

RIGHT TO COUNSEL: MENTAL HEALTH APPROACHES TO SUPPORT THE EXONERATED

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Abstract

The effects of wrongful imprisonment are devastating for exonerees and their families. Yet, few services exist to support the mental health and successful social reintegration of the exonerated. This article presents an overview of the psychological sequelae of wrongful imprisonment and how social workers can best serve clients in the aftermath of exoneration. It will address existing gaps in service provision and provide clinical practice suggestions to advance the well-being of exonerees in Illinois and beyond.

According to the National Registry of Exonerations (2015), more than 1,700 prisoners in the United States have been exonerated after serving an average of 10 years. One quarter were exonerated with the help of DNA evidence and nearly 7% were facing the death penalty for crimes they did not commit. Wrongful conviction exacts a disproportionate toll on African Americans; 60% of those exonerated are people of color and nearly half are Black. After leaving prison, the exonerated are “free,” but carry psychic wounds and the stigma of their long-term, unjust imprisonment. Post-release, many face unemployment, financial troubles, poor physical and mental health, and strained family ties (Roberts & Stanton, 2007).

Following their precipitous release from prison, exonerees need a wide range of supportive services to cope with the challenges of reintegration. According to Weigand and Anderson (2007), exonerees' long-term functioning is correlated with the support provided during the initial stages of reintegration. Immediately following their release is when the exonerated most need assistance with meeting their basic needs: employment, housing, transportation, education, physical and mental health care, and public benefits (Innocence Project, 2009). Few states, however, provide exonerees with immediate support services to aid their transition (Westervelt & Cook, 2010). And unlike those who have been

paroled, exonerees are not entitled to, nor are they well-suited for, re-entry services that target criminal risk factors. In other words, the exonerated “get the worst of both worlds—the stigma of prison, with none of the support services available to those who served time” (Innocence Project, 2009, p. 11). While compensation is available for a select few, such remuneration does little to address the horrors of wrongful imprisonment (Weigand, 2009).

In Illinois, state assistance for exonerees is scant. Advocates have pushed to increase support services for the exonerated incrementally; however, implementation has been sluggish. Illinois exonerees are eligible for state compensation, but the maximum amount is less than \$200,000, even after spending decades in prison (Court of Claims Act, 2009). In 2011, Governor Quinn abolished the death penalty in Illinois after 20 death-row exonerations, the second highest of any state in the US (Death Penalty Information Center, 2016; Warden, 2012). That year, Life After Innocence (LAI) at Loyola University Chicago School of Law—the only group in Illinois that advocates for the exonerated after their release—sponsored a state bill that passed with bicameral support (Civil Administrative Code of Illinois, 2011; LAI, 2016). The law grants exonerees in Illinois free mental health services from qualified clinicians as part of a state-funded re-entry services program (Zavala, 2011). The law, however, required the Illinois Department of Human Services (DHS) to promulgate rules establishing the eligibility of the wrongfully imprisoned to participate in the program, which it has yet to do. More than four years later, not a single exoneree has benefited from these services. LAI is working to identify pro-bono providers willing to work with this population and continues to advocate for DHS to abide by its statutory obligation to ensure exonerees' access to free mental health services.

This article presents an overview of the mental health challenges facing the exonerated and gives social workers an outline of best practices to promote exoneree healing, empowerment, and well-being. An overview of the impact of exoneration will be provided, with particular attention to the deleterious mental health outcomes of wrongful conviction and imprisonment and the difficulties experienced by exonerees and their loved ones during the transition home. Special populations of exonerees and their resilience in the face of enormous injustice will be highlighted, along with short- and long-term practice suggestions for social workers.

THE IMPACT OF IMPRISONMENT

Wrongful imprisonment is traumatizing and disorienting because imprisonment itself is traumatizing and disorienting. While exonerees face mental health outcomes that are unique to their wrongful conviction, the damage wrought by imprisonment is shared among most prisoners. The dominant feature of prison for many is fear and violence (Grounds, 2005). According to Haney (2001), prisoners faced with punitive, overcrowded institutions, isolation, neglect, and abuse can develop psychological adaptations that lead to negative outcomes, including diminished self-efficacy and self-worth, hypervigilance, emotional suppression, social withdrawal, exploitative and/or violent behavior, and post-traumatic stress responses. These reactions can impede post-prison adjustment and are particularly likely among exonerees.

Unjust arrest, conviction, and detention—as well as the distress imposed by coerced confessions—exacerbate the harms of long-term incarceration. Wrongful imprisonment involves the isolation, interrogation, and wrongful detention of an innocent person (Weigand, 2009), and amounts to “torture by human design” (Wilson, 2002, p. 1). Victimization at the hands of the state tends to invoke feelings of betrayal and injustice (Grounds, 2005). Wrongful conviction may thus be characterized as a state crime that results from the illegal actions of state actors or the misapplication of their authority; post-exoneration re-victimization by state officials occurs when they refuse to apologize, accept responsibility, acknowledge exonerees' factual innocence, or provide meaningful redress for their wrongful acts (Westerville & Cook, 2010).

One exoneree, who spoke at a panel discussion sponsored by the Illinois Criminal Justice Information Authority, described the trauma of wrongful imprisonment and the need for assistance following his release from prison after serving 18 years for a crime he did not commit:

I think that the State should have provided us with immediate counseling to help us deal with the emotional ups and downs that you go through. When you lose your freedom, you lose something...The person I had to become to survive 18 years of incarceration is not the person I wanted to be, and it's not the person that I am. It became a part of me because I had to survive in prison. It was hard. It was hard—every day, every night, every moment (cited in Illinois Criminal Justice Information Authority, 2002, p. 5).

PSYCHOLOGICAL EFFECTS OF WRONGFUL IMPRISONMENT

To date, few studies have examined the psychosocial impact of wrongful imprisonment. Death-row exonerees and those who have been freed based on DNA evidence have received some attention, but beyond these cases, little is known about the mental health challenges faced by the majority of exonerees. Grounds' (2005) descriptive clinical study of eighteen exonerated men is a notable exception and stands out as a rare source of insight into this population. As such, this article draws heavily from her groundbreaking research. Grounds found that the long-term psychological effects of unjust imprisonment manifest only after exoneration and can result in severe disruption, dysregulation, and dysfunction. These devastating mental health outcomes resemble that of military veterans and torture survivors who suffer from extreme forms of trauma. The psychological sequelae of wrongful imprisonment include severe mental health problems, such as persistent personality changes, Post-Traumatic Stress Disorder (PTSD), depression and adjustment difficulties, relationship impairments, feelings of chronic estrangement and isolation, and complex feelings of loss. Comorbidity is common. In addition to traumatic stress responses, many exonerees suffer from depressive disorders and substance abuse or dependence.

The Difficult Transition Home

Wrongful imprisonment often requires modes of adaptation: routines to cope with the fatigue and despair of prison and enduring legal battles. Such adaptations may enable survival in custody, but can wreak havoc on exonerees' home lives (Wilson, 2002). Many exonerated men in Grounds' (2005) study were so conditioned to take orders from prison officials that they found it difficult to function in the unstructured environment of home. As one exoneree put it, "I haven't still, today, been able to adjust to the world. It's like...I was on another planet" (cited in Illinois Criminal Justice Information Authority [ICJIA], 2002, p. 3). Exonerees may, indeed, experience feelings of shock and "unreality" following their abrupt release from prison and struggle to make decisions for themselves or perform activities of everyday living. The exonerated in Grounds' (2005) study were often embarrassed by the practical difficulties of mundane tasks like crossing the street, using a microwave, or handling money.

In addition, barriers to securing employment are well documented due to the rarity of expungement, the omnipresence of exonerees' criminal records, and the notoriety of their cases (Knowles, 2015). In their research investigating the stigma of wrongful imprisonment, Thompson, Molina,

and Levett (2011) found that exonerees are likely to experience the most significant stigma regarding others' evaluations of their personal character. Regardless of their innocence, exonerees can expect to be greeted with fear and social rejection as a result of the staid cruelty of unjust imprisonment.

The Effects of Separation and Loss

The exonerated enter a realm of loss: the "loss of time, loss of feelings of security, loss of loved ones, and loss of self" (Westervelt & Cook, 2010, p. 268). Grounds' (2005) pinpoints a perhaps unexpected difficulty in shifting from incarceration to exoneration. Set free with little to no time to prepare for their release, the exonerated are often cut off from their lives in prison and thrown into a new reality. Once separated from their home and family through imprisonment, the exonerated are then abruptly separated from their prison existence. Such drastic cutoffs can result in protracted feelings of loss among exonerees. They may, for instance, be prohibited from having contact with anyone in prison and thus feel intense guilt about leaving others behind. After his release, one exonerated man tells the story of continuing to drive by the prison where he was held for more than two decades, calling that time "the best part of my life" (Grounds, 2005, p. 31). Rigid separation from one's life in prison—however wretched—can result in feelings of profound loss and estrangement that may feel impossible to reconcile among the exonerated.

As with most trauma survivors, exonerees may become withdrawn, express reluctance to disclose the painful details of their horrifying experiences, and feel less capable of emotional expression and intimacy. Grounds (2005) discovered that most of the exonerees in his study struggled to identify their emotions and were racked with shame and guilt. Distrust is likely to develop from the betrayal of wrongful imprisonment and can contribute to isolation as an involuntary coping mechanism to survive extended imprisonment. Grounds also observed that many of the men in his study would rigorously avoid social contact and continued to engage in self-isolation after their release from prison. Many described the horror of no longer feeling capable of loving their families. Such reactions may be particularly upsetting for exonerees who crave reconnection only to find themselves struggling to integrate back into their families and communities.

Grounds' (2005) study concluded that significant disruptions to identity and life stage development resulted from long-term wrongful imprisonment. The exonerated endure a permanent loss of innocence (Grounds, 2005; ICJIA, 2002), as well as their connection to themselves and to their identities as innocent people (Wilson, 2002). Wrongful

imprisonment also fractures normative life trajectories and can impair exonerees' sense of purpose and of future possibilities. During interviews with Grounds (2005), the exonerated men described feeling "dislocated in time" or "developmentally frozen," as though stuck at the age at which they were incarcerated. Many mourned lost opportunities to have or raise children. Such incalculable losses and ruptures to exonerees' developmental trajectories create significant and enduring distress long after they have come home.

Persistent fears of rearrest and imprisonment may pervade the psyches of the exonerated. Nearly all of the exonerees in Grounds' (2005) study expressed fear or paranoia of being surveilled or re-apprehended by law enforcement. Such terror led one participant to hide in the bedroom and refuse to leave his home alone. Hypervigilance and fear of rearrest may be particularly acute in cases that received significant media attention, though few exonerees are spared the fear that they can once again be wrongfully detained for someone else's crime.

The Challenges Facing Death-Row Exonerees

Research conducted by Westervelt and Cook (2010) draws attention to the particular harms suffered by death-row exonerees. Many condemned prisoners have borne witness to others being killed, not knowing when they might be executed. Acute trauma reactions were common among this population, including hyperarousal, feelings of hopelessness and apathy, intrusive thoughts related to their impending death, and difficulty envisioning the future and connecting with others (Westervelt & Cook, 2008). Westervelt and Cook (2010) found that the notoriety of capital cases and widespread misinformation fueled the stigma faced by death-row exonerees. Often with little choice other than to return to the communities where they were wrongfully convicted, it was nearly impossible for these exonerees to circumvent social rejection and hostility. Indeed, the "stigma of prison seems to hover over an innocent person as much as the guilty" (Weigand, 2009, p. 430). Many exonerees wrongfully convicted of murdering a loved one were denied the opportunity to mourn these deaths; instead, they were preoccupied with defending their innocence and their lives (Westervelt & Cook, 2010). As a result, death-row exonerees face particular challenges rebuilding their lives after being unjustly sentenced to die.

Families and Future Adjustment Difficulties

Families bear a great burden in the case of wrongful incarceration and frequently assume the greatest responsibility for exonerees' reintegration. With few resources from the state, the exonerated often turn to their families as the primary resource for housing, employment, and health care (deVuono-powell, Schweidler, Walters, & Zohrabi, 2015). Such support is vital for exonerees' well-being (Westervelt & Cook, 2010). But the relationship between exonerees and their families is usually far from cohesive, complicated by feelings of estrangement and loss of intimacy and cohesion. Grounds (2005) found that family visits were often particularly unbearable for the wrongfully imprisoned. Many times, exonerees and their loved ones would minimize their pain and struggles during their brief contact with one another. While intended as a strategy to minimize distress, with time it intensified the distance between family members and diminished their ability to relate to or understand one another.

Families of the wrongfully incarcerated have also suffered from victimization and ostracization. Relatives of those struggling to rectify their wrongful convictions described feeling as though it's "us vs. the world" (Grounds, 2005, p. 38). Grounds (2005) explains that many family members were overwhelmed by exonerees' psychological difficulties; some developed similar conditions in response to the trauma of their loved one's imprisonment. The stress and separation of wrongful incarceration hurts exonerees and their families long after freedom is attained.

Wrongful arrest and detention can also result in disruptions to exonerees' belief systems and hopes for the future. As Wilson (2002) explains, exonerees may attempt to find meaning in "willfully imposed injustice" (p. 2) and come up empty-handed; such miscarriages of justice are often inexplicable. Many will also experience a profound sense of social and spiritual abandonment due to the deprivation of their freedom despite their factual innocence. Similarly, the exonerated in Grounds' (2005) study questioned why they were forced to endure wrongful imprisonment. They grappled with the meaning of life and their suffering. Such existential anguish is common among the exonerated and represents a collateral consequence of the unfathomable injury of wrongful conviction.

Exoneree Strength and Resilience

The exonerated nonetheless manage this array of unbearable hardships with tremendous strength and resilience. In her work with exonerees, Weigand (2009) found that many attempt to give back to their communities despite all that has been taken from them. According to Grounds (2005), some of the initial hurdles of reintegration are

successfully managed by exonerees with the help of their support networks. Some find improvement of their distress symptoms over time. Some exonerees also drew strength from their refusal to admit guilt, participate in rehabilitative programming, or submit to conditions of parole. For many, preoccupation with their legal cases was a perpetual form of resistance to their unjust imprisonment. While exonerees possess considerable resilience to endure the scourge of wrongful imprisonment, the most prominent clinical features of exoneration appear to be enduring distress, impairment, and isolation.

BEST PRACTICES FOR HELPING THE EXONERATED

In Illinois, mental health care for exonerees is a legal and ethical mandate. It is imperative that the exonerated have access to immediate and ongoing comprehensive mental health services, including intensive case management; individual, family, and group counseling; peer support; and advocacy opportunities to assist with managing the complex reactions to wrongful imprisonment and to support social reintegration. Since exonerations are local events, they require services for exonerees and their families that are tailored to the local context and community (Westervelt & Cook, 2008). Interventions should also consider how the exoneree and their family adapt to their circumstances, and how the social environment has changed during the period of incarceration (Grounds, 2005). Social workers are uniquely positioned to provide such interventions in order to expand access to these critically-needed services.

Short-Term Services in the Aftermath of Exoneration

The days and weeks immediately following an exoneree's release from prison represent a critical period of early intervention. As with any trauma, it is only after the victimization has abated—or in this case, once an exoneree is freed—that the healing process can begin. Wrongful imprisonment is a form of chronic psychological trauma; therefore, social workers must be careful not to assume that any monetary compensation awarded to exonerees can ameliorate the catastrophe of wrongful conviction (Weigand, 2009). During this time, social workers can advocate for exonerees' access to needed services and assist them in identifying and overcoming barriers to reintegration (Weigand & Anderson, 2007). Such support is critical to exonerees' short-term well-being and adjustment to life in the community.

One model of intensive case management to consider replicating is that of the Social Work Department of the Innocence Project, which conducts

outreach to exonerees prior to release and administers an assessment to determine what kinds of supports are necessary to facilitate a successful transition back to the community (Innocence Project, 2013). This type of program offers the benefit of establishing a network of care prior to release, which can increase treatment adherence and continuity of care. Meeting clients' basic needs is a primary social work value that should guide the care provided to exonerees in the aftermath of their release in order to support the restoration of their functioning, relationships, and livelihoods.

Long-Term Services and Care

A number of long-term interventions hold particular promise for alleviating exonerees' suffering and supporting their healing and reintegration. Grounds (2005) recommends specialized treatment for specific conditions (e.g., phobia, social anxiety) in addition to long-term supportive counseling. He cautions that a diagnosis of PTSD may not be appropriate in cases of wrongful conviction due to the prolonged trauma and resultant personality changes and disruptions to exonerees' relationships, functioning, and sense of self. In addition, social workers should anticipate that exonerees may be distrustful of clinicians' intentions and wary of disclosing information about themselves or their cases (Weigand, 2009; Grounds, 2005). Therefore, clinical interventions should draw heavily from evidence-based, trauma-informed theories and modalities. Practitioners must also consider the multiplicity of factors that compel and impede growth and healing among exonerees. When delivered effectively, individualized services may prevent the most injurious of outcomes and assist exonerees to redress the trauma of wrongful imprisonment. From there, the work can help these clients to establish supportive networks of care and promote healing and recovery.

Psychoeducation regarding common reactions to exoneration and possible retraumatization is critical. This helps the exonerated normalize thoughts and feelings and avoid further stigmatization (Weigand & Anderson, 2007). Social workers would do well to acknowledge exonerees' possible feelings of disappointment and estrangement from their prison community and families. In this vein, clinicians can provide a space for exonerees to acknowledge any possible ambivalence about their hard-fought freedom and the challenges of adjusting to life on the outside without any meaningful connections to their former life in prison.

To encourage integration, Westervelt and Cook (2008) suggest working with exonerated clients to incorporate the exoneree identity into their existing self-concept and to identify potentially positive aspects of

exoneration. Others argue that it is imperative for exonerees to shed their former labels of “prisoner,” “murderer,” etc. in order to assume positive and healthy identities (Weigand & Anderson, 2007). Narrative therapy, for instance, can assist the exonerated to re-author their life stories and thus reclaim their innocence, while Acceptance and Commitment Therapy can assist exonerees to develop present-moment awareness and ease their attachment to harmful labels. Mindfulness-Based Stress Reduction, Eye Movement Desensitization and Reprocessing, and other somatic approaches to trauma integration may be especially useful for the exonerated. (Re)connecting with spiritual or faith-based communities can also aid exonerees to make meaning out of their wrongful imprisonment and provide sorely-needed fellowship (Westervelt & Cook, 2008). As with any client, social workers are encouraged to rely on their clinical expertise to tailor approaches to exonerated clients’ strengths, needs, and circumstances.

Relationship Building: Family and Group Work

Family counseling is critical given the adjustment problems between exonerees and their loved ones. Such therapy can promote cohesion and reconnection, help to build mutual understanding, and strengthen coping skills (Grounds, 2005). Therapeutic approaches to strengthen family bonds include cognitive behavioral interventions that support exonerees’ assumption of familial responsibilities, family mediation, family systems therapy, and parenting classes (Weigand & Anderson, 2007). Adapting research on transnational families and rituals of reconnection can likewise bolster exonerees’ reincorporation into their families.¹ Assisting the exonerated to meaningfully reconnect with their families is crucial to their long-term functioning and social reintegration.

Group work and peer support opportunities can strengthen exonerees’ healing and empowerment. These approaches can enable exonerees to relate to others who have faced and survived similar horrors. Weigand (2009) reports that support groups allow exonerees to process and share their feelings and experiences with one another. Such camaraderie allows the exonerated to explore wrongful imprisonment as a collective experience. Grounds (2005) also advocates the use of support groups, writing that exonerees frequently derived a sense of purpose from helping other former prisoners, which buoyed them from some of the most harmful effects of wrongful imprisonment. The Innocence Project’s Social Work Department lends a model for how exonerees can come together to share their stories and support. During their annual conference, the social work staff organized sessions for exonerees on holistic approaches to healing

from trauma, storytelling, and forgiveness (Innocence Project, 2013). Peer connections can also facilitate mentorship relationships that benefit more experienced exonerees as much as those in earlier stages of exoneration. The opportunity to channel one’s devastation into serving others can be one of the most rewarding outcomes following the tragedy of wrongful imprisonment.

Exoneree Advocacy Opportunities

Social workers can further support exonerees by facilitating opportunities for them to share their stories and engage in advocacy, which can promote empowerment and renew self-efficacy. Many exonerees express a need for formal acknowledgement of the harms they have suffered and a desire for the state to be held accountable (Grounds, 2005; ICIJA, 2002). Westervelt and Cook (2010) have shown that the desire for an apology is paramount among death-row exonerees struggling to reshape their identities as innocent people. At the request of exonerees, and when clinically indicated, social workers can arrange speaking engagements to allow exonerated clients to share their stories and push for reform (Weigand, 2009). Such advocacy can ignite exonerees’ self-esteem and promote leadership development. However, such activities must be carefully managed to avoid potential retraumatization of exoneree clients. Weigand (2009) warns that public and media exposure can provide hope for a formal acknowledgement of exonerees’ losses and meaningful reparations, but comes with the risks of disappointment and exploitation. It is critical for social workers to provide exonerees with proper support and preparation in these instances. Weigand (2009) created a policy manual for handling media inquiries regarding her exonerated clients and urges providers to prepare exonerees before, and debrief them after, media exposure. With the proper support, speaking out can be powerful means for the exonerated to reclaim their voices following wrongful imprisonment.

CONCLUSION

In the wake of experiencing state violence and the denial of their basic human rights, exonerees leave prison crippled by the trauma of wrongful imprisonment. Although few in number, existing studies on the effects of wrongful conviction identify a complex range of negative mental health outcomes for exonerees and their loved ones, as well as high rates of unemployment, poverty, substance abuse, poor health, and strained social ties (Westervelt & Cook, 2010; Roberts & Stanton, 2007; Grounds,

2005). The exonerated need and deserve comprehensive case management, individual and family counseling, peer support, and opportunities to share their stories in order to aid their transition and spur their healing and empowerment. However, access to traditional sources of help and meaningful advocacy opportunities are limited in the aftermath of wrongful incarceration. Despite a legal mandate in Illinois, no specialized mental health services are yet available to support the exonerated.

This situation requires our profession's urgent attention. Social workers in clinical and administrative settings can play a critical role in promoting the well-being of exonerees and their families by providing trauma-informed services while advocating for reforms that reduce the incidence of wrongful imprisonment and indemnify exonerees for incalculable damages. Such remuneration must move beyond monetary compensation to account for the totality of exonerees' losses and their entitlement to care.

¹ Refer to Falicov (2007) for examples of interventions that promote reconnection following the return of a family member who has been absent or displaced for an extended period of time.

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