

Dealing With the Racial Nature of Wrongful Convictions.

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1 Comment

(**ThyBlackMan.com**) The vast majority of the wrongfully convicted who are exonerated through DNA evidence are people of color. The numbers don't lie.

At a time when the killing of innocent black men by police is causing many to question the fundamentals of America's criminal justice system, we are reminded that black lives matter. However, we should also remember that the same flawed system that allows for the fatal shooting of Michael Brown or the choking death of Eric Garner also places innocent people behind bars and sends them to death row.

The *Innocence Project* and the *NAACP* have partnered to address the problem of wrongful convictions, and prevent them from occurring in the first place.

The Innocence Project has compiled data on the 324 people who have been exonerated through DNA evidence in the United States.

Of these wrongfully convicted individuals, 70 percent are people of color, and 63 percent are African-American. They spent an average of 13.5 years in prison, collectively a total of over 4,339 years. And 6 percent received a death sentence.

In 43 percent of the cases for which data are available, the underlying crimes involved cross-racial identification, where the witness—such as the victim—and the suspect are of different races. **Eyewitness misidentification was a factor in about three-quarters of these exoneration cases**, and studies have

THE FACES OF WRONGFUL CONVICTION

demonstrated that people are less able to identify people of a

different race.

Believe it or not, in 31 percent of the wrongful convictions leading to DNA exonerations, the wrongfully convicted person confessed, admitted guilt and/or pled guilty. Jailhouse snitches and informants—an unreliable source of information, as the testimony typically is provided in exchange for leniency or some other type of deal— had a hand in 15 percent of these convictions, while improper or unvalidated forensic science was used 48 percent of the time.

Henry Lee McCollum, 50, and Leon Brown, 46, are prime examples of the problem here. The half-brothers, both intellectually disabled, confessed to the rape and murder of an 11-year old girl in North Carolina in 1984. McCollum spent 30 years on death row, and Brown was serving life after his conviction was thrown out. The North Carolina Innocence Inquiry Commission found that DNA at the crime scene belonged to another man, Roscoe Artis, who was sentenced to death for a similar crime. In half of cases involving DNA exonerations, the real perpetrator is identified. Moreover, in half of cases, the real perpetrator went on to commit other crimes after the exoneree was arrested and convicted. McCollum and Brown became free men this year.

Meanwhile, based on these troubling statistics, the NAACP adopted a resolution at its national convention in July, 2014 and ratified in October, to prevent wrongful convictions by improving access to DNA testing and accuracy in eyewitness interrogation techniques. The civil rights organization now advocates for states to *“adopt core procedural reforms to improve the accuracy of eyewitness identification including blind administration of lineups, proper*

composition of lineups, proper instructions to the witness and taking statements in the witness' own words at the time of the identification."

Further, the NAACP wants all states to electronically record all felony-related interrogations in their entirety, and remove all restrictions to post-conviction DNA testing. As for the federal government, the group advocates for the promotion of forensic science research and scientifically developed, uniform standards to ensure the scientific evidence is valid and so that true justice will be served.

As the unsavory and problematic aspects of America's "justice" system come to light—wrongful convictions, police and prosecutorial misconduct, racial injustice, sloppy lawyering and the like—two things are clear. First, communities of color do not trust the justice system because its institutions continue to betray, humiliate and brutalize them, and cripple their families and communities.

Second, white Americans—who have a markedly different perception of a system that generally has worked in their favor—believe the police treat everyone fairly. A recent *NBC/Marist poll* found that whites are four times more likely as blacks to trust the police, and believe law enforcement will treat blacks and whites equally. Further, while 21 percent of whites have more confidence in the legal system following the grand jury decisions not to indict police officers for killing *black men* in Ferguson, Missouri and Staten Island, New York, 70 percent of African Americans have lower confidence in the courts.

The wrongful convictions data coming from the Innocence Project provide all the proof we need that all things are not equal in the application of American justice. Justice is color coded, and truly a matter of black and white. Now is the time to change that.

Written By **David A. Love**