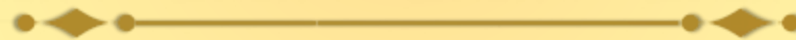


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*“No-Crime” Wrongful Convictions:
The Impact of Gender*



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Wrongful Conviction 101



- ✦ Convicting the innocent for crimes they did not commit is a great miscarriage of justice.
- ✦ Estimate of incidence: .5 to 1% of all criminal convictions (US)
- ✦ Contributing factors: mistaken eyewitness misidentification, false or misleading forensic evidence and testimony, false confessions, official misconduct, jailhouse or other incentivized witnesses, tunnel vision.
- ✦ Male/Female – more males convicted, more males exonerated – in part due to presence of DNA crimes by males.

“No-crime” Wrongful Convictions or Phantom Homicides.



- ✦ “No-crime” wrongful convictions – occur where no crime took place – a death occurs but was an accident or naturally occurring.
- ✦ Estimates that more than 1/3 or all wrongful convictions are “no-crime” cases (Zakirova, 2019).
- ✦ Women are more likely to be wrongly convicted in no-crime cases than are men.
- ✦ Contributing factors: sex-role stereotypes, disinterest in having children, being “female”

“No-crime” Wrongful Convictions or Phantom Homicides.



- ✦ Men are more often convicted of homicides (3/4) and 81% of victims are male.
- ✦ Striking difference in no-crime cases – offender-victim relationship – family involvement
- ✦ Misclassification of accidents and suicides as murder, in part due to the misinterpretation of evidence.
- ✦ Prosecutors and police – may inadvertently/intentionally fabricate a crime occurred when it did not, e.g. fire becomes arson, self-defense becomes murder, bruises become child abuse etc..

*Female Victims of a Wrongful Conviction: Continual Marginalization**



- ✦ Gender shapes experiences in the criminal justice system whether rightly or wrongly convicted.
- ✦ Parallels in how women are treated in the CJS and routinely subject to gendered, racial biases, inequalities – found in experiences of wrongly convicted women.
- ✦ Androcentrism – likely due to disproportionate attention to serious violent crimes involving strangers – mostly perpetrated by men – overturned through DNA – overlooks women's cases.

***from Campbell, K.M. (2022). In N. Jackson, K. Campbell, and M. Pate, *The Victimology of a Wrongful Conviction: Innocent Inmates and Indirect Victims*. New York: Routledge.**

How does Gender Affect Wrongful Convictions?



- ✦ Harder to exonerate women due to lack of DNA;
- ✦ When women commit murder, the victim is often someone close to them – DNA is irrelevant;
- ✦ In the majority of women's case – there was never a crime committed to begin with:
 - a) 63% of women's exonerations were “no-crime” cases;
 - b) 21% of men's exonerations were “no-crime” cases.
- ✦ Sexist stereotypes often used to fabricate a motive for the alleged crime, based on ideas about motherhood, career, etc...

How does Gender Impact on Exoneration Efforts?



“[A]ttorneys have a much easier time getting a wrongful conviction reopened when they can point to the real culprit. Yet if a woman is wrongly convicted for an accident that kills her child, there is no crime to solve, no ‘real-killer’ and probably no alibi” (Redden, 2015).

National Registry of Exonerations in the United States – data on women



- ✦ Statistics gathered from over 3,518 exonerations since 1989
- ✦ 8-9% of exonerees are women:
 - ✦ Crime of harms against children account for their largest number of wrongful convictions;
 - ✦ 40% were exonerated for crimes involving child victims (vs. 22% of men);
 - ✦ 30% of female homicide exonerees were convicted of killing children (compared to only 17% of men);
 - ✦ 22% were convicted for child sexual abuse;
 - ✦ Racial distributions for females are the opposite to that of male exonerees-
 - ✦ White women were over-represented in the data set – larger numbers among child sexual abuse hysteria cases of the 1980s and 90s.
- ✦ Canadian Registry data: Total 89 exonerees: 15% women: 36% “no-crime”

Interview Data - Jackson, Campbell, & Pate (2022)

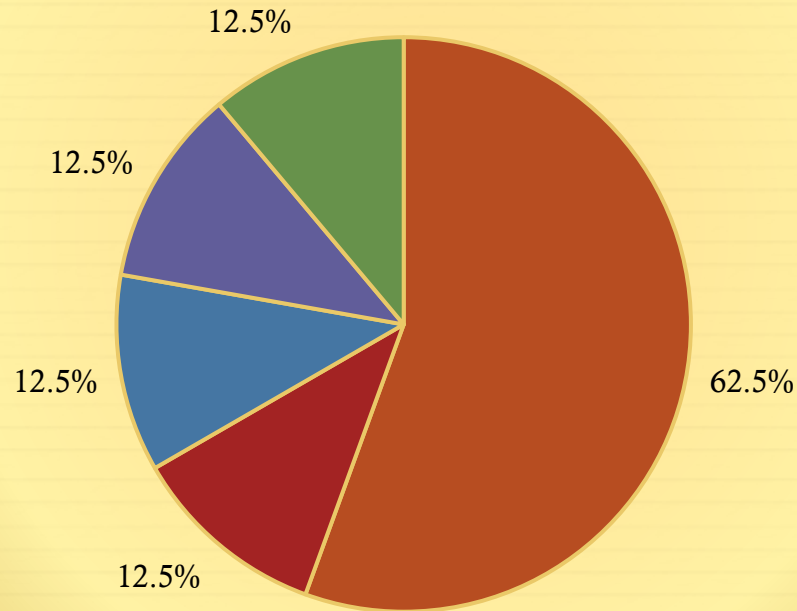


- ✦ Interviewed 24 people, 8 were women (35%)
 - ✦ Women were older (28 years v. 21 years at arrest)
 - ✦ Many were mothers;
 - ✦ Females were more often wrongly convicted of crimes involving harming children or loved ones;
 - ✦ Males were more likely wrongly convicted for sexual crimes;
 - ✦ Majority of women were Caucasian (88%); Majority of men were African American (53%)
 - ✦ Women spent less time on average in prison (13.75 years), than did the men (20.67 years)

Female Exonerees' Crimes



Female Exonerees' Crimes*



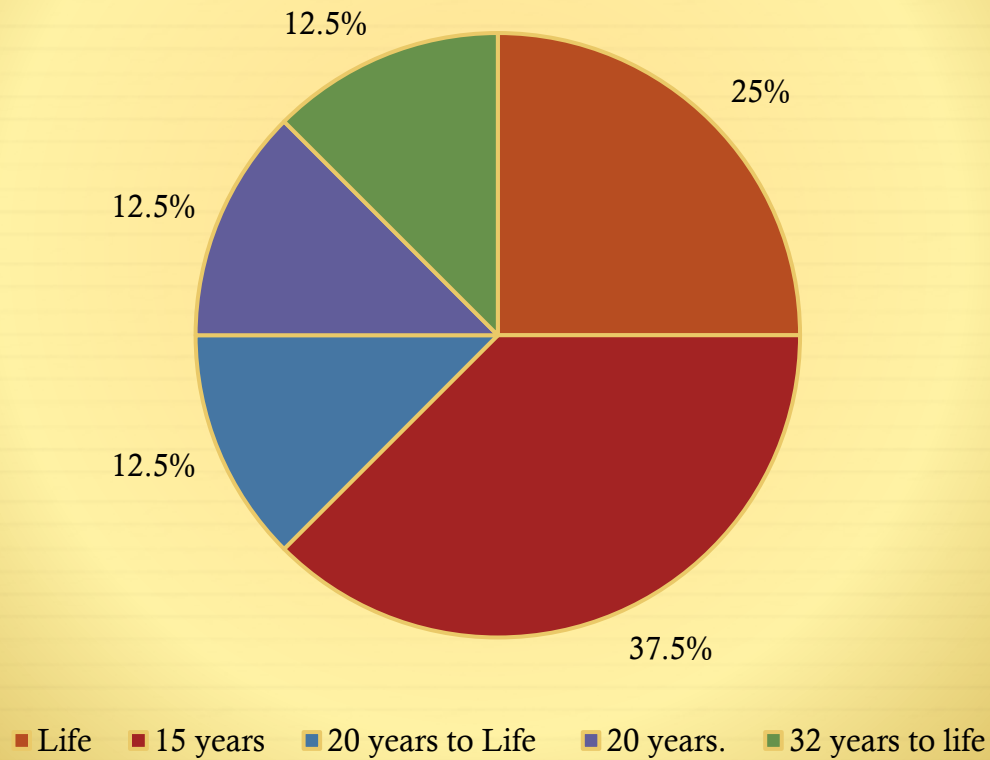
*Percentages do not add up to 100, as women could be charged with multiple crimes

■ Murder/Manslaughter ■ Sexual assault/indecency ■ Robbery ■ Child abuse (SBS) ■ First Degree assault (SBS)

Female Exonerees' Sentences



Female Exonerees' Sentence Lengths



Female Exonerees' Time Served



Female Exonerees' Time Served



Interview Themes Explored

- Prison entry



✧ Feelings upon entry into prison:

“It was a nightmare, unimaginable... I don’t want to say I was in denial of the situation, but all the way up to the guilty verdict, I was quite sure that everyone was going to see that I was innocent. After the guilty verdict came it was a hard slap in the face. You pretty much go into survival mode and start the appeal process.” (5e)

Interview Themes Explored - Challenges



✧ Greatest challenges of being incarcerated:

“[It was the] worst possible thing that could ever happen. [I] felt angry, let down by the system. I knew what was true... Trying to get help was stressful, caused anxiety... Had to watch my back because others were envious my family took care of me. Had to be on guard... Psychological torture – ‘why me?’ I was crucified by the victim’s family and media... I couldn’t say I was sorry because I didn’t do it. This made me look bad.”
[4d]

Interview Themes Explored - Challenges



✧ Greatest challenges of being incarcerated:

“Being away from children was so hard on all of us. Prison is a very rigid, hard environment.” (8h)

“My identity was taken away, my freedom was taken away, [I was] no longer me, but a number.” (1a)

“Being separated from my children and family and trying to continue the relationship as best as possible as I could in there. Pretty much every day was a battle, like fighting administration, fighting you know the processes and policy ... to maintain the strongest relationship with my kids as I could.” (6f)

Interview Themes Explored

- Innocent Inmates



- ✧ The experience of being innocent and locked up with the guilty

“I didn’t have a chip on my shoulders, like the guilty inmates...I didn’t feel guilty because I wasn’t guilty”. (2a)

“I knew that if I had gone in there and said ‘I’m innocent and I don’t belong here’ that I would create a further division between myself and them. I went in with the mindset that I needed to find common ground as much as possible if I was gonna make 10 years in there, so I just didn’t share with anybody” (3c)

Interview Themes Explored - Coping Strategies



- ✧ How they coped with being wrongly incarcerated:
- ✧ *“[I coped] in little chunks...cross stitch... watched a lot of football... walked a thousand miles and lost a lot of weight.” (3c)*
- ✧ *“Once people realized I could type and was educated, they came to me for help. I probably helped over 1000 women.” (3c)*
- ✧ *“I kept as busy as possible, did legal research. I helped men and women with their cases. I started a choir. I helped build a church (4d).*

Interview Themes Explored

- Coping on the outside



- ✦ How they coped upon release:
- ✦ *“Everything was like the Twilight Zone. I hadn’t been in a car. I didn’t know cell phones.” (1a)*
- ✦ *“There were a lot of challenges on release...you lose a lot while you’re incarcerated. There’s a trickle effect. I wasn’t the only one that was incarcerated. My siblings were, my nieces and nephews were, my parents were, my grandparents were.” (5e)*
- ✦ *“You know it’s kind of like having your leg amputated in a car accident. You know you can go and do really well and deal with your trauma, but it changes your life forever.” (7g)*

“No-Crime” Wrongful Convictions



- ✦ Previous research indicates up to 1/3 of all exonerations involve a conviction for a crime that never happened.
- ✦ Factors that have contributed to this:
 - ✦ Official misconduct (police lies, aggressive police tactics, prosecutorial misconduct);
 - ✦ Mislabelling of a non-criminal event as a crime;
 - ✦ Outright fabrications by informants and other witnesses with motivation to lie.
- ✦ In our study, five of the eight women fall into this category

“No-Crime” Wrongful Convictions



- ✦ One woman was accused of murdering her husband, which turned out to be a suicide;
- ✦ One woman was falsely accused of child abuse – part of a fabricated case of Satanic ritual abuse;
- ✦ Three other women were accused of child murder – Shaken Baby Syndrome (now known as Abusive Head Trauma - ABT) where new medical evidence later emerged that exonerated them.

Wrongly Convicted Women are Victims



- ✦ Victimization exacerbated by unjust nature of their conviction;
- ✦ Victimized by a system that relied on stereotypes of:
 - ✦ How women should behave;
 - ✦ How a “good” mother should act;
 - ✦ Blamed for a crime that never occurred.
- ✦ Victimized in prison – by a system that does not accept their innocence and once exonerated released without support.
- ✦ Children are victimized as well.

Melissa Lucio – victim of a phantom crime

Texas, March 2022



Melissa Lucio

Case Facts



- ✦ Convicted of capital murder of her daughter, Mariah in 2008..
- ✦ Prosecutors said injuries were the result of physical abuse, defense said they were the result of a fall.
- ✦ Sentenced to death – execution stayed April 2022.
- ✦ Many irregularities in police investigation.
- ✦ Melissa is still on death row, despite the withholding of key evidence from the defence, an ambiguous confession.
- ✦ April 2024 – District Judge recommended Court of Appeal overturn her conviction.

<https://youtu.be/RQxO0C1H6ZU?si=EWxlioInoixvc> 9

Tammy Marquardt

Peterborough, Ontario, Canada, 2009



Tammy Marquardt – Case Facts



- ✦ Tammy was convicted of 2nd degree murder of her son in 1995 – life sentence, 10 years parole eligibility.
- ✦ Dr. Charles Smith – pediatric forensic pathologist – later discredited – performed autopsy – found Kenneth had been strangled or smothered.
- ✦ Report later discredited these findings, suggesting his death was due to epilepsy or natural causes.
- ✦ Tammy was released in 2009, charges withdrawn 2011.
- ✦ <https://www.cbc.ca/player/play/video/1.1755069>



Thanks everyone!

An Exploratory Study of “No-Crime” Homicide Cases Among Female Exonerees

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Kathryn M. Campbell , and Amy
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ABSTRACT The majority of wrongful conviction research has examined the issue through a gender-neutral lens, studying males and females as an aggregate rather than independently. Recently, a distinct body of research examining female wrongful convictions has emerged. One surprising factor that has surfaced from this research is that wrongly convicted women are most often convicted for crimes which never happened, referred to as no-crime cases by the National Registry of Exonerations. There are a number of reasons for this, most appear strongly related to gendered stereotypes about women’s behavior. This exploratory study examined one type of no-crime case for female exonerees, no-crime cases involving homicide, designated as no-crime homicide cases in this study. No-crime homicide refers to cases involving murders and manslaughters that never occurred; rather, the deaths for which these women were convicted were the result of accidents, suicides, undiagnosed medical conditions, or even self-defense. Data for this study were extrapolated from the National Registry of Exoneration from cases of females who were exonerated from no- crime homicides. When compared to other female exonerees, the main contributing factors in the cases of women wrongfully convicted for no-crime homicides were more likely to be false and misleading forensic evidence and inadequate legal defense. These wrongly convicted women experience physical and psychological consequences as a result of their wrongful conviction, including shame and guilt. Not only do these women suffer from a miscarriage of justice which uniquely positions them as murderers, the impact of this stigma also continues post-release.

The Victimology of a Wrongful Conviction

Innocent Inmates and Indirect Victims



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