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## Symposium on the Center on Wrongful Convictions: Foreward

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# SYMPOSIUM ON THE CENTER ON WRONGFUL CONVICTIONS

## FOREWORD

**KAREN L. DANIEL\***

When journalist Rob Warden and Northwestern Law Professor Lawrence Marshall<sup>1</sup> co-founded the Northwestern Pritzker School of Law Center on Wrongful Convictions (CWC) in April 1999, it is unlikely that even they would have predicted the avalanche of criminal justice reforms that would ensue in the CWC's home state during the next sixteen years: abolition of the death penalty;<sup>2</sup> recording of custodial interrogations in homicide and other police investigations;<sup>3</sup> mandatory best practices for photo array and lineup procedures;<sup>4</sup> opportunity for post-conviction fingerprint and ballistics analysis in addition to DNA testing;<sup>5</sup> and a certificate of innocence remedy with a streamlined path to state compensation for exonerees.<sup>6</sup> There is not a single person more responsible for these successes than Warden, the CWC's Executive Director from its inception until his retirement on August 31, 2014.

Warden was particularly well situated to promote reforms aimed at reducing conviction of the innocent. Under the auspices of Northwestern Law School's Bluhm Legal Clinic, the CWC's faculty and law students litigated individual wrongful conviction cases. More than thirty CWC clients are exonerated or free due to the CWC's direct representation, and many more—including codefendants of these clients—owe their freedom to the CWC's

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<sup>1</sup> Marshall is now a law professor at Stanford University.

<sup>2</sup> 725 ILL. COMP. STAT. ANN. 5/119-1 (West 2014).

<sup>3</sup> 725 ILL. COMP. STAT. ANN. 5/103-2.1 (West 2012).

<sup>4</sup> 725 ILL. COMP. STAT. ANN. 5/107A-2 (West 2014).

<sup>5</sup> 725 ILL. COMP. STAT. ANN. 5/116-3 (West 2008).

<sup>6</sup> 735 ILL. COMP. STAT. ANN. 5/2-702 (West 2014).

pioneering legal work. Warden, a non-lawyer but a riveting speaker and a writer *par excellence*, championed the CWC's cases and also engaged in broad public education about systemic shortcomings within the criminal justice system. By illustrating the causes of wrongful convictions with powerful individual stories of injustice, Warden won public support for the CWC's policy positions. His engagement with civic leaders, legislators, current and former prosecutors, and prominent members of the legal community created an environment in which the reforms detailed above became possible. His exhaustive research into exonerations across the country resulted in the establishment of a permanent National Registry of Exonerations.<sup>7</sup> At the May 2012 "Champion of Justice" Symposium in honor of Warden's impending retirement (a precursor to this Symposium issue), keynote speaker and Innocence Project co-founder Barry Scheck lauded the CWC for its vision in "doing the harder non-DNA cases" and summed up Warden's career: "Most of all, I think of Rob as a great journalist, an iconic figure in the tradition of the muckraking, crusading investigative reporting from the streets to the courts to the statehouses to the White House."<sup>8</sup>

Public consciousness of wrongful convictions has significantly increased since Warden began his labors on behalf of the innocent.<sup>9</sup> At the time of the National Conference on Innocence and the Death Penalty in November 1998—which took place at Northwestern Law and ultimately led to the formation of the CWC—it was a struggle to convince people that wrongful convictions are prevalent and often occur following the most serious of crimes. Today, however, there are over forty legal projects and law school clinics dedicated to representing the innocent in the United States, and several international projects.<sup>10</sup> There also is a growing number of conviction integrity units within prosecutors' offices that review innocence claims and

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<sup>7</sup> The National Registry of Exonerations was founded in 2012 as a joint project of the University of Michigan Law School and the CWC. It remains an ongoing project at Michigan. *The National Registry of Exonerations*, UNIV. OF MICH. LAW SCH., <http://www.law.umich.edu/special/exoneration/Pages/about.aspx> (last visited Sept. 16, 2015).

<sup>8</sup> Pat Vaughan Tremmel, *Advocates for the Wrongfully Convicted Honor Rob Warden*, NORTHWESTERN UNIV. (July 28, 2014), <http://www.northwestern.edu/newscenter/stories/2014/07/advocates-for-the-wrongfully-convicted-honor-rob-warden.html>.

<sup>9</sup> Professor Marvin Zalman posits that the "age of innocence," consisting of increased legal work, scholarship, and legislative reforms related to innocence, "came to the fore around 2000." See Marvin Zalman, *An Integrated Justice Model of Wrongful Convictions*, 74 ALB. L. REV. 1465, 1499 (2011).

<sup>10</sup> See INNOCENCE NETWORK MEMBER ORGANIZATIONS, <http://www.innocencenetwork.org/members#section-0> (last visited May 30, 2015).

consider best practices for avoiding wrongful convictions.<sup>11</sup> Documentary films, Hollywood movies, and television series regularly feature wrongful conviction stories. It seems that most citizens on the street would now acknowledge that wrongful convictions do take place, though they might disagree as to frequency. While this is great progress, the recent Illinois legal reforms are anything but universal, and much remains to be done.

This Symposium issue addresses many of the pressing concerns we face as we move forward into the post-Rob Warden era of wrongful conviction work. Erroneous eyewitness identifications are the leading cause of wrongful convictions, yet only a handful of jurisdictions have taken meaningful steps to avoid them. Flawed scientific testimony continues to make its way into criminal trials. While many prosecutors uphold their duty “to seek justice within the bounds of the law, not merely to convict,”<sup>12</sup> options for dealing with those who do not are frequently inadequate. The Articles in this Symposium issue will help set a course for the CWC and the innocence movement as a whole to continue the quest to achieve the fairest and most accurate criminal system within our reach.

While this issue honors Warden’s work in the field of wrongful convictions, I dedicate this Forward to the memory of my dear friend and colleague Jane Raley, who passed away on Christmas Day 2014. Jane and I joined the Bluhm Legal Clinic as the CWC’s first staff attorneys in the fall of 2000. We initially shared an office, we often shared clients, we always shared students, and at the time of her death we shared duties as the CWC’s Co-Directors. Jane was a brilliant attorney; eleven of her clients were exonerated during her tenure at the CWC, and a twelfth, Anthony Dansberry, was freed after her death. In addition to her considerable legal skills, Jane was the beating heart of the CWC. Her clients, students, and colleagues adored Jane for her passion and selflessness, and she was equally able to make personal connections with witnesses, experts, prosecutors, and the many other human actors in her cases. Jane was the driving force behind the “Champion of Justice” Symposium in May 2014, and even though she was quite ill at the time, she expended tremendous effort in making sure the event did justice to Warden, whom she greatly admired. As Jeanne Bishop and

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<sup>11</sup> On October 19, 2014, the CWC hosted a Conviction Integrity Conference—co-sponsored by the JCLC—that focused on prosecutor conviction integrity units and the need for conviction integrity review. Videotapes of the conference sessions are available at <https://northwesternlaw.wistia.com/projects/179e9jht9u>.

<sup>12</sup> ABA STANDARDS FOR CRIMINAL JUSTICE: PROSECUTION AND DEFENSE FUNCTION Standard 3-1.2 (1993), *available at* [http://www.americanbar.org/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_pfunc\\_blk.html#1.2](http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pfunc_blk.html#1.2).

Mark Osler discuss in their Article, the people in wrongful conviction cases matter very much, and Jane concerned herself above all with people. I miss Jane's daily presence at the CWC beyond words, but her influence and legacy of caring will always be with us.