oregon Justice Resource Center, were visiting in five minutes. I quickly checked my email once more, and headed to our lobby. Upon shaking hands with my two new colleagues, I was treated to a thoughtful, organized, and impressive discussion about the Oregon Innocence Project (OIP) – why Oregon needs this program, the plans to make this project come alive, and what my firm and I could do to help. When Aliza and Bobbin left, I went back to my computer, minimized my email screen, and searched for OIP on the Internet. What I found was shocking. Oregon is the only state to not have its own Innocence Project, which was founded nationally in 1992. Since then, 300+ people in the United States have been exonerated by DNA testing alone, including 18 who served time on death row. These wrongly convicted people served an average of 13 years in prison before exoneration and release. I have to admit, I was saddened at first. But I was also filled with pride that through the hard work of folks like Bobbin and Aliza, along with Lane Borg, the executive director with the Metropolitan Public Defender, and Janis Puracal, an attorney with Bullivant Houser Bailey PC, the Oregon has its opportunity to launch its own Innocence Project chapter. In hopes of spreading the word and obtaining even

more details about the Oregon Innocence Project's plans, I sat down with Bobbin and asked some of the same questions from our first meeting, but this time with the notion to share his responses with the MBA and MBA YLS.

Traci: Can you please give us an overview of the Oregon Innocence Project (OIP)?

Bobbin: The Oregon Innocence Project provides pro bono legal and investigative services to individuals who have been convicted and are spending their lives in our prisons for crimes they did not commit, despite compelling evidence of their innocence. OIP will be dedicated to securing the release of those wrongfully convicted inmates in Oregon and will be the only program of its kind in the state. That is, OIP will be the only program within Oregon whose sole purpose is to actively track inmates' claims of innocence, investigate those claims, test DNA and other scientific evidence, and litigate when appropriate - all at no cost to the inmate or the inmate's family. The purpose of the project is to increase the accuracy of the criminal justice system, resulting in greater public safety. OIP, a joint project of the Oregon Justice Resource Center (an independent nonprofit based out of Lewis & Clark Law School) and Metropolitan Public Defender, is set to launch in April.

Traci: What are OIP's main goals and objectives?

Bobbin: OIP's mission is to

(1) exonerate the innocent, (2) educate and train law students, and (3) promote legal reforms aimed at preventing wrongful convictions. In addition, OIP will work with community partners to build support for comprehensive criminal justice reform to improve eyewitness identification, interrogation techniques, discovery practices, and other Oregon policies that do not serve to protect the innocent or punish the guilty, and, in fact, have proved to be the leading causes of wrongful convictions.

Traci: Why do we need our own Innocence Project in Oregon?

Bobbin: As you know, Oregon is the only state in the country without an innocence project or program. To make it worse, projects in our neighboring states (Washington, California, and Idaho) are under the strain of high demand in their own states leaving Oregonians without hope.

According to the National Registry of Exonerations (a joint collaboration between Michigan and Northwestern Law Schools), more than 1,300 people in the United States have been wrongfully convicted and exonerated since 1989. The year 2013 was a record year for exonerations in the United States. The National Registry announced on February 4 that there were 87 exonerations from 25 different states in one year. In about a fifth of those exonerations, DNA evidence proved that the convicted individual could not possibly have committed the crime. Fifteen of the exonerations occurred in cases in which the defendants falsely confessed, and 33 were obtained at the initiative or with the cooperation of law enforcement and prosecutors. These known and documented exonerations are, unfortunately, just the tip of the iceberg. Some estimate the rate

of wrongful convictions among violent felonies may be up to 4%.

Oregon is not exempt from error. Like every other state, ours is susceptible to the same causes of wrongful convictions, such as mistaken eyewitness identification, false confessions, and invalidated or improper forensic science. In fact, even without an Innocence Project in the state, seven people have been exonerated over the last 20 years in Oregon. As of February 1, the Oregon Department of Corrections reports that there are 14,634 men and women in our prisons. Without a program in Oregon that focuses solely on wrongful convictions, there is no accurate way to know just how many of these prisoners have been wrongfully convicted.

As lawyers and Oregonians, we believe in a fundamental system of justice. When that system of justice fails, it is up to us to put it right.

Traci: What can our legal community do to help OIP?

Bobbin: Even before opening its doors, OIP has already become involved as amicus in cutting-edge legal cases that are on the forefront across the country of the innocence movement. These cases are putting Oregon on the map. We need help because there is work to be done and the legal community can help us in three important ways. First, donate. OIP operates at no cost to the individual or their family members, who often cannot afford the financial burden. To do this, we need to raise \$135,000 each year to pay for one staff attorney, investigators, testing, case screening, and the overall expense of litigation. Second, spread the word. Vital to the success of OIP is strong relationships around the state with stakeholders and supporters. The epidemic of wrongful convictions is a community problem that



Bobbin Singh, Aliza Kaplan & Janis Puracal; photo by Jules Garza

requires a community response. Third, be a part of it. Attend our events, including our launch party on April 9, and sign up for pro bono and volunteer opportunities to come.

Traci: Let's hear some more about this kick-off event!

Bobbin: OIP will officially launch in April with a kickoff event featuring famed lawyer Barry Scheck, co-founder and co-director of the national Innocence Project. The event will take place on April 9, from 6-7:30 p.m., with Honored Guest Meet-and-Greet from 5-6pm, at Stael Rives LLP. Visit oregoninnocence.org for more information and to register.

Traci: Thanks for taking the time to share more about OIP with us, Bobbin, and for introducing the program to our members. The MBA YLS and MBA are rooting for the OIP, and together were are proud to be able to support the OIP with a \$500 sponsorship. I look forward to the kick-off event, appreciate the dedication and hard work from you and your colleagues in turning the OIP into a reality, and am excited for the meaningful impact the OIP will have on our community and justice system. Best of luck!

Michael Fuller Pro Bono Spotlight

by Nina Englander
YLS Pro Bono Committee

Michael Fuller, chair of the Consumer Protection Group at Olsen Daines, does not shy away from pro bono challenges. Fuller recently took on a difficult pro bono case less than 24 hours before trial - and won. In the case, Sallie Mae was suing a consumer for money allegedly owed on student loans. The consumer disputed that the student loans had been dispersed and claimed that there were defects in the student loan documentation. The consumer represented himself pro se through arbitration. When the arbitrator rendered a judgment in favor of Sallie Mae but reduced the claim amount, Sallie Mae appealed and requested a trial in circuit court. The case landed on Fuller's desk on the eve of trial. "I was told that trial was in less than 24 hours, that there was no Answer filed yet and that the consumer didn't have all of the documents," Fuller said. Undeterred, Fuller agreed to represent him pro bono.

That very evening, Fuller met with his client at his home office, drafted an Answer and counterclaims, marked trial exhibits and prepared his client to testify. Fuller also contacted counsel for Sallie Mae and identified counterclaims he intended to file on behalf of the consumer. A few hours later, Fuller received an email from Sallie Mae's counsel indicating that Sallie Mae was interested in reaching settlement. Fuller informed opposing counsel that his client would release the counterclaims if Sallie Mae would dismiss its lawsuit with prejudice. On the morning of trial, Sallie Mae presented Fuller with a judgment of dismissal with prejudice and walked away with nothing.

Cary Flitter, a prominent consumer litigation professor who initially sought assistance on behalf of the consumer, praised Fuller for doing "one incredible job," and called the result "tremendous."



Michael Fuller

Flitter further praised Fuller for creating leverage through his strategic use of counterclaims against the attorney debt collectors.

Fuller specializes in consumer bankruptcy litigation and regularly volunteers at the Legal Aid Services of Oregon's Bankruptcy Clinic. He also takes pro bono cases through the Oregon District Court's Pro Bono program. In his first case with the program, he helped secure \$80,000 for an inmate alleging cruel and unusual punishment. "I just feel lucky to be part of a profession that places such an emphasis on helping the poor," says Fuller, a member of the MBA YLS Pro Bono Committee.

mba yls | EVENT

YLS Community Service Day with SOLVE
Baltimore Woods
N. Baltimore and N. Decatur, Portland, OR
Saturday, March 15
9 a.m. - 1 p.m.

Help us improve our environment and join the MBA YLS Service to the Public Committee as we partner with SOLVE for a planting day at Baltimore Woods. We will be planting native trees and shrubs to improve water quality and create natural wildlife habitat.

Friends, family, and children (waiver required for children under 18) are welcome to join us. The event will happen rain or shine, so dress appropriately.

To sign up or for more information contact Tracy Hooper at th@hs-legal.com.