The Age of Innocents

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You never quite know where your life is going to go. Thirty-seven years ago this month, I walked into a maximum security prison for the first time. The second semester of my second year of law school was underway. I was beginning my practical training as a student intern in the Prisoner Assistance Clinic at the University of Iowa College of Law. My conceptions and misconceptions about how the criminal justice system works, and doesn't work, were about to be transformed by the unparalleled source of knowledge that is gained in personal experience with real people. I was becoming a part of the lives of people struggling to cope with an institutional captivity. At the same time, I was becoming a part of an institution generally known as the American criminal justice system. There were obstacles ahead, and pathways I would take, that I could not foresee in January of 1979.

When I was in high school, I bounced back and forth on two alternative career plans. Did I want to be a criminal defense trial lawyer, or would I rather be a writer? It turned out that I became both. As I was emerging from law school, I had the good fortune of finding part-time work with some very talented trial lawyers. While I took that opportunity to learn how to try a case to a jury, my mentors took the opportunity to dump their research and writing chores in my lap. After their trials were over, those trial lawyers did not want to expend the time and energy required to write high quality appeal briefs. Most trial lawyers don't. My mentors liked my work, and they begged me to write the appeals. What could I say? The plan I had finally developed to become a trial lawyer now dovetailed to add a second dimension. I was now becoming a trial and appellate lawyer. The new dimension added a perspective that led me to utter frustration and pure joy in the next three and a half decades. Day by day, I learned the riveting and heartbreaking details of how people can be wrongfully convicted and sent to prison as innocents.

If a person actually goes to prison while innocent, people in this country typically think the conviction will be reversed by the higher court, and justice will prevail. That may or may not happen. The safer assumption is that the conviction will not be reversed, and justice will not be done. In the appeal process, the higher court does not look at all the evidence to reach a new decision as to whether or not the defendant is guilty. The appeal is a process that reviews claims that there were errors in the procedures in the trial. Even if the appeals court agrees with the defendant that there were errors, the conviction will not be reversed unless the court determines the error caused an unfair trial. The unfairness must go to the extent that the appellate judges believe the error or errors were likely to have affected the result of the trial. In general, the final question becomes whether the error was harmless.

All through my first decade as an appeal lawyer in the 1980's, I watched the Iowa appellate courts deny criminal defendants a new trial when it was painfully clear the trial was unfair and the errors wrongfully affected the outcome of the trial in the verdict of guilt. All through that decade, I heard my colleagues complain that the appellate courts were intellectually dishonest in their analyses of criminal appeals. In the 1990's, that would begin to change for several reasons, but in the 80's we did not count on the appellate courts to protect our clients' rights for justice. We knew we had to prove innocence in the first place, in the trial, with a jury.

In theory, a defendant is not required to prove his or her innocence. The defendant is not required to prove anything. The judge instructs the jury to start the trial process with the idea that the defendant is not guilty. The defendant is entitled to the presumption of innocence. The jury is told they cannot abandon that starting point of innocence, unless the prosecution brings enough evidence into the trial to provide proof beyond a reasonable doubt that the defendant is guilty. I believe it is contrary to human nature for a person to presume innocence

upon hearing an accusation. The natural inclination is to presume the accusation is true, and to presume a defendant is guilty. In a criminal trial setting, I think the jurors are usually of the conscious or subconscious opinion that the defendants would not have been arrested if they did not commit the crime.

There is truth in the theory that social psychologists have developed through clinical research showing that people tend to adhere to what is called a “Just World Fallacy”. The defendant would not be sitting here in this horrible position before a jury if he or she did not deserve to be there. The fallacy provides a false sense of security for a person. Bad things don’t happen to a person who is not behaving badly. If I behave myself, nothing bad will happen to me. The presumption of innocence is a legal concept that has been traced back through ancient English law, Sparta, Athens and the Roman Empire. Some scholars see it in Hebrew law in Deuteronomy. It is a noble concept, and there is a reason the great civilizations have had to constantly instruct on the importance of presuming innocence, upon hearing an accusation. The natural human tendency is to presume guilt.

In an opinion she wrote in 1993, Justice Sandra Day O’ Connor said this: “Our society has a high degree of confidence in its criminal trials, in no small part because the Constitution offers unparalleled protections against convicting the innocent.” Justice O’ Connor pointed out that “the trial is the paramount event for determining the guilt or innocence of the defendant.” Because of those protections afforded by the presumption of innocence and the government’s burden of proof beyond a reasonable doubt, Justice O’ Connor joined the majority in that decision. The highest court continues today to stick to the rule that even the strongest new evidence showing that a convicted person is actually innocent is not in itself a basis for gaining freedom in federal court. The only question is whether the person had a fair trial under the requirements of the federal Constitution.

It is that confidence in the structure of the criminal trial that is one of the reasons the American courts long resisted the reversal of convictions. The Iowa appellate courts in the 80's were not an anomaly. They were in line with courts all over the country. But a confidence in the structure of rules of law and trial procedure cannot provide a reliable guarantee against wrongful convictions. The Pulitzer Prize – winning journalist, and commentator, Leonard Pitts, said it succinctly in referring to the death penalty. He was commenting on prosecutors who will repeatedly point to their confidence in the American trial system in their resistance to proof that a conviction was wrong:

> Without that confidence, the whole house of cards comes tumbling down. Meaning the death penalty, a flimsy edifice erected on the shaky premise that human systems always work as designed, that witnesses make no mistakes, that science is never fallible, that cops never lie, that lawyers are never incompetent.

Mr. Pitts makes the point we cannot escape. Human error and treachery will always be threats to the structural integrity of a human justice system.

As stated above, a conviction will be reversed on direct appeal only if it is clear in the record of the trial court that a judge made one or more errors on legal questions. Facts that are not reflected in that record will not be in front of an appeals court for its consideration. Evidence that was not discovered or was concealed, evidence of police misconduct, or evidence of the defense attorney's failure to properly conduct the defense is generally not going to be available to the higher courts in a direct appeal. In order to get those issues before a court, the defendant has to file a postconviction action in the trial court. The postconviction action is actually a civil suit that attacks a criminal conviction.

I started handling postconviction cases a couple years after law school, but I will admit, I had very little insight as to what I was supposed to be doing for several years. It was a relatively new process that did not get introduced in Iowa until it hit the state code in 1970. In the 80's, there were not many lawyers who had any experience with the process. There was almost no one to learn from. Other interns in my law school clinic litigated postconviction actions, but my focus in the clinic was exclusively in prison civil rights cases. The chief of our beloved clinic had gone off to teach at Arizona State by the time I was appointed to a postconviction. The vast majority of postconviction issues are claims of ineffective assistance of defense counsel. Although the constitutional right to counsel was established in the Bill of Rights, it took almost two hundred years until the United States Supreme Court clearly defined the standards for judging an attorney's performance in a criminal trial.

It was in the 1985 decision in *Strickland v. Washington* that the Court forcefully pronounced the right to counsel means the right to effective assistance of counsel. The Court issued a highly detailed analysis showing judges how to decide if counsel performed in a reasonably competent manner and whether any failure was likely to have made a difference in the outcome. In the 1980's, a reversal of a conviction in postconviction proceedings was even much more rare than the very rare victories on direct appeal. Through the 90's and into this century, those postconviction victories significantly increased across the country, as wrongful convictions became better understood and lawyers became better equipped to expose them. Near the end of each of the last two years, I have had the honor to be one of the instructors for the State Public Defender's training sessions for attorneys contracting to take postconviction actions to court, as court-appointed attorneys. I told the training coordinator last November that back in the 80's there were just a couple handfuls of us wandering around the state getting our butts kicked. The idea of a state sponsored program to train postconviction lawyers would have

been something we could not even conceptualize back in those days. The turnout for these training sessions has been exceptional. This is a formal structural improvement that will contribute to the correction of wrongful convictions in Iowa.

The anatomy of wrongful convictions has been revealed in recent years in scholarly ways that have developed in a new era. Before the late 1980's, there were only a few unconnected organizations across the country dedicated to assisting people who had been wrongfully imprisoned. Very few scholars studied wrongful convictions. Every once in a great while, someone, imprisoned somewhere in this country, was able to prove he was innocent. Those cases were viewed as isolated rarities, not the result of any systemic failures. Any suggestion that the system may need to be improved was quelled with official proclamations that the United States has the greatest system of justice in the world. At the end of the 80's, a new age was ushered in on the wings of the science of DNA comparisons. Rhetoric gave way to scientific proof.

Ironically, the certainty of DNA analysis was hailed by law enforcement authorities as a new and flawless tool to prove the identity of the perpetrator of a crime. In 1989, the use of DNA comparisons led to the exonerations of two people who were wrongly convicted as the perpetrator of a crime. Just as DNA science could identify the guilty, it could also identify the innocent suffering a wrongful conviction. Law enforcement officials could not argue with the truth found in the science. In 1992, two attorneys who were also law professors started the Innocence Project in the Benjamin Cardozo School of Law in New York City. Barry Scheck and Peter Neufeld designed that wrongful conviction legal clinic to limit its work on cases to those that would meet a very narrow criterion. The facts of the cases had to demonstrate that the innocence of the prisoner could be absolutely proven by the DNA that could be found on physical evidence that did exist and could be tested. Some bodily fluid or flesh from the

perpetrator must possibly have been left on some item that had been preserved. Of course, such testing could also prove the client was actually guilty, and many times the Innocence Project's work resulted in that very conclusion. The person truly was guilty.

Since 1992, however, the Project has prevailed in over 200 cases where the undisputed science of DNA testing showed the client was wrongfully convicted and sent to prison. In addition, Scheck and Neufeld found there was an overwhelming need for attention to such cases nationwide. Their single clinic in a single law school could not begin to manage the volume of requests for assistance they received. They responded by creating the structure for a nationwide network of independently established and managed entities that have become the Innocence Network. To date, there are over 60 projects in the Network, and that includes several in other countries. With the work of the original Innocence Project, the network projects, some private attorneys and a few prisoners representing themselves, total DNA exonerations on record are now at 337. In 166 of those cases, the real perpetrator has been identified by comparison of the evidence to DNA identification databases. The average number of years a prisoner has served in these cases before exoneration is fourteen.

When these cases came into court years after the trial and appeal had provided no relief to the accused, they were initiated as postconviction actions in the state courts. The cases could proceed as a civil lawsuit on the claim of newly discovered evidence. They could be filed at a late date because new evidence was available that could not have been discovered at the time of trial, even if trial counsel had been reasonably diligent in the pretrial investigation. The DNA results could show the outcome of the trial would have been different if the results had been available in the trial. The power of the court in the civil case could then be used to reverse the conviction in the criminal case. Often, the convictions had been obtained before the process of DNA analysis became available for use in court. The DNA analysis is now more easily and

routinely completed in pretrial phases of new cases. The number of DNA exonerations in postconviction cases can be expected to continually decline. There are plenty of other grounds for correcting wrongful convictions in postconviction actions, however.

The study of DNA exonerations has shown a number of systemic failures that lead to wrongful convictions. In 71% of those DNA exonerations, the defendant had been convicted as the result of incorrect eyewitness identifications. Traditionally, eyewitness identifications were accepted in the law as highly reliable, and that type of testimony would be devastating to the defense, especially if it came from a truly independent witness. In the 1990's, clinical experiments and studies conducted in properly controlled conditions concluded that people are actually quite limited in ability to identify people they have seen in prior situations. This human ability is particularly poor in cross-racial identifications and in situations that were particularly chaotic or traumatic for the witness. What's more, the original memory of a witness can be influenced and permanently altered by post-event suggestion. The conclusions of psychologists have been proven correct by the striking percentage of eyewitness identifications that were wrong in DNA exoneration cases. All 9 exonerations by DNA in Missouri were cases of eyewitness misidentification. Just last week, the Illinois Supreme Court overturned one of its own longstanding rules and declared that expert witness testimony is indeed material and important, and must be allowed in trials concerning eyewitness identifications to explain human limitations in making those identifications. .

In 47% of those first 325 DNA exonerations the prosecution had used unvalidated science in forensic evidence. In 27% of those exonerations the defendant had given a false confession or admission of guilt. In 15% of those first 325 exonerations, the prosecution used informants, referred to as "snitches" in the legal jargon. The snitches gave false testimony to prove guilt for monetary gain or legal concession in their own cases. The foregoing

percentages total up over one hundred because in each exoneration there is likely to be more than one cause for the wrongful conviction. Those causes cited above are not the only causes. Dishonest or incompetent performance by police or prosecutors has led to countless wrongful convictions. Probably the most common main or contributing cause in a wrongful conviction is the defense attorney's failure to provide a competent and effective defense in pretrial investigation and preparation, or in trial performance, or both.

In 2012, the University of Michigan Law School, in conjunction with the Center on Wrongful Convictions at the Northwestern University School of Law, founded a project called the National Registry of Exonerations. That project documents all exonerations it can find in the United States, going back to 1989. It is not limited to DNA exonerations. Its definition of an exoneration is a case where "a person was wrongly convicted, but later cleared of all the charges on new evidence of innocence." The Registry shows a current count of one thousand, seven hundred thirty-three exonerations in the United States since 1989. Various independent studies estimate the number of innocent persons sitting in this country's prisons is somewhere between two percent and seven percent. In Iowa prisons, using the lowest estimate of two percent, there are 166 innocents sitting in prison. At seven percent, the number would be 584. The Innocence Project points out that even if the figure was one percent, that would be 20,000 innocents in prison nationwide. Scientific evaluation of evidence is only possible in an extremely low percentage of cases. The vast majority of innocent people sitting in prison will not be able to prove their innocence.

The criminal justice system is subject to the frailties of human behavior at every turn. For centuries, those weaknesses were not identified for the general public and not addressed in any formal, institutional or otherwise concerted effort. A new age is underway. The defects

have been exposed and studied, and a wide array of formal efforts are progressing rapidly toward improving the system.

Study has shown that most misidentifications of the perpetrator result from police identification procedures that intentionally or unintentionally suggest to eyewitnesses they should pick out a particular suspect from a live or photographic lineup. Scores of law enforcement departments across the nation are adopting standard procedures that will prevent unreliable identifications. In 2014, the State of Illinois passed legislation that closely regulates how police go about identification procedures with eyewitnesses. Illinois was one of just three states with that legislation at that time. The number continues to grow, and will continue. Similar bills are currently pending in the Missouri and Nebraska legislatures.

Law enforcement agencies and state legislatures have adopted procedures for mandatory audio recording of suspect interrogations and interviews. The recordings allow a judge to decide whether an interrogation was overly coercive, and the result should be kept out of evidence. If the recording is not kept out of evidence, it allows a jury to hear exactly what was said, rather than a police officer's description of what was said. Mandatory recording will be the law of the land before long. Juries want to hear exactly what was said. Skilled and professional police officers want recordings. They want the juries and judges to hear exactly what was said. In other ways, science is again assisting the law to prevent and correct wrongful convictions.

Abraham Lincoln signed the legislation creating the National Academy of Sciences in 1863. The law established an independent nonprofit corporation charged with the responsibility of "providing independent, objective advice to the nation on matters related to science and technology." The Academy to this day continues "to provide scientific advice to the government whenever called upon by any government department." The Academy receives no

compensation from the government for its services. In February 2009, the National Academy released its report that urged comprehensive reforms and national oversight and research to ensure reliable scientific methods have been employed when forensic testimony is introduced in a courtroom. The request for this game-changing inquiry had come to the Academy a few years earlier, not from a mere department, but from Congress. The study was conducted by a diverse group of over sixty experts from the academic, legal and scientific communities. Its 2009 report was entitled "Strengthening Forensic Science in the United States: A Path Forward." The experts were drawn from three committees within The National Research Council, a division of The National Academies. The committees concluded there were serious defects in testimony offered across the nation by experts purporting to rely on the results of science. The report detailed the use of unvalidated methodology and conclusions in regard to hair microscopy, bite mark comparisons, fingerprint analysis, tool marks and shoe print analysis, bullet lead comparison analysis, and fire cause and origin analysis. Just last month, Congress approved forty million dollars in funding for programs that correct and prevent wrongful convictions. Most of that is allocated to the improvement of forensic sciences. In these difficult fiscal times, the funding was increased by four million dollars from the previous year's allocation. At the same time, Congress passed legislation that would prohibit federal income taxes from being imposed upon any compensation an exoneree gains in reparation for a wrongful conviction.

While the committees at the National Academies were in the midst of their exhaustive investigation, I was sitting at the bar before a monthly meeting of the Dillon Inn of Court, having a drink with my good friend, Brian Farrell. I have often described Brian as one of my brightest and most enthusiastic mentees, and one of my most inspirational mentors. On that evening, Brian asked why I was appearing more than a little on the haggard side. I said, "I don't know. Sometimes I feel like a one-man innocence project." We began conversation about some of the

cases I was pursuing when Brian halted the discourse by saying somewhat excitedly, “Wait a minute, why don’t we have an innocence project in Iowa?” Later in that year of 2007, Brian had established non-profit corporate status with the IRS, and taken the steps to meet the criteria required to become a member organization of the Innocence Network. Brian let me select the name, from the short list the criteria would allow, and we founded The Innocence Project of Iowa. Both of us continue to serve as board members. Brian is the president. We are a part of that network of over 60 organizations worldwide, established by independent non-profits and in “organizations affiliated in varying degrees with law schools or other educational institutions, units of public defender offices, and pro bono sections of law firms.” My older son designed and built our website. On our home page, we publish our mission statement:

> The Innocence Project of Iowa is an non-profit organization that seeks to prevent and remedy wrongful convictions in the State of Iowa through case investigation, policy reform, and education. The Project’s volunteers assist inmates with viable claims of actual innocence and work to improve the integrity of Iowa’s criminal justice system.

We began with a board of four persons, all proceeding on a volunteer, non-paid status. Our aim was to create the structure and process to get a project up and running with the hope that one or both of the law schools in Iowa would then take over the work. Our board member who was a teacher at Iowa Lakes Community College in Emmetsburg was able to set up an efficient intake process for prisoner applications for assistance by enlisting volunteers from the college’s paralegal program. Later, students majoring in criminal justice at Buena Vista University in Storm Lake worked as volunteers to review cases for factual issues and prospects for investigation of facts. Again, those college students were volunteers who worked under the direction of one of our board members, a professor in the criminal justice department. Student

volunteers have conducted legal research and writing for us at Iowa Law, and I have taken them into prison on client visits. We set up all the machinery, but the law schools have not yet taken over.

Nonetheless, last fall we went through some amazing developments that will allow the Innocence Project of Iowa to continue to flourish. Our short-handed volunteer staff was only able to accomplish so much each year. All of our board members have always had full-time demanding careers and families that deserved priority in our time commitments. Our efforts to obtain funding grants to finance even a part-time executive director were unsuccessful. We have made some very good progress toward introduction of legislation in Iowa to regulate interrogation recording and eyewitness identification procedures. The administrative and logistical developments that are now insuring our project's expanded capabilities are a testament to an institutional commitment to protecting the rights and the freedom of innocents. On October 26, 2015, Iowa Governor Terry Branstad held a press conference to announce the State Public Defender's Office in Des Moines had instituted a Wrongful Conviction Division. The woman the state hired to direct the division brought a long and successful history of work in innocence projects to the new division. Audrey McGinn worked on several cases resulting in exonerations in the California project in San Diego. She established ten new innocence projects throughout Latin America. She speaks Spanish fluently. Governor Branstad has not traditionally been known as a friend of the criminal defense bar. When I was president of the Scott County Bar Association back in the middle 1990's, our executive council authorized me to write a letter to Branstad to criticize him for a political maneuver he made to deny increased funding for court-appointed lawyers representing indigent Iowans accused of crimes. I began the letter by reminding the governor of the state motto he must see several times every day he

works at the Statehouse: "Our Liberties We Prize, and Our Rights We Will Maintain." We received no response to that letter, and the battle over indigent defense fees continued.

Last October, as he announced the State's new Wrongful Conviction Division, Governor Branstad's comments were remarkable. The language demonstrated a sign of these new times. Branstad acknowledged the fallacy in simply having faith in the greatest legal system in the world. In different language, the governor said the same thing Leonard Pitts had said, in this way: "We know that in a system run by humans, mistakes can happen. Iowans have great confidence in their system, but even in a well-regarded system, issues can arise". Now, those are words I never would have dreamed would come out of Branstad's mouth. There was a second element to the public announcement that was just as important to me, but on a more practical and personal level. The state's new Wrongful Conviction Division entered a collaborative working partnership with the Midwest Innocence Project and the Innocence Project of Iowa. Our project's board had been talking to Tricia Bushnell, the legal director of the Midwest project for a couple years. We had welcomed her into two of our board meetings. With a partnership in purpose with the State Public Defender and the Midwest Innocence Project, we now have the assistance from, and provide assistance to, fully funded, full-time lawyers and support systems dedicated to the investigation and litigation of innocence claims

Fully engaged teachers always learn from their students. I had always prided myself in developing close personal relationships with my clients, and honoring that relationship with full effort in their individual cases. I needed to learn to expand my horizons a little to make an impact on a broader basis. I had been in practice almost 20 years when I began teaching my favorite student. I met Brian Farrell during his first year out of law school when he was a judicial clerk to the judges of Iowa's Seventh Judicial District. After that stint of only about one year, Brian worked as an associate for a small law firm in Maquoketa, not far from the tiny town of

Goose Lake, where Brian grew up. He turned to me for direction and advice in defending criminal cases at the trial level. After a couple years in that practice, Brian flew off with his wife to spend a year in Ireland. He obtained his master's degree in International Human Rights at the National University of Ireland Galway in 2002.

When they came back, Brian followed a very interesting career path while his wife pursued her doctoral degree in psychology and her career as a college professor. All along that way, I counseled Brian on the litigation of criminal trials, criminal appeals and postconviction actions. Somewhere along that way, he landed an administrative position at the Iowa Law School, and in 2013, he returned to Galway to receive his PhD. Dr. Farrell now wears many hats at the College of Law, including Associate Director for the university's Center for Human Rights. He is also a Lecturer in Law. Last fall, he taught the law school's first course to focus solely on wrongful convictions. As president of our project, Brian set up collaboration with the Midwest Innocence Project.

The Midwest project serves prisoners in five states from its offices in Kansas City. Those states are Missouri, Kansas, Iowa, Nebraska, and Arkansas. It is governed by a 22-member board of directors, including one from our Iowa project board. Tricia Bushnell took her position as the legal director there after serving as a faculty clinical instructor and staff attorney for the innocence project at the University of Wisconsin. Tricia brings a special intensity to the table. When she's not working, Tricia's idea of relaxation is skating in roller derby. Earlier this month, it was announced that Tricia would be serving as local counsel in Wisconsin on the legal team representing Steven Avery. Mr. Avery and his plight in receiving a life sentence at the hands of county authorities in Manitowoc, Wisconsin, is the subject of a current and wildly popular series on Netflix called "Making a Murderer".

The media has had a great impact in this new era in news and human interest stories describing convictions of innocent people. The success of “Making a Murderer” in popular culture is a testament to a drastic change in the culture in general toward wrongful convictions. All through the 80’s, I would tell laypersons about my work, if they asked me. Almost every time I would say there are a lot of innocent people in prison, I was met with a sarcastic remark like “Yeah, right”, or at least a certain look telling me I was living in a fantasy world. These days, when I make that same comment to a layperson, the response is almost always amenable and along the line of “Oh, I know that’s true”.

Steve Avery was convicted of a brutal rape in 1985. Soon after the crime had taken place in a state park, county sheriff’s deputies developed Avery as a suspect. They knew Avery and didn’t like him. City police from Manitowoc went to the sheriff’s department to share information they had to show the perpetrator was not Avery, but was actually a man named Gregory Allen. Sheriff’s detectives were sure Avery was the right man, and they declined to investigate Allen. The victim incorrectly identified Avery as her attacker in photo and live lineups. Ten years later, while in prison on another assault, Allen contacted the sheriff’s department and confessed to the rape for which Avery was convicted. The sheriff’s department took no action and did not disclose that confession. Eight years later, Steve Avery was exonerated after the University of Wisconsin Innocence Project took his case and was able to obtain DNA analysis that showed Gregory Allen was indeed the rapist. It was not until after he was exonerated that Mr. Avery learned the city police had tried to get the county to investigate Allen, just days after the rape in 1985. It was not until after he was exonerated in 2003 that Avery learned county officials had ignored and concealed Allen’s confession eight years earlier.

Mr. Avery sued the prosecutor, the sheriff and deputies for thirty-six million dollars. After Avery filed that lawsuit, county investigators charged Avery with a new rape and this one was

included in a murder. In a horrible conflict of interest, the county department responsible for Avery's wrongful conviction, and facing the 36 million-dollar lawsuit, declined to turn over the investigation of the murder to another law enforcement agency. The Netflix series shows how seasoned detectives subjected Avery's learning disabled 15-year-old nephew to a plainly coercive and leading interrogation that turned into his own confession and his accusation of Avery. Viewers get to see the interrogation because Wisconsin law requires that interrogations be recorded in full. The series also explains evidence of a key and a bullet fragment connected to the crime ending up on Avery's property, even though investigators had searched the same exact areas several times previously. Avery and his nephew were both convicted of the murder in separate trials.

County officials dispute the facts the Netflix series reports about the murder investigation. The fact of Gregory Allen's guilt and their refusal to investigate him on Mr. Avery's first case cannot be disputed. The public outrage over that failure to investigate and test Allen and over the rough treatment in the interrogation of an obviously challenged 15-year-old boy, is an outrage that is symptomatic of a new age for innocents. Over 400 thousand people have signed a petition asking President Obama to pardon Steve Avery and his nephew on the murder convictions. Unfortunately, the President has no jurisdiction over convictions obtained in state courts.

A Des Moines Register reporter interviewed the President of the Innocence Project of Iowa less than two weeks ago for his comments on the impact of "Making a Murderer". The article also recounted Governor Branstad's announcement of the Wrongful Conviction Division. Dr. Brian Farrell pointed out that the importance of the public's awareness is not limited to whether or not Avery and his nephew were wrongfully convicted of murder. Reforms regarding the best uniform practices for eyewitness identification and interrogation procedures deserve

more discussion. The Netflix series may provide some benefit to innocents everywhere. Dr. Farrell was quoted, “The value of making this more accessible to the public is that it allows us to have a discussion… And if that helps even slightly to reset the balance of innocent until proven guilty in this country, I think that is significant.”

Now that my age has crept up to 60 years, people ask me more and more often whether I’ll be retiring anytime soon. I tell them I have no intention of retiring as long as there are innocent people sitting in prison. Sometimes, I add, “Why would I quit? I can actually win, now”. And I always say to myself, “I just don’t know how I made it through the 1980’s”.