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Guilty Until Proven Innocent (2019-2020)

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“Guilty until Proven Innocent” Jacob Robinson (research inquiry example)

Questions to Consider For Discussion and Reflection

In a research inquiry there are sophisticated moves made with sources such as synthesis, integration, and entering into a conversation. As you read Robinson’s essay, consider:

- Robinson outlines three reasons for wrongful convictions and treats each of them in turn. How else might this essay have been organized? What effects would that change in organization have on its effects?
- This essay relies heavily on direct quotes from sources, including several quotes integrated into sentences as well as numerous block quotes. If the quotes were paraphrased instead, what might the essay gain and/or lose in terms of its impact on you as a reader? How might you incorporate this kind of reliance on your sources (or, alternatively, focus more on paraphrasing) in your own writing?
- A significant portion of Robinson’s essay details the methodology behind his sources’ data. How does the effect his (and his sources’) credibility? How might you also include some information about methodology from your sources?

Guilty until Proven Innocent by Jacob Robinson

There are three general ways that a wrongful conviction occurs within American society; inducing false confessions, bad science, and framing. You would think that using these methods would go against our legal system when in reality, this behavior is often endorsed or taught to officers by the government. Despite the negative impact these actions have on the overall lives of those incarcerated, and on the trust we have in our government officials, our leaders either do nothing about them, or promote them entirely. Through police misconduct such as inducing false confessions and framing, and poor forensic science, wrongful convictions continue to pose an issue for the innocent, as well as for the United States Legal System. Organizations like the Innocence Project contribute greatly to making our system of law much more equitable.

Falsely confessing almost guarantees a wrongful conviction. According to the US Innocence Project, “more than a quarter of those exonerated by DNA evidence have made a false confession or incriminating statement at some point -- even to such serious offences as rape or murder” (Geddes, 2016, p. 36). Those who falsely confess are highly stigmatized and presumed guilty before any innocence. A false confession in the court of law often makes the presumption of innocence and due process null and void, sending the suspect to prison. Even some of the strongest evidence can be discounted just because of a false confession. They are treated more harshly at every stage of the investigative and trial process and are significantly more likely to be incarcerated before trial, charged, pressured to plead guilty, and convicted (Leo, 2009, p. 340). Research has demonstrated that jurors favor confessions over any other kind of evidence. Jurors believe that they would never confess to a crime that they hadn’t committed, but that’s only because they haven’t experienced the interrogation process and are unaware of our government’s devious agenda.

In their study of 60 false confessions, Leo and Ofshe found that 73 percent of all false confessors whose cases went to trial were erroneously convicted; this number went up to 81 percent in the study of Drizin and Leo of 125 false confessions. Taken together, these studies demonstrate that a false confession is a dangerous piece of evidence to put before a judge or jury, because it profoundly biases their evaluation of the case in favor of conviction, so much so that they may allow it to outweigh even strong evidence of a suspect's factual innocence. (Leo, 2009, p. 341)

Police officers unknowingly extract false confessions out of their subjects, because that's what they were taught to do in their training. There are three steps, or "errors", that occur during a false confession elicited by police; misclassification, coercion, and contamination. (Leo, 2009, p. 334). Police and detectives use a multi-step process and sequence of influence, persuasion and compliance and usually involve psychological coercion.

Misclassification involves the decision that an innocent person is guilty before any confrontation between them and the officer has occurred. An example of this would be a cop planning to plant drugs in someone's car during something like a traffic stop, trying to arrest someone for something they didn't do. Once a specific subject is targeted, they are arrested and taken to the police station. Once there, the following interviews and interrogations are conducted under the presumption that the subject is guilty of the crime, when there is no evidence to support that claim yet.

Dr Richard A. Leo, from the *Journal of the American Academy of Psychiatry and the Law Online*, support the claim that American police receive poor and erroneous investigation training. They are misleadingly taught that a subject is likely guilty if he or she does things along the lines of averting their gaze or shifting their body posture during an interrogation. Those who are shy, uncooperative, or offer broad denials and qualified responses are also believed to be deceptive and therefore guilty (Leo, 2009, p. 334). Police are taught that they are very good lie detectors when in reality, humans are very bad at distinguishing truth and deception. Using this ideology when going into an interview with a crime suspect, is presuming their guilt before any innocence. Following this "guilty until proven innocent" method is unfair to the subject and detrimental to, as well as the opposite of, what our legal system claims to be.

However, social scientific studies have repeatedly demonstrated across a variety of contexts that people are poor human lie detectors and thus are highly prone to error in their judgment about whether an individual is lying or telling the truth. Most people get it right at rates that are no better than chance (i.e., 50%) or the flip of a coin. Moreover, specific studies of police interrogators have found that they cannot reliably distinguish between truthful and false denials of guilt at levels greater than chance; indeed, they routinely make erroneous judgments. (Leo, 2009, p. 334)

Most false confessions occur in high profile cases and homicides, as a lot of pressure is put on officers to solve the crime when there's typically no credible evidence against an innocent but misclassified suspect. Officers employ threats and promises which is designed to get their interrogees to falsely confess. Most often, they use threats and promises to make it seem as if the suspect has no other option but to do what the detectives say, in order to avoid consequences often made up by the detectives themselves. Detectives and police officers who get false confessions, often receive them from interrogating lesser educated, mentally disabled or ill suspects as they are much more compliant (Leo, 2009, p.336). Officers unknowingly exploit our

systems of law to take advantage of the weak in our society. They are paid and taught by the government to wrongfully convict innocent people using devious methods. Officers believe it is justice, while those who govern us know exactly what they're doing; forcing people to falsely confess. Essentially, these interrogations are designed to wrongfully convict rather than find the truth.

Compliant false confessions occur as a result of the sequenced influence process through which detectives seek to persuade a suspect that he is indisputably caught and that the most viable way to mitigate his punishment and escape his otherwise hopeless situation is by confessing. As has been well documented, American police use interrogation techniques that are designed, on the one hand, to convince a suspect that he is caught and that it is futile for him to deny the crime and, on the other hand, techniques that are designed to motivate him to perceive that it is in his interest to confess. (Leo, 2009, p. 338)

There are many simple and effective ways in which we could prevent false confessions from occurring, however this is not in the interest of our government as false confessions are a method of establishing control over us, therefore we may not see these reforms any time soon.

Regardless, Leo proposes the mandatory electronic recording of police interrogations as being the most important policy reform available. He claims that it would create an objective, comprehensive, and renewable record of the interrogation that all parties can review (Leo, 2009, p. 342). Most police departments, as well as the FBI, still don't record interrogations, and to no one's surprise, there is a lot of resistance to the idea in those agencies as it would take away just one of their countless methods of controlling us. Leo also brings up improving police training about false confessions, informing them on what is really going on during their interrogations. Research has been conducted to see how plausible this would be.

Kathleen M. Donovan and Charles F. Klahm IV's "How Priming Innocence Influences Public Opinion on Police Misconduct and False Convictions: A Research Note," explains the in-depth process and results of an experiment conducted surrounding the public's view on police misconduct leading to false convictions. Using a survey experiment with a nationally representative sample, the researchers explored the degree to which public opinion toward police misconduct is influenced by "priming", or informing, respondents on the issue of innocence before taking the survey. (Donovan and Klahm, 2018, p. 174). It explores the idea of implementing the prime into the training of detectives and police officers in hopes of reducing the number of wrongful convictions as a result of police misconduct, for example, inducing false confessions.

The experiment was conducted as follows: A random sample of people using random digit dialing of landlines, was prompted to respond to a survey containing a series of questions on perceptions of police misconduct and the use of force (Donovan and Klahm, 2018, p. 176). Respondents were randomly assigned one of two surveys. One survey contained no information pertaining to wrongful convictions, the other was provided a prime on the issues of innocence:

You may have heard of *The Innocence Project*, a national litigation and public policy organization dedicated to exonerating wrongfully convicted individuals through DNA testing. To date, their efforts have led to over 300 innocent people being exonerated (that is, individuals who were originally found guilty and sentenced to prison but later, through DNA testing, were found to be innocent). (Donovan and Klahm, 2018, p. 177)

Respondents were also categorized based on how often they watched local TV news and crime dramas, their gender, race/ethnicity, ideology, personal experience with police, and if they lived in an urban or rural neighborhood. All were asked the same question, “Overall, how often does misconduct by the police in your city, such as the use of force to get a false confession, contribute to someone being found guilty of a crime he or she did not commit?” (Donovan and Klahm, 2018 p. 177)

The experiment found that the innocence prime significantly affected the respondents’ beliefs about police misconduct leading to false convictions. Relative to no prime, the innocence prime increased the probability of *saying sometimes/most of the time* to how often police misconduct, such as forcing false confessions out of people, contributes to wrongful conviction by 7 percentage points and decreased the probability of saying *never* by 8 percentage points (Donovan and Klahm, 2018, p. 178).

It could be assumed that out of all people, African Americans would be the most distrusting of cops. However, one result of the experiment was that across the board, non-Blacks are significantly less likely to have positive views of the police than Blacks. Surprisingly, there was no significant difference in the efficacy of the innocence prime among Blacks versus non-Black respondents (Donovan and Klahm, 2018, 178). Blacks would be expected to be the first to criticize the police on misconduct, due to most of the misconduct portrayed on the news being targeted towards African Americans. This supports the idea that wrongful convictions are the fault of the officers rather than the compliance of a suspect.

The researchers found that liberals answered the question similarly regardless of the prime, and that conservatives were highly reactive to the prime. This may be, in some part, due to conservatives generally believing that individuals share blame for their circumstances, claiming that a person who committed no crime would never be in a situation where police misconduct could occur. The prime moving the responsibility away from citizens and towards the police, was why it had such a drastic shift in conservative responses. Donovan and Klahm claim that the prime caused conservatives to think as if they were of a different political ideology, making conservatives answer that they believe that police misconduct leads. Wrongful convictions are due to the teaching of misinformation to officers rather than the officers themselves, as officers believe that they are seeking justice while they’re really framing someone.

The negative coefficient for the interaction between conservatives and the prime suggests that highlighting innocence leads conservatives to respond like liberals. More specifically, the probability of a conservative saying never was .39 without the innocence prime and .21 with the innocence prime. This is a significant difference of 19 percentage points ($p < .05$), and the same predicted probability as a self-identified liberal who received the prime. (Donovan and Klahm, 2018, p.178)

Most would expect conservatives to be the most stubborn about their support for police. However, they essentially switched sides on the issue in response to the innocence prime. The prime eliminated ideological differences in responses, which made conservatives believe that police misconduct contributed to false conviction as much as liberals do. This shows that conservative attitudes are more susceptible to influence, a trait normally used to describe a liberal, when it comes to police misconduct and wrongful convictions.

If media outlets wish to help enact police reforms, they should frame them in the context of false convictions in order to gain more public support. If they were to apply innocence primes in their reporting on police misconduct, going against police officers and the FBI, they would have much better opportunities when it comes to reshaping public opinions and evoking change. While police misconduct such as brute force and psychological manipulation contribute greatly to wrongful convictions, bad science is another important factor.

Bad science is the second leading cause of wrongful convictions. This is because forensics is labeled as a “science” making it seem credible, when the opposite is true. When faulty scientific practices, such as poor or missing DNA evidence, or conducting lousy experiments, are brought into an investigation, they are accurate less than fifty percent of the time. However, we continue to use these unreliable methods as one of our main tools in solving crimes. These faulty tests support our government’s demand for control, as they significantly increase the number of wrongful convictions, allowing more and more of us to be institutionalized. We have developed a dangerous overconfidence in forensic science.

Then Young reveals that the second leading culprit is bad science and cites the most exhaustive research on the subject. A 2009 study published in the Virginia Law Review examined trial transcripts of 137 accused in the US who had been exonerated by new DNA evidence. In eighty-two of the cases—more than half—so-called forensic experts gave invalid testimony, including errors about shoe prints and hair samples. (Sher, 2013, p. 39)

Alan Young, a professor at Osgoode Hall Law School, at York University in Toronto, and director of the Innocence Project, claims that by his count, more than sixty percent of the most recent documented cases of wrongful convictions were due to bad science (Sher, 2013, p.39). So why do we continue to use these poor scientific practices when attempting to solve an investigation? The answer may lie in the true motives of our leaders and their wish to hold as much control over us as possible.

Steven Truscott had been sentenced to hanging due to being wrongfully convicted of the rape and murder of twelve-year-old Lynne Harper, whose body was found in the woods in. He had given her a ride on his bike the night she disappeared. John Penistan, the local coroner, lead an investigation, which he concluded in less than a day. He told the jury that “his careful study of Harper’s stomach contents had convinced him that she died between 7:15 and 7:45 p.m.-the exact window during which the police said Truscott was with her” during Truscott’s trial (Sher, 2013, p. 39).

The trial lasted just two weeks before it was determined that Truscott was guilty. Luckily, rather than the death penalty, he was able to serve ten years before his release, where he was condemned to spend the rest of his life on parole as a convicted murderer. After living under an assumed name for three decades, and an additional decade for a more in-depth reinvestigation, his name was finally cleared after fifty years. The reinvestigations determined that the coroner had rushed during the investigation and that it was nothing like the “careful study” he described. Because of the bad scientific practices by Penistan, an innocent man’s life had been ruined.

We uncovered a perfect storm of junk science and tunnel vision by the cops. Penistan’s “careful study” turned out to have involved little more than holding a jar of the dead girl’s stomach fluids to the dim glow of a lightbulb. (Sher, 2013, p. 42)

Due to new evidence about the extent of maggot infestation, it was determined that Harper had died long after Truscott had been with her. Bad science wasn't as much of a factor in the wrongful conviction of Steven Truscott as the biased interpretations of it were. John Penistan, the police, and the prosecutors are to blame more than the scientific practices used.

Julian Sher supports the idea that the negative effects of a wrongful conviction don't just come from poor forensic evidence. The stubborn, overconfident prosecutors are better to blame for wrongful convictions. Like those who are framed or falsely confess, stigma is attached to them that may take a lifetime to avoid. Prosecutors may hold people accountable for these stigmata and due to their poor investigational work, fail to see them as anything other than criminals.

My investigations into these miscarriages of justice have taught me that the problem is not just bad science. There is closedminded policing and overzealous prosecution. The accused are often outsiders who can be portrayed as deserving of punishment: a welfare mom on cocaine, an unemployed father, a man who beat his wife. Bad science adds a sheen of credibility to these stereotypes. (Sher, 2013, p. 46)

Sher proposes a few solutions to these issues. He recommends improving the procedures used to train and certify forensic scientists. He also states that Judges are not educated properly enough to appropriately determine whether the scientific evidence is relevant and reliable, therefore he recommends that the National Judicial Institute conduct specialized science training for judges (Sher, 2013, p. 46). These reforms would better educate those that conduct forensic experiments, as well as the ones who deem them reliable in the court of law. This would reduce the number of errors present in forensic experiments as well as create less bias in the courtroom by informing the judges on how unreliable forensics can be.

The Innocence Project is an organization devoted to exonerating the wrongfully convicted. They claim that unvalidated or improper forensic science has contributed to half the convictions overturned thanks to DNA evidence in the US since 1989, and forty-six percent of overturned convictions examined by the US Innocence Project involved dodgy forensics (Geddes, 2016, p. 36). The innocence project has gone to great lengths to impact our systems of law on a state and federal level. They have enacted policies to aid in the protection of our rights in the court of law, and to fool proof the investigation process. The policies are there mainly to prevent a witness from making a decision that they aren't one hundred percent certain of, such as when selecting from a lineup of suspects. They are used as a way of reminding the witness that the perpetrator is innocent until proven guilty. They hold control over those administering the lineup by not even letting them know who the perpetrator is, or if he or she is even in the lineup. They separate the witness and suspect prior to a lineup as well as record everything in case a reinvestigation is to occur.

To reduce these risks, the Innocence Project has drawn up a series of policies that have so far been adopted by 14 US states. These include limiting exposure of the witness to a suspect before formal identification takes place; blinding the person administering the line-up to who the real suspect is; telling the witness that the perpetrator may or may not be in the line-up, so they don't feel pressured to choose someone; and recording their confidence in the identification, should they make one. Identifications should also be videoed where possible, something that experts say is currently standard protocol in the UK alone. (Geddes, 2016, p. 36)

Geddes contends that our memories are easily contaminated by other people's ideas and events; the same human flaw that officers take advantage of during interrogations to induce false confessions. These policies have done great work in exonerating the innocent. As of 2016, three-hundred forty-two convictions have been overturned in the U.S. since 1989 as a result of these policies. (Geddes, 2016, p. 36)

Being wrongfully convicted comes with many more problems than what meets the eye. Nearly one hundred percent of the time, the lives of the wrongfully convicted are ruined, along with the lives of their families and those who support them. Even once exonerated, the wrongfully convicted has still wasted his or her time in prison, and now has a stigma attached to them. This is Clarissa Glenn and Ben Baker of South Side Chicago discover in Jennifer Gonnerman's "Framed."

Clarissa and her partner Ben Baker had drugs planted in their car by police sergeant, Ronald Watts. This led to their arrests and Ben's imprisonment for nearly a decade. Watts did this to many people in Chicago, as well as took bribes and demanded money from drug dealers. He fed on the weak and the poor, exploiting them for his own personal gain. Instead of doing his job, before making an arrest, he would ask to see the money of everyone in the hallways of the housing projects. He would threaten them that if they weren't to hand over their money, he would write up false charges against them and put them in prison. Watts was involved in blatant misconduct of his position.

"He used to take us in the hallway one by one. 'Man, how much money you got on you?' "James would pull out his cash and hand it to Watts, who would count it, then ask, "How much is your freedom worth to you?" Sometimes Watts would even itemize the costs of an arrest, including the bond payment. "Now, here it is, I'm charging you three thousand dollars for your freedom. What are you going to do?" Ben recalled that one of Watts's officers once told him, "It would be cheaper to pay us instead of paying a lawyer, paying a bond." To make his point, Watts sometimes brandished a bag of drugs. James said, "You knew if you ain't paying him you was going to jail." (Gonnerman, 2018, p. 49)

Gonnerman claims that Watts' misconduct was the cause of up to five hundred wrongful convictions. Because of the poor in America having a higher rate of crime, many of those wrongfully convicted because of Watts already had charges against them in the past. It's difficult for the courts to convict an officer who frames a former criminal for crimes they did not commit, as it is assumed that since the suspect has committed crimes previously, he or she must be guilty of the crime currently being tried for. Ben was stuck in the middle of this very situation, as he had a criminal background.

David Navarro, the prosecutor who met with Clarissa and Ben in the spring of 2005, told me that he believed them, and spent months investigating their claims about Watts, but he couldn't prove the allegations. "It's very difficult to prove a case when your only witness is the guy who has a pending case against him, and that guy has a criminal background," he said. (Gonnerman, 2018, p. 50)

Ben Baker had been convicted of drug possession with the intent to sell when there was no evidence leading to this being true. Clarissa appealed her husband's convictions brought by Watts. They were brought to trial where the judge told Clarissa that he would exonerate her

husband if he was presented with any new evidence. However, once new evidence was presented to the judge, he declined to act on it (Gonnerman, 2018, p. 52). Like false confessions, once someone is wrongfully convicted, people are generally unwilling to hear any new evidence proving a subject to be innocent. This was the case with the judge that heard Ben Baker's case, as he refused to hear any evidence that disproved Ben's guilt. It was essentially the officer's word against the victim's. Even though countless victims tried to tell the truth in court, Watt's lies were always determined to be true.

Phillip Thomas, who sold candy from a cart in the Wells, recalled that when he told his public defender that Watts's officers had planted drugs on him, "she made it quite clear that she didn't believe me and that my best bet was to plead guilty".... Shaun James told his public defender a similar story, and, he said, "She's looking at me like I'm crazy. She said, 'Ain't no judge is ever going to believe that.'" (Gonnerman, 2018, p. 50)

All of this took a tremendous toll on their family, as Clarissa had to work even harder to make it by. Her children began getting into trouble because of their father not being around. She struggled to find work due to having felony charges, and she rarely saw her children during the day. All of this, coupled with the frustration involving her husband's imprisonment, led her to become deeply depressed and divorce Ben. The entire process took a tremendous toll on Clarissa and her relationships with other people. Being wrongfully convicted completely altered the course of her life in a very negative way.

Clarissa was now the mother of three adolescent boys, with a full-time job and a husband in prison. Before Ben's trial, they had found a house on the South Side, and she had obtained a Section 8 voucher to help pay the rent. But, with Clarissa's felony conviction, she was no longer eligible for Section 8. She felt that in some ways her life was even more stressful than Ben's. "I'm worried about him in there, I'm worried about us out here in the world. I'm worried about bills, I'm worried about income, I'm worried about food, I'm worried about safety—so I'm twice as worried," she said... "Every part of her was dying on the inside," Clarissa's brother Bryan recalled. "The person you love—that you wrapped yourself up in, that you made a huge bet on—is now in jail. You're being ridiculed—family is ostracizing you. Not necessarily us, but other extended family. Now all of your business is out in the open (Gonnerman, 2018, p. 51)

Like Clarissa and Ben being framed, wrongful convictions resulting from falsely confessing comes with many life altering problems. Police misconduct continues long after a confession. Officers normally close the investigation shortly after a false confession, label it as solved, and refuse to acknowledge and new evidence even if the confession is inconsistent or contradicted by all the evidence. Police almost always continue to believe the suspect's guilt and that the confession is truthful. This relates back to how they're poorly trained. Officers are poorly informed on the phenomenon of police induced false confessions. This makes them assume that every confession is truthful, making anyone that confesses guilty. (Leo, 2009, p. 341) This delusional thinking is carried over to courtrooms, where jurors are as uninformed on what's going on behind the scenes as the interrogees are. An example of this would be the judge seeing Ben Baker's trial, who even after Watts had been imprisoned for theft, refused to believe that Baker was innocent.

Through organizations such as the Innocence Project, and people being informed on how easily and often wrongful convictions occur. Framing, bad science, and inducing false confessions all

contribute towards the corrupt agenda of our leaders. It allows them to establish even more control over us by blaming us for things we did not do and throw us in prison for them. If these reforms continue to gain momentum, wrongful convictions may cease to be an issue in our country. Until then, we must be careful of what we believe to be scientifically accurate, question the true motives of our law enforcement, and be aware that what our government declares to be true, may not always be.

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