

Prompt: *What do you think the causes of wrongful convictions are and what are some proposed changes that you think would help remedy this pervasive issue?*

“Joy, sorrow, fear. I am trying to figure out how to put them together.” This is how Kevin Strickland, at 62 years old, described being exonerated after being imprisoned for more than 40 years for a crime he did not commit.¹ Sadly, Strickland’s story is not a unique one; it is estimated that up to 10% of individuals convicted of a crime are innocent. In the United States, innocent individuals have served more than 23,950 years in prison to date, further innocent individuals are paying for crimes they did not commit with more than just time, they are paying with their lives – for every 100 death sentences issued, 4 are statistically likely to be innocent. For what reasons are these victims of the criminal justice system paying such heavy punishments? Eyewitness misidentifications and false confessions account for 98% of wrongful convictions in America.

To combat these horrific injustices, the public must apply pressure to the courts to only allow for expert testimony when eyewitness testimony is the only evidence working against the defendant; the public should also push for the removal of interrogation techniques that encourage the admittance of a false confession. False eyewitness identification may occur because of subtle cues from a lineup administrator identifying a current subject, or lack of record detailing the witness’s confidence in identifying a subject, therefore possibly implicating an innocent person’s guilt despite wavering judgements by a witness. False confessions may also lead to a wrongful conviction, originating from pressure on an individual during an interrogation, or other methods of producing a confession, in hopes to close a case; for these reasons police reform laws that remove the likelihood of false confessions in the United States are currently being explored and enacted upon. Since 1989, 2,666 individuals have been exonerated, and with continued public action and pressure for policy and procedure change of the police and court systems, this figure should increase.²

The National Registry of Exonerations recognizes 450 exonerations that involve eyewitness identification, making eyewitness misidentification the leading cause of wrongful convictions. Figure one shows Leon Davis, on the left, who is responsible for several sexual assaults in 1984. On the right is Thomas Haynesworth, an innocent man who served 27 years in Virginia State Penitentiary before being exonerated by the Virginia Court of Appeals for a sentence that should have been issued to Leon Davis but was not because of eyewitness misidentification.³

¹ <https://www.theguardian.com/us-news/2021/nov/24/kevin-strickland-freed-42-years-wrongful-conviction>

² <https://thehighcourt.co/wrongful-convictions-statistics/>

³ <https://innocenceproject.org/virginia-court-of-appeals-exonerates-richmond-man-who-served-nearly-27-years-for-sexual-assaults-dna-and-other-evidence-prove-he-didnt-commit/>



Figure 1: Leon Davis, who sexually assaulted several women in a series of attacks in the 1980s is pictured on the left; Thomas Haynesworth, an innocent man who fell victim to the system that imprisoned him for Davis' crimes is pictured on the right.

Dr. Jennifer Dysart, a professor of psychology at John Jay College of Criminal Justice⁴ has researched and shed light on several reasons why eyewitness accounts lead to false convictions so often. Memory retention falls to nearly 20% one month following an event, meaning an individual's ability to accurately remember an event clearly and fully in detail is incredibly unlikely. Dr. Dysart also explored the power of suggestion in criminal justice, which often contributes to false convictions by implying to eyewitnesses there is a "right" answer. For example, in an exercise to illustrate the power of suggestion, a picture of 12 differently oriented pennies is provided, with the instructions to "pick out the correctly oriented penny". The individual subject completing this exercise will almost certainly pick out one of the 12 pennies they identify as familiar. In reality, none of the 12 pennies are a reflection of the real orientation of a penny, but because they were instructed to, the individual believed the real penny was in the set. This can be the case in a police lineup, for which a true perpetrator may not even be present, but an eyewitness account may identify an individual based off of vague memory and the sense and suggestion that the perpetrator is in the set.⁵ One solution to eradicating the likelihood of false eyewitness accounts is to limit in-court identifications, where a witness will call out an individual accused of the crime at hand. The Connecticut Supreme Court has recently decided to limit the instances of in-court identifications due to the nature of their unreliability. Other solutions to combat false eyewitness identification include reforming police procedure for administering lineups by performing blind administration, where the police administering a lineup are unaware of the suspect, therefore avoiding bias and suggestion for the witness, and also instructing witnesses that a perpetrator may not even be present in the lineup, and sharing that an investigation will continue regardless of

⁴ <https://www.jjay.cuny.edu/faculty/jennifer-e-dysart>

⁵ <https://innocenceproject.org/how-eyewitness-misidentification-can-send-innocent-people-to-prison/>

identification.⁶ While eyewitness accounts contribute to a large portion of false convictions in the United States, the prevalence of false confessions expose a second weak point in the criminal justice system that must be addressed to ensure fairness and justice in the courts.

19-Year-old Donovan Allen was a victim of incarceration due to his false confession of murdering his mother, following a police interrogation over the course of several days. It was only after DNA evidence proving his innocence, was he released after 16 long years in prison.⁷ Vulnerable individuals exposed to psychologically traumatizing experiences during interrogation, often while they are anxious and tired, leaves way for false confessions to come about. While confessions often serve as the powerful tool that closes a case, evidence and research is exposing the weaknesses of confessions in the criminal justice system. After a series of false confessions during the late 90s in England, police eradicated their interrogation system and adopted methods to measure the cognitive load on a suspect and moved to conduct open ended interviews that don't specifically target the end goal of a confession. The United States is following suit by recording interrogation sessions; 25 states have currently adopted this procedure, but further push for this change in all states is necessary.⁸ While much reform is still needed within the criminal justice system, these changes are monumental for the many innocent individuals losing their lives to the prison system.

For the hundreds of innocent individuals that have been imprisoned due to false eyewitness accounts and false confessions, reform in the criminal justice system could mean a life of regained freedom. Current interrogation tactics and court procedures foster an environment where pressure, anxiety and stress on a witness or suspect may lead to convictions of an innocent individual. To take action against false eyewitness accounts, in-court identifications must be limited, and police must not only participate in lineups blindly to remove suggestive bias, but also emphasize the continuation of an investigation following a lineup. So that false confessions are also eliminated, police must be held accountable to ethical interrogation practices by recording the entirety of the process and being required to assess the mental state of the individual being questioned. While it seems nearly impossible to rectify the thousands of years spent in prison by innocent individuals, America can work to prevent further time spent in the criminal system by those that deserved a life outside bars.

⁶ <https://innocenceproject.org/how-eyewitness-misidentification-can-send-innocent-people-to-prison/>

⁷ <https://www.knkx.org/news/2021-05-19/preventing-wrongful-convictions-from-false-confessions-at-heart-of-new-law>

⁸ <https://www.science.org/content/article/psychologist-explains-why-people-confess-crimes-they-didn-t-commit>