

Original Article:

**AN EXPLORATION OF STUDENTS' UNDERSTANDING
OF STATE CRIMES AND WRONGFUL CONVICTIONS**

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Abstract

When a wrongful conviction occurs it can have a significant influence on law, governmental redress, and societal perception of the legitimacy of the state. This study examines students' perceptions of a state crime and whether respondents consider wrongful convictions to be a type of state crime. Using a model suggested by Sandra Westervelt and Kimberly Cook (2010), this study is exploratory in nature, which examines attitudes regarding wrongful conviction among a sample of college students. A survey was administered anonymously to a sample (N=71) of students at a small liberal arts college in New Hampshire. This study found that the majority of students had a limited understanding of a state crime, but overall there was support that respondents perceive those wrongfully convicted to be a victim of state harm and that state crimes are possibly associated with a wrongful conviction.

Keywords: wrongful convictions, society, state crime, students, innocents

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INTRODUCTION

An assessment of the efficacy of procedures and regulations is crucial for the progression of each component of the criminal justice system. Through one such component, the judiciary process, the state has the ability to mandate extreme sentences, ranging from fines to a death sentence. Its primary objective is to bestow a punishment equal to that of the offense committed. As a result, it functions as a reflection of public perception – what is deemed appropriate proportionally, just in application, and required for the safety of society. Criminological theories can assist with the explanation of punitiveness since they are the means to predict and explain crime. However, the prediction and explanation of crime becomes difficult when our system is plagued by wrongful convictions, which leads to an inaccurate portrayal of crime in society and can affect the public perception of the criminal justice process. According to the National Registry of Exonerations (2017), there have been approximately 2,068 known exonerations as of July 26, 2017. These exonerations are documented after the determination is made that a wrongful conviction has occurred. A wrongful conviction occurs when an individual is convicted and sentenced for an offense that he or she did not commit.

Recently, scholars have begun applying state crime literature to guide the theoretical framework for explaining wrongful convictions (Stratton, 2015; Vartkessian & Tyler, 2011; Westervelt & Cook, 2010). The study of wrongful conviction is still in its infancy and because of this, it is “theoretically impoverished” (Leo, 2005). Wrongful convictions were thought to be anomalies. They did not fully become of interest to criminology and legal scholars until the advent of DNA evidence in 1989. The state crime literature framework provides a theoretical yet explanatory perspective, which adds to an understanding of the problems of a wrongful conviction.

There is a dearth of literature that has used this framework. Westervelt and Cook (2010) were the first to propose the theory of wrongful conviction as a state crime. Although they mention that their analysis does not fully form a theory, it does provide a starting point. Other scholars, Vartkessian and Tyler (2011), presented the case of Michael Toney, a death row exoneree as a victim of state harm. Later, Stratton (2015) suggested using the framework to understand those that were responsible for a wrongful conviction – both their motivation and their actions. These works begin to provide a criminological approach for addressing the issues surrounding a wrongful conviction by acknowledging the relationship between a wrongful conviction and the state’s willful actions.

What appears to be missing from the current literature is research concerning the public’s perception of wrongful conviction, particularly the harm(s) it may cause, what actors and/or systems are responsible for the miscarriages of justice, and if these instances should be viewed as a state crime when responsibility can be determined. Although the literature proposes a link between the two, in order for reforms to be implemented and for state officials to be held accountable, the public needs to recognize that wrongful

convictions are generated by state agents. With this recognition, there can be an opportunity to address the current state's deficiencies of how the exonerated are treated once released.

The public's opinion of wrongful convictions has a strong influence on law, governmental redress, and societal perception of the legitimacy of the state. This study begins to explore attitudes regarding wrongful convictions. It builds upon the previous work that proposes wrongful convictions be examined using a criminological approach by asking participants their opinion of a state crime, whether those that have been wrongfully convicted are victims of state harm, and further considerations and questions relating to the criminal justice system. Based on Westervelt and Cook's (2010) suggestion for forming a theory of wrongful conviction as a state crime, we found that the majority of participants believed that those who are wrongfully convicted are victims of state harm and that a state crime is possibly associated with a wrongful conviction.

Estimate of Wrongful Convictions

The prevalence of wrongful convictions is a disputed topic. Generally, estimations range from .5% to 3% of criminal convictions (Huff et al., 1996; Ramsey & Frank, 2007; Zalman et al., 2008). Most of the research is based upon criminal justice official estimates, court ordered discharges, self-reports of incarcerated offenders, and a comparative study of capital rape-murders and DNA exoneration from 1982-1989 (Huff et al., 1996; Poveda, 2001; Ramsey & Frank, 2007; Risinger, 2007; Smith et al., 2011; Zalman et al., 2008). Calculating the true number is virtually impossible. It has been concluded that, "no method exists to conclusively establish the number of convicted innocents" (Olney & Bonn, 2015, p. 401). Current estimates are unable to capture all of the wrongfully convicted for several reasons. This is due to the fact that there are some individuals whom are still incarcerated and whose conviction has not (yet) been deemed "wrong", and others who have been released for any number of reasons – completion of sentence, appeal, parole, etc. – but do not have enough evidence or resources to prove their innocence. The only available data, then, come from those that have been exonerated by DNA evidence and those through various means that have reached the burden of proof needed to prove innocence.

There are two prominent sources of exoneration data. The first is the Innocence Project, started in 1992 by Barry Scheck and Peter Neufeld, who launched the project at Yeshiva University's Cardozo Law School. The project is limited to all claims of actual innocence for when DNA evidence is available for testing. The second is the National Registry of Exonerations (NRE) which began in 2012. Cases for the NRE are not limited to DNA exonerations. Instead, the NRE includes all exonerations stemming from a combination of official misconduct, perjury, false confessions, mistaken witness identification, false or misleading forensic evidence, inadequate legal defense, and the absence of any criminal activity (National Registry of Exonerations, 2017). A study by Gross and Shaffer stated that, "the most comprehensive record available is the National

Registry of Exonerations, which compiles information about both DNA-based and non-DNA-based Exonerations” (as cited in Olney & Bonn, 2015, p.402).

Unfortunately, it is human nature to err. Because of error, an innocent person becomes harmed when wrongfully convicted, often impacting his/her psychological, social, emotional, and financial state of being. Furthermore, it can be difficult for individuals to find employment and housing opportunities post-exoneration. These individuals endure great hardships with very little support. Victims must develop an ability to cope and attempt to rebuild and restore their lives following the harrowing experience of the wrongful conviction and incarceration (Westervelt & Cook, 2010, p.259). These experiences represent a distinct form of victimization. To address this problem, one solution would be to view these individuals as victims of state harm.

Adoption of a State Crime Framework

From a theoretical standpoint, the study of wrongful conviction is far from comprehensive. A clear criminological approach to explain the phenomenon does not exist (Leo, 2005; Stratton, 2015; Westervelt & Cook, 2010). By using a state crime framework, the state's responsibility can be explored by examining the nature of the error and the award granted by the state (Stratton, 2015). This exploration adds to the much-needed theoretical approach to exploring incidents of wrongful conviction.

Theories of state crime recognize the harms that result from state legislation, policies, and action. This framework moves the current practice of examining case studies to an understanding of the power that the state maintains over the criminal justice system. As more wrongful convictions are exposed through the NRE and the Innocence Projects, it is becoming clear that the state is not doing enough to protect those being wrongfully apprehended by the justice system. Furthermore, once released, due to the variation of current compensation and reentry services, the innocent continue to suffer from harm due to the unregulated and non-uniform state practices. Harm could be avoided if there was mobilized support for wrongfully convicted individuals. If wrongful convictions were labeled as a state harm this may lead to a uniform, state-funded system of compensatory payments and reentry services (Stratton, 2015).

With the study of wrongful convictions still being in its infancy, deducing what a wronged individual deserves and who is responsible has not yet to be determined. This may be achieved if a state crime framework was adopted. A state crime framework can provide for a fair and just outcome for all individuals who are wrongfully convicted. Currently, states vary in their response when assisting the reentry of these individuals. Although advocacy groups such as the Innocence Project have recommended model legislation that details services, standards of proof needed for eligibility, and minimum compensation statutes, few states (and the federal government) have implemented these recommendations. Acknowledging wrongdoing by the state is the initial step to redressing the harm caused by its action(s) at the hands of the criminal justice system.

Two means by which the criminal justice system can remedy their wrongdoings is by instituting reentry services and compensation statutes that are equally applied to all. Currently only 32 states, the District of Columbia, and the federal government have enacted compensation statutes. Compensation is the repayment of a monetary sum to a harmed individual in recognition of a loss or suffering that was endured. Exonerees can seek compensation by three specific means: tort claims, private bills, or compensation statutes (Mandery et al., 2013, p.556). The statutes vary greatly across states with limits and restrictions to each one. The lack of congruency across the nation in terms of statutes can have a widespread detrimental impact on those that are wrongfully convicted. When one innocent person is compensated but another is not, continued injustice is experienced. Without monetary resources, the innocent may not be able to afford to get their record expunged, find housing, and may be unable to seek help for their physical and mental health ailments caused by the unjust sentence and failure by the state to reverse its negative impact.

Scholars have found that wrongful convictions may be more detrimental to those incarcerated than those that are incarcerated for crimes they did commit. Like all carceral stays, wrongful convictions can impact meaningful relationships with loved ones. Often, this injustice has led to the wrongful termination of parental rights, divorce, and loss of friends and familial support. There are also psychological concerns that can complicate reentry, exacerbated by the condition that the conviction and associated sentence were unjust. Darryl Hunt, after serving over 18 years for a murder he did not commit, sums up the psychological concerns perfectly when he states: "I'm physically free, but psychologically I'm still confined" (Aguirre et al., 2007). One consequence is posttraumatic stress disorder (PTSD), as found in Ground's (2004) study of 18 wrongfully convicted men. Aside from psychological health concerns, there are other health problems that the wrongfully convicted may be afflicted with following a carceral stay. Some have contracted illnesses while imprisoned, including AIDS (HIV), hepatitis C (HCV), Tuberculosis (TB) and other infectious and deadly diseases found in the prison system (Dannenberg, 2007). Other ailments include asthma, heart-related problems, high blood pressure, malnutrition, muscular atrophy, premature aging, and skin rashes (Chunias & Aufgang, 2008; Innocence Project, 2009; Maruschak et al., 2015; Norris, 2012).

Compensation and reentry services only begin to account for the systemic injustice (e.g., prosecutorial discretion, economic inequalities, stereotypes, etc.) endured by some of the wrongfully convicted. As the Innocence Project states, "Wrongful conviction are caused by both systemic flaws in our criminal justice [system] and by external variables...including subtle factors that subconsciously affect who we perceive as guilty or innocent and how people conduct investigations"(2010). In order for these injustices to be prevented, understanding the root causes of wrongful convictions becomes essential. Further, once these causes have been identified the systemic injustice(s) can be addressed and possibly corrected or made right through services afforded to the wrongfully convicted

(e.g., compensation and reentry services). There are many challenges when readjusting into society and since reentry services are afforded to the actual “guilty” criminal, they should be provided for the innocent one as well. By imposing a state crime framework, uniformity can occur with compensation and reentry statutes. Equally as important, this framework would restore the public’s confidence in the justice system by acknowledging the instances of wrongdoing.

State Crime and Wrongful Conviction Literature

There have been several paradigm shifts within the study of wrongful convictions and state crimes. Previously, wrongful conviction literature focused exclusively on the causes of wrongful convictions and not necessarily on the effects on the victims. Many studies have highlighted the various causes of wrongful convictions such as: the state failing to provide exculpatory evidence, withholding witnesses, coercing confessions, or providing ineffective assistance of counsel. Sociologists have studied wrongful convictions for an extended period of time and the patterns of injustice have been shown to be consistent (Olney & Bonn, 2015, p. 400). Researchers are slowly starting to accumulate a greater amount of knowledge and data surrounding the experiences of the victims and how the public perceives these injustices (Blandisi et al., 2015; Clow et al., 2012; Grounds, 2004; Konvisser, 2012; Vartkessian & Tyler, 2011; Westervelt & Cook, 2010; Zalman et al., 2012). Studies such as these provide a starting point for how to correct wrongs resulting from the wrongful conviction, most of which are based upon personal experiences and how the public views and reacts to exonerees. The public’s response is important as it may impact reentry efforts and state laws governing these services.

Much of the state crime literature has focused on state actions that include war crimes, genocide, and torture (Stratton, 2015). Like the wrongful conviction literature, a clear definition of what a state crime entails varies. Most definitions, however, explain that a state crime causes harm and produces a victim (Kauzlarich et al., 2001). For the purpose of its association with wrongful conviction, researchers have started to focus on the states’ responsibility in convicting and punishing the innocent.

Westervelt and Cook (2010) were the first to explore the wrongfully convicted as victims of a state crime. They adapted a state harm framework based on Kauzlarich et al.’s (2001) research that discussed six points of commonality shared by state crime victims. Their analysis of death row exonerees identified how “the state produces and exacerbates the harms exonerees suffer after release” (p. 260). Exonerees from their study explained how the state contributed to their wrongful conviction and their feelings of victimization after exoneration. In 2011, Vartkessian and Tyler presented the case of Michael Toney, a death-row exoneree in Texas, who was wrongfully convicted of killing three people. The authors explain how statements made by public officials affect public perception of an exoneree, especially when DNA evidence is not available to prove their innocence. The authors argue that the state has a responsibility to protect the exonerated and this begins

with their statements to the public. These individuals should not be “victims of their wrongful conviction” (p. 1470). The authors explain, based upon the facts of Toney’s case, that he was a victim of state harm. Stratton (2015) expands upon the state crime framework by providing a typology of wrongful convictions and how they are compatible when understanding state crimes, both of commission and omission. Stratton began by conceptualizing a wrongful conviction into three typologies (errors of human undertaking, errors of misconduct or negligent behavior, and error of system) and then explained how these could be viewed on a spectrum of state responsibility.

In sum, researchers posit that based upon the harms endured by the wrongful conviction, imprisonment, and then later when the state fails to assist with reentry efforts or to acknowledge their wrongs; these actions result in and qualify as a state-produced harm. By imposing a state crime framework, scholars can examine the role of the justice system or those organizations responsible in committing, condoning, and perpetrating a wrongful conviction and how these victims are treated after exoneration. For a wrongful conviction to be perceived as a state crime, the public will mostly likely need to favor this framework. Public attitudes are important for policy reform and only recently have scholars begun to examine what the public knows and understanding about wrongful convictions and then state crimes. Together though, these have not been examined and thus this sheds light on the importance of this study.

Public Attitudes on State Crimes and Wrongful Conviction

To our knowledge, scholars have not examined citizen’s attitudes concerning a state crime and there is only a dearth of literature that examines public attitudes governing a wrongful conviction. Collectively, public attitudes governing state crimes and wrongful conviction have not been examined. A wrongful conviction jeopardizes the notion that individuals should be free from an oppressive criminal justice system and every time a wrongful conviction occurs, the guilty remains free, possibly victimizing others. As noted by scholars these miscarriages of justice can undermine the public’s confidence in the criminal justice system (Huff et al., 1996; Ramsey & Frank, 2007). In terms of attitudes governing these miscarriages this was first examined in Canada, by the Angus Reid Group in 1995. Canadians were asked questions regarding if the government should increase efforts to prevent and deal with wrongful convictions or if individuals believed that these were so rare that government change was not necessary. Sixty-five percent of the survey respondents believed that the government needed to increase their efforts. Of these respondents, ninety percent felt that the government should compensate those who had been wrongfully convicted. Later in 2007, Bell and Clow examined student attitudes in Canada and found that students did believe that wrongful convictions are a problem. Later in 2009, Ricciardelli et al. conducted another study where they examined student attitudes and again found support that first and third year undergraduate Canadian students both non-major and major believed that wrongful convictions lowered their trust in the criminal

justice system. This was similar to what Huff et al., (1996) found regarding public trust and wrongful conviction based on a sample of 798 Ohio criminal justice professionals.

In the states, Zalman et al. (2012) were the first to examine citizen attitudes toward wrongful convictions. Their survey focused on Michigan residents. The researchers found that respondents believed that wrongful convictions do occur and based upon their frequency, reforms should be enacted. More recently there has been a proliferation of Americans becoming hooked on various series that depict wrongful convictions such as the Netflix documentaries “When they see Us” or “Making a Murder”. Even podcast, such as “Serial” with the case of Adnan Syed, which has many individuals pondering whether or not he is innocent or guilty have been influential in stressing the problem of wrongful conviction. Norris and Mullinix (2019) suggest that entertainment programs are a more effective means to bring attention to wrongful convictions than facts or statistics. According to Apple, “Serial” was the fastest podcast to reach 5 million views. The podcast was released in the beginning of October and by mid-late December the podcast had estimated 40 million downloads (Roberts, 2014). In general, narratives and stories seem to be the best approach for convey messaging, thus leading to policy change and reform (Norris & Mullinix, 2019). Furthermore, the authors note that in the twenty-first century, wrongful convictions are the most pressing criminal justice reform issue in the United States. Currently, to our knowledge a study has not been done that examines public perception on wrongful convictions, pre and posts these entertainment programs.

As for gauging what the public believes governing state crimes and wrongful conviction, only recently have scholar even begun to propose using at state crime framework to understand these miscarriages of justice (Westervelt & Cook, 2010; Stratton, 2014). Determining responsibility of these errors is often overlooked (Stratton, 2014). It has only been ten years since Westervelt and Cook (2010) proposed that exonerees should be seen as victims of state crime and to our knowledge this is one the first studies that examines public perception concerning wrongful convictions as a state harm. In sum, whether it is students, citizens, or criminal justice personal it is clear that some individuals believe that wrongful convictions occur and that government needs to prevent these miscarriages. As the literature continues to be developed, hopefully more attention will be paid to acknowledging the link between the state and a wrongful conviction.

Current Research

The goal of the current research is to help fill the gap in the literature that has failed to examine whether people perceive wrongful convictions to be a type of state crime. The idea was first proposed by Westervelt and Cook (2010) when they examined stories told by 18 death row exonerees. They found through their case narratives that exonerees focused on the state’s active involvement with their victimization before and after their exoneration (p. 259). The authors used Kauzlarich et al. (2001) six propositions that detail the experience of a state crime victim. These included:

“[1] Victims of state crime tend to be among the least socially powerful actors, [2] Victimizer generally fail to recognize and understand the nature, extent, and harmfulness of institutional policies. If suffering and harm are acknowledged, it is often neutralized within the context of a sense of ‘entitlement’ [3] Victims of state crime are often blamed for their suffering, [4] Victims of state crime must generally rely on the victimizer, an associated institution, or civil social movements for redress, [5] Victims of state crime are easy targets for repeated victimization, [6] Illegal state policies and practices, while committed by individuals and groups of individuals, are manifestations of the attempt to achieve organizational, bureaucratic, or institutional goals”
(as cited in Westervelt & Cook, 2010, pp. 260-263).

Each of the six propositions was assessed based on the sample of 18 death row exoneree's experiences. Through the case narratives, the authors discussed support for how the wrongfully convicted share similar experiences to state crime victims. Their study did not fully form a theory of wrongful conviction as a state crime but it did offer a starting point. Based upon this, we were curious if participants who have not been wrongfully convicted would view wrongful convictions as a state crime. In previous research, scholars have debated what constitutes a state crime and what constitutes a victim of a state crime (Kauzlarich et al., 2001). This exploration has not focused on young adults' perceptions of whether victims of wrongful conviction are thought to be victims of state-produced harms, thus a state crime. This information is relevant since we know that public opinion drives criminal justice policy (Frost & Monteiro, 2011).

METHOD

Participants

Participants were students ages seventeen to twenty-three from a small liberal arts college in New Hampshire. In total, there were 71 student participants across five or more disciplines. The majority of the students (52%) were criminal justice majors. Of the 71 students, 41 were female and 30 were male. Approximately half of the students (49%) were seniors, followed by sophomores (24%), juniors (17%), and the remainder were freshman (10%). Of these students, (89%) had not taken a wrongful conviction course. This is important because the course may have used a state harm framework in discussions and, therefore, our results could have been biased. Participants were recruited for the online study via a convenience method of sampling by sending a Survey Monkey link to students

in a criminal justice research methods course, a victims of crime course, and then asking students to send the link to their peers.

Table 1. Descriptive Statistics

<i>Variable</i>	<i>N</i>	<i>%</i>
Gender		
Female	41	57.75
Male	30	42.25
Class		
Freshman	7	9.86
Sophomore	17	23.94
Junior	12	16.90
Senior	35	49.10
Academic major		
Criminal Justice	37	52.11
Psychology	2	2.82
Sociology	0	0
Nursing	6	8.45
Business	4	5.63
Other	2	30.99
W.C. course		
No	69	88.73
Yes	7	9.86
Unsure	1	1.41

N=71; Some percentages may not sum to 100 due to rounding

Procedures

Participants were directed to the Survey Monkey site to complete a survey about whether they perceived a state crime to be associated with a wrongful conviction. They were asked to answer 10 questions. The first few questions collected demographic information from the student. Next, students were asked if they had taken a wrongful conviction course. The response options were *yes*, *no*, or *unsure*. Next, they were asked if they were satisfied with the criminal justice system in the United States. Response options included *very satisfied*, *somewhat satisfied*, *neither satisfied nor dissatisfied*, *somewhat dissatisfied*, and *very dissatisfied*. Students were also asked whether or not they believed the death penalty was a necessary form of punishment for the state to impose on a convicted individual. Responses included *yes*, *no*, *maybe*, or *prefer not to answer*. Students then picked the most appropriate answer to define what they believed constituted a state crime.

The definition choices were derived from scholars in the field including Westervelt and Cook's (2010) definition of a state crime. Next, participants were asked if they believed that the wrongfully convicted are victims of state harm. Responses included *yes*, *no*, or *maybe*. The next question concerned whether they believed that states should provide compensation as a source of closure for the wrongfully convicted. Once again, the three responses of *yes*, *no*, or *maybe* were provided. Finally, the students were asked if they believed that a state crime should be associated with a wrongful conviction. The same three response options were used again.

RESULTS

Of the 71 students, 61% believed that the death penalty is a necessary form of punishment, 21% stated it was not necessary, 17% stated maybe it was necessary, and 1% preferred not to answer. Of these students, nearly half (47%) were somewhat satisfied with the criminal justice system. Roughly one-third (30%) were neither satisfied nor dissatisfied and 21% were somewhat dissatisfied. Only a few students (3%) were very dissatisfied. When defining a state crime, nearly half of the students (47%) agreed that a state crime is "illegal or deviant activities perpetrated by, or with the complicity of, state agencies", as defined by Green and Ward (2005). Approximately 27% of students stated they were unsure what a state crime is, followed by 18% that believed a state crime was "acts defined by law as criminal and committed by state officials in the pursuit of their job representative of the state", as defined by Westervelt and Cook (2010). A small portion of the students (8%) defined a state crime as "anything can be a state crime if there is any amount of deprivation or pain and the introduction of negative or the removal of positively desired stimuli", as defined by Rothe and Mullins (2011). Most of the students (68%) believed that the wrongfully convicted were victims of state harm, 28% stated that maybe they were and 4% stated that they were not. The majority of the students (86%) believed that compensation should be provided as a source of closure for the wrongfully convicted, 7% said it should not be, followed by another 7%, which stated maybe it should be provided. The final question, concerning whether state crime should be associated with wrongful convictions, found that most (51%) stated maybe, followed by 38% which stated yes, and 11% which stated no.

Table 2. Outcome Measures

<i>Variable</i>	<i>N</i>	<i>%</i>
Satisfied with CJ System		
Very Dissatisfied	2	2.82
Dissatisfied	15	21.13
Neither Dissatisfied nor Satisfied	21	29.58
Satisfied	33	46.48
Very satisfied	0	0
State crime definition		
Maybe	12	16.90
No	15	21.13
Yes	43	60.56
Prefer not to answer	1	1.41
State crime definition		
Green & Ward (2005)	33	46.48
Rothe & Mullins (2011)	6	8.45
Westervelt & Cook (2010)	13	18.31
Unsure of topic	19	26.76
State harm from W.C		
Maybe	20	28.17
No	3	4.23
Yes	48	67.61
Compensation		
Maybe	5	7.04
No	5	7.04
Yes	61	85.92
W.C. as state crime		
Maybe	36	50.70
No	8	11.27
Yes	27	38.03

N=71; Some percentages may not sum to 100 due to rounding

DISCUSSION

Our intent was to investigate whether students considered wrongful convictions to be a type of state crime. The results are exploratory in nature with percentages used as evidence. In our opinion poll, we found that although most students believed that those who are wrongfully convicted are victims of state harm (68%), when asked if they agreed with public opinion that a state crime should be associated with a wrongful conviction, most students appeared to answer the question more conservatively by stating maybe

(51%). One explanation could be that the students perceive the terms state harm and state crime differently. Another explanation for this discrepancy could be how a common definition does not exist in the field concerning a state crime. Instead, there appears to be variation in interpretation, resulting in a wide range of state crime victims (Westervelt & Cook, 2010, p. 260). Due to the competing ways of conceptualizing state crimes, this could explain the difference between the two responses.

Kauzlarich et al. (2001) explain that regardless of what definition is used, a state crime causes harm, which results in the creation of a victim. Those that are wrongfully convicted experience a variety of harms. According to the National Registry of Exonerations, as of July 26, 2017, there have been 2,068 known exonerations. Of these, 1,068 (51%) cite official misconduct where the police, prosecutor, or other government official contributed to the exoneree's original conviction. Victimization continues when the state fails to provide reentry services and compensation following exoneration. As the Innocence Project mentions, this "adds insult to injury" (n.d.a.). These provisions highlight recognition of the state harm. Based on the results, most students believed that the state should provide closure in the form of compensation for those that have been wrongfully convicted. This support recognizes the harms done by the state.

Additionally, the majority (61%) of participants supported the use of the death penalty as a necessary form of punishment for the state to impose on a convicted individual. This implies that when wrongs are done, it is just to punish harshly those that violate the law. Something that future studies should address is whether those who support the death penalty are likely to recognize wrongful convictions as a type of state crime because they believe in the importance of holding people accountable for their wrongful actions. Stated differently do individuals who support the death penalty also support the idea of punishing those who were responsible for the wrongful conviction? Identifying the target of the punishment may prove difficult since there is rarely one individual (e.g., police, prosecutor, witness, judge, jury, etc.) solely responsible for the injustice. However, there are several possibilities. At minimum, the punishment could begin with the state acknowledging the injustice and by providing resources and support for the wronged individual.

In this study, most of the participants had not yet taken a wrongful convictions course. Courses such as these may bias their opinion of compensation and the provision of reentry services. They may also bias their perception of a state crime and whether wrongful convictions should be defined as a state crime. The fact that most have not taken this type of course is not surprising. Only recently have colleges begun teaching courses on wrongful conviction due, in part, to the infancy of the area of study (Leo, 2005). This is important because the general public is unlikely to have taken a course on wrongful conviction, like the participants in this study. Therefore, if these participants favored a state crime framework, there is a chance that the public will as well. Thus, if a consensus already exists, laws and policies to redress state harm can be enacted sooner via advocacy and pressure

from the public. These laws and policies can begin to provide the wrongfully convicted with services needed for a successful reentry.

The primary goal of this study was to build on Westervelt and Cook's (2010) study and to further lay the foundation for framing wrongful conviction as a form of a state crime. When the authors examined the experiences of death row exonerees, they found that these experiences are similar to other victims of state crime (p. 261). If exonerees are recognized as state crime victims then the government might change their practices such as providing compensation, ensuring automatic expungement of an arrest and criminal record, assisting with housing, medical, educational or employment opportunities, and making available other much needed resources to help with successful reentry. Having a record expunged alone can improve the exonerees' likelihood of committing future crimes. Shlosberg et al. (2014) found that those who had their record expunged committed post-exonerations offenses at a lower rate (31.6%) than those with unexpunged records (50%). Their findings are consistent with labeling theory in that a criminal record might stigmatize them and further hinder their reentry. This may also warrant future study.

Public perception may be the key to changing the current practices encountered by the wrongfully convicted. It might begin with holding public officials whom played a role in wrongful convictions accountable. These sanctions can include internal disciplinary actions such as censure, suspension, or dismissal from position to fines and punitive sentences for the most egregious cases (see the case of attorney-turned-judge Ken Anderson, Innocence Project, n.d.b.). Further, by developing a uniform definition, more individuals would recognize wrongful convictions as a state crime. The majority of participants in the present study do appear to support this framework. On the other hand, most students are satisfied with the criminal justice system in the United States. This finding highlights the need for an intensive rebranding push by activists and/or those working with exonerees on how the general public conceptualizes a wrongful conviction. Meaning most participants recognize that wrongful convictions are harmful but yet, they are satisfied with the criminal justice system. This satisfaction might be what is resulting in the state failing to feel pressure from the public to remedy harms caused by the criminal justice system. If more people became dissatisfied or if activists rebrand how the general public conceptualizes a wrongful conviction and how they too can play a role this might drive the change needed for assisting those that have been wrongfully convicted (e.g., victims of a state crime).

This study was limited in its use of a small sample of college students and may not be generalizable. It is not clear if these same patterns would emerge from a non-college sample or even a larger university, or one located in another region of the country. As more colleges begin to teach wrongful conviction courses or cover this subject in other courses, the findings may not be supported by the general public because they have now become more informed on the subject matter. Additionally, it is important to note that 52% of the sample are criminal justice majors and because criminal justice majors tend to be more

informed on how the system operates, there is a stronger likelihood that they will have more informed and stronger opinions on miscarriages of justice than a non-criminal justice major. This study did not take this possibility into account and, therefore, cannot present opinion data by major to see if there is a discernable difference in attitudes. Another limitation was that this study uses a convenience sample. This type of sample is the most common. However, it is the weakest form of a nonprobability sampling strategy. It uses the most available subjects and poses a very high risk of bias. This type of sample is self-selected and, therefore, it has low representativeness and results derived from its use are not generalizable to the population at-large. In addition, due to the constraints of only being able to ask ten questions when using the free version of Survey Monkey, we did not ask respondents about their race, ethnicity, or political, or religious affiliation, even though these demographics tend to be associated with opinions of capital punishment. Associated with this limitation is how we did not ask respondents to elaborate on their responses. For example, it may have been insightful to determine why respondents were satisfied or dissatisfied with the criminal justice system. A final limitation resulting from the limited ten question constraint was that we did not ask respondents whether they believed that an innocent person had actually been executed. Future research will consider this question to examine the breadth of outcomes experienced by the wrongfully convicted.

The risk of wrongful conviction is a criminal justice problem that requires state and federal intervention. Such remediation can include introducing safeguards at each stage of the criminal justice process. Arguably, system failures lead to the wrongful conviction of an individual. The public has a highly influential role in influencing the legislative and political decisions made by the state. In the end, the present study continues a conversation of examining miscarriages of justice. It is clear that more research is needed concerning the framing of the innocent as victims of a state harm. There appears to be support for this approach. These findings are important because awareness of this issue is essential for challenging the legislative process and current policies governing the exonerated. If the public perceives wrongful convictions to be a state crime, fair and just services will be uniformly applied to those who have been wronged.

REFERENCES

- Aguirre et al. (2007, November 25). Exonerated, freed, and what happened then. *The New York Times*. Retrieved from http://www.nytimes.com/interactive/2007/11/25/nyregion/20071125_DNAI_FEATURE.html
- Angus Reid Group. (1995). Public perspectives on wrongful convictions. In *Justice and Public Safety Issues, Angus Reid Report*, 10(4), 75-77. <https://doi.roper.center/?doi=10.25940/ROPER-31082075>
- Bell, J. & Clow, K. A. (2007). Student attitudes toward the post-conviction review process in Canada. *Journal of the Institute of Justice and International Studies*, 7, 90-103.
- Blandisi, I. M., Clow, K. A., & Ricciardelli, R. (2015). Public perceptions of the stigmatization of wrongly convicted individuals: Finding from semi-structured interviews. *The Qualitative Report*, 20(11), 1881-1904. Retrieved from <https://nsuworks.nova.edu/tqr/vol20/iss11/13>
- Chunias, J. L., & Aufgang, Y. D. (2008). Beyond monetary compensation: The need for comprehensive services for the wrongfully convicted. *Boston College Third World Law Journal*, 28(1), 105-128. Retrieved from <https://lawdigitalcommons.bc.edu/twlj/vol28/iss1/3>
- Clow, K. A., Blandisi, I. M., Ricciardelli, R., & Schuller, R. A. (2012). Public perceptions of wrongful conviction: Support for compensation and apologies. *Albany Law Review*, 75, 1415-1438. Retrieved from http://www.albanylawreview.org/Articles/Vol75_3/75.3.0007%20Clow.pdf
- Dannenber, J. (2007, August 15). Prisons as incubators and spreaders of disease and illness. *Prison Legal News*. Retrieved from <https://www.prisonlegalnews.org/news/2007/aug/15/prisons-as-incubators-and-spreaders-of-disease-and-illness/>.
- Frost, N. A., & Monteiro, C. E. (2011). Public opinion, crime and justice. In Richard Rosenfeld (Ed.), *Oxford Bibliographies Online: Criminology*. New York: Oxford University Press.
- Green, P., & Ward, T. (2005). Introduction. *British Journal of Criminology*, 45, 431-433. <https://doi.org/10.1093/bjc/azi030>
- Grounds, A. (2004). Psychological consequences of wrongful conviction and imprisonment. *Canadian Journal of Criminology & Criminal Justice*, 46(2), 165-182. <https://doi.org/10.3138/cjccj.46.2.165>
- Huff, C. R., Rattner, A., & Sagarin, E. (1996). *Convicted but innocent: Wrongful conviction and public policy*. Thousand Oaks, CA: SAGE.
- Innocence Project. (2009). *Making up for lost time: What the wrongfully convicted endure and how to provide fair compensation*. New York: Innocence Project. Retrieved from http://www.innocenceproject.org/wp-content/uploads/2016/06/innocence_project_compensation_report-6.pdf.

- Innocence Project. (2010). *Race and wrongful convictions*. New York: Innocence Project. Retrieved from <https://www.innocenceproject.org/race-and-wrongful-convictions/>.
- Innocence Project. (n.d.a.). *Compensating the wrongfully convicted*. New York: Innocence Project. Retrieved from <http://www.innocenceproject.org/compensating-wrongly-convicted/>.
- Innocence Project. (n.d.b.). *Michael Morton*. Retrieved from <https://www.innocenceproject.org/cases/michael-morton/>
- Kauzlarich, D., Matthews, R., & Miller, W. (2001). Toward a victimology of state crime. *Critical Criminology*, 10(3), 173–194. <https://doi.org/10.1023/A:1015744304749>
- Konvisser, Z. (2012). Psychological consequences of wrongful conviction in women and the possibility of positive change. *DePaul Journal for Social Justice*, 5(2), 221- 294. Retrieved from <https://via.library.depaul.edu/jsj/vol5/iss2/3>
- Krimmel, J. T. & Tartaro, C. (1999). Career choices and characteristics of criminal justice undergraduates. *Journal of Criminal Justice Education*, 10, 277-289. <https://doi.org/10.1080/10511259900084591>
- Leo, R. A. (2005). Rethinking the study of miscarriages of justice: Developing a criminology of wrongful conviction. *Journal of Contemporary Criminal Justice*, 21(3), 201–223. <https://doi.org/10.1177/1043986205277477>
- Mandery, E. J., Shlosberg, A., West, V., & Callaghan, B. (2013). Compensation statutes and post-exoneration offending. *Journal of Criminal Law & Criminology*, 103(2), 553-583. Retrieved from <https://www.jstor.org/stable/43895627>
- Maruschak, L. M., Berzofsky M., & Unangst, J. (2015). *Medical problems of state and federal prisoners and jail inmates, 2011-12*. Washington, DC: US Department of Justice, Bureau of Justice Statistics. NCJ 248491.
- National Registry of Exoneration. (2017). *Current exonerations*. Retrieved from <https://www.law.umich.edu/special/exoneration/Pages/about.aspx>
- Norris, R. J. (2012). Assessing compensation statutes for the wrongfully convicted. *Criminal Justice Policy Review*, 23(3), 352-374. <https://doi.org/10.1177/0887403411409916>
- Norris, R.J. & Mullinix, K.J. (2019). Framing innocence: An experimental test of the effects of wrongful convictions on public opinion. *Journal of Experimental Criminology*, 1-24. <https://doi.org/10.1007/s11292-019-09360-7>
- Olney, M., & Bonn, S. (2015). An exploratory study of the legal and non-legal factors associated with exoneration for wrongful conviction: The power of DNA evidence. *Criminal Justice Policy Review*, 26(4), 400-420. <https://doi.org/10.1177/0887403414521461>
- Poveda, T. (2001). Estimating wrongful convictions. *Justice Quarterly*, 18(3), 689-708. <https://doi.org/10.1080/07418820100095061>
- Ramsey, R. & Frank, J. (2007). Wrongful conviction: Perceptions of criminal justice professionals regarding the frequency of wrong conviction and the event of systems

- errors. *Crime & Delinquency*, 53(3), 436-470.
<https://doi.org/10.1177/0011128706286554>
- Ricciardelli, R., Bell, J. G., & Clow, K., A. (2009). Student attitudes toward wrongful conviction. *Canadian Journal of Criminology and Criminal Justice*, 51,411-427.
<https://doi.org/10.3138/cjccj.51.3.411>
- Risinger, D. M. (2007). Innocents convicted: An empirical justified factual wrongful conviction rate. *Journal of Criminal Law & Criminology*, 97(3), 761-806. Retrieved from <https://scholarlycommons.law.northwestern.edu/jclc/vol97/iss3/3>
- Roberg, R. & Bonn, S. (2004). Higher education and policing: Where are we now? *Policing: An International Journal of Police Strategies and Management*, 27(4), 469-486.
- Roberts, A. (2014, December). The 'Serial' podcast: By the number. CNN Retrieved from <https://www.cnn.com/2014/12/18/showbiz/feat-serial-podcast-btn/index.html>
- Rothe, D. L., & Mullins, C. W. (Eds.) (2011). *State crime current perspectives*. Piscataway, NJ: Rutgers University Press.
- Shlosberg, A., Mandery, E. J., West, V., & Callaghan, B. (2014). Expungement and post-exoneration offending. *Journal of Criminal Law & Criminology*, 104(2), 353- 388. Retrieved from <https://scholarlycommons.law.northwestern.edu/jclc/vol104/iss2/3>
- Smith, B., Zalman, M., & Kiger, A. (2011). How justice system officials view wrongful convictions. *Crime & Delinquency*, 57(5), 663-685.
<https://doi.org/10.1177/0011128709335020>
- Stratton, G. (2015). Wrongfully convicting the innocent: A state crime? *Critical Criminology*, 23(1), 21-37. <https://doi.org/10.1007/s10612-014-9249-0>
- Vartkessian, E. S., & Tyler, J. P. (2011). Legal and social exoneration: The consequences of Michael Toney's wrongful conviction. *Albany Law Review*, 75(3), 1467–1498. Retrieved from http://www.albanylawreview.org/Articles/Vol75_3/75.3.0009%20Vartkessian.pdf
- Westervelt, S., & Cook, K. (2010). Framing innocents: The wrongly convicted as victims of state harm. *Crime, Law & Social Change*, 53(3), 259-275.
<https://doi.org/10.1007/s10611-009-9231-z>
- Zalman, M., Larson, M. J., & Smith, B. (2012). Citizens' attitudes toward wrongful convictions. *Criminal Justice Review*, 37(1), 51-69.
<https://doi.org/10.1177/0734016811428374>
- Zalman, M., Smith, B., & Kiger, A. (2008). Official estimates of the incidence of "actual innocence" convictions. *Justice Quarterly*, 25(1), 72-100.
<https://doi.org/10.1080/07418820801954563>

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