

How Attorneys Can Utilize Social Workers in Exonerating a Wrongly Convicted Person

Since 1989, 390 people have been exonerated in Texas; 356 in Illinois; 307 in New York; 229 in California; and a total of 2,754 in the entire country, say Christine M. Sarteschi, Ph.D. and an Associate Professor of Social Work and Criminology at Chatham University and Daniel Pollack, MSSA (MSW), Attorney and Professor at Yeshiva University's School of Social Work.

By **Christine M. Sarteschi & Daniel Pollack** | March 31, 2021 at 11:28 PM



Thanks to some high-profile cases -- Rubin “Hurricane” Carter, the Central Park Five, Steven Avery (Netflix original documentary series, *Making a Murderer*) -- the term “exonerated” is now a well-known expression. Since 1989, 390 people

have been exonerated in Texas; 356 in Illinois; 307 in New York; 229 in California; and a total of [2,754 in the entire country](#).

Being accused of a crime is humiliating. Being wrongfully convicted and incarcerated, often for years, is incomparably worse. From a legal perspective, to be exonerated is to be completely cleared of the charges for which a person was convicted. Often this is accomplished by using DNA profiling of biological material obtained at crime scenes and matching those samples against a DNA database overseen by the government. Now a widespread forensic practice in many jurisdictions, such DNA testing has helped many wrongly convicted people prove their innocence and allowed them to seek exoneration. The Innocence Project and other organizations assist people who may have been wrongfully convicted by using DNA and other evidence.

People with severe mental illnesses (SMI) are particularly vulnerable to wrongful convictions. Utilizing the National Registry of Exonerations (NRE), [Carl \(2020\)](#) studied 26 cases of exonerated persons with SMI. She found that 96% of were victims of wrongful convictions due to falsely confessing. The majority were exonerated based on the use of DNA evidence. While it is not possible to know precisely why individuals with SMI are prone to false confessions, the problem may lie, in part, in coercive police interrogations, coupled with the psychological impairments associated with having an SMI (Carl, 2020). More safeguards are needed to protect people with SMI from the dangers of wrong conviction.

Among other things, the attorney's role in post-conviction litigation includes meeting the client and witnesses, reviewing the entire history of the circumstances

of the arrest and indictment process, reviewing the evidence that was admitted or not admitted during trial, drafting pleadings and motions, and representing the client in court. What is the role of the social worker in this process?

The scholarly literature reveals virtually no information to date about the role social workers have in the lives of those who have been exonerated. Though little information exists, there is evidence that social workers already play a role in the lives of the exonerated but could likely do more. According to the Innocence Project website, they established a social work program in 2006. The role of the social worker within this organization seems to be assisting with reentry and readjustment. The Pennsylvania Innocence Project indicates that they have multiple social workers (one part-time and two interns as of 2019) assisting with clients and families as they transition out of the prison system. According to their website, social workers help with benefits, transportation, counseling, and case management. They also co-facilitate a support group for exonerees.

Consider the aforementioned individuals with SMI faced with wrongful convictions, and by extension, the possibility of being executed for a crime they did not commit. To prevent this, social workers can advocate for better access to mental health professionals during interrogations, mandatory counsel, or educating members of the legal system and jurors about psychological impairments of individuals with SMI (Carl, 2020). Increasing the number of forensically-trained social workers could help in reducing the overall number of wrong convictions.

Reentry into society, even for those innocent of charges, is a daunting challenge. Studies reveal exonerated individuals face a host of issues including the lack of life skills, fear of being out in public and the struggle to reconnect with family ([Thompson, Molina, and Levett, 2012](#)). Karen Wolff, a social worker with the

Innocent Project, notes that housing is also a major problem for exonerees [\(Wolff, 2013\)](#). Thus far, only 36 states have compensation statutes and many of those are insufficient in addressing the needs of exonerees (Innocence Project, n.d.). Social workers can utilize their skills to assist exonerees in meeting these and other related basic needs of living.

Heilbrun, Fishel, Lankford, and Ratkalar [\(2020\)](#) reviewed the literature regarding the unique mental health challenges faced by exonerees, particularly that of trauma in the aftermath of a wrongful conviction. Many exonerees understandably developed the symptoms of post-traumatic stress disorder (PTSD), depression, paranoia, substance use, sleep disturbance, mistrust, grief, and loss. Heilbrun et al., [\(2020\)](#) noted the scant empirical research about interventions to assist exonerated individuals and provided an important set of recommendations, many of which could be implemented or facilitated by social workers. For instance, social workers could assess the needs of exonerees as they begin the reentry process (i.e. needs assessment) or provide psychotherapeutic treatment for those dealing with complex trauma.

A less discussed issue faced by exonerees is the experience of societal stigma. Thompson, Molina, and Levett [\(2012\)](#) conducted two studies to better understand stigmatization experienced by individuals who are wrongly convicted. They wanted to see if they faced stigma akin to that of those found guilty of criminal offenses or parolees. Their results were mixed. The participants in their study did not desire personal relationships with exonerees, however, they were mostly receptive to their reentry into society. Their findings highlight the positive public perception that exonerated individuals may have in society. That knowledge might make it easier for both attorneys and social workers to respond to the many needs of exonerated individuals.

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