

Index

Alexander, Richard, 55

ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, 237–8 Abernathy, Christopher, 47, 215 Ablin-Hertz, Keren, 364 abolition of the death penalty, 20, 145, 155-6, See also specific states abuse cases. See rape cases; Shaken Baby Syndrome cases Abusive Head Trauma cases, 187, 189-90, 192 See also Shaken Baby Syndrome cases DNA technology and, 78, 85, 97 informant testimony and, 87-8, 92-4 plea bargaining and, 86-7, 89-92 See also evidentiary inaccuracies ACLU, 241 acquittals, perception of, 28 Actual Innocence (Scheck, Neufeld, and Dwyer), 58, 117, 120 actual innocence vs. "not guilty" verdict, 62, 80 See also innocence Adams, James, 152 Adelman, Lynn, 27 administrative rule reform, 118, 130-1 AEDPA. See Antiterrorism and Effective Death Penalty Act (1996) Aeschylus, 380 Africa, 367-8 See also South Africa African Americans. See racial discrimination AHT. See Abusive Head Trauma cases Air Quality Project, 125

Alford plea, 269, 289 Allen, Ronald J., 149, 265-6 Alschuler, Albert, 97 Altegeld, Peter, 154 Alvarez, Anita, 107–10 Ambrosius, Christel, 363-4 American Academy of Pediatrics (AAP), 195 American Association of Law Schools Committee on the Future of the In-House Clinic, 123 American Bar Association (ABA), 123, 224, 226, 232, 237-8, 242 American Board of Forensic Odontology, 211 American Board of Forensic Pathology, 321 American Civil Liberties Union (ACLU), 241 Amici, 109 Amnesty International, 145 Amsterdam, Anthony, 14–15, 239, 297 Anderson, James, 128-9 Angola, 300, 308 animal control codes, 336 Animal Rights Rattling the Cage (Posner), 339 animals. See nonhuman beings Antiterrorism and Effective Death Penalty Act (1996), 26-7, 253-6 appeals and appellate court procedures, 9, 18, 51-2, 252-3 See also habeas corpus relief; trials; specific type of appeals Argentina, 361-2, 387 Argosy Magazine, 140 Arkansas, 310-11 Armstrong, Ken, 228 Armstrong, Patrick, 357-8 Arridy, Joe, 143, 294

Aleman v. Village of Hanover Park, 194-5

Alabama, 230-1, 310



402

arson cases, 8, 187, 189–90, 199–201, 231 See also Willingham, Cameron Todd

Ashley's Laws, 43

Asia, 364-7

See also specific countries

Askew, Reuben, 17

Association in Defence of the Wrongfully

Convicted (AIDWYC), 360

Atkins v. Virginia, 172-3

Australia, 360

Avery, William, 47

Aymond, Lucille, 300

Bailey, Rene, 198-9

Baker, Lena, 143, 294-5

Baliles, Gerald L., 139

Baltrip, Henry, 216, 224

Barak, Aharon, 389

bargaining. See plea bargaining

Barr, Bob, 179

Barry, Margaret Martin, 123, 125

Bator, Paul, 26

Baumgartner, Frank, 169

Beamer, Margaret, 21–2

Bedau, Hugo Adam

archives of, 157

The Death Penalty in America, 57

DPIC Innocence List and, 140-2

early work on wrongful convictions, 152

on exoneration vs. innocence, 62–3 Stanford Law Review 1987 article, 57–8,

140-2, 149

Bekoff, Marc, 339

Bennett, Mark W., 237-8

Bern, Gregory, 339

Berner, Eta, 192

Bernhard, Adele, 226–40

Best, Joel, 69

Bibas, Stephanos, 90

Bigelow, Jerry, 153

Biggers, Archie, 21-2

Birmingham Six case, 357-8, 388-9

bite mark evidence, 49, 168-9, 211

See also forensic evidence

Bivens, Phillip, 44

Black, Charles L., Jr., 18

Black Americans. See racial discrimination

Blackmun, Harry, 16, 52, 219

Blackstone, William, 70, 268

Blair, Michael, 43

Blakely v. Washington, 234

Index

Bloodsworth, Kirk, 294

blood type evidence, 49

See also forensic evidence

Bolding, James, 321

Boniello, Ralph A., III, 341

Borchard, Edwin, 18, 30, 57-8

Bordenkircher v. Hayes, 218-19

Borrero, Elba, 18-19

Boston Medical Center, 195

Bower, Lester, 160

Bowers v. Norfolk S. Corp., 191-3

Bradford, Ted, 51, 128-9

Brady v. Maryland, 8-9, 23-5, 52, 208

Brady v. United States, 89-90

brain injury cases. See Abusive Head Trauma

cases; Shaken Baby Syndrome cases

Brecht v. Abrahamson, 27

Brennan, William J., Jr., 21-2, 26, 308

Breyer, Stephen G.

on death penalty, 7, 153, 161, 169-71

on punishment phase and proof of

innocence, 162-3

Brookings Institute, 242

Brooks, Justin, 123

Brown, James, 300

Brown, Jessie, 153

Brown, Leon, 51–3, 163–4 Brown, Michael, 108

Brown v. Allen, 16, 26

burden of proof, 28-9, 62

Burger Court on habeas corpus, 26

Burnham, Margaret, 291–304

Burns, Ken, 42

Burns, Sarah, 42

Bush, George W., 390

Cal, Cedric, 107-9

California Innocence Project, 123, 361-2

California Western School of Law,

361-2

Callaghan, Hugh, 358

Cambridge Declaration on Consciousness,

338-9

Camm, David, 51-2

Canada, 302-3, 360

capital cases. See specific case names

capital punishment. See death penalty

Capital Punishment, The Inevitability of

Caprice and Mistake (Black), 18

Cardiff Law School Innocence Project

(Wales), 360-1



Cardozo School of Law, 117, 152, 359	Coles, Sylvester "Redd," 160
See also Innocence Project (New York City)	Columbia (country), 361–2
Career Girls Murders, 18–20	Columbia University Law School Human
Carpenter, Anna E., 125	Rights Law Review, 160
Carrera, Fernando, 362	Combatant Status Review Tribunals (CSRT),
Cassell, Paul	391
chapter by, 264–81	Committee on Child Abuse and Neglect, 195
cost-benefit analysis of death penalty by, 149,	Comparative Bullet Lead Analysis (CBLA),
151	187, 202
on exoneration vs. innocence, 62-3	compensation for wrongful convictions, 42, 121,
causation, 190	128
See also differential etiology	composite bullet lead analysis, 316-17
Center on Actual Innocence, 214	confessions
Center on Wrongful Convictions, 87	prevalence of, 276
Central Park Five, 41-3, 295	in SBS cases, 194-5 See also false
Centurion Ministries, 140, 184, 359	confessions; Miranda rights; police
certainty, scientific, 187-8	interrogation
certiorari requests, 51-2, 308	Conlon, Gerry, 357–8
Chaparro, Anthony, 52	Connecticut, 219
Chen Long-Qi, 365–6	Conrad, Peter, 69
Chicago Tribune, 106, 228	conservatism on death penalty, 147–8, 170
Child and Youth Advocacy Clinic (IPNW), 127	constitutionality of death penalty
child rape, 171–2	conception of innocence and, 161
Chile, 361–2, 387	conviction vs. penalty, 161–3
chimpanzees. See nonhuman beings	relevance of residual doubt, 163–9
China, 303, 366–7, 369	Supreme Court justices on, 153, 161, 169,
Christie, Chris, 220	173
Chun-I, James Lee, 365–6	See also death penalty; Eighth Amendment
civil damage vs. exclusionary rule, 10	Convicting the Innocent (Borchard), 30, 57
Civil War, U.S., 381–2	Convicting the Innocent: Where Criminal
class and wrongful convictions, 30-1	Prosecutions Go Wrong (Garrett), 5, 43,
See also defense lawyering	58, 76
client representation. See defense lawyering	Conviction Integrity Units, xviii, 47, 253
client representation innocence clinics, 117	Cooley Law Review, 141
clinical legal education	corporate exonerations, 335, 346
checklists used in, 239-40	Costa Rica, 361–2
establishment of, 123	Council on Legal Education for Professional
Innocence Movement and, 6–7, 123–6	Responsibility, 123
structure of, 123, 125	The Court of Last Resort (Gardner), 57–8, 140
summary of, 117–18, 123	credibility of witness testimony, 215, 331
system analysis of, 124–5	See also informant testimony; witness
See also specific schools	misidentifications
cocaine sentences, 216	crimes
codeine cases, 216–17	cost of, 268
coercion, 41–3, 359	recidivism, 268–9
See also witness misidentifications	See also specific type of crimes
Cohen, G. Ben, 159–73	crime victim vs. wrongful conviction victim,
Color Timothy v	265–70
Color Timothy, 11	Criminal Appeal Act (1995, UK), 358–9
Coleman, Johnny, 20 Coleman, Roger Keith, 143–4	Criminal Cases Review Commission (CCRC), 358–61, 363
Colcinati, Nogel Neitti, 143–4	550-01, 503



404 Index

criminal deal. See plea bargaining cost-benefit analysis of, 149-50 costs of, 7 criminal justice system irregularities access to counsel after investigating, 325-7, declining support for, 144-5 declining U.S. rate of, 145-7, 169-70 in drug testing, 317 deterrance and, 146, 149-50, 156 duty to notify and logistics involved in, 322-5 DNA exonerations and support for, 7, 138-9 individual investigations on, 314, 317 DPIC on, 78 mass investigations on, 314-16 fiscal austerity of, 147 notification process after discovery of, 318-22 innocence and support of, 148-51, 306 procedural barriers after discovery of, 315-16 insanity and, 165 systemic response to, 327–8, 333 LDF on, 20 types of, 316-18 list of famous wrongful executions, 159-60 criminal justice system reforms LWOP and, 145-6 on administrative rule, 118, 130-1 as murder victim-service program, 148 on defense lawyering, 10-11, 226-7 posthumous exonerations and, 10-11, 142-4 implications of, 266-70 pre-DNA exoneration research, 140 innocence clinics and, 6-7, 117-18 racial discrimination and, 7, 150 Innocence Movement and, 118, 120-2 for rape cases in Louisiana, 298-300 macro-level, xviii-xix, 96 religious community on, 146-7 micro-level, xviii–xix, 77, 220 retributive benefit of, 171 plea bargaining and, 96-8, 218-19 support from direct effects, 148-9 to pretrial procedures, 10 support from indirect effects, 150-1 summary of procedural reform, 9-12, 150 Supreme Court justices on (See specific summary of trade-offs in, 264, 280-1 justices) systemic analysis due to DNA exonerations, See also constitutionality of death penalty 23, 29-30, 60-1, 78, 184-5 The Death Penalty in America (Bedau), 57 See also legislation; National Office for the Death Penalty Information Center (DPIC), 59 Rights of the Indigent (NORI); post-2014 statistics by, 145 conviction reforms; specific processes on capital punishment, 78 Crowell, Cathleen, 106 criteria for list, 141 Croy, Patrick, 153 on definition of exoneration, 63-4 Cruel and Unusual Punishment clause. Edwards and, 63 See Eighth Amendment exonerees posted on website, 79 Cuba. See Guantánamo Bay detention Innocence List, 63-4, 140-2 Cunningham, Arron, 360 See also death penalty Czech Republic, 362, 364 defense lawyering ABA survey on, 226 Davis, Al, 176 application process in New York, 243 Davis, Angela, 217 best practices and assessment of, 238-41, 244 Davis, Donya, 51 client representation innocence clinics, 117 Davis, Larry, 128-9 exculpatory evidence examination by, 234 Davis, Troy Anthony, 160, 173 importance of actual innocence claims to, Deadly Dilemmas (Allen and Laudan), 265-6 Dead Man Walking (Prejean), 146 increased resources for indigent cases, death penalty 1963 moratorium on, 26 Innocence Movement and, 119-20 ABA Guidelines for the Appointment and IPNW and, 126-7 Performance of Defense Counsel in Death prosecution-defense balance and reforms, Penalty Cases, 237-8 abolition of, 20, 145, 155-6, 167 reforms in, 10-11, 226-7 conservatism on, 147-8, 170 studies on, 228-9



wrongful conviction accountability of, 290	origin of term, 59, 61
See also ineffective assistance of defense	plea bargaining and, 92
counsel (IAC)	vs. pretrial testings, 8, 12–13
defenses in animal control laws, 336	racial discrimination and, 44-5
De Los Santos, George, 140	recantations and, 106, 112
Del Prete, Jennifer, 199	statistics on, 43–4, 48–50, 59, 106
Del Prete v. Thompson, 199	summary on, 53-4
DeLuna, Carlos, 160	trials and, 44, 49
deoxyribonucleic acid. See under DNA	types of crime in, 44-5
Department of Justice (DOJ)	types of evidence and, 45–6
on flawed evidence, 144, 168–9	of Vasquez, 2–3, 111, 139
on habeas relief, 34	of Youngblood, 52
mass investigations agreement by, 314–15	See also exonerations; habeas corpus relief
Descartes, Rene, 338	DNA technology
deterrance and death penalty, 146, 149-50, 156	accuracy and, 78, 85, 97, 318–19, 322
Dieter, Richard, 141	animals and, 337–8
differential diagnosis process, 190-1	denial of, 211–12
differential etiology, 191-3	first two cases using, 2-3
direct appeal cases, 16-17	initial use in Innocence Movement,
disabilities, people with	xvii–xviii, 185
death penalty regulation for, 146, 172-3	limitations of, 15, 53, 143-4
death sentencing of, 150	skepticism of, 349
false confessions by, 47, 139, 143, 215, 285, 294	summary of, 2, 12–14, 73–4
disclosure of evidence, 23-5	Supreme Court challenges and, xvii-xviii
Dixon, Bobby Ray, 44	technological innovations and changes in,
DNA databases, 85	31, 131
See also Death Penalty Information Center	See also forensic evidence
(DPIC); Innocence Project; National	dogs. See nonhuman beings
Registry of Exonerations (NRE)	Dogs are People, Too (Bern), 339
DNA exonerations	dog-scent lineups, 316–17
of Abernathy, 215	domain expansion, 5, 69–70
of Brown and McCollum, 163–4	Dookhan, Annie, 316
Central Park Five, 41–3	Dotson, Gary
criminal justice system analysis due to, 23,	DNA exoneration of, 2–3, 106, 111, 139
29–30, 60–1, 78, 184–5	recantation of false trial testimony and, 6,
definition, 2–3	106
of Dotson, 2–3, 106, 111, 139	sentencing of, 112
false confession statistics and, 45–7	summary of, 2–3
flawed forensic evidence statistics in, 48–50	double-blind witness procedures, 89, 96, 249,
of Gonzalez, 40–1	258
guilty pleas and, 87	Douglas, William O., 307–8, 384–5
of Haynesworth, 43	DPIC. See Death Penalty Information Center
of House, 164	(DPIC)
IAC claims in, 228	Drake, Henry, 152–3
informant testimony statistics in, 51	Drinan, Robert, 147
Innocence Project list, 62, 73	drug cases
Innocence Project statistics on, 59	case of multiple wrongful convictions, 269
as launch for Innocence Movement,	informant testimony in, 92
xvii–xviii, 185	plea bargaining in, 91, 219, 224
list of cases, 55, 114	police misconduct in, 216–17
vs. non-DNA exonerations, 85–6, 185–6	systemic irregularities in, 317, 320
21 6	-,



406 Index

drylabbing, 320, 323, 330 See also forensic evidence Dubber, Markus, 336 Du Bois, Herman, 363-4 due process clause (Fifth Amendment), 161-3 due process clause (Fourteenth Amendment), 14-15, 161-3 Dukakis, Michael, 142-3 Duke, Steven, 276 Dwyer, Jim, 58, 117, 120 East Timor, 303 Edith Cowan University, 360 Edmunds, Audrey, 197-8 education. See clinical legal education Edwards, Don, 63 Eighth Amendment constitutionality of death penalty, 161, contemporary standards of decency, 169-70 jurisprudence of, 160-1 penological purpose, 170-1 punishment phase and, 162 systemic risk of wrongful execution and, See also constitutionality of death penalty Ejchart-Dubois, Maria, 364 Emergency Committee to Save Habeas Corpus, 147 England, 331, 343-4 See also Great Britain erroneous convictions. See wrongful convictions ethical training for prosecutors, 221 European Innocence Conference, 362-4 European Innocence Movement, 362-4 European justice system, 199, 219-20, 225 See also specific countries evidence disclosure of, 23-5 plea bargaining and, 90 preservation bill on, 128 evidentiary inaccuracies vs. DNA accuracy, 15, 21, 85-6 DOJ and FBI on, 144 forensic evidence errors, 121 trials and, 88-9 See also accuracy; perjury; plea bargaining; witness misidentifications; specific types exclusionary rule, 10, 15

exculpatory information, 29, 208-9, 234 See also prosecutorial misconduct execution. See death penalty executor's responsibilities, 166 exonerations advantages to, 71-3 in arson cases, 200-1 of Blair, 43 of Bloodsworth, 294 certainty and innocence-based, 72 certiorari and, 51-2 for corporations, 335, 346 definition, 2-3, 43, 62, 66-7, 335 vs. definition of factual innocence, 67-71 DNA vs. non-DNA, 85-6, 185-6 domain expansion and, 69-70 DPIC on, 63-4 vs. innocence, 61-3 legal exoneration, 62-4, 80 moral legitimacy of, 70-1 NRE definition of, 65-7, 112 objectivity and judgments on, 68-9 organization of death row exonerees, 148 posthumous exonerations, 10-11, 142-4, 154, 291-2, 294-5 reentry challenges post-, 119-20, 148 statistics on, 173, 295-6 support for capital punishment and, 7 trial statistics on, 89 See also DNA exonerations; habeas corpus relief; National Registry of Exonerations (NRE); posthumous exonerations "Exonerations in the United States, 1989 through 2003" (Gross), 61-2 eyewitness identification. See witness misidentifications

factual innocence
definition of exoneration vs., 67–71
NRE on, 79
post-conviction reforms and, 272–3
wrong man cases, xvii, 57–61 See also
innocence
Fagan, Jeffrey, 228
Failed Evidence (Harris), 211
Fairbanks Four case, 13
false accusations, 142
false confessions
DNA exoneration statistics and, 45–7
juveniles and, 47, 250
Miranda rights and, 10, 15, 275–7



by people with disabilities, 47, 139, 143, 215,	flawed testimony, 144
285, 294	See also informant testimony; witness
summary of, 5	misidentifications
term "proven false confession," 67–8	Florida, 219
See also false trial testimony	Ford Foundation, 17
false convictions	Ford v. Wainwright, 165
Gross and O'Brien on, 79, 82	forensic evidence
NRE on, 65	advancements in, 131, 316–17
term "proven false conviction," 68	bite mark evidence, 49, 168–9, 211
See also wrongful convictions	critical analysis on methods in, 168-9, 188,
false evidence. See evidentiary inaccuracies	210-11
false trial testimony, 6	drylabbing, 320, 323, 330
See also false confessions; informant	errors in, 121, 187–9, 211, 250–1
testimony; recantations; trials; witness	fingerprint evidence, 49, 210
misidentifications	hair analysis (See hair-microscopy)
Family and Child Advocacy, 195	mass investigations into errors in, 314-16
family law, 342–4	preservation bill on, 128
See also juveniles	serology or blood typing, 49
Farmer v. Brennan, 166	shoe print evidence, 49
Farrell, Amy, 28	skepticism of, 188–93
Fay v. Noia, 26	statistics on, 48–50
FBI (Federal Bureau of Investigation)	trials and, 49–50
on flawed testimony, 144, 168–9	See also DNA technology; science-
on hair analysis, 251	dependent cases
mass investigations agreement by,	Fourteenth Amendment, Due Process Clause,
314-15	14–15
Federal Legislation Clinic, 135–6	See also constitutionality of death penalty
felonies	Fourth Amendment, exclusionary rule, 274–5
plea bargaining and, 87	France, 362, 364, 382
wrongful convictions on, 96	Francione, Gary, 338
feminism, 292, 300–2	Frank, Barbara, 30–1, 57
fiber evidence, 49	Frank, Jerome, 30–1, 57, 219
field test cases, 216-17, 219	Frankfurt, Harry, 384
Fifth Amendment, Due Process Clause,	Freedman, Eric, 345
161–3	Friendly, Henry, 27, 272
See also constitutionality of death penalty	Furman v. Georgia, 17, 26, 152, 297
finality	
DNA technology and, xviii	Gagnon, Richard, 52
post-conviction reforms and, 10	Gallup Poll on execution vs. LWOP, 145
science-based evidence and, 187–8	Gardner, Erle Stanley, 57-8
Findley, Keith	Garrett, Brandon
on challenges to policy reform, 122	chapter by, 40–54
chapter by, 184–202	Convicting the Innocent, 5, 43, 58, 76
on clinical legal education, 124	on ghost of the innocent man, 16
on innocence, 57, 66	on IAC claims in Innocence Project list, 234
on objectivity and judgments, 71–2	Judging Innocence, 24
fingerprint evidence, 49, 210	study sample of, 305
See also forensic evidence	gay marriage, 346
fire science, 199–201	Geneva Convention, 386-7, 389, 394
See also arson cases	George, Dwaine, 360-1
fiscal austerity of death penalty, 147, 149-50	Georgetown University Law Center, 125



408 Index

on sources of wrongful convictions, 87-8, Georgia, 294-5 Germany, 219, 362, 371, 383 Gershman, Bennett L., 25 on total number of wrongful convictions, 144 Gertner, Nancy, 231 See also National Registry of Exonerations ghost of the innocent man, 16 (NRE) Grotius, Hugo, 385 Gideon v. Wainwright, 24, 226, 241 Gilbert v. California, 22 Guantánamo Bay detention, 344, 390-3 Ginsburg, Ruth Bader, 161, 307, 311 Guidelines for the Appointment and Givelber, Dan, 28 Performance of Defense Counsel in Death Penalty Cases (ABA), 232, 237-8 Gleeson, Harry, 362-3 Glendening, Paris, 143, 294 Guildford Four case, 357-8, 388 global innocence movement guilt vs. legal guilt, 166, 187 in Africa, 367-8 guilty pleas. See plea bargaining Guzek, Randy Lee, 162 in Asia, 364-7 barriers in, 369-71 habeas corpus relief in Europe, 362-4 in Latin America, 361-2 access to counsel and, 325-6 origin of, 357-61 DOJ on, 34 summary of, 12, 54, 356-7, 371-2 family law and, 342-4 See also Innocence Movement; specific Friendly on, 27 for Guantánamo Bay detentees, 344, 390-3 countries Glossip, Richard, 153, 173 Habeas Report, 232-5 Glossip v. Gross, 7, 161, 170-1 history of, 352-4 Godsey, Mark, 356-72 innocence and, 25-8, 272-3 limitations of, 235 Goldberg, Arthur, 308 Golden, Larry, 122 reforms and, 10, 12, 253, 257 Gonzalez, Angel, 40-1 Rehnquist Court on, 26-7 Goodall, Jane, 339 statistics on, 51-2, 272 Goodman, Bruce, 92 Supreme Court on, 285 Gould, Jon B., 24, 121-2 survey of, 228 Warren Court on, 25-6 Graber, Mark, 192 Great Britain See also DNA exonerations; exonerations; appeal legislation in, 358-9 nonhuman beings criminal justice system in, 219 Habeas Report, 232-5 family law in, 343 hair-microscopy exoneration statistics and use of, 49 slavery in, 343-4 See also England; United Kingdom FBI review of, 251 Gregg v. Georgia, 167, 297 mass errors in, 168, 315, 317 new scientific evidence in, 187, 202 Griffin, Thomas and Meeks, 143, 295 Griffith University Innocence Project, 360, See also forensic evidence Hale, Matthew, 343 362-3 Halliday, Paul, 342-3 Gross, Sam Halsey, Byron, 44 on criminal confessions, 276 on exoneration as legal concept, 80 Hamm, Carolyn Jean, 139 Hand, Billings Learned, 16, 58, 370 on exoneration rate, 76, 79 as founder of NRE, 59-60 Hansen, Matt, 176 Harris, David, 211 on frequency of wrongful convictions, 271 on investigative trials for innocence claims, Hartung, Stephanie Roberts chapter by, 247-57 on misdemeanor wrongful convictions, 94 references to, 272-3 publication by, 61-2 Hattery, A. J., 305



Index 409

Hayes, Paul, 218-19 studies on, 228-9 Haymarket affair, 154 successes of, 235-6 Hayne, Steven, 321 summary of, 9, 227 Haynesworth, Thomas E., 43, 51 See also defense lawyering Hebrew University of Jerusalem, 364 informant testimony Hebshie, James, 231 drug cases and, 92 Hennis, Timothy, 142, 153 exonerations and, 52 Hercules (chimpanzee), 341 IAC claim of failure to investigate, 234-5 Hernandez, Carlos, 160 negotiated evidence and, 92-4 Herrera v. Collins, 184 perjury and, 6, 109-10 Hill, Patrick Joseph, 358 as plea bargaining, 87 Hill, Paul Michael, 357-8 regulation and reform of, 98 Hinton, Anthony Ray, 230-1 statistics on, 51, 100 video record of, 217-18 Hinton, Ray, 169 See also witness misidentifications Hinton v. Alabama, 230-1 Hispanic Americans. See racial discrimination innocence Hoffert, Emily, 18 actual innocence vs. "not guilty" verdict, 80 Hoffman, Joseph, 26-7, 272 burden of proof, 28-9, 277-80 Hogan, Frank, 19 certainty and exonerations based on, 72 Holmes, Warren, 17 definition, 3, 5, 8, 13, 59-60 homicide rates, 146 Eighth Amendment and, 169-73 Honeycutt, Edward, 299 evidence disclosure and, 23-5 Horovitz, Anat, 364 vs. exoneration, 61-3 House, Paul, 164 Findley on complexity of, 57, 66 House v. Bell, 164 as frame of systemic analysis, 293-4 Houston Free Press, 217 habeas corpus relief and, 25-8, 272-3 Houston Police Department Crime history of skepticism and, 3-4, 28, 58 Laboratory, 316, 321, 332 judgment statistics on, 51-3 See also Texas litigation track of, 10, 15 Hsichih Trio case, 364-5 post-conviction relief and, 25-8 pre-DNA criminal system and, 15–20, 23–5 Huang Chih-Hsien, 365 Hunter, Gerard, 358 punishment phase and, 162-5 Hunter, Rene, 214-15 reform for establishing, 120-1 Hurley, Neil, 359 trials and, 28-9 of witches, 166-7 witness identification and, 21-3 IAC. See ineffective assistance of defense counsel (IAC) wrongful conviction and guilty pleas, 18 Illinois, 170, 176-7, 228 See also factual innocence; Innocence immigration, 91, 332 Movement; war and innocence; wrongful impartiality, 29 convictions innocence clinics, 6-7, 117-18 In Doubt (Simons), 212 ineffective assistance of defense counsel (IAC) See also clinical legal education innocence commissions, 214, 269, 328, 331, 387 claims in DNA exonerations, 228 for exculpatory evidence investigation, 234 innocence consciousness, 60, 74-5, 77 for failure to investigate testimonial, 234-5 Innocence List (DPIC), 63-4, 140-2 by guilty defendants, 242 See also Death Penalty Information Center (DPIC) Habeas Report, 232-5

Innocence Movement on best practices, 121–2

client representation in, 117, 119–20 clinical legal education and, 6–7, 123–6

judges and, 229

prevalence of, 228 sentencing and, 236–8

statistics on, 232-4



410

Innocence Movement (cont.) criminal justice system reforms and, 118, DNA exonerations as launch for, 185 future of, xviii-xix, 66-7, 185-7 IAC and, o initial reaction to, xviii media and, 14, 29, 59, 77, 110 moral legitimacy of exonerations and, 70-1 origins of, xvii-xviii, 30, 43-4, 357-9 post-conviction reforms and, 247-8 on pretrial and trial reforms, 248 science-dependent cases and, 201-2 success of, 29-30, 59 on term DNA exoneration, 59 Zalman on, 129 See also global innocence movement; specific topics of concern Innocence Network, 140, 357, 361 Innocence Network United Kingdom (INUK), 359-60, 373 Innocence Project caseload of, 130 DNA exoneration list, 64, 73 DNA exoneration list vs. NRE, 74, 106 IAC and list of, 234 list criteria for, 61-2 mass investigations by, 314-15 network of, 140 plea bargaining and, 86 website of, 59, 61-2 See also specific state groups

post-conviction reforms and, 247–8 on wrongful conviction statistics, 4 Innocence Project New Zealand, 360 Innocence Project Northwest (IPNW, University of Washington)

Innocence Project (New York City)

establishment of, 117, 140, 152, 359

accepted cases by, 85

client representation by, 126–7 legislative advocacy by, 117–18, 126–9 summary of, 6–7, 126, 129 Innocence Project South Africa, 367 Innocence Protection Act (2004), 77

The Innocents (Radin), 57 Innocents Database, 79

insanity, 165 Inslee, Jay, 128, 178

In Spite of Innocence (Radelet, Bedau,

Putnam), 142

Index

International Criminal Tribunal for the Former Yugoslavia, 386 international humanitarian law (IHL), 385 International Innocence Conference, 361, 363, 362 International Law Commission, 386 International Military Tribunal, 383 interracial laws and rape cases, 298-302, 307-10, 312 See also racial discrimination In the Name of the Father (film), 358 Invitation to a Lynching (Miller), 17 IPNW. See Innocence Project Northwest (IPNW, University of Washington) Ireland DNA testing in, 369 Irish Innocence Project, 360, 362-3 wrongful conviction cases in, 357-8, 388-9 Isola, Frank, 18 Israel, 364, 389 Italy Innocence Project, 362, 364

Jackson, Dwayne, 213 Jackson, John, 144 Jackson, Robert, 26, 385 jailhouse snitch. See informant testimony Japan, 364 Japanese Americans, 292 See also racial discrimination Jeffries, John, Jr., 272 Jenkins, Jerry Lee, 213 Jenny, Carole, 195 Jesus Christ, 381 Jesus on Death Row (Osler), 381 Johnson, Willie, 107-9 judgments objectivity and, 68-9, 71-2 reversal of, 51-3 subjectivity and, 82, 85 judges backgrounds of, 242 IAC and, 229 plea bargaining and, 218-19 role of, 312

jury and representation, 29, 299 See also trials Just Mercy (Stevenson), 155 "just war" theory, 385, 396

Judging Innocence (Garrett), 24

See also trials



Index 411

juveniles
brain disorders of, 195
death penalty regulation for, 146
eyewitness misidentification by, 48
false confessions and, 47, 250, 295
laws related to, 43, 317–18
murder cases of, 302–3
race and exoneration of, 295
rape cases of, 171–2, 215–16
systemic errors affecting, 329
victim testimony by, 215–16
See also Shaken Baby Syndrome cases

Kagonyera, Kenneth, 269–70
Kansas v. Marsh, 159
Kennedy, Anthony, 171–2, 174, 346
Kennedy v. Louisiana, 171–2, 298, 311
Kennelly, Matthew, 199
Kentucky Habitual Offender Act, 218
Kerry, Bob, 154
Kiko (chimpanzee), 341
King, Nancy, 272
Kirby v. Illinois, 22
Kirkman, Albert, 107–9
Kitzhaber, John, 178
Knoops' Innocence Project, 363–4
Korematsu, Fred, 292
Kuppelberg, James, 114

Langwallner, David, 362 Larkin, Willie, 309 Latin America, 361-2 Laudan, Larry, 265-6, 268 Laufer, William, 29 Laurin, Jennifer, 188, 197, 201-2 law of armed conflict (LOAC), 385 Law & Order (television show), 210 law school and law school clinics. See clinical legal education Learned Hand, Billings, 16, 58, 370 Lee, Wilbert, 17-18 Legal Defense Fund (LDF), 17, 20 See also National Office for the Rights of the Indigent (NORI) legal exonerations, 62-4, 80 See also exonerations legal guilt vs. guilt, 166, 187 legal innocence. See innocence legislation on evidence preservation, 128

on police interrogation, 249-50 to prevent wrongful convictions, 121-2 on wrongful conviction compensation, 128 on wrongful convictions, 77, 85, 316, 323 See also criminal justice system reforms Legislative Advocacy Clinic (IPNW), 117-18, 126-9 See also Innocence Project Northwest (IPNW, University of Washington) legislative advocacy clinics, 7 legislative lawyer, 135-6 Leo (chimpanzee), 341 Leo, Richard A. chapter by, 57-75 on prevention of wrongful convictions, 122 on wrongful conviction databases, 212-13 wrongful conviction sources, 121 liberalism on death penalty, 147 Liebman, James S., 228 Life After Death Row (Westervelt and Cook), 148 Life Imprisonment without Parole (LWOP), 145-6 lineup procedural reform, 22-3 Lockett, Clayton, 342 Lofquist, William, 141 loitering, 95 Lo Ping-Cheng, 364 Lord v. Wood, 243 Lo Shi-Hsiang, 365 Louisiana, 298-300, 306, 308-11 Luna, Erik, 379-94 Luparia, Luca, 362, 364

MacCrate Report (ABA), 123, 240 MacKinnon, Catherine A., 301, 311 Maguire Seven case, 388 Makuna, Johannes Dingaan, 367-8 Manson v. Braithwaite, 22 Maphakane, Levi, 368 Marceau, Justin F., 334-46 Marion, William Jackson, 154 Markham, Stephen, 62-3, 149, 151 Marquis, Josh, 265 Marshall, Donald, Jr., 302-3 Marshall, John, 345 Marshall, Thurgood, 236, 238 Maryland, 95, 163 Massachusetts, 252-3, 258, 291-2, 314, 316 Maxwell v. Bishop, 297, 310-11 McCloskey, James, 140

on perjury prosecutions, 110, 112



412 Index

McCollum, Henry Lee, 16, 43, 51-3, 163-4 murder cases, 44-5 McGautha v. California, 297 See also specific cases McGee, Willie, 304 A Murder in the Park (movie), 283 McIlkenny, Richard, 358 Murphy, Frank, 383, 385-6 McMahon, David, 42 McMillian, Walter, 155 NAACP LDF. See Legal Defense Fund (LDF) McMurtrie, Jacqueline, 117-29 Natapoff, Alexandra, 85-98 McQuiggin v. Perkins, 256 National Academy of Sciences, 48, 53, 168-9, coverage of cases by, 18, 59, 392 National Academy of Sciences Report, 251 National Association for Criminal Defense Innocence Movement and, 14, 29, 77, Lawyers (NACDL), 314-15 medical claims, 190-3 National Cancer Institute, 190 National Center for State Courts, 228 Medwed, Daniel S. on accuracy of wrongful conviction lists, 81 National District Attorneys' Association Summit on Prosecution Integrity, 110 chapter by, 2-13 on clinical legal education, 124-5 National Fire Protection Association (NFPA), on contemporary nature of DNA testing, National Institute of Justice Guide, 23, 249 on Dotson and Vasquez cases, 111 National Legal Aid and Defender Association, on prevention of prosecutorial misconduct, National Office for the Rights of the Indigent 217 Meese, Edwin, 58, 76 (NORI), 17 See also Legal Defense Fund (LDF) Meltsner, Michael, 14-30 mental illness, people with, 47, 150, 165 National Registry of Exonerations (NRE) benefit of data from, 72-3 Mermel, Michael, 211-12 Mexican-American War, 381-2 on Brady violations, 208-9 Mexico, 361-2 on causes of wrongful convictions, 282 Miami Herald, 17 contestation of listed exonerees, 83 definition of exoneration, 65-7, 112 microscopic hair analysis. See hair-microscopy military combat. See war and innocence establishment of, 59-62, 64-5 Military Commissions Act (2006), 344 exoneration and trial statistics, 89 Miller, Gene, 17 on factual innocence, 79 Mills, Steve, 228 fluidity of exonerees list, 81 Miranda rights, 10, 15, 275-7 vs. Innocence Project list of DNA exonerations, 74 See also false confessions Miscarriages of Justice Organization (MOJO), management of, 59-60, 142 358 plea bargain statistics on, 86, 101 miscegenation. See interracial laws and rape statistics of, 119, 201 study on prosecutorial misconduct from, cases misdemeanors and plea bargaining, 87, 91, 94-8-9, 212-13, 213-14 summary of, 13 misidentifications. See witness See also exonerations misidentifications National Research Council, 168, 210-11 Mississippi, 321 Naughton, Michael, 359 Mitchell, Andrew, 153 Nazi war crimes, 383, 385 Molaudzi, Thembekile, 367-8 Nebraska, 155-6, 170 moral legitimacy of exonerations, 70-1 negotiations. See plea bargaining Morin, Guy Paul, 302-3 Netherlands, 220, 362-4 Moskos, Peter, 95 Netherlands Forensic Institute, 363-4 Neufeld, Peter Mosteller, Robert, 278-9, 286



Actual Innocence, 58, 117, 120	logistics and duty to, 322–5
foreword by, xvii-xix	process of, 318-22
as founder of Innocence Project, 59, 61, 117,	NRE. See National Registry of Exoneration
140	(NRE)
New İberia Research Center, 341	Nuremberg trial, 383, 385
New Jersey, 23, 258	
New Mexico, 155	objectivity and judgments, 68–9, 71–2
New Scientist, 339	O'Brien, Barbara, 82
New York	Ochoa, James, 55
abolition of death penalty in, 20, 167	O'Connor, Sandra Day, 184
animal control codes in, 336	Ohio Innocence Project, 361
defense attorney applications in, 243	Oklahoma, 342
informant regulation bill in, 98	"online solicitation of a minor" law, 317-18
new evidence procedures in, 261	open file policy, 217, 224
racial discrimination and misdemeanors,	Oracle of Delphi, 15
94–5	Oregon, 162, 170, 177, 258
The New Yorker, 58	Oregon v. Guzek, 162
New York Police Department, 94–5	Osler, Mark, 381
New Zealand, 303, 360	~ ·····, ·······, y•-
NhRP. See Nonhuman Rights Project (NhRP)	Palestine, 389
Nightingale, Florence, 393	Paul, Rand, 170, 178–9
nonhuman beings	Pearson, Edmund, 58
animal control codes, 336	Pennsylvania, 170, 177, 228–9
captivity and innocence of, 337–41	Pentagon Papers, 384
DNA and, 337–8	perjury
dog-scent lineups, 316–17	exoneration statistics from, 142
emotions and cognitive ability of, 338–40,	guilty pleas as, 269–70
350–1	legislation on, 110, 112
legal status of animals, 336–7, 349, 352–3	by police officers, 114
Nonhuman Rights Project (NhRP), 335,	by prosecutors, 209
	recantation and, 6, 109–10, 115–16
340–1, 352–3 practical considerations of habeas relief for,	Perry, Rick, 200
341–4, 354 as property and rights of, 347–8	Peru, 361–2 Pew Center surveys, 145–6, 151
summary of habeas relief for, 11–12, 334–5,	
	Philippines, 364 Pieper, Ronald, 363–4
340, 344–6 Nonhuman Rights Project (NhRP), 335, 340–1,	Pierce, Gareth, 357–8
	Pinochet, Augusto, 387
352–3 Norris, Robert, 60, 64, 121	Piteau, Shalea, 194
North American Primate Sanctuary, 340	
North Carolina Innocence Inquiry	Pitts, Freddie, 17–18
	Pittsburgh Courier, 309
Commission, 214, 269, 328	plea bargaining
Northern Ireland 202 257 8 288 0	accuracy and, 89–92
Northern Ireland, 303, 357–8, 388–9	Alford plea, 269, 289
Northrop, Alan, 128–9	in drug cases, 91, 219, 224
Norway, 362–3	evidence and accuracy as commodities,
Not Guilty (Frank and Frank), 57	86, 8 ₇ faults of, 6
"not guilty" vs. actual innocence verdict, 62, 80	
notification of systemic irregularities	informants and, 87
access to counsel after, 325–7, 332	judges' involvement in, 218–19
false motives of, 331	misdemeanors and, 87, 91, 94–6



plea bargaining (cont.)	prior convictions
perjury and, 269–70	plea bargaining and, 91
recantations and, 109	risk of wrongful conviction and, 268-9
statistics on, 86–7, 101	pro bono legal and investigative services. See
summary of, 89–92	clinical legal education
use of, 15, 278–9	propaganda in wartime, 381
See also evidentiary inaccuracies	prosecutorial misconduct
Poland, 304, 364	in Abernathy case, 215
police interrogation	Brady v. Maryland, 8–9, 23–5, 52, 208
best practices in, 48–9, 53, 77	Medwed on, 217
in China, 366–7	open file policy for prevention of, 217, 224
coercion, 41–3	perjury, 209
double-blind procedures, 89, 96, 249, 258	political pressure and, 219–20, 331
lineup reform, 22–3	prosecutor training program for prevention
Miranda rights reforms and, 10, 15, 275-7	of, 220–2
reforms to, 10, 249–50	prosecution-defense balance and reforms,
statistics on, 47	23–5
videotaping of, 217–18, 250, 276–7	in Provience case, 214–15
police procedural misconduct	review board for prevention of, 217
examples of, 213, 216–17	rulings on, 222
Fourth Amendment exclusionary rule and,	in Sledge case, 214
274-5	statistics on, 52
perjury, 114	study of NRE samples on, 212–14
Ponsonby, Arthur, 380	summary of, 8–9, 208–22
Pope Innocent III, 381	Supreme Court on, 209
Porter, Anthony, 269, 283	systemic problems and, 210
Porter, Dennis J., 108–9	in Vasquez case, 215–16
Portugal, 225	See also trials
Posner, Richard, 194–5, 339, 344, 352	prosecutor training program, 220–2
post-conviction exoneration. See DNA	proven false confession, 67–8
exonerations; exonerations	proven false conviction, 68
post-conviction reforms	Provience, Dwayne, 214–15
AEDPA, 26–7, 253–6	public defense lawyering. See defense
summary of, 10, 247–8, 252, 256–7	lawyering
See also appeals; criminal justice system	Puerto Rico, 361–2
reforms; habeas corpus relief; <i>specific</i>	Putnam, Constance, 141
processes	
posthumous exonerations, 10–11, 142–4, 154,	Quinn, Pat, 109, 176–7
291–2, 294–5	2,,, - / - /
Potter, Deborah, 69	Raab, Selwyn, 19
poverty and wrongful convictions, 30–1	racial discrimination
See also defense lawyering	capital punishment and, 7
Powell, Lewis F., Jr., 21, 26–7, 218	in death sentencing, 146, 150
Power, William, 358	DNA exonerations and, 44–5
POWs (prisoners of war), 345, 353-4	eyewitness misidentification and, 48
Prejean, Helen, 146	historical record and wrongful murders, 31
Presti, Carmen and Christie, 341	in Maryland, 95
Presumed Guilty (film), 362	misdemeanors and, 94–6
pretrial testing vs. DNA exonerations, 8,	in New York, 94–5
12–13	posthumous exonerations and, 10–11, 294–
Primus, Eve Brensike, 95	statistics on, 295–6
1	Juliones 011, 293



summary of rape cases and, 291-2, 296-7,	Rehnquist Court
304-5	on habeas corpus, 26–7
Supreme Court on, 297–8	procedural reforms by, 26-7
trials and, 102	See also United States Supreme Court
Whitmore case, 18–20	Reid interrogation method, 250
See also National Office for the Rights of the	Reinhardt, Stephen, 235
Indigent (NORI); slavery	religious community on death penalty, 146-7
Racial Justice Act (2014), 43	residual doubt, 163–9
Radelet, Michael	retributive benefit of death penalty, 171
chapter by, 138–51	Réveilhac, Géraud, 382
on death penalty and innocence, 304	reversal judgments, 51-3
DPIC Innocence List and, 57-8, 140-2	Reyes, Matias, 42
on exoneration vs. innocence, 62-3	Richardson, Carole, 357-8
Stanford Law Review 1987 article,	Richardson, Gerard, 211
57-8, 149	right to counsel. See Sixth Amendment
Radin, Edward, 57	Risinger, D. Michael, 266–7
The Raffi Horror Show (film), 362	Ritter, Bill, 143, 294
railroad tort case, 191–3	Rivera, Jacques, 114, 116
Rakoff, Jed, 86–7, 167	Rivera, Juan, 51
Rampart mass exoneration, 91	Roach, Kent, 388
Rand Corporation Study, 228-9	Roberts, Amber, 216
rape cases	Roberts, John G., 164
Central Park Five, 41–3, 295	Robinson, Zoë, 159–73
of children, 171–2, 215–16	Rockefeller, Nelson A., 20
conviction errors in, 295-6	Rodriguez, Josefa "Chipita," 295
DNA evidence and, 186, 295-6	Ross v. Moffitt, 27
feminism and, 300-2	Rousseau, John, 309
in Louisiana, 298–300, 306, 308–9	Rudin, Norah, 188
reforms and, 300–2	Rudolf v. Alabama, 308
summary of race and, 291–2, 296–7,	Ruffin, Larry, 44
304–5	Rutledge, Wiley, 383
Supreme Court on race and, 298	Ryan, George, 176–7
See also sex crimes	
reasonable doubt. See residual doubt	Sacco, Bartolomeo, 16, 142-3, 291-2
Recalibrating Constitutional Innocence	Salvador, Jonathan, 323, 330
Protection (Smith), 171	same-sex marriage, 346
recantations	Sawyer v. Whitley, 28
DNA exonerations and, 106, 112	SBS. See Shaken Baby Syndrome cases
Dotson and, 6, 106	Scalia, Antonin
of informants, 93	on conviction success rate, 16, 76
perjury and, 6, 109–10, 115–16	on death penalty, 163-4, 172-4
plea bargaining and, 109	on punishment phase and proof of
skepticism of, 106–7, 111	innocence, 162–3
in Whitmore case, 19	on unreliability of death penalty, 161
See also false trial testimony	on wrongful convictions, 58
recidivism, 268–9	Scheck, Barry
Red Inocente, 361 reentry challenges post-exoneration, 119–20,	Actual Innocence, 58, 117, 120 establishing Innocence Project, 117, 140
148 Registry. See National Registry of Exonerations	foreword by, xvii–xix as founder of Innocence Project, 59, 61, 117,
(NRE.)	as founder of innocence 1 toject, 59, 61, 11/,



416 Index

Schiff, Gordon, 192 Sise, Joseph, 341 Schlup v. Delo, 28, 256 Sixth Amendment, 132, 232 science-dependent cases See also ineffective assistance of defense circulatory reasoning in, 194 counsel (IAC) Sixty Minutes, 108 definition of innocence in, 8 differential etiology in, 191-3 skepticism errors and future of innocence in, 187-8 in history of criminal innocence, 3-4, 28, 58 Innocence Movement and, 201-2 of recantations, 106-7, 111 skepticism and, 188-93, 349 science-dependent cases and, 188-93, 349 See also DNA technology; forensic evidence slavery, 343-5, 347, 353 Scientific American, 338 See also racial discrimination Scott, Winfield, 381-2 Sledge, Joseph, 51, 214 Scottsboro Boys, 16, 304 Sloan, Virginia, 147 Sege, Bob, 195 Slobogin, Chris, 267–8 Smith, Earl, 305 Sellenger Centre Criminal Review Project, Smith, Larry Dean, 153 360 sentencing reforms, 20 Smith, Robert J., 159-73 snitches. See informant testimony serology, 49 See also forensic evidence Snowden, John, 143, 294 Somerset, James, 343-4 sex crimes Ashley's Laws and, 43 Sotomayor, Sonia, 153 Central Park Five, 41-3, 295 Souter, David, 159, 164 DNA exoneration statistics and, 44-5 South Africa, 303, 367, 369, 387 See also rape cases South Carolina, 295 sex laws, 43, 298-302 South Korea, 303, 313 sexual assault. See rape cases Spain, 362 Shaken Baby Syndrome cases Spencer, Timothy, 139 cases using new scientific evidence, 198-9 Stanford Law Review, 57-8, 149 condition mimics of, 195 state prisoners' rights reform, 26 confessions in, 194-5 State v. Henderson, 23 Edmunds case, 197-8 State v. Michel, 300 expert medical opinion in, 8, 192 statutory procedural reform, 20 flawed science in, 8, 187, 189-90 Stevens, John Paul, 22 judicial response to changing science in, Stevenson, Bryan, 155, 230, 243 Stewart, Potter, 150, 158, 237, 384 197-9 Stiers, Donald, 224 scientific research on, 193-7 See also Abusive Head Trauma cases Stiglitz, Jan, 123 Stinney, George, 143, 154, 292 Shavell, Amy, 149 Stony Brook University, 341 Shaw, Stuart, 360-1 Sheppard, Samuel, 16 Stovall v. Denno, 22 Sherman, William Tecumseh, 379-80, 393 Strickland v. Washington, 9, 227, 235 Sherrer, Hans, 79 Stridbeck, Ulf, 363 Stuntz, William, 90, 272, 274, 286 Shevin, Robert, 17 subjectivity and judgments, 82, 85 She Xianglin, 366-7 shoe print evidence, 49 Supreme Court. See United States Supreme See also forensic evidence Court Shulman, Tara, 123 Sweden, 199 Sierra Leone, 386-7 Simon, Alstory, 283 Taiwan, 364-6 Simons, Dan, 212 Taiwan Association for Innocence (TAI), Singapore, 364, 376 364-6



Tatel, David, 392	procedural reforms for pre-trial and, 248
Ten Principles of a Public Defense Delivery	punishment phase of, 162–5
(ABA), 242	racial discrimination and, 102
terrorism, 12, 344, 388-93	wartime, 12, 381-4, 386-7
Texas	See also judges; jury; prosecutorial
access to counsel and systemic errors in,	misconduct
326–7	Tribe, Laurence H., 347, 349
contraband cases in, 216-17	Trotter, Gary, 388
Forensic Science Commission, 323, 331	Truth and Reconciliation Commission, 387
Houston Police Department Crime	truth commissions, global, 214, 269, 303-4, 328,
Laboratory, 316, 321, 332	331, 387
legislation on death penalty, 98	Tuerkheimer, Deborah, 196–7
legislative reform on wrongful convictions,	Turner, Jenia Iontcheva, 219
316, 323	
mass investigations of systemic errors, 332-3	United Kingdom, 12, 54, 357–8, 369, 388–9
Office of Capital and Forensic Writs, 327	See also England; Great Britain; Northern
perjury case in, 115–16	Ireland
posthumous exonerations in, 295	United States
statistics on new appeals in, 333	declining death penalty rate in, 145-7
statute on new scientific evidence, 201	FBI and DOJ on evidentiary inaccuracies,
systemic irregularities in, 317-22, 330	144
The Constitution Project (TCP), 147	Guantánamo Bay detention by, 344, 390–3
Thibodeaux, Damon, 49	homicide rates, 146
Thomas, Arthur Allan, 303	state death penalty laws, 176
Thomas, George C., III	See also United States Supreme Court;
chapter by, 208–22	specific agencies; specific states
references to, 277	United States Constitution. See specific
Thompson, James R., 112	amendments
Thompson, Kenneth, xviii	United States Supreme Court
Thompson, Sandra Guerra, 314–28	on accuracy of pleas, 89–90
Thurman, Joe, 224	on Bordenkircher v. Hayes, 218
Tommy (chimpanzee), 340–1	on constitutionality of death penalty, 153,
trespassing convictions, 94–5	161, 173
Trial Manual for the Defense of Criminal	on constitutionality of DNA databases, 85
Cases (Amsterdam), 239	on death sentences for disabled persons,
trials	146
conviction phase, 161–3	on detentions and habeas relief, 344, 391
DNA exoneration statistics and, 44, 49	DNA technology and, xvii–xviii
evidentiary inaccuracy and, 88–9	on expert opinion in medical cases, 192
exoneration and multiple, 18, 51–3	on function of trial, 88
exoneration statistics and, 89	on gay marriage, 346
false trial testimony, 6	on habeas relief, 342
flawed forensic evidence and, 49–50	on Hinton v. Alabama, 230–1
Fourth Amendment exclusionary rule and,	on IAC, 227
274–5	on juvenile death sentences, 146
function of, 88, 100	on new evidence, 285, 330–1
_	
jury and representation in, 29, 299 legal innocence and, 28–9	on prosecutor's duty, 209 on punishment phase and proof of
open file policy, 217, 224	innocence, 162–3
post-conviction and requests for new,	on race and rape cases, 297–8
	on right to counsel, 241
252-3	on fight to counser, 241



418 Index

United States Supreme Court (cont.) theological interpretation on, 393 on wartime and innocence, 384-5 war crimes and military tribunals, 12, 381-4, on Yamashita tribunal, 383 386-7 Warden, Rob See also specific cases; specific constitutional amendments; specific justices chapter by, 106-10 United States v. Agurs, 25 as founder of NRE, 59-60 United States v. Bagley, 25 on media and Innocence Movement, 29 United States v. Booker, 234 on recantations, 286 United States v. Hebshie, 231, 240 See also National Registry of Exonerations United States v. Quinones, 169 (NRE) United States v. Wade, 22 Warren Court University of Cincinnati Law Review, 361, 363 on evidence disclosure, 23-5 University of Michigan Law School, 59-60, 142 on habeas corpus, 25-6 See also National Registry of Exonerations innocence and, 15-20 (NRE) post-conviction relief in, 25-8 See also United States Supreme Court University of Washington School of Law, 6-7 See also Innocence Project Northwest Washington, 170, 178, 234 (IPNW, University of Washington) Washington Post, 176-7, 198, 210-11, 315 University of Witwatersrand, 367 Webb, Cathleen Crowell, 106 Weed, Douglas, 190, 193 vacated judgment statistics, 51 West, Valerie, 228 van den Haag, Ernest, 149, 157 Westlaw database, 208 Vanek, Daniel, 364 Whitmore, George, Jr., 18-20 "Why Innocent People Plead Guilty" (Rakoff), Vanzetti, Nicola, 16, 142-3, 291-2 Vasquez, David, 2-3, 111, 139 86-7 Wicoff, Robert Vasquez, Mario, 215-16 Versailles Peace Conference (1919), 396 chapter by, 314-28 victims of crime vs. victims of wrongful references to, 331-2 convictions, 265-70 Wiggins, Kevin, 232, 237 video record of testimony, 217-18, 250, 276-7 Wiggins v. Smith, 232, 237 Wikileaks, 392 Viets, Wilco, 363-4 Virginia, 305, 323 Wilcoxson, Robert, 269-70 Voboril, Jan, 364 Will, George, 147, 178 Williams, Johnny, 47 Wales, 360 Willingham, Cameron Todd, 93, 144, 159-60, 168, 200 Walker, John, 358 Walzer, Michael, 393 See also arson cases war and innocence Willis, Ernest Ray, 200-1 belligerent killings, 381 Wilson, Harold, 177 detention and, 386, 390-2 Wisconsin Innocence Project, 124 Wise, Steven M., 334-46 "just war" theory, 385, 396 laws of war, 385, 394 witches, 166-7, 292 military tribunals, 381-2 witness misidentifications philosophy on basic human rights and, of Abernathy, 215 385-6 of Beamer, 21-2 POWs, 345, 353-4 circumstances for, 22 presumption of regularity, 392 DNA exoneration statistics and, 45 summary of, 379-80, 393-4 innocence and, 21-3 Supreme Court on, 383-5 lineup reliability and reform, 22 suspension of truth during wartime, 380-1 as main cause of wrongful conviction, 23, terrorism, 12, 388-93



Index 419

prevalence of, 212 prevention training for, 221 procedural reforms on, 10, 23, 249, 267-8 of Provience, 214-15 racial discrimination and, 310 statistics on, 48, 249 in Vasquez case, 215-16 See also evidentiary inaccuracies; informant testimony; police interrogation Witness to Innocence, 148 Wits Justice Project, 367-8 Wolf, Tom, 177 Wolfgang, Marvin, 291, 297, 307 Woods, Cathy, 51 Woodson v. North Carolina, 164-5 World War I, 382 World War II, 382-4 writ of habeas corpus. See habeas corpus relief wrongful convictions Bedau on, 152 Borchard on, 30 compensation for, 42, 121, 128 crime victim vs. victims of, 265-70 death penalty support and, 148-51 definition, 3, 5, 13 factors in capital cases, 173 famous historical cases of, 16 Garrett on, 5, 24 ghost of the innocent man, 16 Gould on, 24 Guantánamo Bay detentees, 344, 390-3 history of scholarship on, 57-8, 60, 117, 139-40 individual investigations of, 314 informant recantation in, 93 informant testimony and, 87, 92-4 legislation on, 77, 85, 316, 323 list of sources of, 87-8, 121, 228, 314 mass investigations of, 314-15 misdemeanor pleas and, 87, 91, 94-6

paid settlement for, 42 poverty and, 30-1 priors and risk of, 268-9 procedural barriers after discovery of, 315-16 recommendation for more research on, 271, reentry challenges post-exoneration, 119-20 Scalia on, 16, 58, 76 societal cost of, 268 societal effects of, 119 statistics on, 4 term "proven false conviction," 68 war crimes and, 12 See also criminal justice system irregularities; criminal justice system reforms; death penalty; DNA exonerations; exonerations; innocence; Innocence Movement; specific cases and criminals; specific causes wrong man cases, xvii, 57-61 See also factual innocence; innocence Wylie, Janice, 18 Yackle, Larry, 26 Yamashita Tomoyuki, 382-4 Yarris, Nicholas, 177 Youngblood, Larry, 52 Zalman, Marvin on Allen and Laudan risk ratios, 266 on DPIC's interpretation, 78

on Allen and Laudan risk ratios, 266 on DPIC's interpretation, 78 on exoneration as term, 62 on innocence consciousness, 60, 77 on Innocence Movement, 129 on Innocents Database, 79 Zarowsky, Lara, 127 Zhang Zaiyu, 366–7 Zimring, Franklin, 148 Zúñiga, Toño, 362 Zuziashvilli, Yitzhak, 364