

Wrongfully Convicted Women: Before, During, and After Wrongful Conviction

Cassandra Pacholski
Simon Fraser University
Surrey, British Columbia
Canada

Gail S. Anderson, Ph.D.
Centre for Forensic Research, School of Criminology
Simon Fraser University
Burnaby, British Columbia
Canada

In the past three decades, North America has exonerated over 3,400 innocent people of crimes they did not commit—with nearly 300 of those exonerees being women. Recent years have seen a 700% increase in female incarceration, which could influence future rates of wrongful convictions among women as well. The existing literature on wrongful conviction primarily focuses on male exoneree experiences and stories, leaving female exoneree needs and experiences entirely unaccounted for. The following review identifies the relevant literature pertaining to the lived experiences of incarcerated women to address the gaps in the wrongful conviction literature and inform future research. Evidenced by this review is the fact that systematic differences are leading to the wrongful conviction of women, women experience different pains of imprisonment and may be at a greater risk of mental and physical health complications due to their wrongful conviction and incarceration. Future research must focus on the unique lived experiences of female victims of wrongful convictions to understand the mechanisms underlying their convictions, and their experiences of wrongful conviction, incarceration, re-entry, and victimization, to adequately inform policy and help in their re-entry and rehabilitation.

- I. Introduction
 - A. Prevalence of Wrongful Convictions and Over-representation
- II. Before Wrongful Conviction
 - A. The Mechanisms of Female Wrongful Convictions
- III. The Wrongful Conviction
 - A. Women, Mothers, and Caretakers
 - B. Mothers, Grief, and Declining Health
 - C. Health Issues
 - D. Mental Health Challenges
- IV. Life After Wrongful Conviction
 - A. Re-entry Issues for the Wrongfully Convicted
 - a. Housing
 - b. Exoneree Employment
 - c. Stigma
- V. Policy Implications
 - A. Recommendations in Preventing the Wrongful Conviction of Women
 - B. Assisting with female pains of imprisonment and re-entry
- VI. References

I Introduction

Since 1989, the United States of America has exonerated 3,325 individuals convicted of crimes they did not commit, of those, 284 are women.¹

In Canada, there are currently 84 proven wrongful convictions, 14 of which were of women (Canadian Registry of Wrongful Convictions, n.d).² As most exonerees are male, inquiries into wrongful convictions have then largely been male dominated.³ While the wrongful convictions literature has increased, discussions of wrongfully convicted women and ethnic minority groups remain underdeveloped in comparison.⁴ Similarly, the implications of wrongful conviction are less well understood than their causes.⁵ With the general rate of incarceration in America increasing by nearly 500% in the past four decades these inquiries have never been more critical.⁶ Consequently, the rate of wrongful conviction could also be assumed to be at risk of increasing—requiring us to understand the mechanisms leading to conviction, the unique challenges exonerees face, and how to assist them in their re-entry. To address the gaps in the existing literature, this review considers the associations between one’s socioeconomic status, race/ethnicity, and gender identity, and how they vary the impacts of wrongful convictions. As there is a general lack of inquiry into the interplay of race and gender influencing court decision-making, it is especially necessary for studies to approach these issues considering intersecting identities.⁷

A. Prevalence of Wrongful Convictions and Over-representation

While the true rate of wrongful convictions can never be ascertained, scholars have estimated between 0.05-1% of American criminal convictions may be wrongful.⁸ With the current American prison population including 1.5 million individuals, or 2.2 million when including jails, this would result in anywhere from 15,000 to 22,000 innocent people being wrongfully

¹ “National Registry of Exonerations”, online: <<https://exonerationregistry.org/>>.

² Canadian Registry of Wrongful Convictions, *All Wrongful Convictions Cases*, online: <<https://www.wrongfulconvictions.ca/cases>>.

³ Andrea L Lewis & Sarah L Sommervold, “Death, but is it murder? The Role of Stereotypes and Cultural Perceptions in the Wrongful Convictions of Women” (2015) 78:3 Albany Law Rev 1035 [Lewis].

⁴ See Mitch Ruesink & Marvin Free Jr, “Flawed justice: A study of wrongly convicted African American women” (2018) 16:4 Journal of Ethnicity in Criminal Justice 333 [Ruesink & Free]; *ibid*; Konvisser, Zieva, “Psychological Consequences of Wrongful Conviction in Women and the Possibility of Positive Change” (2012) 5:2 DePaul Journal for Social Justice 221, online: <<https://via.library.depaul.edu/jsj/vol5/iss2/3>> [Konvisser].

⁵ Konvisser, *ibid* note 4.

⁶ Chenelle A Jones & Renita L Seabrook, “The New Jane Crow: Mass Incarceration and the Denied Maternity of Black Women” in Mathieu Deflem, ed, *Sociology of Crime, Law and Deviance* (Emerald Publishing Limited, 2017) 135 [Jones].

⁷ Leiber, Michael J & Maude Beaudry-Cyr, “The Intersection of Race/Ethnicity, Gender and the Treatment of Probation Violators in Juvenile Justice Proceedings” in Mathieu Deflem, ed, *Sociology of Crime, Law and Deviance* (Emerald Publishing Limited, 2017) 269.

⁸ Nicky A Jackson et al, “An Exploratory Study of “No-Crime” Homicide Cases Among Female Exonerees” (2023) 32:1–2 *Journal of Aggression, Maltreatment & Trauma* 107 at 109 [Jackson 2023].

incarcerated. Due to the mass incarceration of Americans, between 7 to 100 million Americans have a criminal record, or rather, 70,000-100,000 innocent people could be living with an undeserved criminal record.⁹ Whatever the true number, any wrongful conviction has severe implications for those affected as it impacts their ability to obtain housing or secure employment, while also subjecting them to the pains of imprisonment resulting in ailments such as mental illness, physical illness, and traumas such as the loss of social bonds and autonomy, sexual, and/or physical abuse.¹⁰

There are certain populations at an increased risk, who are underrepresented in the current literature, and face unique difficulties. In particular, the female incarceration rate has increased by over 700% in the past four decades, and not all have been affected equally.¹¹ In America, Black women are disproportionately incarcerated, approximately six times more than White women, and three times more than Hispanic Women.¹² In Canada, we see a similar situation with the over-representation of Indigenous women, who are now the fastest-growing prison population in Canada.¹³ Currently, Indigenous women represent only 4.3% of the total population but are 40% of incarcerated women.¹⁴

With this over-representation in the total prison population and the vast increases in female incarceration, it is expected that we will see similar trends in rates of wrongful conviction. In Canada, women only represent 6% of the Canadian federal prison population, however, fourteen out of eighty-three exonerations in Canada are women (17%).¹⁵ In America, there are currently 284 exonerated women. While in comparison to those of male exonerees, this number is quite small, the true rate of wrongful convictions has the potential to be much higher for women. This can be attributed to the absence of DNA in women's cases, the high proportion of women accused of crimes that did not happen, economic and structural barriers that women face, that women may be more frequently accused of "lesser crimes", and that women are more likely to plead guilty or

⁹ "Poverty and Opportunity Profile - Americans with Criminal Records" (2022), online: *The Sentencing Project* <<https://www.sentencingproject.org/app/uploads/2022/08/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>>.

¹⁰ Casandra Pacholski & Gail S Anderson, "Convicting the innocent: An analysis of the effects of wrongful convictions and available remedies in Canada" (2023) 4:2 *Wrongful Conv L Rev* 129, online: <<https://doi.org/10.29173/wclawr86>>.

¹¹ Jones, *supra* note 6.

¹² Rose M Brewer & Nancy A Heitzeg, "The Racialization of Crime and Punishment: Criminal Justice, Color-Blind Racism, and the Political Economy of the Prison Industrial Complex" (2008) 51:5 *American Behavioral Scientist* 625.

¹³ Marques, Olga, et al. "The Mass Incarceration of Indigenous Women in Canada: A Colonial Tactic of Control and Assimilation." in *Neo-Colonial Injustice and the Mass Imprisonment of Indigenous Women* (Cham: Springer International Publishing 2020) 79, online: https://doi.org/10.1007/978-3-030-44567-6_5.

¹⁴ *Ibid*.

¹⁵ Correctional Service Canada, "Library" (11 September 2023), online: <<https://www.canada.ca/en/correctional-service/corporate/library.html>>.

accept responsibility.¹⁶ Exonerees of colour are also over-represented in comparison to their White counterparts. While Black Americans represent 13% of the population, Black people make up 53% of the exoneree population in America. In Canada, Indigenous exonerees are also over-represented, with 4.5% of the Canadian population being Indigenous people and eighteen known Indigenous exonerees (21.7%). Innocence Canada has also reported that 25% of their case applicants are Indigenous, suggesting there may be many more Indigenous individuals struggling to clear their name, and are therefore not yet reflected in our official statistics.¹⁷

With the rates of incarceration, and potentially wrongful conviction, growing for these populations, it is critical to understand the unique circumstances leading to these convictions, the challenges faced by these communities, and the barriers to re-entry into their communities they face. This information is integral to restoring the livelihoods of these exonerees and their communities and developing policies and practices to achieve successful reintegration.

II Before Wrongful Conviction

A. The Mechanisms of Female Wrongful Convictions

The literature concerning women's experiences of being wrongfully convicted is sparse and less is understood about the mechanisms underlying these convictions.¹⁸ Lewis and Sommervold report that both male and female exonerees are convicted of similar types of crimes, with murder being the most common charge among both groups.¹⁹ Following murder, female exonerees were most likely to be accused of child sex abuse, drug crimes, manslaughter, and child abuse. For men, the most common crime type following murder was sexual assault, child sex abuse, drug crimes, and robbery.²⁰ However, there remain pervasive differences between male and female wrongful convictions. Jackson et al., (2023) have found that out of 242 wrongfully convicted women, 70.7% were wrongly convicted in “no-crime cases”, 18.7% of which were “no-crime homicides”.²¹ This is in stark contrast to the 23% of male exonerees who have been wrongly convicted in “no-crime cases”.²² Additionally, Lewis and Sommervold report that 45% of women were wrongly convicted of harming a “close family member, a loved one, or a child”, while male exonerees were “far more likely” to be falsely accused of victimizing individuals that did not fall

¹⁶ Jackson 2023, *supra* note 8; Lewis, *supra* note 3; Debra Parkes & Emma Cunliffe, “Women and wrongful convictions: concepts and challenges” (2015) 11:3 *International Journal of Law in Context* 219, online: <https://www.cambridge.org/core/product/identifier/S1744552315000129/type/journal_article> [Parkes & Cunliffe]; Ruesink & Free, *supra* note 4.

¹⁷ Stephen Bindman et al., “Innocence at Stake: The Need for Continued Vigilance to Prevent Wrongful Convictions in Canada” (25 April 2019), online: <https://www.ppsc-sppc.gc.ca/eng/pub/is-ip/ch10.html#ch10_2>.

¹⁸ Ruesink & Free, *supra* note 4.

¹⁹ Lewis, *supra* note 3.

²⁰ *Ibid.*

²¹ Jackson 2023, *supra* note 8 at 113.

²² Lewis, *supra* note 3 at 1036.

into any of the aforementioned categories.²³ In her book, Atwell (2007) analyzes the role gender has historically played in the execution of women by the state through mechanisms such as social expectations of women, motherhood, sexuality, and fidelity (As cited by Lang, 2021).²⁴ Atwell's work can be used to explain how a large proportion of women who are exonerated were convicted of crimes that never occurred—in other words, a woman who is thought to “infringe” on these societal expectations is to be punished.

Another explanation of the differences separating men and women regarding wrongful convictions could be what the literature calls “imported characteristics”, which refers to the characteristics that inmates enter prison with and serve as a fundamental difference between male and female inmates.²⁵ Women who are incarcerated are more likely to be socio-economically deprived, have lower levels of education, have higher levels of traumatic life experiences like sexual, psychological, and physical abuse, and are more likely to be struggling with psychiatric disorders and substance use than their male counterparts.²⁶ This has been documented among some female exonerees that exhibit similar imported characteristics discussed above, as well as intersecting identities as women of colour. For example, among the roll call of female exonerees in Canada, Broomfield, a Black-Canadian, was a single mother when she was wrongfully accused. Waudby, falsely accused of killing her child, had a history of using drugs. Scott was homeless, using drugs, had an IQ of 50, struggled with processing information and had poor functional memory. Oakes, an Indigenous woman, was a victim of prolonged child sexual abuse, used drugs, and had prior drug convictions. Huffman was a single mother. Robinson was a young mother suffering from postpartum depression. Marquardt is an Indigenous woman, who dropped out of high school, moving between shelters and couches. Hayman dealt with neglect and abuse from a young age, also growing up in low socioeconomic status. Thus, it appears that exonerated women and rightfully incarcerated women share similar characteristics which may serve to increase their risk of both victimization and incarceration.

While many female inmates suffer from abuse, among these, there may be many women wrongfully convicted of murder against an abusive partner.²⁷ In these circumstances, battered women acting in self-defence are pleading guilty to charges of manslaughter or murder—some of the offences highest in terms of wrongful convictions.²⁸ This may be especially true regarding Indigenous women, who are more likely to be denied “valid claims to self-defence”, ultimately leading to their conviction.²⁹ According to a report calling for the group exoneration of 12 Indigenous-Canadian women, s.718.2(e) of the *Criminal Code*, which requires the court to pay

²³ *Ibid* at 1039.

²⁴ See Connor Lang, “The Intersection of Wrongful Convictions and Gender in Cases Where Women Were Sentenced to Death or Life in Prison Without Parole” (2021) 27.2 MJGL 403, online: <https://repository.law.umich.edu/mjgl/vol27/iss2/4/>.

²⁵ Anouk Mertens & Freya Vander Laenen, “Pains of Imprisonment Beyond Prison Walls: Qualitative Research with Females Labelled as Not Criminally Responsible” (2020) 64:13–14 *International Journal Offender Therapy and Comparative Criminology* 1343 at 1344 [Mertens].

²⁶ *Ibid*.

²⁷ Parkes & Cunliffe, *supra* note 17.

²⁸ *Ibid*.

²⁹ *Ibid* at 228.

“particular attention to the circumstances of [Indigenous Peoples]”, was inadequately applied and considered in these women’s trials.³⁰ In one Canadian study of 91 women who were tried for “killing intimate partners in circumstances where the female accused had been subjected to violence by the man she allegedly killed”, 41% were Indigenous.³¹ Additionally, we know Indigenous people are 10% more likely than non-Indigenous people to plead guilty and that women and Indigenous peoples are “more likely than other suspects to waive their rights to silence during police investigations[.]”³² Which could put Indigenous women at an increased risk of experiencing wrongful convictions.

Similar issues arise in cases of mothers falsely accused of killing their children. In cases of natural death, women are pleading guilty to offences such as murder or manslaughter.³³ In Parkes and Cunliffe’s review of police transcripts, a mother’s feelings of responsibility for their child are used against them to elicit an admission of guilt.³⁴ Of course, rather than factual guilt, a mother is only taking an assumed responsibility for not being able to prevent a tragic accident. Another technique which is disproportionately utilized against these falsely accused women is the use of “suggestive interviewing techniques of children” to secure a conviction.³⁵

It grows increasingly obvious that women’s wrongful convictions are distinct from their male counterparts as there are “additional factors that exert more pressure on a woman to plead guilty” due to women disproportionately acting as a primary caretaker, being reluctant to testify against an abuser, acting in self-defence, or accepting blame due to feelings of guilt.³⁶

III The Wrongful Conviction

While the literature on the pains of imprisonment is vast, it largely fails to distinguish differences between male and female inmates even though research has suggested these two populations experience incarceration differently.³⁷ Of the limited studies conducted, we know women are more affected than men by loss of contact with loved ones, by loss of autonomy and control, and are less often affected by the deprivation of heterosexual relationships.³⁸

³⁰ Kim Pate, *Injustices and Miscarriages of Justice Experienced by 12 Indigenous Women: A Case for Group Conviction Review and Exoneration by the Department of Justice via the Law Commission of Canada and/or the Miscarriages of Justice Commission* (Ottawa: Office of The Honourable Kim Pate, CM, 2022) at 16.

³¹ Elizabeth A Sheehy, *Defending Battered Women on Trial: Lessons from the Transcripts* (Vancouver: UBC Press, 2014) at 127, as cited in Parkes & Cunliffe, *supra* note 17 at 228.

³² New South Wales Law Reform Commission, *Report 95: The Right to Silence* (Sydney: National Library of Australia, 2000) at para 2.118, as cited in Parks & Cunliffe, *supra* note 17 at 231.

³³ Parkes & Cunliffe, *supra* note 17 at 220, 238.

³⁴ Parkes & Cunliffe, *ibid* at 233.

³⁵ Ruesink & Free, *supra* note 4 at 8.

³⁶ Judge Lynn Ratushny, *Self-Defence Review: Final Report* (Ottawa: Ministry of Justice, 1997), as cited in Parkes & Cunliffe, *supra* note 17 at 232.

³⁷ Mertens, *supra* note 26.

³⁸ *Ibid* at 1344.

A. Women, Mothers, and Caretakers

Historically, the development of literature concerning incarcerated women or women and crime, was far behind that of male incarceration and offending. Incarcerated women have, historically, been subjugated to “double deviance” as they have infringed on social and gender norms, as well as the law.³⁹ Feminist criminologists note that under patriarchal rule, “all women’s mothering” is policed, which “results in the pathologizing of those who do not or cannot perform normative motherhood.”⁴⁰

A key distinction separating the experiences of incarcerated mothers from incarcerated fathers is the fact that incarcerated mothers are more likely to be “lone mothers”, whereas incarcerated fathers typically have the privilege of having their children taken care of by their mother.⁴¹ Perhaps due to the lack of another parent, visitations for mothers are also sparse, with only 30% of children visiting their mothers while they are incarcerated.⁴² This likely contributes to the fact that maternal relations with children following a custodial sentence never “fully recover”, with incarcerated mothers citing separation from their children as the most “difficult aspect” of being incarcerated.⁴³ This has severe implications for wrongfully convicted women who are disproportionately accused of harming their children, thus having any remaining children taken from their care. As stated by several female exonerees:

Ms Waudby's eldest daughter Justine and newborn son M.W. would remain [in foster care] until her second-degree murder charge was dropped in June 1999 ⁴⁴

Ms. Reynolds went free yesterday, she had, in her words, "lost everything" -- contact with her four other children, her reputation, all her possessions and close to four years of freedom.⁴⁵

Sherry told reporters after her acquittal that she had never seen Austin, her remaining son, since he was taken from her shortly before her arrest.⁴⁶

³⁹ Lucy Baldwin & Vicky Pryce, *Mothering Justice: Working with Mothers in Criminal and Social Justice Settings* (Hampshire, UK: Waterside Press, 2015) as cited in Sinead O'Malley, “Mothers in prison: matricentric feminist criminology” in Lynn O'Brien Hallstein et al, ed, *The Routledge Companion to Motherhood*, (New York: Routledge, 2020) 236 at 238 [O'Malley].

⁴⁰ Andrea O'Reilly, *Matricentric Feminism: Theory, Activism, and Practice* (Bradford, ON: Demeter Press, 2016) at 19 as cited in O'Malley, *supra* note 40 at 238 [O'Reilly].

⁴¹ O'Reilly, *supra* note 40 at 240.

⁴² O'Reilly, *ibid* at 245.

⁴³ O'Reilly, *ibid* at 240-242.

⁴⁴ Peterborough This Week, “Brenda Waudby makes her case”, Peterborough This Week (March 8, 2012), online: https://www.thepeterboroughexaminer.com/life/brenda-waudby-makes-her-case/article_8f6ab488-4a01-52a0-b35e-cd88814af6e5.html.

⁴⁵ Timothy Appleby, “Mother cleared in killing of girl, 7”, *The Globe and Mail* (26 January 2001), online: theglobeandmail.com [Appleby].

⁴⁶ Sarah Harland-Logan, “Exonerations: Sherry Sherrett-Robinson”, online: innocencecanada.com.

While there is not much direct research on female exonerees, this fact holds significant importance for the literature as the narratives offered by incarcerated women suggest that the most painful part of incarceration and re-entry is the “trauma and emotional factors” that accompany them, rather than “quantifiable outcomes” such as employment, housing, and re-offending—which is typically more important for incarcerated men.⁴⁷

B. Mothers, Grief, and Declining Health

When studying the female pains of imprisonment, Jackson et al. found that “females often report the separation from their significant others and children as an additional burden to carry through incarceration”.⁴⁸ For exonerees, remaining in contact with children was especially difficult as communication was dependent on caretakers.⁴⁹ To exacerbate this issue, many female exonerees are not only accused of harming their children, but have their remaining children taken from them. Louise Reynolds lost four children, Sherry Sherret-Robinson lost contact with her remaining son after he was adopted, Brenda Waudby’s daughter was placed in foster care, and Joyce Hayman also lost custody of her remaining son. As can be found in Table 1, out of fourteen Canadian female exonerees, ten were wrongfully accused of harming their children.

In recent years, the literature has called attention to the public health issue that arises from parental grief.⁵⁰ A 2020 literature review found that grieving mothers were disproportionately affected by a child’s death causing an increase in both natural and un-natural mortality and “overwhelming physical symptoms” that resulted in the “development of long-term physical illnesses [and] hospitalizations”.⁵¹ Three hundred reports of acute illnesses among mothers including headaches and infections, and 89 hospitalizations caused by infections, chest pain, and gastrointestinal issues occurred as a result.⁵² Other studies found a positive correlation between the death of a child and epilepsy diagnoses among parents, as well as elevated risks of cancer, and hospitalizations due to Type 2 diabetes among mothers.⁵³ Wrongfully convicted women then, are at an elevated risk of suffering due to physical illnesses as well as early mortality due to the grief they suffer— not only from losing a child, but also of wrongful conviction and having remaining children taken from them. As said by several Canadian female exonerees:

⁴⁷ Bree Carlton & Marie Segrave “Women's survival post-imprisonment: Connecting imprisonment with pains past and present” (2011) 13:5 *Punishment & Society* 551 at 565.

⁴⁸ Jackson 2023, *supra* note 8 at 118.

⁴⁹ Nicky Ali Jackson, Margaret Pate & Kathryn M Campbell, “Prison and Post-Release Experiences of Innocent Inmates” (2021) 30:10 *Journal of Aggression, Maltreatment & Trauma* 1347 [Jackson 2021].

⁵⁰ Amanda E Temares et al, “Parental Grief, Wrongful Incarceration, and the Continued Effects after Exoneration” (2023) 32:1-2 *Journal of Aggression, Maltreatment & Trauma* 125 [Temares].

⁵¹ *Ibid* at 138.

⁵² *Ibid*.

⁵³ *Ibid*.

I have suffered psychologically and emotionally, the damage to my reputation is irreparable, my family is devastated, and I still have not been able to grieve the loss of my child.⁵⁴

[The wrongful conviction] took away a good portion of my life. It took away my life with my children. It took away my ability to grieve. It really took a big chunk of my soul.⁵⁵

As discussed in further detail in the following section, the physical health of female exonerees has not been directly measured. However, the literature on parental grief suggests female exonerees could be particularly vulnerable to the physical effects found to accompany parental grief.

C. Health Issues

In addition to the physical health effects of parental grief, incarcerated women are far more likely to suffer from health challenges than women in the general population. Approximately 20% of female inmates deal with “hepatitis, tuberculosis, and/or HIV”; with hepatitis B/C, HIV, and STIs being anywhere from two to ten times greater among female inmates than the general population.⁵⁶ In a study of 7,000 inmates, Binswanger et al. found that female inmates had a “significantly higher prevalence” of medical conditions in comparison to male inmates.⁵⁷ Additionally, there are unique challenges the female incarcerated population faces regarding their treatment including, “unnecessary hysterectomies, inadequate and inappropriate healthcare; and having their behaviour controlled by psychiatric medication.”⁵⁸ Moraes et al. report that while most women access medical care while incarcerated (90.9%), dental care is the least utilized (58.6%).⁵⁹ However, dental care is vital to incarcerated women, especially considering that 33% of incarcerated women report tooth loss after incarceration, with an average of 3.7 teeth lost.⁶⁰ Moraes et al. (2021) also found that non-white participants were more likely to experience physical pain while incarcerated. This is in line with other studies that report that non-white women had less access to oral health services and “greater impacts of physical pain on their quality of life[.]”⁶¹ And that black inmates were less likely than white inmates to go to see a dentist (24% and 14% respectively) (Moraes et al., 2021).⁶² Additionally, incarcerated and previously incarcerated

⁵⁴ Brenda Wauby as quoted in *Peterborough this Week*, (8 March 2012), *supra* note 44 at para. 6.

⁵⁵ Canadian Registry of Wrongful Convictions, *supra* note 2 at para 10.

⁵⁶ Alison M Colbert et al, “Health Care Needs of Women Immediately Post-Incarceration: A Mixed Methods Study” (2013) 30:5 *Public Health Nursing* 409 at 410 [Colbert].

⁵⁷ Ingrid A Binswanger et al, “Gender differences in chronic medical, psychiatric, and substance-dependence disorders among jail inmates” (2010) 100:3 *American Journal of Public Health* 476 as cited in Colbert *supra* note 56.

⁵⁸ Laura R Shantz & Sylvie Frigon, “Aging, women and health: From the pains of imprisonment to the pains of reintegration” (2009) 5:1 *International Journal of Prisoner Health* 3 at 4 [Shantz & Frigon].

⁵⁹ Ludmila Roberto Moraes et al, “Self-Perceived Impact of Oral Health on the Quality of Life of Women Deprived of Their Liberty” (2021) *International Journal of Dentistry* 1 at 2.

⁶⁰ *Ibid* at 2.

⁶¹ *Ibid* at 4.

⁶² *Ibid*.

women deal with accelerated aging— with 85% of older incarcerated women dealing with “chronic health problems, diseases such as emphysema and diabetes, as well as other age-related declines in physical, sensory, and immune system functioning[.]”⁶³

While the literature on wrongful convictions is steadily expanding, the discussion of physical health issues arising from incarceration for exonerees is entirely underdeveloped. Kukucka et al. (2022) reported that 37.3% of the exonerees in their study experienced life-threatening illnesses or injuries.⁶⁴ Female exonerees report both health and dental issues, with three of eight women in one study now dealing with cancer (Jackson et al., 2021). In our own research, 11 of 57 exonerees in our sample dealt with health issues due to their wrongful conviction— however, these were all male exonerees, to our knowledge (19%). When examining exonerees admitted at 30 years or older (18 total), seven men dealt with “serious health issues following release or while incarcerated”.⁶⁵ Other male exonerees reported “stress-related medical issues” such as high blood pressure, migraines, arthritis, heart-attacks, and nerve pain from a physical assault they endured while incarcerated.⁶⁶ Additionally, six Canadian male exonerees have passed away at the ages of: 55, 56, 62, 67, 69, and 76 years old, from health complications. In Canada, the average age of death is 82 years old, implying that exonerees could be dying at a much earlier rate due to poor physical health in prison or re-entry.⁶⁷ Studies reveal that exonerees do suffer health complications while incarcerated and shortly afterward, which has gone on to claim their lives. However, much more development regarding female exoneree health and whether female exonerees are subject to any inappropriate or inadequate medical care while incarcerated is warranted to enhance medical assistance and treatment once women are exonerated.

D. Mental Health Challenges

Mental health challenges can impact anyone; however, they are most prevalent in incarcerated women. Compared to men, incarcerated women had “significantly higher prevalence of [...] psychiatric conditions and drug dependency”— even when controlling for sociodemographic factors.⁶⁸ A higher frequency of psychiatric conditions such as anxiety, depression, and post-traumatic stress disorder (PTSD) was also reported among female inmates.⁶⁹ From the literature, we know that women serving indeterminate sentences, like exonerees, experience additional “pains of imprisonment” due to the indeterminacy of their sentences.⁷⁰ This uncertainty led to many negative experiences among female prisoners and was pervasive in female prisoners' narratives.⁷¹ Research has shown that 20% of incarcerated women self-harm, which is four times

⁶³ Shantz & Frigon, *supra* note 58 at 4.

⁶⁴ Jeff Kukucka, Ashley M Horodyski & Christina M Dardis, “The Exoneree Health and Life Experiences (ExHaLE) Study: Trauma Exposure and Mental Health among Wrongly Convicted Individuals” (2022) 28:3 *Psychology, Public Policy & Law* 387 at 391 [Kukucka 2022].

⁶⁵ Pacholski, *supra* note 10.

⁶⁶ *Ibid.*

⁶⁷ DataCommons (Google), “Places in Canada: Life expectancy (years)”, online: <datacommons.org>.

⁶⁸ Colbert, *supra* note 56 at 410.

⁶⁹ Colbert, *ibid.*

⁷⁰ Mertens, *supra* note 26 at 1355.

⁷¹ *Ibid* at 1355.

greater than self-harm rates among male prison populations.⁷² Additionally, women enduring mental health challenges or displaying distressing symptoms are likely to be met with segregation or solitary confinement, heightening their “psychological vulnerabilities”.⁷³

Few studies have examined the impacts of wrongful conviction and incarceration on mental health. Notably, Grounds (2004) found that 67% of the sample met the diagnostic criteria for PTSD, 56% for depressive disorders, and 78% suffered from personality changes.⁷⁴ Wildeman et al. studied 55 exonerees and concluded that 44% suffered from depression and 27% from PTSD.⁷⁵ These studies provide conclusive evidence of mental health issues being prevalent among exonerees, however, they are limited to male-only samples. A recent study by Kukucka et al. (2022) surveyed 59 exonerees, 46 men and 13 women, finding that the majority of exonerees experienced physical assault (54.2%), sexual assault (13.6%), and unwanted sexual experiences (27.1%), with an even higher number witnessing these events while incarcerated, 62.7%, 42.4%, and 30.5% respectively.⁷⁶ Additionally, Kukucka et al. found that 51.7% of exonerees had “clinically significant PTSD symptoms” and 50.8% had “clinically significant depressive symptoms”.⁷⁷ Furthermore, mental health issues such as chronic sleeping issues, irritability, depression, paranoia, and drug and alcohol dependency were not mitigated for those who have served shorter wrongful sentences.⁷⁸ Female exonerees, in a study done by Jackson et al. (2021), also reported PTSD as a “major problem”.⁷⁹ The literature on parental grief has found that mothers are at an increased risk of both hospital admissions, first psychiatric hospitalization, and to suffering “prolonged grief, depression, and post-traumatic stress [disorder]”.⁸⁰ Although the data on female exoneree mental health is sparse, the information we have appears to support the aforementioned idea.

The literature has documented the pervasive mental health challenges that accompany wrongful conviction and incarceration, but these studies contain exclusively male samples. Of studies that do contain a small sample of women, female and male exonerees are spoken about as a cohesive group rather than a group differentiated by their unique gendered experiences. Based on the literature, one can hypothesize that exonerated mothers are at an increased risk of developing mental disorders due to not only wrongful conviction, but also parental grief. This warrants necessary study on wrongfully convicted mothers, especially those accused of harming their children, to further establish the prevalence of mental disorders among this unique group. Additionally, further emphasis needs to be made on female experiences as being separate from that of males to better ascertain the assistance that women require.

⁷²O'Malley, *supra* note 40.

⁷³*Ibid* at 242.

⁷⁴Adrian Grounds, “Psychological Consequences of Wrongful Conviction and Imprisonment” (2004) 46:2 *Canadian Journal of Criminology and Criminal Justice* 165 [Grounds].

⁷⁵ Jennifer Wildeman, Michael Costelloe & Robert Schehr, “Experiencing Wrongful and Unlawful Conviction” (2011) 50:7 *Journal of Offender Rehabilitation* 411 [Wildeman].

⁷⁶ Kukucka 2022, *supra* note 64.

⁷⁷*Ibid* at 14.

⁷⁸ Temares, *supra* note 50.

⁷⁹ Jackson 2021, *supra* note 49 at 1361.

⁸⁰ Temares, *supra* note 50 at 140.

IV Life After Wrongful Conviction

The pains of imprisonment are frequently acknowledged in the literature, however, the pains of re-entry are not, especially regarding female and exoneree experiences (with the exception of Durnescu, 2011; McKendy & Ricciardelli, 2020; Nugent & Schinkel, 2016; Semenza & Link, 2019).⁸¹ Re-entry literature recognizes that issues arising in re-entry are not static or universal, acknowledging the intersections of “social-structural, institutional, and personal factors” influencing barriers to re-entry.⁸² For example, Black exonerees are less likely to be perceived as innocent and deserving of re-entry assistance when compared to their White counterparts.⁸³ This finding is especially harmful, as Americans of colour are “disproportionately poor in the United States” and are less likely to be capable of affording assistance that they may require.⁸⁴ Furthermore, women are among the fastest growing prison populations and experience unique barriers in their re-entry. Perhaps one of the largest barriers in a woman’s re-entry is associated with her motherhood. In Canada, fathers have exclusive custody over their children in only 5.3-7.9% of cases, making the barrier of regaining child custody primarily one that women endure.⁸⁵ McKendy and Ricciardelli found that female parolees frequently expressed their desires to “reconnect with their children and re-establish mothering identities”.⁸⁶ However, gaining access to children is a common barrier to re-entry, leaving many mothers experiencing the stress of attempting to regain access which is commonly prevented due to non-association conditions attached to parole.⁸⁷ Additionally, many female parolees discuss the laborious, and difficult, process of “navigating the processes required to visit or regain custody”, such as meeting

⁸¹ See Durnescu, Ioan, “Pains of Probation: Effective Practice and Human Rights” (2011) 55:4 *International Journal of Offender Therapy Comprehensive Criminology* 530–545, online:

<<https://journals.sagepub.com/doi/10.1177/0306624X10369489>>; Laura McKendy & Rosemary Ricciardelli, “The pains of release: Federally-sentenced women’s experiences on parole” (2021) 13:1 *European Journal of Probation* 1 [McKendy]; Briegle Nugent & Marguerite Schinkel, “The pains of desistance” (2016) 16:5 *Criminology & Criminal Justice* 568, online:

<<https://journals.sagepub.com/doi/10.1177/1748895816634812>>; Daniel C Semenza & Nathan W Link, “How does reentry get under the skin? Cumulative reintegration barriers and health in a sample of recently incarcerated men” (2019) 243 *Social Science & Medicine* 112618, online:

<<https://linkinghub.elsevier.com/retrieve/pii/S0277953619306136>>.

⁸² McKendy, *supra* note 81 at 2.

⁸³ Melanie Clark Mogavero, Ko-Hsin Hsu & Philip Colin Bolger, “A conjunctive analysis of false accusations, official misconduct, and race in violent and sexual exonerations cases” (2022) 40:6 *Behavioral Science & The Law* 756.

⁸⁴ Rebecca Marcus, “Racism in Our Courts: The Underfunding of Public Defenders and Its Disproportionate Impact Upon Racial Minorities” (1994) 22:1 *UC Law Constitutional Quarterly* 219, online:

<https://repository.uclawsf.edu/hastings_constitutional_law_quaterly/vol22/iss1/5> at 234 [Marcus].

⁸⁵ Nicole Marcil-Gratton & Céline Le Bourdais, *Custody, Access and Child Support: Findings from The National Longitudinal Survey of Children and Youth*, by Nicole Marcil-Gratton & Céline Le Bourdais (Université de Montréal / Institut national de la recherche scientifique, 1999).

⁸⁶ McKendy, *supra* note 81 at 10.

⁸⁷ *Ibid.*

requirements for housing, employment, and completing a variety of courses.⁸⁸ To compound this issue, the literature also demonstrates that women have greater difficulty re-entering their communities than their male counterparts as they are “less likely to find jobs, earn a living wage, or be supported by a partner”.⁸⁹ This finding demonstrates that women may be at an increased risk of living on welfare or remaining unhoused.

A. Re-entry Issues for the Wrongfully Convicted

Much like the rightfully convicted population of women dealing with the pains of re-entry, wrongfully convicted women must also deal with regaining custody of their children, navigating relationships, and obtaining employment and housing. However, no research examines a wrongfully convicted woman’s unique experience navigating these barriers. Instead, these issues will be discussed broadly for contextual purposes.

a. Housing

Very few studies considered exoneree housing, let alone the unique barriers female exonerees may face. Kukucka et al. found that exonerees, whether they described themselves as wrongfully convicted, exonerated, or innocent, were less likely to receive a reply from a landlord than individuals who did not disclose criminal history in their housing inquiries.⁹⁰ In fact, exonerees were comparable to the rightfully convicted in terms of issues obtaining housing, as they were both “equally unlikely to receive a reply”.⁹¹ These levels of discrimination against exonerees were not impacted by geographic region, local crime rates, income level, or racial demographics.⁹² Of the handful of studies regarding exoneree’s abilities to re-gain housing, it grows increasingly clear that exonerees face stigma due to their wrongful conviction, preventing them from securing housing. This could be especially precarious for female exonerees if they are pregnant or trying to re-gain custody of their children. These findings are corroborated by Zannella et al., who found that exonerees are less likely than individuals with a criminal record to receive a response from a landlord (a 31.6% response rate compared to a 46% response rate).⁹³

b. Exoneree Employment

Many re-entry issues for exonerees stem from the inability to re-gain employment– which is well documented in the literature. This is especially concerning, as employment is connected to the ability to successfully re-integrate.⁹⁴ Kukucka et al. found that full time employment among exonerees led to decreased levels of mental illnesses such as anxiety, depressive disorders, and

⁸⁸ *Ibid* at 11.

⁸⁹ Shantz & Frigon, *supra* note 58 at 5.

⁹⁰ Jeff Kukucka et al, “Do exonerees face housing discrimination? An email-based field experiment and content analysis.” (2021) 27:4 *Psychology, Public Policy, and Law* 570 at 575.

⁹¹ *Ibid* at 574.

⁹² *Ibid*.

⁹³ Lesley Zannella, et al, “The effects of race and criminal history on landlords’ (un)willingness to rent to exonerees.” (2020) 44:4 *Law and Human Behavior* 300 at 304.

⁹⁴ Wildeman, *supra* note 75 at 416.

post-traumatic stress disorders.⁹⁵ However, most employers (47%) are not willing to hire someone with a criminal record— a major barrier for exonerees, who do not have their criminal records automatically expunged.⁹⁶ Once released from prison, the immediate needs of exonerees are housing, employment, and financial support. Despite judicial rulings and newspaper coverage, the few studies in this area have found that exonerees struggle to find employment. In 2020, Kukucka et al. found that hiring professionals “perceived the exoneree as less intelligent, performed more reference checks for the exoneree, and offered the exoneree a somewhat lower starting wage”.⁹⁷ Additional studies have found that of 60 exonerees, one third were unable to support themselves financially, remaining financially dependent on those close to them.⁹⁸ Grounds also noted that the majority of exonerees (thirteen of eighteen) were unemployed for at least two-years following their release.⁹⁹ While there are no studies examining the unique experiences of wrongfully convicted women and their experience with re-gaining employment, there are a few accounts from these women regarding their experiences:

Oakes hit rock bottom after she was released from federal prison following the Crown's decision to stay the second-degree murder charge. She couldn't land a job because her name was connected to the murder.¹⁰⁰

It takes its toll and at my age trying to get a job is not easy in any market,’ the 48-year-old says. ‘I’m competing against young students that just came out of school like me, but [an employer] will take a student that they have 30 years they can invest in, where I wouldn’t have that. It’s unfortunate, but I keep trying, keep putting my resume out there. It’s all you can do.’¹⁰¹

She had not been able to obtain a job because of her theft conviction and that ‘it's sort of like I lost four years of my life.’¹⁰²

Her conviction made it hard to find work. She continued to struggle with her addiction and survived on social assistance. She lost custody of her son. When she gave birth to another son in 2003, she lost custody of him as well. The charges and

⁹⁵ Jeff Kukucka, Heather K Applegarth & Abby L Mello, “Do exonerees face employment discrimination similar to actual offenders?” (2020) 25:1 *Legal Criminology and Psychology* 17 at 18.

⁹⁶ Rachelle Giguere & Lauren Dundes, “Help Wanted: A Survey of Employer Concerns About Hiring Ex-Convicts” (2002) 13:4 *Criminal Justice Policy Review* 396 at 399.

⁹⁷ Kukucka 2020, *supra* note 95 at 2.

⁹⁸ Temares, *supra* note 50 at 135.

⁹⁹ Grounds, *supra* note 74.

¹⁰⁰ See Jorge Barrera, “Connie Oakes sues Alberta Crown, Medicine Hat police for \$1M over wrongful murder conviction”, *CBC News* (1 May 2018), online: <<https://www.cbc.ca/news/indigenous/connie-oakes-lawsuit-wrongful-conviction-murder-1.4642379>> at para 26.

¹⁰¹ Liam Casey, “Brenda Waudby moves on 16 years after Charles Smith debacle” (23 September 2013), online: *Toronto Star* <https://www.thestar.com/news/gta/brenda-waudby-moves-on-16-years-after-charles-smith-debacle/article_8e48cd96-0984-5b1a-9b5e-907ff28bdb0e.html> at para 30.

¹⁰² “Linda Huffman”, online: <<https://www.wrongfulconvictions.ca/cases/linda-huffman>> at para 5.

the conviction took away all my self-respect, she said in the affidavit. ‘I do not think I have ever really recovered my spirit’¹⁰³

Sherry suffers from post-traumatic stress disorder due to the ordeal that she experienced surrounding Joshua’s death. She also had a difficult time finding work after her conviction.¹⁰⁴

c. Stigma

One primary way that formerly incarcerated males and females differ is in coping strategies. One study on “re-entry strategies” concluded that men “often attributed their positive change to a status-related goal like employment”, however, “women most often attributed their positive change to a relationship in their lives”.¹⁰⁵ This is especially problematic as exonerees suffer intense stigma, especially women wrongfully accused of harming children. For example, Louise Reynolds was harassed following her exoneration, with the public yelling things such as “you are guilty and you’ll rot in hell [...] you left [your child] to die, no matter what”.¹⁰⁶ Again, this refers to the sentiments that mothers are held to the highest scrutiny and are expected to perform their role as a mother.

V Policy Implications

As mentioned throughout this paper, research on female experiences before, during, and after being wrongfully convicted is lacking. We do not yet understand the particular mechanisms and risk factors leading to the wrongful conviction of women. Nor do we have knowledge regarding these women’s experiences while being incarcerated, what risks they face while incarcerated, and their narratives. Better understanding these experiences will allow us to assist in their re-integration. The literature has also failed to differentiate female from male experiences in terms of re-entry, preventing us from understanding how women are struggling with their re-entry. Again, these questions hold great importance as they allow us to consider the needs of this population. The following section will therefore make recommendations as to what can be done for these women, with the knowledge we have from the existing literature.

A. Recommendations in Preventing the Wrongful Conviction of Women

¹⁰³Rachel Mendleson, “Woman wrongfully convicted over flawed Motherisk evidence acquitted by Ontario court”, *Toronto Star* (12 April 2021), online: <[¹⁰⁴Sarah Harland-Logan, “Sherry Sherrett-Robinson”, online: *Innocence Canada* <<https://www.innocencecanada.com/the-latest/exoneration/sherry-sherrett-robinson/>> at para 19.](https://www.thestar.com/news/investigations/woman-wrongfully-convicted-over-flawed-motherisk-evidence-acquitted-by-ontario-court/article_4a9d6e97-c25d-5f4a-aa60-7aab88a49410.html#:~:text=Joyce%20Hayman%20is%20seen%20outside,evidence%20from%20two%20Motherisk%20experts.> at para 12.</p>
</div>
<div data-bbox=)

¹⁰⁵Konvisser, *supra* note 4 at 260.

¹⁰⁶Appleby, *supra* note 45.

Thirty years ago, the right to counsel was guaranteed in Gideon. Now that right is in severe jeopardy due to dire underfunding. Racial minorities are disproportionately poor, disproportionately incarcerated, and now disproportionately the victims of ineffective assistance of counsel because public defenders do not have sufficient resources.¹⁰⁷

The quote above pays heed to the circumstances leading to many women's wrongful convictions, many of which are dealing with being part of a minority racial group, of low socioeconomic status, or living with another label that increases their risk of wrongful conviction such as using drugs or previously engaging in crime. Women are also disproportionately the victims of ineffective counsel as they are more likely to be charged in "no-crime cases". Effective counsel should and can eliminate this.

On the other hand, we have Indigenous women, among other women from different racial groups, being held criminally responsible for defending their lives from abusers. Likewise, s. 718.2(e) is not applied properly in the cases of Indigenous people before the court. One of the greatest issues leading to wrongful conviction is inadequate legal defence, which is due in part because of one's inability to afford counsel. For many, it may become easier to plead guilty or represent themselves. Pollack et al. found that "nine women accepted responsibility and pled guilty early on as they lacked the financial resources to go to trial".¹⁰⁸ These circumstances are a breeding ground for the wrongful conviction of women, minorities, and those of low socio-economic status who may have inadequate representation due to their reliance on legal aid, due to biases, and/or gendered and racial stereotypes. Legal aid is then imperative in preventing wrongful convictions and strengthens legitimacy in our criminal legal systems.

Furthermore, more attention and training must be paid to criminal legal system actors to educate them on stereotypes of "how women should behave" which has a direct influence on why women are wrongfully convicted in "no-crime cases".¹⁰⁹ Education prevents the excuse of ignorance in future situations, allowing us to hold these actors to a higher standard of accountability. As recommended by Drummond and Mills, to increase police accountability, civilian complaint review boards for police misconduct should be established.¹¹⁰ Additionally, "lowering the standard of criminal intent to convict officers for misconduct" must be made to ensure officers can be held accountable for any misconduct they participate in, as well as eliminating or limiting qualified immunity.¹¹¹ The above recommendations could alleviate wrongful convictions where official misconduct occurs, which is approximately 54% of cases.

¹⁰⁷Marcus, *supra* note 84 at 267.

¹⁰⁸ Pollack, Shoshana, Melanie Battaglia & Anke Allspach, *Women Charged with Domestic Violence in Toronto: The Unintended Consequences of Mandatory Charge Policies*, by Shoshana Pollack, Melanie Battaglia & Anke Allspach (The Women Abuse Council of Toronto, March 2005), online: <<https://www.oaith.ca/assets/files/Publications/womenchargedfinal.pdf>> at 14.

¹⁰⁹ Jackson 2023, *supra* note 8.

¹¹⁰ Clayton B Drummond & Mai Naito Mills, "Addressing Official Misconduct: Increasing Accountability in Reducing Wrongful Convictions" (2020) 1:3 *Wrongful Conviction Law Review* 270, online: <<https://wclwr.org/index.php/wclr/article/view/34>> at 286.

¹¹¹ *Ibid* at 286.

¹¹² As recommended by Jackson et al., future research can also help address the issue of official misconduct by qualitatively examining how and why these women came under suspicion in no-crime cases.¹¹³

B. Assisting with female pains of imprisonment and re-entry

Above all, research needs to begin differentiating between the female and male experience and gendered differences in how people interact and respond to their surroundings. However, the experiences of being a woman are one of many identities one may align with. Further research on exonerees of colour, especially female exonerees of colour is of great importance to examine how race and gender interact. Other vulnerable populations may include those identifying as 2SLGBTQIA+, those of low-socioeconomic status, or those who use substances or have prior criminal convictions—all of which may interact with race and gender to produce different experiences and subsequent needs in one's re-integration.¹¹⁴ As written by Shantz and Frigon:

Women require easy access to comprehensive community services, which are sensitive to their age, race, gender, health status, and abilities; currently these services are often limited or non-existent. In order to do this, women's accounts need to be taken into consideration before designing and delivering programs and services which are truly linked to their realities.¹¹⁵

From the literature we do have, we see that women are at an increased risk of experiencing mental health issues due to stressors such as parental grief and are more likely to cope using self-harm. As reported by Colbert et al., a number of participants spoke about their long-term healthcare needs and how difficult it was to access treatments such as therapy or medication.¹¹⁶ To combat the increased levels of mental illnesses seen among female inmates, counselling services must also be freely and widely available for use. According to Kregg, "long term functioning is correlated with the support provided during the initial stages of re-integration".¹¹⁷ Counselling should also be extended to immediate family members who have dealt with the secondary victimization of wrongful conviction and to assist exonerees and their families in rebuilding their relationships with one another.

¹¹² Gross et al., "Government Misconduct and Convicting the Innocent: The Role of Prosecutors, Police, and Other Law Enforcement" (2020), *The National Registry of Exonerations* online: [https://exonerationregistry.org/sites/exonerationregistry.org/files/documents/Updated%20CP_Government_Misconduct_and_Convicting_the_Innocent%20\(1\).pdf](https://exonerationregistry.org/sites/exonerationregistry.org/files/documents/Updated%20CP_Government_Misconduct_and_Convicting_the_Innocent%20(1).pdf).

¹¹³ Jackson 2023, *supra* note 8.

¹¹⁴ Jackson 2021, *supra* note 49 at 1363.

¹¹⁵ Shantz & Frigon, *supra* note 58 at 12.

¹¹⁶ Colbert, *supra* note 56 at 114-116.

¹¹⁷ Christing Kregg, "Right To Counsel: Mental Health Approaches to Support the Exonerated | Crown Family School of Social Work, Policy, and Practice" (1 June 2016), online: *Crown Family School of Social Work, Policy and Practice*. <<https://crownschool.uchicago.edu/student-life/advocates-forum/right-counsel-mental-health-approaches-support-exonerated>> at 189.

Women are also at an increased risk of experiencing physical health issues due to physical manifestations of parental grief and a lack of access to adequate health services. Women re-entering society express a general desire to improve their healthcare routines, especially as it assisted many in their “ability to cope and function”.¹¹⁸ The literature demonstrates that the issue is not that women do not forego healthcare, rather, that it is unavailable or inaccessible. Many women face barriers to healthcare insurance and coverage, going as far as to rationing medication to “maximize” the length of use, as the medication is too expensive.¹¹⁹ Overall, more funding must be allotted to post-incarceration medical interventions, services, and treatments. As demonstrated by Colbert et al., women require individualized treatment plans that consider their specific goals and take their individual struggles into consideration.¹²⁰ Nurses could be invaluable in this process as they could provide recommendations suitable to the women’s needs and provide education on health-related matters.¹²¹

Generally, all exonerees, despite gender identity, still lack access to basic services such as mandated compensation, mandatory criminal record expungement, and specialized programming. To alleviate the pains of re-entry for exonerees, all countries must establish federally mandated compensations at a fixed rate, to ensure compensation is equal and is given within reasonable time. Exonerees cannot wait to access compensation or other resources as they face urgent issues such as unemployment, homelessness, and/or deteriorating health (Innocence Project, 2012).¹²² Alongside compensation, exonerees must be provided with financial assistance training to help exonerees budget, manage finances, and build credit.¹²³ Finally, social workers should be utilized to address the immediate transitional needs of exonerees such as assistance in obtaining housing/shelter, food, clothing, support services, and any other specialized services the individual may require.¹²⁴

Table 1. Known Female exonerees in Canada

Name	Time Served	Charge	Race/ethnicity
Joyce Hayman	9 months	Administering a noxious substance; Criminal Negligence causing Bodily Harm to her child	White
Tammy Marquardt	13 years	Second Degree Murder of her child	Indigenous
Maria Shepard	8 months	Manslaughter of her stepdaughter	Asian

¹¹⁸ Colbert, *supra* note 56 at 414.

¹¹⁹ *Ibid* at 415.

¹²⁰ *Ibid* 415.

¹²¹ *Ibid*.

¹²² (Innocence Project, 2012)

¹²³ Jaimie Page, “Financial Training for Exonerees Awaiting Compensation: A Case Study” (2013) 52:2 *Journal of Offender Rehabilitation* 98 at 104.

¹²⁴ Tina Simms, “Statutory Compensation for the Wrongly Imprisoned” (2016) 61:2 *Social Work* 155 at 156.

Sherry Sherrett-Robinson	1 year	First Degree Murder of her child	White
Linda Sterling	none	Sexual Abuse	White
Connie Oakes	4 years	First Degree Murder	Indigenous
Wendy Scott	6 years	First Degree Murder	White
Dawn Schoenthal	1 year	Criminal Negligence causing the death of her child	White
Louise Reynolds	2 years and 2 years in a halfway house awaiting trial	Murder of her child	White
Brenda Waudby	Unknown	Second Degree Murder of her child	Unknown
Linda Huffman	1 day	Theft	Unknown
Tamara Broomfield	4 years	Aggravated Sexual Assault; Administering a noxious substance to her child	Black
C.F	Unknown	Infanticide of her newborn	Unknown
C.M	Unknown	Second Degree Murder of her newborn	Unknown

VI References

- Appleby, Timothy, “Mother cleared in killing of girl, 7”, *The Globe and Mail* (26 January 2001), online: <<https://www.theglobeandmail.com/news/national/mother-cleared-in-killing-of-girl-7/article1029870/>>.
- Barrera, Jorge, “Connie Oakes sues Alberta Crown, Medicine Hat police for \$1M over wrongful murder conviction”, *CBC News* (1 May 2018), online: <<https://www.cbc.ca/news/indigenous/connie-oakes-lawsuit-wrongful-conviction-murder-1.4642379>>.
- Bindman, Stephen et al., “Innocence at Stake: The Need for Continued Vigilance to Prevent Wrongful Convictions in Canada” (25 April 2019), online: <https://www.ppsc-sppc.gc.ca/eng/pub/is-ip/ch10.html#ch10_2>.
- Brewer, Rose M & Nancy A Heitzeg, “The Racialization of Crime and Punishment: Criminal Justice, Color-Blind Racism, and the Political Economy of the Prison Industrial Complex” (2008) 51:5 *American Behavioral Scientist* 625, online: <<https://journals.sagepub.com/doi/10.1177/0002764207307745>>.

- Ingrid A Binswanger et al, “Gender differences in chronic medical, psychiatric, and substance-dependence disorders among jail inmates” (2010) 100:3 *American Journal of Public Health* 476, online: <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2008.149591>.
- Carlton, Bree & Marie Segrave, “Women’s survival post-imprisonment: Connecting imprisonment with pains past and present” (2011) 13:5 *Punishment & Society* 551, online: <https://journals.sagepub.com/doi/10.1177/1462474511422174>.
- Casey, Liam, “Brenda Waudby moves on 16 years after Charles Smith debacle” (23 September 2013), online: *Toronto Star* https://www.thestar.com/news/gta/brenda-waudby-moves-on-16-years-after-charles-smith-debacle/article_8e48cd96-0984-5b1a-9b5e-907ff28bdb0e.html.
- Colbert, Alison M et al, “Health care Needs of Women Immediately Post-Incarceration: A Mixed Methods Study” (2013) 30:5 *Pub Health Nursing* 409, online: <https://onlinelibrary.wiley.com/doi/10.1111/phn.12034>.
- Canada, Correctional Service, “Library” (11 September 2023), online: <https://www.canada.ca/en/correctional-service/corporate/library.html>.
- Durnescu, Ioan, “Pains of Probation: Effective Practice and Human Rights” (2011) 55:4 *International Journal of Offender Therapy Comprehensive Criminology* 530–545, online: <https://journals.sagepub.com/doi/10.1177/0306624X10369489>.
- Drummond, Clayton B & Mai Naito Mills, “Addressing Official Misconduct: Increasing Accountability in Reducing Wrongful Convictions” (2020) 1:3 *Wrongful Conviction Law Review* 270, online: <https://wclawr.org/index.php/wclr/article/view/34>.
- Mitch Ruesink & Marvin Free Jr, “Flawed justice: A study of wrongly convicted African American women” (2018) 16:4 *Journal of Ethnicity in Criminal Justice* 333, online: <https://www.tandfonline.com/doi/full/10.1080/15377938.2015.1015199>.
- Giguere, Rachelle & Lauren Dundes, “Help Wanted: A Survey of Employer Concerns About Hiring Ex-Convicts” (2002) 13:4 *Criminal Justice Policy Review* 396, online: <https://journals.sagepub.com/doi/10.1177/088740302237806>.
- Grounds, Adrian, “Psychological Consequences of Wrongful Conviction and Imprisonment” (2004) 46:2 *Canadian Journal of Criminology and Criminal Justice* 165, online: <https://utppublishing.com/doi/10.3138/cjccj.46.2.165>.
- Harland-Logan, Sarah, “Sherry Sherrett-Robinson”, online: *Innocence Canada* <https://www.innocencecanada.com/the-latest/exoneration/sherry-sherrett-robinson/>.
- Jackson, Nicky Ali, Margaret Pate & Kathryn M Campbell, “Prison and Post-Release Experiences of Innocent Inmates” (2021) 30:10 *Journal of Aggression, Maltreatment & Trauma* 1347, online: <https://www.tandfonline.com/doi/full/10.1080/10926771.2020.1866136>.
- Jackson, Nicky A et al, “An Exploratory Study of “No-Crime” Homicide Cases Among Female Exonerees” (2023) 32:1–2 *Journal of Aggression, Maltreatment & Trauma* 107, online: <https://www.tandfonline.com/doi/full/10.1080/10926771.2022.2106169>.

- Jenkins, Sion, “Secondary victims and the trauma of wrongful conviction: Families and children’s perspectives on imprisonment, release and adjustment” (2013) 46:1 *Australian & New Zealand Journal of Criminology* 119, online: <<https://journals.sagepub.com/doi/10.1177/0004865812470384>>.
- Jones, Chenelle A & Renita L Seabrook, “The New Jane Crow: Mass Incarceration and the Denied Maternity of Black Women” in Mathieu Deflem, ed, *Sociology of Crime, Law and Deviance* (Emerald Publishing Limited, 2017) 135.
- Konvisser, Zieva, “Psychological Consequences of Wrongful Conviction in Women and the Possibility of Positive Change” (2012) 5:2 *DePaul Journal for Social Justice* 221, online: <<https://via.library.depaul.edu/jsj/vol5/iss2/3>>.
- Kukucka, Jeff, Heather K Applegarth & Abby L Mello, “Do exonerees face employment discrimination similar to actual offenders?” (2020) 25:1 *Legal Criminology and Psychology* 17, online: <<https://bpspsychub.onlinelibrary.wiley.com/doi/10.1111/lcrp.12159>>.
- Kukucka, Jeff et al, “Do exonerees face housing discrimination? An email-based field experiment and content analysis.” (2021) 27:4 *Psychology, Public Policy, & Law* 570, online: <<https://doi.apa.org/doi/10.1037/law0000323>>.
- Kukucka, Jeff, Ashley M Horodyski & Christina M Dardis, “The Exoneree Health and Life Experiences (ExHaLE) study: Trauma exposure and mental health among wrongly convicted individuals.” (2022) 28:3 *Psychology, Public Policy & Law* 387, online: <<https://doi.apa.org/doi/10.1037/law0000358>>.
- Kregg, Christing, “Right To Counsel: Mental Health Approaches to Support the Exonerated | Crown Family School of Social Work, Policy, and Practice” (1 June 2016), online: *Crown Family School of Social Work, Policy and Practice* <<https://crownschool.uchicago.edu/student-life/advocates-forum/right-counsel-mental-health-approaches-support-exonerated>>.
- Lang, Connor, “The Intersection of Wrongful Convictions and Gender in Cases Where Women Were Sentenced to Death or Life in Prison Without Parole” (2021) 27.2 *MJGL* 403, online: <<https://repository.law.umich.edu/mjgl/vol27/iss2/4/>>.
- Leiber, Michael J & Maude Beaudry-Cyr, “The Intersection of Race/Ethnicity, Gender and the Treatment of Probation Violators in Juvenile Justice Proceedings” in Mathieu Deflem, ed, *Sociology of Crime, Law and Deviance* (Emerald Publishing Limited, 2017) 269.
- Lewis, Andrea L & Sarah L Sommervold, “Death, but is it murder? The Role of Stereotypes and Cultural Perceptions in the Wrongful Convictions of Women” (2015) 78:3 *Albany Law Rev* 1035.
- “Linda Huffman”, online: <<https://www.wrongfulconvictions.ca/cases/linda-huffman>>.
- Marcus, Rebecca, “Racism in Our Courts: The Underfunding of Public Defenders and Its Disproportionate Impact Upon Racial Minorities” (1994) 22:1 *UC Law Constitutional Quarterly* 219, online: <https://repository.uclawsf.edu/hastings_constitutional_law_quaterly/vol22/iss1/5>.
- Marques, Olga et al. *The mass incarceration of Indigenous women in Canada: A colonial tactic of control and assimilation in Neo-Colonial Injustice and the Mass Imprisonment of*

- Indigenous Women* (Cham, Switzerland: Springer International Publishing, 2020) 79–102, online: <https://doi.org/10.1007/978-3-030-44567-6_5>.
- McKendy, Laura & Rosemary Ricciardelli, “The pains of release: Federally-sentenced women’s experiences on parole” (2021) 13:1 *European Journal of Probation* 1, online: <<https://journals.sagepub.com/doi/10.1177/2066220320948375>>.
- Mendleson, Rachel, “Woman wrongfully convicted over flawed Motherisk evidence acquitted by Ontario court”, *Toronto Star* (12 April 2021), online: <https://www.thestar.com/news/investigations/woman-wrongfully-convicted-over-flawed-motherisk-evidence-acquitted-by-ontario-court/article_4a9d6e97-c25d-5f4a-aa60-7aab88a49410.html#:~:text=Joyce%20Hayman%20is%20seen%20outside,evidence%20from%20two%20Motherisk%20experts.>>.
- Mertens, Anouk & Freya Vander Laenen, “Pains of Imprisonment Beyond Prison Walls: Qualitative Research With Females Labelled as Not Criminally Responsible” (2020) 64:13–14 *International Journal of Offender Therapy & Comprehensive Criminology* 1343, online: <<https://journals.sagepub.com/doi/10.1177/0306624X19875579>>.
- Mogavero, Melanie Clark, Ko-Hsin Hsu & Philip Colin Bolger, “A conjunctive analysis of false accusations, official misconduct, and race in violent and sexual exonerations cases” (2022) 40:6 *Behavioral Science & The Law* 756, online: <<https://onlinelibrary.wiley.com/doi/10.1002/bsl.2587>>.
- Moraes, Ludmila Roberto et al, “Self-Perceived Impact of Oral Health on the Quality of Life of Women Deprived of Their Liberty”(2021) 2021 *International Journal of Dentistry* 1, online: <<https://www.hindawi.com/journals/ijd/2021/5520652/>>.
- Marcil-Gratton, Nicole & Céline Le Bourdais, *Custody, Access and Child Support: Findings from The National Longitudinal Survey of Children and Youth*, by Nicole Marcil-Gratton & Céline Le Bourdais (Université de Montréal / Institut national de la recherche scientifique, 1999).
- Nugent, Briege & Marguerite Schinkel, “The pains of desistance” DOI.org (Crossref) (2016) 16:5 *Criminology & Criminal Justice* 568, online: <<https://journals.sagepub.com/doi/10.1177/1748895816634812>>.
- O’Malley, Sinead, “Mothers in prison: Matricentric feminist criminology” in Lynn O’Brien Hallstein, Andrea O’Reilly & Melinda Vandenberg Giles, eds, *The Routledge Companion to Motherhood*, New York: Routledge, 2020) 236. Online: <<https://doi.org/10.4324/9781315167848-20>>.
- O’Reilly, Andrea, *Matricentric Feminism: Theory, Activism, and Practice* (Bradford, ON: Demeter Press, 2016)
- Pacholski, Casandra & Gail S Anderson. “Convicting the innocent: An analysis of the effects of wrongful convictions and available remedies in Canada” (2023) 4:2 *Wrongful Conviction Law Review* 129, online: <https://doi.org/10.29173/wclawr86>.
- Page, Jaimie, “Financial Training for Exonerees Awaiting Compensation: A Case Study” (2013) 52:2 *Journal of Offender Rehabilitation* 98, online: <<http://www.tandfonline.com/doi/abs/10.1080/10509674.2012.750638>>.

- Parkes, Debra & Emma Cunliffe, “Women and wrongful convictions: concepts and challenges” (2015) 11:3 *International Journal of Law in Context* 219, online: https://www.cambridge.org/core/product/identifier/S1744552315000129/type/journal_article.
- Pate, Kim, *Injustices and Miscarriages of Justice Experienced by 12 Indigenous Women: A Case for Group Conviction Review and Exoneration by the Department of Justice via the Law Commission of Canada and/or the Miscarriages of Justice Commission* (Ottawa: Office of The Honourable Kim Pate, CM, 2022).
- Pollack, Shoshana, Melanie Battaglia & Anke Allspach, *Women Charged with Domestic Violence in Toronto: The Unintended Consequences of Mandatory Charge Policies*, by Shoshana Pollack, Melanie Battaglia & Anke Allspach (The Women Abuse Council of Toronto, March 2005), online: <https://www.oaith.ca/assets/files/Publications/womenchargedfinal.pdf>.
- Rizer, Arthur, “The Race Effect on Wrongful Convictions” (2003) 29:3 *William Mitchell Law Review*, online: <https://open.mitchellhamline.edu/wmlr/vol29/iss3/5>.
- Ruesink, Mitch & Free D Marvin, “Wrongful Convictions Among Women: An Exploratory Study of a Neglected Topic” (2005) 16:4 *Women & Criminal Justice* 1, online: https://www.tandfonline.com/doi/full/10.1300/J012v16n04_01.
- Semenza, Daniel C & Nathan W Link, “How does reentry get under the skin? Cumulative reintegration barriers and health in a sample of recently incarcerated men” (2019) 243 *Social Science & Medicine* 112618, online: <https://linkinghub.elsevier.com/retrieve/pii/S0277953619306136>.
- Shantz, Laura R & Sylvie Frigon, “Aging, women and health: From the pains of imprisonment to the pains of reintegration” (2009) 5:1 *International Journal of Prisoner Health* 3, online: <https://www.emerald.com/insight/content/doi/10.1080/17449200802692045/full/html>.
- Simms, Tina, “Statutory Compensation for the Wrongly Imprisoned” (2016) 61:2 *Social Work* 155, online: <https://academic.oup.com/sw/article-lookup/doi/10.1093/sw/sww003>.
- Temares, Amanda E et al, “Parental Grief, Wrongful Incarceration, and the Continued Effects after Exoneration” (2023) 32:1–2 *Journal of Aggression, Maltreatment & Trauma* 125, online: <https://www.tandfonline.com/doi/full/10.1080/10926771.2022.2051656>.
- “National Registry of Exonerations”, online: <https://exonerationregistry.org/>.
- “Poverty and Opportunity Profile - Americans with Criminal Records” (2022), online: *The Sentencing Project* <https://www.sentencingproject.org/app/uploads/2022/08/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>.
- Wildeman, Jennifer, Michael Costelloe & Robert Schehr, “Experiencing Wrongful and Unlawful Conviction” (2011) 50:7 *Journal of Offender Rehabilitation* 411, online: <http://www.tandfonline.com/doi/abs/10.1080/10509674.2011.603033>.
- DataCommons (Google), “Places in Canada: Life expectancy (years)”, online: datacommons.org.
- Zannella, Lesley et al, “The effects of race and criminal history on landlords’ (un)willingness to rent to exonerees.” (2020) 44:4 *Law and Human Behavior* 300.