

Misconceptions Regarding Criminal Justice Procedures and Evidence Gathering: A Perspective

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Abstract

The media uses wrongful convictions as ways to influence and fuel perceived failings of criminal justice procedures and evidence gathering by the public. More information has been circulated in media television programs that focus on these cases (Amaya, 2010). The average television viewer is now realizing that there are several reasons why innocent people get convicted such as: Eyewitness identification, Forensic Oversight, Access to DNA Testing, Exoneree Compensation, False Confessions and ineffective assistance of counsel. From a historic perspective, eyewitness identification tends to be not as reliable and often leads to wrongful convictions (Wells, Small & Penrod, 1988). These issues within the criminal justice discipline continue to recur. Here, the relevant literature is surveyed in order to provide a forum to generate even more detailed discussions on these timely and important subjects within the discipline to call for meaningful changes.

Keywords

Eyewitness, Justice System, Media

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I. Introduction

Eyewitness identifications remain among the most common sources of evidence used against defendants. The problem is that misidentifications threaten the innocent and bring police investigations, in search of the real perpetrators, to a premature end. The media serves as most Americans only source of information about crime statistics and the sensational convictions associated with certain crimes. Some police departments are using methods that are more than ten years old including old procedures regarding the administration of lineups (Dresser, & Garvey, 2012). The victims in exoneration cases include: the defendant who was wrongfully convicted, the victim, the Prosecution who relied on invalid information, the police who were largely ineffective, the Judges and jury, and the members of the general public who are not being protected and served.

Justice is not served for the original victim when it subsequently is determined that the wrong person was convicted. The victim wants the correct perpetrator to be punished for the crime and likely would not feel safe (Erez & Laster, 1999).

2. Background

This article provides an overview of the most poignant and relevant articles in order to address these persistent and recurrent issues within the criminal justice system. Truly, it would likely be harder to prove innocence without DNA evidence because that technological development was something novel, according to Medwed (2005). First, eyewitness misidentification tends to be something explored, on cross, when the eyewitness takes the stand. Second, the ability to properly cross examine this witness regarding his or

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her ability to observe the crime, in terms of his or her own sight, unobstructed view, adequate light, height and space issues, will relate to how effective the defense counselor was, at trial, and may be grounds for a new trial, if an unavailable witness suddenly become available, for example. Third, the defense attorney making a new trial motion would also have to consider whether there was some provable mistake during the administration of the lineup. Finally, Wells and Bradford (1999) have explored how there are flaws when the officer knows who or whom the suspect was.

Officers can unintentionally influence an eyewitness toward making an identification of an innocent suspect. Citizens rely on the media to provide them with accurate information about how safe or unsafe their neighborhoods are. People watch the evening news at the end of the day and try to determine what the score card was for the day in terms of how many crimes were perpetrated on a given day. The media's influence is acknowledged by court officials because during certain trials the jury has to be sequestered (Aguirre, Baker & Lee, 1999). The media can intensify people's fears about crimes and it may encourage citizens to get their legislative representatives to act. For this reason, some Prosecutors may also feel increased pressure to secure convictions in certain high profile cases to give their constituents some form of comfort (Bandes, 2006). It may be important to consider just what types of cases are in fact newsworthy. It may harm communities and law enforcement agency officials to report about only a handful of cases whereby errors happened. Some stories do not report that the errors represent a small number of overall total criminal investigations in a given community.

3. Issues

The media adds to the continued backlash against granting new trials because of clogged judicial calendars and prosecutors who faced political fallout that stemmed from improper convictions. Absent any specific legislatively mandated criteria, it can prove difficult to impossible to get a motion for a new trial granted. Defense counselors will consider the voluntariness of custodial confessions that were given by their clients, who are now declaring their innocence, and the circumstances surrounding them (Bibas & Bierschbach, 2004). It is known that confessions can be coerced and individuals can confess to crimes that they did not even commit due to fear and pressures exerted by law enforcement personnel (Chemerinsky, 2001). Legal practitioners need to consider that a marked lack of DNA is not always the main factor in cases whereby wrongful convictions occur (Valentine, Davis, Memon, & Roberts, 2012). One helpful use of the media would be to emphasize

the need for reforms in police procedures and for more communal involvement and support. The criminal justice system is impacted by this issue because police methods need to be reformed in order to prevent wrongful convictions, as noted by Cutler and Penrod (1999). It is important for the members of the general public to perceive that the police are protecting them and that the prosecution is using its massive array of resources to convict criminal perpetrators. Yet, the process like any other could benefit from these tacit reforms to police procedural methods.

4. Discussion

The media can have an impact on whether citizens believe that the criminal justice is effective. The justice system should approach this issue by calling for reforms in police procedures to decrease the number of misidentifications which the media outlets exploit as a way to undermine a system that works. As Dressler and Garvey (2012) pointed out, the Model Penal Code substantially influenced reforms in criminal law. Blind administration means that the police officer who administers the photos or procures the live lineup does not even know who the suspect is. According to Wells and Bradford, there should be other national reforms including changes to the line-up composition (1999). Some line-ups make the suspect stand out as he or she should not be the only member of a particular race within the line-up. The suspect should not be the only one with facial hair in the line-up. It is not fair for an eyewitness to see the suspect in multiple lineups (Davis, Valentine, Memon, & Roberts, 2015).

The eyewitness should be advised that the suspect may not be in the lineup and the eyewitness should not look at the officer administering the lineup for guidance in terms of body signals or cues. At the just conclusion of the administration of the lineup, the eyewitness should prepare a confidence statement regarding how sure he or she was with the identification of the suspect (Wells & Bradford, 1999). State officials and legislatures may want to add a requirement that members of the lineup be shown one-by-one rather than all at once in order to decrease the rate that innocent people will be selected. Eyewitnesses are more likely to pick out someone who looks like the perpetrator, rather than the actual perpetrator, when viewing members of a lineup all at once (Wells, Small, & Penrod, 1988). The lineup should be recorded in order to protect innocent suspects from any misconduct in the lineup administration. Recordings aid the fact trier by showing how procedures were followed adding legitimacy to the lineup and the results (Palmer & Brewer, 2012).

It may prove helpful for Criminal Justice practitioners to

conduct more current research regarding individuals convicted mostly on the basis of eyewitness identification that were later proved to be invalid by DNA testing. These wrongful convictions and the devastation that follow are problems that we share as a society. It is our duty as citizens in a democratic form of government to prevent that kind of injustice from ever happening here. The goal of legal practitioners is to follow the Constitution by ensuring that all steps are followed for a speedy and fair trial (Sunby, 2003). Dressler and Garvey advised that the influence exerted by the American Law Institute (ALI) composed of judges, law professors, and lawyers researched and developed what became the Model Penal Code which has been adopted nationwide (Stebly, Dysart, & Wells, 2011). It is clear that criminal justice practitioners can be effective as advocates who improve the perception of the criminal justice system.

In order to combat the public's perception of a breakdown in the system, it is necessary to study the specific ways that police procedures can be improved upon. Criminal law practitioners should seek to dispel any notion that prosecutors only care about convictions rather than the swift administration of justice (Medwed, 2005). We can bring about positive and lasting changes by working collaboratively. It is also important to consider changes to the federal rules of evidence so that such unreliable evidence does not come before the fact trier. We should insist on continued training for law enforcement personnel and should work to design effective training programs that are multi-disciplinary in nature and scope, taking into account the cross overs between psychology and the law. Criminal Justice practitioners may continue to encourage prosecutors to review, monitor, and make decisions on post-conviction motions filed that involve requests for DNA testing, especially in cases whereby defendants were convicted solely on eyewitness identification. The Innocence Project is a non-governmental organization that is actively working to provide resources and monies to bring these positive changes forward. And their dedicated work has freed people who were wrongfully convicted and may have even been serving on death row.

5. Conclusion and Recommendations

One important link that media outlets generally do not mention are that DNA has the ability to prove innocence but some courts will not allow it to be considered after trial under the Federal Rules of Evidence (Valentine & Davis, 2015). Today's sophisticated technology can provide irrefutable evidence that the defendant was convicted wrongfully (Clark, 2012). It is in everyone's best interests to pursue the enactment of post-conviction DNA access statutes on a

nationwide basis. Criminal Justice practitioners can use their knowledge to advocate for access to DNA testing based on the impact on victims and society in general (Logan, 2008).

The attack on the criminal justice system is understandable, in a democratic nation, whereby citizens should hold the state's police powers accountable. It is problematic and disgraceful that an innocent individual could be convicted under our system. The steps necessary in order to remedy wrongful convictions require that forensic labs be updated. It is also important to provide access to sophistic technologies and this should be a paramount goal of police departments nationwide. The respective state attorney generals' offices need to take an active role in creating conditions that prevent wrongful convictions. This issue should be a primary concern for prosecutors since it impacts many people and is harmful to society.

The widespread problem of wrongful convictions should also prompt a review of the established criminal procedural rules of evidence. This review should yield reforms since this tainted evidence, in the form of invalid eyewitness identification or coerced statements, is reaching the fact trier, thereby undermining the intention of the federal evidentiary rules (Maroney, 2011). The purpose of our criminal justice system should not be to encourage that criminal justice officials secure convictions at each and every trial. Meanwhile, the purpose of media reporting should be to report the case facts without worrying about the television ratings. People lives are on the line and the sanctity of the community is at stake when the media embarks upon what some may deem to be sensational reporting. This type of reporting may not help victims and families to cope and to move forward from tragic events. Tactful and conscientious reporting can further awareness of these problems as citizens may ask what role society plays in the creation of so-called master criminals and the heinous criminal acts they perpetrate against society.

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