

Wrongful Convictions

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### Introduction

Wrongful convictions happen far too often in the court system. They can happen to anyone and everyone, no matter their age, gender, race, religion, or even geographic location. Some of the most innocent people can and have been locked away due to a wrongful conviction. These can happen for a number of reasons, but they are all horrible in their own way.

### Literature Reviews

BISHOP, J., & OSLER, M. (2015). PROSECUTORS AND VICTIMS: WHY WRONGFUL CONVICTIONS MATTER. *The Journal of Criminal Law and Criminology (1973-)*, 105(4), 1031-1047. Retrieved December 7, 2020, from <http://www.jstor.org/stable/26402743>

In this article, Bishop and Osler explain how a wrongful conviction affects the wrongfully convicted's family, and the victim's family. The authors looked at 3 reasons that wrongful convictions matter. "First, locking up the wrong person means that the real perpetrator has escaped justice and remains free to commit a similar crime and harm someone else." (Bishop, Osler, Pg. 1033) This is one of the most important factors in wrongful convictions. It means that the community is given false security, thinking that the criminal has been caught and they are safe. "Second, convicting an innocent person creates yet another victim of the real perpetrator's crime - the person wrongfully convicted - and casts the original victim into the uncomfortable role of the perpetrator." (Bishop, Osler, Pg. 1033) With wrongful conviction, there are now more victims than there should be in a case, and it could be avoided with correct trials and proper examination of evidence. "Lastly, the money spent to compensate those who have been wrongfully convicted - often, rightly so, in the million dollars - could be spent aiding

victims and their survivors, whose needs include counseling, restitution for damage done, and a host of other resources.” (Bishop, Osler, Pg. 1033) There is more money being given out, for a mistake that should never have happened in the first place. I also think that this can deter the attention of the original victim of the crime, and their voice, and hardship is drowned out by the new victim of the wrongful conviction.

Fon, V., & Schäfer, H. (2007). State Liability for Wrongful Conviction: Incentive Effects on Crime Levels. *Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift Für Die Gesamte Staatswissenschaft*, 163(2), 269-284. Retrieved December 7, 2020, from <http://www.jstor.org/stable/40752642>

Fon and Schafer point out that the state should be held liable when a wrongful conviction has been made. The compensation is usually monetary, and it helps the victim go back to their normal lives. Someone who has been wrongfully convicted, usually has a hard time going back to their lives, and society, because of the offense they were wrongfully associated with, the money that they had to use for a defense, and the hardship that this has put on their family, both from society, and internally.

GOULD, J., & LEO, R. (2010). ONE HUNDRED YEARS LATER: WRONGFUL CONVICTIONS AFTER A CENTURY OF RESEARCH. *The Journal of Criminal Law and Criminology (1973-)*, 100(3), 825-868. Retrieved December 7, 2020, from <http://www.jstor.org/stable/25766110>

Wrongful convictions are hard to research. Since wrongful convictions are the wrongful convictions of innocent people, it is hard for those people to get their voice out there once they are labeled with the criminal title. It is hard to take a “criminal’s” word. Most cases of wrongful

conviction will go unheard, because they are now in prisons, or have already finished their punishment, and have moved on with their life. Wrongful convictions are only known if they are found innocent after they were convicted. If there isn't enough information or evidence to undo the conviction, it will not be classified as a wrongful conviction, because there is no contradicting evidence. Even though the person may be innocent, it all depends on the information given.

Naughton, M. (2014). CRIMINOLOGIZING WRONGFUL CONVICTIONS. *The British Journal of Criminology*, 54(6), 1148-1166. Retrieved December 7, 2020, from <http://www.jstor.org/stable/43819246>

Michael Naughton expresses how corruption can be a cause of wrongful convictions. Naughton stated corruption can be, "intentional law or rule breaking by police officers and prosecutors in the causation of wrongful convictions. (Naughton, Pg. 1148) Wrongful convictions could be done purposefully, and not just a result from a mistake in the court process. These wrongful convictions could be a result of some form of corruption in the criminal justice system. This type of corruption is generally hard to catch, due to the high appraisal and respect of the criminal justice system and its enforcers.

Rattner, A. (1988). Convicted but Innocent: Wrongful Conviction and the Criminal Justice System. *Law and Human Behavior*, 12(3), 283-293. Retrieved December 7, 2020, from <http://www.jstor.org/stable/1393679>

Arye Rattner creates a good definition of wrongful conviction, as it relates to the cases that are known. "Our operational definition of 'wrongful conviction' includes only those cases in which a person was convicted of a felony but later exonerated, generally due to evidence that had

been available but was not sufficiently utilized at the time of conviction, new evidence that was not previously available, or in some cases the confession of the actual culprit.” (Rattner, Pg. 284)

This working definition explains that a wrongful conviction is not wrongful unless there is information stating otherwise.

Roberts, P. (2003). The Causes of Wrongful Conviction. *The Independent Review*, 7(4), 567-574.

Retrieved December 7, 2020, from <http://www.jstor.org/stable/24562560>

While reading an article from Paul Roberts, I noticed that his view on Wrongful Convictions highlighted the death penalty. He explained how the death penalty can affect the amount of wrongful convictions. Since the death penalty is a high controversy, the cases that have decided the punishment should be death, have been closely examined to ensure that they are correct with their decision. Even though some cases have slipped through this last chance of finding innocence, the death penalty can act as the defendant's second chance, or saving grace, in making sure that all of the evidence, and information is correct. Since the death penalty has been abolished in some states, the rate of wrongful conviction is likely to increase. Roberts also states that, “Plea bargaining is a major cause of wrongful convictions.” (Roberts, Pg. 572) Since plea bargaining is substituting a lower conviction for what was originally being charged, there is an increased amount of innocent people actually believing that they are guilty and they are getting a good deal. They think that they aren't going to win their defence, and they just take the lesser sentence, even though they are innocent.

### **Conclusion**

In conclusion, wrongful conviction is happening more than it should. Wrongful convictions harm not only the accused, but their family, and the family of the original victim, because they did not

get the justice they deserved. This also harms the community, because they will have a false sense of hope, thinking that the criminal is behind bars. This also harms society, because there is an increase of monetary compensations being shelled out to those who were wrongfully convicted, rather than using the money for other needs. Wrongful convictions need to be stopped, or at the very least, lessened.

### References

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