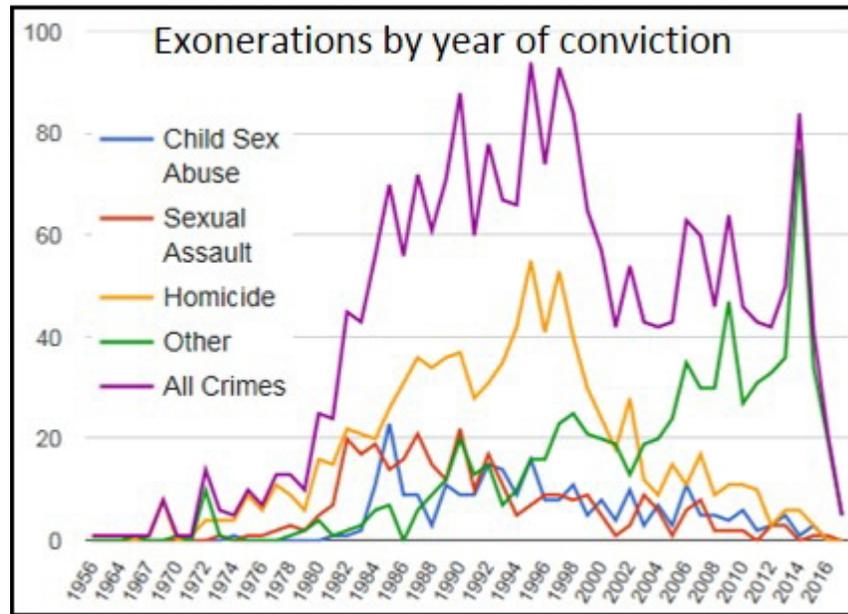


## FEWER CAN BE BETTER

***Murder clearances have declined. Should we worry?***



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By Julius (Jay) Wachtel. Murder has always been the most frequently cleared serious crime. In the mid-1970s [police were reportedly solving](#) an impressive eight out of ten homicides. But a downtrend apparently took hold. Clearances fell to 72 percent in 1980, 67 percent in 1991, and 63.1 percent in 2000.

In 2008, with clearances stuck in the mid-sixties, the Feds stepped in. Four years later BJA released “[Homicide Process Mapping: Best Practices for Increasing Homicide Clearances](#).” Produced by the IACP and the [Institute for Intergovernmental Research](#), the 54-page report set out promising approaches to homicide investigation in seven jurisdictions of varying size: Baltimore County PD, Denver PD, Houston PD, Jacksonville S.O., Richmond PD, Sacramento County S.O. and San Diego PD. Why were these agencies chosen? In 2011, when the overall murder clearance rate was [64.8 percent](#), each enjoyed a rate exceeding 80 percent.

A sense of urgency permeates the report. Here’s the BJS director’s opening message:

One homicide victim is one too many. Yet we also understand the challenging and quite complex nature of homicide investigations. Homicide, homicide

investigations, clearance rates, and productive communication with the public are all critical concerns for law enforcement and communities nationwide. And despite recent across-the-board improvements in homicide clearance rates, we know that we can do better.

And here's the first paragraph of the executive summary:

Since 1990, the number of homicides committed in the United States has dropped over 30 percent. While this is a positive trend, it is somewhat counterbalanced by another trend: in the mid-1970s, the average homicide clearance rate in the United States was around 80 percent. Today, that number has dropped to 65 percent—hence, more offenders are literally getting away with murder.

We won't belabor the findings. As one might expect, resources get prominent attention. There's an emphasis on technology and information. Agencies are strongly encouraged to include forensic specialists and crime analysts in homicide teams. Data is said to have reshaped the detective's task: "the investigator must be an information manager who can coordinate and integrate information from a wide range of sources to drive the investigation forward."

Then what happened? Clearances kept going down, falling to [59.4 in 2016](#). Of course, many homicides are "cleared" over time. Still, considering that the murder rate is presently about half that of the crack-addled nineties ([1991](#)=24,703 murders, rate 9.8; [1996](#)=17,250 murders, rate 5.3) the persistent decline in solution rates seems puzzling.

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During the early morning hours of April 17, 1994 [a woman was stabbed to death](#) in her Jacksonville County apartment. At the time the only other occupant was her brother-in-law, Chad Heins. He said he found her body when he awakened that morning. No physical or other evidence implicated Heins. However, he was convicted based on the testimony of two jailhouse informants who said he confessed. Heins drew a life term. In time the [Innocence Project](#) got involved. Between 2003-2006 a sequence of DNA tests confirmed that semen and skin residue from fingernail scrapings belonged to the same, unidentified third party. More damningly, it turned out that officers and prosecutors apparently kept quiet about a bloody fingerprint found at the scene that did not match Heins. He was exonerated in 2007 after serving thirteen years.

A happy ending? Not exactly. Eight years later [Heins was convicted](#) in a tax fraud scheme hatched by a former cellmate. Citing the time Heins did for a murder he didn't commit, the judge went easy and sentenced him to a year and a day.

Heins' investigation was conducted by the Jacksonville sheriff's office, one of the seven contributors to the BJA report. A glance through the [National Registry of Exonerations](#) turned up wrongful convictions for murder and other crimes of violence (alas, without a known ironic aftermath) involving each of the other six police agencies. For example, [the 1991 conviction of Jeffrey Cox](#), a Richmond resident who got life plus fifty for murder. Although police had two suspects in mind, they added Cox to a photo lineup after one of the suspects brought up his name. And that's whom two neighbors identified. What police and prosecutors didn't let on was that one of the witnesses was a multi-convicted felon, while the other had charges that would be dropped in exchange for his testimony. And that a composite sketch of the killer didn't resemble Cox. And that a recovered hair didn't match. What finally set things right was when [a witness came forward](#) and said he was told by one of the two original suspects that they committed the killing and that Cox wasn't involved. That took eleven years, but hey, who's counting?

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Your blogger, a retired ATF agent, spent a career pursuing gun traffickers. When he and his colleagues caught them in the act, the quantity and quality of evidence was terrific. And when investigations didn't work out, they turned their attention elsewhere. After all, there were always plenty of good leads to chase.

That pattern applies to all "victimless" crime, including narcotics offenses. Unproductive inquiries can be easily dropped. And when everything lines up and suspects get caught, say, illegally transferring a load of guns or drugs, the evidence is indisputable. Evildoers literally convict themselves.

That's something that homicide detectives can only dream about. Like most cops, they work reactively, collecting what evidence they can after the fact. While they enjoy high status and comparatively ample resources, their mission is inherently stressful. We mentioned that in 2016 the homicide clearance rate was a seemingly robust 59.4 percent. Of course, if six in ten murders are promptly solved, that means four in ten languish. Pursuing these "whodunits" can consume prodigious amounts of shoe leather and laboratory time, and all with no guarantee of success. Yet one can't simply give up. Most detectives wouldn't want to. And even if they did, their managers would likely balk. After all, what would the public think? The victim's family?

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Killers are seldom “in the act”. Yet the level of certainty required for conviction – beyond a reasonable doubt – is the same for all crimes. In reactive policing such as homicide investigation, where reaching this threshold depends on the availability of witnesses and physical evidence, pressures to produce results may drive officers to use illegitimate means, and particularly when the heat’s on. Here are some relevant extracts from prior posts:

- 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. (“[Guilty Until Proven Innocent](#)”)
- “Probable cause” can be an elastic concept, and all the more so when police are under pressure to solve a high-profile crime. (“[Rush to Judgment, Part II](#)”)
- Pressures to solve serious crimes can cause the theory of a crime to form prematurely, leading authorities to uncritically gather evidence that is consistent with that notion regardless of its merit or plausibility. (“[House of Cards](#)”)
- As cases move through the system subtle pressures from police and prosecutors can make witnesses overconfident, turning a tentative “maybe” into a definite “that’s the one!” (“[Can We Outlaw Wrongful Convictions? Part II](#)”)
- ...pressures to solve violent crimes can lead agencies and investigators to prematurely narrow their focus. Concentrating investigative resources on a single target inevitably produces a lot of information. As facts and circumstances accumulate, some can be used to construct a theory of the case that excludes other suspects, while what’s inconsistent is discarded or ignored. That’s how a “house of cards” gets built. (“[The Ten Deadly Sins](#)”)

We could go on, but the reader undoubtedly gets the picture. One would think that the mighty Feds are well aware of these issues. Yet clearance rates are the only measure of success that 54-page report mentions. Nothing is said about dreadful mistakes like convicting the innocent. Same for a “[Morning Edition](#)” piece that gave prominent play to the shallow musings of a self-anointed “expert”:

Homicide detectives say the public doesn't realize that clearing murders has become harder in recent decades. Vernon Geberth, a retired, self-described NYPD "murder cop" who wrote the definitive manual on solving homicides, says

standards for charging someone are higher now — too high, in his opinion. He thinks prosecutors nowadays demand that police deliver "open-and-shut cases" that will lead to quick plea bargains.

So what about that decline in clearance rates? Considering all the attention that's been given to the scourge of wrongful conviction, from Dallas County D.A.'s pioneering [conviction integrity unit](#), since replicated in many other jurisdictions, to the [Innocence Project](#) and its numerous clones, to the near daily stream of headlines and breathless exposés about exonerations, the need for caution has apparently sunk in.

Our expectations (and apparently, NPR's) for solving murders were set too high. Being more careful likely lowered the numbers. No matter. Sometimes fewer really *is* better.