

APPENDIX A

Summaries of Illinois wrongful murder convictions, 1970-2003

Kenneth Adams

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape, Kidnaping, Armed Robbery	Codefendant's false confession False eyewitness identification False forensic evidence Informant perjury Failure to pursue alternative suspects Police misconduct Prosecutorial misconduct
Crime Date:	1978	
Convicted:	1979	
Sentence:	75 years	
Released:	1996	

Kenneth Adams is one of the group of men known as the Ford Heights Four who were convicted of the 1978 abduction and murder of Lawrence Lionberg and Carol Schmal and the rape of Ms. Schmal.

Adams and his codefendants became suspects in the case after Cook County Sheriff's Police received a tip from Charles McCraney, a man who lived near the murder scene. McCraney ultimately placed the defendants there at about the time the murders were believed to have occurred.

Based on McCraney's claim, police questioned Paula Gray, a 17-year-old woman who was borderline mentally retarded. After being questioned over two nights in motels, she testified before a grand jury that she had been present when Adams and three other men Verneal Jimerson, Willie Rainge, and Dennis Williams repeatedly raped Ms. Schmal and then shot both victims to death. Her confession contained only two purported facts that were not known to the police, and both of those assertions ultimately were shown to have been false.

Gray soon recanted her statement and thereupon was charged both with the murders and with perjury. She was tried simultaneously with Adams, Rainge, and Williams in the same courtroom before the same judge, but by a separate jury. The charges against Jimerson could not be pursued at that time because without Gray's testimony there was no evidence against him. McCraney had not placed Jimerson at the scene.

The convictions of the remaining defendants rested primarily on McCraney's testimony and the testimony of an informant, David Jackson, who falsely claimed to have heard Williams and Rainge talking in jail about how they committed the crime. Forensic evidence later shown to have been false in one regard and unreliable in another also was presented by the prosecution. Adams was sentenced to 75 years, Rainge to life, Williams to death, and Gray to 50 years for the murders and 10 years, concurrently, for perjury.

After Rainge and Williams, but not Adams, won new trials in 1982 based on ineffective assistance of counsel, Gray agreed to testify against them and Jimerson in exchange for her release from prison. Jimerson was then charged, convicted, and sentenced to death.

Although McCraney originally had not placed Jimerson at the scene, he did so at the trial. Rainge and Williams then were retried and convicted based on the false testimony of Gray and McCraney. Rainge was sentenced to life without parole, Williams to death. Jimerson's conviction was reversed in 1995 based on prosecutorial misconduct; the prosecutors had failed to correct perjury by Gray, who had falsely stated that she had been promised nothing in exchange for her testimony.

Now lacking credible evidence against Jimerson, the Cook County State's Attorney's Office agreed to DNA testing. Meanwhile, Northwestern University journalism students working under Professor David Protes found a police file which showed that within a week of the crime a witness had told the Sheriff's Police they had arrested the wrong men. The witness said he knew who committed the crime because he heard shots, saw four men run away from the scene, and the next day saw them selling items taken from the robbery of the victims. As a result of police and prosecutorial misconduct, however, the report had not been turned over to the defense as required under *Brady v. Maryland* prior to trial.

One of the men identified by that witness was by then dead, but the other three ultimately confessed. Then the results of the DNA testing conclusively established the innocence of the Ford Heights Four and corroborated the confessions.

The Ford Heights Four then filed civil rights suits against the Cook County Sheriff's Police. Through the discovery process in that litigation, it became apparent that Gray's false confession had been coerced. The police misconduct prompted Cook County to settle the men's claims for \$36 million, the largest such settlement in U.S.

history. In 2001, Gray's conviction was thrown out, and she currently has a civil rights claim pending against Cook County.

Rogelio Arroyo

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1981	Codefendant's false confession
Convicted:	1982	False eyewitness identification
Sentence:	Life	Failure to pursue alternative suspect
Released:	1991	Ineffective assistance of counsel

Rogelio Arroyo and three members of his family Isauro Sanchez, Ignacio Varela, and Joaquin Varela were convicted of a quadruple murder on the near northwest side of Chicago they did not commit.

Various factors contributed to the wrongful convictions, including the failure of police to investigate suspects immediately identified by witnesses, false or perjured eyewitness testimony, a statement by one of the defendants that police claimed was inculpatory, and ineffective assistance of counsel.

The victims were gunned down on the street in what became known as the Milwaukee Avenue Massacre. Two other men who were with the victims at the time, Leoncio Quezada and Rogelio Medina, survived the shooting. Medina and witnesses told police that all of the victims except one were named Sanchez and that the killers were members of another family the Varelas and that these families, whose roots were in Guerrero, Mexico, had been engaged in a feud for six years. Medina in fact named one of the assailants as Gilberto Varela.

When police went to Gilberto Varela's apartment, however, they found a man who claimed to be not Varela but Rogelio Arroyo, whom they arrested on the spot. While he was being questioned, his relatives and soon-to-be codefendants were arrested. Meanwhile, Gilberto Varela was en route to Mexico, with three other men he ultimately would acknowledge had committed the crime with him.

In Chicago, as interrogation of the suspects in custody continued, the youngest of them, Joaquin Varela, age 16, made a statement that police claimed was tantamount to a confession. Told by Spanish-speaking interrogators that his friends had placed him at the scene of the crime, he allegedly replied: "Si ellos dicen yo estuve alla, ellos estuvieron al tambien entonces." ("If they say I was there, then they must have been there too.")

Two weeks before trial, Arroyo's lawyer died of a heart attack. The judge appointed a new lawyer, but gave him no time to prepare. The judge also denied a motion to suppress Joaquin Varela's inculpatory statement. He requested a jury, but the other defendants asked for a bench trial. All four were tried together, with a jury trying the facts in one case and the judge doing so in the other three. The only other evidence against the men was the purported eyewitness identification of Leoncio Quezada, one of the survivors of the shooting, who had a blood alcohol level when treated that night of 0.174, which was above the legal intoxication level. Despite the weak case, all four defendants were sentenced to natural life, the only alternative to a death sentence in a multiple murder case.

The case became a cause celebre in Chicago's Mexican community, and in 1990 Gilberto Varela confessed to the crime in a collect telephone call from Mexico to Margo DeLay, a research administrator specializing in comparative immigration policies at the University of Illinois-Chicago.

Although the Illinois Appellate Court had affirmed the convictions and the Illinois and U.S. supreme courts had declined to review the case, Governor James R. Thompson ordered Spanish-speaking state police officers to reinvestigate the case. As a result of that investigation Thompson commuted the men's life sentences after they agreed not to sue for their wrongful arrest and imprisonment.

Melvin Bentley

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1990	False eyewitness identification
Convicted:	1992	Failure to pursue alternative suspect
Sentence:	30 years	Police misconduct
Released:	2000	Prosecutorial misconduct

Melvin Bentley was convicted of murdering Leonard Jamison during an exchange of gunfire in the parking lot of a tavern that basically functioned as an open-air market for heroin and crack cocaine directly across the street from the Ford Heights police station.

Two eyewitnesses Leroy Stephenson, a cousin of the victim, and Daniel Washington, who had just walked out of the tavern after buying potato chips positively identified Bentley, but eventually recanted. In sworn statements obtained by the Cook County Public Defender's Office, they stated that they had been told to falsely implicate Bentley by the lead investigator in the case, who in the interim had been convicted of bribery and sent to federal prison.

Washington, who was 15 at the time of the shooting, said he initially told police that the man who killed Jamison was wounded in the hand. Bentley had no hand wound, but an alternative suspect whom the police failed to investigate did. That suspect was Gacy Hadden, who later was convicted of an unrelated murder for which he is currently is serving a 90-year sentence. Bentley's attorneys had alleged that prosecutors, as well as police, were aware of Washington's statement before Bentley's trial, but concealed that fact.

In 2000, the Cook County State's Attorney's Office offered to release Bentley if he would agree to drop his efforts to obtain a new trial. Although Bentley, who had unequivocally insisted from the beginning that he was innocent, was likely to prevail in court, that effort could have taken two or three years, during which he likely would have had to remain in custody. Bentley accepted the proposal and walked out of prison.

Joseph Beringer

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Conspiracy	
Crime Date:	1981	False eyewitness identification
Convicted:	1983	Police misconduct
Sentence:	Life without parole	Prosecutorial misconduct
Released:	1987	

Joseph Beringer and his brother Kenneth were convicted of murder and conspiracy in connection with the 1981 slaying of Joanne Barkauskas, who was gunned down on her way to work by a man identified by an eyewitness as James Galason.

Galason confessed and ultimately testified that the victim's husband, Edward Barkauskas, had contracted with him to commit the crime for a share of her life insurance proceeds. In exchange for leniency, however, Galason agreed to implicate the Beringer brothers in the crime.

Galason claimed that Joseph Beringer had been the actual shooter, and that Kenneth Beringer had helped steal a car used in the crime and had been present when the crime was carried out.

Galason's testimony was contradicted by the only eyewitness to the crime, Harvey Webb, who testified that he saw Galason alone kill the victim. Further doubt was cast on Galason's testimony by Edward Barkauskas, who while denying the conspiracy admitted meeting with Galason. Barkauskas testified that he had never met either of the Beringers.

In what the Illinois Appellate Court branded "brazen misconduct," Assistant Cook County State's Attorney Kenneth Wadas accused Galason of scheming with defense counsel to exonerate the Beringers. In reversing Joseph Beringer's conviction in 1987, the court held that the cross examination had no factual basis.

The court also found that Wadas had engaged in improper closing argument that seemed "designed to finish the disparagement of defense counsel's integrity." Kenneth Beringer's conviction was reversed on the same grounds five months later, and the prosecution dropped the charges against the brothers.

Kenneth Beringer

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Conspiracy	
Crime Date:	1981	False eyewitness identification
Convicted:	1983	Police misconduct
Sentence:	30 years	Prosecutorial misconduct
Released:	1987	

See Joseph Beringer, *supra*.

Marcellius Bradford

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	
Crime Date:	1986	False confession
Convicted:	1988	Codefendant's false confession
Sentence:	12 years	False forensic evidence
Released:	1994 (exonerated January 2002)	Police misconduct Prosecutorial misconduct

Marcellius Bradford was one of four men wrongfully convicted of the rape and murder of medical student Lori Roscetti in Chicago. Bradford confessed and pleaded guilty to the crime and implicated three other innocent men pursuant to plea agreement his counsel worked out with the Cook County State's Attorney's Office. At the time of his confession, he was just 17 years old.

Bradford's confession prompted another of his co-defendants, 16-year-old Larry Ollins, also to confess. Bradford received a lenient sentence 12 years, of which he would serve 6.5 years in exchange for testifying against Ollins and the other codefendants, Calvin Ollins, 14, and Omar Saunders, 18. All three were sentenced to life in prison.

False testimony by Chicago police crime laboratory analyst Pamela Fish also contributed to the wrongful convictions. After all four men were exonerated by DNA testing in 2001, the defense DNA expert, Edward T. Blake of California-based Forensic Science Associates characterized Fish's trial testimony as "scientific fraud." (False forensic testimony by Fish had been crucial in the previously exposed wrongful convictions of three innocent men John Willis, Donald Reynolds, and Billy Wardell who had been convicted in rape cases.)

Six months after Blake's DNA results exonerated the original defendants, they were legally exonerated and released Saunders and Larry and Calvin Ollins, who are first cousins, in late 2001 and Bradford in early 2002.

After their release, a telephone tip led police to arrest and charge two other men Duane Roach, 46, and Eddie Harris, 38 with the crime. Cook County State's Attorney Dick Devine said Roach and Harris confessed after DNA testing implicated them in the crime.

In a lawsuit filed on behalf of the innocent men in 2001, attorney Kathleen Zellner blamed the wrongful convictions on misconduct by Chicago Police Detective James Mercurio and Assistant Cook County State's Attorney Patrick O'Brien, in addition to perjury by Pamela Fish.

Robert Brown

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1983	False eyewitness identification
Convicted:	1984	
Sentence:	35 years	
Released:	1989	

Robert Brown and Elton Houston were convicted of a presumed gang-related murder that three eyewitnesses told police the crime had been committed by three men in a Buick Riviera. One of those witnesses incorrectly identified Brown as one of the men in the Riviera, and the other two identified Houston.

Brown was convicted at a bench trial and sentenced to 35 years in prison. Houston's first trial ended with a hung jury, but he was convicted at his second jury trial and, like Brown, sentenced to 35 years.

In 1985, after the Illinois Appellate Court unanimously affirmed the convictions, a prisoner cooperating in a federal investigation of the El Rukn street gang identified the three men who actually committed the crime. Brown and Houston were exonerated based on confessions of two of the men whom the federal cooperating witness had identified.

Houston and Brown filed civil rights claims alleging that the Chicago Police and Cook County State's Attorney's Office had failed to act after learning the identifies of the actual killers. Cook County settled those claims for \$1.1 million in 1993. The police and prosecutorial misconduct did not impinge on the wrongful convictions because it occurred after the fact.

Joseph Burrows

County:	Iroquois	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1988	Codefendant's false confession
Convicted:	1989	Actual killer's perjury
Sentence:	Death	
Released:	1994	

Joseph Burrows's conviction and death sentence for the murder and robbery of William Dulan, an elderly Iroquois County farmer, were based on false testimony by the actual killer, Gayle Potter, and a coerced confession from a mildly retarded and innocent codefendant, Ralph Frye.

Shortly after the crime, Potter was arrested when she tried to cash a check in Dulan's name. She immediately admitted taking part in the crime, but claimed that she had committed it with Burrows and Frye. She said Burrows actually had shot Dulan.

No physical evidence linked either Burrows or Frye to the crime, and four credible witnesses placed Burrows 60 miles away at the time of the murder. In contrast, Potter's blood had been found at the scene, and she had a gash to her head at the time of her arrest.

Burrows was tried twice. The first trial ended in a hung jury, the second in a guilty verdict and death sentence. Potter and Frye, meanwhile, were sentenced to prison.

In 1991, after the Illinois Supreme Court affirmed Burrows's conviction and death sentence, Frye recanted his testimony to a journalist, saying he had been intimidated into falsely implicating Burrows. Burrows's appellate counsel subsequently discovered a letter Potter had written asking a friend to falsely testify that he had seen her in a blue pickup truck that she claimed Burrows had driven to and from the crime scene. Confronted with the letter, Potter admitted that she had falsely accused both Burrows and Frye to minimize her own culpability and admitted that she alone had killed Dulan.

After a hearing at which Potter and Frye testified, Burrows won a new trial. The prosecution unsuccessfully appealed before dropping all charges against both Burrows and Frye in 1994.

LaVale Burt

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1985	False confession
Convicted:	1986	Perjured testimony
Sentence:	Pending at time of exoneration	Failure to pursue alternative suspect
Released:	1986	

LaVale Burt falsely confessed to the murder of 2-year-old Charles Gregory after a prolonged interrogation by Chicago police. He was 19 at the time.

After the child's death, police discovered gunpowder residue on the hands of the child's mother, who gave conflicting accounts of what happened. Initially, she said she did not see what happened. After she became the prime suspect, however, she changed her story, saying she saw a young man fire shots at two girls, miss them and hit her son. She identified the girls as Gloria and Linda Leatherberry, who lived nearby.

Both girls initially denied the story, but Linda Leatherberry finally said that the mother's story was true that she and Gloria had been fired at and she identified Burt as the person who fired the shots.

After getting her to say that, police developed a complex theory of Burt's motive for shooting at the girls. Their brother, Robert Leatherberry, had been wounded slightly earlier in the day in a shooting that police suspected was gang-related. Officers theorized that Burt had been involved in that shooting and had shot at the girls to discourage them from linking him to that crime. In his confession, Burt ultimately said precisely that.

After he had been convicted of the child's murder, Burt was awaiting sentencing when the grandmother of the deceased child contacted the judge who had tried the case. The grandmother revealed that she had found a .22-caliber pistol, which she suspected had been caused her grandson's death, in her daughter's possession. After the daughter acknowledged that her son's death in fact had been accidental, the judge vacated Burt's conviction.

Miguel Castillo

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1988	False confession
Convicted:	1991	Police misconduct
Sentence:	48 years	
Released:	2000 (charges dropped 2001)	

Miguel Castillo was convicted of murdering Rene China, a 50-year-old Cuban immigrant whose dismembered and decomposing body was found on May 18, 1988. Castillo, a 36-year-old neighbor of the victim, was arrested eight months later based on a tip from a suspect in the crime. Detectives claimed that Castillo confessed, but Castillo denied that. He claimed that he had been beaten by the detectives during interrogation and, when he refused to confess, that they simply fabricated the confession.

Solely on the basis of the alleged confession, Castillo was convicted after a bench trial despite medical testimony that, based on the condition of China's badly decomposed body, it appeared that he had been killed between May 7 and May 9 when Castillo was being held in jail for an unrelated burglary. The prosecution argued that the murder could have occurred on May 11, the date Castillo was freed on bond, even though the state's own witnesses agreed that the crime almost certainly occurred earlier.

In 2000, in a post-conviction proceeding, Castillo's attorneys presented affidavits by Dr. Robert Kirchner, a former deputy Cook County medical examiner, and Richard Merritt, an entomologist at Michigan State University, stating that new testing, with procedures developed in during the 1990s, confirmed that China died no later than May 9. On that basis of the affidavits and its own reinvestigation of the case, the Cook County State's Attorney's Office agreed that a new trial was warranted. In 2001, prosecutors dismissed the charges.

Xavier Catron

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1992	Perjured eyewitness identification
Convicted:	1993	Police misconduct
Sentence:	35 years	
Released:	2000	

Xavier Catron was convicted of the murder of 16-year-old Kendrick Thomas on the south side of Chicago. The conviction was based on the testimony of three eyewitnesses who swore under oath that they had been coerced by Chicago police to falsely identify Catron, then 24.

The witnesses recanted to Rick Strasser, a WGN-TV journalist, who began looking into the case when he received a letter from Catron saying he had been wrongfully convicted. Strasser's interest in the case intensified after the father of the victim said he believed Catron innocent.

Based on the sworn recantations, Catron sought a new trial, but was rebuffed out of hand by the Cook County Circuit Court. After the Illinois Supreme Court ruled in another case that recantations should not automatically be discounted, however, Catron returned to court. This time he prevailed, winning a new trial. The State's Attorney's Office subsequently dropped the charges.

Perry Cobb

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Armed Robbery	
Crime Date:	1977	Informant perjury
Convicted:	1979	False eyewitness identification
Sentence:	Death	Failure to pursue alternative suspect
Released:	1987	Prosecutorial misconduct

Perry Cobb and Darby Tillis were convicted and sentenced to death for the murder and armed robbery of the owner and an employee of a hotdog stand on the north side of Chicago.

They were arrested three weeks after the crime, when a witness, Phyllis Santini, went to the police with a story implicating them. Both men professed their innocence, but police found a watch taken from one of the victims in Cobb's room. Cobb claimed he bought the watch for \$10 from Johnny Brown, Santini's boyfriend.

It took three jury trials for prosecutors to convict them. The first two ended in hung juries. The third resulted in convictions and death sentences, but the Illinois Supreme Court reversed the case based on judicial error.

After the reversal, Michael Falconer, a recent law school graduate working for the federal Organized Crime Strike Force in Chicago, read an article about the case in a legal publication. The article quoted the testimony of Santini, whom Falconer happened to know. Before enrolling in law school, he had taken a summer job in a factory, where she also worked. One day she had told him that she and her boyfriend Johnny Brown had robbed a restaurant and shot someone.

Upon reading the article, Falconer immediately contacted Cobb and Tillis's defense lawyers. When the case came up for retrial, Falconer was working as an assistant state's attorney in neighboring Lake County. Cook County State's Attorney Richard M. Daley called his Lake County counterpart in an effort to prevent Falconer from testifying, but Falconer resisted the pressure and provided testimony leading to the acquittal of Cobb and Tillis in 1987. In 2001, Governor George Ryan granted the men pardons based on innocence.

Algie Crivens

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1989	False eyewitness identification
Convicted:	1992	Failure to pursue alternative suspect
Sentence:	20 years	Police misconduct
Released:	1999	Ineffective assistance of counsel

Algie Crivens was convicted of the murder of Cornelius Lyons in the parking lot of a grocery store on the far south side of Chicago. Crivens was arrested after two eyewitnesses identified him as the killer.

Before Crivens's 1992 bench trial before Cook County Circuit Court Judge Loretta Hall Morgan, a man named Titonia Smith came forward to claim that, while in a jail lockup, he heard another man, Marcus Williams, confess to the crime. Hall rejected Smith's testimony as uncorroborated and unreliable, and proceeded to find Crivens guilty based on the eyewitness identifications.

On direct appeal, Crivens argued that the exclusion of Smith's testimony had been judicial error, but the Illinois Appellate Court rejected that claim. Crivens next filed a post-conviction petition based on what he asserted was newly discovered evidence that an eyewitness, Demetrius Taylor, who had not testified at the trial, claimed to have seen Williams shoot Lyons. Judge Morgan, however, denied relief, holding that Taylor's testimony would not have changed the outcome of the trial.

After Hall's decision was affirmed by the Illinois Appellate Court, Crivens filed a petition for a federal habeas corpus alleging, first, that he had been denied effective assistance of counsel and, second, that Chicago police had violated his rights under Brady v. Maryland by withholding information that one of the eyewitnesses who had testified against him, Julius Childs, had been convicted of possessing crack cocaine with the intent to deliver. Shortly before the Crivens trial began, Childs was allowed to plead guilty in exchange for 30 months probation, a remarkably lenient sentence.

U.S. District Court Judge John F. Grady held that both issues had been procedurally defaulted because they had not been raised in the state courts, but the U.S. Court of Appeals for the Seventh Circuit disagreed regarding the Brady issue. In 1999, the Seventh Circuit unanimously granted the writ of habeas corpus. Crivens was released and the Cook County State's Attorney's Office chose not to try him a second time.

Rolando Cruz

County:	DuPage	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1983	Alleged false confession
Convicted:	1984	False forensic evidence
Sentence:	Death	Perjured informant testimony
Released:	1995	Failure to pursue alternative suspect
		Police misconduct

Rolando Cruz and Alejandro Hernandez were convicted and sentenced to death for the kidnaping and murder of 10-year-old Jeanine Nicarico of Naperville.

The convictions rested primarily on false testimony by police that Cruz had made incriminating statements indicating knowledge of the crime that only the killer would have known. Four jailhouse informants testified that Cruz had confessed to the crime. The jury also heard testimony of a so-called forensic anthropologist who claimed that a codefendant, whose case ended in a hung jury, had left a boot print at the scene of the abduction.

After another man, Brian Dugan, confessed to committing the crime alone, Cruz and Hernandez won new trials in 1988. At their separate retrials, however, Dugan's confession, although seemingly credible, was excluded. Cruz again was convicted and sentenced to death. Hernandez's second trial ended in a hung jury, but he was convicted at his third trial and sentenced to 80 years in prison.

The second convictions also were reversed. In 1995, DNA tests exonerated both men and implicated Dugan. Nonetheless, prosecutors refused to acknowledge that Cruz and Hernandez were innocent. At his second retrial in 1995, however, Cruz was acquitted by directed verdict after a police officer acknowledged that he had not made the statements attributed to him, and Hernandez was released as well.

David Dowaliby

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1988	False eyewitness identification
Convicted:	1990	False forensic evidence
Sentence:	45 years	Failure to pursue alternative suspect
Released:	1991	Prosecutorial misconduct

David Dowaliby was convicted of the murder of his adopted daughter, 7-year-old Jaclyn Dowaliby, solely on the basis of testimony by a man with a history of mental illness who claimed to have seen someone with a nose structure resembling Dowaliby's on the night the victim disappeared near where her body was found five days later. The witness, Everett Mann, who previously had been diagnosed as suffering from a bipolar disorder, made the purported identification from a distance of 75 yards in an unlighted parking lot on a moonless night.

Dowaliby and his wife, Cynthia, birth mother of the victim by a prior marriage, both had been charged with the crime, based not only on Mann's testimony but also on what proved to be an erroneous assumption about the forensic evidence: Police and prosecutors incorrectly assumed that a window of the Dowaliby home through which the Dowalibys' claimed an intruder had entered to abduct Jaclyn had been broken from the inside. That seemed to make sense because there was more glass outside than inside, but forensic analysis ultimately incontrovertibly established that the window had been broken from the outside.

Illinois State Police and the FBI also failed to investigate the principal alternative suspect in the case, a mentally ill relative, who offered a dubious alibi that witnesses who eventually came forward disputed.

At the Dowalibys' 1990 jury trial, Cook County Circuit Court Judge Richard A. Neville granted a directed verdict of not guilty in Cynthia Dowaliby's case because there was no credible evidence against her. Neville allowed her husband's case to go to the jury, even though the only difference between the evidence against the two was the so-called "nose witness" testimony. In 1991, the Illinois Appellate Court reversed David Dowaliby's conviction outright, that the evidence against him had been no more probative than that against his wife.

The appellate court also held that assistant state's attorney committed reversible error during closing argument and that Neville had erred in allowing jurors to see gory crime scene and autopsy photographs.

Michael Evans

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	
Crime Date:	1976	Erroneous eyewitness identification testimony
Convicted:	1977	
Sentence:	200 to 400 years	
Released:	2003	

Michael Evans and Paul Terry were convicted in 1977 and sentenced to of 200 to 400 years for the abduction, rape, and murder and rape of 9-year-old Lisa Cabassa, whose was found on January 15, 1976, in an alley about two miles from her home on the south side of Chicago.

They were exonerated on August 23, 2003, after spending more than 27 years in prison for the crime, which DNA proved they did not commit. Their exoneration increased the number of DNA exonerations to 130 nationally and 20 in Illinois since the technology came into use in the late 1980s. They spent longer in prison than any other member of the group.

Evans and Terry, whose convictions rested on the dubious testimony of a woman who claimed to have seen them with the victim the evening before she was found murdered, were 17 when the crime occurred, which happened to be the year before the Illinois General Assembly restored capital punishment following *Furman v. Georgia*. For Evans and Terry, the timing was fortunate because, in view of the heinous nature of the crime, they easily could have been executed long before the advent of the technology that saved them.

Early the evening of January 14, 1976, Lisa and her 11-year-old brother left their home in the 8600 block of S. Saginaw Avenue to walk to the home of a friend a few blocks away. Lisa, however, turned back, complaining of a headache, while her bother continued to the friend's home. When the brother returned home alone about 8:25 p.m., the family realized that Lisa was missing. After searching the neighborhood, the children's mother called police at about 9 p.m. She placed the time that Lisa and Ricky had left home at 6:30 p.m.

Lisa's body was found shortly before 3 a.m. the next day in an alley about two miles away. She had been sexually assaulted and strangled. Cook County Medical Examiner Robert Stein said the crime appeared to have involved more than one assailant, based solely on his assumption that Lisa must have struggled greatly due to the pain she was experiencing, and that therefore one assailant could not have both subdued her and assaulted her. The DNA evidence, 27 years later, gives no indication that more than one assailant was involved.

Four days after the body was discovered, Judith Januszewski, a 32-year-old secretary at a real estate office on East 87th Street near Saginaw Avenue, called a man who had advertised a \$5,000 reward in the case. That man, Frank Martin, called police. Later that day, according to police reports, Januszewski told detectives that at "approximately 6:37 p.m." on January 14, on the corner of 86th and Saginaw, she had seen two African-American youths struggling with a young white girl. Januszewski gave descriptions of the men, from which a police artist made composite sketches. Curiously, however, Januszewski did not identify the girl with whom the youths were struggling, although she had known Lisa Cabassa for more than a year.

Several weeks later, Januszewski contacted police, saying she wanted "to clear the air." She now claimed that she had received veiled threats from a youth she knew as Earl Jones. She said she had seen Jones standing nearby as the two youths she previously had mentioned struggled with the little girl, whom she now identified as Lisa Cabassa. Januszewski also said, for the first time, that she also knew one of the youths involved in the struggle — Michael Evans. Police arrested Evans the next day and he was indicted for rape, kidnapping, and murder.

In the following days, police repeatedly interviewed Januszewski. At some point, they showed her a 1974 Bowen High School yearbook, asking her to look through it in case it contained photos of either of the other individuals involved in the struggle. Although Paul Terry's photo was in the yearbook, she failed to identify him. She did claim, however, that one student pictured resembled the young man she knew as Earl Jones. That student was questioned but released after Januszewski failed to identify him in a lineup. From descriptions provided by Januszewski, police prepared composite sketches of the men she claimed to have seen. Terry did not become a suspect until some nine months later when a neighborhood youth told police Terry one of the composite sketches.

In November 1976, Januszewski identified Terry in a lineup as the second youth she had seen struggling with Lisa Cabassa. At some point, she also identified James Davis in a lineup as the man she previously had known as Earl Jones. Based solely on the lineup identifications, the Cook County State's Attorney's Office obtained indictments charging Terry and Davis with rape, kidnapping, and murder.

Meanwhile, Evans waived a jury and went to trial before Cook County Circuit Court Judge Earl E. Strayhorn. By now, the prosecution had disclosed Januszewski's work timecard, which showed that she had been at work until 8 p.m. the day of the Cabassa abduction — a fact that could not be reconciled with Carmen Cabassa's statement that her daughter had left home around 6:30 p.m. The problem was addressed simply by changing the time. (Twenty-seven years later, the victim's parents acknowledged in interviews with *Chicago Tribune* reporters Maurice Possley and Steve Mills the family's original account of the timing "was changed to fit Januszewski's account.") Despite apparent misgivings about Januszewski's credibility, Strayhorn found Evans guilty. Before sentencing, however, it was disclosed that the prosecution had failed to disclose that Januszewski had received money from the State's Attorney's Office — ostensibly for relocation. As a result, Strayhorn vacated the conviction, and Evans's case was consolidated for retrial with the Terry and Davis cases.

Before the trial, prosecutors dropped the charges against Davis because Keith Jones recanted. Evans and Terry, neither of whom had a criminal past, went on trial before a jury and Cook County Circuit Court Judge Frank W. Barbaro in April 1977 trial. Defense lawyers pressed the time issue on cross examination of Januszewski, who

responded by denying that she had ever stated to anyone that the abduction occurred at 6:37 p.m. She said a Chicago police detective “made that up out of his own head.”

Some jurors evidently doubted Januszewski. After 6—hours of deliberation over two days, with the intervening night in sequestration, the jury sent a note to the judge, Frank W. Barbaro, saying, “We are deadlocked unalterably. What shall we do?” Barbaro responded, “It is your duty to continue to deliberate.” After further deliberation, the jury sent a second note saying, “In almost four additional hours of deliberations we cannot reach a unanimous decision.” The defense moved for a mistrial, but Barbaro denied the motion and responded to the jury, “Continue to deliberate.” Little more than an hour later, the jury found Evans and Terry guilty on all counts. In addition to sentencing them to 200 to 400 years for murder, Barbaro sentenced them to concurrent terms 75 to 150 years for aggravated kidnapping, 75 to 150 years for rape, and 50 to 100 years for deviate sexual assault. In December 1979, the First District Illinois Appellate Court affirmed the conviction and sentences, holding that “Januszewski’s testimony, if believed, was not so improbable, doubtful, or vague as to raise a reasonable doubt as to defendants’ guilt.” The unanimous decision would have ended the case, and Evans and Terry would have spent the rest of their lives in prison, except for a confluence of serendipitous circumstances.

Fortuitously, the lead prosecutor in the case had been Thomas M. Breen, who after leaving the State’s Attorney’s Office had become a prominent member of the Chicago defense bar. In 1994, while working on a major DNA case with Northwestern University Professor of Law Lawrence C. Marshall, now legal director of the Center on Wrongful Convictions, Breen confided that he had begun to have doubts about the prosecution 17 years earlier of Michael Evans and Paul Terry. When the Center on Wrongful Convictions was established in 1999, Marshall asked Karen Daniel, Center staff counsel, to look into the possibility of obtaining DNA testing of seminal evidence in the case.

Under an Illinois statute that Marshall had been instrumental in drafting and persuading the General Assembly to pass the previous year, DNA testing was mandated in cases in which the result would have “the scientific potential to produce new, noncumulative evidence materially relevant” to claims of actual innocence. See § 725 ILCS 5/116-3. However, the State’s Attorney’s Office opposed the testing under the guise of what defense attorneys have come to call “the unindicted co-ejaculator theory” — that even if DNA testing excludes convicted defendants as sources of biological material, it is possible that the material came from an unknown additional party to the crime. In this case, the State specifically noted that a third man, James Davis, had been implicated in the crime by Januszewski.

In 2001, however, Center on Wrongful Convictions staff counsel Karen Daniel and Jeffrey Urdangen persuaded the Circuit Court to order the testing. The results, obtained in September 2002, excluded Evans, Terry, and James Davis as sources of seminal evidence recovered in the case. Prosecutors responded by seeking additional testing, ostensibly on the chance of identifying an unindicted co-ejaculator. The procedures dragged the case out, keeping Evans and Terry in custody, until the State’s Attorney’s Office grudgingly agreed on May 23, 2003, that Evans and Terry were entitled at least to a new trial, even though one was highly unlikely given the evidence. Prosecutors then left Evans and Terry in limbo for three more months before finally dropping the charges on August 22.

After informing Judge Porter that the State’s Attorney’s Office was dropping its opposition to a new trial, Assistant State’s Attorney Mark Ertler argued that a substantial cash bond should be set, vowing that the prosecution would retry Evans and Terry, despite the fact that they have no specific theory as to how the offenses occurred, no physical evidence linking Evans or Terry to the crime, and no idea as to the identity of the man who left his semen in Lisa’s body. Judge Porter, however, ordered their release on their own recognizance. Two hours later, after the Cook County Sheriff’s Office processed the required paperwork, Evans and Terry walked out of his courtroom — free for the first time in more than 27 years.

Ralph Frye

County:	Iroquois	Factors in wrongful conviction:
Charges:	Murder, Robbery	
Crime Date:	1988	False confession
Convicted:	1989	Codefendant perjury
Sentence:	23 years	
Released:	1994	

See Joseph Burrows, *supra*.

Sammie Garrett

County: Cook
Charges: Murder
Crime Date: 1969
Convicted: 1970
Sentence: 20 to 40 years
Released: 1975

Factors in wrongful conviction:

False forensic evidence

Sammy Garrett was convicted of the murder of his girlfriend, 28-year-old Karen Thompson, in a motel on the south side of Chicago on the basis of an erroneous assumption about the forensic evidence by a pathologist employed by the Cook County Coroner's Office (now Medical Examiner's Office).

The victim had died by a shotgun blast that Garrett contended had been self-inflicted; a purported suicide note had been left and Ms. Thompson had been in what the Illinois Supreme Court would describe as an intoxicated and "highly emotional state." However, Cook County Circuit Court Judge Philip Romiti convicted Garrett based on testimony of the pathologist and two police officers who claimed that, given the location of the head wound, the victim could not have inflicted it herself.

The testimony was mistaken, however, as the Coroner's Office subsequently acknowledged. The pathologist and police had erroneously assumed that the head wound had been an entrance wound. However, a new analysis five years later revealed that it had been an exit wound. The previously overlooked entrance wound had in the roof of Ms. Thompson's mouth. Thus, the evidence was consistent with a suicide.

The Illinois Supreme Court reversed the case in 1975, and the Cook County State's Attorney's Office dismissed the charges. In 1980, the U.S. District Court rejected a civil rights claim brought by Garrett, saying that "Congress has not provided for damage actions against the states to redress the wrongs complained of here."

Gary Gauger

County: McHenry
Charges: Murder
Crime Date: 1993
Convicted: 1994
Sentence: Death
Released: 1996

Factors in wrongful conviction:

Alleged false confession
False forensic evidence
Perjured informant testimony
Police misconduct

Gary Gauger was convicted and sentenced to death for the murder of his parents, Morris and Ruth Gauger, whose bodies were found on their McHenry County farm, where they lived with their 41-year-old son.

Gauger was taken into custody immediately and, after an all-night interrogation, made statements that police and prosecutors claimed constituted a confession. He denied that he had confessed, claiming he had made the statements only hypothetically after his interrogators persuaded him it was possible he had committed the double murder during an alcoholic blackout. The statements were not electronically recorded, and deputies made no contemporaneous record of them. Despite an exhaustive search of the farm, no physical evidence was found linking Gauger to the murders. He was indicted nonetheless.

At trial, the jury heard the police version of Gauger's allegedly inculpatory statements: He admitted coming upon his parents from behind, pulling their heads back by their hair, and cutting their throats. The only evidence introduced to corroborate the alleged statements was the testimony of a pathologist, Dr. Lawrence Blum, who performed autopsies on the bodies and a state forensic scientist who examined loose hairs found near Ruth's body. Blum told the jury that the wounds on the victims' bodies were consistent with the possibility that the killer had come upon them from behind and cut their throats, although he acknowledged it was equally possible that the Gaugers had been bludgeoned before their throats were cut.

In 1996, the Illinois Appellate Court unanimously reversed and remanded the case for a new trial, holding that the trial judge had erred in failing to grant a motion to suppress Gauger's statements. In an unpublished opinion, the court held that the statements were the fruit of an arrest made without probable cause and should not have been admitted at the trial. Gauger was released on bond.

The next year, federal officials investigating a conspiracy involving a Wisconsin motorcycle gang known as the Outlaws discovered evidence that the gang had committed the Gauger murders. As a result, the U.S. Attorney's Office in Milwaukee obtained indictments against two members of the gang for 34 acts of racketeering, including the murder of the Gaugers. One of the Outlaws, James Schneider, pleaded guilty to acts relating to the murders in 1998. The other, Randall E. Miller, was convicted of the charges in U.S. District Court in Milwaukee in June of 2000.

Paula Gray

County:	Cook	Factors in wrongful conviction:
Charges:	Murder , Perjury	
Crime Date:	1978	False confession
Convicted:	1979	False eyewitness testimony
Sentence:	50	False forensic evidence
Released:	1986	Police misconduct

See Kenneth Adams, *supra*.

Alejandro Hernandez

County:	DuPage	Factors in wrongful conviction:
Charges:	Murder, Kidnaping	
Crime Date:	1983	Codefendant's false confession
Convicted:	1984	False forensic evidence
Sentence:	Death	Perjury by informant
Released:	1995	Failure to pursue alternative suspect
		Police misconduct
		Prosecutorial misconduct

See Ronaldo Cruz, *supra*.

Madison Hobley

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1987	Confession obtained through torture
Convicted:	19xx	Police perjury
Sentence:	Death	Perjury by state witness
Released:	2003	Police destruction and fabrication of evidence

Madison Hobley was sentenced to death for the arson murders his wife, infant son, and five other persons early the morning of January 6, 1987, at an apartment building in the 1100 block of East 82nd Street in Chicago. His conviction stemmed from a confession obtained by a group of Chicago police officers later shown to have engaged in systematic torture of suspects in criminal cases.

In addition to Hobley's wife, Anita, 21, and their 15-month-old son, Philip, the fire victims were Schalise Lindsey, 7, Shelone Holton, 23, Johnnie Mae Dodds, 34, Anthony Bradford, 36, and Robert Stephens, 40.

Hobley, 26, escaped the flames without shoes and wearing only underwear. He consistently maintained his innocence, alleging that the officers tortured him and, when that failed, fabricated a confession.

The morning after the fire, two Area 2 police detectives, Robert Dwyer and James Lotito, found Hobley at his mother's home about a mile from the fire scene. Dwyer and Lotito claimed that Hobley voluntarily went with them to Area 2 headquarters and then to central police headquarters at 1121 South State Street, where, they claimed, he confessed.

Hobley denied not only that he confessed but also that he had any choice about going with Dwyer and Lotito. He claimed Dwyer handcuffed him to a wall ring at Area 2 and beat him, after which he was taken downtown, where he was handcuffed to a chair and kicked by Sergeant Patrick Garrity. Then, according to Hobley, Dwyer, Lotito, and Detective Daniel McWeeny suffocated him with a plastic typewriter cover until he blacked out.

At Hobley's 1990 jury trial before Cook County Circuit Court Judge Christy Berkos, the prosecution case rested primarily, although not entirely, on the testimony of the four officers, all of whom denied abusing Hobley in any way. They claimed that Hobley had twice been advised of his right to remain silent and to consult a lawyer but that he elected to waive his rights and proceeded to confess.

The police made no record of the alleged confession. Dwyer claimed that he took notes, but threw them away after something was spilled on them. "Quite frankly they were soaking wet," he testified. "You know, ink was running on them." Garrity testified that he also took notes, but they indicated only that Hobley made "admissions."

According to the officers' purported recollections, Hobley related that he went to a filling station with a can, bought a dollar's worth of gasoline, went home, emptied the can into the hallway outside his third-floor apartment and down the stairwell, ignited the gasoline with a match, and threw the can down in the second-floor hallway. This he did, it was alleged, that he might start a new life with a woman with whom he had recently had an affair.

The prosecutors, Assistant Cook County State's Attorneys George Velcich and Paul Tsukuno, presented two witnesses purporting to link Hobley to the purchase of a dollar's worth of gasoline, in a can, at an Amoco station in the 8300 block of South Cottage Grove Avenue less than an hour before the fire.

Andre Council, a customer at the station, testified that he stood five feet from the man as he pumped the gasoline. After the man paid for the gasoline and left, Council said he visited with the attendant, Kenneth Stewart, for 30 to 45 minutes before fire trucks went roaring past. A little later, Council said he went to the fire scene, about half a mile from the station, where he saw the man who had bought the gasoline. The next day, Council continued, he saw a photograph of Hobley on television and recognized him, whereupon Council called the police.

Stewart, the station attendant, testified that a man had bought a dollar's worth of gasoline while Council was at the station. At a lineup the day after the fire, however, Stewart initially failed to identify Hobley. After officers pressed him to identify someone, Stewart responded that Hobley "favored" the man who bought the gasoline, but added that he was not certain.

To corroborate Hobley's alleged confession and other aspects of the prosecution theory of the crime, Velcich and Tsukuno introduced into evidence a two-gallon gasoline can that another Chicago Police Detective John Paladino testified he discovered at the fire scene. Detective Virgil Mikus, a Chicago police detective who testified as an arson expert for the prosecution, told the jury that a burn pattern on the floor in front of the Hobley apartment indicated that gasoline had been poured there. Mikus acknowledged that tests showed no traces of gasoline in the area, but claimed it must have been washed away by water firefighters used to extinguish the fire.

When the jury found nothing in mitigation sufficient to preclude imposition of the death penalty, Berkos sentenced Hobley accordingly and, in 1994, the Illinois Supreme Court upheld the conviction and death sentence, calling the evidence "overwhelming."

The following year, Hobley's appellate attorneys, Professor Andrea Lyon, of the DePaul University College of Law, and Kurt H. Feuer, of Ross & Hardies, filed a petition for post-conviction relief in the Circuit Court alleging that the authorities had illegally withheld a forensic report stating that the gasoline can introduced into evidence at the trial had been examined for fingerprints and that Hobley's were not on it. During the trial, Velcich and Tsukuno had denied the existence of such a report.

More important, Lyon and Feuer alleged that the authorities had withheld a group of reports showing that police had recovered a second gasoline can at the scene of the fire and had destroyed it. The implication of these reports was not only that the fire had been set by someone other than Hobley but that the can introduced at the trial had been planted to corroborate Hobley's alleged confession. Circuit Court Judge Dennis J. Porter, however, drew no such inference, denying Hobley's petition without a hearing.

In 1998, the Supreme Court found the new evidence sufficiently troubling to reverse Porter and remanded the case for an evidentiary hearing. "At defendant's trial, the defense theory was that another person had started the fire," said the court. "The negative fingerprint report and the existence of a second gasoline can found at the fire scene certainly would have offered concrete evidentiary support to that defense theory."

On May 31, 2002, two years and two days after the Supreme Court ordered the evidentiary hearing, Judge Porter complied. The hearing dragged on intermittently for more than two years, during which, in addition to documenting the withheld exculpatory evidence, Lyon and Feuer showed that Andre Council, the principal witness who linked Hobley to the purchase of gasoline before the fire, had himself been a suspect in an arson that occurred on March 17, 1987.

At this point, former Area 2 Commander Jon Burge was commander of the department's bomb and arson unit. He issued an order waiving a fingerprint check for Council and releasing him on a personal recognizance bond. This was six years before Burge would be fired for torturing suspects while working in various capacities at Area 2.

Evidence was presented indicating that the jury had been intimidated. A group of jurors having dinner while sequestered reported that they were taunted by other diners, "You know he's guilty," "Give him the death penalty," and "Hang the motherfucker." Also, during deliberations, the jury foreman, a suburban police officer, placed a revolver on the jury table and proclaimed, "We'll reach a verdict."

The evidence supporting the claim that the gasoline can introduced at the trial had been planted was presented by an arson expert retained by the defense, Russell Ogel, of Packer Engineering, Inc. He testified that the can bore no signs of exposure to extreme heat that destroyed other items in the area where it purportedly had been found; not even the plastic cap on the can had been damaged. Ogel also testified, contrary to the prosecution expert's contention at Hobley's trial, that there was no evidence of burn patterns on the third floor of the building. Rather, said Ogel, tests showed that the fire started in a stairwell lower in the building. Nonetheless, Porter found the new evidence

unpersuasive. On July 8, 2002, he denied Hobley a new trial saying, "There is no showing the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict."

Lyon and Feuer appealed and filed a petition seeking a full pardon based on innocence with the Illinois Prisoner Review Board, which conducts hearings on such requests and makes confidential recommendations to the governor. On October 18, 2002, the board heard Hobley's petition, and on January 9, 2003, Governor George H. Ryan granted the pardon. "Madison Hobley was convicted on the basis of flawed evidence," Ryan said. "He was convicted because the jury did not have the benefit of all existing evidence, which would have served to exonerate him."

Elton Houston

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1983	False eyewitness identification
Convicted:	1984	
Sentence:	35 years	
Released:	1989	

See Robert Brown, *supra*.

Stanley Howard

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1984	Confession obtained through torture
Convicted:	1987	Erroneous eyewitness testimony
Sentence:	Death	
Released:	2003	

Stanley Howard was sentenced to death in 1987 for the murder of Oliver Ridgell, who was shot to death three years earlier during an alleged armed robbery as he sat in a parked car on the south side of Chicago in the company of a woman with whom he purportedly was having an affair.

The conviction rested on a confession obtained by police officers working under Area 2 Commander Jon Burge, who would be fired nine years later based on an internal investigation concluding that he and various subordinates had systematically tortured prisoners, and on eyewitness identification testimony by Tecora Mullen, the woman who had been in the car with the Ridgell.

Howard, 21, was arrested six months after the crime as a suspect in an unrelated crime, the armed robbery to two Chicago police officers, that occurred 14 months earlier. He was not questioned about the Ridgell murder until two days after his arrest when Area 2 officers noticed, or so they would testify, that he fit the description of the killer provided by Mullen. Until Howard's arrest, Mullen's husband had been the prime suspect.

After lengthy questioning by Area 2 detectives James Lotito, Ronald Boffo, and Robert Dwyer and Sergeant John Byrne, the felony watch coordinator, Howard signed a confession. The next day, Howard told a paramedic who examined him at the Cook County jail that the confession had been beaten out of him. The paramedic, Wayne Kinzie, noted bruises and abrasions on Howard's left leg and chest but could not say what had caused them.

A grand jury indicted Howard for both the murder of Ridgell and the earlier robbery of two Chicago police officers, Margaret Hall and Robert Hanley. The cases were tried separately before Circuit Court Judge John J. Mannion, himself a former Area 2 police officer.

First tried was the armed robbery case, which rested primarily on the testimony of an Area 2 detective, Daniel McWeeny, who claimed that Howard admitted robbing the officers, even though McWeeny made no record of the alleged confession. The only other evidence against Howard was the testimony of a woman named Donita Washington, who claimed that Howard robbed her shortly before the officers were robbed. Howard was not charged with robbing Washington, but Mannion allowed her testimony ostensibly to show modus operandi. Washington's assailant took her car, which was similar to the car used by the man who robbed the officers. Also, her description of the man who robbed her and the officers' description of the man who robbed them were said to be similar, as was the handgun used in the crimes. Although Washington was quoted in a police report as saying that she had not seen her assailant's face, she positively identified Howard in court and told the jury, "I can never forget someone who sticks a gun in my side." When Howard sought a delay to locate the officer who wrote the report, Mannion refused, and the jury did not hear about the contradiction. Howard was convicted, and Mannion sentenced him to 28 years in prison.

At the ensuing trial for the Ridgell murder, Howard moved to suppress his confession, asserting that he had been tortured, but Mannion denied the motion. Other than the confession, the only evidence against Howard was Tecora Mullen's identification testimony, which the defense contended she might have fabricated to protect her husband. The jury returned a guilty verdict and found nothing in mitigation sufficient to preclude the death penalty. Accordingly, Mannion sentenced Howard to death.

The Illinois Appellate Court affirmed Howard's conviction for robbery of the two officers, and the Supreme Court affirmed his conviction and death sentence for the Ridgell murder. In the latter case, the Supreme Court held that constitutional error had occurred at the trial when the prosecutor told jurors they had heard nothing "from the witness stand" to contradict Howard's confession. However, the court said the error was harmless because "the evidence of the defendant's guilt was overwhelming."

On January 10, 2003, Governor George H. Ryan granted a pardon to Howard based on innocence in the murder case. Howard remained in prison however, as a result of his armed robbery conviction.

Verneal Jimerson

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1978	Codefendant's false confession
Convicted:	1985	False eyewitness identification
Sentence:	Death	Failure to pursue alternative suspect
Released:	1996	Police misconduct
		Prosecutorial misconduct

See Kenneth Adams, *supra*.

Ronald Jones

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	
Crime Date:	1985	False confession
Convicted:	1989	Police misconduct
Sentence:	Death	
Released:	1997	

Ronald Jones was arrested and charged with rape and murder seven months after a 28-year-old mother of three was found slain in a motel room on the south side of Chicago. The charges were predicated solely on a signed confession that Jones accused Chicago police detectives of beating out of him.

Although the confession was dubious it asserted that the victim was a prostitute when in fact she had no history of prostitution Cook County Circuit Court Judge John E. Morrissey held it admissible at Jones's 1989 trial. No physical evidence linked Jones to the crime, but the signed confession said Jones had ejaculated; the state claimed that semen recovered from the victim was too small a quantity to test. Jones was convicted by a jury and sentenced to death by Morrissey.

In 1994, Jones's lawyer, Richard Cunningham, asked Morrissey to authorize DNA testing with technology that had not existed at the time of Jones's trial. Morrissey denied the request and, when reminded that prosecutors originally had contended Jones was the source of the semen recovered from the victim, snidely responded, "Save arguments like that for the press. They love it. I don't."

The Illinois Supreme Court reversed Morrissey, ordering the testing. In 1977, the DNA results established conclusively that Jones was not the source of the semen recovered from the victim. Even then, prosecutors refused to abandon the case. They stalled Jones's release until, facing a retrial, they finally dropped all charges against him on May 17, 1999.

Carl Earl Lawson

County:	St. Clair	Factors in wrongful conviction:
Charges:	Murder	

Crime Date:	1989	Misleading forensic evidence
Convicted:	1990	Failure to pursue alternative suspect
Sentence:	Death	Prosecutorial misconduct
Released:	1996	Ineffective assistance of counsel

Carl Earl Lawson was convicted of murdering Terrence Jones, the 8-year-old son of a woman with whom Lawson was living. The conviction resulted from an erroneous interpretation of forensic evidence, and police ignored an alternative suspect who witnesses had called to their attention.

Lawson had been charged with the crime after a bloody shoe print at the scene was found to be his. At the trial, the prosecution contended the print had been left by the killer, but Lawson said he made the print when he arrived at the home after the child's body was discovered. Lawson, however, did not have funds to hire an independent expert to examine the print, and the trial judge rejected his request for such funds.

The Illinois Supreme Court ordered a new trial after finding that Lawson's trial attorney had a conflict of interest; the attorney was a former prosecutor who had handled his arraignment. The Supreme Court also found that the trial judge erred in denying Lawson's request for funds to hire a forensic expert. Still ignoring the alternative suspect, the prosecution proceeded to try Lawson two more times. At the first retrial in 1995, the jury deadlocked, with 11 of its 12 members favoring acquittal. At the second a year later, Lawson was finally found not guilty. The alternative suspect has since died, without ever being investigated.

Steven Paul Linscott

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1980	Alleged false confession
Convicted:	1982	False forensic evidence
Sentence:	40 years	Police misconduct
Released:	1985 (exonerated by DNA in 1992)	Prosecutorial misconduct

Steven Paul Linscott was wrongfully convicted of the murder of a young neighbor woman in Oak Park based on prosecutorial and police misconduct and misleading forensic testimony.

After the body of the victim, Karen Ann Phillips, was found, Linscott approached Oak Park police at the urging of friends and told them about a dream he had about a similar murder. Although there were relatively few and hardly amazing similarities between the dream and the actual crime, authorities called Linscott's statement a confession and charged him with murder and rape.

At trial, Assistant Cook County State's Attorneys John E. Morrissey and Jay C. Magnuson told the jury that biological material recovered from the scene had to have come from an O secretor, a relatively small population group that included Linscott. In fact, the forensic evidence established that the material in question could have come not only from an O secretor but also a non-secretor of any blood type a group that included a sizeable majority of the population.

A state forensic witness, Mohammad Tahir, also had testified that several hairs found on the victim's body, bed, and carpet were consistent with hair samples provided by Linscott. In recent years, microscopic hair comparisons have been shown to be useless.

After the Illinois Appellate Court reversed the conviction based on prosecutorial misconduct saying that Morrissey and Magnuson had "invented" the inculpatory blood evidence the Cook County State's Attorney's Office agreed to DNA testing, which led to Linscott's exoneration in 1992.

Steven Manning

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Armed Robbery	
Crime Date:	1990	Perjured informant testimony
Convicted:	1993	
Sentence:	Death	
Released:	1998	

Steven Manning, an allegedly corrupt former Chicago police officer, was convicted and sentenced to death for the murder of James Pellegrino, a suburban trucker and former Manning business partner.

Pellegrino disappeared after purportedly telling his wife that if he turned up dead she should call the FBI and report that Manning had killed him. Joyce Pellegrino said she never saw her husband again after that. She did what she claimed he told her, however, and three weeks later Pellegrino's body was found floating in the Des Plaines near the Lawrence Avenue Bridge in Chicago.

Three months later, Manning was arrested and placed in the Cook County Jail, where he was assigned to a cell with one Thomas Dye, a con man and police informant with a long criminal record, including 10 felony convictions, dating to 1978. Dye had recently been sentenced to 14 years in prison for residential burglary and was awaiting trial in three other felony cases.

Dye soon contacted prosecutors and told them that Manning had confessed to the Pellegrino murder. Dye was a known liar and perjurer, so his claim carried little credibility without corroboration. In an effort to substantiate it, Cook County Assistant State's Attorneys Patrick J. Quinn and William G. Gamboney arranged for Dye to record conversations with Manning, who said a great many things that cast him in an unfavorable light but nothing about Pellegrino. Even though no physical evidence linked Manning to the murder, Quinn and Gamboney proceeded to take Manning to trial in 1993; because the murder allegedly had occurred during an armed robbery, it was a potential capital offense.

Although the taped conversations contained no reference to Pellegrino, Circuit Court Judge Edward M. Fiala, Jr., allowed the jury to hear them. Without hearing much other substantive evidence, the jury found Manning guilty. After waiving his right to a jury sentencing hearing, Manning was sentenced to death by Fiala. The prosecutors then arranged for Dye's 14-year prison sentence to be cut to 6 years.

In 1998, for reasons having nothing to do with Dye's lack of credibility, the Illinois Supreme Court reversed the conviction and remanded the case for a new trial. The reason for the reversal was Fiala's improper admission into evidence of the Dye-Manning tapes, which contained irrelevant and prejudicial references to other crimes, allegedly committed by Manning, and of Joyce Pellegrino's testimony to the effect that her husband told her that if he turned up dead she should pin the crime on Manning.

The Cook County State's Attorney's Office dropped the charges against Manning in 2000, and he was transferred to Missouri where he is in prison for an unrelated kidnapping.

Terry L. Nelson

County:	St. Clair	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1988	Perjured informants' testimony
Convicted:	1989	
Sentence:	40 years	
Released:	1998	

Terry L. Nelson was convicted of the execution-style shooting of a reputed drug dealer, Marvin Butler, just outside a nightclub in Centreville. The conviction rested on the testimony of three informants who claimed that, while they were jailed with Nelson, he confessed to the crime.

The Fifth District Illinois Appellate Court ordered a new trial, finding that the testimony of one of the informants had been inconsistent and that another had recanted. One of Nelson's key supporters was St. Clair County Sheriff Mearl J. Justus, who had steadfastly maintained that Nelson was innocent. Two other men subsequently were convicted of the murder.

James Newsome

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Armed Robbery	
Crime Date:	1979	False eyewitness identification
Convicted:	1980	Failure to pursue alternative suspect
Sentence:	Life	Police misconduct
Released:	1994	

James Newsome was stopped on Lake Shore Drive in Chicago by police, with guns drawn, and taken in for questioning about an armed robbery. The police satisfied themselves that he had nothing to do with the crime for which he had been stopped, but one officer thought he resembled a composite sketch of a murder suspect.

Although Newsome was taller and several years younger than the suspect and had a mole not shown in the sketch, and although an eyewitness already had picked someone else out of a mug book, police put Newsome into a lineup. He was then informed that he had been identified.

Newsome was tried and convicted of the murder and armed robbery, based on testimony of three eyewitnesses, including not one but two who previously had identified someone else's photograph.

Ten years later, with the help of University of Chicago Law Professor Norval Morris, Newsome obtained a court order requiring the Chicago Police Department to run unidentified fingerprints from the murder scene through the Automated Fingerprint Identification System. The check was run, and the officer in charge reported falsely that the search found no prints matching anyone else. It was not until five years later that police belatedly admitted that in fact prints had been found to match those of Dennis Emerson, who by now was on death row from another murder.

On that basis, Newsome was freed in 1994 and Governor Jim Edgar granted him a pardon based on innocence the following year. In 2001, Newsome won a \$15 million federal civil rights verdict against the Chicago police. Although less than half the total received by the Ford Heights Four for their wrongful prosecution, Newsome's award was the largest in history for an individual defendant.

Calvin Ollins

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	
Crime Date:	1986	Codefendants' false confessions
Convicted:	1988	False forensic evidence
Sentence:	Life	Police misconduct
Released:	2001	Prosecutorial misconduct

See Marcellius Bradford, *supra*.

Larry Ollins

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	
Crime Date:	1986	False confession
Convicted:	1988	Codefendant's false confession
Sentence:	Life	False forensic evidence
Released:	2001	Police misconduct
		Prosecutorial misconduct

See Marcellius Bradford, *supra*.

Leroy Orange

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1984	Confession obtained through torture
Convicted:	1985	False statement by actual killer
Sentence:	Death	Ineffective assistance of counsel
Released:	2003	

Leroy Orange was sentenced to death for four murders that his half-brother, Leonard Kidd, testified he alone committed without Orange's participation or knowledge.

The conviction rested primarily on Orange's confession, which he contended had been extracted by torture, including beating, suffocation, electroshock, at the hands of Chicago Police Lieutenant Jon Burge and other officers at

Area 2 police headquarters on the city's south side. Orange was among 14 Chicago men sentenced to death based in whole or part on confessions allegedly extracted by torture in south side police stations during the 1980s.

The only corroboration of Orange's confession was a statement by Kidd, also allegedly obtained through torture at Area 2, blaming the murders on Orange. Before Orange's trial, Kidd recanted his statement inculcating Orange and, against the advice of counsel, testified as a defense witness at Orange's trial. Kidd's admission on the stand that he committed the crime virtually assured his own conviction and ultimate death sentence.

Orange, 32, and Kidd, 29, were arrested on January 12, 1984, the day after the bodies of two women, a man, and a child were found in an apartment at 1553 West 91st Street. The victims were Renee Coleman, 27, Michelle Jointer, 30, Ricardo Pedro, 25, and Coleman's 10-year-old son, Tony. They had been bound and stabbed, and two fires had been set in the apartment.

Kidd, who was wearing Pedro's watch when he was arrested, initially told officers that he and Orange had been at Coleman's apartment in the early morning hours of January 11. Sometime around 4:30 a.m., according to Kidd's initial statement, Orange began arguing with Pedro. Fearing the situation would turn violent, Kidd left the apartment just as "two dudes" armed with knives arrived. Kidd claimed that he waited outside, where a little later he saw the two men leave, one wearing a jacket drenched in blood.

Orange's confession followed after more than 12 hours of interrogation and, he said, intermittent torture. The confession consisted of answers to leading questions based on Kidd's initial story.

After obtaining the confessions, the police brought Orange and Kidd face to face, whereupon Kidd offered a different account of the crime. He now admitted lying about the two other men arriving at the scene and said that he had been present when Orange killed the victims. Kidd then led the police to knives used in crime, which had been discarded in garbage cans.

Based on their statements, Orange and Kidd were indicted by a Cook County grand jury for murder, concealment of homicidal deaths, aggravated arson, and armed robbery. Orange promptly told virtually everyone with whom he came into contact that he had been tortured. Those he told included his cellmate, a physician who examined him, relatives and friends who visited him in jail, the assistant public defender assigned to his case, and the judge before whom he was arraigned on January 14.

Orange and Kidd were eligible to be represented by the Cook County Public Defender's Office, but their family rejected that option and retained a private attorney, Earl Washington. Despite the conflict inherent in representing co-defendants with conflicting defenses, Washington accepted both clients. Three months later, recognizing the conflict, he withdrew from the Kidd case.

Although Orange promptly told Washington about the torture, Washington did not investigate. He filed a motion to suppress the confession, but withdrew it when Circuit Court Judge Arthur J. Cieslik deemed it inadequate. Cieslik offered Washington an opportunity to file a more detailed motion, but Washington failed to do so.

At Orange's 1985 trial, his confession was virtually the entire prosecution case. Orange took the stand in his own defense, claiming innocence. He testified that he had been with the victims the night before the crime, but had left them alive and well around 2:30 a.m. Kidd then took the stand, testifying, against the advice of the public defenders appointed to represent him after Washington withdrew from the case, that he alone committed the murders after Orange left the apartment.

In rebuttal, the prosecution called Area 2 officers, who denied torturing either man. A jail physician, who examined Orange two days after the alleged torture, testified she observed no sign that he had been mistreated.

After the jury found Orange guilty, Washington stipulated to his client's eligibility for the death penalty. When Cieslik asked if he wished to present evidence in mitigation, Washington responded, "No, your honor. Other than to state to your honor that we feel that there is a lack of significant criminal history on the part of this defendant. We are mindful of the two juvenile convictions, but we feel that that does not fall within the category that is anticipated by the statute in which a lack of significant criminal history should be considered as a mitigating factor. Other than that, we have no mitigation."

Absent mitigating evidence, the jury found nothing to preclude imposition of the death penalty, and Cieslik sentenced Orange accordingly.

With his half-brother on death row, Kidd pleaded guilty before Judge Cieslik in August 1985 to the murders he already had testified he alone committed. Cieslik accepted the plea and scheduled a death penalty hearing before a jury beginning three days later.

Before jury selection began, however, Kidd's attorneys made an oral motion to withdraw the plea. Cieslik asked for the motion in writing and proceeded with the hearing. After a court reporter read the testimony Kidd had given at the Orange trial, the jury found Kidd eligible for the death penalty, at which point Cieslik denied the defense motion to withdraw the plea.

The prosecution then presented evidence in aggravation linking Kidd to a 1980 arson fire in which 10 children had died. Kidd took the stand on his own behalf, acknowledging the 1984 murders to which he had pleaded guilty but

denying that he had anything to do with the 1980 fire. After the jury found nothing in mitigation to preclude imposition of the death penalty, Cieslik sentenced Kidd to join his half-brother on death row.

Three years later, Kidd went on trial before Circuit Court Judge James M. Schreier and a jury for the 1980 murders. Before the trial, Kidd's public defenders attempted to waive the jury for sentencing. They wanted to do this because, under *Witherspoon v. Illinois*, prospective jurors who say they would not impose a death sentence may be excluded from sitting in the guilt-determination phase of a trial if they also might participate in sentencing. A sizeable body of research had shown that excluding such jurors made juries more prone to convict, and a conviction-prone jury was something Kidd's lawyers wanted to avoid. jury found nothing in mitigation to preclude imposition of the death penalty, and Schreier imposed a second death sentence against Kidd.

Schreier refused to allow the waiver and a death-qualified jury proceeded to find Kidd guilty of the murders. At the sentencing phase of the trial, the

Two years later, the Illinois Supreme Court overturned Kidd's death sentence for the 1984 murders, holding that Cieslik had abused his discretion by denying Kidd's motion to withdraw his guilty plea. Three years after that, the Supreme Court overturned Kidd's death sentence for the 1980 murders, holding that Schreier had abused his discretion by denying Kidd's motion to waive the jury for sentencing.

Prosecutors retried Kidd and won death sentences in both cases. This time, the convictions and sentences were affirmed. Kidd remained on death row until January 11, 2003, when Governor George Ryan commuted his sentence to life in prison without parole.

After Orange's conviction and death sentence were affirmed on direct appeal, he filed a pro se petition for post-conviction relief in the trial court. Bluhm Legal Clinic Director Thomas F. Geraghty and clinic students entered the case and filed an amended petition alleging that Earl Washington's failure to investigate the torture allegations and to present evidence in mitigation constituted ineffective assistance of counsel.

Because Judge Cieslik had retired, the case was assigned to Judge Thomas F. Durkin, who denied the petition without an evidentiary hearing. On appeal, the Supreme Court reversed Durkin, ordering an evidentiary hearing. The case then went to Judge Daniel Locallo, who vacated Orange's death sentence and ordered a new sentencing hearing.

At this point, Geraghty filed a successor petition for post-conviction relief based on new evidence supporting the torture claims, but Locallo denied it without a hearing. The Supreme Court affirmed the denial of the successor petition, and the case went to Judge Schreier, who had been reversed in the Kidd case, for a new sentencing hearing.

The hearing was pending when Governor Ryan on January 10, 2003, granted Orange a full pardon based on innocence, criticizing prosecutors and the judiciary for relying on "procedural technicalities at the exclusion of the quest for truth" throughout the case.

"In some way," said Ryan, "I can see how rogue cops, 20 years ago, can run wild. I can see how, in a different time, they perhaps were able to manipulate the system. What I can't understand is why the courts can't find a way to act in the interest of justice."

Aaron Patterson

County: Cook
Charges: Murder
Crime Date: 1986
Convicted: 1989
Sentence: Death
Released: 2003

Factors in wrongful conviction:
Confession obtained through torture
False informant testimony

Aaron Patterson was sentenced to death in 1989 for the murder of an elderly couple, Vincent and Rafaela Sanchez, found stabbed to death three years earlier in their home on the south side of Chicago. The conviction rested primarily on a confession obtained by a group of south side police officers later shown to have engaged in systematic torture of suspects in scores of criminal cases. Immediately after signing the confession, Patterson used a paper clip he found to scratch into a metal bench: "Police threaten me with violence . . . Slapped and suffocated me with plastic . . . Signed false statement to murders."

Among officers personally involved in obtaining the alleged confession was Jon Burge, then a lieutenant and later the commander in Police Area 2. Two Cook County assistant state's attorneys, Kip Owen and Peter Troy, were involved in Patterson's interrogation and the taking of the confession, although they were not alleged to have taken part directly in the torture. The only purported corroboration of Patterson's confession was the testimony of Marva Hall, a cousin of an alternative suspect in the case. Hall, who was 16 at the time of the crime, testified that Patterson had admitted to her that he committed the crime. The specifics of her allegation, however, were at odds with the facts of the crime. Years later, Hall signed an affidavit saying she had fabricated her testimony initially to protect her cousin.

She said she attempted to recant before testifying, but changed her mind after Assistant State's Attorney Jack Hynes threatened her with jail.

Based on Hall's initial allegation, Patterson was arrested 11 days after the victims' bodies were found. Four hours after his arrest, Patterson signed a statement. He was then indicted for the crime, which qualified for the death penalty both because more than one person had been murdered and because the crime apparently had occurred during the commission of a felony.

Before trial, Patterson filed a motion to suppress his statement on the ground that it had been coerced, but Cook County Circuit Court Judge Arthur Cieslik denied the motion. The case was transferred to Judge John E. Morrissey after Cieslik retired. At trial, Patterson testified that he had signed the statement after several hours of interrogation, during which he was intermittently beaten and smothered with a plastic typewriter cover before acquiescing.

Patterson said that after he promised to confess he was then left alone for about an hour, during which he etched the torture allegation into the bench. When an officer brought Assistant State's Attorney Owen into the room, Patterson said he asked to speak to Owen alone and the officer left. Patterson said he then told Owen he had been tortured and demanded an attorney. Owen summoned the officer and left. The officer then allegedly threatened Patterson with further torture, until he finally agreed to sign a statement drafted by Assistant State's Attorney Troy. The officer involved was not named at the trial, but later was identified as Burge.

At the conclusion of the trial, the jury promptly returned a verdict of guilty and proceeded to find no evidence in mitigation sufficient to preclude imposition of the death penalty. Morrissey sentenced Patterson accordingly, and the Illinois Supreme Court affirmed the conviction and death sentence in 1992.

The Supreme Court gave short shrift to Patterson's torture claim, even though by this time abundant evidence had emerged that Burge and his men had used torture to extract confessions in scores of cases during the 1970s and 1980s. In fact, five years before denying Patterson's appeal, the Supreme Court had ordered a new trial for Andrew Wilson in the face of incontrovertible medical and photographic evidence that Burge and his men had tortured Wilson and his brother, Jackie, to confess to the murder of two Chicago police officers.

In an ensuing federal civil rights case, a jury had found that the City of Chicago had a de facto policy allowing police to physically abuse suspects in cases in which officers were killed or injured. Moreover, in 1991, the year before Patterson lost his appeal, the Chicago Police Department's Office of Professional Standards had suspended Burge and two of his underlings in the wake of torture allegations.

The month after Patterson lost his appeal, U.S. District Court Judge Milton I. Shadiur ordered the release of a secret Chicago Police Department internal report, prepared in 1990 by the department's Office of Professional Standards, cataloging more than 50 instances of "methodical" and "systematic" torture involving the Burge crew. Specific officers were named in 35 of the cases, and Burge personally was named in more than half of those. A month after Shadiur ordered release of the report, the Chicago Police Board formally fired Burge.

Around this time, G. Flint Taylor, Jr., one of the attorneys who had been instrumental in proving the torture in the Wilson case six years earlier, became Patterson's attorney. Taylor filed a petition for post-conviction relief asking Judge Morrissey for an evidentiary hearing on Patterson's torture allegations in light of the OPS report. Morrissey denied the petition, declaring that "any nexus between Area 2 Chicago Police Department headquarters' alleged systemic torture of people and Aaron Patterson is highly tenuous at best."

Taylor appealed and, in 2000, the Illinois Supreme Court recognized that "substantial new evidence supports defendant's claim that his confession was the result of police brutality" and ordered Morrissey to hold the requested hearing. Morrissey and the Cook County State's Attorney's Office, however, managed to stall the hearing seemingly indefinitely.

Exasperated attorneys led by Locke E. Bowman, of the Macarthur Justice Center at the University of Chicago Law School, demanded appointment of a special prosecutor to investigate the Burge allegations. In April 2002, Presiding Judge Paul E. Biebel, of the Criminal Division of the Cook County Circuit Court, granted the request, holding that State's Attorney Dick Devine had a conflict of interest because, while in private practice before he was elected in 1996, he had represented Burge.

Taylor, meanwhile, had filed a petition with the Illinois Prisoner Review Board requesting a pardon based on innocence for Patterson. On January 10, 2003, Governor George N. Ryan granted that request and Patterson, one of 14 men sent to death row based on confessions obtained by the Burge crew, was freed.

Tabitha Pollock

County: Henry
Charges: Murder, Aggravated Battery
Crime Date: 1995

Factors in wrongful conviction:
Misinterpretation of law

Convicted:	1996	Ineffective assistance of counsel
Sentence:	36 years	
Released:	2002	

Tabitha Pollock was sleeping when her live-in boyfriend, Scott English, killed her 3-year-old daughter, Jami Sue, in the early morning hours of October 10, 1995, at their home in Kewanee, Illinois.

The following year, a Henry County jury convicted Pollock of first-degree murder and aggravated battery based on the prosecution's contention that she "should have known" English posed a danger to Jami Sue's life. The judge sentenced Pollock to 36 years in prison.

The Third District Illinois Appellate Court affirmed the conviction in 1999, even though the trial judge had observed during a post-trial proceeding that Pollock "did not commit the act of killing, nor did she intend to kill the child, nor was she present in the room when her boyfriend killed the child.

After the lawyer who had handled the appeal told her it would be hopeless to appeal further, Pollock wrote to the Center on Wrongful Convictions at the Northwestern University School of Law. A law student read the letter and took it to Center staff counsel Jane Raley, who agreed to represent Pollock.

Even though the deadline for filing a further appeal had passed, the Illinois Supreme Court agreed in 2001 to hear the case and, in October 2002, unanimously reversed Pollock's conviction, holding that a defendant cannot be convicted on an accountability theory based on what he or she "should have known."

To sustain a conviction of one person for a murder committed by someone else, the law requires proof of actual knowledge, said the Supreme Court. Yet in the Pollock case both the prosecution and the judge had misstated the law in telling jurors they had to conclude only that she should have known, not that she actually knew, that English posed a danger to the child. "The circumstances surrounding Jami Sue's death," said the opinion, "do not suggest that defendant was aware of any foul play." The court barred a retrial, by a vote of four to two, and Pollock was released a few days before Christmas 2002.

Outside Lincoln Correctional Center, where she had served 6 and a half years, Pollock was greeted by her parents, her 12-year-old son Preston, Jane Raley, and a throng of reporters. "I knew I hadn't done anything wrong," Pollock said. "I knew if anyone would help me, it would be Northwestern."

Anthony Porter

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Armed Robbery, Unlawful Restraint	
Crime Date:	1982	False eyewitness identification
Convicted:	1983	Failure to pursue alternative suspect
Sentence:	Death	Police misconduct
Released:	1999	Ineffective assistance of counsel

Anthony Porter was convicted and sentenced to death for the murders of Marilyn Green, 19, and Jerry Hillard, 18, who were shot to death at about 1 a.m. one morning in the bleachers overlooking a swimming pool in Washington Park on the south side of Chicago.

Immediately after the shooting, police interviewed a purported eyewitness, William Taylor, who had been swimming in the park pool when the murders occurred. Taylor at first said he had not seen the person who committed the crime. Later at the station, he said he had seen Anthony Porter run by right after he heard the shots. After another 17 hours of interrogation, Taylor told police that he actually had seen Porter shoot the victims.

Taylor's evolving story turned Porter, a South Side gang member, into the prime suspect, even though the police had been given information casting suspicion on others: Ofra Green, mother of the female victim, had told the police that she suspected rightly, it would turn out that the murders had been committed by a man named Alstory Simon.

Mrs. Green said that, the day before the murders, Simon had been in a heated dispute with Jerry Hillard over drug money. Mrs. Green also said she had seen Simon and his wife, Inez Jackson, with the victims shortly before they turned up dead. Police did interview Simon and Jackson, but just showed them a photograph of Porter and asked if they had any information about the crime. Simon and Jackson responded that they had not been in the park that night. They said they were asked nothing further and never heard from the police again. A few days later, Simon and Jackson moved to Milwaukee.

Porter was represented by a privately retained lawyer, Akim Gursel, who failed to investigate the case. During the trial, Gursel once fell asleep and had to be awakened by the judge. He called only two alibi witnesses and a

photographer who had taken aerial shots of Washington Park. The jury found Porter guilty and the judge imposed the death sentence.

In 1998, after Porter had lost all of his standard appeals and was only 50 hours away from execution, volunteer lawyers won a reprieve from the Illinois Supreme Court. The reprieve was granted not out of concern that Porter might be innocent but solely because he had tested so low on an IQ test that the court was not sure he could comprehend what was about to happen to him, or why. The court's intent was merely to provide time to explore the question of the condemned man's intelligence, but it had an unanticipated consequence: It gave a Northwestern University Professor David Protess, private investigator Paul Ciolino, and a team of journalism students time to investigate the case and establish Porter's innocence.

A month after the court acted, William Taylor recanted his testimony to Ciolino and one of the students. He said in an affidavit that police had pressured him to name Porter as the shooter. Then in early 1999, Alstory Simon's now-estranged wife, Inez Jackson, told Protess, Ciolino, and two of the students that she had been present when Simon shot Green and Hillard.

She said she did not know Anthony Porter, but that he most certainly had nothing to do with the crime. Four days after that, Alstory Simon confessed on videotape to Ciolino, asserting that he had killed Hillard in self-defense after the two argued over drug money. Simon claimed the shooting of Marilyn Green had been accidental.

Porter was released from prison on a recognizance bond and the murder charges against him were dismissed. In 1999, Simon pleaded guilty to two counts of second degree murder and was sentenced to 37.5 years in prison.

Willie Rainge (aka Raines)

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape, Kidnaping, Armed Robbery	Codefendant's false confession
Crime Date:	1978	False forensic evidence
Convicted:	1979	False eyewitness identification
Sentence:	Life without parole	Failure to pursue alternative suspect
Released:	1996	Police misconduct
		Ineffective assistance of counsel

See Kenneth Adams, *supra*.

Isauro Sanchez

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	Codefendant's false confession
Crime Date:	1981	False eyewitness identification
Convicted:	1982	Failure to pursue alternative suspect
Sentence:	Life	
Released:	1991	

See Rogelio Arroyo, *supra*.

Omar Saunders

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	Codefendants' false confessions
Crime Date:	1986	False forensic evidence
Convicted:	1988	False eyewitness identification
Sentence:	Life	Police misconduct
Released:	2001	Prosecutorial misconduct

See Marcellius Bradford, *supra*.

Steven Shores

County:	Cook	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1983	Perjured informants' testimony
Convicted:	1984	Failure to pursue alternative suspect
Sentence:	35 years	
Released:	1996	

Steven Shores was convicted of the murder of Garrison Hester, an off-duty security guard, based on testimony by two El Rukn gang members who had been alternative suspects in the crime.

In 1984, the Illinois Appellate Court affirmed the conviction by a two-one vote; in dissent, Justice R. Eugene Pincham branded the prosecution case "ludicrous, farfetched, unreasonable, and unworthy of belief."

After the Illinois Supreme Court declined to hear the case, Shores filed a petition for a federal writ of habeas corpus. U.S. District Court Judge Paul Plunkett denied the petition in 1987, but wrote that, had he been the trial judge, he probably would not have convicted Shores. After the U.S. Court of Appeals for the Seventh Circuit affirmed Plunkett, Shores filed a post-conviction petition in the trial court. It was denied, but during its pendency new evidence surfaced further discrediting the El Rukns' trial testimony. Shores continued his appeals. In 1989, he brought a second habeas petition, which Judge Plunkett granted in 1990, only to be reversed the following year by the Seventh Circuit.

Subsequently additional exculpatory evidence came to light as a result of a federal investigation of the El Rukns, and Shores brought a third habeas petition, raising substantial issues relating to his actual innocence. Judge Plunkett found that Shores made a sufficient showing to warrant depositions of the El Rukn witnesses and an evidentiary hearing. After discovery was completed, the Cook County State's Attorney's Office agreed to drop the case and free Shores if he would agree to enter into an Alford plea on a related charge. Shores accepted the offer and was released a few months later.

Steven Smith

County:	Cook	Factors in wrongful conviction:
Charges:	Contract murder of DOC Employee	
Crime date:	1985	False or perjured eyewitness identification
Convicted:	1986	
Sentence:	Death	
Released:	1999	

Steven Smith was convicted and sentenced to death for the murder of Virdeen Willis Jr., an off-duty assistant warden at the Illinois penitentiary in Pontiac, solely on the basis of a highly questionable eyewitness identification.

Willis was shot to death outside a bar on the south side of Chicago where he had been drinking. Smith was charged with the crime after he was identified by a woman named Debrah Caraway, who claimed to have witnessed the murder. Caraway's testimony was dubious for several reasons. First, she had been smoking crack cocaine. Second, she claimed Willis was alone when the killer stepped out of shadows and fired the fatal shot, but two other witnesses said they were standing beside Willis when he was murdered. Third, Caraway's boyfriend, Pervis (Pepper) Bell, was an alternative suspect in the murder. Finally, Caraway, according to her account, was across the street when the crime occurred and, while she positively identified Smith, the two men who were standing beside Willis were within only two or three feet of the killer and could not identify Smith.

The Illinois Supreme Court held in 1999 that Caraway's testimony was less reliable than the contradictory testimony of the other witnesses and reversed the conviction outright, ordering Smith's release from prison. Smith's case is unusual in that the error was corrected without the intervention of volunteers outside the system.

Paul Terry

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Rape	
Crime Date:	1976	Erroneous eyewitness identification testimony
Convicted:	1977	

Sentence: 200 to 400 years
Released: 2003

See Michael Evans, *supra*.

Darby Tillis

County:	Cook	Factors in wrongful conviction:
Charges:	Murder, Armed Robbery	
Crime Date:	1977	Informant perjury
Convicted:	1979	False eyewitness identification
Sentence:	Death	Failure to pursue alternative suspect
Released:	1987	Prosecutorial misconduct

See Perry Cobb, *supra*.

Franklin Thompson

County:	Will	Factors in wrongful conviction:
Charges:	Murder	
Crime Date:	1994	False confession
Convicted:	1997	
Sentence:	24 years	
Released:	2003	

Franklin Thompson, a decorated Vietnam veteran with a debilitating narcotics addiction, was convicted in 1997 of the murder three and a half years earlier of Jacqueline Oaki, a 41-year old prostitute in Joliet, Illinois.

At 3:30 a.m. on February 6, 1994, police were dispatched to the home of Robert Ezell in response to a 911 call in which a woman could be heard screaming for help. When their knocks went unanswered, the police broke down the door and handcuffed Ezell, who said his nephew had been playing with the phone and must have accidentally dialed 911. After looking around and seeing no sign of foul play, or of a woman, or, for that matter, of a nephew, the police removed the handcuffs and left.

About two hours later, Oaki's body was discovered by a Joliet police officer in a school parking lot. She had been severely beaten and run over by a car. Investigators soon learned that she had been at a party at the home of James Culpepper the evening before her death. Police interviewed the known party guests, among whom was Franklin Thompson. He told police that, at some point during the party, he had driven Oaki to her parents' home, where she had picked up \$20. When they returned, Oaki had used the money to buy crack cocaine from Culpepper.

Ezell, who had not been at the party, was not interviewed again until five months later, when he refused to identify the woman whose voice was heard during the 911 call. At that point, police played a tape of the call for Oaki's sister and mother, who identified the voice as Oaki's. Despite the evidence suggesting that Ezell might know something about the murder, the investigation fell dormant. It was not revived until two years later when Brian Lewis, the officer who had found Oaki's body in the school parking lot, was assigned to the homicide-investigation unit of the Joliet Police Department. Lewis asked Thompson to come to the police station to discuss the case, and he agreed. Lewis waved a file folder in front of Thompson, declaring that it contained overwhelming evidence that he had run over Oaki.

Thompson, whose drug addiction had recently cost him a well-paying factory job he had held for 25 years, wrote and signed this statement placing himself at the murder scene but portraying Oaki's death as accidental. Two weeks later, based solely on the statement, a Will County grand jury returned an indictment charging Thompson with first-degree murder and alleging that he had run over Oaki with his 1991 Pontiac Sunbird.

At Thompson's trial in September 1997, state forensic experts acknowledged that they had found no physical evidence linking him to the crime. His DNA was not present. He was excluded as the source of hairs recovered from her clothing. Tire prints at the scene did not match the tires on his Sunbird. Nonetheless, a jury found Thompson guilty and he was sentenced to 24 years in prison by Will County Circuit Court Judge Stephen D. White.

After the Third District Illinois Appellate Court affirmed Thompson's conviction and sentence in 1999, Thompson's family contacted the Center on Wrongful Convictions. Center staff counsel Jane E. Raley filed a post-conviction petition, which Judge White denied. While an appeal was pending, Raley also sought a pardon based on innocence, which Governor George H. Ryan granted on January 11, 2003.

Ignacio Varela

County: Cook
Charges: Murder
Crime Date: 1981
Convicted: 1982
Sentence: Life
Released: 1991

Factors in wrongful conviction:

Codefendant's false confession
False eyewitness identification
Failure to pursue alternative suspect

See Rogelio Arroyo, *supra*.

Joaquin Varela

County: Cook
Charges: Murder
Crime Date: 1981
Convicted: 1982
Sentence: Life
Released: 1991

Factors in wrongful conviction:

False confession
False eyewitness identification
Failure to pursue alternative suspect

See Rogelio Arroyo, *supra*.

Jose D. Vasquez

County: Kane
Charges: Murder
Crime Date: 1994
Convicted: 1997
Sentence: 50 years
Released: 2000

Factors in wrongful conviction:

False eyewitness identification
False testimony by police officer
Failure to pursue alternative suspect
Police misconduct

Jose D. Vasquez was convicted of the murder of 15-year-old Corey LeSure in Aurora. Among other factors, the Illinois Appellate Court found, that the conviction rested on "false and misleading testimony" by Aurora Police Officer Marshall Gauer and purported eyewitness, Larry Wilkinson, who in reality was an informant working for Gauer.

The story Wilkinson told on the witness stand was inconsistent with other witnesses' accounts of the shooting and, before identifying Vasquez, he had identified a different person. Throughout his testimony, Wilkinson was repeatedly caught lying, but more important Gauer, known as "The Sheik" lied about his relationship with Wilkinson. For starters, Gauer testified that he had only spoken to Wilkinson over the telephone two or three times, but records from an Iowa prison where Wilkinson was incarcerated showed that Gauer had placed 384 collect calls to Gauer.

After the Illinois Appellate Court reversed the conviction, the Kane County State's Attorney's Office dropped the charges against Vasquez after he agreed to plead guilty to a lesser charge. Vasquez claimed he was totally innocent, but took the deal because he would be forced to remain in custody pending resolution of the case.

Dennis Williams

County: Cook
Charges: Murder Rape, Kidnaping,
Armed Robbery
Crime Date: 1978
Convicted: 1979
Sentence: Death
Released: 1996

Factors in wrongful conviction:

Codefendant's false confession
False forensic evidence
False eyewitness identification
Failure to pursue alternative suspect
Police misconduct

Ineffective assistance of counsel

See Kenneth Adams, *supra*.

Rodney Woidtke

County:	St. Clair	Factors in wrongful conviction:
Charges:	Murder, Rape	False confession
Crime Date:	1988	Failure to pursue alternative suspect
Convicted:	1989	Police misconduct
Sentence:	45 years	Prosecutorial misconduct
Released:	2001	Ineffective assistance of counsel

Rodney Woidtke, a mentally ill drifter from California, was convicted of the murder and rape of Audrey Cardenas, as an intern at the Belleville News-Democrat, whose body was found in a creek behind the Belleville East Township High School a week after she was last seen alive. The confession rested on a series of false confessions that were inconsistent with the facts of the crime.

Despite the conviction, many persons remained skeptical that the right man had been prosecuted. Among these was the victim's mother, Billie Fowler, who suspected from the start that the confessions were false. The psychiatrists and the courts ultimately agreed with her, coming to believe that Woidtke had confessed in part because he did not want anyone to think he was a homosexual.

When the Illinois Appellate Court reversed the conviction due principally to ineffective assistance of counsel in 2000, however, St. Clair State's Attorney Robert Haida, which ended in an acquittal. She accused police and prosecutors of failing to investigate more promising suspects while focusing on a pathetic but innocent man. The 2001 retrial, she said, "had nothing to do with finding out the truth, finding out what happened to my daughter, but rather was "all about making sure that they convinced the public that they didn't make a mistake."

She added, "But, guess what? They did make a mistake and they got caught."