Identifying and Charging True Perpetrators in Cases of Wrongful Convictions

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True perpetrators—those who commit crimes that others were wrongfully convicted of—are a danger to society. Left unapprehended, these individuals often continue to commit crimes that could have otherwise been avoided. Despite the risk they pose, only about half of true perpetrators in DNA exoneration cases have been identified. Further, only 50% of those who have been identified have been charged with the wrongful conviction crime(s) they committed. Previous research on wrongful convictions, prosecutorial discretion in charging decisions, and prosecutors' treatment of post-conviction innocence claims provide a starting point for investigating what factors underlie the identification and charging of true perpetrators. To explore these factors, we analyze 367 DNA exoneration cases and the consequent 149 unique, identified true perpetrators. Results revealed that prosecutorial misconduct as a contributor to the wrongful conviction decreased the odds that a true perpetrator would be identified, but the odds increased if the victim was White and the exoneree was Black compared to if both were White. Odds of identification also decreased when, compared to murder, the most severe wrongful conviction crime type was child sex abuse or sexual assault. These factors were not significantly associated with the odds of an identified true perpetrator being charged with a wrongful conviction crime. A qualitative study revealed both definitively prohibitive and potentially influential factors that could influence a prosecutor's decision not to charge an identified true perpetrator with these crimes. These findings indicate policy solutions that could hold true perpetrators of wrongful convictions crimes responsible for their actions.

I Identifying and Charging True Perpetrators in Cases of Wrongful Convictions

Wrongful convictions inflict upon an innocent person one of the world's greatest injustices—being convicted for a crime they did not commit. Broadly, there are two categories of wrongful convictions in which the wrongfully convicted individual is factually innocent: "no-crime" wrongful convictions where one is convicted for a crime that never occurred, and "wrong-person" wrongful convictions where the wrong person was convicted for the crime (Acker & Redlich, 2011; Bingham et al., 2013).[1] To date, there have been 367 DNA exonerations in the United States as defined by the Innocence Project; that is, 367 individuals determined by DNA evidence to be factually innocent of the crime for which they were convicted (Innocence Project, 2020). Furthermore, The National Registry of Exonerations (NRE) has estimated an additional 2,247[2] exonerations have occurred across the United States since 1989 (The National Registry of Exonerations, n.d.-a). For each wrong-person wrongful conviction, there is at least one individual, the "true perpetrator," who actually committed the crime for which the exoneree was wrongfully convicted. As wrong-person wrongful convictions make up approximately 60% of all known wrongful convictions cases (Norris, Bonventre, & Acker, 2018), true perpetrators have escaped culpability, at least initially, for a crime they actually committed in nearly 1,500 cases.

Although the literature regarding wrongful convictions broadly is extensive—covering a variety of factors including mistaken witness identification (e.g., Clark, 2012; Garrett, 2011), false or misleading forensic evidence (e.g., Cooper & Meterko, 2019; Garrett & Neufeld, 2009; Kassin, Dror, & Kukucka, 2013), and the aftermath of wrongful convictions (e.g., Norris, 2014; Thompson, Molina, & Levett, 2012; Westervelt & Cook, 2012)—research about true perpetrators specifically is just beginning to develop. Most research on the topic aims to estimate the number of additional crimes true perpetrators commit due to instances of wrongful conviction (Baumgartner et al., 2018; Conroy & Warden, 2011; Norris, Weintraub, et al., 2019; West & Meterko, 2016). The consensus across this line of work is that when true perpetrators escape justice, they continue to pose a significant public safety risk by committing additional serious crimes. Only recently has research started to examine factors that influence whether or not true perpetrators are identified (Weintraub, 2020), but scholars have speculated that contributors to wrongful convictions, such as false confessions, may affect the likelihood of true perpetrator identification (Norris, Weintraub, et al., 2019). Additional work is needed to understand the factors underlying the identification of true perpetrators so that more of these individuals can be identified and a more accurate estimate of the harm they cause produced.

[1] There also exists a third type of wrongful conviction, which occurs when someone is factually guilty of a crime and convicted, but there are procedural errors with their case (Gould & Leo, 2010; Medwed, 2008). However, studies which discuss wrongful convictions almost exclusively focus on factually innocent wrongful convictions, as do the present studies.

[2] Most recent data are as of 2 February 2020.

However, just identifying true perpetrators is not enough to ensure public safety and justice; these outcomes hinge on these individuals then being charged with the crimes they committed for which someone else was wrongfully convicted. According to data provided by the Innocence Project, only half of identified true perpetrators in DNA exoneration cases have been charged with the wrongful conviction crime. It remains unknown why a full 50% of these individuals have not been charged with the wrongful conviction crime as this contradicts both the due process and crime control models of the criminal justice system (Acker, 2013; Packer, 1968). Thus, the present studies serve as an exploratory examination of what legal and extralegal factors might influence the identification and charging of a true perpetrator.

In the following sections, we discuss the importance of identifying and charging the true perpetrators of wrongful convictions offenses, hypothesize as to what factors will impact these outcomes, and empirically test the relation between the hypothesized factors and the identification (Study One) and charging (Study Two) of true perpetrators. Following these analyses, we explore individual wrongful convictions cases to identify additional definitively prohibitive and potentially influential factors related to prosecutorial discretion in charging a true perpetrator (Study Three). Finally, we discuss the policy implications of our findings and provide directions for future research.

II Background

Since 2011, scholars have paid increasing attention to the damage true perpetrators inflict upon society, their victims, and not the least of which, the wrongfully convicted individuals. Broadly, members of the public find the possibility that the criminal justice system can punish an innocent person for another individual's crime to be concerning (Zalman, Larson, & Smith, 2012). Additionally, cognizance of wrongful convictions can damage the public's trust in the criminal justice system (Gould & Leo, 2010), and may even lead to decreased support for the death penalty (Baumgartner, DeBoef, & Boydstun, 2008; Fan, Keltner, & Wyatt, 2002; Norris & Mullinix, 2019; Unnever & Cullen, 2005). As explained by Jason Carmichael & Stephanie Kent (2015), "The public's confidence in the criminal justice system is shaken as they grapple with both the public safety concern that the actual perpetrator is among them, as well as the disappointment in the system's concern with individual justice" (p.705). Recently, the issue has grown more salient to the public, as wrongful convictions are increasingly featured on the news, on streaming platforms, and in podcasts (Demos & Ricciardi, 2015; Leveritt, 2002; Stratton, 2019; Zalman, Larson, & Smith, 2012).

Identifying True Perpetrators

The concerns held by the public about the dangers of wrongful convictions are warranted, as the vast majority of true perpetrators commit at least one crime after someone else has been wrongfully convicted for their own criminal actions (Norris, Weintraub, et al., 2019). The identification of true perpetrators is necessary to know the full negative impact of their wrongful liberty on public safety. Studies quantifying true perpetrators' crimes have been done with samples ranging from state-wide wrongful convictions (Baumgartner et al., 2018; Conroy & Warden, 2011), to national samples (Norris, Weintraub, et al., 2019; West & Meterko, 2016). Extrapolated

information about the criminal impact of true perpetrators in DNA exoneration cases to federal data on annual convictions has found that incarcerating the wrong individuals may lead to more than 41,000 additional crimes being committed each year (Norris, Weintraub, et al., 2019). Furthermore, the types of crimes that true perpetrators commit are not inconsequential. They are often serious crimes, categorized as violent or felony-level offenses (Baumgartner et al., 2018; Conroy & Warden, 2011; West & Meterko, 2016), and primarily consist of sexual assault as well as other violent crimes including armed robbery, aggravated assault, and homicide (Norris, Weintraub, et al., 2019; West & Meterko, 2016). In these cases, identifying a true perpetrator can quite literally mean the difference between life and death. One analysis found that 39 serial homicide offenders altogether committed an additional 79 homicides after the wrong individuals were convicted for their first homicide crimes (Yaksic et al., 2020). Each of these studies notes, importantly, that an accurate estimate of true perpetrators' criminality is evasive. The only way for speculations to approach the true answer is to identify more true perpetrators.

Identifying true perpetrators is not only important for community safety and trust in the criminal justice system, but also to achieving justice for those who are wrongfully convicted. In a study of wrongful convictions and "near misses"[3], true perpetrator identification was the basis for an exoneration in 58% of wrongful convictions and 57% of near misses. In fact, true perpetrator identification is second only to DNA evidence as a basis for exoneration (Gould & Leo, 2015). Moreover, true perpetrator identification and DNA evidence often go hand-in-hand; DNA analysis, which is usually done in an attempt to obtain evidence of the wrongfully convicted person's innocence, can also identify a true perpetrator in the process. In cases where DNA analysis exonerates a wrongfully convicted individual, it can identify the true perpetrator either by direct match or comparison of a DNA sample from the crime scene to a suspect (Innocence Project, 2020).

Thomas Haynesworth is one example of an exoneree who had his case overturned because DNA evidence identified the true perpetrator. Haynesworth was accused and convicted of having committed multiple sexual assaults, while the true perpetrator remained free and committed more of these crimes. Twenty-five years after Haynesworth was wrongfully convicted, DNA evidence simultaneously cleared his name and matched Leon Davis, who had been apprehended by the state for the sexual assaults he had committed while Haynesworth was incarcerated. Had Davis been identified sooner, or been apprehended instead of Haynesworth, at least a dozen additional victims could have been spared from his crimes (Acker, 2013; Green & Williams, 2009).

Identifying these actual perpetrators is the first step to ensuring justice is served, but the limited extant research on the topic leaves little direction for how best to empirically examine the factors underlying their identification. In an effort to do so, we first turn to factors most often associated with cases of wrongful convictions, hypothesizing that these factors are likely to also impact true perpetrator identification due to the close relation of the subjects. Specifically, we include defining characteristics of wrongful convictions cases, such as contributors to wrongful convictions (e.g., eyewitness misidentification and prosecutorial misconduct), case demographics (e.g., the most severe crime type and high volume exoneration county), and the assistance of an innocence organization (e.g., Gould, Carrano, Leo, & Young, 2013; West & Meterko, 2016). We

[3] "Near misses" were defined by the authors as "those who had charges dismissed before conviction or were acquitted on the basis of factual innocence" (Gould & Leo, 2015, p.333).

then include additional factors that are related to criminal justice outcomes more broadly, such as race (e.g., Eberhardt et al., 2006; Viglione, Hannon, & DeFina, 2011) and the advent of DNA technology (e.g., Bowman & Gould, 2020; Weintraub, 2020). We hypothesize that, given the overarching effect of these variables in the criminal justice system, they likely impact outcomes for true perpetrator identification as well.

Charging True Perpetrators

Beyond just identifying who they are, charging true perpetrators with the wrongful conviction crime also contributes to maintaining public safety, and is likely important to exonerees' reentry to society after being wrongfully accused and held responsible for crimes they did not commit. When an innocent individual is charged and convicted, they lose not only their livelihood but their reputation due to beliefs by others that they committed a heinous crime. These beliefs often remain intact even if the exoneree's convictions are overturned or expunged from their record, as many continue to face prejudice in their daily lives and experience traumatic psychological effects from their wrongful conviction (Clow, Blandisi, Ricciardelli, & Schuller, 2011; Westervelt & Cook, 2008). Moreover, most exonerees never receive apologies or even acknowledgments of fault from those who had a hand in their wrongful conviction, although receiving one could be beneficial to their psychological well-being and reintegration (Penzell, 2007). Larry Fuller, an exoneree who did receive an apology from an Assistant District Attorney ("DNA Clears Man in Rape, Judge Rules," 2006), told the Innocence Project in an interview that an apology provides an "acknowledgment that they cannot deny you" and that with the apology, "the stigma [was] gone" (Penzell, 2007, pp. 145-146). Thus, charging the true perpetrators for their crimes could allow exonerees to face less public ridicule and gain some satisfaction that the state acknowledged and attempted to right its wrong.

Given these potential benefits, it is unclear why half of identified true perpetrators are not charged for the crimes they committed and for which someone else was held responsible. The decision to charge a true perpetrator may differ from a prosecutor's decision to charge other offenders, given the additional circumstances a prosecutor must consider when undertaking an exoneration case. These circumstances can include: the passage of a significant amount of time since the crime was committed and investigation was conducted (Gould & Leo, 2015; Meterko, 2016); retraumatizing victim(s) who believe the case to have been resolved, and may have to cooperate with an entirely new investigation (Brody & Acker, 2015; Irazola et al., 2013); an exonerated party that the prosecutor may not believe to be factually innocent (Westervelt & Cook, 2008), and more. Still, the fundamental question for prosecutors remains the same: whether or not to bring charges against an offender. Therefore, we first explore research regarding prosecutorial discretion in non-exoneration cases, examining how this decision-making process may change for cases of true perpetrators.

Prosecutors have complete discretion in deciding whether or not to charge anyone accused of a crime (Albonetti, 1987; Jacoby, 1980). The decision is complex and based on several factors (Bowers, 2010; Gershman, 2010), requiring prosecutors to weigh a number of rationales when considering not charging an accused individual (Goldstein, 1981; Greenawalt, 1987; Miller, 1969). Altogether, these considerations can be condensed into three distinct groups, as laid out by Josh Bowers (2010): legal, equitable, and administrative.

Legal considerations encompass whether a prosecutor has enough evidence to press charges against an accused person (Bowers, 2010; Goldstein, 1981; Miller, 1969; *Wayte v. United States*, 1985). However, these considerations are likely slightly different when deciding whether or not to charge a true perpetrator. Although a prosecutor may decline to charge a true perpetrator if they deem the available evidence insufficient to point to legal guilt, or if they believe the evidence does not adequately exonerate the wrongfully convicted individual and point to the true perpetrator, it is unlikely that there is an actual lack of available evidence. The fact-finding process to overturn a wrongful conviction is long and arduous, with research indicating that the exoneration process can be as long as 21.5 years, on average, from conviction to release (Meterko, 2016).

The time it takes to complete this lengthy process is partially due to the fact that the requirements to reverse a conviction can be quite burdensome.[4] Although they are often held to be synonymous, one's factual innocence does not necessarily lead to an exoneration (Leo, 2017). Instead, significant evidence and proof must be gathered and submitted to the court via a specific process to secure a wrongfully convicted individual's release. For example, to vacate a judgment based on new evidence in New York, the Criminal Procedure Law requires that:

> New evidence has been discovered since the entry of a judgment based upon a verdict of guilty after trial, which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant; provided that a motion based upon such ground must be made with due diligence after the discovery of such alleged new evidence (N.Y. CPL § 440.10).

With such high standards required to exonerate an individual, there should be no dearth of evidence to at least begin compiling a case against the true perpetrator. Thus, it is likely factors other than legal considerations that account for why so many identified true perpetrators are not charged for their crimes.

The second group of considerations described by Josh Bowers (2010) are equitable factors. Prosecutors may weigh whether it is the just decision to charge a perpetrator depending on how they judge the character of the offender, the severity of the offense, or if doing so serves the best interests of the public (Goldstein, 1981; Greenawalt, 1987; Miller, 1969). In exoneration cases, a prosecutor choosing not to charge the true perpetrator may be a manifestation of their judgments that a prosecution is not necessary for any number of reasons, such as if the perpetrator is already incarcerated for another crime, or if they believe that the exoneree is still factually guilty despite being exonerated.

Lastly, practical or administrative considerations, such as whether there are enough resources to prosecute the case, can cause a prosecutor to decide against pressing charges (Bowers, 2010; Goldstein, 1981). Though adequate resources are necessary for any prosecution, those involving true perpetrators may actually require fewer resources than other cases because of the evidential burden required to exonerate the wrongfully convicted, as described above. Still,

[4] For a review of other factors that contribute to an exoneree's time to exoneration see Jon Gould & Richard Leo (2015, pp.356-360).

prosecutors may find it difficult to justify using resources to prosecute a true perpetrator for crimes someone else has already been previously convicted of. Overall, even though the decision to prosecute a true perpetrator is still within a prosecutor's discretion, the qualitative difference between cases borne out of wrongful convictions and those that are not makes it unlikely that these legal, equitable, and administrative considerations completely account for outcomes regarding the decision to charge true perpetrators. In addition, the decision is likely to be also related to the previously discussed criminal justice and wrongful conviction case factors, as well as how prosecutors process post-conviction innocence claims more broadly.

Prior research indicates that prosecutors are largely uncooperative with post-conviction innocence claims by simply failing to help overturn wrongful convictions or going so far as to stand in the way of exoneration efforts (Gould & Leo, 2015; Webster, 2019). This unwillingness to cooperate may be especially likely to occur if the prosecutor still believes the wrongfully convicted individual is guilty (Zacharias, 2005). It may also stem from an interest in finality, or keeping the original decisions made by the criminal justice system intact, and therefore making prosecutors hesitant to charge another person for a crime that has already been tried in the system (Ginsburg & Hunt, 2009; Kreimer & Rudovsky, 2002; Medwed, 2004).

In general, this resistant behavior is likely the result of the psychological and structural factors at play in the criminal justice system that disincentivize prosecutors from cooperating with post-conviction claims of innocence (Medwed, 2004; O'Brien, 2009; Webster, 2019). New information that contradicts one's own sense of a situation presents a risk in that it challenges what is thought to be true, causing one to hold on to their original beliefs more strongly as a result (Lord, Ross, & Lepper, 1979). In the present context, this tendency, known as confirmation bias, may cause prosecutors to discard new evidence of innocence in favor of their previously held beliefs in the innocent person's guilt (Burke, 2006; Findley & Scott, 2006; Jonakait, 1987; Levenson, 2016). Their beliefs may be especially strong if years have passed since the exoneree was found guilty of the crime (Findley, 2008; Jonakait, 1987). Moreover, it is likely psychologically trying for a prosecutor, who is intended to act as a minister of justice, to have to revisit a case in which the result may indicate that they, or other members of their office, were involved in convicting an innocent person (Goldberg & Siegel, 2002; Medwed, 2004; Schoenfeld, 2005). With the expectation that a prosecutor embodies a role in which they advocate for justice on behalf of the people (*Berger v. United States*, 1935), an overturned conviction based on the factual innocence of the wrongfully convicted party may cause members of the public to lose faith in their office (Green, 2019). Furthermore, if prosecutors agree to consider post-conviction claims of innocence, they risk offending other members of their "courtroom workgroup,"[5] with whom they must work closely and on a continuous basis (Webster, 2019). Cooperating with a post-conviction claim of innocence, or acknowledging it by charging an alternative perpetrator after an exoneration, may indicate to other members of the workgroup that they, too, participated in having an innocent person convicted of a crime they did not commit, potentially complicating future working relationships (Medwed, 2004; Zacharias, 2005).

[5] Members of a courtroom workgroup can include police, forensic analysts, informants, defense attorneys, judges and any other criminal justice actor who shares common goals and works with the prosecutor regularly (Eisenstein & Jacob, 1977; Webster, 2019).

Due to all of the above explained reasons, we posit that prosecutions of true perpetrators are, in some ways, fundamentally different from prosecutions of other offenders. Thus, we hypothesize that factors related to wrongful convictions in general are most likely to affect whether or not a true perpetrator is charged, just as we believe they will impact identifying true perpetrators. However, we still anticipate that the legal, equitable, and administrative considerations that impact prosecutors' decisions to charge other offenders might appear in their rationales not to charge a true perpetrator with the wrongful conviction offense(s). We test these hypotheses and those regarding identifying true perpetrators in three studies, detailed below.

III Current Studies

Despite the importance of identifying and charging true perpetrators, the factors that influence these outcomes largely remain unknown. Therefore, the present works seek to determine if and how different factors impact whether or not a true perpetrator is identified, and whether or not an identified true perpetrator is charged with the wrongful conviction crime. Specifically, we aim to answer the following research questions:

1. What case factors affect whether or not a true perpetrator is identified?
2. For true perpetrators who have been identified, what case factors affect whether or not they are charged with the wrongful conviction offense(s)?
3. For true perpetrators who have been identified, what additional prohibitive and discretionary factors affect whether or not they are charged with the wrongful conviction offense(s)?

To answer these questions, we examined 367 wrong-person DNA exoneration cases and 161 unique true perpetrators. A full list of cases and true perpetrators, by criminal event, can be found in the Appendix.

IV Study One: Identifying True Perpetrators

A. Data and Methods

Data consisted of 367 wrong-person wrongful conviction cases. For the purposes of this study, a case is defined as a single individual who was exonerated for a crime they did not commit through DNA evidence.[6] The data were provided by two leading innocence organizations; specifically, the 367 cases and some accompanying information were compiled by the Innocence Project, and matched with the public dataset from the National Registry of Exonerations[7] website to include additional details for each case. The following factors, described below, serve as the independent variables for Study One.

[6] One criminal event may result in multiple cases. For example, the 367 DNA exoneration cases in our sample include each member of the Exonerated Five as an individual case, although they were all convicted of the same crime.
[7] Most recent data as of 2 February 2020.

Independent Variables

Contributors to Wrongful Convictions. The contributors to wrongful convictions used for this study include: eyewitness misidentification, false confessions, perjury or falsified accusations, false or misleading forensic evidence, and inadequate legal defense, as defined and coded by the NRE (for definitions, see "Glossary," n.d.-b). Each of the contributors was classified as being either present or absent in each case.[8]

Prosecutorial Misconduct.[9] Following previous work (Weintraub, 2020), summaries from the Innocence Project and NRE websites were qualitatively coded for evidence of actual or alleged prosecutorial misconduct. As systemic issues often cause the identification of prosecutorial misconduct at trial to be incomplete (Davis, 2009; West, 2010; West & Meterko, 2015), data were collected in a variety of ways to ensure accuracy of the code. Specifically, cases were coded as containing prosecutorial misconduct if summaries mentioned information about a prosecutor failing to turn over material or impeachment evidence to the defense (*Brady/Napue* violations) or explicitly stated that the conviction was vacated based on prosecutorial misconduct (*Brady v. Maryland*, 1963; *Napue v. Illinois*, 1959). Afterwards, independent research was conducted utilizing: additional innocence databases (Gordon, 2003; Forejustice, 2018; Innocence Project, 2020; The Center for Public Integrity, 2003); academic sources (West & Meterko, 2015); data sources for academic articles (West, 2010); and news stories of exonerations, all of which were qualitatively analyzed for similar constructs (e.g., *Brady* violations), and coded accordingly.

Most Severe Crime Type. Most severe crime type for a wrongful convictions case was coded using "worst crime display" as provided by the NRE public dataset.

High Volume Exoneration Counties. To control for counties that are over-represented in cases of wrongful convictions involving DNA exonerations (The National Registry of Exonerations, 2019), we included a variable to flag high volume exoneration counties. Following previous work (Weintraub, 2020), any county which had 6 or more cases in the sample was grouped into a category of high-volume wrongful conviction cases (n = 100). These counties included: Cook, IL (n = 39); Dallas, TX (n = 26); Harris, TX (n = 9); Jefferson, LA (n = 7); New York, NY (n = 7); Cuyahoga, OH (n = 6); and Gage, NE (n = 6).

Assistance of an Innocence Organization. As innocence organizations have additional tools and resources that are not available to lay people trying to prove their own innocence, we accounted for whether or not an innocence organization assisted in a wrongful conviction case. Assistance of an innocence organization was coded and defined by the NRE (see "Glossary," n.d.-b).

Crime Occurrence Before or After 1989. Convictions that resulted in DNA-based exonerations and occurred before the advent of modern DNA science are likely qualitatively different than those that occurred after. The use of DNA technology in the context of U.S. exonerations did not begin until approximately 1989 (Gross & Shaffer, 2012), so cases were

[8] 213 (58%) cases had more than one contributor.

[9] We coded prosecutorial misconduct as a substitute for the "official misconduct" variable provided by the NRE. Correspondence with a researcher at the NRE revealed that cases may be coded as both official misconduct and "false or misleading forensic evidence" for the same actions (Maurice Possley, personal communication, 13 October 2017). Thus, the substitution was made to avoid multicollinearity between these two variables.

broken into two groups and coded dichotomously based on the year of conviction provided the Innocence Project: convicted before 1989 and convicted in or after 1989.

Race. The pervasive cultural stereotypes in the U.S. linking Black individuals and criminality (Blair, Judd & Fallman, 2004; Devine, 1989), as well as the fact that Black individuals are more easily dehumanized and are seen as more culpable for their actions than their White counterparts (Goff et al., 2014), have contributed to racially disparate outcomes in the criminal justice system. Specifically, Black offenders receive harsher and longer sentences, and are more likely to be sentenced to death in capital cases, than White offenders (Eberhardt et al., 2006; Viglione, Hannon, & DeFina, 2011). This pattern is further exacerbated when the victim of a Black offender is White (Eberhardt et al., 2006). To determine if there is a similar effect of race on outcomes for true perpetrators, the race of the wrongfully convicted individual and victim were coded as: (1) a Black exoneree and victim; (2) a White exoneree and victim; (3) a Black exoneree and White victim; or (4) a White exoneree and Black victim.[10]

Dependent Variable

True Perpetrator Identification. Cases were defined as having an identified true perpetrator in one of two ways based on data provided by the Innocence Project. First, if the true perpetrator was discovered via a "database hit," in which the DNA profile from the crime scene or victim matched to a previously unknown suspect in the database). Second, if the true perpetrator who committed the crime was identified by a "direct comparison," meaning the DNA profile was compared against that of an alternate suspect instead of a database. A dichotomous variable was created to indicate whether or not a true perpetrator was identified in one of these manners (see Table 1).

Table 1. Frequencies of Independent Variables by True Perpetrator Identification

		No True Perpetrator Identified		True Perpetrator Identified		Total	
		n	%	*n*	%	*n*	%
False Confession	No	156	86%	124	67%	280	76%
	Yes	26	14%	61	33%	87	24%
Mistaken Witness Identification	No	35	19%	88	48%	123	34%
	Yes	147	81%	97	52%	244	67%
Perjury/False Accusation	No	127	70%	91	49%	218	59%
	Yes	55	30%	94	51%	149	41%

[10] Some research (e.g., Platz & Hosch, 1988; Teitelbaum & Geiselman, 1997) has examined how those of Hispanic /Latinx ethnicity compare to Black individuals regarding criminality and outcomes in the criminal justice system. However, due to the limited research on the topic and very few cases (n = 26) in our dataset, these cases were not coded for race in the analysis.

False/Misleading Forensic Evidence	No	100	55%	110	60%	210	57%
	Yes	82	45%	75	41%	157	43%
Inadequate Legal Defense	No	164	90%	167	90%	331	90%
	Yes	18	10%	18	10%	36	10%
Prosecutorial Misconduct[a]	No	114	71%	139	77%	253	74%
	Yes	47	29%	41	23%	88	26%
Most Severe Crime Type	Accessory to Murder	0	0%	1	1%	1	<1%
	Attempted Murder	2	1%	1	1%	3	1%
	Attempted Violent Crime	0	0%	1	1%	1	<1%
	Burglary/Unlawful Entry	0	0%	1	1%	1	<1%
	Child Sex Abuse	18	10%	8	4%	26	7%
	Kidnapping	1	1%	3	2%	4	1%
	Murder	41	23%	93	50%	134	37%
	Robbery	3	2%	7	4%	10	3%
	Sexual Assault	117	64%	69	37%	186	51%
	Weapon Possession or Sale	0	0%	1	1%	1	<1%
High Volume Exoneration Counties	Low Volume	141	78%	126	68%	267	73%
	High Volume	41	23%	59	32%	100	27%
Assistance of an Innocence Organization	No	96	53%	96	52%	192	52%
	Yes	86	47%	89	48%	175	48%
Crime Occurrence Before or After 1989	Before 1989	126	69%	101	55%	227	62%
	After 1989	56	31%	84	45%	140	38%
Race[b]	White Exoneree & Victim	48	37%	40	27%	88	32%
	Black Exoneree & Victim	32	25%	34	23%	66	24%
	White Exoneree & Black Victim	1	1%	2	1%	3	1%

Black Exoneree & White Victim	48	37%	70	48%	118	43%

[a] Twenty-six cases were not coded for prosecutorial misconduct because there was a possibility that prosecutors committed misconduct, but the circumstances of the case made it unclear (e.g., a state forensic analyst misrepresented evidence that may or may not have been known to the prosecution).

[b] Ninety-two cases were not coded for race because either the race of the victim or exoneree could not be determined, there were multiple victims of different races, or the exoneree or victim were Hispanic/Latinx.

B. Results

A logistic regression analysis specified the relations between the described independent variables and the odds of identifying (n = 185) versus not identifying (n = 182) the true perpetrator (see Table 2). The model was statistically significant ($\chi^2(13) = 53.98$, $p < .001$, Nagelkerke $R^2 = .27$), supporting our hypothesis that these factors impact the odds of identifying a true perpetrator. Specifically, prosecutorial misconduct was significantly and negatively associated with the odds of identifying a true perpetrator. The odds of a true perpetrator being identified were more than twice as likely for cases in which prosecutorial misconduct was not a contributing factor to the wrongful conviction than for cases in which it was ($B = -0.71$, $p = .04$, $OR = 0.49$).

Also significantly associated with the odds of identifying a true perpetrator was most severe crime type ($\chi^2(2) = 10.12$, $p = .01$). Specifically, the odds of identifying a true perpetrator were almost five times greater when the most severe crime type was murder than when the most severe crime type was child sexual abuse ($B = -1.56$, $p = .03$, $OR = 0.21$). Similarly, the odds of identification were nearly four times greater when the most severe crime type the exoneree was convicted of was murder compared to sexual assault ($B = -1.35$, $p < .01$, $OR = 0.26$).

Lastly, race of the exoneree and victim was significantly associated with the odds of identifying a true perpetrator ($\chi^2(2) = 12.57$, $p < .01$). Specifically, compared to cases in which the exoneree and victim were both White, the odds of a true perpetrator being identified were 244% greater when the exoneree was Black and the victim was White ($B = 1.24$, $p < .01$, $OR = 3.44$). There was no significant difference in the odds of identifying the true perpetrator if the exoneree and victim were both Black ($B = 0.16$, $p = .69$, $OR = 1.18$) as compared to when the exoneree and victim were both White. Contrary to our hypothesis, none of the other contributors to wrongful convictions, nor high volume exoneration county, assistance of an innocence organization, or crime occurrence before or after 1989 were significantly associated with the odds of identifying a true perpetrator (all ps $\geq .16$).

Table 2. Logistic Regression Analysis of True Perpetrator Identification

						95% C.I. for OR	
	B	*SE(B)*	*Wald*	*p*	*OR*	*Lower*	*Upper*
Constant	0.66	0.54	1.52	0.22	1.93		
False Confession	0.32	0.42	0.58	0.45	1.38	0.60	3.16
Mistake Witness Identification	-0.49	0.48	1.06	0.30	0.61	0.24	1.55
False/Misleading Forensic Evidence	0.18	0.39	0.21	0.65	1.19	0.56	2.53
Perjury/False Accusation	0.48	0.34	2.01	0.16	1.61	0.83	3.11
Inadequate Legal Defense	-0.42	0.52	0.66	0.42	0.66	0.24	1.82
High Volume Exoneration County	0.29	0.35	0.68	0.41	1.33	0.68	2.62
Assistance of an Innocence Organization	-0.24	0.31	0.62	0.43	0.79	0.43	1.43
Crime Before/After 1989	0.43	0.34	1.60	0.21	1.53	0.79	2.98
Prosecutorial Misconduct	-0.71*	0.36	3.89	0.04	0.49	0.24	0.99
Most Severe Crime Type[a] Murder (reference category)			10.12	0.01			
Child Sex Abuse	-1.56*	0.72	4.72	0.03	0.21	0.05	0.86
Sexual Assault	-1.35*	0.44	9.62	< 0.01	0.26	0.11	0.61
Race[b] White Exoneree & White Victim (reference category)			12.57	< 0.01			
Black Exoneree & Black Victim	0.16	0.42	0.16	0.69	1.18	0.52	2.66
Black Exoneree & White Victim	1.24*	0.38	10.76	< 0.01	3.44	1.64	7.19

Summary Statistics	χ^2	df	*p*	Nagelkerke R^2
	53.98	13	< .001	0.27

Accessory to Murder, Attempted Murder, Attempted Violent Crime, Burglary/Unlawful Entry, Kidnapping, Robbery, and Weapon Possession or Sale were dropped from the model as there were either 0 or 1 case(s) in one of the outcomes.
b White exoneree and Black victim was dropped from the model as there was only one case in one of the outcomes.
*$p < .05$

C. Discussion

We found that prosecutorial misconduct, most severe crime type, and the race of the defendant and the victim all significantly impacted the probability of identifying a true perpetrator. In line with prior research (Weintraub, 2020), prosecutorial misconduct was found to be negatively associated with the odds of identifying a true perpetrator. As previously discussed, prosecutors historically do not cooperate with the majority of post-conviction innocence claims (Webster, 2019), especially in high-stakes cases such as those with prosecutorial misconduct (Bowman & Gould, 2020). Therefore, prosecutors may be more inclined to object to post-conviction petitions for DNA testing—the mechanism which would identify a true perpetrator in these DNA exoneration cases—if prosecutorial misconduct was present at trial. And, because courts often put a great deal of emphasis on the prosecutor's recommendation in post-conviction DNA petitions (Ginsburg & Hunt, 2009; Green & Yaroshefsky, 2009; Kreimer & Rudovsky, 2002; Medwed, 2004), their opposition could prohibit the identification of a true perpetrator.

Additionally, psychological factors that originally caused a prosecutor to commit misconduct at trial can carry over beyond the trial stage and result in an unwillingness to help identify a true perpetrator post-conviction (Jonakait, 1987; O'Brien, 2009; Yaroshefsky, 2013). A prosecutor's belief in an innocent person's guilt at trial, whether founded or not, can cause them to pursue an innocent individual to the point of committing acts of misconduct (Schoenfeld, 2005). After having gone to such lengths to have the wrongfully convicted person found guilty, it is likely more difficult to combat this belief even when faced with evidence to the contrary post-conviction. This tunnel vision on the wrongfully convicted person can translate into a resistance or refusal to cooperate with the necessary steps to identify the true perpetrator, like the post-conviction DNA petitions mentioned above (Jonakait, 1987; O'Brien, 2009). Moreover, concerns about losing the public's confidence can be amplified if in addition to the wrongful conviction, a prosecutor's act of misconduct directly contributed to that wrongful conviction (Kreimer & Rudovsky, 2002; Orenstein, 2011).

Compared to a case having the most severe crime type of murder, the true perpetrator was less likely to be identified if the most severe crime type was child sex abuse or sexual assault. One reason for this may be the inclusion of a vulnerable victim in child sex abuse and sexual assault cases that is not present in murder cases. Most experts agree that the trauma and stigma surrounding sexual abuse and assaults not only cause significant underreporting by victims, but also a fear of being revictimized by the investigation and prosecution (see Brody & Acker, 2015). Thus, although one reason for bringing charges against true perpetrators is to get justice for the victims, prosecutors may be less willing to reinvestigate an exoneration case for fear of upsetting or retraumatizing the victims of sexual assault or abuse, especially if the cases involve children.

Race of the victim and exoneree was also shown to be a significant factor in the outcome of true perpetrator identification, as it is in other areas of criminal justice. In the current context, the odds of identifying a true perpetrator were much greater when the exoneree was Black and the victim was White, compared to when the exoneree and victim were both White. However, the odds of identification were no different when the offender and victim were both Black, compared to when they were both White. These findings are in line with research on sentencing outcomes, especially in capital cases, where the outcome is the worst for the offender when the offender is Black and the victim is White (e.g., Eberhardt et al., 2006). Although identifying true perpetrators is a positive outcome, thus appearing contradictory to such previous research, these results are logical when viewed through the lens of the true perpetrator, for whom being identified is a negative outcome. Viewing these results through this lens also clarifies the found relation between race and true perpetrator identification. It is likely that finding the true perpetrators in cases with a Black exoneree and White victim is considered more important to prosecutors, as Black offenders are seen as more culpable for their actions and White victims are not dehumanized in the way Black individuals can be (Goff et al., 2014), thus increasing the odds of identification. Moreover, research has shown that implicit biases, rooted in broad cultural stereotypes, affects prosecutorial discretion at every decision-point (Smith & Levinson, 2012). Thus, it is likely that together, these circumstances increase the odds of identifying a true perpetrator if the accused is Black.

Although identifying true perpetrators is important for understanding the consequences of wrongful convictions, public safety and justice require them to then be charged for their crimes. Having established which of the hypothesized factors impact the identification of true perpetrators, the next step is to test their effect on charging. Study Two aims to achieve this by examining if and how these factors impact the odds of charging identified true perpetrators.

V Study Two: Charging True Perpetrators

A. Data and Methods

To examine the factors that affect the charging of a true perpetrator, the unit of analysis was changed from exoneration case to an identified true perpetrator. Each true perpetrator who actually committed the crimes that the individual in the case was wrongfully convicted of was identified as a single observation. For the cases in which no true perpetrator was identified, the number of true perpetrators was assumed to be one unless otherwise specified by the Innocence Project or National Registry of Exonerations (e.g., if multiple DNA profiles were identified). Duplicate cases, where one true perpetrator was named for multiple exonerees in one criminal event, were dropped from the dataset. Of the estimated 344 unique true perpetrators, 161 were identified by name or DNA and thus the state had the necessary information to potentially charge them. Each of these 161 identified true perpetrators was coded for whether or not they were charged with the wrongful conviction crime. Eleven observations were dropped from our analyses, as there was not sufficient information (e.g., a name) to verify whether or not the true perpetrator had been charged. One additional identified true perpetrator was dropped because, as of this

writing, he had been arrested but not yet charged. Thus, the final dataset consisted of 149 unique, identified true perpetrators.[11]

Independent Variables

All of the independent variables from Study One were utilized in the current study (i.e., contributors to wrongful convictions, most severe crime type, high volume exoneration counties, assistance of an innocence organization, crime occurrence before or after 1989, and race).

Dependent Variable

Charging Identified True Perpetrators. Observations were coded as to whether or not an identified true perpetrator was charged for the crimes for which the exoneree was convicted.[12] Identified true perpetrators were defined as having been charged if information from the Innocence Project, National Registry of Exonerations, and news stories about the exonerations of the wrongfully convicted individual indicated that the true perpetrator had been charged. Thus, a dichotomous variable was created to indicate whether or not an identified true perpetrator was charged with the wrongful conviction crime.

B. Results

A logistic regression analysis specified the relations between the described independent variables and the odds of charging (n = 75) versus not charging (n = 74) an identified true perpetrator with the wrongful conviction crime. The model was not statistically significant ($\chi^2(17) = 25.87$, $p = .08$), indicating that all together, the independent variables are not associated with the odds of charging an identified true perpetrator. This finding is contrary to our hypothesis that factors relevant to wrongful convictions and criminal justice outcomes broadly would also be influential in whether or not a true perpetrator was charged with the wrongful conviction crime.

C. Discussion

We did not find that our independent variables are associated with the odds of charging an identified true perpetrator, indicating that the factors underlying true perpetrator identification and charging decisions appear to differ from one another. This may be due to the different roles prosecutors play in identifying versus charging true perpetrators. Although prosecutors participate in the post-conviction processes which can identify a true perpetrator in DNA exoneration cases, such as providing recommendations regarding post-conviction petitions for DNA testing (Ginsburg & Hunt, 2009; Green & Yaroshefsky, 2009), handling these petitions is not necessarily within their daily job duties. Conversely, the decision of whether or not to charge an offender is exactly within the typical duties of a prosecutor (Albonetti, 1987; Jacoby, 1980), even if some of the circumstances surrounding true perpetrator cases are less common. Therefore, it is likely that reasons affecting a prosecutor's ability and willingness to bring charges against any offender also

[11] One true perpetrator, Walter Ellis, is included twice in this analysis as he is the true perpetrator of two separate wrongful convictions criminal events, involving different groups of exonerees (see Appendix).

[12] We specifically chose to examine whether or not a true perpetrator was charged as opposed to convicted because the goal of this analysis was to examine if the state even sought justice in charging the true perpetrator. Additionally, using conviction of the true perpetrator as the outcome variable would have required additional considerations such as charge bargaining and jury decision-making, which were not the focus of the current study.

impact the decision to bring charges against a true perpetrator. Study Three explores whether the reasons prosecutors may resist post-conviction innocence claims, and similar rationales to those proffered by prosecutors in non-true perpetrator cases, appeared throughout cases where the prosecutor did not charge an identified true perpetrator with the wrongful convictions crime.

VI Study Three: Exploring Cases of Uncharged True Perpetrators

A. Data and Methods

To determine the factors that may have impacted the decision not to charge an identified true perpetrator, the sample was limited to the unique true perpetrators who were identified but not charged with the wrongful conviction crime(s) (n = 74). Using data from the Innocence Project, National Registry for Exonerations, court documents, and publicly available sources such as news articles and media reports, and books, we conducted a qualitative content analysis to identify categories or themes that emerged regarding the decision not to charge an identified true perpetrator (Cho & Lee, 2014; Moretti, van Vliet, Bensing, et al., 2011). Specifically, each author individually conducted open coding to identify potential patterns in the data and grouped these patterns based on construct relatedness. After completing this coding, we discussed the identified patterns together and created a codebook.[13] Closed coding was then completed independently in accordance with the codebook. Our codes were then compared, and discrepancies addressed and resolved via discussion.

Seven factors were identified that could be categorized into two mutually exclusive groups, which we termed "definitively prohibitive" and "potentially influential" factors in the charging decision. Each identified true perpetrator was coded for if the definitively prohibitive and potentially influential factors were absent or present. For cases in which none of the identified codes were present, and for which no other factors were identified, "unknown" was coded.

Definitely Prohibitive Factors. Definitively prohibitive factors were defined as reasons why a prosecutor *could not* charge an identified true perpetrator with the wrongful conviction crime(s). Two non-mutually exclusive factors fit this definition: death and expiration of statutes of limitations. In these cases, a prosecutor was definitively prohibited from charging the true perpetrator either because that individual had died, or the law prohibited such action.

Death. Death was coded if it was determined that the true perpetrator died before the exoneration of the wrongfully convicted person.

Statutes of Limitations. Statutes of limitations are "a statutory limitation on the prosecution of an offense if the formal prosecution is not commenced, usually by return of an indictment or filing of an information, within a specified period after the completion of the offense" (U.S. Dept. of Justice, 2020). To code for whether or not a statute of limitations was a definitively prohibitive factor, we first identified the top charge (or specific most severe crime) that each exoneree was convicted of based off of the most severe crime type. Top charge was identified using the same

[13] Each codebook item is described in the following subsections and listed in Table 3.

sources as previously used in Study One and Study Two (e.g., the Innocence Project, the National Registry of Exonerations, court documents, media reports, etc.). If the specific crime could not be identified, top charge was coded as the most serious crime that could be defined under the most severe crime type. For example, if an exoneree was convicted of "sexual assault" and no specific charge could be found, the most serious sexual assault offense was identified in the state's penal code (e.g., "aggravated rape with a deadly weapon") and coded as the top charge for that true perpetrator. Using the top charge allowed us to be conservative in our estimates of whether true perpetrators would be prohibited from being charged due to an expired statute of limitations by coding for the longest possible statute of limitation they could have faced, and thus providing the best opportunity for the true perpetrator to be charged.

Once top charge was identified, information from the accompanying statute of limitations was coded for each offense by researching each state's specific penal codes. Specifically, we recorded the time at which the statute of limitations clock begins (e.g., at the time of the crime, time of arrest, etc.) and the length of the statute of limitations in years. We then compared the date the statutes of limitations expired to the date the wrongfully convicted individual was exonerated to determine if the statute expired before the exoneree was released, thus prohibiting prosecutors from charging the true perpetrator.

Potentially Influential Factors. In addition to the definitively prohibitive factors, we identified five non-mutually exclusive reasons why a prosecutor *might not* have charged the identified true perpetrators: incarceration, guilt, evidence, embarrassment, and psychiatric incapacitation. Each factor was coded as present or absent for each identified true perpetrator.

Incarceration. In some cases, prosecutors may have chosen not to charge the identified true perpetrator because they were already incarcerated for another crime, even though there is no law prohibiting them from doing so. Incarceration was coded as a potentially influential factor if the identified true perpetrator was incarcerated at the time of the exoneration, or if one of the aforementioned sources indicated incarceration as part of the prosecutor's discretionary process. For example, one source read: "[the true perpetrator], it turns out, was serving time in the same prison for the rape of a woman in the same apartment complex as the victim assaulted in [exoneree's] case" (Greene, 2007). To determine the incarceration status of the true perpetrator, true perpetrators were searched on states' Department of Corrections websites, as well as searching the aforementioned sources for reports of incarceration, following previous work (see Norris, Weintraub, et al., 2019).

Guilt. Prosecutors are bound by ethical standards that require them not to proceed with charges against an individual if belief in their guilt beyond a reasonable doubt is lacking (Gershman, 2010). Thus, guilt was coded as present for any cases in which the decision not to charge the identified true perpetrator was potentially influenced by a belief on the part of the prosecutor that the exoneree was still guilty. For example, after one exoneration by DNA, the prosecutor still "continue[d] to investigate whether he [the exoneree] has any connections to [the victim]" (Emch, 2001, para. 25).

Evidence. Evidence refers to a subjective concern on the part of the prosecutor that although the true perpetrator was identified, there was not enough evidence to charge them with

the wrongful conviction crime. Evidence was coded as a potentially influential factor if a source indicated that prosecutors stated that this was a concern of theirs, regardless of how objectively strong or weak the evidence was.

Embarrassment. Embarrassment was coded as present for cases in which the decision not to charge the identified true perpetrator was indicated to have been influenced by embarrassment on the part of the prosecutor. For example, in writing about one wrongful conviction case, the news reported that the prosecutor's "rationale for not prosecuting...is known only to her, but a decision to prosecute the case would certainly have created embarrassment for [the Assistant District Attorney]" (Warden, 2015, para. 9).

Psychiatric Incapacitation. Similar to incarceration, psychiatric incapacitation was coded as a potentially influential factor if it was determined, using publicly available data, that the identified true perpetrator was residing in a psychiatric facility when the exoneree was released.

B. Results

Of the 74 true perpetrators who were identified but not charged, there was a definitively prohibitive factor for 25 (34%) of them. Ten (14%) identified true perpetrators died before the exoneree was released, and therefore were not charged with the wrongful conviction crime. Thirteen (18%) identified true perpetrators could not be charged because the statute of limitations for the top charge wrongful conviction crime had expired by time the exoneree was released. For two (3%) additional identified true perpetrators, the statute of limitations would have prohibited being charged, but the true perpetrator died before the exoneree was released (see Table 3).

Table 3. Frequencies of Definitively Prohibitive and Potentially Influential Factors

Definitively Prohibitive Factors (n = 25)	n	%
Death	10	40%
Statute of Limitations	13	52%
Death and Statute of Limitations	2	8%
Total	25	100%
Potentially Influential Factors (n = 49)[a]		
Unknown	25	51%
Incarceration	20	41%
Guilt	4	8%
Evidence	3	6%
Embarrassment	1	2%
Psychiatric Incapacitation	1	2%

[a] Cases were coded either as Unknown, or with at least one potentially influential factor. Because these factors were not mutually exclusive, the total exceeds 100%.

The 25 individuals who were coded with a definitely prohibited factor were then removed from the analysis, and the remaining 49 (66%) identified true perpetrators were examined for potentially influential factors. Incarceration was the most common potentially influential factor, occurring in 20 (41%) of these cases. Guilt was a potential factor in four (8%) cases, and evidence was a potential factor in three (6%) cases. Finally, embarrassment and psychiatric incapacitation were both potential factors in just one (2%) case. For nineteen (39%) identified true perpetrators, only one potentially influential factor was identified, and for five (10%) identified true perpetrators, two of these factors were identified. For the remaining 25 (51%) identified true perpetrators, no potentially influential factors were identified (see Table 3).

C. Discussion

This exploratory study uncovered a variety of reasons that potentially or decisively caused the prosecutor not to charge the true perpetrator for the wrongful conviction crime(s). Across all of the cases and both the definitively prohibitive and potentially influential factors, one of the most prominent factors affecting charging an identified true perpetrator was an expired statute of limitations. Despite using the most conservative estimates, statutes of limitations still affected 20% of all identified true perpetrators.[14] That is, in these cases the statute of limitations had expired by the time the wrongfully convicted person was exonerated, thus eliminating the possibility for these true perpetrators to be charged. It is important to emphasize, again, that this percentage represents the least possible number of true perpetrators who could be protected from charges due to an expired statute of limitations, as only the least restrictive statute for the most serious crime was analyzed.[15] Further, 96 (59%) of the identified true perpetrators in the sample could have faced charges for more than one crime.[16] Given that these additional lesser crimes likely had more restrictive statutes of limitations which would have expired earlier than the single top charge coded, our estimate of how often an expired statute of limitations prohibited the prosecutor from charging the true perpetrator with a wrongful conviction crime is an underestimate. Additionally, the expiration of a statute of limitations was only explored for the identified true perpetrators who were not charged. For just the data examined herein, there are, at minimum, an additional 182 true perpetrators who were not identified and may be similarly protected from being charged with the wrongful convictions crime by expired statutes of limitations. Furthermore, this study only examines the effect of statutes of limitations in 367 DNA exoneration cases; however, there are an estimated 2,247 additional exonerations ("National Registry of Exonerations," 2020).[17] Extrapolating from the conservative estimates of the current results, wherein 20% of true perpetrators were affected by statutes of limitations, that is an additional 450 true perpetrators, who could have escaped culpability for their crimes due to statutory restrictions.

The leading potentially influential factor in the decision to charge identified true perpetrators for the wrongful convictions crime(s) was incarceration. Although there is no legally

[14] Defined as the thirteen individuals for whom the statute of limitations expired in addition to the two individuals who died but for whom statutes of limitations would have been prohibitive regardless.

[15] To this point, by changing the definitions for the top charges that could not be identified from the most serious to the least serious crime that could be defined in the most severe crime type, an expired statute of limitations becomes prohibitive in 31% of cases.

[16] Counts of how many charges a true perpetrator could have faced are based on how many crimes the wrongfully convicted person was convicted of.

[17] Most recent data are as of 2 February 2020.

prohibitive obstacle to doing so, prosecutors appeared to have an aversion to charging someone who was already incarcerated for a different offense. This may be due to the equitability or administrative considerations, as it would not necessarily serve the public or be a good use of resources to charge someone who is already incapacitated from committing another crime. A similar equitability argument can be made for psychiatric incapacitation, in which prosecutors may have believed that the psychiatrically incapacitated ought not be charged for their crimes in the name of justice. However, convicting these true perpetrators for the wrongful convictions crimes could add more time to their sentences, simultaneously protecting society and further punishing that individual for their additional crimes. Even for cases where the true perpetrator had already been permanently removed from society, convicting them of the wrongful conviction crime(s) could also provide closure to both the victim and exoneree. This was the case for Leon Davis, the true perpetrator of the crimes in Thomas Haynesworth's case. When investigations began into Haynesworth's innocence, Davis was already serving multiple sentences of life imprisonment for the crimes he continued to commit after Haynesworth was wrongfully incarcerated (Acker, 2013; Green, 2009). In such cases, the goal of charging the true perpetrator would be to help heal the innocents affected by the crime and wrongful conviction, as opposed to simply punishing the guilty.

Several of the other potentially influential factors we found (i.e., embarrassment, guilt, and evidence) fit with the previously discussed psychological and structural factors which may cause prosecutors to be uncooperative with post-conviction innocence claims. For instance, concerns about their own involvement in a wrongful conviction, and perceptions from the public and their courtroom workgroup, may cause embarrassment that dissuades prosecutors from charging the true perpetrator. Additionally, confirmation bias likely affects both a prosecutor's belief that the wrongfully convicted individual is still guilty of the crimes, an equitability consideration, and the belief that there is not enough evidence to charge the true perpetrator, in line with the legal considerations for not charging a perpetrator.[18] In both cases, the previously held belief of the exoneree's guilt would overpower any new information indicating their innocence and the guilt of another.

As the first of its kind, the findings uncovered in this work only begin to scratch the surface of factors that affect outcomes for true perpetrators' identification and charging for the wrongful convictions crime. But it provides a plethora of directions for future research, and sheds light on potential policy implications, both of which are discussed next.

VII General Discussion

The current studies serve as a first step to examining why true perpetrators are or are not identified and subsequently charged with the crimes they committed and for which someone else was wrongfully convicted. We discovered that though some case factors related to wrongful convictions impacted the odds of true perpetrator identification, the decision to charge a true perpetrator with the wrongful conviction crime was instead associated with the reasons prosecutors

[18] It is important to note, again, that "evidence" was coded if any sources indicated that the prosecutor was hesitant about the strength of the evidence against the true perpetrator. This was a subjective code based on the prosecutors' belief, and not any objective measure of the strength of the evidence.

press charges on perpetrators more broadly, and how they process post-conviction claims of innocence. Of the findings herein, the most actionable is that regarding the role of statutes of limitations in prohibiting prosecutors from charging true perpetrators. Especially for cases in which the true perpetrator has not yet been identified, the length of imprisonment of the wrongfully convicted individual will likely exceed the corresponding statute of limitations. Statutes of limitations were originally implemented to protect defendants due process rights by ensuring the availability of evidence and that the adjudication of such matters occurred diligently and swiftly (*United States v. Lovasco*, 1977). However, in cases of wrongful convictions, this long-standing precedent fails. In all cases of wrongful convictions, not only has an innocent individual suffered an unjust loss of liberty, but the true perpetrators cannot be held legally responsible.

One potential solution, which has been adopted by at least 27 states, is to create DNA exceptions to statutes of limitations (Rape, Abuse & Incest National Network, 2012). These exceptions, broadly, can suspend or extend statutes of limitations in cases where DNA evidence identifies the actual perpetrator of a crime (End the Backlog, "Statute of Limitations," n.d.). However, these statutes are not perfect; they are often limited to only include some offenses (e.g., Ga. Code § 17-3-2.1), or only to change the length of time before the statute of limitations expires instead of removing it entirely (see N.J. Stat. § 2C:1-6; Ohio Rev. Code Ann. § 2901.13). These caveats still allow a true perpetrator to escape being charged for the wrongful conviction crimes. Extending or eliminating statutes of limitations entirely in cases of wrongful convictions could create a clearer path for prosecutors to seek justice for the victims of the true perpetrators and those wrongfully convicted for their crimes.

Limitations and Future Directions

These studies are not without their limitations. The data were constricted to wrongful conviction cases in which the exoneree was exonerated by DNA, as defined by the Innocence Project. However, the NRE currently reports over 2,000 additional exonerations which do not fit this definition and thus are not included in the Innocence Project's database ("National Registry of Exonerations," 2020). It is possible that exonerations compiled by the Innocence Project, and analyzed here, are qualitatively different than others, and thus the factors that affect the identification and charging of true perpetrators in these cases are qualitatively different as well. Due to these reasons, we hesitate to extrapolate our findings beyond exonerations based on DNA evidence.

In addition, we cannot be certain that the factors we identified in Study Three as potentially influential factors in the decision to charge true perpetrators were in fact the reasons prosecutors failed to do so. Our judgments were based upon what was reported and quoted by secondary sources and may not accurately reflect the actual reasons for a prosecutor's discretionary judgments. Furthermore, although we were exhaustive in coding for definitively prohibitive and potentially influential factors, no such factors were found for a full 51% of the subsample. But this number does not necessarily indicate a lack of such factors for these cases. We only coded for the listed variables if there was an explicit indication of the concept in a public or obtained source. There are likely several additional factors, both conscious and subconscious, that influence a prosecutor's decision to charge an identified true perpetrator that would not be found in such limited public sources. To dig deeper into these factors, future research should consider speaking

directly with prosecutors and probing them for how they may arrive at a decision to charge the true perpetrator with the wrongful conviction crime.

For a few reasons, our estimate of cases in which the statutes of limitations would prevent the charging of a true perpetrator are an underestimate. First, our coding for statutes of limitations was limited to the identified top charge, which was done purposely to provide a conservative estimate of the number of true perpetrators who would be protected from charges due to an expired statute of limitations. However, as we posited when discussing why it was still important to charge true perpetrators even if they are already incarcerated, bringing charges for all crimes committed serves to provide justice for the victims and punishment for the offenders. The same can be said for charging an individual for all of the crimes they committed during a single criminal event. By excluding the lesser crimes from our analysis and focusing on the ability to charge a true perpetrator instead of charging an individual crime, we likely severely underestimated how impactful statutes of limitations are on charging true perpetrators. Future research should look further into all crimes a true perpetrator could potentially be charged with and non-DNA based exonerations, thus estimating a more accurate judgment on the impact of these statutes. Additionally, we did not examine how DNA exceptions for statutes of limitations impacted the statutes of limitations faced by the true perpetrators in our sample. It is possible that there are statutes in our sample that were waived or extended, therefore eliminating cases in which the statute of limitations served as a prohibitive factor to the true perpetrator being charged for the wrongful conviction crime. Thus, future research should further examine how these statutes of limitations effect identifying and charging true perpetrators in wrongful convictions cases.

Another next step for researchers would be to include the perspective of the crime victims, and how their opinions about and willingness to participate in official action against the true perpetrator affects the odds of them being identified and charged. As previously discussed, prosecutors may be less willing to reinvestigate a wrongful conviction that was based on sexual assault or abuse for fear of upsetting or retraumatizing the victims. In fact, research has shown that the process of seeing their case reopened can be traumatizing for crime victims (Irazola et al., 2013) and impact their likelihood to support prosecution (Kingsnorth & MacIntosh, 2004), especially for those who suffered great harm (Spohn and Holleran, 2001), such as sexual assault or abuse. This point is best illustrated by both Jennifer Thompson-Cannino and Tomeisha Artis, who were both victims of rape and whose mistaken eyewitness identifications contributed to wrongful convictions. As Jennifer Thompson-Cannino explained about discovering this fact, “Silently, I berated myself. It meant I had screwed up...I had brought disgrace upon [the detective’s] investigation, and the whole Burlington Police Department” (Thompson-Cannino, Cotton, & Torneo, 2009, p. 213). She continues, stating, “… [the detective] and [my husband] were both worried about the effects of me reliving it all…” (Thompson-Cannino, Cotton, & Torneo, 2009, p. 236). Both women also experienced a fear of public backlash after the men they identified were exonerated and the true perpetrator found, with Tomeisha Artis stating, “It was horrible for me...The comments that people was saying, that I needed to go to prison. I picked this guy out. I needed to pay” (“National Institute of Justice,” 2017), and Jennifer Thompson-Cannino claiming, “I had spent so many years protected by law from the public’s knowing my name...The mistake I made affected so many lives...I knew it was risky to show my face on TV” (Thompson-Cannino, Cotton, & Torneo, 2009, pp. 236-237).

Unfortunately, their fears are justified. Due to the fact that sexual assault is seen as qualitatively different from other crimes, the individuals accused and convicted of committing such offenses face serious consequences, both from a sentencing and societal perspective (Brody & Acker, 2015). Being partially responsible for causing such stigma to attach to an innocent person due to a mistaken eyewitness identification may retraumatize victims in wrongful convictions cases even further and cause them to experience backlash from society. Therefore, the opinion of and impact on victims may have a strong impact on the prosecutor's discretion as related to identifying and charging of true perpetrators, especially in cases of sexual assault and sexual abuse, and thus deserves careful consideration in future research.

Although they are some of the first to examine true perpetrator identification and charging, the present studies have implications for criminal justice policy and practice. Practitioners, victims, exonerees, and the public alike have an interest in bringing these actual perpetrators to justice and should therefore focus on abolishing barriers that would inhibit such actions. This could take many forms, from making it common practice to charge those already in prison to lengthen their sentence and ensure public safety, to abolishing statutes of limitations that make it impossible to do so. By continuing to do research on these issues, the possibility of creating evidence-based policy increases, thus creating robust laws that are backed by science.

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Appendix

Exonerees and True Perpetrators by Criminal Event

Exoneree(s)	True Perpetrator(s)
Abbitt, Joseph Lamont	Unknown[a]
Abdal, Warith Habib	Unknown[a]
Abernathy, Christopher	Unknown[a]
Adams, Kenneth Gray, Paula Jimerson, Verneal Rainge, Willie Williams, Dennis	Johnson, Ira Robinson, Arthur Rodriguez, Juan
Alejandro, Gilbert	Unknown[a]
Alexander, Richard	Murphy, Michael
Allen, Donovan	Unknown[a]
Anderson, Marvin	Lincoln, John
Arledge, Randolph	Sims, David
Atkins, Herman	Unknown[a]
Avery, Steven	Allen, Gregory
Avery, William	Ellis, Walter[b]
Ayers, David	Unknown[a]
Bain, James	Unknown[a]
Barbour, Bennett	Glass Jr., James Moses
Barnes, Steven	Unknown[a]
Barnhouse, William	Unknown[a]
Barr, Jonathan Harden, James Sharp, Shainne Taylor, Robert Veal, Robert	Randolph, Willie B.

Bauer, Chester	Unknown[a]
Beaver, Antonio	Unnamed[c]
Beranek, Richard	Unknown[a]
Bibbins, Gene	Gordon, Emanuel
Bivens, Phillip Dixon, Bobby Ray Ruffin, Larry	Harris, Andrew
Blair, Michael	Unknown[a]
Bledsoe, Floyd	Bledsoe, Tom
Bloodsworth, Kirk	Rufner, Kimberly S.
Booker, Donte	Adams, Pettis
Boquete, Orlando	Unknown[a]
Bradford, Marcellius Ollins, Calvin Ollins, Larry Saunders, Omar	Harris, Eddie "Bo" Roach, Duane
Bradford, Ted	Unnamed[c]
Bravo, Mark	Unknown[a]
Brewer, Kennedy	Johnson, Justin
Briscoe, Johnny	Smith, Larry
Brison, Dale	Unknown[a]
Bromgard, Jimmy Ray	Tipton, Ronald Dwight
Brown, Danny	Preston, Sherman
Brown, Dennis	Unknown[a]
Brown, Jr., Knolly	Unknown[a]
Brown, Keith	Mosley, Samuel
Brown, Leon McCollum, Henry	Artis, Roscoe

Brown, Nathan	Unnamed[c]
Brown, Patrick	Rickard, Robert
Brown, Roy	Bench, Barry
Bryant, Malcolm	Unknown[a]
Bryson, David	Unknown[a]
Bullock, Ronnie	Unknown[a]
Buntin, Harold	Unknown[a]
Burnette, Victor	Unknown[a]
Butler, Jr., A.B.	Unknown[a]
Byrd, Kevin	Unknown[a]
Cage, Dean	Unknown[a]
Callace, Leonard	Unknown[a]
Cameron, Ronjon	Unknown[a]
Camm, David	Charles Boney
Capozzi, Anthony	Sanchez, Altemio C.
Caravella, Anthony	Unknown[a]
Chalmers, Terry	Unknown[a]
Chaparro, Anthony	Unknown[a]
Charles, Clyde	Charles, Milo
Charles, Ulysses Rodriguez	Unknown[a]
Chatman, Charles	Unknown[a]
Clark, Robert	Arnold, F. Anthony
Coco, Allen	Unknown[a]
Cole, Timothy B.	Johnson, Jerry Wayne
Coleman, Nevest Fulton, Darryl	Unnamed[c]

Cotton, Ronald	Poole, Bobby
Courtney, Sedrick	Unknown[a]
Courtney, Uriah	Unnamed[c]
Cowans, Stephan	Unknown[a]
Criner, Roy	Unknown[a]
Cromedy, McKinley	Unknown[a]
Crotzer, Alan	Unknown[a]
Cruz, Rolando Hernandez, Alejandro	Dugan, Brian
Cunningham, Calvin Wayne	Unknown[a]
Dabbs, Charles	Unknown[a]
Dail, Dwayne Allen	Neal, William Jackson
Danziger, Richard Ochoa, Christopher	Marino, Achim Josef
Davidson, Willie	Unknown[a]
Davis, Cody	Prichard, Jeremy
Davis, Dewey Davis, Gerald	Unknown[a]
Davis, Donya	Unknown[a]
Davis, Jeramie	Davila, Julio
Davis, Larry Northrop, Alan	Unknown[a]
Daye, Frederick Renee	Pringle, David Smallwood, Eddie
Dean, James Gonzalez, Kathleen Shelden, Debra Taylor, Ada JoAnn White, Joseph Winslow, Thomasb	Smith, Bruce

Dedge, Wilton	Unknown[a]
Deskovic, Jeffrey	Cunningham, Steven
Dewey, Robert	Thames, Douglas
Diamond, Garry	Unknown[a]
Diaz, Luis	Unknown[a]
Dillon, William	Unknown[a]
Dixon, John	Unknown[a]
Dominguez, Alejandro	Unknown[a]
Doswell, Thomas	Unknown[a]
Dotson, Gary	Unknown[a]
Dupree, Jr., Cornelius Massingill, Anthony	Unknown[a]
Durham, Timothy	Unknown[a]
Echols, Douglas Scott, Samuel	Unknown[a]
Elkins, Clarence	Mann, Earl
Erby, Lonnie	Moore, Johnnie
Evans, Jerry Lee	Unknown[a]
Evans, Michael Terry, Paul	Unknown[a]
Fain, Charles	Unknown[a]
Fappiano, Scott	Unknown[a]
Fears, Jr., Joseph R.	Knighton
Fogle, Lewis	Unknown[a]
Fountain, Wiley	Unknown[a]
Frey, Joseph	Crawford, James E.
Fritz, Dennis	Gore, Glenn

Williamson, Ronald Keith	
Fuller, Larry	Unknown[a]
Gagnon, Richard	Hill, Bruce Antwain
Gates, Donald Eugene	Unknown[a]
Giles, James Curtis	Brown, Michael Bryant, Stanley
Gillard, Larry	Unnamed[c]
Godschalk, Bruce	Unknown[a]
Gonzales-Barboza, Juan Carlos	Unknown[a]
Gonzalez, Angel	Unknown[a]
Gonzalez, Hector	Unknown[a]
Good, Donald Wayne	Unknown[a]
Goodman, Bruce Dallas	Unknown[a]
Gossett, Andrew	Unknown[a]
Gray, Anthony	Fleming, Anthony Gerald
Gray, David A.	Unknown[a]
Green, Anthony Michael	Rhines, Rodney
Green, Edward	Unknown[a]
Green, Kevin Lee	Parker, Gerald
Green, Michael Anthony	Three Unnamed[c]
Gregory, William	Unknown[a]
Hadaway, Sammy Ott, Chaunte	Ellis, Walter[b]
Halsey, Byron	Hall, Clifton
Halstead, Dennis Kogut, John Restivo, John	Unknown[a]

Harrell, Dion	Unknown[a]
Harris, William	Unknown[a]
Harrison, Clarence	Unknown[a]
Harward, Keith	Crotty, Jerry L.
Hatchett, Nathaniel	Unknown[a]
Hayes, Travis Matthews, Ryan	Love, Rondell
Haynesworth, Thomas	Davis Jr., Leon W.
Heins, Chad	Unknown[a]
Henton, Eugene	Unknown[a]
Hicks, Anthony	Unknown[a]
Holdren, Larry	Unknown[a]
Holemon, Jeffrey	Unknown[a]
Holland, Dana	Bolden, Gordon
Holloway, Daryl	Unknown[a]
Honaker, Edward	Unknown[a]
Howard, Darryl	Jones, Jermeck
Hunt, Darryl	Brown, Willie E.
Ireland, Kenneth	Benefield, Kevin M.
Isbell, Teddy Kagonyera, Kenneth Mills, Damian Wilcoxson, Robert Williams, Jr., Larry	Pickens, Lacy Rutherford, Robert Summey, Bradford
Jackson, Dwayne	Grissom, Howard Dupree
Jackson, Raymond Williams, James	Anderson, Frederick Sayles, Marion Doll
Jackson, Willie	Jackson, Milton

James, Henry	Unknown[a]
Jean, Lesly	Unknown[a]
Jenkins, Jerry Lee	Derr, Norman Bruce
Jenkins, Paul Lawrence, Freddie Joe	David Wayne Nelson
Johnson, Albert K.	Unnamed[c]
Johnson, Andrew	Unknown[a]
Johnson, Anthony	Brown, Matthew
Johnson, Arthur	Unnamed[c]
Johnson, Calvin	Unknown[a]
Johnson, Larry	Unknown[a]
Johnson, Richard	Unknown[a]
Johnson, Rickey	McNeal, John C.
Jones, Clifford	Unknown[a]
Jones, Joe C.	Russell, Joel L.
Jones, Ronald	Unknown[a]
Karage, Entre Nax	Jordan, Keith
Kelley, Eric Lee, Ralph	Dixon, Eric Anthony
Kelly, Jr., William M.	Miller, Joseph
Kordonowy, Paul D.	Unknown[a]
Kotler, Kerry	Unknown[a]
Krone, Ray	Phillips, Kenneth
Laughman, Barry	Unknown[a]
Lavernia, Carlos Marcos	Unknown[a]
Lindsey, Johnnie	Unknown[a]

Linscott, Steven	Unknown[a]
Lloyd, Eddie Joe	Unknown[a]
Lowery, Eddie	Brewer, Daniel Lee
Lyons, Marcus	Anderson, Carl B.
Mahan, Dale Mahan, Ronnie	Unknown[a]
Maher, Dennis	Unknown[a]
Marshall, Michael	Unnamed[c]
Mayes, Larry	Unknown[a]
McCarty, Curtis	Unknown[a]
McClendon, Robert	Unknown[a]
McCray, Antron Richardson, Kevin Salaam, Yusef Santana, Raymond Wise, Korey	Reyes, Matias
McGee, Arvin	Alberty, Edward
McInnis, Edward	Unknown[a]
McKinney, Lawrence	Unknown[a]
McMillan, Clark Jerome	Boyd, David Louis
Mercer, Michael	Brown, Arthur
Miller, Billy Wayne	Unknown[a]
Miller, Christopher	Boyd, Charles Stadmire, Richard
Miller, Jr., Robert Lee	Lott, Ronald
Miller, Neil	Taylor, Lawrence
Mitchell, Marvin	Unknown[a]
Mitchell, Perry	Unknown[a]

Moon, Brandon	Unknown[a]
Morton, Michael	Norwood, Mark Alan
Moto, Vincent	Unknown[a]
Mumphrey, Arthur	Mumphrey, Charles Thomas, Steve
Nelson, Bruce	Moore, Terrence
Nelson, Robert	Haley, Jerry F.L.A.
Nesmith, Willie James	Unknown[a]
Newton, Alan	Unknown[a]
O'Donnell, James	Unknown[a]
Ochoa, James	McCollum, James T.
Odom, Kirk	Unnamed[c]
Ortiz, Victor	Unknown[a]
Pacyon, Douglas	Unknown[a]
Pallares, Jose	Unnamed[c]
Patterson, Maurice	Starkey, James
Peacock, Freddie	Unknown[a]
Pendleton, Marlon	Unknown[a]
Peterson, Jamie Lee	Ryan, Jason Anthony
Peterson, Larry	Unknown[a]
Phillips, Michael	Banks, Lee Marvin
Phillips, Steven	Goodyear, Sidney Alvin
Pierce, Jeffrey Todd	May Jr., Omar D.
Pinchback, Johnny	Unknown[a]
Piszczek, Brian	Unknown[a]

Pope, David Shawn	Roberts, James Milton
Powell, Anthony	Dixon, Jerry
Rachell, Ricardo	Hawthorne, Andrew Wayne
Reynolds, Donald Wardell, Billy	Unknown[a]
Richardson, Gerard	Unknown[a]
Richardson, Harold Saunders, Michael Swift, Terrill Thames, Vincent	Douglas, Johnny
Richardson, James Joseph	Unknown[a]
Rivera, Juan	Unknown[a]
Roberts, Horace	Leal, Joaquin Harris Jr., Googie Harris Sr., Googie
Roberts, Rodney	Unknown[a]
Robinson, Anthony	Unknown[a]
Rodriguez, George	Unknown[a]
Rogers, Mandel	Hines, Joseph Jackson, Cedrick
Rollins, Lafonso	Unknown[a]
Roman, Miguel	Mirando, Pedro
Rose, Peter	Unknown[a]
Ruffin, Julius Whitfield, Arthur Lee	Doxie, Aaron
Saecker, Frederic	Unknown[a]
Salazar, Ben	Unknown[a]
Sarsfield, Eric	Unknown[a]
Scott, Calvin Lee	Sauls, Steven Wayne

Scott, Winston	Unknown[a]
Scruggs, Dwayne D.	Unknown[a]
Shephard, David L.	Unknown[a]
Sledge, Joseph	Unknown[a]
Smith, Billy James	Unknown[a]
Smith, Frank Lee Townsend, Jerry	Mosley, Eddie
Smith, Walter D.	Unknown[a]
Snyder, Walter	Unknown[a]
Sonnier, Ernest	Breaux, Avery Gus Thomas, Kirk Jerome
Starks, Bennie	Unknown[a]
Sterling, Frank	Christie, Mark
Stinson, Robert Lee	Price, Moses
Sutherlin, David Brian	Unnamed[c]
Tall Bear, Johnny	Unknown[a]
Tapp, Christopher	Brian Dripps
Taylor, Ronald Gene	Carroll, Roosevelt
Thibodeaux, Damon	Unknown[a]
Thomas, Victor Larue	Unknown[a]
Thompson, Hubert	Unnamed[c]
Thurman, Philip Leon	Unnamed[c]
Tillman, James Calvin	Foster, Duane
Toney, Steven	Unknown[a]
Towler, Raymond	Unknown[a]
Tribble, Santae	Unknown[a]

Turner, Keith	Unknown[a]
Vargas, Luis	Unknown[a]
Vasquez, David	Unknown[a]
Velasquez, Eduardo	Unknown[a]
Villasana, Armand	Unknown[a]
Waller, James	Unknown[a]
Waller, Patrick	Bell, Byron Simmons, Lemondo
Wallis, Gregory	Unknown[a]
Warney, Douglas	Johnson, Eldred
Washington, Calvin E.	Carrol, Bennie
Washington, Earl	Tinsley, Kenneth Maurice
Waters, Kenneth	Unknown[a]
Waters, Leo	Caulk, Joe Bill
Watkins, Jerry	McCormick, Joseph Munson, Kenneth
Watkins, John	Unknown[a]
Webb, III, Thomas	Harris, Gilbert Duane
Webb, Mark	Unknown[a]
Webb, Troy	Unknown[a]
Webster, Bernard	Powell, Darren L.
White, John Jerome	Perham, James
Whitley, Drew	Unknown[a]
Wiggins, David Lee	Unknown[a]
Williams, Derrick Raphel	Unknown[a]
Williams, Jr., Johnny	Unknown[a]

Williams, Michael	Unknown[a]
Willis, Calvin	Unknown[a]
Willis, John	McGruder, Dennis
Wilson, Sharrif Yarbough, Anthony	Unknown[a]
Woodall, Glen	Good, Donald Eugene
Woodard, James Lee	Unknown[a]
Woods, Anthony	Unknown[a]
Woods, Cathy	Halbower, Rodney
Wright, Anthony	Byrd, Ronnie
Wyatt, Rickey Dale	Unknown[a]
Wyniemko, Kenneth	Gonser, Craig
Yarris, Nicholas	Unknown[a]
York, Kenneth	Unknown[a]
Youngblood, Larry	Cruise, Walter

[a]True perpetrator has not been identified.
[b]Walter Ellis was the true perpetrator of two separate crime events, thus is listed twice.
[c]True perpetrator was identified through DNA, but their name was not released to the public.