

Wrongful Convictions

<http://resources.lawinfo.com/en/articles/appellate-court/federal/wrongful-convictions.html>

Wrongful Convictions

- Even in the most **progressive systems in the modernized world** such as America, some people are accused, and even convicted, of crimes that they did not commit.
- In a perfect world, the justice system would operate in a manner that would **prevent such miscarriages of justice.**
- But in a system whose foundation rests on humans, and inevitable human errors, mistakes do occur.

1) Mistaken Identities

- Most common cause of wrongful convictions in the United States today.
- **Identification of defendants by witnesses** are crucial pieces of evidence in criminal cases, yet are undeniably subject to human error
- Misidentifications can and do result in wrongful convictions. **The reality is that human memory is imperfect**





FALSE CONFESSIONS

2) False Confessions

- Defendants give false confessions for a wide variety of reasons –
- police pressure, lengthy, stressful interrogations, lack of mental capacity, intoxication, ignorance of the law, or fear of violent consequences if the truth is told.
- Particularly with defendants who have low IQs or mental illnesses, the potential for manipulation of false confessions is quite high.

3) Snitches or Informants



- Criminal charges often rest on the testimony of **snitches (confidential informants)**
- Typically given some sort of incentive in exchange for their testimony - **decreased jail sentence, more favorable treatment while incarcerated, or the dismissal of criminal charges altogether.**
- no shortage of desperate jailhouse snitches who are willing to come forward with evidence to help convict other defendants

4) Ineffective Counsel

- For the typical criminal defendant who has no access to funds, the only source of representation is a public defender, or a **court-appointed attorney**.
- some such attorneys are **inexperienced, underpaid, and overworked** by the sheer number of criminal defense clients assigned to them.
- As a result, there are cases in which a criminal defendant **receives ineffective or inadequate legal representation**.



I lost my "ineffective assistance of counsel" case because the standard for attorneys is so low. Apparently, the Supreme Court doesn't want every conviction followed by a case against the defense attorney.



5) Police/Prosecutorial Misconduct

- Like all human beings, **police officers and prosecuting attorneys sometimes make misjudgments and errors**, and even commit misconduct –
- **Illegal race discrimination, coercion of a criminal defendant into making a false confession, lying or exaggeration of his testimony**



The Case for Post-Conviction DNA Testing

Adapted from Andy Ho, The Straits Times (14 Jan 2012)

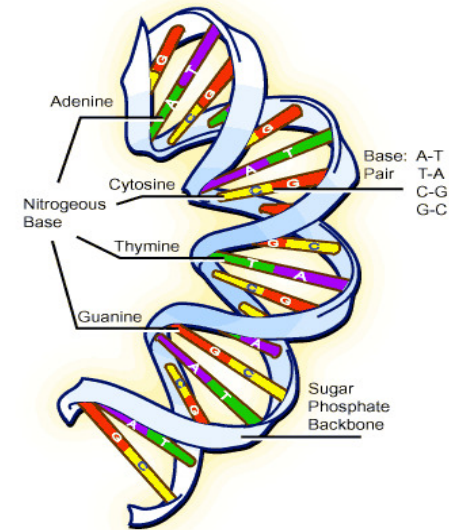


Argument

- Any criminal justice system will inevitably have an error rate. But one wrongful conviction is one too many, especially in a capital case.
- Argument - **an inmate should be allowed to petition for DNA retesting**
- In rape and murder cases, this could matter a lot, since there would typically be **ample biological samples**.

DNA Technology

- **More sensitive DNA technology available** today may offer conclusive results if previous testing had given only inconclusive ones.
- So far, 281 prisoners, 17 of whom were on death row, have been thus freed in the US. In 2012, the authorities released Rickey Wyatt, 56, after he had spent 31 years in prison for a rape that DNA retesting showed he never committed.



Restrictive Laws for Retesting

- Some states do not permit retesting unless the prisoner's lawyer can show that retesting is likely to turn up another suspect.
- Reason 1 - prevent prisoners, especially those with very long sentences, from simply trying to secure their freedom through retesting.



Restrictive Laws for Retesting

- **Reason 2** - A flood of requests for retesting could **inundate** the public prosecutor's office.
- **Reason 3** - Unseen **human costs** victims and their families are made to relive their trauma, since retesting entails taking DNA samples from the victim and the case is reopened.

Post-Conviction Retesting in S' pore?

- **Appropriate penalties** should be put in place first, to discourage the factually guilty from taking a second stab at the justice system anyway.
- One way is to make the convict **pay** for such testing, as most jurisdictions in the US do. But this is unfair **since it would be biased against the indigent while favouring those with families that can pay.**

A Better Alternative?

- **Punish** the factually guilty who ask for DNA retesting - by making them lose any time-off they may have accumulated for good behaviour

(In practice, with time-off for good behaviour, actual time served here can be up to a third less than the sentence.)

- Such penalties should mean that those who ask for DNA retesting to exonerate themselves are **more likely to be factually innocent** to begin with.



Juvenile Justice in Singapore

<http://app.subcourts.gov.sg/data/files/file/research/rb34.pdf>

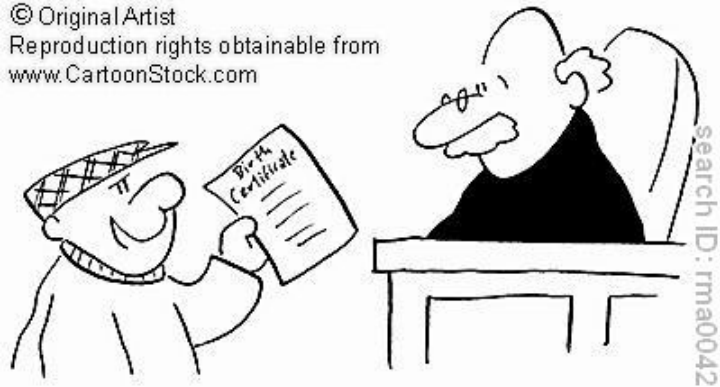
Juvenile Court

- Deals with –
 - children: defined as persons below 14 years of age
 - young persons: defined as persons below 16 years of age
- Tries criminal offences committed by juveniles, except where:



Juvenile Court

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"See! I was born on February 29th,
so I'm still a juvenile!"

- The child or young person is jointly charged with another person who is above 16 years of age, in which case the juvenile will be tried in the adult court together with that other person; or
- The offence is triable only by the High Court

Philosophy of Juvenile Court

- **Restorative Justice**

recognises the potential for change and reform in young offenders and delinquent youths

- seeks to re-integrate the offending juvenile or delinquent youth back into their families and community.
- balance the **need for effective deterrence** vs **the need for rehabilitation and restoration**



Philosophy of Juvenile Court

- Personal and specialised attention for a holistic approach to rehabilitation – his character, family, environment
- Restorative programmes – educating the general public and community on pertinent issues which underscore delinquency and crime recidivism



Role of Juvenile Court

- **Balance**

- *legislative concerns* for the welfare of the juvenile and *public duty* to preserve law and order
- **need for rehabilitation and accountability** for the offending behaviour

- **Multi-pronged approach**

- incorporate elements of deterrence, incapacitation and rehabilitation
- effective family support and control to keep juveniles out of crimes and equip them to lead a law-abiding life.