



DANIEL and the DNA:

How flawed forensic science led to Daniel Holtzclaw's wrongful conviction

Daniel K. Holtzclaw v. State of Oklahoma
Case No. F-2016-62

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UNCUFF THE INNOCENT
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Daniel Holtzclaw's Case Summary



- **Daniel Holtzclaw** is a Japanese-American, Oklahoma City police officer wrongfully convicted in 2015 of sexually assaulting 8 out of 13 African-American complainants
 - sentenced to 263 years in prison
- **Presumed guilty** after a single oral sodomy allegation and discovery of an unknown female DNA profile in a DNA mixture on his uniform pants' fly. **No vaginal fluid.**
 - prosecution ignorant of non-intimate DNA transfer
- **Detectives reverse-engineered the case** to find the female
 - used Daniel's police records to solicit allegations from at-risk African-American women with crime histories
 - DNA matched a teen (who called officer a "hot cop")

Daniel Holtzclaw's Case Summary, cont.



- **Unfair trial:** jurors were misled by **flawed forensic science**
 - **Media** -- inflamed the belief that Daniel was guilty
 - **Protesters:** “Racist jury, racist cop,” “Give him life”
 - **OCPD forensic analyst** -- **made DNA analysis errors**
 - **Prosecutor** -- **falsely said DNA was in vaginal fluids**
 - **Ineffective trial counsel** -- **did not challenge errors**
- **Appeal:** a main focus is the **OCPD analyst's errors**
 - Court is deciding on granting an **Evidentiary Hearing**
 - Attorney General claims falsely that indirect transfer cannot explain teenager's DNA inside Daniel's pants
- **Federal Civil Lawsuits:** represented by **Kathleen Zellner**
 - **Depositions:** analyst contradicted her trial testimony

Daniel Holtzclaw's Case was corrupted by Tunnel Vision



Daniel

- **Presumption of Guilt + Flawed Science** → **Tunnel Vision**
 - Investigators focused only on Daniel, presumed guilty
 - Discounted evidence of innocence because of a false belief that DNA meant he was guilty of sexual assault
e.g. a woman said a **black** police officer assaulted her
- **Presumption of guilt** -- prejudice against police officers
 - Our society's noblest desires to end racism, sexism, and police brutality caused people to presume guilt
- **Forensic science errors** permeate the case: "DNA = guilt"
 - Impacted evidence collection, testing, investigation, preliminary hearing, Daniel's firing, trial, and appeal

Forensic DNA Analysis Errors are at the heart of Daniel Holtzclaw's wrongful conviction

“Report on Scientific Issues in the Case of Oklahoma v. Daniel K. Holtzclaw
by an International Panel of Forensic Experts” (2017)

by:

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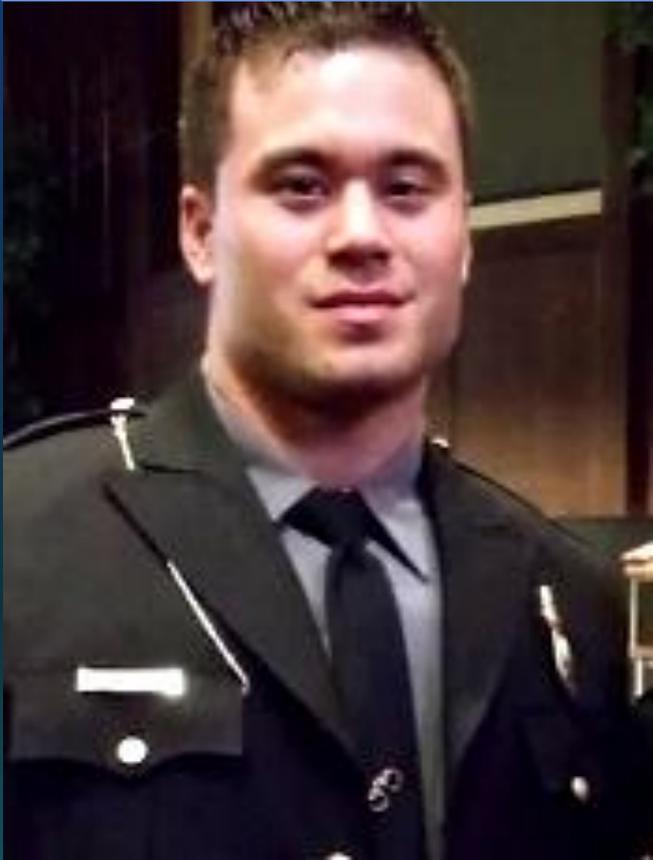
(HoltzclawDNAreport.com)

CONCLUSION

We believe that Mr. Holtzclaw was deprived of his due process right to a fair trial because the State misused DNA evidence – a powerful form of forensic evidence – and trial defense counsel did not correct crucial forensic science misrepresentations and omissions, such that the DNA evidence at the heart of the trial and lacking probative value was extremely prejudicial, corrupting the investigation of Mr. Holtzclaw and impacting the verdict. We believe that Mr. Holtzclaw's conviction should be overturned and he should be given a new trial.

DATED this 25th day of July, 2017.

Daniel Holtzclaw's Statement of Innocence



I am completely innocent of all these charges against me. I went to trial and I was wrongfully convicted on 18 charges. I put my life on the line each day I went to work and believed in the judicial system.

That judicial system failed me.

— Daniel Holtzclaw
(2018 Letter to Parole Board)

Biased Investigation: It began with a Presumption of Guilt

- **The Holtzclaw case was triggered** when a woman, J.L., accused an officer of orally sodomizing her through the **unzipped fly of his buckled uniform pants**.
 - She reported this to police after the 2 a.m. traffic stop on June 18, 2014.
- **Detectives believed J.L.** even before interviewing Daniel that afternoon after he said he did the traffic stop. **No forensic evidence** corroborated the allegation.



The lead detective: "Before we started the interview [with Holtzclaw] I felt like that what [J.L.] told me was the truth." (MMI "Daniel in the Den")

Right after the detective met with the woman who made the oral sodomy allegation, the detective "knew there would be more" victims.

(Ali Meyer (2016, May 20) Oklahoma City, News 4)
(kfor.com/2016/05/20/daniel-holtzclaw-in-his-own-words)

Biased Investigation: Detectives believed Daniel was guilty during his Interview

- Daniel was completely cooperative during his interrogation on June 18, 2014.



Daniel Holtzclaw: “Take the [DNA] test. I want to clear my name. I want to get it cleared up. I want you to take the exam and get, get this over with. Go, go at it – not my DNA. I want to do it today. I want everything. I want to get it done.”

- Detectives thought Daniel was “a narcissist,” “sociopath,” “evil.” (MMI, “Daniel in the Den”)



Halfway through the interrogation:

Female detective: “He’s like interviewing a robot.”

Male detective: “He’s a sociopath.”

(Adam Kemp (2016, May 15). Hunting Holtzclaw. *The Oklahoman*.)

Biased Investigation: Forensic Science Errors during Evidence Collection

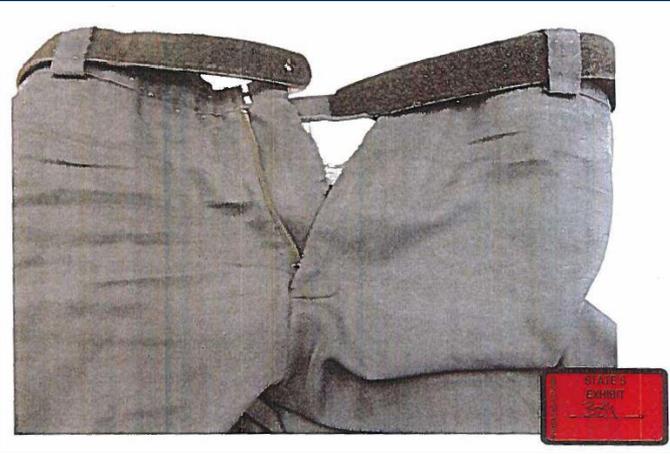
Detectives created DNA contamination risks **and** acquired insufficient evidence.

- Detectives gave pens to Daniel (who often touched his pant legs).
- The male sex crimes detective thrust his bare hand into the evidence bag.
- Told Daniel to put his pants and belt – two evidence items – in one bag.
- Did not take Daniel's underwear that he was wearing, or go to his home to obtain the underwear he wore at the traffic stop and other uniforms.
- No suspect examination (did not swab Daniel's body for DNA).



Biased Investigation: Forensic Science Errors during Evidence Testing

OCPD forensic analyst failed to test for body fluids required to help distinguish between non-intimate DNA transfer and body fluid DNA transfer.



- **No evidence of vaginal fluid** (she saw **no stains or deposits** using a bright light and magnifying glass)
- **No Alternate Light Source was used** to detect body fluids (saliva and vaginal fluid fluoresce)
- **Did not test for saliva** (despite claim of oral sodomy)
- **Did not do presumptive tests for vaginal fluid** (Lugol's Iodine Test and Dane's Staining Method)

“In legal proceedings, a proper and reliable determination of the source of isolated DNA is essential and an error in identification may result in grave legal consequences.”

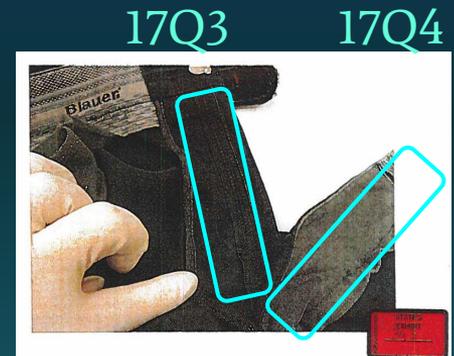
Jakubowska et al. (2011)

Biased Investigation:

Forensic Science Errors during Evidence Testing, cont.

OCPD forensic analyst only swabbed the fly of Daniel's uniform pants on four stretches of fabric by the zipper:

- Two DNA samples 17Q1 and 17Q2 from the **outside**, when the fly was unzipped.
- Two DNA samples 17Q3 and 17Q4 from the **inside**. (**Obtained a year later**, these samples could also result from DNA transfer in the evidence bag during storage.)
- **No DNA samples from other areas** of the pants or belt to serve as controls.



DNA Results from the Fly of Daniel's Uniform Pants are best explained by Innocent DNA Transfer

- **DNA testing results revealed** a mixture of DNA (not semen) **from at least 3 people:**
 - Unknown female's complete DNA profile (later matched to teen alleging rape)
 - A second individual (only some genetic regions were detected; not J.L.'s DNA)
 - At least **one unknown male's DNA in all 4 samples** (inconclusive if it is Daniel's because only some of the individual's genetic regions were detected)
- **Innocent DNA transfer best explains the evidence:**
 - No evidence of body fluid (no stains or deposits)
 - Male DNA proves vaginal fluid is not required for DNA transfer:
his DNA transferred without his vaginal fluid (since males make none)
 - The teen said the **officer questioned her, a man, and a woman: 3 people**
 - the officer "searched her purse and pat-searched her" (DNA transfer likely)
 - Low levels of DNA from multiple contributors (typical of non-intimate DNA)



Scientific Research available *before* Daniel Holtzclaw's trial (Nov. 2, 2015) proved non-intimate DNA transfers indirectly

- **van Oorschot & M. Jones (1997)** *DNA Fingerprints from Fingerprints*, *Nature*, 387: 767.

Person 1 DNA (hand)



→ tube



→ Person 2 (hand)



- **S. Jones and K. Scott (2010)** *The transfer of DNA through non-intimate social contact*, in Conference Report by J. Hulme, *Science and Justice*, 50: 100-109.

A woman's DNA (face and hands) → a man's hands, and then, after the man unzipped his pants → **his underwear** and **even his penis** during urination.

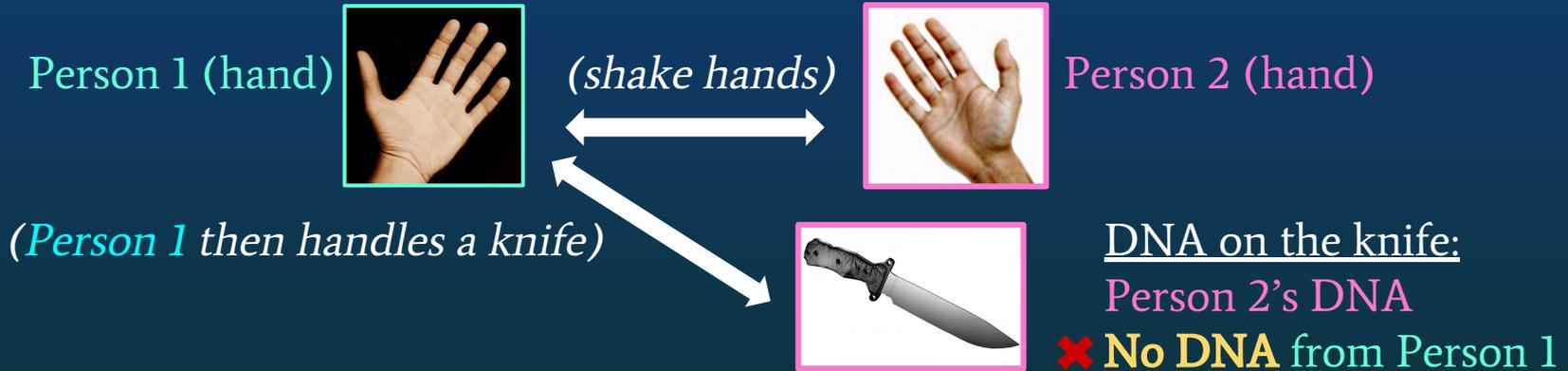
(Corroborated by S. Jones *et al.* (2016) *Science and Justice*, 56: 90-95)



- **J. Helmus *et al.* (2016, published online Oct. 27, 2015)** *DNA transfer -- a neverending story: A study of scenarios involving a second person as carrier*, *Int J Legal Med*, 130: 121-125. Person 1 DNA (neck) → Cloth 1 → Person 2 (hands) → Cloth 2 (resulting in the **full DNA profile of Person 1 on Cloth 2**)

Scientific Research available *before* Daniel Holtzclaw's trial (Nov. 2, 2015) proved non-intimate DNA transfers indirectly

- **C. Cale et al. (2016, published online Sept. 2015)** *Could Secondary DNA Transfer Falsely Place Someone at the Scene of a Crime*, J. of Forensic Science, 61: 196-203.



When you touch something, you may deposit someone else's DNA that was on your hands without depositing your own DNA in detectable quantities.

indicated that secondary DNA transfer was detected in 85% of the samples. In five samples, the secondary contributor was either the only contributor or the major contributor identified despite never coming into direct contact with the knife. This study demonstrates the risk of assuming that DNA recovered from an object resulted from direct contact.

Daniel Holtzclaw's wrongful conviction resulted from ignorance of non-intimate DNA transfer

If investigators had realized that **indirect transfer of non-intimate DNA** explained the DNA on the fly of Daniel's uniform pants . . .

DNA \neq GUILT

. . . then the trajectory of the investigation would have been very different.
The police would not have jumped to the **flawed conclusion** that their officer was guilty.

Flawed Forensic Science:

Police believed unknown female DNA meant Daniel was guilty

Investigators did not believe that non-intimate DNA transfer could explain the DNA found inside the fly of an officer's uniform pants:



Question: “Is it possible that there’s an innocuous and completely non-nefarious reason that the [...] DNA was on his pants?”

Lead Detective: “On the inside of his pants? No.”

Male Detective: “No.”



Question: “He couldn’t have gone to the bathroom, put his hands down there?”

Male Detective: “No.”

(Michelle Malkin Investigates (2016) “Daniel in the Den: The Truth about Holtzclaw”)

Flawed Forensic Science:

Police believed unknown female DNA meant Daniel was guilty

Investigators believed sexual contact transferred the unknown female's DNA to the fly of Daniel's uniform pants so there must be more "victims."



Lead detective: "After [J.L.] was investigated, there was DNA on his pants that was female DNA that was unknown. It didn't match [J.L]. We knew he didn't just say I'm going to pull this lady over and sexually assault her. There had to be something that built up to it. **There had to be other victims out there.**"

(Ali Meyer (2016, May 20). Oklahoma's News 4.)

<https://kfor.com/2016/05/20/daniel-holtzclaw-in-his-own-words/>

Biased Investigation:

The unknown female's DNA triggered a biased hunt to find her

The police department began a massive hunt to find the unknown “victim” who matched the DNA profile.



Lead detective: two months after the first allegation against Daniel Holtzclaw, the reason she was still looking for ladies who might have been sexually assaulted was “because our serology lab notified us that they had female DNA on the inside flap of Officer Holtzclaw's uniform pants. And it didn't match [J.L.] and it didn't match his girlfriend and so far it hadn't matched anybody that we had found. *So I knew there was another female victim out there that we needed to find that DNA to.*” (Trial Transcript (Tr.), p. 2804)

Biased Investigation:

Detectives solicited allegations from African-American women

Detectives used Daniel's own police records to solicit and procure allegations from at-risk African-American women with criminal histories whom Daniel had stopped.

- Questioned more than 40 African-American women
- Used false statements and leading interview techniques, procuring 10 allegations



Lieutenant: looked back through 6 months of Daniel's police records and created a list of the African-American women “who had a drug history, prostitution history or a significant criminal history” whom Daniel had stopped (Tr. 2284, 2386–87). The lieutenant gave the women's information to the two detectives to contact them (Tr. 2399).

Detectives (to women): We “received a tip” that you “were possibly sexually assaulted by an Oklahoma City police officer,” “a really bad guy” with a “long list of victims.” (Tr. 1975, 2218, 2250, 2322-24, 2999, 3517-18)

Biased Investigation: Detectives solicited allegations from African-American women

The male detective explained the motivation for the hunt, showing bias against Daniel:



Male detective: “We don’t want this guy out here hurting our own citizens. I’m out there trying to look for real victims. There are others out there that’s real. I’ve had to go to a lot of women stuff happened with. **They didn’t come forward. I’ve had to go find them.** Just because of one **jerk officer** out there doing stuff, that doesn’t mean there aren’t a lot of us out here that don’t care. **We don’t want him.** There’s bad everywhere. **You got to weed out the bad and keep the good.**”

(OCPD police interview, Aug. 2014, with Shaneice Barksdale, who admitted making a false allegation against Daniel. She received only a misdemeanor.)

The male detective is now being sued in a federal civil rights lawsuit by many of the women he encouraged to make allegations against Daniel.

Biased Investigation:

Detectives solicited allegations from African-American women

Inspiration for the “victim profile”: the previous month, a black woman (T.M.) on crack cocaine with schizophrenia and crimes accused an unknown officer of oral sodomy.

- Alleged location, date, patrol car and dark-skinned suspect did not match Daniel . . . until the detective fed her information and she changed her allegation while in jail.
- Could not positively identify Daniel in a line-up, the only one used in the case.
- Male detective pressured her to proceed with allegations.
- Daniel was found **Not Guilty**.
 - Patrol car was going more than 25 mph where T.M. alleged he dropped her off.
 - Male detective admitted that, "Yes," she was lying about that. (Tr. 3239, 3291-92)



Woman T.M. (to male detective): “Please, please, I just want to leave it alone. I don’t want to be a part of nothing no more. **Don’t do this to me, please. God help me Jesus. Jesus help me.**”

(OKC Police HQ Interview June 3, 2014)

Media Coverage

encouraged allegations and biased the public against Daniel

- **The police department held a press conference** and portrayed Daniel as guilty on the day he was arrested (Aug. 21, 2014):

Police Chief: “All of his **victims** were black females. The type of acts that **were committed** were anywhere from just requiring the females to expose themselves, to fondling the females, and there was one individual [...] where it was actually intercourse. Three of the **victims** were asked or required to provide oral sodomy on this officer.’

“Citty said investigators think there may be additional victims, according to The Associated Press. **If other women feel victimized by similar crimes, NAACP President Anthony Douglas urged them to come forward, according to KOCO.**”

(Enid News & Eagle (2014, Aug. 22) OKC police believe more victims may exist, chief says.)

Biased Investigation:

Culminated in 13 accusers whom detectives believed

- **Detectives procured sexual assault allegations** from 9 women and a 17-year-old teen
 - The teenager's DNA was found to match the unknown female profile.
- **A total of 13 complainants went to trial:**
 - 10 solicited allegations and 3 allegations from women who “came forward”:
J.L. (the initial allegation, guilty verdict) and T.M. and S.H. (led to acquittals).
- **An additional 8 individuals made false allegations** determined to be false right away:



Shaneice Barksdale (confessing she lied): “I just felt bad for her and I just wanted her to know like she wasn’t the only victim, because she was so old (J.L.). I wanted to do something on her behalf because I felt bad for her. Make her feel like she wasn’t the only one.” (OCPD police interview Aug. 2014)
(She received only a misdemeanor for falsely accusing police officer Holtzclaw)

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **Woman J.L. (Guilty Verdict)** – claimed the officer orally sodomized her briefly through the fly of his unzipped, buckled pants at a 2 a.m. traffic stop on June 18, 2014.



- **No forensic evidence supported her allegation** (evidence was collected that day)
 - No DNA from Daniel was found in or near her mouth (SANE kit was negative)
 - No DNA profile matching J.L. was found on Daniel's uniform pants' fly
 - No fingerprints or DNA supported J.L.'s account that she and the officer placed their hands on top of his patrol car. (Tr. 482, 508, 1095-96)



- **Driver's license suspended more than 30 years** (Daniel recalled J.L. gave him just an I.D.), **but at trial J.L. denied knowing her license was suspended (Tr. 543)**
 - Yet her fiancé (whose car she was driving) testified **he** knew. Normally she didn't drive. (Tr. 606)



- **Her suspect description did not match Daniel** (she smoked pot before driving)
 - She said “white male, blond parted hair, 35-45 years old, 5’ 7” - 5’ 9”, unsmooth skin”
 - Daniel is Japanese-American, black hair (no part), 27 years old, 6’ 1”, smooth skin

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **Woman J.L.** (Guilty Verdict) – her suspect description did not match Daniel

J.L.'s Suspect Description *



Daniel Holtzclaw

(* Image source: Michelle Malkin Investigates (2016) "Daniel in the Den: The Truth about Holtzclaw")

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **17-year-old Teenager A.G. (Guilty Verdict)** – alleged that Daniel raped her through the fly of his unzipped, buckled pants for “about 10 minutes” on June 17, 2014.
 - No stains or deposits on the fly of those pants (confiscated June 18, 2014)
 - Her mother reported that A.G. described the officer as a “**hot cop**” that night.
 - During the trial, the mother denied ever telling police her daughter had called the officer a “hot cop,” even when the mother was confronted with this audio:



Lead Detective: “What did your daughter tell you?”

A.G.’s Mother: “She said, ‘I met this really **hot cop**. He told me I had a couple of warrants, but he said, don’t worry about it. He gave me his number and we’re going to go out on dates...’”

(OCPD Recorded Interview with A.G.’s mother)

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **Woman S.E.** (Guilty Verdict, 62 year sentence) – alleged officer raped her in a park.
 - She described her assailant as a **black** police officer and indicated he was several inches shorter than her own height of 5' 11". (Daniel is 6' 1" tall.)

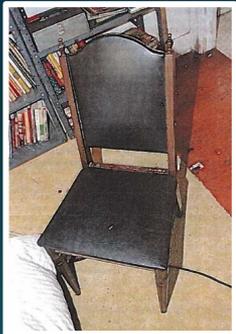


- Said she was raped for about “five to ten minutes,” but Daniel’s patrol car GPS data showed it could only have been motionless for less than 3 min 50 sec.

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **Woman R.G.** – alleged oral sodomy (Guilty Verdict) and rape (Acquittal) in her room.
 - She had multiple felony convictions (Tr. 2609-10) and a documented history of lying to police (Tr. 2519).
 - Forensic evidence did not support her claim that Daniel sexually assaulted her. R.G. said he orally sodomized her and she wiped the liquid on a chair's back.



- The back of the chair tested **negative** for seminal fluid.
- Swabbing the chair back for DNA revealed a complete DNA profile of an **unknown male** who was not Daniel Holtzclaw.

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **Woman C.R. (Acquittal)** – eventually she alleged an officer had her expose herself.
 - She denied seven times that any police officer was inappropriate with her before changing her story and **implicating a black police officer.**



C.R. (to male detective): “There’s only one officer that I know a few years back. He was a black cop. He used to come around here. And he exposed his self to me.”

(OCPD Police Interview with C.R.)

(Detective left her seven denials out of his police report)

- She **changed her story again**, finally implicating Daniel.
- She said the officer motioned for her to pull her shirt and bra up to check for hidden drugs, **but he did not tell her to do so.** She simply felt like she had to lift her shirt and bra to expose her breasts. **(Not even a crime)**

Biased Investigation:

Prosecution ignored **red flags** in allegations that went to trial

- **Woman S.H. (Acquittal)** – claimed Daniel orally sodomized her while she was high on PCP in a hospital bed, **but she told the male detective:**

S.H. (to male detective): “Even if like, even if he didn’t like even rape nobody or nothing, he’s still getting ... he’s been in contact with people that he’s arrested.”
(OCPD Police Interview with S.H.)

(Detective did not mention S.H.’s statement in his written report)



Flawed Forensic Science

caused unfair Holtzclaw Court Hearings before the Trial

Daniel received unfair court hearings because they were impacted by the **false belief** that DNA on the fly of his pants meant sexual activity had occurred and he was guilty.

Hearing about Motion to Increase Bond (Oct. 2, 2014):

Prosecutor: “[T]here is still unidentified female DNA evidence from the Defendant’s police uniform pants. This is a strong indicator that there are even more victims yet to be located. The Defendant alone at this point certainly knows whose female DNA is likely on his uniform pants and is free to intimidate her while on bond.” (Motion to Increase Bond, September 26, 2014, p. 4)

Prosecutor: “I would ask respectfully that you reconsider your additional order based upon the new evidence that the State of Oklahoma has brought to you. The undeniable fact that there is at least one woman out there, because we have her DNA, that he has had sexual contact with. And we still don’t know who she is or where she is.”

(Transcript of Hearing about Bond Increase Motion, October 2, 2014, p. 63)

Flawed Forensic Science

caused unfair Holtzclaw Court Hearings before the Trial

Daniel received an unfair preliminary hearing because the judge considered the totality of evidence in the 13 allegations (including the DNA evidence believed to indicate guilt) to conclude C.R.'s and S.E.'s allegations should go to trial although, as stand alone counts, the State would not have met its burden of proof.

Preliminary Hearing (Nov. 17-18, 2014): Judge allows C.R.'s allegation to go to trial

Prelim. Hearing Judge: “As to Count 2 (CR) very frankly, I will tell counsel that had I heard that evidence as a stand alone crime that count only being charged the evidence would have been insufficient to establish that count. From that evidence alone, I was not persuaded that what happened with regard to putative victim CR was coerced or even encouraged by any act or conduct or words by the defendant. However, I do have to consider what happened at that stop in light of the conduct that was testified to, with regard to all of the other stops involved in this case. This is now a 36-count case, and in viewing all of that evidence in its totality, the Court finds that the State has met its burden with regard to probable cause on Count 2.” (Prelim. Hearing Transcript, Nov. 18, 2014, Vol II., p. 149.)

Flawed Forensic Science

caused unfair Holtzclaw Court Hearings before the Trial

Daniel received an unfair preliminary hearing because the judge considered the totality of evidence in the 13 allegations (including the DNA evidence believed to indicate guilt) to conclude C.R.'s and S.E.'s allegations should go to trial although, as stand alone counts, the State would not have met its burden of proof.

Preliminary Hearing (Nov. 17-18, 2014): Judge allows S.E.'s allegation to go to trial

Prelim. Hearing Judge: Regarding four counts deriving from SE's allegations, "The issue that remains [...] is whether there is probable cause to believe that those crimes were committed by defendant. The victim in that case described a perpetrator not bearing even the remotest resemblance to the defendant. **As stand alone allegations, [...] I think that would be insufficient to establish probable cause, but again, [...] considering all of that [other allegations of crimes]** the Court finds that the State has met its burden."

(Prelim. Hearing Transcript, Nov. 18, 2014, Vol. II, p. 150.)

Flawed Forensic Science

contributed to Daniel Holtzclaw's Termination by OCPD

Daniel was presumed guilty and fired by his police department on Jan. 8, 2015, almost a year before the trial, after OCPD conducted an **internal affairs investigation pre-determination hearing** that **misrepresented the DNA evidence as sexual in origin:**

Pre-Determination Hearing (Dec. 11, 2014):

A detective testified the **"DNA Lab did"** find evidence indicating **"sexual conduct"** on Daniel's uniform pants. (Pre-D transcript)

The lead detective's partner even explained that after the initial allegation by J.L., **photo lineups** had been **halted at the District Attorney's direction** because, **"Well, we we had female DNA."** (Pre-D transcript)

Q: And did you find any evidence on those uh uh pants of indicating sexual conduct?

Det.: The DNA Lab did, yes.

Det.: They (*inaudible*) directed us not to do that.

Q: Not to do the photo lineups?

Det.: Yes.

Q: Why is that?

Det.: Well, we we had female DNA.

Daniel Holtzclaw's Termination

contributed to the Public Perception that he was guilty

The police department and media publicized Daniel's termination on Jan. 8, 2015, almost a year before the trial. OCPD publicly condemned Daniel as guilty, biasing potential jurors.

An OCPD captain told the media: “We believe that these actions were of a lone officer who took it upon himself to abuse his authority by conducting criminal activity around the city to various women of this community. Obviously although this situation is very appalling, sad, and embarrassing to the department, I hope it shows that we are going to do a good job of policing ourselves.”

(Matt Dinger (2015, Jan. 8). Accused Oklahoma City police officer is fired. www.newsok.com)

Daniel Holtzclaw's Termination contributed to the Public Perception that he was guilty

The police department and media publicized Daniel's termination on Jan. 8, 2015, almost a year before the trial would begin.

The Police Chief's Termination Letter to Daniel was released to the public:

Your offenses committed against women in our community constitute the greatest abuse of police authority I have witnessed in my 37 years as a member of this agency. These violations more than warrant your termination from the Oklahoma City Police Department.

Your termination is effective January 8, 2015. Contact Police Personnel for further information.



The City of
OKLAHOMA CITY
POLICE DEPARTMENT
William Citty
Chief of Police

A handwritten signature in black ink, appearing to read "William Citty", written over a large, faint circular watermark or stamp.

William Citty
Chief of Police

January 8, 2015

Daniel Holtzclaw's Unfair Trial



From the start of this nightmare it has been a one-sided story.

It's not innocent until proven guilty. It's you got to prove yourself innocent, and then fight for your freedom. It was unfair. I didn't receive a fair trial.

— Daniel Holtzclaw

(Lisa Monahan, "Daniel Holtzclaw Maintains DNA Evidence Was Flawed," News 9, July 4, 2017, and Daniel's 2018 Letter to Parole Board)

Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

- **The analyst claimed falsely** that Daniel's DNA was not on the fly of his pants. **The prosecutor** used this false claim to **argue in favor of the presence of vaginal fluid**.

The prosecutor argued that if Daniel had simply touched the fly of his pants, innocently transferring the teenager's DNA on his fingers after searching her possessions, then you would expect to find Daniel's DNA from his fingers.

Prosecutor: "Did you find Officer Holtzclaw's own DNA on his pants where he might touch his pants to unzip them with his belt on? Did you find the transfer from his hand to his pants; did you get that?"

OCPD forensic analyst: "No, I did not." (Tr. 4087)

Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

- **The forensic analyst's crucial errors:** she falsely claimed there was no male DNA inside the fly of Daniel's pants and Daniel's DNA was not found on his fly.

Prosecutor: [about DNA samples 17Q3 and 17Q4 from inside the fly]
“Did you find evidence of male DNA at either one of those locations, epithelial cells?”

OCPD analyst: “There's no Y so the answer is no.”

Prosecutor: “There's none there. So even though Officer Holtzclaw was wearing these pants, his DNA is not inside them; correct?”

OCPD analyst: “That is correct. [...] Yes, which is very difficult to try and explain.” (Tr. 4072-73)

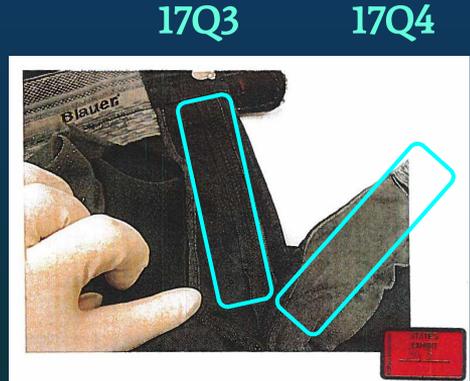
Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

- Her own DNA quantity data showed a low level of male DNA inside the pants' fly. The low level of male DNA meant that not all genetic regions of the contributor(s) were detected, so it is **inconclusive** whether or not Daniel's DNA could be there.

The DNA samples
from inside the fly:

17Q3
17Q4

#	Sample Name	Qty Small Auto (ng/ul)	Qty Male (ng/ul)	Male: Female Ratio
1	SD14-273 #17Q3	2.19E-01	1.02E-02	1:20
2	SD14-273 #17Q4	2.60E-01	1.17E-02	1:21
3	SD14-273 RBQ	0.00E+00	0.00E+00	0.0



Analyst's initials ----->

21	<i>SD-14-273 P. 10/18/14</i>
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Approved By: Director of Laboratory Services

Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

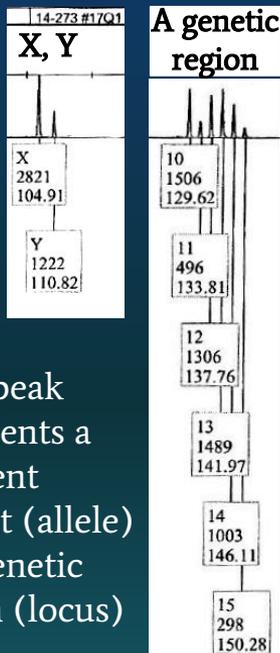
- **Analyst testified falsely that Daniel's DNA was not found in the two samples from the outside surfaces of the fly, despite acknowledging they had "Y" chromosomes.**
 - **Whether or not Daniel's DNA contributed to 17Q1 and 17Q2 is **inconclusive**** because, when dealing with mixtures of low level DNA from at least 3 people, some of the genetic regions may not be detected.
 - **The analyst did not understand** the concept of "inconclusive" results:

The Analyst testified correctly that the "minor component of the profile [in sample 17Q2] is not suitable for comparison purposes." (Tr. 4056)

The Analyst then erred, contradicting herself, by agreeing with the prosecutor that "whatever the mixture is from the outside of the pants or the flap on the inside [behind the closed zipper], it's not Officer Holtzclaw's DNA": **"That's my conclusion, sir."** (Tr. 4059)

Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

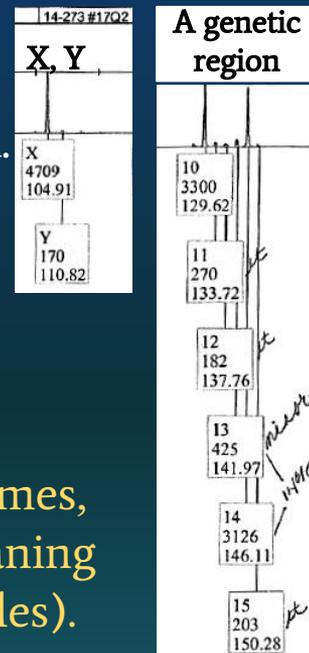
- The DNA samples from the outside of the fly did not allow the exclusion of Daniel.
- Electropherogram of 17Q1
(outside fly, left of zipper)
- Electropherogram of 17Q2
(outside of flap under zipper)



17Q1 and 17Q2 show a **low level mixture of DNA from at least 3 people (at least one being male)**, and some genetic regions may not have been detected.

Not all of Daniel's genetic regions were observed, but we can't tell if they simply were not detected or if he did not contribute to the samples.

Pictured are peaks associated with X and Y chromosomes, and also a genetic region with 6 variants (alleles), meaning at least 3 people contributed (each has a max of 2 alleles).



Each peak represents a different variant (allele) of a genetic region (locus)

Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

- **OCPD forensic analyst ignored** the **significance** of the DNA samples from the fly being **mixtures from at least three people**, including at least one **unknown male**.
 - The male DNA **proves** a person's DNA could transfer to the fly of the pants without requiring the presence of that individual's vaginal fluid.
 - Anyone wearing pants is likely to have **low levels of DNA from many people** on the fly. This does **not** mean sexual contact or assaults have occurred.

Scientific research by **Jones and Scott (2010)** and **Jones *et al.* (2016)** showed that your hands can innocently transfer another person's non-intimate DNA to your underwear and even genitals during urination.

Daniel Holtzclaw's Unfair Trial: The OCPD Forensic Analyst's Errors

- **The OCPD analyst testified falsely** that there is not a presumptive test for vaginal fluid, misleading the jury into believing it was reasonable that OCPD did not test for vaginal fluid. **Two tests that can detect vaginal fluid epithelial cells are:**
 - Lugol's Iodine Test (Jones and Leon (2004) J Forensic Sci, 49(1): 64-7.
 - Dane's Staining Method (French *et al.* (2008) Forensic Sci Int., 178(1): 1-6.

Daniel's trial attorney: "You've also testified that there's not a presumptive test for vaginal fluid; correct?"

OCPD forensic analyst: "That is correct. There is not." (Tr. 4078)

- **The OCPD forensic analyst was biased toward the prosecution:**
 - she testified that "unfortunately in this case" J.L.'s SANE kit came back negative without any evidence of Daniel's DNA in or around J.L.'s mouth. (Tr. 4038)

Daniel Holtzclaw's Unfair Trial: Prosecutorial Misconduct

- **The prosecutor gave the jury false information** by stating the teenager's DNA transferred in her **vaginal fluids** to the fly of Daniel's uniform pants, even though **no vaginal fluid was observed** and **no tests for any body fluid were conducted**.
 - A basic principle in science is that you cannot claim the presence of a substance for which you have not tested.

Prosecutor: "The most important thing about [the teenager] is the fact that DNA from the walls of her vagina was transferred in vaginal fluids onto the outside and the inside -- not of his pockets, not of his cuff, not where he sits, but of the exact location she says his penis came in contact."
(His closing argument, Tr. 4307)

Daniel Holtzclaw's Unfair Trial: Ineffective Trial Counsel

- **Trial attorney did not object to joinder** of all the allegations in one trial.
- **Trial attorney and his defense DNA expert**
 - did not challenge the OCPD forensic analyst's many forensic science errors.
 - did not make the jury aware of the male DNA and its implications: it proved DNA could transfer without that individual's vaginal fluid being involved.
 - did not force the analyst to disclose the low DNA quantity found on the fly of the pants, even when she told him, "I can tell you a quantity." (Tr. 4082)

The DNA quantity in the four samples ranged from 11 ng – 40 ng, assuming a 50 μ L volume, less than was obtained from Daniel's patrol car rear passenger door's interior pull handle

- **Trial attorney did not object to the prosecutor's false statement** that it was a "fact" that the teenager's DNA transferred in her vaginal fluids.

Daniel Holtzclaw's Unfair Trial: Jury was Misled to Believe DNA Transferred in Vaginal Fluid

- A juror, D.S., revealed publicly after the trial that he believed the DNA had transferred in vaginal fluid because the jurors were told this during the trial.

Juror D.S.: “Well, I mean, I’m not a DNA expert. They told us it was DNA from the vaginal fluid from a 17-year-old. The DNA people are pretty boring to be honest with you.”

(Crime Watch Daily Investigates the Case of Daniel Holtzclaw, Telepictures Productions television broadcast Apr. 28, 2017)



Daniel Holtzclaw's Unfair Trial Verdict: The Misrepresented DNA Evidence affected Multiple Verdicts

- **Because 13 people's allegations were joined in one trial**, misrepresentation of the DNA evidence as deriving from vaginal fluid led to convictions based on 8 women's claims although DNA evidence was only found in the teen's case.

Juror D.S. (after trial): “At first, [the juror] said, a number of jurors were ready to set Holtzclaw free because they didn't believe some of Holtzclaw's accusers. ‘There was some jurors that – due to that fact [of] who these victims were – had a hard time believing them,’ [D.S.] said. [He] says that **it was DNA evidence** on the inside of Holtzclaw's pants and testimony involving a 17-year-old victim **that helped get the deliberations moving.**” (Susan Welsh *et al.* (May 20, 2016) *How the Daniel Holtzclaw Jury Decided to Send the Ex-Oklahoma City Police Officer to Prison for 263 Years*, ABC News)

Juror R.H. (after trial): “**The DNA evidence was very crucial.**”
(KOKO 5 News (2015, Dec. 18). Only on KOCO 5: Juror Speaks about Daniel Holtzclaw Trial.)

Daniel Holtzclaw's Unfair Trial Verdict: Protests impacted the Verdict

- Daniel was convicted in the Court of Public Opinion, leading to protests that interrupted the trial and impacted the jurors.

Protesters: screamed “give him life” and “racist jury, racist cop.” More than 100 protesters choked a blocked-off street one floor below the courtroom window, chanting at length in a manner the judge acknowledged could “clearly” be heard in the courtroom and by the jury. TR 2303-06. The court simply admonished the jury to ignore the outside influences. TR 2317-21.

(*Amicus* brief by Oklahoma attorneys Randall T. Coyne and J. Christian Adams submitted to and rejected by the Oklahoma Court of Criminal Appeals in March 2017)

Juror: admitted “there was concern” among jurors that things could get out of hand if the verdict didn’t go the way the protesters wanted.

(KOKO 5 News (2015, Dec. 18). FULL INTERVIEW: Juror in Holtzclaw sexual assault case speaks about trial. YouTube.)

Daniel Holtzclaw's Unfair Trial:

The Misrepresented DNA Evidence led Media to condemn Daniel

- Even before verdict on Dec. 10, 2015, the media proclaimed Daniel to be guilty due to misrepresented DNA evidence and lack of awareness of innocent DNA transfer.

Shaun King (2015, Dec. 2). *New York Daily News*:

King: DNA shows Oklahoma City cop Daniel Holtzclaw sexually assaulted teen as he continues to deny 13 accusers' claims

FALSE

“While I am always sympathetic to victims of sexual assault, **nothing is stronger than the DNA of a runaway teenager found inside and outside of the pants of an on-duty police officer. It is no longer a legal question** of whether he had sexual intercourse with a complete stranger at night while on duty.” **FALSE**

“DNA now proves, beyond a shadow of a doubt, that he was sexually active with a marginalized young girl in the most reckless way imaginable.” **FALSE**

“Det. Kim Davis testified that the DNA was from vaginal fluid.” **FALSE**

Daniel Holtzclaw's Unfair Trial:

The Media misinformed the Public while condemning Daniel

- Even before verdict on Dec. 10, 2015, the media proclaimed Daniel to be guilty, misinforming the public by making false claims and selectively reporting facts.

Shaun King (2015, Dec. 2). *New York Daily News*:

Officer Holtzclaw has “fully denied that anything of the sort ever took place with this young girl. **Except it did.**” **The DNA** from an accuser on his pants “colors everything else that every other woman said under oath and **shows that Holtzclaw [. . .] was willing to abuse the power and privilege of his office.**” “Thirteen girls and women, **none of whom knew each other [. . .]** have all now testified that Officer Holtzclaw preyed on them.”

FALSE. The DNA evidence is actually explained by **non-intimate DNA transfer**. Also, **at least two accusers knew each other:** they smoked crack cocaine together.

SLANTED. Two accusers actually said their assailant was a **black** police officer.

Daniel Holtzclaw's Unfair Trial:

The Media misinformed the Public while condemning Daniel

- Even before verdict on Dec. 10, 2015, the media proclaimed Daniel to be guilty, misinforming the public by making false claims and selectively reporting facts.

Shaun King (2015, Dec. 2). *New York Daily News*: On the night when Officer Holtzclaw allegedly raped the teen at her mom's home, the officer called the mother and "the mother was so furious that she took a screenshot of the call, which she displayed in open court. For me, this is enough" [to prove guilt].

SLANTED. The mother actually was furious and took the screenshot because her daughter told her, "I met this really hot cop. He gave me his number and we're going to go out on dates." The teen first accused Daniel of rape months later, only after detectives contacted the mother and teen by using Daniel's police records.

Shaun King is a keynote speaker at the **2019 Innocence Network Conference**, where the theme is . . . "**The Presumption of Innocence.**"

Daniel Holtzclaw's Unfair Trial:

The Media misinformed the Public while condemning Daniel

- Even before verdict on Dec. 10, 2015, the media proclaimed Daniel to be guilty, misinforming the public by making false claims and selectively reporting facts.

Ricardo Hazell (2015, Nov. 4). Daniel Holtzclaw: The Devil in Blue. *The Shadow League*: “A **monster** has been revealed in Oklahoma. A **beast that roamed free, preying on Black women** in Oklahoma City. Holtzclaw is revealed as a **usurper of peace, an enemy to the people**. 13 Black women were dragged into the world of a **sociopath**. 13 instances of citizens targeted because they were women. And because they were Black. Thanks to the digital trail left by Holtzclaw via vehicle GPS, **body cam**, and phone records . . .”

FALSE and **SLANTED**. Author ignores that **detectives** solicited allegations **specifically from African-American women** by using Daniel's police records of the people he had stopped. Also, Daniel did not have a **body cam** or dash cam.

Daniel Holtzclaw's Appeal: The Forensic Science Errors are a Major Focus

- Daniel's OIDS appellate attorney, James Lockard, filed Appeal Brief on Feb. 1, 2017, with an "Application for Evidentiary Hearing on Sixth Amendment Claims" that Daniel's trial attorney was ineffective at challenging the DNA evidence.

The Oklahoma Court of Criminal Appeals is now deciding whether to grant the hearing about accepting a forensic expert's affidavit, submitted by Daniel's appellate attorney, that supports the claim that the trial attorney was ineffective.

- The Court refused to accept "friend of the court" briefs by Oklahoma law professor Randall Coyne and J. Christian Adams about the mob protests and by Dr. Peter Gill *et al.* about the forensic science errors that deprived Daniel of a fair trial.
- Secret hearings about the OCPD forensic analyst's personnel records (June 2017). Daniel and his appellate attorney were not allowed to attend.

Daniel Holtzclaw's Appeal:

The Attorney General is making False Claims about the DNA

- **The Oklahoma Attorney General** denies that Daniel's defense counsel was **ineffective** at challenging the DNA evidence.

Oklahoma Attorney General: "All the testimony in the world about secondary transfer would not have explained how [the teenager's] DNA ended up in this area [the inside zipper area of Daniel's pants], an area one would not typically touch when going about his day, even to use the restroom."

(Brief of Appellee, p. 46)

FALSE. Jones and Scott (2010) proved a woman's DNA can transfer innocently through secondary transfer via his hands all the way to a man's underwear and even his genitals when he urinates.

Daniel Holtzclaw's Appeal:

The Attorney General is making False Claims about the DNA

- **The Attorney General claims that no prosecutorial misconduct occurred** because the evidence supported the prosecutor's statement that it was a "fact" that vaginal fluid transferred the teenager's DNA. (Brief of Appellee, p. 34)

FALSE. The evidence was that the OCPD analyst saw nothing suspicious on the fly of the pants and did no tests for body fluids.

- **The Attorney General claims that joinder of all the allegations in one trial did not deprive Daniel of a fair trial.** (Brief of Appellee, p. 27)

FALSE. A juror has publicly explained that a number of jurors were initially ready to set Daniel free because they had a hard time believing some of the women, and it was the DNA evidence that helped get deliberations moving.

Daniel Holtzclaw's Appeal:

The Prosecutor and Media continue to mislead the Public

- After Daniel was sentenced, **the prosecutor gave a TV interview** on Feb. 5, 2016, repeating his **false claim** that the teenager's skin cells transferred in her **body fluids**.

Prosecutor: "The skin cells were transferred through the body fluids of a 17-year-old girl after he raped her. That's what the evidence was. That's what the jury heard and certainly that's what they convicted him of. They tried to explain DNA from a 17-year-old girl that ends up inside his pants at the areas where his privates are. Quite frankly, **their explanation was not believable because you can't explain that**" (Erielle Reshef (2016, Feb. 5). Prosecutors who helped convict Daniel Holtzclaw speak. Oklahoma City, KOKO 5 News.)

FALSE. In reality, **no body fluids were detected or identified** on the fly of Daniel's uniform pants. **Non-intimate DNA transfer via Daniel's hands to the fly is a reasonable explanation**, as proven by numerous studies on DNA transfer.

Daniel Holtzclaw's Appeal: The Prosecutor and Media continue to mislead the Public

- The prosecutor gave a second TV interview on Dec. 15, 2016, making false claims:

Prosecutor: “The fluid containing the skin cells is absorbed into the pants. That's what we have. If Mr. Holtzclaw or his supporters are advocating that there is a test that determines that this is vaginal fluid, they are lying.

There is no test that does that.” (Ali Meyer (2016, Dec. 15). EXCLUSIVE: Daniel Holtzclaw's family speaks out about conviction, appeal one year later. Oklahoma City, News 4.)

FALSE. No body fluids were observed or tested for. We do **not** have evidence that “fluid containing skin cells is absorbed into the pants.”

FALSE. Vaginal fluid presumptive tests exist. The prosecutor's public comment shows **his claim is illogical that vaginal fluid transferred the DNA** when the analyst conducted no tests for vaginal fluid or any body fluid.

Daniel Holtzclaw's Appeal: The Prosecutor and Media continue to mislead the Public

- The prosecutor made additional false claims in his TV interview on Dec. 15, 2016:

Prosecutor: "If what they are trying to get people to believe, which is not accurate, is that it [the teenager's DNA] could transfer from a purse, to hands, to pants, to inside of pants, uh, significantly, Daniel Holtzclaw's own DNA was not found on the inside of his uniform pants. I think that speaks probably louder than anything I could argue as to the ability of someone's skin cells from their hands to get transferred to a piece of fabric." (Ali Meyer (2016, Dec. 15). EXCLUSIVE: Daniel Holtzclaw's family speaks out about conviction, appeal one year later. Oklahoma City, News 4.)

FALSE. Studies show **non-intimate DNA can transfer indirectly** to a man's underpants and penis, and from cloth, to hands, to another piece of cloth.

FALSE. Male DNA was detected but whether Daniel is a contributor is **inconclusive**. Also, **touching an object may transfer another person's DNA but not your own.**

Daniel Holtzclaw's Appeal:

Attorneys and Media continue to mislead the Public

- **Attorneys and journalists** have spread **false information about Daniel's case and the DNA evidence**, making the fight to overturn his wrongful conviction harder.

TV One - "Justice by Any Means" (aired Oct. 24, 2016):

"The twelfth and final DNA test conducted on the **undergarments of a 17-year-old girl**, the youngest of Holtzclaw's victims, **provides a hit.**" **FALSE.**

(No undergarments of the 17-year-old were obtained or tested for DNA.)

TV One - Federal Civil Rights Lawsuit Attorneys for accusers:

"They had his DNA evidence inside one of the **victim's panties.**" **FALSE.**

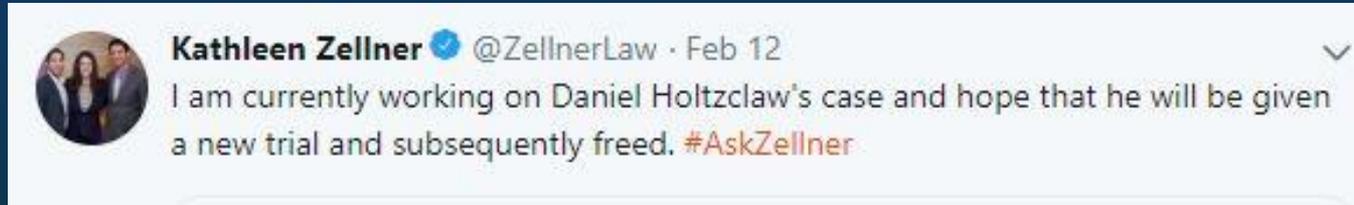
(No DNA was found in any victim's panties.)

"They found **vaginal DNA material** on the inside of his trousers and that **vaginal DNA** matched the DNA of the 17-year-old." **FALSE.**

(No "vaginal material" was found. The trousers were not tested for body fluids.)

Federal Civil Rights Lawsuits against Daniel: Kathleen Zellner is his Attorney

- **Kathleen Zellner is helping Daniel fight the federal civil rights lawsuits** filed against Daniel and the City of Oklahoma City by many of the women who accused Daniel during his criminal trial.



- **The OCPD forensic analyst made damning disclosures in a recent deposition:**
 - She **contradicted** her own trial testimony.
 - She admitted Daniel's **uniform pants could have been contaminated** by the male detective -- her son-in-law.
 - She said under Joyce Gilchrist she witnessed **boxes of evidence being burned and shoved "in a big ole hole"** down by the Oklahoma City river.
(Source: Michelle Malkin (2019, Feb. 13). Lost, Buried, Burned: Oklahoma's Rape Kit Scandal.)

Federal Civil Rights Lawsuits against Daniel: Kathleen Zellner is his Attorney

- The OCPD lieutenant in charge of the Holtzclaw investigation admitted in his deposition that the alleged victim was NOT shown a photo lineup “because we were AFRAID she might not pick Holtzclaw.”

 **Kathleen Zellner** ✓
@ZellnerLaw

Following

Loved the admission by the lieutenant in charge of Daniel Holtzclaw case that the alleged victim was NOT shown a photo lineup "because we were AFRAID she might not pick Holtzclaw." OMG--did I really hear that stunning admission...you betcha!!!!
[@michellemalkin](#) [@justice4danielh](#)

5:26 PM - 27 Mar 2019

96 Retweets 919 Likes

37 96 919

 **Kathleen Zellner** @ZellnerLaw · 51m

Wrongful convictions cross all boundaries. Cops as well as private citizens are framed
[#Discriminatonfreezone](#) [#BrianDanielRay](#)



Freeing Daniel Holtzclaw will save an innocent man and help prevent other wrongful convictions



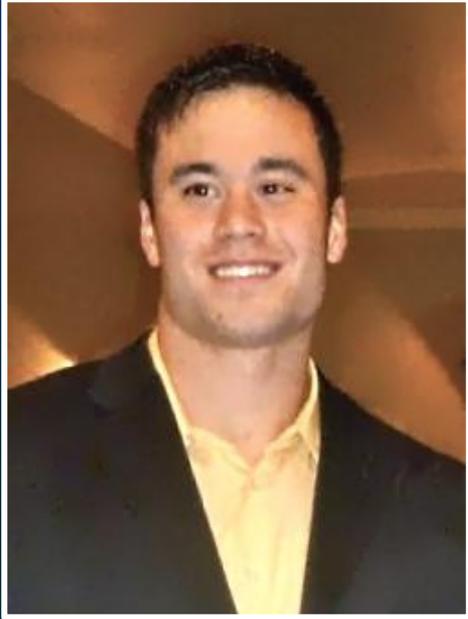
On the phone:
DANIEL HOLTZCLAW

I want the world to see that this can happen to you, this doesn't have to happen to another police officer, it can happen to any male, it can happen to a female, it doesn't matter what occupation you have, this can happen to you.



(Source: Michelle Malkin Investigates (2016) “Daniel in the Den: the Truth about Holtzclaw”)

How you can help free Daniel Holtzclaw



- **Sign the online petition** to “Free Daniel Holtzclaw, an innocent man wrongfully convicted” (www.change.org)
- **Contact Oklahoma’s Governor Stitt** and state representatives
- **Watch and share “Daniel in the Den: The Truth about Holtzclaw”** by Michelle Malkin Investigates (Youtube)
- **Share “Report on Scientific Issues in the Case of Oklahoma v. Daniel K. Holtzclaw”** by Dr. Peter Gill *et al.* (2017) (www.HoltzclawDNAreport.com)
- **Learn more** at www.freedanielholtzclaw.com and www.uncufftheinnocent.org

How you can help prevent Wrongful Convictions

- **Police departments and prosecutors** should acknowledge and correct their errors
- **Support Body Cameras for police officers** to protect the police and public
- **Crime labs should be independent of police** and not funded through convictions
- **Create Conviction Integrity Units** to identify wrongful convictions
- **Do not presume defendants are guilty.** Refrain from rushing to judgment about a person's guilt or innocence. *Be willing to rethink your conclusions.*

Many people initially thought Daniel Holtzclaw was guilty. Now they are learning the truth about Daniel's case. The truth will set him free.



DANIEL and the DNA:

How flawed forensic science
led to Daniel Holtzclaw's
wrongful conviction

Daniel K. Holtzclaw v. State of Oklahoma
Case No. F-2016-62

Erica Fuchs

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