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# Northern Illinois University Law Review

Volume 37

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Number 3

## BIBLIOGRAPHY

- Wrongful Convictions and Their Causes: An Annotated Bibliography  
Clanitra Stewart Nejd & Karl Pettitt ..... 401

*This Annotated Bibliography directs attorneys to relevant, select legal periodical articles written from 2010 to date on wrongful convictions and their causes. The authors focus on five major causes that lead to wrongful convictions, as evidenced by the literature. Part I of the Annotated Bibliography focuses on resources that discuss false confessions as a cause of wrongful convictions. Part II discusses resources that address the role of police and prosecutorial practices, including misconduct, in wrongful convictions. Part III provides articles on eyewitness and jailhouse informant issues related to wrongful convictions. Part IV contains articles that deal with how forensic evidence errors may lead to wrongful convictions. Part V provides miscellaneous articles in which other relevant issues related to wrongful convictions and their causes are addressed.*

## ARTICLES

- Unmaking a Murderer: The Prosecutor's Duty to Remedy Wrongful Convictions  
Richard Schmack ..... 420

*This Article will discuss the obligations and duties of a prosecutor in reviewing post-conviction claims of actual innocence in the context of the DeKalb County case of People v. Jack McCullough. In my role as State's Attorney, the chief prosecutor, I was required to formulate a response to the Defendant's claim of innocence. Ultimately, I reached the conclusion that he was innocent of the crime for which he had been convicted, and thereafter proactively participated in his exoneration.*

*This Article will begin with a general discussion of the principles which apply to a prosecutor's assessment of claims of actual innocence, and of evidence of innocence which may come to the prosecutor's attention in the absence of a pending petition. The Article will then move on to a summary of the facts of the McCullough case, and conclude with my assessment of how those rules governed my ultimate conclusion of innocence and the disposition of the case.*

- In Eyes, We Trust: The Changing Landscape of Eyewitness Testimony  
Manveen Singh ..... 444

*Since the very advent of law enforcement, eyewitness testimony has played a pivotal role in identifying, arresting, and convicting suspects. Reliant heavily on the accuracy of human memory, nothing seems to carry more weight with the judiciary than the testimony of an actual witness. The acceptance of eyewitness testimony as a substantive piece of evidence lies embedded in the*

assumption that the human mind is adept at recording and storing events. Research though, has proven otherwise. Having carried out extensive study in the field of eyewitness testimony for the past 40 years, psychologists have concluded that human memory is fragile and needs to be treated carefully. The question that arises then, is how reliable is eyewitness testimony?

The credibility of eyewitness testimony, simply put, depends on several factors leaving it reliable at times while not so much at others. This is further substantiated by the fact that as per scientific research, over 75 percent of all eyewitness testimonies may stand in error; quite a few of these cases resulting in life sentences. Although the advancement of scientific techniques, especially DNA testing, helped overturn many of these eyewitness testimony-based convictions, eyewitness identifications continue to form the backbone of most police investigations and courtroom decisions to date. What then is the solution to this long-standing concern regarding the accuracy of eyewitness accounts? This Article shall analyze the linkage between human memory and eyewitness identification as well as look at the various factors governing the credibility of eyewitness testimonies. Furthermore, this Article will elaborate upon some best practices developed over the years to help reduce mistaken identifications, thus, in the process, trace out the changing landscape of eyewitness testimony amidst the evolution of DNA and trace evidence.

## NOTES AND COMMENTS

### Supply the Hand that Feeds: Narcotic Detection Dogs and the Fourth Amendment

Megan Yentes ..... 461

*Police canines are highly valued by law enforcement agencies as they are capable of detecting the faintest scent of contraband. The Supreme Court has established that a canine sniff is not a “search” within the meaning of the Fourth Amendment, and as long as a canine has been formally trained by any “bona fide” organization, their positive alert provides law enforcement officials with the requisite probable cause to institute warrantless and invasive searches of automobiles. The Supreme Court’s flawed approach was best summed up by Justice Souter when he stated, “The infallible dog, however, is a creature of legal fiction.” The Supreme Court’s approach to canine sniffs has overlooked underwhelming canine accuracy rates, as well as the lack of federal or state standards imposed on training facilities. These underlying concerns surrounding canine sniffs have been unheeded by the Supreme Court, and thus, an individual’s Fourth Amendment protections have become further diluted. This Note addresses specific concerns of canine training and accuracy, examines the problematic lack of federal or state standards imposed on facilities, examines the most recent Supreme Court case concerning canine sniffs, and concludes by proposing training standards modeled after Illinois practices.*

### Persuading a State to Budge It: Benefits, Consequences, and Obstacles to State Budget Default Rules

Margaret Nunne .....489

*The Illinois legislature’s budget impasse has led to a series of measures cobbled together to keep the state operational and state employees paid. Late budgets, impasses, and failed budgets lead to government shutdowns. Government shutdowns mean government services can be put at risk, which, in turn, can harm the public. In considering the future, as politicians continue*

*to or refuse to negotiate, default budget rules have been used to some success in other states by preventing a complete shutdown of the state in the face of an impasse. However, the use of the rule can cause different problems and may be impossible to implement in a tense political climate. Ultimately, this Note explores the benefits, drawbacks, and consequences of default budget rules, and offers suggestions as to what a default budget rule could look like in Illinois.*

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