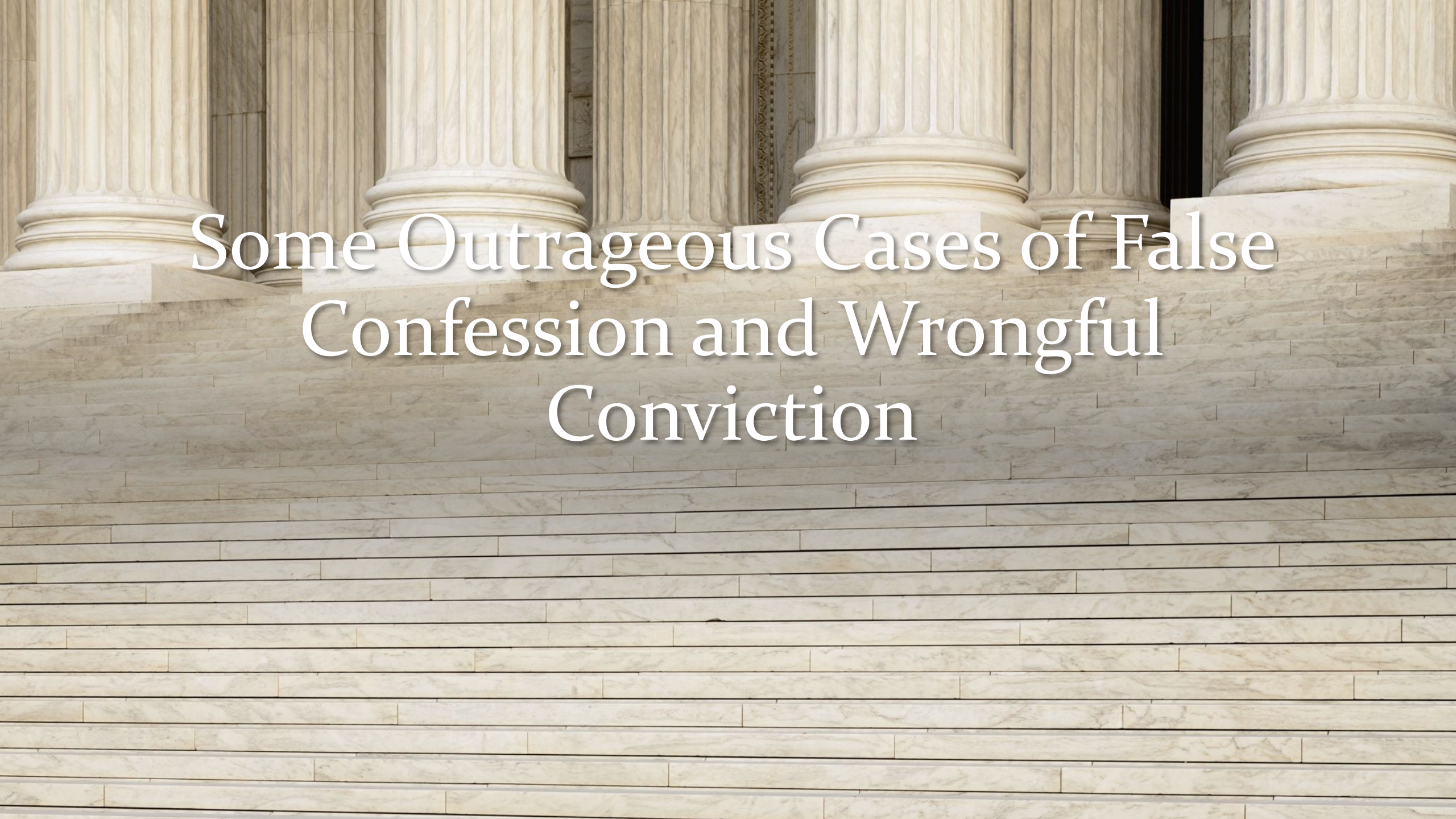

The Role of Psychology in Contested Confession Cases

- Dr. Brian Cutler, PhD
- *Professor and Director*
- *Media Psychology Program*
- *Fielding Graduate University*



Some Costs of Wrongful Conviction

- Grave Injustice to the Person Wrongfully Convicted
- Crime Victims Continue to Suffer Harms
- Real Perpetrator Commits More Crimes
- Reduced Confidence in Policing and the Courts
- More Opportunities for Racial Bias in the Justice System
- Greater Financial Cost to Society

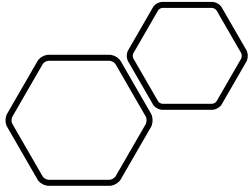


Some Outrageous Cases of False
Confession and Wrongful
Conviction



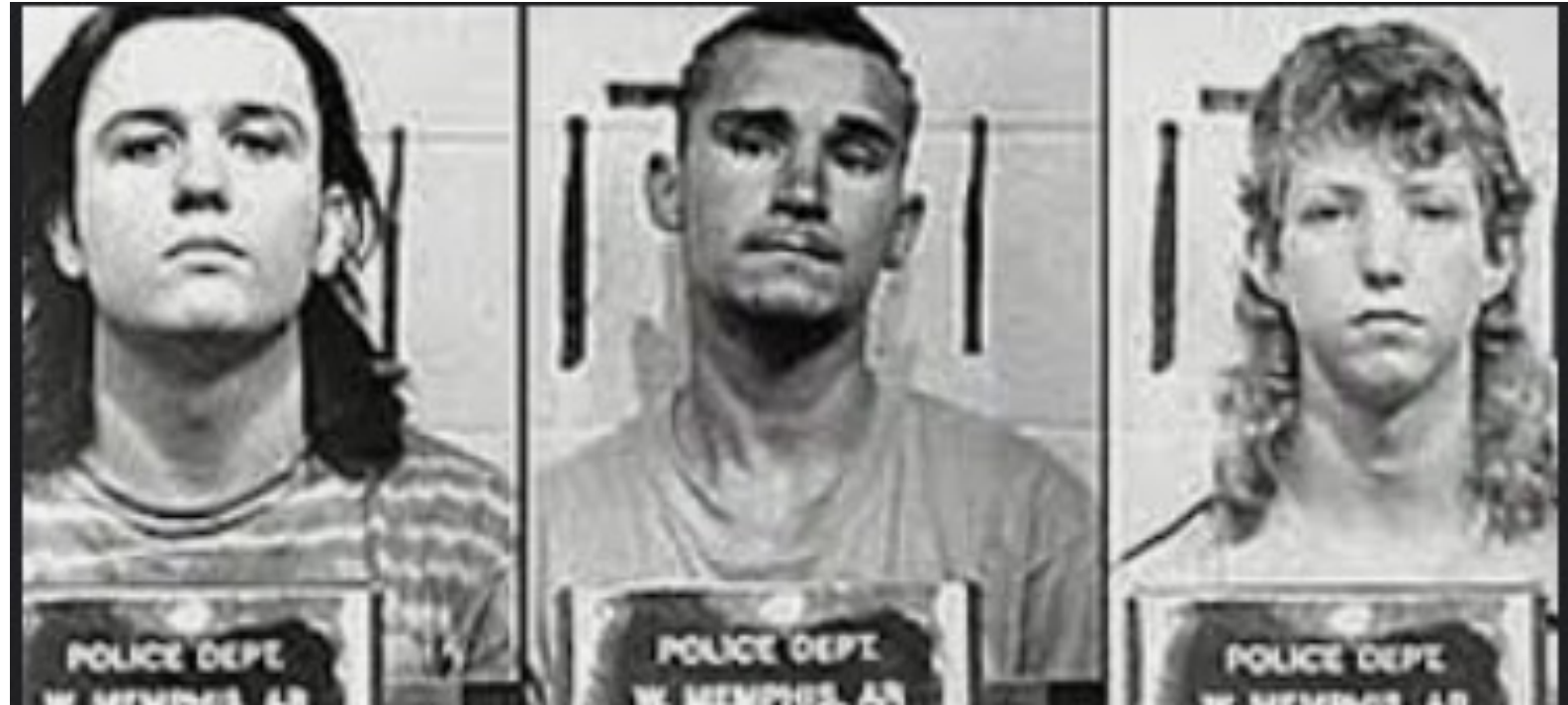
The Dixmoor 5

- James Harden, Jonathan Barr, Robert Taylor, Robert Veal & Shannie Sharp, ages 14-16
- Falsely confessed to the rape and murder of Cateresa Matthews, age 14
- Spent 80 years in prison before being exonerated



West Memphis 3

- Damian Echols, Jessie Misskelley and Jason Baldwin
- Falsely confessed to the murder of 3 boys in Arkansas
- Spent more than 50 years in prison before being exonerated



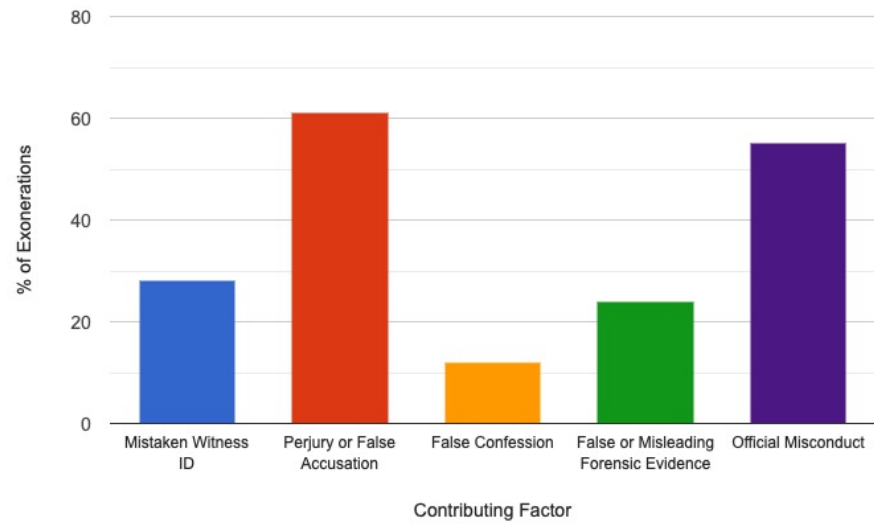
Central Park 5



- Anton McCray, Yusef Salaam, Korey Wise, Kevin Richardson & Raymond Santana
- Falsely confessed to the brutal rape and near murder of 28-year-old Trisha Meili, who was jogging in NY's Central Park
- Spent about 35 years in prison before being released and eventually exonerated

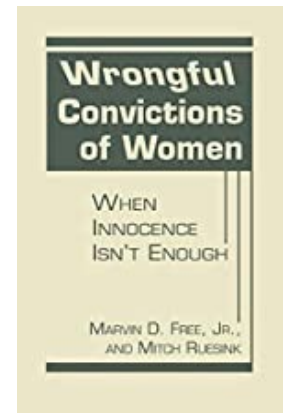
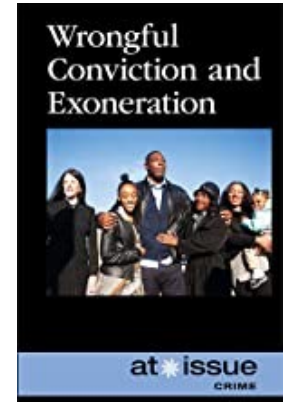
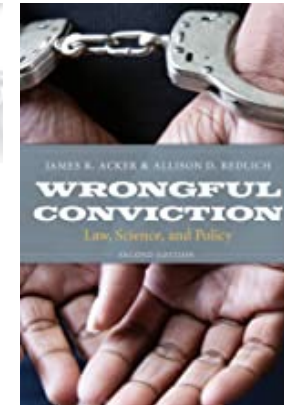
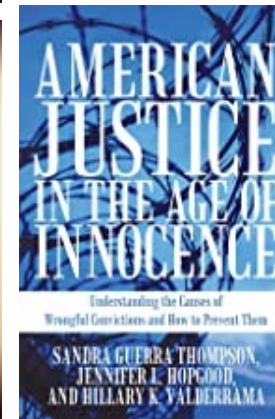
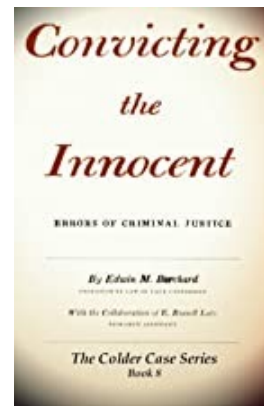
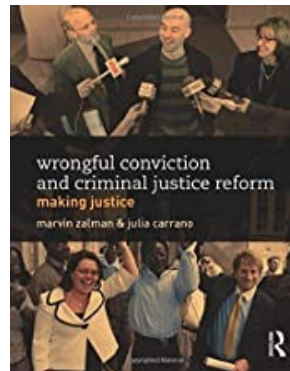
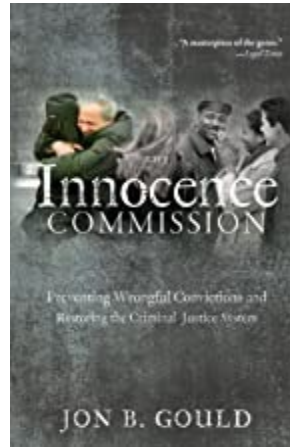
% EXONERATIONS BY CONTRIBUTING FACTOR

National Registry of Exonerations
11/23/2021 Total = 2891

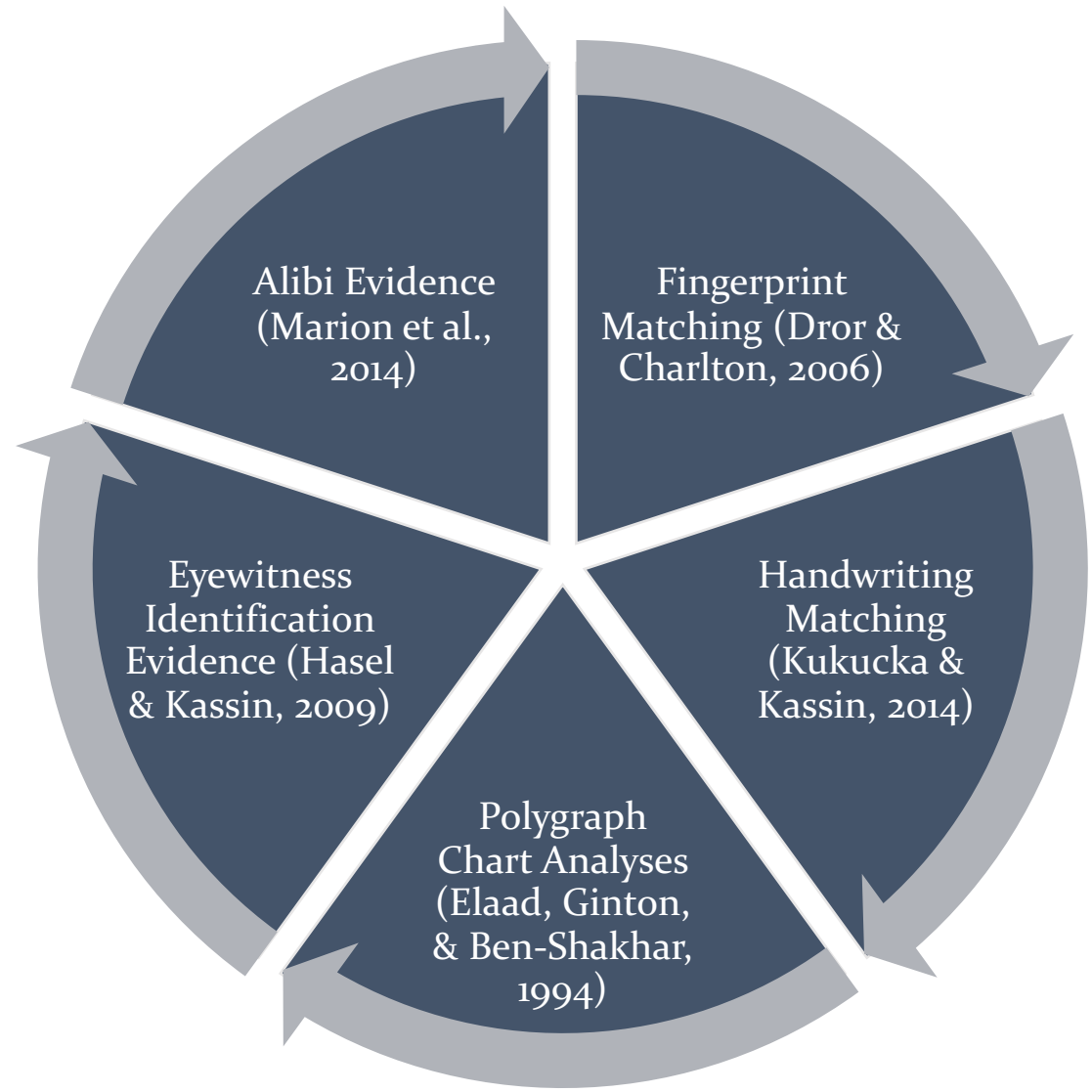


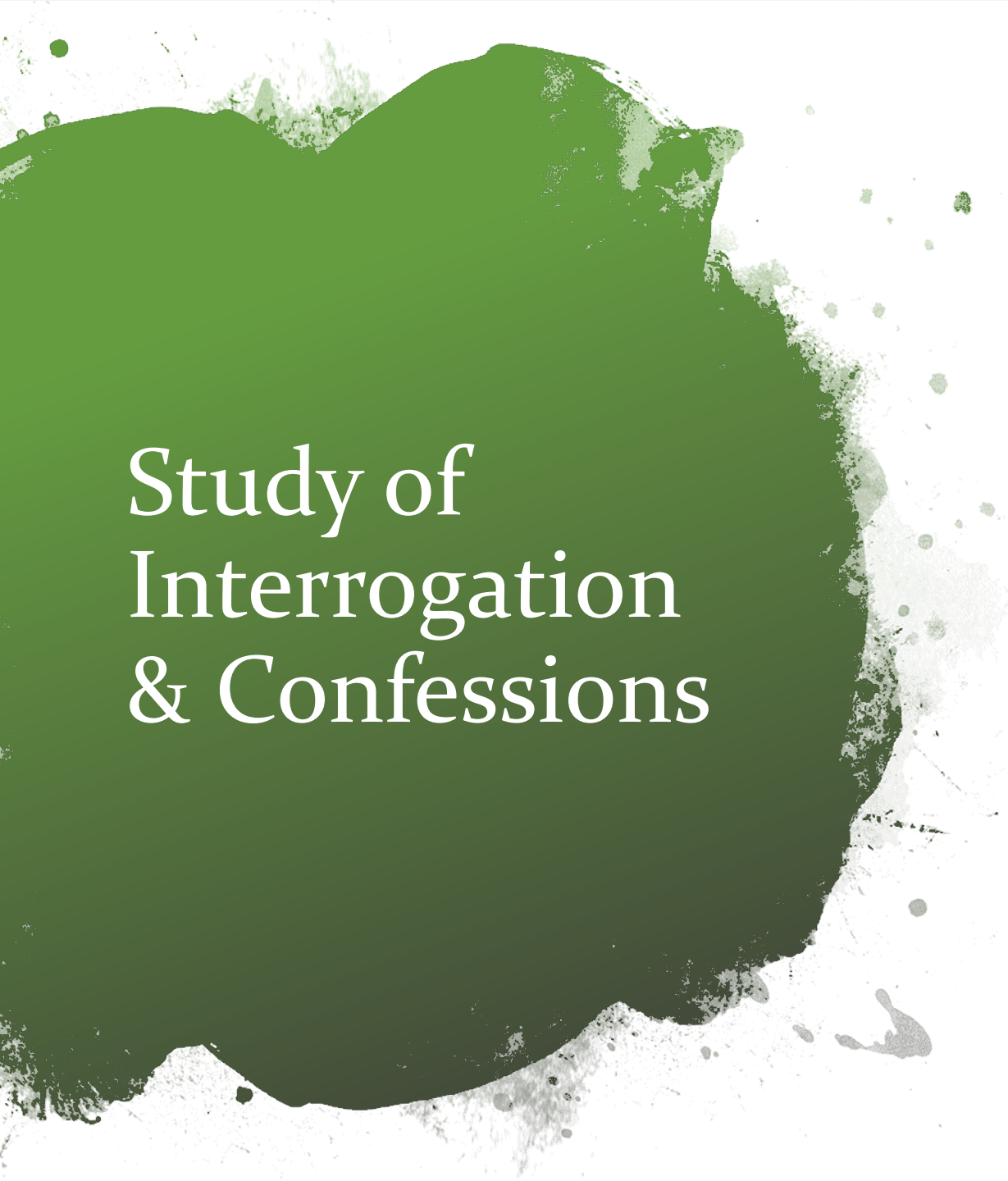
12%
= 360

False Confessions Lead to Wrongful Convictions



False Confessions Contaminate

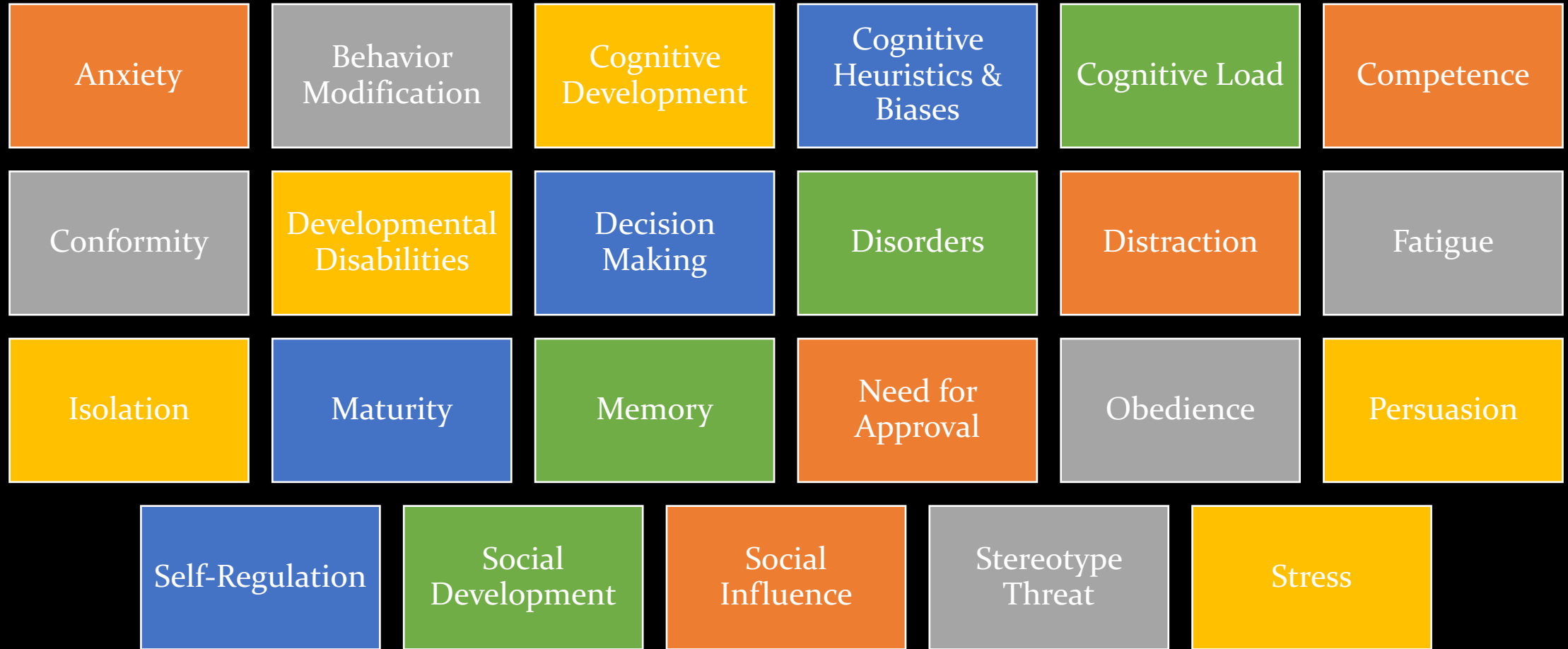




Study of Interrogation & Confessions

- Case Studies
- Archival Analysis
- Experiments
- Surveys
- Observational Studies
- Meta Analyses
- Interrogation Training Literature

Examples of Relevant Psychological Principles



Types of False Confessions

Voluntary False Confessions

Compliant
(Coerced) False Confessions

Persuaded
(Internalized)
False Confessions

Pathway
from False
Confession
to Wrongful
Conviction
(Leo & Drizin, 2010)

Classification Errors

Coercion Errors

Contamination Errors

Coercion in Interrogation

- "Coercion in police interrogation consists of the use of persuasive techniques that limit the suspect's autonomy by manipulating the perceived costs and benefits of possible courses of action and/or depleting the suspect's motivation or ability to resist acceding to the investigators' demands." - (Kaplan, Cutler, Leach, Eastwood, & Marion, 2019)

Personal Risk Factors for False Confession



Mental States

Sleep Deprivation

Intoxication

Drug Withdrawal

Innocence Itself

Characteristics

- Suggestibility
- Youth
- Mental Illnesses
- Intellectual Disabilities



A chessboard with several pieces, including a king and a pawn, with a white king piece lying on its side in the foreground.

Situational Risk Factors for False Confession: The Guilt- Presumptive Interrogation

The Reid Technique



- Confront
- Suggest Themes
- Interrupt Denials
- Overcome Objections
- Maintain Attention
- Handle Passivity
- Present Alternative
- Build to Confession
- Obtain Signed Written Statement

Some Psychological Impacts of Interrogation

Isolation

Stress

Depleted
Self-
Regulation

Temporal
Discounting

Choice
Architecture

Behavioral
Shaping

Confession Contamination: False Confessions are Convincing

- False confessions are often detailed and persuasive
- False confessions often include motives and other details
- Narratives may be provided by the investigators, and repeated back by suspects

Interrogation Reforms

“Without equivocation, our most essential recommendation is to lift the veil of secrecy from the interrogation process in favor of the principle of transparency.”

Kassin, Drizin,
Grisso,
Gudjonsson, Leo &
Redlich, 2020, AP-
LS SRP, LHB

The following national organizations, listed alphabetically, have taken formal positions regarding the practice of electronic recording of custodial interrogations.

- American Bar Association
- American Civil Liberties Union
- American Federation of Police and Concerned Citizens
- American Judicature Society
- American Law Institute
- American Psychological Association
- Center For Policy Alternatives
- Constitution Project
- Innocence Project
- International Association of Chiefs of Police
- Justice Project
- Major Cities Chiefs Association
- National Association for the Advancement of Colored People
- National Association of Criminal Defense Lawyers
- National Conference of Commissioners on Uniform State Laws
- National District Attorney's Association
- National Institute of Military Justice

“Unfortunately, people have come to believe the worst of the police. It is incumbent on those of us who are interested in bringing back faith in the system to do things that show the integrity of what police and prosecutors do to build a case. We should welcome the opportunity to show the system and show that it is fair.”⁷⁴

John McCarthy

Montgomery County, MD, Deputy State's Attorney

(recently elected as State's Attorney)

Washington Post, February 12, 2002

“I would describe [videotaping] as a big improvement. We’re spending a lot less on pre-trial motions. It just narrows the issues.”⁷⁵

Judge Clark Erickson
Kankakee County, IL
Chicago Tribune, April 21, 2002

“This is marvelous. Every detective can go into a room and not worry someone is going to make false accusations. Unequivocally, we can prove to the public the integrity we maintain. It’s proof positive for us.”⁷⁶

Deputy Chief Michael Chasen
Chicago Police Department
Associated Press, July 17, 2005

“[Recording] really does insure the jury has an accurate picture of what the suspect said, and how he or she said it. Jurors want unfiltered reality, and getting an audio tape or video tape of what the defendant said right after the crime happens is really important to them.”⁷⁸

Susan Gaertner

Ramsey, MN County Attorney
Grand Forks Herald, July 24, 2006

“To me, videotaping is in the same category as DNA evidence. It will send some people away for a long time to places they don’t want to go, and it will free other people. It’s a powerful truth-finding tool.”⁷⁷

William Geller

Former Associate Director,
Police Executive Research Forum
“True Confessions,” The Atlantic Monthly, 2002

The image features a central white circle with a thick light green border containing the text. To the left, a white zigzag line extends from the circle's edge. In the top right, there is a light orange ring. In the bottom left, a small light orange circle is present. In the bottom right, a large light orange circle is partially visible, and a white diagonal hatched pattern is located between the central circle and this large circle. The background is solid black.

How are recorded
interrogations to be
evaluated?

Some Media-Based Innovations in Policing and Investigations through a Psychological Lens

Surveillance Video

- Does surveillance video prevent crime?
- What can we infer from observing behavior on video?
- Can we recognize people from video images?
- Are computer-based facial recognition systems accurate?

Body-Worn Cameras

- Do BWCs capture the experience of officers?
- Do officers behave differently when their BWCs are recording?
- Does observing BWC footage affect memory for the incident?
- Do BWCs affect public confidence in police?

How Experts Evaluate Interrogations

Factors

- Personal Risk Factors
- Situational Risk Factors
- Confession Contamination

Idiosyncratic Approaches

Varieties of Methodologies

Varieties of Opinions

The Interview and Interrogation Assessment Instrument



A Psychometrically-derived instrument designed to assess coercion in videotaped interrogations;



Interrogations are coded by trained, certified coders using a third-party app (V-Note) for coding interrogations as they are viewed;



The instrument should facilitate objectivity and consistency in interrogation reviews;



The IIAI also contains a component for confession contamination assessment.

IAII Development

- Literature Review
 - 194 Culled Separate Tactics
 - Item Reduction
 - Cleaning
 - Expert Survey
 - Reliability Test
 - Validity Test
 - Client Satisfaction
- Funded by the Social Science & Humanities Research Council of Canada
 - Research Team
 - Brian Cutler (PI)
 - Jeff Kaplan (MA/Ph.D Student)
 - Amy Leach (Co-PI)
 - Joe Eastwood (Collaborator)

Interview and Interrogation Assessment Instrument Tactic Categories

Rapport Building Tactics (4)

Investigative & Evidence-Based Tactics (9)

Social & Psychological Manipulation Tactics (5)

Consequence-Based Tactics (11)

Minimization Tactics (6)

Rapport Building Tactics

Small Talk

Minimized Role

Sympathy

Concession (e.g., Food, Drink,
Cigarettes)

Investigative & Evidence—Based Tactics

Presented
Evidence

Evidence
Bait

False
Evidence

Social & Psychological Manipulation Tactics

Guilting &
Shaming

Emotional Shift

Graphic
Imagery

Beligerence

Consequence-Based Tactics

Direct
Accusation

Expressions of
Certainty

Leveraging
Expertise &
Authority

Information-
Derogation

Guilt-
Presumptive
Questions

Threats

Minimization

- Appeal to Self-Interest
- Downplay Seriousness
- Justifications
- Degrading Others
- Good Character
- Promises

Room B 10/21/2018 12:36:58

Not logged in

Text Links (Drag and drop segments to add them to cells)

Witness Evidence
 1 q q q

Video Surveillance Evidence
 2 q q

Blaming Victim
 3 m 1

Blaming Uncontrollable Anger
 4 n 1

5
 6
 7
 8

Waveforms & VCG

VCG

Track #1

Labels

Evidence	q	+
Contradiction	w	+
Past Acts	e	+
Transition	r	+
Poly Request	t	+
Poly Play	y	+
False Evidence	u	+
Evidence Bait	i	+
Emphasizing Evidence	o	+

06:00 08:00 10:00 12:00 14:00 16:00

00: 0

Time Scale

IAII Item Reliability

Rapport Building (alpha = .614; k = .615)

Evidence-Based Tactics (alpha = .762; k = .992)

Social and Psychological Manipulation (alpha = .740; k = .892)

Consequences (alpha = .813; k = .905)

Minimization (alpha = .803; k = .880)

IAII Validity

- Participants = 35 SSEs recruited through APLS
- 36% served as expert in 1-10 cases; 22% in 11 or more cases
- Administered by Qualtrics
- 36 Interrogation videos ranging from 26-138 min in US or Canada, 2003-2018
- Cases involved homicide, theft, fraud, child sexual abuse crimes, sexual assault or rape, reckless disregard, and terrorism
- Each expert evaluated one interrogation and rates its coerciveness on our dimensions.

IAII Item Validity

Rapport Building ($r = .33; < .05$)

Evidence-Based Tactics ($r = .58; < .05$)

Social and Psychological Manipulation ($r = .56; < .05$)

Consequences ($r = .73; < .05$)

Minimization ($r = .48; < .05$)



Interview and
Interrogation
Assessment
Instrument

Derived from research & practice

Initial evidence of reliability & validity

Used in about 20 cases pretrial

Subject of expert testimony in 2 cases



State of Iowa v. Kelsie Thomas

National Registry of Exonerations 2021 Annual Report (based on 2020 data)

129 Exonerations

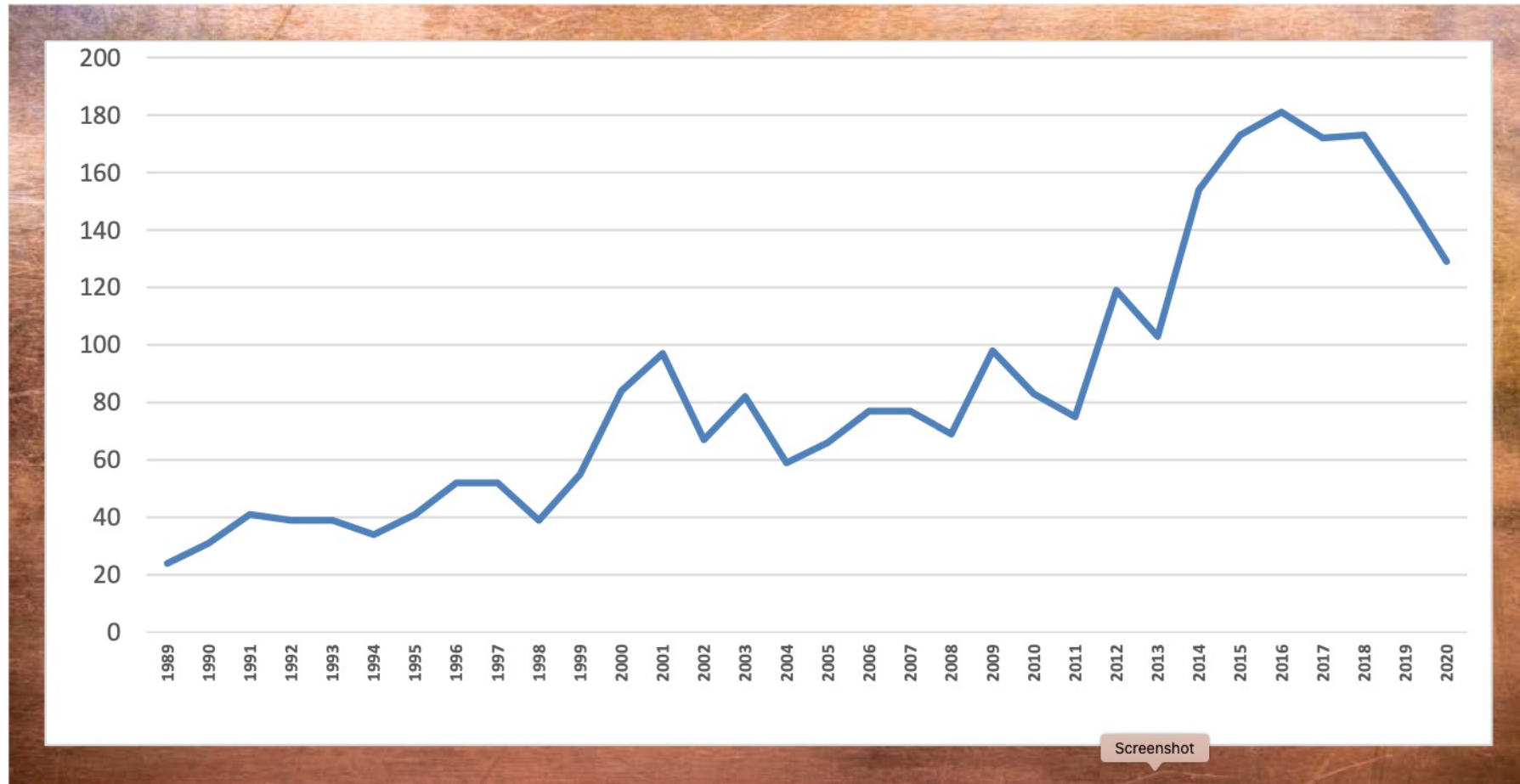
Conviction Integrity Units (47%)

Innocence Organizations (45%)

1737 Years Lost (M = 13.4)

False Confession (10%)

Exoneration Trends



November 2021 Exoneration News

Missouri Man Is Exonerated in 3 Killings After 43 Years in Prison

A judge set Kevin Strickland, 62, free on Tuesday, noting that there was no physical evidence tying him to the crimes and that the main witness against him had tried to recant her testimony.



Kevin Strickland after his release from prison. Rich Sugg/The Kansas City Star, via Associated Press

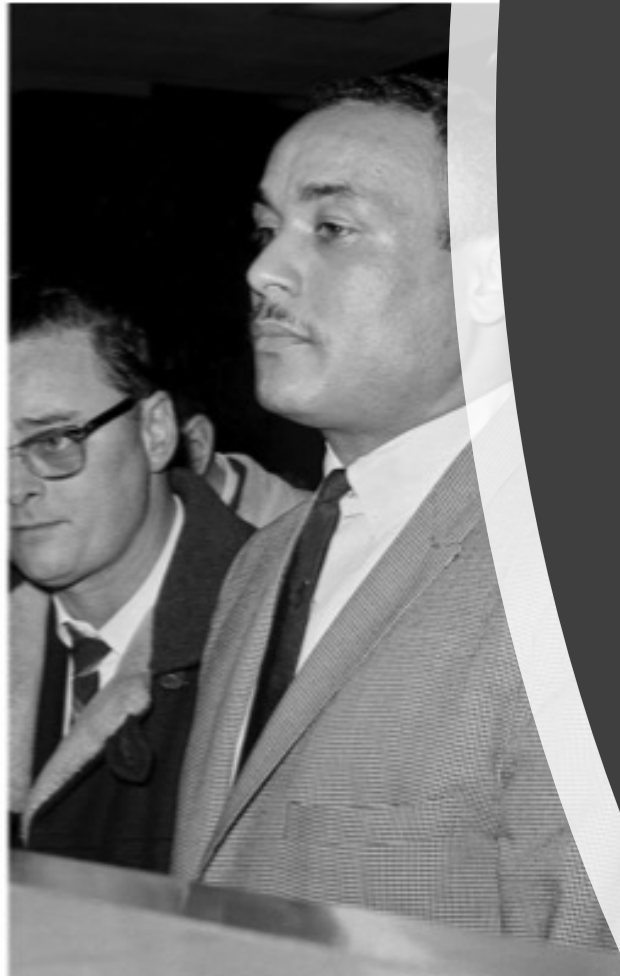
November
2021
Exoneration
News

Dontae Sharpe was exonerated after 24 years in prison. That was not the end of his ordeal



2 Men Convicted of Killing Malcolm X Will Be Exonerated After Decades

The 1966 convictions of the two men are expected to be thrown out after a lengthy investigation, validating long-held doubts about who killed the civil rights leader.



November 2021 Exoneration News

- Muhammad Aziz
- Khalil Islam
- Convicted in 1965; Released in 1985

November
2021
Exoneration
News

Florida judge posthumously clears Groveland Four of any wrongdoing

Judge approved a series of motions that cleared the names of 4 Black men wrongfully accused of rape in 1949



November 2021 Exoneration News

Anthony Broadwater bursts into tears as Alice Sebold apologizes for false conviction in 'Lucky' rape

Updated: Dec. 01, 2021, 1:11 p.m. | Published: Nov. 30, 2021, 3:20 p.m.



Anthony Broadwater, 61, wipes tears away as he describes the obstacles in his life since being convicted in the 1981 rape of Alice Sebold, then a freshman at Syracuse University who later went on to become a best-selling author. Broadwater's conviction was overturned Monday. N. Scott ... | strimble@syracuse.com

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