CRIMINAL LAW AND PUBLIC POLICY

The common belief is that the U.S. Constitution provides protections that ensure that innocent individuals will be protected from wrongful criminal convictions. The criminal justice system is premised on the belief that it is better to let nine guilty persons go free than to convict one innocent individual. We have become increasingly aware that innocent individuals have been convicted and that these wrongful convictions pose a significant threat to the integrity of the criminal justice system. Exoneration is an official decision by a judge that an individual was wrongfully convicted or a decision by a governor or the president of the United States to pardon a defendant because he or she was wrongfully convicted.

The number of innocent individuals incarcerated is uncertain, although, according to the National Registry of Exonerations, between 1989 and 2012 there were a total of 872 non-DNA- and DNA-based exonerations. In 2015, there were a record number of exonerations, 26 of which were based on DNA and 123 of which were non-DNA exonerations. Fifty-eight of these exonerations involved individuals convicted of murder, two-thirds of whom were minorities; 47 were for narcotics offenses; and 12 involved individuals convicted of sexual offenses. Six of the exonerees were on death row when released from prison, and the exonerees served an average of fourteen and a half years in prison. Sixty-five of these individuals pled guilty, and the remainder were convicted at trial.

What accounts for these wrongful convictions?

Eyewitness Misidentification. Eyewitness misidentification is the leading cause of wrongful convictions and was a factor in 72 percent of the wrongful conviction cases. Individuals, in some instances, did not clearly observe the perpetrator and, in other instances, were influenced by "suggestions" from the police. Roughly 40 percent of these misidentifications were cross-racial identifications, which are particularly prone to misidentification.

False Confessions. False confessions account for roughly one-quarter of wrongful convictions. These confessions result from physical and emotional coercion and the youth or mental disability of the defendants.

Informants. Jailhouse informants contributed to wrongful convictions in roughly 18 percent of cases. Inmate-informants typically testified that they overheard the defendant disclosing details of a crime or admitting his or her guilt to the informant.

Inaccurate Forensic Science. Roughly 50 percent of wrongful convictions involve inaccurate forensic analysis of blood, fibers, or DNA. Other methods of analysis such as hair analysis, bite marks, firearm tool mark analysis, handwriting exemplars, and shoe print comparisons have not been fully perfected and often are inaccurate. In other instances, evidence is not accurately catalogued,