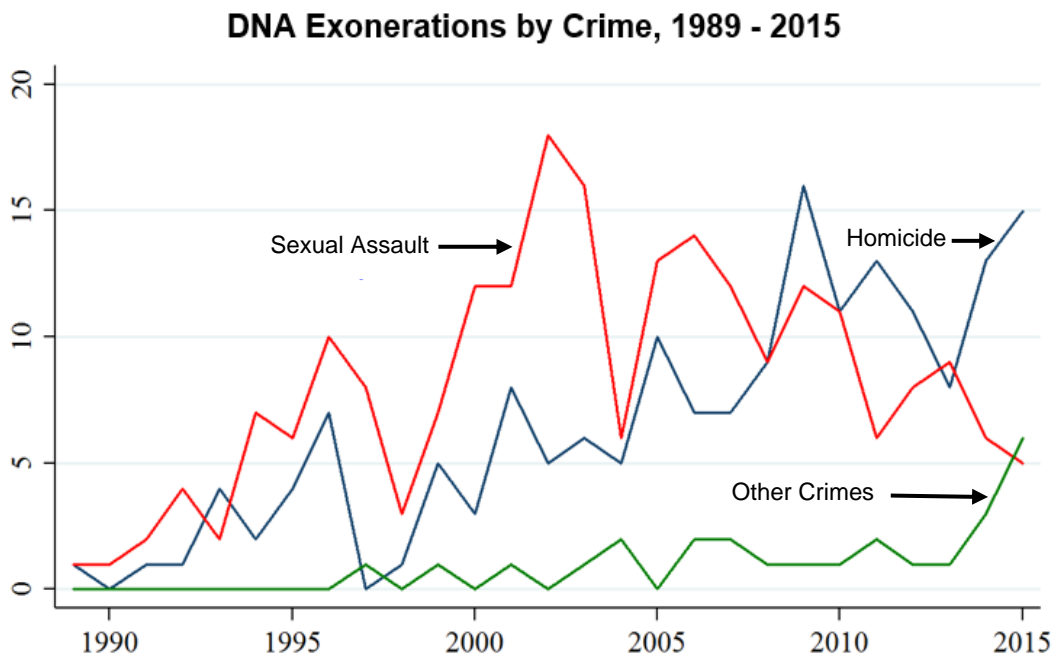


CHANGES IN DNA EXONERATIONS OVER TIME

The Crimes

The nature of DNA exonerations has been changing over the years. Until 2008, most DNA exonerations were sexual assault cases; since 2008, a growing majority have been homicide cases (many of which also included sexual assaults).



Rape remains a dominant factor in DNA exonerations. We classify exonerations by the “worst crime” for which the defendant was convicted and later exonerated. By that criterion, sexual assaults—including child sex abuse—constitute 53% of all DNA exonerations since 1989 (221/420).

In addition, in 45% of DNA homicide exonerations, the defendant was also convicted of a sexual assault (78/173). Another 17% of homicide exonerations included rapes for which the defendants were not convicted (30/173). That usually happens when the prosecutor doesn’t bother adding a rape charge against a defendant who is already charged with murder.

All told, rape is an element in 78% of known DNA exonerations (329/420). In that context, the shift since 2008 mostly means that DNA exonerations are increasingly about rape-murder rather than rape alone.

The main reason for this shift is probably the aging pool of potential DNA exonerations. The average time from conviction to exoneration by DNA has increased from 6 years in 1993 to more than 20 years in 2015. This should be no surprise. Increasingly over that past 23 years, probative DNA evidence in a major felony prosecution is tested *before* trial. As a result, DNA exonerations are now dominated by defendants who were convicted 20 to 30 years ago or longer.

There are no doubt many innocent rape defendants who were convicted 20 years ago or longer, but unless they were convicted of murder as well as rape, almost all were released from prison years or decades ago. Murder defendants are far more likely to remain in prison decades after conviction and they and their supporters are more likely to continue to press for their release.

DNA Alone or DNA Plus Other Evidence?

The nature of DNA evidence that is used is also changing. Eighty-one percent of the DNA exonerations in the Registry are also listed by the Innocence Project (341/420). These are cases in which DNA directly exonerated the defendant—typically rape or rape-murder exonerations in which DNA tests showed that semen recovered from the victim did not come from the defendant. For example:

In 1985, a white woman who lived across the street from Walter Snyder in Alexandria, Virginia was attacked by a black man who broke into her home and raped her in the dark.

At first the victim said she would not recognize the rapist, but eventually she identified Snyder after she was shown his photograph multiple times, and confronted with him individually at a police station. She went on to identify him at trial, where Snyder was convicted and sentenced to 45 years.

In 1992, with help from the Innocence Project, DNA testing revealed that Snyder was not the source of semen recovered from the victim. In 1993, after the DNA tests were reconfirmed twice, Snyder was released and pardoned with the concurrence of the prosecution.

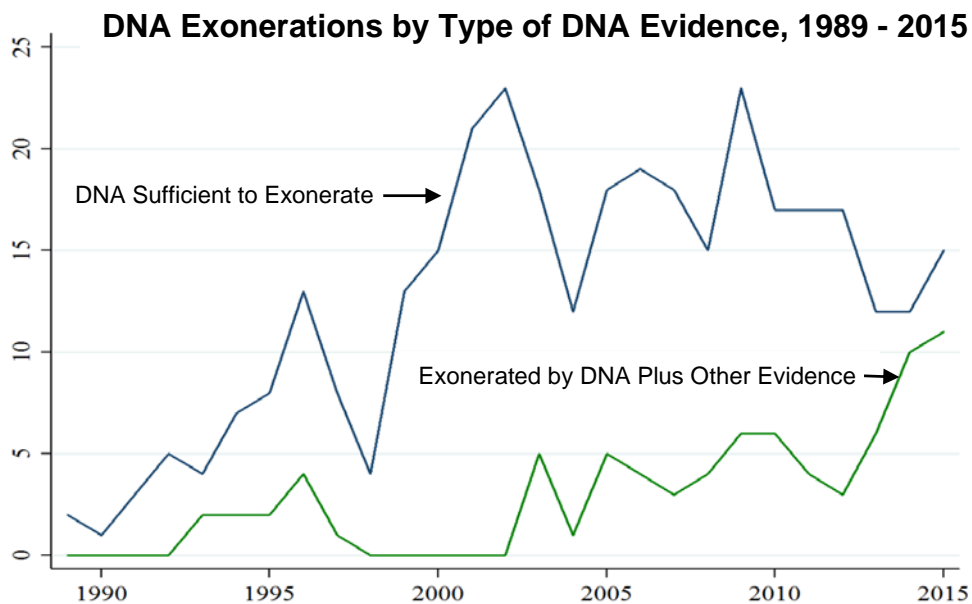
The remaining 79 cases—identified in our data with asterisks (*)—are not listed by the Innocence Project because post-conviction DNA testing was not the central evidence that established innocence, and other non-DNA factors were essential to the exoneration. For example:

In 1985, David McCallum and Willie Stuckey, both 16 years old, confessed to police in Brooklyn that they shot and killed Nathan Blenner and stole his car. They immediately recanted their confessions and said they had been beaten and threatened. Both were convicted of murder in 2006 based on their confessions and sentenced to 25 years to life in prison.

In 2011—a decade after Stuckey died of a heart attack in prison—McCallum’s lawyer asked the Brooklyn DA’s conviction integrity unit to reinvestigate the case. DNA testing on saliva from cigarette butts and a marijuana joint from the victim’s car failed to find DNA from McCallum or Stuckey but did identify the DNA profile of a different man who had a criminal record. The investigation also revealed that the prosecution concealed the fact that the police had originally interrogated two other suspects who (unlike McCallum and Stuckey) had histories of carjacking.

Despite this evidence, Brooklyn DA Charles Hynes concluded in 2013 that there was no evidence to support McCallum’s claim of innocence. Hynes, however, was defeated for re-election in November 2013. In 2014, his successor, Ken Thompson, moved to vacate McCallum’s conviction and dismissed the charges against him on the ground that his confession as well as Stuckey’s confession were clearly false.

In the last two years, the number of “DNA plus” exonerations has drawn close to the more traditional cases in which DNA evidence is the sole basis for the exoneration. At this rate, they may outnumber direct DNA exonerations within a few years.



Over 70% of the “DNA plus” exonerations are homicides (56/79)—including an increasing number with saliva, perspiration or skin-cell DNA, DNA analysis of hair or other comparatively recent forms of DNA evidence—while 54% of exonerations with determinative DNA evidence are rape cases (183/341), and another 20% are rape-murders (69/341).