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# A Day Late and a Dollar Short: Examining Perceptions of Which Exonerees Deserve Compensation

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Résumé de l'article

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## **A Day Late and a Dollar Short: Examining Perceptions of Which Exonerees Deserve Compensation**

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## I Introduction

According to the National Registry of Exonerations, exonerations of wrongfully convicted and imprisoned individuals have been on the rise in recent years. Since 1989, there have been 2,810 exonerations in the United States. However, there were documented wrongful convictions and exonerations before this date, even dating back to 1820.<sup>1</sup> The Innocence Project is the most well-known agency that aids in exonerating the wrongfully convicted and has documented 375 DNA exonerations since 1992.<sup>2</sup> When individuals are incarcerated for extended periods (the average length of imprisonment before exoneration is 14 years)<sup>3</sup>, they often lose their homes,

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<sup>1</sup> “Exonerations by year: DNA and non-DNA.”, *The University of Michigan Law School* (27 May 2021), online <https://www.law.umich.edu/special/exoneration/Pages/about.aspx>.

<sup>2</sup> “DNA exonerations in the United States”, *The Innocence Project* (27 May 2021), online <https://innocenceproject.org/dna-exonerations-in-the-united-states/>.

<sup>3</sup> *Supra* note 1.

employment, and social ties.<sup>4</sup> When released, they may have no money or job to support themselves, forcing them to rely on their family or friends. If the individual does not have a strong safety net and support system, they may struggle with re-entry, ultimately leading to recidivism.<sup>5</sup> Fair compensation for exonerees has implications for the individual, society, and the legitimacy of the criminal justice system.

Before discussing exoneree compensation and exclusionary rules, it is essential to identify the different types of wrongful convictions, as well as distinguish between exoneration and overturning a conviction. Importantly, factual innocence could mean that *another person* is the actual perpetrator, it could also be that *no crime* ever took place (e.g., a suicide mislabeled a homicide), as is the case with roughly one-third of wrongful convictions.<sup>6</sup> No-crime wrongful convictions can differ in many ways from actual-crime (i.e., wrong-person) wrongful convictions; for example, no-crime wrongful convictions are more likely to be associated with drug possession or sale than murder or sexual assault, which are more common in actual-crime wrongful convictions. Of relevance to this article, the nuances of some exclusionary rules are more likely to be relevant to wrong-person exonerations than no-crimes exonerations.<sup>7</sup> For example, consider the exclusionary criterion – “assisted or attempted to assist in the original crime” – in a no-crime conviction, an individual might have been “involved”, but no crime occurred (e.g., trespassing). On the other hand, in a wrong-person exoneration, assisting in the original crime would normally not lead to an exoneration. Consider that exonerees in Missouri are only eligible for compensation if they were exonerated by DNA evidence,<sup>8</sup> which is a rare occurrence in no-crime wrongful convictions (considering the types of crimes). As will be discussed more in this article, these exclusionary rules, and the nuances of exoneration (e.g., needing a “full pardon”) can make it difficult for individuals to re-enter society after wrongful conviction.

Exoneration and overturning a conviction are both outcomes associated with innocence; though they seem similar, they have different connotations and outcomes that must be addressed. Being exonerated means that an individual was convicted of a crime, but after reviewing the evidence in the case, they are determined to be *factually* innocent – meaning they did not commit the crime, or no crime was committed – or a government official relieves them of all consequences of their criminal conviction.<sup>9</sup> On the other hand, overturning a conviction is not exclusive to factual

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<sup>4</sup> “Compensating the wrongly convicted” *The Innocence Project*, (18 August 2021), online:

<<https://innocenceproject.org/compensating-wrongly-convicted/>>.

<sup>5</sup> Mandery, Evan J et al, “Compensation Statutes and Post-exoneration Offending” (2013) 103:2 J. Crim. L. & Criminology 553-583, online: <<https://www.jstor.org/stable/43895627>>.

<sup>6</sup> Henry, Jessica, “Smoke But No Fire: When Innocent People Are Wrongly Convicted Of Crimes That Never Happened” (2018) 55 American Criminal Law Review, online:

<<https://digitalcommons.montclair.edu/justice-studies-facpubs/13>>, 13.

<sup>7</sup> See Gutman, 2021 for a discussion of the importance of terminology such as “act” versus “crime” in drafting statutes as it relates to no-crime wrongful convictions.

<sup>8</sup> Gutman, Jeffrey S, “An Empirical Reexamination of State Statutory Compensation for the Wrongly Convicted” (2017) 82:2 Missouri Law Review 369–440, online:

<<https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=4268&context=mlr>>.

<sup>9</sup> “Glossary”, *University of Michigan law School*, (18 July 2022), online:

<<https://www.law.umich.edu/special/exoneration/Pages/glossary.aspx>>.

innocence. For example, convictions can be overturned if there are errors at trial, official misconduct, or an illegal police search.<sup>10</sup> In a situation where the defendant's rights were violated, resulting in an unfair or biased trial, then the conviction can be overturned. As a result, the charges can be dropped, or there can be a retrial. In some circumstances, innocent individuals have had their convictions overturned rather than complete exoneration, which can have implications for compensation and benefits.

Compensation for exonerees is a responsibility of the jurisdiction that contributed to the miscarriage of justice and typically falls on the shoulders of the state. When states compensate exonerees, it ensures that the individual can recoup the money lost while wrongfully incarcerated and more easily re-enter society (e.g., find a home, attend college, and financially support themselves). Wrongful convictions are not limited to one geographical jurisdiction, and the federal government, the District of Columbia, and 36 states have compensation statutes. Still, they all differ.<sup>11</sup> Although allowing for compensation, 16 states allowing for compensation have some exclusionary rules, which hinder an exoneree's ability to receive compensation (See Table 1). 30 of the states have statutes stating specific compensation amounts that an exoneree could be awarded (e.g., based on their years incarcerated, or caps on the total amount). The remaining six of 36 states have no statutes dictating specific compensation amounts (e.g., Maine, Maryland, Massachusetts, Montana, New York, and West Virginia). The remaining 14 states do not have laws specifying the compensation process.<sup>12</sup> Exclusionary criteria can potentially exclude a high proportion of exonerees from compensation. As more legislation is drafted to address the issue of exoneree compensation (and many of these states include exclusionary criteria), examining this topic further is an important area for research to explore.

This study focused on community members' perceptions of two of the most common exclusionary criteria: a subsequent conviction (i.e., if, after exonerated, the individual is convicted of another crime) and pleading guilty (i.e., if the exoneree "aided" in their own conviction by accepting a guilty plea). We used a fully factorial experimental design to manipulate subsequent conviction (present v. absent) and initial conviction method (pleaded guilty v. trial). Community members gave their perceptions of the exoneree, their opinion of how much compensation and support the individual deserves, and their perceptions of exoneree compensation and exclusion laws generally. Measuring community members' perceptions is important because public support/endorsement has the potential to impact legislative policy. That is, community members' willingness to provide compensation to the exonerated and their perceptions of exclusionary criteria could impact the way that legislative bills are drafted and introduced and ultimately shed light on the overall endorsement of such laws and rules (important in those states where these laws are passed through ballot measures).

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<sup>10</sup> "How can a conviction be overturned?" *The Aslett Law Firm* (18 July 2022), online <<https://aslettlaw.com/criminal-defense/how-can-a-conviction-be-overturned/>>.

<sup>11</sup> *Supra* note 4.

<sup>12</sup> These states are Alaska, Arizona, Arkansas, Delaware, Georgia, Kentucky, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Wyoming. As an update, in March 2022, Oregon Senate approved Senate Bill 1584, which allows exonerees to receive \$65,000 per year of wrongful imprisonment and \$25,000 per year wrongfully spent on parole, post-prison, or on the sex offender registry. It will also provide access to counseling, housing assistance, and personal financial literacy assistance.

## II Literature Review

### A. Exonerations, Compensation, and Exclusionary Rules

There are multiple ways in which exonerees may receive compensation, including private bills, civil litigation, and the compensation statutes stated above. Private bills involve the exoneree convincing a state legislator to file a bill on their behalf.<sup>13</sup> Civil litigation involves filing a federal civil rights violation claim, arguing that county or state legal actors engaged in misconduct resulting in the wrongful conviction.<sup>14</sup> The other form of compensation, and the one this article focuses more closely on, is compensation through state statutes. Although there are multiple methods of compensation, many exonerees still have not received any repayment for their incarcerated time.<sup>15</sup> Of the Innocence Project's first 250 exonerations, approximately 40% had not received compensation, and only 33% had received compensation specifically through statutes.<sup>16</sup> It is difficult to tell exactly how many exonerees have been compensated because most exonerations are published on the National Registry of Exonerations either immediately or within the next few months, but compensation could take years to receive.<sup>17</sup> The registry does not monitor the exonerees once the initial information is published, which is another obstacle in obtaining data on the number that receives compensation.<sup>18</sup> In 2016, the registry studied 351 exonerations between 2005 and 2009. Of those exonerations, 173 (49.3%) received some form of compensation; 66 exonerees received compensation by state statute, 55 by lawsuits, and 13 by private bills.<sup>19</sup>

Some states tie the amount of compensation to years spent incarcerated and include a "cap" in terms of the maximum amount of compensation. According to the Innocence Project, in Iowa, exonerees are entitled to \$18,250 per year they spend in prison, but in the District of Columbia, exonerees are eligible for \$200,000 per year. Regarding exclusionary laws, in Connecticut, the exoneree's right to pursue litigation is relinquished if they intend to receive compensation from the state (i.e., exonerees cannot sue and receive compensation through statutes). Due to this variation, the Innocence Project has proposed a model that would be uniform across all states. Their recommendations include at least \$50,000 per year incarcerated with increased amounts for time spent on death row, on parole, or as a registered sex offender.<sup>20</sup> They also suggest providing reintegrative services, educational credits, and job-skill training for exonerees.<sup>21</sup> As Gutman and

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<sup>13</sup> "Making up for lost time: What the wrongfully convicted endure and how to provide fair compensation", *The Innocence Project*, (2009), online:

<[http://www.innocenceproject.org/docs/Innocence\\_Project\\_Compensation\\_Report.pdf](http://www.innocenceproject.org/docs/Innocence_Project_Compensation_Report.pdf)>.

<sup>14</sup> Gutman, Jeffrey S & Lingxiao Sun, "Why is Mississippi the Best State in Which to be Exonerated? An Empirical Evaluation of State Statutory and Civil Compensation for the Wrongfully Convicted" (2019) 11:2 *Northeastern University Law Review* 694–789, online: <<https://papers.ssrn.com/abstract=3422474>>.

<sup>15</sup> Norris, Robert J, "Assessing compensation statutes for the wrongfully convicted" (2012) 23(3) *Crim Justice Policy Rev* 352-374, online: <<https://doi/10.1177/0887403411409916>>.

<sup>16</sup> *Supra* note 13.

<sup>17</sup> Cole, Simon, "Compensation for exonerees primer", *University of Michigan Law School* (7 July 2021), online <<https://www.law.umich.edu/special/exoneration/Documents/Compensation%20for%20Exonerees%20Primer.pdf>>.

<sup>18</sup> *Supra* note 17.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Supra* note 15.

<sup>21</sup> *Ibid.*

Sun have identified,<sup>22</sup> a model state in this regard would be one in which a high percentage of exonerees file for compensation, a high percentage are awarded, and a high percentage of lost years are compensated for (i.e., years lost because of miscarriage of justice). Given that roughly 50% of exonerees in states with statutes filed for compensation, we can assume that for some, the process and exclusion criteria might not make it worth the effort.<sup>23</sup>

At the heart of many of these statutes, their rules, and requirements, is the conceptualization of who is “deserving” and who is “undeserving” of compensation.<sup>24</sup> But as Gutman argues, these rules and the drafting of language place the burden on the exoneree, an unduly high burden at that (despite there being little evidence of compensating “undeserving” individuals).<sup>25</sup> Yet, many state statutes include prohibitions on compensation, and ban exonerees from receiving compensation under certain circumstances. Prior studies have shown that exclusionary laws have barred between 40% and 50% of exonerees from receiving compensation.<sup>26</sup> The three most common exclusionary rules are (in order of frequency): 1) if the exoneree pleaded guilty to the crime they were wrongfully convicted of, 2) if the exoneree was serving a concurrent sentence for another crime, and 3) if the exoneree had a subsequent felony. Some states have criteria stating that the exoneree must not have aided in their own conviction, with no specific language about pleading guilty or falsely confessing. Because “aided” is typically interpreted as having pleaded guilty or confessed, we have counted these states as exclusionary criteria, including pleading guilty. There are other, less common, exclusionary rules in place as well. Table 1 lists the common exclusionary rules across the United States, although the list is not exhaustive.

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<sup>22</sup> *Supra* note 14.

<sup>23</sup> *Ibid.*

<sup>24</sup> Gutman, Jeffrey, “Are Federal Exonerees Paid?: Lessons for the Drafting and Interpretation of Wrongful Conviction Compensation Statutes” (2021) 69:2 *Cleveland State Law Review* 219, online: <https://engagedscholarship.csuohio.edu/clevstlrev/vol69/iss2/5>.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Supra* note 13. See also *supra* note 17.



**Table 1.** Exclusionary Rules Across the 36 States and Washington D.C. that Allow for Exoneree Compensation

No exclusionary law/Not specified	Currently imprisoned or served a concurrent sentence for other crime	Subsequent felony conviction	Cannot be eligible solely based on witness recantation	Prior felony or felony during incarceration (1+ nonviolent or 1 violent)	Could not have assisted or attempted to assist in the crime	Did not fabricate evidence or induce a person to commit perjury	Did not bring conviction upon themselves (guilty pleas & confessions)	Must not bring up civil litigation, have applied/received restitution or damages	Needs the governor's pardon
Illinois Kansas Louisiana Maine Maryland Massachusetts Michigan Minnesota Mississippi Missouri Nebraska Nevada New Hampshire New Jersey New York North Carolina Utah Vermont West Virginia Wisconsin	Alabama D.C. Hawaii Indiana Texas	Alabama Colorado Texas	Colorado	Florida	Hawaii	Hawaii Washington	California Colorado D.C. Iowa Ohio Oklahoma Virginia	Connecticut Indiana	Tennessee
21	5	3	1	1	1	2	7	2	1

**Note.** Exclusionary rules are not mutually exclusive (i.e., some states have multiple laws). There are variations in the specific wording of exclusionary laws across the states. Categories have been collapsed and combined for ease of interpretation. Information is from the most current (2021) compensation landscape provided by the Innocence Project.



## B. Exclusionary Criteria: Guilty Pleas and False Confessions

“Aiding” in one’s own conviction (falsely confessing and/or pleading guilty) bars exonerees from compensation in six states and D.C. However, guilty pleas are not uncommon; approximately 95% of felony convictions in the United States are obtained by guilty pleas.<sup>27</sup> Plea-bargaining is incentivized for everyone involved (the defendant, the state, and the court). From the state and court’s perspective, plea bargains help avoid spending resources on trials and streamline and expedite the court process. For defendants, they avoid the uncertainty of conviction at trial in exchange for a lesser sentence. But these trial penalties/plea discounts (i.e., the difference between the likely sentence if convicted at trial and the plea offer) can coerce innocent defendants to plead guilty.<sup>28</sup> Importantly, false guilty pleas and false confessions are conceptually often coupled together. A false confession often precipitates a false guilty plea, and both are often present for the same crime.<sup>29</sup>

In a 2015 report on guilty pleas by the National Registry of Exonerations, 261 out of their first 1,700 exonerees (15%) pleaded guilty. Similarly, 11% of the Innocence Project’s exonerees pleaded guilty, and 25% falsely confessed.<sup>30</sup> Plea discounts are likely higher and more incentivizing for more serious crimes. In an analysis of DNA exonerations by the Innocence Project, 21 out of 24 exonerees who had confessed and pleaded guilty had been charged with homicide (this also shows how frequently confessions and guilty pleas occur in the same case, 2019).

## C. Exclusionary Criteria: Subsequent Convictions

Receiving a subsequent conviction after release can bar exonerees from receiving compensation in three states. This is problematic given that one study found that 64% of adults in custody were rearrested after being released (over eight years).<sup>31</sup> Similarly, in May 2018, the United States Department of Justice examined recidivism by following 412,731 inmates released by 30 states in 2005. They found that 45% were rearrested within the year and 83% within nine years.<sup>32</sup>

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<sup>27</sup> “Innocents who plead guilty”, *University of Michigan law School*, (12 March 2022), online <<https://www.law.umich.edu/special/exoneration/Documents/NRE.Guilty.Plea.Article1.pdf>>.

<sup>28</sup> Zimmerman, David M & Samantha Hunter “Factors affecting false guilty pleas in a mock plea bargaining scenario” (2018) 23 *Legal Criminol Psychol*, 53-67, online <<https://doi.org/10.1111/lcrp.12117>>.

<sup>29</sup> Redlich, Allison D, “False confessions, false guilty pleas: Similarities and differences” in *Police interrogations and false confessions: Current research, practice, and policy recommendations* Decade of behavior/Science conference grant (Washington, DC, US: American Psychological Association, 2010) 49. online: <<https://doi.org/10.1037/12085-003>>.

<sup>30</sup> “Why do innocent people plead guilty to crimes they didn’t commit?”, *Guilty Plea Problem* (12 March 2022), online <<https://guiltypleaproblem.org/#about>>.

<sup>31</sup> Clarke, Matt, “Long-Term Recidivism Studies Show High Arrest Rates” *Prison Legal News*(3 May 2019) 60, online: <<https://www.prisonlegalnews.org/news/2019/may/3/long-term-recidivism-studies-show-high-arrest-rates/>>.

<sup>32</sup> *Ibid*.

It is difficult to know how many exonerees have received a subsequent conviction (if any) because they are not followed by organizations such as the National Registry of Exonerations once released. Importantly, compensation can affect post-exoneration offending. One study found that when exonerees were compensated \$500,000 or more, they committed subsequent crimes at a much lower rate than those who received no compensation or less than \$500,000.<sup>33</sup> This study examined offending patterns in 73 exonerees who had not committed an offense after exoneration and 43 who had. Of the 33 exonerees who received more than \$500,000 in compensation, 81.8% did not offend post-exoneration. Of the 34 exonerees who received less than \$500,000 in compensation, 50% did not offend post-exoneration. Barring exonerees from compensation because of a subsequent conviction only reinforces a cycle of injustice, further complicating re-entry efforts.

#### **D. Perceptions of Exonerees and Compensation**

Despite factual innocence, exonerees are often perceived negatively. Wrongfully convicted individuals are stereotyped more negatively and viewed as less good-natured, warm, intelligent, and confident than individuals with no prior conviction.<sup>34</sup> Furthermore, people feel more apprehension about being in the same room with exonerees due to uneasiness regarding their innocence.<sup>35</sup> These views are not limited to just community members. Employers and landlords hold more negative views of exonerees than non-exonerees. Employers offered the exonerees a lower wage, and landlords were significantly less likely to respond to rental inquiries and indicate housing availability for exonerees compared to the general public.<sup>36</sup>

Though most research examining opinions of exonerees shows negative feelings, evidence suggests there is more support for compensation. In 1995, nine out of 10 Canadians surveyed believed exonerees should receive compensation for their wrongful conviction. Furthermore, 65% of respondents agreed that the government needed to expand its efforts to stop wrongful

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<sup>33</sup> *Supra* note 5.

<sup>34</sup> Blandisi, Isabella, Kimberley Clow & Rosemary Ricciardelli, "Public Perceptions of the Stigmatization of Wrongly Convicted Individuals: Findings from Semi-Structured Interviews" (2015) TQR, online: <<https://nsuworks.nova.edu/tqr/vol20/iss11/13/>>; Clow, Kimberley A & Amy-May Leach, "After innocence: Perceptions of individuals who have been wrongfully convicted" (2015) 20:1 Legal Criminol Psychol 147–164, online: <https://bpspsychub.onlinelibrary.wiley.com/doi/10.1111/lcrp.12018>; Scherr, Kyle C, Christopher J Normile & Heidi Putney, "Perpetually stigmatized: False confessions prompt underlying mechanisms that motivate negative perceptions of exonerees" (2018) 24(3) Psychol Public Policy Law 341-352, online: <<https://doi.org/10.1037/law0000163>>; Thompson, Adina M., Molina, Oscar R., & Levett, Lora M. (2012). After exoneration: An investigation of stigma and wrongfully convicted persons. Albany Law Review, 75(3), 1373-1413.

<sup>35</sup> Blandisi et al, *supra* note 34.

<sup>36</sup> Kukucka, Jeff, Heather K Applegarth & Abby L Mello, "Do exonerees face employment discrimination similar to actual offenders?" (2019) 25:1 Legal Criminol Psychol 17-32, online: <<https://doi.org/10.1111/lcrp.12159>>; Zanella, Lesley et al, "The effects of race and criminal history on landlords (un)willingness to rent to exonerees" (2020) 44:4 Law Hum Behav 300-310, online: <<http://dx.doi.org/10.1037/lhb0000419>>.

convictions from occurring.<sup>37</sup> This research suggests community members generally favor compensation for exonerees, although these data are over 20 years old and not in the United States. More recent research suggests this support comes with caveats.

Much of the research on perceptions of exonerees and compensation has examined the impact of contributing causes and characteristics of the exoneree. When looking specifically at contributing causes of wrongful conviction (e.g., false confession, mistaken eyewitness, or jailhouse informant), community members are less confident in the actual innocence of an exoneree and are more negative towards them if they falsely confessed compared to other types of evidence.<sup>38</sup> Furthermore, exonerees who falsely confessed (compared to eyewitness misidentification and police misconduct) deserve the least compensation.<sup>39</sup> The belief that the exoneree contributed to their own wrongful conviction by doing “something to be convicted” or putting themselves in that situation impacts decisions about deservingness.<sup>40</sup> The type of evidence is not the only factor that impacts compensation decisions. Some research shows prior conviction history has a negative relationship with the deservingness of financial compensation ratings.<sup>41</sup> In contrast, other research found that the public generally has equally favorable attitudes toward exonerees, parolees, and individuals with no criminal history.<sup>42</sup>

Monetary compensation is not the only benefit examined for exonerees; recent work has examined public perceptions of other types of support, such as psychological counseling. In Scherr et al.’s research, they analyzed how an exoneree’s race (Black v. White) and stereotypical crimes of that race (embezzlement v. assault) impacted the culpability and deservingness of psychological counseling ratings.<sup>43</sup> Being wrongfully convicted of a crime that “fits” the stereotype of race diminished the public’s trust in exonerees’ innocence, resulting in decreased support for services for these individuals. Overall, more research is needed to understand the relationship between

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<sup>37</sup> Angus Reid. (1995). *Public perspectives on wrongful convictions: Justice and public safety issues*.

<sup>38</sup> Clow & Leach, 2014 *supra* note 34; Savage, Meaghan E et al, “After Exoneration: Attributions of Responsibility Impact Perceptions” (2018) 33(1) Can J Law Soc85-103, online: <https://doi.org/10.1017/cls.2018.6>.

<sup>39</sup> Kukucka, Jeff & Andrew J Evelo “Stigma against false confessors impacts post-exoneration financial compensation” (2019) 37:4 Behav Sci Law 372-387, online: <https://doi.org/10.1002/bsl.2403>.

<sup>40</sup> Clow & Leach, 2014 *supra* note 34.

<sup>41</sup> Karaffa, Kerry M, Jaimie Page & Julie M Koch, “Compensating the Innocent: Perceptions of Exonerees’ Deservingness to Receive Financial Compensation for Wrongful Convictions” (2017) 28:7 Crim Justice Policy Rev 710-732, online: <https://doi.org/10.1177/0887403415607049>.

<sup>42</sup> Thompson, Adina, “The aftermath: Two comparisons of the social consequences of DNA and non-DNA exoneration” (2014) (Accession No. 10173588) [Doctoral dissertation, University of Florida]. ProQuest Dissertations Publishing. online: <https://www.proquest.com/openview/24f3ac1c1815d160d9c256eed3d23381/1?pq-origsite=gscholar&cbl=18750>.

<sup>43</sup> Scherr, Kyle C, Christopher J Normile & Marian C Sarmiento, “Reluctant to embrace innocence: An experimental test of preserving culpability judgements on people’s willingness to support reintegration services for exonerees” (2018) 14(4) J Exp Criminol 529-538, online: <https://doi.org/10.1007/s11292-018-9336-4>.

community members' perception of exonerees and support for compensation (specifically, the role of exclusionary rules).

### E. Documented Experiences of Exonerees and Compensation

Compensation is important because – as mentioned previously – exonerees often face numerous barriers upon release (for a more thorough discussion see Clow, Leach, & Ricciardelli, 2012). In some cases, the exoneree's criminal record is not cleared, which can act as a barrier to accessing services, housing, and employment as well.<sup>44</sup> Consider first the financial costs: lost wages, garnished wages because of back child support, and attorney/court costs.<sup>45</sup> Only five states have explicit provisions for lost wages, and although many states recognize the social services needed for exonerees upon re-entry, actual provision of this support is less clear.<sup>46</sup> Consider the case of Calvin Willis who was convicted in 1982 at the age of 22 and exonerated in 2003 (innocenceproject.com). He enters a very different workforce than he left, without the education/training, experience, and years of work that he would have had if not for this miscarriage of justice. Ironically, exonerees are often released with fewer resources such as job placement than actual offenders.<sup>47</sup>

Next consider the psychological and physical impacts of wrongful conviction on exonerees. Individuals who have spent time in prison suffer effects of "institutionalization," the adaptations needed to survive in a hostile, violent environment. Those effects can be amplified for individuals who are factually innocent (e.g., rejection of the label, "criminal").<sup>48</sup> Many exonerees have clinical anxiety, depression, post-traumatic stress disorder (PTSD), or a combination of all three.<sup>49</sup> Consider the emotional toll that Ronald Cotton must have endured knowing that he was innocent of the crime in which he was convicted and the true perpetrator, housed in the same prison, bragged to other inmates that Cotton was doing time for the rape he committed.<sup>50</sup> Compensation is a requisite of funding treatment for these symptoms of incarceration; services from the state, such as psychological counseling, would also be beneficial.

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<sup>44</sup> *Supra* note 4.

<sup>45</sup> *Supra* note 13.

<sup>46</sup> *Supra* note 8.

<sup>47</sup> Clow, Kimberley A, Amy-May Leach & Rosemary Ricciardelli, "Life after wrongful conviction." in Brian L Cutler, ed, *Conviction of the innocent: Lessons from psychological research* (Washington: American Psychological Association, 2012) 327. <https://doi.org/10.1037/13085-015>.

<sup>48</sup> Campbell, Kathryn & Myriam Denov, "The Burden of Innocence: Coping with a Wrongful Imprisonment" (2004) 46:2 *Canadian Journal of Criminology and Criminal Justice* 139–164, online: <<https://utpjournals.press/doi/10.3138/cjccj.46.2.139>>.

<sup>49</sup> Wildeman, Jennifer, Michael Costelloe & Robert Schehr, "Experiencing wrongful and unlawful conviction" (2011) 50(7) *J Offender Rehabil* 411-432, online: <<https://doi.org/10.1080/10509674.2011.603033>>.

<sup>50</sup> O'Neill Helen, "The Perfect Witness", *The Washington Post* (4 March 2001), online: <<https://www.washingtonpost.com/archive/lifestyle/2001/03/04/the-perfect-witness/a7fa0461-c15c-4237-86db-52ab5069fbae/>>.

Often overlooked in the discussion of exoneree re-entry is compensation delay, the length of time that passes between exoneration and compensation.<sup>51</sup> One such cause for delay is the discussion of whether the exoneree meets the components and considerations of the state's compensation statute (e.g., proving that you did not "aid in your own conviction"). Further delaying this process is that there is often no timeline for determination of compensation, the state legislature might need to approve the amount, or a civil lawsuit might be required.<sup>52</sup> Gutman calls attention to two exoneree's compensation timeline – Odom's took 3 years from the date of file to receive compensation, and Tribble's took longer.<sup>53</sup> The Innocence Project estimates the average time exonerees wait to receive funds is three years, during that time they may lack income, transportation, housing, and health coverage.<sup>54</sup> The lived experiences of exonerees shed light on where compensation is woefully undeserving. The current study seeks to better understand public perceptions of who is perceived as "deserving" of support and why. These findings can inform policy discussions about state statutes and exclusionary rules, and ultimately, contribute to greater support for individuals post-exoneration.

### III Current Study

Past research illustrated that the public tends to have overall negative perceptions of individuals exonerated of crimes. Negative attitudes seem more prevalent when the exoneree's conduct is seen as leading to their conviction. These perceptions align with compensation exclusionary laws limiting compensation for exonerees who pleaded guilty or "brought their conviction upon themselves." No studies have examined subsequent felony convictions and support for financial compensation, even though it is the second most common exclusionary criteria. Prior research has examined general perceptions and attitudes towards exonerees, but there has been limited research on perceptions on who deserves compensation and why. As such, our research questions are as follows:

1. Does a subsequent conviction influence support for financial compensation?
2. Does the initial conviction method – pleading guilty or a jury trial – influence support for financial compensation?

Regarding the main effects, we hypothesized that a subsequent conviction would decrease support for financial compensation and that pleading guilty would also decrease support for financial compensation. We also expected an interaction effect between subsequent conviction and initial conviction method in that support for compensation would be lowest for those exonerees who pleaded guilty and had a subsequent conviction. Last, we hypothesized that if the exoneree pleaded guilty or had a subsequent conviction, it would lead to lower favorability ratings compared to those conditions in which the exoneree was convicted by a jury trial or did not have a subsequent conviction. We expected these main effects to be qualified by an interaction. We predict the lowest favorability rating to occur when the exoneree pleaded guilty and had a subsequent conviction.

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<sup>51</sup> *Supra* note 8.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid* at page 412.

<sup>54</sup> *Supra* note 13.

## A. Design

We tested these research questions using a 2 (subsequent conviction: present v. absent) by 2 (initial conviction method: pleaded guilty v. trial) between-subjects factorial design. Participants were randomly assigned to one of the four experimental conditions. We chose not to manipulate other variables such as demographics because prior research has examined factors such as exoneree race and gender on perceptions of compensation, attitudes, and assistance.<sup>55</sup> Further, the Innocence Project has expressed interest in research on compensation and exclusionary laws, so we focused exclusively on these topics.

## B. Participants

We used the online platform Prolific to collect a community sample. The sample was restricted to people over 18 living in the United States. Users come from various backgrounds, making Prolific a useful tool for collecting data from a representative sample of participants.

The appropriate sample size was determined by conducting a power analysis using G\*Power 3.1.<sup>56</sup> We used a small effect size for analysis of variance (ANOVA) analyses ( $f = .20$ ), with  $\alpha = .05$  and power = .80. Using these criteria, we needed at least 199 participants. Past research using Prolific has found a roughly 19% rate of unusable data due to failed attention and/or manipulation checks.<sup>57</sup> As such, we planned to recruit at least 237 participants.

In total, 245 participants clicked on the link to participate in the survey. Despite clicking the survey link, two participants did not consent to continue and were removed from the sample. Seven participants did not complete the survey and were excluded. Of the remaining 236 participants, six participants failed the attention check question. Lastly, five participants failed both manipulation check questions and were excluded from the sample (more below). Participants who correctly answered one of the two manipulation check questions were kept in the analysis per the pre-registration (<https://osf.io/zy3m6>). The final analytical sample consisted of 225 participants.

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<sup>55</sup> Bettens, Talley et al, How do race and gender impact perceptions of the wrongfully convicted? (2021) Research Dialogue Conference Proceedings, online:

<<https://scholar.utc.edu/cgi/viewcontent.cgi?article=1402&context=research-dialogues>>; Howard, Simon, “Exonerees in Black and White: the influence of race on perceptions of those who falsely confessed to a crime” (2019) 25:9 Psychology, Crime & Law 911–924, online: <<https://www.tandfonline.com/doi/full/10.1080/1068316X.2019.1597091>>; *Supra* note 41; Zanella et al *supra* note 36.

<sup>56</sup> Faul, Franz et al, “G\*Power 3: A flexible statistical power analysis program for the social, behavioral, and biomedical sciences” (2007) 39:2 Behavior Research Methods 175–191, online: <<https://doi.org/10.3758/BF03193146>>.

<sup>57</sup> Henderson, Kelsey S, Kelly T Sutherland & Miko M Wilford, “‘Reject the Offer’: The Asymmetric Impact of Defense Attorneys’ Plea Recommendations” (2023) 50:9 Criminal Justice and Behavior 1321–1340, online: <<http://journals.sagepub.com/doi/10.1177/00938548231172515>>.



Of the final sample, 28% lived in the Southeast, 22.7% in the Midwest, 20% in the Northeast, 19.6% in the West, and 9.8% in the Southwest. Furthermore, the majority of the sample, 72.9%, described where they live as urban, while 25.8% responded with rural.

The sample was 69.8% White, 10.2% Asian or Pacific Islander, 9.8% Hispanic or Latino, 7.1% Black or African American, and 3.1% did not specify (preferred not to answer), identified as more than one race, or did not answer the question. The majority of the sample was female (68.9%). 26.2% of participants were male, 1.8% were transgender, and 3.1% ( $n = 7$ ) preferred not to respond. The average age of participants was 33.64 years ( $min = 18$  years and  $max = 72$  years).

36.4% of participants had earned a bachelor's degree, 28.4% of participants completed some college but earned no degree, 15.1% completed a Master's degree or above, 12% completed a high school diploma or GED, and 8% earned their associate's degree. Of the final sample, 89.8% had no prior involvement with the criminal justice system, and 9.8% self-reported involvement. One participant preferred not to respond.

### C. Stimuli

We created a hypothetical newspaper article based on the true story of an exoneree, Robert Dubois. Using hypothetical newspaper articles to examine community support is common in this type of research.<sup>58</sup> Dubois was exonerated of rape and murder through DNA evidence and was represented by the Innocence Project. The Dubois case was modified in pertinent areas to create four unique experimental conditions, and we changed the name to David Quinn. The name David Quinn came from a random name generator online: <http://random-name-generator.info/>. We chose a male name because the majority of exonerees are male. Specifically, only about 9% of exonerees from The Innocence Project are female.<sup>59</sup> The experimental manipulations were fully crossed to examine the independent effect of subsequent conviction and initial conviction method and the interaction between the two variables. For example, the article described Quinn as having been convicted by a jury [guilty plea] for the initial crime and, after exoneration, committed a subsequent crime [this information was omitted in no subsequent conviction conditions].

### D. Dependent Variables

We asked a series of questions to gauge participants' attitudes towards the exoneree (David Quinn), their level of support for financial compensation for the exoneree (including appropriate compensation and caps on award amounts), and general perceptions of support for exoneree compensation and exclusionary laws.

#### 1. Attitudes Towards and Perceptions of Exoneree

To determine participants' attitudes towards the exoneree, they were presented with a graphic of a thermometer with a response range from 0°, indicating an extremely unfavorable

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<sup>58</sup> Thompson *supra* note 42; Clow & Leach *supra* note 34.

<sup>59</sup> Selby, Daniele "8 facts about incarcerated and wrongfully convicted women you should know" (2022), online: The Innocence Project <<https://innocenceproject.org/women-wrongful-conviction-incarceration-facts-iwd2020/>>.



attitude, to 100°, indicating an extremely favorable attitude.<sup>60</sup> Participants were asked to provide a number between 0° and 100° to indicate their attitude toward David Quinn.

To examine participants' perceptions of the exoneree, we used the personal characteristics scale adapted from prior research.<sup>61</sup> Participants responded to the following items using a 6-point Likert-type scale (1 = "strongly disagree," 6 = "strongly agree"): (a) David Quinn is a good person; (b) David Quinn is deviant (R); (c) David Quinn is not credible (R); (d) David Quinn is dishonest (R); (e) David Quinn is likable; (f) David Quinn is trustworthy; (g) David Quinn has good character; (h) David Quinn is violent (R). (R) denotes reverse-coded items. Higher scores indicated more positive perceptions of the exoneree. We averaged these items and created one scale labeled "Average Character Measure" ( $\alpha = .94$ ).

## 2. Perceptions of Appropriate Compensation and Benefits

In addition to attitudes, we assessed participants' perception of the deservingness of government assistance.<sup>62</sup> Participants were asked whether they think David Quinn is entitled to the following different forms of assistance: a) career counseling; b) job training; c) psychological counseling; d) monthly living expenses; and e) subsidized housing. Participants responded "yes" or "no."

Next, we asked participants how deserving David Quinn is of compensation using a 4-point Likert-type scale (1 = "not deserving," 2 = "somewhat deserving," 3 = "deserving," 4 = "very deserving"). Followed by a question that stated, "Please explain your decision to the above question." Next, we asked how much compensation David Quinn deserves each year.<sup>63</sup> Response options were: a) \$4,999 or less per year; b) \$5,000–\$14,999 per year; c) \$15,000–\$29,999 per year; d) \$30,000–\$59,999 per year e) \$60,000–\$99,999 per year and f) more than \$100,000 per year.

Due to recent legislation on exoneree compensation (SB 1114<sup>64</sup>), we asked participants if Quinn's compensation should be contingent on whether or not he was convicted of a separate offense prior to his wrongful conviction. Participants responded "yes" or "no."

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<sup>60</sup> Adopted from Thompson *supra* note 42; Tolson, Danielle, Adina M Thompson, Adina M., Lora M Levett, & Kimberley A Clow, The role of context in perceptions of exonerees and ex-convicts. Paper presented at the 2013 American Psychology-Law Society Conference, Portland, Oregon.

<sup>61</sup> Thompson *supra* note 42; Thompson, Adina M, Oscar R Molina & Lora M Levett, "After exoneration: An investigation of stigma and wrongfully convicted persons" (2012) 75(3) Albany Law Rev, 1373-1413, online:

<https://www.albanylawreview.org/article/69632-after-exoneration-an-investigation-of-stigma-and-wrongfully-convicted-persons>; Tolson et al *supra* note 60.

<sup>62</sup> Adapted from Clow and Leach *supra* note 34.

<sup>63</sup> Adopting from Susan Fiske et al, "A model of (often mixed) stereotype content: Competence and warmth respectively follow from perceived status and competition" (2002) Journal of Personality and Social Psychology.

<sup>64</sup> Until 2021, Florida had the exclusionary rule that if an exoneree had a prior conviction then they were barred from receiving compensation. In 2021, SB 1114 passed which changed this criterion. Now, if an

### 3. General Perceptions of Wrongful Conviction Compensation

Next, we assessed general perceptions of wrongful conviction compensation and exclusionary rules. Participants were asked about each exclusionary law individually and indicated their agreement with the question, “Should [exclusionary rule] affect the exoneree’s compensation amount for their wrongful conviction?” The exclusionary rules listed were: a) currently imprisoned or served a concurrent sentence for another crime; b) after exoneration, they were convicted of a crime; c) the witness in the original crime recanted (took back) their statement which led to the exoneree being exonerated; d) prior felony or felony during incarceration; e) assisted or attempted to assist in original crime; f) fabricated evidence or induced a person to lie under oath; g) pleaded guilty or falsely confessed; h) brought up civil litigation or have applied/received restitution or damages. This was measured on a scale where 1 = “exoneree deserves no compensation,” and 5 = “exoneree absolutely deserves compensation.”

We also asked participants the general question of if they believed exonerees were entitled to compensation from the state. They responded on a six-point Likert scale ranging from 1= “strongly disagree” to 6 = “strongly agree.”

### 4. Attention Check and Manipulation Check Questions

As a general check on data quality and reliability, all participants were asked one attention check question (e.g., “indicate- “strongly agree” for this question to demonstrate your attention to the questionnaire”). Six participants failed this question and thus were excluded from analyses.

Participants were also asked two questions to test their sensitivity to the experimental manipulations. To gauge sensitivity to the initial conviction method manipulation, participants were asked if a jury convicted David Quinn at trial or if he pleaded guilty to the crime (the correct answer varied depending on the condition). Similarly, participants were asked if David Quinn was convicted of another crime after he was exonerated (the correct answer varied depending on the condition). 5 participants were excluded from analyses because they answered both questions incorrectly (per pre-registration).

### E. Procedure

The Portland State University Institutional Review Board approved all materials and procedures before collecting these data. On Prolific, participants read a short description of the study. If they chose to participate, they were redirected to the Qualtrics site to first read the Informed Consent document. After giving consent, participants read a newspaper article (assigned based on condition) and then completed a questionnaire, which included our dependent measures, attention check, manipulation check questions, and demographic questions. The average time to complete the survey was 7:07 (*min* = 2:26, *max* = 30:18). Participants were thanked for their participation after completing the questionnaire. Participants were compensated through Prolific at \$1.39 for their time. Prolific calculated this amount based on the time the study was estimated

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exoneree has an *unrelated* prior conviction they are still able to receive compensation and the deadline to establish one's status as eligible for compensation is now 2 years as opposed to 90 days.

to take to ensure fair pay for participation. This project was awarded an American Psychology-Law grant to pay for the compensation of participants.

## IV Results

For all Likert-style items, we ran an ANOVA to examine the effect of subsequent conviction, initial conviction method, and their interaction (IVs) on the corresponding DV. For analyses related to the exoneree (David Quinn), we predicted an interaction effect between subsequent conviction and initial conviction method on participants' attitudes. We have included a table with an overview of our findings (see Table 2).

**Table 2.** Overview of Results

Dependent Variable	Key Findings	Discussion
Specific to Exoneree (Quinn)		
Attitude Thermometer	Effect of subsequent conviction, $p < .001$ ; No other effects	Subsequent conviction = lower attitude ratings (unfavorable) than <i>no</i> subsequent conviction
Average Character Measure Scale (attitude)	Effect of subsequent conviction, $p < .001$ ; No other effects	Subsequent conviction = lower character ratings (e.g., untrustworthy) than <i>no</i> subsequent conviction
Deservingness of Compensation	Effect of subsequent conviction, $p < .001$ ; No other effects	Subsequent conviction = lower deservingness for compensation ratings than <i>no</i> subsequent conviction
Prior Offense	72% said Quinn's compensation should not be contingent on not having a prior offense	The majority perceive compensation should not be tied to "clean hands"
Amount of Compensation	Effect of subsequent conviction, $p = .006$ ; No other effects	Subsequent conviction = lower amount of compensation than <i>no</i> subsequent conviction
Deservingness of Benefits	Effect of subsequent conviction on deservingness of monthly living expenses, $p < .001$	Subsequent conviction = lower deservingness of monthly living expenses than <i>no</i> subsequent conviction
	Effect of subsequent conviction on deservingness of subsidized housing, $p = .004$ ; No other effects	Subsequent conviction = lower deservingness of subsidized housing than <i>no</i> subsequent conviction
General Exoneree Compensation		

Perceptions of Compensation	93.3% agree (ranging from somewhat agree to strongly agree) that exonerees deserve compensation from the state	The majority believe that exonerees, in general, deserve compensation from the state
Perceptions of Exclusionary Rules	<p>Most support (54.7%) = If the exoneree fabricated evidence or induced a person to lie under oath, they deserve no compensation</p> <p>Least support (8%) = If the witness in the original crime recanted their statement, which led to the exoneration, they deserve no compensation</p> <p>28.9% believed that if the exoneree pleaded guilty or falsely confessed, they absolutely deserve compensation</p>	<p>If an exoneree lied about the crime, they deserve no compensation</p> <p>If an exoneree was incarcerated due to someone else's false accusations, they deserve compensation</p> <p>Inconsistent with prior research on exonerees not deserving compensation if they "aided in their own conviction."</p>
Prior Involvement in Criminal Justice System	No significant effect	
Gender	No significant effect	
Age	No significant effect	

## A. Attitudes Towards and Perceptions of Exoneree

### 1. Attitude Thermometer (0 – 100)

The attitude thermometer ranged from 0 – 100, with 0 being a less favorable attitude towards David Quinn and 100 being a more favorable attitude. The average rating was 67.80 ( $SD = 24.40$ ,  $min = 0$ , and  $max = 100$ ). A significant main effect of subsequent conviction on attitude thermometer ratings,  $F(1, 225) = 85.58$ ,  $p < .001$ ,  $\eta^2 = .279$ . Participants in subsequent conviction conditions had lower attitude ratings (unfavorable) of Quinn ( $M = 54.76$ ,  $SD = 22.12$ ) compared to those participants in no subsequent conviction conditions ( $M = 80.51$ ,  $SD = 19.33$ ),  $d = -1.24$ , 95%  $CI [-1.53, -0.95]$ . The effect of the initial conviction method ( $F(1, 225) = 0.23$ ,  $p = .632$ ,  $\eta^2 = .00$ ) and the interaction effect ( $F(1, 225) = .01$ ,  $p = .935$ ,  $\eta^2 = .00$ ) were not significant.

### 2. Average Character Measure Scale (attitude)

The average character measure ranged from 1 – 6, with 1 being a less favorable attitude towards David Quinn and 6 being a more favorable attitude. The average rating was 4.78 ( $SD = 0.90$ ,  $min = 1$ , and  $max = 6$ ). A significant main effect of subsequent conviction was on participants'

perceptions of Quinn's character,  $F(1, 225) = 99.92, p < .001, \eta^2 = .311$ . Participants in subsequent conviction conditions had lower character ratings (unfavorable) of Quinn ( $M = 3.77, SD = 0.79$ ) compared to those participants in no subsequent conviction conditions ( $M = 4.77, SD = 0.70$ ),  $d = -1.34$ , 95% CI  $[-1.63, -1.05]$ . The effect of the initial conviction method ( $F(1, 225) = 0.05, p = .823, \eta^2 = .00$ ) and the interaction effect ( $F(1, 225) = .43, p = .514, \eta^2 = .00$ ) were not significant.

## **B. Perceptions of Appropriate Compensation and Benefits**

### **1. Deservingness of Compensation**

The deservingness of compensation measures ranged from 1 – 4, with 1 being not deserving of compensation and 4 being very deserving. The average rating was 3.32, which falls within the “deserving” category ( $SD = 0.91, min = 1$ , and  $max = 4$ ).

There was a significant main effect of subsequent conviction on participants' perceptions of Quinn's deservingness of compensation,  $F(1, 225) = 33.85, p < .001, \eta^2 = .13$ . Participants in subsequent conviction conditions had lower deservingness ratings of Quinn ( $M = 2.99, SD = .97$ ) compared to those participants in no subsequent conviction conditions ( $M = 3.65, SD = .70$ ),  $d = -0.78$ , 95% CI  $[-1.05, -0.51]$ . The effect of the initial conviction method ( $F(1, 225) = 0.02, p = .889, \eta^2 = .00$ ) and the interaction effect ( $F(1, 225) = .001, p = .976, \eta^2 = .000$ ) were not significant.

The majority of participants responded “no,” Quinn's compensation *should not be* contingent on not having a prior offense (72%,  $n = 162$ ), and 28% ( $n = 63$ ) responded “yes” Quinn's compensation *should be* contingent on a prior offense.

### **2. Amount of Compensation**

The perception of appropriate yearly compensation for David Quinn ranged from \$4,999 or less per year (lower bound) to more than \$100,000 (upper bound). The most common response was \$30,000 - \$59,999; 27.6% ( $n = 62$ ) of respondents believed this was the appropriate amount of compensation per year for David Quinn. 22.7% ( $n = 51$ ) believed Quinn deserved \$15,000 - \$29,999 annually. 15.1% ( $n = 34$ ) believed he should receive more than \$100,000 annually. 14.7% ( $n = 33$ ) said he deserved \$5,000 - \$14,999 annually. 12.4% ( $n = 28$ ) thought he should receive \$60,000 - \$99,999 annually. And lastly, 7.6% ( $n = 17$ ) believed he should receive \$4,999 or less yearly.

A significant main effect of subsequent conviction was on participants' opinions of appropriate compensation amount ( $F(1, 225) = 7.76, p = .006, \eta^2 = .034$ ). Participants in subsequent conviction conditions believed David Quinn deserved less compensation ( $M = 3.41, SD = 1.40$ ) compared to those participants in no subsequent conviction conditions ( $M = 3.95, SD = 1.47$ ),  $d = -0.38$ , 95% CI  $[-0.64, -0.11]$ . There were no significant main effects of the initial conviction method ( $F(1, 225) = .210, p = .647, \eta^2 = .001$ ) or interaction effect ( $F(1, 225) = 1.433, p = .233, \eta^2 = .006$ ).

Because this item was a Likert scale with discrete responses, we tried to quantify the differences between these means (3.41 for subsequent conviction conditions and 3.95 for no

subsequent conviction conditions). \$15,000 - \$29,999 was coded as 3, and amounts ranging from \$30,000 to \$59,999 were coded as 4. The difference between the lower bound (\$15,000) and the upper bound (\$29,999) is \$14,999. We multiplied this value (\$14,999) by the difference between the lower and upper bound (e.g., 41% for subsequent conviction conditions). The difference is \$8,099.46. The corresponding average amount for subsequent conviction conditions was \$21,148.59 and \$29,248.05 for no subsequent conviction conditions.

### 3. Deservingness of Benefits

The perception of appropriate benefits was determined by asking if David Quinn deserved a specific benefit, and the respondent answered either “yes” or “no.” Because 0 was coded as “no” and 1 was coded as “yes,” this means that the closer to 1 the mean is for each benefit, the more support for that benefit. For career counseling, the mean was 0.96 ( $SD = 0.21$ ). For job training, the mean was 0.95 ( $SD = 0.22$ ). For psychological counseling, the mean was 0.98 ( $SD = 0.15$ ). For monthly living expenses, the mean was 0.81 ( $SD = 0.39$ ), and for subsidized housing, the mean was 0.87 ( $SD = 0.34$ ). All benefits had high means above 0.80, which shows overall support for all services for David Quinn.

**Table 3.** Perceptions of Quinn’s Deserving of Benefits

	Yes (Deserves benefit)	No (Does not deserve benefit)
David Quinn is entitled to the following benefit...		
Career counseling	95.6% ( $n = 215$ )	4.4% ( $n = 10$ )
Job training	95.1% ( $n = 214$ )	4.9% ( $n = 11$ )
Psychological counseling	97.8% ( $n = 220$ )	2.2% ( $n = 5$ )
Monthly living expenses	80.9% ( $n = 182$ )	18.7% ( $n = 42$ )
Subsidized housing	86.2% ( $n = 194$ )	13.3% ( $n = 30$ )

Given that the overall means of support for services were high (“ceiling effect”), we only examined the influence of subsequent conviction on support because of its strong main effect on the above-mentioned variables. We conducted multiple Chi-Square tests to examine the influence of subsequent conviction on the deservingness of benefits.

These analyses revealed two statistically significant findings: monthly living expenses and subsidized housing,  $\chi^2(1, 224) = 10.31, p < 0.001$ , and  $\chi^2(1, 224) = 8.14, p = .004$ , respectively. Within the subsequent conviction manipulation, 72.7% of participants said “yes” David Quinn deserves *monthly living expenses*, compared to 89.5% in no subsequent conviction conditions. Within the subsequent conviction manipulation, 80.0% of participants said “yes” David Quinn deserves *subsidized housing*, compared to 93.0% in no subsequent conviction conditions.

Although there were significant differences between the subsequent conviction and no subsequent conviction conditions for monthly living expenses and subsidized housing, there were no significant differences for career counseling, psychological counseling, or job training.

### C. General Perceptions of Wrongful Conviction Compensation

We also asked participants general questions about compensation for exonerees and their perceptions of exclusionary rules. These questions are general to *all exonerees* and not the hypothetical scenario of David Quinn. For general perceptions of deservingness of compensation for exonerees, the measure ranged from 1 – 6, with 1 being strongly disagree and 6 being strongly agree. The average rating was 5.15 ( $SD = 1.10$ ,  $min = 1$ , and  $max = 6$ ), meaning that most participants agree that exonerees deserve compensation from the state. Almost half of the participants (48.4%;  $n = 109$ ) strongly agreed that exonerees are entitled to compensation from the state. 31.1% ( $n = 70$ ) agreed exonerees deserve compensation, 13.8% ( $n = 31$ ) somewhat agreed, 2.2% ( $n = 5$ ) somewhat disagreed, 2.7% ( $n = 6$ ) disagreed, and 1.8% ( $n = 4$ ) strongly disagreed.

#### 1. Perceptions of Exclusionary Rules

To determine the public's perceptions about specific exclusionary rules, we asked, "Should the following factors affect an exoneree's compensation amount for their wrongful conviction?" The exclusionary rule with the most support (i.e., the highest percentage of participants believed that exonerees in this criterion "deserve no compensation") was if the exoneree fabricated evidence or induced a person to lie under oath (54.7%). In contrast, the exclusionary rule with the least support (i.e., the highest percentage of participants believed that exonerees in this criterion "absolutely deserve compensation") was if the witness in the original crime recanted their statement, which led to the exoneration (36%). Interestingly, the second lowest supported exclusionary criterion was if the exoneree had pleaded guilty or falsely confessed; 28.9% of the sample believed that if this occurred, the exoneree "absolutely deserves compensation." This aligns with our previous results that illustrated that pleading guilty or being convicted by a jury does not decrease support for nor affect the deservingness of compensation for exonerees.

**Table 4.** Perceptions of Deservingness of Compensation Based on Exclusionary Rules

	Mean	Deserves No Compensation		Neutral		Absolutely Deserves Compensation
Should the following factors affect an exoneree's compensation amount for their wrongful conviction?						
Witness in original crime recanted their statement	3.72	8% ( <i>n</i> = 18)	12 % ( <i>n</i> = 27)	15.6% ( <i>n</i> = 35)	28% ( <i>n</i> = 63)	<b>36%</b> ( <i>n</i> = <b>81</b> )
Pleaded guilty or falsely confessed	3.41	15.6% ( <i>n</i> = 35)	10.2% ( <i>n</i> = 23)	20% ( <i>n</i> = 45)	24% ( <i>n</i> = 54)	<b>28.9%</b> ( <i>n</i> = <b>65</b> )
Brought up civil litigation or has applied/received damages	3.20	12.9% ( <i>n</i> = 29)	16.4% ( <i>n</i> = 37)	<b>27.1%</b> ( <i>n</i> = <b>61</b> )	22.2% ( <i>n</i> = 50)	20% ( <i>n</i> = 45)



After exoneration, they were convicted of another crime	2.82	22.2% ( <i>n</i> = 50)	20% ( <i>n</i> = 45)	<b>25.3%</b> ( <i>n</i> = 57)	17.8% ( <i>n</i> = 40)	14.2% ( <i>n</i> = 32)
Prior felony or felony during incarceration	2.79	20% ( <i>n</i> = 45)	22.7% ( <i>n</i> = 51)	<b>26.7%</b> ( <i>n</i> = 60)	17.3% ( <i>n</i> = 39)	12.4% ( <i>n</i> = 28)
Currently imprisoned for another crime or served a concurrent sentence	2.58	24.9% ( <i>n</i> = 56)	<b>27.1%</b> ( <i>n</i> = 61)	23.1% ( <i>n</i> = 52)	12.4% ( <i>n</i> = 28)	11.6% ( <i>n</i> = 26)
Fabricated evidence or induced person to lie under oath	2.05	<b>54.7%</b> ( <i>n</i> = 123)	15.6% ( <i>n</i> = 35)	8.9% ( <i>n</i> = 20)	5.8% ( <i>n</i> = 13)	12.9% ( <i>n</i> = 29)
Assisted or attempted to assist in the original crime	1.85	<b>52.4%</b> ( <i>n</i> = 118)	21.3% ( <i>n</i> = 48)	13.8% ( <i>n</i> = 31)	6.7% ( <i>n</i> = 15)	3.6% ( <i>n</i> = 8)

**Note.** On this question, participants responded on a 1 – 5 bi-polar scale with 1 = “Deserves No Compensation” and 5 = “Absolutely Deserves Compensation.” 3 = Neutral. Bold = most common response.

## 2. Exploratory Analyses

We ran four post hoc exploratory analyses to examine the effect of participants’ prior involvement in the criminal justice system, race, gender, and age, on their perceptions of if exonerees deserve compensation. The Likert item ranges from 1 = strongly disagree to 6 = strongly agree and asks if exonerees are entitled to compensation from the state. We chose this question because it examines compensation for exonerees generally, not just David Quinn. As such, we can ensure no specific elements of Quinn’s story affected their responses. Rather, it is more applicable to the field of wrongful conviction and exoneree research.

To guide these analyses, we searched for past literature on the effect of participant characteristics (such as those noted above) on exoneree support. Here we include a short overview of this research. We did not find any previous literature on if/how an individual’s prior involvement in the criminal justice system affects their perceptions of exonerees or support. A comprehensive dissertation on this topic<sup>65</sup> noted that it is possible that an individual’s experience in the criminal justice system could influence their opinions of exonerees and encouraged future research to examine this relationship more closely. As such, we conducted an analysis examining this effect. We found only one study that examined the impact of participant race; they found that non-white participants were more likely to believe that wrongful convictions happen “frequently”.<sup>66</sup> And finally, research has shown that participant does not impact perceptions of how often wrongful convictions happen.<sup>67</sup> However, one question asked, “do wrongful convictions frequently occur enough to justify system reform,” and females were more likely to agree and believed more strongly that reform should occur. Lastly, we did not find any previous literature on if/how an individual’s age affects opinions of wrongful convictions, exonerees, or compensation.

<sup>65</sup> Thompson, *supra* note 42.

<sup>66</sup> Marvin Zalman, Matthew J. Larson, & Brad Smith, “Citizens’ attitudes towards wrongful convictions” (2012) *Criminal Justice Review*, 37(1).

<sup>67</sup> *Ibid.*

For each of our analyses on these variables, we ran t-tests for categorical variables (e.g., prior criminal justice involvement, race, and gender) and a linear regression for the continuous variables (i.e., age). None of the results were statistically significant. Specifically, the *p*-value for prior criminal justice involvement was .354, race was .365, gender was .825, and age was .334.

## V Discussion

Prior research on perceptions of exonerees has found that, generally, the public has negative emotions towards exonerees and sees them as less warm and intelligent, especially if they falsely confessed.<sup>68</sup> Furthermore, research has shown that the public believes exonerees who falsely confessed deserve less compensation than those who did not “aid in their own conviction”.<sup>69</sup> This project sought to explore public opinion on the deservingness of compensation if the individual pleaded guilty vs. if they were convicted by a jury trial to assess further feelings about exonerees who “aid in their own conviction.” Prior research has not examined how an exoneree receiving a subsequent conviction affects public support for compensation. This project also examined how an exoneree receiving a subsequent conviction affects perceptions of the deservingness of compensation for exonerees.

Below, we present the major key findings:

1. No Effect of Initial Conviction: Community members’ perceptions of the exoneree or their deservingness of support were not influenced by whether the exoneree pleaded guilty or was convicted by a jury trial.
2. Strong Impact of Subsequent Conviction: If the exoneree had a subsequent conviction after their exoneration, support for their compensation, the amount of compensation, and receiving services decreased.
3. Overwhelming Public Support for Exoneree Services and Compensation: Overall, community members supported providing exonerees with services post-exoneration (note, participants were less likely to support subsidized housing and monthly living expenses for exonerees with a subsequent conviction compared to those with no subsequent conviction). Also, community members agree that exonerees deserve compensation from the state.

### A. No Effect of Initial Conviction Method

We chose to examine the effect of the initial conviction method on perceptions of exonerees and support for compensation because of the high proportion of plea bargains in the United States (95%) and accounts of exonerees having accepted a guilty plea despite their factual innocence. Prior research on public perceptions suggests that exonerees who have pleaded guilty or falsely confessed are perceived as less competent, warm, intelligent, and deserve less compensation (Clow & Leach, 2014; *Innocents who plead guilty*, 2015; Kukucka & Evelo, 2019; *Why do innocent people plead guilty to crimes they didn’t commit?*, n.d.; Scherr, Normile, & Putney, 2018).

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<sup>68</sup> Clow & Leach, *supra* note 34; Scherr, Normile & Putney, *supra* note 34.

<sup>69</sup> Kukucka & Evelo, *supra* note 39.

Inconsistent with our hypotheses and past research,<sup>70</sup> the initial conviction method did not affect perceptions of the exoneree nor their deservingness of support or financial compensation. More specifically, there was no significant difference between an exoneree who pleaded guilty and an exoneree who was convicted by a jury trial regarding perceptions of the exoneree's favorability and deservingness of compensation or the amount of compensation. Though the results were not significant, multiple participants mentioned the exoneree's guilty plea on the open-ended question when asked why they believed David Quinn was or was not deserving of compensation (this plea was often noted as justification for no compensation). For example:

"I believe he should be compensated for all the time he lost, but this is a hard one. If he pleaded guilty, then whose fault is it really?"

"I don't know why he would've pleaded guilty if he didn't do it."

Importantly, this illustrates that some community members do not understand the frequency of guilty pleas or how defendants are incentivized to plead guilty (even the factually innocent). If this information were more readily available or known, then perhaps public sentiment towards exonerees (and in opposition to this exclusionary rule) would continue to change for the better.

### **B. Strong Impact of Subsequent Conviction**

It is estimated that 83% of released inmates are rearrested within nine years.<sup>71</sup> Importantly, exonerees represent a different population than other justice-involved individuals (due to their factual innocence), but nonetheless, they may be at a greater risk of rearrest than others. Although it had not been examined empirically prior, it is assumed that if a prior conviction decreases support for compensation, then a subsequent conviction may as well.<sup>72</sup> Consistent with our hypotheses, if the exoneree received a subsequent conviction after their exoneration, participants rated his deservingness of compensation, the amount of compensation, deservingness of subsidized housing, and deservingness of monthly living expenses lower than an exoneree without a subsequent conviction. Though there is no past research that these results can be compared to, these findings align with research that has shown that the public generally believe some exonerees deserve less assistance than others.<sup>73</sup> Interestingly, most participants (72%) believed the exoneree's compensation *should not* be conditional on a prior conviction, which is contrary to prior research (Karaffa et al., 2015).

A subsequent conviction after exoneration also significantly decreased the favorability and character ratings of the exoneree. This character scale was an average of eight separate ratings about if the exoneree is a good person, credible, deviant, dishonest, likable, trustworthy, violent, or has good character. These findings are important because they shed light on how the public thinks about offending and individuals convicted of committing a crime. Unfortunately, these findings suggest a bias against exonerees who have a subsequent conviction. Exonerees with a

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<sup>70</sup> Clow & Leach, *supra* note 34; Clow & Leach *supra* note 34, Scherr Normile & Putney, *supra* note 34.

<sup>71</sup> Clarke, *supra* note 31.

<sup>72</sup> Clow & Leach, *supra* note 34.

<sup>73</sup> *Ibid*; Clow & Leach 2014, *supra* note 34.

subsequent conviction are perceived as less deserving of compensation and support. This bias was evident in some participants' responses to the open-ended question when asked why they believed David Quinn was or was not deserving of compensation. For example:

He may not have raped the girl and spent 37 years in prison, but 6 months later, he got a felony and went right back to prison. This shows he didn't learn his lesson of not getting in trouble."

"The fact that he was wrongly incarcerated for one rape and for 37 years certainly entitles David Quinn to compensation and support. That is an ethical duty of the State. However, the fact that he was also convicted of a second rape does place his character in question."<sup>74</sup>

If exonerees were to receive compensation for their time incarcerated automatically, subsequent convictions would likely decrease. Prior research has shown that the likelihood of offending after being exonerated *increases* if the exoneree does not receive compensation.<sup>75</sup> When exonerees were compensated \$500,000 or more, they committed subsequent crimes at a much lower rate than those who received less than \$500,000.<sup>76</sup> This illustrates that disqualifying exonerees from compensation could lead to increased crime and subsequent convictions.

### C. Overwhelming Public Support for Exoneree Services and Compensation

Despite significant differences in perceptions of deservingness of subsidized housing and monthly living expenses (between subsequent vs. no subsequent conviction conditions), community members overall supported services for exonerees. Even the item with the lowest amount of support - monthly living expenses - had about 80% of participants agreeing that exonerees deserved that assistance. This is partially in line with past research using the same assistance questions, which shows that the average respondent was more willing than not to support assistance for the exoneree.<sup>77</sup> These results were inconsistent with Scherr and colleagues' findings that wrongful convictions resulting from a false confession led to higher uncertainty regarding the exoneree's innocence, resulting in lower support for services such as job training, career counseling, and psychological counseling.<sup>78</sup> In our study, pleading guilty (comparable to false confessions) did not affect support for post-exoneration services, and general support was high. Overall, there are mixed results between studies on the deservingness of services and exonerees, and future research would be beneficial.

Our results also demonstrate that not only does the public believe that exonerees deserve services, but about 93% of the sample believe that exonerees are entitled to compensation from the state. Participants' responses to the open-ended question when asked why they believed David Quinn was or was not deserving of compensation demonstrate this sentiment:

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<sup>74</sup> Importantly, the newspaper article did not specify the crime Quinn was convicted of post-exoneration.

<sup>75</sup> Mandery et al, *supra* note 5.

<sup>76</sup> *Ibid.*

<sup>77</sup> Clow & Leach, *supra* note 34.

<sup>78</sup> Scherr, Normile & Putney, *supra* note 34.

I believe that he should be entitled to these programs or compensation as he spent years of his life behind bars without the resources or experiences he could have gained outside as a civilian. He was wrongfully convicted, and it was an error made out of his hands. He lost half of his life being treated as a prisoner - wrongfully.

He was in prison for 37 years for a crime he didn't commit, he was still a teenager when he went in, he has no life skills, he hasn't finished school, and his reputation is tarnished. He should have been given some money to take care of himself with.

Our findings are consistent with much of the prior research on compensation deservingness. Specifically, Karaffa et al.'s<sup>79</sup> research found that 86.1% of their sample believed exonerees deserve compensation. This is also in line with the 1995 Angus Reid survey conducted in Canada that found 90% of Canadians believe that exonerees should receive compensation for being wrongfully convicted. Lastly, similar results from 2012 found that 12 out of 15 respondents agreed that exonerees should be compensated by the government.<sup>80</sup> Findings of general financial support for exonerees transcend over the last three decades, and our results are consistent with that prior research on general exoneree compensation opinions. Future research should consider how this general support for exoneree compensation holds if participants are forced to choose between increased financial support for differing populations or tax-funded programs (e.g., funds for exoneree compensation versus funding for parks and recreation).

#### **D. Exclusionary Rules**

One key component of this project was to examine general endorsement or disagreement with exclusionary rules. Our analyses showed that the exclusionary rules with the most support (i.e., the highest percentage of participants believed that exonerees in this criterion “deserve no compensation”) were if the exoneree fabricated evidence or induced a person to lie under oath and if the exoneree assisted or attempted to assist in the original crime. These both allude to a suspicion that the exoneree being involved in the original crime decreases support for compensation.

Two of the exclusionary rules that participants were overall “neutral” about (i.e., the average fell in the middle of the scale, with responses on both sides) are directly related to variables explored in this study: (1) If the exoneree had a subsequent conviction and (2) If the exoneree had a prior felony or a felony during incarceration. Overall, this variability somewhat aligns with our quantitative findings about the hypothetical David Quinn in our newspaper article. Unfortunately, a prior or subsequent conviction will likely draw out biases or suspicion about exonerees for some community members.

The exclusionary rules with the least support (i.e., the highest percentage of participants believed that exonerees in this criterion “absolutely deserve compensation”) were if the witness in the original crime recanted their statement that led to the exoneration. The second exclusionary law with the least support was if the exoneree pleaded or falsely confessed. Though 28.9% of

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<sup>79</sup> Karaffa et al, *supra* note 41.

<sup>80</sup> Blandisi et al, “Public perception of wrongful conviction: Support for compensation and apologies” (2012) Albany Law Review.

participants felt that if an exoneree pleaded guilty or falsely confessed, they still deserved compensation, there were still 15.6% who believed they did not deserve compensation (and a greater chunk of participants felt somewhat neutral).

### **E. Importance of These Findings for Policy**

Our findings regarding exoneree support and exclusionary rules contribute to policy discussions and help to demonstrate where proposed efforts align with community sentiment. We take up a discussion of those avenues for change here.

Public opinion substantially impacts policy change, even when political organizations and people of power are prevalent in a community.<sup>81</sup> In Burstein's review of the relationship between opinion and policy in 30 different studies, 75% of the studies had a statistically significant relationship between opinion and policy.<sup>82</sup> Further, in an article that investigated a multitude of studies on public opinion, all but one out of 20 found that public opinion influences public policy.<sup>83</sup> Overall, democratic governments often do what their citizens want, specifically when an issue is important to the public.<sup>84</sup> This effect is likely to be amplified as greater focus is given to certain topics and they become more mainstream media, as opposed to rare news articles. Consider the lessons learned from Baumgartner et al<sup>85</sup> – the rising attention in mainstream media in the early 2000s given to the “innocence frame” (i.e., that errors are possible and have resulted in the execution of innocent individuals) impacted public opinion about the death penalty, and ultimately, the number of executions carried out. Public opinion impacts jury decision-making, the sentence prosecutors seek, and policy.<sup>86</sup> Continuing to raise attention to wrongful convictions and the unnecessary challenges exclusionary rules create can only aid in the creation of policies to support exoneree re-entry and support.

Some studies have found that political party power and advocacy organizations can impact policy creation. For example, states with a higher presence of advocacy organizations, such as the Innocence Project, have an increased likelihood of legislation change.<sup>87</sup> Further, interest organizations may be more effective if their actions align with public opinion, and they can increase responsiveness by being an intermediary group between the public and the government.<sup>88</sup> The majority political party in a state affects the likelihood that a state will incorporate policies that can decrease the presence of wrongful convictions, though this depends on the salience of the

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<sup>81</sup> Paul Burstein, “The impact of public opinion on public policy: A review and an agenda” (2003) *Political Research Quarterly*.

<sup>82</sup> *Ibid.*

<sup>83</sup> Paul Burstein, “Bringing the public back in: Should sociologists consider the impact of public opinion on public policy?” (1998) *Social Forces*.

<sup>84</sup> *Ibid.*

<sup>85</sup> Baumgartner et al, 2008

<sup>86</sup> *Ibid.*

<sup>87</sup> Stephanie L. Kent & Jason T. Carmichael, “Legislative responses to wrongful conviction: Do partisan principals and advocacy efforts influence state-level criminal justice policy?” (2015) *Social Science Research*.

<sup>88</sup> Burstein, *supra* note 81.

issue at hand.<sup>89</sup> The more prominent an issue, the higher responsiveness by elected officials.<sup>90</sup> This is because citizens usually vote based on issues at the forefront of an official's agenda. Therefore, elected officials are more likely to act on those issues once elected.<sup>91</sup> Political affiliation, beliefs, and views impact policies due to voting power. Individuals who believe in specific issues (e.g., exoneree support, mandatory DNA testing laws, and evidence-based practices to prevent miscarriages of justice) can push for change in this area of the criminal justice system, and their attitudes and opinions change policy.

Specific to our findings, we found overwhelming support for policies that compensate exonerees and provide services post-exoneration (e.g., job training and psychological counseling). Considering re-entry struggles and the support for these services under varying conditions, policymakers should work to eliminate barriers to these crucial services for exonerees. Importantly, these actions align with the Innocence Project's proposed legislation for compensation minimums and access to immediate services for exonerees across the United States.<sup>92</sup>

Despite "aiding in one's own conviction" being the most common exoneree compensation exclusionary criteria, community members in our study did not perceive it to be an important criterion for compensation. Nor did they overwhelmingly believe that exoneree compensation should be conditional on the exoneree not having a prior offense (often called the "clean hands" provision). These data suggest that proposed efforts to bar exonerees from compensation based on these criteria are not necessarily in line with community sentiment.

Lastly, we did find that community members believed an exoneree with a subsequent conviction to be less deserving of compensation than an exoneree without such conviction. However, these findings must be couched within the overwhelming support for exoneree compensation.

Given that this is the first study to examine the role of subsequent conviction on exoneree support empirically, we caution against using these findings alone to inform policy changes, especially considering the role of incarceration and exoneree compensation on subsequent offending. Because public opinion can influence policy, this may be an area where education and increased understanding could be helpful to the public. Overall, more research is needed on this important topic.

## VI Limitations and Future Directions

It is important to highlight a few limitations that could have impacted these results. The first of these concerns our sample. In this study, we collected data online; online samples could affect the generalizability of the results due to a non-representative sample. For example, the sample was 68.9% female and 26.2% male. Interestingly, in 2021 there was a rise in young female users on Prolific due to a TikTok video that promoted Prolific. This resulted in about 30,000 new

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<sup>89</sup> Kent & Carmicahel, *supra* note 87; *ibid*.

<sup>90</sup> Burstein, *supra* note 81.

<sup>91</sup> *Ibid*.

<sup>92</sup> Innocence Project, *supra* note 13.



participant signups to Prolific, which skewed heavily toward young female participants.<sup>93</sup> This was prevalent in our sample and could have affected the outcome of our analysis because prior research has found that females are more likely to believe that wrongful conviction reform should occur.<sup>94</sup> Therefore, knowing that females believe more strongly that reform should occur, and our results show that the majority of our sample believed that exonerees should receive compensation and services, this could be due to the overwhelming number of female participants.

An additional concern from the oversample of female respondents is that this sample may also oversample individuals with liberal political leanings and more likely to support compensation and services. America's hyper-polarized politics of the last decade make most public discussions highly influenced by respondents' political valences. These valences could potentially have a significant impact.<sup>95</sup> For example, it could impact what a respondent feels we have the resources for or are justified in spending on. While possible, without knowledge of the respondent's political leanings, we cannot fully assess this concern in the current study. Future research should recognize these concerns and build questions to glean and control for political leaning.

Furthermore, for future research to examine the role of prior criminal justice involvement on exoneree support, researchers should attempt to sample that population better. Though we attempted to do this, our sample of previously justice-involved individuals was too small ( $n = 22$ , 9.8%) to produce meaningful results.

The second limitation concerns the materials and measures. First, although prior research used a hypothetical newspaper article,<sup>96</sup> it is possible that participants had questions about David Quinn's scenario that the article did not address. For example, multiple participants mentioned their curiosity regarding the subsequent conviction in the open-ended question (e.g., what was the charge?). It is possible that the information gap could have increased or decreased their support for compensation dependent on outside experiences or preconceived notions of exonerees or those with past justice-involved experience. Considering many participants had questions about this, future research could manipulate different types of subsequent convictions and how that impacts exoneree support.

Another limitation of the materials used in this study concerns the name we chose in the hypothetical newspaper article. The name David Quinn came from a random name generator website. By not giving information such as race, participants could have used schemas and past experiences to assume the race of David Quinn. This could have affected the results; past research demonstrates how names affect people's opinions. For example, research has shown that applicants with afro-centric names are evaluated more negatively when people read fictitious resumes; more negative pre-interview impressions are formed than applicants with white, Hispanic, and Asian-

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<sup>93</sup> Nick Charalambides, "We recently went viral on Tiktok - here's what we learned" (August 24, 2021), online: Prolific <<https://www.prolific.co/blog/we-recently-went-viral-on-tiktok-heres-what-we-learned>>.

<sup>94</sup> Zalman et al, *supra* note 66.

<sup>95</sup> Andrew J. Madrigal & Robert J. Norris, "The Good, the Bad and the Uncertain: State Harm, the Aftermath of Exoneration, and Compensation for the Wrongly Convicted" (2022) *Critical Criminology*.

<sup>96</sup> Thompson, *supra* note 42; Clow & Leach, *supra* note 34.

sounding names.<sup>97</sup> Other studies have shown landlords are less likely to respond to inquiries from an individual with a stereotypically African-American-sounding name.<sup>98</sup> Similarly, the name choice could have affected the results. Further research should look into comparing exonerees with White sounding names versus African-American-sounding names without explicitly stating race in order to examine this concept further.

“Aided in one’s own conviction” is typically considered either a false confession, false guilty plea, or both. As such, in this article, we coupled false confessions and false guilty pleas and defined it broadly as “aided in own conviction.” We also used false confession research to support our hypotheses. Considering past research found decreased support and more negative perceptions towards an exoneree who falsely confessed,<sup>99</sup> but this study found no effect of having pleaded guilty on support or opinions, coupling this together may not have been justified. Future research could use a similar method but look at the perceptions of exonerees who falsely confessed vs. pleaded guilty two separate, independent variables. This could have also affected perceptions of the exclusionary criteria that generally state, “aided in own conviction.”

Furthermore, in our pilot survey, individuals assigned the “pleaded guilty” condition were not sensitive to the manipulation. We believe this is because the public might not understand the difference between pleading guilty vs. being convicted by a jury, meaning they do not understand that if an individual pleads guilty, they do not go to trial. Because of this, we altered the newspaper article in the final survey to say the exoneree “pleaded guilty to the crime, therefore avoiding a jury trial” to ensure there was no confusion on behalf of the participant. Though we changed this, participants still could have been confused, which could have affected our results.

Lastly, future research should modify the monetary scale used here. To assess how much compensation the exoneree deserved, we gave participants multiple options encompassing amounts of compensation. For example, one ranged from deserved \$5,000 - \$14,999 and another \$15,000 - \$29,999. This made it difficult to tell exactly how much they believed the exoneree deserved (e.g., was it closer to \$15,000 or closer to \$29,000 because those are vastly different amounts). Future research could use a sliding scale so participants can choose the exact amount they felt the exoneree deserved. Future research could also investigate the deservingness of certain compensation amounts for different populations of exonerees (e.g., the type of crime the exoneree was accused of committing and the race of the exoneree). This way, we can better untangle nuances in general support for exonerees.

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<sup>97</sup> King et al, “What’s in a name? A multiracial investigation of the role of occupational stereotypes in selection decisions” (2006) *Journal of Applied Social Psychology*; Stevie Watson, Osei Appiah & Corliss G. Thornton, “The effect of name on pre-interview impressions and occupational stereotypes: The case of black sales job applicants” (2011) *Journal of Applied Social Psychology*.

<sup>98</sup> Andrew Hanson & Zackary Hawley, “Do landlords discriminate in the rental housing market? Evidence from an internet field experiment in US cities” (2011) *Journal of Urban Economics*.

<sup>99</sup> Savage et al, *supra* note 38; Kukucka & Evelo, *supra* note 39, Clow & Leach, 2014

## VII Conclusion

Overall, the results suggest that the public believes that there are instances in which exonerees deserve less compensation than others, despite feeling overall positive towards support for exonerees and compensation. Exonerees who had a subsequent conviction after their exoneration were perceived as less deserving of subsidized housing and monthly living expenses, less deserving of compensation overall, deserving of a lower amount of compensation, and had lower favorability ratings. This perception of subsequent convictions aligns with the exclusionary criteria that bars exonerees from receiving compensation due to the state's miscarriage of justice. This support could create barriers to changing these exclusionary laws for exonerees. On the other hand, the public did not perceive an exoneree who pleaded guilty differently than an exoneree who was convicted by a jury. This opinion of exonerees contradicts the exclusionary criteria that exonerees who "aided in their own conviction" are not eligible for compensation (this also had little support in this sample relative to other exclusionary rules). These findings could be beneficial to eliminating exclusionary laws for exonerees, which would ensure that exonerees receive compensation for the miscarriage of justice that occurred to them.