

HOLTZCLAW PRESS RELEASE

For immediate release

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SHOCKING NEW VIDEO EVIDENCE OF HOLTZCLAW'S INNOCENCE: ANOTHER ACCUSER UNDERMINES OWN TRIAL TESTIMONY

*Sherry (Ellis) Smith, who described a Black assailant, now testifies:
"I haven't never seen him [Holtzclaw] before trial.
That's when I finally seen who the(y) accused of raping me."*

*Oklahoma City heads to federal civil rights lawsuit settlement conference
despite mounting accuser statements proving OCPD railroaded Daniel Holtzclaw*

Enid, OK – As Oklahoma City officials prepare for a confidential settlement conference in the federal civil rights lawsuit filed against former Oklahoma City Police officer Daniel Holtzclaw and the City by many of his accusers, Daniel and his advocates today released more never-before-seen video evidence of another accuser's contradictory testimony, exposing how OCPD railroaded Daniel by soliciting sexual assault allegations and pinning them on him, leading to his wrongful conviction in 2015.

In [newly-published video deposition testimony](#) and [transcript pages](#) (attached), accuser Sherry (Ellis) Smith – who initially told detectives that her assailant was "a Black man" under 5'9" tall and "darker" than her own skin tone – admitted under oath on March 19, 2021: "I haven't never seen him [Holtzclaw] before trial. That's when I finally seen who the(y) accused of raping me." Daniel, a 6'1" Japanese-American man who was even taller in police boots, was wrongfully convicted and sentenced to 62 years based on Smith's allegations.

The video of Sherry (Ellis) Smith's admission follows on the heels of the [Holtzclaw press release](#) two weeks ago exposing accuser [Tabitha Barnes' deposition video testimony](#) in which Barnes said, "He didn't touch me. He didn't touch me. He did not touch me. He didn't touch me." Barnes' statement contradicts her trial testimony that Daniel touched her breasts, which led to his wrongful conviction and 8-year prison sentence for "Sexual Battery" that never occurred.

These revelations come as the City of Oklahoma City, hoping to hide OCPD's errors that railroaded Daniel, may agree to pay off his accusers with taxpayer money in the civil lawsuit settlement conference on March 31, 2022, despite the judge ruling in the City's favor after the accusers' attorneys made false claims against both the City and Daniel.

Taxpayers should be alarmed that the City is on the verge of settling with the accusers and their attorneys, who falsely accused the City of not investigating their complaints. The reality is that the City did investigate, but did so by mounting a biased and flawed investigation that encouraged vulnerable Black women, including Sherry Smith, to wrongfully accuse Daniel, leaving possible true assailants on the streets. Nearly 65,000 people worldwide have signed a Change.org petition to ["Free Daniel Holtzclaw"](#) because the facts support his innocence.

Oklahoma City should now understand, after facing false allegations from the accusers' attorneys in their federal civil lawsuit, that the plaintiffs also wrongfully accused Daniel. The City itself wrote in its [Motion for Summary Judgment](#) (attached) that "the complaints were investigated. Plaintiffs' misrepresentations of those events [...] is telling—it appears they believe if the true facts were alleged, then it would not support their claims. [...] Plaintiffs' allegations are redundant and incorrect."

Federal district court judge Joe Heaton ruled in favor of the City and against the plaintiffs, concluding in his [Order](#) (attached) that "there is no basis" for their claim that "the custom and practice of the City, particularly its failure to adequately supervise police officers and to respond to citizen complaints, reflects deliberate indifference to the rights of plaintiffs."

Just like OCPD's faulty investigation created a false narrative about Daniel by encouraging wrongful allegations, the plaintiffs' attorneys have pressed forward with a false narrative by accusing the City and Daniel, even when some plaintiffs' depositions reveal they don't know who they sued or have "no clue" why. The plaintiffs' attorneys should uphold justice by holding OCPD accountable for its massive investigation flaws that encouraged their clients to wrongfully accuse an innocent Japanese-American police officer.

Smith's allegations reveal two of the major flaws in OCPD's investigation. First, detectives solicited and procured wrongful allegations specifically from at-risk Black women. Second, in an egregious investigation error associated with wrongful convictions, the police department encouraged misidentifications of Daniel by failing to present photo lineups to all but one accuser, Terri Morris, after she initially picked another officer and could not positively identify Daniel in the one photo lineup used in the entire Holtzclaw investigation.

After a traffic stop allegation filled with contradictions, Det. Kim Davis, Det. Rocky Gregory, and Lt. Muzny were unaware that a small quantity of DNA, including unknown female DNA, on the fly of Daniel's pants has a valid, non-sexual explanation: innocent transfer via Daniel's hands after pat-searches and restroom breaks. Convinced the DNA meant Daniel was guilty, detectives ignored evidence of his innocence and crafted a case to match their false narrative by procuring additional wrongful allegations, including Smith's, as they hunted for the female DNA's source.

Using Daniel's police records of people with whom he interacted, the police solicited allegations from more than 40 women, targeting them specifically because they were "Black females" who had "a drug history, prostitution history, or a significant criminal history," as Lt. Muzny testified at trial: "I was looking for, like I said, black females, drug or prostitution history that had had some form of an arrest." ([OCPD Lt. Muzny's Holtzclaw Trial Testimony excerpts](#)) (attached).

Smith was among ten women who made allegations only after detectives racially profiled and contacted them, sometimes through family and friends. Detectives untruthfully told many of the women, including Smith, that OCPD had received a "tip" that they may have been sexually assaulted by a police officer.

Although Smith's suspect description did not match Daniel, Det. Davis encouraged her wrongful allegation and pinned it on him. Immediately after hearing the alleged assailant was a Black officer, Det. Davis told Smith, "Sherry. I believe you. If I didn't believe you I wouldn't have been calling you trying to find you. [...] I know what officer did this to you," as seen in Smith's interview video. Det. Davis meant one officer: Daniel.

The [Innocence Project](#) reveals that such suggestive police procedures “guide the eyewitness towards the police suspect and have consistently resulted in the misidentification of innocent people,” resulting in “at least 450 non-DNA-based exonerations involving eyewitness misidentification,” the leading cause of wrongful convictions. In Daniel’s case, OCPD never showed a photo lineup to Sherry Smith, not even after detectives realized that a Black officer matching her suspect description patrolled a sector just blocks from Daniel. That Black officer was later arrested in 2016 and pleaded guilty to soliciting prostitution and giving a prostitute information on a sting operation, as described in this article in *The Oklahoman*, linked [here](#).

Daniel was wrongfully convicted based on fatally flawed forensic DNA analysis, a biased and faulty police investigation, ineffective counsel, and prosecutorial misconduct. OCPD’s misrepresentations of the DNA evidence not only caused investigators to succumb to tunnel vision and railroad Daniel, but also deprived him of a fair trial. OCPD forensic analyst Elaine Taylor flagrantly misrepresented a tiny quantity of DNA on the fly of Daniel's uniform pants. The prosecutor then misled the jurors, telling them it was a “fact” that the DNA derived from vaginal fluid although no body fluids were observed and non-intimate DNA transfer explained the evidence. These forensic science errors, unchallenged by Daniel's trial attorney, culminated in his wrongful conviction on 18 out of 36 counts of which he is entirely innocent.

Oklahoma City should take responsibility for its flawed police investigation that railroaded Daniel. Instead, City officials are continuously refusing to release evidence – including Daniel’s uniform pants that he has been requesting for years to prove his innocence by showing no sexual body fluid is present. The City also refuses to release OCPD DNA Lab Manager Campbell Ruddock’s written review of forensic analyst Ms. Taylor’s error-filled DNA testimony in Daniel’s trial. Former trial judge Timothy Henderson shielded Mr. Ruddock’s written review from release during Daniel’s appeal in 2017 when the judge made pro-prosecution rulings in secret hearings about Ms. Taylor’s flawed testimony. Henderson’s biased secret hearing rulings about the DNA evidence encouraged the Oklahoma Court of Criminal Appeals to deny Daniel’s appeal, and overlap with the time when the former judge now admits he was sexually involved with an assistant district attorney who has made sexual assault allegations against him.

Daniel issued this statement from prison, where his spirits lift with every truth that is revealed:

“As a police officer, I upheld my oath of office by protecting and serving my community. I risked my life for my police department and the public. I pray OCPD will also serve the community by acknowledging how their flawed investigation led Sherry Ellis and others to wrongfully accuse me. If OCPD’s investigation errors aren’t corrected, all citizens of Oklahoma City will continue to be at risk of false allegations and convictions. To the City: please do the right thing and release the evidence I am requesting to help prove my innocence. With the aid of fair-minded Oklahomans and government officials who refuse to turn a blind eye to injustice, the whole truth of my wrongful conviction will be revealed. To all my supporters: your dedication to freeing me gives me hope every day. Thank you for sharing the truth about my case!”