

The Plea Of The Innocent

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Exoneration, Pardoning and Clemency

Exonerated - (of an official body) absolve (someone) from blame for a fault or wrongdoing, for example: "An inquiry exonerated those involved." Synonyms: absolve, clear, acquit, declare innocent, find innocent, pronounce not guilty, discharge; vindicate; exculpate.

In criminal law, it means someone was convicted of a crime he or she did not commit but were found guilty and sentenced and then later exonerated because the person was never guilty to begin with.

Exoneration should not be confused with pardoning. With exoneration, the person has never been guilty and is not or no longer held responsible for any crime or civil wrong that he or she is accused of. Pardoning on the other hand, means the person is indeed guilty of the crime or civil wrong he or she is accused of, but is forgiven for the act and his or her sentence is cut short.

In the case of a federal crime, a federal pardon must be granted by the President of the United States. In the case of a state crime, a state pardon must be granted by the governor, or in some states an entity such as a parole board acting on the state's behalf or in conjunction with the governor.

What is clemency? Is it the same thing as a pardon or something different? Can it be obtained in the same way as a pardon?

While clemency and pardon are not interchangeable, a pardon is a form of clemency. Clemency is a general term for reducing the penalties for a particular crime without actually clearing your criminal record. A clemency can come in the form of a pardon, which is forgiveness of a sentence, a commutation, which is reduction of a sentence, or a reprieve, which is a temporary putting off of punishment. Therefore, a pardon is always clemency, but when someone receives clemency, it does not necessarily mean a pardon.

Injustice Anywhere Is A Threat To Justice Everywhere

Innocent people are being found guilty and some of them are even executed. It is estimated that in the USA, more than 400 wrongly convicted, incarcerated, and exonerated people - exonerees - are trying to put their lives back together.

Innocent people are being convicted because of

- Incentivized informants giving false testimony
- Inadequate Defense
- Government misconduct
- Eyewitness misidentification
- False confessions or admissions
- Invalidated or improper forensic science

Exoneration has become much more common than it was a generation ago. Since the death penalty was reinstated in the 1970s, 139 people have been exonerated from death rows in 25 states; this is roughly one exoneree for every eight people executed.

As the pace of DNA exonerations has grown across the country in recent years, wrongful convictions have revealed disturbing fissures and trends in our criminal justice system.

8 People Who Were Executed and Later Found Innocent

<http://stories.avvo.com/crime/murder/8-people-who-were-executed-and-later-found-innocent.html>

1. **Thomas Griffin and Meeks Griffin**—1915. The Griffin brothers, two black men, were convicted of the murder of a white man. The reason they were convicted was because Monk Stevenson, another black man suspected of committing the murder, pointed to the brothers as having been responsible. He later admitted the reason he blamed them was because they were wealthy, and he assumed they had the money to beat the charges. The Griffin brothers were completely innocent, but they were put to death nonetheless.
2. **Jesse Tafero**—In 1976, Tafero was convicted of murdering a state trooper. He and Sonia Jacobs were both sentenced to death for the crime. The main

evidence used to convict them was testimony by someone else who was involved in the crime, ex-convict Walter Rhodes. Rhodes gave this testimony in exchange for a life sentence. In 1990, Tafero was put to death. Two years later, his companion Jacobs was released due to a lack of evidence...the same evidence used to put Tafero to death.

3. **Carlos DeLuna**—In 1989, DeLuna was executed for the stabbing of a Texas convenience store clerk. Almost 20 years later, Chicago Tribune uncovered evidence that shows DeLuna was likely innocent. The evidence showed that Carlos Hernandez, a man who even confessed to the murder many times, actually did the crime.
4. **Cameron Todd Willingham**—In 1992, Willingham was convicted of arson murder in Texas. He was believed to have intentionally set a fire that killed his three kids. In 2004, he was put to death. Unfortunately, the Texas Forensic Science Commission later found that the evidence was misinterpreted, and they concluded that none of the evidence used against Willingham was valid. As it turned out, the fire really was accidental.
5. **Ruben Cantu**—Cantu was 17 at the time the crime he was alleged of committing took place. Cantu was convicted of capital murder, and in 1993, the Texas teen was executed. About 12 years after his death, investigations show that Cantu likely didn't commit the murder. The lone eyewitness recanted his testimony, and Cantu's co-defendant later admitted he allowed his friend to be falsely accused. He says Cantu wasn't even there the night of the murder.
6. **Larry Griffin**—Griffin was put to death in 1995 for the 1981 murder of Quintin Moss, a Missouri drug dealer. Griffin always maintained his innocence, and now, evidence seems to indicate he was telling the truth. The first police officer on the scene now says the eyewitness account was false, even though the officer supported the claims during the trial. Another eyewitness who was wounded during the attack was never contacted during the trial, and he says Griffin wasn't present at the crime scene that night.
7. **David Wayne Spence**—Spence was put to death in 1997 for the murder of three teenagers in Texas. He was supposedly hired by a convenience store clerk to kill someone else, but he allegedly killed the wrong people by mistake. The supervising police lieutenant said "I do not think David Spence

committed this crime.” The lead homicide detective agreed, saying “My opinion is that David Spence was innocent. Nothing from the investigation ever led us to any evidence that he was involved.”

According to the National Registry of Exoneration, as of February 4, 2014, 1,403 people have been exonerated in the United States since 1989.

In the same period the number of non-DNA exonerations rose from 34 in 2005, to 59 in 2012 and to 69 in 2013.

When an innocent person is found guilty, an injustice has been committed and it is as Martin Luther King, Jr. said:

"Injustice anywhere is a threat to justice everywhere."

Disturbing Numbers

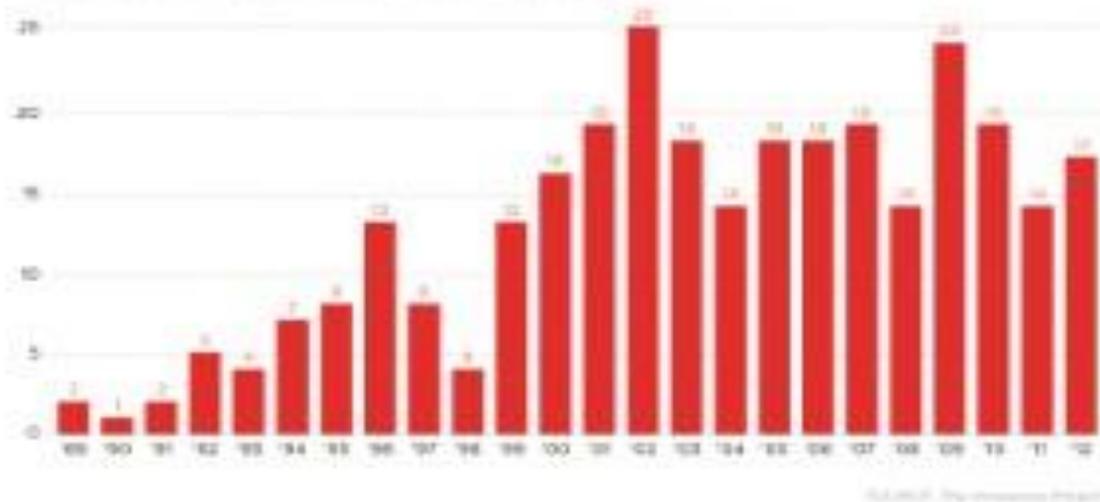
<http://edition.cnn.com/2013/12/04/justice/prisoner-exonerations-facts-innocence-project/>

In this article, CNN provides some disturbing facts and figures about the prevalence of innocent people found guilty. The article states that since 1983, using DNA testing of evidence in criminal cases has resulted in freedom for hundreds of prisoners across the United States who were wrongfully convicted.

Many of these prisoners spent years behind bars — some even faced the death penalty — for crimes they didn't commit. Here are a few of the numbers behind these exonerations:

- Number of U.S. post-conviction DNA exonerations: 311
- Number of prisoners sentenced to death before DNA proved their innocence: 18
- Number of prisoners charged with capital crimes but not sentenced to death: 16
- Longest sentence served by a DNA exoneree: 35 years
- Average length of sentence served by DNA exonerees: 13.6 years
- Approximate total years served by all DNA exonerees: 4,156
- Average age of exonerees at the time of their wrongful convictions: 27
- Percentage of prisoners exonerated by DNA testing who are people of color: 70%
- Percentage of DNA exoneration cases where the actual perpetrator has been identified by DNA testing: Almost 50%
- Number of U.S. states (and Washington, D.C.) where exonerations have been won: 36
- Number of DNA exonerees who pleaded guilty to crimes they didn't commit: 29
- Number of DNA exonerations that involved the Innocence Project: 171
- Year of the first Innocence Project DNA exoneration: 1989

U.S. DNA EXONERATIONS 1989-2012



Note: Other exonerations were helped by Innocence Network organizations, private attorneys and by pro se defendants, according to the Innocence Project.

Source: InnocenceProject.org

The Innocence Project

<http://www.innocenceproject.org/>

The Innocence Project, founded in 1992 by Peter Neufeld and Barry Scheck at Cardozo School of Law, exonerates the wrongly convicted through DNA testing and works to reform the criminal justice system to prevent future injustice.

347 Number of DNA Exonerations

149 Number of Alternative Perpetrators Identified

False Confessions Or Admissions

<http://www.falseconfessions.org/fact-a-figures>

False Confessions - The Leading Cause Of Wrongful Convictions

If approximately 27% of the total number of exoneration cases involved a false confession and if 10% of the two million men and women imprisoned in the United States are innocent, as estimated by the Department of Justice, then there could potentially be as many as 50,000 people in jail because of false confessions.

Police-induced false confessions are among the leading causes of wrongful convictions. Since the late 1980s, six studies alone have documented approximately 250 interrogation-induced false confessions.

In 2013, 72% of the 1,281 exonerated from January 1989 through December 2013 were cleared without DNA evidence — 20% of the 1,281 exonerees had a false confession as a contributing factor.

According to the Innocence Project, 25% of wrongful convictions overturned by DNA evidence involve a false confession and many of those false confessions actually contained details that match the crime-details that were not made public.

In Bedau and Radelet's 1987 study, false confessions were the third leading cause of wrongful conviction; In Warden's 2003 study they were the single leading cause.

In about 30% of DNA exoneration cases, innocent defendants made incriminating statements, delivered outright confessions or pled guilty.

92% of false confessors are men.

63% of false confessors were under the age of 25, and 32% were under 18; yet of all persons arrested for murder and rape, only 8 and 16%, respectively, are juveniles. 22% were mentally retarded and 10% had a diagnosed mental illness.

2009 brought 22 new cases of DNA exonerations of people wrongly convicted. The overall total is 258, and the Innocence Project reports that roughly 25% had given false confessions.

Among a total of 340 exonerations of all kinds documented between 1989 and 2003, 15 percent involved false confessions.

Multiple false confessions to the same crime were obtained in 30% of the cases, wherein one false confession was used to prompt others.

And here is a real shocker: Studies of proven false confessors have shown that, even in cases involving confessions later proven to be false, juries convict in 73%-81% of the cases.

False Confessions Rife In More Serious Cases

Police-induced false confessions appear to occur primarily in the more serious cases, especially homicides and other high-profile felonies.

More than 80 percent of the 125 false confessions documented by Professors Steve Drizin and Richard Leo occurred in homicide cases.

False confessions make for the leading cause of wrongful convictions in homicide cases.

More than two-thirds of the DNA-cleared homicide cases documented by the Innocence Project were caused by false confessions.

Guilty Until We Can Find The Real Perpetrator

The most common bases for exoneration were the real perpetrator was identified (74%) or that new scientific evidence was discovered (46%).

In 10 of New York's 26 DNA exonerations, the actual perpetrator was later identified.

In nine of those 10 cases, the actual perpetrators of crimes for which innocent people were wrongfully convicted went on to commit additional crimes while an innocent person was in prison. According to law enforcement reports, five murders, seven rapes, two serious assaults and one robbery at gunpoint were committed by the actual perpetrators of crimes for which innocent people were incarcerated - and each of those crimes was committed after the wrongful arrest or conviction, so they could have been prevented if wrongful convictions had not happened.

New York Is Particularly Bad

Of the 24 exonerations in New York State, 13 have been based upon false confession. Two-thirds of murder convictions overturned by DNA evidence turned out to have been based on false confessions.

There have been 43 false confessions in New York State: New York outpaces almost every other state in the number of wrongful convictions overturned by DNA testing.

In 11 of the 26 cases in New York, innocent people falsely confessed or admitted to crimes that DNA later proved they did not commit.

Eyewitness misidentification played a role in 13 of the 23 wrongful convictions in New York that were overturned with DNA testing.

Limited or unreliable forensic science played a role in 10 of the 23 wrongful convictions in New York that were overturned through DNA evidence.

DNA Exoneration

11 Facts About Wrongful Imprisonment

<https://www.dosomething.org/facts/11-facts-about-wrongful-imprisonment>

1. “DNA exoneration” is the process of a person being proved innocent post-conviction through DNA testing and evidence.
2. In the US, there have been 1467 exonerations, 321 of them involving DNA.
3. The first DNA exoneration case involved Gary Dotson and took place in 1989 in Chicago.
4. The average length of sentence time served by DNA exonerees is 13.6 years. The total number of years served by all DNA exonerees is 4,156 years.
5. James Bain of Florida was exonerated with DNA testing after serving the longest false imprisonment sentence -- 35 years.
6. 70% of prisoners exonerated by DNA testing are people of color.
7. 2013 had the highest number of total exonerations with 91, 18 involving DNA exoneration and 73 non-DNA exonerations.
8. Texas holds the highest number of DNA exonerations at 49.
9. 75% of DNA exonerations stem from misidentification from an eyewitness.
10. 27 states provide compensation for each year the exonerees were wrongfully imprisoned once they’ve been released.
11. If given enough time, at least 1 in 25 people would be exonerated from death row in the US.

Exonerated. What Now?

<http://www.r-a-e.org/about/facts-exoneration>

Often, despite the time they've served, their skills have not improved because unlike inmates with pre-set release dates, inmates facing death or serving life without parole often aren't allowed job training, literacy classes, or GED preparation.

Until exonerees complete the state's lengthy pardon process, their convictions show up when potential employers, landlords, or creditors do criminal background checks.

Most exonerees have no health insurance, which allows them no way to remedy the psychological and physical toll of Louisiana's prison system.

Some exonerees, if they get a bus fare on their release, take a bus to what once was home. But when they get there, no one is waiting. Often, exonerees have lost all of their possessions, their housing, and their loved ones. Their children have been raised without them; their parents have often died.

A study by the Berkeley, California-based **Life After Exoneration Program** found that after their release:

Half of exonerees are living with family

- 2 in 3 are not financially independent
- 1 in 3 lose custody of their children
- 1 out of 4 suffer from Post-Traumatic Stress Disorder

All formerly incarcerated people face similar barriers. Most of the world treats exonerees like anyone else with a criminal record:

- Both groups are chronically underemployed.
- Both groups have difficulty accessing routine government services.
- Both groups are routinely denied the right to vote, live in public housing, get food stamps, or access college loans.
- After struggling to survive in prison, exonerees must struggle to live on the outside. They are routinely harassed by law enforcement officials; they are regularly denied employment; they are stigmatized as formerly

incarcerated individuals; many have lost parents and partners, and most are deprived of seeing their children grow up. Back on the outside, they are denied the ability to work to survive, live a law-abiding life, and successfully care for their families.

35% of 317 cases exonerated by DNA received no compensation.