



The Innocent Can Still
Be Found Guilty
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Abstract*

Wrongful convictions target specific groups of people within society in the U.S. The criminal justice and court systems are heavily influenced by the racial biases that surround their integral processes when it comes to convicting citizens of their accused crimes. African American men are heavily targeted when it comes to being convicted of a violent crime that they did not commit, when compared to that of white males. These racial biases can be viewed through careful observation of prior research and shows how these biases have been ingrained within the training police officers undergo. It is also evident that these biases are seemingly present in the minds of victims of violent crimes. As racial stereotypes obscure their sense of judgment when it comes to identifying the perpetrator of the crime from a group of people in a lineup. A lineup is a method of identification that is used in order to help victims identify the offender from a group of people who have been arrested and match a similar description. Statistics on the groups of people that are wrongfully convicted are analyzed, as well as cases that involve the use of different kinds of evidence which have led to wrongful convictions. The systems in place that are meant to fairly convict offenders of their crimes are heavily flawed and outdated as statistics clearly outline the margins of error included within every wrongful conviction that is made. These findings may also suggest which racial group is targeted the most when it comes to being wrongfully convicted as a result of errors created from these flawed systems. Changes in policies such as

* Thank you to Professor Gina James. An early version of this work was submitted as a final project for her course, CJ 330: Research Methods.

making it mandatory for investigators to film interrogation, could reduce the rate of wrongful convictions. However, the enforcement of policy changes can be ignored by those in power, in order to reap the underlying benefits that come with a wrongful conviction.

Introduction

In the United States, the court and criminal systems are praised for taking into account the rights bestowed upon the citizens that reside within the U.S. Despite the court and criminal justice system being able to confidently convict someone of a crime, it would make sense for there to be no errors in these processes, especially in situations that involve violent crimes such as murder or sexual assault crimes. However, there are serious instances in which the innocent are found guilty, and along with this there seems to be specific groups of people that are targeted by the unfair and cruel hand of the law. For the crime of murder, African American men are far more likely to be wrongfully convicted when compared to that of any other race, despite the criminal justice system in place that is purported to extract the truth, and mete out a fair justice system. First, this research paper will investigate the perceived biases in the justice system that lead to wrongful convictions. According to Carmicahel and Kent (2017), people who are perceived as minorities are associated with a sense of danger and may come off as a potential threat. This reflects U.S history with the enslavement of African Americans, segregation, and Jim Crow laws. Throughout this era, racial stereotypes were being formed and implemented in every aspect of society. Thus, resulting in African American men being at higher risk of being treated poorly and punished by the law for a crime that they did not commit. “The rate of official misconduct is considerably higher among murder exonerations with black defendants than those with white

defendants, 76% compared to 63%” (Gross et al. 2017, p. 6). These procedures that decide and convict criminals are viewed as being reliable and sacrosanct by many; however, there are racial biases ingrained within every aspect of the criminal and court systems within the U.S. Secondly, this research paper will examine how an archaic justice system along with racial biases, contribute to an unfair justice system that disproportionately penalizes African Americans. The current criminal procedural process is very flawed and provides enough space for genuine human error, thus leading to a potential wrongful conviction. Aside from people that are convicted due to genuine human error, there are individuals who have been found guilty of a crime solely due to the fact that they may “resemble” racial stereotypes that are founded and rampant throughout all areas of the criminal justice system and even society. Finally, this paper will explore potential changes that could be made in order to prevent wrongful convictions.

While there are several improvements that could be made to the criminal justice system which would result in more accurate convictions, the willingness to adopt new policies and training is up to the people in power. This may include making it mandatory for every department to make it required for integrations to be recorded, as this simple suggestion is not in place in several states. By having potential solutions needing to be approved by those who hold the power to change policies, there are various political and racial motivations these powerful individuals uphold which result in wrongful convictions that end up hurting African American men the most. Racial stereotypes are deeply ingrained within every aspect of the criminal justice system. By not making any changes to policy or law enforcement training, these racial stereotypes will continue to heavily influence the processes that lead up to the false conviction of African American men for violent crimes in the U.S.

Literature Review/Racial Biases Ingrained Within Policing

In the U.S, the criminal justice system has been historically riddled with racial biases and stereotypes that tend to burden the lives of people of color. This is no different from the way that the current systems in today's society treats people of color, as this is most evident with the way that African American men are unfairly treated through the criminal justice system. Like with any criminal incident someone is arrested, given a trial or plea deal, then is convicted, and finally they are given a sentence. However, this process does not work fairly for everyone, as African American men are not only facing the law, but they also face an unjust system that is heavily influenced by these historic and unfair racial biases and stereotypes. A wrongful conviction is essentially manifested prior to an arrest even being made as society has always been influenced by racial stereotypes that portray African Americans as some kind of threat to their well being. This is evident through historical statutes such as with Jim Crow laws, segregation, and slavery. "The perceived threat posed by minority populations' result in support for coercive social control efforts that largely target street crimes committed by minority groups" (Carmichael & Kent, 2017, p. 62). Even before anyone is arrested, African Americans along with others who are viewed as being part of a "minority group," are at a much greater risk of being arrested for any behavior they commit; as police are heavily convinced to strictly police and monitor areas with a much larger minority population. With there being more of a police presence surrounding the neighborhoods of African Americans when compared to that of White individuals, it is clear that African Americans are at a much higher risk of being detained and possibly put on trial for a crime that they did not commit. With these racial biases still present within and outside of the criminal justice system, African

Americans who are exonerated are treated less fairly throughout the duration of their sentence, when compared to the White prisoners who have been exonerated. According to Gross et al. (2017) black defendants faced more unjust treatment as 76% of black defendants were treated poorly when compared to that of the 63% of white exonerees who also faced unfair treatment from other authority figures. According to Albrecht et al. (2022) this unfair treatment may include harassment such as ignoring genuine legal questions and possibly even establishing a sentence solely based on race. These displays of oppression mirror the racial biases and stereotypes that may be used by those in power who will treat African American exonerees with much less care, prior to even recognizing that they may be innocent. Accompanying this with already overpoliced Black neighborhoods, it becomes evident that African Americans will always have a higher risk of being the victim of a wrongful conviction. Due to the racial stereotypes ingrained within society, African Americans are already viewed as a threat that needs further policing, which in turn will lead to more unfair treatment once they have been unjustly incarcerated. Racial biases and stereotypes play a role in the wrongful convictions of African American men; however when combined with a flawed and outdated system, the chance of being wrongfully convicted increases drastically.

Flawed and Outdated System

With any system that is created; with the intent of being used on a daily basis and as well as being heavily relied upon, mistakes and errors of any kind are bound to occur throughout its many different processes. This can be seen with how the current criminal justice system has been operating as there are mistakes such as those of human error or even loopholes within the system which allow for

potentially crucial errors to occur that possibly lead towards the wrongful conviction of someone who is innocent. With very serious cases that involve violent personal crimes such as with sexual assault, the need for accurate evidence is vital as it is important that these violent cases are solved accurately, as well as setting up a fair trial for a defendant. Surprisingly, as noted by Free and Ruesink, (2012) it is disturbing that errors committed by witnesses are present within about 93 percent of rape cases. Not only is this high number of mistakes alarming, but it also stems from the fact that within these errors made by witnesses, Free and Ruesink also make note that these errors come as a result of problems that derived during the process that involves cross-racial identification. With a high volume of errors coming from witnesses, the criminal justice system will still rely on its courts to use these witness testimonies that clearly cannot always be accurate. It is also disturbing that with such a high rate for inaccuracy when it comes to using witnesses for evidence, they inaccurately identify the offender a majority of the time. This coincides with the previously mentioned idea of there being racial biases and stereotypes in play that can lead towards a potential wrongful conviction. Carmichael and Kent, (2017) suggest that clear legislative changes need to be made as individuals cannot be blamed for these wrongful convictions, but rather the crucial mistakes that result in wrongful convictions reflect systemic errors. These systemic errors have originated from the outdated criminal justice system that is still relying on the witness testimonies of those who are influenced by their perceived racial biases and stereotypes.

When using evidence in a trial, courts could begin to change the way that they use witness testimonies as people's memories can prove to be a major factor when it comes to how reliable their

testimony may be. According to Kleider-Offutt et al. (2017) people's memory can be hazy, thus they will choose someone who resembles the actual offender of a crime. This results in misidentification and the potential conviction of someone who is innocent. It is clear that the criminal justice system is flawed with its continuous use of testimonies from witnesses who have faulty memories. With this in mind, it is not surprising that wrongful convictions exist within a system that strives to gain the truth and apply fair punishments on those who break the law. As people who are convicted for violent crimes that they did not commit struggle to maintain their innocence, those who are innocent that are disputing drug related charges face a similar scenario.

DNA evidence has become much more commonly used and by many, is now seen as a standard use of evidence that is "reliable." Even with the rise of DNA evidence being used in cases across the country, it can be difficult for the use of DNA evidence to be used in favor of the defendant, which could be used in order to prove innocence; however, this is overlooked. Saber et al. (2022) have mentioned that it can be a lot harder for a defense team to prove the innocence of someone, through the use of DNA evidence, who is facing drug related charges as opposed to someone who is facing crimes relating to those that are violent. This is yet another flaw that pertains to the criminal justice system as it overlooks those who are being charged with crimes that are not considered to be violent. DNA evidence can at times be extremely reliable when it comes to proving someone's innocence or guilt, however when it comes to people who face drug related charges, DNA evidence is limited. Thus, there is a higher chance for those who are innocent of a drug related crime, to face a verdict of guilty for a crime of which they did not commit.

It has become evident that within the criminal justice system there are processes which outline the potential for crucial errors which could be made and result in the conviction of someone who is innocent. The use of witness testimonies can be heavily clouded by the racial biases and stereotypes that influence the decisions some of these individuals will make who just so happen to be called upon and relied on when they are expected to provide evidence in a court of law. With their decisions being influenced by such biases, their evidence can be faulty and inaccurate which will lead towards a wrongful conviction. Witness testimonies can also simply become inaccurate through the faulty memory of someone who is called to be a witness in a trial. With their fault memory being a factor, they will then rely on what they believe to be the most likely option, which oftentimes can be far from the truth when it comes to picking who was really involved in the crime. Not only is it witness testimonies that can help with the conviction of someone who is innocent, but DNA based evidence can leave the innocent stranded when it comes to being convicted for drug related charges; DNA evidence can be overlooked and harder to find when it comes to being used as a possible defense for someone who is innocent of the drug charges they are being accused of. With evidence being used and or overlooked, the likelihood for wrongful convictions continues to exist as the criminal justice system will continue to employ these methods when it comes to the trial of someone who is innocent.

Ignoring Change

Based on the review literature, it is clear that change is needed in order to prevent any further wrongful convictions from occurring in the U.S. Yet, there are several states and police departments which refuse to strive for any change that could help with making

the convicting process more reliable and dependable. These motives may consist of wanting to maintain power and a particular image that pertains to the values of a community that does not want to push for legislative change that could help with convicting people who are truly guilty of their crimes. Carmichael and Kent, (2017) suggest that it is rather surprising that there are not that many states who make it mandatory for officers and investigators to film police interrogations, even though the cost for making such a policy mandatory would be so little. The interrogation process can at times play a major role when it comes to someone being convicted for a crime that they did not commit, as with the wrong intentions, someone could be easily persuaded into confessing and or pleading guilty for a crime that they did not commit. This is why it would be vital for change to occur, thus making it mandatory for every state to institute a policy in which officers and investigators are required to film any interrogations that are made against the defendant. As noted by Carmichael and Kent, it would cost departments very little to push for such a change, but avoiding this change and pursuing the guilty plea very well could be in line for what department heads want. In order to maintain their power and image of being seen as a strong authority figure who arrests the correct offenders, they are aiding in the wrongful conviction of the innocent.

Another instance in which maintaining power plays a crucial role in the wrongful convictions of innocent African American men, has to do with the lack of diversity when it comes to who is in charge of decision making positions within the criminal justice system. Authors Free and Ruesink through their observations have discovered how large of an impact there is when people of color are excluded from positions in the criminal justice system that involve crucial decision to be made when a trial is

occurring. “Nationally, 90 percent of all state and federal judges are white, despite the fact that over 25 percent of the US population is nonwhite” (Free & Ruesink, 2012, p. 196). With power being maintained by mostly white state and federal judges, the lack of diversity will continue to target the innocent who are not white, which will in turn result in further wrongful convictions of African American men. According to Free and Ruesink, (2012) the presence of white prosecutors may also lead to higher chances that people of color are to be rejected from participating as jurors. With even further exclusion on areas that pertain to those who have some say on what is to happen in a trial, people of color are placed in a position where they will face more unfair treatment and conditions as they will have no say on the trial of someone who is potentially innocent.

Change is required in order to prevent any convictions of the innocent and as author Lippman notes, (2011) in order to successfully prevent the conviction of the innocent the three branches of government must work together in order to come up with policies that can bring in change that can prevent wrongful convictions. Even as change may be desired and is possible, there are people in areas of power within the criminal justice system that wish to maintain the same processes that have wrongfully convicted the innocent over several years. Even if change can be simple and cost-efficient, some individuals value their power over the innocent and will continue to convict the innocent as it benefits them. The lack of diversity within these areas of power also must be examined and diversified in order to see a much more fair and true system at work that seeks to convict the guilty and not the innocent.

Opposing Viewpoint

With the issue that pertains to those who are wrongfully convicted of a crime, there is also a critique they face which is that the amount of people who are wrongfully convicted is much smaller than others make it out to be. Even though it is clear that this issue of wrongful convictions exists and must be taken seriously, some scholars protest the need for widespread attention on this matter. With this in mind, there are critiques being made that strive to make it clear to the rest of society that the issue with wrongful convictions is rather minute and that less attention should be focused on the small number of cases of wrongful convictions that occur in the U.S.

According to Cassell, (2018) the estimates of wrongful convictions that occur within the US is a rather small and insignificant figure between 0.0001% and 5%. Cassell presents this figure and makes it clear that as other scholars who devote their time to trying to understand why wrongful convictions occur in the first place, they should become less concerned with the issue as it rarely happens in this country. Wrongful convictions are present and do exist as they typically target people of color, but Cassell makes the claim that even though people are worried about being wrongfully convicted, they should not be worried as this rarely happens at all. This view implies that the criminal justice system does have flaws, however it is extremely rare and should not be considered. Despite this claim, as other studies have shown, wrongful convictions do happen, and are currently still targeting people of color and in particular African American men across the US. This is an issue that simply cannot be overlooked, as the innocent are still suffering the consequences of incarceration.

Proposed Methods

In order to conduct research on why wrongful convictions occur, a method of doing so that would work best would be by looking at several case studies. By looking at case studies of those who have been wrongfully convicted of violent crimes, it can be observed and examined as to how and what steps were taken which could have potentially led to the wrongful conviction. A quantitative case study would work best in order to learn about the process which leads to most wrongful convictions.

While case studies could work best for conducting research that could lead to a better understanding of why wrongful convictions happen, interviews with exonerees can also help greatly in the research for understanding why the innocent may be found guilty. By conducting interviews that are seen as qualitative methods, one can obtain a better understanding straight from the source of someone who is innocent. Possible similarities could arise as more interviews are done with exonerees therefore, and thus a better understanding of why the innocent are found guilty, can be obtained.

Discussion/Findings

Wrongful convictions occur as a result of the racial biases and stereotypes that influence the thoughts and decisions of those in power or are asked to be witnesses in a trial that involves someone who is of color. The conviction of the innocent can also stem from unreliable and flawed methods such as using witnesses who have bad memories or having DNA evidence being difficult to use in certain cases that do not always involve violent crimes. With DNA evidence, it is not that it can be unreliable, it is that it can be overlooked and is much harder to use in order to prove the innocence of someone who is being charged with drug related

crimes. The innocent can also be convicted as those who are in power will ignore and or refuse to pursue any changes that could be made which would help with preventing wrongful convictions. Department heads will avoid such change even if it is cost-efficient, if it means keeping their image and position intact. Also the positions within the criminal justice that focus on bringing potential change and are in charge of certain decisions are obtained mostly by people who are white, and lack diversity. Without a diverse criminal justice system, wrongful convictions can continue to occur throughout the entire US.

Practical Implications

In order to help prevent any future wrongful convictions from occurring, change must be made at several levels within the criminal justice system and outside of it as well. This can be done through education and training which has to have a focus on getting rid of the racial biases and stereotypes some people are taught by those before them. Also regulating and implementing policies that make it mandatory for police officers and investigators to film interrogations as this is a relatively easy fix that does not cost a lot to implement. Lastly, diversifying the positions within criminal justice which are responsible for making crucial decisions that can lead to someone being convicted and sentenced for a crime. This can be seen as a lot of positions such as with judges, prosecutors, and even jurors are mainly white across the U.S. By creating diversity, more perspectives are brought in that could help with the prevention of wrongful convictions.

Gaps in Literature

Areas that require further research in order to help with the overall issue of wrongful convictions has to do with the various ways

women can be targeted and affected by wrongful conviction. According to the Federal Bureau of prisons, the overall population of prison inmates are men which means there is a need for more research to be done on how women are wrongfully convicted. This is crucial as even though they may have a much smaller population size, it is clear that wrongful convictions still occur within the population of women inmates. With this in mind, by recording data and performing case studies of women who have been wrongfully incarcerated, the reasons for them being wrongfully convicted could be further understood. With a better understanding, changes could be implemented that could help with preventing the wrongful conviction of a woman.

Another gap in literature that could be examined even further is how mental illness can play a role with the wrongful conviction of someone who is innocent. People with a mental illness may often be overlooked in today's society, however they must be acknowledged and more research must be done in order to see how many people who are mentally ill have been convicted for a crime that they did not commit. This would require interviews to be done of people who have been exonerated and must also include people who are mentally ill and are currently incarcerated. By conducting interviews with several people who have a mental illness and are incarcerated as well as those who have been incarcerated, a potential pattern could be discovered as to why they may have been found guilty for a crime that they did not commit.

Future Research

By producing more research as to why women are wrongfully convicted, it could bring more attention and possible change which could help with the prevention of wrongful convictions all together for both women and men. By exploring and conducting more

research as to why women are facing wrongful convictions despite their small population size, the flawed criminal justice system can be brought to light and advocating for change would become much more common and appealing for those who were not aware of the issue.

Importance of Continuing Research

With more research being done to explore why people who are mentally ill may face a high chance at being wrongfully convicted for a crime that they did not commit, it can help with providing more information as to how the mentally ill are poorly treated within prison and outside with the rest of society. By filling in this gap of literature, it not only helps with coming up with solutions that could help prevent wrongful convictions, it could help with inspiring more change that could be made that would address the obstacles and challenges the mentally ill face when confronted by officers of the law and other authority figures in general. It can shed a light on how differently these people are treated when compared to others in society who do not suffer from a mental illness.

Conclusion

With case studies and interviews being made public, society will come to learn more about how certain challenges arise when it comes to being a person of color, women, or having a mentally illness, which can produce harsh realities that lead these individuals towards a life of imprisonment. All for simply existing and being found guilty for a crime that they did not commit. By making these research methods and findings available to the public, society will become aware of how flawed and outdated the current criminal justice system is and how even a court system that is viewed by many as sacrosanct, is subject to errors and racial biases that result

in the incarceration of someone who is innocent. With these findings, changes towards training and policies could be made that divert off of the path that is heavily influenced by racial stereotypes and biases, which is what ultimately causes wrongful convictions to occur.

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