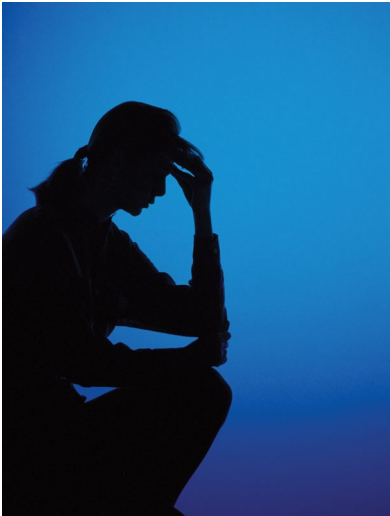


# ADDRESSING THE IMPACT OF WRONGFUL CONVICTIONS ON CRIME VICTIMS

BY SERI IRAZOLA, ERIN WILLIAMSON, JULIE STRICKER AND EMILY NIEDZWIECKI

We need to better understand how wrongful convictions affect the original crime victims and improve systemic support available to them.



**W**hen a wrongfully convicted individual is exonerated, the original crime victim may experience feelings of guilt, fear, helplessness, devastation and depression. For some victims, the impact of the wrongful conviction may be comparable to — or even worse than — that of their original victimization.

These are the findings of an NIJ-funded study examining how wrongful convictions affect the original crime victims, an area in which no prior empirical research had been conducted. Researchers from ICF International conducted in-depth studies to identify the shared experiences and service needs of the original crime victims in 11 cases of wrongful conviction. Recognizing the sensitive nature of the study, the researchers initially contacted victims through third parties, such as district attorney's offices and innocence commissions that had pre-existing relationships with the victims. They also used what is called "snowball sampling," meaning they worked with

participating victims and stakeholders to reach out to crime victims in other cases of wrongful conviction and to identify service providers, law enforcement officers, prosecutors, attorneys and family members who supported victims during the exonerations. In total, researchers interviewed 33 individuals:

- Eleven victims (including immediate family members in cases of homicide)
- Nine prosecutors
- Four service providers
- Three law enforcement officers

## For some victims, the impact of the wrongful conviction may be comparable to — or even worse than — that of their original victimization.

- Two family members
- Two individuals who provided victims with legal advice
- Two innocence commission members

The study found that wrongful convictions have a significant impact on the original crime victims and exposed a lack of services available to them. The researchers also noted that although we have made significant strides over the past three decades to identify wrongfully convicted individuals and to help them gain their freedom and transition to life after exoneration, additional research is still needed to fully understand the experiences and address the needs of the original crime victims during this process. As one victim told researchers, “For [several] years, I had been quite comfortable with my role as the victim. When the exoneration happened, that exoneree became the victim, and I, the rape victim, became the offender. The roles switch, and it’s a role you don’t know what to do with.”

### A Closer Look at the Cases\*

\* This article uses gender-neutral language (they, them, their, themselves) and omits demographic and other identifying information to protect the identities of the victims who participated in the study.

The 11 case studies involved nonfederal violent crimes committed in six states; eight of the crimes took place in urban communities. Many of the cases involved multiple crimes. In order of frequency, the offenses were:

- Rape
- Homicide
- Sexual assault
- Burglary
- Attempted homicide
- Breaking and entering
- Other sexual offenses

Twelve individuals were wrongfully convicted for these crimes. Eyewitness misidentification, invalidated or improper forensic evidence and analysis, false testimony by informants, false confessions, and ineffective legal counsel contributed to the wrongful convictions.

In five cases, law enforcement officers, victim advocates or other officials notified the victim of the potential wrongful conviction during the reinvestigation — for example, when a DNA test had been ordered or when the case had been opened for a formal review in response to an innocence commission. In one case, an official notified the victim after the wrongfully convicted individual had already been exonerated. In four cases, victims learned of the potential wrongful conviction through third parties, such as reporters or legal representatives for the wrongfully convicted individuals. And in one case, notification was not necessary because the victim believed in the wrongfully convicted person’s innocence from the time of the original trial and was actively involved in the appeal and exoneration process.

In nine of the 11 cases, law enforcement identified the actual offender through a confession, DNA testing or new evidence. Three of these offenders were prosecuted and convicted. In three cases, the statute of limitations had passed. In the remaining cases, the offenders were not prosecuted for reasons specific to the individual cases; however, in a few of these cases, the actual offenders were incarcerated for other offenses.

## How Wrongful Convictions May Affect Victims

More than half of the victims in the study described the impact of the wrongful conviction as being comparable to — or worse than — that of their original victimization. Many said they were in shock when they first heard about the exoneration. The majority of the victims also reported intense feelings of guilt. This was especially true for the two-thirds of victims in the study who provided eyewitness identification. One victim recounted, “It was harder going through the revictimization than it was through the rape. . . . Now you have the same feelings of that pain. You have the same scariness. You have the same fear. You have the same panic, but now you have this flood of guilt on top of it.”

As with many cases of wrongful conviction, most of the cases studied received media attention, generating notoriety for both the wrongfully convicted individuals and the crime victims. As one law enforcement officer explained, “You see exoneration cases. You see the media’s flash when [the wrongfully convicted individual is] walking out of the courthouse. Everybody is excited, and yet quietly sitting at home by themselves are the victims.” Some of the victims felt that the media insinuated that they had intentionally misidentified the wrongfully convicted individuals. Many found the anger directed toward them in blogs and comments that followed news articles particularly painful. One victim stated, “This is the thing — your name’s not out there, but you are out there. This is your case. This is something that happened to your body. This is what happened to your mind, to your life. . . . I didn’t give anybody permission to put this out in the newspaper.”

The crime victims reported being afraid of the wrongfully convicted individual following the exoneration. One victim said, “My initial thought was [the wrongfully convicted individual] is going to kill me. [They] will hurt me, and if [they] can’t get to me, [they] will get to my children. So I was hyperalert. The children could not leave my side. I went to school

and told the teachers, ‘They are to stay with you every second.’ That went on for almost two years.” The crime victims also reported being afraid of the actual offenders. Some experienced helplessness, devastation and depression; at least one felt suicidal.

## Improving Support for Victims

When asked for recommendations, victims and stakeholders spoke of the need to improve notification, information and services for the original crime victims in cases of wrongful conviction. In all of the case studies, those interviewed agreed that the criminal justice system should provide initial notification. Victims and other stakeholders recommended that, when appropriate and possible, officials involved in the original case should notify the crime victim. When this is not possible, many stakeholders suggested having a victim service provider present. Others stressed that law enforcement or prosecutors should be present, especially in cases that may involve additional litigation.

Interviewees generally advised that officials should notify the original crime victim in person. One service provider suggested that officials dress in plain clothes to avert unwanted attention or speculation from community members. Service providers noted that when in-person notification is not possible, telephone notification is preferable to a letter or other form of communication.

Recommendations varied regarding the timing of the initial notification. Law enforcement and prosecutors were reluctant to disrupt victims’ lives every time there was a claim of innocence, whereas the crime victims expressed a desire to be notified early in the process. This study did identify a complicating factor: the varying amount of time it takes for a wrongful conviction to be confirmed and then for the wrongfully convicted individual to be released. Victims and stakeholders agreed that the original crime victims should not be blindsided by the exoneration or find out after the wrongfully convicted individual has been released.

Victims and stakeholders stressed that the crime victims are often unfamiliar with the criminal justice system and need information explaining the exoneration process. Service providers noted that victims want to understand the process and how it may affect their lives, well-being and safety. Victims who received regular updates emphasized the importance of these updates, saying that the updates made them feel that they were part of the process. However, it cannot be assumed that all victims will want ongoing updates. Victims and stakeholders recommended asking the crime victims during the initial notification what types of information and case updates they want to receive and how they want to receive them.

Several victims in the study who provided eyewitness identification said that learning how misidentifications may occur helped them process their reactions and understand the wrongful conviction. Some officials, however, pointed out that providing such information might not be appropriate or legally advisable for law enforcement. Victims also said that information on how memories are formed helped them understand why they continued to envision the wrongfully convicted individual when they thought about the crime.

Recognizing that victims are often unable to absorb the information they are given, especially during initial notification, stakeholders recommended giving crime victims printed materials to refer to when they have questions. In addition, stakeholders suggested giving victims a point of contact within the criminal justice system, whom they can reach with additional questions or concerns.

Victims said that notification and information should be provided in a neutral manner. Key stakeholders reported that crime victims usually take a strong position for or against the exoneration, but trying to convince them to take one position or the other is not always helpful. In addition, victims who had been assured that DNA tests postconviction would confirm the convicted person's guilt reported that the

exoneration was especially difficult because they had never considered that a wrongful conviction was even a possibility.

Both victims and service providers recommended safety planning for crime victims. Only one victim interviewed for this study received safety planning, and that was after they specifically requested it. In general, victims remembered being told not to worry about safety. When discussing the importance of safety planning, one service provider explained that regardless of whether there is an actual threat, crime victims who perceive danger genuinely fear for their safety and the safety of their families.

Interviewees also highlighted the importance of counseling services in helping crime victims come to terms with the wrongful conviction. Given the unique nature of these cases, interviewees recommended that counseling services be provided by someone with formal training and experience working with victims of trauma. They also suggested making peer support available. Several victims recommended establishing a national network, operated by a neutral victim-centered organization, to facilitate peer support across jurisdictions. All of the victims interviewed for this study who received peer support were direct victims of a crime; additional research is needed to explore the benefits of peer support for other victims, such as family members in cases of homicide.

Finally, attorneys interviewed for this study recommended that all victims in wrongful conviction cases receive access to independent legal counsel. One attorney suggested that counsel have expertise in criminal defense, as well as training and experience working with victims of trauma. More research is needed to examine the legal considerations for victims in cases of wrongful conviction.

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### About the Authors

Seri Irazola is the Director of NIJ's Office of Research and Evaluation. While employed at ICF, she served

as the principal investigator on the study of wrongful conviction. Erin Williamson is currently a survivor support coordinator for Love146; she served as the study's project manager and was responsible for conducting victim interviews. Julie Stricker, currently with the International Justice Mission, and Emily Niedzwiecki, an associate at ICF, conducted victim interviews for the study.

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### For More Information

- To read the full report, *Study of Victim Experiences of Wrongful Conviction*, go to [NCJRS.gov](http://NCJRS.gov), keyword: 244084.
  - For more on NIJ's work in postconviction testing and wrongful convictions, visit [NIJ.gov](http://NIJ.gov), keywords: wrongful conviction.
  - Watch an interview with Jon Gould from American University on why wrongful convictions happen at [NIJ.gov](http://NIJ.gov), keywords: Gould interview.
  - Read an *NIJ Journal* article on postconviction testing and wrongful convictions at [NIJ.gov](http://NIJ.gov), keywords: postconviction core.
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