

PERSPECTIVE

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What To Do With An 'Innocent-Convict'

A client comes into your law office and confesses to a crime for which someone else is currently incarcerated. After taking a retainer on an unrelated matter, you begin to inquire into the facts of the other crime for which the client has confessed. After enough probing questions, you determine he is telling the truth - he is the one who committed that crime. Now you know about the "innocent-convict." So what do you do? What can you do? Outside of Massachusetts, the answer is nothing - at least under the rules of attorney-client confidentiality.

Indeed, questions like these are something of a law-school-parlor-game, however, with Alton Logan's story recently coming to light, some young lawyers are demanding change. Logan remained behind bars for 26 years before two lawyers came forward to reveal the true facts - it

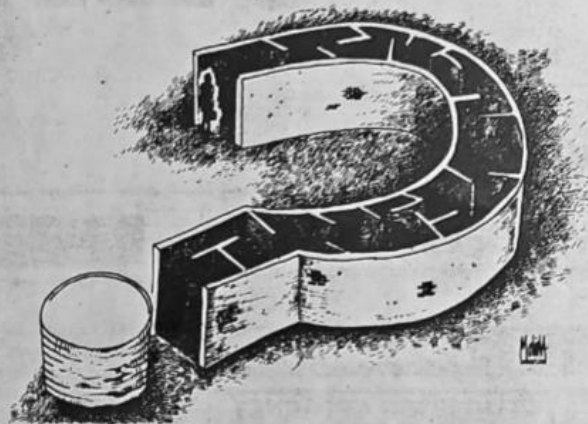
was their client who in fact had entered that McDonalds and shot those employees. Logan was finally set free. His family had always maintained Logan's innocence.

The codified rules on "ethical" behavior are not perfect, and in this case, these rules made mutually exclusive the existence of a good-person and a good-lawyer. New lawyers are questioning these rules, which older lawyers have lived by for almost a century now. According to a new study conducted at the University of La Verne College of Law, new lawyers are demanding an exception to the rule - one that would allow a lawyer, under his or her own discretion, to reveal this information to the extent necessary to prevent the wrongful incarceration of people like Alton Logan.

Most new lawyers are not okay with remaining silent under the guise of ethical fortitude. It defies all common sense that those who are stewards of the law must not reveal such information, lest they be sanctioned, or worse, disbarred. Most older lawyers have their feet engrained so deep in the sand; it is hard for them to make sense of such an exception. They usually reflexively reject the notion. One question to pose to these older lawyers would be: If I put you in a cage and shut the door behind you, would you still think it is ethical for me not to reveal information related to the representation of my client?

Only one step remains to update "ethical" attorney-client confidentiality rules: A lawyer may reveal information related to the representation of the client where *the lawyer reasonably believes necessary to prevent the wrongful incarceration of another person.*

A new comment entitled: *Why the ABA Should Permit Lawyers to Use*



Their Get-Out-Of-Jail-Free Card; a Theoretical and Empirical Analysis addresses these issues by polling nearly 300 law students on their opinions regarding the innocent-convict. The results are upcoming in Issue 1 of Volume 31 of the *University of La Verne Law Review*.



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