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The color of confinement: examining youth exoneration decisions and the critical race theory

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ABSTRACT

The critical race theory has been predictive of how minority youth are treated in the juvenile and criminal justice systems in the United States. However, the theory has not been applied in explaining the existence of wrongful convictions among juveniles. Using secondary data derived from the National Exoneration Registry, the purpose of this study is to identify specific factors (e.g., DNA evidence, etc.) related to the wrongful convictions of Black youth who have been exonerated. Compared to other racial categories, the results reveal that Black youth are more likely to experience wrongful convictions as a result of false confessions, faulty eyewitness identification, perjury, and official misconduct. Limitations, policy implications, and areas of further investigation are offered.

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Racial differentials within the trajectory of wrongful conviction is a threat to justice in the United States. Wrongful conviction happens often to the most vulnerable, poor youth of color. In order to correct for such injustices, exoneration is necessary. Exoneration is defined as the legal act that officially absolves an individual of their wrongful criminal conviction. Despite people of color being particularly targeted for wrongful conviction (Bedau & Radelet, 1987; Hagan, 1987; Huff, Rattner, & Sagarin, 1996; Radelet, Bedau, & Putnam, 1992) individual case studies of the wrongfully convicted continue to receive only limited empirical scrutiny (e.g., Scheck, Neufeld, & Dwyer, 2000; Gross, Jacoby, Matheson, Montgomery, & Patil, 2005; Harmon, 2001; Huff, 2004; Leipold, 2005). The current literature has little to no focus on in-depth analysis of a correlation between race and wrongful conviction among youth of color.

One of the main reasons for limited research on wrongful conviction may be the stigma placed on this population. “Convicts”, regardless of age, are often marginalized as members of society (Campbell & Denov, 2004). They are often seen as unproductive nonmembers who violated the

established social order. Few people may believe the possibility for the actual innocence of a “convicted” person. For example, critics claim exoneration addresses mistakes within the criminal justice process, such as prosecutorial misconduct, rather than the actual innocence of the accused. For them, wrongful conviction is merely a “technicality”, an error that does not prove ‘actual’ innocence. Thus, there seems to be skepticism about the viability of studying the wrongfully convicted. These beliefs are exacerbated when dealing with youth offenders. The confidential nature of the juvenile court and the limited rights of youth given their status may cause some to view legal matters related to juveniles as “family issues” or “problem behavior(s)” rather than cases of actual innocence.

Purpose of study

This study investigates the impact of extralegal and legal factors among youth by examining exoneration decisions provided in the National Registry of Exonerations. Specifically, this study will address the extent in which Black youth are disproportionately 1) represented in the exoneration registry, 2) accused of certain crimes, 3) more likely to receive severe sentences, and more likely to serve extended periods of time between conviction and exoneration. Furthermore, this study will also examine the extent to which statistically significant relationships may exist among youth based on legal and extralegal factors. This includes factors associated with false convictions among youth (i.e., DNA evidence, false confessions, etc.) as well as their individual characteristics (i.e., age, gender, etc.).

Literature review

Miscarriages of justice have been documented in seminal research as far back as Borchard (1932), and a cornerstone of the American criminal justice system is protecting the constitutional rights of the accused and treating them in a fair and equitable manner. Unfortunately, in some cases the accused have been denied their due process in the often-harsh realities of the criminal justice system and found guilty of crimes they did not commit. The idea that the innocent could be found guilty of a crime was almost unthinkable, according to Judge Learned Hand. Judge Hand famously stated: “the ghost of the innocent man convicted” is an “unreal dream” (Garrett, 2011).

Miscarriages of justice are not isolated to a few cases, nor have these cases been limited to adult offenders. Gross, Jacoby, Matheson, Montgomery, and Patil’s (2005) work on wrongful convictions between 1989 and 2003 indicate that 340 people were exonerated for crimes they did not commit. Of these 340 exonerees, 33 of them were under the age of

18 at the time of the alleged crime, and 42% of these juveniles falsely confessed to a crime compared to 13% of the adult exonerees. In addition, 69% of the exonerees aged 12 to 15 falsely confessed to homicides and one rape. The accretion of wrongful convictions may be accounted for by overzealous criminal justice officials who wittingly or unwittingly subject arrestees to corrupt or flawed investigative procedures, resulting in their wrongful convictions. However, researchers have claimed that intentional wrongful convictions involving adults are not proportionate to those involving juveniles, in that youth are more likely to fall victim to intentional miscarriages of justice (Streib, 2009). Research (e.g., McMurtrie, 2005; Risinger & Risinger, 2011; Simon, 2012) shows that aside from merely identifying those who have been wrongfully convicted, several correlational factors play a significant role in a person's erroneous presumption of guilt, such as DNA evidence, false confessions, mistaken witness identity, office misconduct and faulty forensic/medical evidence, perjury/false accusation and inadequate legal defense. Juvenile investigations may well be more susceptible to these errors. Overall, the exoneration factors will be discussed below and distinguished by the use of italicized headings.

DNA evidence

Using DNA analysis, the general belief of the near infallibility of the criminal justice system was severely questioned when Gary Dotson was exonerated in 1989 for a rape he did not commit. That same year, after being subjected to harsh police interrogations, five teenage African American and Latino juveniles falsely confessed to raping a White female jogger in New York City's Central Park, highlighting the racial overtones associated with wrongful convictions (Free & Ruesink, 2012; Gross, Possley, & Stephens, 2017), and the susceptible nature of juveniles for false confessions (Redlich, 2009). If not for DNA evidence (i.e., semen) located on the victim, it is likely the five boys would have remained in prison indefinitely. These watershed moments drastically changed what jurists and researchers thought of wrongful convictions as they went from being an understudied phenomenon (Drizen & Luloff, 2007), to one subjected to critical review by social scientists and legal scholars (Bedau & Radelet, 1987; McMurtrie, 2005).

False confessions

False confessions have been described as the second leading cause of wrongful convictions (Kennedy, 2016). In fact, studies provide an estimate that approximately 25% of wrongful convictions are the result of false

confessions (Drizen, & Leo, 2004). Juveniles are notorious for having a greater risk of falsely confessing to crimes (Owen-Kostelnik, Reppucci, & Meyer, 2006). When considering false confessions, juveniles have been found to be wrongfully convicted at higher rates compared to adults (Gross et al., 2005). Of the 250 DNA exonerations studied by Garrett (2011), 40 of the false confessions included 14 exonerees who were mentally disabled, 13 who were juveniles, and 3 who were mentally ill. Drizen and Leo (2004) found that within a sample of 125 wrongful convictions, juveniles comprised 32% of the false confessions. Research has also identified that false confessions can be replicated in laboratory settings. Compared to 59% of adults, Redlich and Goodman (2003) found that 78% of 12 to 13-year-olds and 72% of 15 to 16-year-olds falsely confessed to causing a computer to crash. Studying the same phenomenon, Kassin and Kiechel (1996) found that 69% of overall research participants were willing to sign a false confession. Malloy, Shulman, and Cauffman (2014) interviewed 193 juveniles who had been convicted of a serious felony and found 17% of the subjects claimed to have provided a false confession. Most of the juveniles claimed they confessed due to harsh interrogation techniques. However, Sigurdsson and Gudjonsson (1996) found that of the 108 juvenile offenders they interviewed, none claimed to have falsely confessed to a crime.

The idea that a young, immature, and suggestible youth would falsely confess to a crime is not new (Lykken, 1981). For a juvenile, police represent an authority figure who is to be respected and, in some cases, feared. It is not uncommon for police interrogations to include several psychological techniques, such as persuasion and deceit. Interrogators may adopt soft-handed strategies by being sympathetic and understanding or heavy-handed techniques by using intimidation and lying when interviewing subjects. Police may also explain to an interrogatee that his or her actions were rational and even understandable, project blame and responsibility onto the victim or someone else and minimize the interrogatee's role in the crime. This approach is often called a "feathering" approach whereby police act as if they care about the interrogatee's feelings and overall well-being. Research has found that a "feathering" approach and offerings of "deals" increased both true and false confessions (Russano, Meissner, Narchet, & Kassin, 2005). Nevertheless, the U.S. Supreme Court in *Missouri v. Seibert* has referenced police interrogation methods, such as the Reid Technique, positively and accepted heavy-handed interrogation methods, even if they are criticized in the academic community by several scholars.

The Reid Technique is thought of as the gold standard of interrogation methods in policing practices but is still subject to mistakenly eliciting a false confession. The Reid Technique is also the most used method by law enforcement in the United States, with the purpose of eliciting a confession

by placing pressure on a suspect. The first step of the technique includes a 15-item behavioral analysis interview (BAI) that assesses guilt by approaching suspects in a non-accusatory manner. The next stage involves a nine step accusatory process: (1) confront the suspect about his or her guilt; (2) develop a theme; (3) handle suspect denials; (4) overcome suspect objections; (5) retain the suspect's attention; (6) control the suspect's passive mood; (7) pose alternative questions; (8) have suspect verbalize details of the crime; and (9) translate oral confession into written confession. Researchers believe this accusatory approach violates suspects' rights by using 'third degree' methods that in turn blur the lines of justice (Snook, Eastwood, & Barron, 2014). Therefore, any technique that can encourage subjects to admit their involvement in serious crimes, can also have the undesirable effect on suggestible juveniles to confess to crimes they did not commit (Kennedy, 2016). Advocates of the Reid Technique claim its usefulness is in extracting information from subjects who would otherwise be unwilling to confess. However, detractors are critical of the technique because they believe it can elicit confessions from innocent subjects (Gotham & Kennedy, 2019). The Reid Technique presumes a suspect's guilt, utilizes psychological manipulation by convincing the suspect an investigator is on his or her side, and employs evidence fabrications (Gudjonsson, 2003). For example, police can fabricate forensic evidence by falsely stating the interviewee's fingerprints and DNA were recovered from a victim (Magid, 2001). Therefore, just as the "CSI effect" can influence a jury to wrongfully exonerate a defendant, the reverse may apply in harsh interrogations. Believing in the power of forensic evidence popularized in media and coupled with deceit and threat of punishment, could foster a sense of fear and produce a negative effect in an interrogatee who, at any cost, will avoid a threat, even if it comes at the cost of falsely confessing to a crime. For example, 17-year-old Marty Tankleff falsely confessed to murdering his parents after being told by police that his hair was found on his mother, forensic testing indicated he had showered after the killings, and his father awoke from a coma and identified him as the assailant, even though none of the aforementioned evidence was true (Firstman & Salpeter, 2008; Kassin, 2014).

The Reid Technique has come under intense scrutiny by researchers because of several wrongful convictions caused by false confessions. Therefore, there is a legitimate and substantiated concern that the technique is not only inducing confessions from guilty suspects, but from innocent individuals as well (Kozinski, 2017). An additional technique called the PEACE method has been described as less confrontational than the Reid Technique (Clarke, Milne, & Bull, 2011). PEACE stands for: (1) Preparation and Planning; (2) Engage and Explain; (3) Account; (4)

Closure; and (5) Evaluation. The PEACE method emphasizes that investigators approach suspects in an ethical and humane manner by asking objective questions that do not presume a suspect's guilt. Investigators trained according to the PEACE method are taught to collect and examine all the evidence before coming to any conclusion about a suspect's guilt or lack thereof (Snook, Eastwood, & Barron, 2014).

Researchers have typically identified three types of false confessions: voluntary, coerced-compliant, and coerced-internalized (Kassin & Wrightman, 1985). Voluntary false confessions are those in which a person claims he or she committed a crime without being prompted by the police. There are several reasons why an innocent person would voluntarily confess to a crime, but some of the more common scenarios include protecting a loved one, having a pathological need for attention, extreme feelings of guilt, punishment of one's self, and the perception of gain. A coerced-compliant false confession can happen when the interrogation is so stressful that a subject will do anything to alleviate the psychological pain he or she is experiencing. Indeed, the interrogation can be intimidating enough for a juvenile but may be exacerbated by an aggressive investigator determined to get a confession, believing the juvenile is guilty. There are times when certain details of a crime are divulged during interrogations where the innocent subject will later recount these facts. This is known as the contamination error. When this information is repeated by subjects, they will be challenged by police who question them as to how they knew this information. It is at this point subjects may start to question their own innocence, become confused, and even confabulate erroneous memories, not realizing this information was fed to them (Kassin, 2014). To avoid the unpleasant nature of an interrogation, and because of a desire to go home, an innocent juvenile, for example, will confess to a crime because the youth was emotionally coerced. Research suggests that police interrogations of a coercive nature are a leading cause of false confessions (Leo & Ofshe, 1998).

To complicate matters, it has been found that police investigators believe they are better able to identify false confessions than the general public, but in fact they are no more skilled at recognizing false confessions compared to private citizens (Hartwig, Granhag, Strömwall, & Vrij, 2004). Therefore, false confessions may be unintended and unrecognized by police interrogators because they are oblivious to the risks their techniques pose in producing false confessions (Perez, 2012). Whether or not false confessions are the result of conscious or unconscious practices by detectives, they come with a high price that can obfuscate the dichotomy between corrupt and sound policing practices (Gross, Jacoby, Matheson, & Montgomery, & Patil 2005).

Five teenage boys, colloquially known as the Central Park Five, were to make decisions and withstand coercion into confessing to brutally attacking a female runner in Central Park after being subjected to long and harsh interrogation techniques. Considering that juveniles are not fully matured in a biological sense, they may not be able to understand the consequences of falsely confessing to a crime (National Institute of Mental Health, 2001). In part, researchers have claimed that this is the result of their diminished capability to make decisions and withstand coercion (Steinberg & Scott, 2003) due to the underdeveloped nature of their brains (Coalition for Juvenile Justice, 2006). Kassin (2014) explains that interrogating vulnerable subjects, such as juveniles, the mentally ill, and cognitively challenged, can increase the chances of obtaining a false confession. This may also manifest as immaturity, lack of impulse control and difficulty delaying gratification and rewards (Casey & Caudle, 2013; Kassin, 2014). Coerced-internalized false confessions involve subjects who come to believe that he or she committed a crime. This type of false confession is also known as a persuaded false confession. Interrogators can be so convincing that a suspect may come to believe that he or she committed a crime, despite there being no evidence suggesting the suspect's guilt. Juveniles who respect, trust, and fear authority figures, lack self-confidence, and are highly suggestible, may be at risk of coerced-internalized false confessions (Ofshe, 1989).

Experimental research has found that subjects internalized the belief that they were responsible for losing money and confabulated details of the loss, even though no such financial loss had occurred for which they were responsible (Horselenberg, Merckelbach, & Josephs, 2003). Cases of coerced-internalized false confessions may be the consequence of manipulative interrogation techniques that exploit the vulnerable nature of interrogatees (Gudjonsson, 1997). Notwithstanding the vulnerability of juveniles, seemingly psychologically healthy youths are not immune to the perils of manipulative interrogations. For example, Gudjonsson and MacKeith (1990) presented a case of a 17-year-old youth who explained on two separate occasions detailed and convincing explanations of his or her involvement in two murders, though it was later discovered he or she was not involved in the killings. The psychological manipulation used by the interrogator and subjection to persistent pressure apparently created an environment conducive to the youth's internalization and confabulation of his or her involvement in the murders.

Mistaken witness identity

There is debate in the academic and legal communities as to how many people are wrongfully convicted at trial by juries. Disparate estimates have

ranged from 3% to 10% of criminal convictions, but there seems to be a consensus that eyewitness misidentification is the leading cause of wrongful convictions (Wells & Seelau, 1995). Of the 40 cases of wrongful convictions studied by Wells et al. (1998), they found 90% of the subjects in the sample were wrongfully convicted due to eyewitness misidentification. Just as police can foster an environment for eliciting false confessions, critics have claimed detectives can influence a victim to pick a person from a photo lineup by subtly suggesting to the victim which suspect the detective believes is responsible for committing a crime (Phillips, McAuliff, Kovera, & Cutler, 1999; Garrioch & Brimacombe, 2001; Greathouse & Kovera, 2009; Kovera & Evelo, 2017). Beyond policing practices, the traumatization that victims experience can make it difficult to recall specific details of a crime because of the malleable and fallible nature of memories. The difficulty victims experience with recalling offender characteristics may frustrate detectives who then influence them to choose a suspect based on subtle suggestions.

Research has found that witnesses often make mistakes when trying to identify suspects (e.g., cross-racial identifications), even though they are confident in their ability to accurately recall criminal events and correctly locate suspects from a photo lineup (Wells & Loftus, 2003). Therefore, many researchers are critical of photo identification procedures by stating a double-blind method is preferable over traditional methods (Kennedy, 2016; Loftus, 2003). For some victims of crime, the compartmentalization of traumatic events and the degradation of memory over time may make it difficult to recall specific details of criminal events, and the duplicity of detectives can alter their memory, resulting in eyewitness misidentifications (Loftus & Ketcham, 1991). Memories of emotional events have been described as “flashbulb memories” where the intensity of the experience is illuminated in a person’s mind, but even these seemingly unforgettable experiences are vulnerable to errors in memory (Wright, 1993). Furthermore, prejudice and ethnic stereotypes have been found to affect a person’s ability to accurately reconstruct what happened during an event (Brigham & Malpass, 1985; Chance & Goldstein, 1995; Sherman & Bessenoff, 1999).

There are two types of lineups: (1) sequential lineups; and (2) simultaneous lineups. Sequential lineups involve a witness who is shown lineup members one at a time and then decides if the member is the suspect before the next photo is presented. Simultaneous lineups are the more traditional method in that a witness is presented a lineup of individuals at the same time. For sequential lineups, the witness must exercise absolute judgment by comparing each lineup member to his or her memory of how the perpetrator looked like. Conversely, a witness must exercise relative

judgment in simultaneous lineups by comparing lineup members to each other (National Institute of Justice (NIJ), 2009). An additional method called a blind lineup or double-blind procedure is when the person administering the lineup does not know which person in the lineup is the suspect. As was mentioned above, this method is preferred by academics and scientific committees (e.g., National Academy of Sciences) but research testing the validity of double-blind sequential and double-blind simultaneous lineups is far from conclusive. Even though it is thought of as a superior method to simultaneous lineups, the sequential lineup method is not endorsed by two major government sponsored organizations (National Institute of Justice (NIJ), 1999; National Research Council, 2014).

Consequently, there remains much debate surrounding the efficacy of each lineup type (Charman & Quiroz, 2016) where disparate findings have supported and refuted the validity of simultaneous and sequential lineups. Using a staged crime scene that was witnessed by 240 unsuspecting witnesses, Lindsey and Wells (1985) found that sequential lineups reduced the number of false eyewitness identifications, but the study did not show sequential lineups influenced correct identifications when compared to simultaneous lineups. Wells, Steblay, and Dysart (2011) found suspects were identified in a lineup at a rate of 25.5% when using the simultaneous lineup procedure, and the sequential lineup procedure yielded an overall percentage of 27.3 regarding suspect identification. The different rates for simultaneous lineups compared to sequential lineups were not statistically significant. However, the identification of fillers (e.g., lineup members who are not suspects being placed in the same lineup as the suspect) occurred at a rate of 18.1% for simultaneous lineups and 12.2% for sequential lineups, thus resulting in a statistically significant difference. Indeed, research has substantiated the effectiveness of the sequential lineup method (e.g., Klobuchar, Steblay, & Caligiuri, 2006; Steblay, Dietrich, Ryan, Raczynski, & James, 2011; Steblay, Dysart, Fulero, & Lindsay, 2001), but the matter of what lineup procedure is more valid and reliable is still ongoing (e.g., Clark, 2012; Charman & Quiroz, 2016; Haw & Fisher, 2004; Malpass, 2006; Wells, Steblay, & Dysart, 2015).

Official misconduct and faulty forensic/medical evidence

Research has identified evidence predicated on fraudulent science and ultimately presented to juries as a cause of wrongful convictions (Turvey, 2014), thereby calling for the regulation of forensic laboratories across the United States and holding prosecutors accountable for misleading juries based on erroneous scientific evidence (Giannelli, 2006; Gershman, 2003). Police officers can also engage in office misconduct by profiling groups

based on race, such as young black men, and hold racist beliefs that certain groups share a criminogenic disposition. For example, the differential involvement hypothesis states minorities commit more criminal acts, whereas the differential enforcement hypothesis explains minorities experience more arrests and wrongful convictions because of discriminatory practices employed by the police and courts (Piquero & Brame, 2008). Consequently, the way in which minorities experience wrongful convictions may be a function of a racist criminal justice system rather than an unreliable interpretation of scientific evidence. Furthermore, of the 250 cases of wrongful convictions studied by Garrett (2011), 77 involved claims of prosecution concealing evidence from defense, 19 involved claims of police misconduct due to unlawful searches and seizures, and 8 involved claims of law enforcement destroying or tampering evidence. This same researcher discovered 185 cases of wrongful convictions where forensic evidence played a significant role in conviction. For example, 75 of the cases included microscopic hair comparison, 20 included fingerprint comparison, 7 included bite mark comparison, 6 included shoe print comparison, and 1 included voice comparison. Indeed, these forensic techniques and their ability to make connections between suspects and crime scenes and victims were thought to adhere to rigorous scientific methods; however, the landmark publication by the National Academy of Sciences placed significant doubt on the empirical validity of certain forensic techniques. Furthermore, several of the cases studied by Garrett (2011) also identified instances of forensic scientists (i.e., criminalist) providing invalid testimony. Additional research by Garret and Neufeld (2009) found that in 232 cases of wrongful convictions, 137 of the cases involved the use of forensic experts where invalid forensic testimony was offered in 60% of the 137 cases. This same study also found several cases where forensic analysts withheld exculpatory evidence.

Two recurring issues potentially associated with invalid testimony can include confirmation bias and tunnel vision. Confirmation bias involves tending to search and ultimately accept evidence that confirms what one already believes and consequently ignore or reject evidence that disconfirms one's ideas. This can cause an investigator to place too much reliance and trust in unreliable evidence, leading the investigator to not change his or her mind about a crime once a theory has been developed. From a forensic perspective, Kassir, Dror, and Kukucka (2013) coined the term forensic confirmation bias to explain how forensic investigators' beliefs, motives, and situational context can affect how they collect evidence and evaluate it during an investigation. Even with this phenomenon, 403 forensic scientists indicated in a survey that they believed their ability to collect, examine, and judge evidence was nearly infallible (Kukucka, Kassir, Zapf, & Dror,

2017). Gotham and Kennedy (2019) explain that the National Academy of Sciences (2009), the National Commission on Forensic Science (2015), and the President's Council of Advisors on Science and Technology (2016) identified confirmation bias as a source of forensic science error and a significant causal factor in wrongful convictions.

Tunnel vision is a process by which investigators prematurely focus on a suspect, become convinced of the suspect's guilt, and then dismiss alternative suspects and scenarios (Gotham & Kennedy, 2019; Gould & Leo, 2010). To combat confirmation bias and tunnel vision, investigators are encouraged to employ critical thinking skills by using an applied version of the scientific method, such as looking for information that can dispute any theories developed during the investigation (Snook & Cullen, 2009). Unfortunately, attempts to employ methods to safeguard an investigation from confirmation bias and tunnel vision can be compromised in high-profile, emotionally charged cases, such as the killing and sexual assault of a young child. Therefore, external factors (i.e., law enforcement managers, politicians, and the media) can place an immense amount of pressure and stress on investigators to solve a crime, consequently playing a contributory factor in confirmation bias and tunnel vision (Ditrich, 2015). Therefore, biases and tunnel vision are not necessarily due to incompetence and conscious manipulation by investigators, but rather to factors outside of their control. For example, 16-year-old David Milgaard was wrongfully convicted largely due to police misconduct and tunnel vision. The violent nature of the crime, public fear, and pressure to apprehend a suspect drove police to prematurely focus on Mr. Milgaard as the primary suspect (Denov & Campbell, 2005).

Perjury/false accusation

Perjury and false accusation as a cause of wrongful convictions have the potential to come from several sources, but these miscarriages of justice are often associated with criminal informants acting as unreliable witnesses, even though their testimony may be taken at face value by prosecutors and jurors. To make matters worse, the use of informants has a storied history in criminal investigations and is deeply ingrained in the culture of law enforcement practices (Denov & Campbell, 2005). Criminal informants acting as false witnesses may believe they have nothing to lose but everything to gain, especially when a quid pro quo has been offered by a prosecutor. Therefore, if informants are offered rewards for their testimony in the form of leniency or financial compensation, this can call into question the truthfulness of their testimony (Zimmerman, 2001). These compensated criminal informants might be working for the police as registered informants or as a

so-called 'street snitch.' The registered informant is one who has developed a working relationship with law enforcement and the 'street snitch' is one who has no formal relationship with police (Turvey, 2014).

Garrett (2011) claims some 'jailhouse' informants are more pernicious in terms of their motivations to lie because of the intimate crime scene details they provide when testifying at trial, even though their testimony is later discovered to have been fabricated. For example, David Gray, who was sentenced to 60 years in prison for a violent sexual assault, was implicated by his jail cellmate who claimed Mr. Gray told him specific details of his actions and state of dress when committing the crime, such as tearing the victim's phone off the wall and wearing 'flashy' high heeled shoes. After spending 22 years in prison for a crime he did not commit, David Gray was exonerated when DNA testing showed he was not the perpetrator, further highlighting the importance of DNA evidence in cases of wrongful convictions.

There are varying reasons as to why a person acting as an informant would lie and fabricate testimony about an individual's guilt. For some informants, it can include law enforcement abusing their power by coercing informants to provide them with information about a person's involvement in a supposed crime. Just as coerced confessions can turn out to be false, coerced criminal informants may tell law enforcement whatever they want to hear, regardless of its validity. As was mentioned above, some criminal informants are compensated for their participation in criminal investigations where they provide police with information implicating someone in a crime, in exchange for some type of reward. Criminal informants may also feel it is part of their duty as morally righteous people to provide testimony. However, their moral posturing may be driven by a narcissistic desire for attention. It has been noted if individuals have no charges pending against them and still want to act as informants, this should serve as a "red flag" as it relates to their motivation and character (Turvey, 2014). Finally, codefendants may also act as informants for the prosecution who are 'flipped' by the state. Due to the fact that codefendants were also involved in the alleged crime, they consequently know intimate details about the crime scene. Much like compensated informants, codefendants may be offered deals in return for their cooperation. Finally, courts may also utilize confidential informants and cooperating witnesses who willingly offer testimony suggesting a suspect's guilt, such as claiming they heard a suspect admit his or her guilt. Research on 250 wrongful conviction cases found 21% (52 cases) of the cases involved testimony from an informant. Of this number, 28 were jailhouse informants, 23 were codefendants, and 15 were confidential or cooperating witnesses (Garrett, 2011). Research by Armstrong and Mills (2000) found that about 40% of the 13 wrongfully

convicted death row inmates in the State of Illinois included the use of jail-house informants at their trial.

Inadequate legal defense

A significant moment in legal history was the Supreme Court case of *Gideon v. Wainwright* which ruled criminal defendants have the right to counsel in felony trials. However, having a right to legal counsel does not guarantee suspects will receive effective counsel who advocate tirelessly on their behalf. Indigent defendants, for example, often must rely on public defenders who may be unprepared to provide sound legal advice due to incompetence, limited resources, and large caseloads. Research has shown that exonerated individuals were more likely to have been indigent, thereby not having the means to hire a private attorney. Consequently, most exonerees either had attorneys appointed by the courts or public defenders (Garrett, 2011). Unfortunately, ‘bad lawyering’ has resulted in individuals being convicted of crimes they did not commit.

The Innocence Project has reported disturbing behaviors exhibited by attorneys whose inadequate legal defense led to wrongful convictions, such as sleeping in the courtroom, lawyers being disbarred immediately after concluding a death penalty case and neglecting to show up for hearings. The Innocence Project cites several claims of ineffective counsel made by defendants, such as failing to present defense witnesses, failing to investigate, failing to interview witnesses, and failing to consult experts on forensic issues. Of the 250 cases of wrongful convictions studied by Garrett (2011), 93 involved instances of prosecutors using forensic experts who provided testimony that was ultimately determined to have been unreliable, invalid, and unscientific. The faulty forensic testimony was exacerbated by defense attorneys who failed to question the reliability and validity of the forensic experts’ scientific claims.

Exonerees have also made attempts to present forensic evidence (i.e., DNA) but the importance jurors place on forensic evidence was disvalued and even ignored in some instances. In cases involving a confession, defense attorneys tried to have the admission of guilt suppressed at trial, but they failed to secure an expert witness who could have explained the dynamics associated with false confessions. Furthermore, for the exonerees who did present an expert witness at trial, most of the expert witnesses were not allowed to testify. Defense attorneys and their lack of experience dealing with forensic experts could exacerbate an already ineffective representation. For example, if prosecution uses an expert witness and defense counsel does not have a general understanding of the esoteric nature of DNA evidence, for example, they may not be able to properly formulate

questions that can challenge the forensic expert's testimony (Yaroshefsky & Schaefer, 2014).

Critical race theory

Studies that identify the numerous unfortunate practices utilized (i.e., eyewitness misidentification, false confessions, etc.) which lead to wrongful convictions share a common theme which is consistent with an approach that illustrates the influence of racism and racism in American culture referred to as the Critical Race Theory. Derived from early scholars as result of the shortcomings of the critical legal studies that were prominent during the early 1960s and 1970s in attempting to address racial oppression, the Critical Race Theory is a radical viewpoint based upon a series of assumptions designed to undergird the need for comprehensive and emergent perspectives in combating racist ideology within various settings (Bell, 1980; Delgado & & others, 1989; Delgado & Stefancic, 2001; Ladson-Billings, 1998). Two important of assumptions (i.e., central tenants) of the Critical Race Theory is based upon the ideas that 1) racism is normal, thus it is not often viewed as an immediate problem due its normalization within the context of social, political, and cultural systems of interaction, and 2) White supremacy tactics are used in order to reinforce racial subjugation, which may exist at the expense of both conscious and unconscious ideas as well as variation of methods. This includes both explicit and extreme measures (i.e., hate groups) or nuanced and commonly accepted subtle norms within dominant populations such as certain levels of entitlement (e.g., White privilege) (Delgado & Stefancic, 2000; Ladson-Billings, 1998). The Critical Race Theory has been used to characterize the treatment of minority, especially in educational settings. For instance, Johnson and Muhammad (2018) identified the disproportionate numbers of black youth classified as possessing language disorders, the receipt of harsh disciplinary measures (e.g., zero tolerance policies, corporal punishment) as explanations of the school-to-prison pipeline phenomenon. In the juvenile justice system, the theory serves as the basis for describing the lack of culturally sensitive measures needed to address trauma within each aspect of the juvenile court process (i.e., police, courts, corrections, etc.) (Crosby, 2016).

Method

This study examines National Registry of Exonerations data. The registry provides information associated with individuals who have been wrongfully convicted and exonerated since 1989. Due to periodic updates, the specific data selected includes information from individuals (i.e., exonerees) under

the age of 19 as of July 20, 2019 which includes the exoneree's: 1) race, 2) worst crime identified and sentence, 3) year in which the alleged criminal incident occurred as well as the criminal conviction and subsequent exoneration, and 4) factors associated with the initial criminal conviction and subsequent exoneration decisions. This may include any of the following variables such as DNA evidence, false confession, mistaken witness identity, faulty forensic/medical evidence, perjury/false accusation, office misconduct, and inadequate legal defense. Furthermore, the sample population of 324 youth were processed in the adult criminal justice system as opposed to the juvenile justice system (i.e., waived, transferred, etc.).

The independent variables of this study are the racial categories of each exoneree under the age of 19. The racial categories of Black, Hispanic, and White were selected and other races (e.g., Native American, Asian) were excluded due to low representation. The dependent variables, based upon four categories of inquiry as identified in the purpose of this study, are the number exonerees, on the basis of race, that 1) are represented in the exoneration registry, 2) accused of certain crimes, 3) receive severe sentences, and 4) serve extended periods of time between criminal conviction and exoneration decision. The analytical processes employed in this study consists of a series of fundamental descriptive statistics. This includes the summation of values in each of the four listed categories (i.e., dependent variables) with regards to Black, Hispanic, and White exonerees.

Coding procedures are employed with respect to race, worst crime identified, sentence, and identified legal factors related to DNA evidence, false confession, mistaken witness identity, faulty forensic/medical evidence, perjury/false accusation, office misconduct, and inadequate legal defense. Specifically, exonerees identified as Black, Hispanic, or White are coded as 1, 2, or 3. Males and females are coded as either 1 or 2. The worst alleged crimes of murder, crimes of sexual nature (e.g., sexual assault, etc.), drug possession, and assault are coded as 1, 2, 3, or 4. The crimes of robbery, possession of a weapon, and burglary are coded as 5, 6, or 7. The sentences of life, life without parole, and the maximum of life and prison are coded as 1, 2, 3, or 4. Those with a sentence of less than one year, death, as well as those who did not receive a sentence, or received probation are coded as 5, 6, 7, or 8. The legal factors (e.g., DNA, false confession, etc.) are coded in a manner whereby the existence of such is coded as 1 and the nonexistence of such is coded as 0.

Results

Table 1 offers the extralegal and legal characteristics of exonerated youth. Out of a total of 324 youth, Blacks represent 65% ($n = 211$), Hispanics 12% ($n = 39$), and Whites 23% ($n = 74$). In terms of gender and age, males

Table 1. Extralegal and legal characteristics of exonerated youth.

Race		N	%	Sentenced	n	%				
Gender	Black	211	65	Life	62	19				
	Hispanic	39	12		Life without Parole	29	9			
	White	74	23		Maximum of Life	40	12			
	Total	324	100		Prison	144	43			
	Male	307	95	Death	9	3				
				Not Sentenced	13	4				
				<1 year	7	2				
				Probation/CS	20	6				
Age	Female	17	5	Total	324	100				
	Total	324	100							
Crimes	11-15	50	15	Time Served	<10	125	39			
	16-18	274	85					10-20	120	37
	Total	324	100					21-30	55	17
	Murder	188	58	Factors	31+	24	7			
					Total	324	100			
					Drugs	22	7			
					Assault	20	6			
	Robbery	17	5	DNA	81	25				
	Weapon	4	1	False Confession	93	29				
	Burglary	1	1	Mistaken Eyewitness	95	23				
	Other	14	4	Faulty Forensic/Medical	66	20				
	Total	324	100	Perjury/False Accusation	218	67				
				Official Misconduct	213	66				
				Inadequate Legal Defense	52	25				
			Total	324*	100					

*Represents multiple factors for each youth.

constitute 95% ($n = 307$) and those between 16-18 reflect 85% ($n = 274$) of the sample population. Regarding legal characteristics, murder 58% ($n = 188$) and sexual crimes 18% ($n = 58$) represent the first and second highest numbers of alleged crimes. Prison 43% ($n = 144$) and less than one year 39% ($n = 125$) constitute the highest number with respect to type of sentence and the amount of time served. Finally, perjury/false accusation 67% ($n = 218$) serves as the highest identified legal factor associated with the wrongful conviction of youth.

Alleged worst crimes among the racial categories of youth are identified in Table 2. Regarding the alleged crime of murder, Blacks consist of 67% ($n = 125$), Hispanics make up 11% ($n = 20$), and Whites represent 22% ($n = 43$). With respect to alleged sexual and drug-related offenses, Blacks are identified at 69% ($n = 40$) and 64% ($n = 14$), Hispanics constitute only 5% ($n = 3$) and 18% ($n = 4$), and Whites consists of 26% ($n = 15$) and 18% ($n = 4$). In relation to assault and robbery, Blacks account for 50% ($n = 10$) and 82% ($n = 14$), Hispanics constitute 30% ($n = 6$) and 18% ($n = 3$), and Whites consists of 20% ($n = 4$) and 0% ($n = 0$). With the final alleged offenses, weapon possession and burglary, Blacks account for 75% ($n = 3$) and 0% ($n = 0$) while Hispanics consists of 25% ($n = 1$) and 0% ($n = 0$) while Whites constitute 0% ($n = 0$) and 100% ($n = 1$).

Table 3 identifies the association between race and sentences received. Black youth received the highest number of life sentences at 61% ($n = 38$), life without parole at 76% ($n = 22$), and sentences which include the

Table 2. Alleged crimes and race of exonerated youth.

		<i>N</i>	%
Murder	Black	125	67
	Hispanic	20	11
	White	43	22
	Total	188	100
Sexual	Black	40	69
	Hispanic	3	5
	White	15	26
	Total	58	100
Drugs	Black	14	64
	Hispanic	4	18
	White	4	18
	Total	22	100
Assault	Black	10	50
	Hispanic	6	30
	White	4	20
	Total	20	100
Robbery	Black	14	82
	Hispanic	3	18
	White	0	0
	Total	17	100
Weapon	Black	3	75
	Hispanic	1	25
	White	0	0
	Total	4	100
Burglary	Black	0	0
	Hispanic	0	0
	White	1	100
	Total	1	100

Table 3. Sentences and Race of Exonerated Youth.

		<i>n</i>	%			<i>n</i>	%
Life	Black	38	61	Death	Black	6	67
	Hispanic	5	8		Hispanic	0	0
	White	19	31		White	3	33
	Total	62	100		Total	9	100
Life*	Black	22	76	< 1 year	Black	2	29
	Hispanic	2	7		Hispanic	1	14
	White	5	17		White	4	57
	Total	29	100		Total	7	100
Max/Life	Black	29	73	Not Sent.	Black	5	39
	Hispanic	6	15		Hispanic	5	39
	White	5	12		White	3	22
	Total	40	100		Total	13	100
Prison	Black	98	68	Prob/CS	Black	11	55
	Hispanic	14	10		Hispanic	6	30
	White	32	22		White	3	15
	Total	144	100		Total	20	100

Note: *without the possibility of parole.

Table 4. Time served and race of exonerated youth.

		n	%
<10 years	Black	81	65
	Hispanic	21	17
	White	23	18
	Total	125	100
10–20 years	Black	75	63
	Hispanic	10	8
	White	35	29
	Total	120	100
21–30 years	Black	40	73
	Hispanic	4	7
	White	11	20
	Total	55	100
31+ years	Black	15	63
	Hispanic	4	16
	White	5	21
	Total	24	100

maximum of life at 73% ($n=29$). Comparably, Hispanic youth received life at 8% ($n=5$), life without parole at 7% ($n=2$), and sentences which included the possibility of life at 15% ($n=6$). Finally, White youth received life at 31% ($n=19$), life without parole at 17% ($n=5$), and sentences which included the possibility of life at 12% ($n=5$). In term of prison, death, or sentences of less than one year, Black youth experience the aforementioned types of sentences at 68% ($n=98$), 67% ($n=6$), and 29% ($n=2$), which pales in comparison to their Hispanic counterparts at 10% ($n=14$), 0% ($n=0$), and 14% ($n=1$) and their White counterparts at 22% ($n=32$), 33% ($n=3$), and 57% ($n=4$). With regards to youth who are either not sentenced or receive probation/community service, Blacks are identified at 39% ($n=5$) and 55% ($n=11$) in comparison to Hispanics at 39% ($n=5$) and 30% ($n=6$) and Whites at 22% ($n=3$) and 15% ($n=3$).

Table 4 identifies the association between race and time served between conviction and exoneration. In each category, Blacks represent the highest rates compared to Hispanics and Whites. For time served less than 10 years and between 10-20 years, they represent a rate of 65% ($n=81$) and 63% ($n=75$) compared to Hispanics at 17% ($n=21$) and 8% ($n=10$) and Whites at 18% ($n=23$) and 29% ($n=35$). Black youth also experience the greatest amount of time that exceeds 20 years. In the categories of 21-30 years and 31+ years, Blacks represent a rate of 73% ($n=40$) and 63% ($n=15$). Their Hispanic and White counterparts reflect rates of 7% ($n=4$) and 16% ($n=4$) along with 20% ($n=11$) and 21% ($n=5$).

Table 5 identifies the contributing factors associated with exoneration decisions based on race among youth. Overall, Black youth represent the highest rates in each listed category. In relation to DNA evidence and false

Table 5. Contributing factors and race of exonerated youth.

		n	%			n	%
DNA				Perjury/False Accusation			
	Black	55	68		Black	144	66
	Hispanic	7	9		Hispanic	22	10
	White	19	23		White	52	24
	Total	81	100		Total	218	100
False confession				Official Misconduct			
	Black	58	62		Black	146	69
	Hispanic	8	9		Hispanic	24	11
	White	27	29		White	43	20
	Total	93	100		Total	213	100
Faulty witness ID				Inadequate Legal Defense			
	Black	68	72		Black	62	69
	Hispanic	16	17		Hispanic	13	16
	White	11	11		White	14	15
	Total	95	100		Total	89	100
Faulty forensic/medical							
	Black	40	61				
	Hispanic	5	7				
	White	21	32				
	Total	66	100				

confession, they account for 68% ($n=55$) and 62% ($n=58$). In the same categories, Hispanics and Whites account for 9% ($n=7$) and 9% ($n=8$); 23% ($n=19$) and 29% ($n=27$). In the areas of faulty (i.e., mistaken) witness identification and faulty forensic/medical evidence, Blacks account for 72% ($n=68$) and 61% ($n=40$). Comparably, Hispanic and White youth are comprised of 17% ($n=16$) and 7% ($n=5$); 11% ($n=11$) and 32% ($n=21$). Blacks also represent the highest number in each remaining category of factors. For instance, in relation to perjury/false accusation and official misconduct, they account for 66% ($n=144$) and 69% ($n=146$) where Hispanics and Whites represent 10% ($n=22$) and 11% ($n=24$); 24% ($n=52$) and 20% ($n=43$). Regarding the final category, inadequate legal defense, Blacks consists of 69% ($n=62$) in comparison to Hispanics and Whites at 16% ($n=13$) and 15% ($n=14$).

Table 6 identifies the association between youth based on racial categories and exoneration factors using a chi square analysis. Out of 7 categories, only faulty witness identification revealed evidence of a significant difference with respect to race among the exonerees. This includes Blacks and Hispanics experiencing the results of a faulty witness identification at 72% ($n=68$) and 17% ($n=16$) at $p<.01$.

Using binary logistic regression, Table 7 identifies the predictive association between youth based on age and racial categories with respect to exoneration factors. Out of a total of 7 categories, only 3 categories revealed significant differences. This includes the factors of DNA, false confession, and faulty witness identification. Based upon the use of this statistical analysis, the reference category variables in relation to the extralegal factors included youth identified as White as well as those between the ages

Table 6. Chi-square of youth by race and exoneration factors.

	Total	%	No	%	Yes	%	Sig.
<i>DNA</i>							
Blacks	211	100	156	64	55	68	
Hispanics	39	100	32	13	7	8	
Whites	74	100	55	23	19	24	
Total	324	100	243	100	81	100	
<i>False Confession</i>							
Blacks	211	100	153	66	58	62	
Hispanics	39	100	31	14	8	9	
Whites	74	100	47	20	27	29	
Total	324	100	231	100	93	100	
<i>Faulty Witness ID</i>							
Blacks	211	100	143	62	68	72	**
Hispanics	39	100	23	10	16	17	**
Whites	74	100	63	28	11	11	
Total	324	100	229	100	95	100	
<i>Faulty forensic/medical</i>							
Blacks	211	100	171	66	40	61	
Hispanics	39	100	34	13	5	8	
Whites	74	100	53	21	21	31	
Total	324	100	258	100	66	100	
<i>Perjury/false accusation</i>							
Blacks	211	100	67	63	144	66	
Hispanics	39	100	17	16	22	10	
Whites	74	100	22	21	52	24	
Total	324	100	106	100	218	100	
<i>Official Misconduct</i>							
Blacks	211	100	65	59	146	69	
Hispanics	39	100	15	14	24	11	
Whites	74	100	31	27	43	20	
Total	324	100	111	100	213	100	
<i>Inadequate Legal Defense</i>							
Blacks	211	100	149	64	62	70	
Hispanics	39	100	26	10	13	15	
Whites	74	100	60	26	14	15	
Total	324	100	235	100	89	100	

Note: * $p < .05$, ** $p < .01$, *** $p < .001$

of 11-15. In terms of DNA and false confession, youth between the ages of 16-18 are more likely to experience exoneration as a result of DNA at the $p < .01$. level and false confession at the $p < .001$. level. Interestingly, only faulty witness identification yielded a significant association based on race. Thus, compared to Whites, Black and Hispanic youth are more likely to experience exoneration as a result false confession at the $p < .01$. level. In terms of odds ratio, Blacks and Hispanics account for a 72% and 98% increase in the odds of experiencing exoneration as result of faulty witness identification.

Discussion

Consistent with the Critical Race Theory, suspect descriptions being central to police investigation provide one explanation for racially biased police practices (Wells, Memon, & Penrod, 2006). Suspect descriptions aid police in their efforts to apprehend and arrest perpetrators, including the construction of lineups for victims and witnesses to identify suspects prior to

Table 7. Binary logistic regression of exoneration factors by race and age.

Variable	B	Wald	Sig	Odds Ratio
<i>DNA</i>				
Blacks	.036	.013		1.03
Hispanics	−.482	.929		.618
Age	.693	6.814	**	2.00
<i>False confession</i>				
Blacks	−.425	2.00		.654
Hispanics	−.903	3.47		.405
Age	1.311	25.20	***	3.71
<i>Faulty witness ID</i>				
Blacks	1.00	7.81	**	2.72
Hispanics	1.38	8.98	**	3.98
Age	−.004	.000		.996
<i>Faulty medical/forensic</i>				
Blacks	−.526	2.84		.591
Hispanics	−.992	3.32		.371
Age	.036	.015		1.03
<i>Perjury/false accusation</i>				
Blacks	−.097	.108		.908
Hispanics	−.601	2.13		.548
Age	−.076	.091		.927
<i>Official misconduct</i>				
Blacks	.483	2.99		1.62
Hispanics	.142	.123		1.15
Age	.031	.016		1.03
<i>Inadequate legal defense</i>				
Blacks	.575	2.96		1.77
Hispanics	.771	2.91		2.16
Age	−.299	1.18		.742

Note: * $p < .05$, ** $p < .01$, *** $p < .001$

arrest. If victims or witnesses' descriptions of the suspect are influenced by the police in a biased manner, based on stereotypes of racial features, the lineup construction will be biased (Sporer, 2001).

So why would the police constrain the investigatory process? According to Campbell and Denov (2004), police blind themselves to exculpatory evidence to focus their investigation on confirming the guilt of a specific person. In this sense, suspects may feel targeted by the police. This was confirmed in Campbell and Denov's study of adult defendants in Canada (2004). In the present study, the police seemed to have failed to conduct a thorough investigation that included scrutiny of all the evidence to locate the actual perpetrator. Instead, based on mistaken eyewitness identification, the police seemed to have followed their investigation on to the point that a suspect as identified then enacted arrest. This failure to fully analyze all available evidence, as police are not required to conduct follow up on all evidence (Christianson, 2004), most likely contributed to a process that failed to offer each defendant due process and ultimately led to their wrongful conviction.

The racialization of justice

Overt and intentional racist behavior influences the operations of the criminal justice system (Parker, DeWees, & Radelet, 2001). Race may complicate

the processes of police investigation, by introducing race-based practices at the earliest stages of the criminal justice system that disproportionately target African Americans, thus supporting the Critical Race Theory. Certain characteristics attract the attention of law enforcement (Black, 1998), such as lower social status. African Americans have historically experienced and are often associated with lower social status (Edsall & Edsall, 1991; Gilens, 1996; Hawkins, 1995; Massey & Denton, 1998) and continue to experience inequality compared to Whites (Walker, Spohn, & Delone, 2006). Both race and social status may exist as exclusive characteristics to serve as the basis of possible suspicion in police investigations.

Racially biased practices, such as targeting African Americans for criminal investigations, may be exasperated by the traditional structure of the police. Law enforcement has traditionally been a 'White' institution (Walker et al., 2006). Today, the power structure of law enforcement may still be a legal "White habitus" (cf. Bonilla-Silva, 2006: p. 104): the majority of local police officers are 'White' (Hickman & Reaves, 2006). Given that people of color are represented as less than one-fourth of local law enforcement (Hickman & Reaves, 2006), authority is still often associated with 'Whites.' Bolton and Feagin (2004) argue that the police have historically been used as a means of social control over African Americans. Race still plays a role within police contact with defendants (Parker et al., 2001), and the police may be perpetuating normative social conceptions of power and control based on racial differentials. Criminality is associated with being African American, and social control of this 'race-based criminality' is enforced by 'White' authority. This is the inegalitarianism of racial profiling: the policing of racial differences (Capers, 2008). Within the present study, racial profiling was most likely the main factor contributing to the disproportionate number of African American youth being wrongfully convicted. Wrongful conviction must first begin with an arrest. It is likely that the youth in the present study were subject to racial profiling within arrest practices. These youth may have become suspects targeted specifically based on police perceptions of their race. It may also be likely that biased police practices constrained the investigatory process to specific individuals based on racial stereotypes.

In these types of cases, the police may have overlooked exculpatory evidence, which could have vindicated some of the youth. According to Campbell and Denov (2004), police blind themselves to exculpatory evidence to focus the investigation on confirming the guilt of a specific person. This failure to conduct a more thorough investigation contributed, to some degree, to many of the youth's eventual wrongful convictions in the present study. The police engaged in misconduct, by arresting these youth without fully examining all the evidence.

One contributing factor to person specific investigations, rather than evidence specific investigations, may be the traditional style of racial profiling (Warren, Tomaskovic-Devey, Smith, Zingraff, & Mason, 2006): police use a technique known as “CARD,” an acronym for using “class, age, race, and dress” to profile potential criminals (Meeks, 2000). Many police use racial features to profile ‘criminals’ (Harris, 2002) and class and dress are social status indicators intricately associated with race (Walker et al., 2006), the police are essentially employing racialized practices in profiling criminal suspects. Considering that African Americans are often disproportionately wrongfully convicted (Huff et al., 1996), it is not surprising that many of the exonerated youth in the present study are Black.

Huff suggests that race “is evident in many cases of wrongful conviction” (2004: p. 108). Given the discretionary power of the prosecution to single out specific cases to prosecute (Cohen, 2003) based on subjective determination (Kim, 2009), often there is no regulation of racially biased practices. This lack of oversight perpetuates institutionalized racism in the criminal justice system. The criminal justice process involves a culture of cooperation of the “courtroom workgroup” (cf. Walker, 2006) to ensure smooth operations of the system. This courtroom workgroup often includes the police, albeit indirectly. The prosecutor relies on the police to gather evidence used for trial. Defense counsel, particularly public defenders with limited resources, use the police investigation to draw out evidence that will acquit the defendant (Walker, 2006). In the courtroom workgroup, harmony is the main goal (Walker, 2006). The “courtroom workgroup” may overlook racialized police practices occurring during the investigation in favor of this maintaining harmony. The American Bar Association’s Criminal Justice Standards stipulate that the duty of the prosecutor is to seek justice, not merely to convict (Burkoff, 1993). As such, the prosecution needs to engage in more careful review of law enforcement’s role during the investigatory process (Huff et al., 1996). Prosecution of police misconduct is rare (Christianson, 2004) and the status quo of the “courtroom workgroup” is rarely questioned (Walker, 2006). This gives police profound discretion to conduct unjust criminal investigations, including the targeting of suspects based on racially biased practices.

Despite the widely held value that the criminal justice system seeks justice, the findings in this study suggest that, to some extent, the “courtroom workgroup” failed to recognize or acknowledge racially biased police practices occurring within this group of youth. Overall, the criminal justice process seems to have employed and promoted institutional racism. African American defendants experience higher degrees of social inequality (i.e., lower social status). Thus, these defendants also have a decreased likelihood of possessing the resources necessary to avoid criminal sanctions compared

to 'White' defendants (Bridges, Crutchfield, & Simpson, 1987). This includes preventing wrongful conviction (Parker et al., 2001). Attempts at raising claims of racialized police practices during the criminal justice process may have gone unsuccessful for the African American youth in the present study.

There were a diverse number of contacts within the criminal justice process overlooking the possibility of racial bias within institutionalized police practices. This includes the courtroom workgroup. However, multiple factors contributed to the overall failure of justice for these youth defendants. The overrepresentation of African American youth in exoneration cases may simply be the result of institutional racism. This institutional racism is a combination of racially based institutionalized police practices combined with a lack of prosecutorial oversight that contributes to a structural deficiency within the criminal justice system. Race-based practices within the criminal justice system then become a paradox. Unregulated, this paradox contributes to wrongful conviction. Justice falls victim to a selection process, a process based on racial differentials. Police disparity in the investigatory selection of suspects based on race introduced these youth into the criminal justice system. A lack of proper oversight to regulate race-based institutional practices by the police ultimately contributed to a process leading toward wrongful conviction. The results are racialized justice.

Future directions

The present study examines data from a sufficient number of juvenile exoneration cases to explore racial differentials throughout the criminal justice process that are related to wrongful conviction. Research on racial differentials within cases of wrongfully convicted youth is still in its infancy, this study presents a foundation for future research on how patterns of racial bias within the criminal justice system contributes to a process of failed justice for our most vulnerable of defendants: children.

Future studies need to analyze the link between race and the wrongful conviction of juvenile defendants. These studies should fully assess the correlates of introductory events to wrongful conviction, including both in-depth case studies of specific defendants and statistical analysis using a matched comparison group, such as cases awaiting exoneration or cases denied exoneration. Such studies need to examine how racial differentials within the initial stages of the criminal justice system contribute to systemic defects that threaten the administration of justice within the criminal justice system. There is currently a shortage of in-depth, systematic research on the origins of wrongful conviction, including youth who have been wrongfully convicted. It should be noted that "considerations of

wrongful conviction, including its causes, its implications for our society and for the criminal justice system, and methods of prevention” (Huff et al., 1996, p. 151) cannot be well parsed out.

There is also a lack of research on general performance during police investigations as these performances contribute to wrongful conviction. As Gross and O’Brien (2008, p. 936) point out, “for most criminal cases we do not know enough” about the initial operations of the criminal justice process. Hence, the findings from this study begin to offer insight into how racial differentials within the initial operations of the criminal justice system may contribute to the wrongful conviction of youth. Research continuing to examine the criminal justice system will offer policy makers the opportunity to begin to critically scrutinize the functioning of the criminal justice system, beginning with police investigation. On-going research may lead us to better predict the mishaps of justice, particularly concerning race, that occur within the entire criminal justice system and contribute to systemic defects leading toward the wrongful conviction of our youth.

Conclusion

Due process is a fundamental right of American citizens, regardless of race, implemented into the criminal justice system as a means of ensuring justice. Wrongful conviction bastardizes due process. As a result, each youth was subject to criminal conviction and the stigma that accompanies a conviction: the label of “criminal” within society, and the interference with full functioning in society after incarceration. The label of “convict” carries with them throughout their lifespan and limits their opportunities to full functionality in society. For example, their ability to be gain employment may be limited, they may have been entered onto registries that publicly name individuals convicted of specific crimes, and they may be ostracized from participation in social groups (cf. Goffman, 1963). Due to the fact of the stigma attached to criminal conviction, preventing productive functioning in society upon release from prison, wrongful conviction deprives defendants of constitutional, personal, and physical freedoms. Justice should strive to ensure fair treatment of all, not just those who hold high social status or do not otherwise meet the criteria of criminal profiling. Simlot and Slusarki (2000) propose that all cases with biological crime evidence be subject to DNA analysis in order to determine the involvement of a suspect. DNA analysis implemented within police investigations may provide for more just outcomes in the criminal justice system by forcing the police to fully scrutinize the evidence presented to them rather than potentially engage in biased practices, such as racial profiling. Due to the Innocence Protection Act in 2001, which demanded protection of the innocent (The Office of the President of the

United States, 2003), police policy must be re-assessed to ensure police operations do not contribute to institutionally biased practices that ultimately contribute to wrongful conviction for youth. More importantly, specifically parsing out the role of race during the criminal justice processes is necessary to prevent injustice for our youth and to stop the racialization of justice.

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