

May 2021

A Look into Wrongful Conviction Within the U.S. Justice System

Isabella T. Likos
Cleveland State University

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/tdr>



Part of the [Criminology Commons](#), [Criminology and Criminal Justice Commons](#), and the [Law and Society Commons](#)

How does access to this work benefit you? Let us know!

Recommended Citation

Likos, Isabella T.. "A Look into Wrongful Conviction Within the U.S. Justice System." *The Downtown Review*. Vol. 7. Iss. 2 (2021) .

Available at: <https://engagedscholarship.csuohio.edu/tdr/vol7/iss2/3>

This Article is brought to you for free and open access by the Student Scholarship at EngagedScholarship@CSU. It has been accepted for inclusion in The Downtown Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

Introduction

Being wrongfully convicted takes an incredible toll on someone's life. It stops someone's life in its tracks. The criminal justice system does not want to put away innocent men and that is why there are laws and stipulations in place. Along with these laws are principles that are put in place to protect the innocent. All parties need to keep these principles in mind. The idea that the defendant is innocent until proven guilty is one of these principles: this means that the prosecution must prove to the jury beyond a reasonable doubt, that the defendant is guilty. People could be wrongfully convicted if others do not understand and apply this principle. Wrongful conviction does happen in the United States, but there are steps to prevent and fix it.

Innocent Until Proven Guilty

The principle of innocent until proven guilty is very important in every case. This means that beyond a reasonable doubt, the defendant committed the crime. As stated above, without this principle a defendant may end up in prison for a crime they did not commit. According to the article "Proposed Reforms in Criminal Procedure" by Charles Bostwick (1911), this principle was "first laid down in the 'Digest,' where it is ascribed to Emperor Trajan (but its form then was, that it is better for one guilty man to escape, than for an innocent man to suffer" (p. 223). The idea that it is better for one guilty man to escape than one innocent man to suffer is both important and needed. If an innocent man is sent to prison for a crime he did not commit, how could the criminal justice system make up years of lost time? As time has gone by, this concept has changed from twenty to one, five to one, and even a thousand to one, meaning it is better for a thousand guilty men to escape than one innocent to suffer (Bostwick, 1911). It is extreme to claim that it is better for a thousand guilty to go free, but it is trying to get the point across. Once again, how can lost time be made up? How much is someone's freedom worth? This is why innocent until proven guilty is such an important principle. If it was switched, the defendant would need to prove their innocence instead of the prosecution proving their guilt, which would be extremely difficult. If it was that way, a prosecution could have zero evidence except a motive and the defendant could end up going to jail. This is another reason why innocent until proven guilty is so important. Innocent until proven guilty coincides with the prosecutor proving, beyond a reasonable doubt, that the defendant did it. Both principles keep innocent people from being wrongly convicted.

Beyond a Reasonable Doubt

A prosecutor must provide evidence that a defendant has committed a crime beyond a reasonable doubt. Beyond a reasonable doubt means no other

logical explanation could be derived from the facts except that the defendant committed the crime. Once this happens, the principle of being innocent until proven guilty is overcome. There are two theories that have been brought up when discussing beyond a reasonable doubt. The article “Reasonable Doubt, Chain and Cable Theories” by the *Yale Law Journal* (1921) asks whether the jury should be satisfied beyond a reasonable doubt for every fact separately or as evidence as a whole. The chain theory is that each link in the chain of evidence connecting the accused with the crime needs to be proved individually beyond a reasonable doubt (*Yale Law Journal*, 1921). The case will not be successful if all the pieces do not prove beyond a reasonable doubt. The cable theory is the idea that the jury should be convinced beyond a reasonable doubt from the evidence as a whole (*Yale Law Journal*, 1921). If some of the strands break, or if some pieces of evidence are not sufficient, the case is still strong enough to convict (*Yale Law Journal*, 1921). Whatever the case may be, proving beyond a reasonable doubt is an extremely important principle that needs to be kept in mind while deciding the guilt of a defendant. This connects back to the sociological idea that it is worse for one innocent man to be imprisoned than multiple guilty men roaming free. Juries have the lives of the defendant in their hands, and the defendant should not be convicted if the evidence does not prove beyond a reasonable doubt. How can there be any trust in the legal system if innocent people are being placed in prisons? If proving beyond a reasonable doubt is not followed, it can lead to wrongful convictions and even wrongful executions.

Wrongful Conviction and Standpoints

Wrongful conviction is exactly how it sounds. A person is wrongfully convicted if they were found guilty of a crime they did not commit. Wrongful conviction can happen because of many different reasons. The article “One Hundred Years Later: Wrongful Convictions After a Century of Research” by Jon Gould and Richard Leo (2010) explains how false confessions, false eyewitness accounts, faulty circumstantial evidence, and other reasons are some causes for wrongful conviction. However, wrongful conviction is more complicated than many think, causing a split on standpoints. The article “Innocents Convicted: An Empirically Justified Factual Wrongful Conviction Rate” by Michael Risinger (2007) discusses the standpoints of the Paleyites and the Romillists. The Paleyites agree that it is terrible to wrongly convict someone, but these convictions are inevitable in a human system; further, these mistakes represent the social price of maintaining security for the public (Risinger, 2007). The Paleyites believe that no one should be moved by wrongful conviction nor take action to try to reduce it (Risinger, 2007). This standpoint goes completely against the sociological idea that it is better for a guilty man to go free than an innocent man to rot. Paleyites believe that any change to the current justice system, even if it is to help protect

the innocent, is counterproductive (Risinger, 2007). This standpoint prevents the growth of the justice system as society continues to change. The justice system should be adapting as society continues to develop. Contrary to the Paleyites, Romillists are so horrified by wrongful conviction that they are ready to propose any needed change to the justice system that will protect the innocent (Risinger, 2007). Romillists believe that as society and technology evolve, so should the justice system. Whatever standpoint one takes, it is important to understand the causes of wrongful convictions and the true statistics of it.

The Causes of Wrongful Convictions

Wrongful conviction happens because of many different reasons. The incorrect memory of an eyewitness, inadequate representation, and false confessions are just a few reasons that can cause wrongful conviction. The article “The Causes of Wrongful Conviction” by Paul Roberts (2003) goes in depth on some causes of wrongful conviction. He explains that the protections against wrongful conviction have been eroded due to the pursuit of all the evil doers (Roberts, 2003). According to Roberts, prosecutors can create bills of attainder by tailoring novel interpretations of law in order to fit the defendant. Roberts explains that criminalizing civil infractions is a favorite tactic of some prosecutors. Even incorrectly filling out a government form by mistake has been criminalized (Roberts, 2003). Mistakenly filling out a government form is clearly lacking mens rea, yet people are being incarcerated for it (Roberts, 2003). Looking at this new tactic, the ancient principle of no crime without intent has been obliterated (Roberts, 2003). Another issue is that some prosecutors want to convict a defendant by any means necessary. This can also cause a wrongful conviction. Formerly, prosecutorial behavior was often regulated by conscious and carefully inculcated ethics that their job is to serve justice by finding the truth (Roberts, 2003). Now, a prosecutor’s self-esteem and career often weigh on their conviction rate (Roberts, 2003). Convicting someone who lacked mens rea or creating bills of attainder by tailoring novel interpretations of the law could potentially be considered wrongful conviction.

How Prevalent can Wrongful Convictions Truly Be

Many people believe wrongful conviction is something that does not happen in the United States. It cannot happen here; we have such a great justice system. Unfortunately, it does happen here. The thought of even one percent of prisoners being wrongfully convicted should worry people. Even prominent people in our justice system, such as Justice Scalia, do not believe that people are wrongfully convicted (Risinger, 2007). There are many studies on the percent of the wrongfully convicted. In order to derive a minimum factual wrongful conviction rate, there needs to be calculations of the wrongfully convicted in the

set divided by total convictions (Risinger, 2007). In his study, Risinger (2007) chose to only use DNA exonerations to avoid any debate on if the defendant was truly wrongfully convicted. He explains that there were eleven men wrongfully convicted of rape-murder from the years 1982 to 1989 (Risinger, 2007). He goes on to say he changes the numerator from eleven to ten and a half to give slight cushion room for error (Risinger, 2007). He chooses 319 as the denominator since that is the number of rape-murder convictions that had usable DNA in his set (Risinger, 2007). This means that the minimum wrongful conviction rate in the reference period is 3.3% (Risinger, 2007). This may seem to be a small percent, but it is still more than many people, including Justice Scalia, have perceived. While a rate of a minimum of 3.3% may seem like nothing to some people, one wrongful conviction is an issue. In addition, nine of those convicted would have been executed if it were not for DNA testing (Risinger, 2007). This is a major issue.

The article “The Execution of The Innocent” by Michael Radelet and Hugo Bedau (1998) brings up specific cases where innocent people were executed by the state, but were wrongfully convicted. Jesse Tafero was executed for a crime of which he and Sonia Jacobs were convicted (Radelet & Bedau, 1998). Two years after the execution, Jacobs was released after the U.S. Court of Appeals concluded that her conviction was based on prosecutorial suppression of exculpatory evidence and perjury by a prosecution witness (Radelet & Bedau, 1998). The same evidence that sent Tafero to jail and eventual execution led to Jacobs’ release (Radelet & Bedau, 1998). On top of the wrongful conviction and execution, not a single ex juror, prosecutor, judge, or politician involved in the Tafero case made a public statement or apology (Radelet & Bedau, 1998). How could so many people turn the other way on a clear social problem and the execution of an innocent man? Even if the wrongfully convicted are not executed, it takes away years of freedom and causes an immense toll on the body and mind.

The Impact of Wrongful Convictions

The impact of wrongful conviction is tremendous. Months and even years of these people’s lives are lost due to a wrongful conviction. Even worse, some people were executed by the state for a crime they did not commit. For the so-called lucky ones who are eventually proven innocent and released, their lives are still in disarray. For the rest of their lives they will be affected by their wrongful conviction. They lost their good name, family, career and freedom (Roberts, 2003). The article “Understanding the Effects of Wrongful Conviction” by Adrian Grounds (2005) goes in depth on the psychological effects of wrongful conviction. Many family members of the wrongfully convicted noticed that they were not the same when they finally got out (Grounds, 2005). Grounds explains that personality changes can be a consequence of psychological trauma and being

incarcerated, especially when it was a wrongful conviction, is a form of psychological trauma. Personality change takes form as being hostile towards the world, social withdrawal, and estrangement from others (Grounds, 2005). These personality changes were noted by the family members of the wrongfully convicted (Grounds, 2005). Twelve out of the eighteen men in the case study met the criteria of PTSD (Grounds, 2005). Seven men reported terror of being killed following arrest, one reported assault by police, four experienced terror of being killed or assaulted in prison, and one of these men was actually stabbed in prison (Grounds, 2005). These men experienced symptoms of PTSD such as repeated nightmares, panic attacks, being constantly on edge, while some additionally suffered from depressive episodes while in prison (Grounds, 2005). After release, ten men suffered depressive disorders, one had generalized anxiety disorder, four had paranoid symptoms, three men developed drug dependence, and two showed features of psychological dependence on alcohol (Grounds, 2005). It appears the reason why the men were misusing drugs and alcohol was to try to blot out their depression and PTSD symptoms (Grounds, 2005). One man explained he could not cope with the noise of traffic after he was released and found it difficult to cross the road because he was so used to standing and waiting for instructions (Grounds, 2005). Many men had trouble adjusting to the cultural changes of their families when they got out. There were deaths in their family, children were grown, and people learned to adapt to life without them (Grounds, 2005).

On top of the physical and mental impacts, people who are wrongfully convicted face social and economic impacts. Court costs add up and so does a lawyer. As stated before, people move on in life. The wrongfully convicted lose their job, their name, and their reputation in society (Roberts, 2003). There are harsh impacts of incarceration and reintegration into society for anyone imprisoned, but the impacts can be even worse when the person incarcerated was wrongfully convicted. There is no way to truly compensate the wrongfully convicted. The justice system, government, and society have failed these people. No one should ever have to face the impacts of being wrongfully convicted. Bringing back one of the main principles of the justice system, it is better to let one guilty man go free than for an innocent man to rot. It is great to think of a world where no one is wrongfully convicted, but that is just a fantasy. People are still wrongfully convicted even with the principles of the court that are put in place. There is no way to completely prevent wrongful convictions, but there are some ways to help prevent as many as possible and prove the innocence of the wrongfully convicted.

Moving Forward

Many convicted defendants were proven innocent later on because of forensic science and DNA exoneration. The article “The Fight for Post-Conviction DNA Testing Is Not Yet over: An Analysis of the Eight Remaining

‘Holdout States’ and Suggestions for Strategies to Bring Vital Relief to the Wrongfully Convicted” By Rachael Steinback (2007) explains that post-conviction DNA testing has been made increasingly available via state and federal laws. Steinback goes on to explain that these laws have played an important role in enhancing the integrity and accuracy of the criminal justice system. The availability of post-conviction DNA testing is extremely important to help prove innocence. Unfortunately, there are still eight states that have not enacted legislation that provides convicted felons with access to post conviction DNA testing (Steinback, 2007). Some of these states create extreme difficulty for defendants and are very hostile towards reform (Steinback, 2007). Society and science are always changing. These “hold out” states must evolve with society and help reform their justice systems at the state level. If these “hold out” states enact legislation for post-conviction DNA testing, society can right their wrongs by freeing innocent men. In a book review titled “Lemonade out of Lemons: Can Wrongful Convictions Lead to Criminal Justice Reform?” by Locke Bowman (2008) nine factors are identified by the Innocence Commission that are linked to erroneous convictions. The Innocence Commission also proposed reforms to prevent wrongful conviction. Some reforms are: use multiple person line ups to increase eye-witness identification, require all custodial interrogations to be recorded, all interrogators must be trained to recognize mental illness, judicial acceptance of advances in scientific forensic detection, and so on (Bowman, 2008). These reforms will help prevent wrongful conviction and getting the “hold out” states to enact legislation will help the wrongfully convicted.

Conclusion

Some people have blind faith in the United States’ Justice System, but that should not be the case. The Justice System and society make mistakes all the time. Politicians, judges, lawyers, and society in general all need to realize that wrongful convictions do happen. Being wrongfully convicted affects the body, mind, social life, and socioeconomic class. Society is always changing and so should the justice system. Reforms should be put in place alongside the major principles of the courtroom in order to prevent wrongful convictions and there needs to be legislation to help the already convicted. There are flaws within the justice system, but they can be fixed. Through legislation and the principles of the courtroom we can prevent innocent citizens from being stripped of their freedoms.

References

Bostwick, C. (1911). Proposed Reforms in Criminal Procedure. *Journal of the American Institute of Criminal Law and Criminology*, 2(2), 216-227.
doi:10.2307/1132954

- Bowman, L. (2008). Lemonade Out of Lemons: Can Wrongful Convictions Lead To Criminal Justice Reform? *The Journal of Criminal Law and Criminology (1973-)*, 98(4), 1501-1518. Retrieved from <http://www.jstor.org/stable/20685027>
- Evidence. Reasonable Doubt. Chain and Cable Theories. (1921). *The Yale Law Journal*, 30(5), 524-525. doi:10.2307/788108
- Gould, J., & Leo, R. (2010). One Hundred Years Later: Wrongful Convictions After a Century of Research. *The Journal of Criminal Law and Criminology (1973-)*, 100(3), 825-868. Retrieved from <http://www.jstor.org/stable/25766110>
- Grounds, A. (2005). Understanding the Effects of Wrongful Imprisonment. *Crime and Justice*, 32, 1-58. Retrieved from <http://www.jstor.org/stable/3488358>
- Radelet, M., & Bedau, H. (1998). The Execution of the Innocent. *Law and Contemporary Problems*, 61(4), 105-124. doi:10.2307/1192431
- Risinger, D. (2007). Innocents Convicted: An Empirically Justified Factual Wrongful Conviction Rate. *The Journal of Criminal Law and Criminology (1973-)*, 97(3), 761-806. Retrieved from <http://www.jstor.org/stable/40042842>
- Roberts, P. (2003). The Causes of Wrongful Conviction. *The Independent Review*, 7(4), 567-574. Retrieved from <http://www.jstor.org/stable/24562560>
- Steinback, R. (2007). The Fight for Post-Conviction DNA Testing Is Not Yet over: An Analysis of the Eight Remaining "Holdout States" and Suggestions for Strategies to Bring Vital Relief to the Wrongfully Convicted. *The Journal of Criminal Law and Criminology (1973-)*, 98(1), 329-361. Retrieved from <http://www.jstor.org/stable/40042855>