



NATIONAL  
CRIMINAL  
DEFENSE  
COLLEGE

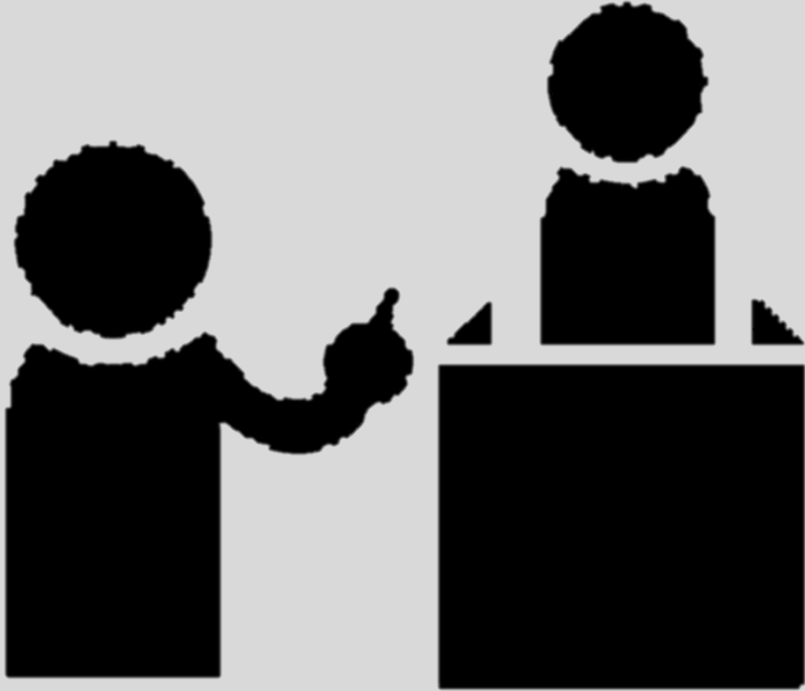
NCDC Cross-Examination workshop

# Crossing Incentivized Witnesses

Natasha Perdew Silas  
Lecture, January 14, 2023



Prosecution  
Theory of  
Witness



Sorry for  
Bad Past

Has Now Joined  
the Good Guys

Now Telling the  
Unvarnished Truth

The Words on the Paper  
Say They Have To

On Road to  
Redemption



**Finance**

**Freedom**

**Family**



Selfish

Opportunistic

Dishonest or  
Deceptive

Savvy

The Leopard Who Does  
Not Change His Spots



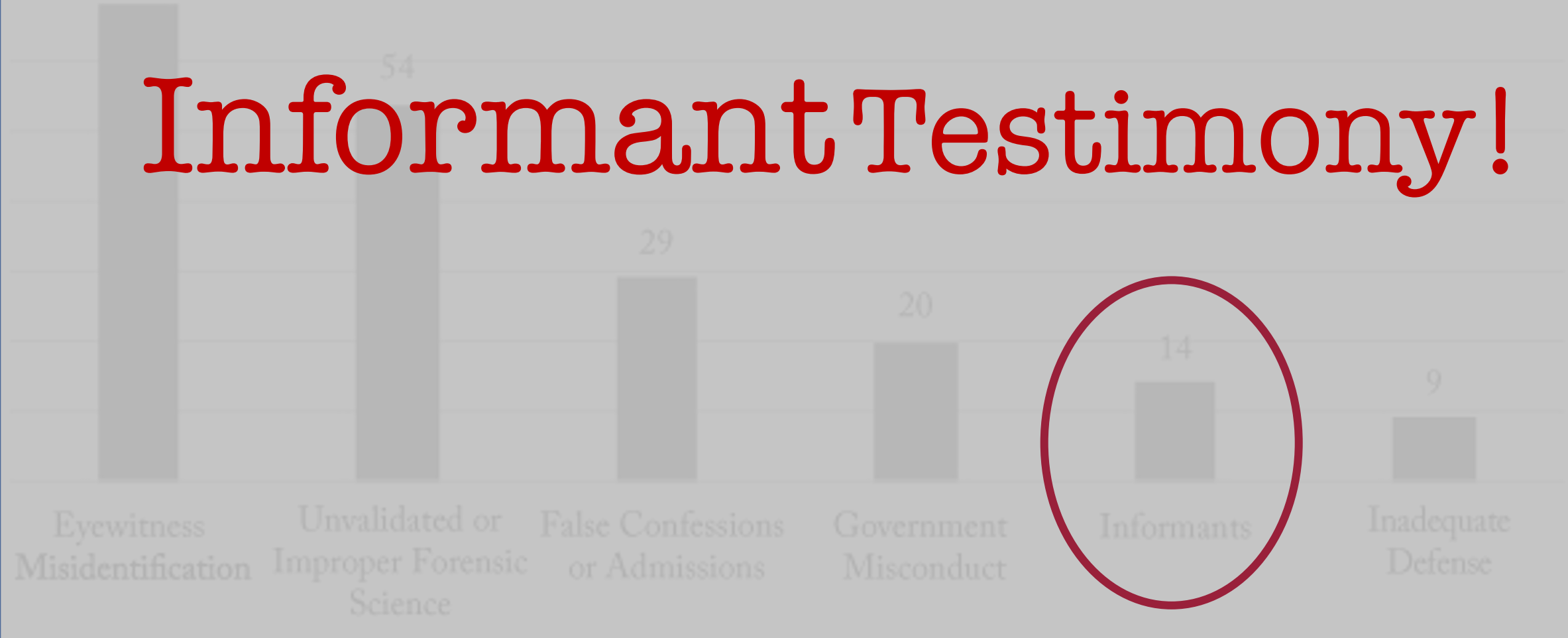
**FAVORS THE PROSECUTION**



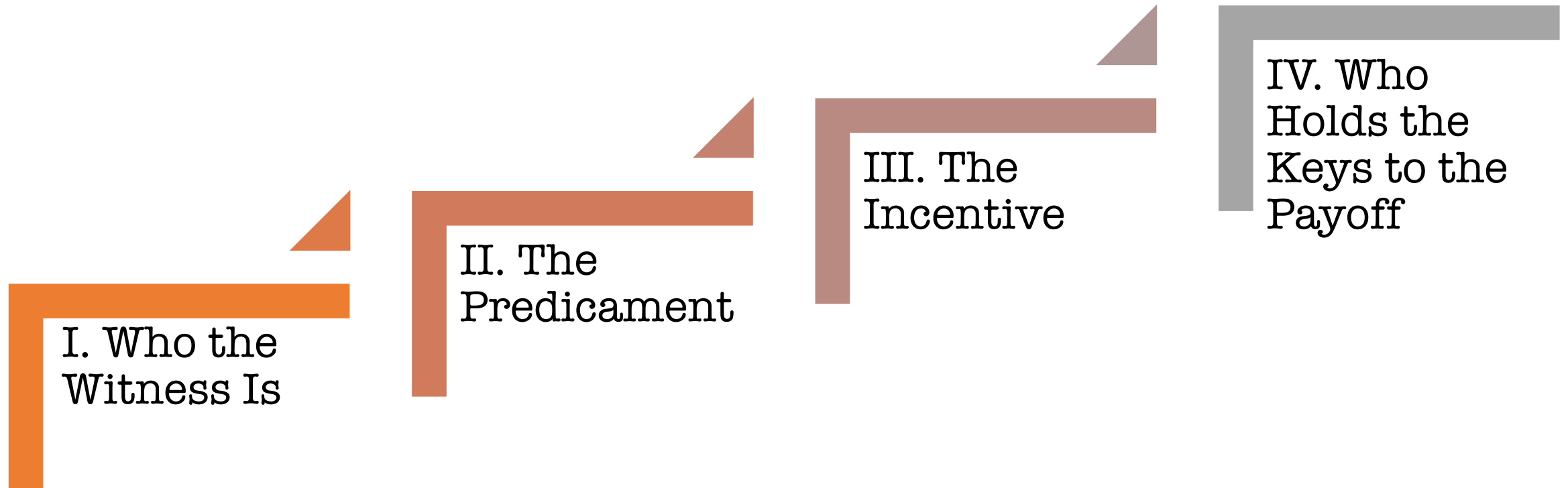
**TRUTH BIAS**

Convictions of **14%** of DNA Exonerees Based on

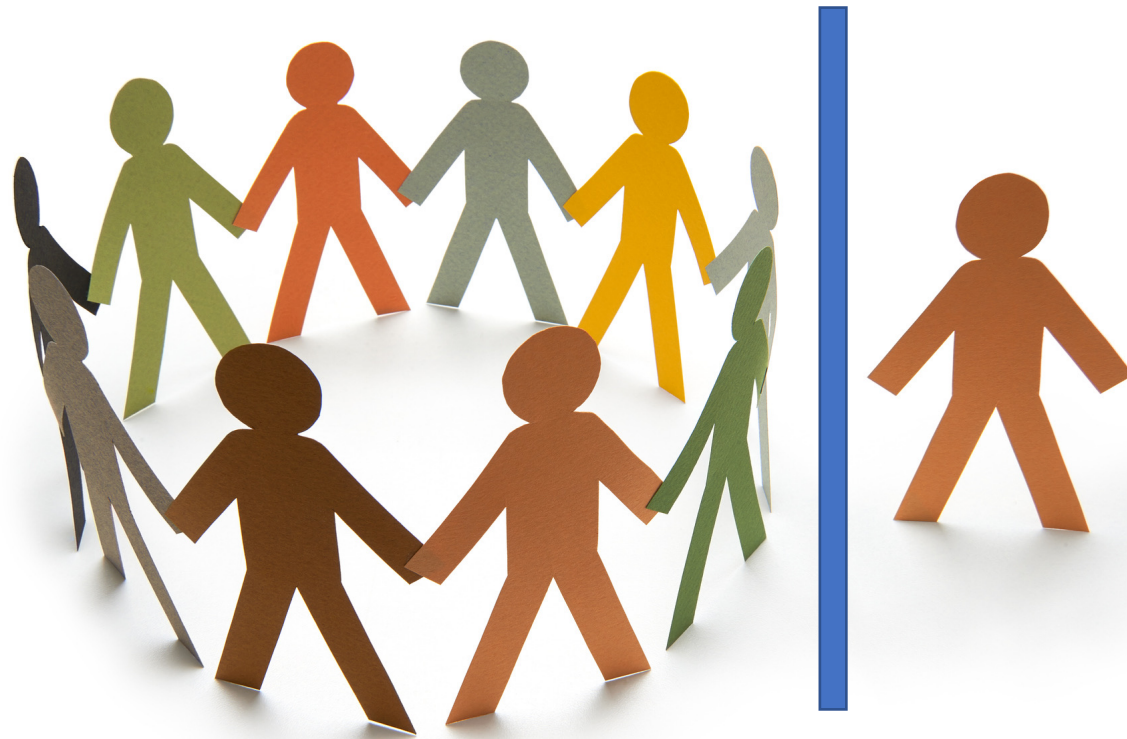
**Informant Testimony!**



# Sequencing the Chapters



# I. Who the Witness Is





Humans intrinsically categorize people into **two social groups**:



**INGROUPS:**

those like ourselves

**OUTGROUPS:**

those that differ from ourselves



**Dr. Xiaoti Fan**

# I. Who the Witness Is

Selfish

Opportunistic

Dishonest of  
Deceptive

Savvy

Unchanged

This Case



# I. Who the Witness Is

Selfish

Opportunistic

Dishonest of  
Deceptive

Savvy

Unchanged

Priors?



# We



# probation violations!

To urge President Wilson to support a constitutional amendment to give all women the right to vote, suffragettes began daily pickets in front of the White House on January 10, 1917. During the year, more than 1,000 women from across the country joined the picket line. Between June and November, 218 of these "silent sentinels" from 26 states were arrested and charged with "obstructing sidewalk traffic." Some were charged as criminals and sentenced up to six months in jail.

Of those arrested, 97 spent time in either the Occoquan Workhouse in Virginia or in the District of Columbia jail. They were held in deplorable conditions and went on a hunger strike, demanding to be treated as political prisoners, not criminals.

As the protests continued, emotions flared and the picketers were attacked by mobs. In December 1918, protesters started burning Wilson's words in watch fires in front of the White House. The following February, protesters burned Wilson's image in effigy.

On May 21, the Nineteenth Amendment passed the House of Representatives. It passed the Senate two weeks later.

On August 18, 1920, Tennessee became the 36th state (out of 48) to vote for ratification, putting the Amendment over the top.

Wyoming had been the first state to give women the right to vote—in 1869, when it was still a territory.

Sources: The Library of Congress (photo), FindLaw, The Constitution Center, History.com, OurDocuments.gov, Wikipedia

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# I. Do Your Homework



- All Priors
- Police Reports
- Probation Violations
- All Transcripts
- Social Media!!!
- Jail Calls!
- Open Record Act Requests  
(State Case Dismissed?)
- Ex Wife?



# I. Find More Sources



- Tattoos
- Bond Violations
- Civil Suits
- Divorce
- Child Support Acts
- Booking Info
- SOCIAL MEDIA!!!!



# I. DID YOU KNOW

Murdock v. Castro, 365 F.3d

699 (9<sup>th</sup> Circuit): 6<sup>th</sup>

Amendment trumps  
privilege!



# II. The Predicament

Caught Red-Handed?

Prison Life?

Away From Children?

Broke?

# The Power of Storytelling



# III. The Incentive



## Without the deal

Count 1: 0 to 15

Count 2: 5 to 10

Count 3: 10 to LIFE

-----

15 to LIFE

## With the Deal

Count 1: 0 to 15

~~Count 2: 5 to 10~~

~~Count 3: 10 to LIFE~~

-----

0 to 15





## IV. Knowing Who and How to Get the Reward





**Show Them,  
Don't Just Tell  
Them**



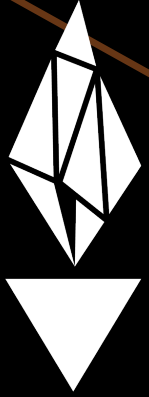






# tone





NATIONAL  
CRIMINAL  
DEFENSE  
COLLEGE

Cross = Teaching the Jury That  
Your Theory of the Case is the  
Truth, One Fact at a Time

# Teaching Your Jury Why They Cannot Trust the Incentivized Witness to Tell the Truth

- Because of Who the Witness Is
  - The Witness Looks Out for Himself First
  - The Witness Has Shown that He is Willing to Hurt Others for His Own Gain
  - The Witness Has Shown that He is Not a Rule Follower
  - Words on a Paper Mean Nothing to Him
- Because of the Predicament the Witness is In
- Because the Government Has Bought Their Testimony
- Because of the Ridiculous Choice They Have to Make
- Because of How Much They Have at Stake

