

Exoneree Engagement in Policy Reform Work: An Exploratory Study of the Innocence Movement Policy Reform Process

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Abstract

Through a lens of resilience and growth alongside continuing distress, this exploratory research study examines a convenience sample of exonerees and innocence movement personnel who are engaged in the policy reform process to understand how exoneree involvement may change exonerees themselves, the innocence movement, and possibly the criminal justice system. Data were collected through pre-questionnaires and semi-structured interviews, supplemented with archival material, and analyzed using a narrative approach. Findings emphasize both the personal and broader societal value of exoneree engagement in educating, generating awareness, and advocating about wrongful conviction and the power of having the human voice and face in front of legislators, the public, and the media—vividly portraying that “if they can do it to me, they can do it to anybody.” Findings also caution to be sensitive to where individuals may be in their lives and to honor their choices to engage or not.

Keywords

exonerees, innocence movement, policy reform, resilience

Background

Significant wrongful conviction rates sparked the rise of the innocence movement, which initiated many criminal justice system reforms that have begun to transform criminal investigation, forensic science, prosecution, defense, and adjudication. Knowledge

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about wrongful conviction sources and reforms are supported by ample research (see generally, Garrett, 2011; Gould, Carrano, Leo, & Young, 2013; Gould & Leo, 2010; Innocence Project, n.d.-a; International Association of Chiefs of Police [IACP], 2013; National Research Council, 2009, 2014; Norris, Bonventre, Redlich, & Acker, 2011; D. Simon, 2012; Zalman & Carrano, 2014). Little research examines the more scientifically oriented study of policy *process* by which innocence policy reforms have been enacted or adopted to achieve substantive justice or the role and effectiveness of the people involved in achieving these changes. (However, see Baumgartner, De Boef, & Boydston, 2008, which studied the effect of news media on innocence policy; for archival scholarship on the innocence policy process, see Marion & Zalman, 2014.)

Numerous innocence reforms have occurred as a result of activity by innocence organizations, many of which are members of the Innocence Network (the Innocence Network, n.d.-a), which began with the establishment of the Innocence Project (Innocence Project, n.d.-a). These organizations include independent nonprofits, organizations affiliated with law schools or other educational institutions, units of public defender offices, and *pro bono* sections of law firms. Many engage in reform activities to redress the causes of wrongful conviction and prevent further injustice, in addition to their other goals of providing *pro bono* legal services in cases of actual innocence, providing exoneree reentry services, and providing clinical education for law students.

Significantly for this research, some innocence organizations may be led or staffed by exonerees—just one group of many stakeholders in innocence reform policy development. The traumas and dissonance that exonerees have experienced compel some of them to seek out opportunities to understand and overcome those experiences. Having been violated by the justice system, all exonerees understand its flaws and some wish to take action to remediate the injustices they have suffered, as well as find meaning in their experiences (see, for example, Campbell & Denov, 2004; Clow, Leach, & Ricciardelli, 2012; Grounds, 2004, 2005; Haney, 2002, 2008; Innocence Project, 2010; R. I. Simon, 1993; Vollen & Eggers, 2005; Weigand, 2008; Westervelt & Cook, 2007, 2008, 2009, 2012; Konvisser, 2012). The innocence movement (that helped exonerate many) provides venues for exonerees to channel their energies to correct injustices in the system through participation and activism. In the process, some of these victims of the criminal justice system grow organically into effective new leaders and advocates for criminal justice reform (Konvisser, 2012; Weigand, 2008).

Such involvement by exonerees in policy work is aligned with an important turn to policy process concerns now being advanced by the Justice Department and leading research organizations to include ex-offenders in policy work (Council of State Governments Justice Center, n.d.; LaVigne et al., 2014).

Theoretical Frame, Research Goals, and Broader Impacts

The research goals of this study draw on theories of resilience and posttraumatic growth that focus on the possibility of positive psychological outcomes and wellness alongside continuing distress as a result of the struggle with a highly challenging life circumstance (Frankl, 2006; Tedeschi & Calhoun, 2004) and seek to understand how

one might move beyond the trauma of such events (see Konvisser, 2012, 2013, 2014, 2015, 2016).

Through this theoretical lens, this exploratory research study examines the perspectives of exonerees and innocence movement personnel who are engaged in the policy reform process to understand their participation in the innocence movement, how such participation affects exonerees' lives and contributes to their psychological growth—or in some cases distress, and the way in which exoneree involvement strengthens the innocence movement. In short, the study examines how exoneree involvement may change exonerees themselves, the innocence movement, and possibly the criminal justice system.

Method

This study utilizes policy process research techniques and follows the methodology in Konvisser's (2012, 2013, 2015) previous exploration of the psychological consequences of wrongful conviction (see also Clifford, n.d.). Data collection begins with pre-questionnaires to collect background information about the individuals and their wrongful conviction experiences, and their participation in innocence policy work. This is followed by in-depth, semi-structured interviews to expand on the research questions, supplemented with archival material. A narrative approach to data analysis is used to obtain the rich descriptive detail and deep understanding of the experiences of individuals who have been wrongfully convicted, exonerated, and subsequently engage in the innocence policy reform process.

Research Study Participants

More than 70 exonerees who have been engaged in at least one policy reform initiative have been identified through a media search.¹ Some have created or joined with other exonerees in exoneree founded/led organizations—in some cases, using the compensation they were awarded to start up or fund these organizations' ongoing activities. Other exonerees may contribute directly or indirectly to policy reform by speaking about their experiences and advocating for change as individuals or under the umbrella of one of the Innocence Network (n.d.-b) member organizations. Still others have written or been recognized in books, book chapters, magazines, journals, films, and documentaries.

For this research study, participants were solicited from a pool of individuals known through prior contact or by reputation to advocate publicly for policy reform in the innocence movement. They were selected because they are considered to be experts on the research agenda or "elites."² Because the convenience samples are neither random nor representative, they are reflective only of those who chose to participate. Nevertheless, the participants' rich and descriptive narratives can provide useful ideas and insights for further study and action.

A convenience sample of three innocence movement personnel engaged in policy reform were asked to describe their experiences and opinions related to their own, as well as exoneree, involvement in the innocence reform process.

A second convenience sample of five exonerees engaged in policy reform work—three of whom received compensation—were asked about their wrongful conviction and exoneration experiences, to describe their involvement in innocence policy reform activity, and to offer their thoughts related to the process by which innocence reform has occurred. Each participant was queried to answer three research questions:

Research Question 1: What is their motivation to engage in policy reform work?

Research Question 2: What is the impact of exonerees on the policy reform process?

Research Question 3: What is the effect of policy work on their recovery from the traumas of wrongful conviction.

Findings and Discussion

The following four sections provide narrative descriptions of different channels through which exonerees engage in policy reform-related work, with supporting quotations from both innocence organization personnel and exonerees, highlighting the impact of their participation in this important work. All emphasize both the personal and broader societal value of exoneree engagement in educating, generating awareness, and advocating about wrongful conviction and the power of having the human voice and face in front of legislators, the public, and the media—vividly portraying that “if they can do it to me, they can do it to anybody.” A fifth section presents a cautionary theme heard in all of the interviews, that is, to be sensitive to where individuals may be in their lives and to honor their choices to engage or not.

The Innocence Project (New York)—Federal and State Policy Agenda and Initiatives

Rebecca Brown is the policy director for the Innocence Project (n.d.-b) and directs the federal and state policy agenda, which works with Congress, state legislatures, and local leaders to pass laws and policies that prevent wrongful convictions and make it easier for the innocent to receive justice. Acting as a remote policy staff to Innocence Network partner organizations across the country, the Innocence Project works with them to assist in their state-based policy campaigns.

The Innocence Project supports reforms that address each of the contributors to wrongful convictions—eyewitness misidentification, unvalidated and improper forensic science, false confessions, informants, government misconduct, and inadequate defense (Innocence Project, n.d.-c). According to Brown,

We always view compensation as a top priority. In addition to police practice reforms, including implementing protocols that prevent misidentification and recording of interrogations, and other reforms that enhance the accuracy and reliability of evidence offered in American courtrooms, we lend our voice to different campaigns that are trying to repeal or place a moratorium on the death penalty.

Brown is committed to criminal justice reform and believes that “innocence is an excellent wedge into the larger system issues.” She recognizes the importance of exoneree involvement:

Exonerees are our best advocates for innocence reform and so obviously we are always looking for opportunities for them to educate the public about wrongful conviction. They really are the human face of the problem . . . and are in the best position to describe the unique horror of a wrongful conviction and what it feels like to bring home to lawmakers or other policy makers the reality of this tragedy. It is rare that we ever participate in a legislative hearing without an exonerated man or woman. We sometimes will build an entire campaign around that person and we also are building our capacity to have exonerees more involved from the ground up, helping us to think through certain things that maybe we would have missed.

She makes sure that there is diversity and experience in each campaign so that

exoneree voices are really informing the contours of whatever policy proposal we put forward. And it’s not limited to exonerated men and women; it’s also their family members, crime victims, and even police who were involved in wrongful conviction to talk about the harm done to them.

Brown has observed that “by and large participation in the political process is an extremely fulfilling experience for exonerees, because it helps them to feel as though the horrible experience they endured was not in vain,” and that they are now in a position to help other innocent people they left behind and promised not to forget.

I know just how personal this is and how important it is to them, because it’s not just this policy idea that’s being hatched a million miles away from where it’s happening, it’s actually people who are living it. Even when we lose, it feels very important for them to have been a part of it. They might not be able to speak to all the scientific research that informs the basis for our reform recommendations, but nobody can speak about what it feels like better than they can.

Looking forward, she understands that exonerees want to continue to feel as if there was a reason for their experiences. “Many exonerees have expressed to me that they want to feel like they are now a part of changing the larger system.” As the national conversation about criminal justice has broadened, she looks for more opportunities for participation by

the people who have been wrongfully convicted, who have experienced the entire criminal justice system, like racial disparity, conditions of confinement, any number of things that really matter to them and to advocates of criminal justice reform, even if the Innocence Project does not have an active campaign related to that particular issue.

Michael Morton is one of the exonerees, who when asked by the Innocence Project to go somewhere for fundraising or lobbying, responds, “I’m there . . . because they

got me out and asked for my help and to lessen the likelihood of what happened to me happening to others.”

Morton was arrested and wrongfully convicted in Texas in 1987 for the brutal murder of his wife while their 3-year-old-son watched.

I had never been arrested; I had no criminal record before this and so the power of the state really surprised me. When you get in the backseat of a police car, handcuffed, it doesn't just change your perspective, but it changes you, because you realize that your representatives—elected or otherwise—can do stuff to you regardless of your actions or your intent or your motivation.

One of the reasons that what happened to Morton—before and after—has resonated with so many folks is that

a lot of people see themselves in what happened to me. I guess the word might be universal. Everybody gets it. My case had everything in it. I was a wrongly convicted average guy, doing a long sentence of almost 25 years, they get me out with DNA, discover the real guy who did it, and find that he had committed another murder while I was in prison. Not only am I exonerated, but also there is evidence that the prosecutor illegally withheld evidence . . . Just to have one case that's all across the board gives the media a nice little package with a bow on it, so they can put criminal justice reform before the public, before the legislators, so they can understand too.

Morton has received compensation from the State of Texas and a lifetime annuity. Although he has no plan to start a nonprofit organization, he is committed to advocating for accountability and transparency—“to maintain the crucial changes that have been made in Texas state law that will hold prosecutors accountable when they cross the line in their pursuit of justice” (Michael Morton, n.d.). The prosecutor in his case, Ken Anderson, who had become a state district judge, was removed from the bench by a court of inquiry, disbarred for life, fined, had to do community service, and actually did some jail time. Moreover, on May 16, 2013, Texas Senate Bill 1611, also called the Michael Morton Act, was signed into law to ensure transparency and a more open discovery process, removing barriers for accessing evidence.

Morton continues to lobby in Austin and Washington D.C. for similar discovery reform or criminal justice reform.

I actually went to their offices, shook hands, looked them in the eye, and asked them *why* they might not be supporting this bill and every one of them just kind of melted before me . . . because of putting a human face on one of their issues.

He has found that it is not a political issue:

Nobody wants to put the wrong person in prison. Nobody. No Republican, no Democrat, no Independent . . . They realize with the high number of exonerates we have now, we have some issues within the criminal justice system . . . I don't want a revolution, I don't

want to completely clear the decks and start from a blank sheet of paper, but there are some tweaks and changes that we can do.

He believes that reform is not a monolithic approach, but a local issue: “You have to have someone local who wants to make a change or recognizes a need for a change . . . and where people have the most skin in the game . . . some situation, some egregious consequence.” It is also an issue of self-interest, recognizing that “if this could happen to him, it could happen to me When people act out of self-interest, they’re much more likely to get a little something done or make the next step or little bit of effort.”

Law School and Educational Institution Affiliates—Local Policy Reform, Lobbying, and Implementation

David Moran, the director of the Michigan Innocence Clinic (MIC) at the University of Michigan Law School—one of three Innocence Projects in Michigan that are affiliated with the Innocence Network—explains that “There is no requirement to be a member in the Innocence Network to do policy work, it’s just something that almost all of us do.” While Moran considers policy work highly important, he also considers it a necessary chore, spending the vast majority of MIC’s time on case work, which is consistent with their mission.

For the MIC, policy work is usually reactive, but an upcoming policy initiative will proactively introduce a bill—“the so called junk science writ—that new interpretation of old forensic evidence *is* new evidence and does allow somebody to get into court.” Moran expects exonerees will be involved “because Michigan exonerees, like David Gavitt (arson) or Julie Baumer (shaken baby), have been exonerated by reinterpretations of old forensic evidence.”

Moran has seen firsthand the value of exoneree involvement in policy work. Of the 12 MIC exonerees since 2009, seven have participated extensively in the various efforts, speaking, testifying before legislative committees, and visiting the offices of key senators and representatives. “When I was with them, they were more effective than I was frankly. It’s very effective to have a human face upon the issue.”

One of MIC’s exonerees, Julie Baumer, was exonerated in 2010 after being wrongfully convicted in a misdiagnosed case of shaken baby syndrome. She has spoken to universities, conferences, and state legislative committees to get the Michigan compensation bill passed into law. For Baumer, who has received no compensation, speaking publicly is “therapeutic and a form of educating people and raising awareness.”

Over the past six years, Baumer has seen growing public recognition of wrongful convictions and would like to believe that she has made a difference. “This bill isn’t just for me; they’ve been working on it for quite some time; but I would like to believe that my assistance, and that my story, hopefully impacts some little lawmaker.” For her, compensation

would be a form of apology. I never was apologized to. My life was basically taken away from me and everything thrown upside down. A lot of lost years, memories, opportunities.

Now you can't get any of that back monetarily. Everything I lost was priceless, but I guess in a sense it would be a form of closure for me. Just for the state to acknowledge that they did wrongfully convict me.

Based on her experiences, she would like to see two changes happen nationwide, not just in Michigan. First is reform within the Department of Corrections, including their dehumanizing and traumatic intake process and the need for rehabilitation. Second is to build bridges and a better understanding between the police and exonerees.

At this point in her life, Baumer is not in a position to initiate policy changes: "I have a nine to five job and a mortgage, so that's priority. I don't have time to initiate anything right now, but if something comes my way, I might take advantage of it." Meanwhile, "I just wait for the attorneys [from MIC] to call me."

Nonprofit Organizations—Exoneree Founded or Led

Witness to Innocence (WTI; n.d.) is the only national organization in the United States composed of and led by exonerated death row survivors and their family members. It was founded in 2003 by Sister Helen Prejean, internationally renowned anti-death penalty activist, and Ray Krone, the 100th person exonerated from death row in the United States. Death row exoneree Ron Keine also has been involved since its inception.

WTI's primary mission is to abolish the death penalty by empowering exonerated death row survivors and their loved ones to effectively educate, build awareness, and shift public opinion on the death penalty through speaking events, by testifying before state legislatures and meeting with government officials and world leaders, and through the media. WTI also seeks ways to support death row survivors and their loved ones as they confront the challenges of life after exoneration.

Within a year of his exoneration for murder and kidnapping in Arizona, Ray Krone was a widely sought-after speaker with a good reputation: "I was getting such positive feedback from people thanking me, that I just thought that's my calling." He realized that

if they can do it to me, they can do it to anybody. I'm going to speak out against those people that called me a monster, that lied and manipulated the system, that abused their power, and see what I could do.

He received settlements from both the city and county that

did make it easier for me to do these events . . . but that's not what motivates me or what made me want to fight the injustice that they perpetrated on this country for so long. It's something that I know is the right thing to do and, although not originally in my plans, knowing that's the path that I've been chosen to be on is all the satisfaction I think I need.

When he was invited to join the newly starting up WTI, he agreed and became the "exoneree voice of the wrongfully convicted of the injustices of the system." He was

on their staff until recently, and at the same time worked with the Innocence Project, Equal Justice, and the Tennessee Coalition, testifying in all the states that abolished the death penalty, as well as on other issues. He is proud of his work with WTI and the people he has met: “Good people, that care about others, that aren’t about their own self-interest or own self-gain or positions.”

Krone passes on to others what he has learned, providing emotional support and encouragement and assisting the wrongfully convicted and their families “in going through that hard period of how to fight and how to be patient, because it’s a long course it takes for exonerees.”

He also has learned that “when it comes to legislative reform, it’s a unity that we all have to stand together in and we have the numbers, we have the voices, we have seen that unity comes to power.”

For Ron Keine, exonerated of murder charges in 1975 in New Mexico, for the next 23 years, “I hid from the press; I became a recluse. I wanted to erase my past. The death row part.” So he came home to Michigan, where the *Detroit News* had investigated his case and discovered the prosecutorial misconduct that helped prove his innocence. He built a successful rock salt distribution business and got into politics, joining the Republican Party to push for justice reform.

In 1998, Keine was invited to Northwestern University’s Center for Wrongful Convictions to attend a gathering of 40 death row exonerees to help convince Illinois Governor George Ryan to end the death penalty. Through this gathering, “We got to know each other and got to be good friends.” But he also recognized that some of “these guys need some help.” They had issues with money, substance abuse, “and I’m thinking maybe I can help some of these people by example and by pressing on them education . . . getting a job and getting off SSI . . . raising a family and living a nice life.” For those who do want help, he points them to job opportunities, connects them to spiritual leaders, and does whatever it takes to be successful.

This led, in 2000, to his involvement with the formation of WTI (see also Keine, 2014) and teaching other death row exonerees to speak about the death penalty and bring awareness.

Basically the problem with the death penalty is education. People don’t know what it is, because it doesn’t touch them. What we’re actually doing is planting seeds. We’re out there in the world telling them what it is . . . all the innocence, all the exonerations, all the tricks of the prosecutors that put these people there, all the innocent people who have been executed.

Keine believes that

exoneree involvement in the movement is directly related to their ability to become involved. Some of these guys that are actually working a good job and raising a family, starting a legacy, and trying to get ahead, they don’t have time for it. Out of the 156 death row exonerees, several are dead, many went back to prison, many are very involved in alcohol and drugs. Maybe five of us are activists. There are a few people who have given

back, but most of them, there's no way they're going to do it, because most of them will never see compensation.

In addition to speaking and fighting to abolish the death penalty, Keine has spoken out against reinstating the death penalty; against racism in the criminal justice system; and in favor of the Second Chance Act and the Crime Victims Act, which assists parolees in addition to exonerees. He is optimistic that "If we get one more vote in the Supreme Court . . . the death penalty will be over pretty soon in the United States." So he is concentrating more on wrongful convictions, especially accountability for prosecutors and judges.

Another exoneree, Jeffrey Deskovic, founded the Jeffrey Deskovic Foundation for Justice (n.d.), eventually funding it out of the compensation paid to him for the 16 years he spent in prison in New York for a rape and murder he did not commit at age 16.

Immediately upon his release from prison,

I started my advocacy career—speaking and doing presentations. It began with an off-the-cuff presentation for two, two-and-a-half hours at the post-release press conference. Everything I ever wanted to say but could never get anybody to hear over the course of my 16 years came out; and it was that moment I realized I could be a part of the innocence movement without necessarily being a lawyer.

He was offered a job as a columnist at a weekly newspaper, writing about wrongful convictions and doing speaking engagements to earn money. He connected with New Yorkers Against the Death Penalty, and they introduced him to lobbying elected officials and attending legislative hearings. He quickly learned the power of media coverage and how to find new angles and opportunities to get news coverage. At the same time, understanding the importance of education, he earned a master's degree and is now attending law school.

After being home for 5 years and doing the paperwork for 501(c)(3) status for his foundation, Deskovic received compensation awards both in the state and federal courts.

I put my money where my heart and passion were. The purpose of my life now is to fight wrongful convictions; and, in this way, I feel like my suffering counts for something. If I can prevent this from happening to other people, as well as to help exonerate those it has happened to, then that is the silver lining for me. My mission now is advocating and fighting wrongful convictions on many levels—awareness, policy, exoneration, and reintegration. It makes it meaningful; it's healing and cathartic, while also preventing me from going insane. It's all those things at once.

Deskovic engages in advocacy work in the name of his nonprofit, pushing initiatives such as videotaping interrogations and identification reform, and giving voice to other issues like a standard evidence preservation system and improving the system of public defense. He also is on the Advisory Board of the coalition group "It Could

Happen To YOU” (n.d.) that is promoting two specific reforms that the mainstream innocence movement largely is not addressing: the bill that would create the country’s first commission on prosecutor conduct, and automatic discovery requiring the prosecution to turn over to the defense all the evidence automatically at arraignment.

He believes that

it is important for all exonerees to be involved in policy work to whatever extent they are willing and able to. Exonerees have the ability to be agents of change and to bring home the human impact. We put a face to it. Academics and advocates who have not been personally affected cannot do that as effectively. There is a place for both, but our status as exonerees gives us a special voice, the ear of people, and the ability to generate a lot more media coverage. To not have utilized that platform, and to simply have faded away into the rest of society, never to be heard from again, would have been a waste of an opportunity for me. Why would I not want to be part of something so special?

The Texas Exoneree Project—An Evolving Player in the innocence movement

A unique, “probably not replicable,” but nonetheless valuable example of a successful policy reform process was undertaken by Jaimie Page at the University of Texas at Arlington,³ beginning in 2007 with a US\$10,000 seed grant through the university. Page believes that getting such a grant “is a fantastic way to start policy work with wrongful convictions.”

The initial grant funded a policy-related focus group with approximately 10 Dallas exonerees. The group started as the Texas Exoneree Project (Texas Exoneree Project, 2011), with Page as director and exonerees Charles Chatman and then Christopher Scott as co-directors. Their agenda was to explore policy change for exonerees who come out of prison with no services. They identified needs, such as “housing, health-care, bus pass, clothes, et al. It wasn’t money, it was services.”

Based on the seed grant money, Page then received a grant for US\$90,000 from the Hogg Foundation, which funds mental health policy work. The money covered all expenses for approximately 15 exonerees to travel to Austin for 3 days to testify before legislators about the need for services.

When Page testified, she presented the data from the focus group research and emphasized that (a) exonerees are not afforded the same services as guilty persons upon release; (b) the number of individuals is “very, very small”; (c) it would not put any kind of financial bind, relatively speaking, on the state budget; and (d) exonerees deserve it—they endured a hardship beyond words or measure. The services bill was passed—the first ever state statute whereby exonerees received services—and also included a provision for exonerees to receive up to US\$10,000 in advance of compensation to help with immediate needs.

The services bill was followed by legislation for an annuity guaranteeing that exonerees receive a certain amount of money every year; medical coverage for exonerees; and beneficiary status for exonerees. The latter was conceived and carried through solely by

the exonerees. Over time, the group has “evolved to where they can be their own people and do their own thing.” On their own, several exonerees met with the Internal Revenue Service, successfully arguing that it was unfair to tax their compensation.

Page found that policy work has become more complicated as exonerees now have differing opinions on certain elements of proposed bills, answering questions the legislators have, but leaving them to figure out the details. In addition, she is working on two other policy areas that are not going to benefit everybody, “so [it] will be harder to pass”: sending exonerees who have a felony drug or alcohol arrest through drug court, not criminal court, so that they are redirected for treatment rather than incarceration, allowing them to keep their compensation; and the Equalization Bill for those who were released prior to 2009 when compensation was increased from US\$50,000 to US\$80,000 per year.

Page does not believe the Texas policy changes would have passed without the involvement of exonerees, because “reading about it on paper is very different than seeing a broken human being before you tell their story. At least in Texas, because all these exonerees are so warm and so likeable.” What was unique in this situation was that

25 guys were released at relatively the same time, so there’s a concentration of policy advocates all in one place. So there was power in numbers. Another important component was racial—99.99% of them are black and many of the legislators who exonerees felt that they could go to were legislators of color.

For the exonerees who are involved in policy work, Page concludes that it helps them feel empowered and in control after being so wronged by the government and helpless to do anything about it. In addition, exonerees have a strong sense of social justice and “a strong connection to people who are still in prison who are wrongfully convicted and they want to pave the way for those coming out of prison, so it’s better for them.”

A Cautionary Theme

The exonerees interviewed for this study demonstrate the importance of speaking out to educate and raise awareness of the injustices of the system that can happen to anybody. Many exonerees understand that it is important “to share such stories to help others who might encounter wrongful convictions and so that society learns as much as possible from these events” (Weigand, 2008, p. 257). At the same time, publicly speaking about their cases helps them normalize the trauma and builds confidence through acknowledgment and affirmation (Konvisser, 2015). By doing so, they give testimony to their resilience, “if only to reduce the likelihood that it would happen to someone else” (Vollen & Eggers, 2005, p. 7).

However, not all exonerees choose or are able to advocate for correcting the injustices that they and others have suffered at the hand of the criminal justice system. Some choose to stay out of the spotlight, secluding themselves or “focusing instead on recovering their lost lives and building a new place for themselves in their

community” (Lance & Pope, 2015, p. xix). Others understand that, although speaking engagements for the exonerated can be healing, they also can be retraumatizing and trigger posttraumatic stress disorder (PTSD) symptoms, especially when the engagements include speaking to a legal audience or with the media (Weigand, 2008).

For this study, although exonerees known to be engaged in policy reform work were solicited, only five of the 17 solicited exonerees agreed to be interviewed, three declined to be interviewed, two others initially agreed and withdrew, and seven did not respond to the solicitation.

Jaimie Page explains that “Some of them don’t even want to be called an exoneree. They want to forget about what happened to them and lay low. They don’t want to have anything to do with wrongful conviction.” She offers a cautionary note to be aware of the context and the timing and to be careful asking things of exonerees. In her experience,

They will say, “Yes,” because they might feel obligated or will just say, “Yes” automatically to anything asked of them from people involved in the innocence movement. A lot of times, they want to say, “No,” but they feel like they can’t. Whether it’s asking them to speak, asking them to testify, asking them to come to meetings.

Instead, she advises telling them that it is okay to say no, understanding that “it may not be in their best interest to do it. They may not be doing well at that particular time and revisiting their wrongful conviction could be damaging.”

The Innocence Project’s Rebecca Brown agrees:

I don’t want exonerated men and women to feel like they owe us. I’ll always say, “This is not for the Innocence Project, this is a policy that we’re trying to put forward; but if you don’t have the mental energy for it or you just would rather spend your time in the sun, which you deserve, do it. We’ll find somebody else. Please, please, please don’t feel compelled to say, Yes.”

Page further warns innocence organizations and legislators to be prepared for the emotional toll and emotional reactions of wrongful conviction testifying, including the option for exonerees to back out if they feel like it is going to be too traumatizing and the provision for debriefing afterward. Again, Brown concurs that hearings can be retraumatizing,

particularly for folks that are farther away from the day they were exonerated and further along in re-acclimating to life outside of prison. I’ve certainly seen clients cry during hearings. I’ve also seen lawmakers cry in response to people crying, which isn’t always a bad thing.

Furthermore, Brown has witnessed situations where lawmakers have posed insensitive or very scholarly questions.

Although this is rare, and most lawmakers have shown sensitivity to the plight of the wrongfully convicted, we do our best in advance of any hearing to try to anticipate these

questions, prepare the exonerated men and women, and make sure that they're being treated correctly.

Not to belittle in any way the importance and empowerment that some exonerees place on speaking out to educate, build public awareness, and advocate for policy reforms, all of the participants in this exploratory research study—the innocence organization personnel and the exonerees—recognize and address the need not just to “listen” to those exonerees who choose to speak out publicly but also to “hear” and honor those who are not in a time and place in their lives to speak out. Furthermore, they advise us to listen to exonerees individually, hear their issues, identify what they think they need, and help them find the necessary support and resources to move forward in their lives.

Exoneree Ron Keine reminds us that there are many exonerees who are floundering on their release to society and as time goes on. In addition to his advocacy role in WTI, Keine believes that his most important role is to seek out and counsel these exonerees in distress, identify their issues, and help them locate support and resources to become productive citizens—a difficult and not always successful task.

MIC's David Moran agrees. He suggests that the best way to help exonerees is by listening to their individual needs—even before release—and connecting them to appropriate services and systems. Like Keine, Moran tries to use exonerees as support groups for each other.

When we get a new exoneree who is having issues, we call up previous exonerees and say, “So-and-so is having a hard time, could you drive over there and talk to him or her and help them through some of these issues that they're dealing with or what do you think we should do?”

Ray Krone also agrees that those who want to help exonerees should listen to their needs—

a face-to-face relationship to really get to the root issues . . . what his or her needs are. Certainly tying them to the community and to the family is probably one of the biggest important needs—and getting mental and physical healthcare from the beginning.

Furthermore, he believes “that the most supportive path is the one where you allow them to help themselves. They have to work toward earning it. They've got to take ownership, because then and only then they're proud of what they accomplished.”

Darryl Hunt was on the initial solicitation list for this study. His recent passing from a reported self-inflicted gunshot wound is a vivid reminder of the need for increased attention to the mental health of exonerees as they re-enter and reintegrate into society and engage with the public and the criminal justice system. Hunt, who received almost US\$2.4 million in compensation, was widely known for being wrongfully convicted, eventually exonerated, and dedicating his life to the Darryl Hunt Project for Freedom and Justice and public appearances and speaking engagements.

However, there is tremendous contrast in attempting to overcome the identity of “exonerated after almost 20 years in prison” while also being mostly known based on that

identity. This undoubtedly presented a quagmire for Hunt and perhaps most people who have been exonerated . . . He struggled to reintegrate into society after being exonerated and had bouts of depression . . . exacerbated by the complexities of reintegration and the stigma associated with the legal and criminal justice systems . . . (Dennis, 2016)

Hunt often talked about the problems of people released from prison. “The trauma of wrongful convictions, years in prison, and the responsibilities he took on after he was free wore Hunt down . . . In the long run, he eventually got the death penalty” (Hunt’s attorney and friend Mark Rabil in Bonner, 2016).

Conclusion

The findings from this exploratory research with exonerees demonstrate the delicate nature of the psyche post-exoneration, the co-existence of despair and the tenacity of the human spirit, and the individual choices and consequences of moving to action or inaction. Although we must be cautious when working with exonerees, the insights from this research study may contribute to a better understanding of psychological healing in people who have been injured by the justice system and provides innocence advocates, counselors, and exoneree organizations a better understanding of ways to assist exonerees and channel their energies. The study may also provide policymakers, social justice reform advocates, and criminal justice leaders with empirical evidence and a better understanding of the process by which reform has occurred and could help stimulate more effective justice reform efforts. Finally, these insights address the capacity of the justice system and the larger society to integrate people who have been unjustly treated into the political process. Examining the role of exonerees in innocence policy work holds potential lessons for building a more inclusive society, which lies at the heart of America’s constitutional values.

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Notes

1. A complete, searchable, and updatable database of exonerees engaged in policy reform work and of exoneree founded/led organizations is under development by the Authors.
2. “Chosen by name or position for a particular reason, rather than randomly or anonymously . . . to acquire information and context that only that person can provide about some event or process” (Hochschild, 2009).
3. Dr. Jaimie Page is currently assistant professor of Social Work, Texas A & M University—Commerce.

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