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GUILTY UNTIL PROVEN INNOCENT

Pressures to solve notorious crimes can lead to tragic miscarriages of justice

By Julius (Jay) Wachtel. "[Confirmation bias](#)" denotes the tendency to seek out information and interpret events in a way that affirms one's predilections and beliefs. A notorious example of how such biases can affect the criminal justice process is [the case of David Camm](#). In September 2000, four months after Camm retired as an Indiana trooper, his wife and two children were shot to death. Camm alerted 911 after allegedly finding their bodies when he returned home from an evening out. He was arrested and convicted for the killings and served thirteen years, going through three trials before being ultimately acquitted. At his last trial, in 2013, a defense witness, [Dr. Kim Rossmo](#), an expert on cognitive bias in criminal investigations, [blamed factors including confirmation bias and "groupthink"](#) for leading detectives and prosecutors to overlook contradictory evidence, ignore DNA and rely on a deeply flawed interpretation of bloodstain evidence in their rush to judgment.

An appeals court reversed the first verdict, ruling that introducing evidence of Camm's extramarital affairs was unduly prejudicial. Before the second trial DNA that authorities said they had sent in (but did not) was finally tested. It was found to match [Charles Boney](#), an ex-con who had done time for armed robbery. Boney had also left his palmprint at the crime scene. He wound up testifying against Camm, to the effect that he provided the murder weapon but waited outside the home while Camm executed his family. A forensic "expert" testified that victim bloodstains on Camm's shirt had been produced by spatter, and three prisoners insisted that Camm confessed to the killings.

Camm was again convicted (Boney would be separately tried and convicted. He drew life without parole.) But this conviction was also reversed, as Boney had been allowed to testify, without corroboration, that Camm admitted molesting his daughter.

Camm's third trial, held in 2013, brought in a wholly new perspective. A defense expert testified that Boney's DNA was found on the clothes and under the fingernails of Camm's wife, thus putting the lie to his claim that he "waited outside." Dr. Rossmo and another expert, who testified at length, criticized the investigation as haphazard and hopelessly biased from the start. Most importantly, the self-styled "serologist" who testified about blood spatter on Camm's clothes was thoroughly discredited. Real experts, hired by the defense, testified about the [profound ambiguities and uncertainties](#)

[of blood spatter analysis](#) and said that the traces of victim blood found on Camm's clothes were likely produced by accidental transfer when he found the bodies.

Camm was acquitted. His lawsuit against the county [was settled in 2016](#) for \$450,000. Camm's litigation against D.A.'s and State police investigators continues.

David Camm's saga drew extensive coverage in the broadcast media, including [48 Hours](#) and [WDRB TV](#), and has several extensive writeups online (click [here](#) for the Wikipedia page and [here](#) for Murderpedia.) His travails are also cited in a [forensic science text](#) and were the subject of two nonfiction works (click [here](#) and [here](#)). And if that's not enough, a [novel](#) that closely tracks the case is supposedly in the works.

When actionable leads are lacking detectives may have little choice but to assemble a list of possible evildoers. As we suggested in "[The Usual Suspects](#)", getting arrested increases one's risk of being accused of offending in the future. And when the new crimes are particularly grave – say, a string of unsolved rapes – pressures to bring a culprit to justice can rope in anyone who seems to fit the bill.

That's the situation that Luis Lorenzo Vargas faced in 1999 when Los Angeles Police proudly announced the arrest of "[The Teardrop Rapist](#)." Suspect of at least thirty-nine sexual assaults between 1995 and 2013, the rapist (he reportedly had a pair of teardrop tattoos under his left eye) stalked central city streets during the early morning hours and threatened victims with a gun or knife before dragging them away.

Vargas lived in the area where the rapes occurred and [physically resembled the perpetrator](#) down to a teardrop tattoo under the left eye (Vargas, though, only had one.) His past was also highly damning, as he had served three years in prison for the 1992 rape of a girlfriend. Detectives investigating three sexual assaults between February and July 1998 attributed to the Teardrop Rapist [showed the victims a photospread that included Vargas](#). Each victim would ultimately identify him as her assailant, although with qualifications and what now seems considerable uncertainty.

Police arrested Vargas in July 1998. He was tried eleven months later. Each accuser positively identified him in court, and Vargas was convicted. What the prosecution didn't disclose was that despite his arrest the rapes continued.

Vargas steadfastly denied his guilt and drew 55 years. He thereafter continued to maintain his innocence, placing parole out of reach. Finally, in 2012, thirteen years into his term, the California Innocence Project secured a court order to have the rape kit

from one of the three victims submitted for DNA analysis (physical evidence was not available for the others.)

DNA testing excluded Vargas. But they matched several other assaults attributed to the Teardrop Rapist. Prosecutors recommended that Vargas be exonerated and a judge concurred. Vargas was released on November 23, 2015 after serving more than sixteen years. Meanwhile the “real” Teardrop Rapist remains unidentified.

External and self-induced pressures to solve heinous crimes can lead even the best intentioned investigators to set aside doubts and interpret information in a light most favorable to a prompt resolution. Camm and Vargas were likely suspects who bobbed up in a sea of complexities that might have taken a very long time to untangle. But the criminal justice system doesn't have centuries.

Of course, no good cop would knowingly arrest and no good prosecutor would knowingly seek to convict the wrong person. Yet workplace pressures can play havoc with evidentiary practices. Camm was done in by misleading forensic testimony procured by police and prosecutors from a pretend expert. Vargas fell to the perils of eyewitness identification. When showing photospreads, investigators can slip and suggest, through word and gesture, just who the “real” suspect is. After undoubtedly many “thank you's” and words of support, three victims who were once not so certain positively identified an innocent man in court.

DNA helped rescue Camm and was key to Vargas's redemption. Now consider all the miscarriages of justice where there was no DNA. For more on that, click [here](#).