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# AN EX-COP'S REMORSE

*An investigator who probes wrongful convictions now doubts a case of his own.*

By **Stephanie Clifford**



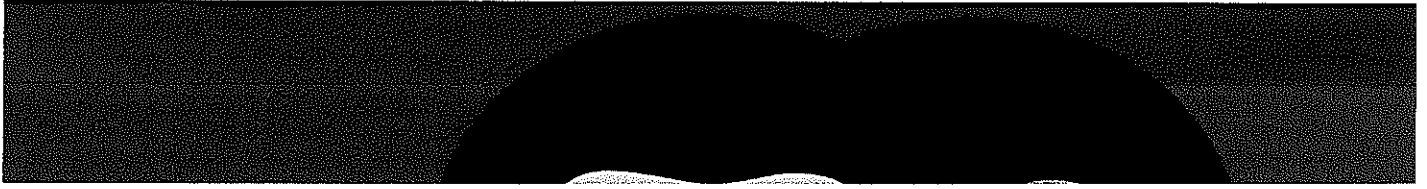


Illustration by Anna Parini

A couple of times a year, Peter Forcelli, a former New York Police Department detective who now works as a federal investigator in Florida, returns to the city to testify in court cases. The night before his appearances, he often heads to El Rio Grande, a midtown Tex-Mex restaurant, where he and former N.Y.P.D. colleagues trade stories about their days on the force. Forcelli, who is fifty-one, worked in the Bronx during some of the most violent years of the nineteen-nineties, before he left for a job with the Bureau of Alcohol, Tobacco, Firearms, and Explosives. As a federal agent, Forcelli has found himself developing an unusual specialty: reinvestigating cases that were considered solved and uncovering evidence to free people imprisoned for crimes they didn't commit. His view of this work is uncompromising, even a little heroic, colored by the cop dramas he watched growing up, and his determination to expose flawed tactics and shoddy work has aroused the anger of officers and prosecutors.

Last year, a hundred and fifty-seven people nationwide were exonerated—a record number. Amid growing awareness of the scope of the problem, the National Registry of Exonerations has gathered data on wrongful convictions going back to 1989, logging nearly two thousand exonerations, and the number is only a fraction of the convictions that are now being contested on the ground of innocence. In the popular imagination, blame for wrongful convictions falls on individuals: the racist prosecutor, the crooked cop. Although such cases do occur, Forcelli has come to believe that the problem is more fundamental—that the workings of the criminal-justice system itself have led even conscientious prosecutors, judges, and juries to put innocent people in prison.

On a visit to the city in October, 2014, Forcelli went to the Bronx Supreme Court to testify in a hearing relating to a case from 1995, in which a young man named Edward Garry had been convicted of killing a retired N.Y.P.D. detective in a holdup at a grocery. The conviction was based on testimony from two eyewitnesses, but Garry had always maintained his innocence, and the hearing was part of his fifth formal plea for exculpation. As Forcelli sat in the witness box, he was increasingly uneasy. Garry's case seemed to be one of those in which everyone did what they were supposed to do, but something had gone wrong, costing an apparently innocent man twenty years of his life. One thing made the case especially unsettling: Forcelli himself had

had hasn't gone away since."

Forcelli grew up in Bedford Park, in the Bronx. His was one of the few white families on the block. His father was a construction worker, and jobs were sporadic; sometimes the family ate Cheerios for dinner. Money problems drove the family to move in with his dad's parents, in South Yonkers—fourteen family members from three generations, all crammed into one house. Forcelli always knew that he wanted to become a policeman. He took the entrance test for the N.Y.P.D. at sixteen, four years before he was eligible to join the force, and finished high school and worked as a carpenter until he could apply.

In 1986, at the age of twenty, he became a housing officer, and was assigned to patrol projects in the East Bronx. It was during the crack-cocaine epidemic, and that year there were more than sixteen hundred murders in the city, almost five times the number today. But Forcelli took to the work immediately. When he saw children heading to school or celebrating birthdays, they reminded him of the kids he grew up with, and he was shocked by the attitude of some of his colleagues. "You see this 'Ah, people in the projects, they're all animals,' " he said. He soon gained a reputation for investigating crimes until there was nothing left to investigate, and his superiors found him driven and outspoken. "He wasn't afraid to let you know if he thought there was a better way to do things," one of them recalled.

Forcelli has always been obsessive about his work. He doesn't follow sports, or music, or politics, and is dreading mandatory retirement, when he turns fifty-seven. When I visited him at his A.T.F. office, in Miami, I noticed that the pens and papers on his desk were arranged with a precision bordering on the fanatical. He wears a dark suit to work almost every day. (Occasionally, he permits himself a palm-covered Tommy Bahama shirt, a taste he attributes to watching too much "Magnum, P.I." as a kid.) He refers to crime victims respectfully, using "Mr." or "Mrs.," and can precisely recall crime-scene addresses from decades ago. Early in his career, his office was next to an interrogation room, on one side of a two-way mirror; as he ate his lunch, he would study the techniques that seasoned detectives used in questioning suspects. After he married, in his late twenties, his wife, Noreen, whom he'd met at a police fund-raiser, would bring him clothes and food as he worked double and triple shifts.

In 1995, Forcelli was promoted to detective and assigned to the N.Y.P.D.'s Forty-seventh Precinct, which stretches from Woodlawn Cemetery, in the western part of the Bronx, to the New York State Thruway, in the east. Its main roads are flanked by malnourished trees and low-rise buildings with faded awnings—storefront churches, transmission-repair shops, dollar stores. The year that Forcelli began working there, the precinct was the city's most dangerous, with

up in parks or rivers. Three weeks into the job, he got his first fresh case as a detective, the murder of a retired cop named Oswald Potter.

The murder took place at Irene's New Hope Grocery, which occupied a small corner building on Laconia Avenue. The front room of Irene's was an ordinary grocery, but tucked in a parlor behind it was an illegal gambling den. Men gathered nightly to drink beer and play dominoes or the numbers game (a kind of unofficial lottery). In the early evening of August 18th, four regulars were playing dominoes around a table. Gladys Garcia, a clerk who oversaw the gambling operation, and Oswald Potter were looking on. Potter, who was sixty-two, had retired as an N.Y.P.D. detective in 1982, after twenty-five years working in the Bronx.

At 6:20 P.M., a man burst through the door to the back room. "This is a stickup!" he shouted, waving a gun. "Everybody down!" Another armed man followed him. Several things happened almost simultaneously: the men playing dominoes dived under the table; the first man handed Garcia a plastic bag and told her to fill it with cash; and Potter yelled, "I'm a police officer!" Potter knocked the second man to the floor, and made a grab for his gun. Garcia saw him run into the front of the grocery, pursued by the first man, and then lost sight of them. Soon afterward, she recalled, "I heard a lot of shots."

During the incident, Antonio Vargas, a college student who was helping his father make a soda delivery to Irene's, was sitting in a truck outside. First, he saw two men get out of a car and walk into the store. He heard a gunshot, and then saw the store's owner run out. Then there were more gunshots, the two men ran out to their car and drove off. "That motherfucker shot me," he heard one of them say.

When the police arrived, they found Potter collapsed in his car, parked in front of the store, his gun in his hand. He was taken to the hospital and died at 7:20 P.M., of a single gunshot wound to the chest.

The murder of a former cop electrified the Forty-seventh Precinct. The next morning, phones rang constantly as Potter's former colleagues called in for updates. The N.Y.P.D. threw all its resources behind the investigation, putting some forty officers, including Forcelli, on the case. (For most murders, two was the norm.) The pressure to make an arrest was intense. Not only had Potter been on the force; William J. Bratton, the police commissioner, had recently introduced a system called CompStat, which collected crime statistics in order to evaluate precincts' success rates in solving cases. Detectives had to file a form confirming the arrest—and closing the case, as far as CompStat was concerned—as quickly as possible. Usually, they had

In the days following the murder, the police knocked on more than five hundred doors near the grocery, checked hospitals for gunshot-wound patients, obtained phone records and 911 tapes, and combed police records for other robberies in the area. But they didn't find much, and a forensic examination of the crime scene turned up nothing useful. Eyewitnesses' descriptions of the perpetrators varied: two male Hispanics; two male Hispanics and a woman with bleached-blond hair; two male Hispanics and a black male; four male Hispanics; two black males. Descriptions of the getaway car included a dark-blue Oldsmobile Delta 88, a black van, a light-blue four-door, and a black Ford Escort hatchback.

Investigators decided that the most reliable witnesses were Garcia and Vargas. Both described the first man, who had pursued Potter and presumably shot him, as Hispanic. The second man, whom Potter had pushed to the ground, had darker skin. They were able to give full descriptions of the lighter-skinned man, though their accounts differed. (Garcia said he was clean-shaven, and wore a white shirt and a white windbreaker; Vargas recalled a man with facial hair, wearing a red-white-and-blue shirt.) At the precinct, Garcia was shown a selection of mug shots, and she picked out a likeness that she thought was the gunman's. She wasn't positive at first, but gradually became more confident. Vargas chose a photograph, too, but said he wasn't sure. Despite these doubts, officers were thrilled. Both witnesses had picked the same man: Edward Garry.

Garry, nicknamed Peanut, was twenty years old. He'd grown up in the Boston Secor Houses, in the Forty-seventh Precinct. His father worked in construction, his mother was a health aide, and some of his relatives were police officers. But there were troubles, too: his father became addicted to cocaine, and his parents split up for a year. At around sixteen, he dropped out of high school, joined a gang, and began selling drugs to pay for Dr. Martens and nights at Manhattan clubs. He was arrested a few times and spent a year on Rikers Island. Because of these arrests, Garry's mug shot was in police files, and it was among those shown to Vargas and Garcia because Garry matched their descriptions of a Hispanic man (his mother is Puerto Rican).

After the initial identification, Forcelli and his colleagues placed Garry in a six-person lineup; Garcia and Vargas both picked him again. The officers were relieved to have solved a high-profile case so quickly, though they didn't have a confession, any physical evidence connecting Garry to the crime, or any information placing him near Irene's the night of the murder. "Back then, identification was like the gold standard," Forcelli told me. "If you could get a non-crackhead, non-prostitute witness to I.D., it's, like, whoa."

detectives'-union publication showed Milian and Forcelli receiving Detective of the Month honors for their work.

Garry's trial took place in 1997. In addition to Garcia and Vargas, prosecutors called as a witness a jailhouse informant, who claimed that Garry had told him that he'd committed a murder. (The informant had said the same about at least eight other people and later recanted almost all these statements, including the one about Garry.) Garry had a court-appointed lawyer, who defended him ably, undercutting the informant's testimony and pointing out inconsistencies in the witnesses' identifications. But the prosecutor was effective, too, and cast doubt on an alibi that Garry had given, that he was at home with his parents that night. The jury found Garry guilty of second-degree murder, and he received a sentence of twenty-five years to life.

**B**y 2000, Forcelli had begun to have serious doubts about the work he was doing at the N.Y.P.D. He hated having to abandon an investigation the moment an arrest was made. "A lot of facts come out after the arrest," he told me. He preferred the methods of federal agents, who didn't consider their cases closed until pleas were entered or trials took place, and applied to join the A.T.F. He started there in June, 2001, and has worked for the bureau ever since, in Phoenix, Washington, and Toronto, before arriving in Miami. His first posting was at the A.T.F.'s New York offices, at Six World Trade Center. He had been in his job only a few months when the September 11th attacks occurred, and was parking his car at the office just before the second plane hit. The car was crushed, and Forcelli returned home covered in ash. He spent the next several months sifting through the debris pile at Ground Zero as part of the recovery effort. One day, someone found a pair of handcuffs that had been in his car—a present from his father when he joined the police force.

Much of Forcelli's new job involved working with so-called coöperators—defendants who, in return for lighter sentences, give federal prosecutors information not only on their own case but on everything they know about any criminal activity. In 2006, through a coöperator, Forcelli had his first insight into how wrongful convictions can occur. The crime was a drug-related contract killing that took place four years earlier. Bronx prosecutors had charged a man named Lacey Little, who had been in jail for almost three years awaiting trial. But, thanks to a tip from a reliable coöperator and corroboration from another source, Forcelli became convinced that the true perpetrator was someone named Tyrone Glynn.

He alerted the prosecutors, and was shocked to find them uninterested. "We're telling the Bronx D.A.'s office this, and it's 'Too fucking bad,'" he said. He interviewed Glynn, who was in prison for another crime, and succeeded in getting him to admit that he was the killer. He arrested him

outraged at the carelessness with which the case had been handled. A simple records search showed that an eyewitness who had given crucial testimony against Little had been in prison at the time of the murder. "You wonder how hard some people really look," Forcelli said.

Investigators who challenge the justice system inevitably make enemies. They are denounced by colleagues as "rats" or banned from D.A.'s offices or sidelined at work. Forcelli has had his fair share of such treatment, the worst of it after he spoke out about a now infamous A.T.F. initiative known as Fast and Furious. The plan was instituted in 2009, in the A.T.F. office in Phoenix, where Forcelli had started working two years earlier. It involved turning a blind eye to illegal gun sales in the hope that tracking the buyers would lead investigators to key figures in Mexican drug cartels. But the tactic carried enormous risks, as it put guns in the hands of violent criminals. After the murder of a U.S. Border Patrol agent, in 2010, was linked to guns from Fast and Furious, the program became a national scandal, leading to a congressional inquiry. Forcelli, who had often clashed with his superiors about the program's dangers, was called to testify at the inquiry, and he did not hold back in his criticism of the A.T.F. and of federal prosecutors.

The retaliation was immediate. Noreen Forcelli told me that her husband was moved from the office he'd been occupying and placed "literally in a corner where garbage was supposed to be picked up." The congressional inquiry into Fast and Furious later noted the extent of Forcelli's victimization: the Department of Justice had released documents intended "to smear his character and integrity" and federal prosecutors made it "practically impossible" for him to work on their cases. Forcelli eventually filed a whistle-blower-retaliation claim against the A.T.F., which was successful. The details of the settlement are confidential. "I didn't leave there a penny richer than I walked in," Forcelli said, but he achieved his aim: he could continue working for the A.T.F. He says that his rift with the organization is now healed.

**L**egally, when defendants maintain their innocence, there are two main avenues for overturning their convictions. One is to go to prosecutors with new evidence in the hope of convincing them that the conviction should be overturned. Increasingly, prosecutors' offices have been establishing their own conviction-review units, which typically meet with defense lawyers, reinvestigate cases, and determine whether convictions should stand. There are now nearly thirty such units across the country. The Bronx D.A.'s office created one this year; this spring, it began examining Edward Garry's case.

The second avenue is a court challenge. But post-conviction claims mostly fail, because courts usually limit appeals to those arising from procedural mistakes, and make it hard to introduce new exonerating evidence. The Supreme Court has declined to establish a right to federal review

federal system than to provide for federal habeas review of freestanding claims of actual innocence.” Rehnquist’s words hint at a deeper problem: the justice system has not yet learned to confront the fact that, even when there are no easily identifiable missteps, it can produce an unjust outcome. Many observers think that the best hope for remedy, therefore, is before conviction. Nancy J. King, a law professor at Vanderbilt University, told me, “The place to focus efforts for reforms for wrongful conviction is not on the back end—it’s on the front end.”

In recent years, as more defendants have been exonerated, criminologists and legal scholars have pinpointed factors that compromise investigations and trials. As a result, evidence from jailhouse informants is now viewed with more skepticism, as is any confession obtained under duress. A more sophisticated understanding of forensic science has enabled lawyers to dispute expert testimony that was once taken as gospel, on matters ranging from ballistics and fingerprints to fire investigation. A prevalent source of error is mistaken eyewitness testimony. Forcelli recently rewrote the A.T.F.’s manual on eyewitness identifications, with the aim of improving procedures in order to safeguard against error.

These are real advances, but many shaky convictions arise from a concatenation of factors. There is no manual that Forcelli could write that would stop police departments from pressuring detectives for results or prosecutors from taking on dubious cases. The more Forcelli has looked into the matter, the more he sees a broken system, with no clear remedy. “The sad part is that getting an innocent man out of jail is way, way, way harder than putting a guilty man in jail,” he said.

Academic researchers have also focussed on the systemic nature of many conviction errors. Richard A. Leo, a professor of law and psychology at the University of San Francisco, told me, “The way everyone talks about it is very legal—false confessions, police coercion, eyewitness I.D.s.” He believes that the real issues are far broader, and include the adversarial structure of trials, confirmation bias, cultural notions about what indicates guilt, and a basic human tendency to attribute meaning to details that may be coincidental. “It’s not a narrow evidentiary problem,” he said. “It’s a social problem. It’s an institutional problem.” Leo said that he’d once tried to calculate the number of people involved in a wrongful conviction, from police officers and prosecutors to jurors: “It’s staggering—it’s, like, fifty people involved in every single one.”

Wrongful convictions in the United States disproportionately affect poor people and nonwhites. African-Americans and Hispanics are the most overrepresented groups; a study of death-row exonerations found that wrongfully convicted black defendants outnumbered whites by six to one. In lower-income areas, like the Forty-seventh Precinct, demonstrable miscarriages of justice

Bronx juries to hand down guilty verdicts suggests a growing distrust of the legal system there. For as long as New York has been collecting data on jury-conviction rates, the rates in the Bronx have been significantly lower than those of the city as a whole. "The Bronx has always had an honest and realistic skepticism against police, because their people have lived it," Tina Luongo, who heads the criminal practice at New York's Legal Aid Society, told me. In 2015, the other four boroughs had jury-conviction rates of at least seventy-three per cent. The Bronx's rate was forty-seven per cent.

The Garry conviction started unravelling in 2006, after federal prosecutors in Manhattan signed up a coöperator named Lawrence Broussard, who claimed that he had participated in the holdup that led to Oswald Potter's murder and that three other men had been involved. That day, he said, he and a friend, Brent Mason, had been buying drugs when they met two other men, Jose Marrero and a man he knew only as Flip. Broussard said that the four of them drove to Irene's grocery with the idea of robbing the gambling den there. Mason and Marrero waited in the car while Broussard and Flip went in. It was Flip who shot Potter, Broussard claimed. He said that Flip was a light-skinned Hispanic man. Since Broussard is black, it seemed likely that he was the dark-skinned man whom witnesses remembered. Both he and Mason also confirmed the witness testimony that one attacker had been shot; they added that it was Flip, and Broussard said that he'd been wounded in the right hand. Investigators assumed that Flip must be Garry, but there was a surprise. When police showed Mason and Broussard mug shots, neither of them identified Garry as Flip. Prosecutors passed this information to Garry's lawyer, who brought a post-conviction motion to get his client out of prison. In 2009, a Bronx judge denied the motion, saying that, though the new evidence might possibly have changed the verdict, it wasn't probable.

In 2010, Garry contacted two lawyers at the Exoneration Initiative, a Manhattan nonprofit that handles wrongful convictions. The lawyers, Rebecca Freedman and Glenn Garber, started looking into the case right away. "It's just classic eyewitness identification without any corroboration," Freedman told me. "Many of our cases are like that." To help Freedman and Garber in their work, Manhattan federal prosecutors put them in touch with a federal investigator named John O'Malley, who was familiar with the case.

After an exhaustive search for records of the Garry case, Freedman came across a document that perplexed her—a request to compare the crime-scene evidence with the fingerprints of a man named Steven Martinez. The fact that someone had wanted to compare Martinez's prints with those at the grocery suggested that he had been a suspect, yet he wasn't mentioned anywhere else in the records. The request was made in 1996, the year after Garry was charged and the year

Freedman notified O'Malley, who quickly found a rap sheet for Martinez. One detail jumped out: Martinez had a scar on his right hand. O'Malley called in a colleague from the U.S. Attorney's office in Manhattan, and showed her what he'd found. She glanced at a photograph of Martinez from the mid-nineties, and exclaimed, "Look how close it is!" O'Malley said, "Holy Christ, you're right." In the contemporaneous mug shots of Martinez and Garry, the men looked strikingly similar. Both were light-skinned Hispanic men, about five and a half feet tall, with brown eyes, lopsided noses, and peaked ears. O'Malley then visited Broussard and showed him six numbered mug shots, with Martinez at number four. "I open it up, and he goes, 'Oh, number four, that's Flip'—that quickly," O'Malley told me, snapping his fingers.

This summer, I called Martinez at a prison in Minnesota, where he is serving time for gun and drug charges, and asked him some questions. He claimed that he didn't know Broussard, Marrero, or Mason, and that the scar on his right hand was from punching someone in the mouth. He said that he was in California from early 1995 to 1997 and gave details of his life there, some of which I was able to confirm independently. However, police records show that he was questioned in the Bronx in September, 1995, a month after the Potter murder. (Asked about this later, he said that he might have confused his dates.)

The information about Martinez forms the basis of Garry's current bid for exoneration. Freedman and Garber filed a motion to vacate Garry's conviction, but Bronx prosecutors opposed it, and hearings began in the fall of 2014. "They were fighting us tooth and nail," Freedman said. O'Malley, who had known Forcelli ever since they were both detectives in the Bronx, called him to tell him what was happening. Knowing that Forcelli, having filed the Martinez fingerprint request, would likely be asked to testify, O'Malley didn't discuss the new evidence, saying only that defense lawyers were questioning the Garry conviction and that he thought they could be right. Forcelli hadn't thought about the case in years, and after the call he paced around his office. "I was trying to think about what we did," he said. "I couldn't figure out where we got the wrong guy." At home that night, he allowed himself a two-ounce shot of tequila before dinner, and said nothing to his wife about what was going on.

As Forcelli sat in the witness box in the Bronx two years ago, and looked at Edward Garry for the first time in two decades, he still didn't know what had gone wrong. Garber handed him some photographs, including one of Martinez, and asked, "Does anybody look familiar?" Forcelli immediately saw the resemblance between Martinez and Garry, and had an awful realization: this was a case of mistaken identity. "I always wondered—and it sounds weird—how did it feel to these guys who arrest the wrong guy?" Forcelli told me. "It feels terrible."

and an informant said that he'd also bragged about a robbery and a shooting at a grocery store in the area around Irene's. (Martinez denies this.) Forcelli checked a police database to see how many crimes matched this description: the holdup at Irene's was the only one. He put in the request to have Martinez's fingerprints checked against those found at Irene's. They didn't match, but it wasn't surprising: none of the crime-scene evidence could be linked with any suspects. Thinking that Martinez might have been one of Garry's accomplices, Forcelli alerted his superiors to the lead, and also informed the prosecutor on the Potter trial, but there is no evidence that anyone followed up or notified Garry's defense lawyer.

As he testified, Forcelli was aware of Garry looking at him intently. He told me that he felt a duty to look back—to somehow signal that “I'm not his enemy, I'm not his adversary.” He went on, “I had a hard time looking at the family members in the gallery. They must hate my guts.”

Forcelli reassured himself that at least Garry would be released soon, but he was wrong. The hearings that began in 2014 dragged on for thirteen months, and at the end of that time the judge fell ill, and Freedman and Garber had to ask for new hearings. A different judge, the Bronx Supreme Court justice Michael Gross, began hearing testimony in November of last year. When Forcelli returned to give his testimony for a second time, he recalled, “I was irate, like, How is this guy still in jail? This isn't really very gray.”

Just before the northbound Metro-North train pulls into Ossining, riders see grass and trees give way to the guard towers and barbed wire of Sing Sing prison. The train passes quickly, but inside the prison the sense of immobility is overwhelming. Noises are constant: the flush of toilets, the jangle of keys, the shouts of prisoners, the click of locks, spurts of walkie-talkie static.

When I visited, in April, a guard ushered me into a room painted an institutional shade of peach. “Garry!” she called out. Garry walked in, looking neat in a pressed green shirt and pants. Nevertheless, the guard admonished him: “Hello. Hello. Garry, tuck your shirt in.” Garry looked just like his old mug shot—thin, with an angular jawline and close-cut facial hair.

We started talking, and he told me that when he was a kid he rode BMX bikes on trails in Pelham Bay Park, like his friends did; by sixteen, he dealt drugs, like his friends did. “It was there, all around us,” he said. “All of us got involved—when you raised around it, it seems normal.” He'd never mistrusted the police or the courts, though. Neighborhood acquaintances who got locked up, he said, “did what they did.” Even when he was arrested for the Potter murder, he said, “I thought at that time that the court system was fair. I always thought, I'll go to trial and I'll go home. It didn't work out like that.”

toward a steep hill. "I think I need a new word to describe the last twelve months." The one bright spot had been Forcelli's testimony. He had no idea what Forcelli would say, and was startled that the man who had helped put him away now seemed so intent on getting him out. "You don't expect that," he said. "He's a real cop."

Garry gives the impression of a man who has been inside—literally and figuratively—for far too long. Now forty-one, he was twenty when he last spent a day outside. When he entered prison, he was angry but energetic, doing calisthenics in the yard; once, he wrote a searing letter to his father, reproaching him for his cocaine habit, after which his father quit drugs. But when I met him he avoided eye contact, crossed his arms, and stared at the table between us. He said that he'd stopped leaving his cell much, preferring to eat canned food from the commissary instead of going to the dining hall. At a previous prison, he told me, he'd once noticed a stray cat in the hallway. He bought cans of "jack-mack"—prison slang for canned fish—and put them out for the cat. In the course of a few months, he moved the cans closer to his cell until the cat came in and joined him, napping on his TV and soaking up its warmth. "It just felt like a sense of something being normal," he said. He fed the cat for a year and a half, but never gave it a name.

I asked him if friends from his previous life ever visited. "I been in prison twenty-one years," he said. "Everyone forgets."

**B**y now, there are three men who have pleaded guilty to involvement in the Potter murder, all of whom have said that Garry had nothing to do with it. There is an alternate suspect, a man with a long criminal history who closely resembles Garry, and last month a second informant interview emerged implicating him. (According to the informant, one day in the summer of 1995 Martinez said, "I just shot some guy on Laconia Avenue." Martinez denies this.) Even federal prosecutors are supporting Garry's bid for exoneration. Still, Bronx prosecutors are fighting the case and, though it will most likely be resolved this year, hearings keep falling behind schedule. Meanwhile, Garry remains in prison and his fate is uncertain.

Resolution could come in a variety of ways. The Conviction Integrity Unit of the Bronx D.A.'s office, which has been investigating the case since May, could at any point move to vacate the conviction. If the decision falls to Justice Gross, he will have three options. He could vacate the conviction but grant a retrial. (It would be up to the prosecution to pursue it or not.) He could vacate the conviction and dismiss the indictment, exonerating Garry. (A recent New York State ruling held that innocence, rather than merely procedural error, is enough for dismissal.) Or he could deny the motion.

on his right knee; he tore the meniscus on a job site. He ordered a cup of coffee and poured a long arc of sugar into it, followed by several creamers, but barely took a sip. "I can't eat nothing, not the way I feel," he said.

The night of his son's conviction, Garry, Sr., a lifelong Catholic, sat in his living room and used a lighter to set his Bible on fire. Ever since then, he hasn't celebrated Christmas or his birthday. This year, he began driving around the Bronx with Martinez's mug shot in his glove compartment, hoping to find someone who can confirm that Martinez's nickname was Flip. Anytime he receives a jury-duty summons, he ignores it, and makes a paper airplane out of it instead, because he doesn't think he could convict anyone. Not long ago, he bought a house in Florida, and he hopes to give it to his son, his only child, someday. But even that thought doesn't cheer him. "You spend twenty-one years in a cage, being told what to do and what not to do," he said, and trailed off. "The system, once they grab you and they put their hands around you— Do you know how hard it is to beat our system?"

Forcelli is following the case from Miami, thinking about the fact that, although he spent most of his career trying to uncover injustice, he also ended up causing it. Sometimes he wonders if he should try talking to Garry. "I don't know what else I would say, but I would like him to know that I'm sorry," he said. "I deprived him of the years of my life that were my best years, the years I got married, the years I had children. I deprived him of those not because we made up any evidence, or we buried evidence, or we tried to push a witness, but because I was part of the process that led to that." ♦

*This article appears in other versions of the October 24, 2016, issue, with the headline "A Shot to the Heart."*

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