

Another Voice / Wrongful conviction

"Eyewitness misidentification testimony was a factor in 74 percent of post-conviction DNA exoneration cases, making it the leading cause of these wrongful convictions."

Ronald Fraser: How just is the justice system in New York?

By Ronald Fraser

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On paper at least, the U. S. Constitution's "due process of law" clause is the citizen's guarantee against wrongful conviction and imprisonment. But once inside a courtroom, all bets are off. Research shows that eyewitness misidentification, false confessions and government use of snitches as witnesses too often put innocent people behind bars.

According to Innocence Project attorneys at the Cardozo School of Law in New York City, courts in 34 states have used DNA testing to reverse more than 230 criminal convictions and free wrongly convicted people who, on average, spent 12 years in prison.

In New York, 24 prior convictions have been nullified. The state's first reversal took place in 1991 setting aside Charles Dabbs' 1984 rape conviction. Evidence against Dabbs included identification by the victim and bogus forensic blood tests. After serving seven years in prison, DNA tests on the victim's underwear proved him innocent.

The latest reversal in New York occurred in 2007 when DNA evidence collected from rape victims in 1985 showed that, after 20 years in prison, a Buffalo man, Anthony Capozzi, was innocent. Capozzi was convicted of two rapes based on identifications by the victims.

"These DNA exoneration cases," says the Innocence Project, "have provided irrefutable proof that wrongful convictions are not isolated or rare events, but arise from systemic defects that can be precisely identified and addressed."

Eyewitness misidentification testimony was a factor in 74 percent of post-conviction DNA exoneration cases, making it the leading cause of these wrongful convictions. And two in five of these eyewitness identifications involved cross-racial identification. Studies have shown that people are less able to recognize faces of a different race than of their own.

Unvalidated forensic evidence played a role in about 50 percent of the wrongful convictions later overturned by DNA testing. Unlike DNA testing, which is based on solid scientific research, according to the project, other forensic techniques used in courtrooms, such as hair microscopy, bite mark comparisons and shoe print comparisons have never been subjected to rigorous scientific evaluation.

False confessions lead to wrongful convictions in approximately 25 percent of the cases, many involving defendants 18 years of age or younger or developmentally disabled people.

Snitches contributed to wrongful conviction in 16 percent of the cases. Snitch testimony is unreliable because it may be offered in return for deals, special treatment or the dropping of charges.

Governments exist to protect the rights of individuals. But when federal, state and local government prosecutors and judges knowingly tolerate judicial processes that violate the constitutional rights of citizens they, themselves, become rights violators.

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