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"Avoidable Errors and Their Victims" Letter to the Editor re: After Innocence

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*LETTER to the EDITOR*

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"If it could happen to me – a white, upper middle class, 40 year old cop – it can happen to anyone, and it does" These are the words of Jeffrey Scott Hornoff, a Detective in the Warwick, Rhode Island Police Department, who served 6.5 years of a life sentence for 1<sup>st</sup> degree murder until the actual killer confessed to the murder.

Rape, forcible oral copulation, robbery, assault and battery, criminal conspiracy, involuntary deviate sexual intercourse, abduction, sexual battery, burglary, and first degree murder – these are the crimes for which seven men served a total of 112.5 years before being exonerated through DNA evidence. These men include a police officer, an army sergeant, and fathers of young children. In six of these seven cases, the actual criminal, remains at large.

The victims of these crimes are several fold. First, and most obviously, are those who were victimized by rape, murder and other violence. Second, they and/or other eyewitnesses are now victimized by the knowledge of their possible role in putting an innocent man behind bars. Third, these persons or their survivors are victimized with the fear and knowledge that the actual criminal remains free to reoffend.

The fourth set of victims involves an entirely different set of persons – the innocent men who were incarcerated for these crimes. Both sets of victims include parents who have lost children and children who have lost parents -- through violence or incarceration. And we have yet to address the damage that emanates from the breach of the public trust in cases involving avoidable errors.

These cases involved avoidable errors. And yet the lack of bitterness and anger in each of these men is astonishing. Media stories of those wrongfully incarcerated frequently conclude with the "happy ending" of exoneration. The stories of how these men move forward in their lives with little or no money, education or job skills, having acquired the survival skills of an inmate rather than a family member, are often left untold.

This Thursday, one of these men will be in Santa Barbara to share his story after his release, along with the filmmaker who captured it. The Center on Police Practices and Community (COPPAC), along with UCSB Arts & Lectures, will show *After Innocence* followed by a Q & A with exoneree, Herman Atkins, and filmmaker, Jessica Sanders.

Herman Atkins served 11.5 years for two counts of forcible rape, two counts of forcible oral copulation and robbery. His father, Elmer Clark, a California Highway Patrol Officer at the time of his son's conviction, believed what he thought the evidence showed, that his son was guilty of rape, until DNA evidence proved that his son's ongoing claims of innocence were indeed true. Retired Officer Clark, featured in the film, will also join in the screening and Q & A.

Academics have been working for years on reducing a major source of these errors, eyewitness identification, to decrease identifying innocent persons while not reducing correctly pinpointing "the bad guy".

Research on some of the simplest methods demonstrates great gains in accuracy, without a decrease in identifying the actual perpetrator. For example, ensuring that the persons in a lineup match the perpetrator's description: if the witness says the perpetrator was a male with a mustache, every man in the line up needs to have a mustache. Another simple approach mirrors that which is followed in medical science – double blind tests. Just as doctors who give out test medicines and placebos do not know which they are handing out in a drug trial, the officer who presents the lineup can be "blind", that is, unaware who the suspect is so s/he will not inadvertently affect the witness's decision through body language or other assurances. Finally, one of the simplest approaches that is often overlooked in policy-making is informing the witness that the suspect may not be in the lineup and thus the witness is free to respond with "none of these".

While this moving story has brought forth critical acclaim and film festival awards from Sundance to Boston, COPPAC's involvement in the screening means that the audience will include representatives of victim's groups, researchers, educators, community leaders, the judiciary and law enforcement – including those who literally hold a key to preventing such errors.

We are fortunate in Santa Barbara County to have community leaders, academics and members of the criminal justice system so willing to come together for the learning opportunity this provides us all. We hope you will join us as we continue COPPAC's mission of "researching today for a safer tomorrow".

*Michelle Chernikoff Anderson, JD and Howard Giles, PhD, DSc are the directors of UCSB's Center on Police Practices and Community (COPPAC). After Innocence will be shown at UCSB's Campbell Hall on Thursday, May 11<sup>th</sup>, at 7:30 pm. Tickets are available for \$6 in advance and at the door at 6:30 pm.*