

THE METHODOLOGY OF SOCIAL ADAPTATION FOLLOWING THE LIBERATION OF A WRONGFUL CONVICTION

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According to the National Registry of Exonerations (2015), more than 1,700 prisoners in the United States have been exonerated after serving an average of 14 years.¹ One quarter were exonerated with the help of DNA evidence and nearly 7% of those prisoners were facing the death penalty for crimes they did not commit; 60% of those exonerated are people of color and nearly half are black.² DNA evidence is imperative in wrongful conviction cases. The Central Park Five was about five men being charged and convicted of the rape of a white investment banker, they were later exonerated after DNA evidence pointed to the actual rapist.³ After leaving prison, the exonerated are free, but carry psychological wounds and the stigma of their long-term, unjust imprisonment.⁴ The difficulties they face are similar to those described in the clinical literature on war veterans.⁵ Immediately following their release is when the exonerated need the most assistance with meeting their basic needs such as employment, housing, transportation, education, physical and mental health care, and public benefits.⁶ There are findings that suggest those wrongfully convicted and imprisoned may have significant psychiatric and adjustment difficulties after being released.⁷ It seems likely that some

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¹ Christing Kregg, *Right to counsel: Mental Health approaches to support the exonerated*, ADVOCATE FORUM (2016), <https://www.ssa.uchicago.edu/right-counsel-mental-health-approaches-support-exonerated>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Adrian Grounds, *Psychological Consequences of Wrongful Conviction and Imprisonment*, 46 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 165, 178 (2004); Adrian T. Grounds, *Understanding the Effects of Wrongful Imprisonment*, 32 CRIME & JUST. 1, 2 (2005).

⁶ Kregg, *supra* note 1.

⁷ Grounds, *supra* note 5.

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of the post-release problems are effects of long-term incarceration.⁸ Other post-release adversities many face are unemployment, financial troubles, poor physical health, and strained family ties.⁹ There is an explicit entanglement between the persons being wrongfully convicted and life after prison that creates a foundation for the numerous trials and tribulations on the outside world.

I. THE IMPACT OF IMPRISONMENT

Wrongful imprisonment is traumatizing and disorienting, because when it comes to imprisonment in itself is distressing.¹⁰ While exonerees face mental health outcomes that are unique to their wrongful conviction, the damage wrought by imprisonment is shared amongst most prisoners.¹¹ The dominant feature of prison for many is the fear and violence encountered while in prison.¹² Unjust arrest, conviction, and detention as well as the distress imposed by coerced confessions, exacerbate the harms of long-term incarceration.¹³ Wrongful imprisonment involves the isolation, interrogation, and detention of an innocent person¹⁴, and amounts to torture by human design.¹⁵ Victimized at the hands of the state can tend to cause invoked feelings of betrayal and injustice.¹⁶ Life after prison has shown that the people who were wrongfully convicted have become tainted due to imprisonment. This betrayal has caused them to be unable to trust the legal system again. After being released from prison, the wrongfully convicted have been profoundly scarred by the lack of physical care, job experience and education to be competitive on the outside world.

⁸ *Id.*

⁹ Kregg, *supra* note 1.

¹⁰ Grounds, *supra* note 5.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Heather Weigand, *Rebuilding A Life: The Wrongfully Convicted and Exonerated*, PUB. INT. J. at 427.

¹⁵ John Wilson, *A Perpetual Battle of the Mind*, PBS (May 1, 2003), <https://www.pbs.org/wgbh/pages/frontline/shows/burden/cameras/memo.html>.

¹⁶ Grounds, *supra* note 5.

II. BECOMING SOCIALIZED IN THE VALUES OF PRISON CULTURE

Many prisoners are forced to undergo psychological changes in order to survive the prison experience.¹⁷ In America, the trend of correction officers harsh policies and conditions of confinement in prisons have grown over the last several decades which has included de-emphasis on rehabilitation as a goal of incarceration.¹⁸ As a result, the ordinary adaptive process of institutionalization or "prisonization" has become extraordinarily prolonged and intense.¹⁹ The recent changes in prison life mean that prisoners face more difficulties and problematic transitions as they return to the outside world.²⁰ Prisoners wrongfully or rightfully convicted that have a difficult time in jail such as being faced with punitive, overcrowded institutions, isolation, neglect, and abuse can develop psychological adaptations that lead to negative outcomes. These outcomes can include diminished self-efficacy and self-worth, hypervigilance, emotional suppression, social withdrawal, exploitative, violent behavior, and post-traumatic stress responses.²¹ These reactions can impede post-prison adjustment and are particularly likely among exonerees.²²

Korey Wise was one of the five men wrongfully convicted in the Central Park Five case.²³ He was sixteen at the time of conviction, when the judicial system viewed sixteen as an adult, which was why he was sent to an adult federal prison.²⁴ He was subject to debilitating violence and abuse from inmates and correction officers.²⁵ Korey Wise spent his time in prison where he was harbored by harsh conditions, which caused him to spend long periods of his incarceration in solitary confinement.²⁶ These harsh conditions included over-crowding, inmate mental illness, racial and ethnic segregation, poorly educated inmate

¹⁷ Craig Haney, *The psychological impact of incarceration: Implications for post release adjustment*, U.S. DEP'T OF HEALTH AND HUMAN SERVICES (Dec. 2, 2001), <https://aspe.hhs.gov/basic-report/psychological-impact-incarceration-implications-post-prison-adjustment>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Haney, *supra* note 17.

²³ Heather Finn, 'When They See Us' Reveals The Heartbreaking Truth About Khorey Wise, GOOD HOUSEKEEPING (Sept. 20, 2009), <https://www.goodhousekeeping.com/life/entertainment/a27757516/korey-wise-central-park-five/>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Daryl Meeks, *Doing Jail Time: The Socialization Process of a County Jail Environment*, JUST. POLICY J. (2005), http://www.cjcrj.org/uploads/cjcrj/documents/doing_jail.pdf.

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population and health issues.²⁷ The way inmates socialize with each other is not only influenced by other inmates, but also by officers working in the prison.²⁸ The correction officers have this perception of inmates, as overly violent and dangerous individuals, who deserve less than human services and conditions.²⁹ This mindset of correctional officers is one of the many reasons inmates receive cruel treatment whether they actually committed the crime or have been wrongfully convicted.³⁰ The common attitude of the correction officer mindset is if he or she is an inmate, they should be treated inhumane.³¹

III. EXONERATION DURING SENTENCE OR POST SENTENCE

Exonerees are likely to experience the most significant stigma regarding societies perception of their personal character. Regardless of their innocence, exonerees can expect to be greeted by society with fear and social rejection as a result of the staid cruelty of unjust imprisonment.³² In 1989, Gary Dotson, the victim of a false rape accusation, became the first person to be exonerated in the United States through the use of DNA evidence.³³ It was because of his case, a new movement of innocence was born.³⁴ In the years since Dotson's exoneration, DNA evidence has been the reason for over 280 exonerees to date.³⁵ Seventeen of these exonerated individuals had been convicted of first-degree murder and sentenced to death, but were saved by DNA evidence.³⁶ These exonerations may represent only a small proportion of all wrongful convictions, which some scholars have estimated to be in the tens of thousands.³⁷

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Adina M. Thompson, Oscar R. Molina & Lora M. Levett, *After exoneration: An investigation of stigma and wrongfully convicted persons*, 75 ALB. L. REV. 1373, 1377 (2011).

³³ Rob Warden, *The Revolutionary Role of Journalism in Identifying and Rectifying Wrongful Convictions*, 70 UMKC L. REV. 803, 839 (2002).

³⁴ *Id.*

³⁵ *DNA Exonerations in the United States*, INNOCENCE PROJECT, <https://www.innocenceproject.org/dna-exonerations-in-the-united-states/>, (last visited Mar. 11, 2021).

³⁶ *Id.*

³⁷ Samuel R. Gross, et. al., *Exonerations in the United States, 1989 Through 2003*, 95 J. CRIM. L. & CRIMINOLOGY 523, 551 (2005).

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While serving his sentence, Korey Wise of the Central Park Five, met murderer and serial rapist Matias Reyes in prison.³⁸ Matias confessed to being the lone perpetrator of the Central Park jogger rape that Korey was initially charged for.³⁹ A DNA test along with Matias's knowledge of the details of the crime confirmed his guilt, and in 2002, Korey was released from prison after having served 12 years in prison.⁴⁰ There are those wrongfully convicted that have been exonerated while serving their sentence, while others had to complete their sentence before seeking an exoneration.⁴¹ There have been 2,500 exonerees to date, with 367 being exonerees by DNA, 21 of the 367 served time on death row and 42% involved in cross-racial misidentification.⁴² Anthony Ray Hinton walked out of the Jefferson County Jail in Birmingham, Alabama, a free man after serving 30 years in prison.⁴³ He was the 152nd person exonerated who was on death row.⁴⁴ There are many factors that have led to thousands in America to be wrongfully convicted such as race, poverty and inadequate legal assistance.⁴⁵ There should not be a presumption of guilt or bias for any defendant unless there is a considerable amount of evidence to prove beyond the reasonable doubt that the defendant is guilty.⁴⁶

³⁸ Finn, *supra* note 23.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *DNA Exonerations in the United States*, *supra* note 35.

⁴² *Id.*

⁴³ Anthony Ray Hinton, EQUAL JUSTICE INITIATIVE, <https://eji.org/cases/anthony-ray-hinton/>, (last visited Mar. 11, 2021).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

IV. SUBSEQUENT RE-SOCIALIZING INTO SOCIETY AFTER BEING RELEASED

The exonerated have changed since their release from prison and have been released into a world that has also significantly changed from the one they once knew. Wrongful imprisonment often requires two modes of adaptation: routines to cope with the fatigue and despair of prison and enduring legal battles.⁴⁷ Such adaptations may allow those in custody to survive, but can wreak havoc on exonerees' home lives.⁴⁸ Many exonerated men were so conditioned to take orders from correction officers that they found it difficult to function in the unstructured environment of their home.⁴⁹ Exonerees may experience feelings of shock following their abrupt release from prison and may struggle to make decisions for themselves or perform activities of everyday living.⁵⁰ There have been studies that have shown that exonerees were often embarrassed by the practical difficulties of mundane tasks like crossing the street, using a microwave, or handling money because they have sometimes forgotten the basic tasks of everyday living.⁵¹ It is a misconception that when a person is exonerated and released from prison, they are allotted the same assistance as a person who is paroled.⁵² However, while those who are paroled receive housing and employment assistance, those who are exonerated are often left on their own to fend for themselves.⁵³ The innocence project discussed exoneree, David Robinson, who was convicted in Missouri, spent seventeen years in prison before his murder conviction was overturned.⁵⁴ When he was released he had no money, home or credit score and found it very difficult to get health insurance because he was not a resident in any city for six months.⁵⁵

⁴⁷ Wilson, *supra* note 15.

⁴⁸ *Id.*

⁴⁹ Grounds, *supra* note 5.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Innocence Staff, *What Does Life Look Like After A Wrongful Conviction?*, INNOCENCE PROJECT, <https://www.innocenceproject.org/what-does-life-look-like-after-a-wrongful-conviction/>, (last visited Mar. 11, 2021).

⁵⁴ *Id.*

⁵⁵ *Id.*

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Life for exonerees can get better with time but will never be the same as it was before their incarceration.⁵⁶ They are often released into society with no time to prepare to see their families or to re-socialize into the world again.⁵⁷

V. LOSS TIME WITH FAMILY AND SELF

During exonerees time of imprisonment their family members will pass, their children will grow and sometimes their spouses or partners will move on. The exonerated enter a realm of loss: the “loss of time, loss of feelings of security, loss of loved ones, and loss of self”.⁵⁸ Many mourned lost opportunities to have or raise children.⁵⁹ Such incalculable losses to exonerees create significant and enduring distress long after they have come home.⁶⁰ Family counseling can be critical to help the adjustment problems between exonerees and their loved ones.⁶¹ Such therapy can promote cohesion and reconnection, that will assist with the building of mutual understanding, and the strengthening of coping skills.⁶²

Therapeutic approaches can help the exonerated and their family to strengthen bonds. This type of recommended therapy includes cognitive behavioral interventions that support exonerees assumption of familial responsibilities, family mediation, family systems therapy, and parenting classes.⁶³ It is very crucial to reconnect exonerees with their families for long term function. Many exonerees described the horror of no longer feeling capable of loving their families. These reactions may be particularly upsetting for exonerees who crave reconnection only to find themselves struggling to integrate back into their families and communities.⁶⁴ Once separated from their home and family through imprisonment, the exonerated are then abruptly separated from prison life and began to feel abandoned once

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Sandra D. Westervelt & Kimberly J. Cook, *Framing Innocents: The Wrongfully Convicted As Victims of State Harm*, 53 CRIM. L. SOC. CHANGE 259, 268 (2010), <https://link.springer.com/article/10.1007/s10611-009-9231-z>.

⁵⁹ Grounds, *supra* note 5.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Grounds, *supra* note 5.

⁶³ Kregg, *supra* note 1.

⁶⁴ *Id.*

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again, because they began to make a life there.⁶⁵ One exonerated man tells the story of continuing to drive by the prison where he was held for more than two decades, calling it “the best part of my life”.⁶⁶ Rigid separation from one’s life in prison can result in feelings of profound loss and estrangement that may feel impossible to reconcile among the exonerated.⁶⁷ Families also bear a great burden in the case of the exonerated because they are also trying to reconnect with the exoneree and they frequently assume the greatest responsibility for exonerees’ reintegration.⁶⁸

With few resources from the state, the exonerated often turn to their families as the primary resource for housing, employment, and health care.⁶⁹ Family visits were often particularly unbearable for the exonerees and that is why many times, exonerees and their loved ones would minimize their pain and struggles during their brief contact with one another.⁷⁰ While intended as a strategy to minimize distress, with time, it instead intensifies the distance between family members and inmates that diminishes their ability to relate to or understand one another.⁷¹ Families of the wrongfully incarcerated have also suffered from victimization and ostracization.⁷² Relatives, of those struggling to rectify their wrongful convictions described feeling as though its “us-meaning the family and exoneree versus the rest of the world.”⁷³ The dissociation of wrongful incarceration not only effects the inmates but effects their families, as well as, causing family members to feel overwhelmed and stressed.⁷⁴

⁶⁵ Grounds, *supra* note 5.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Saneta deVuono-Powell, Chris Schweidler, Alicia Walters & Azadeh Zohrabi, *Who Pays? The True Cost of Incarceration on Families*. Oakland, CA, Ella Baker Center, Forward Together, Research Action Design (2015), <https://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf>.

⁶⁹ *Id.*

⁷⁰ Grounds, *supra* note 5.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

VI. PSYCHOLOGICAL EFFECTS OF INCARCERATION

Case studies of individual exonerees have revealed evidence of post-traumatic stress disorder and a host of other problems.⁷⁵ Which can also include lack of practical life skills, fear of public places, fear of police and inability to connect with family members.⁷⁶ The long term psychological effects of unjust imprisonment manifest only after exoneration and can result in severe problems in life that can disturb social behavior.⁷⁷ These mental health outcomes resemble that of military veterans and torture survivors who suffer from extreme forms of trauma.⁷⁸ The exonerated suffer from feelings of chronic estrangement, isolation and complex feelings of loss.⁷⁹ In addition to these traumas of prison, many exonerees suffer from depressive disorders and substance abuse or dependence.⁸⁰ As with most trauma survivors, exonerees may become withdrawn, express reluctance to disclose the painful details of their horrifying experiences, and feel less capable of emotional expression and intimacy.⁸¹

Adrian Grounds, a psychologist, with extensive knowledge and research of wrongful convictions, has done a study and discovered that most of the exonerees struggled to identify their emotions and were burdened with shame and guilt.⁸² Distrust is also likely to develop from the betrayal of wrongful imprisonment and can contribute to isolation as an involuntary coping mechanism to survive extended imprisonment.⁸³ Grounds has also observed that many of the men in his study would rigorously avoid social contact and continued to engage in self-isolation after their release from prison.⁸⁴ The effect of wrongful imprisonment causes the exonerated to endure a permanent loss of innocence.⁸⁵ Wrongful imprisonment also disrupts exonerees life path and can impair exonerees sense of purpose and of future possibilities.⁸⁶

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Wilson, *supra* note 15.

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During interviews with Grounds, the exonerated men described feeling “dislocated in time” or “developmentally frozen,” as though stuck at the age that they were sentenced.⁸⁷ They begin to have persistent thoughts of getting rearrested and imprisoned fearing that they can once again be wrongfully detained for someone else’s crime.⁸⁸ Many exonerates question why they were forced to endure this.⁸⁹ All of these feelings of regret and abandonment is a straight consequence of the injury caused by the wrongful conviction. That is why it is imperative that the exonerated have access to immediate and ongoing comprehensive mental health services.⁹⁰ These services include intensive case management, individual, family, and group counseling, peer support, and advocacy opportunities to assist with managing the complex reactions to wrongful imprisonment and to support social reintegration.⁹¹

VII. DEFICIT IN COMPENSATION FOR THE WRONGFULLY CONVICTED

The punishment of being wrongfully convicted does not end after exoneration.⁹² Those proven to have been wrongfully convicted through post-conviction DNA testing spend, on average, more than 14 years behind bars.⁹³ The agony of prison life and the complete loss of freedom are only compounded by the feelings of what might have been but for the wrongful conviction.⁹⁴ With no money, housing, transportation, health services or insurance, and a criminal record, the punishment lingers long after innocence has been proven.⁹⁵ States have the responsibility to restore the lives of the wrongfully convicted to the best of their ability by providing money for housing, transportation and healthcare, as well as a clear and sealed criminal record after innocence is proven.⁹⁶

⁸⁷ Grounds, *supra* note 5.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Westervelt & Cook, *supra* note 58.

⁹² *Id.*

⁹³ *Compensating the Wrongfully Convicted*, INNOCENCE PROJECT, <https://www.innocenceproject.org/compensating-wrongly-convicted/>, (last visited Mar. 11, 2021).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

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Legislation should be passed to promptly provide compassionate assistance to the exonerated in the following ways: financial support, housing, medical/dental care, psychological counseling services, education, and expungement of records.⁹⁷ It would be great to have all fifty states on board for wrongful convictions laws, however only thirty-five states have compensation statutes.⁹⁸ The following fifteen states do not: Alaska, Arizona, Arkansas, Delaware, Georgia, Idaho, Kentucky, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Wyoming.⁹⁹ Mike Shand, a man convicted of murder, was freed and filed a claim for wrongful conviction.¹⁰⁰ At the verdict of compensation he said “it was less about the money and more about the vindication of being innocent.”¹⁰¹ He had received no help from the government after he was released.¹⁰² He had even stated the government had not apologized for their wrongdoing of his wrongful conviction.¹⁰³ Shand said after receiving his twenty seven million dollar verdict, “what felt better than that was that the justice system had acknowledged that someone else had committed the murder in his wrongful conviction.”¹⁰⁴

However, not all exonerees are lucky enough to be able to get acknowledgment from the state or even compensation.¹⁰⁵ To win compensation in Massachusetts, people like Fred Clay, an exonerated man, must sue the state and prove he is actually innocent, not just released on a technicality.¹⁰⁶ Fred Clay and his supporters have learned, this process can be lengthy and frustrating.¹⁰⁷ Three months after he was released, Fred Clay was still jobless, surviving on food

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Karen Brown, *Jury Awards \$27 Million To Massachusetts Man Wrongfully Convicted Of Murder*, NPR, (Oct. 2, 2015), <https://www.npr.org/2019/10/02/765786518/jury-awards-27-million-to-massachusetts-man-wrongfully-convicted-of-murder>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Christopher Burrell, *Fighting For Compensation After A Wrongful Conviction And 38 Years In Prison*, NPR, (Nov. 30, 2018), <https://www.npr.org/2018/11/30/670180358/fighting-for-compensation-after-a-wrongful-conviction-and-38-years-in-prison>.

¹⁰⁷ *Id.*

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stamps and some money fundraised by his supporters.¹⁰⁸ Filling out job applications meant accounting for the 38-year gap in his employment history.¹⁰⁹ While Clay's conviction was overturned by a judge, an employer checking for a criminal background would still see his arrest for murder.¹¹⁰ If Clay was on parole, he would be entitled to reentry services, like a social worker and help with finding housing and jobs.¹¹¹ So far, Clay still has not gotten any of this support from the state.¹¹² Massachusetts' top attorney has admitted that the process to win a compensation suit in the state is very hard and the judicial system should make it easier.¹¹³

VIII. SOCIETAL VIEWS OF THE EXONERATED

Evidence shows that exonerees have a difficult time reintegrating into society.¹¹⁴ Though little research to date has examined exoneree stigma through an empirical lens, there has been considerably more work that explores exoneree stigma through an anecdotal framework.¹¹⁵ Evidence has also shown that people may be very uncomfortable working alongside exonerees.¹¹⁶ One exoneree stated that the women at his workplace told their supervisor they were uncomfortable working alongside him because he had been convicted, then exonerated, of rape.¹¹⁷ Other anecdotal evidence suggests that community members are not willing to readily accept exonerees back into the communities from which they were originally arrested.¹¹⁸ Another exoneree stated that upon returning to his hometown he was harassed and ridiculed, and once found the words “child killer” etched into the dirt on his truck.¹¹⁹

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Grounds, *supra* note 5.

¹¹⁵ Jeffrey Chinn & Ashley Ratliff, “*I Was Put Out the Door with Nothing*”—Addressing the Needs of the Exonerated Under a Refugee Model, 45 CAL. W. L. REV. 405, 434 (2009).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ Westervelt & Cook, *supra* note 58.

¹¹⁹ *Id.*

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Exonerees have a hard time in prison only to get released to still be judged by society.¹²⁰ Even after the Central Park Five have been exonerated, in 2019 President Donald Trump indicated that he still does not accept their innocence and does not think he owes them an apology for publicly calling for their executions.¹²¹ Even Linda Fairstein, Assistant District Attorney and head of sex crimes in New York City at the time of the Central Park Five's arrest and conviction, believes they are not innocent.¹²² She wants the Central Park Five to still prove their innocence even after they have already been exonerated.¹²³ Her theory is that the Central Park Five were part of a "pack" which participated in the attack on Meili and others, even if Reyes was the only one who physically participated in the rape.¹²⁴ However, not everyone in society thinks that the exonerated pose a threat to them. There are some people who have dedicated their lives to helping the wrongfully convicted receive better treatment because they believe the exonerated should be accepted.¹²⁵

Jon Eldan, a commercial attorney, has become a lifeline of one of the members of a unique club of exonerated Americans.¹²⁶ He has given up his salary to help exonerees by establishing a nonprofit organization to return some of that fairness to those who have lost so much of it.¹²⁷ Since late 2014, he has worked with three hundred and three exonerees in thirty three states, often contacting them through regional innocence organizations and helping them get access to medical care, insurance coverage, or legal aiding.¹²⁸ Another organization is the Innocence Project founded to help the exonerated through DNA testing.¹²⁹

¹²⁰ *Id.*

¹²¹ Aaron Rugar, *Trump still refuses to admit he was wrong about the Central Park 5*, VOX (June 18, 2019), <https://www.vox.com/policy-and-politics/2019/6/18/18684217/trump-central-park-5-netflix>.

¹²² Elie Mystal, *Linda Fairstein Is Still Trying to Take Down the Central Park Five*, THE NATION (June 13, 2019), <https://www.thenation.com/article/archive/linda-fairstein-central-park-five/>.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ Rachel Siegel, *How a Lawyer Gave Up Corporate Work to Help Exonerees Re-enter Society*, THE MARSHALL PROJECT (June 22, 2016), <https://www.themarshallproject.org/2016/06/22/how-a-lawyer-gave-up-corporate-work-to-help-exonerees-re-enter-society>.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *DNA Exonerations in the United States*, *supra* note 35

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The Innocence Project fights for the rights of the exonerated because they should be treated equally, like everyone else in society is.¹³⁰ The mission of the Innocence Project is to free the staggering number of innocent people who remain incarcerated, and to bring reform to the system responsible for their unjust imprisonment.¹³¹ The Equal Justice Initiative (EJI) is another organization that fights for the rights of exonerates because they should have fair treatment since the criminal justice system is unreliable.¹³² EJI challenges wrongful convictions and exposes the unjust incarceration of innocent people that undermines the reliability of even the most serious cases.¹³³ In 2015, EJI won the exoneration and release of Anthony Ray Hinton, who spent 30 years on Alabama's death row after being wrongfully convicted of capital murder based on a faulty bullet match, and Beniah Dandridge, who spent 20 years in prison after being wrongfully convicted based on an erroneous fingerprint match.¹³⁴ Evidence has shown that apart of society that feels the exonerated are still not innocent and should have to prove their innocence after being exonerated,¹³⁵ while others dedicate their lives to helping the wrongfully convicted receive fair treatment and try to improve the legal system from indifference and error.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Anthony Ray Hinton*, *supra* note 43.

¹³³ *Id.*

¹³⁴ *Wrongful Convictions*, EQUAL JUSTICE INITIATIVE, <https://eji.org/issues/wrongful-convictions/>, (last visited Mar. 11, 2021).

¹³⁵ *Id.*

IX. IMPROVEMENT OF THE LEGAL SYSTEM

There are more innocent people in our jails and prisons than ever before.¹³⁶ The rate of exonerations continues to rise, revealing an unreliable system of criminal justice.¹³⁷ There is a lack of accountability for police and prosecutors, reliance on junk science and mistaken eyewitnesses.¹³⁸ Police, prosecutors and judges are not held accountable for misconduct that leads to wrongful convictions such as refusing to re-examine evidence, presenting false testimony and fabricating evidence.¹³⁹ More than half of wrongful convictions can be traced to witnesses who lied in court or made false accusations.¹⁴⁰ The leading causes of wrongful convictions include mistaken eyewitness identification, false or misleading forensic science, and jailhouse informants.¹⁴¹ There are inadequate defense lawyers that can cause wrongful convictions by being overworked, underfunded and lacking the resources to vigorously check the prosecution's evidence at trial.¹⁴² African Americans are also burdened with a presumption of guilt; they make up 47% of exonerations even though they are only 13% of the American population.¹⁴³ Innocent black people are about seven times more likely to be convicted of murder than innocent white people.¹⁴⁴ Black people who are convicted of murder are about 50% more likely to be innocent than nonblack people convicted of murder.¹⁴⁵

Racial biases, prosecutorial misconduct, police lack of accountability and mistaken eyewitness are not the only shortcomings for wrongful convictions. There are also shortcomings in legislation after the exonerated are released.¹⁴⁶ States refuse to enact uniform and/or statutory access for wrongful conviction compensation.¹⁴⁷ Some states opt to compensate the wrongfully convicted only via "private

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Justice After Exoneration*, WITNESS TO INNOCENCE, <https://www.witnesstoinnocence.org/justice-after-exoneration/> (last visited Mar. 11, 2021).

¹⁴⁷ *Id.*

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compensation bills.”¹⁴⁸ This approach for compensation is based on the individuals involved and requires the exonerees to mount costly and demanding political campaigns to gain money.¹⁴⁹ Prohibiting compensation denies justice to those who were coerced, explicitly or implicitly, into confessing or pleading guilty to crimes it was proven they did not commit.¹⁵⁰ This particular portion of legislation prevents fairness of exonerees receiving compensation. Before the ball falls in the legislation’s court, law enforcement agencies should also adopt written eyewitnesses-identification procedures based on science and best practices to improve the accuracy and reliability of eyewitness identifications because witnesses also mistake identities causing more people to be wrongfully convicted.¹⁵¹ Prosecutors and judges should be more eager to re-examine evidence.¹⁵² Also, to prevent false confessions, states should adopt a mandatory electronic recording policy for custodial interrogations in high level felonies.¹⁵³

To ensure that defense lawyers have access to all the evidence against a defendant, discovery procedures should be improved according to the advisory panel.¹⁵⁴ Inmates must also have ample access to post-conviction DNA testing and new scientific methods of proving innocence.¹⁵⁵ Now as far as legislation, a state can take an important step towards ensuring the integrity of its criminal justice system. States that do not have compensation statutes should adopt them and include either a fixed sum or a range of recovery for each year spent in prison.¹⁵⁶ Statutes should also include the immediate provision of subsistence funds and access to services because it is imperative for them in order to have a successful return to society.¹⁵⁷ When an innocent person’s life has been stripped away due to wrongful conviction justice demands that the individual be compensated for the harm they suffered. States should adequately and promptly provide

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ State Sen. Rodney Ellis & Cory Session, *Finding Ways To Reduce Wrongful Convictions*, CHRON (Sept. 5, 2010), <https://www.chron.com/opinion/outlook/article/Finding-ways-to-reduce-wrongful-convictions-1716445.php>.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Justice After Exoneration*, *supra* note 146.

¹⁵⁷ *Id.*

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justice and restoration to the wrongly convicted through subsistence funds and access to everyday livings needs.¹⁵⁸

X. CONCLUSION

In the wake of experiencing state violence and the denial of their basic human rights, exonerees leave prison crippled by the trauma of wrongful imprisonment.¹⁵⁹ Although only a few, existing studies on the effects of wrongful conviction identify a complex range of negative mental health outcomes for exonerees and their loved ones, as well as high rates of unemployment, poverty, substance abuse, poor health, and strained social ties.¹⁶⁰ The exonerated need and deserve comprehensive case management, individual and family counseling, peer support, and opportunities to share their stories in order to aid their transition and spur their healing and empowerment.¹⁶¹ Social workers in clinical and administrative settings can play a critical role in promoting the well-being of exonerees and with their families by providing trauma informed services.¹⁶² While advocating for reforms that reduce the incidence of wrongful imprisonment and indemnify exonerees for incalculable damages.¹⁶³ Group work and peer support opportunities can strengthen exonerees' healing by enabling exonerees to relate to others who have faced and survived similar horrors.¹⁶⁴ The trauma of prison life, loss of freedom and time, years of separation from friends and family, are all factors that impact exonerees.¹⁶⁵ They are often released with no money, housing, transportation, health services or insurance, and a criminal record that is sometimes not cleared regardless of innocence.¹⁶⁶

The wrongfully convicted have to integrate into prison culture for a substantial number of years.¹⁶⁷ Then they get released and try to re-socialize back into society while carrying massive burdens because

¹⁵⁸ *Compensating the Wrongfully Convicted*, *supra* note 93.

¹⁵⁹ *Grounds*, *supra* note 5.

¹⁶⁰ *Id.*

¹⁶¹ *Kregg*, *supra* note 1.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Weigand*, *supra* note 14.

¹⁶⁵ *Kregg*, *supra* note 1.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

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they are left still feeling alone with no support from the state.¹⁶⁸ States and law enforcement need to become more proactive in reducing wrongful convictions and providing effective services after the exonerees are released. States need to continue improving existing laws to raise the amount of financial assistance available and also to include a provision for supporting services like job training, educational waivers, housing assistance and health coverage.¹⁶⁹ The Innocence Project, as well as other organizations, have developed ways to work with exonerees and their families to reform the criminal justice system.¹⁷⁰ Although, there will never be any amount of money to make up for the loss of time with family, loss of freedom, the trauma of prison life or the awful experience of being labeled a criminal while innocent, the state assistance can help a little with the exonerees hardships and burdens they carry on their shoulders every day.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*