Why Innocent Defendants Plead Guilty to Rape Charges

By gabe | June 30, 2015

The field of wrongful conviction is filled with seeming anomalies: faulty identifications by eye-witnesses, suspects who "confess" to crimes they did not commit, and unreliable testimony from "scientific" experts. As part of our continuing examination of wrongful conviction in rape cases, we have identified another seeming anomaly: innocent defendants who pled guilty to rape.

While a wrongful trial conviction is thought to be a rare and deplorable outcome, the notion of the innocent defendant pleading guilty rather than declaring his innocence at trial seems even more remote. Our examination of a series of such cases illustrates the circumstances that led to such outcomes.

When innocents pled guilty to rape, there are at least two different types of victims: the victim of the offense, and the innocent defendant now victimized by the legal system. Unfortunately sometimes there is a third type—those victimized by the actual offender's continued attacks.

Editors Note: for an earlier article on this topic, please see Sex, Race and Wrongful Conviction in The Crime Report, Oct 3, 2013.

The primary focus of research in wrongful conviction has been on trial characteristics associated with convicting the innocent (false confessions, witness mis-identification, flawed scientific testimony, police and prosecution misconduct, vulnerability of ethnic minority defendants, unreliable informant testimony, and ineffective defense representation).

However available data indicate only a small proportion of U.S. criminal cases proceed to trial. Some 90 percent are disposed of by plea bargain. Some defendants who accept these deals are innocent.

It has been noted that despite due process guarantees, the U.S. legal system at times functions like an inquisitorial system from arrest, to accusatorial interrogation, to coercive plea bargaining.
Below are some examples culled from our study:

**Brian Banks**

In 2012, considerable media attention was focused on Brian Banks who, at age 17, was charged with sexual assault against a 15-year-old high school classmate in California. Rather than risk a 41-year sentence if convicted at trial, Banks accepted a plea deal with a six-year sentence. He was released after serving five years, and subsequently exonerated when the complainant admitted she fabricated the allegations but was unwilling to publicly recant because it would jeopardize the million-dollar civil award she received from the school system.

The Banks case illustrates the leverage that prosecutors exercise in plea negotiations where penalties for rape are so severe. Further there is reason to believe defendants with limited financial resources (especially those who cannot make bail) are at a distinct disadvantage, as depicted in the popular film *American Violet*.

**Rodney Roberts**

In 2014, Rodney Roberts was exonerated and released by the New Jersey authorities. In 1996, Roberts pled guilty to the abduction of a teen who was also raped. The prosecution dismissed the rape charge.

Roberts had a prior conviction for a sexual offense. In our recent interview with Roberts he said that the proximal cause of his false guilty plea was the poor representation he received from the assigned public defender. Roberts explained he trusted the attorney who advised him to take the plea before the victim entered the room and personally identified him.

It turns out when shown his photo the victim had not identified Roberts.

After serving his prison term, Roberts was further detained as a sexually violent predator. During a 12-year period he filed three motions to withdraw his guilty plea. Each was rejected by the same judge. In 2013, a newly assigned judge vacated his plea and conviction consistent with the exonerating DNA evidence.

As peculiar as the Banks and Roberts cases seem, they are not anomalies. A review of a series of 17 cases where innocent defendants pled guilty to rape reveals five (non-exclusive) factors that contributed substantially to false guilty pleas.
1. death penalty threats;
2. severe penalties (other than death) combined with vulnerabilities;
3. false confessions that led to false guilty pleas;
4. wrongful convictions that led to false guilty pleas;
5. false rape charges.

While this categorization is useful in highlighting critical aspects of these cases, it is important to recognize that wrongful conviction results from a convergence of several circumstances.

Death penalty threats

Five innocent defendants (Bobby Ray Dixon, Phillip Bivens, Christopher Ochoa, Joe Dick, Jr., and Danial Williams) pled guilty in rape cases associated with death penalty threats. Dixon and Bivens were co-defendants in the 1979 Mississippi rape and murder of Eva Patterson.

The police coerced a confession from Dixon, who then named Bivens and a third defendant (Ruffin). However, the only witness, a four-year-old child, noted there was a lone assailant. Although both Dixon and Bivens agreed to plead guilty and testify against Ruffin to avoid exposure to execution, Dixon asserted his innocence at trial. He testified he had never seen the victim and was not with the co-defendants at the time of the offense. Ruffin was convicted but not sentenced to death. Dixon and Bivens were given life sentences. DNA testing in 2010 cleared the trio and matched a former neighbor of Eva Patterson who was serving time for other sexual assaults.

Christopher Ochoa pled guilty to the 1988 Austin, Texas rape and murder of Nancy DePriest. He also gave false trial testimony against a co-defendant in exchange for being spared the death penalty. In 1999, investigation revealed that crime scene DNA matched a convicted Texas inmate who confessed to the crime.

Two of the notorious 'Norfolk Four' defendants (Joe Dick, Jr. and Danial Williams) entered false guilty pleas to avoid exposure to the death penalty in Virginia. DNA testing later linked the rape and murder of Michelle Moore-Bosko to convicted rapist Omar Ballard.

Other severe penalties combined with vulnerabilities

In December 1990, a man with a handgun attacked and sexually assaulted a young woman in Irvington, New Jersey. Three days later, the victim picked
John Dixon from a photo spread. Dixon had a criminal record and initially agreed to a plea offer given the harsh penalties associated with another conviction. In July 1991, he sought to withdraw his plea and requested DNA testing. The judge denied his request and he was sentenced to 45 years with a minimum of 15 years before parole eligibility. In 2001, with the assistance of the Cardozo School of Law at Yeshiva University Innocence Project, he was released when testing proved he was not the source of the recovered sperm.

In October 1988, a woman was raped and robbed by a knife-wielding man in Ft. Lauderdale, Florida. Larry Bostic was identified by the victim from a photo spread. In 1989, Bostic pled guilty to avoid a life sentence if convicted at trial. He was sentenced to eight years and released on parole after serving three. He was subsequently re-arrested on a battery charge and given a twelve-year sentence due to the parole violation. The charges were dismissed and he was released in 2007 when DNA testing from the original offense cleared him.

In 1984, at the age of 17, Eugene Henton was charged with a home invasion rape in Dallas County, Texas. After being falsely identified by the victim, Henton faced a life sentence if found guilty at trial. Henton provided a guilty plea in exchange for a four-year sentence and was released after serving 18 months. In 1995, Henton was convicted on unrelated charges and sentenced to 40 years because he was still on parole.

During this period of confinement, with the assistance of the Dallas County Public Defender, DNA testing was conducted which cleared him from the 1984 offense. Henton was exonerated in 2006.

False confessions lead to false guilty pleas

A landmark study by Steve Drizin and Richard Leo found an 81 percent conviction rate among innocent defendants who went to trial after making false confessions. Arguably the innocent false confessors who entered guilty pleas may have made well informed decisions.

Keith Brown was exonerated merely by chance. Police said Brown confessed to two 1991 rapes in North Carolina. Brown entered a guilty plea and was sentenced. Later, several DNA samples were sent to Florida in connection with other investigations. The sample from Brown's case was matched to a Florida inmate who was subsequently convicted of the offense. Brown was released and pardoned.

Jerry Frank Townsend was arrested and charged with the rape of a pregnant woman in Miami in 1979. During interrogation, Townsend confessed to several murders and entered guilty pleas. Subsequent investigation by the
mother of a victim led to DNA testing which cleared Townsend of one offense. It became apparent Townsend was mentally deficient and the confessions were mere compliance. He was thereafter cleared of several of the other offenses and released in 2001.

In 2003, an Arizona sexual assault victim was unsure whether she could identify her assailant but recalled he wore a white tee shirt. She then identified John Kenneth Watkins, the only white-tee-shirt-clad suspect in the photo array. Watkins reportedly made incriminating admissions during a lengthy interrogation and later entered a guilty plea. In 2009, his third request for DNA testing was granted, which confirmed his innocence.

Anthony Gray became a suspect in the 1991 rape and murder of a woman in Chesapeake Bay, Maryland. Gray (who was intellectually limited) was persuaded to confess by officers who told him two men reported his involvement in the offense. Gray entered a guilty plea and was sentenced to life. In 1997, Anthony Fleming was arrested on other charges and provided information suggesting knowledge of the Chesapeake Bay rape and murder. DNA results matched Fleming to the crime scene semen which led to the release of Gray.

Often false confessions are also a form of incentivized testimony (as in the Dixon, Bivens, and Ochoa cases)—that is, the false confession is provided in exchange for leniency from the prosecution. In 1988, 17-year-old Marcellius Bradford of Chicago falsely confessed, pled guilty, and provided testimony against three other youths in connection with a 1986 rape and murder. The prosecution was also aided by other flawed testimony provided in exchange benefits. In 2001, DNA results ruled out the four defendants and led to the actual offenders. Bradford and the other defendants received settlements from the City of Chicago.

Wrongful trial convictions lead to false guilty pleas

While it sounds like circular reasoning, wrongful trial convictions have led to false guilty pleas. Vincent Thames was among four defendants charged in a November 1994 rape and murder in Chicago. The four defendants were named by a fifth man (Jerry Fincher) who was seeking beneficial considerations on behalf of a jailed friend. Police then secured signed 'confessions' from the four teen defendants. Despite the absence of physical or DNA evidence, three of the defendants (Terrill Swift, Harold Richardson, and Michael Saunders) were convicted in separate trials in 1998. Thames later pled guilty to a term of 30 years. In 2011, further DNA testing resulted in a match to a deceased man whom the police had initially questioned before Fincher's allegations. In 2012, the charges against the 4 defendants were dismissed.
Arthur Lee Whitfield's wrongful conviction led to his false guilty plea in another case. In separate incidents two women were raped at knifepoint in Norfolk, Virginia an August night in 1981. The first victim chose Whitfield's from among seven photos she was shown at the police station. She subsequently testified at trial and Whitfield was convicted. Thereafter Whitfield pled guilty to the second offense in exchange for a sentence that would run consecutively with the first. In 2003, Whitfield filed for DNA testing, and in 2004 he was excluded as the contributor of DNA in both cases. The DNA was matched to a man serving a life sentence for another sex offense and Whitfield received compensation.

In 1982, Steven Phillips was convicted by a Dallas, Texas jury of two crimes based on eye-witness mis-identification. Subsequently, Phillips pled guilty in 1983 to additional sex crimes to avoid what amounted to a life sentence. Phillips spent 24 years imprisoned before DNA testing led to his exoneration and the identification of the real perpetrator.

False rape charges

There is a common misconception that wrongful conviction in rape is associated with false rape charges. Actually false rape charges are very rare, while victim mis-identification is a more likely contributor to wrongful conviction in rape.

The Brian Banks case is one of the rare cases where false rape charges did result in wrongful conviction. As reported above, the complainant was a 15-year-old classmate of Banks and they did have a relationship. After he served the prison term, she reached him via social media and sought to resume the relationship. With the advice and assistance of an investigator, the complainant's admission to fabricating the allegation was recorded and became the newly discovered evidence that led to Banks exoneration.

This brief review illustrates many of the pressures and circumstances that have led innocents to plead guilty to a major crime such as rape. Twelve of the 17 defendants were African-American, one was Latino, and the remaining four (Watkins, Williams, Dick, and Phillips) were white. Through recognizing the influence of the threat of state execution, lifelong trial conviction sentences juxtaposed to plea agreements with early release, insufficient defense representation, as well as defendant vulnerability associated with prior convictions and mental limitations, the remote anomaly of innocents pleading becomes readily comprehensible.

We also see that the crime victims and the defendants were not the only victimized parties. In many of the cases, while innocents were falsely imprisoned, the actual perpetrator struck other victims. These findings also
raise the question: what proportion of defendants entering guilty pleas are actually innocent?

More research is needed to generate viable reforms to the plea bargain process. However informed commentators have called for judicial monitoring of plea negotiations and increased resources for indigent defense.