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LIFE AFTER WRONGFUL CONVICTION: MAKING THE CASE FOR PARTNERSHIPS ACROSS THE DISCIPLINES

by ANGELA INZANO

In Illinois, 83 men and two women were exonerated between 1989 and 2010 after having spent a total of 926 years in prison for crimes they did not commit.¹ These wrongful convictions cost taxpayers \$214 million.² The true perpetrators of the crimes, meanwhile, remained at large long enough to commit at least an additional 97 felonies, including 14 murders.³

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Wrongful convictions are not unique to Illinois. One study showed that from 1989 to 2007, an estimated 208 people were exonerated in the United States through DNA testing alone.⁴

While much has been written, investigated and litigated regarding the process of obtaining justice for the innocent, little attention has been paid to the plight of these men and women after exoneration.^{5,6} When the media spotlight fades, exonerees face a lifetime of complex hardships and constant struggle, often through no fault of their own.

These individuals frequently require legal assistance to “prove” their innocence and gain access to proper compensation, housing and job assistance.⁷ Exonerees also often need financial and technological training, as well as general support and encouragement as they reenter society.⁸ The wide variety of assistance typically needed by exonerees creates a unique opportunity for lawyers and non-lawyers to work together and form a comprehensive support team. It is only through this sort of meaningful collaboration that we can address the multitude of problems facing exonerees today.

WRONGFUL CONVICTIONS

The vast majority of wrongful convictions are the result of one or more of the following: alleged police misconduct or error, erroneous eyewitness identification, alleged prosecutorial misconduct or error, false confession, incentivized witness testimony, questionable forensic evidence or testimony, or alleged ineffective assistance of counsel.⁹

Often, distinctions are made between those individuals exonerated through DNA evidence and those exonerated through other means, such as false confessions or recanting witnesses.¹⁰ Other scholars, however, believe that these distinctions are not significant and that no matter how people are determined to be innocent, they should be termed exonerees.¹¹

For the purposes of this article, the reason for an individual’s exoneration is not particularly significant. What is important is that the individual was convicted, served time in prison and was later released when the state determined that the evidence was not sufficient.

Regardless of the cause of a wrongful conviction or the means by which a person was exonerated, many exonerees face the same challenges as they wade into their post-release world. In fact, many of the challenges facing exonerees are no different from those encountered by parolees, those individuals who serve time and are released based upon completion of time served only. For instance, exonerees and parolees each face issues with housing, job searches, technical training and stigmatization of their time spent behind bars.

Exonerees sometimes feel uncomfortable being grouped with parolees given that they were wrongfully convicted and parolees have not similarly proved their innocence. Somewhat shockingly, exonerees do not always meet the qualifications and requirements for parolee services, making them arguably even more in need of a community support system.¹²

Exonerees must jump countless legal hurdles before the state will recognize the injustice they have experienced. In Illinois, that recognition comes in the form of a governor's pardon or a certificate of innocence.¹³ Exonerees also need legal assistance to pursue financial compensation for their time in prison. In cases of wrongful convictions, the standard for a civil suit is rarely an attainable goal, leaving exonerees in a position where their lives have been turned upside down without suitable recourse.¹⁴

Overall, only 27 states nationwide and the District of Columbia currently have some form of statutory compensation for wrongful convictions.¹⁵ Even when these men and women receive compensation, it is often inadequate.¹⁶ In Wisconsin, for example, a wrongfully convicted person can receive a maximum of just \$25,000, including attorney's fees.¹⁷ A 2008 study showed that only 41 percent of 200 exonerees nationwide had received any compensation for their time served.¹⁸

In addition to these legal hurdles, exonerees face many challenges that are simply beyond a lawyer's scope of expertise. Understandably, exonerees often require a fresh start. There are many exonerees who have served multiple decades in prison for crimes they did not commit.¹⁹ These individuals, when released, subsequently find themselves without homes, jobs or adequate support systems.²⁰ They lack sufficient knowledge of technology and other skills necessary to navigate the world they are thrust back into.²¹ Exonerees also have the added angst of having to continuously explain and mentally relive their unique

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and devastating situation to potential employers, landlords, advocates and judges.

In order to fully address the multitude of challenges facing exonerees, lawyers must form partnerships with organizations and individuals who have more expertise dealing with these non-legal issues. Only by doing so can lawyers focus their full attention on the specific legal needs of their exoneree clients.

POTENTIAL PARTNERSHIPS

The first, and most natural, collaborative relationship that lawyers working with post-release exonerees should consider forming would be with social workers and social work agencies. It is quite common, in a graduate setting, for law students and social work students to collaborate given that the practices often overlap.²² This is a practice that could also be extended past the educational experience to obtain the most effective assistance for clients.²³

Social workers are uniquely experienced in helping people to obtain many of the necessities exonerees require, such as job training and housing, and studies have shown that both lawyers and social workers benefit from working collaboratively.²⁴ Ideally, lawyers working with exonerees should have a formal partnership with a social worker in order to ensure that the immediate needs of the exoneree can be addressed early, thus preventing any significant time period in which the exoneree is left without support services.

In addition to working closely with social workers, lawyers can form other partnerships that would greatly benefit exonerees. A partnership with a financial adviser who would be able to consult with exonerees at different stages of the post-release process may be an overlooked, but important, resource. Many exonerees will not have recent experience in allocating their money and may need a basic tutorial early on in the process. Furthermore, if exonerees are able to obtain compensation through statutory means or a successful civil suit, they would greatly benefit from the advice of someone who can help them decide how to best use that compensation to plan for their financial future.

In addition to financial woes, exonerees often have medical needs — both physical and mental — due to their time spent incarcerated.²⁵ In Illinois, legislation was recently passed granting exonerees 10 free sessions with a mental

health professional once they obtain a certificate of innocence.²⁶ Mental health service partnerships allow for exonerees to work through the trauma of their experience, which can positively benefit their overall quality of life, putting them in the right frame of mind to make the most of employment opportunities and social interactions.

Another major challenge facing exonerees is not having anyone to whom they can relate or discuss the many roadblocks they face. One way to combat these feelings of isolation is through collaboration with a peer specialist. This collaboration may be one of the most significant partnerships that a lawyer could form in working with exonerees.

Peer specialists are becoming popular in a number of settings, including mental health services and veterans counseling.²⁷ In this case, a peer specialist would be an exoneree who has navigated the process and can provide advice, support, and connections to recent exonerees. The social support network that a peer specialist can provide, given the unique experience and emotions that surround a post-release exoneree, may be invaluable as a resource going forward and can positively impact each of the above relationships as well.

CONCLUSION

The various kinds of assistance needed by exonerees can only be obtained through coordinated multi-disciplinary efforts. The above are only a few examples of numerous relationships with that lawyers working with exonerees in a post-release setting should consider fostering. Given that there are not many organizations currently working in post-innocence work, there is much room for growth and experimentation.

That an individual could be wrongfully convicted, spend decades in prison and later be released with little or no support is a shocking and heartbreaking reality of today's justice system. There is no doubt that these individuals, whom the system has so egregiously failed, deserve better. Legal advocates have a duty to right the wrongs the justice system has perpetrated against these men and women. In order to best serve their clients, lawyers should strive to form as many partnerships across disciplines as possible. This practice would go a long way toward ensuring that exonerees receive the fresh start they deserve.

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NOTES

1 John Conroy & Rob Warden, *The High Cost of Wrongful Convictions: A Tale of Lives Lost, Tax Dollars Wasted, and Justice Denied*, BETTER GOV'T ASS'N (June 18, 2011), http://www.bettergov.org/investigations/wrongful_convictions_1.aspx.

2 *Id.*

3 *Id.*

4 Brandon L. Garrett, *Judging Innocence*, 108 COLUM. L. REV. 55, 57 (2008) (citing the New York-based Innocence Project). In the four years since Garrett's article was published, the number of post-conviction DNA exonerations has increased to 292. See *Innocence Project Case Files*, INNOCENCE PROJECT, <http://www.innocenceproject.org/know/> (last visited June 13, 2012).

5 See, e.g., Garrett, *supra* note 4, at 55–142.

6 While there are a number of innocence projects across the country, there is currently only one non-faith-based organization that works exclusively with exonerees post-release. Life After Innocence, founded in 2009, is a legal clinic at Loyola University Chicago School of Law composed of both students and faculty. *Centers, Institutes & Programs: Life After Innocence*, LOYOLA UNIV. CHI. SCH. OF LAW, www.luc.edu/law/lifeafterinnocence/index.html (last visited Mar. 20, 2012).

7 *Life After Innocence: Services*, LOYOLA UNIV. CHI. SCH. OF LAW, www.luc.edu/law/lifeafterinnocence/services.html (last visited Mar. 20, 2012).

8 *Id.*

9 *Id.*

10 *Id.*

11 *Id.*

12 See, e.g., *Transitional Jobs for Ex-Offenders Program Locations*, CITY OF CHI., https://www.cityofchicago.org/city/en/depts/fss/supp_info/transitional_jobsforex-offendersprogramlocations.html (last visited Sept. 2, 2012).

13 See 750 ILL. COMP. STAT. 5/2-702 (2011).

14 Christine L. Zaremski, *The Compensation of Erroneously Convicted Individuals in Pennsylvania*, 43 DUQ. L. REV. 429, 433 (2005).

15 See *Compensation for the Wrongfully Convicted*, INNOCENCE PROJECT, <http://www.innocenceproject.org/fix/Compensation.php> (last visited June 13, 2012). Washington, D.C., also has a compensation statute.

16 *Id.*

17 *Wisconsin State Compensation Law*, INNOCENCE PROJECT, <http://www.innocenceproject.org/news/LawViewstate1.php?state=WI> (last visited June 13, 2012). Inconsistency across states is also a problem. Compare Wisconsin's statute to neighboring Illinois' compensation laws, adopted in 2008, under which exonerees who served more than fourteen years are eligible for \$199,150, plus reimbursement of attorney's fees up to twenty-five percent of the compensation award.

Illinois State Compensation Laws, INNOCENCE PROJECT, <http://www.innocenceproject.org/news/LawViewstate1.php?state=IL> (last visited June 13, 2012).

18 Garrett, *supra* note 4.

19 *Life After Innocence: Meet the Exonerees*, LOYOLA UNIV. CHI. SCH. OF LAW, www.luc.edu/law/lifeafterinnocence/clients.html (last visited Mar. 20, 2012).

20 Conroy & Warden, *supra* note 1.

21 *Id.*

22 Joseph Kozakiewicz, *Social Work and Law: A Model Approach to Interdisciplinary Education, Practice and Community-Based Advocacy*, 46 FAM. CT. REV. 598, 598 (2008).

23 *Id.* at 600.

24 *Id.*

25 *Life After Innocence: Services*, *supra* note 7.

26 750 ILL. COMP. STAT. 5/2-702 (2011).

27 For an example of its use with veterans, see *Veteran Trauma Court Peer Specialist Program*, PIKES PEAK CHAPTER OF MILITARY OFFICERS ASS'N OF AM. available at <http://www.ppmoaa.org/documents/VeteranPeerSpecialistApp.pdf> (last visited Apr. 19, 2012).