

OPINION



Injustice for All from False Confessions

The problem continues to plague the criminal law system, but there are ways to solve it.

BY GABRIEL A. FUENTES

This past summer, we commemorated that day 50 years ago when hundreds of thousands of people packed the grounds near the Lincoln Memorial for the March on Washington and the Reverend Martin Luther King Jr.'s "I Have a Dream" speech. On that same day, New York City learned in horror that two young women had been slashed and murdered in their Upper Manhattan apartment, in a case that ought to remind us of how far we have left to go in protecting another important civil right: the

due-process right not to be jailed based on a false confession.

Janice Wylie had planned on attending the March on Washington but stayed home instead that day. After she and roommate Emily Hoffert were found dead, the case quickly grabbed local and national attention as the "Career Girl Murders." Months later, the New York Police Department arrested a 19-year-old black man named George Whitmore based on his detailed "confession," later proved false. The case against Whitmore unraveled, and another man, Richard Robles, sits in jail for the

Wylie-Hoffert murders today.

The reasons Whitmore gave his false confession were never precisely clear. Journalist Selwyn Raab's 1967 chronicle of the case, *Justice in the Back Room*, which inspired the 1970s television series *Kojak*, offered some insights: New York police faced immense pressure to make an arrest, and they turned that pressure on Whitmore during a long night of questioning in which their questions supplied plenty of the details for Whitmore's statement.

Justice in the Back Room, as it turns out, was ahead of its time. The wrongful-conviction/false-confession

narrative keeps repeating itself.

In Illinois, police and prosecutors continue to be rocked by false-confession cases. The latest innocent person to walk from prison is Carl Chatman, a 58-year-old homeless man found to have falsely confessed to an after-hours rape in a downtown Chicago courthouse. He had served 11 years before charges were dismissed on September 10. Earlier this summer, Cook County prosecutors agreed to dismiss their case against Daniel Taylor, who spent nearly 20 years behind bars for a double murder that happened while he was in police custody, but who was said to have confessed.

While the Innocence Project's Peter Neufeld has called Chicago the false-confession capital of the United States, the problem is hardly limited to Chicago. Brooklyn, N.Y., District Attorney Charles Hynes continues to review nearly 40 cases investigated by now-retired New York detective Louis Scarcella, amid allegations that the detective's work evinced a pattern of problems including false confessions. It is unclear when the review will be complete.

As we continue to hear about more wrongful convictions rooted in false confessions, we should push for two important reforms: broadening the cases in which police electronically record interrogations, and developing a more rigorous and independent process for state executive branches to consider and resolve false-confession claims.

The Innocence Project has called the electronic recording of inter-

rogations, from the reading of *Miranda* rights onward, "the single best reform available" to prevent false confessions. On August 26, two days short of the 50th anniversary of the Wylie-Hoffert slayings, Illinois enacted legislation extending the requirement for electronic recording of interrogations to eight different types of violent felonies. In so doing, Illinois joined 16 states and the District of Columbia in requiring electronic recording of interrogations in crimes other than homicides. But 33 states have yet to adopt this important reform.

PROSECUTORIAL REVIEW

Improving the process for prosecutorial review of false-confession claims is more complicated but no less important. No one would argue that prosecutors should be "rushed" into dismissing or vacating convictions in which the evidence is complicated and not as clear as the defense bar might contend.

On the other hand, we know from several of these cases that many prosecuting agencies are taking an awfully long time, that innocent people have waited years for exonerations to which they were clearly entitled, and that, in some cases, prisoners have died while their post-conviction claims were pending. In the Daniel Taylor case, the *Chicago Tribune* published its evidence of his jail alibi in 2001. Eventually, the reviewing prosecutors dismissed the Taylor case, 17 months after receiving evidence debunking the information that their predecessors, the trial prosecutors, had offered to

suggest to Taylor's jury that the jail records were wrong.

These reviews often are conducted by prosecutors whose very agencies obtained the initial convictions. To be found to have prosecuted an innocent person is, to say the least, embarrassing and not career-enhancing. We have seen special prosecutors appointed to investigate public officials for lying about personal matters. Perhaps we ought to use independent counsel more often, or as a matter of course, when prisoners bring evidence indicating that the prosecuting agency with jurisdiction over their cases booted those cases. Or perhaps an independent judge or a panel of judges should oversee the process. The problem of long-delayed post-conviction investigations or reviews by "conviction integrity" units needs to be addressed.

Fifty years after Wylie-Hoffert, our justice system does not need any more George Whitmores, Daniel Taylors or any other convictions produced by "justice in the back room."

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