

# MONTANA INNOCENCE PROJECT WINTER NEWSLETTER

## **A Message from the Chair:**

More than the promise of spring is lifting our spirits at the Montana Innocence Project. The uncertainty and anxiety of the past year is giving way to both gratitude and hope.

We are especially grateful that the Project enters this year with advantages earned through commitment and hard work. First, we must express our heartfelt thanks for the leadership of our immediate past Chair, Ron Waterman. Ron's steadfast dedication to our work, combined with his steady hand at the helm, converted the challenges of 2020 into an opportunity for evaluation and improvement.

Ron's vision for the Project's future provided the perfect fit for our remarkable Executive Director, Amy Sings In The Timber. Amy's tireless organization, networking and creativity are nothing short of astonishing. The same can be said for our amazing office staff including Legal Director, Caiti Carpenter, and Development and Communications Associate, Randi Mattox. Our expanding Board of Directors, which is more engaged and diverse than ever before, embraces the fight for justice and welcomes the toughest of questions. Take a moment to check us out, you will be glad you did: [mtinnocenceproject.org](http://mtinnocenceproject.org)

We have come to understand that the stressors of 2020 did not evaporate with the advent of the new year and that new challenges will continue to arise. What is clear, however, is that the Montana Innocence Project is in a better position to move forward than ever before. Our new three-year Strategic Plan, adopted following an in-depth assessment of our organizational strengths, shortcomings and opportunities, provides

a roadmap to increased success – and solid reasons to embrace our work with enthusiasm, dedication, and hope. We are glad to do so. Innocence demands no less.

Yours,

**Randy Bishop**

Randy Bishop

Board Chair

### **Katie Garding to be transferred to pre-release:**

At her parole hearing in October of 2020, our client Katie Garding was recommended to be transferred to a pre-release center. In January, she was accepted into the women's community correctional facility, Passages, in Billings, and in February, she signed papers accepting her bed. Katie will begin her time in pre-release any day now. We are overjoyed that she is getting closer to release, but we want you to know that we are still in the fight for her innocence!

### **Competing death penalty bills in the legislature:**

**HB 244, sponsored by Rep. Dennis Lenz, R-Billings, would revise Montana's death penalty laws related to lethal injection.** Currently, state law requires that the Montana Department of Corrections use an "ultra-fast-acting barbiturate" for lethal injections. In 2015, a district judge ruled that pentobarbital, the drug that the state was planning to use, did not meet that requirement and blocked its use unless the statute was changed. HB 244 would allow any substance "sufficient to cause death" in the lethal injection process. **The bill passed third reading, 56-42, on February 25 and was referred to the Senate Judiciary Committee the following day.**

**MTIP opposes HB 244.** We support continuing the moratorium on the death penalty in Montana while the causes of wrongful convictions are fully identified and remedied. **More than 180 people have been exonerated in the United States after serving time on death row.** There are many reasons to oppose capital punishment, including the morality of its use, the relative costs associated with it, and whether it has a deterrent effect. Our focus is on the inherent risk of executing innocent people and the need to reform the system to prevent all wrongful convictions—including those in capital cases.

**HB 335, sponsored by Rep. Ed Stafman, D-Bozeman, would effectively abolish capital punishment in Montana by replacing every mention of the death penalty in state law with a lifetime prison term without the possibility of parole.** MTIP Executive Director, Amy Sings In The Timber, faith leaders, prosecutors, public defenders and others testified in support of HB 335. Among the arguments in support

of abolishment were innocent people having been freed from death row and death penalty cases costing the state \$2.1 million on average. **The bill was tabled on February 23.**

### **Exoneree compensation bill moves to the Senate Floor:**

House Bill 92 passed third reading, 88-11, on Saturday, February 27.

HB 92, sponsored by Rep. Kathy Kelker, D-Billings, would compensate exonerees \$60,000 for every year of their wrongful incarceration and \$25,000 for every year they were wrongfully supervised on probation and parole.

The bill was stalled in the House Appropriations Committee over questions of where the funds to compensate wrongfully convicted people will be derived from and which department or division should be responsible for administering a special fund. However, the bill emerged from the Committee with more than those questions answered.

Amendments requested by Rep. Bill Mercer, R-Billings, will require an exoneree to forgo their right to file an action in state or federal court if they apply for state compensation—leaving no avenue for bad actors to be held accountable for their actions.

As originally drafted, HB 92 would dissuade wrongful conviction lawsuits by offering meaningful compensation instead. Moreover, if an exoneree does sue after applying for state compensation they have to pay back the compensation if they win a judgment that exceeds the amount they received in state compensation. However, it would not bar an individual from seeking to hold bad actors accountable should they so choose to pursue that justice.

No amount of money can repair a wrongful conviction, but we believe meaningful compensation is necessary for exonerees to rebuild their lives. Under HB 92 as originally drafted, exonerees would get the compensation they deserve, and the state would save money in the long run; it is a win-win.