

coping with innocence after death row

by saundra d. westervelt and kimberly j. cook



Kennedy Brewer spent 13 years behind bars—seven on death row—for the rape and murder of a 3-year-old girl. On February 15, 2008, he became the 127th death row inmate in the United States exonerated and released from prison.

The crime was heinous, the police needed a suspect, and Brewer was the last man known to see the girl alive. The primary evidence used against him was the testimony of a dentist, widely discredited at the time, who claimed bite marks on the girl matched Brewer's teeth.

In 2001, Brewer's appellate attorneys presented DNA evidence of an exact match to another suspect who has since confessed to the crime. Based on this evidence, the court vacated Brewer's conviction but the district attorney—the same one who presided over Brewer's initial conviction—kept him in jail for five more years, claiming he planned to retry the case.

Finally, after intervention by the Mississippi Attorney General's Office and the Innocence Project at Cardozo Law School, the charges against him were dismissed.

The enduring images of exonerees are of vindicated individuals reunited with family and friends in a moment of happiness and relief, tearful men embraced by supporters who have long fought for their release. We think of these moments as conclusions, but really they're the start of a new story, one that social science is beginning to tell about how exonerees are greeted by their communities, their homes, and their families, and how they cope with the injustice of their confinement and rebuild their lives on the outside.

understanding exoneration

The ranks of those exonerated of crimes they didn't commit increases every year. Some sources report the number of exonerees now tops 340 for murder or sexual assault since

1989, 200 for DNA exonerations secured by the Innocence Project, and 129 for exonerees released from death row since 1973. The true number of exonerees is no doubt larger, but no system keeps an accurate count.

The swell in the ranks of the exonerated raises questions central to society's ideas about fairness, justice, and responsibility.

Studies of wrongful convictions document the scope of the problem, detail individual cases of wrongful conviction, and identify the legal and social factors leading to wrongful convictions. To date, only two have addressed the consequences of a wrongful conviction for the innocent exoneree—a study by Kathryn Campbell and Myriam Denov of the post-release experiences of five Canadian exonerees and Adrian Grounds' study of the psychiatric assessments of 18 British exonerees. Neither focuses on American exonerees or capital cases.

While the scholarly literature is scant, the struggles of exonerees receive sustained attention in the popular press. Most articles focus on individual cases, describing the numerous obstacles exonerees encounter. But a November 2007 article in *The New York Times* by Janet Roberts and Elizabeth Stanton provides an in-depth examination of the experiences of more than 100 DNA exonerees and is coupled with an online multimedia presentation that includes audio clips of exonerees discussing their experiences.

Sociological research can help us understand exonerees in ways that go beyond basic descriptive and journalistic accounts. We begin, strangely enough, with studies of responses to disasters.

Exonerees involved in this research

Name	Sex	Race	Age at conviction	State where tried	Years in prison	Years on death row	Year of exoneration	DNA?	Actual offender[s] found
Fain	M	W	35	ID	18	18	2001	yes	no
Melendez	M	L	34	FL	17.5	17.5	2002	no	yes
Tibbs	M	B	34	FL	2	2	1977	no	no
Gauger	M	W	41	IL	3	1	1996	no	yes
Krone	M	W	35	AZ	9.5	2	2002	yes	yes
Butler	F	B	19	MS	5	2	1995	no	no
Bloodsworth	M	W	23	MD	8	1	1993	yes	yes
Brown	M	B	25	FL	14	14	1987	no	no
Wilhoit	M	W	33	OK	6	5	1993	no	no
McMillian	M	B	47	AL	6	6	1993	no	no
James	M	B	23	OH	26	1	2003	no	no
Howard	M	B	23	OH	26	1	2003	no	no
Keaton	M	B	18	FL	2	1	1973	no	yes
Gell	M	W	23	NC	8.5	5	2004	no	no
Cobb	M	B	37	IL	9	4	1987	no	no
Taylor*	M	B	29	IL	13	10	2003	no	no
Beeman	M	W	25	OH	3	2	1979	no	no
Rivera	M	L	28	NC	2	1.5	1999	no	yes

*This exoneree prefers to remain anonymous. We have chosen this pseudonym for him.



Levon Brooks, second from left, and Kennedy Brewer, second from right, celebrate with Innocence Project attorneys, Vanessa Potkin, left, and co-director Peter Neufeld, after being granted their appearance in circuit court Friday, Feb. 15, 2008, in Macon, Miss. Judge Lee Howard exonerated Brewer for the rape and murder of a child, and granted Brooks a new trial for the murder of a child.

Robert Lifton argues that some disasters are short-lived events with a distinct beginning and end—such as floods, tornados, or bombings. Others are “sustained catastrophes” that extend over long periods, like those experienced by abuse victims or prisoners of war.

If incarceration of an innocent person can be considered a sustained catastrophe, we can understand the human suffering experienced by exonerees just as we do other trauma survivors. Models of trauma, coping, and stigma management help explain the “life after death” experiences of those we most often think of as surviving sustained catastrophes (cancer and AIDS patients, abuse victims). So, too, these ideas help us understand how death row exonerees negotiate trauma after release.

the exonerees

Since 2003, with the help of funding from The University of North Carolina at Greensboro and the American Sociological Association, we’ve conducted 18 life-story interviews with death row exonerees. After years of hearing their stories told by attorneys, judges, and the media, we wanted to give them a venue to speak for themselves and claim their own stories. They came from varying backgrounds and had spent anywhere from two years to 26 years in prison and one year to 18 years on death row (see table). All were convicted of heinous and stigmatizing crimes.

Kirk Bloodsworth and Charles Fain were accused of raping and killing young girls. Delbert Tibbs, Walter McMillian, and Shabaka Brown are African-American men accused of raping and/or killing white victims in the Deep South.

Four of our interviewees experienced the trauma of con-



Shabaka Brown was wrongfully convicted of murder in Florida in 1975. He was sentenced to death then released from prison 13 years later when his conviction was reversed.

fronting a death in the family while being wrongfully tried, convicted, and sentenced to death for the murder. Gary Gauger was convicted of murdering his elderly parents, Sabrina Butler her 9-month-old son, Greg Wilhoit his wife, and Scott Taylor* his wife and 15 month old son, along with five other non-family members.

Two of the exonerees we met came close to an execution date. Brown came within 15 hours of electrocution and had been measured for his burial suit. Butler expected to be executed and waited all day for someone to escort her to the execution chamber.

She recalls crying, “they gonna kill me, they gonna kill me,” and thinking, “I was scared to death because I thought that they was gonna kill me for somethin’ that I didn’t do. And I couldn’t tell nobody to help me.” No one came that day—she’d received a stay of execution, but nobody told her.

We know that in general, survivors often feel guilty for living when others die and experience hyper-arousal, intrusive thoughts, and feelings of hopelessness and apathy. They tend to have difficulty envisioning the future and connecting to others emotionally, and struggle with feelings of fear, worthlessness, helplessness, isolation, and rejection. And we saw similar survivor’s guilt among these exonerees.

Juan Melendez told us that hundreds of death row

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inmates applauded his departure. Yet, he couldn’t bring himself to write them letters, saying, “they aren’t outside, they are in there, it don’t feel right.”

“I can’t write letters. I can’t talk on the phone. I don’t like to visit. I don’t like to go anywhere. I don’t like to leave the

*Not his real name



AP Photo/Michael S. Green

Sabrina Butler, sentenced to death for the murder of her 9-month-old child in Mississippi in 1990, poses with her husband Joe Porter. Five years after being convicted, the jury in a new trial acquitted Butler of all charges.

house. What's the point? ... So ... the days go by, and pretty soon it's one year, it's three years, it's five years, it's, you know? ... Don't wanna bust out of my comfort zone. Don't wanna grow," Gauger said of the apathy he feels about maintaining relationships with those close to him.

Wilhoit puts it succinctly: "People say that I'm emotionally unavailable."

Fear of repeat accusations also curtails much of exonerees' social activity. Bloodsworth is careful to let his wife know exactly where he is at all times, refusing to be alone unless someone can verify his whereabouts.

Many exonerees simply feel helpless. Depending on their length of incarceration, they return to a world dramatically different from the one they left. Technology such as ATM machines or cell phones is confounding and many struggle just to relearn the basics of walking (for sustained periods or by negotiating space), eating with utensils, and sleeping.

"I can't really see more than two weeks in advance," said Gauger, describing his inability to envision the future. "I've lost the ability to really comprehend that. I think I got that at Statesville (prison) 'cause commissary comes every two weeks."

Learning to manage stigma is a challenge for exonerees just as it is other survivors. The debilitating effects of stigma for exonerees echo those described in the classic work by Erving Goffman, who introduced the concept of stigma and "spoiled identity" to sociologists.

Several exonerees were greeted with fear from neighbors, suspicion from family, and hate messages from others. Frequently, community members still see them as guilty criminals who "beat the system." Bloodsworth often found "child killer" written in the dirt on his truck, and neighbors told Butler's children their mother was a "baby killer." Because of her noto-



AP Photo/Todd Dudek

Kirk Bloodsworth, shown here in 2004, was cleared by DNA testing after spending nine years in prison, including two on death row, on rape and murder charges.

riety, Butler can't find employment in her Mississippi hometown. Rejected by her church, she still feels searing glares while grocery shopping or about town. So she rarely goes out. Some exonerees move away from the communities in which they were tried, hoping anonymity will insulate them from stigma.

Two factors affect how much stigma exonerees experience—whether they receive a public apology from legal offi-

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cial upon release and whether the actual offender is identified in their case. Both profoundly impact community opinion and influence how community members view and treat exonerees.

Without an apology or formal "delabeling," exonerees struggle to reshape their identities as "innocent," especially when public officials continue to doubt them. Prosecutors, in particular, often publicly maintain exonerees' guilt, even in the face of overwhelming evidence of their innocence. Media often report these public comments but rarely provide full coverage of the evidence.

Such prosecutorial proclamations, combined with the public's general belief that officials rarely pursue cases against "good" people and the cynical barb that "everyone in prison is innocent," lead the public to believe exonerees "got out on a technicality." Thus, while family and friends partially insulate exonerees from stigma, the real power to destigmatize lies, cruelly, with those most responsible for their wrongful convictions.

negotiating exoneration

Survivors of life-threatening trauma, including exonerees, rely on multiple coping strategies that shift over time. Strategies

of incorporation and rejection are chief among them.

As Dapna Oyserman and Janet Swim have noted, coping strategies can be aimed at either producing positive outcomes for survivors or avoiding the negative effects of the trauma itself. For exonerees, strategies of incorporation might include absorbing the “exoneree” identity into their self-concept and finding some good that can come from their negative experiences. Exonerees and other survivors use a variety of techniques to make sense of what happened to them, such as telling their stories openly, finding meaning in their experiences, establishing ties to other survivors, and relying on family support. Many exonerees participate in activism and education by speaking publicly about their cases. Recounting their stories helps them “normalize” the trauma and builds confidence through acknowledgment and affirmation. Some cope by seeking out other exonerees at conferences and events, finding comfort in community with those who understand their plight.

Others explore spirituality to find positive meaning in their wrongful convictions. “You gotta make medicine from poison. ... I believe that the Great Spirit took me to death row so that I could be a witness and a voice against [the death penalty],” Tibbs said. Butler believes her tragedy was a spiritual lesson, God’s way of telling her she was on the wrong path.

Of course, some exonerees can find nothing positive in their trauma. Their strategies of rejection aim to reduce or avoid the negative consequences of their wrongful convictions and involve socially isolating or numbing themselves emotionally. This can include self-destructive behaviors like drug and alcohol abuse and violence.

“I just could not function at all. ... The only thing I wanted to do was ... get high and drink ... because I wanted to forget,” Bloodsworth said. As we’ve seen, others choose isolation, avoiding the accusatory glare of the public whenever possible.

looking ahead

The joy on exonerees’ faces at their release quickly fades when they confront the challenges of managing their trauma and rebuilding their lives. Several said they needed a “decompression period” to adjust to everyday living on the outside. Their immediate physical needs involve finding housing, medical attention, employment and training, and emergency financial support. But their emotional and psychological needs also demand attention: managing anger and bitterness, reconnecting with family and children, addressing drug or alcohol dependency, and negotiating social rejection and stigma.

Their legal needs, too, continue long after the protracted court battles to gain their freedom. They need help getting their records expunged, seeking a gubernatorial pardon, filing a compensation claim or suing the state for wrongful incarceration, managing whatever media attention or offers may come their way, and negotiating bureaucracies to file for Social

Security, disability, or welfare assistance.

Although exonerees consistently identify needs for services and assistance, their most pressing need, they say most often, is for an apology—something very few ever receive. This adds to their bitterness and anger, fuels public hostilities toward them, and exacerbates the trauma they’ve already experienced.

Very little help for those physical, emotional, and legal needs is available. Most support and assistance comes from family, friends, local advocates, and their attorneys. While the public often views compensation as the solution to most exonerees’ problems, only 25 states and the District of Columbia currently have compensation statutes in place to provide financial assistance to the wrongly convicted. In many of those states the application procedures are limiting, legally complex, and costly to pursue. Only one of the 18 exonerees we interviewed was able to successfully negotiate this process to receive compensation. While the expansion of such statutes is needed in those states that don’t currently have them, compensation is no panacea for the array of trauma-based challenges confronting exonerees.

Instead, exonerees need wide-ranging assistance based on their multi-dimensional needs. Only a few organizations currently exist to address those needs, including the Innocence Project, the Witness to Innocence Project, the Life After

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Exoneration Program, and the Darryl Hunt Project for Freedom and Justice. And despite their good work, their scope and reach are limited. Exonerations are most often local events and require services from local community groups, employers, and service agencies. It’s difficult for the Life After Exoneration Program, in California, or the Darryl Hunt Project, in North Carolina, to assist exonerees in Idaho, Mississippi, Florida, or Illinois.

These local exonerations, then, are perhaps best addressed on a local level, supplemented by the experience and resources of these larger organizations. Barry Scheck and Peter Neufeld, co-founders of the Innocence Project, called for the development of a network of innocence projects in each state in the late 1990s. Now, a similar network of “reintegration programs” is needed to partner with innocence projects to assist exonerees in rebuilding their lives.

Such programs would be well-situated to provide services, legal aid, employment assistance, and transition funds by drawing on networks of lawyers, physicians, employers, counselors, and advocates. A community reintegration forum might help prepare communities to embrace exonerees. By fostering the reintegration of exonerees back into their communities, such a network of programs may ultimately complete the exoneration process.

continuing controversy

A hallmark of the U.S. legal system is its foundation on the due process rights of the accused to prevent mistakes. The conviction and incarceration of an innocent person, especially in a capital case, represents a grave failure of that process. At present, the consequences of such failures have received little informed evaluation.

Despite a decade of raised public awareness of wrongful convictions, exonerations are still rife with controversy. They provide a window into the competing value systems embedded in both the criminal justice system and public opinion about the administration of justice. While some recognize the mistakes and abuses in the system that lead to wrongful convictions, others remain skeptical about the true innocence of exonerees. The public is therefore torn between believing the evidence of innocence before them and a strong desire to believe in the accuracy and virtue of the system. Cynics hold that if exonerees didn't do what they were convicted of this time, no doubt they did do something along the way to merit the punishment they received. Perhaps the reality of long, painful, and undeserved punishment is too horrible for us to confront.

The U.S. legal system provides as many rights to the accused and safeguards against wrongful conviction as almost any nation in the world. In establishing the current slate of due process rights, lawmakers took to heart the adage that it's better to have 10 guilty people go free than convict one innocent person.

Yet, at odds with this fundamental principle are the pressures on the criminal justice system to arrest, convict, and incarcerate in the name of public safety that we see today. Exonerations draw these competing values to the surface. While on one hand Americans want to convict the guilty and only the guilty, on the other they want to give those in the system wide latitude to arrest and convict offenders to keep us safe.

Exonerations expose these tensions by forcing us to weigh which of these competing principles is more important. Is justice best served when the system operates accurately but slowly and some guilty individuals slip through the cracks? Or when the system swiftly processes the guilty at the expense of a few—or a few hundred, or a few thousand—innocent lives along the way? Which type of error shall we tolerate?

Exonerations also raise the difficult issue of responsibility. In studies of wrongful convictions we typically ask the question of responsibility this way: if an innocent person is wrongly convicted, who is responsible—the police, prosecutor, judge, public, media, or “the system” writ large? When examining exonerations rather than wrongful convictions, however, the question of responsibility is inextricably linked to the question of “justice.” If innocent people are exonerated of crimes, what is our responsibility to them? How do we create, or recreate,

justice for the exonerated?

In comparison to the parolees convicted for crimes they committed, we currently provide even less help to exonerees upon release. Exonerees get no time in a halfway house; no access to drug rehabilitation; no help with job skills, housing, or employment; and no bus fare, not even pocket change to make a phone call from the prison lobby for a ride home. Exonerees rarely even get something as seemingly simple as

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an apology, a recognition by someone in power that the exoneree was wronged, a recognition of responsibility.

We seem unable to fully embrace the idea that justice for exonerees requires official recognition of responsibility to aid them in rebuilding a life. Our hesitancy in this regard may be entangled with our competing need to believe in the efficacy of the system. To publicly acknowledge our responsibility to exonerees is also to acknowledge a flawed system—and the other innocent people in prison awaiting vindication.

recommended resources

Kathryn Campbell and Myriam Denov. “The Burden of Innocence: Coping with a Wrongful Imprisonment,” *Canadian Journal of Criminology and Criminal Justice* (2004) 46: 139–163. Details the post-release experiences of five Canadian exonerees.

Erving Goffman. *Stigma: Notes on the Management of Spoiled Identities* (Prentice Hall, 1963). The classic sociological analysis of stigma.

Adrian Grounds. “Psychological Consequences of Wrongful Conviction and Imprisonment,” *Canadian Journal of Criminology and Criminal Justice* (2004) 46: 165–182. Examines psychiatric assessment information for 18 British exonerees.

Robert Jay Lifton. “History of Trauma,” in *Beyond Invisible Walls*, Jacob D. Lindy and Robert Jay Lifton, eds. (Brunner-Routledge, 2001). Introduces Lifton's concept of “sustained catastrophe.”

Michael L. Radelet, Hugo Adam Bedau, and Constance E. Putnam. *In Spite of Innocence* (Northeastern University Press, 1992). The seminal work on wrongful conviction of the innocent.

Janet Roberts and Elizabeth Stanton. “A Long Road Back After Exoneration, and Justice Is Slow to Make Amends,” *The New York Times* (November 25, 2007). Multi-media presentation of interviews with more than 100 DNA exonerees.

Sandra D. Westervelt is in the sociology department at University of North Carolina Greensboro. She is the author of *Shifting the Blame: How Victimization Became a Criminal Defense*. **Kimberly J. Cook** is in the sociology and criminology department at University of North Carolina Wilmington. She is the author of *Divided Passions: Public Opinions on Abortion and the Death Penalty*.