

**Professionals cont. from pg. 17**

of how often they believe wrongful convictions occur within their state jurisdiction, and in the United States as a whole. Although the survey's authors make no effort to do so, an estimate of the wrongful conviction rate can be adduced from their findings.

The surveys show that a large percentage of the professionals perceive false convictions to be both real and occurring in significant numbers nationally. The Michigan and Ohio respondents believe on average that 5% of convictions in the U.S. are false. Based on that estimate the 1,145,000 state and federal felony convictions in 2004<sup>3</sup> resulted in 57,250 wrongful felony convictions in that one year. That is more than 1,100 per week and more than 220 per court day.

There were 1,540,805 prisoners in state and federal prisons in June 2008. A 5% wrongful conviction rate nationally means that 77,040 of those prisoners are innocent.

The 5% average of the legal professionals queried in the two surveys is in the mid-range of wrongful conviction estimates, and it is identical to the 5% estimate by the judge interviewed for Edward Radin's 1964 book, *The Innocents*.<sup>4</sup> There has long been an acute awareness of wrongful convictions in this country. Although the actual number of wrongly convicted people is unknown, the Ohio and Michigan surveys document that it is perceived to be unacceptably high by the professionals involved in the arrest, prosecution, defense and adjudication of people accused of committing a crime.

**Sources:**

Huff, R. C., Rattner, A., & Sagarin, E. (1986). Guilty until proved innocent. *Crime & Delinquency*, 32, 518-544.  
 Ramsey, Robert J., & Frank, J. (2007). Wrongful conviction: Perspectives of criminal justice professionals regarding the frequency of wrongful conviction and the extent of system errors. *Crime & Delinquency*, 53, 436-470.  
 Zalman, Marvin, Smith, Brad and Kiger, Angie (2008). Officials' Estimates of the Incidence of "Actual Innocence" Convictions. *Justice Quarterly*, 25:1, 72-100.

**Endnotes:**

1. This author is intimately aware with the difficulty of getting a handle on the number of wrongful convictions. In 1996 I estimated, based on data available at the time, that almost 15% of convictions in the United States were of an innocent person - which means slightly more than one out of seven convictions are wrongful. Although that is on the high end of estimates, nothing I have been exposed to during the intervening 13 years compels me to think it is erroneous. In fact, 11.4% of

## U.S. Supreme Court Orders Evidentiary Hearing For Troy Davis

**T**roy Anthony Davis was convicted in 1991 of murdering a Savannah, Georgia policeman and sentenced to death. From the time of his arrest, Davis has proclaimed he is the innocent victim of mistaken identification.

Davis has amassed significant new evidence supporting his innocence, including that seven of nine prosecution eyewitnesses have recanted, and three witnesses have identified the prosecution's primary witness as the shooter

On August 17, 2009 the U.S. Supreme Court took the extraordinary action of granting Davis' original writ of habeas corpus (i.e., it was filed directly with the USSC). The Su-

preme Court ordered that the U.S. District Court conduct a hearing to, "receive testimony and make findings of fact as to whether evidence that could not have been obtained at the time of trial clearly establishes petitioner's innocence."

Justice Steven's wrote in the Court's majority opinion: "no court, state or federal, has ever conducted a hearing to assess the reliability of the score of [postconviction] affidavits that, if reliable, would satisfy the threshold showing for a truly persuasive demonstration of actual innocence. The substantial risk of putting an innocent man to death clearly provides an adequate justification for holding an evidentiary hearing."

For a copy of the USSC's 8-17-2009 ruling in Troy Davis' case, send \$2 or 5 first-class (44¢) stamps to: Justice Denied; PO Box 68911; Seattle, WA 98168

**Table 1 - Estimates of wrongful convictions in U.S. (Several "rate of occurrence" categories are combined in these tables.)**

Rate of occurrence	Defense Attorneys		Judges		Police		Prosecutors		All Groups		Total
	MI	OH	MI	OH	MI	OH	MI	OH	MI	OH	MI & OH
0	0	0.5	0	0	0.6	1.1	4.5	1.0	0.4	0.7	0.6
<1%	4.8	7.9	16.0	37.3	50.0	44.9	59.1	61.5	27.7	34.5	32.0
1 to 5%	31.7	40.3	56.6	46.4	45.4	43.8	22.7	34.4	42.5	42.0	42.2
6 to 25%	54.5	43.5	26.5	15.6	3.5	9.6	13.6	3.1	25.9	20.2	22.4
>25%	9.0	7.9	.7	.6	0	0	0	0	3.4	2.5	2.8
Average	11.1%	9.0%	4.9%	3.3%	2.1%	2.7%	1.8%	1.6%	5.7%	4.5%	5.0%

**Table 2 - Estimates of wrongful convictions in respondent's jurisdiction**

Rate of occurrence	Defense Attorneys		Judges		Police		Prosecutors		All Groups		Total
	MI	OH	MI	OH	MI	OH	MI	OH	MI	OH	MI & OH
0	0	1.8	5.3	15.5	41.0	33.2	47.8	29.0	19.7	19.5	19.6
<1%	7.0	11.5	48.7	52.4	51.7	56.9	47.8	62.0	36.7	43.2	40.8
1 to 5%	41.3	45.1	36.2	25.0	6.8	9.5	4.3	7.0	24.7	23.1	23.7
6 to 25%	45.5	39.0	8.9	7.2	0.6	0.4	0	2.0	16.7	13.4	14.6
>25%	6.3	2.7	0.9	0	0	0	0	0	2.2	0.8	1.3
Average	8.9%	7.2%	2.3%	1.6%	0.4%	0.5%	0.2%	0.6%	3.5%	2.7%	3.0%

**Table 3 - Acceptable level of wrongful convictions**

Rate of occurrence	Defense Attorneys		Judges		Police		Prosecutors		All Groups		Total
	MI	OH	MI	OH	MI	OH	MI	OH	MI	OH	MI & OH
0	49.1	66.2	51.1	53.4	54.6	64.6	48.5	81.8	51.4	63.1	55.8
<1%	37.9	24.1	40.2	32.8	35.4	29.2	42.4	9.0	38.1	27.5	34.2
1 to 5%	11.3	8.3	8.6	12.1	7.4	5.6	9.1	9.1	9.0	8.2	8.7
6 to 25%	1.7	1.4	0	1.7	2.6	0.6	0	0	1.4	1.1	1.3
>25%	0	0	0	0	0	0	0	0	0	0	0
Average	0.6%	0.4%	0.4%	0.6%	0.6%	0.3%	0.4%	0.2%	0.5%	0.4%	0.5%

**Estimated wrongful convictions based on Ohio and Michigan surveys**

	U.S. Wrongful conviction rate	Felony convictions in U.S.	Wrongful felony convictions in U.S.	State prisoners (sentenced)	In-state wrongly convicted prisoners
Nationwide	5%	1,145,000 (2004)	57,250 (2004)		
Michigan	5%			46,638 (Sept 09)	2,332
Ohio	5%			50,889 (April 09)	2,545

the MI & OH survey respondents think the wrongful conviction rate is *more than* 15%.

2 The Innocents Database at, [www.forejustice.org/search\\_idb.htm](http://www.forejustice.org/search_idb.htm)  
 3 Criminal Sentencing Statistics 2004, Bureau of Justice Statistics, <http://www.ojp.usdoj.gov/bjs/sent.htm> (last visited 5-12-09) This is the most current sentencing

data available as of June 2009.

4 Radin also wrote in referring to the ability of the legal system in 1964 to determine the innocent from the guilty, "... lawyers who have specialized in freeing illegally convicted prisoners reduce it to eighty per cent." (9) That is, 20% of convicted persons are innocent.