

**The Plausibility of Being Wrongly Convicted for A Sexual Offence:  
Accounts From Former Prisoners**

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*This article reports the findings from a study of ex-prisoners convicted for sexual offences, while maintaining their innocence ('CMIs') and their relatives. While the researchers obviously cannot vouch for the CMIs' innocence, cautiously listening to the dire experiences reported by participants gives insight into what innocent people who remain convicted must endure. The CMIs' accounts, and justifications for researching unexonerated prisoners maintaining innocence, are set out against the backdrop of policy and legal developments in the UK and in other countries that might have increased the possibility of wrongful convictions for alleged sexual offences, particularly in the case of alleged historical (non-recent) abuse.*

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**I Introduction**

**A. The purpose and importance of listening to prisoners maintaining innocence**

For those who are guilty of child abuse and sexual offending, imprisonment may be experienced as more punitive than it is for other offenders: sex offenders are loathed by other prisoners; members of the public call for their execution and want them to ‘rot in hell’.<sup>1</sup> It follows that anyone wrongly convicted of such detested offences is treated to the same.

It is an unavoidable fact that a small proportion of people convicted as sex offenders will have been wrongly convicted. Despite this, research on those convicted maintaining innocence (whom we term ‘CMIs’) focuses almost exclusively on them as ‘deniers’ (in the sense of being ‘in denial’). We as authors accept and understand natural inclinations to give complainants the benefit of the doubt, both before and after jury decisions – after all, research on sex offenders in prison shows that a very high proportion deny guilt, and reveals various motivations for denial.<sup>2</sup> However, those who deny guilt because they are actually innocent are difficult to distinguish from those who are ‘deniers’ but are actually guilty.

This article reports on accounts from participants who were convicted and served prison sentences but persistently maintained their innocence, and/or their close family members. Because of their convictions, their accounts were excluded from an earlier study undertaken at the University of Oxford, which focused on the impact of false<sup>3</sup> allegations for abuse, including child and sexual offences.<sup>4</sup> In the present article, following discussion of why such wrongful convictions are increasingly feasible, we share their accounts of their harrowing journey.

The authors recognize of course that some of the former prisoners with whom we spoke during the course of this research may be guilty or partly guilty. However, given the evidence of errors of justice that can (and have) occurred, the authors are committed to giving a voice to those CMIs who may be innocent, and their families, as an under-researched, largely ignored or discounted population. If they are universally labeled ‘deniers’, they themselves are denied a voice, despite the known possibility of error. The value of researching this (seemingly ‘untouchable’) group - which might be seen as unethical in the context of concerns about justice for victims of sexual abuse, albeit ethical in the context of revealing neglected miscarriages of justice - is underpinned by the importance of exploring the plausibility of wrongful conviction. Thus, for the purposes of undertaking this study, we are prepared to report the accounts as indicative of the experience of genuine cases of actual innocence unless evidence to the contrary emerges.

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<sup>1</sup> Thomas Baker, Kristen Zgoba, & Jill A Gordon, “Incarcerated for a Sex Offense: In-prison Experiences and Concerns About Reentry” (2021) 33 (2) Sex Abuse 135.

<sup>2</sup> Nicholas Blagden, Belinda Winder, Karen Thorne, & Mick Gregson, “Making Sense of Denial in Sexual Offenders: A Qualitative Phenomenological and Repertory Grid Analysis” (2014) 29 (9) J Interpers Violence 1698; Alice Ievins & Ben Crewe, “‘Nobody’s Better Than You, Nobody’s Worse Than You’: Moral Community Among Prisoners Convicted of Sexual Offences” (2015) 17 (4) Punishment & Society 482; Jill Levenson, “‘But I Didn’t do it!’: Ethical Treatment of Sex Offenders in Denial” (2011) 23 (3) Sex Abuse 346.

<sup>3</sup> Knowingly and unknowingly false.

<sup>4</sup> Carolyn Hoyle, Naomi-Ellen Speechley & Ros Burnett, *The Impact of Being Wrongly Accused of Abuse in Occupations of Trust* (2016), University of Oxford Centre for Criminology, online:

[https://www.law.ox.ac.uk/sites/files/oxlaw/the\\_impact\\_of\\_being\\_wrongly\\_accused\\_of\\_abuse\\_hoyle\\_speechley\\_burnett\\_final\\_26\\_may.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/the_impact_of_being_wrongly_accused_of_abuse_hoyle_speechley_burnett_final_26_may.pdf).

## B. The plausibility of wrongful convictions for sexual offences

Wrongful convictions are rare. Yet they have occurred often enough for criminal justice systems all over the world to include a Court of Appeal. In a growing number of countries, coordinated *pro bono* projects, Criminal Case Review Commissions ('CCRCs') and similar organizations have further been established to set up to review the safety of convictions. Wrongful convictions for sexual offences inevitably make up part of their caseload. In the United States, the National Registry of Exonerations maintains a detailed record of exonerations. Figures as of February 2022 show that, since 1989 in the US from a total of 2961 exonerations, there have been 298 exonerations for 'Child Sexual Abuse' and 349 exonerations for 'Sexual Assault'.<sup>5</sup> In England and Wales, between April 1997 (when the CCRC was created) up to April 2019, 127 (19%) of the cases it referred back to appeal courts were sexual offences.<sup>6</sup> Of these, 84 (66% of those referred) were overturned or partly overturned. Though those with convictions found to be wrongful (or 'unsafe') are not necessarily all innocent, these figures (based on convincing DNA evidence) give a clear indication that erroneous sexual offence convictions are a regular occurrence.

There are numerous reasons why a false allegation might be deliberately or mistakenly made. Of the 298 exonerations for 'Child Sexual Abuse' in the US registry example above, '*perjury or false allegations*' were contributing factors to the wrongful allegation in 85% of the cases; and of the 349 exonerations for sexual assault, '*perjury or false allegations*' were contributing factors in 44% of cases while 'mistaken identity' contributed to 67% of the cases.<sup>7</sup> Behind known cases of false allegations of abuse, motives of revenge, covering up affairs or retaliation in disputes have been revealed.<sup>8</sup> In wrongful historical<sup>9</sup> allegations, factors could

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<sup>5</sup> The National Registry of Exonerations cumulative record is divided into five categories including 'Child Sexual Abuse' and 'Sexual Assault'. See *Our Mission*, National Registry of Exonerations, online: <[www.law.umich.edu/special/exoneration/Pages/mission.aspx](http://www.law.umich.edu/special/exoneration/Pages/mission.aspx)>. Figures checked 14 Feb 2022.

<sup>6</sup> CCRC annual reports and Court published data only record numbers of case referrals (counting conviction and sentence combined). See *Corporate information and governance*, Criminal Cases Review Commission, online: <<https://ccrc.gov.uk/corporate-information-and-publications/>>; Naomi-Ellen Speechley, *Can the Justice System Adequately Rectify Wrongful Convictions for Historical Sexual Abuse?* (2016), University of Manchester, online: <[www.research.manchester.ac.uk/portal/files/189881813/FULL\\_TEXT.PDF](http://www.research.manchester.ac.uk/portal/files/189881813/FULL_TEXT.PDF)>.

<sup>7</sup> *Percentage Exoneration by Contributing Factor and Type of Crime*, National Registry of Exonerations, online:

<<http://www.law.umich.edu/special/exoneration/Pages/ExonerationsContribFactorsByCrime.aspx>>.

Figure checked 14 Feb 2022.

<sup>8</sup> Revenge, as in the case of Sandra Danevska, see: "Stalker Sandra Danevska jailed for trying to frame ex" *BBC News* (27 Aug 2016), online: <[www.bbc.co.uk/news/uk-england-london-37202346](http://www.bbc.co.uk/news/uk-england-london-37202346)>; covering up affairs, as in the case of Jessica Gore, see: Tim Collins, "Cry-rape Ashford woman Jessica Gore spared jail after making up alley attack in South Willesborough" *Kent Online* (29 Jan 2014), online:

<[www.kentonline.co.uk/ashford/news/rape-lies-12002](http://www.kentonline.co.uk/ashford/news/rape-lies-12002)>; disputes as in the case of PC Hitesh Lakhani, see: *Police officer jailed, lying about Uxbridge sex assault*, Crown Prosecution Service, online: <[www.cps.gov.uk/london-south/news/police-officer-jailed-lying-about-uxbridge-child-sex-assault](http://www.cps.gov.uk/london-south/news/police-officer-jailed-lying-about-uxbridge-child-sex-assault)>.

<sup>9</sup> 'Historical abuse' is defined vaguely, to refer to past offences occurring from one or more years from allegations or charges being brought. The term 'non-recent' is now more commonly used than 'historical'

include desire for attention, support, clinical help or praise for courage, mistaken memories and perceptions of events,<sup>10</sup> or bearing a grudge against someone who punished them in childhood.<sup>11</sup> A combination rather than any single factor is likely to apply. Accusers who are fantasists, pathological liars, or who have genuinely been abused (just not by the accused) may become convinced of the truth of their claims, and present as credible witnesses. There have even been cases where false accusations were detected after accusers had sent items to themselves, that they claimed to be from the person they report,<sup>12</sup> or because their accounts draw closely on details in fictional cases,<sup>13</sup> exposing the allegations as false.<sup>14</sup>

Cases featuring allegations made by a number of claimants against the same individual often look particularly damning for those accused. However, such ‘corroboration by numbers’ cases have on occasion been found to conceal a bandwagon effect, whereby compensation has been advertised as an ‘inducement for giving false or exaggerated evidence during investigations of this kind’.<sup>15</sup> Though exceptional, accounts of this are evident – in 2013 a former UK prisoner publicly admitted that he joined a ‘class action’ for compensation against a member of staff at a school he had attended, after seeing an advert from a personal injury solicitor. He later withdrew

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in policy documents but that is equally vague – the NSPCC for example defines ‘non-recent’ as ‘a year or 70 years ago’. See *Non-recent abuse*, National Society for the Prevention of Cruelty to Children, online: <[www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/non-recent-abuse/](http://www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/non-recent-abuse/)>.

<sup>10</sup> See Ros Burnett (ed) *Wrongful Allegations of Sexual and Child Abuse*. (Oxford: Oxford University Press, 2016).

<sup>11</sup> As may have applied in the case of former head teacher, James Bird. See Martin Robinson, “Headteacher who was arrested at his desk on child sex abuse charges and endured year-long court ordeal is cleared by jury in just 15 minutes” *Daily Mail* (14 Nov 2014), online: <[www.dailymail.co.uk/news/article-2834519/Headteacher-arrested-desk-child-sex-abuse-charges-endured-year-long-court-ordeal-cleared-jury-just-15-minutes.html](http://www.dailymail.co.uk/news/article-2834519/Headteacher-arrested-desk-child-sex-abuse-charges-endured-year-long-court-ordeal-cleared-jury-just-15-minutes.html)>.

<sup>12</sup> The anonymous complainant who accused 5 men of raping her claimed that one had sent her a parcel containing wires similar to ones which were tied to her wrists when she was abused. She later admitted sending the item to herself. See David Brown, “CPS failings: Paedophile trial collapses over lurid claims of ‘serial fantasist’” *The Times* (19 Jan 2018), online: <[www.thetimes.co.uk/article/cps-failings-paedophile-trial-collapses-over-lurid-claims-of-serial-fantasist-dv7dzd5r2](http://www.thetimes.co.uk/article/cps-failings-paedophile-trial-collapses-over-lurid-claims-of-serial-fantasist-dv7dzd5r2)>.

<sup>13</sup> Scenes from the film *Vera Drake* and the TV show *Call the Midwife* were drawn to describe a false claim of an illegal abortion. In another case passages from *Fifty Shades of Grey* matched the complainant’s allegation of incest by her father; see Adam Lusher, “Girl uses *Fifty Shades of Grey* as basis for false rape claims against her father” *Independent* (16 Aug 2016), online: <[www.independent.co.uk/news/uk/home-news/fifty-shades-grey-50-shades-false-rape-claim-false-accusation-incest-rape-a7189786.html](http://www.independent.co.uk/news/uk/home-news/fifty-shades-grey-50-shades-false-rape-claim-false-accusation-incest-rape-a7189786.html)>.

<sup>14</sup> Philip Rumney & Kieran McCartan, “Purported False Allegations of Rape, Child Abuse and Non-Sexual Violence: Nature, Characteristics and Implications” (2017) 81 (6) *J of Crim L* 497; André De Zutter, Robert Horselenberg & Peter J Van Koppen, “Motives for Filing a False Allegation of Rape” (2018) 47 (2) *Arch Sex Behav* 457.

<sup>15</sup> *The Conduct of Investigations into Past Cases of Abuse in Children’s Homes: Fourth Report of Session 2001-02* (Oct 2002), Home Affairs Select Committee, online: <<https://publications.parliament.uk/pa/cm200102/cmselect/cmhaff/836/83602.htm>> [“Fourth Report”].

his claim because he did not think the staff member concerned was guilty and his conscience was troubling him.<sup>16</sup>

There are further cases where financial motivation for false allegations became evident. For example, in Scotland, the case of a former football coach where one of his accusers admitted that he had been approached by another accuser who asked him to lie in order to gain compensation.<sup>17</sup> In San Antonio, Texas a dermatologist was falsely accused by a patient with a history of false claims for compensation who eventually admitted she had fabricated the allegation.<sup>18</sup> Another example is that of Carl Chatman, a homeless Army veteran, wrongly convicted and eventually exonerated. His accuser, a County Circuit Court aide, heavily in debt, within days of the alleged rape sued the County and settled for a six-figure sum. Later it was found that this was the second time that she had reported being raped on work premises early in the morning before other staff arrived and had successfully sued building management for a substantial sum.<sup>19</sup> Similarly there was a financial motivation behind allegations leading to the wrongful conviction of football star Brian Banks, whose experience has been conveyed in a Netflix film.<sup>20</sup>

More broadly, the cultural and socio-legal context has gradually become more conducive to making allegations of abuse, true or false, with greater confidence than in the past that they will be believed, including delayed complaints relating to events in childhood. In the US, UK, Canada and many other countries, the final decades of the last century brought a new consciousness about the prevalence of sexual and physical abuse in both domestic and institutional settings as a hidden social problem, for decades a hidden social problem but now manifest in highly publicized reports of numerous national inquiries into historical abuse, in children's residential schools, the Catholic Church, the Scouts, various sports and other settings. While reforms have been too slow for many victims, there have been incremental developments aimed at rebalancing justice in favour of victims. These developments include anonymity for complainants (for life, in the UK, even after a defendant has been acquitted); encouraging victims of childhood abuse to report cases irrespective of the intervening length of time (and removal of statutes of limitation); police and lawyers' advertisements for victims to come forward; and taking a presumptive victim status of complainants in the provisions made for supporting and questioning them during investigations and trials. The typical absence of forensic evidence in historical cases other than witness testimony,

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<sup>16</sup> Ben Gunn, "The compensation carrot and false allegations of abuse" (2013) 4 (1) *FACTion* 10.

<sup>17</sup> See Rory Cassidy, "Paisley footy coach accused of abusing young players CLEARED after alleged victim admitted lying to get a bigger compo payout" *The Scottish Sun* (7 Feb 2018), online: <[www.thescottishsun.co.uk/news/scottish-news/2200203/paisley-football-coach-kilmarnock-sheriff-court-abuse-victim-lied-compo](http://www.thescottishsun.co.uk/news/scottish-news/2200203/paisley-football-coach-kilmarnock-sheriff-court-abuse-victim-lied-compo)>.

<sup>18</sup> See *Calvin Day* (2016), National Registry of Exonerations, online: <[www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4826](http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4826)>.

<sup>19</sup> See *Carl Chatman* (2013), National Registry of Exonerations, online: <[www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4268](http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4268)>.

<sup>20</sup> See *Brian Banks*, California Innocence Project, online: <<https://californiainnocenceproject.org/read-their-stories/brian-banks/>>.

combined with the possibility of convictions without corroboration,<sup>21</sup> mean that conditions are ripe for innocent people to find themselves on trial.

Difficulties faced by those accused of historical abuse are well-documented. Evaluating the reliability of historic or delayed witness testimony is inherently problematic for investigators and fact-finders because of “the (usually exclusive) reliance placed upon the complainant’s evidence and the vagueness or inconsistency that may accompany genuine historic recall.”<sup>22</sup> Investigators’ expectations that the complainants are credible, especially if they go into detail, may limit the lines of inquiry and lead to biased prosecution decisions.<sup>23</sup>

If there is no crime scene, no physical evidence and no witnesses, it can be extremely hard to produce any exculpatory evidence. As a UK Parliamentary Select Committee noted during an inquiry into investigations into abuse cases at children’s homes:

in contested cases, the defence team will usually face an onerous task. The passage of time since the offence was said to have taken place creates enormous evidential problems. [...] In most trials, the principal evidence is testimonial, with little – if any – medical or other objective evidence to go on. Memories have faded, potential witnesses may be dead or untraceable, crucial social services or care home records may have been lost or destroyed and the care home itself may have closed or been demolished.<sup>24</sup>

The 2002 Select Committee concluded that, ‘set in the context of a growing compensation culture and a shift in the law of “similar fact” evidence, the risks of effecting a miscarriage of justice in these cases are said to be unusually high’.<sup>25</sup>

English barrister Matthew Scott, one of the few practitioners who have taken to writing about defendants who have been accused of sexual abuse, has set out ways in which victim-focused justice system developments have impacted on the fairness of trials. These include,

the discretion of a trial judge to declare a prosecution an “abuse of process” because of the passage of time has almost entirely disappeared; [...] the mandatory judicial instruction to look for corroboration in sexual cases has been abolished; while the scope of cross-examination of complainants in such cases has been severely restricted; evidence of a defendant’s bad character is now commonly allowed, the

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<sup>21</sup> In most common-law countries, the requirement for a judicial warning, if there is no corroborative evidence for child sexual abuse, has been removed. This was previously a barrier to prosecutions. See Deborah Connolly, Patricia Coburn, & Kristin Chong, “Twenty-six Years Prosecuting Historic Child Sexual Abuse Cases: Has Anything Changed?” (2017) 23 (2) *Psychol, Public Policy, and L* 166.

<sup>22</sup> Pamela Radcliffe, Gisli Gudjonsson, Anthony Heaton-Armstrong, & David Wolchover (eds) *Witness Testimony in Sexual Cases: Evidential, Investigative and Scientific Perspectives* (Oxford: Oxford University Press, 2016) at 15.

<sup>23</sup> *Ibid* at 42.

<sup>24</sup> Fourth Report, *supra* note 15 at 26.

<sup>25</sup> *Ibid*.

admissibility of “similar fact” evidence has become easier; hearsay evidence is now permitted much more readily.<sup>26</sup>

Lawyers writing about the incremental effect of changes providing a context for false allegations and wrongful convictions, have referred to the absence of a time limit in England and Wales<sup>27</sup> for prosecuting suspects in sexual cases set against the pressure to gain more prosecutions and convictions.<sup>28</sup> They further observe, it is “a numbers game, where the greater the quantity of accusers or offences the more difficult it is to challenge and ultimately, this seals the fate of the accused”.<sup>29</sup> Extensive newspaper coverage of trials, going into the horrific details of complainants’ testimony and speculating on the prevalence of the hidden scandal of institutional child abuse can lead to highly charged atmospheres, whereby, as historian Richard Webster (who chronicled child abuse investigations) put it,

by the time the prosecution opening has been completed, both the jury and the judge may have been caught up in a current of prejudice so powerful that they are swept together toward a guilty verdict without being able properly to assess the evidence which is presented to them.<sup>30</sup>

It follows that sexual offence cases (especially historical) also have manifest disadvantages when seeking to appeal against conviction, such as: reliance on verbal testimony from the complainants, with an absence of any forensic evidence that a crime was committed; and no probative or exculpatory DNA evidence of wrongful conviction in cases where, in reality, the alleged crime did not take place. The Innocence Project<sup>31</sup> found that a high number of sexual offence wrongful convictions involved false testimony but could only expose convictions as wrongful where DNA evidence revealed the identity of the offenders.<sup>32</sup> Hence, it is easy to see why these cases can slip through the safety net of appeals.

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<sup>26</sup> Matthew Scott, “Kicking criminals is easy, but who will speak for the accused?” *The Spectator* (16 Aug 2019), online: <<https://blogs.spectator.co.uk/2019/08/kicking-criminals-is-easy-but-who-will-speak-up-for-the-accused/>>.

<sup>27</sup> There is no statute of limitation for prosecuting sexual offenders in majority of common-law countries including, and more recently, the majority of the states in America. See: Penney Lewis, *Delayed Prosecution for Childhood Sexual Abuse* (Oxford: Oxford University Press, 2006); see also *2021 National Overview of Statutes of Limitation for Child Sex Abuse*, Child USA, online: <<https://childusa.org/2021sol/>>.

<sup>28</sup> Chris Saltrese, *The rise of false allegations* (2015), Chris Saltrese Solicitors, online: <[www.chrissaltrese.co.uk/false-allegations/](http://www.chrissaltrese.co.uk/false-allegations/)>.

<sup>29</sup> Mark Barlow & Mark Newby, *The Challenges of Past Historical Allegations of Sexual Abuse* (2009), online: <<https://crimejottings.com/2011/01/27/the-challenges-of-past-historical-allegations-of-sexual-abuse/>>.

<sup>30</sup> Richard Webster, *The Secret of Bryn Estyn: The Making of a Modern Witch Hunt* (Oxford: The Orwell Press, 2005) at 18.

<sup>31</sup> The Innocence Project, founded in 1992 by Peter Neufeld and Barry Scheck at Cardozo School of Law, exonerates the wrongly convicted through DNA testing and reforms the criminal justice system to prevent future injustice. See *About*, The Innocence Project, online: <<https://innocenceproject.org/about/>>.

<sup>32</sup> *Exonerate the Innocent*, The Innocence Project, online: <[www.innocenceproject.org/exonerate/](http://www.innocenceproject.org/exonerate/)>.

## II Method

This article focuses on accounts from participants who have been convicted but persistently maintained their innocence, and close family members. Their accounts, however, had been gathered as part of – though ultimately excluded from – a wider study undertaken at the University of Oxford, entitled *The Impact of Being Wrongly Accused of Abuse in Occupations of Trust: Victims Voices* (2016).<sup>33</sup> In that 2016 study, narrative accounts were collected from participants who had been accused but had not been charged or who had been acquitted or exonerated.<sup>34</sup> Given that the focus of that study was on the impact and damage caused to people who had been wrongly accused, the researchers also collected data from participants who were convicted but had persistently maintained innocence and sought to appeal. This was in order to achieve a representative sample of those claiming to have been falsely accused of abuse, and on the basis that anyone who remains wrongfully convicted and identified as a sex offender would be the worst affected.

However, prior to the analysis and publication of the 2016 study, the decision was taken to split the findings from participants who remained ‘legally innocent’ and those who were still fighting convictions and publish the latter in a separate study. Thus, the 2016 study report drew public attention to the lasting harms done to individuals by false (erroneous or fabricated) allegations of abuse, and as such was well received.<sup>35</sup> In the present article, we discuss the findings from an analysis of the accounts by the excluded sub-group of participants: those who claim they were falsely accused and wrongly convicted and who have steadfastly maintained their innocence. This subsidiary study shares the same research background and methodological procedure as the 2016 study, but has been written independently and *pro bono*.<sup>36</sup>

This project was established in cooperation with FACT (Falsely Accused Carers, Teachers and others), a voluntary organization established in 1999 to support people wrongly accused of abuse in occupational contexts.<sup>37</sup> FACT has been commended for its evidence-based and professional approach to its work and has received the backing of several MPs who have raised parliamentary discussions and interventions. Membership has widened from carers and teachers to include other occupations where staff and volunteers who work in positions of trust with children or adults can be vulnerable to false allegations. FACT provided a small donation towards the costs of the research and circulated requests for research participants among its members. The University of Oxford Centre for Criminology developed and conducted the research, with full ethical clearance from the Central University Research Ethics Committee. Despite working in cooperation with FACT to hear the accounts of its members, the research team remained fully

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<sup>33</sup> Hoyle, *supra* note 4.

<sup>34</sup> We refer to them as NCEs (Not Charged, or were Exonerated), while the subjects of the present article are referred to as CMIs (Convicted and Maintaining Innocence).

<sup>35</sup> The report was praised in national UK newspaper *The Times*, noted during discussion in the House of Lords and the Canadian House of Commons, disseminated among Police and Crime Commissioners, and drawn upon in the course of journalist research for the BBC’s *Victoria Derbyshire Programme*.

<sup>36</sup> The long timespan between the two reports was also due to one author taking time out to do a PhD; another was set back by a recurring illness.

<sup>37</sup> See *Supporting Victims of Unfounded Allegations of Abuse*, FACT UK, online: <[www.factuk.org/](http://www.factuk.org/)>.



independent in all decisions about how to conduct the research, how to analyze the data and what to produce by way of reports.

FACT members were notified of the study, its aims, methods and strict criteria for inclusion. No incentive to participate was offered. Where participants were happy to proceed, they were then interviewed or invited to submit a written account, using a template listing questions about the impact on various aspects of life. Each participant signed a consent form stating that they have never committed offences of sexual or physical abuse and have consistently maintained innocence.

Accounts from participants were collected via interviews carried out in person, by phone, or in a focus group. Several participants also provided written material. The focus group was held at FACT's annual conference. Prior to self-selection, attendees were informed of the participation criteria, what the question topics were and the format of the session. The group discussion operated as a group interview, each participant answering in turn, with ensuing cross-discussion. Signed consent forms were collected, and the discussion digitally recorded. For each data collection method, an open-ended questionnaire was used to frame responses from participants in 6 key aspects of life: financial situations and employment, self-concept and reputation, psychological and physical health, significant relationships, beliefs and outlook on life, and coping mechanisms. Pseudonyms have been used and identifying details have been edited.

### **A. Participant Description**

17 participants gave accounts as part of the study. 10 of these participants had been convicted but maintained innocence ('CMI'), and 7 were close family members of someone convicted who maintained innocence ('FamCMI'). Of the 7 FamCMI accounts, 4 pertained to convicted persons who did not (or were unable to) give an account themselves (1 was in prison and 3 were deceased). The remaining 3 FamCMI accounts were given by the partner or former partner of the convicted person, who experience the strains of the situation differently. In total, the 17 accounts collected pertain to 13 convicted individuals, who have consistently maintained innocence.

**Table 1: Characteristics and experiences of those convicted**

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Gender:

12 male, 1 female (all 7 of the family members giving accounts were female. 6 of these were partners or former partners of the convicted person, and 1 was a sister.)

Occupation:

9 residential school (for young offenders and children 'in care') staff, including social workers, case workers, teachers, principals

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1 teacher in a boarding school

1 member of the clergy

1 support worker in a centre for vulnerable adults

1 founder of an overseas charity

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Time between offence(s) and allegations made:

Unknown: 1

0-1 year: 1

1-5 years: 1

5-10 years: 2

10-20 years: 3

20-50 years: 5

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## **B. Efforts to Appeal**

Most of these participants were tried for historical sexual offences, the evidence against them being primarily the testimony of their accusers, and their employment in institutions where abuse had occurred. In the course of writing up these findings, the researchers followed up on participants' efforts to get their conviction overturned. None had succeeded, most remained hopeful though some had stopped trying. It is initially difficult to understand why someone wrongly convicted (and especially of such reviled offences) would not spend everything they had fighting to clear their name. However, detailed discussion with those in this position paint a picture of common barriers that, in reality, make it infeasible to achieve the steps necessary for appeal.

Once convicted in England and Wales, those wishing to appeal must apply for permission (termed 'leave'), within 28 days of conviction. In doing so, they must establish that something was seriously wrong with the trial process which makes the guilty verdict unsafe. The convicted person is usually reliant upon their lawyer who advises on the merits of this. Several participants did not appeal immediately after conviction, having either been advised against doing so by lawyers due to the unavailability of evidence or no clear grounds on the facts. Others failed to lodge appeal grounds in time due to the traumatic adjustment of going to prison. The costs required for legal representation proved another barrier for participants, many of whom had just spent all available funds on legal representation at trial or simply could not afford to risk further losses having been convicted, and consequently unable to find regular income or employment.

Despite there being the recourse of a CCRC in England, Wales and Northern Ireland – an independent organization set up to investigate suspected miscarriages of justice – chances of successful case investigation and referral largely depend on it finding a real possibility that the Court of Appeal will quash the original conviction.<sup>38</sup> This real possibility must be due to fresh evidence or a new argument, not available at previous trial(s) (unless there are exceptional circumstances), that could provide reasons for the Court to doubt the safety of conviction. Although CCRC applications do not require legal representation and incur no fee to make, participants were in a position where they felt it would be better to save for a lawyer and find some fresh evidence before applying, as opposed to making an application without all the help they could get. Some had sought help from a solicitor and/or *pro bono* student law clinic, but after years little progress had been made. They then felt they had wasted time reaching a dead-end.

Most had not yet submitted an application to the CCRC because they had been firmly told it is near-impossible for them to succeed (very few applications to CCRC result in the conviction

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<sup>38</sup> *Criminal Appeal Act 1995* (UK), 1995 c 35, s 13.

being overturned), and they want to make the best of what life is still left for them. Moreover, they anticipated further negative publicity should the case be referred and published in the press, putting their family and themselves at risk of being attacked or ostracised (already a serious and persistent health concern for participants). Others simply stopped trying because they are aged, have numerous health problems, and could not cope with the upheaval and extreme stress.

### III Findings

#### A. Effects on financial situations and employment

##### *Financial detriment and legal costs.*

Those who are innocent of all charges do not expect to be convicted – so when this occurs, they are severely ill-prepared.<sup>39</sup> Though we do not equate their responses with direct evidence of innocence (in accordance with the nature of this study), nine participants spoke about their failure to anticipate being sent to prison,<sup>40</sup> either because their lawyers had stated that the charges would likely be dropped, or that the verdict was so unlikely to be guilty. Some were even asked for their story by reporters before the verdict came out, who assumed that they would be acquitted. Consequently, they failed to make adequate financial preparation.

Most of those convicted of historical abuse were nearing retirement age. Almost all the participants were in this category. Although this means that they had many years of employment and financial management practice before prison, it also means that participants often needed to take money from pensions or obtain loans to pay for the high legal costs and appeals. For the convicted person and their family, facing such sudden demands and major changes to their financial situation is particularly difficult – especially considering their advanced years when prison sentences are served. Charles described needing to cash in his pension at 52 to pay £30,000 in legal costs – without success. Of course, those maintaining innocence generally seek to appeal, incurring further legal fees.<sup>41</sup> One participant, Joshua, sold his house and spent his life savings trying to get further with his appeal. Yet, even where a conviction can successfully be established as wrongful, recent UK and Canada studies have identified the low likelihood (and amount) of compensation.<sup>42</sup>

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<sup>39</sup> John Wilson, “A Perpetual Battle of the Mind” *PBS Frontline* (31 Oct 2002), online: <[www.pbs.org/wgbh/pages/frontline/shows/burden/cameras/memo.html](http://www.pbs.org/wgbh/pages/frontline/shows/burden/cameras/memo.html)>. See also Adrian T Grounds, “Understanding the Effects of Wrongful Imprisonment” (2005) 32 *Crime & Just* 1.

<sup>40</sup> Note: Not all participants answered all questions or gave information for direct numerical comparison/grouping.

<sup>41</sup> More generally, anyone with savings may have used them all for on legal fees for the trial. With the reduced availability of legal aid it is becoming harder for people to cover the legal costs for a good defence. See Rosa Ellis & Jonathan Ames, “Innocent are left with enormous bills after cutbacks in legal aid” *The Times* (3 Feb 2020), online: Error! Hyperlink reference not valid.>.

<sup>42</sup> Carolyn Hoyle & Laura Tilt, “The Benefits of Social Capital for the Wrongfully Convicted: Considering the Promise of a Resettlement Model” (2018) 57 (4) *Howard J Crime & Just* 495; Hannah Quirk, “Compensation for Miscarriages of Justice: Degrees of Innocence” (2020) 79 (1) *Camb L J* 4; Myles

The financial impact was not delimited to those accused, but a burden shared by partners. Camille recalled, “I was basically working from 8 o’clock in the morning to 9 o’clock at night to pay the bills but then it became a struggle... I [took] my pension when I was 60 to reduce my hours... obviously having no regular income has been quite worrying.” Hannah also stated that, “following the trial I went off sick ... After 6 months I was without any income and had bills and a mortgage to pay ... I struggled [and] had no savings left.”

### *Barriers to finding work post-conviction*

In England and Wales, as in many other countries, those convicted of sexual offences are required by law to register their address with the police, receive regular visits from assigned officers, and to report to the police any planned visits away from their home address.<sup>43</sup> Notification requirements are typically for life if the prison sentence was 30 months or more.<sup>44</sup> It is extremely difficult for anyone convicted of this kind of offence to find work following a conviction and prison sentence. Even some of the organizations that welcome applications from ex-prisoners (such as Timpson, a popular high street shoe repair company) will not accept applications from convicted sex offenders.

Of the convicted participants not in custody, deceased or retired, four stated they were able to find employment since. But this has been low-paid, manual, and casual work, or in the case of Charles as a registered carer for his disabled partner. No other participants have been able to work for regular income since, due in part (but not predominantly) to the required criminal records checks, and lack of reference from their former employer. As most participants were close to retirement age upon leaving prison (and had held senior roles previously), this too decreased their likelihood of being taken on in new posts or voluntary roles.

Graham, Irene, Matt and Chris explicitly mentioned (though all accounts imply this) ruling out the prospect of applying for jobs as this would put themselves in a position where colleagues would ask what they had done previously, why they had left prior employment and so on. It seems commonsensical that a convicted sex offender would seek to avoid this attention. However, participants expressed such fragile mental health that, despite the huge benefits of employment, they had to protect themselves against the depression, anxiety and stigma that would be triggered by the practicalities of attempts to seek re-employment.

When an innocent person has worked a long time in a vocation that involves the care or supervision of others (especially younger or vulnerable people), and then becomes barred from this occupation for life (even if their conviction is overturned), the effect can be highly detrimental, and difficult to adjust to on release. In the related Oxford study with participants who were never charged or who had been exonerated, we found a far greater likelihood of unemployment upon release for those accused of abusing someone in their professional care. Despite those allegations not leading to prosecution or to convictions, the immediate effects of the allegations meant that

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McLellan, “Innocence Compensation: The Success Rate of Actions for Negligent Investigation” (2020) 98 (1) Can B Rev 34.

<sup>43</sup> The official name is the Violent and Sex Offender Register (ViSOR).

<sup>44</sup> Since 2012 it has been possible to apply for removal from the register after 15 years.

only two of the 26 participants employed at the time were able to continue working in the same jobs. Arguably, those same effects were at play here.

*Detriment to partners and families*

With the convicted person not in steady employment, and the prospect of future legal fees to pay for, a huge financial burden is placed on partners. This affects the whole family. Almost all FamCMI participants stated that they had suffered significant financial losses.

To begin with, for those convicted of child or sexual abuse that have children, there may be housing issues when leaving prison. Temporary accommodation is difficult for those required to register as a sex offender to secure, as one participant found. For those whose residence is connected to the job (such as a vicarage or residential school accommodation), finding separate accommodation brings additional costs. Angela described how, when her partner comes out of prison, they probably would not be allowed to live together. Even if this was permitted, she would likely have to move out from their church accommodation.

Partners also need to deal with administrative matters raised by the return of the convicted person, after a long time in their absence. Camille explained that “a lot of people’s attitude is that; you’re out of prison, therefore that’s it. But it’s not with sex offences. We can’t change to cheaper car insurance or house insurance policies because of these convictions.” Over and above the issues that release from prison presents for their relationship (discussed later), FamCMI participants identified wide-ranging financial burdens - administration of regular bills, bank orders, insurance, property maintenance were all affected. These repercussions touch their everyday lives and future finances going forward, for the whole family.

All but one of the FamCMI participants experienced difficulties in the workplace as a result of the support they gave to their partners, in the firm belief that they were innocent of all charges. At least three<sup>45</sup> partners of those convicted left their job or could not work due to stress. A further two who also worked in social service roles lost their jobs, dismissed because of the extent they were deemed to be supporting their partners. They too suffered the indignities discussed previously, of being unable to speak to colleague friends about their situation and to obtain references for future employment. Of course, financial burdens are doubled where the partner (as sole breadwinner) cannot themselves work. As Hannah recounted:

at the time of the allegations I was employed by the local authority as a senior child protection social worker. They disapproved of my support for my husband and subjected me to several difficult meetings in which they challenged that support. After a few months they suspended me saying I was seeking support for my husband, which was totally false... Following the trial I went off sick because at that time I could not deal with a disciplinary hearing. After 6 months I was without any income and had bills and a mortgage to pay. A year later they approved my early ill-health retirement.

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<sup>45</sup> Not all information was established about every partner, hence this figure is not expressed as ‘of the 7 FamCMI’ participants.

Irene lost her job as a team manager in the social services after choosing to remain with her partner due to belief in his innocence. She communicated her frustration at being deemed guilty by association as follows:

...the fact that we are partners meant that I was suspended, disciplined, all my work was checked... [At a disciplinary hearing] they said that it wasn't my work that was an issue at all – they'd gone through all of that, there was no fault found in my work, but the letter reads that because of my personal choice in a relationship I made, I can't have a job... I was dismissed in June 2010, so no reference, no wages, nothing... I never got chance to pick up things or say goodbye to anybody.

Hannah and Irene's experiences highlight the adjacent effect of uninvolved partners leaving their jobs as trained and dedicated carers or teachers. Irene reflected that,

if I was going to have impaired judgment as a social worker, because I know someone with a conviction, I'm sure the impaired judgment would have shown itself... I had worked for them for 32 years. I was good at my job, I've been trained inside out over more than three decades in social work. All of that now is wasted because I can't do it anymore, I'm banned for no reason.

#### **A. Effects on self-concept and reputation**

##### *Beyond a destroyed professional identity*

Every convicted participant (and most partners) suffered irreparable damage to their professional reputations as a result of the allegations and convictions. Two participants, Royston and Graham, noted that, even if acquitted or able to overturn the conviction, their professional caring and teaching reputations would remain severely undermined (or 'poisoned') in the eyes of society. As Graham explained,

even if they had released me without a conviction, the damage would have been done, the reputation, the story had gone to the press and the internet and everything else, and would be there forevermore. So just the making of the allegation was enough to result in destruction of people's lives.

However, those convicted of abuse in the context of their career lose much more than their job. As people's social and career achievements are so frequently tied to their sense of self, reputation and identity, any damage to their professional reputation necessitates a crippling blow for self-concept.

##### *Being labeled as an offender: a 'psychologically devastating' process*

Every participant claimed to have held a firm belief that no charges would be brought or the case would be dropped. Though some felt they were able to retain some self-belief and identity while the investigation and trial occurred, almost all the CMI participants described a crushing loss of confidence when the realization set in that the case was leading to conviction. Charles described

the process as ‘*psychologically devastating*’, realizing when led to his cell, that his identity was to be ‘stripped away’ beginning with being dressed the same as hundreds of others. In his words, when handcuffed and led to prison transport he realized he ‘*was a number*’ and had become trapped and powerless.

Graham recalled the psychological effects of this experience as follows:

You’ve gone overnight from one planet to another. You’ve changed worlds. You’ve gone from a situation where you are well established in a senior position in a respected profession and overnight that’s all gone. You are suddenly plunged from being important... to being nothing. At first – the first period of time, a few days, a couple of weeks – you can’t believe that it has happened. You still believe that justice is there and that it is going to change. So you are in this state of mind at the beginning where you are thinking, ‘this is all a huge mistake, it’s only a matter of days and I’m going to be released and we’ll get back to normal’. Then, as each day went by I started to realize that wasn’t the case... At first there was hope, and then after a while you realize there isn’t, and that everything has gone, and that your whole life has been destroyed. And then you start to realize the extent of that destruction... and that it is going to be the rest of your life moving on.

*A ‘broken’ life, damaged beyond repair*

To be associated with abuse – worse, convicted – is described by participants as a violation of their sense of self, their history and identity. They described feeling that their lives had become broken or permanently damaged by the association with the offence(s). For Lily, “being innocent is meaningless, as you can’t live the life you want.” Hannah stated that, “My husband spent 8 ½ years in prison. Whilst there he was optimistic and appeared strong. He was released on parole and I realized he was a broken man. He was incredibly angry and mistrustful.”

The participants also made frequent referrals to part of them dying, or there being a ‘new’ person now that their ‘old’ self is gone, or that they could not get back to being their former selves. Chris expressed that, “My life stopped when I was 47 because that’s how old I was when these allegations came out and I don’t feel I’ve lived again since – in fact, I haven’t. I haven’t lived a life because... I’ve never felt that same person again, at all. People say to me, “I wish we could have the real Chris back again.”” Lily simply summarized, “You are not the same person and never will be. That person has been destroyed. A new identity is formed.”

The theme of an old persona being replaced by a new one is stronger amongst CMI participants, than those not convicted or who successfully appealed.<sup>46</sup> In part, this could be because of the identity changes that result from being locked away in an institution. Through his conceptualization of a ‘mortification process’, Goffman<sup>47</sup> highlights the pain and grief associated with being inducted into such an institution, whereby an inmate’s former identity is both literally

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<sup>46</sup> Hoyle, *supra* note 4 at 31.

<sup>47</sup> Erving Goffman, *Stigma: notes on the management of spoiled identity*. (Englewood Cliffs: Prentice-Hall, 1961).

and figuratively stripped away and, in turn, the inmate is forced to take on an identity provided by the institution. This mortification process is clearly evident for those respondents wrongly convicted of sexual offences.<sup>48</sup> Westervelt and Cook found that participants exonerated after being on death row felt they had lost their ‘old’ self-identity when entering prison, and could not rebuild it on release.<sup>49</sup> Jamieson and Grounds similarly documented permanent changes in personality in wrongfully convicted and political prisoners.<sup>50</sup>

However, almost all participants felt their former selves had been corrupted by the allegations, investigation, trial and conviction – not the years spent separated from society. Therefore, it is likely that the identity loss or crisis is also (if not more) strongly tied to the sexual nature of the offence and social abhorrence of this. Graham explained this well:

You’ve lost all your confidence, your self-esteem and everything. It’s all totally gone because you’ve been declared a leper. You’re a leper to society. And so, whilst you’ve got this hope that you can expose what happened and the people that did it to you, you still know that the damage has been done. I will never be the same as I was before it all happened; I’ll never be the same person, I’ll never be as confident, as able to get things done as I used to.

Thus, it is arguable that the participants experienced an identity crisis far more lasting and pervasive than those with convictions for non-sexual offences.

Almost all participants discussed feeling broken, depressed, anxious and despondent, but also trying to remain strong in public. Chris shared his feelings of being “a strong character, I can fight... a tough nut, my feet are well on the ground.” However, he later stated that, “A lot of it is a front, underneath I’m very, very shaky and very, very weak. Now and again something will raise its head... I’m very fragile inside. Those allegations have done that.” Lily similarly stated that, “People see me as level headed strong and well balanced, having common sense. I class myself as weak and inferior.” Overall, a strong theme in the participants’ accounts was that of building a defensive, protective veneer as a coping mechanism. The dichotomy between how they try to present to the world and how they feel inside (often broken) is poignant.

#### *The stigma and stain of being labeled an abuser by society*

For those wrongfully convicted, a particular source of anguish is the shame they feel from being associated with the crime. Shame is felt as a result of participants’ – and their families’ – names becoming muddied, through association with convictions for abuse. Chris, for example, expressed feeling utterly ashamed that the accusations and conviction could happen; stating “Your name’s everything... it stained my name. It stained my family. It stained everything I’d done.”

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<sup>48</sup> See also Ruth Jamieson & Adrian Grounds, “Release and adjustment: perspectives from studies of wrongly convicted and politically motivated prisoners” in Alison Liebling & Shadd Maruna, eds, *The Effects of Imprisonment* (London: Routledge, 2005) 33.

<sup>49</sup> Sandra Westervelt & Kimberley Cook, “Framing innocents: The wrongly convicted as victims of state harm” (2010) 53 (3) *Crime, L & Soc Change* 268.

<sup>50</sup> Jamieson, *supra* note 48 at 50.



Yet, the ‘why’ was very hard to put into words. Hannah similarly explained that, “Initially it was so shameful that my husband was charged with such horrific offences. We had both worked with children and all the past work we thought was good was taken away from us. We suddenly had no past.”

Knowing that their ruined reputation affects the lives of others connected with them further lowered participants’ perceived self-worth. Chris spoke of the burden that his convictions presented to those around him, in not wanting the ‘stain’ to be picked up by other people. He recalled feeling unable to let a romantic relationship develop, due to the woman in question having children, whom the police would have placed on the ‘at risk’ register. This shows a clear sense of identity-loss on behalf of the participant, which in turn has adversely affected their self-concept going forward. Four others also described feeling responsible for strain and breakdown in relationships with others, which negatively affected their self-confidence and feelings of shame.

Some would argue that a deep sense of shame would be expected from those who are guilty and have been found out for their wrongdoings. Participants in the CMI group and their relatives, as well as those in the Oxford study who were not charged or were exonerated (NCE) both spoke of shame. What they describe, though, is a sense of shame that they could be associated with such crimes in others’ minds - as opposed to *being ashamed* of having done wrong. The two are at first difficult to separate. Self-concepts and reputations are built not just from how the individual sees themselves, but how others see them (and by how an individual *believes* others see them). This is partly why participants described feeling acute shame when maintaining innocence.<sup>51</sup>

#### *Devalued in society*

A coping mechanism for those experiencing an identity crisis having been devalued by society, is clinging onto their former value. Many participants discussed the benefit they or their partner brought to disadvantaged children or vulnerable adults prior to the allegations. Chris for example stated that,

I was very good with kids; I was excellent. And other people have said this to me both at Church and people in the community, that they’ve deprived the kids in the community of [my help]. I ran an organization with hundreds in it, and I did Duke of Edinburgh work – I was very, very good, and I’ve worked with the difficult ones.

This sentiment, one of many similar examples, shows that the participants feel a deep personal loss of their reputation and societal worth. This is unsurprising, given the circumstances of being accused by someone where there had previously been a relationship of trust. To go from a socially valued position, to being named as guilty of abuse, foreshadows an identity crisis. Participants needed to assert that, at their core is a once-valued person who contributed to the community despite being covered by stigma or ‘mud’, on the outside. This was done as a means to rebuild damaged self-confidence in the face of a decimated reputation. Remarkably, though, the effect was pronounced enough to extend to partners of those convicted. Camille, the partner of

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<sup>51</sup> Sandra Westervelt and Kimberley Cook (2010) also found participants felt acute stigma and fear.

someone convicted, explains that “we were always people who would be the first people to help somebody, and now... I don’t care. I have no optimism.”

## **B. Effects on psychological and physical health<sup>52</sup>**

### *Going into shock and shutdown*

As those who are innocent are likely to feel confident that ‘the truth will out’, that police will discern between someone who is lying (or mistaken) and someone telling the truth, and that innocent people simply do not end up in prison,<sup>53</sup> they are in no fit mental state to adjust where this does happen. Early on, participants frequently stated that they simply could not believe that allegations of abuse had been credibly made, or that there was any possibility they could lead to a criminal trial. Several were assured that the case would not reach court or would be thrown out immediately. Royston commented that, “I didn’t honestly think I would get convicted. I thought it was ridiculous at the time. ... I thought that once they could understand how the place had operated they would see this was implausible.” Emily too stated that “I was in a state of denial, I couldn’t believe it was going to happen, that he would be convicted and sent to prison, because he was so obviously innocent, so I don’t think it affected me initially.”

Participants’ accounts vividly portray how their initial feelings of bewilderment, incredulity and disbelief spiraled quickly into a state of acute stress and fear, facing a criminal trial in a state of shock and unpreparedness, on charges of abuse. Angela described her husband going through “Shock. Disbelief. Incredulity. And fear... For at least two or three weeks he hardly spoke.” Camille recalled that “when Matt was first accused we were both in shock. We were stunned. I struggled to motivate myself but had to motivate Matt. Also this put added pressure on me, which was hard.” Of course, it is not just the accused who feels the effects – their partners are also dealing with shock, acute stress, anxiety and possible doubts about their partner’s innocence or deceit (itself an unimaginable mental strain). They too share the trauma of a trial – and conviction – having their worlds turned upside down when it happens. This is discussed in further detail in the section on Relationships.

### *Depression, sorrow, and a sense of loss*

After initial shock, numbness and incomprehension at the possibility of a conviction, participants described feelings of intense and chronic stress, sorrow and depressive states. Several participants compared the experience to bereavement. As Angela (herself a trained bereavement counselor) described it, “It’s very much like bereavement, but you can’t, you don’t move on. You are actually stuck in it. I have had in the last few weeks these overwhelming feelings of sadness and loss. Sadness for what we have lost: we’ve lost our whole life.” It is almost impossible for

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<sup>52</sup> Participants’ health conditions and ailments were self-reported. Signals of mental health problems exhibited in responses were also noted, and are mentioned in that capacity where appropriate.

<sup>53</sup> A large-scale survey of public confidence in the British justice system found that 75% agree that those who have been accused of a crime will be treated as innocent until proven guilty. See Krista Jansson, *Public confidence in the Criminal Justice System – findings from the Crime Survey for England and Wales (2013/14)* (London: Ministry of Justice, 2015).

those believing they or their partners have been wrongly convicted to accept this fate - to draw a line under being wronged by the State and justice system, in such a way that removes liberty, permanently blighting their reputation and life moving forward.

Depression and anxiety were overwhelmingly prevalent in the responses. If not named outright, clear symptoms were alluded to in every account. Lily described the effects on her health as feeling “demoralized, disillusioned, depressed... loss of interest, appetite, confidence, motivation, concentration, sleep deprivation,” others described feeling angry and tense, and suffering deep mistrust of others, fearing that they will find out about the accusations or that other accusations will be made and the process repeats. Participants disclosed the use of counselling, taking anti-depressants, and suicidal thoughts (on their own behalf or concerns for their accused partners). Angela described her husband, who was accused,

retreating into himself... For at least two or three weeks he hardly spoke. I really was concerned about whether he would harm himself.’ [Interviewer: Had he suffered from depression previously?] No, no. He was in good health previously. He thinks that suicide is wrong and no one has a right to take their life - but I felt that at that time it was a distinct possibility.

For Graham,

From a mental point of view, it was almost like a slow motion; like when you watch those films where everything goes into slow motion, and you realise that you can’t do anything; you’ve just got to sit there and wait... it’s like being a hostage. You are suddenly captured by someone and you cannot do absolutely anything about it, and you just don’t know what the outcome is going to be. Mentally, you go through all the things: you know, ‘should I commit suicide?’ ... ‘what can I do about it?’ You know, it was just absolutely devastating. From a physical point of view... the trauma that you are suffering from means that you lose your appetite, you lose weight, and so you’ve got all of that.... Even if you were later cleared... you still can’t get rid of that trauma and the way that your life has been changed by it. It’s devastating.

#### *Sustained stress, anger and anxiety*

Between arrest and trial, participants described feeling numb, processing it as a traumatic experience.<sup>54</sup> At the same time, they described intense turmoil when trying to cope privately with an uncertain future, removing themselves from others as a coping behaviour. Many participants detailed stress-related health concerns such as shaking, sleeplessness, panic, paranoia and flashbacks of being arrested. Camille recalled high stress levels caused by keeping the situation secret for the year between allegations and trial, as well as her partner drinking heavily, but trying

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<sup>54</sup> The emotional toll of criminal trial participation is documented by the numerous and extensive measures brought in for witnesses and accusers to mitigate against trauma and upset caused. Yet, psychological distress experienced by the accused person is consistently overlooked, likely due to the probability of them being guilty. However, for those who are innocent, serious health detriments are clearly possible.

to keep busy with exercise – until he was charged and the local sports centre barred him, which “took away [their] supply of oxygen.”

Once convicted, the accused is suddenly and publicly removed from their family, home and community. Depression and anxiety when facing a long period in prison are well-documented<sup>55</sup> – but the mental anguish at being innocent of what was alleged must make this process even more unbearable. Participants reported feeling acute stress, anger, obsession with clearing their name and feelings of hopelessness when faced with the task of doing so.

Upon release, however, the convicted person must adjust to life back in society labelled as an abuser, presenting a fresh set of health concerns. Chris explained that,

When I left prison, I was very, very anxious. I was fearful of walking anywhere. I was very conscious of myself, and in fact I went and got – in fact, we still use them in the winter – we put it down to being SAD [seasonal affective disorder] but it’s not really the SAD syndrome that I have... so I use fluoxetine [an antidepressant] during the winter months and probably it spreads into about June now. So that was sort of anxiety, depression.

Regarding anxiety, Matt mentioned, “Every time I go out in public, I fully expect to be physically or verbally abused.”

In addition, those with convictions can be shut out from social activities that would otherwise have contributed to their health and wellbeing. Participants’ examples include being banned from sports facilities, church groups, allotments or other community activities, and interacting with young people. This loss of social interaction (and standing as a valued community member) affects the whole family, the strain of which is multiplied when the accused sees their loved ones suffer in this way, and vice versa.

Longer term, several participants developed a fixation on the case and trial, and how they could clear their names. Charles discussed moving forward with his life by becoming occupied with other interests but admitted to thinking about his case every single day. For others, such as Toby, these thoughts are obsessive and their predominant occupation. He stated,

Anger is the only surviving thing... I don't remember a time in my life when this wasn't my life. It is my life when I wake up in the morning, until I go to sleep at night. I will go home tonight and get papers out and work on them [to establish his innocence] until I go to bed, and it's been 20 years. I never, ever, ever stop. [Interviewer: What about sleep?] Oh, if I get 40 mins at a time.

It is hard to know whether this preoccupation has caused, or is a result of, depression, anxiety, trauma or stress-related problems, and the associated impaired physical health, loss of

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<sup>55</sup> Shaoling Zhong, Morwenna Senior, Rongqin Yu, Amanda Perry, Keith Hawton, Jenny Shaw, & Seena Fazel, “Risk factors for suicide in prisons: a systematic review and meta-analysis” (2021) 6 (3) *Lancet Public Health* 164.

sleep and poor self-care. Social and mental isolation was a recurrent theme in the participants' accounts. Underpinning this, of course, is the contributing factor of being treated as a sex offender and consequently being barred and excluded from society.

### *Prison-related health issues*

Charles and Matt summarized their experience of prison as 'psychologically devastating', being 'just a number', and described how mental health deterioration was inevitable in an environment where, "windows are blacked out, non-stop noise 24 hours a day, with artificial light, appalling food and being surrounded by people that would make your skin crawl." Vincent stated that he was attacked and threatened with death, in prison, beaten and left bleeding. Several participants also discussed the difficulties obtaining medicine, treatment with opticians and dentists or being able to maintain health in prison. Lyn and Marie recalled that,

"It definitely shortened Arthur's life. When he was first imprisoned he wasn't given any medication for about 10 days. This was treatment for high blood pressure, essential to take daily. At this point he was in a poor state health-wise... His sleep patterns were affected, he had bad dreams, would fall out of bed, shout out and show unrest. After 3 years at home he died suddenly."

Matt and Toby also recounted sleep difficulties – Matt stating that, "I still don't sleep properly... I spend every night in prison. I dream in prison. Always." Joshua developed apnoea since leaving prison due to the conditions there. Upon release, weight gain, loss and conditions such as anaemia were mentioned by five participants, who had developed poor relationships with food, some using it as a crutch or comfort.

Many health concerns reported by participants were as a result of their treatment in prison rather than being wrongfully convicted specifically. It is sometimes difficult to disaggregate the effects of imprisonment from wrongful conviction if it has led to imprisonment. Though not all issues discussed related to being *wrongfully* convicted, the participants describe real suffering caused by the prison environment. As such, we have chosen to include the pains of imprisonment, given that they would not have endured this had they not been accused. These effects should be recognized as part of what may be unjustly inflicted on the wrongfully convicted and their families.

### *Effects on partners' health*

Partners of those accused shared the stress and anxiety during the arrest and trial, and their health suffered when their life partner is convicted (particularly of sexual or child abuse). Hannah recalled, "When the trial was over I had lost weight and developed anxiety attacks. I was angry and frustrated and felt very isolated and helpless as there seemed no way to rectify the atrocities. I felt I had no control." Charles described the traumatic effect of the allegations and conviction on his partner, who stockpiled medication and had a nervous breakdown, eventually becoming hospitalized for severe mental health problems.

The family of those convicted also experience the social stigma of being related to a convicted abuser, which makes them vulnerable to bullying, harassment, unsavoury actions, and

even violent attacks. Emily recalled that, when her partner was convicted,

I was in pieces, I couldn't go to work for two weeks... I would burst into tears. It did affect my work... I just didn't want to talk to people... Yet I have to talk to people... [I] would constantly have to put on a brave face... It affected me physically as well as mentally. I wasn't sleeping. I was just trying to hold it together for the kids really.

She experienced a smear campaign in the neighbourhood, and a brick thrown at the windows. Another, Irene, endured a group making threats outside the house.

Fighting the conviction (both legally and publicly, facing daily social prejudices) can also consume partners of the accused, which takes its toll on their wellbeing over time. As Camille reflected, "I used to always jump out of bed on sunny days to welcome the sun into my home. Now each day is just another day in our fight for justice. Each day feels like a year and time moves slowly." The implications for partners' mental ill-health are vivid in each of these accounts.

### **C. Effects on relationships**

#### *Effects on relationships with a significant other*

A partner's conviction is enough to create strain on any long-term relationship. As the convicted person in prison is distanced from negative social reactions in their local community, it is the spouse that has to deal with answering questions and managing contact with others in society (as well as coping with the finances and social consequences).<sup>56</sup> When neither partner accepts the validity of that conviction and both maintain the convicted person's innocence, there is obviously a far greater sense of wrongdoing and anger at the injustice. Loyal partners of prisoners maintaining innocence and convicted for sexual offences are likely to face verbal abuse and ostracism, as detailed above.

The majority of participants had partners who had stuck by them, believing in their innocence. As Hannah put it: "As a couple we fought the whole thing together." Matt reflected that, "In lots of ways it's probably made us stronger because we closed ranks." His partner, Camille, explained that there was no difficulty supporting him despite significant negative repercussions, because "We all know him, and we know he would never, could never do the things that he was being charged with, and that makes it easier to support somebody - whereas had there been anything where you doubted somebody, then that would have been hard." The concept of a couple 'closing ranks' was echoed in several other accounts.

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<sup>56</sup> Anna Kotova, "He has a life sentence, but I have a life sentence to cope with as well": The experiences of intimate partners of offenders serving long sentences in the United Kingdom" in Joyce A Arditti & Tessa le Roux, eds, *And Justice for All: Families & the Criminal Justice System* (Michigan Publishing, 2015) at 85; Rachel Condry, Anna Kotova, & Shona Minson, "Social Injustice and Collateral Damage: The Families and Children of Prisoners" in Yvonne Jewkes et al, eds, *Handbook on Prisons*, 2<sup>nd</sup> ed (Abingdon: Routledge, 2016).

Some of the participants' partners worked in similar roles of responsibility and care. Lyn explained that "Arthur and Marie were a very strong couple. As Marie had worked in the childcare profession too she understood the type of people the accusers were." This would assist partners greatly in understanding how false allegations or a wrongful conviction could occur and believing that their partner could well be innocent of all charges. Irene too stated that, "I used to work with Vincent at the centre, so I knew the children who had made the allegations... [because of this], I've always taken the view that it was complete rubbish."

*Effects on relationships with children and grandchildren*

Understandably, the conviction of a parent for child and/or sexual offences has the capacity to be catastrophic for their relationship with any children in the family. Of those participants who discussed children and grandchildren, several spoke of difficulties seeing their own children. Even where participants' children are adults for whom there is no restriction to see, they may choose to distance themselves from their convicted parent, which can cause emotional pain. Similarly, the conviction of a parent for child or sexual offences creates a barrier for those convicted when seeing their grandchildren. Angela recalled that their grandchildren were interviewed at school, and described the hurt felt by her and her husband at his ban on contact with children, not knowing if he would be allowed to see their grandchildren again. Though not convicted of offences against children, Matt restricted time spent with his grandchildren, fearing social worker visits despite his family supporting him.

For some of those convicted, there was little lasting damage to the relationship between themselves and their children. Instead, the significant difficulty was in having to inform them of the charge against them (and the consequent anger and mistrust felt on behalf of the children). Matt recalled, "it was hard, but they instantly said: 'No way'." His partner Camille added that, "Our son was angry [about the allegations and prosecution], and he never came to court because he would have been very angry, so he kept himself away. Our daughter came once to the trial, didn't she? And stormed out because of the vulgarity of the questioning."

Sadly, the children of those accused can suffer greatly. Royston described this in detail:

The person most affected was our daughter who was still at school, just coming up to GCSEs. She got some abuse in the street. But a lot of it was anonymous Facebook messages on her mobile phone, some referring to what she was doing or wearing which could only be from someone in their classroom... So she was getting persecuted that way. So, she left that school and moved to another – bad timing when you are struggling to pass your exams... But it was in the newspaper and we share the same surname. So there was no hiding place for our children... [our daughter] ended up on anti-depressants... The local newspaper never missed a chance to print our address, and that continued three or four years after [the allegation]. The supposed victims went to court for compensation, and this was very heftily reported by the [newspaper]. And again, even though I'd been in prison for 3½ to 4 years by then, they printed our address. [My partner] wrote to them saying 'Why are you punishing us? He's in prison.' ... What is the point of them printing

our address when I haven't been there for 3½ to 4 years? I'm here, supposedly for the protection of children. Does my child not matter?

Like many others, Royston's partner Emily was faced with the sole upbringing of their children while he was in prison. She described this situation as "very difficult, to put it mildly. There isn't a self-help manual for dealing with this unfortunately." Reflecting on the unfairness of this suffering, Royston commented, "It's so remote from our son and daughter. They weren't born or even thought of at the time this is supposed to have happened. It was already 24 years on."

The problems caused and harms felt by children are not limited to the period between arrest, conviction, incarceration and release. They continue to affect the lives of the children of those convicted far beyond this. Lyn recalled that, "A sad outcome for [Arthur] was that his situation affected the relationship between two of his children and this has continued. This was triggered by one of them [working in in the police service] and another not understanding the position the other was faced with." Royston reflected that, "Even now, our son cannot comfortably invite home friends who have children. And both have a burden of explanation in any new relationship when mutual disclosure is a natural part of developing the relationship."

#### *Effects on relationships with other relatives*

Almost all participants were able to cite their family as a source of support, standing by them and believing in their innocence. Some were surprised at how much support they received as some family members fought their corner. Toby found that, "It actually strengthened certain relationships, for example I haven't been estranged but I... haven't had much contact with my brother for many, many years and he was an absolute brick through all of this." Despite family support, some of those convicted withdraw from extended family, becoming obsessed with researching false allegations and finding information that would help prove their innocence. Toby stated that,

I had recently an experience of - a partner of a nephew died – and I found it inconvenient that I had to go to the funeral. I know that sounds awful, but it – this is my life. And if the last 20 years are to mean anything, I have to win... The truth is my family are now an impediment – they get in the way of this. I have a [sibling with a severe medical condition] who I know I could go and look after, but this is more important. I have to win this. And I'm sorry but my [sibling] will have to cope.

In light of the personal trauma and mental health difficulties experienced by those wrongfully convicted, this is unsurprising.

#### *Effects on friendships*

As with family relationships, most participants felt well supported by friends. Angela recalled that friends were supportive through court attendance, letters, visits, and fundraising to help pay for a solicitor. Vincent reflected that, "We have a very loyal, supportive pair of friends ... they testified in court for me, and still regard us as one of their very best, loyal friends." Matt



stated, “I’m not aware of losing friends through it. In fact, we gained friends.” He reflected that in relation to some friends, he and his partner had actually gone up in their estimation because of their resilience. Echoing sentiments expressed by other participants, he reflected on the experience that, “I didn’t realize until it happened how important I was to some people and what I meant to people.” Joshua explained, “I lost one or two friends who’ve since come to me and said, I appreciate because of your fight that you must’ve been innocent all along.”

For other participants, friendships were lost. Following her husband’s conviction, Hannah lost “a friend of many years, [who] terminated our friendship.” Predominantly though, the loss of friendships was tied to the nature of the conviction and the place of work (where friends overlap with colleagues). Bernard described how one friend had chosen not to see him while the court situation was resolved, because of his professional position. Charles distinguished long-term friends who were supportive, from acquaintances and work colleagues who jumped to conclusions and cut contact.

Several participants described despondency at being unable to explain their situation and sides of the story to colleagues, who overlap in their social circles as friends. He did not have a chance to say goodbye. While under investigation, these participants had not been allowed to contact friends who were also colleagues. Contact had not been re-established during or after their prison sentence. As Royston recalls,

I was immediately cut off from my colleagues in [the place] where I was employed at the time. I was forbidden to have any contact with them. They were my main contacts, my friends although professional friends, and they simply weren’t allowed to have any contact with me... to this day I’ve not spoken to those people.

#### *Effects on community relationships*

Some participants discussed support within their close community. Emily reflected that, “People who knew [the person convicted] in the neighbourhood – none of them believed it. Those who knew him just couldn’t believe it, which is encouraging.” Lyn and Marie recalled that, “After seven years in prison, he [Arthur] did lose confidence in himself and was wary about going out by himself. He eventually overcame this and he was welcomed back into his community with open arms. He was never shunned. He was determined to keep his dignity and get his life back on track.” Although an uncommon outcome in the accounts, this at least is indicative that, for those claiming that they have been wrongfully convicted, there are sources of support amongst those who believe in their innocence.

Many more of the participants disclosed being shunned by community groups in one form or other, even experiencing violent and threatening episodes. Despite his statement of community support above, Chris reflected that, “I still appear reasonably confident, but I am not reasonably confident any longer. I did take a big knock. I was a well-known figure in the town.... When I’d left prison, I was very, very anxious; I was fearful of walking anywhere.” He describes this drip effect over time when leaving prison to reintegrate into the community as being the worst part of his experience. Similarly, Emily commented in relation to her partner that, “The bad things started

happening when he came out of prison.” She spoke of people in the community getting police involved and banning her husband from certain social spaces, and damage to their house.

Vincent described one of his experiences as follows,

Members of the community found out, and I had to face there and then, not only the church turning its back against me and telling me not to come to the service... but there was worse to come. When a piece came out in the local newspapers, I woke up one morning, and two of my great supporters today, woke me up early one Saturday morning and they said “My God, you don’t know what was across your front door”. [It] was a great poster about of 3’2, which says “Child abuser”, “Rapist” and other unpleasant remarks. They took it off and presented it to me, and... that’s what I woke up to.

Vincent also recalled an incident where, “Close to midnight my front door was kicked and banged and banged, and I was threatened: “Come out. We’re going to do you in.” A very frightening situation.”

Discussing rejection from the community during her husband’s trial, Angela recalled:

We were told that we were no longer allowed to go to our parish church. We were no longer allowed to worship there. The safeguarding officer for the Diocese came to see us with the priest of the parish where we live, and she brought a contract for my husband to sign: he was only allowed to go to one particular church, and he was not allowed to speak to anybody ... it was really, when you read it, an admission of guilt. He didn’t sign it. It’s never been signed ... [consequently] I am barred from my own parish church. I feel as if I’ve been driven from the church, and they’ve turned their back on me.

Damaging social responses (actualized or feared) can cause the convicted person and their family to distrust and withdraw from the community. Matt spoke of the effects of this on him: “[I] feel very vulnerable. I mean I get a bit paranoid... It’s made me very cautious of things.” For Camille, as the wife of someone convicted, the fact that their shared address was printed in the newspaper caused her to fear community retaliation. Withdrawal from the community or a wider social circle was a common theme in each account. Hannah stated that her (now deceased) husband left prison incredibly angry and mistrustful – and that she had no wish to become close or involved with anyone who does not know about their situation. The defense mechanism of putting distance between themselves and others appears as a form of self-preservation for those convicted and their close ones. Almost all participants spoke of a deep mistrust of others (and the justice system), contributing to social withdrawal. Several spoke of an ‘*us versus them*’ mentality, whereby they would avoid integrating with the public to avoid being shunned and stigmatized.

### *Forming new relationships*

The decision to remove oneself from social life in order to avoid being stigmatized and harmed makes it difficult to form new relationships. Meeting new people is an inescapable part of

life. Participants described being fearful or anxious about meeting new people or even going to public places. Lily voiced feelings of apprehension when meeting people, as her “conviction is always lurking in the background.” Similarly, Irene commented “For anyone that we don’t know or may meet, it could never be a discussion piece ... while we have a nucleus of people with whom we are at ease, it is not something that we could talk about to others, so in some senses we reinvent ourselves if we’ve got to deal with neighbours, etcetera.”

Participants expressed misery at how fear of entering the public realm obstructed desires and ability to fight the allegations publicly. This forms a new problem for those claiming to be wrongfully convicted: they are unable to avoid negative social repercussions if they choose to publicly fight the conviction and allegations, yet, participants choosing to slip into anonymity and social withdrawal cannot then continue to protest loudly. This catch-22 makes it almost impossible for those convicted to publicly assert and maintain innocence whilst at the same time putting the ordeal behind them and choosing a quieter life to avoid (at best) social stigma and gossip, and (at worst) threatening, violent altercations.

#### **D. Effects on beliefs and outlook on life**

##### *Faith in the justice system*

Unsurprisingly, all participants discussed a loss or lack of faith in the justice system. This pertained to their experiences at each stage - arrest, trial, and conviction. Chris summarized his experience as a comprehensive failure of justice, “The justice system didn’t work. I can tell you now, that my lawyer quit the profession because of my case. He was completely disillusioned – he couldn’t believe what had happened.” Graham summarized how his perspective had been changed: “You start off in this world believing there is justice and then when you’ve gone through this you understand that there isn’t. And it’s very much politically controlled. And that is the issue that faces everybody who has been falsely accused.” Marie, speaking on behalf of her deceased husband, commented that, “Arthur’s faith in British justice was sorely tried, in fact he lost faith in it totally... He felt it was like theatre and his life was being decided by this “game”. He felt that the real truth was unimportant.”

Many of their comments related specifically to deficiencies in justice for innocent people accused of non-recent sexual abuse where the ‘evidence’ is limited to complainants’ testimony (and presumed guilt-by-association with others found guilty). Chris held the view that, “The system is not fit for purpose in these kinds of trials.” Angela too stated that she was left with the feeling that, in relation to the investigation, the most important thing was to get a conviction, as opposed to testing the veracity and likelihood of the claims. Camille reflected, “I don’t think the jury system is the right thing. You either need a professional jury or you should have a lawyer in with the jury who says you cannot do this, you can’t convict somebody when there is no evidence. I think it is hugely dangerous.” Bernard explained his experience of this as follows:

I did believe the adversarial system would mean that I would at least be heard. I was wrong! The lawyers... convinced me that the prosecution had to make a strong case and, as there were no facts that could be substantiated, that it would be unable to do this. I believed them - perhaps because I wanted to. They were wrong! In a

case like mine, as has been shown time and again since, the burden of proof has been reversed. I no longer have any confidence in its ability to deal with such cases fairly.

It is obvious that those protesting innocence but receiving a guilty verdict would feel an injustice has occurred. But, going beyond their own cases, some participants experienced a much more profound shift in their beliefs or outlook. Charles explained that as a result of his experience, prison made him perceive authority figures differently and reassess his attitude to the rule of law. Despite having family members working for the police and prison services, and himself having given evidence in trials for them, Charles described having far less confidence in the police than he used to and commented that he has since taken up a serious interest in miscarriages of justice, becoming an activist in relation to false allegations. He now perceives others' beliefs that all allegations of abuse must be true as a blinkered world-view. Similar sentiments were echoed in almost all of the accounts.

Specific incidents damaging participants' beliefs in the integrity of the criminal justice process were pinpointed in five of the accounts. Emily stated that, "What really made me angry was when the police and a social worker interviewed me, and tried to get me to say that [her partner] was guilty. And then, interviewing my daughter who was twelve or thirteen - they lied to me about [whether or not] I could be there." Many more participants felt that police records and statements had been changed, papers 'lost' or inaccurate information given, in order to strengthen the prosecution case against them, and that these steps had been taken as result of them standing up to allegations or kicking up a fuss about how the investigation was handled. Joshua relayed his experience of being offered a deal to plead guilty and felt that this was a ploy. He recalled that, unusually, he hadn't been given papers from the police, and that the reason given was that they had been lost. He expressed cynicism at how they had all 'conveniently disappeared'. Toby commented that, "What has always plagued me is that the police said to me, when the tape was off, in interview, that they knew I hadn't done it." Referring to his later experience in court when facing trial, he added: "I was offered a deal just before I went to trial whereby, if I pleaded guilty to some of the physical allegations they guaranteed that I would not go to prison. I told them where to stick their deal and I went to prison for 15 years."

#### *Outlook on society and human nature*

Damaged trust of others was a key theme in the responses. As Hannah explained, "My whole belief system was destroyed. I no longer trusted anyone. I didn't and still don't want to become close or involved with anyone who doesn't know about our situation." Matt added that this situation left him feeling: "[...] very vulnerable. I get a bit paranoid [...]" This loss of trust extends to wariness about helping others, curbing instinctive generosity in case it is misperceived. Similarly to 5 others, Matt stated, "I wouldn't help anyone now: if someone fell down in the street I'd step over them."

Chris, Charles, Angela, and Graham all expressed a deep-seated shaken belief in human nature. This stemmed from the fact that false allegations do occur, that juries and justice system personnel make mistakes, and from the societal reactions and vilification that they have endured.

Charles stated that he felt that false allegations could be used as a weapon to settle scores, and that people have a plethora of unacknowledged motives. He attributed his shaken belief in human nature to having met people in prison he believed to be innocent. Royston described his shock at a reputedly kind prison officer stating that he was quite sure he had never turned a key on an innocent man – which, to Royston, defies belief as juries are demonstrably not infallible. For Graham, “the big picture of being wrongfully accused of something is unfortunately part of the psychology of human beings - where they almost love to hear somebody has done something even if they haven’t.”

Five participants explicitly mentioned skepticism in relation to media reports of abuse scandals and allegations. Hannah explained that, as a result of her husband’s ordeal, “I don’t believe the police or media and certainly do not accept jury verdicts as reliable.” Matt described his and his wife’s outlook as one of mistrust: “I don’t trust anybody. Anything we hear about allegations on the news, we don’t believe any of it. We automatically take the stance that we don’t believe any of it because of what happened to me. I was described as having a [physical description that is visibly inaccurate]. So how can you believe anything?” Emily recorded her change in outlook as follows: “Up to [the allegations], if I’d read about a sex abuse case in the paper I’d be sort of thinking, oh dirty beasts, at least they’re caught and now I read them and think, well actually this sounds like a load of lies.”

### **E. Coping mechanisms**

#### *Support from friends, family, and campaigning*

Participants said that their knowledge they were innocent, and their hopes of exoneration, were what was stopping them from falling apart. They also referenced the support of others who believed in their innocence and took steps to help them appeal – such as MPs, lawyers (in several cases working *pro bono*) and local campaign groups. Lyn, sister of Arthur, told us that, “Support for Arthur started from Day 1. His local MP and her team worked tirelessly for his cause both locally and in Parliament. She visited Arthur and others in the same situation in the prison setting.” After his death, “Friends and family continued to write to the powers that be in the hope that someone would see the wrong that had been done.” Knowing somebody was fighting their corner, participants were assisted to think positively while incarcerated. Chris summed up the significance of such support: “I was very fortunate to have the love and support of friends, family and community. But those people who haven’t... I can see how they become suicidal very, very quickly. I’ve had the same feelings, but I’ve had the support to help me cope with those feelings.”

#### *Using support services*

In the UK, support is normally made available to those convicted and their families. Official support via the probation service, prison staff and post-release resettlement are combined with offender management and supervision. For many, the surveillance, checks and restrictions are likely to override any supportive potential. In fact, none of the participants named these officers as sources of support. Some of the relatives explained that they would have found their situation too painful to discuss, anticipating that counsellors would presume their partner guilty. As Lyn put

it, “How do you go to counselling knowing that the counsellor will believe you are misguided. I have no wish to bare my soul to any such person. The whole nightmare is too private.”

In contrast, many participants cited the grassroots organization FACT<sup>57</sup> as an important source of support. This is unsurprising given that FACT facilitated the recruitment of participants – but unlike formal support services, participants received information, emotional support and regular events specifically for people wrongly accused and their relatives. They “appreciated going into a room where everyone understood her situation and knew what she was going through” (as Marie summarized). However, others felt disappointed with FACT’s failure to campaign for greater recognition of false allegations of abuse and for legal changes to guard due process and facilitate appeals in such cases.

#### *Focusing on new interests and helping others*

Developing new interests or reviving previous interests were among ways in which the respondents had made their lives more bearable. Being busy helped take their minds off their predicament and helped their self-esteem. Some, where available, took courses in prison that could be useful to them after release, or to learn new skills. Several CMIs took up opportunities to support other prisoners, formally or informally.

A particular interest taken up by more of the participants was, not surprisingly, campaigning against false allegations and miscarriages. More than half of our sample had at some stage been active in supporting others in the same situation and trying to raise awareness of miscarriages of justice linked to false allegations of abuse. Bernard said that he simply could not let go and threw himself into campaigning with FACT and Merseyside Against Injustice. Hannah, whose husband Len had died, spoke about her role in supporting others: “Since my husband was accused I have worked with the legal people to expose such miscarriages. I collated all the details and developed the database. I am still involved ... supporting and offering practical support.”

Graham shared his thoughts on this: “Do I just forget it, as much as I ever could, and move on with a new life? Do I change my name? Do I try and get a job etc.? Or do I go the other extreme and fight? I can say ‘I’m not accepting this, because it’s not right’. I chose that I needed to fight it. I thought I can’t live with myself long-term if I let these people get away with it – because it wasn’t just me who was affected, it wasn’t just like revenge because they weren’t just doing it to me. It is still happening. There was another case last week. It is still happening all the time.”

#### *Self-care*

Participants mentioned the importance of better diet and medical care, as well as going for walks and activities such as gardening and socializing with friends. Carrying on with normal life as far as possible was frequently mentioned as a coping strategy. However, pursuing hobbies, outdoor activities and pastimes (rather than staying indoors) necessitates facing up to people who

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<sup>57</sup> Formed in 1999 to support falsely accused teachers and carers, FACT has since expanded to include others falsely accused in an occupational context.

might have heard about their case and who might be contemptuous – of the relatives as well as the CMIs - especially if there had been local media coverage of the trial and conviction.

The disruption of their previous life, and the loss involved, led to a necessary reassessment of their values and priorities. Several participants coped by assessing and recognizing their own value. Matt said he hadn't realized, until after it all happened, how many people valued his friendship. Others chose to appreciate the simple pleasures of life, such as food, drink, leisure, and the sense of freedom. Lyn and Marie recalled Arthur's enjoyment of his "being able to walk through a door without it being slammed behind you." Charles identified some ways in which he felt he had become a better person, becoming more aware of the needs of people in prison and questioning the importance of material things. He looked back on his prior high-flying career as a 'dog eat dog' world in which he had lost a bit of humanity.

#### IV Discussion and Conclusion

It seems obvious that anyone innocent but wrongly accused of a sexual offence will endure a traumatic experience. Less obvious is the lasting suspicion, ostracism and stigma that continue to haunt those accused, unless unshakeable proof is found of their innocence. This is so even for those who are not prosecuted or who are acquitted, as the Oxford study found.<sup>58</sup> Thus, when someone is wrongly convicted of sexual offences, particularly where they have not (yet) been exonerated, injustice and suffering are inevitably taken to another level. This was the starting point for our study.

For the CMI participants, the most onerous consequences were imprisonment, the burden of remaining subject to sex offender notification requirements (indefinitely if their sentence was 30 months or longer), the change to their public identity and stigma of being labelled a sex offender, and the resulting exclusion from social opportunity. They spoke of how hard it is to live with such a stigma especially when they had no way of proving it to be false.

Health effects in particular were dramatic and chronic for CMIs, not only due to conditions in prison, but the mental trauma of being convicted and locked away as a sex offender. A dominant theme recurrent in participants' accounts was periods of great despair, when they considered taking their own lives, or when they have not been able to sleep or function. For some, symptoms of PTSD continue. For those with no criminal record, and from positions in caring or teaching vocations or volunteering, it is a long way for them to fall. Depression and acute stress-related ailments were also prevalent among partners – and as our study established, their relatives experience 'secondary punishment'<sup>59</sup> through each phase of the process.

If they didn't withdraw into isolation and poor health, participants were more likely to narrow down to leisure pursuits that bring them comfort, or to get involved with groups raising awareness of miscarriages of justice arising from false allegations. Many participants mentioned

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<sup>58</sup> Hoyle, *supra* note 4.

<sup>59</sup> Rachel Condry & Shona Minson, "Conceptualizing the effects of imprisonment on families: Collateral consequences, secondary punishment, or symbiotic harms?" (2021) 25 (4) *Theoretical Crim* 540.

being sustained by their self-knowledge that they were innocent, and determined to stand by their own integrity and to psychologically resist the potential demoralizing effects of anyone treating them as guilty. Several also showed strength in their decision to continue the ‘fight to get justice’ by either working towards a further appeal, or sharing their story of what happened to them, and by assisting others in a similar plight.

The effects were all-enveloping, including a change to their identity. Using participants’ own expressions, they felt ‘wiped out, in every way’, ‘diminished, as a person’ and that they would ‘never be the same person as before it happened’. To use Erving Goffman’s term, they have a ‘spoiled identity’.<sup>60</sup> This was in the sense of not being able to return to the life they had before and also because of the stigma and how they would be seen by others who knew of their conviction.<sup>61</sup> Those convicted of sexual offences have no anonymity, so their cases (often widely covered in the media) are accessible via Google – and participants felt that their, and their families’, names had been permanently stained. In facing an ongoing fight for a return to their normal life, participants presented themselves as strong and coping, but were evidently fragile. As one put it, he felt broken inside but had become good at being a ‘great pretender’. Some seemed unlikely to recover.

Even those who are exonerated cannot get back what they have lost – research shows that they feel ‘robbed’ and ‘betrayed’,<sup>62</sup> that a society in which they were once constructive players has removed them from positive roles, and has now barred them from many jobs. The same feelings were strongly conveyed by our respondents, who felt robbed of their livelihood, their income and savings, of friends and colleagues, of their past identity and social standing, working life, and of sound physical and mental health. A sense of betrayal was linked to being shunned or excluded from places that they had previously frequented – notably their church, workplace, or voluntary work. People in this predicament can never return to their former occupations.

Collectively, this is a great deal of social punishment to endure - *even for those who are guilty*. Yet, guilty offenders can still ‘redeem’ themselves through acceptance of their responsibility and desistance goals to help them make sense of their incarceration and supervision following release.<sup>63</sup> For those who were innocent all along, a prison sentence and life upon release can be extremely painful to bear (as identified in research on former prisoners who were exonerated, by Grounds,<sup>64</sup> Campbell and Denov,<sup>65</sup> and Scott.<sup>66</sup>). In response to the layers of anguish and the cumulative damage to their lives, one of the CMI’s wryly referred to false allegations as ‘*the gift that keeps on giving*’.

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<sup>60</sup> Goffman, *supra* note 47.

<sup>61</sup> Jon Ronson, *So You’ve Been Publicly Shamed* (New York: Riverhead Books, 2015).

<sup>62</sup> Leslie Scott, “‘It Never, Ever Ends’: The Psychological Impact of Wrongful Conviction” (2010) 5 (2) *Am U Crim L Brief* 10; Wilson, *supra* note 39.

<sup>63</sup> Anne-Marie McAlinden, Mark Farmer, & Shadd Maruna, “Desistance from sexual offending: Do the mainstream theories apply?” (2017) 17 (3) *Criminology & Crim Just* 266.

<sup>64</sup> Grounds, *supra* note 39.

<sup>65</sup> Kathryn Campbell & Miriam Denov, “The burden of innocence: Coping with a wrongful imprisonment” (2004) 46 (2) *Can J Criminology & Crim Just* 139.

<sup>66</sup> Scott, *supra* note 62.



Aside from the small number of participants in this study, which limit its generalizability, the most obvious limitation of this study is that none of the participants have yet been exonerated. As such, we have taken care to present their accounts not as evidence of an innocent person who remains wrongly convicted, but as indications of what this situation must be like, as far as we can access such a population. We are fully aware of the sensitive nature of research on this subject, and the implications for victims if unwarranted doubts are raised about the guilt of perpetrators. As the introduction discussed, many sex offenders are ‘deniers’. Moreover, this has prevented sexual offence victims from being believed for generations. We have been acutely conscious of such concerns while undertaking this research. Despite care taken to recruit participants who had been ‘vetted’ by a reputable support group, we understand why readers may take pause. Researching the impact of wrongful convictions using a cohort who had not yet gained exoneration can be challenged as unethical and as unconvincing as a contribution to knowledge about wrongful convictions.

However, this acknowledged limitation to the present study is intrinsic to its value. Research on wrongful convictions is typically focused on those who have been exonerated. Allowing for the fact that some of those convicted for sexual offences will be ‘false positives’ among the total of jury guilty verdicts, it becomes important to address this possibility. The recognition that a population exists who are trapped in a lifelong wrongful conviction lacking evidence to prove their innocence, precludes a moral imperative to take notice of this, particularly in a dearth of research on this topic. There are ethical implications if some people suspected to be trapped in the aftermath of wrongful conviction are left unheard. If we choose to ignore their existence - especially those convicted of the abhorrent offences of child/sexual abuse - we are blind to the suffering of people who are arguably the greatest victims of the system’s fallibilities. That is a cruel fate.