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A Retrospective Analysis of Police and Legal Procedure in the West Memphis Three Murders

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**A RETROSPECTIVE ANALYSIS OF
POLICE AND LEGAL PROCEDURE
IN THE WEST MEMPHIS THREE
MURDERS**

NATHAN SCOLARO



DISCLAIMER

Considering the graphic nature of the West Memphis Three Murders and the discussion surrounding them, there will be detailed discussions of the crime and injuries to the victims



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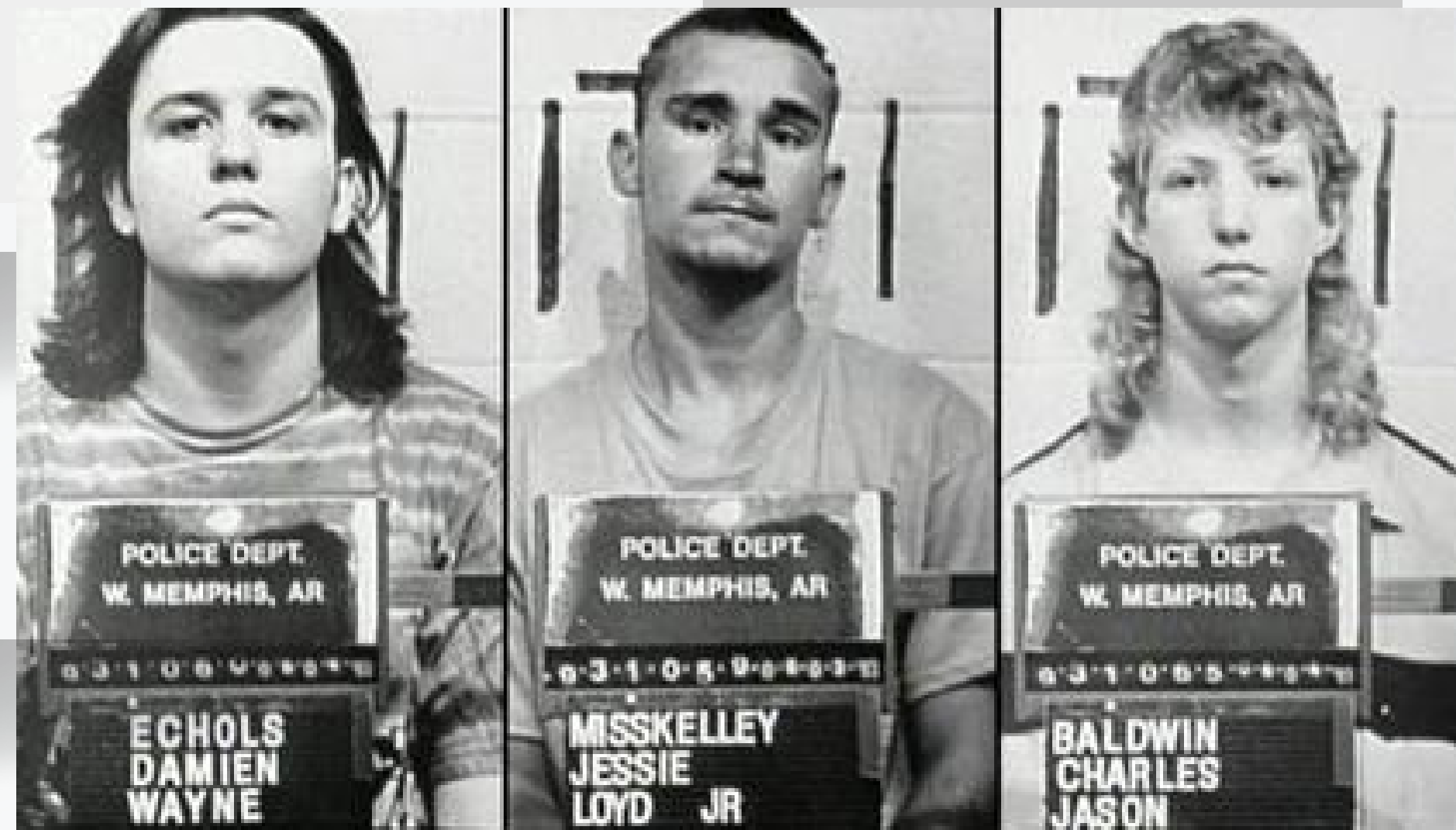
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CONCLUSION

INTRODUCTION

One of the most infamous criminal cases in Arkansas history. The West Memphis Three were convicted of murdering three eight year old boys in 1993 before being released in 2011

While there is much focus on guilt or innocence, my thesis analysis the wrongdoings of the police and prosecutorial staff throughout the case



01

INVESTIGATION

Police arrest Damien Echols, Jason Baldwin, and Jessie Misskelley on June 5th after Misskelley confesses.

03

04

PETITIONS

Judge Burnett denies a request by Echols for a new trial based on DNA evidence on September 10th, 2008. The Arkansas Supreme Court allows a new trial on November 4th

06

MURDERS

Christopher Byers, Stevie Branch, and Michael Moore go missing and are murdered on May 5th, 1993. They are found in Robin Hood Hills on May 6th

02

GUILTY

Misskelley is found guilty on February 4th, 1994, while Echols and Baldwin are found guilty on March 18th. Echols is sentenced to death, and the others to life in prison

RULE 37

The AR Supreme Court confirms conviction and Judge David Burnett rules against his misconduct in Rule 37 hearing on October 30th, 2003

05

ALFORD PLEA

The state of Arkansas offers the West Memphis Three an Alford plea and they are released on August 19th, 2011

PREEXISTING POLICE STANDARDS

Standards



- Discretionary activity is highly valued.
- Police can choose whether to issue tickets for minor offenses, where they will patrol, etc.
- In an investigation a police chief or lead detective will often have the freedom to make inquiries and dictate the direction of the case at their discretion

- Police are largely governed by the general guidelines in Title 12 of the Arkansas Code, Supreme Court cases (Miranda v. Arizona-rights, Graham v. Connor-force) and the Arkansas Commission on Law Enforcement Standards and Training
- These largely set the boundaries of conduct and give much needed training

Activity



MISTAKES OF LAW ENFORCEMENT

Evidence Gathering

- Officers did not call the coroner until two hours after the bodies had been removed from the creek. Exposure made it harder to get an analysis done
- Luminol testing wasn't done until six days after the crime
- Sticks were gathered on site three months after the crime
- Dr. Frank Peretti could not come up with an accurate time of death because of corpse degradation and only speculated when pressed. This conflicted with Misskelley's confession

Lack of Notes/Recordings

- Police regularly failed to have the entirety of conversations taped or notes taken down about specific incidents.
- Not recording what pictures shown or questions asked in perp lineups
- Only recording a part of Misskelley's confession
- Mere mention of interview with John Mark Byers

Aaron and Vicki Hutchenson

- Vicki , who knew Misskelley, offered, and was allowed by police to contact Echols to try and get information
- Esbat, reward money, potential danger, discrepancies
- Aaron, Vicki's son and supposedly an eyewitness to the crimes, first alleged a Black man had escorted one of the victims home, and later claimed to have tried to fight off the suspects with sticks along with the victims



ERRORS IN LEGAL PROCEDURE

- A nighttime search is only meant to be used in certain circumstances (flight risk, evidence being destroyed). It had been thirty days since the murders

NIGHTIME SEARCH

- Prosecutor ex parte hearings without Misskelley's lawyer present to convince him to testify
- Secret voir dire and death threats to foreman grounds for mistrial
- Evidence against Echols convicted Baldwin

SEVERANCE AND MISTRIAL

- Judge Burnett was expected to rule on his own misconduct
- Judge's schedule was so packed that the hearing lasted for eight days, spread over two courthouses, spanning ten months

RULE 37 PARTIALITY



LESSONS FOR LAW ENFORCEMENT

Arkansas Gov Jim Guy Tucker offered the help of the State Police but was refused. Beyond FBI psych profilers, little outside intervention occurred

**COOPERATION
W/ STATE
POLICE**

Create and encourage standardized training for record keeping, investigative procedure, and detective techniques

**ADDITIONAL
TRAINING**

Ensure that a document trail is kept for items of evidence and integrity is verified at set intervals

**ENFORCE PERIODIC
EVIDENCE ORGANIZATION**

LESSONS FOR THE LEGAL SYSTEM

- Alter Rule 37 proceedings to have a neighboring circuit judge preside or have a tribunal of judges (3) to ensure impartiality
- Clarify circumstances in which cases a mistrial and severance can be granted or at least laterally broaden higher court review.
- Clarify Act 1780 habeas corpus relief if allowable to non-custodial convicts
- If a new trial is requested because of additional DNA evidence findings, prefer this as the default instead of a plea deal



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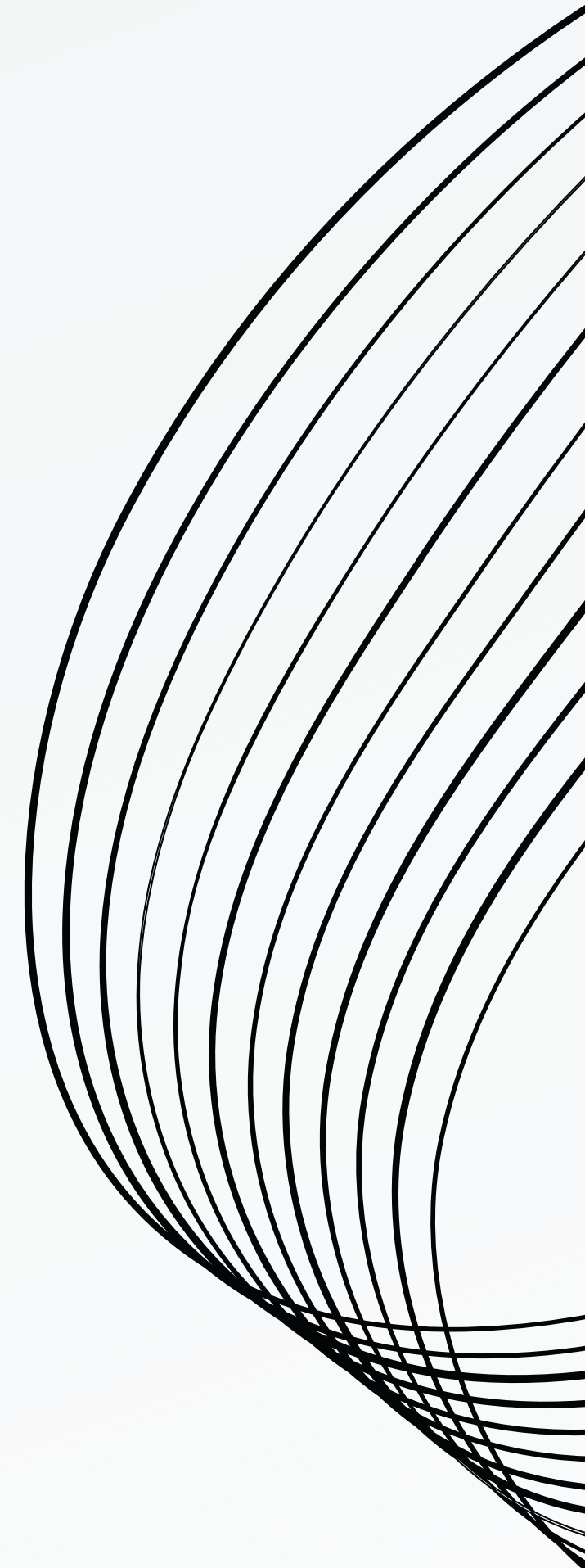
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QUESTIONS?



Source: CNN



INNOCENCE

- Arkansas conceded to the Alford Plea instead of another trial
- Satanic Panic hysteria and 'expert' witness at original trial
- Forensic odontologists identified bite marks as having been from a turtle rather than person
- Terry Hobbs' (victims' father) had a hair at the scene of the crime as well as one of his friends
- Inconsistencies in Misskelley's confession (time of death, how the victims were murdered, etc.)
- Institutional support

v.

GUILT

- Misskelley's confession and Echols' confession (mentioning urine in victim's stomach)
- as told by witnesses at a softball game
- Three distinct knots were used to tie the victims
- Echols' mental health record shows that he had a history of 'drinking and sucking the blood of others', assault, narcissistic delusions, committing arson at school, etc.
- Fiber evidence including from a shirt Echols had at home and from a bathrobe at Baldwin's house were present at the crime scene
- No and/or false alibi's for the suspects
- Hollingsworth (witness) places Echols and possibly Baldwin near the scene of the crime around time of murders
- Knife found behind Baldwin's house was reported to be essentially the same as one Echols had