

The Innocence Files on Netflix: Freeing frame-up victims from prison

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The Innocence Files is a Netflix original documentary series, based on the efforts of the Innocence Project—the US legal organization dedicated to exonerating individuals who have been wrongfully convicted—and its networks in Pennsylvania, Northern California and Michigan. The nine-episode series focuses on the cases of eight framed-up men, each of whom spent decades in prison and/or death row.

In recent weeks, *The Innocence Files* has shown up on the list of the top 10 most popular films or series on Netflix. The production of and interest in the documentary are part of growing opposition in the US both to the death penalty and to mass incarceration.

In regard to the latter phenomenon, the Prison Policy Initiative pointed out in March that the American criminal justice system currently holds “almost 2.3 million people in 1,833 state prisons, 110 federal prisons, 1,772 juvenile correctional facilities, 3,134 local jails, 218 immigration detention facilities, and 80 Indian Country jails as well as in military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories.” Imprisoning human beings is a thriving industry in the US, a society afflicted by vast social misery and inequality. The great socialist Rosa Luxemburg wrote that all crimes, “as all punishments, are indeed always rooted ultimately in the economic conditions of society.”

The co-founders of the Innocence Project in 1992, Peter Neufeld and Barry Scheck, are consulting executives on *The Innocence Files*, which was executive produced and directed by Liz Garbus (*The Farm: Angola, USA*), Alex Gibney and Roger Ross Williams. Jed Rothstein, Andy Grieve and Sarah Dowland also directed episodes.

There is much moving material here, many genuinely heart-breaking stories.

The documentary series points to three major causes of wrongful conviction: the use of flawed forensic evidence, such as the pseudo-science of “bite marks”; the misuse of eyewitness identification; and prosecutorial misconduct.

Over the course of nine hours (the parts range between 50 and 85 minutes), each of the documentary’s three sections—The Evidence, The Witness and The Prosecution—demonstrates that wrongful convictions are widespread and “systemic,” as

Neufeld and Scheck contend.

The Innocence Project has helped free more than 2,500 wrongfully convicted people in the US over the past three decades. Some 3,000 inmates write to the organization annually, and at any given time the Project is evaluating 6,000 to 8,000 potential cases. And all this, most likely, is only the tip of the iceberg.

To begin with, *The Innocence Files* exposes the fact that dozens of eventual exonerees were convicted based on the fraudulent use of so-called bite mark evidence. The cases include those of Levon Brooks, Kennedy Brewer and Keith Harward. Brooks, an African American, served 16 years in Mississippi prisons for a 1990 rape and murder of a three-year-old girl he did not commit.

In 2008, DNA testing cleared another African American man, Brewer, who had been sentenced to death for a nearly identical murder that happened in the same town less than two years after the crime for which Brooks was convicted. Harward, a white man, was convicted of a 1982 rape and murder in Newport News, Virginia, and served more than 33 years in prison.

In an interview with *Crime Story Daily*, Neufeld asserted: “When we dealt with junk science, the one area that we’ve really been litigating hardest at for a number of years, where we’ve proven again and again and again with exonerations that the use of bite marks to convict people is a travesty of enormous order, so we thought bite marks would be good.”

One of the strengths of the series is its willingness to go beyond the facts of the convictions and delve into the lives of the victims. The poverty-stricken Brooks and Brewer did not stand a chance against a racist officialdom and their key witness, forensic odontologist Michael West, a Confederate-flag loving dentist who played a major role in their convictions with his supposed certainty about bite marks. Both men spent time in Mississippi’s notorious Parchman Prison—a former plantation. At 24 years old, Brewer was sentenced to die by lethal injection and remained in Parchman on death row for a torturous seven years.

Latino youth Franky Carrillo was 16 years old in 1991 when he was arrested for a gang-related, drive-by murder in Lynwood, California (in Los Angeles County). *The Innocence*

Files details how Carrillo's case epitomizes the fallibility of witness testimony when it is subject to manipulation by corrupt police and law enforcement. Carrillo served 22 years before four witnesses recanted their false testimony.

Another horrific case is that of Texan and African American Alfred Dewayne Brown, who was freed from nearly a decade on death row in 2015, but was never declared "actually innocent." He was convicted of the 2003 murder of a Houston police officer, Charles Clark, during a botched robbery. Phone records found in the prosecution's possession, but not shared with the defense at trial, supported Brown's alibi that he was at his girlfriend's house at the time of the crime.

In the same interview cited above, Neufeld pointed out: "In the area of prosecutorial misconduct, we're looking at some pretty nasty players. People who are sworn to uphold the law and do justice who really wanted to win at any cost. The person who prosecuted Brewer and Brooks in Mississippi was a Bible-thumping white guy who was reported to have put more men on death row than any active prosecutor in the whole state of Mississippi. He was putting up witnesses who he knew were lying. It's not a pretty picture."

Brown suffered a grotesque miscarriage of justice, in which prosecutor Dan Rizzo coerced and threatened Brown's girlfriend and withheld exculpatory evidence. Since 1970, there have been 16,000 findings of prosecutorial misconduct in the US. Fewer than 2 percent of those responsible have faced public sanctions of any kind. Rizzo has yet to be held legally accountable, according to *The Innocence Files*.

Kenneth Wyniemko, a white man from Michigan, claims in the documentary that when he was arrested, police officer Thomas Ostin termed him a "million-dollar man," cynically explaining that it would cost Wyniemko that amount of money to get out of the clutches of the law.

Wyniemko was wrongfully convicted for a 1994 rape/robbery solely based on a composite sketch, even though the victim stated she had little opportunity to view her assailant. In 2003, his conviction was dismissed based on DNA evidence establishing his innocence. In the documentary, Ostin, the arresting officer, oozes venom from every pore.

"The main thing we're trying to do here," Neufeld explained in *Crime Story Daily*, "is to get across that these cases are not one-off cases. That they all represent systemic failures in criminal justice."

The Innocence Project co-founder goes on to suggest that American society's "failures," in health care, education and housing, are largely bound up with race, because, for example, "COVID-19 is affecting black people and brown people way disproportionately to their numbers in the population." Neufeld continued, "And that's not a surprise, because the quality of healthcare they've had all along has been so much worse, that they do have more other underlying medical problems, that there is a greater unwillingness to give those people the care that is handed out more routinely to white people."

Black Americans are dying from the coronavirus at a rate of more than twice their population share because in certain urban areas in particular they make up large portions of the impoverished working class. Likewise, although race certainly plays a role in given instances and in some of the cases highlighted by *The Innocence Files*, the framing up, victimization and railroading to jail of men and women takes place principally on a class basis and for reasons of ruling class policy and interests.

To detain, intimidate, abuse and even wrongfully punish is not an aberration under capitalism. It is the function of the state to oppress the working class on behalf of the financial oligarchy, with all the consequences that follow.

What unites the eight racially and ethnically diverse men featured in *The Innocence Files* is that they all come from the working class and the poor.

The Innocence Files should be welcomed and widely viewed. The series is a devastating antidote to the lies of the media and politicians about the greatness of "American democracy." Taking on the legal system to fight for the liberation of innocent human beings is thoroughly principled and courageous.

It should be remembered that even if every dishonest prosecutor and thuggish police officer were exposed and driven out, as they should be, millions of people would still be languishing in American prisons. The guilty too, in the final analysis, are victims of class society. Justice remains a hollow concept unless there is social equality, which is only possible with the eradication of capitalism.

After being freed from prison by the German revolution of November 1918, Rosa Luxemburg, with the harsh experience fresh in her memory, reminded her readers about the "wretched inmates who still languish in those gloomy dwellings," who had been entirely forgotten.

"No one has thought," she wrote, "of the thousands of pale, emaciated figures who have been incarcerated for years behind the walls of the gaols and penitentiaries in expiation for petty offences. ... Bourgeois class justice has again proven to be like a net, which allows the predatory sharks to escape, while the little sardines get caught."



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