

University of Tennessee at Chattanooga

UTC Scholar

Honors Theses

Student Research, Creative Works, and
Publications

5-2021

Race, sex, exoneration, & compensation: how do they relate? what is done? and what needs to be done?

Sarah Emily Still

University of Tennessee at Chattanooga, tzv592@mocs.utc.edu

Follow this and additional works at: <https://scholar.utc.edu/honors-theses>



Part of the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Still, Sarah Emily, "Race, sex, exoneration, & compensation: how do they relate? what is done? and what needs to be done?" (2021). *Honors Theses*.

This Theses is brought to you for free and open access by the Student Research, Creative Works, and Publications at UTC Scholar. It has been accepted for inclusion in Honors Theses by an authorized administrator of UTC Scholar. For more information, please contact scholar@utc.edu.

**Race, Sex, Exoneration, & Compensation: How Do They Relate? What is Done? & What
Needs to be Done?**

Sarah Emily Still

Departmental Honors Thesis

The University of Tennessee at Chattanooga

Social, Justice, and Cultural Studies

Criminal Justice Department

Examination Date: April 9, 2021

Dr. Courtney Crittenden

Associate Professor of Criminal Justice

Thesis Director

Karen McGuffee, J.D.

Associate Department Head; Professor of Criminal Justice

Department Examiner

Table of Contents

Abstract.....	3
Introduction.....	4
Literature Review.....	6
Current Study.....	23
Methodology	24
Results.....	26
Discussion.....	31
Conclusion.....	36
References.....	38

Abstract

Previous literature has noted multiple causes of wrongful conviction including mistaken eyewitness identification, false confessions, ineffective assistance of counsel, crime lab error, and prosecutorial misconduct. Over time, more wrongful convictions caused by these factors are overturned through the help of organizations such as the Innocence Project. With these increasing exonerations comes the increased needs of exonerated people. The previous literature has exemplified that exonerees have unique needs (Simms, 2016), but these needs are often not met by the compensation that is available (Chunias & Aufgang, 2008; Mandery et. al, 2013). This occurrence is problematic given that exonerees had to lose time (sometimes years or decades) behind bars and endure the pains of imprisonment all while knowing they were innocent and having to cope with that dichotomy. Prior research also recognizes the stigma that exonerees face: however, there are gaps in the research when determining the relationship between race and wrongful conviction (Smith & Hattery, 2011) as well as sex and wrongful conviction. The current study seeks to help fill those gaps and answer other questions regarding exonerations by assessing characteristics of exonerees including the following: race, sex, offense type, time spent incarcerated, whether or not DNA evidence helped to accomplish exoneration, and the location of the exoneree's incarceration.

Introduction

Sometimes, in the United States' criminal justice system with the number of cases being tried and the circumstances surrounding those cases, mistakes are made, and innocent people are punished for crimes they did not commit. However, with DNA technology advancing, new evidence becoming available, and the help of organizations such as the Innocence Project, some of the wrongly convicted are able to find evidence of their innocence or even able to overturn their convictions. Yet, exoneration does not atone for the lost time the wrongly convicted spent incarcerated and deprived of their liberty. During their incarceration, the exonerated, like other inmates, lose their freedom, right to vote, ability to take care of their families, and (sometimes) their sense of identity. They may also lose their money, jobs, loved ones, and ability to live autonomously (Mostaghel, 2011). Moreover, the wrongfully convicted may face psychological damage (Simms, 2016), including, but not limited to, posttraumatic stress disorders (PTSD), depressive disorders, and panic disorders (Williamson, Stricker, Irazola, & Niedzwiecki, 2016). These disorders often remain with exonerees following their release and contribute to the difficulty of their reintegration (Williamson et. al, 2016).

In addition to their psychological traumas, exonerees also face the barrier of stigma when they attempt to return to society. When released, the stigmas placed upon them for being prisoners or criminals remain in the minds of some members of society, despite their exoneration (Thompson, Molina, & Levett, 2012). Exonerees are further oppressed when they have difficulty obtaining jobs due to their labeled criminal status. This happens because some exonerees fail to have their convictions expunged from their records (Chunias & Aufgang, 2008), and perhaps this phenomenon is attributed to the fact that as of 2012, only four states had provisions for expungements (Norris, 2012). Additionally, most exonerees do not have the skill set necessary

to get their records expunged and must turn to attorneys for help. However, this is usually not feasible given their lack of funds (Westervelt & Cook, 2010). Without receiving help with expungements, exonerees are left with detrimental criminal information on their background checks (Chunias & Aufgang, 2008). When prospective employers view these background checks, they may not hire exonerees due to their “felon status” (Chunias & Aufgang, 2008), thus furthering the obstacles that stand in their way on their road to reintegration.

Unfortunately, the exonerated are further wronged by the state upon release when they are offered little to no resources. However, this lack of resources and compensation is not surprising considering how common it is for the state to ignore the damage that these exonerees have suffered through their wrongful convictions (Westervelt & Cook, 2010). In addition, states tend to minimize the need for compensation because they often deny any wrongdoing on their part and fail to punish state actors based on this denial (Westervelt & Cook, 2010). This results in those who are rightfully incarcerated being offered more extensive resources than those who did not commit the crimes for which they were incarcerated (Simms, 2016; Mandery, Shlosberg, West, & Callaghan, 2013). As of 2008, only 44% of states in the United States had legislative provisions enacted to grant exonerees funds for their mistreatment in the criminal justice system (Chunias & Aufgang, 2008). These funds tend to vary by state, but the state of Massachusetts’s provisions allow for maximum compensation of half a million dollars, which is more than most states (Chunias & Aufgang, 2008), such as New Hampshire, where the maximum amount of compensation is only \$20,000.00 (Mandery et. al, 2013). Moreover, only a few of the enacted statutes offer resources besides monetary compensation to help exonerees after they are released, despite the need that exonerees have for post-release services (Chunias & Aufgang, 2008; Mandery et. al, 2013). More specifically, the state of Massachusetts was the “first state to create

a compensation statute that provides a mechanism for post-incarceration services” (Chunias & Aufgang, 2008, p. 108), and this mechanism included services that would help address exonerees’ physical and mental problems that were the result of their wrongful incarceration (Chunias & Aufgang, 2008).

The purpose of the current research is to get a better understanding of individual characteristics of exonerees. In order to do so, data collected by the National Registry of Exonerations was analyzed. Specifically, the current research examined the racial and sex breakdown of exonerees. It also examined the crimes exonerees were falsely convicted of, along with the average amount of time the exoneree was incarcerated. This information should allow for a better understanding of this population and what needs they might experience upon release. It is my hope that this research will illuminate any disparities based on race, sex, or crime type, in an effort to educate people on the issue of wrongful conviction so that they might become catalysts for positive change in the U.S. criminal justice system.

Literature Review

Common Reasons for Wrongful Convictions

Criminal Justice Factors

Even though the primary purpose of the criminal justice system in the United States is to achieve justice, there are times when the opposite happens. An example of this miscarriage of justice is when an innocent person is wrongfully convicted. According to the University of Michigan Law School (2020), wrongful convictions are caused by a variety of reasons including the following: eyewitness misidentification, false confessions, government misconduct, ineffective assistance of counsel, people who are bribed to testify, and faulty forensics. Out of

these causes, the three most common are mistaken eyewitness identification, crime lab error, and ineffective assistance of counsel (Boucher, 2007).

Mistaken eyewitness identification is the leading cause of wrongful convictions (Boucher, 2007). One reason for this phenomenon is human memory, which can often be faulty (Pollock, 2019). In fact, according to Wells and Quinlivan (2009), “the greatest memory loss following an event occurs soon after the event” (p. 13), and from that point on, one’s memory continues to decline. Research shows that the longer the time between seeing an act occur and the identification process, the more inaccurate their ability to identify the correct people is (Wells & Quinlivan, 2009). Additionally, misidentifications may also be attributed to faulty methods used by law enforcement when interviewing victims and witnesses. For example, one method that can result in eyewitness misidentification is showing all the potential suspects in the same lineup at the same time, which may lead to cognitive confusion (Boucher, 2007). In addition to this, “police officers may repeatedly ask victims if they were sure the suspect was not the person” (Pollock, 2019, p. 308), which can also lead to confusion. Mistaken eyewitness identification can also be the result of the repeated display of a perspective defendant’s photo during lineups, which has been shown to cause witnesses to overlook the incorrect person the first time, but choose the incorrect person the second time due to seeing them multiple times in the lineup (Wells & Quinlivan, 2009). All of these factors can influence the witness’s testimony as to who the offender was, cause confusion, and lead to wrongful convictions.

Moreover, false confessions are another significant reason for wrongful convictions (Pollock, 2019). False confessions can be caused by various dispositional and situational factors (Brown, Feldman, Quiroz, & Sacerdote, 2020). According to Brown and colleagues (2020), “dispositional factors refer to preexisting elements such as a person’s age, personality traits, and

mental limitations, which can affect how vulnerable they will be to suggestion and coercive interrogation techniques” (p. 23). Prior literature has shown that those with mental deficiencies are especially at risk for false confessions, given that their cognitive issues decrease their ability to fully understand their rights and increase their susceptibility to coercion (Brown et. al, 2020). The situational factors that may contribute to false confessions are the circumstantial elements in a given situation such as the pressure that people may feel while being interrogated and the worry of more severe legal ramifications (Brown et. al, 2020). Other situational factors include “exhaustion, stress, hunger, substance use, and, in some cases, mental limitations or limited education” (Brown et. al, 2020, p. 23), all of which could cause cognitive distress and lead to false confessions. False confessions can also be caused by prosecutorial misconduct and or police coercion, and are extremely compelling evidence in court, so much so that people have been convicted of crimes they falsely admitted to despite the introduction of evidence that proved them to be innocent (Pollock, 2019). Pollock (2019) gives an example of a man named Eddie Lowery, who spent a decade incarcerated for a rape he did not commit. Lowery explained that the police made him recite his confession repeatedly until he included all of the accurate details of the rape to make it seem as if he really was the perpetrator (Pollock, 2019). Even though Lowery pursued legal action against the police and won, his case exemplifies how police misconduct can lead to a false confession that could ultimately lead to a wrongful conviction (Pollock, 2019). It is also important to note that even when the wrongly convicted become exonerated, the public tends to oppose post-release resources for those whose wrongful conviction was caused by a false confession (Scherr et. al, 2018), which exemplifies the ramifications that this one mistake can have on an exoneree’s life.

The second major cause of wrongful conviction is crime lab error, which can occur by accident through “contamination of evidence and misinterpretation of results...” and also purposely through “falsified results, falsified expert credentials, and statistical exaggeration” (Boucher, 2007, p. 1078). As of February 2009, “of the first 225 wrongful convictions overturned by DNA testing, more than 50% (116 cases) involved unvalidated or improper forensic science” (Innocence Project, 2016, p. 1). The ways in which forensic science evidence may be faulty include the following: when the methods used to evaluate the evidence have not been proven to be reliable, the statement from an expert regarding the evidence does not give accurate figures or tries to imply that the evidence proves the guilt of the defendant when the two are not related, and when evidence of guilt is falsified or evidence of innocence is concealed (Innocence Project, 2016). However, as time goes on, DNA technology advances, which allows an increasing number of wrongly convicted people to be exonerated (Boucher, 2007).

The third most frequent reason for wrongful conviction is ineffective assistance of counsel, which occurs when a defendant’s attorney does not give his/her best effort in defending his/her client or an indigent defendant is “assigned a lawyer who lacks the knowledge, skills, or even the spirit to defend a case properly” (Boucher, 2007, p. 1081). Ineffective assistance of counsel applies to situations beyond lack of knowledge in a defendant’s particular case, it also applies to behavior of defense counsel when they are incapacitated by drugs or alcohol and when they are not able to cite prior case law that is relevant to the case at hand (Pollock, 2019). Moreover, other examples of ineffective assistance of counsel include defense attorneys not presenting “alibi evidence or other exculpatory evidence” (p. 299) on behalf of their clients, as well as not sufficiently assisting their clients with their appearances during court (Pollock, 2019). A specific instance detrimental to the client is if an attorney let his/her client attend a hearing in

the clothing that the victim in the case claims to have seen him/her wearing when the alleged crime was committed (Pollock, 2019). On the other side of the spectrum, some attorneys go too far in their representation, which can also result in ineffective assistance of counsel (Pollock, 2019). For instance, some defense attorneys have bribed witnesses or judges, falsified evidence, or tampered with evidence to get favorable outcomes for their clients (Pollock, 2019). This type of defense attorney misconduct has led to the convictions of both judges and attorneys and caused the obstruction of justice (Pollock, 2019).

Prosecutorial misconduct can also lead to wrongful convictions. Unfortunately, there is not a current way to measure how many wrongful convictions and incarcerations have been caused by this type of misconduct (Pollock, 2019), but “investigations have uncovered hundreds of instances where prosecutors either commit unethical acts or break the law” (Pollock, 2019, p. 300). Some specific ways in which prosecutors can act unethically are by not turning over evidence that proves the innocence of defendants, misconstruing the evidence to deceive the jury, preventing expert testimony that helped prove the innocence of the defendant from being admitted into court, and excluding evidence that proved who the real perpetrator of the crime was (Pollock, 2019). According to Pollock (2019), The Innocence Project performed research on the phenomenon of prosecutorial misconduct in multiple states, and in New York, between 2004 and 2008, there were over 150 cases in which prosecutors behaved unethically (Pollock, 2019).

Another courtroom actor who can also contribute to wrongful convictions is the judge. A few examples of judicial misconduct include taking bribes, not notifying defendants of their rights, “coercing guilty pleas, exceeding sentencing authority...denying full and fair hearings or trials...” (Pollock, 2019, p. 306) among others. An additional form of judicial misconduct that could contribute to wrongful convictions is making biased decisions despite the obligation and

duty of judges to be impartial (Pollock, 2019). Furthermore, a less obvious way in which judges can contribute to wrongful convictions include hindering due process by dragging out hearings or continuously rescheduling them due to overloaded dockets, which prevents defendants from getting their right to a speedy trial (Pollock, 2019).

Stereotypes and Myths that Might Factor into Wrongful Convictions

Beyond the specific reasons mentioned above regarding criminal justice actors, stereotypes and myths about who commit crimes and what types of crimes they commit may also factor into individuals being wrongly convicted. However, these stereotypes and myths often influence people un-/sub-consciously, which makes them harder to recognize. For instance, racial bias is not as easy to detect and blame for wrongful conviction, despite the role it can play in them (Pollock, 2019). One specific issue is when people decide that someone is guilty based on their race rather than the facts of the case, which tends to be a problem for black males in particular (Pollock, 2019). Black males tend to be perceived as not only criminal, but also the type of criminal who commits violent crimes (Scherr et. al, 2018). Moreover, the criminal black man stereotype of young black men helps to fuel this racial bias, as it is an underpinning of many laws in American society, particularly the War on Drugs movement in the 1980s (Welch, 2007).

In addition to racial bias, black men have a higher error rate of mistaken eyewitness identification when compared to exonerees of other races (Kleider-Offutt, Knuycky, Clevinger, & Capodanno, 2017). In a study by Kleider-Offutt and colleagues (2017), the results were in accordance with other research that indicated that “Black men with stereotypical facial features are at increased risk for eyewitness misidentification” (p.350), with those stereotypical features being “dark skin, wide lips, and nose” (p.350), which tend to be “associated with the criminal-Black-man stereotype” (p. 350). Not only can having these facial features contribute to mistaken

witness identification, but they are also correlated with “longer sentences... and an increased likelihood of being given the death penalty in actual murder trials” (Kleider-Offutt, et. al 2017, p. 351). Knowing that there is a correlation between stereotypical facial features and mistaken eyewitness identification could be helpful at explaining yet another factor that leads to wrongful conviction, considering that most exonerees are black men.

Other stereotypes that might lead to wrongful convictions could be based on sex/gender. For example, women are expected to be motherly and nurturing people, however, when they are accused of committing a crime, society treats them as outcasts and harshly rejects them because they have failed to meet that expectation (Lewis & Sommervold, 2015). Men do not experience this type of rejection because it is not as shocking for them to commit acts of violence given their perceived dominance, but when a woman acts in the same manner, she is seen as a “failed caretaker” (p. 1041) and “the ultimate destroyer” (Lewis & Sommervold, 2015, p. 1041). Specifically, when it comes to cases in which mothers are accused of killing their children, they are given either the stereotype of a crazy or mentally ill mother or a cold-blooded evil killer (Lewis & Sommervold, 2015). These stereotypes are also problematic for female defendants when it comes to the interrogation portion of their case, given that as of 2015, “eighteen percent of women exonerees falsely confessed to the crimes for which they were convicted” (Lewis & Sommervold, 2015, p. 1046). In two specific accounts that were given, the “monster” mother stereotype was used to coerce the confessions (Lewis & Sommervold, 2015), which demonstrates the use of both stereotypes and false confessions when it comes to wrongful convictions.

Another possible outside barrier that could result in wrongful convictions is the influence of the media on cases. The media are powerful mythmakers in society that get to hand-pick the

content that viewers take in, and the content that they choose is usually what will get them the most views, such as horrific or unusual crimes (Kappeler, & Potter, 2017). Unfortunately, in many instances, potential jurors hear about a crime prior to a defendant being arrested for it (Lewis & Sommervold, 2015). When this happens, not only do the potential jurors know basic information about the case, but they also may have received the media's dramatized or inaccurate depictions of the defendant or the case, which can create bias in the potential jurors' minds before they get to trial (Lewis & Sommervold, 2015). This potential influence is especially concerning for female defendants given that women who are accused of violent crimes gain more publicity than male defendants and women's cases overall garner more popularity and interest when compared to male defendants (Lewis & Sommervold, 2015).

Unfortunately, there is no way to detect and prevent each cause and stereotype that contributes to wrongful conviction, but as people become more aware of the issue of wrongful conviction, it is likely that there will continue to be exonerations for the wrongfully convicted. Indeed, as of March 31, 2021, there have been 2,755 exonerations in the United States since 1989 (The National Registry of Exonerations, 2021), and according to the Innocence Project (2020), "367 people in the United States have been exonerated by DNA testing, including 21 who served time on death row." This information is promising in that the United States criminal justice system is attempting to correct past wrongs; however, it also demonstrates the need to continue the examination of cases where wrongful conviction is alleged.

Why it is Challenging to be Exonerated

There are several obstacles that the wrongly convicted face during their journey to exoneration. First, the prosecutor may employ his or her discretion to prevent an innocent person from becoming exonerated (Mostaghel, 2011). For instance, prosecutors like to maintain a

“tough on crime” appearance to the public, which sometimes causes them to prioritize securing a conviction over ensuring that justice is served (Mostaghel, 2011). Moreover, prosecutors have the power to influence whether or not defendants get post-conviction DNA testing or post-conviction evidentiary hearings, which could “present new evidence such as confessions from actual perpetrators” (Mostaghel, 2011, p. 504). These DNA hearings can be crucial to the exoneration of innocent people, given that 192 of the 232 Innocence Project exonerations were accomplished using DNA evidence (Innocence Project, 2021). Without either DNA hearings or evidentiary hearings, potential exonerees will not be exonerated. Furthermore, prosecutors may be reluctant to concede that a conviction could have been wrong because they are afraid it will taint their reputation (Mostaghel, 2011). Another possibility is that prosecutors may be too prideful to admit that a conviction was wrong, or they may refuse to admit a conviction was wrong due to outside influences that may have a stake in the outcome of the conviction (Mostaghel, 2011). Prosecutors may also fear that people in their district would no longer find them reliable due to the mistaken conviction, and perhaps those people would question the validity of other convictions (Mostaghel, 2011), which could also hurt their chances for re-election, considering many prosecutors are elected officials. With all of this potential resistance from prosecutors, it may be surprising that sometimes, turning to prosecutors for help overturning a false conviction is an avenue that is pursued (Webster, 2020). This occurrence can be the result of failed attempts to overturn the wrongful conviction through appellate level courts, where defendants perceive the prosecutor as a last resort for exoneration (Webster, 2020). The reasoning that makes this attempted route to exoneration acceptable is that prosecutors are obligated to seek justice above anything (Webster, 2020), and if that means investigating a prior conviction to ensure that the person who was convicted did in fact commit the crime they were

convicted of, the prosecutor needs to fulfill that obligation. On behalf of defendants, prosecutors can use their discretion to file motions to “vacate the judgement and order a new trial through the courts” (Webster, 2020, p.258) if they see fit. However, data indicates that “most prosecutors are typically unwilling to take this step” (Webster, 2020, p. 258), and a study by the National Registry of Exonerations revealed that prosecutors were unwilling to help exonerees in 68% of cases (Webster, 2020).

Pains of Imprisonment

Once exonerees go through the (often) difficult process to become exonerated, they are released back into society. However, simply being released is not enough to repair the damage that was done to their lives through the “pains of imprisonment” defined as the loss of liberty, desirable goods and services, heterosexual relationships, autonomy, and security (Sykes, 1958). Moreover, some exonerees have had years stolen away from them where they may have lost “their families, their opportunity to go to school, or the chance to gain or keep employment” (Mostaghel, 2011, p. 509), and like time, these parts of life are irreplaceable. These pains are experienced by all people who are incarcerated, but it appears they affect exonerees even more (Mandery et. al, 2013). According to a study by Mandery, Shlosberg, West, and Callaghan (2013), exonerees might have harder times in prison than prisoners who committed the crimes for which they were imprisoned. This is because the exonerees have to not only adjust to life in prison, but also have to come to terms with the fact that they are imprisoned for a crime they did not commit (Simms, 2016, p. 155). In order to process these issues, exonerees have to develop their own coping mechanisms. For example, an exoneree, Lawyer Johnson, who was imprisoned for a murder he did not commit, expressed that he had to learn “to depend on himself alone...to

survive” (Chunias & Aufgang, 2008, p. 115). which helped him to make it through his time in prison.

The “pains of imprisonment” that exonerees endure during prison, coupled with the psychological trauma they have to endure knowing that they are innocent, directly contribute to the unique needs that exonerees have once they are released. Simms (2016) states that “the unique needs of exonerees fall into two broad categories: transitional needs (immediate and long term) and mental health needs” (p. 156). The transitional needs category consists of the basic needs of the exoneree once they are released such as clothing, shelter, and sustenance, while the mental health needs category consists of psychological traumas that the exonerees need to work through (Simms, 2016). The psychological traumas are caused by the everyday fear of being in prison, the immense feelings of hatred and resentment for the system that wrongly imprisoned them, and the constant psychological warfare that is a result of knowing they are innocent of the crime they were convicted of, and the realization that they are surrounded by people who are rightfully imprisoned (Cook, Westervelt, & Maruna, 2014, p. 239).

A specific example of an exoneree who has encountered all of these struggles is Dennis Maher. Dennis Maher was wrongfully convicted of two rapes and an assault in 1984 and spent nineteen years in prison (Chunias & Aufgang, 2008). In an interview, Maher not only expressed that he had experienced nightmares about prison, but when he was released, he worried that he would be erroneously convicted again (Chunias & Aufgang, 2008). This is another unfortunate psychological consequence of wrongful conviction– the fear of it happening again. Maher also expressed that institutionalization had a major psychological effect on him because he was incarcerated at a young age, and it drastically altered his way of life (Chunias & Aufgang, 2008). Unfortunately, Maher’s experience is not uncommon among exonerees. In fact, research

indicates that “posttraumatic stress disorder, enduring personality change, depressive disorders, panic disorder, paranoia, drug and alcohol dependence, and suicidal ideation have all been documented among wrongfully convicted individuals” (Williamson et. al, 2016, p. 156). These damaging effects influence the lives of exonerees during and after their imprisonment (Williamson et. al, 2016). These psychological hardships paired with the “pains of imprisonment” and the effects of institutionalization, combine to create unique difficulties for the reintegration of exonerees.

In addition to the psychological traumas that exonerees endure, they also may endure issues with their physical health as a result of insufficient care while incarcerated (Norris, 2017). Additionally, “serious, life-threatening diseases are significantly more prevalent among the prison population than among the general population in the United States” (Chunias & Aufgang, 2008, p. 120). Other physical health issues that are often seen in exonerees include, but are not limited to, “malnutrition, arthritis, asthma, muscular atrophy, digestive disorders, skin rashes, diabetes, [and] hepatitis” (Westervelt & Cook, 2010, p. 268). Unfortunately, when exonerees are released, they are not commonly given the medical resources that are available to other prisoners upon release, and because of this, they are most likely not going to be able to receive the medial attention they may need (Chunias & Aufgang, 2008).

Struggles of Reintegration

Not only can the time exonerees spend imprisoned be more difficult than for other inmates but reintegrating into society after release is also a hard process. Simms (2016) found that reentry is difficult for exonerees for multiple reasons. First, exonerees have a hard time shedding the mindset and ideals that they had to conform to while in prison so they could survive (Simms, 2016). While imprisoned, exonerees must conform to regimented constructs where they

must follow specific commands and schedules of those who run the prison or jail in which they are located (Chunias & Aufgang, 2008). Additionally, while imprisoned, exonerees must follow the “inmate code,” which may include burying one’s emotions and displaying toughness at all times in order to protect oneself which can result in exonerees having mental health issues. (Chunias & Aufgang, 2008). Another reason that exonerees have trouble reintegrating into society is because exonerees lack the resources that they need to help them once they are released (Simms, 2016). Although exonerees may be eligible for government aid such as food stamps and housing services, many exonerees are “unaware of these programs or their entitlement to such services, do not have the skills necessary to navigate these systems on their own and may be too embarrassed to ask for help” (Chunias & Aufgang, 2008, p. 112). Not only do exonerees lack governmental resources, but they also lack adequate job skills to get them back on their feet (Mostaghel, 2011). In addition, exonerees also have trouble finding employment due to their wrongful convictions still being on their background checks, which can discourage potential employers from hiring them (Chunias & Aufgang, 2008).

Another challenge that exonerees face when they are released is that the government provides them with a little to no money (Mostaghel, 2011). This makes the process for reintegration even more difficult. In fact, Mandery and colleagues (2013) found that re-entry can be more difficult for exonerees than other inmates, given that they have even less funds and help available to them than those who are rightfully convicted, due to the fact that the state is no longer responsible for them, and feels like they no longer need to assist the exonerees. This is especially unfortunate, given that they were innocent of the crimes they were convicted of, yet unable to receive as many resources upon release as those who were not innocent. At minimum, these exonerees deserve the same access to resources, but that is not what has been made

available to them because the government no longer views them as responsibilities of the state once they are released. In some states there are resources available to exonerees, but they vary by state and are not always easy to obtain (Chunias & Aufgang 2008).

Resources to Assist Exonerees in Reintegration

To help these exonerees reintegrate, financial compensation is an important resource, unfortunately, “the majority of states have failed to enact legislation to compensate these individuals upon their release” (Boucher 2007, p. 1071). To make matters even more frustrating for exonerees, often when states do have compensation statutes, exonerees might still have to face obstacles in order to receive compensation (Mostaghel, 2011). For instance, in order for exonerees to receive compensation under the Massachusetts statute, they must meet many qualifications such as the following: the candidate must have been recognized as not guilty or innocent by a court, the candidate could not be involved in another ongoing legal case, the candidate must have had a not guilty plea for the crime they were exonerated for, and in some situations, the candidate must display evidence of their innocence (Chunias & Aufgang 2008). Another reason it is so difficult for exonerees to receive compensation is because some compensation statutes are set up in such a way that exonerees have to take legal action to get money instead of the government acknowledging its wrongdoings and promptly making amends without provocation (Mostaghel, 2011). Furthermore, this legal action can be “challenging, time-consuming, and expensive, and more often than not...unsuccessful” (Chunias & Aufgang 2008, p. 107). Not only is legal action to receive compensation based on state statutes difficult, but so is legal action to receive other types of compensation such as “private bills... [and] litigation” (Norris, 2012, p. 353). In fact, not many exonerees are able to receive private bills and when it comes to litigation, in addition to the large expenses of legal matters, the extremely “high

burdens of proof required” (Norris, 2012, p. 353) make receiving these private bills and litigation very difficult.

Occasionally, probation and parole services are available to the wrongly convicted. Despite how helpful these services appear to be, they are often out of touch with exonerees’ needs (Chunias & Aufgang 2008). This is because probation and parole services are designed with rightfully convicted individuals in mind, meaning that the goals of those programs are to guide people who committed certain crimes on specific paths that will keep them from committing those same crimes or ending up incarcerated again (Chunias & Aufgang 2008). There are two reasons that the framework for probation and parole services is problematic for exonerees. First, because exonerees were not guilty of the crimes they were incarcerated for, they should not have the propensity to commit the crimes they were convicted of once released (Chunias & Aufgang, 2008). However, being exposed to convicted criminals in prison may negatively impact their lives and lead to future criminality. Second, the frameworks for probation and parole services do not align with the needs of exonerees because exonerees not only need help with reintegration, but also help repairing the aspects of their lives that were damaged by their wrongful convictions, including mental health services (Chunias & Aufgang 2008). Similar to probation and parole services, Simms (2016) concluded social workers could be beneficial allies to the exonerated population, giving them the extra assistance that they need to successfully reintegrate into society. Social workers would be able to help exonerees by assessing their individual issues and needs and then directing them to specific resources that can help them (Simms, 2016). This type of one-on-one support can help guide exonerees and get them on the correct path towards successful reentry, but sadly, exonerees’ access to resources like these is sparse and the stigma and judgement that the public casts upon exonerees further

restricts this access. In fact, Scherr, Normile, and Sarmiento's study (2018) found that "being wrongfully convicted of a stereotypic race-consistent crime is associated with a continued disbelief of the exoneree's innocence, which is subsequently related to individuals' willingness to support psychological counseling" (p. 534). These stereotypes as well as stigmas further hinder the ability of exonerees to successfully reintegrate.

Stigma Placed on Exonerees

The stigma of incarceration is another major factor for exonerees. Most exonerees are released into areas where people are not accepting of their status (Westervelt & Cook, 2010). Some harsh examples of the stigma and unkindness that exonerees face are found in the firsthand accounts of Kirk Bloodsworth and Sabrina Butler, who participated in a study by Westervelt and Cook (2010). According to Bloodsworth, he experienced hostility and even had people marking his vehicle with derogatory words that insinuated he was a murderer, despite his exoneration (Westervelt & Cook, 2010). Butler felt shunned in her town, which kept her from leaving her home and prevented her from obtaining a job (Westervelt & Cook, 2010). Thompson, Molina, and Levett (2012) conducted a study to determine the amounts of stigma that are placed on guilty and exonerated people and how they compare. The results of this study were that guilty people were stigmatized more than exonerees, but not by an exponential amount. Meaning, even after being exonerated, individuals who were wrongfully convicted are still stigmatized by general society. These individuals continue to face the stereotypes and stigmas from people who choose not to believe in their innocence (Thompson et al., 2012). A specific example of this happened in the case of Michael Toney. Michael Toney was a man who was wrongfully convicted and charged with murdering three people in a 1985 bombing (Vartkessian & Tyler, 2011). Although Toney was exonerated, he still faced judgement from the public as well as the family members of

those who were killed in the bombing, who believed he was the perpetrator, despite the exculpatory evidence that was exposed (Vartkessian & Tyler, 2011). The existence of these stigmas hinders not only exonerees' access to resources, but also their ability to reintegrate successfully into society as a whole.

Although it is evident that these damages cannot be undone, no matter what compensation is given, it is still imperative that efforts are made to help these individuals as much as possible. While the use of compensation statutes can be helpful to exonerees, it is clear that exonerees need to be given more substantive reentry services, similar to those rightly convicted, in order for them to be able to better reintegrate into society. Exonerees have unique needs and these needs must be addressed in unique ways.

Exoneree Recompense

Since exonerees are released without adequate resources and have been deeply wronged by the criminal justice system, they may turn to other methods for obtaining compensation. According to Boucher (2007), there are three different ways for exonerees to obtain compensation: tort suits against the state, private legislative bills, and compensation statutes. Exonerees have the opportunity to sue the federal government, but this tends to be a daunting task, given that they must prove "a violation of a specific constitutional right" (Mandrey et.al, 2013, p.554), which is often not plausible given that the typical reasons for wrongful conviction such as mistaken eyewitness identification and false confessions do not exemplify such violations (Mandery et. al, 2013). Some exonerees sue the police departments whose actions contributed to their wrongful convictions (Carter, 2015), but an obstacle that comes with both of these types of litigation is that prosecutors and police officers have qualified immunity, which prevents them from being held liable in cases of wrongful conviction unless legislation was

undoubtedly breached (Mandery et. al, 2013). Another reason these methods make it difficult to obtain compensation is because exonerees often have little authority in society (Westervelt & Cook, 2010) given that they are trying to recover from the years lost imprisoned, and most likely do not have enough money to pay for legal action (Chunias & Aufgang, 2008). Other ways in which exonerees try to seek justice from their wrongful convictions is by becoming a part of the system that wronged them. Exonerees Marty Tankleff, Chris Ochoa, and Jarrett Adams all decided to go to law school, so they could help innocent people like themselves from spending needless years behind bars (Carter, 2015).

Current Study

Although there is a decent amount of research that explains the causes of wrongful conviction, there remains a gap in the study of what happens to exonerees while in prison and after they are released (Wildeman, Costelloe, & Schehr, 2011). Research also addresses stigma that exonerees face, but there is limited research that explores and examines the types of compensation given to exonerees (Norris, 2012). There is research that explores the types of crimes for which exonerees were convicted, such as Lewis & Sommervold's (2015) study, which examined mothers who had been wrongly convicted of killing their children, but there are gaps in the research when determining the relationship between race and wrongful conviction (Smith & Hattery, 2011).

In the current study, using recent data collected by the National Registry of Exonerations, I examined both individual and offense characteristics of the exonerees in order to get a better understanding of how these factors influence exonerations. Specifically, I examined whether an individual's race and/or sex assigned at birth impacts the amount of time they are falsely imprisoned. Additionally, the prevalence of DNA evidence contributing to exoneration is

explored. Whether or not the type of offense an individual is wrongly accused of varies by race and sex is also examined. As such, the current research is guided by the following questions:

Research Question 1: What are the individual characteristics of exonerees (i.e., race, sex, location)?

Research Question 2: What are the common crime factors of exonerees (i.e., common offense types, exonerated through DNA evidence)?

Research Question 3: Does the offense type vary by the race/sex of the exoneree?

Research Question 4: Does length of time incarcerated vary by race/sex of the exoneree?

Methodology

In order to answer the research questions for the current study, a secondary data analysis was conducted utilizing data collected by the National Registry of Exonerations. Secondary data analysis is an analysis of findings that were gathered by previous researchers and allows other data analysts to conduct further research and be able to delve deeper into hypotheses that the first set of data may have overlooked (Donnellan & Lucas, 2013). This method was appropriate for this research given that it provided a sample that included the individual characteristics of exonerees in the United States, therefore allowing additional analysis for the determination of correlations and cross-variable similarities or differences. A total of 2,676 exonerees were included in the analysis. Many factors within the data were examined in order to determine if there were any disparities including the exonerees' individual characteristics and characteristics of the crime for which they were exonerated as well as the length of time that the exonerees were incarcerated. Of particular interest to the current study was how race, sex, and type of crime convicted of correlated with who was exonerated.

Dependent Variables

There were two outcome variables examined in the current research: offense type and time incarcerated. The *offense type* was originally measured as the specific crime that the individual was exonerated for (i.e., murder, manslaughter, fraud). However, for the current study these crime types were collapsed into four categories: violent (0), property (1), drug (2), and other (3). Violent crimes included murder, manslaughter, robbery, child sexual abuse, and other violent offenses. Property crimes included fraud, tax evasion, theft, and other property crimes. Drug crimes included offenses such as drug possession or sale. Finally, other crimes included offenses such as perjury, solicitation, and filing a false report, among other crimes. *Time incarcerated* was measured in years and was calculated by subtracting the year the person was incarcerated from the year they were released.

Independent Variables

The two main independent variables in the current study were *sex* and *race*. *Sex* was measured dichotomously as the sex assigned at birth. Individuals were either categorized as male (0) or female (1). *Race* was measured by the racial and ethnic categories of white (0), black (1), Hispanic (2), or other (3). Other races included Asian American, Native American, and other races. Due to the small number of other racial categories, they were collapsed into one group.

Other variables included in the analysis were *location* and *DNA evidence*. Location was measured by the type of facility the exoneree had been incarcerated in and included state, federal, and other (i.e., military, Puerto Rico, D.C., and Guam) facilities. Additionally, whether or not *DNA evidence* was used to clear the exoneree was also measured dichotomously (yes/no).

Analytic Plan

This research included a descriptive analysis in which the different variables were analyzed based on their characteristics in order to determine if there were any patterns (Fitzgerald & Fitzgerald, 2014). This method was appropriate because there were multiple variables that consisted of descriptive characteristics that needed to be assessed, such as race, sex, offense type, location of the incarceration, and whether DNA evidence was used in the exonerations. Another analysis that was conducted in this research is bivariate analysis, which consists of two variables and is used to establish statistical significance and correlations (Fitzgerald & Fitzgerald, 2014). Bivariate analysis can be used to analyze nominal variables (Fitzgerald & Fitzgerald, 2014) such as those in this research, which deems this method appropriate. One way in which a bivariate analysis can be done is through the use of a chi-square analysis (Fitzgerald & Fitzgerald, 2014), which was conducted in this research to determine if there was statistical significance and patterns between the nominal variables. Differently, because averages cannot be determined through a chi-square analysis (Fitzgerald & Fitzgerald, 2014), whether or not there were statistically significant differences between the average amount of time that exonerees spent incarcerated and their race was determined by an Analysis of Variance (ANOVA) model. ANOVA “is a statistical technique that is used to compare groups on possible differences in the average (mean) of a quantitative (interval or ratio, continuous) measure” (Lavrakas, 2008, p. 2), and because an average was needing to be determined based on ratio variables (numbers), this method was appropriate.

Results

As shown in Table 1, the sample consisted of 91.1% male exonerees and 8.9% female exonerees. Approximately, 50% of the exonerees were black, while only 2% of the exonerees

were from a race other than white, black, or Hispanic. White and Hispanic exonerees consisted of 36.6% and 11.6% of the samples, respectively. The average number of years incarcerated for the exonerees was about 11 years, and approximately 19% of the exonerees were cleared through the use of DNA evidence. A vast majority of the exonerees were housed in state correctional facilities, with almost 95% of the exonerees being housed there. Additionally, a large majority (79.7%) of exonerees were cleared of a violent crime, followed by drug crimes (13.4%), property crimes (4.0%), and other offenses (3.0%).

Table 1. Descriptives

	N (%) / Mean (SD)	Description
Sex		Sex of exoneree
Male	2439 (91.1%)	
Female	237 (8.9%)	
Race		Race of exoneree
White	980 (36.6%)	
Black	1324 (49.5%)	
Hispanic	310 (11.6%)	
Other	62 (2.3%)	
Time Incarcerated (in years)	11.22 (9.38)	Range: 0-58
DNA evidence	520 (19.4%)	DNA evidence used
Location		Type of correctional facility
State	2532 (94.6%)	
Federal	112 (4.2%)	
Other	32 (1.2%)	
Offense Type		Offense type convicted of for exoneree
Violent	2132 (79.7%)	
Property	106 (4.0%)	
Drug	358 (13.4%)	
Other	80 (3.0%)	

A chi-square analysis was run on inmates' race by sex in order to see if the percentages of males and females was significantly different by race for exonerees. This chi-square test was significant ($X^2=55.372$, $p < .001$). As shown in Table 2, the largest percentage of males by racial group was black males (94.9%), followed by other race males, Hispanic males, and white

males, respectively. The largest percentage of female exonerees by race was white women (13.9%), followed by Hispanic women, other race women, and black women, respectively.

Table 2. Inmates' Race by Sex

	Men (%)	Women (%)
White	844 (86.1%)	136 (13.9%)
Black	1256 (94.9%)	68 (5.14%)
Hispanic	282 (90.9%)	28 (9.1%)
Other	57 (93.4%)	4 (6.6%)
$X^2 = 53.372^{***}$		

As shown in Table 3, a chi-square analysis was also performed to examine offense type by race, which indicated significant differences ($X^2 = 120.884$, $p < .001$). A significantly larger percentage of black (17.1%) and Hispanic (16.1%) exonerees had been exonerated for a drug offense, while the largest percentage of exonerees for violent crimes were white (81.2%). Notably, exonerees of other races comprised the largest percentage of those exonerated for a property crime (9.7%) and other offense (12.9%).

Table 3. Offense Type by Race

	Violent (%)	Property (%)	Drug (%)	Other (%)
White	796 (81.2%)	70 (7.1%)	77 (7.9%)	37 (3.8%)
Black	1053 (79.5%)	23 (1.7%)	226 (17.1%)	22 (1.7%)
Hispanic	240 (77.4%)	7 (2.3%)	50 (16.1%)	13 (4.2%)
Other	43(69.4%)	6 (9.7%)	5 (8.1%)	8 (12.9%)
$X^2 = 120.884^{***}$				

As shown in Table 4, a chi-square analysis of offense type by sex was performed which also indicated significant differences between groups ($X^2 = 65.773$, $p < .001$). Males comprised a significantly larger percentages of those exonerated for a violent offense compared to females, 82% compared to 62%, respectively. However, females comprised a significantly larger percentage of exonerees for property (10.3%) and drug (25.4%) crimes compared to males (3.2% and 12.3%, respectively).

Table 4. Offense Type by Sex

	Violent (%)	Property (%)	Drug (%)	Other (%)
Male	1946 (81.7%)	76 (3.2%)	294 (12.3%)	66(2.8%)
Female	143 (61.6%)	24 (10.3%)	59 (25.4%)	6 (2.6%)
$X^2 = 65.773***$				

As shown in Table 5, a chi-square analysis was also performed to examine offense type by race and sex, which indicated some significant differences ($X^2 = 27.059$, $p = <.001$). A significantly larger percentage of black (36.8%) and Hispanic (39.3%) of male exonerees had been exonerated for a drug offense, while the percentages of male exonerees for violent crimes remained relatively similar. Additionally, among men, white men (6.3%) were exonerated for property crimes at a significantly higher percentage when compared to black men (1.4%) and Hispanic men (1.8%). A significantly smaller percentage of black males (1.6%) were exonerated for an offense other than a violent, property or drug offense when compared to White males (4.0%) and Hispanic males (4.3%).

Table 5. Offense Type by Race and Sex

	Violent (%)	Property (%)	Drug (%)	Other (%)
White				
Male	703 (83.3%)	53 (6.3%)	54 (6.4%)	34 (4.0%)
Female	93 (68.4%)	17 (12.5%)	23 (16.9%)	3 (2.2%)
Black				
Male	1017 (81.0%)	18 (1.4%)	25 (36.8%)	20 (1.6%)
Female	36 (52.9%)	5 (7.4%)	201 (16.0%)	2 (2.9%)
Hispanic				
Male	226 (80.1%)	5 (1.8%)	11 (39.3%)	12 (4.3%)
Female	14 (50.0%)	2 (7.1%)	39 (13.8%)	1 (3.6%)
$X^2 = 27.059***$				

Among women, a significantly larger percentage of white female exonerees (68.4%) were exonerated for violent crimes than compared to black female exonerees (52.9%) and Hispanic female exonerees (50.0%) respectively. Also, among women, a significantly larger

percentage of white female exonerees (12.5%) were exonerated for property crimes when compared to their black (7.4%) and Hispanic (7.1%) female counterparts. Moreover, among women, a significantly smaller percentage of Hispanic women (13.8%) were exonerated for a drug offense when compared to their black (16.0%) and white (16.9%) female counterparts. Finally, Hispanic women (3.6%) had a significantly larger percentage of exonerations from offenses other than violent, property, or drug offenses when compared to black women (2.9%) and white women (2.2%) respectively.

Table 6. ANOVA of Time Incarcerated for Men and Women by Race

	Total Mean (SD)	Men Mean (SD)	Women Mean (SD)
White	9.56 (8.57)	10.01 (8.75)	6.78 (6.72)
Black	13.09 (9.96)	13.45 (9.97)	6.51 (6.94)
Hispanic	9.02 (7.97)	9.29 (8.02)	6.32 (7.06)
Other	11.21 (9.38)	8.30 (7.42)	8.80 (8.93)
F	36.91***	33.01***	0.21

An Analysis of Variance (ANOVA) model was used in order to determine if there were statistically significant differences in the means for time incarcerated by race. As indicated in Table 6, there was a significant difference between groups as determined by the one-way ANOVA ($F(3,2672)=36.912, p<.001$). A Tukey post hoc test indicated that there was a significant difference between the means for black inmates (13.09) compared to white (9.56), Hispanic (9.02), and other (11.21) inmates. However, no other racial differences were significant. Thus, the average time incarcerated for white, Hispanic, and other inmates were not significantly different from one another. When examining time incarcerated by race for males and females separately, interesting findings emerged. Among men, the mean of time incarcerated significantly varied by racial groups ($F(3,2435)=33.014, p<.001$). Black men spent significantly longer times incarcerated before being exonerated, than any other racial/sex grouping with an

average of 13.45 years incarcerated. White men had a significantly lower average time of incarceration at 10.01 years before being exonerated as did Hispanic and other men, with 9.29 years and 8.30 years respectfully. Among women, there were not significant differences in the means for time incarcerated ($F(3,233)=0.206, p=.892$). White, black, and Hispanic women all were incarcerated on average for approximately 6-7 years before exoneration, while women of other races spent an average of 8.8 years incarcerated.

Discussion

One of the most notable findings of this research is that a significantly larger percentage of women of color, particularly black women, were falsely convicted of drug crimes than white women. This may be in part due to the War on Drugs, which has been called a war on women – particularly a war on women of color (Bush-Baskette, 2000). The implications of the War on Drugs policies have caused damaging and prolonged consequences to not only the imprisoned women, but also their families, considering that over half of women in prisons have minor children and tend to be the sole guardian of their children (Bush-Baskette, 2000). Therefore, my findings may indicate that more women of color are exonerated for drug crimes because more black and Hispanic women are falsely convicted of drug crimes.

Another significant finding of this research is that black men spent significantly longer time falsely incarcerated than any other grouping by sex or by race and sex combined. This might be because of the criminal black man stereotype, previously discussed, which is linked to longer sentences among black men (Welch, 2007). This could also be due to the racial bias that is put on black men that determines they are guilty before they are proven as such. There is no way to tell definitively what caused this, particularly based on the current study's data, but there is no question that the lengthy incarceration of these black males may possibly be quite damaging to

their lives as well as the black community through father/partner absence. In fact, in 2007, the Bureau of Justice Statistics estimated that over 50% of all prisoners were parents to minor children (Glaze & Maruschak, 2008), and “more than 4 in 10 fathers in state in federal prisons were black” (Glaze & Maruschak, 2008, p. 2). Another notable finding is that less than 20% of the sample were exonerated due to DNA evidence. This finding is interesting due to the common perception that DNA evidence has been a “game-changer” for exonerations (Smith & Hattery, 2011). Even more surprising is the fact that as of January 2010, every exoneration in the United States had been accomplished partially due to DNA examination (Smith & Hattery, 2011), but somehow, many of the current exoneree population on the registry were exonerated by other means. This finding could possibly be a result of the fact that DNA testing can cost between \$5,000.00 to \$50,000.00 per case (Innocence Project, 2021), which can be problematic for exonerees, given that they usually lack funds (Westervelt & Cook, 2010).

An additional notable finding was that over half of all women, regardless of race, were exonerated for violent crimes, with white women being exonerated for violent crimes at a significantly higher rate. This goes along with the previously mentioned notion that when women do not act in conformity with their societal expectation of being motherly and nurturing, they are treated harshly, especially when the crime they are being accused of is perceived as violent (Lewis & Sommervold, 2015). This phenomenon could also be attributed to the substantial media coverage of violent crimes, more specifically, the increased popularity and publicity of women who are accused of violent crimes (Lewis & Sommervold, 2015).

Policy Implications

The results of this research highlight some of the same issues that are presented in prior research. One of these issues is the prevalence of possible racial bias that contributes to wrongful

convictions and longer sentences for people of color (Kleider-Offutt, et. al 2017) that was not only indicated in prior research, but also in my findings as well. Prior literature highlights the immense failure that the criminal justice system has had on people of color, especially black men (Pollock, 2019), and the current study exemplifies that failure, given that black male exonerees have spent a significantly longer time incarcerated. Hopefully, with the publication of more research such as this, more people will become aware of this issue and do what they can to prevent people of color from being wrongfully convicted. This issue could be improved through law enforcement making sure to do unbiased and thorough arrests and investigations followed by prosecutors being unbiased in their pursuit of cases, making sure to disclose exculpatory evidence, and only pursuing cases in which they have significant inculpatory evidence. In addition, judges should also remain unbiased on every case and make sure that the defendant is receiving their due process rights. Criminal defense attorneys should also guarantee to give their clients the best representation possible and consistently protect their client's constitutional rights.

Overall, despite race or sex, all exonerees have suffered the "pains of imprisonment" and spent needless time incarcerated. During that time imprisoned, exonerees have lost time with their families and friends that they will never get back. Exonerees missed out on time they could have spent building their careers and fulfilling their dreams. The incarceration of these innocent people has not only been a detriment to exonerees, but also to society in two ways. The first of these two ways is the loss of benefits that exonerees could have provided by being active in their communities, whether through paying taxes, contributing to the workforce, or by other means. The second way in which the incarceration of exonerees has damaged society is by preventing the real perpetrators of crime they were incarcerated for from being imprisoned. There is no way to definitively tell how many further crimes could have been prevented, but out of the 232

exonerations that have been accomplished by the Innocence Project, a total of 97 violent crimes were committed by the people that should have been incarcerated in the exoneree's position (Innocence Project, 2021). Similar to how there is no way to tell the exact number of crimes that could have been prevented if the right person was incarcerated the first time, there is no way to tell how many other innocent people are losing years of their lives right now, just waiting to be exonerated. After the years of losing their freedoms and time, and having their names tainted by guilty convictions, the least that exonerees should receive are resources and compensation to help them navigate the reintegration process and repair the damage done by their incarceration.

The forms of compensation and resources that are given to exonerees through current legislation is insufficient and does not thoroughly address exonerees' needs (Westervelt & Cook, 2010). One of the reasons that such statutes are insufficient includes the inability of these statutes to recognize the exonerees' need for their criminal records to be expunged (Westervelt & Cook, 2010). This issue is not only difficult for exonerees to address on their own, but it causes further detriment to their lives by preventing them from being able to obtain employment and promotes continuous judgment from society (Westervelt & Cook, 2010).

Another reason for the insufficiency of compensation statutes is that the money that is available is simply not enough. Norris (2012) puts it best by saying "though it is impossible to put a dollar value on years lost, amounts as low as US\$5,000 per year (as provided in Wisconsin) or US\$20,000 for the entirety of a wrongful conviction regardless of the length of time served (as provided in New Hampshire) arguably are insufficient" (p. 367). When comparing the Wisconsin provision for monetary compensation (\$5,000 per year) to the average income for someone in the United States in 2019, which was \$31,133.00 (United States Census Bureau, 2020), this

compensation statute seems to be beyond inadequate to repair the financial damage that has occurred in an exoneree's life.

Due to the inadequate statutory resources for exonerees, the Innocence Project has created their own proposed compensation statutes, which may be a step in the right direction when it comes to compensation for exonerees. According to Norris (2012), the Innocence Project's proposed statute includes "a set yearly amount of monetary compensation (at least US \$50,000), with additional amounts for time spent on death row, on parole, or as a registered sex offender. In addition, they suggest a range of other assistance, including reintegrative services, educational credits, and job-skill training" (p. 354). The Innocence Project proposal also includes a health care provision for the entire length of exonerees' lives if their jobs do not offer health care already (Mandery et. al, 2013). Another type of compensation statute proposal was created by the American Bar Association and proposed that exonerees should be compensated for "pain and suffering, and for lost pay while incarcerated" (Mandery et. al, 2013). The implementation of these types of statutes could help exonerees address not only their financial issues, but also their reintegration needs and would be a more sufficient form of help for the wrongfully convicted.

Limitations of This Research

As with all research, there are some limitations to the current study. One limitation of this research is that the data analyzed in this research was collected by another source. Without being able to collect the data firsthand, it is unknown what limitations were placed on those who collected the data. In addition, it is unknown if every exoneree in the United States had been accurately added to the data before the secondary analysis of this research. Another limitation of this research is that individual accounts of exonerees through interviewing was not a feasible option, although it would have enriched the research by providing further insight as to how

exonerees navigated the process of wrongful conviction to imprisonment, and finally, to exoneration. While the current research can only provide a descriptive overview of the exonerees, it did highlight some gender/sex and racial based disparities for the exonerees, something that future research should expand upon.

Conclusion

In conclusion, this research and the previous literature indicate a great need for improvement in the criminal justice system when it comes to exonerees, exonerees' access to and availability of compensation and resources, as well as the prevention of wrongful convictions, especially for black men. There is no amount of money that could ever repair the damages caused by wrongful conviction and incarceration, but it is evident that current compensation statutes are inadequate and need to be altered to better suit the needs of exonerees. As noted in the literature, exonerees have unique needs upon release including mental health needs, which are a result of being traumatized while incarcerated as well as having to cope with the fact that they were wrongfully incarcerated (Simms, 2016). These types of unique needs coupled with basic reintegration needs such as shelter, employment, and sustenance make for a difficult transition into society, and without being offered mental health resources and job resources like those who were rightfully convicted (Simms, 2016), exonerees face more hardships.

The best way to eliminate these hardships is to prevent wrongful convictions from happening in the first place. Wrongful convictions occur in the criminal justice system and that is where the change must take place. Police, as well as courtroom actors (i.e., judges, prosecutors, and defense attorneys) all need to do their part to ensure that justice is being achieved. In addition, forensic lab analysts need to follow protocols and analyze evidence correctly to guarantee that the truth is revealed, so justice can be one step closer to being accomplished. Incarcerating

people and denying them their freedoms is a serious matter and must be treated as such. As for the general public, students, and educators, each can also contribute to the decrease of wrongful convictions by being informed, spreading the word to others, and standing up for what is right. The continuous increase in exonerations in the United States is the result of people doing just that: standing up for what is right, and there is hope for the future that this will continue to be the case.

References

- Boucher, L. C. (2007). Advancing the Argument in Favor of State Compensation for the Erroneously Convicted and Wrongfully Incarcerated. *Catholic University Law Review*, 56(3), p. 1069-1343.
- Brown, R., Feldman, M., Quiroz, N., & Sacerdote, M. (2020). Attacking the False Confession: Advocacy in the State Forum. *National Association of Criminal Defense Lawyers*. Retrieved 2 April 2021, from [https://1.next.westlaw.com/Document/Ia4e812d6e45011eabea4f0dc9fb69570/View/FullText.html?originationContext=typeAhead&transitionType=Default&contextData=\(sc.Default\)](https://1.next.westlaw.com/Document/Ia4e812d6e45011eabea4f0dc9fb69570/View/FullText.html?originationContext=typeAhead&transitionType=Default&contextData=(sc.Default))
- Bush-Baskette, S. (2000). The War on Drugs and the Incarceration of Mothers. *Journal of Drug Issues*, 30(4), p. 919-928. <https://doi.org/10.1177/002204260003000414>
- Carter, T. (2015). These JD-carrying exonerees are using their experiences to right wrongs. *ABA Journal*. Retrieved 23 March 2021, from <https://web-a-ebSCOhost-com.proxy.lib.utC.edu/ehost/detail/detail?vid=0&sid=329cf8b0-e813-43e7-9fb4-974bdf72430%40sessionmgr4006&bdata=JnNpdGU9ZWwhvc3QtbGl2ZQ%3d%3d#AN=102367851&db=i3h>
- Chunias, J. L. & Aufgang, Y. D. (2008). Beyond Monetary Compensation: The Need for Comprehensive Services for the Wrongfully Convicted. *Boston College Third World Law Journal*, 28, p. 105–559.
- Cook, K. J., Westervelt, S. D., & Maruna, S. (2014). The problem of parolees, exonerees, and prisoner reentry. In A. D. Redlich, J. R. Acker, R. J. Norris, & C. L. Bonventre (Eds.),

- Examining wrongful convictions: Stepping back, moving forward* (p. 237–250). Carolina Academic Press.
- Donnellan, M. B. & Lucas, R. E. (2013). Secondary Data Analysis. *The Oxford Handbook of Quantitative Methods in Psychology: Volume 2: Statistical Analysis*. doi: 10.1093/oxfordhb/9780199934898.013.0028
- Fitzgerald, J., & Fitzgerald, J. (2014). *Statistics for criminal justice and criminology in practice and research*. SAGE Publications, Inc. <https://www-doi-org.proxy.lib.utc.edu/10.4135/9781544307732>
- Glaze, L. E. & Maruschak, L. M. (2008). Parents in Prison and Their Minor Children. U.S. Department of Justice, Bureau of Justice Statistics. Retrieved 11 April 2021, from <https://www.bjs.gov/content/pub/pdf/pptmc.pdf>
- Innocence Project. (2021). *Explore the Numbers: Innocence Project's Impact*. Retrieved 11 April 2021, from <https://innocenceproject.org/exonerations-data/>
- Innocence Project. (2020). *Exonerate*. Retrieved 23 Feb. 2020, from <https://www.innocenceproject.org/exonerate/>
- Innocence Project. (2016). Wrongful Convictions Involving Unvalidated or Improper Forensic Science that Were Later Overturned through DNA Testing. Retrieved 23 Mar. 2021, from https://www.innocenceproject.org/wp-content/uploads/2016/02/DNA_Exonerations_Forensic_Science.pdf
- Kappeler, V. E. & Potter, G. (2017). *The mythology of crime and criminal justice* (5th Edition). Waveland Press, Inc.
- Kleider-Offutt, H., Knuycky, L., Clevinger, A., & Capodanno, M. (2017). Wrongful convictions and prototypical black features: Can a face-type facilitate misidentifications? *Legal and Criminological Psychology*, 22(2), p. 350-358. <https://doi.org/10.1111/lcrp.12105>

- Lavrakas, P. J. (2008). *Encyclopedia of survey research methods* (Vols. 1-0). Thousand Oaks, CA: Sage Publications, Inc. doi: 10.4135/9781412963947
- Lewis, A. L. & Sommervold, S. L. (2015). Death, but is it murder? The role of stereotypes and cultural perceptions in the wrongful convictions of women. *Albany Law Review*, 78(3), p. 1035-1058.
- Mandery, E. J., Shlosberg, A., West, V., & Callaghan, B. (2013). Compensation Statutes and Post Exoneration Offending. *The Journal of Criminal Law & Criminology*, 103(2), p. 553-583.
- Mostaghel, D. (2011). Wrongfully Incarcerated, Randomly Compensated-How to Fund Wrongful-Conviction Compensation Statutes. *Indiana Law Review*, 44, p. 503-1467.
- The National Registry for Exonerations. (2021). Retrieved 31 Mar. 2021, from <https://www.law.umich.edu/special/exoneration/Pages/about.aspx>
- Norris, R. J. (2012). Assessing Compensation Statutes for the Wrongly Convicted. *Criminal Justice Policy Review*, 23(3), p. 352-374.
- Pollock, J. M. (2019). *Ethical dilemmas and decisions in criminal justice* (10th Edition). Boston, MA: Cengage.
- Scherr, K. C., Normile, C. J., & Sarmiento. (2018). Reluctant to embrace innocence: an experimental test of preserving culpability judgements on people's willingness to support reintegration services for exonerees. *Journal of Experimental Criminology*, 14(4), p. 529-538.
- Shammas, V. L. (2017). Pains of Imprisonment. *The Encyclopedia of Corrections*, 1-5. doi: 10.1002/9781118845387.wbeoc020

- Simms, T. (2016). Statutory Compensation for the Wrongly Imprisoned. *Social Work, 61*(2), 155–162. doi: 10.1093/sw/sww003.
- Smith, E. & Hattery, A. J. (2011). Race, Wrongful Conviction & Exoneration. *Journal of African American Studies, 15*(1), p. 74-94. <https://doi.org/10.1007/s12111-010-9130-5>
- Sykes, G. M. (1958). *The Society of Captives: A Study of a Maximum Security Prison*. Princeton, New Jersey: Princeton U.P.
- Thompson, A. M., Molina, O.R., & Levett, L. M. (2012). After exoneration: an investigation of stigma and wrongfully convicted persons. *Albany Law Review, 75*(3), p. 1373-2199.
- United States Census Bureau. (2020). Income and Poverty in the United States: 2019. Retrieved 30 Mar. 2021, from <https://www.census.gov/data/tables/2020/demo/income-poverty/p60-270.html>
- University of Michigan Law School. Causes of Wrongful Convictions. (2020). February 18, 2020, from <https://www.law.umich.edu/clinical/innocenceclinic/Pages/wrongfulconvictions.aspx>.
- Vartkessian, E. S. & Tyler, J. P. (2011). Legal and Social Exoneration: the Consequences of Michael Toney’s Wrongful Conviction. *Albany Law Review, 75*(3), p. 1467-2199.
- Webster, E. (2020). The Prosecutor as a Final Safeguard Against False Convictions: How Prosecutors Exist with Exoneration. *Journal of Criminal Law and Criminology, 110*(2), p. 245-305.
- Welch, K. (2007). Black Criminal Stereotypes and Racial Profiling. *Journal of Contemporary Criminal Justice, 23*(3), p. 276-288, doi: 10.1177/1043986207306870

- Wells, G. L. & Quinlivan, D. S. (2009). Suggestive Eyewitness Identification Procedures and the Supreme Court's Reliability Test in Light of Eyewitness Science: 30 Years Later. *Law and Human Behavior*, 33, p. 1-24, doi: 10.1007/s10979-008-9130-3
- Westervelt, S. D., & Cook, K. J. (2010). Framing innocents: the wrongly convicted as victims of state harm. *Crime Law Social Change*, 53, p. 259-275. doi:10.1007/s10611-009-9231-z
- Wildeman, J., Costelloe, M. & Schehr, R. (2011). Experiencing Wrongful and Unlawful Conviction. *Journal of Offender Rehabilitation*, 50(7), p. 411-432. doi: 10.1080/10509674.2011.603033
- Williamson, E. J., Stricker, J. M., Irazola, S. P., & Niedzwiecki, E. (2016). Wrongful convictions: Understanding the experiences of the original crime victims. *Violence and Victims*, 31(1), p. 155-166. doi:http://dx.doi.org.proxy.lib.utc.edu/10.1891/0886-6708.VV-D-13-00152