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Melinda Burgin

Illinois Wesleyan University, mburgin@iwu.edu

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Abstract

Wrongful convictions once thought of as a rarity barely worth investigating, have been a far more prevalent issue than previously believed. According to recent research, the overall wrongful conviction rate is around six percent in the United States and, based on data specific to certain crimes, can be even higher. (Loeffler et al., 2018). High-profile cases such as the Central Park Five have allowed the issue to gain traction and credibility in the eyes of the public. Many organizations, such as the Innocence Project and the Exoneration Project, are working to free victims of these injustices. However, the question remains: How, in a country with a justice system that supposedly assumes innocence until guilt is proven, can these mistakes still occur? The explanation lies in deeply rooted problems within the justice system itself, including a systemic bias against those of a lower socioeconomic status. Bias on the part of the prosecution and a lack of access to quality representation and education on the part of the defendants causes those from underprivileged backgrounds to be at a far higher risk of wrongful conviction. This, in turn, contributes to the cycle of poverty in America, and one wrongful conviction case can impact the prospects of generations to come.

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Understanding the issue of wrongful convictions as systemic rather than as a collection of flukes or mistakes is key to solving the problem. One of the most prevalent systemic factors is a prosecution biased against the accused. This bias leads to viewing them collectively and often subconsciously as an “other”. As James M. Doyle, a legal expert specializing in eyewitness testimony and wrongful convictions, explains, the response to wrongful convictions often focuses on finding the one mistake and person responsible for the injustice and punishing them for their actions (Doyle, 2016). While enforcing accountability on an individual level can

certainly incentivize prosecutors to behave scrupulously, it is not enough to address the full scope of this problem. Doyle draws an analogy between George Orwell's account of an incident during his time as an officer of the British empire in India and the current situation faced by prosecutors in the American justice system. In the account, Orwell makes a mistake: He shot an elephant in the face of a crisis because of the social pressure he felt to take action. The expectations of Orwell's often publicly shamed role of a white "sahib" combined with the pressure he felt from those reporting a crisis caused him to feel that he must *do something*. One may think of prosecutors in the same context: Once a tragedy occurs, it is their job to take some concrete action, and quickly, before the public decries them as ineffective.

Similar to the officers of the British empire, prosecutors are an overwhelmingly privileged class with a strict social code and culture and defendants of a class easy to label as an "other" and look down on often surround them. Not only is the office culture rife with pressure to come up with a conviction at all costs, prosecutors most often face defendants from underprivileged backgrounds. At least 80% of criminal defendants are indigent, and racial and ethnic minorities are overrepresented (Zoukis, 2018). These statistics can easily lead prosecutors, who are overwhelmingly white and middle class, to develop biases towards defendants, assuming that those from a less privileged background are a "guiltier" class overall (Zippia, 2021). Their assumptions, while they can be subconscious, provide mental shortcuts for prosecutors in each decision, allowing them to reach their goal of a conviction easily. The odds are stacked against less privileged defendants on the defense side as well. As guaranteed in the Sixth Amendment to the Constitution and held up by subsequent Supreme Court decisions, every citizen has the right to counsel. However, the counsel provided is severely unequal to what is accessible to those paying for their attorney. Approximately 70% of those wrongfully convicted were represented by a public

defender, and “in an increasingly overburdened criminal justice system, public defenders often lack the time, money, and information needed to ‘zealously’ advocate on behalf of their clients” (Yaroshefsky & Schaefer, 2014, p.3). The counsel is always technically there, but is frequently insufficient to build an effective case. States are often highly motivated by budget concerns and the prospect of speedy plea deals to underpay and overwork public defenders, leading many skilled and ambitious attorneys to find work in private practice instead (Yaroshefsky & Schaefer, 2014)

A defendant can appeal based on inadequate counsel during their case. However, the standards for the original decision to be reversed and a new trial granted are often impossibly high. As the Supreme Court case, *Strickland vs. Washington* (1984) established, a defendant must prove that the outcome of the case was “prejudiced” by the attorney's inadequacy. In other words, the case’s outcome would have to be proven to be likely to be different with better representation. This is often nearly impossible to do when the case has already been made to look weak by poor lawyering and when the defendant is still likely unable to afford qualified counsel. If the public counsel system is not improved, underprivileged defendants will continue to enter the system at a disadvantage.

Yet another systemic factor working against underprivileged innocent defendants is a lack of education regarding the justice system, causing them to be especially vulnerable to predatory interrogation techniques and even making false confessions. Police interrogations are already a dangerous place for the accused. The Supreme Court described the process as “inherently coercive” in the case of *Miranda vs. Arizona* (1966). Even the average middle-class American citizen is unlikely to be fully aware of their legal rights, such as the right to stop an interrogation or request a lawyer at any time, even if one has already waived their rights. Normally, lack of

knowledge can be exacerbated by poverty, as the underprivileged are less likely to have completed even a high school education (DoSomething.org, 2011). This factor can severely harm defendants, as unawareness about the justice system connects to many leading factors in false confessions. One main cause of false confessions is coercive police tactics during interrogation, including depriving a suspect of basic needs such as food or sleep until they eventually “confess” to escape the interrogation. Someone without knowledge of their rights will not realize that they can remove themselves from that situation before it reaches that point. Officers can also attempt to deceive suspects into tricking them into confessing, including false promises of leniency. Suspects can be assumed to be less likely to believe statements incongruous with the true workings of a trial if they fully understand the system. Those with intellectual and developmental disabilities are also proven to be far more likely to falsely confess to a crime than those without these disabilities (Schatz, 2018). Developmental disabilities are 1.3 times more likely to occur in someone who grew up in poverty. This connection accounts for some of the unique vulnerability of the poor in the justice system (DoSomething.org, 2011).

The disproportionate prevalence of wrongful convictions among the underprivileged does not only affect individuals, and the effects are not limited to the time of wrongful incarceration. According to recent research on what happens after an exoneration is won, a heavy stigma still exists for the formerly incarcerated, even those who are exonerated by solid DNA evidence. Many exonerated individuals report being harassed and shunned with such severity that it impacts their mental health and ability to find work. Case studies have also revealed that exonerated individuals who have spent a significant amount of time incarcerated are likely to experience PTSD and difficulty readjusting to life on the outside. They often lack modern practical life skills such as technical competence and dealing with today’s job market. These

circumstances can trap the wrongfully convicted into poverty even if they did not begin in those circumstances (Thompson, 2012). If exonerated individuals went into prison underprivileged, their situation upon leaving prison can be nearly impossible to recover from. Approximately 55% of wrongfully convicted people have not been compensated at all for the injustice they endured (*25,000 years - law.umich.edu* 2021). Without this compensation, those who entered prison impoverished and frequently without the education required for most jobs will have a very difficult time breaking out of poverty. This issue creates a cycle of poverty. The underprivileged are at a higher risk of wrongful conviction, and those who are not compensated for their tribulations are at a higher risk of poverty.

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