

**The Ryan Ferguson case:  
An examination of a strange murder and conviction**

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## Introduction

This project epitomizes the type of work I want to do. Devoting months to an investigation about a controversial and fascinating topic is what I enjoy most. Over the course of the semester, I undertook an examination of the murder of *Columbia Daily Tribune* sports editor Kent Heitholt in 2001 and the subsequent convictions of Ryan Ferguson and Chuck Erickson for the crime. Erickson pleaded guilty, but Ferguson claims he is innocent. I spent countless hours acquiring and analyzing documents, tracking down and interviewing witnesses and other sources, and piecing together the story of a truly unique case.

This project is the natural culmination of my journalistic career thus far. I began reporting in high school, covering sports primarily. As my interests shifted, I began to report on topics such as politics and crime. I became fascinated with the criminal justice system in the summer of 2008 when I was assigned to cover the federal corruption trial of former Tennessee state Senator John Ford. I couldn't stop talking about the trial as it wore on for weeks, and I began reading more and more about the justice system. When I came to the University of Missouri, I chose to be on the public safety beat at the *Missourian*. This experience solidified my interest in reporting on crime and courts. The first week I was in Columbia, police pulled over a 19-year-old and found his mother's body in the trunk of the car. Another reporter and I chased the story as more details emerged. This was a quick and interesting initiation into the Boone County criminal justice system. During the following months in the fall of 2008, I covered breaking crime news and ongoing court cases and issues, such as the lawsuits against Warren Funeral Chapel and the proposal for a citizens' review board of the police department.

One story that I covered during my time at the *Missourian* stood out in my mind, though. My editor, Katherine Reed, approached me one day with a manila folder and a warning: reporters who cover this case tend to get obsessed, she said. The case was that of Ryan Ferguson. I read the court documents in the folder and prepared to cover the upcoming hearing related to his most recent appeal. Much of what I wrote about the case related to Ferguson's challenge of the jury selection procedures in his 2005 trial. Eventually, a trial judge denied this appeal, and it reached the Missouri Supreme Court, which declined to hear the case. Through my reporting, I became familiar with Ferguson's other, more substantive pending appeal. This appeal – technically a motion for post-conviction relief, which occurs after the direct appeal has been exhausted – claimed that Ferguson's trial lawyers were ineffective and that the prosecutor – and now judge – Kevin Crane withheld important evidence. Ferguson's new lawyer, public defender Valerie Leftwich, introduced provocative new evidence at a July 2008 evidentiary hearing. Numerous witnesses called into question the conduct of attorneys for both sides at the original trial and raised serious new questions about the credibility of Erickson, whose testimony was almost the sole basis for Ferguson's conviction.

I continued to report on the case even after my stint at the *Missourian* was finished. At the same time, I was becoming more acquainted with the criminal justice system through Steve Weinberg's Intermediate Writing course. I helped research a few cases being handled by the Midwestern Innocence Project. This included traveling to different areas of Missouri to retrieve documents and sometimes analyzing documents such as depositions. Meanwhile, I reported and wrote a profile of Crane that ran in *Vox* magazine.

In the summer of 2009, I worked as a researcher on an investigation by the Associated Press into the conviction of a Chillicothe teenager for the murder of his neighbor. I examined court documents, police videotapes, and private investigator files while also trying to track down witnesses. The main story, which raised questions about the conviction, went out over the national wire.

Throughout my time at Missouri, I have focused on investigative reporting. I have an undergraduate degree in journalism, so I came to graduate school to gain more specialized knowledge. My coursework has included classes on communications law, access to records and information, computer-assisted reporting, basic statistics, geographic information systems, legal reporting, and investigative techniques.

My emphasis on investigative reporting and my interest in the criminal justice system fit perfectly with my project topic. This sort of investigation is exactly what I hope to be able to do in my career, and working on this project now, with the supervision of faculty members, has been a very helpful experience. Through my work on this project, I have expanded my investigative skills. I improved on my ability to locate information and people, my comfort interviewing reluctant sources, and my discipline in writing about what I learned. The large scope of the project forced me to focus on organizing my reporting and writing time. After graduation, I would like to work as a newspaper reporter, then, I hope, transition to a projects team at a newspaper and maybe later to magazine or book writing. My work on this project provided relevant experience, while reaffirming in my mind the importance of this sort of work, not to mention the excitement of doing it.

## **Self-evaluation**

I am fairly happy with how the magazine article came out. In any project, there are things that don't work out as planned, but, in general, I accomplished the tasks I'd laid out for myself in advance. I was able to obtain the key documents that form the backbone of the article. My best estimate is that I reviewed and made notes on more than 6,000 pages of documents and conducted more than 30 on-the-record interviews, plus countless background, informal, and off-the-record conversations. Many of these interviews were with people who were difficult to track down and, in some cases, were hesitant about talking with me.

As the semester progressed, I became more resourceful, and it grew easier for me to find people. I also became more comfortable interviewing reluctant sources. I learned to ask more focused questions and to adapt my interviewing strategy based on what people were saying. I got valuable experience managing a mass of information; I developed an organizational system that allowed me to keep everything fairly orderly and easy-to-find. Whenever I had questions, I could turn to my committee of seasoned investigative journalists.

Of course, there are some things I wish I had done better. I was unable to get any of the detectives involved in the case to talk with me; I really wanted to give them an opportunity to defend their actions and have a voice in the article. I was able to quote from their reports, depositions, and trial testimony, but it's not quite the same. I also was unable to learn as much about Charles Erickson – his personality, his childhood, his relationships – as I had hoped. I don't think there are gaping holes in the article, but, if I could do it again, I would have started writing earlier.

Overall, though, I think I was able to uncover new information in a case that has not lacked for attention – at least locally – over the years. I got the opportunity to talk with a wide variety of people, from ex-convicts to nationally prominent academics, and to travel to a variety of places, from rural farmland to a maximum security prison. I learned about some of the problems facing the criminal justice system. All the while, I got to cover a case that is probably one of the strangest and most interesting in the nation. I'm happy with the article I produced and even happier about the experience I gained producing it.

## Professional skills component

Memory and murder, part one

*By Chris Hamby*

JEFFERSON CITY, Mo. | The Jefferson City Correctional Center is tucked against a hillside at the end of No More Victims Road.

Encircled by layers of chain-link fence and razor wire, the maximum security prison is home to Ryan Ferguson, who at 26 still has ahead of him most of the sentence he received for a 2001 murder and robbery he says he didn't commit.

And others believe him.

They point to virtually the only evidence against Ferguson — the bizarre and muddled statements of his former high-school classmate and alleged accomplice.

“There's almost nothing weirder than the Ryan Ferguson case,” said Richard Leo, one of the nation's leading false confessions experts and a witness in a 2008 hearing, in an interview.

“I am convinced that Ferguson is innocent.”

Prosecutors stand by Ferguson's conviction and 40-year prison sentence in the notorious case — the brutal 2001 Halloween-night murder of Columbia Daily Tribune sports editor Kent Heitholt in the newspaper's parking lot. But almost everyone involved acknowledges that the case rests primarily on the answer to one question:

Did Ferguson's friend Chuck Erickson give a false confession?

In 2004 — more than two years after the crime — Erickson told police he and Ferguson committed the murder. But the police had no physical evidence linking either of them to the crime. Instead, they leaned hard on Erickson.

Much of Erickson's confession was puzzling.

He couldn't name the murder weapon, for example. In fact, he originally got it wrong. When the police took him to the crime scene, he couldn't point out exactly where the murder occurred or how he'd fled the scene, pointing in the opposite direction from the path the killers took.

Even during his testimony at Ferguson's trial, Erickson claimed that minutes after the murder, he ran into an acquaintance who has since denied seeing him, then went to a bar that had been closed for more than an hour.



Erickson's explanation for his statements: he'd immediately repressed the memories of what he'd done and hadn't recalled them for years.

The prosecutor, who previously spoke in an interview about the case but recently declined to discuss it in detail, acknowledged during Ferguson's trial that Erickson didn't remember every detail of the crime. But, he argued, Erickson was consistent in his accounts of "the essence of this murder."

Ferguson's defense team, on the other hand, believes that police manipulated Erickson into giving a more coherent confession. Indeed, in Erickson's later conversations with police and the prosecutor, his recollections became less hazy and more damning for Ferguson.

Now Ferguson has a new high-profile attorney, Kathleen Zellner, who has won exonerations in a number of other cases. She says she agreed to represent him pro bono because she believes his conviction was a "terrible miscarriage of justice."

But perhaps the most surprising person to proclaim Ferguson's innocence is Erickson himself. In a stunning reversal, he now has given a statement saying he alone committed the crime while Ferguson tried to stop him.

Through it all, Ferguson has lost appeal after appeal. Now, as he finds himself nearing the end of his legal options in Missouri, his attorney is preparing the petition she hopes will convince a judge of what Ferguson has always maintained:

"I don't belong here."

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It was 5 a.m. on March 10, 2004, when Columbia Police Officer Mitch Baxley called Detective John Short at home with good news. There was a break in the murder case police had been working for the past 28 months.

For much of that time, Short had been the lead detective on the investigation. He had arrived on the newspaper's parking lot in the early morning hours of Nov. 1, 2001, to find officers roping off the bloody results of a brutal attack.

Heitholt had been struck on the head at least 11 times with a blunt object. The ultimate cause of death, though, was strangulation – whoever killed Heitholt had ripped off his belt and strangled him to death with it, an autopsy showed.

Police reports detail the aftermath of the crime.

Two sets of bloody footprints – neither of which appeared to match Heitholt's shoes – led from the driver's side of Heitholt's car, up the alley by the Tribune building and through part of downtown Columbia. A police tracking dog followed a similar scent trail,

continuing even after the visible blood trail stopped and ending up at a dormitory on the northern edge of the University of Missouri campus.

The two sets of footprints jibed with what was perhaps the police's best lead: two janitors had seen two men duck behind Heitholt's car, then head up the alley. Heitholt had logged off his computer and left the office at 2:08 a.m. – not an unusual time for the sports department night owls. A few minutes later, one janitor – Shawna Ornt – went outside for a cigarette break and saw “someone in a shadow duck down” behind Heitholt's car, she later testified.

She went inside and got another member of the cleaning crew, Jerry Trump. As the two stood in a doorway facing the parking lot, Trump yelled out, and two men stood up from behind the car. In Ornt's recollection, the man at the back of the car walked toward her, looked her in the eyes, and said, “Someone needs help.”

A few hours later, Ornt told detectives she thought she would be able to identify the man who had spoken to her. She described him as a “white male, 20 to 21, 6 foot, medium to muscular build with blond hair spiked in the front, no glasses, unknown facial hair with a light gray shirt,” according to a police report. At the time, both Ferguson and Erickson were 17 years old and about 5-feet-7-inches tall, and both had brown hair.

(Heitholt himself was 6-feet-3-inches tall and weighed more than 300 pounds.)

Trump could not provide a detailed description of either man, a police report said.

But none of these pieces of evidence – not the footprints, not the fingerprints from Heitholt's car, not the hairs collected from Heitholt's hands, not eyewitness statements – was responsible for the development that had roused Short early on March 10, 2004. Instead, it was the strange story of a 19-year-old local community college student.

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Beginning in November 2003, two years after the slaying, Erickson had been making increasingly specific statements to friends, always after drinking, using drugs or both, according to police reports and court testimony. They started as vague recollections of doing something he regretted, and at least once he said he'd dreamed he was involved in Heitholt's murder. He eventually told a friend that he and Ferguson had killed Heitholt. Erickson's friends finally called the police in the early morning hours of March 10, 2004.

Confronted with these incriminating statements, Erickson's response was, “I don't even remember it,” according to Short's report of his initial interview with Erickson, the first in a series of sessions that spanned much of the day. Short, who declined to comment for the articles because of Ferguson's ongoing appeal, later said during a deposition that Erickson appeared to be telling what he remembered, not playing games to minimize his culpability.

Erickson told Short that he and Ferguson had been at By George, a nightclub a few blocks from the Tribune. They had run out of drinking money and decided to rob someone. They ended up at the Tribune parking lot, where Erickson said he hit Heitholt with a wrench or some other tool from Ferguson's car.

Erickson got sick and sat down. He looked over to see Ferguson strangling Heitholt. He saw a cleaning lady and may have yelled to her. Leaving the scene, he and Ferguson ran into an acquaintance named Dallas Mallory, who was driving by. Mallory stopped, and Erickson told him they'd attacked someone. Erickson and Ferguson then went back to the club.

Short turned on a video camera and went over Erickson's story again. Erickson again said he thought he'd vomited at the crime scene. Later, he brought it up again, and Short finally acknowledged to Erickson that police hadn't found any vomit. Erickson ultimately testified at Ferguson's trial that he still thought he'd thrown up, but maybe not at the crime scene – he wasn't sure where exactly.

"I saw Ryan over the guy," Erickson told Short, describing the attack. Heitholt was on his back, and Ferguson was "like that," Erickson said, leaning forward and motioning as if choking someone with his hands.

A few minutes later, Short brought up the strangulation again. "We know what the guy got strangled with," he told Erickson. "That's kind of a thing I've been holding back from you."

Indeed, the police had held back that information from everyone, not disclosing the unusual murder weapon.

"Is it possible that you know what he was strangled with and you just didn't want to tell me?" Short asked.

"I think it was a shirt or something," Erickson answered.

"Well, I know it wasn't a shirt."

"Maybe a bungee cord or something from his car. I don't see why he'd have a rope in his car."

"Well, we know for a fact that his belt was ripped off of his pants and he was strangled with his belt."

"Really?"

Moments later, Short tried again: "So it's possible Ryan could have strangled this guy with his belt, got the keys, and you not know about it?"

“The guy – the man’s belt?”

“Yeah.”

“His own belt?”

“Yes. Does that ring a bell?”

“Not at all.” Erickson’s tone was incredulous.

“But you saw Ryan strangle him though?”

“I thought I did. I mean, I might not even know what I’m talking about now.”

The other unusual crime fact that police had kept quiet was what one of the men behind Heitholt’s car had yelled to Ornt: “Someone’s hurt,” or, “Someone needs help.” It isn’t clear from Short’s report who brought up Ornt in the initial unrecorded interview.

The presence of a cleaning lady at the crime scene was mentioned in a Tribune article marking the murder’s second anniversary — the same article that Erickson would later testify triggered his “snapshot memories” of committing the murder. In an interview with police later on the same day he was arrested, Erickson said, “I’m making presumptions based on what I read in the newspaper.”

After about 50 minutes, Short concluded the interview and turned his attention west to Kansas City, where police were starting the search for the man who, according to the confession Erickson had just given, had both suggested the robbery and brought it to a violent end.

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Ryan William Ferguson was born in Australia, but his family had moved to Columbia when he was about a year old. His father worked as a real estate agent, and his mother was a reading specialist. Ferguson had a middle-class, suburban childhood filled with travel and organized sports, his father recalled in an interview.

Ferguson and Erickson met in junior high school. Erickson’s father was a lawyer who worked as a vice president for an insurance company, and his mother was a microbiologist at the University Hospital. Ferguson and Erickson became friends, but, as high school wore on, they spent less and less time together.

The murder occurred while the two were juniors in high school.

After graduation, Erickson enrolled at Moberly Community College in Columbia and Ferguson completed one trimester at Columbia College, then moved to Kansas City to attend Maple Woods Community College.

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Police arrested Ferguson in front of his apartment at 12:30 p.m. on March 10, 2004. At about 3 p.m., Short entered an interview room in the Kansas City Police Department and confronted Ferguson with Erickson's statements.

Ferguson denied any involvement in the crime. He told Short and other officers throughout the day that he was at By George with Erickson until the bar closed, then he drove Erickson home and went home himself.

As Ferguson was being questioned in Kansas City, Erickson was riding in the back of a police car winding around downtown Columbia. Three detectives videotaped Erickson as they tried to recreate the route Erickson said he and Ferguson had taken on the night of the crime.

"Can you tell me exactly where this happened?" Erickson asked. "Yes," said Detective Jeff Nichols. He pointed out where Heitholt's car had been parked.

Which direction had they gone after the attack? Nichols asked. "Probably that direction," Erickson said, motioning west. The bloody footprints that Nichols had followed led in the opposite direction, toward the east end of the alley. Nichols told Erickson this and asked if they might actually have gone east. "It's possible," Erickson said.

Erickson said they had gone back to the night club after the murder and stayed for at least an hour. (Bars in Columbia are required to close by 1:30 a.m., almost an hour before Heitholt was killed.)

Later, back at the police station, Erickson and Nichols went over the night of the murder again; clips from the videotaped interview would be played at Ferguson's trial and even posted on YouTube.

"Like, I could just be sitting here fabricating all of it and not know," Erickson said. "I mean, you understand, like, I wouldn't be here if I didn't feel guilty about it. But it's just I don't — I can't recollect. I mean, it's just a trip for me to have to sit here and try to look at something that happened that I read about and try to base what I remember off of that, you know?"

Nichols had heard enough. "Let's just stop right there," he cut in. "Okay? Now, one thing I'm not gonna do is I'm not gonna sit here and listen to this kind of gibberish."

Erickson tried to talk, but Nichols cut him off. "Now, listen," Nichols continued. "I'm gonna start talking and you're gonna start listening."

Nichols rolled his chair forward, sitting face-to-face with Erickson. "Now, you better start thinking very clearly," Nichols said, enunciating each word and waving a hand in front of Erickson's face.

They were going to go through everything “step by step,” Nichols told Erickson. “And I don’t want hear, ‘Oh, all of a sudden I just think I maybe fabricated all this,’ ” Nichols said, affecting an effeminate voice. “No. What I want to hear is exactly what Ryan told you, because that’s what’s gonna keep you in a position to where you’re not gonna be the sole individual out here responsible for what happened to Kent.”

They started at the club. Whose idea was it to rob someone to get more drinking money? “It was Ryan’s idea. To the best of my knowledge,” Erickson said.

“I don’t even want to hear ‘best of my knowledge,’ ” Nichols said. “Whose idea was it?”

Erickson answered, “It was Ryan’s idea.”

In this rapid-fire fashion, they went over the attack and the aftermath. Nichols ended the interview after about 20 minutes. Alone in the interrogation room, Erickson clasped his hand over his mouth and stared at the ground.

Nichols has declined to be interviewed for this story, citing Ferguson’s ongoing appeal, and Columbia police didn’t respond to requests for interviews.

But Nichols would later defend his questioning of Erickson when it came under fire during Ferguson’s trial.

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Police worked to corroborate Erickson’s confession. Two detectives picked up Dallas Mallory, the acquaintance Erickson said he’d run into just after killing Heitholt. When police questioned Mallory, however, he “continually denied seeing Erickson that night,” according to one detective’s report.

But Mallory changed his story after police told him a Computer Voice Stress Analysis test appeared to be a “deceptive indicator.” After police questioned him further, Mallory “advised he did seem to remember speaking with Erickson,” one detective reported. Mallory later testified that he’d just told the police what they wanted to hear after they yelled at him and called him a liar.

“I was crying hysterically, telling them I wanted to leave,” he testified. “They wouldn’t let me leave.”

Meanwhile, the physical evidence failed to implicate Erickson or Ferguson, as the prosecutor would later concede. Nichols couldn’t locate any evidence of blood in Ferguson’s car. Police never located either weapon – the tire tool or the belt – that Erickson said was used in the attack.

Six fingerprints lifted from Heitholt’s car didn’t match any known samples, including Ferguson’s and Erickson’s. Of three hairs taken from the bags that had been placed over

Heitholt's hands at the crime scene, FBI testing showed two could have come from Heitholt, but all three excluded Ferguson and Erickson.

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After his confession, Erickson still showed signs of uncertainty. He later acknowledged telling a psychiatric nurse at the jail that he wasn't sure whether he'd committed the crime. He had to see the nurse periodically to stay on the medications he'd been prescribed – Lexapro, then Prozac — for “obsessive-compulsive symptoms.”

A psychologist later determined that Erickson was suffering from chronic depression.

Three inmates who were housed near Erickson in the county jail later testified at a post-conviction hearing that he discussed his case with them regularly. Two testified that Erickson said he wasn't sure whether he'd committed the murder and that it might have been a dream.

The third said Erickson went further.

“He said that he did not believe that he did it,” the inmate testified.

## Memory and murder, part two

*By Chris Hamby*

On the fourth day of his trial for a notorious murder, Ryan Ferguson sat on the witness stand. He had spent the previous night — his 21st birthday — in the county jail.

For the past few days, he had tried to project calmness even while his high-school classmate and alleged accomplice described for the jury how Ferguson had strangled the Columbia Daily Tribune sports editor to death. He had sat quietly as the prosecutor painted him as a cold-blooded killer.

But now he defended himself.

“I never thought I would be arrested for a crime I didn’t commit,” he told the prosecutor. “Would you believe you’d be arrested for a crime you didn’t commit?”

“I didn’t commit one,” the prosecutor shot back.

“Neither did I,” Ferguson said, prompting cheers from his supporters in attendance.

But the judge didn’t appreciate it, quickly silencing the crowd.

And the jury didn’t believe it.

A number of factors came into play for the 12 men and women — eight of whom later agreed to be interviewed — brought in from a rural county for the weeklong trial. They came to view Ferguson as arrogant and privileged. And they grew irritated with his methodical, slow-speaking attorney, who compared unfavorably in their eyes with the theatrical young prosecutor.

True, the statements of Ferguson’s accuser, Chuck Erickson, were strange. Erickson’s confession changed over time and sometimes contradicted known evidence.

But years after the trial, as jurors recalled those problems, seven of the eight jurors interviewed remained convinced of Ferguson’s guilt, primarily because they had no other answer to the case’s central question: Why would someone confess to a crime he didn’t commit?

Some people — including a leading national expert — say they think they know. But the explanation would be as strange as the case itself.

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By the time Ferguson's trial began, it had been 19 months since he was arrested in front of his Kansas City apartment.

The much-publicized Halloween-night 2001 murder of the Tribune editor, Kent Heitholt, had been a distant memory until Erickson began claiming that he was recovering memories he had repressed for more than two years.

In Erickson's evolving confession, Ferguson emerged as an unrepentant murderer who had suggested the robbery, then strangled Heitholt to death after Erickson beat him with a tire tool.

Erickson had pleaded guilty in November 2004 to second-degree murder, first-degree robbery and armed criminal action. He would later be sentenced to 25 years in prison.

On Oct. 14, 2005, jury selection began in Troy, Mo., a community of roughly 11,000 residents and the seat of largely rural Lincoln County. Ferguson's previous attorney had asked for a change of venue because of the intense media coverage in Columbia.

Charles Rogers — Ferguson's new lead attorney and a partner at a Kansas City firm — felt handcuffed by the move. He didn't oppose a change of venue, but it seemed clear to him that, in Lincoln County, he would be picking from a much less educated and less defendant-friendly pool than he would have had in Boone County, where Columbia is the county seat.

In jury selection, during a discussion of the presumption of innocence, one man said: "They just don't pick a person off of a street, just an innocent person. So I got to believe there could be just a smidgeon of guilt."

He became Juror No. 1.

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"You will see from the evidence," Rogers told the jury in his opening statement, "that Chuck Erickson, when he was questioned by the police on March 10, wanted to be reassured that it was just a dream and that he really didn't do anything. But, instead, you will see him be berated, coerced, cajoled, and taught what the police wanted him to say."

Kevin Crane, the prosecutor, acknowledged to the jurors that, in statements to police, Erickson had seemed unsure and could not remember some details. But, he told them, "the essence of this homicide was there." The core facts — Erickson beating Kent Heitholt and Ferguson strangling him to death — were always the same, he said.

Crane's style proved a stark contrast to Rogers'. Crane was younger and known for his folksy theatricality in the courtroom. Rogers was previously a longtime public defender, and he described himself in a recent interview as "more nuanced" than Crane.

In interviews this year with eight jurors, a pattern emerged when discussing the lawyers. Rogers' slow, deliberate manner irked them; they related far better to Crane. Many said that difference was a factor in their decision, and one said it was crucial.

(Rogers later said in an interview, "It was as uneducated and unsophisticated a jury as I have ever seen.")

Rogers knew that discrediting Erickson was the key to the case. He played video excerpts from Erickson's original police interviews and sparred with Jeff Nichols, the detective who conducted the later interviews.

Nichols acknowledged getting forceful with Erickson as an interrogation tactic — an area in which he had been trained.

"You didn't tell him, 'We want to find out what you know,' " Rogers pushed. "You told him: 'You know this; you know this. Tell us about Ryan; tell us about Ryan. Your ass is on the chopping block.' Right?"

"Sure," Nichols answered. "I went at that line of questioning. And I will not deny that."

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The one other piece of evidence that Ferguson's defense team had to combat was the testimony of Jerry Trump, one of two janitors who had seen two men stand up from behind Heitholt's car moments before discovering his body. Police originally indicated that he could not give a detailed description of the men, but now he had a different story.

While in prison serving a sentence for five counts of endangering the welfare of a child, he had seen the photos accompanying the newspaper story about the arrest of Ferguson and Erickson and had immediately known they were the guys he had seen on the night of the murder.

During the trial, Trump pointed out Ferguson as one of the men he had seen.

In a recent interview, Trump said he stood by his identification but had serious doubts that the two men he saw had killed Heitholt. Why did one of the men step forward and say, "Someone's hurt out here, man"? Why did they walk off casually?

"I don't think I could have ever sat in a jury room and say that these guys were definitely the ones that did kill him," Trump said recently. "I don't think this one's solved."

The other janitor, Shawna Ornt, also saw the pictures in the newspaper, but she came to a different conclusion. She testified at a 2008 hearing that she could say with certainty that Ferguson and Erickson were not the people she had seen.

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On the witness stand, Ferguson came across as a spoiled rich kid, jurors said.

Ferguson gave an account of Halloween 2001 similar to Erickson's — up to a point. But he said they had left the bar at about 1:20 a.m. or 1:30 a.m. when the lights came on and the bar closed. He might have called his sister to try to find her, he said. His cell phone records indicated that he called her at 1:19 a.m.

He testified that he drove Erickson home, then went back to his house, where he sat on a curb outside and talked on the phone so he would not wake his parents. His cell phone records showed a series of calls from 1:41 a.m. to 2:10 a.m. — about the time Heitholt was walking onto the Tribune parking lot. (One friend confirmed in court that she talked to Ferguson at 1:41 a.m.)

After the calls, Ferguson testified, he went to bed.

The final witness was psychologist Elizabeth Loftus, who had testified frequently about false memories. Her research had brought her to the attention of the Ferguson team. She was at the forefront of a line of studies suggesting that it was possible to implant an entire false memory of a traumatic event in the mind of an apparently normal person.

After reviewing Erickson's videotaped interviews and the related police reports, Loftus determined that newspaper articles and suggestive police interviews may have provided Erickson with details that he used to construct a memory.

In interviews with jurors, however, it became clear that most viewed Loftus' testimony as basically irrelevant. Most jurors already believed that repression — if it occurred at all — did not happen the way Erickson described it.

Some thought Erickson had always remembered the murder on some level and had come forward when his guilty conscience became overwhelming. Many were convinced by the level of detail in Erickson's testimony. A few jurors said they were aware of inconsistencies in and lack of supporting evidence for parts of Erickson's testimony. But, as one put it, "I just felt that he wouldn't have pled guilty if he didn't do it."

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It took the jury about five hours to convict Ferguson. On the first vote, according to interviews with jurors, everyone voted "guilty."

At 9:42 p.m., the judge read the verdict: guilty of murder in the second degree, guilty of robbery in the first degree.

About two hours later, after hearing more testimony, the jury recommended sentences of 30 years for the murder charge and 10 years for the robbery charge.

One juror, who had not previously spoken publicly about his experience, said in an interview that he was never convinced Ferguson was guilty, but he didn't say so during deliberations.

"I probably should have been the lone holdout," the juror said. "I don't know that he (Ferguson) got a fair shake."

He said he was not sure why he voted "guilty," even though, in his mind, it was a 50-50 decision — maybe because all the other jurors seemed so sure Ferguson was guilty, he added, or maybe even because it was late on a Friday and everyone seemed ready to go home.

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Since the verdict, research into false confessions has continued as they have emerged as a more common contributing factor in wrongful convictions than once believed.

Studying proven instances of false confessions, researchers have grouped them into three categories. The strangest and least common of these is the "persuaded" or "internalized" false confession. In these cases, the suspect becomes convinced, often during a long and intense interrogation, that he must have committed the crime even though he has no memory of doing it.

It is this category into which Richard Leo, one of the nation's leading experts on false confessions, believes Erickson's confession belongs.

After reviewing transcripts, reports and videos from the case, Leo testified at a 2008 hearing that Erickson exhibited many of the classic signs of a persuaded false confessor. During the police interrogations, Leo testified, Erickson appeared to be trying to guess the correct crime facts; he was convinced he committed the crime but could not remember the details. Police repeatedly fed Erickson details, contaminating his confession, Leo said.

The distinguishing characteristic of Erickson's confession, Leo said in a recent interview, was that Erickson entered the police interrogation already thinking he may have committed the murder. In persuaded false confession cases, it usually takes hours of intense interrogation to get the suspect to doubt his own memory, at which point the police typically suggest some version of a repressed memory theory. Erickson, it seems, had already reached this stage on his own.

"This is a very unique case," Leo said. "A different police department might have just dismissed him (Erickson) and said: 'Come on, until you can tell me some really unique details, I'm not going to take this seriously. You may have mental health issues.'"

On Nov. 22, 2009, Erickson looked into a video camera and delivered a statement that set off a string of court filings and gave the Ferguson team renewed hope.

“Things happened much differently than I had previously stated,” Erickson said.

His testimony at Ferguson’s trial was a lie, he said. The truth was that he alone had murdered and robbed Heitholt, while Ferguson tried to stop him.

“I did not tell Ryan what I was going to do,” he said. “He had no idea that I would act in such an aggressive manner. He could not stop me, though he tried at the end.”

He gave the statement to Ferguson’s new attorney, Zellner, who has won 12 exonerations and recently agreed to represent Ferguson pro bono.

Looking through the evidence and past filings in the case, she recalled in an interview, she saw police who had made “a more blatant effort to coerce a confession” than in most cases she had encountered. The prosecutor’s office, she said, at best had pieced together a shaky case around a witness who was simply unworthy of belief.

Ultimately, she saw a man she was “100 percent certain” was innocent, sitting in prison.

Not long after Zellner decided to take Ferguson’s case, Erickson sent a letter to Ferguson asking to speak with his lawyers. Zellner wasted no time setting up the meeting and arranging for it to be videotaped.

The reversal by Erickson, who declined to be interviewed for this article, probably will be a key point in the habeas corpus petition that Ferguson’s legal team is preparing to file in Cole County. That filing will give Zellner her first real opportunity to present new evidence and argue that Ferguson is innocent.

Ferguson’s direct appeal — a challenge to his conviction on narrow legal issues not akin to a reconsideration of the facts — failed in 2007. He presented new evidence at a post-conviction hearing in 2008, but the trial court denied his request for a new trial.

Ferguson’s legal team has been re-interviewing witnesses and gathering new evidence for the habeas petition — probably his last chance in state court.

Ferguson sits in the Jefferson City Correctional Center’s visitation room in a small plastic chair at a 3-foot-tall table more appropriate for a child’s tea party than a maximum security prison.

Ferguson says the same thing he has always said: “I had nothing to do with this.”

Asked what he would say if he could talk to Erickson, he says: “I’d say: ‘Be honest. Just sincerely look into your heart, look at the facts, try to understand yourself, and try to organize your thoughts on what you think happened and what reality is.’ ”

He has just come from his volunteer job tutoring other inmates trying to earn a GED. He is teaching himself to play guitar (there are two that are shared by about 270 men, he

says), and he works out daily (“You can’t tell with these clothes on,” he says, laughing and tugging at his baggy prison-issue shirt). He hopes to finish his degree when he gets out.

Every statement about a possible exoneration and future plans is preceded by “when” — not “if” — he gets out. But he says he’s also a realistic person. “It might be two or three more years, but that’s all right,” he says. “I can’t make it go faster.”

Ferguson’s tempered optimism is reminiscent of the defiant but hopeful statement he gave at his sentencing hearing on Dec. 5, 2005.

The judge was halfway through pronouncing a 40-year sentence for Ferguson when Rogers broke in.

“Mr. Ferguson would like to address the court,” he said.

Ferguson stood in front of the courtroom with Heitholt’s daughter sitting a few rows back.

“I really just wanted to say that today is a sad day,” he said, “because the justice system has failed not only my family and I, but the Heitholts and the community. It has failed because they’re sending an innocent man to jail. Because they’re letting a horrible person run free, without a care. But someday the truth will come out and everyone will see that I am innocent, and I will be free. And that will be a great day, because on that day the justice system will finally have done justice.”

## Query letter

The story of the wrongfully convicted person has become a familiar narrative. Less familiar, however, is the notion of the false confession. The very idea is an affront to the commonsense belief that people almost always act according to rational self-interest. Even in the counterintuitive realm of false confessions, one subset stands out: the “persuaded,” or “internalized,” false confession. This rare type of innocent confessor actually comes to believe he or she committed the crime.

In a Midwestern college town, a strange murder case has played out that, in some respects, typifies this variety of confession and, in others, presents a unique set of circumstances that even Richard Leo, perhaps the nation’s leading expert on false confessions, has not seen before. “There’s almost nothing weirder than [this] case,” Leo told me about a year-and-a-half after analyzing the case documents and testifying on behalf of one of the two convicted men. He feels strongly that the confession in this case is of the persuaded false variety, and he said he is convinced both men are innocent.

The crime was the brutal beating and strangling death of a local newspaper sports editor. The two men eventually convicted of the murder and robbery – Ryan Ferguson and Charles Erickson – were both seemingly normal, middle-class, suburban 17-year-olds at the time of the crime. After reading a newspaper article marking the second anniversary of the unsolved murder, Erickson began having what he later called “snapshot memories” or “repressed memories” or dreams of committing the crime. Ferguson has always denied any involvement in the crime.

Erickson eventually pleaded guilty, and his testimony was essentially the only evidence used to convict Ferguson. Elizabeth Loftus, a leading memory expert, testified on Ferguson’s behalf, and she told me she believes Erickson’s memories are likely false, a product of his own imagination. In many instances, Erickson’s statements directly contradict established crime facts. In other instances, his knowledge of details can be traced to the detective who told them to him during videotaped interviews.

Two things make Erickson unique, even among persuaded false confessors: First, he entered the police interview already believing he may have committed the murder, and second, all indications are that, five years later, he still believes he did it.

I have been investigating this case for about a year. In the process, I have gained access to many previously undisclosed documents and sources and built relationships with some of the key players. The case is a controversial topic locally and regionally, and the CBS show “48 Hours Mystery” recently filmed its second program about the case. The facts present an opportunity for narrative writing that also explores issues such as false confessions, false memories and police interrogation. I appreciate your time and consideration, and I look forward to hearing from you.

Sincerely,  
Chris Hamby

# COLUMBIA MISSOURIAN

## **KEY WITNESS RECANTS IN RYAN FERGUSON CASE**

By Chris Hamby

February 8, 2010 | 2:32 p.m. CST

COLUMBIA — More than four years ago, Chuck Erickson delivered the testimony that helped send his former high school classmate Ryan Ferguson to prison with a sentence of 40 years for murder.

Erickson confessed to beating Columbia Daily Tribune sports editor Kent Heitholt with a tire tool, and he testified that Ferguson then strangled Heitholt to death. When Heitholt was dead, Erickson testified, they stole his car keys and the belt they'd used to strangle him.

Now, Erickson says that was all a lie, according to a sworn statement he gave to Ferguson's new lawyer.

The truth, Erickson said in a deposition videotaped Nov. 22 at Potosi Correctional Center, is that he alone beat and strangled Heitholt.

"I did not tell Ryan what I was going to do," Erickson said, reading from a prepared statement. "He had no idea that I would act in such an aggressive manner. ...He could not stop me, though he tried at the end."

Erickson's statement became public Monday as part of a motion filed by Ferguson's lawyer, Kathleen Zellner, asking the Missouri Court of Appeals for the Western District to send the post-conviction case back to the trial court for reconsideration based on the new evidence. The court could also deny the motion and make its decision based on the evidence already presented.

If Ferguson loses in the Western District and the state Supreme Court, he might still be able to file a petition for a writ of habeas corpus in federal court and introduce Erickson's statement there.



Prior to Ferguson's original trial, Erickson pleaded guilty to second-degree murder, first-degree robbery and armed criminal action and was sentenced to 25 years. Ferguson was convicted of second-degree murder and first-degree robbery and was sentenced to 40 years.

Erickson's statement came after he sent a letter to Ferguson, who is incarcerated at the Jefferson City Correctional Center. In the letter, dated Nov. 9, Erickson wrote: "Have your lawyers come speak to me the next time that they're down here. If you tell the media that I asked to see your lawyers, or you tell the media what I talked to your lawyers about before I can talk to my family and/or consult an attorney, it will be regretful. I hope that you are holding up."

As Zellner notes in her motion, Erickson has put himself at risk by volunteering this statement, in essence admitting to perjury and potentially violating his plea agreement, which required his "truthful testimony" against Ferguson.

Still, much is unclear about Erickson's most recent statement. According to his original statements to police and his trial testimony, he had no memory of committing the murder, which occurred in the early morning hours on Nov. 1, 2001, until two years later. His accounts of the crime changed substantially over time, and much of what he told police seemed to contradict other evidence.

At a July 2008 evidentiary hearing in Ferguson's post-conviction case, false confessions expert Richard Leo testified that Erickson's statements bore many of the hallmarks of a persuaded false confession, one in which an innocent person becomes convinced he committed a crime.

Leo testified that, in his initial videotaped police interrogations, Erickson appeared to be attempting to guess the correct answer to the detectives' questions, rather than stating facts he truly remembered.

In his most recent statement, Erickson said: "I made a lot of assumptions and turned them into facts to satisfy the police. When I did that, I used the opportunity to move the blame onto Ryan and off of myself."

He continued, "I could not accept in my conscious mind that I was the sole perpetrator and aggressor, so I put a lot of the blame on Ryan. ...I don't think that

much of it was even consciously done. It was just too hard to admit to myself and others that I killed someone. I could not even accept the possibility of it.”

But later in the statement, he seemed to say that passing the blame to Ferguson was a conscious attempt to minimize his own punishment. “I was worried about survival,” he said, referencing the interrogation videos, in which one detective told Erickson that “it’s you that is on this chopping block.”

Ferguson denied any involvement in the crime throughout numerous interrogations, and he has maintained since his arrest that he was not even at the crime scene. Both Ferguson and Erickson were juniors at Rock Bridge High School at the time of the murder.

In Erickson’s most recent statement, the motive for the crime is unclear. Erickson testified at Ferguson’s trial that Ferguson wanted to rob someone to get more drinking money. The two agree that they were at the bar By George’s that night. But Erickson told Zellner, “I cannot ... honestly remember if we had robbery on our minds.”

“On a subconscious level,” Erickson continued, “I’ve always known that I did it. That is a part of me that I have accepted. I enjoyed doing it at the time. I was in a lot of pain and felt the need to take it out on someone else. There was something wrong with me.”

In a letter to Zellner dated Nov. 27, Erickson asked that she make it clear that he would not have committed the crime or enjoyed doing it if he hadn’t been intoxicated at the time.

“When I murdered Kent Heitholt, I was out of my mind on drugs and alcohol,” he wrote in an “Additional Comments” section dated Dec. 14. “I was under a lot of stress and filled with a lot of pain. I was a walking time bomb. I’d said that I enjoyed doing it. At the time, that was true. Not long after I committed the act, I remember feeling bad about it and scared about getting into trouble. When I realized what I’d done, I regretted doing it. Today I am ashamed of what I did. I wish I’d never done it.”

# COLUMBIA MISSOURIAN

## **State argues Ferguson's new evidence was introduced improperly**

By Chris Hamby

February 18, 2010 | 12:01 a.m. CST

COLUMBIA — The state wouldn't oppose holding a hearing to examine Charles Erickson's new sworn statement that he alone robbed and murdered Columbia Daily Tribune sports editor Kent Heitholt — just not right now.

In a court document filed by the state Tuesday opposing Ryan Ferguson's motion to remand his post-conviction case to the trial court in Boone County, the state argued that Missouri rules of criminal procedure bar Ferguson from introducing new evidence — such as Erickson's recantation and confession — at this stage of his case.

“The state is not averse to holding a full and fair evidentiary hearing to test the validity of the newly available evidence set forth in Mr. Ferguson's motion,” the filing says. “But Mr. Ferguson's motion for remand is not properly addressed to this Court.”

Shaun Mackelprang, the attorney general's chief counsel for criminal appeals, declined to comment on what might be a more appropriate time and place to present Erickson's new testimony.

Ferguson's motion to remand, which is now before the Missouri Court of Appeals for the Western District, includes a videotaped sworn statement in which Erickson says he lied during his testimony at Ferguson's trial in 2005. Erickson originally testified that he beat Heitholt with a tire tool, Ferguson strangled Heitholt to death and the two then robbed the victim.

But, in his new statement, Erickson says he alone beat and strangled Heitholt while Ferguson tried to stop him.

Heitholt was found dead in the parking lot of the Columbia Daily Tribune early on Nov. 1, 2001. Erickson testified that he began to have "snapshot" memories of committing the crime two years later.

Erickson pleaded guilty to second-degree murder, first-degree robbery and armed criminal action and is serving a 25-year sentence. Ferguson, who was convicted largely on Erickson's testimony against him, is serving 40 years for second-degree murder and first-degree robbery.

In the motion to remand, Ferguson's lawyer, Kathleen Zellner, cites cases in which Missouri appellate courts have granted a remand to allow the trial court to consider newly discovered evidence. But Mackelprang notes that many of these cases were in the direct appeal stage, a line of appeals Ferguson has already exhausted. Other cases cited by Zellner are different enough from Ferguson's case that they're not applicable, according to Mackelprang.

The appellate court will review Ferguson's motion and the state's opposition and will likely rule in the next few days, a spokesperson for the court clerk said. If the court denies the motion, it would then base its decision on evidence presented during an evidentiary hearing held in July 2008 in the 13th Circuit for Boone County.

# COLUMBIA MISSOURIAN

## **Ferguson lawyer: State's position on new evidence 'hyper-technical'**

By Chris Hamby

February 18, 2010 | 6:16 p.m. CST

COLUMBIA — The state's opposition to allowing new evidence in Ryan Ferguson's appeal is "hyper-technical" and ignores the authority appellate courts have to remedy injustices, Ferguson's lawyer said Thursday.

In a court filing Wednesday and an interview Thursday, Kathleen Zellner gave her view of the Missouri Court of Appeals for the Western District's power to act when faced with perjured testimony.

The testimony in question is that of Charles Erickson, whose testimony was crucial in Ferguson's 2005 conviction of second-degree murder and first-degree robbery. Erickson originally testified that he beat Columbia Daily Tribune sports editor Kent Heitholt with a tire tool and Ferguson then strangled Heitholt to death. They then robbed the victim, Erickson testified.

In a recent sworn statement, however, Erickson said he lied during his testimony and that he alone robbed and murdered Heitholt, while Ferguson tried to stop him.

Zellner asked the court to send the case back to the trial court, where Erickson's new statement could be introduced as evidence. On Tuesday, the state filed its opposition, arguing that Ferguson is not allowed to introduce new evidence at this stage of his post-conviction case. Shaun Mackelprang, the attorney general's chief counsel for criminal appeals, wrote that the state wouldn't oppose a hearing to examine Erickson's statement but that the current case was the wrong time and place.

Zellner filed a motion Wednesday asking the court to allow her to reply. In the reply, which the court may or may not accept, she argued that a line of cases,

including one decided last week by the Missouri Supreme Court, shows that appellate courts have the authority to remand a case to allow newly discovered evidence.

The state has pointed out that most of these cases were in the direct appeal stage, which Ferguson has already exhausted. But Zellner argued that the cases' legal principles could apply equally to a post-conviction case such as Ferguson's.

"I don't believe the court is going to be as hyper-technical as the attorney general is trying to be," she said in an interview. Later, she added: "If the court thinks there has been a miscarriage of justice, they will make the rules fit the situation. There's no possible way, when your key witness is confessing to the murder and saying he lied to the jury, that there's not going to be some intervention by a higher court."

Even if the court denies Ferguson's motion to remand, Zellner noted, Erickson's statement could still be used in a federal habeas corpus petition.

# COLUMBIA MISSOURIAN

## **Appeals court to hear new Erickson account of Heitholt murder**

By Chris Hamby

March 2, 2010 | 7:31 p.m. CST

COLUMBIA — Faced with a new sworn statement from Charles Erickson that he lied during Ryan Ferguson's murder trial, the Western District Court of Appeals had a number of options. It could have sent the case back to the trial court in Boone County for a hearing, or it could have refused to allow the new evidence to be heard.

Instead, the court chose a third option that seemed to surprise even Ferguson's attorney: to bypass the trial court and take the statement under consideration now.

"This was our No. 1 hope, but we didn't really think it would happen," Ferguson's lawyer, Kathleen Zellner, said Tuesday.

The decision means the Western District appellate court will take under consideration a November videotaped statement in which Erickson says that he alone murdered and robbed Columbia Daily Tribune sports editor Kent Heitholt while Ferguson tried to stop him. Erickson originally testified that Ferguson strangled Heitholt to death.

Heitholt was killed in the early morning hours of Nov. 1, 2001, in the Tribune parking lot. Ferguson and Erickson were arrested in March 2004.

"What this signals is that they're (the appellate court) going to decide this; Boone County is not going to decide this," Zellner said.

Ferguson's family and attorneys have long been critical of the handling of the case by Boone County courts and prosecutors.

In a brief filed with the appellate court, Zellner argues that the wording and content of Boone County Circuit Judge Jodie Asel's 2009 decision not to grant Ferguson a new trial is almost identical to the prosecutor's proposed findings. In an interview, Zellner said this was "highly improper."

Zellner said her goal has always been to get Erickson's statement in front of the appellate court. The Tuesday decision means that will happen much sooner than if the case went back to the circuit court.

Terry Lord, the clerk of the Western District court, said the decision to hear new evidence at the appellate level is not unusual in cases where there is a complex motion such as the one filed by Ferguson.

The state will now have a chance to respond to Zellner's arguments that Ferguson should get a new trial. Then Zellner will answer that, and she said she'll ask the court to hold an oral argument.

Erickson's statement, as well as the evidence presented at a July 2008 hearing in Boone County, would be fair game during the argument. At that hearing, Ferguson attempted to show that the prosecutor withheld evidence and that Ferguson's original attorneys were ineffective.

Representatives for the attorney general's office did not return messages seeking comment Tuesday.

Ferguson was convicted of second-degree murder and first-degree robbery in 2005 and is serving a 40-year sentence. Erickson pleaded guilty to second-degree murder, first-degree robbery and armed criminal action and is serving a 25-year sentence.



## **Analysis component**

### **Literature review**

#### *Theoretical framework*

How do journalists covering the criminal justice system conceive of their role within the system, and what, if anything, do they do to ensure that the system is functioning properly? The criminal justice system, even more than many other institutions that journalists cover, maintains tight control over the information available to reporters. In some respects, this is as it should be, considering certain privacy interests involved and the necessity to protect the rights of the accused, particularly when it comes to ensuring a fair trial. But these protections also mean that the information available to journalists is often managed fairly closely by actors within the system, especially prosecutors. Defense attorneys, while sometimes less likely to talk than prosecutors, may also provide information to journalists, but there is no more reason to trust their information than that provided by prosecutors. Both sides are operating within the adversary system in which both zealously pursue their clients' best interests. Journalists, then, should wonder whether they are getting an accurate picture of reality. There are other avenues to information, but they are more time-consuming and often riskier legally for the journalist. Independent investigation takes time, and people involved in a case may be apprehensive about talking while the case is ongoing.

The ways in which journalists on the criminal justice beat monitor the system are critical. Few subjects that journalists cover involve the exercise of greater state power. The potential consequences of criminal prosecutions are great, from incarceration or even loss of life for the accused to the necessity of spending large amounts of taxpayer money

to imprison the convicted. In recent years, revelations about wrongful convictions – often thanks to the advent of DNA technology – have shaken many citizens’ belief in the infallibility of the justice system and re-framed the debate on issues such as the death penalty.

As journalist Steve Weinberg and others have pointed out, this is not just a failing of the actors within the system – from prosecutors and judges to defense attorneys – but also a failing of the monitors outside the system – namely, journalists. Too often, journalists uncritically accept claims by actors within the system – especially prosecutors – and they fail to think critically about the case before them. Some wrongful convictions likely could not have been detected as they were happening because of deliberate actions by prosecutors who lied or withheld evidence. But many other wrongful conviction cases should have raised serious questions to the journalists covering them. As Weinberg and other have argued, journalists have a duty to question the case presented by the state and to practice “preventive journalism,” i.e. journalism that raises serious questions about potential miscarriages of justice as they are occurring, rather than later. The important questions, then, are: Do journalists covering the system do anything to practice this sort of skeptical journalism? What, if anything, do journalists do to monitor the system and check out the claims made by actors within it? Do journalists even believe that is their role?

The related theories of agenda-setting and agenda-building are most relevant to these questions. Agenda-setting theory focuses on the idea that the news media shape the public agenda through their coverage. Media may not tell members of the public what to think, but they are able to determine the key issues about which members of the public

think. McCombs and Shaw (1972) found evidence for this agenda-setting effect in a seminal study of media coverage and public opinion during the 1968 presidential campaign. They compared the media agenda, as defined by the most important issues in media coverage, with the public agenda, as defined by interviews with undecided voters in Chapel Hill, North Carolina. The results indicated a strong relationship between issues emphasized by media coverage and issues rated most important by voters.

Later research confirmed these findings related to first-level agenda-setting, meaning the ability of media to transfer issue salience, and expanded research to examine second-level agenda-setting. This area of research focuses on the ways in which media not only call public attention to certain issues but also focus attention on certain attributes related to these issues. Kioussis (2005) examined the effect media emphasis on political candidate attributes has on public attitudes by comparing media coverage of the eventual Republican and Democratic presidential nominees in each election between 1980 and 1996 with National Election Studies public opinion polls. He found some evidence that greater media attention to certain candidate attributes correlated with greater public salience for the candidate overall and that greater media attention to certain attributes also correlated with stronger public opinions about candidates. He concluded that mere attention to a candidate by the media is not all that matters; how journalists cover the candidate and which attributes they emphasize are also important.

But as scholars have realized – and journalists covering the criminal justice likely know quite well – the media are not the only ones with agenda-setting power. News sources, such as prosecutors, often exercise a high degree of control over what information reaches the media – and, ultimately, the public – and how that information is

portrayed. Thus, sources sometimes have first- and second-level agenda-setting power, too. This power is the focus of agenda-building research.

Kiousis, Mitrook, Popescu, Shields, and Seltzer (2006) found first- and second-level agenda-setting effects within an agenda-building context. They examined about 1,400 news stories and about 180 presidential communications, including speeches, orders, and position papers, related to terrorism from September 11, 2001, until the end of 2004. They found a strong positive correlation between the salience of issues based on presidential communications and the salience of issues based on media coverage, and they also found a strong positive correlation between the salience of issue attributes in presidential communications and the salience of issue attributes in media coverage. In other words, the results suggest that, with regard to terrorism, the president was able to shape what the media covered and the attributes they emphasized in their coverage.

Some studies have suggested that there is a media bias toward “elite” sources, such as government officials and business leaders. Berkowitz (1987) found that both local and network television newscasts relied heavily on information that came to them through traditional news channels, such as press conferences, press releases, and official meetings. Examining various local and network newscasts broadcast in Indiana, he found that roughly half of both local and network news sources were affiliated with the government and that roughly 75 percent of local news stories and 71 percent of network news stories appeared to have come through routine news channels. He speculated that television journalists are particularly susceptible to this type of agenda-building because of resource constraints.

Nonetheless, a study by Brown, Bybee, Wearden, and Straughan (1987) found similar results for newspaper coverage. Analyzing local and national newspaper front pages, they found that about half of the sources quoted were affiliated with the government. Overall, they found that a disproportionate number of sources were government officials or business leaders and that, especially for stories about topics such as government and the economy, journalists relied heavily on traditional news channels. Kanervo and Kanervo (1989) found that, the more a mayor or city manager believed in the agenda-setting power of the press, the more he or she would try to influence media coverage. This study, which relied on a nationwide survey of town executives, also found that executives in larger and more diverse towns were more likely to believe in the press' agenda-setting power and, thus, more likely to try to influence coverage.

The idea that powerful sources are better able to influence media coverage is the focus of an area of agenda-building research related to what some scholars have called "information subsidies." These subsidies might include information, such as press releases or talking points, or access to a location or person. The purpose is to shape news coverage by providing information that conveys the organization's perspective and, in effect, subsidizes the newsgathering work of journalists. Sweetser and Brown (2008) examined the way U.S. military personnel used information subsidies to manage the media during the July 2006 conflict between Israel and Lebanon. The authors looked at print and broadcast news stories and interviewed military personnel about the information subsidies provided. They found that providing media access to commanders and spokesmen resulted in coverage with more talking points but not necessarily a positive

tone. Providing access to people on the ground during the evacuation resulted in coverage with fewer talking points but a more positive tone.

In a different study of the same military evacuation, Trammell and Brown (2007) found similar results, but they emphasized the degree to which information subsidies seem to be especially effective during crises. Martin (2006) also noted that, during crises, media are particularly susceptible to message management. She examined U.S. military involvement in various conflicts during the 1980s and 1990s and found that military personnel can shape the media agenda through their decision on whether to confine journalists to pools. In general, she found, pooling resulted in coverage portraying the military action as aiding in political change, which related to a more positive public opinion of the conflict. Lack of pooling resulted in coverage portraying the military action as primarily humanitarian, which related to a less positive public opinion of the conflict.

Weaver and Elliott (1985) found agenda-building to be especially prevalent for stories involving conflict. The study compared the agendas of the Bloomington, Indiana, City Council and the local newspaper. The authors analyzed the council's minutes and the newspaper's coverage of council meetings during 1982, a non-election year, and calculated a rank value for each issue based on the amount of council discussion or media coverage it received compared to other issues. The media's agenda was similar to the council's on economic and development issues, which the authors attributed to a relative scarcity of qualified sources outside of the council on these topics. The media paid less attention than the council to recreational and social issues, though. Overall, the authors concluded that the agendas of the council and the newspaper matched up best for issues

involving conflict. They attributed this to the media's propensity for focusing on controversy and conflict. Brown et al. (1987) also found strong evidence for agenda-building in conflict stories. These stories relied heavily on traditional news channels, they found. Though the media typically report on conflict, they suggested, elite sources make conflict routine and control the manner in which it is covered.

Some scholars have sought to trace the agenda-setting process among news sources, the media, and the public. Considering both first- and second-level agenda-setting, Golan, Kiouisis, and McDaniel (2007) examined political advertisements, media coverage, and public opinion surveys. They found first-level agenda-setting effects by the media on the public, but the results were mixed for the agenda-setting effects of political advertisements on the public. They did find some evidence of second-level agenda-setting, including the ability of some attributes in political advertisements to affect public perception of attribute salience.

This body of research is relevant to the way in which journalists cover the criminal justice system. Conflict is inherent in crime and court stories, and the research indicates that agenda-building efforts may be particularly effective for these types of stories. Prosecutors and others in the criminal justice system also have a great deal of control over what information journalists see; this is similar in many respects to the ways in which military personnel control journalists' access to information during conflicts. The realities of covering the criminal justice system seem to make journalists particularly susceptible to agenda-building efforts.

## *Method*

Interviewing is a time-tested method for gaining a better understanding of other people and of the world more generally. Interviewing is the standard for human interaction, Kvale and Brinkmann (2009) note, tracing the practice to Greek historian Thucydides. The technique has become particularly important to the social sciences. Throughout the past century, the authors say, interviewing has helped produce knowledge that shaped the way we view the world. The practice fits with modern ideas about the social construction of knowledge and allows practitioners to gather great detail, then move to a broader understanding. The authors believe interviewing is a craft, a social practice, and an activity that produces knowledge. The social interaction between interviewer and interviewee ideally results in the production of knowledge. An interviewer must be adaptable, they say, because the value of the interview comes not from adherence to rigid procedures, but rather from the quality of information yielded. Finally, the authors note that the balance of power between the interviewer and the interviewee is tilted in favor of the former, so ethical behavior is especially important.

Many fields rely heavily on interviewing to generate knowledge. Just as a historian might depend on information gathered from talking to people, a researcher in the nursing field might use interviews with patients to inform theory and, ultimately, practice (Byrne 2001). Ekstrom (2006) argues that the establishment of the interview as a standard practice both professionalized and institutionalized journalism during the 20<sup>th</sup> century. His study focuses on the evolution of Swedish newspapers, but he notes that his analysis applies to American newspapers as well, the main difference being that the establishment of interviewing techniques and journalistic autonomy came earlier in the



United States. The primary role of interviewing for journalists, similar to its role in other fields, is to gather information for stories. But, also as in other fields, interviewing in journalism is a social process and a means for other people – not just journalists – to convey thoughts and feelings. Interviewing techniques contributed to the journalistic claim of objectivity, Ekstrom says.

Journalists themselves, however, are sometimes less than eager to be interviewed. Brennan (2008) found that it is often difficult to gain access to journalists, and convincing them to be interviewed can also be a challenge. He attributes much of this reluctance to a disdain for theory among journalists. There is a tension between academics and journalists, he says. People in both fields consider themselves outside monitors of institutions, he says, but journalists may be jealous of the time and space afforded academics.

This attitude by some journalists may be an obstacle not only for researchers but also for other journalists seeking to interview their colleagues. Rowe (1994) found journalists to be, in general, cagey and thin-skinned. He drew conclusions from interviews with journalists covering the media as a beat and found that many were frustrated with what they perceived as the hypocrisy of journalists who demand openness from others but refuse to speak openly themselves. Often, journalists being interviewed demand to go off the record immediately. Journalists are also generally more guarded during interviews because they are well aware of how words can be twisted and they are even more conscious of their press image than most people. Sometimes, Rowe says, journalists try to direct the interview or convey that the interviewer should take it easy

since they are on the same team, so to speak. Journalists, then, may be more difficult to interview than the average person.

### *Topic*

Official sources wield considerable power to shape stories about the criminal justice system. Most often, these official sources are police officers or prosecutors. Bullock (2008) found that media coverage of domestic violence relied heavily on official sources and, in general, lacked context. A content analysis of Utah newspaper coverage for one year of domestic violence murders and attempted murders showed that more than half of the stories relied solely on official sources or unattributed information. Most stories used only one type of source, rather than integrating official sources, experts, and ordinary people into one story. Though longer stories contained more source diversity, they still relied most heavily on official sources. Simon and Hayes (2004) found similar results for stories about juvenile crime. They examined all juvenile justice stories for three months in 2002 from Connecticut's three largest newspapers and found that police and other official sources dominated, especially in shorter stories. Eighty-one percent of stories included comments from police, and 34 percent of stories quoted other state government officials. Meanwhile, just 8 percent of stories included comments from the juvenile, the juvenile's family or defense attorneys, and 16 percent quoted outside experts. According to the authors, crime news is one of the worst areas of journalism when it comes to balanced sourcing.

Carpenter, Lacy, and Fico (2006) found that high-profile crime stories tended to contain more anonymous sources and fewer viewpoints than other major news stories.

The authors compared morning and evening network news coverage of four high-profile 2004 cases – Michael Jackson’s sexual abuse trial; Kobe Bryant’s sexual assault case; Scott Peterson’s murder trial; and Martha Stewart’s trial on charges of conspiracy, obstruction of justice, and securities fraud – with coverage of other major news stories that year. They found that journalists departed from accepted practices more often in the high-profile crime stories, using anonymous sources in 71 percent of stories and offering either one or mostly one viewpoint in 23 percent of stories.

By relying heavily on official sources, journalists are complicit in a system that politicizes crime, Beckett (1994) argues. After comparing crime statistics and media reports, she concludes that crime – “street crime” and drug use in particular – has received a disproportionate amount of attention by politicians and in media coverage. She argues that, though journalists cover crime for their own reasons, they are in some ways being manipulated by public officials. Schlesinger, Tumber, and Murdock (1991) examined the ways sources try to shape media coverage of crime, though they focused on television stations and newspapers in London. They interviewed actors in the justice system, including state officials and interest groups, and noted that they often struggle with other potential sources to affect media coverage. Still, they noted, sources are just one voice within a complex system of communication that shapes what the public ultimately knows.

Economic and institutional factors also affect crime coverage. Altheide (1997) argues that commercial pressures, trends toward entertainment news formats, and the “problem frame” have led to oversimplified media coverage of crime that breeds fear. New technologies and the rise of “infotainment” have given rise to the “problem frame,”

in which media treat complex issues as “problems” to simplify them and make them more entertaining, he says. This frame typically identifies a problem that affects many people, identifies aspects of it that are unambiguous and implies that there is a “fix,” which typically involves government. This frame has become so commonplace, he says, that journalists don’t always have to supply it because it will already be active in readers’ minds. Simon and Hayes (2004) criticize the “police blotter” approach to crime reporting – rewriting police reports or statements and calling them news stories – but they acknowledge that deadline pressures and small news holes contribute to superficial crime coverage. Police reports are on hand and easy to use; whereas, interviewing people involved and conducting independent investigation takes more time and effort, they note.

These shortcomings in media coverage of the criminal justice system have serious consequences. Bullock (2008) concludes that focusing on police and court accounts of domestic violence implies that these accounts are the only important ones. In turn, this implies that the issue is already being handled by police and courts and reinforces the authority of these institutions. Sacco (1995) argues that the framing of a crime story often implies a particular solution. When the law enforcement perspective dominates a story, this can lead to greater support for traditional law-and-order remedies. Media coverage is still only one aspect of a system that determines public perception of crime, Sacco says, but it is a very important one. Altheide and Michalowski (1999) argue that crime coverage often engenders fear in the public, leading to greater support for traditional authority. The authors performed a content analysis of mainstream media coverage from 1994 to 1996 and found that the word “fear” became much more common in news content. They argue that media promote a “discourse of fear” by focusing on the

aspects of each event that are most related to fear. This leads members of the public to turn to law enforcement, they argue.

Media coverage seems to lead to prevailing negative views of criminal defendants, despite the presumption of innocence under the law. Beale (2006) asserts that the way journalists cover crime creates greater support for harsher punishment of defendants. “Episodic framing,” in which journalists portray a crime as an isolated event, leads to public support for harsher punishments. The media may be doing this unwittingly, she says, because crime news can be cheap and easy to produce compared to other types of stories. Roberts and Doob (1990) found that that media coverage is connected with the belief by readers that criminal sentencing is too lenient. Among other findings, they determined that people who read media coverage of a case had a much more negative view of the defendant than people who just read court transcripts.

Roberts (1992) suggests that some of these negative public opinions may be attributable to a lack of knowledge of the criminal justice system. The average citizen knows little about the content of specific laws, their legal rights, recidivism rates, and average sentences, he says. Perhaps, he suggests, if the media offered a more representative picture of the criminal justice system, the public would be less prone to knee-jerk negativity.

Wright and Ross (1997) found that greater newspaper use was related to greater belief in the guilt of a criminal defendant. The authors analyzed coverage of a 1988 double-murder in Florida and conducted a survey in 1990 of residents of the county where the crime occurred. They found that people who relied more heavily on newspapers and television had stronger feelings that the defendant was guilty.

Newspaper readers knew more about the case, while television viewers had more general negative feelings about the defendant. Overall, greater knowledge about the case was related to stronger beliefs in the defendant's guilt, suggesting media coverage is very important in forging public perception of criminal defendants. Shaffer (1986) also found a relationship between media use and public perceptions of defendants' guilt. The study used surveys asking participants about their exposure to pretrial media coverage and perceptions of guilt related to a number of cases. The results indicated that greater media use was related to greater belief in a defendant's guilt, but the limited effect size led Shaffer to believe that other factors also influence public perceptions of a defendant's guilt.

Fullerton and Patterson (2006) argue that, in general, media coverage of murder cases is inadequate. The authors examine coverage of two high-profile cases to make their point: the Pennsylvania killing spree of John Lesko and Michael Travaglia in 1979 and 1980 and the 1991 murder of 14-year-old Leslie Mahaffy by Paul Bernardo and Karla Homolka in Burlington, Ontario. Using these cases as vehicles for making their larger arguments, the authors say that murder coverage often is simplistic and relies on stock narratives. Falling into formulaic stories, reporters tend to look for and use only facts that fit their preconceived notions about the case and the people involved. Often, coverage focuses on a few salacious details. Victims and defendants become stereotypes and are viewed as somehow separate from the rest of society. This type of coverage fails to give readers an accurate picture of crime in their community and leaves them in the dark about the way the criminal justice system actually works, the authors say. Reporters

should instead focus on accuracy and context, while contributing to the public discussion of a case and its larger policy implications, they argue.

*The (Wilmington) News Journal* Executive Editor Jane Amari (1999) sums up many of the common problems with criminal justice reporting in an article for Gannett's *News Watch*. Journalists are usually good at covering arrests and convictions, she says. They aren't as good at covering everything that happens in between. Stories typically focus too heavily on the perspectives of police and prosecutors, while neglecting the views of defendants and victims. Often, this is because reporters on the crime and courts beat have more sources in the prosecutor's office than elsewhere. The way reporters quote legal documents implies that they carry more weight than the statements of defendants, which may not be the case. Stories often focus on prejudicial details. Journalists usually don't try to explain why actors within the system behave the way they do. As a result, readers don't understand how the criminal justice system actually works, and they frequently hold negative views of the courts. Amari suggests reporters use greater care and try to provide context that would allow the public to understand crime and courts articles.

It is also worth noting the potential effects reporters have on prosecutors. Pritchard (1986) found that prosecutors' plea-bargaining decisions were related to media coverage. He examined the newspaper coverage and the final outcome of every homicide in Milwaukee County, Wisconsin, between January 1, 1981, and June 30, 1982, and found that, the more newspaper coverage a case received, the less likely the prosecutor was to negotiate a plea bargain. He speculates that prosecutors are less likely to negotiate in high-profile cases for political reasons, namely that the public demands harsher

punishments in these cases. Because the vast majority of cases result in a plea bargain, rather than a trial, reporters should be aware of the role media coverage plays in this process.

Despite documented shortcomings, journalists are often reluctant to acknowledge flawed criminal justice coverage. During the O.J. Simpson murder trial in 1994 and 1995, some media outlets engaged in conduct that was ethically questionable, including paying witnesses for interviews, using unnamed sources with suspect credibility, and contaminating potential jurors. Accusations of biased coverage were also common. Hindman (1999) found that, even when media outlets acknowledged poor coverage, they tended to shift the blame. Looking at newspaper editorials, Hindman concluded that, while the trial presented a great opportunity for media self-examination, media outlets instead sought to distance themselves from other outlets and blame many of the people involved in the case.

The same sort of reluctance to admit mistakes prompted Jon Whiten (2007) to write a piece critical of the media's failure to acknowledge its own role in allowing wrongful convictions to occur. Writing for *Extra!*, the magazine of the progressive media criticism organization Fairness & Accuracy In Reporting (FAIR), Whiten looked at coverage of the April 2007 exoneration of Jerry Miller, who was the 200<sup>th</sup> wrongfully convicted person to be freed in the United States. Newspapers across the country seized the opportunity to examine the potential causes of wrongful convictions, from eyewitness misidentification to false confessions to discredited science. But none acknowledged the media's role in allowing these convictions to occur. The media's state of denial makes it more likely that miscarriages of justice will continue to happen, Whiten argues. He uses



the case of Carl Chatman to illustrate his points about media coverage, though he acknowledges that Chatman has not been exonerated and may, in fact, be guilty. Even if that is the case, he argues, the points raised about media coverage still ring true.

On May 24, 2002, Chicago police picked up Chatman, a homeless veteran, believing he was involved in a rape that occurred an hour earlier. The victim identified him in a lineup, and he confessed to police the next morning. Whiten's analysis of the coverage of the case in the *Chicago Tribune* and the *Chicago Sun-Times* showed that the papers relied heavily on official sources. Of the *Sun-Times'* three stories totaling 34 paragraphs, the prosecution's perspective dominated 18 paragraphs, and the defense's perspective dominated just three. For the *Tribune's* three stories totaling 32 paragraphs, the prosecution's perspective dominated 22.5 paragraphs, and the defense's perspective dominated three. For the most part, Whiten says, reporters seem to have missed the portion of the trial where the defense presented its case. They failed to note the shakiness of the victim's identification of Chatman and the general problems with eyewitness identification. They failed to note that Chatman had an IQ of 68 and that the interrogating officer to whom Chatman confessed didn't tape any of the three interviews and had notes from only one of the three. This was particularly surprising, Whiten says, because the *Tribune* had run a special report in 2001 noting the tendency of Chicago and Cook County officers to use coercive interrogation methods. The *Sun-Times* did mention the important fact that there was no physical evidence linking Chatman to the victim, but the *Tribune* attributed the statement to the defense even though the lack of physical evidence was an uncontested fact at trial. It seems, then, that reporters need to learn the

lessons of documented wrongful conviction cases and apply greater skepticism when covering criminal cases, Whiten says.

Writing for the *American Journalism Review*, Rachel Smolkin (2007) describes in detail the media's shortcomings in the controversial, high-profile case in which three Duke University lacrosse players were accused of rape. Ultimately, charges were dropped against the accused -- Reade Seligmann, Collin Finnerty, and David Evans – and the prosecutor, Michael B. Nifong, resigned and was disbarred. But, Smolkin notes, less attention was paid to the media's role in the case. In general, she says, the media rushed to judgment and wrote simplistic, sensational stories. The accusations fit perfectly with many media preconceptions about one segment of society – white, rich male athletes – taking advantage of another – an African-American, working-class woman. Much of the coverage, particularly early in the case, was very sympathetic to the accuser, allowing her to make detailed allegations anonymously. Journalists reported the misdemeanors of which lacrosse team members had been accused, but they took longer to note the accuser's criminal record. Much of the reporting focused on race and class issues.

The media took their cues from Nifong, who made numerous inflammatory public statements. He called the players “hooligans” and said, “I'm not going to allow Durham's view in the minds of the world to be a bunch of lacrosse players from Duke raping a black girl in Durham” (Smolkin 21). Nifong was running a political campaign for district attorney, a fact that most media outlets failed to mention at the time but that would later be regarded as one impetus for his actions. Meanwhile, the defense was not talking to reporters, which may have contributed to the media's inability to spot huge holes in the prosecution's case.

The Raleigh *News & Observer* initially rushed to judgment, Smolkin says, but then backed off as more evidence emerged. Among other things, Seligmann had an alibi, there was no DNA evidence, and police had spoiled the lineup. Looking back, the paper's executive editor, Melanie Sill, said the case showed how crime reporting can go wrong when reporters rely too heavily on police and prosecutors and ignore the presumption of innocence. The paper's stories should have had more information from the accused higher up, she said. *New York Times* Executive Editor Bill Keller generally defended his paper's often-criticized coverage of the case, but acknowledged that some columnists showed "a tendency in a couple of places to moralize before the evidence was all in, and not to give adequate weight to the presumption of innocence" (Smolkin 21). Media critics especially disparaged the coverage by the local Durham newspaper, *The Herald-Sun*, while Duke's student newspaper, *The Chronicle*, generally had the story right from the start, Smolkin says. A *60 Minutes* piece by Ed Bradley also provided a good look at the case, Smolkin says. But in general, she says, journalists bungled their coverage of the case and, with the exception of one *News & Observer* columnist, didn't apologize later. Smolkin suggests that reporters learn from this case not to rush to judgment and not to rely too heavily on official sources. But given competitive pressures and the influence of sources in power, she doesn't expect journalists to do much better next time.

Journalist and University of Missouri professor Steve Weinberg (2008) is similarly critical of the media in his article "Innocent Until Reported Guilty," which appeared in the magazine *Miller-McCune*, but he also takes a more positive approach, offering suggestions for journalists. Given the number of exonerations in recent years, it

is difficult to argue that wrongful convictions don't occur. Jurisdictions across the country are implementing practices, such as taping all interrogations and reforming lineup procedures, that could help prevent wrongful convictions. But, Weinberg says, another mechanism for preventing these miscarriages of justice often goes overlooked: preventive journalism. This would involve courageous, organized efforts by newsrooms to monitor the criminal justice system throughout the process.

The way most newsrooms cover crime now is inadequate, Weinberg says. Criminal justice stories are often superficial. Reporters treat prosecutors like white knights, and assistant prosecutors and beat cops are more or less anonymous. Often, the only cases that receive coverage are the ones that go to trial, even though about 95 percent of cases end in dismissal or a plea bargain. When journalists cover trials, they usually just summarize what happened in the courtroom without doing any further investigation.

This lack of independent investigation is a serious problem, Weinberg says, offering examples of cases in which information that journalists could have obtained would have called the prosecution's case into question. In the case of Ellen Reasonover, journalists in St. Louis failed to note that the state's case rested heavily on the questionable testimony of two jailhouse snitches. Beyond that, there was no murder weapon found, no physical evidence connected to Reasonover, no eyewitness, and no motive. It later came out that the snitches lied in exchange for favorable treatment by the prosecutor. After serving 16 years, Reasonover was released from prison.

In another case that Weinberg says should have raised red flags for journalists, Ryan Ferguson was convicted almost solely on the basis of a dream confession by his

friend, Chuck Erickson, who testified that he and Ferguson killed *Columbia Daily Tribune* sports editor Kent Heitholt on Halloween night of 2001. The filing of charges more than two years after the crime based almost solely on a dream confession should have alerted journalists that further investigation was warranted, Weinberg says. They could have discovered a number of facts that have since been disclosed that undermine Erickson's story and call Ferguson's conviction into question.

Weinberg notes that some journalists have done – and are doing – great work reporting on the criminal justice system. For example, the *Chicago Tribune* ran a five-part series in January 1999 that documented hundreds of cases of prosecutorial misconduct that led to homicide convictions. Other journalists have written stories in connection with innocence projects, and some are writing policy stories about the flaws in the justice system. But most journalists covering the criminal justice system could be called enablers, Weinberg says.

He offers a number of suggestions: Coordinate coverage between the police reporter and the courts reporter. Keep track of every felony arrest (or, depending on resources, just more serious felony arrests) in a spreadsheet and assign reporters to perform certain tasks at certain times. This might include examining the police report of the arrest; interviewing the people involved and the lawyers; recording when charges are filed, reduced, or dropped; covering pretrial hearings; checking to see if the defendant took a plea deal and what the terms are; preparing to cover the trial; and covering any appeals. These systematic checks would make it easier to spot anomalies and would point to important stories even if the system is functioning correctly. Reporters should also build relationships with a broad range of people, from assistant prosecutors to crime

lab technicians to experts on criminal procedure. Self-education by reading police and prosecutor training manuals would also help. Overall, Weinberg says, journalists should be watchful, always checking to make sure the system is functioning as it should.

Weinberg (2003) also provides more advice for dealing with prosecutors in Chapter 10 of the manual for journalists *Covering Crime and Justice*. A prosecutor's discretion makes him or her one of the most powerful individuals in the criminal justice system, so it is important to scrutinize him or her closely. Examine the people the prosecutor hires and how they are trained, Weinberg advises. Examine the prosecutor's budget, which may reveal priorities. Understand the individual personalities of the prosecutor and assistant prosecutors, and watch for patterns that might point to misconduct.

Conscientious journalism about the post-conviction stage of the criminal justice system has had real effects, and perhaps preventive journalism can, too. Fan, Kelner, and Wyatt (2002) found that media coverage highlighting flaws in the criminal justice system was related to decreasing support for the death penalty. Media use of what the authors call the "innocence frame" seems to have had more of an effect on support for the death penalty than any other anti-death penalty argument. It seems possible that preventive journalism could have similar effects.

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## Professional analysis article

Can journalists help prevent injustices?

*By Chris Hamby*

Few subjects that journalists cover involve the exercise of greater state power than the criminal justice system. The potential consequences of criminal prosecutions are great, from incarceration or even loss of life for the accused to the necessity of spending large amounts of taxpayer money to imprison the convicted. News of wrongful convictions – often discovered because of advances in DNA technology – has shown that, despite the system’s built-in safeguards, errors can occur. The question, then, has become not whether the system might run afoul, but how often.

For journalists, a related question arises: What, if anything, can – or should – reporters do to prevent miscarriages of justice? Any answer to this question must take into account the constraints imposed on journalists by the very nature of the criminal justice system as well as the time and resource limitations placed on journalists by the economic realities of the news business.

In interviews with journalists ranging from young beat reporters at local newspapers to seasoned projects team members at major metro dailies, one word continued to crop up when journalists described the role they sought to play in the criminal justice system: “watchdog.” But the specifics of what it means to play this role varied in reporters’ minds. Almost all reporters expressed a desire to be an independent monitor, but daily reporting routines and time spent on enterprise stories and independent investigations into cases were far from uniform.

The realities of criminal justice reporting – such as the day-to-day flood of crimes and the challenges of gaining access to information – sometimes limit what even the best journalists can do. Still, reporters at papers large and small are making time to look into cases and trends that catch their eye.

Could greater reportorial diligence actually apply the brakes to a runaway case headed for a wrongful conviction? Absolutely, some reporters said. Others viewed this as an admirable, but probably unrealistic, goal. Still others thought that preventing individual miscarriages of justice might be wishful thinking, but that reporting on systemic flaws might have a similar effect by helping eliminate the general mechanisms that allow for specific injustices. In other words, the differences related less to the ultimate goal and more to the feasibility of reaching it.

### **Crime du Jour v. Enterprise**

Rookie reporters often start on the cops and courts beat, spending long hours listening to the hum of the police scanner or logging mundane crimes. Crime beat reporters, especially those at smaller papers, described a daily routine of checking in with sources –

usually official sources such as the county sheriff, city police and local court clerks – and reviewing law enforcement call logs and court docket sheets. Some of the more interesting items uncovered through this process may warrant stories.

Different reporters described different approaches to the beat. Justin Fenton, who covers the Baltimore City police for *The Baltimore Sun*, said he tries to write more than one story each day, while also posting to a crime blog and a Twitter account. He spends much of his time cataloguing more serious crimes in spreadsheets and databases, and he enters much of this information into a form that allows online readers to view crime data in an interactive Google Map. All the while, he said, he tries to spot trends and write enterprise stories.

Jeremy Kohler, a reporter on the projects team at the *St. Louis Post-Dispatch*, said that, when he was the city police beat reporter for the newspaper, he “did not try to cover every single crime or even every single mini-scandal in the department. I tried to really focus on the big things.”

Some reporters swore by keeping a calendar with key court dates and other events on it. Others said they relied on a system of Post-it notes and Microsoft Word documents. Some said they try to go to lots of crime scenes; others didn't.

Most reporters, however, expressed a desire to do enterprise and investigative stories. The main obstacle, almost every reporter said, is time.

This seems especially true for reporters at smaller papers. Courtney Hudson, the crime and courts reporter for the *Sedalia Democrat* (headquartered in a mid-Missouri town of about 20,000 people), said time for working on more involved stories was limited in part because the paper has just four reporters. “We have a lot of great ideas,” she said. “It’s just finding the time with the day-to-day stuff.” Jeff Haldiman, the crime and courts reporter for the Jefferson City *News Tribune*, described a similar situation, adding, “The minute you think you’ve got time, sure enough something else is going to come up.” The *News Tribune* has just six full-time reporters and one part-time reporter, he said.

Reporters at larger papers seemed to be less overburdened, but they still described a constant struggle to stay afloat in the sea of day-to-day crime and court proceedings. Brendan McCarthy, the city police reporter for the New Orleans *Times-Picayune*, said finding time for enterprise stories is “a combination of your own personal will and ability to juggle things in combination with editors and colleagues you work with and can look toward for leadership and advice.”

But some reporters at smaller papers are also making time for more ambitious projects. *Belleville News-Democrat* reporters George Pawlaczyk and Beth Hundsdorfer won multiple awards for their series “Trapped in Tamms,” which detailed the treatment of inmates – purportedly the “worst of the worst,” but in many cases merely mentally ill – at an Illinois supermax prison. Pawlaczyk said he has a great deal of freedom to report on what he chooses; Hundsdorfer is the paper’s courts reporter. Both said the Tamms

project, like others they have written, required working many nights and weekends. Pawlaczyk's advice to reporters at other small newspapers looking for time to do enterprise stories was simple: "Just do it."

Sometimes weekly papers can pick up the slack, too. Jordan Smith, a reporter for the weekly paper *The Austin Chronicle* who primarily covers criminal justice, said she tries to find the stories the dailies aren't covering or, if the dailies are covering the story, to find a different angle from which to view it. When a police officer shot and killed a man in 2007, the dailies focused on the officer, so Smith focused on the suspect's gun. Her reporting eventually led to a story that examined the way police track guns and the emphasis they place on gun crimes.

Ted Gest, a longtime journalist and the president of the national organization Criminal Justice Journalists, said that the number of criminal justice reporters, although difficult to quantify, seems to have decreased in recent years, and, accordingly, "I see relatively fewer stories that are general stories taking a look at practices in police and the courts." Ruben Rosario, a columnist for the St. Paul Pioneer Press who writes mainly about criminal justice issues and is also on the Criminal Justice Journalists board of directors, said that, when it comes to enterprise stories, "You have to be a lot more selective now than you ever were."

### **Sourcing and 'the nature of the beast'**

Police and prosecutors often represent the dominant voices in criminal justice news. Researchers have noted that this seems especially true in shorter crime stories. In interviews, journalists generally agreed, but noted that the lack of source diversity is not always attributable to a lack of effort. In the early stages of a case, there may not be much information available. Suspects and their family members often do not talk to reporters, and they may not have a lawyer initially.

Most reporters – especially those at smaller papers – said they simply don't have time to track down witnesses or other potential sources for most day-to-day crime stories. More serious and high-profile crimes, though, usually do get more attention, they said.

Some research suggests that focusing on police and prosecutors' accounts of crimes can lead to public fear of crime and support for traditional law-and-order approaches. One recent study found that the framing of crime news often leads to more negative views of defendants and support for harsher punishments.

Reporters said they go out of their way to be fair to the accused but, despite their efforts, stories about arrests or the filing of charges often end up relying heavily on official sources. "That's just the way the story develops," Gest said. "It's not that we like [police and prosecutors] more. ... We typically get more of our news from them. That doesn't mean we believe them all the time, but those are typically going to be the first sources of news."

In some instances, police and prosecutors are happy to provide their version of a case, reporters said. But sometimes trying to pry information from police and prosecutors can be difficult. “I think it’s the nature of the beast,” Rosario said. “When you’re a prosecutor or a police officer ... the last thing you want is a whole bunch of media ... at your doorstep asking for things that you might feel may compromise the situation.”

Fenton said he thought the Baltimore city police had grown bolder in trying to withhold information. “They’re almost challenging us to sue them, and they don’t think we will,” he said. “They see the reports of our company in bankruptcy; they see us shedding jobs. And they think, ‘What are they going to do about it?’ But if we don’t do it, I really don’t know who is.”

Many reporters said their papers are willing to sue, but the story has to be important enough to warrant it. An easier and faster end-run around these limitations on official access, most reporters said, is developing good sources. These might include defense lawyers, law professors, interest groups and people who used to work within the criminal justice system.

Mark Curriden, a lawyer at the firm Vinson & Elkins who covered courts and legal issues for *The Atlanta Constitution* and *The Dallas Morning News*, said that, as a reporter, he made a point of chatting up court clerks each day and cultivating a range of sources. “Almost three times a week, I’d have lunch with a lawyer or a judge,” he said, “and then I’d try to have drinks or go to a ballgame or something with a lawyer or judge.”

Mark Fazlollah, a longtime projects reporter for *The Philadelphia Inquirer* who has written multiple award-winning series about criminal justice issues, said he has had success talking to mid-level police commanders rather than top officials. “They know what’s going on in the department and are very open to discussing issues,” he said.

Smith said she takes a very direct tack with information brokers. “My approach is to be a complete pain in the ass,” she said. “They expect me to be a pain in the ass. They see me coming; they know I’m a pain in the ass. And they know that I’m going to ask for what I want and continue to ask for it and use open records to get what I can.” Most reporters expressed a similar familiarity with open records laws and said they routinely use them.

Taking on police and prosecutors and criticizing them in stories can sometimes make daily beat reporting more of a challenge. Kohler said he wrote many stories that were critical of the police, “and they would shut me out, so everything became an investigation. I would ask simple questions, and I wouldn’t get an answer. And then I would have to press and file information requests. There weren’t a lot of easy stories.” Still, he said, “I would never turn my back on a tough story because it would make it more difficult to write a day-to-day story.”

### **‘Preventive journalism’ and miscarriages of justice**

Almost every reporter interviewed envisioned himself or herself as an independent monitor of the criminal justice system. But there was less unanimity when reporters contemplated the types of actions and the level of advocacy that might follow from accepting this role.

Joe Mahr, an investigative reporter at the *Chicago Tribune* who specializes in projects related to criminal justice issues, said a reporter's goal should be "to get beyond the crime and look at the system itself. Where is it failing? Where are the challenges? Where are the cracks that people are slipping through?" A number of reporters said they believed the media could serve as an outlet for people who feel they can't get justice through traditional avenues.

Some reporters were more comfortable envisioning themselves as potential agents of change than others. "I don't view myself as a crusading journalist," Fenton said. "I feel like I'm there to write about this, point it out, and it's up to the decision-makers to do the right thing. I'm not going to just stick with something and become an advocate for it. I hope that people will do the right thing once an issue has been pointed out."

David Krajicek, a journalist who co-founded Criminal Justice Journalists and has written a book critical of celebrity-obsessed crime coverage, said that, during the crack cocaine crisis of the 1980s and 1990s, "journalism's great failing ... was its lack of advocacy. Journalists en masse should have been holding police departments accountable, and we didn't. ... I think with the plethora of media today, including the Internet, there's much more advocacy that goes on. I don't think that's necessarily a bad thing. When a case crops up that smells like crap, when a conviction happens that smells like crap, absolutely a journalist needs to point it out."

This sentiment hews closely to what journalist Steve Weinberg has called "preventive journalism." In a 2008 article for *Miller-McCune* magazine, Weinberg argued that wrongful convictions are often a failing not only of the criminal justice system but also of the journalists who should be monitoring it. He put forward a set of recommendations that he believes could help prevent miscarriages of justice. Reporters should track all felony arrests – or only more serious felony arrests if resources are limited – in a spreadsheet, checking in on the case at certain steps in the process, he wrote. Other recommendations included developing relationships with a variety of sources, evaluating police and prosecutor training procedures and reading appellate court decisions. All this would increase the odds that a reporter would notice a wrongful prosecution unfolding or be able to identify problems within the system, such as sloppy crime lab work, obfuscation by prosecutors or inadequate representation by defense lawyers.

In a 2007 article for *Extra!*, the magazine of the progressive media criticism organization Fairness & Accuracy In Reporting, Jon Whiten criticized the media for failing to acknowledge its own role in allowing wrongful convictions to occur. Greater skepticism by journalists would be a welcome antidote, he wrote.

Some reporters heartily agreed with this assessment. “In a number of stories that I’ve written, I’ve seen how there was a failure on the front end to prevent these things,” Smith said. In a recent story, which won a 2010 John Jay College Excellence in Criminal Justice Reporting award, she re-examined a case in which a husband and wife who ran a day care were convicted of sexually abusing children. The 1992 conviction came during a nationwide panic over allegations of “Satanic ritual abuse.” Smith uncovered potentially exculpatory evidence and called into question the state’s case against the couple, Fran and Danny Keller.

“The media at the time bought the storyline hook, line and sinker,” Smith said. “They were writing about these horrible abuses of little children by these Satanists.... They were just complicit in the storyline. They did nothing at all to question whether or not this was real and, beyond that, whether these people might have done something and, beyond that, whether there was any evidence to prove that they did. They did nothing, absolutely nothing. I think that’s terrible. That’s supposed to be our job.”

Krajicek said reporters who notice something amiss could also go to the paper’s editorial board or to a columnist and suggest that they write something. “The typical journalist’s assumption in the past has always been, ‘He was arrested for something; they had some reason to arrest him,’ ” he said. “Well, maybe they thought they had a good reason to arrest him. I’m all for a degree of advocacy. It doesn’t necessarily mean that the guy or the woman covering the beat has to start carrying a flag around.”

Reporters generally agreed that, if a case started to look suspicious, they should investigate to the degree that time permits. But many noted that luck seems to play a large role in discovering these potentially troubling cases.

Gest said he didn’t think Weinberg’s suggestions for tracking cases were feasible. “I don’t think most journalists have the capacity to do that,” he said. “There’s just too many cases and too little time for me to assess every case.” Even assessing only the major cases would still be too time-consuming, he said.

There might be instances where a reporter notes a troubling pattern involving a certain prosecutor or a defense lawyer points out a particularly bad case, Gest said, and in these instances the reporter should raise questions. But, he said, “I’m not going to be able to be omniscient and cover every case, and there’s going to be some cases that are going to slip through the cracks.”

Richard Reuben, a law professor at the University of Missouri who covered the U.S. Supreme Court and has written about legal issues for newspapers and magazines, expressed a similar sentiment: “What the media would have to do, if it wanted to prevent an individual miscarriage of justice, is to start investigating on its own, doing the very work that the lawyers and the police and the prosecutor’s staff are going to do themselves. So you’re really looking at having to sort of re-create the wheel. Can you do that in every case? It’s absurd to think that that would be possible.”

But, Reuben said, it would be possible to do this in isolated high-profile cases that come to the media's attention. Another way to prevent individual injustices would be to uncover the systemic problems that allow them to occur, he said. For example, more skeptical coverage of prosecutors "would help play an institutional role in keeping prosecutors more diligent, which I think would have the effect of reducing the number of individual miscarriages of justice," he said.

In this sense, then, journalists can practice "preventive journalism" in countless ways. Exposing a police culture of corruption – as Fazlollah did after an indictment piqued his interest and led to a year of investigation – or noting that low pay for jurors in some jurisdictions leads to demographically unrepresentative panels – as Curriden did – can lead to improvements in the criminal justice system. Asking questions and maintaining a healthy skepticism can help keep individual actors within the system honest.

Although journalists' capacity to do these things seems to vary, their desire to do them seems almost universal. To the extent that journalists have time – or, increasingly, make time – to practice this brand of reporting, they might be able to help those unjustly caught in the maw of the system, and that, everyone seems to agree, is a worthy goal.



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## People interviewed

Baran, Maria: Reporter who covers breaking news, including a great deal of crime, for the *Belleville News-Democrat*

Caldwell, Alicia: Reporter for The Associated Press in El Paso, Texas, who focuses on crime, former police beat reporter

Curriden, Mark: Lawyer at the law firm Vinson & Elkins and former courts reporter for *The Atlanta Constitution* and projects reporter for *The Dallas Morning News*

Fazlollah, Mark: Projects reporter at *The Philadelphia Inquirer*

Fenton, Justin: Baltimore City police reporter for *The Baltimore Sun*

Gest, Ted: Longtime journalist and president and co-founder of Criminal Justice Journalists

Haldiman, Jeff: Crime and courts reporter for the *Jefferson City News Tribune*

Hudson, Courtney: Crime and courts reporter for the *Sedalia Democrat*

Hundsdorfer, Beth: Courts reporter for the *Belleville News-Democrat*

Kohler, Jeremy: Projects team reporter and former crime beat reporter for the *St. Louis Post-Dispatch*

Krajicek, David: Journalist, author and co-founder of Criminal Justice Journalists

Krouse, Peter: Courts reporter at the *Cleveland Plain Dealer*

Mahr, Joe: Investigative reporter specializing in criminal justice issues for the *Chicago Tribune*

McCarthy, Brendan: Crime reporter for the *New Orleans Times-Picayune*

Pawlaczyk, George: General reporter at the *Belleville News-Democrat*

Reuben, Richard: Law professor at the University of Missouri and former courts and legal affairs reporter for newspapers and the *ABA Journal*

Rosario, Ruben: Columnist at the *St. Paul Pioneer Press* who focuses on criminal justice issues and public safety

Smith, Jordan: Reporter who focuses on criminal justice issues for *The Austin Chronicle*

## Query letter

Few subjects that journalists cover involve the exercise of greater state power than the criminal justice system. As the increasing number of news stories about exonerations – most of them thanks to DNA technology – has shown, the system is not immune to error. Journalists usually consider themselves watchdogs and independent monitors of power, so should these wrongful convictions count as a failing on their part as well?

Journalist Steve Weinberg believes so, and he outlined a model for “preventive journalism” in a 2008 article for *Miller-McCune* magazine. His recommendations include orderly monitoring of more serious cases at various points as they progress through the system, as well as research and source cultivation that could help identify potential problems. Similarly, in a 2007 article for *Extra!*, the magazine of the progressive media criticism organization Fairness & Accuracy In Reporting, writer and editor Jon Whiten criticized journalists for not taking responsibility for their complicity in these miscarriages of justice and called for reporters to be more skeptical.

But, of course, reporters face time and resource constraints. These may be even more significant obstacles than in the past given the current economic climate for news organizations.

It is worth asking, then, whether reporters have the time or desire to do the kind of work that might curb injustices on the front end. How do reporters view their role within the criminal justice system? Do they have time for enterprise stories and independent investigations of cases?

In an attempt to answer these questions, I interviewed 18 current and former journalists whose focus is the criminal justice system. They ranged from young beat reporters at small newspapers to seasoned projects team members at large metro dailies. They shared many ideals, but their routine practices and views on the feasibility of preventing particular injustices varied.

I have covered police and courts and reported on potential wrongful conviction cases. I can be reached by e-mail at [chamby85@bellsouth.net](mailto:chamby85@bellsouth.net) or by phone at 615-218-6149. Thank you for your consideration.

Sincerely,

Chris Hamby

## **Appendix: Project proposal (without literature review)**

### **Introduction**

This project epitomizes the type of work I want to do. Devoting months to a difficult investigation about a controversial and fascinating topic is an exciting prospect. Over the course of the semester, I will examine the murder of *Columbia Daily Tribune* sports editor Kent Heitholt in 2001 and the subsequent convictions of Ryan Ferguson and Chuck Erickson for the crime. Erickson pleaded guilty, but Ferguson claims he is innocent. Some observers believe him.

There are few injustices greater than the conviction of an innocent person. It is not clear whether that has happened in Ferguson's case, but the available evidence certainly raises questions. It is just this sort of case in which journalistic scrutiny is most important. Perhaps my investigation will indicate that Ferguson and Erickson did, in all likelihood, kill Heitholt, in which case the public should be reassured that the criminal justice system functioned properly despite extraordinary circumstances. It is also possible that my investigation will uncover facts that call into question the administration of justice in this case. If that occurs, there is a greater chance that an injustice would be remedied. Either way, only good can come from a close examination.

This project is the natural culmination of my journalistic career thus far. I began reporting in high school, covering sports primarily. As my interests shifted, I began to report on topics such as politics and crime. I became fascinated with the criminal justice system in the summer of 2008 when I was assigned to cover the federal corruption trial of former Tennessee state Senator John Ford. I couldn't stop talking about the trial as it

wore on for weeks, and I began reading more and more about the justice system. When I came to the University of Missouri, I chose to be on the public safety beat at the *Missourian*. This experience solidified my interest in reporting on crime and courts. The first week I was in Columbia, police pulled over a 19-year-old and found his mother's body in the trunk of the car. Another reporter and I chased the story as more details emerged. This was a quick and interesting initiation into the Boone County criminal justice system. During the following months in the fall of 2008, I covered breaking crime news and ongoing court cases and issues, such as the lawsuits against Warren Funeral Chapel and the proposal for a citizens' review board of the police department.

One story that I covered during my time at the *Missourian* stood out in my mind, though. My editor, Katherine Reed, approached me one day with a manila folder and a warning: reporters who cover this case tend to get obsessed, she said. The case was that of Ryan Ferguson. I read the court documents in the folder and prepared to cover the upcoming hearing related to his most recent appeal. Much of what I wrote about the case related to Ferguson's challenge of the jury selection procedures in his 2005 trial. Eventually, a trial judge denied this appeal, and it reached the Missouri Supreme Court, which declined to hear the case. Through my reporting, I became familiar with Ferguson's other, more substantive pending appeal. This appeal – technically a motion for post-conviction relief, which occurs after the direct appeal has been exhausted – claimed that Ferguson's trial lawyers were ineffective and that the prosecutor – and now judge – Kevin Crane withheld important evidence. Ferguson's new lawyer, public defender Valerie Leftwich, introduced provocative new evidence at a July 2008 evidentiary hearing. Numerous witnesses called into question the conduct of attorneys

for both sides at the original trial and raised serious new questions about the credibility of Erickson, whose testimony was almost the sole basis for Ferguson's conviction.

I continued to report on the case even after my stint at the *Missourian* was finished. At the same time, I was becoming more acquainted with the criminal justice system through Steve Weinberg's Intermediate Writing course. I helped research a few cases being handled by the Midwestern Innocence Project. This included traveling to different areas of Missouri to retrieve documents and sometimes analyzing documents such as depositions. Meanwhile, I reported and wrote a profile of Crane that ran in *Vox* magazine.

In the summer of 2009, I worked as a researcher on an investigation by the Associated Press into the conviction of a Chillicothe teenager for the murder of his neighbor. I examined court documents, police videotapes, and private investigator files while also trying to track down witnesses. The main story, which raised questions about the conviction, went out over the national wire.

Throughout my time at Missouri, I have focused on investigative reporting. I have an undergraduate degree in journalism, so I came to graduate school to gain more specialized knowledge. My coursework has included classes on communications law, access to records and information, computer-assisted reporting, basic statistics, geographic information systems, legal reporting, and investigative techniques.

My emphasis on investigative reporting and my interest in the criminal justice system fit perfectly with my project topic. Having the time to devote to such a large and complicated project will also push me to expand my reportorial and organizational skills. This sort of investigation is exactly what I hope to be able to do in my career, and

working on this project now, with the supervision of experienced faculty members, will serve as a transition to the days when I do such projects on my own. After graduation, I would like to work as a newspaper reporter, then, I hope, transition to a projects team at a newspaper and maybe later to magazine or book writing. Through my professional project, I think I will expand on the skills I have built and emerge better prepared for a career in investigative reporting.

### **Professional skills component**

This project will be an independent investigation; I will not be reporting to an office every day. I will use my apartment as a base of operations, but I also plan to spend a fair amount of time meeting sources and obtaining records. Some travel is also a possibility. Some of the people involved in the case have since moved away from Columbia, and it may be beneficial to interview them in person. It is difficult to say exactly what each day will look like, but I am certain I will work at least 30 hours per week (and very likely substantially more). I am already doing some reporting and background reading. I will start the project in earnest on Jan. 18 and will work on it as long as it takes. This will include at least 14 weeks of work, and I will likely continue working until the end of the semester during the second week of May.

The bulk of my time will go to obtaining and analyzing records and interviewing sources. This process will be time-consuming because there are thousands and thousands of pages of official documents in this case. I will need good notes on each one, and it will take time to understand how documents from different sources fit together and what their broader significance for the case is. It will also take more time to track down

sources for this project than it would for an average story. Some have moved away from Columbia, and many will likely be reluctant to talk. In some cases, just getting the interview, even after locating a source, may take time. For example, it will likely take greater effort to interview sources currently in prison. Right now, I know of at least five current inmates whom I would like to interview.

Preparing for interviews will also be time-consuming because it will be necessary to review the records pertaining to that person. The facts of the case require that I interview a number of experts in various fields, particularly psychology and law. Preparing for these interviews will require reading about these subjects – something I have already started – in order to be conversant enough to conduct a productive interview. I anticipate having to re-interview many sources to confront them with new information obtained from other sources or documents. Finally, the writing process is likely to take a long time because of the massive amount of information from which to choose. It could easily take weeks to organize, write, rewrite, and fact-check the final product.

Though I have more experience writing for newspapers, the nature of this story calls for a magazine piece. The facts of the case are unique and complicated, and a substantial amount of context is necessary to do the story justice. The story will need to include not only information about the case but also some information about false confessions and repressed memories. The format and amount of space afforded in a magazine would be a better fit for this story. I have written a magazine piece before, and the chair of my committee, Steve Weinberg, is a magazine faculty member. After I have done a substantial portion of the reporting, I will draft a query letter that I will send to a



few magazine editors. I will start with magazines of a national scope in the hopes of getting this story before the largest number of readers possible. At the top of my wish list are *The New York Times Magazine*, *Mother Jones*, and *The American Lawyer*. The final product – constituting “abundant physical evidence” – will, I hope, be a magazine piece that explores the case in depth and showcases any new information I uncover.

This project falls squarely in the realm of investigative reporting, and, as detailed above, this is my area of emphasis at Missouri. Likewise, the criminal justice system is a subject that I have covered previously and is currently my main area of interest. I have assembled a committee of experienced investigative reporters who will be able to guide me: Steve Weinberg, Mark Horvit, and David Herzog. Because I will not be working in an office or with a specific news organization, my committee members are the people who will supervise me. I plan to keep in regular contact with them, informing them of my progress and asking for their guidance in navigating the tricky issues that are sure to arise.