

COMPETITOR AND ALLY:
THE TEXAS TRIBUNE'S IMPACT ON A
DEPLETED AUSTIN PRESS CORPS

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by
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INTRODUCTION

The story that got me was Lane DeGregory's "The Girl in the Window," the Pulitzer-winning feature from the then-*St. Petersburg Times*. I didn't realize that newspaper writing could be what that was, but suddenly I had something to aspire to. The depth, the precision, the detail: I was just getting into journalism classes as a junior in college, and it was all new. That story and the pandora's box of others like it that opened helped me realize the type of stories I want to write, deeply reported stories with people at the heart.

After college, I became a reporter of hard news at a newspaper in the Chicago suburbs, and time for enterprise work was difficult to come by. But the experience and skills gained there are extremely important. When I started, I didn't much like to push people past their party lines. When I left, I'd developed a nose for BS and had earned an award in investigative reporting for – yep – pushing past the bogus stuff a mayor and a college administrator and some others kept telling me.

When I came back to graduate school, I wanted to reconnect to that other side, the side in awe at great writing, the side that was the reason I stuck to journalism in the first place. But I now had a much stronger reporting foundation and wanted to continue to build on those skills. I chose the magazine writing sequence. But I've spent just as much time studying investigative reporting, in and outside the classroom. The trick is bringing the two together. That is what this project attempts to do, to combine my main journalistic interests.

This Master's project is in two parts. The first consists of journalistic research about compensation for the wrongly convicted. For this portion, I've studied wrongful incarceration compensation statutes across the country and followed an exoneree in Dallas, Texas, where I was stationed throughout the semester. The journalism was funded by a grant from the Larry J. Waller Fellowship in Investigative Reporting, for which I am extremely grateful.

Exact definitions of *investigative reporting* and *narrative* differ, and I have no desire to argue with anyone who would call into question whether my final product will fit either or both categories. I'm confident, however, that I've used all the skills I've acquired studying those subjects to produce this work.

This story represents the type of journalism I want to build my career around. The reporting has required both digging and building relationships with sources. I have not done a ton of reporting on the judicial system in the past, and virtually none on the subject of wrongful convictions, but it's been a thrill to get a crash course in both topics, and I hope to parlay the knowledge I gained here into future stories and opportunities. In many ways, this project has been directly applicable to my future career.

For the second part of this project, I conducted a professional analysis of how the *Texas Tribune* has impacted watchdog reporting of state government in Texas. For this portion, I talked with editors from across the state. As study of this type of reporting relates directly to the type of journalism I want to do; watchdog reporting of state government often *is* investigative in nature. But further, as newspapers have and continue to reassess where their resources are best put, investigative reporting

finds itself in some ways in direct conflict with day-to-day reporting at the statehouse. Directing resources toward one endeavor could mean taking it from the other. Giving context to the discussion of how those decisions are being made in Texas – impacted by the fast-growing *Texas Tribune* – helps journalists assess where they might fit into the equation. And I'd count myself as a part of that group.

DESCRIPTION OF WORK/FIELD NOTES

The early stage of this project focused largely on finding the right sources to serve as main characters for my story. Although it would change as time went on, the original goal was to find two sources to compare and contrast – one local Dallas exoneree who'd spent a significant amount of time in jail and received more than a million dollars for it, and one exoneree from a surrounding state who'd received little or no compensation.

To find the Dallas source, I started by meeting in person with Mike Ware, executive director of the Innocence Project of Texas. He connected me with several exonerees, and I interviewed three in person: Johnnie Lindsey, Chris Scott and Richard Miles. Afterward, I checked in on their court documents, read about their cases and learned all I could about their histories. Miles was the choice.

At the same time, I was vigorously researching compensation law in surrounding states and reading about dozens and dozens of cases.

A few weeks in, after receiving hundreds of pages of documents on Miles' case from the Texas Court of Criminal Appeals, I started to meet with Miles more frequently. I shadowed him at his offices while he ran his nonprofit, and we talked for hours at a time. These sessions were my main priority throughout the middle weeks of my project.

Throughout the final weeks, I turned my attention back toward research compensation laws across the country, and toward learning more about what it was

about Texas that allowed exonerees to lobby legislators here for such a progressive law. I talked to lawyers here – one in particular, Jaimie Page, was repeatedly helpful; I attended her class one afternoon. And I talked to lawyers in other states about the laws there. I did tons of research, from reading specific statutes to learning about specific cases to reading articles about failed attempts at compensation legislation.

My weekly field notes follow, and should provide a comprehensive look at my semester's work.

January 18, 2016

I have a first weekly update for you all.

Work started Jan. 11 here in Dallas. I met with Mike Ware, the executive director of the Texas innocence project, this week. He's a nice guy and seems to have a soft spot for journalists, but he also seems to be extremely busy and tough to nail down. He's essentially put aside his private practice at the moment to focus on innocence project work — for which he's not taking a paycheck. Anyway, he gave me several names of people he thinks are charismatic and have been typically pretty willing to talk to the media. I asked if he could help me get in touch with them and he said he'd shoot out some emails. Haven't heard anything on that yet, so I'm going to check in with Mike today.

A lot of the first week has been spent on background research. I've ordered/started several books on wrongful conviction. I haven't been able to sit down with any exonerees yet, and I realize how absolutely important it is to get that done this week. I've read about a million case summaries through the Innocence Project and National Registry of Exonerations websites. Through those, I'm wondering whether places like Arkansas, New Mexico, Kansas — the closest states that give zero compensation — are going to have the right option. There just aren't a ton of exonerations in any of those states. In general, I'm looking for someone who has spent a significant time in jail (at least a dozen years or so), and who has either not been compensated or has not received more than a low state maximum (\$175,000 in Oklahoma, for instance). It's fairly rare, but some exonerees end up suing and getting settlements — which would exclude them for my purposes.

Obviously, I've got to get some of these people on the phone this week and hear more.

One question I have for you all: should I be cognizant of the race of the two individuals I focus more heavily on? Many — actually all, I think — of the Texas exonerees I'm looking into are black, but in some of these surrounding states like Arkansas and New Mexico, most of the exonerees are white. Am I overthinking this, or is there something to be said for how a reader will perceive the story if the two main characters are black vs. if you have one black man and one white man? In a story where you're trying mainly to play to the contrast in the compensation two individuals received, I'm wondering if the latter scenario would give race an unintended role in the story (even if it might come up organically, as race certainly has a place in stories of wrongful conviction). Interested in any thoughts you all might have on that.

As we've established with Paige's point about the difficulty of splitting the narrative too evenly, those two sources aren't going to get equal play when it comes time to write, but I still envision one main source and a significant secondary source.

On the docket this week, in addition to talking to exonerees, will be an initial round of records requests to Texas. I read through the state's statute last week and got a few ideas. Probably the best one I found is that, by law, the comptroller is required each year to provide the governor, et al a list of exoneree claimants entitled to payment, and how much they're owed. I'm going to request this list for each year compensation has been granted in Texas, and from there I should be able to build a database to show how much money the state has paid in compensation. (Of course,

the database might already exist, so I'm going to call about that as well.) This number was reported as \$65 to 89 exonerees in 2013 by the Austin American Statesman. It'll be good to provide an updated figure and some new data analysis.

Thanks and let me know if you have questions.

January 25, 2016

Update number two here. I talked to exoneree Richard Miles. He seems like a great candidate to have a more significant role in the story.

Miles was released from prison in 2009, 15 years after his conviction. He was picked up at about 3 a.m., not far from a shooting at a gas station that killed one and injured another. Miles was convicted of murder and attempted murder based off one man's eye witness account and a gunshot residue analysis that was interpreted at the time to show gunshot residue on Miles' right hand (Miles is a lefty). Both the eye witness and the lab analyst later changed their story. There were also some questionable prosecutorial/police actions -- a couple police reports were kept from Miles' lawyers and the eye witness was very much led toward Miles. Miles called it a sort of conveyor belt trial.

Although he was released in 2009, he wasn't declared innocent until 2012, which means he spent three years without compensation. He worked at a hotel for a couple of those years. After he received his lump sum payment of about \$1.3 million from the state, he put \$150,000 of it toward seed money for a non profit dedicated to helping prisoners get back on their feet after release. He's still trying to make that non profit sustainable so that he can take a step away and go back to school to get

his degree in business. But in the meantime, he's started a family.

Miles says that the fact media reports consistently include compensation dollar amounts serves to create a perception that Texas exonerees live a wealthy lifestyle. But in reality, it's helped him get to a level of normalcy he wouldn't have otherwise been able to gain. The first four things he did were: pay a tithe to his church, buy himself a house, buy his mother a house, and start a 401K.

Based on his back story and the fact he has experienced life after prison with and without compensation -- not something many of these guys can say -- I think Miles is a really good source. On top of those things, he was personable, open, well spoken, and teased at some deeper layers I'd like to get to during subsequent interviews. He talked about how it's much easier during the light of day to have a positive outlook on the hand he's been dealt (AKA, it gets difficult at night). As crazy as it sounds, he also said that in order to put his best foot forward, he had to take responsibility for his part in the ordeal, for simply being out at 3 a.m. He said that was the result of his choice to move out from his parents' house a couple years earlier, live with a friend and start down a path toward which he hadn't been raised.

When we were done talking, I said that's all I had for him today, and he laughed and asked if that was the disclaimer that more was coming. I think that showed he's open to me digging in on his story. He said he's willing to sit down with me again.

I do have at least two more interviews with Dallas exonerees this week, so I'm keeping my options open.

Elsewhere, I'm in touch with the innocence projects in Oklahoma and

Louisiana. Both are currently tracking down exonerees for me. The more I've dug into the policies of surrounding states, the more I've begun to think that these two states are just as strong of options as places like Arkansas, Kansas and New Mexico, even though contrary to those states OK and LA actually do have compensation laws on the books. Oklahoma's law caps compensation at just \$175,000. Louisiana caps compensation at \$330,000, but the legal process to earn that compensation is much more difficult, essentially putting the burden on the wrongfully convicted to prove that he or she is factually innocent in order to receive compensation. Some people who've been released from prison have ended up with nothing at all.

My goal is to get in touch with several out-of-state exonerees by phone this week and do some preliminary interviews. Next week, I'd like to make a first trip to talk to one or two of these guys in person. If it comes down to geography, Oklahoma or Arkansas are going to be the obvious choices. The short travel time to a place like Oklahoma City (about 3 hours away) could actually allow for day trips if needed.

Final note -- I did put in that request to the comptroller. After talking to them, I opted to seek the data in Excel form rather than the yearly letters from the comptroller to the governor, at least for starters. They say they should be able to put it together within the 10 days they have to respond. Here's the applicable wording of the request:

- A database of exonerees who've been paid compensation by the state of Texas. The database should include all information tracked on compensation and available under open records laws, including but not limited to columns for exoneree name, total compensation paid, compensation paid by year (separate columns for each

year), total compensation owed, tuition paid, health insurance y/n, and \$ paid toward health insurance.

Let me know if you all have any questions, suggestions, etc.

February 1, 2016

Texas Court of Criminal Appeals came through for us in a big way with the Richard Miles records. As Mark suggested, a lot of the records from the original trial were included in the appeals' court's files. Miles' case has been scanned and is stored digitally; I was provided 10 PDFs totaling about 320 pages late last week. I'm about half way through them, but there's a ton here: original police reports, affidavits from witnesses and alibis, additional police reports potentially implicating others in the murder (which were originally kept from Miles' attorney... a significant reason he was exonerated). It paints a pretty clear picture of how things went down that night and as the investigation unfolded.

The fact that police never pursued some of the other leads in this case is pretty shocking. One lead in particular seems pretty credible -- a woman called anonymously to the police station and said her ex boyfriend, Keith Richard, told her he killed two black men outside a Texaco, near Bachman Lake, sometime between May and June 2011. Richard rode around in a white Cadillac. All those descriptors apply to the suspect. On top of that, Richard operated a drug house with a couple other guys and has a violent history that includes charges related to a 9mm gun (a 9mm was used during the murder/attempted murder). On top of THAT, he told an independent investigator looking into Miles' case in 2009 that he was at the same

club as the victims were on the night of the shooting, and that afterward, he went to the Texaco (just before the shooting, he claimed). I'm not sure if police have reopened the investigation and talked to Richard since Miles was exonerated. Obviously, I need to find that out. Strikes me as crazy if they haven't.

Also last week, I talked to two more Dallas exonerees: Johnnie Lindsey and Christopher Scott. Lindsey took a plea deal on an attempted rape case in the late 70s because, he said, his public defender told him straight up that he was going to lose the case and be put away for 25+ years. With the guilty plea, he accepted eight years with the possibility to get out in four. After that case concluded, the state hit Lindsey with a rape charge for an incident that had occurred a year prior, in the same area as the attempted rape. He'd never before been questioned about the case. Lindsey was convicted and sentenced to life.

Of the three people I've talked to, Lindsey strikes me as the person who has struggled most with the money and attention that comes from being exonerated. Although he helps out with a couple nonprofits, he admitted that he's still just bored sometimes. I'm not sure he has thrown himself into other things in the same ways that Scott and Miles have, and I also got the idea he's spent money a little more carelessly (that said, he did get a bigger lump sum to start with). I can't say for sure, but a couple times I thought I smelled a little alcohol on his breath; we met to talk at 10:30 a.m.

Part of me thinks that these hints of some struggle make Johnnie a good source because it illustrates that the money can only do so much for exonerees. He'd be a good candidate to spend a lot of time with, to kind of see what's behind the car,

the clothes, the sunglasses. But I also have envisioned the Dallas exoneree in my story to illustrate what compensation does for these individuals. Richard Miles, with his lump sum-funded nonprofit and dreams to go back to school to get a business degree, might be a better candidate for that.

Christopher Scott is probably out of consideration, if for no other reason than the fact he's about to be about as exposed as any exoneree in the country. Scott started a nonprofit that brings together exonerees to help free other individuals who they identify might have been wronged by the court system. Sort of their own little innocence project. And now he's being courted by Hollywood. A documentary on Scott and his nonprofit's efforts is set to come out this summer on PBS. He has also signed on for: a documentary-style TV series, a scripted TV series, and a scripted movie. The respective writers of Empire and the first Hunger Games movie are writing the scripts. He also says Rolling Stone's Paul Solotaroff was recently down in Dallas doing a story on the nonprofit for Men's Journal. That should be out soon. People mag told him they want a story once the group gets someone exonerated.

Scott did have some interesting things to say, so either way, it was good to get him on the record talking about compensation. He's made some trips to Austin to talk to legislators.

Lindsey and Scott are pretty close, and Lindsey is a part of Scott's nonprofit. So I do wonder if he too is going to get a lot of attention very soon.

I'm still leaning toward Miles as the lead guy. Interested in hearing thoughts on this if anyone has them.

Also still working on finding out of state exonerees. That's going to be a high priority this week.

For the analysis portion, I've got an interview lined up this week with Robert Rivard, former editor of the San Antonio Express News. Have reached out to former editors of the Dallas and Austin papers as well, but haven't heard back yet. Also, haven't heard anything from Evan Smith. Have now emailed him and left him a voicemail.

I think that's it for this week.

February 8, 2016

Week 4 update here. Time is flying.

I got back the data I requested a few weeks ago on Texas compensation. So far, the state has paid about \$92 million to 101 exonerees. In 2013, the Statesman [reported](#) that number was \$65 million, so it's climbing pretty rapidly. It's great to be able to know exactly what every exoneree I come into contact with has received from the state.

And there's also more to explore here, I think. One thing you hear a lot here is about the divide that has formed between exonerees who received their compensation before reforms in 2009 compared to those who got it after. You can definitely see that in the numbers. From the time the law passed in late October 2009 to the end of that year, 12 people were granted more than \$1 million. It had only happened twice before that.

(Those exonerees who received lump sums before reforms in '09 are eligible

for the extras that were passed, including the annuity, tuition, etc. But they don't get more lump sum money. Johnnie Lindsey told me he waited 8 months to apply for compensation after he got out, knowing the legislation was coming).

I attached the excel sheet if anyone is interested in taking a peak. You might need a password; if so, it's %SS020516. I'm going to dive in deeper soon.

I've made contact with some defense attorneys who rep a couple guys who haven't gotten any compensation out of their states. Under the sorta twisted Louisiana compensation law that puts the onus on the wrongfully convicted to prove his or her actual innocence, former death row inmate Damon Thibodeaux was denied compensation. He was convicted on his own false confession and exonerated on DNA evidence. Gyronne Buckley was sentenced to life for selling crack cocaine and released after 12 years, after an officer's practices in nailing him/coercing an informant came into question. The Arkansas Claims Commission unanimously voted to give \$460,000 to Buckley. But legislators, who have final say, denied the money after the state's attorney general lobbied against it. (The Arkansas Times [did go pretty deep](#) on Gyronne, so I'm not sure how big a source he could be for me).

Should be talking to both those guys this week. Unfortunately, the innocence projects in LA and OK that were so gung ho about helping me out originally haven't actually come through, so I'm going through other routes.

Mark brings up a really interesting idea with shifting a focus a bit to what money can do for you/to you. I might just need to keep reporting it out for a couple more weeks and see where I'm at. I'm going to set up longer interviews with Richard and Johnnie and try to talk to them at their homes and get them to open up.

February 15, 2016

We're through week 5.

I talked to a lawyer this week who reps Gyronne Buckley, the Arkansas exoneree who was unanimously approved for \$460K by the state claims commission, but never received the money because the state's attorney general lobbied legislators, who have final approval of the funds, to deny it. The lawyer, Tom Sullivan, talked about how big a role politics play in this stuff. He has no faith the state will ever pass a compensation law because they don't want to admit they've done any wrong in falsely imprisoning folks. And it's not as if they see exonerees as having no options -- because of course they're free to go in front of the claims commission.

I think that actually gets at a really important point in the policy part of this story. The dollar amount matters, but what really strikes me is that many states put it on the exoneree to make their case for reparations, thus maintaining the power one way or another. In Arkansas, that means not only do you have to get the claims commission on your side but also you have to win a political war to get legislators to vote away taxpayer money. In Louisiana, exonerees essentially go back to court with the assumption of guilt and have to prove their innocence in order to get compensation. Other states suggest that exonerees seek compensation through private bills -- but it's pretty rare that you can get a legislator to put something together unless, for instance, your case has gotten big in the media and you've come off sympathetic. It's one of the things that makes Texas' law so strong: once you're

exonerated, all you do is file a little paperwork to the Comptroller and your lump sum arrives within weeks.

I've got a couple key interviews scheduled for this week to talk about these policies more in depth. They're with a couple lawyers involved in crafting the 2009 Tim Cole act in Texas, which set the current compensation standards. I'm also headed to Richard Miles' house on Thursday to talk more about his case.

An update on the analysis portion: I've now completed two interviews for it, with former Austin Statesman Editor Fred Zipp and former San Antonio Express News Editor Robert Rivard. Both talked candidly and had very different points of view; the short version is that Rivard has been a longtime supporter of the Trib from the beginning and had no qualms using their free content in his paper, whereas Zipp is hesitant as to what it means if the Trib essentially serves as a free wire service. I'm talking to the Fort Worth Telegram's asst managing editor for government soon -- the Telegram is the paper that probably runs Trib content most (and openly admits that), and the guy I'm talking to works with them closely and has been around for 20+ years, so he's got a great perspective. Still nothing from Evan Smith. **John**, would you mind sending another email to him on my behalf?

Let me know if these updates aren't fulfilling what they should be or if there's more you all are wondering about.

February 22, 1016

This week, I made some good strides with Richard Miles. Thursday night, I went out to his house in Duncanville. It's a fairly modest, one-story home in a quiet

neighborhood referred to as "Old Duncanville" for its retirees. Richard has a sporty looking Jaguar that sits in his garage most days. That was the car he bought when he first got out, a celebration car, in a way. Haven't gotten the price tag yet, but I'd probably guess it's a \$50,000-\$75,000 car from searching around online. A few years later, after he saw the high price tag on some minor maintenance on the Jag, he bought a Cadillac CTS, which he now drives to work every day. His wife, who works at a university and was very self sufficient before the marriage in 2013, also drives a CTS. Those go for, like, \$30-some-thousand new. Inside the home, Richard has this glass-encased, spinning chess board display, a nod to one of the few activities he was allowed in jail. And there's a nice flat screen and some leather furniture. But the place by no means screams wealth.

Might seem like a tangent, but to me that's all pretty important because I think one of the biggest challenges will be in addressing readers who are skeptical of giving so much taxpayer money to exonerees. The car is one thing; every exoneree buys a really nice car when they get out. And that comes with a certain expectation for how they live. But none of these guys are rich, and several have blown completely through their lump sums and are now living check to check off the annuity. The challenge, I think, will be in balancing the truth in how Richard has spent with the context of exonerees who've gone overboard as well as the factors that might lead a man to buy a flashy car after getting out of a wrongful incarceration. For Richard's part, this might actually be a good time to be following him -- he's got a 1-year-old girl now, so it's becoming a little more pressing that he builds his nonprofit to a point that he can take a paycheck. He's trying to figure out

how to do that.

Money aside, we actually spent Thursday night going back through his arrest, trial and jail time. The recorder was on for about two hours. By then, I could tell he was getting antsy and knew he and his wife hadn't eaten dinner, so we called it quits. There are lots of holes to go back and re-fill, but overall it went really well. He talked about key moments -- the arrest and interrogation, getting the verdict, some talks with his lawyers and family, his first fight at prison. At the end, I felt like it was the right time to inform him that I'd like to make him a big part of the story I'm working on. I asked if he'd let me hang out with him while he works; do a few more of these longer, recorded interviews; and in general get a bit annoying over the next couple months. He agreed. And he actually invited me out to a workshop his nonprofit hosted Friday. These are weekly sessions to prepare recently released inmates for the real world. I went and met several more potential sources I'll be following up with this week.

Other than that, I had a great interview with Michelle Moore, who repped many of these exonerees as a public defender and worked on the compensation legislation in 2009. She was excellent in helping me start to piece together how all these specifics part of the law came to be. She also pointed me to some other people to talk to about that. I'm not sure how deep I'll get into that stuff when it comes time to write, but I want to know what the process of getting the legislation passed was like. Which sections of the act were most contested, which HAD to be included for it to pass, etc.

On the analysis: I talked to Evan on Tuesday, as you all know (his full

response to my two emails: "today?"). And then I talked to John Gravois at the Fort Worth Star Telegram at his office this afternoon (he mentioned you two worked together in Houston, Mark!). John is the managing editor for government. The transformation of his department since he came on 20 years ago is pretty staggering. They haven't had reporters stationed in Austin since somewhere around 08 or 09. They aggressively use the Tribune's free content -- he wouldn't really say whether it has replaced jobs that would otherwise exist if it weren't for the Trib, but I think his comments make it possible to read between the lines.

That's all for now.

February 29, 2016

This week, I continued my reporting on Richard Miles. We met at his office in Dallas' Oak Cliff neighborhood on Wednesday morning and talked for a couple of hours. This conversation took us through his appeals process, securing help from New Jersey-based Centurion Ministries and eventually getting out of jail. I had him detail several key moments, such as the moment he heard his name called for release. And then we talked about his first three years out in the world, before he was compensated. He went back to school but was pretty lost at first without any computer skills.

I think we'll meet once more during the next week or so to go into more detail on how his life changed since being compensated. And then, I also want to use this next encounter to go back and fill in some gaps and talk about some things that might be a little more uncomfortable. In particular, I need to ask him about his

decision to drop out of high school and move out of his parents' place. That should lead to more details about his controlled substance arrest (a few weeks before the arrest for murder/attempted murder). And then, I want to bring things back to what he hinted to me during that first interview -- that, at night, it gets tougher to reckon with what the state did to him.

I now have about 4-5 hours of recorded interviews with Richard. A big goal for this week is to get it transcribed – I think that will help me hone in on exactly how to approach this next interview with him.

Friday, I again went to a workshop for Richard's nonprofit. These are weekly sessions to help recently released inmates reacclimate to the world and find jobs. Richard spoke to the group for about 10 minutes – it could potentially serve as a scene in the story. I also met a friend of Richard's named Van who "graduated" from the workshop program and ended up finding employment -- he's now making about \$70,000 a year as a foreman at a manufacturing plant, and the money and hours have kept him off the streets (a bonus: Richard and Van actually knew each other in prison, and Van was one of the guys Richard woke up when he started screaming and celebrating the moment his name was called for release).

Richard also brought me some files on Friday: the packet Centurion compiled that shows the results of their investigation; his original appeal as well as the first writ of habeas, which he filed on his own; and a DVD of an interrogation of Levon Bass, a suspect whose fingerprint was found on the car of the individuals who were shot. Bass (who for some weird reason is never mentioned by name in any court files) admits to driving a white Cadillac (the get-away car indentified witnesses) in

the early 90s, living near the murder, and frequently attending the club where the victims were before the shooting. He also has an enormous criminal history.

That's all for this week.

March 8, 2016

Sorry for the late update this week -- yesterday was busy. I spent the day with Richard. We met at his office at the Martin Luther King Jr Community Center in South Dallas, and talked about his early life before prison. He grew up in a very religious and strict household -- for most of his childhood, it was school, church, and that's it. He wasn't even allowed to get involved in sports or other extracurriculars. He lied about his age on a job application when he was 16, mainly because work was about the only acceptable excuse for missing church.

At age 17, after a couple years at high school exposed to kids who had more freedom in their day to day lives, Richard moved out of his parents' house. He immediately fell in with a crew of drug dealers – although he maintains he himself never sold. The group hung out in a local hotel room, smoking weed and shooting the shit for hours at a time. When police raided the place in March 1994, they found several crack pipes. Richard was nabbed for possession of a controlled substance and spent about a month in jail. Rather than fight the charge (again here, he maintains the pipes weren't his), he took a plea deal. He was released in April, and says the jail time allowed him to disconnect from this rougher group of guys. But in May, he was picked up for the murder and attempted murder charges and wouldn't be free again until 2009.

All that is the part of the story that Richard doesn't usually talk about, because he says that, in the eyes of the public, having spent any time at all living the street life can be the "trump card" for someone's character. If people know he has that history, they'll reason that he deserved the jail time.

After we talked at his office, he drove us to the Texas A&M Mesquite campus, where he spoke to a class of law students who are going to be helping write a grant application for his non profit, miles of freedom. It went well, and in the car afterward, he said that it felt good to feel like he was transitioning from the label of exoneree to that of the founder of an organization. This is the sense of identity he's starting to find as he gets further from the date he was released and more established in his career as the director of a nonprofit. I think there's a lot of good scene stuff to work with from the day.

Other than that, last week I met with Jaimie Page, a lawyer who was kind of the first person to unify the exonerees toward fighting for compensation. We got into a good discussion about whether it's possible that other states could replicate what has happened in Texas. Exonerees here had several factors in their favor. They were a big, unified group, and the state had already shown a greater willingness to recognize that mistakes actually do happen.

I also did a bunch of transcribing last week.

This week, I'm in Denver for the NICAR conference, so I'm not going to be able to get much done. You can expect a shorter update next week. But I think we're in good shape.

March 21, 2016

Back from Colorado and ready to close this thing out strong. Much to go over today.

First off, an update on progress the last two weeks. As expected, NICAR did not provide much opportunity to get work done for the project. Did a little transcribing on the trips to and from, but that's about it.

(The period I'd picked out for this project – Jan. 11 through April 22 – was 15 weeks, anyway, and 14 are required. So, we should be good even if the NICAR week were to be called into question. Not sure how those specifics work. I might be overthinking this. I *really* want to graduate in May.)

In the last week, however, I've been able to turn my attention back toward the project. I think the distance has actually allowed me to assess where I'm at and what's left. On the Miles front, I'm pretty solid. But I've got a lot of calls to make in the next couple weeks – talking to legislators, lawyers, experts, etc. In Texas specifically, I'd like to report out the story of the band of exonerees traveling to Austin in 2009 and lobbying for the current compensation law. That'll take calling a couple key legislators and a couple more key lawyers. And then, it's turning my attention to other states. I'm envisioning a section of my story where I'm sort of anecdotally going through various states' laws/views on compensation, swinging from one to the next and making connections, with quotes splashed in where needed.

I wrote this paragraph the other day – I'm sure it'll get tweaked, etc. at some point, but it sort of shows what I'm going for in this section:

The same politics that drive states not to compensate exonerees are in play when it comes to exonerating them in the first place. This is one potential explanation for why the states with the most exonerees also tend to have the most progressive compensation laws. Tom Sullivan, a defense attorney in Arkansas, says politicians in his state have long refused to see the potential wrongs their justice system can inflict. "We aren't going to set up a system of compensation," Sullivan says, "because we don't ever make errors."

In ostensibly bad news, the DMN spent it's Sunday front on this feature on Anthony Graves, an exoneree who put up \$150,000 in seed money from his compensation to start a nonprofit that helps other exonerees and prospective exonerees. That's the exact figure Miles put up for his nonprof. There are parallels. BUT: I don't think this goes anywhere near as deep as we're going. Can't imagine DMN would run my story now, but I never saw it running there anyway.

In fortuitous upcoming conference news, the Innocence Network's yearly national conference is happening April 8-9 in San Antonio. I am going. From what I hear, there are some really interesting politics going on at these things. Many exonerees from other states, for instance, have a chip on their shoulder against Texas exonerees, the stars of the show, flashy dressers with fat pockets, . Christopher Scott – the Dallas exoneree on the brink of some hollywood fame – recognizes this, but he also thinks those exonerees need to get off their asses and do something about it, like the Texas guys did. Whether that's possible in other states is a question that's going to be key in my story (phrased another way: what is it about

the movement in Texas that made their compensation law possible, and could it be replicated?). So, there could be some amazing stuff from this conference. And: Richard is speaking.

To me, that'll be the end of the reporting. That's my hope. And then it's write, write, write. I'll have two weeks left at that point.

I also might start to do some writing this week, actually, because I feel like I'm starting to see the story better and think it could help down the road.

To me, the biggest challenge with the writing is going to be when and how to deploy the exposition within Richard's story. Going to be channeling that Advanced Writing class...

Interested in your all's thoughts on pitching. Re: timing, approach, outlets, etc. Is it time yet? Where do we start? If you all are interested, maybe this week I could write up a mock pitch (we'll pick out a publication to point it toward), and send it along for you all to review. One thought I had was that maybe for the bigger/longshot publications, I could put in a line about how I could send in a draft before they ultimately decide. Tough to get someone to take a shot on me if they haven't worked with me before, but maybe the work would speak for itself? Just a thought.

March 28, 2016

This week, I had lunch with Ryan Rusak, politics editor at the Dallas Morning News. For the analysis portion, I've now completed six interviews:

- Ryan Rusak, Politics Editor, Dallas Morning News

- John Gravois, Deputy Managing Editor, Fort Worth Star Telegram
- Fred Zipp, former editor, Austin American Statesman
- Bob Mong, former editor, Dallas Morning News
- Evan Smith, editor, Texas Tribune
- Robert Rivard, editor, nonprofit Rivard Report + former editor, San Antonio

Express News

The obvious gap is to get a voice from the Houston Chronicle in here -- I have an email out to its editor, Nancy Barnes. Can you all think of any other must-haves?

I'd like to get this part done and out of the way; if it works for you all, I'll have a first draft ready by Friday, April 8. For now, I think it's probably time to pitch. Do you all have suggestions as to where? The Trib has been covered everywhere. CJR and Nieman have both done longform features. Those seem like the best options, but I'm open to any of your suggestions. Does anyone have contact info or suggestions for pitching?

Interested in hearing your all's thoughts on pitching the compensation project, as well.

On that front, I did a good amount of writing this week while transcribing interviews. It wasn't a good week for legislators and lawyers picking up their phones, which makes me a little nervous given that I'm in crunch time here. But this week should be better – have a couple interviews scheduled already.

April 4, 2016

This week, my reporting focused on several states outside of Texas. One

particularly interesting compensation law exists in Florida. There, legislators passed in 2008 a compensation law that grants to exonerees \$50,000 per year they spent incarcerated. However, it comes with a "clean hands" provision, which means that if you have any other felony on your record, you're not eligible for the compensation. This has stopped a lot of exonerees from getting compensation. Felonies from unrelated drug activity, etc., can cost an exoneree millions.

(It's interesting to think that under this law, Richard Miles would be ineligible because of his prior drug offense).

I talked to Mark Schlakman about Florida's compensation law. Schlakman is a program director with FSU Center for the Advancement of Human Rights and the longest serving former board chair at the Florida Innocence Project. He says that the clean hands provision doesn't make much sense under examination, because "one set of circumstances has essentially nothing to do with the other." Three straight years, legislation to relax the clean hands provision has died.

Schlakman also talked about how Florida exonerees who don't qualify for the compensation often go the "claims bill" route, seeking legislators to introduce private bills to grant them compensation. It's a pretty wildly unsuccessful way to go, and by nature turns the decision political. But I think it's one way that legislators might justify their states having poor or no compensation laws – this other process to get compensation still exists. As in: I'm not going to feed you... because maybe you'll happen upon a pizza.

Unfortunately, the innocence network conference in San Antonio that looked so promising no longer does. They don't grant media passes, and registration fees

are something like \$400. I'm still debating on whether it makes sense to go down. I really wanted to see the way Texas exonerees and others interact and witness the jealousy I've heard about. Maybe I'd get something out of hanging around the hotel lobby? **What do you all think?**

Analysis portion – Nancy Barnes declined to comment: "I would just as soon not comment on other news organizations." And Libby Ayert pointed me in the direction of an editor (a man) who is in charge of the content selection for the paper – she said she's hands off when it comes to that stuff. So, I don't know. Maybe I should go for Emily Ramshaw?

April 11, 2016

I've been talking to Jaimie Paige some more in the last couple of weeks. I mentioned Page, who is an attorney, in my Week 8 update, after we first sat down to chat. Page is an interesting part of the story of compensation in Texas – she deserves a lot of credit but rarely gets it. She was the one who originally organized exonerees to get together and talk about how to fight for themselves. I think she could end up playing a pretty significant part in the story. I have some scene stuff of her, too – a few weeks back, I went and sat in on a class she teaches on a day that Richard Miles came by to speak.

Recently, we've been talking a lot about two things:

- 1.) The public's perception of deservingness toward the compensation exonerees receive. Page has studied this at length. She's published a quantitative study on the topic and is putting together a qualitative study. In general, she says,

the majority of those she has talked to believe that exonerees deserve the hefty compensation they're granted in Texas. Those who believe the compensation is too much or that exonerees don't deserve compensation at all give varying reasons: 80K a year is more than the average salary; taxpayers have already compensated these folks by putting a roof over their head and food on their plate (talking about prison); or that a judge and jury decided the person was guilty, so whether or not they were right, the system worked.

2.) PTSD. With some grant money she received to help local exonerees a few years ago, Page arranged for a psychiatrist to visit the homes of 12 exonerees and provide an evaluation. All 12, Dr. Charles Martin discovered, were suffering from some level of PTSD. None of the 12, to Page's knowledge, have received treatment. Talking about the mental health of these individuals gets complicated in a hurry. Most - if not all - still suffer the effects of prison time and wrongful incarceration. Yet these individuals tend to be unwilling to help themselves by receiving treatment. I have been trying to track down Dr. Martin for an interview and will continue to do so. I think he could have some really interesting and important things to say. After all, the psychological effects of wrongful incarceration is always part of the argument for better compensation laws.

On the analysis portion, because I struck out with Ayert and Barnes, I'm trying to get Debbie Hiott, editor of the Austin American Statesman. Her comments might not be in the version of the analysis I pass along to you all on Friday, but hopefully she's eventually willing to speak with me so we can get a female voice in the mix.

And on that note, I'm chugging along and will have a first draft of my project report to you all by end of day Friday.

EVALUATION

I am generally pleased with what I was able to accomplish in terms of reporting during the course of the semester, but I do wish I'd have gotten a little further along and been able to present a more complete written product.

With regard to reporting on Richard, the semester could not have gone much better. As a committee, we had initial concerns that I wouldn't be able to find a suitable source to allow me into their life. I was able to gain Richard's trust pretty early on, and as he saw my commitment to his story, he grew more and more comfortable in front of me and allowed me to come around more and more often. Within a month or so of meeting him, we'd reached a point where I felt like I could legitimately ask any question I wanted without him balking. He told me parts of his story he'd never told anyone else.

I was also able to get my hands on tons of court documents outlining his case and appeals – both from the Texas Court of Criminal Appeals and from Richard directly. After my initial calls to the Dallas courthouse on his case were unsuccessful, we'd been, at least for a time, concerned that the court docs would be unattainable.

Beyond Richard, I felt that I earned the trust of the Texas exoneree community – which, as I eventually realized, is an absolute essential when reporting on these issues. The network is large, tight-knit and, if you're on the wrong side, unforgiving. Putting myself in front of people for face-to-face interviews allowed them to get a sense of who I am. I tried to be open about what I was working on, and

I think the transparency was generally appreciated. As it turned out, one meeting with the director of the Innocence Project led to three meetings with local exonerees, which led to lawyers, legislators and more exonerees. It snowballed in a great way.

However, the task of taking on a national story on state-by-state policy proved daunting. This part of the story – the “exposition,” in magazine writing terms – will be given less words than the Richard Miles part of the piece, and yet it’s essential to have a mastery of the subject to write the story. I think I did a pretty good job digging in and researching, but I think that if I had it over, I’d seek out relationships with experts a little earlier on to help me through. Rather than drowning in the reading material, establishing relationships with compensation experts and other lawyers who know this stuff on a national scale – within the first couple weeks I was reporting – would have been a help.

Ultimately, while the story of Richard Miles is in my notebooks and on my recorder, I haven’t gotten quite far enough in reporting the exposition to feel comfortable writing the whole story.

That said, I end the semester extremely proud of my efforts and very confident that this work will be completed and published by a reputable source. The story of Richard Miles – from his wrongful incarceration, through his jail time and through the years he’s spending regaining his life – says a lot about the need for strong compensation law. I think it says something about the judicial system on a broader scale, too. And I hope that Richard’s life also says something about human resilience under the toughest of circumstances

EVIDENCE OF WORK

Included in this portion are a couple of written draft sections of my story. I've included a page that lists the contents of my multimedia folder. This includes recordings, both of recorded interviews and recorded scenes. From those interviews, I've provided a few transcribed excerpts. In that folder are also a few of the court documents obtained through my reporting, a sampling of which is attached here. Finally, the multimedia folder contains an Excel sheet detailing the expenses paid by the state of Texas to exonerees, which can be accessed using the password "%SS020516". I obtained that spreadsheet through an open records request; it is attached.

Draft Excerpts

I envision the below sections transitioning from a section of exposition that would end on this quote from Jaimie Page:

“So that’s part of compensation, is to pay for what they missed,” Page says. “But it’s also to pay for the harm. And that harm piece, a lot of people don’t seem to get.”

The harm. Let’s talk about the harm. Richard Miles is perched now on a smooth leather couch in his Duncanville living room. It is Thursday evening, dusk has fallen, and it is empty and quiet. Smooth-voiced Richard is bouncing story-to-story, level, cool, managing – needing, maybe – to smile or laugh at his most ludicrous of tidbits.

Like: Did you know that in jail, sometimes a boss man will come up to you – doesn’t seem like there’s any reason for it – and command you strip naked, *naked*, in front of a whole group of boss men? You gotta’ stand there, spread your ass cheeks out for the group. He must check you, he says, he must check you.

Ha ha ha!

Or: Might you be interested to hear about Richard’s first fight? Big bowling ball of a guy called him out at Coffield. Everyone knows you don’t back down from a fight, lest you be cast in a light you do not want to be cast in. So up springs Richard, all 5’8, 150 pounds of him, to take this thing back behind the corner where boss man can’t see.

LOL.

No? OK, this one will get you.

It is August 1994, and Miles has just been found guilty of murder and attempted murder. He is sitting in a holdover chamber, trying to lay on a concrete slab. An innocent man, contained. His parents arrive. Here is she. Here is he. Here are the parents he left. These people of immense, unwavering, strict faith. Here is the father who made him feel ashamed, all those mornings picking trash like a homeless man. Here they are.

The truth shall set you free.

This had been the day they'd been waiting for. It had always been: in August, you're coming home. But now...

"My mom has always tried to be the uplifter in everything, the optimistic individual," Richard says. He is not laughing. "My dad, being that he was the more religious individual, he was more stern. But now, with him getting hurt by the system as well... Because my dad was like, man, your court appointed lawyer is going to do what he's supposed to do. He was paid by the state. The word of God says that the truth shall set--"

Richard stops there, reroutes.

“So, he was more like that,” he says. “And then, for this to come back around, I think it made us really check ourselves as it related to our spiritual walk.”

The baby starts crying; Richard excuses himself for a second, then returns.

“It was me, too,” he says. “I know I had to go to God, ‘What is this? Man, this makes no sense.’ I just feel that my dad had to go through that. My mom had to go through that.”

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How did he get to that concrete slab, anyway? Wasn't he just... out? Just... walking?

Then again, it *was* late. About 3 a.m. when the cops got him. Why had he put himself in that position? Why had he decided to leave home, to drop out of school? That the straightened arrow was a trap? That his parents were too much?

May 15, 1994, was the night. Richard has spent it kicking it with Earnest Clark in his mom's apartment in Oak Cliff. He was wearing a white tank top, blue Dickie's pants, and a black felt derby hat, complete with a feather. When it got too late to take the

bus, he asked Earnest for a ride back to where he was staying in North Dallas. After all, Earnest's girlfriend lived just a few blocks away. Earnest obliged, and the two decided on a \$5 gas fee.

On the way, they stopped at a 7-Eleven on Lemmon Road, where Richard bought cigarettes. He smoked half of one outside; Earnest wouldn't let him light up in the car. They got to Earnest's girlfriend's place on University Road, and Richard decided he'd walk it from there. He paced up Lemmon in front of Sewell Cadillac and veered off onto Bluffview, stopping at the don't walk sign – extra cautious to appease that cop sitting there at the red light.

That cop, as it turned out, was in the area for someone roughly fitting Richard's description.

A few blocks away, the spillover from a local club had been hanging outside what was then a Texaco gas station. Deandre Williams and Robert Johnson were in a Mazda 300ZX, a car they used to park out front of the club. Johnson's sawed-off shotgun was on the floor of the passenger side when an individual described by most witnesses as a dark-skinned black man wearing dark shorts, a white tank top and a floppy hat, walked up to the passenger seat window and opened fire. He then moved toward the side of the building for a few moments before a white Cadillac picked him up. Williams would die. Johnson would survive. Marcus Thurman, who was standing in the gas station at the time, would become the key witness.

Thurman had gotten a side-view look of the shooter from within the store. And then, amazingly, he'd decided to pursue the dangerous individuals in his car. He followed them nearly two miles, where the Cadillac popped a U-turn and let out the suspect – who was dressed as Thurman remembered, in dark shorts, a white tank and floppy hat. Thurman then returned to the Texaco and told the cops what he'd seen. Police sent out the message via radio.

Richard Miles crossed the street, and then the sirens turned on and the light from a helicopter shone down on him. Suddenly he was face down on the warm Texas earth, taking his last few breaths as a free man, convinced this would all be ironed out soon enough.

In what was an odd move, police then took Richard back to the Texaco before shipping him downtown. Thurman was there and, when police took Miles out of the car to administer a gunshot residue test, he got a look.

Within hours, police would put photo lineups in front of seven people who saw the shooting. Only Thurman could identify Richard, who'd provided police with the names of Earnest, his roommate and others as alibis to corroborate the story of his night. They checked out, but soon, the detective was back in the room with news.

“Man, your alibis checked out,” Richard remembers Detective Hooker saying. “But

we have a witness that says they saw you shoot somebody tonight. And you're going to be arraigned for murder and attempted murder."

As it became apparent at later hearings, Hooker never took down a formal statement from Richard.

"He was like, 'Well, I didn't feel like what he was saying was important.'

"I'm like, 'I'm the person you... Everything that I say should be important!'"

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Multimedia Folder

1. Richard Miles recordings
 - a. R Miles Interview 1-25-16.wav
 - b. R Miles 2/18/16.wav
2. Mike Ware Interview 01/15/16.wav
3. Jaimie Page Interview.m4a
4. Van Addressing Class.wav
5. Court Documents
 - a. wr-64,325-04 2nd supplemental writ.pdf
 - b. AP-76,777.pdf
 - c. wr-64,325-04 order issued.pdf
6. Exoneree Payments (Child support and GBP aggregated)2-5-16-2.xlsx

Transcripts

Richard Miles, Jan. 25, 2016

—10:30 a.m., January 25, 2016

Richard's office

How long has .. it's Miles of Freedom?

Uh-huh.

How long has that been up and going?

So we started in 2012 after I got exonerated. It was two and a half years after I was released. I was released in 2009. I wasn't fully exonerated until 2012. So that transition of being out, looked at as a convicted felon and unable to get good housing or a job or something like that, it kind of pushed us into establishing Miles of Freedom. So once I was fully exonerated, February 15, 2012, I got my financial compensation in April 2012 and I took \$150,000 and started Miles of Freedom. So 2013, after we actually got our 501c3, and at that point we kind of pushed forward.

Yeah, that helps for donations and what not.

Mhm, mhm.

So, I thought that was interesting.. you read a lot about exonerees, a lot of them end up wanting to give back in some capacity. Seems like a lot of the nonprofits end up being geared specifically towards exonerees, but yours has a little bit of a broader reach. You think that was a result of those three years you kind of spent in limbo?

A combination of a lot of things. My experience with meeting people in prison that were not bad individuals. When you're living with people, you don't really label. This is just my neighbor, he's not a murderer, he's not a robber, or anything like that. So when my family members died, my family on the outside, these were some of the guys I went to and confided in and cried on. So I saw changes. I saw them changing. I was there 15 years. You see a transformation amongst these men that are incarcerated. So getting out... while you're in, you feel like you're a part of it by virtue of where you are position wise. So when I got out, that two and half three years of me really trying to get myself situated. Now, i'm looking at life from one of the people that's coming out of prison. I'm lost, as far as geographically wise. I'm lost as far as my family. So if I'm experiencing this hell, I know they're going to experience it. The only difference was I had a promise. My promise was exoneration. My promise was compensation. Those guys, they don't have it. Even though we all experience the same change in the same place. They don't have that opportunity.

So during those three years, I know there was a court process that was probably very time consuming. Did you have time, or were you able to put your mind around job hunting. Was that something you were doing during that time?

Oh yeah. My dad passed six months before I got out, but my mom, they did the whole 15 years with me. So when I got out, I moved back in with my mom. I was 34 years old then. I was blessed that one of the ministers at our church – my dad was a bishop – and one of the ministers at our church was a food and beverage manager at Hilton Garden Hotel. So when I got out, he introduced me to the head GM and he was like, ‘Hey man, I know this guy’s dad. He was locked up, but I want to give him an opportunity.’ And he hired me at the Embassy Suites in April, 2010, and I worked there the full time frame. And so that’s even another reason why, because somebody stepped in my stead(??) for me to gain employment. I wouldn’t have been able to get that regardless of me being innocent or not. He stood and then he was that bridge for me. I was hired on and I actually ran the banquet at the Embassy Suites for that full two and half years, setting up, breaking down, everything. And I got a chance to meet a lot of interesting people. But I actually got back in college. So while i was incarcerated, I achieved my GED and Associate’s Degree. But the budget cut hit the prison system in the early 2000s so any accessibility to higher learning was taken out of the system. So learning kind of was stuck at the cognitive intervention, GED type level. Nothing to accelerate a person mentally.

So when I got out, I got back enrolled in Eastville College and Cedar Valley to pursue my business degree. But exoneration got up and that kind of slid me into the nonprofit zone. But I will be returning once this organization is kind of up and moving on its own.

Ok. So you’re still eligible for tuition coverage? Is that lifetime?

I don’t know about... Now, the crazy thing about the law or the statute: we didn’t make them, but we have to abide by them. And that’s the real bad part. As much as I appreciate what Texas did, I don’t think they really did it with the mindset of us growing. I think they did it because it was something that needed to be done and should have been done, but they didn’t really think it out. They didn’t think that a person can get out, get married, have a child. Income needs to increase but income can’t increase.

So to speak about the college, I’m not sure if that’s something that’s unlimited. We don’t really learn about what we’re restricted on until we reach these doors and then we find out that, oh, we can’t do this. Or I can’t do that.

Right, the intricacies of the law.

Yes. While people on the outside might say oh that’s good. When you’re financially

illiterate, or you don't have a lot of financial understanding, and you get \$1 million, and you have to build your own life.

Mhm. Make yourself sustainable.

Right. In one year. You have to do that in one year because you do get a monthly annuity for the rest of your life but everything that you do in your life is based upon what you do in that first year. Where do you get a house at. I didn't think nothin about land taxes; I just knew I was going to buy me a house. I didn't think like that. There's a lot of things that go into that exoneration and that compensation that I don't think Texas really took into consideration.

So i want to talk a little bit more about that. Now that you've had a few years, are there things you would have done differently after you got that compensation?

The first thing I did when I got my compensation was I paid my tythe to my church. next thing, I got my mom a house. i got me a house. I got a 401K plan. I was put around people that, women helped me, pretty much, open my mind to properly using my finances. My dad had passed so there wasn't no male figure really there to walk with me. So outside of just... I wouldn't say there was nothing that i did wrong. That I would do differently. Even helping people that i met along the way. I have a good friend, he has a snow cone house in South Dallas. He posted this, it was right around the time I got exonerated, and he needed some extra money to get his building in code. And so I gave him the money. And now, three, four years, down the line, he's in a totally different place because I was able to bless him. So it's things like that. We have a nonprofit that's taken \$150,000 and turned it into a four-year organization. So I think that God really blessed us to maximize what he gave us.

So with the organization, I was reading a little bit about all the aspects. How many people are a part of it in some capacity. I know there's a landscaping business aspect. How many former inmates are kind of a part of that?

Right now they're at work today. We have six people directly working up under the lawn service right now. Two of those six people are also the shuttle drivers for the family visitations on the weekends. We have the shuttle service that takes family members to visit their loved ones in Tennessee Colony area. The same two people that's on the lawn service, they drive the shuttle service. SO that's six people. Last year, we were blessed to provide temporary employment to 11 people in the lawn service.

As far as Miles of Freedom as a whole, I have like three direct volunteers. We have no staff. Last year, our budget was, we spent \$50,000 last year as a nonprofit organization. That's just bones. That's insurance. That's workshops. That's no staff or anything like that. So that kind of stagnates us. That holds us back because of the funding that we don't have. But we're still able to provide good services. We've been

able to connect this year and let year with individual services like Frost bank that's coming in with a real good partnership, Texas A&M, Mesquite Capitals, which is opening up their doors for computer classes and so forth. So there the finances are not able to cover, we're able to have resources that helps us still provide some sort of service for the people.

And then we have a youth program that's kind of like a partnership with my family church, with my own church that i go to. So it's a community center that's up the street in Oak Cliff. Basically every Tuesday we'll go up there and mentor the youth, talk to them about goal setting, self esteem. My mother works at DHWI, which is Diabetes Health and Wellness. She talks about proper eating and so forth. I have another friends who's deeply involved with vertical gardening, which is this new type of food source. So we're supposed to be in conversation about these kids creating one of these vertical gardens at the recreational center. So it's like prevention before reentry. To get them involved, to keep them away from the prisoner school, the pipeline, the prison connection.

And you feel like your experiences, and the experiences of the people here sort of informs your ability to talk to the kids from that perspective.

Mhm, yes. Because i tell them I left home at the age of 18. I left home real young. So I could go back to what led me to this point. And let them know that you don't have to do wrong to get caught up. Be out of place. Be somewhere where you're not supposed to be. Your intentions are not even to get in anything. But because you move prematurely. You thought your parents was too strict on you, whatever. I try to give it to them like my parents gave it to me.

So you feel some sense or responsibility even..

Yeah. I think that's what helped me in my prison. Because I look at it like this here. I was 17 years old. I was going to Skyline High School, getting ready to go to TSTC in Waco. I was working at McDonald's.

I worked about four years at McDonald's.

For real? I was crew leader. I made it up to the crew leader.

Nice. I never made it up to that point.

I was serious about it. And I got to a point to where, my dad and my mom, they stayed on us about church. *Stayed* on us. I had a friend who had a place and he was like, 'Man, you can come stay with me.' And that's why I ended up leaving home. Had I stayed home and finished high school and went to college, who knows, I would probably be an engineer in plastics. Because that's what the field — I was studying plastics technology. So I have to accept that responsibility. That responsibility. That responsibility being, 'You left home.' Had you not left home, you would have never

been in a situation to be falsely imprisoned.

Wouldn't have been in the position that night...

I would have been at home. It's like... Some people, when they hear that, it's like, 'Well you can't...' Well I'm not condoning the actions of the police officers or the prosecutors. I'm accepting my responsibility that led to that. And that's what a lot of people miss even in their challenges in life. We don't accept... If we had any type of hand in a situation, we should accept our responsibility, because that's the only way that you're going to truly heal is if you accept that you did something wrong.

Do you think that exonerees, people who've been wrongfully convicted and are able to fight that fight and be able to get out, tend to come to that conclusion? The reason that I ask is that I'm always struck is when I read the stories or hear people talk or hear interviews, just at the amount of faith that people have. And I just wonder what perspective it takes to be able to do that.

I think when you are experiencing oppression, especially when you're experiencing it from the standpoint of being falsely oppressed or being put in a situation, you got two things that's gonna happen. You're either going to go crazy or you're going to make some sense out of what you're going through. And if you can't make any sense of what you're going through, you have to pull some type of responsibility out of what you're going through. I believe every exoneree that has been through that situation, they recognize somewhere in their life where they and made a choice that put them in a path of wrongful incarceration. it put them in a path of it. And if you accept that, if it's something negative, something like mine – I prematurely stepped out – if they accept that responsibility it will help.

Help you get rid of some of that kind of bitterness.

Right, because you might never meet the district attorney that did you wrong, the police officer, the jury. But you look at yourself every day in the mirror. And if you can forgive that person, nobody else matter. For me, while i was locked up, I ran through that moment over and over in my head. Man, you know, I shouldn't have left home. I should've stayed home. That was my responsibility. That's where I was supposed to have been (relisten before quoting 18:50). So now, after I got over that, now let's attack this wrongful incarceration. So that's how I believe God allowed me to push through.

Sure. I would've never expected you to say that but it makes sense when you explain it like that.

Mhm.

In the email you mentioned that you kind of feel like there's a false perception around how exonerees are living, that they're living a wealthy lifestyle. I

wondered where you got that from. Do you have people coming up and saying that to you. Or are you reading about it or...

Well if you go and look at each exoneree, especially in Texas, or period, whenever they're exonerated, the media automatically puts how much money. You never just deal with the issue of exoneration. You have to put a dollar sign to it. And once you put a dollar sign to it, you've totally diluted the situation that you've... It was like, 'Oh, he was falsely imprisoned, but he got...'

And people who have never had the type of money that they think we have, they're going to automatically think that 'Ah man, they're...' No, you have to build your whole life with this right here. Prime example, the guy up in New York. He has just been exonerated, but New York is withholding \$18 million from him. The reason why they're withholding it is that they've been just sporadically giving \$20 million, 17 million, just giving large sums of money to the individuals coming out of prison. Now they don't have any money to give. So it's like, it's not even set up right.

In that state, you mean.

In that state. In Texas, I think Texas leads the nation with their package because it encompasses finances, it encompasses education, it encompasses health. We can get all of these three major things out of our compensation. So that is a major hurdle that we've been able to overcome. And we do have individuals like Andrea Curraige (SP?), who, I think he only got like \$50,000 altogether. So when the compensation first started, it was like \$25,000 with a \$50,000 cap.

Before 2009?

Before the Tim Cole. So the Tim Cole Act really put it to what it is now. But you have to look at all the exonerees that happened before Tim Cole. They didn't get as much. That even causes dissension amongst us as a unit. You have one guy who's really struggling because he got exonerated before 2009. To where, this guy, they didn't make that law retroactive. To where, it can also benefit and help the ones that didn't get as much as the other guys. So you have situations like that.

How different would your life look had \$50,000 been the payout?

Oh my God, totally different. You know what, I can't even see how I would... virtually impossible. Number one, I would still be at the hotel working. I would still be in the staying in my apartment in Pleasant Row. There's not too much that you can do with that. Totally different.

Where's your house?

Duncanville — off Cedar Ridge

Does your mom live close?

She has a house right up the street. So when I got out, She stayed in South Dallas, which is where our office is now. And that house was given to her by my great grandmother. MY mom and dad stayed there the whole time while I was incarcerated and when I got exonerated I moved her from South Dallas to Duncanville.

That's the house you grew up in, the South Dallas house?

No actually I grew up in Oak Cliff. So when my grandmother died while I was incarcerated, she willed the house to my mom and dad, then they moved to south dallas.

Are there legal expenses that you're dealing with when you're coming out?

No. That's the good thing about what we have in Texas. Once a person has been proven completely innocent, factually innocent, the next step is compensation. You don't have to fight for it, file for it. The only thing you have to do is sign some paperwork that's already connected with the comptroller, and that's it. You send that and that's all you have to do.

The only legal issues I went into after my exoneration was I filed on my prosecutor for prosecutorial misconduct, which they shot it down. There was no prosecutorial misconduct.

This was the case where there were police reports withheld. So that was kind of the basis of what you were filing..

Well, the police reports but even mores, the one witness that testified against me signed an affidavit that said that the prosecutor had my picture with him before the jury trial, and he showed the picture to the guy and he said, 'Hey, this is Richard. He's going to be sitting next to his lawyer. When you go in, I'm going to ask if you see the person that did the shooting. Just point him out.' The affidavit goes on to say that when he seen me, he had never seen me before in his life. he didn't recognize me. The only reason that he pointed me out was because of the prosecutor. That was the witness that sent me to prison. And then the evidence which was the GSR test, the expert witness came in, and I guess he just asked the right questions to get the right answers. Because 15 years later she filed an affidavit that said, given an opportunity again, she would not testify in the same manner as she did in 1994. The GSR tests were not positive. But he asked ... so much legal stuff and scientific stuff that ...

You can get it past the lay person.

Yes. I think they broke it down to gunpowder is made of antimonium and barium. Which is just dirt, it's just dirt. So the way they did the gunpowder test, I did have

the handcuffs on, I was standing outside in an uncontrolled environment. They had me laying out on the ground. So any of those things could have made a person's ratio go up but not dramatically. And in my case, that's what it was. In the palm of my right hand, there was a level of antimonium and barium, but it was nowhere else.

And you're left handed.

I'm left handed. And everybody said that the shooter shot with his right hand. That's another thing my lawyer was trying to get at: my client is left handed. He writes with his left hand. He does most things with his left hand. But the only thing they heard was: gun ballistics test, positive. That's the shooter. That's all they need. The nine witnesses...

That's such a damning thing if it's not presented with the context that you just presented it.

Even when I filed, when I did my 1107 writ of habeas corpus, I was locked up. I filed ineffective assistance of counsel because my lawyer should've had an expert witness to refute the state's expert witness. If the state's bringing someone in to talk about GSR tests, you need to have somebody to refute. I mean, it's just common logic. It's like, you look back, and it's like did they really do this on purpose or was it just one of those assembly line trials. Put it on the assembly, run it through, run it through, run it through. And I think that's really what happened in my case. I think my lawyer knew I was innocent, but he probably felt the jury wasn't going to believe the evidence that the prosecutor would present. So he's got a holy (??) case. Twelve people are surely not going to convict the guy of murder. But he was sadly mistaken.

You seem to be able to talk about it pretty openly, and with a smile on your face even at times.

I think it's at night when you really start to think about what you've been through. But, I went through it. And sometimes that's the only consolation you can have, is that you went through it. You was in a ?????? (29:45), I went through. A bad relationship, man I went through it. No finances, went through it. We all have prisons. We all come out of prisons. Some of our prisons are just more visible than others. So if we can open up and dialogue and talk about it, you know, what I came through might not be so different than what somebody else came through, and I might be able to help somebody.

Ok, I think we've exhausted my questions for today.

Today... (Laughter) That was the disclaimer.

It was, it was.

Well cool, no problem, no problem.

Richard Miles, Feb. 18, 2016

SS: To the extent that you're comfortable with it. It'd be great to go through what happened that day.

RM: Every time I talk about my case or what I went through, I think two things happen. The first thing is it's always therapeutic for me to talk about it vs. just letting it well up in me. I think the other thing is, each time I talk about it certain things come to mind. It was probably situations that I just harbored, put away for the sake of surviving. So I have no problems with that. Basically, we can start at...

So let's see. The day you were arrested...

May 15, 1994

May 15, 1994.

You'll hear that number a lot. The thing about my whole case, think about my life – 15. Got locked up May 15, 1994. Spent 15 years in prison. It took Centurion Ministries 15 months to do my case. I was exonerated February 15, 2012. (married Sept. 15). My daughter was born in 2015. The number 15 stands for new direction out of the deliverance of bondage. As related to the scriptures, King ?????, when he was getting ready to pass, and he prayed and an angel came back and gave him 15 years. The passover, when the children of Israel were released out of Israel, they left on the 15th day. So that's a very significant number.

SO May 15, 1994, we was in Oak Cliff, in Robin Oaks Apartments, over at my friend's, Earnest Clark's. His mom stayed over there. We used to always go over there just to kick it.

Like an apartment complex?

Yeah it's a big apartment complex over there in Oak Cliff. And this particular night we were over there and it had to be after 12 o'clock because the busses had stopped running. I didn't have a car, and I stayed in North Dallas. So the only way to get home was to catch a ride or stay there for the night. So I decided to get a ride home from Earnest Clark. Well Earnest's girlfriend stayed right around the corner from where I stayed. It was probably about, walking, no more than 10 minutes.

Anyway, he agreed. I offered to pay him \$5 in gas compensation so we left Robin Oaks apartments in Oak Cliff and we headed to North Dallas. We made one stop at a 7-11 on Lemmon Avenue, and I bought cigarettes. We went from there, the next stop was University Road, where his girlfriend stayed. So we got to her house first. I'm like, 'Well man, you right here, she's right there.' I'm gonna go ahead and get out and

walked the rest of the way home. So I paid him \$5, got out the car and walked up University to get to Lemmon Avenue. Lovefield Airport is right there, Sewell Cadillac shop. I'm walking in front of Sewell Cadillac Shop. I stayed on Cresthaven and Bluff View. Bluff View is that next street that kind of curves off from Lemmon to go to Lovers Lane. So I walk in front of the Sewell Cadillac shop, I get to the Red ???? Liquor(??) store that sits on the corner of Bluff View and Lovers Lane. There's a pay phone right there. I call James, the individual who I was staying with, to tell him to cut the alarm off the house. He had an alarm and so forth. I said cut the alarm off, I'm right here at the Red (cobra??). To keep the dogs and stuff from waking up and barking.

He was sleeping?

Yeah, he was asleep. I automatically assumed he was sleeping. Number one, I was staying with him. Number two, it was probably like 1:30 now, so out of respect. The other thing, I didn't have a key. So it was multiple reasons why I had to stop and make the call. So I stopped and made the call. Next thing I know, I'm standing there, it's a stop sign, red light. It's an intersection right there. You can't cross the street unless it says, 'Walk.' I remember the intersection said, "Don't walk," and I didn't walk because there was a police car that was just right there. When the light said, 'Walk,' I crossed the street, I walked in front of the police car, I walked to the side of the police car and then I walked in back to the house.

Ok, so he's literally stopped right there and you walk directly...

Right. ... I cross the street, I'm walking in front. And the next thing I notice was the helicopter, and the light shines on me. When the light shines on me, this happens almost instantaneously: police cars came and arrested me. Soon as the light hit me, it seemed like they ...

And how far had you walked past the police car before the light shined on you...

It wasn't too far because two things. Where I stayed at was really like right across the street from where I made the phone call. So it wasn't even... I had to be right by the police car, somewhere really close to it. So. I think it was an open lot or something. So it may have been that corner right when I crossed the street. So anyway, they shined the light on me, police cars come from everywhere. They're jumping on me, tell me to lay on the ground. Ask me where is the gun at. They're patting me down and putting handcuffs on me. They read me my miranda rights. They put me in the police car.

When they put me in the police car, I'm asking what's going on. And they're not really telling me anything. I'm like, 'Hey man, my friend Earnest, man, he just dropped me off. He's right around the corner. I said, 'We can go over there.' They said, 'Well, when you get downtown, you can talk to the detective and let him know

everything, and he'll be able to verify your story. And if everything's good, you'll go home."

I think I read somewhere that at this point, you still maybe weren't that freaked out about it. Because you thought, 'My alibi is so solid.'

Yeah, I wasn't trippin. Because I know I just got out of Earnest Clark's car. I know I've been with somebody. I just got off the phone. So I'm not even thinking about jail. I'm not thinking about jail. Jail s not even on my mind. That is so far from my mind because I know I ain't did nothing.

So they put me in a police car and they took me to, I didn't know it was a Texaco. I wasn't too familiar with the area, number one. I wasn't too familiar with North Dallas.

You were staying with this guy..

Yeah. And I had really just moved out there probably about – I'm going to say – about two or three months prior to that. I wasn't too familiar with the area. So when they put me in the police car, the only thing I could remember was they turned and I remember the lake, which was Bachman Lake. And so I didn't know where we were at. When we turned, I saw the lake. And they pulled me out of the police car, and I'm standing up with handcuffs on and they putting some stuff on my hands. And I'm looking toward the back of a building. I see police lights and stuff on the front side. I see people around. That's all I see. They put me in a police car and they took me downtown.

And did Thurman get a look at you.

That's when he saw me. Now, hindsight, after everything is over with, the investigation and everything has been done, that's when Marcus Thurman saw me.

Did you remember seeing him?

No, because number one it was real dark. All I saw was really the police lights. And it was people around, but I don't know where he was at. I don't know. And to this... I don't even know what he looks like. I vaguely remember him from the trial.

I got to capers(?). They pulled me into a room. And I remember the detective coming in. He introduced himself as Detective Hooker. And he started talking with me and asked me where he'd been that night. I gave him Earnest Clark's phone number. I gave him Paula??? number. I gave him Earnest's mom's number. And I gave him James ???? number. I said, 'Man, these are the people I've been with. This is where I was at. You can call them and everything.'

He left right out and he stayed gone for quite some time. And he came back in and

said, 'Man, your alibis checked out. But we have a witness that says they saw you shoot somebody tonight. And you're going to be arraigned for murder and attempted murder.' I said, 'Man, I didn't do nothing.' I said, 'Man, you just told me...' And from that point, when they say that, it was pretty much a done deal.

How quick was it... before you gave him the list and he left the room, did he grill you for some amount of time? Was he asking you a bunch of questions?

Yeah, I was there probably about... I wish I knew what time they booked me in because that would give me a better assessment. I think I was arrested around 2:30 or something like that.

I was thinking it was closer to 3.

They booked me in at 10 o'clock or something like that. It was some hours that he was sitting and talking to me.

One of the things that was brought out at trial was that they asked the detective for a statement, and he never took a statement. He took the information, but he never came back... And I never asked. If you're innocent, why ask for a lawyer. You're innocent, why ask for a statement. I'm just telling you what happened. He never wrote a statement down.

Nothing you were saying was going to change anything.

And that's what he said. He was like, 'Well I didn't feel like what he was saying was important.'

I'm like, 'I'm the person you... Everything that I say should be important!'

So anyway I left Capers, they took me to lousteric(?). Booked me to get arraigned. My bond was set at \$350,000. It was at that point in time that I called my mom and told her that they'd picked me up for murder and attempted murder. I said, 'Mom, I don't know what they're talking about.' And my mom told me, I'll never forget, she said, 'Baby, we know you're innocent.' Even though they wasn't with me, they knew I was innocent.

I think one of the craziest things is, you know, I never took the time out to think how my mom actually felt during this whole time, or how it impacted my dad. Or anything like that. Because I was in it. I'm going through this here. It's hard to detach yourself. But growing up, we were not a very financially.. We wasn't poor or anything like that. But for them to consider a \$350,000 bond, or a free-world attorney that's saying, 'I'll talk to them for \$3,000. That's the, *just to go talk*. We'll go talk to him for \$3,000 to see if we want to take the case.

So, my mom, they got ... they were like, 'Babe, we don't have the money to get you a

free world attorney. But the courts have said they'll give you an attorney.' The average citizen, they feel that a court-appointed lawyer will do just as good as the free world attorney. But truth be told, when a court appointed attorney is not given the same amount of money and resources that the state has, it's like David and the giant Goliath. It's impossible. How is a court-appointed attorney going to defend murder case with a thousand dollars or whatever they're given. You cannot adequately defend someone like that.

I remember when my attorney came to see me, Ed Grey. He told me all the evidence they had in my favor. He was like, man, they got 10 witnesses, nine of them say that you were the suspect. Fingerprints. But man I need some money to help my investigation. And he asked for \$2,000. And I called my mom and said, 'mom, my lawyer asked for some money to help out with him investigation. He said the state is not giving him enough money. And so my mom was like, 'Man, we don't have that money.' Because my lawyer was like, man, there's some more witnesses that we need to talk to that I want to talk with. But I don't have the money.

******Figure out whether it's illegal for a court-appointed attorney to ask a client for more money to fund his investigation*

How was the money going to help him talk to the witnesses?

I don't know. It was just what he wanted.

And this was very, very early on in my time. Because I was still in Lousteric. And I eventually got transferred to north tower, which was another jail. I stayed in Lousteric probably about two months.

And the other thing was, the main witness in my case, he kept saying, 'Hey man, they're not letting me talk to the only witness. To me, at that point in time, because I didn't know anything about the GSR test, gun shot residue, I'm thinking that, when they're putting that stuff on my hand, that's gonna come back negative. I wasn't even... you oughtta saw my face when they said the gun shot residue test came back negative. I'm like, 'I've never even shot a gun.' Because I wasn't even thinking about that.

Did you learn that in the courtroom?

No, I learned that before the trial. My lawyer came back and told me. He's like, the test came back positive in your right hand. So now he has to refute that, saying I'm left handed. But why he didn't bring in an expert witness. Expert witness, expert defense. And he didn't do that. But I'm asking why you can't talk to the witness. And he's like, 'Well the state won't let me talk to him.' So he's like, "I don't know what he's going to say when he get on the stand.'

So I stayed at the county jail 17 months, and I went to jury trial. And when we went

to jury trial, at this point in time I don't know how I was really feeling. I was still hopeful that the justice system would be just. The fact that we have all this evidence in my favor. My alibis are coming to testify. The description of the shooter: 6'2, 6'4, real dark complect. I'm not fitting any of that.

And real quick on the point about clothing. I know there was a difference and the shorts ended up..

I had on pants. Dickie's. They were blue Dickie's. And the shooter had on shorts. And so the detective, the arresting police officer, when they asked him, well why didn't you... And detective hooker, they asked him, 'Did that not don on you that the shooter had on shorts and this man had on pants?' 'Well we was thinking that he had rolled his pants up (Richard breaks into a classic smile here — smiling at the ridiculousness of it) to do the shooting. But yet, still, when they pulled my pants out of the evidence bag: starched down, it was no wrinkles in it. So that kind of... he couldn't have rolled them up.

So the shooter was wearing like a floppy hat.

I had on a brim.

Like a baseball hat?

Not a baseball hat. A derby. So it was a black hat. It had a feather in it, number one. So if you're going to describe anything in it, you're going to say it had a feather in it. It was one of those nice, felt brims. That's what it was. It was a felt brim. If you run with it, it's not going to flop.

—discussion of what we thought about — Jay Z hat, etc.

I'm sorry, I think I cut you off. You were talking about how you were feeling going into the jury trial..

Yeah, I was hopeful, but at the same time, when you're in the county jail, you hear people that are going to trial. And when I got locked up, it was around the time – i think that was another reason why I got convicted – because it was when gang violence had erupted in Dallas. Every time you turned around, there were the North Dallas Driveway Robbers. You had the sporting good store. You had crips and bloods. So it was a lot going on. And if you were incarcerated, and you're a minority, and you're of the age bracket 17 through 19, 20, you're automatically guilty by virtue of what's going on in the atmosphere. So I think that plays a lot in the jury's side. ... These young kids are out of control, they're gangsters. That's what they're seeing on media. And in the jail house, you see these guys coming back with life sentences, 60 years, some of them are saying, man, I didn't even do this hear but because of my record I had to cop out for this here. I didn't want to go to trial because I got two other felonies, but man... So you're hearing all of this here. So I'm

getting ready to go to trial. I know I'm innocent. But I also know I'm still in jail after 17 months. So something is not right.

Did you ever give a shadow of thought to taking a plea deal?

Oh, hell naw. I told my lawyer when he first came to see me at Lousteric. I said, don't even ask me about no plea deal. I said, man, I'm innocent. I told him don't even come to me. And that was one thing that was never brought, there was never a plea deal brought to me. Never that. Never that.

I have to think there are some guys who just came to that conclusion.

Yeah. Eugene Hinton, one of the guys in the book that I made, he copped out – or took a plea deal – for eight years, because they were telling him that he was like 17 years old. They was telling him, man, you're going to get a life sentence for this case. You're going to get convicted if you don't take this 10 years. They had grilled him for like 10 hours. So he literally, I mean, he just copped out. On Eugene Hinton, it was a sexual assault case, and so they just was able to come back years later, test the DNA. It was the wrong man. Well, why did you cop out? Well if you'd have been in that room for 10 hours and they telling you you're gonna get life and you're gonna get convicted, you're gonna try and find the best way just to end.. you know..

False confessions, it's just impossible for people in the public to grasp how they could happen, I think.

Yeah, because people are like, man, why would you confess to something that you didn't do.

...

But naw, there was never a plea deal that was brought to me. So we went to the trial. The trial pretty much, to me, I felt like we had won the trial. I really felt like we put up a real good defense. Especially when you looked at all the evidence. They had the gun ballistics test, but my lawyers stood up against that. We had Marcus Thurman, but the description didn't really fit me. And we had people to come in and say that I didn't resemble the shooter. Even though they did not call in the other witnesses that were there at the scene of the crime.

None of them were called to the scene?

Naw.

The DA did not call them in, and my lawyer didn't. And I asked my lawyer, I said, man why they not... because they were there. They got subpoena'd. They were waiting to come and testify. But the DA's not going to call them in because they're harmful to his case. And I was like, well why my lawyer can't call them in if they

came out. So, the jury never got a chance to hear those individuals.

So that was one of my points of argument, when I filed my 1107 when I was locked up. I was like, man you had testimonies that were there that were never called in to testify.

But, anyway, I really felt like we had won. And they put me in the holdover, and I stayed in there eight hours. The jury deliberated for eight hours. Most people say when the jury deliberates that long, that 9 times out of 10 they're going to come back with a not guilty verdict.

You don't want it quick because that means...

Yeah, you don't want to go in there and be ??????????????. I just locked the door. That's not a good sign.

So during those eight hours, every hour that passes, you're thinking, this is a good thing.

This is a good thing. So they finally come get me, eight hours, I go back into the courtroom. Everybody is assembled. It's a crazy scene because you got the victim's family that's just *in tears*. They're just, ah man, I don't know if the DA paid them to do all this extra stuff, you know. My family, they're just very stoic, but they're together. And when they render the verdict, the lady stands up, African American lady – she was the jury foreman. I can't say I had an all-white jury. I had a very diverse jury. So my the jury foreman was an African American, young lady. And she stood up and she said, man, "We the members of the jury find the defendant, Richard Miles, guilty." And when she said that, it was just like – I remember sitting down. And my lawyer had to, kind of like, 'Stand up. You've gotta respect the court.' The court just totally disrespected me.

So they finessed reading it. That was the guilt and innocence phase. The next phase was the punishment phase.

They go 1-2? You don't have a separate sentencing hearing?

No, no. They find you not guilty or guilty during the guilt and innocence. And then if they find you guilty, you have to do the next one, which is the punishment phase. During this phase is when they give you your time or your probation, or whatever.

At a difference hearing.

A different hearing, yeah.

Ok. So real quick, when they rendered the verdict, do you remember making eye contact with your family or kind of...

I couldn't do nothin. After that, when they took me out, that's when I looked back at my mom and dad and my sisters and brothers. And they looked back at me. That moment right there is really kind of hard to understand what was going on in anybody's mind, right then. Because it's like, you know, what's going on.

It's just too overwhelming.

Even right now, it's not even any words to describe that guilty verdict at that point of time knowing that I didn't do nothing. And knowing that I'm going to prison for murder and attempted murder. No words can explain that.

And so, I remember going back into the holdover, because I was the last person over there because they deliberated so long. So I was in there by myself.

At first you're put in there with other people who are in a similar situation.

Yeah, because everybody's going to court, they're going to see their lawyer, whatever. And so you're in there by yourself trying to lay on this concrete slab that they have in there. And just like I'm talking to you, I heard, "Everything is going to be alright." And that was the first time I heard that and it was the last time, but I held onto that. Because I knew it was God letting me know that everything was going to be alright.

They took me to the holdover. Later on that night, my mom and dad came to visit me. And that was a very weird visit as well.

How so?

The main thing is, now, everybody knows I'm not coming home. We don't know how long because the next day is the punishment phase. But we know that I'm not coming home right then. And that was what we were looking for for the trial. We were like, August is when you're coming home. You know. August is when you're coming home. Once the trial is set, August is when you're coming home.

And that date doesn't exist now.

Yeah. That date, it's gone. It's obsolete. It doesn't exist. It's off the calendar. So, that visit, I really don't even know what we were majorly talking about. My mom has always tried to be the uplifter in everything, the optimistic individual. My dad, being that he was the more religious individual, he was more stern. But now, with him getting hurt by the system as well. Because my dad was like, man, your court appointed lawyer is going to do what he's supposed to do. He was paid by the state. The word of God says that the truth shall set— So, he was more like that. And then, for this to come back around, I think it made us really check ourself as it related to our spiritual walk(?).

Shook you...

Yes. You're going to either let this go, and this is nothing, or you're going to stand on it and walk on it. And we chose to stand on it and walk on it irregardless of what... The next day was a Saturday. We actually had special court..

(Baby starts crying)

I'm going to see...

Sure, go ahead.

Before you continue on, I kind of want to clarify what you were saying with your family. The way I understood it was that, your dad being someone who believes in, 'The truth will set you free,' this was something that shook him at a core level and almost made him have to reconsider that doctrine and recommit to it.

You know what, I'm going to say, 'Yes' to that, because a lot of people take the word of God just because it's given to them. And unless you run into an experience, to where you have to eat what you've been given, you're just doing it. My family, holding up the church and believing in God and knowing that he was the father and ultimately, justice was going to prevail. Just that theology, just that concept, and when it doesn't happen, Are we going to throw all of this away because it's not true? Or are you going to say, you know what, I'm going to stand on this here.

It was me too. So I know i had to go to God, "what is this? Man, this makes no sense." I just feel that my dad had to go through that. My mom had to go through that. ... Like, look, we've taught you guys this here. Because you know, your faith is in the spiritual realm. You can activate it in the physical, but to do that, it's really hard. It's really hard. SO I really feel like this experience allowed my family's faith to be activated, you know, a lot more. Especially now.

But it was a very hard time. It was a dark time. The next day, which was the court day – the punishment phase. They actually had a special date on a Saturday, because people had to go out of town that Monday. So the judge had special court so they could give me my time so I would be out of the way.

I got convicted on a Friday. Court was closed Saturday and Sunday. But they opened up the court. They did the punishment phase, and during this phase, now my character witnesses come and testify. The bishop of our church. Another lady who goes to our church. The discrepancy about my skin complexion because they were saying the shooter was real, real dark. People came to testify about me never being past this skin complexion. So all of this comes out in this section. ... I guess the jury

missed all of that.

Jaimie Page

JP: I was working at UT Arlington, and I got this email – to all the faculty – ‘Does anybody want to work with people coming out of prison?’ There’s no money. And I said yes, absolutely. And come to find out, it was people who were wrongfully convicted. And so I went to a panel of exonerees talking about their stories, and I was absolutely moved by it.

One of the things that really struck me was that people who come out of prison and make and make parole ???, get some services. It’s not that great, but they get some services. They get some assistance. They get some coverage. But wrongfully convicted people get out of prison and get nothing. And I said to myself, ‘We could do something about that.’ That’s not right. I think that will be a fairly easy sell to the Texas legislature.

SS: And who was on that panel?

Well the person who really moved me was James Waller. I can get you his number. His story was, he was wrongfully convicted of sexual assault of a 14-year-old boy. Absolutely innocent.

...

What really struck me was the aftermath, even when they’re freed. So he was married, and his wife was pregnant. He had been released and he was on parole. And what he had to endure was really striking. I mean they spray painted ‘baby rapist’ on his vehicle. And his wife, who worked very hard to get his name cleared, and they were on the way to court for his final hearing from my understanding, and got in the car and the wife and the unborn child died. And to hear him tell the story and how he suffered and how there were no services for these guys. It really struck me.

So i had gotten a \$10,000 seed grant to really start meeting with the exonerees. And then I got a \$90,000 grant from the HOD foundation, which is a mental health policy grant. What I had done with that money, after a focus group where I identified from their report, their post-release needs, I arranged for 17 exonerees to go down to the state capital for three days. We specifically worked on legislation, which was passed, whereby exonerees with actual innocence could get up to \$10,000 in advance of their compensation, as well as services (*something about mental health services?*) as well as college tuition and vocational training being paid. So that was really a landmark legislation because that hadn’t been the case in other states. So that’s the piece that I worked on.

In subsequent legislations, i worked with exonerees on the healthcare coverage. There was a smaller group of exonerees who testified about that.

After I helped organize the exonerees – which took a while to gain trust, because here I am, a white woman, just trying to help a large group of these men just be able to talk to each other in a way that, you know, it's not the day room in the prison. Where you kind of talk above each other. And there's all these prison dynamics. But how do we have a conversation, a productive meeting. So that took, really, about six months.

But now they're at the point where...

So that's 2008, 200-

Yeah, so, my first focus group with them was at the end of 2007. And we spent 2008 preparing for the legislation in 2009. And so the legislation passed in 2009.

So when you say that was your part of it. You mean sort of your section of what was one law that passed?

Yes, yes. There were a lot of things that really fell into place. One of the things that I like to do, is I like to get exonerees who are willing and really emotionally able to speak. Because I think I can talk about wrongful conviction and what they need, but when you actually hear them it's so powerful. And so I try to have different conferences and speaking engagements. And so their happened to be someone from Glen Hagar's office. So Glen Hagar is the politician who really helped get this bill.

So later, as time progressed and exonerees were more organized, they now can represent themselves and they have a relationship with folks in Austin. The senators and representatives. So, for example, senator Ellis just let us have his entire conference room. So we were working on ???????? the medical part of legislation in subsequent years. And now, they don't ... I basically work for them. What do you need? Do you need me to do some social policy research? Do you want me to convene a meeting? So now, they're very powerful and the rest of the country really looks to Texas as a forerunner of compensation.

So, getting ahead of myself a little bit because I want to go back, too, but you're saying they're still kind of active in legislation...

They're active. They most recently worked on legislation that would allow them to have a beneficiary. They wanted to be able to identify anybody. And what passed was – it needed to be a spouse or a child. So that was what they most recently worked on. There's two other pieces of legislation that they're interested in that so far haven't gone anywhere.

And one of the ones is what I mentioned to you, which is what we're kind of referring to as an equalization of compensation, which would help people released prior to 2009 to bump up to \$80,000 a year. And that includes people at \$25,000 a year and \$50,000 a year. Anthony Carrage is the exoneree who has worked, I can't even tell you how many months and hours he's put in trying to get this passed. To me, it's fair. There's a finite number of individuals – it's not like a bunch of people are going to be coming out of the woodwork asking for this money. And until they really get this compensation equalized, in their minds, it's a continuation of injustice that they're experiencing.

Real quick on that. I know we sort of talked about, but could you explain to me... where the difference is between for and after.

The amounts? It just has to do with chronology. So on legislative session was \$25,000. And another legislative session it went up to \$50,000.

So that's your lump sum, right?

Yeah.

Ok. So that's what they're arguing for, is to get a higher lump sum?

Yes. Just to make it even. I mean, Anthony Carrage, he has five kids, you know. And there are other people who would benefit from it, but he's really the person who's been working on it. And Anchia's office. Rafael Anchia's office worked on it last legislative session. But nothing happened with it.

And he's the one who, his office really initiated the \$80,000 per year. So senator Ellis. So Ellis, Anchia, Hagar, are the, I think, the three main people. Also, West, Senator West, has been helpful.

Alright.

So the other legislative thing is – and I may have mentioned this – but the way that it stands now, if exonerees get a felony, they lose everything. The problem is, if that felony is drug related. In my experience, if they had a drug addiction prior to their wrongful conviction, they are highly susceptible to having addiction issues when they come out. But also with PTSD mental health issues, people try to self-medicate. It's very risky for people who have an addiction issue and/or mental health issue to be at risk for losing their income permanently when there's no other crime involved except for the addiction.

All the conversations are starting to sort of run together so I can't remember if it was you who mentioned it to me, that there's sort of a stigma against seeking that help from this group a lot of times.

Oh, yeah. That wasn't me but that's definitely the case. To give you an example, with the HOD grant, it's a mental health policy grant, so I wanted to get some data about their mental health status to inform mental health policies. So the grant paid for exonerees to get a psych eval.

So these are black men. Underrepresented in outpatient mental health care. Overrepresented in institutionalized mental health care. But this is their condition: the psychiatrist, it had to be a black man, over the age of 50, willing to come to their house. They did not want to go to a mental health place. I couldn't find anybody, but one of my interns knew of somebody, so this psychiatrist went to their homes, conducted psych evals – 12 exonerees, all of whom were diagnosed with PTSD, varying degrees.

So that's one issue, but the second thing is that, irrespective of race, there's no mental health practitioner that would understand what they've been through. So why bother?

Feeling like you're out on an island a little bit.

I think it was maybe Michelle who maybe mentioned it. But her main point was, we've come a decently far way since the mid-90s when a lot of these people were incarcerated, as far as the stigma surrounded with mental health issues, and what it takes to admit you have a problem and seek help. In that way, some of the exonerees are behind and kind of thinking about it in a different way that maybe the rest of...

Yeah, I think so. I think so. There are some exonerees in other parts of the country who have been willing to seek services. And some of them report EMRD – it's eye movement... I can look it up, or you can look it up – they have found that that has been beneficial. But a lot of them just won't go get help. I mean I think that they could use help with anxiety, help with sleep. A lot of them still are getting very few hours of sleep per night.

I mean what do you do about that. Do you ever get to a point where it's like, ok, well, if we're going to give you this money, maybe it's worth saying this is required to go through X amount of sessions.

Yeah, I don't think that's... I don't foresee that happening. You can't force it on other people. In my profession, you can force it in the sense that if someone is a danger to themselves or others, they can at least be forced to get an assessment in the emergency room. And that's happened one time. But they have to be willing to do it. And at least to my knowledge, around here that hasn't really happened.

(checks phone) Sorry, teenager...

Oh, that's ok. So I've told a lot of people about this story. A lot of friends and a

lot of people outside of the community who aren't engaged in this. One of the things I hear a lot is just kind of shock at how much money that Texas gives. And sometimes people definitely think it's too much money, without knowing the issues. If you've hear that critique or if you haven't...

Yes, I, for sure.

What's kind of your response to that?

So my colleague and I did a study. And the quantitative part has been published in the criminal justice... – you can look it up** – but it has to do with perceptions of deservingness. It's a study that we did here in Texas. So, I'm working on the qualitative piece right now. And I knew this before, when I studied... After the exonerees got their 2009 lump sum compensation, I tracked all of the random comments on the internet, and they really matched, at least in my introductory analysis of this qualitative piece of this study, which is: most people think that they deserve it. The people that think that it's too much money have arguments like this. There are people who will say taxpayers have already paid for them. We've paid for them to be in prison; they got three meals and they got a roof over their head. Taxpayers don't need to pay anymore. One argument is that \$80,000 a year is more money than most people make in employment. And then there are some people who will say, well, maybe they didn't actually do it, but a jury, to the best of their ability, determined their innocence or guilt. So actually the process did work.

So for the most part, people find that they are deserving. But many people think that that's too much. But people don't understand, it's paying for – they didn't get to work, they don't have retirement, they didn't get to put in for social security. They weren't able to get an education. So that's part of compensation, is to pay for what they missed. But it's also to pay for the harm. And that harm piece, a lot of people don't seem to get.

When you look at what people lost, in addition to financial things, they didn't get to raise their kids, they weren't there when their parents died. They experienced trauma in prison. One exoneree was stabbed, racially charged. There were people who witnessed, really, atrocities in prison. They came out with health issues they didn't go in with: diabetes, hypertension, seizures. They have come out with mental health issues. So it's not just that they lost financially. It's what they lost as a human being. And it's the harm. I mean, it's really all three areas.

Let's talk a little bit about how you've seen the exonerees are able to handle the lump sum they're given. I know it doesn't always go real well..

So it's mixed. And what I know is what they've told me, and of course they haven't told me anything. So there's one exoneree who's gotten the lesser amount, and he testified about this related to the 2009 legislation. And this was the reason for the annuity every year. He came out, he had a drug problem, he blew all his money and

he became homeless. So his testimony was important in giving them – after a lump sum – an annual annuity. So that they can better plan for it.

Some people don't want that annuity. They want, OK, pay me everything all at once. So for some people, the money goes very quickly.

Secondly, there's all kinds of people, including people in their family, who suddenly want money. Want to be paid for having helped them when they first got out, asking for help paying for a mortgage. So they, if they don't have the ability to say no, it's difficult for them.

I remember when legislation passed for the increased amount. They were waiting until September 1 and they were going to get this lump sum. I got phone calls from all over the country from investing people wanting me to put them in contact with exonerees because they were going to invest their money. So I think that some of them got poor investment advice. I really did my homework – and they asked me to screen these calls. So I don't think that they all got really good advice. I think the ones who are doing better are the ones who bought a house right off the bat. That's a really good investment. It's security.

They want to buy a really nice car or cars, and they've done that.

I wanted to talk to you about that, too, because that seems to be like there's something going on there. Every guy has the nice car. It almost seems like kind of an F U to: you know what, this is what I get now for being out here.

Yeah. It's interesting, there's an exoneree who got a lump sum and he still lives in an apartment and he still drives an older car. And that's kind of what he wants to do.

Really? Who's that?

Claude Simmons. So he was convicted with Christopher Scott. They were in the same case. Christopher is very much in the media limelight. And Claude is the absolute opposite.

I think that cars are... I do think it's kind of an F U. I think it's a status thing.

With Richard, he's got a pretty modest house. He talks about making the tithe to his church and kind of all the smart financial decisions he made. But he also bought himself a really nice Jaguar to himself.

Yeah. I think he's doing better than a lot. I think he really is. In fact, I asked him today about that. And he said, part of it was his faith. And when I have done my research interviews with them, all of them are very spiritual or faith-based. 100 percent. Whether it's Muslim or Christianity. Richard really attributes it to that. And he attributes it to taking the council of people and the advice of people and really

humbling himself.

So not everybody has the flashy cars. But most of them do. And the Dallas guys really have a reputation. Karen Wolf is a social worker with the Innocence Project of New York, the main Innocence Project. And she talks about kind of their bling, and that their really kind of flashy. Sometimes at these national innocence conferences, which a lot of them go to every year, there is a sense of – let's see, I'm trying to think of a better word than jealousy.

That's how Chris put it.

It is. ... The Dallas guys, they have something really unique. Under Craig Watkins, a lot of them got released at the same time. So the meetings that he had, which initially were two weeks or a couple years, and then it went to once a month or quarterly and now it's kind of as needed. Other states and areas have tried to replicate that, and I don't think it's as possible because they don't have that geographic chronological density. So that's something really unique.

I was going to talk to you about what you think the factors are here that allowed this law to be passed. I was talking to someone in Arkansas, a defense attorney, and he was saying that there's nobody who wants to admit that they did anything wrong. So why would you start a compensation law when nobody believes... No DA, the state doesn't want to admit that they've put away anyone who was innocent in the first place.

Well there is a national guideline of \$50,000 per year. That's what, nationally, is the recommendation.

And I really think that it was the unique combination of having Craig Watkins, the first African American DA. The politicians in Austin, for the most part, were people of color. And there was a lot of media attention at the same time there were a lot of black leaders in Dallas who united. So, for example, Pastor Freddy Hanes from Friendship West – huge black megachurch. Gerald ????, African American vice president at City Square. Rederick Britt went down to Austin to meet with legislators. Pastor Hanes sent 10 ministers down to Austin. It was really urgent. I got this \$90,000 grant that brought exonerees down there for three days.

(Car alarm is going off.)

That is the loudest alarm I've ever heard.

So I think it was really a convergence. I think one of the issues is, just because there's a group of exonerees who have that common experience doesn't mean they get along, or even like each other. When there was a goal, a united goal, they could eventually come together toward that united goal. Once that goal was met, then it's a little bit of a different dynamic.

They're kind of like brothers. They will stand up for each other, but boy, they sure fight.

—Another question about whether this can happen elsewhere.

Well it's kind of this convergence. The attorney's I mentioned, they're definitely a part of the equation. For right or for wrong, they were down their hustling. In other states or cities, there has to be other exonerees. There has to be someone to help organize exonerees if there's not an exoneree to do that. There has to be representatives and senators willing to listen. And there has to be lobbyists. And media attention. So, are all those factors able to convene in other areas the way they did in Texas? I don't know.

I think that it helps if there are advocates that are willing to be allies for exonerees who don't want anything from them. I don't want name recognition. I've never accepted a cent from exonerees; in fact it's cost me a lot of money to work with exonerees. And I've had exonerees who've got their money and tried to give me checks for thousands of dollars. I'm like, I don't— take it back. I don't want anything from you. Sometimes there are folks who want to be involved with exonerees because it's a media darling, if you will. But they also want something from them. Or they'll get in the picture and leave. But this take some commitment over a longer period of time. So, who's willing to come in and help organize and want nothing in return? And be willing to work at this for a few years.

I think we've gone through pretty much everything. Do you have anything you think is important...

I would say, at these national conferences, one thing about the Dallas thing that they're known for is how they dress. To the nines, three piece suits, hats with feathers, and colorful. So, I mean, they really stand out. Every conference since 2009, there have been panels presented by Dallas exonerees. We have two panels coming up in April. One is on PTSD. So that's a panel of myself, as the moderator, and three exonerees. And there's a panel on exonerees helping other people as a form of healing. With three additional Texas exonerees and myself as the moderator.

So every year since 2009, when I got involved, Texas exonerees are presenting as experts. So they are identified as experts. They are kind of flashy with how they dress. And they are in the media all the time.

I'm sure that creates a little bit of...

It creates a little bit of tension. And there have been some people, including one legislator, who has said to them, you know, maybe you should kind of tone it down about the money part. Maybe you don't want to dress like that and be so flashy.

Records Request

Dear Texas Comptroller Open Records:

Under the Texas Public Information Act, §6252-17a et seq., I am requesting an opportunity to obtain copies of the following public records:

- A database of exonerees who've been paid compensation by the state of Texas. The database should include all information tracked on compensation and available under open records laws, including **but not limited to** columns for exoneree name, total compensation paid, compensation paid by year (separate columns for each year), total compensation owed, tuition paid, health insurance y/n, and \$ paid toward health insurance.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$20. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of compensation for the wrongly convicted. I am a member of the media. This information is not being sought for commercial purposes.

I ask that any files available digitally are provided as such. You can forward them to me at sds1461@gmail.com. Otherwise, please contact me to arrange another method.

The Texas Public Information Act requires that you "promptly produce" the requested records unless, within 10 days, you have sought an Attorney General's Opinion. If you expect a significant delay in responding to this request, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

Shawn Shinneman



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,777

EX PARTE RICHARD RAY MILES, JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. F-9451624-IS IN THE 282ND DISTRICT COURT
FROM DALLAS COUNTY**

Per curiam. PRICE, J., not participating.

O P I N I O N

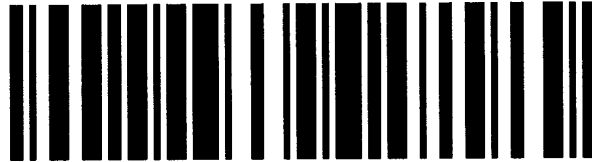
Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was placed on deferred adjudication probation for five years and was later adjudicated guilty and sentenced to twenty years' imprisonment. He did not appeal his conviction.

Applicant contends that his adjudication of guilt was based on convictions that are no longer valid. The trial court found that Applicant's adjudication was predicated on murder and attempted murder convictions and that without those convictions Applicant would not have been adjudicated

guilty. The trial court recommended we grant Applicant a new adjudication hearing. Having set aside Applicant's murder and attempted murder convictions, *Ex parte Miles*, Nos. AP-76,488 & AP-76,489 (Tex. Crim. App. Feb. 15, 2012), we agree. Relief is granted. The judgment adjudicating Applicant guilty in cause number in F-9451624-IS in the 282nd District Court of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County to answer the State's motion to adjudicate. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Delivered: April 25, 2012
Do Not Publish

CCA Scanning Cover Sheet



2399385

CaseNumber: WR-64,325-04
EventDate: 02/24/2010
Style 1: Miles, Richard Ray Jr.
Style 2:
Event code: ORDER ISSUED

EventID: 2399385
Applicant first name: Richard Ray
Applicant last name: Miles
Offense: 19.02-01
Offense code: Attempted Murder
Trial court case number: W94-54688-S(B)
Trial court name: 282nd District Court
Trial court number: 320570282
County: Dallas
Trial court ID: 328
Event map code: DISPOSITION
Event description: Application for Writ of Habeas Corpus - 11.07
Event description code: WRIT
Remarks:

<input type="checkbox"/> Document Scanned	<input type="checkbox"/> Created or
	<input type="checkbox"/> Appended
Scanned by _____	date _____
	Image ID _____
Comment _____	



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NOS. WR-64,325-03 AND WR-64,325-04

EX PARTE RICHARD RAY MILES, JR., Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. W94-54687-S(B) AND W94-54688-S(B) IN THE 282ND DISTRICT
COURT FROM DALLAS COUNTY**

Per curiam. Price, J., not participating

ORDER

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of murder and attempted murder and sentenced to 40 years' imprisonment and 20 years' imprisonment, respectively. The Fifth Court of Appeals affirmed his convictions. *See Miles v. State*, Nos. 05-95-01281-CR and 05-95-01280-CR, (Tex. App.—Dallas 1997, no pet.) (not designated for publication). This Court denied habeas relief without written order on the findings of the trial court without a hearing. *See Ex parte Miles*, WR-64,325-01 and WR-64,325-02, (Tex. Crim. App. April 4, 2007).

In these subsequent applications for writs of habeas corpus, Applicant raises *Brady* violation, improper use of gun residue analysis evidence to secure conviction, and actual innocence as his claims for relief. In its response, the State concedes that the State failed to disclose police reports which contained exculpatory evidence pre-trial as required under *Brady v. Maryland*, 373 U.S. 83 (1963). The State's response indicates that the State is currently investigating the merits of Applicant's remaining claims and that more evidence may be forthcoming. The State urges the Court to grant relief upon *Brady* at this time. The trial court adopted the parties' stipulated findings of fact and conclusions of law recommending that relief be granted. However, fact issues remain as to whether Applicant has met one of the exceptions to Article 11.07, Section 4. TEX. CODE CRIM. PROC. art. 11.07, § 4(a)(c).

In his prior applications, Applicant alleged *inter alia* that the State violated *Brady* when it failed to disclose a police report which contained exculpatory information to the defense pre-trial. Based on an affidavit filed by the Assistant District Attorney who prosecuted the case, and the court's own review of the record, the trial court entered findings of fact and conclusion of law recommending that relief be denied. This Court agreed, and denied habeas relief on the basis of the trial court's findings of fact. The record does not show whether Applicant's claim concerns the State's failure to disclose the same police report as Applicant's *Brady* claim which was litigated in his previous application. Further, the record does not show whether Applicant could have discovered the police report before he filed his prior application if he had exercised due diligence. We return this record to the trial court so that the remaining fact issues can be resolved and the trial court may make findings as to the applicability of the Section 4 bar.

As we held in *Ex parte Rodriguez*, 334 S.W.2d 294, 294 (Tex. Crim. App. 1960), the trial

court is the appropriate forum for findings of fact. The trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d) to resolve the fact issues. In the appropriate case, the trial court may rely on its personal recollection. *Id.*

If the trial court elects to hold a hearing, it shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall appoint an attorney to represent Applicant at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall make findings of fact as to whether Applicant has met one of the exceptions to Article 11.07, Section 4. TEX. CODE CRIM. PROC. art. 11.07, § 4(a)(c). Specifically, the trial court shall make findings of fact as to whether Applicant's claim concerns the State's failure to disclose the same police report as Applicant's *Brady* claim which was litigated in his previous application. The trial court shall also make findings of fact as to whether Applicant could have discovered the police report before he filed his prior application if he had exercised due diligence. The trial court shall also make any other findings of fact and conclusions of law that it deems relevant and appropriate to the disposition of Applicant's claims for habeas corpus relief.

This application will be held in abeyance until the trial court has resolved the fact issues. The issues shall be resolved within 90 days of this order. If any continuances are granted, a copy of the order granting the continuance shall be sent to this Court. A supplemental transcript containing all affidavits and interrogatories or the transcription of the court reporter's notes from any hearing or deposition, along with the trial court's supplemental findings of fact and conclusions of law, shall be returned to this Court within 120 days of the date of this order. The supplement shall also include copies of all documents which the trial court relied upon in making its findings of fact and conclusions of law. Any extensions of time shall be obtained from this Court.

Filed: February 24, 2010
Do not publish

ANALYSIS

In 2008, the Fort Worth Star-Telegram, a victim to McClatchy's struggles, offered a buyout to its employees. It was just one in a series, but this round would have particular consequence for the newspaper's coverage of state government.

At the time, the paper's Austin bureau was down to a couple of reporters, a clerk and a bureau chief, and when the chief announced he'd be putting in for the buyout, each reporter followed suit. Still, nobody expected the result: the Star-Telegram accepted all three. The office at 1005 Congress was closed.

The Star-Telegram's decision was a drastic example of a statewide trend. When things were at their worst, newspapers started to view statehouse coverage as expendable. The bare bones reconfigurations of city dailies left less room for coverage of state government.

Enter the Texas Tribune. Dreamt up by venture capitalist John Thornton and brought to fruition by the then-editor of Texas Monthly Evan Smith, the Tribune sought to fill the void in coverage of state government, politics and policy. Seven years later, the news nonprofit has proved sustainable, booming to about 55 full-time editorial employees. It focuses on day-to-day coverage but has an increasing aim toward investigative work.

The success of the Tribune – which has come largely by catering to a core readership of engaged Texas elites – has coincided with a bounce back in the Austin press corps at large. Some, but not all, of that bounce back can be attributed to the

Tribune itself; Pew Research reported in 2014 that 15 of Texas' 53 full-time statehouse reporters, the most of any state, are the Tribune's. The Tribune's 15 represented the largest statehouse bureau of any news organization in the country.

But newspapers, too, have seen a recovery in Austin – despite the Star Telegram's continued closure. Ask Smith, and these developments are a direct response to the Tribune's presence. Survey the state's top editors, and the picture begins to blur.

Rocky Beginnings

In October 2009, Smith met in Austin with the five editors of the state's largest dailies. Across the table sat Bob Mong, of the Dallas Morning News; Jeff Cohen, of the Houston Chronicle; Fred Zipp, of the Austin American Statesman; Rivard, of the Express-News; and Jim Witt, of the Star-Telegram.

Smith had hoped to come in peace, to explain his new venture's strategy and willingness to give away content for free. Instead, he says, the faces that stared back were made of stone.

The new kid on the block with millions in the bank wasn't immediately embraced.

The skepticism could be tied at least in part to the verbiage Thornton and Smith were using when talking about their new endeavor.

"Our only gripe was about some of the things particularly John was saying publicly about the future of newspapers, which I thought was just incredibly self-serving," says Mong, now the president of the University of North Texas at Dallas. He says that, based on conversations with large Dallas donors to both the Morning

News and Tribune, he wondered whether the message being sold was, *You don't know how long newspapers are going to be here, so you need to support us.*

"They didn't need to approach it like a zero sum game," he says. Overall, Mong says the Morning News' view of the Tribune was "nuanced, but mostly supportive."

Rivard, on the other hand, was an early donor to the Tribune who says that at one point he seriously considered opening the South Texas Tribune.

"I thought there would be great synergy between the Texas Tribune and print newspapers," he says.

It didn't happen – at least not immediately. The bigger papers were reluctant to run the Tribune's free content, and collaborations were, for many, out of the question.

And then, if by nothing else than necessity, the Star-Telegram's approach to using the Tribune's content changed in a significant way.

Reporting Austin from Fort Worth

After the Star-Telegram shut down its office in Austin, the major and obvious question remaining was where the paper would turn to fill the hole in its coverage of state government.

Dave Montgomery, a veteran, well-respected political reporter, returned from the paper's Washington bureau and set-up shop at a workspace in the capitol for a few years. He served as bureau chief (and the Star-Telegram's lone Austin presence) until 2012, when he, too, accepted a buyout.

Montgomery has freelanced for the newspaper during legislative sessions

and campaign seasons since he left on a full-time basis. And one reporter, Anna Tinsley, spends at least half her time doing legislative and state government-related stories from her base in Fort Worth.

But these days, for much of its Austin coverage, the Star-Telegram relies on the Tribune, the Associated Press and other newspapers, including national newspaper content and stories from Texas' other major metros through a content-share program.

The Tribune is about a third of the pie, estimates Deputy Managing Editor John Gravois.

"We trust them," Gravois says. "They provide content, and they have a big enough staff in the exact place where we're not right now."

He says that his bosses are less concerned with where the content is coming from and more concerned that he's able on a daily basis to provide Fort Worth readers with "a really good local report of what's going on in state government."

"They'll ask, well, are you able to find it?" he says – the 'it' in reference to a passable state government report. "And as long as I can answer, 'Yes,' they're going to be OK."

Still, Gravois says he couldn't say whether the Tribune's existence specifically has impacted staffing at the Star-Telegram.

"We'd get by without," he says. "But I'm a lot happier that they're here."

A free wire service

In 2012, following the round of Star-Telegram buyouts that included Montgomery's departure, blogger Stephen Robert Morse wrote a piece later

published by Editor and Publisher called, "Nonprofit newspapers hurt journalism." As the title suggests, it was not kind to the Texas Tribune.

Among other qualms – speckled by compliments of the Tribune's actual product – Morse pointed out that the buyout accepted by then-Star-Telegram political reporter Aman Batheja, who quickly signed on with the Tribune, had effectively taken Batheja off the Star-Telegram's payroll without cutting their access to his work. This, Morse insinuated, was bad news for Texas news organizations in the for-profit realm.

Smith called the idea that his news outlet was responsible for the closing of the Star-Telegram's bureau preposterous.

"They made that decision on their own," he says.

It's not unreasonable, however, that an editor could use the availability of the Tribune's free content as justification for thinning out coverage in Austin – if they haven't already.

"I can imagine an editor taking that viewpoint," says Zipp, who now works part-time with student journalists at the University of Texas.

The Associated Press has adjusted its state government coverage, for one, since the emergence of the Tribune. The bureau, which is down to three reporters, has taken a step back from "gavel to gavel" statehouse coverage in favor of delivering "unique, impactful journalism," says James Beltran, the AP's Texas news editor. The Tribune is "part of the equation," Beltran says.

"The Tribune offers their content to the very same members that we serve," he says.

Competition

And yet, while the AP and Star-Telegram have seen decreases in Austin staffing, other newspapers have rebounded. The Hearst bureau in Austin, staffed by the Houston Chronicle and San Antonio Express-News, is back up to seven total reporters, plus a few paid interns. When Editor Nancy Barnes took over less than three years ago, the bureau was at three full-time employees and a single intern; the Chronicle provided just one body.

Smith says the Tribune has been responsible for that rebound in the numbers of the Austin press corps and its spirit of competition.

R.G. Ratcliffe, who was the Chronicle's lone representative before retiring to write in a freelance capacity in 2011, isn't so sure.

"My understanding is that when Nancy Barnes came on board, she was unhappy that the state's largest newspaper did not have a greater presence in the state capitol and wanted to beef up the bureau," he says. (Barnes declined to comment for this story.)

Mike Leary, who became the editor of the Express-News in 2012, said in an email that the Tribune has not impacted his staffing decisions.

For his part, Ryan Rusak, the politics editor at the Morning News, says the answer might be somewhere in the middle. He doesn't attribute a statewide recovery directly to the Tribune – particularly given how coverage of statehouse's across the country bottomed out at the end of last decade. But Rusak's sense was that newspaper editors have started once again to see the worth in reporting on politics and policy in Texas, where state news becomes national news in a hurry.

“Was that driven by the Tribune?” he says. “I think it had to be noticeable. People had to realize, ‘OK, this is happening in our state. And the Tribune is getting a ton of attention. And we’re not.’”

The Morning News held up well during the recession, all things considered. The paper lost a single reporter, who has not been replaced. In Austin, The American Statesman maintained its five full-time statehouse reporters, Editor Debbie Hiott says. Both papers have in recent years softened their view of using the Tribune’s content. The Statesman recently collaborated with the Tribune.

“I think over time we’ve realized the more we can work together, the more content we can get to our readers,” Hiott says.

APPENDIX

Professional Project Proposal Shawn Shinneman

Introduction

When I came back to grad school, after being a newspaper reporter, I wanted to gain a more specialized skill set and make a transition from shorter daily work to telling deeply reported magazine stories. As a journalist, I'm interested in using investigative tactics to tell narrative, human stories that shine a light on bigger issues. This project represents the culmination of those goals. Throughout the spring semester, I will examine state-by-state policy on reparations for the wrongly convicted while shadowing two individuals, from different states, who've been compensated very differently.

I came upon this story while researching reporting angles centering on exoneration that I could pursue in Texas, with Dallas as my base (I'll be living with my brother and his wife at their house throughout the semester). Because of a former district attorney's proactive work with the local innocence project, Dallas County became the number one place in the country for DNA exonerations. There has been no shortage of coverage to that end, and it proved very difficult in the early stages to find an original angle. But I felt that because I'd be in Dallas, where so many exonerations have taken place, the opportunity to add to the important

conversation on the death penalty and its many consequences was too good to pass up.

Deep-dive coverage on compensation for the wrongly convicted has been scarce. In 2013, the *Austin American-Statesman* did a data story that showed \$65 million had been paid to a total of 89 exonerated former inmates. Other newspapers have done shorter features on exonerated individuals fighting for compensation. And the *New Yorker* published a long piece in 2015 about the philosophy and history behind compensating the wrongly convicted. But, as far as I can tell, nobody has written deeply about the state-by-state arbitrary nature of compensation, digging in to the policy of each state. Nor has anyone really gotten up close with some exonerated individuals to see how the compensation impacts their lives.

My goal is to find and follow a source in the Dallas area who has been compensated heavily for his wrongful conviction. Texas pays out a lump sum of \$80,000 per year spent incarcerated, plus an \$80,000 a year annuity, health insurance and college tuition going forward. If you've spent 25 years in jail, for example, you're going to receive \$2 million when you get out. I'd like to find someone who has received a large lump sum in Dallas, which is home to nearly half of the 49 total DNA exonerations in the state.

The second exoneree I'll follow will be from a surrounding state that does not provide much or any compensation to the wrongly convicted, with an emphasis on finding someone who has received nothing for a significant time in jail. Within driving distance from me are Arkansas, New Mexico and Kansas, none of which compensate their exonerees. Oklahoma and Louisiana cap compensation at

\$175,000 and \$250,000 respectively. One of these two exonerees – from Texas and a surrounding state – will emerge as the main character in my story. The other will provide balance as a secondary character.

I feel that my experiences have prepared me to excel in this project. It was reading deep-dive, important stories that got me interested in writing them. Lane DeGregory's "The Girl in the Window" hooked me first. It's a story bolstered by documents but told so beautifully you'd never notice. I read it when I was a newly re-declared journalism major as a junior in college, and though I'd never filed a records request at the time, I thought then that I already had what it took to write a story like that. I realize now that I didn't. But after about two and a half years at a newspaper after college, and now three semesters at Mizzou, I feel all the parts – writing, interviewing, reporting with investigative tactics – clicking into place.

In college at Truman State University, my journalism interests were very much aimed at writing and editing features. My junior year, I worked at the weekly student newspaper, the *Index*, as the assistant features editor my junior year. I wrote features and columns for the paper my senior year while holding the managing editor position at *Detours*, our student-produced Midwest travel magazine. When I got a job at the *Northwest Herald* in Chicago's suburbs, I came in as someone very much driven by writing features. I left with a much stronger nose for hard news. A story I wrote during my final year there won first place in Investigative Reporting from the Illinois AP. The story exposed the corrupt and all-controlling practices of a small-town mayor.

At the University of Missouri, I've maintained that momentum. I'm in the magazine writing sequence but have also put a significant emphasis in bettering my investigative reporting skills. On the magazine side, Advanced Writing, Magazine Editing and Interviewing will both help me with this project. I've also taken Investigative Reporting, Computer Assisted Reporting and Advanced Data Journalism. I work for Investigative Reporters and Editors, and do research and reporting for *New Yorker* Staff Writer and Associate Professor Paige Williams toward her upcoming book project.

Professional skills component

For this project, I've been awarded the Larry J. Waller Fellowship in Investigative Reporting. The funding will allow me to work independently on this project and try to sell it as a freelance piece to a regional or national publication. A couple of my top choices would be *CIR's Reveal*, *The Marshall Project*, or *The New York Times Magazine*. Regional choices could include *Texas Tribune*, *D Magazine*, or another regional publication in either of the states where I shadow individuals.

I will begin this project on January 11, 2016, and work at least 30 hours a week for the 14 weeks, at minimum, taking me to April 25. In all actuality, there's a good chance I'll work more than 30 hours a week, and continue the project past the 14 weeks if necessary, so as to prepare the absolute best possible story for publication. This project will be my number one priority. I plan to take full advantage of the opportunity to pursue one long project over the course of a full semester.

I will live and set up shop at my brother and his wife's house in Dallas. There, I'll read and analyze documents and other materials, and make calls. But there will also be a fair amount of reporting for this project done away from the home. I'll want to spend plenty of time with both the sources I identify and follow. For the non-Dallas source, that will take some travel. The Waller fellowship has granted me with the money to make two or three trips out of state.

A significant part of this project will center on reading through state-by-state compensation policy, as well as acquiring and analyzing documents on the cases of wrongly convicted individuals. I'll want to talk to experts on the topic, and get in touch with the innocence project early on to establish a relationship. My plan is to have an idea of the people I'd like to shadow – or at least have it down to a few options I've contacted – by the time of my official start date. That preliminary work will take place as this semester concludes and, more than anything, during my weeks off after the fall semester ends.

Finally, my committee of John Fennell, Mark Horvit and Paige Williams will provide supervision. Mark is my primary contact associated with the Waller fellowship, so it works out well to have him on my committee. I will provide weekly field notes to the group via email on Monday morning.

Analysis

Theoretical framework

Introduction

For the professional analysis portion of my project, I'll be taking a look at watchdog reporting in the nonprofit realm, centering my studies in Texas.

Specifically, my research question is: *How has the integration of the Texas Tribune impacted watchdog reporting of state government in Texas?*

As digital technologies and a shrinking economy hit newsrooms hard more than five years ago, one of the areas of journalism most affected was reporting that fulfilled the media's watchdog role. This journalism includes investigative reporting, government reporting and analysis, and enterprise reporting on other serious news topics. Seeing the need, the journalism community started to look for new ways to fill the void. From that search sprang several nonprofit outlets, such as the *Voice of San Diego* and the *MinnPost*. The *Texas Tribune* opened its doors in 2009.

The *Tribune* works in collaboration with legacy news organizations within the state while simultaneously serving as a competitor to those organizations. Editors and newsroom leaders across Texas have reacted in various ways to that

dichotomy. The *Tribune* – and the nonprofit model in general – has not avoided criticism.

But it's impossible for even the critics to ignore the *Tribune's* influence in just six years. Editors of the Austin and Dallas daily newspapers had initially expressed reluctance to work with the *Tribune* but have since come around. And on the web side, the *Tribune's* team of web app developers has built innovative ways to display public data and documents, enhance stories and, ultimately, serve the public. My research aims to reveal how the *Tribune* has impacted the watchdog reporting of state government provided by legacy news organizations in Texas.

It's important to contextualize this research within the current status and goals of the *Tribune*, which its COO and Publisher Tim Griggs has written about several times. More than five years in, with its nonprofit model having proved sustainable, the *Tribune* is turning its attention toward growing its reader base, using innovative techniques such as “growth hacking” to lead a digital charge toward new readers while continuing a devotion to the serious news it set out to do. Overall, the *Tribune*, Griggs wrote, has a goal to “expose our brand to roughly 4 million civically engaged Texans.”

Because I'm planning to be in Dallas for my project semester, it makes sense to center my study in Texas, a state rich in content producers. As a big state with plenty of traditional journalism institutions plus the government-focused, data-centric and digitally innovative nonprofit *Texas Tribune*, Texas is an excellent place to study watchdog reporting and the effects of a nonprofit.

Further, conducting such research is a benefit to the journalism community because it will provide a case study on how nonprofit sources have affected this type of reporting nationwide – as Texas can be viewed as a microcosm for the country. Those within the field of journalism will be able to consult my research to identify any gaps that might need to be filled in the Texas journalism community, also, and to find out what is working and what isn't. Journalism editors and publishers will be better informed about the collaborations occurring in Texas, and about how digital-minded news ventures impact their competitors.

The final product of this research will be presented as a journalistic story, which I will then pitch to various outlets. Possible homes for the piece include the *Columbia Journalism Review*, *Folio* and the *IRE Journal*.

The topic runs hand-in-hand with my professional component, for which I plan to complete a semester-long investigative project. The project will explore the state-by-state arbitrary nature of reparations for the wrongly convicted, contrasting well-paid exonerated former Texas inmates with those who've received little or no compensation in surrounding states.

Agenda Setting Theory

Max McCombs and Donald Shaw first introduced agenda setting theory in a study on the 1968 presidential election. Published in 1972, the study began: "In our day, more than ever before, candidates go before the people through the mass media rather than in person." (McCombs, Shaw, 1972) McCombs and Shaw went on to argue that journalists effectively "shape political reality" when they select what

stories to cover, how extensively to cover them and how they're presented on a broadcast or in a publication. Not only do these factors affect what the public knows, but they also affect how the public assigns significance to various topics, people and ideas. (McCombs, Shaw, 1972)

Agenda setting theory as it relates to political campaigns has been deeply studied in the U.S. and elsewhere. Stromback and Kiouisis, in 2010, analyzed the 2006 Swedish parliamentary election and found that news media do indeed have a strong agenda-setting influence over news consumers. They couldn't find any significant difference between how various types of media affected audiences. (Stromback, Kiouisis, 2010).

In an earlier study, Neuman looked at the development of 10 big news stories from throughout the middle of the 20th century. He mapped media coverage in relation to public concern, and found some conflicting results, writing: "...it depends on the issue. Generally speaking the answer is yes, there is consistent evidence of a curvilinear relationship between the volume of media coverage and the level of public concern." (Neuman, 1990)

Agenda Setting and Watchdog Reporting

Agenda setting theory has significant implications when it comes to watchdog journalism, making it a relevant theory for use in my study. Watchdog reporting often exposes wrongs and challenges the status quo. Digital technologies have generally encroached on the mass media's agenda setting function. More diverse options to acquire information have meant consumers no longer need to come to one source for all their news, and can instead pick and choose from various

places. Social media such as Facebook and Twitter have in some ways shifted the agenda setting function to citizens (and to Facebook and Twitter algorithms), by allowing the most shared and “liked” content to trend, thus finding more and more eyes. Still, watchdog reporting remains a powerful means by which journalists can take control of the public agenda and avert attention in directions they see fit. As they have gained steam and found more and more powerful ways to put their work in front of eyeballs, nonprofits news organizations have in their own ways become agenda setters.

In 2014, McCombs and Shaw, along with Weaver, revisited their landmark theory with a new paper. In it, they wrote that agenda setting has “evolved into a broad theory with seven distinct facets.” (McCombs, Shaw, Weaver 2014) The facets, which illustrate how far the theory has come since McCombs and Shaw’s 1972 study, begin with basic agenda setting. They also include “need for orientation,” which deals with psychology as it relates to how individuals bump into and interact with the media. Another facet deals with the consequences of agenda-setting effects.

The final facet has to do with “agendamelding,” defined as “the way we merge the civic agendas of the media and our valued reference communities with our personal views and experience to create a satisfying picture of the world.” (McCombs, Shaw, Weaver, 2014) With so many opportunities to personalize our media experience today, it’s more rare than ever for an individual to rely solely on a single source for his or her news. Nonprofits seem to utilize this fact and rely on it, as they thrive as a supplementary source.

When agenda-setting theory was introduced, the “agenda” applied directly to the public’s agenda. Since, it has evolved to take various meanings in various contexts, and an important one for the purposes of this research is that of the “media agenda.” (McCombs, 2005). Journalists have long studied the work of their peers at other news organizations and, whether knowingly or otherwise, adjusted their own work accordingly. (McCombs, 2005) The sources of this collaborative agenda, though, have blurred with the upswing of the internet, bloggers, social media and – more important to this research – supplementary news sources such as nonprofit news organizations.

Method

Interviews

This study will use interviews to explore the research question. Specifically, I’ll be talking with top editors, newsroom leaders and reporters at media organizations throughout the state. I will predominately target daily newspapers, as they are the closest competitors to the type of work the *Tribune* produces, but will extend beyond those sources to talk to magazines and other nonprofits whose coverage overlaps with what the *Tribune* produces.

Through my background research, I’ve identified several potential sources who’ve already spoken publicly about the *Texas Tribune*. Their previous comments show that they could be good sources for my research for two main reasons: 1) they’ve already proved a willingness to talk openly about the *Tribune*, often within the context of their own organization’s relationship with it and its impact on the

Texas media landscape at large; and, 2) I'll be able to compare and contrast their comments to me with what they've said previously to see how their attitudes have or have not shifted.

Sources

Several of the comments from editors come from a Columbia Journalism Review article published in 2010, not yet a year from when the *Tribune* started up. All three of the then-editors mentioned or quoted in that piece have since left their newspapers. I would like to target Robert Rivard, the former editor of the *San Antonio Express-News*, who himself was a financial contributor to the *Tribune*, and who has spoken previously about the importance of the *Tribune* in filling holes left by diminished newspaper newsrooms (Batsell). I'd also like to talk with each of Bob Mong and Fred Zipp, the respective former editors of the *Dallas Morning News* and the *Austin American-Statesman*. Each paper had initially resisted any content partnership with the *Tribune*. (Batsell) All three of these sources might be more willing to speak openly about the *Tribune's* impact, having either retired or moved on from their posts.

I would also like to get the current editors of those publications: Mike Wilson (*Morning News*), Debbie Hiott (*American-Statesman*), and Mike Leary (*Express-News*). At the *Houston Chronicle*, either Jeff Cohen or Nancy Barnes would be good sources. Cohen was the editor from 2002 until 2012, and now provides oversight for editorial pages. Barnes is the current editor in chief, having taken over for Cohen in 2013. Other potential newspaper editor sources include: Jim Witt, of the *Fort Worth*

Star-Telegram; Tim Archuleta, of the *Corpus Christi Caller-Times*; and Bob Moore, of the *El Paso Times*.

Outside of daily newspapers, I'd like to reach out to a few other sources: Brian Sweany, the editor-in-chief of *Texas Monthly*, and Forrest Wilder, the editor of the nonprofit investigative outlet, the *Texas Observer*. Current or former AP reporters in Austin would also make good sources.

At the *Tribune*, it will be essential to talk to Evan Smith, and I will also try to talk to John Thornton. Other sources could and likely will arise while I'm doing the interviews for my project.

Literature Review

Introduction

As newspapers were hitting rock bottom between 2007 and 2009, John Thornton's idea for the *Texas Tribune* was gaining steam. When the organization finally landed, it would become one in a wave of nonprofit news start-ups across the country that were popping up to fill the coverage gaps left by diminished traditional newsrooms. The *Tribune*, in fact, would become a standout in the movement – gaining substantial seed money to the tune of \$4 million, and then using it to build sustainability through innovations both in content and in ways to produce revenue.

This literature review is an examination of the beginning stages of the *Tribune* as told by those who've written about it. It is placed within its proper context: the literature review begins with a discussion of the challenges presented to traditional media, and then moves to a broad-angle look at the rise of nonprofit

news, largely as a result of those challenges. The literature review moves on to detail the specific origins and history of the *Tribune*, as well as its goals for the future. As the *Tribune* and the nonprofit model have not avoided critique, a summary of criticisms is provided in the concluding section.

The Internet and other challenges to traditional media

The challenges presented by the combination of the economic downturn and the rise of Internet use have been well documented. According to a Pew Research Center article analyzing data from the American Society of Newspaper Editors, about 16,200 full-time newsroom jobs disappeared between 2003 and 2012, including a 20-percent dip in the total number of jobs during the toughest part of the stretch, from 2007 to 2009 (Jurkowitz).

Still, Nichols and McChesney posited in 2009 that the seed of the deep struggle had been planted decades ago, when newsrooms began to slowly cut substantive reporting positions to improve profits, diluting the product. (Nichols, McChesney) Their opinion in 2009, with the Internet and the recession compounding journalism's problems, was that the market could no longer sufficiently support journalism: "The market has voted journalism off the island. This necessary nutrient of democracy will be washed away unless we recognize that commercial values are no longer going to provide us with sufficient quality journalism. It's a waste of valuable time attempting to cook up new schemes to make the process of news gathering and distribution as profitable as it once was." (Nichols, McChesney 6)

Scholars have often described the news industry's shift toward embracing the capabilities of the Internet as cultural, a changing in the way newsrooms are constructed and journalists view themselves. Barnhurst describes a decade-long shift in thinking by conducting a content analysis on the web presence of three newspapers, *The New York Times*, *Chicago Tribune* and the *Oregonian*. In 2001, the outlets used their websites as reproductions of their print editions, "resisting technical change out of fears about online accuracy, credibility, and image versus substance." (Barnhurst 792) By 2005, the outlets had started to embrace the web as a separate entity rather than a different form of the print product, and they started using strategies such as excessive linking to force extra clicks and keep readers on the site. By 2010, the sites started to find a "happy medium" with regard to linking within stories, while increasingly enhancing the substantive aspects of print – such as staff writing – with online-only elements. The latter development occurred most noticeably, Barnhurst points out, at the *Times*, where resources were most abundant. (Barnhurst 799)

In a 2010 piece that shed light on the psyche of the modern journalist, Boyer outlined a shifting media mindset. He wrote that as traditional news media have suffered declines in ad revenue, they've begun to make online investments – often justified by a prediction, but no guarantee, of future growth. Boyer interviewed journalists and publishers. He found that journalists had fallen into a time of uncertain identity, as they struggled to determine how and when to act as digital journalists and how and when to use traditional techniques. (Boyer 80)

In his 2014 essay, Picard gave evidence that journalists and news outlets might be starting to regain their sense of identity and predicted that the field's current state of transition would eventually lead to an industry that focuses on the digital product first. As the industry continues to change, "some players will reduce the frequency of their print publications, cutting out the unprofitable days, and publishing on only four or five days a week. ... They will switch the focus of their daily operations to digital platforms." (Picard 506)

The rise of nonprofit news

As traditional newsrooms have faltered, a number of nonprofit news sources have popped up as a way to fill in gaps in coverage. Writing an overview on the topic for the *National Civic Review* in 2014, McGrath followed the early successes of the Denver investigative nonprofit venture *I-News*, using the outlet as a lens on the trend toward nonprofit news – while noting, nonetheless, that nonprofits providing news isn't an altogether new phenomenon, as established nonprofits such as the Associated Press, Poynter Institute and the Center for Investigative Reporting have lengthy histories. (McGrath) Still, McGrath situates the current trend within the context of legacy media's struggles, writing: "With the decline of print journalism, however, the pace of new nonprofit journalism start-ups has increased dramatically, fueled by the need for solid reporting and the declining prospects for employment in traditional media." (McGrath 35)

The organizations have taken on many shapes, sizes and types of coverage – and not with guaranteed success or stability. But they've also sunk their teeth into

stories and issues that “might not otherwise see the light of day.” (Mcgrath 35)

Ultimately, McGrath concludes that “Nonprofit journalism outfits could counteract the polarizing trend of technology and media, not just by maintaining the standards of reporting and fairness but also by digging deeper to find the kind of stories that have a strong public interest impact.” (38)

In 2009, two titans of the journalism field touched on nonprofit news in their lengthy report titled, “The Reconstruction of American Journalism.” Downie Jr. and Schudson wrote about the many varying models of new start-up nonprofits. “Most publish only online, avoiding printing and delivery costs. However, some also collaborate with other news media to reach larger audiences through newspapers, radio, and television, as well as their own Web sites. Many of the start-ups are still quite small and financially fragile, but they are multiplying steadily.” (Downie Jr., Schudson 34) The report mentions the impending launch of the *Texas Tribune* and devotes significant space to the *Voice of San Diego*, whose “impact has been disproportionate to its steadily growing but still relatively modest audience of fewer than 100,000 unique visitors a month.” (35)

Started in 2005, *Voice* has more than once received attention for its successes as a nonprofit news startup. In 2014, Meyer wrote for *Columbia Journalism Review* about it, focusing on a new membership model but in the process providing an overview of the nonprofit’s history. “As the recession hit and newsroom layoffs mounted, the innovative local experiment became a potential solution to a national panic.” (Meyer)

Despite the optimism, the hard truth remains that it's plainly difficult to build a sustainable news nonprofit, as evidenced by a 2015 report by the Knight Foundation. The report analyzed 20 local, state and regional nonprofits, and found that "Nonprofits remain very reliant on foundation funding, and few appear to be rapidly approaching a sustainable business model." (Knight Foundation) Still, revenue at nonprofits grew by 73 percent from 2011 to 2013. Among earned income strategies, sponsorships and in-person events showed the greatest increases from 2011 to 2013. Advertising revenues, while still the biggest piece of the earned income pie, remained flat (Knight Foundation).

Origins and history of the Texas Tribune

The *Tribune* was born of the struggles faced by traditional media and able to benefit from developing a new, web-only model. It was started in 2009 by John Thornton, an Austin-based venture capitalist, and two others. The organization secured about \$4 million in seed funding to get started. Thornton wrote about his new idea for the *Huffington Post*, likening the particular brand of journalism the *Texas Tribune* would be producing to public goods such as clean air and national defense: "Allow for the sake of argument that what I'll call 'capital J' Journalism – journalism that takes on serious, complex issues and puts them in the context of how citizens interact with their government – is such a good." (Thornton) Thornton didn't trust market forces to appropriately subsidize such important work. (Batsell)

Thornton put together a group of well-placed individuals from Texas media to lead the operation. The headliner was Evan Smith, who left *Texas Monthly* to take

the job as the *Tribune's* editor. Ross Ramsey, the former owner and editor of the politics and government newsletter Texas Weekly, was the third founder. (Texas Tribune)

Writing for the Columbia Journalism Review in 2010, Batsell wrote that the *Tribune* was “trying to be something at once familiar and altogether new.” (Batsell). Early drivers of traffic and new readers to the site included a story on *The Huffington Post* and a joint project with *Newsweek*, culminating in a cover story about Rick Perry. But the site’s interactive databases made the biggest early splash – which, within the first six months of the *Tribune's* existence, drew triple the page views as their stories did. Batsell also notes a few early investigative “scoops” that helped draw attention to the *Tribune* (Batsell).

The *Tribune's* journalistic innovations have been matched by its schemes to pull in revenue. From the start, the outlet has benefited greatly from the dozens of events it puts on each year. In 2013, it took in \$1.13 million from events, according to a 2014 piece by Ellis for Nieman Lab (Ellis). Wrote Batsell: “As the convener of such gatherings, the Tribune aspires to become a player in the political narrative rather than a mere reflector of that narrative, a high-visibility approach that runs counter to that of the state’s legacy news organizations.” (Batsell)

While Batsell, in 2010, wrote of the uncertainty surrounding the *Tribune's* sustainability, Ellis, in 2014, declared it sustainable. “Which is why, five years in, with the ledger looking good and the journalism running strong, the big question for the Tribune is: How do they find more readers?” (Ellis)

Griggs, the *Tribune's* publisher and COO, echoed that sentiment, writing in 2014 that the *Tribune* is “proving that sustainability, and even outright growth, is possible for serious news organizations.” (Griggs 2014) Citing Smith, Griggs went on to write that the first four years of the *Tribune* were dedicated to two years each of innovating in content and innovating in revenue. “The next two years, then, are about innovation in – and dedication to – audience.” (Griggs 2014) In 2015, Griggs indicated that quest was going strong. The *Tribune*, which received a grant from the Donald W. Reynolds Journalism Institute to help with their growth objective, saw a 25 percent uptick in monthly users between comparable periods in 2014 and 2015 – growth the organization attributes in part to “growth hacking,” or finding “low-cost, innovative alternatives to traditional marketing.” (Griggs 2015). Overall, the *Tribune* believes they can reach about 1 in 5 adult Texans – their estimated number of “civically engaged Texans,” which comes out to about 4 million people. It also has a goal to “deepen engagement among 400,000 or so politics/policy insiders (and monetize them).” (Griggs 2015)

Criticisms and critiques of the Tribune and the nonprofit model

Criticism of nonprofits, then, starts with whether such organizations are long-term solutions, or if they're simply a flash-in-the-pan cover up for the struggling landscape in traditional media. Analyzing the 2015 Knight report (Knight Foundation), Usher and Hindman wrote for the Columbia Journalism Review about issues they feel it presents. Only three of 14 nonprofits included in both the 2015 Knight report and a similar report by the organization in 2013 have grown.

Meanwhile, four have made cuts and seven have remained flat. “...beyond the optimistic framing, the details of the report point to continuing problems.” (Usher, Hindman)

Those who’ve critiqued the model – of the *Tribune* specifically – however, haven’t always focused on financial prospects of the organization itself. Morse, writing for *Editor & Publisher* in 2012, expressed his belief that nonprofits are accelerating the decline of traditional news media. “The role of a nonprofit should be to help increase the quality of journalism, but not at the expense of for-profit organizations.” (Morse) Morse makes three main points against the *Tribune*, specifically. He argues that the hefty budget the *Tribune* has been able to produce creates an uneven playing field. He says that when laid off reporters from other state news organizations end up at the *Tribune*, which offers their work to other papers for free, it creates an incentive for such organizations to drop reporters because they’ll still be able to get the same coverage at no charge. And finally, he writes that, as much as Evan Smith would like to paint a picture that the *Tribune* isn’t susceptible to the same market pressures of a typical newspaper with advertising considerations, the *Tribune*’s corporate sponsors create conflicts of interest that can’t be ignored. (Morse)

Minutaglio, in the *Texas Observer*, focused predominately on that final point in writing about the *Tribune*. While Minutaglio didn’t claim to be able to prove that corporate sponsors were affecting content at the *Tribune*, he wrote that a perception of the conflict might be damaging enough. “Readers might begin to wonder what really happens when you dance too closely with the bigwigs what brung ya. And

that's when image can start to overshadow all of that hard-earned journalism.”

(Minutaglio)

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