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EXONERATIONS IN THE UNITED STATES 1989 THROUGH 2003

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On August 14, 1989, the Cook County Circuit Court in Chicago, Illinois, vacated Gary Dotson's 1979 rape conviction and dismissed the charges.[1] Mr. Dotson—who had spent ten years in and out of prison and on parole for this conviction—was not the first innocent prisoner to be exonerated and released in America. But his case was a breakthrough nonetheless: he was the first who was cleared by DNA identification technology. It was the beginning of a revolution in the American criminal justice system. Until then, exonerations of falsely convicted defendants were seen as aberrational. Since 1989, these once-rare events have become disturbingly commonplace.

This is a report on a study of exonerations in the United States from 1989 through 2003. We discuss all exonerations that we have been able to locate that occurred in that fifteen-year period, and that resulted from inves-

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[1] Rob Warden, Center on Wrongful Convictions, *The Rape That Wasn't: The First DNA Exoneration in Illinois*, *available at* http://www.law.northwestern.edu/depts/clinic/wrongful/exonerations/Dotson.htm (last visited Jan. 11, 2005).

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tigations into the particular cases of the exonerated individuals. Overall, we found 340 exonerations, 327 men and 13 women;[2] 144 of them were cleared by DNA evidence, 196 by other means. With a handful of exceptions, they had been in prison for years. More than half had served terms of ten years or more; 80% had been imprisoned for at least five years. As a group, they had spent more than 3400 years in prison for crimes for which they should never have been convicted—an average of more than ten years each.[3]

As we use the term, "exoneration" is an official act declaring a defendant not guilty of a crime for which he or she had previously been convicted. The exonerations we have studied occurred in four ways: (1) In forty-two cases governors (or other appropriate executive officers) issued pardons based on evidence of the defendants' innocence. (2) In 263 cases criminal charges were dismissed by courts after new evidence of innocence emerged, such as DNA. (3) In thirty-one cases the defendants were acquitted at a retrial on the basis of evidence that they had no role in the crimes for which they were originally convicted.[4] (4) In four cases, states posthumously acknowledged the innocence of defendants who had already died in prison: Frank Lee Smith, exonerated in Florida in 2000; Louis Greco and Henry Tameleo, exonerated in Massachusetts in 2002; and John Jeffers, exonerated in Indiana in 2002.[5]

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[2] Because men make up over 96% of the total, we generally refer to exonerated defendants using male pronouns.

[3] This is a conservative estimate of the direct consequences of these wrongful convictions. We have not counted time spent in custody before conviction. Nor have we included time spent on probation or parole, or time on bail or other forms of supervised release pending trial, retrial, or dismissal, even though all of these statuses involve restrictions on liberty—some mild, some onerous.

[4] We have excluded any case in which a dismissal or an acquittal appears to have been based on a decision that while the defendant was not guilty of the charges in the original conviction, he did play a role in the crime and may be guilty of some lesser crime that is based on the same conduct. For our purposes, a defendant who is acquitted of murder on retrial, but convicted of involuntary manslaughter, has not been exonerated. We have also excluded any case in which a dismissal was entered in the absence of strong evidence of factual innocence, or in which—despite such evidence—there was unexplained physical evidence of the defendant's guilt.

[5] *See* Sydney P. Freedberg, *He Didn't Do It*, ST. PETERSBURG TIMES, Jan. 7, 2001, at 1A (discussing Frank Lee Smith); J.M. Lawrence, *Ex-Prosecutor Apologizes to Salvati, Limone*, BOSTON HERALD, May 12, 2002, at 6; Ralph Ranalli, *Congressional Probe; FBI Used Hit Man as Informant Transcripts Reveal Bureau Recruited Killer Despite Past*, BOSTON GLOBE, Dec. 4, 2002, at A30 (discussing Louis Greco and Henry Tameleo); Jon Yates & Kevin Lynch, *Confession Leads to 2 Arrests in '75 Killing; Man Convicted in Indiana Case Died in Prison*, CHI. TRIB., Aug. 29, 2002, at 1 (discussing John Jeffers).

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This is the most comprehensive compilation of exonerations available,[6] but it is not exhaustive. The criminal justice system in the United States is notoriously fragmented—it is administered by fifty separate states (plus the federal government and the District of Columbia) and by more than 3000 separate counties, with thousands of administratively separate trial courts and prosecuting authorities. There is no national registry of exonerations, or any simple way to tell from official records which dismissals, pardons, etc., are based on innocence. As a result, we learned about many of the cases in our database from media reports. But the media inevitably miss some cases—and we, no doubt, have missed some cases that were reported.[7]

In the great majority of these cases there was, at the end of the day, no dispute about the innocence of the exonerated defendants. This is not surprising. Our legal system places great weight on the finality of criminal convictions. Courts and prosecutors are exceedingly reluctant to reverse judgments or reconsider closed cases; when they do—and it's rare—it's usually because of a compelling showing of error. Even so, some state officials continue to express doubts about the innocence of exonerated defendants, sometimes in the face of extraordinary evidence. Two brief examples:

> When Charles Fain was exonerated by DNA in Idaho in 2001, after eighteen years on death row for a rape murder, the original

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[6] Most of the exonerations we include in this database are listed on one or more of the websites that are maintained by three organizations: The Death Penalty Information Center, *at* http://www.deathpenaltyinfo.org; the Innocence Project at Cardozo Law School, *at* http://www.innocenceproject.org; and the Center on Wrongful Convictions at Northwestern University Law School, *at* http://www.law.northwestern.edu/depts/clinic/wrongful. We have gathered additional information on most of the cases from these three lists, reviewed them carefully, and excluded some cases that do not meet our own criteria for an exoneration.

[7] An earlier version of this paper was released in April 2004, listing a total of 328 exonerations. *See* Samuel R. Gross, Exonerations in the United States, 1989 Through 2003 (April 9, 2004) (early unpublished manuscript, *at* http://www.law.umich.edu/newsandinfo/ exonerations-in-us.pdf). After that report was released we learned of about fifteen additional exonerations between 1989 and 2003, mostly by way of e-mails from individuals who contacted us about cases we had missed. We have also excluded three cases we listed in the initial report because additional information revealed that the defendants had not been "exonerated" as we define the term: Edward Ryder in Pennsylvania in 1996, and Dennis Halstead and John Restivo in New York in 2003. Halstead and Restivo were removed from the list because it remains theoretically possible that charges will be retried. *See* Chan Lam, *1984 Teen Homicide; Hair May Play a Role in Case,* NEWSDAY, Dec. 5, 2004, at A53. More likely they will be added to the list of exonerees in 2005 or 2006 rather than 2003. See *infra* note 32 and accompanying text for a discussion of the delays that often slow down the process of exoneration.

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> prosecutor in the case said, "It doesn't really change my opinion that much that Fain's guilty."[8]
>
> On December 8, 1995, at the request of the prosecution, the DuPage County, Illinois, Circuit Court dismissed all charges against Alejandro Hernandez, who had spent eleven and one-half years in prison for an abduction, rape and murder in which he had no role. By that time DNA tests and a confession had established that the real criminal was an imprisoned serial rapist and murderer by the name of Brian Dugan; a police officer who provided crucial evidence had admitted to perjury; and Hernandez's co-defendant, Rolando Cruz, was acquitted by a judge who was harshly critical of the investigation and prosecution of the case. Nonetheless, when Hernandez was released, the prosecutor said: "The action I have taken today is neither a vindication nor an acquittal of the defendant."[9]

Needless to say, we are in no position to reach an independent judgment on the factual innocence of each defendant in our data. That is not our purpose in this report. Instead, we look at overall patterns in the exonerations that have accumulated in the past fifteen years and hope to learn

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[8] Raymond Bonner, *Death Row Inmate is Freed After DNA Test Clears Him*, N.Y. TIMES, Aug. 24, 2001, at A11. This is hardly the only example of prosecutors and police officers refusing, against all logic, to believe that a defendant they once charged and prosecuted could possibly be innocent. In 1993, in Baltimore County, Maryland, Kirk Bloodsworth became the first defendant in the United States who had been sentenced to death to be exonerated by DNA evidence. Nine years later, the chief prosecutor of the county said that the police "still believe [Bloodsworth] did it" and that she herself was "not sure." Lori Montgomery, *Eliminating Questions of Life or Death; Prosecutor's Policy Raises Questions in Md.*, WASH. POST, May 20, 2002, at B1. More than a decade after Bloodsworth was released, the police finally, after inexplicable delays, used the DNA evidence at their disposal to identify the real killer, a Maryland prisoner serving a forty-five-year sentence for burglary, attempted rape and assault with intent to murder. Susan Levine, *Ex-Death Row Inmate Hears Hoped-for Words: We Found Killer*, WASH. POST, Sep. 6, 2003, at A1. In 2000, Virginia Governor Jim Gilmore pardoned Earl Washington after DNA tests cleared Washington of a rape murder for which he had been sentenced to death and implicated a convicted serial rapist, Kenneth Tinsley. The Governor ordered a new investigation; four years later, nothing had happened in that investigation and the law enforcement officers involved continued to consider Washington a suspect. By then, new DNA tests, commissioned by Washington's attorneys over the state's objections, conclusively confirmed Tinsley's guilt and reconfirmed Washington's innocence. Maria Glod, *Lawyers Say DNA Clears Ex-Va. Death Row Inmate; State Defends Testing by Forensic Lab*, WASH. POST, Apr. 6, 2004, at B1; Frank Green, *Justice Undone in 1982 Killing; Victim's Husband Blasts Lack of Progress After Washington's Pardon*, RICHMOND TIMES-DISPATCH, Mar. 31, 2004, at B1.

[9] Jeffrey Bils & Ted Gregory, *"I Just Want To Go Home"; A Nightmare Ends, One Continues in Nicarico Case*, CHI. TRIB., Dec. 9, 1995, at 1.

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something about the causes of false convictions, and about the operation of our criminal justice system in general. It is possible that a few of the hundreds of exonerated defendants we have studied were involved in the crimes for which they were convicted, despite our efforts to exclude such cases. On the other hand, it is certain—this is the clearest implication of our study—that many defendants who are not on this list, no doubt thousands, have been falsely convicted of serious crimes but have not been exonerated.

I. EXONERATIONS OVER TIME

The rate of exonerations has increased sharply over the fifteen-year period of this study, from an average of twelve a year from 1989 through 1994, to an average of forty-two a year since 2000. The highest yearly total was forty-four, in 2002 and again in 2003. See Figure 1.[10]

The number of DNA exonerations has increased across this period, from one or two a year in 1989 to 1991, to an average of six a year from 1992 through 1995, to an average of twenty a year since 2000. Non-DNA exonerations were less rare initially, and remained relatively stable through the 1990s, averaging about ten a year. Their numbers have increased rapidly in the last several years, averaging twenty-three a year since 2000.

[10] The numbers of exonerations by year, and by basis, are:

Basis	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
DNA	2	1	2	6	4	7	7	13	9	4	10	17	24	21	17	144
Other	9	8	14	8	8	5	13	9	10	9	13	21	19	23	27	195
Total	11	9	16	14	12	12	20	22	19	13	23	38	43	44	44	340

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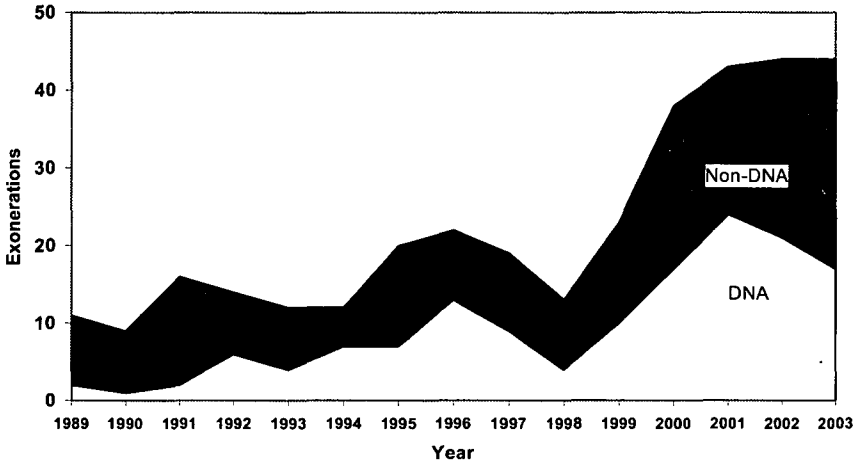
This rapid increase in reported exonerations probably reflects the combined effects of three interrelated trends. First, the growing availability and sophistication of DNA identification technology has, of course, produced an increase in DNA exonerations over time. Second, the singular importance of the DNA revolution has made exonerations increasingly newsworthy; as a result, we are probably aware of a higher proportion of the exonerations that occurred in 2003 than in 1989. And third, this increase in attention has

Figure 1: Exonerations By Year, 1989-2003



in turn led to a substantial increase in the number of false convictions that in fact do come to light and end in exonerations, by DNA or other means. More resources are devoted to the problem—there are now, for example, forty-one Innocence Projects in thirty-one states[11]—and judges, prosecutors, defense lawyers, and police officers have all become more aware of the danger of false convictions.

II. THE CRIMES FOR WHICH EXONERATED DEFENDANTS WERE CONVICTED

Ninety-six percent of the known exonerations of individual defendants since 1989 were either for murder—60% (205/345)[12]—or for rape or sexual

[11] These figures were calculated from a list available at The Innocence Project, *Other Projects by State*, *at* http://www.innocenceproject.org/about/other_projects.php (last visited Jan. 11, 2005).

[12] This number includes three defendants who were convicted of manslaughter.

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assault—36% (121/340). Most of the remaining fourteen cases were crimes of violence—six robberies, two attempted murders, a kidnapping and an assault—plus a larceny, a gun possession case and two drug cases.[13] See Table 1.

Table 1

Exonerations by Crime and Basis

CRIME	NUMBER OF EXONERATIONS	BASIS	
		DNA	Other
Murder	**205 (60%)**	**39**	**166**
Death Sentences	*74 (22%)*	*13*	*61*
Other Murder Cases	*131 (39%)*	*26*	*105*
Rape	**121 (36%)**	**105**	**16**
Other Crimes of Violence	**11 (3%)**	**0**	**11**
Drug and Property Crime	**3 (1%)**	**0**	**3**
TOTAL*	**340 (101%)**	**144**	**196**

* The total adds up to 101% because of rounding error.

This highly skewed distribution tells us a great deal about the relationship between exonerations—those erroneous convictions that are discovered and remedied, at least in part—and the larger group of all false convictions, the vast majority of which are never discovered. We consider that relationship by examining the two major categories of crimes for which exonerations are comparatively common.

III. THE RELATIONSHIP BETWEEN KNOWN EXONERATIONS AND ALL FALSE CONVICTIONS

1. WHY DO SO MANY EXONERATIONS INVOLVE RAPE?

At the end of 2001, about 118,000 prisoners in state prisons were serving sentences for rape and sexual assault, less than 10% of the total prison population. There were also over 155,000 prisoners who had been convicted of robbery, nearly 119,000 who were in prison for assault, more than 27,000 for other violent felonies, and over 600,000 for property, drug and

[13] We coded cases with multiple charges by the most serious crime for which the defendant was convicted, on the following descending scale: murder, rape, other violent crimes, non-violent crimes. For example, if the exonerated defendant was convicted of murder and rape, we classified the exoneration as a murder; if he was convicted of robbery and rape, we classified it as a rape.

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public order offenses.[14] Why are 90% of the exonerations for non-homicidal crimes concentrated among the rape cases?

The comparison between rape and robbery is particularly telling. Robbery and rape are both crimes of violence in which the perpetrator is often a stranger to the victim. As a result, robberies and rapes alike are susceptible to the well-known dangers of eyewitness misidentification. In fact, there is every reason to believe that misidentifications in robberies outnumber those in rapes, by a lot:

> (1) Robberies are more numerous than rapes. In 2002, for example, the FBI estimates that 95,136 forcible rapes and 420,637 robberies were reported to police departments in the United States, leading to 20,126 arrests for rape and 77,342 arrests for robbery.[15]
>
> (2) Eyewitness misidentification is almost entirely restricted to crimes committed by strangers, which includes about three quarters of robberies, but only a third of rapes.[16]
>
> (3) The nature of the crime of rape is such that the victim usually spends a considerable amount of time in close physical proximity to the criminal; robberies are frequently quick, and may involve less immediate physical contact.

In 1987, a detailed study analyzed all known cases of eyewitness misidentification in the United States from 1900 through 1983, 136 in all.[17] That study found that misidentifications in robberies outnumbered those in rapes by more than two to one; in fact, robberies accounted for more than half of *all* known cases of proven misidentifications. The pattern in our study could hardly be more different. We have 121 exonerations in rape cases; in 88% of them (107/121) the defendant was the victim of eyewitness misidentification. But we have only six robbery exonerations, all of which include eyewitness misidentifications. What changed? The answer is obvi-

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[14] PAIGE M. HARRISON & ALLEN J. BECK, U.S. DEP'T OF JUSTICE, PRISONERS IN 2002, at 10 tbl.15 (2003).

[15] FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES 2002: UNIFORM CRIME REPORTS 66 tbl.1, 244 tbl.38 (2002). The arrest figures are limited to the agencies participating in the FBI's Uniform Crime Reporting Program.

[16] CATHY MASTON & PATSY KLAUS, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION IN THE UNITED STATES, 2002 STATISTICAL TABLES 42 tbl.29 (2003).

[17] Samuel R. Gross, *Loss of Innocence: Eyewitness Identification and Proof of Guilt*, 16 J. LEGAL STUD. 395, 413 (1987). The misidentifications in that study did not all involve convictions. They were unevenly spread across the twentieth century, with the largest number—thirty-six—in the decade of 1970-79.

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ous: DNA. In 1987, the first DNA exoneration in the country was two years in the future. Since 1989, however, 87% of exonerated rape defendants were cleared by DNA evidence. Only 19% of murder exonerations included DNA evidence (and none of the other non-rape exonerations), and all but a couple of those murders also included rape as well.

The implication is clear. If we had a technique for detecting false convictions in robberies that was comparable to DNA identification for rapes, robbery exonerations would greatly outnumber rape exonerations, and the total number of falsely convicted defendants who were exonerated would be several times what we report. And even among rape cases, DNA is only useful if testable samples of biological evidence were preserved and can be found, which is not always true.

In short, the clearest and most important lesson from the recent spike in rape exonerations is that the false convictions that come to light are the tip of an iceberg. Beneath the surface there are other undetected miscarriages of justice in rape cases without testable DNA, and a much larger group of undetected false convictions in robberies and other serious crimes of violence for which DNA identification is useless.

2. WHY ARE EXONERATIONS HEAVILY CONCENTRATED AMONG MURDER CASES, AND ESPECIALLY AMONG CAPITAL MURDERS?

What about exonerations that are not based on DNA? In 2001, about 13% of state prisoners were serving sentences for murder or non-negligent manslaughter,[18] but 85% of non-DNA exonerations (166/196) are found among this group. For prisoners under sentence of death the contrast is even more stark. The death-row population in America peaked in 2001, at about a quarter of 1% of the American prison population[19]—and yet seventy-four exonerations in the past fifteen years, 22% of the total, were drawn from this tiny sliver of the prison population. What accounts for this enormous over-representation of murder defendants, and especially death-row inmates, among those who are exonerated?

There are only two possible explanations:

> One possibility is that *false convictions <u>are not</u> more likely to occur in murder and death penalty cases*, but only more likely *to be discovered* because of the comparatively high level of attention that is devoted to reviewing those cases after conviction. This is

[18] HARRISON & BECK, *supra* note 14, at 10 tbl.15.

[19] There were 3,577 prisoners on American death rows at the end of 2001, THOMAS P. BONCZAR & TRACY L. SNELL, U.S. DEP'T OF JUSTICE, CAPITAL PUNISHMENT, 2002, at 5 tbl.4 (2003); there were approximately 1,404,032 prisoners in federal and state adult correctional facilities. HARRISON & BECK, *supra* note 14, at 3 tbl.3.

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no doubt true, at least in part. Because of the seriousness of their consequences, murder convictions—and especially death sentences—*are* reviewed more carefully than other criminal convictions. In 1999, for example, Dennis Fritz was exonerated by DNA evidence and released from a life sentence for a rape murder he did not commit. But he was exonerated as a by-product of an intensive investigation that led to the exoneration of his co-defendant, Ron Williamson, who had been sentenced to death. If Williamson had not been sentenced to death, Fritz would probably be in prison to this day.[20]

But could this be the entire explanation? Could it be that false convictions in capital cases really are no more common than in other cases? If that were the whole story it would mean that if we reviewed prison sentences with the same level of care that we devote to death sentences, there would have been *over 29,000 non-death row exonerations* in the past fifteen years rather than the 266 that have in fact occurred—including more than 3,700 exonerations in non-capital murder cases alone.[21] This is a shocking prospect.

On the other hand, if this first explanation is not the whole story, that inescapably means that *false convictions are more likely to occur in murder cases*, and *much more likely in death penalty cases*, than in other criminal prosecutions. There are several reasons (apart from the evidence presented here) to believe that this too is almost certainly true: the extraordinary pressure to secure convictions for heinous crimes; the difficulty of investigating many homicides because, by definition, the victims are unavailable; extreme incentives for the real killers to frame innocent fall guys when they are facing the possibility of execution.[22] What-

[20] BARRY SCHECK ET AL., ACTUAL INNOCENCE 163-203 (2001).

[21] There were 3,577 prisoners on American death rows at the end of 2001. *See supra* note 19. The seventy-four death-row exonerations since 1989 amount to 2.07% of that population. There were a total of 1,404,032 inmates in American prisons at the end of 2001, *see supra* note 19; if exonerations from that population had occurred at the same rate as on death row, there would have been 29,046 non-death row exonerations since 1989. (If we restrict our focus to prisoners who were convicted of murder, the expected number of exonerations would be 13% of that total or about 3,776.) This is a conservative estimate, since death-sentenced defendants spend more time in prison than the average inmate and therefore are an even smaller proportion of the total population of defendants who are convicted of felonies and pass through prisons in any given time period.

[22] *See* Samuel R. Gross, *Lost Lives: Miscarriages of Justice in Capital Cases*, 61 LAW & CONTEMP. PROBS. 123, 129-33 (1998). It is also true, of course, that capital defendants, on

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> ever the causes, this is a terrible prospect: that we are most likely to convict innocent defendants in those cases in which their very lives are at stake.

Considering the huge discrepancies between the exoneration rates for death sentences, for other murder convictions, and for criminal convictions generally, the truth is probably a combination of these two appalling possibilities: We are both much more likely to convict innocent defendants of murder—and especially capital murder—than of other crimes, *and* a large number of false convictions in non-capital cases are never discovered because nobody ever seriously investigates the possibility of error.

3. WHAT ARE WE MISSING ENTIRELY?

We have only counted individual defendants who were *exonerated*—those whose convictions were nullified by official acts by governors, courts or prosecutors because of compelling evidence that they were not guilty of crimes for which they had been convicted. Several categories of falsely convicted defendants are entirely missing from this count.

(a) Mass Exonerations

Our data include only defendants who were exonerated because of evidence of innocence that focused on their individual cases. We have not included data from mass exonerations of innocent defendants who were falsely convicted as a result of large scale patterns of police perjury and corruption:

> In September 1999, Officer Rafael Perez, who was awaiting retrial on charges of stealing six pounds of impounded cocaine, made a deal with his prosecutors: a five year sentence in return for information on the criminal activities of officers in the CRASH ("Community Resources Against Street Hoodlums") unit of the Rampart division of the Los Angeles Police Department. Over the next nine months Perez revealed that he and other Ram-

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average, get more resources for their defense at trial than other defendants. But even under the best of circumstances, good defense work will catch some but not all of the errors made in police investigations, and while capital defendants may receive better defense than other defendants, on average, "better" does not necessarily mean "good," and many capital defendants get abysmal defense attorneys. The net effect appears to be that many more errors are generated in the initial investigations of capital cases, and that good defense work catches some but by no means all of these excess errors. *See id.* at 148-49. *See generally* James S. Liebman, *The Overproduction of Death*, 100 COLUM. L. REV. 2030 (2000) (procedural incentives lead to high number of death sentences and high proportion of legal error among them).

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> part CRASH officers had routinely lied in arrest reports, shot and killed or wounded unarmed suspects and innocent bystanders, planted guns on suspects after shooting them, fabricated evidence, and framed innocent defendants. In the aftermath of this scandal, at least 100 criminal defendants who had been framed by Rampart CRASH officers—and possibly as many as 150—had their convictions vacated and dismissed by Los Angeles County judges in late 1999 and 2000. The great majority were young Hispanic men who had pled guilty to false felony gun or drug charges.[23]
>
> In 1999 and 2000, thirty-nine defendants were convicted of drug offenses in Tulia, Texas, on the uncorroborated word of a single dishonest undercover narcotics agent. In 2003, thirty-five of them were pardoned when it was shown that the undercover officer had systematically lied about these cases, and charged the defendants with drug sales that had never occurred. (The remaining four Tulia defendants were not eligible for pardons because their convictions had been dismissed, or because they were also imprisoned on unrelated charges.)[24]

The Rampart and Tulia scandals are not the only mass exonerations in the United States in the past fifteen years. After we released our initial report, in April of 2004, we heard about the Dallas Sheetrock Scandal that

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[23] For an in-depth look at the Rampart scandal, including links to official reports and reviews and a summary of the scandal's aftermath, see *Frontline: L.A.P.D. Blues* (PBS television broadcast, May 15, 2001) (transcript *available at* http://www.pbs.org/wgbh/pages/frontline/shows/lapd/bare.html). *See also* Lou Cannon, *One Bad Cop*, N.Y. TIMES, Oct.1, 2000, § 6 (Magazine), at 32; Scott Glover & Matt Lait, *Lack of Funds Stalls Rampart Probe; The LAPD Seeks Private Donations So That an Independent Panel Can Begin Investigating the Department's Handling of the Scandal*, L.A. TIMES, Nov. 6, 2003, at B1 ($42 million in settlements paid out in civil settlements); Anna Gorman, *For Some, It's Too Late to Overturn Convictions: Judges Are Refusing to Review Cases Involving Tainted Officers if Inmate Is No Longer in Custody*, L.A. TIMES, May 19, 2002, at B1 (nearly 150 convictions overturned); David P. Leonard, *Policing the Criminal Justice System: Different Worlds, Different Realities*, 34 LOY. L.A. L. REV. 863, 872-79 (2001) (Rampart residents overwhelmingly Latino); Stephen Yagman, *Bada Bing, L.A. City Hall Has a Rico Ring*, L.A. TIMES, Apr. 25, 2001, at B9 (more than 110 convictions overturned); RAMPART INDEPENDENT REVIEW PANEL, REPORT OF THE RAMPART INDEPENDENT REVIEW PANEL (2000), *available at* http://www.ci.la.ca.us/oig/rirprpt.pdf.

[24] *See* Polly Ross Hughes, *Perry Pardons 35 in Tulia Sting*, HOUS. CHRON., Aug. 23, 2003, at A1; Adam Liptak, *$5 Million Settlement Ends Case of Tainted Texas Sting*, N.Y. TIMES, Mar. 11, 2004, at A14; Laura Parker, *Texas Scandal Throws Doubt on Anti-Drug Task Forces*, USA TODAY, Mar. 31, 2004, at 3A. Details on the numbers of the Tulia defendants and their outcomes of their cases were provided by Ms. Vanita Gupta, a lawyer for the NAACP Legal Defense and Educational Fund, who represented them in the proceeding that led to their exoneration.

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came to light in January of 2002: at least eighty defendants in Dallas, Texas, were falsely charged with possession of quantities of "cocaine" that turned out, when finally analyzed, to consist of powered gypsum, the primary constituent of the building product Sheetrock.[25] Most of the Sheetrock cases were dismissed before trial, but some innocent defendants had pled guilty and were in prison or had been deported to Mexico. We have probably missed other similar corrupt schemes that have come to light, and certainly some that have not.

The Rampart and Tulia cases are exonerations in every sense of the word. We do not include them here because the processes that produced the false convictions and the mass exonerations in these singular episodes are fundamentally different from those in the individual cases on which we focus, and mixing them in—135 cases or more—would distort the patterns we can observe. However, by the same token, these extraordinary exonerations provide a glimpse into a more general category of false convictions that is missing from our data—as we will see.

(b) Comparatively Light Sentences

With a handful of exceptions, everyone on our list of exonerees was sentenced to death or to a long term of imprisonment.[26] Ninety-three percent were sentenced to ten years in prison or more; 77% were sentenced to at least twenty-five years;[27] more than half were sentenced to life imprisonment or to death. This is a highly atypical group. Most criminal defendants are convicted (if at all) of misdemeanors; and of those who are convicted of felonies, most are sentenced to probation or to months in jail rather than to years in prison.

Exonerations are the end products of a lot of work, usually over a long period. The average time from conviction to exoneration is more than eleven years. A falsely convicted defendant who has served his time for burglary and been released has little incentive to invest years of his life keeping the case alive in the hope of clearing his name—and if he wanted to, he'd probably have a hard time finding anybody to help. Our data re-

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[25] *See* Mark Donald, *Dirty or Duped?: Who's to Blame for the Fake-Drug Scandal Rocking Dallas Police? Virtually Everyone*, DALLAS OBSERVER, May 2, 2002, *available at* www.dallasobserver.com/issues/2002-05-02/news/feature.html.; Paul Duggan, *"Sheetrock Scandal" Hits Dallas Police*, WASH. POST, Jan. 18, 2002, at A12.

[26] In one of the murder exonerations and four of the rape cases the defendants were exonerated before they were sentenced; one additional rape defendant was sentenced to probation only.

[27] About half of the sentences—other than death or life imprisonment—included a maximum and a minimum, e.g., "10 to 25 years." In those cases, we have reported the minimums.

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flect this: nobody, it seems, seriously pursues exonerations for defendants who are falsely convicted of shop lifting, misdemeanor assault, drug possession, or routine felonies—auto thefts or run-of-the-mill burglaries—and sentenced to probation, a $2000 fine, or even six months in the county jail or eighteen months in state prison.[28]

But obviously such errors occur. It is well known, for example, that many defendants who can't afford bail plead guilty in return for short sentences, often probation and credit for time served, rather than stay in jail for months and then go to trial and risk much more severe punishment if convicted.[29] This is one facet of a system in which about 90% of defendants who are convicted plead guilty rather than go to trial.[30] Some defendants who accept these deals are innocent, possibly in numbers that dwarf false convictions in the less common but more serious violent felonies, but they are almost never exonerated—at least not in individual cases.

Only twenty of the exonerees in our database pled guilty, less than six percent of the total: fifteen innocent murder defendants and four innocent rape defendants who took deals that included long prison terms in order to avoid the risk of life imprisonment or the death penalty, and one innocent defendant pled guilty to gun possession to avoid life imprisonment as a habitual criminal. By contrast, thirty-one of the thirty-nine Tulia defendants pled guilty to drug offenses they did not commit, as did the majority of the 100 or more exonerated defendants in the Rampart scandal in Los Angeles. Most of the Rampart and Tulia defendants had been released by the time they were exonerated, two to four years after conviction.[31] They were exonerated because the false convictions in their cases were produced by systematic programs of police perjury that were uncovered as part of large

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[28] The case of Robert Farnsworth, Jr., who was exonerated in Michigan in 2000, is an exception that illustrates this rule. Farnsworth was arrested for grand larceny and confessed under police pressure after a cash deposit bag belonging to his employer went missing. He immediately recanted his confession and claimed that he had placed the bag in a night deposit box at the company's bank, but a jury convicted him and he was sentenced to a six-month suspended sentence and three years probation. Ordinarily, that would have been the end of the story. By a fluke, another cash bag deposited in the same night drop box was lost almost a year after the first, and the owner of the business in question knew the bank president and asked him to have the drop box opened and inspected—and both cash bags were found stuck in the mechanism (plus a third that hadn't been missed). *See Bank Finds Lost Cash Stuck in Vault, Ex-Wendy's Manager Convicted of Stealing is Vindicated*, DETROIT FREE PRESS, Mar. 13, 2000.

[29] *See, e.g.*, Barbara Taylor, *Trapped on Rikers Island*, N.Y. TIMES, Sept. 7, 1996, at 21.

[30] In 1998, for example, 90% of those convicted of violent felonies in large urban counties pled guilty. For all felonies, 96% of those convicted pled guilty. BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, FELONY DEFENDANTS IN LARGE URBAN COUNTIES, 1998, at 24 tbl.23 (2001) (figures recalculated).

[31] *See supra* notes 23 and 24.

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scale investigations. If these same defendants had been falsely convicted of the same crimes by mistake—or even because of unsystematic acts of deliberate dishonesty—we would never have known.

(c) Innocent Defendants Who Have Not Been Exonerated

(i) Pending cases

Some falsely convicted defendants have not been exonerated—at least not yet—because government officials are dragging their feet. On March 12, 2003, for example, Josiah Sutton was released from prison in Texas after DNA tests cleared him of a rape conviction for which he had served four and one-half years of a twenty-five-year sentence. Over a year later, Sutton remained free on bail, with his case theoretically pending, because the Houston District Attorney, who agrees that Sutton should be pardoned, won't say that the pardon should be "based on innocence"—apparently because that classification would subject the state to liability for Sutton's wrongful imprisonment.[32] Although there was no doubt that Sutton was falsely convicted, he was not exonerated by the end of 2003 and is not included in this study.[33]

(ii) Pleas of guilty or no contest

Sometimes a defendant who has protested his innocence for years, and who had obtained a reversal of his conviction, accepts an offer from the state to plead guilty to a lesser crime and go free immediately, rather than stay in jail and risk a re-trial that could result in another false conviction. For example, in 1978 Curtis McGhee was convicted of murder in Council Bluffs, Iowa, on the basis of a confession from a supposed accomplice. In February, 2003, the Iowa Supreme Court reversed the convictions because the police had concealed the fact that they had questioned another suspect who was seen near the scene of the crime, and who failed a polygraph test. By then the confessor, and all other key prosecution witnesses, had recanted their testimony. McGhee was offered a deal: plead guilty to second degree murder and go free; he decided to play it safe, took the deal, and was re-

[32] Mary Ann Fergus, *Josiah Sutton Still Waits for Legal Exoneration*, HOUS. CHRON., Mar. 7, 2004, *available at* http://www.chron.com/cs/CDA/ssistory.mpl/page1/2435555.

[33] Sutton was finally pardoned on May 14, 2004. Roma Khanna, *Perry Signs Pardon for Sutton; Man Convicted on Faulty DNA May Be Entitled to $100,000*, HOUS. CHRON., May 14, 2004, at A1; *see also supra* note 7 (discussing the cases of Dennis Halstead and John Restivo).

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leased.[34] We have not included McGhee in our data, nor any other defendant who pled guilty in order to be released, regardless of the evidence of the defendant's innocence. We are examining exonerations, and the final official act in such a case is not an exoneration but a conviction, however nominal or misleading.[35] (We have included McGhee's co-defendant, Terry Harrington, who refused to take a similar deal, and got a dismissal after the state's star witness at the original trial recanted once more.)

(iii) Inexplicable failures to exonerate

In some cases there is no rational explanation for the fact that an innocent defendant has not been exonerated. There is no doubt, for example, that Victoria Banks was falsely convicted of manslaughter in 2001. She is a mentally retarded woman who confessed to killing her newborn baby; but there is no physical evidence that the baby ever existed, and medical tests confirm that she had a tubal ligation that was intact throughout the relevant period, making pregnancy impossible. But Ms. Banks—who confessed to her imaginary crime and pled guilty to manslaughter after being charged with capital murder—does not dispute her guilt, and the state of Alabama, to its shame, continues to imprison this mentally deficient and delusional woman for manslaughter as well as unrelated charges. One of her two co-defendants—who is also mentally retarded—was exonerated and released in 2003 after three and half years in prison; a second retarded co-defendant had her sentence reduced and was released in 2002.[36]

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[34] Mark Siebert, *Case Dismissed Against Man Who Served 25 Years*, DES MOINES REG., Oct. 25, 2003, at 1A, *available at* http://www.truthinjustice.org/Harrington.htm.

[35] For these purposes, a plea of "no contest" (or "nolo contendere") is equivalent to a guilty plea. McGhee himself entered an *Alford* plea, which means that he was allowed to deny participation in the crime and state that he was pleading guilty, despite that denial, to avoid the risk of trial. All the same, that plea—like any other plea of guilty or no contest—was the basis of a judgment of conviction, which is not an official exoneration.

We have included three cases in which the exonerated defendant did plead guilty or no contest, but to a charge that is factually distinct from the crime for which he was originally convicted. Medell Banks, for example, was charged with capital murder and pled guilty to manslaughter in Alabama. He was released in 2003, after homicide charges were dropped because of incontrovertible evidence that the supposed victim—a newborn infant who had never been seen, alive or dead, by any trustworthy witness—could not have existed: the ostensible mother, Mr. Banks's wife Victoria, had a tubal ligation that made pregnancy impossible. *See infra* text accompanying note 36. In the process, Mr. Banks agreed to plead guilty to a misdemeanor, tampering with evidence. Carla Crowder, *Accused in Killing of Newborn Who Likely Never Existed, Choctaw County Man Makes Plea Deal*, BIRMINGHAM NEWS, Jan. 11, 2003, at 1A. Since that charge (whether true or false) involved conduct totally distinct from the original homicide charge, we count his case as an exoneration.

[36] *See id.*

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(iv) The childcare sex abuse and satanic ritual cases

Finally, in one major set of false conviction cases the patterns of injustice are so complex and murky that we can hardly ever say that specific defendants were "exonerated," even though there is no doubt that most were falsely convicted. We're referring here to the epidemic of child sex abuse prosecutions that swept across the country in the late 1980s and early 1990s, focusing especially on childcare centers, and frequently including allegations of bizarre satanic rituals.[37]

In almost all of the exoneration cases that we consider in this report there is no question that the murder, rape or other crime did occur. The problem is that someone other than the defendant did it. In these mass child molestation prosecutions the identity of the perpetrators is not an issue. The question, rather, is: Did the crimes really happen at all?

In many of these child-molestation cases, the accusations were bizarre if not impossible on their face. Some children at the Little Rascals Day Care Center in Edenton, North Carolina, for example, said that they had seen babies killed at the daycare center, children taken out on boats and thrown overboard to feed sharks, and children taken to outer space in a hot air balloon.[38] In Kern County, California, children described mass orgies with as many as fourteen adults who forced groups of children to inhale eighteen-inch lines of cocaine or heroin, gave them injections with syringes that left large bruises, and hung the children from hooks as the adults repeatedly sodomized them.[39] Needless to say, no physical evidence ever corroborated any of these unlikely claims. In other cases, the accusations were merely implausible, and appear to be have been generated by over-eager prosecutors and therapists who demanded that the young children they examined tell them that they had been molested, and would not take No for an answer.

Overall, more than 150 defendants were initially charged in at least ten major child sex abuse and satanic ritual prosecutions across the country,

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[37] For a comprehensive analysis of several of the major childcare and satanic ritual abuse cases and the phenomenon of allegations of ritual abuse generally, see DEBBIE NATHAN & MICHAEL SNEDEKER, SATAN'S SILENCE: RITUAL ABUSE AND THE MAKING OF A MODERN AMERICAN WITCH HUNT (1995).

[38] *See Frontline: Innocence Lost* (PBS television broadcast, May 27, 1997) (tapes, transcripts and additional information, including subsequent developments, *available at* http://www.pbs.org/wgbh/pages /frontline/shows/innocence/).

[39] *See* NATHAN & SNEDEKER, *supra* note 37, at 95-96; *see also* People v. Pitts, 273 Cal. Rptr. 757, 774-86 (Cal. Ct. App. 1990); John Johnson, *"Kids Don't Lie": Faith in This Assumption Led to Dozens of Unjust Molestation Convictions in Bakersfield; Today One Man Remains in Prison Even After Four of His Original Accusers Said He Never Touched Them*, L.A. TIMES, Aug. 10, 2003, § 9 (Magazine), at 16.

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from 1984 to 1995, and at least seventy-two were convicted. It is clear that the great majority were totally innocent; almost all were eventually released by one means or another before they completed their terms.[40] It is possible, however, that some of these defendants did commit some acts of sexual molestation, incidents that later grew into implausible and impossible allegations as the children were interviewed repeatedly by prosecutors and therapists. We have included only one of these cases in our database, a case in which we know that all of the supposed victims now say that they were never molested in the first place—that the crime never occurred. Otherwise, none of the wrongfully convicted victims of this terrible episode in American legal history are included on this list because they have not been officially exonerated.

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[40] In the largest set of ritual sex abuse cases, the Kern County sex abuse rings prosecutions, at least eighteen of the twenty-six convicted defendants have had their convictions reversed and the charges dismissed—in at least seven cases, for gross prosecutorial misconduct. Prosecutors declined to retry the cases in which convictions were reversed. The Kern County defendants, who had been sentenced to as many as 100 years in prison, served between three and fifteen years. John Stoll is one of the very last defendants to remain in prison, and by all accounts, the person who has served the longest time of all those convicted in ritual sex abuse cases across the country; he received a hearing in February 2004, to determine whether he should receive a new trial. Four of the six children, now adults, who testified against him, now say the abuse never happened. A fifth has no memory either way. *See* John Johnson, *New Hearing Is Granted in Child Abuse Conviction*, L.A. TIMES, Dec. 21, 2003, at B6; *Kern County Justice; A Tragic Chapter in Our Justice System Closes with the Release of Four People from Prison 14 Years After Being Convicted of Child Molestation*, FRESNO BEE, Aug. 16, 1996, at B4; Tom Kertscher, *Molestation Hysteria Left Sad Legacy; Painful Lessons Learned in Overzealous Kern County Prosecutions*, FRESNO BEE, Sept. 10, 1995 (Telegraph), at A1.

In fact, nearly all of those initially convicted in the childcare and ritual sex abuse cases have since been reversed, and prosecutors have declined to retry defendants in almost every case. *See Frontline: Innocence Lost*, *supra* note 38 (all charges against Bob Kelly, the last remaining defendant in the Little Rascals case, were dropped in 1999) (supplemental information *available at* http://www.pbs.org/wgbh/pages/frontline/shows/innocence/etc/ chronology.html); *id.* (conviction of Kelly Michaels, a twenty-three year old day care worker, charged with 115 counts of child sexual abuse overturned in 1993) (supplemental information *available at* http://www.pbs.org/wgbh/pages/frontline/shows/innocence/etcother.html#3); *Update on the Wenatchee, Washington, Child Abuse Case* (National Public Radio broadcast, Aug. 2, 2001) (of the eighteen individuals convicted, all have had their convictions overturned); *When Children Accuse, Who to Believe?* (ABC News Broadcast, Jan. 28, 1999) (across the country, at least 140 people—about three-quarters of the accused in wave of ritual sex abuse cases—have been acquitted, had their convictions overturned or charges against them dropped).

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IV. EXONERATIONS BY STATE

The exonerations we found occurred in thirty-eight states and the District of Columbia, but the top four states—Illinois, New York, Texas and California—account for more than 40% of the total (144 of 340), and the top ten (those four plus Florida, Massachusetts, Louisiana, Pennsylvania, Oklahoma and Missouri) include two thirds (226/340). See Table 2.

Table 2

Exonerations by State

Rank	State	Number of Exonerations
1	Illinois	54
2	New York	35
3	Texas	28
4	California	27
5	Louisiana	17
6	Massachusetts	16
7	Florida	15
8	Pennsylvania	13
9	Oklahoma	11
10	Missouri	10

This ranking corresponds in part to the sizes of state populations. The five most populous states—California, Texas, New York, Florida and Illinois, in that order—include five of the seven with the largest numbers of recent exonerations. These numbers may also be influenced by the use of the death penalty; all but two of the top ten states have—or, in the case of Illinois, recently had—large death row populations. It is also probably no coincidence that the two leading exoneration states, Illinois and New York, are home to the two largest and best established organizations in the United States that work to identify false convictions and obtain exonerations—The Center on Wrongful Convictions at Northwestern University Law School in Chicago, and The Innocence Project at Cardozo Law School in New York City; that these two states were the first to authorize post-conviction DNA testing for inmates;[41] and that both include major metropolitan media markets in which the issue of wrongful conviction has received extensive coverage.

[41] BARRY SCHECK ET AL., *supra* note 20, at 360.

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V. SOME OF THE CAUSES OF THE FALSE CONVICTIONS

One way to think of false convictions is as a species of accidents. Like many accidents, they are caused by a mix of carelessness, misconduct, and bad luck. We don't claim to be able to describe with any precision the causal mechanisms that produce these tragic errors, but even with the limited information at our disposal, some basic patterns are apparent.

1. RAPES AND MURDERS: MISTAKES VERSUS LIES

The most common cause of wrongful convictions is eyewitness misidentification. This is not news. It was first shown in 1932 by Professor Edwin Borchard in his classic book *Convicting the Innocent*,[42] and it is apparent again in our data: In 64% of these exonerations (219/340), at least one eyewitness misidentified the defendant. The pattern, however, is heavily lopsided. Almost 90% of the rape cases (107/121), but only half of the homicides (102/205), included at least one eyewitness misidentification.

The gap in the frequency of misidentification reflects a fundamental difference between police investigations of rapes and of homicides. In a non-homicidal rape there is always a surviving witness—the victim—and she is usually able to attempt to identify the criminal. As a result, almost all the false rape convictions that led to exonerations involved mistakes that occurred in that identification process. A murder, on the other hand, frequently leaves no surviving eyewitness, which forces the police to search for other types of evidence—evidence that is usually more difficult to obtain than eyewitness identifications.

Because the stakes in murder cases are so high, the police invest far more resources in investigating them than they devote to other crimes of violence.[43] This is as it should be. The main effect is that the clearance rate for murders is higher than for other crimes—killers are more likely than rapists to be caught and brought to justice.[44] These same high stakes, however, can also produce false evidence. The real perpetrator is at far greater risk, and far more motivated to frame an innocent person to deflect attention, for a murder than for a rape—particularly if he might be sentenced to death. Co-defendants, accomplices, jail house snitches and other police informants, can all hope for substantial rewards if they provide critical evidence in a murder case—even false evidence—especially if the police are

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[42] EDWIN M. BORCHARD, CONVICTING THE INNOCENT, at xiii (1932).

[43] Gross, *supra* note 22, at 138.

[44] For example, the FBI estimates that in 2002 the clearance rate for reported murders in the United States was 64%, for reported rapes 45%, for reported burglaries 13%, and for reported auto thefts 14%. FEDERAL BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES 2002, UNIFORM CRIME REPORTS 222 fig.3.1 (2003).

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desperate for leads.[45] The police themselves may be tempted to cut corners and falsify evidence to convict a person they believe committed a terrible murder.[46]

In 71% of the rape exonerations the victims and all other eyewitnesses who testified were strangers to the falsely convicted defendant. By contrast, 85% of exonerated murder defendants knew the victim, or at least one supposed eyewitness, before the crime. The central problem in most rape investigations that go wrong is the mistaken identification of a defendant who is otherwise unknown to those involved. The common problem in the investigations of the murder cases we studied is deliberately false evidence implicating an innocent defendant with a known relationship to the victim or the lying witness.

An eyewitness misidentification by a stranger is easy to spot, once you know that the person identified is innocent. Detecting a deliberate lie is harder; there may be no simple way to tell if a statement was false, and if so whether the falsehood was intentional. As a result, our information on perjury understates the extent of the problem. Even so, known perjury is a surprisingly common feature of the trials that led to the convictions of these exonerated defendants.

In at least sixty of the 340 exonerations, the defendant was deliberately falsely accused at trial by someone who claimed to have witnessed the crime: a supposed victim, participant, or eyewitness. About a quarter of these false accusations (14/60) occurred in rape cases; in each, the false accuser was a complaining witness who lied about the occurrence of the crime. Almost three-quarters of the exonerated defendants who were falsely accused were convicted of murder (44/60). In two cases the false accusers were surviving victims; most of the rest were (or claimed to be) participants in the crimes. In other words, deliberate false accusations were a major cause of misidentification in murder exonerations. In 43% of the murder exonerations in which the defendant was misidentified by one or more eyewitnesses (44/102), we also have information that at least one of those witnesses misidentified the defendant *deliberately*.

In five of the exonerations that we have studied there are reports of perjury by police officers. In an additional twenty-four we have similar information on perjury by forensic scientists testifying for the government. In at least seventeen exoneration cases the real criminal lied under oath to get the defendant convicted; in at least ninety-seven cases a civilian witness who did not claim to be directly involved in the crime committed perjury—

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[45] Gross, *supra* note 22, at 138.

[46] *Id.* at 133-35.

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usually a jailhouse snitch or another witness who stood to gain from the false testimony.

Overall, in 43% of all exonerations (146/340) at least one sort of perjury is reported—including 56% of murder exonerations (114/205), and 25% of rape exonerations (30/121). See Table 3.

Table 3

*Causes of False Convictions for Exonerations in Murder and Rape Cases**

	Murder (205)	Rape (121)
Eyewitness Misidentification	50%	88%
Reported Perjury	56%	25%
False Confession	20%	7%

* The columns add up to more than 100% because some false convictions had multiple causes.

2. FALSE CONFESSIONS: YOUTH AND MENTAL DISABILITY

In fifty-one of the 340 exonerations between 1989 and 2004—15%—the defendants confessed to crimes they had not committed. In most of these cases it is apparent that the false confessions were coerced by the police.[47] One defendant falsely confessed to larceny; nine falsely confessed to rape; and forty-one—80%—falsely confessed to murder. See Table 3. Twenty percent of murder exonerations involve false confessions, but only 7% of rape exonerations, and that comparison understates the difference. Five of the false confessions in rape exonerations—more than half of the total—were in the Central Park jogger case in New York City in 1989. But when those confessions were taken the investigation was being treated as a homicide because the victim was in a coma from her injuries and was expected to die.

False confessions don't come cheap. They are usually the product of long, intensive interrogations that eventually frighten or deceive or break the will of a suspect to the point where he will admit to a terrible crime that he did not commit. Some of these interrogations stretch over days and involve relays of police interrogators. Not surprisingly, this expensive proce-

[47] In over half the false confessions (28/51) coercion is apparent from the record we have; in about 10% (5/51) it appears that the false confession was volunteered; and in about a third (18/51) we have too little information to say.

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dure is generally reserved for the most serious cases where there is no other evidence sufficient to convict—which usually means a murder with no surviving eyewitnesses.

False confessions are heavily concentrated among the most vulnerable groups of innocent defendants.[48] Thirty-three of the exonerated defendants were under eighteen at the time of the crimes for which they were convicted, and fourteen of these innocent juveniles falsely confessed—42%, compared to 13% of older exonerees. Among the youngest of these juvenile exonerees—those aged twelve to fifteen—69% (9/13) confessed to homicides (and one rape) that they did not commit.

False confessions are even more prevalent among exonerees with mental disabilities.[49] Our data indicate that sixteen of the 340 exonerees were mentally retarded; 69% of them—over two thirds—falsely confessed. Another ten exonerees appear to have been suffering from mental illnesses; seven of them falsely confessed. Among all other exonerees (some of who may also have suffered from mental disabilities of which we are unaware) the false confession rate was 11% (33/313). Overall, 55% of all the false confessions we found were from defendants who were under eighteen, or mentally disabled, or both. Among adult exonerees without known mental disabilities, the false confession rate was 8% (23/272). See Table 4.

Table 4

False Confessions by Age and Mental Disability

Age and Mental Status of the Exonerated Defendants	Proportion Who Falsely Confessed
Juveniles - under 18 at time of crime *(33)*	**42%**
12-15 year olds *(13)*	**69%**
16-17 year olds *(20)*	**25%**
Mentally Ill or Mentally Retarded *(26)*	**69%**
Adults Without Known Mental Disabilities *(272)*	**8%**

False confessions have more impact on false convictions than their numbers suggest, since quite often they implicate other innocent people in addition to the confessor. Terry Harrington, a seventeen-year old African

[48] Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891, 963 (2004).

[49] *See id.* at 971.

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American charged with killing a white retired police captain, did not confess to murder in Iowa in 1978—but his sixteen-year-old friend Kevin Hughes did, and that confession, which was later repeatedly retracted, led to false murder convictions for Harrington and his co-defendant Curtis McGhee. Hughes was never prosecuted.[50] Similarly, in 1978 Paula Gray, a seventeen-year-old borderline retarded girl, falsely confessed to participating in a double murder and rape in Chicago, and implicated four innocent men. After she recanted, she was prosecuted for rape, murder and perjury, and sentenced to fifty years in prison. The four men she named were also all convicted, and two were sentenced to death. All five were exonerated after DNA testing cleared the men of the rape; the real killers have since been identified, linked to the rape by DNA, and confessed.[51] And in 1988 in Austin, Texas, Christopher Ochoa falsely confessed to rape and murder in order to avoid the threat of the death penalty—and along the way falsely implicated his friend, Richard Danzinger; both were sentenced to life in prison, and both were exonerated by DNA in 2001, three years after the real criminal sent a letter to Governor Bush confessing to these same crimes.[52]

VI. RACE

1. RACE AND RAPE

Over two-thirds of the exonerated defendants we studied were minorities, 55% African Americans and 13% Hispanics. Sadly, this is not altogether surprising; blacks and Hispanics comprise about 62% of all American prisoners. But only part of this pattern can be explained by the pervasive over representation of minorities in general, and African Americans in particular, among those arrested and imprisoned for serious crimes.

At of the end of 2002, 35% of state prisoners serving sentences for murder were white, 48% were black and 17% were Hispanic.[53] The proportions of exonerations in murder cases are very similar: 34% whites, 50% Blacks and 16% Hispanics.

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[50] *See* Siebert, *supra* note 34, at 1A.

[51] Laura Sullivan, *Three Students Track Down Killers*, BALT. SUN, June 27, 1999, at 1C.

[52] John Cloud, *Guarding Death's Door*, TIME, July 14, 2003, at 46; *Judge Frees Wrongly Convicted Man*, UNITED PRESS INT'L, Jan. 16, 2001; Henry Weinstein, *DNA Testing Clears Texas Murderer and 'Accomplice'*, L.A. TIMES, Oct. 14, 2000, at A10. (In 2003, Ochoa was awarded a scholarship to the University of Wisconsin Law School. *See* Louie Gilot, *Law School Offers Grant to Falsely Imprisoned*, EL PASO TIMES, May 30, 2003, at 1B. Danzinger, tragically, received permanent disabling brain injuries as a result of an attack by another inmate in prison.)

[53] Recalculated from HARRISON & BECK, *supra* note 14, at 10 tbl.15.

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For rape, however, the story is different. A majority of rape prisoners in 2002 were white, 58%; only 29% were black; and 13% were Hispanic.[54] But for rape exonerations the proportions are reversed: almost two thirds of the defendants are black, 64%; only 28% are white; and 7% are Hispanic. See Table 5.

Table 5

Race of Exonerated Defendants, by Crime

	Murder (193)	Rape (107)	All Cases (311)
White	34%	28%	32%
Black	50%	64%	55%
Hispanic	16%	7%	13%
Other	1%	0%	1%
TOTAL*	101%	99%	101%

* The totals may not add up to 100% because of rounding error.

Why are blacks so greatly over-represented among those defendants who were falsely convicted of rape and then exonerated, mostly by DNA? The key is probably the race of the victims. We know the race of the victim for 75% of the sixty-nine rape exonerations with black defendants, and in 75% of those cases the victim was white. (We see a similar pattern, on a smaller scale for Hispanic exonerees: we know the race of the victim for seven of the eight who were falsely convicted of rape, and in four of those cases the victim was white.) Most women who are raped are victimized by members of their own racial or ethnic groups. Inter-racial rape is uncommon, and rapes of white women by black men in particular account for well under 10% of all rapes.[55] But among rape exonerations for which we know

[54] *Id.* The proportion of whites is slightly higher among those arrested for rape—63% in 2001. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 356 tbl.4.10 (2002), *available at* http://www.albany.edu/sourcebook/pdf/section4.pdf (statistics recalculated).

[55] Black offenders accounted for an average of approximately 10% of all rapes and sexual assaults of white victims between 1996 and 2002. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1996-2002, *available at* http://www.ojp.usdoj.gov/bjs/abstract/cvusst.htm (based on the National Criminal Victimization Survey; the statistic fluctuates from year to year because for each year it is extrapolated from a sample of ten or fewer survey responses). Another Bureau of Justice Statistics study—based on the National Incident-Based Reporting System, reports that in 88% of rapes the victim and the offender are of the same race, and that the victims of rape are approxi-

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the race of both parties, almost exactly half (39/80) involve a black man who was falsely convicted of raping a white woman.

There are many possible explanations for this disturbing pattern. Of all the problems that plague the American system of criminal justice, few are as incendiary as the relationship between race and rape. Nobody would be surprised to find that bias and discrimination continue to play a role in rape prosecutions. Still, the most obvious explanation for this racial disparity is probably also the most powerful: the perils of cross-racial identification. Virtually all of the inter-racial rape convictions in our data were based, at least in part, on eyewitness misidentifications,[56] and one of the strongest findings of systematic studies of eyewitness evidence is that white Americans are much more likely to mistake one black person for another than to do the same for members of their own race.[57]

2. RACE AND AGE

The juveniles on our list of exonerated defendants are overwhelmingly members of minority groups. Over ninety percent of exonerated defendants who were under eighteen at the time of arrest were black or Hispanic. There are virtually no non-Hispanic white juveniles among the exonerated

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mately evenly divided between whites and blacks. LAWRENCE A GREENFIELD, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, AN ANALYSIS OF DATA ON RAPE AND SEXUAL ASSAULT: SEX OFFENSES AND OFFENDERS 11 (1997), *available at* http://www.rainn.org/Linked%20files/soo.pdf. It follows that the proportion of all rapes that have white victims and black offenders is about 5-6%.

[56] Consider the case of Ronald Cotton, a black man, who was convicted of raping Jennifer Thompson, a white woman in 1985, in Burlington, North Carolina. Thompson was the only eyewitness at the trial, and by all accounts she was very effective. She was absolutely confident of her identification, in part because she spent a considerable amount of time with the rapist and was determined to observe him closely so that she would be able to identify him later on. She was equally confident when Cotton was retried 1987, convicted again, and sentenced a second time to life in prison. Even so, she was wrong. Cotton was pardoned in 1995 after DNA tests proved that he was innocent, and that the real rapist was a different black man, who was in prison on other charges. What makes the case most remarkable is what happened after the exoneration. Ms. Thompson went to great lengths to make amends to Mr. Cotton, and to speak out and publicize the case and the terrible mistake she had made, so others could learn from it—which is why she is identified here by name. *See* Helen O'Neill, *The Perfect Witness*, WASH. POST, Mar. 4, 2001, at F1. *See generally* EDWARD CONNORS ET AL., CONVICTED BY JURIES, EXONERATED BY SCIENCE: CASE STUDIES IN THE USE OF DNA EVIDENCE TO ESTABLISH INNOCENCE AFTER TRIAL 43-44 (1996), *available at* http://www.ncjrs.org/pdffiles/dnaevid.pdf.

[57] Christian A. Meissner & John C. Brigham, *Thirty Years of Investigating the Own-Race Bias in Memory for Faces: A Meta-Analytic Review*, 7 PSYCHOL., PUB. POL. & L. 3-35 (2001).

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defendants we have studied—three out of 340, less than 1% of the total. See Table 6.

Table 6

Juvenile Exonerations by Race and Crime

	Juvenile Murder Exonerations (23)	Juvenile Rape Exonerations (7)	All Juvenile Exonerations (32)
White	13%	0%	9%
Black	78%	86%	78%
Hispanic	9%	14%	13%
TOTAL	100%	100%	100%

As we have seen, minorities, and African Americans in particular, are over-represented among all exonerations, especially the rape cases. Even so, white defendants account for 34% of all murder exonerations and 28% of all rape exonerations—but only 1% of *juvenile* murder exonerations, and not a single *juvenile* rape exoneration. A majority of the teenagers arrested for these two crimes are white—62% of juvenile rape arrests in 2002, and 46% of juvenile murder arrests[58]—and yet white juveniles are all but entirely absent from our list of exonerees. Why?

In part, this disparity reflects general racial patterns in juvenile justice in America. Many juveniles who are arrested are not prosecuted at all but returned to the custody of their parents or guardians for less formal discipline; among those who are prosecuted, only a small fraction are treated as adults and punished accordingly. The juvenile exonerees in our data are all drawn from the small group of juvenile suspects who are prosecuted as adults and sentenced to long terms in prison—or, in three cases, to death. Race plays a major role at each stage of the sorting process that produces this rarified group.

For example, although only 27% of *all juveniles arrested* in the United States in 1990, 1992 and 1994 were black,[59] a Department of Justice study

[58] FED. BUREAU OF INVESTIGATION, *supra* note 15, at 252 tbl.43.

[59] This statistic reflects the average of the numbers reported by the FBI in its annual *Crime in the United States, Uniform Crime Reports* for 1990, 1992 and 1994. *See* FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES 1994: UNIFORM CRIME REPORTS 234 tbl.42 (1994); FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES 1992: UNIFORM CRIME REPORTS 237 tbl.42 (1992); FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES 1990: UNIFORM CRIME REPORTS 192-93 tbl.38 (1990). These three years were used to be consis-

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found that 41% of *defendants in juvenile courts* in those three years were black, and 67% of *juveniles prosecuted as adults* were black.[60] In other words, white teenagers who are arrested by the police are less likely than blacks to be prosecuted in juvenile court, and much less likely to be prosecuted in felony court as adults.

All but one of the juvenile exonerees in our database were convicted, as adults, of rape or murder. For these two extremely serious crimes, the racial winnowing of juvenile offenders is severe. In 1990-94, 59% of murder defendants *in juvenile court* were white and 36% were black; but among juvenile murder defendants who were *tried as adults* the proportions were more than reversed: 69% were black and only 25% were white.[61] For rape, the proportion of blacks went from 44% of juveniles arrested,[62] to 53% of those prosecuted for rape in juvenile court, to 72% of juvenile rape defendants prosecuted as adults.[63] There are, no doubt, false convictions among the cases that remain in juvenile court, and a substantial proportion of them may involve white defendants. Like other false convictions with comparatively light sentences, these are errors that are unlikely to ever be corrected by formal exoneration. None appear in this database.

Even so, 25% of juvenile murder defendants prosecuted in adult courts in the early 1990s were white, as were 28% of juvenile rape defendants[64]—but only 9% of juvenile exonerees. The disparity could be due to chance; the number of cases is not large. It could also be due to systematic racial differences in the process of investigation. Black juvenile rape defendants, like all black rape defendants, face a special danger of cross-racial misidentification. In many of the juvenile murder exonerations (and in some of the rapes) the primary evidence against the defendant was a false confession. Eight-five percent of the juvenile exonerees who falsely confessed were African American (11/13). It may be that police officers are more likely to use coercive interrogation tactics on black juveniles than on white juveniles—that would explain the high proportion of blacks among the innocent

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tent with the sample in a 1998 Bureau of Justice Statistics report on juvenile defendants in criminal courts. *See* FED. BUREAU OF INVESTIGATION, *supra* note 15, at 252 tbl.43.

[60] GERARD A. RAINVILLE & STEVEN K. SMITH, BUREAU OF JUSTICE STATISTICS, JUVENILE FELONY DEFENDANTS IN CRIMINAL COURTS: SURVEY OF 40 COUNTIES, 1998, at 1 (2003), *available at* http://www.ojp.usdoj.gov/bjs/abstract/jfdcc98.htm. Data for the report were combined from the Bureau of Justice Statistics's 1990, 1992, and 1994 State Court Processing Statistics project.

[61] *See id.*

[62] *See* sources cited *supra* note 59.

[63] *See supra* note 60.

[64] *See id.*

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juveniles who falsely confessed—but there is no way to tell directly from these data.

The broad picture, however, is no mystery. We have a dual system of juvenile justice in this country, one track for white adolescents, a separate and unequal one for black adolescents. The sharp racial differences in exonerations of falsely convicted juvenile defendants are just one manifestation of that racial divide.

SUMMARY AND CONCLUSION

We can't come close to estimating the number of false convictions that occur in the United States, but the accumulating mass of exonerations gives us a glimpse of what we're missing. We have located 340 exonerations from 1989 through 2003, not counting hundreds of additional exonerated defendants in the Tulia and Rampart scandals and other mass exonerations, or more than seventy convicted childcare sex abuse defendants. Almost all the individual exonerations that we know about are clustered in two crimes, rape and murder. They are surrounded by widening circles of categories of cases with false convictions that have not been detected: rape convictions that have not been reexamined with DNA evidence; robberies, for which DNA identification is useless; murder cases that are ignored because the defendants were not sentenced to death; assault and drug convictions that are forgotten entirely. Any plausible guess at the total number of miscarriages of justice in America in the last fifteen years must be in the thousands, perhaps tens of thousands.

We can see some clear patterns in those false convictions that have come to light: who was convicted, and why. For rape the dominant problem is eyewitness misidentification—and cross-racial misidentification in particular, which accounts for the extraordinary number of false rape convictions with black defendants and white victims. For murder, the leading cause of the false convictions we know about is perjury—including perjury by supposed participants or eyewitnesses to the crime who knew the innocent defendants in advance. False confessions also played a large role in the murder convictions that led to exonerations, primarily among two particularly vulnerable groups of innocent defendants: juveniles, and those who are mentally retarded or mentally ill. Almost all the juvenile exonerees who falsely confessed are African American. In fact, one of our most startling findings is that over 90% of all exonerated juvenile defendants are black or Hispanic, an extreme disparity that, sadly, is of a piece with racial disparities in our juvenile justice system in general.

The death penalty runs through this story as a major theme. Death sentences provide a window on the underlying rate of false convictions, one

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of two such windows. Rapes are vastly over represented among exonerations because DNA identification enables us to detect errors in rape convictions that were obtained before that technology became available. Death sentences are over represented—by an even greater margin—in part because we work hard to detect and correct errors in judgments that could lead to the execution of innocent defendants. That poses a terrible question: How many additional hundreds or thousands of false convictions would we have discovered if we had worked just as hard to find them among non-capital murders, or among non-homicidal felonies?

The extraordinary rate of exoneration of death-sentenced defendants also raises deep questions about the accuracy of our system for determining guilt in capital cases. Exonerations from death row are more than twenty-five times more frequent than exonerations for other prisoners convicted of murder, and more than 100 times more frequent than for all imprisoned felons. This huge discrepancy must mean that false convictions are more likely for death sentences than for all murder cases, and much likely than among felony convictions generally—an unavoidable and extremely disturbing conclusion.

Finally, the frequency of exonerations from death row is a chilling reminder of the consequences of these false convictions. If we managed to identify and release 75% of innocent death-row inmates before they were put to death, then we also executed twenty-five innocent defendants from 1989 through 2003. If, somehow, we have caught 90% of false capital convictions, than we *only* executed eight innocent defendants in that fifteen-year period. Is it conceivable that a system that produces all these horrendous errors in the first place could also detect and correct 90% of those errors, after the fact? And considering the number of mistakes in capital trials, even an unlikely 90% exoneration rate would be disturbingly low.

Worse yet, the high rate of death-row exoneration is limited to defendants who have been *sentenced to death.* Approximately half of all defendants who are convicted at capital trials are sentenced to life imprisonment instead; and of those who are sentenced to death most are resentenced to life imprisonment at some point in the process of review; about 40% have their convictions or sentences reversed on their first appeal, and most of them are ultimately resentenced to life. [65] In other words, the bulk of defendants at capital trials are subject to the frightening risk of error that plagues capital prosecutions—they are as likely as other capital defendants to be convicted of murders they did not commit—but they get little or none

[65] Andrew Gelman, James S. Liebman, Valerie West, & Alexander Kiss, *A Broken System: The Persistent Patterns of Reversals of Death Sentences in the United States,* 1 J. EMPIRICAL LEGAL STUD. 209, 214 (2004).

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of the special care that is devoted to re-examining death sentences after conviction. In all likelihood, the great majority of innocent defendants who are convicted of capital murder are neither executed nor exonerated but sentenced to prison for life, and then forgotten.

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APPENDIX

EXONERATIONS, 1989 -2003, BY STATE AND YEAR OF EXONERATION

(Exonerations based on DNA Evidence marked by *)

ALABAMA
Walter, McMillian, 1993
Randall Padgett, 1997
Michael Pardue, 1997
Dale Mahan, 1998*
Ronnie Mahan, 1998*
Gary Drinkard, 2001
Medell Banks, 2003

ARIZONA
Jimmy Lee Mathers, 1990
Ray Girdler, Jr., 1991
James Robison, 1993
Robert Charles Cruz, 1995
Larry Youngblood, 2000*
Ray Krone, 2002*

CALIFORNIA
Patrick Croy, 1990
Clarence Chance, 1992
Melvin Mikes, 1992
Benny Powell, 1992
Mark Diaz Bravo, 1993*
Frederick Daye, 1994*
Thomas Merrill, 1995
George Franklin, 1996
Kevin Green, 1996*
Troy Lee Jones, 1996
Jeffrey Modahl, 1999
Elmer Pratt, 1999
Herman Atkins, 2000*
Arthur Carmona, 2000
David Quindt, 2000
Oscar Lee Morris, 2000
DeWayne McKinnery, 2000
Albert Johnson, 2002*
Gloria Killian, 2002
Kevin Baruxes, 2002
Leonary McSherry, 2002*
Ronald Reno, 2002
Antoine Goff, 2003
Jason Kindle, 2003
Glen Nickerson, 2003
John Tennison, 2003
Quedillis Ricardo Walker, 2003

COLORADO
Alarico Joe "Rico" Medina, 1995

CONNECTICUT
Rickey Hammond, 1992*
Lawrence J. Miller, Jr., 1997
Mark Reid, 2003*

DISTRICT OF COLUMBIA
Edward Green, 1990*

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Anthony Bragdon, 2003

FLORIDA
Robert Cox, 1989
James Richardson, 1989
Derrick Robinson, 1991
Bradley P. Scott, 1991
John Purvis, 1993
Andrew Golden, 1994
Thomas E. Smolka, 1995
Robert Hayes, 1997
Joseph Nahume Green, 2000
Frank Lee Smith, 2000*
Joaquin Jose Martinez, 2001
Jerry Frank Townsend, 2001*
Juan Roberto Melendez, 2002
Tim Brown, 2003
Rudolph Holten, 2003

GEORGIA
Gary Nelson, 1991
Terry Lee Wanzer, 1991
Calvin Johnson, 1999*
Douglas Echols, 2002*
Samuel Scott, 2002*

IDAHO
Charles Fain, 2001*

ILLINOIS
Robert Brown, 1989
Gary Dotson, 1989*
Elton Houston, 1989
Rogelio Arroyo, 1991
Isauro Sanchez, 1991
Ignacio Varela, 1991
Joaquin Verla, 1991
David Dowaliby, 1992
Steven Linscott, 1992*
Ronnie Bullock, 1994*
Joseph Burrows, 1994
Terry Nelson, 1994
Rolando Cruz, 1995*
Alejandro Hernandez, 1995*
Lionel Lane, 1995
James Newsome, 1995
Kenneth Adams, 1996*
Ralph Frye, 1996
Gary Gauger, 1996
Verneal Jimerson, 1996*
Richard Johnson, 1996*
Carl Lawson, 1996
Willie Rainge, 1996*
Dennis Williams, 1996*
Donald Reynolds, 1997*
Billy Wardell, 1997*
David Gray, 1999*
Ronald Jones, 1999*
Anthony Porter, 1999
Steven Smith, 1999
John Willis, 1999*
Xavier Catron, 2000
Algie Crivens, 2000
Steve Manning, 2000
Marcellius Bradford, 2001*
Miguel Castillo, 2001
Calvin Ollins, 2001*
Larry Ollins, 2001*
Omar Saunders, 2001*
Rodney Woidtke, 2001
Omar Aguirre, 2002
Alejandro Dominguez, 2002*
Robert Gayol, 2002
Paula Gray, 2002*
Luis Ortiz, 2002
Edar Duarte Santos, 2002
Michael Evans, 2003*
Madison Hobley, 2003

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Dana Holland, 2003*
Stanley Howard, 2003
Leroy Orange, 2003
Aaron Patterson, 2003
Paul Terry, 2003*
Franklin Thompson, 2003

INDIANA
Charles Smith, 1991
James Cameron, 1993
Dwayne Scruggs, 1993*
Jerry Watkins, 2000*
Richard Alexander, 2001*
Larry Mayes, 2001*
John Jeffers, 2002

IOWA
Terry Harrington, 2003

KANSAS
Joe Jones, 1992*
Eddie James Lowery, 2003*

KENTUCKY
William Gregory, 2000*
Larry Osborne, 2002

LOUISIANA
Isaac Knapper, 1991
Gerald Burge, 1992
Roland Gibson, 1993
Hayes Williams, 1997
Curtis Kyles, 1998
Clyde Charles, 1999*
John Thompson, 1999
Shareef Cousin, 1999
Albert Burrell, 2000
Michael Graham, 2000
Dwight LaBran, 2001
Gene Bibbins, 2003*
Gregory Bright, 2003
John Thompson, 2003
Earl Truvia, 2003
Calvin Willis, 2003*
Douglas Dilosa, 2003

MASSACHUSETTS
Harold Sullivan, 1989
Louis Santos, 1990
Marvin Mitchell, 1997*
Donnell Johnson, 2000
Neil Miller, 2000*
Marlon Passley, 2000
Eric Sarsfield, 2000*
Ulysses Rodriguez Charles, 2001*
Angel Hernandez, 2001*
Peter Limone, 2001
Joseph Salvati, 2001
Louis Greco, 2002
Henry Tameleo, 2002
Kenneth Waters, 2001*
Shawn Drumgold, 2003
Dennis Maher, 2003*

MARYLAND
Kirk Bloodsworth, 1993*
Anthony Gray, 1999*
Michael Austin, 2002
Bernard Webster, 2002*

MICHIGAN
Robert Farnsworth, Jr., 2000
Dwight Love, 2001
Eddie Joe Lloyd, 2002*
Kenneth Wyniemko, 2003*

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MINNESOTA
Richard Paul Dziubak, 1989
Keith Bullock, 1992
David B. Sutherlin, 2002*

MISSOURI
Patricia Stallings, 1991
Johnny Lee Wilson, 1995
Steven Toney, 1996*
Clarence R. Dexter, Jr., 1999
Ellen Reasonover, 1999
Eric Clemmons, 2000
Armand Villasana, 2000*
Larry Johnson, 2002*
Joseph Amrine, 2003
Lonnie Erby, 2003*

MISSISSIPPI
Sabrina Butler, 1995

MONTANA
Chester Bauer, 1997*
Jimmy Ray Bromgard, 2002*
Paul D. Kordonowy, 2003*

NORTH CAROLINA
Timothy Hennis, 1989
Ronald Cotton, 1995*
Keith Brown, 1997*
Alfred Rivera, 1999
Lesley Jean, 2001*
Terence Garner, 2002

NEBRASKA
Jeremy Sheets, 2001

NEW JERSEY
Damaso Vega, 1989
David Shepard, 1994*
Earl Berryman, 1997
Vincent James Landano, 1998
McKinley Cromedy, 2000*
John Dixon, 2001*
Clarence Moore, 2001

NEVADA
Roberto Miranda, 1996
Jack Ray Broam, 1998
Jay Cee Manning, 1998

NEW YORK
Charles Dabbs, 1991*
Leonard Callace, 1992*
Shirley Kinge, 1992
Kerry Kotler, 1992*
Terry Chalmers, 1995*
Milton Lantigua, 1996
Victor Ortiz, 1996*
Clarence Braunskill, 1997
Jeffrey Blake, 1998
Luis Kevin Rojas, 1998
Betty Tyson, 1998
Collin Woodley, 1998
Warith Habib Abdal, 1999*
Gerald Harris, 2000
Timothy Crosby, 2000
John Duval, 2000
Lee Long, 2000
James O'Donnell, 2000*
Anthony Faison, 2001
Ruben Montalvo, 2001
Jose Morales, 2001
Charles Shepard, 2001
Colin Warner, 2001
Lamont Branch, 2002
Lazaro Burt, 2002
Hector Gonzalez, 2002*
Sami Leka, 2002

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Angelo Martinez, 2002
Antron McCray, 2002*
Kevin Richardson, 2002*
Yusef Salaam, 2002*
Raymond Santana, 2002*
Kharey Wise, 2002*
Michael Mercer, 2003*
Diomedes Polonia, 2003

OHIO
Dale Johnston, 1990
Brian Piszczek, 1994*
Walter Smith, 1996*
Danny Brown, 2001*
Anthony Green, 2001*
Jimmy Williams, 2001
Timothy Howard, 2003
Gary Lamar James, 2003

OKLAHOMA
Gregory Wilhoit, 1993
Adolph Munson, 1995
Thomas Webb, 1996*
Timothy Durham, 1997*
Robert Lee Miller, Jr., 1998*
Dennis Fritz, 1999*
Ronald Williamson, 1999*
Jeffrey Pierce, 2001*
Arvin McGee, 2002*
David Johns Bryson, 2003*
Calvin Lee Scott, 2003*

OREGON
Santiago Ventura Morales, 1991
Christopher Boots, 1995
Laverne Pavlinac, 1995
Eric Proctor, 1995
John Sosnovske, 1995
Pamela Sue Reser, 2002

PENNSYLVANIA
Matthew Connor, 1990
Bruce Nelson, 1991*
Jerry Pacek, 1991
Jay C. Smith, 1992
Dale Brison, 1994*
Vincent Moto, 1996*
Willie Nesmith, 2000*
William Nieves, 2000
Edward Baker, 2002
Steven Crawford, 2002
Bruce Godschalk, 2002*
Thomas Kimbell, Jr., 2002
Nicholas Yarris, 2003*

RHODE ISLAND
Paul Courteau, 1999
Jeffrey Scott Hornoff, 2003

SOUTH CAROLINA
Perry Mitchell, 1998*
Warren Douglas Manning, 1999

TENNESSEE
Ronnie Marshall, 1996
Robert Spurlock, 1996
Clark McMillan, 2002*

TEXAS
Randall Dale Adams, 1989
Clarence Brandley, 1990
Joyce Ann Brown, 1990
John Skelton, 1990
Muneer Deeb, 1993
Frederico Macias, 1993
Gilbert Alejandro, 1994*
Debbie Loveless, 1994
John Miller, 1994
Kevin Byrd, 1997*

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Ricardo Aldape Guerra, 1997
Ben Salazar, 1997*
Susie Mowbray, 1998
Jason Barber, 2000
A.B. Butler, 2000*
Roy Criner, 2000*
Ronnie Mark Gariepy, 2000
Carlos Lavernia, 2000*
Anthony Robinson, 2000*
Richard Danziger, 2001*
Lacresha Murray, 2001
Christopher Ochoa, 2001*
David Shawn Pope, 2001*
Victor Larue Thomas, 2001*
Calvin Washington, 2001*
Mark Webb, 2001*
Joe Sidney Williams, 2001*
Wesley Tuley, 2002

VIRGINA
David Vasquez, 1989*
Walter Snyder, 1993*
Edward Honaker, 1994*
Troy Webb, 1996*
Earl Washington, 2000*
Marvin Anderson, 2001*
Jeffrey Cox, 2001
Julius Earl Ruffin, 2003*

WASHINGTON
Benjamin Harris, 1997
Mark Clark, 1999
Jeff Schmieder, 1999
Ross Sorrels, 2003

WISCONSIN
Frederic Saecker, 1996*
Anthony Hicks, 1997*
Cornelius Reed, 1997
Mike Piaskowski, 2001
Steven Avery, 2003*
Eugene Glenn, 2003

WEST VIRGINIA
Glen Dale Woodall, 1992*
Dewey Davis, 1995*
Gerald Davis, 1995*
William O'Dell Harris, 1995*
James Richardson, 1999*
Larry Holdren, 2001*