

Stolen Lives; The Perils of False Guilty Pleas  
Wednesday, November 24, 2021

**Resource List**

*You Say You Want a Revolution? Understanding Guilty Plea Wrongful Convictions*, by Professor Kent Roach (University of Toronto, Faculty of Law)

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3869888](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3869888)

This paper examines guilty plea wrongful convictions primarily in Canada but also in the United Kingdom and United States. It presents new empirical evidence of the over-representation of disadvantaged groups including women, Indigenous people and those with mental disabilities among those who have pled guilty but subsequently been recognized as innocent.

*Innocence at Stake: The Need for Continued Vigilance to Prevent Wrongful Convictions in Canada*, Report of the Federal/Provincial/Territorial Heads of Prosecution Subcommittee on the Prevention of Wrongful Convictions, 2018, Chapter 8, False Guilty Pleas

<https://www.ppsc-sppc.gc.ca/eng/pub/is-ip/ch8.html>

The freedom of an accused person to choose whether to plead guilty or not guilty to a crime is well established in the Canadian common law. It is a constitutional right. The courts recognize as a principle of fundamental justice the right of accused persons to control the conduct of their defence, which must be seen to include fundamental decisions about that defence, such as how to plead. However, we now know that factually innocent persons in Canada have sometimes, for a variety of reasons, pleaded guilty to crimes they did not commit. The phenomenon of false guilty pleas has become an issue of growing concern among experts in Canada and elsewhere. For this reason, the Subcommittee has chosen to explore this important subject in a new chapter in this report, to raise awareness and to address two key questions:

1. How significant is the phenomenon of false guilty pleas in Canada?
2. What steps, if any, should be taken to reduce the risks of false guilty pleas?

There are many resources and case references included within this Chapter.

*A Way to Reduce Indigenous Overrepresentation: Prevent False Guilty Plea Wrongful Convictions*, by Amanda Carling (Manager, Indigenous Initiatives, University of Toronto, Faculty of Law), 2017 64 C.L.Q. 415

Part 1 of this article looks at some of the literature and recent cases that support the argument that Indigenous people are overrepresented among those who falsely plead guilty. In Part 2, the author suggests language for amendments to s. 606 of the *Criminal Code* that would decrease the number of false guilty pleas, entered by accused of all races and ethnicities. In Part 3, the author fleshes out these suggested amendments, and explains why Indigenous people in particular are vulnerable to pleading guilty falsely and how the proposed amendments to the *Code* will address these vulnerabilities. In Part 4, the author discusses some of the limitations of the suggested amendments and argues that despite these limitations, these amendments could slow the revolving door of justice, reduce Indigenous overrepresentation and, perhaps, even increase some Indigenous peoples' faith in the Canadian criminal justice system.

*R. v. Shepherd*, 2016 ONCA 188

*R. v. Barton*, 2011 NSCA 12

*R. v. McIlvrde-Lister*, 2019 ONSC 1869