

EXONERATIONS IN THE UNITED STATES, 1989 – 2012 REPORT BY THE NATIONAL REGISTRY OF EXONERATIONS

KEY FINDINGS

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Introduction

This Report inaugurates the **NATIONAL REGISTRY OF EXONERATIONS**, a joint project of the University of Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

The Registry contains an up-to-date list of exonerations in the United States since January 1989 – 891 **exonerations** as of today – with summaries of the cases and searchable data on each. This is the largest database of exonerations ever assembled. It will be available at: exonerationregistry.org.

This Report focuses on the 873 exonerations that were entered in the Registry as of March 1, 2012. 2-3

Our definition of exoneration is conservative. It is based formal decisions by courts and executive officers. It excludes many convicted defendants who undoubtedly are innocent. 6-7

The Report also discusses including at least 1170 defendants whose convictions were dismissed in 13 “**group exonerations**” that followed the discovery of major police scandals. These defendants *are not* included in the National Registry. 3
80-90

Key Findings

1. Snapshot figures of the 873 exonerated defendants: 7-8

- 93% are men, 7% women;
- 50% are black, 38% white, 11% Hispanic and 2% Native American or Asian;
- 37% were exonerated with the help of DNA evidence; 63% without DNA;
- as a group, they spent more than 10,000 years in prison – an average of more than 11 years each.
- Since 2000, exonerations have averaged 52 a year – one a week – 40% of which include DNA evidence. 20-21

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- DNA exonerations are increasingly: 22-24
 - older cases – the average time from conviction to a DNA exoneration is now about 18 years, up from less than 7 years in the early 1990s, and
 - murder cases – since 2008 most DNA exonerations are murder prosecutions, usually rape-murders, rather than sexual assaults.

 - The exonerations in the Registry are unevenly distributed geographically. They concentrated in a several states, led by Illinois, New York, Texas and California. Some counties, like Cook (Chicago), Illinois, and Dallas, Texas, have dozens of exoneration; other counties with millions of people, like San Bernardino, California and Fairfax, Virginia, have none. Neighboring counties are often very far apart. Santa Clara County, California – home of the Northern California Innocence Project – has 10 exonerations; directly to its north, Alameda County has more violent crime but no known exonerations 32-39

 - The 873 exonerations are mostly rape and murder cases, but the data also include many more exonerations for other crimes than previously known. All told, we have: 18-20
 - 48% homicides (416)
 - ▶ including 12% death sentences (101)
 - 35% sexual assaults (305)
 - ▶ 23% adult sexual assaults (203)
 - ▶ 12% child sex abuse (102)
 - 5% robberies (47)
 - 5% other violent crimes (47)
 - 7% drug, white collar and other non-violent crimes (58)
- 2. Causes of False Convictions** 40-67
- For all exonerations, the most common causal factors that contributed to the underlying false convictions are *perjury or false accusation* (51%), *mistaken eyewitness identification* (43%) and *official misconduct* (42%) – followed by *false or misleading forensic evidence* (24%) and *false confession* (16%). The frequencies of these causal factors vary greatly from one type of crime to another. See Table 13. 40-41

 - **Homicide** exonerations: 40-41
 - The leading contributing cause is *perjury or false accusation* (66%) – mostly *deliberate misidentifications* (44%).
 - Homicide case also have a high rate of *official misconduct* (56%).
 - Homicide exonerations include 76% of all *false confessions* in the data. 57-59

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Some exonerees were falsely implicated by a <i>co-defendant who confessed</i> . Including such cases, the convictions in 39% of homicide exonerations were caused in part by <i>false confessions</i> .	57-58
▶ Juvenile and mentally disabled exonerees were, respectively, five times and nine times more likely to <i>falsely confess</i> than adult exonerees without known mental disabilities	59-60
• <u>Sexual assault</u> exonerations	
▪ are overwhelmingly cases with <i>mistaken eyewitness identifications</i> (80%).	40-41
▶ 53% of all sexual assault exonerations with <i>mistaken eyewitness identifications</i> involved black men who were accused of raping white women. This huge racial disproportion (about 10 to 1) is probably caused primarily by the difficulty of <i>cross-racial eyewitness identification</i> .	48-49
▪ Many sexual assault cases also include <i>bad forensic evidence</i> (37%).	63-65
• <u>Child sex abuse</u> exonerations, by contrast, primarily involve <i>fabricated crimes</i> that never occurred at all (74%).	40-41, 52-53, 75-79
• <u>Robbery</u> exonerations (like adult rape exonerations) are overwhelmingly cases with <i>mistaken eyewitness identifications</i> (81%).	40-41
• The small number of <u>drug crime</u> exonerations we have found (25) include a high rate of <i>deliberate misidentifications</i> (48%).	52-53
3. No Crime Exonerations	68-79
• No Crime Exonerations in General	
▪ Most exonerations depend on proof that someone other than the defendant committed the crime for which the defendant was convicted. It is much harder to exonerate a defendant when in truth no crime occurred.	
▪ A small number of no-crime exonerations involve mistakes , usually cases in which a suicide or an accidental death is mistaken for homicide.	69-73
▶ Five exonerated defendants were convicted of killing or severely injuring infants by shaking them under circumstances that recent evidence has shown to be impossible.	70-71
▶ Six exonerated defendants were convicted of arson or arson-murder based on forensic evidence that is now recognized as valueless.	71-73
We believe there are many more false convictions of each sort.	

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| <ul style="list-style-type: none"> ▪ Most individual no-crime exonerations are sexual assault cases in which the complaining witnesses fabricated crimes (89/129). <ul style="list-style-type: none"> ▶ Most fabricated crime exonerations are child sex abuse cases (70). ▶ Two-thirds of the child sex abuse exonerations are child sex abuse hysteria convictions from the 1980s and early 1990s. | 73-79 |
| <ul style="list-style-type: none"> • Group Exonerations <p>By far the largest concentrations of no-crime cases are group exonerations: At least 1,170 defendants were exonerated in the aftermath of the discovery of 13 major scandals around the country in which police officers fabricated crimes, usually by planting drugs or guns on innocent defendants. We are confident that there are others that we have not yet identified.</p> | 80-90 |

4. The Overall Frequency of False Convictions and Exonerations.

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| <ul style="list-style-type: none"> • There is no way to estimate the overall number of <i>false convictions</i> from these reported exonerations, but it is clear that there are many more false convictions than exonerations. <ul style="list-style-type: none"> ▪ The exonerations that we know about are: <ul style="list-style-type: none"> ▶ overwhelmingly rape and murder cases ▶ in which defendants went to trial rather than plead guilty ▶ and received very severe punishments, especially death sentences. They are also: <ul style="list-style-type: none"> ▶ concentrated in several states and a small number of counties; ▶ disproportionately likely among the small fraction of criminal cases in which DNA evidence can prove guilt or innocence, ▶ and often the result of unpredictable and improbable lucky breaks. Obviously there are many more false convictions among cases that don't fit that description, and that didn't end in exoneration: lesser crimes than rape or murder; defendants who pled guilty and received comparatively mild punishments; cases in states and counties with few exonerations or none; cases without DNA evidence; defendants who were just unlucky. | 3-5
14-17
32-39
70-73
78-79 |
| <ul style="list-style-type: none"> • There are also many <i>exonerations</i> that we don't know about. <ul style="list-style-type: none"> ▪ There is no official record keeping system for exonerations, and no systematic way to locate them. ▪ High profile exonerations – capital cases, other murder and rape cases that are handled those by innocence projects – receive a great deal of publicity and are easy to find. ▪ Although we have found a substantial number of low profile exonerations, many came to our attention only because they were handled by lawyers we happen to know. | 9-10
91-101 |

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- Many of these low-profile exonerations were handled exclusively by local attorneys; some were initiated by prosecutors or police; some were passively or actively concealed from public attention.
- We have no doubt that we have missed the vast majority of low-visibility exonerations.

5. The existence of the National Registry will generate better information.

102-103

- We hope to learn about more exonerations that we have not yet identified, across a wider range of contexts.
- The more we learn about false convictions, the better we will be at preventing them – or failing that, at identifying and correcting them after they occur.