

From the Director's Desk



WVIP marks another successful year freeing innocent West Virginians from prison and educating future lawyers about the causes of wrongful convictions.

WVIP staff and students work diligently to identify the innocent and seek a legal pathway to freedom. Our hard work culminated in the second exoneration in as many years as client Nathaniel Barnett was finally exonerated after living under the threat of retrial for murder in Cabell County, West Virginia. WVIP overturned his conviction in 2018. After years of effort, Mr. Barnett can finally live free from the threat of returning to prison for a crime he did not commit.

However, barriers, especially financial constraints, still exist for WVIP's future clients who are awaiting their freedom day. WVIP is the only innocence organization in the state which means staff and students must travel long distances to represent our clients. Forensic testing, expert opinions, legal documents, and investigation services are vital to completing our mission, yet funding is difficult to obtain.

Despite these challenges, WVIP is resolved to continue to fight for our clients, educate our students, and explore opportunities for systemic change.

I continue to be extremely proud of the work done on behalf of the innocent by WVIP staff and students, work which benefits all West Virginians since Mountaineers are always free!



Melissa Giggenbach
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What is the West Virginia Innocence Project?

The West Virginia Innocence Project is a legal clinic that aims to serve and to free innocent West Virginians who are in prison for crimes they did not commit.

WVIP also works to correct the problems that lead to wrongful convictions in our legal system through policy advocacy and educational outreach.

WVIP is staffed by six to eight third year (3L) law students, four to five undergraduate interns, one staff attorney and one program director.

Clinic Highlights 2020-21

Nathaniel Barnett is finally exonerated! WVIP secured the dismissal of pending murder charges against Mr. Barnett in September 2021. Mr. Barnett's freedom from prosecution was the result of years of hard work and collaboration with the Innocence Project, the Exoneration Project, and the Northwestern Center on Wrongful Convictions, who represented co-defendants in the decades-old case. Mr. Barnett's conviction was originally vacated in May 2018, but it took three more years to convince the State of West Virginia to drop charges against him, his brother Philip, and friend Justin Black after DNA evidence gathered at the scene and tested years later pointed the finger at a convicted sex offender from outside the area.



WVIP program director Melissa Giggenbach, client Nathaniel Barnett, and staff attorney Devon Unger.

A Note from Devon Unger, WVIP Staff Attorney



I am incredibly proud of my work with the WVIP over the last two years. We had another great group of students last year who demonstrated passion and commitment to our clients, and it was a privilege to help them learn and prepare to become the next generation of prosecutors and defense attorneys. It was also incredibly gratifying to be able to celebrate the hard-fought

exoneration of our client Nathan Barnett and then to help his brother Philip clear his record of his wrongful conviction. All of these experiences are why I do this work, and I am looking forward to another year fighting to prove the innocence of my fellow West Virginians!

WVIP clinical law students, led by staff attorney Devon Unger, successfully petitioned the Cabell County Circuit Court to expunge Philip Barnett's record of his arrest and conviction for murder. The petition, which is not automatic, was granted without a hearing. Removing the arrest and conviction will ease Philip's way as he begins a new life chapter in Georgia.

WVIP program director Melissa Giggenbach and clinical law student Eric Lasky were interviewed as part of a six-episode docuseries on the causes of wrongful conviction. Both spoke specifically about the forensic and legal credibility of using pattern-matching disciplines like footwear analysis. The date for the release of the docuseries has not yet been set.

WVIP clinical law students, along with Devon Unger, prepared a federal habeas petition on behalf of a WVIP client alleging that his conviction under the habitual offender statute violated the client's due process rights and the 8th Amendment's prohibition on cruel and unusual punishment. The petition will be filed by outside counsel.

WVIP Program Director Melissa Giggenbach and Staff Attorney Devon Unger appeared before various groups in the legal community to speak about WVIP and innocence work in furtherance of WVIP's mission to educate stakeholders about the causes of wrongful convictions. Ms. Giggenbach spoke to the West Virginia Court Reporters Conference, and Mr. Unger taught a continuing legal education course to the Marion County Bar Association.

Our Future Goals

WVIP's main goal in the near-term is to secure permanent funding for the staff attorney position.

Doing so would ensure that all potential cases of wrongful convictions would be thoroughly and timely investigated and litigated, while also ensuring excellent legal education for the clinical law program.

In the long-term, WVIP will become the leading post-conviction organization in West Virginia by providing education and support to practicing attorneys.

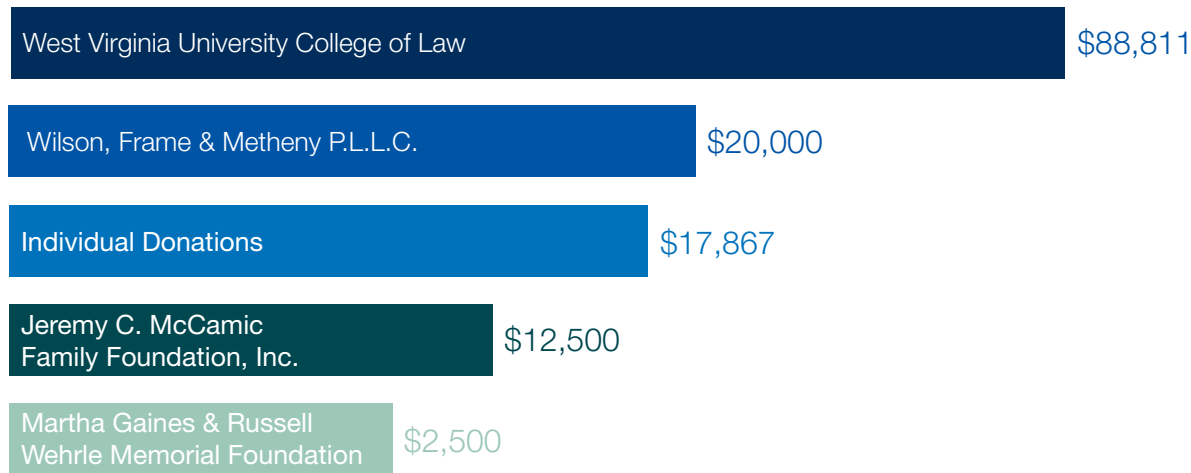
This would prevent wrongful convictions based on flawed forensics and bad lawyering and also ensure wrongful convictions are properly attacked in court.

Budget and Expenses 2021-22

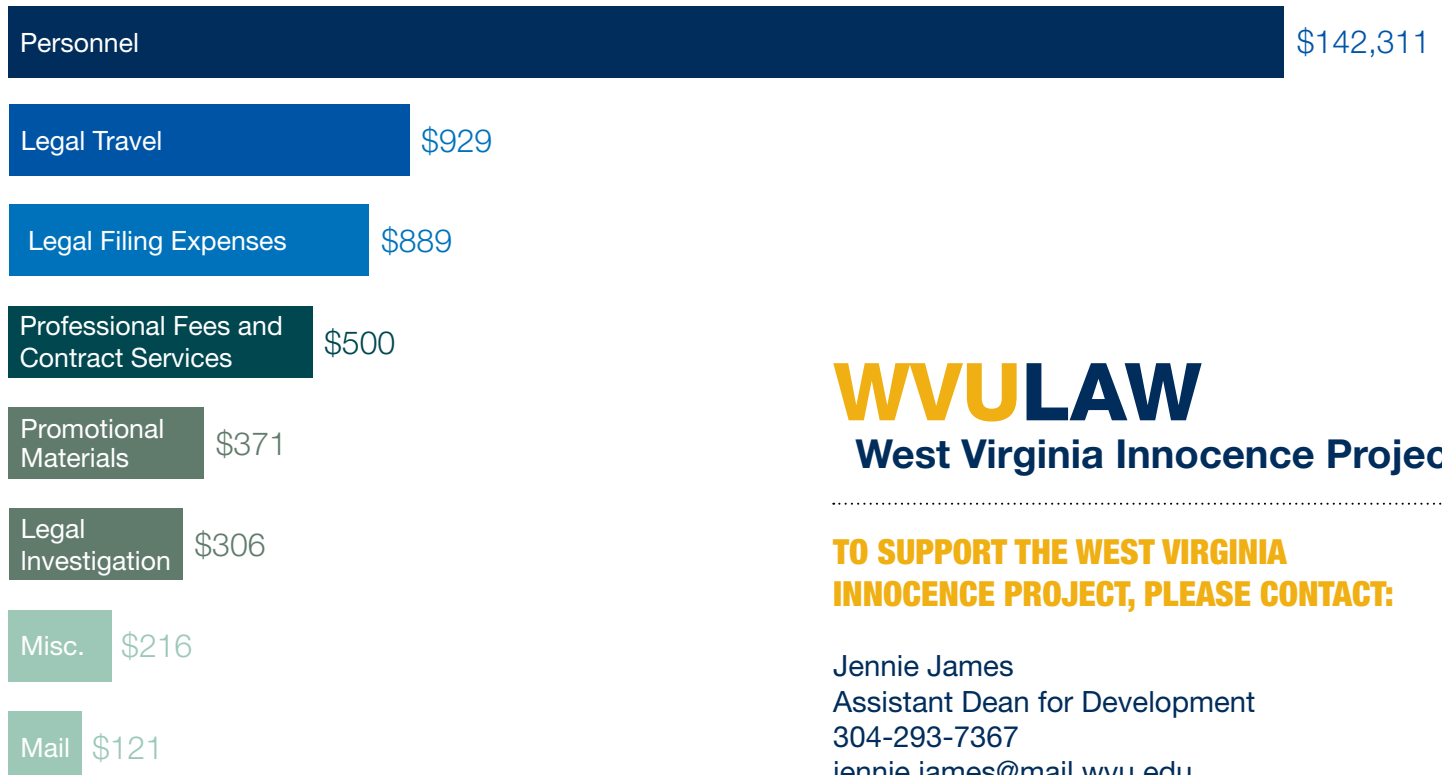
WVIP is very fortunate to be a clinical legal program at the College of Law, which provides the salary for the program director, manpower in the form of law students, and resources such as a small budget, office space, and essential services like shared administrative staff, computers, and other office needs.

However, in order to fulfill its mission, WVIP must raise additional funds to support critical operations. Crucially, the staff attorney position is entirely funded by donations from foundations and individuals. The staff attorney position is vital to the organization's ability to represent and free wrongfully convicted West Virginians. Beyond funding the staff attorney position, additional funding is needed to travel to investigate cases and attend hearings, obtain court files, contract with forensic experts and private investigators, provide forensic testing, explore ways to provide systemic change, and reduce the backlog of cases awaiting investigation.

► FY22 Total Support: \$141,678



► FY22 Total Expenses: \$145,643



WVULAW
West Virginia Innocence Project

**TO SUPPORT THE WEST VIRGINIA
INNOGENCE PROJECT, PLEASE CONTACT:**

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The West Virginia Innocence Project Law Clinic Class of 2022.

2021-22 WVIP BY THE NUMBERS

3600+

HOURS OF LEGAL WORK

34

NEW APPLICATIONS

100%

WEST VIRGINIA CLIENTS

300+

INTERN VOLUNTEER HOURS

43

CASES REVIEWED

8

STUDENT CLINICIANS

200

OUTSIDE COUNSEL PRO BONO HOURS

63

CASES WAITING REVIEW

6

UNDERGRADUATE INTERNS

156

REQUESTS FOR AID

1

EXONERATION

2

FULL-TIME STAFF



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