

## **The Challenges of the Justice System: Wrongful Conviction**

By Anjali Patel

A wrongful conviction is the conviction of a person who has been guilty of a crime proven from false evidence and improper investigation. The rates have been increasingly high throughout the world which raises concerns for civilians considering the true suspect is still walking the streets while the innocents are being punished for the crimes of others. In this case, the whole point of the justice system holds no value if justice is not served to the victims. What exactly causes wrongful conviction? Are certain races targeted as suspects? What role does our brain play in the entire process of investigation? What are the psychological consequences from wrongful imprisonment? Lack of training can cause an individual to make unprofessional decisions but psychology, surprisingly, plays an extremely significant role in the case of investigation.

However, very little research has been done on the topic of wrongful conviction, there are a few articles that cover areas of wrongful conviction. There are some studies that show how racial bias and eyewitness misidentification can play a significant role. The system is not perfect but learning and having deeper understanding can help us as a community. When the suspect is found not guilty and then later released from prison, a community of civilians hold the power to help them by providing mental support and any assistance with housing or employment.

In a murder case of his 3 daughters, Cameron Todd Willingham was sentenced to death, on October 29, 1992. Willingham lived in Corsicana, Texas, with his 3 daughters and his wife.

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On December 23, 1991, when Willingham was home sleeping in his bedroom and his wife was out buying Christmas gifts for the kids, a fire killed his three daughters. At the case trial, forensic experts concluded that the fire, which killed the 3 victims, was set intentionally and was not an accident. Along with the testimony by the professionals, a testimony was given by a jailhouse informant who stated that Willingham confessed to the crime to him. Jailhouse informants tend to be a contributing factor to wrongful conviction. These informants can sometimes lie, sending many innocent people to jail and sometimes even sending them to death row. With all evidence going against him, Willingham was found guilty and sentenced to death. Prior to his execution date, his attorney sent over documents by an arson expert, Gerald Hurst, that clearly stated the forensic evidence that was used to testify against him was incorrect. "All evidence used against Willington was invalid, including the forensic analysis, the informant's testimony, other witness testimony, and additional circumstantial evidence" (Causes of Wrongful Conviction). The issue here was that no officials took any type of action when they received these reports, which resulted in the wrongful death of an innocent man.

After a deeper investigation into the case, it was clear that due to a lack of training and knowledge of the situation the suspect was wrongfully convicted. The officials who oversaw his case lacked the ability to look at all the information and evidence provided to them and rushed to the conclusion of the case. Even though the professionals failed to do their job properly, the question here is how did the fire investigators conclude the result of the fire which led to the death of an innocent man? If the fire investigation had been done properly and professionally then there would not have been an inaccurate result.

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The Innocence Project, which was founded by Berry C. Scheck and Peter J. Neufeld in 1992, works to free innocent people from wrongful conviction and provide a fair and sympathetic justice system for all civilians. In the case of Cameron Todd Willingham, the Innocence Project had made a team of 5 nation leading arson experts to investigate the case. “This prestigious group had issued a 48-page report finding that none of the scientific analysis used to convict Willingham was valid” (Causes of Wrongful Conviction). The commission was forbidden from investigating individual evidence separately which restricted the team from continuing further investigation.

Educating the public on wrongful conviction is important but what exactly causes wrongful conviction? In other words, how can someone identify and prepare themselves to prevent it in a professional situation? Stated by Mid-Atlantic Innocence Project, there are 6 causes to wrongful conviction, including, “eyewitness misidentification, unreliable or improper forensic science, false confession, informant testimony, government misconduct, and inadequate defense”. Eyewitness misidentification are the most leading causes of wrongful conviction nationwide “contributing to approximately 69% of the more than 375 wrongful convictions in the United States” (Causes of Wrongful Conviction).

False identification keeps the police away from the real suspect, which can be crucial because the suspect may commit more crimes if not caught in time. There is no way the issue can be solved but there are a few ways, as reported by the Innocence Project, eyewitness misidentification can be improved. The Double-blind procedure/use of a blind administrator is when neither the administrator nor the eyewitness knows who the suspect is (Causes of Wrongful Conviction). Composing a lineup indicates that when choosing members for a lineup, officials should make sure that the members consist of a variety of types of people and not where

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the suspect stands out too much. Confidence statements, which is another reform, state that once a witness chooses a suspect, he or she must make a clear and strong statement based on the choice they made. So far, 25 states such as New Jersey, Nevada, Texas, and California to name a few have executed these reforms through court action and legislation.

With technology modernizing day to day, forensic evidence can also be false sometimes which can be used in court as evidence unknowingly. Along with the previously stated causes, informant testimony, is the use of informants in jail as bait to have the possible suspect confess to the informant of the crime. That is exactly what had happened in the murder case of Cameron Todd Willingham. “The misapplication of forensic science contributed to 52% of wrongful convictions in Innocence Project cases. False or misleading forensic evidence was a contributing factor in 24% of all wrongful convictions nationally” (Causes of Wrongful Conviction). These statistics include invalid testimony, mistakes made by practitioners and misconduct by officials such as forensic analysts. National Fire Protection Association 921 stated that “many of the physical artifacts previously thought to occur only in intentional fires-such as “alligatoring” of wood, crazed glass, and sagged furniture springs-could occur in accidental fires" (Innocence Project). Now even though a deep investigation was not done in the evidence collected that was used for Willingham’s case, it can be predicted that investigators may have missed this information and that the fire that they had stated was set by Willingham was a fire caused by other actions.

Racial bias is a big contributing factor in the topic of wrongful conviction. The African American population in America consists of 13%, with the majority being wrongfully convicted of crimes they have not committed. To state a few, “innocent black people are about seven times more likely to be convicted of murder than innocent white people” (Gross, 2).

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For sexual assault cases, black people are “three-and-a-half times more likely to be innocent than a white sexual assault convict,” and for drug crimes, “black people are about 12 times more likely to be convicted of drug crimes than innocent white people” (Gross, 3). Much of these misconducts are done by officials, especially when the defendant is black which is at 73% compared to a white defendant at 63% (Gross). In a sexual assault case of a white woman from Chicago, Stanley Wrice was an African American who had confessed to participating in a gang rape of the women. In 2013, Wrice was released from prison after the officials found out that he had been tortured into confessing the crime by two officers who worked in a Chicago Police and specialized in obtaining confessions from suspects through torture. The police are known to enforce drug laws more strongly against African Americans than white people knowing that both groups equally use drugs.

Even though the justice system is here to provide justice to the victims, many cases of wrongful convictions lead to “suspects” being convicted and sentenced to death. Those suspects who are sentenced to life in prison and can get parole to fight their case end up leaving with long-term psychological damage. In a study of 18 men, 15 had been convicted of murder and sentenced to life in prison; 3 had been convicted of other crimes and received a shorter term in prison. The period between their imprisonment ranged from anywhere between 9 to 19 months. 10 of them had served 11 or more years in prison and their average age when entering prison was 28 and their release age from prison was 38. Due to the lengthy period spent in prison, it is safe to say that they had lost many family members and the children are all grown up by the time they are released from prison, which means that they missed so much related to family and even lost a chance for a successful job. All 18 men mentioned the need for psychiatric help after serving long-term in prison. Out of all 18, some reported “enduring

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personality change following catastrophic experience” and “post-traumatic stress disorder and most reported additional mood and anxiety disorders” (Grounds, 165). These changes in their behavior were described and related to the same as “clinical literature on war veterans” (Grounds,165). The false accusations by the justice system can lead to permanent damage to a human which can cause them to have troubling experiences post-imprisonment and the inability for them to live a regular life.

From our memories being too fragile to remember every aspect of the event to our brain functions being damaged after such a traumatic experience, it can affect someone to the point where it can be difficult for them to go back to the real world after serving however many years in prison for a crime they did not commit. For men that reported personality changes, the ICD-10 Classification of Mental and Behavioral Disorder defined the change “as a hostile or mistrustful attitude towards the world, social withdrawal, feelings of emptiness or hopefulness, a chronic feeling of threat, and estrangement” (Grounds, 168). These changes were also identified by family members who stated that they noticed a personality change in them as if they did not know who they were anymore. A mother of a son said that he was like a stranger once he returned, he used to be very affectionate and now he no longer expresses his emotions and that prison had changed him. Twelve men were diagnosed with PTSD. They stated that they got nightmares from their days in prison such as “assaults in prison and panic attacks in response to police sirens” (Grounds 169). After arrest, these men feared for their lives in prison and from other prisoners around them. Even in prison, there is danger from other prisoners who could harm other prisoners and that is what happened to a few of them who were sexually assaulted, and one was even stabbed. Due to wrongful imprisonment, many victims have endured long-term psychological effects that cannot be cured. The time that was taken from them cannot

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be brought back and now they have lost the ability to go back to normal life where they can no longer trust themselves or people around them.

In 1932, Edwin Borchard first identified that eyewitness misidentification was the main reason that led to wrongful conviction, which means that it has been a significant issue for a long time, but no research has been done to fully understand or improve the topic. In a sexual assault case of a nine-year-old girl, Calvin Willis was found guilty and sentenced to life in prison. During the investigation, there were 5 witnesses, a seven-year-old and a ten-year-old, the victim, the mother of the victim, and the neighbor. The seven- and ten-year-old children said they only heard noises coming from the other room but did not see anything. Throughout the multiple interviews, the police received different reports from the victim, the mother, and the neighbor about what had happened and who they thought was the possible suspect. At first, the victim reported that she was awakened by a naked man who was wearing cowboy boots who continuously hit and sexually assaulted her. In the following interview, the victim reported that a male, Calvin Willis, was over their house along with another male who was wearing cowboy boots. And at her final interview, she announced Willis as the attacker. When the mother was interviewed, she gave no reports on a suspect. She then later told the investigating team that her daughter had mentioned the guy was wearing cowboy boots and finally said Willis was the perpetrator because that is what her daughter had stated. The neighbor, during her investigation, first reported no disturbance of any kind throughout the night. A couple of interviews later the neighbor stated that when she looked out the window at 1:30 in the morning she had seen a vehicle parked outside the house of the victim. During the whole investigation, all the witness reports had changed drastically. In cases like these, when multiple witnesses interact and share their side of the event, their memories are more likely to alter into a more stable but

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non-existent story which can result in a wrongful conviction. It is important to understand how our brain functions when it comes to memory.

According to researchers, “compared to older children, younger children tend to encode information less effectively and forget at a faster rate” (Mueller). With that in mind, this causes a conflict in cases that include child victims, in this case, the nine-year-old victim. At such a young age, it is possible that her brain is more than likely to forget and have a challenging time recalling exactly what had happened. And as time goes by, it is also possible that “cues come in the form of suggestive and/or leading questions” and had affected the victim's testimony. With children starting to be more involved in the legal system, it is important that officials start to practice a proper interviewing process. The Cognitive Interview (CI) focuses on the techniques of interviewing with adults whereas the NICHD Investigative Interview Protocol focuses on the techniques of interviewing with children. Both report that during interviews, asking open-ended questions “will be more accurate as they are allowed to monitor their own knowledge and decide what to report and what to withhold” (Mueller). Giving participants the opportunity to answer open-ended questions gives the investigators a more informative answer that has not been forced or misled which can be caused by asking leading questions. Another positive way to practice better interviews is rapport building in which witnesses “tend to recall more accurate information compared to those who do not” (Mueller). Both CI and NICHD discourage investigators from using leading and suggestive questions to prevent misinformation and inaccurate information which can be crucial.

In any crime committed, the most important and valuable source is the witness or any type of evidence that can be used to solve the case. When there are witnesses, people who have seen or were present at the scene while the crime occurred. Investigators and officers are

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encouraged to interview them since they hold information which can help with the solvability of the case. Memory is very critical when it comes to testifying for a crime. In such stressful conditions, our brains tend to be under pressure to the point where encoding parts of the event can be difficult. During interviews, most times the investigator asks “leading questions” in hopes to get an answer that they “think” is right. Now since memory is such a fragile part of our brain, it is extremely easy to forget or even hard to remember what has happened. During these intense interviews, memories can be damaged and misled, which in psychological terms is referred to as suggestibility, “describes the effects of misinformation from external sources that leads to the creation of false memories” (Spielman 8).

But how exactly does memory function? There are 3 stages of memory function: encoding, storage, and retrieval. Encoding is the “input of information into the memory system” (Spielman 8). Encoding of memory is an automatic process in which once our brain gets the information it automatically starts to sort or starts to connect to existing concepts. During a crime, a witness would go through this process when they first see the crime occurring. Next is storage, which is “the creation of a permanent record of information” (Spielman 8). This is where the information that was retained in the encoding stage is saved, but first, the information must go through 3 distinct stages: sensory memory, short-term memory, and long-term memory. In these stages, information that was properly transferred is saved and the rest is lost. When witnesses are present at the crime scene their brains are collecting all the information but there are times when interference can damage the information from processing properly. For example, if a criminal is pointing a gun at the witness, then the witness is being distracted and under extreme pressure where all their attention is on the gun, it is likely that the witness may not be paying attention to their surroundings or who the attacker is. Retrieval is “the act of getting

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information out of memory storage and back into conscious awareness” (Spielman 8). In this stage, the witness can get information out of their brain. There are three ways you can retrieve information: recall, recognition, and relearning. To recall information, it is when you can easily remember everything. Recognition is when you remember an event after encountering it again. And relearning is learning information that you have already learned about in the past.

With leading questions, witnesses are more likely to second guess their answers on top of already feeling anxious from the interview. When this occurs, there is no guarantee that what the witnesses are saying is true because it might be something they heard during the interview to make it seem like a reasonable response.

With the shocking increasing number of wrongful conviction cases, the importance of educating oneself with how and why wrongful conviction is caused can be beneficial in so many cases. As stated above, a human brain can play a huge role when it comes to criminal investigation. From the start of the crime scene to the end, from the victim to the possible suspect, to even the investigating team, the entire process of the justice system is like a challenging psychological game. If one wrong step is taken, it can sabotage the whole case and even end up adding to the cases of wrongful conviction. To avoid future problems, we must start by being aware of the sensitivity of the cases. Each case is different depending on the crime and its seriousness. The justice system should start placing rules and regulations for their officials to abide by to guarantee a fair investigation that can provide them with the most accurate information. Organizations like CI, NICHD, and the Innocence Project all work to provide justice to people who have been wrongfully convicted. They even provide ways where interviewing and doing investigations can be safer for everyone so that there is no pressure coming from the officials that can force someone to confess

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to a crime that they did not commit. If investigators start to follow safer options, then catching the right suspect can decrease crime rates knowing that the true suspect is not free. But if these procedures are not corrected then the legal system is not providing the safety and justice the public needs.

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