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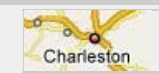
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Andy Herrick and Derek Knopp: Simple steps can prevent wrongful convictions

CHARLESTON, W.Va. -- On Sept. 28, Damon Thibodeaux became the 300th person exonerated by DNA evidence after serving 15 years on death row for a murder and rape he did not commit.

These 300 exonerations expose systemic flaws in our criminal justice system, flaws that not only lead to wrongful convictions, but also allow real perpetrators to walk free. The 300 individuals who have been exonerated served a combined 4,013 years in prison. In nearly half of those cases, the real perpetrators were eventually identified. At least 130 violent crimes could have been prevented if the true perpetrator was initially arrested, instead of an innocent person.

Eyewitness misidentifications have contributed to the wrongful conviction of nearly 75 percent of the 300 people exonerated through post-conviction DNA testing in the United States. The rate at which eyewitnesses pick non-suspects -- the wrong person -- in a police lineup hovers around 20 percent. Simple reforms in eyewitness identification procedures can improve accuracy and lessen the chance that a witness will identify the wrong person.

The West Virginia Legislature passed the Eyewitness Identification Act in 2007, creating a task force to study and recommend best practices for eyewitness identification procedures. Five years later, the task force has failed to submit a report to the Legislature.

West Virginia can take a few simple steps to make eyewitness identifications more reliable and keep perpetrators off the streets:

- Show each line-up photo to the witness one at a time.

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A recent American Judicature Society study, conducted in actual police stations, shows that presenting all the line-up photos at once encourages an eyewitness to pick the photo that looks most similar to the perpetrator. The result: if the perpetrator is not in the line-up, the witness will choose the person who looks most like the perpetrator. If that same witness is shown the pictures one at a time, the witness compares each photo with his or her memory, rather than the photos with one another.

- Have a neutral officer running the line-up.

More than 40 years' worth of scientific research demonstrates that eyewitnesses are often influenced by the expectations of the officer who administers the line-up. Small police departments across West Virginia can make sure to have a neutral line-up administrator by following a simple practice using manila folders: the "folder shuffle method." One line-up photo is placed in each manila folder, then the folders are shuffled and given to the eyewitness to examine. If the officer doesn't know which photo the eyewitness is looking at, the officer can't consciously or subconsciously influence the witness' decision. This method is easy to administer and is cost effective for small police departments.

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The need for eyewitness identification reform is clear. With the 300th innocent person exonerated through DNA evidence, the flaws in our criminal justice system are on national display. The reforms described are inexpensive, easy to implement, and will markedly improve law enforcement's ability to correctly identify perpetrators of crime. We encourage the men and women who protect and police our communities to consider these changes -- for the benefit of us all.

Herrick and Knopp are law students at the West Virginia Innocence Project, a clinic at the WVU College of Law. The Innocence

Project serves people wrongfully convicted in West Virginia by providing legal assistance and raising public awareness about the causes of wrongful conviction.

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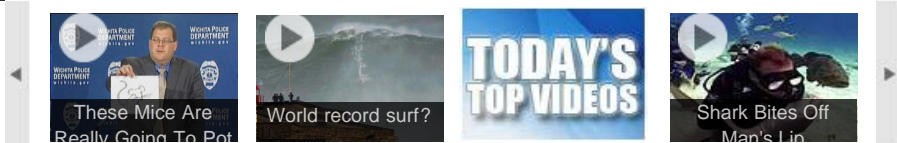
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