

Dead Wrong:**Capital Punishment, Wrongful Convictions, and Serious Mental Illness**

Alexis E. Carl, LMSW
School of Social Work
Wayne State University
U.S.A.

WCLR Gold Prize

The Editorial Board of the *Wrongful Conviction Law Review* is pleased to award its inaugural gold prize for a student paper to Alexis E. Carl

Faculty Endorsement - Marvin Zalman, Professor, Department of Criminology and Criminal Justice, Wayne State University, U.S.A: This article began as a term paper in CRJ 7405, Wrongful Convictions, a graduate course in the Department of Criminal Justice (now the Department of Criminology and Criminal Justice) at Wayne State University in the Fall 2019 semester. I endorse this article for publication in the Wrongful Conviction Law Review.

- I. Background
 - A. Capital Punishment
 - a. Wrongful Convictions and the Death Penalty
 - b. *Atkins v. Virginia*
 - B. Serious Mental Illness
 - a. Vulnerabilities among Individuals with SMI
 - C. Gaps in Previous Research & Current Study
- II. Wrongful Convictions and Serious Mental Illness
 - A. Data & Methods
 - a. Data Derived from the National Registry of Exonerations
 - b. Known Cases
 - B. Results
 - a. Data Derived from the National Registry of Exonerations
 - b. Known Cases
- III. Discussion
 - A. Strengthening Current Safeguards
 - B. Applying *Atkins v. Virginia* to SMI
 - C. Implementing Further Reforms
 - D. Conclusion

I Background

This paper explores the relationship between serious mental illness (SMI), wrongful convictions, and capital punishment.

A. Capital Punishment

In the United States, for an individual to be dealt a death sentence, they must be convicted of a capital crime (Bureau of Justice Statistics, n.d.). Due to the bifurcated nature of the United States criminal justice system, an individual can be charged with a federal or state capital crime (Connor, 2010). In the past, these crimes included rape and armed robbery; however, the United States Supreme Court has since ruled that a sentence of capital punishment for these crimes is unconstitutional (*Coker v. Georgia*, 1977; *Kennedy v. Louisiana*, 2008). Additionally, since federally reinstating the death penalty in 1976, the U.S. Supreme Court has made it quite clear that the death penalty be reserved solely for persons convicted of homicide (*Gregg v. Georgia*, 1977). Even so, there are still federal and some state statutes that list capital crimes other than homicide (i.e., espionage, treason, etc.) (Sentence of Death, 1994); however, all persons in the modern era who have received capital sentences have been convicted of murder (Death Penalty Information Center, 2020). Further, for an individual to receive a capital punishment sentence, following a guilty verdict the prosecution must, “Prove an additional statutory aggravating factor or satisfy an analogous special issue requirement before a jury or judge is authorized even to consider imposing a capital sentence” (Acker & Bellandi, 2014, p. 270). Common aggravating factors include having an extensive violent criminal record or committing a murder and another violent felony simultaneously (21 OK Stat § 21-701.12, 2015; AZ Rev Stat § 13-751, 2019; MS Code § 97-3-19, 2013; Acker & Bellandi, 2014).

a. Wrongful Convictions and the Death Penalty

An unintended consequence of capital punishment occurs when a sentence is imposed on an individual who is actually innocent. The Death Penalty Information Center (DPIC), which was founded in 1990, has compiled a list of individuals who have been given a capital sentence and have subsequently been exonerated since 1973 (Acker & Bellandi, 2014, p. 272). At present, this list contains 166 defendants (Death Penalty Information Center, 2020). Sadly, many exonerees have come very close, sometimes within hours, of being put to death. Some scholars believe that there are many individuals on this list that would have been executed if it were not for fortuitous delays in their cases (Acker & Bellandi, 2014, p. 272). Moreover, there are ten additional individuals on the DPIC’s list of executed persons that are believed to be possibly innocent (Acker & Bellandi, 2014). Additionally, a study by Warden and Seasley (2019) found at least 25 individuals with sufficient case evidence suggesting that their death sentences were also erroneous and warranted exonerations.

Legal scholars argue that the injustice related to capital punishment requires data-driven estimates of capital punishment error-rates. By applying statistical analysis methods known as survival analysis—meaning if all death-sentenced defendants remained under sentence of death indefinitely, how many would have been wrongfully convicted and sentenced to death—Gross et al. has come the closest to accurately estimating this error rate (Gross et al., 2014). After looking

at death sentences and exonerations from 1973-2004, they calculated that, “The cumulative probability of exoneration for death-sentenced defendants who remained under threat of execution for 21.4 y[ears] was 4.1% (with a 95% confidence interval of 2.8–5.2%)” (Gross et al., 2014). This is extremely alarming, and the authors even note that this is a conservative estimate (Gross et al., 2014). Given this data, it is very plausible that some innocent persons have been executed (Gross et al., 2014). This study has been crucial at documenting the injustices related to capital punishment; however, an error rate can still never be accurately predicted, as it is impossible to truly know how many people are factually innocent (Acker & Bellandi, 2014). To further understand wrongful capital convictions, Bedau and Radelet (1987) studied wrongful convictions in capital and potentially capital cases from 1900-1985, revealing 350 wrongful convictions. They believed 23 of these convictions resulted in innocent people being executed, but their study was criticized since their definition of innocence was somewhat subjective (Acker & Bellandi, 2014). Additionally, Lofquist and Harmon (2008) studied wrongful convictions in executions that took place from 1972-2000, finding compelling claims of innocence for at least 16 individuals.

Capital cases also have high reversal rates. From 1973-1995, two-thirds of capital cases where individuals were sentenced to death were reversed (Liebman, et al., 2002). “Still, there is no guarantee that judicial review for legal error will identify factually innocent defendants; indeed, any number of appellate court opinions have concluded that evidence of guilt was ‘overwhelming’ in cases that subsequently resulted in DNA-based exonerations” (Acker & Bellandi, 2014, p. 275). Due to these and other factors, the United States Supreme Court has become aware of the dangers associated with capital punishment, and thus, has enacted safeguards surrounding its application, such as, ruling that a sentence of capital punishment for mentally disabled defendants is unconstitutional (Acker & Bellandi, 2014).

b. Atkins v. Virginia

The U.S. Supreme Court in *Atkins v. Virginia* (2002) held under the Cruel and Unusual Punishment Clause of the Eighth Amendment that a sentence of capital punishment for individuals with intellectual disabilities is unconstitutional. For a death sentence to be deemed constitutional it must not be excessive and must be viewed as serving some penological justification, so that no gratuitous suffering is imposed (*Atkins v. Virginia*, 2002; *Gregg v. Georgia*, 1976).

The Diagnostic and Statistical Manual of Mental Disorders Version 5 (DSM-5) defines intellectual disability as, “Significantly subaverage intellectual functioning accompanied by significant limitations in adaptive functioning that originated before the age of eighteen” (Blume et al., 2014). The Court agreed those with intellectual disabilities lacked the moral culpability and intellectual capacity to be deserving of such a punishment, as it would not serve penological justification (*Atkins v. Virginia*, 2002). The Court also found applying the death penalty to people with intellectual disabilities would be excessive, since persons with intellectual disabilities have, “Diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others” (*Atkins v. Virginia*, 2002, p. 13).

Further, the Court noted that individuals with intellectual disabilities are at a higher risk of being wrongfully convicted and thus wrongfully executed, arguing that an innocent person with

an intellectual disability is more likely to falsely confess, struggles with communicating with their attorneys, has difficulty testifying, and has a demeanor that often falsely conveys lack of remorse (*Atkins v. Virginia*, 2002). When looking at *Atkins v. Virginia*, one can see that the Court gives great weight to an individual's functional and cognitive impairments in assessing culpability and vulnerability. With that being said, these same factors can thus be applied to individuals with serious mental illness, and in doing so, a strong argument can be made that imposing a capital sentence on individuals with serious mental illness would also be rendered unconstitutional.

B. Serious Mental Illness

Serious mental illness (SMI) is defined as a “Mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities” (National Institutes of Mental Health, 2019). Symptoms of SMI vary in severity, frequency, and duration, yet they can be disabling to the individual and impact their life greatly. Common symptoms of SMI include hallucinations; delusions; disorganized speech; catatonic or disorganized behavior; psychosis; exaggeration or distortion of perception of reality; blunted personality and emotions; inability to act in a goal-directed manner; inability to think; illogical thinking; memory deficits; inability to concentrate; inability to think abstractly; trouble with processing information; emotional dysregulation; and difficulty communicating (American Psychiatric Association, 2013; Izutsu, 2005; Slobogin, 2003). People with SMI often also have diminished occupational and social functioning, and have difficulties performing activities of daily living (APA, 2013; Izutsu, 2005; Slobogin, 2003). According to the National Alliance on Mental Illness, serious mental illnesses include: major depression, schizophrenia, bipolar disorder, obsessive compulsive disorder, panic disorder, posttraumatic stress disorder, and borderline personality disorder (National Alliance on Mental Illness, 2019; Death Penalty Information Center, 2020). While people with SMI can often find relief by attending outpatient therapy and by taking psychiatric medications, SMI is seldom “cured;” rather it is managed (Izutsu, 2005; Slobogin, 2003). Further, people with SMI often require hospitalization when their symptoms are heightened (Slobogin, 2003; Izutsu, 2005).

a. Vulnerabilities among Individuals with SMI

Due to the cognitive and volitional impairments associated with SMI, people with SMI are extremely vulnerable to being wrongfully convicted of a crime and subsequently wrongfully sentenced to death (American Psychiatric Association, 2013; Slobogin, 2003; Izutsu, 2005). Common risk factors associated with having a diagnosis of SMI include: 1) falsely confessing; 2) struggling with assisting in one's defense; 3) being perceived as an unreliable witness; 4) falsely appearing to lack remorse; and 5) facing prejudices from judges and jurors; which all contribute to wrongful convictions (Kassin, 2015; Rogal, 2017; Johnson et al., 2019; Vinocour 2020; Hayman, 2016; Izutsu, 2005; Slobogin, 2003).

False confessions. Individuals with SMI have psychological vulnerabilities such as cognitive impairments, distorted perceptions and beliefs, communication deficits, and processing barriers, that place them at a greater risk to falsely confess to crimes that they did not commit (Gudjonsson, 2012; Izutsu, 2005; Rogal, 2017; Leo, 2009; APA, 2013). Other recognized traits of persons who are at risk of falsely confessing include: having a deficient memory, high anxiety,

low self-esteem, and low assertiveness, which are all common amongst persons with SMI (Leo, 2009). Generally, there are three types of recognized false confessions: voluntary false confessions, coerced-compliant false confessions, and coerced-internalized false confessions (Kassin, 2015). The first type, voluntary false confessions, include confessions where an individual confesses on their own free will without police inducement. The second type, coerced-compliant false confessions, include confessions where an individual feels the need to confess to escape the stress of the interrogation or confesses for some other additional gain. The last type, coerced-internalized false confessions, include confessions where an individual is convinced by a police officer, through the interrogation process, that he/she committed the crime, even if they do not remember committing the crime. Individuals who suffer from SMI are at a higher risk for making coerced-compliant and coerced-internalized false confessions (Rogal, 2017; Kassin; 2015; Leo, 2009). However, individuals with SMI are also vulnerable to making voluntary false confessions as a result from their impaired mental states (Gudjonsson, 2003).

Since people with SMI often have cognitive impairments, such as delusions or memory impairments, they may find it difficult to give detectives reliable statements (Gudjonsson, 2012). Additionally, they may find it hard to communicate to police their own version of events and struggle to provide them with exculpatory information, since people with SMI have trouble processing information and communicating effectively (Izutsu, 2005; APA, 2013). Further, when people with SMI are experiencing symptoms of mania, they display obliviousness to risk, recklessness, and grandiose self-belief, which can cause an individual to make impulsive and inaccurate decisions. In contrast, when people with SMI experience depressive symptoms, they can exhibit feelings of excessive or misplaced guilt, leading to a false confession (Rogal, 2017).

Next, individuals with SMI may not be able to handle the pressures of the actual police interview, since police interrogation tactics are psychologically coercive in nature (Johnson et al., 2019; Rogal; 2017). To protect an individual's Fifth Amendment right against self-incrimination, the U.S. Supreme Court in *Miranda v. Arizona*, concluded that its warnings safeguard should be extended to the pretrial interrogation process (*Miranda v. Arizona*, 1966). However, the *Miranda* precedent does not protect individuals from coercive interrogation tactics, thus it does not provide individuals with protection against falsely confessing (Leo, 2008).

The interrogation practice most used by police is the Reid Technique, which is a nine-step interrogation process that frequently uses tactics of deception, psychological manipulation, and coercion (Rogal, 2017; Trainum, 2016; Gudjonsson, 2012). In fact, the Reid Manual acknowledges that false confessions can happen; however, the authors refute any claims that their techniques are to blame, yet they do note their techniques may be overwhelming for persons with SMI (Trainum, 2016; Rogal, 2017). Deception tactics used by police often involve, “[i]nventing evidence, overstating certainty of guilt, and implying that suspects will somehow benefit from making admissions” (Rogal, 2017, p. 66). Since people with SMI have delusions and suffer from cognitive deficits which may alter their sense of trust, these deceptive tactics make them more suggestible and compliant, increasing their vulnerability to falsely confessing. In contrast, these same vulnerabilities can also make a person with SMI less compliant and more likely to confess as a means to end the interrogation (i.e., having a delusion that the interrogator is going to kill their family if they do not confess). Moreover, because individuals with SMI already distrust their memory—since it is undependable from frequent delusions and hallucinations—these individuals

may fully believe they were involved in a crime, even if they have no recollection of it (Johnson et al., 2019). Next, coercive tactics used by police, which may involve the use of threats, promises, or implications that one has no other choice but to confess, also make individuals with SMI especially vulnerable, since they have trouble thinking abstractly and often have an exaggerated or distorted sense of reality (Gudjonsson, 2012; APA, 2013; Izutsu, 2005). Also, persons with SMI may not even understand the questions being asked of them or consequences of their answers. Notably, research has shown that, “Inattentiveness to long-range consequences increases the risk of false confessions in order to obtain a short-term reward (such as the termination of the police questioning)” (Rogal, 2017).

Additionally, people with SMI may not understand their constitutional rights or may not know how to exercise them (Rogal, 2017). This is because those with SMI may have cognitive and volitional impairments (APA, 2013). Those with SMI struggle with thinking abstractly, which is needed when invoking and understating one’s legal rights and Miranda warnings, since it is supposed to help protect against volatile police interviews that could lead to false confessions (Johnson et al., 2019; Rogal, 2017). In fact, research suggests that 80% of individuals waive their Miranda rights—which can contribute to coercive police tactics (Trainum, 2016; Kassin, 2010a). Overall, our current criminal justice system does not have the ability to correctly identify false confessions or to protect persons with SMI from having this evidence improperly used against them (Rogal, 2017).

Defense assistance. People with SMI often have difficulty communicating with their attorneys resulting from many different symptoms experienced by individuals with SMI, including impairments in memory, deficits in language, an inability to understand abstract legal concepts, and limitations in social functioning (Izutsu, 2005; APA, 2013; Slobogin, 2003). All of these symptoms make it difficult for those with SMI to assist their attorneys with their defense (Johnson et al., 2019; Vinocour 2020). People with SMI also often have an exaggerated or distorted perception of reality, making it difficult for them to even provide their story of events or any exculpatory information to their attorneys (Slobogin, 2003; Johnson et al., 2019). Further, “Because of delusions or impaired judgment, [defendants] may distrust or refuse to cooperate with defense counsel or believe that a defense is somehow unnecessary” (Izutsu, 2005).

Unreliable witness. Individuals with SMI are historically known as unreliable witnesses, thus they are not likely to be able to persuasively testify in their own defense (Johnson et al., 2019). Unfortunately, this is because individuals who have mental illness are seen to be erratic, impulsive, and untrustworthy, as they may at times be, as SMI symptoms can very much contribute to these behaviors. Further, some individuals with SMI may have a decreased sense of self, causing an inability to speak with conviction (Hayman, 2016). This can lead jurors to question the validity of their statements. Additionally, individuals with SMI may act or react in ways on the witness stand that can hurt their defense (Hayman, 2016). Lastly, an individual with SMI may even “Falsely contradict themselves out of confusion, fatigue or fear” (Hayman, 2016).

False appearance of lack of remorse. Individuals with SMI can also falsely appear to lack remorse. This has to do with the symptoms that individuals with SMI may encounter including catatonic or disorganized behavior, emotional blunting and dysregulation, and an inability to concentrate (APA, 2013; Izutsu, 2005; Johnson et al., 2019; Vinocour, 2020). Further, individuals

with SMI may have diminished facial expressions and appear apathetic which could cause jurors to misjudge their true demeanor and thus, mistakenly convict them of a crime (Izutsu, 2005; APA, 2013; Johnson et al., 2019).

Prejudices. People with SMI face prejudices from judges and jurors who ultimately have the ability to hand down a wrongful conviction (Vinocour, 2020). One research study, which looked at 128 Georgia capital cases during 1990, found an association between a failed insanity defense and a capital sentence and argued, “Given that defendants who raise the insanity defense generally present evidence of mental illness, this correlation suggests that juries and judges may be influenced to impose the death penalty even when mitigating evidence exists” (Izutsu, 2005). Further, research has found that it is not the culpability of the seriously mental ill person that is used by judges and juries to determine sentencing, but that it is the disproportionate, irrational, and inaccurate fear of these individuals that decides their fate—often leading to a wrongful conviction and sentence of death (Izutsu, 2005; Slobogin, 2003; Vinocour, 2020). Lastly, jurors often do not realize those with SMI can experience exacerbating symptoms even when they are medication compliant—which is important when considering culpability, as it may lead a juror to incorrectly assume that an individual with SMI has control over their illness (Izutsu, 2005).

C. Gaps in Previous Research & Current Study

Although previous research has laid out the vulnerabilities individuals with SMI experience in the criminal justice sector, there remains several gaps demonstrating the direct connection between having a SMI and being wrongfully convicted. Further, there is very limited research available on the actual cases of exonerees with SMI diagnoses, including exonerees with SMI diagnoses who were once on death row.

The aim of this study is to explore how having a SMI may increase an individual’s risk of being wrongfully convicted and consequently given a capital sentence. First, data from the National Registry of Exonerations is analyzed, leading to a discussion of the disproportionate co-occurrences of wrongful convictions that are stimulated by SMI. Then, 26 cases of individuals who were wrongfully convicted due to their SMI are examined, creating the argument for why a death penalty sentence is not appropriate for individuals suffering from these disorders, based on the U.S. Supreme Court’s findings in *Atkins v. Virginia*. Lastly, this paper suggests implementing further reforms to protect individuals with SMI from vulnerabilities in the criminal justice system.

II Wrongful Convictions and Serious Mental Illness

A. Data and Methods

a. Data Derived from the National Registry of Exonerations

The National Registry of Exonerations (NRE) has recorded detailed information about every known exoneration in the United States since 1989, including whether or not an offender had a mental disability (National Registry of Exonerations, n.d.). As of February 2019, the NRE listed 146 exonerated individuals who suffered from a mental disability out of 2,358 total

exonerations (National Registry of Exonerations, n.d.). However, the NRE records mental disabilities by grouping together serious mental illness and intellectual disabilities (this data can be accessed on the NRE's website under the Issues: False Confessions tab—Table: Age and Mental Statuses of Exonerated Defendants) (National Registry of Exonerations, 2020).

Fortunately, a recent study completed by Johnson et al. (2019) combed through NRE data to separate serious mental illnesses from intellectual disabilities, thus, more detailed information on SMI can be reported. According to this study, out of the 146 exonerated individuals listed on the NRE who suffered from a mental disability, 45 of them suffered from a SMI (Johnson, et al., 2019, p. 107). Utilizing this information, this author created a SMI variable and analyzed the NRE data, to better understand the disproportionate co-occurrences of wrongful convictions that are stimulated by SMI. Using IBM SPSS Statistics, version 25, this data was analyzed at the bivariate level (SPSS Software, n.d.).

b. Known Cases

Next, in an attempt to explore how having a SMI can increase an individual's risk of being wrongfully convicted and consequently given a capital sentence, case specific information was sought to be analyzed for as many exonerees with SMI as possible - beginning with the NRE. Although the NRE does not "code" exonerations in their registry by mental illness, an advance search can still be performed on cases in their database. By entering the key words: "mentally ill," "mental illness," "bipolar," "depression," "psychosis," "borderline," "PTSD," and "schizophrenia," 23 exonerees who suffered from SMI were able to be identified. However, this list is not exhaustive, given that the NRE had at least 45 exonerees listed as having a SMI as of February 2019 (Johnson, et al., 2019; National Registry of Exonerations, n.d.). These 23 exonerees were: George Allen Jr., William Amor, James Blackmon, Carl Chatman, Tom Edwin Chumley, Henry Cunningham, William M. Kelly, Jr., Benjamin Harris, Eddie Joe Lloyd, Benjamin Miller, Stanley Mozee, Curtis Moore, Rickey Newman, Josue Ortiz, Laverna Pavlinac, Freddie Peacock, Jamie Lee Peterson, John Purvis, Frederic Saecker, Glenn Tinney, Mike Wilkerson, Rodney Woidtke, and Cathy Woods (National Registry of Exonerations, n.d.).

Next, an earlier study of false confessions by Drizin and Leo (2004), looked at electronic media, legal databases, police reports, trial transcripts, articles, and books, which uncovered 125 proven false confessions. Out of these cases, they found at least 12 persons suffered from SMI, noting it was likely an underestimate (Drizin & Leo, 2004). However, after closely examining their study, only five additional instances of wrongful convictions of persons with SMI with case specific information were able to be identified: Colleen Blue, Michael Bottoms, Eddie Joe Lloyd (previously mentioned above), Robert Lee Miller, Jr. (previously mentioned above), and Frank Lee Smith.

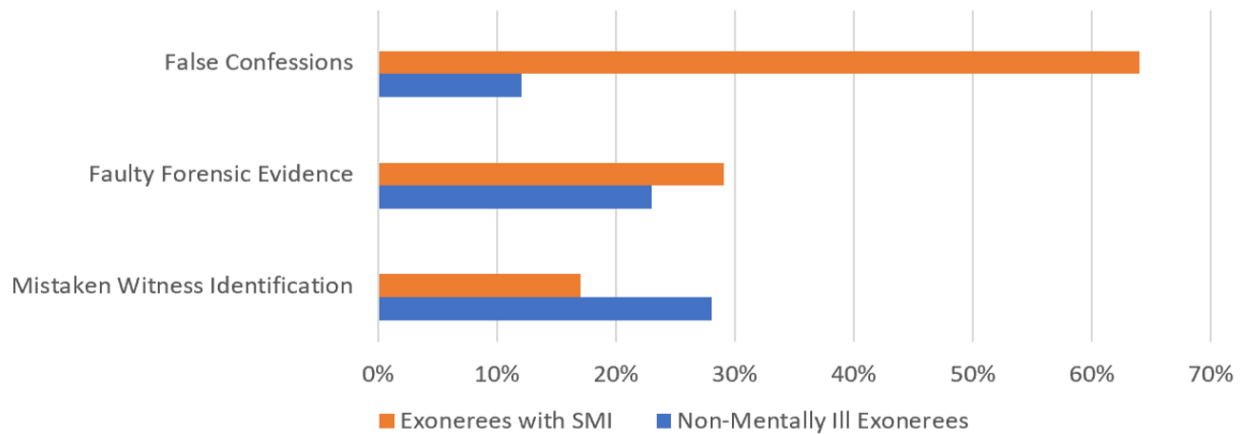
Lastly, in *Convicting the Innocent*, Brandon Garrett examined the first 250 cases of those exonerated by DNA evidence, in which he identified four individuals with SMI: Eddie Joe Lloyd, Freddie Peacock, and Frank Lee Smith (all previously mentioned above), and Ada Joann Taylor (Garrett, 2011). Both Smith and Taylor are listed on the NRE, but there is no mention of SMI's on their profiles, suggesting that the NRE's data on individuals with SMI is underinclusive.

B. Results

a. Data Derived from the National Registry of Exonerations

The data clearly demonstrated that individuals with SMI were overrepresented amongst those who falsely confessed, as 12% of non-mentally ill exonerees falsely confessed, whereas 64% of exonerees with SMI falsely confessed (Johnson, et al., 2019, p. 113). It is important to note that people with SMI were not overrepresented among causes of wrongful conviction that are not related to SMI including mistaken eyewitness identification (28% non-mentally ill; 18% SMI) and faulty forensic science evidence (23% non-mentally ill; 29% SMI) (see Figure 1) (Johnson, et al., 2019).

Figure 1. Disparities Between Sources of Wrongful Conviction Amongst Exonerees



**Note: Data from Johnson et al. (2019) based on information derived from the National Registry of Exonerations. The SMI variable was created by the author based on this information.*

Next, chi-square tests of independence were performed to further examine the relation between sources of wrongful conviction and exoneree mental health status (see Table 1). A chi-square test of independence confirmed that there was a significant association between exoneree mental health status and being wrongfully convicted due to falsely confessing ($\chi^2(1) = 105.65, p < .001$); however, there were no significant associations between mental health status and being wrongfully convicted due to faulty forensic evidence or due to mistaken witness identification.

Lastly, while it is quite difficult to study the other difficulties those with SMI face, such as, assisting in one’s defense, testifying in their defense, and juror/judge prejudices or beliefs regarding remorse, if it were possible, this data could potentially reveal a plethora of information concerning the vulnerabilities associated with having a SMI and being wrongfully convicted.

Table 1. Bivariate Analysis: Assessing for Disparities Between Sources of Wrongful Conviction Amongst Exonerees (N = 2403)

Sources of Error	Exonerees with SMI (Total=45) N (%)	Non-Mentally Ill Exonerees (Total=2358) N (%)	χ^2	df	p value
False Confessions	12	64	105.65	1	< .001
Faulty Forensic Evidence	23	29	0.85	1	> .05
Mistaken Witness Identification	28	18	0.45	1	> .05

False Confessions	29 (64%)	287 (12%)	105.65	1	< .001
Faulty Forensic Evidence	13 (29%)	551 (23%)	2.48	1	.115
Mistaken Witness Identification	8 (18%)	671 (28%)	.75	1	.387

**Note: Data collected from Johnson et al. (2019) based on information derived from the National Registry of Exonerations. The SMI variable was created by the author based on this information.*

b. Known Cases

A total of 26 cases of actual innocence were able to be identified from the NRE, Drizin and Leo's study, and Garrett's book combined (National Registry of Exonerations, n.d.; Drizin & Leo, 2004; Garrett, 2011). A brief summary of these 26 cases of exonerees with SMI (listed in alphabetical order by surname) can be found in the appendix. Of these 26 cases, males comprised the gross majority of the sample (84.6%). Table 2 displays a breakdown of the SMI diagnoses held by exonerees and Table 3 displays a breakdown of the sources of error that contributed to these exonerees wrongful conviction. Table 4 further displays the breakdown of the sources of error these exonerees experienced when they were wrongfully convicted by their SMI diagnoses.

Table 2. Type of SMI (N = 26)

Type of SMI	N (%)*
SMI (Unspecified)	4 (15.4)
Schizophrenia	15 (57.7)
Personality Disorder	2 (7.7)
Posttraumatic Stress Disorder	3 (11.5)
Bipolar Disorder	5 (19.2)
Depression	4 (15.4)
Total Diagnosis	33

Note: Total exceeds case number size of 26 due to some individuals having more than one SMI diagnoses.

** Each percentage was calculated based off of the 26 exonerees suffering from that condition.*

Table 3. Sources of wrongful conviction (N = 26)

Sources of Wrongful Conviction	N (%)*
False Confession	25 (96.2)
Ineffective Assistance of Counsel	2 (7.7)
Police Misconduct	6 (23.1)
Prosecutorial Misconduct	3 (11.5)
Mistaken Eyewitness Identification	3 (11.5)
Total Sources	39

*Note: Total exceeds case number size of 26 due to some persons having more than one source contribute to their wrongful conviction. * Each percentage was calculated based off of the 26 exonerees who experienced that source of error.*

First, SMI discovered in these exonerees cases included diagnose of schizophrenia, personality disorders, posttraumatic stress disorder (PTSD), bipolar disorder, depression, and unspecified SMI. More than half of all the diagnosed mental health conditions held by exonerees was schizophrenia (57.7%). Additionally, 11.6% of exonerees had more than one SMI diagnoses, while 7.7% of exonerees had three or more SMI diagnoses.

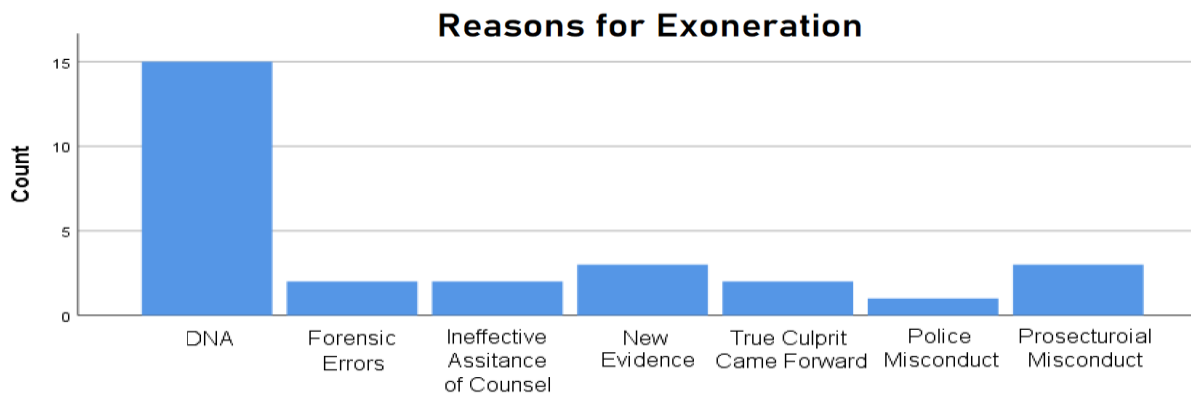
Next, the sources of error these exonerees experienced when they were wrongfully convicted included sources of false confessions, ineffective assistance of counsel, police misconduct, prosecutorial misconduct, and mistaken witness identification. Out of the 26 exonerees, 25 of them, (96.2%) became victims of wrongful convictions due to falsely confessing. Additionally, 34.6% of exonerees experienced more than one source of error that cumulated to cause their wrongful convictions, while 7.7% of exonerees experienced three or more sources of error that cumulated to cause their wrongful convictions.

Table 4. Sources of wrongful conviction categorized by SMI (N =26)

Type of SMI	False Confession N	Ineffective Assistance of Counsel N	2 Error Sources N	3+ Error Sources N	Total N (%)
SMI (Unspecified)	1	1	2	0	4 (15.4)
Schizophrenia	6	0	4	2	12 (46.2)
Personality Disorder	1	0	0	0	1 (3.8)
Posttraumatic Stress Disorder	1	0	0	0	1 (3.8)
Bipolar Disorder	0	0	1	0	1 (3.8)
Depression	2	0	0	0	2 (7.7)
Two Diagnoses	2	0	1	0	3 (11.6)
Three+ Diagnoses	1	0	1	0	2 (7.7)
Total N (%)	14 (53.8)	1 (3.8)	9 (34.6)	2 (7.7)	26 (100)

Note: Cases with 2 or 3+ error sources contained the following: false confessions (11), ineffective assistance of counsel (1), prosecutorial misconduct (3), police misconduct (6), and mistaken eyewitness identification (3). Exonerees with 2 or 3+ diagnoses contained the following: schizophrenia (3), personality disorder (1), PTSD (2), bipolar disorder (4), and depression (2).

Figure 2 displays a breakdown of information on the errors that were uncovered which led to the exoneration of these factually innocent persons. Sources of exonerations for these cases included being exonerated based on the use of DNA evidence (57.7%), forensic errors (7.7%), ineffective assistance of counsel (7.7%), the introduction of new evidence (11.5%), the true culprit coming forward (7.7%), police misconduct (3.8%), and prosecutorial misconduct (11.5%). Additionally, 3.8% of exonerees were exonerated based on more than one source.

Figure 2. Sources of Exoneration (N = 26).

Note: Total exceeds case number size due to some individuals having more than one source contribute to their exoneration.

Lastly and most importantly, after examining all of the information available from these cases, it can be confirmed that at least three of these exonerees (11.5%), Benjamin Harris, Rickey Newman, and Frank Lee Smith, were given capital sentences (National Registry of Exonerations, n.d.). It is significant to mention that Smith died from cancer on death row and was later exonerated posthumously by the use of DNA evidence (National Registry of Exonerations, 2012a).

III Discussion

These cases show that those with SMI are at risk of being wrongfully convicted and consequently dealt a capital sentence due to cognitive and volitional impairments held by these individuals. Further, the data suggests that often times these wrongful convictions are due to individuals falsely confessing. While it is near impossible to prove reasons for wrongful convictions, a plausible case can be made that this occurs due to deceptive police tactics and coercion paired with the psychological vulnerabilities persons with SMI experience (i.e., cognitive impairments, distorted perceptions and beliefs, communication deficits, etc.) (Gudjonsson, 2012; Izutsu, 2005; Rogal, 2017; Leo, 2009; Johnson et al., 2019). While it is important to continue to research SMI and false confessions, future research should attempt to focus on other sources of wrongful convictions associated with SMI such as the struggles these individuals have in assisting with and testifying in their own defense. For example, perhaps qualitative research approaches focusing on interviews with death penalty lawyers could explore client and attorney interactions and retrieve pertinent information on how an individual's SMI may affect case outcomes.

Finally, it must be noted that no casual inferences should be derived from this data; however, the existence of at least 26 individuals wrongfully convicted with SMI should be a real cause for concern. To better understand the relationship between SMI and being wrongfully convicted, future research should also attempt to study "near miss" cases of individuals with SMI, which are cases in which an innocent person had charges against them dismissed or were acquitted before going to trial (Gould et al., 2013).

A. Strengthening Current Safeguards

Currently, there are some safeguards under state and federal law that do protect individuals with SMI, yet some argue they are inadequate (Izutsu, 2005; National Alliance on Mental Illness, 2019). First, a person with SMI may plead not guilty by “reason of insanity.” The insanity defense protects those with SMI by allowing them to admit to the actions of their crime while asserting their lack of culpability based on their SMI (Legal Information Institute, n.d.). Still, this does not protect innocent individuals with SMI, as it requires them to admit to the actions. Next, the insanity defense has such high competency standards that a person with SMI must lack all ability to understand or, “Appreciate the nature and quality or the wrongfulness of his act” (Insanity Defense, 1984). Because of this, the insanity defense has low success rates, as many people with SMI are still found competent to stand trial as their symptoms do not fully detach them from reality (Vinocour, 2020; Izutsu, 2005). The current process in place just does not work, as it, “Systematically eliminates what is psychiatrically sound and psychologically workable, leaving us with a test for responsibility that may have no relationship at all to whether the offender needs help, punishment, confinement, or a combination of all three” (Vinocour, 2020, p. 189).

Further, it appears that the use of the insanity defense may actually be detrimental for individuals with SMI, as forensic psychological testimony is all too often, “Subverted by the application of the adversarial process to obscure and obfuscate crucial psychological factors” (Vinocour, 2020). Moving forward, it should not be permissible for prosecutors to obscure psychological testimony in an effort to develop an individual’s SMI as an aggravating factor (Fluent & Guyer, 2006). Further, it would be beneficial for the insanity defense to be revisited and for competency standards to be changed to account for additional symptoms of SMI or to even reflect moral competence, which is now understood as a developmental deficit originating from impoverished environments and/or maltreatment in childhood (Walker et al., 2018). As Vinocour (2020) writes:

Many people with severe mental illness “know” the difference between right and wrong in the abstract but still lack an accurate perception of reality and lack an understanding of the moral implications of their acts. How moral is it to convict and punish a person who is delusional and can’t perceive reality accurately, or who is manic and unable to control their behaviors, or severely demented, with the parts of their brain that are responsible for inhibition and social judgment rotted away? (p. 76)

Next, mitigation specialists are another current safeguard in place for individuals with SMI. Mitigation specialists are trained professionals whose role is to investigate a defendant’s background in an attempt to identify potential factors, such as SMI, that can assist defense counsel in creating an effective defense (Berrigan, 2008; Leonard, 2003). Since persons with SMI may distrust their attorneys and see them as threatening, it can be impossible for an attorney to develop an effective defense on their own, which is one reason mitigation specialists are so crucial (Payne, 2003). More importantly, attorneys lack the training and knowledge to recognize what signs and symptoms to look for when a defendant may be suffering from a SMI (Berrigan, 2008; Leonard, 2003; Vinocour, 2020). Thus, it is essential that mitigation specialists are utilized in capital cases, as they can offer protection for this vulnerable population. To strengthen this safeguard, it would

be beneficial to consider implementing widespread utilization of mitigation specialists in non-capital cases as well.

Further, the Court's decision in *Ford v. Wainwright*, also protects those with SMI. In this case, the Court held that it was unconstitutional for an individual with a mental illness to be executed if they could not comprehend the implications of their punishment (*Ford v. Wainwright*, 1986). Still, as with the insanity defense, the Court judges these standards too strictly. Further, the Court decided that if a person is deemed to have recovered from their SMI, then they can still be executed (National Alliance on Mental Illness, 2019). Evidently, however, serious mental illnesses are complex, with symptoms ranging in severity, frequency, and duration. If the U.S. Supreme Court were to apply the *Atkins* rationale to individuals with SMI, these issues would essentially dissolve, as protections for innocent persons with SMI would be secured.

B. Applying *Atkins v. Virginia* to SMI

The aforementioned information suggests that people with SMI are extremely vulnerable of being wrongfully convicted and facing a wrongful capital sentence. In fact, because of these vulnerabilities, the American Bar Association, the American Psychiatric Association, the American Psychological Association, and the National Alliance on Mental Illness have endorsed ending capital punishment for those with SMI (American Bar Association, 2006). A strong argument can be made that the conclusions reached in *Atkins v. Virginia* should similarly be applied to cases where defendants have serious mental illnesses, as persons with SMI suffer from very similar incapacitating symptoms as do those persons with intellectual disabilities the *Atkins* rationale protects (Izutsu, 2005). Additionally, executing a person with SMI does not meet retributive and deterrent goals, since individuals with SMI have a decreased ability to comprehend and process information, to engage in rational thinking, or to control behavioral impulses (Izutsu, 2005; APA, 2013). Thus, this makes it less probable for these individuals to be able to process the possibility of being executed as a form of punishment, as well as control their behaviors in light of that information (Izutsu, 2005).

Alternatively, those against adopting *Atkins* to protect individuals with SMI may argue that not all individuals with SMI lack moral culpability (Vinocour, 2020). While it is true that some persons with SMI—notably those with severe personality disorders—may in fact be capable of knowing right from wrong, the question is still whether or not the SMI caused the individual to engage in heinous behaviors. With that, regardless of whether or not some offenders with SMI need punishment or confinement, they all deserve treatment. Mental health treatment for those with SMI definitely meets deterrent goals and has the ability to be retributive when coupled with confinement. Nevertheless, executing individuals with SMI is a slippery slope, as there will always be some cases where the defendant's culpability cannot easily—or even accurately—be determined (Santa Maria, 2019). Additionally, the stories of those exonerees with SMI that spent time on death row should cause enough concern to warrant the exclusion of capital punishment for those with SMI.

C. Implementing Further Reforms

In addition to applying *Atkins v. Virginia* to individuals with SMI, we can also adopt additional criminal justice reforms to protect these individuals from being wrongfully convicted

in the first place. Reforms that have the potential to reduce the risk of false confessions, which is the leading cause of wrongful convictions for people with SMI (which is reflected in the data and known case exonerations), include: 1) taping interrogations; 2) altering interrogation techniques; 3) providing mandatory counsel during interrogations; and 4) conducting prompt DNA testing when available (Rogal, 2017). First, recording interrogation procedures provides accountability as it offers an unbiased and complete account of the interrogation that can be reviewed (Drizin & Leo, 2004; Trainum, 2016). Recording interrogations can reduce memory recall errors (Rogal, 2017; Drizin & Leo, 2004; Gudjonsson, 2012). This is important for persons with SMI, since these individuals may sometimes have trouble remembering exactly what happened during an interrogation, and without the recording, a judge or jury is left with only the interrogator's recollection of the interview (Rogal, 2017). Also, taping interrogations lessens the potential for individuals to falsely confess, as it can capture any police misconduct (Drizin & Leo, 2004; Gudjonsson, 2012). Further, recordings can be reviewed at trials, which helps to detect false confessions and makes interrogations more reliable (Drizin & Leo, 2004). Lastly, taping interrogations helps to show one's level of competency, which is vital for those with SMI, as it, "Showcases the understanding of their legal rights, their general understanding of the questions, their level of vocabulary, and how they cope with pressure in the interview, which can provide powerful evidence at trial or on appeal" (Gudjonsson, 2012).

Next, replacing current interrogation techniques with improved techniques, especially for those with SMI, can further protect these individuals from falsely confessing and subsequently from being wrongfully convicted. Some ways to do this include limiting the duration of interrogations, removing the use of false evidence tactics, and refraining from using suggestive or leading questioning (Trainum 2016; Kassin, 2010b; Drizin & Leo, 2004). An agency in Broward County, Florida, for example, took an extra step to protect people with intellectual disabilities, which could be applied to those with SMI in agencies worldwide. In this agency, as a check against false confessions, a confession from a person with an intellectual disability undergoes a "Post Confession Analysis" by a unit supervisor, or, if there is no evidence corroborating the confession, by a team consisting of a psychologist, an assistant state's attorney, and a Criminal Investigation commander" (Drizin & Leo, 2004).

Similarly, after facing many false confessions, the British Parliament enacted the Police and Criminal Evidence Act in 1984, which initiated safeguards such as, "Recording of interrogations, mandated breaks for food and rest, and placed an affirmative burden of proof on law enforcement to show beyond a reasonable doubt that confessions were not obtained by 'oppression'" (Rogal, 2017). Then in the 1990s, they further developed a new interrogation model, PEACE, which uses an investigative interviewing, also known as the cognitive interview (CI), based on psychological science designed to enhance witnesses' recall of events through asking open-ended questions (Zalman, 2014). The goal of the PEACE model is to obtain an accurate and reliable account of events, unlike the Reid technique which focuses solely on retrieving a confession (Trainum, 2016). During CI, the interviewee attempts to mentally reconstruct the event by repeating every detail they can recall from different perspectives, working from start to finish, and then from end to beginning (Zalman, 2014). This technique takes a less confrontational approach and is a more relaxed interview style which asks individuals to recall what may have happened to them instead of employing accusatory or deceitful approaches (Rogal, 2017). In fact, CI has demonstrated its ability to significantly improve the amount of correct details an interview

suspect is able to recall (Zalman, 2014). Lastly, the PEACE model also has safeguards to protect individuals with SMI, as the model requires investigators to consult with their supervisors before interviewing an individual with a SMI (Trainum, 2016). While not widespread, investigative interviewing has fortunately begun making its way into the United States, as some law enforcement agencies are beginning to explore these methods (Zalman et al., 2017).

Next, providing mandatory counsel during interrogations can also reduce the risk of false confessions and thus, the rate of wrongful convictions for those with SMI. In fact, England has mandated that during interrogations, people with SMI have access to mental health professionals, lawyers/legal representatives, and "appropriate adults"—who are individuals whose main role is to offer advice, advocate for, facilitate communication, and ensure proper treatment of individuals with SMI during interviews (Gudjonsson, 2012; Trainum, 2016). Providing mandatory access to mental health professionals, lawyers/legal representatives, and "appropriate adults" would help to provide accountability in the interrogation room, as well as, provide those with SMI an ally to help them understand and invoke their constitutional rights. Finally, and importantly, because of the strength and accuracy of modern DNA testing, it is crucial that (when available) testing be conducted immediately, to ensure the exclusion of suspects from the start (Drizin & Leo, 2004).

Lastly, if we truly want to protect individuals with SMI, it is imperative that we improve education on mental illness. Defense attorneys, prosecutors, judges, and law students must receive thorough mental health training if they are to protect individuals with SMI against a system that offers little protection to vulnerable persons. Next, juror education also needs to be enhanced. It is imperative that the electorate be properly educated on mental illness, capital punishment, and the insanity defense. Additionally, while mental health experts usually agree on SMI diagnoses, conclusions reached about "insanity" often differ (Vinocour, 2020). Thus, mental health professionals asked to testify in court, should be forensically trained—and be certified to do so. Lastly, all Americans need greater education on SMI, as it is up to us to advocate for criminal justice policy change that protects this vulnerable group of people.

D. Conclusion

SMI greatly affects an individual's cognitive and functional capacities, causing diminished moral culpability and increasing susceptibility to vulnerabilities in criminal justice system processes, leading to wrongful convictions and erroneous capital sentences (Izutsu, 2005). The multiple wrongful conviction cases of individuals with SMI are telling and bear truth to this statement. When we refuse to protect those with SMI, we are paving the way for innocent people to be wrongfully executed. It is clear the United States Supreme Court is well aware of the dangers associated with capital punishment. It is time that the proper safeguards are enacted for people with SMI too.

References

- Acker, James & Bellandi, Rose. (2014). Deadly Errors and Salutory Reforms: The Kill that Cures? In Marvin Zalman & Julia Carrano (Eds.), *Wrongful Conviction and Criminal Justice Reform* (pp. 269-285). Routledge.

- American Bar Association. (2006). Serious Mental Illness Initiative. ABA. Retrieved from: https://www.americanbar.org/groups/crsj/projects/death_penalty_due_process_review_project/serious-mental-illness-initiative/
- American Psychiatric Association. (2013). *Diagnostic and Statistical Manual of Mental Disorders* (5th ed.). Arlington, VA: Author.
- Atkins v. Virginia, 536 U.S. 304 (2002). <https://www.law.cornell.edu/supct/pdf/00-8452P.ZO>
- Bedau, Hugo A. & Radelet, Michael L. (1987). Miscarriages of Justice in Potentially Capital Cases. *Stanford Law Review*, 40(1), 21-179. <https://doi.org/10.2307/1228828>
- Berrigan, Helen. G. (2008). The Indispensable Role of the Mitigation Specialist in Capital Case: View from the Federal Bench. *Hofstra Law Review*, 36(3), 819-834. <https://scholarlycommons.law.hofstra.edu/hlr/vol36/iss3/8>
- Blattner, Bob. (1992). DNA Test Frees Man Suspected of Murder. *Daily Press*. Retrieved from: <https://www.dailypress.com/news/dp-xpm-19921029-1992-10-29-9210290152-story.html>
- Blume, John H.; Johnson, Sheri; Marcus, Paul; & Paavola, Emily. (2014). Tale of Two (and Possibly Three) Atkins: Intellectual Disability and Capital Punishment Twelve Years After the Supreme Court's Creation of Categorical Bar. *William Mary Bill of Rights Journal*, 23(2), 393-414. <https://scholarship.law.wm.edu/wmborj/vol23/iss2/4/>
- Bureau of Justice Statistics (n.d.). Capital punishment. Office of Justice Programs. Retrieved from: <https://www.bjs.gov/index.cfm?ty=tp&tid=18>
- Cassell, Paul G. (1999). Guilty and the Innocent: An Examination of Alleged Cases of Wrongful Conviction from False Confessions. *The Harvard Journal of Law Public Policy*, 22(2), 523-604. <http://dx.doi.org/10.2139/ssrn.161470>
- Coker v. Georgia, 433 U.S. 584 (1977). <https://supreme.justia.com/cases/federal/us/433/584/>
- Connor, Eileen M. (2010). The Undermining Influence of the Federal Death Penalty on Capital Policymaking and Criminal Justice Administration in the States. *Journal of Criminal Law and Criminology*, 100(1), 149-212. <https://scholarlycommons.law.northwestern.edu/jclc/vol100/iss1/5/>
- Death Penalty Information Center (2020). DPIC. Retrieved from: <https://deathpenaltyinfo.org>
- Drizin, Steven A. & Leo, Richard A. (2004). The Problem of False Confessions in the Post-DNA World. *North Carolina Law Review*, 82(3), 891-1008. <https://scholarship.law.unc.edu/nclr/vol82/iss3/3>
- Fluent, Thomas. & Guyer, Melvin. (2006). Defendant's Illness Can Be Used by the Prosecutor as an Aggravating Factor in Capital Sentencing. *Journal of the American Academy of Psychiatry and the Law*, 34(1), 110-111. <http://jaapl.org/content/34/1/110>
- Ford v. Wainwright, 477 U.S. 399 (1986). <https://www.law.cornell.edu/supremecourt/text/477/399>
- Garrett, Brandon. (2011). *Convicting the Innocent: Where Criminal Prosecutions Go Wrong*. Cambridge, MA & London, England: Harvard University Press.

- Gould, Jon B.; Carrano, Julia; Leo, Richard; Young, Joseph. (2013). Predicting Erroneous Convictions: A Social Science Approach to Miscarriages of Justice. *National Institute of Justice*. <https://www.ncjrs.gov/pdffiles1/nij/grants/241389.pdf>
- Gregg v. Georgia, 428 U.S. 153, 173 (1976). <https://supreme.justia.com/cases/federal/us/428/153/>
- Gross, Samuel R.; O'Brien, Barbara; Hu, Chen; & Kennedy, Edward H. (2014). Rate of False Conviction of Criminal Defendants Who Are Sentenced to Death. *Proceedings of the National Academy of Sciences of the United States of America*, 111(20), 7230-7235. <https://doi.org/10.1073/pnas.1306417111>
- Gudjonsson, G. H. (2003). *The Psychology of Interrogation and Confessions: A Handbook*. Chichester, UK: Wiley.
- Gudjonsson, Gisli H. (2012). False Confessions and Correcting Injustices. *New England Law Review*, 46(4), 689-710. <https://newenglrev.com/archive/volume-46/vol-46-issue-4/v46b4gudjonsson/>
- Harmon, Talia & Lofquist, William S. (2008). Fatal Errors: Compelling Claims of Executions of the Innocent in the Post-Furman Era. In C. Ronald Huff & Martin Killias (Eds), *Wrongful Conviction: International Perspectives on Miscarriages of Justice* (pp. 93-115). Philadelphia: Temple University Press.
- Hayman, Faith. (2016). Mental Illness and the Credibility Crucible. *Advocate (Vancouver Bar Association)*, 74(2), 197-210.
- Insanity Defense, 18 U.S.C. § 17 (1984). <https://www.law.cornell.edu/uscode/text/18/17>
- Izutsu, Laurie T. (2005). Applying *Atkins v. Virginia* to Capital Defendants with Severe Mental Illness. *Brooklyn Law Review*, 70(3), 995-1044. <https://brooklynworks.brooklaw.edu/blr/vol70/iss3/7>
- Johnson, Sheri; Blume, John H.; & Hritz, Amelia. (2019). Convictions of Innocent People with Intellectual Disability. *Albany Law Review*, 82(3), 101-131. <https://ssrn.com/abstract=3389049>
- Kassin, Saul; Appleby, Sara; & Torkildson-Perillo, Jennifer. (2010a). Interviewing Suspects: Practice, Science, and Future Directions. *Legal and Criminal Psychology*, 15(42). <https://doi.org/10.1348/135532509X449361>
- Kassin, Saul M.; Drizin, Steven A.; Grisso, Thomas; Gudjonsson, Gisil H.; Leo, Richard A.; & Redlich, Allison D. (2010b). Police-Induced Confessions: Risk Factors and Recommendations. *Law and Human Behavior*, 34, 3-38. <https://ssrn.com/abstract=1483878>
- Kassin, Saul M. (2015). The Social Psychology of False Confessions. *Social Issues and Policy Review*, 9(1), 25-51. <https://doi.org/10.1111/sipr.12009>
- Kennedy v. Louisiana, 554 U.S. 407 (2008). <https://supreme.justia.com/cases/federal/us/554/407/>
- Legal Information Institute. (n.d.). Insanity Defense. *Cornell Law School*. Retrieved from: https://www.law.cornell.edu/wex/Insanity_defense
- Leo, Richard A. (2008). *Police Interrogation and American Justice*. Cambridge, Massachusetts: Harvard University Press.

- Leo, Richard A. (2009) False Confessions: Causes, Consequences, and Implications. *The Journal of the American Academy of Psychiatry and the Law*, 37, 332-343.
<https://ssrn.com/abstract=1328623>
- Leonard, Pamela. (2003). New Profession for an Old Need: Why Mitigation Specialist Must Be Included on the Capital Defense Team. *Hofstra Law Review*, 31(4), 1143-1156.
<https://scholarlycommons.law.hofstra.edu/hlr/vol31/iss4/7>
- Liebman, James S.; Fagan, Jeffrey; Gelman, Andrew; West, Valerie; Davies, Garth; & Kiss, Alexander. (2002). "A Broken System, Part II: Why There Is So Much Error in Capital Cases, and What Can Be Done About It."
<http://www2.law.columbia.edu/brokensystem2/index2.html>
- Miranda v. Arizona, 384 U.S. 436 (1966).
<https://www.law.cornell.edu/supremecourt/text/384/436>
- Natali, Louis Jr. (2013). Can We Handle the Truth? *Temple Law Review*, 85(4), 839-866.
<https://www.templelawreview.org/lawreview/assets/uploads/2013/10/Natali-85-L-Rev-839.pdf>
- National Alliance on Mental Illness. (2019). Death Penalty. *NAMI*. Retrieved from:
<https://www.nami.org/Learn-More/Mental-Health-Public-Policy/Death-Penalty>
- National Institutes of Mental Health. (2019) Mental Illness. *NIH*. Retrieved from:
<https://www.nimh.nih.gov/health/statistics/mental-illness.shtml>
- National Registry of Exonerations. (n.d.). Exoneration Registry. *The National Registry of Exonerations*. Retrieved from
<https://www.law.umich.edu/special/exoneration/Pages/search.aspx>
- National Registry of Exonerations. (2012a). Frank Lee Smith. *The National Registry of Exonerations*. Retrieved from:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3644>
- National Registry of Exonerations. (2012b). William Kelly Jr. *The National Registry of Exonerations*. Retrieved from:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3345>
- National Registry of Exonerations. (2015). Rodney Woidtke. *The National Registry of Exonerations*. Retrieved from:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3762>
- National Registry of Exonerations. (2016a). Ada JoAnn Taylor. *The National Registry of Exonerations*. Retrieved from:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3676>
- National Registry of Exonerations. (2016b). Freddie Peacock. *The National Registry of Exonerations*. Retrieved from:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3>
- National Registry of Exonerations. (2019). Eddie Joe Lloyd. *The National Registry of Exonerations*. Retrieved from:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3387>

- National Registry of Exonerations. (2020). Age and Mental Status of Exonerated Defendants Who Confessed. *The National Registry of Exonerations*.
<https://www.law.umich.edu/special/exoneration/Documents/Age%20and%20Mental%20Status%20of%20Exonerated%20Defendants%20Who%20False%20Confess%20Table.pdf>
- Otterbourg, Ken. (2019). James Blackmon. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5603>
- Payne, Daniel L. (2003). Building the Case for Life: Mitigation Specialist as Necessity and Matter of Right. *Capital Defense Journal*, 16(1), 43-72.
<https://scholarlycommons.law.wlu.edu/wlucdj/vol16/iss1/5/>
- Perry, Michael S. (2019). Laverne Pavlinac. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3526>
- Possley, Maurice. (2012a). Benjamin Harris. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3282>
- Possley, Maurice. (2012b). Benjamin Miller. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4080>
- Possley, Maurice. (2013). Tom Edwin Chumley. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4204>
- Possley, Maurice. (2016a). Glenn Tinney. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4648>
- Possley, Maurice. (2016b). Henry Cunningham. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3854>
- Possley, Maurice. (2017a). Josue Ortiz. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4633>
- Possley, Maurice. (2017b). Mike Wilkerson. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5164>
- Possley, Maurice. (2017c). Rickey Newman. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5218>
- Possley, Maurice. (2018a). George Allen Jr. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4091>
- Possley, Maurice. (2018b). John Purvis. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3555>
- Possley, Maurice. (2019a). Carl Chatman. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4268>
- Possley, Maurice. (2019b). Cathy Woods. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4656>
- Possley, Maurice. (2019c). Curtis Moore. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3487>
- Possley, Maurice. (2019d). Frederic Saecker. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3603>

- Possley, Maurice. (2019e). Jamie Lee Peterson. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4500>
- Possley, Maurice. (2019f). Stanley Mozee. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5558>
- Possley, Maurice. (2019g). William Amor. *The National Registry of Exonerations*. Retrieved from: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5283>
- Rogal, Lauren. (2017). Protecting Persons with Mental Disabilities from Making False Confessions: The Americans with Disabilities Act as a Safeguard. *New Mexico Law Review*, 47(1), 64-98. <https://digitalrepository.unm.edu/nmlr/vol47/iss1/4/>
- Santa Maria, Rafael. (2019). Consensus of Confusion: Determining the Constitutionality of the Insanity Defense. *The Claremont Journal of Law and Public Policy*, 186-187. <https://5clpp.com/2019/02/11/consensus-or-confusion-determining-the-constitutionality-of-the-insanity-defense/>
- Sentence of Death, 18 U.S.C. § 3591 (1994). <https://www.law.cornell.edu/uscode/text/18/3591>
- Slobogin, Christopher. (2003). What Atkins Could Mean for People with Mental Illness. *New Mexico Law Review*, 33(2), 293-314. <https://doi.org/10.2139/ssrn.407041>
- SPSS Software (n.d.). IBM SPSS Software: Bridge the Gap Between Data Science and Data Understanding. United States. Retrieved from <https://www.ibm.com/analytics/spss-statistics-software>
- Trainum, James L. (2016). *How the Police Generate False Confessions: An Inside Look at the Interrogation Room*. Lanham, MD.: Rowman & Littlefield.
- Vinocour, Susan. (2020). *Nobody's Child: A tragedy, a Trial, and a History of the Insanity Defense*. New York City, NY: W.W. Norton & Company.
- Walker, Robert; Clark, James J.; Monahan, Edward C.; Shechet, Art; Agharkar, Bhushan S.; Kheibari, Athena; & Victor, Grant III. (2018). Developmental Impairments in Moral Competence as Mitigation in Capital Cases. *Behavioral Sciences & the Law*, 36(4), 437-456. <https://doi.org/10.1002/bsl.2353>
- Warden, Rob & Seasley, John. (2019). Unrequited Innocence in U.S. Capital Cases: Unintended Consequences of the Fourth Kind. *Northwestern Journal of Law & Social Policy*, 14(3), 375-467. <https://scholarlycommons.law.northwestern.edu/njls/vol14/iss3/4/>
- Zalman, Marvin. (2014). The Detective and Wrongful Conviction. In Marvin Zalman & Julia Carrano (Eds.), *Wrongful Conviction and Criminal Justice Reform* (pp. 147-163). Routledge.
- Zalman, Marvin; Rubino, Laura L.; & Smith, Brad. (2017). Beyond Police Compliance with Electronic Recording of Interrogation Legislation: Toward Error Reduction. *Criminal Justice Policy Review*, 30(4), 1-29. <https://doi.org/10.1177/0887403417718241>
- Zapo, George. (2015). The History of Capital Punishment in the United States. *Inquisitr*. Retrieved from: <https://www.inquisitr.com/1729907/death-penalty-flaws-include-executing-mentally-ill-and-innocent/>

Appendix

Known Cases of Exonerees with SMI

George Allen, Jr.

Allen resembled the main suspect in a murder case; therefore, he was brought in by police for questioning. The original detective interviewing Allen ended the interrogation prematurely, noting the unreliability of Allen's statements, yet the arresting officer contacted another detective to keep interrogating Allen anyway. Allen, who suffered from schizophrenia, reported raping women during his interrogation, but later recanted his statements. At his trial, he denied involvement in the murder and stated he falsely confessed because he was convinced by the detective, "That they had evidence against him, that his claim of innocence was futile and that he had no choice but to admit to the crime" (Possley, 2018a). His first trial ended in a deadlock, but at the second trial in 1983, he was found guilty and sentenced to 95 years. In 2012, he was exonerated by DNA evidence (Possley, 2018a).

William Amor

In 1995, Amor's home caught fire, and his mother-in-law, who was the only one in the home, died of smoke inhalation. Amor, who suffered from depression, was interrogated for 15 hours. He eventually falsely confessed to setting fire to the home—only to immediately recant his statement. In 1997, he was convicted of murder and aggravated arson and sentenced to 45 years in prison. In 2018, he was exonerated due to faulty forensic science techniques (Possley, 2019g).

Michael Bottoms

Police conducted a mass investigation after a 13-year-old was murdered. They interviewed more than 200 people, but no suspect was identified. Bottoms, who suffered from schizophrenia, later turned himself in and falsely confessed to the murder, but then recanted his confession the next day. During his trial, Bottoms held that he was innocent, stating he only turned himself in to get out of the adult home he was living in because he, "Really didn't like it" (Blattner, 1992). Nevertheless, Bottoms was still convicted and sent to prison. Just months later, DNA evidence excluded Bottoms as the murderer, and he was freed (Blattner, 1992).

James Blackmon

In 1979, a student at St. Augustine's was murdered and police had no leads. Then in 1983, an individual from the state psychiatric facility contacted police and reported a patient, named "Brammer," stated he committed the murder at St. Augustine's. Police followed up on this lead, but there was no patient at the facility named Brammer. This led police to James Blackmon, who was the only patient at the facility that fit the general description of the culprit. Blackmon had diagnoses of schizophrenia, bipolar disorder, and other personality disorders. During interviews Blackmon, "Was never placed in custody, given any Miranda warnings, nor told he was a suspect in a murder investigation" (Otterbourg, 2019). Further, during interrogations Blackmon told police that he could levitate, was telepathic, could control other people's actions, had killed lots of people,

had never killed anyone, and that he could cause earthquakes. Blackmon eventually made a statement suggesting the murder location and that he “cut her,” which led to murder charges. In 1988, Blackmon took an Alford Plea and was sentenced to life, but, in 2019, he was exonerated after a fingerprint from the crime scene excluded him as the killer (Otterbourg, 2019).

Carl Chatman

After a woman was raped in Chicago, she described to police that her rapist was a man wearing a Chicago Blackhawks jacket. This led to the arrest of Chatman, who was six blocks away, wearing a Blackhawks jacket—in Chicago. Chatman, who suffered from schizophrenia, falsely confessed. In 2004, he was convicted and sentenced to 30 years, despite DNA evidence. Chatman’s appeal lawyers discovered that a building manager was present during part of his interrogation and learned this manager had filed a report—which was never disclosed to the defense—that stated he witnessed officers feed details of the crime to Chatman. Due to this new evidence, Chatman was exonerated in 2013 (Possley, 2019a).

Tom Edwin Chumley

Chumley’s mother was murdered in 2003 and police had no physical evidence or murder weapon. In 2004, Chumley voluntarily went to police and confessed to the murder. Chumley suffered from posttraumatic stress disorder, depression, and bipolar disorder. During his trial in 2005, Chumley testified that he falsely confessed due to his depression. Nevertheless, he was still convicted of murder and sentenced to life in prison. In 2009, Chumley was acquitted and exonerated based on new testimonial evidence from a treating psychiatrist and police officer who both stated that Chumley confided in them he was going to falsely confess due to his depression resulting from his broken marriage and from being labeled from people in town as a suspect (Possley, 2013).

Henry Cunningham

In 1994, there was a case of mass sex abuse hysteria in Wenatchee, Washington. Cunningham, who suffered from bipolar disorder, was interviewed and falsely confessed to engaging in sexual acts with his children. In 1994, he was sentenced to 47 years in prison after pleading guilty to 23 counts. In 1999, he was exonerated when the Court of Appeals agreed with Cunningham’s ineffective assistance of counsel claim which stated that Cunningham’s attorney convinced him to plead guilty before allowing him to talk to a psychiatrist first (Possley, 2016b).

Benjamin Harris

After the murder of a local mechanic, Harris, who had a diagnosed mental illness, contacted police asking to help solve the case. Meanwhile, another man contacted police and reported Harris as a suspect. After failing a polygraph exam, Harris was arrested. In 1984, Harris was convicted of aggravated first-degree murder and sentenced to death, but in 1994, his conviction was overturned on the basis of inadequate assistance of counsel and he was granted a new trial. Charges were later dismissed at his new hearing in 1997 (Possley, 2012a).

William M. Kelly, Jr.

In 1990, a woman was murdered in Pennsylvania. Kelly, who suffered from manic depression, happened to fit the description of the suspect. Kelly was thus questioned and subsequently arrested after he made incriminating, although, contradictory, statements. Kelly knew that his confession was going to be used against him at trial, so he took a plea bargain. He was sentenced to 10-20 years in prison for murder, but in 1992, DNA testing excluded Kelly and inculpated another man (National Registry of Exonerations, 2012b).

Eddie Joe Lloyd

In 1984, a 16-year-old was brutally murdered in Detroit (National Registry of Exonerations, 2019). Lloyd contacted police about the publicized murder and offered to help solve it. Lloyd, who suffered from schizophrenia and bipolar affective disorder, made that call to police from a mental hospital—where he resided as an involuntary patient at the time (Rogal, 2017; Garret, 2011). Lloyd was questioned multiple times at the psychiatric hospital, during which, “Police officers allowed Lloyd to believe that, by confessing and getting arrested, he would help them ‘smoke out’ the real perpetrator” (National Registry of Exonerations, 2019). Accordingly, Lloyd confessed, was convicted of murder in 1985, and sentenced to life in prison. In 2002, DNA testing exonerated him (National Registry of Exonerations, 2019).

Benjamin Miller

During 1967-1971 six African American prostitutes were killed in Connecticut. A preacher, James Miller, contacted police and stated he received a call with the location of a body of one of the prostitutes that had not yet been found. Due to this call, police interviewed preachers with the last name Miller in the area, including Benjamin. Benjamin Miller, who suffered from schizophrenia, was interrogated several times. Although Miller initially maintained his innocence, he eventually inculpated himself when investigators coerced him to confess through the use of asking leading questions and showing Miller pictures of the murder scene. Miller later stated he falsely confessed because of threats from detectives and because he was scared of being beaten. In 1973, he was found not guilty by reason of insanity and was committed to a mental institution for a term of 25 years. In 1989, he was exonerated after it was found that the prosecution failed to disclose that there was clear evidence inculpating another man of the murders (Possley, 2012b).

Stanley Mozee

In 1999, a reverend was murdered in Dallas, Texas. During investigation, police learned that there were two men arguing with the reverend the day before the murder. Police were able to identify these two men through witnesses, but they were not solid leads. Thus, police instead decided to look into two homeless men who frequented the area, one of them being Mozee. Mozee, who suffered from schizophrenia, falsely confessed after being interrogated three times. Throughout the trial, he maintained his innocence, stating that during his interrogation he was intoxicated, had not slept, or been given his psychiatric medications, and was being fed details of the murder by detectives. Nevertheless, in 2000, he was convicted of capital murder and sentenced

to life in prison. In 2014, his conviction was vacated due to DNA evidence exculpating him (Possley, 2019f).

Curtis Moore

In 1975, a woman was murdered, but before she died, she was able to tell police her attacker was a black male. Therefore, police interrogated multiple African American men in the area, including Moore. Moore, who suffered from schizophrenia, did deny involvement in the murder, but he still made somewhat incriminating statements. In 1978, he was convicted of rape and murder and sentenced to life in prison, yet he was instead sent to a state mental hospital. In 1980, after filing a federal petition for a writ of habeas corpus, it was made clear that Moore was not read his Miranda rights until four hours into his interrogation. A U.S. District judge suppressed his confession and set aside the conviction, in addition to noting that the state failed to prove if Moore even understood his rights. In 1981, the U.S. Court of Appeals affirmed and dismissed the charges. Further, in 2008, DNA testing exculpated Moore and inculpated another man (Possley, 2019c).

Rickey Newman

In 2001, a woman, who was a rail rider, was brutally murdered in Van Buren, Arkansas. Police interviewed many individuals, including fellow rail rider, Newman, who suffered from major depression and posttraumatic stress disorder due to an extensive childhood history of trauma. He initially maintained his innocence, but ultimately ended up confessing after officers stated they had physical evidence of his involvement and that they would help get him mental health treatment if he confessed. Newman, however, was unable to provide detectives with any details about how the crime occurred. Nevertheless, he was still convicted of capital murder and sentenced to death in 2002. In 2017, his charges were dismissed, and he was exonerated due to DNA evidence excluding him and other collective factors, including forensic errors and police and prosecutorial misconduct (Possley, 2017c).

Josue Ortiz

In 2004, two brothers were murdered in Buffalo, New York. A few days after the murders, Ortiz, who suffered from schizophrenia and bipolar disorder, voluntarily flagged down police and confessed to the murders. Ortiz pled guilty to two counts of first-degree manslaughter and was sentenced to 25 years in prison. After the case was reexamined by the FBI in 2014, DNA evidence exculpated him and inculpated three men, and his conviction was vacated (Possley, 2017a).

Laverna Pavlinac

In 1990, a woman was raped and killed in Oregon. Pavlinac, who suffered from posttraumatic stress disorder after suffering years of abuse, read about the murder in the paper. Pavlinac believed this murder could help end her abusive relationship with her boyfriend, therefore, she called police and told them he was the murderer. However, Pavlinac later switched her story, stating that her boyfriend forced her to help kill the woman. During her trial she maintained her innocence, stating that she falsely confessed to escape her boyfriend. Nevertheless, she was still convicted of felony murder and sentenced to life in prison with a minimum of 10

years. In 1995, the real killer wrote police, providing inculpatory information and confessing to the murder, resulting in Pavlinac's exoneration (Perry, 2019).

Freddie Peacock

In 1976, a woman was raped and wrongfully identified her attacker as her neighbor, Peacock. Peacock had a diagnosed SMI and informed detectives of this during his interrogation. Peacock originally maintained his innocence, but ultimately ended up confessing to the rape. Still, Peacock was unable to provide officers with details on when, where, or how the rape occurred. Additionally, during interrogation police officers wrote a confession statement, including the details of the rape, yet never asked Peacock to sign it. Nevertheless, Peacock was convicted of rape and sentenced to up to 20 years in prison. In 2010, DNA testing exonerated Peacock (National Registry of Exonerations, 2016b).

Jamie Lee Peterson

In 1996, a woman was murdered in Kalkaska, Michigan and the police had no solid leads. Later in 1997, police received a tip from a prisoner in the county jail that a fellow inmate, 22-year-old Jamie Lee Peterson, admitted to the crime. Peterson, who had a diagnosed mental illness, was in jail awaiting trial for a statutory rape charge. Peterson maintained his innocence until failing a polygraph exam, at which point he confessed. He then recanted his confession days later, stating he only confessed because he wanted to be sent to a state hospital. In 1998, he was convicted and sentenced to life, despite exculpatory DNA evidence, but in 2014, he was exonerated due to retesting of DNA evidence that inculpated the true culprit (Possley, 2019e).

John Purvis

In 1983, a woman was found murdered in her home and her 18-month-old baby was found dead from dehydration. Police questioned Purvis, who happened to be a neighbor of the woman, after other neighbors claimed he was a bother. Purvis, who suffered from schizophrenia, maintained his innocence, but later admitted to a psychiatrist that he committed the murder; however, he recanted his confession less than 24 hours later. Purvis was never once read his Miranda rights. Additionally, two psychiatrists testified at trial that Purvis was psychologically coerced into confessing. Further, Purvis reported at trial that, "He confessed because he thought they would let him go home if he did" (Possley, 2018b). In 1985, he was convicted and sentenced to life, despite any evidence linking him to the crime. In 1993, he was exonerated after the true killer contacted police and confessed to being hired as a hitman by the woman's husband (Possley, 2018b).

Frederic Saecker

In 1989, a woman was kidnapped from her home, raped, and then abandoned in Wisconsin—where she was found by police walking down a highway. At about the same time police found the woman, Saecker was seen near the same highway. Saecker, who suffered from schizophrenia, was initially arrested, and afterwards made some incriminating statements. During his trial in 1990, he maintained his innocence, yet was still convicted of second-degree sexual

assault, kidnapping, and burglary. He was sentenced to 15 years in prison. In 1996, he was exonerated due to DNA testing that exculpated him (Possley, 2019d).

Frank Lee Smith

In 1985, an eight-year-old was raped and murdered in her home by a burglar. A composite sketch was put together by neighbors and the victim's mother, which led to the arrest of Smith (National Registry of Exonerations, 2012a). Smith had a criminal history and suffered from schizophrenia. At Smith's trial, a detective reported that he tricked Smith into confessing (Garrett, 2011). In 1986, Smith was convicted and given the death penalty. Smith died of cancer on death row in January of 2000. Only after his death, a sample of his blood was finally tested against a DNA sample taken from the victim. Eleven months after his death, in December of 2000, he was exonerated by DNA evidence, which inculpated the true killer (National Registry of Exonerations, 2012a; Garrett, 2011).

Ada Joann Taylor

In 1985, a woman was raped and killed in her home in Beatrice, Nebraska. Six people, including Taylor, were convicted of committing the crime. The initial suspect was interrogated by police due to his car matching a car at the crime scene. What followed this interrogation, was a domino effect of suspects implicating suspects. Taylor herself being implicating and implicating two other innocent suspects during her interrogation (National Registry of Exonerations, 2016a). During deposition, it was reported Taylor suffered from a personality disorder. At one point, Taylor had also noted that she had "mental telepathy capabilities" (Garrett, 2011). Taylor plead guilty and testified against a codefendant for a reduced sentence of 10-40 years in prison. However, she was exonerated by DNA testing in 2009 (National Registry of Exonerations, 2016a).

Glenn Tinney

In 1988, a man was beaten and killed in his store in Ohio. After having no leads, police interviewed, Tinney, who was currently serving time in prison for robbery. Tinney, who suffered from schizophrenia, denied involvement in the crime, but eventually admitted to the murder, only offering to provide information (which was inconsistent with the known facts) once police provided him with coffee, cigarettes, and \$250 so he could buy a radio. He accepted a plea deal to avoid a capital murder charge and was sentenced to 15 years to life in prison. In 2012, the case was remanded for an evidentiary hearing, during which three officers testified the evidence in Tinney's case points to his innocence. In 2014, Tinney was exonerated (Possley, 2016a).

Mike Wilkerson

In 1997, a woman was raped and murdered. A mistaken eyewitness identification led police to suspect Wilkerson. Wilkerson, who had a diagnosed mental illness, allegedly confessed. However, "Wilkerson later asserted that he never confessed, but only was responding to some of the detective's statements by asking, "I did that?" (Possley, 2017b). In 2000, he was convicted; however, he was found not guilty by reason of insanity and was committed to a mental health institution. In 2017, DNA tests exonerated him (Possley, 2017b).

Rodney Woidtke

In 1988, Woidtke, who suffered from schizophrenia, found a decomposed body. He originally maintained his innocence, but after being interrogated for three days and psychologically manipulated by interrogators, eventually falsely confessed. Woidtke was found guilty based on his false confession and sentenced to 45 years in prison. He was exonerated in 2001 after evidence emerged that another man committed the murder (National Registry of Exonerations, 2015).

Cathy Woods

In 1976, a woman, Michelle Mitchell, was murdered in Reno and police had no leads. In 1979, police received a call from Woods (who was a patient in a mental hospital at the time) that, “She had killed a girl named Michelle in Reno” (Possley, 2019b). Even though Woods, who suffered from schizophrenia, “Made various statements that were obviously false (she said that she worked for the FBI and her mother was poisoning her), police decided that she had killed Mitchell” (Possley, 2019b). In 1980, Woods was convicted of first-degree murder and sentenced to life without parole. In 2014, DNA testing excluded her and inculpated the killer (Possley, 2019b).