Eight Myths that Convict the Innocent, Part 1: Eyewitness Identification and False Confession

Monday, July 22
Afternoon Session
Eyewitness Test

http://www.psychology.iastate.edu/~glwells/bomberonroof.mpg

http://www.psychology.iastate.edu/~glwells/lineup.mpg
American Criminal Justice
By the Numbers
5-10 %

• What percentage of crimes have DNA evidence?

48 %

• In cases in which the real perpetrator was also identified, what percentage of these had been convicted of other crimes?

2.3 %

• What percentage of death row inmates serving (for at least 15 years) from 1973 to 2004 were then exonerated?
• **IF** the proven rate of wrongful death row convictions were applied to **all** crimes, how many persons would have been wrongfully imprisoned (for at least one year) from 1977 to 2004?

• Percent of exoneration cases in which innocent persons made a false confession, incriminating statement, or plead guilty.

**185,000**

**25%**
• Percent of sexual assault wrongful convictions in which a mistaken eyewitness identification contributed.

80%

• Of those exoneration cases in which misidentification played a role, in what percent did more than one witness finger the same innocent person?

38%

• Percent of time that witnesses select from a police lineup the non-suspect police “filler.”

30%
Percent of prime suspects (usually identified by the victim in stranger-to-stranger crimes) that consistently have been ruled out by labs by DNA.

How many people are in America’s jails and prisons?

If 1 percent of today’s prisoners are innocent, how many innocent people are in prison?

2.3 million (1 in 99 adults)

23,000

25%
7.3 million
(1 in 31 adults)

$48.5 Billion

• How many Americans are in prison or jail, or on parole or probation?

• Total spending by U.S. states for corrections in 2010?
Eyewitness is the best evidence.
Only guilty people confess.
Facts about Eyewitness:

• A contributor in 75% of DNA-proven wrongful convictions
• FBI-Proven Error Rate
• Police know error is high
• Eyewitness error is highest in crimes in which victim has had time and opportunity to view perpetrator
Resistance to Utilizing Best Practices

- Historic resistance of criminal justice to scientific recommendations
- Difficulties in implementing best practices
- Public policy and procedures reflect ignorance of science, lessons of DNA
- More on reforms to reduce misidentifications on Tuesday
Ray Towler

- May 24, 1981, Rocky River Metro Parks
- Black perpetrator, white children
- Talented, accomplished, gentle soul
- Identified by children, other witnesses
- Had alibis
- Red flags of misidentification
  - Cross racial, cross generational
  - Challenges with child witnesses
  - First description did not match Towler
  - Most distinguishing feature

Photo: Tom Dodge, Columbus Dispatch
Raymond Towler

- Convicted in 1981, life sentence
- Served 28+ years (ages 24-52)
- Exonerated by DNA

Photo: University of Cincinnati
Michael Green

- June 22, 1988 Cleveland Clinic Rape and burglary
- Compelling victim / indigent suspect
- Flawed eyewitness procedure
- Rush to judgment / tunnel vision
- Bogus forensic testimony supported misidentification
  - Two unsubstantiated statistical statements (Only 16% of male population/1 in 40,000 having similarities like this)
- Exonerated in 2001 by DNA; Served 13 years (ages 22-35 in prison)
- Connie Schultz / Rodney Rhines
Picking Cotton:

• Black perpetrator, white victim
• Bright, articulate, determined victim
• Committed to assisting police
• Identified Ronald Cotton
• Convicted, served 10+ years before DNA exonerated him and identified rapist as Bobby Poole
• Reconciliation and redemption
• Red flags of misidentification
  – Growing confidence in selection
  – Contamination of memory
  – Did not recognize true perpetrator

  – In her own words:
  http://www.pickingcottonbook.com/splash.html
Why
Jennifer Thompson misidentified Ronald Cotton

Unconscious transfer or contamination of a memory

• Worked with police artist to create a sketch of the rapist
• Sketch contaminated her memory
• Sketch became reference for lineup identification
Three stages of memory
• Acquisition
• Retention
• Retrieval
Source: *Eyewitness Testimony*, Elizabeth Loftus, 1979

Two variables
• Estimator variables (lighting, time viewed, racial and generational, stress, weapon, witness competency)
• System variables: 1. Interviewing (recall memory) and 2. Identification (recognition memory)
• System variables are controllable. Best practices (Tuesday afternoon)
Eight Myths

Eyewitness is the best evidence.
Only guilty people confess.
Why innocent people confess to crimes they did not commit

- Waiving Miranda
- Length of interrogation
- Trusting that Police tell the truth
  - Evidence
  - Rewards
- Reid Technique
  - Brainwashing
  - Desperation
  - Inquisition Techniques
- No good options
- Gambling future vs. pleading guilty
Why Innocent People Confess to Crimes They Did Not Commit:

- The Vulnerable
  - Mentally impaired / emotionally challenged
  - Substance impaired
  - Young or inexperienced
  - Prior record or accusation
  - Innocent

- Plea Bargain Confession
Chicago: False Confession Capital of the World

- Twice as many documented false confessions
- Example: Terrill Swift, 17, Michael Saunders, 15, and Harold Richardson, 16, Vincent Thames, 18, became suspects in 1994 rape/murder of Nina Glover.
- Swift never in trouble; implicated by another teen; voluntarily went to police; interrogated 12+ hours (no lawyer, no parents present)
- “You’re going to die in jail. You’re never going home.”
- No physical evidence
- Semen evidence did not match suspects
- Swift was told if he signed a 21-page confession he could go home.

Sources: Dateline, CBS News; Center on Wrongful Convictions, Northwestern Law; National Registry of Exonerations
Chicago: False Confession Capital of the World

• All signed confessions, all convicted in individual trials before Judge Thomas Sumner, no jury: “Without the confession there is no case...that is enough for me.”
• Swift 30 years; Saunders and Richardson, 40; Thames pled for 30
• In 2011, a DNA profile was developed from the semen and the IL State Police reported a “hit” to offender Johnny Douglas, deceased.
• November 16, 2011: Judge Paul Biebel Jr. vacated the convictions of all four men
• Jan. 17, 2012: Cook County Prosecutors declined to retry them; they were released.
• Sept. 2012: All four granted certificates of Innocence in Cook County Circuit Court

Sources: Dateline, CBS Ne; Center on Wrongful Convictions, Northwestern Law; National Registry of Exonerations
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- James Harden, 17, Robert Taylor, 15, Robert Lee Veal, 14, Shainne Sharp, 17, and Jonathan Barr, 15, all became suspects, identified by another teen, in the 1991 Chicago murder/rape of Cateresa Matthews.
- Veal, Taylor, and Sharp signed statements after police interrogations.
- Veal and Sharp pled guilty to first-degree murder and received 20-year sentences — with parole available after seven years — in exchange for agreeing to testify against the other three.
- All three were convicted. Taylor and Harden got 80 years, Barr, 85.
- All appeals were denied, including a post-conviction request for DNA testing.
- In March 2011, DNA testing was granted and it matched a violent serial offender, Willie Randolph.
- All five had their convictions vacated by early 2012.

- Saul Kassin on presumption of guilt:
  http://www.cbsnews.com/video/watch/?id=50136711n

Sources: Dateline, CBS Ne; Center on Wrongful Convictions, Northwestern Law; National Registry of Exonerations
Chicago: False Confession Capital of the World

- Former Chicago Police Commander Jon Burge was convicted by a federal jury of obstruction of justice and perjury for denying knowledge of abuse and torture of criminal suspects.
- January 2011: Sentenced to 4.5 years in prison
- Court opinion: Victims “were suffocated with plastic bags, electrocuted until they lost consciousness, held down against radiators, and had loaded guns pointed at their heads during rounds of Russian roulette.”
- In nearly 250 murder cases over a decade, defendants who “confessed” were either acquitted or their were cases dismissed.

Sources: Dateline, CBS News; Center on Wrongful Convictions, Northwestern Law; National Registry of Exonerations; Chicago Tribune
Beverly Monroe

Psychological tactics as effective as physical abuse.

- March 5, 1992, Richmond, VA
- Roger Zygmunt de la Burde, 60
- Initially assumed a suicide
- Beverly Monroe became suspect on circumstantial conjecture
- Already emotionally distraught by death
- Police Interrogator:
  - got her to waive Miranda rights; proceed without a lawyer
  - lied about her memory being incorrect
  - claimed she was deceptive on a polygraph
  - lied about “blocking” his dad’s suicide
  - lied about forensics report on gun
  - ran her through themes (Reid technique)
Beverly Monroe

- Interrogated eight hours—no food or drink except coffee (deprivation, stress, anxiety)
- Brainwashed: Became convinced she had blocked out being in the home when Roger died
- Was told evidence against her for murder was overwhelming (lie)—encouraged to sign statement for likely leniency (false promise)
- Finally engaged lawyer-daughter; first payment to criminal lawyer: $50K
- At trial son testified she’d been at the grocery store from 10:00-11:00 p.m.; witnesses and a time-stamped receipt confirmed.
- Convicted on Nov. 2 and sentenced to 22 years.
Beverly Monroe

• In April 2002 Senior U.S. District Court Judge Richard L. Williams granted petition for a federal writ of habeas corpus: prosecutors withheld evidence
  • Williams: called case a “monument to prosecutorial indiscretions and mishandling” and the police investigation “deceitful and manipulative”
  • U.S. Court of Appeals affirmed in March 2003.
  • June 2003: Prosecution dropped charges
  • Monroe served 11 years for a crime that never happened.
  • Katie Monroe – lawyer/daughter worked years on the case; became the long-time leader of the Rocky Mountain Innocence Project and is now Senior Advocate for National Partnerships, Innocence Project
False confessions, crimes that never happened.

Women Exonerees:
• Often accused of murdering/harming loved one; convicted on circumstantial evidence
• 20% falsely confess
• 40% are victims of police or prosecutorial abuse of authority
• In 64% of female exonerations, no crime had occurred

Sources: The Women’s Project of the Center on Wrongful Conviction, Northwestern School of Law: National Registry of Exonerations
On June 28, 2013 the Cook County State’s Attorney’s Office dropped all charges against Daniel Taylor, 37.

A Center on Wrongful Convictions client, Taylor served more than two decades in prison after confessing to the murders of Jeffrey Lassiter and Sharon Haugabook.

Taylor was in lockup at the old Town Hall police station between 6:45 and 10:00 p.m for disorderly conduct, so could not have committed the murders at 8:45 that night.

Seven others were convicted for this crime in a familiar pattern of confessions and cross-implications.
Eight Myths that Convict the Innocent (Part II): Debunking Six Common Misconceptions About American Criminal Justice

Tuesday, July 23
Morning Session