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Effects of Expungement Laws and Public Perception on Employers' Attitudes toward Hiring Wrongfully Convicted Individuals

Tija LaShon Hopkins
Walden University

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Walden University

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Walden University
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Abstract

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Hiring Wrongfully Convicted Individuals

By

Tija LaShon Hopkins

MS, Walden University, 2020

MS, Kaplan University, 2015

BS, Kaplan University, 2013

Dissertation Submitted in Partial Fulfillment
of the Requirements of the Degree of
Doctor of Philosophy
Criminal Justice

Walden University

November 2022

Abstract

Many studies have been conducted with a focus on wrongful convictions, but few have been conducted that were focused on the effects of wrongful convictions on hiring managers when it comes to issues of employment for exonerates. Criminal background checks are frequently a part of the hiring process, and hiring managers may lack knowledge or awareness of issues facing wrongfully convicted individuals in terms of record expungement and sealing. Simultaneously, public perception may hinder hiring managers' desire to extend employment offers to exonerates, as hiring managers might fear reprisal from customers. The purpose of this qualitative study was to explore the perceptions of hiring managers to see how company rules, state expungement laws, and public perception affect exonerate applicants during the background investigation and hiring process. Grounded theory was used to explain why exonerates are not offered jobs in certain career fields using data collected during the study. Critical race theory allowed for analysis to determine connections across categories such as race, law, and power. Data were collected from semi-structured telephone interviews with 20 hiring managers: 10 in New York and 10 in Delaware. Data were analyzed using MAXQDA. The results indicate that current laws and public perceptions do not prevent the hiring of exonerees but company policy for a criminal background investigation may. Recommendations are to have a separate process for exonerees or have laws in place that would automatically expunge criminal records for exonerees. The findings in this study could lead to positive social change by providing awareness about wrongful convictions and the road blocks that prevent employment for exonerees.

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Dedication

I dedicate my dissertation to my dearest grandmother, Jean Elizabeth Booker. Her love, devotion, strength, and passion for life provided the motivation needed to help me advance through the ranks of my education.

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With my deepest gratitude, I would like to thank all Walden University staff for affording me the necessary tools needed to be successful while achieving my degree. A special thank you to my chair, Dr. Joseph Pascarella; my committee member Dr. Nikolas Roberts, for providing exceptional guidance through the final stages of my Ph.D., ending in victory. I am not sure I would have made it without the love of my family and friends pushing and motivating me to take my education to a higher level and providing positive encouragement along the way.

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Chapter 1: Introduction to the Study

Introduction

Individuals wrongfully convicted of a crime may have spent many years in prison and later be released due to criminal justice system errors. The wrongfully convicted must now seek employment to support themselves and their families. Because the state inflicted the harms of wrongful conviction and imprisonment on exonerees, compensation and help in reentering society is appropriate (Simms, 2016). Many factors, including increasing wrongful conviction cases, have caused a breakdown of justice across different criminal justice systems. In the United States, these factors include eyewitness misidentification; false, misleading, or improper forensic sciences; false confessions or admissions; official or government misconduct; and informants, bad lawyering, and lying under oath or false accusation. This study was conducted to focus on wrongful convictions and hiring managers perceive exonerees during the hiring process.

Hiring managers conduct background investigations on prospective employees. In some situations, those investigations can show charges a person was accused of but later were cleared. This information can create problems during the hiring process for these exonerees. Research is needed to help evaluate where the problem lies and how change can be made to offer positive outcomes for these individuals.

Public perception may be a factor that causes roadblocks for exonerees applying for positions with major companies or to attend a particular school. In this study, I focused on companies and their connection to returning customers, leading to company growth, and how hiring ex-criminals may threaten the relations between long-term

returning customers and business leaders. The focus was exonerees and hiring managers in New York and Delaware because the expungement laws are different in these two states. I researched what factors play a significant part in the barriers between employment and exonerees. Grounded theory was used to discover certain patterns within the hiring process and compare differences between the two states. Critical race theory was used to survey whether one particular race is affected by not having expungement laws, or whether hiring managers are less likely to hire individuals with a criminal background of a certain race. This allowed me to make adjustments to focus more on people from races that are more likely to fall victim to a wrongful conviction. I used a qualitative method, allowing for face-to-face and telephone interviews with both hiring managers and exonerated individuals who have gone through the hiring process for employment. Data were collected from New York and Delaware state statistic agencies to help support the study.

Background

Various researchers have discussed expungement laws and wrongful convictions and their effect on employers' attitudes toward hiring wrongfully convicted individuals. Individuals convicted of a criminal offense may face various collateral consequences, which may include legal penalties from those convictions, unable to receive welfare benefits, housing, employment, licenses, military service, and they may be required to register as a sex offender. According to Rose and Baumgartner (2013), public perception can significantly affect a person's ability to obtain employment, and the media can help influence public perception, leading to certain policies. Blandisi et al. (2015) studied

individuals' experiences after release from prison and focused on the difficulty they have when trying to find employment and the role of public perception in this.

Significant criminal justice errors continue, causing individuals to spend a number of years behind bars before the error is corrected. Jean (2003) identified the many death row inmates who have been released due to errors stemming from cases since 1973; these errors still occur at a high rate within the criminal justice system. The criminal justice system has failed many, and the lack of programs to assist those exonerated can have devastating consequences in their lives.

Systems are in place to avoid wrongful convictions, but errors persist. Some situations are beyond the criminal justice system's control, such as false testimony and lack of DNA available for testing (Krieger, 2011). Krieger (2011) also looked at groups that seek to help individuals wrongfully convicted, such as the Innocence Project. Many organizations seek to help exonerees receive compensation for time spent in prison erroneously. Nonetheless, many exonerees receive no compensation and must rely on homeless shelters and/or family assistance to restart their lives. According to Kahn (2010), some exonerees experience social issues or behavioral problems resulting from their time incarcerated, which affect their ability to function within society, regardless of whether they receive compensation. Wrongful conviction consequences are not only financial; some wrongfully convicted people suffer considerable emotional, psychological, and physical harm (Kahn, 2010).

Mandery et al. (2013) discussed how data were collected from Northwestern University in a study on exoneree behavior after leaving prison. The researchers

compared those who received compensation and those who did not receive compensation to understand the effect that takes place after release. Shlosberg et al. (2014) focused on the records of the victims and the effect of having their records expunged compared to those whose criminal record remains regardless of exoneration. In this study, however, I focused on hiring managers' perceptions regarding hiring exonerees.

Problem Statement

Across the nation, exonerees are being released without the benefits that the parole system affords convicted felons: no addiction counseling, job placement, housing placement, or gate money (about \$200 in most places; Pishko, 2016). A program that works alongside hiring managers at large companies would allow exonerees to go through these processes and obtain work or receive training needed to make a smooth transition into society. While convicted felons grapple with the stigma and a lack of job experience while attempting to find employment, exonerees face the same challenges—with the added difficulty that they do not qualify for programs designed to serve ex-felons (Pishko, 2016). Current expungement laws hinder exonerees from concealing their criminal record, forcing them to wait the required time of 10 years before requesting their records' concealment, limiting the possibility of starting a new career right away.

Understanding the flaws within the criminal justice system that led to wrongful convictions is important. Forensic science has played a prominent role in exonerating individuals wrongly convicted through forensic DNA testing of evidence after conviction; this evidence is a leading contributor to wrongful convictions through erroneous testing and misleading expert testimony (Gould et al., 2013). According to

Prescott and Starr (2020), providing factual knowledge will improve the criminal justice system, but research is missing regarding hiring managers and how they handle the hiring process for wrongfully convicted individuals.

According to Lackey (2020), researchers have studied factors such as false confessions, flawed forensic sciences, and police misconduct that affect a case and convictions, but a gap exists in research on what occurs after an individual is cleared of wrongdoing. According to Shlosberg et al. (2014), researchers have analyzed how to avoid making the same mistakes in the future, but research is lacking on employment and the expungement of records for individuals whose conviction was overturned. Recently, scholars have tried to explain wrongful conviction errors by identifying how more meaningful, deep structural problems in society lead to these errors and wrongful convictions (Jochnowitz & Kendall, 2021). According to Scherr et al. (2020), wrongful conviction has become a widely discussed problem, yet many employers lack proper knowledge and understanding of expungement laws and their long-term effects on potential employee applicants. Individuals who prove their innocence and are exonerated typically receive less support and fewer services than prisoners on parole (Davis, 2011). Government investigators tasked with identifying defects and mistakes that cause automobile or airplane crashes have begun to investigate criminal justice systems and wrongful convictions (Gershowitz, 2014). These types of investigations should include an examination of the effects of conviction on exonerated individuals trying to gain employment and function successfully within society after release.

Most companies seeking to hire an employee, will have the individual complete a background investigation as a prerequisite before employment. The system used for these investigation may fail to update, remove, or expunge charges against exonerated individuals (Agan & Starr, 2018). This will have an effect on those that have been wrongfully accused and later cleared of any wrong doing. The National Registry of Exonerations has identified 1,491 men and women exonerated from state facilities since 1989 in the United States. From 2005 to 2014, an average of 64 exonerations from state facilities occurred each year, with exonerates serving an average of 12 years (Simms, 2016). This is where expungement of a wrongfully accused's criminal record is important and very necessary.

Expungement is the erasure or elimination of criminal record history information by rendering it inaccessible either because it has been destroyed or sealed from certain individuals (Murray, 2016). New York laws prohibit the expungement of crimes, and only certain crimes may be sealed. This approach prevents wrongfully convicted individuals from pursuing a career in law enforcement, the military, childcare, or any job in which carrying a weapon is required. Public perception may play a part in this decision. Hiring managers may be aware of this and avoid hiring anyone with a criminal background without further investigation into that background. Hiring managers may have limited authority to hire individuals with criminal backgrounds for many reasons. One such reason could be public perception that could negatively affect a business's success. Blandisi et al. (2015) stated that researchers have taken heed to public perception toward wrongful convictions; however, there is limited research available focusing on

exonerees. Public perception research specific to wrongful convictions could help identify areas of need for further education or to help develop policies that could garner public support (Clow et al., 2012).

Many states, including New York, have strict expungement laws. Lawmakers in New York are currently working on a new bill that would help former offenders live easier after being convicted, but this bill is limited, mainly focuses on misdemeanors, and does not separate criminals from those who have been exonerated. Those not eligible for sealing their record can apply for a certificate that would support good conduct, but this does not force companies to accept the certificates. Thus, a negative background check might prevent businesses from hiring such individuals. Arrest and conviction records implicate many collateral consequences that enmesh individuals trying to rebuild their lives after contact with the criminal justice system (Murray, 2016). Those consequences, which touch nearly every aspect of life from employment to housing to family law, present everyday challenges for ex-offenders (Murray, 2016). More research into wrongful conviction and broadening expungement remedies could provide some relief to those who have been exonerated and are reentering society.

Hiring managers in New York, that do not have separate expungement laws for exonerated individuals, may have processes in place that prevent exonerees from gaining employment. These managers may be making employment decisions based on information that is no longer accurate or complete. In this research, I analyzed data collected from Delaware, where expungement laws for exonerees are in place, and data from New York, which restrictive expungement laws. Comparing these two states will

help identify if a significant difference exists in the hiring rate of exonerees. This information could encourage lawmakers to make necessary changes to improve the overall well-being for these individuals.

In Delaware, people who have been arrested, charged, and convicted but later cleared of any wrongdoing can have their criminal records expunged immediately and have information removed so the public no longer has access. New York law, however, only allows for sealing two convictions, of which only one may be a felony, and only after waiting 10 years from the release date. There is a significant difference between having a record expunged and sealed. When a criminal record is sealed, the information is still present—even if only available to police departments and licensing agencies. Expungement, on the other hand, involves the deletion of arrest records altogether. Greater awareness and understanding of the definitions and regulations of sealed and expunged records could be instrumental in the successful creation of reentry programs.

After this study, researchers may have a better understanding of hiring managers' perceptions on employing wrongfully convicted exonerees, which could help bridge the gap between these individuals not being able to locate work and resorting to other means of survival after exoneration. If hiring managers are aware of expungement laws and the nature of the situation, programs may need implemented to assist with employment similar to reentry programs for individuals released after completing a prison term. The findings from this study may help lawmakers understand that changes to expungement laws might benefit exonerees by providing them greater opportunities and limit the possibility of exonerees reentering the prison system.

Gap in the Literature

At present, the United States holds 1/4 of the world's inmates, with an unprecedented incarceration rate compared to both other countries and U.S. history (Hawken & Kleiman, 2016). Research surrounding prerelease programs suggests that they are most effective when paired with post-release interventions (aftercare treatment) or wraparound services (Brooks et al., 2006). Intervention methods employed by prison reentry programs generally include case management, needs assessments, reentry planning, life skills training, and employment assistance (DeHaan et al., 2019). The Turning Leaf program, for example, provides reentering citizens not only opportunities to positively reshape their cognitions and identities and enter into a stronger labor market (through vocational training), but also an opportunity to address the invisible consequences that prisoners often face. (DeHaan et al., 2019).

Employment status has a sizeable impact on individuals as they transition from prison (Knollenberg & Martin, 2008). In 2006, the Serious and Violent Offender Reentry Initiative was established by the U.S. Departments of Justice, Labor, Housing and Urban Development, and Health and Human Services (DeHaan et al., 2019). The program was intended to reduce recidivism and improve employment, housing, and health outcomes for participating released prisoners (Cook et al., 2014). The results, however, fell short of expectations. Research on reentry for the individual being released exists, but there are limited studies into hiring managers' attitudes about hiring people with a criminal history or wrongful conviction. For example, most of the research examining how racial and

ethnic bias undermines the system's fairness has been focused on discrimination against African American suspects and defendants (O'Brien et al., 2019).

Purpose of the Study

This study aimed to analyze the perceptions of hiring managers to see if current expungement laws and/or public perception play any role in decisions regarding hiring individuals convicted of a crime. This includes individuals who spent many years in prison but later received a pardon from any wrongdoing. I sought to examine what knowledge hiring managers have about wrongful conviction laws and if public perception plays a part at any stage during their decision making. I sought to understand why wrongfully convicted exonerees struggle to gain employment after being released, comparing experiences in New York and Delaware, states that have different expungement laws for exonerees. During the study, I sought to determine the impact laws have on the hiring process and to detect if education would benefit or eliminate misconceptions for hiring managers and the public. The lack of expungement law knowledge may be keeping hiring managers from providing employment to wrongfully convicted individuals. The findings of this study could lead to altering hiring managers' decisions when dealing with exonerees.

Research Questions

The following research questions guided this study:

RQ1: How does a lack of expungement law knowledge keep hiring managers from employing wrongfully convicted individuals?

RQ2: How does public perception/stigma regarding wrongful convictions keep hiring managers employing wrongfully convicted individuals?

RQ3: What are the immediate and long-term effects of placing wrongfully convicted individuals in the same category as hardened criminals when hiring managers make hiring decisions?

Theoretical Framework

Grounded theory was developed by Glaser and Strauss, who believed that theory could emerge through qualitative data analysis (Kolb, 2012). According to Kolb (2012), grounded theory allows a researcher to use multiple collection stages, refining and categorizing the data. Strategies can be used by making comparisons repeatedly and applying them to the sample, allowing access to grounded theory data. The qualitative design of grounded theory is used to focus research, along with a discussion of the constant comparative method, on issues related to trustworthiness and limitations inherent in grounded theory methodology (Kolb, 2012).

For this research topic, I chose the theoretical framework of grounded theory. Grounded theory is the most systematic of the qualitative research methodologies, which means the methods used in grounded theory are more prescribed than in any other qualitative research methodology (Ellis, 2016a). Grounded theory involves the generation of theories from data (DuBois et al., 2018). Using grounded theory could help me to explain why exonerees struggle to find employment in certain career fields. I used data obtained during the study and data from local agencies about exonerees who return to prison after initial release. Grounded theory management is a rigorous approach to

dealing with the relation between data and theory and demands the grounding of the theoretical work in the data Ruppel, P.S., and Mey, G. (2015). Grounded theory can be used to seek out and develop patterns and structures of a topic, using a steady comparison technique. Using grounded theory enables a systematic analysis of qualitative data based on clearly defined logical steps while also being sufficiently open to provide researchers with room for maneuver Ruppel, P.S., and Mey, G. (2015).

I also used critical race theory (CRT) as a theoretical framework for this study. According to Lawson-Borders (2019), CRT deploys critical theory to analyze society and culture and how they connect to particular categories, such as race, law, and power. The combination of many fighting for racial justice and legal norms is viewed as an improper echelon that needs transformation. CRT's focal point explains that systems of privilege are currently being upheld even though the law offers the assurance of proportionate protection. CRT can bring to light how laws have been created to put a particular race, people of color in this instance, at a disadvantage. The use of CRT may expose how expungement laws are not in favor of a particular group targeted in specific crimes.

Nature of the Study

The nature of this study was qualitative. I gathered data to help understand how employers' attitudes, expungement laws, and stigma affect employment for wrongfully convicted individuals and to explore why these individuals are returning to prison after release. Qualitative inquiry is a key tool in discovery-based research, hypothesis generation, and characterizing the mechanisms underlying quantitative findings (e.g., Farrell et al., 2007) and can guide the development and refinement of measures (Henry et

al., 2015). The data can be used to understand the individualistic characteristics of victimization and crime and can, through aggregation, look at the national experience categorized by nation-level independent variables (Bennett, 2009).

I conducted interviews (face-to-face and via telephone) to obtain data from 30 hiring managers, 15 from New York and 15 from Delaware, to understand their hiring process, specifically in relation to formerly incarcerated individuals. Managers were selected based on their current position as a hiring manager for a company, the length of time employed in the position, and their willingness to participate in the study. Hiring managers were selected from federal, state, and local businesses to compare different levels. Data were also collected from government reports, such as the Bureau of Justice Statistics and U.S. Data and Statistics, and from the Innocence Project and Brennan Center for Justice. Lastly, official statistics were used to determine where exonerees may reenter the prison system or gain employment after release. Sources investigated included, the Bureau of Justice Statistics, U.S. Data and Statistics, Crime Statistics New York Police Department, and Delaware crime reports.

Definitions

Conviction: A formal declaration that someone is guilty of a criminal offense made by the verdict of a jury or a judge's decision in a court of law.

Exoneration: The removal of a burden, charge, responsibility, duty, or blame imposed by law. The right of a party who is secondarily liable for a debt, such as a surety, to be reimbursed by the party with primary liability for payment of an obligation that should have been paid by the first party (Encyclopedia, 2019).

Expungement: To erase or remove completely; blot out or strike out; delete; cancel. (Collins Dictionary, 2022).

Hiring manager: Human resources staff member responsible for hiring employees and ensuring they adhere to an agreed-upon work schedule and are paid (Encyclopedia, 2019).

Law: The law is a system of rules that a society or government develops in order to deal with crime, business agreements, and social relationships (Collins Dictionary, 2022).

Misdemeanors: Class A misdemeanors include offenses for which the maximum term of imprisonment is 1 year or less but more than 6 months. Class B misdemeanors include offenses for which the maximum term of imprisonment is 6 months or less but more than 30 days (Motivans, 2019).

Phenomenon: Something that is observed to happen or exist (Collins Dictionary, 2022).

Stigma: Racial stigma is an attribute that marks or discredits an individual, one that reduces them from a whole and usual person to a tainted, discounted one Goffman, E. and DeFleur, M. L. (1964).

Wrongful: A person with no legal right to do something (Collins Dictionary, 2022).

Assumptions

In this study I assumed that all company representatives who volunteered to participate would have background investigations as part of their hiring process and

would have interacted with people with some criminal history. Throughout the study, I assume that all volunteer participants would provide honest answers and would not merely state what they thought I wanted to hear. Continued reminders were given, explaining how anonymity and confidentiality would be protected throughout the entire process, and all participants were allowed to remove themselves from the interview at any point.

Scope and Delimitations

This study covered hiring managers' attitudes during the process of employing individuals. I focused on company policies, such as criminal background investigations, how hiring managers feel the public would react to them hiring certain people, and their knowledge of current laws that may affect them during the hiring process. Only hiring managers working in New York or Delaware, and participants were required to have at least 2 years of experience in their position. I did not explore exonerees' attitudes about the topic, and I did not involve customers of the companies taking part in the study. Research questions were sent to allow responses at the same time the interview was taking place. Hiring managers from these two states were selected because of the differences in the expungement laws in each state. I sought to collect data on the challenges hiring managers and exonerees face when exonerees are trying to begin a new career after release.

Limitations

This study's limitations or potential weaknesses were most likely out of my control. Because participants were volunteers, the study may have only attracted

employers who strongly support wrongfully convicted individuals and who already have programs in place to assist such members. Companies that shy away from hiring wrongfully convicted people may not want to participate in a study such as this, fearing reprimand from the public. I have invited companies to participate in a background investigation but would not have known if they hired felons until the day of the interview. Wrongful conviction awareness is becoming more widely known, so companies' responses may change through the study. I asked the hiring managers to respond to the questions on how they feel at that moment and reassured them that no information would be made to the public or tie them to the study.

Significance

Unemployed ex-offenders could add to unemployment rates. Because such individuals are often ineligible for public assistance, they might turn to crime if they are not allowed to support themselves legitimately (Martinez, 2004). Exonerees must navigate new relationships with their family members who have matured without them or may have abandoned them. Exonerees experience physical, emotional, and psychological damage created by living in isolation, despair, and neglect (Westervelt & Cook, 2018). Lack of employment only adds to exonerees' hardship.

Greater employment rates for people released from prison could have implications of positive social change by potentially reducing criminal activity and allowing individuals to reenter society and experience growth and well-being. The results of the study could lead to improvements in the release process for exonerees and assistance to those seeking compensation for years lost while incarcerated. Changes are necessary to

ensure current laws are sufficient to everyone, including individuals in states that do not have expungement laws. The results of this study could lead to the creation of new laws specifically for exonerees that could ease their burden. Such laws could improve the overall perceptions of the criminal justice system by society. Educating company leadership, hiring managers, and lawmakers in the state of New York could improve social change by changing specific justice system procedures in that state. Thus, potential implications for positive social change could include increased equity and quality of life for individuals affected by wrongful convictions and programs to help expand access and opportunities not available outside these programs.

Summary

How wrongful conviction occurs has been studied, but little research has been conducted to study the effects an individual experiences after being cleared of a crime and released from prison. Focusing on hiring managers and company policies will help develop an understanding of why exonerees struggle to gain employment or begin a new career after release. Grounded theory and CRT are important theoretical frameworks in this study used to understand patterns and determine if a particular race is affected more than another race. The study results could provide information to help with creation or additions to expungement laws and redirection of criminal justice system processes when releasing exonerees from prison. In Chapter 2, I present a review of the literature related to the theoretical framework of this study and the phenomenon and topics being researched.

Chapter 2: Literature Review

Introduction

Current expungement laws and public perception may be important during the hiring process, the problem is that during the hiring process background investigation could hinder exonerates from gaining employing. In addition to experiencing a wrongful conviction, exonerees must also face civil penalties associated with having a criminal record, which can have a long and damaging effect on their ability to obtain employment. The purpose of this study was to analyze hiring managers' perceptions and understanding of current expungement laws and public perceptions, which may play a role in their hiring decisions regarding individuals who were convicted of a crime and later cleared of any wrongdoing. To develop a greater understanding of the existing literature related to this problem, I reviewed current studies of public perception, wrongful conviction, and exonerees facing challenges during their time in prison and once released. I also reviewed the laws and policies of state governments regarding expungement and sealing of records. In this chapter, I present the literature search strategy, the theoretical framework, and a literature review of key topics related to this research.

Literature Search Strategy

Many resources were used to locate prior studies, such as Walden University library, public libraries, internet searches, scholarly databases, newspapers, and magazines. Keywords and phrases I used to conduct the search were focused and consistent with the research topic. Such keywords and phrases included *expungement*,

exonerees, unemployment, public perception, race and gender, current expungement laws, and qualitative research.

Theoretical Foundation

The theoretical foundation for this study was based in grounded theory and CRT. Grounded theory is a qualitative research method through which a theory or conceptual framework is inductively derived from participant data; these data are often collected through face-to-face interactions between a researcher and participants (Hays & Wood, 2011). The first step in grounded theory generation is for a researcher to select a research topic based on a theoretically interesting area (Tucker, 2016). Eckstein (2009) noted that the grounded theory method stimulates the theoretical imagination by using comparisons across a large volume of data; this alleviates some of the concerns with bias in case-study selection. Grounded theory has the added value of providing an impressive audit trail that could enhance transparency and diffusion of theory-generating techniques (Tucker, 2016).

CRT originated in legal studies as a means to examine race and racism's continued impact on society, particularly after the civil rights movement (Harris, 2012). Legal scholars Derrick Bell, a former Harvard Law professor, and Alan Freeman were foundational in the development of CRT studies (Delgado, R., and Stefancic, J., (2005). Many African Americans, other people of color, and low-income groups often struggle to receive basic housing, education, employment, and other needs in comparison to White individuals. Historically, this trend dates to laws and policies that institutionalized inequities that negatively affect people of color (Lawson-Borders, 2019). I used CRT to

analyze the hiring managers' attitudes toward hiring wrongfully convicted individuals. CRT can be used to illustrate challenges faced by the current hiring policies, hiring managers' perceptions, and public perception. CRT has been used to contextualize the continued role that race plays in the lives of African Americans and other people of color who are not often privileged by mainstream educational, cultural, political, and economic opportunities (Lawson-Borders, 2019).

Critical race theorists attempt to show how current laws, including current antidiscrimination laws, paradoxically accommodate and even facilitate racism (Harris, 2012). CRT research has been conducted to examine the Black and White paradigm, personal narratives; implicit bias theory, Latina critical theory, and racism's connection to the oppression of other groups by class, gender or sexuality, language, and cultural issues (Patton, 2016). Racial disparities across income and employment, such as lack of or poor education, criminal justice policies such as the Anti-Drug Act of 1986, and economic development hinder progress for people of color (Lawson-Borders, 2019).

Literature Review

Expungement

Expungement is the erasure or elimination of criminal record history information by rendering it inaccessible, either because it has been destroyed or sealed from certain individuals (Murray, 2016). However, in the past decade, due to heightened interest in criminal law reform, especially the perceived injustice of certain collateral consequences inhibiting reentry, the effects of mass criminalization (Silverglate, 2001), and the technology-driven inability of ex-offenders to move on (Roberts, 2015). The average

petitioner must jump through several hoops, which come in various forms, in order to obtain an expungement (Murray, 2016). States have criminal record history information available to employers in electronic format to use when completing background investigations. Haber (2018) examines legal, social, and technological challenges by scrutinizing the intersection of criminal law and digital technology in rehabilitation. The National Registry of Exonerations (NRE) was created in 2012 to track exonerees nationwide since the first DNA case in 1989 to allow for an extensive account of the incident to include women for the first time in history. Individuals convicted of a felony are given a status that not only makes them susceptible to later sanctions but gravely damages their reputation and other possible opportunities.

While criminal conviction inflicts a necessary disability on the offender, expungement law presents an appropriate remedy for the ex-offender: expungement ensures that employers, licensing agencies, and communities view an individual in light of her character today rather than the mistakes she made in her distant past (Dugan, 2015). Northwestern University Sociologist, Pager (2003) analyzed the economics of criminal history stigma during a study in 2003. He discovered that those with a criminal history were only one-half to one-third as likely as citizens with a clean criminal record. However, in an independent study, sixty-five percent of corporations in Atlanta, Boston, Detroit, and Los Angeles agreed they would not knowingly hire anyone with a criminal history, and only thirty-eight percent would even accept a job application from those same ex-cons.

The Second Chance Act of 2007 was created to assist individuals and establish a screening process between departing prison and reentry into the community (Farrell et al., 2007). Expungement is payback for defendants abused by a broken system in which due process is too often an ideal rather than a constitutional guarantee (Dugan, 2015).

Exonerees are usually not eligible for expungement at the federal level, and at the state level, many charges are excluded from the expungement process or have mandated time they must wait before they can request for expungement of their record. In Delaware, if a misdemeanor charge or violation is “terminated in favor of the accused,” and the person has no prior convictions, then the arrest record is subject to mandatory expungement (Shlosberg et al., 2014). Shlosberg et al., (2014) describe how New York law allows exonerees to pursue the necessary steps to seal records after a wrongful conviction. They can file a proposal to withdraw a judgment once new evidence is found, and if they are successful, exonerees can seal their records.

Eleven states, along with the District of Columbia, currently have expungement laws in place specifically for the covering of people dealing with wrongfully convicted. In Florida, individuals must receive a certificate of eligibility before they can ask the court to expunge or seal records. Florida’s expungement means the records are physically destroyed, and sealing is just keeping them confidential from certain companies. Each state has a different meaning for “expungement” and different laws on expunging records. The ultimate goal would be for every state to have the same wrongful conviction-specific laws allowing automatic destruction of all criminal history about the case where the individual was cleared of any wrongdoing.

Expungement offers the possibility of sweeping aside a wide range of legal and socioeconomic consequences at once; these laws typically authorize individuals to apply for jobs, housing, schools, and benefits as though their convictions did not exist (Prescott & Starr, 2020). Expungement is a nearly costless way to ensure that exonerees make successful transitions into society following their releases (Shlosberg et al., 2014). The barriers to expungement can be so substantial that merely showing that a criminal proceeding did not result in charges or conviction is not enough (Shlosberg et al., 2014). If the criminal justice agency does not grant the petitioner's request, he must petition the court for such a finding by showing that "no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made (Shlosberg et al., 2014). According to Shlosberg et al., (2014), if you have been released from prison in California and would like to clear your criminal record, you not only have to be "not guilty" but "factually innocent" to achieve expungement. Today, a substantial majority of U.S. states provide some form of expungement procedure for otherwise-valid adult convictions (Prescott & Starr, 2020).

Despite the considerable legislative ferment and excitement surrounding these "Clean Slate" initiatives in the civil rights and criminal justice reform worlds, hard evidence about the effects and true potential of conviction expungement laws (Prescott & Starr, 2020). While there are many persuasive theoretical reasons to believe that expungement laws will have broad and important effects across many domains, the dearth of empirical evidence is a significant hindrance to reform and experimentation (Myrick, 2013). Because many Americans have conviction records, these consequences

have a large aggregate impact. Repercussions include spillover effects on family members never convicted of any crime; the Center for American Progress estimates that almost half of U.S. children have a parent with some criminal record form, including arrests (Vallas et al., 2015).

Exonerees

A growing literature has established that exonerees face substantial difficulties after being factually exonerated of their wrongful conviction (Thompson et al., 2012). The stigma associated with being wrongfully convicted is evident in people's unwillingness to support reintegration reforms, such as psychological counseling, job training, and career counseling, to help exonerees transition back into functioning members (Clow & Leach, 2015). Those who can prove their innocence and are exonerated typically receive less support and fewer services than prisoners on parole (Cook et al., 2014). The lack of state-funded services and programs is exonerees no longer have obligations to the state upon being deemed innocent, and vice versa (Cook et al., 2014).

The most important thing exonerees need after being released is transitional assistance. The wrongly imprisoned often lack a reintegration plan because they do not know if and when they will be released, often finding out days and even only hours in advance (Westervelt & Cook, 2010). Exonerees do not have a lot upon release and its left up to them to find a home, a job or positive income, food, and any other needs. The National Registry of Exonerations reports all known exonerations in the United States since 1989 (O'Brien et al., 2019). Achieving exoneration is never easy, but a defendant

whose innocence can be proven through DNA testing may find it easier to secure representation from an innocent organization and ultimately be exonerated than one whose case does not turn on relatively straightforward, conclusive evidence (O'Brien et al., 2019). The notion of compensating the wrongly convicted is hardly new; it was pioneered by Professor Edwin Borchard over a century ago (Gutman, 2017). In 1913, Wisconsin became the first state to enact a no-fault wrongful conviction compensation statute (Gutman, 2017). Much is known about individuals who are returned to society after incarceration. Within three years of release, most releases will return to prison, with a high probability of committing a felony or a serious misdemeanor (Durose et al., 2014).

Unemployment

The relationship between unemployment and crime is complex and consists of two independent and counteracting mechanisms: the motivation effect and the guardianship/opportunity effect (Andresen, 2015). Employment is a necessary form of rehabilitative that allows the offender's success and ensures they do not reenter the criminal justice system. Unfortunately, many individuals are faced with employment discrimination based on prior criminal justice history. Murray (2016) gauges the recent fluster of state-level legislation when dealing with expungement improvement from an available criminal conviction and arrest record information. He aims to discuss the difficulties faced by ex-offenders with criminal records.

Guaranteeing access to reintegration services is critical to reducing the likelihood of future offenses because a fair percentage of exonerees who are released without access to reintegration services (38%) commit at least one crime after release (Shlosberg et al.,

2014). According to Goldberg et al., (2019), financial hardships is something most exonerees will face, to include finding employment to support oneself. This can be incredibly difficult after spending a long time in prison and then having to provide the information to potential employers. Further, research suggests that exonerated individuals may experience employment discrimination similar to an offender who is guilty of the same crime. The basic premise of Ban the box laws is that criminal records are a significant barrier to employment find support in prior research (Holzer et al., 2006; Pager, 2003).

Influenced by the national “Ban the Box” movement and resulting law changes, many employers have removed criminal history questions from initial job applications. However, these employers typically conduct background checks before finalizing a hire (Prescott & Starr, 2020). Ban the Box laws only delay employer access to criminal records rather than a permanent bar; employers may still conduct criminal background checks near the end of the hiring process (Agan & Starr, 2018). Almost all states place court records on the internet, and private companies, such as Westlaw and LexisNexis, also market criminal history databases (Prescott & Starr, 2020).

Public Perception

Public perception can play a significant role in decision-making, whether on trial for murder or selecting an individual for a company’s position. If people have incorrect information or material perceived to be accurate, they will believe it and act accordingly. Fear of crime can be defined as the fear for falling a victim to crime or for others being victimized, and is, therefore, more sensitive to objective risks than perception of crime

(Rotarou, 2018). Perception of crime, on the other hand, is a more cognitive judgement and relates to people's estimation on crime within their own community and within society (Adams & Serpe, 2000). At the same time, high public perceptions of crime have a direct impact on local businesses, tourist numbers, and property values, trapping those places into a vicious cycle of poverty (Detotto & Otranto, 2010). Other elements included in public perception of high-profile cases are individual traumatic experiences relating to the trauma of the crimes being discussed. News and the media have grown and developed immensely in the past decade, which has caused concern for the U.S. judicial system regarding the influence of trial publicity, especially for cases with high exposure. Many people like the idea of reentry programs to help individuals leaving prison reenter society.

Many reentry programs are in place to assist ex-offenders and exonerees, but the community must work with ex-offenders and exonerees to be rewarding. Even if reentry barriers may be addressed through targeted initiatives, a critical consideration for sustainable public programming and successful community reintegration is community support (Ouellette et al., 2017). Regardless of people's views of abstract policies, an important consideration for reintegration is how citizens feel about working and living alongside ex-offenders (Ouellette et al., 2017). Maruna and King (2009) discuss research that displayed levels of reprisal subside if people of the community have faith that offenders can adjust and flourish as law-abiding citizens. Since the landmark study by Sellin and Wolfgang (1966), a body of literature has emerged in criminology, psychology, and criminal law that presents public perceptions of crime seriousness as an important measure of crime seriousness for policy-making (Adriaenssen et al., 2020).

This is especially important when confronting housing and employment problems, which may require more personal involvement among the general public for successful community reintegration to occur (Ouellette et al., 2017). The public believes that a lack of formal training and legitimate employment hinders recently released prisoners' ability to lead legitimate lives (Brooks et al., 2006). Because research suggests that most people continue to believe, to varying degrees, that exonerees are still guilty of the original, wrongful conviction (Scherr et al., 2020), exonerees may often be subjected to a range of stereotypes and beliefs used to characterize guilty offenders (Clow & Leach, 2015).

Race and Gender

Possessing stereotypically Black features is considered 'prototypical' or representative of the Black male face. Thus, this face type is more readily associated with negative racial stereotypes than the atypical face type because it is closer to the category norm and considered typical of 'Black' (Knuycky et al., 2014). Pager (2003) examined the effect of criminal stigmatization on employment outcomes. Using an audit study, she found that applicants who disclose a prior felony on a job application had reduced prospects for employment. Her study also considered the effect of race and showed that being Black was at least as stigmatizing, if not more so, than a felony conviction (Evans et al., 2019). Further, recent studies suggest that possessing certain facial features may increase the likelihood that a particular subset of Black men, in particular, are most vulnerable to misidentification error rather than Black men more generally (Knuycky et al., 2014).

Interestingly, to a lesser extent than Black men, White men can retain Afrocentric features and are meted similarly negatively (Kleider et al., 2012). Thus, the negative association between stereotypically Black facial features and criminality extends beyond solely skin tone and includes a combination of skin tone and other features (Hagiwara et al., 2012). Webster and Miller (2015) used the National Registry of Exonerations (NRE) database to explore gender and race patterns of individuals wrongfully convicted and later cleared. The study showed that 62% of the males were minorities, mostly African American, but only 35% were women of color. Webster and Miller (2015) women of color make up over half of the female state and federal prison population, but only 35% of female exonerees (44 of 126). NRE data portrayed that female exonerees were more likely than males to include property, drugs, and other crimes, but African American women's convictions were only for drug crimes. To recap, our review of the patterns of exoneration in the NRE by gender and race as of November 25, 2014, suggests the following: while the racial distribution of men's exonerations closely paralleled racial disparities in men's incarceration rates, in the case of women, white women were a larger proportion of exonerees than their representation among incarcerated women (Webster & Miller, 2015).

Race and ethnicity matter in the criminal justice system at all levels; in a police officer's decision to stop and search someone on the street, in the prosecutor's decision to bring charges or to exercise a peremptory strike against a potential juror, and so on (Grosso & O'Brien, 2011). Tens of millions of Americans, disproportionately, including black men, have criminal records and face resulting employment access (Agan & Starr,

2018). To help overcome those barriers, and thereby reduce racial disparities in employment, more than 150 jurisdictions and 25 states have recently passed “Ban the Box” (BTB) laws and policies (Rodriguez & Avery, 2016). We confirm that criminal records are a major barrier to employment: employers asking about criminal records were 63% more likely to call applicants without records (Agan & Starr, 2018). However, our results support the concern that Ban the box policies encourage racial discrimination: the black-white gap in callbacks grew dramatically at companies that removed the box after the policy went into effect (Agan & Starr, 2018).

Summary

The importance of comparing notes with other researchers that may have touched on the topic at hand or elements of current studies is great and will help validate the information. During this qualitative research, many aspects were examined to see if they affect hiring managers’ opinions of who should be hired at their company. The research includes expungement law and the exoneree label as it is the main topic of conversation. The effects of wrongful convictions, such as unemployment and being placed in a negative social class, are discussed to see if employment holds any weight. Qualitative research was selected to conduct face-to-face interviews with hiring managers to hear their mindset or perspective when dealing with exonerated individuals.

Chapter 3 Research Method

Introduction

For this research, the main focus was to understand how expungement laws and public perception affect hiring managers from providing exonerees employment opportunities. Further, the impact of current companies' hiring processes is investigated to evaluate the need for change. The Qualitative study analyzed those who experienced wrongful convictions and their problems as exonerees during the hiring process while looking to begin a career. Public perception was explored to see what elements could cause discouragement for exonerees looking for employment. Snowball sampling was used to collect data by performing surveys by way of telephone interviews, providing questions through semi-structured examination with hiring managers and exonerees. Participants include hiring managers from companies within the New York City and Delaware area and exonerees within the same areas that have gone through the hiring process. All data collected was entered manually in to MAXQDA and transcribed into groups of data. This chapter illustrates the importance of selected research design, research sample, how data was collected, a description of the researcher role, and participant selection and protection.

Research Design and Rationale

Qualitative research is used to exemplify the meanings, characteristics, and descriptions of conditions without using numbers or measures. Such research explains how and when a phenomenon occurs; qualitative research in this study was focused on the human elements of the effects of wrongful convictions. Qualitative methods were

used to gather data and address the research questions. The following research questions guided this study:

RQ1: How does a lack of expungement law knowledge keep hiring managers from employing wrongfully convicted individuals?

RQ2: How does public perception/stigma regarding wrongful convictions keep hiring managers employing wrongfully convicted individuals?

RQ3: What are the immediate and long-term effects of placing wrongfully convicted individuals in the same category as hardened criminals when hiring managers make hiring decisions?

During this study, I used a more specific qualitative design to help understand participants' experiences in greater detail. Phenomenology is used to explore an individual's involvement from a first-person point of view of a problem or situation they have faced. During a phenomenological research study, a combination of methods are employed to gather data, such as interviews and review of documents. These data sources help a researcher develop an understanding of what the participants say happened in the process. The phenomenon for this study captured errors within the hiring process for exonerees and the lack of laws to help support them after prison.

Research Design

Wrongful conviction is still an issue within the criminal justice system. Those affected by wrongful convictions fight for years to prove their innocence. Once they are exonerated, the struggle remains as they face many barriers to reentering society. Financial stability is an important part of a healthy lifestyle, but expungement laws could

hinder exonerees from obtaining a successful career. The problem hiring managers face when dealing with exonerated is the individual's background investigation and how it is handled the same manner as criminals who served their time. This is partly due to certain expungement laws that are or are not in place or the lack of information provided to the hiring managers to process the individuals properly. The study analyzed hiring managers' attitudes to see if expungement laws and/or public perception determine if exonerees are hired for any particular career path. Using a qualitative approach allows for interviews with managers to see what they understand about wrongful convictions and exonerees and how their hiring process works. Interviews used during structured, semi-structured, or unstructured studies are often sources of necessary data on the qualities and groups of interest. Other sources include focus groups, observation (without a predefined theory like statistical theory in mind, for example), reflective field notes, texts, pictures, photographs and other images, interactions and practice captured on audio or video recordings, public (e.g., official) personal documents, historical items, and websites and social media (Savin-Baden & Major, 2013).

Role of the Researcher

I have explained why the study is being conducted to all participants, unbiasedly conducting respectful and meaningful face-to-face and phone interviews. The qualitative researcher described relevant aspects of self, including biases and assumptions, expectations, and experiences, to qualify their research ability (Greenbank, 2003). Protect all participants at all costs and using only the material necessary to complete the research. Data were only collected by me, the researcher, and no personal connection with any

participants will be identified. During the research study, I will strive to record and maintain all information provided by each hiring manager and use this information for data analysis. During such time, I will provide the participants with information about the study's confidentiality and not release any personal information. Participants were to remove themselves from the study during the research, and the information provided as not used. The researcher's ultimate goal is to monitor and eliminate potential bias, collect, and analyze data, and present the finding.

Methodology

Qualitative research may offer essential tools that advance our reports to help cultivate new way. DuBois et al., (2018) rightly acknowledge several unique characteristics of qualitative research data, the diverse set of goals researchers bring to each qualitative study, and its nonnumeric format. A qualitative approach obligates researchers to provide transparency by way of thick description to inform the research consumers for verification fully and determine the applicability of the research to other contexts, that is, transferability (Roller & Lavrakas, 2018). Many study designs can be used in qualitative research, including phenomenology, ethnography, grounded theory, exploratory, descriptive, and others. A phenomenology study seeks to identify research interests (Creswell & Poth, 2018). With grounded theory, the researcher used inductive reasoning to develop a social theory for a phenomenon that has none (Ingham-Broomfield, 2015). While data were collected and examined repeatedly, the researcher identified concepts and relationships (Gray & Grove, 2017).

Qualitative research was selected as it can explain why exonerees are having a difficult time finding employment after being released from prison and how it affects employers' decisions to select these individuals. Unanswered questions were resolved by interviews with exonerees and the hiring managers themselves. This allows for data collection from the perspective of the individuals involved. Qualitative research is a method to answer questions about or explain a phenomenon of interest, a social process, or a culture by collecting and analyzing narrative data from the participant (Gray, 2017). The qualitative approach was selected because the information was obtained from the participants involved in the phenomenon. While quantitative researchers yield statistical numbers, such as reliability coefficients, to support their studies' rigor, many qualitative researchers follow specific procedures that suggest their findings (Astroth & Chung, 2018). Morse (2015) states that maintaining an audit trail and triangulation ensured dependability within the study. An audit trail refers to a collection of materials, such as transcripts, field notes, journals, and reports, documented throughout the research process and used to verify conclusions made about data and provide transparency (Gray, 2017).

Participant Selection Logic

The grounded theory uses similar participants to experience the social phenomenon that is being studied (Ellis, 2017). The potential study population consists of 30 to 40 adult participants hiring managers with a minimum of two years in their current position and employed in New York or Delaware. Ideally, 15 individuals from New York and 15 from Delaware will be selected to fulfill the interview requirements. The selected subjects will include both males and females, and the subjects must be 21 or more.

Participants were recruited utilizing the Innocence Project and other similar programs as they may provide companies that work with exonerees or companies that do not accept a criminal history background. The Innocence Project was selected because of their history dealing with exonerees from working to free them to meet individuals' needs upon their release. Participant participation was expected to be high as companies are willing to assist offenders, and networking with the Innocence Project, a well-known company with increases the likelihood of companies' willingness to help in any way.

With LinkedIn's help for selection, companies in New York and Delaware will receive phone calls or emails asking to participate in the study. Hand out flyers to local companies, send out invitations, and ask current participants if they know someone willing to be interviewed. An open discussion was conducted during the interview to provide information the planned questions may have missed. Participants in this study were selected if they have been a hiring manager in New York or Delaware and actively participated in the hiring process for all employees at the current company. Hiring managers were the most important aspect of the study, and the goal was to see if current expungement laws or public perception affect their decision to hire exonerees. The final sample size was determined by data saturation to gain a detailed and real-time understanding of the events. Saturation is the condition that occurs when no new themes or perspectives were obtained from interviewing additional participants (Cleary et al., 2014). The scope and complexity of the phenomenon and the previously established knowledge of the phenomenon of interest are other factors that determine the sample size (Morse, 2015). In this section, I recommend advertising for hiring managers on LinkedIn.

Instrumentation

Researchers can use current literature and available databases to find suitable information related to the study to help find or create appropriate instruments. If it was determined that there are no instruments available to measure the variables in a study, there are four rigorous phases for developing an instrument that accurately measures the variables of interest (Creswell, 2005). After carefully identifying the research purpose, target group, and researched available literature, face-to-face interviews with semi-structured questions were thought to be the best way to conduct this study. The instrument's objective is to get the point of view of the hiring manager without any bias. The questions' format was open-ended, allowing the participant to provide any necessary information and help improve the data collected. I carefully reviewed questions for clarity, proper formatting, response options, and wording.

Interviews are essentially oral questionnaires, which involve the researcher retrieving information from the participant through verbal interaction. Previously prepared questions that would help answer each research question would be given to each respondent to ensure everyone has the same opportunity to answer the same questions without the interviewer's opinions or biased views. Open-ended questions were created to allow a person to provide their opinion or knowledge of the topic but helped prove or disprove information. The major advantage of this method is that it produces high response rates (Aina, 2004). Besides, it tends to represent the entire study population, and personal contact between the researcher and respondents enables the researcher to explain confusing and ambiguous questions in detail (Aina, 2004).

Interviews are the most common data collection method in grounded theory because, as we have seen in previous papers (Ellis, 2016b), it allows for a more personal experience to be shared with the interviewer. In-depth interviews, whether in person or over the phone, allowed the participant to give data beyond the questions provided during the session. By using grounded theory interviews, more in-depth and unstructured or semi-structured questions can be employed, leading to the study's success. The loose structures allowed the interviewer to probe and question the participant's account instead of taking the interviewee down a path of structured questioning that may ultimately be meaningless to the interviewee (Brinkmann & Kvale, 2015).

Procedures for Recruitment, Participation, and Data Collection

Face-to-face individual interviews were used to interact with each participant. If a participant was unavailable for an in-person interview, then telephone interviews were scheduled. For the first part of the interview session, semi-structured interview questions allowed me to stay on topic but invite new ideas from the interviewees.

Phenomenological studies tend to be more successful when the questions focus on lived experiences, so when creating these interview questions, sections will allow participants to express their experiences concerning this phenomenon.

The interview contained open-ended questions about the employment process after being exonerated, the background investigation, public perception, knowledge of current wrongful conviction laws, and allowed the individual time to provide any pertinent information about their experience with gaining employment. Using what they find during the initial and subsequent data analyses, I developed more questions about the

phenomenon of interest, which often leads to them recruiting further subjects to the study to answer the emerging questions and/ or further consolidate the emergent theory (Ellis, 2017). Due to COVID-19 restrictions, individuals not available for an in-person or phone interview may receive a questionnaire via email or send it by regular mail. Each session would be recorded using a tape recorder and jotting down notes for later data processing with the participant's permission and consent. Before any interviews, participants and the interviewer signed an informed consent form to reassure them that their identity would not be revealed and to inform them of their right to withdraw from the study at any time. There was a 30-minute window for each interview to allow ample time for each question and open discussion.

The Innocence Project, created by Peter Neufeld and Barry Scheck in 1992, works with individuals who have been wrongfully accused and helps them become exonerated. The Innocence Project has a social work department supporting exonerees with the rebuilding phase post-release. Connecting with the project could provide interviews, or even documentation that can offer information about exonerees' success rate gaining employment. The Brennan Center for Justice at New York University Law currently fights for an effective and fair justice system and works to end mass incarceration and unfair targeting. They may provide information on current laws and how they affect wrongfully convicted individuals who are now cleared of any wrongdoing. A facility like local prisons in New York, such as Bayview Prison for women and Rikers Island Correctional Facility provided information about exonerees returning to prisons after failing to gain employment. Prisons in Delaware would be the Department of

Corrections-Gander and James T. Vaughn Correctional Center. Although the prison staff will not be part of this study participants, they may provide information about returning inmates' rates.

During this study, face-to-face interviews and telephone interviews were administered to provide multiple ways to reach all the participants and provide their stories. Face-to-face was considered the best way because the researcher can look at body language while conducting the interview and create a better relationship on a more personal level. Phone interviews will only be used when the participant is unavailable for a face-to-face meeting. To obtain statistics about exonerees' employment and unemployment rates, recidivism rates, the plans used the Bureau of Justice Statistics, USA Data and Statistics, the Innocence Project, and the Brennan Center for Justice.

Data Analysis Plan

During the study's data analysis portion, I plan to use Maxqda.com to help sort, analyze, and provide data findings using an easy-to-understand format. MAXQDA is a software program that uses qualitative and mixed methods research data and can be used with Windows and Mac with identical output. MAXQDA is great for qualitative research using grounded theory, literature reviews, and simple analysis of interviews, audio files, and even images. I displayed all findings using charts and tables to help the reader visualize all findings to understand and validate the outcome. MAXQDA allows me to transcribe data and convert everything into a textual form. The data was organized, coded into patterns, concepts, and properties, and finally validated.

Issues of Trustworthiness

Trustworthiness helps validate a study and its findings, allowing others to repeat the study the ability to do so. Credibility is gained by how confident researchers are after completing the study. Nothing but the truth was used during the entire study, and the findings have not been altered to benefit the research. During this study, researchers let participants know that the information they provided was not released to anyone, and there will be no connection to them. They were told of the importance of providing accurate information so that the study's findings are accurate. When participants tell researchers what they think they want to hear or the right answer, it can make it look like a problem does not exist when that may not be the case. To address the situation accordingly, it is important to get accurate and up-to-date information. Transferability focuses on how researchers demonstrate that current findings apply to other contexts, such as criminals with criminal records but no jails time or pending cases. The current research was conducted to see if hiring managers are reluctant to hire a particular gender or age group even though they are protected by law. Hiring managers' views are necessary to understand during the hiring process.

Researchers rely on all the information obtained during the study when looking to repeat or audit the study. When a different researcher conducts the same study, the outcome should be consistent with the current findings. There were ample amounts information available, so it could be done. This individual was allowed to review or examine the process and see consistent findings across the board. This may be an issue if not enough participants were willing to provide information, or companies do not wish to

participate. Confirmability, findings were based on the participants' responses leaving out potential bias or any researcher's motivations. To assist with this, I will highlight steps during the analysis to provide a rationale for decisions made. This leaves out any questions about the accuracy of the findings.

Ethical Considerations

All those involved were informed that participation is absolutely voluntary and they can choose not to participate at any point of the study. After deciding to participate in the study an informed consent was provided to each person to ensure they understand what the research was about and again letting them know they can leave the study at any time. Participants were able to ask any question on anything they may not understand. Confidentiality was maintain by keeping all digital research information on a password protected computer and locked away in a draw when not in use. Any information that would provide the identity of participants were removed from the study and code were put into place. During this study the potential for harm was minimal, so discomfort may have taken place when asking questions but no physical harm or injury happened at any point of the study. Participant were allowed to set dates to minimize inconvenience or place any burden on them. Each person were informed after the interview that they would be provided with the results of the study by email or hand deliver when possible.

Summary

The researcher's role during the study is critical to the success of the findings. Face-to-face interviews recorded with permission from the participants were used for data collection to see if hiring managers are impacted by current expungement laws or

public perception. There may even be another factor not mentioned that could be discovered. Determining sample size and qualified participants was a crucial step in the research study, and the number depends on the amount of information needed to see a pattern. I was aware of trustworthiness issues, so doing whatever was needed to remove any biased ways was used during this study, and participants were reminded to provide truthful and complete answers. All steps were well documented after this research study, and appropriate tools were used from collection and data analysis.

Chapter 4: Results

Introduction

In this study, I analyzed hiring managers' viewpoints on current expungement laws that may affect them and/or public perception, which may play a role in hiring practices for individuals who were convicted of a crime and later cleared of any wrongdoing. This qualitative study was guided by the following research questions:

RQ1: How does the lack of expungement law knowledge keep hiring managers from employing wrongfully convicted individuals?

RQ2: How does public perception/stigma on wrongful convictions keep hiring managers from offering jobs to individuals?

RQ3: What are the immediate and long-term effects of placing wrongfully convicted individuals in the same category as harden criminals when hiring managers have to make hiring decisions?

Data for this study were collected during interviews, where specific topics were the hiring process and stages, background investigations, disqualification of applicants, current laws, and public perception. Information was gathered to answer the research questions during each interview. During interviews, participants were also asked about reentry programs that may already exist within their company. For those who did have such programs, I asked about their experiences working with these programs. Data were obtained and analyzed from participants in both New York and Delaware. The results show where improvements could be made within the companies and for other stakeholders.

Setting

All the interviews were conducted over the phone. Participants were either at their place of residence during the interview or on their break during the workday. I allowed participants to select the day and time to ensure they experienced no strain in participating. Allowing them to make the decisions created a positive relationship and guaranteed their participation. With restrictions in place regarding the COVID-19 pandemic, no face-to-face interviews were conducted. Potential participants received the questions via personal email to complete their answers as we went through each question and had a small discussion. This allowed for open discussion if needed from both parties and to receive more information if requested. Semi-structured interviews enable a researcher to explore a participant's views and experiences and can reveal in-depth insights into a problem (Taylor et al., 2021)

Demographics

The study population consisted of 20 participants, 10 from New York and 10 from Delaware. The numbers were kept equal to obtain the same number of participants from each state. There were 14 female participants and 6 male participants. Participants ages were a wide variety, but more hiring managers were in their forties and had at least 2 years in the hiring manager position. The least amount of experience among participants was 2 years and 10 months, and the most amount of experience among participants was 17 years in the position. Participants were recruited using social media, email contacts, phone calls to companies, LinkedIn, and snowball sampling by asking current participants if they knew someone who met the criteria and would be willing to

participate. The final sample size was determined by data saturation to gain a detailed and real-time understanding of the events. The goal was to obtain 15 people from each state to participate, but only 10 from each state were obtained after months of recruiting. This number of individuals was still enough to provide the necessary data to complete the study.

Data Collection

Telephone interviews were conducted because of restrictions and safety protocols due to the COVID-19 pandemic. Semi-structured interviews were conducted with all participants. Semi-structured interviews enable a researcher to explore participants' views and experiences and reveal in-depth insights into a problem (Taylor et al., 2021).

Interview questions fell into five different topics: (a) hiring process, (b) background investigations, (c) disqualifications, (d) existing laws, and (e) public perception. Within each topic were three to four questions. Interviews were not recorded. I took notes and participants provided written responses to the interview questions. A 30-minute interview was scheduled with each participant; most lasted between 20 to 25 minutes.

Following the planned method, I used grounded theory when collecting data even though the way interviews took place had to change from the original plan. Each question was discussed as the applicant typed out their answers independently, so the responses were written in their own words. At the conclusion of the interview, participants emailed their answers to me for data analysis. All names and identifying information were removed from the data to protect the anonymity of the participants and their employers.

Data Analysis

MAXQDA was used to sort, analyze, and code data findings, and the interview questions were uploaded using Windows. MAXQDA was used to transcribe data which then was converted into a textual form. The data was organized and coded using the same topics discussed during the interviews, which helped provide results. Each person was given their code to remove names but allow data to be tracked appropriately. Each interview was coded using New York participant (NYP#) or Delaware participant (DEP#) and then uploaded to MAXQDA. The 20 interviews were split into two sections, Delaware and New York, and comparisons were made within each section. After each state-provided data, the two states were then compared together. Eight codes were used during the data analysis stage: job length, reentry programs, policy, public perception, current laws, disqualifications, background investigations, and hiring process. Once coded, MAXQDA provided a generated document showing the data grouped by codes and state. The data then showed patterns that could easily be seen and compared manually. During the manual comparison, repeated responses were noted for each state, which provided the study's outcome.

Evidence of Trustworthiness

The trustworthiness of a study is crucial because 'it's what makes people accept the finding within the research. This study could improve public or company policy or guide community actions so all the data much be trustworthy. Allowing prolonged engagement with each participant ensured all information was given from everyone and evidence was presented with repeated questioning of the data and then returning to

examine the material several times. Confirmability was established because the findings are based on ‘participants’ responses, leaving no room for potential bias or motivation from the researcher. Each person completed their responses using the form provided and independently during the interview, allowing them to answer freely. Confidence within the study was built through repeated data analysis, using MAXQDA and manual analysis to present the truth of the study’s findings. Information was present in a simple form, and all the data was presented so that the study could be repeated by anyone looking to duplicate the study, and all findings would be uniform. There is enough information for the study to be repeated and made available if needed.

Results

Hiring Process

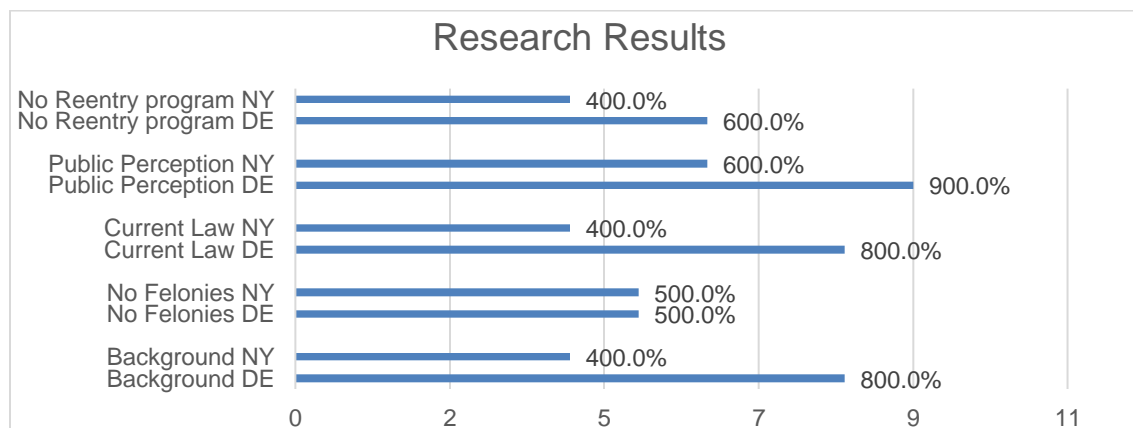
The first code presented was the hiring process. Participants’ responses from Delaware and New York were grouped using this code but analyzed separately to keep the information from each state divided. After using MAXQDA to group the data, the information was manually put into smaller groups or themes to see patterns or to see data that was very different from all the rest. A spreadsheet was also manually created to show the study’s outcome and compare it to the results from MAXQDA. This allowed for comparison and ensured limited errors were made during the analysis stage.

Eight out of the ten Delaware hiring managers stated that background checks are required. As shown in figure 1, four managers also based their job acceptance off of work and school experience and not just the background investigation. Seven of the ten stated they would hire someone wrongfully convicted and now looking for employment. Six of

the ten hiring managers also explained that the exonerate would be treated the same way as all individuals applying for the position, with one manager saying the company does not ask about criminal history upfront. Five of the ten described that the company would not hire anyone with a felony on their background or a registered sex offender. Lastly, six hiring managers stated that the individual would need to bring up their wrongful conviction at the beginning of the hiring process.

Figure 1

Research Results



The data differed when analyzing the interviews from New York, with five of the ten hiring managers looking at previous work experience, with only four focusing on the criminal background investigation. When hiring, managers look at other things: drug tests, medical history, recommendations, need of the position, and competency. Like Delaware, New York Managers require wrongful conviction information to be explained at the beginning of the hiring process but will be treated the same as everyone else who completed the application. One person stated that they have a separate process for exonerees, but they still must state this during the interview or on their application.

Background Investigation

When conducting the background investigation, participants were asked about red flags that would keep a person from continuing in the hiring process. Both states listed that felonies, violent crimes, nature of the crime, and sexual assaults would all be a red flag with hiring. Both also said they would allow an individual to explain their background, and if they were released for wrongful conviction, they would need to provide documentation from the court.

Disqualification

A code for disqualification resulted in a similar answer as the background investigation. Both Delaware and New York hiring managers responded by saying people with felonies and some misdemeanors would be disqualified. Also, those that lie or withhold any information about the criminal charges would not be allowed to continue the process. Both states also stated that anyone without proper documentation of a wrongful conviction would not be hired.

Current Laws

After completing the data analysis process, a code for current laws was used to see how they affected hiring managers during the application process. In Delaware, eight of the ten stated that they did not think there were laws restricting employment or how they hire, with only four of the ten in New York. The rest of the participants were not sure about the laws altogether. One manager in Delaware explained how current expungement laws have helped his company hire exonerees, and he thinks it's a good law to have in place. Four Delaware participants explained that the immediate expungement

would help, and one stated that changing the background procedure would be huge. Other laws that they would like to be enacted are reentry programs for wrongful convicted, some protection classes, and compensation. New York also would like to see expedited expungement of record, compensation for the person, and job placement assistance.

Public Perception

Another code created was a public perception, manually grouped by patterns or similar responses during data analysis. As shown in Figure 2, nine of the ten participants from Delaware have no issue with hiring someone who has been wrongfully convicted but later exonerated. When asked how they believe their employee would react. They say that their employees would not know about the individual's background history. Others stated that it might disrupt work, some may feel uncomfortable, and it may negatively impact people, which would cause more issues. Four of the ten hiring managers felt that employees would not be affected in any way.

Participants were asked about hiring someone involved in a high profile case during the interviews, or their case was displayed nationally. Four managers stated the business would be interrupted, but would hire such individuals. One stated it would be difficult because production would be slowed, while two others thought it would be great exposure for the company and shed light on the situation if hired. When asked how the customers may feel about the situation, they felt that they might not react positively. The customers, would not like it and would shop or take their business somewhere else. Two participants stated that their customers would be okay with it and proud to hire such an

individual. One participant believes that some bias will be passed, but most would be okay with it.

Six of the New York hiring managers have no issue with hiring anyone who has been cleared of any wrongdoing, as shown in figure 3, but one manager said their company would not hire if it is still on their background investigation and it would need to be cleared by the court. When asked about how their employees would feel, six managers feel that they would be wary of the situation, uncomfortable, have their personal feelings, pass judgment, have reactions depending on the crime, and have some bias because of personal belief. When it comes to dealing with individuals with nationally televised cases, one participant answered that it would be complicated because of publicity; another said everyone would have their guard up when that individual was working. One stated it would be difficult because of the distractions it would cause, but one hiring manager said that it still would not matter, and they would be hired. When it comes to dealing with the customers, hiring managers feel that they would be leery, may treat them unfairly, take their business elsewhere and have some bias but support.

Figure 2

Public Perception, Delaware

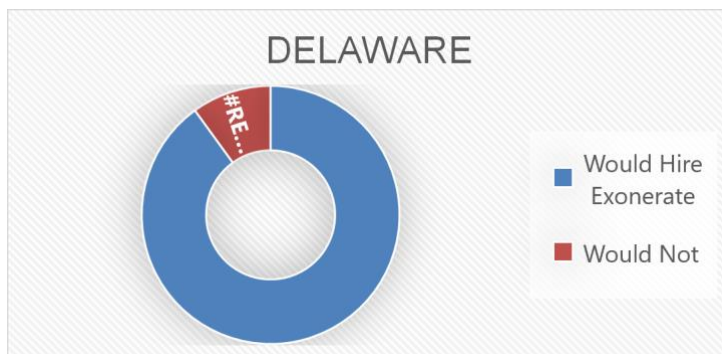
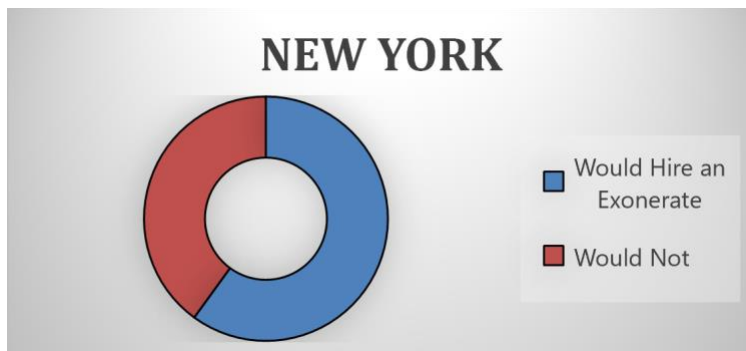


Figure 3*Public Perception New York*

Reentry programs are a huge discussion in the criminal justice arena, but some states still do not know about such a program. Everyone was asked if their current employee participates in a reentry program during the study. New York had four managers who confirmed their company was involved in a reentry program, while four stated their company does not. One participant was unsure of this process, and one did not answer the question. Two hiring managers from Delaware explained that their company is taking part in a reentry program and working great, but six managers replied, saying they currently do not have a reentry program to assist those with a criminal history or wrongful convictions. Two people did not know if their company participated in the program or not.

Summary

The research was conducted using New York and Delaware individuals. They provided responses that were later analyzed, coded, and grouped together. Companies hiring process, background investigation, disqualifications, current laws, and public perception were the main focus during the research and will be used in completing the

analysis. Keeping the same topics from the interview and using them for coding helped organize the data during analysis and ensured the responses would answer the research questions. New York and Delaware hiring managers have different opinions in some areas, and some responses were very similar. Coding data with MAXQDA allowed for easy processing, and this made patterns be seen so manual coding could be done. This research study will provide data needed to discuss recommendations for improvement within companies and the hiring process.

Chapter 5: Discussion, Conclusions, and Recommendations

Introduction

This study was complete to provide information as to what may lead to exonerates unemployment by researching hiring managers' view of hiring such individuals. This was to examine if current expungement laws, background investigates or lack of knowledge played a part in exonerees gaining employment. A qualitative method was used for this research study and data were collected through telephone interviews with participants who were hiring managers in either New York or Delaware. The data collected were analyzed to understand how employers' attitudes, existing laws in each state, and public perception affect hiring of individuals who have been wrongfully convicted and later exonerated. Data were analyzed using MAXQDA and patterns emerged from the data. The data shows the background investigation is a part of the hiring process but other factor play a role in obtaining employment, such as work experience and education. In both states felonies is a disqualifier but hiring managers are willing to work with exonerees that can provide documentation. Finding show hiring managers are willing to hire exonerees as long as they provide information at the beginning of the process and show they are capable of doing the job.

Interpretation of Findings

Based on the findings in this study, background investigations were included among 80% of participating hiring managers' procedures in Delaware and among 40% of participating hiring managers' procedures in New York. Criminal background checks may be done by local police or sheriff departments, state-level bureaus of investigation,

or the Federal Bureau of Investigation (Connerley et al., 2001). Other factors hiring managers examine include previous work and school experience in addition to the background investigation report. Information about an individual being exonerated would have to be mentioned early in the hiring process so that managers are aware of the situation when the background information is returned. Participating managers in both Delaware and New York stated they would hire someone who had been wrongfully convicted of a crime, but the applicant would need to provide documentation from the court as proof. This finding suggests that companies are willing to work with exonerees through the hiring process. For the background investigation process, participants from both Delaware and New York stated that any person with felonies would not be accepted for employment. One participant from New York indicated that there is a separate process that would allow an exoneree to continue in the hiring process.

Hiring managers indicated that they select interviewees, but current law does not affect the decision-making process. In Delaware, 80% of the hiring managers interviewed stated they could not think of a single law related to wrongful convictions they consider while doing their job, and 40% of New York hiring managers interviewed answered the same. The remaining participants expressed no knowledge of expungement laws in general. This finding seems to indicate that wrongfully convicted individuals seeking employment may not be directly affected by current expungement laws once they complete an application for a position. One participating hiring manager from a company in Delaware indicated being aware of current expungement laws, and also stated they

work with individuals who have been exonerated. The participant indicated the program is successful and working well.

The hiring managers in this study indicated that, when they're making major decisions, public perception is always something they consider. In this study I sought to determine if hiring managers think about their customers when deciding who to consider for employment. Participating hiring managers from Delaware indicated having no issue hiring those exonerated, knowing their employees would not be affected by the decision. The same hiring managers did express concerns with hiring an individual whose case was broadcast nationally. These managers indicated that having this person working for them would disrupt work and may make people uncomfortable. Increasing a company's public image within the community is often good for business, so one participating hiring manager from Delaware indicating that having an exoneree with a nationally televised case could lead to feelings of pride for the company. Participating hiring managers from New York also expressed that they do not have a personal issue with hiring people who have been wrongfully convicted; they did express concerns that it would cause some distractions and customers might wish to take their business elsewhere.

Based on the data collected in this study, participating hiring managers in both Delaware and New York expressed a willingness to employ exonerees, but admitted that background investigations can make the hiring process more difficult or impossible if the criminal history still exists. Most participating hiring managers indicated that if an applicant were to mention the situation early, it would be favorable for the individual to reach the interview stage; however, if any felonies appear on their record, they would not

move forward in the hiring process until court documents regarding the exoneration are provided.

Limitations of the Study

There may be some possible limitations within the study, but these limitations or potential weaknesses are likely to be out of the ‘researcher’s control. The original data collection process included in-person interviews, but events out of the researcher’s control or participants led to all interviews being conducted over the phone. This did not allow the interviews to be recorded and the in-person relationship was missing for the study. Also, individuals may have answered the questions the way they would think they should be answered instead of providing the facts about them or the company.

Recommendations

Based on the results from the study, my recommendation regarding this analysis is to continue with further research on the impact of exonerees with current employment opportunities to help educate companies and policymakers. Continued research would provide data to show where changes would need to be made to assist exonerees with career opportunities without going through all the red tape. Also, providing a more diverse group of participants may help with the results of this study. This study was limited to Delaware and New York. If multiple states were used, the impact of the study might play a more significant role in the population sample size and data provided.

Implications

This research study and the results obtained aligned with Walden University’s implications for social change. This study aims to use the results to create awareness and

help identify the hiring manager's attitude towards hiring individuals exonerated. Research results showed that current laws and public perception did not affect hiring managers' attitudes. However, the company's policy of background investigation did. Those with a criminal history were less likely to continue in the hiring process even if they were exonerated because of company policies that are currently in place. Based on the results, information can guide creating new policies, including the correct stakeholders and legislative groups, to determine more rigorous laws to discourage relying on background investigations or clearing exonerates records once released from prison. The first step to take for improvement is increased awareness.

Summary

A qualitative research study included interviews to obtain data about hiring managers' attitudes when exonerated are going through the hiring process. Although there are limited laws for exonerates, company policies about background investigation are more of a roadblock than anything else discussed in this study. There were some limitations but nothing that would interfere with the study's results or prevent such a study from being redone. Future studies would only improve the background investigation process and implement positive social change.

Conclusion

Lack of expungement law knowledge does not affect hiring managers from employing wrongfully convicted individuals; it's the 'company's policy to conduct a background investigation on everyone applying for a position. Public perception or stigma on wrongful convictions does not keep hiring managers from offering jobs to

individuals, but they are aware of the workplace disruption if hired. The immediate effect of placing wrongfully convicted individuals in the same category as hardened criminals when hiring managers have to make hiring decisions is that they are immediately dismissed from the process because their record is not acceptable, or they must provide documents from the court to explain their situation. If unable to obtain documentation, they cannot gain employment or begin a career. The long-term effects could be this individual resorting to criminal activities to survive, becoming homeless, or relying on family for the rest of their lives. We owe it to them as a society to ensure laws and/or company policies are in place to assist exonerees to maintain a somewhat normal life.

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Appendix A: Letter of Invitation

You are invited to take part in a research study about the effects of expungement laws and public perception on employers 'who play a part in the hiring process of wrongfully convicted individuals. Currently researchers are inviting hiring manager from local companies working within the New York and Delaware area to participate in the study.

Conducting the study will be researcher Tija L. Hopkins, who is a current doctoral student at Walden University. You as a selected participant have the right to accept or decline this invitation and if you decide that you are interested please contact me as soon as possible at the information below. I will set up an interview time that works best for you and this can be over the phone or in person. Your participation in this study will help improve the criminal justice process and also could lead to changes in the hiring process for the wrongfully convicted.

Respectfully,

Tija L. Hopkins
Walden University Student
Contact Information:
Name: Tija L. Hopkins
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Appendix B: Interview Protocol

Having a system of rules and procedures are vital when looking to obtain factual information from the research participants. It is important to establish positive connections to ensure participant are comfortable and willing to share their story, which is important when conducting qualitative research and connecting with people. Being prepared ahead of time will keep distractions minimal and allow more time for the actual interview.

Field Procedures: Below are some major tasks within the data collection process.

- Develop meaningful and relevant interview questions
- Develop interview protocol
- Prepare and have all material ready to conduct interviews
- Read Interview Guide to maintain a structured process
- Prepare a list with participants' names
- Ensure questions are open ended and create discussion
- Make sure all interview questions will assist with answering the research questions
- Encourage descriptive and detailed answers from all participants

Setting: Neutral and few distractions

- Review why we are completing this study, discuss the importance of participants' confidentiality throughout the study.
- Try not to reschedule interview and stay within the 30 minute time frame.
- Set watch to keep from staying on one question too long and stay on track.
- Stay focused on research question so that it can be answered

- Remember that research questions propel the resource process and help shape the study
- Ensure data collected will answer research question and why it's all connected

Appendix C: Interview Questions

Hiring process

1. How are selections made on who is invited for an interview?
2. What is the hiring process for individuals that have a criminal record?
3. Would you hire someone that was wrongfully convicted of a crime? Why or why not?
4. How does your company separate individuals with an actual criminal history to those that were wrongfully convicted but cleared and those charges are still on their record?

Background Investigation

1. What are some of the red flags your company looks for when a person has a criminal history?
2. What are your background investigation procedures and are they the same for everyone, even those wrongfully convicted?
3. Explain the process in place for applicants to explain information on their background.
4. Explain how the background investigation affects the individual from continuing on in the hiring process that have been wrongfully convicted.

Disqualifications

1. Explain some situations that would automatically disqualify a wrongfully convicted person.

2. What charges are unacceptable/acceptable for wrongfully convicted individuals to continue with the hiring process?
3. How do you treat persons that have been cleared of all charges when going through the hiring process?

Current Laws

1. Explain current laws that are in place that may affect how you hire wrongfully convicted individuals.
2. What laws do you feel are needed to help assist in the hiring of the wrongfully convicted?
3. What company policies are in place that may be affecting how you hire wrongfully convicted persons?
4. Is your company a part of a reentry program required by state law? If so, how do you feel it is working and if not do you feel there should be one?

Public Perception

1. How do you feel about having an individual that was wrongfully convicted working next to a citizen with no criminal background?
2. How do you feel it would affect the work environment for employees, employers and customers?
3. How do you feel about hiring a wrongfully convicted person that had his/her story told all over nation television?
4. How do you feel the customers would react knowing that person's history?