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**The Fairbanks Four:
Hopeless Innocence and the Flawed System that
escorted them to stagnant Wrongful Convictions**

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Abstract:

This project explores factors that lead to wrongful convictions, with a case study from 1997 on the sensitive claim of innocence on the Fairbanks, Alaska community: The John Hartman murder. As the representative model throughout the project, this sexual assault and murder case of the accused Fairbanks Four will be examined. Through a multi-disciplinary scope, the topic will be approached through numerous accounts of research, interviews, and field-work. By dissecting the Fairbanks Four case and applying it to the research of the burdensome appeals process, the supporting factors are apparent in the practices that lead to wrongful convictions. In the synopsis, methods that lead to convictions, as well as the inconsistent wavering time table, will be disclosed. Further, counter methods to tactics currently practiced and how to avoid time delays of such a rigorous and often hopeless process will also be included. With underdog defense organizations such as The Innocence Project and The Alaska Innocence Project growth and expansion, we increasingly see success in the overturn of wrongful convictions throughout the United States. This paper will argue and highlight the systemic faults in the current convictions process and identify recommendations to modify such faults in relation to the case study of the Fairbanks Four.

Introduction:

On a cold early morning in October of 1997 in Fairbanks, Alaska a body of a fifteen year old boy was discovered curbside, beaten and barely alive. This boy, John Hartman, was so badly beaten that the heinous crime scene was described as "horrific" by Fairbanks Police Departments lead detectives. Detectives Aaron Ring and Jim Grier accepted this case and began working on leads immediately. Not long after the search began, they

soon found themselves with four suspects; presently identified as the Fairbanks Four.

These four convicted men are: George Frese, Marvin Roberts, Kevin Pease, and Eugene Vent. They are linked to the murder of John Hartman, however; the question that must be asked is, on what evidence?

Though the crime scene left gruesome remains of blood, the Fairbanks Four could not be linked to the case by DNA evidence; only by what will later be argued to have been coercion, false confessions, and a bad witness testimony. There was no DNA evidence that linked the Fairbanks Four to the murder of John Hartman, which is strange because with a beating of this caliber there should have been immense blood spatter on the suspects' hands, clothing, shoes, and other articles. After all, Hartman was kicked and beaten to death – should not there have been DNA evidence on the persons who committed such an act in some form? After the searches, detectives and forensic experts concluded that of the property and belongings (including clothing) of the Fairbanks Four, there was no physical evidence that could be recovered. While one could argue this was inconclusive, it seems unlikely that all four individuals would not have some evidence; nor does it seem likely, given the circumstances that all four could have cleaned up and destroyed all the evidence in the time allowed—especially since the confiscated clothing appears to have been the clothing they had been wearing earlier in the night. Furthermore, even if one were inclined to argue for a cleanup, how was it possible that no DNA evidence was left on the victim? No fluid transfers appear to have been identified, including blood. So one might ask, how were they linked? How did a jury of their peers find these men guilty of murder? It is simple; these men were simply in the wrong place at the wrong time and the community needed someone to

blame. False confessions and a poor witness testimony added additional hindrance on their fate. This is the basic argument of this paper: standard operating procedures are inadequate to prevent these types of convictions from happening; and, the appeals process is woefully inadequate to correct early systemic errors in these types of cases. Many things were lost in the early hours of that fateful night in 1997. An innocent life, the lives from the men who profess they werewrongfully convicted, their freedom, their appeals and most of all hope: hope for the Fairbanks Four and hope for Hartman's family that the killers would be brought to justice. However, in their sixteenth year of waiting and pleading their innocence, with the assistance from the Alaska Innocence Project, comes new found hope – information. William Holmes, a man already imprisoned for murder, has confessed in a sworn affidavit that he, alongside four other Lathrop High School students, was involved in the beating and death of John Hartman. Currently, the Alaska Innocence Project is preparing for hearings in exonerating these men of their acclaimed wrongful conviction. Their mission statement clearly identifies their objective:

To identify, investigate, and exonerate individuals who have been wrongly convicted in the state of Alaska. To provide educational opportunities for advocates and for the public that fosters a culture that champions the defense of the innocent. To suggest and implement policies, practices and reforms that will prevent wrongful convictions and hasten the identification and release of innocent persons (Alaska Innocence Project).

With assistance from the executive director of the Alaska Innocence Project, Bill Oberly, this is precisely what has been done for these men. In an article by the *Alaska*

Dispatch, Bill Oberly remarked, "These things can go on a long time... Sometimes they get addressed right away, sometimes it's longer." In the case of the Fairbanks Four, the 16 year wait for hope is over; however, the wait for a future court date is unpredictable as the appellate court reopens this case.

It is now that our justice system should open their eyes to the facts – the facts that innocent men are sitting in prison and should be concerned with accuracy among convictions, instead of deeming the innocence guilty. The innocence commission by John Gould presents the following:

Twenty years ago, the claim that innocent people had been wrongly convicted of serious crimes would have been treated with general incredulity. By 2001, however, a Harris Poll found 94 percent of Americas believed that innocent defendants are sometimes executed. How did we get to this point? Many observers point their fingers at DNA testing, saying the exonerations that came to light in the late 1990s made it impossible to deny that the criminal justice system makes mistakes (John Gould, Innocence Commission).

He further goes to express that, "...the causes of wrongful convictions rest with officers and agents of a legal process; the existence of such errors represents the denial of important legal protections..." This is fact; these wrongful convictions and appeals must be looked at and carried out with great scrutiny – for the innocent rely up it.

Problem Statement:

In generating an appeal, post conviction, the process is too cumbersome, protracted, and does not benefit the justice system as a whole. When additional and relevant information comes to light, conjuring (yes, it appears to a defendant to be more

a process of “magic” than a process of science) a new appeal is too difficult and often takes great amounts of effort and time to even be heard by our current appellate courts. The justice system is entrenched with factors that lead to wrongful convictions. The demands for ethics and morality, when tactics are practiced on defendants, are superlative – however, not always executed. A demand for a dedicated safety net is in need of establishment in order to be more diligent in assisting the innocent, to prove they were falsely convicted by measures such as false confessions, flawed eyewitness testimony, or police corruption.

Background:

A wrongful conviction can be defined several ways; Huff, Rattner and Sagarin (1996) define it as, “convicted innocents...are people who have been arrested on criminal charges...who have either pleaded guilty to the charge or have been tried and found guilty; who notwithstanding plea or verdict, are in fact innocent.” For the purpose of this research, the term “wrongful conviction” will not include persons who have accepted the plea bargain in order to avoid a harsher sentence. However, it is important to recognize what leads to wrongful confessions and to acknowledge a potential for wrongful convictions based upon fear of a more serious punishment if a defense is weak, as is often feared by indigent defendants who cannot afford private legal counsel. Subject matter such as false confessions, bad witness testimony—including material on poor in-field show ups, lazy techniques for lineups, etc., dishonest information, citizen mistakes, suspect informants (bad faith or set ups) will also be material discussed in the cumbersome appeals process to overturn wrongful convictions. Even by looking into

improper court procedures consisting of: plea bargains and assembly line justice models as well as bad police work in the scope of: negligence, sloppiness, bad investigative techniques, witness testimony and poor evidence collection and chain of custody issues. All the previously stated subject matter has the potential to lead to wrongful convictions that only have the chance of fixing itself overtime. This in itself is a dilemma with post-conviction appeals – time – that even with relevant and new information, the system places unnecessary procedural road blocks in the way.

Review of Literature and Discussion:

Influence is based upon three tools: Coercion, Reason, and Reciprocity. In other words, one can force someone to comply, one can convince them to comply, or one can buy or trade something to get them to comply. In our monitoring of the Justice System, we often worry too much about the wrongful use of power and coercion and neglect the ways that reason and reciprocity can be abused. In the following section, the problems associated with police interviews, confidential informants, and witness statements will be discussed, and will close with an examination of forensic investigation. The ways these normally legitimate tools can be abused and how the results are often more damaging will also be argued. For example, when we make logical fallacies, we abuse reason. In this paper, several logical fallacies that have been made in the case of the Fairbanks Four will be argued. In addition, when we abuse incentives so that witnesses testify in order to have a reduced sentence, or when powerful entities such as the police or the prosecutors imply that they can reciprocate with guaranteed lenient sentencing, we abuse reciprocity (Muir, 2004). Throughout this review of the relevant literature on false confessions, the investigation and prosecution of the Fairbanks Four as a case

example of how these concepts manifest themselves will be used. Witness statements, police interview, confidential informants and forensic investigation practices all have the potential to abuse reason and reciprocity in leading to false confessions.

Police Interview Techniques:

In Gisli Gudjonsson's *The Psychology of False Confessions: A Handbook* (2003), confessions are categorized into four groups: "true confessions, false-confessions, true denials, and false denials." Gudjonsson further dissects confessions in a mathematical approach. For instance, "if the base rate of guilty suspects interrogated were very high (i.e. 95% or higher) then the risk of false confessions occurring would be very low, even if the police regularly coerced the confessions" (Gudjonsson, 2003, p. 173). He further states, "...where there is a low base rate of guilty suspects (e.g. less than 50% there would be greatly increased risk of false confessions" (Gudjonsson, 2003, p. 173). His logic is obvious, in dissecting the material mathematically. Because of this, "the frequency with which false confessions occur in a given country is impossible to estimate" (Gudjonsson, 2003). Even so, we know that it does occur, and the question we are thoroughly investigating is, why would someone confess to something they did not do? Gudjonsson's basis for rates at which false confessions occur is pertinent to the material of this project by understanding the numbers of those wrongfully convicted, it is evident that our system has a flaw. Though, for example, it is impossible to estimate the number of false confessions that occur within a town, we do know that from case studies and miscarriages of justice that sometimes, wrongful convictions do occur within our system.

Gudjonsson(2003) reflects that false confessions occur due to a number of factors that are in close association to the matter of custodial arrest, the interrogation, and the alleged suspects psychological vulnerabilities. C.J Ayling (1984) contributes to our understanding of false confessions by dividing them into two types: Those that are innocent of the crime they have allegedly committed, and those who were involved in the alleged offence, and overstated their involvement during custodial interrogation. Gudjonsson(2003) discusses that by overstating involvement to a crime is rather common, verses outright confessing to a crime that someone has nothing to do with.

Gudjonsson's (2013) handbook also references Leo Ofshe's (1989) definition that "a confession is considered false if it is elicited in response to a demand for confession and is either intentionally fabricated or it not based on actual knowledge of the facts that form it's content." This theoretically can "...be induced from both innocent and guilty suspects" (Gudjonsson, 2003). In the case of the Fairbanks Four, the detectives conducting the interrogation perhaps used this confession technique.

Gudjonsson believes suspects over-admit their involvement by falsely admitting to having been in the vicinity of the crime, and in some instances claimed to have witnessed the crime directly. This leads to the opinion that false confessions can occur and are manifested in two ways: when completely innocent people confess, and more commonly, when someone overstates their involvement in the matter. Though the question still arises, why would someone falsely confess? This can be due to mental health reasons, and aggressive law enforcement tactics. How frequently does this happen, and why are police interrogations causing this? According to the Innocence

Project, in approximately 25% of wrongful convictions overturned with DNA evidence, defendants made false confessions.

When we consider our case example of the Fairbanks Four, the location became the drive of the investigation. For instance, the location of the wedding that took place on the evening of October 10, 1997 at the Eagle's Hall. The police had developed a theory regarding the wedding reception as the meeting place where the young men left shortly to commit the murder and then returned as if nothing had happened. This is prominent due to the relation it placed on the defendants. Leaving the alleged suspects without a choice, the police used coercive tactics were at this wedding at the Eagle's Hall and because they believed this was the rallying point and were there they perhaps didn't see a way out of this one.

Additionally, from the text *True Stories of False Confessions* by Rob Warden and Steven A. Drizin (2009), they remark that, "...we want to underscore the critical importance of investigative reporting in exposing and helping us understand the counterintuitive phenomenon of false confessions." (Drizin, & Warden, 2009, p. 34) Investigative reports have demonstrated eleven categories of police questioning linked to false confessions: brainwashing, desperation, inquisition, child abuse, mental fragility, inference fabrication, opportunism, pretense, police force, unrequited innocence. Drizin and Warden (2009) reflect that in certain instances, interrogators will use tactics to deceitfully persuade their suspects into committing a crime. These techniques include lying to suspects about evidence that places them at the scene, and in turn, causes suspects to think that they did indeed commit the crime, and can even offer possible explanations as to why they cannot remember committing the crime.

This practice was apparent in the interviews between FPD Detectives and the young men of the Fairbanks Four. Though, perhaps these interrogations could also result in false confessions due to desperation? FPD Detectives used fabrication of evidence which placed the defendants at the scene.

According to Drizin and Warden, it is acknowledged that exhausted suspects confess due to the nature of the intense and mentally-challenging interview they have endured over an extended period of time. Some suspects feel this will work itself out after they have received some rest. With the young men of the Fairbanks Four, this may have been what was running through their minds. They claimed repeatedly that they were innocent (as can be seen in the interview excerpt below), but after hours (approximately six, with 10-15 minute breaks in-between) of interviews, George Frese broke down after his third interview with detectives who were using these tactics.

In the work of *Wrongly Convicted: Perspectives on Failed Justice*, Sandra Davis Westervelt and John A Humphrey (2000) discuss false confessions; the causes, consequences, and solutions. They state that, "despite popular perceptions, innocent individuals sometimes confess to crimes they have not committed. For example, of sixty-two wrongly convicted individuals who have been exonerated by DNA evidence in the United States, Scheck et al. (2000) note that fifteen originally confessed to the crime." Further, "...a confession is one of the most powerful pieces of evidence that can be presented in court: juries almost always believe a defendant who confesses to a crime..." In leading to wrongful convictions, false confessions "...can bias every part of the criminal justice process that follows..." (Humphrey & Westervelt, 2005, p.925).

Over the past sixty years there have been refined and sophisticated psychological interrogation tactics which have replaced those previously third-degree tactics. This has resulted in a situation where it is not apparent how American Police elicit confessions from the innocent or even why the innocent falsely confess to crimes that in turn result in lengthy or life prison sentences, or in some circumstances, execution (Humphrey & Westervelt, 2005).

By using modern interrogation techniques designed to break resistance of rational people who know they are guilty, and manipulating them to deter any denial and with the use of persuasion are methods on the rise (Humphrey & Westervelt, 2005). In continuing, "...police interrogators elicit the decision to confess by influencing the suspect's perception of (1) the nature and the gravity of his immediate situation, (2) the suspect's available choices or alternatives given that situation, and (3) the consequences of each of these choices." Humphrey and Westervelt address that "...by continually manipulating the suspect's perception of the situation and his available alternatives, the interrogator labors to persuade the suspect that he has few options except confession and that the act of admitting culpability is the most optimal, and thus the most sensible, course of action." (Humphrey & Westervelt, 2005, p. 928)

In Humphrey and Westervelt's book, the notion of "...stress-compliant false confessions" is examined (2005). Relaying that coerced-complaint false confessions can be caused by tactics coercive in nature and include the use of threats and promises. Additionally, the suspect may opt to terminate the interrogation in order to avoid coercive questioning tactics or follow through on promised rewards (Humphrey & Westervelt, 2005).

In the case of the Fairbanks Four, there are several correlations in which this can be seen. Humphrey and Westervelt remark that stress-compliant false confession occurs when the stresses and pressures of custodial questioning overwhelm the suspect and she comes to believe that the only way to terminate the punishing experience of interrogation is by confessing (2005). This is evident below in the interview/interrogation excerpts with the men of the Fairbanks Four. The authors further address three primary sources of stress which are present during the interrogation: "...the integration environment, the interrogator's interpersonal style, and the interrogator's techniques and strategies (Humphrey and Westervelt, 2005)." All which are done intentionally "...to create tensions and induce distress by making the suspect feel both powerless and anxious..." (Humphrey and Westervelt, 2005).

In searching for information about the conviction of the Fairbanks Four, it was found that former Fairbanks Daily News Minor editor Brian O'Donoghue changed positions from editor for the community paper to journalism with the University of Alaska Fairbanks. With this new profession, came time to spare in researching and developing a venue for people with concern of these individuals' (Fairbanks Four) innocence. With growing popularity, the Fairbanks Four had made known that: George Frese gave a false confession under uncertainty due to the nature that he could not recall his previous night events due to his level of intoxication. The facts of his link to the crime are as follows. "At the emergency room, medical examiner Diana Hall noticed that Hartman had bruising and tears indicating anal assault. She also saw bruises on Hartman's face that she thought looked like boot tread, and by coincidence, she was also one of the nurses who tended to George Frese's hurt foot " (O'Donoghue & Drew, 2004). In truth,

George Frese had been seen for his ailed foot that night and it was Hall who led Detective Aaron Ring to Frese as a connection in the attack. She remarks, "he told me he thought he broke his foot kicking someone downtown in a fight" (O'Donoghue & Drew, 2004). When Frese was picked up and taken into custody, he asked officers "...what would happen to him if Hartman died" (O'Donoghue & Drew, 2004). To many, this seemed like a sign of guilt, but to George it was the matter of life behind bars or his freedom.

Interviews conducted between the Fairbanks Four and Detective Ring and Sergeant Kendrick, as well as Investigator Geirer, illustrate how false confessions happen after hours of questioning. Below depicts pieces of each of the four men's interviews made available through the research conducted by Professor Brian O'Donoghue and his team. The following are pulled transcripts of the questioning and interrogation between police and the suspects.

INTERVIEW BETWEEN DETECTIVE RING (R) AND GEORGE FRESE (F) AT THE HOSPITAL A DAY AFTER THE MURDER

R: "...I THINK WE PROBABLY NEED TO SQUARE THIS AWAY CAUSE I, LIKE I SAID, I'M NOT HERE TO ARREST YOU, BUT I, I DO HAVE SOME INFORMATION THAT PUTS YOU THERE..."

F: "DOESN'T MATTER, CAUSE I DON'T REMEMBER."

...

R: "...I'D LIKE TO HAVE YOUR PERSPECTIVE ON WHAT HAPPENED."

...

F: "ALL OF US WILL TELLYOU BECAUSE THAT'S ALL I CAN REMEMBER IS THAT I DON'T REMEMBER."

R: "SO"

F: "WELL IT'S PISSING ME OFF, CAUSE I DON'T EXACTLY REMEMBER WHAT HAPPENED." (O'Donoghue & Drew, 2004)

SECOND INTERVIEW BETWEEN GEORGE FRESE (F), DETETIVE RING (R)
AND SEGEANT KENDERICK (K)

R: "...WE DROVE YOU BY THERE WHERE THIS HAPPENED AND LIKE I SAID THE, UH, SERGEANT TOOK YOUR SHOE UPSTAIRS TO ICU, AND UH, HE COMPARED IT TO A MARK ON THIS PERSON'S SKIN, AND IT MATCHES, SO WE'LL SEND YOUR SHOE AND PHOTOGRAPHS OF THAT MARK OFF TO THE CRIME LAB AND HAVE AN EXPERT MATCH THAT"

F: "YOU GOT SOMETHING"

R: "I'M SURE WE'LL MATCH..."

...

F: "...IF I KNEW SOMETHING, I WOULD REPORT."

R: "IT'S IMPORTANT."

(O'Donoghue& Drew, 2004)

THIRD INTERVIEW BETWEEN KENDRICK (K), RING (R) AND FRESE (F)

K: "...I'VE TOLD YA I THINK THAT KEVIN WAS THE RINGLEADER OF THIS AND, AND YA KNOW, YOU JUST NEED TO GET ON WITH THIS..."

F: " I JUST KICKED HIM A COUPLE TIMES, THAT WAS IT"

(O'Donoghue& Drew, 2004)

For it was this series of interviews which led to the fate and wrongful conviction of George Frese. During his three-part interview he repeatedly said he did not know, or could not remember. However, investigators and detectives persisted...until eventually he confessed – falsely.

Similarly, Kevin Pease (P) was interviewed by Detective Ring (R).

R: "...IF I CAN TALK TO YOU AND EXPLAIN ANYTHING TO YA, ASK YOU YA ANY QUESTIONS, I SUPPOSE YOU'VE SEEN THIS ON TV OR EVEN HAD OFFICERS EXPALIN THIS TO YA..."

P: "WHAT YA WANTA KNOW"

...

R: "...A FIGHT THAT HAPPENED OVER AT BARNETTE AND NINTH AVENUE"

P: "I SEEN IT ON THE NEWS"

R: "AND THAT'S WHERE YOU BEEN IDENTIFIED AS BEING. OKAY? AND, AND FROM TALKING TO THESE GUYS..."

...
P: "...MAN, I WAS WITH MY GIRLFRIEND AT FAIRVIEW MANOR"
...
P: "I WANTA TALK TO A LAWYER"
...
P: "I WASN'T EVEN THERE"
R: "OKAY, I'M NOT BULLSHITTIN YOU"
P: "I'M NOT BULLSHITTIN YOU, MAN"
...
P: "...THIS IS SICK. THIS IS FUCKED UP, YOU GOT THE WRONG PERSON.
GOT THE WRONG PERSON."
(O'Donoghue& Drew, 2004)

INTERVIEW WITH MARVIN ROBERTS (R) CONDUCTED WITH SERGEANT
KENDRICK (K), DETECTIVE RING (X) AND INVESTIGATOR GEIER (G)

G: "...AND YOU WERE THERE, AND IT DEPENDS ON HOW HARD YOU
WANT TO TAKE A FALL FOR THIS. MARVIN. DETECITVE RING TOLD YOU,
WE'VE GOT ALL THE TAPES..."
G: "YOU'RE THE LAST PERSON. OKAY."
R: " I WASN'T THERE"
G: "THIS IS THE END OF IT. SO YOU NEED TO DECIDE HOW YOU WANTA
SPEND THE REST OF YOUR LIFE. DO YOU WANTA SPEND YOUR LIFE AS
A MURDERER. OR YOU WANTA SPEND IT AS SOMEBODY THAT CAME
TRUTHFUL AND SAY I, I GOT SUCKED IN BY THESE GUYS."
R: "I WASN'T THERE"
G: "MARVIN, WE'RE BEYOND THAT POINT."
R: "NO, I WASN'T THERE"
...
R: "WHO TOLD YOU I WAS THERE?"
G: "...AND IF YOU WANTA CONTINUE WITH THIS DENIAL THING, THIS IS
SOMETHING YOU'RE GONNA HAVE TO LIVE WITH FOR THE REST OF YOUR
LIFE. BELIEVE ME..."
R: "I'M SCARED BECAUSE I'M, I'M INNOCENT"
...
R: "I'M INNOCENT. I WASN'T EVEN THERE."
G: "MARVIN,"
R: "PLEASE, PLEASE, HOW MANY TIMES AM I GONNA SAY THIS."
(O'Donoghue& Drew, 2004)

INTERVIEW WITH DETECTIVE RING (R) AND EUGENE VENT (V)

V: "I DON'T KNOW, WHY WE DID IT, PROBABLY JUST HAPPENED."

R: "OKAY."

V: "JUST DRIVING ALONG BEING DRUNK AND STUPID."

...

R: "...WHAT WAS THIS PERSON HIT WITH?"

V: "PROBABLY A BUNCH OF FISTS AND FEET."

R: "HOW MANY PEOPLE?"

V: "UH, THREE PEOPLE"

...

R: "...HOW MANY TIMES DID YOU HIT THIS PERSON WHILE HE WAS, WHILE HE WAS STANDING?..."

V: "PROBABLY JUST ONCE AND THEN I PROBABLY KICKED ...KICKED HIM A COUPLE TIMES."

...

V: "I GUESS I WAS THERE AND BEAT HIM UP"

...

R: "SO WHY WERE YOU DOING IT IF YOU DIDN'T LIKE IT."

V: "CAUSE UH, I TOLD YOU CAUSE I WAS DRUNK, AND BLACKED OUT, I TOLD YA, I WAS ACTING STUPID. I DON'T WANTA TALK ABOUT THIS NO MORE."

R: "WHAT DO YOU WANTA TALK ABOUT?"

V: " I DON'T KNOW. I DON'T WANTA TALK ABOUT, I DON'T KNOW NOTHING MAN...I'M TIRED OF TALKING."

...

R: "...YOU AND KEVIN AND TWO OF HIS FRIENDS ARE RIDING IN THIS RED ESCORT AND THEY'RE TAKING YOU HOME...YOU SEE SOME GUY WALKING, YOU STOP AND HOP OUT, YOU GUYS BEAT HIM UP, AND THAT'S WHEN YOU RUN OFF?"

V: "UH-HUH..."

(O'Donoghue & Drew, 2004)

Throughout the course of his interview, Eugene Vent repeatedly states that he does not know, or that he does not remember because he was intoxicated. Detective Ring prompts him by stating "I think..." in which Vent replies along the lines of "I think I did then..." All four young adults at the time denied their involvement in the sexual assault of Hartman, and after hours of interviewing, two falsely confessed to their involvement in the murder of John Hartman.

Errors in Eye Witness Testimony:

Flawed eyewitness testimonies are another leading cause to wrongful convictions. In *Witness Testimony Evidence* by Douglas Walton (2007), the ideas of flawed testimonies by key witnesses are exposed. Walton explores the idea that there has been a tradition in philosophy which goes back to Plato, on the disapproval for arguments which are based on witness testimony as being subjective, misleading, unreliable, and at times, impractical in evaluating. In Walton's text, Scottish philosopher Thomas Reid (1764) described his analysis as follows, "...testimony departs from the belief model in that it presents a kind of argumentation based on presumption. The underlying presumption is that witnesses generally report an event the way the witness thought it happened" (Walton, 2007, p.15). While modern evidence theorist, David Schum (1994) regards such material as "...this general presumption of arguments based on testimony in the form of a conditional: "if a person says that an event happened, then it often did happen" (Walton, 2007, p. 19). Though Coady, an analytical philosopher, "...postulated six requirements of formal testimony" as follows:

1. It is a form of evidence.
2. It is constituted by a testifier offering his remarks as evidence that we are invited to accept what he says, because he says it.
3. The testifier is in a position to do what is described in clause 2, because he has competence or credentials, or is in an authority.
4. The testifier has been given a certain status in the inquiry by being acknowledged as a witness.
5. In law, testimony is normally required to be firsthand, that is, not hearsay.
6. The testifier's remarks should be relevant to a disputed or unresolved question" (Walton, 2007).

While some of Coady's clauses may be argued, this is the basis for legal testimony. Walton explains that witnesses' evidence will typically occur as one small portion of defensible evidence, which alone creates a weak argument. However, when this is

combined with other arguments in variation, it forms mass evidence in the case (Walton, 2007).

Minds on Trial: Great Cases in Law and Psychology by Charles Ewing and Joseph McCann (2006) brings a different perspective on the reliability of eyewitness testimony. "When witnesses testify at trial, they must rely on memory of the event in order to tell a story of what they saw at a particular time and place. However, human memory is fallible because at each stage of the memory process something can occur to disrupt or impair a person's ability to accurately recall a series of events" (Ewing & McCann, 2006, p.116). In addressing factors that can impede witness testimony, Ewing and McCann look at stress factors, distractions, and impairments during their perception of the event. Furthermore, a person retains a memory by encoding it and storing it to memory. However, if time has elapsed, the memory encoding fades, leading to accuracy problems among eyewitness testimonies (Ewing & McCann, 2006). Finally, the authors remark that "...a person must be able to retrieve the information from memory; if the person is asked leading or suggestive questions; the person's recollection may change" (Ewing & McCann, 2006, p.122).

A source of error in eyewitness identification involves a trend known as unconscious transference. In cases where witnesses recognize the face of another person, the witness in return may be unclear about the original circumstances in which that face was first seen (Ewing & McCann, 2006). Another factor brought to the attention by the authors is that of jurors who rely heavily on eyewitness testimony and find this method of testimony extremely persuasive.

From the text, *Essentials of Psychology: Concepts and Applications* by Jeffrey Nevid (2012), we dig deeper into the credibility surrounding eyewitness testimony. Nevid addresses "...the credibility of long-term memory: eyewitness testimony and recover of repressed memories." In examining eyewitness testimony Nevid asks this question, "What did you see on the day in question?" In reaching a verdict, eyewitness testimony is vital. "Yet memory researchers find that eyewitness testimony can be flawed and strewn with error..." (Nevid, 2012, p.207). Psychologist Elizabeth Loftus (2004), a leading expert on eyewitness testimony, "...points out that a shockingly high number of people are wrongly convicted of crimes each year because of faulty eyewitness testimony."

Additionally, Nevid addresses that the accuracy of an eyewitness testimony involves the following factors:

1. Ease of recall – people who take longer to answer questions in giving testimony are less likely to be accurate in their recall than those who respond without hesitation (Sauerland & Sporer, 2009).
2. Degree of confidence – courtroom expressions of confidence in memory are not clearly associated with better accuracy (N. Brewer & Wells, 2006).
3. General knowledge about a subject – people who are knowledgeable about a subject are more likely than those who know less about the subject to be reliable witnesses (Sauerland & Sporer, 2009).

4. Racial identification – people are generally better able to recognize faces of people their own race than the faces of people of other races (Hehman, Mania & Gaertner, 2010).
5. Types of questions – leading or suggestive questions by investigators can result in the misidentification of perpetrators, whereas open-ended questions tend to increase the accuracy of the eyewitness testimony (Fruzzetti et al., 1992).
6. Facial characteristics – faces with distinctive features are much more likely to be accurately recognized than non-distinctive faces (G.L. Wells & Olson, 2003).

In the case of the Fairbanks Four it was an improper witness testimony which sealed their fate, along with false confessions by two of the men. After all, there was no DNA evidence linking these men to the murder of John Hartman. It was an acquaintance to the four men, Arlo Olson who "...testified that from a spot more than 100 yards away from the wedding reception, he saw Vent and three others assaulting Franklin Dayton. Olson said he was absolutely sure of their identities despite being "half shot" after drinking all night, even finishing off the evening with 100 proof Wild Turkey" ("Free the Fairbanks Four," 2013). "Defense witness Robert Shomer, a psychologist from Los Angeles specializing in suspect identification, argued that positive identifications are very difficult, especially in the dark of night" ("Free the Fairbanks Four," 2013).

Within weeks after the murder of Hartman, the police tracked down and brought Arlo Olson in for questioning in regards to the link between the wedding that took place at the Eagles Hall, John Hartman's murder, and the Fairbanks Four. It was then that Arlo claimed he witnessed the Fairbanks Four assault another man, Frank Dayton. Arlo was

also in trouble at the time for beating his pregnant girlfriend – though with the cooperation during this case, his time suddenly disappeared. In looking at the case of the Fairbanks Four; many of these factors play into the way the eyewitness testimony of Arlo Olson played out in court. “Arlo claimed, he saw them all together in Marvin’s car, jump out to assault Frank Dayton, and speed off. He testified in trial that he was “110% sure” that he had seen the four” (“Free the Fairbanks Four,” 2013).

Subsequently, this made Arlo the only witness linking the four men together on the night of the wedding and murder. Furthermore, “Arlo Olson testified that he saw all of this while standing in a group of other people, none of whom saw or heard anything...” (“Free the Fairbanks Four,” 2013).

Arlo Olson has since recanted his story of that night involving the Fairbanks Four. “He says he was pressured to say what he did, that he was wasted, that he didn’t see any of them, that the questioning by the police included showing him Marvin’s car in the police garage and asking him to identify it, telling him exactly what to say, and plainly offering him a get out of jail free card if he complied” (“Free the Fairbanks Four,” 2013).

By using dishonest informants and bad witness testimony, the wrong people end up in jail. It was in this case, that Arlo Olson caved to the pressure by detectives.

Unreliable Confidential Informants:

In *Snitching: Criminal Informants and the Erosion of American Justice*(2009), Alexandra Natapoff explains, “...criminal informant use is everywhere in the American legal system. From warrants to surveillance to arrests, police routinely rely on criminal suspects to get information and to shape investigations” (Natapoff, 2009. p. 21). Including initial charging

decisions, sentencing, and prosecution negotiations for the defendants' cooperation for reduced charges and lighter punishments (Natapoff, 2009). Alexandra Natapoff addresses that snitching has become a political, cultural, and personal phenomenon. The ideas presented in her material are simple; in fact, she remarks that the idea behind snitching is simple. One suspect provides incriminating information about another in exchange for a deal. Natapoff addresses that criminal informants represent a stressed compromise with the core goals of the criminal justice system in mind: prevention and punishment (Natapoff, 2009). However, unreliability when informants are used is not a new concept.

In Natapoff's book, Judge Stephen S. Trott of the U.S. Court of Appeals for the Ninth Circuit remarks on informants,

...willingness to do anything includes not only truthfully spilling the beans on friends and relatives, but also lying, committing perjury, manufacturing evidence, soliciting others to corroborate their lies with more lies, and double-crossing anyone with whom they come into contact, including – and especially – the prosecutor...(Natapoff, 2009, p. 69).

Natapoff concludes, "all too often, the U.S. criminal system convicts the innocent" (2009).

From the text of: *Justice, Crime and Ethics*, authors Michael Braswell, Belinda McCarthy, and Bernard McCarthy address unreliable snitches. From the *Thin Blue Line* Case, in securing testimony of David Ray Harris, the prosecution overlooked his involvement in the crime and his prior criminal offenses (Braswell, McCarthy

&McCarthy, 2012). In making the case against suspects, the police and the prosecution often rely upon "...unsavory potential witnesses, but they have a moral obligation to avoid suborning perjury and should seek independent information of evidence derived from suspicious sources (Brawswell, McCarthy & McCarthy, 2012, p.156). Was this the case with Arlo Olson, as he was known to have had a record? Olson's eyewitness testimony was not without flaws and recantation; so why was this permitted in court?

In shifting gears – former Prosecutor Daniel Medwed brings a perspective that should not go unnoticed. In his text *Prosecution Complex: America's Race to Convict and Its Impact on the Innocent*, the introduction is as follows:

James Giles served ten years in prison for a vicious rape he did not commit because prosecutors failed to provide the defense with evidence suggesting that a different James Giles was at fault. David Wong endured seventeen years in the penitentiary for a murder he did not commit because prosecutors relied on a dishonest jailhouse informant who received a recommendation for parole in exchange for his testimony against Wong. Bruce Godschalk wasted fifteen years of his life incarcerated for two sexual assaults he did not commit. He spent seven of those years fighting prosecutors just for a chance to subject the biological evidence retrieved from the crime scene to DNA testing. These three men are not the only criminal defendants who have suffered the horror of wrongful conviction due to choice prosecutors made in their cases (Medwed, 2012, p.1-2).

If this does not speak volumes on the justice system and how faults lie within, then perhaps the point is being missed. Medwed stresses measures of reform in that there

should be vast transparencies in discretionary decisions made by persecutors. Additionally, courts and legislatures need to raise the legal standard for prosecutors who justify those discretionary choices. Thirdly, ethical rules need to be concrete and disciplinary agencies that will be inclined to penalize persecutors who violate such rules. Lastly, prosecutors should develop internal review committees, which would then evaluate major decisions to deter effects of a cognitive bias.

Corruption and Fabricated Evidence:

In Tim Prenzler's *Police Corruption: Preventing Misconduct and Maintaining Integrity*, his focus is on the fact that many police officers conduct their daily routine with the utmost integrity and ethical standards; however, the fact still remains that police officer misconduct is still an issue.

In particular, by looking at police corruption in investigations, Prenzler gives the overview that when suspects are presented with irrefutable evidence, admissions are often made in which police methods such as leading will cease (Prenzler, 2009). Interrogation methods lead to wrongful convictions in which innocent persons declare their guilt stemmed from fabricated information given by police during the interrogation process. Prenzler addresses that noble cause corruption takes place and ethics are then questioned as pressuring suspects to confess and even misrepresenting their powers in order to coerce people into compliance (Prenzler, 2009).

Additionally, from the text of *Criminal Justice Ethics: Theory and Practice*, Cyndi Banks addresses new material on police corruption, deceptive practices, and police interrogation techniques. Banks remarks that police need to have regard for the rights of

suspects, and awareness of the moral issues with entrapment during interrogation (Banks, 2013). Furthermore, implied guilt may lead to intimidation, in which innocent persons react differently.

In looking at methods of interrogations, falsifications are tolerated; police are trained to use evasive measures, such as lying. For instance, a fabricated evidence file may be presented during the interrogation which may then prompt the suspect to make an admission. Additionally, method of separation is also incorporated, to use suspects against one another. However, the courts have upheld this policy; police may employ methods of deceit so long as it does not shock the conscience, or induce the innocent to confess (Banks, 2013). Police interrogation tactics remain a secretive mystery that entails morality issues and questionable measures due to the nature of the context as being ethically unacceptable.

In looking at Police Corruption, Banks addresses this aspect of noble cause corruption in which there is a tendency for law enforcement to place guilt even with insufficient evidence. Banks addresses four stages of guilt:

- 1. The Operative Assumption of guilt...assuming suspects are quilting due to the nature of questionable behaviors is apparent evidence of an offense.*
- 2. The Worst of all Possible guilt...police assume guilt, and associate danger with guilt in the believe that someone who has the most to hide will try to hid it by all possible means...which in turn, justifies severe interrogation techniques.*
- 3. The Great Guilty Place Assumption...police are suspicious and tend to operate in selective environments, in that they see danger where others would not.*
- 4. The Not Guilty (This Time) Assumption...in that police do not conclude that a person is innocent when they find no evidence of guilt...simply – they haven't been caught yet and by using pressure they will show the guilt of the seemingly innocent.*

From the text, *An Ethics of Interrogation*, Michael Skerker discusses methods of deceptive interrogation techniques as being effective in inducing confessions. From a survey conducted in 1994 by Richard Leo, 76 percent of criminal suspects who waived their right to silence confessed. Skerker does not solely blame police for interrogation methods which lead to false confessions. He addresses that prosecutors who move forth with a grand jury with unsatisfactory evidence, also include confessions that were given under pressure.

He further addresses that studies need to be done:

...concerning the reliability of various interrogation methods and false confession rates, and the findings need to be incorporated into police training. Until that is done, police at least need to be trained about the risks of false confession in interrogations, and prosecutors, judges and juries need to be further about the possibility of false confessions (Skerker, 2010, p. 101).

Though, note that he is not saying police should be dismissed from the equation either, it is simply interesting to view a perspective that entails all parties in the process of convicting the innocent.

Evidence in the John Hartman murder was slim. While a lot of blood was found on the street where Hartman's body was discovered, no DNA connection was ever successful in linking the Fairbanks Four to this crime. From the research conducted, there seems to be no fabrication of evidence, other than perhaps embellishing on witness statements from the nurse who worked in the emergency room that night and from Arlo Olson.

We often worry too much about the wrongful use of power and coercion, and neglect the ways that reason and reciprocity can be abused. In the following findings, problems that are associated with witness statements, police interviews, and confidential informants will be discussed, followed by an examination of forensic investigation. In the text, *Criminal Justice Evidence*, Collin Evans discusses how, when crimes are committed, investigators begin to search for evidence that will lead to the perpetrator. Examples include: testimonies from eyewitnesses, DNA, fingerprints, fibers, or any documents that pertain to a confession (Evans, 2010).

In the *Forensic Investigation Handbook*, Michael Karagiozis and Richard Sgaglio express the importance of proper evidence collection. Karagiozis and Sgaglio state that, "evidence is information placed before a court to prove or disprove a fact in issue" (Karagiozis & Sgaglio, 2005, p. 63-64).

In discussing evidence collection techniques, Karagiozis & Sgaglio state that evidence at crime scenes is the sole link that investigators have between a perpetrator and a victim (Karagiozis & Sgaglio, 2005). With the expansion of technology and science in forensic studies, technology is this everlasting dependable tool. In this handbook, the authors remark, "...assertions that improper evidence gathering and handling led to inconclusive or unreliable evidence in high profile cases..." (Karagiozis & Sgaglio, 2005, p. 67). Key aspects to look at include, "...conduct[ing] a careful and methodical evaluation considering all physical evidence possibilities...concentrate[ing] on collecting the most transient evidence and work[ing] to the least transient form of physical evidence..." (Karagiozis & Sgaglio, 2005, p. 118). Handling physical evidence is perhaps the most imperative process of any investigation. The authors address the integrity and

security of the crime scene throughout the processing is of the utmost importance. The text leads into further detail of the importance of keeping a chain of command established and maintained. When it comes to creating the case file, the literature states that the "...slow reality of forensic investigation demands a comprehensive and systematic case file, so that future individuals and agencies who become involved with the case can understand what the initial investigators experienced"

(Karagiozis&Sgaglio, 2005, p. 120). Karagiozis and Sgaglio go into examining The Innocence Project and their work as "...a chilling reminder that forensic investigators and law enforcement personnel have the power to devastate or destroy an individual's life. Such power demands great integrity and competence of those charged with keeping the scales of justice in balance" (Karagiozis&Sgaglio, 2005, p.122). Without the proper collection and preservation of evidence, the forensic reconstruction of the event will become inadequate (Karagiozis&Sgaglio, 2005).

In shifting gears, by looking at the cumbersome process of post-conviction appeals, the flaw in the system is apparent. In the text, *Innocent: Inside Wrongful Conviction Cases*, Scott Christianson states, "...the fact that the defendant was erroneously convicted and imprisoned, maybe for years, before an appellate court addressed the problem to them simply represents an inconvenience" (Christianson, 2004 p. 1-2). Christianson further addresses that honest mistakes happen – as do dishonest ones.

In Christianson's book he addresses the actual and specific cases that involve those who were wrongly convicted. The cases Christianson chose to expose were those that involved incidents where a jury's verdict was overturned and exonerated (Christianson, 2004). Another issue heavily emphasized throughout the text is that of

ineffective counsel, which Christianson claims leads way for heavy contributions to wrongful convictions due the negligence provided by defense counsel.

Plea-bargaining is also addressed as infamously coercive and deceitful. Professor John Langbein of the University Of Chicago Law School, has compared the practice to methods of ancient medieval torture as to the modern equivalent of confessions (Christianson, 2004). In the text, plea-bargaining may add pressures in which some defendants give up and make a plea to lessen their sentence. Even judges and prosecutors have developed a dependence on plea-bargains during the trial process. Though Christianson remarks that in certain instances, plea-bargaining serves everyone's interests, when it leads to injustice of the innocent there is dilemma.

In the text, Christianson quotes the New York State Temporary Commission on Revision of the Penal Law and Criminal Code: "some erroneous convictions are inevitable in the course of the enforcement of the penal law and error sometimes cannot be established until time has passed..." (Christianson, 2004, p. 21-22). In the Presumed Guilty chapter of the text, Christianson discusses how innocent defendants are consistently penalized in the process during trial. For instance, by declaring their innocence, they may ensure fury from other inmates. Some inmates may even refuse to participate in counseling or rehabilitative programs that could reduce his sentence by making their point of innocence.

In the text, *Wrongful Conviction and Criminal Justice Reform*, Marvin Zalman and Julia Carrano take a closer look at the study of wrongful convictions. In fact, speaking in numbers is how they have established their research. By looking at a study that

combines procedural error and factual innocence, estimates for 68% of capital convictions are in fact inaccurate (Carrano&Zalman, 2013). This is deemed relevant in demonstrating the margin of error in our justice system. The authors further discuss the need for focusing on reforming the criminal justice process to avoid concluding in wrongful convictions and perhaps compensate those who were wrongfully convicted (Carrano&Zalman, 2013). "National estimates result in 2,000 to 8,000 innocent people imprisoned every year" (Carrano&Zalman, 2013 p. 13). These authors also delve into the works of the Innocence Project and remark that the Innocence Projects teach law students to demand integrity in their work and to be an inspiring attorney, pushing through the frustration and struggles.

In a sub-section of their entitled work, *New Models of Adjudication and Appeal*, the authors suggest a new agreement that it may be in a defendant's best interest to waive the right to a jury in order to have immediate access to a post-conviction appeals process. The key problem here is that there is no way to obtain evidence that was not derived of at trial – it is very scarce that appeals are successful in this route (Carrano&Zalman, 2013). The processes after the appeal is even more "bidding." The authors look at the case of *People v. Valance Cole* (2003), in which the court found the defendant even though he had shown the probability of innocence due to being insufficient in applying to the legal standard any motion to vacate his conviction was denied (Carrano&Zalman, 2013).

Another major point they address is that within the American Court system there is a challenge in considering new evidence for those convicted – not to mention any notion of exoneration (Carrano&Zalman, 2013). The authors expose this idea of a new pretrial

option to offer defendants along their obvious and instituted choices of the plea bargain at a jury trial. (Carrano&Zalman, 2013) They have deemed the term “investigative trial.” They opt for the defendant to waive their procedural rights at trial, however, not to plead guilty, in exchange for procedural advantages during a post-conviction review. They believe that if this is properly implemented “...this alternative might be more attractive to innocent defendants, who are most likely to benefit from full disclosure and open consideration of evidence both before and after conviction...” (Carrano&Zalman, 2013). Carrano and Zalman also discuss what would be sacrificed should this method be utilized in the course of trial. A brief overview depicts that the Fifth Amendment and their right to a jury trial would be lost. However, the defendant would gain two new rights: “(a)the right to reopen the question of his guilt... (b)the right to a retrial...” (Carrano&Zalman, 2013, p. 67).

In researching the distinct timeline of events on appeals, each case is different except for one common aspect—time. Time is key, because time in high profile cases is too long. For the case of the Fairbanks Four, this has been a sixteen-year battle. Since the case focus of this project is that of the Fairbanks Four, a timeline of events presented by Jeff Richardson of the Fairbanks Daily News-Miner gives an understanding of time in the murder of John Hartman and the journey these four men have been on since 1997.

“Oct. 11, 1997 — John Hartman, 15, is found badly beaten at about 3 a.m. near the corner of Ninth Avenue and Barnette Street. He died of his injuries the following day. Within 36 hours of the beating, four men — George Frese, Eugene Vent, Marvin Roberts and Kevin Pease — had been arrested by Fairbanks Police.

Oct. 21, 1997 — Frese, Vent, Roberts and Pease plead not guilty to murder and sexual assault charges.

February 1998 — District Court Judge Sigurd Murphy throws out indictments against Vent, Pease and Roberts, saying that alibi evidence wasn't presented to the grand jury.

December 1998 — The Alaska Court of Appeals reinstates the indictments.

February 1999 — Frese is found guilty by a jury, and is later sentenced to 77 years in prison.

July 1999 — Vent is found guilty by a jury, and is later sentenced to 38 years in prison.

August 1999 — Roberts and Pease are found guilty by a jury. They receive 33-year and 79-year sentences, respectively.

September 2002 — The Alaska Court of Appeals upholds the convictions of Pease and Roberts, ruling that a "reasonable juror could have convicted" the men of their charges.

October 2002 — The conviction of Frese is upheld by the Alaska Court of Appeals.

January 2003 — Former Fairbanks residents William Holmes and Jason Wallace are arrested in separate killings in California and Ester, respectively. Holmes is eventually convicted of a double-murder in Northern California, including the death of Fairbanks resident Hakeem Shalim Bryant. Wallace was convicted of killing TeackaBocate, of Ester, and setting her apartment on fire.

February 2003 — Vent's conviction is upheld by the Alaska Court of Appeals.

September 2003 — Evalyn Thomas, Hartman's mother, is awarded \$6.2 million in a wrongful death lawsuit against the defendants.

August 2004 — Pease is granted a new trial by Superior Court Judge Ben Esch, citing juror misconduct.

July 2007 — The Alaska Court of Appeals reinstates Pease's conviction.

August 2009 — Pease's request for a new trial is denied by the Alaska Supreme Court.

November 2012 — Vent is granted a hearing by the Alaska Court of Appeals to argue that he was given poor counsel in his case.

Sept. 25 2013 — Holmes files a sworn statement admitting that he, Wallace, and three friends were responsible for killing Hartman" (Richardson, 2013).

In the text, *Wrongful Conviction*, Ronald C. Huff and Martin Killias address the issue that there may be monumental evidence of wrongful convictions. Their text visits the impact of the systems established to prevent wrongful convictions and "...whether this traditional dichotomy remains a viable one or is in need of revision" (Huff & Killias, 2008, p. 4). The other aspect of this text that proves key is the fact that public policy recommendations were established and "...intended to reduce the number of wrongful convictions and compensate more fairly those who are victims of these miscarriages of justice" (Huff & Killias, 2008, p.18). They base their definition on that of Huff, Rattner, and Sagarin (1996) in focusing on those who have been arrested for criminal charges, or those of whom have plead out or have been found guilty, and who, notwithstanding their guilty pleas or verdict, are truly innocent. By using such a restrictive definition, it will eliminate excess additional factors. Huff and Killias address that one learns more about the justice system by looking at it from a national perspective.

In further research on the Alaska Rules of Appellate Court and Procedure, research is conducted through the Alaska Court System public database website. "The court of appeals has the authority to hear appeals in cases involving criminal prosecution, post-conviction relief, juvenile delinquency, extradition, habeas corpus, probation and parole, bail and sentencing matters" (2013).

In understanding the Rules, the appellate procedures provide a brief and detailed overview of current policies and procedures. The brief snapshot depicts:

Part I. Organization of the Appellate Courts
Part II. Procedure on Appeals as of Right
Part III. Petition for Hearing

Part IV. Petitions for Review, Original Applications for Relief, and other Special Proceedings
Part V. General Procedures
Part VI. Superior Court as an Appellate Court

Among each part are detailed rules, further discussing the policies and procedures as reflected in the current appellate court system. Paying particular attention to the findings of Rule 204, 302 and 403:

Rule 204. Appeal: Time—Notice—Bonds (1) Appeals: The notice of appeal shall be filed within 30 days from the date shown in the clerk's certificate of distribution on judgement appealed from unless a shorter time for filing a notice of appeal applies..." (2013).

Rule 302. Petition for Hearing—When Permitted: (a) from the court of appeals. (1) "...may be filed in the supreme court with respect o any final decision of the court of appeals..." (2013).

Rule 402. Petitions for Review of Non-appealable Orders or Decisions.

Rule 403. Petition for Sentence Review.

Defendant's Petition for Sentence Review:(1) Except as provided in (h)(2), a defendant seeking relief from a sentence under Appellate Rule 215(a)(5) must file a notice of intent to file a petition for sentence review no later than 10 days after the date shown in the clerk's certificate of distribution on the written judgment. If the defendant is indigent, a request for preparation of a transcript of the sentencing proceeding must accompany the notice. The petition itself must be filed no later than 45 days after the date shown in the clerk's certificate of distribution on the written judgment or, if the court is preparing the transcript, no later than 15 days after service of the transcript on the petitioner."

The following items must be filed with the petition:

- (A) copies of all charging documents;
- (B) a copy of the judgment being appealed;
- (C) a transcript of the entire sentencing proceeding;
- (D) copies of all reports, documents, motions and memoranda pertaining to sentencing which were available to the sentencing court” (2013)

The previously documented rules of the Alaska Appellate Court are the previously attempted rules that the Fairbanks Four filed with the Alaska Court of Appeals after their conviction.

In the text, *America's Courts*, David W. Newbauer and Henry F. Fradella further review the Appellate Courts. The authors state that the most basic function of the court of appeals is the error correction. They further clarify that the appeals process is often “misunderstood” in that an appeal is not a retrial. However, the focus of the appellate court is to examine how the decisions were made during the trial hearings. They address the basic principle within American law; the losing party has the right to appeal.

“However, once a criminal defendant has been convicted at trial, the legal shield of innocence is gone. The individual is no longer considered innocent until proven guilty but rather now stands, in the eyes of the law, guilty” (Fradella&Newbauer, 2011, p.444). This, in their studies, proves vital in the appeals and post-conviction relief processes.

The authors also address the topic of post conviction relief processes and how these differ from that of appellate procedures and practices. For instance, their work states that once the appellate processes have been exhausted, state and federal prisoners can opt to challenge their convictions in the federal courts based on certain limited

standings. A difference is to note that even though "...they are filed by prisoners who have been convicted of a criminal offense, they are technically civil matters" (Fradella&Newbauer, 2011, p 448).

The authors further address the key differences in the following three aspects. That first, only those in custody may file for such proceedings. Second, that only constitutional discrepancies may be addressed not technical issues.

Third, significant input in combating wrongful convictions is addressed. For instance, "...changing the ways in which pretrial identifications are conducted to minimize the risk of misidentification; taping of interrogations of criminal suspects to help reduce the incidence of false confessions; and improving the collection, handling, preservation, and analysis of forensic evidence (Fradella&Newbauer, 2011, p.460).

In the text, *Criminal Procedure*, Joel Samaha examines the balances between government power and individual life, privacy, and property, as well as liberty. In particular, the discussion of Alaska legislature is discussed presented: "Alaska is one of a handful of States yet to enact legislation specifically addressing the issue of evidence requested for DNA testing...Alaska courts are addressing how to apply existing laws for discovery and post conviction relief ..." (Samaha, 2012, p.368). In further discussing the Alaska statutes position on post conviction relief, the statute remarks that a defendant is permitted a post-conviction relief hearing if the defendant can provide new evidence which will establish clear and convincing evidence of their innocence (Samaha, 2012).

In discussing further details of the case of the Fairbanks Four, additional sources may be required along the process as they become available, to include: the Fairbanks Daily News-Miner, local news stations, and court system records. Currently, the case stands with the appellate courts waiting for a future court date.

Additional Discussion:

In addressing several of the factors which ultimately lead to wrongful convictions, such as: false confessions, flawed eyewitness testimony, unreliable snitches, police corruption with interrogation techniques, evidence collection, inadequate representation, and the post conviction appeals processes, this field of study is a lot to assess. So how does one go about improving the balance in the system? How would one even know where to begin? Some believe it is overbearing to even think about – which is possibly why nothing has solved. However, some may also argue that it is to be handled delicately and tactfully; a process that will take time and precision.

When it comes to mistaken eyewitness identification and testimony, new eyewitness identification procedures should be addressed by the U.S. Department of Justice. For instance, in looking at remedies determined in the State of North Carolina, law enforcement agencies are instituting sequential double-blind photo spreads and line-ups. Essentially this entails, showing witnesses photos or individuals one at a time by a police officer who does not know who the suspect is. With the use of this precaution, it ensures the officer has no influence on this procedure. This has now become common practice in North Carolina since 2008. Additionally, forensic error such as improper collection, preservation, labeling, and inadequate processing at the lab can result

in wrongful convictions. Some additional remedies to reduce such problems in evidence handling include proper training, standardized testing, collection methodology, and chain of custody seminars. All lab work should be examined before a trial and should have a forensic expert testifying on behalf of the evidence; this should be the standard operating procedure. With outright false confessions, the reasons range from incompetence to coercion. The remedies of this may include recording all interrogations, as this creates a real-time record of the interview process that captures the essence of the interview and can later be viewed during times of question. In an effort to remedy issues with unreliable snitches, open discovery is recommended, which would ultimately eliminate any element of surprise in regards to the defense. Eliminating rewards for disclosure of testimony to informants is also recommended. For instance, those pending criminal charges will exchange testimony in order to get out of their current charge. By eliminating this, one eliminates the chance of an unreliable snitch as the incentive has been removed.

To avoid police corruption during trials, an open file discovery law to share evidence should be instituted, including: reports by police and eye witness statements among the prosecution and the defense prior to trial. This would ensure there are no surprises and no secrets during the trial processes. In reducing the chances of inadequate representation, it is recommended to increase the funding that supplies public defenders. This would permit the needed training and support personnel to keep the attorneys running afloat. Also, by increasing the fee rate to other court-appointed attorneys, this would attract attorneys with more experience. Eventually, this should lower the burden of proof in claims where ineffective counsel has been questioned.

Finally, the processes on post conviction appeals need to be addressed in that it should be available to those with enough evidence to support their claim.

Conclusion:

This study has examined the causes of wrongful convictions and the measures in remedying the grounds which have led to those convictions. The course of this research has depicted that through false confessions, flawed eyewitness testimony, and unreliable snitches, wrongful convictions can occur during trial. With the case study of the Fairbanks Four as a case model, one can see how such factors could contribute to a wrongful conviction. Additional factors such as improper evidence collection, inadequate representation, and the appeals process are discussed in detail to illustrate how additional dynamics lead to such convictions.

So why is this important? Why the need for change? By remedying this process, this will not only progress our society but will have a better representation of what our justice system stands for. Incarcerating those who truly commit crimes and deserve to be there, not those whom are convicted wrongfully so. By bringing wrongful convictions to light this will provide awareness to the public and could potentially lead to an increase in civic duty and participation within the communities in which these incidents occur.

The identities of those convicted who face exoneration due to wrongful convictions brings light to the reality that mistakes have occurred in our system. In which these flaws within our system have grave punishments for those wrongfully convicted.

Freedom is a fundamental right that we as human beings have we too should have the

right to fight for innocence even when the chances of exoneration seem hopeless. For it is within this hope that we discover hopeless innocence.

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