



ISSUES SURROUNDING THE ROBERT CLARK CASE

- **How An Exoneration Happens**

Founded in 1992 at Cardozo Law School in New York City, the Innocence Project is a nonprofit legal clinic. The Project handles cases only where post-conviction DNA testing of evidence can yield conclusive proof of innocence. As a clinic, students handle the case work while supervised by a team of attorneys and clinic staff. On the model of the original Innocence Project, the Georgia Innocence Project was established in late 2002. There are more than 30 Innocence Projects nationwide, operating independently but sharing resources. The original Innocence Project takes cases from every state and received a first inquiry from Robert Clark in 1999.

Innocence Projects essentially reinvestigate cases from scratch, and this process can take several years. One of the biggest roadblocks is finding the physical evidence in decades-old cases. Often the evidence has been discarded. In 2003, the Georgia General Assembly unanimously passed a law to provide for post-conviction DNA testing and to mandate that physical evidence be preserved for ten years after a criminal conviction.

Once satisfied that a sufficiently compelling case for innocence has been made and that there is DNA evidence from the case available to test, Innocence Projects begin litigation to secure testing for their clients. In Robert Clark's case, litigation began in Cobb County in late 2003 with the Georgia Innocence Project assisting as local counsel.

In some cases, such as the exoneration of Clarence Harrison by the Georgia Innocence Project in 2004, litigation takes only a few weeks. This was due strong cooperation by the DeKalb District Attorney's Office. Litigation in Robert Clark's case was completed in July 2005.

After litigation is complete, DNA samples are taken from the client and run against samples from the physical evidence in the case. This process can take several weeks or even months and costs thousands of dollars. DNA testing was completed in Mr. Clark's case in November 2005.

After the test results are complete, the Innocence Project files an Extraordinary Motion for New Trial. It is at the judge's discretion whether to grant this motion, and the District Attorney's Office has the discretion whether or not to ask for a new trial. If the motion is granted and the DA's office does not want to re-try the case, the client becomes an exoneree...cleared of all charges in the case.

Robert Clark is the 164th American to be proven innocent by DNA evidence long after his conviction and is the fifth DNA exoneree in Georgia.

- **Life After Exoneration/Gap in Services/Family Support**

Saying that re-entry into "civilian" life can be difficult for a new exoneree is a vast understatement. As is the case with most exonerees, Robert Clark re-enters society with no financial support and a challenge in regards to finding employment because of his lack of job training and education while

incarcerated. Mr. Clark is fortunate in that he has family members in the Atlanta area who will do all they can to help. However, any governmental social services available to him will be delayed, as the law prohibits application for these services until he has been released. Part of the Georgia Innocence Project's mission is to help exonerees rebuild their lives. The Georgia Innocence Project will be working closely with Mr. Clark as will the Office of the Mental Health Advocate of the Georgia Public Defender Standards Council. In addition, Alston & Bird LLP has generously agreed to assist Mr. Clark in any civil legal matters. The Georgia Innocence Project is grateful for the help of both these organizations and calls on the community to assist us in helping an innocent man find peace and comfort in his new life.

- **Faulty Suspect Identification Procedures**

The victim of this crime erroneously identified Robert Clark from a photo lineup and later at an in-person line-up. Mistaken eyewitness ID contributed to the wrongful conviction of 75% of the 164 people exonerated through post-conviction DNA testing in the United States including all five (5) of the Georgia cases.

To improve the accuracy of eyewitness identifications, experts recommend that the line-up administrator not know who the suspect is, provides specific instructions to the witness, and presents members of the line-up (photo or live) in a sequence rather than together. This is known as "sequential double-blind" protocol. Unfortunately it is being used in very few jurisdictions. To our knowledge, no Georgia law enforcement agencies use this method.

There is more information about this subject on the websites of the Innocence Project (New York) www.innocenceproject.org and the Georgia Innocence Project (www.georgiainnocenceproject.org).

- **Cold Hits: Additional Victims**

Performing this DNA testing not only exonerated Robert Clark, it solved the crime. After the results of the testing were complete, the Georgia Bureau of Investigation ran the DNA of the perpetrator against the CODIS (Combined DNA Index System) database and learned that Tony Arnold a man about whom Robert Clark had told police in 1981, was in fact the true perpetrator of the crime. Arnold is currently incarcerated, and his DNA has also been identified as that of the perpetrator of two unsolved rapes in metro Atlanta in the 1990s.