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The Narratives of Cross-Cultural Misidentification and Exoneration in Wrongly Convicted Men

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Walden University

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Miki Ross-Elster

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Walden University
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Abstract

The Narratives of Cross-Cultural Misidentification and Exoneration in Wrongly
Convicted Men

by

Miki Ross-Elster

BS, California State University Hayward, 2002

MS, California State University Hayward, 2005

MA, California State University Hayward, 2007

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Forensic Psychology

Walden University

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Abstract

Wrongful conviction is often due to misidentification, particularly cross-cultural misidentification. DNA errors and other influences (e.g., the weapon focus effect, mugshot error, police suggestibility) also increase the risk of wrongful conviction, and the process of exoneration is onerous. The purpose of this qualitative study was to explore the experience of cross-cultural misidentification, wrongful conviction, exoneration, and the return to society of formerly incarcerated men. Implicit bias theory served as the theoretical framework and refers to both attitudes and stereotypes that people hold without realizing and the way these unconsciously affect how a particular person or event is perceived. A narrative analysis was conducted to capture each participant's experiences from wrongful conviction to the present moment. The results of the two participant narratives revealed parallel experiences of cross-racial misidentification and wrongful conviction. Both revealed struggles and humiliations during prison, and both spoke of the combination of tremendous personal effort plus fortuitous circumstances that ultimately led to their exoneration. Both were able to rebuild their lives, cultivate family and friends, and work to help others in similar circumstances. Research recommendations include both quantitative and qualitative examinations of the judicial process where implicit bias may influence the process and outcomes. Social change implications include using these findings to make substantive, changes to the arrest, conviction, exoneration and return to society to ameliorate the ongoing injustice of wrongful conviction.

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Dedication

This dissertation is dedicated firstly to the two people that have supported me throughout in every possible way, have gone constantly out of their way to assist me when I threw my hands up and cried, and if not for them this never would have been completed:

Dr. Susan Marcus – Chairperson

Cat Heck – Dissertation Specialist

In addition, I have to thank my children who have so patiently stood by me as I labored through this process over the last decade, the women in Chowchilla and C.I.W. prisons as well as so many of the incarcerated men and women throughout the California prison's INJUSTICE system who languish unheard and unassisted while they still declare their innocence and await the opportunity for the opportunity to prove it.

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Chapter 1: Introduction to the Study

It is better that ten guilty persons escape [punishment] than that one innocent suffers.

—William Blackstone, 1893 (Allhoff, 2018, p.1)

Over the last 100 years, documented eyewitness testimony has become a generally accepted source of evidence in jury trials (Gould & Leo 2010). However, there has also been a growing body of evidence indicating a substantive problem relying on this form of evidence. The actual study of wrongful convictions began in 1932 with Edward Borchard's *Convicting the Innocent*. More recently, national databases have estimated that between 1989 and 2021, 2,978 exonerations have been recorded (National Registry of Exonerations [NRE], n.d.). In other words, 2,978 human beings have been wrongfully convicted, imprisoned, or sentenced to death because of eyewitness misidentification of the offender. This number may be an underestimate, as only recorded cases are included.

The phenomenon of misidentification has been studied in the academic, legal, and public policy domains. Of particular interest have been the factors that influence eyewitness misidentification. These include the weapon focus effect, lighting, age of witness, race similarity or difference, gender, and even possible toxicology status (Leo, 2016; Mansour et al., 2018; Nguyen et al., 2018; Wells & Olson, 2003). However, of greatest urgency for study is the role of cross-racial identification (CRI). In an era of heightened social awareness of the cross-section between race, law enforcement, and incarceration (Banks et al., 2006; Chokshi, 2017; Clemons, 2014; Dixon & Maddox,

2005; Smith & Hattery, 2011), researchers, policy makers, and social activists are calling for more research, policy change, and social change to reveal and revise practices that penalize minority groups because of the color of their skin (Branigan et al., 2017; Burch, 2015; Finkeldey & Demuth, 2019; Monk, 2019; White, 2013).

CRI is the act of identifying someone that is of a different race than the person in question (Stenzel, 2017; Wong et al., 2020). Also known as cross race effect (CRE), is the situation whereby a person of one race/ethnicity is different from the race of the person the witness is asked to identify (Ryan, 2017). It occurs most often when one of the parties in a criminal investigation is a witness and is asked to identify the alleged perpetrator of a crime. Given the growing recognition of systemic racial bias in the criminal justice system and the racial divisions predominant in the United States, misidentification in cases of CRI for alleged offenders who are people of color is often at work. Further, many crimes of violence such as rape, armed robbery, and murder, are often cross-racial (The Innocence Project, 2019; NRE, n.d.). The unfamiliarity of facial recognition and differential features combined with the social psychological biases that influence the need to resolve conflict and provide support to the victim makes misidentification and conviction far more common than people realize (Gould & Leo 2010; Scheck & Neufeld 2000; The Innocence Project, 2019).

The purpose of this qualitative study was to explore the experience of cross-cultural misidentification, wrongful conviction, exoneration, and the subsequent return to society of formerly incarcerated men through narrative inquiry. It was hoped that through these stories, the research findings would illuminate the pitfalls of this process and

contribute to organizations who are committed to supporting such individuals as they strive to prove their innocence.

In this chapter, I summarize the research on eyewitness misidentification and wrongful conviction. I also summarize the literature on exoneration and return to society. This is followed by the research problem, purpose, and research questions that guided the study. The nature of the study and the assumptions, limitations, and delimitations are presented within the defined boundaries of the study. I then describe strategies for trustworthiness and explain the significance of this study by demonstrating how this study had the opportunity to contribute to social and policy changes to reduce the risk of wrongful conviction.

Background

Wrongful conviction has always been a risk in judicial procedures where witnesses at the scene and jurors in the trial have had to make determinations of guilt based on confusing, scant, or inconsistent information (Flavaris & Chapman, 2015; LaPorte, 2017; Leo, 2005, 2016). Furthermore, the consequences of wrongful conviction are profound—a criminal record, time in prison, the psychological and social struggle for representation, and the legal efforts by poorly funded defenders to gather evidence sufficient for review (Leo, 2005, 2017). The NRE, founded in 2012, has built a database of the nature and frequency of wrongful convictions. The NRE found that 71% of more than 360 wrongful convictions were associated with CRI (The Innocence Project, 2019; NRE, n.d.).

The frequency of wrongful conviction has become more apparent with improved identification technologies, particularly DNA testing (Bohannon, 2014; Kang et al., 2012; Medwig, 2017; The Innocence Project, 2020). For example, LaPorte (2017) published a seminal review of wrongful convictions and the role of forensic science. He reported that the U.S. National Forensic Laboratories have adopted new methods and technologies over the past two decades and started the Postconviction Testing of DNA Evidence to Exonerate the Innocent grant program. Since 2008, the National Institute of Justice (NIJ) funded more than 50,000 case reviews that have resulted in 28 exonerations.

The dilemma for the wrongly convicted individuals who are then incarcerated is that they have limited abilities to pursue efforts to reverse the conviction. For example, parole boards would not parole or grant freedom to anyone who maintained their plea of innocence (Goodman, 2009; Harris, 2012; Medwig, 2017). Only when it became truly visible, through efforts like the Innocence Project and other scholarly and public outcries, that those mistakes were being made and that innocent people, particularly predominantly people of color, were the main victims of those mistakes, did greater notice begin to be taken (Goldstein et al., 2019; Gould et al., 2014; Howard, 2019). Medwed (2017) noted that the, “DNA revolution,” brought greater public awareness to the scope of wrongful conviction and how the criminal justice system was riddled with systemic racism and needed radical and immediate reform.

Current research has shown the progression from when the plight of the wrongfully convicted began to be recognized to the subsequent struggles of those later exonerated that exacerbated the original wrongful conviction itself. Since 1973, 1,146

prisoners across the United States have been exonerated (Malkani, 2018). Between 1989 and 2022, the NRE (n.d.) has reported a total of 2,978 exonerees. Compensation policies continue to vary from state to state and attitudes towards compensation itself varies. Karaffa et al. (2017) found that minorities, men, and elderly exonerees were rated as more deserving of financial compensation. Housing has also become an issue for exonerees as landlords have gone from being hesitant to refusing to rent to exonerees (Zanella et al., 2019). When reintegration services were looked at, people were reluctant to assist exonerees (Scherr et al., 2018). Current literature has shown the progression from basic minimization of wrongful conviction and little attention if any to the fate of the exonerated after wrongful conviction (Hetey & Eberhardt, 2018). Exonerated individuals have found their experiences drastically different in every state with regard to compensation, resources, reentry into the community, employment, housing and community assistance.

Problem Statement

The Georgia Innocence Project studies point out that approximately 3%-5% (about 69,000-115,000) of people in prison are innocent of the crimes for which they have been convicted (Hetey & Eberhardt, 2018). Of those, the racial inequality is evident in that they are overwhelmingly people of color, where the Black suspects are arrested, convicted, and sentenced for their crimes far more often. Initially, it was accepted that once a witness pointed out someone as the perpetrator of a crime, it was accepted as probably truth, and almost always a defendant was convicted on that testimony. This was true even when it came to death penalty cases. The Innocence Project has statistically

shown this to happen most often to people of color (Goldstein et al., 2019; Howard, 2019; The Innocence Project, 2019; Reggy et al., 2020).

A secondary problem has been that when exoneration occurs, and resources are no longer available because the person is no longer considered formerly convicted (NRE, 2019). Past research has shown that innocent people have been executed and often have spent over decades erroneously incarcerated. Compensation for such atrocities have varied from zero compensation to monetary lifetime reimbursement stipends. It is solely regarded as a state issue with no standard compensation (The Innocence Project, 2019; NRE, 2018).

There have been some studies on what happens to these individuals once they are exonerated (Karaffa et al., 2017; Kirshenbaum et al., 2020). For example, Kirshenbaum et al. (2020) did an extensive review of the literature and found that many factors (e.g., individual differences, prison experience, and post-release) influence reintegration. This study and others have called for more research on what happens to those individuals who are released.

In sum, a considerable amount of research has demonstrated that the problem of wrongful conviction is extensive and has warranted both academic investigation and public recognition. Most research has focused on the beginning of the story (CRI issues and wrongful conviction). However, little research has detailed the lives of those who have lived the wrongful conviction to exoneration experience. Most recently, Norris and Mullinix (2019) conducted controlled studies to demonstrate that public opinion can be

influenced more by personal narratives than “facts and figures” and call for more research on the human experience of wrongful conviction and exoneration.

Purpose of the Study

The purpose of this qualitative study was to explore the experience of cross-cultural misidentification, wrongful conviction, exoneration, and the return to society of formerly incarcerated men. I used a narrative approach to understand the experience and its meaning, and this study has focused on (a) the turning points of the wrongful conviction and exoneration experience, and (b) the meaning of coping during and after incarceration.

Research Questions

The primary research question that I sought to answer was this: What is the experience of cross-cultural misidentification, wrongful conviction, exoneration, and return to society in formerly incarcerated men? The subquestions that guided this inquiry included the following:

1. How does the narrative begin?
2. What were the turning points leading up to wrongful conviction?
3. Were there other influencing factors in the misidentification?
4. What is the meaning of cross-cultural misidentification?
5. What was daily life like for the wrongfully convicted individual during their incarceration?
6. What was revealed during the process of exoneration?
7. What is the present moment of the narrative?

Theoretical Framework

The theoretical framework for this study was implicit bias theory (IBT; Amin, 2017; Brownstein, 2019; Devine et al., 2012; Frank, 2016; Greenwald & Banaji, 2017; Harty & Hermanson, 2020; Hinton, 2017; Holroyd et al., 2017; Kang et al., 2012; Maina et al., 2017; Van Cleve, 2016). The premise for this theory was that jurors come into the experience with an inherent bias. IBT was first put forth by psychologist Mahzarin Banaji roughly 20 years ago and refers to both attitudes and stereotypes that people hold without realizing it; unconsciously, this affects the way they see a particular person or event (Greenwald & Banaji, 2017). In effect, it can be described as a way that people can see or respond to or act upon a given set of circumstances or evidence and form a conclusion that is not necessarily based solely on the evidence or dearth of evidence set before them (Amin, 2017; Frank, 2016; Hinton, 2017; Holroyd et al., 2017; Levinson, 2006, Levinson et al, 2019). The concepts identified in this theory were used to develop the interview guide questions and analysis plan.

Nature of the Study

Narrative analysis was the qualitative approach used for this study. In utilizing this approach, I was able to capture each participant's individual story relating their experiences from wrongful conviction to the immediate present moment (Riessman, 2008). It was a phenomenological presentation that best demonstrated the individual's personal lived experience. I planned to use Riessman's (2008) thematic analysis strategy to guide my data analysis plan. Narrative thematic analysis is a way to interpret stories that people create. The purpose here was to understand how people found meaning in

their experiences. Narrative thematic analysis allows researchers to analyze and interpret the stories created and then find a way to connect those stories to people who are often in their everyday lives. One of the advantages of narrative's thematic analysis is greater insight (Riessman, 2008). Through open-ended questions, the narrator is urged to go into greater depth and ultimately allows the researcher to interpret the narrator's emotions. This in turn then further allows the reader to be able to connect with the narrator. This approach is detailed in Chapter 3.

Definitions

Cross-cultural identification: Cross cultural identification occurs or exists when the witness to an event is identifying who they believe is the perpetrator of the criminal behavior and the race of the perpetrator is different than the race of the witness. When the witness is unfamiliar with the race of the person who they believe is the perpetrator, it can result in "misidentification" due to the same-race bias that exists in identifications (Ferguson, 2020; Ryan, 2017).

Exoneration: The action of officially absolving someone from blame; vindication. Exoneration occurs when a conviction for a crime is reversed either through evidence demonstrating innocence or often a flaw in the actual conviction that violated a defendant's civil rights to the point of inability to sustain or retry for a second attempt at conviction (NRE, 2019; The Innocence Project, 2019).

Factual innocence: Where the evidence presented through the prosecutor in a court of law does not establish guilt beyond a reasonable doubt, or in fact points clearly to the defendant's innocence (Scherr et al., 2018).

Juror instructions: These are statements and information that the judge will offer to the jury and can be done both during the trial itself and following closing arguments. They can include statements advising the jury not to discuss the case as well as to disregard statements that are considered inadmissible as well as how to consider applicable rules of law and possible verdicts after they move to the jury room to deliberate (Gray, 1999).

Technical innocence: This occurs when prosecutors' misconduct is so egregious as to preclude the defendant from ever getting a fair trial and, therefore, the defendant cannot be tried again (Leo, 2016).

Wrongful conviction: A wrongful conviction is when a person who is innocent is convicted of a crime. Wrongful convictions are typically only discovered after the conviction has been made, and upon further investigation (NRE, 2018).

Assumptions

Several assumptions were made about the participants and the interview process. I assumed that the members of the target group would be willing to share their experiences in a way that provided rich, thick descriptions. Prior to interviewing, I assumed it was possible that stories might be similar, that coping mechanisms might be similar, and that there might not even be discrepancies in statements or across cases. It was also assumed that some or most of the participants might have a degree of bitterness towards their experience and have difficulty in their reentry into society.

Scope and Delimitations

The participants of this study were associated with The Exonerated Nation, a specific nonprofit organization that was founded by an exonerated man, Obie Anthony. Although the members can be from different areas of the United States and have served in different states, the common theme among them is that they were wrongly convicted by cross-cultural eyewitness misidentification due to juror perception of the witness's accuracy. For the purpose of this study, participants were from California.

The scope of the study was also influenced by the key informants who reached out to potential participants. It was probable that many to most of the participants might come from the same regional area of California and that their prison experiences would be limited to only a few of the prisons of that particular region. The delimitations of the study include persons who are wrongly convicted but not officially exonerated or out of prison. Further, I did not interview people who were technically exonerated (i.e., the courts' egregious conduct) but were in fact guilty of crimes.

The scope of the study was limited to men, as there were almost no women available to participate. I have learned of one woman who was currently in the process of being exonerated and since the process was not completed before this dissertation was completed, I did not ask the key informant to distribute an invitation to her.

Limitations

The limitations of qualitative research are managed using procedures to enhance trustworthiness, and I made every attempt to employ these procedures to enhance the trustworthiness of the process (Shenton, 2004). To enhance credibility, I used verbatim

transcripts as the data source, and sent summaries of the interviews to participants to validate and/or correct my understanding of their experiences. For transferability, I clearly and consistently documented the research process to demonstrate compliance with a well-regarded qualitative method. I planned to be transparent in my data analysis methods so that other researchers may replicate the study at some future time. (Shenton, 2004).

Dependability assumes replicability or repeatability, and I made sure to clearly document my procedures for data collection and analysis and reported these procedures in Chapters 3 and 4. For confirmability, I was meticulous in documenting the participants expressions using audio recording and verbatim transcription, and I used a journal and audit trail to document the process as well as my feelings and interpretations.

Researcher Bias

Working with prisoners since 1966 has instilled in me both a personal perspective and a perception of both correctional institutions and many correctional employees, so keeping my personal feelings aside was a difficult task; researchers' subjective viewpoints represent a difficult boundary to be on constant alert for (Chenail, 2011; Malone et al., 2014; Tufford & Newman, 2012). The Exonerated Nation organization provided my resource database, and anyone whose name was familiar to me or who recognized my name was excluded from the study. I selected only those exonerees that I had no prior connection to in any capacity before the interview took place.

By remembering that I have this subjective view, I asked open-ended, not leading questions, and just listened without commenting. Malone et al. (2014) alleged that any

stage of the process can see researcher bias. I was hypervigilant regarding either interjecting a subjective opinion or even offering simplistic hints of bias through sounds or emphasis on any particular response. One issue to be on the alert for is self-disclosure on the part of this researcher. Self-disclosure could influence the objectivity of the participant (Audet & Everall, 2010) for a number of reasons; the need to please, the need to feel on equal footing with the researcher, or simply thinking there is a right or wrong answer. It is important to know that I was able to simply describe and not subjectively interpret, the responses offered by the participants (Chan et al., 2013). I also utilized strategies of audio recording and verbatim transcription of interviews, member checking, audit trails, and detailed documentation of the research process to minimize the influence of bias. These are further described in procedures sections.

Significance

It is hoped that the results of this study will contribute to the prosecutorial side of convictions, so that prosecutors can become more willing to explore every possibility that might prove innocence, and not rush to judgment to incarcerate innocent individuals on biased evidence or eyewitness testimony alone. I also hope that the results of this study can and will be shared with judges to improve jury instructions that clarify difficulty and scientifically documented unreliability of cross-cultural eyewitness identification. Many laymen, many jurors are completely unaware of this fact. Human beings languish in prison for decades and the community applauds the release of the wrongly convicted. It is hoped that this research will influence the discontinuation of a rush to judgment on the part of prosecutors or the disallowance of evidence that might indicate innocence.

Summary

This chapter provided an overview of the study. This study included conducting interviews to understand the experiences of exonerees through their stories using narrative analysis. The participants were asked to tell their stories from the point of arrest through their freedom in their own words and offer insight into why and how changes are needed to make specific and expedient improvements in the way we handle claims of innocence, court processes, jury instructions, and procedures.

In Chapter 2, I explore the literature regarding the issue of wrongful conviction and exonerees' experiences, and in Chapter 3, I describe the methodology of my study, the interviews with exonerees, and both the individual and collective experiences they related. I discuss their credibility and transferability regarding both the individual and collective experiences.

Chapter 2: Literature Review

CRI is the situation whereby a witness of one race/ethnicity is different from the race of the person they are asked to identify (Ferguson, 2020; Ryan, 2017) It occurs most often when one of the parties in a criminal investigation is a witness and is asked to identify the alleged perpetrator of a crime. Over 30 years of studies revealed that people had a greater ability for memory of someone of their own race as opposed to someone of a different race. These studies have resounding implications for cases of mistaken identity that involve cross racial misidentification in which suspected or convicted individuals are later exonerated (Arizpe et al., 2016; Dodson & Dobolyi, 2016; Ferguson, 2020; Ryan, 2015; Vitriol et al., 2019).

The purpose of this qualitative study was to explore the experience of cross-cultural misidentification, wrongful conviction, exoneration, and return to society in formerly incarcerated men. A narrative approach was chosen to understand the experience and its meaning, and this study will focus on (a) the turning points of the wrongful conviction and exoneration experience and (b) the meaning of coping during and after incarceration

A review of the literature has shown that despite the long history of wrongful convictions, insufficient measures have been taken to reduce the risk (Norris & Mullinex, 2019; Zalman, 2017). The major sources of wrongful convictions today are misidentification, particularly cross-racial misidentification, often involving the weapon focus effect (Gross et al., 2017; The Innocence Project, 2020). There is a tremendous body of research on cross-racial misidentification, and recent studies continue to

document that people are better at recognizing members of their own race or ethnicity than non-group members in court and legal cases (Michel et al., 2010; Vingilis-Jaremko, et al., 2020). Weapon focus effect (Kleider-Offutt et al., 2017; Pickel & Sneyd, 2018), memory (Wixted, 2018), mugshot exposure (Oberest, 2015; The Innocence Project, 2020), and police suggestibility also interact with CRI, making the ability to judge evidence difficult and increasing the risk of convicting the innocent (Bjerk & Helland, 2018).

IBT is presented as the framework to understand the human process of being unconsciously influenced by implicit, socialized beliefs and judgments (Greenwald & Benaji, 2017). Applied to wrongful conviction and exoneration, IBT is a useful model for understanding how eyewitnesses can misidentify perpetrators and how jurors can misinterpret testimony and evidence (Clemons, 2014; Levinson et al., 2019). This theory was used to guide the development of the interview guide and analysis plan.

In the following sections, I review the literature in detail, beginning with the search strategy used to comprehensively review research, policy, and law on this topic. This is followed by a brief history of wrongful convictions, presented to give the reader a sense of the breadth and depth of the problem. I then review the literature on CRI and the myriad of influences that lead to wrongful conviction. In the next section, I present the theoretical framework and how it relates to the focus of the study. I close with a detailed analysis of the research on exoneration.

Literature Search Strategy

Quantitative and qualitative articles, books, and other published documents were reviewed for this research. Comments from key informants and authors (i.e., representatives of the Exonerated Nation and other nonprofits) were also utilized. Relevant criminal justice journals were included in this literature search from various online library databases such as Sage, Proquest, PsychARTICLES, and PsychINFO. Additionally, sociological databases such as SocIndex were utilized to find scholarly articles related to the research topic under study.

The following terms were used in the search process: *eyewitness identification, mistaken identity, cross-racial and cross-ethnic, weapon effect, mandated jury instructions, states' attitudes toward jury instructions, memory and police influences, exonerated experiences including compensation, testimonials, and the Innocence Project.*

History of Wrongful Convictions

Prior to the Salem witch trials in colonial Massachusetts beginning in 1692, it was documented that individuals, mostly women, were burned at the stake based on someone merely pointing a finger accusing the defendant of being a witch. The number of wrongful convictions during the Salem witch trials remains unknown, but oral history alleged 20 people were executed between 1692 and 1693 (Turvey, 2011).

According to Borchard (1913), there were at least 13 documentable wrongful convictions since that time. For example, Dominic Daley and James Halligan were wrongly executed in 1805 and were later exonerated of their crimes (Gross & Shaffer, 2012). In 1843, John Gordon was executed in Rhode Island in 1843 and was later

exonerated (Gross & Shaffer, 2012). Other wrongful convictions and later legally exonerated cases include Chief Leschi in 1855, Chipita Rodriguez in 1863, William Jackson Marion in 1872, and Oscar Neebe in 1886.

Borchard's (1913) article was the first to openly discuss the issue of wrongful conviction. He also described European approaches to unjust convictions. He stated that those persons arrested for a crime in another country were still under the guidelines and laws of their home country, and if wrongfully convicted should be compensated for their suffering. He was also an adamant advocate for justice reform, particularly in the field of wrongfully convicted. Following Borchard's publication, more articles emerged as the subject of wrongful convictions gained traction; however, it was not until 1987 when Bedau and Radelet (1987) reviewed 350 cases of published wrongful convictions that the severity of this issue became undeniably apparent (Gould & Leo, 2010). As other publications followed, the public became more aware of the number of wrongful convictions, as well as the root causes of these errors. A common theme in the public outcry was the need for rectifying the wrongs that were created, including innocent defendants' pleas for DNA testing if there was evidence from the crime scene. DNA testing is still not used in all cases automatically, but rather tested selectively. Public opinion resulted in a more vocal stance about the wrongful convictions. Early on it was approached differently and resulted in the implications for change in attitude and policy dependent upon the way it was put forth (Norris & Mullinex, 2019). Media and films about real-life wrongful convictions have pulled the public into the courtroom and added the concept of the lay juror in a sense to the public vociferous response to some people

being wrongly incarcerated (Zalman, 2017). Empirical studies of exoneration have indicated that the wrongful conviction rates in homicide, death sentences, and serious sexual conduct cases range from 2% to 5% (Gross et al., 2014; Roman et al., 2012; Zalman, 2017).

Cross-Racial Misidentification Wrongful Conviction

Cross-racial misidentification (CRI, also known as cross racial recognition [CRE]) is one of the leading factors contributing to wrongful convictions. CRI is understood as the inclination for people to recognize faces of their own cultural or ethnic group more accurately than those of other ethnic groups (Scheck et al., 2000; The Innocence Project, 2018, 2020). In cases where the alleged suspect is of one culture/ethnic group and the eyewitness to the crime is of another culture or ethnic group, the risk of wrongful conviction increases substantially (The Innocence Project, 2018). Support for this observation has come from DNA evidence used in revisiting cases where imprisoned persons were able to bring their cases back to trial. DNA evidence was introduced in 1987, and first used 1989 to exonerate a convicted felon. Since then, many nonprofit organizations (e.g., the Innocence Project, discussed later in this review) have brought cases back for retrial.

Bjerk and Helland (2018) conducted a thorough review and analysis of DNA exonerations by race of the eyewitnesses and convicted individuals and found that the wrongful conviction rate for rape is substantially higher among Black convicts compared to White convicts, and this racial discrepancy in wrongful conviction rates is substantially larger for rape than for murder. Early studies have demonstrated that when an individual

was not familiar with people of another race or culture, there was a tendency to pick out a predominant feature based on a preconceived perception of what the alleged perpetrator was supposed to have to bolster their identification validity (Grey, 1999). At the same time, the New Jersey Supreme Court began telling juries that CRI was not scientifically reliable (Waldmeir, 1999). Racism was not the foremost reason for misidentification, but rather unfamiliarity, which played a much greater role. With a preponderance of evidence and judicial restrictions, courts have continued to rely on the unreliable evidence of cross racial eyewitnesses. In 2006, the California Commission on the Fair Administration of Justice offered the statistics of the Innocence Project showing that now more than 77% of the inmates cleared since 1989 were convicted based on erroneous eyewitness identification. In 1975, the rate was only 75%. It appeared that the more reliance on cross-racial eyewitness identification that was acceptable without question, the greater the degree of mistaken identity. In a 2005 study at the University of Michigan Law School, researchers found that mistaken identity was involved in the wrongful conviction of 88% of rape and sexual assault cases with a disproportionate level of convictions involving White victims misidentifying Black alleged perpetrators (Weinstein, 2006).

Gross et al. (2017) provided a summative document and registry describing the scope of the wrongful conviction problem. They indicated that that while only 13% of the U.S. population is Black, innocent Black people are 7 times more likely to be convicted of murder than are innocent White people. Black prisoners who are convicted of murder are about 50% more likely to be innocent than other convicted murderers. The convictions that led to murder exonerations were 22% more likely to include misconduct

by police officers with Black defendants than White defendants. The average Black exoneree spent 3 years longer in prison before release than White murder exonerees, and those sentenced to death spent 4 years longer than their White counterparts.

Gross et al. (2017) pointed out that many of the convictions of Black murder exonerees were affected by a wide range of racial discriminations, ranging from unconscious bias and institutional discrimination to explicit racism. They suggested that most wrongful convictions are never discovered; there is no direct evidence or statistical measurement of all convictions of innocent murder defendants. Half of all defendants exonerated for murder are Black (380/762) as of 2017; 40% of defendants imprisoned for murder are Black but account for 50% of murder exonerations. This figure includes 53% of those who were sentenced to death. This demonstrates that Black individuals are more often investigated, arrested, and then convicted of murder than are White individuals. The problem here is that innocent Black people also are suspected and convicted despite being factually innocent.

Black convicts are three and a half times more likely to be innocent of a conviction of sexual assault (Gross et al., 2017). Although assaults on White women by Black men are not the majority of assault charges in the United States, statistically they account for half of the sexual assault identifications due to the unreliability of cross-racial eyewitness identification. Despite the fact that eyewitness misidentifications are not responsible for sexual assault exonerations, some misidentifications originate due to racial bias and others were tainted by implicit bias, racially tainted official misconduct, and in some cases explicit racism.

Black assault exonerees receive much longer prison sentences than White exonerees and spent about 4.5 years longer in prison before exoneration, due to a greater resistance to exoneration (Gross et al., 2017). Although considerable research has been conducted on many factors that influence eyewitness accuracy (e.g., weapon focus effect, accuracy of memory, mugshot and composite drawing recognition), all of these factors have been shown to be influenced when CRI is present (Ferguson, 2020).

Theoretical Foundation

IBT was selected as the theoretical framework to guide the development of interview guide questions and data analysis plan (Holroyd et al., 2017; Levinson et al., 2019; Mahzarin et al., 2012; Maina et al., 2018). IBT describes the ways the human mind automatically manifests biases against disfavored groups (Brownstein, 2017; Levinson, et al., 2019). These biases envelop the way people unconsciously look at things including the fears, feelings perceptions and stereotypes that due to personal and social history and unconscious experiences that influence thinking and decision making (Bennett, 2010). In an incognizant manner, people possess implicit racial biases, which are often in contradiction to stated beliefs or evidence presented. It is also known as implicit social cognition (Devine et al., 2012; Greenwald & Krieger, 2006; Greenwald & Lai, 2019). Both implicit bias and implicit social cognition theories relate to race and how it is seen and consequentially how it impacts decisions. A bias, in and of itself, simply shows a preference for a thing without necessarily a truth to the perception. Bias involves the prejudging of a person based on their status of belonging to a particular group, without looking at or knowing that person's actual behavior or conduct (Goodman, 2018).

Implicit bias refers to the unconscious bias and the behavior that often ensues as a result. It can include implicit memory, implicit perceptions, implicit attitudes, implicit stereotypes, implicit self-esteem, and implicit self-esteem and even implicit self-confidence (Greenwald & Kriegertt, 2006).

In their history of implicit bias, Greenwald and Banaji (2017) found that unconscious processes are the foundation of conscious opinions and decisions and are not always resulting in a logical decision or opinion and is often unable to be substantiated. They suggested that prior experiences, while not conscious, tend to shape later judgments without the person being aware of it. Greenwald and Banaji also suggested that the concept of unconscious, while being categorized at different levels did not describe either implicit memory or implicit social cognition, and that the past experiences of individual people create a different perception in each person and that is what produces individual attitudes, stereotypical connections to the same stimuli. Vredeveldt et al. (2017) studied the influence of co-witnesses' discussion on recall of mutually experienced events. They found that collaboration between pairs of witnesses factually reduced errors in identification, but that the collaboration really was reliant upon how the memories were presented in the witness pairs' discussions. When the collaboration primarily utilized elaboration of facts, the recall was able to bring forth more event details. Collaboration was shown to correct memory errors when the witnesses collaborated on memory of the same event seen at the same time by correcting each other's errors. This is contrary to some police policy of not permitting the witnesses to discuss the events as they saw them with each other, and yet permitted in some other jurisdictions. Hope et al. (2013) found

that discussions after the event had no actual impact on the veracity of the final statements.

Research on Implicit Bias

The theory of implicit bias is contrary to the common understanding of social behavior that people are guided in their beliefs and their conscious intentions when they act. Numerous scholars have demonstrated that implicit racial biases operate at every level of the criminal justice system and negatively impact people of color (Banks et al., 2006; Clemons, 2014; Tonry, 2010). For example, IBT is useful as a way to consider how jurors view defendants and present evidence. If jurors have preconceived notions of who criminals are and/or what criminals do, their implicit bias can affect their interpretation of testimony and evidence (Levinson et al., 2019). For example, Levinson used the Implicit Association Test (IAT) to test eight hypotheses about racial discrimination against Black men and criminal law guilty verdicts. The guilty/not guilty IAT version study asked participants to group together photos of Black and White men with words representing the verdicts guilty and not guilty and measured their reaction times in milliseconds. They also varied the individuals by their political beliefs (i.e., conservative, neutral and liberal). Eight major findings are summarized here:

1. Participants were faster to categorize Black faces with retributive words (e.g., “payback”) and White faces with “mercy” words.
2. Jurors who were qualified to support the death penalty showed higher levels of implicit Black retribution bias than participants who did not support.

3. These same jurors were more punitive, more retributive, and less merciful than jurors who would not convict a defendant if the death penalty was an option.
4. The stronger the implicit bias, the more retributive the punishment and the more likely the participants would convict a defendant if the death penalty was an option.
5. “Priming” (including Black-sounding names in a press release) was not significant.
6. Race-retribution implicit bias was most predictive of harsher punishments.
7. Political self-identification was strongly related to implicit bias.
8. Participants holding conservative ideologies held stronger retributive punishment philosophies and were less likely to support mercy-based philosophies.

In sum, the results indicated that race and retribution were basically inseparable, as the participants were unable to separate the concepts of retribution with Blacks, and leniency with Whites.

Another example of how implicit racial bias operates in the judgement of Black suspects is demonstrated in the research on colorism. Colorism is defined as discrimination based on skin tone, darkness, or lightness (Sanders 2011; The Sentencing Project 2005; Viglione et al., 2011). Boppre and Harmon (2017) utilized the Chain Theory, where the first link of the chain is the media, public perceptions and policymakers who create a, “perfect storm” (p. 407), that fosters the law-and-order

movement; the second link of the chain reflected partisan political affiliation concepts of achieving justice and equity both for the public at large and for individuals, suspects, victims, and witnesses, and is regulated by laws and procedure. They studied sentencing disparities and sentencing reforms of women of color between 1983-2008 across 40 states. Findings continued to reflect great disparities in the treatment and sentencing between Black and White women, with Black women being admitted into the system and getting significantly longer sentences for 85 defined crimes (Boppre & Harmon, 2017).

Viglione et al. (2011) studied the impact of lighter versus darker skin tones on sentences handed out to women of color in the criminal justice system. Findings from their study of over 12,000 women in North Carolina between 1995 and 2009 showed that Black women with lighter skin received more lenient sentences and served less time behind bars. In a more recent study by Eberhardt (2020), research demonstrated that police officers are more likely to identify Black faces as criminal than White faces. Furthermore, offenders who committed murder and had stereotypical Black features of wide noses and thicker lips were more often sentenced to death than those with less stereotypical Black features.

Implicit biases are pervasive and malleable (Banks et al., 2006; Bennett et al., 2017; Clemons, 2014; Devine et al., 2012; Tonry, 2010). For example, Devine et al. (2012), studied habit breaking interventions that would lower implicit race bias. Devine et al.'s argument was that the choice to not continue to be prejudice had to rely on two factors; first that the people had to be aware of their biases and concerned about the consequences of their biases. The longitudinal study results indicated that 12 weeks of

training that combined awareness and concern about the effects of bias, reduced bias in persons that were aware of biases. Further, the training involved strategies for recognizing triggers and replacing biased responses with more objective responses. This illuminates the point of malleability, i.e., that implicit bias can be influenced by social circumstances.

Levinson (2006) examined how implicit bias also affects the way that both judges and juries are affected by evidence in trial cases. Levinson utilized an empirical study offering participants something to read, and then within a few minutes asked them to recall what they had read. The results demonstrated that the participants both remembered and incorrectly recalled with a racial bias. Levinson (2007) found that participants who read the story with a Black character remembered the story much more harshly than those who read the same set of facts with a White character.

I used IBT to develop interview guide questions for the participants to understand their experience of implicit bias, and its role in the misidentification process by eyewitnesses as well as the jurors. This framework was also used to guide the analysis plan to explore commonalities and differences in the experience of implicit bias its role in their wrongful conviction.

Cross-Racial Identification

Cross Racial Identification (CRI, also known as cross racial recognition [CRE]) is one of the leading factors contributing to wrongful convictions; here eyewitness identification testimony is relied on by either the judge, jury, or both. CRE is understood as the inclination for people to recognize faces of their own cultural or ethnic group more

accurately than those of other ethnic groups. Reardon and Fisher (2011) examined whether there was a difference in a juror's ability to delineate between accurate and inaccurate witnesses. It relies on accuracy of memory, which can be imprecise and inaccurate. Own race bias (ORB) played a large role in the inability to accurately identify people of a different race. Own race bias has been described as the tendency to be more accurate with the identification of someone of one's own race than a person of another race (Ryan 2015).

ORB has been perpetuated as well by the court's opinion that jurors are aware of their own biases. This makes race discrimination issues difficult to address and work through because it is not acknowledged even when courts validate that the general population does not understand or even recognize the subconscious biases of CRI. Delozier and Rhodes (2015) conducted a two-part study. Part one utilized 40 White college students and part two included 59 diverse students. The researchers gave point values to facial features using a value-based paradigm. The higher the value attributed to faces the more important the face was to learn. Results showed that there was higher recognition for high-value own race (but not for other races) than for lower value other races. It was less important to participants to recognize the face of someone from another race.

In a two-part study ($n = 170$ in part one, and $n = 250$ in part two), Wiese et al. (2014) used event related potential (ERP) to study ORB. The results revealed that while both groups showed a significant ORB by putting those of the other races into an outgroup memory classification. This finding was repeated in part two and was thought to

demonstrate a “tagging” of other-race faces as a form of salience bias, where individuals focus on things that are more prominent and ignore those that are more familiar or usual. With cross racial-based facial identification, there was a tendency to believe all people of another race looked alike to White eyewitnesses (Rutledge, 2001). Depending upon one’s race, Americans hold differing views on the criminal justice system; White Americans viewed the system as fair and generally believed if someone was arrested and subsequently convicted that individual almost certainly deserved adjudication.

Black Americans and Americans of color for the most part see the system as biased and unfair. Racial minorities believed they were severely discriminated against, unfairly targeted for arrest and conviction, and received disproportionate sentences compared to White peers (Hurwitz & Peffley, 2010). When people were shown photo lineups with photos presented all at once rather than individually, witnesses were more likely to pick an individual closest in appearance to the perpetrator rather than the actual offender (Innocence Project, 2000). When a witness was not familiar with a different racial group, it was more difficult for individuals to identify facial features under positive circumstances than under stressful conditions. With that in mind, jurors in a New York State murder trial in 1999 were given special instructions regarding potential problems with CRI previously recognized by the United States Supreme Court (Gray, 1999). The court limited the jury instructions to only when identification was a critical point, and there was no other evidence to support that identification. The court acknowledged that ordinary people have difficulty with CRI under general and normal circumstances and that this difficulty was so common that it had become the source of jokes and clichés

(Gray, 1999). However, the court was not prepared to generalize the ruling to all cases and left it up to the discretion of the trial judge, who may or may not be biased. More recent studies continue to support the presence of ORB, i.e., that people are better recognizing people of their group than nongroup members (Michel et al., 2010; Vingilis-Jaremko et al., 2020).

The style of questioning plays a significant role in the accuracy of eyewitness identification, which was something directly related to police suggestibility. Leading, suggestive, and direct questions resulted in the eyewitness wanting to perform accurately for the police and therefore created a positive interpersonal relationship (Samaha, 1999). It was further stated that police should not necessarily accept eyewitness testimony without corroborating evidence directly after the event itself as there was or could have been a tremendous level of emotionality influencing that decision. Eyewitness accuracy was considered tenuous and as such, police were to only consider it a part of the entire evidence that related to an accused's innocence or guilt (Samaha, 1999).

Other studies involving eye tracking have been done regarding cross race versus same-race bias recognition. Josephson and Holmes (2014) utilized 40 university students from a racially diverse area of the United States where the students of various ages, balanced races and genders: 10 Black men, 10 Black women, 10 White men, and 10 White women who would have regular encounters with people of other races. They utilized a crime video where two versions of the film were identical except for the actor, whose features were characterized as "medium" with no outstanding typical stereotypical

features. The results of their studies showed that there were differences between what White participants saw and what Blacks saw when viewing same-race photo lineups.

Another existing factor that could potentially influence eyewitness identification is a category of people medically defined as having prosopagnosia (the inability to recognize even own-race faces). Wan et al. (2017) studied 550 participants using the Cambridge Face Memory Test for diagnosing face blindness. Results showed that the rate of other-race face blindness was minor but suggested that even everyday social or workplace interactions with people of other races can be seriously impacted by the ORB in some.

Other Factors that Contribute to Misidentification

The Weapon Focus Effect

There are many factors that influence the accuracy of eyewitness testimony. One of the more well-studied areas has examined the effects of the presence of a weapon during a witnessed crime scene. Loftus et al. (1987) suggested that victims of crime, when faced with a weapon, concentrated more on the fear of the weapon than on the facial features or clothing of the perpetrator. Erickson et al. (2014) referred to this as the weapon-focus effect (WFE), and suggested that victims of crime, when faced with a weapon, concentrated more on the fear of the weapon than on the facial features or clothing of the perpetrator (Saunders, 2009; Singal 2014). This was particularly important when the alleged perpetrator was of another race or culture. WFE is also mitigated by the victim's expectation of a weapon. This has been described as the action-specific perception hypothesis (Witt, 2011) which asserts that attention is paid, when something

(like a bat) is perceived as unusual when it is present in an unusual environment (in a day care setting versus a baseball field). When demonstrating this with a gun, more attention was paid to a gun in someone's hand, as opposed to a holstered gun. Witt (2011) also found that people spent more time looking at the gun, rather than at the face of the person holding the gun.

This phenomenon was clearly demonstrated by Fawcett et al. (2016), where it was shown in laboratory experiments that the sudden appearance of a weapon diminishes the accuracy subsequently of the identification of both the perpetrator and the actual events of the circumstances (Fawcett et al., 2013; Jacob & Storer, 2016; Pickel, 2015; Steblay, 1992). The WFE may be further exacerbated in witness identification when there is significant time between the event and the test (test delay) and the length of time the victim is exposed to the weapon itself (exposure duration). It was found that the less the expectation of a weapon and the time duration of exposure to the weapon, the greater the difference in accurate description. Fawcett et al. (2013, 2016) argued that WFE diminished eyewitness identification when tested with lineups, and that there were variables-system or estimator variables that further reduced accurate eyewitness identification. Some scholars suggested that eyewitness confidence was a moderate to strong indicator of accuracy, especially under controlled circumstances (Brewer & Wells, 2006; Wixted, 2016; Wixted et al., 2015).

The experimental mock line-up study by Carlson et al. (2016) showed that eyewitness testimony should be given limited consideration in certain police lineup selections, as well as in trial situations. The confidence-accuracy (CA), where a weapon

was utilized, minimized the accuracy of the ability of a witness to remember the perpetrator's face, but where the lineup was immediate and the CA was extremely high (90%-100%), the identification was likely to be accurate. The researchers found that WPE was influenced by the confidence in the accuracy of participants' line-up identification. Low confidence made the WPE more pronounced, high confidence reduced the WPE and increased accuracy of identification (Carlson et al., 2016). Perpetrator distinctiveness is another variable in the WFE. Scars, moles, acne, or anything seen as unusual on the face of the alleged perpetrator stood to diminish or even nullify the WFE. Carlson and Carlson (2012) conducted a study of 600 undergraduate psychology students that contained mostly White students in their early 20s in which 60%-70% were women. Mock crime videos were recorded and shown; different points of view were utilized where the face initially was not shown. In one set of views, there appears to be nothing unusual about the perpetrators face, and in the second set of videos he appears to have a large "N" stretching across his entire right cheek. In all videos, the perpetrators time of exposure is the same; roughly 8 seconds which includes 2-3 seconds for the assault. Four different mug shot lineups were prepared, and before selecting the accompanying mug shots, and having taken a mug shot of the "alleged" perpetrator with no added features, four different lineups were presented: (1) perpetrator present with no lineup member having the distinctive feature on his face, (2) perpetrator absent with no one having the feature on his face, (3) perpetrator present with all lineup members having the same feature on their face, and (4) a perpetrator-absent lineup with all members having the feature on their face. It was a three (no weapon, beer bottle, or shotgun) by

two (distinctive feature or not) by two (perpetrator -present or perpetrator absent line-up) factorial design. Carlson and Carlson (2012) found that the WFE could be reduced if the perpetrator had something as distinctive marking on his face, a scar, a tattoo, or a birthmark.

Race has also been identified as a factor in WFE. Pickel and Sneyd (2018) investigated to what extent the weapon effect was altered if the presumed perpetrator was Black. They compared the existence of weapon on the memory of a Black witness versus a White witness. If one is more affected by the concept of unusual objects influencing accuracy of memory than the concept of a Black man having a gun, the weapon would not necessarily be considered an unusual object. They found that when the Black man was wearing clothing familiarly identified with Black men, the WFE became insignificant (Pickel & Sneyd, 2018). The researchers concluded that seeing a Black man with a gun automatically brought up a stereotypic concept that reduced the sense of unusualness regarding the weapon and allowed for a better memory of more accurate eyewitness identification. However, this study did not consider the possibility of other confounding variables such as age, lighting, sobriety, and others.

Another important factor in this phenomenon is the result of either physiological or emotional arousal due to a narrowing of the attentional width and breadth of the witness, especially if the witness was the victim as well (Erickson et al., 2014; Fawcett et al., 2013). This might occur when two people are being victimized simultaneously and each is dealing with trying to remember the specific details while dealing with the WFE. Erickson et al. (2014) study of the WFE utilized a simulated crime event that offered a

normal, novel, and threatening object. The experiment manipulated the timing of the weapon so that it was visible before, after, and during the time that the victim's face was visible. Target-present and target-absent lineups and retrospective queries were given. The results showed that both the novel object and the weapon resulted in increased mistaken identifications in target-absent lineups.

Hope et al. (2013) studied the implication of a gun versus other unusual articles presented by a perpetrator to examine accuracy of eyewitness identification. In utilizing an anti-saccade gap-overlap paradigm, where the participants were offered other distracting items such as a pocket watch or tomato, it was found that the mere presence of a gun was not found to be more engaging by the participant than the pocket watch or the tomato. The scholars concluded that the context in which the object appeared in addition to how threatening the object may have influenced the WFE.

A study by Erickson et al. (2014), in which manipulated timing of the presentation of the weapon were used, found that there was a much greater WFE when the person and the weapon were presented at the same time, but not the same when the weapon was visible before or after the face. Carlson et al. (2016) further examined WFE unusualness hypothesis and added that exposure time of the incident itself, contributed to both the accuracy and confidence of the eyewitness. The studies utilized samples that were heterogenous in both ethnicity and gender. They examined the WFE in conditions both with and without a weapon, and with short and longer. times of the event. When the exposure time was shorter and there was a weapon brandished, accurate recall of the facial features of the perpetrator was far less accurate than when there was no weapon,

and the time difference was longer, 3 seconds compared to 10 seconds. Erikson et al. (2014), further examined WFE unusualness hypothesis for the first time, and tested accuracy of memory in four different scenarios: a handgun, a distinctive object, a typical object and action. First, the perpetrator was seated in an office setting, stapling papers with a black stapler. In the second scene, a typical object was used as a weapon (the perpetrator stood up and hit a participant with the stapler). In the third scene, an atypical action, such as playing with a child's stuffed animal and standing up to hand it to the participant was shown. The fourth scene involved holding a handgun and pointing as a weapon. Erikson and his colleagues found that the fourth scenario (threat of a weapon) caused a less remembering of other items in the scene, as compared to the first three scenarios.

WFE and Cross-Racial Misidentification

Several studies have examined the relationship between race and WFE (Skorinko & Spellman, 2013; Smalarz et al., 2016). Seeing a Black man with a weapon in typical Black man's clothing, WFE was significantly reduced due to a stereotypical linking of Black men and crime, which reduced the unusualness of the weapon. Even people who are not actually racially prejudiced behave as if they are, by displaying the shooter bias and most studies offered that the effect occurred even if participants were just aware that the racial stereotype existed (Cox et al., 2014; Mekawi & Breslin, 2015), and most studies offered that the effect occurred even if participants were just aware that the racial stereotype existed (Kleider-Offutt et al., 2017; Pickel & Sneyd, 2018).

Memory

The reconfiguration of memory has been commonly recognized phenomenon since long before the degree of attention to the inaccuracies of eyewitness testimony became of great importance in its inaccuracy. Munsterberg (1908) showed the effect of time between eye witnessing the event and when questioned about it on the stand much later at trial. Bartlett (1932) demonstrated that memory is not static like a photograph of any given event. Instead, memories are reconfigured in three specific ways: (a) memories became shortened with time, (b) specific minute important details became lost or muted, and (c) personal bias changed the initial memory that may not have been correct in the initial representation. or biases influence both the verbal and visual areas. In his first known study, Bartlett utilized British subjects' recollections of Native American stories to show that relatively unimportant abstract issues were recalled as specific. Eyewitnesses will form a picture the individual believed to have remembered as an occurrence. Since memory is not static and it tends to change in that it becomes shorter, details become lost, and personal beliefs or biases influence in both the verbal and visual areas. Eyewitnesses will form a picture the individual believed to have remembered as an occurrence.

Memory is unreliable (Wells & Olson 2003; Wixted, 2018). Forensic scientific research has more often specifically addressed the perpetrator alone rather than the totality of the variables combined that made up the crime. Variables such as cross racial recognition ability, weapon focus, distance, and lighting were important aspects of memory in forensic settings (Sharps et al., 2003; Villegas et al., 2005). Even under the most ideal circumstances of lighting and exposure time, memory was terrible. Memory

was shown to be distorted in many well-known cases. For example, in the case regarding the Washington sniper, the vehicle was misidentified in color by several witnesses (Blades, 2005). Memory has been studied in both the laboratory and in realistic situations (Sharp et al., 2007). In almost all cases, it was revealed that memory in crime situations was poor for validating either the perpetrator's specific identifiable characteristics or the details of the crime event itself, but not both. Garrett (2012) proposed that memory is unreliable and should be tested prior to allowing a witness to testify.

Smalarz and Wells (2014) stated that memory for faces were further distorted when the face was that of someone of a culture differing from that of the eyewitness. Even within a relatively short passage of time, memory could be reconfigured from what the eyewitness remembered, such as seeing shades of brown skin changing in color degree or height and hair type that was misremembered. Smalarz and Wells (2014) studied memory impairment in 145 participants to see whether confirming post-identification feedback following a mistaken identification damages the eyewitness memory for the original culprit. They also tested whether similarity between the original perpetrator and the wrongly identified perpetrator played a role. Study results showed that once an eyewitness had identified a perpetrator and subsequently given positive feedback about identification, it distorted the eyewitness' memory regarding other aspects of memory for details related to the event (Smalarz & Wells, 2014). Even more so, it reinforced the confabulated and reconfigured memories with relation to other details such as color of vehicles, and clothing (Hanba & Zaragoza, 2007; Zaragoza et al., 2001). The distortion went as far as to show that when paired with an individual witness who

actually saw an accomplice, the eyewitness also claimed to actually have seen the accomplice when in fact they had not (Dixon & Menon, 2005; Wright et al., 2000).

When juries rely on eyewitnesses, and ultimately convict based on personal belief in its accuracy, the entire criminal justice court system is compromised, as is the concept of the promise of a fair evidentiary hearing on which juries must make a life-determining decision. Thomas et al. (2020) studied the relationship between retrieval and memory performance in older adults who had age-related stereotypes with regard to race and criminality. Researchers found that when older participants were faced with a threatening stereotype, their memory was less accurate than younger participants. While aging was thought to play a significant role in memory, this is not necessarily the case. Tessoulin et al. (2020) tested 104 younger adults between the ages of 18-30 years of age, and 104 older adults between the ages of 70-95 years of age. The results of this study did not show a significantly greater misinformation effect in older adults. However, race effect was not a part of their test.

In 2020, California passed statutes that included the change that the witness, “shall” as opposed to “may,” provide a full description of the alleged perpetrator, in as close time to the incident as possible. Most recently, Laney and Loftus (2021) discussed memory biases where not only can people make errors in remembering specific small details, but they can also misremember whole events that did not actually happen. This can hold true with the memory of events they may have in fact witnessed. The reconfiguration of events that took place recently, in our time at Wounded Knee in South Dakota, where the eyewitness accusing Leonard Peltier of a crime others have testified

was committed by a White man, a federal agent, is another example of racism and reconfiguration of the truth to satisfy the stereotypicality of the White majority.

Choice blindness for identification exists when an eyewitness cannot detect when an original target person has been exchanged for another target person. (Sagana et al., 2018). The witness was often prompted to confabulate introspective arguments that explained why the original perpetrator was selected and again when the witness' mind changed (Sagana et al., 2014). About 39% of all manipulations were not recognized by the person identifying the perpetrator for the second time when the perpetrator was someone different. Since this was proven to be a problem in cross-race identification, the reality that someone was mistakenly identified and then even a second person mistakenly identified was unacceptable.

Smalarz and Wells (2014) showed that once an eyewitness had identified a perpetrator and then was offered positive feedback about the identification, witness memory was distorted regarding other aspects of details related to the event. The feedback reinforced the confabulated and reconfigured memories with relation to other details such as color of vehicles and clothing (Hanba & Zaragoza, 2007; Zaragoza et al., 2001). The distortion went as far as to show that when paired with someone who saw an accomplice, the eyewitness also claimed to actually have seen the accomplice when in fact they did not (Wright et al., 2000). Sagana et al. (2014) studied what happened when someone identified an individual in a lineup, then the lineup administrator accidentally wrote down the wrong name and/or number of the person selected. The witness then had to identify that same decision in court. The result often was that the eyewitness identified

the wrong person. When juries relied on eyewitnesses and ultimately convicted based on belief in witness accuracy, the entire criminal justice court system was compromised, as was the concept of the promise of a fair evidentiary hearing on which juries made life determining decisions.

Forced confabulation occurs when a witness mistakenly incorporated self-generated information into the event (Brown & Asp, 2017; Brown et al., 2018). Self-generated information is another concern for eyewitness accuracy and reliability (Pezdek et al., 2007). Self-generated information happens when the witness discussed the event with someone that was either there or not there. Information or questions exchanged during communication can result in idea interjection and/or questions and suggestions to the actual witness, making memories pliable and manipulated by others (Vredeveldt et al., 2017). Two major reasons were offered for changing of memories between witnesses, including collaborative recall of events and cross-cuing. When things were remembered in collaboration with others, memories were morphed to be less individualistic and included events that never even happened (Cochran et al., 2016; Loftus & Greenspan, 2017; Loftus & Pickrell, 1995)

Memory and Cross-Racial Misidentification

Memory of faces is even further distorted, particularly when the face is that of someone of a culture, race, or ethnicity, differing from that of the eyewitness (Dodson & Dobolyi, 2016). Even within a relatively short passage of time, memory reconfigures what the eyewitness remembers seeing. As an example, shades of brown skin changed color degrees, and height and hair types were not remembered accurately. Egan et al.

(2013) revealed that despite concepts that White witnesses might tend to be politically correct in their identifications, they were not. While the latter study was done in the United Kingdom (UK) and demographics and political views were different, it evidenced that assumptions were not always accurate and did not always prevail. In identifying perpetrators without the mention of race it was found that it was not due to a need to seem race-blind, but rather a lack of knowledge as to how best to define that race. Tulles et al. (2014) also studied cross-race phenomenon in two different experiments. The first included self-paced examination, where the researchers' allowed participants to study faces for as long as they wanted. The second study focused on fixed-rate examination where the time for examination included the direction to individuate other-race faces. In the studies, it was revealed that time had no bearing on identification and that the amount of time witnesses used to see the face did not necessarily change the cross-race effect.

Police Suggestibility

Police suggestibility occurs when law enforcement implies or directly persuades a survivor into identifying an alleged perpetrator in a lineup, which often plays a considerable role in misidentification (Nirider et al., 2021). Leippe et al. (2009) conducted a study that demonstrated both biased instructions, and reinforcement of erroneous identifications raised the confidence level of assailant identification. Confidence was shown to raise the level of eyewitness belief in personal accuracy, despite earlier proof in studies showing that confidence was only moderately related to actual accuracy and at times not at all (Bothwell et al., 1997; Leippe & Eisenstadt, 2007).

Emotion as a variable was previously manipulated in studies for the purpose of seeing how it related to positive identifications, even if the perpetrator identification was misplaced. It was shown that positive emotion somehow related to feelings of good moral character and therefore further resulted in feelings of helping others, which lastly, in turn, heightened positive emotions and reinforced eyewitness accuracy confidence level (Stebly, et al., 2013). In addition, studies previously revealed that post-event suggestions misled eyewitness accounts with particular respect to witnessed details (Loftus, 1975; Loftus et al., 1978; Pezdek, 1977). Once law enforcement was satisfied with responses from encouragement prompts and witnesses received positive feedback, the identifier became solidified in the identification (Berry, 2011). Between 1967 and 1977, the United States Supreme Court considered the range of the due process clause of the 14th Amendment regarding suggestive eyewitness identification evidence. The outcome of all cases reviewed left the standard question of whether the totality of the circumstances, the identification was reliable even though the confrontation procedure was suggestive (Berry, 2011).

When police suggestiveness played a key role in the identification process and reliability was compromised, the United States Supreme Court excluded suggestive identification evidence. When the suggestion was relayed that the perpetrator was in the lineup selection, the eyewitness tended to pick someone, even if unsure that the identified person was the perpetrator. North Carolina already maintained standards for photo lineups that disallow case-involved law enforcement from conducting a lineup California, Massachusetts, New Jersey, and Utah utilized some of these restrictions in specific cases

but have yet to implement an across-the-board policy. The latter continued to allow for influence and suggestibility, either consciously or unconsciously. The Innocence Project (2008) has further offered that there is no clear understanding of why the Caucasian race was not as able to identify minorities as it was their own race. In keeping with these concerns, Thompson (2012) posited there were three types of immediate unreliable witness situations that disproved the concept of beyond a reasonable doubt. Eyewitness identification testimony was particularly erroneous when it was cross-racial, or dubious at best, given numerous amounts of variables, all too often people are being convicted on the basis of a one-person testimony (Thompson, 2017).

Even the police practice of double-blind sequential lineups left the question of whether repeated lineups were of benefit. While double-blind was better than all else, it did not necessarily prevent police suggestibility. Previous data revealed that when people viewed lineups for a second time, there was a tendency to make more identification errors than when only participating in a single-selection lineup (Stebly et al., 2011). Even the idea of asking for a second look often offered the implication that the perpetrator was among the photographs, and that the witness had a somewhat moral or even legal obligation to point out that person. The question of not being sure or pointing out someone of similar appearance to the person remembered often encouraged law enforcement to prompt the witness to look again or ascertain certainty of familiarity of individuals in the lineup. The latter practice left witnesses the experience of the expectation of assisting the investigation by making an accurate identification of the suspect law enforcement believed were responsible (Eisen et al., 2018). In 2020,

California mandated through state statutes many changes in the identification and evidence collection of suspects. With regard to photo identifications (mug shots), they now have to be blind/double-blind administration, specific uniform witness instructions, proper fillers, witness confidence statements and full recording of the interrogation of homicide suspects as it takes place.

Mugshot Exposure

Mugshot exposure increases the misidentification of defendants. Mugshots are often taken at a time when hair, complexion, and other recognizable characteristics are different or altered. For instance, a definitive scar present on a current mugshot might not have been present on a former image. As described earlier, Carlson and Carslon (2012) found that mugshot identification reliability is influenced by facial attributes and presence of a weapon. Unreliability of mugshots and how witnesses can be influenced by personal and environmental factors has been studied extensively in earlier studies of sources of misidentification (Aaronson, 2008; Deffenbacher et al., 2006; Delgado, 2010; Lindsay et al., 2008; Loftus & Harley, 2005; McGuire et al., 2015; Oberest, 2015; Pezdek et al., 2007; Roper & Shewan, 2010; Steblay et al., 2011; Winter & Kline, 1998).

More recently, the technology of composite drawings that are used to identify suspects has also been a subject of study. Eyewitnesses are asked to describe facial and other features in attempts to create an image of sufficient likeness to assist in suspect identification. Sporer et al. (2001) conducted a comprehensive review of research and found (1) that the research quality across studies was insufficient for meta-analysis; and (2) that even the better-quality studies showed weak positive or no effects for improved

accurate identification. They made many suggestions for improving study designs to make better simulations of real-world circumstances while controlling for confounding variables, but declined to advocate for the value of mug shots or composites as reliable methods.

Mugshot Exposure and Cross-Racial Misidentification

When people were shown photo lineups with photos presented all at once rather than individually, witnesses were more likely to pick an individual closest in appearance to the perpetrator rather than the actual offender (Innocence Project, 2018). Malpass and Kravitz (1969) studied this phenomenon and found that White subjects made two to three times the number of erroneous identifications when trying to identify Black faces as when identifying perpetrators of their own race. This was known as “own race” effect. In a study done by Fitzgerald (1997) with the inclusion of Asian subjects, findings revealed that minorities more accurately identified an Asian confederate, and nonminorities were more accurate at identifying the Asian and White subjects, but both parties were least accurate when identifying Black subjects.

Research on Exoneration

Definition and Background

Exoneration legally refers to a court order where someone convicted of a crime is later proven to be innocent and is released from prison (NRE, 2018). There are factual exoneration where the convicted person has been proven to not be the person that committed the crime for which they had been found guilty of and committed to a prison term for any unspecified number of years. There is also a technical exoneration when a

person has been technically harmed in the court process and so harmed that trying them again would be unconstitutional (Leo, 2016). According to the NRE (2018) latest report, the total number of defendants later exonerated for crimes they did not commit totaled 1,639 years lost just last year alone. The total number of years lost to exonerated, wrongly convicted exceeded 20,000 in September of 2018 and has since passed 21,000 (NRE, n.d.). It was also reported by the NRE that Blacks suffer more false confessions when they represent only 13% of the U.S. population but constitute roughly 47% of the exonerated population (Gilna, 2018). The report also revealed that Blacks who were wrongly convicted served 3 years more than Whites before being exonerated and released. Furthermore, NRE research has shown that innocent Black people are about seven times more likely to be convicted of murder than innocent White people, even more so if convicted of killing a White person. Black prisoners serving time for sexual assault are three and a half times more likely to be innocent than a White sexual assault prisoner (NRE, n.d.). The four states leading in wrongful convictions and exonerations out of all the United States in 2018 were Texas (363), Illinois (303), New York (281), and California (205; NRE, n.d.).

Faison and Smalarz (2020) discovered that exoneration and release following years of dealing with wrongful incarceration presents a plethora of more unexpected concerns that involve both the released prisoner, their families, and the society they return to. Despite what the public may believe, more often than not, exonerees are often offered less resources than the released rightfully convicted prisoners. They reported on the exonerees' experiences, describing how many exonerees are release directly from

court, having nothing more than the prison attire they appeared in court with. They may have had little or no time to arrange housing, may have no family that either live in that same city, are willing to take them back in, or even have enough room for them to be there to begin with. Most exonerees are not offered temporary housing, job training or placement, health insurance, drug rehabilitation services, or very importantly, mental health services. Exonerees may also display signs of psychological trauma more than anticipated such as hyperarousal, hopelessness, intrusive thoughts, poor abilities to socialize, isolation, self-destructive coping mechanisms, moodiness, and anxiety disorders. Post-Traumatic Stress Disorder (PTSD) is common in exonerees (Faison & Smalarz, 2020).

Coping With Wrongful Conviction

Being factually innocent and learning to cope with incarceration under those circumstances is a difficult task. Coping is simply the way an innocent person convicted of a crime they did not commit manages to maintain some level of functioning on a daily basis. DeShay (2016) conducted interviews with 23 exonerated individuals from Dallas County and found that different people used various means of coping, positive and negative, and individuals opting for a positive attitude somehow managed to adapt to the situation at hand and tended to direct energies on the problem at hand, and emotions. Exonerees tended to focus on the situation and formulate actions that potentiated resolutions. Exonerees adopting negative positions utilized denial, isolation, and withdrew from the outside world previously left behind (DeShay, 2016). The loss of

families, employment, and careers, not being able to watch children and grandchildren grow up, and absence from family events was traumatizing beyond description.

Compounding the latter was the death of a loved one and not being able to show innocence, or not being able to say goodbye or even attend the funeral. Coping skills vary individually, but exonerees stated that one's faith and spirituality levels seem to be the one most important coping mechanism. DeShay (2016) also found that post-exoneration, participants described a second coping mechanism of meeting with others who experienced the same situation and openly discussing experiences, along with a third mechanism of withdrawing and isolating.

Post-Exoneration Challenges

Post release psychological problems include drug abuse, associating and maintaining relationships outside the prison, due to fear and having been in a precarious environment for so long (Alexander-Block, et al., 2020). Others stayed close to home out of fear of being falsely accused of a crime again, and it has been documented that some others even maintained a cell like room where everything was in arms reach. There is research depicting clinical and consequential or post exoneration reoffending (Campbell & Denov, 2004; Grounds, 2004; Schlosberg et al., 2014; Westervelt & Cook, 2009). The research study of Schlosberg et al. (2014) found that there was a strong correlation between failure to expunge the wrongful conviction was a predictor of post exoneration offending. Furthermore, those with prior convictions before the wrongful conviction showed a greater propensity for reoffending than those without prior criminal records. A study conducted by Clow and Leach (2013) showed that exonerees with a history of false

confession or misidentified were offered more sympathy than others, but neither group received more government financial assistance or other resources.

Post-Exoneration Stigma

There is a plethora of research regarding the stigma that came with being exonerated from a wrongful conviction. It was something that tarnishes the person's identity and place in society. Consequently, this stigma reduces the availability of opportunities for exonerees and diminishes the chances for life successes (Goffman, 1963). How the public viewed wrongful convictions and ultimately labeled exonerated persons certainly impacted not only the actual integration but rippled into quality of life and opportunities for future success. Exonerees have been viewed as not necessarily innocent but that they "beat the system," and the stigma attached to those exonerated after wrongful conviction often had to do with the type of crime attached to the conviction (Rudolph, 2004; Scherr, 2020). Interestingly, when the public has been interviewed with regard to how they feel about exonerees, they believe that exonerees are stigmatized by the public but believe that they themselves feel no animosity towards exonerees. Even more complex are the findings by Scherr et al. (2020) who conducted an experiment comparing people reading stories about White or Black male exonerees. The researchers found that White exonerees were more likely to be considered guilty and provided with counseling; Black exonerees who were convicted of stereotypic-consistent crimes such as assault rape and robbery were more likely to be considered innocent.

Post-Exoneration Legal and Financial Relief

The legal resource of the exonerated suing for damages in civil court existed, but the process was long and arduous. It was often too scary a journey for those having been exonerated and having no access to the lawyers who could assist in the process. In 2015, an exoneree, Obie Anthony was sentenced to life without parole for a murder he did not commit when he was 19 years old. Seventeen years later he was exonerated, dedicated his life to helping other exonerees who were returning to society and was instrumental in the passage of AB672 which requires the California Department of Corrections to assist exonerees with transitional services including housing mental health treatment and job training. After he won a lawsuit in the state of California for his wrongful conviction, and then worked for the passage of AB672, now known as “Obie’s Law,” he founded the organization The Exonerated Nation. Obie’s Law requires that the California Department of Corrections and Rehabilitation and the California Department of Motor Vehicles ensure that all eligible inmates released from prison in California have valid identification cards. This allowed for former inmates to gain an identification other than a prison ID card not associated with incarceration status. Anthony also created the Exonerated Nation, a group of exonerees that assist freed persons with housing vouchers, mental health and drug counseling services, job training and placement, cash stipends, and counseling and legal services. These initiatives addressed all areas that prove most difficult for exonerees to navigate.

In 2016, the Innocence Project modeled legislation for states’ uniformity of ways to compensate newly freed exonerees, including payments of a minimum of \$64,000 per

year of wrongful incarceration, another \$64,000 for every year on death row, and \$32,000 per year on parole or on a sex offender registry. Unfortunately, standardized equal compensation never became law, and even today the discrepancies exist and are wide. For example, Connecticut maximum compensation per year is calculated based on anywhere between 75%-100% of the median Connecticut housed income, and an immediate subsistence payout for short term needs such as housing and clothing, and long-term access to job training, education, and physical and mental health care. Washington, D.C. offers \$200,000 for each year of incarceration, including a prorated amount for partial years served, \$40,000 for each year served on parole, probation, supervised release of as a registered sex offender Iowa offers \$50/day and attorney's fees. Montana offers no monetary compensation but provides educational aid expenses for tuition, fees, books, board and a room at any MT community college, unit of the MT university system or accredited MT tribally controlled community college. New Hampshire has a \$20,000 cap, WV offers fair and reasonable damages without any specified amount; and NY has a no limit compensation (Compensation Statutes: A National Overview, n.d.).

In the Innocence Project's model, making a false confession or pleading guilty would not disqualify the exoneree from receiving any monies or assistance. From 1989 to date, The Registry of Exonerations reported a total of 2810 exonerations: Blacks, 1,397, White, 1009, Hispanic, 334, and others, 65. As of 2020, there was a new record of 120 exonerations across the United States in that year alone.

To date, 375 people have been exonerated by DNA alone. The crimes themselves were as varied as the people exonerated including 54 for homicide, 24 for sexual assault, 15 for other violent crimes such as arson, robbery and attempted murder, and 73 for nonviolent crimes (NRE, 2020). Conversely, the details about what exonerees were forced to endure while knowing and maintaining innocence has been left out of the picture. Oftentimes, the person had limited or no record of prior contact with law enforcement, and certainly not any negative interactions.

Individuals were taken into custody, treated at times in an abusive way, disbelieved, and subjected to being searched, told to spread buttocks, had gloved fingers search inside the mouth, and possibly treated with both disdain and even hatred depending upon the crime itself. Coping with the latter was different depending on the individual, but on occasion the person went through intense emotional changes, such as guilt for the issues imposed on an inmate's family through the arrest and conviction (Westerveldt & Cook, 2010). There was also contradictory evidence suggesting that dysfunctional families played a part, especially when the exoneree had little coping skills or support to address the trauma that had been sustained (Grella et al., 2013).

There is little research available on the coping mechanisms of exonerees, but when Madschi et al. (2015) looked at older inmates in terms of stress and trauma and discovered that social interaction with families and spirituality were the main tools former inmates utilized. The same human being can lose a job, family, home, and personal belongings while simultaneously becoming disoriented from the simple removal of day-to-day normalcy, again, while simultaneously factually innocent (Westerveldt &

Cook, 2010). Often exonerees were people with positive beliefs in the judicial system, and that an arrestee did something to deserve that treatment. The psychological effects of this experience were far greater for most than simply the loss of material goods, such as homes, personal possessions, and careers.

In a Canadian study of 18, it was found that there were 14 cases meeting the criteria for personality changes following experience of wrongful conviction; and 12 met the criteria for Post-Traumatic Stress Disorder (Grounds, 2004). Most described to the interviewer suffering with mood and anxiety disorders. A more recent study revealed that participants also reported major psychological and social adjustment problems within the families (Grounds, 2016). The symptoms were similar to those described by servicemembers returning from war. Following exoneration, oftentimes, exonerees dealt with the paranoia of being returned to custody due to eyewitness misidentification, a confidential informant, hidden testimony, false confessions, and government misconduct that may or may not have occurred in their original trial (Gross & Schaffe 2012; Huff et al., 1986; Scheck et al, 2000).

Reentry can be even further differentiated by the attitudes of whom they are returning, social supports, and the community (Alward et al., 2020). The study provided information about the way the exonerated individual changed from within and how family emotional support greatly reduced the degree of post-exoneration substance abuse as well as recidivism and returning to prison. Sells et al. (2020) discovered that a community that offered peer mentoring was influential in reducing the difficulties often encountered on those formerly incarcerated returning citizens. Other studies showed that

Black people were more likely to be wrongfully convicted of murder and assault than any other race (Chokshi, 2017). It was found that while 40% of Blacks were convicted of murder, 50% were wrongfully convicted while White individuals accounted for 36% of wrongfully convicted people. This was determined in looking at almost 2,000 exonerations nationally.

Another factor raised by Chokshi's (2017) study was that while a larger murder rate existed within the Black community, it did not justify the explanation of the difference between wrongful conviction and exonerations racially. This study also revealed that while racial bias was involved, only 15% of murders committed by Black people involved a White victim, yet 31% of Blacks later found innocent of that crime were initially convicted of killing White people. There were certainly other possibilities such as perjury, evidence mishandling, and witness tampering that played a part. Further findings suggested that White people were more apt to misidentify Black people when presented with other Black individuals than when presented with other races. This was an example of cross-racial misidentification and certainly explained the finding of eyewitness errors in 79% of sexual assault cases involving wrongfully convicted Black defendants while only 51% accountable for White defendants (Innocence Project, 2017). Other issues that contributed to the psychological, emotional, and spiritual damage sustained included innocent Black people staying in prison for a much longer period of time than innocent Whites (NRE, 2017).

While becoming a lawyer was difficult for the average student of law, it was a closed option for convicted felons in California. Exonerees have now pursued and been

accepted into the bar to enable the cohort to right the wrongs experienced (Carter, 2015) California supported a program that allowed formerly incarcerated persons as well as those exonerated to work under the supervision of an attorney after having some legal coursework background for 3 years, and subsequently take the bar exam to be licensed as a practicing attorney.

There is an additional difference between exonerees beside those mentioned above and that is those exonerated after being on death row. While they may have experienced many of the same obstacles as those who were imprisoned in the general population, there is an additional segregation and isolation that exists for those single celled, for an extended period of time.

Factors That Influence the Likelihood of Exoneration

In comparison to the depth of information regarding factors of cross-cultural eyewitness misidentification and DNA evidence, there is less existing literature regarding the experiences of individuals who have been exonerated of a wrongful conviction after years of incarceration. The DNA revolution as related by Medwed (2017) and Laporte (2017) point to the systemic flaws in the criminal justice system and the resulting high numbers of wrongful convictions that had taken place and were continuing to take place. Gould (2013) studied the causes of wrongful convictions for decades and offered specific causes for what he termed “near misses”; factors that were not present in cases that led to a wrongful conviction. Gould and his colleagues established seven major predictors of wrongful convictions and ultimately exonerations. They are age and race of the defendant and prior convictions, intentional and nonintentional misidentification. Over three-

quarters of known exonerations, often in cases of rape involve eyewitness misidentification lying by a nonwitness, a family defense witness, forensic errors, weak prosecution case, the role of the judge and how factors interact, for example, tunnel vision (Garret, 2011; Gross & Schaffer, 2012). Other factors involved can include false confessions, and perjured informant testimony.

In over three-quarters of known exonerations of rape involve eyewitness misidentification (Garret, 2011; Gross & Schaffer, 2012). Since 1987, studies of erroneous prosecutions have shown that as high as 25% involved false convictions that as well turn out to be reasons for exoneration. Tunnel vision, which is more common than recognized, has been described as when either police or prosecutors select on a particular suspect and then present partial or specific evidence solely that will build their case for conviction while ignoring or not presenting the evidence that points away from guilt (Findley & Scott 2006). This often causes the wrong suspect to be convicted and going through a lengthy process to exoneration.

Perjures informant testimony is also known as a snitch offering information usually in exchange for relief of some benefit to them. The Innocence Project offered that 15% of erroneous convictions that were overturned through DNA evidence, including perjured informant testimony (Innocence Project, 2012). Forensic error usually involves testing errors, possibly using unvalidated techniques and poor testimony involving a lab technician. The Innocence Project states that forensic error was the basis for 50% of DNA exonerations nationwide.

Prosecutorial error often includes the Brady violation. The brady violation is defined as what happens when prosecutors fail to disclose evidence materially favorable to the accused. These finding after conviction demand the reversal of a conviction particularly if it is deemed that the evidence that could have been considered favorable to the convicted would reasonably have been shown to alter the entire case in such a light that undermines the confidence in the verdict (Gross & Shaffer 2012). Bowman and

Gould's (2020) found that case related factors (like prosecutorial misconduct) were the strongest predictors of prosecutors' willingness to take on exoneration cases. A Columbia University study of capital appeals found that a weak prosecution representation or inadequate defense lawyer is the greatest cause of the erroneous conviction of criminal defendants in capital cases over a 23-year period, which was the biggest contributing factor of wrongful convictions (Liebman et al., 2000). Other issues include race of the defendant, the media, state jurisdiction, and age. There are also what are considered "near misses" in wrongful convictions and this occurs when a factually innocent defendant is indicted but released before being convicted on the basis of his innocence. These are not included in the examination of actual wrongful convictions and resulting exonerations.

Post-Exoneration Experience

There are fewer programs offered to exonerees compared to those released on parole. As described earlier, there are no programs or restitutions unless they are pursued via lawsuit, which is time-consuming. And there are caps on the amount of remuneration available to an exoneree regardless of how much time was spent incarcerated. Keith

(2016) showed that Black exonerees fared well in comparison to their White counterparts in terms of compensation due to statutes aimed at denying monetary restitution. In Louisiana, for example, despite being wrongly convicted and incarcerated, once exonerated, no compensation was provided if the exoneree knew anything about the crime prior to its commission. Eligibility in Texas law requires that a wrongfully convicted prisoner later exonerated be free of any prior convictions to receive the \$80,000 for each year of wrongful incarceration. Wyoming does not have compensation for wrongly convicted and incarcerated exonerees. Florida forces the exonerated to turn to the legislature to advocate for a private bill for compensation.

Goldberg et al. (2019) described the barriers that exonerees face regarding compensation, including private bills, litigation, and compensation statutes. Exonerees trying to utilize the private bill route face the need of providing a higher degree of proof, immunity of state personnel, and face utilizing a time consuming and costly process which most may have the former but not the latter ability to provide. If the exoneree decides to take the litigation route, they have first to decide who they can actually take the action against and often the very people that should be litigated against are protected by law under qualified immunity. Compensation statutes are only in 35 states at this point but as described in the Texas case, they vary and are discriminatory in nature. Nineteen states have no monetary compensation. Fourteen states offer some form of tuition or educational assistance, nine states offer assistance with medical expenses and 12 states offer counseling services. Some states stipulate that only those exonerated through DNA are eligible for any form of compensation. Even other states stipulate that denial is

deemed appropriate where the exonerated person was considered as having contributed to their wrongful convictions such as falsely confessed or pled guilty.

Ban the Box

Up until 2007, it was legal for employers to include on a job application a question about conviction of a crime. This question on the application was called “the box”, and the subsequent legislation was named “Ban the Box”. With the passing of Ban the Box legislation (BTB) (2007-2009), in several cities in California, and in several other states, it became illegal for a potential employer to question the criminal background of an applicant until an applicant was offered a position.

At that point, the employer can consider the relevancy of the crime to the position but revoking an offer due to criminality was itself a crime. For example, if someone applied for a bank teller’s position and had been convicted of embezzlement, the employer had grounds for deciding against hiring that applicant in that position, but if the applicant had applied for a janitorial position, denying the applicant employment would not have been considered valid. Employment continued to be one of the greatest impediments to future success. While BTB reduced the challenge somewhat, the unemployment rate among exonerees continued to be a serious factor. Studies indicated that the inability to acquire a job often leads to recidivism or primary offending, particularly when exonerees had a previous history of criminal conviction (Schlosberg et al., 2014). Adapting to the new technology was a major obstacle for many exonerees. They had little or no connection to the fast pace of cell phones and computers; even ATM

machines may frighten them, and they may be too ashamed to ask for help, further isolating them from present day society.

The Innocence Project

The Innocence Project was founded in 1992 by Peter Nuefeld and Barry Scheck at Cardozo School of Law. It is a 501(c)(3) nonprofit legal organization with a focus on exonerating those prisoners who claim to have been wrongly convicted. Statistically it estimates that in the United States between 2.3% and 5% of all prisoners are innocent. It does this through DNA testing and reforms the criminal justice system to prevent future injustices (Innocence Project Archives). As of February 25, 2021, The Innocence Project has worked on 203 successful DNA-based exonerations alone. The Sentencing Project, created in the early 1980s was created to address racial disparities in the criminal justice system and works alongside with The Innocence Project. The Innocence Project had been responsible for some of the most progressive policies, statutes and mandated reforms related to exonerations as well. They added a section to the penal code that reformed and standardized eyewitness identification through SB 923; created SB1134 which required that new evidence be presented to the prosecution if it would have likely changed the outcome of the trial and acquitted the exoneree.

They created an act to amend section 1473 relating to criminal procedure which now allows wrongfully incarcerated individuals by allowing outdated expert testimonies on false evidence to overturn convictions if the expert recants their testimonies of it has later been determined the scientific research or technological advancements. What the public does not realize is that up to post convictions SB 651 and AB 1987, access to

evidence of innocence is greatly reduced. AB1987 once signed allowed prosecutors, judges, and government officials to offer access to discovery material post- conviction. The bill also requires trial counsel to retain a copy of client's files for the term of imprisonment where a person is convicted of a seriously or violent felony resulting in a sentence of 15 years or more.

In 2020, of the 2,535 exonerees identified by the NRE (n.d.), 49% are Black, 37% are White and 12% are Hispanic. This shows a total of 61% of those studied to be individuals of color; this does not include either Asians or those considered "others" (Pacific Islanders, those who identify Biracially or unknown). These initial three groups represent only 13%, 77%, and 18% of the population, respectively.

The returning citizens (exonerees) each have a very different experience depending upon the state that they live in (Faison & Smalarz 2020). Black exonerees are compensated less times and there are fewer statutes to assist them in the way the state frames their reasons for denying Black exonerees compensation (Keith, 2016). Initially upon release after being exonerated and after spending decades beyond bars, there are issues of mental health issues, relationship issues, and inability to sustain a steady income. There is often the consequence of social stigma making reintegration difficult (Goldberg et al., 2020), despite proof of actual, factual innocence; financial compensation varied from \$0 to lifetime stipends, medical care, and education (Scherr et al., 2018). Financial compensation, for example, can also depend upon whether one falsely confessed or pled guilty and for those having related prior felony convictions. Employment interviews with employers most often considered the exoneree as less

articulate, less intelligent, less competent, and less trustworthy and therefore would probably not hire them. It was also shown that the exoneree that received compensation from the state was viewed less negatively than those who were compensated (Faison & Smalarz, 2020). Compensation was also looked at as an apology by the state, an admission of guilt on the part of the state.

One other necessary point is that in some states for exonerees, because they are found factually innocent, they no longer qualify for the resources that are available to those on parole; often that means no housing, no medical, no employment opportunities. Returning exonerees may have been wrongly incarcerated for more than half their life before sufficient proof is shown to free them. Exonerees mental health can be seriously compromised (Alexander-Bloch et al., 2020). There is continued trauma and aftermath for death row exonerated prisoners, simply from just living on death row. The stigma attached to death row assignment and then having to rebuild their own identities, presents an even more difficult journey. They return to an unfamiliar society, families who grew up without them, possibly abandoned them finding it easier to believe they would never return. The exonerated death row survivor has for the most part lived in an isolated experience, often with disdain, neglect, and negative attitudes towards them for the most part consistently (Westerveldt & Cook 2018).

Kreggs's (2016) study revealed mental health issues and disconnection from families and a strain on such relationships upon return. Prison traumatizing especially when imprisoned for a crime not committed. There is fear and violence, overcrowding, abuse emotional withdrawal and suppression. As a result, many exonerees are used to

living in a state of hypervigilance, and a somewhat constant state of exploitive and violent surroundings. There is also at times a severe feeling of loss without necessarily being able to define it; loss of time, loss of family connection, wife, children, parents, siblings, and extended family who may have turned their backs. There is loss of a sense of self, and the person they used to be. There is a sense of shock and even unreality in the transition to the outside society. There may be a difficult in the ability to make decisions for themselves since they have spent often decades taking orders and directions from those in charge of their very existence (Keith, 2016; Westerveldt & Cook 2018). As of 2017, the 2,161 people that the Innocence project exonerated, roughly 70% of those exonerated were convicted based on eyewitness misidentification, and of those cases, four out of 10 involved CRI (Roth, 2010).

Summary and Conclusions

Current research and reporting have suggested that there are multiple factors that can result in wrongful convictions. These factors including cross-cultural eyewitness misidentification, the weapon effect, lighting, age, police, and prosecutorial misconduct (Scherr et al., 2018). Following exoneration exonerees cope with a myriad of obstacles and barriers (Goldberg et.al., 2020), and racial differences in compensation (Keith, 2016). Race and criminal history are two factors that play a definite role in people's ability to secure safe and adequate housing despite being exonerated (Zanella et al., 2018).

In sum, this review of literature has revealed that not only was eyewitness identification shown to be the least reliable scientific evidence, but that race plays a significant role in wrongful identification. Juries' willingness to believe or assume that

the victim or the witness was accurate opened the door for wrongful convictions and a plethora of innocent people incarcerated. In addition, lack of resources, lack of high-level legal assistance, and lack of financing to request and obtain expensive DNA and other testing of the evidence that existed, allowed men and women to languish, often forgotten, abandoned by both society and families for a myriad of reasons for decades. In the next chapter, I propose the research method to study the narratives of wrongful conviction, using the key concepts and theoretical framework to guide the investigation and analyses.

Chapter 3: Research Method

The purpose of this qualitative study was to explore the experience of cross-cultural misidentification, wrongful conviction, exoneration, and the return to society of formerly incarcerated men. A narrative approach was chosen to understand the experience and its meaning, and this study focused on the experience of cross-cultural misidentification, wrongful conviction, exoneration, and return to society in formerly incarcerated men. This chapter includes the description of the research design, the sample, criteria for selection, and procedures for data collection. Ethical issues are discussed, and informed consent and data storage plans are reviewed.

Research Design and Rationale

Research Questions

The primary research question was: What is the experience of cross-cultural misidentification, wrongful conviction, exoneration, and return to society in formerly incarcerated men? The subquestions that guided this inquiry include:

1. How does the narrative begin?
2. What were the turning points leading up to wrongful conviction?
3. Were there other influencing factors in the misidentification?
4. What is the meaning of cross-cultural misidentification?
5. What was daily life like for exonerees during their incarceration?
6. What was revealed during the process of exoneration?
7. What is the present moment of the narrative?

Phenomena of Interest

The phenomena of interest are cross-cultural misidentification, wrongful conviction, exoneration, and return to society. These concepts have been identified and discussed in Chapter 2. Cross-cultural misidentification is defined as the difficulty of recognizing faces belonging to people of a different race (Johnson & Holmes, 2011; SantBarket, 2019; Stepanova, 2013; Wong et al., 2020). Wrongful conviction is defined as convictions that can be classified under two conditions. In the first condition, the person is factually innocent of the charges, and in the second there were procedural errors that violated the convicted persons' rights (National Institute of Justice, n.d.). Exoneration is defined as absolving someone officially from blame; vindication (Department of Justice, 2019). Return to society is defined as the action of a freed prisoner returning to either the community he was from, or another community designated as mandatory (National Re-entry Resources Center, n.d.)

Tradition

I used narrative analysis, as this research approach allowed me to capture the stories of the participants as they went through the process from wrongful conviction to the present moment (Riessman, 2008). Narrative analysis is a way to interpret stories that people create. The purpose is to understand how people find meaning in their experiences. It is a way for researchers to analyze and then interpret the stories created and then be able to find a way to connect those stories to people who are often in their everyday lives. One of the advantages of narrative analysis is greater insight (Riessman, 2008). The narrator is urged to go into depth and therefore allows the researcher to

interpret the narrator's emotions, further allowing the reader to connect with the narrator (Baxter & Jack, 2008). In this study, I interviewed individuals who have experienced this phenomenon, and to hear their stories of how they individually responded and navigated through the experience from conviction through exoneration.

Role of the Researcher

The role of the researcher in qualitative studies is to recognize that one is the primary research tool and must therefore minimize biases about the subject matter and simply listen to and interpret the participants' related experiences (Patton, 2015). In this study, I developed the interview guide, collected, analyzed, and interpreted the data, and employed the necessary qualitative strategies to address the risks of bias. These are described in the procedures below.

Researcher Bias

I have been associated with many departments of corrections since 1966, so keeping my personal feelings aside a difficult task, and a difficult boundary to be on constant alert for (Chenail, 2011; Malone et al., 2014; Tufford & Newman, 2012). The participants were invited from The Exonerated Nation organization, and I had no prior connection to them in any capacity before the interview takes place. If any of the participants selected had a familiar name, the individual(s) would have been recused from the study.

I asked open-ended, not leading questions, and listened without commenting. Malone et al. (2014) alleged that any stage of the process can see researcher bias. It was imperative for me to be hypervigilant regarding either interjecting a subjective opinion or

even offering simplistic hints of bias through sounds or emphasis on any particular response. One issue to be on the alert for was self-disclosure on my part. Self-disclosure could influence the objectivity of the participant (Audet & Everall, 2010) for several reasons; the need to please, the need to feel on equal footing with the researcher, or simply thinking there is a right or wrong answer. It is important for the researcher to be able to simply describe and not subjectively interpret the responses offered by the participants (Chan et al., 2013). I also employed strategies including audio recording and verbatim transcription of interviews, member checking, audit trails, and detailed documentation of the research process to minimize the influence of bias. These are further described in procedures sections.

Methodology

Participant Selection Logic

Target Group

Participants of the Exonerated Nation were the target group. This group was chosen because their characteristics are part of published record (i.e., the individuals have experienced the phenomenon of interest and there is known cultural diversity in membership).

Participant criteria for selection included having had the experience of being wrongly convicted based primarily on cross-cultural eyewitness misidentification and later exoneration. The participants were older than 18 years of age and out of prison. Obie Anthony, the executive director of the Exonerated Nation, distributed flyers on my behalf describing the invitation to participate in the study, the procedures, and sample

criteria to persons meeting the target criteria; and they contacted me by email or telephone in order to “opt in.”

Sampling Strategy

A homogenous sampling strategy (Patton, 2015) was used. This strategy assured that participants would meet the criteria for selection and have similar enough experiences to generate data for the analysis.

Sample Size and Saturation

Based on recommendations from the narrative methodological literature and qualitative sampling (Guest et al., 2006; Riessman, 2008), I planned to recruit 10 to 12 individuals so that saturation could be maximized. The resulting sample consisted of two participants. The challenges of recruiting and limitations of the small sample are discussed in Chapter 4.

Instrumentation

The data collection instrument was a semistructured interview guide (see Appendix) developed in concert with the narrative approach (Riessman, 2008). The intent was to ask the minimum number of questions to encourage the participant to share their story, the turning points, and the meaning of those experiences. Table 1 demonstrates the connection between the literature reviewed in Chapter 2 and the development of the interview guide questions. These questions were then reviewed by subject matter experts to enhance content validity and data sufficiency. It should be noted that there are culture-specific issues related solely to cross-cultural eyewitness misidentification. Consideration of both structural and blatant racism played a part in the data collection and analysis

process. Culture-specific issues came into play when implicit bias is revealed in participants' responses.

Table 1*Key Concepts and Associated Literature*

Key concept	Associated literature
Wrongful conviction	Bedau & Radelet, 1987 Gould & Leo, 2010 Leo, 2005 Risinger, 2007 Bennet, 2015 Wildemsan et al., 2011 Knuycky et al., 2017 Parkes & Cunliffe, 2015 Szyszko, 2018 Gross et al., 2017
Cross-cultural misidentification	Meissner et al., 2005 Ryan, 2017 Hounhan et al., 2012 Flevaris & Chapman, 2015
Eyewitness testimony	Neal et al., 2011 Carlson et al., 2016 Johnson et al., 2013
Implicit bias	Brownstein, 2017 Levinson et al., 2010 Bennet, 2010 Banks et al., 2006 Clemons, 2014 Tonry, 2010 Hinton, 2017 Maina et al., 2017 Holroyd et al., 2017 Levinson et al., 2019
Exoneration	Arizpe et al., 2016 Dodson & Debolyi, 2016 Ryan, 2015 Sells et al., 2020 NRE; The Innocence Project, 2020 DiBello & O'Neil, 2020 Alexander, 2015 Gross et al., 2017 Geoff, 2016

Procedures for Recruitment, Participation, and Data Collection

Recruitment

The invitation to participate in the study was distributed in the office and online of the Exonerated Nation. The data were collected from exonerated formerly wrongly convicted men who are members of the Exonerated Nation who fit the study criteria for inclusion. Interested participants contacted me by phone or email. An initial conversation occurred to review the inclusion criterion and study procedures. If the participant met the criteria, the researcher scheduled a time for reviewing the informed consent process and the thank you gift. The agreement to the consent form was recorded prior to starting the interview.

Participation and Data Collection

The data were collected in one telephone interview. Each interview was scheduled to last 1–2 hours. The data was audio-recorded on the recording app NoNotes (<https://www.nonotes.com>) on my telephone. I did not offer the questions to the participants in advance because I wanted spontaneous responses, and not well-planned ones. Facetime and Zoom interviews were considered and utilized with permission whenever possible. For debriefing at the end of the interview, I thanked the participants for their time and asked if they had any questions of me. I let them know about receiving a thank-you gift and following up with a summary of their interview transcript for them to review, as well as the process for receiving a summary of the results.

Data Analysis Plan

The narrative interviews of wrongful conviction and exoneration were audio recorded and transcribed using Otter.ai (<https://otter.ai>), an online confidential recording and transcription service. I produced a summary of each transcript and sent it to the participants for review for accuracy and approval. Once the transcript was approved, I proceeded with hand coding using Microsoft Excel and Word. I also created an audit trail for each participant, to detail the process used to collect data, the data analysis itself, and the actual interpretation of the data. It further allowed me to provide my own thoughts about the coding, include a rationale for why I merged codes, and explain the themes and what they might signify.

I used Riessman's thematic analysis to guide the data analysis process to explore commonalities of themes across individual incidents. Thematic analysis was chosen because of (a) its focus on using prior theory to guide the analysis process (in this case IBT), (b) the ability to generate novel theories based on new ideas or concepts the participants generate, and (c) to produce a stable set of themes that are meaningful across cases (Riessman, 2008).

Issues of Trustworthiness

Credibility

Credibility, or internal validity, in this study was to be achieved through reflexivity, peer review, reliance on the narrative method, and reporting transparently on the data collection process. Saturation was attempted when I found that the answers to the questions posed did not converge on sufficient correspondence across participants. This

was supported by prolonged contact to build trust, and ability to reflect on if there were any distortions or discrepancies (Amin et al., 2020).

Reflexivity refers to the means of establishing trustworthiness, and I engaged in reflexive measures of audit trails and journaling to reduce the risk of inherent influences that I might have (Amin et al., 2020) I used the peer review process (committee and methodological experts) to review my work to assure the quality of the research (Davis et al., 2018). Finally, I utilized a well-regarded qualitative approach to ensure that the credibility of the process is organized and proceeds with transparent and well documented guidelines. All of these efforts will be employed to increase the credibility and meaningfulness of the results.

Transferability

Transferability refers to the degree to which the results of qualitative research can be generalized or transferred to other contexts or settings (Shenton, 2004). It is the responsibility of the one doing the generalizing by describing the research context and the assumption that were central to their research. As described, I was transparent in reporting the data collection and analysis process, and I presented results meaningfully, and with sufficient quotes from participants to substantiate my interpretations.

Dependability

Dependability is based on the assumption that replicability or repeatability is possible (Shenton, 2004). I interviewed the respondents from the Exonerated Nation that qualify under the criteria for inclusion, and the process utilized in these interviews should be, and will be exactly the same, for all participants. It was reported in detail to enable it

to be easily replicated. Further, I utilized a recognized procedure for analyzing and summarizing the results (Riessman, 2008).

Confirmability

Confirmability assumes that each researcher brings a unique perspective to the degree that the results can be confirmed or corroborated by others. It is considered as the degree of trust that the researcher has established in his/her findings (Shenton, 2004). Confirmability of participants' stories were supported through use of audio recordings and verbatim transcription, and through the use of member-checking (sending a summary of the transcript to participants to review and revise, if needed). Reflexivity, whereby my own preconceptions and biases could possibly influence decisions or even the actions taken in interpreting the responses (Patton, 2015) were minimized by crosschecking data analysis summaries with raw data.

Ethical Procedures

As described above, the Exonerated Nation was the conduit for distributing invitations to participants but will have no role in actual recruitment. Participants contacted me if they wished to participate. All participants were over 18, and not be under any institutional demands or parole or probation supervision. I therefore did not need special permission to interview them. They were all volunteers. Participants were treated with respect, appreciation and afforded total leeway to tell their story without coaching, cluing or hints as to a right or wrong answer.

Institutional Review Board approval was obtained prior to initiating data collection (Approval # 10-08-21-0125225. This study included specific criteria and

participants that volunteered were selected according to those criteria, and they were invited to participate and could have declined the invitation or not responded to it at all. Ethical concerns related to data collection/intervention activities (these could be including participants refusing participation or early withdrawals from the study and response to any predictable adverse events) and a plan to address them. In discussing this with the executive director of the nonprofit where participants were recruited, I had been advised this would not be a problem, that the exonerees are always anxious to discuss their story in the hopes that it will prevent the occurrence for someone else. Should any participant choose to leave in the middle of the study, their information was discarded, unless they had completed the vast majority, when it would be held, and then if they choose to reenter the project it might be considered.

The data collection process and resulting transcripts were kept confidential. Once the interview was completed, each file was identified with a pseudonym, and identifying information was kept in a separate locked file cabinet or in password protected files. Transcript summaries were reviewed by participants to ensure that information they identify as too personal was removed. Findings were presented using pseudonyms only and presented results will minimize the risk of any one individual being identified. Protections for confidential data (data storage procedures, data dissemination, who will have access to the data, and when data will be destroyed) was explained to each participant prior to the interview.

Summary

The purpose of this chapter was to describe the proposed approach and procedures for collecting and analyzing data to answer the research questions. A homogenous sampling strategy was used to select persons from the Exonerated Nation to participate in 1-to-2-hour interviews about their wrongful conviction and exoneration experience. The data analysis plan was guided by Riessman's (2008) thematic analysis. Ethical procedures regarding contacting, interviewing and member checking are also described.

Chapter 4: Results

A narrative analysis was conducted to better understand and describe the experience of cross-cultural misidentification, wrongful conviction, exoneration, and return to society in formerly incarcerated men. I chose this approach to learn and understand the experience of wrongful conviction, incarceration, and exoneration from the perspective of those that actually lived it.

I begin this chapter with the restatement of the purpose of this study along with the type of research questions asked. I describe the participants and the setting the interviews were conducted in. I used semistructured open-ended questions with the participants. I present the data analysis procedures with their evidence of trustworthiness. In addition, I explain how the research questions related to the theory of implicit bias in terms of the participants' experience. In the end, I present a summary of the results.

Setting

The interviews were done over the telephone to mitigate any possible risks of COVID-19 illness or infection. The interviews were done in one session without interruption. At no time during the interview did either participant request to have any interruption or express any psychological or physical or emotional distress. After the interview, I spent a few minutes with the participants to ensure that they were undisturbed, and no one said that they were experiencing any sort of triggered emotional negative responses. No one suggested that they needed outside mental health support at the conclusion of the interview.

Demographics

The two participants were both men of color. One was African American, and the other was Latinx. During our initial telephone conversation, I had determined that they met the criteria I was looking for. I recorded their ethnicity, age, experience of arrest and period of incarceration, eyewitness against them at trial, and experience of exoneration. They both offered that their exoneration was related to the true offender being identified and arrested, and the eyewitness stating that their identification had been affected by police activity. Both had eyewitnesses who positively identified them and were of an opposite cultural background. One participant stated that the witness attested that the officer advised them in advance that he (the participant) was already known as the perpetrator and had been identified previously. The other eyewitness said that the participant's picture had been "circled" prior being shown to the witness. The actual names of the participants were not revealed in the results in order to protect their identities as promised, and instead they are identified as P1 and P2.

Data Collection

Telephone interviews were conducted with the only two participants that responded to the invitation. Both had been incarcerated in California prisons for more than 1 year following a wrongful conviction based on the eyewitness identification of someone of a different ethnic background and culture. The participants had responded to the invitation flyer. Before I conducted the interviews, I read the informed consent to them over the phone, and they both states they agreed to the terms. The questions asked of them (see Appendix) were the same, and these open-ended questions were the basis for

their responses. The telephone interviews were conducted during November 2021, at the convenience of the participants. One interview lasted a little over 1 hour (P1), and the other interview with (P2) lasted 36 minutes. Neither participant voiced a need to stop the interview for any reason, each was only interviewed once, and both participants authorized the taping of their interview. The taping was done on an Evida™ voice recording instrument. There was no need for any follow-up of the participant due to concerns (e.g., missing audio, faulty equipment) with the recording. I transcribed the interview into a Microsoft Word document and saved the data on a password-protected flash drive. The flash drive, along with the tape recordings were stored in a locked, fireproof filing cabinet in my home office, and I alone have access to the locked filing cabinet that is opened only with a numerical key code. Again, as previously stated there were no variations from the storage process as previously described in Chapter 3.

It should be noted that the original intent was to interview 10 to 12 exonerees. Despite concerted efforts to circulate the invitation repeated times on a national network of exonerees, there were no other responses. Data collection was called off due to constraints of time for completion of this project. The issue of insufficient saturation is discussed in Chapter 5 limitations.

Data Analysis

Both interviews were recorded and transcribed using Otter.ai. Reissman (2008) suggested that transcriptions are a secondary process to understand the language and semantics offered in the narratives. The process of thematic analysis relies greatly on the transcript dialogues enabling one to focus on “what was said” rather than how the story

was told (Reissman, 2008). I listened to the audio recording several times and reread the transcript equally as many times. I highlighted each area that I saw as relevant to the questions I was looking to answer. The significant response was highlighted in yellow. I examined each sentence with each being of having equal value. I eliminated all responses that I deemed unnecessary, thereby continuing with data analysis that was pertinent to the lived experience of each participant and the experiences of both in terms of similarities and differences. As a result of this first cycle process, I identified about 50 categories.

Following this, I created themes based on the categories which eliminated overlapping and/or repetition. I went back and compared the themes with each of the participants' specific statements to determine whether they were expressed specifically, or whether they were implied by the participants' account of that experience (see Table 2).

Table 2*Themes, Examples of Categories and Representative Quotes*

Theme	Examples of categories	Participant quote
How the arrest came about	P1: Six-pack line-up, his picture was already circled P2: "Snitching"	P1: "The police said they knew me from around the hood and I was the kinda guy that would do something like that." P2: "Man, the witness said they showed her a picture of me in a six pack and already had my picture circled and told her they already knew I was the perpetrator." "They said someone else told them I did it."
Race of the eyewitness	P1: race/Latinx, two witnesses, both White P2: race/Black, two witnesses, both Latinx	P1: "The eyewitness identification was flawed. Both women were White and when they were given the mug shots to look at, they couldn't identify anyone, but when they were later questioned by the police, the investigator said that I was being looked at for other crimes as well and they knew it was me" P2: "The witnesses were Latinx and they said they were 'sure' I was the one they saw."
Hearing the guilty verdict	P1: Devastated in disbelief P2: Gut punched and in disbelief as well	P1: "I thought they couldn't be serious, especially when I knew what kind of crime it was ...I was handsome and could get all the women I wanted." P2: "At that point there were so many stories out there and so many different people as witness characters that I knew it wasn't going to go well for us. I saw it coming."
Enduring prison life	P1: Prayers and acceptance P2: Upward educationally	P1: "Initially I vented my frustration out by using the boxing ring since I was already a boxer in the streets. I played a lot of basketball to work off my frustration. I enrolled in college courses and just did education and read and bided my time... I didn't know what else to do, I tried finding an attorney to help me, but it wasn't happening." P2: "I spent every possible allowable time in the law library, writing to anyone and everyone that seemed like a possibility to get me out of prison."

Theme	Examples of categories	Participant quote
How the exoneration came about	After parole Investigating another case DNA testing Perilously random	<p>P1: "I was paroled first. I wasn't exonerated in prison. ...Just before I was supposed to leave, I 'caught a beef' protecting someone else and was sent to Pelican Bay where I wound up doing another few years. ... Then got sent to the 'hole' in San Quentin where they tried to send me to immigration court, but I was able to bail out. I met a lawyer who was investigating the corruption of the DA's office and [they] took my case. It took 4 more years but came about."</p> <p>P2: "One of my codefendants wound up 'catching a murder beef' while we were in prison and his lawyer said they were reopening the case that we were already in prison on. When they did that and my DNA was finally tested the exoneration came about. ...That's what this exoneration felt like, I got saved from drowning. And it's frickin' hellhole. Why it wasn't supposed to be ... Finally, somebody came by in a boat is see me waving my hands because I was going under, and they threw me a buoy."</p>
How life is now	Family Career Community	<p>P1: "Life is great for me now. I was trained in technology, and I have a great job. I have a wife and small children and the community knows my story and accepts me. I give talks to the kids in different schools and at different community events when asked."</p> <p>P2: "Life is really good. I moved out of state and opened my own nonprofit in the Midwest." I have a wonderful wife and small child, and my family is all around me."</p>

I found no discrepancies between the audio recordings and transcriptions. There were also no discrepancies between the narratives of both participants in relation to the questions being posed. There was remarkable consistency across both narratives. No discrepant cases or findings were revealed.

Evidence of Trustworthiness

As described in Chapter 3, strategies were proposed in order to maximize the trustworthiness of the procedures and results (Houghton et al., 2013; Shenton, 2004). Overall, I was successful in implementing the strategies. However, because of the limited number of participants, the results are limited by the risk of less-than-optimal data or thematic saturation (Guest et al., 2006).

Credibility

To enhance credibility, I adhered to the data collection and analysis procedures of narrative analysis and used traditional methodological guidelines at each step. These were documented in Chapters 3 and 4. I sent each participant a summary of the interview and asked them to either validate or correct the report. Both participants agreed the summary was accurate.

Transferability

Despite the reality that qualitative studies are not usually generalizable to larger populations, it may facilitate a deeper understanding of the phenomenon by those who may read the studies and associate with or relate to the experiences expressed. By presenting an accurate representation of the data analytic process and results, it is hoped that others can somehow both identify with the experiences and look for ways and means

to correct them. In the discussion of the results, I used a surplus of quotes from transcripts to allow the reader the best possible understanding of participants' experience.

Dependability

The use of dependability in qualitative studies is to relate the context, research method and description of the participants to see whether the results would differ in similar research (Houghton et al., 2013). Describing the steps taken and the specificity of the participants qualifications prior to being accepted as participants was the approach used to strengthen the dependability of the study. I made no changes from the initial descriptions of the participants requirements for inclusion.

Confirmability

In a qualitative study, confirmability is based on the extent that the researcher can show that their findings were based on the interpretation of the data and not on the biases or perceptions of the researcher (Shenton, 2004). I took meticulous caution to establish confirmability in consideration of the insights and feelings and concerns of the participants as they expressed their responses to the questions posed to them. I had to ignore any biases, prior assumptions, and even preconceptions of the topic of the study and used a journal to report my feelings and interpretations as I proceeded through data collection and analysis.

Results

The researcher in a narrative study can gain an understanding of the experience solely by those who actually experienced it and their perceptions, their reality of it. (Bjorklof et al, 2015). In the study, as the researcher, I was able to hear from the

participants themselves, their feelings and emotions and reactions at the time of each turn of events as they occurred. As in any qualitative study, the researcher begins to understand the actual lived experience of the participants through their actual reality (Bjorklof et al., 2015). In the present study, there were only two participants, and I was able to glean the results from limited sources. There were no discrepant cases or discrepant findings to discuss.

Thematic Results

The six themes that emerged were related to participant experiences of the arrest, the eyewitness race, hearing the guilty verdict, enduring prison life, the experience, how the exoneration came about, and the current life. As presented in Table 2, the narratives of the two participants had many similarities, so that the themes were of a single focus. For example, in Theme 1, both participants were arrested after the crime was committed, not at the scene of the crime. For Theme 2, they both suggested that the cause of the arrest was manufactured or manipulated because of their prior histories. Both believed that the mistake of the alleged eyewitness was due in part because of cross-racial misidentification as well as police interference. For Theme 3, hearing the guilty verdict was a stunning, unbelievable turn of events. For Theme 4, there were expressed differences, with P2 making it clear that his available time was spent building a case for his exoneration. For Theme 5, both participants were paroled, and the opportunity for exoneration occurred by fortuitous coincidence. For Theme 6, both participants described rebuilding their lives, with family, meaningful work, and community service.

Responding to the Research Questions

The primary research question was: What is the experience of cross-cultural misidentification, wrongful conviction, exoneration, and return to society in formerly incarcerated men? Wrongful conviction is the conviction and punishment of a person for a crime they did not commit. As a result of looking at this phenomenon, the research subquestions can be addressed as described in the following sections.

Subquestion 1: How Did the Narrative begin?

Both participants stated that they were not arrested at the scene of the crime, but rather somehow connected to the crime by both police implication and witnesses of another race. One participant learned that police had circled his picture in the six-pack line-up they showed the witness, and the other was implicated by police who claimed they knew him from the neighborhood and thought he was capable of committing the crime.

Subquestions 2–3: What Were the Turning Points Leading up to the Wrongful Conviction?

Both participants shared stories of the circumstances of the crime, the identification of witnesses, and – at this point – the misrepresentation of their participation began. For P1, a sex crime was committed, there was an eyewitness, and the police influenced the eyewitness by suggesting he was the likely suspect. For P2, a robbery was committed, there were two eyewitnesses, and the police influenced them by circling his picture to point out the likely suspect. There were no other influencing factors.

Subquestion 4: What is the Meaning of Cross-Cultural Misidentification?

Cross-cultural misidentification occurs when the witnesses identify an alleged perpetrator of a crime that is of a different race or culturally different from the person accused of the crime (The National Registry of Exoneration 2018). The inclusion criteria included cross-cultural identification, and in the sample, P1 was Latinx, whereas P2 was Black. In P1's case the witnesses were White, and in P2's case, the witnesses were Latinx. Although the stories varied in "how" the misidentification took place, both participants described their surprise and frustration with the wrongful identification which ultimately led to their wrongful conviction.

They also described the feelings experienced when found guilty. P1 said he felt as if he's been sucker punched in the gut. P2 said he felt as if, "this can't be true, this can't be really happening." Disbelief was the common denominator. Interestingly, initially they thought they had been targeted for their behavior regarding past criminal behavior/activity, but these events were never brought up.

Subquestion 5: What Was Daily Life Like During Incarceration?

Both participants described how they spent their time, which was divided between looking for legal opportunities for freedom, going to school, and biding time. For example, P1 stated,

I 'bided my time. I went to the boxing ring since I had been a boxer on the street. It helped me to alleviate my frustration from being wrongly identified and then wrongly convicted. I played basketball a lot and the I signed up for college

courses trying to hope I could learn something so that if I ever got out, I would have some sort of career.

P2 spent most of his time in the law library writing to “everyone” to assist him with appeals. He stated,

I just read and wrote and really, in essence kept trying to reach out to any organization any law schools, and any lawyer I could get the name of to plead my case of wrongful conviction to. I just wanted someone to at least be willing to investigate it. I looked up various appeals and case laws that I thought might be applicable to me.

Subquestion 6: What Was Revealed During the Process of Exoneration?

In both participants cases, exoneration came after they had been paroled. In both cases, parole consisted of going before a panel of two to three retired or former corrections professionals (e.g., retired wardens, sheriffs) to present their case for returning to the community and their parole was granted. For P1, exoneration came about when their co-defendant “caught” another murder case from inside and the lawyers then reexamined the original convictions. P1 demanded DNA examination and to see the results. At that point, an attorney agreed to take his case and fight for exoneration. For P2, after parole he filed for exoneration, and in *pro per* (without assistance) fought for the DNA testing. Once the DNA was tested, it took 2 more years to get the results of the DNA and then an attorney took his case.

Thus, in this limited sample, the results suggested that while their experiences were different, the process was perilously random. While each person pursued efforts to appeal the verdict, the opportunity for appeal was unpredictable and unexpected.

Subquestion 7: What is the Present Moment of the Narrative?

Both participants reported that life was great for them at this point. Both stated they now, “had careers of their choice,” and they both stated that, “they were married and had young children.” P1 stated that, “his wife had been with him throughout his journey, and they were living the life they had talked about living whenever he came home.” Both received financial compensation for their wrongful conviction, although one was much greater than the other’s and that seems to have been based on the circumstances surrounded the way the wrongful convictions came about. This is consistent with earlier observations of how the process is fraught with coincidence and “pure good luck.”

In sum, the results of this study revealed some interesting similarities and differences in the narratives of the participants. The interpretation of the results, the limitations, and suggestions for future research are presented in Chapter 5.

Chapter 5: Discussion, Conclusions, and Recommendations

The purpose of this study was to better understand the lived experience of wrongful conviction and exoneration after incarceration. I utilized Riessman's (2008) narrative method to learn and understand the experience from wrongful conviction through incarceration to final exoneration, from the perspectives of those who actually lived it.

As the researcher in this narrative study, I was able to glean a true understanding of the wrongfully convicted experience by providing a description of their reality directly from the person during their entire time from arrest to exoneration. Due to having only two participants, this study was limited to their responses. However, several key findings emerged:

- Wrongful arrest was primarily due to police misconduct with the identifying witnesses.
- The misconduct was conducted in the context of cross-cultural eyewitness misidentification.
- The process of attaining support for re-evaluating evidence was a function of the persistence of the participants, combined with random, circumstantially fortuitous events.
- All participants in the present study describe fulfilling lives, including community activism to educate and help those who experience similar events.

Interpretation of Findings

Interpretation Relevant to Published Literature

Current research has suggested that there are multiple factors that can result in wrongful convictions. These factors including cross-cultural eyewitness misidentification, the weapon effect, lighting, age, police, and prosecutorial misconduct (Scherr et al., 2018). In this study, the results revealed that cross-cultural misidentification was the sole reason for the wrongful conviction.

As described in Chapter 2, the process of exoneration is most often long and arduous to achieve. Faison and Smalarz (2020) and others (Alexander-Bloch et al., 2020; Alward et al., 2020; Goldberg et al., 2019; Zanella et al., 2020) have pointed out that exonerees are often provided far less reentry resources if any at all, and many are released within hours of being told. They have little chance to find living arrangements, limited financial access to fulfil basic needs and limited resources to prepare for their life outside of prison. Paroled offenders are offered more services and resources than exonerees, and rarely if ever are offered mental health assistance after their ordeal. Exonerees often suffer from anxiety disorders, hopelessness, PTSD, self-isolation, and other psychological traumas (Faison & Smalarz, 2020; Goldberg et al., 2019). In my interviews with these two participants, both reported suffering from the traumatic events of wrongful conviction, imprisonment, and the challenges of the exoneration process. For example, P2 kept repeating “I could not see I way out, I could not see a wait out, I was hopeless.”

The public regards exonerees differently, and often their innocence, despite being proven, is not believed by the public that considers (a) that police, judges, and

eyewitnesses do not make mistakes, and (b) that innocent men do not make deals or ever plead guilty to something they did not do (Alexander-Block, et al., 2020). Men of color are looked at even more harshly. Of the 2,535 exonerees recognized by the NRE, 49% are Black, 37% are White, and 12% are Hispanic (Alward, et al., 2020). In the Faison-Smalarz (2020) study, it was revealed that Black exonerees were stigmatized more harshly than White exonerees and were considered to be more aggressive, less deserving of reintegration assistance, and more likely to commit a crime post-exoneration than was the White exoneree.

As seen in Chapter 2, the stigma that is attached to being exonerated is well documented in the literature (Goffman, 1963; Zanella et al., 2020). For example, the Ban the Box (BTB) legislation passed in 2009 enabled more employment opportunities for exonerees by eliminating the question of prior arrests and convictions from the job application process until the employment was offered. Yet, it did not eliminate the difficulty of readjustment particularly because its national reach was extremely limited. In addition, studies indicated that the inability to obtain valid employment often led to reoffending, particularly when the wrongfully convicted had a prior history of criminal convictions (Schlosberg et al., 2014). Although the participants did not mention specific experiences of stigma in the process of re-building their lives, the current study reveals the perilously random nature of exonerees finding gainful employment, and how much personal initiative came into play. P1 trained in prison for work in technology and was hired by the person who trained him. P2 was in technology training during prison, applied for work while in prison, and was hired upon release. These participants' experiences are

considerably different than what is most often reported in the literature. This will be further discussed in recommendations for future research and professional applications.

The literature documents how, following exoneration, exonerees coped with a myriad of obstacles and barriers (Goldberg et al., 2020), as well as racial differences in compensation (Keith, 2016). Race and criminal history are two factors that play a definite role in people's ability to secure safe and adequate housing despite being exonerated (Zanella et al., 2018). In this study, both participants transcended these obstacles and are currently leading successful and fulfilling lives. P1 shared that, "my life following exoneration was great." He also stated that he was, "well trained in technology and wound up almost immediately finding employment with a company I love." He further stated, "I was married and have children and they remained by my side throughout the ordeal, and they live today giving back." P2 decided to move out of state permanently, and stated, "I have had solid employment as well as a wonderful supportive wife and now 3-year-old son."

In sum, the literature tends to address the factors that contribute to wrongful conviction and the problems with the path to exoneration (Garrett, 2017, Goldberg et al., 2019; Norris et al., 2019). Although the results of this study are consistent with these factors (e.g., misidentification, police bias, absence of DNA testing), the participants' stories also illuminate unique experiences (e.g., family support, training during prison, the efforts to get DNA testing) as well as random coincidences (e.g., a co-defendant brought up on separate charges) that contributed to the path to exoneration.

Interpretation Relevant to IBT

The theoretical framework was IBT. Implicit bias asserts that there is an often unconscious, mental circumstance that plays heavily into one's perception of a situation (Amin, 2017; Brownstein, 2019; Devine et al., 2012; Frank, 2016; Greenwald & Banaji, 2017; Harty & Hermanson, 2020; Hinton, 2017; Holroyd et al., 2017; Kang et al., 2012; Maina et al., 2017; Van Cleve, 2016). This is often expressed in the way someone behaves in particular situations without even realizing why. For example, there is the scenario of the White woman who clutches her purse in the elevator when a casually dressed Black man or Black teenager gets on (Melamed et al., 2019). Melamed et al. (2019) called this status identification or status expectations, where one expects a certain behavior from a particular group based on specific characteristics such as race and age. In this study both sets of eyewitnesses were not of the same race as the accused. In addition, the police officers offered the eyewitnesses validation of their incorrect identification of the alleged criminals and provided inaccurate statements about the alleged perpetrators. All eyewitnesses were advised that the participants had been convicted of previous crimes.

Wrongful arrest statistically occurs more among men of color than in any other population (Goldstein, 2019; Keith, 2016; Melamed et al., 2019) and is far more difficult to undo because most wrongfully arrested men of color come from impoverished circumstances and are unable to get an attorney to represent them for pro-bono or low-bono. The NRE reported that innocent Black people are about 7 times more likely to be convicted of murder than innocent White people and thus account for a disproportionate

number of the share of exonerees. The study also noted that African Americans who were convicted and then exonerated of murder charges spent more than 4 years longer on death row and 3 years longer than individuals of other races for serving time in prison.

Furthermore, the NRE has revealed that police or prosecutorial misconduct has been the primary cause of 88.9% of death row exonerations. Jamala Rogers, a leading advocate for change in the exoneration system and founding member of Organization for Black Struggle (OBS), has suggested that what is needed is to recruit and retain more prosecutors of color (Jochowitz & Kendall 2021; Oliver, 2020; Rogers, 2017). It is also more difficult in the sense that due to implicit bias and stereotyping of what a “criminal” should look like, the criminal justice system is less likely to give credibility to their claims of innocence (The Innocence Project 2020).

Limitations

The greatest limitation of this study was the inability to enroll more than two participants. Although the two had similar stories, they only represent two narratives. As the researcher, I made many attempts in the limited time to expand the participant pool but was not successful. The invitation was sent out on three separate occasions, and there was no greater response than what was already achieved. It is easy to speculate that either the exonerated men from the California prisons are reluctant to talk about their experiences; or that they may have lawsuits still in the courts. Perhaps the experiences are too painful to relive, and even the remote possibility that their current life circumstances are separate from their past lives. Thus, while the personal narratives of each participant were rich in detail, the limited number of participants reduces the certainty of saturation.

Another limitation of this study, ironically, is that both participants had the support of family and/or friends while incarcerated, were paroled prior to exoneration, had to sue for compensation, came out to no hostility from the community and began well-paying jobs leading to careers. The participants similarities were visible and made it difficult to discern what others would have, could have, or often did face. Both men won their lawsuits against the state for wrongful conviction and used that money to better themselves, their lives, and the people closest to them.

Recommendations for Future Research

The wheels of justice do not turn even slowly in terms of those who have sat and languished behind bars knowing and having some proof of their innocence; often times they do not see the wheel turn at all. The majority of the cases of wrongful convictions been borne by arrestees of color. The Innocence Project has offered that the two main reasons for wrongful conviction are cross-cultural eyewitness misidentification and DNA issues. Future research should document definitive processes for being able to prove innocence and include studies of court and criminal justice personnel to document the attitudes and beliefs about the inclusion of DNA testing in all felony cases.

It is also recommended that future researchers examine the quantitative relationship between implicit bias, status expectations, and perceptions of innocence and guilt in the conduct of felony crimes. As more data in national databases is being made available to examine cross-racial arrest eyewitness identification and wrongful conviction, these research questions can be investigated on national, regional and local levels (NRE, 2017, 2018, 2019).

Future research is encouraged to further explore the role of family support in the conviction and exoneration experience. It is possible that those who went through the horror of being wrongly convicted and came out with a family and support were more likely to participate in the research. Those with less successful outcomes might be harder to reach, and in more need of support or services.

Finally, it is also recommended that more research be done to illuminate the personal stories of the wrongfully convicted, both successes and failures. Further, stories of women of color have not been studied, and Garcia-Hallett (2019) and others have called for these stories to be made public in order for justice to be better served.

Implications

It is hoped that this one small study will be shared to encourage the following recommendations for social change. First, it is recommended that compensation be mandatory for anyone wrongfully convicted and then incarcerated as a standard practice across the board rather than decided by individual states. As it stands now, compensation ranges from zero in some states to unlimited in New York for example. Other states utilize farming costs and other specifics regarding the times spent wrongfully incarcerated. Prior convictions or contacts with the criminal justice system should have no bearing on compensation.

As this research and prior studies have indicated, the exoneration process takes a significant mental health toll on the individual and their families. This suggests that work be done to ensure that mental health services are mandatory and free for all wrongly convicted exonerees and available for their lifetime and for free. The participants in this

study were fortunate to be able to re-enter society and find meaningful and economically viable work to support their families. Education and retraining should be made available in any and every area desired by exonerees without repayment so that these individuals have opportunities to rebuild their lives.

Due to the way the law exists today, DNA is not necessarily tested in every case. There are men sitting on California's death row (e.g., Kevin Cooper) who have had to wait over 2 decades for testing and after being tested wait as much as 2 years for the results. It took both outgoing Governor Brown and incoming Governor Newsom to get his DNA tested, despite the fact that he was arrested and sentenced to death in 1985.

Conclusions

A lot has been researched, a lot has been written, but little or nothing has changed about the process of exoneration. Wrongful convictions have been and continue to be a blemish on the face of the criminal injustice system. Although there continue to be publications and presentations, and certainly posturing about what needs to be done, the wheels of justice do not turn even slowly in terms of those who have to sit and languish behind bars knowing and having some proof of their innocence. In the majority of these cases, the burden of proof is still on the shoulders of the arrestees of color. If innocence is established, it can still take weeks, months or even years for the wrongly imprisoned prisoner to be set free. As described in the Innocence Project, there are people sitting in prison who simply do not have the wherewithal to either hire an attorney or the knowledge of how to go about filing their own appeals.

I would also like this study to contribute to the prosecutorial side of convictions so that prosecutors will become more willing to explore each and every possibility that might prove innocence, and not rush to judgement to incarcerate innocent individuals on biased evidence or faulty eyewitness testimony alone. For me, what is even sadder is that unless something drastic happens and happens soon, unless laws are passed that demand equity for all, unless people's attitudes and biases become more compassionate and caring, unless the misconduct of prosecutors and lawyers and others who play into the misconduct are held fully accountable, years from now someone else will be sitting here writing another dissertation on the inequity of wrongful convictions and exonerations and little if anything will have changed.

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Appendix: Interview Guide

1. Let's start with the story of how you were originally detained or brought in for questioning about the event?
 - a. Tell me about the crime you were accused of.
 - b. What was going on for you when this was happening?
 - c. What did this mean to you?
 - d. What did you experience when they actually arrested you?
2. What led up to the conviction?
 - a. What was going on for your when this was happening?
 - b. What did this mean to you?
 - c. What did you experience when they actually convicted you?
 - d. What influenced the jury's decision to convict you?
 - i. probe for the experience of implicit bias, eyewitness testimony, cross-cultural misidentification
3. What do you think influenced the jury to incorrectly find you guilty?
 - a. What did that mean to you then?
 - b. What does that experience mean to you now?
 - i. probe for the experience of implicit bias, eyewitness testimony, cross-cultural misidentification
4. Tell me about your exoneration experience?
 - a. How did it start?

- b. What happened along the way (e.g., compensation, resources for filing appeals, role of family and other supports)
 - c. Then probing questions (i.e., what happened next? What did that mean?)
5. Tell me about your life now.
 6. Is there anything else you'd like to tell me?