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# A Justice System Overwhelmed

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News / Opinion / Op-Eds

# A justice system overwhelmed

By **Colin Starger**

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**L**et's call 2014 "the year of the wrongfully convicted." Why? According to figures released last week by the National Registry of Exonerations, at least 125 wrongful convictions were overturned in 2014. This smashed the previous single-year exoneration records of 91 (in both 2012 and 2013 according to recently revised numbers) and has serious implications that we should not ignore.

First, we must recognize the human cost. Each of the 125 individuals suffered a terrible injustice. Six of those whose convictions were reversed had been sentenced to death, and each had served more than 30 years in prison. Imagine living in a cage for 39 years, waiting to be executed for a crime you did not commit. This happened to Ricky Jackson and Wiley Bridgeman of Ohio. Though most exonerations were not so life-and-death dramatic, every wrongfully convicted person had days, months and years stolen from them.

But beyond individual stories, 2014's record-breaking number of reversals tells the tale of a system overwhelmed. The sheer volume of uncovered wrongful convictions puts the lie to the widespread belief that our criminal justice system has solved its most basic problems. After all, DNA testing has been routine for more than 20 years. Many predicted that this innocence-proving technology would in short order clear all the nation's wrongfully convicted. Yet the reversals keep on coming. How is this possible?

At one level, the answer is that DNA was never the cure-all some expected. In 2014, only 18 percent of the reversed convictions (22 out of 125) occurred after DNA testing proved innocence. This reflects the reality that relevant DNA is available only in a tiny minority of cases. CSI dramas are fantasy; in real life, science can't solve most crimes. At the same time, risk factors that we now know lead to wrongful conviction — eyewitness misidentification, junk science, false confession, ineffective assistance of counsel and police misconduct — are present in thousands upon thousands of cases that pass through our system every year.

This suggests the deeper reason we continue to see reversed convictions: sheer volume. The United States imprisons more people per capita than any other nation, with 2 million incarcerated at present. That crushing volume makes mistakes inevitable. Accuracy is impossible when police, prosecutors, public defenders and judges labor under impossible caseloads. Under this circumstance, we can expect wrongful convictions to continue for years to come, even if only a small fraction of those we incarcerate are innocent.

It's high time to draw the inescapable conclusion: Mass incarceration is a failed policy. When year after

year we see that we cannot get the most basic component of justice correct — punishing the right people — we need to reexamine our fundamental assumptions and consider radical solutions.

The time for change is ripe as attitudes are changing. Indeed, one of the most significant findings of the latest National Registry of Exonerations report is that 54 percent of the reversed convictions in 2014 (67 out of 125) were obtained at the initiative of or with the cooperation of law enforcement. This is a truly significant change. For years, law enforcement actively resisted the work of innocence projects on behalf of their imprisoned clients. Now prosecutors around the country have established Conviction Integrity Units of their own.

When even prosecutors recognize the profound and persistent problem of wrongful convictions, meaningful criminal justice reform is indeed possible. With state budgets shrinking and across-the-board cuts looming, it is no longer unfathomable to envision — and to propose — a concerted policy of decarceration. We do not need to lock up so many behind bars. We are supposed to be the land of the free. For the sake of justice, let us consider another way.

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