

Understanding the Causes of Wrongful Conviction

Tiffany Dowling
Staff Attorney
Texas Center for Actual Innocence

Overview

- Causes of wrongful conviction
- Remedies
- Innocence organizations

Exonerations...

Why do we hear so much about them now?

DNA

- ## Stats
- Texas
 - 38 post-conviction DNA exonerations
 - Dallas County
 - United States
 - 240 post-conviction DNA exonerations

- ## Causes of Wrongful Conviction
- Eyewitness Misidentification
 - False Confessions
 - Snitch Testimony
 - Junk Science & Good Science Done Poorly
 - Police/Prosecutor Error
 - Ineffective Assistance of Counsel



Eyewitness Misidentification

Eyewitness misidentification testimony was a factor in 77 percent of post-conviction DNA exoneration cases in the U.S., . . .

... making it the leading cause of these wrongful convictions.
- Innocence Project, 2008

False Confessions

In about 25% of DNA exoneration cases, innocent defendants made incriminating statements, delivered outright confessions or pled guilty.
- Innocence Project, 2008

Definition

- Informant
 - Usually in-custody
- Incriminating information
- Compensation
 - Sentencing

Junk Science & Good Science Done Poorly

Junk Science

- Blood typing
- Bite marks
- Composite Bullet Lead Analysis
- Hair Comparison

Good Science Done Poorly

- Contamination
- Fraud
- Mistake
- Overstating outcomes

Police & Prosecutor Error

Types of Error

- Brady violations
- Tunnel vision
- War mentality

Ineffective Assistance of Counsel

- ## Causes
- Lazy
 - Burn out
 - Funding
 - Inexperience
 - Investigation
 - Lack of
 - Volume

How do we fix it?

Remedies

- Investigative
 - Article 64 DNA Motions
- Determinative
 - Article 11.07 Writs of Habeas Corpus
 - Clemency

Writs

- Fact patterns
 - DNA cases
 - Recantation cases
 - Alternate suspect cases
- Burden
 - New, clear and convincing evidence

Innocence Organizations

- Innocence Network
 - Innocence Project
 - Texas
 - Texas Center for Actual Innocence
 - Innocence Project of Texas
 - Texas Innocence Network

TCAI

- Criteria:
 - Not involved in any way OR
 - No crime occurred
- Excludes:
 - Legal justification
 - Law of parties

TCAI

- Analysis
 - Guilty until proven innocent
- Research & investigation
 - Factual
 - Legal

Contact Me...

Tiffany Dowling
Staff Attorney
Texas Center for Actual Innocence
512-471-1317
tdowling@law.utexas.edu
