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The purpose of this research is to first establish an increase in the level of public awareness of wrongful convictions between 1996 and 2005. The second objective is to assess law enforcement officers' experiences in their jobs given the increased levels of awareness of wrongful convictions. Through interviews with North Carolina law enforcement officers, I analyze their experiences and examine how they perceive their jobs in light of changes that have come about in response to the increased awareness of wrongful convictions. The interviews reveal that officers are cognizant of the increased awareness of wrongful convictions and that they view law enforcement as the primary cause of wrongful convictions. Officers agree that although wrongful convictions have had a negative effect on the public's view of law enforcement, they have led to reforms and improvements in law enforcement strategies and techniques.

POLICING IN THE ERA OF INCREASED AWARENESS OF WRONGFUL
CONVICTIONS: POLICE OFFICERS' REFLECTIONS ON
INSTITUTIONAL CHANGE, PUBLIC PRESSURES
AND THE NATURE OF MODERN POLICING

By

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CHAPTER I

INTRODUCTION

Since the mid 1990s, increasing attention has been paid to the issue of wrongful convictions. A wrongful conviction can most simply be understood as the conviction of an individual who has been charged and found guilty of a crime he/she did not commit. Wrongful convictions are not a new phenomenon, and they have most likely occurred throughout the history of the American criminal justice system. However, over the past decade as media coverage of and research by social scientists on this issue has increased, more awareness and focus has been directed towards this problem.

Much of this increased attention has been focused on defining what wrongful convictions are and explaining how they come about. A majority of the literature and media coverage of this issue has primarily dealt with explaining two facets of the problem: 1) the extent of the problem, and 2) what conditions and factors consistently play a role in causing or contributing to the occurrence of wrongful convictions. Much of the current literature and media coverage of this issue has demonstrated wrongful convictions occur more often than previously thought and the full extent of this problem may never be known because many wrongful convictions go undetected.

A second focus of the current literature examines the causes of wrongful convictions and those factors that consistently create the conditions under which they are most likely to occur. Such causes include: eyewitness mistakes, police/prosecutorial

misconduct, police interrogation practices, and the improper use of informants, to name a few. Thus, while current research provides a solid grounding in defining and explaining wrongful convictions, gaps still remain in the literature. For example, while police procedures and practices have received much attention as causes of wrongful convictions, little attention has focused on the ground level experience of law enforcement officers and how they perceive their jobs in light of changes in the increased awareness of wrongful convictions. The argument can be made that changes in policies and police practices have had significant impact on individual officers, but the current literature does not address the question of what effects, if any, the increased media attention on wrongful convictions and the public pressure to prevent wrongful convictions has had on law enforcement officers and the way they do their jobs. The purpose of this research project is to answer those questions by gauging law enforcement officers' general awareness of wrongful convictions, exploring their perceptions of how wrongful convictions have affected policing as an institution, and investigating how their specific experiences of policing have been changed.

After a brief review of the literature, I first establish that media attention to and research about wrongful convictions has increased over the past ten years. This was accomplished by searching the following mainstream sources of information to document the increased public attention to wrongful convictions: 1) academic research articles; 2) major national newspapers; 3) books related to issues of wrongful convictions and innocence; 4) national public opinion polls; and 5) the creation and expansion of Innocence Projects throughout the United States. I then discuss how this increase in

attention has translated into recommendations for new legislation and reforms in police and criminal justice practices to prevent wrongful convictions.

I then turn to addressing a remaining gap in the literature on wrongful convictions to determine what, if any, effect the increased awareness of wrongful convictions has had on law enforcement officers' perceptions of law enforcement and how they do their jobs. Through in-depth personal interviews with ten North Carolina State Bureau of Investigation (SBI) agents who have been on the job for at least 11 years, I examine how the increasing awareness of wrongful convictions has impacted the perceptions of law enforcement officers about how they do their jobs. I ask agents to discuss their perceptions of three questions: 1) How has the recent surge of public awareness of wrongful convictions affected modern policing as an institution? 2) Do law enforcement officers perceive their behaviors have changed in response to the increased awareness of wrongful convictions? and 3) What are officers' perceptions as to the appropriateness of any changes they have made?

CHAPTER II

LITERATURE REVIEW

Reviewing the literature related to wrongful convictions is important in understanding law enforcement officers' perceptions of their effectiveness and how they should do their jobs. Often law enforcement officers' perceptions of themselves and how to do their jobs are closely related to the public's perception of them. Outside of those directly affected by wrongful convictions, most people's perceptions and knowledge of law enforcement related to wrongful convictions have likely been shaped by the information available to them concerning how widespread of a problem wrongful convictions are and the factors that most often contribute to wrongful convictions. Ultimately, law enforcement's perceptions of this issue are in part shaped by the same information available concerning the extent of the problem and the causes of wrongful convictions.

Defining Wrongful Conviction

Since the mid 1990's, research on wrongful convictions has increased significantly. As the focus on wrongful convictions has increased, so has the need for a clearer understanding of exactly what is meant by the terms wrongful conviction and exoneration. Wrongful convictions can occur in two ways: 1) a defendant pleads guilty or is found guilty at a trial, but is in fact innocent of the crime, and/or 2) the adjudicatory process is compromised by prejudicial and other potentially reversible errors, regardless

of whether or not the defendant is guilty or innocent (Westervelt and Humphrey 2001). When used in this paper, the term wrongful conviction refers only to individuals who were factually innocent, but have pled guilty or have been found guilty for crimes they did not commit. The term exoneration is used to refer to an official act declaring a defendant not guilty of a crime for which he or she had been previously convicted (Gross, Jacoby, Matheson, Montgomery and Patil 2005).

The literature review of wrongful convictions has shed light on two topics for further discussion. The first of these involves measuring how significant and widespread of a problem wrongful convictions are. The second issue relates to the need to determine the causes and factors that have consistently contributed to wrongful convictions.

Extent of the Problem

Two significant facts regarding the ability to determine the extent of the wrongful conviction problem have been revealed in the literature on this subject. First, no systematic data on wrongful convictions are kept in the U.S. and that makes it impossible to accurately estimate the magnitude or frequency of this problem across jurisdictions (Huff 2004). Second, the literature on wrongful convictions demonstrates that if it were possible to reinvestigate all cases in a manner similar to what has been done in many capital cases, the number of exonerations would be much higher than what has been seen in recent years (Gross et al. 2005). Gross et al.'s (2005) study reveals that wrongful convictions are much more common than exonerations, and the vast majority of wrongful convictions are never caught.

C. Ronald Huff and a colleague conducted an extensive survey in Ohio and a national survey of attorneys generals in an attempt to measure how often wrongful convictions occur (Huff 2003). Based on the responses to their survey, they estimate the U. S. criminal justice system might be accurate in about 99.5 percent of felony conviction cases (Huff 2003). They contend, if that percentage of accuracy is correct, that the 2.2 million arrests for index crimes in the U.S. in the year 2000 would have resulted in about 7,500 wrongful convictions (Huff 2003).¹ Radelet, Bedau and Putnam's study In Spite of Innocence (1992) provides a detailed account of cases that further illustrate the extent of the problem. They document over 400 cases of wrongful capital convictions in the U.S. in the 20th century. Liebman, Fagan, and West (2000) find that nationally over a 23-year study of 4,578 state capital cases, serious reversible error was uncovered in approximately 7 out of 10 capital sentences that were fully reviewed.²

Gross et al.'s (2005) report summarizes findings from a study of 328 exonerations of defendants who were convicted of serious crimes in the U. S. between 1989, when the first DNA exoneration occurred, and 2003. They note that over the 15-year period the number of exonerations from the general prison population increased sharply from about 12 a year through the early 1990s to an average of 42 a year since 2000 (Gross et al. 2005). In their estimation, if the exonerations from the general prison population had occurred at the same rate as exonerations from death row, which was 2.07%, 29,046 non-death row exonerations would have occurred between 1989 and 2001 (Gross et al. 2005). Considering that a majority of wrongful conviction cases that have come to light are those involving more serious or high-profile cases, such as homicides and sexual assaults,

true estimates of the number of wrongful convictions likely will never be known for at least two reasons: 1) most criminal convictions involve individuals who have been convicted for less serious crimes that receive less attention and review; and 2) many individuals convicted for a crime do not possess the resources to research and expose a potential wrongful conviction.

Causes of Wrongful Convictions

Research has consistently shown that one of the major difficulties in preventing wrongful convictions relates to the fact that several causes and factors contribute to wrongful convictions and each of these causes or factors can operate alone or work in conjunction with others to bring about the conditions that increase the likelihood of a wrongful conviction occurring. Overall findings have determined that most wrongful conviction cases involve at least one of three circumstances: 1) significant pressure on the police to resolve the case with a conviction; 2) the status of the accused as a marginalized outsider; and 3) reliance on suspect or unreliable evidence (Martin 1993). Wrongful convictions often involve more than one contributing factor that can be the result of unintentional mistakes or deliberate misconduct. Research in the U. S. has consistently found that the principal factors contributing to wrongful convictions include race and class factors, eyewitness error, over-zealous law enforcement officers, and prosecutors who engage in misconduct, including withholding evidence, using false or coerced confessions and suggestive interrogations, and relying on informants inappropriately (Huff 2004).

Race and Class

Although this study is not directly focused on the effects of race and class on the criminal justice system, historical facts about the criminal justice system require that these factors be discussed to some degree. Studies have shown that people of color and individuals from the lower socio-economic classes are more severely impacted by the criminal justice system than are whites and those from the upper classes who have more resources (Black 1976; Cole 1999; Mauer 2004). Given these effects, it is likely that race and class also affect the occurrence of wrongful convictions.

In terms of race, the administration of punishment has direct ties to both the race of the offender and the race of the victim (Rizer 2003). Historically, criminal statutes have targeted offenders based on race, such as North Carolina's previous mandatory capital statute for cases where a black man was convicted of raping a white woman and federal sentencing guidelines that provide for more severe punishments for possession of crack cocaine than for the possession of powder cocaine (Rizer 2003). Since the Justice Department began collecting statistics in 1930 regarding how sentences and criminal prosecutions were conducted, data have reinforced the finding that race is a factor in criminal prosecution and punishment (Rizer 2003). Parker, DeWees, and Radelet (2003), Mauer (2004), and Minke (2006) discuss the disparities in the criminal justice system regarding the prosecution and punishment of offenders based on race, in that police tactics and legislation often appear to be race-based.

Coker (2003) cites as an example that police officers are more likely to stop African Americans for traffic stops than they are whites, and, once stopped, they are

more likely to search the vehicles of African-Americans to look for evidence of criminal activity. Another documented example of disparate treatment along racial lines can be seen in the war on drugs. Gross (1997) finds that between 1980 and 1993, the number of people in custody in the U.S. for drug offenses grew from about 24,000 to nearly 240,000. About forty percent of those arrested for drug offenses and nearly sixty percent of those imprisoned were black, even though white Americans abuse and distribute drugs about as much as blacks. Data also reveal that prosecutors' decisions to prosecute show a pattern of discrimination against Hispanic and black defendants, in that Hispanic males are most likely to be prosecuted fully, followed by black males, then white males, and finally females of all ethnic groups (Spohn, Gruhl and Welch 1987). Given such disparities by race, it would not be surprising to find a similar effect with regard to the occurrence of wrongful convictions.

Radelet et al. (1992), Huff, Rattner, and Sagarin (1996), and Scheck, Neufeld, and Dwyer (2000) are cited by Parker et al. (2003) as revealing evidence of racial disparities in the occurrence of wrongful convictions. These studies find that miscarriages of justice fall disproportionately on blacks as compared to other racial and ethnic groups. Scheck et al. (2000) find in the 62 cases in which individuals had been cleared by DNA (at that time), 29 % of the defendants were white and 57 % were black. The Innocence Project (2007) reports that of 198 DNA exonerations in the U.S. for which race is known, 58% of the exonerated are black and 10% are Latinos, while whites are 25% of the exonerated. Of the 123 individuals listed on the Death Penalty Information Center website (2007) who have been removed from death row because of evidence of their innocence, 50% are

black, 10% are Hispanic, and whites make up 39% of the list. Although many of the wrongfully convicted are white, a disproportionate number of the wrongfully convicted are black or Hispanic (Parker et al. 2003). As race appears to play a role in disparate criminal justice outcomes, it also is likely that class plays a similar role because race and class are often linked.

As previously noted, disparate outcomes occur in the criminal justice system by race (Edelman 2005), but also by social class in that the criminal justice system benefits the rich and not the poor (Rizer 2003). The criminal justice system sends the message that it is the poor who commit crimes and should be feared, which results in the poor being treated like criminals (Rizer 2003). Many people who are charged with crimes are poor and do not have many resources. The lack of resources means they are likely to be negatively affected in several ways throughout their experience in the criminal justice system. The lack of resources means many of the poor who are arrested are less likely to be able to afford bail and have to remain in jail until their cases begin, making them less available to assist in preparing a defense. They are unlikely to be able to afford competent counsel and a quality defense that can include additional investigation, expert witness testimony, or separate evidence testing, all of which can work against preparing a defense (Rhode 2003; Rizer 2003).

The effects of class in relation to wrongful convictions most clearly can be seen when it comes to lacking the resources to retain quality legal representation. The lack of money for these individuals means they have to represent themselves or be represented by court-appointed attorneys. Rhode (2003) estimates that four-fifths of the legal needs of

the poor remain unmet. She finds that one lawyer is available to serve approximately 9,000 low-income persons, compared to one for every 240 middle- and upper-income Americans (Rhode 2003). Many court-appointed attorneys lack sufficient resources to hire the experts and investigators who may be essential for providing an adequate defense (Rhode 2003).

Poor legal representation is one of the major contributors to wrongful convictions (Huff 2002). Rizer (2003) finds that an estimated 28% of wrongful convictions are in part or directly a result of shoddy defense work. Studies reveal that often poor representation is not solely the shortcomings of the individual attorneys, but of the system itself. Between half to four-fifths of defense attorneys enter guilty pleas without interviewing any of the prosecution witnesses (Rhode 2003). Bright (1999) and Rhode (2003) document examples of defendants being penalized by the system for the ineffectiveness of their attorneys. Bright (1999) raises the point that often the quality of legal representation in some cases is questionable when he describes how the Texas Court of Criminal Appeals upheld at least three sentences in death penalty cases, in which the lawyer for the defendant slept during the trial. Rhode (2003) finds that defendants have been executed despite their lawyer's lack of any prior trial experience and their failure to present any mitigating evidence. While such problems can occur when individuals are represented by paid defense counsel, they are more likely to occur when defendants are represented by indigent defense counsel who are poorly paid, carry a high caseload, and have limited access to funds to provide for further investigation, experts, or evidence testing.

Criminal defendants again are penalized by the system in that court-appointed attorneys are in a position where they are encouraged to provide sub-standard representation (Bright 1999; Rhode 2003). Over the last two decades, national spending on legal assistance has been cut by a third (Rhode 2003). In Texas where findings show that 400 to 900 hours of an attorney's time is required to handle post-conviction capital cases, the Court of Criminal Appeals adopted a limit on fees that compensates attorneys for only 150 hours at \$100 an hour (Bright 1999). Court-appointed attorneys are left in the position where they must decide between working for free and financing their case preparation themselves or limiting the quality of their assistance.

No data speaks definitively to how often minorities and individuals from the lower classes are more likely to be wrongfully convicted because no data exist as to the total population of wrongful convictions. Therefore, based on the history of the criminal justice system and the cases that have been brought to light, we can only make an educated guess that minorities and those in the lower classes are more negatively impacted by wrongful convictions than are whites and individuals from the upper classes.

Eyewitness Mistakes

Eyewitness misidentifications are a significant cause leading to wrongful convictions in the U.S. (Huff 2003). Scheck et al. (2000) report that 84% of DNA exonerations that they examined rested, at least in part, on mistaken eyewitness identification. Three factors are related to the problematic nature of eyewitness testimony: 1) the inherent unreliability that sometimes plagues human perception and memory; 2) human susceptibility to suggestion, for example unintentional or intentional

influences that occur after the initial act; and 3) lack of awareness of the potential unreliability of eyewitness accounts which leads to eyewitness testimony getting more weight in court than is warranted (Greene and Loftus 1984). The U.S. Supreme Court recognized the problem of eyewitness identification error when it commented in United States v. Wade in 1967 that the history of criminal law was rife with instances of mistaken identification and that the improper suggestions of identifying witnesses has probably accounted for more miscarriages of justice than any other single factor (Huff 2002).

Overzealous or Unethical Police and Prosecutors

Misconduct by police or prosecutors often contributes to wrongful convictions. Scheck et al. (2000) find that misconduct by the police and/or prosecutors play a significant role in 63% of DNA exonerations analyzed by the Cardozo Innocence Project. They also find that at least 381 murder convictions across the U. S. have been reversed since 1963 because of police or prosecutorial misconduct (Scheck et al. 2000). Huff (2004) identifies several types of misconduct that can lead to wrongful convictions: courtroom misconduct, including making inappropriate or inflammatory statements in the presence of the jury; mishandling of physical evidence; failing to disclose exculpatory evidence; threatening witnesses; using false or misleading evidence; and displaying bias towards or having a vendetta against the defendant. Since 1970, individual judges and appellate court panels have cited prosecutorial misconduct as a factor when dismissing charges at trial, reversing convictions or reducing sentences in at least 2,012 cases (Weinberg 2003).

False or Coerced Confessions

False or coerced confessions are important factors contributing to wrongful convictions (Huff 2004). Even though it is not possible to provide an accurate estimate of the frequency or occurrence of police-induced false confessions, police-induced false confessions do occur with some regularity. Scheck et al. (2000) and Gross et al. (2005) find that false confessions by suspects play a significant role in the arrest of many of the individuals who are later exonerated. Fifteen of the 62 individuals in Scheck et al.'s study (2000) who were exonerated by DNA originally confessed to a crime they did not commit. Of the 328 exonerations examined by Gross et al. (2005), 15% of the defendants originally confessed to crimes they did not commit. False and coerced confessions provide a major obstacle to wrongfully convicted individuals' attempts to establish their innocence because confessions are often regarded as the most damning and persuasive evidence of guilt (Leo and Ofshe 1998).

Inappropriate Use of Informants

The improper use of informants, sometimes referred to as snitches, has played a significant role in bringing about wrongful convictions. Informants are persons who provide information to law enforcement officials. Informants who have knowingly provided false information do so for several reasons: to avoid prosecution themselves; for reward money; for revenge; and to receive concessions or other reductions in their own sentences (Higgins 2003). In the cases examined by the Northwestern University Law School Center on Wrongful Convictions, jailhouse informants promised leniency in their own cases or killers with incentive to cast suspicion away from themselves are the

leading cause of wrongful convictions in U.S. capital cases (Warden 2004). Scheck et al. (2000) find that 21% of the DNA exonerations they reviewed involve the use of jailhouse informants. Using informants as a source of information becomes problematic because law enforcement officials may never truly know an informant's motivation for providing information or how that motivation might affect the reliability of the information provided.

The review of literature related to wrongful convictions has provided a working definition of what wrongful convictions are and two of the ways they can come about. It also has shed some insight into a number of the causes of wrongful convictions and how those varying causes can operate alone or in conjunction with other causes to create obstacles in the prevention wrongful convictions. The importance of discussions of the extent of the wrongful conviction problem and its causes lies in the public disdain it creates that ultimately leads the public to a point where they are outraged by the unacceptable number of wrongful convictions and they begin to demand change. Two additional issues uncovered in the literature review on wrongful convictions that are in need of further discussion are: 1) the need to document the increasing attention that has been paid to wrongful convictions over the past decade and 2) the need to determine how the increased attention and awareness of wrongful convictions has effected law enforcement officers' perceptions of how they do their jobs and the way they actually do their jobs. Discussion of these two issues is the focus of the remainder of this research project.

CHAPTER III

INCREASED AWARENESS

The literature on law enforcement's perceptions of wrongful convictions is limited. The bulk of the literature focuses on examples of wrongful convictions and the causes that play a role in wrongful convictions occurring. However, one study by Ramsey and James (2007) does document criminal justice professionals' perceptions of the frequency of wrongful convictions and system errors. Other studies, such as those by Moon and Zager (2007) and Nilson and Oliver (2006), examine police officers' attitudes towards citizen support and police officers' perceptions of effectiveness. However, little to no research was uncovered that has documented law enforcement officers' perceptions of how the increased awareness of wrongful convictions has affected policing as an institution and individual officers' behaviors. To argue that the increasing awareness of wrongful convictions has had some effect on police and their perceptions of how they do their jobs, the case first had to be made for a measurable increase in the amount of attention to the wrongful conviction issue over the past 10 years. I accomplished this by reviewing popular literature and media references that discussed wrongful convictions.

Popular Literature and Media References

One such indicator of increasing awareness of wrongful convictions is the increasing number of academic and research articles focusing on wrongful convictions. Increases in the amount of coverage in popular media outlets, such as major national

newspapers, are another measure for documenting the increase in public awareness of the wrongful conviction issue. I argue that both academic and journalistic interests reflect growing awareness of wrongful convictions generally. Another method for measuring increased awareness is the change in the number of books focused on issues of innocence and wrongful convictions. Two other indicators of increased awareness are changes in the public's view of the death penalty, as indicated in public opinion polls, and the creation of Innocence Projects.

The first two methods of documenting the increase in awareness of wrongful convictions over the past decade required a search of academic articles and major national newspapers between 1996 and 2005 for documents containing terms related to wrongful convictions. I conducted searches for such documents by using The University of North Carolina at Greensboro Jackson Library's search engines to query databases for documents that contained the key terms "wrongful conviction, "innocence, "police, "false confession, and "DNA. I searched for articles in the EBSCO and ProQuest databases using the following six combinations of the key terms associated with wrongful convictions: wrongful convictions and false confessions; innocence and wrongful conviction; DNA and wrongful conviction; wrongful conviction and police; false confessions and innocence; and innocence and DNA. The increasing number of references and articles related to these key terms are interpreted as measures indicating an increasing awareness of issues related to wrongful convictions.

Academic Research Articles

I searched EBSCO databases for academic articles published between 1996 and 2005 related to the issue of wrongful convictions. EBSCO provides full text for nearly 4,650 serials, including more than 3,600 peer-reviewed titles. Searches for relevant articles were performed using the previously mentioned six combinations of key terms associated with wrongful convictions. Articles retrieved were listed and compared in two time frames, 1996 through 2000 and 2001 through 2005, and then counted for a total number of articles for the ten year period. Queries for each of the combination of key terms produced some duplication of references to articles, and each article was included in the count only once. Searches of the EBSCO database for articles containing the key terms for the period between 1996 and 2000 yielded 29 articles. For the period between 2001 and 2005, EBSCO databases produced 64 articles. A total of 93 articles containing the key terms were located for the ten year period of 1996-2005. The 121% increase in the number of research articles between 1996 and 2000 to the number of articles between 2001 and 2005 is interpreted as an increase in the awareness of issues related to wrongful convictions.

National Newspaper Articles

To further document the increase in attention to wrongful convictions, I conducted searches using the ProQuest search engine to query major national newspapers for references related to wrongful convictions. The following major national newspapers were searched for articles that contained the six combinations of key terms noted previously: The Los Angeles Times, The New York Times, The Washington Post, The

Wall Street Journal, and The Christian Science Monitor. These five major national newspapers were selected to be searched rather than querying all local newspapers because the national newspapers have potential for a larger world wide daily readership than smaller, local newspapers.

The combinations of key terms were queried for the same two time periods, 1996 through 2000 and 2001 through 2005, and totaled for the ten year period. Similar to the EBSCO database searches, the ProQuest searches produced duplications of articles, and each article was included in the count only once. A similar pattern of increase noted in the number of EBSCO research articles also was found in the increase in the number of newspaper articles related to wrongful convictions. In the time period from 1996 through 2000, 103 articles that contained at least one of the six combinations of key terms appeared. Between 2001 and 2005, 237 articles appeared in the ProQuest newspaper searches. A total of 340 articles containing some combination of the key terms related to wrongful convictions appeared from 1996-2005. The 130% increase in the number of newspaper articles related to wrongful convictions from 1996-2000 to 2001-2005 along with the 121% increase in the number of research articles related to wrongful conviction provide two measures of increased awareness of this issue.

Books

In addition to noting the increases in the number of newspaper and research articles that focus on wrongful convictions, I reviewed the increase in the number of books that discuss wrongful convictions to document increases in awareness of wrongful convictions. Since 1996, an increasing number of books have begun to discuss the issue

of wrongful convictions. The Death Penalty Information Center website contains a listing of 20 books related to wrongful convictions and innocence. Of those 20 books, six were published before 1996, and the remaining 14 books were published between 1996 and 2005 (Death Penalty Information Center 2007). Seven of these 14 books related to wrongful convictions were published between 1996-2000 and seven were published between 2001-2005.

As awareness of the wrongful conviction issue has increased, resulting in more books on this topic, a change has occurred in the focus of the books discussing wrongful convictions. Some of the earlier books, for example Radelet et al.'s (1992) In Spite of Innocence and Huff et al.'s (1996) Convicted But Innocent, focused on describing and detailing the events surrounding individual cases of wrongful convictions. However, as this issue received more attention and research and the general public became more educated about this problem, a change occurred in the focus of the books discussing wrongful convictions. The focus shifted from discussing individual cases of wrongful convictions to discussing the problems inherent in the criminal justice system that give rise to wrongful convictions. The change in the discussion of wrongful convictions can be seen clearly in books such as: Scheck et al. (2000) Actual Innocence: Five Days to Execution, and Other Dispatches From the Wrongly Convicted; Westervelt and Humphrey's (2001) Wrongly Convicted: Perspectives on Failed Justice; Cohen's (2003) The Wrong Men: America's Epidemic of Wrongful Death Row Convictions; Simon's (2003) The Innocents; Christianson's (2004) Innocent: Inside Wrongful Conviction Cases; Prejean's (2005) The Death of Innocents: An Eyewitness Account of Wrongful

Executions; and Doyle's (2005) True Witness: Cops, Courts, Science, and the Battle Against Misidentifications. Each of these books changes the focus of the discussion from discussing individual cases to examining the behaviors of law enforcement officers, prosecutors, and judges who contribute to wrongful convictions and identifying other factors that are often times found in cases of wrongful conviction.

Additionally, the current discussions of wrongful convictions in recent books focus more on the criminal justice system and exploring ways to improve the system to reduce the number of wrongful convictions. These books and the cases they review reveal for the general public and government officials alike that cases of wrongful conviction happen frequently enough that they cannot all be honest mistakes and that these cases should not be viewed as just aberrations and unfortunate incidents, but as the product of a flawed system. Increases in the numbers of research articles, newspaper articles, and books discussing wrongful convictions indicate increasing awareness of the issue which has led to a change in the discussion of the wrongful conviction problem.

Public Opinion Polls

Another indicator of increased awareness is the increase in the number of public opinion polls that include questions related to concerns about wrongful convictions. Public opinion polls have generally focused on measuring public opinions towards favoring or disapproving of the death penalty. As awareness about wrongful convictions has increased, opinion polls have increasingly begun to factor into the polls concerns about the possibility of a wrongful execution (Death Penalty Information Center 2007, Gallup 2006, and Harris Poll 2006).

One of the more popular polling institutions, Gallup, has conducted national polls of public opinions towards the death penalty since 1936 (Gallup 2006). One sign of increasing public awareness of the issue of wrongful convictions is the expansion of the Gallup Poll to include questions about a respondent's support for or against the death penalty in light of wrongful convictions. Prior to 1995, Gallup questioned respondents about their opinions either for or against the death penalty, but in 1995 Gallup expanded these questions to include a question asking how often respondents thought a person who was in fact innocent had been sentenced to the death penalty (Gallup 2006). A June 2000 Gallup Poll found that 80 percent of respondents believed that within the five previous years a person had been executed for a crime for which he/she was in fact innocent (Parker, DeWees and Radelet 2003).

A separate poll, the Harris Poll, also began conducting national opinion polls addressing the problem of wrongful convictions. The Harris Poll began conducting nationally representative polls in 1963 (Harris Poll 2006). As far back as 1965, Harris asked respondents if they believed in the death penalty or if they were against it. Beginning in the year 2000, Harris expanded its poll questions to include three additional concerns: 1) if respondents thought innocent people were sometimes convicted of murder; 2) if so, what percentage of those convicted of murder are innocent; and 3) what is the potential impact of the belief that innocent people are convicted on attitudes towards the death penalty (Harris Poll 2006). A July 2001 Harris Poll found that 93% of Americans believe that innocent people are sometimes convicted of murder (Parker et al. 2003).

A third source for opinion polls is the Death Penalty Information Center (DPIC) website that contains a list of state, national, and international opinion polls concerning attitudes towards the death penalty. Included on the DPIC website are some of the more widely recognized polls, such as those sponsored by CBS News, ABC News, Fox News, Zogby, and Newsweek in addition to the Gallup and Harris Polls (Death Penalty Information Center 2007). Beginning in the year 2000, the polls listed on the DPIC website began to document a concern about the likelihood that an innocent person could be sentenced to death and that innocent individuals have likely been executed over the past 20 years (Death Penalty Information Center 2007). As public awareness about wrongful convictions has increased, polls have shown that support for the death penalty in America has declined (Gallup 2006). In its May 2004 poll, Gallup reported that a growing number of Americans support a sentence of life without parole rather than the death penalty for those convicted of murder because of their fear of a potential wrongful execution (Death Penalty Information Center 2007).

Innocence Projects

One last indicator of increased attention to the wrongful conviction issue is the recent creation and proliferation of Innocence Projects around the United States. Innocence Projects are significant because they provide representation and/or investigative assistance to prison inmates who claim to be innocent of the crimes for which they were convicted (Truth in Justice 2006). Innocence Projects have two goals: 1) to work to exonerate the wrongfully convicted, often through post-conviction DNA testing; and 2) to consult with legislators and law enforcement officials on the local, state,

and federal levels to develop and implement reforms to prevent wrongful convictions (Innocence Project 2007).

Innocence Projects are of great importance because without representation and/or investigative help from Innocence Projects, many inmates will likely exhaust all of their hopes of being exonerated of a crime they did not commit (Truth in Justice 2006). The first Innocence Project, Centurion Ministries, was founded by James McCloskey at Princeton University in 1983 (Truth in Justice 2006). From the early to mid-1990s through 2005, Innocence Projects in the U.S increased in number from a time when only a few Innocence Projects existed nationwide to a point where now at least one Innocence Project serves each state in the U.S. (Truth in Justice 2006). The increase in the number of Innocence Projects over the past decade reflects a public awareness that the wrongful conviction issue is a significant problem and additional measures need to be in place to help educate the public and government officials alike about the causes of wrongful convictions and how to reduce the likelihood of them occurring.

These indicators reveal an increasing level of awareness of the wrongful conviction problem over the last decade. The importance of this increased awareness can be seen in calls from the public for reform in public policies on the local and national level concerning the investigation and prosecution of criminal cases. Discussions of wrongful convictions by the public and law enforcement officials have evolved from general awareness of the issue to how this problem can be remedied. The police have traditionally been resistant to reforms that seek to alter police organizations and the structural relationship between the police and the public. It is the external public and

political pressure applied on law enforcement that are often the primary reasons law enforcement organizations initiate change (Bass 2000). Subsequently, reforms and recommendations related to the prevention of wrongful convictions have been made in several areas, including: increasing public awareness of the problem; misconduct by law enforcement officials; educating law enforcement personnel, prosecutors and judges on the causes of wrongful convictions and methods of prevention; eyewitness identification procedures; and police interrogations procedures (Huff 2003).

Translation to Public Policy

Once research established the factors that play a role in wrongful convictions, the next step in addressing the problem is to determine how to best reduce and prevent further wrongful convictions. Recommendations for public policy reforms to address this problem have increased as the research and literature on wrongful convictions has increased over the past ten years. Many of the recommendations for reform are aimed at increasing public awareness of the wrongful conviction problem by focusing on three of the issues related to wrongful conviction that have received most of the attention in this area: 1) the use of DNA to exonerate or properly prosecute individuals; 2) ensuring the certainty of guilt in cases that result in death sentences; and 3) changes in police practices related to conducting criminal investigations. Discussion of these three issues is important in understanding the effect that increased awareness of wrongful convictions has had on law enforcement officers. The predominant media coverage and discussion of wrongful conviction cases involve cases in which DNA was used to exonerate defendants or that resulted in the death penalty cases. Conversations about DNA have become

commonplace even for individuals who have little interest in the criminal justice system. Concerns about the nature of the punishment associated with death penalty cases that may be wrongful convictions commands the media's and public's attention. The information that has come to light in response to DNA evidence and wrongful death penalty convictions has been two of the factors that have led to public outrage and discontent that has led to pushes for reforms in police practices, ultimately effecting police perceptions of this issue.

The Use of DNA

The use of DNA technology in criminal investigations to establish both innocence and guilt is one area that has received substantial public and public policy attention. DNA's ability to definitively substantiate or refute an individual's guilt in certain types of cases has possibly had the greatest impact on law enforcement officers' perceptions that wrongful convictions are a serious issue for the criminal justice system, leading to their realization that certain aspects of how they do their jobs are in need of change. Prior to use of DNA evidence, some doubt remained in law enforcement officers' minds about allegations of wrongful convictions and the extent of the problem, but the number of exonerations that have occurred due to DNA confronts law enforcement officers with undeniable evidence that wrongful convictions have occurred with some regularity. As awareness of the value that DNA evidence offers has increased, more research has been focused on DNA and the information it offers law enforcement.

The Innocence Project at Cardozo Law School created by Barry C. Scheck and Peter J. Neufeld in 1992 is the leading advocate for the use of DNA technology to reveal

wrongful convictions (Innocence Project 2007). Their Project only handles cases in which post-conviction DNA testing of evidence can yield conclusive proof of innocence. As of April 2007, the Innocence Project has played a role in many of the 198 post-conviction DNA exonerations that have occurred in the United States (Innocence Project 2007). According to Gross et al.'s article, "Exonerations in the United States 1989 through 2003" (2005), 144 of the 340 people who were exonerated of all crimes during that period were cleared by DNA. Connors, Lundregan, Miller, and McEwen's study, "Convicted by Juries, Exonerated by Science" (1996), further illustrates the importance DNA can play in criminal investigations. Connors et al. (1996) found that every year since 1989, the primary suspect was excluded by DNA testing in about 25% of the sexual assault cases referred to the FBI where results could be obtained. Without this testing, it is reasonable to expect some portion of the 25% who were cleared would have been at risk of being convicted if they had remained in the system and proceeded to trial. The significance of DNA exonerations lies in the certainty of innocence that can be determined with DNA testing (Scheck et al. 2000).

The advocacy work by Scheck and Neufeld at the Cardozo Innocence Project (Westervelt and Humphrey 2001) and studies such as those by Gross et al. (2005) and Connors et al. (1996) have been important arguing points in the push for change in policies and practices at the national and local level. In October 2004, President George Bush signed into law the Justice for All Act which included the Innocence Protection Act (Campaign for Criminal Justice Reform 2006). This legislation is intended to enhance the rights and protections for all persons involved in the criminal justice system through two

mechanisms: (1) establishing a new set of statutory victims' rights that are enforceable in courts of law and supported by fully-funded victims' assistance programs, and (2) funding a comprehensive DNA testing program that seeks to ensure actual offenders are caught and convicted for the crimes they have committed (Campaign for Criminal Justice Reform 2006). The Innocence Protection Act establishes systems that hope to ensure death penalty trials are fair and accurate from the start by helping states provide professional and experienced lawyers at every stage of capital cases (Campaign for Criminal Justice Reform 2006). Also incorporated in the Bill is the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program and the Advancing Justice through DNA Technology Act. The Kirk Bloodsworth Post-Conviction DNA Testing Program is intended to help states test DNA evidence from individuals already convicted of crimes who might be innocent (Campaign for Criminal Justice Reform 2006). To assist states with testing, \$25 million dollars has been set aside by Congress. Additional money also was set aside to support a variety of DNA education, training, research, and identification programs.

The use of post-conviction testing has proven valuable in many cases over the past ten years, but its value has become increasingly evident in a second area where findings from research on wrongful convictions has been used as a catalyst in the push for changes in policy or practice: death penalty cases. Increasing concerns about the innocence of individuals who have been sentenced to death and the accuracy of death penalty cases has coincided with the decline in public opinion favoring the death penalty for people convicted of murder (Death Penalty Information Center 2007). The DPIC

website maintains a list of individuals who have been released from death row from 1973 until the present time based on substantial evidence of their actual innocence.³ Between 1973 and 2006, 123 individuals have been released from death row based on substantial evidence of their innocence. In the 23 year period from 1973 to 1995, 60 individuals were exonerated from death row. In only three of those 60 cases did DNA play a significant role in establishing the innocence of the individuals released from death row. However during the ten year period of increased public awareness of wrongful convictions on which this paper focuses, 1996 through 2005, 62 individuals in the U.S. have been exonerated from death row. Thirty-three of those exonerations occurred between 1996 and 2000 and 29 more exonerations occurred between 2001 and 2005 (Death Penalty Information Center 2007). Whereas in the 23 year period from 1973 to 1995 where DNA played a role in only three exonerations from death row, DNA has played a significant role in almost four times as many exonerations from death row over the last decade, in 11 of the 62 exonerations that have occurred during this 10-year time frame (Death Penalty Information Center 2007). This increase in the number of DNA related exonerations over the last ten years demonstrates the increased value of DNA to death penalty cases.

Death Penalty Cases

Law enforcement officers' perceptions of how the public perceives them and their ability to do their jobs are seriously impacted by the public's fears of innocent persons being executed. That fear that innocent individuals have in all likelihood been executed has likely increased demands for reforms in the use of the death penalty and have affected the national and local death penalty debate and legislation. In June of 2002, the

U. S. Supreme Court banned the execution of the mentally retarded (United States Department of State 2005). Then in March of 2005, the U. S. Supreme Court banned the execution of those who were under the age of 18 at the time of their crime (United States Department of State 2005). Concerns about wrongful convictions have risen to a level where private citizens and public officials alike have argued for the abolition of the death penalty (Huff 2003). In 2000, Illinois Governor George Ryan imposed a moratorium on the state's death penalty after he commented that since 1977, his state had freed more people, thirteen, from death row than it had put to death under its death penalty system, twelve (CNN 2000). Just prior to leaving office in January 2003, Governor Ryan commuted the sentences of all 156 Illinois death row inmates to life in prison (CNN 2003). Other states also have considered moratoriums on the death penalty. In 2000, ten of the 38 states that had the death penalty considered imposing death penalty moratoriums (PBS 2000). In December 2005, the New Jersey Senate passed a one year moratorium on the death penalty (Talk Left 2005). The death penalty was at one time on hold in eight of the 38 states that adopted capital punishment since 1977 while courts and state lawmakers wrestled with the emerging role of DNA evidence and fears of executing innocent people (Peterson 2006).

Another sign of reform in the area of the death penalty is the decreasing number of individuals receiving death sentences. Even though the nation's murder rate has not changed significantly since 1999, fewer death sentences were handed down in 2005 than in any year since 1976 (Peterson 2006). Based on estimates from the DPIC website, juries handed down fewer than 100 new death sentences in 2005, which was down nearly 70%

from the all-time high of 320 death sentences in 1996 (Peterson 2006). Even though a majority of Americans, 64%, favor the death penalty for murder, as indicated in Gallup's October 2005 poll, the reduction in the number of individuals being sentenced to death may indicate that increased awareness of wrongful convictions has had some effect on juries' willingness to sentence someone to death unless absolute certainty of his/her guilt exists.

Police Practices

Demands for reform in police practices and behaviors have increased and become louder with each occurrence of someone being freed from prison and exonerated from a crime he/she did not commit. Research has consistently found that the principal factors related to the police that contribute to wrongful convictions are: overzealous law enforcement officers who engage in misconduct, including withholding evidence; the extraction of false or coerced confessions; the use of suggestive interrogations; the use of misleading or suggestive eyewitness lineups; and the improper use of informants (Huff 2004). Two areas related to police practices in which the majority of reforms have been implemented involve: (1) eyewitness evidence and lineup procedures, and (2) police interrogations procedures. These two are the focus here. They are of particular interest because these are two of the areas law enforcement officers most often have their integrity and credibility attacked by the public and defense attorneys. Officers often find themselves having to defend accusations and the perceptions that they influence statements from eyewitnesses and suspects in a manner that reflects the information they are seeking and want to hear.

Eyewitness Evidence: Lineup Procedures

Law enforcement officers use of eyewitness evidence and the manner they conduct suspect lineups have been the law enforcement practices that have received the abundance of attention and recommendation for reform. Research on eyewitness error has consistently shown eyewitness mistakes to be one of the most common factors involved in wrongful convictions (Huff 2003; Scheck et al. 2000). Culter and Penrod (1995) noted the unreliability of eyewitness evidence clearly when they found that across many laboratory experiments, the false identification rates varied from nearly 0% to nearly 100%, and in many cases, the false identifications were made with a great deal of certainty. Their field studies found the average percentage of correct witness identifications as 41.8% (Culter and Penrod 1995). Wells and Bradfield (1998) also found that the identification of innocent persons from lineups and photospreads is the primary cause of wrongful convictions and accounts for more convictions of innocent persons than all other causes combined.

Documentation of the frequency and occurrence of eyewitness identification errors have demonstrated the need for reform as to how eyewitness evidence and photo-lineups are used. Many of the recommendations for reform of eyewitness evidence and lineup procedures revolve around attempts to increase the reliability of eyewitness identification and testimony by reducing police influence and changing how lineups and photospreads are administered. Scientific eyewitness research reveals that certain methods of conducting lineups are likely to promote false identifications of innocent suspects (Wells, Small, Penrod, Malpass, Fulero, and Brimacombe 1998).

Recommendations for change concerning eyewitness evidence and procedures have primarily been made in three areas: 1) use of double-blind lineups; 2) use of sequential photo arrays; and 3) having appropriate police-eyewitness protocol (North Carolina Actual Innocence Commission 2006; Wells et al. 1998).

One major recommendation for reform is to require police to have double-blind lineups. A double-blind lineup requires that the officer administering the identification process does not have knowledge of the identity of the suspect. This change in practice is important because it aims to prevent officers from intentionally or unintentionally influencing witnesses to select the person the officer thinks is the correct suspect. Wells and Bradfield (1998) found that even a casual comment from a lineup administrator can have dramatic effects on eyewitness reconstructions and the identification experience. In those cases in which eyewitnesses are not confident or sure that the person they picked is the actual suspect, any comments by the officers administering the lineup to indicate that the witness selected the correct suspect has the potential to inflate the confidence of the eyewitness (Wells and Bradfield 1998). This is significant because jurors still tend to attach special importance to eyewitness identifications and see the testimony of eyewitnesses as powerful, even though experts and judges increasingly recognize that eyewitness identification of a suspect previously unknown to the victim/witness is highly suspect and perhaps the least reliable kind of evidence (Huff 2003).

A second recommendation for reform related to eyewitness evidence and photo lineups is the requirement to use sequential photo arrays. This means allowing witnesses to view only one photograph at a time rather than viewing them all at one time. This

measure is designed to help prevent and reduce the likelihood that eyewitnesses will select the person in the lineup who most resembles the suspect. Wells et al. (1998) found empirical evidence that indicated eyewitnesses tend to identify the person from the lineup who in their opinion looks the most like the culprit relative to the other members of the lineup. This recommendation for procedural change not only includes requiring eyewitnesses to view one picture at a time, but requiring the witness to make a decision on each person as either being the suspect or not before seeing the other photos. To reduce eyewitness error or strengthen an identification, the eyewitness should be asked immediately following an identification to indicate how certain he or she is that the identified person is in fact the suspect without any clues of any kind given to the witness as to whether or not the identified person is the suspect in the case (Wells and Bradfield 1998). This method of conducting lineups makes eyewitnesses rely more on absolute judgment of what they recall rather than relative judgment about who looks the most like the suspect (Wells et al. 1998).

The third recommendation for reform related to lineups and eyewitnesses involves having appropriate police-eyewitness protocol consistently applied in all cases. An appropriate protocol includes ensuring the other recommendations are followed concerning how lineups are administered and by whom. An appropriate protocol also includes informing witnesses that the real suspect may or may not be present in the lineup. This warning can help reduce self-imposed pressure by the eyewitness to select one of the subjects in the lineup. As shown in prior research, absence of the actual suspect from a lineup or photo-spread leads to a high rate of misidentification, especially when

eyewitnesses are not specifically warned that the actual suspect might not be in the lineup (Wells and Bradfield 1998). Research by Wells et al. (1998) found that cases in which eyewitnesses were not warned the suspect may not be present in the lineup resulted in 78% of eyewitnesses attempting an identification even though the suspect was not included, but the false identification rate dropped to 33% when eyewitnesses were warned the real suspect may not be in the lineup.

Many police departments and law enforcement agencies across the country have responded to some of the calls and demand for reform regarding these procedural changes. The Boston Police Department, Chicago Police Department, and departments throughout New Jersey, among other departments nationwide, have voluntarily accepted some of the recommendations (Smalley 2004; Talk Left 2004; Innocence Project 2007). Beginning in January 2006, all new North Carolina officers began learning in basic law enforcement courses the new photo lineup procedures that include showing witnesses one photo at a time, having an officer not involved in the case administer the lineup, and having the witness give a certainty statement about the person picked out of the lineup (Weigel 2006). The North Carolina Training and Standards Commission ordered that current officers learn the procedures in the next year (Weigel 2006). Jurisdictions in Virginia and Wisconsin also have begun to require the use of sequential double-blind lineups be incorporated into law enforcement training (Innocence Project 2007). Another area of police procedure subject to pressure for reform has been with regard to police interrogations.

Police Interrogation Procedures

Prior to the increased research and public attention to the wrongful conviction issue, many people did not know that police-induced false confessions existed and did not believe that an innocent person would falsely confess to a crime unless they had been physically tortured or were mentally ill (Leo and Ofshe 1998). As previously stated, research by Scheck et al. (2000), Huff (2004), and Gross et al. (2005) found that false confessions by suspects have played a significant role in the arrest of many individuals who were later exonerated. Studies show that the police themselves are not likely to believe that an innocent person will confess to a crime, and they have not been concerned that their methods of influence might cause an innocent person to confess (Kassin 2005). Leo and Ofshe (1998) found that rarely are police officers instructed on how to avoid eliciting confessions, how to understand what causes false confessions, or how to recognize the forms false confessions take. Instead, their training often relies on interrogation manual writers and trainers who maintain the unfounded belief that contemporary psychological methods will not cause innocent people to confess (Leo and Ofshe 1998).

In taking confessions, police should take into account and evaluate at least three indicators of reliability to reach a conclusion about the trustworthiness of a confession. These three indicators of reliability include: (1) does the confession lead to the discovery of evidence unknown to the police; (2) does it include identification of highly unusual elements of the crime that have not been made public; or (3) does it include an accurate description of the mundane details of the crime scene which are not easily guessed and

have not been reported publicly (Leo and Ofshe 1998). If officers evaluate the reliability of confessions and accept as a part of their training that false confessions occur, the occurrence of false confessions would in all likelihood decrease.

The primary recommendation for reducing false confessions has rested on requiring the police to record and/or videotape interrogations as a way to reduce questions about admissions and confessions. Kassin (2005) found that most police interrogations last less than two hours, but a recent analysis of proven false confession cases in which interrogation times were available revealed that 34% lasted 6-12 hours, 39% last 12-24 hours, and the average time for interrogations that ended in a false confession was 16.3 hours. A primary benefit of recording interrogations is it creates a permanent record of exactly what happened regardless of how long the interrogation lasted (Sullivan 2004).

Many law enforcement agencies throughout the country have adopted this recommendation for change in their interrogation procedures. More than a decade ago, the Minnesota and Alaska Supreme Courts required that all custodial interrogations of suspects be recorded (Findley 2006). Illinois became the first state to require by statute the electronic recording of custodial interrogations in homicide investigations (Sullivan 2004). Currently, at least 450 police departments across the country have begun recording interrogations as a practice to reduce questions and doubts about statements and confessions they are given (Peters 2006). A 1993 Department of Justice study found that, where videotaping of interrogations was standard practice, the number of convictions and guilty pleas increased and allegations of police misconduct decreased (Bruiniers, Ching,

Goossens, and Taylor 2004). If interrogations are recorded in their entirety, officers will be less likely to find themselves in the position of having to prove or defend what they have reported about statements by suspects. Law enforcement officers' concerns that recording interrogations will hamper their efforts to clear cases appear to be unfounded. Sullivan (2004) reports that police experience supports the conclusion that recording interrogations, even when the suspect is aware of the recording, will not prevent properly trained law enforcement officers from eliciting cooperation, admissions, and confessions from suspects.

As seen in the recommendations for reform and change in police procedures in eyewitness evidence, recommendations for reform in recording police interrogations are designed not to hamper law enforcement and make it harder for them to solve crimes. Recommendations have aimed to make the investigation of crimes and prosecution of cases more accurate for everyone involved: witnesses, victims, police and suspects. The available research reveals that the jurisdictions that have adopted these recommendations have not reported or documented a drop in the ability to clear and prosecute cases. The increased research on wrongful convictions has led to increased public awareness of this issue which has contributed to these calls for change. The next level of research was to determine if this increased awareness of wrongful convictions and the recommendations for change in police practices has had some effect on police perspectives on law enforcement in general and how they do their daily jobs.

The awareness of the wrongful convictions has increased tremendously over the past decade. The significance of this increased awareness is two-fold in the efforts to

reduce wrongful convictions. Of primary importance is the education that the increased awareness has provided the general public and law enforcement officials alike on the causes of wrongful convictions and the ways to best reduce the likelihood of their occurrence. Prior to the increasing amount of media coverage and research in this area, most were unaware of the frequency and scale of the wrongful conviction problem, but the wider awareness of this problem as a result of the increased number of books, research articles, newspaper accounts, public opinion polls, and Innocence Projects focusing on the issue has provided a clearer understanding of the wrongful conviction problem.

Of secondary importance is the role the increased awareness of wrongful convictions has played in the increased efforts to effect changes in public policy and law enforcement practices aimed at reducing wrongful convictions. The changes in policies and practices have affected the entire criminal justice system, but the argument can be made that those changes have most strongly affected the individual law enforcement officers and the way they carry out their jobs. However, little to no research has been done on the institutional impact that wrongful convictions have had on the ground level experience of law enforcement officers and how they perceive their jobs in light of the change in awareness of the wrongful conviction issue. It is within this context of perceptual and procedural change that I ask how such changes are experienced by those law enforcement officers as they do their work everyday. Thus, I asked officers to discuss their perceptions of three questions: 1) How has the recent surge of public awareness of wrongful convictions affected modern policing as an institution? 2) Do law enforcement

officers perceive their behaviors have changed in response to the increased awareness of wrongful convictions? and 3) What are officers' perceptions as to the appropriateness of any changes they have made?

CHAPTER IV

METHODOLOGY

Sources for Data

To examine the research questions guiding this study, I used in-depth personal interviews with agents employed with the North Carolina State Bureau of Investigation (SBI) who have been in law enforcement roles. By law enforcement roles, I mean agents who have been sworn as law enforcement officers and assigned the responsibilities for conducting criminal investigations, arresting offenders, and testifying in courtroom proceedings which determine guilt or innocence. I used face-to-face interviews to answer the questions in this study because my questions are qualitative in nature. I sought to identify how law enforcement officers perceive things were different in the times prior to this era of increased awareness of wrongful convictions and how those differences have affected the ways they perform their jobs. In-depth interviews allowed me to assess agents' level of awareness of wrongful convictions, their knowledge of the causes of wrongful convictions, the extent of the problem, and whether discussions of wrongful convictions are of concern to them relating to how they do their jobs.

Since I was interested in the increasing attention paid to wrongful convictions over the 10-year time frame from 1996 until 2005, I included agents who have been employed in law enforcement roles since 1995 or earlier. Choosing agents who have been employed for this length of time included agents who should have been able to identify

general changes in police culture and practice during this time of increased awareness. In addition, the agents selected for interviews were agents who have been assigned to conduct criminal investigations involving homicides or sexual assaults since 1995. These two types of investigations were important for two reasons. First, homicide and sexual assault investigations are the types of cases most likely to yield DNA evidence, which has played a major role in the increase in the number of wrongful conviction exonerations. Second, many of the wrongful convictions that have received media and public attention have been high-profile exonerations involving homicides and/or sexual assaults.

The sample of ten agents was drawn from two of the eight SBI field offices located in North Carolina. I arrived at a sample size of ten SBI agents due to two practical concerns. The first concern was related to time constraints to complete this project in regard to the ability to obtain access to a pool of law enforcement officers to conduct interviews with. The second factor taken into consideration was the ability to travel to different law enforcement offices based on their geographical locations throughout the state. Due to those concerns, the decision was made to conduct interviews with SBI agents. The proximity of the two offices selected was a key consideration in their selection.

Ten agents were selected as a minimum because that offered the possibility of a wider range of responses. On average, each of the SBI offices has between 20 to 25 agents assigned to the office. Based on current employment demographics for the SBI, each field office on average has 5 to 8 agents who have been employed since 1995 or

before. In order to obtain a sample of at least ten agents meeting the length of employment requirement for this study, five agents were drawn from each of the two offices. Additionally, I chose two offices because the agents in individual offices have most likely worked together for some period of time and have had similar experiences or discussed events in their areas that have helped to shape their opinions and practices. Interviewing agents in different offices in varying geographical areas offered the potential to capture a wider range of responses.

The SBI Professional Standards Division conducts staff inspections for every section and district within the SBI. In addition to other personnel information, staff inspection reports contain information related to the total number of agents in each district, lengths of employment, and types of assignments for each agent. I reviewed the most recent staff inspection reports for the two offices selected and identified potential candidates for interviews based on their lengths of employment with the SBI and the types of assignments they have had.

I accounted for differences and similarities by interviewing male and female agents. Similarly, in terms of race, the sample included black and white agents, which reflects the racial makeup of those offices. These offices house few Hispanic or Asian agents, if any. In the office identified as Office 1, the race and sex demographics for the agents were: 58% male and 42% female; 88% white, 8% black, and 4% other. In Office 2, the race and sex demographics for the agents were: 95% male and 5% female; 91% white and 9% black. The samples selected from the two selected offices were made up of three white males, one black male and one white female. The samples did not include any

black females or males and/or females from any other racial category as there were no agents of those characteristics in either office that met the selection requirements for this research project. Prior to conducting interviews, I received approval from the University of North Carolina at Greensboro Institutional Review Board Office of Research Compliance to conduct interviews with live subjects.

Focused Interviews

Agents were interviewed using a technique referred to as focused interviewing. The primary objective of the focused interview was to elicit as complete a report as possible of what was involved in the experience of a particular situation (Merton, Fiske and Kendall 1990). Focused interviews involve four features: 1) the persons interviewed are known to have been involved in a particular situation; 2) the significant elements of the situation have been analyzed; 3) an interview guide is developed setting the major areas of inquiry for obtaining relevant data; and 4) the interview is focused on the subjective experience of the person exposed to the pre-analyzed situation in an effort to learn their definition of the situation (Merton et al. 1990). One reason for using focused interviews rather than questionnaires was focused interviews have greater potential to uncover a diversity of relevant responses by using direct questions that compel subjects to focus their attention on issues they might not have thought about without some prompting, whereas questionnaires can limit the range of responses (Merton et al. 1990).

In the interviews with agents, questions asked address: agents' awareness levels of wrongful convictions; their knowledge of the factors leading to wrongful convictions; their knowledge of changes in policies and practices aimed at reducing wrongful

convictions; and their opinion of whether this is an issue that raises concern for them regarding the way criminal investigations and prosecutions are carried out (see Interview Schedule in Appendix). Interviews were conducted in the conference rooms located in the agents' offices for three reasons: 1) convenience for the agent; 2) the agents were more relaxed and comfortable in their own office than they would have been in my office; and 3) conference rooms provided for fewer interruptions from telephone calls or others walking into the agent's office during the interview. The interviews lasted approximately one hour, and they were audio-recorded and transcribed.

Potential Concerns for Interviews

I am a SBI agent, which raises a potential concern about bias in the data. Prior to becoming an agent with the SBI in 1995, I was employed as a local police officer. Between 1995 and 2002, I conducted criminal investigations, including homicide and sexual assault investigations. Since 2002, I have been assigned to the Professional Standards Division located at SBI Headquarters. In addition to conducting staff inspections previously mentioned, I have conducted public corruption, judicial standards, and internal affairs investigations.

My status as a co-worker could have affected data-gathering in a couple of ways. First, this could have had a positive effect on the amount of candor expressed by agents in the interviews. My being an agent may have made agents more comfortable during their interviews, allowing them to be more candid and willing to answer questions that might have received more guarded responses if asked by an "outsider." Being "one of them" could have granted me better access to the agents' true thoughts about this topic

and allowed me to avoid the police culture which is often suspicious of discussions and questions by “outsiders” about the police and how they do their jobs.

However, alternatively, my job assignment with the SBI could have potentially caused some agents to be reluctant to express their opinions with candor. The SBI Professional Standards Division to which I am assigned serves the internal affairs function for the SBI. My division is responsible for both internal agency compliance with policy and procedures and disciplinary action when necessary or appropriate. Agents may have felt uncomfortable expressing their true opinions because they did not know my opinions about this issue. They might have feared that if they expressed an opinion about this issue that was different from mine, it could be held against them if they were to encounter me in my internal affairs role or in a disciplinary matter.

The agents’ responses also were possibly affected by a third influence unrelated to my status as an agent- hegemony. Antonio Gramsci defined hegemony as the spreading throughout society of a system of values, attitudes, beliefs and morality (Boggs 1976). Those values and beliefs become the prevailing consciousness of what is right and what is wrong. Because people tend to give hegemonic responses based on what they know society defines as right and wrong, the agents’ responses might have been affected by their desire to appear to be in line with the prevailing thought throughout society that it is wrong to wrongfully convict and punish someone for a crime they did not commit.

To counter any uneasiness they may have, agents were provided a statement of confidentiality stating that no identifying markers would be made public allowing any statements to be attributed to or traced back to the agent who made a particular statement.

I informed agents that only I would know the identity of which agent made a particular statement, and their responses would be analyzed and used solely for the purposes of this research, and nothing they say would be used in the workplace or related to any of my work functions. Before agreeing to participate in this research project, agents were asked to express confidence that their responses would remain confidential and to sign an informed consent form.

I also informed the agents selected for an interview my reasons for choosing this issue as the focus of my research. First, as a law enforcement officer, I was concerned about our image with the general public and their level of trust in us to do our jobs. I think the criminal justice system, for the most part, tries to get things right, but instances exist when mistakes have been made, and I think those mistakes should be recognized and addressed so that we can learn from the past and try to prevent similar mistakes in the future. Also, I selected to research this topic because most of the literature I have encountered on this issue has been compiled by individuals outside of law enforcement. My researching this issue allowed for an opportunity for someone who has been employed as “an insider” (law enforcement personnel) to review and question law enforcement practices and policies without being accused of being biased against and too critical of law enforcement.

At the same time, I was able to counter the argument that I was too biased in favor of law enforcement by pointing to two facts: 1) I asked about an issue that when uncovered, often casts distrust on and a lack of confidence in law enforcement and sometimes exposes critical mistakes made by law enforcement personnel, and 2) as a

public corruption investigator, my job often requires me to conduct criminal investigations of law enforcement personnel, and I have in the past arrested other law enforcement personnel. Lastly, I explained my intent with this project was to determine if law enforcement officers on the micro-level are aware of this potentially wide-ranging problem and if this awareness had any effect on the way they do their jobs.

Another concern or limitation of this study is the fact that only ten agents were interviewed. Therefore, the results obtained in this research project cannot be generalized to other SBI agents or other law enforcement officers. Consequently, the discussions gained in this research project do not give insight into other law enforcement officers' perceptions of whether there has been an increased awareness of wrongful convictions and how that increased awareness has effected policing as an institution and the way law enforcement officers as a whole do their jobs.

Conclusion

As previously stated in this work, no accurate estimates are known of how often wrongful convictions occur, but the many examples that have been uncovered demonstrate need for a continuing and increasing amount of attention paid to this issue. In conducting this research, I attempted to do two things: 1) discover if law enforcement officers, on a micro level, are aware of this issue which can tremendously affect their ability to do their jobs and their credibility with the public; and 2) determine if that awareness has caused them to become reflective and examine their own practices.

CHAPTER V

RESULTS

Interviews were conducted with ten agents employed with the North Carolina State Bureau of Investigation who have been employed in law enforcement roles since 1995 or before and have conducted criminal investigations involving sexual assaults and/or homicides during the period of 1996 to 2005. Agents were asked about a range of issues designed to obtain information about three primary research questions: 1) How has the recent surge of public awareness of wrongful convictions affected modern policing as an institution? 2) Do law enforcement officers perceive their behaviors have changed in response to the increased awareness of wrongful convictions? and 3) What are officers' perceptions as to the appropriateness of any changes they have made? The expectation was the agents would report an increased awareness of wrongful convictions that has resulted in changes in policing as an institution and the way law enforcement officers do their jobs.

Interviewees' Awareness Levels

Agents discussed in general terms their levels of awareness of wrongful convictions and whether they perceive an increase in public awareness of the issue. This discussion included the agents' thoughts on the causes of wrongful convictions, their perceptions of the role that race and class play in wrongful convictions, and who is ultimately responsible for wrongful convictions. Each of the agents have noticed

increased discussions of wrongful convictions as seen in local print and news media, as well as on national shows such as *Nancy Grace*, *48 Hours*, and *20/20*. Although agents were aware of such national media shows, their first and most detailed recollections involve local media outlets and local cases. Eight of the ten agents referred to at least one of three North Carolina cases - Darryl Hunt, Ronald Cotton, or Alan Gell- as their earliest recollection and most in-depth awareness of cases involving wrongful convictions.⁴ The agents' increased level of awareness was fairly recent and dates back only to the early 2000s because, with the exception of the Cotton case, the Hunt and Gell cases involved exonerations that occurred in 2004. The Cotton case involved a 1995 exoneration which was before the issue began receiving widespread media coverage.

Causes of Wrongful Convictions

The causes noted by agents as the leading causes of wrongful convictions were: incomplete or poor investigations; eyewitness mistakes; tunnel vision; poor legal representation; overzealous prosecutors and law enforcement; inadequate training and experience; and pressures to solve and make a rush to judgment. The factors most consistently reported as being leading causes of wrongful convictions were related to police activities and investigations. The agents' level of awareness of the causes of wrongful convictions proved to be general in respect to identifying the leading cause of wrongful convictions. Although research has shown eyewitness mistakes to be a leading cause of wrongful convictions, this group of agents viewed officers who conduct poor investigations as the leading cause of wrongful convictions.

The specific police-related causes cited most by agents were poor investigations, tunnel vision by officers, eyewitness mistakes, and public pressure to solve a case which results in a rush to judgment. Six of ten agents suspected the leading cause of wrongful convictions was the lack of a complete and thorough investigation by officers who failed to follow-up on all leads and make a rush to judgment. Agents indicated that lack of complete investigations could be the result of two factors: lack of officer skills and tunnel vision. Agents explained that poor investigations can directly result from poor performance by officers due to a lack of training, ability, competence, and/or inexperience. Although agents expressed hopes that law enforcement officers operate with good intentions, none of them ruled out the possibility of intentional misconduct where an officer knowingly pursues an arrest and conviction against an innocent person. None of the agents reported any knowledge of cases that involved information about poor investigations due to misconduct by law enforcement officers.

Another factor agents thought could lead to incomplete investigations was tunnel vision by investigators. In those cases, officers become fixed on an individual as their primary suspect and often fail to consider other information or leads that do not fit their preconceived theory of what happened in the case. As described by Agent F, "Tunnel vision, I think you get so tied up on one suspect that you lose sight of other leads that might be coming in. And then another one that I see a lot in all kinds of cases everyday is investigators...get a theory in their mind about how something went down, so their investigation and what they do is just as much trying to support their theory as it is to try to catch the right person that did the crime."

Only three of the ten agents listed eyewitness mistakes as a leading cause of wrongful convictions though research has revealed eyewitness mistakes to be a leading cause in the occurrence of wrongful convictions. When questioned about recent recommendations for reform in eyewitness evidence procedures, a majority of the agents agreed with the changes because of the problems associated with eyewitness evidence. So, although not discussed as a leading cause of wrongful convictions, the agents were aware of concerns over the unreliability of eyewitness evidence.

Finally, four agents explained that officers often feel pressure to make an arrest or gain a conviction which can lead to a rush to judgment and a wrongful conviction. Pressure to make an arrest in particularly high-profile cases often comes from prosecutors as well as from the general public. That said, those four agents stated it was still the investigating officer's responsibility not to succumb to outside pressures and not to proceed with an arrest and subsequent prosecution of an individual just to satisfy a prosecutor or the public. As Agent I remarks, "I think it is ok to respectfully disagree with members of the district attorney's office in trying to make sure that everybody is impartial and that we're not cutting any corners; either you have a good case or you don't have good cases; it's just that simple...Just be candid and let the chips fall where they may."

Although other causes of wrongful convictions exist, such as overzealous prosecutors, poor legal representation, and bad laboratory practices, the agents chose to focus on law enforcement problems as major causes of wrongful convictions rather than deflecting attention away from law enforcement. However, agents also were of the

realization that factors outside of law enforcement can play a role in the occurrence of wrongful convictions. They perceived that two closely related factors, race and class, can come into play and have a role in cases of wrongful convictions.

Race and Class

All of the agents perceived that both race and class play a role in wrongful convictions to a degree, but they all argued that class is a more significant factor than race. The agents all thought race is a factor in that minorities typically have less access to resources more often available to whites, such as quality legal representation, but they still saw that as a class issue. This was important because each agent noted that poor legal representation at the time of trial plays a large role in wrongful convictions. As Agent I indicated, “I think that race and class are definitely a factor because virtually every single time a wrongful conviction is brought to print or electronic media, it’s folks African Americans and/or poor folks; lower economic class. It’s never...I won’t say even remotely or rarely...never read about a wealthy person being wrongfully convicted.”

Agent responses indicate a common theme that poverty affects people of all ethnicities and races and that poor people typically cannot afford to hire privately retained counsel. Therefore, poor defendants are left to depend upon the courts to provide them with legal representation. All of the agents suspected that the quality of representation provided by the state is variable and not of the same quality as would be provided by a privately retained attorney. Agent G summarized what was the consensus of the agents: “To me, it’s an economical factor. If you are able to have the best representation, then you got a pretty good chance of making sure everything is equal. But

if you're poor and you're not lucky enough to get a good lawyer, then that's a factor." So, agents recognize that race is a factor, but only because minorities are more likely to be poor. Thus, agents hesitated to recognize overt racial discrimination while openly acknowledging class discrimination.

Only one agent cited preconceived ideas about certain races and classes as possibly playing a role in wrongful convictions. He/she argued that such preconceived ideas could be the belief that minorities and members of lower classes are more likely to have a prior record and prior contact with law enforcement. When a case comes up, police are more likely to begin with individuals who have been in the system before on similar charges and may focus prematurely on these individuals to see if they can be developed into the prime suspect. At the same time, police may not follow up on other leads resulting in the loss of evidence. In addition to a prior criminal history, the suspect may have developed certain attitudes towards law enforcement for varying reasons. So their interactions when police encounter them may be interpreted as hostile or evasive. For some less experienced or poorly trained officers, this "attitude" can be taken as a sign of guilt, causing that officer to work harder to prove that person to be the perpetrator. The result is that the case has been developed to fit a particular suspect based on preconceived ideas about certain races or classes of people.

A common sentiment expressed by the agents was that members of certain racial and class groups are at a disadvantage in the criminal justice system because they have fewer resources at their disposal. The race and class effects on the criminal justice system also are described as a two-edged sword in that whites and members of the upper classes

can more easily avoid punishment for wrongdoings. Those opinions were shared by all of the agents, regardless of race or sex. Agents perceived race and class to be factors in the occurrence of wrongful convictions, but a lesser factor than the factors police have some control over. They clearly distanced themselves from the idea that race and class may play a role in how law enforcement officers engage suspects and placed the responsibility for the effects that race and class may have on wrongful convictions on the criminal justice system in general. The agents were willing to own the wrongful conviction problem except when it came to the effects of race and class.

Responsibility for Wrongful Convictions

All of the agents argued that law enforcement bears a large part of the responsibility for wrongful convictions because they are the ones on the front line getting the information, following up on the leads, and doing the interrogations. Only after the investigation can a case be taken to a prosecutor and a conviction gained. Six of the agents believed that prosecutors also bear some responsibility for wrongful convictions, but not as much because prosecutors base their questions and theories on the information obtained by law enforcement. Agents noted it was the responsibility of investigating officers to corroborate or verify information if any issues concerning questionable statements or information by witnesses arise. However, the agents did not view law enforcement as being solely responsible for wrongful convictions.

Three agents who agreed police bare the primary responsibility for wrongful convictions provided additional thoughts as to where they thought responsibility also could be placed. Agent E argued that if a thorough investigation had been conducted and

no intentional misconduct or obstruction of justice was present, law enforcement did not bear any responsibility. Agent E's opinion on this issue is summed up as follows: "You do your job the best you know how to do it to the best of your ability. You don't lie; you don't cheat. You know, you don't falsify things and let the jury decide what it is. I think if you do that, that's what your job is." Agent H likewise agreed that in his/her opinion, juries also share some of the responsibility for wrongful convictions because in the past he/she has seen juries nullify a case and vote "not guilty" no matter how much evidence of guilt was provided. Agent H commented that if a case had questionable evidence of guilt that a jury did not question before finding a suspect guilty and the case resulted in a wrongful conviction, the jury shared some responsibility for the wrongful conviction.

Agent G provided a different take by stating that the question of responsibility is complex because law enforcement organizations vary from community to community and the scale of training for law enforcement officers also varies greatly. Agent G offered that the public does have responsibility for how well they pay for the training and salaries of law enforcement officers and that the quality of law enforcement and the work they produce is directly related to what a community pays. Agent G did not offer this as an excuse, but did indicate that sometimes the results a community will get is related to what they are willing to pay for; therefore, if a community wants better service and results, they have to be willing to pay to attract better educated and better trained officers who are more capable of producing quality investigations and outcomes.

Although all of the agents indicated that law enforcement was largely responsible for cases that result in wrongful convictions, their opinions as to what would be the

appropriate sanction for officers involved in cases that ended in wrongful convictions were divided into two categories: cases involving unintentional mistakes and cases involving intentional misconduct. All of the agents expressed that officers who worked cases involving unintentional mistakes should not be subject to the same repercussions as officers engaging in intentional misconduct. Cases of unintentional mistakes would include those in which the investigation was thorough and investigators used all of the resources and tools available to them at the time, no intentional actions of malicious prosecution could be found, no one involved in the case purposefully obstructed justice by withholding evidence or information, and the evidence was presented to a jury for decision. As Agent H commented, “Obviously a mistake was made. I don’t put that at the level of where somebody intentionally directed witnesses in a certain way and some of the other things that can occur...If somebody creates an undesired result or unfair result based on ignorance or shoddiness, then that rises to another standard of redress.” The sanctions for cases in which no intentional misconduct is present ranged from civil penalties to requiring additional training for the officer involved and/or removal from being an investigator if the officer was deemed unqualified to be an investigator.

In cases that have been shown to involve deliberate misconduct, all of the agents argued that those same civil penalties should be in play in addition to other harsher penalties. A common theme expressed by all of the agents is best expressed by Agent H: “If they do it deliberately, I think they should be punished civilly and criminally... certainly administratively with regards to the steps their agency would take to render them unemployed. I think that they bring retribution on themselves by knowingly and

intentionally and willfully doing it.” Agents likewise agreed that whether it was an attorney or law enforcement officer, anyone who deliberately subverted a case and knowingly attempted to wrongfully convict someone should be charged criminally and held accountable. However, they also agreed that a potential obstacle to holding law enforcement criminally liable would be the requirement to prove deliberate intent as opposed to incompetence or shoddy police work.

All of the agents agreed that under no circumstances was the wrongful conviction of a few people an acceptable risk society must live with in order to ensure that law enforcement convicts as many suspects as possible. Agent B comments, “I cannot think of any justifiable reason to condemn or convict someone unjustly. So I think the harshest ramifications should be given to that person.” This sums up all of the agents’ sentiments on what should be done in cases involving deliberate acts of misconduct.

Discussions of the agents’ levels of awareness of wrongful convictions revealed they perceived an increase in awareness of wrongful convictions. Although none of the agents has researched this issue, their thoughts on the leading causes of wrongful convictions are in line with what research has shown to be the leading causes. In addition to police performance-related issues, the agents also perceive that race and class play a significant role in the occurrence of wrongful convictions. And based on the agents’ levels of awareness of wrongful convictions, they all hold law enforcement as primarily responsible for wrongful convictions. As a result of this increased awareness of wrongful convictions and the agents’ own feelings of ownership of the wrongful conviction problem, the agents now perceive that law enforcement officers increasingly have

become impacted by pressure for change as a direct result of the increased awareness of wrongful convictions. The pressure for change has impacted both the entire criminal justice system on the larger scale and individual law enforcement officers on the smaller scale.

Effects of Increased Awareness

The agents have observed that the effects from the increased awareness have been seen overall on two levels: effects on policing as an institution and on individual law enforcement behavior. Due to concerns in those two areas, law enforcement officers have found themselves in a position where they have had to determine if they are willing to accept recommendations for changes in the way they go about doing their jobs.

For the agents, the effects from the increased awareness of wrongful convictions have been most felt in policing as an institution and in individual law enforcement officers' behavior.

Policing as an Institution

In relation to policing as an institution, the agents perceived that the increased public awareness of wrongful convictions has most affected modern policing as an institution in two ways: 1) public perceptions of law enforcement and 2) the ability to convict suspects. In both cases, the effects of the increased awareness are perceived by the agents to be negative. The importance of the public's perception of law enforcement cannot be understated because law enforcement cannot properly function if the public does not have trust or faith in law enforcement. And if the public has little confidence in

law enforcement officers and questions their abilities and character, officers' abilities to properly convict suspects will be hampered

Concerns related to this un-intended effect of the increased awareness of wrongful convictions were evident in discussions with the agents. Only three of the agents did not think the increased awareness of wrongful convictions has had a significant effect on public perceptions. Of those agents, one thought the increased knowledge of wrongful convictions has made some question law enforcement more than in the past, but in the agent's view, the general public still has a positive view of law enforcement. Two others agents thought the increased awareness of wrongful convictions had affected only certain segments of the public. Those agents suspected that only individuals who had vested interests in this issue or who were deeply involved in their communities are aware of the issues related to wrongful convictions. He/she states, "I think the majority of people, if it doesn't affect them, they're busy with their lives." Those two agents do, however, think the increased awareness of wrongful convictions has had some negative effect on the perceptions of law enforcement for those specific segments of the population who have vested interests or have kept up with this issue.

However, the remaining seven agents all believed the increased awareness of wrongful convictions has had some negative effect on the general public's perception of law enforcement and the criminal justice system. The agents reported negative effects on law enforcement and the criminal justice system that include: the tarnishing of law enforcement's credibility, loss of public trust in law enforcement and the criminal justice system, and less public confidence in law enforcement's abilities and competence.

Due to this increased doubt as to the credibility of law enforcement, the agents perceive that the public has grown more dubious of law enforcement's motives, means, and methods. They also think the public questions law enforcement more and requires from them a higher burden of proof to show someone actually has committed a crime. For example, Agent I notes, "There was a time when if a police officer said this happened, a jury pretty much agreed. Now I think police officers are under attack more not only in the mind of jurors, but also by defense attorneys." These comments reflect the general sentiment of the other seven agents.

A division existed amongst the agents in regard to whether or not the increased awareness of wrongful convictions has had some effect on law enforcement's ability to convict suspects; six agents noted a negative effect on law enforcement's ability to convict and four agents disagreed, indicating no negative effect. The six agents who responded that wrongful convictions have made it more difficult to convict suspects all think it goes hand-in-hand with the negative effects wrongful convictions have had on the general public. One agent stated that due to increased awareness of DNA and some of the crime shows like *CSI*, the public may sometimes now have unrealistic expectations of what law enforcement can and should do, something often termed the "CSI effect" (Houck 2006). That agent cited as an example that, because of shows like *CSI*, juries often now expect DNA evidence in every case, even though DNA evidence or physical evidence is not present in every case. Agent G noted from his/her experiences that these heightened expectations now affect what prosecutors are willing to take on as cases for prosecution. Agent G stated, "I think in some ways now, if there is no physical evidence,

prosecutors don't want to even be...they'll either plead out or dismiss it. And I think due to a lot of recent events, prosecutors are looking for a perfect case and if you can't provide them with something that's almost perfect, it's not going anywhere. I think a circumstantial case now would be much more difficult." Agent E concurred with Agent G, "I think you really have to have your ducks in a row and you really have to have your T's crossed and I's dotted and you have to make sure everything has been done that could possibly be done and even then, sometimes it's not enough."

The four agents who did not think wrongful convictions had made it more difficult to convict suspects still perceive that the increased awareness of wrongful convictions have had some effect on investigations and court proceedings. As noted by Agent K, a perception exists that the attention wrongful convictions has gotten from the media has educated the general public to a point that they are more aware of law enforcements' capabilities, and the public has increased expectations that law enforcement will be professional and perform their jobs correctly. Those agents expressed a view that wrongful convictions have led to more scrutiny of law enforcement. In their opinions, law enforcement has had to change how some functions are performed and some tools used. But, these agents did not necessarily see the extra scrutiny or changes as negatives because they could possibly lead to a more thorough investigation. The following statements by Agent B reflect the thoughts of these four agents that the scrutiny from wrongful convictions can lead to officers improving their investigations and work products, "I think it would definitely make it tougher on the stand, but I don't think necessarily it would make it tougher in convicting in that if you

have an ironclad case and you have crossed all your T's and dotted all your I's and made sure you've followed every lead that you can that takes you everywhere that you need to go and still brings you back to this person, I think your case itself will stand on its own merit."

A consensus was uncovered in the agents' responses that the increased awareness of wrongful convictions has had an effect on the nature of modern policing. Although to varying degrees in some cases, all of the agents were of the opinion that the effects felt from the increased awareness of wrongful convictions have been negative in two primary areas related to policing: 1) the public's opinions of law enforcement officers and 2) law enforcement officers' abilities to convict suspects. The agents perceive the most harmful of these negative effects to be the changing of the public perception of law enforcement officers. The agents expressed a belief that law enforcement officers in times past were more highly regarded by the general public, but the increased eroding of public confidence and faith in law enforcement officers, due in part to the increased focus on wrongful convictions, has directly affected law enforcement officers' abilities to do their job, particularly in relationship to convicting suspects. Without offering any evidence of this being the case, the agents speculated that the increased awareness of wrongful convictions have made it more difficult to properly convict suspects.

Changes in Law Enforcement Behavior

In addition to the effects the increased awareness has had on the institution of policing, the agents believe the effects have trickled down and have been felt by individual officers. The result has been changes in the way law enforcement officers go

about doing their jobs. Although agents reported differing opinions as to the level and amount of change in their behaviors, they all expressed or recognized that changes have come about in the way law enforcement officers do their jobs in response to this increased awareness. Different from the negative perceptions the agents had of the effects that the increased awareness of wrongful convictions has had on policing in general, they viewed the changes that have come about in law enforcement behavior more favorably. For the most part, agents all reported the changes in law enforcement officers' behaviors as being positive and improving the way they do their jobs.

Agents most often reported that the most notable change in their own behavior is that they now make a conscious effort to make sure they have been as thorough as they can be. The increased thoroughness includes making sure they follow up on and exhaust every lead that comes in, increasing the amount of documentation in their files, and use of all available tools available to them, including laboratory testing on any potential evidence, in particular, DNA. The agents indicated that they thought these increased efforts to be more thorough would produce better quality investigations and greater fairness. Agent H's statements, "I feel an increased obligation to do the most fair and thorough and just job that I can. I don't do that from the standpoint that feeling like somebody is looking over my shoulder and I'm going to get in trouble with my agency, but because it's just the right thing to do." This is consistent with the other agents' views that law enforcement should do everything possible to ensure that they have eliminated innocent people from being prosecuted.

Five agents also reported that they are now more cautious and tentative about what they do in their investigations. One agent reported that cautiousness has caused him/her to lessen his/her rush to judgment and rush to make an arrest. Another agent reported the increased caution created an added pressure of trying to be perfect, although the agent felt there was no way law enforcement could be perfect. Out of becoming more cautious and tentative, the agents also reported they have become more reflective and have tried to learn from others' mistakes. That sentiment was reflected in Agent K's statements: "I think anytime you can learn from another agency's or individual investigating officer's mistakes ...say hey, am I doing it right, am I doing it the best way I know how, and am I doing it the best way I can...you know always want to be improving and never compromising your integrity for a case." The agents also indicated the increased awareness of wrongful convictions has enlightened officers of the fact that law enforcement needs to do more with its new officers in training to make sure that they are aware of the issue and the best ways to reduce the likelihood of wrongful convictions.

Although the majority of the agents viewed these changes as positive, one agent commented on reservations about some of the changes law enforcement has had to implement. In Agent H's opinion, the changes have resulted in a burden to be redundant in order to convince the public and juries of the guilt of suspects. Agent H asked, "How much evidence is enough to show this person is guilty beyond a reasonable doubt...which is our standard...how much is reasonable?" Agent H commented that he/she supports and recognizes the importance of ensuring the correct people are prosecuted for crimes, but the established legal requirement is "guilt beyond a reasonable

doubt” and not “guilt beyond all doubt.” Agent H continued by saying, “And as far as a minus, I think out of a motivation, a pure motivation for doing the right thing and wanting to be sure that we treat people as fairly and equitably as possible, I think it’s also had a negative impact in that I think the pendulum sometimes has swung...has a tendency to swing too far the other way where we’re bending over too much for the defense lobby and the defense attorneys because in a desire to appease and to make sure we do everything to ensure fairness and thoroughness, I think sometimes some of the methods we have introduced have been needlessly tedious to try to satisfy that requirement.”

The agents consistently relate their belief that the increased awareness of wrongful convictions has affected individual law enforcement officers’ behaviors, just as it has affected policing as an institution. But, the most notable difference is the agents perceive the changes in individual officers’ behaviors as positive rather than negative. Agents view the changes in law enforcement behavior as positive and improving the way they do their jobs. Due to the agents’ earlier reflections that they viewed law enforcement as primarily responsible for wrongful convictions, the agents articulated a willingness to alter the way they have been taught to do things, not because policy has dictated they will, but because they see it as the right thing to do. The willingness to change their behaviors and openly address the wrongful conviction problem allow law enforcement officers to help slow down the effects felt from the public’s eroding confidence in law enforcement officers.

Responses to the Increased Awareness

Agents offered their perceptions of the appropriateness of the reforms related to the prevention of wrongful conviction that have come about in response to the increased awareness of wrongful convictions. Agents commented specifically on two of the more widely accepted reforms in police practice that have been adopted by law enforcement agencies around the country that were discussed earlier: reform in eyewitness evidence procedures and the recording of interrogations. The agents also were free to discuss other reforms or recommendations for reform they knew of. It should be noted that since the time of the agents' interviews, North Carolina Governor Mike Easley signed into law new legislation that requires law enforcement agencies in North Carolina to adopt new eyewitness lineup procedures recommended by the Actual Innocence Commission and to record custodial interrogations in homicide investigations.⁵ These pending changes in the law were not discussed in the interviews.

That said, a consensus existed among all of the agents that the recommended reforms in eyewitness lineup procedures were positive. None of the agents reported thinking the changes in eyewitness evidence procedures would make their jobs harder or make it more difficult to convict suspects. The agents commented that in light of the reported unreliability of eyewitness accounts, anything that could refine the process would make it fairer for the defendants and give more credibility to law enforcement and prosecutors when the cases went to court. Statements by Agent K captured the common theme reported by the agents concerning the importance of improving the reliability of eyewitness evidence: "I think the new way is definitely improved and better and it puts a

lot...it makes it so that the person who identifies them goes through a lot to get it right, which is what you want.”

Although the general consensus was the new eyewitness lineup procedures were an improvement, two agents expressed some concern about one particular element of the new procedure that requires an independent officer to administer the lineup who does not know anything about the case or identity of the suspect. They indicated concern that an officer who is not involved in the case could possibly miss something, such as a reaction or a non-verbal cue from a witness, that someone involved in the case could pickup on. Those concerns aside, those two agents still agreed the new procedures are most likely a better way to conduct eyewitness lineups.

In regards to their opinions concerning recording interrogations, the agents’ responses towards this reform provided the most unexpected results. Only two of the agents reported they were completely in favor of recording interrogations without any reservations. Those two agents thought the recording of interrogations would give law enforcement more credibility when questions arose as to whether or not a suspect really said what he or she had been reported to have said. The other eight agents reported, in varying degrees, reservations about having to record interrogations. Given that most of the agents’ responses had to that point been supportive of reform, this reticence came as a surprise. It is possible that the agents’ doubts about this recommendation are shaped by the fact that the SBI has a policy that does not allow agents to record interviews or interrogations, but instead to rely on their notes as documentation of what was said during an interview or interrogation.

The reservations about recording interrogations ranged from mild to almost complete rejection of the idea. A few of the agents expressed reservations about recording interrogations only because they have never done so and are worried about the logistics of recording. An example of such a mild concern offered by an agent was a question about how law enforcement officers should proceed in cases when they may be conducting an interview with someone at the person's residence, on the street, or in the officer's vehicle. Sometimes, in such situations, a person makes an admission that changes him/her from a witness to a suspect. The agent questioned if agents were supposed to stop the interview and try to get the person to come to the office and resume the interview so it can be recorded? The agent argued that this could open them up to additional scrutiny and attack because an attorney could argue that an entire interrogation had not been recorded, and therefore, the officer must be hiding something, even though the encounter did not start off as an interrogation that was required to be recorded.

Another agent expressed a more serious concern that, in some cases, informing witnesses or suspects that they are being recorded could have an intimidating effect, causing them to be more reluctant to speak to law enforcement. Three agents discussed concerns that in some cases the general public may not understand some of the lawful tactics employed by law enforcement that may be revealed during a recorded interview or interrogation, such as lying to a suspect or using trickery. These agents were concerned that this lack of understanding by the public may cause them to look upon law enforcement negatively and become more critical of law enforcement, even though they had done nothing wrong.

Although eight of the ten agents expressed some reservations about recording interviews and/or interrogations, each of them indicated that they foresaw a time in the future when law enforcement would move in that direction and they would in all likelihood be required to start recording. As Agent D commented, “I just think it’s coming and I’ll just try to look at it from a positive standpoint that assuming that you do your job right, it’s going to be something that’s going to help you in court.” Again, the comments by the agents on this issue were prior to the new legislation being signed into law.

The agents recognize that the reforms in police practice have come about as a direct result of the increased awareness of wrongful convictions. They appeared willing to accept the most widely and accepted recommended reforms involving eyewitness evidence and recording interrogations. Almost unanimously, the agents related that the new procedures for presenting photo lineups were a better method for presenting that type of evidence. Although many of the agents expressed reservations about the recording of interrogations, none of them provided any knowledge of actual cases that involved problems with recordings and they all recognized that law enforcement would in all likelihood go in that direction. The agents expressed a willingness to accept whatever reforms or rules were put in place that were designed to improve the way law enforcement does its job.

The reforms that are currently in place were viewed by agents as beneficial and the agents were optimistic that the changes would help reduce the number of wrongful convictions that occur. Although none of the agents thought wrongful convictions could

ever be completely eliminated, they agreed with the reforms and the idea that attempts should be made to reduce the likelihood of wrongful convictions occurring. One agent commented that the reforms that had been adopted leveled the playing field for suspects and defendants and made the system fairer for them. Statements by agents were reflective of the belief that the increased awareness of wrongful convictions and reforms that have caused more scrutiny of law enforcement also have led to more thorough and complete investigations by law enforcement officers, which are beneficial for defendants, law enforcement, and the criminal justice system.

Conclusion

Discussions of the agents' awareness levels of wrongful convictions revealed the agents were cognizant of the increased awareness of wrongful convictions that has occurred over the past decade as documented by various sources. The agents' increased awareness of wrongful convictions has caused them to become reflective as they have looked at their own behavior and institution to determine what the leading causes of wrongful convictions are. The agents have examined the role race and class plays in the occurrence of wrongful convictions while trying to determine who or what is ultimately responsible for wrongful convictions.

They perceive with some certainty that the increased focus on wrongful convictions has translated into an increased public awareness of the issue that has ultimately had a direct effect on the criminal justice system in positive and negative ways. The perception exists among the agents that the most serious side effect of the increased awareness of wrongful convictions has been the negative effect it has had on

policing as an institution in regard to public opinions of law enforcement officers. The agents believe that public perceptions are more negative, eroding public confidence in law enforcement officers. Agents perceive that a direct consequence of the negative public opinion of law enforcement is an increased difficulty in doing their jobs when it comes to properly convicting suspects.

The changes in law enforcement officers' behaviors and the way they do their jobs is a direct by-product of the increased awareness of wrongful convictions. Considering the agents believe that law enforcement is largely responsible for wrongful convictions, it is fitting that they recognize and accept the need for changes in certain aspects of how they do their jobs. Agents anticipate that the recommended reforms will be beneficial and make the system fairer for suspects, law enforcement officers, and the criminal justice system. Although the agents perceive the increased awareness of wrongful convictions has had a negative effect on policing as institution, they unexpectedly view that same increased awareness as having a positive effect on individual officers' behaviors. A common thought existed amongst the agents that the increased awareness has resulted in more scrutiny of law enforcement officers' behaviors and the ways they perform their jobs. The agents think this increased scrutiny has led to officers becoming more careful and more thorough in their investigations which could lead to better certainty of suspects' guilt and fewer wrongful convictions. Because agents think law enforcement is primarily responsible for wrongful convictions, they judged the recommendations for reform in police practices as appropriate and were receptive of

those recommendations because they were intended for the betterment of the entire criminal justice system.

CHAPTER VI

DISCUSSION

Similarity of Responses

Interestingly, little variation appears in the interviewees' responses. With only a few exceptions, the agents basically agreed on most everything discussed. Unexpectedly, the agents agreed that law enforcement is partially, if not primarily, responsible for wrongful convictions and shares a great deal of the responsibility for wrongful convictions. Prior to conducting this study, I expected that rather than readily accepting this conclusion, the agents would have been hostile to that conclusion and rejected the idea that law enforcement is a large part of the problem. However, the agents in this study were receptive to ideas for reform and improvements in the way law enforcement does its job. A question to be answered regarding these findings is what can potentially explain the agents' consistent responses?

A possible explanation for the results involves the professional status of this sample of interviewees. By professional status, I refer to the fact that among law enforcement officers in North Carolina, SBI agents have traditionally been viewed as the most professional of the law enforcement officers at the state or local level. This professional status consists of two components: education and training.

SBI agents are subjected to additional hiring requirements that most other state and local law enforcement officers do not have to meet. The SBI is the only law

enforcement agency in North Carolina at the state or local level to require its law enforcement officers to have at minimum a four-year college degree as a condition for employment. No current data could be located on the percentage of law enforcement officers in the state who have four-year degrees, but it is likely the percentage is much smaller than the 22% of North Carolina residents who have four-year degrees (North Carolina Rural Economic Development Center 2007). This education requirement is one of the factors that separates SBI agents from the vast majority of other law enforcement officers in the state. In 2004, North Carolina had 20,973 full-time sworn law enforcement employees and SBI Agents made up less than 2% of those officers (Reaves 2007).

The argument could be made that officers with higher education levels have had greater exposure to a variety of viewpoints and different ways of thinking while in college than have officers who never went to college. That exposure to different ideas of how and why things occur and how things can be improved likely results in officers who are critical thinkers and receptive to considering viewpoints and opinions that are different from their own. This openness possibly plays a role in their willingness to accepting responsibility for the wrongful conviction problem and being receptive to new ideas of how police work can be improved.

The second component of the professional status of SBI agents that may play a part in the similarity of the agents' responses is related to the amount of training the agents go through, often times together. Each of the agents interviewed in this study began their careers with the SBI by attending, at a minimum, a 14-week special agent training academy. The new agents who were not law enforcement officers prior to

coming to the SBI began their careers with the SBI by attending twelve weeks of basic law enforcement training in addition to the special agent training academy. In the academy, agents received instruction on legal issues and investigative practices. After completion of the academy, agents are required to attend additional training and legal seminars throughout the course of their careers. In many cases, agents attend many of the same criminal investigation courses and annual in-service training. The time spent in the academy, what the agents have been taught, and the experiences the agents have shared in training and working together for years have in all likelihood shaped the agents' viewpoints on law enforcement-related practices. Both of these factors- education and training- may account for the lack of variation in the agents' responses and their willingness to take ownership of the wrongful conviction problem.

Stocks of Knowledge

While the education and training shared by the agents possibly explains why very little variation was uncovered in the agents' responses, it does not account for why the agents unexpectedly displayed a willingness to accept reforms for changes in their practices that may go against everything they were taught in the academy and against everything they have learned throughout their careers as the best ways to conduct criminal investigations.

Law enforcement officers are taught and learn their "tricks of the trade" in law enforcement academies and during field-training programs on the job. The techniques they learn to successfully perform their jobs can be thought of as their "stocks of knowledge." Stocks of knowledge can be defined as the knowledge an individual has at

his/her disposal for knowing about and negotiating his/her way through the world (Schutz 1967). Stocks of knowledge are somewhat similar to hegemony- the spreading of values, attitudes, beliefs and morality that become a society' prevailing consciousness of what is right and what is wrong. Law enforcement officers' ideas of what is the right and wrong way to do things must satisfy the law enforcement world, but at the same time meet with what the outside public views as the correct way to navigate through both the law enforcement world and the everyday public world without violating either world's consciousness of what is right and wrong. As long as people can satisfactorily navigate through their daily lives, people take the validity of their knowledge for granted and are ready to suspend doubt about that knowledge or alter what they know as the best way to conduct business and their lives (Berger and Luckman 1967).

In terms of law enforcement officers, prior to the increased attention to wrongful convictions, law enforcement officers had been able to dismiss claims of wrongful convictions as being infrequent and isolated cases, as they continued to navigate their business and daily lives as they always had. However, with the relatively high number of individuals who now have been exonerated by DNA, indisputable evidence exists that wrongful convictions are not isolated or infrequent events. Wrongful convictions have been brought to the forefront as an example of what is wrong with the criminal justice system, and law enforcement can no longer deny they occur or refuse to accept wrongful convictions as a serious issue. The increased awareness of wrongful convictions over the past decade, as shown earlier by the different sources in this study, has created for SBI agents a new socially constructed reality that wrongful convictions are, in fact, a problem.

Confronted with this evidence, law enforcement officers have had to accept reforms for changes to some of their practices and adjust their stocks of knowledge as to how to successfully navigate through their daily lives as law enforcement officers.

Although law enforcement officers have received hours of lecture and reinforcement on investigative techniques that have been used, those techniques are only part of the secondary socialization and role specific knowledge that officers have acquired. The important distinction between primary and secondary socialization is primary socialization occurs during childhood when an individual's first world is constructed and it involves internalization of a reality that is apprehended as inevitable, whereas secondary socialization occurs later and involves internalization of institution-based sub-worlds and the acquisition of role-specific knowledge (Berger and Luckman, 1967). Because this knowledge of how law enforcement officers have conducted themselves in the past is secondary as opposed to primary knowledge, that knowledge is less deeply rooted in law enforcement officers and therefore more susceptible to displacement by new ideas (Berger and Luckman 1967). Law enforcement officers' interactions with others in everyday life are constantly affected by their common participation in the available stocks of knowledge. For law enforcement officers' stocks of knowledge to remain legitimate, agents' stocks of knowledge must be shared by and in line with the public they serve (Berger and Luckman 1967). Due to the public's increasing view that wrongful convictions are a problem, law enforcement officers have had to alter and align their ways of navigating through their daily lives as law

enforcement officers with what the public sees as appropriate. In the case of this study, the agents who were interviewed exhibited a willingness to do just that.

Expanding the Sample

As stated previously, the professional status of the SBI agents selected for this study separated this sample from the vast majority of other law enforcement officers in the state. For that reason, expanding the sample of law enforcement officers could potentially yield more variation in responses that are more representative of law enforcement officers' opinions on this issue. The sample could be expanded to include law enforcement officers at all levels from departments throughout the state based on additional criteria that include considerations for: 1) different geographical areas of the state; 2) different education levels of the officers; 3) different lengths of time employed as a law enforcement officer; 4) different department sizes; 5) increased representation of female officers; and 6) increased representation of different racial categories.

The added criteria offer the possibility of obtaining a wider range of responses and opinions that possibly can be generalized to other law enforcement officers in the state. With a more diverse sample of law enforcement officers, the question of whether law enforcement as a whole would be willing to alter their stocks of knowledge and adjust their everyday taken for granted lives can be better assessed. It is the opinion of this researcher that accounting for different education levels would have the most effect on the responses obtained. I think law enforcement officers with higher educational levels would be most receptive to reforms and changes in police practices due to their exposure to a variety of viewpoints that may be different from their own. It is likely that law

enforcement officers who have not attended college have less exposure to different ways of thinking and therefore would be less open to recommendations for new ways of doing things.

CHAPTER VII

CONCLUSION

In this study, after reviewing popular media and literature sources, I established that an increase in the amount of public awareness of the wrongful conviction issue during the ten-year period between 1996 and 2005 had occurred. Once I established this increase, I conducted interviews with ten North Carolina State Bureau of Investigation Special Agents who have been employed as law enforcement officers since 1995 or before to obtain their perceptions on three research questions. I asked the agents: 1) How has the recent surge of public awareness of wrongful convictions affected modern policing as an institution? 2) Do law enforcement officers perceive their behaviors have changed in response to the increased awareness of wrongful convictions? and 3) What are officers' perceptions as to the appropriateness of any changes they have made?

Agents indicated that they recognized the increase in the amount of attention paid to wrongful convictions. The agents reported thinking this increased awareness has had some effect on modern policing as an institution in two areas: public opinions of law enforcement and police behavior. The agents were of the opinion that the increased discussion of wrongful convictions has had a negative effect on the public's trust and faith in law enforcement, meaning the public is less trusting and more skeptical of law enforcement which has the potential to make convictions harder to obtain. The agents

viewed this increased awareness and distrust of law enforcement as the leading catalysts for reforms in the way law enforcement officers do their jobs.

Agents reported that they perceived law enforcement officers' behavior have changed in response to the increased awareness of wrongful convictions. The overall opinion of the agents was that they have become more cautious and now make more conscious efforts to ensure they are prosecuting the correct individuals. The agents added that they suspected increased efforts to be more cautious and thorough have led to fairer and more thorough investigations that benefit everyone involved in the criminal justice system. The general consensus was that the reforms recommended to improve police investigations have been appropriate. The agents were not opposed to additional reforms needed to address specific issues because they were of the opinion that the current reforms in law enforcement practices will likely lead to improvements in the quality of justice.

The results obtained in this study allow for future study and expansion. First, this study can be expanded to include a more representative sample of law enforcement officers throughout the state, and if possible, across the nation so that responses can be compared based on different geographical areas in which officers are employed. A second way this study can be expanded is to include questions that require law enforcement officers to take responsibility for the problem and have them offer suggestions as to how law enforcement officers can help address the problem and reduce the likelihood of wrongful convictions.

This limited research shows that law enforcement officers are aware of wrongful convictions as a problem for the criminal justice system and for them in terms of the public's perception of them. This research also demonstrates that officers are willing to accept a large part of the blame for this problem and that they are open to recommendations of how they can improve the ways they do their jobs. Although law enforcement is a part of the wrongful conviction problem, they also can be a part of the solution to reducing wrongful convictions and helping to fix the problem. In order to make change, law enforcement officers have to become involved in the wrongful conviction issue and realize that they have a role to play in helping to change the worldview to recognize that wrongful convictions do occur with some frequency and that law enforcement plays a part in how wrongful convictions come about. Until this happens and officers as a whole to buy into and accept for themselves that the wrongful conviction problem is bigger than they think, efforts to have true policy changes and reforms in law enforcement officer behavior to help reduce and prevent wrongful convictions will remain difficult.

ENDNOTES

¹ The Uniform Crime Reporting (UCR) Program's Crime Index is composed of selected offenses used to gauge fluctuations in the volume and rate of crime reported to law enforcement. The offenses selected to make up the Crime Index are the Part I crimes—the violent crimes of murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, and the property crimes of burglary, larceny-theft, motor vehicle theft and arson; http://www.fbi.gov/ucr/cius_02/html/web/offreported/02-ncrimeindex01.html.

² Reversible errors can involve any compromise of the constitutional rights of the accused or the rules of criminal procedure. Reversible errors can result in the overturning of a conviction and a new trial for a defendant (Westervelt and Humphrey 2001; Liebman et al. 2000). Reversible errors, however, do not automatically indicate a wrongful conviction, i.e., the conviction of a factually innocent person. No doubt, a number of these cases of reversible error do though involve factually innocent defendants.

³ DPIC's "innocence" list includes only cases that involve former death row inmates who have: a) been acquitted of all charges related to the crime that placed them on death row, or b) had all charges related to the crime that placed them on death row dismissed by the prosecution, or, c) been granted a complete pardon based on evidence of innocence (DPIC 2006).

⁴ Ronald Cotton was convicted in 1987 for a 1984 burglary and rape. He was exonerated by DNA in 1995. Darryl Hunt was convicted in 1985 for a 1984 murder. Hunt was exonerated in 2004 by DNA (Innocence Project 2007). Alan Gell was convicted in 1998 for a 1995 robbery and murder. He was acquitted in 2004 at retrial (Death Penalty Information Center 2007).

⁵ On August 23, 2007, Governor Michael Easley signed into law House Bill 1625 (Eyewitness Identification Reform Act) and House Bill 1626 (Electronic Recording of Interrogations); (<http://www.ncleg.net>).

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Appendix A. Consent Form

UNIVERSITY OF NORTH CAROLINA AT GREENSBORO
CONSENT TO ACT AS A HUMAN PARTICIPANT: LONG FORM

Project Title: “Policing in the Era of Increased Awareness of Wrongful Convictions:
Police Officers’ Reflections on Institutional Change, Public Pressures
and the Nature of Modern Policing.”

Project Director: Kanawha Perry

Participant’s Name:

DESCRIPTION AND EXPLANATION OF PROCEDURES:

You are being asked to participate in a research study about wrongful convictions and whether the increased attention to them of late has had any effect on law enforcement officers’ practices. You were selected as a possible participant because only persons who have been in law enforcement roles for at least 11 years and have conducted criminal investigations, including homicide and/or sexual assault investigations, between 1996 and 2005 were selected for this study. Law enforcement roles for this research are defined as individuals who have been sworn as law enforcement officers and assigned the responsibilities for conducting criminal investigations, arresting offenders, and testifying in courtroom proceedings determining guilt or innocence.

The purpose of this research project is to determine: 1) How has the recent surge of public awareness of wrongful convictions affected modern policing as an institution?, 2) Do law enforcement officers perceive that their policing practices have changed in response to the increased awareness of wrongful convictions?, and 3) What are officers’ perceptions as to the appropriateness of any changes they have made?

If you agree to participate in this research, you will be asked to participate in one interview that will be audio-recorded. The interview will take place in the conference room located in your office and it will last approximately one hour. The interviews can be conducted in another location if you prefer another location. I have received permission from Director Robin Pendergraft to conduct this research in this office, although Director Pendergraft does not know who exactly is participating. You will not receive any rewards for participating nor will it be held against you in any way with regard to your job performance. No information that we discuss today will be provided to anyone in the SBI. What you tell me will be held in the strictest confidence. If you are involved in an investigation that is alleged to involve a wrongful conviction and subject to litigation, we will not discuss any case specific details related to that investigation.

The records of this research will be kept confidential. No information will be included in any written materials that will make it possible to identify a participant in this research project. When discussing your responses in written materials, you will be referred to with a pseudonym. Only I will have access to the list of participants and their pseudonyms. Research records will be maintained in a locked file cabinet in my residence and access to data and the identity of participants will be limited to me. Transcripts stored in computer files will be password-protected. As the principal investigator, I am required by federal law to maintain this signed consent form for a period of time at least three years after this research is completed. This consent form and anything containing your name will be destroyed by shredding after a period of time no less than three years after this research has been completed. The anticipated completion date for this research and submission of this thesis project is December 2007 or sooner. Cassette recordings will be erased. Transcribed data will be maintained indefinitely to allow for the writing of the thesis and possible future publications out of the data.

RISKS AND DISCOMFORTS:

There may be minimal risks or discomforts associated with your participation in this research project. My job assignment with SBI Professional Standards Division potentially may cause you to be reluctant to express your opinions with candor. You may feel uncomfortable expressing your true opinions because you do not know my opinions about this issue. If my assignment in the SBI Professional Standards Division causes you any discomfort, we can discuss any concerns you have before proceeding. All statements and responses made to me will remain confidential, and they will be analyzed and used solely for the purposes of this research. Nothing you say will be used in the workplace or be related to any of my or your work functions.

If at any point during the interview you would like to take a break, the interview will be stopped and then resumed after a sufficient period. You should feel free to ask questions at any point in the interview.

If you are aware of any misconduct, withholding of information, or anything that can be considered obstruction of justice by any law enforcement personnel, witness, or prosecutorial staff involved in a criminal investigation or prosecution and you choose to disclose that information to me, I will be required by SBI policy to breach this confidentiality agreement and report that information and the identity of the person reporting the information to the Professional Standards Division and to Director Pendergraft for a determination if further action is necessary.

POTENTIAL BENEFITS:

The benefit for participants relates to becoming more aware of and educated about an issue that affects the criminal justice system and law enforcement officers' ability to

effectively do their jobs. Participants may become more aware of the causes of wrongful convictions and the ways to help prevent them from occurring.

The potential benefit for society is to encourage law enforcement officers to reflect on the way they do their jobs and prompt them to think of ways to better do their jobs, potentially increasing their ability to better serve the public.

COMPENSATION/TREATMENT FOR INJURY:

There will be no compensation for participation in this research.

CONSENT:

By signing this consent form, you agree that you understand the procedures and any risks and benefits involved in this research. You are free to refuse to participate or to withdraw your consent to participate in this research at any time without penalty or prejudice; your participation is entirely voluntary. Your privacy will be protected because you will not be identified by name as a participant in this project.

The University of North Carolina at Greensboro Institutional Review Board, which ensures that research involving people follows federal regulations, has approved the research and this consent form. Questions regarding your rights as a participant in this project can be answered by calling Mr. Eric Allen at (336) 256-1482. Questions regarding the research itself will be answered by calling Kanawha Perry at 336-339-4758. Any new information that develops during the project will be provided to you if the information might affect your willingness to continue participation in the project.

By signing this form, you are agreeing to participate in the project described to you by Kanawha Perry.

Participant's Signature*

Date

Principal Researcher's Signature

Date

Appendix B. Questionnaire

“Policing in the Era of Increased Awareness of Wrongful Convictions: Police Officers’ Reflections on Institutional Change, Public Pressures and the Nature of Modern Policing.”

Interview Schedule

This is a general guide to questions. I hope to get responses to most of these; however, I am aware that officers may answer more than one question at once. I will be sensitive to this and will skip questions on the schedule that have been answered by them earlier on.

Statement of Understanding for Participant (will read to Participant):

As previously discussed with you in the consent form, your identity and what is discussed during this interview session will remain confidential. However, if you are aware of any misconduct, withholding of information, or anything that can be considered obstruction of justice by any law enforcement personnel, witness, or prosecutorial staff involved in a criminal investigation or prosecution and you choose to disclose that information to me, please understand that I will be required by SBI policy to breach our confidentiality agreement and report that information and the identity of the person reporting the information to the Professional Standards Division and to Director Pendergraft. Given that, please do NOT report any forms of misconduct about which you may be aware to me during this interview.

General Questions

1. How long have you been employed in law enforcement? How long with the SBI?
2. What types of assignments have you worked with the SBI?
3. What law enforcement experience have you had conducting criminal investigations, including homicide and sexual assault investigations between 1996 and 2005?

General Knowledge of Wrongful Convictions

4. Give your definition of what wrongful convictions are.
5. In your opinion, has there been an increase in the amount of media focus and/or public attention given to wrongful convictions since you have been on the job?
6. How often do you think wrongful conviction occur?
7. What factors or conditions do you think lead to or contribute to wrongful convictions?

8. To what extent do you think race and class factor into wrongful convictions?
 9. Can you recall your first recollection of a case that involved a wrongful conviction?
 10. What did you think about the case?
- I. How has the recent surge of public awareness of wrongful convictions affected modern policing as an institution?
11. Do you think wrongful convictions have affected the general public's faith in law enforcement? If so, how so?
 12. Can you think of any ways that this increased awareness has affected the criminal justice system?
 13. Can you think of any ways that this increased awareness has affected your thoughts on how police work is done?
 14. Do you think wrongful convictions have made it more difficult to convict suspects?
 15. What are your thoughts towards individuals who have been wrongfully convicted?
 16. In general, what do you think, if anything, about non-law enforcement individuals, such as eyewitnesses and informants, who play a role in bringing about wrongful convictions?
 17. Do you think the number of individuals exonerated from death row due to evidence of their innocence has affected the public's views towards law enforcement and the criminal justice system? If so, how so?
 18. What effect have exonerations from death row had on your views towards law enforcement and the criminal justice system?
 19. In your opinion, should more or less attention be given to wrongful convictions and the individuals who have been wrongfully convicted? Why?
 20. In your opinion, what should be done for individuals who have been wrongfully convicted?
 21. Without revealing any specific instances of misconduct, what, if anything should be done with an individual who plays a role in bringing about a wrongful conviction due to deception or deliberate misinformation?
 22. What is your response to the belief by some that the possibility of wrongful convictions is an acceptable risk that society must live with in order to make sure we convict as many offenders as we can?

- II. Do law enforcement officers perceive their behaviors have changed in response to the increased awareness of wrongful convictions?
23. In general, do you worry about doing something that might lead to someone being wrongful convicted? Why or why not?
 24. Can you think of any ways in which concerns about wrongful convictions have affected the way you do your job?
 25. Can you describe anything you do differently now when conducting criminal investigations that you did not do prior to your increased awareness of wrongful convictions?
 26. Do you think you have to take any additional measures to help ensure an investigation does not result in a wrongful conviction? What measures?
 27. Considering the data obtained from research documenting the frequency of wrongful convictions that are related to eyewitness errors, what are your thoughts about the use of this type of evidence as your only evidence in criminal investigations?
 28. Considering the data obtained from research documenting the frequency of wrongful convictions that are related to false or coerced confessions, what are your thoughts about the use of this type of evidence as your only evidence in criminal investigations?
 29. Have the problems associated with fraudulent testimony by informants caused you to have concerns about using informants? If so, what?
 30. Are there any additional measures you take to verify informant information that you did not take before your increased awareness of wrongful convictions?
 31. Do you have any thoughts about law enforcement officers who have been shown to intentionally help bring about wrongful convictions because of misconduct, withholding evidence, or lying?
 32. Without revealing any specific instances of misconduct, what should happen to law enforcement officers who help bring about a wrongful conviction by deliberate, illegal or unethical actions?
 33. How much responsibility do you think law enforcement should bear for cases that result in wrongful convictions?
- III. What are officers' perceptions as to the appropriateness of any changes they have made?
34. What are your opinions on the recommendations made to reduce wrongful convictions that have been made in the areas of eyewitness evidence and law enforcement interrogations?

35. Are you aware of any other reforms or changes in police practices that have been proposed or enacted as ways to reduce wrongful convictions? What?
36. What do you think about these reforms?
37. Do you think these changes will really make a difference?
38. Do you think these changes make your job easier or harder or both?
39. Do you think these changes give too many benefits to suspects?
40. Do you think more or fewer reforms and safeguards are needed to reduce the likelihood of wrongful convictions occurring? Why?

Closing Question

41. Are there any other thoughts you want to share on this topic?
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