

# **Racial Disparities Among Exonerees Based on Wrongful Conviction Factors and Types of Crime**

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## **Abstract**

According to the Georgia Innocence Project, studies estimate about 3-5% of people in prison are innocent of the crimes for which they have been convicted, which equates to about 69,000-115,000 people that we know about in the United States.<sup>1</sup> Unfortunately, there is a scarcity of research on exonerations. The purpose of this study was to examine racial disparities and how exoneree race might be related to and influence wrongful conviction factors, the number of factors, the length of time spent in prison before being exonerated, and types of crimes against person, property, and society. Overall, about 40% of the prison population is comprised of African Americans in the prison population, however, only 13% in the U.S population.<sup>2</sup> According to the literature, African Americans are disproportionately arrested, convicted, and sentenced for crimes. Given that, we hypothesized there would be racial differences among exonerees for the variables previously mentioned. The data for this study are from an exoneration database created by the National Registry of Exonerations (2018) and modified by the Innocence Project. As of October 2018, the original dataset was comprised of 2,169 cases, but after some exclusions, there were 2137 in the final dataset. Initial analyses revealed that African Americans spent longer in prison before being exonerated, had more wrongful conviction factors, including the highest for official misconduct and false accusations, and they were more likely to be exonerated from crimes against persons, than for property or society. Results will be discussed in terms of how to address racial disparities among those who have been wrongfully convicted and how to minimize official misconduct and false accusations.

**Keywords: Exoneration, Racial Disparities, Wrongful Convictions**

## **1. Introduction**

In the United States, most individuals may not be aware of the scope and severity of wrongful convictions in the criminal justice system. Many people may go about life completely unaware of the number of men and women who are spending their lives behind bars for crimes they did not commit. According to the Georgia Innocence Project, studies estimate about 3-5% of people in prison are innocent of the crimes for which they have been convicted.<sup>3</sup> The 3-5% equates to about 69,000-115,000 people who were wrongfully convicted in the United States that we know about.<sup>4</sup> As of June 14, 2019, there have been 2,465 exonerations, totaling 21,645 years lost.<sup>5</sup> This tragic number equates to an average of 8.8 years lost per case. Thankfully there are organizations, like the Innocence Project Network, a group of independent nonprofit organizations, that all work to exonerate the wrongfully convicted, improve case law, reform the legal system, and support exonerees.<sup>6</sup>

It is important to study racial disparities because these disparities are so intertwined in the criminal justice system, and they play such a large role in the wrongful convictions of innocent people. Overall, about 40% of the prison population is comprised of African Americans, however, only 13% in the U.S population.<sup>7</sup> According to the literature,

African Americans are disproportionately arrested, convicted, and sentenced for crimes.<sup>8</sup> Take Robert Clark and Clarence Harrison, for example. They are both African American men who happened to be in the wrong place at the wrong time and fell victim to racial bias. Robert Clark spent 23 years in prison for a crime he did not commit, and Clarence Harrison spent 17 years in prison for a crime he did not commit. It is also important to note the location in both their cases, Cobb County, Georgia, and Fulton County, Georgia. Wrongful convictions can happen to anyone in the world, even in our own backyard.

The purpose of this research project was to examine racial disparities among exonerees based on the types of crime, length of time spent in prison, type of wrongful conviction factor, and the number of wrongful conviction factors. There are three types of crimes: crimes against persons, like murder, crimes against property, like robbery, and crimes against society, like drug offenses.<sup>9</sup> The length of time spent in prison can vary greatly. Richard Phillips spent the longest amount of time in prison before he was exonerated, totaling over 45 years.<sup>10</sup> The type of wrongful conviction factor can play an important role in examining racial disparities among exonerees. For the purpose of this study, the types of wrongful conviction factors were defined from the National Registry of Exonerations' glossary (2018).<sup>11</sup> These factors include mistaken identification, false confessions, perjury or false accusation, false or misleading forensic evidence, official misconduct, inadequate legal defense, and others.

There were three hypotheses for this study. First, racial differences for time spent in prison before exoneration were predicted. Second, it was hypothesized that there would be racial differences for the number and the type of wrongful conviction factors. Third, racial differences for crimes against persons versus crimes against property and society were also expected.

## 2. Method

The data for this study were from the exoneration database created by the National Registry of Exonerations (2018) and modified and provided by the Georgia Innocence Project to the researchers. The database is available to others in an Excel file upon request. The cases selected for this study included only those individuals who were wrongfully convicted and successfully exonerated as documented by the National Registry of Exonerations in the United States. The database is organized by the exonerees name, basic demographic information, crime and punishment, and wrongful conviction factors.

For the purpose of this study, the contributing factors will be operationally defined according to the National Registry of Exonerations website (2018).<sup>12</sup> Mistaken eyewitness identification is defined as at least one witness mistakenly identified the exoneree as the person who committed the crime. False confessions are defined as a confession statement made at any point during the proceedings, as an admission of participation of a crime. Perjury or false accusation is defined as an individual, under oath, made a false statement incriminating another individual. False or misleading evidence is defined as an exoneree's conviction that is based partially on forensic information, including errors in forensic testing, unreliable or unproven methods, exaggerated or misleading confidence, or fraud forensic evidence. Official misconduct is defined as government officials abusing their authority to contribute to the exoneree's conviction. Inadequate legal defense is defined as an exoneree's lawyer provided grossly or obvious inadequate representation. Other is defined by unreasonable testimony, negligence, and suppression of exculpatory evidence. Once the database was imported into SPSS 25, the dataset was ready to be evaluated for participant inclusion. All of the data were cleaned, and new variables were coded for the analyses. In the original data set, there were 39 different types of crimes that were coded. A new variable was created to group the types of crimes into three categories: crimes against persons, property, and society.

The original dataset was comprised of 2,169 cases. There were some cases that were excluded if relevant information was missing or if there were fewer than 5 cases for a particular type of crime. In the final dataset, there were 2,137 exonerees (90.50% males; 9.50% females). These exonerees represent a diverse population; Caucasian (38.75%), African American (46.79%), Latinx (21.18%), and other (2.21%). The mean age at incarceration varied based on race; Caucasian ( $M = 31.91$ ), African American ( $M = 26.47$ ), Latinx ( $M = 26.62$ ), and other ( $M = 28.09$ ). The ages of the exonerees at the time of incarceration ranged from 11-years-old to 67-years-old. The youngest person to be incarcerated was an 11-year-old, African American child.

### 3. Results

The data were analyzed using descriptive and inferential statistics. For example, ANOVAs were used to compare the mean scores of groups on continuous variables and Chi-square tests of independence were used to analyze the relationship between categorical variables.

The first hypothesis stating that there was an expected racial difference for time spent in prison before exoneration was supported. On average African Americans ( $M = 12.44$  years,  $SD = 9.60$ ) spent significantly more time in prison than other races,  $F(5, 2131) = 19.21, p < .001$ ; Caucasian ( $M = 9.22, SD = 8.08$ ), Latinx ( $M = 8.33, SD = 7.46$ ) and Other ( $M = 8.36, SD = 7.40$ ).

The second hypothesis stated that the number and type of wrongful conviction factors were also expected to show racial differences. This hypothesis was supported. Overall, the most common factors were perjury or false accusation (56.7%), official misconduct (51.4%), and mistaken identification (29.6%). First, on average, African American exonerees ( $M = 1.98, SD = .98$ ) had significantly more conviction factors than Latinx exonerees ( $M = 2.00, SD = .85$ ), Caucasians ( $M = 1.98, SD = .96$ ), and Others ( $M = 1.89, SD = 1.22$ ),  $F(3, 2133) = 3.71, p = .01$  (See Figure 1). The type of wrongful conviction factor also differed significantly by race for several factors. When the factors were examined, the percentage of exonerees who had the mistaken identification factor did differ significantly by race,  $\chi^2(3, N = 2137) = 119.65, p < .001, \phi = .24$ ; likewise for perjury or false accusations,  $\chi^2(3, N = 2137) = 11.69, p = .01, \phi = .07$ , and false or misleading forensic evidence,  $\chi^2(3, N = 2137) = 26.43, p < .001, \phi = .11$ . Perjury or false accusations showed no difference between White and African American exonerees; the only difference was between Latinx and Other; likewise, for false or misleading evidence (See Figure 2).

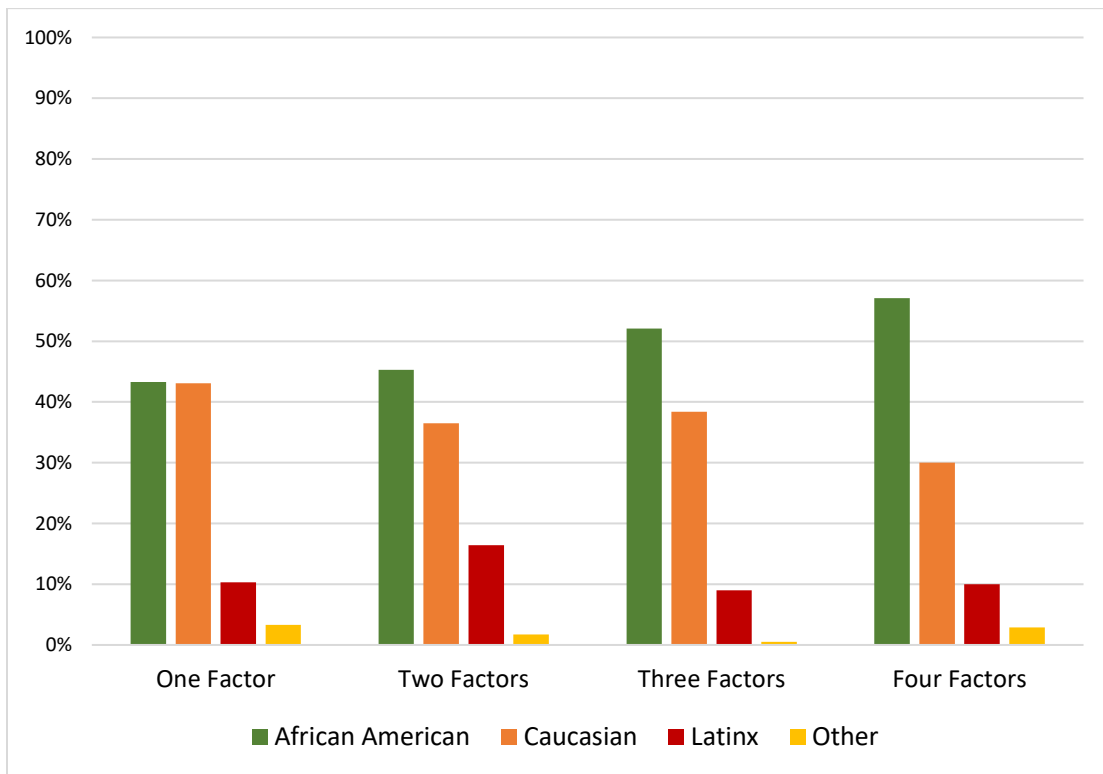


Figure 1. Percentage of number of factors by race.

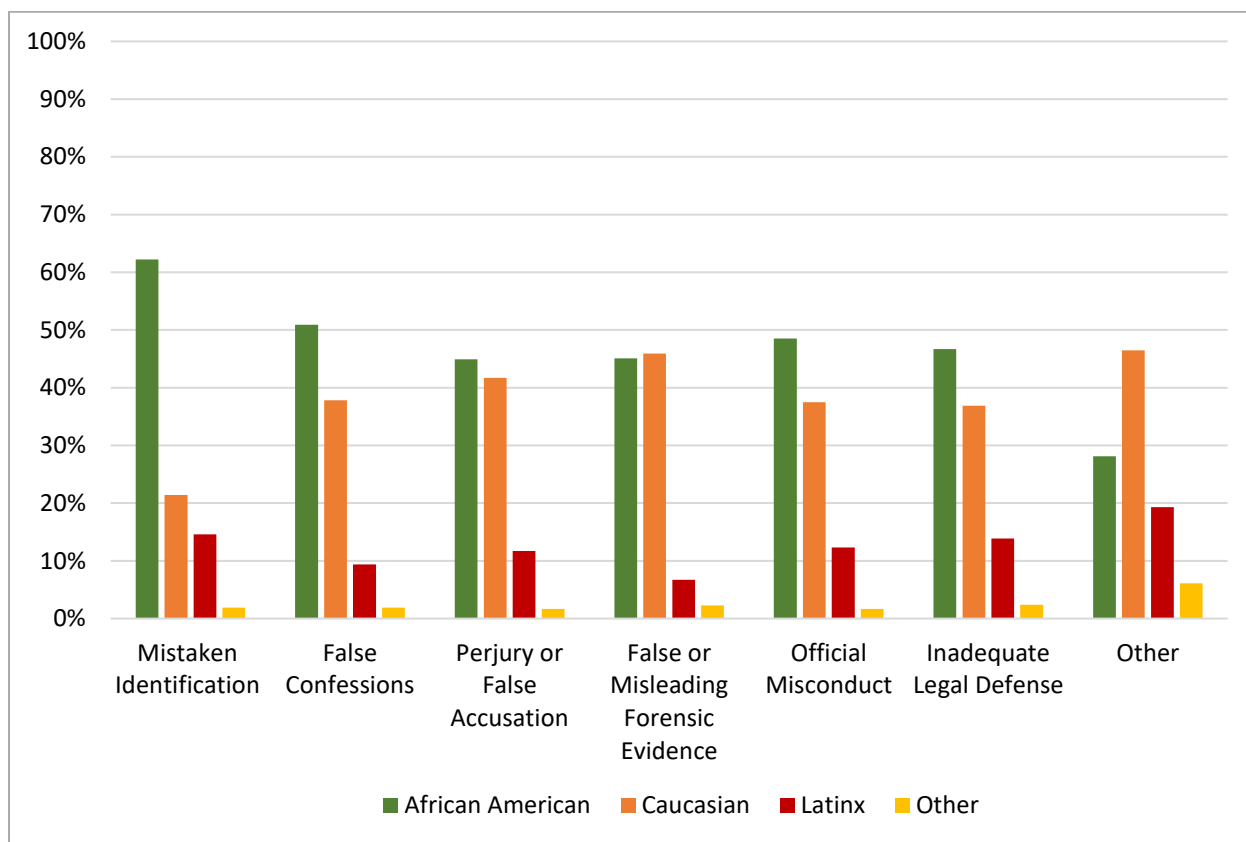


Figure 2. Percentage of wrongful conviction factors by race.

The third hypothesis stating the expected racial difference between crimes against persons compared to crimes against property and society was also supported. When the type of crime was examined, the percentage of exonerees who were convicted of crimes against persons, property, and society significantly differed by race,  $\chi^2(3, N = 2137) = 119.65, p < .001, \phi = .24$ . All races, not just African Americans, were more likely to be exonerated for crimes against persons than crimes against property and crimes against society.

#### 4. Discussion

It is important to understand racial disparities in exonerations. The twelve exonerees who spent the longest number of years in prison were all African American. Richard Phillips spent 45 years and 2 months in prison for a murder he did not commit. Wilbert Jones spent 44 years and 9 months in prison for a sexual assault he did not commit. Hubert Nathan Myers and Clifford Williams Jr. spent 42 years and 7 months after being sentenced to death for a murder they did not commit. These are just a few examples of the racial disparities within the criminal justice system. In fact, the first hypothesis was supported based on the results that African Americans spent significantly more years in prison before being exonerated than other races.

The second hypothesis supported the expected racial difference between the number and the type of wrongful conviction factors. Mistaken identification, perjury and false accusations, and official misconduct were the three leading causes of wrongful convictions. An example of mistaken identification would be cross-race identification errors, this means it is more difficult for a person to identify another individual outside of their race.<sup>13</sup> An example of perjury or false accusation would be a false statement under oath.<sup>14</sup> Lastly, an example of official misconduct would be a police officer's use of authority over an individual. There was also support for racial difference among the number of wrongful conviction factors present in a case. For example, David Bryant, a young African American living in New

York, was 18-years-old at the time he was wrongfully accused and convicted of murder. There were five of the seven wrongful conviction factors present in his case including false confession, false or misleading forensic evidence, perjury or false accusation, official misconduct, inadequate legal defense. He spent 40 years in prison for a crime he did not commit. Although African Americans are getting exonerated at a higher rate than any other race, this is likely due in part to being disproportionately convicted of crimes they did not commit.

The third hypothesis supported the expected racial difference for crimes against persons compared to crimes against property or society combined. All races were more likely to be exonerated from crimes against persons than crimes against society and property combined. Crimes against persons tend to include more violent offenses like murder, rape, sexual assault.<sup>15</sup> Crimes against persons can also include more evidence like DNA in a rape case or a body in a murder case. This can cause a higher conviction rate as well as a higher exoneration rate since there is more evidence that could be tested to prove the person wrongfully convicted does not fit the perpetrator's DNA profile.

## 5. Conclusions and Future Directions

Racial disparities are present among exonerees for the length of time spent in prison, type of wrongful conviction factors, number of wrongful conviction factors, and types of crimes. It is important to be aware of these racial disparities not only among wrongful convictions but in the criminal justice system as a whole. There is hope for those who are wrongfully convicted thanks to organizations like the various Innocence Projects. Lastly, some of the leading wrongful conviction factors, like official misconduct, are systemic issues which are more likely to be addressed.<sup>16</sup> Legislators and policymakers can implement oversight for prosecutors and have better sanctions in place for police officers who abuse their power. Each of the leading wrongful conviction factors can be addressed to reduce the number of individuals who are wrongfully incarcerated.<sup>17</sup>

There were a few limitations in this study. First, the information in the data set is from the National Registry of Exonerations, but it may not be an exhaustive list of individuals who have been exonerated, although it is fairly comprehensive.<sup>18</sup> Second, there is a large variation in the case selection criteria based on the various Innocence Projects. This includes distinctive Innocence Projects' capability to handle different types of cases based on their individual selection criteria, like only DNA cases, the state where the crime occurred, or the requirement that an individual must be factually innocent.<sup>19</sup> The findings must be viewed with caution and interpreted for generalizability based on these limitations.

Future directions of this research include a study on compensation rates for exonerees based on the type of crime, wrongful conviction factors and the state the exoneration took place in.<sup>20</sup> This future research is fueled by Richard Phillip's case. As stated earlier he spent over 45 years in prison for a crime he did not commit and has still not received a single dollar in compensation. It is one thing to read about these cases of wrongful convictions, but it is another to meet an exoneree and here their story. Racial disparities are riddled throughout the criminal justice system and it is time to understand why they exist, educate others, and put a stop to it.

## 6. Acknowledgment

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\*The findings, conclusions, limitations, and future recommendations that are from the author and do not reflect the Georgia Innocence Project or any other Innocence Project.

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