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National Institute of Justice

# **Exonerees and Original Victims of Wrongful Conviction: Listening Sessions to Inform Programs and Research**

February 22–24, 2016

Office of Justice Programs, Washington, D.C.

**U.S. Department of Justice**  
**Office of Justice Programs**  
**810 Seventh St. N.W.**  
**Washington, DC 20531**

**Loretta E. Lynch**

Attorney General

**Karol V. Mason**

Assistant Attorney General

**Nancy Rodriguez, Ph.D.**

Director, National Institute of Justice

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# Exonerees and Original Victims of Wrongful Conviction: Listening Sessions to Inform Programs and Research

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## Day 1. Listening Session with Original Victims in Wrongful Conviction Cases

### Opening Comments

*Howard Spivak, Deputy Director, National Institute of Justice*

Dr. Howard Spivak of the National Institute of Justice (NIJ) opened the listening session, stating that it was designed to focus on the broad area of wrongful convictions by hearing the voices of those who have been victimized and revictimized due to errors of justice. The three-day meeting would allow NIJ and its federal partners to hear from both original victims (also referred to in these notes as survivors) and exonerees. On the third day, federal observers would meet to discuss possible actions in research and practice. Dr. Spivak thanked the following people and organizations:

- The Healing Justice Project, for suggesting the meeting and partnering with the Office of Justice Programs (OJP) on this important event.
- Assistant Attorney General Karol Mason, for supporting the effort.
- The Office for Victims of Crime (OVC), NIJ's sister agency, which is committed to ensuring that victims' voices are heard.
- The Bureau of Justice Assistance (BJA), OJP's sister agency, which is devoted to providing state and federal resources in criminal justice support.
- The Center for Faith-Based and Neighborhood Partnerships (FBNP), the OJP agency that supports on-the-ground partnerships to help people in need.
- The original victims who agreed to share their stories.
- NIJ staff members Bethany Backes and Eric Martin, for bringing the meeting to fruition.

Dr. Spivak explained that NIJ, as the research and development arm of the Department of Justice (DOJ), is committed to improving knowledge of criminal justice issues through research. In 2010, NIJ supported a project to examine the impact of wrongful convictions on crime victims. The study found that wrongful convictions do have a significant impact on the original crime victims, and the study exposed the lack of services available to them. This was the initial step in a much longer-term process; additional research is needed to fully understand these experiences and to address the needs of original victims.

Dr. Spivak introduced Assistant Attorney General Karol Mason.

## Welcoming Remarks

### Welcome

*Karol V. Mason, Assistant Attorney General, Office of Justice Programs*

Assistant Attorney General Karol Mason welcomed everyone and thanked Dr. Spivak and the NIJ staff for bringing everyone together, as well as the staff from OVC, BJA and FBNP for working with NIJ to convene the meeting. She thanked the Healing Justice Project, the Eighth Amendment Project, Witness to Innocence, and the Innocence Project for their help and guidance. She thanked the survivors who were present to share their stories.

Ms. Mason noted that issues of wrongful conviction are some of the gravest challenges in criminal justice today. They take a toll on everyone's lives. She sincerely apologized to those who were victimized and asked those present to help OJP determine what could be done to prevent these types of errors in the future. She noted that the problem is felt by society as a whole because it raises questions about the legitimacy of the criminal justice system. Public safety is at risk when people don't trust the system. NIJ, BJA, OVC and FBNP have been working together to find solutions, and Ms. Mason said they will make progress. OJP has dedicated resources to the problem in an effort to understand how wrongful convictions and exonerations affect those who have been victimized. One of OJP's studies indicates that there are serious gaps in the services available to survivors. The survivors' first-hand knowledge is critical to inform policies and practices, as they are most directly affected by errors in the criminal justice system. Ms. Mason said she appreciated the courage of the survivors who would be speaking; their perspectives are vital to restoring faith in the system of justice.

Dr. Spivak introduced Joye Frost, Director of OVC.

### Welcome

*Joye Frost, Director, Office for Victims of Crime, Office of Justice Programs*

Ms. Frost thanked participants for attending and noted that Healing Justice is a new but potent organization that works to support original crime victims. Ms. Frost stated that when she was appointed Acting Director at OVC in 2009, she made a symbolic change by altering the tagline for OVC to "Justice for Victims: Justice for All." She emphasized that the criminal justice system must be balanced, fair, and based on science. A wrongful conviction is the most dramatic example of a failure to uphold these principles.

In 2014, a multidisciplinary roundtable was held with a broad range of stakeholders, including community-based advocates and mental health professionals, to address wrongful convictions. Much of the discussion focused on victim notification. Based on her conversation with Ms. Jennifer Thompson, founder of Healing Justice, she realized the importance of the victim advocacy role and the need for support. OVC wants to understand the full spectrum of services needed for exonerees and survivors and to determine where improvements are needed. This will shape OVC's approach to services and technical assistance in the future. In April, 2014, OVC gave Ms. Thompson and Mr. Ronald

Cotton a Special Courage Award for shedding light on the impact of wrongful conviction. They endured great adversity on their journeys. Ms. Frost stated that all of the survivors present embodied courage and resiliency and that people stop and listen when they hear from survivors. She thanked them for their commitment.

Dr. Spivak closed the welcoming remarks by stating that the federal observers were there for a listening session; they wanted to hear and learn from the survivors, not dominate the conversation. He turned the meeting over to Ms. Marti Kovener, facilitator.

## **Introductions**

*Marti Kovener, Facilitator, ICF International*

Ms. Marti Kovener described the format of the meeting; it would consist of questions in key areas where support for survivors is needed. She reiterated that those present wanted to hear from the survivors. She noted that the report on the sessions would not attribute comments by name. A room was available for survivors to take a break from the discussion if needed, and a counselor was available as well. She urged the survivors not to share things they would not be comfortable disclosing. The focus would be on the positive changes that could be made going forward.

Ms. Kovener led introductions and asked the survivors to state their names and to indicate what they wanted to bring to the discussion. One survivor wanted to provide a better understanding of how all the people involved are linked together when an exoneration occurs. There are shared experiences, as well as unique experiences for each person. Another wanted to work together to come up with more than one solution, as people need different things. A survivor emphasized the need to change the narrative concerning the way family members are talked about. The fact that survivors are blamed and seen as worse than those who actually committed the crimes must be addressed. It's a hard situation to live with and continues for decades.

The observers in the room introduced themselves. (See Attachment A for a list of federal and nonfederal observers.)

## **Guided Discussion & Listening: The Original Crime Survivors**

*Marti Kovener, Facilitator, ICF International*

Ms. Kovener began the guided discussion by asking the survivors to describe how they learned about the exonerations in their cases. (See Attachment B for a list of survivor participants.) One survivor said the situation was a textbook case of the way it should be done but was not typical of the way these cases are generally handled. The assault took place in 1984, and the victim was notified by the original investigator 11 years after the case was closed. The investigator said there was a possibility that a DNA test could lead to an exoneration. In June 1995, the person was informed about the DNA results, which indicated that the person who was convicted had not committed the crime. They identified the actual perpetrator, who was already in prison for other offenses. The investigator continued to provide emotional support for years after that.

Another survivor was assaulted in 1982 and first found out about the possibility of an exoneration on the TV news. The person who was originally convicted in 1983 was exonerated in 1996. The survivor reached out for information about the case and was told by the district attorney (DA) to stay in the house when the person was released. No explanation was given for this instruction. The survivor was offended because there was no intent on their part to cause a problem. In fact, this victim went to a church and asked for mercy from God for identifying the wrong person. It was hard to believe that the person who had changed life forever and served years in prison was innocent. It took a long time to believe it. There was more pain than when the crime originally took place. To this day, the victim lives with tremendous guilt. However, a good relationship has since developed with the exoneree.

The cousin of someone who was murdered in 1982 said the family found out through the paper that DNA from the cousin's case was being tested. The family members didn't know what to think. The story then broke that those who were found guilty would be exonerated. The mother called the district attorney to find out how and why this happened. They tried to reach the mother of the victim before she saw the news in the paper, but they didn't reach her in time. No one told the family when there was a DNA match for another person. The national media was present when the exonerees walked out of prison. The family found out who the real perpetrator was at the same time as the entire town.

One person's sister was murdered in 1991. Years later, an attorney from a local innocence organization called her out of the blue at work and said new evidence had come forward since the trial. The attorney had an arrogant attitude. The person told the attorney it was not appropriate to make such calls to a workplace. A different call came 18 months later from a representative of the state innocence inquiry commission that was considering the new evidence. Their work led to an exoneration in 2010. The innocence inquiry commission representative handled the situation much better than the innocence attorney. Information was provided about next steps and how various decisions would be determined.

Another survivor was assaulted in 1987 at the age of 12. As an adult, the person was paged on the intercom at work and asked to report to the office. It was alarming to see police officers with guns and badges and it was scary to be asked to step outside. The police would not explain what was happening at first; the victim didn't want to go outside with the police. The information they provided was hard to comprehend. Once again, there was the feeling of being a 12-year-old who had been victimized. The police had been looking for the person for five weeks. The survivor was hard to find, having put a pseudonym on key documents to remain anonymous. The actual perpetrator was in prison bragging about being guilty and the Innocence Project was looking into it. The police asked for a DNA swab and stated that they were going to get a subpoena for it if voluntary cooperation was not forthcoming. The survivor had been sure the right person was in jail. Nevertheless, DNA was provided to "shut everybody up." When they took the swab, it was upsetting, and led to a panic attack and tears. At home, the survivor just wanted to stay in hiding again and was up at night shaking. Two weeks later, a call came from the mayor's assistant with the news that the wrong person was in prison. The exoneration took place in 2007. The mayor's assistant apologized and said he wanted to be the first one to provide the news.

Ms. Kovener noted that the various reactions the survivors experienced encompassed many different emotions. These first-person accounts were helping those present understand the tragedy of these experiences.

### Survivors' Met and Unmet Needs

Ms. Kovener asked each survivor to think about three time periods:

- The weeks and days prior to the exonerated person's release.
- During and immediately after the exoneration.
- The six months to one year after the exoneration.

She asked the survivors to write down the services or supports they received in each of these time periods and those they needed but did not receive. They wrote their answers on Post-it notes for this exercise. After a few minutes, Ms. Kovener asked the participants to place their notes on a time continuum on the wall. A line bisected the time continuum: notes above the line indicated services that were received when needed. Notes below the line indicated services that were needed but not received. The survivors worked together at the wall to group similar items. The results for each of the three time periods are listed below.

What specifically did you need most in the weeks and days **prior to release** that you **did get**?

- My name was not mentioned publicly.

What specifically did you need most in the weeks and days **prior to release** that you **did not get**:

- Support from any source.
- Answers about the process; being contacted and having the next steps explained.
- The knowledge that my family was safe.
- Victim (peer) support from another survivor.
- Safety from media intrusion.

What specifically did you need most **during and immediately after the exoneration** that you **did get**?

- Support from another survivor.
- Support from the statewide innocence inquiry commission.
- One person who provided support and protection from media and made phone calls to check in.

What specifically did you need most **during and immediately after the exoneration** that you **did not get**?

- Victim (peer) support.
- Help with despair.
- Accountability/an apology (i.e., someone admitting, "We made a mistake").

- Factual evidence.
- Help understanding that it wasn't my fault for sending an innocent person to prison.
- Follow-through about the criminal investigation.
- Answers to the questions that came up.
- Privacy; protection from the media and others who knew who I was.
- Help with being thrown back into the victim mindset.
- Knowing family members are safe.
- The media prevented from lying again.
- The media prevented from blaming the victim.

What specifically did you need most in the in the **six months to one year after the exoneration** that you **did get**?

- The survivors indicated that they did not get anything they needed during this time period.

What specifically did you need most in the in the **six months to one year after the exoneration** that you **did not get**?

- Victim (peer) support.
- Validation of our experiences.
- Individuals/readers not being allowed to post hurtful comments online.
- Media not labeling the victims.
- Media not blaming victims.
- A place for our voices to be heard.
- Knowing the case was being investigated.
- No "CYA" by system/investigators.
- Some survivors did not get anything.

One survivor said peer support is one of the most powerful tools there is and encouraged everyone to think about how they could connect to people who are experiencing similar journeys. Peers know what to expect in this process and can have each other's backs.

Another survivor said the child psychiatrist who provided treatment was not helpful. At the time, the person had a wall up and was self-protecting. They asked, "How can you help me if you haven't been through what I've been through?" A therapist has never been in this situation. Peer support comes from someone who knows why you feel the way you do and why you act the way you do. A DA connected this person with another survivor, and the experience was beautiful. They helped each other feel safe. The survivor had not felt so comfortable since the day before the crime, having been on guard since the age of 12. Not even the person's own mother knew how to provide comfort. People need peer support; peers won't call you crazy after you leave.

A survivor knew other people that were facing the same situation and wanted to help them. No one should have to go through this situation alone. However, as much as the person wanted to help others



in the community, they were blacklisted by the criminal justice system because of their belief in the innocence of the convicted person. They wanted the convicted person to get out of prison, but the prosecutor still believed he got it right. The prosecutor went to the person's friend and said he didn't think the person could be objective. There were warnings that the survivor would try to turn other people into "believers." However, all the person wanted was enough information to figure out the truth. As the process continued, it became clear that the wrong person had been convicted. The survivor's goal had been to support other people, not influence them, but the system put up barriers that prevented helping others.

Another survivor said when there were rumors that the case was heading toward an exoneration, they wanted to learn more about what really happened, not just the DA's version. This led to contact with the Innocence Project, which provided contact information for a peer who could provide support. These survivors were in touch with each other frequently. The survivor also wanted to reach out to another family that was victimized, but the DA said not to talk to them. The DA felt the person had gone to the "dark side." When you're a victim of a crime, you're part of a small group, and in this case, an even smaller group.

Ms. Kovener acknowledged that more peer support is needed, as well as a breaking down of systemic barriers that prevent survivors from helping others.

A survivor said blame needs to be put on a shelf and locked away. In this person's case, a detective said there was a Combined DNA Index System (CODIS) hit on the actual perpetrator in 2006, but they didn't do anything about it until 2014. When it all came to light, the trauma became worse, although it had never gone away. The person had been brutalized by the attacker. When the survivor later met the wrongfully convicted person, who was cleared by DNA testing in 1996, they became friends; this was a very positive experience. The real perpetrator was identified through DNA evidence and was found in another state, but the statute of limitations for the case was up. This person had been to prison for raping a 13-year-old. The survivor was disgusted by the system; after being told there was no DNA left to test, it was shocking when DNA testing was later conducted that changed the results.

Another survivor said being heard became a personal priority, although the opportunity was never offered by anyone. It's important for survivors to be able to advocate; they need validation of their experiences. Rather than receiving understanding, survivors hear things such as, "Rape isn't so bad," or comments about enjoying rape, which invalidates their experiences. If a person is on the path to healing and hears these insensitive and cruel comments, it can send them back down into the abyss.

The person who raped one survivor has said that when the police asked for DNA, they were challenged to prove the case. This person also had raped a student two weeks before.

A survivor discussed the valuable support received from a statewide innocence inquiry commission. They called to explain that judges were going to hear evidence and would be asked to release the convicted person. They were very kind. They set up a meeting with the survivor and asked if there were any questions. They said the goal was to get justice; this was an effective message. They had good people skills and were considerate. They kept the survivor's face and name confidential and

forced the media to shut down. They got the person out of the courtroom when graphic pictures were about to be shown and at other times when it would have been difficult. The model they followed could be used to train other people. They called when the exoneree was being released and asked if the survivor wanted to meet him. They provided support and asked what was needed, even when their roles on the case were technically over.

One of the survivors present served on the innocence inquiry commission. It's not an actual innocence project (IP); it's a neutral body and state agency, appointed by the Chief Justice of the state's Supreme Court. It's unique and extraordinary, the first of its kind in the nation. The charge is to provide an independent and balanced truth-seeking forum for credible postconviction claims of innocence in the state, separate from the appeals process. The commission has a helpful flowchart online. Eight people sit in during hearings when a case goes before a judge and each person has an alternate. The standard of proof is "Sufficient Evidence of Factual Innocence to Merit Judicial Review." The commission staff decides whether the case will go before a three-judge panel hearing, and the victim or the victim's family members have the opportunity to make an impact statement. The directors and investigators are state employees; most are women. Some people who went through the process said it was the only time they were treated with respect. The survivor who served on the commission recommended this model for possible replication.

### Primary Support

During the next phase of the listening session, Ms. Kovener posed the following questions:

- Who was your primary support system, both during and after the exoneration process?
- What did they do to support you that worked well? What could they have done better?
- Who else would you have liked to be part of that support system?

One survivor said the primary sources of support were her partner and mother, to the best of their abilities.

Another survivor met the investigator who was helpful in the hospital at the time of the original case. He was caring throughout the whole process. When he provided information about the exoneration, he said, "We made a mistake," and never blamed the survivor. It's critical that there is no blame. The investigator provided protection from the media. Later, he coordinated the first meeting with the exoneree. They have remained friends. If not for this investigator's support, the survivor feels they likely would have committed suicide.

A survivor said it would have helped to have someone to talk to who had gone through a similar process. It felt like a betrayal to the victimized sister when the case came up again. The state innocence inquiry commission was very helpful. However, peer support was also needed.

Another survivor couldn't think of anyone who was supportive, other than their partner at the time. The family kept their distance. The survivor was "a mess" for years and didn't live life, being too scared to go out and thinking that the person who was wrongfully convicted might want revenge. Hiding and suicidal, life seemed not worth living. Recent efforts to become more engaged in life have been more

successful. There were numerous heart problems, including surgery, because so much emotion was held in. The press is still relentless; they come in the front yard, making the survivor feel stalked. It feels as if the case never ended. The attacker took away the ability to have children and destroyed dreams for the future. The survivor wishes the right person had been proven guilty immediately by DNA evidence; the perpetrator committed another rape right after the assault. The guilt for providing an incorrect identification never leaves. The person went to prison for 14 years, and it's a hard thing to live with, even though they are now friends. There has been no compensation by the state. The first experience of support occurred when reading information posted online by another survivor, and there was a realization that someone else experienced and could relate to the same the painful emotions. Meeting the exoneree post-release was the best thing that could have happened. After that, it was possible to go on living. Meeting another survivor who provides peer support was another important turning point. The OJP meeting was the first experience with discussing the case publicly; it never seemed possible to talk about it in front of other people. However, there is much that is private and will never be disclosed about the crime. Sometimes there are thoughts of revenge because the perpetrator is still free. The statute of limitations ran out and it will not be possible to prosecute the case. However, the survivor noted that the anger that finally came might be a good thing.

A survivor gave credit to the exoneree in the case who reached out and wanted to have a conversation. None of the survivors there, all of whom were affiliated with Healing Justice, met through a victim's advocate. They connected by word of mouth or through another survivor, not through advocates or anyone in the system.

Another survivor said the family was their aunt's only support for 30 years. However, the family broke down somewhat over time because they couldn't continue to handle the stress; the aunt is still suffering, and they try to do what they can. The person said it was sad that those in the criminal justice system were not helpful. They knew about the exoneration and didn't get in touch with the family.

Ms. Kovener asked the survivors what family members would need to be more supportive.

A survivor said that family and friends don't understand what the survivor is going through. This person advises others by saying, "Your trauma is specific to you. I can't predict what your journey will look like, but it will be messy and it will not be linear." The way to best support someone is to be present at that moment in whatever way is needed. One day it might be to let the person cry; another, to make them soup; another, to let them be angry. Since people don't know how to support others in this situation, they can ask, "What do you need right now?" and then do it. The survivor also advised, "Don't talk over me and tell me how I'm going to feel. Don't ask me, "Why are you still crying?" These responses throw people back to the beginning. Both therapists and people from innocence projects sometimes make these mistakes. People tell survivors, "It's time to move on," and "Time heals all wounds." By comparison, no one would minimize what exonerees have gone through, spending years in prison.

Ms. Kovener asked about the media role in providing support, but in all cases, the media was harmful to the survivors present. One survivor said the media and those who posted online comments said such things as, "this person should go to prison, someone should kill them, this person should commit

suicide.” The prosecutor made statements to news outlets indicating that he always felt the exoneree was innocent. This was very confusing and painful.

Another survivor said the media had not learned anything, and they create a lot of harm. Most of it comes from online comments. It’s hard to understand why people are allowed to post the hurtful comments they do. Someone should monitor message boards and take off the comments that are harmful and frightening. Many of the survivors had received death threats; they’ve been told they should be raped. The media frames the survivors as “the person who falsely identified an innocent man.” The victim is not the reason the exoneree went to prison; the person who committed the crime was the reason. The one who caused all the harm is the perpetrator, but the media never frames it that way. Responsibility also lies with bad police investigations, misconduct by public defenders or prosecutors, and others in the criminal justice system. However, the survivors and their family members are not responsible. The media wants to portray the survivors as “sexy and cool.” One survivor battles with the media because they want to bring together survivors to reconcile with the exonerees in public (e.g., an “Oprah” show). “There is constant harm by media. The media is not your friend.” Even if survivors block their phone numbers, shows such as “Dateline” or news shows will call pretending to be someone else.

Ms. Kovener asked what a support system would look like for dealing with the media. It was clear that a buffer is needed; someone who can hold off the media. The survivors noted that almost everything is online anyway. One person said the media contacts people no matter what; even if they say no to the press. Another said Healing Justice has guidelines for dealing with the media for survivors and exonerees. They provide “here’s what to do and what not to do” advice. For example, the survivors should decide how they want to be identified or not be identified. They should ask to read stories before they go to press. They should ask, “How will I be portrayed?”

One survivor felt very guilty when the person from the case was exonerated. The press showed up at their work and home. A female reporter asked for an interview in which the survivor would apologize to the exoneree. The victim did the interview, but it was a mistake. It was very traumatic and then the survivor’s name was released. The reporter had the right to release everything because of that one interview.

### Advocacy Issues

Ms. Kovener led a discussion of advocacy issues. The survivors said they wanted advocates to have a victim-centered approach. The two primary types of advocates are:

- Community-based advocates working for nonprofit organizations.
- Advocates who work out of law enforcement (LE) or prosecutors’ offices.

The type of advocacy varies by state, and the spectrum of services available differs. If a new trial is activated, advocacy is less likely to be on the radar screen; this situation doesn’t happen very often. Systems sometimes want to protect the victim and exoneree from each other; they see it as an adversarial situation. However, the attitude of, “They might come after you because of what you did to them” is not helpful to the victims or exonerees.

IPs could also play a role in advocacy. When IPs have been working with a person toward being exonerated, they know how the exoneree feels about the victim and the family. They know whether the person wants revenge or is kind and forgiving. The IPs could facilitate bringing the parties together; however, a mechanism is needed for contacting the family or victim, as the IPs may not be able to have direct communication with them.

### Safety/Security Issues

Ms. Kovener led a discussion of survivors' safety/security needs. She asked, "What do you need, and who do you need it from?" The responses included:

- **The truth.** Survivors want the correct information about what's happening, yet incorrect or incomplete information is sometimes given to the family and victim. The survivors should be able to set the tone for what they want to know and at what point.
- **Feelings can change over time.** Don't assume the exoneree and their family or the survivor will always feel the way they do; they might be angry at first but not later, or vice versa. They may cycle through their feelings over and over.
- **Connecting exonerees with survivors.** Sometimes the exoneree wants to connect with the survivor, as it could be healing for them. There is no one designated to arrange and facilitate those conversations. However, the time has to be right for the specific survivor and family. It is important for a meeting to be held with the exoneree if the survivor and exoneree want one.
- **Neutrality.** The key word for advocates is "neutrality." The advocates should not be affiliated with the prosecutor or law enforcement. They should come from the community and not be directly involved in the exoneration case. That neutral person should keep the survivor safe and serve as a gatekeeper. The prosecutor or law enforcement should connect the survivor with the neutral person or organization. The advocate should have the best interest of the survivor and family at heart and have no other agenda.
- **Protection from the media.** The media needs to be prevented from victimizing the survivor all over again; this protection is important. A neutral advocate could fulfill this role as well. The media needs to be informed about who they can contact and not contact and be informed of any other ground rules the survivor wants. In one case, the system had the attitude of "we'll let you meet the exoneree" and wanted it to happen on TV.
- **Need for privacy.** Currently, after an exoneration, extensive information about the survivor is available online, including the person's address and family members. The real perpetrator could find information about the survivor, which creates fear.
- **Loss of power and control.** A survivor said that when people have been victimized, they feel a loss of power and control. "Suddenly you're in a hospital room, and your life has changed forever. You realize you have no control over who can hurt you." If you can reach someone psychologically, you can help them regain a sense of security in their home and in life.
- **Wraparound support services should be made available.** This could help the survivor regain a sense of control. The service provider should ask, "What do you and this family need right now?" That way the survivors can concentrate their energies on finding ways to heal.
- **Services at the beginning of the process.** These might lessen the need for acute services later.

- **Crime victim compensation for doors, locks and windows.** None of the survivors present were offered these services. Even if survivors are offered services, they are in trauma during the initial stage, and there is no one there to help them. The advocate should help with the paperwork for accessing services. Compensation was often denied because the crime happened so long ago and the wrongful conviction case is not considered a qualifying reason for compensation.
- **Funeral arrangements.** In the case of a murder, a neutral person could help the family coordinate with the funeral director regarding cause of death and other issues.
- **Peer support.** The helper should not be a therapist, but someone who has walked the walk (i.e., a peer). Family and friends are not always able to understand.
- **Helping survivors connect with each other.** Barriers are put up to prevent survivors from talking to each other. The survivors asked, “Why is this done in the system?” One person found nine survivors without any help; they were not referred by anyone. Systems won’t put people in touch with other victims/survivors, whether to talk, send a book, or just be available. It’s as if the survivors have become the property of the case and the criminal justice system. Several examples were given of people in the criminal justice system putting up barriers prohibiting survivors from connecting with each other.
- **A victim’s rights list,** such as therapy up to a year after the fact. However, people are usually not ready for therapy until later in the process. You are a victim/survivor for the rest of your life. Victim’s rights need to be tailored to the individual.
- **Sensitivity training for police and prosecutors.** They are not the ones to validate and vent to. However, they should receive sensitivity training about survivors’ needs. If there is an exoneration, they should know who to turn the person over to. Training could help them understand how to direct services. Both the system and the survivor should go through a neutral third party.
- **Best practices.** One survivor promotes best practices, and this goes against some criminal justice system practices, such as using eyewitnesses. The system does not have the priority of helping survivors heal. In the case of wrongful convictions, it’s in the system’s best interest to keep survivors broken and angry because they are better tools for their cases.
- **Helping child victim/survivors.** What system is available to help children (e.g., a 12-year-old)? Children depend on their parents to make decisions. However, the parents don’t know how to handle these situations.

### Predicting and Preparing

Ms. Kovener led a discussion on helping the survivor predict and prepare for what will happen next. Comments from the group included:

- Peer support; have the right people in place. They should be trained to know the resources available in their local areas. They need to understand the systems in which they’re working. Different states have different systems.
- A survivor’s assistant is different from a peer support person; the former facilitates access to local wraparound services. The peer support person must understand broader issues about the emotional repercussions and trauma.

- The survivors will need immediate peer support when they hear about the exoneration. The exoneration phone call is shocking to the survivor; it can be as if the survivor was raped all over again. The peer support person needs to be the survivors' ears and listen for them in this early phase, because they are not functioning well.

Ms. Kovener asked, "What are the things you wish someone had prepared you for?" Responses included:

- The survivor should be told the system is looking into the case before someone shows up at the door asking for a DNA swab.
- The survivor should prepare to be treated like a racist villain if race is a factor. "Here's the way the community will look at you, possibly from now on." Another survivor had too much trust, thinking that people would be concerned and helpful. Instead, it was an experience of being used, paraded on stages, and asked to speak at meetings without regard for the survivor's needs. This includes the IPs. There was no one to say, "You don't have to do this." No one was looking out for the victim. People should ask for a room in a safe neighborhood and the sponsoring organization should pay for meals.
- There is a "circus" atmosphere that comes along with an exoneration that involves the media and the public. There's a firestorm of activity, and there's nobody to guide the survivor through it. It's all over the news. The media benefits from attaching the survivor to the story.
- If there is an exoneration, the survivor is starting the process all over again.

Ms. Kovener asked, "What are the education/outreach and policy reforms needed around wrongful convictions? How would you like to be involved?"

- One person could have handled the situation better if there was someone out there to help. The survivor should be informed at the first sign that the case may be reinvestigated.
- Sensitivity training is needed for public defenders, prosecutors, police, IPs, and the media. They need to understand the complexities of the population they're handling. The media often causes the public to turn against survivors.
- Right to privacy. The public says they have a right to know, but what about the survivors? They have a right to privacy. A survivor gave an example of having to pull the children out of school for one to two weeks because of invasive media interference. The survivor had to explain to the children why the media was always around and why their parent behaved the way she did.
- The survivor should be kept informed throughout the process; do not withhold information from the survivor/family. The media often has information before the family does.
- The family members should be the ones to discuss the survivor publicly.
- More peer specialists, such as other survivors, are needed.
- The adversarial nature of interactions between the survivor/peers and the criminal justice system/law enforcement should be de-escalated.
- People pay attention when they realize that in these situations, the real perpetrator got away. One person uses the term "wrongful liberty" to describe it. The guilty parties who are not in jail are committing more crimes; more rapes are committed. This is a public safety issue. How can we change the narrative to emphasize this so there is greater buy-in from the public?

- There is a belief by many that exonerees must be guilty of “something,” even if it wasn’t the crime they were exonerated from. The public thinks they deserved to be in jail because of “karma.”
- Policy reform is needed with best practices to prevent wrongful convictions from occurring. How do we prevent these errors so additional survivors aren’t created? The experience is life altering.
- Survivors need to meet.

Ms. Kovener asked if there should there be research on any aspects of wrongful conviction. Responses included:

- What is the best way to provide direct support services, state by state? Are there models in place that can be replicated?
- Is there a way to identify people for peer support, both as the cases are happening and retrospectively?
- Harm is done not only to the survivors and their family members, but to the jury on the original trial. They had to make decisions based on wrong or inadequate information. Then they read in the paper that the person they convicted is innocent. How can these people be identified? They would have much to contribute to the conversation.
- It would be interesting to convene a listening session with people from different stakeholder groups without assigning blame (e.g., jurors, police, judges). They could talk about what was needed at the time and what’s needed now. OJP could obtain outreach and education ideas from this session.

### **Closing Remarks and Wrap Up**

*Bethany Backes, Social Science Analyst, NIJ*

Dr. Backes thanked the survivors and acknowledged their bravery. She stated, “We hear you, and we’re listening.” She thanked the survivors for sharing their stories in front of so many people.



## Day 2. Listening Session with Exonerees in Wrongful Conviction Cases

### Welcome and Opening Comments

*Howard Spivak, Deputy Director, National Institute of Justice*

Dr. Howard Spivak relayed a welcome from National Institute of Justice (NIJ) Director Nancy Rodriguez, who was unable to attend. Dr. Spivak said the day was part of a three-day meeting on issues related to wrongful conviction. He thanked the exonerees present and emphasized that the time would be devoted to a listening session. The federal observers were present to hear the exonerees' stories and seek their advice. He said he greatly appreciated their willingness to share their difficult experiences. The overall purpose of the meeting was to advance work in this field. The meeting represented the beginning of new activities and was not an end in itself. Dr. Spivak thanked all those present and the nonprofits and Office of Justice Programs (OJP) agencies that helped plan the meeting, including:

- The exonerees.
- Healing Justice.
- Witness to Innocence.
- The Innocence Project.
- Eighth Amendment Project.
- Assistant Attorney General Karol Mason.
- The Bureau of Justice Assistance (BJA).
- The Office for Victims of Crime (OVC).
- The Center for Faith-Based and Neighborhood Partnerships.
- Bethany Backes and Eric Martin from NIJ, who helped plan the meeting.

Dr. Spivak talked about the work NIJ has done on the topic of wrongful conviction, specifically regarding exonerees. NIJ is the research and development arm of the Department of Justice (DOJ) and is committed to improving knowledge of criminal justice issues using research and science. The Office of Investigative and Forensic Sciences is devoted to providing resources for states and crime labs to test the backlog of DNA kits. As DNA kits are tested, the number of victims of wrongful conviction will continue to grow.

He described the Sentinel Events initiative. A few years ago, NIJ began funding work to learn more about errors in the criminal justice system, and they began with the issue of wrongful conviction to determine what needed to be changed in the system and to minimize the number of errors. NIJ also funded a project with American University to understand the factors that cause wrongful convictions and to identify systemic problems that can be changed. NIJ is supporting the Urban Institute as it works to estimate the rate of wrongful convictions using newly tested postconviction DNA evidence.

Dr. Spivak turned the meeting over to Theron Pride from the Office of the Assistant Attorney General.

## Welcoming Remarks

*Theron Pride, Chief of Staff, Senior Counsel, Office of the Assistant Attorney General*

Mr. Pride represented the faith-based office, and he said this issue was a personal one for him. Communities and churches around the country tell his office about the impact of wrongful convictions on families. His office has begun to understand the community connection and the people living with the issues day to day. His staff goes into the communities and talks to various groups to gain more insight. He said the listening session would be powerful because they would hear directly from the exonerees. He asked the exonerees to be candid and feel free to say things that might make the government uncomfortable. He said those listening could only imagine what the exonerees had been through. Mr. Pride stated, “Your voice will be heard, and your views will be counted.” He noted that President Obama supports reforms in the criminal justice system, and there is a push for wholesale changes so these things don’t continue to happen. He acknowledged that there are others out there who are still in institutions and don’t belong there. They want to help them as well. He expressed a personal sense of regret that they could not prevent the wrongs that happened to the exonerees. He thanked them for voicing their concerns. Mr. Pride said, “We are taking what you say to heart and plan to make changes. Continue to raise your voices.”

## Introductions

*Dr. David Campt, Facilitator*

Dr. David Campt asked those present to introduce themselves. (See Attachment C for bios of the exonerees present.)

## Guided Discussion & Listening: Exonerees

*Dr. David Campt, Facilitator*

Dr. Campt provided an overview of the plan for the day, stating that the following issues would be addressed:

### **How did we get here?**

What are your key needs at different times?

### **Primary supports**

Who helped you, and who should have helped?

How could they have been more effective?

### **Effective advocacy**

What would it look like if people had cared about you?

## **Changing the system**

What needs to happen so the system works in a way that is really just?

Dr. Campt noted that the exonerees have had many different experiences, with some similarities. Although they would be speaking for themselves, as a group, they would be speaking for many. The federal government was interested in seeing the similar patterns, as well as the diversity of opinions. He asked the exonerees to explain the best things about being out when they were first exonerated and the best things about their present lives.

One exoneree said that when she first got out, she wanted to watch every movie she missed. She's been out for 21 years and has not been able to find a job. It's been very hard for her.

Another exoneree said he was exonerated after 18 years. The best thing was being able to hug his mother. He was an advocate when he was on Death Row, and that experience helped him get a job with a nonprofit. He's worked with the Innocence Project to help other exonerees come home. Now he is frustrated because the system is still failing them.

An exoneree who was exonerated six years ago said the best things he experienced were the ability to embrace his family, eat good food and connect with nature. He has been compensated after a long battle. He bought a home and he gardens because he enjoys seeing things grow. He hoped this project would grow as well. He tells his story and tries to help others. He wants to provide scholarships to help prevent this problem from reoccurring.

Another exoneree spent 22 years on Death Row. She had been out for more than two years, and this was her first time speaking. The best thing was being free and being able to hug her mother before she passed away. She was still trying to find her way. She got her freedom, but she didn't have her son, who fell victim to the original violent crime, when she got out.

An exoneree said his mother died of a heart attack when he was on Death Row. However, he was able to hug his brothers and sisters when he was freed. When he first walked out the door, he said he almost fell on his face. He was overwhelmed by the sight of a tree, because he hadn't been under a tree in 18 years. He was happy to be with his family. Now the best thing is that he can speak about what happened, tell the stories of others who are still behind bars, and work for change in the judicial system.

One exoneree was exonerated after 14 years. The best thing about being out was being able to disclose how women were being sexually abused in the prison. She now has a radio show and has written a book. She said the system is still adversarial and is of no help to exonerees. Her entire family died while she was locked up and everything she had was taken away. This has been very difficult for her to deal with.

An exoneree who was exonerated in 2003 most enjoys sitting on the porch and watching the sun rise and set. He fights to make sure that what happened to him doesn't happen to anyone else. He said the system hasn't changed since his release. He was 19 and healthy when he went in and is now 51 with

two cancers. When he was in prison, he wasn't treated for cancer because he wasn't seen as a human being. He said that we are all human, but we don't appreciate each other. "When you're released, still nobody cares."

Dr. Campt said there was a lot of wisdom being shared from the painful things people went through. He thanked everyone for sharing, being real, and getting right to the point. He moved the discussion toward an examination of what was needed by the exonerees at various points in the process so that general patterns could be identified. He noted that the exonerees would be speaking for thousands who are in similar situations. He asked them to write down what they needed most prior to release and after exoneration. The responses fell into several categories, as listed below.

### Basic Supports Upon Release

- Job training and job placement leads. It's difficult to get a job with a criminal record.
- When applying for a job, exonerees must check a form stating that they've been convicted of a crime, and the employer often won't hire them. Even if the record is expunged, they are still in the system as having been convicted of a crime. They are labeled for the rest of their lives for things they didn't do.
- Reentry programs. There are reentry programs for those released who actually committed crimes, but there is no program for those who are actually innocent.
- Money. In California, people are released with only \$200. It takes months to get the money owed from the commissary in prison. One woman stated that she needed to use a bondsman to obtain cash. One man said he waited for help while others who actually committed crimes received services. Loan companies charge 36 percent for borrowed money. This victimizes the family members as well. One man asked the system, "Help us get on our feet."
- Clothes.
- Transportation.
- Credit history to make necessary purchases (e.g., car).
- Place to stay.
- Help with finishing a college degree.
- Advice on handling finances.
- Some innocence projects (e.g., New Orleans) help exonerees with the path forward in the first 90 days, but not all do.
- There are people who take advantage of exonerees, asking them to speak at colleges or to organizations, but they fail to pay for travel or provide money for food. Exonerees should be advised to ask for payment.

### Restoration: Systemic Barriers

- Help is needed with obtaining IDs, including a social security card and driver's license. Some people are released with no ID at all, yet two forms of ID are needed to get another ID. One exoneree said he made eight trips to the department of motor vehicles. In some states, there is a system that helps people get their driver's licenses back. One person noted that no one can fly with only a prison ID.

- Immediate expungement of the record and a certificate of innocence would help make people whole. There should be an immediate return of the drivers' license and social security card. Someone in the system should take care of these issues. The system should correct the record. One man who filed a lawsuit had his certificate of innocence revoked immediately afterward, apparently in retribution. The certificate of innocence can be abused by those in the system because they have something to lose. By admitting to mistakes, the system could be vulnerable to lawsuits. There are systemic roadblocks to being restored.
- A certificate of innocence could help people when applying for a job or renting. One man was asked to bring his pardon as well. However, it's unfair that exonerees should have to do this. It's a violation of privacy and could stigmatize the person.
- The same criminal justice system that convicted them continues to assault exonerees because the cases reflect badly on the system. States are resistant to provide compensation, so they fight victims in another trial. Attorneys are needed to file, but they overcharge. The exoneree starts to feel hopeless. "Why do we have to go through so much when we were proven innocent?" Many people have not been compensated years later. This shouldn't have to be their fight; they were victimized.
- There should be accountability by the system for the mistakes made and the harm caused. The people who made the mistakes continue to receive awards and are considered honorable citizens. Meanwhile, the exonerees have to live with the damage for the rest of their lives.
- Exonerees should be declared crime victims under the Victims of Crime Act because the real perpetrator caused them to go to prison. They were locked up for things they didn't do.
- Exonerees should be covered by the Second Chance Act.
- A definition of exoneration is needed. A judge can prevent someone from being cleared because of this lack of a definition. A county can create barriers by continuing to say, "She's not really exonerated; there just wasn't enough evidence to go forward with a new trial." The system should not be allowed to use the appeals process to punish the exoneree. Exonerees also are not considered eligible for victim impact benefits because of this lack of a definition.
- Legal assistance would be very valuable for exonerees for many reasons, such as access to an attorney to help get a child back and filing for compensation.

#### Physical Health, Dental Care, and Mental Health Treatment

- Adequate health care was cited as a need by many exonerees. Good care is not given in prison; people don't care about their health. As noted above, one man did not receive treatment in prison for two types of cancer.
- Dental care was a high priority for many. Most prisons don't provide dental care. If it is provided, the care is minimal.
- Psychological counseling/mental health care was brought up as a need by many exonerees. Issues that can arise include anxiety, PTSD, and being "programmed" into prison routines and unable to adjust to life on the outside. One person said, "How do you fix the human being you destroyed? It started with an arrest for something you didn't do." Trauma is normal in this situation; people have their spirits broken. They are treated inhumanely in the prisons.
- Linkages to support groups and public awareness of the issues faced by exonerees are needed. Exonerees share experiences that only other exonerees understand. Even though a person is

exonerated, people don't look at the human being; they still see the person as a criminal. This is true even if the exoneration took place 20 years earlier. It's hard to live with. Each person is afraid inside. "Telling your story helps others understand."

- What can the community do to connect exonerees with each other?
- Help is needed for communicating with loved ones about what the exonerees are going through. People who don't understand sometimes say, "You have your freedom; you should be happy." One man said he lived in fear of being arrested or stopped every day. How can the exonerees' feelings be explained to family and friends? One exoneree said, "We spend a lot on fixing the system. We should spend more on fixing the person."

## Remarks

*Karol V. Mason, Assistant Attorney General*

Assistant Attorney General Karol Mason thanked participants for attending. She said she appreciated the great work being done by Healing Justice, Witness to Innocence, and other projects working on issues of wrongful conviction. They have been great partners with OJP. The listening sessions were a learning opportunity for DOJ, and she thanked the exonerees for sharing their stories. Although a founding principle in this country is to let a guilty person go free rather than convict someone who is innocent, the system has failed, and they want to get back to that principle.

Ms. Mason stated that wrongful convictions are some of the gravest challenges faced in criminal justice. The exonerees know better than anyone the devastation these cases cause. Others can only imagine the pain, anguish, and feelings of betrayal the exonerees experienced. There's nothing that can be said to make up for it. She said she could only say, "I'm sorry." Those at DOJ are sorry that these things happened to each one of the exonerees. She said it's shameful that nothing was done to help them when they re-entered society.

She promised that DOJ is doing what it can to end these miscarriages of justice. That's why the exonerees were asked to be part of the discussion: to help DOJ determine what, exactly, can be done to keep these tragic errors from occurring in the future. For many, it was not an error, but a miscarriage of justice, and there were cases in which people did not live up to their oaths of office.

The impact of wrongful convictions is felt, overwhelmingly, by the exonerees, but affects the entire justice system and society as a whole. Wrongful convictions implicate all institutions of law and order. They raise questions about the system's legitimacy, retraumatize victims, and compromise public safety. Finding a way to eliminate these errors is an urgent responsibility. Ms. Mason said this is a call to action for DOJ.

OJP was working to find solutions. Almost every component of OJP has dedicated resources to understanding the nature of the problem and reducing the chances of wrongful convictions in the future. NIJ has conducted research on the factors leading to wrongful convictions and worked to get a handle on the rate at which they occur. NIJ also has helped state, local, and tribal agencies test DNA to substantiate innocence. The NIJ postconviction DNA testing program has helped agencies review more

than 50,000 cases and exonerate 26 people. BJA has supported conviction integrity units to look at prior misdeeds and help prosecutors work to eliminate errors that can lead to wrongful convictions. OVC has led efforts to learn from the experiences of survivors. Last year, they hosted a forum designed to gain a better understanding of what happens after an exoneration.

These three bureaus partnered with the International Association of Chiefs of Police to convene a wrongful convictions summit that brought together researchers, criminal justice practitioners, and advocacy groups. The result was a set of policies and practices aimed at helping prevent wrongful convictions in the future. The president also understands the inhumanity of what has been done, and he expects DOJ to do their jobs and do the right thing for everyone.

Ms. Mason said that hearing from the exonerees would help them change their programs so they can better serve those who need justice. She thanked the exonerees for trusting the government again.

### **Guided Discussion & Listening, Continued**

*Dr. David Campt, Facilitator*

#### **Long-Term Needs**

Dr. Campt asked the exonerees to think about their long-term needs. The following were noted:

- For society to care.
- Treatment for trauma that might only become apparent after being out of prison for a while.
- Help with family relationships; family counseling. It's difficult to know how to be part of the family.
- Psychological help for exonerees' families. Parents and children often don't understand that the exonerees' hopes and dreams were shattered. Social services should provide free counseling.
- Debriefing. Prisoners are programmed to behave a certain way on a certain schedule. After release, they are stuck in a prison mentality, following the same schedule and behaviors. "How do I change? You stop feeling human when you get your prison clothes. When you get home, the people who love you don't understand you. How do you help people understand what you're going through? You have to change and become hardened to protect yourself while you're in the system." Exonerees may feel threatened by a boss because of the conditioning to be defensive and angry. "Prison is still with you. You interpret facial expressions differently."
- One exoneree said he continually over-explains himself in daily life. He wasn't believed by the criminal justice system, and he still thinks people don't believe him. He called this his "alibi/explanation" habit. He also has a reaction to people in uniforms, even in Dunkin' Donuts.
- Grief counseling. Exonerees want to be treated as worth something other than a news story. Everyone watches to see how exonerees handle their freedom, but they have no one to talk to about this.
- Grief counseling to help exonerees deal with lost loved ones while incarcerated. Especially in instances where they were wrongfully convicted of the loved one's murder.
- Witness to Innocence provides peer support for some exonerees so they can talk to others who have had similar experiences.

- There's value in support groups happening early in post-release.
- Successful, positive mentors. This could be an exoneree or not. States could identify mentors to provide guidance and life coaching.
- Financial advisors, not just for issues related to earning money, but for managing it. There could be a curriculum on credit-building.
- Help coming up to speed with changes in technology, such as phones, Internet, computers, and other societal changes.
- One woman said she still feels like she's being punished by the federal government. She wasn't able to receive social security benefits while she was in jail, even though she was working, and now has no retirement savings. Exonerees should have access to society's programs, including social security for the wages they would have earned if not wrongfully convicted.

### Things Employers Should Know

Dr. Campt asked exonerees to list the top things employers should know about them. They responded as follows:

- They should know the person's background; it causes them to have triggers.
- Lack of trust in other people
- They are used to being treated as liars and people who cannot be trusted. They were told: "You are the scum of the earth," and "You are lying."
- There should be incentives for employers to hire exonerees.
- Employers should let other staff know that, although this person might appear out of place or different, he's OK.
- The exoneree could talk to the rest of the staff to explain why he might behave differently.
- Make it comfortable for the employer to have a conversation with the exoneree if there is an issue.
- Some people might not want to be known as exonerees.
- Female exonerees often either can't or won't talk about their experiences. There is still a stigma, regardless of the fact that they are innocent.

### Support Systems

Dr. Campt led a discussion about primary supports and what could have been done better. The following questions were considered:

- Who helped you and who should have helped you? How could they have been more effective?
- Who else would you have wanted to be part of your support system?
- Would you have wanted access to peer support, and do you want it now? What would that look like?

The exonerees described the emotional support they received. It came from the following sources:

- A community activist who was an ex-Panther; they met at pick-up basketball.
- A lawyer who understood and treated the person as a friend.



- An exoneree read the autobiography of Malcolm X and was inspired to start writing to attorneys. He found one who would help.
- Faith-based groups and others in the community interested in social justice.
- A spiritual advisor who showed unconditional love; he found him through an organization that set up pen pals.
- A private investigator to get information.
- Grandmother, mother.
- Two organizations: Campaign to End the Death Penalty and the Coalition to End the Death Penalty.
- Friends who can advocate for the exoneree, hire investigators, and talk to others.
- Reading the Bible; Bible studies, prison fellowship, and exploring faith during incarceration and after.

Supports needed:

- Exonerees should be treated the way veterans are treated. Changes for veterans have come from a successful campaign.
- Positive media attention.
- A place for the family or couple to go outside of the home to talk about problems.
- Community contact of any kind is helpful.
- Visiting programs for those who are incarcerated.
- Chaplains were not generally seen as helpful. They are usually part of the prison administration and are just there to keep people calm and keep prisoners in line. The chaplain can help in small ways, such as getting access to a phone call. Some only came around at the time of someone's execution. A small minority were helpful by genuinely listening and building people up.
- One exoneree stated that there was extensive sexual abuse of women prisoners where she was incarcerated. This was not perpetrated by one person only, but by a succession of chaplains.

Dr. Campt asked who was helpful as the time of release approached. Responses included:

- Sympathetic attorney.
- Campaign to End the Death Penalty and the Coalition to End the Death Penalty.
- Good publicity because of pro bono attorneys.
- In one exoneree's situation, the judge who had been bribed was already convicted and the witnesses had recanted. The prosecution should have dropped the case at that point.

Dr. Campt asked about the role of the media in helping exonerees. After exoneration, were they still helpful? Responses included:

- Favorable media is important because it can educate the public about the case.
- Whether or not the media is helpful depends on the exoneree. Some media outlets are supportive; other can be problematic if you don't know how to deal with them. Training on how

to deal with the media is important. You have to be careful what you say; it can become part of a civil case.

- Attorneys tend to take control of media attention. People can be taken advantage of. Whether or not the media is helpful depends on their motives when they write their stories. One exoneree suggested learning to say, “I’m just glad to be home. I just want to hug my children.”

### Changing the System

Dr. Campt asked, “What needs to happen so the system works in a way that is really just?” Responses included:

- It all begins with the police. Why are some so corrupt that they do the things they do?
- Prosecutors try to get a conviction at any cost. They will pull things out of thin air to win a case. There should be accountability for this. Prosecutors have immunity from being sued; why is this? It gives them a license to be corrupt. The judge is also a player in the situation. The jury isn’t told the whole story, so they are less to blame.
- One exoneree said the judge from whom she won her appeal wrote a scathing opinion on how she was wronged. He said what was done to her was a shame and ordered an investigation of the county and the police department to protect state residents. She didn’t know if this investigation actually happened.
- The system has so much power over people’s lives. They don’t have to follow the rules; for example, one trial allowed a drunk juror. Another exoneree said he was victimized by the DA.
- An exoneree said that while he was on Death Row, he was told that there was a newspaper story about his judge, who was indicted for taking bribes in murder cases, including his case. His codefendant gave the judge \$10,000 to throw the case but then he became the subject of a federal investigation. The judge convicted him to cover up his crime.
- Prosecutors and lawyers can be corrupt, and juries can get it wrong.
- One exoneree said a rookie detective arrested another innocent man. The DA could have stopped the case from going forward, but it was not investigated. The prosecutor allowed a deal using false testimony against him. Later, the judge found that this should not have happened, but he was not released.

### Where’s the Accountability?

- One state system does not check the people who need to be checked; they rubber stamp whatever happens. The judges allow prosecutors to withhold evidence, and nobody stops them. In one state, the state bar is made up of ex-prosecutors, none of whom have been prosecuted for putting innocent men and women in jail. When prosecutors turn over their files, they tell police officers not to write things down so they can’t be discovered. This exoneree said he sees corruption from bottom to top. They all protected each other at the time of his case, and it hasn’t changed. People need to be sanctioned according to their professional responsibilities.
- One exoneree suggested court watchers who would witness trials and proceedings to make sure people are doing what they should be doing.

- As a society, if we have a broken system, we need to hold people accountable. There's a difference between an imperfect system that sometimes fails and a system where people are intentionally doing wrong. Both types of problems need to be addressed.
- One exoneree said he was charged with murder and armed robbery, crimes that happened 2 weeks apart. The judge and the DA went forward with his case, even though he didn't meet the description of the perpetrator. In addition, his blood type didn't match the blood evidence. The victim was a rich man's son, so the court wanted to convict someone. He was found guilty of both charges.
- Disciplinary mechanisms that work are needed for those in the system who are corrupt.
- One exoneree discussed intentional prosecutorial misconduct in her case. They let a witness lie in court. She said there was a book written about local prosecutors who meet for drinks every Friday and make jokes such as, "It's hard work convicting the guilty; it's even harder work convicting the innocent."
- One exoneree said she was the victim of a crime because her son was murdered. Since the system was focused on convicting her for the murder, she never had the chance to grieve. She still doesn't know what happened to her son. She said evidence was made up just to win the case.

### Policy Reforms

Dr. Campt asked, "What policy reforms are needed around wrongful convictions?" The responses included:

- Need for a culture change. The system cannot be about "winning at any cost." This has to apply to both prosecutors and judges.
- All exonerees should have an investigation of how the system failed in their cases. This is not routinely done. Therefore, those in the system who are corrupt are not stopped and are doing the same things to others.
- After an investigation takes place, if there is evidence of wrongdoing (e.g., lying, withholding evidence), people should be prosecuted. This would send a message.
- In one state, there was an investigation that went to the state bar, and the DA was not brought up on charges for 7 years. There must be teeth in the bar regulations; otherwise, they are a farce.
- Patterns of mistaken identification, jurors' testimony, and coerced confessions need to be investigated in each state.
- People in the system need to be held accountable, including DAs. There must be a deterrent effect in the laws, or there's no point having them. Each case should be examined through a case study.
- "Crimes" are defined by the government; immunity means that someone can get away with a crime. This exoneree was basically kidnapped by having to go to prison. Heinous crimes have been committed against the exonerees, and there should not be immunity. The DAs have been given permission to commit murder because they can't be prosecuted.
- The Attorney General should monitor prosecutors.

- An overseer is needed to take over and investigate prosecutorial misconduct. A federal conviction integrity unit could be created to look into prosecutorial misconduct and analyze each case. Don't cover it up. Call out reprehensible conduct.
- If there is a rogue prosecutor, how can you get someone to oversee the DA's office? We have a process that doesn't stop the behavior. It's important to reach the younger generation that is starting to work in the criminal justice system so they don't become part of this culture.
- There's a state-by-state breakdown of the locations where exonerations are taking place. It's run out of the University of Michigan Law School and is called the National Registry of Exonerations ([www.exonerationregistry.org](http://www.exonerationregistry.org)). It is not a complete list, as there is no formal reporting process.
- Race and money are factors; they keep people from speaking out.
- No one in the system wants to be held accountable or jeopardize their jobs because of an injustice done to one person. They do their jobs and get out. The people who commit these wrongs are allowed to live their lives and can retire with money and respect. Meanwhile, the victims lose their freedom.
- We have to chastise the system.

Dr. Campit thanked participants for putting their hearts into the process. He said the exonerees can continue to be leaders in an effort to make change. An observer noted that exonerees are national treasures who are archived because their convictions are part of criminal justice system history. They should be funded to go out to schools and change the system by influencing the leadership of the next generation.

### **Closing Remarks & Wrap Up**

*Seri Irazola, Director, Office of Research and Evaluation*

Dr. Seri Irazola stated that on the following day, the federal agencies represented would come together and take what was heard to figure out what they can do to move the discussion forward. She said it saddened her to hear that this discussion had been taking place for a long time. She hoped there was enough momentum achieved to actually fix the problems.