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Convicting the Innocent: An Analysis of the Effects of Wrongful Convictions and Available Remedies in Canada

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Résumé de l'article

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Convicting the Innocent: An Analysis of the Effects of Wrongful Convictions and Available Remedies in Canada

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The past three decades have seen at least 3,200 exonerations across North America. While this number continues to grow, attention must be turned to facilitating successful re-entry amongst this group. By conducting a content analysis of 57 Canadian exonerees, I gathered demographics and common case characteristics to assess the re-entry success of exonerees. Successful re-entry was incredibly difficult for the majority of exonerees due to a lack of specialized re-entry services, counselling, compensation legislation, and healthcare. Exonerees are suffering in the same ways as legitimate offenders while incarcerated and afterward, all while being offered drastically less assistance from Canada's institutions and government.

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I Introduction

During the last three decades in America, 3,400 people have been wrongfully convicted and subsequently exonerated of crimes they did not commit. Data on exonerations are tracked by the Innocence Project, the Death Penalty Information Center, and individual researchers (Gross, p. 175). Given these data, Gross (2008) has conservatively estimated that 2.3% of death sentences are wrongful. Since murder and rape investigations are, supposedly, dealt with thoroughly, it is expected that the rate of wrongful convictions is much higher for lesser crimes (Gross, 2008, p. 178). This issue is identified by Roach (2012) who states that the “unknown number of wrongful convictions may be much larger than appreciated” (p. 1467). Roach (2012) adds that in Canada, the rate of wrongful convictions “arises in homicide or sexual assault cases, even though these cases constitute only a small percentage of all criminal cases and convictions” (p. 1470). This means that even in Canada, the true rate of wrongful convictions is likely much higher than one can imagine, especially when considering everyone who has been wrongfully convicted of lesser crimes. The increasing threat of wrongful convictions means that any one of us could have our livelihoods stripped away from us, at any given moment (Grounds, 2004).

The literature has largely addressed how wrongful convictions occur (Campbell, 2017; Furman, 2003; Huff & Killias, 2013). The same cannot be said about research addressing exonerees themselves, their experiences of being wrongfully convicted, and how they coped with re-entry. Many academics (Kukucka, Applegarth, & Mello, 2020; Grounds, 2004; Campbell & Denov, 2004; Wildeman, Costelloe, Schehr, 2011), have pointed out this gap in the literature. Taking these thoughts into consideration, this research aims to evaluate the demographics of those who are wrongfully convicted and the assistance available to them to assess which of these characteristics contribute to successful re-entry back into society.

A. Research Question

What assistance is provided to the wrongfully convicted who leave prison? Does the usefulness of re-entry assistance for the wrongfully convicted vary based on case and individual characteristics? How do these characteristics influence re-entry? Why might this be? Do certain characteristics increase the chance of success? Most importantly, what do exonerees themselves need to assist them?

II Literature Review

The burden of waiting years for reentry services often compounds problems for the exoneree. The wrongfully convicted who win their freedom only to find that they are penniless, unemployable, and dependent on others, experience family friction, poverty, and depression. This combination is a recipe for disaster, resulting in homelessness, self-medicating with drugs and alcohol, and societal alienation. Many suffer from mental health symptoms that resemble those suffered by veterans of the war and torture survivors; these symptoms stem directly from wrongful conviction and incarceration (Weigand, 2009, p. 429).

The literature largely addresses the effects of incarceration on incarcerated individuals, releasees, their families, and the community (Cooper, Durose, & Snyder, 2014; Cid, 2009; Listwan et al., 2013). However, the literature has largely ignored the thousands of wrongfully convicted individuals who are subject to the same pains of imprisonment and their subsequent effects. Even more sparse is the literature on what re-entry and rehabilitative services are offered to this unique group of individuals. This literature review aims to assess the effects of incarceration in general and focus on how these effects may extend to exonerees and to what extent.

A. Recidivism

Though they are innocent of the charges for which they were incarcerated, there is no reason to think that they are immune from the detrimental effect that prison has on prisoners. It is well established that prison can habituate criminal behavior (Mandery, Shlosberg, West, & Callaghan, 2013, p. 554).

In the US, Durose, Cooper, and Howard (2014) found that 70% of actual offenders recidivate within three years of their release (p. 1). Duke (2018) corroborates these findings, stating that 76% of individuals recidivated following their release (p. 45). Recidivism has been found to be further exacerbated by unemployment and low levels of social support (Listwan et al., 2011, p. 162). The literature consistently shows alarmingly high rates of recidivism for anyone who has been incarcerated; this finding applies to all types of offenders, whether they are low or high-risk. Cid (2009) has found support for this point, stating that the highest rates of recidivism belong to high-risk offenders (82%), second highest being medium-risk offenders (40%), and lastly, a 19% recidivism rate belonging to low-risk offenders (p. 471). It is growing increasingly obvious that even if individuals pose little risk prior to incarceration, their experiences in prison and the difficulties with re-entry can incite criminal behaviour.

Although a small amount of literature exists addressing exoneree recidivism, it does tend to support the aforementioned idea. The literature goes as far as to suggest that “exonerees are potentially at a high risk for offending following their release” (Mandery et al., 2013, p. 554). The risk of recidivism may further be exacerbated if exonerees do not receive compensation and resources to help with the overwhelmingly difficult process of re-entry (Mandery et al., 2013, p. 555). Mandery and colleagues (2013) found that recidivism rates dropped significantly if exonerees were awarded more than half a million dollars (p. 574). Despite being useful information, this is a troubling idea, considering that many exonerees do not receive compensation, or are often severely under-compensated (Weighand, 2009, p. 429; Innocence Project, 2021b). In the US, Mandery et al. (2013) found that 45 of 118 (or 38%) exonerees were “convicted of at least one crime following their exoneration” (p. 570). Violent offences and drug offences were committed by nearly half of those exonerees; a smaller number commit property crimes and “other crimes”, with the frequency of incidence being 29% and 36% respectively (Mandery et al., 2013, p. 570). In interviews conducted by the New York Times, it is revealed that “about one-sixth of [exonerees] ... found themselves back in prison or suffering from drug or alcohol addiction” (Roberts & Stanton, 2007, para. 9). The link between drug use and recidivism is apparent in the literature on recidivism for both exonerees and actual offenders.

B. Drug Use

The use of drugs has the potential to lead offenders and exonerees to crime. According to Houser, Saum, and Hiller (2019), about half of state prisoners “have a drug abuse or dependence disorder” (p. 1238). Bahr and colleagues (2010) found that many of these individuals who failed parole cited drug use as the reason why. Additionally, drug use led to incarceration for 82% of the parolees (p. 680). Houser and colleagues (2019) support this, finding that people who used drugs (PWUD) were 2.8-3.8 times more likely to offend compared to people who do not use drugs (p. 1239). This article also found that PWUD who had antisocial attitudes, were unemployed, and had poor relationships with others were more likely to recidivate (Houser et al., 2019, p. 1239). These findings are significant as the wrongfully convicted experience the same pains of imprisonment and re-entry with additional challenges due to their unique circumstances.

In an interview, one exoneree told Chunias and Aufgang (2008) that he began engaging in petty crime to “support his drug addiction” and that it “provided him with the occasional reprieve from the unstructured world he had grown to distrust and fear” (p. 116). Roberts and Stanton (2007) found similar sentiments, with one exoneree developing a drug addiction following his exoneration and eventually going back to prison for “cocaine possession and battery” (para. 3).

The literature shows that a lack of social bonds can increase drug use. The social bond theory posits that individuals conform if they have strong social bonds which create attachment, commitment, involvement, and belief (Hirschi, 1969 as cited in Ford, 2009, p. 339). Specifically, attachments to people and one’s relationship to them functions to prohibit “deviant” behaviour, such as drug use. While commitment refers to one’s “investment in conventional activities and goals”, which can refer to a good career or education that may prevent someone from using drugs, the literature supports the idea of trauma causing some exonerees to become withdrawn (Hirschi, 1969 as cited in Ford, 2009, p. 339; Grounds, 2004, p. 168; DeShay, 2016, p. 210; Campbell & Denov, 2004, p. 148). Withdrawal can therefore impact one’s relationship with strong social bonds

such as partners, friends, and family, leading to a dependence on drugs. Similarly, exonerees are at risk of a weak bond to commitment, as some have lost their careers or a chance at their career due to their wrongful conviction (Robert & Stanton, 2007, para. 2; Westervelt & Cook, 2021, pp. 65-66). This lack of commitment to strong social bonds such as work, therefore, may not apply to some exonerees, putting them at a risk of drug use.

The literature on substance abuse also identifies a link between people who suffer from traumatic incidents and the use of drugs to cope (Delker & Freyd, 2014, p. 576; Ullman, Relyea, Peter-Hagene, & Vasquez, 2013, p. 2219). The use of drugs facilitates reducing symptoms of post-traumatic stress disorder (PTSD), such as flashbacks and anxiety over the traumatic incident (Ullman, 2013, p. 2219; Grounds, 2004, p. 169). This use can range from “binge drinking” to the use of drugs that is so chronic that it could be classified as a substance use disorder (Delker & Freyd, 2014, p. 576). The literature has “long noted” that mere exposure to a traumatic incident may lead some to use drugs (Delker & Freyd, 2014, p. 576). One exoneree states that he “developed a serious drug habit while in prison”, possibly due to the traumatic experience of being incarcerated (Chunias & Aufgang, 2008, p. 116). Many exonerees develop illnesses such as PTSD from the traumatic experience of being wrongfully convicted and dealing with traumatic incidents in prison (Grounds, 2004, p. 169).

C. Mental Health Issues

In the average prison population, mental illnesses are incredibly prevalent. Namely, 64% of individuals that comprise the prison population experience symptoms of mental illness or getting treated for mental illness, and 25% of prisoners have severe mental illnesses “such as psychotic symptoms, mania, and severe depression” (Mulvey & Schubert, 2017, p. 232). Saum, and Hiller (2019) found that “14% [meeting] the threshold for serious psychological distress” (p. 1238).

I called my brother one night and told him I was going to kill myself ... I was sick of it ... I was going to take the razor blades and I was going to slash my wrists open ... I was tired, you know? I was really burnt out at that point (Sean as quoted in Campbell & Denov, 2004, p. 149).

To date, there exist very few studies that assess the effects that wrongful conviction and imprisonment have on mental health (see Grounds, 2004; Campbell & Denov, 2004; Simon, 1993, Wildeman et al., 2011). Campbell and Denov (2004) interviewed five men who were wrongfully convicted who spent anywhere from three to eight years in prison (pp. 141-142). All five men in this study had admitted to contemplating suicide, with one man attempting suicide after being denied bail.

Similarly, Grounds (2004) assessed 18 men who were wrongfully convicted, many of which did not have any psychiatric disorders prior to being wrongfully convicted. A number of these psychiatric disorders were found, including personality changes, PTSD, depressive disorders, panic disorders, paranoia, and addiction (Grounds, 2004, pp. 168-169). Most respondents suffered from “personality change” which occurs after “catastrophic experiences” (Grounds, 2004, p.168). Those closest to the exonerees nearly all expressed the same concern,

stating that the exonerees “were not the same person” as they used to be (Grounds, 2004, p.168). In addition to these illnesses, 89% of the exonerees had experienced additional psychiatric disorders, which led to “pervasive and disabling symptoms” (Grounds, 2004, p. 169). One exoneree, David Shepard, lived with the anxiety and fear of being wrongfully accused again, leading him to collect “physical evidence” wherever he goes to “corroborate his activities” (Clow, Leach, & Ricciardelli, 2012, p. 330).

Wildeman and colleagues (2011) found support for the study conducted by Grounds (2004). Full-time employment, stable housing, and strong social bonds are known to assist in re-entry (Wildeman et al., 2011, p. 425). However, despite many of the exonerees possessing these features, 22% had some sort of psychiatric disorder; namely, anxiety, depression, PTSD, or a combination of these illnesses (Wildeman et al., 2011, p. 425).

Simon (1993) found that symptoms of mental illness may arise even in circumstances of false arrest and short-term imprisonment. Unfortunately, half of suicides while incarcerated occur within the first 24 hours, meaning that even short-term wrongful incarceration may lead to disastrous consequences for the wrongfully accused and their families (p. 523). Even though the wrongful accusation and incarceration is short lived, it carries with it a range of consequences that can last indefinitely. For one man, a wrongful accusation led those in the community to treat him and his family differently, and this became so unbearable that they needed to move away (Simon, 1993, pp. 524-525). It is becoming increasingly obvious that wrongful imprisonment, despite its length, carries with it common consequences. Even the psychiatric disorders that arise from these situations are similar. Simon (1993) found that “[PTSD], adjustment disorders, generalized anxiety disorders”, and chronic depression can all be found in those who have been wrongfully arrested or incarcerated for shorter amounts of time (p. 525).

D. Discrimination and Stigma

When I was going around looking for jobs, I had to explain that twenty-six-year gap. I had to tell them everything... And they just didn't want to deal with it... they thought, well, you was in there and something might come back (Gary James as cited in Westervelt & Cook, 2021, p. 67).

In the US and Canada, there are millions of individuals re-entering the community after being incarcerated. In other words, there are millions of people looking for work (Ricciardelli, Evans, & Peters, 2017, p. 1). Unfortunately, despite its well-known use in facilitating re-entry and in preventing recidivism, employers hesitate to hire those with a criminal record (See Ricciardelli, Evans, Peters, 2017; Solomon, 2012; Kukucka, Applegarth, & Mello, 2020; Giguere & Dundes, 2002). Studies have found that exonerees face the same difficulties as actual offenders in obtaining work. Even if one's record is expunged, the decades of absence will need to be explained to employers. This phenomenon has been clearly noted in the available literature (Westervelt & Cook, 2017; Holzer, Raphael, & Stoll, 2004; Kukucka, Applegarth, & Mello, 2020).

Kukucka et al. (2020) found that employers were more likely to offer a lower wage and contact more references of exonerees and hold overall “less favorable impressions” about them (p. 25). As previously mentioned, literature has found that not only is employment shown to reduce

the risks of recidivism, but it has a range of effects that decrease other characteristics that may also result in recidivism. In particular, “full-time employment led to lower levels of mental illnesses such as anxiety, depression, and PTSD, for exonerees” (Kulkucka et al., 2020, p. 18).

Similarly, housing has been cited as one of the most important “components for successful reintegration”, however, it is also the “biggest challenge” individuals leaving prison face (Zanella, Clow, Rempel, Hamovitch, & Hall, 2020, p. 302). Wrongful convictions are not automatically expunged from one’s criminal record, so a simple back-ground check would reveal charges against exonerees to prospective landlords (Zanella et al., 2020, p. 303). Currently, there is only one study that has addressed whether exonerees are discriminated against like actual offenders are. In their study, Zanella et al. (2020) discovered that exonerees were less likely to receive a response (31.6%) from landlords than both an individual without a criminal record (73%) and one with a criminal record (46%) (p. 304).

E. Compensation

Does ten million give me my children back any faster than four [million]? Or does it give any of those 1,047 days back? The birthdays, the Christmasses? The money doesn’t. What the money will give me is security, comfort, peace of mind [...] The rest I have to get back myself. Nobody can compensate me for that [...] that’s the only thing they can give me. There’ll never be enough, but I have to accept a number that lets me move on (Campbell & Denov, 2004, p. 155).

In Canada, there is no law that mandates compensation at a federal, provincial, or territorial level (Campbell, 2019, p. 268). There are established guidelines in Canada that outline who is deserving of compensation, however, they drastically limit how one can be entitled to compensation. If charges were withdrawn or if the individual was acquitted for example, then they would not receive compensation under these guidelines (Mason, 2020, s. 4.3).

Civil litigation is the only option available to Canadian exonerees, however, civil suits are described as “surprisingly difficult for exonerees to win”, as it is difficult to prove “intentional misconduct” of various actors in the criminal justice system due to the absolute and qualified immunity they are entitled to (Bernhard, 2009, 403; Westervelt & Cook, 2012, p. 197). Oftentimes, there is just no one to sue due to genuine mistake (Bernhard, 2009, p. 407). This is incredibly problematic as the Innocence Project (2020), has found that “69% of DNA exonerations [in the US] have involved eyewitness misidentification”, and in addition to this, there are “450 non-DNA-based exonerations involving eyewitness misidentification” (paras. 1-2). This excludes the possibility of obtaining compensation through civil litigation for hundreds of exonerees. Although the Innocence Project revealed 28% of their clients have won civil suits, for most, it is not only difficult to prove misconduct, but the legal fees make this option unrealistic for many exonerees (Norris, 2012, p. 355).

To date, the largest compensation in Canada was to David Milgaard, who spent 23 years in prison for a crime he did not commit. Milgaard then waited another seven years before receiving 10 million dollars and a formal apology from the government of Ontario (Campbell, 2019, p. 262). However, many exonerees are not fortunate enough to acquire compensation, which is an

incredible failure of the North American justice system. Likewise, 57% of exonerees never regain the income level they had prior to being incarcerated, leading to a third of exonerees becoming “financially dependent on others” (Weighand, 2009, p. 428).

F. Not Enough

The most common response to our inquiry about what they [the wrongfully convicted] got from the state upon release was ... “nothing”. Alan Gell says, “No state help. No federal help. No nothing.” ... Sabrina Butler echoes this: “No money. No nothing. They didn’t even give me jack! They just took the handcuffs off me and sent me out the door” (Westervelt & Cook, 2012, p. 201).

Wrongful convictions continue to impact each aspect of one’s life—structurally, emotionally, and interpersonally. The reality is that once exonerated, many exonerees are not granted access to programs meant for actual offenders, as they did not commit an offence. However, they experienced the same traumas, and much worse, than actual offenders, and they still require the same amount of assistance at the least. David Shepard was one of a handful of exonerees who have been “denied assistance because he had not actually committed a crime” (Clow, Leach, & Ricciardelli, 2012, p. 329). However, exonerees are a unique group with unique circumstances which means that they require specialized support. The literature has upheld this need for specialized programming to address the specific needs of exonerees (Wildeman et al., 2011; Chunias & Aufgang, 2008).

III Methods

The purpose of this study is to assess the resources available to exonerees and whether those resources are helpful in exoneree re-entry. The research questions are as follows:

- a) What assistance is provided to the wrongfully convicted who leave prison?
- b) Does the usefulness of re-entry assistance for the wrongfully convicted vary based on case and individual characteristics?
- c) What do exonerees need to adequately assist their re-entry?

A. Participant Sampling

All cases analyzed in this study were Canadian adults who have been wrongfully convicted of a serious offence and spent anywhere from a few months to decades in prison. Due to the nature of this study and the population and phenomenon being studied, purposeful non-random sampling was employed. The aim of the study was to assess the needs of exonerees and the barriers they face in re-entry, therefore, this type of sampling was taken to examine the cases of all known exonerees that were wrongfully accused of serious crimes such as murder, manslaughter, and sexual assault. Criteria of inclusion were that the case occurred in Canada, that the individual was charged with a crime they did not commit, and that they were adults. A few cases were omitted from certain analyses if they did not contain significant information needed for analysis. Participants were also excluded if they were under the age of 18 and/or were charged with a lesser

crime. These exclusion criteria were used as cases pertaining to minors or those who were charged with lesser crimes are not well publicized.

The current study employs a qualitative content analysis of Canadian newspaper articles, websites, and blogs to gather data on Canadian exonerations. Since many exonerations are not highly publicized, the search was expanded to include websites and blogs in addition to news articles. Content analysis was used to gather data on the majority of known Canadian exonerees accused of serious offences.

Initially, all cases of exoneration in Canada were gathered using databases such as *forejustice.org* and *Innocence Canada*. Content analysis was conducted using 81 media sources. Searches were made on the Google search engine using terms “(name) wrongful conviction”, “(name) compensation”, and “(name) life after exoneration.” In total, 37 different newspapers and blogs were used to gather data. In total, characteristics of 57 cases of Canadian wrongful convictions accused of serious crimes were examined. Nineteen cases were omitted due to the involvement of a minor or an overall lack of information about the case. A lack of information refers to a lack of publications which make little to no mention of individual characteristics. Where available, the following information was gathered: gender; age at time of conviction; race; time served; charge; education level; family; relationships; forms of stability; stability remaining after prison; legal issues arising before or after exoneration; whether individuals experienced abuse before, during, or after their conviction; the quality of life in prison; compensation; health issues arising before, during, or after sentence; and whether the individual was granted parole or received assistance from a non-profit organization.

B. Ethical Considerations

Due to the nature of this study and the intended involvement of human participants, approval from Simon Fraser University’s Research Ethics Board (REB) was obtained. The following study was deemed to be of ‘minimal risk’ to participants and the community at large.

C. Coding and Analysis

All websites, blog posts, and articles were uploaded into NVivo using Ncapture. Content analysis data were coded and analyzed in NVivo. Prior to analysis, all articles were read to assess whether they contained enough information pertaining to case characteristics, experiences, and demographics. Deductive coding was used to provide prior familiarity with the topic and a knowledge of what kind of data were needed. Nodes, or “interests” were created based on the literature concerning offenders released from prison and what issues they had in re-entry. This process resulted in the following codes: at risk groups, compensation, coping mechanisms, employment prior to wrongful conviction, employment following wrongful conviction, difficulty finding employment, family bonds remaining after wrongful conviction, family suffering due to wrongful conviction, illnesses arising after wrongful conviction, issues prior to wrongful conviction, issues in prison, re-entry stigma, level of education, lack of resources, legal issues following release, losing family/relationships while incarcerated/following wrongful conviction, mental illness due to wrongful conviction, missing life events, and parole. Demographics were also recorded in an excel spreadsheet containing the following data: gender, race, age at wrongful

conviction, length of incarceration, and time served in prison.

D. Limitations

The following study relies on a limited population of known Canadian exonerees who have been wrongfully convicted of serious crimes ($n=57$). Therefore, some sub-populations of this group have smaller sample sizes, such as exonerees of colour and female exonerees. Additionally, this study relies on digital newspaper articles, webpages, and blogposts, which may not contain all the information of interest. When determining the rate of exonerees who struggle with certain barriers, this could be interpreted as the minimum number of this population who struggles, as much of the information surrounding these topics is unknown or undisclosed. Consequently, statistics may seem inflated due to smaller sample sizes. To prevent any misleading assumptions from being made, the sample size of each group is listed throughout the results section. As discussed in the introduction, the true number of individuals suffering from wrongful convictions is unknown or not yet exonerated, so this study can only rely on those known to be exonerated.

E. Measures of Success

In this study, success refers to whether exonerees can “recover” their lives following wrongful conviction. For these reasons, success was measured with the following factors: obtaining compensation, having/starting a family, regaining employment, and maintaining a healthy and happy lifestyle. In contrast, un-successful re-entry included things such as: difficulty obtaining a job or housing, difficulty having relationships, family issues, recidivism, and mental or physical instability. Of main concern in this study is whether exonerees can and have the support they need to regain the lives wrongfully taken from them.

IV Results

This chapter analyzes the results of a content analysis on 57 Canadian exonerees. Several themes were analyzed due to their perceived effect on exonerees ability to successfully re-enter into society, including lack of compensation, familial support, government assistance, employment insecurity, declining health, marginalized groups, and growing up incarcerated.

Figure 4.1 Issues Arising Due to Wrongful Conviction



A. Compensation

Compensation is not guaranteed, with many exonerees being left with nothing following their exoneration. It was found that 28 exonerees in Canada have been awarded compensation. Eleven exonerees were denied compensation, with two being ordered to *pay legal fees to law enforcement agents* after losing their civil suit. The status of compensation for the remaining 18 exonerees is unknown. In other words, a *minimum* of 19% of Canadian exonerees did not obtain compensation. If we account for the remaining unknown cases of compensation (32%), the number of uncompensated Canadian exonerees could increase up to 51%.

Only five exonerees were known to have legal issues following release. One violated parole, and four committed crimes of a violent or financial nature. Three of the four exonerees who violated the law were not compensated at the time. While this is a small number, it is significant that almost all who committed crime did not receive compensation. One of these exonerees spoke out about the lack of resources available to exonerees and how they were forced to resort back to “old ways of surviving”. All but one exoneree who committed a crime were also at a high risk for issues re-integrating.

Table 4.1 Compensation in Canada

Compensation Received	28
Compensation Denied	11
Unknown	18

While recidivism is certainly an issue, there are other indicators of unsuccessful re-entry. The presence of compensation alone does not dictate success. Table 4.2 shows the known outcomes of success and compensation of 30 exonerees:

Table 4.2 Successful Re-Entry with Compensation

	Compensation Received	Compensation Not Received
Successful Re-Entry	7	1
Un-Successful Re-Entry	14	8

Much of this sample was not successful in their re-entry, even when receiving compensation (45%). However, successful re-entry was much greater for those who did receive compensation than for those who did not. These findings demonstrate that while compensation is certainly necessary, it is not a definitive cure to facing issues in re-entry.

In an analysis of 25 exonerees who obtained compensation, 32% of those who had compensation and familial bonds were successful in their re-entry. Twenty-four percent of those who had an absence of social bonds even with compensation were not successful. However, the majority (44%) of exonerees who had both compensation and familial bonds were still unsuccessful in some capacity. Of those who were unsuccessful, five received very little compensation, from as low as the tens of thousands up to nearly \$800,000. When analyzing the

cases of those who were unsuccessful despite receiving compensation and having familial bonds, it becomes apparent that those bonds alone are not enough to help. The 44% of exonerees in this category all had alternative risk factors or issues to deal with such as mental/physical illness (73%), severe stigmatization, abuse, and losing their careers. A few were also of a minority group, adding additional systemic barriers in achieving success. One exoneree, who dedicated his life to his career and assisting people, will now never be able to step foot back into his workplace due to the accusations made against him. In the words of his lawyer, “[he] lost the livelihood he loved” and now “lives on the edge of poverty” (Harland-Logan, n.d.c, para. 22).

It appears that the amount of compensation is unrelated to success. It could be expected that those with the lowest amounts of compensation (n=6) were more likely to be unsuccessful in their re-entry (67%), however this phenomenon was not exclusive to those who were poorly compensated. An analysis of the 10 highest cases of compensation shows that 1 in 2 exonerees are still less than successful in their re-entry. To further assess why exonerees are struggling in their re-entry, we must assess social bonds' influence on success.

B. Support

In this sample many exonerees had some familial support in varying capacities. However, since wrongful conviction can take decades of someone's life, a handful of exonerees have had to deal with the death of a loved one, divorce, having their children taken away, and other difficulties. This resulted in a sub-theme of “secondary victims” being created.

In accordance with the principles of social bond, familial support was seen in all exonerees who successfully re-entered society; however, it was not absolute, and just as many exonerees *did not* have a successful re-entry even *with* family support.

Table 4.3 Family Support and Success

	Familial Support	Absence of Familial Support	Some Family Support
Successful Re-Entry	12	0	0
Un-Successful Re-Entry	11	8	3
Somewhat Successful	5	0	0

Two exonerees who had some familial support with an unsuccessful re-entry both made similar remarks about the conviction “tearing the family apart”. Another exoneree was unable to see their child due to bail conditions, which caused a spiral into mental illness, preventing a successful re-entry. This is significant as it indicates some governmental “assistance” is ineffective in that it blocks access to other supports such as family.

Of the twelve exonerees who had successfully reintegrated, eight were married and had their own children. The remaining four had strong familial support throughout their conviction and after release. This is demonstrated by the sentiment of one exoneree, who said “what has kept me alive is my faith, the support of my family and the hope that the day would come when I would wake up and this nightmare was finally over” (As quoted in Makin, 2008).

Even for those who have had a less than successful re-entry, familial bonds are incredibly important—as one exoneree put it, “I would be nowhere without [my family]”. Of those who were not as successful (71% of the entire sample), 16 out of 32 (42%) did not have as much family or stronger relationships such as marriage. Six exonerees were known to suffer from the death of a family member while incarcerated, four were divorced due to their wrongful conviction, and eight had their children taken away from them and adopted. To make matters worse, multiple exonerees were barred from attending their families’ funerals, making it increasingly difficult to cope with their loss:

"A lot has been taken from her ... she was unable to attend her son's funeral which to me was just heartless, spending all that time in jail there for something that she didn't do" (Grant, 2016, para. 25).

“He believed that speaking up in this way was the reason he was denied temporary passes and refused permission to attend his grandmother’s funeral” (Butts, 2009, para. 9).

Of the 14 exonerees known to have dealt with loss (i.e., divorce, adoption, death) due to their wrongful conviction, only one is known to be successful. There is insufficient evidence for three exonerees in this group, but the remainder of this sample was less than successful (79%).

Perhaps the most significant finding is that everyone with the absence of family support was not able to achieve “success”. Three of eight exonerees in this group experienced divorce directly caused by their wrongful conviction. The remaining five had lost their family, or “supports”, due to death or said they now have issues maintaining long-term relationships with others. Among this group, there was also more stigma reported for the family themselves. Of the eight exonerees who reported familial suffering due to wrongful conviction, *100%* were less than successful. In total, the impact of wrongful conviction led to 16 children suffering from stigma, which included being denied housing, employment, abusing drugs, being abused in custody, and/or being put in physical danger. Several family members have detailed the effects of wrongful conviction on their life. In particular, the daughter of one exoneree details her and her families experience with wrongful conviction:

“From the moment we learned that he was arrested, our world kind of crashed down on us ... [My sister] really was tortured with his loss on a daily basis, she couldn't get over the fact that she missed out on him for nearly 28 years... [My] sister battled substance abuse and was sent into a tailspin with each new court proceeding” (As quoted in Proctor, 2015, paras. 23-25).

Another child of an exoneree talks about the intergenerational effects of wrongful conviction, stating:

“Forty-five years is a long time,” offered his son, his voice breaking. “It doesn’t only affect him. It affects his kids, his grandkids, his great-grandkids. We never probably got the love we deserved after this happened” (As quoted in Mendleson, 2015, para. 5).

These passages demonstrate how incarceration not only affects exonerees, but also all those waiting for them to be released. It also shows how wrongful conviction can cause mental illness and harmful coping mechanisms in family members of exonerees. While an unexpected finding, it appears that secondary, and possibly even tertiary, victims suffer in many of the same ways as primary victims of wrongful conviction, which gives rise to the idea that wrongful conviction has intergenerational effects.

C. Government Assistance

“As inadequate as the system might be, the parole system is designed as a tool of reintegration. But when two men are acquitted at the end of a decade of being held by Her Majesty, they’re thrown out into the street and not afforded any of those. There’s nothing in place to deal with the mistakes of the criminal justice system” (Drake, 2008, para. 10).

An exoneree’s inability to plead guilty is seen as defiance and used to punish them despite their good behaviour in prison meaning that the vast majority of exonerees are afforded no governmental assistance in their reintegration. However, a few exonerees in the sample were able to obtain parole, halfway housing, or help from non-profit organizations. Exonerees are often unable to obtain these services for various reasons. Either they are not exonerated until after their release or they refuse to complete special programs related to the offense they were charged with, and there seems to be a “dislike” or stigma for incarcerated people who protest their innocence. Of this group, three of the exonerees, who have been successful with their re-entry, were granted parole and/or received help from non-profit organizations, with two also receiving compensation. Both exonerees had strong familial support. Despite being very young at the time of the wrongful conviction, two had started families since release and have received good employment. Parole shows mixed support for success rates, among the few exonerees who received it.

As mentioned, governmental assistance may be hard to determine due to how infrequently it is afforded to exonerees. One pregnant exoneree was fortunate to receive help from the EFS which conducted a risk-assessment proving she was a low risk “offender”. The woman completed programs, had good behaviour, and was recommended for early parole by a trial judge. However, the young mother accused of killing her stepdaughter was denied parole due to being “overly emotional”. With additional help from the EFS, she was able to finally obtain parole and access to a halfway house to give birth to her child. Another exoneree also obtained help from a non-profit organization and while she was not successful in her re-entry, she would have been much worse off without the support of this organization. These sentiments show that non-profit organizations seem to be invaluable and demonstrate the incompetence of government assistance.

Other than parole or halfway housing, one exoneree in this sample has experiences with government funded healthcare treatments, or rather, their lack. As mentioned, exonerees receive even less assistance than their rightfully convicted counterparts. This concept is best exemplified through the story of one exoneree wrongfully convicted of murder, when after his exoneration, Corrections Canada stopped funding his homeopathic cancer treatments (MacDonald, 2008, p. 6).

Perhaps due to the small sample size, the results on parole assisting the re-entry process are mixed. It is quite significant that two of the most successful exonerees in this sample were given parole. From what little assistance has been provided to exonerees, it has proven to be useful, affording exonerees the opportunity to slowly re-enter society with assistance. However, some still faced noticeable issues. To determine whether parole is a promising re-entry service for exonerees, we need to assess why some are still not successful.

When examining the cases in further detail, it becomes clear why parole itself is not enough to facilitate one's re-entry. For example, due to his professions of innocence, one exoneree was heavily abused while in prison and did not receive proper medical assistance on multiple occasions. The exoneree had family, however his bail restrictions prevented him from seeing them after his release. The accumulation of suffering eventually manifested into mental illness. Mere compensation and parole are not enough to facilitate re-entry when incarceration consistently victimizes the individual and when bail prevents exonerees from accessing important resources such as family. The other exoneree who was unsuccessful was awarded compensation and parole, however he lived his final days in semi-poverty and his health deteriorated before he was eventually diagnosed with and died from colon cancer. Again, parole cannot do much when exonerees are suffering from financial and/or health-related issues. It becomes clear that in cases where parole "does not work", there are multiple factors leading to unsuccessful re-entry that we currently do not address nor provide services for.

D. Discrimination

I would be better off in prison because [I am] almost broke and [don't] want to be a drain on my family (As quoted in Owen, 2010, para. 4).

In this sample, it was found that 20 (35%) of the exonerees expressed difficulties with finding employment after being wrongfully convicted. By listening to exonerees recount their experiences, it becomes clear that the lack of employment is linked to discrimination, which some exonerees have shared:

[I] couldn't land a job because [my] name was connected to the murder (As quoted in Barrera, 2018, para. 27).

Although [my] name has been cleared, [I] can never go back to [my] dream job ... [and now] live on the edge of poverty (As quoted in Harland-Logan, n.d., para. 25).

Quite frankly you're just too recognizable for us to have you. We'd love to have you. You've got the experience and stuff, the financial background ... Given the exposure you've had in public we don't think it's going to be a good fit (One exoneree recounts his experience, as quoted in Aylward, 2016, para. 12).

Overall, there proves to be resistance to hiring exonerees due to them being recognizable and the stigma of being tied to a serious crime. This stigmatization proves to be a large barrier to reintegration. Of those who have expressed issues finding employment (n=20), 80% were less than successful in reintegrating and overcoming their wrongful conviction. One exoneree details his

experience with both unemployment and how the accumulation of barriers has impacted both him and his family:

I carry the shame of a crime I did not commit ... every day. It has limited my work and career advancement opportunities, caused ... rejection from financial institutions, resulted in hardships for members of my family (Harland-Logan, n.d.a., para. 28).

Of those who spoke about their struggles in finding employment, only 35% were compensated. However, four of those seven (57%) were not compensated enough to sustain themselves and their family, in some circumstances. This means that the vast majority of exonerees who are struggling to find employment are also not compensated, adding an additional barrier in their reintegration. This leads to nine out of the thirteen (69%) exonerees being less than successful in their re-entry. The prevalence and accounts of job insecurity and unemployment are notable; suggesting that employment, even for the factually innocent, is incredibly hard to achieve and that unemployment causes marked difficulties on successful reintegration.

E. Declining Health

Out of the 57 exonerees examined, 23 were reported to have issues with mental and/or physical health. Of the 23, nearly 20% were found to be suffering from PTSD. Similarly, 22% were found to have suicidal ideations, with some attempting to commit suicide while incarcerated.

[He] also attempted suicide several times in prison, once lowering a line with fishhooks down his throat and yanking it back up (Makin, 2016, para. 14).

[He] contemplated suicide on many occasions during his adult life and says he never thought he would live to see the day his name would be cleared of this heinous crime (“Unravelling the Official Story, n.d., p. 16).

A few exonerees also mentioned suffering from mental illness, such as depression, and insomnia and using drugs or alcohol to cope. In women, mental illness seemed to be higher for those dealing with the loss of their children and with being wrongfully convicted of hurting their children. These women, termed “baby killer[s]” by some of their fellow inmates, seemed to be more exposed to verbal abuse and some instances of physical abuse. In men, mental illness could be related to experiences of sexual and physical assault, however this was only known to be present in a handful of cases. For one exoneree, his experiences were marked by cases of sexual and physical assault, which led to multiple suicide attempts (Innocence Canada, n.d., para. 10). However, this link remains unclear in most cases, and is likely impacted by many other difficulties and barriers to reintegration. Due to mental illness, three exonerees have been sent to psychiatric institutions. For one exoneree, who was mentally incapacitated and endured horrific instances of sexual and physical abuse in prison, the psychiatric institution he was sent to will most likely be his home for the rest of his life.

Researchers have yet to assess all the impacts of wrongful conviction on exoneree physical health. To best contextualize this issue, we can look to one exoneree, who suffered from multiple

heart attacks after years in prison beginning in his late 40s:

They took away the real food and they replaced it with processed food. So everything they're eating in prison is processed, it's full of salt and trans fat and everything else. Inmates are having heart attacks" (As quoted in Bousquet, 2019, para. 44).

The exoneree eventually left prison with stents in his heart. It took multiple heart attacks and a 15 hour wait to finally receive medical attention, and at that point one artery was already 90% blocked and the other artery was 99% blocked.

This story is not uncommon with 11 of 57 exonerees in this sample experiencing health issues due to their wrongful conviction (19%). Out of the 18 exonerees who were incarcerated at 30 years or older, seven dealt with serious health issues following release or while incarcerated (39%). Three others were under the age of 30 when admitted and released when they were 40; two of those three men died at 55 and 62 years old, while the other was left on disability and survived several heart attacks while incarcerated. Others reported stress-related medical issues, high blood pressure (3), migraines (2), arthritis, and nerve pain after being physically assaulted in prison. In this sample, six exonerees have died due to known health complications, at ages 55, 56, 62, 67, 69, and 76. This is incredibly alarming as the average age of death in Canada is 82 years old (World Bank, 2020), meaning that exonerees seem to be dying at a much younger age following incarceration. The table below displays the circumstances of all eleven exonerees who have suffered physical illness during or shortly after their incarceration.

Table 4.4 Age and Illnesses

Age at Incarceration (Length of Incarceration)	Age of Issues	Health Issues After Prison	Health Issues in Prison
43 years old (Incarcerated for 17 years)	40's-50s	n/a	Four heart attacks and broken bones after being physically assaulted by prison staff
56 years old (Incarcerated for 5 years)	71 years old	Died of unspecified illness	n/a
38 years (Incarcerated for 23 years)	n/a	Arthritis and difficulties falling asleep	n/a
33 years (Incarcerated for 31 years)	76 years old	Died of emphysema	Attempted suicide
36 years old (Incarcerated for 27 years)	63 years old	High blood pressure, described as in "pitiful health" and "grey and bloated"	n/a

Age at Incarceration (Length of Incarceration)	Age of Issues	Health Issues After Prison	Health Issues in Prison
17 years old (Incarcerated for 12 years)	n/a	Chronic respiratory disease requiring double lung transplant – died at 55 years old	n/a
29 years old (Incarcerated for 10 years)	50s	4-year battle with colon cancer – died at 62 years old	n/a
33 years (Incarcerated for 4 years)	30s	Suffering intense and frequent migraines following incarceration	n/a
24 (Incarcerated for 7 years)	Late 20s	Now dependent on heart medication and on disability pay	Developed serious heart condition – had a heart attack and required surgery in prison

F. Traumatic Events

The wrongful conviction itself is not the only thing that puts an exoneree at risk of developing physical and mental health complications. Exonerees live through many traumatic events such as sexual assault, physical assault, and near-death situations while in prison. One exoneree who is developmentally disabled suffered extreme physical and sexual abuse from rape to having boiling water poured onto him, leaving him with mental and physical scars that have landed him in a psychiatric institution. One lawyer described it as “among the most serious, if not the most serious” violations of fundamental rights ever reported (As quoted in Seguin, 2006, para. 12).

Even the sheer exposure to life in prison is traumatic in itself, one exoneree recounts his daily life:

You’d never know if you’d make it to the night ... I’ve seen the most horrendous things in the world — inmates getting stabbed, raped, slashing their own throats. The pain will never go away (As quoted in Silverberg, 2004, para. 3).

This is not merely a consequence of being incarcerated. For some exonerees, physical abuse was a direct repercussion of protesting their innocence, as one exoneree shares:

It was stainless steel, this thing, and he was beating me on the head with it... It was the worst beating I’ve ever taken in my whole lif ... [the interviewer] interrupts to ask if the guards gave him a reason for the beating. Well, it was for standing up for my innocence, because I was protesting my innocence all the time (As quoted in Bousquet, 2019, paras. 12-17).

Again, this is not a “one off” experience, and other exonerees share this reality—being

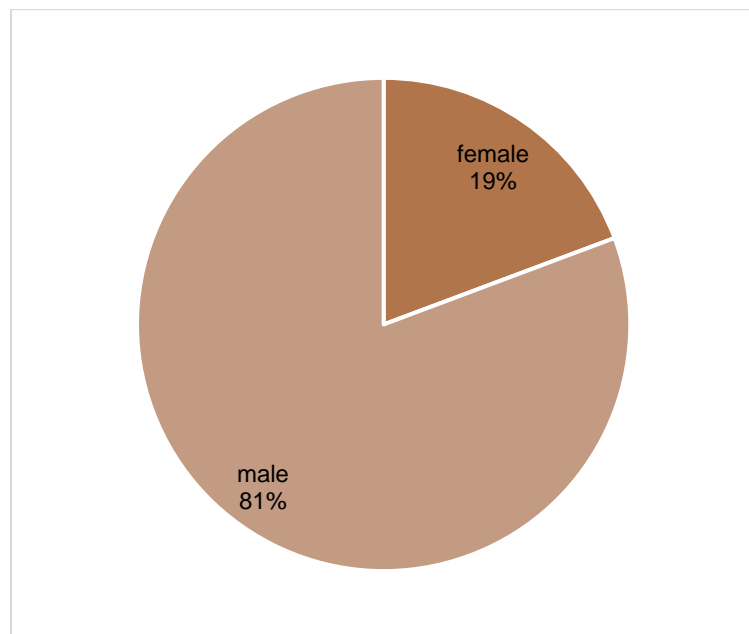
abused, either by prisoners or guards, due to their protests of innocence. Even when exonerated, exonerees are not truly free, which was the case for one female exoneree who was physically assaulted in public after her release. This was also the case for two exonerees who had their houses “firebombed”, this not only hospitalized one of the exonerees, but put both exonerees, their families, and livelihoods in danger. Above are only a few examples of the vast amount of trauma exonerees have endured. In this sample, there are fourteen individuals impacted by abuse due to their wrongful conviction, severely impacting their ability to successfully re-integrate.

G. Marginalized Groups

Two groups stood out in this study due to their over-representation in Canadian wrongful convictions. Those two groups were women and Indigenous people, who also seem to have unique needs and barriers in their re-entry.

Out of the 57 exonerees in this study, nine identified as female, which is approximately 16% of the sample. While this is a relatively low number, women only represent 6% of the Canadian federal prison population. In 2018, only 676 women were in a Canadian federal institution, with 133 serving life or indeterminate sentences and the majority serving sentences of less than five years (Correctional Services Canada, 2019, p. 1). In other words, female offenders, especially serious or violent offenders, are generally uncommon. On the other hand, men represent 93% of the Canadian federal prison population and 84% of my sample (Malekiah, 2020, p. 5).

Figure 4.2 Gender of Canadian Exonerees



Many women in the sample were young mothers and one was in a position wherein she worked with young children. The fact that they were wrongfully convicted of crimes against children greatly influenced the stigma they faced. One woman’s husband said:

This is one of the most terrible charges you can face. It's even worse than murder...How do you get over something like this? I know [we] didn't do anything wrong. Our lives are gone. Our reputation is gone (CBC News, 2003, para. 4).

He went on to claim they will never be able to escape the stigma of wrongful conviction. Even after being acquitted of any crime, some women experienced intense stigmatization and were blamed for the death of their children:

[Y]ou are guilty and you'll rot in hell ... you left [your child] to die, no matter what (Ableby, 2001, para. 7).

Of the women who were not wrongfully convicted of crimes against children, one was still heavily stigmatized as she was “connected” to a murder, saying that she “hit rock bottom after being released” (Barrera, 2018). Five out of nine women (56%) in this sample were known to have suffered stigma; there is no information concerning the remaining four women and their experiences with stigma. The majority of female exonerees were young mothers (56%), four were women of colour, and one other was developmentally disabled. Three women are known to be struggling incredibly due to their wrongful conviction, stigmatization, inability to find work, and/or turning to criminal behaviour or drug use. As mentioned previously, mental illnesses such as PTSD were apparent in female exonerees, perhaps the chance of PTSD is exacerbated in young mothers who have lost their children and have their lives taken from them shortly afterward. Some female exonerees were also pregnant while incarcerated, with one having her and her unborn child's life threatened by another inmate, adding to the level of stress incarcerated women must deal with. Due to most of these women's experiences of being a mother or caregiver, it seems women have unique and additional barriers in their re-entry than their male counterparts.

H. Indigenous People

This study included eleven Indigenous exonerees out of 57, or 19%. However, Indigenous people only represent 4.5% of the Canadian population. This means that not only are Indigenous people over-represented in Canada's legal system, but also in our sample of Canadian exonerees (Malakieh, 2020, p. 5). Of the 11 exonerees who identified as Indigenous, there was insufficient information about two to classify them as unsuccessful/successful, and another two had no information at all. The remaining seven experienced noticeable issues and barriers with their re-entry. Among this group, multiple sentiments are made to represent their difficulties coping and dealing with re-entry:

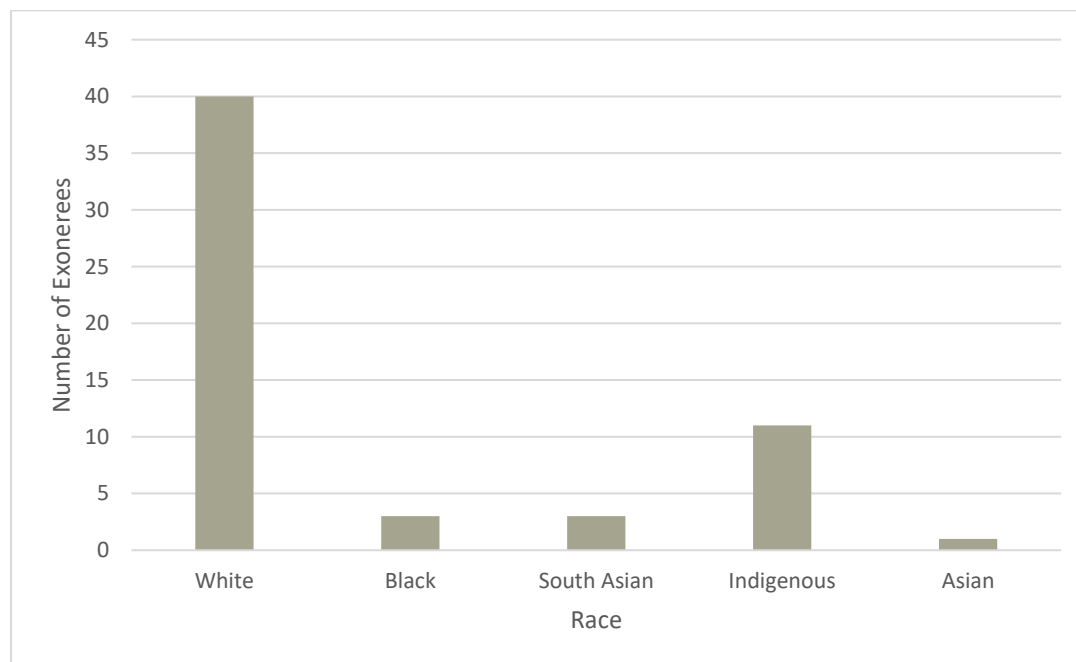
[The wrongful conviction] destroyed my life ... it has been nothing but hell for me and my family (As quoted in Harland-Logan, n.d.b, para. 22).

There are just no supports out there for reintegration for prisoners ... There are just no support systems whatsoever (As quoted in Barrera, 2018, para. 30).

Five of these individuals were also all from the age of 17-22 years old when convicted, which may have had significant impacts on their re-entry as well.

Below is a graph highlighting the races of Canadian exonerees. Indigenous exonerees seem to be over-represented when compared to other races. As of 2016, those of European origin made up 73% of the Canadian population, which is proportionate to their presence in this sample (70%) (Statistics Canada, 2016). However, for every four White exonerees there is one Indigenous exoneree despite making up less than 5% of the population.

Figure 4.3 Race of Canadian Exonerees



I. Other Marginalized Groups in Wrongful Convictions

This sample also indicated that 5% of exonerees were Black and another 5% were East Indian. Black Canadians make up 3.5% of Canada's population (Owusu-Bempah, Jung, Sbaï, Wilton, & Kouyoumdjian, 2021, p. 4). This suggests that Black Canadians may be over-represented in Canadian wrongful convictions as well.

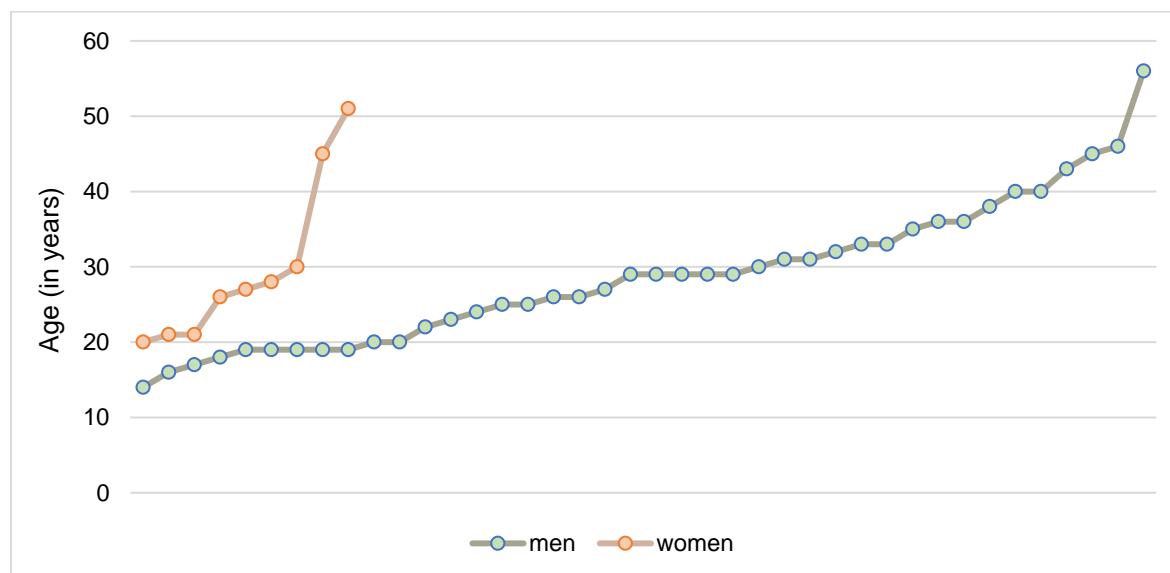
Due to the incredibly small sample size, it is difficult to draw any conclusions or results from their experiences. However, as Canadian Immigrants and Black Canadians belong to marginalized groups, I wanted to share their experiences with wrongful convictions as well. It is important to acknowledge these experiences as the miscarriage of justice commission has found that the number of Black inmates has increased by 75%, and "raise[s] important concerns about the over-representation of ... Black people among the wrongfully convicted" (LaForme & Westmoreland-Traoré, 2022, p.26). While this study has only a few Black exonerees represented, this commission indicates there may be many more not yet exonerated in Canada.

J. Growing up Incarcerated

I was interested in determining whether age influenced successful reintegration. The average age of incarceration was found to be 29 years old ($n = 49$) with a low of 14 and a high of

56. For women, the average age of incarceration was 29-30 years old ($n = 9$), while for men this average was 28-29 years of age ($n = 40$). The age of wrongful conviction for men began much earlier (14 years old) than for women (20 years old). Eleven men were convicted at 20 years old or younger, while only one woman was convicted at the age of 20.

Figure 4.3 Average Age of Incarceration for Exonerees



Since brain development is complete at approximately twenty-five years of age, I examined the success rates of exonerees who were convicted under the age of twenty-five. This sample contained 17 individuals; one was omitted due to lack of information. Of the remaining 16, three identified as women and thirteen identified as men. All three women were able to re-integrate quite well despite some mental health concerns and were all 20-21 years old when convicted. Of the men, seven did not have successful re-entries, and two more had semi-successful re-entries. Of the seven who were not successful, four had various “risk” factors, three of the men were Indigenous and the other had severe mental disabilities. The other three had no additional risk factors other than incarceration at a young age.

To contrast these findings on young age and successful re-integration, I also examined those who were incarcerated past the age of 35-years-old to see whether our older population of exonerees would be more successful than their younger counterparts. The sample in this group consisted of 19, 63% were found to be un-successful, 26% were semi-successful, and 11% were successful. Although this group had much lower success rates, they had strong familial support (86%) and most of the group did not have risk factors despite some of older age. Fifty percent of the sample dealt with illnesses due to their wrongful conviction, which impacted their quality of life and therefore their success rates.

It seems that older exonerees are at a higher risk of un-successful re-entry than younger exonerees. This may be due to the impact that incarceration had on their physical health in prison and shortly afterward. However, older exonerees are also more likely to have established careers and families prior to their wrongful conviction, meaning they could have lost more due to their

wrongful conviction than their younger counterparts.

The stress created by the accusation and the prospect of standing trial destroyed his marriage (Innocence Canada, n.d.a, para. 3).

She had, in her words, "lost everything" -- contact with her four other children, her reputation, all her possessions and close to four years of freedom (Appleby, 2001, para. 7).

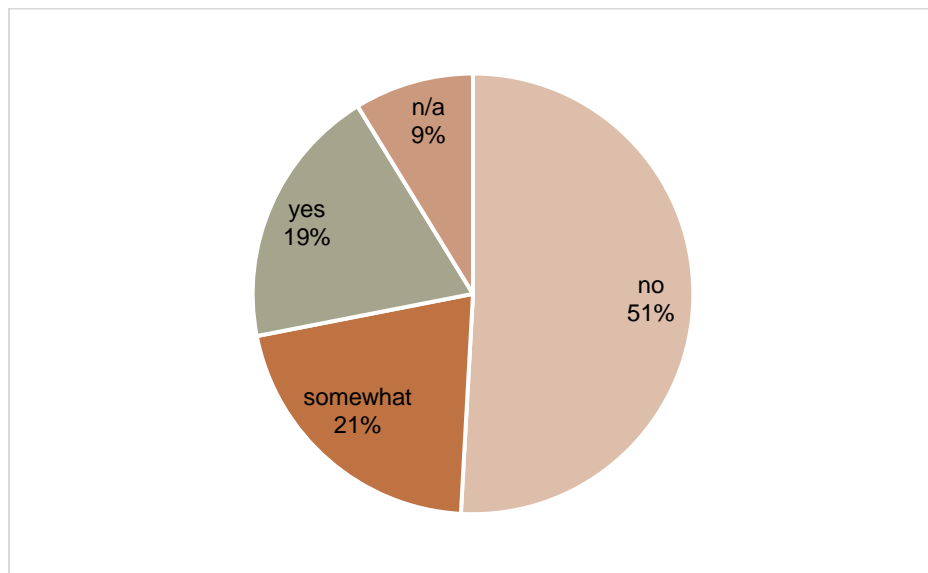
Unfortunately, these sentiments of loss and “destruction” were more common among those who have already established a livelihood, relationships, and family. Indicating that those who are more established may face additional challenges in re-entry. Establishment is not exclusive to age; however, it was more common in older exonerees than their younger counterparts.

K. Summarizing Success

It was my hope to conclude my results section with an “equation” that would lead exonerees to success. Of course, it is much more complicated than that due to the diversity of the exoneree population, coming from all walks of life, and the poor state of Canada’s re-entry assistance. Perhaps if our state of assistance was of higher quality and widely available, these results would be more definitive. Nonetheless, we can now identify common exoneree experiences in Canada, as well as what assistance we need to implement and improve to remove barriers.

The graph below summarizes the rates of successful re-entry among the exonerees in this study:

Figure 4.5 Success rates among Canadian Exonerees



Although the data on some supports such as parole, compensation, and social bonds show mixed results, one thing is certain—Canadian exonerees are given inadequate support leading to large barriers in obtaining a successful re-entry. Compensation, parole, and halfway housing are

all sparingly awarded to exonerees erecting additional barriers to re-entry. Without these services, exonerees may be pushed into poverty, their stigma preventing them from gaining employment, and the lack of funds creates difficulties obtaining housing or counselling. These can, and have, led to unhealthy coping mechanisms such as substance dependency and recidivism to assist in an exonerees survival. Due to the lack of government assistance, the onus is placed on the exoneree to take back the life that was wrongfully taken from them. Exonerees often have no one besides their family, and possibly legal team, to rely on for assistance. For some, issues are exacerbated if they suffered familial loss during or due to wrongful conviction. One may seek help from non-profit organizations, although it seems that many are unaware of these services, as only a couple have received assistance from organizations such as the EFS. Canadian non-profit organizations, however, do not currently have any specialized programs for exonerees—which are completely necessary to deal with the unique traumas and experiences this group faces. All in all, the criminal legal system has completely failed to address their failures and to mitigate these errors, leaving exonerees and their families with the burden of overcoming these traumatic experiences on their own.

V Discussion

Since these barriers have been identified, what we need now is the services to address them. The Innocence Project (2021a) has worked to outline a list of necessities that should be provided to exonerees, this list includes: a set compensation per each year incarcerated, financial support for necessities, affordable housing, medical/dental care, counselling services, education or skills training, and legal services to have one's criminal record expunged, help regain child custody, and obtain other benefits to which the exoneree may be entitled. The following discussion of policy implications applies these suggestions to the research findings.

A. Money Matters: The Need for Compensation Law

Only half of exonerees were able to obtain compensation from civil litigation, and this is only after they exerted what resources they may have left, and risk being denied compensation. This presents a myriad of implications, from not having the funds to obtain housing, to support family, and/or to seek out counselling. This phenomenon has already been noted in the literature by a study which found that American exonerees who do not obtain compensation have a higher likelihood of committing crime due to their difficulties with re-entry (Mandery et al., 2013, p. 555).

As the results show, many exonerees who obtain compensation may still be less than successful in re-entry, this can occur for several reasons. First, some exonerees do not receive a sustainable amount of compensation. These amounts are not able to support the exoneree, and their family, for an extended amount of time. This amount is unable to help exonerees receive all the help they need—medical attention, both physically and mentally, family counselling, housing, business endeavours, transportation, and whatever else they and their family need. In addition, compensation can take years to obtain, so by the time the exoneree is compensated, they have already been left struggling for years. As the literature has noted the “most pressing need faced by exonerees upon release is immediate transitional assistance”, meaning exonerees cannot afford to

await compensation (Simms, 2016, p. 156). Lastly, exonerees may be given money and sent on their way without assistance. One exoneree has previously discussed the topic of individuals taking advantage of exonerees who receive large sums of compensation (Westervelt & Cook, 2012, p. 204). Another exoneree shared similar sentiments, stating he received hundreds of “friend requests” on social media after his compensation award was published in the news (Page, 2013, p. 104). While this was not explicitly found in this study, it is a dangerous possibility that cannot be overlooked, and further promotes the idea that compensation should be accompanied by professional help from a financial manager. In this sense, compensation alone can result in adverse effects for the exoneree.

The establishment of mandated compensation at a fixed rate would ensure all exonerees are compensated fairly and equally. This would prevent the disparities we see in compensation being awarded currently. The enactment of legislation would also prevent the burden from being placed on exonerees and from the issue becoming politicized (Innocence Project, 2021a, para. 9). As said by the Innocence Project (2012), “by that time, the exoneree has already faced the biggest obstacles to readjustment on [their] own” (p. 18). Additionally, we cannot allow exoneree suffering to be prolonged or to expose exonerees to additional barriers in re-entry. Government mandated compensation would help combat these long civil trials from taking places and ensure compensation is awarded not only equal, but within a reasonable time.

B. Financial Assistance Training

Financial training or management must also be provided to exonerees alongside compensation. A study from Texas has assessed the benefits of financial management for those awaiting compensation and found that the program has proven useful, teaching exonerees how to properly budget, increased confidence regarding money management, and knowledge relating to building credit and obtaining a credit card (Page, 2013, p.109). Overall, exonerees found that the program “addressed financial issues they face on a regular basis” (Page, 2013, p. 109). A few states in America have begun adding various social services and financial assistance to their “compensation packages” (Page, 2013, p. 99). However, Canada has yet to implement these services for exonerees, despite their recorded benefits.

C. Re-Entry Services

As discussed, exonerees experience the same pains of imprisonment as actual offenders. These experiences are exacerbated for exonerees, who are wrongfully suffering and are not afforded the same help while incarcerated as discussed in the results section. Even after exoneration, exonerees are often no longer considered eligible for many re-entry services due to their exoneration (Nowotny et al., 2021, p. 2). Therefore, it is imperative to develop re-entry assistance available and relevant to the exoneree experience.

D. Social Services

Few studies have noted the importance of social workers in assisting and re-integrating exonerees. In addition to mandated compensation and financial assistance, assigning social workers to exoneree cases would assist exonerees in addressing their “immediate transitional

needs”, such as finding shelter, food, clothing, etc. (Simms, 2013, p. 156). As noted by Kirshenbaum et al. (2020), “social support is necessary for successful re-integration”, mainly due to issues in finding housing, food, and clothing (p. 190). Once these needs are met and the exoneree can move past the immediate obstacles of re-entry, social workers would work on “case management services”, assisting exonerees in obtaining affordable and permanent housing, finding work, finding a trusted doctor and dentist, and obtaining proper identification and documentation (Simms, 2013, p. 156).

As pointed out by Simms in the US (2013), exonerees are still a small population in the grand scheme of releasees and the general population, therefore it is not always “practical” to establish and fund programs solely for exonerees. Due to the smaller size of this population, a more feasible solution would be to create “emergency or short-notice reintegration plans for potential exonerees” (Simms, 2013, p. 156). These plans could be available in pre-existing re-entry programs; however, they would be specialized to address the needs of exonerees, enabling us to provide specific and urgent re-entry assistance.

E. Medical and Dental Care

Many exonerees in this sample suffered from physical illness, some have died from it and others will never live a normal life because of it. This begs the question of whether these deaths and illnesses were preventable if only the exonerees were given the proper standard of medical care following their exoneration.

Incarceration and prison food is known to be harmful to one’s health, creating “risk factors for cardiovascular diseases and other chronic conditions” (Reimer, Pearce, Marek, Heslin & Moreno, 2021, p. 1403). This corroborates my findings, as there were higher rates of cardiovascular issues than any other issue. Chronic health issues were found to be correlated to negative feelings (i.e., depression, anger, bitterness), meaning the presence of mental health issues can manifest into physical ones in the future (Kirshenbaum et al., 2020, p. 186). This is concerning, especially for exonerees who may be more likely to manifest negative feelings due to their wrongful conviction.

Not only does incarceration cause a decline in health, but the literature has noted that releasees also have reduced access to healthcare, as well as high rates of discrimination against those with a criminal record (Reimer et al., 2021, pp. 1403-1404). Discussion of exoneree physical health is sparse, however, it is incredibly clear that exonerees may face multiple barriers in healthcare and have their health compromised because of wrongful incarceration.

F. Mandated Counselling Services

The results show that mental illness is prevalent among exonerees, these findings are further supported by the literature (See Grounds, 2004). According to the literature, “long-term functioning”, or success, is “correlated with the support provided during the initial stages of reintegration” (Kregg, 2016, para. 2). Kirshenbaum et al. (2020) corroborate these findings, stating that “exoneree mental health is one of the largest obstacles to successful re-integration” (p. 189). One major concern for exonerees re-entering is dealing with the trauma of wrongful conviction

and incarceration, as sexual trauma has been linked to depression, suicidal thoughts, and attempts. It is clear then, that sexual abuse produces noticeable difficulties with successfully re-integrating (Kirshenbaum et al., 2020, p. 185). Those who are developmentally disabled, or even those struggling with mental illness while incarcerated, are at a much greater risk of sexual abuse, approximately nine times higher (Kirshenbaum, 2020, p. 185). This finding was reflected in the results, with one of two exonerees who are developmentally disabled suffering from marked levels of violence.

Studies have found that physical harm far exceeds sexual abuse in terms of frequency, with physical harm being estimated to be five to ten times as prevalent as sexual abuse (Kirshenbaum, 2020, p. 185). Likewise, it seemed physical abuse was more apparent, or more likely to be reported, than sexual abuse—leading to pervasive mental health issues and less successful re-entries. It is, then, integral for exonerees to receive support upon being exonerated from federally funded re-entry service programs (Kregg, 2016, para. 3).

G. Family Counselling and Support

Social bonds such as family or other relationships have been identified as an “important factor for predicting” successful re-integration, as “maintaining” these bonds assists with coping and eases re-entry (Kirshenbaum et al., 2020, p. 187; Nowotny, 2021, p.3). The literature has noted that family strain is common among exonerees due to their wrongful conviction and many families experience feelings of being “overwhelmed” (Kirshenbaum et al., 2020, pp. 190-191). These feelings can arise from having to physically provide for the exoneree, or from being affected by how much the individual has changed while incarcerated due to time and possibly mental illness (Kirshenbaum et al., 2020, p. 191; Grounds, 2004).

Families must deal with the loss of a loved one that could have been entirely prevented if it were not for legal errors. As a consequence of wrongful convictions, many children have also missed the opportunity to be raised by their parents, often being taken to foster homes and being put up for adoption which has led to some horrifying instances of abuse. However, this study has also found that families of those who are wrongfully convicted suffer in some of the same ways as exonerees themselves, from being abused in foster homes, being denied housing and employment, to suffering intense stigmatization in their social lives. Social bonds are incredibly important in achieving a successful re-entry; therefore, family counselling and services must be offered to ensure exonerees have these necessary social bonds and to provide justice to the families affected by wrongful conviction.

H. Indigenous Exonerees

Indigenous people were also found to be over-represented in Canadian wrongful convictions of serious crimes (19% of the sample). Not only are Indigenous people at a risk of wrongful conviction, but they also seem to experience more barriers in successfully re-integrating. This may be further exacerbated due to many Indigenous exonerees’ young ages at the time of incarceration. It is assumed Indigenous exonerees may face additional barriers as some members of this group had familial support and compensation, yet still struggled immensely with re-entry. This finding was quite unexpected, as it was hypothesized that with compensation and/or strong

social bonds, one would have a much better chance at successful re-entry.

The literature has pointed out that in general, Indigenous releasees seem to struggle more than non-Indigenous releasees with re-entry. Willis (2008) found that Indigenous people were 1.4x more likely to recidivate than non-Indigenous people (p.2). Willis (2008) hypothesized that a likely contributing factors to unsuccessful re-entry among Indigenous groups is a lack of culturally relevant services (p.5). Indigenous people who have been incarcerated call attention to the “need for Indigenous specific programs”, as a lack of these programs was indicative of both reduced participation in programs and unsuccessful re-entry for actual offenders (Willis, 2008, p. 5). A study by Ellerby and MacPherson (2002) found increased rates of completion (83%) when programs incorporated traditional Indigenous healing approaches than those that did not (55%). Trevethan et al. (2005) corroborated these findings, adding that 91% of participants were pleased that Indigenous healers led their programming. Overall, studies in this subject area found that culturally relevant programs enable Indigenous people to strengthen their connection to the community, serving as a “protective factor” in re-integration (Gutierrez, Chadwick, & Wanamaker, 2018, p. 327). The literature on cultural relevant programming has been done in the general prison population, however, the outcomes seem promising for all formerly incarcerated Indigenous people, including exonerees, who struggle with their re-entry.

I. Age as a “Risk Factor”

It is well documented that the brain matures until the age of about twenty-five-years-old; until then, our development is greatly impacted by our environment (Arain et al., 2013, p. 451). This includes our nutrition, sleep patterns, drug abuse, and any type of stress whether it is physical, emotional, economical, or mental (Arain et al., 2013, p. 450). Incarceration is known to cause stress, due to high rates of violence or exposure to violence and sleep deprivation, which could have negative effects on brain development (Umbach, Raine, & Leonard, 2017, p. 35). However, young age at conviction did not seem to result in as many issues as did older age at conviction (35 years or older). Although younger exonerees are thought to be impacted in many ways due to the environment under which their brain is developing, possible inability to start a family, receive an education, and start their lives, I saw much more difficulties for older exonerees. One study noted that the “prevalence of major depression was 50 times higher among incarcerated older men” than in the community (Williams & Abraldes, 2007, p. 61). It would be naïve to assume this finding does not also impact exonerees.

Literature on the general prison population, has found that older individuals who have been released from prison had “nearly five times greater risk of a subsequent suicide attempt than those never incarcerated” (Barry et al., 2018, p. 1171). According to some scholars, prisons were designed for the young, meaning “age introduces additional challenges in safety, functional ability, and health” (Williams & Abraldes, 2007, p.56). This continues in the prisoner’s re-entry, where they may experience more difficulties due to age such as “having multiple medical conditions with limited access to medical care”, leaving a “familiar” setting, and being “frail in an unsafe neighborhood” (Williams & Abraldes, 2007, p. 57). These findings were prevalent in the following study, as some exonerees will never be the same again due to physical illness, one exoneree suffered physical abuse so horribly that it continues to cause him physical pain, another must remain on disability for the rest of his life, causing additional barriers to success.

These results are also consistent with the literature that has shown that those who are incarcerated are more likely to be diagnosed with chronic illness and have a 3.5x higher likelihood of death following incarceration than non-incarcerated individuals (Howell et al., 2016, p. 1496; Binswanger et al., 2007, p. 157).

J. Automatic Record Expungement

One study found that approximately one-third of exonerees have not had their record expunged (Scholsberg et al., 2014). In Canada, one can only apply to have their record expunged for very few crimes, excluding anyone wrongfully convicted of murder, manslaughter, and sexual assault. Additionally, applying requires one to submit certain documentation. This process is not only lengthy but can also incur additional fees (Parole Board of Canada, 2022). In America, it was found that “petition-based record clearing” can cost nearly \$4,000 USD, compared to automatic processes which can range from \$3-128 USD per person/charge (Chien, 2020, p. 575). In Canada, we also function under this “petition based” expungement, meaning that many exonerees may not have the funds to get their record expunged, even if eligible. A criminal record for exonerees can have a criminogenic affect as well. A study on post-exoneration offending found that exonerees without their record expunged were significantly more likely to engage in post-exoneration offending (Scholsberg et al., 2014, p. 353). Automatic record expungement is not only cost-efficient, but would also help decrease crime in our communities, and assist exonerees in their re-entry—all which benefit the community and government, therefore should be a priority in public policy (Scholsberg, 2014, p. 355).

K. Public Education and Awareness

A commonly overlooked solution in the literature is public education and awareness on wrongful convictions. The idea of social stigma on exonerations in the literature is noticeable (See Clow & Leach, 2015; Scherr, et al., 2020; Blandisi, Clow, & Ricciardelli, 2015). Clow & Leach (2015) have called on this need to examine whether awareness can “mitigate stigmatizing views of exonerees” (p. 183). While this study did not examine public attitudes, it did note extreme social stigma leading to the loss of opportunities such as employment and housing for exonerees and their family alike. Introducing the topic of wrongful convictions into our grade-school, university, and law school curriculum could not only help prevent wrongful convictions from occurring, but also help the public to understand why wrongful convictions occur to reduce any negative stereotypes made about exonerees. By reducing stigma about wrongful convictions and exonerees, we can increase the likelihood of exonerees finding housing, employment, and creating social bonds in the community—all which would assist in re-integration.

VI Conclusion

At the end of this study, I hoped to be able to develop a formula that could predict success. However, throughout the study, it became increasingly clear that this formula does not exist--exonerees, who come from a range of backgrounds, levels of education, genders, age groups, races, and socio-economic status, all have complex needs and a variety of experiences. While the answer is not definitive it seems that social assistance, adequate compensation, strong family bonds, and

parole could all function to help increase success rates. Additionally, if exonerees had access to financial assistance, medical care, counselling, and social services, previous issues with compensation, parole, and other forms of assistance, existing issues would be mitigated. By mandating compensation, providing financial assistance, counselling, and a social worker to help exonerees obtain medical care, affordable housing, and any other unique services they may require, such as culturally relevant care, we would see much higher rates of success in exoneree re-entry as these services largely address every issue this study has seen with the current state of exoneree re-integration in Canada.

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