

**INNOCENT AFTER PROVEN GUILTY:
A NEW APPROACH TO ASSISTANCE FOR THE WRONGLY CONVICTED**

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INTRODUCTION

Imagine a man, a young, hardworking member of the community. He works as a mechanic, volunteers at the local youth center and teaches a religious education class every Thursday. An average man living an average life, until one day he is accused of a heinous double homicide. The only evidence linking him to the crime is the neighbor's recollection of someone around his height and build running east from the victims' home at around 11 p.m. The average man lives two blocks from the victims' home. Understandably so, the entire town is in an uproar, demanding that the police find this treacherous assailant so they can feel safe at night again. After going door-to-door trying to find clues in order to ascertain to how or why such a horrible thing could happen in their town, the police knock on the average man's door and ask him to come to the police station. Now that the police have found "their man" and the community is at ease, they stop searching for other leads. With no other suspects and no alibi other than "I was home alone," the average man is convicted and sentenced to death. It is not until many years later that the average man is released from death row after DNA evidence proved that he was not the assailant in the two murders. The average man is elated that he will no longer have to live the life of a guilty man. When he returns home, he finds that someone else is living there. The new owner explained that he was able to buy the house for "next to nothing" due to the foreclosure. With only \$30 to his name, average man goes back to the auto shop where he used to work to inquire about getting his old job back. The owner,

in utter disgust, replies, “Having murderers for employees is bad for business, besides you wouldn’t know anything about all the new technology dealing with cars.” Dismayed, average man leaves his former job and begins to walk, to where he does not know.

This dramatization shows how in an instant someone’s life can change for the worse by no fault of their own, and yet the state and society expect them to pick up the pieces of their shattered lives and put them back together all alone. This paper will illustrate the serious problem of unjust incarceration, comment on the options available for the wrongly accused to receive compensation after their release, and introduce a more inclusive approach to dealing with the issues caused by wrongful convictions.

GENERAL INFORMATION REGARDING EXONERATIONS

Advances in DNA technology coupled with the relentless work of grassroots groups have brought to light the vast number of wrongly accused persons who have spent years of their lives in prison, many on death row. A report on exonerations by Samuel Gross revealed 340 exonerations during a fifteen-year period.¹ Of those 340, more than half of these exonerees have served terms of ten years or more; as a group, these exonerees have spent more than 3,400 years in prison for crimes they did not commit.² DNA evidence is responsible for over 40% of exonerations during that fifteen-year period.³ Despite strides made in recent years, there are still many innocent defendants who are incarcerated due to the dragging of government officials, pleas of guilty to lesser crimes to prevent other false convictions, or the lack of legal assistance to re-investigate

¹ Samuel R. Gross et al., *Exonerations in the United States 1989 through 2003*, 95 J. Crim. L. & Criminology 523, 523 (2005).

² *Id.*

³ *Id.*

cases that went wrong.⁴ Once the media highlights these kinds of statistics, one would expect a widespread public outcry demanding justice for the wrongly accused. Such outcry has yet to be seen. Unfortunately, not only are exonerees faced with the struggles of re-acclimation to a world foreign to them, but also they must cope with the stigma associated with being in prison.

ACTUAL ACCOUNTS OF EXONERATIONS

In 1981, at age sixteen, Michael Anthony Williams was convicted of a brutal rape. On March 11, 2005, Michael Anthony Williams was released after spending twenty-four years in Angola Prison for an aggravated rape that he did not commit.⁵ Despite claims by his family regarding his whereabouts and the police failure to find any of the clothing described by the victim in Michael's possession, the prosecution alleged that he left his home and walked to the victim's home entering through a window and then preceded to beat the victim with a piece of wood and then raped her.⁶ The eyewitness account from the victim was enough to convict Michael Williams of aggravated rape and sentence him to life in prison without parole.⁷ The Innocence Project took Michael Williams's case in 2003.⁸ After extensive testing of the semen found on the victim's nightgown and bedding it was proven that Michael Williams was not the man who brutally beat and raped the victim.⁹

⁴ Samuel R. Gross et al., *Exonerations in the United States 1989 through 2003*, 95 J. Crim. L. & Criminology 523, 537-38 (2005).

⁵ Innocence Project Case Profiles available at http://www.innocenceproject.org/case/display_profile.php?id=159

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

In 1985, Kirk Bloodsworth was convicted of killing and sexually assaulting a nine-year-old girl.¹⁰ Five eyewitnesses placed him with the victim on the day of the killing.¹¹ Mr. Bloodsworth's conviction was overturned due to the inconsistencies regarding the evidence used at trial.¹² After a second trial, Mr. Bloodsworth was convicted again and sentenced to serve two consecutive life sentences.¹³ In 1992, the blood samples from the evidence were tested by the Forensic Science Associates and Mr. Bloodsworth was ruled out as the perpetrator making him the first person on death row to be exonerated by DNA testing.¹⁴

Ray Milton Krone graduated from high school in the top of his class before becoming a sergeant in the United States Air Force.¹⁵ After leaving the military, Mr. Krone obtained a job with the United States Postal Service.¹⁶ In 1991, Mr. Krone became the prime suspect after a bartender in a bar that he frequented was found in the men's restroom fatally stabbed.¹⁷ The main source of evidence for the prosecution was testimony by an alleged bite-mark expert.¹⁸ Even after a retrial, Mr. Krone was found guilty based on the same "expert" testimony regarding the bite marks.¹⁹ It was not until 2002, after serving ten years in prison, that Mr. Krone exonerated by DNA evidence becoming the 100th person on death row release because of innocence.²⁰

¹⁰ Innocence Project Case Profiles *available at*
http://www.innocenceproject.org/case/display_profile.php?id=21

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Armbrust, Shawn, *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted*, 41 Am. Crim. L. Rev. 157, 157 (2004).

¹⁶ *Id.*

¹⁷ Innocence Project Case Profiles *available at*
http://www.innocenceproject.org/case/display_profile.php?id=105

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

These three cases provide a glimpse into the horror and injustice experienced when innocent people are convicted of crimes they did not commit. How will justice be served for the Michael Williams', Kirk Bloodsworths', and Ray Krones'?

CURRENT REMEDIES FOR EXONEREES

Despite the growing number of exonerations in the United States, only nineteen states have implemented indemnification statutes to give the wrongly accused some kind of compensation for the immeasurable injustice they have suffered.²¹ Currently, the most common compensation options for exonerees are individualized moral obligation bills or civil remedies through common law or civil rights legislation.

Exonerees have the option of bringing actions against police officers under § 1983 of the Federal Civil Rights Act.²² However, these actions can only be brought if the initial arrest was made without probable cause.²³ Because the threshold is relatively low, it is usually very easy for police officers to establish probable cause making a § 1983 action a weak claim for exonerees to receive compensation.²⁴ Additionally, exonerees have the option of bringing malicious prosecution actions. To satisfy the elements of malicious prosecution, claimants must “prove not simply that they were arrested and prosecuted and that the proceeding was eventually terminated in their favor, but also that there was no[] probable cause for their arrest in the first place and that they were prosecuted with actual malice.”²⁵ This is a very high hurdle for the wrongly accused to jump because probable cause is relatively easy to establish (for the prosecution) while showing actual malice is

²¹ See generally Adele Bernhard, *Justice Still Fails: A Review of Recent Efforts to Compensate Individuals Who Have Been Unjustly Convicted and Later Exonerated*, 52 Drake L. Rev. 703 (2004).

²² Civil Rights Act of 1871 42 U.S.C. § 1983 (2005).

²³ Adele Bernhard, *When Justice Fails: Indemnification for Unjust Conviction*, 6 U. Chi. L. Sch. Roundtable 73, 86 (1999).

²⁴ See *id.* at 86.

²⁵ *Id.* at 86.

rather difficult to prove, thus providing only exonerees with the most egregious cases of negligence surrounding their initial arrest with a viable avenue for compensation.

Moreover, the doctrine of immunity protects victims, witnesses, police officers, and prosecutors from “liability for errors committed in the prosecution of crime.”²⁶ Immunity prevents the exonerees from collecting damages from victims or witnesses due to their misidentification unless the complaint was malicious.²⁷ While there are obvious public policy reasons for protecting victims and witnesses from liability, it would be interesting to hypothesize about how the possibility of liability would affect the veracity of eyewitness testimony which is one of the main causes of wrongful convictions. As previously mentioned, as long as police officers have probable cause to make an arrest, they are shielded from any liability resulting from negligence ensuing in the investigation after the arrest.²⁸ Such latitude “releases police officers from any duty to conduct further investigation that might uncover evidence of a suspect’s innocence.”²⁹ Furthermore, the prosecution has absolute immunity which “protect[s] the prosecutor ‘from harassing litigation that would divert his time and attention from his official duties.’”³⁰ Thus, the doctrine of immunity really narrows the channels of compensation available to the wrongly accused.

Another civil remedy available to the wrongly convicted is action against their defense counsel for ineffective assistance of counsel. Unfortunately, the Supreme Court has created a very low threshold to be met by attorneys regarding ineffective assistance of

²⁶ Adele Bernhard, *When Justice Fails: Indemnification for Unjust Conviction*, 6 U. Chi. L. Sch. Roundtable 73, 87 (1999).

²⁷ *Id.* at 87.

²⁸ *See id.* at 87-89.

²⁹ Alberto Lopez, *\$10 and a Denim Jacket? A Model Statute for Compensating the Wrongly Convicted*, 36 Ga. L. Rev. 665, 692 (2002).

³⁰ Bernhard, *supra*, note 26, at 90.

counsel. In *Strickland v. Washington*, a “prejudicially deficient” standard was established, thus “if the mirror fogs up when placed beneath the lawyer’s nostrils, he or she is not ineffective, as a matter of law”.³¹ This quote shows the level of importance the Court gives to a defendant’s right of effective assistance of counsel.

Unjustly convicted individuals can attempt to obtain compensation from the state legislature through moral obligation bills.³² Under this method, an exoneree must lobby his state legislature to pass a private bill from which he or she would receive compensation directly from the state treasury.³³ Indemnification through a private bill is a weighty task for a person who has just recently been released from prison. He or she must find a lawyer who is willing to lobby for them before the state legislature, which can be rather cumbersome considering the time that must be spent in preparation and the unlikelihood of success.³⁴ Many factors go into whether a state legislature can or will pass a private bill. Some state courts construe their state constitution as prohibiting the passage of private bills as a form of compensation.³⁵ Even states that do allow the passage of moral obligation bills depend on the political climate of the state legislature and the influence a person has in their favor.³⁶ As could be imagined, wrongly accused persons usually do not have much political influence to sway a state legislature. For instance, when Freddie Pitts and Wilbert Lee were exonerated in 1975, they lobbied the Florida state legislature year after year for compensation.³⁷ It was not until 1998, twenty-

³¹ *Strickland v. Washington*, 466 U.S. 668 (1984); Barry Scheck et al., *Actual Innocence: Five Days to Execution and Other Dispatches from the Wrongly Convicted*, 183 (2000).

³² Lopes, *supra*, note 29, at 692.

³³ *Id.* at 698.

³⁴ *See id.* at 699.

³⁵ *Id.* at 699.

³⁶ *Id.* at 699.

³⁷ Alberto Lopez, *\$10 and a Denim Jacket? A Model Statute for Compensating the Wrongly Convicted*, 36 Ga. L. Rev. 665, 700 (2002) (citing Mike Williams, *Florida Moves to Make Peace with Wrongly Convicted*

three years later, that they receive compensation.³⁸ There was a political change that resulted in the Republicans gaining control of the legislature.³⁹ Providing compensation for Mr. Pitts and Mr. Lee was a ‘symbol of their interest in building relations with black voters and African-American legislators.’⁴⁰ Something as arbitrary as a change in political climate determined whether two exonerees would receive compensation for a grave injustice. Therefore, all of the aforementioned problems with civil remedies and private bills speak to why all states should create indemnification bills to provide a uniform, consistent, and fair way for exonerated persons to receive damages.

Although there are a handful of states that have implemented compensation statutes to assist the wrongfully convicted, the majority of these statutes have either burdensome requirements which serve to bar recovery in cases of innocence or statutory caps that severely limit the amount of money that can be awarded regardless of the individualized circumstances. For instance, the California Penal Code makes it a pre-requisite that the exonerated be pardoned by the governor before being eligible for compensation.⁴¹ After being exculpated and released from prison, it would seem that getting a pardon from the governor would not be an insurmountable task. However, as explained by Professor Bernhard, “executive clemency is entirely discretionary” and usually depends upon whether “the governor thinks that the voting constituency will approve [of] the decision.”⁴² When a condition to compensation is such a “craps’ shot,”

Men; Payments of \$500,000 Approved by Law Makers for Two Who Spent 12 Years on Death Row, Atlanta J. Const., May 1, 1998, at C11).

³⁸ *Id.* at 700.

³⁹ *Id.*

⁴⁰ *Id.* at 700-01.

⁴¹ Innocence Project Case Profiles available at http://www.innocenceproject.org/docs/Bernhard_Compensation_Chart.pdf

⁴² Adele Bernhard, *When Justice Fails: Indemnification for Unjust Conviction*, 6 U. Chi. L. Sch. Roundtable 73, 102 (1999).

such as a gubernatorial pardon, it seems that such a requirement in a statute designed to facilitate the indemnification of exonerees is more so an impediment to justice rather than a viable method of insuring that the “truly innocent are compensated while...limiting the proliferation of non-meritorious claims.”⁴³ Another setback of most current indemnification statutes is the caps placed on the amount of damages that can be awarded. While it seems somewhat impossible to place a dollar amount on things like “sleeping in one’s own bed [,] a stroll through the park or a hug from a love one,”⁴⁴ a paltry \$20,000 (total), such as the cap found in the New Hampshire statute,⁴⁵ does not take into consideration the totality of the circumstances surrounding what a person loses by being unjustly incarcerated. State legislatures need to seriously evaluate the wrong that has been done by the state and provide adequate, if not generous, retributions to those who were unjustly denied their freedom. It is important to note that until the 2004 Justice For All Act, the federal statute offered a parsimonious maximum of \$5,000 (total) for persons wrongly convicted of federal crimes.⁴⁶ Congress increased the amount of compensation up to \$100,000 a year for those exonerated from death row, and \$50,000 a year for those not on death row.⁴⁷ Likewise, states should create compensation statutes that are focused on the providing an efficient way for innocent person to receive compensation that is tailored to their particular situation as opposed to an arbitrary statutory maximum.

⁴³ Adele Bernhard, *When Justice Fails: Indemnification for Unjust Conviction*, 6 U. Chi. L. Sch. Roundtable 73, 101 (1999).

⁴⁴ *Id.* at 107.

⁴⁵ N.H. Rev. Stat. § 541-B:14 (2005).

⁴⁶ Bernhard, *supra*, note 42, at 87.

⁴⁷ 28 U.S.C.A. § 2513 (2004).

A NEW APPROACH TO AIDING THE INNOCENT

To ensure fairness for innocent persons from the perils of unjust convictions, there must be a two-fold front by the state legislatures. The first task is one of activism and prevention. The state must design legislation to provide more safeguards for innocent defendants to ensure that they will not spend years of their lives in prison (especially on death row) for crimes that they did not commit. Secondly, it is necessary to create indemnification statutes that not only focus on necessary monetary compensation, but also provide a more inclusive or holistic approach to reintroducing unjustly convicted people to life outside of prison. Indemnification statutes must make a concerted effort to improve the quality of life for individuals who have been robbed of their freedom so their time spent outside of prison will not be plagued with the problems that they faced while in prison.

Many reforms can be made by the state to protect the innocent from wrongful conviction. This section will examine only a few of the multitudes of improvements that can be made to better protect the innocent from injustice. As shown previously by statistical information, DNA testing has been on the forefront of proving innocence since the case of Kirk Bloodsworth in 1992. Implementing statutes that allow for post-conviction DNA testing in instances where the convicted person was probably not the perpetrator would ensure that the right person is serving time for the criminal act and not still lurking the streets committing more crimes and further endangering society. Although thirty-eight states have post-conviction DNA testing statutes, some only allow

testing under very limited conditions.⁴⁸ The Innocence Project sets out eleven factors that should be included in a model post-conviction DNA testing statute⁴⁹:

- (1) A reasonable standard of proof at the testing stage;
- (2) Allowing access to DNA testing wherever it can establish innocence, including cases where the defendant pled guilty;
- (3) Excluding absolute deadlines when such access will expire
- (4) Requiring state officials to account for evidence in their custody;
- (5) Requiring states to preserve biological evidence for a reasonable period of time;
- (6) Explicitly exempt DNA testing motions and related proceedings from the procedural bars that govern other forms of post-conviction relief;
- (7) Allowing convicted persons to appeal from orders denying DNA testing;
- (8) Mandating full, fair, and prompt proceedings once the DNA testing motion has been filed;
- (9) Including no unfunded mandates, providing the money to back up the initiatives it creates;
- (10) Focusing on currently available DNA technology, not its “availability” at trial;
- (11) Providing flexibility in where and how DNA testing is conducted.

A state that provides an efficient system for post-conviction DNA testing instills a sense of hope in the wrongfully imprisoned and their loved ones.

Another area in need of reform is eyewitness identification. In 64% of the exonerations between 1989 and 2003, at least one eyewitness misidentified the defendant.⁵⁰ Researchers believe that witnesses use relative judgment to determine who the assailant is during a lineup.⁵¹ Furthermore, the witness will replace the memory of the perpetrator with the person they selected in the lineup and, in their minds, that person becomes the perpetrator.⁵² Several methods can be used to curtail the likelihood of misidentification. First, the person conducting the lineup should advise the witness “that the perpetrator may or may not be in the lineup; that it is just as important to clear the

⁴⁸ Innocence Project Case Profiles *available at* http://www.innocenceproject.org/docs/Model_DNA_Access_Factsheet.html

⁴⁹ *Id.*

⁵⁰ Gross, *supra*, note 1, at 523. (noting occurrence in 90% of the rape cases and in only 50% of the homicide cases).

⁵¹ Helen J. Berrigan, *Eyewitness Identification Lecture*, 1-3 (2005) (non-published casebook from professor at Louisiana State University Paul M. Hebert Law Center).

⁵² *Id.*

innocent as it is to catch the guilty; and that regardless of whether an identification is, the investigation will continue.”⁵³ Another remedy to ameliorate the identification of the true perpetrator is to “conduct the lineup sequentially rather than simultaneously.”⁵⁴ This encourages the witness to compare each individual photo in the lineup with the witness’s memory of the perpetrator, so the witness is not trying to determine who out of the group most likely fits the description etched in their memory.⁵⁵ Additionally, double-blind lineup procedures may increase the accuracy of the identification.⁵⁶ If the officer conducting the lineup is unaware of the identity of the suspect, he cannot persuade, consciously or subconsciously, the witness to select a particular suspect. The witness should be notified before the lineup that the administrator is unaware of the identity of the suspect so the witness will not misread comments or gestures made by the officer.⁵⁷ Lastly, if the witness is able to make identification, the witness should be asked to state their level of certainty before any comments are made regarding the identification.⁵⁸ This allows the witness to independently assess the certainty of their identification, which can be used to determine the reliability of his or her testimony at trial.⁵⁹

According to a report by the Innocence Project, police misconduct occurred in 38 out of 70 of the first DNA exonerations.⁶⁰ One way to combat police misconduct is to videotape all interrogations. Videotaping interrogations would protect the innocent from coercion by police officers and ensure that more confessions will be made voluntarily.

⁵³ Helen J. Berrigan, *Eyewitness Identification Lecture*, 4 (2005) (non-published casebook from professor at Louisiana State University Paul M. Hebert Law Center).

⁵⁴ *Id.* at 5.

⁵⁵ *Id.* at 5.

⁵⁶ *Id.* at 6.

⁵⁷ *Id.* at 6.

⁵⁸ *Id.* at 7.

⁵⁹ *See id.* at 6.

⁶⁰ Innocence Project Case Profiles *available at* <http://www.innocenceproject.org/causes/>

Furthermore, police officers should face more sanctions in instances where they do not thoroughly investigate crimes or when they ignore exculpatory evidence that would, more probably than not, eliminate a suspect. Putting more restraints on police officers will more than likely limit the number of improprieties committed in the name of justice.

The second part of the new approach to assisting the wrongfully accused is an expansion of compensation statutes to provide a more holistic program designed to deal with the needs of the exonerated. As previously mentioned, the first reform must start with the issue of compensation. Currently, only one-third of the wrongly accused have received some kind of compensation.⁶¹ Some states need to introduce indemnification statutes that take into account the individual circumstances of each exoneree to make a valid assessment of damages without relying on statutory caps while other states need to revamp their existing statutes to eliminate under-compensation and to remove unnecessary burdens to relief, such as gubernatorial pardons.

Another problem with indemnification statutes is the lack of programs that provide educational and vocational opportunities to assist the wrongly convicted with becoming functional members of society. Education and job training is vital to the success of exonerees considering that over half of them have spent at least ten years in prison.⁶² Providing job training would not seem like an impossible feat considering that most states have programs that provide ex-offenders with jobs and/or job training.⁶³ In many cases, however, exonerees cannot take advantage of these programs because they

⁶¹ Innocence Project – New Orleans *available at* <http://www.ip-no.org/io/iofoe.htm>

⁶² Gross, *supra*, note 1, at 523.

⁶³ Shawn Armbrust, *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted*, 41 Am. Crim. L. Rev. 157, 175-76 (2004).

lack the necessary ex-offender status, and are forced to find jobs without any assistance.⁶⁴ States should require that groups currently receiving government funding to provide job training for ex-offenders must also provide the same services to the wrongly convicted.⁶⁵ This requirement would not be too costly due to the small number of exonerees. Moreover, states should provide exonerees with the option to go to school or receive some kind of vocational training at little or no cost to them. For instance, Massachusetts has proposed a bill that would provide the exonerated with fifty percent of tuition to attend the University of Massachusetts or any other state school.⁶⁶ These types of advancements in assistance for the wrongly convicted provide a level playing field and give exonerees possibilities that were taken from them.

Furthermore, the state should provide medical care for wrongfully convicted persons. People in prison generally have more physical and mental health problems than those outside of prison due to the stresses associated with prison life.⁶⁷ According to a national study of exonerees, 40% suffer from depression, 38% suffer from anxiety disorder, and 28% suffer from post-traumatic stress disorder.⁶⁸ Although it may not be possible to determine whether certain physical or mental health issues arose from being unjustly incarcerated, it is more probable than not that any pre-existing condition was exacerbated by spending years in prison knowing that you are innocent but still being

⁶⁴ Shawn Armbrust, *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted*, 41 Am. Crim. L. Rev. 157, 176 (2004).

⁶⁵ *Id.* at 177.

⁶⁶ *Id.* at 176-77; H.R. 5384, 182nd Gen. Court, Reg. Sess. (Mass. 2002).

⁶⁷ *Id.* at 177-78.

⁶⁸ Innocence Project – New Orleans *available at* <http://www.ip-no.org/io/iofoe.htm>

treated as a criminal. Thus, the state should create legislation that provides medical insurance to cover their health care and counseling needs.⁶⁹

Some exonerees will be reunited with their families after their release. It is quite possible that family members as well as the exonerees will struggle with getting to know one another as well as trying to understand what the wrongful conviction has done to their family relationships and interactions. It may be hard for family members to relate to the exoneree because he or she may not act in the same manner before going to prison. These types of issues can cause many problems in the family setting and may contribute to stunting the re-acclimation process of the exoneree. The state should provide group therapy sessions with social workers or psychologists to provide a forum for discussion where each family member can express their feelings, concerns, or fears thus providing a more stable family structure, something that is needed when dealing with all of the pain and uncertainty associated with being released from unjust incarceration.

Financial advisement is an area in which the state should provide some type of guidance to exonerees. Some exonerees will receive some type of compensation from the state whether it is from private bills, indemnification statutes, or tort claims. A national study on exonerees shows that 90% of exonerees lost all of their assets while in prison⁷⁰ so in many cases, their award is all they have. After spending years in prison, many exonerees “have little or no experience managing money, and they often misspend what they have, in large part due to the difficulties of adjusting to freedom.”⁷¹ Some exonerees may feel the need to give some of their money away to show appreciation or to gain

⁶⁹ Shawn Armbrust, *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted* 41 Am. Crim. L. Rev. 157, 179 (2004).

⁷⁰ Innocence Project – New Orleans available at <http://www.ip-no.org/io/iofoe.htm>

⁷¹ Armbrust, *supra*, note 69, at 173.

acceptance.⁷² Exonerees may need some advice regarding ways to save or invest their money so they can live comfortably after retirement. While controlling an exoneree's spending of his or her compensation award may not be under the ambit of state authority, an inclusive indemnification plan "that incorporates social services would help ensure that resources are effectively allocated among various needs of the wrongfully convicted individual."⁷³

Because most exonerees lost their assets while in prison⁷⁴, many will not have adequate housing upon their release. The state should provide statutory assistance to provide grants or programs for reduced housing costs to give exonerees a chance to find a job or go to school. If the state does not provide housing programs, exonerees may be forced to live in low-income areas riddled with crime, which would not be very dissimilar from the environment from which they came. The last place a person just released from prison needs to be is in an area with high-criminal activity.

Lastly, the state should provide re-acclimation programs that are specifically designed to assist exonerees with being comfortable living outside the strictures and confinement of prison. Professor Armbrust illustrates how "years in prison...leave the wrongfully convicted ill-equipped for the modern world."⁷⁵ Ronald Jones, who was released from Illinois death row in 1999, stated,

I haven't, still today, been able to adjust the world. I mean it's like I was...on another planet. Now they've got cell phones and computers and all these other things...The closest thing I knew about a cell phone was a

⁷² Shawn Armbrust, *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted* 41 Am. Crim. L. Rev. 157, 173 (2004).

⁷³ *Id.*

⁷⁴ See Innocence Project – New Orleans available at <http://www.ip-no.org/io/iofoe.htm>

⁷⁵ Armbrust, *supra*, note 72, at 176.

telephone on the corner where you could drop a dime in the phone. You can't even drop a dime in the phone no more.⁷⁶

This simple account is indicative of the day-to-day struggles faced by many exonerees. A program designed to show exonerees how to open a bank account, use automated machines, use computers, or any other advancement in society that has changed drastically over the years would provide a simple yet extremely meaningful service to exonerees as well as save them from undue embarrassment.

CONCLUSION

States can provide wrongfully imprisoned persons with a better quality of life by creating an inclusive program that focuses on compensation, education and job training, mental and physical health, familial relations, financial advisement, housing benefits and overall re-acclimation into society. The state should also implement preventative measures through legislation that would mitigate the risk of innocent people going to prison for the crimes of others. Some of those measures include post-conviction DNA testing, curtailment of police misconduct through sanctions, as well as a restructuring of eyewitness identification to yield results that are more accurate. Regardless of the specific methods implemented, the state has a responsibility to right the wrongs created by unjust convictions.

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⁷⁶ Shawn Armbrust., *When Money Isn't Enough: The Case for Holistic Compensation of the Wrongfully Convicted* 41 Am. Crim. L. Rev. 157, 176 (2004) (citing Hugo Kugiya, *Free of Death Row; Hard Road for 13 Former Inmates*, NEWSDAY, May 19, 2002 at A5).