

Societal Perceptions of Wrongful Convictions

By

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Abstract

In recent years wrongful convictions have received a considerable amount of research attention. This flourishing interest has resulted in a growing body of literature that aims to investigate this criminal justice phenomenon. Specifically, the current academic literature suggests that exonerees have reported feeling stigmatized; however, public perception research suggests that the public is actually supportive of exonerees. As very little research has been conducted on public perceptions of wrongful conviction—and on the views of community members, in particular—this thesis sought to further explore this topic using open-ended, structured interviews. In addition, the literature has been criticized for its lack of theory integration. Therefore, the results of this study have been interpreted in the context of Giddens' Structuration Theory. Indeed, public perception and support are important as they may influence policy changes and encourage the government to be more forthcoming when it comes to preventing wrongful convictions and helping exonerees post-conviction. Overall, results indicated that community members defined wrongful conviction as cases of factual innocence. They also had limited knowledge of wrongful conviction, leading some participants to believe that wrongful convictions were infrequent. Community members were also able to identify several factors that lead to wrongful convictions (e.g., mistaken eyewitnesses), felt that the criminal justice system did a fair job in light of wrongful convictions, and generally held positive views toward exonerees (e.g., believing that they should receive supportive services, such as financial compensation, job training, and apologies). Furthermore, results highlight that while community members acknowledge that exonerees likely experience stigmatization, the majority of participants did not personally express stigmatizing views.

Key words: Wrongful conviction, public perception, criminal justice attitudes, stigma, structuration theory, compensation, apology.

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CHAPTER ONE: An Introduction to Wrongful Convictions

In recent years, wrongful convictions have received considerable research attention, resulting in a growing body of literature that aims to delineate and prevent this criminal justice phenomenon (e.g., Anderson & Anderson, 2009; Bedau & Radelet, 1987; Campbell & Denov, 2004; 2005; Colvin, 2009; Doob, 1997; Grounds, 2004; 2005; Huff, Rattner, & Sagarin, 1996; Innocence Project, 2009; Scheck, Neufeld, & Dwyer, 2000; 2003; Westervelt & Cook; 2008; 2010). This thesis commences with an introductory overview of the definitions and frequency of wrongful convictions in order to contextualize what wrongful convictions are and how often they occur. This will be followed with a theoretical background where structuration theory, attitudes toward the criminal justice system, and stigma will be explored. In particular, structuration theory may lend insights into public perceptions of wrongful convictions in general, and the results from this study in particular. Subsequently, there will be a literature review discussing pre-conviction (e.g., factors leading to wrongful convictions) and post-conviction (e.g., re-entry services, compensation and apology) elements as well as public perceptions of wrongful convictions. The results of this study will be presented and then discussed.

Definitions of Wrongful Conviction

Within the literature there are differing perspectives on how to define ‘wrongful conviction’. Some researchers argue that an individual has experienced a *miscarriage of justice*—even if the individual is guilty—when procedures are carried out incorrectly (e.g., Bohm, 2005; Garner, 2000). Others contend that *wrongful convictions* involve only innocent individuals who have been erroneously convicted (e.g., Anderson & Anderson, 2009; Doob, 1997; Huff et al., 1996; Savage, Grieve, & Poyser, 2007; Weathered, 2007). This disagreement may arise, in part, due to some researchers using the terms ‘miscarriage of justice’ and ‘wrongful

conviction' interchangeably. Moreover, sometimes the term 'miscarriage of justice' is used as a general heading, encompassing people who have experienced procedural defects as well as convicted innocents. This lack of distinction has led to definitional problems and debates, calling for the term "wrongful conviction" to stand separate from miscarriages of justice (Doob, 1997; Huff et al., 1996; Roberts & Weathered, 2009; Savage et al., 2007; Weathered, 2007).

Miscarriages of justice. Garner (2000) stated that a 'miscarriage of justice' can be defined as "a grossly unfair outcome in a judicial proceeding. For example, when a defendant is convicted despite a lack of evidence on an essential element of the crime" (p. 811). Miscarriages of justice may include factors such as an attorney not filing their client's paperwork on time or a defendant was guilty but their rights were violated at some point (e.g., defendant's case did not go to trial within the proper time frame) (Bohm, 2005). According to Nobles and Schiff (2000), these occurrences emphasize the gap between the values emphasized by the criminal justice system (e.g., due process) and the actual practices that are carried out. In many cases, individuals have their convictions quashed based on pre-trial irregularities or by illustrating that the evidence presented at trial was illegally collected (Roberts, 2003). Notably, these individuals have been described as the 'judicially released guilty' within the literature (e.g., Huff et al., 1996). Roberts (2003) contends that a defendant is more likely to have their conviction pardoned on these 'irregularities' as opposed to errors in fact.

Wrongful conviction. In contrast to the term miscarriage of justice (e.g., Bohm, 2005; Garner, 2000), other researchers argue that the term 'wrongful conviction' should be used when an *innocent* person has been convicted (e.g., Doob, 1997; Huff et al., 1996; Savage et al., 2007; Weathered, 2007; Zalman, Smith, & Kiger, 2008). For example, Huff et al. (1996) argued that convicted innocents are "people who have been arrested on criminal charges, who have either

pleaded guilty to the charge or have been tried and found guilty; and who, notwithstanding plea or verdict are in fact innocent” (p.10). These researchers contend that when procedural defects or technicalities are being assessed within a trial, it is not the innocence of the accused that is being determined, but rather the unfairness surrounding his or her arrest and conviction (Huff et al., 1996). Thus, these procedural defects should not be considered a wrongful conviction (Doob, 1997; Huff et al., 1996; Savage et al., 2007; Weathered, 2007; Zalman et al., 2008).

It is important to note that the criminal justice system stresses the importance of the latter definition of wrongful conviction (i.e., convicted innocent) in decisions surrounding compensation (Ministry of Justice in Ontario, 2011). According to the Ministry of Justice in Ontario (2011), proving factual innocence is required because ministers are accountable for the expenditure of public money and, thus, are ‘cautious’ when making payments to members of the public. Although preliminary survey research has found that the public favors financial restitution for the wrongly convicted (e.g., Angus Reid, 1995), it has been argued that the public would be wary if significant sums of money were paid to guilty individuals who have been released based on procedural defects (Robins, 2008). Thus, the Ministry of Justice (citing the *Hill v. Hamilton-Wentworth Regional Police Services* case) is strict about compensation guidelines because “it would not be in the interests of justice to provide a person who had committed the offence, but whose guilt could not be proved, with the means of profiting from the commission of his crime” (2011, p.1). At present, it is unknown whether the public associates the term ‘wrongful conviction’ with the judicially released guilty or the factually innocent.

In sum, Savage et al. (2007) suggest that it may be beneficial to frame cases of technicalities or procedural defects differently than cases of factual innocence, as these convictions are based on grounds that appear to conflict with the rhetoric of the criminal justice

system rather than the guilt or innocence of the individual. Ultimately, it is misleading to make ‘miscarriage of justice’ an umbrella-term that encompasses technicalities as well as factual innocence. Many scholars in the field acknowledge these differing perspectives, with the majority contending that the ‘judicially released guilty’ should be separated from the ‘factually innocent’ (e.g., Doob, 1997; Huff et al., 1996; Roberts & Weathered, 2009; Savage et al., 2007; Weathered, 2007). In particular, the term ‘wrongful conviction’ should be distinguishable from the term ‘miscarriage of justice’ in order to avoid confusion, especially because individuals who are released on technicalities (i.e., the judicially released guilty) outnumber the convicted innocent (Huff et al., 1996).

Estimating the Frequency of Wrongful Convictions

Back in the 1930s, the general view was that wrongful convictions did not occur (Borchard, 1932). In fact, the pioneering research conducted by Edwin Borchard was done in response to a local district attorney who stated that “innocent men are never convicted. It is a physical impossibility” (Borchard, 1932, p.5). Despite these views, Borchard (1932) was able to document 65 cases of innocent people being convicted.

Subsequent work by other researchers has demonstrated that hundreds of innocent individuals have been wrongly convicted (e.g., Bedau & Radelet, 1987; Huff et al., 1996; McCloskey, 1989; Poveda, 2001; Scheck et al., 2003). For example, Bedau and Radelet (1987) examined 350 cases of convicted defendants that they determined were factually innocent. In addition, the advent of post-conviction DNA testing (from the mid-80s to present-day) can be credited for shedding greater light on the occurrence of wrongful conviction (Ramsey & Frank, 2007). As a result of this attention, people have come to realize that wrongful convictions do

happen, shifting the question from “do wrongful convictions even occur?” to “how frequently do they happen?” (Ramsey & Frank, 2007)

Ramsey and Frank (2007) posit that the frequency of wrongful conviction has been underestimated for two reasons. First, cases of wrongful conviction are not typically exposed by the justice system itself. That is, the ability of the justice system to discover and correct its own errors (Bedau & Radelet, 1987; Ramsey & Frank, 2007). Most cases of wrongful conviction are brought forth by an independent individual or organization (e.g., AIDWYC, Innocence Project), rather than members of the criminal justice system (Bedau & Radelet, 1987; Ramsey & Frank, 2007). These individuals or innocence organizations dedicate the time, money, and manpower necessary to see that justice is sought (Adams, Hoffer, & Hoffer, 1991; Protess & Warden, 1998; Scheck et al., 2000). For instance, in order to help her son, David Milgaard, Joyce Milgaard approached federal justice minister, Kim Campbell; however Joyce’s efforts were dismissed by Campbell (CBC News, 1990). These unsuccessful attempts prompted Joyce Milgaard to start her own investigation where she was able to locate key witnesses (Holbrough, 2005). Thus, those who do not receive outside assistance, independent from the government, will likely remain incarcerated (Ramsey & Frank, 2007).

Second, as already mentioned, a large number of new wrongful conviction cases came forth as a result of modern forensic techniques (Ramsey & Frank, 2007). Scientists discovered that they could take old evidence (blood, hair, semen, etc.) and re-analyze it with new DNA technologies in order to determine if a convicted individual was, in fact, innocent (Ramsey & Frank, 2007). Unfortunately DNA material is available in only a small percentage of criminal cases (Gross, Jacoby, Matheson, Montgomery & Patel, 2005; Scheck et al., 2000). Therefore, while wrongful convictions have been discovered using DNA technology, there are other cases

involving incarcerated innocents who will never benefit from this new science due to the circumstances of their case (Ramsey & Frank, 2007).

Exposing incidences of wrongful conviction (through the use of DNA technology) also inspired new research on convictions that have been overturned without the examination of old, biological evidence (Ramsey & Frank, 2007). Systemic issues (inadequate defence attorneys, overzealous prosecutors and police, racial bias, etc.) within the criminal justice system also became a focus (Ramsey & Frank, 2007). Gross et al. (2005) found 183 exoneration cases (since 1989) where evidence, other than DNA, was used to declare a defendant not guilty of a crime which he or she had been wrongfully convicted. However, many researchers who have studied this phenomenon argue that known cases only represent the ‘tip of the iceberg’ when it comes to the actual number of wrongful convictions (e.g., Anderson & Anderson, 2009; Gross et al., 2005; Huff et al., 1996; McCloskey, 1989; Poveda, 2001; Scheck et al., 2000).

Although the number of wrongful convictions is an unknown figure that cannot be exactly determined (Campbell & Denov, 2005), researchers have generated frequency estimates instead. One method of calculating wrongful conviction frequencies was proposed by Radelet and Bedau (1998). Following the belief that guilt “beyond a reasonable doubt” meant 95% confidence (as we cannot be 100% certain), Radelet and Bedau (1998) explained how to calculate the odds of a wrongful conviction among death row inmates. Specifically, if 100 inmates were executed and the justice system is 95% certain of guilt, this means five of out the hundred are possibly innocent (Radelet & Bedau, 1998). The problem is that we do not know which five are innocent and if there could be more. Applied across all defendants in similar circumstances, the conviction error rate continues to rise—the larger the population, the greater the odds of having innocent defendants (Radelet & Bedau, 1998).

Various studies have provided estimates on the frequency of wrongful conviction ranging from 0.5% to as high as 20% (Holmes, 2001; Huff et al., 1986; McCloskey, 1989; Poveda, 2001; Ramsey & Frank, 2007; Zalman, et al., 2008). Looking at American criminal justice officials, most posit that approximately 0.5% of all felony convictions were wrongful (Huff et al., 1996; Ramsey & Frank, 2007; Zalman et al., 2008). Thus, if the common estimate of 0.5% is considered, and there are approximately two million people incarcerated in the United States, these estimates suggest that between 10,000 and 400,000 wrongly convicted individuals are incarcerated (Bureau of Justice Statistics, 2004). Just looking at the lower end of the abovementioned spectrum (0.5%-20%), this translates into 20,000 individuals incarcerated for crimes they did not commit (Ramsey & Frank, 2007). Therefore, research suggests that the conviction of factually innocent people may be more prevalent than previously thought (Radelet & Bedau, 1998).

Positions within the criminal justice system seem to influence frequency estimates, as researchers have found defence attorneys to report higher estimates of wrongful conviction than do police officers and prosecutors (Doob, 1997; Ramsey & Frank, 2007; Zalman et al., 2008). For instance, Doob (1997) surveyed defence lawyers in Ontario, Canada and found that 46.3% (n=99) reported that they had represented at least one client that they believed to be innocent who was nonetheless convicted. Research has yet to explore frequency estimates generated by the general public. This chapter has provided an overview on the definitions of wrongful conviction as well as the frequency estimates discussed within the literature. In the following chapter, structuration theory, attitudes towards the criminal justice system and stigma will be presented in order to establish a theoretical framework for the current research.

CHAPTER TWO: Theoretical Background

This research focuses on wrongful convictions in the context of structuration theory, attitudes toward the criminal justice system, and stigma. In particular, these different approaches work together to discuss the impact of public perceptions as well as to explain public attitudes. Thus, this chapter outlines the theoretical underpinnings in these three areas that will be used in this thesis.

Structuration Theory

Giddens (1984) proposed that social structures and their agents should not be viewed as independent, conflicting elements, but rather mutually interacting dualities. In essence, structuration theory's main idea is that "social structure is seen as being drawn on by human agents in their actions, while the actions of humans in social contexts service to produce, and reproduce the social structure" (Jones, 1999, p. 104). In other words, by continuing to act in certain ways, citizens are reinforcing structures (and its agents), and by reinforcing these structures, citizens shape society. Meanwhile, these structures, in turn, reshape people by ensuring they continue to act in ways that allow the structure to thrive (e.g., abide by rules and regulations set out by an institution). Therefore, structuration theory has the ability to explain both the individual (e.g., agents in an institution) and institutional elements (e.g., how the institution is structured) of social life (Giddens & Pierson, 1998; Jones, 1999). Structuration also looks at the properties that make it possible for social practices to exist across different spans of time and space (Giddens, 1984; Giddens & Pierson, 1998). Established institutions have the greatest time-space extension as they are typically embedded within society and have a specific purpose (Giddens, 1984).

Giddens (1984) explained that sometimes unintended consequences do occur within a structure or institution and these consequences may be a by-product of regularized behaviour by participants of an institution or social structure. That is to say, for behaviour to count as action, whoever committed the act must have intended to do so, or else the behaviour is simply a reactive response (Giddens, 1984). Examining the agents of social structures more closely, sometimes there are external 'dark currents' (e.g., political powers, systematic biases, economic conditions) that tend to be outside of the agent's awareness or consciousness, which may inadvertently influence their actions (Giddens, 1984). In addition, Giddens (1984) argued that a seemingly trivial act may trigger events, producing the unintended outcome. When action is produced, it is also reproduced in terms of day-to-day performances within the institution or structure (Giddens, 1984). In duplicating structural properties to complete a task, agents must repeat the conditions that make this action possible since the structure is reliant on their knowledge (Giddens, 1984). Hence, a task that would appear seemingly routine for an agent within the institution, may lead to an unintentional result.

Members of the public expect that agents are competent in the execution of their day-to-day tasks (Giddens, 1984). Namely, these agents should be able to explain most of what they do, if asked. Interestingly, citizens often do not question a person on why he or she engages in a particular activity, which is viewed as typical for the group or culture they are a part of (Giddens, 1984). This is because these everyday tasks are enacted in the same manner as 'scripts' (Barley, 1986).

However, it is possible that while agents may know their jobs, they may have little knowledge on the ramifications of certain activities and routines in which they engage (Giddens, 1984; 1993). Therefore, as an action moves through a social structure, it becomes further and

further removed from the original act. This makes it less likely that the consequences, which have occurred along the way, are intentional—the occurrence is now dependent on too many other contingent outcomes to be something the original actor ‘did’ (Giddens, 1984). The theory of structuration explains that patterns result from complex individual activities. The end result of these activities may lead to an unintended consequence, which may be distant in time and space from the action that originally set it in motion (Giddens, 1984). Ultimately, the reproduction of social systems is partly based on the knowledge and conduct of its actors, who draw upon the rules and resources within their jobs to produce and reproduce the institution. Giddens’ (1984) referred to this as the *duality of structure*—while structures may shape social life, they can only exist through the activities of human agents.

Oftentimes, factors such as changes in technology (e.g., advances in DNA technology), cultural exposure (e.g., multiculturalism), or education (e.g., post-secondary schooling, public awareness) may increase awareness and the odds of agents realizing that modifications are needed within their institution (Burns, 1961; Ranson, Hinings, & Greenwood, 1980). Indeed, Boisot and Child (1988) argued that if there is an intention to revise or alter regularized behaviour, this typically leads to institutional change. Likewise, Giddens (1984; 1993) claimed that human agents have the capability to produce change within a structure or institution.

However, agents’ ability to stimulate change is precluded when they are constrained by the inflexibility of others who prefer not to disturb the status quo and, therefore, are resistant to reassessing previously negotiated structures (Jones, 1999; Pettigrew, 1987). It can be suggested that the tendency to repeat the same things over and over stems from the idea that if it has worked in the past, it will likely continue to work years later. Agents also may be constrained through pressures to follow overarching powers that preside over them. Pettigrew (1987) argued

that before these agents can question patterns of behaviour and alter a structure or institution, contextual change is necessary beforehand. In other words, even if agents try to do all the right things, the way the institution is structured may negate their positive efforts. Thus, without this contextual change agents are likely to reproduce scripted behaviour, and this action enables institutions to be so persistent throughout time and space (Hughes, 1936). The ultimate question here is: is there something about the system or institution that is preventing its agents from carrying out their jobs? Giddens (1984) argued that social structures are not necessarily reliant on the activities of particular individuals, yet institutional collectiveness would not exist if the involved agents disappeared (Giddens, 1984). Therefore, the activity of certain agents must be integral to the wider social system.

While agents serve to reproduce structures, citizens in the social context also contribute to the shaping and reshaping of structures (Giddens, 1984). Indeed, if the social structure has become a routine element of human conduct, this leads to the production and reproduction of behaviour—also known as ‘routinisation’ (see Jones, 1999). Specifically, these routines take place through socialization and involve individuals who internalize rules and interpretations of behaviour that are deemed appropriate within a particular setting (Berger & Luckmann, 1967). In order to ensure that citizens continue to act in preferred ways, Barley & Tolbert (1997) argued that institutions set boundaries for society by restricting the visibility of perceived opportunities and alternatives, which then increases the likelihood that compliant behaviour will continue. In sum, the theory of structuration concerns itself with the conditions governing the continuation or transformation of ongoing structures (Giddens, 1984; Jones, 1999).

Attitudes Toward the Criminal Justice System

It has been noted that public trust or confidence is essential to the functioning of the criminal justice system (Roberts, 2004). For example, most crimes come to the attention of the police due to a report from a victim or witness—members of the public (Roberts, 2004). Thus, if members of the public have little confidence in the police response, they are unlikely to report crime; however, if they have confidence in the police, they are more inclined to report an incident (Roberts, 2004). Tyler (2002) stated that if a system discriminates against minorities, lacks professionalism, or is out of touch with community values, it will not be viewed as legitimate by the public. Furthermore, in order to be perceived as legitimate, the justice system must inspire confidence (Roberts, 2004). As Roberts (2004) argued, “power can be assigned, but legitimacy and authority have to be earned” (p.1). Generally, legitimacy is shown through acts of fairness and integrity (Roberts, 2004).

In 2003, Statistics Canada found that 43% of Canadians expressed “quite a lot of confidence” and 14% had a “great deal of confidence” in the justice system. On the contrary, 27% expressed “not very much confidence” and 7% had “no confidence at all” in the justice system (the remaining participants responded “don’t know”). This suggests that Canadians are more positive than negative when it comes to the criminal justice system as a whole (Roberts, 2004). Generally, low confidence occurs when Canadians subscribe to a number of media broadcasts surrounding crime and criminal justice practices (Roberts, 2004). In particular, the over-estimation of recidivism rates and the perception that the criminal justice system favours suspects (accused persons and offenders) have been noted in lowering confidence in the justice system (Roberts, 2004).

The general public tends to possess a crime-control orientation (Dowds, 1995; Roberts, 2004; 2007). In other words, most people favour a system that manages crime rather than a system that has procedural safeguards. This can be explained by the fact that citizens routinely follow the laws set by the criminal justice system out of habit and with the expectation that compliance will secure their safety and the safety of others—perpetuating the shaping and reshaping of structures, its agents and society as asserted by the theory of structuration (Giddens, 1984). Therefore, when the justice system goes against its crime-control role, citizens may feel that their safety is compromised and the justice system is not fulfilling its duty to prevent crime (Roberts, 2004). For example, 42% of people in a British attitudes survey felt that letting a guilty person go free was worse than convicting an innocent person (Dowds, 1995). If that is the case, then public confidence may be impacted more by the guilty going free than by innocents being incarcerated. Furthermore, public confidence has also been explored in terms of public perception of different criminal justice professions.

Criminal justice professions. Research has found that the public holds divergent attitudes toward various actors in the criminal justice system (e.g., Angus Reid, 1997; Hough & Roberts, 2004; Ipsos-Reid, 2002). When asked to express their levels of trust or confidence in the criminal justice system and criminal justice personnel, surveys have found that police agencies received the most positive ratings, whereas the courts (e.g., lawyers, judges) and parole system received less favourable ratings (e.g., Angus Reid, 1997; Hough & Roberts, 2004; Ipsos-Reid, 2002). For example, one public survey found that 83% of participants (Canadian sample) felt confident (from somewhat confident to very confident) with their local police (Ipsos-Reid, 2002). It is possible that police receive high ratings of confidence from the public because they are the most visible criminal justice professionals (Roberts, 2004). On a daily basis, citizens can

see police performing duties that assist and protect members of the public (e.g., making arrests, attending accident scenes). Since these functions are readily identifiable—and often focus on a crime-control orientation—it may explain the discrepancy between public confidence in the police and other criminal justice professionals (Roberts, 2004).

Survey research has revealed less confidence in other criminal justice personnel (Ekos Research Associates, 2000; Ipsos-Reid, 2002). For example, the Ekos Research Associates (2000) asked Canadians about their confidence and trust in lawyers. They found general distrust, with only 34% of respondents expressing confidence in lawyers and only 11% holding a great deal of trust in lawyers. Indeed, lawyers have attracted the lowest levels of confidence by the public in many public opinion surveys (e.g., Ekos Research Associates, 2000; Ipsos-Reid, 2002; Roberts, 2007). Similarly, only 11% of Canadians claimed to have ‘a lot of trust’ in judges (Stein, 2001). Roberts (2004) argued that lawyers and judges perform their duties in courtrooms where few members of the public are present, removing them from the public eye. Instead, lawyers and judges come to the attention of the public through media coverage, usually over controversial or ‘newsworthy’ decisions, which may explain the lower levels of public confidence (Doob & Roberts, 1988; Roberts, 1995; 2004).

The parole system, however, has attracted even lower levels of confidence among Canadian public opinion surveys (e.g., Angus Reid, 1997; Ipsos-Reid, 2002). Angus Reid (1997) found that only 3% of Canadians felt confident in the parole system. Years later, this pattern has not changed as 61% said they were not very confident or not at all confident in Canada’s parole system (Ipsos-Reid, 2002). Specifically, the public felt that only 15% of correctional authorities were doing a good job at releasing offenders who were not likely to reoffend (Tufts, 2000). The public’s confidence for the parole system is particularly low since there is an overestimation of

offenders who are granted parole as well as an overestimation of recidivism rates among offenders on parole (Roberts, 2004). Particularly, the public feels that the court/parole system hands down sentences that are too lenient and too short (Angus Reid, 2003; Sanders & Roberts, 2004). This contradicts the public's crime-control orientation (Roberts, 2004) and what citizens perceive as routine criminal justice duties (Berger & Luckmann, 1967). In essence, the public wants offenders punished for their crimes and they may see parole as letting offenders out early rather than having them supervised once they are released, which ensures that they are reintegrating properly.

In sum, while public opinion is generally positive towards the justice system as a whole (e.g., Roberts, 2004; Statistics Canada, 2003), findings suggested that the public has a problem with the administration of justice by some criminal justice personnel (e.g., Angus Reid, 1997; 2003; Ipsos-Reid, 2002). This dissatisfaction with criminal justice agents can be explained by the structuration theory, which asserted that members of the public expect agents within an institution to be competent in their day-to-day duties (Giddens, 1984). Thus, when agents act against what the public perceives as appropriate (e.g., crime-control), it may lead to feelings of discontent. Conversely, the positivity associated with the justice system as a whole can be attributed to the idea that for citizens, the criminal justice system has become a routine and embedded institution within society (Berger & Luckmann, 1967; Jones, 1999).

It has been argued that knowledge plays a role in influencing confidence levels and opinions on criminal justice practices (Chapman, Mirrlees-Black, & Brawn, 2002; Hough & Park, 2002). For instance, members of the public believing that sentences are too lenient will depend upon how much or how little they know about actual sentencing patterns (Chapman et al., 2002). Ultimately, research has revealed widespread dissatisfaction with sentencing practices

(or perceived sentencing practices), which might explain the lower levels of confidence among court and parole system workers (Doob & Roberts, 1988; Roberts, 1995; Sanders & Roberts, 2004). As confidence lowers, Sherman (2002) argued that this will lead to calls to change the system by the general public. Thus, understanding public opinion is imperative for promoting change, as well as addressing and resolving problematic areas within the criminal justice system.

Stigma

Stigma is a discrediting label that causes the ‘marked’ individual to be discounted from society (Goffman, 1963). Goffman (1963) argued that stigmas can take several forms, including abominations of the body, blemishes of individual character and tribal stigma. Simply put, abominations of the body are physical deformities that render a person visibly different from others. Blemishes of individual character are beliefs inferred from a known record such as a mental disorder, imprisonment, addiction, alcoholism, and/or unemployment (Goffman, 1963). Although these stigmas are not visually obvious, they set the individual apart from others by linking the marked person to undesirable characteristics (Link & Phelan, 2001; Link, Struening, Rhav, Phelan, Nuttbrock, 1997). Finally, there are tribal stigmas associated with race, nation and religious beliefs, which can be transmitted throughout time or from generation to generation. Under this type of stigma, all members of a family or lineage are affected. Regardless of its form, stigma spoils an individual’s social identity, reducing their ‘life chances’ and causing them to face a negative or unaccepting world (Goffman, 1963). Ultimately, individuals are prejudged and assumptions are made about their character (despite their demeanour), based on their membership within a stigmatized group (e.g., people who have been to jail) (Goffman, 1963). As a result, prejudice against stigmatized persons occurs as a way for other individuals to justify the danger they may represent (e.g., people who have been in jail may commit another crime once they are released).

At times, stigma may not only affect the marked individual but can be extended to include persons that associate with the stigmatized individual as well (Neuberg, Smith, Hoffman, & Russell, 1994). Stigma-by-association, also referred to as ‘courtesy stigma’, involves the non-stigmatized person being discriminated against due to their association with the ‘discredited’ individual (Goffman, 1963). As a result, people devalue certain social identities (e.g., parolees) because they fear the risk of being labelled themselves (Goffman, 1963). For instance, stigma by contagion (Nemeroff, 1995) from the prison experience occurs when people avoid individuals who have been incarcerated. The tendency for stigma to spread from the stigmatized person to prospective others explains why such relations are either avoided or terminated where they exist—the prospective others want to prevent the marked individual’s stigma from being transferred onto them (Goffman, 1963).

This chapter has outlined three important theoretical approaches: structuration theory, attitudes toward the criminal justice system, and stigma. These theories will be used to explain public perceptions and attitudes surrounding the criminal justice system in general and wrongful convictions in particular. The following chapter will now review the literature on wrongful convictions, focusing on pre-conviction and post-conviction elements. The current (and limited) research on public perceptions of wrongful convictions will also be discussed. This literature review will help contextualize the need and importance of this thesis research.

CHAPTER THREE: Wrongful Conviction Literature Review

This chapter will review the literature on wrongful conviction. First, pre-conviction elements will be discussed in terms of the factors that can lead to wrongful convictions (e.g., mistaken eyewitness identification, false confessions). Next, services required by exonerees, compensation and apologies will be presented as post-conviction elements. Following this, the current research on public perceptions of wrongful conviction will also be outlined. This chapter concludes with an overview of the current thesis study (e.g., hypotheses).

Pre-Conviction: Factors that Can Lead to Wrongful Convictions

Research has revealed that wrongful convictions are not isolated events caused by a single error (e.g., Campbell & Denov, 2005). Instead, both individual and systematic factors inherent to the criminal justice system may work simultaneously, leading to a wrongful conviction (Castelle & Loftus, 2001). Several factors have contributed to wrongful convictions, including eyewitness misidentification, invalidated or improper forensic evidence, false confessions or admissions, professional misconduct, the use of jailhouse informants, bad lawyering, public pressure, race and class bias and so forth (Bedau & Radelet, 1987; Borchard, 1932; Kassin, 1997; 2005; Martin, 2002; Scheck et al., 2000; Wells, 1984; Wells, Greathouse & Smalarz, 2010). A brief review of some of the most common factors follows below.

Mistaken eyewitness identification. Mistaken eyewitness identification has been cited as one of the most frequent causes of wrongful convictions (Devenport, Penrod, & Cutler, 1997; Gross et al., 2005; Scheck et al., 2000). The Innocence Project (2011b) estimated that eyewitness misidentification contributed to more than 75% of convictions that were subsequently overturned through post-conviction DNA testing. Eyewitnesses tend to be problematic due to issues surrounding the accuracy of their identification and the frequency of misidentifications (Wells et al., 2010). Many police line-ups use simultaneous presentation techniques, in which

eyewitnesses view all line-up members at the same time (Steblay, Dysart, Fulero, & Lindsay, 2001). Under these conditions, Steblay et al. (2001) found that in simultaneous line-ups less than half (48%) of participants were able to provide correct identifications.

The problem with eyewitness identification also lies in the fact that police reports rarely document the witness' certainty at the time of the identification (Wells et al., 2010). Instead, they simply report things like, 'the witness indicated that number three is the suspect' (Wells et al., 2010). However, research has found that many witnesses admit that they received feedback from detectives such as, 'you identified the right guy' or 'thank you for helping us get this guy off the streets' (Wells & Bradfield, 1998). During police interviews, these encouragements can communicate information to the eyewitness, which influences and ultimately contaminates their later testimony in court (Castelle & Loftus, 2001; Loftus, 1979; Loftus & Doyle, 1997). In effect, this also increases the witness' confidence regardless of whether they selected the right perpetrator or not (Wells & Bradfield, 1998).

Results from various studies on eyewitness identification have shown that confirming feedback strongly inflates witnesses' estimates of how well they could make out the details of the culprit's face and how certain they were at the time of the initial identification (Lindsay & Wells, 1980; Wells & Bradfield, 1998; Wells et al., 2010). Bellemare and Finalyson (2004) also stated that witnesses should be advised that the actual perpetrator may not be in the line-up or photo spread because this reduces the pressure to identify the best suspect from the presented options, reducing the likelihood of a wrongful conviction.

Understanding mistaken eyewitness identification is important because at the trial stage most jurors have limited knowledge on the reliability of eyewitness testimonies (Benton, Ross, Bradshaw, Thomas, & Bradshaw, 2006; Kassin, Tubb, Hosch, & Memon, 2001; Magnussen,

Melinder, Stridbeck & Raja, 2010; Schacter, 2001). In fact, research has found that the general public is as knowledgeable about factors affecting eyewitness testimony (e.g., memory recall, identification accuracy) as citizens serving jury duty (Magnussen et al., 2010). Considering that jurors are members of the public, it is important to assess how much knowledge they have on eyewitness fallibility (as it has led to wrongful convictions).

False confessions. Out of more than 250 individuals exonerated by post-conviction DNA testing, false confessions were a contributing factor in nearly 25% of these cases (Garrett, 2008). Police investigations in the United States and Canada design interrogations to be unpleasant (Hasel & Kassin, 2010). Situational and dispositional factors also play a role when it comes to an individual falsely confessing. Situational factors include issues at the time of the interrogation itself, such as hunger, thirst, feeling unwell and so on (Hasel & Kassin, 2010). Dispositional factors include things such as mental illness, intellectual impairments, higher levels of anxiety, depression, delusions as well as other psychological disorders (Gudjonsson, 2003). Generally, false confessions can take three forms: voluntary, compliant and internalized.

First, *voluntary false confessions* are those in which people claim responsibility for crimes they did not commit without any pressure from the police (Hasel & Kassin, 2010). According to Hasel and Kassin (2010), there are many reasons why innocent people voluntarily confess, including the perception of tangible gain (e.g., going home after one confesses) and the desire to protect a loved one (e.g., parent, child).

Second, *compliant false confessions* occur when the suspect agrees to confess to the police in hopes of escaping a stressful situation, avoiding an unexpected punishment, or gaining a promised or implied reward (Hasel & Kassin, 2010). A substantial body of research has shown that when people are in situations of constraint, their choices are designed to maximize their

well-being (Asch, 1956; Hernstein, Rachlin, & Laibson, 1997). For example, one exoneree discussed how he was interrogated until the point of severe exhaustion and as a result, he falsely confessed to police: "I just wanted to let them hear what they wanted to hear. I just wanted everything to stop" (Grounds, 2005, p.14).

Finally, *internalized false confessions* occur when individuals are exposed to highly suggestive interrogation tactics and are manipulated into believing that they actually did commit the offence (Kassin, 2007). The case of Michael Crowe, whose sister Stephanie was stabbed to death in her bedroom, is a case in point (Hasel & Kassin, 2010). After a series of interrogation sessions, police convinced Crowe that they found physical evidence against him, causing him to falsely confess to the crime even though he was innocent. Notably, structuration theory may explain why such practices were dismissed for so many years (Giddens, 1984)—even though we now know they can lead to wrongful convictions. In the past, people may not have questioned police interrogations because they assumed that, since it is part of the police's job to question potential suspects, they should be well-versed how to carry out this task. This may have enabled interrogation tactics to remain unchallenged and to be reproduced over time. As research advanced, it became evident that some wrongful convictions resulted due to interrogation processes and changes were required (e.g., Gudjonsson, 2003; Hasel & Kassin, 2010; Leo, 2008).

Additionally, what makes false confessions difficult is that confessions are often trusted by juries as a matter of common sense, as most people assume that an individual would never confess to a crime they did not commit (Kassin, Meissner & Norwick, 2005). Unfortunately, most jurors have little understanding of the situational and dispositional factors that cause innocent people to falsely confess or the police techniques used to gain confessions (Henkel,

Coffman, & Dailey, 2008). In sum, research has argued that false confessions can be more incriminating than any other potent form of human evidence (Kassin & Neumann, 1997).

Tunnel vision. Tunnel vision can be described as a single-minded focus on one suspect to the exclusion of other potentially relevant evidence (Cory, 2001; Kaufman, 1998; MacFarlane, 2006; Martin, 2002). Although there is no definitive number on the occurrence of tunnel vision amongst wrongful convictions, published research (e.g., Martin, 2002) and judicial inquiries (e.g., Wilson, 2003) have cited tunnel vision as a contributing factor in numerous cases. For instance, Donald Marshall, Wilbert Coffin, Steven Truscott, Guy Paul Morin, and Thomas Sophonow were all cited as cases (in Canada) where tunnel vision contributed to an erroneous conviction (Anderson & Anderson, 2009; Cory, 2001; Epp, 1997; Wilson, 2003).

Tunnel vision “propels investigators, prosecutors, judges and defence lawyers alike to focus on a particular conclusion and then filters all evidence in a case through the lens provided by that conclusion” (Findley & Scott, 2006, p.291). Essentially, information that does not fit with the chosen conclusion is overlooked or minimized in significance, while the facts that support the theory are compared to similar evidence, making it seem like everything fits together (Findley, 2010). The tendency to seek or interpret evidence in ways that support an existing belief, expectation or hypothesis is called *confirmation bias* (Nickerson, 1998; Nisbett & Ross, 1980; Trope & Liberman, 1996). When police and prosecutors believe someone is guilty, they (like other information seekers) tend to look for information that supports their formed hypotheses and avoid information that would contradict their belief (Gilovich, 1991; Nickerson, 1998; Wason, 1966; 1968).

This process can be attributed to the natural tendencies that make people resistant to change even in the face of new evidence, also known as *belief perseverance* (Findley, 2010).

Even after an initial belief has been disproven, some people continue to explain an individual's behaviour using the preconceived views they formed beforehand (Ross, Lepper, & Hubbard, 1975; Ross, Lepper, Strack, & Steinmetz, 1977). Therefore, when someone (police, prosecutor, etc.) is convinced of a particular theory, they can sometimes explain away events that are inconsistent with their established beliefs (Nickerson, 1998).

Public pressure to solve crime. Research has noted that public pressure on the criminal justice system can be a contributing factor in wrongful convictions (e.g., Borchard, 1932; Huff et al., 1996; MacFarlane, 2006). Public pressure operates in two ways: (1) the public's reaction to a case, usually involving a violent offence and; (2) the justice system's reaction to public perceptions of the case may have an impact on the investigation, and therefore wrongful convictions (MacFarlane, 2006). Specifically, the justice system has to deal with pressure to solve the crime and assure the public's safety—with speed becoming the ultimate priority (MacFarlane, 2006).

Borchard (1932) argued that the public's emotions and desire to avenge the crime is often felt by police, prosecutors and jurors alike. After a violent crime, in particular, the public's passion is aroused by the desire to find a viable perpetrator causing relentless public commotion (MacFarlane, 2006). Therefore, blame should not be strictly cast on police or prosecutors, as it is the environment in which they work that forces them to quickly solve crimes (MacFarlane, 2006). As Borchard (1932) observed, “a community does not like to be baffled, and when some plausible culprit is caught in the toils...social pressure demands a conviction” (p.119).

This intense pressure prompts investigators (consciously or unconsciously) to quickly clear the case in order to pacify citizens, which can result in the conviction of innocents (Borchard, 1932). For instance, public pressure may cause police to target the first individual

who could be the perpetrator and, if tunnel vision or other factors (e.g., false confession) lead them to become convinced of the individual's guilt, the pressure then passes to the prosecutor to secure a conviction at trial (Huff et al., 1996). In some cases, scientists working in crime laboratories also feel pressured to solve the crime, forming an alliance with the prosecution and functioning to support the police's theory rather than provide an impartial, scientifically based analysis (Findley, 2010). This occurrence also exemplifies how overarching powers can create pressure for agents to carry out certain actions within an institution (e.g., Giddens, 1984; Jones, 1999; Pettigrew, 1987). In his study, Borchard (1932) found fourteen cases where the erroneous conviction could have been avoided, but public pressure to convict was present. Therefore, this suggests that the environment surrounding a case can foster wrongful convictions (Anderson & Anderson, 2009; MacFarlane, 2006).

Prejudice. It has been argued that marginalized groups (ethnic minorities, people with criminal records, low socioeconomic classes) are frequently targeted by the criminal justice system and, thus, are disproportionately wrongfully convicted (Anderson & Anderson, 2009; Bedau & Radelet, 1987; Blume, 2008; Borchard, 1932; Huff et al., 1996; Rattner, 1988; Scheck et al., 2000). These systematic biases are examples of 'dark currents' (Giddens, 1984) as they are inherent within the social structure—in this case, the criminal justice system—and may subconsciously influence its agents and produce unintended outcomes (e.g., wrongful convictions).

In terms of an individual's race, studies have shown that, in the United States, African Americans composed between 40% (Bedau & Radelet, 1987) and 57% (Scheck et al., 2000) of the known wrongful convictions. With the overrepresentation of visible minorities within the justice system, Smith and Alpert (2007) argued that criminal justice workers use race as a

“criminal shorthand”, leading them to be more suspicious of racial minorities. Thus, criminal justice workers base their decisions on assumptions about group criminality and who is more likely to be involved in criminal activities (Smith & Alpert, 2007). This practice is reminiscent of Goffman’s (1963) tribal stigma. In Canada, the Royal Commission on the Donald Marshall Junior Prosecution (1990) investigated the wrongful conviction of Donald Marshall, concluding that Marshall’s Aboriginal status influenced the racist attitudes held by the involved police, judges, and lawyers, which ultimately led to professional wrongdoing (e.g., police coerced eyewitness confessions).

Previous research has also found that an individual’s prior criminal record may put them at risk for wrongful conviction (Blume, 2008; Brandon & Davies, 1973; Frank & Frank, 1957; Huff et al., 1996; Rattner, 1988). Individuals with prior convictions tend to be prime suspects for police because their pictures may already be in police files, police are more aware of their presence within the community, and these individuals are viewed as the opposite of a model citizen (Anderson & Anderson, 2009; Huff et al., 1996). At the trial stage, innocent defendants who have prior convictions often do not testify because their record may be exposed upon cross-examination, discrediting them during their trial (Blume, 2008; Huff et al., 1996; Rattner, 1988). When the jury learns of an individual’s past record, two inferences are typically made: (1) the defendant is a bad person, who is lying, and/or; (2) if the defendant has done criminal acts in their past, they most likely committed the current offence (Blume, 2008). The presumption of innocence has become the presumption of guilt in society, referring to the perception that if the police have charged a person he or she must be guilty of that crime (Kennedy, 2004). Research has found that 91% (32 of 35) of wrongly convicted defendants (in the research sample) who failed to testify at their trial had prior convictions (Blume, 2008). But, when a defendant does not

testify at their trial, the jury often assumes that he or she has something to hide or is guilty (Beaver & Marques, 1985). This places these innocent defendants in a no-win situation—they either testify and become discredited or choose not to testify and are presumed to be guilty.

Finally, an individual's socioeconomic status may also contribute to the wrongful conviction of a defendant (Anderson & Anderson, 2009). Specifically, research has found that an individual's socioeconomic status may affect their ability to afford satisfactory defense counsel (Campbell & Denov, 2005). While legal-aid attempts to close the gap between classes, poor individuals tend to receive young, inexperienced, and overworked defence counsel that have little time to prepare for their client's case (Anderson & Anderson, 2009; Huff et al., 1996). This effect is discussed further in the next section. Ultimately, it has been found that if an innocent defendant is from a visible minority group, has a criminal record (or acts outside societal expectations), or is of the lower class, there is a strong possibility that he or she will be marginalized further by the criminal justice system, placing them at an increased risk of being wrongfully convicted (Anderson & Anderson, 2009; Huff et al., 1996).

Trial issues. Among the first 70 DNA exonerations, inadequate defence attorneys accounted for approximately 23% of wrongful convictions (Scheck et al., 2003). Public defenders are often assigned to individuals who cannot afford to pay for legal representation. Approximately 80% of people charged in the criminal courts are represented by a court-appointed lawyer or public defender (Uphoff, 2007). This can be problematic because public defenders are commonly underpaid, overworked, inexperienced, and are rarely matched to the needs of the defendant (Huff et al., 1996). For instance, there have been documented cases where court-appointed attorneys have fallen asleep in court (e.g., Los Angeles Times, 2002) or missed deadlines for appeal applications, forfeiting their client's post-conviction review (see Henry W.

Skinner v. State of Texas, 2002). Often, poorer defendants recognize that their attorneys are inadequate, but do not complain out of fear that the quality of their representation will deteriorate even further (Bright, 1997). Research has found that some exonerees are commonly blamed for their wrongful convictions due to such instances (Kauzlarich, Matthews & Miller, 2001; Westervelt & Cook, 2010). Inadequate defence attorneys have led to the conviction of innocent people, suggesting that an exoneree's class as well as the quality of defence they can afford become key factors in the determination of guilt or innocence (Anderson & Anderson, 2009).

The resources available to public defenders' offices are minimal compared to the resources provided to prosecutors by the government (Berry, 2003). In particular, funds and access to resources (e.g., eyewitness experts) for public defenders continue to shrink each day, making it difficult to adequately defend a client (Innocence Project, 2011c). From a structuration point of view, this is an example of how a social structure can limit or prevent its agents from properly doing their jobs (Giddens, 1984). In particular, defence lawyers working for legal aid may have the best intentions for their clients, but their efforts are weakened by the systemic issues listed above (e.g., low-wages, immense caseloads and minimal resources). As argued, without contextual change within the criminal justice system itself (e.g., providing legal aid attorneys with more resources), its agents will continue to reproduce the same practices over and over, leading to continued errors (Giddens, 1984; Hughes, 1936).

With that said, the mindset of many court-appointed lawyers is to move from case to case quickly, and reach a plea bargain with the prosecution (Bright, 1997; Huff et al., 1996).

Wrongful convictions can occur when a defence attorney advises their client to plead guilty and accept a plea bargain (despite their innocence), telling them that they will most likely lose at trial and spend more time in prison (Reiman, 2000; Uphoff, 2007). This action seems to reflect

structuration theory's assertion that individuals within an institution may not be aware of the ramifications of their actions (Giddens, 1984; 1993). For instance, the encouragement to accept a plea-bargain may seem like a good idea (because their client could receive less prison-time) but, if the client is innocent, this may create an array of problems after-the-fact that the attorney may not be aware of (e.g., applying for compensation).

Notably, research has argued that prosecutorial misconduct also has contributed to wrongful convictions (Anderson & Anderson, 2009; Borchard, 1932). Since the Canadian and American criminal justice systems are based on an adversarial process that places the defence and prosecution against one another, this tends to lead to perceptions of a winner and loser for every case (Anderson & Anderson, 2009). Thus, some prosecutors have come to regard a conviction as a personal victory which enhances their reputation and worth—the more convictions they secure, the more money they make (Borchard, 1932; Clayton, 1995; Ferguson-Gilbert, 2001; Rosenberg, 2002; Schoenfeld, 2005).). It can be argued that this environment, and the structure of the court system itself (e.g., competitive adversarial system), inadvertently pressures prosecutors to act in these ways (e.g., Giddens, 1984; Pettigrew, 1987). Subsequently, this desire to win may cause prosecutors to engage in questionable or dishonest tactics (e.g., illegally withholding exculpatory evidence from defence), leading to wrongful convictions (Anderson & Anderson, 2009; Clayton, 1995; Ferguson-Gilbert, 2001; Rosenberg, 2002; Schoenfeld, 2005). Clarence Darrow, an American lawyer, stated that “a courtroom is not a place where truth and innocence inevitably triumph; it is only an arena where contending lawyers fight not for justice but to win” (see Curtiss, 2007, p.2). Interestingly, research has found that university students (even criminal justice majors) do not view this practice as a common factor leading to wrongful convictions (e.g., Bell, Clow, & Ricciardelli, 2008).

Reminiscent of structuration theory, an unintended outcome like wrongful conviction cannot be blamed on the original act (or actor) that set it in motion or on a single error. As discussed, there are a slew of errors/factors that work in unison and contribute to an erroneous conviction (Campbell & Denov, 2005). For example, an eyewitness may misidentify a suspect and this is used as evidence by a prosecutor who engages in questionable tactics in order to secure a conviction (to achieve a high conviction rate, subdue public pressure, etc.). In the same case, a court-appointed attorney (e.g., overworked, underpaid) may not have the resources to call upon an expert witness who could discredit the eyewitness' identification. Therefore, although it may have started out as an eyewitness misidentification, other errors exacerbated the original issue and contributed to the wrongful conviction as well. In sum, certain criminal justice activities may lead to the unintended consequence of wrongful conviction. However, the action that originally set the wrongful conviction into motion (e.g., mistaken eyewitness identification) cannot be viewed as the sole cause, as it is contingent on other actions that occurred along the way (Giddens, 1984).

Post-Conviction

Upon their release, many exonerees face considerable obstacles when it comes to re-joining society post-exoneration (Campbell & Denov, 2004; Westervelt & Cook, 2008). Westervelt and Cook (2010) argued that the wrongly convicted are often re-victimized after their exoneration because the government fails to provide them with meaningful assistance. The consequences of an exoneree's wrongful conviction can lead to: poor health, lack of marketable job skills, unstable employment, feelings of bitterness and anger, fear of re-victimization, stifled family relationships, financial dependency, and stigmatizing labels (Westervelt & Cook, 2008). Once the wrongfully convicted are released these factors can lead to homelessness, poverty, self-

medication with drugs and alcohol, as well as social alienation (Weigand, 2009). Therefore, Westervelt and Cook (2008) suggest that reintegration programs and services are needed and should be in partnership with innocent projects in order to assist exonerees with rebuilding their lives.

Services needed by exonerees. Chunias and Aufgang (2008) argued that exonerees need to be provided with meaningful services (e.g., employment training) for two important reasons. First, it repays them for the non-monetary injuries they have experienced as a result of their incarceration (e.g., lost family ties). And second, services are needed to help them reintegrate back into society (Chunias & Aufgang, 2008). Exonerees do not have the benefit of preparation for their release (rehabilitation programs, drug and alcohol treatment, etc.) while in prison (Westervelt & Cook, 2008). Therefore, they are unlikely to have the opportunity to participate in work-release or other programs geared towards re-entry (Chunias & Aufgang, 2008).

Many offender reintegration programs have been designed to deal with specific categories of offenders, such as chronic offenders, drug-addicted offenders, offenders with mental illness or sexual offenders (Griffiths, Dandurand & Murdoch, 2007). However, there are no programs in place for exonerees—even though they experience similar transition problems. Exonerees themselves have commented on the burden of returning to society without the necessary tools to thrive and reintegrate (Campbell & Denov, 2005; Grounds, 2005; Westervelt & Cook, 2008). For example, one exoneree said, “The judge quashes your conviction and you feel elated, but then you emerge with no money, no accommodation, no health care, no counselling, nothing to equip you for the place you have been away from for so long” (Boggan, 2000, p.2). Although offenders face many of the same issues, the wrongly convicted face these

issues with less support and the ongoing legal burden and social burden of establishing their innocence.

Employment. In terms of finding employment, many exonerees are not properly situated once they are released (Westervelt & Cook, 2010). Exonerees have been out of the job force for years, making it likely that they do not have the skills needed in an expanding market. As most exonerees receive next to nothing from the government upon their release, they are typically aided by their families, friends, and in some cases, the advocates who fought for their release (Westervelt & Cook, 2010). To make matters worse, employers are hesitant to hire employees with criminal records (Chunias & Aufgang, 2008). Due to occupational policies and code licensing requirements, ex-offenders and possibly individuals with a record of arrest may be explicitly excluded from employment opportunities (Harris & Keller, 2005). It is important to note that even though an exoneree may be released, this does not mean his or her record has been cleared (AIDWYC, 2008). Many wrongfully convicted individuals endure years of hardships in order to clear their name and have the charges against them dropped (AIDWYC, 2008). Until the Court of Appeal formally removes the charge, the exoneree is forced to carry the burden of a criminal record. Thus, people who have been wrongly convicted are viewed as being less than ideal employees by employers (Cole, 2009).

Moreover, some employers are not willing to take the chance on hiring an exoneree (Innocence Project, 2009). Reminiscent of Goffman's (1963) stigma-by-association, an employer may avoid hiring someone who has been wrongly convicted because it can have negative implications in terms of how they or their business is viewed. According to exoneree, Calvin Willis, even though an exoneree is free, people still view them as "contaminated" because they have been living in a "criminalistic environment": prison (Innocence Project, 2009, p.11). The

perception may be that the exoneree has been contaminated or negatively affected by these experiences (Clow, Ricciardelli, & Cain, in press)—and possibly people are fearful that the exoneree’s stigma could be imparted on them as well, should they choose to interact or associate themselves with the exoneree (Goffman, 1963; Neuberg et al., 1994).

Stigmatization may exacerbate the struggle to find gainful employment for exonerees (Westervelt & Cook, 2010). In some cases, exonerees were able to secure employment, but lost it after their wrongful conviction was exposed. For example, Thomas Sophonow, who had been working as a mechanic after his release, was forced to quit because “the guys at work still treated him like a murderer” (Anderson & Anderson, 2009, p.100). Another exoneree, Robert Baltovich, suddenly had to defend himself and his job when a fellow employee recognized him (see Clow, Leach, & Ricciardelli, 2011). Sabrina Butler also had tremendous difficulties gaining meaningful employment in her hometown of Mississippi. An employment opportunity was quickly terminated when an assistant manager recognized her as she was filling out her paperwork (Westervelt & Cook, 2010). Ken Wyniemko described wrongful conviction as “walking around with a scarlet letter” (Roberts & Stanton, 2007, p.2). As Goffman (1963) stated, stigma can discredit an individual and reduce their life chances—in this case, employment for exonerees. In sum, job training and helping exonerees find meaningful employment is an important and necessary service in order to help wrongly convicted individuals transition back into society (Westervelt & Cook, 2008).

Housing. Similar to finding employment, finding housing frequently presents challenges for wrongly convicted individuals (Chunias & Aufgang, 2008). Since criminal records are not automatically expunged upon exoneration, exonerees will most likely be unable to secure affordable housing on their own (Chunias & Aufgang, 2008). Indeed, a list of references and first

and last month's rent are often required to securing housing, both of which are unlikely for someone who has been recently released from prison to have—whether they are innocent or not (Pogorzelski, Wolff, Pan, & Blitz, 2005). In addition, since criminal records make it difficult for exonerees to find employment, they often do not have enough funds to maintain housing. For some exonerees, they have the option of living with relatives, which can delay the struggle to find a place to live (Chunias & Aufgang, 2008). However, if exonerees do not have family or friends to stay with upon their release, they may be forced to seek housing at a homeless shelter (Chunias & Aufgang, 2008). Thus, providing exonerees with housing is essential as it can allow time to secure other post-exoneration needs (e.g., employment, psychological well-being, compensation) as well as relieving the additional stresses of finding a home in their old community or in a new community.

Community preparation. Research has noted that, similar to when offenders return back to their communities, exonerees have also encountered instances of fear, suspicion and lack of acceptance on the part of community members (Campbell & Denov, 2005; Grounds, 2005; Westervelt & Cook, 2008). For instance, when exoneree Kirk Bloodsworth returned to his hometown, he found “child killer” written on his truck (Westervelt & Cook, 2008). To escape this, some exonerees leave the communities in which they were tried and convicted, hoping that anonymity will shield them from community backlashes (Westervelt & Cook, 2008). For some offenders their return to society is not publicized and remains under the radar, however an exoneree's release may catch the media's attention since they are refuting the justice system's conviction.

Thus, it has been suggested that the introduction of community reintegration forums might help prepare communities to embrace exonerees (Westervelt & Cook, 2008). The purpose

of these forums would be to educate the community—providing information on the criminal justice system, the administration of justice and how mistakes can lead to wrongful convictions (Westervelt & Cook, 2008). By fostering the reintegration of exonerees back into their communities, this may encourage community members to be more accepting of exonerees (easing the obstacles of finding employment, housing, and social integration) as well as complete the exoneration process for wrongly convicted individuals (Westervelt & Cook, 2008).

Counselling. The need for counselling has been suggested because wrongly convicted individuals have noted psychological distresses (e.g., fear of public spaces) in terms of readjusting to everyday life post-incarceration. In addition, pervasive issues have also been reported when it came to exonerees' social and/or familial relationships (Campbell & Denov, 2004; Grounds, 2005; Westervelt & Cook, 2010). Looking at an exoneree's social and/or family relationships, it takes a significant amount of time and trust for a wrongly convicted person to learn to be close to others outside the prison environment (Campbell & Denov, 2005). Family members of wrongly convicted individuals have discussed how shocked they were when their loved one struggled to cope with life as well as the extensive changes (e.g., different personality, increased anger and aggression) they observed as a result of the wrongful conviction (Campbell & Denov, 2005). One mother said, "No one realized how distant we would be...Everyone thought we could slot into a happy family routine and it's been a great shock to everyone concerned that it hasn't worked out like that—nowhere near" (Grounds, 2005, p.19).

Grounds (2004; 2005) found that some exonerees acknowledge that they no longer feel close to their families—even those who stood by them during their imprisonment. Many exonerees commented on this saying that they felt a loss or void within themselves as a result of being away from their families and society for so long (Grounds, 2004; Shore, 2001). This is

especially evident for individuals who were incarcerated at a young age or among older exonerees (Grounds, 2005; Innocence Project, 2009). This suggests that services should be provided in order to help ease exonerees back into their old relationships, help families come to terms with the effects of a wrongful conviction on their loved one, and most importantly, mend the estranged relationships (Shore, 2001). Ultimately, exonerees are given no resources to deal with the psychological ramifications of their wrongful conviction (Westervelt & Cook, 2010). Considering the above noted experiences, research recommends that post-exoneration services include psychological counselling in order to help exonerees adjust to their new lives, in addition to providing assistance with broken social relationships (Grounds, 2005; Westervelt & Cook, 2010).

Compensation. It has been argued that financial compensation is necessary to restore exonerees to their pre-conviction financial status (Shore, 2001). In particular, financial compensation is important as it may provide self-sufficiency and independence for exonerees, which may be lacking immediately after their exoneration (Innocence Project, 2009). Based on the prejudices already discussed, exonerees often find themselves financially strained or dependant on others (Weigand, 2009). Thus, from a monetary standpoint compensation can assist exonerees with things such as buying a home, purchasing a car in order to get to and from work, starting a business or going back to school (Innocence Project, 2009).

For some exonerees, compensation is also a symbolic recognition of the wrong done to them (Campbell & Denov, 2004). Many wrongly convicted individuals acknowledge the fact that money will not restore their lives back to how it was prior to their erroneous conviction. As one exoneree explained:

Does ten million [dollars] give me my children back any faster than four [million]? Or does it give any of those one thousand forty-seven days back? The birthdays, the

Christmases? The money doesn't. What the money will give me is security, comfort and peace of mind. There'll never be enough, but I have to accept a number that let's me move on. (Campbell & Denov, 2004, p.155)

This illustrates that exonerees see compensation as a source of closure whereby the justice system assumes some level of responsibility for what has been done to them (Campbell & Denov, 2004). It has been suggested that providing compensation concedes that no system is perfect, that the government recognizes the harm inflicted, fosters the healing process for exonerees and assures the public that the criminal justice system is willing to own up to its mistake (Innocence Project, 2009).

Unfortunately, current compensation practices are insufficient (Norris, 2011; Taylor, 2005; Weigand, 2009; Westervelt & Cook, 2008). According to Norris (2011), as of May 2011 not even half the states (n=27) in the US had compensation statutes. Moreover, among American compensation statutes, limitations and disqualifications exist that can prevent exonerees from securing reparation (Norris, 2011). For instance, 13 statutes (46.4%) have limitations and restrictions on the type of crime for which the exoneree must have been convicted to be eligible (Norris, 2011). Of these 13 statutes, twelve are restricted to only felonies and one is limited to felonies or aggravated misdemeanours. Additionally, 71.4% (n=20) of statutes have at least one disqualification, with some including as many as five (Norris, 2011). For example, wrongfully convicted individuals who are viewed to have contributed to their own conviction, such as falsely confessing or pleading guilty, are denied compensation in some states (e.g., New York, California, Nebraska) (Norris, 2011).

American compensation statutes are also inconsistent from state to state (Norris, 2011). For example, Texas provides \$80,000 per year of wrongful incarceration, while other states, such as Wisconsin, only offer \$5,000 per year of wrongful incarceration (Norris, 2011). New

Hampshire grants \$20,000 for the entire wrongful conviction regardless of length of time served (Norris, 2011). These stark contrasts are troubling. Furthermore, 23 states have no compensation statutes at all (Norris, 2011).

The compensation process does not seem to be any better in Canada as there is no legal obligation or requirement to compensate individuals who have been wrongfully convicted (Anderson & Anderson, 2009). Exonerees can apply for compensation, but there is no guarantee or promise that they will receive anything. Even if these awards are granted, they are generally minimal (Anderson & Anderson, 2009). Furthermore, it is difficult to navigate the compensation process since the current compensation policy comprises of five strict regulations, which must be followed before an individual even qualifies to receive reparation (The Thomas Sophonow Inquiry, 1988). In some cases, these regulations may completely disqualify an exoneree from receiving compensation (Holbrough, 2005; The Thomas Sophonow Inquiry, 1988). For instance, the second stipulation in “Canada’s 1988 Federal-Provincial Guidelines on Compensation for Wrongfully Convicted and Imprisoned Persons Statute” states that compensation is only available to the actual person who was wrongfully convicted (The Thomas Sophonow Inquiry, 1988). At times, this is not possible due to unforeseen circumstances wherein the exoneree may not be around to receive their compensation (old age, illness, etc.). Thus, if something happens to the exoneree, their compensation is lost and cannot be retrieved on their behalf by others (e.g., family members). Reflecting structuration theory, if the resistance to alter these strict compensation policies remains, they will be reproduced and exonerees will continue to struggle with gaining compensation—unless modifications are evoked within the criminal justice system (Giddens, 1984).

Research on compensation typically discusses the topics mentioned above (e.g., healing nature of compensation for exonerees, struggle for exonerees to receive compensation due to regulations), however research from the perspective of public opinion is minimal. Ultimately, while monetary compensation is important for providing independence and feelings of vindication, it fails to address some of the issues exonerees have as a result of the time lost in prison—inability to secure employment and/or housing, psychological issues, and broken social relationships (Campbell & Denov, 2005; Curtiss, 2007; Grounds, 2004; Taylor, 2005; Westervelt & Cook, 2008). This is why the above noted services have been suggested, as they help facilitate the best reintegration possible when coupled with monetary compensation.

Apology. Many exonerees desire an apology (Grounds, 2005; Vollen & Eggers, 2005). Apologies can take many forms, including private, public, written, and/or verbal (Lazare, 2004). An apology is essential for wrongly convicted people because it has the power to restore an exoneree's faith in the criminal justice system (Penzell, 2008). An exoneree named Alan Newton (wrongly served 20 years) spoke openly about the apology he was granted by the district attorney in his case. In regards to the impact of this apology, he stated, "It means that somebody actually cares on the other side...anger will eat you up inside, but an apology restores my faith in individuals" (Penzell, 2008, p. 158). In Mr. Newton's case, the apology reconciled and restored the broken relationship he once had with the criminal justice system (Penzell, 2008). Indeed, apologies have been found to be psychologically important to exonerees (Campbell & Denov, 2004; Vollen & Eggers, 2005; Westervelt & Cook, 2008). Exonerees have claimed that apologies contributed to their ability to heal, feel vindicated and re-establish themselves amongst society (Penzell, 2008). As psychologist Aaron Lazare (2004) explained, apologies help individuals heal because they remove the desire for vengeance and generate forgiveness on the part of the

offended parties. Exonerees have stated that an apology helped them realize that they were not a fault for the wrongs they suffered, restoring their self-respect and vindicating their experience (White, 2006). In essence, when an apology is offered the justice system admits that a mistake was made (Penzell, 2008), forming a part of the ‘closure’ process for exonerees (Savage, 2007).

Beyond its capability to heal wrongly convicted individuals, an apology can affect the criminal justice system and community as well. Since the community relies upon the criminal justice system for its safety, an apology illustrates accountability and the acknowledgement that mistakes were made, and that the justice system is working to find solutions to correct those mistakes (Innocence Project, 2011d). Also, apologies remind society that the justice system is not flawless (Innocence Project, 2011d). Therefore, when the criminal justice system admits and accepts that a mistake has been made, people feel better because it shows that the justice system is willing to move forward (i.e., reform), reflecting that lessons have been learned and there is a willingness to improve (Innocence Project, 2011d; Westervelt & Cook, 2010). It has been proposed that by exploring errors and apologizing for them, the criminal justice system can reduce the likelihood of future wrongful convictions (Penzell, 2008; Westervelt & Cook, 2010). Although this research suggests that apologies are beneficial for the criminal justice system, it is currently unknown how the public will view the justice system after an apology has been made to an exoneree.

Unfortunately, apologies are rarely granted to exonerees (Penzell, 2008; Westervelt & Cook, 2008; Vollen & Eggers, 2005). Vollen and Eggers (2005) explained that apologies from governments or criminal justice personnel are rare due to fears of litigation or the perception that apologies are an admission of wrongdoing on behalf of government officials. In fact, there have been cases where—rather than apologizing—criminal justice personnel have made statements

contradicting the exoneration and supporting perceived guilt instead (Penzell, 2008; Westervelt & Cook, 2008; 2010). Notably, the reproduction of this behaviour (Giddens, 1984, Jones, 1999; Pettigrew, 1987) has likely contributed to the lack of apologies being granted to most exonerees (Penzell, 2008; Savage, 2007; Westervelt & Cook, 2010). Moreover, without an apology, exonerees are not formally ‘delabeled’ in the public eye, creating a struggle to reshape their identities as innocent people (Weisman, 2004; Westervelt & Cook, 2008). This is why many exonerees desire a public apology (Campbell & Denov, 2004). The apology has the capacity to spread awareness surrounding wrongful convictions to the community—one exoneree discussed this by saying that an apology:

...would formalize people knowing that mistakes were made. It would make people more aware that it has happened, and maybe it'll open up some of the reasons that has happened. As long as people deny there's a problem, nothing gets dealt with. (Campbell & Denov, 2004, p.156)

Thus, by apologizing to the exoneree, this not only encourages reform and informs society about wrongful convictions, it may also influence how society views and reacts to exonerees (Innocence Project, 2011d; Penzell, 2008; Westervelt & Cook, 2008). An apology is a confirmation of innocence, helping to re-establish the exoneree's position within the community and decreasing the chances of stigmatization (Westervelt & Cook, 2008).

Public Perceptions of Wrongful Convictions

It is possible that greater public support for preventing wrongful convictions and providing assistance to exonerees (post-conviction) may encourage the government to be more forthcoming when it comes to implementing new policies and provisions. Thus, exploring public perceptions of wrongful conviction and public support for exonerees may be important in regard to policy implications. Currently, very little research has been conducted on public perceptions of wrongful conviction (Angus Reid, 1995; Bell & Clow, 2007; Bell et al., 2008; Clow et al.,

2011; Ricciardelli, Bell, & Clow, 2009; Ricciardelli & Clow, 2011). Although further research in this area is necessary, the existing research has begun to question public perception in regards to: (1) how citizens feel the government handles wrongful convictions, (2) their confidence in the justice system in light of wrongful convictions, (3) what the public thinks is an acceptable number of wrongful convictions, (4) their overall knowledge and; (5) their views on compensation.

How the government handles wrongful convictions. Over a decade ago, the National Angus Reid Poll (1995) conducted a survey in order to determine what the general public thought of the Canadian government's ability to handle wrongful convictions. In one portion of the poll, participants were informed of some wrongful conviction cases that had occurred in Canada (e.g., Donald Marshall, Guy Paul Morin). When asked how they felt about the issue, two in three (65%) felt that those examples showed that the justice system needed to increase its efforts in the area of wrongful conviction (Angus Reid, 1995). Interestingly, this is more than double the number (30%) of people who endorsed the view that "wrongful convictions happen so rarely that the justice system should continue to carry on the way it always has" (Angus Reid, 1995, p.76), with the remaining respondents (5%) choosing not to answer the question.

Similarly, Bell and Clow (2007) found that more than half of their student sample (59.2%) disagreed with the statement "wrongful convictions are not a problem in the Canadian criminal justice system" (p. 101). They generally believed that wrongful convictions are a problem in the Canadian criminal justice system (Bell & Clow, 2007). Overall, the government seems to be poorly perceived by the public in terms of their ability to handle cases of wrongful conviction (Angus Reid, 1995; Bell & Clow, 2007).

Public confidence in the criminal justice system. A study conducted by Ricciardelli et al. (2009) surveyed first and third year Canadian undergraduates in criminal justice and non-criminal justice majors in order to assess student attitudes toward different aspects of wrongful conviction. When participants were asked if hearing about wrongful convictions lowered their faith in the criminal justice system, students stated that it did. This finding corroborated existing research (e.g., Huff et al., 1996), which showed that wrongful convictions may alter people's trust in the criminal justice system. Moreover, Ricciardelli et al. (2009) found that criminal justice majors' loss of confidence increased as their studies progressed, while non-criminal justice students experienced the opposite effect.

Acceptable number of wrongful convictions. Research has also attempted to explore the ratio of wrongful convictions to correct convictions that the public would find acceptable (e.g., Ricciardelli et al., 2009). Based on frequency estimate research (i.e., 0.5% wrongful conviction estimated rate), Ricciardelli et al.'s. (2009) study asked students the number of wrongful convictions they deemed as appropriate. It was found that approximately half (51%) of the sample did not think it was acceptable for there to be any wrongful convictions. Moreover, few participants (2%) thought that one wrongful conviction out of ten correct convictions was appropriate (Ricciardelli et al., 2009). When asked about how frequently they thought wrongful convictions actually occurred, criminal justice majors believed that the frequency was greater the longer they studied criminal justice, whereas non-criminal justice students believed that wrongful convictions were less frequent. Finally, to explore perceptions another way, participants were also asked if they supported the "Blackstone Ratio" (Ricciardelli et al., 2009): the notion that it is better to allow ten guilty people to go free than convict one innocent person (Blackstone, 1765).

Generally, criminal justice students were found to be more supportive of the Blackstone Ratio than the non-criminal justice students (Ricciardelli et al., 2009).

Wrongful conviction knowledge. Research has found that the general public do not have an in depth knowledge of wrongful conviction (Bell et al., 2008). Even criminal justice students generally reported being “somewhat informed” about wrongful convictions, whereas non-criminal justice students reported that they were “not very informed” (Bell et al., 2008). Notably, research suggests that increasing students’ knowledge about wrongful conviction improves their attitudes towards exonerees (Ricciardelli & Clow, 2011).

These findings are important because increasing knowledge can encourage change. Indeed, most students majoring in criminal justice hope to enter the field of policing, law, or corrections (Krimmel & Tartaro, 1999). Therefore, if future generations of criminal justice students are informed about wrongful convictions, it may influence their conduct when they enter the workforce. In terms of public perceptions, it is important to assess how much the average citizen knows about wrongful conviction because this may influence public support for exonerees. If people are more educated about wrongful conviction, public support may increase thereby influencing legislative change.

Views on compensation. Research has also found that the public is supportive of financial restitution for those who have been wrongly convicted (Angus Reid, 1995). Nine in ten Canadians responded that wrongly convicted individuals “should receive financial compensation from governments for what happened to them” (Angus Reid, 1995, p.77). Thus, it appears that the vast majority of Canadians agree that financial compensation should be awarded to individuals who have been wrongly convicted (Angus Reid, 1995). While these findings are noteworthy, research on how the public may view compensation remains limited.

Current Study

The current study sought to contribute to the literature on public perception of wrongful conviction and exonerees. Public perception research is important because it may encourage governments to change existing wrongful conviction policies (e.g., compensation statutes) or implement new policies to better assist those who have been wrongfully convicted (e.g., provide post-exoneration services to all exonerees). Further research on public perceptions of wrongful conviction and exonerees may assist in promoting these changes.

As very little research has been done on public perception of exonerees—and on the views of community members, in particular—this study focused on the views of community members. Currently, there is a discrepancy between the generally positive findings from this minimal public perception survey research (e.g., Angus Reid, 1995; Bell et al., 2008) and the negative experiences reported by exonerees (e.g., Vollen & Eggers, 2005; Westervelt & Cook, 2008). It is important to note that this discrepancy may result from limited methodologies in the survey research. The Angus Reid (1995) study only had two close-ended questions regarding wrongful convictions and the other survey research was strictly done on students (e.g., Bell & Clow, 2007; Bell et al., 2008; Ricciardelli et al., 2009). To address this, this thesis used a qualitative approach. Specifically, open-ended, structured interviews with community members were used to try to shed further light on these contradictory research findings. Interviews allowed participants the freedom to express their views in their own voice and allowed the researcher to explore the above noted difference.

This research used the participatory action research (PAR) strategy. PAR is used to raise awareness by confronting established elements of society (see Reason, 1998). Specifically, people that researchers gather information from (through interviews, focus groups, etc.) are considered to be active (not passive) participants in this process (Sohng, 1995). Namely, the

information gathered may help build a community of vested individuals and most importantly, empower people to facilitate change (Sohng, 1995). Therefore, by using community members' own perspectives, this research may promote collective inquiry and reflection on criminal justice practices and wrongful convictions. By engaging in a dialog with community members, it helps participants look at why certain practices are happening within society, inviting them to critically examine the sources and implications of their own knowledge (Sohng, 1995). In turn, the hope is that individuals will realize the need for socio-political action and reform (see Reason, 1998). Thus, the aim of PAR is to produce knowledge and action directly useful to a group of people (e.g., exonerees, governments) through research (e.g., community member interviews) and raising consciousness (see Reason, 1998). From the researcher's standpoint, he/she not only learns from participants, but he/she also encourages learning and awareness for participants (publishes findings, may enable critical-thinking through discussion, etc.). Ultimately, exploring how community members feel about wrongful convictions (i.e., public support) may influence government action.

This research investigated community members how community members define wrongful convictions, their general knowledge and familiarity, how they compare wrongful convictions in the United States and Canada, their feelings about the criminal justice system in light of wrongful convictions, if they can identify factors that lead to wrongful conviction, and their views on compensation and apologies. Based on prior research, it was hypothesized that:

- 1.) Participants would define wrongful convictions as cases of factual innocence as well as guilty individuals who got away with their crimes. This was expected because within the literature there are two contending perspectives including factual innocence (e.g., Anderson & Anderson, 2009; Doob, 1997; Huff et al., 1996; Savage et al., 2007; Weathered, 2007) and the judicially released guilty (e.g., Bohm, 2005; Garner, 2000). The literature states that the judicially released guilty occur more frequently (Huff et al.,

1996), which could make the public more aware of its occurrence and bias their definition of wrongful conviction.

2.) The majority of participants would report minimal knowledge of wrongful convictions, corroborating research findings involving student knowledge of wrongful conviction (e.g., Bell et al., 2008).

3.) Participants would think that wrongful convictions are more common in the United States than Canada. Considering that much of the research in this area is American (e.g., Huff et al., 1996; Huff, 2004; Ramsey & Frank, 2007; Scheck et al., 2000), the Innocence Project is located in the United States and our news media is heavily influenced by the US (e.g., US has higher crime rates; see Gannon, 2001), it is possible that people see wrongful convictions talked about in the US more often and, thus, assume that it is an American problem. Accordingly, the researcher anticipated that participants would perceive the United States to have an increased chance of wrongful convictions occurring in comparison to Canada.

4.) Knowing about wrongful convictions would lower participants' faith in the criminal justice system. This was hypothesized based on public perception studies, which found that faith in the criminal justice system diminished when hearing about wrongful convictions (e.g., Huff et al., 1996; Ricciardelli et al., 2009).

5.) Participants would identify some of the main factors leading to wrongful convictions (e.g., eyewitness misidentification, false confessions). The wealth of wrongful conviction research investigates the factors that have led to wrongful convictions (e.g., Anderson & Anderson, 2008; Bellemare & Finlayson, 2004; Campbell & Denov, 2005; Devenport et al., 1997; Findley, 2010; Hasel & Kassin, 2010; Huff et al., 1996; Scheck et al., 2003; Uphoff, 2007; Wells et al., 2010). It was our hope and belief that some of this research expertise had made its way into public knowledge.

6.) Participants would subscribe to the view that exonerees should receive financial compensation, corroborating past research (Angus Reid, 1995).

7.) Participants would feel that exonerees deserve an apology and that it should be done publically. This would support past research, which stated that apologies help exonerees, the justice system, and the community (e.g., Penzell, 2008; Savage, 2007).

This chapter has reviewed much of the literature on wrongful conviction, including the limited existing literature on public perceptions of wrongful convictions. Important pre-conviction and post-conviction elements were outlined in order to place this thesis study and participants' perceptions into context. Many of the interview questions were drawn from this literature. In the next chapter, the methods employed for the current research study will be presented.

CHAPTER FOUR: Method

Participants

Fifteen (8 men, 7 women) community members were recruited from various coffee shops throughout the downtown area of Oshawa, a suburban city in South Central Ontario. Even though these interviews were conducted in the city of Oshawa, participants indicated that they lived throughout the Greater Toronto Area (GTA). Specifically, participants lived in Oshawa (n=5), Whitby (n=2), Brooklin (n=2), Markham (n=2), Toronto (n=2), Newmarket (n=1) and Clarington (n=1). Ages ranged from 32 to 69 ($M=49$, $SD= 10.5$). In addition, participants had differing levels of education: four participants stopped at high school, six had college diplomas, and five had university degrees (with two holding post-graduate degrees). Community members received a small honorarium to participate (ten dollars).

Materials

An interview guide was developed for this research (see Appendix A). The interview guide contained questions pertaining to demographics, wrongful conviction, and compensation for exonerees. The demographics were placed at the beginning of the interview guide in order to ease participants into the interview; the wrongful conviction and compensation questions were the focus of the interviews. Questions fell into these sections: definitions, knowledge and familiarity, frequency of wrongful convictions, feelings about the criminal justice system, factors leading to wrongful conviction, compensation and apologies. The questions were pilot tested on 20 university students (see Appendix E). Based on participant comprehension, questions were modified as necessary prior to commencing this research (i.e., community members). The resulting questions can be viewed in Appendix A.

As the current literature contained differing definitions of wrongful conviction (e.g., Bohm, 2005; Doob, 1997; Huff et al., 1996; Savage et al., 2007; Weathered, 2007), participants

were asked what the term *wrongful conviction* meant to them with two questions. For example, participants were asked, “If you were asked to explain what a wrongful conviction was, what would you say?” Depending on the answer given, only one of the two questions would be asked, as they generated similar responses. Responses to these questions provided insight into public perception of wrongful conviction and revealed whether or not participants proscribed to the definitions that are currently discussed in academic literature. In addition, this gave the researcher the opportunity to establish which definition of wrongful conviction would be used for the remainder of the interview (factual innocence).

The next group of questions dealt with participants’ familiarity and knowledge of wrongful convictions. Research pertaining to societal knowledge of wrongful conviction is limited; however some scholars have delved into this topic (e.g. Bell et al., 2008). In order to contribute to this body of literature, approximately three ‘knowledge and familiarity’ based questions were asked. For example, participants were asked “how much do you feel you know about wrongful convictions?” In regards to identifying the names of exonerees, if participants could not generate names on their own, the researcher would provide some names, in hopes of sparking the participants’ memory (if necessary). Responses to these questions enabled the researcher to gauge how much the average citizen knows about wrongful conviction and how this knowledge (or lack thereof) contributes to their perceptions of exonerees.

As the literature argues that wrongful convictions are more prevalent than previously anticipated (see Redelet & Bedau, 1998), participants were asked roughly four questions targeting how frequently they thought exonerations occurred. As part of this grouping, participants were also asked if they thought wrongful convictions occurred more frequently in Canada or the United States. Campbell and Denov (2005) have argued that wrongful conviction

in Canada is similar to the United States; therefore this question would indicate whether participants associated wrongful convictions with one country over the other.

In regards to the research on how the public feels about the criminal justice system, research suggested that Canadians seem to be more positive than negative with respect to confidence in the system as a whole (see Roberts, 2004). In order to delve into this research area further, participants were asked three questions including how they felt about the criminal justice system, if their feelings changed when they heard about wrongful convictions and who should be responsible when wrongful convictions occur (see Appendix A). The responses elicited from these questions revealed how participants view the justice system in general and in light of wrongful convictions.

Since the wealth of wrongful conviction literature lies in the factors that typically lead to wrongful convictions (e.g., Anderson & Anderson, 2008; Bellemare & Finlayson, 2004; Campbell & Denov, 2005; Findley, 2010; Hasel & Kassin, 2010; Huff et al., 1996; Scheck et al., 2003; Uphoff, 2007; Wells et al., 2010), participants were asked one encompassing question on this topic. Specifically, participants were asked “why do you think wrongful convictions happen?” By answering this question, the researcher was able to determine if research findings are making their way to public knowledge.

Also, the compensation literature describes the struggles exonerees endure to receive reparation, the healing nature of reparation on exonerees, and the importance of compensation in regards to rebuilding an exoneree’s life post-conviction (e.g., Anderson & Anderson, 2009; Campbell & Denov, 2004; Huff et al., 1996; Penzell, 2008; Savage, 2007; Shore, 2001; Taylor, 2005; Weigand, 2009; Westervelt & Cook, 2008). While there is research on what the public thinks of compensation, it is minimal (e.g. Angus Reid, 1995). In order to further contribute to

this literature from the perspective of public opinion, participants were asked two questions regarding compensation. For instance, questions that were asked included: “Do you think the wrongly convicted should be financially compensated?” Answers to these questions provided insight on public perceptions of compensation as well as the extent of citizen knowledge in regards to the prevalence of reparation in wrongful conviction cases.

In regards to apologies, research has suggested that apologies are beneficial for multiple parties including the exoneree, the criminal justice system and the general public (e.g., Penzell, 2008; Savage, 2007). Therefore, one apology question was posed to participants. Participants were asked if they believed exonerees should receive an apology (see Appendix A). Depending on the participants’ response, participants were also asked, “Who do you think should be responsible for providing the apology?” Answers to these questions provided insight on public perceptions of apologies and shed light on whether participants identified the various parties that could benefit from apologies as asserted by the literature.

Finally, a consent form (see Appendix B) and debriefing form (see Appendix C) were developed for this research. This study received Research Ethics Board (REB) approval (see Appendix D) and was carried out in adherence with the American Psychological Association (APA) and the Tri-Council’s guidelines for the ethical and respectful treatment of human participants.

Procedure

Interviews were conducted at various coffee establishments in the downtown area of a suburban city in South Central Ontario (Oshawa). The coffee shops were selected to cover a range of clientele, such as Tim Hortons (cheaper chain), Joe Bean (independent store), and Coffee Culture (more expensive chain). Prior to visiting the downtown coffee shops, the

interviewer spoke to management and gained permission to conduct the research in their establishment. In addition, upon arriving at a coffee shop, the interviewer would inform the staff that permission was granted to conduct the interviews and that interviews would be occurring that day. This was done to ensure that staff members were comfortable with the interviewer being present at their place of employment. Interviews were conducted from July 11, 2011 to August 3, 2011.

Coffee shop patrons who were on their own were approached for participation. Participants were informed that the interviewer was a student at the University of Ontario Institute of Technology and was conducting interviews as part of her studies. In addition to this, participants were told that the interview would take approximately 30 minutes and they would be given a small honorarium in the amount of ten dollars for their time. If shop patrons were interested in participating but could not do so immediately, arrangements were made to meet up with the participant at a time and location of their choosing. If participants agreed to be interviewed, they were provided with the consent form (see Appendix B). Once informed consent was obtained, participants were reminded that a digital recording device would be used and then the interview commenced.

Each question from the interview guide (see Appendix A) was posed to participants. If responses were brief or did not fully address the question, the question was rephrased and/or follow-up questions were asked. For instance, when participants answered whether they believed wrongful convictions were more common in Canada or the United States, the interviewer often followed with the probe, "Why do you think more wrongful convictions are more common there?" Depending on the response, another follow up question could have been asked specific to the participant's response. For example, if a participant said that wrongful convictions were

more common in the United States because it was a more populous country, a follow-up question, such as “how do you think a higher population affects wrongful convictions?” was asked.

In terms of questions that were answered with a simple “yes” or “no”, follow-up questions were also used. For example, if participants said yes to hearing or seeing a wrongful conviction story in the media, the interviewer probed by asking what the story was generally about or what part of the story stood out for them. In the same vein, if participants agreed that exonerees should receive an apology, the interviewer asked whether they thought it should be done publicly or privately. In addition, participants were also asked how or if they believed the apology would help various parties discussed in the literature (e.g., exoneree, criminal justice system and the general public).

Upon the completion of the interview, participants were thanked for their participation and debriefed. Following the debriefing process, each community member received ten dollars for his or her time. Community members were also asked to sign and date a compensation receipt, which indicated that they received their ten dollars for participating. Data collection ended when thematic saturation had been reached. Saturation was reached when the researcher gathered data to the point of diminishing returns, when nothing new was being added to the study (Bowen, 2008).

Using the information provided on the consent forms (see Appendix B), anonymous identifiers (e.g., Joe Smith=C1) were created for each participant. This was done so that if a participant wished to withdraw from the study after its completion, the researcher could match them to their identifier and remove the data (none of the participants chose to withdraw from the study). The interviewer then created anonymous transcripts for data analysis. It is important to

note that only the interviewer had access to personal identifying information. The anonymous identifiers (C1, C2, etc.) were eventually changed into pseudonyms in order to discuss the results whilst protecting the anonymity and confidentiality of all participants. Finally, minor edits have been made to participants' quotes in order to improve grammar, reduce speech fillers or utterances (e.g., pauses), and to improve comprehensibility and flow.

Data Analysis

In this study, the researcher analyzed emergent themes in order to make sense of the data. Specifically, the researcher used inductive analysis, wherein the categories, themes, and patterns came from the data (Janesick, 1998). It is important to note that the themes and categories that emerged from the interviews were not imposed prior to data collection (e.g., stigmatization themes came forth even though no questions were asked by the interviewer). With that said, after data collection the interviews were transcribed and the data was analyzed using qualitative coding—attaching tags or labels to segments of the data that depicted what each segment was about (Miles & Huberman, 1994).

During the first reading of the data, the researcher located themes and assigned initial codes in an attempt to condense the data into organized categories. This form of 'open coding' brought themes to the surface from deep within the data (Neuman, 2003). The emergent themes were determined based on a topic or concept that recurred repeatedly. This also prompted the researcher to examine these themes in more depth as coding progressed. It is important to note that themes were created based on multiple participants expressing a similar perspective or opinion throughout the entire interview as opposed to a question by question analysis. Participants were included in every theme or subtheme that they mentioned; therefore they could be represented in several categories simultaneously.

During the second reading of the data, the researcher reviewed and examined the initial codes and focussed on making connections or linkages among the emergent themes. In particular, the researcher looked for categories or concepts that clustered together and also asked questions such as: “can I divide existing themes or categories into subthemes or subcategories?” and “can I combine several closely related concepts into a major topic of interest?” (Neuman, 2003). At this stage, detailed subcategories for each major theme were created and tallied. In the final stages of coding, the major themes and subcategories were established and the researcher conducted another sweep of the data—ensuring that all cases illustrating the established codes were included. Once the researcher finalized these codes, the thesis supervisor read through all the transcripts to ensure the main categories and subcategories were covered and nothing was left out. Where discrepancies existed, they were resolved through discussions between the researcher and thesis supervisor. In sum, this chapter has presented information on the methods used for conducting the current study, including information on participants, the materials, the procedure as well as the steps taken during data analysis. The subsequent chapter will discuss the results of this thesis study in depth.

CHAPTER FIVE: Results

This chapter presents the results of this thesis study. The findings have been organized into the following sections: definition of wrongful conviction, general wrongful conviction knowledge, frequency estimates, feelings about the criminal justice system, pre-conviction (factors that lead to wrongful conviction), compensation, apology and finally, post-conviction stigmatization. Additionally, the results of this study have been analyzed using the theoretical underpinnings of structuration theory, attitudes toward the criminal justice system, and stigma.

Definition of Wrongful Convictions

Eleven of the fifteen participants supported the view that a wrongful conviction is defined by factual innocence. As discussed by these participants, a wrongful conviction involves “someone who has been convicted of a crime they did not commit” (Ashley, July 28th 2011). These views were consistent with research that has argued that innocents who have been erroneously convicted constitute a ‘wrongful conviction’ (e.g., Doob, 1997; Huff et al., 1996; Savage et al., 2007; Weathered, 2007). None of the participants assumed that wrongful conviction meant the judicially released guilty. These findings were somewhat surprising as it was hypothesized that some participants would focus on the judicially released guilty. The remaining participants had idiosyncratic descriptions of wrongful convictions¹. Overall, it is evident that the majority of participants associate wrongful convictions with factual innocence. For those who stated idiosyncratic responses, they were informed that when referring to ‘wrongful conviction’ for the remainder of the interview it meant someone who was convicted of a crime they did not commit.

¹ Guilty until proven innocent (n=1); Convicted for the wrong reasons (n=1); Excessive punishment (n=1); Being charged unfairly (n=1).

General Knowledge on Wrongful Conviction

The majority of participants (n=14; 93%) admitted that they did not know much about wrongful convictions, supporting the hypothesis. Participants cited the media as their source of knowledge, specifically the news (n=6) and newspapers (n=3). As George stated, “I only know what I read in the newspapers, you know? Nothing in really great depth” (July 11th 2011). Similarly, Jessica claimed that when it came to her knowledge on wrongful conviction it was, “Probably not a lot...It’s not really my field of interest and I only know what’s commonly in the news” (August 3rd 2011). When it came to the names of specific exonerees, David Milgaard (n=5), Steven Truscott (n=3) and Guy Paul Morin (n=4) were identified by participants. Of these participants (who identified these exonerees), three brought up the names on their own, five recognized the name after the researcher mentioned it, and four partially identified the exonerees, but still needed assistance from the researcher (e.g., only stated the exoneree’s first name, discussed the specific details of the case, but could not remember the name). Also, three participants said they knew a friend or family member that was wrongfully convicted and one participant discussed their own wrongful conviction. Nonetheless, participants self-reported little to no knowledge on the topic of wrongful convictions, supporting existing research that established minimal participant knowledge regarding wrongful convictions (e.g., Bell et al., 2008).

Frequency Estimates

In terms of the frequency of wrongful convictions, six participants said they did not know how many individuals were exonerated. Additionally, five participants believed that wrongful convictions rarely happened. As mentioned, the majority of participants (n=14) did admit that they did not have extensive knowledge on wrongful convictions, relying on the news or newspaper to inform them. Therefore, it could be suggested that participants’ limited knowledge

may cause them to believe wrongful convictions were low. George explained how he came to the understanding that wrongful convictions were low when he said:

I'm quite a news junkie. I watch CTV news at night and CBC news in the morning and I read the paper quite a bit too so, it [wrongful conviction] doesn't really strike me as something that is really prevalent. Maybe it's more prevalent than I know, but it doesn't strike me as such [based on what I watch and read]. (July 11th 2011)

It can be suggested that since wrongful conviction cases are not publicized often, this could be influencing people to believe that wrongful convictions are infrequent.

In order to verify this, the researcher conducted a review of prominent newspapers in the GTA (e.g., Toronto Star, Toronto Sun, Globe and Mail, Oshawa This Week, National Post) for the entire year of 2011. On average, only three to four articles on wrongful convictions were found per paper. Thus, George seems to be accurate when he said that stories of wrongful conviction are not prevalent in the newspaper. As mentioned, structuration theory argued that institutions create certain boundaries, which restrict people from questioning them (Giddens, 1984; Jones, 1999). It can be suggested that the lack of wrongful conviction publicity elicits minimal public knowledge and this can act as a boundary that prevents citizens from second guessing the justice system (i.e., if citizens are unaware that a problem exists, they cannot criticize it). Additionally, this lack of publicity seems to lead the public to believe that wrongful convictions rarely occur—enabling the justice system to reproduce its actions without dispute from citizens.

Fourteen participants felt that innocent people *should* be exonerated. Of these 14 participants, eight participants claimed it is not always innocent people who are exonerated (the remaining six participants did not bring up guilty individuals at all). In particular, six participants brought up guilty individuals being released due to technicalities. Thus, the judicially released

guilty did emerge as a theme, but not when people were thinking of the definition of wrongful conviction.

In terms of the frequency of wrongful convictions between Canada and the United States, 80% of participants (n=12) believed that they were more common in the United States, as predicted. It can be suggested that this may be influenced by the media and publicity. One participant alluded to this when she said,

The States being the States because of what you hear and again, what you see on TV—[this] might lead you to believe that they [US] might have a higher rate of people who have been wrongfully convicted. ...As the general public, we go by whatever is on TV, whatever is in the news [and] whatever is in the [news]paper. (Rebecca, July 24th 2011)

In particular, participants claimed that the United States' larger population (n=4) and higher crime rate (n=7) contributed to the higher rates of wrongful convictions (compared to Canada). As Samantha noted, "I mean you would think the United States because their population is so much larger and the criminal rate is so much higher than Canada that it would maybe occur more often there [US]. I'm just saying proportionally" (July 26th 2011). Jason explained the effect of a higher crime rate further by saying, "Let's say in Canada you have up to three murders, the most you can get is three wrongful convictions, but in the States if you have 400 murders, you have the risk of 400 wrongful convictions" (July 11th 2011). These participants seem to confirm research, which states that the US tends to have higher crime rates than Canada (e.g., Gannon, 2001). Only one participant believed that wrongful convictions occurred more frequently in Canada.

Interestingly, two participants felt that wrongful convictions were just as likely to happen in the United States and Canada. As Jessica discussed, "I wouldn't think they're more common here [Canada] or there [United States]. I don't know that there's anything in [either] systems that would generate a different result. I think they're as likely to happen here [Canada] or there

[United States]” (August 3rd 2011). These two participants seemed to agree with research that suggests that even though most estimates tend to be published for the United States (e.g., Huff et al., 1996; Ramsey & Frank, 2007) this does not necessarily mean that wrongful convictions occur less frequently in Canada (Campbell & Denov, 2004; Doob, 1997).

Feelings about the Criminal Justice System

When participants were asked how they felt about the criminal justice system, they held a variety of opinions. Responses fell into three broad categories: (1) the justice system is doing a fair job, (2) negative feelings, and; (3) who should take responsibility for wrongful convictions.

The justice system is doing a fair job. When asked about their feelings towards the criminal justice system, ten participants stated that Canada had a good criminal justice system (n=10) and the system did a fair job (n=6). One participant described this by saying,

I think it's [criminal justice system] fair. I think overall it works. This isn't anarchy here in Canada. [So] the fact that something needs to be tweaked or there are aberrations doesn't necessarily mean that the overall thing is wrong or corrupt. That is certainly not the case. (Andrew, July 27th 2011)

Three participants claimed that mistakes can happen, however for the most part the justice system was effective. This seems to corroborate survey research, which stated that people generally felt confident in the justice system's abilities (e.g., Roberts, 2004; Statistics Canada, 2003). While some participants acknowledged that no system is absolutely perfect and flaws were evident (n=2), this did not affect how they felt about the justice system. As George described, “I don't think I have anything against it [criminal justice system]. I feel pretty positive about the justice system in Canada, knowing that there are exceptions and sometimes there are accidents. In the end, I [still] feel pretty positive about it” (July 11th 2011). This finding seems to contradict the initial hypothesis and the assertion from the literature (e.g. Huff et al., 1996;

Ricciardelli et al., 2009), which predicted that wrongful convictions would lower community members' faith in the criminal justice system.

Four participants claimed that they felt good about the criminal justice system because they had not experienced any personal encounters with it. Discussing the criminal justice system in Canada one participant said, "I'm happy with it [because] I've never had an incident with the police or justice system." (Tim, July 19th 2011). Additionally, some participants believed that the lack of capital punishment in Canada (n=4) was a positive feature of the criminal justice system. As Janet noted, "Thankfully we don't have the death penalty anymore because I would hate to think that somebody has lost their life, which I'm sure there has been [cases where people have lost their lives] for crimes they haven't done" (July 19th 2011).

Earlier, five participants felt that wrongful convictions do not happen that often—of these five, four specifically mentioned that this contributed to their positive feelings toward the justice system. This appears to corroborate structuration theory, as limited knowledge (a boundary discussed earlier) may cause people to also think positively about the justice system, enabling the justice system to maintain civilian obedience (because citizens do not observe any problems that would cause them to resist it) and reproduce itself (Giddens, 1984). For instance, when asked how she felt about the justice system, Jessica stated that it was fair since wrongful convictions occurred less than actual convictions: "Given the number of people who are convicted [and guilty] versus the number of people who are wrongfully convicted—[wrongful convictions make up] a relatively small figure [of overall convictions]" (August 3rd 2011). Similarly, Jason stated, "I think they [the criminal justice system] have been pretty good. They haven't had too many wrongful convictions, [so] I think they do their job pretty well" (July 11th 2011). Even though Roberts (2004) argued that the justice system must inspire confidence from the public in order to

ensure its legitimacy, these findings suggest that talking about wrongful convictions did not seem to undermine these participants' confidence in the justice system. Furthermore, these findings may explain how the criminal justice system continues to reproduce itself and maintain compliance (Giddens, 1984), as these participants still believed it functioned correctly (e.g., offenders are being punished, erroneous convictions are less than actual convictions) in spite of wrongful convictions.

Negative. Eight participants expressed negative feelings toward the justice system. Of the ten participants who felt that the justice system was doing a fair job, four of these participants also expressed negative feelings. Therefore, four participants expressed positive and negative themes and four solely expressed negative feelings toward the criminal justice system. Negative feelings seemed to be the result of wrongful convictions and/or the guilty going free.

Wrongful convictions. Six participants reported negative feelings for the justice system due to wrongful conviction. Three participants specifically said that they *lost faith* in the criminal justice system because of wrongful convictions. Samantha explained this when she said: "Well, because I know [wrongful convictions] happen that is why my opinion is so...I [don't have] faith in the justice system because wrongful convictions happen. That's why I have no faith in it" (July 26th 2011).

Other responses were that wrongful convictions made participants feel let down by the system (n=3), and the justice system did not adequately broadcast stories of wrongful conviction (n=3). To elaborate on these, Elizabeth (who experienced a wrongful conviction herself) discussed how she felt let down by the criminal justice system:

...You lose faith in your legal system, [they are] the one thing out there to protect you and [really], they [don't]. It just makes you doubt [them]. If they can accuse [me] of something so little, how do [we] know that there aren't people suffering behind bars for something more serious—where they had nothing to do with it? (July 14th 2011)

Thus, some participants did indeed lose faith in the system as they learned about wrongful conviction, as predicted. These results were similarly found in other research, wherein hearing about wrongful convictions lowered confidence in the criminal justice system (Huff et al., 1996; Ricciardelli et al., 2009).

As noted earlier, some participants felt that the criminal justice system needed to increase its efforts to broadcast wrongful convictions. This finding seems fitting since some participants felt that wrongful convictions did not happen much since they did not hear about it in the news. Notably, Frank believed that broadcasting wrongful convictions was important because it would raise public awareness, which is something he felt was currently lacking:

I think the justice system should be better in terms of bringing out cases which are wrongful convictions, so society knows about it. Not only does it help create a more inclusive society, [that is], it would help change [societal] views [on wrongful convictions] and create a better trajectory. So, I think [they] should do more to bring such issues out [to the public]. (July 22nd 2011)

Overall, by publicizing cases of wrongful convictions this might make people more aware that wrongful convictions happen so that the public does not think it is such a small percentage of cases (based on what they see and hear in the news). Moreover, by publicizing cases of wrongful convictions this may increase the visibility of perceived opportunities and alternatives for reform, which may propel concerned citizens to speak out against criminal justice problems. By increasing wrongful conviction awareness, criminal justice agents and other citizens may realize that modifications are needed, encouraging contextual change within the criminal justice system itself—as emphasized by structuration theory (Boisot & Child, 1988; Giddens, 1984; 1993).

Guilty going free. Six participants were especially concerned with the prevalence of guilty people going free. Even though an equal number of participants held negative feelings as a result of wrongful convictions and the guilty going free, participants tended to be more adamant

about the latter. These participants argued that plea-bargaining with criminals (n=5), hardened criminals getting away with soft punishments (n=3), and gangs and organized crime (n=3) contributed to their negative feelings toward the justice system.

Looking at participants' views on plea-bargaining and letting criminals off with soft punishments, Simon said:

I think there's a tremendous amount of reducing charges in the legal system just so they can get [offenders] through the system quicker. I read stuff where some of these guys are seriously bad criminals and they're getting off [after only] five, six years and then they go out and [commit other crimes] like murder. (July 19th 2011)

Two participants specifically mentioned Karla Homolka² and how this plea-bargaining case sold the justice system's credibility "down the river" (Ethan, July 20th 2011). Ethan discussed his dissatisfaction with plea-bargaining as a result of this case:

...[the justice system] paid her [Karla Homolka] for a confession against him [Paul Bernardo]. A plea bargain, when she had as much to do with the crime as he did. [Now] She's sitting down in the Caribbean sipping piña coladas and he's sitting in a prison cell watching the Price is Right. (July 20th 2011)

Participants also discussed the recent, controversial case of Casey Anthony³ (n=3) in relation to guilty individuals being released too easily. It seems that since these cases are publicized (more so than innocents being incarcerated), it may be impacting community members' attitudes.

Notably, these findings also corroborate survey research that found low levels of public satisfaction for the courts and parole system (e.g., Angus Reid, 1997; Ipsos-Reid, 2002). As Ethan explained,

² Paul Bernardo kidnapped, raped, and murdered multiple Ontario teenagers. Karla Homolka, his wife, convinced prosecutors that she was a victim of her husband rather than a willing and active co-conspirator. She arranged a deal with prosecutors, pleading to a lesser charge of manslaughter. Later videotapes of the crimes surfaced, revealing her more active and premeditated involvement. See CBC News: <http://www.cbc.ca/news/canada/story/2010/06/16/f-bernardo-homolka-timeline.html>

³ The case against Casey Anthony appeared in the American media for months. She claimed that her daughter, Caylee, was kidnapped by a babysitter, but her story changed numerous times (eventually accusing her father of murder). Some people suspect that Casey was directly involved in her daughter's murder, even though she was acquitted. See ABC News: <http://abcnews.go.com/US/casey-anthony-reveals-theory-caylees-death-psychological-evaluations/story?id=15340391#.TyHH1qVSQUI>

...[Look at] The case of Casey Anthony. Everybody thinks—even the jury [thinks] that she probably murdered the little girl, but [supposedly] “it was an accident.” [The courts] didn’t even charge her with anything, [even though] she didn’t even report the accident. She didn’t report it for 31 days. [Yet, she didn’t] even [get] a charge relating to criminal negligence—nothing. Now her little daughter is in a casket underground and there are no answers. To me, there’s something that stinks about that. (July 20th 2011)

Indeed, when talking about guilty people being released, participants were generally not impressed with the criminal justice system. In addition, participants discussed how poorly the system handled gangs and organized crime. Simon described how criminal groups pass through the justice system with ease and how this is more problematic than wrongful convictions:

...even in Ontario here, there was a case where they let 37 Hells Angels free because they didn’t get to court soon enough or they didn’t get convicted soon enough, so they were all let free and they had serious criminal charges. That’s what I mean—[the opposite of wrongful convictions] hardened criminals getting away with too soft punishments...Sure [wrongful convictions] are important, but I think it is a relatively small problem compared to all the other problems we have. (July 13th 2011)

These findings suggest that some participants’ concerns about wrongful conviction are overshadowed by their concerns for the judicially released guilty. One participant alluded to this, saying:

[An individual] might be innocent, but the [justice system catches] ten that are guilty. So is it worth it for [an innocent person] to go through that in order to catch ten [guilty people]? Maybe. Same with people who have been wrongfully convicted of murder—maybe one is put away, but [the justice system] caught 150 [offenders], so 200 lives [were saved] by him [innocent] sitting in jail. (Lauren, July 29th 2011)

Notably, this corroborates survey research, which found that some people believe that convicting an innocent person was not as bad as letting a guilty person go free (e.g., Dowds, 1995).

Ultimately, it seems that for these participants the idea of guilty people going free has a considerable impact on their feelings towards the criminal justice system, mirroring the crime-control orientation noted by research (Dowds, 1995; Roberts, 2004; 2007). Furthermore, these findings suggest that the idea of releasing guilty individuals goes against the established criminal

justice routine (e.g., punishing offenders, keeping society safe by removing perceived threats).

As discussed, routinisation is what maintains complaint behaviour on the part of citizens (Berger & Luckmann, 1967; Giddens, 1984; Jones, 1999). Therefore, releasing guilty individuals does not seem rational to these participants (Barley & Tolbert, 1997), causing them to speak out and criticize the criminal justice system.

Responsibility for wrongful convictions. When asked who was at fault when wrongful convictions occurred, participants mentioned a number of different political and legal positions, such as the government, the justice/legal system as a whole, police, lawyers and finally, judges. Since there is a recognition that the administration of justice is one of the primary goals of good government (e.g., Roberts, 2004), it is fitting that 40% participants (n=6) believed the government should be responsible for wrongful convictions as it is the government's duty to oversee and monitor the criminal justice system and its personnel. In this study, two participants specifically mentioned that the Prime Minister should be responsible. In addition, six participants felt that the justice system as a whole is responsible for wrongful convictions. This may explain why previous surveys have also noted low confidence in the justice system (e.g., Statistics Canada, 2003).

Previous survey research (e.g., Angus Reid, 1997) asked the Canadian public to rate various branches of criminal justice. While these public surveys found that police are viewed highly by the public (Angus Reid, 1997; Ipsos-Reid, 2002), the current study found that some participants believed they played a significant role in wrongful convictions (n=6). In fact, these participants said the police are the most responsible (n=3) due to their investigative role (n=3) and because oftentimes, they did not investigate the case fully (n=3). When discussing police responsibility Ethan said,

I would say the police [should be responsible because] they're the ones that arrested the person for this so-called crime and he didn't even do it. You can't just arrest somebody say on the fact that someone [eyewitness] said that they saw them walking 100 yards from where the crime happened the same night. They just can't. So, I'm just saying that the police are the ones that put the guy behind bars to begin with, you know? [Even though] there [wasn't] enough solid evidence [to proceed with] that conviction. (July 20th 2011)

Four participants felt that lawyers contributed to wrongful convictions. One participant described how professionals (e.g., lawyers) should be more responsible for wrongful convictions due to their extensive training and education. As Andrew stated,

Because as a professional, the presumption is that [you work] beyond your personal likes and dislikes about society...it isn't a matter of how you feel [about something or someone]. So, for that reason a lawyer could have dealings with or may be suspicious of [an individual], [however] professional[ism] requires that just like a doctor swears to a Hippocratic oath to preserving life, [so should a lawyer]. (July 27th 2011)

In addition, 20% (n=3) of participants believed that judges were at fault for wrongful convictions. Judges' work is typically concealed from public view and their decisions become public knowledge only when controversy is involved (Doob & Roberts, 1988; Roberts, 2004). This was observed in the current study when participants discussed the controversial cases of Karla Homolka and Casey Anthony and their dissatisfaction with the sentencing decisions. Specifically, participants discussed how these cases contributed to their negative feelings towards the judge as well as the justice system. These participants also stated that judges should be more proactive in preventing erroneous convictions. As Ashley described,

I'm pretty sure the judge has the final say. If the judge has any doubt in what the jury has selected whether guilty or not guilty—I think the judge, if they have any doubt deep down inside, I think they should continue [the case] and research it a little more before [handing down] a conviction. (July 28th 2011)

In sum, participants' negative views surrounding lawyers, judges and the parole system are aligned with previous research (e.g., Ekos Research Associates, 2000; Ipsos-Reid, 2002). However while previous polls found positive ratings for police, (e.g., Angus Reid, 1997;

Roberts, 2004) interestingly some participants in this study believed that police were one of the most responsible players in wrongful convictions along with the government and justice system as a whole. These findings also seem to support the idea that citizens expect institutional agents to know and carry out their jobs properly and efficiently—and when agents do not do this, dissatisfaction occurs. This dissatisfaction could jeopardize the reproduction of the criminal justice system, which has been suggested by structuration theory (Giddens, 1984).

Pre-Conviction: Factors Leading to Wrongful Convictions

Participants' responses on what factors they believed contributed to wrongful convictions comprised seven main categories: (1) Mistaken eyewitness identification, (2) false confession, (3) tunnel vision, (4) public pressure to solve crime, (5) stereotyping and prejudice, (6) trial issues and; (7) problems with how laws are written and interpreted.

Mistaken eyewitness identification. Mistaken eyewitness identification has been cited as one of the most frequent causes of wrongful convictions (Gross et al., 2005; Scheck et al., 2000), yet only a small portion of participants mentioned problems with eyewitnesses in this study (n=3). Participants stated that eyewitnesses lead to wrongful convictions because oftentimes the witness did not see all of the details of the true perpetrator (n=3). Ethan explained the problem with eyewitnesses when attempting to identify someone in a police line-up:

...[an eyewitness] looks at a photo [line-up] of six people and they view the photos and right away they go, "that's the one!" [But] actually the [police] have another [individual] that looks [similar to] the guy the witness just pointed out, and that's the *actual* [perpetrator]. Sometimes people look almost like somebody else. So, if [a witness] sees somebody jumping over a fence at night and they see the face, this person [may] look exactly like [the suspect] except the [real suspect] had a scar. The [witness] didn't see that scar in the dark. So, that's what I'm getting at, those kinds of things can convict someone. [A witness happened to see someone] jump over the fence close to where the crime happened and [unfortunately] he [resembles] the guy who actually did it [crime]. (July 20th 2011)

Thus, some participants seemed aware of the issues surrounding similarity and viewing conditions as asserted by research (e.g., Steblay et al., 2001), however, there were not as many participants as one might have expected.

False confessions. Although false confessions contributed to 25% of the first 250 post-conviction DNA exonerations (Garrett, 2008), only one participant in this study identified false confessions and police interrogation problems as factors leading to wrongful convictions. As Samantha described:

...The person could've [been] innocent, but pleaded guilty because of pressure [or] duress. I've heard [stories where] the police have an innocent person—that boy. They brainwashed him 'till the point that he actually started to believe that he committed the crime. It was [a] young boy and they said he murdered his parents. The police constantly badgered him, because they knew that it wasn't him, [and they knew that he was] innocent, [but they told him] "you blacked out, [and] you don't remember." Out of fear he thought, "Okay I must have done it, they have all this evidence [against me]." So the [police proceed to] convict them based on [a false confession]. (July 26th 2011)

Therefore, this one participant seemed to acknowledge how the police interrogation process and various situational and dispositional factors can lead to false confessions as noted in the literature (Gudjonsson, 2003; Hasel & Kassin, 2010; Leo, 2008).

Tunnel vision. Some participants identified characteristics related to tunnel vision practices, including police making snap judgements/assumptions (n=5), lack of sufficient evidence (n=4), viewing factors from a one-sided point of view (n=1) and taking a small amount of evidence and "going with it" (n=1). Lauren described tunnel vision in regards to David Milgaard's case saying, "They [criminal justice system] focussed on him and that was it... They didn't explore other avenues [or suspects]" (July 29th 2011). Thus, community members seem aware of the potential issues of tunnel vision on wrongful conviction, corroborating research findings in this area (e.g., Cory, 2001; Findley, 2010; Kaufman, 1998; MacFarlane, 2006). In

fact, more participants seemed able to conceive tunnel vision as a factor in wrongful conviction than false confessions.

Public pressure to solve crime. Nine participants acknowledged that there are pressures and environmental forces that can cause wrongful convictions to occur. Specifically, these participants felt that pressure from the public (n=5) created a push to find the perpetrator (n=3), subsequently forcing the police to produce results and find a solution (n=5). Janet described how public pressure can create pressure for police to quickly find a suspect in order to re-establish citizens' feelings of security and safety:

Sometimes I think [wrongful convictions] have to do with the public, [because] they want [answers]. [There] was such a horrible, hideous crime that they don't feel right until somebody pays for it. It might make things speed up a little bit and mistakes are made because they [criminal justice system] feel the public pressure to find somebody. [By securing a conviction this makes society] feel better. "Okay, somebody has been found and punished for it". And maybe if there's that bit of doubt that it wasn't them, they [society] still feel better because someone has paid for it. (July 19th 2011)

The remaining participants felt that pressure from the victim's family (n=1), political pressure (n=2) and abuses of power (n=1) were also contributory. This finding is noteworthy because as Borchard (1932) argued, public pressure can contribute as much as other circumstances leading to wrongful convictions. Although academic research often focuses on the contributions of eyewitness misidentifications and false confessions (e.g., Devenport et al., 1997; Garrett, 2008; Gross et al., 2005; Gudjonsson, 2003; Hasel & Kassin, 2010; Kassin, 2007), community participants seemed more aware of the potential biasing effects of public pressure and tunnel vision. Participants also seemed to recognize that sometimes there are overarching forces that may constrain criminal justice agents from properly conducting their duties, which has led to the justice system reproducing itself (and problematic practices) over the years (Jones, 1999; Pettigrew, 1987).

Stereotyping and prejudice. Over half of participants (n=8; 53%) felt that stereotyping and prejudice were factors that lead to wrongful convictions. Specifically, factors such as the exoneree's past behaviour (n=3), race/being targeted as a racial minority (n=8), having a criminal record (n=4) and history of trouble with the police (n=3), were all cited as traits that could lead to wrongful convictions.

In terms of an exoneree's past, George discussed how certain behaviours could lead to stereotypical beliefs:

We have stereotypes of certain people. People say, [things like] "oh he was out drinking and whoring around and all that, so he must be guilty". We believe that people, who drink excessively, don't always follow the rules and other things, [are different]. We judge them on their behaviour. (July 11th 2011)

This corroborates research that argued that if an individual does not act according to societal expectations or seems to be different from the majority, they are perceived to be more likely to commit crime (e.g., Anderson & Anderson, 2009).

Participants commented on race and racial targeting in wrongful convictions as well.

When talking about ethnic discrimination George said:

You hear about this all the time, the police stopping the Black guys—the young Black guys with cars because African-Canadians, some, are in trouble a lot. So, things that we [society] don't find acceptable, we [just assume], "Those are the bad guys". (July 11th 2011)

Samantha discussed racial discrimination in terms of being pinpointed within the community:

"...you know people within the minority community that were pointed at just because they were Black or Asian, they were never actually [involved]—they were the scapegoat [based on their race]" (July 26th 2011). Another participant discussed how racial bias could impact members of the jury, leading to wrongful conviction:

For example, [if there is a juror] who has been robbed or bullied by someone who was Asian or even Black—going into a court room, [this juror] sees someone [the defendant]

who is Asian or Black; [they] will automatically have [a] prejudice against them. (Ashley, July 28th 2011)

These findings are noteworthy because research on wrongful convictions has found that the race of an exoneree can be a significant factor related to errors (Babooram, 2008; Bedau & Radelet, 1987; Borchard, 1932; Huff et al., 1996). Thus, it is evident that these participants understand how racial issues can be present in some wrongful conviction cases.

Having a criminal record and a history of trouble with the police could also place an exoneree in the spot light according to some participants. George described how someone with a criminal record may have a harder time convincing people of their innocence because there is a common misperception that they are more likely to reoffend than someone who does not have a criminal record:

Someone [who] has been in trouble before would have more trouble explaining their way out of something because nobody listens. They were in trouble before and [so] you expect it to be them again. You have two people, and one has a record [and one does not], you [assume], it's probably the one who has been in trouble before. (July 11th 2011)

Another participant supported this notion by saying, "If someone has a history with trouble or violence, they are often first on the list [as a possible suspect]" (Jason, July 11th 2011). These findings appear to support research, which contends that having a criminal record may place an individual at a higher risk for wrongful conviction (e.g., Beaver & Marques, 1985; Blume, 2008; Huff et al., 1996; Rattner, 1988). Overall, it seems that these participants were aware of how 'dark currents' (Giddens, 1984) within society (racial biases, prejudice, marginalization, etc.) can inadvertently lead to outcomes like wrongful convictions.

Other issues. Some participants acknowledged contributory issues that were out of the exonerees' control (e.g., wrong place at the wrong time, poverty). Elaborating on these, three

participants discussed the unfortunate event of being caught in the wrong place at the wrong time. Mark described this when he said:

...Wrong place at the wrong time, you know, you have four people that were caught in a crime, one was [actually] guilty, but the other three just [happened to be] there. So now, you have [the] person who committed the crime, but they convict the other three [as well]. Then, it is later found out that the three that weren't part of the crime were wrongfully convicted. (July 29th 2011)

Additionally, three participants also felt that the exoneree's socioeconomic status (i.e., poverty) could contribute to their wrongful conviction, associating this with the exoneree's lack of legal representation or inability to afford a good attorney (n=2). For instance, Simon stated, "I would say that wrongful conviction is something that tends to happen to poorer people, who couldn't afford a proper legal defence" (July 13th 2011). This corroborates research, which argued that poor defendants, who cannot afford legal representation, are at a higher risk of wrongful conviction (e.g., Huff et al., 1996).

Five participants discussed the idea that exonerees themselves can be seen as contributors to their erroneous conviction. Specifically, two stated that the exoneree could have been protecting someone else, two stated that the exoneree could have pleaded guilty to deflect other criminal charges, and one participant stated that the exoneree could not provide a solid alibi. Thus, Elizabeth stated that the public may hold the following view toward exonerees: "... you must have done something in order for them to have approached you and charged you in the first place" (July 14th 2011). These perceptions may explain why exonerees tend to be blamed for their wrongful conviction (e.g., Kauzlarich et al., 2001; Westervelt & Cook, 2010). In essence, people find ways to place the fault of wrongful conviction on the exoneree rather than questioning greater social issues (Westervelt & Cook, 2010) or the systematic structures that perpetuate the repetition of errors (Giddens, 1984; Hughes, 1936)—because if it is the exoneree's fault in some

way, then regular honest citizens do not have to worry about wrongful convictions befalling them.

Trial issues. Five participants stated that elements of a trial contributed to wrongful convictions. Although 23% of the first 70 DNA exonerations were caused by inadequate defence attorneys, only one participant mentioned it (bad lawyering). In particular, Samantha discussed bad lawyering in the sense that the attorney was new to the profession, was generally inadequate or could not handle the complicated nature of the case. She stated,

It could be that lawyers just didn't do their job... the lawyers were inadequate. It could've been a new lawyer that just stepped off the Bar or it could've been [that the] lawyer that thought they were dealing with a black and white case—they didn't realize that [there was more to it]. [Also] They didn't investigate [it] further, [they just did] the minimal things [required of them]. [As I said] Maybe [the case] was too complicated or maybe the lawyer discovered that there was more to it [and couldn't handle it]. (July 26th 2011)

Research has noted that due to a low socioeconomic status, an exoneree may not be able hire a good defence lawyer, which has led to wrongful convictions (e.g., Huff et al., 1996; Scheck et al., 2003; Uphoff, 2007). As argued, novice or over-worked attorneys (e.g., public defenders) may not have the same capabilities or available time as experienced or high-paid lawyers (Innocence Project, 2011c). This also supports the notion that the structure of the criminal justice system itself may be negating the abilities of its agents, enabling the reproduction of problematic practices (Giddens, 1984; Hughes, 1936).

A crown attorney's preoccupation with winning cases was mentioned by one participant. As Rebecca said, "There's this thing about how many cases [lawyers] win [and] how many cases they lose. What kind of cases they win, you know? They lose sight of the real picture" (July 24th 2011). This is reminiscent of research which discussed that prosecutors no longer see courtrooms as venues for justice, but rather opportunities for personal gain (e.g., Borchard, 1932; Clayton,

1995; Ferguson-Gilbert, 2001; Rosenberg, 2002; Schoenfeld, 2005). The remaining three participants provided idiosyncratic responses⁴.

How laws are written and interpreted. Three participants stated that Canada's laws were also problematic for wrongful convictions. Particularly, wrongful interpretation of the law (n=3) and laws not reflecting modern times (n=2) were cited as flaws contributing to wrongful convictions. Frank explained this by stating, "Perhaps [it is] not due to the person's own doing, but the application of the law [along] with a wrongful interpretation of the law itself" (July 22nd 2011).

In terms of laws not reflecting modern society and how this leads to wrongful convictions, Samantha noted:

[The] justice system needs to be re-examined and it needs to reflect a modern society. I don't think [the justice system is modern]. I don't think the words [reflect a current society]. I think the law is very vague, very open [to interpretation] and not very specific. And I feel that many people fall through the cracks because of certain laws, because "[they] said this [but they] didn't say that". [I think laws] should say this and it should say that! I don't think the law is very specific and I think there [is too much] room for error and interpretation. (July 26th 2011)

It can be argued that out-dated laws reflect structuration theory's assertion that some individuals may not want to disturb the established rules and regulations within an institution (e.g., Boisot & Child, 1988; Jones, 1999; Pettigrew, 1987). This resistance may prevent criminal justice agents from stimulating change (i.e., institutional/structural change). Accordingly, this propels the reproduction of laws and/or rules that have been found to be problematic—as noted by these participants. Overall, these participants felt that the criminal justice system needed to reassess its laws in order to function more efficiently. This is supported by research (e.g., Sherman, 2002) wherein calls to change the system are provoked by public concerns. As argued, intentions to

⁴ Lack of objectivity (n=1); human error (n=1); biased jury (n=1)

alter regularized behaviour also can lead to institutional change (Boisot & Child, 1988; Giddens, 1984; 1993), which seems to be advocated by these participants.

In order for the behaviours described above (e.g., solving crime quickly, stereotyping, tunnel vision) to count as action, Giddens (1984) argued that they must be intentional: Do criminal justice agents intend to wrongfully convict someone? Based on participants' previous comments (e.g., accidents and mistakes can happen) and participants' acknowledgement of how environmental factors (e.g., public pressure) can act as facilitators of wrongful conviction, it appears that participants generally did not sense malicious intent on the part of criminal justice personnel. This also supports research that argued that the environment in which criminal justice personnel work (e.g., MacFarlane, 2006), and the greater social structure itself (Pettigrew, 1987), tends to foster wrongful convictions more so than individual failings (e.g., Anderson & Anderson, 2009). Although participants did mention a number of factors that have been identified as leading to wrongful conviction in the literature (e.g., mistaken eyewitnesses, tunnel vision, stereotypes and prejudice), they also made mention of other issues that were not expected, such as out-dated laws.

Compensation

As predicted, participants did believe that exonerees deserved compensation. Participants' compensation responses were organized into four sections: (1) monetary compensation, (2) non-monetary services, (3) factors to consider for compensation, and (4) community member knowledge of compensation.

Monetary compensation. When asked about their feelings on compensation, all participants (n=15) were of the opinion that exonerees should receive financial reparation. In

regards to financially compensating exonerees, Ethan placed the issue in context to other government spending:

Let's put it this way, we spend billions of dollars to send money to Afghanistan, India, Haiti, everywhere—billions of dollars a year, so why wouldn't we compensate one of our own citizens? To the tune of two maybe three million dollars, when 25 years come and go. Why wouldn't we give one of our own citizens a million dollars for 25 years of their life? (July 20th 2011)

This finding supported previous survey research, which found that the majority of respondents believed that exonerees should be compensated for their wrongful conviction (e.g., Angus Reid, 1995). It can be argued that public support for compensation may stimulate criminal justice agents to modify current compensation policies. As discussed in the theory of structuration (Burns, 1961; Giddens, 1984; 1993; Pettigrew, 1987; Ranson et al., 1980), this may facilitate the institutional changes needed to prevent the reproduction of problematic compensation practices in the future. Community members believed that exonerees deserved financial compensation for the following reasons: assistance moving forward (n=8), they have had time taken away from them (n=10), they were unable to earn a living while incarcerated (n=9), and their reputation has been damaged as a result of the wrongful conviction (n=5).

Moving forward. According to eight participants, compensating the wrongly convicted helps them move forward. As explained by Jason, “Because you have taken a lot of their life away, and they need to get back on their feet, and start over” (July 11th 2011). Similarly, Rebecca explained:

I think he or she should be compensated in any way that would make their life a little better. I don't know and would never want to experience life in jail—not even for two days, imagine 33 years? [The exoneree] comes out and it's a whole other world out here and [they] don't know what to expect from people. So, I think that it is Canada's responsibility to help in any way. [So that wrongly convicted people can] try and get some kind of life back. (July 24th 2011)

As advocated by research, compensation is viewed as an essential post-conviction service that can assist the exoneree with restarting their lives (e.g., Campbell & Denov, 2004; Innocence Project, 2009; Shore, 2001; Weigand, 2009).

Lost time. Ten participants felt that the time taken away from wrongly convicted individuals warranted compensation. One participant described this by acknowledging that compensation cannot reimburse all the lost years and experiences, but it could help the exoneree enjoy the rest of their lives. As Janet explained:

Because they [wrongly convicted individuals] can't get their life back, they can't get those lost years back. Nobody can give that to them and who knows what part of that life they missed out of. They could've missed meeting someone, getting married, having a family. How do you replace that? So, financially, it can't get their life back, but it could make their life a little more comfortable. (July 19th 2011)

This seems to reflect the sentiments of exonerees, who have acknowledged that money does not give them what they lost, but it does help them come to terms with what happened to them (Campbell & Denov, 2004).

Lost income. Nine participants felt that compensation should be granted to exonerees because they were unable to earn a living as a result of the wrongful conviction process. Simon acknowledged how lost time translated into lost income: "Well, if they are wrongfully convicted they've had time taken away from them and we live in a society where we get paid for our time, [so] that person should be compensated" (July 13th 2011). This corroborates research, which argued that monetary compensation is essential for providing exonerees with the independence they lost as a result of their wrongful conviction (e.g., Campbell & Denov, 2004; Innocence Project, 2009).

Damaged reputation. Five participants believed that financial compensation was essential for wrongly convicted individuals because their reputation was subsequently tarnished.

George described this best when he said, "...their reputation has been soiled. You can never fully compensate them for that, but you can start with the money yes indeed" (July 11th 2011).

Notably, one participant mentioned three categories simultaneously (time lost, the ability to earn an income and moving forward respectively):

They lost that much time of their lives being behind bars, so I think that monetarily they haven't made any money. When they come out of jail, they aren't going to be able to sustain a life they could've had while they were out there. (Ashley, July 28th 2011)

Thus, it is evident that support for compensating exonerees was found in this study, suggesting that these community members favour financial compensation.

Non-monetary compensation. In terms of non-monetary compensation, all participants (n=15), once again, felt that exonerees deserved these services. Specifically, participants mentioned employment and training services (n=8), counselling (n=5), housing (n=7), education (n=5), clearing the exoneree's record (n=6), disseminating the wrongful conviction story to the public (n=3), and community reintegration assistance (n=3).

To elaborate on some of these suggestions, participants felt that "the effort should be made to restore [exonerees] to their gainful employment. I think they [government] should be responsible for finding [wrongly convicted individuals] equitable employment" (Andrew, July 27th 2011). Counselling was another service that participants deemed important. As Elizabeth explained:

Counselling, it would be nice if they would get counselling. Because it's ridiculous [that] they tell you to get guidance, yet you can't afford it, and they're not willing to pay after they've done something to you that you had no role, control or fault over. (July 14th 2011)

Similarly, Ashley said, "psychologically, I think they should have some counselling or whatever—something to make sure that they are psychologically ready for the world. I mean, when they are behind bars, they are secluded right?" (July 28th 2011). Participants'

acknowledgment of the need for these services is important because exonerees have reported psychological issues during the post-exoneration phase (Campbell & Denov 2004; 2005; Grounds, 2005).

Looking at views on clearing their criminal record, Ashley said, “If [they] haven’t committed the crime and they have been wrongfully [convicted] then they should be [exonerated]. Like their name should be cleared. They shouldn’t have to live with that over their heads for the rest of their lives” (July 28th 2011). In a similar vein, Elizabeth said, “First of all, I think they should clear their record, clear their name, give them that much at least. And then compensate them and get them help if that’s what they need. But number one, clear their name because that’s going to make a big difference” (July 14th 2011). This finding is noteworthy since research has noted various problems experienced by exonerees due to having a criminal record after their wrongful conviction (e.g., Cole, 2009; Innocence Project, 2009; Westervelt & Cook, 2010).

Disseminating the exoneree’s wrongful conviction story was brought up again. Earlier, in feelings about the criminal justice system, participants commented that wrongful conviction stories needed to be broadcasted more—here, participants talked about dissemination as a non-monetary service. As Samantha mentioned,

I feel it should be publicized [because] nobody knows about it [wrongful conviction]... The average case where this person was [wrongly] convicted and then was exonerated are not publicized, so [society doesn’t] know about it. I haven’t seen it [wrongful convictions] publicized. I think there are more cases that we don’t know about... It’s a shame because I think that every person who has gone to jail for a crime they did not commit deserves their day in the light. (July 26th 2011)

It is clear that some of the participants in this study advocate for spreading awareness on wrongful convictions as a way to help various parties including: the exoneree, the justice system, and society. Throughout the study (e.g., feelings about the justice system, non-monetary

services), the dissemination of wrongful conviction stories appeared to be an important topic for participants. Thus, it can be suggested that participants may want to know more about wrongful convictions since these cases are rarely exposed to the public.

Participants also mentioned providing exonerees with assistance returning to their community. One participant explained how some communities reject exonerees, making assistance with community reintegration imperative:

They [exonerees] should be compensated by the community. You know, many people who have been wrongfully convicted have been shunned by their community. They were made to feel like outcasts [by their] community. [Therefore] there should be some sort of public awareness to the community. Let's say they were living in the community of Oshawa, and there was someone who was wrongfully [convicted] and they were shunned by the community. He [exoneree] went to jail for several years and the family and the community, shunned him. Once he gets out and he comes back they're going to still be suspicious. [So] It needs to be made public that this man is innocent. The community needs to accept him [again]. He needs to be given a job, he needs to be given somewhere to live, he needs to be given a home, he needs to be given his life back—not just with money, but also to feel that he is welcomed in the community. (Samantha, July 26th 2011)

Interestingly, researchers (e.g., Chunias & Aufgang, 2008; Griffiths et al., 2007; Westervelt & Cook, 2008) have argued for the same services listed by participants. Also, the mentioned services are important to consider because they highlight the insufficiencies of current compensation regulations and may assist criminal justice agents who are seeking to stimulate policy changes (i.e., by realizing what wrongly convicted individuals need post-exoneration) (Giddens, 1984; 1993; Pettigrew, 1987). Indeed, researchers posit that non-monetary assistance should be offered in conjunction with monetary compensation in order to maximize successful integration (Chunias & Aufgang, 2008; Griffiths et al., 2007; Westervelt & Cook, 2008).

Factors to consider for compensation. When asked what factors should be considered for compensating wrongly convicted individuals, participants offered a variety of guidelines. For instance, almost all participants (n=14) felt that the length of time in prison is an important factor

to take into account: “When you were put behind bars, it also depends on how long you were put behind and what not” (Elizabeth, July 14th 2011). Participants’ acknowledgement of the number of years spent in prison is important because some compensation statutes (e.g., Texas) grant compensation per year of incarceration, whereas others do not (e.g., New Hampshire) (Norris, 2011). In addition, earning potential was commonly mentioned by participants (n=9). As Mark described,

I would look at what the [exoneree was] doing before they went behind bars, their earning potential for the time that they spent [in jail]. For instance, if you put a lawyer away in jail for 20 years, that’s 20 years of earnings that he lost. If you put someone in jail who worked in the education system, that is 20 years of building up a pension that they lost. That should all be looked at [for compensation]. (July 29th 2011)

Notably, participants felt that age was also important (n=5) because it is harder to start over and reintegrate for older exonerees. Tim commented on this, saying, “It’s extremely hard, the older you get the harder it is to start all over” (July 19th 2011). Indeed, it has been acknowledged that age is a factor in the adjustment process post-exoneration; specifically older exonerees and exonerees who were incarcerated at a young age have greater difficulties with reintegration (e.g., Grounds, 2005; Innocence Project, 2009).

Moreover, some participants believed that the type of crime (n=4) the exoneree was charged with should be considered for compensation. As Frank explained,

If it was murder and/or rape charges, those are big issues. So, in such a case compensation has to be obviously huge. You know, [the wrongful conviction] has tarnished the person’s image and they are associated with something horrendous. In such cases, compensation should be large. (July 22nd 2011)

Here, these participants recognize that certain crimes hold different implications within society. In particular, severe crimes like murder or sexual assault are viewed more seriously than other crimes such as theft or drug possession. Thus, these participants felt that the type of crime

matters because the more egregious it is, the more the exoneree had to endure (e.g., character damage, stigmatization), warranting more compensation as a result. As Lauren noted:

If you were convicted of robbing a bank and you were put away for ten years [or] if you were convicted of killing your parents and you were put away for twenty years, you would rather be convicted of robbing a bank because for those ten years everybody thought you did it. [So] if you [were accused of having] killed your parents or a man raped a child per say, there's no getting your good name back no matter what the government says [later] and that would just eat you up for those ten years in jail. That would just eat you away; you would feel like you have nothing to live for knowing that people think you did that [when you didn't]. (July 29th 2011)

Interestingly, the amount of character and reputation damage endured by the exoneree (n=4) was noted by participants, which could be linked to what they were wrongly convicted of. Other factors to consider included the effect on mental (n=3) and physical health (n=3), effect on family relationships (n=6) and if they were responsible for dependants like kids, or a spouse (n=3).

Knowledge on compensation. In addition to participants' knowledge on wrongful convictions, participants were also asked questions pertaining to their knowledge on compensation. In terms of the percentage of compensated exonerees, eight participants could not provide a number, eight stated that the percentage is lower as opposed to higher, three said that compensation is not something you hear about enough, and two thought that high-profile cases are often given compensation. Only two participants thought—or rather hoped—that all exonerees were compensated. When asked how much an exoneree typically receives, twelve said they did not know, seven stated millions, three believed it depended on the case, and two thought that having a powerful lawyer helped with gaining reparation.

Looking at responsibility to provide compensation, the majority of participants felt that the government should be responsible for compensating exonerees (n=12). Of these participants, only one participant stated that compensation should be done by all levels of government

(municipal, provincial and federal), one said the federal jurisdiction, and two mentioned that responsibility should fall under the level of government wherein the wrongful conviction occurred. Other participants mentioned society (i.e., taxpayers) (n=4), while others said it depended on the specific case (n=3). For instance, Frank explained how responsibility was dependant on who contributed to the wrongful conviction:

It depends on the case...It depends on the case because there [are] some cases where the prosecutor has awarded the compensation [due to their role in the wrongful conviction], so it depends on the [wrongly convicted] individual and [the] problems [that occurred] against this person. (July 22nd 2011)

As found with participants' general knowledge on wrongful conviction, their knowledge about compensation was also minimal.

Apology

Similar to financial compensation, all participants (n=15) felt that apologies should be granted to those who have been wrongly convicted. Participants felt that the apology should be from the government (n=7), the lawyers (n=6), the judge (n=4), the courts (n=3) and the justice system as a whole (n=3). Participants also discussed their views on whether the apology should be public or private when asked by the interviewer.

Public. Eleven participants immediately said that the apology should be public. The remaining participants eventually spoke of the benefits associated with a public apology. Thus, as predicted, the majority of participants believed that exonerees deserved a public apology. Their responses are organized based on how apologies help the exoneree, affect the criminal justice system, and impact the general public.

Helps the exoneree. All participants felt that public apologies helped the exoneree (n=15). Specifically, participants felt that it helped them restart their lives (n=4). Talking about public apologies, George said, "I think they [exoneree] will be held a little bit higher by the

public. And he can start building his life again” (July 11th 2011). Participants also felt that public apologies are essential for acknowledging the exoneree’s innocence (n=10). As Elizabeth described, “That person [wrongly convicted] has the right to be apologized to and to be acknowledged as being innocent. Not just behind closed doors. You accused them of something in the open—publicly—well then you should apologize publicly” (July 14th 2011). Similarly, Samantha stated,

They would feel that the world now knows and he [exoneree] is accepted and he is able now to go and get a job without fear that someone [within society] is suspicious. Because he [exoneree] could say, you know what, “I’m innocent just go and see CTV news, you’ll see, the government of Canada apologized to me”. (July 26th 2011)

These findings corroborate previous research (e.g., Penzell, 2008; Westervelt & Cook, 2008), which contends that apologies help situate exonerees as innocent people when they return to society.

Furthermore, participants believed that public apologies helped exonerees feel vindicated (n=12). As Elizabeth noted:

[For an exoneree] I just think it would make [them] feel better to know that they [criminal justice system] had enough respect to stand up and apologize. Not only to [them] personally, but in front of everybody. I think it’s just a feeling that you [would] get inside. [An exoneree feels assured that] they see that I’m not guilty, I am innocent and they’re making whatever efforts they can to say that they’re sorry. (July 14th 2011)

Elizabeth went on to discuss how an exoneree would feel without an apology and then explained why the apology is important for rectifying the exoneree’s experience:

I think that person doesn’t feel satisfaction. They feel like [they are] not important, “like who cares”. [They feel like they] don’t exist. [The justice system says] We’ll clear your name [but] that’s it. Whereas an apology makes [an exoneree] feel like, “Okay, they’re acknowledging that I am a human being [and] mistakes [were] made.” It’s easier for that person [exoneree] to deal with—knowing that they [justice system] have gone out of their way to help [them] and to apologize. (July 14th 2011)

Participants' responses appear to echo the sentiments of exonerees when reporting how apologies positively impacted their lives post-exoneration (Campbell & Denov, 2005; Penzell, 2008).

Effect on the criminal justice system. Contrary to research on loss of faith in the criminal justice system (e.g., Huff et al., 1996; Riccardelli et al., 2009), most participants in this study felt that public apologies would positively affect the criminal justice system (n=13). Specifically, participants believed that the justice system issuing an apology kept the system honest (n=11). For example, providing an apology shows accountability and effort on the part of the justice system (n=7) and reminds society that the system is not perfect (n=3). Janet said this could be as simple as the justice system saying, "We're really sorry for what we did" (July 19th 2011).

Elizabeth explained it in more detail:

They're [criminal justice system] not perfect and that they know they're not perfect. That mistakes can be made, but they take whatever actions they need to, to say sorry, [Through the apology, the justice system is saying that], you know what? We're human, mistakes were made, but we're doing whatever we can to correct them. (July 16th 2011)

Moreover, some participants believed that apologies show the 'human' side of the justice system (n=3). As Mark explained, "It really tells them [society] that we're all human and we make mistakes. Unfortunately sometimes people have to pay with time..." (July 29th 2011). Rebecca contributed to this when she said,

I say [a] public [apology] because the people have a right to know [about the wrongful conviction] and I think it's good for them [justice system] to stand up and apologize for something that they may have had a part in. I think that a public apology doesn't solve all the problems, but I think it shows a humane side on the lawyers, the judges, [and] the justice system [as a whole]. (July 24th 2011)

Continuing with the effect on the criminal justice system, participants also felt that a public apology encouraged the justice system to fix their problems (n=9). For instance, public apologies demonstrate that the system needed to change (n=3), prompts the criminal justice to be more careful in the future (n=5) and provides the justice system with the ability to learn from

their mistakes (n=5). In terms of being more careful or vigilant, Rebecca explained this by saying:

It [public apology] makes people feel more positive about the justice system. It might make the justice system think twice about something they are about to do or not do. It might make them dig deeper before they just settle with something. It might make them look at something three times instead of two times. It has to affect them in some way... We can't allow this [wrongful conviction] to happen again. (July 24th 2011)

Mark also discussed this effect: "I think it [public apology] helps the justice system by really scrutinizing every little detail. If a case is going to go four months, let it go eight months to make sure all the evidence that comes in is conclusive" (July 29th 2011). When it came to the public apology prompting the criminal justice system to learn from its mistakes, Samantha believed that:

It [public apology] would direct light on what's happening in the justice system. This way we can revolutionize the justice system and change it—because it would shine [a] light on the problems of the justice system. If they say, well this person was convicted because of this lawyer, well then maybe we have to look at how we train lawyers or [if they say] this person was convicted because of this law, well maybe then we have to change this law. (July 26th 2011)

This statement seems to corroborate structuration theory, as institutional changes can be set in motion when there is a realization that problems exist within a structure (Burns, 1961; Giddens, 1984; Ranson et al., 1980). Moreover, these participants' comments reflect research that suggested that apologies can have effects on the criminal justice system (e.g., Innocence Project, 2011d; Penzell, 2008; Westervelt & Cook, 2010). In addition, providing an apology would be simple and inexpensive for governments to implement, as standardizing apologies would seem to improve public perceptions of the criminal justice system.

Impact on the general public. Participants also noted the impact a public apology would have on the general public (n=14). For instance, participants believed that a public apology restored faith in the criminal justice system (n=3). As Ethan mentioned, "I just think it [public

apology] would give more faith in the justice system—you know, look, the justice system works” (July 20th 2011). Likewise, Andrew stated, “I think it [public apology] helps to realize that we are human and that we do make mistakes and when we do find out we can do something and move on...it helps to restore some confidence in the justice system” (July 27th 2011).

Public awareness was brought up once again by participants during the public apology discussion (n=12). In essence, participants believed that an apology was necessary for raising public awareness on wrongful convictions. Additionally, participants felt that if a person’s innocence was proclaimed and confirmed by the media and/or government officials publically, this would make society more comfortable with the exoneree’s return to society. As Simon explained,

[A] Public [apology] makes it [wrongful conviction] known. So it would hopefully make it known. [The exoneree] could always say, to people...“Hey, I’m back in the neighbourhood...you heard that on TV right? I’m exonerated of all the charges. I’m innocent. You’re not just hearing it from me; you’re hearing it from the media”. That influences people [the public]. (July 13th 2011)

A public apology removes the onus of explanation from the wrongly convicted individual, so that it is not the exoneree’s word against the criminal justice system. Interestingly, research has found that exonerees also acknowledged an apology’s ability to raise public awareness (Campbell & Denov, 2005). Beyond their own needs, exonerees want an apology in order to show the public that the justice system makes mistakes and wrongful convictions do happen (Campbell & Denov, 2004; 2005).

Along with public awareness, participants were of the opinion that a public apology removes doubt surrounding the wrongful conviction (n=4): “It [public apology] matters big time because it eliminates doubt [over the wrongful conviction]” (Lauren, July 29th 2011). Janet explained this in more detail:

I think if it's [apology] not done publicly, there's more doubt, like [people would wonder] "oh, did he just get off for a technicality?" If somebody comes out and says, "No, he's innocent. We've absolutely proven that this didn't happen and we're really sorry for the years lost," I think people will accept that a little more. (July 19th 2011)

Three participants felt that people would be more likely to help and associate with the exoneree after a public apology. As Ethan explained, "I think it [public apology] would have an effect on the community. I mean, when the [community] see[s] this person on the street they are no longer going to see them as a criminal. They see him as a citizen, an ordinary citizen" (July 20th 2011). When asked how this would help, Ethan said, "I think more people might reach out to him [exoneree]—offer him a job, support of some kind, in some way. They wouldn't be hostile towards him, they would reach out a [helping] hand" (July 20th 2011). These findings seem to corroborate research that discussed how apologies may have a resonating impact on the general public (Campbell & Denov, 2004; Innocence Project, 2011d; Lazare, 2004). In addition, public support for apologies may be a factor that incites criminal justice agents to revise current apology practices (e.g., make apologies standard post-exoneration), which may in turn, pave the way for systematic changes (Boisot & Child, 1988; Giddens, 1984; 1993).

Private. Only two participants believed that apologies should be private and not public and they provided three idiosyncratic reasons for this: because the exoneree deserves their privacy, people may not know about the conviction in the first place, and it would be more heartfelt. Tim explained the first two points: "I don't think I would want the news to say, across the country, to know, first of all, that I was convicted and, second of all, I think they [exonerees] deserve privacy" (July 19th 2011). Ashley described the final point by saying,

When someone is apologizing, it is more of a heartfelt feeling [if it is private]. When it is publicized, I don't think that is going to make the situation any easier. I don't think it makes the person who has been wrongly convicted [feel] any better, I mean, the damage has been done [already]. (July 28th 2011)

Interestingly, two participants felt that both, a private and public apology should be offered to exonerees immediately upon being asked. These participants saw the value of offering both a private and public apology to exonerees. For example, one participant felt that offering a private apology along with a public apology is the right thing to do: “I think it should be done anyways [private apology]. I think whether it helps or not it should be done. I think it’s just the right thing to do” (Janet, July 19th 2011). Another participant described the benefit of both and went on to say: “I would say publicly [and] privately. Even privately [for example], the Attorney General meets with David Milgaard and says, ‘I’m sorry all this happened. There were mistakes made. We apologize and hope you accept our apology’” (Ethan, July 20th 2011). While various forms of apologies exist (e.g., Lazare, 2004), participants’ views support research stating that apologies are a necessary post-conviction service (e.g., Campbell & Denov, 2004; Innocence Project, 2011d; Penzell, 2008).

Post-Conviction Stigmatization

Although none of the interview questions specifically asked about stigmatization, 13 participants spontaneously brought up that society stigmatizes wrongly convicted individuals. These participants discussed stigmatization as an unfortunate consequence of wrongful conviction. Participants alluded to the idea that while stigmatization is unfortunate, it is part of society’s nature. In fact, of these 13 participants, only one spoke out about stigma and prejudice, saying that she was against it. For example, when Elizabeth discussed the stigma associated with a criminal record (post-exoneration), she stated that stigmatization was wrong because: “First of all, [having this criminal record] affects [exonerees] emotionally and mentally...when they get out there, they are judged because of a record. I’m honestly against that” (July 14th 2011). Later, she spoke out against the ‘must have done something to have been convicted’ stigma: “Whether

you committed the crime or not, [there's the perception that] 'you did do something'. [To me], that's wrong because it is not [necessarily] true" (Rebecca, July 14th 2011). This finding is interesting because even though most participants did not outwardly make stigmatizing comments, they also did not protest the very stigmas they were identifying.

Notably, when asked if they would be comfortable around exonerees, generally participants seemed pro-exoneree stating that they would feel comfortable around wrongly convicted individuals (n=13). The remaining two participants did not discuss their level of comfort with individuals who have been wrongly convicted. As Frank described, "I would feel comfortable around those individuals, [exonerees] I would. I mean, being wrongfully convicted doesn't make you a bad person" (July 22nd 2011). Looking at this closely, there is evidence of stigmatizing language as this participant referred to exonerees as "those people" (i.e., wrongly convicted people are different from everyone else). Additionally, while some participants simply discussed stigma, one participant went as far as to admit to his personal biases/stigmas. Thus, it can be suggested that even though only one participant was upfront with their stigmatizing remarks, the other participants were still aware of stigma and may have exhibited their own stigma indirectly through their comments (as observed above). Also, finding only one participant who spoke out *against* the stigmatization of exonerees may lend some support for this argument. Participants' views on stigmatization are organized as follows: how exonerees are stigmatized, reasons for stigmatization, and upfront stigma.

How exonerees are stigmatized. Six participants discussed how the wrongly convicted are stigmatized by society. These participants mentioned that people assume that they could never be wrongfully convicted (n=3) as well as people being hesitant to associate with an

exoneree (n=5). To explain these views in more detail, participants expressed that the general public can act like they are above wrongful convictions. This notion was explained by George:

We kinda like to see somebody we feel better than like, “Oh, I’d never do that or someone in my family would never do that”. It kind of tittles us, you know? “That’s not me and that will never be me”. (July 11th 2011)

This may explain research which has noted that people disregard the possibility of being wrongfully convicted themselves and transfer blame to the exoneree for putting themselves in their situation (e.g., Kauzlarich et al., 2001; Westervelt & Cook, 2010).

Participants also felt that stigmatization occurred against exonerees because people did not want to associate with them (n=5). When discussing Steven Truscott, one participant said that people would not want to associate with him because “they wouldn’t want their own character damaged” (Jason, July 11th 2011). This participant later mentioned that “you associate the person with the murder whether they are innocent or not. People would not want to associate with that.” (Jason, July 11th 2011). As discussed earlier, stigma-by-association occurs when people do not want their own image tarnished by associating with someone who is stigmatized (Goffman, 1963). Participants in this study acknowledged that this form of stigma is common for exonerees. Participants also identified that stigma-by-association is often practiced by employers who refrain from hiring exonerees because they want to maintain the integrity of their business.

As Frank described,

I mean first of all, the person has been wrongfully convicted. Although we [know that the conviction] was wrong; there may a particular employer that may not want to associate with that person [because] of the attention and the publicity. A wrongful conviction is a history [of events] right? [By] going through this process, everybody [wonders], “Oh where’s Bert, he was [that] wrongfully convicted person, where is he working [now]?” [So] employers may be wary [to hire someone who has been wrongfully convicted]... (July 22nd 2011)

Notably, this occurrence has been discussed by several researchers (e.g., Chunias & Aufgang, 2008; Cole, 2009; Goffman, 1963; Innocence Project, 2009), wherein exonerees are denied employment—possibly due to stigma-by-association fears.

Reasons for stigmatization. In addition, participants discussed the reasons why exonerees are stigmatized by the public (n=12). Responses included: media coverage, public doubt in the wrongful conviction, the exoneree's past criminal charge, and the exoneree's contact with a criminal environment (i.e., prison).

Media coverage. Three participants felt that media coverage of the exoneree's case facilitated stigmatization. Jason stated that exonerees may not be viewed in a "good light" due to media. As he put it: "[For wrongly conviction people] having their names dragged in the mud all those years [can be problematic]—the media puts that seed in your [public's] brain" (July 11th 2011). As previously mentioned, the media can affect how people view criminal justice matters (e.g., Roberts, 2004) and in this case, why the public may discriminate against exonerees. It can also be argued that the potential to tarnish someone's reputation (and create stigmas) is much higher today since we live in an age of instant access to information—via media avenues such as the Internet (e.g., podcasts, Google searches, news-video archives).

Wrongful conviction doubt. Ten participants believed that stigmatization occurred against exonerees because the public doubted their innocence. As Janet noted,

...I guess in some people's minds, there will always be that doubt. You know, [like] when somebody has been accused of molesting someone, and it comes out in the public and it's been shown that they didn't do it. I think that no matter what, it has affected their [exoneree's] life because people will always look at them wondering, with that little bit of doubt, if they did or really didn't do it or [if] they just managed to get away with it. (July 19th 2011)

Looking at the last part of this statement, this suggests that the concern with the judicially released guilty may contribute to doubts surrounding wrongful conviction as well. Interestingly,

53% (n=8) of participants in this study thought that guilty people are released back into society and research has argued that the judicially released guilty are a more common occurrence than innocents being released (e.g., Huff et al., 1996). Thus, it could be argued that doubt in wrongful conviction may be rooted in the uncertainty surrounding the guilt or innocence of the exoneree.

Exoneree's past criminal record. In addition, participants believed that exonerees are stigmatized due to their past criminal records (n=4). In terms of their past criminal record, participants acknowledged earlier (in factors leading to wrongful convictions) that a criminal record caused exonerees to be targeted by police. Having a previous record can also transcend into the public perception and stigma domain. For example, Jason explained that exonerees are stigmatized, “just because they [police] know them and have dealt with them before. Even within the community they would be red-flagged, I think” (July 11th 2011). This finding reflects research surrounding marginalized individuals and their elevated chance of being stigmatized and discriminated against (e.g., Anderson & Anderson, 2009; Bedau & Radelet, 1987; Blume, 2008; Borchard, 1932; Huff et al., 1996; Rattner, 1988; Scheck et al., 2000).

Type of crime the exoneree was wrongly convicted of. Five participants felt that exonerees were stigmatized because they were associated with the crime they were wrongly convicted of (n=5). Moreover, these participants indirectly discussed the concept of stigma-by-association (Goffman, 1963) with the crime or criminal charge. As Simon explained,

Some people will only believe what they think: “I don’t care about the facts I just don’t want to be in the company of someone who has been convicted of murder or I think has been convicted of murder or there was some reason why they were convicted of murder.” Some people always have the perception that if you were convicted of one crime, you probably did many other [crimes]. (July 13th 2011)

This statement also demonstrates Goffman’s (1963) assertion that people justify discrimination and construct stigmas due to the danger an individual (e.g., exoneree) may represent. That is, if

someone has been wrongly convicted of murder and doubt still remains, people may revert to the idea that the individual possibly took someone's life and is now living amongst society (i.e., the individual could reoffend). Therefore, as Simon mentioned, someone may not want to associate with an exoneree because of the danger associated with the crime and conviction, despite their innocence. Specifically, Lauren discussed how the associated danger changed based on the crime the exoneree was wrongly convicted of and how people would treat an exoneree differently:

...If you were caught robbing a bank you can come back into society and people aren't going to run you down the street when they see you, but if you were convicted of killing a child they're not going to let their kids out in the yard whether you are exonerated or not. They're not going to take the chance, they're not going to let you come over and babysit. (July 29th 2011)

Moreover, this finding may also explain earlier comments wherein participants believed that compensation should be greater for those wrongly convicted of severe crimes. The associated danger that comes with certain crimes (e.g., murder) may produce different experiences for exonerees including being stigmatized more heavily by the public.

Contact with a criminal environment. The fact that an exoneree has been in a criminal environment (i.e., prison) is another factor that contributed to stigmas against exonerees according to participants (n=2). When discussing how prison affected people's perceptions of exonerees, George said, "I think it's probably because you're 'tainted' or whatever. You have been in a place where criminals have been" (July 11th 2011). Later George elaborated further and said, "[By being] in the courts [and/or] in jail, [people assume that] there must be something wrong with you. Even if you didn't do it [and] your charge was taken away" (July 11th 2011). According to Ethan, people react this way to exonerees, "because of the fact that they were exposed to cons in jail and the kind of crime [they were convicted of] sets [people] off even though he has been wrongfully convicted and released" (July 20th 2011).

These findings illustrate and support the notion of stigma by contagion from the prison or criminal justice experience (Goffman, 1963). Namely, people may presume that the exoneree has been negatively affected by living and interacting with offenders during their time in prison (Clow et al., in press). Moreover, people devalue certain social identities because they fear the risk of being labelled themselves (Goffman, 1963). In other words, people are afraid of ‘contracting’ stigmatizing labels by interacting with an exoneree who has been incarcerated (Goffman, 1963; Neuberg et al., 1994). Participants’ responses also corroborate exoneree reports, where exonerees have recounted experiences of rejection based on the stigmas surrounding prison (Cole, 2009; Innocence Project, 2009; Westervelt & Cook, 2010).

Upfront stigma. Only one participant personally expressed stigma toward exonerees. This participant described how he would remain sceptical about an exoneree’s guilt or innocence, using an exoneree seeking employment as an example:

If he is applying to be a cook in a restaurant, no sweat. [However] If he was convicted of a sexual thing and he’s applying to be a teacher, I [would] still probably have my biases—let’s not take our chances on this guy. I think my biases would be [surrounding] whether he was guilty or not. (Tim, July 19th 2011)

This statement coincides with what exonerees have reported—when they tried to apply for jobs, they were unsuccessful as a result of perceived stigmatization (Chunias & Aufgang, 2008; Innocence Project, 2009; Westervelt & Cook, 2010).

This statement also illustrates that the crime the exoneree was wrongly convicted of may influence how and/or why people stigmatize them. Assessing Tim’s comment, an exoneree who has been wrongly convicted of a sexual crime, may not be considered for a teaching job because there may be doubt surrounding the exoneration, which may make parents uneasy (as their children would be in this individual’s care). This perception reflects what Goffman (1963) said in terms of stigmas based on the danger an individual may represent—as a cook, there are few

opportunities to endanger others, however as a teacher, the inference is that having a sexual charge on one's record (innocent or not) may put children at risk. Ultimately, while this participant admitted his biases and other participants did not; this is not a direct indication that others have not stigmatized. It could be argued that the other participants were simply not as upfront about their biases.

Overall, these findings support what exonerees have reported in regards to their experiences with stigmatization—including difficulties finding a job, the lingering doubt surrounding the crime and so forth (e.g., Campbell & Denov, 2004; Cole, 2009; Grounds, 2005; Westervelt & Cook, 2008). Participants gave the impression that while stigmatization is unfortunate, it happens and it is a consequence of being wrongfully convicted. Interestingly, while participants' views seemingly corroborated the positive findings from survey research (e.g., Angus Reid, 1995) and they were supportive of exonerees during the interviews (e.g., exonerees deserve compensation), subtle stigmatization was observed, putting these findings into context. For instance, participants commented positively about compensation and apologies, however they may still have lingering doubts about a wrongful conviction as implied by some of their comments (e.g., exonerees would not be asked to babysit children). To evaluate these implications, further investigation and research is warranted.

This chapter has presented the results of this thesis research. Specifically, these results were discussed within the context of wrongful conviction literature as well as a theoretical framework (structuration theory, attitudes toward the justice system and stigma). The next chapter will discuss the contributions of this study as well as outline the limitations of this research. In addition, the policy implications and areas for future research will be presented, followed by concluding thoughts.

CHAPTER SIX: Discussion and Conclusion

The current study sought to examine wrongful convictions from a public perception point of view. Specifically, this research asked participants about a variety of wrongful conviction topics (e.g., knowledge and familiarity, views on the criminal justice system, feelings about compensation/apologies) using open-ended, structured interviews. As discussed, minimal research has been conducted on the public's view of wrongful convictions and exonerees. Therefore, this study focussed on the perceptions of community members in order to contribute to this area of research. Since there is a discrepancy between the generally positive findings from this limited public perception survey research (e.g., Angus Reid, 1995; Bell et al., 2008) and the negative experiences reported by exonerees, (e.g., Grounds, 2004; 2005; Vollen & Eggers, 2005; Westervelt & Cook, 2008) the thesis researcher also sought to address these conflicting findings.

The results of this thesis study indicated that:

- 1.) The majority of participants defined wrongful convictions as cases of factual innocence. None of the participants assumed that 'wrongful conviction' meant the judicially released guilty. This finding lends partial support for the researcher's hypothesis.
- 2.) Participants generally had little to no knowledge of wrongful convictions, supporting the hypothesis.
- 3.) Participants believed that wrongful convictions were more common in the United States than Canada, citing a higher crime rate and larger population as the main reasons. Thus, the hypothesis was supported by this finding.
- 4.) Some participants did not lose faith in the criminal justice system (in spite of wrongful conviction), stating that mistakes can happen and the justice system was doing a good job overall. This finding failed to support the researcher's hypothesis. In

contrast, a few participants did comment that knowing about wrongful convictions did cause them to lose faith in the criminal justice system—lending support to the hypothesis.

- 5.) The hypothesis was supported, as participants were able to identify a number of factors that have been identified as contributors to wrongful convictions (e.g., mistaken eyewitness identification, tunnel vision, stereotyping and prejudice) as well as other issues that were not expected (e.g., out-dated laws).
- 6.) Participants subscribed to the view that exonerees should receive financial compensation, corroborating the hypothesis. Participants also believed that post-exoneration assistance should be provided in the form of non-monetary services (employment, counselling, community integration, etc.).
- 7.) Participants felt that exonerees deserved an apology and that it should be done publically, which supported the researcher's hypothesis. Participants also discussed how the apology would positively impact various parties including the exoneree, the criminal justice system, and the general public.

Notably, this research was the first of its kind to reveal that citizens desire more wrongful conviction information to be disseminated to the public. While public support for wrongful convictions has been noted (e.g., Angus Reid, 1995), the dissemination of wrongful conviction information as a form of public support has not been presented within the literature. Moreover, this finding is encouraging because many wrongful conviction advocacy groups (e.g., AIDWYC, Innocence Project) seek to prevent wrongful convictions through education. By informing members of the public, agents within the criminal justice system, and the government, the causes and repercussions of wrongful convictions are circulated—facilitating reform (AIDWYC, 2012).

To date, research on public perceptions of wrongful conviction has been mostly quantitative in nature (e.g., Angus Reid, 1995; Bell & Clow, 2007; Ricciardelli et al., 2009). Therefore, this study complements past research through qualitative exploration (Bell et al., 2008; Ricciardelli et al., 2009). Namely, this is one of the first studies to use a qualitative approach and conduct face-to-face interviews with community members regarding perceptions of wrongful conviction. Indeed, by supplementing quantitative findings with detailed descriptions from community members this creates a more holistic picture of how the public views wrongful convictions.

Additionally, this study acknowledged the criticisms surrounding the atheoretical nature of the wrongful conviction literature in general (see Leo, 2005). By applying structuration theory to the analysis, this research has contributed a possible framework for understanding attitudes regarding wrongful conviction. As discussed, the interplay between structures and its agents represents a duality of structure, that is, one is dependent on the other and vice versa. From a wrongful conviction perspective, structuration theory suggested that it may be the structure of the justice system itself that is preventing its agents from properly carrying out their duties (Giddens, 1984), leading to errors. For example, defence lawyers working for legal aid may have the best intentions, but systemic issues (e.g., minimal resources, heavy workloads) prevent them from adequately representing clients, which may in turn lead to wrongful convictions. Moreover, Giddens (1984) discussed how dark currents within society (e.g., prejudice) may inadvertently influence criminal justice agents' decisions. Therefore, structuration theory suggests that the environment in which criminal justice personnel work (e.g., MacFarlane, 2006), and the greater social structure itself (Pettigrew, 1987), may foster wrongful convictions more so than individual acts (e.g., Anderson & Anderson, 2009).

Interestingly, the reproduction of problematic practices may also explain why wrongful convictions have occurred, as well as why wrongly convicted individuals continue to struggle for post-exoneration assistance (compensation, services, etc.). For instance, structuration theory asserted that overarching powers may prevent criminal justice agents from stimulating policy changes (e.g., forensic scientists feeling pressured to support the police's theory of a crime). In addition, structures create boundaries that prevent citizens from questioning their actions. Notably, this study found that some participants believed that wrongful convictions were infrequent based on the lack of publicity. Referring to structuration theory, it can be argued that limited knowledge acts as a boundary, which enables the criminal justice system to reproduce itself without public scrutiny (e.g., if citizens are unaware that wrongful convictions are occurring, they cannot criticize the justice system). Therefore, in order to break the cycle of repeating problematic practices, institutional modifications are required (Pettigrew, 1987). Public support for preventing wrongful convictions and assisting exonerees could act as a motivator to prompt the government to implement changes on a structural level. For example, making it standard practice for the government to issue public apologies may remove public doubt surrounding wrongful convictions, better enabling exonerees to reintegrate.

In sum, structuration theory was used to explain public perceptions of the criminal justice system in general and perceptions of wrongful convictions in particular. This research examined how the criminal justice system functions as an institution and how it perpetuates certain outcomes, including wrongful convictions, through a variety of problematic practices.

Looking at the perceived discrepancy between public opinion surveys and the experiences reported by the wrongly convicted (e.g., public surveys have found that people tend to be supportive towards exonerees, yet exonerees have discussed many negative experiences

with the public), there are a number of possible reasons (see Clow, Blandisi, Ricciardelli & Schuller, in press). For example, it could be argued that a small portion of the public may hold negative attitudes toward exonerees, however interactions with these few prejudiced individuals has a lasting impact on exonerees as opposed to all the neutral or positive interactions they have. It could also be suggested that people may hold negative opinions of exonerees, but avoid expressing them (when completing surveys) honestly in order to provide socially desirable answers. However, when it came to discussing stigmatization, participants in this study mirrored what exonerees have reported. For example, participants acknowledged that stigma prevented exonerees from finding a job, being incarcerated contributed to stigma-by-association fears, people may have doubts surrounding the wrongful conviction (contributing to stigmatization)—which all have been noted by exonerees (e.g., Grounds, 2005; Vollen & Eggers, 2005; Westervelt & Cook, 2008).

Thus, this research contributes to the noted discrepancy by corroborating both sides—the public is generally supportive of exonerees and also acknowledge the negative experiences exonerees have reported. As mentioned, positive views were reported by participants as they felt that exonerees deserved compensation (monetary and non-monetary) and apologies. Additionally, participants also identified the negative experiences exonerees have reported as a result of stigmatization. Therefore, the use of qualitative analysis enabled the researcher to establish that both sides are correct. Since participants were given the opportunity to provide explanations and elaborate on their views, this allowed the researcher to address the discrepancy between public opinion surveys and exonerees' experiences.

Limitations

While efforts to diversify the sample were made (the researcher visited a variety of coffee shops), the sample is likely a range of educated, middle-class citizens. Participants were asked basic demographic questions, including age, sex, where they live, and level of education. However, participants' ethnicity, occupation, and income were not assessed, making it difficult to establish how diverse the sample is or how reflective it is of the study's location (Oshawa, Ontario). For instance, the fact that the interviews were conducted in coffee shops indicates that participants had the means to pay for the goods and services offered. Also, all the interviews were conducted in one suburban city as opposed to several neighbouring locations.

Looking at the participants' level of education, the sample suggests that the issues exonerees face may be known even outside of academia. In particular, participants were eloquent on the topics discussed (e.g., exonerees need compensation to restart their lives) and approximately 67% (n=10) did not have university training. Moreover, the sample is more diverse than a typical university sample, as participants had differing levels of education (four had high school, six had college diplomas, etc.). Also, even though the study was conducted in only one suburban city, participants indicated that they resided in a variety of locations across the Greater Toronto Area. Therefore, not all participants strictly came from Oshawa (where the study was conducted), allowing other surrounding locations to be represented as well (e.g., Toronto). In addition, although data saturation was achieved, this study used a small convenient sample. Thus, there may be limits to the generalizability of the results. Therefore, future research may wish to employ larger samples and to ensure more representative samples to further understand community members' perceptions of wrongful conviction on a larger scale.

Nevertheless, due to the qualitative nature of the research design, the current findings were not meant to be generalizable, but rather to provide rich, descriptive data on public perceptions of wrongful conviction. The use of qualitative inquiry allowed participants to freely discuss their views on wrongful conviction and enabled the researcher to understand public perceptions from community members' own point of view. Using qualitative data also allowed the researcher to explore a relatively unexamined topic—like public perceptions of wrongful convictions—without any presuppositions. This is why the data was analyzed based on how the community members see the world (i.e., wrongful convictions, criminal justice system, etc.), how they define the situation, and what it means for them (Neuman, 2003).

Due to the qualitative nature of this study, issues such as stigmatization came up (without being brought up by the researcher) because community members were given the opportunity to talk about it rather than strictly responding to the questions on a survey or questionnaire, which leave little to no room for elaborations or the discussion of other topics. When discussing apologies, participants did not strictly mention what form the apology should take (private, public, etc.). They also had the opportunity to elaborate on who they felt would be affected by the apology (exoneree, criminal justice system, the public). Thus, using a qualitative approach contributed to the descriptive and multi-dimensional nature of participants' responses. By allowing participants to freely talk about the various topics, this led to the emergence of important public perception themes from within the data (e.g., public apologies may restore faith in the criminal justice system).

Policy Implications

Public perception research is important as it may encourage governments to make changes or implement new policies. If citizens demonstrate vested interest and support for preventing wrongful convictions and assisting exonerees with reintegration (compensation,

apologies, etc.), this may prompt governments to reassess how they handle cases of wrongful conviction. Indeed, as mentioned, public support may increase the odds of agents realizing that modifications are needed within the criminal justice system (Burns, 1961; Ranson et al., 1980). As the theory of structuration suggested, the intention or motivation to revise current practices and policies, typically leads to institutional change (Boisot & Child, 1988; Giddens, 1984; 1993). Without this institutional/structural change, the reproduction of problematic practices, regulations, and policies will likely occur—leading to continued error (Hughes, 1936). Looking at the current study, generally positive public support was evidenced, mirroring the findings established in past research using survey methods (e.g., Angus Reid, 1995) as well as undergraduate student samples (e.g., Bell & Clow, 2007; Ricciardelli et al., 2009). Thus, since multiple studies (all using differing methods) have shown similar results (e.g., the public feels that the government should increase its wrongful conviction efforts), the government may want to consider implementing new policies (standardize apologies post-exoneration, provide exonerees with compensation, etc.).

As mentioned earlier, participants strongly believed that efforts needed to be made to broadcast wrongful convictions. The public's demand for wrongful conviction stories to be disseminated is encouraging because this can increase public knowledge, public support for reform, and may possibly stimulate structural changes to the criminal justice system. Having an informed public is important for commencing policy changes, as the criminal justice system may not be able to reproduce certain practices (i.e., citizens may be aware of their problematic nature and may be more willing to speak out against them).

In this study, public support was particularly apparent when it came to compensating as well as apologizing to exonerees. Financial compensation and non-monetary services (e.g.,

employment training) were seen as essentials when it came to assisting wrongly convicted individuals with their lives post-exoneration. Furthermore, community members felt that providing an apology would promote criminal justice changes—positively impacting the exoneree, the Criminal Justice System, as well as benefiting the wider community.

With this in mind, the government may want to consider making compensation (monetary and non-monetary) and apologies standard practice after a wrongful conviction has occurred. Moreover, standard policy should also include informing the public that a wrongful conviction has happened by disseminating the story via media outlets (e.g., newspapers). Based on the findings of this thesis study, it appears that participants do support the need to implement these legislative/policy changes and understand the associated implications (e.g., apologies can remove public doubt surrounding a wrongful conviction, making it easier for exonerees to reintegrate).

Future Research

Future research may wish to explore this topic further by using other methodologies (e.g., focus groups, experimental manipulations) in order to provide another facet of societal perceptions on wrongful conviction (e.g., how participants form their opinions in a group setting). Specifically, certain aspects of this current study could be examined further through subsequent studies. For instance, participants discussed how issuing public apologies would restore the public's faith in the criminal justice system. Future work in this area may wish to empirically assess whether public apologies and even compensation do improve public perceptions surrounding the criminal justice system.

Additionally, participants in this study discussed stigmatization in terms of how they perceived society to stigmatize exonerees. Only one participant made stigmatizing remarks, yet

there are indications that the other participants may also have biases. In order to explore this further, future research (e.g., interview studies) could ask participants questions that gauge how participants would react in certain societal situations and whether they would personally stigmatize an exoneree (e.g., If you were an employer, would you hire an exoneree? If an exoneree moved into your neighbourhood, how would you feel?).

Concluding Thoughts

With exonerees struggling to receive the basic necessities they need post-exoneration, public support is essential for encouraging and influencing government action and legislative reform. When community members demand an increase in the dissemination of wrongful conviction stories and assistance to exonerees through compensation/apologies—this can facilitate public knowledge and awareness. More importantly, this may reduce the repetition of problematic practices and behaviours, as the criminal justice system may no longer rely upon limited societal knowledge to reproduce itself throughout time. The hope is that through public perception research citizens will feel motivated to critically examine the sources and implications of their own knowledge—stimulating legislative and policy modifications in the area of wrongful convictions. As one of the thesis participants said:

It takes a wave of societal influence for [things] to change... You know, a new generation [needs to] come in [with] new perceptions because people are [currently] staying in an environment they are comfortable with sticking to. [This] is something that should change [in order to make a difference in the future]. (Andrew, July 22nd 2011)

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Appendix A: Interview Guide

"I just want to thank you for taking the time to participate in this interview. I really appreciate your participation because it will help me with my studies"

DEMOGRAPHIC QUESTIONS

"Before we get started, I'd like to know a little bit about you"

"For instance," **do you live in the Durham Region?**

* [If yes] "So do I. Which municipality? (Oshawa, Whitby, Ajax, etc.)

* Do you have a long commute? Where do you live?

[For students only] **Are you currently employed?**

[If yes] What do you do? Do you work in the Durham area? [Ask one and let them talk, then ask the next.]

[For community members only] **Have you attended a post-secondary institution?** (University or college)?

*Follow up: What did you study?

[For students only] **"So what are you studying at UOIT?"**

WRONGFUL CONVICTION QUESTIONS

"Ok, we are going to move onto the wrongful conviction questions now. Remember there are no right or wrong answers; I'm looking for what you honestly believe, if you are uncomfortable with answering anything, please let me know and we can move on. With that being said, let me know if you are ready to begin"

When you hear the phrase "wrongful conviction" what is the first thing that comes to mind?

If you were asked to explain what a wrongful conviction was, what would you say?

*[If the definition matches ours] "Yes, a lot of people think that and that is the definition we will be using throughout this study."

*[If they are close] "Yes, a lot of people think that and for the purposes of this study, we consider wrongful conviction to mean that someone was convicted of a crime that they did not commit."

*[If the definition is completely off] "Yes, that's one possibility, but for the rest of this interview, let's consider wrongful conviction to mean that someone was convicted of a crime that they did not commit."

How much do you feel you know about wrongful convictions?

In the last month or so, have you heard or seen any stories in the media relating to wrongful convictions? For example, on the news or in the newspaper?

* If yes, what was the story generally about?

"With that being said", **can you think of the name of anyone who has been wrongfully convicted?** "It does not have to be a recent case"

*What do you think about this case?

*How do you feel about [insert the name of the wrongly convicted individual]?

*Would you be comfortable around [him/her]?

*Do you believe in [his/her] innocence?

*Do you think people should be exonerated?

*Do you think only innocent people are exonerated?)

*[If no] "Well, what percentage of wrongly convicted individuals do you think are innocent?"

[If they cannot think of anyone] "Sometimes it is hard to come up with names on the spot. I am going to mention a couple of names and let me know if you have heard anything about these individuals or their cases: Guy Paul Morin, David Milgaard, Steven Truscott, Romeo Phillion, William Mullins-Johnson, Robert Baltovitch..." *[Say one name and wait for response, if no, go to next name. Stop once they have heard of one and then ask them the questions above based on that case. Don't mention more once they have heard of one].*

Why do you think wrongful convictions happen?

Who do you think should take responsibility when a wrongful conviction occurs?

[Follow up if they don't answer]: Well, who do you think is at fault?

Do you think wrongful convictions are more common in Canada or the United States?

**If they suggest a particular country:* Why do you think wrongful convictions are more common there?

COMPENSATION QUESTIONS

How do you generally feel about the Canadian criminal justice system?

Do these feelings change when you hear about wrongful convictions?

*[Follow-up if necessary] How so?

Do you think the wrongly convicted should be financially compensated?

*Do you think they should be compensated in any other way?

*Who's responsibility do you think it is to compensate these individuals?

What percentage of wrongly convicted people do you think are compensated?

*How much do you think they typically receive?

*In your opinion, what do you think should be considered to determine how much money they receive?

"Last question" **The wrongly convicted often say that no one even apologizes for their wrongful convictions. Do you think they should receive an apology?**

*[If yes], Who do you think should offer this apology?

"Well, that concludes our interview. I just want to thank you once again...you have been so helpful and I appreciate you taking the time out from your day for this interview. If you have any questions afterwards, please feel free to contact me"

Appendix B: Consent Form

Study Name: Wrongful Conviction Interview (Community Members), Blue (Participant Pool)

You are invited to voluntarily participate in the following research project: Wrongful Convictions and Society. This study will take the form of an interview. You will be asked some demographic questions about yourself such as age, education, etc. in addition to other questions relating to wrongful convictions. The purpose of this study is to learn more about how we perceive people who have been wrongfully convicted.

There are no known physical, psychological, economic, or social risks associated with this study. Your participation in this study is completely voluntary. You also have the opportunity to withdraw from this study during the interview or up to six months after without any penalties. You can inform the researcher of this request (via face-to-face or email provided below) and all your information will be discarded and not included within the final analysis. You are not obliged to answer any questions that you find objectionable or which make you uncomfortable.

For students:

As a volunteer in the Participant Pool, you will be given one bonus credit in the course {fill in the course name} for your participation in this study. It is important to note that full credit (interview is worth a half credit) will be awarded to participants whether they complete the study or not. Also, this interview will be recorded by an audio device for the purposes of data collection, transcription and final analysis. Specifically, the audio taping ensures that we report exactly what is said and the context to which things are said. The audio recordings will be erased once an anonymous transcript is written and only this transcript will be kept.

For community members:

As a participant in this study, you can receive 20 dollars for your time. This compensation will be awarded to you whether you complete the study or not and/or decide to withdraw at a later date. It is important to note that the interview will be recorded by an audio device for the purposes of data collection, transcription and final analysis. Specifically, the audio taping ensures that we report exactly what is said and the context to which things are said. The audio recordings will be erased once an anonymous transcript is written and only this transcript will be kept.

All information will be kept in a secure area. Below, this form requests some identifying information. The primary researcher (Isabella Blandisi) will solely have access to this. In terms of your Individual responses, they will remain confidential and identifying information will not be included in the final analysis. As a participant you will be assigned an identifier, which conceals your true identity. The identifying information will correspond to that alias for the purposes of matching participants to their data, should they decide to withdraw. I, along with Dr. Kimberley Clow and our research assistants will be responsible for keeping and analyzing your responses. Dr. Clow and the research assistants will only see the typed out interview with your identifier, they will not see your consent form. It is important to note that in the future, other researchers may request to analyze these anonymous files for other valid research purposes.

This study has been reviewed and cleared by the Research Ethics Board at UOIT (REB # 10-082). The principal investigator is Isabella Blandisi (MA student) of the Social Sciences and Humanities, UOIT. In the event that you have any questions, concerns, or complaints, you may contact any of the following individuals: Isabella Blandisi (isabella.blandisi@uoit.ca), Dr. Kimberley Clow (kimberley.clow@uoit.ca) or the REB Administration (compliance@uoit.ca; 905-721-8668, ext. 3693).

By participating in this study, you are assisting the primary researcher (Isabella Blandisi) with completing her Master's thesis. Thank you for taking the time out of your day to help me with my thesis! If you would like a summary of the results of this study, please send an e-mail request to Isabella Blandisi. Please wait until August 2012 for data entry and statistical analyses to be completed.

"I have read and understand the information in this form. By signing the bottom of this form, I am giving my free and informed consent to participate in this research."

Please Print Your **First** Name

Age

Sex

Participant Signature

Date

Appendix C: Debriefing Form

FEEDBACK

Thank you so much for participating in this study!

I asked you about your thoughts and beliefs about wrongful convictions, the criminal justice system, and compensation. Your responses are very important, as researchers generally have not studied the public's perception of wrongful conviction. Specifically, we wanted to know your thoughts and feelings regarding financial compensation for wrongly convicted persons.

A recent research report (Innocence Project, 2009) indicated that nearly half of U.S. states did not offer any compensation for individuals who had been wrongly imprisoned. Even among the 27 states that did have compensation law, exonerees had to wait, on average, three years before receiving funds. Of the Innocence Project's first 200 DNA exonerations, only 60% of these individuals received any sort of assistance, and that assistance was generally small and financial. Overall, wrongly convicted persons leave prison with next to nothing—often less than actual offenders—which is a serious obstacle in obtaining transportation, employment, and housing post incarceration.

If you would like a summary of the results of this study, please send an e-mail request to Isabella Blandisi (Isabella.blandisi@uoit.ca). Please allow until August 2012 for data entry and statistical analyses to be completed.

In the event that you have any questions, concerns, or complaints, you may contact any of the following individuals: Isabella Blandisi (Isabella.blandisi@uoit.ca) or Dr. Kimberley Clow (kimberley.clow@uoit.ca) or the REB Administration (compliance@uoit.ca; 905-721-8668, ext. 3693).

If you are interested in reading further on the topic, here are some articles that may be of interest:

Campbell, K., & Denov, M. (2004). The burden of innocence: Coping with a wrongful imprisonment.

Canadian Journal of Criminology and Criminal Justice, 46(2), 139-163.

Innocence Project. (2009). Making up for lost time: What the wrongfully convicted endure and how to provide fair compensation. Report for the Innocence Project. Benjamin N. Cardozo School of Law, Yeshiva University.

Scheck, B., Neufeld, P. & J. Dwyer. (2000). *Actual innocence: Five days to execution, and other dispatches from the wrongly convicted*. NY: Doubleday.

Westervelt, S.D., & Cook, K.J. (2009). Framing innocents: The wrongly convicted as victims of state harm. *Crime, Law, and Social Change*, 53(3), 259-275. doi: 10.1007/s10611-009-9231-z

Thank you so much for being a part of my research study! You have brought me one step closer to completing my thesis!

Isabella Blandisi, BA (Hons)

MA Candidate

Faculty of Social Sciences and Humanities

University of Ontario Institute of Technology

Appendix D: Research Ethics Board Approval



RESEARCH ETHICS BOARD
OFFICE OF RESEARCH SERVICES

Date: February 28, 2011

To: Isabella Blandisi (PI), Rose Ricciardelli (Co-PI), Kimberley Clow (Faculty Supervisor)

From: Raymond Cox, REB Chair

REB File #: 10-082

Project Title: Wrongful Convictions and Society

DECISION: APPROVED

START DATE: February 28th, 2011

EXPIRY: February 28th, 2012

The University Of Ontario Institute Of Technology Research Ethics Board has reviewed and approved the above research proposal. The application in support of the above research project has been reviewed by the Research Ethics Board to ensure compliance with the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (TCPS) and the UOIT Research Ethics Policy and Procedures.

Please note that the Research Ethics Board (REB) requires that you adhere to the protocol as last reviewed and approved by the REB.

Always quote your REB file number on all future correspondence.

Please familiarize yourself with the following forms as they may become of use to you.

- **Change Request Form:** any changes or modifications (i.e. adding a Co-PI or a change in methodology) must be approved by the REB through the completion of a change request form before implemented.
- **Adverse or unexpected Events Form:** events must be reported to the REB within 72 hours after the event occurred with an indication of how these events affect (in the view of the Principal Investigator) the safety of the participants and the continuation of the protocol. (I.e. un-anticipated or un-mitigated physical, social or psychological harm to a participant).
- **Research Project Completion Form:** must be completed when the research study has completed.
- **Renewal Request Form:** any project that exceeds the original approval period must receive approval by the REB through the completion of a Renewal Request Form before the expiry date has passed.

All Forms can be found at http://research.uoit.ca/EN/main/231307/Research_Forms.html.

REB Chair
Dr. Raymond Cox, FBIT
raymond.cox@uoit.ca

Ethics and Compliance Officer
Sascha Tuuha, (905) 721-8668 ext. 3693
compliance@uoit.ca

Appendix E: Pilot Data

Participants

Twenty (15 men, 5 women) undergraduate students from the University of Ontario Institute of Technology participated in pilot testing for partial course credit. Students were studying from various programs including mechanical engineering (n=2), health sciences (n=1), radiation science and health physics (n=1), nursing (n=1), nuclear engineering (n=4), business (n=2), criminology (n=1), automotive engineering (n=2) and health sciences and nursing (n=1). Ages ranged from 18 to 43 ($M = 21$, $SD = 5.29$).

Pilot testing was conducted in order to test the interview guide and gather preliminary information prior to the community member sample. The pilot study sought to reveal how the interview guide would be received by student participants, and if there were deficiencies in its design (e.g., participants did not understand a question). Afterwards, these could be addressed and corrected prior to interviewing community members.

Material

The materials used for pilot testing were the same as the materials used for the community member sample: Interview guide (Appendix A), consent form (Appendix B) and a debriefing form (Appendix C). Pilot testing was also carried out in adherence with the American Psychological Association's (APA) guidelines for the ethical and respectful treatment of human participants (see ethics approval: Appendix D).

Procedure

Pilot testing was conducted from May 31, 2011 to June 22, 2011. Available timeslots were posted through the Participant Pool software for potential participants to sign-up. The study was called "Blue" so that the study title did not introduce a selection bias. This reduced the

chance that only participants who were sympathetic to wrongful conviction would choose to sign-up, as participants did not know beforehand that the study was about wrongful conviction. Participants arrived at the research lab at the time of their interview and were provided with the consent form (see Appendix B). At this point, participants were informed that the study was about their perceptions of wrongful conviction and each participant was able to decide whether they wanted to participate or not. Everyone chose to participate.

In addition, participants were asked to provide their first name, age and sex on the consent form. This information was needed to create participant identifiers (e.g., Joe Smith=Participant 1) for withdraw procedures, if a participant wished to withdraw from the study after its completion. For instance, if a participant decided to withdraw after the interview or at a later date, the primary researcher would match their name, sex and age with the corresponding identifier and then remove their data. It is important to note that only the interviewer had access to personal identifying information. The interviewer then created anonymous transcripts for data analysis. Furthermore, pseudonyms were created for discussing the results whilst protecting the anonymity and confidentiality of all participants. None of the participants chose to withdraw from the study. After informed consent was obtained, the interview began.

During pilot testing, if responses were brief or if responses did not fully address the question, the interviewer would rephrase it accordingly and/or ask follow-up questions. The detailed procedure explained for the community member sample was derived from and also used for pilot testing. Upon the completion of the interview, participants were thanked for their participation and debriefed. Following the debriefing process, each student received partial course credit for his or her time.

Initial pilot interviews were quite short (approximately 6-11 minutes). Subsequently, these were transcribed and the anonymous transcripts were sent to the thesis supervisor for feedback and suggestions. Five interviews were dropped from the sample due to their short timeframe. Practice and advisor feedback led to more developed pilot interviews ranging from 15 minutes to one hour ($M = 30$ minutes).

Results

Definition of Wrongful Convictions

Majority of participants proscribed to the view that a wrongful conviction is defined by factual innocence ($n=11$). As defined by these participants, a wrongful conviction involves, “Someone who is convicted of something [crime] that they didn’t do” (Alexis, June 7th 2011). These views were consistent with research that has argued that innocents who have been erroneously convicted constitute a ‘wrongful conviction’ (e.g., Doob, 1997; Huff et al., 1996; Savage et al., 2007; Weathered, 2007). None of the participants assumed that a wrongful conviction included the judicially released guilty. These findings were somewhat surprising as it was predicted that some participants would also discuss the judicially released guilty, which was not the case here. For participants who provided idiosyncratic responses, they were informed that when referring to ‘wrongful convictions’, this meant someone who has been convicted of a crime they did not commit for the remainder of the interview.

General Knowledge on Wrongful Conviction

Thirteen participants reported little knowledge and familiarity about wrongful conviction, supporting the hypothesis. Two participants stated that they saw wrongful conviction stories ‘every once and a while’ and two participants said whatever knowledge they had, came from

reading the newspaper. Specifically, John explained what contributed to his lack of wrongful conviction knowledge:

I don't really know a lot because I don't find [stories of wrongful conviction] that much on the newspaper because it takes a while to find out that a person is convicted, [let alone wrongfully convicted]. [It] doesn't happen in like a second [media exposure] and usually they [justice system] try to make it confidential. (May 31st 2011)

Notably, structuration theory argued that institutions maintain certain boundaries, which constrain people from questioning them (Giddens, 1984; Jones, 1999). It can be suggested that the lack of wrongful conviction publicity elicits minimal public knowledge and this can act as a boundary that prevents citizens from second guessing the justice system (i.e., if citizens are unaware that a problem exists, they cannot criticize it). As a result, this allows the criminal justice system to reproduce itself without societal dispute (Giddens, 1984).

Interestingly, four participants admitted that not having a criminal justice background contributed to their limited knowledge, shedding light on the implications of a criminal justice education as asserted by research (e.g., Bell et al., 2008). In addition, when it came to the names of specific exonerees, nine participants could not identify someone who had been wrongfully convicted on their own. Only one participant stated an exoneree's name on their own, and they mentioned David Milgaard. Three participants recognized Steven Truscott when the researcher mentioned the name. Some participants partially identified exonerees, but needed assistance from the researcher (e.g., only stated the exoneree's first name, discussed the specific details of the case, but could not remember the name)—they recalled Rubin 'Hurricane' Carter (n=1), Tammy Marquardt (n=1), Robert Baltovich (n=1), and Donald Marshall (n=1). Also, one participant said they knew a friend or family member that was wrongfully convicted. Nevertheless, participants were self-reporting little to no knowledge on the topic of wrongful

convictions. This corroborates existing research that established minimal participant knowledge regarding wrongful convictions (e.g., Bell et al., 2008).

Frequency Estimates

In terms of the frequency of wrongful convictions, some participants offered estimations. Indeed, three participants said 40% of wrongly convicted individuals are exonerated, two participants stated 20%, two participants stated 25-35% are exonerated, and two participants said that you do not hear about exonerations a lot. In particular, eleven participants felt that innocent people *should* be exonerated. Interestingly, seven participants claimed that it is not always innocent people who are ‘exonerated’. In particular, two participants discussed guilty people being released due to factors such as tampered evidence causing them to be released on technicalities. Also, of the eleven participants who discussed exonerated innocents, four *also* mentioned the judicially released guilty, leaving three participants who solely discussed guilty individuals who were released. As Ryan noted, “Let’s say a crime happened and the person did it, but they [justice system] didn’t have enough facts to prove him guilty, [then] his charges are dropped” (June 20th 2011). Therefore, the judicially released guilty did emerge as a theme, however not when people were thinking of the definition of wrongful conviction.

In addition, four participants believed that wrongful convictions were not that common. As mentioned, majority of participants (n=13) admitted that they did not have extensive knowledge on wrongful convictions, which may have caused them to presume that wrongful convictions were low. Christopher explained his views on the frequency of wrongful convictions when he said, “[Wrongful convictions] don’t happen a lot...I wouldn’t say it’s [that] bad because [wrongful convictions] only happen once in a while right” (June 17th 2011).

Looking at participants' views on the frequency of wrongful convictions between Canada and the United States, 80% of participants (n=12) believe that they were more common in the United States, as anticipated. In particular, participants claimed that the United States' higher population (n=6) and higher crime rate (n=6) contributed to higher rates of wrongful convictions (compared to Canada). When discussing the higher population and how it influences wrongful convictions, John explained, "...because they [USA] have more people—the population is like 330 million, I think. It's a lot more than here [in Canada]. So [with more people], there is [a higher] chance of crimes happening, [increasing the chances of wrongful convictions]" (May 31st 2011). Matthew explained the effect of a higher crime rate on wrongful convictions when he said,

I think there's more crime there [USA] so there's more chances of having wrongful convictions. [For example] let's say there's a 50 percent chance of wrongful conviction, [and] there's a million cases [in the criminal justice system]—that [translates into] 500,000 possibilities [of wrongful conviction]. [If] let's say there's less crime, there would be fewer chances [for wrongful conviction]. (June 17th 2011)

Two participants believed that wrongful convictions occurred more frequently in Canada. Victoria explained how Canada's lower crime rate lead to inexperience compared to the United States when it came to handling wrongful convictions:

Well, more crime happens in American compared to Canada. So, over there they're more aware of wrongful convictions, I guess. I think they're used to it [so they know how to handle it]. I think they can solve a case much better than like the police over here [Canada] because we just don't have that many crimes to be really high-tech. We're more inexperienced definitely compared to America. [As a result], more innocent people might be wrongly [convicted in Canada] because of like lack of cases that we have here. (June 14th 2011)

Only one participant believed that wrongful convictions were just as likely to happen in the United States and Canada. As Ryan discussed,

Percentage wise, I would say [the amount of wrongful convictions] would be the same [between Canada and the United States] because we all have the same amount of lawyers

in ratio with [citizens, for example]. [Also], since Canada and the States have similar educational systems, we should have the same error factors as well. (June 20th 2011)

These two participants appeared to agree with research, which argued that even though most estimates tend to be published for the United States (e.g., Huff et al., 1996; Ramsey & Frank, 2007), this does not necessarily mean that wrongful convictions occur less frequently in Canada (e.g., Bell & Clow, 2007; Campbell & Denov, 2004).

Feelings about the Criminal Justice System

When students were asked how they felt about the criminal justice system, they held a variety of perspectives. Responses comprised three broad categories: (1) the justice system is doing a fair job, (2) negative feelings, and; (3) who should take responsibility for wrongful convictions.

The justice system is going a fair job. Almost all participants stated that Canada generally had a good criminal justice system, contributing to positive feelings (n=14). As Christopher described, “To be honest, I think it is [justice system] pretty fair. Our courts and [so on], they have to be fair. [Overall], I think Canada’s [justice system] is pretty fair. When you think about it, they’re pretty fair about the law” (June 17th 2011). In particular, when participants were asked if hearing about wrongful convictions changed their feelings about the criminal justice system, three participants stated that it did not cause them to lose faith. As Anna explained: “[Wrongful convictions do not change how I feel] because I think the justice system is really good here [in Canada]. I don’t doubt system. I’d say it just depends on the situation [and] how it happened” (June 14th 2011). Similarly, another participant said, “Well, I still believe in the justice system, it’s just that people make mistakes and I understand that” (Matthew, June 17th 2011). This finding seems to contradict the initial hypothesis and the assertion from the

literature (e.g., Huff et al., 1996; Ricciardelli et al., 2009), which predicted that wrongful convictions would lower faith in the criminal justice system.

Indeed, six participants claimed that mistakes can happen and that no system is perfect. Keith explained that he accepted flaws within the justice system because it's inherent—nothing in society is perfect: “I think it's [justice system] good [because ultimately] every system has its flaws. It's not all perfect I'm sure every justice system has flaws. No everyone is perfect” (June 22nd 2011). Interestingly, six participants felt that the criminal justice system just did their job as best they could. For example, Alexis sympathized with exonerees, but acknowledged that criminal justice workers were just doing their job: “I feel bad if they're [exonerees] innocent in the end and they have to spend all that time in jail, but in a way, they're [justice system personnel] just trying to do their job” (June 7th 2011). Likewise, Tyler discussed how blame should not be passed to criminal justice personnel because they simply follow their line of duty:

I guess the only thing that would cause this kind of wrongful conviction would be the law system itself. You can't really blame the people that are [working in] it [because] they're just doing their job. Sometimes you really got no choice, but to follow on with the system [and where it is planning to go with a case]. (June 22nd 2011)

This statement corroborates structuration theory's contention that sometimes agents within an institution are compelled to follow overarching powers that preside over them (Pettigrew, 1987). Furthermore, this finding lends support to the idea that the way an institution (i.e., criminal justice system) is structured may be perpetuating the errors, rather than the actions of its members (Giddens, 1984; Pettigrew, 1987).

With this said, three participants felt good about the system because they believed that people learn from their mistakes. One participant discussed how advancements in technology reduced the number of wrongful convictions, making him feel positive about the criminal justice system in Canada: “...I guess the advancement and everything, in technology. So people learn

from their mistakes in the past. I'm pretty sure in the past there has been a lot [more] wrongful convictions [then today]" (Jacob, June 17th 2011).

Some students in this study also asserted that Canada's justice system was fair compared to other countries (n=4) and that developed countries generally had better criminal laws (n=3). John explained this best when he said, "I think [the justice system in Canada] is quite fair compared to other countries. Usually developed countries have better criminal laws than other countries [developing countries]" (May 31st 2011). Sarah explained this further when she said,

Well, in comparison—I'm comparing [Canada] to other justice systems of other countries. I'm saying it's mostly reliable because it appears to be uncorrupted. It feels like people do get what they deserve. Not speaking about wrongfully convicted people of course. I'm just saying, for people who are convicted I feel like the punishment does mostly reflect the crime, so I feel like [the justice system] is reliable in that sense. (June 14th 2011)

This statement also suggests that the justice system's appropriate punishment of offenders may contribute to the overall good feelings of the criminal justice system, following a crime-control orientation as asserted by the literature (e.g., Dowds, 1995; Roberts, 2004; 2007). Moreover, the punishment of offenders follows what the public perceives as the appropriate criminal justice routine (Berger & Luckmann, 1967; Jones, 1999).

Additionally, five participants felt good about the criminal justice system because they had no personal encounters with it. One participant claimed that she did not feel less about the justice system, even in spite of wrongful convictions, because she could not see herself being wrongfully convicted:

To be perfectly honest, I don't think feel any less [or] different [about the justice system] because I personally feel like I would never have to worry about being wrongfully convicted...Just because I don't put myself in those positions. (Alexis, June 7th 2011)

This finding is noteworthy because the final statement may explain why exonerees tend to be blamed or viewed as contributory actors in their wrongful conviction (e.g., Kauzlarich et al., 2001; Westervelt & Cook, 2010).

As discussed earlier, four participants felt that wrongful convictions do not occur that often—of these four, two mentioned that this caused them to believe that the justice system was fair. For instance, when asked how he felt about the criminal justice system in Canada, Ryan stated: “Yeah I said [the justice system] is fair, right? Okay. It’s only unfair when [these] sort of things happen [wrongful conviction], but it doesn’t happen very often, so [as a result, I think it is still fair]” (June 20th 2011). Even though Roberts (2004) argued that the justice system must inspire confidence from the public in order to ensure its legitimacy, these findings suggest that talking about wrongful convictions does not seem to severely undermine some participants’ confidence in the justice system. These perceptions may explain how the criminal justice system continues to reproduce itself and maintain compliance (Giddens, 1984), as these participants still believed it functioned effectively (e.g., offenders are being appropriately punished, erroneous convictions do not happen often) in spite of wrongful convictions. In addition, these findings also support research that has found that Canadians are generally more positive than negative about the criminal justice system (e.g., Roberts, 2004).

Negative. To the opposite end, 14 participants reported negative feelings toward the criminal justice system. Of the 14 participants who felt that the justice system was doing a fair job, thirteen of these participants also expressed negative feelings. Therefore, only one participant solely expressed negative feelings toward the criminal justice system. Generally, the negative feelings discussed were attributed to wrongful convictions, the guilty going free, and

other idiosyncratic issues⁵. The negative feelings as a result of wrongful convictions and the guilty going free will be discussed in depth.

Wrongful convictions. Nine participants reported negative feelings toward the justice system due to wrongful convictions. Specifically, five participants stated that hearing about wrongful convictions caused them to lose faith in the criminal justice system, with two specifying that this caused them to question the criminal justice system. Christopher explained this in detail when he said,

When it [wrongful conviction] does happen, you feel like you can't trust it [justice system] no more because innocent people are going to jail whereas our justice system tells us [that] no innocent person should be in jail. So, when [wrongful convictions] happen it makes me question our justice system. (June 17th 2011)

In addition, Sarah felt that wrongful convictions should not happen due to the number of individuals working on a case:

[Wrongful conviction] makes me lose a bit of trust in the justice system...because there are so many people working on the case, [so] I feel like there shouldn't—this shouldn't happen. You should be really, really sure before you go and convict someone, right. I feel like if you don't have the evidence, why do you convict someone? Just wait until there's enough evidence or do more investigation until you convict someone—don't ruin a life for no reason. (June 14th 2011)

Looking at the hypothesis, while some participants claimed to not be swayed when hearing about wrongful convictions (n=3), five participants did indeed lose faith in the justice system and over half (n=9; 60%) of participants felt negative towards the system due to wrongful conviction, as predicted. These results were similarly found in previous research, wherein hearing about wrongful convictions lowered confidence/faith in the criminal justice system (Huff et al., 1996; Ricciardelli et al., 2009).

⁵ Six participants mentioned idiosyncratic responses that contributed to their negative feelings including: Can't completely trust the courts (n=2), judges can be bribed (n=2), the courts tend to be lenient towards police officers (n=1), and courts are back-logged (n=1)

Two participants highlighted that wrongful convictions illustrate that the criminal justice system needed to make improvements and increase prevention efforts. Specifically, the tax dollars used for wrongful convictions should be used to be proactive and correct issues within the criminal justice system that lead to wrongful convictions (n=2). As Victoria noted,

We definitely need more work in that [wrongful convictions] area. Maybe more detective-based work and everything? Also, it also makes me mad because usually if someone is wrongfully committed they usually get money or something in return so, that's a big amount—that's like our tax moneys and everything that could be going to [preventing wrongful convictions in the first place]. [The justice system should be more proactive], maybe more training for police officers [for example]. (June 14th 2011)

Another participant contributed to this by saying:

If I'm paying the same amount of taxes then whatever but, [the justice system] is taking away from other funding [as a result of wrongful convictions]. Where are they going to get their money from? I don't know. You're paying money towards a lost cause in a way [because wrongful convictions should not happen] but, that's how it is and there's nothing you can really do. (Keith, June 22nd 2011)

In essence, these participants felt that rather than compensating exonerees as a result of criminal justice mistakes after-the-fact, the system should be working towards preventing wrongful convictions before they even occur (ensuring that individuals do not have to experience the devastating effects of a wrongful conviction to begin with)—reflecting the desire for institutional change (Giddens, 1984; 1993).

Some students also discussed how wrongful convictions could happen to anyone, contributing to uneasy feelings toward the criminal justice system (n=3). As Emily discussed, "...because, you know, it might be you one day, along the line [that could be wrongfully convicted] and if there is no one taking care of this then [the risk increases]" (June 7th 2011). By increasing wrongful conviction awareness, criminal justice agents and other citizens may realize that modifications are needed, encouraging contextual change within the criminal justice system in order to prevent future wrongful convictions (Boisot & Child, 1988; Giddens, 1984; 1993).

This finding also suggests that these participants identify the repercussions of not assessing factors leading to wrongful convictions—lending support to the literature on increasing efforts to prevent wrongful convictions (e.g., Anderson & Anderson, 2009; Angus Reid, 1995; Bell & Clow, 2007; Innocence Project, 2009; Scheck et al., 2000).

Guilty going free. Only two participants stated that they were concerned with guilty people being released. In particular, these participants felt that an individual being released due to technicalities was not appropriate. Interestingly, Tyler discussed how guilty individuals are released due to technicalities, yet there are innocent individuals who face the system even though they did not commit the crime:

[Looking at] the Canadian justice system where you [could] step in and you're innocent, [however] other [times, someone] steps in and [they're] guilty... [This] is very flawed because [there are] cases where [the person didn't] actually do it [crime], [rather than] something wrong [technicality] that happened within the system. (June 22nd 2011)

Overall, less participants expressed negative feelings due to guilty people going free than participants who expressed negative views due to wrongful convictions. It appears that participants were more adamant about wrongful convictions as hearing and/or knowing about them contributed to their negative feelings toward the justice system. Moreover, this finding fails to adequately support survey research, which argued that some Canadians were greatly concerned with the criminal justice system being tilted in favour of offenders (e.g., Dowds, 1995; Roberts, 2004; 2007).

Responsibility for wrongful convictions. When asked who was at fault when wrongful convictions occurred, students mentioned a number of different political and legal positions, including, the government, the justice/legal system as a whole, police, lawyers, and judges. Some participants also felt that the jury, witnesses, and the exoneree should also take some responsibility for wrongful convictions. As mentioned earlier, there has been recognition that the

administration of justice is one of the primary goals of a good government (e.g., Roberts, 2004). Thus, it is fitting that four participants believed the government should be responsible for wrongful convictions as it is the government's duty to oversee and monitor the criminal justice system and its personnel. Additionally, three participants felt that the justice system as a whole is responsible for wrongful convictions. This finding is peculiar since public surveys have noted that Canadians are more positive than negative towards the justice system as a whole (e.g., Statistics Canada, 2003).

Previous survey research (e.g., Angus Reid, 1997) asked the Canadian public to rate various branches of criminal justice. While these public surveys found that police are positively viewed by the public (Angus Reid, 1997; Ipsos-Reid, 2002), the current study found that 27% of participants (n=4) believed they played a role in wrongful convictions, with two specifically mentioning their role in collecting evidence. As Christopher described, "I would say the people that were involved in [starting] the case so, detectives, police officers that were on the scene or making the arrest—[they were the] people that collected the evidence. [I would say] them because you can't [really] blame anyone else for putting the [wrongly convicted person] in jail" (June 17th 2011).

Three participants felt that lawyers contributed to wrongful convictions. Three participants specifically mentioned crown attorneys, and two mentioned defence attorneys when discussing lawyers. Seven participants felt that judges played a significant role in wrongful convictions, with five participants stating that judges are the most responsible. In particular, four participants felt that the judges were responsible because they handed down the final verdict and five believed that the judge determined the guilt of innocence of an individual and whether they should be sentenced or not. For example, Matthew felt that higher-level criminal justice

personnel, like judges, are responsible for wrongful convictions because “the people on the higher end [of the justice system] should pay more attention to each case...Because the more power [they have], [the more authority they have] to decide—let’s say the judge, whether a person is innocent or guilty depends on them” (June 20th 2011). Jacob contributed to this when he said,

I think the judge should be more responsible in the end because he’s the one like handing out all the sentences. He should say if a lawyer or the defence is [acting] bias[ed]. [I think] the judge should pick up on that. The judge should be more alert and should pick up on these things rather than going with it, rather than going with one party [crown versus defence] over the other. (June 17th 2011)

This finding may explain research wherein widespread dissatisfaction with sentencing practices or perceived sentencing practices, contributed to the lower levels of confidence among court workers (Doob & Roberts, 1988; Roberts, 1995; Sanders & Roberts, 2004).

Two participants felt that the jury should be responsible when wrongful convictions happen. For example, Keith noted that juries may succumb to a lawyer’s courtroom tactics:

It could be the jury to be partly to blame [for wrongful convictions] because they don’t have the experience to really know [when lawyers] twist words in court so on. I don’t know, they just confuse the jury and then they can make it seem [like] that this guy actually did it but, [like I said], it all depends on experience [and some jurors are not experienced to know better]. (June 22nd 2011)

Interestingly, four participants felt that witnesses should be held accountable for wrongful convictions. When asked who was at fault when wrongful convictions occurred, John stated that witnesses should, suggesting some form of reprimand as well: “The witnesses [should be responsible]. They should be—not sentenced, but maybe [given] community service. Something that will teach them the lesson that whatever you do, [like] if you’re saying that this guy is guilty, you should make sure that you’re 100% correct [beforehand]” (May 31st 2011). It is possible that these participants are aware that mistaken eyewitness identification has been cited as the leading

cause of wrongful conviction (e.g., Devenport et al., 1997; Gross et al., 2005; Scheck et al., 2000), influencing this perspective.

Surprisingly, two participants felt that the exoneree should also be responsible for their wrongful conviction. These participants felt that the onus was on the exoneree to prove their innocence and the exoneree should do whatever possible to seek assistance. Discussing exoneree, Tammy Marquardt, Daniel felt that she could have been more proactive in preventing her wrongful conviction:

Like in the case of the lady [Tammy Marquardt] that was wrongfully convicted, she could have possibly said something to the doctor—saying this wasn't normal for my child, can you do some type of [additional] research? [In order] to find out if the [child] had some type of seizure or what not and get second opinions. (June 17th 2011)

Daniel later said, “They [exonerees] should try and do everything possible [to avoid their wrongful conviction]. Even if a lawyer tells them they shouldn't go on the stand, they should” (June 17th 2011). This finding indicates that some people may not be aware of how wrongful convictions unfold. The perception of exonerees contributing to their wrongful conviction will be discussed in detail during the ‘factors leading to wrongful conviction’ examination.

In sum, participants’ negative views surrounding lawyers and judges are aligned with previous survey research (e.g., Ipsos-Reid, 2002). Specifically, participants in this study felt that judges were the most responsible due to their authoritative position. While previous survey polls found positive ratings for police, (e.g., Angus Reid, 1997), some participants in this study felt that police were contributory players in wrongful convictions in addition to the government and justice system as a whole. These findings also seem to support the idea that people expect institutional agents to know and carry out their jobs efficiently—and when agents fail to do this, dissatisfaction occurs (this was particularly evident with participants’ views of judges). As

suggested by the theory of structuration, this dissatisfaction could jeopardize the reproduction of the criminal justice system over time (Giddens, 1984).

Pre-Conviction: Factors Leading to Wrongful Convictions

Participants' responses to what factors they believed lead to wrongful convictions fell into six main categories: (1) Mistaken eyewitness identification, (2) tunnel vision, (3) public pressure to solve crime, (4) stereotyping and prejudice, and; (6) trial issues.

Mistaken eyewitness identification. Mistaken eyewitness identification has been cited as one of the most frequent causes of wrongful convictions (Gross et al., 2005; Scheck et al., 2000). Therefore, it is fitting that 40% of participants (n=6) addressed the problems associated with eyewitnesses. Specifically, participants stated that eyewitnesses lead to wrongful convictions because oftentimes, the witness did not see all of the details of the true perpetrator (n=2) and they also misinterpret what they actually saw (n=2). Victoria talked about Robert Baltovich's case, discussing how eyewitnesses contributed to his wrongful conviction:

Some of [the] eye witnesses [in his case]—there was like maybe like four or five and each of them gave a different description of a person and none of them fit his [Robert Baltovich] description, [yet in] the end he still got convicted with [all] those eyewitness [testimonies] combined. (June 14th 2011)

Another participant stated, "I'm thinking there might be [problems associated with] the witnesses. They might see something different [than what actually happened] or they mistakenly interpret the situation... There's always a chance [that] the witness missed something and witnesses sometimes just [make] something up, so you never know" (William, June 22nd 2011). Therefore, these participants seemed aware of the issues surrounding certainty in witness identifications as well as an eyewitness' ability to identify suspects, as asserted by research (e.g., Steblay et al., 2001; Wells et al., 2010).

Tunnel vision. Three participants identified characteristics related to tunnel vision practices including police making snap judgements (n=3), police being biased and judgemental during the investigation (n=2), lack of evidence (n=3) and lack of further inquiry once someone has been identified (n=3). Keith described tunnel vision as: “They [police] go on that hunch and then they just lead towards that one person and other[s] are basically off the hook [because they don’t fit that hunch].” (June 22nd 2011). He later added, “When they [police] look at someone, they just think that they [did it], so they collected that evidence, because they think they did it” (Keith, June 22nd 2011). Interestingly, Anna described how police may negate evidence leading to another suspect and focus on one person: “[Police say] ‘I don’t want to see what really happened or not, it says that the [evidence] is [all] here, so it’s his fault.’ [Tunnel vision is] Everybody thinking in the same directions and they don’t even change their perspective [to include other suspects]” (June 14th 2011). Thus, students seem aware of the potential issues of tunnel vision on wrongful conviction, corroborating research findings in this area (e.g., Cory, 2001; Findley, 2010; Kaufman, 1998; MacFarlane, 2006).

Pressure and environmental forces. Eight participants acknowledged that there are pressures and environmental forces that can foster wrongful convictions. In particular, these participants felt that pressure from the public (n=5) push police to find a perpetrator (n=4). This also causes police to take little evidence and “run with it” (n=2), which is also reminiscent of tunnel vision practices discussed above. In turn, participants felt that securing a perpetrator puts society at ease because someone has been caught and punished for the crime (n=2). Sarah described how public pressure forces the criminal justice to quickly convict individuals in order to appease the public, leading to wrongful convictions:

Cases can take a long, long, long, long time right? So, that puts pressure [on the criminal justice system to solve the crime]. That puts pressures on them to kinda wrap it out so and

to find [someone to convict]. Sometimes after they exonerate someone, they [now] have to find the person who actually committed the crime, right? [This] means that finding the right person does take a long time. So, the person who's wrongfully convicted—they just fill up [time], just so the court at least can close [the case]. [The exoneree] fills up the time until they find the right person [who is] actually guilty. (June 14th 2011)

This finding is noteworthy because research has argued that public pressure has contributed to wrongful convictions and it can contribute as much as other circumstances leading to wrongful convictions (e.g., Borchard, 1932). Although academic research often focuses on the contributions of eyewitness misidentifications and tunnel vision (e.g., Cory, 2001; Devenport et al., 1997; Findley, 2010; Gross et al., 2005), students seemed more aware of the potential biasing effects of public pressure. They also seem to acknowledge that sometimes there are overarching forces that may constrain criminal justice agents from properly conducting their duties, which has led to the justice system producing and reproducing problematic practices over the years (Jones, 1999; Pettigrew, 1987).

Participants felt that pressure from the victim's family (n=2) and political pressures (n=4) were also contributory. Looking at political pressure, Anna explained how politics can effect wrongful convictions as politicians put pressure on the justice system to solve crime—making them appear productive in the eyes of the public:

It [politics] affects the wrongful conviction because sometimes any of the big issues [within a] country—let's say it's a very big issue and it's connected with the political person [in power at the time]. Because it happened under his [authority], he's also responsible for that outcome. [Since] that person is the party leader, he wants to get it solved; he wants to get it [out of] the way, so it's in his/her favour [that he/she resolved the problem]. (June 14th 2011)

Similarly, Sarah address how the courts can feel pressured to adhere to government policies: “I feel like sometimes there might be pushes for the court because the court has to adhere to what the government says. Even though they're separate systems, I feel like there are pressures sometimes [to convict]” (June 14th 2011). Overall, these findings support the research, which

stated that environmental or predisposing circumstances (i.e., pressure) can foster wrongful convictions (e.g., MacFarlane, 2006).

Stereotyping and prejudice. Over half of participants (n=9; 60%) felt that stereotyping and prejudice were factors that lead to wrongful convictions. Specifically, factors such as the exoneree's race/being targeted due to one's minority status (n=8) and being marginalized from mainstream society (n=4) were all cited as traits that lead to stereotyping and prejudice. One participant explained stereotyping in general—stating that police may be suspicious of anyone that falls under societal stereotypes: “There's like many stereotypes and everything, so if that person falls under like a certain stereotype, they [police] might be very suspicious—they might even follow the person and track them down” (Victoria, June 14th 2011).

In particular, participants commented on race and racial targeting in wrongful convictions. When talking about ethnic discrimination Matthew said,

I think mostly people are prejudice against African-American people, which is unfair even though there is some evidence to say that they might commit more crimes then other groups. So, let's say [there's] a convenience store robbery and there's two men. Let's say there are two men of different races. One is African-American, one is a White person and the police officer was a white person. He [police officer] would automatically assume—maybe 80 percent [that] it's this person [Black] and 20 percent is another person [White]. (June 20th 2011)

This finding is noteworthy since research has argued that criminal justice personnel may use race as a criminal shorthand that leads them to be more suspicious of racial minorities (e.g., Smith & Alpert, 2007). Moreover, this finding supports research on wrongful convictions, which has found that the race of an exoneree is a significant factor related to errors (Borchard, 1932; Huff et al., 1996). Overall, it appears that these participants understand how racial issues can be present in some wrongful conviction cases.

Being marginalized from the community could also place an individual at risk for wrongful conviction according to some participants. Specifically, participants believed that marginalized individuals are easier to target as ‘guilty’ (n=5) because they often do not have a good reputation within the community (n=2). Sarah described this process in great detail when she said,

Well because they’re different from other people, it’s easier to pick him because he holds qualities that other people don’t have so it’s just easier to pick on him. Because he doesn’t have as many people [similar to] him, [making him] an easier target...[Also] There’s not as many people advocating for them. So, [when the justice system] wrongfully convicts someone [it is] to fill in the role [of the] guilty. It’s much easier to [target and convict] someone that society already doesn’t really [like]. [For example], He’s not well respected or he doesn’t have a good name within the community. I think it would be easier to pick him then say, someone who has a good reputation because it would be hard to believe [that the good individual did something wrong]. There would be a lot of people that would be in support of him being not guilty [because he has a good reputation]. So, I think it’d be easier [to wrongly convict] someone who’s not very highly respected and who easily stands out as someone that could commit a crime such as murder. (June 14th 2011)

This perception reflects research, which argued that societal marginalization can cause individuals to be targeted as a suspect by police (Anderson & Anderson, 2009). Overall, these findings seem to corroborate research that contended that stereotyping and prejudice attitudes can place an individual at a higher risk for wrongful conviction (e.g., Blume, 2008; Huff et al., 1996; Rattner, 1988). Additionally, it appears that these participants were aware of how ‘dark currents’ (Giddens, 1984) within society (racial biases, prejudice, marginalization, etc.) can inadvertently lead to outcomes like wrongful convictions.

Other prejudices. Close to half of the participants discussed the societal belief that the exoneree could have played some role in their erroneous conviction (47%; n=7). They cited reasons such as the exoneree having a connection to the victim (n=2) and the ‘must have done something’ to have been convicted notion (n=2). To elaborate on these, Victoria explained how

having a connection to the victim, may lead to a conviction: “Maybe the [exoneree] knew the victim, but he was not involved in the case. [The fact that] he knew the [victim], made him the most [likely to be] found guilty—the most guilty. Usually, [wrongful convictions can happen] like that” (June 14th 2011).

Some participants also commented on the “must have done something” notion. Specifically, Ryan explained how police do not just target people—there had to have been a reason: “Because majority of the time, the police don’t just get you for no reason. The majority [of time] you had to have done something [for them to approach you]” (June 20th 2011). This finding corroborates research, which identified a common misperception wherein the presumption of innocence has become the presumption of guilt in society—that is, if the police charged a person he or she must have been guilty of the crime (e.g., Kennedy, 2004). It appears that stigmatization may also be present in this comment (this topic will be discussed further in ‘post-conviction stigmatization’). Moreover, these perceptions may explain why exonerees tend to be blamed for their wrongful conviction (e.g., Kauzlarich et al., 2001; Westervelt & Cook, 2010), rather than greater social issues or the systematic structures that perpetuate the repetition of errors (Giddens; 1984; Hughes, 1936).

Some participants also acknowledged contributory issues that were out of the exonerees’ control. For instance, being at the scene of the crime (n=3) and being at the wrong place at the wrong time (n=4). In terms of being at the scene of the crime, one participant explained that, “In some cases, some innocent people do get convicted because [they found themselves near] the scene of the crime or something like that” (Matthew, June 17th 2011). When discussing being at the wrong place at the wrong time, Ryan stated, “Something probably went wrong. He [exoneree] might have been at the wrong place at the wrong time, [and then] happened to get

arrested” (June 20th 2011). Anthony described being at the wrong place at the wrong time further by using an example: “He [exoneree] [could have been] a bystander. He could have seen what was going on to the victim, but [did not commit the crime, but] he actually got charged wrongfully [because he was there]” (June 20th 2011).

Trial issues. Three participants stated that elements of a trial contributed to wrongful convictions. For instance, two participants felt that biases could make their way to the courtroom. As Jacob noted,

Judge bias or a crown attorney bias [can lead to wrongful convictions]. I guess some people [defendants] are seen differently in court. Take the [defendant’s] race for example; a crown attorney might take it easy on the defendant [if they are not from an ethnic minority]. (June 17th 2011)

These perceptions further contribute to research, which highlighted the implications of biases, especially racial stereotyping within the criminal justice system (e.g., Anderson & Anderson, 2009; Borchard, 1932; Huff et al., 1996).

Although 23% of the first 70 DNA exonerations were caused by inadequate defence attorneys (e.g., Scheck et al., 2003) and prosecutorial misconduct has been noted in cases of wrongful conviction (e.g., Borchard, 1932; Anderson & Anderson, 2009), only one participant commented on both these trial issues. Ryan explained how oftentimes, inexperienced defence attorneys find themselves against more experienced crown attorneys, which can be problematic:

The prosecutor’s job is to try to prove [that] you’re guilty and since they have a higher advantage, and the defence not so much [of an] advantage, this could play role [in wrongful convictions]...Let’s say you have an amateur [defence] lawyer—some guy that only defended three or four cases and then there’s [crown attorneys] that are paid like a thousand dollars per session. So, it would depend on the kind of lawyer you got...obviously the lawyer with more experience, [that acts like], “I see these cases all the time” [knows there way around the courtroom]. For that amateur lawyer, he just came out of school, so he might know the law by little bits and he’d be like, “well this is my first case or this is my fourth case—I’m going to try [to do what I can].” The high-end lawyer could [be] like, “I deal with these guys all the time, [this is routine] for me.” (June 20th 2011)

As mentioned, crown prosecutors are better funded and have more resources than most court-appointed defence counsels (e.g., Berry, 2003; Innocence Project, 2011c), placing this participants' statement into context. Thus, this finding corroborates research, which states that the quality of representation can be a key factor in the determination of guilt or innocence once the defendant reaches trial (e.g., Anderson & Anderson, 2009). This participant also seems to support the notion that the structure of the criminal justice system itself may be negating the efforts of its agents, enabling the reproduction of problematic practices (Giddens, 1984; 1993; Hughes, 1936).

Additionally, Ryan commented that prosecutors tend to view people as numbers when it comes to convictions: "[Prosecutors act like] if you're guilty [or not], [whatever]—I have more clients coming in [anyways]" (June 20th 2011). When asked which crown attorneys followed this mentality, he said, "High-paid ones with several clients, I would say" (Ryan, June 20th 2011). This perspective corroborates research, which argued that some prosecutors no longer see courtrooms as venues for justice, but rather opportunities for personal gain (e.g., Borchard, 1932).

In order for the behaviours described above (e.g., solving crime quickly, stereotyping, tunnel vision) to count as action, Giddens (1984) argued that they must be intentional. Based on participants' previous comments (e.g., accidents and mistakes can happen) and participants' acknowledgement of how environmental factors (e.g., public pressure) can act as facilitators of wrongful conviction, it appears that participants generally did not sense malicious intent on the part of criminal justice personnel. This supports research that argued that the environment in which criminal justice personnel work (e.g., MacFarlane, 2006), and the greater social structure itself (Pettigrew, 1987), tends to foster wrongful convictions more so than individual failings

(e.g., Anderson & Anderson, 2009). Although participants did mention a number of factors that have been identified as leading to wrongful conviction in the literature (e.g., mistaken eyewitnesses, tunnel vision, stereotypes and prejudice), they failed to mention commonly discussed factors such as false confessions.

Compensation

As anticipated, participants did believe that exonerees deserved compensation. Participants' compensation responses were organized into four sections: (1) monetary compensation, (2) non-monetary services, (3) factors to consider for compensation, and; (4) student knowledge of compensation

Monetary compensation. When asked about their feelings on compensation, majority of participants were of the opinion that exonerees should receive financial reparation (n=13). Moreover, this supported previous survey research that found the majority of respondents believed that exonerees should receive money for what happened to them (e.g., Angus Reid, 1995). The remaining two participants felt that while exonerees deserved compensation, it should be limited to ensure they do not become 'overtly rich'. For those participants who supported financial compensation, they believed exonerees deserved it for the following reasons: assistance moving forward (n=3), they have had time taken away from them (n=10), they were unable to earn a living while incarcerated (n=4), and their reputation has been tarnished as a result of the wrongful conviction (n=4).

Moving forward. According to three participants, compensating the wrongly convicted helps them move forward. When asked why she believed exonerees should receive compensation, Alexis said: "Especially now-a-days, if they have been in jail for so long...then [they should get compensation], just so that they can find a place to live [for example] and [most

importantly,] start their life over again” (June 7th 2011). As advocated by research, compensation is viewed as an essential post-conviction service that can assist the exoneree with restarting their lives (e.g., Campbell & Denov, 2004; Innocence Project, 2009; Shore, 2001; Weigand, 2009).

Thus, it appears that these participants acknowledged what research has discussed.

Lost time. Ten participants felt that the time an exoneree spent in jail warranted reparation (n=10). For example, one participant described this by acknowledging that compensation cannot reimburse all the lost years and experiences, but it could help the exoneree enjoy the rest of their lives:

I’s say [compensation is deserved], just because, say you’re wrongfully convicted and you’re sent to prison for five to ten years or something like that. There’s no way you’re ever going to get those years back or say you had kids or something—you’re not going to get those memories back and stuff like that. So, there has to be something [the justice system can do]. I’d assume people [exonerees] want money [because] with money, you can [try and get] certain things back. You can’t buy happiness, but at least you can [find] happiness to a point where you feel better about yourself. (Keith, June 22nd 2011)

This appears to reflect the sentiments of exonerees, who have acknowledged that while money does not give them what they lost, it does help them come to terms with what happened to them (e.g., Campbell & Denov, 2004; Savage, 2007).

Lost income. Four participants felt that compensation should be granted to exonerees because they were unable to earn a living throughout the wrongful conviction process. Jacob explained how the exoneree missed employment opportunities and lost income during the wrongful conviction period—deserving compensation as a result:

I definitely believe that [exonerees deserve compensation]. Because [as an exoneree] you lost so much time [and] if you spent two, three years in jail, that’s like opportunity costs. [Meaning,] you could have had a way better job [during] that time [or] you could have made ‘this’ amount of money in that time. (June 14th 2011)

Daniel contributed to this when he said: “In a lot of [wrongful conviction] cases people spend 10, 15 years in jail and they don’t have financial resources when they get out [because they haven’t

been working]. So, I think they should be properly rewarded or financially compensated” (June 17th 2011). This corroborates the research stating that monetary compensation is essential for providing exonerees with the financial independence they lost as a result of their wrongful conviction (e.g., Campbell & Denov, 2004; Innocence Project, 2009).

Damaged reputation. Four participants believed that financial compensation was essential for wrongly convicted individuals because their reputation was subsequently damaged. As Sarah explained, “Since they’re wrongfully convicted I feel that the government owes it to them to somehow compensate the time and money and reputation that they’ve lost due to the conviction” (June 14th 2011). This finding is important because participants recognize how wrongful convictions can change the exoneree’s place in society, causing them to be viewed differently by the public (e.g., Grounds; 2005; Westervelt & Cook, 2008). These participants felt that compensation can remedy this occurrence.

In sum, it is evident that support for compensating exonerees was found in this study, suggesting that students favour financial compensation. It can be argued that public support for compensation may stimulate criminal justice agents to modify current compensation policies. As discussed in the theory of structuration (Burns, 1961; Giddens, 1984; 1993; Pettigrew, 1987; Ranson et al., 1980), this may facilitate the institutional changes needed to prevent the reproduction of problematic compensation policies in the future.

Non-monetary compensation. In terms of non-monetary compensation, twelve participants felt that exonerees deserved post-conviction services. Specifically, participants mentioned employment and training services (n=3), psychological counselling/therapy (n=5), housing (n=2), education (n=2), clearing the exoneree’s record (n=3), disseminating the

wrongful conviction story to the public (n=4), public speech (n=2), assistance with readjustment (n=3), relocation (if desired) (n=2), and community reintegration assistance (n=2).

To elaborate on some of these suggestions, participants felt that “the government should actually find [wrongly convicted people] a good job; give them better [training through] education. So, [yes] money would help but, getting them an actual good job would help better [because it] makes their life better [long-term]” (Christopher, June 17th 2011). Psychological counselling was another service that participants deemed particularly important. As Sarah described,

[I think] counselling could help them because some of them [exonerees] have been in jail for like 10 years or more before they’re exonerated, so that [counselling] could help them find their identity again as a citizen and also, it could help [them] be a functioning part of society again. (June 14th 2011)

This perception sheds light on the research that states that exonerees struggle to reshape their identities as innocent people post-exoneration (Westervelt & Cook, 2008). Participants’ acknowledgment of the need for these services is important because exonerees have reported psychological issues during the post-exoneration phase (Campbell & Denov 2004; 2005; Grounds, 2005).

Looking at participant views on clearing the exoneree’s criminal record, William stated, “for sure their name must be cleared again [to how it was before the conviction].” When asked why this should be done, William said, “So people don’t think he’s [exoneree] actually the doer of the crime right” (June 22nd 2011). This finding is noteworthy since research has presented various problems experienced by exonerees as a result of their criminal record post-conviction (e.g., Cole, 2009; Innocence Project, 2009; Westervelt & Cook, 2010).

Participants also felt that spreading public awareness surrounding the exoneree’s wrongful conviction was an important service. Christopher discussed how disseminating the

wrongful conviction story through a public speech would spread awareness, which is something money alone, could not do: “Even though sorry isn’t going to help a lot, at least other people will know that you have been wrongly convicted, whereas if they just give them [wrongly convicted individual] money, no one is going to know [about the wrongful conviction]” (June 17th 2011). Another participant felt that the wrongful conviction story should be broadcasted and “the government [should] put [the exoneree’s story] in an article in the news or something. [To] tell everyone that he’s clear—he didn’t have anything to do with it [crime]” (Anthony, June 20th 2011). It seems that these participants advocate for spreading awareness on wrongful convictions as a way to help the exoneree reintegrate. It can also be suggested that participants may want to know more about wrongful convictions since these cases are rarely exposed to the public.

Participants also mentioned providing exonerees with assistance returning to their community. It has been noted that sometimes exonerees face an unaccepting community upon their return (e.g., Campbell & Denov, 2005; Grounds, 2005; Westervelt & Cook, 2008). Anna explained this best when she said,

[The wrongly convicted person] has lost a job, he lost a career because of [the conviction], and he [even] lost all the [positive] society impressions [he had]. I think [he] should get help [because] he [was] a good member of his community and [now] they all kind of ignore him [and] just don’t even want to see him again, even between friends and family. That’s why [he needs help going back to the community]. (June 14th 2011)

These findings corroborate research, which contends that community integration forums and programs should be put in place to prepare communities for exonerees and to foster a smooth transition back into society for the exoneree (e.g., Westervelt & Cook, 2008).

Interestingly, researchers (e.g., Westervelt & Cook, 2008; Chunias & Aufgang, 2008; Griffiths et al., 2007) have argued for similar services as listed by students. The services

mentioned by participants as well as researchers are important to consider because they highlight the insufficiencies of current compensation regulations and may assist criminal justice agents who are seeking to stimulate policy changes (Giddens, 1984; 1993; Pettigrew, 1987). Indeed, research contends that non-monetary assistance should be offered in conjunction with monetary compensation in order to maximize successful integration (Westervelt & Cook, 2008; Chunias & Aufgang, 2008; Griffiths et al., 2007).

While most participants felt that post-conviction services should be granted, two participants believed that non-monetary services would not be helpful and one felt that it depended on the case. For instance, Victoria stated that post-conviction services were not necessary because society would still look at the exoneree negatively: “No, I don’t think [they need services] because most people, even when they [exoneree] come back into society, most people [will still] be fearful and everything so [services won’t help them]” (June 14th 2011).

Keith felt that whether services were offered or not should depend on the case:

It all depends on the case and everything just because how would you [truly] compensate someone? If I was in jail for ten years or something like that, I wouldn’t want an apology [for example] because it’s ten years gone. Saying sorry doesn’t cut it, it really doesn’t. I don’t know, it would all depend on what the person wants [or needs], but [in my opinion] there’s not really much you can offer someone who’s been wrongfully convicted for ten years. [To be honest], I don’t think money would even help. I don’t think there’s anything that would actually suffice, unless you can turn back time, but we can’t do that. (June 20th 2011)

Surprisingly, these participants felt that services as well as money could never truly compensate a person’s life, making them (services and money) redundant from their points of view.

Factors to consider for compensation. When asked what factors should be considered for compensating the wrongly convicted, participants offered a variety of guidelines. For instance, majority of participants felt that the length of time spent in prison was an important factor to take into account (n=12). Specifically, five participants felt that the longer the exoneree

was in prison, the more money they should receive. Keith commented on time spent in prison and also added that the type of crime the exoneree was convicted of is relevant:

Factors [that] I think that should be considered [for compensation] would be how much time they spent in jail and what the offence was because again, if its murder then everyone has that sense of, “Oh this guy was convicted of that [crime]”. So, it all depends on the type of crime and how much time they actually spent [in] jail. (June 22nd 2011)

This acknowledgement (i.e., number of years spent in prison) is important because some compensation statutes grant compensation per year of incarceration (e.g., Texas) whereas others do not (e.g., New Hampshire) (Norris, 2011).

Looking at the type of crime the exoneree was charged of, four participants felt that it should be considered when it comes to financial compensation. Adding to Keith’s comments, Tyler stated that compensation:

...would depend on what they were wronged for. Let’s say he was [wrongly convicted of], stealing as opposed to wronged for killing. These are two very different [things] in sense of crime right. So, then let’s say in a case of stealing, they could just compensate with a bit of cash, but if you’re wronged for killing, then they [should] compensate more than [that]. (June 22nd 2011)

These findings suggest that some participants recognize that certain crimes hold different implications within society. In particular, severe crimes like murder or sexual assault are perceived to be more serious than other crimes, such as theft or drug possession. Thus, these participants may feel that the type of crime matters because the more severe it is, the more the exoneree had to endure (warranting more compensation as a result).

Additionally, earning potential was commonly mentioned by participants (n=10). As Anna described,

Okay, first of all, let’s say he went [to] prison [for] seven years. In the seven years he could have [had] his job, he could have earned that much money, he could have [had a] social life, he could have done all kinds of other things in his life. [He lost] the seven years [of] wages, [so] that [should be considered so] he can start up his life. (June 14th 2011)

Notably, four participants commented that age was also important because it is harder to start over and reintegrate for older exonerees. As Christopher noted, “The government should look at what they took away, like what age [the wrongly convicted person] went in [jail], what age they came out and what that person could [have] had if he wasn’t in jail [for those years]” (June 17th 2011). Indeed, the Innocence Project (2009) and academic research (e.g., Grounds, 2005) have acknowledged that age is a factor in the adjustment process post-exoneration. Specifically, if exonerees are older or if exonerees were incarcerated at a young age, they tend to have more problems when it comes to reintegration (e.g., Grounds 2005). Other factors to consider included: mental state and stability (n=3), effect on family relationships (n=3), if the wrongly convicted individual had dependants (children, spouse, etc.) (n=4), pain and suffering (n=3), the extent of media coverage (n=2), and the amount of character damage (n=2).

Knowledge on compensation. In addition to participants’ knowledge on wrongful convictions, participants were also asked questions pertaining to their knowledge on compensation. In terms of the percentage of compensated exonerees, two participants stated that they were not sure about this figure and two stated that they had not heard about compensation in wrongful conviction cases. For those participants who did offer percentages, they admitted that they were approximations. In particular, three participants felt that 30-40% of exonerees were compensated and three mentioned that 50% were compensated. Only two participants thought—or rather hoped—that all exonerees were compensated. Generally, four participants felt that a small amount of exonerees were actually compensated. When asked how much they thought an exoneree typically received, once again, responses were said to be approximations or ‘guesses’ by participants. Three participants said that they were not sure how much they received, two said

that exonerees received ‘not a lot’, two stated a couple-thousand dollars, three mentioned \$100,000, and six stated millions.

Nine participants felt that it was the government’s responsibility to provide compensation. Of these participants, only one participant specified that responsibility should be based on the offence—if the exoneree was convicted of murder, the federal government should compensate them because murder is a federal offence. The remaining eight participants did not specify what level of government should be responsible for compensation. Participants also mentioned the justice system as a whole (n=3), police (n=2), and taxpayers (n=2) should compensate. For example, Matthew explained that police should be responsible because they are a branch of the government: “I think the government should be mainly responsible for the compensation, but in between there [it should be] the police [as] they’re still part of the government” (June 17th 2011). When discussing taxpayers, Keith identified that, “It [compensation] all just comes from the taxpayers anyways. So, basically [that means] I’m paying for someone who’s wrongfully convicted” (June 20th 2011). This finding suggests that this participant may be aware of the funding source for compensation. Nonetheless, as found with participants’ general knowledge on wrongful conviction, their knowledge about compensation was also minimal (participants did not seem to be confident when offering compensation figures).

Apology

All participants (n=15) felt that apologies should be granted to those who have been wrongly convicted. Participants felt that the apology should be from the government (n=2), the police (n=3), the lawyers (n=2), the judge (n=8), the witnesses (n=2), and some participants felt

that everyone who was involved should apologize (n=3). Participants also discussed their views on whether the apology should be public or private when asked by the interviewer.

Public. Thirteen participants immediately said that the apology should be public. As hypothesized, the majority of participants believed that exonerees deserved a public apology. Their responses are organized based on how apologies help the exoneree, affect the criminal justice system, and impact the general public

Helps exoneree. Ten participants stated that apologies should be public because they would help the exoneree. In particular, participants felt that public apologies were important for acknowledging the exoneree's innocence (n=9). As William noted, "Well, it [a public apology] is probably one way of getting his name cleared right...By doing that [public apology] more people would know, 'Okay this guy is wrongfully convicted. He's okay'" (June 22nd 2011). Later, William added what would happen if a public apology was *not* granted:

If there's no apology or public apology then people won't know that he's wrongfully convicted and people would still think that, "Okay, he's the criminal" and well the [exoneree] himself would think that "Okay, people think that I'm a criminal. People will be afraid of me so, I [don't feel] comfortable living in this society." (June 22nd 2011)

This seems to support the argument that apologies help restore the exoneree's pre-conviction status (e.g., Shore, 2001). Similarly, John believed that public apologies were important to spread awareness surrounding the exoneree's innocence—otherwise the wrongful conviction would be unknown by the public:

It [wrongful conviction] should be recognized by everybody, so that it can go viral. So that everybody knows that the person is innocent and not just a certain [people] know. [For example], not just in the courts. [They need to publically] say, "I'm sorry for what happened" [or else] people outside the court of justice don't know what the situation was. (May 31st 2011)

These findings have also been noted in the literature, wherein exonerees have reported that apologies would help solidify their innocence among society (e.g., Campbell & Denov, 2004; Westervelt & Cook, 2010).

Additionally, participants believed that apologies enabled exonerees to feel vindicated (n=3). As Tyler discussed,

Well first of all, it [public apology] would help clear their name as to [the fact that] they didn't commit [the time]. [It is also a] psychological thing for the person [exoneree], "Okay the [justice system] apologized, I have my face [reputation]" kind of thing... Like now the whole world or at least whoever is watching TV, knows that I'm not the one that did it. It's like self-satisfaction. (June 22nd 2011)

Another participant commented that public apologies facilitate the closure process: "If someone apologizes to you, you kind of feel release...closure. [A] release [of] everything like, "Oh now I'm done" (Anthony, June 20th 2011). These participants' responses echo the sentiments of exonerees when reporting how apologies helped them gain closure and come to terms with their experience (Campbell & Denov, 2005; Penzell, 2008; Savage, 2007).

Effect on the criminal justice system. Contrary to research on loss of faith in the criminal justice system (e.g., Huff et al., 1996; Riccardelli et al., 2009), seven participants believed that public apologies would positively impact the criminal justice system. Specifically, some participants believed that the justice system issuing an apology kept the system honest (n=4). For example, apologies remind society that the criminal justice system is not perfect (n=3). Victoria discussed how the criminal justice system would be viewed differently by the public by offering an apology:

[With an apology] people are aware that "Oh, this person really didn't do anything and now we [know this]". Even like the witnesses, the officers, and the judge—all these people made a mistake. [Through apologies] people are more sympathetic and more knowledgeable about the justice system. (June 14th 2011)

Keith explained this further by saying, “[Granting an apology] is nice to show that the system is wrong and at least the public knows that they were wrong and that the police are not 100% always perfect” (June 22nd 2011).

Moreover, three participants felt that public apologies would prompt the criminal justice system to fix the problems that lead to the wrongful conviction (n=3). Ryan explained how the apology would highlight what happened and how to learn from these mistakes: “You know, [public apologies] tell everyone what happened, like why the situation [occurred a certain way], [and] how to maybe further prevent it from happening again” (June 20th 2011). In a similar vein, Tyler stated that apologies were important for the justice system because: “...its self-reflection and [they] can check back to what [they have] done wrong the first time and see how [they] can improve upon it the second time” (June 22nd 2011). These perceptions corroborate research, which suggested that apologies illustrate acknowledgement and accountability that mistakes were made, and that the justice system is working to find solutions to prevent such mistakes from happening again (e.g., Innocence Project, 2011d; Penzell, 2008).

Notably, only one participant commented on the fact that apologies are rarely granted. Specifically, Anna stated that the criminal justice system often avoids apologizing. As she explained,

I think people never apologize in this area [wrongful conviction]. People [criminal justice workers] say [things like] “it’s not my fault, it’s just what happened, it’s what the situation is.” I would say...even [if] you didn’t change your mind [about the error]—I would say that you should apologize. (June 14th 2011)

This finding corroborates research, which argued that governments and criminal justice personnel avoid apologies due to fears of litigation or the perception that apologies are an admission of wrongdoing (e.g., Vollen & Eggers, 2005). Notwithstanding, these findings support

the research contending that apologies can affect the criminal justice system (e.g., Innocence Project, 2011d; Penzell, 2008; Westervelt & Cook, 2010).

Impact on the general public. Thirteen participants noted the impact an apology would have on the general public. For instance, twelve participants brought up public awareness during this discussion. Ryan explained how the public apology would raise awareness, proclaim the person's innocence and thus, make society more comfortable with having the exoneree return to society:

If a person was to [say], “you know what, he was convicted of murder, but he was falsely convicted”. People [may] still sort of stagger [and be unsure]. [However], if there's a public speech given, saying this person is not guilty, he didn't do anything wrong, it might just help his situation a lot better than just releas[ing] him on the streets [without it]. (June 20th 2011)

Through the government and/or media's confirmation of innocence, this restores the exoneree's identity within society (e.g., Westervelt & Cook, 2008) and makes citizens aware about the wrongful conviction. Three participants specifically stated that apologies should not be done away from the public eye (e.g., in a courtroom) because this would remove the wrongful conviction from public knowledge. Interestingly, research has found that exonerees also acknowledged an apology's ability to raise public awareness (Campbell & Denov, 2005).

Beyond their own desires, exonerees want an apology in order to show the public that the justice system makes mistakes and wrongful convictions do happen (Campbell & Denov, 2004; 2005).

Notably, nine participants discussed how public apologies removed doubt surrounding the wrongful conviction. Ryan said that public apologies would remove doubt by, “chang[ing] people's minds [about the exoneree]. We all change our minds in a group better than [when we] individually read it because we have a group way of thinking” (June 20th 2011). This suggests that a public apology may reach and impact more people, enabling citizens to collectively

abandon any reservations they may have had surrounding the wrongful conviction. Moreover, two participants felt that since the exoneree was convicted publically, they should be apologized to publically (as a way to reverse the conviction). Sarah explained this best when she said,

I think it [apology] should be done publically. I think that [it] would solidify the exoneration with a formal apology...Because they were wrongfully convicted—well before they were wrongfully convicted, they were convicted. So, that was done publically right. In order to take that back I feel like—to reverse the action [the justice system] would [need to] apologize publically, to cancel out the conviction. (June 14th 2011)

With this in mind, eight participants felt that public apologies would help society accept the exoneree again. Anna discussed that citizens may rethink their initial misperceptions surrounding the wrongful convictions after an apology was issued:

I would say that they [the public] would rethink about this [wrongful conviction]. They would think [that since] they [justice system] apologized to him for something [we can accept the exoneree again]. [An apology] is going to give [society] the base to accept him [exoneree] one more time. (June 14th 2011)

Therefore, these findings seem to corroborate research that discussed how apologies can have a resonating impact on the general public (e.g., Campbell & Denov, 2004; Innocence Project, 2011d; Lazare, 2004). Looking at the all parties discussed in this section (i.e., exoneree, justice system, and the public), participants' views supported research, which argued that an apology's effect can be multi-faceted (e.g., Penzell, 2008). Additionally, public support for apologies may be a factor that motivates criminal justice agents to revise current apology practices (e.g., standardize apologies post-exoneration), which may in turn, pave the way for systematic changes (Boisot & Child, 1988; Giddens, 1984; 1993).

Private. Only one participant said that the apology should be private immediately upon being asked. In addition, one participant felt that both, a private and public apology should be offered to exonerees immediately upon being asked. For instance, Anthony stated that exonerees should receive, “Both...A private apology can be person-to-person—if I [was] a judge [and] I

made a decision that was wrong, then I [should] face-to-face say, ‘I’m sorry. I made a mistake.’ [Also], A public apology can be [in the form of an] announcement” (June 20th 2011). Eventually, all participants spoke of the benefits associated with a public apology. Thus, these findings indicate that students in this study support and encourage apologies. Whether done privately, publically, or both, all participants acknowledged that apologies can be an integral part of the post-exoneration process, as asserted by the literature (e.g., Campbell & Denov, 2004; Innocence Project, 2011d; Lazare, 2004; Penzell, 2008).

Post-Conviction Stigmatization

Although none of the interview questions specifically asked about stigmatization, 14 participants recognized that society stigmatizes wrongly convicted individuals. Some participants simply recognized that stigmatization occurs, whereas seven participants explicitly made stigmatizing remarks. In addition, four participants stated that they would not feel comfortable being around someone who has been wrongly convicted. As discussed, exonerees have reported experiences of stigmatizing remarks made by members of their community and/or society in general (e.g., Kirk Bloodsworth finding ‘child killer’ on his truck). Participants’ views on stigmatization comprised three categories: how exonerees are stigmatized, reasons for stigmatization, and upfront stigma.

How exonerees are stigmatized. Twelve participants discussed how wrongly convicted individuals are stigmatized by society. These participants mentioned that people are often hesitant to associate with an exoneree (n=9) and employers are usually sceptical to hire an individual who has been wrongfully convicted (n=5). To explain these views in more detail, participants felt that some people look at exonerees negatively (n=3) and thus, do not want to associate with them. As Matthew described,

It [exoneration] still won't change the fact that people would feel, sort of, awkward around this person [wrongly convicted]. They wouldn't want to be with them [or around them] on a day-to-day basis. Like [they might say], "Oh, he's been wrongfully convicted, but it doesn't change [that] he's been jailed for five years, ten years." (June 17th 2011)

Similarly, John stated, "Usually, society does not like to interact with them [exonerees] because of what happened to them and the time they spent in jail" (May 31st, 2011). This is reminiscent of stigma-by-association, which occurs when people do not want their own image tarnished by associating with someone who is stigmatized (Goffman, 1963). It appears that these participants are aware that this form of stigma can be common for exonerees.

Additionally, participants also identified that stigma-by-association is often practiced by employers who refrain from hiring exonerees because they want to maintain the integrity of their business. Specifically, participants mentioned that criminal reference checks set this in motion (n=3), making it difficult for exonerees to find a job (n=7). In terms of exonerees and the level of acceptance by employers, Sarah said,

I don't think it would be as easy to accept them [exoneree] to be honest...Just because as employers they're always sceptical. They're very big on criminal reference checks. So, it's pretty close to a criminal reference check if you have [a wrongful conviction] on your record. I don't think it should be like that because they [exonerees] deserve to have a chance at living a normal life [and this mentality prevents it from happening]. (June 14th 2011)

Notably, this participant is one of the only students to say that stigmatization was wrong. Stigma effecting employment has been discussed by several researchers (e.g., Chunias & Aufgang, 2008; Cole, 2009; Goffman, 1963; Innocence Project, 2009; Westervelt & Cook, 2008) as well as exonerees (e.g., Campbell & Denov, 2004; Roberts & Stanton, 2007), wherein exonerees are denied employment opportunities—possibly due to stigma-by-association fears.

Reasons for stigmatization. Almost all participants discussed reasons why exonerees may be stigmatized by the public (n=14). Responses included: media coverage, lack of wrongful

conviction knowledge, public doubt in the wrongful conviction, exoneree's previous criminal record, the type of crime they were wrongly convicted of, the exoneree's contact with a criminal environment (i.e., prison), and people may perceive that exonerees are 'threats to public safety'.

Media coverage. Two participants felt that the media's coverage of the exoneree's case facilitated the stigmas that occurred against them. For instance, Alexis stated that if the case was frequently in the news, people would be more likely to recognize the exoneree. As she noted, "[Stigma happens] especially, if it [wrongful conviction] was a big case in the news. If [the exoneree] goes to the grocery store and people see [them], [oftentimes] people just won't be polite" (June 7th 2011). Likewise, Matthew explained that since negative stories typically appear on the news, this affects how exonerees are viewed when and/or if their story receives media coverage:

I think it's the way people are raised. It's just like when you're a kid [and you watch the news that says], "Oh, this person on TV is going to jail, he's bad." That's how they generalize these things. It's [the] news. Usually people are jailed because they murdered someone or [the news talks about] all the bad people go to this place, this place called jail. That's how people [society] form their mind set of these [exonerees]. (June 17th 2011)

Notably, research (e.g., Roberts, 2004) has observed that the media can affect how people view criminal justice matters and in this case, these perceptions could explain why the public may discriminate against exonerees.

Lack of wrongful conviction knowledge. Three participants believed that the lack of public knowledge surrounding wrongful convictions contributed to stigmatization against exonerees. As Victoria described, "I would say [stigma occurs] because not a lot of people know about our justice system or anything so it's just a lack of that education" (June 14th 2011). Tyler explained that sometimes people do not know what led to the wrongful conviction because "they don't know about the details of the case [or] they don't know that you were wrongfully

convicted. They'd judge someone by the cover [that says], 'You've killed someone'" (June 22nd 2011). These statements corroborate research, which has generally found that wrongful conviction knowledge is minimal (e.g., Bell & Clow, 2007). Moreover, it has been argued that the level of public knowledge can have an impact on how citizens view criminal justice matters (e.g., sentencing practices) and individuals who come in contact with the criminal justice system (e.g., Chapman et al., 2002; Hough & Park, 2002). This limited knowledge may also lead society to stigmatize exonerees because citizens are uninformed about the extensive nature of wrongful convictions (e.g., what factors lead to wrongful convictions) as well as the implications of stigmatization (Anderson & Anderson, 2009; Goffman, 1963; Westervelt & Cook, 2010).

Wrongful conviction doubt. Seven participants believed that stigmatization occurred against exonerees because the public doubted their wrongful conviction. Matthew explained this when he said,

Well let's say I've been put away for five years. People ask questions: why was this person put away for five years even though he didn't do anything? The justice system is power[ful], so even though I didn't do anything, they [society] can't sort make sense of how the justice system can make mistakes. That's why they [the public] would act differently because they would think that [the exoneree is a] guilty criminal and that's why [they were] arrested, [putting the wrongful conviction into question]. (June 17th 2011)

Ryan added that people tend to support the criminal justice system, causing them to doubt that a wrongful conviction occurred as a result:

...it's just a matter of conviction, people would [believe], "You know what, he's guilty." Due to the fact that [while] the court system has its flaws; majority of it is good right? So, that brings to the point that when you get convicted, the majority [are] saying [that] you're guilty and maybe that little tiny percent [say], "Okay, maybe he's wrongfully convicted". (June 20th 2011)

These findings may explain public survey research (e.g., Roberts, 2004), which noted that people tend to be more positive than negative when it comes to their views on the criminal justice

system. It is possible that when a wrongful conviction occurs, people are inclined to believe that the justice system properly convicted someone due to a crime-control orientation (Roberts, 2004) and the perception that this is part of the justice system's routine (Berger & Luckmann, 1967; Giddens, 1984; Jones, 1999).

Exoneree's previous criminal record. Additionally, five participants believed that exonerees are stigmatized if they have a past criminal record. Tyler explained this in regards to exonerees: "[People stigmatize when they say things like], 'He's stolen something [before], he's got a criminal record. Let's not talk to him because he's a negative influence to our lives and so on' (June 22nd 2011). Tyler went on to say that a criminal record lends people to:

...get this feeling where [they then think], "Oh yeah because he's done something wrong he is tainted." and "he's done something wrong, he's broken the law [before]. If he's broken it once, he can break it again...[To them], something that happens once can always happen again. Stuff like that [is what contributes to stigmatization]. (June 22nd 2011)

This finding reflects research, which argued that exonerees with past criminal records have an elevated chance of being prejudiced and stigmatized (e.g., Anderson & Anderson, 2009; Bedau & Radelet, 1987; Blume, 2008; Borchard, 1932; Huff et al., 1996; Rattner, 1988; Scheck et al., 2000). Earlier, participants acknowledged (in factors leading to wrongful convictions) that a criminal record caused exonerees to be targeted by police. Accordingly, the above findings indicate that having a criminal record may also transcend into the public perception and stigma domain, as mentioned in the literature (e.g., Anderson & Anderson, 2009; Bedau & Radelet, 1987; Blume, 2008; Borchard, 1932; Huff et al., 1996; Rattner, 1988; Scheck et al., 2000).

Type of crime the exoneree was wrongly convicted of. Ten participants felt that exonerees were stigmatized because they were associated with the crime they were wrongly

convicted of (n=5). Moreover, these participants indirectly discussed Goffman's (1963) concept of stigma-by- association with the crime or criminal charge. Keith explained that:

The worse the crime the more someone feels scared. I guess scared or, doesn't want to be around that person in case that, through some circumstance even though they've been wrongfully convicted, depend[ing] if it was trial by jury or whatever, they could have let a guilty man go. It all depends. (June 22nd 2011)

As argued by Goffman (1963), people justify discrimination and construct stigmas due to the danger an individual (e.g., exoneree) may represent. Therefore, as Keith mentioned, someone may not want to associate with an exoneree because of the danger associated with the crime they were wrongly convicted of (despite their innocence) or even the slight possibility that they could be guilty (and not innocent). Notably, research has argued that the judicially released guilty are a more common occurrence than innocents being released, which may also explain this perception (e.g., Huff et al., 1996). In addition, this seems to lend support for the research, which argued that the general public is concerned with the criminal justice system releasing offenders back into society (e.g., Dowds, 1995; Roberts, 2004; 2007). Here, it can be suggested that this may impact how people perceive exonerees.

Moreover, these findings may also explain previous findings wherein participants believe that compensation should be greater based on the crime the exoneree was wrongly convicted of. Namely, the associated danger that comes with certain crimes (e.g., murder) can produce different experiences for exonerees including being stigmatized more heavily by the public.

Contact with a criminal environment. Just over half of the participants (53%; n=8) commented on the fact that wrongly convicted individuals' incarceration contributed to the stigmas that occurred against them. Christopher discussed the perception that despite innocence, for some people jail is ultimately, a place where offenders reside:

Society wouldn't accept them [exoneree]. To everybody, even though he's been wrongly convicted they're going to still think, "Oh, look he's been in jail or she's been in jail." Once you go to jail, automatically, everyone thinks you're a bad person. It doesn't matter if you're good or bad. Once you've been in there, and you come out, they automatically think you're a bad person, so no one would want to associate with you. (June 17th 2011)

This statement is reminiscent of stigma by contagion from the prison or criminal justice experience (Goffman, 1963). Keith explained this concept when he said: "People reference jail as—that's where people who are guilty go and there's crime and all that stuff in [prison as well]. So, that's why they don't want to be associated [with exonerees or] those type of people [have been incarcerated]" (June 22nd 2011). People may assume that the exoneree has been negatively affected by living and/or interacting with offenders during their time in prison (Clow et al., in press). As a result, this may lead people to avoid such interactions where possible, as they do not want to 'contract' stigmatizing labels by interacting with an exoneree who has been incarcerated (Goffman, 1963; Neuberg et al., 1994). Notably, these occurrences have been reported by exonerees who recounted experiences of societal rejection based on the stigmas surrounding prison (Cole, 2009; Innocence Project, 2011; Westervelt & Cook, 2010).

Threats to public safety. Two participants discussed that exonerees are stigmatized because they are viewed as "threats to public safety". Victoria explained that society can have the following misperception about an exoneree who was in prison: "If you [were] in jail, you [probably] did something physically bad and now you're in society and you're a threat to everyone around" (June 14th 2011). She later went on to say that because "they [exoneree] were wrongfully committed [convicted], they might revolt against the justice system because [they feel like], 'I didn't get justice'" (June 14th 2011). It seems that this participant is discussing public safety perceptions in terms of how an exoneree would reintegrate (e.g., risk of offending). It appears that this participant views time spent in prison and wrongful conviction doubt (e.g., if

they went to jail, they did something wrong) as factors which may cause people to believe exonerees could be a danger to the public. In sum, this finding strengthens the argument that prison elicits a negative connotation despite an exoneree's innocence, as asserted by research (e.g., Cole, 2009; Goffman, 1963; Harris & Keller, 2005; Innocence Project, 2009; Westervelt & Cook, 2008; 2010).

Upfront stigma. Seven participants personally expressed stigma toward exonerees rather than simply talking about how others stigmatize. For instance, participants stated that they felt uncomfortable knowing that the exoneree was in jail (n=3) and was surrounded by 'criminals' during their incarceration (n=2). When asked if he would be comfortable around an exoneree, John said,

Honestly, no. I wouldn't really be comfortable because of what happened and what he's been through in jail. The people he met. And sometimes [from being in] jail people—even if you were a good person, the situation [incarceration] you are put in often changes your behaviour and the way you think [in a negative way]. (May 31st 2011)

In addition to being incarcerated, Keith stated that the crime the exoneree was sent to prison for impacted his perceptions. As he noted: "Once finding out [that someone has been wrongfully convicted], I don't know. I'd just be like, 'Oh, this guy went to jail for this...so, I don't know. I've [never] been around [someone] that's been to prison and accused of such crimes or whatever'" (June 22nd 2011). He later said,

Well, let's say [he was sent to prison for] something intense like murder...or if he was wrongfully convicted of [stealing] something under a thousand dollars. I don't really see that [as] threatening [as the exoneree who was convicted of murder]. (June 22nd 2011)

These findings seem to coincide with what exonerees have reported—the stigma associated with prison and the crime they were wrongfully convicted of causes society to treat them in a negative manner (e.g., Anderson & Anderson, 2009; Goffman, 1963; Roberts & Stanton, 2007). It also

corroborates the idea that people may perceive exonerees to be negatively affected from associating with offenders while in prison (Clow et al., in press).

Two participants expressed stigma when they personally supported the view that the exoneree must have done something to have been convicted. When discussing if she would feel comfortable around Steven Truscott (identified this exoneree when asked) Sarah said, “Not 100% obviously because, there was a reason that he was convicted” (June 14th 2011). Ryan discussed this in more detail in regards to evidence and the wrongly convicted individual:

If there’s evidence [it] had to come from somewhere right? There’s no such thing as you’re guilty of something when you have nothing related with that. If you didn’t do it and you were [not] there or [had] nothing to do with it, there wouldn’t be evidence against you in the first place. (June 20th 2011).

Continuing his discussion, Ryan felt that it was unlikely for there to be evidence pointing at the exoneree if he was not involved in the crime:

If he [exoneree] wasn’t there, why was the evidence presented that he did something? Why was it even there? Why was the evidence even there to convict him in the first place right? If there’s absolutely nothing, the police would [not] just randomly pick out a guy and say he’s guilty. I don’t think that happens at all. There has to have some sort of proof [that placed the exoneree there]. (June 20th 2011)

This statement may lend some support to research, which argued that exonerees are mistakenly blamed for having some sort of role in their conviction, placing them at the attention of the police (e.g., Westervelt & Cook, 2010).

Additionally, for two participants, the word ‘conviction’ stood out for them more than the word ‘wrongful’ when it comes to the term *wrongful conviction*. Daniel explained this point by saying,

If I was employer and I knew someone was wrongfully convicted; I would still probably have second thoughts [because]... anyone who encounters a criminal situation and who has been convicted—just that word “conviction” really stands out. So, I guess people tend not to think of the “wrongful” part when they hear about a wrongful conviction. It’s

the conviction part that really stands out and that's why I [personally] would have second thoughts. (June 17th 2011)

Ryan discussed how he would react if he found himself in a room with someone who had been wrongfully convicted. He stated,

If somebody was to first tell me he [exoneree] was a murderer and stick him right there—it might raise a little flag in the back of my head. Saying [to myself], “You know what, he did this.” Even though he was wrongfully convicted, I could have still looked at him and be like, kind of awkward [or unsure]. (June 20th 2011)

Subsequently, when asked why he would feel this way, he responded, “I don't know he killed—He didn't kill anyone, but the fact that he was convicted, the conviction part [that would make me uncomfortable]” (Ryan, June 20th 2011).

Overall, these findings support what exonerees have reported in regards to post-exoneration stigmatization due to their wrongful conviction status (e.g., Anderson & Anderson, 2009; Chunias & Aufgang, 2008; Grounds, 2005; Innocence Project, 2009; Roberts & Stanton, 2007; Westervelt & Cook, 2010). Although seven participants openly discussed their biases, this does not necessarily mean that the other seven participants do not stigmatize. Rather, this suggests that these seven participants were more upfront about stigmatization, while the other seven indirectly acknowledged that others (i.e., the public) stigmatize (and that they might as well) without being as forward about their own biases. To evaluate these implications, further investigation and research is required.