The author conducted this study as part of the program of professional education at the Goldman School of Public Policy, University of California at Berkeley. This paper is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by the Goldman School of Public Policy, by the University of California or by any other agency.
EXECUTIVE SUMMARY

The goal of this analysis is twofold: 1) to examine whether exonerees require and deserve comprehensive compensation that includes both financial remuneration and the provision of social services; and 2) to describe the model state policy for the treatment of wrongfully convicted people who have been released from prison. To do so, this analysis identifies the immediate and enduring effects of wrongful conviction; analyzes international and domestic policy regarding the compensation of exonerees; reviews the relevant existing model statutes; and, from these efforts, generates a set of recommendations that would allow a state to fully address the monetary and restorative compensation of exonerees.

Being wrongfully convicted has these significant effects:

- **Stigma** – pervades many other factors of life and may be the most detrimental effect.
- **Criminal Record** – impacts employment and housing prospects in addition to self-identity.
- **Expungement & Pardons** – in practice, neither sufficiently addresses the needs of exonerees
- **Employment** – cited as the most important need exonerees have but is adversely affected by stigma, gap in employment history and inadequate job skills.
- **Housing** – a basic need that is negatively affected by stigma and legal barriers.
- **Mental Health** – the negative effects of wrongful conviction on a person’s mental health are often permanent and have an extensive impact on other aspects of life.
- **Medical Issues** – poor medical care and/or abuse during incarceration often create medical issues that have a direct bearing on a person’s general well-being.
- **Life Skills** – wrongful incarceration deprives people of the opportunity to have normal life experiences, resulting in a deficit of practical life skills.

While there is no legal justification, in the absence of a statute, for the state to compensate the wrongfully convicted, the moral framework of the US and maintaining the credibility of the criminal justice system require the state to do so. There are two forms of compensation: monetary and restorative. There is a long standing legal tradition of compensating people monetarily for their injuries, and there is some precedent in the US for wrongfully convicted people to be financially compensated. Restorative compensation is necessary because of the nature of the effects of wrongful conviction. It strives to actively restore an exoneree to a functional and satisfying life, rather than simply compensating them for their economic losses by addressing: the barriers to wrongfully convicted people re-entering society, their immediate needs and their long-term needs.

There are three ways for wrongfully convicted people to be compensated: special legislation (*ex gratia* awards), civil legal action and compensation statutes. Statutes are the best option in terms of equity efficiency. There is both international and domestic precedent for compensating wrongfully convicted people. But only 21 states, the District of Columbia and Federal government have a compensation statute. Although very few of the existing US statutes provide for restorative compensation, the six pending statutes do. Experts have drafted several model statutes that recommend restorative compensation to varying degrees, but unanimously propose monetary compensation.

The recommendations for the model state policy for the treatment of the wrongfully convicted address the issues of: standards for qualifying for compensation and services, monetary compensation, restorative compensation, and other aspects such as expungement and notification.
Wrongfully Convicted Policy: Effects

To deprive a man of liberty, put him to heavy expense in defending himself, and to cut off his power to earn a living – these are sacrifices which the state imposes on him for the public purpose of punishing crime . . . and when it is found that he incurred these sacrifices through no fault of his own, that he was innocent, then should not the state at least compensate him, so far as money can do so?  
– John Henry Wigmore, 1941

CONTEXT
By conservative estimates, people are wrongfully convicted at a rate of between 0.05% and 1% for felonies each year (Bernhard, 1999; Grounds, 2005). With nearly 1.5 million people in federal and state prison, this rate translates to about 15,000 wrongfully convicted and incarcerated in the United States. The development of technology to test DNA evidence has played a significant role in the increasing rate of exonerations over the past 20 years – see Appendix A for a review. Thus far, the overwhelming majority of scholarship, activism, research and government action has been in the realm of identifying and correcting wrongful convictions (Armbrust, 2004; Radelet, 1992; Scheck, 2000). The next highest priority has been in analyzing the cause of these wrongful convictions with an increasing amount of attention devoted to enacting reforms in the criminal justice system to help prevent them from occurring (Gross, 2003; Lopez, 2002; innocenceproject.org) (see Appendix B for an overview of this topic). Given the urgency of securing personal liberty, perhaps this set of priorities is as it should be. That said, that there are hundreds of people who have been exonerated – with more people becoming so each year – necessitates the development of a policy for the treatment of this extraordinary group of people.

Currently, only twenty-one states and the District of Columbia have any form of legislation that makes compensation available – and another five states have pending legislation as of April 2006. There is also a Federal statute that provides for compensation. Among these statutes, there is great variability in the form of compensation. Some states set no upper limit (New York) or have a comparatively generous minimum of $50,000 for every year of wrongful incarceration (Alabama). While others offer nothing more than vouchers for the state’s community college system (Montana) or set a maximum award of $20,000 regardless of the duration of the wrongful incarceration (New Hampshire). The goal of this analysis is twofold: 1) to examine whether exonerees require and deserve comprehensive compensation that includes both financial remuneration and the provision of social services; and 2) to describe the model state policy for the treatment of wrongfully convicted people who have been released from prison.

THE EFFECTS OF WRONGFUL CONVICTION
The first step in determining whether or not any type of compensation is appropriate for exonerees is to ascertain the effect of wrongful conviction and incarceration on an individual.

1. Stigma
The negative stigma of having been incarcerated has been cited by researchers as a significant factor in the lives of ex-inmates (Petersilia, 2003; Visher & Travis, 2003). That the stigma comprises fear and distrust renders it a potential major obstacle to exonerees developing personal and professional relationships. The issue of stigma can be even more pertinent for exonerees...
either due to the notoriety of the case\textsuperscript{2} for which they were convicted or due to the publicity surrounding their eventual release from prison. Given its capacity to hinder exonerees from having a functional and satisfying life upon their release, the stigma of incarceration is a major effect of wrongful conviction. Indeed, one researcher states that “the most damaging injury inflicted upon the wrongly convicted is not necessarily the time lost behind bars, but the stigma that follows them for the rest of their lives” (Lopez, 2002, p.720).

This stigma can pervade both interpersonal relationships and an exoneree’s self-identity, and, in a sense, it is codified in the form of a criminal record. A criminal record can also have a significant effect on the livelihood of exonerees.

2. Criminal Record
It may seem logical that once the legal system determines that a person’s conviction is wrongful, it should then be able to legally acknowledge this fact in a meaningful way. That is, there is no logical rationale for an exoneree to continue to be classified as a convict after he is released from prison\textsuperscript{3}. However, the criminal justice system typically does just that in the form of permanent criminal records that are difficult or legally impossible to change. Adjusting the criminal record of an exoneree may seem like one of the most expedient ways to address one of the negative effects of wrongful convictions; but, this is not the case.

Expungement & Pardons
Expungement is a process through which a conviction (or an arrest) can be rendered available only to law enforcement personnel. The process allows people to legally deny the conviction in, for example, job or housing applications (FindLaw, 2003). While expungement is in theory an ideal answer to the issue of as exoneree’s undeserving conviction on his criminal record, in practice it has several significant shortcomings. The laws governing the availability and process of expungement vary significantly from state to state (see Love, 2005, for a comprehensive review). Many do not allow expungement at all for felony convictions or for adults. Clearly, this preclusion renders expungement a less than useful option for nearly all exonerees. One expert on the topic explains the limitations of expungement:

\ldots\text{[I]}t is likely to be more expensive for persons with criminal histories to hire a lawyer to go to court to seek expungement, than it is to file an application for administrative restoration or pardon, which can generally be done pro se. Moreover, the limited and/or uncertain legal effect of expungement in some jurisdictions, the general unreliability of criminal record systems and the additional uncertainties introduced by new information-sharing technologies, and the anxiety necessarily produced by a system built upon denial, all combine to raise questions about the usefulness of expungement as a restoration device. In short, in an age where it is difficult to control access to information of any kind, such an old-fashioned effort to un-ring the bell seems fraught with peril (Love, 2005, p. 6).

In lieu of expungement, the only available option is executive pardon. While an expungement removes an offense from an individual’s criminal record, a pardon simply indicates that the state has officially pardoned – or excused – an individual for his crime (EPIC, 2005). Obtaining an

\footnote{2 See Appendix B for a review of the causes of wrongful conviction. At this point, suffice it to say that many people are wrongfully convicted in cases that are well-publicized – often generating enormous pressure on police departments and prosecutors to get a conviction.}

\footnote{3 Assuming, of course, that the crime of which a person has been exonerated is the only conviction he or she has.}
executive pardon is typically a very difficult hurdle to clear. There are four relevant shortcomings of executive pardons for exonerees: 1) it is an incredibly high legal standard to achieve; 2) it is often the definitional equivalent of being forgiven or excused for having committed a crime, which a) is clearly inappropriate for an innocent person and b) may make him ineligible for future compensation; and, 3) it is a highly political process subject to a panoply of considerations (Sarnoff, 2001). In sum, neither expungement nor executive pardons can address two of the most fundamental negative outcomes of wrongful conviction: stigma and having a criminal record.

The stigma and criminal record of having been incarcerated is especially relevant in both employment and housing. It may make intuitive sense that both landlords and employers would be reluctant to engage with a formerly incarcerated person. Both sets of people typically seek business interaction with people who are of proven trustworthiness and who respect rules (Saxonhouse, 2004). Next, is an examination of the effect of wrongful conviction on an individual’s prospects for employment and housing.

3. Employment

The stigma of incarceration as it pertains to employment is real and has been found in survey research to manifest itself in the following beliefs about hiring ex-inmates:

- All convicts are alike.
- Ex-prisoners have no useful work skills.
- Educated people never go to jail.
- Ex-convicts cannot hold a job.
- Success in hiring ex-offenders is rare.
- Ordinary employees will not accept "ex-cons" as fellow workers.\(^4\)
- Once employed, ex-offenders need special monitoring.

While the merits of each of these beliefs are dubious, a full discussion of them is extraneous to the present task. Suffice it to say that they help describe the stigma exonerated people face in seeking employment after their release. Unfortunately, this stigma may persist even if the employer is informed of the exoneree’s wrongful conviction status (Lopez, 2002).

There are also significant negative effects of wrongful conviction on employment beyond the issue of stigma. In the area of employment, having a criminal record can be a serious hindrance to successful reintegration to society. In most states, employers can refuse to hire someone merely for an arrest, even if the person was never convicted. Employers can refuse to hire and even fire a person with a criminal record – individual history, circumstance and business necessity notwithstanding (Legal Action Center, 2004). And, since 28 states make criminal records available on the internet, many employers have ready access to them (Legal Action Center, 2004). One researcher notes, “The easy availability of criminal background checks in a risk-averse environment has multiplied the likelihood that someone with a criminal conviction, often in the distant past, will lose a job or business opportunity solely for that reason” (Love, 2003, p.6). A 1996 study supports this claim, finding that 12% of employers agreed or strongly agreed to hire “ex-inmates;” 42% disagreed or strongly disagreed, and 46% were neutral (Albright & Denq, 1996). Although it is possible to have a conviction removed from a criminal record in some states, the previous section outlines the shortcomings of record expungement.

\(^4\) For example, when Kirk Bloodsworth, an exonerated ex-inmate became an employee at a tool company, “co-workers left newspaper clippings about the crime at his workstation” (Armour, 2004).
The impact of limited employment options has been shown to have a dramatic impact on the level of success former prisoners have with reintegrating into society. For rightfully convicted ex-inmates, employment is the number one factor that influences recidivism (Matthews & Casarjian, 2002). Anyone with a criminal record can be adversely affected by laws forbidding ex-offenders from being employed in certain sectors or from acquiring professional licenses (Saxonhouse, 2004). Without making claims regarding causality, it is notable that two-thirds of ex-inmates remain unemployed for the three years following their release. It is possible that this rate is attributable to these direct barriers to gainful employment (Saxonhouse, 2004).

A similar trend has been found among exonerees. Experts on the topic have also identified job training and placement as one of the most important needs of exonerees (Armbrust, 2003; Eggers & Vollen, 2005). One survey found that after they are released, approximately one-third of exonerated people depend on friends and family for financial means (Armour, 2004; LAEP survey). The same survey found that exonerated people identified employment as their most important need (Armour, 2004; LAEP survey). And, there is evidence that, while incarcerated, 90% of exonerees lost all of their assets, such as savings, vehicles and houses. Of the exonerees that did find employment, 43% earn less than they did prior to being incarcerated and 39% earn about the same amount. In sum, “when corrected for inflation and unemployed exonerees, the vast majority of exonerees never recover their pre-conviction earning potential” (“Frontline” 2003).

Being incarcerated also causes people to lose not only the job they may have at the time of incarceration, but to lose any contacts they have in the field of their employment (Sarnoff, 2001). Similarly, job skills become rusty, if not obsolete, if not used and the passage of time. Moreover, potential employers find the gaps in job history and a lack of recent references troubling (Lopez, 2202). While free job placement assistance is standard for prison parolees, the exonerated find themselves in an “employment no-man’s land” and are often ineligible for this type of program (Armour, 2004).

It is clear that wrongful conviction and incarceration place a significant hurdle in the path of exonerees in their attempts to obtain employment upon their release from prison. Stigma, legal barriers, and a lack of job qualifications are all contributing factors. Thus, the issue of difficulties with employment is worth considering in a discussion of appropriate compensation for exonerees.

4. Housing
Shelter is a basic human need. Like employment, finding housing is a challenge for exonerees due to both stigma and legal barriers. It is also affected by the status of exonerees’ assets. Since, as reported above, wrongful convicted people often lose their homes while incarcerated, finding housing is typically difficult upon release from prison. After they are released from prison, exonerees must either move in with family or friends or try to live alone. Of course, this latter option typically requires first and last months security deposit, if renting.

The various laws that prohibit people with criminal records from living in public housing exclude exonerees from this option (assuming they would otherwise qualify and that their wrongful conviction has not been expunged). The actual number of people who are excluded from public housing due to criminal records is unknown (Human Rights Watch, 2004). Nevertheless, these
punitive laws can be a substantial burden to people with criminal records (Human Rights Watch, 2004). In the realm of government-provided housing, local agencies have discretion over the eligibility of people with criminal records except for certain specific circumstances. One\(^5\) of these disqualifying circumstances is being listed on a state’s lifetime sex offender registry (Human Rights Watch, 2004; Legal Action Center, 2004). This exclusion is particularly relevant for exonerees, given that a high proportion of them were incarcerated for rape and sexual assault crimes (Gross, 2003).

Since everyone requires housing, and since the ability to secure housing is negatively impacted by wrongful conviction, the issue of housing is relevant to the state’s policy of treatment of exonerees.

5. Mental health
There is very little empirical analysis of the psychological effects of wrongful conviction. Adrian Grounds, a British medical doctor has published the only study\(^6\) of these effects known to the author. The work of the present researcher confirms Grounds’ (2004) finding that “the available accounts that describe psychological effects of wrongful conviction and imprisonment are predominantly biographical or autobiographical accounts given by individuals in books, television documentaries, and media interviews” (p. 12). His article reports that wrongfully convicted and imprisoned people are likely to suffer from a combination of the following:
- enduring personality change
- psychiatric disorders
- psychological suffering as a consequence of physical assault and suffering while incarcerated.

He found that many of the men in his study had, unsurprisingly, “intense, chronic feelings of bitterness” and that all of them had “strong and unresolved feelings of loss.” Grounds found that the coping mechanisms the wrongfully convicted employ to survive the prison environment, wreak havoc on interpersonal relationships after exonerees have been released. This finding was corroborated by Haney (2003). For example, while emotional withdrawal and isolation can be useful to deal with the challenges of prison, this type of behavior is “upsetting and bewildering” to family members.

Interestingly, Grounds also found that the need to be publicly exonerated and the need to receive an apology were much more important to the men in his study than was receiving money upon their release. This sentiment was echoed by exonerees who participated in a panel discussion facilitated by the state government of Illinois. They actually included receiving an apology in the list of the most important provisions the state could give them upon their release (see the Goal #2 of Restorative Compensation: Address Immediate Needs section below).

Understandably, there is significant detriment done to the psychological well-being of wrongfully convicted people. The ordeal of being wrongfully convicted is made that much more harrowing when it involves a conviction for a capital offense (Vollen & Eggers, 2005). Not only has the state deprived the wrongfully convicted of life as he knew it by wrongfully incarcerating him, but it causes him to suffer the trauma of waiting for the state to literally deprive him of life. Similarly,

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\(^5\) The other circumstance is producing methamphetamine on government housing premises (Legal Action Center, 2004).

\(^6\) Grounds (2004) notes that because his study was of only 16 men, additional research is needed to verify his results and “to develop explanatory models” – preferably in a longitudinal design with cross-jurisdictional comparisons.
the longer a person has to endure a wrongful conviction, the worse any resulting negative mental health issues are likely to be.

An individual’s mental health can impact most every other facet of a person’s life. This potential for extensive impact, and the apparent permanency of the effects, warrants considering the mental health of exonerees in determining compensation for exonerees. It also warrants a consideration of the quality and duration of the wrongful incarceration.

6. Medical Issues
Medical problems are rampant in the prison system and exonerees are no exception to this fact. The Eighth Amendment requires that health care be provided in prisons and jails, but courts have interpreted this mandate to mean that a prisoner’s constitutional rights have been violated only when there has been “deliberate indifference to a serious medical need” (Vollen & Eggers, 2005). So, it is not surprising that wrongfully convicted people are released from prison with the after-effects of years of poorly treated medical issues. Many have problems that either resulted from prolonged neglect of a medical condition or from actual physical abuse suffered during incarceration. Because physical health has a direct bearing on a person’s general well-being, consideration of medical issues resulting from wrongful incarceration is relevant to the state’s policy regarding exonerees.

7. Life Skills
In many ways, exonerees have missed important developmental steps due to their incarceration. Grounds (2004) reports that exonerated people have a set of predictable problems with adjusting to everyday life after they are released. Being excluded from society generates a sense of dislocation and a lack of age-appropriate maturity for many exonerees. They have difficulty due to not knowing practical skills of daily life such as crossing busy roads and shopping or operating remote controls, credit cards or central heating. There are reports that exonerees will sometimes dress in styles fitting for someone the age they were when they were first incarcerated or will attend social events on the same basis (Vollen & Eggers, 2005). An important aspect of life skills is money management. Due to the gap in life experience and the simple passage of time, the exonerees that were studied typically had little sense of the value of money, had difficulty budgeting, spent recklessly, and got into debt (Grounds, 2004). While it is impossible to give a person lost time, it is possible – and reasonable – to help an exonerated person become acclimated to the changed society in which they find themselves. Thus, the detriment wrongful incarceration does to the development of life skills is another important consideration for the development of a policy for the treatment of exonerees.

It is clear that wrongful conviction has negative consequences for exonerees in nearly every important realm of life: interpersonal relationships, employment, housing, physical and mental health, and the knowledge gained from normal life experience. The wrongfully convicted have undeservedly suffered these significant and pervasive undesirable effects. So, while an in-depth review of the state’s role in the cause of wrongful conviction is outside the scope of this analysis, an investigation of the state’s role in managing the results of wrongful conviction is a logical next step.

Vollen & Eggers (2005) describe the gross inadequacy of the medical care that one wrongfully convicted person received while in prison: “Paralyzed in his right leg, Clark McMillan was undergoing physical therapy and pain management when he was arrested and convicted for rape and robbery. Prison authorities confiscated his leg brace, denied him any medication beyond Tylenol, subjected him to harsh sleeping conditions, unregulated temperature changes, hard physical labor, and solitary confinement; and left him vulnerable to physical attacks from other inmates. After 22 years, McMillan was exonerated by DNA in 2002” (p 58).
STATE POLICY FOR THE TREATMENT OF THE WRONGFULLY CONVICTED: COMPENSATION

There is agreement in the literature that, in the absence of a compensation statute, the state has no legal obligation to compensate exonerees (Armbrust, 2003; Bernhard, 1999). While exonerated people can and do pursue compensation through the court system using lawsuits, this is a long and difficult path with inadequate returns. (This issue will be addressed in more detail in subsequent sections.) In the absence of a legal obligation, there is consensus among scholars that there is certainly a moral obligation to in some way compensate exonerees for the harm caused by their wrongful conviction (Armbrust, 2003; Bernhard, 1999; Lopez, 2002).

As the opening quote so aptly describes, the critical truth in the occurrence of wrongful conviction is that the state is at fault. By definition, the wrongfully convicted person finds themselves in that category due to the actions of the state. One is hard-pressed to find some aspect of the United State’s moral framework that excuses wrongdoing without redress – be it explicit in the form of the adversarial legal system or tort law, or implicit in the social norms of our culture. Thus, one of the fundamental justifications for the state providing compensation to people that it has wrongfully convicted is that compensation is the only response that is consistent with the country’s code of conduct.

A second justification for compensating exonerees follows from the first, but is specifically about the criminal justice system. Because the system is known to be fallible, it should also be responsible for its errors, just as individuals and other governmental bodies are. Since there is a societal benefit from accurately administering justice, then society should bear the burden of cost resulting in failures of the system (Zaremski, 2005). If the criminal justice system shirks this responsibility, then its credibility and legitimacy are – in some way – threatened (Lopez, 2002).

With an understanding that compensation for the wrongfully convicted is indeed justified, the next step is to identify the types of compensation that are appropriate.

COMPENSATION FOR THE WRONGFULLY CONVICTED: MONETARY

There is a long-standing tradition of financially compensating people for wrong-doing they have suffered. Indeed, this is the basis of tort law in America. There are numerous circumstances under which people have received compensation for everything from physical injury to mental anguish and from product failure to loss of life. Thus, a few useful comparisons can be made with other types of wrongful loss of liberty.

- In Maryland, a young man who was falsely accused of shoplifting and held for ten minutes in an Eddie Bauer store was awarded $850,000 (Lopez, 2002).
- A woman in Texas received $150,000 for the mental pain and humiliation of being wrongfully imprisoned for nine to eleven hours (Lopez, 2002).

*If we lose faith in the ability of our criminal justice system, and all of the constitutional safeguards and all of the evidentiary safeguards to separate those who are guilty from those who are not, we will lose touch with one of the core principles of our republic*
- Law School professor (Scolforo 2006).

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8 This declaration is meant in the broadest sense. That is, regardless of the specific cause of the wrongful conviction (e.g., false eyewitness testimony, prosecutorial misconduct, etc.) it is a system and a process of the state that caused the wrongful conviction.
- A patient who was committed to a mental institution for 23 days was awarded $40,000 for false imprisonment\(^9\) (Mclaughlin, 2005).
- A 67 year old nursing home patient received $13,000 for being confined for 51 days with insane people and substance abusers even though he was neither\(^10\) (Mclaughlin, 2005).
- A person who was confined overnight in a jail before being taken to a hospital by a physician who never saw or examined him was awarded $3,500\(^11\) (Mclaughlin, 2005).

In these types of cases, the adjudicating body took into account the following considerations of non-pecuniary harm: physical injuries, mental anguish (including humiliation, specifically), punitive damages, sensitivity of the claimant, causation, and reputation damage. Work-related losses and attorney fees were considered in determining economic harm (Zitter, 2005). It is apparent that there is a clear precedent for compensating people who have been the victims of wrongful imprisonment. Note that in the above cases, the duration of the wrongful confinement is significantly shorter than the eleven years on average that exonerated people have endured (Gross, 2003). Lopez (2002) proposes that one of the central justifications for monetary compensation of exonerees is to bring statutes in line with the tort laws that provided for the type of awards listed above.

Of course, there is the history of actual compensation awarded to known exonerated people so far in the US. This history follows the legal tradition of compensating people for their economic losses such as lost income and assets or lost earning potential. One researcher outlines the non-economic injuries for which wrongfully convicted people should be compensated: “pain and suffering, inconvenience, mental anguish, physical impairment, loss of capacity to enjoy life, loss of reputation, or loss of consortium” (Lopez, 2002). As will be shown, existing statutes take the latter type of injury into consideration to varying degrees.

Tracking the specific amount awarded under current compensation statutes is difficult because the process varies by state, many settlements are confidential, and the population of exonerated people is a transitory one. Scheck et al (2000) report that approximately 37% of death row exonerees have been compensated. The crucial number that is still unknown is what percent of exonerees have attempted to receive compensation. However, by way of example, here are the results from a few states:

**New York**

Of the 201 former prisoners (both exonerated and not) who have attempted to claim compensation since 1985, only 12 were successful by court decision in receiving awards between $40,000 to $1.9 million and another 15 people received out-of-court settlements between $6,750 and $2 million (Young, 2002). The average award amount for the 12 cases determined by court decision was $457,000 (Curtis, 2004).

**Ohio**

Between 1975 and September 2003, only 41 persons had obtained compensation for wrongful imprisonment either under the state’s compensation legislation or from special legislation (pre-1986). Approximately 20 inmates a year have their convictions overturned or are otherwise

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\(^9\) Stowers v Wolodzko (1971) 386 Mich 119, 191 NW2d 355

\(^10\) Big Town Nursing Home, Inc. v Newman (1970, Tex Civ App Waco) 461 SW2d 195

\(^11\) Keating v Keller (1970, La App 1st Cir) 242 So 2d 892
released in circumstances that might provide a basis for seeking compensation under the statute (Entin 2005).

California

Since 1981, 55 claims have been filed under the state’s wrongful conviction compensation statute. According to the state’s Victim Compensation and Government Claims Board, seven of the 30 claims filed since 2001 have been successful\(^\text{12}\) ("Fact Sheet," 2006). In 2001, the statute was revised to change the maximum award amount from $10,000 total to $100 per day of wrongful incarceration.\(^\text{13}\)

### Successful Claims for Compensation under California Statute 4900, since 2001

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<th>FIRST NAME</th>
<th>LAST NAME</th>
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<td>1/14/04</td>
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("Fact Sheet," 2006)

**COMPENSATION FOR THE WRONGFULLY CONVICTED: RESTORATIVE**

Compensation on the part of the state could take an exclusively monetary form. That is, once a person has met the qualifications mandated by the state’s compensation legislation, the state could simply cut a check in the statute-specified amount and the compensation process could be considered complete. In fact, a number of existing compensation statutes take this approach to compensation. Unfortunately, the adage “Money isn’t everything” is painfully true for those who have been wrongfully convicted and then released from prison. Because of the nature of the effects of wrongful conviction identified above, it is necessary to consider a form of compensation that seeks to actively restore an exoneree to a functional and satisfying life, rather than simply compensating him for his economic losses. Simply giving an exoneree money will not provide him with the training and skills necessary to function comfortably in everyday life. It is important to note that no type of compensation can guarantee happiness. However, the truth of this fact does not outweigh the compelling rationale outlined thus far for the state to compensate wrongfully convicted people. This section investigates the purposes of restorative compensation.

\(^{12}\) E-mail from Pamela Schneider, Deputy Executive Officer, Victim Compensation and Government Claims Board, April 2006.

\(^{13}\) E-mail from Pamela Schneider, Deputy Executive Officer, Victim Compensation and Government Claims Board, April 2006.
Goal #1 of Restorative Compensation: Address Barriers to Re-entering Society
The barriers to re-entering mainstream society are myriad for people with criminal records. Nearly every aspect of life can be negatively impacted by just having an arrest history; and, the consequences are even more severe for those with a felony conviction. Moreover, the impact of these barriers to re-entry is even more detrimental given the meager finances of those who have been recently released from prison. In the words of one scholar,

“The legal disabilities and social exclusion resulting from any adverse encounter with the criminal justice system erect nearly insurmountable barriers for criminal defendants, people with criminal records, those returning to their communities after incarceration, and their families” (Smyth, 2005, p. 479).

What is important to note is that none of these barriers to re-entering society can be appropriately addressed by monetary compensation.

Goal #2 of Restorative Compensation: Address Immediate Needs
The treatment of ex-inmates upon their release from prison varies from state to state. The norm seems to be a bus ticket worth about $50 and sometimes a change of clothes and some pocket change (Visher & Travis, 2003). However, fully one-third of all states report that they provide no funds to ex-inmates upon their release (Travis et al., 2001). Unfortunately, the research about the period immediately after release is sparse (Visher & Travis, 2003). But what we do know is that successfully reintegrating into society after being imprisoned is a challenging process that requires some or all of the following: finding housing, obtaining official identification, reconnecting with friends and family, and finding employment – but now with a gap in work history and, most likely, with a criminal record14 (Lopez, 2002; Visher & Travis, 2003).

One researcher notes that:

There has been surprisingly little recognition of the fact that our system of penal law is largely flawed in one of its most basic aspects: it fails to provide accessible or effective means of fully restoring the social status of the reformed offender … Only a very few states have even attempted to implement a coherent statutory scheme by which offenders may fully regain their rights of citizenship, much less their standing in the community. It seems that reintegration of offenders is neither encouraged nor expected (Love, 2003, p. 1705).

While the standard provisions for people who are released from prison are often minimal at best, even these options are typically unavailable to exonerees. For example, rightfully convicted people may have the benefit of a transition period back to normal society. This may include time in a less supervised environment, increased family visitation, and supervision and support of a probation or parole officer. But because of their unique status, exonerees are typically released on their own recognizance with little or no resources in their possession. In addition, there is no standing government agency responsible for providing support to exonerees. A panel discussion conducted by the Illinois Criminal Justice Information Authority’s Research & Analysis Unit found that exonerees were most concerned with the state providing the following: immediate

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14 Most exonerees still have criminal records because the process of expungement is only available in 14 states and it is typically difficult and costly.
assistance upon release, counseling, emergency financial assistance, programs that teach meaningful skills and an official apology (“Needs,” 2002). Other sources echo a similar pattern.

James Newsome, who was exonerated in 1994 after serving 15 years for being wrongfully convicted of murder and armed robbery, explains,

“...We need to have a process or system by which these guys [exonerees] can go to a program or project so that when they are restored to the free community they’re able to address some of their immediate concerns – the clothing, the housing issues, the medical issues, the therapeutic issues, even relationship issues ... What a person needs is some independence. He needs some resources, but he needs to be able to fend for himself (Vollen & Eggers, 2005, p.137).

A legal scholar reiterates a similar opinion,

“...Reentry assistance, including assistance in finding housing and employment, should also be provided to help former inmates readjust to normal life. Such remedies must be available without conditions attached and without statutory limits on the amounts recoverable. Although such a system would not allow wrongfully convicted individuals to regain the years lost, it would help to restore the legitimacy of the criminal justice system (Blackerby, 2003, p. 1225).

Even though we may expect or hope that the wrongfully convicted could just reintegrate into life and society upon their release, one expert asserts that this task is almost impossible for anybody — and definitely so for an exoneree because of their particular needs (Haney, 2003).

In sum, recently released wrongfully convicted people have immediate needs that must be addressed by restorative compensation. Monetary compensation is inadequate to address exonerees’ immediate needs for two reasons: 1) the particular nature of these needs; and, 2) the available processes for receiving compensation require months to years to be complete.

Goal #3 of Restorative Compensation: Address Long-term Needs

Many of the immediate needs identified above develop into or are related to the needs exonerees have in the long-term. For example, the mental health problems they face certainly cannot be resolved immediately upon exonerees’ release from prison. Rather, addressing this issue requires access to treatment and counseling over an extended period of time. Similarly, while exonerees have immediate financial needs, the ability to be self-sustaining requires time invested in job skills training and placement efforts. Only restorative compensation, and not monetary compensation, can address exonerees’ immediate needs; so, too, is it most appropriate for addressing their long-term needs.

With an understanding of the effects of wrongful conviction, of the justification for compensating the wrongfully convicted and of the necessary types of compensation, the next step is to investigate any existing precedent for policies for the treatment of exonerees. First, is a review of international precedent, then is an analysis of exiting US compensation statutes, and finally is a summary of existing model statutes. Each of these sources will inform the development of a model state policy for the treatment of wrongfully convicted people.

15 Note that the panel consisted of seven exonerated people selected for their diverse experiences after being released. Thus, it was certainly not a proportionally representative sample.
**Precedent for Wrongful Conviction Compensation: International**

The table below summarizes existing compensation legislation in a select set of countries. These particular countries are included in this analysis because there is comparatively more publicly available data and literature available about them. The goal of this portion of the analysis is to gain insight into how other countries have legislated the treatment of wrongfully convicted people.

**Table 1: International Compensation Statutes**

<table>
<thead>
<tr>
<th>Country</th>
<th>Statute</th>
<th>Year Passed</th>
<th>Qualifications</th>
<th>Who Decides</th>
<th>Maximum Awards</th>
<th>Types of Damages Awarded</th>
<th>Family Eligibility</th>
<th>Criminal Conviction Review Comm.?</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Covenant on Civil &amp; Political Rights</td>
<td>Article 9 (4), Article 14 (6)</td>
<td>varies by country</td>
<td>treaty states that wrongfully convicted/ incarcerated person is entitled to compensation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>n/a?</td>
</tr>
<tr>
<td>Australia</td>
<td>no compensation law, some <em>ex gratia</em> payments</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>no</td>
</tr>
<tr>
<td>Ireland</td>
<td>Criminal Procedure Act, No. 40 of 1993</td>
<td>1993</td>
<td></td>
<td>Court of Criminal Appeal; Minister of Justice</td>
<td></td>
<td></td>
<td>no</td>
<td></td>
</tr>
<tr>
<td>Scotland</td>
<td>Crime and Punishment Act of 1987</td>
<td>1997</td>
<td></td>
<td>Minister of Justice, with appeals to High Court</td>
<td></td>
<td></td>
<td>yes</td>
<td></td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Criminal Justice Act 1988 (c 33); <em>ex gratia</em> payments</td>
<td>1988</td>
<td></td>
<td>Secretary of State, amount determined by assessor appointed by Secretary of State</td>
<td>considers suffering, harm to reputation and similar damages</td>
<td>lost wages, same calculation as civil wrongs</td>
<td>payable to family if individual is deceased</td>
<td>yes</td>
</tr>
</tbody>
</table>
International Human Rights Law
The International Covenant on Civil and Political Rights (ICCPR) is one of the seven core human rights treaties. That the ICCPR addresses the issue of wrongful conviction compensation is compelling evidence that it is a significant one worthy of official state policy. The ICCR – to which the US was a signatory in 1977 and that was ratified in 1992 – states in Article 9 (5) that “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.” Similarly, Article 14 (6) states, “When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.”

Moreover, if a country fails to provide this compensation, the treaty provides the recourse of a non-binding opinion of Human Rights Committee. But, this option is only available if the country is a signatory to First Optional Protocol to the ICCPR, which the US is not.

Canada
Canada ratified both the ICCPR and the Optional Protocol, which came into effect there in 1976 (Government of Manitoba, 2001). Besides its legal obligation under this treaty, Canada has three methods of providing compensation to the wrongfully convicted:

1. Statutes:
   a. 1986 Manitoba Guidelines for Compensation for Wrongfully Convicted and Imprisoned Persons
   b. 1988 Federal-Provincial Guidelines on Compensation for Wrongfully Convicted and Imprisoned Persons
2. Special legislation passed by provincial governments – similar to ex gratia payments made by state governments in the US
3. Civil action – similar to tort claims in the US

There are approximately 22 people in Canada who have proven that they were wrongfully convicted. However, due to tracking and communication issues, it is difficult to assess the total number of attempts to claim compensation. One source states that around twelve of Canada’s twenty-plus wrongfully convicted have received compensation (Janson, last accessed April 2006). Of these, at least five people received compensation from the federal or provincial government and one was compensated by a police department. So far only one claimant has received compensation through the Federal-Provincial Guidelines (AIDWYC; DeRusha, 2004). From the

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16 The Human Rights Committee is “the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties” http://www.ohchr.org/english/bodies/hrc/index.htm
17 “enable the Human Rights Committee set up in part IV of the Covenant … to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.” http://www.ohchr.org/english/law/ccpr-one.htm
19 Ibid.
information that is publicly available\(^{20}\) the compensation in Canada has ranged from $60,000 (Susan Nelles) to $10 million (David Milgaard) (DeRusha, 2004; CBC News, 2004).

Much of the compensation made to exonerated people in Canada has been in the form of special legislation – requiring an act of either the federal or a provincial government each time. The shortcoming of this method is that it is subject to political interests and timing – just as it is in the US. And, the amount of \textit{ex gratia} awards has been highly variable and unpredictable (DeRusha, 2004). Civil action is a very difficult method to use to obtain compensation because it is subject to the myriad rules, limitations, and time limits of the rest of civil law. For example, a claimant making a claim against the Crown must do so after 60 days of the incident but within the subsequent seven days (DeRusha, 2004). Civil action is also costly for the typically resource-poor claimant, especially as compared to the resources available to the government entity that is the defendant.

The “federal-provincial” statutes outline “the rationale for compensation; the conditions of eligibility for compensation; and the criteria for quantum of compensation” (Government of Manitoba, 2001). A potential shortcoming of the Canadian system is that there are no guidelines – either through legislation or judicial rulings – about the amount of the compensation available to claimants (DeRusha, 2004). Those cases that do go to trial have a difficult evidentiary burden as there is a requirement to show factual evidence and/or fault on the part of the Crown or police (AIDWYC; DeRusha, 2004). Each set of guidelines requires “factual innocence” to be eligible for a claim. Critics of the guidelines believe that this requirement has been a formidable hindrance to those seeking compensation. Factual innocence has been called a “slippery and ill-defined” requirement that is extremely difficult to meet (Makin, 2005, p.1). It essentially requires that: 1) DNA evidence exists, and 2) that the claimant has the legal and financial resources to use this DNA to prove his innocence.

In considering both pecuniary and non-pecuniary losses, the Canadian compensation statute mandates that losses cannot exceed $100,000 and that the following be taken into account:

(a) Loss of livelihood, including loss of earnings, with adjustments for income tax and for benefits received while incarcerated;
(b) Loss of future earning abilities; and,
(c) Loss of property or other consequential financial losses resulting from incarceration.

As a result of the discovery and correction of Thomas Sophonow’s wrongful conviction 20 years after he served a 45 month wrongful incarceration\(^{21}\), Canada initiated a comprehensive judicial inquiry into the issue of compensating wrongfully convicted people. The resulting lengthy and detailed report\(^{22}\) provides ample justification for relatively generous monetary and restorative compensation.

While Canada is apt for comparison to the US, it is one of several countries where there is an important distinction to be acknowledged. That is, it is one of several countries that have set up organizations with the specific task of reviewing claims of wrongful convictions or miscarriages of justice. Perhaps influenced by the creation of the CCRC in the United Kingdom (discussed

\(^{20}\) At least one government settlement is known to be confidential (DeRusha, 2004).
\(^{21}\) Sophonow eventually received $2.6 million in compensation (http://www.aidwyc.org/index.cfm/ci_id/1115/la_id/1.htm).
\(^{22}\) The full report can be found on-line at: http://www.gov.mb.ca/justice/publications/sophonow/toc.html
below), Canada created the Criminal Conviction Review Group\(^{23}\) in 2002 (Canada, Department of Justice 2004). Note that these organizations are intentionally set up to operate outside of the standard system of conviction appeals. In fact, the Canadian version explicitly advises people who are seeking a review of their conviction on the basis of a miscarriage of justice to do so with the assistance of the Association in Defence of the Wrongfully Convicted (AIDWYC) or the Innocence Project in Canada (Canada, Department of Justice 2004).

**United Kingdom**

With the 1995 inception of its Criminal Conviction Review Commission (CCRC), the United Kingdom has set the international standard for identifying and correcting wrongful convictions. The CCRC is “the independent public body set up to investigate possible miscarriages of justice in England, Wales and Northern Ireland. The Commission assesses whether convictions or sentences should be referred to a court of appeal.”\(^{24}\) Its goal is “to review suspected miscarriages of justice and refer a conviction, verdict, finding or sentence to an appropriate court of appeal where the Commission considers that there is a ‘real possibility’ that it would not be upheld.”\(^{25}\) The most notable feature of this organization is its ability to conduct investigations, obtain documents and order re-trials outside the standard court system. The level of independence – and the subsequent success in identifying and correcting wrongful convictions – has inspired similar entities in Canada, Norway and Scotland\(^{26}\). With its staff of 100 and multi-million dollar annual funding, it has reviewed 8,540 applications and “quashed” 187 convictions as of March 31, 2006\(^{27}\).

Making comparisons with the US of this rate of overturning convictions is difficult. First, since the CCRC is not necessarily concerned with innocence, these numbers are not entirely appropriate for comparison with the number of wrongful convictions in the US. Secondly, the US does not have an independent agency that is comparable to the CCRC, so any comparison would conflate US wrongful convictions that took place in the standard legal forum with UK wrongful convictions that did not. That being said, it is interesting to note that the UK system overturned 187 convictions in just six years while the US has found approximately 350 in nearly seventeen years. Based on these numbers, the UK rate of wrongful conviction is approximately three per one million people and the US rate is a little over one per one million people.\(^{28}\)

The UK’s CCRC remains the gold standard for the review of claims of wrongful conviction. Advocates the world over cite its independence, authority and financial solvency as the goal to which their own countries should aspire. Nonetheless, its critics maintain that the CCRC is too deferential to the courts. In fact, advocates have formed several Innocence Projects in the UK since the government established the CCRC. Because the mission of the CCRC is to determine if convictions are legitimate, it is legally obligated to investigate, for example, a guilty person’s extradition as thoroughly as mistaken eye witness testimony that led to a wrongful conviction (Chisholm, 2006). That is, the CCRC is not particularly concerned with the actual innocence of

\(^{23}\) The common law power of the CCRG comes from the “Royal Prerogative of Mercy” that recognized the potential of miscarriages of justice and provided for a legislative remedy.

\(^{24}\) Criminal Cases Review Commission website: http://www.cccrc.gov.uk/


\(^{26}\) Scotland: www.sccrc.org.uk; Norway: http://www.gjenopptakelse.no/index.php?id=32

\(^{27}\) http://www.cccrc.gov.uk/cases/case_44.htm

the convicted person. Innocence, *per se*, is a non-issue for the CCRC as it is just one of the reasons for overturning a conviction, as are errors in legal technicalities or process that make a conviction “wrongful.” Even if the CCRC has evidence demonstrating the innocence of an applicant, it is unable to take action on the case unless it also meets the requirements of having new evidence or arguments (Innocence Project UK).  

30 The test for cases that the CCRC reviews is whether or not the appeal court may actually overturn the conviction (Chisholm, 2006). Since this hurdle is a difficult one to clear, many of the UK Innocence Projects cases have already been rejected by the CCRC (Chisholm, 2006). While the CCRC cannot be concerned with factual innocence, this is precisely the overarching concern of the Innocence Projects.

There are two ways to obtain compensation for wrongful conviction in the UK:

1. *ex gratia* payments, which are under the complete discretion of the Home Office

2. Criminal Justice Act of 1988

While it is far from comprehensive, the UK statute is more inclusive than most US statutes. Eligible damages include loss of earnings, reduction in future earnings, and damage to reputation. There is also a provision for the travel expenses incurred on the part of the claimant’s family. However, unlike for rightfully convicted ex-inmates in the UK, there is no provision of a rehabilitation program or services for exonerated people.

Typically, the first step in receiving compensation in the UK is to have a conviction overturned by the CCRC. As Grounds (2004) explains the process to receive statutory compensation is as follows:

In England and Wales, compensation for miscarriages of justice is paid by the Home Secretary under Section 133 of the Criminal Justice Act, 1988. Miscarriage of justice in this context means that there has been failure in the trial process such that the person clearly should not have been convicted. While proof of innocence may not be strictly required, the Home Secretary is unlikely to compensate in cases where he sees no reason to doubt the individual's guilt. The Home Office advises individuals of their eligibility to apply for compensation, and their lawyers submit claims supported by relevant documents and reports. The claims are considered by an independent assessor (p. 16-17).

Between 1998 and 2003, the UK awarded wrongfully convicted people £33.29 million in compensation (UK Parliament, 2004). The Parliament of the United Kingdom (2004) reports that the actual success rate of claims for compensation is difficult to establish because public knowledge of this information is dependent upon the claimants’ filing process. What is perhaps most notable about the UK compensation scheme is that payment is typically made within two weeks after the amount is determined by the assessor and accepted by the claimant (UK Parliament, 2004).

According to the arbitrating body – the UK Home Office – its goal is to compensate the wrongfully convicted for "the hardship caused by the conviction" (Taylor, 2002, p.1). The UK

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29 Innocence Network of the United Kingdom: http://www.innocencenetwork.org.uk/
30 The Home Office is the government department responsible for criminal justice.
31 Note that this figure includes people whose wrongful convictions were discovered and overturned by the regular Criminal Court of Appeals.
Wrongfully Convicted Policy: Precedent

statute allows for the calculation of the award amount to be the same as the calculation of damages for civil transgressions. Each of the following considerations may be considered:

- personal financial losses such as the loss of earnings and the reduction in future earning potential
- loss of pension rights
- legal fees
- family’s travel expenses (Taylor, 2002).

Between 1993 and 2003, over 150 claimants (who had their convictions overturned by either the CCRC or the normal judicial system) were successful in winning compensation either through the statute or through ex gratia payments. The number and award amount of claims have been increasing over time. For example, in 2000-2001, the Home Office awarded £8.05 million ($14.9 million US dollars) in compensation, compared with £1.54 million ($2.77 million US dollars) in 1994-95 (Naughton, 2003). Yet even with thorough consideration of these pecuniary damages, exonerees in the UK share many of the same hardships as those in the US: no access to rehabilitation and transition services for ex-inmates, the stigma of incarceration, and uncertain access to compensation (Taylor, 2002). And, there is no provision for mental health assessment or care for recent exonerees (Grounds, 2005).

Australia & New Zealand
According to one scholar, while there are certainly “several” exonerated people in Australia, the precise number is poorly tracked and in dispute due to conflicting definitions of “exoneration” (Carter, 2006). Although Australia and New Zealand are signatories to the ICCPR, there is no official legislation in these countries for the compensation of wrongfully convicted people. Yet, people do sometimes receive ex gratia awards or win common law claims. Here, too, claims take a very long time to come to fruition, they are quite variable, they are subject to political considerations and typically the state admits no guilt. The Attorney General or the Minister of Justice reviews the applications for compensation. The guidelines for determining compensation, however, either do not exist or are not available to the public (Indigenous Resources, 2006; Justice Action, 2006; Post-Conviction Inquiry, 1994). There are an estimated 20 people who have been wrongfully convicted and released from prison in New Zealand (Chisholm, 2006) and one person who has been exonerated due to DNA evidence in Australia (Carter, 2006).

Scotland
In Scotland there were 54 successfully overturned convictions in 2000 and 102 in 2003 – the portion of these that were overturned due to actual innocence is unknown. Scotland has paid more than £1.2 million ($2.2 million US dollars) in damages to wrongfully convicted people. (Howie, 2005).

In conclusion, the countries with the most data and literature available provide some useful examples of precedent for wrongful conviction compensation. First, in the ICCPR, there is an international standard that a wrongful conviction warrants compensation. Second, the countries in question demonstrate the same lack of consistency as is found in the US. All of the countries in consideration have some way of providing compensation, but not all have a statute that

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32 As of April 2006, there is a push in the UK government to limit the maximum award amount to £500,000 (BBC News, 2006).
mandates it. Of those with statutes, the compensation is exclusively monetary, even though the statutes and/or the governments recognize that the wrongfully convicted suffer non-economic injuries. Finally, the existence of an independent agency to review claims of wrongful conviction is an idea worth considering in the US. With these precedents in mind, we turn now to a similar examination of policy in the US.

**PRECEDENT FOR WRONGFUL CONVICTION COMPENSATION: UNITED STATES**

There are three methods exonerated people can pursue to receive compensation for wrongful conviction in the US: civil legal action, special legislation, and under wrongful conviction compensation statutes.

**Civil Legal Action**

The primary way in which wrongfully convicted people can receive compensation through civil legal action is under the Civil Rights Act of 1871, 42 U.S.C. § 198334 (Armbrust, 2004; Lopez, 2002). In essence, this federal statute allows people to sue state agents for violating their constitutional rights. A wrongfully convicted person can file a lawsuit under § 1983 based on the right to be free from malicious prosecution35, extraction of involuntary confessions, and/or suppression of favorable evidence (for the accused) by the police (Armbrust, 2004).

The major hindrance to exonerated people seeking redress under this statute is the element of prosecutorial immunity. The Supreme Court has ruled that prosecutors require “absolute immunity from 'harassing litigation that would divert his time and attention from his official duties’” (Tierney, 2001). This protection has dire consequences for those seeking compensation for wrongful conviction in the form of civil legal action. In the words of one legal scholar: “Sovereign immunity is the hardest obstacle that a wrongfully incarcerated individual must overcome in terms of tort-based litigation” (Zaremski, 2005). Because prosecutorial and/or police misconduct plays a role in several of the known causes of wrongful conviction (see Appendix B), the sovereignty afforded these actors is a critical hindrance to successful compensation claims. Essentially there are no sanctions for prosecutors. Johns (2005) explains, “Prosecutors are rarely disciplined or criminally prosecuted for their misconduct, and the victims of this misconduct are generally denied any civil remedy because of prosecutorial immunities” (p. 54).

According to one expert, states tend to assume that the American Bar Association (ABA) will address and sanction prosecutorial misconduct, but the ABA fails to thoroughly engage the issue

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34 Civil Rights Act of 1871, 42 U.S.C. § 1983:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” (http://uscode.house.gov/download/pls/42C21.txt - last accessed 4/14/06)

35 “The most common fair trial claims are: (1) Brady claims, alleging that officials suppressed evidence that was exculpatory; (2) ineffective assistance of counsel; (3) use of suggestive eyewitness identification procedures; (4) a coerced confession; and (5) fabrication of evidence, such as blood evidence, hair evidence, or witness statements.” (Garrett 2005)
Although there is general consensus in the literature that prosecutorial misconduct is responsible for a significant portion of wrongful convictions (see Johns, 2005 for a review), the absolute nature of prosecutorial immunity makes claims of this nature almost impossible to win. When the prosecutor acts as an advocate, he or she is immune from liability even when there is evidence that the prosecutor acted “intentionally, in bad faith, and with malice” (Johns, 2005; Williams, 1999). As long as police officers have probable cause – a very low legal standard to meet – they will be protected by this immunity; and, this protection could even include police officers who have committed perjury (Frontline, 2003; Lopez, 2002). Similarly, if there was enough evidence to meet the relatively low standard of probable cause, then a suit for wrongful arrest is quite unlikely to be successful (Young, 2002). Given this exceptionally high standard, the loosening of prosecutorial immunity would be extremely beneficial for those seeking claims for wrongful conviction (Armbrust, Bernhard interviews April 2006). Alternatively, what if the agencies prosecutors represent could be held financially responsible for wrongful convictions in some way? If prosecutors are protected from personal lawsuits, then perhaps some of the compensation for wrongful conviction could be paid from their agencies’ operating budgets.

In terms of comprehensive compensation, the shortcomings of civil legal action can be summarized as follows:

…the remedies available through civil litigation do not promote an exoneree’s successful reintegration into society. Litigation forces an exoneree, newly freed, to engage in a potentially protracted adversarial process. It encourages the exoneree to foster feelings of hostility toward the State, rather than celebrate his renewed citizenship. Similarly, litigation encourages the State to act defensively as to its role in the wrongful conviction, rather than explore possible missteps and learn from them (Fite, 2005, p. 1185).

Moreover, § 1983 has no provisions for the health care, job training and other social services necessary to successfully reintegrate the wrongfully convicted into society. Therefore, § 1983 claims are insufficient for compensating wrongfully convicted people.

Special Legislation
A few wrongfully convicted people have received compensation through legislation or private bills crafted specifically for a particular individual. Just as in ex gratia payments made in other countries, compensation from this source is highly variable and protracted in coming to fruition (Bernhard, 1999). Success often depends on an individual's political connections, on the political climate, or on other political considerations (Bernhard, 1999; Lopez, 2002). Here, too, this type of legislation fails to provide any social services to exonerated people and is thus inadequate for compensating the wrongfully convicted. Furthermore, the existence of a compensation statute can bar the option of receiving compensation from special legislation (Buchwalter, 2005) as can

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36 Interview conducted by telephone April 2006
37 Interview conducted by telephone April 2006
38 One researcher advocates for prosecutors’ budgets paying for every day of wrongful incarceration when it has been demonstrated that they were in possession of exculpatory evidence.
39 Nonetheless, some wrongfully convicted people have successfully claimed and received compensation under the provisions of § 1983 (Armbrust, 2004).
the constitution in some states, which prohibit the passage of private compensation bills (Lopez, 2002).

**Statutory Compensation**

Legal scholars have thoroughly established the superiority of statutory indemnification over the two other options for wrongfully incarcerated persons (Bernhard 1999; Fite, 2005; Lopez, 2002). And Lopez (2002) notes that even though statutory compensation has the risk of undercompensating the wrongfully convicted, it is still superior. That is, compensation statutes that have a maximum award amount could provide an exoneree with grossly inadequate compensation proportional to the duration of his wrongful conviction. Besides the shortcomings of the civil legal action and special legislation identified above, statutes are preferable because recent exonerees are unlikely to have the resources necessary to initiate a lawsuit and they need to concentrate on attaining life stability (while the statute of limitations begins immediately upon release) (Zaremski, 2005). Moreover, lawsuits place the burden of proof on the claimant (Zaremski, 2005). For a full review of the rationale of the superiority of compensation statutes over special legislation and civil litigation, see Bernhard (1999).

**Table 2: Methods of Wrongful Conviction Compensation**

<table>
<thead>
<tr>
<th>Compensation Method</th>
<th>Authority</th>
<th>Provisions</th>
<th>Exonerees' Success Rate</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Legislation (ex gratia payments)</td>
<td>varies by state: some state constitutions prohibit passage of private bills, existence of compensation statute can bar <em>ex gratia</em> payments</td>
<td>provides compensation for specific individuals</td>
<td>worst</td>
<td>potential for large awards; public acknowledgement</td>
<td>highly variable; protracted process; dependent on political considerations; no restorative compensation</td>
</tr>
<tr>
<td>Civil Legal Action</td>
<td>Civil Rights Act of 1871, 42 U.S.C. §1983</td>
<td>allows people to sue state agents for violating constitutional rights</td>
<td>better</td>
<td>potential for large awards; universally available</td>
<td>prosecutorial immunity; protracted adversarial process; State must act defensively; no restorative compensation</td>
</tr>
<tr>
<td>Statutory Compensation</td>
<td>Federal statute and 22 State statutes</td>
<td>provides baseline compensation for qualifying exonerees</td>
<td>best</td>
<td>can provide for monetary and restorative compensation; relatively minimal effort required of exonerees; if exists, then universally available</td>
<td>risk of undercompensation; barriers to compensation legislation (constituency and prosecutorial influence)</td>
</tr>
</tbody>
</table>

As of April 2006, twenty-one states and the District of Columbia had legislation that provides for some type of compensation for people who have been wrongfully convicted and released from prison. There is a Federal statute to the same effect. In Kentucky, compensation legislation has been before the legislature but failed to pass. Legislation is now pending in six states: Hawaii SB3127, Florida HB7321 SB1550 SB1920, Michigan HB5509, Pennsylvania HB1473, Utah

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40 SB 172 failed to pass in the 2006 session of the state legislature.
HB164, and Vermont HB828. There are twenty-nine states that provide no statutory compensation for wrongfully convicted people.

**Review of Existing US Statutes**

**Table 3: Status of Compensation Statute by State**

<table>
<thead>
<tr>
<th>Statute Exists</th>
<th>None</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>23</td>
<td>6</td>
</tr>
</tbody>
</table>

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<td>Wisconsin</td>
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<td>Federal</td>
<td>Wyoming</td>
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A review of the existing and pending compensation statutes reveals some clear trends and some disheartening realities. (Chart A details the compensation status of every state and select countries.) Five states rely exclusively on executive pardons for eligibility and eight have pardons as one option for eligibility. As Armbrust (2004) notes this qualification “injects” the wrongfully convicted into a political process that is inappropriate for someone to whom the state owes a moral debt. Several rely on the Court of Claims to decide if there will be compensation and, if so,
how much. Only one state has a government body set up specifically to review claims from wrongfully convicted people. Most either provide compensation for only felonies or do not specify the type of crime to which it pertains. Of course, the punishment for felonies is greater than for misdemeanors, but in terms of moral obligation, there is no logical basis on which to exclude those who have been wrongfully convicted of misdemeanors from receiving compensation.

Only three states provide for restorative awards – defined as pecuniary or non-pecuniary awards that further the reintegration of the exonerated person back into society by providing for social services (e.g. job skills training, tuition, medical and counseling services, and physical health care). Half of the states with compensation legislation set a limit on the maximum amount of the award. The average amount of compensation per year of incarceration is approximately $31,000. Only seven states offer compensation for legal and/or court fees associated with the wrongful conviction. While all but three states have a two year statute of limitation on filing a claim for compensation, only two states mandate that the government actually notify the wrongfully convicted person of the compensation statute. Maryland and Texas specifically state that the claimant’s family is ineligible to receive compensation and Alabama, Tennessee and Virginia allow the family to receive compensation upon the claimant’s death. Five states address the issue of the payments being made as lump sums or installments/annuities. In eight states, a guilty plea renders a claimant ineligible for compensation – the problematic nature of this particular qualification will be addressed in the recommendations section below. As will be shown, nearly all of the existing compensation statutes provide financial compensation. Similarly, this is the element that all of the published model compensation statutes have in common.

**TABLE 4: SELECT CHARACTERISTICS OF EXISTING COMPENSATION STATUTES**

<table>
<thead>
<tr>
<th># OF STATES THAT:</th>
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<tr>
<td>have a compensation statute</td>
<td>22</td>
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<tr>
<td>provide monetary compensation</td>
<td>21</td>
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<tr>
<td>have 2 or 3 year statute of limitations</td>
<td>19</td>
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<tr>
<td>have maximum award amount</td>
<td>11</td>
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<tr>
<td>only compensate for felony convictions</td>
<td>9</td>
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<tr>
<td>mandate that a guilty plea renders claimant ineligible</td>
<td>8</td>
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<tr>
<td>compensate for legal and/or court fees</td>
<td>7</td>
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<tr>
<td>require pardon for eligibility</td>
<td>5 (8)</td>
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<tr>
<td>provide restorative compensation</td>
<td>3</td>
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<tr>
<td>allow family to receive compensation (upon death of claimant)</td>
<td>3</td>
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<tr>
<td>mandate exoneree is notified about compensation statute</td>
<td>2</td>
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<tr>
<td>have government body to review claims of wrongful conviction</td>
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</tbody>
</table>

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41 Alabama’s “Committee on Compensation for Wrongful Incarceration;” there is legislation pending in Pennsylvania to create an “Innocence Commission”
42 California (6 months), Missouri (1 year) and Tennessee (1 year)
43 Five states have pardon as the exclusive means of eligibility and another eight states have pardons as one way to qualify for compensation.
There has been a Federal statute providing for the compensation of wrongfully convicted people since 1948. From the time of its inception until October 2004, the statute provided for a maximum of $5000 of compensation – regardless of the duration of the wrongful incarceration. At that time, the Innocence Protection Act of 2004 became law. This Act increased the maximum award amount to $50,000 per year of wrongful incarceration for non capital sentences, and to $100,000 per year for capital cases.

**Technicalities of Claiming Compensation**

In order to be awarded compensation, a claimant must generally have the following *prima facie* case. There must be proof that:

1. the petitioner was convicted of a criminal offense and was incarcerated for at least some time period;
2. the petitioner received a pardon for the crime or, in some states, had the judgment of conviction reversed or vacated;
3. the petitioner was innocent of the crime;
4. the petitioner did not contribute to bringing about the conviction, for example, by failing to adduce certain witnesses; and,
5. in some jurisdictions, the petitioner must show a pecuniary injury resulting from the wrongful imprisonment, while in other states a fixed amount of compensation is awarded. (American Law Reports ALR4th)

See Buchwalter (2005) for a comprehensive review of how each state’s compensation law has been applied.

**Review of Pending Legislation**

The trend in recent and pending legislation is encouraging in that newer compensation legislation seems to have a greater tendency to include restorative compensation. For example, all five of the pending statutes provide for health care – typically through the state’s employee health care system. Four offer a minimum of $50,000 for each year of incarceration (one offers $40,000), and none sets a maximum amount on the award. They tend to offer compensation for both economic damages and lost wages and have a more generous statute of limitations of three years instead of the standard two. Since these statutes are still pending, it is possible that they are intentionally more generous than the standard statutes as a matter of legislative strategy. That is, by drafting a more generous statute, legislators preserve room for relinquishing certain aspects during negotiation while ending up with a final version that is comparable to existing statutes. That said, if these five bills do indeed become law, they will be a clear indication that there is at least a momentary trend towards more holistic compensation legislation. At least one other researcher has noted the trend towards more holistic and substantial compensation statutes. According to Fite (2005), Virginia’s 2004 law provides $15,000 of transitional assistance immediately upon release, Massachusetts’ 2004 law has a provision for social services, and in California, there is pending legislation to provide goods and services to exonerees.

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44 It also addressed other aspects of the criminal justice system by allocating monies for increased availability of DNA evidence testing and to help improve legal representation in capital cases.
Barriers to Compensation Legislation

An analysis of the model state policy should consider why there is not already a universal policy for the treatment of wrongfully convicted people. However, there is very little in the literature on the topic of barriers to compensation legislation (see Bernhard, 2004, for a review). The state congressmen who are sponsors of the five pending (and one recently failed) compensation statutes and their legislative staff offer some interesting anecdotal evidence. The Legislative Assistant for Florida Representative John “Q” Quinones reports that the lack of press coverage seems to have played a role in the statute he sponsored failing to pass in 2005.\(^{45}\) The Legislative Analyst for State Senator Jon Neal of Kentucky reports that since all of the SB172's sponsors were Democrats, it failed to clear the hurdles of political factions.\(^{46}\) Congressman David Litvack of Utah thinks that the compensation bill (HB164) he sponsored was hindered by legal technicalities in the language of the current version and by the timing of when the bill was introduced.\(^{47}\) However, he remains hopeful that the bill will eventually succeed; since it is now being redrafted in a working group comprising the Utah Attorney General’s Office and academics from the University of Utah. Vermont Congressman Duncan Kilmartin says that because the Judiciary Committee failed to take up HB828, which he sponsored, it will die at the end of the session.\(^{48}\) He plans to reintroduce the bill if he is re-elected. The Legislative Analyst for Pennsylvania Congressman Michael McGeehan reports that HB1473 is currently in the Judiciary Committee and is probably awaiting research.\(^{49}\) The same is true of the HB5509 pending in Michigan, according to the state government’s legislative website.\(^{50}\) The sponsor of the bill in Hawaii did not respond to inquiries and information was not available on-line. Although this is a small non-representative sample of states without compensation statutes, it is informative to note that there is no single reason that prevents this type of bill from passing.

That being said, several scholars with pertinent expertise agree that a primary hindrance to successfully passing compensation legislation is the lack of a constituency to advocate for it (Bernhard, Armbrust, Murphy interviews). The lack of a large, dedicated constituency makes it difficult to maintain support for as long as is necessary to research, draft, fund and pass a suitable bill. A typical elected official who is concerned with re-election must take into account the number of votes the act of taking up the cause of wrongful conviction compensation will win him or her. There is also the cynical consideration that lawmakers have minimal motivation to promote this type of statute because wrongful convictions are statistically unlikely to happen to a legislator or anyone in his social circle. The emotional appeal of the stories of people who have been wrongfully convicted certainly resonates with most people (Bernhard, 2004). But this fact is counter-balanced by the perception that wrongful convictions either do not occur that often or only happen to people who are in some way culpable (Bernhard, 2004).

Although the rhetoric against compensation legislation often cites cost as an issue (Bernhard, 2004), the fact is that in any given state in any given year there is a very small number of  

\(^{45}\) Phone conversation conducted April 2006.  
\(^{46}\) Phone conversation conducted April 2006.  
\(^{47}\) Phone conversation conducted April 2006.  
\(^{48}\) E-mail exchange April 2006.  
\(^{49}\) Phone conversation conducted April 2006.  
\(^{50}\) www.legilsture.mi.gov
exonerated people.\textsuperscript{51} Shawn Armbrust, Director of the Mid-Atlantic Innocence Project and author of “When Money isn’t Enough: The case for holistic compensation of the wrongfully convicted” (2003) thinks that one of the major hindrances to compensation legislation is an unfounded concern with expense on the part of lawmakers (interview, April 2006). The potential upside of this concern is that lawmakers may be more willing to support non-pecuniary, i.e. restorative, compensation of precisely the type that is needed by exonerees. Moreover, of those that are exonerated, only a fraction will meet all the eligibility requirements to receive compensation (not having pled guilty, receiving a pardon, proving factual innocence, etc.)

Another likely hindrance to the passage of compensation legislation is the role of current and former prosecutors in the law-making process. Essentially, the political costs of pursuing an agenda that prosecutors oppose can be significant for lawmakers. Many people – perhaps especially prosecutors – have a deeply held belief in the finality of the criminal justice system. So, any challenges to this assertion will be discredited, if not ignored. And there are certainly personal reasons for a prosecutor being opposed to wrongful conviction discovery and compensation. For one, prosecutors often have intense, prolonged interaction with a crime victim and/or his or her family (Murphy interview, March 2006). So there must be some psychological discomfort in essentially being empty-handed and ineffective in finding and punishing the perpetrator (Murphy interview, March 2006). This possibility is even more poignant in the face of eyewitness testimony. These same factors may also influence both the occurrence of wrongful conviction and the process of exoneration, as well.

Understanding these barriers to compensation statutes is necessary to fully appreciate the context of any model policy. It is to existing model policies that we now turn.

\textsuperscript{51} Of course, institutional barriers may be at least partially responsible for keeping these numbers low. However, since a universal sea change in the criminal justice system that would suddenly cause these numbers to skyrocket is extremely unlikely, it is reasonable to accept the status quo as an enduring reality for the time being. See Appendix A for more information about the changing rate of exonerations.
STATUS OF WRONGFUL CONVICTION COMPENSATION LEGISLATION: MODEL
There have been several efforts to draft model compensation legislation. The considerations they each address are listed in the leftmost column below:

TABLE 5: SUMMARY OF MODEL COMPENSATION STATUTES

<table>
<thead>
<tr>
<th>Elements of Statute</th>
<th>Adele Bernhard(^{52})</th>
<th>Shawn Armbrust(^{53})</th>
<th>American Bar Association – Section of Criminal Justice(^{54})</th>
<th>Innocence Project(^{55})</th>
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<td>Administrative Body</td>
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<td>Standard of Proof</td>
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<td>Eligibility Qualifications</td>
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<td>a. Effect of Guilty Plea</td>
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Note that the only element found in all three sources is financial compensation. While this is certainly a necessary component of any fair compensation statute, it is far from sufficient. Philosophically, the various versions tend to all be in alignment with each other. Even if there are sections in some versions that are not in other, including these sections would not be contradictory to other parts of the proposed statute.

There is one notable exception to this conclusion: whether or not filing and accepting a claim under the statute precludes future legal action against the state. The recent Louisiana statute is

\(^{52}\) (2004)
\(^{53}\) (2003)
\(^{54}\) (2005)
\(^{55}\) (2005)
distinct in that it provides a less than ideal $15,000 per year of incarceration with a $150,000 maximum coupled with the comparatively robust restorative awards of: cost of job-skills training for one year, medical and counseling services for 3 years, tuition and fees at any community college or public university in Louisiana, and adult education courses, which are all available for 10 years after release. The potential drawback of the statute is that by accepting compensation from the state the claimant waives any future right to sue the state. Adele Bernhard, Associate Professor of Law at Pace University and author of the two seminal articles on restorative compensation, sees this preclusion as unnecessary and unfair – especially when awards are low (interview, April 2006). Given that lawsuits are difficult to win, it seems that there is little threat to the state in allowing future lawsuits.

PROPOSED RESTORATIVE STATUTE COMPONENTS
The international and domestic precedents for compensation in addition to exonerees’ demonstrated needs and the model statutes all inform the development of a model state policy for the treatment of wrongfully convicted people who have been released from prison. Again, the essential goal of legislation that has a restorative approach to compensating people who have been wrongfully convicted is to actively restore an exoneree to a functional and satisfying life. In the process of accomplishing this goal, the policy must consider the interests of the wrongfully convicted individual, the state and society as a whole.

In sum, the best model state policy will:
- facilitate reintegration of exonerees into society
  - provide restorative compensation to exonerees
  - minimize delivery time of services to exonerees
  - maximize long-term economic stability of exonerees
  - address immediate needs of exonerees
  - be accessible to qualified exonerees
- be politically feasible
  - minimize administrative complexity
  - safeguard against abuse of compensation claims
  - minimize cost to state

Standards for qualifying for compensation and services
Striking the proper balance between accessibility and discrimination can be accomplished by setting appropriate standards for qualifying for compensation services.

Proof of Innocence
The current standard maintains an onerously high standard wherein a claimant cannot merely rely on a court reversal or a pardon, but must also affirmatively prove his innocence by clear and convincing evidence. Young (2002) reports that “the cases are very difficult, because of the hurdles built into the statute” and that one lawyer who has represented wrongfully convicted people says “state fights every one of these cases to their dying breath.” Many statutes require a claimant to prove his innocence of every charge against him, even if some of the charges were dismissed prior to his trial (Young, 2002).
Wrongfully Convicted Policy: Model

Having a conviction reversed, vacated or dismissed is an unambiguous declaration that a person was wrongfully convicted. This is a simple and logical test of eligibility for compensation. Note that with pardons being difficult to obtain (see the Effects of Wrongful Conviction above) and overturning convictions being a rigorous legal test to pass – concerns that a compensation statute based on these eligibility requirements is insufficiently discriminating are unfounded.

In light of this context, the model state policy should follow the trend of the more recent compensation statutes and cast a wide net for eligibility qualifications. Doing so best meets the criteria of making compensation accessible to exonerees and minimizing the state’s administrative complexity.

**RECOMMENDATION:**

TO BE ELIGIBLE FOR WRONGFUL CONVICTION COMPENSATION, THE CLAIMANT MUST HAVE RECEIVED A PARDON; MUST DEMONSTRATE ACTUAL INNOCENCE TO THE APPROPRIATE COURT OR DESIGNATED ADJUDICATING BODY; OR MUST HAVE RECEIVED A REVERSAL, VACATION OR DISMISSAL OF CONVICTION.

**Effect of Guilty Plea**

False confessions are one of the major causes of wrongful convictions (see Appendix B for details). They often result from the circumstances of inadequate defense counsel and/or police or prosecutorial misconduct (Blackerby, 2003; Lopez, 2002). For example, a person is interrogated for 10 or more hours, is deprived of sleep and receives inadequate food. In the course of enduring this physical hardship, police coerce a confession to a crime – and even supply details of the crime to the suspect (Vollen & Eggers, 2005). As a result of this highly problematic process, a person eventually enters a guilty plea to a crime he did not actually commit. Moreover, some people are persuaded to enter guilty pleas in order to avoid even longer sentences (Bernhard, 1999). Obviously, a guilty plea is inherently problematic if it is entered by a person who is later determined to have been wrongfully convicted.

Nonetheless, eight of the states that currently have a compensation statute make a guilty plea a disqualification for compensation. Thus, if you have, at any point, pled guilty to a crime of which you are eventually exonerated, you are prohibited from being compensated under more than a third of the existing state laws. What is critical to note is that because the standards for proof of innocence and for eligibility for compensation are already so high, this exclusionary caveat adds little value for the state. Ostensibly, prohibiting those who have made guilty pleas from receiving compensation protects the state from people abusing the compensation system. But this concern seems to have little basis in reality given the low rate of successful compensation claims described above.

**RECOMMENDATION:**

A GUILTY PLEA IS INCONSEQUENTIAL TO THE AWARD OF COMPENSATION FOR WRONGFUL CONVICTION.

**Type of Crime**

The rationale for the state to provide compensation to the wrongfully convicted is explained at length in the Section II of this analysis. If one accepts the principle that wrongfully convicted people are indeed deserving of compensation and that the state should indeed be responsible for providing this compensation, then the type of crime in question is irrelevant. Thus, the victim of wrongful conviction of any type of crime should be eligible for compensation. However, providing for the compensation of crimes that do not result in imprisonment is beyond the scope
of this model state policy. All crimes that do result in imprisonment should qualify the exoneree for compensation.

**RECOMMENDATION:**
Any person who has been wrongfully convicted for a crime, and who has served time in prison for that crime, is eligible for compensation from the state for the pecuniary and non-pecuniary damages arising from this wrongful incarceration.

**Monetary Compensation**
Providing monetary compensation to exonerees serves four purposes. It is an essential component of repaying the state’s moral obligation to the wrongfully convicted; it is the most appropriate method of compensating exonerees for their pecuniary injuries; if delivered promptly, it can help address the immediate needs of exonerees; and, if substantial enough, it can be essential to the long-term stability of exonerees.

**RECOMMENDATION:**
Wrongfully convicted people are able to request monetary compensation from the state; and, the amount of the monetary award must take the following into account: duration of incarceration; health detriments due to incarceration; lost income during time served and due to lost opportunities for growth; education; pain and suffering; stigma of incarceration/wrongful conviction; and, legal fees.

One of the central components of monetary compensation is the setting of maximum awards. The problem with having a maximum award amount is the risk of undercompensating an exoneree. If there is a statutory maximum, then there is no option to adjust the award amount based on the duration of the wrongful incarceration. A person who served twenty years could be limited to receiving the same award as a person who served one. In addition, a maximum precludes consideration of the actual injuries suffered by the wrongfully convicted. It discriminates against those who have suffered an enormous amount of pain and suffering — for example being on death row (Lopez, 2002) or acquiring a serious illness while in prison. To avoid the potential for this type of discrimination, a maximum award amount would have to be much higher than any previous award — at which point it loses its purpose. There is no cost — per se — to the state of having a high maximum award amount. Rather, the exoneree alone bears the risk of being under-compensated. The related issues of proportionality of awards and adjudicating bodies will be addressed below.

The justification of having upper limits to award amounts is to protect the state from burdensome payments. However, even the most generous compensation payments that have been awarded ($1 to $2 million) are a small percentage of any state’s annual budget. Moreover, in

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56 Of course, the impact of monetary compensation is entirely dependent on how the award is managed. As explained above, exonerees have been known to have money management skills.

57 As mentioned in the Civil Legal Action section above, it could be useful to have a punitive element in the monetary compensation available to exonerees. In theory, making the budgets of the prosecutors or police responsible for at least part of this compensation would put a disincentive in place where none currently exists. That is, it is conceivable that bearing some financial risk would make those who are acting on the part of the state more aware of potential errors and their consequences — resulting in fewer wrongful convictions.
Wrongfully Convicted Policy: Model

any given state in any given year there will be a very small number of eligible exonerees seeking compensation (Armbrust, 2003). Finally, a maximum award amount risks discrimination against those among the wrongfully convicted who are most deserving of compensation. Given these facts, the weak logical basis of having a maximum award amount fails to justify its existence. The current US precedent sets a minimum award amount per year of incarceration.

**RECOMMENDATION:**

**THERE IS NO MAXIMUM AWARD AMOUNT FOR THE MONETARY COMPENSATION OF WRONGFULLY CONVICTED PEOPLE. THE MINIMUM AWARD AMOUNT IS $50,000 PER YEAR OF INCARCERATION.**

There is little empirical evidence supporting the merits of paying exonerees either with a lump sum or in installments. But given the anecdotal and limited empirical (Grounds, 2004) evidence that exonerees may lack money management skills, it is reasonable to err on the side of assisting exonerees with this task by paying them in installments. A valid criticism of installment payments is that it is paternalistic. There is a suitable compromise.

**RECOMMENDATION:**

**PAYMENTS TO EXONEREES WILL BE MADE AS FOLLOWS: A PORTION OF THE AWARD AMOUNT WILL BE ALLOCATED TO PROVIDE ABOVE POVERTY LEVEL INCOME FOR A PREDETERMINED NUMBER OF YEARS AND THE BALANCE WILL BE PAID AS A LUMP SUM PAYMENT.**

The families of exonerees often incur substantial cost due to the wrongful conviction. As detailed in the Effects of Wrongful Conviction section above, the families of exonerees suffer both pecuniary and non-pecuniary damages due to wrongful conviction. After their release, a significant portion of exonerees are financially dependent on their families and many actually live with family members. Families also share in the pain caused by the difficulty exonerees often have in re-establishing relationships. Family members often spend a great deal of money in either legal fees or travel expenses or both (Vollen & Eggers, 2005). Indeed, the UK compensation legislation explicitly provides for the travel expenses incurred by an exoneree’s family members. Both the UK and Scotland allow an exoneree’s family members to receive the compensation award in the event of the exoneree’s death, as do Alabama, Tennessee and Virginia (see the Review of Existing Statutes section above). Based on the fact that the families of wrongfully convicted people are essentially secondary victims of the state’s wrongdoing and that there is international and domestic precedent for doing so, these family members are entitled to compensation.

**RECOMMENDATION:**

**AN EXONEREES FAMILY MEMBERS ARE ELIGIBLE FOR COMPENSATION FROM THE STATE FOR EXPENSES INCURRED DUE TO AND DURING THE WRONGFUL INCARCERATION.**

**Adjustment for Death Row Sentence and the Principle of Proportionality**

While any wrongful incarceration warrants compensation, the award amount should be adjusted based on both the circumstances of the incarceration and its duration. The particularly traumatic experience of being wrongfully convicted of a capital offense and waiting for the state to execute you deserves special consideration (Blackerby, 2003). Similarly, in principle, individuals who served longer amounts of time deserve proportionally more compensation than those who served less time. This reasoning has already been applied in the existing compensation statutes that grant monetary awards on a “per year of incarceration” basis. Thus, in determining award amounts, amount of time served and time served on death row should be taken into account.

**RECOMMENDATION:**
THE FINAL AWARD AMOUNT GRANTED TO AN EXONEREES WILL BE INCREASED BY A FIXED PERCENTAGE OF THE TOTAL FOR EVERY DAY SPENT ON DEATH ROW. THE AWARD AMOUNT WILL BE PROPORTIONAL TO THE AMOUNT OF TIME SERVED.

Statute of Limitations
The justification for having a statute of limitations is to protect the state from an onslaught of claims in any given year. Nonetheless, the statute of limitations should take into account the immediate and long-term effects of wrongful convictions as outlined in the Effects of Wrongful Conviction section above. Upon their release from prison, exonerees must find housing and employment all while bearing the burden of the stigma of incarceration, a gap in employment history and, often, physical and mental health issues. The first priority for exonerees re-establishing a functional and satisfying life is therefore typically a daunting one. Given the magnitude of the task exonerees confront upon their release, it is justified for the state to ensure that exonerees have sufficient time to tend to their most immediate needs before engaging with the legal system again in order to claim compensation. Nearly all of the existing statutes have a two year statute of limitations, and the pending statutes have a three year one. While the cost to the state of an additional year is quite minimal, the possible advantage for an exoneree is tremendous. In this case as well, since the number of exonerees in any given state will be small, the potential benefit of this protection to the state is outweighed by the consideration owed to exonerees.

RECOMMENDATION:
THE STATUTE OF LIMITATIONS FOR FILING A CLAIM FOR COMPENSATION IS THREE YEARS FROM THE TIME THAT WRONGFUL CONVICTION IS OFFICIALLY DETERMINED.

Restorative Compensation
The purpose of restorative compensation is to facilitate the wrongfully convicted having a functional and satisfying life. Currently, in the US, only three states offer any type of restorative compensation; however, all six of the pending statutes do so.

Employment
As described in detail in Effects of Wrongful Conviction section above, exonerees must overcome some or all of the following in order to find employment: the stigma of incarceration, a gap in employment history, obsolete job skills, a lack of professional/personal contacts and a criminal record. While, the pecuniary injuries exonerees incur due to wrongful incarceration are appropriately addressed by monetary compensation, the non-pecuniary injuries affecting exonerees’ ability to be financially self-reliant are not. Thus, the enormous value exonerees place on obtaining employment coupled with evidence that employment is critical to the successful integration of any ex-inmate into society mandates that the model state policy address this issue.  

RECOMMENDATION:

58 Although it may be expedient for the state to place exonerees in programs that serve rightfully convicted former inmates, this option is inappropriate for exonerees for whom these programs’ emphasis on preventing recidivism is likely to be useless, if not insulting.
THE STATE WILL PROVIDE EXONEREES WITH ACCESS TO JOB TRAINING, COUNSELING AND PLACEMENT ASSISTANCE.

Mental Healthcare
Exonerees often suffer significant and permanent deteriorations in mental health due to their wrongful conviction and incarceration. Grounds (2004) proposes three specific recommendations for the mental healthcare of wrongfully convicted people who have been released from prison:
1. The prisoner and his or her family should be informed about the likely problems they will face.
2. Exonerees should receive appropriate treatment for specific psychiatric conditions and long-term counseling.
3. The family should receive professional assistance to facilitate mutual understanding with the exoneree and to develop coping strategies.

Because it has great potential to impact most other aspects of an exoneree’s life, good mental health is critical to the successful reintegration of exonerees into society and must be addressed in a state’s policy. Yet, the mental healthcare provision should minimize financial and administrative cost to the state.

RECOMMENDATION:
THE STATE WILL GIVE EXONEREES ACCESS TO THE STATE MENTAL HEALTHCARE OR HEALTH INSURANCE SYSTEM FOR A MINIMUM OF TEN YEARS OR FOR THE SAME NUMBER OF YEARS OF THE WRONGFUL INCARCERATION – WHICHERVER IS LONGER.

Physical Healthcare
The rationale for the state providing physical health care is similar to that for mental healthcare. The suboptimal physical conditions of prison coupled with the inferior healthcare that is standard in prison often leave exonerees with chronic health problems (Vollen & Eggers 2005). Physical health, too, has a great capacity to impact most other aspects of an exoneree’s life. Thus, restoring an acceptable quality of life to exonerees requires the state to address their physical healthcare needs.

RECOMMENDATION:
THE STATE WILL GIVE EXONEREES ACCESS TO THE STATE PHYSICAL HEALTHCARE OR HEALTH INSURANCE SYSTEM FOR A MINIMUM OF TEN YEARS OR FOR THE SAME NUMBER OF YEARS OF THE WRONGFUL INCARCERATION – WHICHERVER IS LONGER.

Life Skills
In the case of wrongful convictions, the state has deprived people of the opportunity to have normal life experiences at the time they would have otherwise occurred. In the natural course of life, people gain experiential knowledge and can easily stay current with societal and technological changes. Exonerees have had neither opportunity. Therefore, in pursuing the goal of restorative compensation, the state should assist exonerees in adapting to a world that has likely changed (to varying extents, depending on the length of the incarceration) during their incarceration.

59 Interestingly, Dr. Adrian Grounds found that the psychological problems he observed in exonerees were dissimilar to the ones described in the literature about the effect of prison on inmates. Rather, he found that the psychiatric literature on trauma – and especially on war veterans – more accurately described the mental condition of the participants in his study (Grounds, 2004).
RECOMMENDATION:
The state will provide exonerees counseling and/or consultations with specialists trained in prison release transition.

Other Aspects

Expungement
Because of its impact on employment, housing, voting and identity, having a criminal record is a significant barrier to exonerees successfully reintegrating into society. Unfortunately, the process for expunging records is either difficult or non-existent in most states – see the section on the Effects of Wrongful Conviction above. Requiring exonerees to pursue expungement of their own accord is an undue burden.

RECOMMENDATION:
In states where expungement is possible, the state will immediately expunge a wrongful conviction once it has been established. In states where expungement is not available, the state will amend the criminal record of the exoneree to indicate that there was a wrongful conviction.

Notification
To ensure that wrongfully convicted people are aware of their entitlement to claim compensation, the state must inform exonerees that compensation is available.

RECOMMENDATION:
The state will provide notification of the compensation statute to the exoneree and his or her attorney immediately upon determination of wrongful conviction. The state will repeat this notification every six months for the duration of the statute of limitations or until a claim for compensation is filed by the exoneree – whichever comes first.

Apology
Issuing an official apology to exonerated people is a technically simple act of acknowledging the transgression that the state made against them. Indeed, as explained in the Effects of Wrongful Conviction section above, exonerees consider receiving an apology or being publicly exonerated to be of utmost importance to their process of reintegrating into society. Yet, it is not uncommon for prosecutors or judges who were involved in a wrongful conviction to maintain their belief in the guilt of the exoneree (Vollen & Eggers, 2005). Nonetheless, given the great value exonerees place on receiving and apology and the potentially low-cost for the state to issue an apology, it is worth considering.

RECOMMENDATION:
If it is politically feasible, the state will issue an official apology to exonerated individuals within three days of the official determination of the wrongful conviction.

Conclusion
This analysis has identified the immediate and enduring effects of wrongful conviction; analyzed international and domestic policy regarding the compensation of exonerees; reviewed the relevant existing model statutes; and, from these efforts, has generated a set of recommendations that
would allow a state to fully address the monetary and restorative compensation of exonerees. At this point, it would be most useful to collect and analyze compensation claim attempts and payment data to date. This type of empirical data would be invaluable to the discussion of the effectiveness of compensation statutes, which is necessary to fully understand the need for and the success of restorative compensation.

Equally useful would be to track the immediate, mid- and long-term status of exonerees upon their release from prison – both with and without compensation. This type of longitudinal information would provide both researchers and lawmakers with essential insight into exonerees’ changing needs over time and the ability of monetary and restorative compensation to address these needs. Finally, researchers and lawmakers should continue current efforts to address the causes of wrongful convictions. Because, of course, preventing wrongful convictions from occurring at all is the ideal policy.
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Appendix A

DNA
There are several trends that make the treatment of wrongfully convicted people who have been released from prison an increasingly relevant topic. First, the sheer numbers of people who have been exonerated each year has been increasing steadily over the past 20 years. Approximately 41% of these exoneration have been based on DNA evidence. The advent of the technological ability to match biological evidence to a suspect's DNA ignited the current increasing trend in discovering wrongful convictions (Gross, 2003). Thus, a second important trend is that general knowledge about the use of DNA evidence is also increasing – making suspects, inmates, criminal justice professionals, jury members and the public all more aware of its potential to offer definitive answers. Thirdly, it follows that as the use of DNA becomes a normalized aspect of criminal defense, the storage and tracking of DNA evidence will begin to be more standardized and improved. Garret (2005) reports that the increasing level of sophistication of DNA testing has in fact contributed to the increasing numbers of and rate of DNA exonerations. Each of these trends is at least partially influenced by the others. In the words of one of researcher, the use of DNA evidence has “revolutionized forensic science and the criminal justice system” (Rowe, 1996).

According to Erin Murphy, an attorney who researches criminal justice issues, there is currently a wave of legislation sweeping across the US that makes provides people with an entitlement to use DNA evidence to reopen a conviction. In the absence of this type of law, even if the DNA is known to be able to provide exculpatory evidence, there is no legal recourse for initiating legal action post-conviction. Murphy notes that a major benefit of this trend of legislation is that it circumvents the role of prosecutors in allowing DNA testing. That is, there have been numerous cases where prosecutors and/or judges forbad the testing of DNA; thus, these laws enhance the political feasibility of DNA evidence. Murphy also notes that with the maintenance of DNA information in law enforcement databases, an issue that is likely to become of increasing concern is people's right to have their information removed.

Samuel Gross' 2003 study of wrongful convictions remains the seminal work on the topic of the increasing number of exonerees. His research analyzed all of the exoneration he and his fellow researchers could find in the fifteen years between 1989 and 2003. Defining exoneration as: “an official act declaring a defendant not guilty of a crime for which he or she had previously been convicted,” Gross found 340 exonerations (Gross, 2003). Of these, 96% were men and 4% were women. Importantly, Gross also found that the rate of exoneration increased “sharply” during the time period in question. The average number of exonerations per year was twelve

60 In spite of the enormous life-altering potential for any given wrongfully convicted person, some prosecutors and lawmakers have applied the floodgate theory to increased DNA testing. They express concern that there will be a rash of frivolous claims that could undermine evidence in the criminal justice system (Shear & Stockwell 2005).
62 According to Fite (2005) “local law enforcement often vigorously resists DNA testing” – Garrett (2005) reports the same
63 It is important to note that there is a large number of crimes for which DNA evidence is inconsequential and of those for which it is useful, only some have testable DNA. Thus, the number of known wrongful convictions is a mere fraction of all miscarriages of justice. Based on his analysis, Gross states that “any plausible guess at the total number of miscarriages of justice in America in the last fifteen years must be in the thousands, perhaps tens of thousands.” (Gross 2005)
between 1989 and 1994. This surged to a yearly average of forty-two in 2000 which held constant for the subsequent three years.

The rate of exonerations based on DNA evidence followed a similar trend. Of the 340 exonerations Gross analyzed, 140, or 44%, were cleared by DNA evidence. From 1989 to 1991, there were two or fewer per year. This rate increased to six per year from 1992 through 1995 and then shot up to twenty a year since 2000. The National Institutes of Justice acknowledged the importance of DNA evidence in its comprehensive 1996 report on the use of DNA in the criminal justice system, finding that “the introduction of DNA profiling has revolutionized forensic science and the criminal justice system” (Rowe, 1996; NIJ, 1996). Then, in 1998, the Attorney General established The National Commission on the Future of DNA Evidence – the goal of which was “to maximize the value of forensic DNA evidence in the criminal justice system.”

Gov. Mark R. Warner (D) of Virginia made headlines in 2004 when he ordered the DNA testing of evidence that had been kept in a forensic lab for decades. The testing of the first 31 samples proved the innocence of two men who had been incarcerated (Shear & Stockwell, 2005).

The first use of DNA for this purpose was in 1986 in England when police asked a doctor to confirm a suspect’s confession to two rape-murders. The tests actually cleared the suspect by indicating conclusively that he did not commit the crimes. DNA was first used to convict a person a year later, also in England. The first US case was to exonerate Gary Dotson in 1989 (Garrett, 2005). The 1996 NIJ study found that “forensic DNA typing is still used only selectively.” And, that, “This is due, in part, to several factors: the unavailability of forensic typing to local prosecutors, the time required to perform the typing, and the costs of the tests if private laboratories are utilized” (NIJ, 1996).

An important caveat is that although DNA evidence has been used in almost half of all exonerations to date, DNA evidence is only available in a small fraction of all criminal cases. Garrett (2005) summarizes, “DNA testing can be used only in a limited number of cases: when biological evidence may have been left by the perpetrator at the scene of the crime, that evidence was collected by law enforcement, that evidence was preserved, and the state permits access to such testing.”

64 http://www.ojp.usdoj.gov/nij/topics/forensics/dna/commission/welcome.html
Appendix B

The Causes of Wrongful Conviction
There is agreement in the literature as to the most frequent causes of wrongful conviction (Blackerby, 2003; Innocence Project; Gross, 2003; Lopez, 2002; Vollen & Eggers, 2005). See Vollen & Eggers (2005) for a concise review.

Mistaken Eyewitness Identification
- most pervasive factor
- main problem in wrongful conviction rape cases
- cross-racial misidentification a contributing factor
- police pressure a contributing factor
- desire to see justice done a contributing factor

Negligence, Misconduct and Poor Training in Forensic Laboratories
- lack of independence is a contributing factor
- scientific testimony adjusted to fit prosecutors case

False Confessions
- significant problem in wrongfully convicted murder cases
- may be due to police coercion
- may be most damaging evidence

The Use of Jailhouse Informants
- most frequent cause of wrongful conviction in capital cases
- informants typically receive reward for testimony in the form of reduced sentences, location transfer or even money

Incompetent or Inadequate Defense Lawyering
- perjury of supposed participants or eyewitnesses
- lack of monetary resources on the part of defendants a contributing factor

Prosecutorial/Police Mistakes or Misconduct
- response, in part, to public pressure to solve crime
- may stem from desire for justice
- political motivations a contributing factor, e.g. appearing “tough on crime”
Appendix C

How to Claim Compensation

Buchwalter (2005) outlines the process of claiming compensation for wrongful conviction:

DEFENSES
The major defenses against a cause of action for wrongful conviction and incarceration are:

1. that the plaintiff contributed to his or her own conviction through testimony, failure to call witnesses, and possibly entry of a guilty pleas;

2. that the applicable statute of limitations bars the suit;

3. that the plaintiff was serving a concurrent sentence for a separate offense during the period for which he or she is seeking compensation; and

4. that the plaintiff was engaged in other criminal misconduct for which he was not charged in connection with the offense which led to conviction and incarceration.

STATUTORY SCHEMES
Statutory causes of action for wrongful conviction and incarceration vary in details among the 17 states that have adopted the cause of action. Those variances can be de minimus or significant, mandating a close review of the governing statute in each case to determine the elements of the cause of action, available remedies, and procedure that must be followed; for example, some statutes require pursuit of an administrative remedy.

Information from plaintiff

The following information should be obtained from the plaintiff, or on the plaintiff’s behalf, by plaintiff’s counsel.

□ Confirm that conviction was for aggravated misdemeanor or felony, or other applicable grade of offense

□ Check criminal court records to confirm whether defendant was convicted under a guilty plea

□ Obtain certificate of pardon, or

□ Obtain certified copy of court order reversing or vacating judgment of conviction

□ Confirm if other convictions exist on other charges in same indictment or charging instrument

□ Confirm whether claimant served a sentence concurrent with disputed sentence

□ Determine applicable statute of limitations
□ Check date of enactment of statute, or

□ Check date of exoneration of defendant (typically the civil finding of innocence)

□ Confirm if any disqualifying misconduct occurred during events underlying the conviction

□ Obtain criminal trial transcripts that may shed light on whether defendant "contributed" to his or her own conviction through choices regarding witness testimony

□ Allege any physical and mental pain and suffering sustained by the claimant as a proximate result of the erroneous conviction or imprisonment from the time of the conviction by the trial court

□ Allege reasonable and necessary medical expenses incurred by the claimant as a proximate result of the erroneous conviction or imprisonment from the time of the conviction by the trial court

□ Obtain any employment records or federal income tax documents that may verify employment and wage history

□ Request damages

□ Request attorney's fees

□ Obtain verification of the petition, if required

□ Determine which documentary evidence, if any, must be attached to the petition to support the claim

□ Serve citation on the attorney general or other proper party
Appendix D

Letter to Prospective Employer

TO: Prospective Employer of (name of exoneree)
FROM: Life After Exoneration Program (LAEP)

Dear Prospective Employer,

This letter is to verify that although criminal convictions appear on the record of (name of exoneree), he was wrongfully convicted of this charge is actually innocent.

_______ was convicted of _______. Even though he is not guilty of this crime, the crime still appears on his record because the process for clearing a criminal record is separate from the process of establishing innocence. That is, although ________ has been exonerated in the eyes of the law, his record has not yet been officially expunged.

The official court document proclaiming his lack of guilt is attached. Also attached are answers to some questions you may have about hiring this applicant.

If you have additional questions, please contact the Life After Exoneration Program at 510.526.2168, or e-mail info@exonerated.org. We can also provide you with additional references and information about this applicant’s history and case, if desired.

By hiring this applicant, you will be making an invaluable contribution to restoring the dignity, independence and livelihood that were mistakenly taken from him.

On our behalf, and on behalf of this applicant, we thank you in advance for your time and consideration.

Sincerely,

LAEP

LAEP is a non-profit organization based in Berkeley, California that works to address the injustice of wrongful conviction and incarceration by assisting exonerees and their family members in re-building their lives. www.exonerated.org
Questions About Hiring A Wrongfully Convicted Ex-Inmate

If he’s innocent, why isn’t his record clear?
Unfortunately, the process of having a conviction removed from a criminal record is always time-consuming and expensive – and in some jurisdictions, it is legally impossible. It can take more than three years and $10,000 to have a conviction – even a false one – expunged, or removed, from official documents. Not only that, even when the record has been successfully cleared, convictions can still show up on various databases, documents or websites.

Didn’t he have to do something to end up in prison?
Actually, no. It could have been anything from a jailhouse snitch or a confused eyewitness to poor legal representation or a coerced confession that led to the wrongful conviction. In many cases, DNA provides conclusive proof of innocence. Regardless of how it is accomplished, proving innocence after incarceration takes years to do.

After having been in prison, does he have any useful work skills?
Of course, individual experience differs in prison. But many prisons are involved with private industry that gives inmates opportunities to develop their skills. As you know, however, a good work ethic and attitude can lead to success more than anything else. We hope you agree that after the injustice that this applicant has suffered, he at least deserves the chance to demonstrate his capabilities and to rebuild his life.

Aren’t people who go to prison different?
In the case of wrongfully convicted people, most had already received good educations and many were having relatively decent careers at the time of their incarceration. One study of actual convicts who were released from prison found:

“They usually express extreme gratitude at being hired at all and display exemplary cooperation and work habits in their new jobs. These post-discharge jobs usually pay far less than their previous professions, but few if any of them take this pay disparity to heart…One employer reported to us that these individuals ‘have better work habits than many recent college graduates.’”65

If I hire him, does this applicant need special attention?
You should give this applicant the same amount of supervision that you give all other employees. Typically, those who have been wrongfully convicted and then released just want to do their fair share and be one of the crowd. Just like with other workers, this applicant should be given clear direction and should be evaluated on how well he meets his responsibilities. He should be assessed by his work quality, attitude, competence and his willingness to cooperate.1

For more information contact:
Life After Exoneration Program
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510.526.2168
info@exonerated.org

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