

PUBLIC PERCEPTION OF WRONGFUL CONVICTION:
SUPPORT FOR COMPENSATION AND APOLOGIES

*Kimberley A. Clow**
*Isabella M. Blandisi***
*Rose Ricciardelli****
*Regina A. Schuller*****

ABSTRACT¹

With over 280 post-conviction DNA exonerations through Innocence Projects in the United States alone and half a dozen Commissions of Inquiry into wrongful convictions in Canada, the public may be more aware of wrongful convictions than ever before. Recent research, however, has documented the paucity of resources available post-conviction for individuals who have been wrongly convicted, the limited and financial focus of current compensation statutes, the many difficulties in obtaining compensation, and the desire of many individuals who have been wrongly convicted to receive an apology for the injustices they have suffered. To investigate public perception of compensation, face-to-face interviews were conducted with fifteen community members. Findings suggest that all interviewees believed that individuals who have been wrongly convicted should receive compensation and apologies. Many felt these individuals needed financial compensation in order to start over, and that they deserved compensation because of the time they had lost while wrongly incarcerated and the damage done to their reputations. Interviewees also felt that public apologies would positively impact

* Faculty of Social Science and Humanities, University of Ontario Institute of Technology, 55 Bond St. East., Oshawa, ON, L1G 0A5.

** Faculty of Social Science and Humanities, University of Ontario Institute of Technology, 55 Bond St. East., Oshawa, ON, L1G 0A5.

*** Faculty of Liberal Arts & Professional Studies, Department of Sociology, York University, 2152 Vari Hall—4700 Keele St., Toronto, ON, M3J 1P3.

**** Faculty of Health, Department of Psychology, York University, 242 Behavioural Science Building—4700 Keele St., Toronto, ON, M3J 1P3.

¹ This research was supported by a research grant from the Social Sciences and Humanities Research Council of Canada to the first and last authors.

the Criminal Justice System, as well as benefit the wider community. Interviewees also mentioned a number of nonfinancial forms of compensation they felt wrongly convicted individuals should receive, including employment training and assistance, housing assistance, and other services. Although most interviewees reported not knowing how much money individuals received in compensation, they felt the dollar amount should be related to particular factors, such as the length of time wrongly incarcerated, character damage, and the impact on their health. Although these findings appear positive, it is noteworthy that forty percent of the sample brought up issues of the judicially released guilty during the interviews, perhaps suggesting that they felt wrongful conviction was of equal (or lower) importance as the guilty who got away.

I. INTRODUCTION: PUBLIC PERCEPTION OF WRONGFUL CONVICTION: SUPPORT FOR COMPENSATION AND APOLOGIES

As of January 10, 2012, the Innocence Project had exonerated 289 American citizens through post-conviction DNA testing.² Samuel Gross, Kristen Jacoby, Daniel Matheson, Nicholas Montgomery, and Sujata Patel found 196 wrongful conviction cases in the United States from 1989 to 2003 where evidence other than DNA was used to declare a defendant not guilty of a crime for which he or she had been convicted.³ In Canada, the Association in Defence of the Wrongly Convicted (“AIDWYC”) has played a role in the exoneration of eighteen Canadians.⁴ Anthony Doob, however, surveyed defense counsel in the province of Ontario and found that nearly half of the sample (n=94; 46.3%) believed they had represented at least one client who was factually innocent but convicted to serve at least one year in prison.⁵ Although the exact number of incarcerated innocents is unknown,⁶ a conservative estimate of 0.5% of all convictions being wrongful convictions would translate into approximately 7,500 wrongful convictions in the

² *Innocence Project Case Profiles*, INNOCENCE PROJECT, <http://www.innocenceproject.org/know/> (last visited Mar. 23, 2012).

³ Samuel R. Gross et al., *Exonerations in the United States: 1989 Through 2003*, 95 J. CRIM. L. & CRIMINOLOGY 523, 523–24 (2005).

⁴ *AIDWYC Exonerations: Individual Cases*, AIDWYC, <http://www.aidwyc.org/Exonerations.html> (last visited Mar. 23, 2012).

⁵ Anthony N. Doob, *An Examination of the Views of Defence Counsel of Wrongful Convictions*, CENTRE OF CRIMINOLOGY, 1 (1997).

⁶ See, e.g., Tony G. Poveda, Note, *Estimating Wrongful Convictions*, 18 JUST. Q. 689, 689 (2001); Stephen P. Savage et al., *Putting Wrongs to Right: Campaigns Against Miscarriages of Justice*, 7 CRIMINOLOGY & CRIM. JUST. 83, 84 (2007).

United States in the year 2000 for index crimes alone⁷ or roughly 1,000 innocent people incarcerated in the United Kingdom each year.⁸ Innocence organizations exist internationally (e.g., Germany, Australia, Japan)⁹ as there are thousands—if not tens of thousands—of individuals who have been wrongly convicted worldwide.

Saundra Westervelt and Kimberly Cook argued that victims of wrongful conviction are often re-victimized post exoneration because the government fails to provide them with meaningful assistance (e.g., employment, housing, etc.).¹⁰ In fact, many individuals who have been wrongly convicted do not receive anything from the government upon their release; particularly given that some do not even qualify for assistance provided to those rightly convicted and released on parole.¹¹ Some individuals who have been wrongly convicted are entirely dependent upon their families and friends (and, in some cases, the advocates who fought for their release) for basic necessities, such as food and shelter.¹² As one American exoneree explained, “[t]he judge quashes your conviction and you feel elated, but then you emerge with no money, no accommodation, no health care, no counselling, [sic] nothing to equip you for the place you have been away from for so long.”¹³ Jennifer Chunias and Yael Aufgang argued that wrongly convicted individuals should be provided with meaningful services upon release as it: (1) repays them for the nonmonetary injuries they have experienced as a result of their wrongful incarceration (e.g., lost income, broken social ties); and (2) provides needed assistance (e.g., employment

⁷ C. Ronald Huff, *Wrongful Conviction and Public Policy: The American Society of Criminology 2001 Presidential Address*, 40 CRIMINOLOGY 1, 2 (2002).

⁸ Adrian T. Grounds, *Understanding the Effects of Wrongful Imprisonment*, 32 CRIME AND JUSTICE: A REVIEW OF RESEARCH 1, 10 (2005).

⁹ See *About IIPPI*, INNOCENT IN PRISON PROJECT INTERNATIONAL, <http://www.iippi.org/> (last visited Mar. 23, 2012); *Innocence Project WA*, THE INNOCENCE PROJECT WA, <http://www.innocenceprojectwa.org.au/> (last visited Mar. 23, 2012); *Our Objectives*, JAPAN INNOCENCE & DEATH PENALTY RESEARCH CTR., <http://www.jiadep.org/Objectives.html> (last visited Mar. 23, 2012).

¹⁰ See Saundra D. Westervelt & Kimberly J. Cook, *Framing Innocents: The Wrongly Convicted as Victims of State Harm*, 53 CRIME L. & SOC. CHANGE 259, 265 (2010).

¹¹ *Id.*

¹² Janet Roberts & Elizabeth Stanton, *A Long Road Back After Exoneration, and Justice is Slow to Make Amends*, N.Y. TIMES, Nov. 25, 2007, <http://www.nytimes.com/2007/11/25/us/25dna.html?pagewanted=all>; see Heather Weigand, *Rebuilding a Life: The Wrongfully Convicted and Exonerated*, 18 PUB. INT. L.J. 427, 429 (2009); see also Westervelt & Cook, *supra* note 10, at 265–73 (discussing the continuing harm that exonerees experience after arrest, conviction, and exoneration).

¹³ Steve Boggan, *Down and Out*, INNOCENT.ORG (July 7, 2000), <http://www.innocent.org.uk/misc/downandout.html>.

training, counseling) to help with societal reintegration.¹⁴ Furthermore, their false conviction (i.e., criminal record) is not automatically expunged,¹⁵ causing these innocent individuals to be treated like actual offenders when they seek employment or try to travel outside of their country's borders.

Peter Shore suggested that financial compensation was required if a wrongly convicted individual was to attain the position he or she would have held had they not been victimized by the criminal justice system (taking into account the loss of both past and future earnings, as well as legal costs).¹⁶ In addition, providing wrongly convicted individuals with monetary compensation improves their ability to re-enter society.¹⁷ Although monetary compensation does help, researchers and advocates for the wrongly convicted have pointed out that money alone does not sufficiently assist these individuals in their post-incarceration struggles.¹⁸ In particular, researchers have claimed that current compensation practices are insufficient.¹⁹

As of May 2011, barely half of the states in the USA (n=27) had a compensation statute.²⁰ Moreover, in states with compensation statutes, the application process was often legally complex, costly, and involved a considerable time delay (often more than two years post-incarceration) before compensation was received.²¹ Furthermore, American compensation statutes contain many disqualifications and limitations that discriminate against particular wrongly convicted individuals, such as those who pled guilty (possibly to a lesser offense in fear that they would be wrongly convicted of a more serious crime) or falsely confessed.²²

¹⁴ 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 (2008).

¹⁵ See, e.g., Sean Macdonald, *Erin Walsh Exonerated After 33 Years*, AIDWYC J., Spring 2008, at 3 (reporting that the wrongfully accused received a stay as opposed to an acquittal).

¹⁶ Peter Shore, *Resettlement Needs of the Wrongfully Convicted*, 12 J. FORENSIC PSYCHIATRY 487, 490 (2001).

¹⁷ Nick Taylor, *Compensating the Wrongfully Convicted*, 67 J. CRIM. L. 220, 233 (2003).

¹⁸ *Id.*; MAKING UP FOR LOST TIME: WHAT THE WRONGFULLY CONVICTED ENDURE AND HOW TO PROVIDE FAIR COMPENSATION, INNOCENCE PROJECT, 17 (2009) [hereinafter MAKING UP FOR LOST TIME], http://www.innocenceproject.org/docs/Innocence_Project_Compensation_Report.pdf; see Sandra D. Westervelt & Kimberly J. Cook, *Coping With Innocence After Death Row*, CONTEXTS, Fall 2008, at 32, 36.

¹⁹ See Robert J. Norris, *Assessing Compensation Statutes for the Wrongly Convicted*, 23 CRIM. JUST. POL'Y REV. 1 (Forthcoming 2012, Published Online 2011); see Weigand, *supra* note 12, at 429–30; Westervelt & Cook, *supra* note 10, at 267–68.

²⁰ See Norris, *supra* note 19, at 16.

²¹ See *id.* at 17; MAKING UP FOR LOST TIME, *supra* note 18, at 17.

²² Norris, *supra* note 19, at 17; MAKING UP FOR LOST TIME, *supra* note 18, at 18.

Similar restrictions to compensation seem to apply in Canada as well, where Kyle Unger was denied compensation for his wrongful conviction a few years ago and the provincial Justice Minister of Manitoba said it was because he falsely confessed.²³ Thus, it appears that prejudice influences compensation statutes.²⁴

Research also suggests that only a small proportion of wrongly convicted individuals receive any form of compensation from the government. For example, by 2009, only sixty percent of the first 200 Innocence Project DNA exonerees had received any form of compensation from the government.²⁵ Moreover, of the eighteen American death row exonerees interviewed by Sandra Westervelt and Kimberly Cook, only one had received compensation for his/her wrongful conviction at the time of the interviews.²⁶ Jennifer Curtiss interviewed fifty-five wrongly convicted individuals and found that forty-seven had applied for compensation: ten were denied and twenty were still awaiting a decision by the end of the study.²⁷

In cases where wrongly convicted individuals do receive compensation, it is usually financial compensation only.²⁸ Money, however, fails to address many issues faced by exonerees, such as the large gap in their job experience, poor job skills, inexperience with modern technology, anxiety or depressive disorders, broken social ties, and health problems.²⁹ Although money may assist with some of these obstacles of reentry, wrongly convicted individuals need financial assistance immediately upon release and they often require additional services as well.³⁰

For individuals who have been wrongly convicted, compensation

²³ *Unger Won't Get Compensation: Minister*, CBC NEWS (Oct. 23, 2009), <http://www.cbc.ca/news/canada/manitoba/story/2009/10/23/mb-compensation-unger-chomiak-manitoba.html>.

²⁴ Kimberley A. Clow et al., *Stigma-By-Association: Prejudicial Effects of the Prison Experience for Offenders and Exonerees*, in *THE PSYCHOLOGY OF PREJUDICE: CONTEMPORARY ISSUES* (forthcoming 2012) (manuscript at 26) (on file with Albany Law Review).

²⁵ MAKING UP FOR LOST TIME, *supra* note 18, at 7; *see also* Weigand, *supra* note 12, at 429 (finding that between 1989 and 2007 approximately sixty percent of exonerees received some form of compensation).

²⁶ Westervelt & Cook, *supra* note 18, at 36.

²⁷ Jennifer J. Curtiss, *Reentry Challenges Faced by the Wrongfully Convicted* 44, 45 (Sept. 2007) (unpublished M.S. thesis, Northern Arizona University), *available at* http://www.jjay.cuny.edu/Wrongly_Convicted_Thesis_10.5.07.pdf.

²⁸ *See* Norris, *supra* note 19, at 16–17; MAKING UP FOR LOST TIME, *supra* note 18, at 15–16.

²⁹ Clow et al., *supra* note 24; *see* Westervelt & Cook, *supra* note 18, at 36; Curtiss, *supra* note 27, at 6–9. *See generally* Adrian Grounds, *Psychological Consequences of Wrongful Conviction and Imprisonment*, 46 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 165 (2004) (discussing the psychological trauma that the wrongly convicted and their families face upon being released from prison).

³⁰ *See* MAKING UP FOR LOST TIME, *supra* note 18, at 17.

may be perceived as symbolic recognition of the wrong they have endured.³¹ Many wrongly convicted individuals acknowledge that money will not restore their lives to its pre-conviction state, but they see compensation as a source of closure, whereby the justice system assumes some level of responsibility for what happened to them.³²

Another potential source of closure for wrongly convicted individuals is through apologies; although, apologies occur less frequently than compensation.³³ In fact, rather than apologizing, some government officials have openly spoken against an exoneree's innocence. For example, the prosecutor for Kirk Bloodsworth's case (the first man exonerated from death row based on post-conviction DNA testing) chose to say: "[a]lthough we're releasing Mr. Bloodsworth, we're not prepared to say he's innocent. However if we had had this [DNA] evidence in 1984, we wouldn't have prosecuted him."³⁴ Thus, rather than apologizing, the actions of some government officials appear to perpetuate perceptions of the erroneous conviction, further victimizing wrongly convicted individuals.

The decision not to apologize is unfortunate, as apologies can be beneficial to wrongly convicted individuals, by facilitating the healing process through forgiveness, restored dignity, and averting feelings of vengeance.³⁵ For example, exoneree Alan Newton noted that apologies mean "somebody actually cares on the other side. . . . [A]nger will eat you up inside, but [an] apology restores my faith in individuals."³⁶ Without an apology, wrongly convicted individuals are not formally "de-labelled," creating a greater struggle for them to reshape their identities as innocent people.³⁷ In addition, the reluctance of the justice system to issue an apology ensures that society remains uninformed about the reality of wrongful conviction. As another wrongly convicted individual explained, an apology "would formalize people knowing that mistakes were made, it would

³¹ Kathryn Campbell & Myriam Denov, *The Burden of Innocence: Coping with a Wrongful Imprisonment*, 46 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 139, 155–56 (2004).

³² *Id.*

³³ See Stephen P. Savage, *Restoring Justice: Campaigns Against Miscarriages of Justice and the Restorative Justice Process*, 4 EUR. J. CRIMINOLOGY 195, 210 (2007); Westervelt & Cook, *supra* note 18, at 35–36; Abigail Penzell, Note, *Apology in the Context of Wrongful Conviction: Why the System Should Say It's Sorry*, 9 CARDOZO J. CONFLICT RESOL. 145, 153–56 (2007).

³⁴ Westervelt & Cook, *supra* note 10, at 273.

³⁵ Penzell, *supra* note 33, at 156.

³⁶ *Id.* at 158.

³⁷ Westervelt & Cook, *supra* note 18, at 35.

make people more aware that this can happen to them, and that it has happened, and maybe it'll open up some of the reasons that has happened. As long as people deny there's a problem, nothing gets dealt with."³⁸

II. PUBLIC PERCEPTION

It is possible that public support for wrongly convicted individuals to receive both compensation and an apology would encourage the government to be more forthcoming with these essential provisions. Thus, greater knowledge regarding public perceptions of wrongful conviction seems important. Over a decade ago, the Angus Reid Group conducted a national survey in Canada that included two forced-choice questions regarding wrongful conviction.³⁹ Prior to asking these questions, they reminded respondents of some highly publicized Canadian exonerees (Donald Marshall Jr. and Guy Paul Morin).⁴⁰ Afterward, people were asked to choose if "these examples show that the justice system should increase its efforts to deal with people who claim they have been wrongly convicted," or that "wrongful convictions happen so rarely that the justice system should carry on the way it always has when people claim they have been wrongly convicted."⁴¹ Sixty-five percent of respondents chose that the government should increase its efforts, whereas only thirty percent responded that current responses to wrongful conviction were sufficient (the remaining respondents chose not to answer the question).⁴² Even stronger support was found for the second question, where ninety percent of Canadians surveyed felt that "a wrongful conviction is the justice system's fault, therefore, these [exonerees] should receive financial compensation from governments for what happened to them."⁴³ Only eight percent selected the response option that "while it is unfortunate that they spent time in prison for crimes they did not commit, they are not entitled to financial compensation from governments."⁴⁴

More recent survey research has targeted undergraduates and has found that a convenience sample of university students was also

³⁸ Campbell & Denov, *supra* note 31, at 156.

³⁹ Angus Reid Group, *Public Perspectives on Wrongful Convictions*, ANGUS REID REP., July–Aug. 1995, at 75.

⁴⁰ *Id.* at 75–76.

⁴¹ *Id.* at 76.

⁴² *Id.*

⁴³ *Id.* at 77.

⁴⁴ *Id.*

generally sympathetic toward exonerees and supportive of improving conditions for wrongly convicted individuals.⁴⁵ For example, James Bell and Kimberley Clow found that undergraduate students generally agreed that wrongful convictions were a problem in Canada and they reported having little confidence in the government's ability to review cases of wrongful conviction.⁴⁶ Moreover, respondents generally felt that: (1) wrongful conviction applicants required an impartial third-party to review their cases instead of the government; (2) the government was not capable of reviewing these cases in a nonbiased manner; and (3) the Canadian criminal justice system wanted to avoid taking responsibility for wrongful convictions, with these findings more pronounced among women than men.⁴⁷ Thus, the limited existing survey research seems to suggest that the public may be relatively supportive of individuals who have been wrongly convicted.⁴⁸

Interviews with exonerees, however, have resulted in numerous reports of prejudice and stigma.⁴⁹ For example, Sabrina Butler (an American death row exoneree) was filling out the paperwork to begin working at a grocery store when an assistant manager passed by, recognized her, and immediately terminated her employment.⁵⁰ Like Butler, Robert Baltovich (a Canadian exoneree) found employment after his release from prison, but he was asked to defend his right to work at the establishment to a panel of senior management when he was recognized by a co-worker.⁵¹

There are a number of different possible reasons for why the public opinion survey research may differ from reported exoneree experiences. It is possible that a minority of individuals hold negative attitudes toward wrongly convicted individuals, but interactions with these prejudiced individuals are more negative and memorable for exonerees in comparison to any neutral or positive interactions they experience with others in society. Alternatively, many people may hold prejudicial attitudes toward

⁴⁵ James G. Bell & Kimberley A. Clow, *Student Attitudes Toward the Post-Conviction Review Process in Canada*, 7 J. INST. JUST. & INT'L STUD. 90, 99–100 (2007); see Rosemary Ricciardelli et al., *Student Attitudes Toward Wrongful Conviction*, 51 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 411, 419–22 (2009).

⁴⁶ See Bell & Clow, *supra* note 45, at 99–101.

⁴⁷ *Id.* at 100–01.

⁴⁸ See Angus Reid Group, *supra* note 39, at 76–77; Bell & Clow, *supra* note 45, at 99–101; Ricciardelli et al., *supra* note 45, at 420–21.

⁴⁹ Westervelt & Cook, *supra* note 18, at 35; Roberts & Stanton, *supra* note 12.

⁵⁰ Westervelt & Cook, *supra* note 10, at 267.

⁵¹ See Kimberley A. Clow et al., *Life After Wrongful Conviction*, in CONVICTION OF THE INNOCENT: LESSONS FROM PSYCHOLOGICAL RESEARCH 327, 331 (Brian L. Cutler ed., 2012).

wrongly convicted individuals but they might consciously refrain from prejudicial responses when completing public opinion surveys. Further research on public perception of wrongful conviction is necessary to address these seemingly discrepant findings, to assist exoneree reentry, and to inform future policy pertaining to the lives of wrongly convicted individuals post-incarceration.

III. CURRENT RESEARCH

The current research interviewed community members in order to investigate whether the seemingly positive responses in previous public perception research are corroborated by additional methodologies. If less positive views result from the interviews with community members, then previous research may have been influenced by survey methodology or reliance upon university students. If similarly positive views are found when interviewing community members, then this is further evidence that there is positive public support to assist individuals who have been wrongly convicted post-incarceration. In addition, this paper focuses specifically on attitudes regarding compensation and apologies, which are topics that have received scant research attention.

IV. METHOD

A convenience sample⁵² of fifteen (eight men and seven women) community members that visited various coffee shops in the downtown area of a suburban city in South Central Ontario were included in the study. Different coffee establishments throughout the downtown area were canvassed for possible research participants to increase the range of clientele. These establishments included more affordable (e.g., Tim Horton's) and expensive (e.g., Starbucks) franchises, as well as independent stores (e.g., Joe Bean's). Ages ranged from thirty-two to sixty-nine ($M=49$, $SD=10.5$). Eleven had post-secondary education (five interviewees had university degrees, two of whom had completed post graduate degrees, and five others had college diplomas). All interviewees lived throughout the Greater Toronto Area (GTA).

The data for this paper comes from a larger face-to-face interview

⁵² CHARLES STANGOR, RESEARCH METHODS FOR THE BEHAVIORAL SCIENCES 112 (2d ed. 2004) (discussing convenience sampling as a research method); *see also* FREDERICK J. GRAVETTER & LORI-ANN B. FORZANO, RESEARCH METHODS FOR THE BEHAVIORAL SCIENCES 141 (3d ed. 2009) (discussing the strengths and weaknesses of convenience sampling).

study investigating public perceptions of wrongful conviction. A twenty-item interview guide was constructed in light of past research, to explore how community members felt about wrongful convictions.⁵³ Interview questions ranged from interviewees' immediate reactions to the phrase "wrongful conviction" to their beliefs about why wrongful convictions occur. This paper focuses on the data from one subsection of this interview guide, which investigated perceptions of compensation and apologies. Previous research has described the struggles wrongly convicted individuals experience post-conviction, as well as the obstacles they face with reentry.⁵⁴ To contribute to this literature, interviewees were asked the following questions: "Do you think the wrongly convicted should be financially compensated?"; "Do you think they should be compensated in any other way?"; "Whose responsibility do you think it is to compensate these individuals?"; "What percentage of the wrongly convicted do you think are compensated?"; "How much do you think they typically receive?"; "What do you think should be considered in determining how much they receive?"; "Do you think they should receive an apology?"; and "Who do you think should offer this apology?"

Prior to visiting the different establishments, the interviewer requested and obtained permission from the manager/owner to conduct the research at their business. In addition, upon arrival at each location, the interviewer informed the staff that permission had been granted to conduct the interviews and that interviews would be occurring that day. Interviews were conducted from July 11, 2011 to August 3, 2011. Only lone coffee shop patrons were approached for participation. If individuals were interested in participating but could not do so immediately, arrangements were made to conduct the interview at an alternative time and location, if

⁵³ See, e.g., BARRIE ANDERSON & DAWN ANDERSON, *MANUFACTURING GUILT: WRONGFUL CONVICTIONS IN CANADA* (2d prt. 1999); C. RONALD HUFF ET AL., *CONVICTED BUT INNOCENT: WRONGFUL CONVICTION AND PUBLIC POLICY* (1996); Campbell & Denov, *supra* note 31; Penzell, *supra* note 33; Savage, *supra* note 33; Shore, *supra* note 16; Taylor, *supra* note 17; Weigand, *supra* note 12; Westervelt & Cook, *supra* note 18.

⁵⁴ Campbell & Denov, *supra* note 31, at 154–56 (describing the post-release difficulties faces by exonerees); Penzell, *supra* note 33, at 156 ("Apology can positively affect exonerees' reintegration into society after their release from prison."); Savage, *supra* note 33, at 208–10 (describing the value of an apology after an exoneree is released from prison); Shore, *supra* note 16, at 489 (describing various obstacles faced by exonerees once they are released from prison); Weigand, *supra* note 12, at 435–36 (calling for a higher level of reentry services for the wrongfully convicted); Westervelt & Cook, *supra* note 18, at 35 (describing the considerable stigma faced by exonerees once they are released from prison). See generally ANDERSON & ANDERSON, *supra* note 53 (outlining a series of cases in which people were wrongly convicted).

necessary. If an interviewee agreed to be interviewed, informed consent was obtained. The interviewer followed the interview guide, although the interviewer did ask additional questions or rephrase questions when necessary for clarification and additional information. A digital voice recorder was used to audio-record the interviews. On average, interviews lasted twenty to forty-five minutes and, once completed, interviewees were thanked for their participation, debriefed, and given a small honorarium for their time (ten dollars).

The interviews were transcribed and analyzed according to the themes that emerged from interviewee responses. Emergent themes were constituted by multiple respondents expressing a similar perspective or attitude. These larger themes were then coded into more specific subcategories, again based on interviewees' responses. Afterwards, a second coder read through all of the transcripts to verify all themes and to make sure that nothing was overlooked. Any discrepancies were resolved through discussion. Agreement was achieved when both coders supported the resulting list of categories and subcategories regarding interviewees' responses concerning compensation and apologies. Although this research utilized a qualitative approach, numbers have been provided for more quantitatively-minded readers.

Pseudonyms were used to protect the anonymity and confidentiality of our research participants. Quotes have been edited to improve comprehensibility and flow. In particular, edits were made to improve grammar and reduce speech fillers and utterances.

V. RESULTS & DISCUSSION

We begin with a brief discussion of the context of the larger interview from which the data are derived. Next, interviewee responses to compensation and apologies have been organized into four groups: (1) should wrongly convicted individuals be compensated; (2) perception of compensation being offered; (3) factors that should influence compensation; and (4) should wrongly convicted individuals receive an apology. Analyses are followed by an interpretation of the findings in relation to previous work.

Although the interviewee responses were generally positive and sympathetic toward wrongly convicted individuals, few interviewees mentioned compensation or apologies without being asked directly for their views on these topics. In addition, interviewees generally

felt that compensating (n=12) and apologizing (n=7) to wrongly convicted individuals was the government's responsibility. In other words, it might be easier to be positive about a topic for which you do not feel personally responsible. Interviewees were not specifically asked about their own behavior (e.g., would you hire an exoneree), which future research may wish to explore.

Surprisingly, through the course of the larger interviews on perceptions of wrongful conviction, six interviewees mentioned their concerns with the guilty who were not convicted. Specific high profile cases, such as Karla Homolka⁵⁵ and Casey Anthony,⁵⁶ were mentioned. For instance, Ethan commented on Karla Homolka. He seemed upset that the police

paid her for a confession against him [Paul Bernardo]. A plea bargain. When she had as much to do with the crime as he did. She's sitting down in the Caribbean sipping pina coladas [now] and he's sitting in a prison cell watching the Price is Right. So, you know what I'm saying?⁵⁷

Specifically, interviewees appeared dissatisfied with any plea-bargaining (n=5), felt that hardened criminals only received "soft" punishments (n=3), and the existence of gangs and organized crime upset them (n=3)—despite the interviewer's best attempts to keep the interview focused on wrongful conviction. In fact, Simon went as far as to claim that the criminal justice system had a "bigger problem than wrongful convictions" and that problem was the judicially-released guilty. He said:

Even in Ontario here, there was a case where they let thirty-seven Hells Angels free because they didn't get to court soon enough or they didn't get convicted soon enough. So they were all let free and they had serious criminal charges.

⁵⁵ Paul Bernardo kidnapped, raped, and murdered multiple Ontario teenagers. *Key Events in the Bernardo/Homolka Case*, CBC NEWS, <http://www.cbc.ca/news/canada/story/2010/06/16/f-bernarado-homolka-timeline.html> (last updated June 17, 2010). Karla Homolka, Paul's wife, convinced prosecutors that she was more of a victim of her husband than a willing and active co-conspirator. *Id.* She arranged a deal with prosecutors, pleading to manslaughter. *Id.* Later videotapes of the crimes demonstrated her more active and premeditated involvement. *Id.*

⁵⁶ Casey Anthony appeared in the American media for months. She claimed that her daughter, Caylee, was kidnapped by a babysitter, but her story changed many times (eventually accusing her father of murder) and it appears that Caylee really drowned in the family's swimming pool. Christina Ng & Janice McDonald, *Casey Anthony Reveals New Theory for Caylee's Death*, ABC NEWS (Jan. 11, 2012), <http://abcnews.go.com/US/casey-anthony-reveals-theory-caylees-death-psychological-evaluations/story?id=15340391#.TyHH1qVSQUI>. Some people suspect that Casey drowned her own daughter, even though she was acquitted of her daughter's murder. *Id.*

⁵⁷ Interview with Ethan, Study Participant, in Oshawa, Can. (2011).

That's what I mean, that's the opposite [of wrongful conviction]—hardened criminals getting away with too soft punishments.⁵⁸

Thus, these findings suggest that although interviewees were sympathetic toward people who have been wrongly convicted, some of them made it clear that they viewed other criminal justice issues as equally—or more—important than wrongful conviction.

VI. SHOULD WRONGLY CONVICTED INDIVIDUALS BE COMPENSATED?

All fifteen interviewees reported that individuals who have been wrongly convicted should be financially compensated, with six spontaneously referring to this issue without being asked by the interviewer. Similar to the survey results of the Angus Reid Group, where ninety percent of respondents felt the government should financially compensate individuals who have been wrongly convicted,⁵⁹ all of our interviewees were supportive of financial compensation for wrongly convicted individuals. For example, Ethan put the issue in the context of other government spending: “Let’s put it this way, we spend billions of dollars to send money to Afghanistan, India, Haiti, everywhere—billions of dollars a year. So why wouldn’t we compensate one of our own citizens?”⁶⁰

Almost all interviewees (n=14) felt that individuals who have been wrongly convicted deserved financial compensation due to the misfortune that had befallen them. Interviewees mentioned different variations of this theme, such as needing the money to start their lives over or to move forward (n=8), to compensate for the time they had lost in prison (n=10), and to compensate for the wages they could not earn while incarcerated (n=9). Many interviewees mentioned multiple sub-categories simultaneously. For instance, Jason responded that financial compensation was necessary “because you have taken a lot of their life away and they need to get back on their feet and start over.”⁶¹ Interviewees did not believe that money solved all problems, but they did indicate that those who have been wrongly convicted deserved money for all that they had suffered and that the money might make their future slightly more bearable. This was best expressed by Janet, who explained that financial compensation was necessary:

⁵⁸ Interview with Simon, Study Participant, in Oshawa, Can. (2011).

⁵⁹ Angus Reid Group, *supra* note 39, at 77.

⁶⁰ Interview with Ethan, Study Participant, in Oshawa, Can. (2011).

⁶¹ Interview with Jason, Study Participant, in Oshawa, Can. (2011).

Because [wrongly convicted individuals] can't get their life back, they can't get those lost years back. Nobody can give that to them and who knows what part of that life they missed out of. They could've missed meeting someone, getting married, having a family. How do you replace that? So, financially, it can't get their life back, but it could make their life a little more comfortable.⁶²

Another emergent theme was that financial compensation was viewed as important in re-establishing the reputation of an individual who had been wrongly convicted (n=5). For example, George mentioned that wrongly convicted individuals should be financially compensated because "they have been financially restrained in their lives while they were incarcerated and their reputation has been soiled."⁶³ Interviewees described the criminal justice system and society as having erroneously labeled individuals who have been wrongly convicted as criminals, slandering their reputations. As Elizabeth noted (prior to any questions regarding compensation):

When you find someone who has been wrongfully convicted . . . you [should] make their life as best as possible, correct whatever you can correct, because once they go back out there [into society] it is going to be so hard for them to pick up and go on. A lot of [exonerees] say, "Why bother? I'm already judged as a criminal . . . I'm not going anywhere." So, they give up. Instead, give them a push, give them a helping hand, and replace what they weren't able to do when they were held behind bars, right?"⁶⁴

Basically, Elizabeth felt that wrongly convicted individuals might feel helpless and be tempted to give up because society had mislabeled them as criminals and was not doing anything to de-label them or to assist them with reentry. However, if society worked toward assisting wrongly convicted individuals and doing whatever we could to make their lives easier, then exonerees would be less likely to feel this way and better able to reenter society.

In terms of non-monetary compensation, all interviewees (n=15) felt that individuals who have been wrongly convicted were also in need of nonfinancial, post-exoneration services. Specifically, interviewees mentioned employment and training services (n=8),

⁶² Interview with Janet, Study Participant, in Oshawa, Can. (2011).

⁶³ Interview with George, Study Participant, in Oshawa, Can. (2011).

⁶⁴ Interview with Elizabeth, Study Participant, in Oshawa, Can. (2011).

housing (n=7), expunging the false record of conviction (n=6), counseling (n=5), education (n=5), publicizing their innocence (n=3), community reintegration assistance (n=3), apologies (n=3), witness-protection-type services (n=2), and help obtaining a vehicle (n=2). Interviewees appeared able to sympathize with the psychological and social challenges individuals who have been wrongly convicted likely experience post-release. For example, Jason realized that “once you get out of prison, you need a place to live, a car, you need time to get re-educated, or [do] whatever you need to do to get back into the workforce.”⁶⁵ Elizabeth was concerned about the false criminal record causing problems for those who have been wrongly convicted. Although many people are not aware that the false criminal conviction is not automatically expunged,⁶⁶ Elizabeth felt that, “first of all, I think they should clear their record, clear their name, give them that much at least. And then compensate them and get them help if that’s what they need. But number one, clear their name because that’s going to make a big difference.”⁶⁷ Ashley suggested that wrongly convicted individuals should have access to counseling “to make sure that they are psychologically ready for the world.”⁶⁸ Surprisingly, interviewees appeared cognizant of many of the obstacles that wrongly convicted individuals face post-incarceration⁶⁹ and they wanted services provided to assist wrongly convicted individuals with reentry.

It is worth noting that most interviewees (n=13) expected prejudicial reactions from the community toward wrongly convicted individuals. For instance, Simon suggested that wrongly convicted individuals might want to rebuild their lives in a different city, with “a witness-protection type of thing,” as if the community where the crime took place would not be able to reconcile itself with the individual’s innocence. Samantha expressed this best when she talked about the community needing to compensate and assist individuals who have been wrongly convicted. She acknowledged that after someone is wrongly convicted and released from prison, they will still encounter people who are suspicious of them and still

⁶⁵ Interview with Jason, Study Participant, in Oshawa, Can. (2011).

⁶⁶ Macdonald, *supra* note 15, at 3; see Weigand, *supra* note 12, at 429.

⁶⁷ Interview with Elizabeth, Study Participant, in Oshawa, Can. (2011).

⁶⁸ Interview with Ashley, Study Participant, in Oshawa, Can. (2011).

⁶⁹ For discussions of such obstacles, see Campbell & Denov, *supra* note 31, at 154–56; Clow et al., *supra* note 24; Curtiss, *supra* note 27, at 58–60; Grounds, *supra* note 29, at 170–74 (discussing social skills, adaptation, sense of purpose, notoriety, lost time, and broken relationships as being obstacles faced by exonerees after their release); Westervelt & Cook, *supra* note 18, at 35.

believe that they committed the crime. As she said:

There are going to still be people that say maybe this man committed the crime. [Therefore, i]t needs to be made public that this man is innocent It needs to be public, and whoever shunned him needs to apologize and it needs to be done publicly. The community needs to accept him. He needs to be given a job, he needs to be given somewhere to live, he needs to be given a home, he needs to be given his life back—not just with money, but also to feel that he is welcomed in the community⁷⁰

Although interviewees agreed that individuals who have been wrongly convicted were deserving of nonfinancial compensation and services, a few interviewees (n=5) were so focused on the importance of financial compensation that additional follow-up questions were required to move the conversation toward nonfinancial forms of compensation. For example, after talking about financial compensation, Steve was asked if he thought individuals who have been wrongly convicted should be compensated in any other way and he responded, “Like how? Our society unfortunately is all based on money. So, I don’t know how else you could compensate him?”⁷¹ Only after the interviewer specifically asked if there might be anything else that would help those who have been wrongly convicted reintegrate was this interviewee able to think of nonfinancial issues, such as job training and education. Mark kept returning the conversation to financial compensation, even after talking about clearing someone’s false criminal record. In Mark’s mind, “monetary [(money)] always looks after services.”⁷² He felt that if individuals received financial compensation, they could buy any of the other services they needed. Of the six interviewees who spontaneously broached the topic of compensation before the interviewer introduced the topic, only one initially spoke of compensation in a way other than financial terms. In this way, interviewee responses were somewhat reminiscent of American compensation statutes, with their primary focus on financial issues.⁷³

⁷⁰ Interview with Samantha, Study Participant, in Oshawa, Can. (2011).

⁷¹ Interview with Steve, Study Participant, in Oshawa, Can. (2011).

⁷² Interview with Mark, Study Participant, in Oshawa, Can. (2011).

⁷³ See, e.g., Norris, *supra* note 19, at 2–3.

VII. PERCEPTIONS OF COMPENSATION BEING OFFERED

Interviewees were less confident, and in less agreement, about actual compensation decisions. When asked what percentage of individuals who have been wrongly convicted receive compensation, approximately half of the sample said they did not know (n=8). Interviewees (including those encouraged to offer a guess) thought that few who have been wrongly convicted were compensated, with answers such as 1%–2% (n=2) and “not a lot” (n=8). Only two interviewees thought—or “hoped”—that everyone who was wrongly convicted was compensated. Although some interviewees (n=2) specifically mentioned that high profile cases were likely to receive compensation, most interviewees seemed to feel that relatively few wrongly convicted individuals received compensation. When asked how much money they typically receive, interviewees were similarly unsure. The majority of interviewees (n=12) simply said they did not know. When encouraged to provide an estimate, a few interviewees insisted that it depended upon the case (n=3), whereas others ventured that millions of dollars (n=7) were received.

VIII. FACTORS THAT SHOULD INFLUENCE COMPENSATION

When asked what factors should be considered when compensating the wrongly convicted, interviewees offered a variety of suggestions. The majority of interviewees felt that the length of time the individual was in prison (n=14) and the lost earning potential (n=9) were important factors to take into account. Steve suggested it was a simple matter of paying them for lost time. He said if someone “was given one week of jail time, well then give him a week’s wages.”⁷⁴ Mark thought additional variables needed to be considered. He said, “I would look at what they were doing before they went behind bars; their earning potential for the time that they spent [incarcerated].”⁷⁵ For instance, “if you put a lawyer away in jail for twenty years, that’s twenty years of earnings that he lost. If you put someone in jail who worked in the education system, that is twenty years of building up a pension that they lost.”⁷⁶ Thus, interviewees felt that people who were incarcerated longer deserved more compensation for the wrongful conviction than individuals who spent fewer years wrongfully incarcerated, but that other

⁷⁴ Interview with Steve, Study Participant, in Oshawa, Can. (2011).

⁷⁵ Interview with Mark, Study Participant, in Oshawa, Can. (2011).

⁷⁶ *Id.*

variables (such as previous education and employment) might be relevant as well.

Other frequently mentioned issues to consider when determining compensation for those who have been wrongly convicted included: the impact the wrongful conviction had on familial and social relationships (n=6), character damage (n=4), the severity of the crime for which they were falsely convicted (n=4), the person's age (n=4), if they had dependants they were responsible for (n=3), mental health issues (n=3), physical health issues (n=3), and retirement or pensions (n=2). Interestingly, despite the focus on monetary issues when originally discussing compensation, only one interviewee mentioned all the legal fees that individuals who have been wrongly convicted, and their families, spent as something that should be considered (and reimbursed) when considering compensation.

To elaborate on a few of these suggestions, interviewees felt that age should be considered because, as Steve explained, reintegration is "extremely hard. The older you get the harder it is to start all over."⁷⁷ This sentiment does in fact parallel work on post-incarceration adjustment. For example, The Innocence Project suggested that age is a factor in the adjustment process post-exoneration⁷⁸ and Adrian Grounds noted that older exonerees (or exonerees who were incarcerated at a young age) had more difficulties with reentry.⁷⁹ Adrian Grounds also spoke about the impact of wrongful conviction on mental health.⁸⁰ Notably, a few respondents (n=3) felt this too should be taken into consideration when determining financial compensation. Typically, interviewees mentioned multiple issues simultaneously, such as Simon who said:

It would be a whole slew of factors. It could be many things, like the time in jail, its effect on your mental health, its effect on your physical health, its effect on your family relations, the effect on your working life. So probably dozens of factors or more that would need to be considered.⁸¹

Interestingly, the character and reputation damage endured by individuals who have been wrongly convicted was noted by four

⁷⁷ Interview with Steve, Study Participant, in Oshawa, Can. (2011).

⁷⁸ MAKING UP FOR LOST TIME, *supra* note 18, at 3, 8.

⁷⁹ Grounds, *supra* note 8, at 12–13, 49–51.

⁸⁰ See generally Grounds, *supra* note 29, at 167 ("[T]he assessments revealed a pattern of disabling symptoms and psychological problems that were severe . . . and similar in all the cases.")

⁸¹ Interview with Simon, Study Participant, in Oshawa, Can. (2011).

interviewees. For example, Jason generally felt that compensation should be calculated with a simple formula, where “you would add up the total number of years and give \$20,000 a year. I think that would be fine. Unless, there’s a lot of character damage or something like that when you are wrongfully convicted”⁸² Some interviewees approached the issue of character damage by looking at the severity of the crime for which the individual was wrongly convicted. These interviewees seemed to feel that the more egregious the crime, the more character damage and, as such, the more money that wrongly convicted individuals should receive in compensation. For example, Tim thought that “if [the crime] was murder and/or rape charges, those are big issues. So, in such a case, compensation has to be obviously huge, you know it has tarnished the person’s image and they are associated with something horrendous.”⁸³ In the same realm, Lauren explained that some crimes were so horrible that there was no way to get your reputation back, even if you did not commit the crime:

If [people say] you killed your parents or a man raped a child, there’s no getting your good name back no matter what the government says [later] and that would just eat you up for those ten years in jail. That would just eat you away, you would feel like you have nothing to live for knowing that people think you did that [and you didn’t].⁸⁴

As all interviewees thought individuals who have been wrongly convicted deserved compensation, it was not surprising that limitations or excluding factors were never mentioned. Although some current compensation policies exclude particular wrongly convicted individuals—such as individuals who pled guilty, falsely confessed, or had previous criminal records⁸⁵—interviewees did not mention any of these issues. Future research may wish to further investigate these specific “exclusions” in order to investigate public opinion on such legislated discriminations.

IX. SHOULD WRONGFULLY CONVICTED INDIVIDUALS RECEIVE AN APOLOGY?

Similar to financial compensation, all interviewees (n=15) felt that apologies should be granted to those who have been wrongly

⁸² Interview with Jason, Study Participant, in Oshawa, Can. (2011).

⁸³ Interview with Tim, Study Participant, in Oshawa, Can. (2011).

⁸⁴ Interview with Lauren, Study Participant, in Oshawa, Can. (2011).

⁸⁵ Norris, *supra* note 19, at 8 tbl.2, 12; MAKING UP FOR LOST TIME, *supra* note 18, at 18–19.

convicted, with three interviewees mentioning apologies without being directly questioned. Generally, interviewees felt that the government (n=7) or the justice system as a whole (n=3) should apologize for wrongful convictions. Some interviewees felt that specific individuals—or people in specific roles—should apologize, such as lawyers (n=6), judges (n=4), the courts (n=3), and the police (n=2).

When asked if the apology should be public or private, eleven interviewees immediately responded that the apology should be public, two responded that it should be private, and two said both. The reasons given for private apologies were idiosyncratic (e.g., that the apology would seem more sincere or that it respected the individual's privacy). As the interviews progressed, four respondents ended up advocating for public and private apologies. That being said, all interviewees eventually noted the benefits of public apologies. They felt that public apologies were beneficial for individuals who have been wrongly convicted (n=15), for the criminal justice system (n=13), and for the public (n=14).

All interviewees believed that a public apology would assist those who have been wrongly convicted (n=15). Interviewees thought a public apology would help those who had been wrongly convicted to feel vindicated (n=12). As Lauren explained, an apology “would make them feel better. Like, [the exoneree could say] ‘I told you I didn’t do it and for all you people who didn’t believe me, there you go. Now do you feel bad? Because I feel good.’”⁸⁶ Many respondents felt that public apologies were also important in establishing and publicizing the innocence of an individual who had been wrongly convicted (n=10). Elizabeth said “that [a wrongly convicted] person has the right to be apologized to and to be acknowledged as being innocent. Not just behind closed doors. You accused them of something in the open—publicly—well then you should apologize publicly.”⁸⁷ A few interviewees (n=4) specifically mentioned that public apologies would assist individuals who have been wrongly convicted in starting the healing process and rebuilding their lives. For example, Jessica felt that a public apology “would help them re-establish their reputation within the community as well as exonerate them or at least support any future endeavors that they might go to get a job, that type of thing.”⁸⁸ As such, it appears that

⁸⁶ Interview with Lauren, Study Participant, in Oshawa, Can. (2011).

⁸⁷ Interview with Elizabeth, Study Participant, in Oshawa, Can. (2011).

⁸⁸ Interview with Jessica, Study Participant, in Oshawa, Can. (2011).

interviewees sympathize with wrongly convicted individuals' desires for apologies and understand some of the benefits noted in research that advocates for apologies.⁸⁹ Specifically, findings suggest that many individuals who did receive an apology were better able to heal, gain closure, and feel vindicated; whereas those who did not felt as if they were unimportant and nonexistent.⁹⁰

The majority of interviewees also believed that a public apology would have a positive impact on the criminal justice system (n=13). One positive impact, according to interviewees, was that these apologies would keep the system honest (n=11). This trend was broken down into sub-themes: public apologies would show accountability and positive effort on the part of the criminal justice system (n=7), would acknowledge that the system is not perfect (n=5), and would demonstrate the "human side" of the criminal justice system (n=3). For instance, Janet said this could be as simple as the criminal justice system saying, "We're really sorry for what we did."⁹¹ Elizabeth elaborated, saying that the public apology would communicate that

The criminal justice system is not perfect and that they know they're not perfect. That mistakes can be made, but they take whatever actions they need to, to say sorry. [By apologizing, the criminal justice system is saying] You know what, we're human, mistakes were made, but we're doing whatever we can to correct them.⁹²

Another positive effect on the criminal justice system was that interviewees felt public apologies would encourage the criminal justice system to fix the problems that led to wrongful conviction (n=9). In particular, interviewees felt that public apologies would demonstrate how the system needed to be changed (n=3), would prompt criminal justice personnel to be more careful in the future (n=5), and would provide the criminal justice system with the opportunity to learn from the mistakes that were made so that they

⁸⁹ See Myriam Denov & Kathryn Campbell, *Criminal Injustice: Understanding the Causes, Effects, and Responses to Wrongful Convictions in Canada*, 21 J. CONTEMP. CRIM. JUST. 224, 244 (2005); SURVIVING JUSTICE: AMERICA'S WRONGLY CONVICTED AND EXONERATED 44 (Lola Vollen & Dave Eggers eds., 2005); Westervelt & Cook, *supra* note 18, at 35. See generally Penzell, *supra* note 33 (discussing the numerous reasons why the system should apologize to the wrongfully convicted).

⁹⁰ Penzell, *supra* note 33, at 156 ("Exonerees who were offered an apology frequently noted its contribution to their ability to heal, restore their dignity, and reconcile themselves with society and the state."); see also Savage, *supra* note 33, at 199, 208–10 (noting that for some exonerees, apologies have a real impact).

⁹¹ Interview with Janet, Study Participant, in Oshawa, Can. (2011).

⁹² Interview with Elizabeth, Study Participant, in Oshawa, Can. (2011).

would not be made again (n=5). As Rebecca explained:

[A public apology] makes people feel more positive about the justice system. It might make the justice system think twice about something they are about to do or not do. It might make them dig deeper before they just settle with something. It might make them look at something three times instead of two times. It has to affect them in some way We can't allow this [(wrongful conviction)] to happen again.⁹³

Regarding the potential role that public apologies might play in facilitating and encouraging individuals in the criminal justice system to learn from past mistakes, Samantha believed that:

[Public apologies] would direct light on what's happening in the justice system. This way we can revolutionize the justice system and change it—because it would shine [a] light on the problems of the justice system. If they say, well this person was convicted because of this lawyer, well then maybe we have to look at how we train lawyers or [if they say] this person was convicted because of this law, well maybe then we have to change this law.⁹⁴

Finally, the positive impact of a public apology on society was noted by interviewees (n=14). Most felt that a public apology was important as it would serve to inform the public of the fallibility of the system and make society at large aware that a particular wrongful conviction had occurred (n=12). Importantly here, interviewees felt this would result in the public becoming more aware that wrongful convictions do occur. As Jessica said about public apologies, they “would help [society] to understand that these situations [wrongful convictions] do occur and we need to be cautious and careful that they don't happen on a regular basis.”⁹⁵ This corroborates the experiences of wrongly convicted individuals, where they have acknowledged an apology's ability to raise public awareness.⁹⁶ Moreover, respondents felt that public apologies would inform the community that wrongly convicted individuals were innocent. As Simon tried to explain, if a person who was wrongly convicted returned to their community after receiving a public apology, they might think “Hey, I'm back in the neighborhood. You heard that on TV right? I'm exonerated of all the charges. I'm

⁹³ Interview with Rebecca, Study Participant, in Oshawa, Can. (2011).

⁹⁴ Interview with Samantha, Study Participant, in Oshawa, Can. (2011).

⁹⁵ Interview with Jessica, Study Participant, in Oshawa, Can. (2011).

⁹⁶ See, e.g., Denov & Campbell, *supra* note 89, at 244; Campbell & Denov, *supra* note 31, at 156.

innocent. You're not just hearing it from me; you're hearing it from the media."⁹⁷ A public apology would not leave the onus of explanation on the wrongly convicted individual or leave it as their word versus the conviction. If a person's innocence was proclaimed and confirmed by the media and/or government officials, interviewees believed this would make other individuals more comfortable and confident welcoming exonerees back into society.

Other interviewees mentioned the societal benefits of public apologies, which included removing doubt (n=4), restoring faith in the criminal justice system (n=3), increasing the assistance wrongly convicted individuals receive (n=3), and (as already mentioned) counteracting the public wrongful accusation (n=3). Janet felt that if an apology was not made public, people might wonder "oh, did he just get off for a technicality?" If an apology was made public, however, she felt that "people will accept that a little more."⁹⁸

Although research has suggested that wrongful convictions lower the public's faith in the criminal justice system,⁹⁹ interviewees' responses suggest that public apologies would work toward preventing future wrongful convictions and restoring faith in the system. For instance, Ethan said "I just think [a public apology] would give more faith in the justice system—you know, look, the justice system works."¹⁰⁰ Similarly, Andrew thought that a public apology "helps to restore some confidence in the justice system."¹⁰¹ Thus, interviewees felt public apologies worked toward improving public faith and confidence in the criminal justice system, which suggests that governments may want to increase—rather than decrease—their tendencies to apologize to victims of wrongful conviction.

Furthermore, interviewees felt that people would be more likely to help and associate with wrongly convicted individuals after they received a public apology (n=3). For example, Ethan thought that a public apology might lead more people to "offer him a job, support of some kind, in some way. They wouldn't be hostile towards him. They would reach out a hand."¹⁰² Moreover, George explained that public apologies would make people "look at it [(wrongful conviction)] differently" and empathize more with wrongly convicted

⁹⁷ Interview with Simon, Study Participant, in Oshawa, Can. (2011).

⁹⁸ Interview with Janet, Study Participant, in Oshawa, Can. (2011).

⁹⁹ See, e.g., HUFF ET AL., *supra* note 53, at 147–50; Ricciardelli et al., *supra* note 45, at 413.

¹⁰⁰ Interview with Ethan, Study Participant, in Oshawa, Can. (2011).

¹⁰¹ Interview with Andrew, Study Participant, in Oshawa, Can. (2011).

¹⁰² Interview with Ethan, Study Participant, in Oshawa, Can. (2011).

individuals.¹⁰³ Thus, public apologies may help to reduce the stigma and prejudice experienced by wrongly convicted individuals post-incarceration.¹⁰⁴

X. CONCLUDING THOUGHTS

Despite the small sample size, interviewees did unanimously support the idea of compensating and apologizing to wrongly convicted individuals. Mirroring the findings in past research using survey methodology,¹⁰⁵ as well as undergraduate students,¹⁰⁶ positive public support was evidenced in this community sample.¹⁰⁷ Furthermore, the findings from this research suggest that publicly apologizing to individuals who have been wrongly convicted may also restore the public's faith in the criminal justice system itself. Perhaps future work in this area should seek to empirically test whether compensation and apologies do in fact improve public perceptions. If this is the case, perhaps greater efforts can be made to convince governments to offer apologies and financial compensation more frequently—perhaps as legislative requirements immediately following exoneration—as public apologies appear to have benefits for all and compensation is necessary to assist with reintegration and healing for exonerees.

¹⁰³ Interview with George, Study Participant, in Oshawa, Can. (2011).

¹⁰⁴ See Westervelt & Cook, *supra* note 18, at 35. See generally Clow et al., *supra* note 24 (examining the stigma that coincides with incarceration, regardless of guilt or innocence).

¹⁰⁵ See, e.g., Angus Reid Group, *supra* note 39.

¹⁰⁶ See, e.g., Ricciardelli et al., *supra* note 45, at 416; Bell & Clow, *supra* note 45, at 95.

¹⁰⁷ See GRAVETTER & FORZANO, *supra* note 52, at 141 (noting the problems and potential biases inherent in convenience sampling as a research method).