



Committee: Special Focus 1: Social and Human Sciences Committee

Issue: The issue of absence in court evidence in long and rich prison sentences.

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Introduction:

According to BCcampus, “Evidence forms the building blocks of the investigative process, and for the final product to be built properly, the evidence must be recognized, collected, documented, protected, validated, analyzed, disclosed, and presented in a manner which is acceptable to the court.” Evidence allows the court to draw inferences and reach conclusions to determine if a charge has proven beyond a reasonable doubt. That is why various types and numbers of evidence are crucial during a trial regarding a long and rich prison sentence. However, there have been and currently are many cases where there is a lack of in-court evidence. The absence of in-court evidence narrows facts and perspectives, preventing a thorough and justified prosecution, which further extends to innocent individuals being convicted of a crime they didn’t commit.

Definition of Key Terms:

Conviction: a formal declaration by the verdict of a jury or the decision of a judge in a court of law that someone is guilty of a criminal offense.

Prosecution: the institution and conducting of legal proceedings against someone in respect of a criminal charge.

Exoneration: the action of officially absolving someone from blame; vindication. Exoneration happens when the conviction for a crime is reversed, either through demonstration of innocence, a flaw in the conviction, or otherwise.

Direct evidence: evidence that will prove the point in fact without interpretation of circumstances. (Justice Department Canada, 2017). It is any evidence that can show the court that something occurred without the need for the judge to make inferences or assumptions to reach a conclusion.

Circumstantial Evidence: Circumstantial evidence does not prove the offence by itself, but is prosecuted through interpretation of the circumstances and in conjunction with other evidence.

Inculpatory Evidence: any evidence that will directly or indirectly link an accused person to the offence being investigated.

Exculpatory Evidence: the exact opposite of inculpatory evidence in that it tends to show the accused person or the suspect did not commit the offence

Corroborative Evidence: any type of evidence that tends to support the meaning, validity, or truthfulness of another piece of evidence that has already been presented to the court.

Probative Value: the weight or persuasive value that the court assigns to that particular piece of evidence when considering its value towards proving a point of fact in question for the case being heard.

Compensation: something, typically money, awarded to someone in recognition of loss, suffering, or injury.

Incarcerate: to be imprisoned or confined.

Background Information:

It is an undeniable fact that evidence is pivotal in a justified prosecution. A variety of direct or circumstantial information/findings can be identified as evidence and must be presented to court. These can be inculpatory, exculpatory or corroborative and consist of:

- a) Eyewitness evidence
- b) Expertise testimonies & confessions
- c) Physical evidence
 - i) Weapons
 - ii) Fingerprints
 - iii) Marks
 - iii) DNA
- d) Photographic evidence
 - i) security footage
 - ii) video evidence
- e) Psychiatric assessments & medical reports

Before evidence gets approved, it is conducted and evaluated in an objective manner by qualified people to yield reliable and relevant evidence that has probative value. It is engaged to have various numbers and types of evidence considering that some evidence will get excluded. An abundance of evidence corroborates the facts attested to by witnesses or victims in their accounts of the event, emphasizing the probative value and the reliability of the findings. A variety of evidence is also used to spot and eliminate false or unjustified testimonies.

Once all the evidence has been approved and presented, a verdict is announced. This results in the conviction or the release of the person being charged. If the individual has been found guilty, a sentence is given.

Many areas allow declaring extremely harsh sentences and even death penalties, however, the true concern is how easy it is to reach this decision. It is estimated that between 2.3% and 5% of the prisoners in the US are innocent, which is approximately equivalent to 120,000 people. Even though these numbers differ based on the crime rate and the ease of reaching verdicts in a country, many big

countries have similar statistics. When there is an absence of in court evidence, it is hard to carry out a justified prosecution since the relevancy, reliability, or probative value of evidence can not be evaluated thoroughly. That is why it isn't professional for the prosecutors to bring charges and go to trial unless there is sufficient evidence. Still, many prosecutors or judges decide to take the charges to trial even in the lack of evidence. When there aren't factual data to base convictions on, the decisions have to rely on subjective views which are prone to being affected by the defendant's economic state, race, and sexuality. In other words, the decisions have a tendency to be affected by prejudice when there isn't factual evidence to base the verdict upon. That is why, many people have been and are currently being falsely convicted of crimes they didn't commit due to the absence of in court evidence.

Involved Countries and Organizations:

Countries which apply Sharia Law: Sharia is interpreted by independent jurists, based on Islamic scriptural sources and various legal methodologies. In other words it is Islamic law. Countries which apply Sharia law are as follows but not limited to, Afghanistan, Pakistan, Iran, and Saudi Arabia. Some reasons of Sharia being problematic is due to charges for actions violating Islamic religion, such as the law that runs in Pakistan stating 27 offences punishable by death some of which are sexual intercourse outside of marriage and assault on the modesty of women. There is considerable debate surrounding the incompatibility of application between the Sharia on the one hand and human rights norms on the other.

National Registry of Exonerations: National Registry of Exonerations are responsible for investigating wrongful convictions in the United States.

Timeline of Events:

Cases of Wrongful Convictions Between 2000-2017 Due to The Absence of Evidence In Long Sentences

Date of Crime	Defendant(s)	Crime	Location	Sentence	Time Served	Legally Exonerated
2000, September 28	David Camm	Murder of his wife Kim and two children, Brad and Jill	Georgetown, Indiana	Life in prison	13 years	Yes
2001, July 8	Kirstin "Blaise" Lobato	Murder of Duran Bailey	Las Vegas, Nevada	40 to 100 years in prison	16 years	Yes
2001,	Ryan Ferguson	Murder of Kent	Columbia,	40 years in	9 years, 8	Yes

November 1		Heitholt	Missouri	prison	months	
2004, August	Richard and Megan Winfrey	Murder	San Jacinto, Texas	Life in prison	2-5 years	Yes
2004, March	Melonie Ware	Murder	DeKalb, Georgia	Life in prison without parole	4 years	Yes
2005	Lamar Johnson	Murder of Carlos Sawyer	Baltimore, Maryland	Life in prison	13 years	Yes
2005, May	Nicole Harris	Murder of her son, Jaquari	Chicago, Illinois	30 years	8 years	Yes
2008, September 21	Adrian P. Thomas	Murder of his son Matthew Thomas*	Troy, New York	25 years to life in prison	6 years	Yes
1982, July	Walter Forbes	Murder, Arson	Jackson, Michigan	Life	37 years	Yes
1997	James Chad-Lewis Clay	Child sex abuse	Detroit, Michigan	25 to 50 years	1 year and 7 months	Yes
2010	Patrick McAllister	Sexual assault	Brinnon, Washington	20 years and 10 months	5 years and 6 months	Yes
2011	Otis Boone	Robbery	Brooklyn, New York	25 years	7 years	Yes
2011	Jennifer Weathington	Murder, assault, and illegal use of a weapon	Dallas, Georgia	Life	5 years and 6 months	Yes

2011	Elgerie Cash	Murder, assault, and illegal use of a weapon	Dallas, Georgia	Life	5 years and 6 months	Yes
2011	Matthew Ngov	Murder	Los Angeles, California	57 to life	5 years and 9 months	Yes
2013	James Frazier	Murder	Philadelphia, Pennsylvania	Life without parole	5 years and 8 months	Yes
2013	Sherman McCoy	Murder, gun possession or sale, and conspiracy	Philadelphia, Pennsylvania	Life without parole	2 years and 8 months	Yes
2017	Joshua Horner	Child sex abuse	Redmond, Oregon	50 years	1 year and 5 months	Yes

Previous Attempts to Solve the Issue:

During the trial of a criminal charge, reference to previous convictions can be brought up, speaking on said individuals character. This would be evidence that the defendant is known for displaying criminal behavior which would be a factor to consider in court. However, it is worth bearing in mind that court proceedings are exempt from the Rehabilitation of Offenders, and can therefore disclose spent convictions deeming the usage of previous convictions as evidence undoable.

The wording used when a person is read the Miranda Warning, is “You have the right to remain silent. Anything you say can and will be used against you in a court of law.” However usage of said words doesn’t aid the defendants case and are not stable or reliable pieces of evidence. Even so, they are used.

Bringing up other sorts of evidence was thought to solve the issue, as there was more to look at, however the context, reliability and relevance of the presented evidence was arguable and thus did not aid the defendant in any way.

More recently, the Constitution of Spain announced that compensation was guaranteed in cases of miscarriage of justice.

Similarly, in the United Kingdom, a jailed person, whose conviction is exonerated, might be paid compensation for the time they were incarcerated. This is currently limited by statute to a maximum sum of £1,000,000 for those who have been incarcerated for more than ten years and £500,000 for any other cases, with deductions for the cost of food and prison cell during that time.

Additionally, in June 2012, the National Registry of Exonerations was founded and the Innocent Project was started in order to investigate and exonerate people in The United States who have been wrongfully convicted of a crime. However, at least 21 states in the U.S. still do not offer compensation for wrongful imprisonment.

Possible Solutions:

There isn't a fully judicious procedure when making a verdict about whether to plead an individual guilty when evidence is absent. That is why the best, fair, and most logical solution to finalize a trial in the lack of in-court evidence is postponing the trial until further evidence has been obtained and approved by the court.

Alternatively, based on the status of the case, if charges are brought anyway, the defense can enforce and ask the judge to dismiss charges based on lack of evidence. The optimal scenario is for the judge to decide upon the dismissal of the case and the charges or declare a mistrial.

In the case of a wrongful conviction, the defense can request a follow-up trial or prosecute a new case to prove their defendant's innocence or to press charges on another individual. This means that if further evidence regarding the trial is acquired, the defense can prosecute for the exoneration of their client.

Useful Links:

<http://www.justicepolicy.org/Long-Prison-Terms.html>

<http://www.law.umich.edu/special/exoneration/Pages/about.aspx>

<https://pressbooks.bccampus.ca/criminalinvestigation/chapter/chapter-3-what-you-need-to-know-about-evidence/>

Bibliography:

https://www.law.cornell.edu/wex/insufficient_evidence

<https://nysba.org/NYSBA/Sections/International/Awards/2016%20Pergam%20Writing%20Competition/submissions/Hellmann%20Ashlea.pdf>

https://en.wikipedia.org/wiki/List_of_wrongful_convictions_in_the_United_States#Before_1900

<http://www.law.umich.edu/special/exoneration/Pages/about.aspx>

<https://www.chicagotribune.com/opinion/commentary/ct-perspec-innocent-prisoners-innocence-project-death-row-dna-testing-prosecutors-0315-story.html>

<https://pressbooks.bccampus.ca/criminalinvestigation/chapter/chapter-3-what-you-need-to-know-about-evidence/>

https://en.wikipedia.org/wiki/Miscarriage_of_justice