



National Summit On Wrongful Convictions:

Building a Systemic Approach to Prevent
Wrongful Convictions



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Report from the International Association of Chiefs of Police/U.S. Department of
Justice, Office of Justice Programs Wrongful Convictions Summit

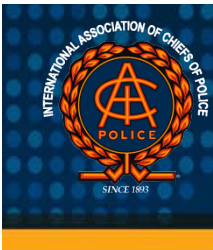
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Dear Colleague:

Over the past several years, both the International Association of Chiefs of Police (IACP) and the Department of Justice's Office of Justice Programs (OJP) have been addressing the issue of wrongful conviction from a number of critical perspectives. The issues IACP and OJP have addressed include investigative procedures, model policies and best practices, and the impact of a wrongful conviction on both the victim of the original crime and the individual wrongfully accused and convicted of that crime. Combining our resources in 2012, IACP and OJP hosted a national policy summit chaired by then IACP President Walter McNeil to create a comprehensive strategy to reduce wrongful arrest, prosecution, and conviction.

As a result of that summit, it is with great pleasure that we provide you with a copy of the IACP/OJP *National Summit on Wrongful Convictions: Building a Systemic Approach to Prevent Wrongful Convictions*. As criminal justice professionals, our greatest responsibility is the prevention and remedy of any miscarriage of justice. The steps we take each day to prevent the wrongful arrest, conviction, and incarceration of innocent individuals enable us to ensure the rights of the accused, justice for crime victims, accountability for the true offender, the honor of our professions, and public faith in the American legal system.

In this spirit, the IACP and OJP collaborated to hold the National Summit on Wrongful Convictions in August 2012. This event gathered 75 subject matter experts from all key disciplines to address and examine the causes of and solutions to wrongful convictions across the entire spectrum of the justice system. Summit participants worked diligently during this one-day intensive event to craft 30 focused policy recommendations that guide the way to our collective mission to continually improve the criminal justice system.

The summit focused on four critical areas: (1) making rightful arrests, (2) correcting wrongful arrests, (3) leveraging technology and forensic science, and (4) re-examining closed cases. The 30 resulting recommendations directly address these areas and lay a critical foundation for required changes in investigative protocols, policies, training, supervision, and assessment.

We urge you to read this report carefully. We hope you will use the information and recommendations contained within to improve criminal justice policy and practice in your jurisdiction. We will continue to provide information, research, and support as you move forward with these recommendations. Preventing and responding to wrongful convictions is a system-wide problem and it will take all of us working together across the entire justice continuum to solve it.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig T. Steckler".

Craig T. Steckler
President
International Association of Chiefs of Police

A handwritten signature in black ink, appearing to read "Karol V. Mason".

Karol V. Mason
Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice



“Injustice anywhere is a threat to justice everywhere.”

- Martin Luther King, Jr., Letter from Birmingham Jail, 1963

Preface

The International Association of Chiefs of Police (IACP) gathered 75 subject matter experts to create a national strategy to prevent and reduce wrongful convictions. Before presenting the findings, it is important to put the work of the summit in the proper context. Wrongful conviction is not a new issue. It has been at the forefront of justice system policy concerns for over a decade. Individuals and organizations ranging from national justice and law enforcement leadership organizations to private sector groups like the Innocence Project have helped bring the issue to the forefront as a serious concern to the nation.

The true number of wrongful convictions remains unknown. What we do know is that the number of documented exonerations reveals a significant justice issue. The National Registry of Exonerations reports 1,135 exonerations of any kind from 1989 to 2012. Looking at DNA exonerations alone (part of the Registry’s larger number), the Innocence Project reports 307 post-conviction DNA exonerations since its data collection began in 1992.¹ What we also know is that law enforcement officers, prosecutors, defense attorneys, judges, and

juries work tirelessly every day to ensure that the right person, the person who committed the crime, is the one who pays for that crime. Lastly, we know that with the vast majority of justice system professionals putting forth their best efforts, wrongful arrests, prosecutions, and convictions still occur.

The premise of the IACP summit, a unique event where the law enforcement community took the lead on a national symposium on the topic of wrongful convictions, was that any wrongful conviction is one too many. The damage done to the defendant, the crime victim, investigators, prosecutors, defense attorneys, the entire justice system, and the community is massive. From a uniquely law enforcement perspective, the damage done to the trust bond between the police and their communities is significant. And the damage goes even further as the true criminal remains free to commit new crimes and create new victims. Looking beyond extremely violent felonies—often a focus of research in this area—how many lives are ruined when a young person is sentenced for robberies or burglaries they did not commit?

The IACP began its work to examine and address wrongful convictions many years before the summit. That examination was led by several key IACP committees

¹ Update: 2013, The National Registry of Exonerations, University of Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law (April 3, 2013).

with significant concern and investment in the issue: Professional Standards, Ethics and Image; Police Investigative Operations; Forensics Science; and Research Advisory Committee. Working together, these committees recognized that a wrongful conviction is simply the end result of a failed investigative process and the subsequent wrongful arrest and prosecution. Collaborative efforts among these committees began in 2009 when they collectively urged the IACP and its Department of Justice (DOJ) partners to provide significant support to law enforcement investigators to arm them with all of the tools they need to conduct rigorous criminal investigations and avoid wrongful arrest.

Comprehensive, well-crafted policies and protocols are a key component of investigative best practices. To raise attention to this issue, in 2012, the IACP National Law Enforcement Policy Center released a compendium of model policies that could help mitigate wrongful arrest. The compendium highlights policies available to all law enforcement agencies through the Center that address core investigative issues including unbiased policing, eyewitness identification, forensic science, false confessions, and the disclosure of exculpatory evidence.

Beyond the work of the IACP, the summit also benefitted from a significant body of research and policy work accomplished by DOJ, in particular the Office of Justice Programs (OJP), the academic research community, and investigative work of advocacy groups like the Innocence Project. The value of this prior research was the consensus of themes that emerged. Each effort reinforced the complexity of the issue; acknowledged the almost-always good intention of witnesses, victims, investigators, and the justice system; and, most importantly, identified a set of issues that if addressed through enlightened policy

could significantly reduce future wrongful convictions.

Given all that had preceded it, the summit was not an event to “discover” relevant issues around wrongful convictions. It was, in fact, a gathering of subject matter experts who had already dedicated years to understanding and addressing the issue. The summit was a seminal event in that it was the first national level wrongful conviction symposium led by law enforcement. Law enforcement officers put their lives on the line every day to keep their communities safe from any threat. On a daily basis, these officers make thousands of arrests based on quality investigations that lead to successful prosecutions and convictions of criminals. Law enforcement professionals have no tolerance for the arrest of the wrong person.

The Wrongful Conviction Summit was then IACP President Walter A. McNeil’s vision—to address an issue that affects the entire criminal justice system and each of the communities served by that system. Positioned at the front-end of the justice continuum, law enforcement identifies, interviews, arrests, and charges the defendants in almost all crimes. In many ways, the summit could have been titled “Wrongful Arrest and Prosecution,” but advisors felt that the highly recognizable term “wrongful conviction” made the most sense. However we refer to the problem, law enforcement can take a lead role in preventing and reducing wrongful conviction by eliminating the arrest of the wrong person.

A Very Personal View of Wrongful Conviction: How One Victim's Experience Helped Summit Participants Focus Their Work

Jennifer Thompson was a keynote speaker at the opening plenary session of the summit.

When Jennifer Thompson was a college student in Burlington, North Carolina, in 1984, everything in her life was going just the way she had hoped. She had a 4.0 GPA, she was dating a great guy, and she worked two jobs so that she could afford to live in her own apartment.

“Life was perfect,” she told attendees during her keynote speech at the 2012 IACP Wrongful Convictions Summit.

But then she suffered one of the most horrific crimes imaginable: an intruder raped her at knifepoint. During the assault, the perpetrator threatened to kill her. At that moment, Thompson made two decisions: she was going to live and she was going to remember every detail about the assailant so that he would go to jail for what he did to her.

And she thought she had.

Thompson worked with the local police department, a composite sketch was circulated, and she identified the man she thought attacked her—first in a photo array and then in a lineup. Police called her a “perfect witness.” A subsequent trial led to a conviction and life sentence for Ronald Cotton.

Eleven years later, in 1995, the police contacted Thompson. She was asked to provide a DNA sample for further analysis in the case. Three months later, police returned to her house and told her the unthinkable: it was not Ronald Cotton who had raped her. Cotton was innocent, and another man, Bobby Poole, who was serving consecutive life sentences for a series of rapes, was the perpetrator.

Cotton, then 33 years old, had spent the last 11 years in prison for a crime he did not commit.

“One-third of his life was gone,” Thompson said. “He had become the victim, and I had become the offender.”

After Cotton was exonerated and released, the two met and shared their recollections of the events with one another. Remarkably, over the years, they have not only become close friends, but advocates working to prevent and overturn wrongful convictions. Together, along with Erin Torneo, they wrote a book about their experiences called *Picking Cotton*, published in 2009.

Once called the perfect witness, Thompson is now focused on the need to reform eyewitness identification procedures.

The IACP is indebted to Ms. Thompson. While significant progress on preventing and correcting wrongful conviction has occurred in the almost three decades since her case began, her opening comments motivated all summit participants to take a very careful and thoughtful look at all aspects of wrongful arrest, prosecution, and conviction. The results of the summit presented in this report in many ways reflect the desire of all those present to turn Ms. Thompson's experience into innovative policies to further reduce the occurrence of wrongful convictions across the United States in the future.



Acknowledgements

The IACP is immensely grateful to a number of individuals who contributed their time and talent to summit planning and execution. Their efforts were instrumental in creating a successful summit and this report, containing discussion points of critical issues and 30 recommendations to prevent and correct wrongful arrests, prosecutions, and convictions. In particular, we thank:

Then IACP President Walter A. McNeil for his vision, leadership, and for making it a priority to address wrongful arrests, prosecutions, and convictions on a national level, in his presidential agenda, and during his tenure as President.

To ensure that this major initiative had IACP Board of Officer oversight at all times, then President McNeil appointed David Walchak, the 2012 IACP Parliamentarian, to serve as the Chair of the Summit Advisory Committee. His constant and insightful counsel to IACP staff as the summit process unfolded was essential to its success.

Several IACP committees led the way starting over a decade ago with a call to address wrongful convictions aggressively from a law enforcement leadership perspective, and more recently, helping guide the design and content of the summit itself. We thank the

chairs and all members of the following IACP committees:

- Police Professional Standards, Image and Ethics Committee, chaired by Ron McBride, Chief of Police (retired);
- Police Investigative Operations Committee, chaired by Pete Modafferi, Chief of Detectives, Rockland County (NY) District Attorney's Office;
- Forensic Science Committee, co-chaired by Stephanie Stoiloff, Senior Bureau Commander, Miami-Dade (FL) Police Department and Ron Miller, Chief of Police, City of Topeka (KS) Police Department; and
- Research Advisory Committee, co-chaired by Professor Laurie Robinson, George Mason University, and Commissioner Ed Davis, Boston (MA) Police Department, and continuously supported by former Co-Chair Dr. Charles Wellford, University of Maryland.

We are grateful to OJP for their strong support of the summit. Acting Assistant Attorney General Mary Lou Leary welcomed participants with opening comments and relayed the commitment of OJP in making these issues a priority.

We thank Bureau of Justice Assistance (BJA) Director Denise E. O’Donnell for her leadership and commitment to addressing wrongful arrests, prosecutions, and convictions, along with several key BJA staff including Associate Deputy Director Pam Cammarata, Deputy Director for Policy Kristen Mahoney, Senior Policy Advisor Kim Ball, Division Chief Naydine Fulton-Jones, and State Policy Advisor Kerri Vitalo-Logan. We especially thank BJA Policy Advisor Kate McNamee who worked closely with IACP staff at every step of the way providing excellent advice. BJA also provided essential funding support for the summit event.

We also thank our other DOJ partners who lent both financial and policy support throughout the summit, in particular the National Institute of Justice (NIJ). We are grateful to former NIJ Director John Laub, NIJ Deputy Director Kris Rose, and Division Director Angela Moore. We particularly thank Social Science Analyst Eric Martin for his advice and guidance throughout the summit process.

The Office for Victims of Crime (OVC) also lent their expert advice on all aspects of victimization as it relates to wrongful conviction. We thank Acting OVC Director

Joye Frost and her staff for that important advice and guidance.

The summit succeeded in great part due to the expert advice of our Advisory Group (listed in Appendix A). These advisors lent their time and talent to thinking through summit concept, goals and objectives, design, and desired outcomes. Their hard work is reflected in the success of the event itself and the content of this final report.

Most importantly, we thank each of the more than 75 summit participants (listed in Appendix B) for coming to the summit ready to serve and for bringing with them an open mind, vast field expertise, and a determination to work collectively to develop the recommendations found in this report.

Our gratitude extends to the experienced panelists who presented at the summit, each of whom has been fully invested in this topic for many years.

Executive Summary

Everyone wants to see the right person brought to justice, and no one wants to be a part of a failed effort that sends the wrong person to prison. Still, even with the best of intentions, wrongful arrests, prosecutions, and convictions can and do occur. They have a profoundly damaging impact on everyone, from the innocent person convicted, to the victims, communities at large, law enforcement, prosecutors, defense attorneys, judges, and juries. The only person immune to this damage is the actual offender who remains unaccountable and at large, free to commit new crimes and create new victims.


Research tells us that a myriad of missteps and inaccuracies lead to wrongful arrest, prosecution, and conviction, not just one person or one action. The IACP Wrongful Convictions Summit brought together practitioners and experts from around the country and challenged them to create a blueprint to reduce wrongful convictions in the United States.

The IACP convened the Wrongful Convictions Summit in Alexandria, Virginia, in August 2012 with the support of OJP, and with funding support from both BJA and NIJ. The goal of the summit was to examine the issues surrounding wrongful arrests, prosecutions, and convictions and, most importantly, develop a set of recommendations that

law enforcement leaders and their justice system colleagues can both implement and evaluate.

Over 75 subject matter experts from law enforcement, the justice system, and the community participated in the summit. After brief opening remarks and a plenary panel on the issue, participants were divided into four working groups: making rightful arrests; correcting wrongful arrests; technology and forensic issues; and re-examining closed cases. Each working group was charged with developing a set of policy recommendations to address these four core issue areas. As a result, 30 recommendations are set forth in this report as well as an expanded discussion surrounding several overarching issues.

One critical theme at the summit was the need for all justice system agencies to be open to new information—at any point in the investigation, arrest, prosecution, trial, and subsequent appeal of a suspect. Any time new information comes forward that could indicate the need for redirection, justice system officials across the continuum must welcome and carefully examine that information. A culture of openness to new information from reliable sources was seen as a key to addressing and reducing wrongful convictions.



While agreeing that wrongful conviction is a complex issue requiring a broad set of cross-system recommendations, participants quickly focused on the front-end leadership role of law enforcement. They called for a fresh look at law enforcement investigative processes, policies, and culture. Pointing out the critical role of the police in preventing a wrongful arrest, they saw a need to change the investigative climate to one that welcomes greater assessment and oversight; is receptive to new information regardless of its “fit” with current case information; ensures that proper protocols and best practices are in place and utilized; fosters more frequent and improved training for investigators; and promotes a collective ownership approach to cases versus the current narrow model where one or two investigators may have complete responsibility for review, analysis, and case direction.

Leveraging existing and emerging technology was another principal summit theme. Participants urged that investigative teams should have access to the best technology available, from advanced forensic science applications to handheld electronics that capture voice and video data. These

technologies are clearly the future of investigative excellence. While they strongly supported advanced technologies as tools in the investigator’s toolkit, participants cautioned that, as with all evidence, technological evidence must be assessed in the context of the investigation that is developed through in-person investigative field work.

In the end, the 30 recommendations put forward by summit participants take a systemic view of the problem and focus on policy areas across the justice system where improvement is most likely to yield measureable benefit. As noted, they consistently cast law enforcement in a critical leadership role, setting best practice investigative approaches that can influence improvement across the justice system.

Summit Introduction

Jennifer Thompson’s story, summarized in the Preface of this report, illustrates why the IACP Wrongful Convictions Summit was necessary: wrongful arrests, prosecutions, and convictions hurt everyone—from the victim, to the falsely accused, to law enforcement, prosecutors, and defense attorneys working on a case. Moreover, it harms the community, where the real perpetrator might be committing more crimes, as well as creating new victims.

The summit addressed the topic of wrongful arrests, prosecutions, and convictions by identifying central issues and bringing together a group of diverse and respected experts and stakeholders to discuss how wrongful convictions can be prevented and corrected. The overarching goal was to develop policy recommendations that could be applicable in jurisdictions across the country. More than 75 attendees from around the country attended the summit in Alexandria, Virginia, on August 22, 2012. Participants included police investigators, law enforcement leaders from small rural and large urban departments, local and federal law enforcement and justice agencies, crime lab technicians, prosecutors, judges, victim advocates, researchers, wrongful convictions experts, and faith-based leaders.

The morning plenary session set the stage

for the summit, first with a mandate by then IACP President, Chief Walter A. McNeil, who declared that “wrongful convictions go against the fundamental freedoms we value as Americans.” He challenged participants to work together to come up with a national strategy that would reduce the number of wrongful arrests, prosecutions, and convictions nationwide. He also challenged them to craft a significant leadership role for law enforcement, given its critical role in front-end investigative and arrest decisions.

OJP Acting Attorney General Mary Lou Leary asked attendees to put themselves in the shoes of someone wrongfully convicted—emphasizing how deeply disturbing that experience is and how challenging the path is for someone to overturn a wrongful conviction against them—as well as the damage to victims of crimes, for whom it is critical that investigations and prosecutions pursue the person that committed the crime.

BJA Director Denise O’Donnell then moderated a panel of experts who began the summit dialogue by discussing their experience with wrongful convictions. Panelists included:

- Ilse Knecht, Deputy Director of Public Policy for the National Center for Victims of Crime;

- Mike Corley, Chief of Police for the Brownwood (TX) Police Department;
- Kristine Hamann, Executive Assistant District Attorney in New York City;
- Russell Canan, Judge in the Criminal Division of the Washington, DC, Superior Court; and
- Barry Scheck, Professor of Law, Benjamin N. Cardozo School of Law, Yeshiva University, and co-founder and co-director of the Innocence Project.

Panelists raised a significant number of issues in almost all areas of the justice system worthy of further discussion and work at the summit:

How police interact with victims:

- The impact of wrongful convictions on survivors of crime;
- Methods for professionals interacting with victims that can lessen the trauma they may experience during the post-conviction and exoneration process;
- The “old” method of photo lineups versus contemporary methods; and
- The responsibility of police leaders in choosing eyewitness identification methods.

How police investigate major crimes:

- Law enforcement’s responsibility in developing improved investigative techniques;
- Leveraging available technology, for example, forensic science, crime scene video, and audio/video interview recording;
- Balancing the mission of protecting public safety with the rights of the accused;

- Evaluating law enforcement investigative practices based on emerging research and promising practices versus relying on policies created decades ago; and
- Focusing on the factors that are the primary causes of wrongful convictions: misidentification, false confessions, or other admissions of guilt; jailhouse informants; and, invalidated or improper science.

How to present new ideas and changes to the law enforcement and justice community:

- How enhanced, front-end police practices can greatly reduce the prevalence of wrongful conviction; and
- The need for education and training for law enforcement staff so that they grasp the value of changes in policies and practices versus simply being told to change.

How scientific research helps prevent wrongful conviction:

- Preventing wrongful conviction means addressing human factors such as cognitive bias and, decision, skill, and perception-based mistakes; and
- The need to support a research agenda that allows police, prosecutors, judges, post-conviction lawyers, and others to examine near misses (cases where a person is arrested and charged, or even prosecuted, but not convicted)²

How the courts can play a critical role in preventing wrongful conviction:

² Gould, J. (no date). Preventing Wrongful Convictions Project. National Institute of Justice and American University, <http://www.american.edu/spa/djls/prevent/index.cfm> Retrieved March 26, 2013.

- Identify how we can use existing resources to readily identify the real perpetrator, even post-conviction;
- Role of the court in leading innocence type commissions;
- Role of the judge in the courtroom is to make sure reliable evidence is introduced; and
- Enforcement of the Innocence Protection Act.³

At the conclusion of the panel, the real work of the summit—policy development—began. Each of the summit attendees were assigned to one of four working groups focused on a key policy area. Participants shared ideas and debated the efficacy of different approaches to solve existing problems in the four policy areas. The diversity of summit participants spoke to the goal of leveraging all involved parties—from the advocates to patrol officers—to rethink the issue from the front-end law enforcement perspective.

Topics addressed:

- Making Rightful Arrests: Avoiding Errors
- Correcting Wrongful Arrests: Detecting and Correcting Errors
- Leveraging Technology and Forensic Science: Maximizing Its Value
- Re-Examining Closed Cases: Openness to New Information

This final summit report highlights the summit discussions and final 30 recommendations by reconfiguring all summit discussion into a set of more global topics: (1) understanding the challenges that law enforcement and the justice system face; (2) recognizing the solutions necessary to decrease wrongful arrests, prosecutions, and convictions; (3) the specific nature of how all of this impacts law enforcement; (4) working group recommendations; and (5) an action agenda for additional implementation.

³ Justice For All Act of 2004. The Innocence Project. (no date) www.innocenceproject.org Retrieved March 26, 2013.



Understanding the Challenges

Understanding How Wrongful Convictions Happen

How do wrongful convictions happen? The answer is a complex one—law enforcement, prosecutors, and witnesses can make missteps, and identifying these challenges and opportunities for error is critical to arriving at remedies.

Most wrongful arrests, prosecutions, and convictions are the result of multiple factors working together to create dysfunction. According to the Innocence Project,⁴ in cases where DNA exonerated the convicted party, wrongful convictions could be attributed to one or more of the following:

- Eyewitness misidentification
- Problems with forensic science such as inaccuracies and unreliable measures
- False confessions
- Inaccurate informant testimony

It is worth repeating that eyewitnesses misidentified the suspects in a high percentage of the exonerations studied.

⁴ How wrongful convictions happen—and how we can prevent them. The Innocence Project. (no date) www.innocenceproject.org Retrieved February 12, 2013.

Wrongful identification clearly can serve as the first step along a continuum of actions leading to wrongful arrest, prosecution, and conviction. A wrongful identification often leads to the pursuance of a perceived offender, less consideration given to other possible offenders, and opens the door for a myriad of missteps to be made. This over-reliance on eyewitness identification, particularly as the single reason for charging and arrest, is problematic. Even after an identification is made, the investigation should continue to make sure that the actual offender has been identified.

Understanding the Specific Challenges for Law Enforcement

Investigative Environment

Due to the inherent pressure on the justice system to quickly identify, arrest, prosecute, and convict violent offenders, the investigative environment in which both law enforcement and prosecutors work is not always conducive to healthy skepticism of evidence or the direction of an investigation. This pressurized environment can make cases more vulnerable to wrongful conviction.

Particularly in high-profile cases, the criminal investigation process is under continuous

scrutiny from victims, the media, and governing body officials. In this environment law enforcement investigators still need to be thorough and self-critical in each step of the investigative process. Hurrying that process, may reduce careful evaluation of each element of the case, allowing for premature acceptance of inaccurate information as fact. To prevent or correct wrongful convictions, law enforcement and prosecutors must be cautious and assess without emotion, the evidence that points to – or away from – a particular individual. Summit participants urged that, in particular, law enforcement investigators make every effort to catch errors before or while going down a particular investigative path. Participants then moved on to a discussion of the challenges that law enforcement professionals face as they attempt to achieve these best practices.

Training

Training law enforcement personnel on best practices in preventing wrongful arrest, prosecution, and conviction will ensure that the field makes significant strides in reducing wrongful arrests and increasing rightful ones. However, this approach is more burdensome for some departments than others, specifically agencies that do not have the resources (opportunities, funding, etc.) to provide training to their staff. Other agencies may not have the staffing to allow employees to attend training sessions critical for their jobs. This limitation stymies the potential of law enforcement agencies and the effectiveness of the investigations they conduct. Regions and states must do more to share resources, include others in training offerings, and “lend a hand” to neighboring agencies.

Funding and Resources


Thorough investigations, critical for eliminating wrongful arrests and convictions, are expensive. Many jurisdictions do not have the appropriate budget for the number

of officers or detectives needed for each case, or the most advanced equipment and technology needed for investigations. For example, some jurisdictions may not have funds for video cameras—either for first responders to use at crime scenes or to record interviews and witness statements. While uniform standards in addressing wrongful convictions would be a welcomed step, consideration must be given to the agencies that may not have the necessary resources to implement these recommendations. Sharing resources with neighboring jurisdictions or establishing a statewide fund to create funding equity among jurisdictions can be implemented to provide a foundational platform for reform in this area.

Organizational Culture

Law enforcement personnel and prosecutors start out with the best of intentions: to arrest, and later prosecute, the actual perpetrator of a crime. However, aggressive stances, governing body or media pressure, and egos are often in play. No one wants to be wrong, and everyone wants to be right—which leads to two great challenges:

1. In some instances, when law enforcement investigators have identified a particular suspect, they can lose their objectivity even when faced with contradictory evidence. This is referred to as “tunnel vision.” This phenomenon means that investigators may not listen as carefully to new witnesses, seek out information on other possible suspects, or be skeptical of apparent shortcomings in the evidence that they have developed. Investigators and their supervisors must continue to keep an open mind and pursue all relevant leads, even if they believe they have the correct suspect.
2. Most law enforcement officers have a reasonable sense of ownership about a case they are investigating.



Unfortunately, in some cases too strong a sense of ownership may prevent them from seeking input from colleagues and supervisors and stops them from being open to new information. Excessive control of an investigation by an individual officer or group of officers may make it too difficult for others to question them – or worse – enforce the unspoken rule that colleagues, supervisors, and chiefs should not interfere. Supervisors and executives must strive to make sure that all investigations are properly discussed and reviewed.

These two cultural challenges create a climate that is ripe for errors to occur and for a wrongful conviction to take place—not to mention foster a “less than best” policing and investigative environment. Summit participants urged that changes in the investigative process and culture must be made to prevent and correct future wrongful convictions.



Overcoming the Challenges

The Evolution of the Justice Culture: Preventing Wrongful Arrests, Prosecutions, and Convictions

Focusing on rightful arrests rather than quickly resolving a case under pressurized conditions is preferred by all. In order to ensure a rightful arrest, summit participants identified and discussed in detail the key features of a climate that fosters better investigations and fewer wrongful convictions: greater communication, increased and improved assessment, stronger investigative protocols, frequent and improved training for law enforcement and prosecutors, greater supervision, and improved case review prior to final arrest/prosecution decisions.

Practices that focus on the front-end of the justice system—including investigation, arrest, and prosecution—offer the most promising opportunities and strategies to prevent and correct wrongful convictions.

Communication

One key to resolving wrongful arrest, prosecution, and conviction is increasing

and improving communication among all justice parties, including victims and victims' advocates, the community at large, law enforcement officers and investigators, prosecutors, defense attorneys, and judges. Building better working relationships, centered on mutual respect and trust, within the system and with the community will promote more successful cooperation and collaboration in the future. It is imperative to ensure that communication models foster honest critique, dialogue, and productive discussion to prevent missteps.

Collective ownership of investigations and their outcomes should be encouraged from top to bottom for both law enforcement and prosecution teams.

Assessment

Law enforcement officers and prosecutors need to support a best-practices process whereby questioning the original direction of a case is not only accepted but is welcomed as a proper investigative protocol. A culture shift needs to occur so that investigators are open to case assessment and review by supervisors and the use of what summit participants envisioned as “wrongful arrest

risk-assessment tools” to prevent flawed arrest decisions. Critique and dialogue between peers and supervisors should become a staple in solid investigations. Intelligent dialogue, including admitting to uncertainty and/or mistakes, needs to be an expected part of any good investigation.

Risk-assessment and reduction tools (checklists, for example) are utilized in many other professions. Many law enforcement agencies already employ the use of checklists in their investigative protocols. Evaluating, refining, and updating these investigative tools are an investment in the integrity of the investigating agency and its staff.

The Wrongful Arrest Risk-Assessment Guide

An innovative approach discussed at the summit to reducing wrongful arrest was the development of a “Wrongful Arrest Risk-Assessment Guide.” The guide would serve as just that—a guide to help an investigative team identify any “red flags” that might lead them to believe they have the wrong suspect in custody. Features of this risk-assessment tool would include leveraging knowledge from prior research: Does the case revolve around a single eyewitness identification? Is critical information coming from a jailhouse informant? How confident does the team feel about the confession statement? Was the forensic evidence properly collected and is the forensic analysis reliable? Is there corroboration from other evidence? These questions should ideally be resolved before an arrest is made, but with the help of the risk assessment guide they can be revisited at any time prior to moving the case to the prosecutor.

Use of the wrongful arrest risk-assessment guide alerts these professionals to red flags

that may indicate the suspect (before or after the arrest is made) may not be the offender, and the actual perpetrator may still be on the streets. With this information, the investigative team focuses on apprehending the correct suspect in the first instance, thus preventing a wrongful arrest or conviction that may only be discovered years later.

Summit participants emphasized that law enforcement investigators taking corrective action based on a risk-assessment model should become an accepted practice across the country. It positions the investigative team strongly in a leadership role; avoids further damage to the department, the victim, and the wrongly accused; focuses departmental resources on finding the true offender; and most importantly, identifies the problem (wrongful arrest or potential wrongful arrest) before it moves beyond arrest to prosecution and conviction.

The goal of any credible criminal investigation is not to arrest someone, but to ensure that the right person has been charged, prosecuted, and convicted and is held accountable for their crime(s).

Summit participants spent a good deal of time discussing the accuracy and thoroughness of investigations and how these values can be incentivized rather than a “fast turnaround” outcome (i.e., arrest), which may be based on erroneous information or flawed investigative practices. Participants identified several policy areas where improved, promising practices can make a significant difference:

Investigative Protocols

Strong investigative protocols (including checklists) lead to better policing and

investigations. Protocols can help ensure investigative bias is prevented or overcome while conducting an investigation. They assist and prevent officers and investigators from overload and “auto-pilot” behaviors. These tools foster greater accountability, support for investigators, and assurance that consistent standards have been applied to each case. Ideally, protocols would be developed within a jurisdiction or would encompass multiple jurisdictions, to ensure that the same standards are being upheld, further reinforcing best practices. This may alleviate some of the resource burden of individual agencies as well.

Training

Better training ensures that promising practices and protocols are actually implemented. The following training concepts can more effectively support our collective efforts to prevent and correct wrongful arrests, prosecutions, and convictions:

- Training for investigators on how to best interview suspects and eyewitnesses;
- Training on how and when to record interviews;
- Training that would encourage (and culture that rewards) law enforcement investigators, supervisors, and leaders to question an investigation to ensure it is not going in the wrong direction;
- Training for investigators and prosecutors in victim notification and information management of a case being re-evaluated;
- Training for prosecutors so that they can identify possible wrongful arrests and prosecutions before they proceed further into the justice system;
- Training for forensic analysts; and
- Training for defense attorneys on ways

they can identify red flags in a case and bring them to the attention of police and prosecutors again before the case proceeds further toward a wrongful conviction.

Furthermore, when an agency creates a new protocol or modifies an existing one, training is always necessary to ensure everyone understands the additions or changes and can adhere to them appropriately. Therefore, each recommendation that calls for protocol review, creation, and/or revision, should recognize the need for additional training.

Supervision

Supervision of investigations needs to be present and consistent at every step in the process. Supervisors must probe the investigator about possible inconsistent evidence and encourage additional investigation. Supervisors must have the resources and time needed to conduct risk-assessment evaluations of cases. Without assessment tools or checklists and experienced supervisors’ input, it can be almost impossible to recognize red flags when they arise in a case. In the same vein, necessary resources to flag and re-evaluate a possible wrongful arrest must be available to these supervisors. These resources will help supervisors lead substantive, insightful discussions among the investigative team, and allow for significant progress in reducing wrongful arrests and subsequent prosecutions and convictions.

Post-Arrest, Post-Conviction Review

Reopening and reviewing old cases where convictions were obtained but new challenges to those convictions are brought forward is a daunting task for any agency—small, midsize, or large. Even for

larger organizations, where the need to concentrate human capital on a high number of new cases, it can be extremely difficult to find the resources to devote to closed cases. However, these challenges cannot become excuses for allowing potentially wrongful convicted persons to remain unjustly incarcerated.

The rights of those arrested must be safeguarded at all times, and that attitude and action must be passed through all ranks from the top to the bottom.

In evaluating wrongful arrests and convictions, some officers may have concerns about questioning a victim to determine if they may have made an inaccurate identification, and how they should deal with the feelings of anger, guilt, or uncertainty that the victim may have about the process. A victim-focused support system must be in place to ensure that when case re-evaluations happen, victims understand why a case might be reopened—and they understand the motivations and reasoning for correcting a wrongful arrest, prosecution, and conviction. Partnerships among law enforcement, victims' advocacy

groups, and other support organizations are encouraged to ensure the victim's needs are met. The reality of preparing a witness for a new trial and victims recognizing that their testimony could now be determined to be inaccurate is without doubt traumatizing. Again, these circumstances cannot stand in the way of a re-examination of a case where legitimate concerns of wrongful conviction are present.

Similarly, the wrongfully convicted need and deserve significant support when learning that their case is being re-evaluated and may be overturned because they may be re-entering society completely exonerated of the crime.

In summary, law enforcement agencies can serve as models when they transition to a culture that emphasizes and welcomes intelligent dialogue, critique, and self-assessment while investing in their mission through training, carefully considered protocols, and review processes. Doing so will foster the absolute best practices in policing and highlight law enforcement's commitment to protecting the welfare of all whom they serve.

Focusing on the Law Enforcement Role: Rethinking the Investigative Process

Conducting the Investigation

Improving investigations will go a long way to preventing wrongful convictions and will serve to bring the real offender to justice in a timely manner. Fair, neutral, and enhanced procedures will make investigations more reliable and just. In addition, seriously flawed investigations may expose law enforcement to civil lawsuits—actions that are preventable if investigations are improved.

Summit participants had various suggestions about how to improve the investigative process.

Eyewitness Identifications

Eyewitness misidentification is an element identified in a high percentage of the exonerations that the Innocence Project reviewed. Historically and at the present time, reliability of eyewitness identification continues to be of concern. It should be cautioned that cases based exclusively on a one-eyewitness identification, without any corroborating evidence, is inherently

weak. In light of this, more and more law enforcement agencies are appreciating the importance of adopting identification protocols that reliably elicit the witness' identification of the offender. Standard protocols and supervision are required to consider that evidence carefully and ensure agency practices did not influence the identification. Eyewitness identifications should be corroborated and scrutinized to strengthen investigations.

Over the past several years, research on eyewitness identification has begun to focus on the merits of the double-blind sequential protocol. In this approach, neither the officer nor the witness has any knowledge of the identity of the primary suspect. And when the victim views photo arrays or live lineups, the pictures or individuals in the lineup are shown sequentially rather than in a group. Most summit participants lent their support to the use of this protocol by law enforcement.⁵ They urged law enforcement

⁵ As in all IACP national policy summits, there was a healthy debate on all issues, particularly around eyewitness identification practices. Readers will note that while recommendation #1 on page 18 puts

leaders to investigate and adopt this approach once they have reviewed all pertinent research. And on the issue of research, they also called for additional field specific studies in this policy area. Finally, it should be noted that the double-blind/sequential protocol is also consistent with IACP's National Policy Center's Eyewitness Identification Model Policy.

Summit participants in their concluding dialogue on eyewitness ID protocols conceded that most prior research has been laboratory-based versus accomplished within police agencies. To that end, they recommended that departments nonetheless consider adopting the double-blind sequential approach while they also called upon the IACP and DOJ to immediately institute further field testing of this model in selected law enforcement agencies nationwide.

Informant Testimony

Informant (sometimes referred to as "jailhouse informant") testimony requires significant review and corroboration. Often, the incentives to provide false information in order to reduce one's own sentence are high. Fifteen percent of the wrongful conviction cases reviewed by the Innocence Project involved jailhouse informant evidence. Participants did not shy away from the potential value of informant information, as long as that information could be corroborated through other investigative means.

Recording Interviews

Summit participants debated whether or not to record interviews with suspects. Interview standards and policies differ radically across

forward the double-blind/sequential approach as a best practice (consistent with IACP Model Policies), concerns of some summit participants resulted in the call for further research on ID practices put forward in recommendation #2.

the United States. Advocates and opponents are equally strong in their feelings on the matter. Summit recommendations, and standing IACP model policies, support audio and/or video recording of all major crime interviews with suspects. Recording protects everyone in the room. While it can be argued that recorded evidence opens a door to critique, it also raises the level of transparency of the department to aid in the cultural shift across the justice system focusing on rightful arrests and rightful convictions. This recommendation may pose a challenge to some jurisdictions with limited resources, given the costs of the technology to achieve audio and/or video recording. Those limitations may be overcome by leveraging the support of state-level or neighboring law enforcement agencies with such capacity. Available technology resources in each jurisdiction will dictate implementation of these recording protocols.

Forensic Science

A percentage of cases resulting in exoneration reviewed by the Innocence Project had problems with forensic science evidence, for example, exaggerated testimony, inaccuracies, and invalid results.⁶ DNA is an excellent tool to make sure that a suspect has been rightfully arrested. Exonerations from decades ago would have been avoided if DNA testing had been available and utilized. Needless to say, DNA is usually not the only evidence in a case, so even when there are DNA results in a case, the investigator must review all of the evidence to verify that the correct offender has been charged. Timeliness, however, is an element of great concern in evaluating evidence such as DNA. The speed, or lack thereof, with which DNA analysis is completed can be critical in evaluating whether a rightful arrest has been made and can be significant in ensuring wrongful

6 http://www.innocenceproject.org/Content/DNA_Exonerations_Nationwide.php

convictions are prevented. Summit participants urged national-level support for timely DNA analysis without exception, particularly urging sufficient funding for state and local crime laboratories to allow for quicker DNA analysis turnaround.

Collecting and Analyzing Evidence

Uniform standards for evidence collection, retention, and preservation could bolster investigation practices and significantly reduce the chances of wrongful arrest, prosecution, and conviction. The summit participants' recommendations encourage immediate review of protocols and creation of a concrete plan to improve upon those protocols in the near term. Working collectively with other law enforcement agencies in a jurisdiction would further enhance this recommendation and perhaps reduce the resource burden.

Crime labs provide a critical service in analysis of evidence. As a critical analytical resource, they must receive sustained support. As funding for labs decreases, so does the capacity of law enforcement to carry out a successful and accurate investigation. Serious shortfalls in crime lab capacity and resources can have devastating effects on the strength and consistency of investigations.

Looking to the future of evidence collection and analysis, although it is a challenge to any discipline to keep up with technological advancements, law enforcement has a clear responsibility to do so, particularly when emerging technology to aid investigations becomes available. Continuing to learn about, train on, and implement the best current technology is critical to improving investigations and preventing wrongful arrest, prosecution, and conviction. Summit participants pointed out that the IACP and DOJ can, and should, do all that they can to help keep law enforcement aware of technology advancements and to promote

both federal- and state-level funding resources to make these new technologies accessible to law enforcement.

Re-Examining Closed Cases

When individuals or groups with new, credible evidence seek a re-examination of a closed case, the leadership capacity of law enforcement is challenged. Summit participants were clear in their thinking that law enforcement's ideal position regarding reopening closed cases must be one of openness and willingness to consider that action versus any defensive or negative posture. Law enforcement should fully support steps to reopen and re-evaluate a case if new, credible evidence emerges that decision making at the identification, arrest, prosecution, or conviction stages could have been in error. Participants suggested that examples from previously re-examined cases could be used as a training tool to show the value of openness to re-examination, particularly looking at the statistics from the Innocence Project that make it clear that wrongful convictions, while limited in number, can occur anywhere at any time given the right set of circumstances.



Final Recommendations of the Summit

At summit closure, each working group created a set of suggested policy improvements in the policy areas they were assigned to explore. The following recommendations include suggested practices to address all issues raised at the summit and put forward in this report. Those issues were broken out into four thematic topics to focus the work of the policy development groups:

- Making Rightful Arrests: Avoiding Errors
- Correcting Wrongful Arrests: Detecting and Correcting Errors
- Leveraging Technology and Forensic Science: Maximizing Its Value
- Re-Examining Closed Cases: Openness to New Information

The primary goal of the working groups was to debate and discuss the issues and, most importantly, to develop an agreed-upon set of recommendations for policy review or revision. Each working group was led by a facilitator who continually drove the discussion toward policy recommendation. Each working group had at least 15 participants from diverse backgrounds and areas of expertise (see Appendix B for the list). What follows are the 30 final

recommendations put forward by summit participants.

These recommendations, when viewed as a body of work, serve as a comprehensive platform of recommendations to help the justice system avoid, reduce, and subsequently correct wrongful arrests, prosecutions, and convictions and to simultaneously increase rightful ones. They were developed and agreed upon by a group of summit participants who took into consideration the natural leadership role of law enforcement at the front of the justice continuum, and all other components of the system as well. Implementation of these recommendations are necessary to translate summit outcomes into sustainable action.

Making Rightful Arrests: Avoiding Errors

The over-arching theme of this working group was on critical thinking, promising investigative practices, and tools to ensure that errors are avoided when making arrest decisions:

Eyewitness Identifications

1. Law enforcement agencies should conduct a full and thorough examination of their current eyewitness identification protocols and related training to ensure they are maintaining best practices, including warning the witness that the offender may or may not be in the photo array/lineup, double-blind administration, sequential lineups, avoiding confirmatory feedback, gathering a certainty statement, and documenting the process.
2. DOJ and the IACP should support implementation and conduct field research with law enforcement agencies to implement and understand the benefits of double-blind sequential versus simultaneous photo array/lineups, specifically piloting this model in selected local law enforcement agencies.
3. Law enforcement agencies should assess current investigative protocols and related training, with an eye to improving both by leveraging current research and developing policy at the national level.

Note: Debate around best practices in eyewitness ID protocols has been present across the United States over the past decade. That debate continued at the summit. Thus while there was general consensus on the above recommendations, there was a simultaneous call for further research to confirm emerging findings on, the effectiveness and impact of double-blind/sequential identification protocols.

False Confessions, Testimony, and Informants

4. At a minimum, law enforcement agencies should record audio of all interviews involving major crimes. Video recordings of interviews are preferred.

5. Investigators should gather corroborating evidence in cases of jailhouse testimony of informants. (See IACP Model Policy link in Resources.)

Preventing Investigative Bias

6. Law enforcement agencies should conduct a supervisory review to assess whether investigative bias is, or was, adversely affecting a case.
7. Law enforcement agencies should develop protocols to acknowledge, address, and limit investigative bias through appropriate policies and training.
8. Law enforcement agencies should focus training on risk-based decision making and examining lessons learned from cases involving investigative bias. (See page 11 for detailed training suggestions.)

Improving DNA Testing Procedures

9. All invested parties, including DOJ, the IACP, individual law enforcement agencies, and state and local governments, should engage and work together to improve the timeline of DNA testing and delivery of results and the reduction or elimination of testing backlogs.
10. Law enforcement agencies need to ensure that all parties (including defense attorneys, prosecutors, and victims) are notified of DNA hits in a timely fashion at any stage of the investigation.

Combined DNA Index System (CODIS) and Other Resources

11. Prosecutors and defense teams should have access to CODIS hit reports as appropriate.

12. All invested parties, including DOJ, the IACP, individual law enforcement agencies, states, and local governments, should identify ways to enhance resources for smaller agencies to conduct major crime investigations.

Correcting Wrongful Arrests: Detecting and Correcting Errors

The focus of this working group was on actions that should be taken once a wrongful arrest has occurred and new information indicates that errors may have been made. Recommendations include:

13. DOJ, the IACP, law enforcement agencies, and other invested parties should collaborate to create a wrongful arrest risk-assessment tool incorporating an investigative checklist or point system to guide both pre-arrest decisions and post-arrest re-evaluation.
14. Law enforcement agencies should ensure supervisors conduct vigorous oversight and provide ongoing guidance to all active cases.
15. Law enforcement agencies should work with prosecutors to identify the top five errors that typically lead to wrongful convictions and identify ways to reduce their occurrence.
16. Law enforcement agencies need to establish accountability at every level so that major case investigations are the purview of the entire organization, with key players involved at appropriate times in a collaborative format.
17. Law enforcement agencies need to consider and carefully craft language used when addressing the public and/or the media to communicate that a case is being reviewed or reconsidered.

18. Law enforcement agency leadership should examine and redefine, where necessary, the macro-level approach to criminal investigations, creating a culture of critical thinking and openness to new information.

19. DOJ, the IACP, and other invested parties should collaborate and consider how law enforcement agencies can create critical case review opportunities to increase transparency and decrease agency vulnerability to lawsuits.

20. Law enforcement agencies and leaders should create or refine culture and climate to incentivize promising practice investigative procedures versus an exclusive focus on speedy actions and outcomes.

21. Law enforcement agencies, when reviewing and revising their investigative policies and training should focus on the three Cs: cooperation, collaboration, and consolidation of capacities and resources to increase investigative effectiveness.

Leveraging Technology and Forensic Science: Maximizing Its Value

This working group focused exclusively on the capacity of technology and forensic science to enhance the quality of law enforcement criminal investigations and arrest decisions. Recommendations included:

22. All invested parties, including law enforcement agencies, lab staff, district attorneys (DAs), and prosecutors should participate in interagency training on forensic issues, both locally and nationally.

23. Law enforcement agencies should conduct a thorough evaluation of current protocols as they pertain to evidence collection, preservation and retention, and develop a concrete plan to improve such in the near term.
24. All invested parties including law enforcement agencies, DAs and prosecutors, should adopt current best practice protocols for suspect identification procedures and for recording interviews.
25. All invested parties should seek sustained support, including accreditation and certification, based on best practice protocols for crime labs.
26. Law enforcement agencies should develop an ongoing plan to identify, assess, and invest in emerging technology that can enhance investigative quality and accuracy.

Re-Examining Closed Cases: Openness to New Information

This working group focused on how to enhance local law enforcement’s openness to, and understanding of the value of, re-examining closed cases where newly acquired, credible evidence calls into question prior decision making. Recommendations include:

27. OJP and the IACP should provide guidance, with input from national law enforcement and advocacy groups, to establish and pursue common goals and guiding principles toward identifying and resolving wrongful convictions.
28. OJP and the IACP should take a leadership role in providing examples, protocols, and/or an assessment tool of how to investigate claims of innocence.

29. NIJ, BJA, and OVC should partner to enhance research efforts and support victim notification and advocacy efforts where cases are reopened.
30. Law enforcement should take a leadership role in developing greater openness to re-examination—both on a national level with the IACP and a local level with each executive leading that charge in every investigation.

Summit Recommendation Implementation Process

Over the course of the one-day summit, participants successfully arrived at consensus on 30 policy recommendations for future implementation. IACP and its partners will take action to further expand on these broad recommendations so that they eventually result in comprehensive policy guidelines that cover all aspects of the given issue and address the required implementation steps. These future policy documents will provide a road map to systemic improvements to prevent and reduce the number of people wrongfully arrested, prosecuted, and convicted in our nation.

To refine and further articulate the 30 recommendations to prepare them for implementation by law enforcement agencies, the IACP will:

- Recruit the support of its four committees that promoted and supported the summit from the outset – Police Investigative Operations; Forensic Science; Police Professional Standards, Ethics and Image; and Research Advisory—to adopt the summit report (possibly through a formal resolution process) and select unique sets of recommendations that each committee can then champion.

Committees that worked on selected recommendations will take the broad summit statement and turn them into draft model policies.

- Seek financial and programmatic support from DOJ, where feasible, to enable dissemination of the recommendations and implementation guidance to the field through a series of pilot projects at select major, midsize, and smaller law enforcement agencies throughout the United States.
- Leverage private sector support from corporate or foundation resources to use the information from the pilot field initiatives and expand these initiatives on a national scale. With strategic private sector support, it will be possible to introduce summit recommendations to the entire field and, in turn, provide technical support to inquiring agencies once they determine they want to adopt summit strategies.

By reducing the number of wrongful arrests, prosecutions, and convictions, justice will be served, public safety will improve, and the perceived value and integrity of law enforcement agencies will grow in stature. Citizens' attitudes toward the justice system will likewise improve as they see increased attention to reducing wrongful arrests, prosecutions, and convictions. Greater trust, respect, cooperation, and overall relationships across all stakeholders will naturally follow. Summit participants, the IACP, and its DOJ partners all hope that readers of this report will understand that addressing wrongful arrest, prosecution, and conviction should not be the exclusive role of any one group or organization. Rather, it should, and must, be a primary objective of our entire justice system and the communities, with law enforcement taking a leadership role at the beginning of the investigative process.

Systemic Impact of Summit Recommendations

With a cultural shift, law enforcement and the entire justice system can leverage cutting-edge research, promising practices, and forensic science to re-envision its approach to preventing wrongful arrests, prosecutions, and convictions. Part of this cultural shift must also allow law enforcement to stand ready to change course in the midst of an investigation, if new information deems that necessary. The prosecutorial culture is likely to shift as well, through close collaboration with law enforcement. Ultimately, the courts and their stakeholders, including judges and juries, will become more attuned to evidentiary strengths and weaknesses in individual cases, allowing potential wrongful convictions to be identified before they occur.



Law Enforcement Action Agenda

Positioned at the front-end of the justice process, law enforcement has the greatest potential for making rightful arrests and avoiding wrongful ones. For that reason and to promote and ensure the implementation of the 30 recommendations developed, summit participants highlighted further law enforcement–focused efforts that will promote the pursuit of best practices, strengthen policy, and greater involvement and partnerships. They urged law enforcement leaders across the country to:

- Implement all recommendations within this report applicable to law enforcement;
- Review and implement IACP Model Policies (see Resources for link);
- Identify ways to promote a culture of openness in law enforcement and prosecution offices so that wrongful arrest assessments to prevent wrongful prosecution and conviction are a valued, expected, and integral part of the investigative process;
- Establish risk-assessment tools and (where feasible) risk-assessment teams to evaluate cases as they progress to identify any red flags pointing to a possible wrongful arrest, prosecution and conviction;
- Identify statewide protocols for:
 - Improving eyewitness identification processes, including photo arrays and lineups;
 - Recording victim, witness, and suspect interviews;
 - Supporting neighboring jurisdictions in meeting goals of statewide protocols; and
 - Articulating what type(s) of forensic evidence will be collected, how analysis will be accomplished, and how findings will be routed;
- Serve on boards, focus groups, or other advisory bodies charged with avoiding and/or reducing wrongful arrest, prosecution, and conviction;
- Conduct post wrongful arrest/prosecution/conviction audits to promote a “lessons learned” environment; and
- Support and help establish research partnerships to further understanding of areas critical to wrongful arrest, prosecution, and conviction.



Conclusion

Wrongful arrests, prosecutions, and convictions damage everyone. In good faith, the justice system, beginning with law enforcement, sets out to conduct investigations, prosecute and convict suspects, and ensure that the right offender is held accountable for the crime. Most of the time, this desired outcome is achieved. However, getting it wrong, even once, is once too often, given the serious consequences.

One misstep can often lead to a series of cascading missteps, leading to wrongful arrest, prosecution, and conviction. Summit participants resoundingly believe that missteps can be prevented through better communication, training, protocols, supervision, assessment and review, and a culture of openness to new information. Law enforcement must lead that effort and is in the best position to do so at the front-end of the justice process.

Law enforcement and prosecutors should focus on rightful arrests and support enhancing and continually evaluating the investigative process. They should simultaneously avoid external pressure to make quick arrests and referrals for prosecution decisions. Policy changes to promote and reinforce the focus on rightful arrest should be solidified and implemented as soon as possible. All steps in this direction

can have a significant and positive impact on all stakeholders when rightful arrests and convictions occur.

To that goal, the participants of the IACP National Summit on Wrongful Convictions created the 30 recommendations presented here. Summit participants recognize the challenge that some agencies may face as they work to implement the recommendations, but clearly hope that the desire to avoid the profound damage that a wrongful conviction causes to entire communities outweighs those challenges. Additionally, building better working relationships, centered on mutual respect and trust, within the system and with the community will promote more successful cooperation and collaboration in the future.

A Real Example of Police Pursuing Justice, Twice...

It seemed like a simple case of good police work. They had their man, and the case was closed. Until...more than a decade later, Investigators Darrell Moore and John Munn, of the Aurora, Illinois, Police Department, heard from an informant that the man convicted, Jonathan Moore, didn't do it. By this time, he had served 12 years of his 82-year sentence for killing a man in 2000. Investigators Moore and Munn reopened the case, treated it as if it was new, and interviewed everyone again, including 10 new people now willing to come forward. They became convinced that Jonathan Moore didn't do it. The pursuit of justice was still challenging, even in light of the new evidence and the diligence of two good investigators; Jonathan Moore had exhausted all appeals and had been found guilty by a jury and appellate court. Investigators Moore and Munn didn't give up. They redoubled their efforts and built a case the State's Attorney found convincing enough to file a motion to dismiss all charges against Jonathan Moore.

As a closing thought of the summit report, it is valuable to note the kind of public and media reaction to the leadership evidenced by the Aurora Police Department in reopening a closed case and, in the end, correcting a wrongful conviction. This is the way every law enforcement agency in the United States should ideally be viewed regarding its approach to wrongful arrest, prosecution, and conviction:

"The review process by Kane County authorities can serve as a model for how to handle new evidence, said some legal experts on wrongful convictions..."⁷

"So it's downright refreshing to see dedicated law officers doing what we'd hope always would happen: using new information to reinvestigate a case and free a wrongfully convicted man—without waiting to be prompted."⁸

"The way this case was handled by the Aurora Police Department and McMahon's [Kane County State's Attorney] office is really worth praise and recognition," John Hanlon, DNA Testing Legal Director, Downstate Illinois Innocence Project.⁹

"This court is impressed with your professionalism and your sense of justice." Judge Sheldon, told the prosecutors and detectives.¹⁰

"The police officers deserve tremendous credit. This is unheard of," Larry Golden, director of the Downstate Illinois Innocence Project, told *Beacon-News* reporter Matt Hanley. "This is the kind of county you want to live in."¹¹

"There have been plenty of headlines over the years about inmates being freed following DNA data gathered by advocacy groups seeking justice for the falsely convicted. But even the Downstate Illinois Innocence Project had

7 Ward, Clifford. (March 21, 2012). "'Open mind' review led to vacated conviction, freedom: Wrongful-conviction experts praise Kane County's process when new evidence cast doubt on murder case." *The Chicago Tribune*.

8 March 7, 2012. Editorial: "Cops do the right thing to free innocent man." *The Chicago-Sun Times*.

9 Wells, G., Steblay, N., and Dysart, J. (2011). *A test of the simultaneous vs. sequential lineup methods*. American Judicature Society (Funded in part by the National Institute of Justice).

10 Ibid.

11 Crosby, Denise. (March 7, 2012). "Crosby Column: Truth is, police made Aurora proud." *The Aurora Beacon News*.

never seen a case such as this: where the police department was the driving force to free the man it helped put behind bars.”¹²

“It’s how we deal with mistakes, especially in the criminal justice system, where people’s lives are on the line, that really separate law enforcement officers who are about closing cases and preserving convictions from those who realize the job is about justice and the truth.” Steven Drizin, Legal Director, Northwestern University’s Center on Wrongful Convictions.¹³

12 Ward. “‘Open mind’ review led to vacated conviction, freedom: Wrongful-conviction experts praise Kane County’s process when new evidence cast doubt on murder case.” *The Chicago Tribune*.

13 Wells, et al. “*A test of the simultaneous vs. sequential lineup methods.*” American Judicature Society (Funded in part by the National Institute of Justice).



Resources

Update 2012: The National Registry of Exonerations, April 3, 2013, University of Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law:
http://www.law.umich.edu/special/exoneration/Documents/NRE2012UPDATE4_1_13_FINAL.pdf

Preventing Wrongful Convictions Project (National Institute of Justice), American University, Jon Gould): <http://www.american.edu/spa/djls/prevent/index.cfm>

To Err is Human: Using Science to Reduce Mistaken Eyewitness Identifications in Police Lineups (McGough, NIJ Journal 2012): <https://www.ncjrs.gov/pdffiles1/nij/238486.pdf>

Conviction Integrity Units (a sample, not an exhaustive list):

Dallas County, Texas (first in the nation): http://dallasda.co/webdev/?page_id=73

Wayne County, Michigan: http://www.co.wayne.mi.us/prosecutor/conviction_integrity.htm

New York County, New York: <http://manhattanda.org/preventing-wrongful-convictions>

National Resource Center for Child Death Review; Child Death Review Process (Michigan Public Health Institute): <http://www.childdeathreview.org/cdrprocess.htm>

Model Policies: National Law Enforcement Policy Center (IACP):
<http://www.theiacp.org/policycenter>

Lineups and Eyewitness Memory Publications and News: Gary Wells, Researcher:
<http://www.psychology.iastate.edu/~glwells/homepage.htm>

A Test of the Simultaneous vs. Sequential Lineup Methods:
<http://www.popcenter.org/library/reading/PDFs/lineupmethods.pdf>

Wrongful Conviction Review Program FY2013 Competitive Grant Announcement
<https://www.bja.gov/Funding/13WrongfulConvictionSol.pdf>



Appendix A: Summit Advisory Group

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Meg Morrow

Attorney Advisor
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Charles Reynolds

Chief (Retired)
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Patricia Riley

Assistant United States Attorney
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Susan Riseling

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University of Wisconsin Police Department

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Vision

To Serve the Leaders of Today, Develop the Leaders of Tomorrow

Mission

The International Association of Chiefs of Police is dedicated to advancing and promoting the law enforcement profession and protecting the safety of law enforcement officers. Drawing on the expertise and experiences of its membership and professional staff, the IACP serves the profession by addressing cutting edge issues confronting law enforcement through advocacy, programs and research, as well as training and other professional services.

Values

In our daily work, the IACP is guided by our core institutional values:

- **Integrity** - to live and work in accordance with high ethical standards
- **Respect** - to treat people fairly while safeguarding their privacy and rights
- **Customer Service** - to ensure that everyone we serve receives dedicated and thorough service
- **Continuous Improvement and Learning** - to constantly improve ourselves and our organization
- **Leadership** - to inspire, influence and support others in our organization and communities.



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