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PSYCHOLOGICAL CONSEQUENCES OF WRONGFUL CONVICTION IN WOMEN AND THE POSSIBILITY OF POSITIVE CHANGE

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* Dr. Konvisser is personally driven by a commitment and passion to make a positive difference in people's lives and the communities in which they live and work. As a result, she has focused her research efforts on studying the human impact of traumatic events, such as terrorism, genocide and wrongful conviction, which can be described as a struggle—and often a battle—with highly challenging life circumstances and how we must move forward from and learn to live beyond the trauma. See Zieva L. D. Konvisser, *Finding Meaning and Growth in the Aftermath of Suffering: Israeli Civilian Survivors of Suicide Bombings and Other Attacks* (2006) (Ph.D. dissertation, Fielding Graduate University, 2006) [hereinafter Konvisser, *Finding Meaning*]; and ZIEVA DAUBER KONVISSER, *LIVING BEYOND TERRORISM: ISRAELI STORIES OF HOPE AND HEALING* (unpublished manuscript, n.d.) [hereinafter KONVISSER, *LIVING BEYOND TERRORISM*]. While death and distress are all too present in the stories she has collected, the focus of her research is on resilience or recovery and *posttraumatic growth*, so that life after the event, at least in some areas, is somehow better than before. Her findings emphasize that hope and meaning can be found after struggling with and surviving a terrorist attack—or any life crisis. And that is the perspective from which she approaches this paper about wrongful conviction—a perspective of the possibility of posttraumatic growth or the positive psychological change experienced as a result of the struggle with highly challenging life circumstances. An earlier version of this paper was originally written for the website *Obvious Answers*. . . *Sometimes Hide in Unpleasant Situations*, and was also presented at the Women and Innocence Seminal Conference in 2010. See Zieva Dauber Konvisser, *Psychological Consequences of Wrongful Conviction*, *OBVIOUS ANSWERS*, Aug. 2010, <http://obviousanswers.presspublisher.us/issue/august-2010/article/psychological-consequences-of-wrongful-conviction> [hereinafter Konvisser, *Psychological Consequences*]; and *Women & Innocence Seminal Conference*, *OBVIOUS ANSWERS*, Sept. 2010, <http://obviousanswers.presspublisher.us/issue/august-2010/article/women-and-innocence-seminole-conference-2010> (describing Konvisser's presentation).

ABSTRACT

Only a few studies have investigated the psychological consequences of wrongful conviction; several others have examined the psychological consequences of incarceration and its impact on reentry and reintegration, primarily for men. For women who have been wrongfully convicted and subsequently released from prison into the free world, there are further indignities and unique issues: having to deal with the deep personal loss of loved ones along with criminal charges; the absence of DNA evidence, making convictions harder to fight; stigmatization by prosecutors and the media; and unique emotional and medical needs.

This paper presents: (1) an analysis of female wrongful convictions; (2) an overview of the existing literature on the psychological consequences of wrongful conviction and the unique qualities and needs faced by women; (3) evidence from research and real life experiences about potential responses to trauma, ranging from posttraumatic stress to resilience and posttraumatic growth, how these may coexist and how growth may be enabled; (4) meaningful strategies proposed in the literature and creative and resourceful strategies that have helped other survivors cope with—and even grow from—an untenable reality; and (5) the need for compassionate and holistic support to the exonerated.

Valuable insights and empirical evidence are provided for the innocent women themselves; for clinicians, counselors, families, friends, employers and communities working to help innocent women during their arrest, trial, conviction, imprisonment, release and post-release; and for lawyers, policy-makers and advocates working to promote social justice and criminal justice reform.

I. INTRODUCTION

Richard Leo analyzed the field of wrongful conviction scholarship,¹ beginning with the founding research of Edwin Borchard in 1932.² He describes three distinct genres: (1) the big-picture studies—detailed descriptions of different collections of cases written primarily by journalists, lawyers and activists;³ (2) the more specialized academic and scientific literature on the various causes of wrongful conviction undertaken primarily by cognitive and social psychologists, including studies of eyewitness misidentification, child suggestibility and false confessions;⁴ and (3) the true-crime genre typically written by journalists, sometimes by lawyers, less frequently by the wrongfully convicted themselves or their relatives and only very rarely by professors.⁵ While “[t]he study of wrongful conviction in America was first undertaken by lawyers and has been largely carried forward by journalists and others outside of academia,”⁶ Leo suggests that it is now time for social scientists and criminologists “to develop the study of miscarriages, which touches on the most fundamental aspects of criminology and criminal justice policy, into a thriving field of its own.”⁷

Until now, the issues surrounding wrongful conviction and their implications for society have been examined and discussed in numerous articles and in several comprehensive volumes.⁸

¹ Richard A. Leo, *Rethinking the Study of Miscarriages of Justice: Developing a Criminology of Wrongful Conviction*, 21 J. CONTEMP. CRIM. JUST. 201, 201, 204 (2005).

² EDWIN M. BORCHARD, *CONVICING THE INNOCENT: ERRORS OF CRIMINAL JUSTICE* (1932).

³ Leo, *supra* note 1, at 203–08.

⁴ *Id.* at 208–11.

⁵ *Id.* at 211–12.

⁶ *Id.* at 218.

⁷ *Id.*

⁸ See, e.g., *WRONGLY CONVICTED: PERSPECTIVES ON FAILED JUSTICE* (Sandra D. Westervelt & John A. Humphrey eds., 2001); *WRONGFUL CONVICTION: INTERNATIONAL PERSPECTIVES ON MISCARRIAGES OF JUSTICE* (C.

However, most wrongful conviction studies focus on the causes of miscarriages of justice;⁹ those that address psychological issues focus on the psychology behind these causes¹⁰ and the attitudes that other people hold about wrongful conviction and individuals who have been wrongfully convicted.¹¹ There is a dearth of knowledge on the life-long implications, psychological impact and consequences of wrongful conviction on the innocent individuals themselves.¹²

Anecdotal data can be found in case studies of wrongful conviction that have been published individually¹³ or as collections

Ronald Huff & Martin Killias eds., 2008); and BRANDON L. GARRETT, *CONVICTING THE INNOCENT: WHERE CRIMINAL PROSECUTIONS GO WRONG* (2011).

⁹ *Understand the Causes*, THE INNOCENCE PROJECT, <http://www.innocenceproject.org/understand/> (last visited March 6, 2012) (highlighting the “most common causes of wrongful convictions: eyewitness misidentification; unvalidated or improper forensic science; false confessions/admissions; government misconduct; informants or snitches; and bad lawyering.”); Mitch Ruesink & Marvin D. Free, Jr., *Wrongful Convictions Among Women: An Exploratory Study of a Neglected Topic*, 16 *WOMEN & CRIM. J.* 1, 8 (2005) (further classifying the reasons for wrongful conviction into ten categories, based on variables suggested by other research and informed by their wrongful conviction in women data: “(1) false eyewitness testimony, (2) prosecutorial misconduct, (3) police misconduct, (4) false confession, (5) jailhouse snitch, (6) forensic errors, (7) coerced confession, (8) perjury by criminal justice officials . . . (9) insufficient evidence to support a conviction” and (10) “improperly suggestive interviewing techniques of children.”); see also *SURVIVING JUSTICE: AMERICAN’S WRONGFULLY CONVICTED AND EXONERATED* 401–18 (Lola Vollen & Dave Eggers eds., 2005).

¹⁰ See Leslie Scott, “*It Never, Ever Ends*”: *The Psychological Impact of Wrongful Conviction*, 5 *AM. U. WASH. C. L. CRIM. L. BRIEF* 10 (2010).

¹¹ Kimberly A. Clow, Amy-May Leach, and Rosemary Ricciardelli, *Life After Wrongful Conviction*, in *CONVICTION OF THE INNOCENT: LESSONS FROM PSYCHOLOGICAL RESEARCH* (Brian Cutler ed., 2012). See also Marvin Zalman, Matthew J. Larson, and Brad Smith, *Citizens’ Attitudes Toward Wrongful Convictions*, 37 *CRIM. JUST. R.* 51 (2012) (surveying Michigan residents to explore public attitudes toward wrongful conviction).

¹² CUTLER, *supra* note 11, at 9; Clow et al, *supra* note 11, at 338.

¹³ See, e.g., TIM JUNKIN, *BLOODSWORTH* (2004); see also JENNIFER THOMPSON-CANNINO ET AL., *PICKING COTTON* (2009). For lists of other oral histories, see *Wrongly Convicted Bibliography Index*, *JUSTICE DENIED*, <http://>

in books;¹⁴ and, increasingly, in the number of stories that have appeared in the realm of popular culture as newspaper and magazine articles, novels,¹⁵ plays¹⁶ and documentary films.¹⁷ While these compelling stories about suffering, endurance and injustice are important for building public awareness, they also provide a rich resource for social scientists and criminologists to analyze cases for common themes, including (1) the causative factors leading to miscarriages of justice; (2) the personal characteristics, social milieu or statuses that lead to wrongful convictions; (3) the experiences of the wrongfully convicted from arrest, trial and conviction through imprisonment and post-release; (4) the consequences of miscarriages of justice, in particular, the psychological, material and cultural¹⁸ impacts on the

forejustice.org/biblio/bibliography.htm (last visited Feb. 21, 2012); *Bookshop, JUSTICE DENIED*, <http://justicedenied.org/books/wc/innocentbooks.htm> (last visited Feb. 23, 2012); *Reading List: Books on the Subject of Wrongful Conviction*, INNOCENCE PROJECT, http://www.innocenceproject.org/Content/Reading_List_Books_on_the_Subject_of_Wrongful_Conviction.php (last visited Feb. 21, 2012); Innocence Project, *Ten Great Books of the Decade*, INNOCENCE BLOG (Dec. 31, 2009, 12:26 PM), http://www.innocenceproject.org/Content/Ten_Great_Books_of_the_Decade.php.

¹⁴ See, e.g., BORCHARD, *supra* note 2; MARTIN YANT, *PRESUMED GUILTY: WHEN INNOCENT PEOPLE ARE WRONGLY CONVICTED* (1991); MICHAEL L. RADELET ET AL., *IN SPITE OF INNOCENCE: ERRONEOUS CONVICTIONS IN CAPITAL CASES* (1992); C. RONALD HUFF ET AL., *CONVICTED BUT INNOCENT: WRONGFUL CONVICTION AND PUBLIC POLICY* (1996); BARRY SCHECK ET AL., *ACTUAL INNOCENCE: WHEN JUSTICE GOES WRONG AND HOW TO MAKE IT RIGHT* (2003, New ed.); SCOTT CHRISTIANSON, *INNOCENT: INSIDE WRONGFUL CONVICTION CASES 2* (2004); Vollen, *supra* note 9.

¹⁵ See, e.g., JOHN GRISHAM, *THE INNOCENT MAN: MURDER AND INJUSTICE IN A SMALL TOWN* (2006); see also JOHN GRISHAM, *THE CONFESSION* (2010).

¹⁶ See, e.g., JESSICA BLANK & ERIK JENSEN, *THE EXONERATED: A PLAY* (2003). For more information about the theatrical production of this play, first performed in 2002 at the Los Angeles Actors' Gang Theater, see the site's official web page, *THE EXONERATED*, <http://www.theexonerated.com/index.htm>.

¹⁷ See, e.g., *Frontline: Burden of Innocence* (PBS broadcast May 1, 2003), *AFTER INNOCENCE* (Showtime Independent Films 2005), and *CONVICTION* (Fox Searchlight 2010).

¹⁸ See Simon A. Cole, *Cultural Consequences of Miscarriages of Justice*, 27 *BEHAV. SCI. & L.* 431 (2009) for a discussion of the "social harms," i.e. "the

wrongfully convicted individual and, in some cases, on other indirectly impacted individuals such as family members of the wrongfully convicted and victims of the perpetrator's future crimes; and (5) the strategies that have helped these individuals cope with their situations.

To address this need for research into the psychological consequences of wrongful conviction on the innocent individuals, this paper presents an overview of the current state of research on this critical, but understudied, subject. The findings from these research studies are further informed by published interviews with psychologists working with the wrongfully convicted, by the broader literature on the psychological consequences of incarceration and its impact on reentry and reintegration and by several sources specifically addressing the needs of the exonerated in rebuilding their lives. In addition, this paper addresses two topics which previously have received little attention—the psychological consequences of wrongful conviction in *innocent women*, in particular those who have been exonerated, and the *possibility of positive change* concurrent with the lasting effects of their traumatization.

For women who have been wrongfully convicted and subsequently released from prison into the free world, there are further indignities and unique issues: having to deal with the deep personal loss following the tragic deaths of loved ones along with criminal charges, the absence of DNA evidence, making convictions harder to fight, stigmatization by prosecutors and the media and unique emotional and medical needs. “Sometimes there was not even a crime at all; for instance, a natural or

impact of miscarriages of justice on the broader society within which they are situated, such as the undermining of the legitimacy of the criminal justice system,” and “the *cultural consequences* of miscarriages of justice,” i.e. “the way in which some high-profile miscarriages of justice can shape the public's beliefs about some of the most basic ‘facts’ about crime [based on false premises].”

accidental death might be mistaken for shaken baby syndrome¹⁹ or arson.”²⁰

Not in any way to belittle the life-altering and life-long negative psychological impact of wrongful conviction—“the permanent damage to the soul of the person, to their sense of self, to their sense of dignity” as described by psychologist John Wilson—there is also the possibility of *concurrent* positive psychological consequences.²¹ As demonstrated by some exonerees, with proper treatment and support, there are “victims of the

¹⁹ Deborah Tuerkheimer, *The Next Innocence Project: Shaken Baby Syndrome and the Criminal Courts*, 87 WASH. U. L. REV. 1, 1 (2009). As described by Deborah Tuerkheimer,

every year in this country, hundreds of people are convicted of having shaken a baby, most often to death. In a prosecution paradigm without precedent, expert medical testimony is used to establish that a crime occurred, that the defendant caused the infant’s death by shaking, and that the shaking was sufficiently forceful to constitute depraved indifference to human life. . . . Shaken Baby Syndrome (SBS), is, in essence, a medical diagnosis of murder, one based solely on the presence of a diagnostic triad: retinal bleeding, bleeding in the protective layer of the brain and brain swelling. New scientific research has cast doubt on the forensic significance of this triad, thereby undermining the foundations of thousands of SBS convictions.

Of the wrongfully convicted women listed in this paper, Audrey Edmunds, Julie Baumer, and Melonie Ware have been convicted, imprisoned and exonerated for such a non-existent crime—found guilty because they were the last person with the child. See also Deborah Tuerkheimer, *Science-Dependent Prosecution and the Problem of Epistemic Contingency: A Study of Shaken Baby Syndrome*, 62 ALA. L. REV. 513, 518, 528–30 (2011); and Heather Kirkwood, *Chapter 3. Shaken Baby Syndrome: Where Are We Now?*, <http://mpd-trainer.files.wordpress.com/2011/03/kirkwood-shaken-baby-materials.pdf> (last visited April 23, 2012).

²⁰ See Karen Daniels, *First Ever Women And Innocence Conference Was Huge Success*, WOMEN AND INNOCENCE, November 19, 2010, http://www.womenandinnocence.com/New_Custom.html (last visited April 23, 2012).

²¹ *Interview: John Wilson*, PBS FRONTLINE (May 1, 2003) [hereinafter Wilson, *Interview*], <http://www.pbs.org/wgbh/pages/frontline/shows/burden/interviews/wilson.html>.

criminal justice system [who] grow organically into amazing new leaders and advocates for criminal justice reform.”²²

The remainder of this paper is divided into five parts. Part II will serve to define wrongful conviction, innocence and exoneration, discuss the prevalence of such miscarriages of justice, and identify and acknowledge the women and the crimes for which they were wrongfully convicted. Part III is an overview of the literature on the psychological consequences of wrongful conviction and the unique qualities and needs faced by women while imprisoned and post-release. Part IV presents evidence from research and other real life experiences about the potential responses to trauma, ranging from posttraumatic stress to resilience and posttraumatic growth—and how these may coexist—as well as how growth may be enabled. Part V returns to wrongful conviction and presents some meaningful strategies proposed in the literature, as well as some creative and resourceful strategies that have helped survivors of wrongful imprisonment and exoneration cope with—and even grow from—an untenable reality. Part VI describes the need for compassionate support and assistance and a more holistic approach to compensation. Women’s voices are included as examples to illuminate the facts and vividly portray the feelings, thoughts and actions of the wrongfully convicted—their suffering and losses, and more importantly, their hopes and dreams, and the sources of their strength to survive.

²² Heather Weigand, *Rebuilding a Life: The Wrongfully Convicted and Exonerated*, 18 B.U. PUB. INT. L.J. 427, 427-428 (2008).

II. DEFINING WRONGFUL CONVICTION, INNOCENCE AND EXONERATION; ESTIMATING THE SIZE OF THE PROBLEM AND IDENTIFYING INNOCENT WOMEN

A. *Historical Perspective*

The first annual issue of the *Albany Law Review's Miscarriages of Justice* included two comprehensive articles addressing the definition of innocence and the history of the Innocence Movement.²³ According to Marvin Zalman, “the innocence movement focuses on wrongful convictions in the [actual or] factual sense, where the wrong person is convicted of a crime, or is convicted of a crime that did not occur”; however, in the broadest sense, “[t]he term ‘wrongful conviction’ also may include convictions marred by serious constitutional or other procedural or due process errors, which are foundations of our civilized legal system and are not ‘legal technicalities.’”²⁴

The terms *exoneration* and *innocence* are not always synonymous; nevertheless, Keith Findley uses these terms synonymously because “innocence for most purposes depends on exoneration.”²⁵ Exonerations, in the actual sense, according to Samuel Gross et al., may come from one of four sources:

[P]ardons or similar executive actions that free prisoners based on innocence grounds; dismissals of convictions by courts “after new evidence of innocence emerged;” acquittals in retrials granted by appellate courts “on the basis of evidence that [defendants] had no role in the crimes for which they were originally convicted;” and posthumous

²³ See Marvin Zalman, *An Integrated Justice Model of Wrongful Convictions*, 74 ALB. L. REV. 1465, 1470 (2010/2011); see also Keith A. Findley, *Defining Innocence*, 74 ALB. L. REV. 1157, 1158 (2010/2011).

²⁴ Zalman, *supra* note 23, at 1470.

²⁵ Findley, *supra* note 23, at 1158.

acknowledgments by the state that prisoners who died in prison were factually innocent.²⁶

Zalman concludes, "It is therefore important for studies dealing with wrongful conviction and exoneration to define the terms, and to explain how the innocence statuses of the subjects are determined."²⁷ Thus, the use of *wrongful conviction* and *innocence* in this paper, unless otherwise noted, refers to those who are factually innocent either because no crime was committed or, more commonly, because a crime was in fact committed, but by someone else.²⁸ The term *exoneree*, as used in this paper, refers to individuals who are factually innocent and have been exonerated by one of the four methods defined by Gross et al.²⁹ Not included are the many individuals who are factually innocent but never exonerated, as well as the individuals who are exonerated but not factually innocent.

Estimating the size of the problem is a more controversial challenge and also requires a more careful definition and understanding of the terms involved, especially the types of cases being measured, the countries and range of years studied, as well as the numerators and denominators of the equation. Estimates range from 0.027% to 5%, and include: 0.027% of felony convictions;³⁰ 0.5% to 1% of all felony convictions in the United States;³¹ 2.3 to 5% for the false conviction rate for death

²⁶ Samuel R. Gross et al., *Exonerations in the United States 1989 Through 2003*, 95 J. CRIM. L. & CRIMINOLOGY 523, 524 (2005) [hereinafter Gross, *US Exonerations*].

²⁷ Zalman, *supra* note 23, at 1471.

²⁸ See D. Michael Risinger, *Innocents Convicted: An Empirically Justified Factual Wrongful Conviction Rate*, 97 J. CRIM. L. & CRIMINOLOGY 761, 762-763 (2007) (defining the terms in footnote 2).

²⁹ Gross, *US Exonerations*, *supra* note 26, at 524.

³⁰ Joshua Marquis, *The Myth of Innocence*, 95 J. OF CRIM. L. & CRIMINOLOGY 501 (2005) in Risinger, *supra* note 28, at 761.

³¹ Zalman, *supra* note 23, at 1473.

sentences from 1973 through 1989;³² and a factual error rate of 3.3–5% for capital rape-murder in the 1980s.³³

In addition, “[a]lthough African Americans comprise approximately thirteen percent of the general population of the United States,”³⁴ the over-representation of people of color in wrongful convictions has previously been reported, ranging from 43%³⁵ to 61%³⁶ and 62%.³⁷ For women, Ruesink and Free reported that “thirty-seven percent (fifteen of forty-one) of the cases in which the race of the defendant could be identified involved African Americans.”³⁸

Although almost everything we currently know about false convictions is based on exonerations in murder and rape cases,³⁹ perhaps about two thousand exonerations of all types from across the country have been identified since the start of the twentieth century through the efforts of several key organizations and the databases and/or lists they maintain and update as statuses change and new cases are identified. It should be noted that the individuals in some of these lists overlap. In addition, some lists include DNA exonerations only, while others report only capital offenses or death row cases; these lists may or may not include mass prosecutions involving large numbers of innocent defendants and other scandals where no crimes were committed.

1. The Innocence Project at Cardozo Law School in New York tracks DNA exonerations; since 1989, when the first

³² Samuel R. Gross, *Convicting the Innocent*, 4 ANN. REV. L. & SOC. SCI. 173, 178 (2008) [hereinafter Gross, *Convicting the Innocent*].

³³ Risinger, *supra* note 28, at 780.

³⁴ Ruesink, *supra* note 9, at 4. See also *People QuickFacts*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/00000.html>.

³⁵ Hugo Adam Bedau & Michael L. Radelet, *Miscarriages of Justice in Potentially Capital Cases*, 40 STAN. L. REV. 21, 39 (1987).

³⁶ SCHECK, *supra* note 14, at 368.

³⁷ GARRETT, *supra* note 8, at 279.

³⁸ See Ruesink, *supra* note 9, at 16.

³⁹ Gross, *Convicting the Innocent*, *supra* note 32, at 179.

one occurred, there have been 289 post-conviction DNA exonerations in thirty-five states.⁴⁰ Four of them are women—Kathy Gonzalez, Paula Gray, Debra Shelden and Ada JoAnn Taylor.⁴¹

2. The Center on Wrongful Conviction (CWC) at the Northwestern University School of Law maintains a database that includes 908 cases of wrongful conviction in the United States from the twentieth century to the present.⁴² Forty-one cases involved women.⁴³
3. The Death Penalty Information Center in Washington, D.C., monitors exonerations of prisoners who were sentenced to death. “Since 1973, 140 people in twenty-six states have been released from death row with evidence of

⁴⁰ See *Facts on Post-Conviction DNA Exonerations*, INNOCENCE PROJECT, http://www.innocenceproject.org/Content/Facts_on_PostConviction_DNA_Exonerations.php. Although not representative of all exonerations, of the 289 post-conviction DNA exonerations in United States history,

[s]eventeen people had been sentenced to death before DNA proved their innocence and led to their release; [t]he average sentence served by DNA exonerees has been thirteen years; [a]bout seventy percent of those exonerated by DNA testing are members of minority groups; [i]n almost forty percent of DNA exoneration cases, the actual perpetrator has been identified by DNA testing; and [e]xonerations have been won in thirty-five states and Washington, D.C.

See also *Innocence Project Case Profiles*, INNOCENCE PROJECT, <http://www.innocenceproject.org/know/> (last visited April 23, 2012).

⁴¹ See *Browse the Profiles*, INNOCENCE PROJECT, <http://www.innocenceproject.org/know/Browse-Profiles.php> (last visited April 23, 2012).

⁴² See *Exonerations in All States*, CENTER ON WRONGFUL CONVICTIONS, <http://www.law.northwestern.edu/wrongfulconvictions/exonerations/usIndex.html> (last visited December 18, 2011). (“The Center on Wrongful Convictions (CWC) uses the terms ‘wrongful conviction’ and ‘exoneration’ synonymously to describe any case in which a defendant was convicted of a crime and later restored to the status of legal innocence based on evidence not presented at the defendant’s trial.” See <http://www.law.northwestern.edu/wrongfulconvictions/exonerations/>).

⁴³ *Id.*

their innocence.”⁴⁴ Seventeen exonerations are based on DNA evidence.⁴⁵ One woman, Sabrina Butler, is included;⁴⁶ she is the only female death row exoneree in the country.⁴⁷

4. Other innocence-related organizations highlight various subsets of exonerees on their websites, in databases, and collections of stories, e.g., Life After Exoneration Program (LAEP),⁴⁸ Truth in Justice⁴⁹ and Victims of the State,⁵⁰ as well as the New York Times, which recorded interviews with 137 exonerees about their lives since leaving prison.⁵¹

⁴⁴ *Innocence and the Death Penalty*, DEATH PENALTY INFORMATION CENTER, <http://www.deathpenaltyinfo.org/innocence-and-death-penalty> (last visited April 23, 2012). For information specific to innocence and the death penalty, see generally *Innocence and the Death Penalty: Assessing the Danger of Mistaken Executions*, DEATH PENALTY INFORMATION CENTER (Oct. 21, 1993), <http://www.deathpenaltyinfo.org/innocence-and-death-penalty-assessing-danger-mistaken-executions>; Richard C. Dieter, *Innocence and the Death Penalty: The Increasing Danger of Executing the Innocent*, DEATH PENALTY INFORMATION CENTER (July 1997), <http://www.deathpenaltyinfo.org/node/523>; Richard C. Dieter, *Innocence and the Crisis in the American Death Penalty*, DEATH PENALTY INFORMATION CENTER (Sept. 2004), <http://www.deathpenaltyinfo.org/innocence-and-crisis-american-death-penalty>.

⁴⁵ *The Innocence List*, DEATH PENALTY INFORMATION CENTER, <http://www.deathpenaltyinfo.org/innocence-list-those-freed-death-row> (last updated January 23, 2012).

⁴⁶ *Id.*

⁴⁷ See Lisa Snedeker, *Death Row Exoneree to Speak to WFU Law School Students on April 21*, WAKE FOREST UNIV. SCH. OF LAW (Apr. 17, 2009), <http://news.law.wfu.edu/2009/04/death-row-exoneree-to-speak-to-wfu-law-school-students-on-april-21/>.

⁴⁸ See *Exoneree Database*, LIFE AFTER EXONERATION PROGRAM, http://www.exonerated.org/content/index.php?option=com_jumi&fileid=8&Itemid=80.

⁴⁹ See *Recent Cases*, TRUTH IN JUSTICE, <http://truthinjustice.org/recent.htm>.

⁵⁰ See VICTIMS OF THE STATE, <http://www.victimsofthestate.org/index.html>.

⁵¹ See Abby Aguirre et al., *Exonerated, Freed, and What Happened Then*, N.Y. TIMES, Nov. 25, 2007, available at http://www.nytimes.com/interactive/2007/11/25/nyregion/20071125_DNAI_FEATURE.html#.

5. Lists of other individual exonerations have been created, such as: Bedau and Radelet reported 350 potentially capital cases from 1900 to 1985, including eleven women,⁵² and later reported over 400 cases of innocent Americans convicted of capital crimes;⁵³ Rattner identified 205 cases culminating in a conviction that were tried after 1900, and in which innocence was subsequently established by exoneration;⁵⁴ Gross et al. found 340 exonerations in the United States from 1989 through 2003, 327 men and thirteen women, 144 cleared by DNA evidence and 196 by other means;⁵⁵ and Ruesink and Free compiled a list of forty-two women wrongfully convicted in the United States since 1970.⁵⁶
6. Hans Sherrer of Forejustice.org maintains a comprehensive, worldwide Innocents Database.⁵⁷ As of December 19, 2011, it lists 3,162 people who were judicially exonerated or pardoned on the basis of innocence,⁵⁸ including 345 women (11%),⁵⁹ from ninety-nine countries since 1431 when Saint Joan of Arc was burned at the stake for witchcraft and heresy.⁶⁰ Of those, 483 people were sentenced to death and 617 were sentenced to life in prison.⁶¹ The earliest Ameri-

⁵² Bedau, *supra* note 35, at 23, 102, 108, 109, 112, 123, 130, 142, 155, 161, 162, 170.

⁵³ RADELET, *supra* note 14, at 360.

⁵⁴ Arye Rattner, *Convicted but Innocent: Wrongful Conviction and the Criminal Justice System*, 12 LAW & HUM. BEHAV. 283, 286-87 (1988).

⁵⁵ Gross, *US Exonerations*, *supra* note 26, at 523-24.

⁵⁶ Ruesink, *supra* note 9, at 8.

⁵⁷ See Hans Sherrer, THE INNOCENTS DATABASE, http://forejustice.org/search_idb.htm (last visited April. 23, 2012).

⁵⁸ E-mails from Hans Sherrer to the author (Dec. 13-19, 2011) (on file with author). Note that the website may not be updated to reflect recent changes to the underlying database and includes several hundred additional innocent persons who have not been exonerated judicially or by a pardon.

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See *id.*

can wrongfully convicted was John Smith in 1608.⁶² During the Salem Witch Trials of 1692 in colonial Massachusetts, twenty men and women were executed for witchcraft, hundreds of others were accused, and dozens languished in jails for months without trials.⁶³ In the United States, 1852 individuals (1692 men and 160 women) have been wrongfully convicted.⁶⁴

B. Women and Innocence

As of December 31, 2010, 1,605,127 prisoners in the United States were under the jurisdiction of state and federal correctional authorities, regardless of where they were held.⁶⁵ Of these, 112,797 were females⁶⁶ or 7% of the total population.

Appendices 1 and 2 list the currently known female wrongful convictions in the United States since 1900; included are some of

⁶² *See id.*

⁶³ *See* Douglas Linder, *The Witchcraft Trials in Salem: A Commentary*, SALEM WITCHCRAFT TRIALS 1692, http://law2.umkc.edu/faculty/projects/ftrials/salem/SAL_ACCT.htm (last updated Sept. 2009). According to The Innocents Database at Forejustice.org, *see Innocents Database, supra* notes 57 and 58, twenty-one women were convicted of witchcraft in pre-Revolutionary Colonial Massachusetts; fifteen were exonerated in 1711, one in 1712, one in 1957, and four not until 2001. Those exonerated were Bridget Bishop, Mary Bradbury, Martha Carrier, Martha Cory, Rebecca Eames, Mary Easty, Abigail Faulkner, Anne Foster, Sarah Good, Abigail Hobbs, Elizabeth Howe, Elizabeth Johnson Jr., Mary Lacey, Susannah Martin, Rebecca Nurse, Alice Parker, Mary Parker, Mary Post, Ann Pudeator, Margaret Scott, and Sarah Wild. *See* E-mail from Hans Sherrer to the author Dec. 13, 2011 (on file with author). In addition, Grace Sherwood was convicted of witchcraft in Virginia in 1706; she was pardoned posthumously on July 10, 2006, the 300th anniversary of her wrongful witchcraft conviction. *See Innocents Database, supra* note 57.

⁶⁴ E-mails between Hans Sherrer and the author (Dec. 13-19, 2001) (on file with author).

⁶⁵ Paul Guerino et al., *Prisoners in 2010*, BUREAU OF JUSTICE STATISTICS at 2 (Dec. 2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/p10.pdf> (accessed December 25, 2011).

⁶⁶ *Id.*

the basic facts relating to each of their cases based on The Innocents Database at Forejustice.org.⁶⁷ These cases include 138 wrongfully convicted women in the United States who have been judicially exonerated or pardoned: 111 women since 1900 and an additional twenty-seven cases of mass prosecutions since 1918.⁶⁸ In addition, of the 108 cases since 1900 in which the race of the defendant could be identified, seventy-six (70%) were White, twenty-eight (28%) were African-American and four (4%) were Hispanic or Latina,⁶⁹ a lower percentage of women of color than previously reported for women exonerees.⁷⁰

Since 1900, these 138 women from thirty-eight states have been charged with and convicted of crimes across the spectrum—often for non-existent crimes:⁷¹

⁶⁷ See *infra* text at 58-65 and notes 289-94.

⁶⁸ See *infra* text at 58-65 and notes 289-94. Mass convictions and prosecutions, more commonly characterized as a “witch hunt, moral panic, or mass hysteria[.]” see Cole, *supra* note 2218, at 436-37, are the chief cause of miscarriages of justice in child sexual abuse cases, e.g., the Wenatchee Forty-Three (four women judicially exonerated and at least six others wrongfully convicted) in Washington in 1994-1995, the McCuan-Kniffen Four (two women) and Pitt Seven (four women) in Bakersfield/Kern County, CA in 1983 and 1985, and the Little Rascal Day Care (two women, one exonerated) in North Carolina in 1993. See *Child Abuse Cases: Sexual Abuse without Murder, Age 13 and Under*, VICTIMSOFTHESTATE.ORG (2011), <http://www.victimsofthestate.org/CC/CH.htm> (providing a brief discussion of these exonerations). Other mass exonerations resulted from alleged murder conspiracies, e.g. the Beatrice Six (three women) in Nebraska in 1990; drug offenses, e.g. the Tulia Thirty-Eight (ten women) in Texas in 2000; and the Montana Sedition cases (three women) in 1918. See *infra* text at 58-65.

⁶⁹ *Innocents Database*, *supra* note 57.

⁷⁰ See Ruesink, *supra* note 34, at 16 (finding that 37% of female exonerees were black).

⁷¹ See *infra* text at 58-65 and notes 289-294. Similarly Ruesink & Free, Jr. found in a sample of forty-two wrongfully convicted women in the United States since 1970 that the three most common charges were murder (fifteen), child abuse (fifteen) and drug offenses (eight, although all of these women were part of a single Tulia, Texas drug bust). Ruesink, *supra* note 9, at 9. Less common offenses included armed robbery, assault, rape, perjury, kidnapping and money laundering. *Id.* at 12. The article also provides a comparison of the reasons for wrongful conviction in men and women and racial

- Forty-five (33%) for murder
- Twenty-one (15%) for child abuse, endangerment or neglect, including shaken baby
- Sixteen (12%) for drug-related charges⁷²
- Seven (5%) for fraud
- Five (4%) for manslaughter
- Four each (12%) for criminal contempt, mischief/mistreatment, forgery, money laundering and theft
- Three each (9%) for burglary, obstruction of justice, patient abuse and sedition
- Two (1%) for extortion
- One each (10%) for arson, bank robbery, customs violation, false police report, harassment, official misconduct, pandering, perjury and false statements, rape, sexual assault, shoplifting, sodomy, treason and vehicle offenses.

Since the majority of women go to prison for drug offenses and non-violent property crimes for which there is seldom biological evidence available for analysis and to convince a judge to revisit a conviction,⁷³ many more innocent women probably have never been identified; and many may still be fighting to prove their innocence while in prison or released to the free world with their innocence unacknowledged. Whatever the true numbers may be, they acknowledge that some innocent peo-

differences in the wrongful conviction of white and African American women. *Id.* at 13–15, 18–19.

⁷² Ten of the wrongfully convicted women in the *Innocents Database* were part of a Tulia, Texas drug bust in 1999 in which thirty-eight people were wrongfully convicted of selling and distributing cocaine based on the unreliable evidence of a sheriff's deputy; thirty-five were pardoned. *Id.* at 12; E-mails between Hans Sherrer and the author (Dec. 18-19, 2011) (on file with author). *See also* Gov. Perry pardons 35 Tulia defendants, CNN, Aug. 22, 2003, available at http://articles.cnn.com/2003-08-22/justice/tulia.pardons_1_pardons-narcotics-trafficking-task-force-regional-narcotics-trafficking-task/2?_s=PM:LAW.

⁷³ Earl Smith & Angela J. Hattery, *Race, Wrongful Conviction and Exoneration*, 15 J. AFR. AM. ST. 74, 78 (2011).

ple—women, as well as men—are being wrongfully convicted and an even smaller percentage are being exonerated. Most importantly, by giving names and faces to these numbers and allowing their stories to be told, we help to personalize and contextualize the events surrounding the cases, humanize the people whose lives have been destroyed and establish identities in an overwhelming sea of facts and statistics. By sharing this information, we provide evidence for the innocent women themselves, for clinicians, counselors, families, friends, employers and communities working to help innocent women through the process, and for lawyers, policy-makers and advocates working to promote social justice and criminal justice reform.

III. PSYCHOLOGICAL CONSEQUENCES OF WRONGFUL CONVICTION

The trauma of wrongful conviction has been compared to the trauma suffered by veterans of war, torture survivors,⁷⁴ concentration camp survivors and refugees and asylees⁷⁵ who similarly have been arrested, wrongfully incarcerated and released back into society—survivors of “‘sustained catastrophes’ that extend

⁷⁴ Per the United Nations Convention Against Torture, “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. G.A. Res. 39/46 (I), at ¶ 1, U.N. Doc. A/RES/39/46 (Dec. 10, 1984), available at <http://treaties.un.org/doc/publication/UNTS/Volume%201465/v1465.pdf>.

⁷⁵ Jeffrey Chinn & Ashley Ratliff, “I Was Put Out the Door With Nothing” —Addressing the Needs of the Exonerated Under A Refugee Model, 45 CAL. W. L. REV. 405, 421 (2008).

over long periods”⁷⁶ and that can change their lives—and the lives of their loved ones—forever. Once an individual is isolated, interrogated, wrongfully convicted, imprisoned and released, his or her mental health symptoms upon reentry are like those of torture survivors—anxiety, depression and posttraumatic stress disorder (hereinafter PTSD).⁷⁷ “[P]rolonged, repeated trauma or the profound deformations of personality that occur *in captivity*” can result in complex PTSD, a disorder characterized by protracted depression, apathy and the development of a profound sense of hopelessness.⁷⁸ “Much like a POW or any other soldier that has been away from home, when an exonerated returns to society they find that nothing was how they left it and life has gone on without them. They are haunted by what they have seen and what they have been through”⁷⁹ and may continue to suffer from PTSD symptoms, including reoccurring nightmares, difficulty sleeping and inability to readjust easily to normal life.⁸⁰

A. *Pains of Imprisonment*

Craig Haney, a professor of psychology and expert on the psychological effects of incarceration, describes the “pains of im-

⁷⁶ Sandra D. Westervelt & Kimberly J. Cook, *Coping With Innocence After Death Row*, 7 CONTEXTS 32, 34 (2008) [hereinafter Westervelt, *Coping with Innocence*].

⁷⁷ Jennifer J. Curtiss, *Reentry Challenges Faced by the Wrongly Convicted* (Sept. 2007) 3 (unpublished M.S. thesis, Northern Arizona University), http://www.jjay.cuny.edu/Wrongly_Convicted_Thesis_10.5.07.pdf; Weigand, *supra* note 22, at 429–30.

⁷⁸ Craig Haney, *The Consequences of Prison Life: Notes on the New Psychology of Prison Effects*, in PSYCHOLOGY AND LAW 143, 155 (D. Canter & R. Zukauskiene eds., 2008) [hereinafter Haney, *Consequences of Prison Life*]. (quoting JUDITH LEWIS HERMAN, *TRAUMA AND RECOVERY* 119 (1992)) (citing Judith Lewis Herman, *Complex PTSD: A Syndrome in Survivors of Prolonged and Repeated Trauma*, 5 J. OF TRAUMATIC STRESS 377, 378 (1992)).

⁷⁹ Kelly Smith, *A Normal Life*, WARWICK BEACON (Jun. 5, 2003), truthinjustice.org/normal-life.htm.

⁸⁰ *Id.*

prisonment,” suffered by all persons—the rightfully and wrongfully convicted—i.e., the “prolonged adaptation to the deprivations and frustrations of life inside prison. . .that threaten greater psychological distress and potential long-term dysfunction[.]”⁸¹ In response to the growth in prison population in the first decade of the twenty-first century and recognition of these prison effects, more careful and sustained attention has been given to the negative psychological consequences of penal confinement and “the painfulness of prison and its long-term harmful—even criminogenic—effects.”⁸²

The adaptation to imprisonment is almost always difficult and, at times, creates habits of thinking and acting that can be dysfunctional in periods of post-prison adjustment. . . .At the very least, prison is painful, and incarcerated persons often suffer long-term consequences from having been subjected to pain, deprivation, and extremely atypical patterns and norms of living and interacting with others. . . .[F]or at least some people, prison can produce negative, long-lasting change;. . .the more extreme, harsh, dangerous, or otherwise psychologically-taxing the nature of the confinement, the greater the number of people who will suffer and the deeper the damage that they will incur.⁸³

Institutionalization or *prisonization* “describes the process by which inmates are shaped and transformed by the institutional environments [or correctional settings] in which they live.”⁸⁴ It refers to

⁸¹ CRAIG HANEY, THE PSYCHOLOGICAL IMPACT OF INCARCERATION: IMPLICATIONS FOR POST-PRISON ADJUSTMENT 77, 77-79 (2002) [hereinafter Haney, *Psychological Impact of Incarceration*].

⁸² Haney, *Consequences of Prison Life*, *supra* note 78, at 154–55.

⁸³ Haney, *Psychological Impact of Incarceration*, *supra* note 81, at 79-80.

⁸⁴ *Id.* at 80.

the negative psychological effects of imprisonment. . .and involves a unique set of psychological adaptations that often occur—in varying degrees—in response to the extraordinary demands of prison life, . . .[and] the incorporation of the norms of prison life into one’s habits of thinking, feeling and acting. The[se] are “normal” reactions to a set of pathological conditions that become problematic when they are taken to extreme lengths, or become chronic and deeply internalized.⁸⁵

Among other things, the process of institutionalization or prisonization may include some or all of the following psychological adaptations:

dependence on the external constraints of institutional structure and contingencies; hypervigilance, interpersonal distrust and suspicion of threat or personal risk; emotional over-control, alienation and psychological distancing as a defense against exploitation and awareness of the riskiness and unpredictability of emotional investments in relationships; social withdrawal and isolation; incorporation of exploitative informal rules and norms of prison culture; diminished sense of self-worth and personal value; and posttraumatic stress reactions to the pains of imprisonment.⁸⁶

These posttraumatic reactions may include the ongoing symptoms of PTSD: reliving or re-experiencing the event—having bad memories, nightmares or flashbacks; avoiding situations or people that remind you of the event; feeling numb or finding it hard to express your feelings; and feeling keyed up (hyper-

⁸⁵ *Id.*

⁸⁶ *Id.* at 80-84.

arousal)—always alert and on the lookout for danger.⁸⁷ Haney concludes that “adapting to the harsh realities of prison life may negatively change a prisoner’s habits of thinking and acting, in ways that can persist long after his or her incarceration has ended.”⁸⁸

B. Imprisoned Women

In the last two decades of the twentieth century, “the number of women being held in the nation’s prisons increased five-fold. . .mainly due to the growing number of women prosecuted and convicted of drug offenses, the increasingly harsh sentences for drug offenses, and the lack of both treatment and community sanctions for women drug offenders.”⁸⁹ These women face special problems in the criminal courts, in prisons and post-release (the latter will be discussed in Part III E).

At trial, historically men and women have been judged differently, influenced, in part, by chivalric values, showing gallantry toward ladies.⁹⁰ More recent mandatory terms and sentencing enhancements have somewhat limited judicial discretion, making it difficult for judges to consider childcare responsibilities or

⁸⁷ American Psychiatric Association (2000), *Diagnostic and statistical manual of mental disorders* (Revised 4th ed.), <http://www.ptsd.va.gov/professional/pages/dsm-iv-tr-ptsd.asp>.

⁸⁸ Haney, *Consequences of Prison Life*, *supra* note 78, at 143.

⁸⁹ BARBARA H. ZAITOW & JIM THOMAS, *WOMEN IN PRISON: GENDER AND SOCIAL CONTROL* vii (2003). For further information, see also *Women in the Criminal Justice System Briefing Sheets*, THE SENTENCING PROJECT (May 2007), available at http://www.sentencingproject.org/doc/publications/women_incj_total.pdf (accessed November 16, 2011); and the *Punitiveness Report: Hard Hit: The Growth in the Imprisonment of Women, 1977-2004*, INSTITUTE ON WOMEN AND CRIMINAL JUSTICE, WOMEN’S PRISON ASSOCIATION (May 2006), available at <http://www.wpaonline.org/institute/hardhit/index.htm> (accessed May 17, 2011).

⁹⁰ Steven F. Shatz & Naomi R. Shatz, *Chivalry is Not Dead: Murder, Gender and the Death Penalty*, 1 *BERKELEY J. GENDER, LAW & JUSTICE* (forthcoming 2012).

family structures when sentencing offenders.⁹¹ Yet, “the gender gap is not uniform across all kinds of cases:” for certain crimes, women still may receive harsher sentences; for others, they may receive lesser sentences.⁹²

In the United States, women have been housed in correctional facilities separate from men since the 1830s.⁹³ However, “women are still a small minority of the total incarcerated population, and they are receiving treatment in a system run by men and designed for men.”⁹⁴ As a result, there are still multiple problems specific to female incarceration: many women come in with histories of substance abuse and mental health issues, including PTSD, and need treatment; most require female-specific health care services, including mammograms and pap smears; and some require treatment for HIV, prenatal care if pregnant and compassionate labor and delivery processes.⁹⁵ In addition, “a primary problem that girls and women face is fear of being alone without a significant other on whom to depend.”⁹⁶ Both before and during their incarceration, they may experience sex-

⁹¹ Traci Schlesinger, *Equality at the Price of Justice*, 20(2) NWSA JOURNAL 27 28 (2008).

⁹² Jill K. Doerner, *Explaining the Gender Gap in Sentencing Outcomes: An Investigation of Differential Treatment in U.S. Federal Courts*, *iv, 4, 12 (May 2009) (unpublished Ph.D. dissertation, Bowling Green State University), available at <http://etd.ohiolink.edu/send-pdf.cgi/Doerner%20Jill%20Kathleen.pdf?bgsu1237482038>.

⁹³ See DAVID J. ROTHMAN, *THE DISCOVERY OF THE ASYLUM: SOCIAL ORDER AND DISORDER IN THE NEW REPUBLIC* 83 (1971) (Prison reformers argued for the separation of inmates in the 1830's).

⁹⁴ KATHERINE VON WORMER, *WORKING WITH FEMALE OFFENDERS: A GENDER-SENSITIVE APPROACH* 3 (2010).

⁹⁵ See, e.g. SILJA TALVI, *WOMEN BEHIND BARS: THE CRISIS OF WOMEN IN THE U.S. PRISON SYSTEM* (2007); VON WORMER, *supra* note 94; *Health Issues Specific to Incarcerated Women: Information for State Maternal and Child Health Programs*, JHU/WCHPC, <http://www.jhsph.edu/wchpc/publications/prison.pdf> (last visited April 20, 2012); *The Spiral of Risk: Health Care Provision to Incarcerated Women*, National Council on Crime and Delinquency (March 1, 2006), http://www.nccd-crc.org/nccd/pubs/2006_spiral_of_risk.pdf (last visited on April 20, 2012).

⁹⁶ VON WORMER, *supra* note 94, at 22.

ual vulnerability and victimization—"a constant reminder of how little power the women have over their lives."⁹⁷ Finally,

[t]he huge increase in female incarceration has significant impact on children and families. The majority of women in prison are mothers, and they are usually the primary caretakers of the children. An incarcerated woman is at risk of losing her children to the foster care system, and many of the women eventually lose their parental rights altogether. . . . The separation from family, and the risk of losing their children, is one of the most devastating consequences of female incarceration.⁹⁸

A study, based on in-depth interviews with fifty-four previously imprisoned women, revealed "overt behavioral and underlying structural tensions [in the prison environment] that create an atmosphere of fear and violence. . . . Prison for these women is a social world filled with anxiety."⁹⁹ The women raised a variety of issues that related to the pains of imprisonment and the need to provide safer facilities that could meet their needs, including the separation of inmates by security and psychological needs, the provision of appropriate rehabilitation and medical services, and the painful loss of outside personal relationships with husbands or children.¹⁰⁰ They also reported that "attitudes of indifference between inmates and correctional staff often contribute to fostering an environment of neglect"¹⁰¹ and "sexual misconduct by male correctional staff is a serious problem that threat-

⁹⁷ Talvi, *supra* note 95, at 69.

⁹⁸ THE ACTION COMMITTEE FOR WOMEN IN PRISON, SOME FACTS ABOUT INCARCERATED WOMEN, http://acwip.net/Facts_and_Resources.html (last visited Feb. 16, 2012).

⁹⁹ Mark R. Pogrebin and Mary Dodge, *Women's Accounts of Their Prison Experiences, A Retrospective View of Their Subjective Realities*, 29 J. CRIM. JUST. 531, 531 (2001).

¹⁰⁰ *Id.* at 539-40.

¹⁰¹ *Id.* at 531.

ens the autonomy and self-esteem of many female prisoners.”¹⁰² Cobbina added that, in addition to low self-esteem, abusive, disrespectful and inconsistent treatment by corrections officers, including sexual abuse, can lead to helplessness and powerlessness.¹⁰³

For the wrongfully convicted, there are additional consequences. Participants in the Women and Innocence Conference anecdotally provided evidence that women, and some men, who do not represent DNA cases, are being overlooked and will continue to fall through the cracks, even though their cases are clearly wrongful convictions, because they are not the easy ones for science to solve. In addition, there are some prosecutors who use social stigmatization and character assassination rather than evidence or facts to convict innocent women. Furthermore, parents, relatives and caregivers are being blamed, often based on “unfounded and biased testimony by coroners, pediatricians, pathologists and other ‘experts’ [for the] deaths of children that later turn out to have another cause, often natural.”¹⁰⁴

C. The Wrongfully Convicted and Incarcerated

Beverly Monroe¹⁰⁵ was living comfortably near Richmond, Virginia. She had a master’s degree in organic chemistry and was working as a patent analyst for Phillip Morris. Her companion of thirteen years, Roger Zygmunt de la Burdé, lived on an es-

¹⁰² *Id.* at 540.

¹⁰³ Jennifer Cobbina, presentation to Women and Innocence Seminal Conference, November 6, 2010. Note that, on the other hand, she also has reported some positive aspects of prison life, like attending classes, structure and being clean and sober.

¹⁰⁴ JUSTICE FOR E.J., DEATHS BLAMED ON PARENTS: A GLOBAL PROBLEM, <http://www.justiceforej.com/> (last visited Feb. 16, 2012).

¹⁰⁵ This synopsis and quotes, and those interspersed throughout this paper, are taken from personal correspondence with Beverly Monroe and from Vol-len, *supra* note 9, at 183-220 with permission of McSweeney’s Publishing.

tate outside the city.¹⁰⁶ After having dinner together at his home the night of March 4, 1992, Beverly went home.¹⁰⁷ She returned the next morning to check on him and discovered his body lying on a couch in the library, with his gun nearby.¹⁰⁸

The medical examiner concluded that his death was a suicide, but Virginia State Police Agent David Riley ignored a critical forensic report corroborating the suicide death and focused on Beverly using the pretext of being empathic, while secretly proceeding as though he believed it “would be” a murder. Over a period of three months, he attempted to manipulate her memory to convince her that her deep grief was the result of having been unable to prevent the suicide and that she must have been present and “blocked” out the traumatic event.¹⁰⁹

For Monroe it “was mental torture,” but the worst was yet to come. Riley secretly pursued her conviction, collaborating with a previously-used snitch and perjured testimony. At trial, prosecutors and police concealed the forensic report and other evidence contradicting their theory of the murder and relied on Riley’s false claim that she made a “statement” of being there and “asleep” at the time of the suicide, which he called “tantamount to a confession.”¹¹⁰ Monroe describes her trial as

¹⁰⁶ VOLLEN, *supra* note 9, at 183.

¹⁰⁷ *Id.* at 183–84.

¹⁰⁸ *Id.* at 185–86.

¹⁰⁹ E-mail from Beverly Monroe to Zieva Konvisser (Dec. 21, 2011) (on file with author).

¹¹⁰ *Id.*

“surreal” and “Kafkaesque” and rife with prosecutorial misconduct.¹¹¹ On November 2, 1992, the jury found Monroe guilty of first-degree murder and use of a firearm in the commission of a felony. On December 22, 1992, she was sentenced to twenty-two years in prison.¹¹²

Monroe appealed her conviction and after nearly six months in prison was released on \$150,000 bond. She and her attorneys fought her conviction for nearly three years, spending hundreds of thousands of dollars.¹¹³ “And that doesn’t include the wear and tear and everything else. . .It’s the hemorrhage of cost.”¹¹⁴ The lower courts and then the Supreme Court of Virginia ruled against her and in January 1996, Monroe was taken into custody to serve out the remainder of her sentence at Pocahontas Correctional Center in Chesterfield County, Virginia.¹¹⁵

For Monroe, the legal process of the conviction itself and the appeal was like Alice in Wonderland—“[u]pside-down and backwards.”¹¹⁶ “It was not about truth or logic or anything I had ever believed about the ‘justice’ system.”¹¹⁷ “And you’re without any anchor except your family and your friends and your sense of what’s right, which has been totally dislocated.”¹¹⁸

¹¹¹ VOLLEN, *supra* note 9, at 202.

¹¹² *Id.* at 203.

¹¹³ *Id.* at 205.

¹¹⁴ *Id.* at 205.

¹¹⁵ *Id.* at 208.

¹¹⁶ *Id.* at 206.

¹¹⁷ E-mail from Beverly Monroe to Zieva Konvisser (Dec. 21, 2011), *supra* note 109.

¹¹⁸ VOLLEN, *supra* note 9, at 206.

Katie, Monroe's daughter, quit her job as a lawyer and dedicated herself full-time to fighting Monroe's case at the federal level.¹¹⁹ Finally, on March 28, 2002, Monroe's conviction was vacated.¹²⁰ The presiding judge called Monroe's case "a monument to prosecutorial indiscretions and mishandling."¹²¹ After Monroe was released, the state appealed this ruling.¹²² The federal judge's ruling was upheld by a unanimous panel of the 4th Circuit Court of Appeals in 2003, and in June, 2003, prosecutors finally dropped all charges.¹²³

The experience of being incarcerated can have long-lasting effects on all inmates, including relationship difficulties, concerns with physical and psychological deterioration, the indeterminate nature of sentences and the prison environment itself.¹²⁴ All prisoners must learn to cope with imprisonment and the harsh conditions of prison standards and health care, solitary confinement, sexual abuse and violence; however, the impact of imprisonment on the wrongfully convicted goes beyond that experienced by other long-term prisoners. "They are victims of miscarriages of justice, and the deleterious effects of confinement are further exacerbated by the unjust nature of their incarceration."¹²⁵ Psychiatrist Terry Kupers describes the devastating effect of incarceration on the wrongfully convicted: "The sense that harsh punishment is being imposed unfairly makes it much more difficult to tolerate, . . . The kind of hopelessness that can lead to

¹¹⁹ *Id.* at 208.

¹²⁰ *Id.* at 212.

¹²¹ *Id.*

¹²² *Id.* at 213.

¹²³ *Id.* at 213–15.

¹²⁴ Kathryn Campbell & Myriam Denov, *The Burden of Innocence: Coping with a Wrongful Imprisonment*, 46 *CRIMINOLOGY AND CRIM. JUST.* 139, 144–45 (2004).

¹²⁵ *Id.* at 145.

suicide is intensified by the knowledge that even though one is innocent, nobody cares about the unfairness of the punishment.”¹²⁶

For wrongfully convicted and incarcerated women there are further indignities and unique requirements. As vividly described by Monroe:

[T]here were so many instances of psychological abuse and torture that I witnessed firsthand, in the legal system and courts and in the prison system, all associated with gender. No matter how strong and resilient and determined one is to resist the oppression and psychological torture, it damages in ways that can't be expressed. And it is as painful to watch being inflicted on others as it is to bear, actually more.¹²⁷

Yet:

[A]lthough the tenet of prison life—the regimentation, dehumanization and harshness—often holds true, only a few of the innocent people that I knew underwent any noticeable behavioral change or adapted in any negative way to the prison environment. Much depended on age and the kind of life or sense of achievement and confidence a person had before the wrongful conviction occurred. Also, not all guilty women allowed the surroundings or the chaos to alter their basic self-image or actions, and some did use the opportunity to learn better habits—all too few relative to the number incarcerated, however.¹²⁸

¹²⁶ VOLLEN, *supra* note 9, app. B at 422.

¹²⁷ E-mail from Beverly Monroe to Zieva Konvisser (Dec. 14, 2011, 4:44 AM) (on file with author).

¹²⁸ E-mail from Beverly Monroe, to the author (December 21, 2011) (on file with author).

D. Research Studies

Only a limited number of research studies have addressed the topic of the wrongfully convicted and even fewer have examined the exonerated and, more specifically, innocent women. The following brief overviews of each of these studies elucidate the current state of knowledge on this topic.

Robert Simon, a psychiatrist, evaluated three forensic cases of alleged false arrest and imprisonment in the earliest published study in 1993.¹²⁹ He described the experience as “an extraordinarily traumatic event” and demonstrated that serious psychological impairment may follow.¹³⁰

A common scenario begins with an unexpected knock on the door, followed by the individual being summarily arrested, taken into custody, handcuffed and placed in back of a police vehicle, sometimes in front of a distraught family and shocked neighbors and sometimes even television cameras. Following booking, the utterly confused and terrified victim of a false arrest may be placed in jail with all of its inherent dangers—risk of suicide, fears of physical and sexual assault, feelings of isolation, terror and helplessness and a profound sense of humiliation and threat to one’s personal identity.¹³¹

As a result of this extreme, abrupt discontinuity in a person’s life experience, psychiatric disorders, particularly dissociative disorders, may occur; PTSD, adjustment disorders, generalized anxiety disorder, and dysthymic disorder also frequently arise.¹³² In addition to the acute trauma of a false arrest and imprison-

¹²⁹ Robert I. Simon, *The Psychological and Legal Aftermath of False Arrest and Imprisonment*, 21 BULL. AM. ACAD. PSYCHIATRY & L. 523, 523 (1993).

¹³⁰ *Id.*

¹³¹ *See id.* at 523–24.

¹³² *Id.* at 524–25.

ment, long term consequences ensue that are pathogenic themselves, e.g., not being able to “live down” the experience, thereby prolonging the symptoms surrounding the acute trauma.¹³³ Simon concluded:

[m]any individual factors determine the psychological response of the false arrest victim. [These include] [p]reexisting psychiatric disorders, previous experiences with the criminal justice system, unresolved guilt, personal coping styles, the ability to handle the helplessness and dissonance of a bizarre personal experience . . . and the presence or absence of supportive relationships. . . .¹³⁴

In addition,

[t]he actual circumstances of the arrest, the trauma to family members who cannot comprehend what has happened, personal embarrassment and humiliation,. . . adverse publicity and the incarceration experience itself are significant psychological stressors. . . .A few persons who are falsely arrested and imprisoned may show no significant symptoms of psychological distress or psychiatric disorder. Others may exhibit transient psychological symptoms. Persons predisposed by previous psychiatric illness may show an exacerbation or recurrence of prior symptomatology or even the development of a new psychiatric disorder.¹³⁵

Adrian Grounds,¹³⁶ a British forensic psychiatrist, found a pattern of disabling symptoms and psychological problems in a study of clinical findings of a sample of eighteen men referred

¹³³ *Id.* at 526.

¹³⁴ *Id.* at 525.

¹³⁵ *Id.*

¹³⁶ Adrian T. Grounds, *Understanding the Effects of Wrongful Imprisonment*, 32 CRIME & JUST. 1 (2005) [hereinafter Grounds, *Understanding*]. See also Adrian Grounds, *Psychological Consequences of Wrongful Conviction*

for systematic psychiatric assessment after their wrongful convictions were quashed on appeal and they were released from long-term imprisonment.¹³⁷ As a clinician, he personally conducted the assessments using the ICD-10 diagnostic criteria (World Health Organization 1992, 1993), which is broadly similar to DSM-IV classifications (American Psychiatric Association 1994, 2000)¹³⁸ and also interviewed wives and other relatives and friends who had known the men before and after their periods in prison.¹³⁹

These men experienced “enduring personality change after catastrophic experience,” PTSD, additional mood and anxiety disorders and major problems of psychological and social adjustment upon release, particularly within families.¹⁴⁰ Their symptoms were similar to those described in the clinical literature concerning other groups, such as war veterans, who have been exposed to chronic psychological trauma.¹⁴¹ They experienced post-release psychological problems as a product of three types of miscarriages of justice:

- (1) acute psychological trauma from the overwhelming threat at the time of initial arrest and custody that disrupt the victim’s assumptive world;
- (2) chronic psychological trauma from years of notoriety, fear and isolation and preoccupation with their legal case, and the pursuit of it, and the continual and unrelenting campaigning to protest their innocence, resulting in chronic feelings of bitterness. . .and unresolved feelings of loss; and
- (3) chronic psychological trauma of long-term imprisonment entailing psychological adaptation to

and Imprisonment, 46 CAN. J. CRIMINOLOGY AND CRIM. JUST. 165, 171 (2004) [hereinafter *Grounds, Psychological Consequences*].

¹³⁷ *Id.* at 1.

¹³⁸ *Id.* at 18.

¹³⁹ *Id.* at 12.

¹⁴⁰ *Id.* at 23, 24, 34.

¹⁴¹ *Id.* at 1, 41.

prison, and losses-separations from loved ones, missed life opportunities, the loss of a generation of family life, and personal life history.¹⁴²

Grounds concluded that

the forms of suffering and damage experienced by these men and their families were numerous; they interacted and compounded one another, and led to secondary problems. The life courses of those involved were permanently changed. The men suffered losses—of relationships, prospects and years of their expected life history. The harms extended over time and generations. The distress was often severe: when families confided that the time since the man's release has been worse than the years of prison, and when the men admitted that sometimes they wished they were back inside, it was a measure of the burdens they experienced.¹⁴³

Kathryn Campbell and Myriam Denov employed a qualitative approach to data collection and analysis, using in-depth interviews and content analysis with five Canadian men who had been wrongfully convicted and imprisoned. The purpose of their study was “to uncover the voices of the wrongly convicted and to explore their experiences with wrongful arrest, conviction, and imprisonment, as well as to examine the consequences of maintaining their innocence throughout the criminal justice process.”¹⁴⁴

The respondents reported that during arrest they were victims of “tunnel vision” and institutional misconduct by the police who focused on their guilt in spite of the lack of evidence.¹⁴⁵

¹⁴² *Id.* at 44-46.

¹⁴³ *Id.* at 40-41.

¹⁴⁴ Campbell, *supra* note 124, at 141.

¹⁴⁵ *Id.* at 143.

While wrongfully imprisoned, these five men made use of several highly adaptive coping strategies to ensure their welfare in the hostile prison environment.¹⁴⁶ These included coping with prison violence; cooperation to avoid problems, conflict and stress; belonging through association to a group; withdrawal through isolation from other prisoners; and suicidal ideation.¹⁴⁷ Peculiar to the experience of the wrongfully convicted, they also demonstrated a preoccupation with exoneration and rejection of the label *criminal*.¹⁴⁸

Maintaining innocence and lack of remorse while incarcerated entailed notable consequences for the wrongfully convicted, including being perceived by the prison administration to be at high risk of recidivism.¹⁴⁹ In addition, given their continual affirmation of their innocence, they suffered uncertainty over their release date, and, at the end, there was little or no preparation for release and of post-release statutory support.¹⁵⁰

Sandra Westervelt and Kimberly Cook conducted eighteen life-story interviews with death row exonerees—seventeen men and one woman—to explore the impact of wrongful conviction and incarceration on individuals who have been exonerated and released, the coping strategies used post-release to negotiate re-entry into family and community and what aids and impedes their reintegration.¹⁵¹ They describe the incarceration of an in-

¹⁴⁶ See *id.* at 145–52 (discussing coping methods through violence, cooperation and belonging).

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at 150–52.

¹⁴⁹ *Id.* at 152–53.

¹⁵⁰ *Id.* at 154–55.

¹⁵¹ See generally Sandra D. Westervelt & Kimberly J. Cook, *Feminist Research Methods in Theory and Action: Learning from Death Row Exonerees*, in CRIMINAL JUSTICE RESEARCH AND PRACTICE: DIVERSE VOICES FROM THE FIELD 21 (Susan L. Miller ed., 2007) [hereinafter Westervelt, *Feminist Research Methods*] (discussing research and participants in a feminist method study on exonerees); Westervelt, *Coping with Innocence*, *supra* note 76 (research study on exonerees who were on death row); and Sandra D. Westervelt & Kimberly J. Cook, *Framing Innocents: The Wrongly Convicted as*

nocent person as a “sustained catastrophe” that extends over long periods, like those experienced by abuse victims or prisoners of war, and use models of trauma, coping and stigma management to help explain the “life after death” experiences of death row exonerees.¹⁵²

In their stories, they saw survivor’s guilt among these exonerees similar to that experienced by survivors in general. They “often feel guilty for living when others die and experience hyper-arousal, intrusive thoughts and feelings of hopelessness and apathy. They tend to have difficulty envisioning the future and connecting to others emotionally, and struggle with feelings of fear, worthlessness, helplessness, isolation and rejection.”¹⁵³ In addition, they face practical problems of everyday living that “become obstacles to social reintegration which ripple throughout their lives [and they] report confronting significant bouts of grief over losses they incurred during or due to their wrongful incarcerations: the loss of time, loss of feelings of security, loss of loved ones and loss of self.”¹⁵⁴

Westervelt and Cook found that, like other survivors of life-threatening trauma, exonerees rely on multiple coping strategies that shift over time.¹⁵⁵ Some exonerees can find nothing positive in their trauma and utilize strategies of rejection aimed “to reduce or avoid the negative consequences of their wrongful convictions and involve socially isolating or numbing themselves emotionally. This can include self-destructive behaviors like drug and alcohol abuse and violence.”¹⁵⁶ Other exonerees may use more positive coping strategies of incorporation, which might include “absorbing the ‘exoneree’ identity into their self-

Victims of State Harm, 53 CRIME L. SOC. CHANGE 259 (2009) [hereinafter Westervelt, *Framing Innocents*] (using the “state-harms” framework to analyze post-exonerees who were on death row).

¹⁵² Westervelt, *Coping with Innocence*, *supra* note 76, at 34.

¹⁵³ *Id.*

¹⁵⁴ Westervelt, *Framing Innocents*, *supra* note 151, at 268.

¹⁵⁵ Westervelt, *Coping with Innocence*, *supra* note 76, at 35.

¹⁵⁶ *Id.* at 36.

concept and finding some good that can come from their negative experiences.”¹⁵⁷ Like other survivors, they reported that exonerates use a variety of techniques to make sense of what happened to them, as will be described in Part V.

Jennifer Wildeman et al. examined how those wrongfully convicted and punished experience life after exoneration.¹⁵⁸ Using data from intensive individual, in-person interviews with fifty-five exonerates conducted by members of the Life After Exoneration Program (LAEP), they measured both the short- and long-term psychological effects associated with wrongful conviction. The results of this research demonstrate[d] that a substantial portion of the study participants were suffering from clinical anxiety, depression, PTSD or a combination of the three disorders at the time of the interviews.¹⁵⁹ Their results also suggested that employment may be an important factor in mitigating psychological issues.¹⁶⁰ Finally, they “call for more integrated approaches for addressing a wide range of often interrelated social, psychological, and mental health issues experienced by those who were wrongfully convicted.”¹⁶¹

Craig Haney and John Wilson, two psychologists who have worked extensively with prisoners, the wrongfully convicted and exonerates, share their insights in a series of interviews with PBS Frontline and these serve to inform the research studies.¹⁶² Ha-

¹⁵⁷ *Id.*

¹⁵⁸ Jennifer Wildeman, Michael Costelloe & Robert Schehr, *Experiencing Wrongful and Unlawful Conviction*, 50 *J. OFFENDER REHABILITATION* 411 (2011).

¹⁵⁹ *Id.* at 411.

¹⁶⁰ *Id.* at 424.

¹⁶¹ *Id.* at 411. In an earlier report based on this same data, Curtiss approached wrongful conviction as torture and proposed appropriate methods for assisting exonerates in their struggle to readjust to life outside prison based on insights into the psychological effects of wrongful imprisonment. See Curtiss, *supra* note 77, at 58–64.

¹⁶² See *Interview: Craig Haney*, PBS FRONTLINE (May 1, 2003) [hereinafter Haney, *Interview*], <http://www.pbs.org/wgbh/pages/frontline/shows/burden/interviews/haney.html>; see also Wilson, *Interview*, *supra* note 21.

ney explains that the main difference between the wrongfully and rightfully convicted is that “the wrongfully convicted have a more difficult time making sense of their experience. . . [and have no] opportunity to try to put that experience in some coherent framework.” There is no redemptive value to their experience; “they have only the pain and. . . negative psychological consequences of the term of the confinement.”¹⁶³ Their attempts to reconcile their incarceration with their innocence can lead to “suffering that is impossible to make sense of. . . suffering that becomes very difficult to build from or grow out of.”¹⁶⁴ They have learned that “the very worst thing possible can happen to you, and it leads them to a more generalized loss of faith in society. . . and people.”¹⁶⁵ To Haney, “[i]t’s among the deepest despair I’ve ever encountered. . . and once you’ve experienced it at the hands of so many people, it’s very hard to rekindle faith. . . [and] hope that you can be free of that in the future.”¹⁶⁶

“Prison for some people robs them of the ability to feel joy and happiness[];” they are “robbed of large chunks of life. . .”,¹⁶⁷ as well as of their agency, their decision-making ability, and their ability to take control over their own life.¹⁶⁸ “In the very frightening, dangerous prison environment, they’re not allowed to show or express vulnerability or weakness. . . they’re forced in a sense to be disconnected from their emotions” as a way of adapting to their new world; and it is difficult or impossible “to take the psychological steps to shed that mask and to essentially give up those [important] adaptations.”¹⁶⁹ The life outside prison that they have fantasized often is unrealistic or unachievable. When they are finally set free, it is impossible for

¹⁶³ Haney, *Interview*, *supra* note 162.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

them to “fit back into [a normal] life and behave as though this term of imprisonment hadn’t taken place.”¹⁷⁰ Even after years of being free, some people may adapt, but for others it is a permanent change.¹⁷¹

Likewise, Wilson believes that the injuries from a wrongful conviction are permanent scars “deep inside the psyche.”¹⁷² Even though counseling and psychotherapy treatments are helpful, he “do[esn’t] think you can undo the permanent damage to the soul of the person, to their sense of self, to their sense of dignity.”¹⁷³ He details ten emotional issues that affect the exonerated:

(1) initial. . . shock, fear, disavowal and disbelief, . . . a sense of unreality, . . . [and] fears of helplessness and hopelessness; (2) a sense of [irreconcilable] injustice; (3) loss of personal freedom, choice, autonomy and self-regulation; (4) an existential search for meaning; (5) a [deep] sense of abandonment by humanity and God; (6) loss of self, [personal] identity and dignity; (7) shame and guilt; (8) fatigue, surrender and [a] journey of endurance; (9) PTSD, anxiety, depression and the “continued manifestation” of institutionalized behaviors; and (10) the need for counseling, guidance and transitional services. . . to re-establish human connection and a sense of continuity in their lives.¹⁷⁴

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² Wilson, *Interview*, *supra* note 21.

¹⁷³ *Id.*

¹⁷⁴ *John Wilson Memorandum: A Perpetual Battle of the Mind*, PBS FRONTLINE (October 31, 2002) [hereinafter, Wilson, *Memorandum*], <http://www.pbs.org/wgbh/pages/frontline/shows/burden/cameras/memo.html>.

To Wilson, an exoneree is “a victim of a system of justice that has created an injustice which took away most of their life. . . [and that is] the permanent injury.”¹⁷⁵

As discussed in the introduction to this paper,¹⁷⁶ there is a clear need, not only to analyze the existing case studies of wrongful conviction and the individual oral histories published by exonerees, but also to continue to collect and analyze additional case studies using rigorous research approaches and to create an information base of empirical data. This author is aware of two research studies on the psychological consequences of wrongful conviction that are currently underway.

Jaimie Page, Director, Texas Exoneree Project and Assistant Professor at Texas A & M University–Commerce, has conducted and is in the process of analyzing the data from semi-structured individual, face-to-face interviews with twenty-two male exonerees, residing in the state of Texas who have been exonerated through DNA and are “actually innocent.” The study explores background demographic information and the personal history related to the criminal case, incarceration, the Innocence Project and post-exoneration experiences.¹⁷⁷ A second grounded theory exploratory study combines information from these interviews with data collected from exoneree meetings, from a Quality of Life questionnaire and from case management interactions.¹⁷⁸ These studies explore the following: common experiences and issues that exonerees face, as well as differences between exonerees; how wrongful convictions affect

¹⁷⁵ Wilson, *Interview*, *supra* note 21.

¹⁷⁶ See discussion *supra* text at 4-5.

¹⁷⁷ Jaimie Page, Semi-Structured Interviews with Texas Exonerees (research study in process, University of Texas–Commerce), personal correspondence July 19 and September 22, 2011 [hereinafter Page, *Semi-Structured Interviews*].

¹⁷⁸ Jaimie Page, Dallas Metroplex Exonerees: A Mixed-Methods Grounded Theory Exploratory Study (research study in process, University of Texas–Commerce), personal correspondence September 22, 2011 [hereinafter Page, *Dallas Metroplex Exonerees*].

exonerees and their families; how exonerees view their reintegration into society; common concepts and themes that arise in exonerees' wrongful conviction and social reintegration; group and family dynamics that occur with exonerees; and themes related to exoneree participation in group meetings.¹⁷⁹

This author is in the process of conducting semi-structured interviews with approximately twenty innocent women in the United States who were wrongfully convicted. The study examines and documents how the previously unstudied population of women exonerees understands what has happened to them during the process of their wrongful conviction, the meanings they take away from their experiences, the unique qualities held by women exonerees, the issues/needs faced by women throughout each stage of their wrongful conviction process and the creative and resourceful strategies that have helped them cope with their wrongful imprisonment and exoneration.¹⁸⁰

A comparison of the female and male exonerees in the Page and Konvisser studies will provide valuable insights into how they may differ in their actual experiences of events and the perhaps gender-specific strategies that enable them to change their lives in a positive way. For example, Herrschaft et al. found in their study of reentry strategies that "men most often attributed their positive change to a status-related goal like employment or a specific event. . . [and] will reorganize their sense of self when given an external source of validation like a job which will then help them successfully reestablish intimate social connections."¹⁸¹ On the other hand, "women most often attributed

¹⁷⁹ Page, *supra* notes 177 and 178.

¹⁸⁰ Zieva Lynn Dauber Konvisser, "Psychological Consequences of Wrongful Conviction in Women" (research study in process, Fielding Graduate University, Santa Barbara) [hereinafter Konvisser, *Psychological Consequences Women*].

¹⁸¹ Bryn A. Herrschaft, Donita M. Veysey, Heather R. Tubman-Carbone & Johanna Christian, *Gender Differences in the Transformation Narrative: Implications for Revised Reentry Strategies for Female Offenders*, 48 J. OFFENDER REHABILITATION 463, 477-78 (2009).

their positive change to a relationship in their lives;. . .[thus] [i]t is only when women feel intimately accepted and validated that they will begin to seek external sources of validation that will allow them to continue on the path to transformation."¹⁸²

E. Issues of Reentry and Reintegration

Although the psychological effects of incarceration vary from person to person, few inmates leave prison completely unchanged.¹⁸³ Returning to the findings by Haney,

[t]he range of effects includes the sometimes subtle but nonetheless broad-based and potentially disabling effects of institutionalization prisonization, the persistent effects of untreated or exacerbated mental illness, the long-term legacies of developmental disabilities that were improperly addressed or the pathological consequences of supermax confinement experienced by [those] prisoners who are released directly from long-term isolation into freeworld communities.¹⁸⁴

In addition, "parents who return from periods of incarceration still dependent on institutional structures and routines cannot be expected to effectively organize the lives of their children or exercise the initiative and autonomous decisionmaking that parenting requires."¹⁸⁵

For exonerees, "the consequences of wrongful conviction do not end when they are released from prison; the consequences for the innocent are life-long."¹⁸⁶ They continue to face many obstacles post-release-psychologically, physically and financially. As described by Hattery and Smith,

¹⁸² *Id.*

¹⁸³ Curtiss, *supra* note 77, at 428-429.

¹⁸⁴ Haney, *Psychological Impact of Incarceration*, *supra* note 81, at 86.

¹⁸⁵ *Id.*

¹⁸⁶ Clow, *supra* note 11, at 330.

wrongful conviction has in many regards claimed . . . the best years of exonerees' lives. . . . [M]any were sent to prison for life while they were still in their teens or early twenties . . . [and] spent most or all of these critical years in prison. These are the years in which most Americans build their adult lives; they finish their education, they start working in their profession or occupation, they find life partners, they begin childbearing if they so choose, those with resources buy their first home, and so on. . . . [The exonerees] were systematically denied the freedom to do the things that most Americans take for granted . . . because the system failed them. In addition to their own lives, collectively, families and communities have been denied fathers, husbands, and sons[–mothers, wives, and daughters] . . . [F]or others who did leave children behind, these children suffer from the same risks that all children of incarcerated parents face, including increased likelihood for being incarcerated themselves. . . . [And, in many cases,] while an innocent [person] was incarcerated the real rapist, child molester and killer was free to roam the streets and commit other acts of violence.¹⁸⁷

The hardships involved in reentering society after serving time in prison can be very troubling, even for rightfully convicted persons. However, wrongfully convicted individuals are usually abruptly set free after years of imprisonment without any time for pre-release programs. They generally are not “qualified” or appropriate for the post-release systems that are in place for parolees who committed crimes for which they were properly convicted and served their time. Exonerees reenter so-

¹⁸⁷ ANGELA HATTERY & EARL SMITH, PRISONER REENTRY AND SOCIAL CAPITAL: THE LONG ROAD TO REINTEGRATION 1, 105-106 (2010).

ciety without transitional services, social support or even a parole officer. Thus, exonerees and their attorneys are left on their own.¹⁸⁸

Sabrina Butler—sentenced to death for the murder of her nine-month-old child in Mississippi in 1990—“was essentially ‘kicked to the curb’—no phone call, no transportation and no one to pick her up: ‘They didn’t give me jack! They just took the handcuffs off me and sent me out the door. . . . Didn’t get nothin’ but ‘goodbye, we’ll holler at ya.’”¹⁸⁹

Like other prisoners—for whom the critical time periods for the transition to life outside of prison are “the moment of release” and the time period immediately following release—“an exoneree’s experiences. . . [immediately] following release will

¹⁸⁸ Chin, *supra* note 75, at 406–07; and Jennifer L. Chunias & Yael D. Aufgang, *Beyond Monetary Compensation: The Need for Comprehensive services for the Wrongfully Convicted*, 28 B.C. THIRD WORLD L.J. 105, 108–11 (2008). For further information on reentry and reintegration, see generally HATTERY, *supra* note 187 (discussing practical avenues for creating an environment for healthy and socially productive former convicts); Smith, *supra* note at 73; Jennifer E. Cobbina, *Reintegration Success and Failure: Factors Impacting Reintegration Among Incarcerated and Formerly Incarcerated Women*, 49 J. OFFENDER REHABILITATION 210, 210–32 (2010) [hereinafter Cobbina, *Reintegration Success and Failure*]; Jennifer E. Cobbina, Beth M. Huebner & Mark T. Berg, *Men, Women, and Postrelease Offending: An Examination of the Nature of the Link Between Relational Ties and Recidivism*, 20 CRIME AND DELINQ. 1, 1–31 (2010) [hereinafter Cobbina, *Men, Women, and Postrelease Offending*]; Beth M. Huebner, Christina DeJong and Jennifer Cobbina, *Women Coming Home: Long-term Patterns of Recidivism*, 27 JUST. Q. 225, 225–54 (2010) [hereinafter Huebner, *Women Coming Home*] (exploring the interplay of race, social relationships and community on the occurrence and timing of recidivism); JOAN PETERSILIA, *WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY* (2003) (offering specific solutions to prepare prisoners for release, reduce recidivism, and restore them to full citizenship); Christy A. Visher & Jeremy Travis, *Transitions from Prison to Community: Understanding Individual Pathways*, 29 ANNU. REV. SOCIOLOGY 89–113 (2003) (describing impact of individual’s social environment of peers, family, community and state-level policies); and Jeremy Travis, Amy L. Solomon, & Michelle Waul, *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry* (Urban Inst. Justice Policy Ctr. ed., 2001).

¹⁸⁹ Westervelt, *Framing Innocents*, *supra* note 151, at 266–67.

strongly influence whether he or she is able to successfully reenter and reintegrate into society.”¹⁹⁰ Although women exonerates are not at as great of a risk for recidivism—like other formerly incarcerated women—they also would benefit from the availability of both gender-neutral and gender-specific pre- and post-release programs that address women’s needs.¹⁹¹

The importance of positive relationships and the support of family and friends play key roles both during incarceration and following release. Monroe describes the loving support of her family and the other women prisoners that sustained her during her incarceration. When she received the news that she would be released she described,

[W]alking back into the dorms was just amazing. . . . I gave the thumbs up sign, and it was just. . . it was like everybody was being released. It wasn’t about me. It was just about that somebody could win, against the system. When your daughter and your family fight and win, there’s this other dimension to it. It brings out the best in human spirit, it really brings out the best of what you’re capable of doing. When I walked out of that gate, the sun is different and the air feels—it just feels different from inside. It was a whole different world; a whole different sun; a whole different feel. You actually feel the touch of the air on my skin now that I didn’t before. And it’s a joy. Every nuance of awareness like that is an absolute joy.¹⁹²

Even with such a positive “moment of release,” as time went by for Monroe, “nothing feels normal anymore.”¹⁹³ She faced

¹⁹⁰ Chunias, *supra* note 188, at 115.

¹⁹¹ For a series of articles based on research by Cobbina et al. discussing factors affecting reentry and reintegration, see *supra* note 188.

¹⁹² VOLLEN, *supra* note 9, at 212–13.

¹⁹³ *Id.* at 217.

the same reentry obstacles experienced by other exonerees; including the realization that finding a job

to earn a half, maybe not even a third, of what I was making fifteen years ago, or have the same sense of responsibility and enjoyment of my job and my career. . .I lost my home and all of the equity that we had in that. So it was the need to rebuild in the sense of not just having a place of my own, but doing it in a way that's sensible.¹⁹⁴

Now, ten years later and seventy-three years old, Monroe is fortunate to have a job that allows her some flexibility.¹⁹⁵ She works with a land conservation agency

at about a third of what I made twenty years ago, before the tsunami that pretty much wiped out our lives. . .The financial toll is the hardest of all the obstacles to recovery and you can imagine how it would be to interview for a job after being exonerated from a wrongful conviction!¹⁹⁶

As Westervelt and Cook describe,

The joy on exonerees' faces at their release quickly fades when they confront the challenges of managing their trauma and rebuilding their lives. Several said they needed a "decompression period" to adjust to everyday living on the outside. Their immediate physical needs involve finding housing, medical attention, employment and training, and emergency financial support. But their emotional and psychological needs also demand attention: managing anger and bitterness, reconnecting with family and children, addressing drug

¹⁹⁴ *Id.* at 217–18.

¹⁹⁵ E-mail from Beverly Monroe, to Zieva Dauber Konvisser Ph.D. (Dec. 21, 2011) (on file with author).

¹⁹⁶ *Id.*

or alcohol dependency and negotiating social rejection and stigma.¹⁹⁷

After being incarcerated for lengthy periods of time, many exonerees have difficulty adjusting to freedom. As described in the Innocence Project Report:

Even after he's free, the former prisoner struggles to shake those adaptations that made it possible to survive in a hostile environment. The regimented daily routine of prison life has made him unaccustomed to making his own decisions. Almost all prisoners have witnessed violent acts or been victimized, and memories of these experiences can be re-traumatizing. [Furthermore,] the violence of prison life has led to social distancing, emotional aloofness and a lack of positive social skills. The lack of opportunity and alienation from the outside world has resulted in low self-esteem. [In addition to these psychological obstacles,] [m]edical care provided to prisoners is notoriously poor, exacerbating existing conditions and leaving others untreated."¹⁹⁸

Vollen and Eggers further describe how exonerees, once released and/or exonerated, [] often struggle with dating and sexual relations, with trust and expressing their rage and despair being particularly challenging and causing them to engage in avoidance or distancing behaviors. They may face difficulties maintaining marriages and reuniting with children, who also suffered the imprisonment. Many suffer from symptoms of PTSD, including

¹⁹⁷ Westervelt, *Coping with Innocence*, *supra* note 76, at 36.

¹⁹⁸ *Making Up for Lost Time: What the Wrongfully Convicted Endure and How to Provide Fair Compensation*, AN INNOCENCE PROJECT REPORT 8 (The Innocence Project, New York, N.Y., 2010) available at http://www.innocenceproject.org/docs/Innocence_Project_Compensation_Report.pdf.

trouble sleeping, recurrent nightmares, difficulty concentrating, irritability, anger and hypervigilance.¹⁹⁹

During their periods of wrongful incarceration, they may have missed important life cycle events, like the marriages of family and friends, their children's school programs and graduations, and the funerals of parents and grandparents. As a result, "[g]rievous losses and feelings of 'what might have been' follow the exoneree throughout their entire lives."²⁰⁰ Looking back on her experience, Monroe recalls:

Where it's hit me hardest is in losing people. I lost the person that I loved, who took his own life, and I've never really had a chance to grieve, or even be sad. . . . My mother, that was hard. . . she suffered through this. . . and I lost her. She died five months after I was released. And I lost a brother while I was in. . . . You have these losses that are irrecoverable.²⁰¹

Exonerees return to a society by which they were profoundly wronged²⁰² and "must cope with the fact that many people still believe they are guilty. . . despite what they say themselves or what the evidence demonstrates."²⁰³ Adjusting to life outside of prison is made even more difficult when they are stigmatized and ostracized by their communities and they "may feel exposed or visible because of the publicity surrounding their case. . . . [S]tigmatization can lead to—or exacerbate—other situations and variables, which can have far-reaching negative consequences for exonerees."²⁰⁴ For example, Sabrina Butler, an exoneree, is now trying to deal with both the death of her child

¹⁹⁹ VOLLEN, *supra* note 9, at 427–429.

²⁰⁰ AN INNOCENCE PROJECT REPORT, *supra* note 198, at 8.

²⁰¹ VOLLEN, *supra* note 9, at 219.

²⁰² AN INNOCENCE PROJECT REPORT, *supra* note 198, at 8.

²⁰³ Clow, *supra* note 11, at 330.

²⁰⁴ *Id.* at 331.

and having employment at a grocery store terminated when she was recognized by an assistant manager.²⁰⁵ “Learning to manage stigma is a challenge for exonerees” and is enabled by two factors—“whether they receive a public apology from legal officials upon release and whether the actual offender is identified in their case.”²⁰⁶

Re-establishing “a sense of independence and control over one’s life” is very important because these were “taken away from them while imprisoned.”²⁰⁷ Exonerees’ immediate needs involve finding housing, employment and job training and emergency financial support. Many exonerees were wrongfully convicted in their youth, while their peers were advancing their careers or getting an education; after a decade or more in prison, exonerees find themselves starting over at an older age.²⁰⁸ In addition to not being eligible for job placement and training, there are few professional opportunities for prisoners. . . and the average exonerated person has. . . little to no experience with computers or modern technology and is far behind his peers in the workforce.²⁰⁹

Monroe elaborates that it is even more difficult for women since “most women in prison have fewer programs, particularly in technical skills or education, than are available in men’s prisons. These depend on the state, the locality, and the officials in charge or the individual facilities.”²¹⁰

Furthermore, exonerees have no legal right to get their former jobs back and when applying for new ones, must still answer “yes” when asked if they have an arrest or conviction

²⁰⁵ Westervelt, *Framing Innocents*, *supra* note 151, at 9.

²⁰⁶ Westervelt, *Coping with Innocence*, *supra* note 76, at 35.

²⁰⁷ Curtiss, *supra* note 77, at 59 (citing James M. Jaranson, et. al, *Assessment, Diagnosis, and Intervention in THE MENTAL HEALTH CONSEQUENCES OF TORTURE* 249, 257–58. (Ellen T. Gerrity et. al. eds.) (2001)).

²⁰⁸ *Id.* at 8.

²⁰⁹ *Id.* at 9.

²¹⁰ E-mail from Beverly Monroe to the author (December 21, 2011) (on file with the author).

record, even if the conviction has been thrown out.²¹¹ Because the wrongful conviction is not automatically expunged from the exoneree's criminal record, many "exonerees are saddled with the responsibility of continually having to explain their exonerated status to prospective employers, landlords, and others who identify them as 'ex-cons'. . . . And [m]any employers are not willing to take a chance on hiring someone who has been in prison--innocent or not."²¹² As a result, there is often no income stream or health insurance coverage and little sense of purpose in life.²¹³

Exoneree Ada JoAnn Taylor, one of six co-defendants wrongfully convicted in 1990 for the February 1985 rape and murder of sixty-eight year-old Helen Wilson, spoke of the difficulties she faced upon release when she testified in support of a compensation bill in Nebraska:

I can't get insurance. I have doctors that I need to go to because I have a chiropractic problem due to being in the prison. . . . I can't obtain credit because I've never had credit and I'm 45 years old. . . . I can't get housing because I don't have credit to even go get a loan for a house or an apartment or anything of that nature. I can't get a car for the same reasons. To be able to even think about retirement, that's not going to happen in my lifetime because I don't have the way to have a job to save for a retirement fund.²¹⁴

Exonerees' legal needs, too, continue long after the protracted court battles to gain their freedom, including getting their records expunged, seeking a gubernatorial pardon, filing a

²¹¹ Stephanie Armour, *Wrongly convicted walk away with scars*, USA Today, Oct. 13, 2004 http://www.usatoday.com/money/workplace/2004-10-13-dna-exonerated-jobs_x.htm (last visited April 3, 2011).

²¹² AN INNOCENCE PROJECT REPORT, *supra* note 198, at 10-11.

²¹³ Konvisser, *Psychological Consequences*, *supra* author's note.

²¹⁴ AN INNOCENCE PROJECT REPORT, *supra* note 198, at 17.

compensation claim or suing the state for wrongful incarceration, managing whatever media attention or offers may come their way, and negotiating bureaucracies to file for Social Security, disability or welfare assistance.²¹⁵

IV. POTENTIAL RESPONSES TO TRAUMA AND THE POSSIBILITY OF GROWTH

Not to diminish in any way the prevalence of so many negative consequences experienced by those who have been wrongfully convicted, it is also important to recognize that, in the struggle with such a highly traumatic experience and its consequences, there is the possibility for more positive outcomes and responses as well.²¹⁶ Some people may be defined forever by a major life crisis or traumatic event—an event of seismic proportion—such as “bereavement, rheumatoid arthritis, HIV infection, cancer, bone marrow transplantation, heart attacks, coping with the medical problems of children, transportation accidents, house fires, sexual assault and sexual abuse, combat, refugee experiences and being taken hostage,”²¹⁷ as well as terrorism, torture and wrongful conviction—Monroe’s *tsunami*. All of these

²¹⁵ Westervelt, *Coping with Innocence*, supra note 76, at 36.

²¹⁶ See RICHARD G. TEDESCHI & LAWRENCE G. CALHOUN, *TRAUMA AND TRANSFORMATION: GROWING IN THE AFTERMATH OF SUFFERING* (1995); Lawrence G. Calhoun & Richard G. Tedeschi, *Posttraumatic Growth: Future Directions*, in *POSTTRAUMATIC GROWTH: POSITIVE CHANGES IN THE AFTERMATH OF CRISIS* 215-38 [hereinafter *Future Directions*] (Richard G. Tedeschi et al. eds., 1998); Ronnie Janoff-Bulman, *Posttraumatic Growth: Three Explanatory Models*, 15 *PSYCHOL. INQUIRY* 30 (2004).; Steven M. Southwick et al., *The Psychobiology of Depression and Resilience to Stress: Implications for Prevention and Treatment*, 1 *ANN. REV. CLINICAL PSYCHOL.* 255-91 (2005); Lawrence G. Calhoun & Richard G. Tedeschi, *The Foundations of Posttraumatic Growth: An Expanded Framework*, in *HANDBOOK OF POSTTRAUMATIC GROWTH: RESEARCH AND PRACTICE* 3-23 (Lawrence G. Calhoun & Richard G. Tedeschi eds., 2006).

²¹⁷ See Richard G. Tedeschi & Lawrence G. Calhoun, *Posttraumatic Growth: A New Perspective on Psychotraumatology*, *PSYCHIATRIC TIMES*, <http://www.psychiatristimes.com/ptsd/content/article/10168/54661> (last visited Feb. 23, 2012) (discussing the growth experiences after traumatic events).

can create distressing emotions, produce negative changes in behavior and result in physical consequences. Others can master the events and can integrate them in a growth-producing way, bouncing back or even bouncing forward, stronger and better than before. For most people, however, the aftermath of trauma produces a mixture of negative and positive experiences—and “continuing personal distress and growth often coexist.”²¹⁸

Martin Seligman, known as the father of positive psychology, describes these three reactions to extreme adversity:

(1) [some] people fall apart into PTSD, depression, and even suicide; (2) most people [] at first react with symptoms of depression and anxiety but within a month or so are, by physical and psychological measures, back where they were before the trauma (*resilience*); and (3) [others demonstrate] *posttraumatic growth*, first experienc[ing] depression and anxiety, often exhibiting full-blown PTSD, but within a year [] are better off than where they were before the trauma. These are the people of whom Friedrich Nietzsche said, “That which does not kill us makes us stronger.”²¹⁹

While traumatologists working with war veterans have focused chiefly on the assessment and treatment of psychiatric symptoms, arising in the wake of trauma, they have occasionally detected evidence of posttraumatic growth (PTG) as well.²²⁰ For example, PTG has been found in former prisoners of war (POWs) from World War II and the Korean War who have sur-

²¹⁸ Richard G. Tedeschi & Lawrence G. Calhoun, *Posttraumatic Growth: Conceptual Foundations and Empirical Evidence*, 15 *PSYCHOLOGICAL INQUIRY* 1, 2 (2004).

²¹⁹ Martin E.P. Seligman, *Building Resilience: What Business Can Learn from a Pioneering Army Program for Fostering Post-Traumatic Growth*, *HARV. BUS. REV.*, Apr. 2011, at 100, 103.

²²⁰ Richard G. Tedeschi & Richard J. McNally, *Can We Facilitate Posttraumatic Growth in Combat Veterans?*, 66(1) *AMER. PSYCHOLOGIST* 19 (January 2011) [hereinafter Tedeschi, *Combat Veterans*].

vived a range of traumatic experiences including combat, physical deprivation and starvation, psychological abuse and trauma;²²¹ in former Vietnam POWs who have faced prolonged extreme adversity;²²² and among Israeli combat veterans of the 1973 Yom Kippur War who either had or had not been POWs.²²³

Similar to what Simon described earlier with victims of false arrest and imprisonment, this author has learned about the possibility of growth in the aftermath of trauma from her research with survivors of political violence:

Each individual differently experiences a traumatic event, ascribes meaning to it, and takes action as a result of their personal characteristics, past experiences, present context, and physiological state. While there is no single factor or magical combination that ensures a positive outcome, certain psychosocial, social and spiritual factors have been shown to enhance stress resilience and growth. Some may be internal factors, such as optimism, hope, self-confidence, hardiness, sense of coherence, flexibility, creativity, humor, acceptance, religious beliefs and spirituality, altruism or good deeds, a good diet and regular physical activity and the steeling effect of having weathered the storm of prior traumas. Other enabling factors may be external, especially the genuine and ongoing support of close, caring others, including friends, family, other traumatized people, especially those “who have been there” and mental health and legal professionals, as well as the

²²¹ Christopher Erbes et al., *Posttraumatic Growth among American Former Prisoners of War*, 11 *TRAUMATOLOGY* 285, 285 (2005).

²²² Adriana Feder et al., *Posttraumatic Growth in Former Vietnam Prisoners of War*, 71 *PSYCH.: INTERPERSONAL AND BIOLOGICAL PROCESSES* 359, 359 (2008).

²²³ Solomon & Dekel, 2007, in Tedeschi, *Combat Veterans*, *supra* note 220.

broader society and culture. In addition, storytelling is a way to gain perspective on one's life and redefine one's identity. Expressing feelings and concerns and receiving supportive suggestions from others facilitate coping.²²⁴

As described by this author, the people who have survived political violence and thrived share some common qualities that can be cultivated to master any crisis:

In the immediate aftermath of victimization, primary concern is with questions of comprehensibility and making sense of the traumatic event—why it happened to me in particular. This is followed by “meaning-making” revolving around questions of significance and worth and active engagement through new choices and commitments that create renewed meaning in their lives.

They begin to have visions for the future, identify new possibilities, and actively seek solutions for dealing with challenges, rather than waiting passively for something to happen. In struggling to make sense of the event, they realize a greater appreciation of their existence in the world, along with a “sense of reordered priorities.” They manifest growth as warmer, more intimate relationships with others or with God, recognition of new possibilities for life, a greater sense of personal strength, spiritual and existential change and a

²²⁴ This vivid portrait is informed by the literature on posttraumatic growth and evolved from in-depth interviews with sixty-three Israelis—victims, survivors and thrivers—including those who have personally experienced terrorist attacks and those who are family members, those who were civilians and those who were soldiers, those who are Jews and those who are Muslims, Christians or Druze. See Konvisser, *Finding Meaning and Growth*, *supra* author's note; KONVISSER, *LIVING BEYOND TERRORISM*, *supra* author's note; *supra* note 216.

greater appreciation of what is really important and meaningful and what is trivial.

Although they may continue to experience severe distress, including physical limitations, stress symptoms and anxiety, over time, victims are able to confront and process their trauma-related thoughts, feelings and images, seeing all aspects of the trauma—negative and positive. While they do not forget their traumatic experiences nor minimize their suffering, they are able to integrate and own the painful emotions of their situation, make them part of their story and live with them in a productive way. They have learned how to “live next to” and “move forward with” their feelings of grief, pain and helplessness. With support from others, most trauma victims manage to move on with their lives, which no longer seem to be wholly defined by their victimization. They find meaning from their deeds, experiences and attitudes and turn tragedy into triumph, allowing growth and wellness to thrive. By struggling with the crises in their lives, victims can become survivors. And they discover for themselves that the meaning is not in the disaster, but in the way they respond to the disaster.²²⁵

As Roberta Bernstein, an Israeli social worker, expressed so beautifully:

There is so much destruction and devastation and yet if one begins to look, there are people out there who somehow find the strength to move onwards despite the ongoing deep pain in their

²²⁵ *Id.*

hearts. These people do rebuild their lives in new ways that they had never known before.²²⁶

For the wrongfully convicted, there also is strong evidence that it is possible to rebuild shattered lives and even grow from the struggle with the challenging experience, coping with their grief, gaining a better level of understanding of their difficulties and putting back together the almost unrecognizable pieces of their shattered lives. There are women and men who have gone through the horrific experience of wrongful conviction, whether personally or as a supporter, and have restarted their lives to go on and find a place of living free again, find meaning in that experience and become an energizer for good toward helping others.

Ernest Duff, former Executive Director, Life After Exoneration Program (LAEP), observed: “[t]he future of exonerees hinges on how supportive an environment they land in is, and on the resilience within each exoneree to avoid despair and take their newfound freedom as an occasion for growth.”²²⁷

Monroe concludes, “You learn to move on. I’ve spent a lot of time with the day-to-day things, and doing what I call talking to the river.”²²⁸ She discovered the restorative value of the beautiful things that on rare occasion were accessible to her while in prison-looking at the James River where she and de la Burd  used to go canoeing and which she could see at certain times out of the little slit in her cell door.²²⁹ “To free my mind and to separate myself and to transcend a lot of the pain and dread and anguish, I remember I read poetry.”²³⁰ And “listen[ing] to opera and particularly to Domingo, . . . [t]hose were the most, oh gosh, intense and transcending moments that can take you out

²²⁶ E-mail from Roberta Bernstein to Zieva Konvisser (May 24, 2004) (on file with author).

²²⁷ VOLLEN, *supra* note 9, at 434.

²²⁸ *Id.* at 204, 220.

²²⁹ *Id.*

²³⁰ *Id.*

of any prison.”²³¹ And now, she takes those poems to the river with her so she can “recite and remember and read.”²³²

V. STRATEGIES FOR COPING, REENTRY AND REINTEGRATION

Although there is still much to be done in this area, we can learn from survivors of political violence, as well as from those who have survived wrongful conviction and imprisonment and have discovered for themselves creative and resourceful strategies that have helped them cope with an untenable reality while in prison and post-release—strategies encompassing religious practices, legal activities, advocacy and mental health care.

Many of the wrongfully convicted “reject [] being labeled as criminals and withdr[a]w from other inmates. . . holding on to their pre-prison identity and allow[ing] them[selves] to remain in control.”²³³ For some of the wrongfully convicted, “religion is often their last hope. Innocent but behind bars, they are all too aware of the imperfection of secular institutions and often experience spiritual conversions or renewals of faith.”²³⁴ Others explore spirituality to find positive meaning in their wrongful conviction.²³⁵

In the epigraph to her book, Joyce Ann Brown, wrongfully convicted and sentenced to life for the 1980 murder and robbery of a Dallas, Texas storeowner, wrote: “[w]ith thanks to the Lord, who never left me, forsake me or deceived me, and by whose Grace so many came into my life to help free me from bondage.”²³⁶

²³¹ *Id.*

²³² *Id.*

²³³ Campbell, *supra* note 124, at 157.

²³⁴ Vollen, *supra* note 9, at 423.

²³⁵ Westervelt, *Coping with Innocence*, *supra* note 76, at 36.

²³⁶ JOYCE ANN BROWN, JOYCE ANN BROWN: JUSTICE DENIED, Epigraph, 12, 22 (1990).

Others become jailhouse lawyers, providing legal services to themselves and others, because often their “only source of reliable legal help may come from themselves.”²³⁷ As Campbell and Denov noted,

[t]hrough their resilience, many of these men revealed creative and resourceful strategies that appear to have helped them. . . . In order to survive. . . they implicate themselves in activities that allowed them temporary respite from the harsh reality of a wrongful imprisonment . . . [manifesting] an obsession with their case that involved a constant preoccupation with legal matters surrounding potential appeal or exoneration . . . [and diverting] the prisoners’ energy and attention away from the devastation of their present circumstance towards the possibility of release.”²³⁸

As a former law student, Gloria Killian, wrongfully convicted of being involved in a Sacramento, CA robbery and murder of Ed Davies and shooting of his wife Grace, in 1981,

was assigned to the prison law library where she worked for 14 years, providing legal assistance to other inmates. She worked extensively with battered women, as well as others, and developed specialized legal services for many different areas of the prison. She was instrumental in the founding of the USC Law Project at the California Institute for Women.²³⁹

Likewise, when she first went to prison, Beverly Monroe will remember for the rest of her life, how “[the other] women would take my turn mopping the floor so I could work on my

²³⁷ VOLLEN, *supra* note 9, at 424.

²³⁸ Campbell, *supra* note 124, at 157.

²³⁹ The Action Committee for Women in Prison, <http://www.acwip.net>. See also GLORIA KILLIAN & SANDRA KOBRIN, *FULL CIRCLE: A TRUE STORY OF MURDER, LIES, AND VINDICATION* (2012).

case.”²⁴⁰ “Monroe was tapped by other inmates as a resource and by prison officials as a teacher. On her own initiative, she set up an informal program teaching English, spelling and math. Later she was assigned to teach in the general education program and then in the prison’s business program.”²⁴¹

Most importantly, the exonerated want their standing as innocent people recognized and the trauma of their conviction acknowledged.

After their release, many [of the wrongfully convicted] expressed little tolerance for injustice and desired that the wrongs committed by the criminal justice system should be acknowledged and rectified to whatever extent possible. . . . They desire some sort of official apology on the part of those responsible for judicial errors and . . . public accountability and an apology in order to educate officials about the causes of such errors so that similar errors will not occur again in the future.”²⁴²

Unfortunately, very few ever receive an apology. “This adds to their bitterness and anger, fuels public hostilities toward them, and exacerbates the trauma they’ve already experienced.”²⁴³

Yet several have found ways to channel their energies to correct these injustices and, in the process, these victims of the criminal justice system grow organically into amazing new leaders and advocates for criminal justice reform.²⁴⁴

Joyce Ann Brown founded Mothers (Fathers) for the Advancement of Social Systems Inc. (MASS), a non-profit foundation in Dallas “providing a pathway for adults, families and

²⁴⁰ VOLLEN, *supra* note 9, at 205.

²⁴¹ *Id.* at 210.

²⁴² Campbell, *supra* note 124, at 156–58.

²⁴³ Westervelt, *Coping with Innocence*, *supra* note 76, at 36.

²⁴⁴ Weigand, *supra* note 22, at 427–28.

children seeking a meaningful opportunity to become productive citizens.”²⁴⁵

Julie Rea, wrongfully convicted in 2002 of murdering her ten-year-old son Joel in 1997 by stabbing him to death in her Lawrenceville, Illinois home, became a Mitigation Specialist and Witness Preparation Consultant and seeks to “open up the story and bring context and clarify understanding of facts” for clients and their defense attorneys.²⁴⁶ In November 2010, Julie founded Women and Innocence²⁴⁷ after she and four other wrongfully convicted women—Gloria Killian, Audrey Edmunds, Nancy Smith, and Beverly Monroe—met at the national Innocence Network conference, where they were vastly outnumbered by the male exonerees in attendance. These women exonerees understood that the special issues facing innocent women caught up in the criminal justice system merited a conference of their own and an ongoing network “to create a voice for women within the innocence movement.” Networking, sharing experiences and healing trauma were addressed, as well as focusing attention on female wrongful convictions and promoting awareness about what it is like to be innocent and incarcerated and then creating a new life after being released.

Like other survivors, exonerees use a variety of techniques to make sense of what happened to them, such as,

telling their stories openly, finding meaning in their experiences, establishing ties to other survivors and relying on family support. Many exonerees participate in activism and education by speaking publicly about their cases. Recounting

²⁴⁵ See *MOTHERS FOR THE ADVANCEMENT OF SOCIAL SYSTEMS, INC.*, <http://massjab.org/index.html> (last visited Feb. 18, 2012).

²⁴⁶ See *REA MITIGATION SPECIALIST AND WITNESS PREPARATION CONSULTANT*, <http://www.presuminginnocence.com/index.html> (last visited April 21, 2012).

²⁴⁷ *About Us, WOMEN AND INNOCENCE*, http://www.womenandinnocence.com/About_Us.html (last visited April 21, 2012). See generally *WOMEN AND INNOCENCE*, <http://www.womenandinnocence.com/>.

their stories helps them “normalize” the trauma and builds confidence through acknowledgment and affirmation. Some cope by seeking out other exonerees at conferences and events, finding comfort in community with those who understand their plight.²⁴⁸

Like many other exonerees, Sabrina Butler Porter attends the Innocence Network conferences as a “sacred mission.”²⁴⁹ “When they ask me to come, I don’t hesitate. If I can help somebody else in the same situation, I’ll do everything I can. I want to get my story out because when all this happened to me, nobody would hear my side.”²⁵⁰

Wildeman also describes the therapeutic value of exonerees, like torture survivors, telling their stories, being listened to within a therapeutic setting and “being permitted to proceed at his or her own paces and tell us as much or as little of the story as they are comfortable with.”²⁵¹ Given that their trust in other human beings has been purposefully violated, she cautions that a sense of trust must be established with any professional who attempts to assist them with adjusting to post-release life.²⁵² She also finds that, in addition to telling their stories, involvement with other exonerees in group therapy is helpful by allowing them to re-establish a sense of family, community and membership.²⁵³ “Hearing that other exonerees may be experiencing the same or similar things, helps validate the feelings of individual survivors.”²⁵⁴

²⁴⁸ Westervelt, *Coping with Innocence*, *supra* note 76, at 36.

²⁴⁹ Michael Perlstein, *Freedom No Cure-All for Those Wrongly Convicted: Jobs and Respect often Remain Elusive*, TIMES PICAYUNE, Mar. 30, 2003, <http://truthinjustice.org/no-cureall.htm> (last visited Dec. 13, 2011).

²⁵⁰ *Id.*

²⁵¹ Wildeman, *supra* note 158, at 426-27; *See also* Curtiss, *supra* note 77.

²⁵² *Id.* at 427.

²⁵³ *Id.*

²⁵⁴ *Id.*

Heather Weigand, founder and Executive Director of FocuzUp, a social justice agency dedicated to addressing re-entry issues for the formerly incarcerated,²⁵⁵ adds a caution that “[s]peaking engagements for the exonerated can be healing and they can be triggers” of PTSD symptoms, especially when the engagements include speaking to a legal audience or with the media.²⁵⁶ Nevertheless, she too understands that it is important “to share such stories to help others who might encounter wrongful convictions and so that society learns as much as possible from these events.”²⁵⁷ In the book *Surviving Justice*, thirteen exonerated men and women share their tales and give testimony to their resilience, “if only to reduce the likelihood that it would happen to someone else.”²⁵⁸

Gloria Killian founded and directs Action Committee for Women in Prison (ACWIP).²⁵⁹ Together with Mary Ellen DiGiacomo, who was charged and convicted of a crime that was never committed (failure to register stocks in her privately held company which she believed never had to be registered), she hosts a weekly radio program.²⁶⁰ *Women Behind the Wall*, on blogtalkradio.com/4justicenow, is “the only show in the nation for, by and about incarcerated women. . . [and] the moving and compelling stories on how they got there and why so many deserve their freedom.”²⁶¹

²⁵⁵ Weigand, *supra* note 22, at 433-34.

²⁵⁶ *Id.*

²⁵⁷ *Id.* at 433.

²⁵⁸ VOLLEN, *supra* note 9, at 7.

²⁵⁹ The Action Committee For Women in Prison, <http://acwip.net/>.

²⁶⁰ *See generally id.* (providing a miniature autobiography of Mary Ellen DiGiacomo and a link to her radio show with Gloria).

²⁶¹ For a link to Gloria and Mary’s radio show, *see* [4JusticeNow.org](http://www.blogtalkradio.com/4justicenow), <http://www.blogtalkradio.com/4justicenow> (describing their radio show).

VI. COMPASSIONATE SUPPORT AND ASSISTANCE

Despite these and other personal successes, “very little help for [exonerees’] physical, emotional, and legal needs is available. Most support and assistance comes from family, friends, local advocates, and their attorneys.”²⁶² Some exonerees may obtain compensation in several different ways, including private bills, litigation and compensation statutes. However, as Westervelt and Cook caution, “compensation is no panacea for the array of trauma-based challenges confronting exonerees.”²⁶³ Instead, exonerees need wide-ranging assistance for their reintegration back into their communities and the rebuilding of their lives based on their multi-dimensional needs,²⁶⁴ preferably from local community groups, employers and service agencies, supplemented by resources of larger support organizations like the Innocence Project,²⁶⁵ the Witness to Innocence Project,²⁶⁶ the Life After Exoneration Program,²⁶⁷ the Darryl Hunt Project for Freedom and Justice,²⁶⁸ Life after Innocence²⁶⁹ and Women and Innocence.²⁷⁰

Several relevant strategies for providing compassionate assistance to the exonerated have been addressed in a handful of published reports and articles. Haney has suggested several pre-

²⁶² Westervelt, *Coping with Innocence*, *supra* note 76, at 36. *See* discussion *supra* text at 37-38.

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *See* INNOCENCE PROJECT, <http://www.innocenceproject.org/> (last visited Feb. 18, 2012).

²⁶⁶ *See* WITNESS TO INNOCENCE PROJECT, <http://witnessinnocence.org/> (last visited Feb. 18, 2012).

²⁶⁷ *See* LIFE AFTER EXONERATION PROGRAM, <http://www.exonerated.org/content/> (last visited Feb. 18, 2012).

²⁶⁸ *See* THE DARRYL HUNT PROJECT FOR FREEDOM AND JUSTICE, <http://www.darrylhuntproject.org/> (last visited Feb. 18, 2012).

²⁶⁹ *See* LIFE AFTER INNOCENCE, <http://www.luc.edu/law/lifeafterinnocence/> (last visited Feb. 18, 2012).

²⁷⁰ *See* WOMEN AND INNOCENCE, <http://womenandinnocence.com/index.html> (last visited Feb. 18, 2012).

and post-release policy and programmatic responses to “address the adverse prison policies and conditions of confinement. . . , and at the same time to provide psychological resources and social services for persons who have been adversely affected by them.”²⁷¹ Likewise, Grounds recommended three specific forms of social system support for both the ex-prisoner and family that are needed for those who are wrongfully convicted and subsequently released from prison.²⁷² From their work comparing ex-onerees’ stories and support services to those of refugees and asylees, Chinn and Ratliff add that “case-management and crisis intervention are plausible models to effectively help exonerees through post-incarceration and societal reintegration.”²⁷³

Two papers recommend a more holistic approach to compensation. Armbrust focuses on the problems of the wrongfully convicted and how “holistic” compensation can be structured to best remedy the very real physiological, psychological and financial issues facing them upon their release as a moral, if not a legal, obligation.²⁷⁴ She proposes a combination of financial compensation for the injustices suffered while in prison, job training and education resources designed to help make the

²⁷¹ See Haney, *Psychological Impact of Incarceration*, *supra* note 81, at 87-88 (emphasizing the importance of “a significant change [being] made in the way prisoners are prepared to leave prison and re-enter the freeworld communities from which they came”). See also, generally, Haney, *Psychological Impact of Incarceration* (discussing the shortcomings of present systems in preparing inmates for re-integration).

²⁷² Grounds, *Psychological Consequences*, *supra* note 136, at 178 (recommending a designated residential facility with specialized advice in the initial days; appropriate treatment for specific psychiatric conditions and long-term counseling to help them come to terms with their lost years; and work with the family to facilitate mutual understanding and develop coping strategies).

²⁷³ See Chinn, *supra* note 75, at 408 (urging existing social service agencies to provide services assisting exonerees subsequent to their release from prison).

²⁷⁴ See Shawn Armbrust, *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted*, 41 AM. CRIM. L. REV. 157, 160 (2004) (stating that a holistic approach to compensating exonerees appears to be “the best way to remedy a problem with no easy scapegoat and no easy solution.”).

transition from prison to freedom and medical and psychological care for problems resulting from time in prison.²⁷⁵

Similarly, Chunias and Aufgang recommend that, “[f]or exonerates. . . post-release services should be provided both as a means of ensuring successful reintegration *and* as part of an effort to ‘make whole’ exonerates who have been injured by errors in the administration of the criminal justice system that led to their wrongful conviction.”²⁷⁶ These should include “reentry planning services immediately prior to and upon release that are at least comparable to those received by other prisoners upon release, but yet are sensitive and tailored to the distinct needs of exonerates”;²⁷⁷ and “long-term physiological, psychological and other services necessary to address the detrimental impacts of imprisonment. . . and the unique obstacles. . . face[d] upon reentry to life outside of prison.”²⁷⁸

As noted earlier,²⁷⁹ when designing these reentry programs, gender-specific reentry strategies are necessary to address the differences in how men and women have been found to narrate their positive transformation processes.

Many of these strategies for providing holistic and compassionate support to the exonerated have been incorporated into the Innocence Project Report.²⁸⁰ The recommended model compensation statute proposes a \$50,000 per year minimum, with an additional \$50,000 for each year spent on death row, and \$25,000 for each year spent on parole, probation or as a registered sex offender.²⁸¹ In addition, the Report recommends that states should “[i]ssue an official acknowledgement of the wrongful conviction.”²⁸² To allow exonerates to be independent and

²⁷⁵ *Id.* at 171.

²⁷⁶ Chunias, *supra* note 188, at 111.

²⁷⁷ *Id.* at 128.

²⁷⁸ *Id.*

²⁷⁹ Herrschaft, *supra* note 181, at 463–82.

²⁸⁰ AN INNOCENCE PROJECT REPORT, *supra* note 198, at 5.

²⁸¹ *Id.* at 36.

²⁸² *Id.* at 5, 21.

self-sufficient and re-establish a life for themselves, the Report also recommends that states “create[] a ‘release plan’ based on the exoneree’s individual needs” to “[p]rovide immediate services[,] including housing, transportation, education, workforce development, physical and mental health care through the state employee’s health care system and other transitional services.”²⁸³ From a mental health perspective, such a plan also should provide “immediate, comprehensive psychosocial services” for the newly released wrongfully convicted “for a productive re-engagement with life.”²⁸⁴

Currently, “[s]tatutes providing for some form of compensation for the wrongfully convicted are in place in twenty-seven states plus Washington, D.C., but even some of these laws don’t meet society’s moral obligation to help exonerated people recover from the injustice they suffered and the years of freedom they lost.”²⁸⁵ In addition, “because of the time it takes to pursue their legal compensation claims. . . even if exonerees knew *how* to access necessary support services, they would lack the financial means to do so.”²⁸⁶ And, in the end, “even in states with compensation laws, [only] a fraction of exonerees receives payments for wrongful convictions” or have their innocence fully acknowledged by prosecutors, investigators or victims.²⁸⁷

VII. CONCLUSION

Thus, it is imperative that we collect the life histories of the wrongfully convicted, give voice to their experiences and analyze the cases of those who have been proven innocent. Further-

²⁸³ *Id.* at 5, 21.

²⁸⁴ Konvisser, *Psychological Consequences*, *supra* author’s note.

²⁸⁵ *Fix the System*, INNOCENCE PROJECT, <http://www.innocenceproject.org/fix/Compensation.php> (last visited Dec. 9, 2011). *See also* Robert Norris, *Assessing Compensation statutes for the wrongfully convicted*, 20(10) CRIM. JUST. POL. REV., 1-23 (2011).

²⁸⁶ Chunias, *supra* note 188, at 109.

²⁸⁷ VOLLEN, *supra* note 9, at 430.

more, the unique challenges and needs facing innocent women caught up in the criminal justice system, and heretofore unaddressed, merit special attention.

Understanding the consequences of miscarriages of justice, in particular the psychological and material impacts on the wrongfully convicted, provides empirical data for clinicians and counselors on which to develop treatment modalities for this traumatized population and for policy-makers and advocates of criminal justice reform to address the needs for holistic compensation for these egregious miscarriages of justice.

Learning from wrongful convictions helps to pinpoint weaknesses in the criminal justice system and identify remedial steps that can be taken to prevent other wrongful convictions, enhancing the accuracy and efficacy of our criminal investigations, protecting the innocent and having the potential to improve the lives of individuals, families and communities.

Learning from exonerees about the creative and resourceful strategies that have helped them cope with their wrongful conviction and exoneration can help others heal from their traumatic experiences and productively reengage with life.

And finally, the exonerees themselves may be inspired to move forward in new and different ways, validated in what they are already doing or reinvigorated to continue on the important and meaningful paths they are already taking and, hopefully, grow and thrive in the most unexpected and awe-inspiring ways.

As Viktor Frankl, the noted neurologist, psychiatrist and concentration camp survivor, wrote in his autobiographical *Man's Search for Meaning*:

We must never forget that we may also find meaning in life even when confronted with a hopeless situation, when facing a fate that cannot be changed. For what then matters, is to bear witness to the uniquely human potential at its best, which is to transform a personal tragedy into a triumph,

to turn one's predicament into a human achievement. When we are no longer able to change a situation . . . we are challenged to change ourselves.²⁸⁸

²⁸⁸ VIKTOR E. FRANKL, *MAN'S SEARCH FOR MEANING: AN INTRODUCTION TO LOGOTHERAPY* 135 (3d ed., 1983).

APPENDIX 1²⁸⁹CURRENTLY KNOWN FEMALE WRONGFUL CONVICTIONS IN
THE UNITED STATES SINCE 1900

| Name | State ²⁹⁰ | Year Convicted | Year Cleared/ Exonerated | Offense |
|---------------------------|----------------------|----------------|-----------------------------|---------------------------------|
| Tayshea Aiwohi | HI | 2004 | 2005 | Manslaughter |
| Julie Amero | CT | 2007 | 2008 | Risk of Injury to Minor |
| A. B. (Juvenile) | IN | 2006 | 2008 | Harassment |
| Lena Baker | GA | 1944 | 2005 | First Degree Murder |
| Nancy Baker-Krofft | OR | | 2010 | Criminal Mistreatment |
| Susan Bala | Fed ND | 2005 | 2007 | Money Laundering and Conspiracy |
| Larita Barnes | Fed OK | 2008 | 2009 | Drug Related |
| Barbara Baum | Mil US | 1988 | 1990 | Sodomy |
| Julie Baumer | MI | 2005 | 2010 | Child Abuse-Shaken Baby |
| Mary Berner | IL | | 1929 | Forgery |
| Delphine Bertrand | CT | 1944 | 1946 | Manslaughter |
| Nancy Louise Botts | IN | 1934 | 1936 | Forgery |
| Dominique Brim (Juvenile) | MI | 2002 | 2002 | Theft |
| Debra Brown | UT | 1995 | 2011 | Murder |
| Joyce Ann Brown | TX | 1980 | 1989 | Murder |

²⁸⁹ These appendices reflect the currently known cases of wrongfully convicted women in the United States who have been judicially exonerated or pardoned based on The Innocents Database at Forejustice.org (http://forejustice.org/search_idb.htm), created and maintained by Hans Sherrer (innocents@forejustice.org). Data is updated as the statuses of cases change, and new cases are continually being added. Note that the website may not be updated to reflect recent changes to the underlying database, yet they are included in this paper. The website also includes additional innocent people who have not been exonerated judicially or by pardon.

²⁹⁰ When the State only is indicated, the case was a state prosecution. If the State is preceded by "Fed," the case was a prosecution in federal court in that state. "Mil" indicates a prosecution in military court.

| Name | State ²⁹⁰ | Year Convicted | Year Cleared/ Exonerated | Offense |
|-----------------------------|----------------------|----------------|-----------------------------|--|
| Sheila Bryan | GA | 1998 | 2000 | Murder and arson |
| Mashelle Bullington | CA | 1995 | 2008 | Burglary |
| Diane M. Burlingame | Fed AL | 1994 | 1994 | Money Laundering and Conspiracy |
| Louise Butler | AL | 1928 | 1928 | Murder |
| Sabrina Butler Porter | MS | 1990 | 1995 | Felony Child Abuse |
| Wanda Carney | WV | 2006 | 2008 | Obstruction of Justice |
| Melissa Lee Chase | GA | 2007 | 2009 | Sexual Assault |
| Mary Ann Colomb | Fed LA | 2006 | 2006 | Drug Related |
| Keisa Cooper | MI | 2005 | 2008 | Patient Abuse |
| Karla Crosby | OR | 2002 | 2007 | Manslaughter |
| Susan Cummings | WA | 1985 | 2004 | Murder |
| Dr. Sara Ruth Dean | MS | 1934 | 1935 | Murder |
| Lynn DeJac | NY | 1994 | 2008 | Second Degree Murder |
| Lori Drew | Fed CA | 2008 | 2009 | Fraud (Computer) |
| Margaret A. Earle | MA | 2005 | 2010 | Second Degree Murder |
| Audrey Edmunds | WI | 1996 | 2008 | First Degree Reckless Murder-Shaken Baby |
| Elizabeth Ehlert | IL | 1991 | 2004 | Murder |
| Ella Mae Ellison | MA | 1974 | 1978 | First Degree Murder |
| Heidi Fleiss ²⁹¹ | CA | 1994 | 1996 | Pandering |
| Geneva France | Fed OH | 2006 | 2007 | Drug Related |
| Janie Lee Garcia | Fed NY | 1989 | 1990 | Extortion |
| Cynthia George | OH | 2005 | 2007 | Murder |
| Araceli Cremata Granda | Fed FL | 1976 | 1978 | Customs Violation |

²⁹¹ Heidi Fleiss' *state court* pandering conviction was overturned on appeal, and she was not retried. In a separate prosecution, she was convicted in *federal court* of tax evasion.

| Name | State²⁹⁰ | Year Convicted | Year Cleared/ Exonerated | Offense |
|---------------------------|----------------------------|-----------------------|-------------------------------------|-----------------------------|
| Paula Gray | IL | 1978 | 2002 | Murder, Rape, and Robbery |
| Jennifer Hall | MO | 2001 | 2005 | Arson |
| Phyllis Elaine Hall | FL | 1985 | 1987 | First Degree Murder |
| Tanya A. Harden | WV | 2007 | 2009 | Murder |
| Emily Hardy | TX | 2006 | 2009 | Obstruction in Public Place |
| Debbie Hennen | WV | 2010 | 2010 | Fraud |
| Alison Hicks | AZ | 2001 | 2003 | Felony Child Abuse |
| Christina Hill | MA | 1990 | 1991 | Second Degree Murder |
| Crystal Holliday | Fed PA | 2003 | 2004 | Fraud |
| Rosemarie Jackowski | VT | 2003 | 2006 | Vehicle Offenses |
| Ericka Jackson | MI | 2005 | 2008 | Patient Abuse |
| Sonia Jacobs | FL | 1976 | 1992 | Murder |
| Betty Jarvis | WV | 2006 | 2008 | Obstruction of Justice |
| Rachel Jernigan | Fed AZ | 2001 | 2008 | Bank Robbery |
| Dayle Lynn Johnson | ME | 2005 | 2009 | Drug Related |
| Emma Jo Johnson | NV | 1951 | 1954 | Second Degree Murder |
| Malenne Joseph | FL | 2010 | 2010 | Criminal Mischief (Felony) |
| Gloria Goodwin Killian | CA | 1986 | 2002 | Murder |
| Shirley Kinge | NY | 1990 | 1992 | Burglary and Arson |
| Janine Kirby | Fed Mil | 1983 | 1994 | Manslaughter |
| Laura Kriho | CO | 1997 | 1999 | Criminal Contempt |
| Kriseya Labatisda | NV | 1993 | 2000 | Murder |
| Beth LaBatte | WI | 1996 | 2006 | Murder |
| Marie LaPinta | NY | 1983 | 2005 | Murder |
| Virginia LeFever (Castle) | OH | 1990 | 2010 | Murder |

| Name | State²⁹⁰ | Year Convicted | Year Cleared/ Exonerated | Offense |
|-------------------------------------|----------------------------|-----------------------|-------------------------------------|------------------------------|
| Elizabeth C. Lester ²⁹² | NJ | 1935 & 1936 | 1951 | Forgery |
| Debbie Loveless | TX | 1989 | 1994 | Murder |
| Margaret Lucas | IL | 1909 | 1909 | First Degree Murder |
| Donna Matney | CA | 2007 | 2009 | Fraud |
| Christina Carole Maycock | WY | 2010 | 2011 | Fraud |
| Tamara McAnally | CA | 2004 | 2011 | Fraud |
| Kathryn Messenger | FL | 1951 | 1951 | Theft |
| Kelly Michaels | NJ | 1988 | 1993 | Child Abuse |
| Dorothy W. Moerer | KS | 1955 | 1956 | Forgery |
| Beverly Monroe | VA | 1992 | 2002 | Murder |
| Susie Mowbray | TX | 1988 | 1998 | Murder |
| Sandy Murphy | NV | 2000 | 2004 | Murder |
| LaCresha Murray (Juvenile) | TX | 1996 | 2001 | Murder |
| Laverne Pavlinac | OR | 1991 | 1995 | Murder |
| Linda C. Peterson | Fed GA | 2008 | 2008 | Perjury and False Statements |
| Tabitha Pollock (Hershberger) | IL | 1996 | 2002 | Murder |
| Loretta Ratzlaf | Fed OR | 1991 | 1994 | Money Laundering |
| Julie Rea (Harper) | IL | 2002 | 2006 | Murder |
| Ellen Reasonover | MO | 1983 | 1999 | First Degree Murder |
| Paula M. Reeves | OK | 2005 | 2010 | Drug Related |
| Pamela Sue Reser | OR | 1999 | 2002 | Child Abuse |
| Asya Richardson | Fed PA | 2008 | 2011 | Money Laundering |
| Daughter of Laura Rogers (Juvenile) | MD | 2003 | 2004 | False Police Report |
| Doris Mangeri Salazar | Fed FL | 2005 | 2007 | Drug Related |
| Judith Scruggs | CT | 2003 | 2006 | Child Endangerment |

²⁹² Elizabeth Lester was twice wrongly convicted of forgery, first in November 1935, and then in June 1936. She was pardoned in May 1951 by NJ Governor Driscoll after the actual culprits confessed.

| Name | State ²⁹⁰ | Year Convicted | Year Cleared/ Exonerated | Offense |
|-----------------------------|----------------------|----------------|-----------------------------|-------------------------------|
| Tahira Shakur | MI | 2005 | 2008 | Patient Abuse |
| Grace M. Smith | VA | 1945 | 1946 | First Degree Murder |
| Nancy Smith ²⁹³ | OH | 1994 | 2009 | Rape |
| Cynthia Sommer | CA | 2007 | 2008 | Murder |
| Patricia Stallings | MO | 1991 | 1991 | First Degree Murder |
| Maude Cushing Storick | MI | 1923 | 1949 | First Degree Murder |
| Reshenda Strickland | WA | 2004 | 2004 | Shoplifting |
| Kimberly Sykes | MI | 2002 | 2004 | Theft |
| Georgia Thompson | Fed WI | 2006 | 2007 | Fraud |
| Iva Toguri d'Aquino | Fed CA | 1949 | 1977 | Treason |
| Ginger Twitchell | MA | 1990 | 1993 | Involuntary Manslaughter |
| Betty Tyson | NY | 1973 | 1998 | Murder |
| Tevya Urquhart | MI | 2002 | 2004 | Theft |
| Cynthia Geneva Walker | OR | | 2010 | Criminal Mistreatment |
| Merla Walpole | CA | 1974 | 1976 | Second Degree Murder |
| Melonie Ware | GA | 2004 | 2009 | Felony Murder/ Shaken Baby |
| Angela Weeks | FL | | 2002 | Child Neglect |
| Michelle Wentworth | Fed NY | 1995 | 2004 | Extortion |
| Michelle Wesson | FL | 2003 | 2005 | Child Neglect |
| Jennifer Wilcox (Hendricks) | OH | 1985 | 1996 | Child sex abuse |
| Carmecita Williams | IL | | 2010 | Official Misconduct |
| Sheila Wilson | KY | 1979 | 1983 | First Degree Murder |
| Joy Winston | NV | 2008 | 2009 | Burglary |

²⁹³ In January 2011, Nancy Smith's exoneration was overturned by the Ohio Supreme Court on technical grounds having nothing to do with innocence or guilt, as the Ohio Supreme Court ruled that the trial court did not follow the correct procedure in exonerating her. Nancy remains free while the parties work to resolve the case.

APPENDIX 2

CURRENTLY KNOWN FEMALE WRONGFUL
CONVICTIONS IN THE UNITED STATESMASS PROSECUTIONS²⁹⁴

| Name | State | Year Convicted | Year Cleared/ Exonerated | Offense |
|-------------------------|-------|----------------|-----------------------------|--|
| Minnie Harris | MT | 1918 | 2006 | Sedition |
| Florence Miller | MT | 1918 | 2006 | Sedition |
| Janet Smith | MT | 1918 | 2006 | Sedition |
| Debbie McCuan | CA | 1983 | 1996 | Child Abuse |
| Brenda Kniffen | CA | 1984 | 1996 | Child Abuse |
| Grace Dill | CA | 1985 | 1990 | Child Abuse |
| Colleen Forsythe | CA | 1985 | 1990 | Child Abuse |
| Gina Miller | CA | 1985 | 1990 | Child Abuse |
| Marcella Pitts | CA | 1985 | 1990 | Child Abuse |
| Kathy Gonzalez | NE | 1990 | 2009 | Second Degree Murder-Aiding and Abetting |
| Debra Shelden | NE | 1990 | 2009 | Second Degree Murder-Aiding and Abetting |
| Ada JoAnn Taylor | NE | 1990 | 2009 | Second Degree Murder |
| Dawn Wilson | NC | 1993 | 1995 | Child Abuse |
| Idella Everett | WA | 1994 | 1998 | Child Abuse |
| Doris Green | WA | 1994 | 1999 | Child Abuse |
| Linda Miller | WA | 1995 | 1998 | Child Abuse |
| Cherie Town | WA | 1995 | 1999 | Child Abuse |
| Marilyn Joyce Cooper | TX | 2000 | 2003 | Drug Abuse |
| Vickie Fry | TX | 2000 | 2003 | Drug Related |
| Eliga Kelly Sr. | TX | 2000 | 2003 | Drug Related |

²⁹⁴ See *supra* note 68.

| Name | State | Year Convicted | Year Cleared/ Exonerated | Offense |
|------------------------|--------------|-----------------------|-------------------------------------|----------------|
| Denise Kelly | TX | 2000 | 2003 | Drug Related |
| Laura Ann Mata | TX | 2000 | 2003 | Drug Related |
| Yolanda Yvonne Smith | TX | 2000 | 2003 | Drug Related |
| Ramona Lynn Strickland | TX | 2000 | 2003 | Drug Related |
| Kizzie Rashwan White | TX | 1999 | 2003 | Drug Related |
| Alberta Stell Williams | TX | 2000 | 2003 | Drug Related |
| Michelle Williams | TX | 2000 | 2003 | Drug Related |